Document Number	Document Title
	SUPPLEMENTAL DEVELOPMENT AGREEMENT

SUPPLEMENTAL
DEVELOPMENT AGREEMENT

North Avenue Commerce
Center Project – Phase I

Recording Area

Name and Return Address

Mr. Thomas O. Gartner
Assistant City Attorney
City Attorney's Office
200 East Wells Street, Room 800
Milwaukee, WI 53202

Parcel Identification Number (PIN)

SUPPLEMENTAL
DEVELOPMENT AGREEMENT

North Avenue Commerce Center Project – Phase I

SUPPLEMENTAL DEVELOPMENT AGREEMENT made as of the _____ day of _____, 2004 by and among the CITY OF MILWAUKEE, a Wisconsin municipal corporation ("CITY"), the REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE, a public body corporate and politic created and existing under the laws of the State of Wisconsin ("RACM"), and PIC SERVICES, LLC, a Wisconsin limited liability company ("PIC"). WILLIAMS DEVELOPMENT CORPORATION, a Wisconsin corporation, IRGENS DEVELOPMENT PARTNERS, LLC, a Wisconsin limited liability corporation, and NORTH AVENUE COMMERCE CENTER, LLC, a Wisconsin limited liability company, as successors to Boldt Development Corporation, a Wisconsin corporation (collectively the "ORIGINAL DEVELOPER") join in this Supplemental Development Agreement to acknowledge their approval of this Agreement and the termination of the Prior Development Agreement.

WITNESSETH:

WHEREAS, The Redevelopment Plan for the Park West "D"/Fond du Lac Avenue Urban Renewal Project Area was approved by RACM on June 6, 1990, pursuant to Resolution No. 7525 and by the Common Council of the CITY on July 10, 1990, pursuant to Resolution File No. 900332; and

WHEREAS, The Redevelopment Plan for the North 26th Street-West North Avenue Redevelopment Project Area was approved by RACM on June 6, 1990, pursuant to Resolution No. 7526 and by the Common Council of the City on July 10, 1990, pursuant to Resolution File No. 900333; and

WHEREAS, In Common Council Resolution File No. 931296 adopted December 22, 1993, the Common Council approved a Project Plan for Tax Incremental District No. 21, ("TID No. 21") in order to provide for certain public costs within the district; and

WHEREAS, The CITY, RACM, and the ORIGINAL DEVELOPER previously entered into a Development Agreement – North Avenue Commerce Center Project dated as of September 27, 1994, and amended by a First Amendment dated as of August 1, 2002 (the "Prior Development Agreement"); and

WHEREAS, The project addressed by the Prior Development Agreement (the "Project") is located within TID No. 21 and the Renewal Projects; and

WHEREAS, Article VII of the Prior Development Agreement addresses Environmental Matters relative to the real property upon which the Project is located, (the "Site"); and

WHEREAS, The Site is legally described on Exhibit "A"; and

WHEREAS, The Prior Development Agreement requires the Site to be used only in accordance with uses specified in the Redevelopment Plan; and

WHEREAS, Tax increments applicable to the Site are necessary in conjunction with the ongoing administration of TID No. 21; and

WHEREAS, The ORIGINAL DEVELOPER proposes to convey the Site to PIC; and

WHEREAS, The parties to this Agreement desire to provide for the recordation of this Agreement to memorialize the requirement for payments in lieu of taxes in conjunction with the implementation of new tax exempt uses on the Site and the ongoing obligations of RACM and PIC with respect to the Project and the Site.

NOW, THEREFORE, In consideration of the undertakings set forth herein, and for further good and valuable consideration, the parties agree as follows:

1. Environmental Matters.

(a) RACM has caused to be prepared for the Site certain investigations regarding the presence of hazardous and/or toxic substances, and has caused certain work to be undertaken to remove such substances from the Site and remediate all problems disclosed by such investigations ("Investigation Activities and Remediation Activities"). The reports and correspondence containing the results of such Investigation Activities and Remediation Activities have been provided to PIC and are identified on Exhibit "B". RACM has provided PIC and PIC's lender copies of all investigation reports and all records pertaining to Investigation Activities and Remediation Activities performed by RACM at the Site. The Investigation Activities and Remediation Activities performed by RACM to date are described in the reports and correspondence identified on Exhibit "B" and Exhibit "C".

