

FACILITY USE AGREEMENT

No. 2185-09-71

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Milwaukee, Milwaukee County, Wisconsin, a municipal corporation, and Komatsu Mining Corp. (each a “Party” and together the “Parties” ).

ARTICLE 1.0 - DEFINITIONS

- a. "Operator" means Union Pacific Railroad Company or Canadian Pacific Railroad Company.
- b. "Municipality" means the City of Milwaukee, Milwaukee County, Wisconsin.
- c. "WisDOT" means the Wisconsin Department of Transportation.
- d. "Industry" means Komatsu Mining Corp.
- e. "Municipality Land" means the corridor of real estate owned by Municipality and/or Operator upon which the project facility is located near the Industry plant site in Milwaukee, Wisconsin, and more fully described in Attachment II.
- f. "Improved Property" means the rails, ties, ballast, track material, switches, and culverts acquired, used or installed with the proceeds received by the Municipality from the TEA-Rail Agreement.
- g. "Person" means an individual, a partnership, an association, and bodies politic or corporate.
- h. "Project Facility" means the industry track constructed under the TEA-Rail Agreement using improved property and providing Industry's plant with access to the Operator's track.
- i. "RHS" means the Railroads and Harbors Section of WisDOT.

- j. "Industry Track Agreement" means the agreement by and between the Operator and Municipality or Industry, or both, governing the provision of rail service over and the maintenance of the project facility.
- k. "TEA-Rail" means the agreement by and between the Municipality and WisDOT, Identification No. 2185-09-71, setting forth the terms of the Municipality's receipt of a Transportation Economic Assistance-Rail grant to construct the project facility.
- l. "Direct Job(s)" means the number of eligible jobs directly associated with the economic development project and listed on the application, as reviewed and approved by WisDOT under TRANS 510.
- m. "Liquidation" or "Liquidated" means the permanent dismantlement or disassembly, in whole or in part, of the Project Facility, rendering it incapable of further use by Industry.

#### ARTICLE 2.0 - PROJECT DESCRIPTION

The Project Facility constructed by the Municipality on Municipality Land consists of industrial railroad track of approximately [not yet finalized] feet from the Soo Line (Canadian Pacific)/Union Pacific Railroad property line to the end of the track at Industry's plant site property line as shown on Attachment III.

#### ARTICLE 3.0 - USE, TERM AND JOB GUARANTEE

(a) The Municipality grants to Industry the right to use the Project Facility for the purpose of shipping and receiving products, equipment, materials and other freight to, from and at Industry's plant, provided Industry complies with the terms and conditions set forth in this Agreement. Municipality will not restrict or limit Industry's use in any way inconsistent with Industry's usage rights set forth in the Industry Track Agreement. Industry's right to use the Project Facility shall continue until terminated pursuant to this Agreement.

(b) Industry shall comply with the criteria established in the Direct Jobs Guarantee attached hereto as Attachment I.

#### ARTICLE 4.0 - PROJECT FACILITY LIQUIDATION

In the event the Project Facility is Liquidated at any time, the net proceeds received from disposition of the Improved Property included in the Project Facility shall be distributed as follows: 50% thereof shall be paid to Municipality for reimbursement to WisDOT, and 50% thereof shall be paid to Municipality. In this Article 4.0, “net proceeds” means the amount realized from the sale of the Improved Property, less the cost of removal. Municipality agrees to reimburse Industry of its pro rata share of net proceeds (that is, that portion of the net proceeds that bears the same percentage to the entire net proceeds as Industry’s contribution to Municipality for Project Facility construction bears to the total cost of the Project Facility construction), but not more than the total amount that Industry contributed to Municipality for Project Facility construction.

#### ARTICLE 5.0 - PROJECT FACILITY OPERATION

##### Section 5.1. Written Agreements

Industry has entered or shall enter into the following written agreements with appropriate parties to assure its ability to comply with the requirements of this Agreement. These agreements shall be submitted in approvable form to the Municipality by Industry so the Municipality may submit them to RHS for acceptance. If RHS does not approve in writing said written agreements, RHS shall notify the Municipality and Industry of the reasons for the failure to accept, and Industry and Municipality may amend the agreements and re-submit them to RHS for acceptance. If Industry fails to comply with this provision or RHS does not approve in

writing said written agreements as they may be re-submitted, this Agreement is automatically terminated.

