

**MEMORANDUM OF
GROUND LEASE, OPTION
AND
AGREEMENT REGARDING STORM
WATER MANAGEMENT FACILITIES
(Browning School)**

Document No.

Document Name

Drafted by:

Thomas O. Gartner
Michael Best & Friedrich, LLP
100 E. Wisconsin Ave., Suite 3300
Milwaukee, WI 53202

THIS MEMORANDUM OF GROUND LEASE, OPTION AND AGREEMENT REGARDING STORM WATER FACILITIES (“Memorandum”), effective as of _____, 2018, by and between the Housing Authority of the City of Milwaukee, a public body corporate and politic created and existing under the laws of the State of Wisconsin (“HACM”) and the Milwaukee Board of School Directors, a school district organized under chapter 119 of the Wisconsin Statutes (“MPS”).

Recording Area

Return to:

Thomas O. Gartner
Michael Best & Friedrich, LLP
100 E. Wisconsin Ave., Suite 3300
Milwaukee, WI 53202

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WITNESSETH

WHEREAS, HACM and MPS entered into a Ground Lease Agreement (“Lease”) dated as of August 1, 2003; and

WHEREAS, the Lease, a copy of which is attached as Exhibit A is applicable to the premises described in Article I, paragraph 1 of the Lease which are further legally described on Exhibit B; and

WHEREAS, the Lease sets forth the respective rights and obligations of HACM and MPS with respect to the premises which consist of property located at 5440 North 64th Street, Milwaukee, WI and commonly known as the Browning School; and

WHEREAS, the Lease further grants an option to purchase the premises to MPS (the “Option”) in Article II, paragraph 2; and

WHEREAS, HACM and MPS also entered into an Agreement dated as of March 1, 2017 regarding storm water management facilities located on the premises beneath the Browning School playground (the “Agreement”) a copy of which is attached as Exhibit “C”; and

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WHEREAS, Article II, paragraph 3 of the Lease authorizes the execution, delivery and recording of this Memorandum; and

WHEREAS, the parties desire to enter this Memorandum for the purpose of recording the same in order to give notice to the public of the Lease, the Option and the Agreement and the respective rights and obligations of the parties.

NOW, THEREFORE, in consideration of the premises, the mutual promises and covenants contained herein, in the Lease and in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by and between the parties hereto, each being legally bound hereby, as follows:

1. Memorandum of Lease, Option and Agreement. This Memorandum has been executed for the purpose of public recording to give public notice of the Lease, the Option and the Agreement and for no other purpose. The provisions of this Memorandum do not in any way change, alter, or affect the terms, covenants or conditions of the Lease, the Option or the Agreement, the terms, covenants and conditions of each of which shall remain in full force and effect.
2. Counterparts. This document may be signed in counterparts.

[SIGNATURE PAGES FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be duly executed, under seal, and delivered in City of Milwaukee, Wisconsin as of the day and date set forth above.

[NOTARY SEAL]

| | |
|---|---|
| <p>MPS: Milwaukee Board of School Directors</p> <p>By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p> | <p>HACM: Housing Authority of the City of Milwaukee</p> <p>By: _____</p> <p>Antonio M. Perez, Secretary/Executive Director</p> |
| <p>MPS AUTHENTICATION</p> <p>The undersigned, as a member in good standing of the State Bar of Wisconsin, hereby authenticates the signature of the MPS representative above per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05 (2)(b).</p> <p>By: _____</p> <p>Thomas O. Gartner State Bar No. 1003072</p> <p>Date: _____</p> | <p>HACM AUTHENTICATION</p> <p>The undersigned, as a member in good standing of the State Bar of Wisconsin, hereby authenticates the signature of the HACM representative above per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05 (2)(b).</p> <p>By: _____</p> <p>Thomas O. Gartner State Bar No. 1003072</p> <p>Date: _____</p> |

EXHIBIT A

Ground Lease Agreement dated as of August 1, 2003

**(Available upon request –
Full text to be attached to Executed Counterpart for Recording)**

EXHIBIT B

Legal Description of the Premises

Commonly known as the Browning School located at 5440 North 64th Street, Milwaukee, WI

