

	PEDESTRIAN MALL LEASE
Document Number	Document Title

4TH STREET PUBLIC PLAZA
PEDESTRIAN MALL LEASE

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PEDESTRIAN MALL LEASE

THIS PEDESTRIAN MALL LEASE (this “Lease”), is made and entered into as of this _____ day of _____, 2016, (the “Effective Date”) and is by and between **THE CITY OF MILWAUKEE** (hereinafter “City”) and **WISCONSIN CENTER DISTRICT** (hereinafter the “WCD”).

RECITALS

- A. City, the Redevelopment Authority of the City of Milwaukee and Deer District LLC entered into that certain Cooperation, Contribution and Development Agreement dated as of December 22, 2015 (the "Development Agreement"), regarding the implementation of the Arena Project as that term is defined in the Development Agreement and this Lease is entered pursuant to Section 8.6 of the Development Agreement. Any capitalized terms used in this Lease shall have the definition provided in the Development Agreement, unless otherwise defined herein.
- B. WCD is a local exposition district created and existing pursuant to Subchapter II of Chapter 229 of the Wisconsin Statutes and is the owner of the Arena Parcel that will be the location of the Bucks Arena, as those terms are defined below.
- C. City holds the right-of-way known as North 4th Street directly east of and adjacent to the Arena Parcel and located between West Juneau Avenue and West Highland Avenue in Milwaukee, Wisconsin (the “Premises”), more particularly described in **Exhibit A** attached hereto, and more commonly known as the “North 4th Street Pedestrian Mall.”
- D. The Premises was designated as a pedestrian mall by City’s Common Council adopting File No. 151444, which created Sec. 113-21 of the Milwaukee Code of Ordinances, on _____, 2016, which designation was conditioned upon City and WCD entering into this Lease and future City approval of design plans for the Premises.
- E. Pursuant to 2015 Wisconsin Act 60, enacted by the State of Wisconsin, WCD will lease the Bucks Arena, the Arena Parcel and the Live Block Plaza to ArenaCo, as defined below, for use by the Milwaukee Bucks National Basketball Association basketball franchise (the “Team”).
- F. City is willing to lease the Premises to WCD on the terms and conditions set forth herein with the understanding that the Premises will be subleased to ArenaCo by the Arena Lease, Management and Operations Agreement by and between WCD and ArenaCo pursuant to Sec. 229.461, Wis. Stats., and dated _____, 2016 (the “Sublease”) and be developed, maintained and used by ArenaCo pursuant thereto for no additional charge as a public plaza located between the Arena Parcel and the Live Block Plaza.
- G. City authorized the execution of this Lease by City Common Council Resolution File No. 151748, passed _____, 2016.

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein including the recitals above, which are agreed to and incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and WCD agree as follows:

1. Definitions.

- A. “Approved Plaza Plans” means the final design plans for the Public Plaza that are consistent with the Design Guidelines and approved by the City of Milwaukee Common Council (the “City’s Common Council”).
- B. “ArenaCo” means Deer District LLC or its Affiliate, as that term is defined in the Development Agreement, pursuant to a sublease agreement entered into by WCD as sublessor and such entity, as sublessee.
- C. “Arena Parcel” means land bounded by West Juneau Avenue on the north, North 6th Street on the west, West Highland Avenue on the south and North 4th Street on the east where a new Bucks Arena will be constructed.
- D. “Bucks Arena” means the new basketball arena to be constructed by ArenaCo on the Arena Parcel for use by the Team (or such other National Basketball Association basketball franchise as may be applicable from time to time) and other uses and purposes set forth in the Sublease.
- E. “Design Guidelines” means the design guidelines for the Public Plaza attached to this Lease as **Exhibit B**.
- F. “Development Agreement” has the definition provided in Recital A above.
- G. “Leasehold Mortgagee” means the holder of a mortgage, deed of trust, security deed, deed to secure debt or any similar other instrument or agreement constituting a lien upon, or similarly encumbering a leasehold or sub-leasehold estate, as renewed, restated, modified, consolidated, amended, extended or assigned (absolutely or collaterally) from time to time. (including any trustee, servicer or administrative agent acting on behalf of the holder or holders thereof).
- H. “Live Block Plaza” means a covered pedestrian plaza area to be designed and constructed by ArenaCo on the parcel more particularly identified and described in the Development Agreement.
- I. “NBA” means the National Basketball Association.
- J. “Plaza FF&E” means furniture, fixtures and equipment placed or affixed by WCD or ArenaCo on the Premises that are consistent with the use of the Premises as a public plaza or such other use as agreed to between WCD and the City, including, without limitation, tables, chairs, bike racks, trash receptacles, tents, carts and similar furniture, fixtures and equipment.

- K. “Plaza Improvements” means improvements, hardscape and softscape installed by WCD or ArenaCo on the Premises as part of the Public Plaza that are consistent with the use of the Premises as a public plaza or such other use as agreed to between WCD and the City, including, without limitation, bike share stations, canopies, sculptures, gazebos, kiosks, water features, decorative paving, light posts, signage, landscaping and similar facilities and amenities.
- L. “Premises” has the definition provided in Recital C above.
- M. “Public Plaza” means a public plaza that will be constructed on the Premises in accordance with the Approved Plaza Plans and this Lease.
- N. “Recreational Activities” means collectively any activities undertaken by the general public for the purpose of exercising, relaxation or pleasure that are consistent with activities generally associated with other public plazas and open spaces in the City of Milwaukee including, but not limited to, walking, running, sitting, gathering, biking, stretching, picnicking, sight-seeing and other similar activities that are in compliance with this Lease and any applicable federal, state, and local law, regulations, and ordinances.
- O. “Sublease” has the definition provided in Recital F above.
- P. “Special Events” means WCD-Controlled Activities, as defined below, or activities organized, controlled and supervised by third-parties on a portion of the Premises that are not open to the general public, as allowed pursuant to Section 8 of this Lease. Special Events shall be limited to lawful uses as allowed by Section 6 of this Lease.
- Q. “Term” means the term of this Lease as described in Section 3 below.
- R. “Transit Amenities” means infrastructure to accommodate public transportation through the Premises. Transit Amenities includes a single set of rails for fixed rail transit (or any alternative to a fixed rail system as deemed appropriate by City), utilities and overhead wires necessary to operate a fixed rail transit vehicle through the Premises and other transportation related amenities including, but not limited to, ticket kiosks, signage, areas for loading and unloading of passengers, lighting, recreation trail, bicycle racks and bike share stations. The City shall be responsible for the maintenance and repair of any and all Transit Amenities located on or in the Premises.
- S. “Transit Amenities Corridor” means a 30-foot wide strip within the Premises, extending 15 feet on each side of the center line of the Transportation Lane and delineated in the Approved Plaza Plans, in which the City must locate all of its Transit Amenities.
- T. “Transportation Lane” means an at least 11-foot wide strip within the Premises that is described in the Design Guidelines, delineated in the Approved Plaza Plans and reserved for future use by City for a single set of rails to accommodate a

fixed-rail public transportation system through the Premises. Such Transportation Lane shall include a reasonable number of pedestrian passageways and crossings to permit pedestrians to cross from one side of the Public Plaza to the other.

- U. “WCD-Controlled Activities” means activities undertaken at the Premises that are organized, controlled and supervised by WCD, ArenaCo or others authorized by WCD. WCD-Controlled Activities may include Recreational Activities that are organized, controlled or supervised by WCD and activities that are not Recreational Activities including, but not limited to, concerts and theatrical performances, sports-related activities or tournaments, rallies or other assemblies, festivals or convention-related activities and may include exclusive use of a portion of the Premises by WCD for a temporary period, pursuant to Section 8 of this Lease.

2. **Leased Premises.** Subject to the terms hereof, the City does hereby lease the Premises to WCD.

