

AIRSPACE LEASE BETWEEN THE  
CITY OF MILWAUKEE AND SIXSIBS  
LLC FOR A SKYWALK

Document Title

Document Number

**AIRSPACE LEASE  
BETWEEN  
THE CITY OF MILWAUKEE  
AND  
SIXSIBS LLC  
FOR A SKYWALK**

Recording Area

Name and Return Address

Amy Turim  
Real Estate Development Services Manager  
City of Milwaukee  
Department of City Development  
809 North Broadway  
Milwaukee, WI 53201-0324

## AIRSPACE LEASE

The City of Milwaukee, a Wisconsin municipal corporation (“Lessor” or “City”) and SIXSIBS LLC (“SIXSIBS”), a Wisconsin limited liability company (“Lessee”), pursuant to the provisions of sec. 66.0915(3), Wisconsin Statutes (2019-2020), do hereby make and enter into this Airspace Lease (“Lease”) as of the (DATE) day of (MONTH), 2021 (“Effective Date”).

1. Description. Lessor hereby leases to Lessee an airspace over West Freshwater Way between South 3rd Street and South 6th Street in the City of Milwaukee (the “Airspace”), for the purpose of constructing and maintaining a skywalk pedestrian bridge (“Skywalk”) that will connect the South Parcel tech building and parking structure (“Tech Building”) and the North Parcel office building (“Office Building”) components of the Rite-Hite Global Headquarters Project (“Project”), the Airspace being more particularly described as follows:

That part of Freshwater Way, a 66 foot wide right-of-way in the Northwest 1/4 of the Northeast 1/4 of Section 32, Town 7 North, Range 22 East, in the City of Milwaukee, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of Lot 1 of Certified Survey Map No. 9271, recorded as Document No. 11041529;

Thence South 72°43'09" West, 143.33 feet along the southeasterly line of said Lot 1 to the point of beginning, having a ground elevation of 8.6 feet, a bottom of air lease elevation of 27.0 feet and a top of air lease elevation of 46.7 feet;

Thence South 0°06'49" West, 69.16 feet to the northwesterly line of Lot 3 of said Certified Survey Map No. 9271, having a ground elevation of 8.5 feet; a bottom of air lease elevation of 27.0 feet and a top of air lease elevation of 46.7 feet;

Thence South 72°43'09" West, 18.86 feet along said northwesterly line, having a ground elevation of 8.5 feet; a bottom of air lease elevation of 27.0 feet and a top of air lease elevation of 46.7 feet;

Thence North 0°06'49" East, 69.16 feet to the southeasterly line of said Lot 1, having a ground elevation of 8.7 feet, a bottom of air lease elevation of 27.0 feet and a top of air lease elevation of 46.7 feet;

Thence North 72°43'09" East, 18.86 feet along said southeasterly line to the point of beginning.

Said easement contains 24,900 cubic feet of air, more or less. All elevations are based on the City of Milwaukee vertical datum.

See also, Exhibit A. The foregoing Airspace legal description shall be adjusted upon final “as-built” construction. Lessee shall provide the City Engineer with an “as-built” legal description of the Skywalk corresponding to the final plans, within 60 days after completion of the construction of the Skywalk.

2. Term. The Lease shall run for a period of 99 years from the Effective Date of this Lease; provided, however, that Lessee may terminate the Lease at any time during the 99-year period by giving Lessor due notice of Lessee’s intention to terminate the Lease in writing by registered or certified mail at least six months prior to the termination date specified in the notice; the termination, however, shall not become effective until the structure authorized by the Lease is completely removed and the public right of way restored to the satisfaction of the City’s Commissioner of Public Works (“Commissioner”). The Lease shall be effective upon execution by the parties. Lessor, at the expense of Lessee, shall cause this Lease and its authorizing ordinance (No. 201237) to be recorded with the Milwaukee County Register of Deeds upon execution of the Lease. Lessee shall provide Lessor with full payment for recording costs upon execution of the Lease.

3. Rental. The rental payable to Lessor by Lessee under the Lease shall be the sum of \$7,240.00 per year. Said rental shall commence upon the start of construction of the Skywalk. This rental shall be paid by Lessee in annual payments to the Office of the City Comptroller, the first payment being due within thirty (30) days following the start of construction of the Skywalk, and future annual payments to be due 30 days prior to the annual anniversary date of the Lease. At the option of Lessor, the rental amount may be reviewed and increased every ten years. Any such rental increases shall be proportionate to any increase in the average land values of neighboring properties.