Industry or Municipality, as appropriate, shall provide an Industry Track Agreement by and between Municipality or Industry, or both, and Operator. Said Industry Track Agreement shall be attached hereto as Attachment II and made a part of this Agreement as of the date Attachment II is accepted in writing by RHS.

#### Section 5.2. Maintenance of Project Facility

Operator shall, at its expense, perform or arrange for performance of all maintenance and repairs of the Project Facility, the road bed of the Project Facility, drainage ways and any structures necessary for the safe operation of railroad service as determined by Operator or the Federal Railroad Administration, or both, provided that, if Operator fails to perform or arrange for performance of such maintenance, or if Municipality renders the track unfit for use, then notwithstanding Article 7.0 hereof, Industry, in order to maintain its use of the Project Facility, may, at its election, perform or arrange for performance of maintenance and repairs to the Project Facility.

#### Section 5.3. Project Facility Use

(a) A de facto condition of default for failure to use may be declared by Municipality or WisDOT upon occurrence of any one or more of the following events:

- (i) Industry renders its loading docks or track facilities permanently unfit for rail service by Industry or Operator for a period in excess of twelve (12) months, or permanently ceases its operation of its plant. The twelve month period may be extended by RHS upon written request by Industry.
- (ii) Operator abandons the line haul track and/or industrial lead track to which the Project Facility is connected.
- (iii) Operator permanently ceases operation of line haul track and/or industrial lead track serving the Project Facility.

(b) Industry shall provide to RHS not later than January 20 of each year from the date hereof until January 20, 2029, a report of the number of loaded rail cars shipped out and the number of loaded railcars received on the Project Facility by Industry during the previous calendar year, after which date Industry may, upon written request of RHS not more frequently than annually, voluntarily provide such report of loaded rail cars shipped and received on the Project Facility. Upon prior written request, Industry shall arrange for access by RHS or its authorized agent to examine waybill, demurrage, or other appropriate records solely for purposes of validating the number of reported loaded railcar counts. Such examination shall be conducted during Industry's regular business hours, and in a manner not to interfere with Industry's normal operations.

#### Section 5.4. Defective Work.

If it is reasonably determined by Operator or a qualified third party railroad inspector that any material or workmanship of the Project Facility is deficient, Municipality, without reimbursement, shall promptly require the replacement of materials or correction of workmanship necessary to cure the deficiency.

### ARTICLE 6.0 - PROJECT PROPERTY SECURITY, LIENS AND SALE

#### Section 6.1. Security for Borrowing

(a) Municipality shall not itself nor shall it allow Operator to use the value of the Improved Property acquired or used for this project as security or collateral for any loan or other borrowing.

(b) Municipality shall not use Improved Property as security or collateral for any loan or other borrowing which is not recorded in the Office of Register of Deeds of Milwaukee County on the date of execution of this Agreement.

## Section 6.2. Liens Against Improved Property

Municipality shall not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Improved Property or any interest therein not in existence on the date of execution of this Agreement. Municipality shall immediately take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim against Improved Property if the same shall arise at any time.

## ARTICLE 7.0 - DEFAULT AND TERMINATION

### Section 7.1. Notice of Default

A condition of default exists under this Agreement when either Party to this Agreement removes the Project Facility in whole or in part, rendering it unusable or unsafe by Operator, or renders Industry loading dock or track permanently unfit for use by Industry or Operator for a period in excess of twelve (12) months unless extended by RHS upon written request by Industry, or otherwise fails to abide by or perform according to any one or more of its material terms and conditions hereunder. A notice of default of this Agreement shall be made in writing and delivered to the alleged defaulting Party by certified mail sent to the address shown in Section 10.2. The letter shall identify the action or inaction constituting the default and reference the portion of the Agreement under which the default occurs. The date of default shall be the date of delivery of notice or the date insurance coverage fails to meet requirements, whichever first occurs.