- A. Recording of Lease. The City shall record this Lease (or evidence thereof) in the Milwaukee County Register of Deeds Office and WCD agrees to cooperate with City in that regard.
- B. City Leases to WCD. Subject to all the terms and conditions in this Lease, City hereby leases to WCD and WCD hereby leases from City the Premises, on an **AS-IS, WHERE-IS BASIS** and with all faults, encumbrances and defects, known or unknown, discovered or to be discovered.
- C. Sublease to ArenaCo. In the event that the Premises are subleased to ArenaCo as permitted herein, the Sublease shall incorporate all of the terms of this Lease in respect of the Premises only and, as a condition of such sublease, ArenaCo shall take on all obligations, responsibilities, rights and liabilities of WCD under this Lease solely with respect to the Premises; provided, however, ArenaCo shall have no liability for matters caused by the affirmative actions of WCD, including acts of negligence, bad faith or willful misconduct. City is not a party to the Sublease. In the event of inconsistencies between this Lease and the Sublease, as it relates to the Premises, the terms of this Lease shall apply.

3. **Term.**

- A. The Term of this Lease shall commence on the Effective Date and, unless sooner terminated as herein provided, shall expire immediately after the expiration of the Sublease on (i) the first June 30 following the thirtieth (30th) anniversary of the of the Team’s first regular season NBA game in the Bucks Arena, if the Team’s first regular season game in the Bucks Arena occurs before the NBA’s All Star Game for that season, and (ii) the second June 30 following the thirtieth (30th) anniversary of the of the Team’s first regular season NBA game in the Bucks Arena, if the Team’s first regular season game in the Bucks Arena occurs after the NBA’s All Star Game for that season.

- B. WCD shall have the option, to extend the Term for three additional periods of five (5) years each by written notice to the City given no later than eighteen (18) months prior to the then-current scheduled expiration date of this Lease. The City shall give effect to any notice of extension made by WCD, ArenaCo or a Leasehold Mortgagee.

4. **Development of Public Plaza.** As part of the consideration being provided by WCD to City and a material provision of this Lease without which City would not have entered into this Lease, WCD shall, or shall cause ArenaCo to, design, construct, maintain, repair and operate during the Term hereof the Public Plaza on the Premises at no cost to the City other than the Plaza Contribution as described in the Development Agreement, unless otherwise provided herein. The development of the Public Plaza by WCD shall meet the following requirements and be subject to the following limitations:

- A. **Plan Approval.** WCD shall, or shall cause ArenaCo to, design the Public Plaza to be complimentary to and consistent with the design of the adjacent Bucks Arena and Live Block Plaza and consistent in all material respects with the Design Guidelines. The Public Plaza should operate cohesively with and connect the Live Block Plaza and the Bucks Arena. Design of the Public Plaza shall include appropriate transitions between the Premises and the open public rights-of-way directly north and south of the Premises and allow for the seamless flow of traffic around the Premises. The design plans for the Public Plaza are subject to the review and approval of City's Common Council and upon such review and approval, shall be the Approved Plaza Plans.

- B. **Public Transportation.** City reserves the right to use a portion of the Premises for public transportation purposes as described below. To the extent that City's plans interfere with WCD fulfilling its obligations hereunder, those obligations will be suspended.

- (1) City may, at its sole discretion, use the Transit Lane and Transit Amenities Corridor for public transportation purposes including, but not limited to, constructing, installing, operating, maintaining and repairing the Transit Amenities. Public transportation purposes shall not include private, vehicular transportation. With regard to fixed rail transit, City may construct and operate no more than one set of rails through the Premises, the location of which shall be clearly delineated in the Public Plaza as the Transportation Lane, as described in the Design Guidelines and shown in the Approved Plaza Plans. All other Transit Amenities shall be located within the Transit Amenities Corridor. City is solely responsible for all liability related to public transportation and the Transit Amenities except where such liability is caused by the intentional or negligent acts or omissions of WCD or ArenaCo.
- (2) The City shall (a) provide WCD with reasonable prior notice of any installation, operation, maintenance or repair of Transit Amenities, (b) coordinate the scheduling of the same with WCD, with the understanding

that the operation of the Transit Amenities will occur pursuant to a regular schedule that is publicly available and need not be provided to or coordinated with the WCD except when initially established or materially revised, (c) consult with WCD regarding the design and aesthetics of Transit Amenities and use commercially reasonable efforts to coordinate such design and aesthetics with the design and aesthetics of the Plaza Improvements and the Plaza FF&E, and (d) use commercially reasonable efforts to minimize interference with the use of the Public Plaza by WCD during any such installation, operation, maintenance or repair of Transit Amenities. In addition, in no event shall the City promote, advertise or market products, services or corporate identities of third parties in or on the Transit Lane, Transit Amenity Corridor or Transit Amenities, except on transit vehicles that are traveling through and only momentarily stopping within the Transit Lane, that compete with sponsors of the Bucks Arena, the Team or the Live Block.

- (3) WCD shall not be responsible for any costs related to the installation, maintenance, repairs or operation of Transit Amenities within the Premises, unless such costs are higher than they otherwise would have been due to the nature of the Plaza Improvements (e.g., the cost to remove and replace decorative pavers is greater than the cost to remove and replace asphalt). In addition, subject to the City's obligations under Section 4.B.(2) above, the City shall not be responsible for any increase in costs incurred to use the Premises during any installation, operation maintenance or repair of the Transit Amenities.
- (4) Subject to the City's obligations under Section 4.B.(2) above, WCD's use of the Premises shall not interfere with City's use of the Transit Amenities located within the Transit Amenities Corridor, including any installation, operation, maintenance or repairs necessary for the Transit Amenities.
- (5) By reserving the transportation rights described herein, City has not obligated itself to construct or install any Transit Amenities at the Premises within any particular timeframe or ever.

C. Public Access. City reserves, for the general public, the right to use the Premises for public access as described below.

- (1) WCD shall operate the Premises in a manner that keeps it open to the general public in accordance with all applicable federal, state and local laws, statutes, ordinances, codes and regulations provided, however, that public use shall be limited to normal and customary pedestrian and recreational uses appropriate for a public plaza of the size and scope of the Public Plaza and otherwise in accordance with the terms of this Lease and provided further that the public access and rights granted herein shall exclude any commercial activities or operations by members of the public not expressly allowed by WCD.

- (2) The right of the public to use the Premises shall not extend to uses inconsistent with City's public transportation rights described above in Subsection 4.B. or with WCD's use and operation of the Public Plaza. Such inconsistent uses may be, but are not limited to, loitering, unauthorized vendor or commercial activities or other types of uses that may constitute a public or private nuisance.
 - (3) Except as expressly provided herein, including Special Events permitted pursuant to Section 8 of this Lease, WCD shall, at all times, make the Premises available for use by members of the public, except at such times as the Premises, or any portion thereof, must be closed for construction, maintenance or repair of the Plaza Improvements, Plaza FF&E, utility facilities or any Transit Amenities installed by City under this Lease; to protect against unsafe conditions; to avoid the acquisition of adverse or prescriptive rights.
- D. Plaza Improvements. Subject to compliance with applicable laws and the public transportation and public access rights granted herein, WCD shall have the right, from time to time and at any time, to place or install Plaza Improvements on the Premises consistent with the Approved Plaza Plans. Any material changes to the Plaza Improvements at any time during the Term that are materially inconsistent with or substantially different from the Approved Plaza Plans shall first be approved by City's Common Council. Any Plaza Improvements that are not consistent in all material respects with the Approved Plaza Plans and have not been approved by City's Common Council shall be removed at WCD's sole cost upon written request from City to WCD.
- E. Utilities.
- (1) WCD acknowledges that the Premises are a Pedestrian Mall that is held by City as public right-of-way subject to regulation by the Wisconsin Public Service Commission and as such the Premises contains publicly and privately-owned utility facilities, including a 30-inch City-owned water main, which may remain in place within the Premises throughout the Term. WCD and City agree that as part of the development of the Public Plaza, City will replace its water main located within the Premises and WCD shall pay City's actual costs for such water main replacement. Such costs are estimated to be \$400,000.
 - (2) WCD acknowledges that the owners of utility facilities located within the Premises have rights to access their facilities for repairs and replacement as deemed necessary by the owner of the utility facilities, subject to City permitting requirements, Wisconsin Public Service Commission rules and regulations and applicable Wisconsin Statutes including, but not limited to Sections 55.0831 and 182.017, Wis. Stats. Such access rights may interfere with WCD's use of the Premises from time to time.