4. Use and Occupancy. Lessee covenants and agrees that upon the execution of this Lease, Lessee will in due course construct the Skywalk, which will be used only as a passageway for pedestrians. Lessee shall permit access to the Skywalk to all persons seeking to gain access to or egress from the Office Building or the Tech Building. Lessee further covenants and agrees that those portions of the Skywalk located within the Airspace will be operated, used, and maintained in accordance with operating standards, methods, and procedures that may be established from time to time by the Plan Commission of the City of Milwaukee. Lessor reserves the right to attach wiring to those portions of the Skywalk located within the Airspace whenever the Commissioner determines such wiring to be necessary to accommodate public travel on the public right-of-way, including but not limited to wiring to support the overhead contact system necessary to operate the Milwaukee Streetcar. The Commissioner shall notify Lessee of such determination, by certified mail, informing Lessee of the proposed work to be done by Lessor. Notwithstanding anything herein to the contrary, any such proposed work to attach wiring for the Milwaukee Streetcar shall not restrict the use of the Skywalk by Lessee, compromise the structural integrity of the Skywalk, or materially affect the design of the Skywalk. Lessor and Lessee shall work together to minimize the impact of such wiring on the aesthetics of the Skywalk. The attachment, maintenance and operation of such wiring (including any electricity costs) will be at Lessor's sole expense. Lessor shall provide notice at least sixty (60) days prior to the commencement of any such proposed work, which notice shall include the plans, specifications and method of attachment of the wires to the Skywalk.

5. Plans, Regulations, and Permits. Lessee shall have the plans and specifications for the Skywalk prepared by a registered professional engineer, which plans and specifications shall specifically provide for the prevention of ice accumulation on the Skywalk and methods by which pigeons and other birds will be prevented from roosting or nesting on the Skywalk. The plans and specifications shall be approved by the Commissioner and the Department of City Development Commissioner prior to the commencement of construction of the Skywalk. The Skywalk shall be constructed in compliance with the intent of the plans and specifications to the satisfaction of the registered professional engineer who shall supervise the construction thereof. Lessee shall obtain the necessary permits for the construction of the Skywalk, pay all required fees, and comply with all building and zoning regulations of Lessor, the County of Milwaukee, and the State of Wisconsin which shall at any time be applicable to the construction and maintenance of the Skywalk.

6. Maintenance. Lessee shall safely maintain the Skywalk and regulate its use and occupancy so that the Skywalk or the use thereof will not be a hazard or danger to persons or property within the public right of way. No material changes to the Skywalk that deviate from the approved plans and specifications may be made during the course of this Lease without the prior written approval of the Commissioner.

7. Insurance and Indemnity. Lessee shall maintain and keep in force during the term of the Lease public-liability insurance in no event less than the amount of \$1,000,000.00 for an individual claim and \$5,000,000.00 for multiple claims arising out of an accident involving the Skywalk or the use or occupancy of the Airspace, and Lessor shall be named as an additional insured and shall be indemnified and held harmless from all claims, liabilities, or causes of action arising out of any injury to person, or persons, or damage to real or personal property arising out of the design, construction, maintenance, destruction, or dismantling of the Skywalk, or from collapse of the Skywalk; or which arise by reason of any material or thing whatsoever falling or being thrown from the Skywalk, excluding however, those matters set forth in the last sentence of this paragraph. A certificate of insurance in those sums, including Lessor as a party insured, shall be deposited with the City Clerk of the City of Milwaukee prior to commencement of construction of the Skywalk. This policy of insurance shall also contain a provision that during the period of construction of the Skywalk the aggregate limits of the policy for multiple claims shall be \$5,000,000.00. At the option of Lessor, these minimum amounts may be reviewed and reasonably adjusted every ten years. In the event that Lessor exercises its right to attach wires to the Skywalk pursuant to paragraph 5, above, Lessor shall indemnify Lessee and hold Lessee harmless from all claims, liabilities, or causes of action arising out of

any injury to person, or persons, or damage to real or personal property arising out of the design, construction, maintenance, operation, destruction, or dismantling of the wiring, or from disconnection of the wiring; or which arise by reason of any material or thing whatsoever hitting, pulling, falling from, or being thrown at the wiring.

