



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Milwaukee County

Héctor Colón, MS, OT
Director

DATE: 5/8/13
TO: Marina Dimitrijevic, Chairwoman of the Milwaukee County Board of Supervisors
FROM: Hector Colon, Director of the Department of Health and Human Services
SUBJECT: Appointment of Kathleen Eilers

I am pleased to appoint Kathleen Eilers, RN, MSN to the position of Administrator of the Behavioral Health Division.

Ms. Eilers has extensive mental health experience working in both the public and private sector. She spent 20 years at the county, first as the Associate Administrator/Programs and then as Division Administrator for the Behavioral Health Division (BHD). Under her leadership staff at BHD helped create the Master Plan to move towards a community based mental health system. Most recently she worked with the Faye McBeath Foundation and served as president at Saint John's on the Lake. Eilers is also president-elect of the Rotary Club of Milwaukee. She is an advocate of person-centered and recovery oriented treatment and has been recognized by several organizations including the National Alliance on Mental Illness and The Grand Avenue Club.

Ms. Eilers' leadership will be critical through the closure of the long-term care units at BHD and the implementation of the workplan created by the Mental Health Redesign Taskforce to move toward a community based mental health system.

I am very confident that Ms. Eilers will bring the leadership and vision needed for BHD and Milwaukee County to move forward. I urge you to give this appointment your favorable consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hector Colon', is written over a horizontal line.

Héctor Colón,

Attachment

Cc: County Board of Supervisors
Kelly Bablitch, Chief of Staff, Board of Supervisors

1220 W. Vliet Street, Suite 301 Milwaukee, WI 53203 414-289-6817

RESUME

M. Kathleen Eilers

Home Address:

1800 North Prospect Avenue
Apt. 15C
Milwaukee, Wisconsin 53202-1975
(414) 239-7900
E-mail: keilers@msn.com

Education:

1966 B.S.N., College of Mt. St. Joseph
1976 M.S.N., University of Cincinnati

Faculty Appointments:

1977 - 1978	Adjunct Clinical Instructor School of Nursing Wright State University
1978 - 1980	Instructor School of Nursing Wright State University
1981 - 1982	Adjunct Associate Professor School of Nursing University of Wisconsin - Milwaukee

M. Kathleen Eilers

Hospital and Administrative Positions:

(See addendum for description of responsibilities)

2011 -2012	Project Manager Nursing's Voice Faye McBeath Foundation/Public Policy Forum
2003 – 2011	President Saint John's Communities, Inc. Milwaukee, Wisconsin
1993 - 2003	Administrator Milwaukee County Behavioral Health Division
1983 - 1993	Associate Administrator - Programs Milwaukee County Mental Health Complex
1982 - 1983	National Health Care Director Manpower, Inc.
1980 - 1981	Psychiatric Clinical Specialist Columbia Hospital Milwaukee, Wisconsin
1976 - 1978	Associate Director of Nursing Service Grandview Hospital Dayton, Ohio
1974 - 1976	Nursing Office Supervisor University of Cincinnati Medical Center
1971 - 1974	Clinical Nursing Supervisor Psychiatry University of Cincinnati Medical Center
1967 - 1971	Head Nurse, Psychosomatic Unit University of Cincinnati Medical Center
1966 - 1967	Staff Nurse

M. Kathleen Eilers

Private Psychiatric Unit
Good Samaritan Hospital
Cincinnati, Ohio

Licensure: Wisconsin

Memberships in Professional Associations and Board Memberships:

American Nursing Association
Advanced Clinical Practitioners
Assembly Member, Ohio Nursing Association
Council on Practice (1973-1975)

Ohio Nursing Association
First Vice-President, District X (1978-1980)

Wisconsin Nurses' Association (1980-2001)
Ad Hoc Education Task Force (alternate) (1981-1982)

Milwaukee District Nurses' Association
Chair, Economic and General Welfare Committee (1982-1983)
First Vice-President (1983-1987)

TEMPO -
Membership Committee (1985-1986; 1998)
Vice-President, Membership (1985-1986)
President-Elect (1987-1988)
President (1988-1989)
Awards Committee (1990)
New Member Orientation Committee (1990)
Nominating Committee (1993)
Student Mentor Program (1993-1998)
Community Relations Committee (1994)
Fund Raising Committee (1995)
Resource Committee (1995-1997)
Professional Dimensions/TEMPO Discussion Group (1997-2000)

Sigma Theta Tau (1976 - 2000)

American Nursing Association (1978 - 2001)

Medical Personnel Pool Advisory Board (1986 - 1994)

Association of Health Care Executives (1986 - 1992)

M. Kathleen Eilers

Jewish Vocational Services
Corporate Board and Health Committee (1987 - 1989)

Citizens Review Board of Milwaukee County (1987 - 1990)
Memberships in Professional Associations and Board Memberships (continued):

Kettle Moraine Detox Advisory Board (1989 - 1993)

Wisconsin Association of Community Mental Health Centers (1989-1992)

Big Brothers/Big Sisters of Metropolitan Milwaukee, Inc.
Board of Directors and Chair, Program Committee (1989 - 1993)

Alliance for the Mentally Ill of Greater Milwaukee
Board of Directors (1990 - 1994)
Chair, Personnel/Nominating Committee (1990)
First Vice President (1992 - 1993)

Staff Consultant to Safe House (1990)

Co-Chair, Parent Support Group, Lake Bluff PTA (1990)

YWCA
Circle of Women (1992)
Chair, Nominating Committee (1997)

Hospital Council of Greater Milwaukee
Board of Directors (1993 - 1997)

Grand Avenue Club Task Force (1995-1996)

Wisconsin Counties Association - Health and Human Services Steering Committee (1995-1996)

Shorewood Community Development Authority (1995 - 2004)

American Society for Public Administration, Milwaukee Chapter (1996)

State of Wisconsin - Governor's Blue Ribbon Commission on Mental Health (1996 - 1997)
State of Wisconsin Implementation Advisory Committee (1997-2000)
State of Wisconsin Recovery/Consumer-Family Involvement Work Group (1998)

Milwaukee County Long Range Strategic Plan Steering Committee (1998)

Senator Russell Feingold's Health Care Advisory Committee (1999 – 2004)

M. Kathleen Eilers

National Association of County Behavioral Health Directors
Treasurer (1999-2001)
Chair, Program Committee (2001-2003)

Memberships in Professional Associations and Board Memberships (continued):

Milwaukee Regional Medical Center Board of Directors
Treasurer (2000-2001)
Vice-Chair (2001-2002)

Human Services Research Institute Steering Committee (2001 – 2003)

University of Wisconsin – Milwaukee College of Health Sciences
Dean's Advisory Board, Chair (2001 – Present)

St. Catherine Residence
Board of Directors (2003- 2009)

Rotary Club of Milwaukee (2004-Present)
Membership Committee (2005-Present)
Board of Directors (2010-Present)
President elect (2012 -2013)

Wisconsin Association of Homes and Services for the Aging (WAHSA)
(2003-2011)

ABCD Board of Directors
2007-2013
President (2011-2012)

M. Kathleen Eilers

Recent Presentations:

Panel Presentation, "Let's Talk ... Turn Words Into Action," Mental Health Association in Milwaukee County, Milwaukee, WI, September, 1996.

"Role of County Government as Purchaser/Provider of Care," Fall Conference of Wisconsin Psychiatric Association, Kohler, WI, October, 1996.

Keynote Speaker, Transitional Living Services, Inc., Board of Directors Annual Meeting, Milwaukee, WI, May, 1997.

Trinity College of Vermont Graduate Program in Community Mental Health, Weekend Class, Milwaukee, WI, July, 1997.

"Overview of Mental Illness," Essentials of Community Treatment Course, Milwaukee County Behavioral Health Division, Milwaukee, WI. Presented yearly, beginning in September, 1997.

Community Roundtable Moderator, "Life After Diagnosis," Women's Health – Women's Lives," sponsored by Congressman Tom Barrett, Milwaukee, WI, December 11, 1999.

Trinity College Program in Community Mental Health, "Recovery Thoughts," Milwaukee, WI, July 9, 2000.

Milwaukee County Older Adult Mental Health/Substance Abuse Providers Association, "Mental Health Division's Strategic Planning Process and Managed Care Pilot," Milwaukee, WI, October 13, 2000.

Medical College of Wisconsin Community Cultural Rounds, "Serving Vulnerable Citizens with Mental Illness," Milwaukee, WI, November 17, 2000.

Women's Court and Civic Conference of the Greater Milwaukee Area, Senior Citizen Concerns, Milwaukee, WI, October 17, 2001.

Panelist, "Current Issues in Psychiatric Emergency Services: Tools for Assessment, Management, and Change," American Association for Emergency Psychiatry Regional Program, Milwaukee, WI, April 6, 2002.

"The State of Mental Health in Milwaukee County," Keynote Speech, International Association of Psychosocial Rehabilitation Services 2002 Conference, Zablocki Veterans Affairs Medical Center, Milwaukee, WI, May 17, 2002.

Guest Speaker to AmeriCore Volunteers, City of Hope, Milwaukee, WI, July 18, 2002.

"Public Mental Health System in Milwaukee County," Criminal Justice and Mental Health Workgroup Training, Milwaukee, WI, February 3, 2003.

M. Kathleen Eilers

Recent Presentations (continued):

"Almost Home" Presentation to Retirement Communities Healthcare Systems, Topeka, KS, February 2006.

"Almost Home" Presentation to Waukesha Senior Concerns Consortium, Waukesha, WI, March 2006.