- (3) City shall, unless an emergency situation prohibits it, use its best efforts to notify WCD at least 30 days before City needs to repair, replace or do any work on its utility facilities that require excavation of any portion of the Premises. In the event the City needs to excavate any portion of the Premises to access its utility facilities, City shall be obligated to only restore such disturbed area of the Premises to standard pavement with WCD obligated to restore any decorative paving or other Public Improvements located in the area disturbed. In all circumstances, City should exercise reasonable efforts to schedule any required repair, replacement or work from July 1 until November 1.
- (4) As part of the development of the Public Plaza, WCD shall pay We Energies' charges for upgrading a gas line owned by We Energies that is currently running through the Premises. Such payment shall be made directly to We Energies and is estimated to be \$250,000.

5. **Rent/Consideration.** WCD shall pay no monetary rent to City under this Lease. As consideration for City's lease of the Premises to WCD, WCD agrees it shall develop the Premises into the Public Plaza, as required herein, and shall assume other obligations and responsibilities as described in Section 7, below.

6. **Use of the Premises.** WCD's use of the Premises must, at all times, be lawful and in compliance with all applicable federal, state and local laws, regulations and ordinances (including laws, regulations or ordinances requiring permits and/or licenses), and must be conducted so as not to unreasonably interfere with (i) immediately adjacent parcels, (ii) pedestrian and bicycle-friendly uses and (iii) the Transit Lane and Transit Amenities. Subject to the limits described above and shared use with the general public as described herein, the Premises may be used for any purpose permitted by law, including:

- A. The Premises may be used for Recreational Activities.
- B. The Premises may be used for WCD-Controlled Activities.
- C. WCD may, pursuant and subject to applicable state and local laws, apply for any licenses necessary to allow for the sale and consumption of alcoholic beverages on the Premises.

In addition, WCD shall have the exclusive right to allow commercial vending and similar activities, including, without limitation, the right to place kiosks, food trucks, push carts and similar temporary structures, carts and other similar items within the Premises and to charge reasonable user or license fees or similar charges to operators of such items, so long as such structures, carts and other items do not unreasonably interfere with City's or the general public's use of the Premises for public access or transportation purposes and so long as such structures, carts and other items comply with any applicable state laws and City ordinances.

7. Maintenance of Premises; Operating Costs; Security.

A. Maintenance of Premises by WCD. WCD shall be solely responsible for the maintenance and repair of the Premises (excluding any Transit Amenities located on or in the Premises) in accordance with maintenance standards generally applied to public plazas in the City of Milwaukee. Subject to Section 4.B.(2), WCD shall be responsible, at its expense, for all routine or non-routine, capital or non-capital, repair, maintenance and landscaping of the Premises, the Plaza Improvements and the Plaza FF&E. Subject to Section 4.B.(2), the foregoing includes, but is not limited to, WCD being responsible for:

- (1) Picking up and removing litter, trash and rubbish at the Premises on a routine basis so as to keep the same clean and litter-free. Following any WCD-Controlled Activity or Special Event, WCD's responsibility for removing litter shall be expanded to include the public rights-of-way within a 2 block radius surrounding the Premises. Such expanded litter removal shall be completed within 12 hours following a WCD-Controlled Activity or Special Event.
- (2) Removing snow and ice from the entire Premises in accordance with the same requirements in Milwaukee Code of Ordinances §§116-8 and 116-16 for sidewalks.
- (3) Promptly removing graffiti from the Premises and the Plaza Improvements.
- (4) Mowing any grass on the Premises on a regular basis.
- (5) Removing weeds and pruning trees, bushes, and vegetation at the Premises and fertilizing, on an as-needed basis.
- (6) Repairing and restoring any damage to the Premises or Plaza Improvements as practicable and within a reasonable time.
- (7) Properly preparing Plaza Improvements for winterization, weather and change of seasons.
- (8) Keeping the Premises and Plaza Improvements in good, working and clean condition.

B. Failure to Maintain. If WCD fails to maintain the Premises or the Plaza Improvements in the condition required by this Lease as determined by City's Commissioner of Public Works, City's Commissioner of Public Works shall provide WCD with a written notice setting forth the maintenance or repair work that City's Commissioner of Public Works reasonably determines has not been done. If WCD does not complete such maintenance or repair work within 30 days from the date of receipt of the aforesaid written notice, and such failure to complete such maintenance or repair work is not as a result of causes beyond

WCD's reasonable control ("Force Majeure Delay"), then City may perform such work and shall be reimbursed by WCD for all reasonable costs incurred in performing such work. Should WCD fail to reimburse City for such work within 30 days after written demand therefor, WCD hereby agrees that City shall have the right to assess the costs for such work as a special charge against property owned by WCD adjacent to the Premises under the provisions of Sec. 66.0627, Wis. Stats., and as the same may be renumbered or amended from time to time. Should City need to proceed with such special charges under the provisions of Sec. 66.0627, Wis. Stats., WCD hereby waives notice and hearing on such charges. The Sublease shall contain language whereby ArenaCo agrees to the same waiver of notice and hearing as described above and that special charges may be assessed against the Live Block and ArenaCo's leasehold estate in the Bucks Arena.

- C. Operating Costs. WCD shall pay for all maintenance and operating costs for the Premises, including, but not limited to, all electricity, water and other utilities used for lighting, cleaning and watering of grass and other plant materials on the Premises, if any, and any other utility costs associated with operating and maintaining the Premises and the Plaza Improvements. Such operating costs shall not include costs of operating or maintaining any Transit Amenities installed by City.
 - D. Security. City shall provide police and fire protection to the Premises to the same extent and on the same basis it provides police and fire protection to other properties in the City of Milwaukee. WCD shall be responsible for any additional security, including crowd-control, on the Premises (other than the Transit Amenities) required as a result of WCD's development and use of the Premises, including for any WCD-Controlled Activities and Special Events. WCD shall work with City's Police Department to determine the appropriate level of security necessary for WCD-Controlled Activities and Special Events. Notwithstanding, the public access rights granted in this Lease, City's Police Department or WCD's security forces may, subject to federal, state and local legal requirements, remove members of the public from the Premises or prohibit their entry onto the Premises if such person is acting in a disorderly manner, creating a public or private nuisance, posing safety concerns to persons or causing damage to property within the Premises.
8. Special Events. WCD may close portions of the Premises, excluding the Transportation Lane and any areas of the Premises containing Transit Amenities, for Special Events, but only on a temporary basis, as permitted herein.
- A. Permit Required. In the event that WCD desires to have Special Events or if WCD desires to allow a third-party to use the Premises for an event, WCD or such third-party shall apply for a special event permit pursuant to Section 105-55.5 of the Milwaukee Code of Ordinances and pay the necessary fees pursuant to Section 81-114.6 of the Milwaukee Code of Ordinances. City agrees that no special event permits will be granted for use of the Premises by third-parties

without the written consent of WCD, which consent may be withheld by WCD in its sole discretion.

- B. Admission Fees. WCD may charge a reasonable admission fee to people attending Special Events at the Premises. Information regarding the amount of such fees shall be included in the WCD's permit application required by subsection 8.A., above. WCD may charge fees to vendors who participate in the Special Event in accordance with Section 6.F., above. This Lease does not restrict admission fees for events in the Bucks Arena where the admission to the Plaza is not charged separately.