8. Termination of Lease in the Event of Condemnation. In the event that any governmental authority or agency shall require the use of or take all of, or a major portion of the buildings which are connected by the Skywalk, to the extent that the Skywalk would no longer be usable or useful to Lessee, this Lease shall be terminated as of the time the use and occupancy of the Skywalk and/or adjacent buildings are surrendered and the Skywalk is removed pursuant to this Lease. It is further understood that in the event of condemnation or acquisition by any governmental authority or agency of one or both of the adjacent buildings, the value of the leasehold interest created hereunder shall not be an element of damages, nor in any way be considered as a factor of valuation of the property acquired.

9. Removal of Street Facilities. Lessee shall, upon demand by Lessor, pay such charges as may be incurred by Lessor for the removal or relocation of any facilities, utilities, or structures within the public way in the vicinity of the Skywalk that are made necessary by reason of the construction of the Skywalk. Lessor shall first, however, provide Lessee with notice of such charges and any removal or relocation that may be required.

10. Act of God, Rioting, and Public Enemies. In the event of the destruction of all or a portion of the Skywalk by an act of God, casualty, public enemies, or by reason of riot or insurrection, the Lease shall terminate and Lessee shall not be required to pay any further rent to Lessor. Notwithstanding the foregoing, Lessee shall have the right to reconstruct the Skywalk located in the Airspace and this Lease shall not terminate, provided such reconstruction is commenced within six months of the damage or destruction, and in such event, Lessee shall pay rental for any period during which the Skywalk was damaged, destroyed, or inoperative.

11. Entry by Lessor. Lessor, by its officers, agents, or employees, may at all reasonable times during Lessee's business hours have access to and enter the Skywalk and Airspace to view the condition of the Skywalk and require any and all necessary repairs and alterations thereto for the public safety and well-being. This right shall in no way eliminate Lessee's obligation of determining and maintaining the structural adequacy of the Skywalk.

12. Default and Penalty. In the event default shall be made at any time by Lessee in payment of rent, and such default shall continue for a period of 30 days after written notice thereof by registered mail or certified mail to Lessee by Lessor, or if default shall be made in any of the other terms and conditions to be kept, observed, and performed by Lessee, and such default shall continue for 30 days after written notice thereof by registered or certified mail to Lessee from Lessor, or if default is of such a nature as to require more than 30 days to effect a cure, and Lessee shall not commence to cure such default within the 30-day period after notice as provided above, and thereafter diligently proceed to cure such default, then Lessor may at any time thereafter prior to the curing of such default within reasonable time, declare the term of Lease ended and terminated by giving Lessee written notice of its intention. If possession of the Airspace is not immediately surrendered, Lessor may re-enter therein and declare the Lease to be terminated; and in such event Lessor may require that Lessee remove and demolish the Skywalk at Lessee's own expense or Lessor may remove or demolish the Skywalk and require the payment of the expense thereof from Lessee to Lessor within 30 days thereafter.

13. Surrender of Premises. Upon the termination of the Lease, Lessee agrees to surrender or relinquish any claims or right to further utilize the Airspace. Lessee shall, prior to surrender of the Airspace, cause the Skywalk to be demolished and removed and the Airspace returned to the same condition as it was when first acquired by Lessee in compliance with the applicable building codes, unless otherwise directed by Lessor. In the event of the failure of Lessee to remove the Skywalk within six months after the termination of the Lease, Lessee shall pay liquidated damages to Lessor in the sum of \$100.00 for each and every day it remains in possession of the Airspace after the expiration of six months from the termination of the Lease.

14. Parties to Lease. The term "parties to the Lease" shall include the successors and assigns of Lessor and Lessee, respectively.

15. Effect of Lease. This Lease and the ordinance under which it is executed shall not operate to repeal, rescind, modify, or amend any ordinances or resolutions of the City of Milwaukee relating to the use or obstruction

of streets, the granting of permits, and any regulations relating to the preservation of order and movement of traffic, or any other similar ordinances, resolutions, or regulations not specifically set forth in the ordinance of which this Lease is a part, or as authorized by sec. 66.0915(3), Wisconsin Statutes (2019-2020).

