



City of Milwaukee

City Hall
200 East Wells Street
Milwaukee, WI 53202

Meeting Agenda COMMON COUNCIL

Tuesday, December 22, 2009

9:00 AM

Council Chambers, 3rd Fl., City Hall

THE STEERING & RULES COMMITTEE RECOMMENDS:

PLACING ON FILE THE FOLLOWING:

1. [020787](#) Communication transmitting a report on the Pabst Brewery building's development.

Sponsors: THE CHAIR

2. [061468](#) Communication from the Department of Administration relating to the status of the citywide wireless network.

Sponsors: THE CHAIR

---The following item may be referred from the SPECIAL Steering and Rules Committee meeting held on Monday, December 21, 2009 at 2:00 P.M.

3. [090078](#) Substitute resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

Sponsors: Ald. Murphy



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Master

File Number: 020787

File ID: 020787

Type: Communication-Report

Status: In Committee

Version: 0

Reference:

Controlling Body: STEERING &
RULES
COMMITTEE

Requester: CITY CLERK

Cost:

File Created: 09/04/2002

File Name:

Final Action:

Title: Communication transmitting a report on the Pabst Brewery building's development.

Notes:

Code Sections:

Indexes: BUSINESS DEVELOPMENT, ECONOMIC
DEVELOPMENT, NEIGHBORHOOD
DEVELOPMENT, REPORTS AND STUDIES

Sponsors: THE CHAIR

Attachments:

Drafter: ajz

Contact:

Agenda Date:

Agenda Number:

Enactment Date:

Enactment Number:

Effective Date:

Extra Date 2:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
0	COMMON COUNCIL	09/04/2002	ASSIGNED TO	STEERING & RULES COMMITTEE			
0	STEERING & RULES COMMITTEE	07/12/2004	HEARING NOTICES SENT		07/14/2004		
0	STEERING & RULES COMMITTEE	07/14/2004	HELD TO CALL OF THE CHAIR				Pass
	Action Text:	A motion was made by Ald. D'Amato that this matter be HELD TO CALL OF THE CHAIR. The motion carried by the following vote:					
Mover:	ALD. D'AMATO	Aye:6 - Hines Jr., Murphy, Davis, D'Amato, Bauman, and Donovan No:0 Excused:1 - Witkowiak					6-0-1
0	STEERING & RULES COMMITTEE	06/04/2008	HELD TO CALL OF THE CHAIR				Pass
	Action Text:	A motion was made by ALD. BAUMAN that this Communication-Report be HELD TO CALL OF THE CHAIR. The motion PREVAILED by the following vote:					

Mover:	ALD. BAUMAN	Aye:5 - Hines Jr., Murphy, Davis, Hamilton, and Bauman No:0 Excused:3 - Witkowiak, Donovan, and Bohl	5-0-3
0	STEERING & RULES COMMITTEE	12/10/2009	

Text of Legislative File 020787

..Number

020787

..Version

Original

..Reference

..Sponsor

THE CHAIR

..Title

Communication transmitting a report on the Pabst Brewery building's development.

..Drafter

CC-CC

AJZ:dkf

9/4/02



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Master

File Number: 061468

File ID: 061468

Type: Communication

Status: In Committee

Version: 0

Reference:

Controlling Body: STEERING &
RULES
COMMITTEE

Requester:

Cost:

File Created: 03/02/2007

File Name:

Final Action:

Title: Communication from the Department of Administration relating to the status of the citywide wireless network.

Notes:

Code Sections:

Agenda Date:

Indexes: AGREEMENTS, WIRELESS

Agenda Number:

Sponsors: THE CHAIR

Enactment Date:

Attachments: Letter from Midwest Fiber Networks

Enactment Number:

Drafter:

Effective Date:

Contact:

Extra Date 2:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
0	COMMON COUNCIL	03/02/2007	ASSIGNED TO	STEERING & RULES COMMITTEE			
	Action Text: This Communication was ASSIGNED TO to the STEERING & RULES COMMITTEE						
0	STEERING & RULES COMMITTEE	03/02/2007	HEARING NOTICES SENT		03/08/2007		
0	STEERING & RULES COMMITTEE	03/08/2007	HELD TO CALL OF THE CHAIR				Pass
	Action Text: A motion was made by ALD. MURPHY that this Communication be HELD TO CALL OF THE CHAIR. The motion PREVAILED by the following vote:						
	Notes: <i>Appearances by:</i> <i>Randy Gschwind, Dept. of Admin.-Info. Tech. Management Division</i> <i>Jeff Mantes, Commission of Public Works</i>						
Mover:	ALD. MURPHY	Aye:6 - Hines Jr., Murphy, Davis, D'Amato, Bauman, and Witkowiak No:0 Excused:1 - Donovan					6-0-1
0	STEERING & RULES COMMITTEE	12/10/2009					

Text of Legislative File 061468

..Number

061468

..Version

ORIGINAL

..Reference

..Sponsor

THE CHAIR

..Title

Communication from the Department of Administration relating to the status of the citywide wireless network.

..Requestor

..Drafter

jro

3/2/07



March 7, 2007

City of Milwaukee
Common Council – Steering and Rules Committee

RE: Status of Milwaukee Wireless Project

With respect for your upcoming session on March 8th to review the status of the Milwaukee Wireless Project, we felt it important to contribute feedback on the progress. As you are aware, Midwest Fiber Networks signed a Facilities Use and License Agreement on June 30, 2006. At that time, the City Comptroller investigated private activity rules and the final Agreement was executed in September 2006.

The mutual objectives of this endeavor continue to be:

- Full City Coverage of viable broadband, wireless Internet Access
- Cost effective broadband Internet Access
- Increased technological access for business and tourism uses
- Expedited deployment to put Milwaukee in a position to be a major market with this new technology

After having spent the last six months working through the logistics of the Demonstration Area, as required by the original Agreement, all parties have found this project to be far more complex than anticipated.

There are a few issues that continue to be on the forefront of needing resolution, which include, but are not limited to:

-
- Private Use Agreements
 - Power use on the poles
 - The Permit process

MWFN remains committed to the Milwaukee Wireless project; however, it will take commitment by all involved parties to bring it to fruition. Evidence of our commitment was the introduction of our anchor tenant to the Mayor and his staff

and the subsequent commitment of the tenant in making Milwaukee the model for others to follow. Further, MWFN and Cisco met with Jeff Mantes and his managers last Tuesday (3/6) to overview how the network will help them improve or enhance current City process and procedures and offer new ideas and applications. The meeting was very positive, informative and well received. In addition, we continue to meet with all the various City agencies in streamlining the processes.

