

RIGHT OF ENTRY AGREEMENT

THIS RIGHT OF ENTRY AGREEMENT (“Right of Entry”), is made and entered into as of the ____ day of April, 2021, and effective as of April 1, 2021 (the “Effective Date”) and is by and between **THE REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE** (hereinafter “RACM”) and **DEER DISTRICT LLC** (hereinafter “DEVELOPER”).

RECITALS

- A. DEVELOPER, RACM and the City of Milwaukee entered into the Cooperation, Contribution and Development Agreement, dated December 22, 2015, as amended on September 20, 2016, on September 1, 2020, and on April 13, 2021 (collectively, the “DEVELOPMENT AGREEMENT”) to facilitate the construction of a new arena and related development in the City of Milwaukee. Any capitalized terms used in this Right of Entry, but not defined herein shall be as they are defined in the DEVELOPMENT AGREEMENT.
- B. RACM owns a parcel of land located at 300 West Juneau Avenue (the “PROPERTY”) which DEVELOPER has used for temporary parking during construction of the PROJECT and during the 2 years following completion of the PROJECT under the terms of a Right of Entry Agreement dated October 20, 2016, which is now expired.
- C. DEVELOPER would like to continue to use the PROPERTY for temporary parking as authorized in the DEVELOPMENT AGREEMENT.
- D. RACM agrees to provide DEVELOPER with this Right of Entry over the PROPERTY as described below.

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, RACM and DEVELOPER agree as follows:

- 1. **Recitals**. The parties agree to the above recitals and incorporate them herein.
- 2. **Use**. DEVELOPER may use the PROPERTY for temporary parking for up to 2 years from the Effective Date. DEVELOPER may also use the PROPERTY for other uses, but only as approved in advance and in writing by the Executive Director of RACM.
- 3. **Fee**. Beginning as of the Effective Date, DEVELOPER shall pay RACM a monthly fee of \$1000 for use of the PROPERTY under this Right of Entry with such payment due on the first day of each month. The first such payment, owed for the month of April 2021, shall be paid within 5 business days of the execution of this Right of Entry.

4. **Special Conditions.**

- A. DEVELOPER is responsible for maintenance and cleanliness of the PROPERTY and adjacent sidewalk areas during the term of this Right of Entry. RACM shall have the right to enter the PROPERTY during the term of this Right of Entry for purposes of inspection. No permanent structures or improvements are permitted on the PROPERTY provided, however, that DEVELOPER may pave the PROPERTY for surface parking and install minor temporary improvements ancillary thereto. DEVELOPER is responsible for repair of any damage to the PROPERTY caused by DEVELOPER, its agents, contractors or employees. Said damage shall include, but not be limited to any release, discharge, disposal, dumping, spilling, or leaking (accidental or otherwise) onto the PROPERTY of any hazardous substance which is regulated under applicable Environmental Laws, including any petroleum products. Any damage shall be reported to RACM.
- B. All expenses incidental to the use of the PROPERTY are to be borne by DEVELOPER. RACM assumes no liability for bodily injury and property damage resulting from any acts by the DEVELOPER, its agents, contractors, employees and assigns. DEVELOPER shall comply with any and all regulations of the City of Milwaukee.
- C. If requested by RACM, DEVELOPER shall provide to RACM complete access to all data, test results and other information generated as a result of the activities on the PROPERTY, DEVELOPER shall brief RACM on its findings if requested and shall not release any information regarding the PROPERTY to any other parties without RACM's written permission. To the extent permitted by law, DEVELOPER, in consideration of RACM's consent, agrees not to commence any action, administrative or regulatory, or to in anyway seek funds from RACM for testing or remediation of the PROPERTY or any property supposedly impacted by any condition or contamination that is determined to exist on or beneath the PROPERTY which migrated there from an off-premises source. DEVELOPER shall not require RACM to determine the source or extent of contamination unless it can be demonstrated that the source is located on the PROPERTY and RACM has caused it.
- D. Parking rates charged to the general public parking on PROPERTY shall be no less than 110% of the parking rates established by Section 309-61-2-a of the Milwaukee Municipal Code of Ordinances. Where Section 309-61-2-a provides a range of rates, DEVELOPER shall charge no less than 110% of the rate being charged at the same time for general parking at the parking structure located at 1215 N. 5th Street.

5. **Liability, Insurance and Indemnification.** The Insurance Requirements and Indemnification attached as Exhibit A are made a part of this Right of Entry to the same extent and with the same force as if fully set forth herein. Prior to the issuance of this Right of Entry, the DEVELOPER shall provide to RACM, for its inspection and

approval, a Certificate of Insurance naming RACM as an additional insured and a waiver of subrogation for workers compensation claims.