### Section 7.2. Opportunity to Cure and Termination

The Municipality or Industry shall have ten (10) business days from written notification of the default (or such longer period as may be agreed by the Parties) to remove or remedy the

cause of the default, or if the cause of the default cannot be removed or remedied within ten (10) business days or agreed upon period, the defaulting Party shall commence and diligently pursue the removal or remedying of the cause of the default during such ten (10) business day or agreed upon longer period for the defaulting party to reasonably and diligently pursue a cure of the default. This remedy period may be waived by the Party declared in default. If the correction by the defaulting Party is not completed and ready for verification by the other Party within the ten (10) business day period or agreed longer period, or if the cause of default cannot be removed or remedied within the ten (10) business day period or agreed longer period, the non-defaulting Party may at its option, after first giving ten (10) days written notice thereof by certified mail to the Party in default, elect to terminate this Agreement.. Upon written petition by the defaulting Party, the other Party may extend the period for removal of a default condition. The defaulting Party shall be notified of satisfactory correction in writing.

#### Section 7.3. Industry Opportunity to Cure Municipality Default

Notwithstanding Section 7.2 above, if Municipality breaches this Agreement by removing the Project Facility in whole or in part, rendering it unusable or unsafe by Operator or renders the Project Facility unfit for railroad freight service pursuant to Section 7.1 hereof, and fails to remedy the default pursuant to Section 7.2 above, Industry may, at Industry's election, not terminate this Agreement, and repair or cause the repair of the Project Facility to fitness for use, and may recover the cost of such repair from Municipality without causing the termination of this Agreement or Industry's use of the Project Facility.

#### Section 7.4. Expenses of Termination

The Parties shall themselves, and Industry shall use reasonable efforts to require Operator, to mitigate the expenses of termination to the greatest extent possible, and the Municipality shall pay those that do occur if default is caused by Municipality, and Industry shall pay those that do

occur if default is caused by Industry. If termination is caused by acts of Operator, the Parties will cooperate to recover the expenses of termination from Operator.

Section 7.5. Vacating the Property

Upon determination by the Municipality, acting reasonably, that remedial action has not removed the default condition caused by Industry, the Municipality shall provide written notice to Industry and Operator for Industry and Operator to vacate the Project Facility within fourteen (14) calendar days of delivery of such notice.

Section 7.6. Force Majeure

The Parties hereto will be excused from performance of any of their respective obligations hereunder, for the duration of any interruption occasioned by any event beyond their respective control (not due to their own fault or actions), which shall include, without limitations: Acts of God; strikes or other labor troubles, pandemic, acts of terrorism, or other causes except the unavailability of insurance coverage in full accordance with Section 9.2 of this Agreement or any amendment thereto, beyond the reasonable control of the Parties; interruption of service caused by accidents, explosions, fires, vandalism, or malicious mischief. To the extent permitted by WisDOT, the Parties will be excused from the performance of their obligations hereunder if the Parties' failure to use the Project Facility is due to the economic or business conditions of Industry or the failure of Operator to provide freight cars or switching service.

ARTICLE 8.0 - REPRESENTATIONS AND WARRANTIES

The Parties hereto represent and warrant that they have the power and authority to enter into this Agreement and to carry out their obligations under this Agreement.



## ARTICLE 9.0 - LIABILITY AND INSURANCE

### Section 9.1. Hold Harmless

To the extent permitted by law, Industry shall save and hold Municipality and WisDOT, its officers, employees and agents harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever for personal injury, including death, damage to property, or fines or penalties imposed by applicable governmental authorities for violation of applicable law or regulation, to the extent caused by the negligent acts or omissions of Industry, its authorized servants, contractors, subcontractors or employees acting in the course and scope of their employment, which arise out of Industry's use of the Project Facility pursuant to this Agreement, during the period this Agreement between Industry and Municipality is in effect related to the Project Facility.

To the extent permitted by law, Municipality shall save and hold Industry and WisDOT, their officers, employees and agents harmless from and against all liability, damage, loss, claims, demands and actions for personal injury, including death, or damage to property, fines or penalties imposed by applicable governmental authorities for violation of applicable law or regulation or non-compliance of the construction of the Project Facility with applicable laws, codes and railroad regulations, including environmental harm or release, to the extent caused or exacerbated by the negligent acts or omissions of Municipality, which arise out of or are connected with, or are claimed to arise out of or be connected with, the Municipality's, or Municipality's servants, contractors, subcontractors, or employees acting in the course and scope of their employment, actions related to the Project Facility pursuant to this Agreement, including without limitation the construction of the Project Facility by Municipality, during the period this Agreement between Industry and Municipality is in effect related to the Project Facility.