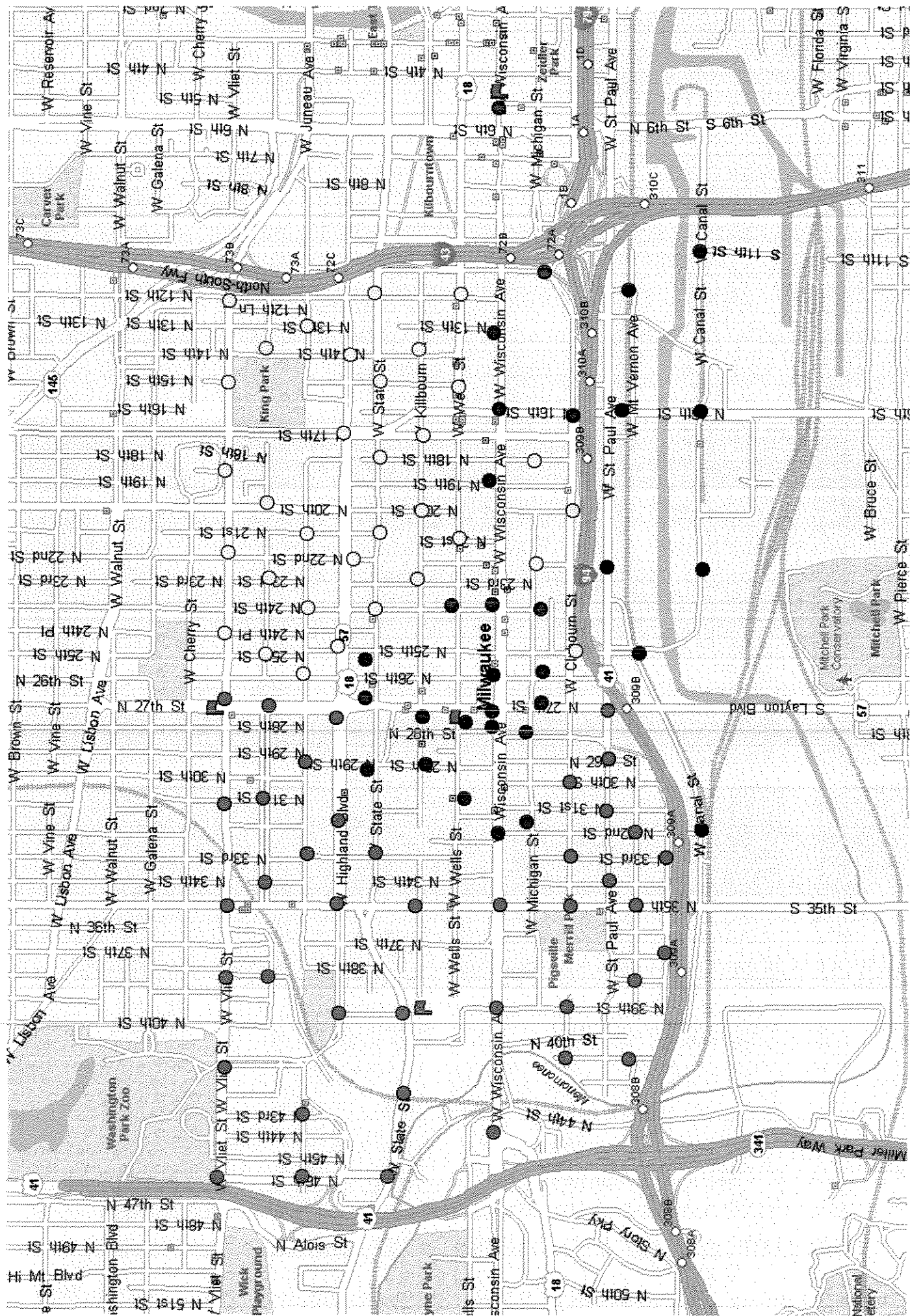
We Energies continues to show their commitment as well. They have gone above and beyond expectations to complete the initial phase of the project by making available the necessary resources, tracking mechanisms and by following project specific, pre-established procedures.

What MWFN is asking for is assistance from the Aldermen to assist in streamlining the processes and procedures as we continue implementation of the Demonstration Area. The Wireless project is something entirely new and therefore doesn't fit into the standards established by the City years ago.

To reiterate, MWFN and its partners remain fully committed to this project and its success.

Attachment for reference:

Map of the Demonstration Area.





City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Master

File Number: 090078

File ID: 090078

Type: Resolution

Status: In Committee

Version: 1

Reference:

Controlling Body: STEERING &
RULES
COMMITTEE

Requester: CITY ATTORNEY

Cost:

File Created: 05/05/2009

File Name:

Final Action:

Title: Substitute resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

Notes:

Code Sections:

Indexes: AGREEMENTS, LEASES, SUMMERFEST

Sponsors: Ald. Murphy

Attachments: 5-4-09 Introduction Cover Letter, 12-11-09 City Attorney Letter, Fiscal note, Park Lease, Lease - Exhibit B Norris Field Project Plans, Lease - Exhibit C MU - Norris Park Redevelopment Proposal Re Green Schools Initiative - November 2009, Lease - Exhibit D - EBE Agreement, Lease - Exhibit E Letter of Financial Responsibility, Second Amendment to lease Agreement, EXHIBITS - Second Amendment to Lease Agreement, Hearing Notice List

Drafter: tog

Contact:

Agenda Date:

Agenda Number:

Enactment Date:

Enactment Number:

Effective Date:

Extra Date 2:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
0	COMMON COUNCIL	05/05/2009	ASSIGNED TO	PUBLIC WORKS COMMITTEE			
	Action Text: This Resolution was ASSIGNED TO to the PUBLIC WORKS COMMITTEE						
0	PUBLIC WORKS COMMITTEE	06/19/2009	HEARING NOTICES SENT		06/24/2009		
0	PUBLIC WORKS COMMITTEE	06/19/2009	HEARING NOTICES SENT		06/24/2009		
0	PUBLIC WORKS COMMITTEE	06/24/2009	REFERRED TO	STEERING & RULES COMMITTEE			Pass
	Action Text: A motion was made by ALD. PUENTE that this Resolution be REFERRED TO the STEERING & RULES COMMITTEE . The motion PREVAILED by the following vote:						