(b) RACM, and/or either the consultants, subcontractors, or other designees, agents or assigns of RACM, shall complete the Investigation Activities and Remediation Activities pursuant to Paragraph 1(c) below and receive a written determination from the Wisconsin Department of Natural Resources stating that no further action is required with respect to the presence of hazardous and/or toxic substances at, on or beneath the Site ("No Further Action Determination"). The No Further Action Determination may be conditioned upon the placement of the Site on Wisconsin's Geographic Information System ("GIS") soil or groundwater database upon recordation of a deed restriction applicable to the Site or upon other similar restrictions; provided, however, that no such condition shall unreasonably restrict the continuation of existing uses on the Site. The No Further Action Determination may not be conditioned upon any other requirements absent the written consent of PIC. RACM shall perform the Investigation Activities and Remediation Activities at its sole cost and expense and shall cause no liens to be filed against the Site.

(c) PIC hereby grants to RACM and RACM's consultants, subcontractors, designees, agents or assigns access to the Site for the limited purpose of conducting the Investigation Activities and Remediation Activities. The Investigation Activities and Remediation Activities shall be performed by RACM in a good, workmanlike manner using that degree of care and skill ordinarily exercised under similar circumstances by members of the profession practicing in the same or similar locality and the party performing such work shall maintain or cause to be maintained in connection with the Investigation Activities and Remediation Activities one or more insurance policies with limits customary with similar projects. RACM shall perform the Investigation Activities and Remediation Activities in such a manner as to not interfere with operations on the Site. Grantee shall not perform any Investigation Activities or Remediation Activities on the Site without providing at least ten (10) business days advance notice to PIC and an opportunity for PIC to review and approve the nature and scope of the work, such consent

not to be unreasonably withheld. RACM shall take reasonable precautions to minimize damage to the Site from the performance of the Investigation Activities and Remediation Activities and shall return the Site to the condition it was in prior to the commencement of the Investigation Activities and Remediation Activities. RACM shall provide PIC with copies of all reports, laboratory data, correspondence and other documentation related to the Investigation Activities and Remediation Activities concurrently with RACM's receipt of same.

(d) RACM represents and warrants that to the best of its knowledge and except as disclosed on Exhibit "C", the Site is in compliance with all Environmental Laws, as that term is defined on Exhibit "E", and there are no conditions existing currently or likely to exist which would subject the PIC to damages, penalties, injunctive relief or cleanup costs under any Environmental Laws or assertions thereof, or which require or are likely to require cleanup, removal, remedial action or other response pursuant to Environmental Laws. RACM further represents [to the best of its knowledge and except as disclosed on Exhibit "C", that it is not a party to any litigation or administrative proceeding, nor to its knowledge is there any litigation or administrative proceeding threatened against it, which asserts or alleges that RACM has violated or is violating Environmental Laws with respect to the Site or that either RACM or the CITY is required to clean up, remove or take remedial or other responsive action at or near the Site due to the disposal, deposit, discharge, leakage or other release of any hazardous substances or materials and that neither the Site, RACM nor the CITY is subject to any judgment, decree, order or citation relating to or arising out of any Environmental Laws and has not been named or listed as a potentially responsible party by any governmental body or agency in a matter arising under any Environmental Laws with respect to the Site. To the best of RACM's knowledge and except for those matters disclosed on Exhibit "B" and Exhibit "C" there are not now, nor have there ever been, materials stored, deposited, treated, recycled or disposed of on, under or at the Site (or tanks or other facilities thereon containing such materials) which materials or contained materials if known to be present on the Site or present in soils or ground water, would require cleanup, removal or some other remedial action under Environmental Laws.