That part of Block 6 of Westlawn, a subdivision of part of the Northeast Quarter (1/4) of Section 34, Township 8 North, Range 21 East; all in the City of Milwaukee, County of Milwaukee, State of Wisconsin, described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (1/4) of Section 34, Township 8 North, Range 21 East; thence South 89° 52' 59" West along the section line, 1313.23 feet; thence South 0° 07' 01" East, 380.12 feet; thence North 89° 52' 59" East, 30 feet to the East line of North 64th Street; thence South 1° 53' 57" East, 294.86 feet along said East line to the Point of Beginning of parcel to be described; thence East, 269.57 feet to the West line of North 63rd Street; thence South 1° 01' 31" East along said West line, 441.49 feet to the Northwest Corner of West Custer Avenue and North 63rd Street, thence South 89° 44' 19" West along the North Line of West Custer Avenue, 262.80 feet to the Northeast corner of West Custer Avenue and North 64th Street; thence North 1° 53' 57" West along the East line of North 64th Street, 442.86 feet to the Point of Beginning of parcel described.

Exhibit C

Agreement Regarding Storm Water Facilities Dated as of March 1, 2017

AGREEMENT

AGREEMENT made as of March 1, 2017 by and between the Milwaukee Public Schools, Board of School Directors, a school district organized under Chapter 119 of the Wisconsin Statutes (“MPS”), and the Housing Authority of the City of Milwaukee (“HACM”); and

WHEREAS, MPS is the tenant and HACM is the landlord under a lease agreement (“the Lease”) for the premises as described on Exhibit “A” (the “Site”); and

WHEREAS, HACM wishes to undertake certain stormwater management activities on the Site in support of its expansion of its Westlawn Gardens Housing Development and the treatment of such activities is not covered by the Lease; and

WHEREAS, HACM’s activities will involve excavating a portion of the Site that MPS uses for educational and recreational programming in order to place the stormwater management facilities underground; and

WHEREAS, HACM and MPS wish to set forth their agreement with respect to HACM’s performance of the stormwater management activities; and

NOW, THEREFORE, In consideration of the promises and the mutual obligations of the parties hereto, MPS and HACM hereby covenant and agree as follows:

- (1) HACM shall be solely responsible for the cost of installing the stormwater management facilities.
- (2) HACM shall be solely responsible for the maintenance, repair, and upkeep of the stormwater management facilities.
- (3) HACM shall schedule the installation of the stormwater management facilities in such a manner as to cause as little disruption to MPS’ use of the Site as practicable with

commencement of construction activities to occur on or before June 2, 2017. Prior to the commencement date, HACM and MPS shall meet and confer to discuss the scheduling of work.

(4) Following completion of the installation of the stormwater maintenance facilities, HACM shall return the Site to a condition agreeable to MPS, including but not limited to: provide new asphalt pavement and subgrade paving stone base over stormwater maintenance facilities; provide adequate subgrade depth, anchorage, and code compliance for the concrete footings for the fence posts for the new soccer field (footings, fence posts, and soccer field provided by others) and parking lot; install required drain tiles and stormwater connections for new and existing catch basins; coordinate construction to accommodate drainage of new playground surface and structures, including a multi-sport court (provided by others) and an artificial turf surfaced soccer field (provided by others); install a new parking lot with new fencing and gates (new fencing/gates along southern border only); provide new landscaping along southern and eastern fence lines; install site lighting along perimeter of playground and parking lot; and all work as identified in Exhibit B (HACM Scope of Work). Completion date of all of HACM's work related to the playground asphalt in order to allow for curing and for MPS to complete its game striping shall be no later than July 7, 2017. Completion date of all remaining HACM work shall be no later than August 31, 2017.

(5) HACM and its contractors shall maintain insurance at levels approved by MPS.

(6) Following completion of the installation of the stormwater maintenance facilities, HACM may need to perform routine maintenance and/or repairs to the stormwater maintenance facilities. All such maintenance and repair shall be performed at times and by methods so as to minimize, as much as practicable, the impact to MPS' use of the site.

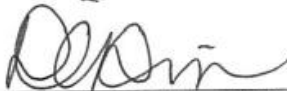

(7) HACM agrees to defend, indemnify, and hold harmless MPS, its agents, board members, employees, and officers from and against any and all claims, demands, action and

causes of actions and any resulting liability, loss, damages, costs or expenses arising out of or in any way related to or associated with or arising from the activities covered by this Agreement, including, but not limited to, any wrongful, intentional, or negligent act or omission of HACM, its employees, officers, agents, contractors, and volunteers who participate in the activities covered by this Agreement.