Mover:	ALD. PUENTE	Aye:3 - Bauman, Dudzik, and Puente No:0 Excused:2 - Wade, and Donovan	3-0-2
0	STEERING & RULES COMMITTEE	11/25/2009 HEARING NOTICES SENT	11/30/2009
0	STEERING & RULES COMMITTEE	11/30/2009 HELD TO CALL OF THE CHAIR	Pass

Action Text: A motion was made by ALD. DONOVAN that this Resolution be HELD TO CALL OF THE CHAIR. This motion PREVAILED by the following vote:

Notes: *Ald. Bauman moved that the STEERING AND RULES COMMITTEE convene into closed session, pursuant to s. 19.85(1)(e), Wis. Stats., for the purpose of formulating negotiation strategies relating to the File #090078, resolution approving the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.*

*Roll call taken at 3:27 P.M.:
Present: 6 - Ald. Hines Jr., Witkowski, Witkowiak, Bauman, Donovan and Coggs
Excused: 2 - Ald. Murphy and Davis*

Also present: City Attorney Grant Langley, Tom Gartner, Assistant City Attorney, Danielle Bergner, Assistant City Attorney, Barry Zalben, Manager, Legislative Reference Bureau, Jeff Ostermann, Legislative Reference Bureau and Ald. Kovac

Ald. Donovan moved that the committee reconvene into open session.

*Roll call taken at 4:07 P.M.:
Present: 6 - Ald. Hines Jr., Witkowski, Witkowiak, Bauman, Donovan and Coggs
Excused: 2 - Ald. Murphy and Davis*

Mover:	ALD. DONOVAN	Aye:6 - Hines Jr., Witkowski, Witkowiak, Bauman, Donovan, and Coggs No:0 Excused:3 - Murphy, Davis, and Bohl	6-0-3
1	CITY CLERK	12/16/2009 DRAFT SUBMITTED	
	Action Text:	This Resolution was DRAFT SUBMITTED	
1	STEERING & RULES COMMITTEE	12/21/2009	
1	COMMON COUNCIL	12/22/2009	

Text of Legislative File 090078

..Number

090078

..Version

SUBSTITUTE 1

..Reference

..Sponsor

ALD. MURPHY

..Title

Substitute resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.

..Analysis

This resolution provides the Common Council's approval, as required by sec. 30.38(6), Stats., of a Second Amendment to Lease Agreement ("Lease Amendment") between the Board of Harbor Commissioners ("Board") and Milwaukee World Festival, Inc. ("Festival").

The resolution also authorizes the proper City officers to execute the Lease Amendment. The Lease is for property commonly known as the Henry Maier Festival Grounds. The Lease Amendment extends the term of the Lease by ten (10) years so that the Lease term is thirty (30) years, commencing on January 1, 2001 and terminating on December 31, 2030. The ten-year extension is contingent upon Festival completing a renovation of the south end of the festival grounds by December 31, 2015 with a

corresponding expenditure of not less than \$10 Million. The Festival's annual rental payments are currently estimated to be \$1,542,700 in 2010, increasing to \$3,926,700 in 2030, subject to certain adjustments as set forth in the original Lease and reflected in Exhibit O-3 to the Lease Amendment attached to this file. In addition to Rent, the Lease Amendment also provides for an annual Supplemental Service Fee payment intended to offset a portion of the increasing costs of public safety related services to Festival's operations. The Supplemental Service Fee commences for year 2009 at \$100,000. The Fee then escalates by three percent through 2020, by four percent for the years 2021 through 2025, and by five percent for the final five years of the Lease. Pursuant to this escalation structure, Supplemental Service Fees would total \$3,176,057 over the remaining term of the Lease as set forth in Exhibit O-4 to the Lease Amendment attached to this file. The Lease Amendment also reserves to the City future development rights over an area of the Property identified on Exhibit T to the Lease Amendment attached to this file. The Lease was approved by the Board at its December 10, 2009 meeting.

..Body

Whereas, Representatives of the City, the Board of Harbor Commissioners ("Board") and Milwaukee World Festivals, Inc. ("Festival") have engaged in negotiations to extend and amend the January 1, 2001 Lease for the Henry Maier Festival Grounds (the "Lease Amendment"); and

Whereas, The Board approved the Lease Amendment at its December 10, 2009 meeting; and

Whereas, Pursuant to sec. 30.38(6), Stats., the Common Council must approve all such Board leases; now, therefore, be it

Resolved, That the Common Council hereby approves the Second Amendment to Lease Agreement between the City of Milwaukee, Board of Harbor Commissioners and Milwaukee World Festival, Inc. ("Lease Amendment") attached to this file and further authorizes the proper City officers to execute that Lease Amendment.

..Requestor

City Attorney

..Drafter

DMB

December 11, 2009

1070-2008-3449:152860

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



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BRUCE D. SCHRIMPF
SUSAN D. BICKERT
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THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
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JAY A. UNORA
DONALD L. SCHRIEFER
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KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
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HEIDI E. GALVÁN
JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

May 4, 2009

Ronald D. Leonhardt, City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee, WI 53202

Re: Title-only Resolution -- 2nd Amendment to Lease Agreement
Milwaukee World Festival, Inc.

Dear Mr. Leonhardt:

On Friday May 1, 2009, I spoke with Alderman Michael Murphy relative to introduction of a title-only file approving and authorizing the execution of a 2nd Amendment to the Milwaukee World Festival, Inc. Lease. Our office is working together with a negotiating team from the City of Milwaukee Board of Harbor Commissioners to finalize a 2nd Amendment and would like to proceed at this point with introduction of a file to allow Common Council approval.

Please introduce a resolution by title only entitled "Resolution Approving and Authorizing the Execution of A 2nd Amendment to Lease Agreement -- Milwaukee World Festival, Inc."

Alderman Murphy has agreed to act as a sponsor for this file and we anticipate that there may be other members of the Council who also wish to be listed as sponsors at such time as we prepare the actual text of the Resolution.

Thank you for your cooperation with respect to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas O. Gartner". The signature is fluid and cursive, with a large, stylized "T" and "G".

THOMAS O. GARTNER
Assistant City Attorney

c via e-mail: Alderman Michael Murphy
Alderman Robert Bauman
Eric Reinelt
Ron Sanfelippo
Craig Mastantuono
Claude Krawczyk
Tim Hoelter
Danielle Bergner
James Owczarski
Debra Fowler

1122-2006-3359:145586

GRANT F. LANGLEY
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RUDOLPH M. KONRAD
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JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

December 11, 2009

To the Honorable Committee
on Steering and Rules of the
Common Council of the
City of Milwaukee
Room 205 – City Hall

Re: CCFN 090078 – A resolution approving the execution of a second
amendment to a lease agreement with Milwaukee World Festival, Inc.