(e) RACM covenants and agrees to comply with all Environmental Laws applicable to the Site in [the performance of Investigation Activities and Remediation Activities and] to indemnify and hold PIC harmless from and against any and all claims, damages, costs, expenses (including reasonable legal, consulting and engineering fees) and awards of every type and nature arising from any violations or alleged violations of Environmental Laws relating to all or any portion of the Site that occurred prior to the conveyance of the applicable portion of the Site to the ORIGINAL DEVELOPER or that occurred during the course of prior remediation activities on the Site. This indemnification includes, but is not limited to, all costs, expenses, damages and claims relating to the performance of the Investigation Activities and Remediation Activities. RACM, and PIC agree to provide to one another, immediately upon receipt, copies of any correspondence, notice, pleading, citation, indictment, complaint, order, decree, or other document from any source asserting or alleging a circumstance or condition which constitutes a violation of any Environmental Laws at the Site or requires or may require a financial contribution by RACM or PIC or a cleanup, removal, remedial action, or other response by or on the part of RACM or PIC under Environmental Laws or which seeks damages or civil, criminal or punitive penalties from RACM or PIC for an alleged violation of Environmental Laws.

2. Use of the Site.

PIC agrees for itself, and its successors and assigns, and every successor in interest to the Site or any part thereof:

(a) To devote the Site only to and in accordance with the uses specified in the Redevelopment Plan; and

(b) To refrain from discrimination upon the basis of race, color, creed, sex, national origin or sexual orientation in the sale, lease or rental or in the use or occupancy of the Site or any improvements located or to be erected thereon or any part thereof.

(c) PIC covenants for itself and its successors and assigns that in the event that all or any part of the Site shall become exempt from the payment of general real estate property taxes, that PIC shall make or cause to be made by a party reasonably acceptable to CITY a legally binding agreement in substantially the form attached as Exhibit "D" to pay annually an amount equal to the general real estate property taxes which would be payable upon said real property but for such exemption through the year during which TID No. 21 is terminated. The method to be used in determining the PILOT, through the year during which TID NO. 21 is terminated, shall be the Value[1] of the PROPERTY for that tax year determined by CITY Assessor's office times the Total Property Tax Rate[2] for the tax year, divided by 1,000. Commencing with the first full tax year following termination of TID No. 21 the amount to be paid annually shall be calculated by applying the tax rate as levied by CITY for that tax year to the Value of the PROPERTY for that tax year determined by CITY Assessor's office, divided by 1,000. The provisions set forth in this section shall run with the land, shall survive the termination of this Agreement and shall be binding upon the parties and their respective successors, assigns, transferees, and lessees.

3. Amendments.

This Agreement shall not be amended, changed, modified, altered or terminated without the written consent of the PIC, CITY, and RACM.

4. Successors.

Except as limited or conditioned by the express provisions hereof, the provisions of this Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto.

5. Governing Law.

The law of the State of Wisconsin shall govern this Agreement.

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[1] "Value" herein means CITY Assessor's determination of the fair market value of the PROPERTY on January 1 of each tax year.

[2] "Total Property Tax Rate" means [Definition to include all taxing bodies reflected on City of Milwaukee tax bills from time to time. The 1998 rate was $28.29 per $1,000.00 in assessed value.]

6. Severability.

If any provisions of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained in valid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections of this Agreement, shall not affect the remaining portions of this Agreement, or any part thereof.

7. Captions.

The captions or headings of this Agreement are for convenience only an in no way define, limit or describe the scope or extent of any of the provisions of this Agreement.

8. Notices.

Any written notice required to be sent to the parties shall be forwarded to the following:

CITY:
City of Milwaukee
809 North Broadway, 2nd Floor
Milwaukee, WI 53202
Attn: Commissioner of City Development

RACM:
Redevelopment Authority of the City of Milwaukee
809 North Broadway
Milwaukee, WI 53202
Attn: Executive Director/Secretary

With a copy to:
Office of City Attorney
800 City Hall
200 East Wells Street
Milwaukee, WI 53202

PIC:
PIC Services, LLC
101 W. Pleasant Street, Suite #201
Milwaukee, WI 53202
Attn: Managing Member – Gerard A. Randall Jr.

With a copy to:
Michael Best & Friedrich LLP
100 E. Wisconsin Avenue
Milwaukee, WI 53202
Attn: Robert A. Teper, Esq.

9. Termination of Prior Development Agreement.

The CITY, RACM, and the ORIGINAL DEVELOPER hereby acknowledge and agree that the Prior Development Agreement is terminated.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Development Agreement to be duly executed on the day and year set forth above.