9. Compliance with Laws and Regulations; Environmental; Nondiscrimination.

- A. WCD shall, at its sole cost and expense, comply with any and all laws, statutes, ordinances and regulations, federal, state, county, or municipal, now or hereafter enforced, or applicable to its existence at, or use, occupancy or improvement (including repair or maintenance) of, any part of the Premises.
- B. WCD shall not store, use, discharge or dispose of any hazardous or toxic substances, pollutants or contaminants ("Contaminants") on any part of the Premises other than conventional landscaping and maintenance items such as cleaning materials which must nonetheless be stored, used, discharged and disposed of in strict compliance with all applicable federal, state and local laws, rules and regulations.
- C. To the extent required by any applicable governmental authority, WCD shall be responsible (i) for remediating any Contaminants or environmental pollution on any part of the Premises to the extent caused by WCD or its employees, agents or permittees, and (ii) for repairing any damage (environmental, physical, structural or otherwise) to the Premises to the extent caused by WCD or its employees, agents or permittees.
- D. WCD shall not, with respect to its use and occupancy of the Premises, discriminate against any person on the basis of race, sex, sexual orientation, creed, national origin or identity, color, religion, marital status, age or handicap.

10. Insurance. WCD shall obtain and maintain in place during the entire Term, at its expense, insurance as described in strict compliance herewith:

- A. General Liability, Property, and Other Coverage. General liability insurance that protects against exposures associated with the operations of WCD and its use, maintenance and operation of the Premises including, but not limited to liability for WCD-Controlled Activities at the Premises, contractual liability protection for the risks assumed by WCD in this Lease and property insurance for WCD-owned property and the Plaza Improvements. WCD shall also obtain and maintain in place during the entire Term workers compensation insurance, employers liability insurance and other insurance coverage in the types and amounts set forth in Exhibit C attached hereto. WCD shall be under no obligation with respect to

general liability insurance for any transit related matters, including, without limitation, the Transit Amenities.

- B. Policies. All policies shall be endorsed to protect City and WCD (and any lender holding a mortgage on WCD's or ArenaCo's interest under the Lease or the Sublease, as applicable) as their interests may appear. All policies shall be obtained by WCD under valid and enforceable standard form policies issued by responsible insurance companies licensed to do business in the State of Wisconsin. Certificates and actual policies evidencing insurance coverage shall be provided to City. WCD shall use reasonable efforts to cause the insurance company to provide City with 30-day written notice of any cancellation, non-renewal or material change in the coverage required or provided hereunder.
- C. City Must Be Named As Additional Insured On All Contractor and Subcontractor Policies. WCD shall require and any contractor or subcontractor providing work or materials to the Premises shall provide the minimum types and limits of insurance set forth on Exhibit C and shall name City as an additional insured on said policies.

11. Termination of Lease.

- A. Triggering Event. Upon occurrence of any of the following (a "Triggering Event") and the continuation of such Triggering Event for a period of 90 days (or such other time frame as established below) following City providing notice to WCD of the existence of such Triggering Event, City may, except as provided herein, terminate this Lease.
 - (1) Substantial interference with City's transportation rights hereunder such that City is unable to access the Transportation Lane or Transit Amenities or operate its public transportation vehicles on its typical transit schedule that continues unabated for a period of 36 hours after written notice and reasonable opportunity to cure, due to WCD's use, operation or regulation of the Premises.
 - (2) Failure to use the Bucks Arena as the home arena of a National Basketball Association franchise, National Hockey League franchise, or similar sports franchise for a period of for 24 consecutive months.
 - (3) Bucks, or its Affiliate, fail to develop the Bucks Arena, Live Block and the Live Block Plaza in compliance with the Development Agreement.
 - (4) WCD fails to develop the Public Plaza within the Premises pursuant to the terms of this Lease.
 - (5) In the event that the Preconditions of the Development Agreement are not met by the Preconditions Deadline in the Development Agreement, as the same may be extended.

- (6) WCD ceases to use substantially all of the Premises as the Public Plaza.
- (7) WCD and City voluntarily agree in writing to terminate this Lease.
- (8) In the event City reasonably determines that closure of the Premises to private vehicular traffic is unwarranted during time when there are no events at the Bucks Arena because (a) the use of the Premises for WCD-Controlled Activities, Special Events and Recreational Activities when there are no events at the Bucks Arena is not at a level that justifies the closure of North 4th Street and (b) there is a need to reopen North 4th Street to accommodate daily private vehicular traffic around the Bucks Arena, when there are no events at the Bucks Arena.

In the event of a Triggering Event pursuant to subsections (1), (2), (6) or (8), above, City may not terminate the Lease without first attempting to renegotiate this Lease to address the concerns of both the City and WCD. City and WCD shall use good faith and commercially reasonable efforts to come to an agreement on a reasonable amendment of the Lease under such a scenario. In the event that City and WCD cannot agree to terms for an amendment to this Lease, City may terminate this Lease on the condition that City shall be required to close the Premises to vehicular traffic, other than public transportation vehicles, during times when there are events scheduled at the Bucks Arena, including the two hours prior to the beginning of such event and the two hours after the completion of such event.

B. Early Termination. This Lease is subject to early termination upon a default by WCD pursuant to Section 20, below, or as a result of condemnation or damage as described in Section 21.A, below.

C. Obligations Upon Termination or Expiration.

- (1) Upon the expiration or earlier termination of this Lease, WCD shall peaceably and quietly deliver, yield up and surrender possession of the Premises to City. WCD shall remove from the Premises upon expiration or termination all Plaza Improvements (excluding the Transit Amenities) situated thereon or placed there by WCD and, subject to Section 11.C.(2) below, restore the Premises to public street condition consistent with City's then current public street specifications to allow the Premises to be re-opened as public street right-of-way. City may partially or entirely waive these requirements at its sole discretion. Any Plaza Improvements not so removed shall, at City's option, either become the sole property of City or be stored on-site or off-site at WCD's expense. In the event WCD fails to restore the Premises to public street condition, City may perform such restoration and assess the costs of such restoration to WCD as a special charge as described in Section 7.B. above.

- (2) City agrees that, in the event of a termination of this Lease pursuant to Section 11.A. above or Section 20 below, WCD's restoration of the Premises to a public street shall take into account the dual purpose of the same as a public street and a space to be used in connection with queuing and staging for events at the Bucks Arena and WCD will be given such relief from City's then current public street specifications as reasonably requested by WCD to accommodate such dual purpose.

12. Indemnification; Waiver of Subrogation. In addition to any liability WCD may have to City as a result of WCD's breach of any of its duties hereunder, notwithstanding anything to the contrary contained herein, WCD also agrees to indemnify and save City harmless from and against any and all loss or claims or damage or injury to persons (including death), property or business, sustained in, on or about the Premises, and resulting from or attributable to:

A. The intentional or grossly negligent acts or omissions of WCD, its officers, directors, employees, agents, or contractors; and/or

B. WCD-Controlled Activities,

except to the extent any such loss, claim, damage or injury results from the City's breach of this Lease, the existence, installation, operation, maintenance or repair of Transit Amenities or the gross negligence or willful misconduct of the City. City hereby waives, however, any and all rights of recovery against WCD for any loss or damage to the extent, and only to the extent, City actually receives payment from WCD's insurer toward the particular loss or damage. If the amount City collects from WCD's insurer is less than the total loss or damage to City, then City's waiver shall only be a partial one.

13. Annual Report to City. On or before each April 1 during the Term of this Lease, WCD shall make available a written report to City concerning WCD's use and activities at the Premises during the preceding calendar year (the "Report"). The Report shall identify WCD-Controlled Activities and Special Events that occurred during the preceding calendar year. At the request of City's Commissioner of Public Works, WCD shall also present the Report in person to City's Public Works Committee of the Common Council.

14. Public Records. WCD acknowledges that City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Lease are subject to and conditioned on the provisions of Wis. Stat. §19.21, et seq. WCD further acknowledges that it is obligated to assist City in retaining and producing records that are subject to the Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Lease. WCD agrees that it will assist City in complying with the Wisconsin Public Records Law and in defending actions under that law, including, without limitation, the legal defense of a public records request, mandamus actions or lawsuits. Notwithstanding anything to the contrary set forth above, WCD or ArenaCo may seek (A) a protective order from or (B) to narrow or limit the scope of, any records request. Except as otherwise authorized under Wisconsin's Public Records Law, WCD

records regarding this Lease and administration of the Lease shall be retained by WCD for seven years.