Dear Committee Members:

Enclosed for the Committee's consideration is a substitute resolution and appropriate fiscal note authorizing execution of a Second Amendment to Lease Agreement between the City of Milwaukee Board of Harbor Commissioners and Milwaukee World Festival, Inc. The following is a brief summary of the key terms of the enclosed Amendment.

The Amendment extends the Lease by an additional ten years, through December 31, 2030, contingent upon completion of a significant redevelopment of the south end of the grounds. Rent escalates by three percent through the remaining term of the Lease. The Amendment also introduces an annual Supplemental Service Fee to be paid by Milwaukee World Festival, Inc. to the City to partially offset the City's increasing costs of providing public safety services to festival operations. The Fee begins in 2009 at \$100,000 and escalates by three percent through 2020, by four percent for years 2021-2025, and by five percent for the remaining five years of the Lease.

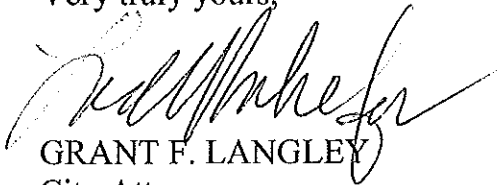
In addition, the Amendment reserves to the City development rights over a portion of the leasehold property not subject to the public trust doctrine during the extension term of the Lease. This area is described on Exhibit "T" to the Amendment, attached hereto.

The Amendment requires the Board of Harbor Commissioners to consider additional factors when reviewing proposed capital improvement plans. Those factors include: 1) whether the improvements will enhance public access to the property, 2) whether the improvements will promote sustainability goals, 3) whether the improvements will allow for year-round use, and 4) whether the improvements will accommodate free or lower-cost community events. Pursuant to the terms of the Amendment, Milwaukee World Festival, Inc. must also continue to work with the City to reduce vehicle and pedestrian congestion in the area, including promotion and expansion of mass transit options to the grounds.

The Amendment allows Milwaukee World Festival, Inc. to sublease parking areas for longer than 14 days, but less than 120 days, with the approval of the Port Director. Full Board approval continues to be required for subleases longer than 120 days. And finally, the Amendment allows insurance requirements to be modified from time-to-time with the approval of the Board, the Port Director, and the City Attorney.

The enclosed Amendment was approved by both the Board of Harbor Commissioners and the Milwaukee World Festival, Inc. Board of Directors at their respective meetings on December 10, 2009.

Very truly yours,



GRANT F. LANGLEY
City Attorney

CITY OF MILWAUKEE FISCAL NOTE

A) DATE December 10, 2009FILE NUMBER: 090078Original Fiscal Note ☒ Substitute ☐SUBJECT: Resolution to approve the execution of a second amendment to a lease agreement with Milwaukee World Festival, Inc.B) SUBMITTED BY (Name/title/dept./ext.): Grant F. Langley, City Attorney, ext. 2601

C) CHECK ONE: ☐ ADOPTION OF THIS FILE AUTHORIZES EXPENDITURES
☒ ADOPTION OF THIS FILE DOES NOT AUTHORIZE EXPENDITURES; FURTHER COMMON COUNCIL ACTION NEEDED. LIST ANTICIPATED COSTS IN SECTION G BELOW.
☐ NOT APPLICABLE/NO FISCAL IMPACT.

D) CHARGE TO: ☐ DEPARTMENT ACCOUNT(DA) ☐ CONTINGENT FUND (CF)
☐ CAPITAL PROJECTS FUND (CPF) ☐ SPECIAL PURPOSE ACCOUNTS (SPA)
☐ PERM. IMPROVEMENT FUNDS (PIF) ☐ GRANT & AID ACCOUNTS (G & AA)
☐ OTHER (SPECIFY)

E) PURPOSE	SPECIFY TYPE/USE	ACCOUNT	EXPENDITURE	REVENUE	SAVINGS
SALARIES/WAGES:					
SUPPLIES:					
MATERIALS:					
NEW EQUIPMENT:					
EQUIPMENT REPAIR:					
OTHER:					
TOTALS					

F) FOR EXPENDITURES AND REVENUES WHICH WILL OCCUR ON AN **ANNUAL** BASIS OVER SEVERAL YEARS CHECK THE APPROPRIATE BOX BELOW AND THEN LIST EACH ITEM AND DOLLAR AMOUNT **SEPARATELY**.

<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	SEE EXHIBITS O-3 AND O-4 OF LEASE AMENDMENT REGARDING
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	RENT AND SUPPLEMENTAL SERVICE FEE PAYMENTS ATTACHED TO
<input type="checkbox"/> 1-3 YEARS	<input type="checkbox"/> 3-5 YEARS	THIS FILE

G) LIST ANY ANTICIPATED FUTURE COSTS THIS PROJECT WILL REQUIRE FOR COMPLETION:

None

H) COMPUTATIONS USED IN ARRIVING AT FISCAL ESTIMATE:

PLEASE LIST ANY COMMENTS ON REVERSE SIDE AND CHECK HERE ☐

1070-2008-3449:152869

**SECOND AMENDMENT
TO
LEASE AGREEMENT**

Between

**The City of Milwaukee
Board of Harbor Commissioners**

And

Milwaukee World Festival, Inc.

**SECOND AMENDMENT
TO
LEASE AGREEMENT**

THIS INDENTURE, (the “Second Amendment”) made and entered into at Milwaukee, Wisconsin, effective as of the __ day of _____, 20__, by and between the CITY OF MILWAUKEE, a municipal corporation of the State of Wisconsin, acting by and through its BOARD OF HARBOR COMMISSIONERS, as heretofore authorized by law (hereinafter collectively referred to as “CITY”), and MILWAUKEE WORLD FESTIVAL, INC., a Wisconsin not-for-profit corporation (hereinafter referred to as “FESTIVAL”);

W I T N E S S E T H:

WHEREAS, CITY and FESTIVAL entered into a Lease Agreement dated as of January 1, 2001 (the “Lease,” or alternatively, the “Agreement”) for real property commonly known as the Henry Maier Festival Grounds (the “Property”); and

WHEREAS, CITY and FESTIVAL subsequently amended the Lease pursuant to that certain First Amendment to Lease Agreement dated as of February 1, 2005; and