CITY OF MILWAUKEE

_____

_____, Mayor

_____

_____, City Clerk

COUNTERSIGNED:

_____

W. MARTIN MORICS, Comptroller

REDEVELOPMENT AUTHORITY OF THE CITY OF MILWAUKEE

_____

Chair

_____

Executive Director

PIC SERVICES, LLC

By: _____

The ORIGINAL DEVELOPER joins in the execution of this Supplemental Development Agreement to acknowledge its approval and termination of the Prior Development Agreement.

WILLIAMS DEVELOPMENT CORPORATION, a Wisconsin Corporation

By: _____
WILLIAM ORENSTEIN, President

IRGENS DEVELOPMENT PARTNERS, LLC, a Wisconsin Limited Liability Company

By: _____
MARK F. IRGENS, Manager/President

NORTH AVENUE COMMERCE CENTER, LLC, a Wisconsin limited liability company

By: Irgens Development Partners, LLC, a Wisconsin limited liability company, its Manager

By: _____
MARK F. IRGENS, Manager/President

06-02-04
1050-2002-1059:81518

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, _____, _____, _____ of the above-named _____, to me known to be the person who executed the foregoing instrument and to me known to be such _____ of said _____, and acknowledged that he/she executed the foregoing instrument as such officer as the deed of said _____, by its authority.

_____

Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this 3rd day of June, 2004, Tom D. Melkerson, Patricia S. Algiers of the above-named RACM, to me known to be the person who executed the foregoing instrument and to me known to be such Chair/Exec. Dir of said Authority, and acknowledged that he/she executed the foregoing instrument as such officer as the deed of said Authority, by its authority.

_____

Notary Public, State of Wisconsin
My Commission: 4/8/07

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, _____, _____, _____ of the above-named _____, to me known to be the person who executed the foregoing instrument and to me known to be such _____ of said _____, and acknowledged that he/she executed the foregoing instrument as such officer as the deed of said _____, by its authority.

_____

Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, _____, _____, _____ of the above-named _____, to me known to be the person who executed the foregoing instrument and to me known to be such _____ of said _____, and acknowledged that he/she executed the foregoing instrument as such officer as the deed of said _____, by its authority.

_____

Notary Public, State of Wisconsin
My Commission: _____

EXHIBIT A

LEGAL DESCRIPTION

Parcel 1 of Certified Survey Map No. 6066, recorded January 9, 1995, on Reel 3453, Image 1041, as Document No. 7042599, being in the Southwest 1/4 of the Southwest ¼ of Section 18, Town 7 North, Range 22 East, City of Milwaukee, County of Milwaukee, State of Wisconsin.

Tax Key No.: 325-1441-2

Address: 2328-2364 North 27th Street

EXHIBIT B

ENVIRONMENTAL REPORTS

Identification of Environmental Investigation Reports

Reports: Preliminary Phase I
City of Milwaukee
December, 1991

Phase II Environmental Assessment
STS Consultants, Ltd.
May 11, 1993

Remedial investigation Report
Graef, Anhalt, Schloemer & Asociates
July 1994

EXHIBIT C

REMEDIATION REPORTS

EXHIBIT D

NORTH AVENUE COMMERCEN CENTER
PILOT AGREEMENT

Document Number	Document Title
	PILOT AGREEMENT

Recording Area

Name and Return Address

Thomas O. Gartner
Assistant City Attorney
Office of City Attorney
200 East Wells Street, Room 800
Milwaukee, WI 53202

Parcel Identification Number (PIN)

NORTH AVENUE COMMERCE CENTER

PILOT AGREEMENT

EXHIBIT

tabbies

D

PILOT AGREEMENT

[INSERT]: **[Insert Name]**

[INSERT] ADDRESS: **[Insert Address]**

PROPERTY ADDRESS:

Milwaukee, WI 532____

PROPERTY PARCEL IDENTIFICATION NO:

This agreement for payments in lieu of taxes ("PILOT Payments") is made by and between the _____, ("**[Insert Name]**") and the City of Milwaukee, a Wisconsin municipal corporation ("CITY"), as of the ___ day of _____, _____ ("AGREEMENT").