"Culture Change" Presentation to Sister of Mercy Senior Specialists, Chicago, IL, October 2007.

"Person-Centered Care" Presentation to Spectrum Marketing Incorporated, North Carolina, April 2008.

M. Kathleen Eilers

PUBLICATIONS

Original Papers:

1. Master's Thesis: Relationship Between Position in Nursing, Job Satisfaction and Individual Assertiveness.
2. Winstead, D., Blackwell, B., Anderson, A., and Eilers, M.K.: Diazepam on demand: drug seeking behavior in anxious inpatients. *Archives of General Psychiatry* 30:349, 1974.
3. Eilers, K. and Blackwell, B.: Psychiatric patients' impressions of teaching conferences. *Journal of Psychiatric Nursing and Mental Health Services* 12:5-9, 1974.
4. Winstead, D., Blackwell, B., Eilers, M.K. and Anderson, A.: Psychotropic drug use in five city hospitals. *Diseases of Nervous System* 37:504-509, 1976.
5. Eilers, K., et al: Nursing responsibilities in the screening and detection of breast cancer. Ohio Regional Medical Audiovisual Consortium, Columbus, Ohio, November, 1980.
6. Eilers, K.: How to stand up for yourself and get away with it. *Nursing Life*, July/August, 1983.
7. Eilers, K. and Owley, C.: Mergers and ventures: creative responses to shifting resources. *Midwest Alliance in Nursing*, 1987.
8. Eilers, K.: "Adjustment, Impaired," "Denial, Impaired," and "Role Performance, Altered," in Kathy V. Gettrust and Paula D. Brabec (eds.), Nursing Diagnosis in Clinical Practice: Guides for Care Planning, Delmar Publishers, Inc., 1992, pp. 47-49, 185-187, 469-472.
9. Kelly, J.A., Murphy, D.A., Bahr, G.R., Brasfield, T.L., Davis, D.R., Hauth, A.C., Morgan, M.G., Stevenson, L.Y., and Eilers, M.K.: AIDS/HIV Risk Behavior Among the Chronic Mentally Ill. *American Journal of Psychiatry* 149:7, 886-889, July, 1992.
10. Blackwell, B., Eilers, K., and Robinson, D., Jr.: "The Consumer's Role in Assessing Quality," in Stricker, G., Troy, W.G. (eds) and Shueman, S.A., Handbook of Quality Management in Behavioral Health, Kluwer Academic/Plenum Publishers, 1999, pp. 375-386.
11. Eilers, K., Lucey, P., Stein, S.: "Prompting Social Capital for the Elderly". *Journal of Nursing Economics*, Volume 25, 5, September/October 2007

M. Kathleen Eilers

DESCRIPTION OF POSITION RESPONSIBILITIES

President

Saint John's Communities, Inc.

Milwaukee, Wisconsin 2003 - 2011

Serves as Chief Executive Officer for this continuing care (retirement) community.

Saint John's, founded in 1868, provides a full continuum of care for seniors at its East side campus and skilled nursing care on Milwaukee's south side. The corporation employs several hundred in a variety of professional and support positions. Saint John's is affiliated with the Episcopal Diocese of Milwaukee and has a reputation as a premier senior living community.

Administrator

Milwaukee County Behavioral Health Division

Milwaukee, Wisconsin 1993 - 2003

Served as chief executive officer for this \$137 million publicly owned and funded community behavioral health center. Operational responsibility for the 409 inpatient beds and a full range of outpatient and community based services for persons with substance abuse and/or mental illness. The Division has over 1000 employees and serves as a training site for all professional mental health disciplines. Provided leadership for a Master Plan for public mental health services that has created a consumer-driven, community-based system of services.

Associate Administrator - Programs

Milwaukee County Mental Health Complex

Milwaukee, Wisconsin 1983 - 1992

Responsible for all clinical programs in 900-bed public mental hospital. Programs include three licensed nursing home units, acute care inpatient units, a child and adolescent treatment center, geropsychiatry program, chemical dependency programs and a network of community outpatient clinics. Responsible for budget preparation and monitoring for all programs in a \$76 million operation. Involved in strategic planning to enhance both quality of services and revenue. Initiated and supervised fund raising activities to supplement public funding.

National Health Care Director

Manpower, Inc.

1982 - 1983

Responsible for providing managerial and professional direction to branches and franchises nationwide, involved in providing supplemental nursing services to hospitals, nursing homes and other health care facilities. Along with branch managers, responsible for the profitability of health care offices.

M. Kathleen Eilers

Description of Position Responsibilities (continued):

Psychiatric Clinical Specialist
Columbia Hospital
Milwaukee, Wisconsin 1980 - 1981

Responsible for assisting nursing staff with inter and intrapersonal/professional stresses. Provided inservice, consultation and group sessions for staff nurses on psychosocial/mental health issues. Provided management consultation to head nurses, nursing administrators and other department heads.

Associate Director of Nursing Service
Grandview Hospital
Dayton, Ohio 1976 - 1978

Responsible for management functions of five 40-bed medical wards and seven specialty units (including operating room, recovery room, intensive care unit, stepdown unit, emergency room, outpatient clinic and mental health unit). Instrumental in upgrading quality of nursing care in a 450-bed private hospital. This included supervision, hiring, motivating and disciplining of employees. Maintained good morale in complex circumstances. Developed new staffing patterns to maximize use of personnel resources. Assisted in teaching management skills to head nurses. Produced standards of performance for all levels of personnel. Collaborated with personnel department in improving evaluative measures and assisted in recruitment of personnel.

Nursing Office Supervisor
University of Cincinnati Medical Center
1974 - 1976

Assumed total overall responsibility for smooth functioning of entire 700-bed hospital. Served as resource person to all nursing staff and other hospital departments. Used conflict management skills to resolve immediate crises. Made decisions about adequacy of staffing for all intensive care, medical-surgical, obstetrics, pediatrics, operating and emergency units.

M. Kathleen Eilers

Description of Position Responsibilities (continued):

Clinical Nursing Supervisor
Psychiatry, University of Cincinnati Medical Center
1971 - 1974

Responsible for planning, scheduling, budgeting and managing nursing care in a teaching hospital with three acute psychiatric wards (44 beds), an NIH clinical research unit (12 beds), a day treatment center (75 patients) and a psychosomatic unit (12 beds). Included supervision, hiring, motivating and disciplining approximately 100 employees. Maintained good staff morale in complex circumstances involving collaboration between clinical, teaching and research administrations. Devised system of open evaluations. Instituted new treatment methods (e.g. daily patient contract groups). Represented nursing with the Department of Psychiatry, College of Medicine and General Hospital Administration. Served on numerous committees including Department of Psychiatry Advisory Council, Mid-Management Planning Committee, and Inpatient Psychiatry Education Committee. Planned and delivered inservice sessions and workshops for psychiatric employees, hospital managers, hospital nursing personnel and city-wide groups.

Head Nurse
Psychosomatic Unit, University of Cincinnati Medical Center
1967 - 1971

Planned care for 16 acute psychiatric patients. Supervised nursing service employees on ward. Served as a liaison person for nursing with the University Department of Psychiatry. Served as therapist for individual patients and groups and as role model for staff. Involved in psychiatric resident and medical student teaching. Became eligible for promotion to supervisor.

Staff Nurse
Private Psychiatric Unit, Good Samaritan Hospital
Cincinnati, Ohio 1966 - 1967

Under direction of head nurse gave direct nursing care to private psychiatric inpatients. Developed clinical skills and organizational ability. Established working relationships with private practice psychiatrists.

M. Kathleen Eilers

Recognition:

AMI of Greater Milwaukee Award
Alliance for the Mentally Ill
1995

Outstanding Leadership Award
Employees Combined Giving Campaign
1998

Distinguished Service Award
Medical College of Milwaukee
June 1998

Outstanding Leadership Award
Executive Council and Milwaukee County
Combined Giving Campaign
2000

Resolution of Commendation
Milwaukee County Board of Supervisors
June 2002

Friend of Friendless Award
Wisconsin Correctional Services
2003

TLS Award
Continued Support of Transitional Living Services, Inc.
May 2003

Good Shepard Award
Behavioral Health Division, Milwaukee County
2004

Woman of Influence Award for Non-profit Leadership,
Milwaukee Business Journal
June 2006

Grand Avenue Club Award
June 2008

Bond Buyer Midwest Deal of the Year
June 2009

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Chris Abele

MILWAUKEE COUNTY EXECUTIVE

DATE: July 9, 2013

TO: The Honorable Milwaukee Board of Supervisors

FROM: Chris Abele, Milwaukee County Executive

RE: Veto of County Board File No. 13-569 a resolution allowing the County Board Chairperson the ability retain and direct outside legal counsel surrounding Act 14.

I am vetoing County Board File No. 13-569 pursuant to the authority granted to me by Article IV, Section 23(a) of the Wisconsin Constitution and Section 59.17(6) of the Wisconsin Statutes.

The County Board adopted a resolution on June 20, 2013 to hire the Hawks Quindel, S.C. law firm to sue the state legislature over their lawful passage of Act 14. The resolution allows Chairwoman Marina Dimitrijevic to move forward with litigation without approval of the Board.

I am vetoing this file because it is neither in the interest of the County nor the taxpayers.

Corporation Counsel, given their statutory role and according to their own statements, could guide the County on the implementation of Act 14. However, the Board voted to needlessly spend tax dollars. I remain concerned about the precedent and message this sends: that elected leaders can ask taxpayers to foot an outside counsel bill every time they disagree, or think they may disagree in the future, with Corporation Counsel. That is both costly to our community and troubling in its implications.