15. Possible Restrictions/Encumbrances.

- A. No Title Report. City is, as indicated, leasing the Premises to WCD on an “**AS IS, WHERE IS**” basis. City has not obtained or provided to WCD any title insurance commitment or title insurance policy with respect to the Premises. If WCD wants such, it can acquire such at its own expense.
- B. Encumbrances. City retains the right to devote portions of the Premises for utilities and Transit Amenities as described herein, and other easements necessary for public welfare and convenience, as determined by City on the condition that the exercise of the same does not unreasonably interfere with WCD’s rights under this Lease.

16. Liens.

- A. Leasehold Mortgages; Construction Liens. WCD may pledge, mortgage, grant a security interest in, encumber, or collaterally assign its interest in this Lease to secure indebtedness for borrowed money of WCD; additionally, ArenaCo shall have the right to pledge, mortgage, grant a security interest in, encumber, or collaterally assign its interest in the Sublease to secure indebtedness for borrowed money of ArenaCo or the equity interests in ArenaCo and the same shall not constitute or be deemed to be a violation of this Lease. WCD shall take all actions and precautions required to ensure that the City’s interest in the Premises does not become attached by, or with, any lien, including, but not limited to, any construction lien, or lien of or by any laborer, contractor, subcontractor, materialman or supplier (including any lien under Subch. I of Wis. Stat. Ch. 779) relating directly or indirectly to any work that WCD (or anyone claiming by, through or under WCD) may perform or have done at the Premises. WCD shall indemnify, defend and hold harmless City and the Premises of, from and against, any such lien (excluding any mortgage lien contemplated by the first sentence of this Section) which may attach or be asserted against the Premises, together with all costs in connection therewith.
- B. Recognition and Protection Leasehold Mortgagees.
 - (1) Recognition Agreement. City hereby agrees to enter into a recognition agreement in the form attached hereto as **Exhibit D** at the request of ArenaCo and any Leasehold Mortgagee, recognizing the rights and protections of such Leasehold Mortgagee under the Sublease and incorporating such rights and protections into this Lease to the same extent as if the same were set forth herein, but subject to Section 2.C. of this Lease, including without limitation, the right of the Leasehold Mortgagee to obtain a New Agreement (as such term is defined in the Sublease).

- (2) Copies of Notices. If City shall give any notice to WCD under this Lease, then City shall at the same time and by the same means give a copy of such notice to ArenaCo and to any Leasehold Mortgagee holding a mortgage encumbering ArenaCo's interest under the Sublease. No notice to WCD shall be effective unless and until such notice has been duly given to Leasehold Mortgagee, if any. No exercise of City's rights and remedies under or termination of this Lease shall be deemed to have occurred or arisen or be effective unless City has given like notice to each Leasehold Mortgagee, if any, as required herein. Any such notice shall describe in reasonable detail the alleged WCD default or other event allegedly entitling City to exercise such rights or remedies.
- (3) Leasehold Mortgagee's Right to Cure WCD Default. Upon execution of the Recognition Agreement, all notice and cure rights running in favor of Leasehold Mortgagee with respect to a default of ArenaCo under the Sublease shall be equally applicable hereunder to any and all defaults of WCD under this Lease. Any Leasehold Mortgagee shall have the right, but not the obligation, to perform any obligation of WCD under this Lease and to remedy any default by WCD. City shall accept performance by or at the instigation of a Leasehold Mortgagee in fulfillment of WCD's obligations, for the account of WCD, and with the same force and effect as if performed by WCD. No performance by or on behalf of such Leasehold Mortgagee shall cause it to become a "mortgagee in possession" or otherwise cause it to be deemed to be in possession of the Premises or bound by or liable under this Lease.

C. City Mortgages. City shall not mortgage or otherwise encumber City's interest in the Premises with any mortgage, deed of trust, security deed, deed to secure debt, or any other similar instrument or agreement constituting a lien upon, or similarly encumbering, the City's interest.

17. Property Taxes; Assessments; Fees and Charges.

- A. Because the Premises are held by City as public right-of-way, the Premises are property-tax exempt under Sec. 70.11(2), Wis. Stats. See, especially, the last sentence of Sec. 70.11(2), Wis. Stats., which reads, "Leasing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable." If the Premises subsequently become, under state law, in the City Assessor's opinion, subject to general property taxes during the Term hereof, however, WCD shall be responsible for, and shall timely pay, such taxes, with the understanding that WCD may dispute such by following the procedure set forth in Sec. 74.35(2m), Wis. Stats.
- B. Unless otherwise entitled to lawful exemption, WCD shall pay, or cause to be paid, all taxes, assessments, charges and fees levied or assessed upon the Premises or its own personal property and its own trade fixtures on or at the Premises.

C. WCD shall timely pay or cause to be paid any special charge that may be levied pursuant to the terms of this Lease.

18. **City Entry Rights.** City (and its contractors) shall have the right, to be on the Premises at any time, subject to the notice provisions of Section 4.E.(3) of this Lease, to inspect, maintain, repair, replace or reconstruct any City utilities, improvements or Transit Amenities now or hereafter at the Premises. City's entry, in any event, shall be conducted in such a way so as to minimize interference or disruption of WCD's (or anyone claiming by, through, or under WCD) lawful use and occupancy of the Premises. In addition to the foregoing, City also expressly retains (and does not waive) all rights available to it at law to enter and inspect the Premises (or any part thereof) including, but not limited to, all legal rights of City's building inspectors, health inspectors, fire inspectors, electrical inspectors, assessors, fire and police personnel, etc. to enter and inspect. WCD shall bear no responsibility for damage or liabilities that result from City's exercise of such rights.

19. **City Audit Rights.** WCD shall keep accurate and complete books, records and accounts with respect to its development, operation, maintenance and repair of the Premises, Plaza Improvements and Plaza FF&E under this Lease. Those books, records and accounts (except books, records and accounts regarding revenues, expenses, profits and loss for Special Events and WCD Controlled Activities) shall be made available to City for its review and inspection upon City's request. WCD shall provide to City, at WCD's expense, and promptly upon City's written demand, copies of any:

- A. of the above-referenced books, records and accounts;
- B. agreement, permit, or license with respect to WCD-Controlled Activities;
- C. invoices or contracts relating to WCD repair or maintenance work at the Premises; or
- D. any insurance policy WCD has or had in place hereunder.

City has the right, at City's expense, to have an auditor (whether an employee of City's Comptroller Office or an independent auditor) review and audit any of the above.

20. **Defaults and Remedies.** WCD shall be in default hereunder if:

- A. WCD fails to perform any of its covenants or duties under this Lease in any material respect and such failure is not cured by WCD (i) with all due dispatch after written notice from City to WCD if the failure jeopardizes health, safety or welfare and poses a substantial immediate threat of danger or injury; and (ii) in all other cases, within 30 days after written notice from City to WCD (or if such failure is not of a type that can reasonably be corrected within 30 days, then if WCD fails to commence promptly and proceed with due diligence to correct such failure);
- B. WCD is adjudged bankrupt, or if WCD files a petition or answer seeking bankruptcy, insolvency status, or reorganization of WCD under federal or state

bankruptcy or insolvency law, or if WCD consents to the appointment of a receiver to administer WCD or its affairs, or if WCD dissolves or institutes any proceeding for dissolution or termination; or

- C. WCD makes any sublease, assignment, transfer, hypothecation, conveyance, or other disposition of its interest in the Premises (or any part thereof), other than the Sublease to ArenaCo, an assignment of this Lease to ArenaCo, and the pledge, mortgage, grant of security interest and collateral assignment of the Lease and Sublease, as allowed herein, without City's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

In the event of any default by WCD hereunder, subject in all respects to the right of each Leasehold Mortgagee, if any, to cure any such WCD default, WCD hereby authorizes and empowers City to exercise any right or remedy available to City under Wisconsin law, or in equity, or hereunder, including, without limitation, (i) the right to terminate this Lease or take possession of the Premises (or any part of it) without terminating this Lease (in the case of a material failure to perform by WCD as described in Section 20.A.), (ii) the right to have a receiver appointed by a court of law to manage the Premises (or parts of it), (iii) the right to evict WCD and anyone claiming by, through, or under WCD, from the Premises (or parts of it) (in the case of a material failure to perform by WCD as described in Section 20.A.), and (iv) the right, if City evicts or removes WCD (or anyone claiming by, through, or under WCD) from the Premises (or any part of it), to store personal property, including the Plaza Improvements and Plaza FF&E, of WCD (or anyone claiming by, through, or under WCD) in a storage facility or public warehouse at the sole cost of WCD. In the event a default occurs while the Premises are subleased to ArenaCo, City shall provide to ArenaCo and any Leasehold Mortgagee a copy of all notices delivered to WCD and allow WCD, ArenaCo and/or Leasehold Mortgagee to cure such default.