WITNESSETH

WHEREAS, [Insert Name] anticipates acquisition of the Property which is legally described in **Exhibit A** attached hereto (the "PROPERTY"); and

WHEREAS, Based upon _____ the PROPERTY may qualify for real property tax exemption under §70.11(4), Wis. Stats. as of January 1, _____; and

WHEREAS, [Insert Name] nonetheless recognizes that, notwithstanding the fact that the PROPERTY may qualify for tax exempt status, valuable government services and benefits will be provided to it and the PROPERTY, which services and benefits directly or indirectly relate to the public health, safety, and welfare, and which include, but are not limited to: fire and police protection; paved streets and street lights; snow removal; benefits associated with living in an organized community; and

WHEREAS, The PROPERTY is part of the North Avenue Commerce Center Project (the "PROJECT") which is subject to that certain Development Agreement – North Avenue Commerce Center Project, as amended, initially made as of the 27th day of September, 1994, or that certain Development Agreement – North Avenue Commerce Center – Phase II, as amended, initially made as of the 31st day of March, 1999, (collectively the "DEVELOPMENT AGREEMENT"); and

WHEREAS, In Common Council Resolution File No. 931296, adopted December 22, 1993, the Common Council approved a Project Plan for Tax Incremental District No. 21 ("TID-21") in order to provide for certain costs with respect to the Project; and

WHEREAS, [Insert Name] wishes to make PILOT Payments to CITY in recognition of the services and benefits referred to herein and the provision of financial assistance to the Project pursuant to TID-21.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. INCORPORATION OF WHEREAS CLAUSES.

The parties hereby acknowledge that the above clauses are part of this AGREEMENT.

2. CITY SERVICES.

A. <u>Services Typically Covered by Property Tax</u>.

The CITY agrees to continue to furnish governmental services and benefits to **[Insert Name]** and the PROPERTY of the same type, and to the extent, as are furnished from time to time, without cost or charge (except by means of property tax and authorized fees and charges), to other similarly situated commercial buildings and projects in CITY. Nothing in this AGREEMENT shall be construed to give **[Insert Name]** a contractual right to specific

governmental services, or to impose upon CITY any additional duties, it being the parties' intent that CITY provide public services to **[Insert Name]** and the PROPERTY subject to the same terms and conditions as apply to properties owned by citizens or the public generally. Such services and benefits include, but are not limited by specific enumeration herein, those typically covered by the property tax such as fire and police protection, and on public streets, snow removal, and street lighting. CITY shall not have breached its obligations hereunder if it is prevented from providing benefits and/or services to **[Insert Name]** or the PROPERTY because of typical *force majeure* reasons (e.g. war, flood, fire, labor dispute, supply shortage, act of God, natural disaster, etc.), because of budgetary constraints, or because any person or entity shall assert a right which prevents delivery of such benefits and/or services.

B. <u>BID Assessments, Special Assessments, Special Charges and Fees.</u>

Notwithstanding paragraph 2.A., or the property tax exempt status of the PROPERTY, **[Insert Name]** understands that it will be subject to applicable business improvement district assessments, special assessments, special charges, and special taxes as defined in §74.01, Wis. Stats. (and as also referred to in Ch. 66, Wis. Stats.) and fees charged by CITY in the same manner that such special assessments, special charges, special taxes, and fees are charged for similar services and/or undertakings to commercial buildings within CITY. This provision shall not affect CITY's powers, consistent with the law, to determine the services and benefits (other than those typically covered by the property tax) that shall be provided to the PROPERTY and/or similarly situated property pursuant to this paragraph 2B. Nothing contained herein shall preclude **[Insert Name]** from appealing, as provided by law, the imposition of such special assessments, special charges, special taxes, or fees by CITY.