Further, the choice of Hawks Quindel, S.C. sends a terrible message. While I am confident the attorneys at the firm are more than competent litigators, their conflict of interest with the County and taxpayers cannot be overlooked.

In the memo Hawks Quindel, S.C. sent to the Board laying out their ability to represent the Board they wrote; "no material facts should arise in our representation of the County Board which relate to the current pending cases" against the County. Not only is that impossible to declare, it is also unlikely. Considering the number of clients and issues they represent, there is a very good chance a conflict could arise. Moreover, there are clearly many, many other highly qualified law firms that Board could call upon who are not currently involved in pending cases involving the County.

Hawks Quindel, S.C. is currently suing Milwaukee County on behalf of a number of their clients. At some point, the Board may vote on settlements in some of those cases. This will create, at a

minimum, a perceived conflict of interest that is neither in the interest of the County or our community.

In addition, I worry this decision creates the appearance of Board members putting their own political interests ahead of their fiduciary responsibilities. I know Supervisors take their fiduciary responsibilities seriously, but all elected officials should avoid putting themselves in a situation where there is even the appearance of this conflict.

I also am concerned by the Board's willingness to relinquish decision-making oversight in this matter. Allowing litigation decisions to move forward without approval of the Board or even a committee creates a system where Supervisors cannot protect taxpayers. In litigation issues, the Board's role as a check is indeed important, yet this decision by the Board ignores that important function. As Supervisor Willie Johnson rightly observed during the hearing on this issue, it is unprecedented for the Board Chair can make this decision without the input of other Supervisors.

For these reasons, I ask Supervisors to sustain this veto.

1 By Supervisor Weishan

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A RESOLUTION

to retain outside legal counsel to provide guidance on the implementation and legality of 2013 Wisconsin Act 14

WHEREAS, the Milwaukee County Board of Supervisors was told at its meeting on April 25, 2013, by the Corporation Counsel that the legislation (now Wisconsin 2013 Wisconsin Act 14 or “Act 14”) presents *“two political entities at odds...it would probably be in the County’s best interest not to have Corporation Counsel involved and so...to alleviate any real or perceived conflict of interest, that we agreed that outside counsel would be appointed to represent this body;”* and

WHEREAS, § 59.42(3), Wis. Stats., entitled “Corporation Counsel; Attorney Designee,” provides that “[i]n addition to employing a corporation counsel . . . a Board shall designate an attorney to perform the duties of a corporation counsel as the need arises” such that on May 23, 2013 the Board so authorized and directed the Corporation Counsel to recommend legal firms to the County Board chairperson to retain legal counsel as such Attorney Designee for issues related to the implementation and legality of various provisions contained in Act 14; and

WHEREAS, pursuant to the May 23, 2013 resolution, the Chairperson has decided to select Hawks Quindel, S.C. to act as such Attorney Designee to advise and represent the Board with respect to the provisions of Act 14, save for matters related to collective bargaining; and

WHEREAS, Hawks Quindel has disclosed, as set forth in its June 17, 2013 letter to the Chairperson (hereto attached to this file), that the firm represents certain clients in litigation adverse to Milwaukee County in several matters which are and appear likely to remain unrelated to Act 14; and

WHEREAS, Hawks Quindel has determined that its ethical obligations compel it to disclose such representation and to acquire the informed consent of its current clients and the Board permitting concurrent representation of its current clients and the Board; and

WHEREAS, Hawks Quindel has further advised the Chairperson that the factual and legal issues related to its representation of those clients adverse to Milwaukee appear to be unrelated to the work it will do or is likely to do for the Board; that Hawks Quindel shall continuously monitor all developments to ensure the validity of such assurance; and will promptly advise the Chair if any such conflict arises and take action to resolve the conflict; now, therefore,

41 BE IT RESOLVED, that the County Board of Supervisors authorizes the Chairperson to
42 do the following:

- 43
- 44 1. Sign, on behalf of the County Board the Consent to representation that Hawks
45 Quindel has presented to the Chairperson for execution;
 - 46
 - 47 2. Sign on behalf of the County Board a Professional Services Agreement, or legal
48 services retainer agreement, with Hawks Quindel, S.C. to act as Attorney
49 Designee with respect to its legal representation of the Board in connection with
50 the implementation and legality of Act 14;
 - 51
 - 52 3. Act as the County Board's duly-designated representative in communicating
53 with and receiving counsel from Hawks Quindel with respect to issues related to
54 the implementation and legality of Act 14;
 - 55
 - 56 4. Authorize, based on the advice of counsel and with the agreement of the
57 Chairperson of the Committee on Judiciary, Safety and General Services,
58 whether to commence litigation to challenge any or all portions of Act 14.
59

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 18, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution to retain outside legal counsel to provide guidance on the implementation and legality of 2013 Wisconsin Act 14

FISCAL EFFECT:

- | | |
|---|--|
| <input type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input checked="" type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input checked="" type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input checked="" type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	\$25,000	0
	Revenue	0	0
	Net Cost	\$25,000	0
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Approval of this resolution will authorize the Milwaukee County Board Chairperson to:

1. Sign, on behalf of the County Board the Consent to representation that Hawks Quindel has presented to the Chairperson for execution;
2. Sign on behalf of the County Board a Professional Services Agreement, or legal services retainer agreement, with Hawks Quindel, S.C. to act as Attorney Designee with respect to its legal representation of the Board in connection with the implementation and legality of Act 14;
3. Act as the County Board's duly-designated representative in communicating with and receiving counsel from Hawks Quindel with respect to issues related to the implementation and legality of Act 14;
4. Authorize, based on the advice of counsel and with the agreement of the Chairperson of the Committee on Judiciary, Safety and General Services, whether to commence litigation to challenge any or all portions of Act 14.

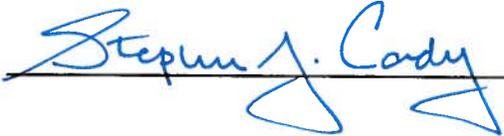
It is unclear as to the complexity of the legal services that may be required since the outside legal review has not yet been done. Based on past experience with the retention of outside counsel, this fiscal note assumes that an expenditure of approximately \$25,000 may be necessary to carry out the directive. The costs are likely to be higher if any or all portions of Act 14 are challenged through litigation.

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.
County Board July 10 Page19

An appropriation transfer from Org. Unit 1961 – Litigation Reserve would most likely be required to pay for services rendered. The 2013 Adopted Budget includes an appropriation of \$350,000 for the Litigation Reserve. The County Board (Org. 1000) 2013 Adopted Budget also includes an appropriation of \$50,000 for legal services to access outside legal opinions.

Department/Prepared By Stephen Cady, Fiscal and Budget Analyst, County Board

Authorized Signature 

Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required

ATTORNEYS AT LAW

HAWKS QUINDEL, S.C.

222 East Erie Street, Suite 210
P.O. Box 442
Milwaukee, WI 53201-0442

MILWAUKEE OFFICE

SHAREHOLDERS

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June 17, 2013

VIA EMAIL (marina.dimitrijevic@milwcnty.com) & Reg. Mail

Marina Dimitrijevic, Chairperson
Milwaukee County Board of Supervisors
Milwaukee County Courthouse
901 North 9th Street, RM 201
Milwaukee, WI 53233

RE: Disclosure and Consent to Proposed Representation

Dear Chairperson Dimitrijevic,

Our law firm has been asked by the Milwaukee County Board to undertake its representation in opposition to the recently-enacted 2013 Wisconsin Act 14, which vests greater power in the Milwaukee County Executive, Chris Abele, and restricts the power and budget of the Milwaukee County Board of Supervisors. This representation, for now, shall include advising the Board of: a) the potential merits of a legal challenge to the validity of Act 14, either in total or in part; and b) to address various issues that almost certainly will arise as to the interpretation and implementation of Act 14 regarding the respective duties and powers of the Board and County Executive (excluding advice related to labor relations issues).

As you know, our firm currently represents a number of clients who are adverse to Milwaukee County in a number of different matters, including: a) four workers compensation claims against Milwaukee County in connection with work-related injury while in the employ of the County; b) a sexual harassment suit by an employee against Milwaukee County with respect to the conduct of the former County Board Chairperson; c) collective bargaining matters on behalf of two unions, the Wisconsin Federation of Nurses and Health Professionals and the

Milwaukee County Attorneys Association; and d) three separate lawsuits involving the pension rights of current or former employees. Insofar as we can presently determine, the factual and legal issues likely to arise in the work that you have asked us to do in connection with Act 14 appears to be unrelated to the work we are currently doing or likely to do for the County Board.

Under the ethical rules governing the conduct of lawyers, our firm may not oppose a current client, even on an unrelated matter and without full disclosure and consent. However, our ethics lawyer has advised us that there may be no such conflict since the County Board of Supervisors, as the legislative branch of the County, is a distinct entity from Milwaukee County and from the office of the Milwaukee County Executive who will likely be the adverse party in our firm's challenge of Act 14. Our firm's work will be on behalf of the Board of Supervisors only and limited to the issues arising from Act 14. A copy of the legal ethics opinion is attached hereto for your review.

Nonetheless, it is possible that some Supervisors and others may not always make such a distinction between the Board of Supervisors and Milwaukee County, or even between the Board of Supervisors and the County Executive. Because such distinction may not be always recognized by certain Supervisors, our firm's representation of the Board with respect to Act 14 while the firm represents certain clients opposing the County in unrelated matters, may not proceed without full disclosure and informed consent to such concurrent representation. This means our firm must explain to our current clients opposing Milwaukee County and to the Board of Supervisors the pros and cons of consenting and that we cannot proceed unless all parties consent.