WHEREAS, FESTIVAL is contemplating construction of Capital Improvements on approximately twenty (20) acres of the southern portion of the Property (the “South End Redevelopment”) and desires an extension to the Lease term before proceeding with the design of said Capital Improvements in order to ensure adequate time for a return on its investment; and

WHEREAS, FESTIVAL also desires to extend the Festival Season, as that term is defined in the Lease, in order to allow for the scheduling of additional events on the Property; and

WHEREAS, CITY desires a supplemental annual fee from FESTIVAL to partially offset certain public safety service expenses which CITY incurs with respect to FESTIVAL’S use of the Property; and

WHEREAS, CITY supports FESTIVAL'S desired Lease and Festival Season extensions provided public access to the Property is maximized, and to that end, the parties have agreed that best efforts will be used in designing Capital Improvements to enhance public access to the Property and to develop and/or promote free or lower admission cost community events, subject to certain limitations as set forth in this Second Amendment; and

WHEREAS, this Second Amendment also reflects the Parties' mutual goal of implementing certain Sustainability Goals upon the Property (defined below); and

WHEREAS, in consideration of the Lease and Festival Season extensions provided for herein, and in acknowledgment of CITY's increasing costs of providing public services to FESTIVAL, FESTIVAL has agreed to pay CITY Rent and an annual Supplemental Service Fee (defined below) in accordance with the terms of this Second Amendment; and

WHEREAS, FESTIVAL'S desired Lease and Festival Season extensions and CITY'S desire for the Supplemental Service Fee from FESTIVAL in connection with its use of the Property make it necessary for CITY and FESTIVAL to enter into this Second Amendment to Lease Agreement; and

WHEREAS, this Second Amendment to Lease Agreement is also entered into for the additional purposes of modifying the insurance provisions of the Lease to allow for periodic review and adjustment of FESTIVAL'S required liability coverage and modifying the sublease provisions of the Lease to allow FESTIVAL to sublease certain areas of the Property for parking purposes with the approval of the Port Director; and

WHEREAS, the parties desire to reaffirm the Lease in all respects with the exception of the specific amendments hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS.

- a. The following definitions set forth in Paragraph 1 of the Lease are hereby amended and restated to read as follows:

Annual Report: Means a report summarizing attendance, activities, events, and compliance with EBE Requirements. The Annual Report shall also summarize FESTIVAL'S efforts and progress in developing Community Events, implementing Sustainability Goals on the Property, and enhancing public access to the Property.

Festival Season: A period of time commencing April 1st of each year and ending the following November 30th.

Non-Festival Season: A period of time commencing December 1st of each year and ending the following March 31st.

Rent: Means payments to be made by FESTIVAL during the term of this Agreement pursuant to the schedule attached as **EXHIBIT "O-3"** together with the Financing Charges and Supplemental Service Fee.

- b. The following definitions are hereby added to Paragraph 1 of the Lease:

City Development Area: Means that portion of the Property identified and described on the attached **EXHIBIT "T."**

Community Events: Means free or lower admission cost events that are undertaken by FESTIVAL, in cooperation with the CITY, or any established

community organization, in order to enhance public access to the Property consistent with FESTIVAL'S organizational goals of fulfilling educational, charitable, recreational and eleemosynary purposes. CITY acknowledges that FESTIVAL is not obligated to commit financial resources to Community Events, but will solicit sponsors or other organizations that will present and/or support Community Events.

Supplemental Service Fee: Means payments to be made by FESTIVAL during the term of this Agreement pursuant to the schedule attached as **EXHIBIT "O-4."** The Supplemental Service Fee is intended to offset a portion of the increased costs of public safety services. CITY and FESTIVAL acknowledge and agree that payment of the Supplemental Service Fee is directly related to the increased cost of CITY providing public safety services to FESTIVAL. FESTIVAL further acknowledges and agrees that CITY shall have no obligation to provide public safety services to FESTIVAL at any particular level; however, the CITY, acting through its Board of Harbor Commissioners, and FESTIVAL will meet annually, consistent with past practices, to discuss the provision of certain public safety services by the CITY to FESTIVAL, including police, fire and emergency services. FESTIVAL further acknowledges that the level of public safety services may change from time to time.

Sustainability Goals: Means efforts to secure and implement state of the art, higher efficiency mechanical and electrical systems; lower embodied energy in construction materials and processes; integration of landscaped areas;

responsible use of natural resources; energy conservation; use of renewable energy sources; and enhancement of existing public transportation services to the Property.

2. TERM.

Paragraph 2 of the Lease is hereby amended and restated to read as follows:

“2. TERM.

A. The term of the Lease shall be extended by ten (10) years (the “Lease Extension”), so that the Lease term shall be thirty (30) years commencing as of January 1, 2001, and terminating on December 31, 2030. If, prior to December 31, 2015, FESTIVAL has not substantially completed construction of its South End Redevelopment, or if the substantially completed South End Redevelopment expenditure is less than \$10 Million, the CITY may, within its sole discretion at any time after December 31, 2015, elect to terminate the Lease Extension, so that the Lease term shall expire as of December 31, 2020, as originally provided in the Lease. Notwithstanding the above, the December 31, 2015 deadline may be extended as follows:

- a. The period of time the South End Redevelopment is delayed by unforeseen conditions that require a suspension of construction activity or additional work to comply with applicable federal, state or local statutes, regulations and/or any “stop work” orders;
- b. The period of time any “force majeure” conditions delay or suspend the project; and,
- c. The period of time that any required approvals from City or State agencies, boards, commissions or governmental entities (“Approval Authorities”) for the project, are continued, deferred or delayed at the request of the Approval Authorities.

B. CITY shall notify FESTIVAL in writing if it intends to exercise its termination rights under this paragraph. In the event of termination of the Lease Extension under this paragraph, all other terms of the Agreement, including all other terms of this Second Amendment, shall remain in full force and effect for the remaining original term of the Lease, terminating December 31, 2020. If the South End Redevelopment is timely completed, then if, prior to January, 2027, FESTIVAL and CITY have not agreed on the terms of an extension of this Lease Agreement, or a new Lease Agreement, designated representatives of FESTIVAL and CITY shall meet in January, 2027 to confer and negotiate in good faith the terms of either a new Lease Agreement or an extension of this Lease Agreement. The parties shall make all reasonable efforts to successfully conclude such negotiations by July 1, 2027. The same shall apply in the event CITY terminates the Lease Extension because the South End Redevelopment is not timely completed; however, the applicable meet and confer and negotiation conclusion dates shall be January, 2017 and July 1, 2017, respectively. ”

3. RENT/SUPPLEMENTAL SERVICE FEE.

a. Paragraph 3 of the Lease is hereby amended and restated to read as follows:

“3. RENT/SUPPLEMENTAL SERVICE FEE.