16. Assignment; Liens; Estoppel Certificates.

a. Each Lessee, and its successors and assigns, may assign its interest in this Lease to any party who holds fee title or a leasehold estate in the land abutting the Airspace. With respect to each assignment, if the assignee executes a written instrument whereby it agrees to assume and be bound by all of the responsibilities and obligations of Lessee under the Lease, the assignor shall be released from all obligations and liabilities under this Lease, and a notarized copy shall be submitted to the City Engineer for record-keeping purposes and the City Comptroller for billing purposes.

b. Lessee shall have the right to pledge, mortgage, grant a security interest in, encumber, or collaterally assign their or its interest in this Lease to secure indebtedness for borrowed money of the Lessee, and the same shall not constitute or be deemed to be a violation of this Lease. Lessee shall take all actions and precautions required to ensure that the City's interest in the Airspace does not become attached by, or with, any lien (excluding any mortgage lien contemplated by the foregoing sentence), 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 Lessee (or anyone claiming by, through or under Lessee) may perform or have done at the Airspace. Lessee shall indemnify, defend and hold harmless City 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 Airspace, together with all costs in connection therewith.

c. Upon request of Lessee, Lessor shall deliver to Lessee, within ten (10) days of request, a certificate stating that (a) the Lease is in full force and effect, (b) to Lessor's knowledge, Lessee is not in default thereunder, and (c) the current amount of rental payable under the Lease and the date through which payment has been made.

17. Notices. Notices required hereunder shall be sent to:

For the City (Lessor):

City Engineer  
Infrastructure Services Division  
841 North Broadway, Room 701  
Milwaukee, WI 53202

For SIXSBIS LLC (Lessee):

SIXSIBS LLC  
Attn: Greg Spanos  
8900 N. Arbon Dr.  
Brown Deer, WI 53223  
gspanos@sixsibscapital.com

18. Signs. Lessee shall not place or maintain any signs or cause them to be placed in or on the leased premises so as to be readable from the street without the written approval of the Commissioner.

[Signature Pages Follow]

IN WITNESS WHEREOF, the City of Milwaukee has caused these presents to be signed by Tom Barrett, Mayor, and James R. Owczarski, City Clerk, and countersigned by Aycha Sawa, City Comptroller, at Milwaukee, Wisconsin, and its corporate seal to be hereunto affixed this \_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF MILWAUKEE

COUNTERSIGNED:

\_\_\_\_\_  
TOM BARRETT, Mayor

\_\_\_\_\_  
AYCHA SAWA, Comptroller

\_\_\_\_\_  
JAMES R. OWCZARSKI, City Clerk

STATE OF WISCONSIN )  
  )ss.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2021, Tom Barrett, Mayor of the City of Milwaukee, above-named municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of such municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation by its authority and pursuant to Ordinance No. 201237, effective date (DATE, YEAR).

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires:\_\_\_\_\_

STATE OF WISCONSIN )  
  )ss.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2021, James R. Owczarski, City Clerk of the City of Milwaukee, above named municipal corporation, to me known to be the person who executed the foregoing instrument, and to me known to be such City Clerk of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, by its authority and pursuant to Ordinance No. 201237, effective date (DATE, YEAR).

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires:\_\_\_\_\_

STATE OF WISCONSIN )  
  )ss.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2021, Aycha Sawa, City Comptroller of the City of Milwaukee, the above-named municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such City Comptroller of said municipal corporation and acknowledged that he executed the foregoing instrument as such officer as the

deed of said municipal corporation, by its authority, and pursuant to Ordinance No. 201237, effective date (DATE, YEAR).

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires: \_\_\_\_\_

IN WITNESS WHEREOF, SIXSIBS LLC has caused these presents to be signed at Milwaukee, Wisconsin, this \_\_\_\_ day of \_\_\_\_\_, 2021.

**SIXSIBS LLC**

By: \_\_\_\_\_  
GREG SPANOS, MANAGING DIRECTOR

STATE OF WISCONSIN )  
  )ss.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2021, Greg Spanos, a Managing Director of the above-named party, SIXSIBS LLC, to me known to be the person who executed the foregoing instrument and to me known to be a Managing Director of such limited liability company and acknowledged that he executed said foregoing instrument as such officer as the deed of said limited liability company, by its authority.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires: \_\_\_\_\_

Approved as to form and execution  
this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Assistant City Attorney

This instrument was drafted by the City of Milwaukee by Assistant City Attorney James M. Carroll.  
1053-2021- \_\_\_\_\_  
JMC;jmc