Notwithstanding the foregoing or anything to the contrary contained in this Lease, in no event shall the City have any right to terminate the Lease during any period in which a Leasehold Mortgagee holding a mortgage encumbering ArenaCo's subleasehold interest in the Premises is actively attempting to cure any existing default within the cure period afforded pursuant to this Lease or the 60-day period immediately following such cure period, unless the existing default is WCD's interference with the operation of the City's public transportation system, in which event there shall be no 60-day extended cure period for a Leasehold Mortgagee.

21. Condemnation or Damage of Premises.

- A. **Condemnation or Damage That Terminates Lease.** The City hereby agrees not to pursue a condemnation of all or any portion of the Premises during the Term of the Lease. If (1) the Premises (or a significant part thereof) are at any time during the Term condemned by any public authority other than the City or any of its agencies or authorities with the power of eminent domain (or are voluntarily transferred in lieu of, or under threat of, condemnation), or if the Premises are damaged by fire or some other cause so as to render – in City's reasonable

opinion (which shall be reached and delivered in writing by the City to WCD within 100 days of the condemnation, transfer or damage, and after consultation with WCD) – all or any significant portion of the Premises untenable or unfit for the continued use and purpose of WCD and for the carrying out of WCD’s operations and use at the Premises and (2) WCD fails to provide the City written notice within 90 days after it receives the City’s written opinion that it will repair the same as soon as reasonably practicable, this Lease shall be deemed terminated as of the date of the condemnation or transfer or loss. In such event, the proceeds from any condemnation award or insurance shall be payable to City, providing, however, that WCD shall be entitled, subject to the rights of any Leasehold Mortgagee pursuant to the terms of its applicable mortgage, to any award or insurance directly relating to WCD’s personal property (including the Plaza Improvements and Plaza FF&E), to WCD’s leasehold interest, and/or to any tenant-relocation award or benefit that the condemning authority or insurer may award or pay to WCD. If WCD delivers to the City written notice that it will repair the same, WCD will promptly commence and diligently pursue the same to completion or cause the same to be promptly commenced and diligently pursued to completion.

- B. **Waiver; Participation.** In the event of any condemnation or damage pursuant to subsection A. above, WCD waives any claim for damage or compensation from City. WCD shall have the right, to the extent of its tenant-interest or insurable interest, as the case may be, to participate in any condemnation proceedings or the settlement of any insurance claim.
22. **No Beneficial Interest.** No provision herein calling for sharing in insurance or condemnation proceeds and no other provision of this Lease shall constitute or be deemed to be evidence of WCD having any beneficial ownership of the Premises (or any part thereof) other than its leasehold interest in the Premises under this Lease or any partnership or agency relationship between WCD and City. The sole relationship hereunder between WCD and City is merely that of tenant (WCD) and landlord (City).
23. **Third Party Beneficiaries.** ArenaCo is a third party beneficiary of, and may enforce the City’s obligations under this Lease. Except for ArenaCo’s third party beneficiary rights, the rights of a Leasehold Mortgagee provided herein, and as otherwise specifically provided in this Lease, this Lease is solely for the benefit of the Parties and their successors and assigns permitted under this Lease and no provision of this Lease shall be deemed to confer upon any other third party any remedy, claim, liability, reimbursement, cause of action or right.
24. **Waiver.** No delay, waiver, omission or forbearance on the part of either party to exercise any right, option, duty or power arising out of any breach or default by the other party of any of the terms, provisions or covenants contained herein, shall be deemed a waiver by that party of such right, option or power, as against the other party for any subsequent breach or default by that party.

25. **Governing Law.** This Lease shall be construed according to the laws of the State of Wisconsin.

26. **Notices.** Any notice required or permitted under this Lease may be personally served or given and shall be deemed sufficiently given or served if sent by United States mail, with postage prepaid thereon, to the respective addresses set forth below or if sent by or e-mail to the respective e-mail address set forth below. If notice is sent via email, sender shall request a delivery or read receipt. Either party may by like notice at any time, and from time to time, designate a different address or e-mail to which notices shall be sent. Notices given in accordance with these provisions shall be deemed given and received (a) when personally served or (b) if e-mailed, when sender receives a delivery or read receipt from the recipient or (c) if mailed, three days after the postmark on such notice, in accordance with this Section.

To WCD:

Wisconsin Center District
400 W. Wisconsin Avenue
Milwaukee, WI 53707
Attn: President/CEO
[Email: _____]

With a copy to:

Attorney Danielle Bergner
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202-4124
Email: dmbergner@michaelbest.com

To City:

Commissioner of Public Works
City of Milwaukee
841 North Broadway, 5th Floor
Milwaukee, WI 53202
Email: gkorba@milwaukee.gov

With a copy to:

Office of City Attorney
800 City Hall
200 East Wells Street
Milwaukee, WI 53202
Attn: Mary L. Schanning
Email: mschan@milwaukee.gov

27. **Severability of Provisions.** If any of the terms or provisions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, the

remaining provisions and conditions of this Lease, or the application of such to persons or circumstances other than those to which it is declared invalid or unenforceable, shall not be affected thereby, and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

28. **Captions.** The captions in this Lease are for convenience and reference and in no way define or limit the scope or intent of the various provisions, terms or conditions hereof.
29. **Entire Agreement.** This Lease constitutes the entire agreement related to the Premises between the parties hereto and may not be amended or altered in any manner except in writing signed by both parties or as provided herein.

SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

CITY OF MILWAUKEE

Tom Barrett, Mayor

James R. Owczarski, City Clerk

COUNTERSIGNED:

Martin Matson, Comptroller

**Milwaukee City Attorney
Approval and Authentication**

Mary L. Schanning, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the Milwaukee representatives above, and also authenticates the signatures of each of the above Milwaukee representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

By: _____
MARY L. SCHANNING
Assistant City Attorney
State Bar No. 1029016

WISCONSIN CENTER DISTRICT

By: Scott Neitzel, Board Chairman

By: Russell Staerkel, President/CEO

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

Personally came before me this ____ day of _____, 2016, the above named Scott Neitzel, Board Chairman of the Wisconsin Center District, to me known to be such person who executed the foregoing instrument and acknowledged the same in such capacity.

Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

Personally came before me this ____ day of _____, 2016, the above named Russell Staerkel, President/CEO of the Wisconsin Center District, to me known to be such person who executed the foregoing instrument and acknowledged the same in such capacity.