In deciding whether to consent, the Board must consider how our firm's representation of the clients described above might affect our representation of the Board. For example, clients asked to consent to such representation typically should consider whether there is any material risk that "their" attorney will be less zealous or eager on their behalf due to the conflict. Likewise, clients typically should consider whether there is any material risk that confidences or secrets will be used adversely due to the conflict. In our firm's representation of the County Board opposing Act 14, we do not believe that there is a material risk that our work on behalf of the current clients will diminish our loyalty and zeal on your behalf, or that any confidences to our firm will be compromised in any way by this undertaking. We say this because no material facts should arise in our representation of the County Board which relate to the current pending cases described above. Of course, we will also continuously monitor all developments in these cases to ensure the validity of this assurance. We want to also call your attention to the possibility that the County Board may have to vote at some point in the future on a settlement or appeal in the cases described above, but our firm is confident that our representation in those cases will not affect the zeal or quality of our representation of the Board in the challenge to Act 14.

Notwithstanding our assurances above, these are issues that the Board should consider for itself. Please review this matter seriously. Our firm wants to further afford you the opportunity now to raise and address your questions or concerns. In fact, we recommend that you raise these

issues with independent counsel, but whether you do so is entirely up to you. If you are willing to consent after such review as you believe appropriate, please sign the copy of this letter below.

Sincerely,



HAWKS QUINDEL
Tim Hawks
Richard Saks

I hereby consent to the terms of representation set forth above, and further represent that I am authorized to do by the Board of Supervisors.

Dated: _____ Marina Dimitrijevic

May 31, 2013

VIA EMAIL & MESSENGER
PERSONAL & CONFIDENTIAL

Attorney Timothy E. Hawks
Hawks Quindel, S.C.
222 E. Erie St., Ste 210
Milwaukee, WI 53202-0442

Re: Our File No. 17148

Dear Mr. Hawks:

This follows our office conference with your colleague Mr. Saks and several phone conversations with you in recent days. You have requested a legal ethics opinion concerning an engagement proffered by the Milwaukee County Board. Thank you for thinking of me in connection with your questions. My partners, Christopher Kolb and Jeremy Levinson, both of whom have extensive experience in the field of lawyers' professional responsibility, helped with this opinion.

Circumstance:

The Milwaukee Board has asked your law firm to undertake its representation in opposition to efforts by Milwaukee County Executive Chris Abele to restrict the Board's powers and budget. You represent a number of other clients, including individuals and unions comprised of county employees, in matters opposed to Milwaukee County.

Issue:

Would a conflict of interests result from your work in these several capacities?

Short Answer:

No.

Scott N. Burrus
Richard J. Cayo
Jeffrey A. Cooper
Thomas W. Cunningham
Robert J. Dvovak
Angela C. Foy
Josephine M. Gee
Patricia L. Grove
James F. Guckenberg
Christopher T. Kolb
Jeremy P. Levinson
Daniel J. O'Brien
Mark E. Sanders
Sean M. Sweeney

Of Counsel:
David B. Halling

May 31, 2013

Page 2

Discussion:

Under these unique circumstances you would be working on behalf of the Milwaukee County Board (only) in opposition to the Milwaukee County Executive. You would not, in so doing, be undertaking representation of the County as a whole – notwithstanding that the County Board is a constituent part of that entity whose interests are, under ordinary circumstances, congruent with those of the County as a whole.

The Official ABA Comment to Model Rule 1.7 (Conflicts of Interest) says, in relevant part: “When a lawyer is employed by a government entity, analysis of conflicts depends upon identifying precisely which government entity is the client. “

The Official ABA Comment to Rule 1.13 says:

Identifying Government Client

“Precisely defining the identity of a governmental client can be difficult; as Comment [9] notes, depending on the circumstances, the client may be a specific agency, a branch of government, or “the government as a whole.”

*...
See, e.g., Brown & Williamson Tobacco Corp. v. Pataki, 152 F. Supp 2d 276 (S.D.N.Y. 2001) (law firm that represented limited number of state agencies on limited number of issues under contract with state department of budget did not represent state government as a whole).*

Wisconsin’s comments to these rules are in accord.

Moreover, ALI, Restatement 3rd, The Law Governing Lawyers, p. 46 says:

c. Identity of a governmental client. No universal definition of the client of a governmental lawyer is possible. For example, it has been asserted that governmental lawyers represent the public, or the public interest. However, determining what individual or individuals personify the government requires reference to the need to sustain political and organizational responsibility of governmental officials, as well as the organizational arrangements structured by law within which governmental lawyers work. Those who speak for the governmental client may differ from one representation to another. The identity of the client may also vary depending on the purpose for which the question of identity is posed.

With respect to the specific service you have been asked to render, the Board’s interests and those of the County as advanced by its Executive Branch diverge, at least insofar as those interests are conceived differently by these respective governmental units.

May 31, 2013

Page 3

There is ample support in the legal ethics rules (SCR 20:1.13 and SCR 20:1.7) for a recognition that individual governmental departments have separate identities, often conflicting powers and prerogatives and are distinct for purposes of analysis of conflicts of interest, notwithstanding that each may ultimately be in service of the same public interest and even though each is part of the same, over-arching governmental body. In *Gray v. Rhode Island Dept. of Children, Youth and Families*, 937 F. Supp. 153 (1996) the court observed:

"... in a situation where government agencies are in conflict, the agency, not the government as a whole, is to be regarded as the client.

... if the governmental entity as a whole is the client, anytime one agency of government sues another an irreconcilable conflict would arise under Rule 1.7. See Geoffrey C. Hazard, Jr. and W. William Hodes, The Law of Lawyering: A Handbook on the Model Rules of Professional Conduct, s. 1.3:107 (Supp. 1996). This scenario demonstrates the absurdity that can result from treating the entire government as the client of an agency lawyer."

[p. 159, 160]

There is likewise support for this principle in the Wisconsin Statutes, its Constitution and the rules of Milwaukee County governance.

None of your work on behalf of the County Board is likely to diminish your loyalty or zeal on behalf of your other clients. Neither will any client confidences be compromised by this undertaking. If your engagement is properly limited to the requests articulated, I see no reason to fear that this work will compromise the interests of your other clients, or vice versa.

Suggestion:

Notwithstanding the absence of a conflict of interests, because these circumstances are unique, we think it would be best practice, though not obligatory, to alert your clients to this situation so that, in the event they have any questions or misgivings, they may raise them at this time, either with you or independent consultants. This notice is likely redundant in the case of the County Board, since I assume its members are all aware of your work on behalf of parties opposed to the County. We recommend it nonetheless and also recommend you make clear that your engagement by the Board is on behalf of the Board alone in this matter only and does not constitute retention by other bodies, individuals or interests. Lastly, we suggest you monitor developments for unforeseen events that might affect this analysis.

Again, thank you for thinking of us for this work. You have requested our opinion on short notice. Notwithstanding, all opinions expressed are to a reasonable degree of certainty in the field within which we profess expertise. A copy of my C.V. relating to my credentials as a legal ethics consultant is enclosed.

May 31, 2013
Page 4

I hope this proves helpful. Kindly let me know if you have other questions, require clarification or want access to any of the material we consulted in preparing this opinion.

Very truly yours,

HALLING & CAYO, S.C.

Richard J. Cayo
ric@hallingcayo.com

Enclosure
RJC:ajw

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(Item) A resolution by Supervisor Weishan, authorizing retention of outside legal counsel to provide guidance on the implementation and legality of 2013 Wisconsin Act 14, by recommending adoption of the following:

A RESOLUTION

WHEREAS, the Milwaukee County Board of Supervisors was told at its meeting on April 25, 2013, by the Corporation Counsel that the legislation (now 2013 Wisconsin Act 14 or "Act 14") presents "two political entities at odds ... it would probably be in the County's best interest not to have Corporation Counsel involved and so ... to alleviate any real or perceived conflict of interest, that we agreed that outside counsel would be appointed to represent this body;" and

WHEREAS, § 59.42(3), Wis. Stats., entitled "Corporation Counsel; Attorney Designee," provides that "[i]n addition to employing a corporation counsel ... a Board shall designate an attorney to perform the duties of a corporation counsel as the need arises" such that on May 23, 2013, the Board so authorized and directed the Corporation Counsel to recommend legal firms to the County Board Chairperson to retain legal counsel as such Attorney Designee for issues related to the implementation and legality of various provisions contained in Act 14; and

WHEREAS, pursuant to the May 23, 2013, resolution, the Chairperson has decided to select Hawks Quindel, S.C., to act as such Attorney Designee to advise and represent the Board with respect to the provisions of Act 14, save for matters related to collective bargaining; and

WHEREAS, Hawks Quindel, S.C., has disclosed, as set forth in its June 17, 2013, letter to the Chairperson (hereto attached to this file), that the firm represents certain clients in litigation adverse to Milwaukee County in several matters which are, and appear likely to remain, unrelated to Act 14; and

WHEREAS, Hawks Quindel, S.C., has determined that its ethical obligations compel it to disclose such representation and to acquire the informed consent of its current clients and the Board permitting concurrent representation of its current clients and the Board; and

WHEREAS, Hawks Quindel, S.C., has further advised the Chairperson that the factual and legal issues related to its representation of those clients adverse to

41 Milwaukee appear to be unrelated to the work it will do or is likely to do for the Board;
42 that Hawks Quindel, S.C., shall continuously monitor all developments to ensure the
43 validity of such assurance; and will promptly advise the Chair if any such conflict arises
44 and take action to resolve the conflict; now, therefore,

45

46 BE IT RESOLVED, that the County Board of Supervisors authorizes the Chairperson
47 to do the following:

48

- 49 1. Sign, on behalf of the County Board, the Consent to representation that Hawks
50 Quindel, S.C., has presented to the Chairperson for execution.
- 51
- 52 2. Sign, on behalf of the County Board, a Professional Services Agreement, or legal
53 services retainer agreement, with Hawks Quindel, S.C., to act as Attorney
54 Designee with respect to its legal representation of the Board in connection with
55 the implementation and legality of 2013 Wisconsin Act 14.
- 56
- 57 3. Act as the County Board's duly-designated representative in communicating with
58 and receiving counsel from Hawks Quindel, S.C., with respect to issues related to
59 the implementation and legality of Act 14.
- 60
- 61 4. Authorize, based on the advice of counsel and with the agreement of the
62 Chairperson of the Committee on Judiciary, Safety and General Services, whether
63 to commence litigation to challenge any or all portions of Act 14.