3. PILOT AGREEMENTS.

A. Calculation for _____ and Subsequent Years.

In recognition of those services and benefits covered by paragraph 2.A. of this AGREEMENT, beginning in the year _____, and so long as the Property is exempt in whole or in part under § 70.11, Wis. Stats., **[Insert Name]** agrees to pay CITY an annual PILOT Payment for the PROPERTY for each calendar year (or portion thereof during which **[Insert Name]** owns [or leases] the PROPERTY). The method to be used in determining the PILOT, through the year during which TID NO. 21 is terminated, shall be the Value[1] of the PROPERTY for that tax year determined by CITY Assessor's office times the Total Property Tax Rate[2] for the tax year, divided by 1,000. Commencing with the first full tax year following termination of TID No. 21 the amount to be paid annually shall be calculated by applying the tax rate as levied by CITY to the value of the PROPERTY. In the event that **[Insert Name]** conveys the PROPERTY to another tax-exempt owner (a "NEW EXEMPT"), **[Insert Name]** shall be obligated to assign all of its rights and obligations under this AGREEMENT to NEW EXEMPT and NEW EXEMPT shall be bound by the terms of this AGREEMENT. **[Insert Name]** shall inform any NEW EXEMPT of the existence and continuation of this AGREEMENT prior to any conveyance of the PROPERTY by **[Insert Name]** to NEW EXEMPT, and **[Insert Name]** shall secure NEW EXEMPT'S express written agreement and consent to the assignment of terms and conditions hereof and shall deliver a copy of said assignment to CITY. Likewise, if **[Insert Name]** conveys only part of the PROPERTY to NEW EXEMPT, **[Insert Name]** shall first inform NEW EXEMPT of this AGREEMENT and obtain NEW EXEMPT's express written

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[1] "Value" herein means CITY Assessor's determination of the fair market value of the PROPERTY on January 1 of each tax year.

[2] "Total Property Tax Rate" means [Definition to include all taxing bodies reflected on City of Milwaukee tax bills from time to time. The 1998 rate was $28.29 per $1,000.00 in assessed value.]

agreement and consent to be bound by this AGREEMENT in so far as it relates, on a square footage basis, to the part of the PROPERTY to be conveyed to NEW EXEMPT.

B. Payment Due Date.

PILOT Payments for the year _____ and subsequent years shall be due and payable (i) in full on or before January 31 of the year following the calendar year for which the PILOT Payment was calculated, or (ii) if **[Insert Name]** elects to pay in installments, according to the following schedule: one-tenth of the PILOT by the last day of each month for the first 10 months in the year following the calendar year for which the particular PILOT Payment was calculated. **[Insert Name]** shall be deemed to have elected to pay the PILOT Payment in installments by making the first full installment payment on or before January 31 in the respective year in which the PILOT Payment is due.

C. Use.

CITY may use and expend PILOT Payments hereunder in such manner and for such purposes as CITY desires.

D. Mandatory Payment for Services to Offset PILOT Payment.

Notwithstanding anything herein to the contrary, if the State of Wisconsin enacts a mandatory payment for municipal services to be paid by owners of property exempt from general property tax or similarly situated owners of exempt property, PILOT Payments shall be reduced by any such mandatory payment paid by **[insert name]** to CITY.

4. EXEMPT STATUS.

CITY Assessor's Office may review the PROPERTY's exempt status under §70.11, Wis. Stats. from time to time with the respective January 1 dates being the reference dates for those exemption reviews. If CITY, as a result of those reviews or otherwise, determines that all or any

portion of the PROPERTY no longer qualifies (or does not qualify) for exemption from property tax, (i) CITY will provide notice of such determination to **[Insert Name]**, (ii) this AGREEMENT shall be suspended with respect to any years and, if applicable, with respect to any portions of the PROPERTY for which exemption no longer applies, (iii) if PILOT Payments have been erroneously made for such tax years, CITY shall promptly refund such PILOT Payments, or, at the option of CITY, offset such PILOT Payments against any property taxes due, or to become due, from **[Insert Name]** (and, if applicable, from a NEW EXEMPT), in which case CITY will treat such offset as having been made under protest, and (iv) the PROPERTY, or any portion thereof which does not qualify for exemption, shall be placed on the property tax rolls for all years for which whole or partial exemption has been determined not to apply. If **[Insert Name]** disagrees with CITY's determination that the PROPERTY or any part thereof no longer qualifies for tax exemption, **[Insert Name]** may challenge such determination by following the procedure set forth in §74.35, Wis. Stats. or as otherwise provided by law.

Notwithstanding anything to the contrary contained herein, **[Insert Name]** acknowledges that it is or may be bound by the reporting requirement, in §70.11's, Wis. Stats., preamble, and that under §70.109, Wis. Stats.: exemptions are strictly construed; it is presumed that property is taxable; and the burden is on the person claiming exemption.