A. Payment of Rent and Supplemental Service Fee. FESTIVAL shall pay rent in accordance with **EXHIBIT “O-3”**, subject to the provisions of this paragraph 3 and paragraph 38. In addition, FESTIVAL shall pay the Financing Charges in accordance with the Financing Documents and the Supplemental Service Fee in accordance with the schedule set forth in **EXHIBIT “O-4”**, attached hereto.

B. 2009 Supplemental Service Fee Payment. Upon execution of this Second Amendment, FESTIVAL shall pay to CITY a lump sum payment of One Hundred Thousand Dollars (\$100,000), accounting for the 2009 Supplemental Service Fee.

b. EXHIBIT “O” to the Lease setting forth a Schedule of Rent Payments is hereby amended and restated and shall be replaced and superseded by EXHIBIT “O-3” in the form attached hereto.

4. APPROVAL OF OTHER CAPITAL IMPROVEMENTS.

Paragraph 7 of the Lease is hereby amended and restated to read as follows:

“In addition to the approval and financing of Capital Improvements Program I and Capital Improvements Program II described above, CITY reserves the right to review and approve the plans for the construction, renovation or alteration of all other Capital Improvements prior to their implementation by FESTIVAL. The review and approval of such plans shall include consideration of the following factors:

1. Aesthetics, design and the impact of the proposed Capital Improvements upon the Property and surrounding area.
2. Whether the Capital Improvements will enhance public access to the Property during open dates throughout the Festival Season and Non-Festival Season. Any conditions placed upon approval of Capital Improvements related to public access shall be specified in each Annual Access Calendar.
3. Whether the Capital Improvements will promote Sustainability Goals.
4. Whether the Capital Improvements will allow for year-round use, subject to regulatory and constitutional requirements that may apply to the development and use of the Property.
5. Whether the plan for use of the Capital Improvements will accommodate any Community Events.
6. Whether the Capital Improvements will meet or exceed all requirements of the Americans with Disabilities Act.

Further, in the event that the proposed Capital Improvements are intended to create a source of revenue from a use that is substantially different in nature or concept from the Permitted Uses, the review and approval of such plans may include consideration of projected profits to be generated by the proposed new uses associated with the new Capital Improvements as well as CITY participation in such profits. Any such participation by CITY shall allow FESTIVAL to first recoup its investment in such Capital Improvements.

Notwithstanding the foregoing, the following Capital Improvements shall be permitted and subject only to prior design and aesthetic approval of CITY:

1. Capital Improvements necessary to comply with laws, regulations and orders of any governmental body.
2. Capital Improvements necessary to make the Property safe, sanitary and comfortable for employees, patrons and visitors.
3. Capital Improvements to provide green space, trees, shrubs or other plantings.
4. Capital Improvements necessary to repair, replace or upgrade then existing facilities which, in the reasonable judgment of FESTIVAL, are in disrepair, worn out, obsolete or outmoded, unless the cost of such repair, replacement or upgrading exceeds 50% of the replacement cost of the existing facility in which case the review and approval of such plans shall include the additional factors enumerated in 1 through 5, above.

Failure of CITY to respond in writing within ninety (90) days following receipt of a written request from FESTIVAL to approve proposed Capital Improvements shall be deemed to constitute approval of such request by CITY.

FESTIVAL shall pay all costs and expenses arising out of any construction, renovation or alteration of the Property and it shall keep the Property free and clear from all liens of mechanics or materialmen, and all liens of a similar character arising out of the construction, renovation or alteration of the Property.”

5. USE OF THE PROPERTY.

Paragraph 9 of the Lease is hereby amended and restated to read as follows:

- a. “FESTIVAL shall use the Property solely for Permitted Uses and for such other uses as may be approved in advance by CITY. FESTIVAL shall not schedule events during the Non-Festival Season without the prior written consent of CITY.
- b. FESTIVAL shall, subject to financial considerations and unforeseen Property conditions, use best efforts to develop Community Events on the Property, to implement Sustainability Goals on the Property, and to enhance public access to the Property.
- c. CITY and FESTIVAL also agree that both will work together to continue to reduce vehicle and pedestrian congestion and other adverse impacts upon the surrounding neighborhood by promotion and expansion of mass transit use to the grounds wherever financially possible, and by continuing to work positively with the Historic Third Ward

Association as well as other neighboring groups and institutions. CITY acknowledges that FESTIVAL has worked with success on these issues in the recent past.

d. CITY and FESTIVAL agree to meet from time-to-time at the request of either party to discuss FESTIVAL's efforts and progress with respect to development of Community Events on the Property, implementation of Sustainability Goals on the Property, enhancement of public access to the Property, and reduction of vehicle and pedestrian congestion and other adverse impacts upon the surrounding neighborhood.

Notwithstanding the foregoing, the future scheduling of Amphitheater events, as well as recreational activities and the leasing of recreational equipment for use by the general public shall be deemed approved by the CITY."

6. ACCESS TO THE PROPERTY.

a. The introductory paragraph of Paragraph 10 of the Lease is hereby amended and restated to read as follows:

"It is the intent of the parties to maximize public access to the Property and to the State Park. This paragraph establishes minimum requirements for such public access. The Annual Access Calendar for 2009 is attached as **EXHIBIT "C"**. Commencing in 2010, FESTIVAL shall present an Annual Access Calendar to CITY not later than February 1st of each year during the term of this Agreement if events are proposed on the Property between April 1st and Memorial Day. If no events are proposed between April 1st and Memorial Day, FESTIVAL shall present an Annual Access Calendar to CITY not later than April 1st of each year during the term of this Agreement. Prior to final preparation of each Annual Access Calendar, FESTIVAL shall meet and confer with representatives of CITY to discuss its content. Each Annual Access Calendar shall be subject to the approval of CITY so as to assure consistency with the minimum requirements of this paragraph. During construction of the South End Redevelopment, and any subsequent Capital Improvements, FESTIVAL shall continue to make public access available at substantially the same level as during 2009, subject to coordination of such access with the reasonable requirements of FESTIVAL'S contractors and provision for the safety of the general public.

b. Subparagraph 10.B.6) is hereby added to the Lease to read as follows:

"6) South End Redevelopment. The South End Redevelopment area shall be accessible to the public in accordance with standards set forth by CITY as part of the

approval process for said Capital Improvement plan. Such public access standards shall be reflected in the Annual Access Calendar.”