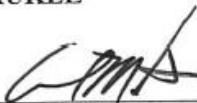
(8) In the event any court action or administrative proceeding is brought against MPS or any of its officers, agents, or employees, for acts of HACM, its employees, officers, agents, contractors, volunteers, invitees, or students, MPS shall tender the defense of any claim or action at law or equity to HACM, or HACM's insurer, and upon such tender it shall be the duty of HACM or HACM's insurer to defend such claim or action without cost or expense to MPS, its officers, agents, or employees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and date set forth above.

**MILWAUKEE PUBLIC SCHOOLS,
BOARD OF SCHOOL DIRECTORS**

By: 
Darienne B. Driver, Ed.D.
Title: Superintendent of Schools 

**HOUSING AUTHORITY OF THE CITY
OF MILWAUKEE**

By: 
Antonio M. Pérez
Title: Executive Director

1031-2017-221:238253-v2:05/04/17

EXHIBIT A

Description of the Site

Depiction of the Entire Parcel, the Leased Premises, and the SSNC Premises from the original August 2003 Ground Lease Agreement between MPS and HACM

LEASE EXHIBIT

Lot 1A and Lot 1B being a portion of Block 6 of Westlawn, a Subdivision of part of the Northeast Quarter (1/4) of Section 34, Township 8 North, Range 21 East and a parcel of land adjacent to the South right-of-way line of Sheridan Avenue and the East right-of-way line of 64th Street, all in the City of Milwaukee, County of Milwaukee, State of Wisconsin.

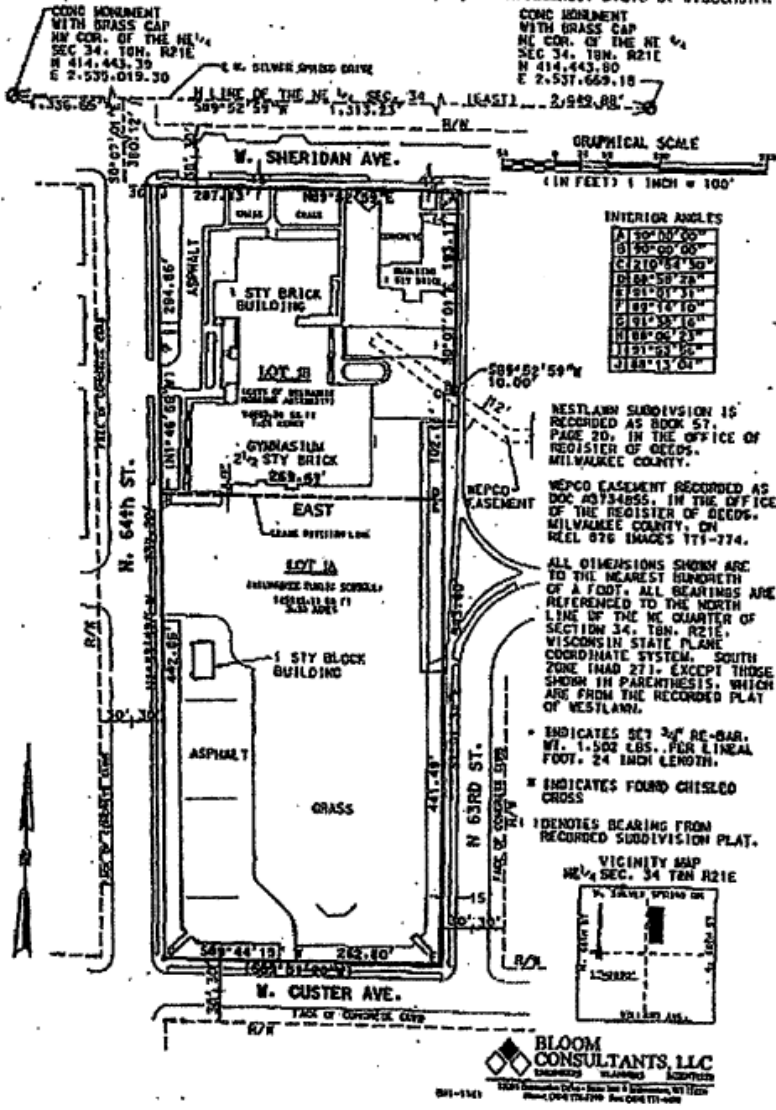


EXHIBIT B

HACM Scope of Work

Westlawn Gardens Phase II Browning Elementary Parking Exhibit Sheet SX-3, dated 3/06/17