[Insert Name] also acknowledges that if it leases, or otherwise allows another person to use and/or occupy, all or a portion of the PROPERTY, such use may affect the PROPERTY's exempt status. See, e.g. the preamble of §70.11, Wis. Stats., §70.1105, and Deutsches Land v. City of Glendale, (WI S.Ct. April 16, 1999). For example, if **[Insert Name]** is exempt but only uses and occupies 90% of the PROPERTY for exempt purposes and leases the other 10% of the PROPERTY to a for-profit, nonexempt entity, and if the assessor applies a square footage, taxed

in part analysis, the PROPERTY is to be taxed on a 10% basis and exempt on a 90% basis and the PILOT Payment would have to be paid on the 90% portion.

5. TERM.

This AGREEMENT shall terminate _____.

6. APPEAL OF ASSESSED VALUE.

[Insert Name] shall have the same rights to contest the assessed valuation of the PROPERTY as a taxpaying owner under Wisconsin law. CITY acknowledges **[Insert Name]**'s right to contest the assessed valuation of the PROPERTY under the procedures provided in §§70.07 and 70.47, Wis. Stats., and CITY expressly agrees not to dispute **[Insert Name]**'s right to contest the assessed valuation of the PROPERTY under said statutes.

7. DOCUMENTS, INSPECTION, COOPERATION.

[Insert Name] agrees to cooperate with CITY (including, but not limited to, the City Assessor's Office, the City Attorney's Office, and the City Comptroller's Office) with respect to this AGREEMENT by allowing inspections of the PROPERTY upon reasonable written request of CITY and by allowing inspection of any leases applicable to the PROPERTY and such other documents that CITY may, from time to time, request concerning exemption and assessment determinations. Notwithstanding the foregoing, CITY expressly reserves all its rights in law and equity to inspect and to obtain disclosure, documents, inspection, and information.

8. PERSONAL PROPERTY TAXES.

The parties hereto acknowledge that this AGREEMENT does not require any payments in lieu of Personal Property Taxes.

9. AMENDMENT.

This AGREEMENT may be modified and amended from time to time as CITY and **[Insert Name]** shall mutually agree in writing, executed by both parties.

10. SEVERABILITY; GOVERNING LAW.

If any provision hereof is duly held by a court of competent jurisdiction to be invalid with respect to any circumstance or otherwise, the remainder of this AGREEMENT and/or the application of the AGREEMENT to any other circumstance, shall not be affected thereby. The parties intend that the laws of the State of Wisconsin and ordinances and regulations of the City of Milwaukee shall be the governing law with respect to this AGREEMENT.

11. AUTHORITY.

[Insert Name] represents and warrants to CITY that its agents executing this AGREEMENT have been duly authorized to so execute and to cause **[Insert Name]** to enter this AGREEMENT, and that **[Insert Name]** has obtained all requisite consents and approvals concerning the same. CITY represents to **[Insert Name]** that CITY's Common Council has authorized CITY to enter this AGREEMENT pursuant to Common Council File No.020096 adopted May 14, 2002.

12. RECORDING

[Insert Name] shall cause this AGREEMENT to be recorded with the Milwaukee County Register of Deeds and deliver a copy of the recorded AGREEMENT to CITY.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by duly authorized representatives as of the date and year first written above.

CITY OF MILWAUKEE

By:_____
Mayor

Attest: _____

City Clerk

COUNTERSIGNED:

By:_____

City Comptroller

Prepared by:
Thomas O. Gartner, Assistant City Attorney
Milwaukee, Wisconsin
1050-2002-1059:56656

[Insert Name]

By:_____

Name Printed:_____
Title:_____

Attest: _____

Name Printed:_____
Title:_____

CITY ATTORNEY'S OFFICE
Approved as to form, execution and content
this ___ day of _____, _____.

_____
Thomas O. Gartner
Assistant City Attorney

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, _____, _____, Mayor of the 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 said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipality, by its authority.

_____

Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, _____, _____, City Clerk of 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 Clerk of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipality, by its authority.

_____

Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, _____, _____, _____ of the above-named _____, to me known to be the person who executed the foregoing instrument and to me known to be such _____ of said _____, and acknowledged that he/she executed the foregoing instrument as such officer as the deed of said _____, by its authority.

_____

Notary Public, State of Wisconsin
My Commission: _____