7. EASEMENTS AND RESTRICTIONS.

Paragraph 16 of the Lease is hereby renamed, amended and restated to read as follows:

“16. EASEMENTS, RESTRICTIONS, and CITY DEVELOPMENT RIGHTS.

This Agreement is subject to the Permitted Encumbrances. In addition, CITY reserves the right to grant or create, or to require FESTIVAL to grant or create, any additional reasonable and necessary non-exclusive easements, to convey to the State of Wisconsin a limited fee interest over the Public Access Areas, or to dedicate areas for public right-of-way or public use, as necessary for the construction of and access to the State Park, off-shore improvements adjacent to the Property and Capital Improvements located on the Property; provided, however, that FESTIVAL and CITY shall confer prior to the creation of any such easement, limited fee interest, or right-of-way so that any rights of access shall be at locations and be limited to such times that the exercise thereof does not interfere with FESTIVAL’s activities, including the scheduling and conduct of Ethnic and Cultural Festivals, or otherwise unreasonably deprive FESTIVAL of the use of the Property. CITY shall use its best efforts to exclude or minimize interference with FESTIVAL’s activities and shall create any such easement, limited fee interest, or right-of-way accordingly. The Parties acknowledge and agree CITY’s rights under this Paragraph expressly include the creation and expansion of right-of-way associated with the extension of Harbor Drive pursuant to CITY’s Third Ward Area Plan, adopted by the Common Council on May 20, 2005 and amended on July 12, 2006.

CITY reserves the right to reasonably modify any existing easement granted to the Milwaukee Metropolitan Sewerage District; provided that no such modification shall materially interfere with FESTIVAL’s use and enjoyment of the Property.

In addition to all other rights reserved by the CITY, at any time during the term of the Lease Extension, CITY shall have the right to undertake development of the City Development Area, or any portion thereof, or to offer said area to another entity for development. CITY shall be required to provide not less than twelve (12) months’ prior written notice to FESTIVAL of CITY’s intent to exercise its development rights under this paragraph. If FESTIVAL demonstrates good cause for requiring additional notice, then additional time may be given to address FESTIVAL’s concerns, but not to exceed an additional six (6) months. In the event CITY exercises its rights under this paragraph, the Lease shall terminate as to the area identified by the CITY in its notice to FESTIVAL, effective upon the date specified by CITY. Upon termination under this paragraph, if any, Rent for the remaining term of the Lease shall be reduced on a pro rata basis based on the square footage of area terminated by CITY as compared with the square footage of the entire Property. Nothing in this paragraph shall be construed to limit FESTIVAL’s ability to submit development proposals to the CITY for the City Development Area, and

CITY agrees it will consider and evaluate any such proposals as it would any other development proposal for the area.”

8. INSURANCE.

Subparagraph D of Paragraph 23 of the Lease is hereby amended and restated to read as follows:

“**23.D. Adjustments.** FESTIVAL and CITY agree that, from time-to-time during the term of this Agreement, they shall meet and confer with each other at the other party’s request in order to discuss modification of the insurance coverage required under this section to assure that, at all times, such insurance issues against such risks and is in such amounts as are customary for entities of like size similarly situated. Insurance coverage required under this section may be modified upon approval of the Board of Harbor Commissioners, Port Director, and City Attorney.”

9. ASSIGNMENT/SUBLEASE.

Subparagraph B of Paragraph 25 of the Lease is hereby amended and restated to read as follows:

“**25.B. Sublease.** FESTIVAL shall not sublease the Property or license the Property for any period longer than fourteen (14) consecutive days without the prior written consent of CITY. All approved subleases and all licenses shall be in conformity with the purposes, provisions, and uses permitted by this Agreement. Copies of all subleases and licenses shall be provided to CITY upon written request. Notwithstanding the foregoing, FESTIVAL may sublease or license surface parking lot areas located on the Property for a period longer than fourteen (14) consecutive days, but not to exceed 120 days, with the prior written consent of the Port Director, subject to City Attorney approval.”

10. TERMS AND CONDITIONS.

All terms and conditions of the Lease are incorporated herein and are hereby modified to conform herewith, but in all other respects are to be and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto, have caused this Second Amendment to Lease Agreement to be executed by their proper respective officers and their corporate seals to be affixed hereto on the day and year first above written.

**CITY OF MILWAUKEE,
a Wisconsin municipal corporation**

Tom Barrett
Mayor

Ronald D. Leonhardt
City Clerk

COUNTERSIGNED:

W. Martin Morics
City Comptroller

**BOARD OF HARBOR COMMISSIONERS
OF THE CITY OF MILWAUKEE**

Timothy Hoelter
President

Donna Luty
Secretary

**MILWAUKEE WORLD FESTIVAL, INC.
a Wisconsin corporation**

Dan Minahan, Chairman

Don Smiley
President and Chief Executive Officer

1070-2008-3449:149885

JUNE

AUGUST

SEPTEMBER

OCTOBER

NOVEMBER

DECEMBER

KEY: A - Complete Lakewalk Open
B - Lakewalk Open from Erie St. to behind the Marcus Amphitheater to Gate 20A.

Milwaukee Public Schools randomly schedule the Children's Area on school days during the noon hour in April, May, September & October. The area will not be open to the public lakewalk when in use.

Periodic closure of areas may occur during the festival season (June through September) and the non-festival season (January through May and October through December) based on event setup, construction activity and safety considerations.