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6/20/2013

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OFFICE OF THE COUNTY EXECUTIVE

Item 3

Chris Abele

MILWAUKEE COUNTY EXECUTIVE

DATE: July 9, 2013

TO: Milwaukee Board of Supervisors

FROM: Chris Abele, Milwaukee County Executive

RE: Veto of County Board File No. on 13-570 firing Corporation Counsel Kimberly Walker

I am vetoing County Board File No. 13-570 pursuant to the authority granted to me by Article IV, Section 23(a) of the Wisconsin Constitution and Section 59.17(6) of the Wisconsin Statutes.

The County Board adopted an unprecedented resolution on June 20, 2013 firing Corporation Counsel Kimberly Walker.

When I was first elected and conducting a search for a Corporation Counsel candidate who could serve the County professionally and with integrity, I convened a panel of highly respected lawyers from Milwaukee County who are in leadership positions and the most respected law firms in Wisconsin and/or have served at high levels in State government, including Marc Marotta, Cory Nettles, Alec Fraser and Jeff Peelen. All of these lawyers have, at their respective firms, participated in countless hiring processes and all of them understand what makes a great lawyer. This is worth noting simply because they all unanimously selected Kimberly Walker as the top candidate for this position among the many strong candidates they interviewed. They have followed her work at the County and they remain supportive of her work.

I would like to thank Ms. Walker for leaving the private sector to serve the people of Milwaukee County. She has moved the County forward as she professionalized the Office of Corporation Counsel to be more accountable and effective. She has served County government with integrity and enthusiasm for the job and the challenges that we face. I appreciate her legal counsel and honesty; especially when she expresses disagreement, her legal counsel improves the entire County's position and ultimately protects the taxpayers. I have followed her advice without reservation and with full faith as I have sought to improve and professionalize Milwaukee County government. Attracting a professional of her caliber to the County was a significant triumph for the County and a decision I made with both enthusiasm and pride.

Sadly, the County Board fired Ms. Walker without explanation or allowing her to defend herself. They have since denied that this move was politically motivated despite its coming on the heels of Act 14.

Supervisors Bowen, Rainey and Stamper issued a statement to give their reason for firing Ms. Walker: "The fact that she herself said there might be a perception of a conflict of interest in interpreting Act 14 – several times on the record – indicates that she does not believe the Board trusts her to represent them. We don't."

I am shocked at the implication that they are firing here for stating that, to avoid a perception of a conflict of interest, the client – the Board – should seek other counsel. Neither Ms. Walker, nor the many other professional and dedicated public servants watching this spectacle, deserve to be treated this way by the County Board. Attracting accomplished individuals is challenging even without blatant disrespect.

No one who voted to fire Ms. Walker – including these three Supervisors and the new Supervisors who have not had the chance to work with Ms. Walker – contacted her at any point to ask Ms. Walker to explain her statements or positions.

I am unclear on who benefits from this decision, but I am crystal clear on who loses: the taxpayers of Milwaukee County. We lose the benefit of thoughtful and responsible counsel and simultaneously send a message to other accomplished professionals considering public service that they should not take the risk to give back to their community. This and other recent actions by the County Board will make it incredibly difficult to attract talented individuals to Milwaukee County government; I sincerely hope our services do not suffer.

I would finally like to thank the five Supervisors who did the right thing and voted against this unprecedented and unethical firing – Supervisors Alexander, Borkowski, Johnson, Mayo and Taylor.

FOR SUSPENSION OF THE RULES

1 By Supervisors Lipscomb, Jursik, Weishan, Stamper, Bowen, Haas, Schmitt, Romo West,
2 Cullen, Staskunas, Broderick, Rainey and Dimitrijevic
3
4

5 **A RESOLUTION**

6 to dismiss the Corporation Counsel pursuant to State Statute 59.42(2)(a)
7
8

9 WHEREAS, Kimberly Walker was appointed Milwaukee County Corporation Counsel
10 by the County Executive on June 28, 2011, and confirmed by the County Board on July 28, 2011,
11 (File No. 11-314, Vote 19-0); and
12

13 WHEREAS, Wisconsin State Statute 59.42(2)(a) states in part:
14

15 The corporation counsel may be dismissed at any time by the county executive with the
16 concurrence of a majority of the members-elect of the board. The corporation counsel
17 may also be dismissed at any time by a majority vote of the board. If the county executive
18 vetoes an action by the board to dismiss the corporation counsel, the board may override
19 the veto by a two-thirds vote of the members-elect of the board.
20

21 ; now, therefore,
22

23 BE IT RESOLVED, that the Milwaukee County Board of Supervisors does hereby
24 dismiss the Corporation Counsel pursuant to State Statute 59.42(2)(a).

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 19, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution to dismiss the Corporation Counsel pursuant to State Statute 59.42(2)(a)

FISCAL EFFECT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget
<input type="checkbox"/> Decrease Operating Expenditures
<input type="checkbox"/> Increase Operating Revenues
<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures
<input type="checkbox"/> Decrease Capital Expenditures
<input type="checkbox"/> Increase Capital Revenues
<input type="checkbox"/> Decrease Capital Revenues
<input type="checkbox"/> Use of contingent funds |
|---|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

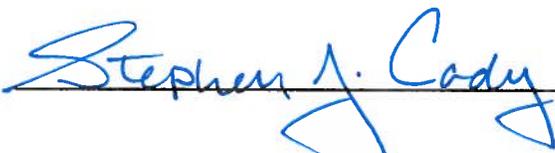
DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Approval of this resolution will dismiss the Corporation Counsel pursuant to State Statute 59.42(2)(a). This fiscal note assumes that the net financial impact of this action is \$0 due to the unknown length of time the position of Corporation Counsel will remain vacant.

Department/Prepared By Stephen Cady, Fiscal and Budget Analyst, County Board

Authorized Signature  _____

Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.
County Board July 10 Page34



OFFICE OF THE COUNTY EXECUTIVE

Chris Abele

MILWAUKEE COUNTY EXECUTIVE

DATE: July 9, 2013

TO: Milwaukee Board of Supervisors

FROM: Chris Abele, Milwaukee County Executive

RE: Veto of County Board File No. 13-566 to enter into a Memorandum of Understanding for the transfer of seven Milwaukee County water utility customers and the West Water Tower to Wauwatosa

I am vetoing County Board File No. 13-566 pursuant to the authority granted to me by Article IV, Section 23(a) of the Wisconsin Constitution and Section 59.17(6) of the Wisconsin Statutes.

The County Board adopted a resolution on June 20, 2013 with the intent of entering into an amended Memorandum of Understanding (MOU), unacceptable to Wauwatosa, for the transfer of seven Milwaukee County water utility customers and the West Water Tower to Wauwatosa.

The original MOU submitted to the Board was the result of months of work by professional and dedicated Milwaukee County staff, the City of Wauwatosa and other stakeholders. In a matter of a few minutes and without consultation with the Administration, the County Board –with the notable exceptions of Supervisors Mayo, Schmitt, Borkowski, Alexander and Jursik, who supported this project– amended the agreement despite their foreknowledge that the amended terms were unacceptable to Wauwatosa. The Department of Administrative Services (DAS) staff worked diligently over several months to explain this deal and the risks of amending it. DAS staff sent multiple reports and met one-on-one with Supervisors. As expected, the City of Wauwatosa has since informed us that they will not accept the new terms.

If this veto is not sustained, the County Board will cost taxpayers \$250,000 in revenue. This decision by the Board would ultimately put the County's Water Utility customers at risk for more than \$3 million in extra costs. In the longer term, the County will be on the hook for significant costs to invest in the water business without infrastructure or service benefits for our customers or the community.

Further, If Milwaukee County is forced to build a new pipeline, there will be additional, significant consequences:

1. According to design plans by Graef, the new pipeline will have to go directly through the protected butterfly zone. Construction crews will be digging 15-25 foot trenches to place the pipes through portions of the area. I have attached a map that demonstrates this.
2. The construction will begin this summer and likely disrupt water service to the Urban Gardens and Wil-O-Way, potentially during Wil-O-Way Summer Day Camp which provides respite and recreation to 65 campers and their care providers. There are also more than 35 community events scheduled through December for 4,000 attendees. These activities are likely to be cancelled due to lack of

access to water. Additionally the Family Care unit housed at the Underwood Center encompassing approximately 15 staff members would need to be relocated to other Milwaukee County locations.