## Section 9.2. Insurance

(a) Required Coverage — During the term of this Agreement, Industry shall maintain, at its own cost and expense, a Comprehensive General Liability Policy in an amount of not less than \$1,000,000.00 single limit coverage, and for matters of liability arising from Industry's use of the Project Facility, shall name the Municipality and WisDOT, their officers, employees, and agents as additional insureds on all Primary and Excess Comprehensive General Liability insurance documents. Industry shall in addition maintain and keep in force worker's compensation and employer's liability insurance, to the extent, if any, that worker's compensation and employer's liability is not covered under the Comprehensive General Liability Policy.

(b) Validation of Coverage and Notice of Cancellation — Upon initial inclusion of the Municipality and WisDOT as additional insureds and on each renewal of insurance coverage required by Section 9.2(a), the insurance broker shall provide to the Municipality and WisDOT written documentation in the form of a certificate of insurance from the insurance carrier or its authorized representative of the terms and effective date of coverage. In the event of insurance coverage suspension or insurance cancellation by any insurance carrier, Industry shall provide the Municipality and WisDOT with notification of such suspension or cancellation of insurance coverage required by Section 9.2(a) no less than 10 days prior to such suspension or cancellation.

(c) Reporting of Incidents and Claims - During the term of this Agreement, any damage or injury to person or property occurring on the Project Facility or from the operation of the equipment of Industry or by the employees of Industry (herein referred to as an "incident") shall be reported to the Municipality and WisDOT at such time as said incident is reported to any regulatory agencies or Industry's insurance carrier. Industry shall forthwith furnish the Municipality and WisDOT with copies of any notice of injury or claim of damage made to Industry. Thereafter, Industry shall provide the Municipality and WisDOT access to copies of

any further instruments, reports and records involving such matter and shall report, at least quarterly, to the Municipality and WisDOT as to further happenings regarding the incident including the final disposition of the matter. Notice of court dates shall be given to the Municipality and WisDOT within a reasonable time after receipt. Industry shall use reasonable efforts to include a similar requirement applicable to Operator in the Industry Track Agreement between Industry and Operator.

## ARTICLE 10.0 - GENERAL CONDITIONS

### Section 10.1. Choice of Law

This Agreement shall be interpreted in accordance with the statutes and laws of the United States of America and the State of Wisconsin. Interpretation may be had in any court of record of the County of Milwaukee.

### Section 10.2. Notice

- a. Any notice required or permitted under this Agreement shall be personally served or mailed by certified United States mail, return receipt requested, postage prepaid, to the following addressed persons at the following addresses and to such other persons and addresses as the following persons shall direct by notice pursuant to this Section:

Commissioner of City Development  
809 N. Broadway, 2<sup>nd</sup> Floor  
Room 205  
Milwaukee, WI 53202

With a copy to:

Office of the City Attorney  
841 N. Broadway, 7<sup>th</sup> Floor  
Milwaukee, WI 53202

President  
Komatsu Mining Corp.

4400 West National Avenue  
Milwaukee, WI 53214

With a copy to:

General Counsel  
Komatsu Mining Corp.  
8770 W Bryn Mawr Ave., Suite 100  
Chicago, IL 60631

b. Any notice provided under Section 10.2(a) shall be provided to the following by first class mail.

Chief  
WisDOT Railroads & Harbors Section  
P.O. Box 7913  
4822 Madison Yards Way, 6<sup>th</sup> Floor South  
Madison, WI 53707-7913

President  
Union Pacific Railroad Co.  
1400 Douglas Street  
MS 1690  
Omaha, NE 68179

### Section 10.3. Transfer of Rights Under This Agreement

This Agreement shall be binding upon and inure solely to the benefit of the Parties hereto. Industry's or Operator's rights hereunder shall not be assignable whether by way of assignment, sublease, license or otherwise, directly or indirectly without the Municipality's prior written consent.