C - Children's Area Open
D - Chicago St. Plaza Open

access open
Lakewalk, Chicago St. Plaza, and
Children's Area (weather dependent) open

Last Update: 02/02/2009

EXHIBIT "C"

EXHIBIT "O-3"

Schedule of Rent Payments

	02/15 Payment	07/15 Payment	10/15 Payment	12/31 Payment	Total Payment
2001	250,000	375,000	375,000		1,000,000
2002	257,500	375,000	375,000		1,007,500
2003	265,200	375,000	375,000		1,015,200
2004	273,200	375,000	375,000		1,023,200
2005	281,400	375,000	375,000	232,000	1,263,400
2006	289,800	425,000	425,000		1,139,800
2007	298,500	425,000	425,000		1,148,500
2008	307,500	425,000	425,000		1,157,500
2009	316,700	425,000	425,000		1,166,700
2010	326,200	425,000	425,000	366,500	1,542,700
2011	336,000	475,000	475,000		1,286,000
2012	346,100	475,000	475,000		1,296,100
2013	356,500	475,000	475,000		1,306,500
2014	367,200	475,000	475,000		1,317,200
2015	378,200	475,000	475,000	601,800	1,930,000
2016	389,500	525,000	525,000		1,439,500
2017	401,200	525,000	525,000		1,451,200
2018	413,200	525,000	525,000		1,463,200
2019	425,600	525,000	525,000		1,475,600
2020	438,400	525,000	525,000	953,900	2,442,300
2021	451,600	575,000	575,000		1,601,600
2022	465,100	575,000	575,000		1,615,100
2023	479,100	575,000	575,000		1,629,100
2024	493,500	575,000	575,000		1,643,500
2025	508,300	575,000	575,000	1,442,200	3,100,500
2026	523,500	625,000	625,000		1,773,500
2027	539,200	625,000	625,000		1,789,200
2028	555,400	625,000	625,000		1,805,400
2029	572,100	625,000	625,000		1,822,100
2030	589,300	625,000	625,000	2,087,400	3,926,700
	<u>11,895,000</u>	<u>15,000,000</u>	<u>15,000,000</u>	<u>5,683,800</u>	<u>47,578,800</u>

1) The Rent is subject to reduction for certain sales tax credits in accordance with EXHIBIT "O-1" attached to the Lease. Such reductions, if any, are to be reflected as adjustments to Rent payments in accordance with that EXHIBIT "O-1".

2) The Rent is subject to adjustment based upon deviation in the true interest cost consistent with EXHIBIT "I" for the Bonds issued by RACM pursuant to the 2001 Lease above or below 4.9%. Such adjustments, if any, are to be reflected as adjustments to Rent payments in accordance with EXHIBIT "O-2" attached to the Lease.

EXHIBIT "O-4"

Schedule of Supplemental Service Fee Payments

	7/15 Payment
2001	0
2002	0
2003	0
2004	0
2005	0
2006	0
2007	0
2008	0
2009	100,000
2010	103,000
2011	106,090
2012	109,273
2013	112,551
2014	115,927
2015	119,405
2016	122,987
2017	126,677
2018	130,477
2019	134,392
2020	138,423
2021	143,960
2022	149,719
2023	155,707
2024	161,936
2025	168,413
2026	176,834
2027	185,676
2028	194,959
2029	204,707
2030	214,943

3,176,057

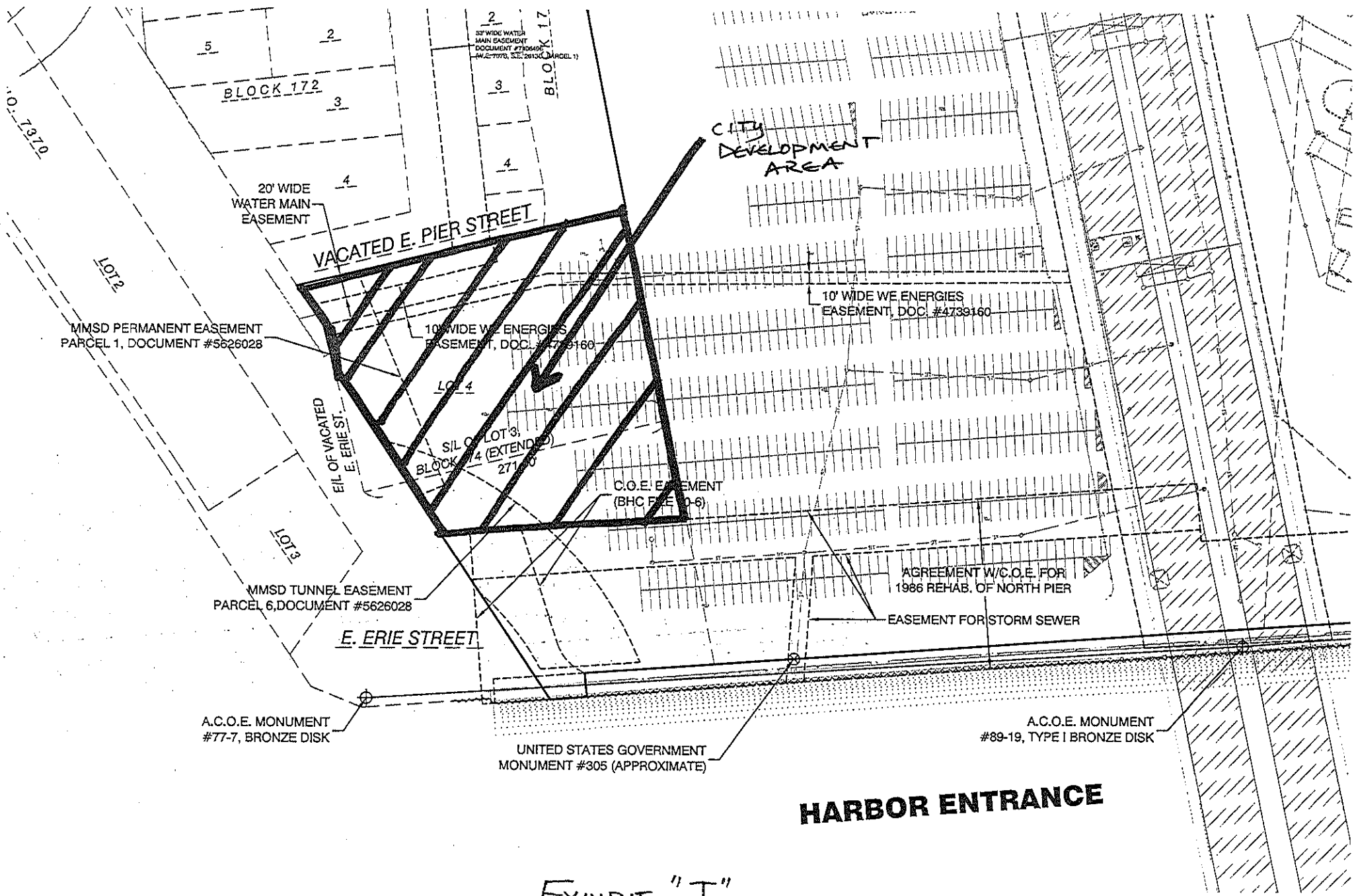


EXHIBIT "T"
City Development Area

FILE NUMBER: 090078
Steering & Rules Committee

[illegible]