I ask that Supervisors sustain my veto and then pass the original Memorandum of Understanding so we can move forward on this agreement that is in both the County's and our partners' interest.

COUNTY OF MILWAUKEE
Inter-Office Communication

DATE: June 17, 2013

TO: Supervisor Marina Dimitrijevic, Chairwoman
Milwaukee County Board of Supervisors

FROM: Julie Esch, Director of Operations 
Department of Administrative Services

**SUBJECT: Transfer of Seven Milwaukee County Water Utility Customers
and West Water Tower to the City of Wauwatosa**

History

As Milwaukee County (County) government's presence on the County Grounds has diminished over the years, the County has considered the possible transfer of its water utility (County Utility) to the City of Wauwatosa (Wauwatosa). Likewise, Wauwatosa has considered consolidation of the two water systems due to unnecessary redundancies in water service infrastructure. The Zoo Interchange mitigation projects for Swan Boulevard and Watertown Plank Road have revived these discussions largely due to the significant costs that would be borne by the County's Utility customers for the relocation of water mains and other related infrastructure that is located within the Watertown Plank Road and Swan Boulevard rights-of-way.

Background

In the fall of 2012, the County and the City met to discuss the possibility of transferring the County Utility to the City. Representatives of the County and City agreed to engage the Public Policy Forum (PPF) in a professional services agreement for the analysis of the pros and cons of transferring the County Utility to the City. The County and City agreed to share equally in the \$20,000 cost of the contract. Originally, the County and City requested that the PPF provide an analysis of the entire water system. However, the Wisconsin Department of Transportation's (WisDOT) deadlines for submission of plans and specifications related to the reconstruction of Swan Boulevard and Watertown Plank Road forced the PPF, with the permission of the County and City, to analyze those parts of the water system (described as Phase I and Phase II) directly impacted by the Swan Boulevard and Watertown Plank Road mitigation projects immediately. The remainder of the County Utility (described as Phase III) would be analyzed separately in order for the County to meet WisDOT deadlines.

In January of 2013, the County and City executed separate professional service agreements with the PPF for the analysis. Staff from the Department of Administrative Services (DAS), including Facilities Management and Fiscal Affairs and the Office of the Comptroller participated in meetings and provided data to the PPF for the analysis. The final report was presented to the County and City in April of 2013. Subsequently, the County and City agreed to commence negotiations for the transfer of seven customers and the west water tower (Tower) to the City.

Analysis

Transfer of the seven County Utility customers, which include the UWM Real Estate Foundation's Innovation Park LLC, Milwaukee County's Camp Wil-O-Way building on Underwood Parkway, UW Milwaukee County Cooperative Extension's Urban Gardens, Milwaukee County's Fleet building, Wisconsin Lutheran College, Milwaukee County Research Park Corporation (MCRPC) and Milwaukee County's Children's Court Center, will result in a positive fiscal impact to Milwaukee County.

This positive fiscal impact is achieved, in part, by the County receiving an annual minimum of \$25,000 from the City based upon the net revenue the City expects to realize from gaining the seven customers. The \$25,000 is based on Wauwatosa's projected total annual net revenue of \$38,077. In addition, County departments transferred to the City's water service are projected to realize a water charge savings of approximately \$7,079 due to lower water rates. Those County departments remaining on the County Utility are anticipated to see an increase of approximately \$3,977¹. Overall, the County is projected to achieve an estimated annual net savings of \$28,102.

Additionally, County and non-County users of the County Utility are anticipated to benefit from cost-avoidance due to the transfer of the County Utility to the City. This includes costs related to annual maintenance, future demolition and reconstruction of the Tower estimated at \$1,418,000 in 2013 dollars. Cost avoidance of approximately \$1,714,250 is projected as a result of County Utility relocation costs associated with the construction of the Zoo Interchange project. Overall, total estimated cost avoidance for all utility users is \$3,132,250.

Finally, approximately 10,000 square feet of land would be transferred to Wauwatosa. Recent appraisals for adjacent parcels average about \$6.00/sq.ft., for an estimated value of \$60,000 in 2013 dollars. In comparison, the net present value of the annual \$25,000 payments to the County (over a 10-year period) is estimated to be \$207,915 in 2013 dollars. As a result, the \$60,000 estimated

¹ Remaining County departmental users of the Utility include DHHS-BHD, CATC, and Parks.

land value does not exceed the total of the annual (minimum) payments the County will receive from Wauwatosa.²

Net Annual Expenditure Increase/(Decrease)	Explanation
<u>(\$25,000)</u>	Payment from Wauwatosa to County (i.e. Net Revenue from 7 transferred County customers).
<u>(\$7,079)</u>	Net savings realized from the County users transferred to the Wauwatosa water utility.
<u>\$3,977</u>	Increase in Milwaukee County water charge due to lower user base.*
<u>(\$28,102)</u>	Total County Levy Increase/(Decrease)

*As a result of the transferred user to the Wauwatosa water system, Milwaukee County water rates to the remaining users will increase.

Cost Avoidance to All Users	Explanation
<u>\$58,000</u>	Ongoing Maintenance of West Water Tower.
<u>\$1,300,000 (2013 dollars)</u>	Building a new West Water Tower in 10 yrs.
<u>\$30,000-\$60,000 (2013 dollars)</u>	West Water Tower Demolition.
<u>\$1,714,250</u>	Construction Costs Related to Zoo Interchange.
<u>\$3,132,250</u>	Total Cost Avoidance to All Users

Therefore, based on the Public Policy Forum's report on the Phase I and Phase II transfer of the seven water utility customers and Tower from the County to the City and the subsequent negotiation of the proposed Memorandum of Agreement, the following terms are proposed:

1. This Agreement shall be for a term of 10 years. Ten years represents that length of time required to defease the general obligation bonds ("the Bonds") issued by the County to finance the Tower (See Attachment A). Upon the conclusion of year ten, ownership of the Tower and underlying land shall be transferred to WAUWATOSA at a cost of \$1.00.

² Based on data from the U.S. Labor Department - Bureau of Labor Statistics' Consumer Price Index-All Urban Consumers (CPI) for the Milwaukee Metropolitan Statistical Area, the average year-to-year CPI increase has been under 3.0% for the past 10 years. Considering the volatility resulting from the downturn in the economy, the CPI from the past five years was also reviewed. The average year-to-year CPI change for the past five years is also under 3.0%.

The net present value (npv) calculation (shown above) assumes a slightly more conservative discount rate (i.e. inflation) of 3.5%. For instance, a 3.0% discount rate returns an estimated npv of \$170,600 while the 3.5% returns an NPV of approximately \$166,300.

2. During the term of the Agreement, WAUWATOSA shall pay MC an annual sum, which will be the greater of \$25,000 or forty-percent (40%) of the total net revenue realized by WAUWATOSA from the transfer of the seven water utility customers to WAUWATOSA's water utility system. The payment shall be made by April 1 for the preceding year.
3. During the term of this Agreement, MC will retain the current cell antenna revenue collected at this location. Any additional revenues from the siting of additional cell tower equipment on the Tower will accrue to WAUWATOSA.
4. WAUWATOSA will maintain the Tower and MC shall provide WAUWATOSA with technical support as necessary to effectuate transference of the Tower and seven water utility customers.
5. As part of the transfer, MC agrees to execute an easement agreement with Wauwatosa for the water mains that will become part of the WAUWATOSA Water Utility through the transfer of the seven customers (as named in the recitals) and the Tower.
6. MC and WAUWATOSA will negotiate costs for the capping, abandonment, valve adjustments and cross-connections needed to complete Phases I and II.
7. Neither MC nor the seven customers transferred to WAUWATOSA shall be responsible for any costs not directly associated with the provision of water service or other services actually provided by WAUWATOSA to MC or those customers.
8. MC and WAUWATOSA shall pursue the implementation of the recommendations of the Public Policy Forum upon receipt of the Public Policy Forum's independent analysis.
9. MC and WAUWATOSA agree to discuss the fire protection fee charged to MC government as part of the next phase the water utility transfer.
10. WAUWATOSA will not take any action, omit to take any action, cause any action to be taken or cause the omission of any action that would adversely affect the exclusion of the interest on the Bonds from the gross income of the owners of the Bonds for federal income tax purposes, including without limitation any private use of the Tower (or the water stored therein); provided that WAUWATOSA is not responsible for the effect that the continuation or renewal of any existing contracts or use arrangements made by MC with respect to the Tower have on the tax-exempt status of the interest on the Bonds.
11. IN WITNESS WHEREOF, the Parties have caused this instrument to be executed on the stated day and year.

Recommendation

The Department of Administrative Services respectfully requests authorization to transfer the seven water utility customers and the west water tower from the Milwaukee County Water Utility to the City of Wauwatosa's water service by entering into the above referenced Memorandum of Agreement. Because the Agreement is for the sale or lease of property, and pursuant to Wisconsin State Statute 59.17(2)(b)3, the County Executive's action must be consistent with

established County Board policy and the Agreement must be approved by the County Board in order to take effect. Per that same statute, the County Board may only approve or reject the contract as negotiated by the County Executive.