### Section 10.4. Severability

If any term, covenant, condition or provision (or part thereof) of this Agreement, or the application thereof to any Party or circumstance, shall at any time or to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, or remainder thereof, to Parties or circumstances other than those as to which it is held

to be invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 10.5. Amendment, Consents and Approvals

(a) No term or provision of this Agreement, or any of its attachments, may be changed, waived, discharged or terminated, except by an instrument in writing signed by both Parties to this Agreement.

(b) Consents and approvals required under this Agreement and interpretation of this Agreement may be made or granted by letter from one Party to the other Party hereunder or by an exchange of letters between the Parties.

Section 10.6. Officials

(a) Officials authorized to execute amendments or modifications to this Agreement on behalf of the Municipality are the Mayor and City Clerk.

(b) Officials authorized to execute amendments or modifications to this Agreement on behalf of Industry are its Chairman or President, or other persons designated in writing by Industry to Municipality.

Section 10.7. Handicapped

No otherwise qualified handicapped individual in the United States, as defined in Section 706(7) of Title 29 USC, and subchapter II of Chapter 111, Wis. Stats., shall solely by reason of the individual's handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving benefits under this Agreement.

Section 10.8. Environmental Protection

(a) Industry agrees to conduct work which it performs under this Agreement in compliance with all applicable Wisconsin Environmental requirements. Municipality will complete a Wisconsin Department of Transportation Categorical Exclusion Checklist and provide WisDOT with copies of approval letters from the Wisconsin Department of Natural Resources, the Wisconsin State Historical Society, or other state or federal agency who may have reviewed this project for environmental reasons, prior to execution of this agreement by WisDOT. This report and letters shall become part of this agreement.

(b) Facilities or equipment shall not be acquired, constructed, or improved as a part of the Project Facility unless such facilities or equipment are designed and equipped to limit water and air pollution in accordance with all applicable state and federal standards, statutes, and regulations.

(c) Municipality's operations shall be conducted in compliance with all the requirements of Section 114 of the Clean Air Act, 42 USC sec. 7414, and Section 308 of the Federal Water Pollution Control Act, 33 USC 1318, and all applicable regulations issued under said Acts.

(d) Municipality certifies that no facilities which will be utilized or improved as part of the Project Facility are listed on the Environmental Protection Agency ("EPA") List of Violating Facilities ("List").

Section 10.9. Prohibited Interests

(a) Conflicts of Interest:

(1) Neither Municipality nor Industry, nor any of their subcontractors shall enter into any contract, subcontract, or agreement in connection with the project or any property included or planned to be included in the Project Facility in which any director, officer or

employee of Municipality during his or her tenure or for one (1) year thereafter has any interest, direct or indirect, except as permitted under Sec. 946.13(2), Wis. Stats.

(2) No director, officer, or employee of Municipality, during his or her tenure or for one (1) year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof except as permitted under Sec. 946.13(2), Wis. Stats.

(3) No subcontractor of Municipality or Industry may enter into any contract, subcontract or other arrangements regarding the construction or maintenance of the Project Facility for which assistance is available to the Municipality under the TEA-Rail Agreement if any director, officer, any key salaried employee or official, or any member of the immediate family of one of the foregoing has any material interest in said Agreement.

(4) The provisions of this subsection shall not be applicable to any agreement between Municipality or Industry and its fiscal depositories or to any agreement for utility services for which rates are fixed by government regulation.

Section 10.10. Non-Discrimination

(a) In connection with the performance of work under this Agreement or the TEA-Rail Agreement, Industry agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Sec. 51.01(5), Wis. Stats., sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. Industry agrees to post in conspicuous places,

available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.

(b) Municipality shall comply with the following laws, policies, regulations and pertinent directions as may be applicable and will require their subcontractors through contractual agreement to similarly comply:

- i. Title VI of the Civil Rights Act of 1964, 78 Stats. 252, 42 U.S.C. 2000d et seq.
- ii. Subchapter II of Chapter 111, Wis. Stats.
- iii. Section 16.765, Wis. Stats.

(c) Municipality in the procurement process, shall not discriminate against minority owned or operated firms qualified to bid and perform on contracts, subcontracts, or materials procurement connected with the work performed under this Agreement or the TEA-Rail Agreement.