Notary Public, State of Wisconsin
My Commission: _____

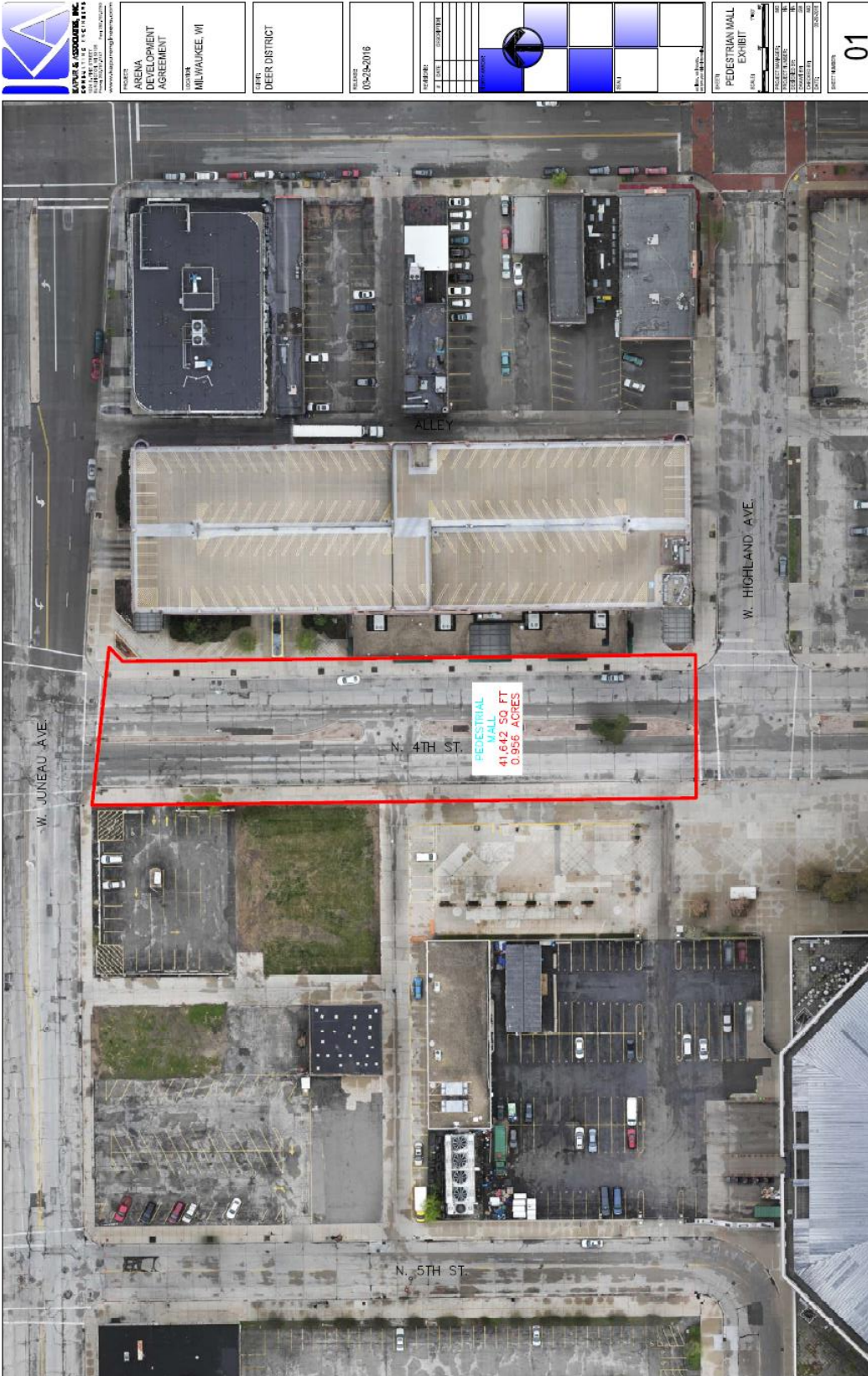
EXHIBIT A
PEDESTRIAN MALL LEASE

LEGAL DESCRIPTION

PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4, IN SECTION 29, TOWNSHIP 7 NORTH, RANGE 22 EAST, IN THE CITY OF MILWAUKEE, MILWAUKEE COUNTY, WISCONSIN.

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 29, T7N, R22E; THENCE N 88° 58' 45" E, COINCIDENT WITH THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 29, 511.23 FEET; THENCE S 01° 01' 15" E, 81.20 FEET TO A POINT OF INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF WEST JUNEAU AVENUE WITH THE WEST RIGHT OF WAY LINE OF NORTH 4TH STREET AND THE POINT OF BEGINNING; THENCE S 83° 48' 49" E, 110.78 FEET TO THE EAST RIGHT OF WAY OF NORTH 4TH STREET; THENCE S 46° 06' 54" W, COINCIDENT WITH SAID EAST RIGHT OF WAY, 13.69 FEET; THENCE S 00° 41' 10" E, COINCIDENT WITH SAID EAST RIGHT OF WAY, 399.50 FEET TO THE NORTH RIGHT OF WAY LINE OF WEST HIGHLAND AVENUE; THENCE S 89° 37' 54" W, 100.00 FEET TO THE WEST RIGHT OF WAY OF NORTH 4TH STREET; THENCE N 00° 41' 10" W, COINCIDENT WITH SAID WEST RIGHT OF WAY LINE, 421.57 FEET TO THE POINT OF BEGINNING.

SAID LANDS AS DESCRIBED CONTAINING 41,635 SQUARE FEET OR 0.956 ACRES OF LAND, MORE OR LESS.

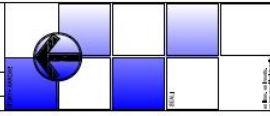


PROJECT:
ARENA
DEVELOPMENT
AGREEMENT
LOCATION:
MILWAUKEE, WI

DISTRICT:
DEER DISTRICT

RELEASED:
05-29-2016

NO.	DATE	DESCRIPTION



PROJECT:
PEDESTRIAN MALL
EXHIBIT

SHEET NUMBER:
01

Exhibit B

Design Guidelines

North 4th Street Pedestrian Mall Goals and Design Guidelines

The following goals and design guidelines should be applied to the design and programming of the North 4th Street pedestrian mall:

- 1. Create a showcase pedestrian mall that enlivens the visitor experience.** The design of the pedestrian mall should reflect Milwaukee's culture, invite a diverse group of users and be consistent with the larger context. The larger context includes the plazas surrounding the arena, live block, pedestrian connections, and streetscaping extending away from the plaza block. The pedestrian mall should include creative use in surface materials, and elements such as landscaping, lighting, way finding signage, street furniture, and other enhancements.
- 2. Provide an accessible and welcoming pedestrian entrance.** The north-south paving patterns should be evident to reinforce the public nature of the pedestrian mall. The visual north-south connection in the pedestrian mall with North 4th Street should be maintained. This can be achieved with tree placement, lighting pole placement, bollards and paving patterns. East-west paving patterns may continue across the pedestrian mall from the plaza area in front of the arena to the courtyard of the "live" block.
- 3. Promote high quality, sustainable design.** Surface paving material in the pedestrian plaza should be high quality material and may be varied in nature. Durable materials, such as stone or masonry, and paving patterns that allow permeable water drainage should be considered. Cohesive landscaping and landscape elements such as planters and moveable planters should be included in the pedestrian mall. Landscaping beds should be designed to channel surface run-off to positively affect the planting areas.
- 4. Create four season activity to attract visitors year round.** Flexibility for the pedestrian mall use should be considered. Street lighting, landscaping, street furniture and other elements should be located to allow generous open spaces, while allowing clear pedestrian pathways through the plaza in a north-south direction. Lighting should be designed to allow for special events to be easily set up and taken down in the pedestrian mall area. Utilities for special and seasonal events, such as electric power and water connections, should be integral with the design.
- 5. Integrate multimodal transit options.** Integrate an at least 11-foot wide, north-south transportation easement that is differentiated from the other pedestrian mall surface material. Connect back to the street right-of-way in a seamless transition by considering the intersection designs at Highland, which could include pedestrian crossings, and Juneau, which could include bump outs. The cross section of North 4th Street should be reconsidered for narrowing south of the pedestrian mall.

EXHIBIT C

Insurance Requirements

Insurance certificates must be sent for inspection and approval prior to the tenant's occupancy of the Premises and prior to any work being performed at the Premises by contractors or subcontractors of the tenant. Certificates should be sent to: Manager of Real Estate Services, City of Milwaukee, 809 North Broadway, Milwaukee, WI 53202-3617 or by facsimile to (414) 286-0395.