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(ITEM NO.) A resolution to transfer seven of Milwaukee County’s Water Utility customers and west water tower to the City of Wauwatosa, recommending adoption of the following:

A RESOLUTION

WHEREAS, as Milwaukee County government’s presence on the County Grounds has diminished over the years, the County has considered the possible transfer of its water utility to the City of Wauwatosa; and

WHEREAS, the Zoo Interchange mitigation projects for Swan Boulevard and Watertown Plank Road have revived these discussions largely due to the significant costs that would be borne by the County’s water utility customers for the relocation of water mains and other related infrastructure that is located within the Watertown Plank Road and Swan Boulevard rights-of-way; and

WHEREAS, in the fall of 2012, Milwaukee County (County) and the City of Wauwatosa (City) met to discuss the possibility of transferring the County’s water utility to the City and agreed to engage the Public Policy Forum (PPF) in a professional services agreement for the analysis of the pros and cons of transferring the County’s water utility to the City; and

WHEREAS, the County and City agreed to share equally in the \$20,000 cost of the contract and, in January of 2013, the County and City executed separate professional service agreements with PPF for the analysis; and

WHEREAS, due to the Wisconsin Department of Transportation’s (WisDOT) deadlines for submission of plans and specifications related to the reconstruction of Swan Boulevard and Watertown Plank Road the PPF, with the permission of the County and City, analyzed those parts of the water system (described as Phase I and Phase II) directly impacted by the Swan Boulevard and Watertown Plank Road mitigation projects immediately with the remainder of the system (described as Phase III) to be analyzed separately in order for the County to meet WisDOT deadlines; and

WHEREAS, the final report for Phases I and II was presented to the County and City in April of 2013, and subsequently, the County and City agreed to commence negotiations for the transfer of seven customers and the west water tower (Tower) to the City; and

43 WHEREAS, transfer of the seven water utility customers, which include the
44 UWM Real Estate Foundation's Innovation Park LLC, Milwaukee County's Camp Wil-
45 O-Way building on Underwood Parkway, UW Milwaukee County Cooperative
46 Extension's Urban Gardens, Milwaukee County's Fleet building, Wisconsin Lutheran
47 College, Milwaukee County Research Park Corporation (MCRPC) and Milwaukee
48 County's Children's Court Center, will result in a positive fiscal impact to Milwaukee
49 County; and

50

51 WHEREAS, this positive fiscal impact is achieved by County receiving a portion
52 of net realized revenue the City would gain from the addition of the County's seven
53 customers to its water system, for a total savings to the County of approximately
54 \$28,102 annually; and

55

56 WHEREAS, the most significant fiscal savings would result from avoiding costs
57 related to the relocation of water utility infrastructure for the reconstruction of Swan
58 Boulevard and Watertown Plank Road and for the future demolition and reconstruction
59 of the Tower for a total approximate savings, to all County water utility customers, of
60 \$3,132,250; and

61

62 WHEREAS, based on the Public Policy Forum's report on the Phase I and
63 Phase II transfer of the seven water utility customers and Tower from the County to
64 the City and negotiation of the following terms of a Memorandum of Agreement was
65 negotiated as follows; and

66

- 67 1. This Agreement shall be for a term of 10 years. Ten years represents that
68 length of time required to defease the general obligation bonds ("the
69 Bonds") issued by the County to finance the Tower (See Attachment A).
70 Upon the conclusion of year ten, ownership of the Tower and underlying
71 land shall be transferred to WAUWATOSA at a cost of \$1.00.
- 72 2. During the term of the Agreement, WAUWATOSA shall pay MC an annual
73 sum, which will be the greater of \$25,000 or forty-percent (40%) of the total
74 net revenue realized by WAUWATOSA from the transfer of the seven
75 water utility customers to WAUWATOSA's water utility system. The
76 payment shall be made by April 1 for the preceding year.
- 77 3. During the term of this Agreement, MC will retain the current cell antenna
78 revenue collected at this location. Any additional revenues from the siting
79 of additional cell tower equipment on the Tower will accrue to
80 WAUWATOSA.
- 81 4. WAUWATOSA will maintain the Tower and MC shall provide
82 WAUWATOSA with technical support as necessary to effectuate
83 transference of the Tower and seven water utility customers.
- 84 5. As part of the transfer, MC agrees to execute an easement agreement with
85 Wauwatosa for the water mains that will become part of the WAUWATOSA
86 Water Utility through the transfer of the seven customers (as named in the
87 recitals) and the Tower.

- 88 6. MC and WAUWATOSA will negotiate costs for the capping, abandonment,
89 valve adjustments and cross-connections needed to complete Phases I
90 and II.
- 91 7. Neither MC nor the seven customers transferred to WAUWATOSA shall be
92 responsible for any costs not directly associated with the provision of water
93 service or other services actually provided by WAUWATOSA to MC or
94 those customers.
- 95 8. MC and WAUWATOSA shall pursue the implementation of the
96 recommendations of the Public Policy Forum upon receipt of the Public
97 Policy Forum's independent analysis.
- 98 9. MC and WAUWATOSA agree to discuss the fire protection fee charged to
99 MC government as part of the next phase of the water utility transfer.
- 100 10. WAUWATOSA will not take any action, omit to take any action, cause any
101 action to be taken or cause the omission of any action that would adversely
102 affect the exclusion of the interest on the Bonds from the gross income of
103 the owners of the Bonds for federal income tax purposes, including without
104 limitation any private use of the Tower (or the water stored therein);
105 provided that WAUWATOSA is not responsible for the effect that the
106 continuation or renewal of any existing contracts or use arrangements
107 made by MC with respect to the Tower have on the tax-exempt status of
108 the interest on the Bonds.
- 109 11. IN WITNESS WHEREOF, the Parties have caused this instrument to be
110 executed on the stated day and year.

111

112 ; now, therefore,

113

114 BE IT RESOLVED, pursuant to Wisconsin State Statute 59.17(2)(b)3, the
115 Milwaukee County Board of Supervisors hereby approves the Memorandum of
116 Agreement (Agreement) between Milwaukee County and the City of Wauwatosa for
117 the transfer of seven Milwaukee County water utility customers and the west water
118 tower to the City of Wauwatosa.

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MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 17, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT:

FISCAL EFFECT:

- | | |
|--|--|
| <input type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget
<input checked="" type="checkbox"/> Decrease Operating Expenditures
<input checked="" type="checkbox"/> Increase Operating Revenues
<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures
<input type="checkbox"/> Decrease Capital Expenditures
<input type="checkbox"/> Increase Capital Revenues
<input type="checkbox"/> Decrease Capital Revenues
<input type="checkbox"/> Use of contingent funds |
|--|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year*	Subsequent Year
Operating Budget	Expenditure	0	(\$3,102)
	Revenue	0	0**
	Net Cost	0	(\$3,102)
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

*Current Year impact was not included as the commencement date for a proposed agreement is not yet known.

**Additional revenue provided by the City of Wauwatosa will result in an unknown net operating budget decrease for the remaining county departmental customers.

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

A. The Department of Administrative Services is requesting authority to execute a Memorandum of Agreement with the City of Wauwatosa (City) for the transfer of seven Milwaukee County Water Utility (Utility) customers (of which, five are County departments) and the west water tower to the City's water service.

B. Milwaukee County will receive a minimum of \$25,000, on an annual basis, from the City in additional revenue from transferring the seven customers to the City's service. As a result of the transfer of the seven Utility customers to the City water service, the remaining Utility customers will realize an increase in costs. Remaining departmental users of the Utility are anticipated to see an increase of approximately \$3,977². However, County departments transferred to the City's water service are projected to realize a water charge savings of approximately \$7,079 due to lower water rates. Overall, the County is projected to achieve an estimated annual net savings of \$28,102.

Net Annual Expenditure Increase/(Decrease)	Explanation
<u>(\$25,000)</u>	Payment from Wauwatosa to County (i.e. Net Revenue from 7 transferred County customers).
<u>(\$7,079)</u>	Net savings realized from the County users transferred to the Wauwatosa water utility.
<u>\$3,977</u>	Increase in Milwaukee County water charge due to lower user base.*
<u>(\$28,102)</u>	Total County Levy Increase/(Decrease)

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Remaining County departmental users of the Utility include DHHS-BHD, CATC, and Parks.

Additionally, County and non-County users of the Utility are anticipated to benefit from cost-avoidance due to the transfer of the Utility to the City. This includes costs related to the ongoing maintenance and future demolition and reconstruction of the west water in the amount of \$1,418,000. Furthermore, cost avoidance of approximately \$1,714,250 is projected as a result of utility relocation costs associated with the construction of the Zoo Interchange project. Overall, total estimated cost avoidance for all utility users is \$3,132,250.

Cost Avoidance to All Users	Explanation
<u>\$58,000</u>	Ongoing Maintenance of West Water Tower.
<u>\$1,300,000 (2013 dollars)</u>	Building a new West Water Tower in 10 yrs.
<u>\$30,000-\$60,000 (2013 dollars)</u>	West Water Tower Demolition.
<u>\$1,714,250</u>	Construction Costs Related to Zoo Interchange.
\$3,132,250	Total Cost Avoidance to All Users

- C. The impact of executing the Memorandum of Agreement on the entire Water Utility Account (Org. 5500) is largely associated with avoidance of costs related to relocating water utility infrastructure for the Zoo Interchange mitigation projects and future demolition and reconstruction of the west water tower.
- D. No assumptions were made.

Department/Prepared By: Julie A. Esch, DAS – Director of Operations

Approved By: 

Did DAS-Fiscal Staff Review? Yes No

Did CDBP Review?³ Yes No Not Required

³ County Board July 10 Resolution 2007-17
Community Business Development Partners' review is required on all professional service and public work construction contracts.

Memorandum of Agreement

MILWAUKEE COUNTY ("MC") and WAUWATOSA ("WAUWATOSA"), enter into this Memorandum of Agreement (Agreement) as of the ___ day of _____, 2013, by and between MC and WAUWATOSA as it relates to the transfer of seven water utility customers from MC's water utility to WAUWATOSA's water utility. MC and WAUWATOSA are collectively referred to as the "Parties," and individually as a "Party."