6. Compliance with Laws and Regulations.

- A. DEVELOPER 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 PROPERTY.
- B. DEVELOPER shall not, with respect to its use of the PROPERTY, discriminate against any person on the basis of race, sex, sexual orientation, creed, national origin or identity, color, religion, marital status, age or handicap.

7. Termination. The breach or default of any of the conditions or covenants contained herein shall be cause for the termination of this permit within 30 days written notice by RACM, unless said breach or default is cured by DEVELOPER.

8. Notices. Any notice required or permitted under this Right of Entry 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 e-mail to the respective e-mail address set forth below. 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 mailed, three days after the postmark on such notice, in accordance with this section.

To RACM: Redevelopment Authority of the City of Milwaukee
809 North Broadway, Floor 2
Milwaukee, WI 53202
Attn: Dave Misky, Assistant Executive Director/Secretary

To DEVELOPER: Deer District, LLC
1543 North 2nd Street, 6th Floor
Milwaukee, WI 53212
Attn: Peter Feigin, President

9. Assignment. DEVELOPER may collaterally assign this Right of Entry to DEVELOPER's construction lender for the new arena being constructed by DEVELOPER on land located southwest of the PROPERTY (the "Construction Mortgagee"). Provided that DEVELOPER provides RACM with the contact information for the Construction Mortgagee, RACM shall simultaneously deliver to the Construction Mortgagee copies of any notices of default under this Right of Entry sent to DEVELOPER and the Construction Mortgagee shall be afforded an additional 30 days to cure any default that is not timely cured by DEVELOPER.

10. Entire Agreement. This Right of Entry constitutes the entire agreement between the parties hereto with regard to DEVELOPER's right to use the PROPERTY and may not be amended or altered in any manner except in writing signed by both parties. In the event of any conflict between this Right of Entry and the Development Agreement, the terms of the Development Agreement shall control.

DEER DISTRICT LLC

**REDEVELOPMENT AUTHORITY OF
THE CITY OF MILWAUKEE**

By: _____
Peter Feigin, President

By: _____
Francis Hardrick, Chairperson

By: _____
David P. Misky, Assistant
Executive Director/Secretary

1050-2014-2970

EXHIBIT A

Insurance Requirements

Insurance certificates must be sent for inspection and approval prior to commencement of the project to: Amy Turim, Real Estate Manager, Department of City Development, 809 North Broadway, Milwaukee, WI 53202-3617 or by facsimile to (414) 286-0395.

<u>TYPE OF INSURANCE</u>	<u>LIMITS</u>
<u>Workers' Compensation</u>	Statutory limits
<u>Employers Liability</u>	
Bodily Injury by Accident	Each Accident \$100,000
Bodily Injury by Disease	Each Employee \$100,000 Policy Limit \$500,000
<u>Public Liability</u>	
A Comprehensive General or Commercial General Insuring Agreement that provides:	
<u>*Occurrence Coverage*</u>	
Premises/Operations Protection	
Products Completed Operations Protection	
Independent Contractors (owners, contractors protective coverage)	
Contractual Liability for Risks Assumed to this agreement	
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.	
Bodily Injury/Property Damage	Each occurrence \$1,000,000 General occurrence \$1,000,000 Products/completed operation aggregate \$2,000,000
<u>Automobile</u>	
Business Auto Policy that provides:	
Liability coverage for all owned, non-owned and hired vehicles	
Sudden and Accidental Pollution Coverage	
Provide MCS-90 Endorsement when applicable in accordance with the Motor Carrier Act of 1980	
Bodily Injury/Property Damage	Each accident \$1,000,000

**THE REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE MUST BE NAMED AS
ADDITIONAL INSURED PARTY ON THE POLICY.**

Indemnification

DEVELOPER shall indemnify, defend and hold harmless RACM and its officers, employees, officials and agents (collectively, the "Indemnified Parties") from and against any and all losses, claims, damages, expenses, (including reasonable attorney fees and costs) and any other liabilities arising therefrom, whether arising in equity or at law, in connection with, or as a result of, DEVELOPER's use of the PROPERTY or any actions, errors or omissions of DEVELOPER, its Affiliates, their respective officers, members, employees, contractors, subcontractors, architects, engineers, agents and assigns, undertaken pursuant to this Right of Entry or the Development Agreement. Nothing in the foregoing indemnity shall protect the Indemnified Parties against their own default, negligence or misconduct. The indemnification covenants made by DEVELOPER in this Right of Entry shall be effective as of the Effective Date and terminate upon the termination of this Right of Entry; provided that said covenants shall continue to be effective thereafter with respect to all claims, whenever asserted, which are based on acts, omissions or other events which occurred prior to the termination of this Right of Entry.