TYPE OF INSURANCE

LIMITS

Worker's Compensation

Statutory limits

Employers Liability

Bodily Injury by Accident

Each Accident: \$1,000,000

Bodily Injury by Disease

Each Employee: \$1,000,000

Public Liability

A Comprehensive General or Commercial General Policy Insuring Tenant's Use of the Premises that provides:

- Premises/Operations Protection
- Products/Completed Operations Protection
- Independent Contractor Protection (owners, contractors protective coverage)
- Contractual Liability Coverage
- Non-owned Automobile Liability Coverage
- Bodily Injury/Property Damage

Each Occurrence: \$1,000,000

General Aggregate: \$2,000,000

Products/Comp. Operations

aggregate: \$2,000,000

NOTE: If claims made coverage is provided, the policy must be amended so all protected occurrences are covered regardless of when the claim is made.

THE CITY OF MILWAUKEE MUST BE NAMED AS ADDITIONAL INSURED PARTY ON WCD'S POLICY AND ANY CONTRACTOR OR SUBCONTRACTOR POLICIES OF INSURANCE.

EXHIBIT D

Recognition Agreement

Recording Requested By

When Recorded Mail To:

Space Above For Recorder's Use

RECOGNITION AGREEMENT

THIS RECOGNITION AGREEMENT ("Agreement"), dated as of [_____, 2016], is among [LENDER] ("Bank"), DEER DISTRICT LLC ("Sublessee"), WISCONSIN CENTER DISTRICT ("Ground Lessee"), and THE CITY OF MILWAUKEE ("Ground Lessor"), with reference to the following

RECITALS:

A. Ground Lessor and Ground Lessee entered into that certain Pedestrian Mall Lease dated [_____, 2016] ("Ground Lease"), relating to the real property located in the City of Milwaukee, County of Milwaukee, State of Wisconsin, which is more particularly described on Exhibit A attached hereto ("Property"). Ground Lessee's leasehold interest under the Ground Lease was subleased to Sublessee by that certain Arena Lease, Management and Operations Agreement between Ground Lessee, as sublessor, and Sublessee dated [_____, 2016] ("Sublease").

B. Bank has agreed to make a loan to Sublessee in the amount of [_____] Dollars (\$[____]) ("Loan"). The Loan is secured, in part, by a mortgage in favor of Bank as beneficiary ("Leasehold Mortgage"), which encumbers Sublessee's subleasehold estate in the Property. The Leasehold Mortgage will be recorded in the Office of the Register of Deeds of Milwaukee County, Wisconsin, concurrently with the recordation of this Agreement.

C. Bank, Sublessee and Ground Lessee engaged in substantial negotiations regarding the rights and protections running in favor of Bank as contained in the Sublease. Bank is concerned that it would lose the Leasehold Mortgage should the Ground Lease be terminated while the Loan is outstanding, either consensually by agreement between Ground Lessor and Ground Lessee or by Ground Lessor unilaterally

upon the default of Ground Lessee under the Ground Lease. To address Bank's concerns, the parties wish to provide that while the Leasehold Mortgage is outstanding, Ground Lessor shall recognize all rights and protections running in favor of Bank contained in the Sublease as if the same were set forth in the Ground Lease.

D. Ground Lessor and Bank desire to establish certain rights, safeguards, obligations and priorities with regard to their respective interests by means of this Agreement.

TERMS OF THE AGREEMENT

IN CONSIDERATION of the mutual covenants of the parties and other good and valuable consideration, Bank and Ground Lessor agree as follows:

1. Ground Lessor Recognition of Bank. Ground Lessor consents to the encumbrance of Sublessee's subleasehold estate by the Leasehold Mortgage, recognizes Bank as the secured party thereunder, and agrees to afford Bank all of the rights and protections set forth in this Agreement to the same extent as if such provisions were contained in the Ground Lease. In the event that Bank or any other person acquires Sublessee's interest in the Property pursuant to the exercise of any remedy provided for in the Leasehold Mortgage, or by conveyance in lieu of foreclosure, neither the Ground Lease nor the Sublease shall be terminated or affected by the foreclosure, conveyance or sale in any such proceeding, and Ground Lessor shall recognize the purchaser or transferee as the new subtenant under the Sublease, with all the rights and obligations of Sublessee thereunder and all rights of Sublessee to receive notice of and cure any default of Ground Lessee under the Ground Lease. Except as expressly stated herein to the contrary, this section shall not limit nor impair Ground Lessor's rights under the Ground Lease.

2. Notice of Breach Under Lease. Notwithstanding anything to the contrary set forth in the Ground Lease, Ground Lessor agrees that while the Loan is outstanding, Ground Lessor will not exercise any of its termination remedies unless and until (i) Ground Lessor has delivered to Bank a written notice, describing with reasonable specificity each breach or Triggering Event, as that term is defined in the Ground Lease, claimed by Ground Lessor to exist, and (ii) the breach or Triggering Event has not been cured within the period as would be available to Ground Lessee for cure after delivery of the written notice as set forth in the Ground Lease.

3. No Consensual Termination. Ground Lessor and Ground Lessee agree that while the Loan is outstanding, they will not terminate or materially amend the Ground Lease without the prior written consent of Bank, which will not be unreasonably withheld or delayed. This section does not apply to a termination by reason of a Ground Lessee event of default or a Triggering Event under the Ground Lease.

4. No Mortgages. Ground Lessor represents and warrants that there is no current mortgage or deed of trust encumbering Ground Lessor's interest in the Property, and agrees that it shall not have the right to impose any such mortgage or deed of trust on Ground Lessor's interest.

5. Bank's Security Interest in Personal Property and Fixtures. Ground Lessor acknowledges that pursuant to the Leasehold Mortgage, Sublessee has granted Bank a security interest in all of Sublessee's tangible and intangible personal property and fixtures, as well as Sublessee's accounts receivable, inventory and other personal property ("Collateral"). Ground Lessor consents to such grant of security interests. Ground Lessor and Bank agree that Bank's security interest does not impair any rights, if any, which Ground Lessor may have in the Collateral upon a termination of the Ground Lease.

6. Other Provisions.

(a) All notices, requests and demands to be made hereunder to the parties hereto shall be in writing (at the addresses set forth below) and shall be given by any of the following means: (i) personal service; (ii) electronic communication by facsimile (if confirmed in writing sent by certified first class mail, return receipt requested); or (iii) certified first class mail, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as provided above. Any notice, demand or request sent pursuant to either clause (i) or clause (ii) hereof shall be deemed received upon such personal service or upon delivery by electronic means, and if sent pursuant to clause (iii) shall be deemed received three (3) days following deposit in the mail.

To Bank: _____

Attention: _____

To Ground Lessor:
Commissioner of Public Works
City of Milwaukee
841 North Broadway, 5th Floor
Milwaukee, WI 53202

With a copy to:

Office of City Attorney
800 City Hall

200 East Wells Street
Milwaukee, WI 53202
Attn: Mary L. Schanning

To Ground Lessee: _____

Attention: _____

To Sublessee: _____

Attention: _____

(b) This Agreement shall be binding upon and shall inure to the benefit of the successors, assignees and transferees of the parties hereto whether by license, sale, gift, operation of law or otherwise.

(c) This Agreement shall be construed in accordance with the laws of the State of Wisconsin. None of the parties shall have the right to rely upon any representation or warranty not expressly set forth herein. No provision of this Agreement may be amended or added to except by an agreement in writing signed by each of the parties hereto.

(d) This Agreement shall be construed as a whole and in accordance with its fair meaning and intent, which is to ensure that Bank has the right to protect its rights under the Leasehold Mortgage.

(e) Time is of the essence of each and every one of the provisions herein contained.

(f) Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

(g) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

(h) This Agreement contains the entire agreement between the parties relating to the subject matter hereof. Any oral representations or modifications concerning this instrument shall be of no force or effect. Any subsequent modification must be in writing signed by the party to be charged.

(i) Captions and organizations are for convenience and shall not be used in construing meaning.

(j) A termination of the Leasehold Mortgage shall automatically, without necessity of any other action by the parties, terminate and extinguish this Agreement. Notwithstanding the foregoing, if requested by any party hereto (following a termination of the Leasehold Mortgage), the other parties shall promptly execute a written agreement, in recordable form, sufficient to establish that this Agreement has been fully terminated and extinguished.

To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this document.

[Signatures, acknowledgments & legal description]