Section 10.11. Assurance

Municipality shall require its construction contractor to acquire a performance and payment bond or an irrevocable letter of credit in the full amount of the grant to the Municipality under the TEA-Rail Agreement in favor of Municipality for the duration of the construction work set forth under said Agreement.

Section 10.12. Specific Performance

Each Party shall have the right, as provided by law, to require specific performance by the other Party of the other Party's obligations under this Agreement. This right may be asserted at any time after thirty (30) calendar days of the Party notifying the other Party of its obligation to perform.

Section 10.13. Entire Agreement This Agreement and the attachments hereto contain



the entire agreement of the Parties and supersede any and all prior agreements or oral understandings between the Parties.

SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers on the date and year designated in this Agreement.

City of Milwaukee  
Milwaukee County, Wisconsin

Witness: \_\_\_\_\_

By: \_\_\_\_\_  
Tom Barrett, Mayor

Witness: \_\_\_\_\_

By: \_\_\_\_\_  
Jim Owezarski, City Clerk

Witness: \_\_\_\_\_

By: \_\_\_\_\_  
Ayhca Sawa, Comptroller  
  
Komatsu Mining Corp.

WITNESS: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Jeffrey Dawes, President and CEO

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
[name & title]

\_\_\_\_\_  
Date

AGREEMENT NO. 2185-09-71

ATTACHMENT I

JOBS GUARANTEE



The **Redevelopment Authority of the City of Milwaukee** ("Applicant") agrees to authorize the inclusion of, and be bound by, this repayment provision in the separate State-Municipal Agreement (SMA) that will be executed between it and the Wisconsin Department of Transportation (WisDOT) as part of WisDOT's approval of Applicant's request for assistance under the Transportation Facilities Economic Assistance and Development (TEA) program.

The **Redevelopment Authority of the City of Milwaukee** agrees, in this repayment provision, to reimburse WisDOT for up to the full grant amount if employment within the economic development project (**Komatsu Mining Group**) fails to meet the following goals:

From a baseline employment of **697** jobs:

- (1) Creation of **0** new jobs within three years after the SMA is executed; and, retention of said **0** new jobs seven years after the SMA is executed
- (2) In addition to said new jobs, retention of **697** jobs three years, and seven years, after the SMA is executed

Total number of jobs to be retained at both the three-year and seven-year reporting dates: **697**

For purposes of this provision, a job is defined to be consistent with Ch. Trans. 510, Wis. Adm. Code. It will include all new non-retail jobs and exclude jobs obtained through geographic job transfers within Wisconsin except those that would be lost to the state. Eligible jobs include full time equivalents (FTE's).

At three years and again at seven years after the SMA is executed, the **Redevelopment Authority of the City of Milwaukee** will report to WisDOT the number of FTE jobs that were created and/or retained. For TEA grants of \$100,000 or more, the reports will be accompanied by an attestation report created and signed by an independent Certified Public Accountant licensed or certified under ch. 442, Wis. Stats., expressing an opinion on the number of eligible jobs; the director or principal officer of the **Redevelopment Authority of the City of Milwaukee** will also attest, including by signature, to the accuracy of the job numbers.

If the job guarantee is not satisfied, WisDOT will evaluate the job benefits that have been obtained in order to determine if reimbursement of either the full grant amount or a reduced amount, based on a prorated share related to the number of jobs that have materialized as a result of the economic development project, is appropriate, or other remedy under s. Trans 510.08(3), Wis. Adm. Code.

The full grant amount involved here, of which partial or total reimbursement may be required, is **\$1,000,000.00**.

X  
 (Signature of WisDOT Secretary)

Craig Thompson  
 Secretary,  
 Wisconsin Department of Transportation

\_\_\_\_\_  
 (Date - m/d/yy)

X *David P. Misky*  
 (Signature of the Applicant's Authorized Representative)

David P. Misky - Assistant Director  
 (Print Name and Title of Representative)

809 N. Broadway  
 (Street, P.O. Box)

Milwaukee, WI 53202  
 (City, State, ZIP Code)

10/30/2020  
 (Date - m/d/yy)

AGREEMENT NO. 2185-09-71

ATTACHMENT II

INDUSTRY TRACK AGREEMENT

AGREEMENT NO. 2185-09-71

ATTACHMENT III

PROJECT FACILITY