RECITALS

WHEREAS, in an effort to avoid certain new capital construction costs associated with construction of the Zoo Interchange, estimated to be approximately \$1,700,000, which costs would be borne by the customers of the MC, MC wishes to transfer to WAUWATOSA and WAUWATOSA wishes to receive, seven customers currently served by the MC's water utility. These customers include (1) UWM Real Estate Foundation's Innovation Park LLC, (2) MC's Camp Wil-O-Way building on Underwood Parkway, (3) UW-Milwaukee County Cooperative Extension's Urban Gardens, (4) MC's Fleet building, (5) Wisconsin Lutheran College Athletic Facilities, (6) Milwaukee County Research Park Corporation (MCRPC) and (7) MC's Children's Court Center. MC wishes to lease the West Water Tower ("Tower") located in the MCRPC to WAUWATOSA in exchange for the provisions described herein; and

WHEREAS, a transfer of associated MC water service facilities to the Wauwatosa Water Utility would provide an opportunity to significantly improve Wauwatosa Water Utility service to its customers in the southwestern portion of the service area;

The Parties hereby agree as follows:

1. This Agreement shall be for a term of 10 years. Ten years represents that length of time required to defease the general obligation bonds ("the Bonds") issued by the County to finance the Tower (See Attachment A). Upon the conclusion of year ten, ownership of the Tower and underlying land shall be transferred to WAUWATOSA at a cost of \$1.00.
2. During the term of the Agreement, WAUWATOSA shall pay MC an annual sum, which will be the greater of \$25,000 or forty-percent (40%) of the total net revenue realized by WAUWATOSA from the transfer of the seven water utility customers to WAUWATOSA's water utility system. The payment shall be made by April 1 for the preceding year.
3. During the term of this Agreement, MC will retain the current cell antenna revenue collected at this location. Any additional revenues from the siting of additional cell tower equipment on the Tower will accrue to WAUWATOSA.
4. WAUWATOSA will maintain the Tower and MC shall provide WAUWATOSA with technical support as necessary to effectuate transference of the Tower and seven water utility customers.
5. As part of the transfer, MC agrees to execute an easement agreement with Wauwatosa for the water mains that will become part of the WAUWATOSA Water Utility through the transfer of the seven customers (as named in the recitals) and the Tower.
6. MC and WAUWATOSA will negotiate costs for the capping, abandonment, valve adjustments and cross-connections needed to complete Phases I and II.

7. Neither MC nor the seven customers transferred to WAUWATOSA shall be responsible for any costs not directly associated with the provision of water service or other services actually provided by WAUWATOSA to MC or those customers.
8. MC and WAUWATOSA shall pursue the implementation of the recommendations of the Public Policy Forum upon receipt of the Public Policy Forum's independent analysis.
9. MC and WAUWATOSA agree to discuss the fire protection fee charged to MC government as part of the next phase of the water utility transfer.
10. WAUWATOSA will not take any action, omit to take any action, cause any action to be taken or cause the omission of any action that would adversely affect the exclusion of the interest on the Bonds from the gross income of the owners of the Bonds for federal income tax purposes, including without limitation any private use of the Tower (or the water stored therein); provided that WAUWATOSA is not responsible for the effect that the continuation or renewal of any existing contracts or use arrangements made by MC with respect to the Tower have on the tax-exempt status of the interest on the Bonds.
11. IN WITNESS WHEREOF, the Parties have caused this instrument to be executed on the stated day and year.

SIGNATURES ON FOLLOWING PAGE

MILWAUKEE COUNTY

By: _____
Chris Abele, Milwaukee County Executive

Date

By: _____
Joseph J. Czarnecki, Milwaukee County Clerk

Date

By: _____
Don Tyler
Director, Department of Administrative Services

Date

Approved as to form:

By: _____
Kimberly R. Walker
Milwaukee County Corporation Counsel

Date

CITY OF WAUWATOSA

Kathleen Ehley, Mayor

Date

Carla M. Ledesma, City Clerk

Date

John Ruggini, Finance Director

Date

Approved as to form and execution:

Alan R. Kesner, City Attorney

Date

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(ITEM) From the Director of Operations, Department of Administrative Services, requesting authorization to enter into a Memorandum of Agreement with the City of Wauwatosa for the transfer of seven Milwaukee County water utility customers and the West Water Tower to the City of Wauwatosa, by recommending adoption of the following:

A RESOLUTION

WHEREAS, as Milwaukee County government’s presence on the County Grounds has diminished over the years, the County has considered the possible transfer of its water utility to the City of Wauwatosa; and

WHEREAS, the Zoo Interchange mitigation projects for Swan Boulevard and Watertown Plank Road have revived these discussions largely due to the significant costs that would be borne by the County’s water utility customers for the relocation of water mains and other related infrastructure that is located within the Watertown Plank Road and Swan Boulevard rights-of-way; and

WHEREAS, in the fall of 2012, Milwaukee County (the County) and the City of Wauwatosa (the City) met to discuss the possibility of transferring the County’s water utility to the City and agreed to engage the Public Policy Forum (PPF) in a professional services agreement for the analysis of the pros and cons of transferring the County’s water utility to the City; and

WHEREAS, the County and the City agreed to share equally in the \$20,000 cost of the contract, and in January of 2013, the County and the City executed separate professional service agreements with PPF for the analysis; and

WHEREAS, due to the Wisconsin Department of Transportation’s (WisDOT) deadlines for submission of plans and specifications related to the reconstruction of Swan Boulevard and Watertown Plank Road, the PPF, with the permission of the County and the City, analyzed those parts of the water system (described as Phase I and Phase II) directly impacted by the Swan Boulevard and Watertown Plank Road mitigation projects immediately with the remainder of the system (described as Phase III) to be analyzed separately in order for the County to meet WisDOT deadlines; and

WHEREAS, the final report for Phases I and II was presented to the County and the City in April of 2013, and subsequently, the County and the City agreed to commence negotiations for the transfer of seven customers and the West Water Tower (Tower) to the City; and

WHEREAS, transfer of the seven water utility customers, which include the University Wisconsin Milwaukee (UWM) Real Estate Foundation’s Innovation Park, LLC, Milwaukee County’s Camp Wil-O-Way building on Underwood Parkway, UW

47 Milwaukee County Cooperative Extension's Urban Gardens, Milwaukee County's Fleet
48 building, Wisconsin Lutheran College, Milwaukee County Research Park Corporation
49 (MCRPC), and Milwaukee County's Children's Court Center, will result in a positive
50 fiscal impact to Milwaukee County; and

51

52 WHEREAS, this positive fiscal impact is achieved by the County receiving a
53 portion of net realized revenue the City would gain from the addition of the County's
54 seven customers to its water system, for a total savings to the County of approximately
55 \$28,102 annually; and

56

57 WHEREAS, the most significant fiscal savings would result from avoiding costs
58 related to the relocation of water utility infrastructure for the reconstruction of Swan
59 Boulevard and Watertown Plank Road and for the future demolition and reconstruction
60 of the Tower for a total approximate savings, to all County water utility customers, of
61 \$3,132,250; and

62

63 WHEREAS, based on the PPF's report on the Phase I and Phase II transfer of the
64 seven water utility customers and Tower from the County to the City, negotiation of the
65 following terms of a Memorandum of Agreement was negotiated as follows:

66

- 67 1. This Agreement shall be for a term of 10 years. Ten years represents that
68 length of time required to defease the general obligation bonds (the Bonds)
69 issued by the County to finance the Tower (See Attachment A). Upon the
70 conclusion of year ten, ownership of the Tower and underlying land shall be
71 transferred to WAUWATOSA at a cost of \$1.00.
- 72 2. During the term of the Agreement, WAUWATOSA shall pay Milwaukee
73 County (MC) an annual sum, which will be the greater of \$25,000 or forty
74 percent (40%) of the total net revenue realized by WAUWATOSA from the
75 transfer of the seven water utility customers to WAUWATOSA's water utility
76 system. The payment shall be made by April 1 for the preceding year.
- 77 3. During the term of this Agreement, MC will retain the current cell antenna
78 revenue collected at this location. Any additional revenues from the siting of
79 additional cell tower equipment on the Tower will accrue to WAUWATOSA.
- 80 4. WAUWATOSA will maintain the Tower and MC shall provide WAUWATOSA
81 with technical support as necessary to effectuate transference of the Tower
82 and seven water utility customers.
- 83 5. As part of the transfer, MC agrees to execute an easement agreement with
84 WAUWATOSA for the water mains that will become part of the
85 WAUWATOSA Water Utility through the transfer of the seven customers (as
86 named in the recitals) and the Tower.
- 87 6. MC and WAUWATOSA will negotiate costs for the capping, abandonment,
88 valve adjustments, and cross-connections needed to complete Phases I and
89 II.
- 90 7. Neither MC nor the seven customers transferred to WAUWATOSA shall be
91 responsible for any costs not directly associated with the provision of water

- 92 service or other services actually provided by WAUWATOSA to MC or those
93 customers.
- 94 8. MC and WAUWATOSA shall pursue the implementation of the
95 recommendations of the Public Policy Forum upon receipt of the Public
96 Policy Forum's independent analysis.
- 97 9. MC and WAUWATOSA agree to discuss the fire protection fee charged to
98 MC government as part of the next phase of the water utility transfer.
- 99 10. WAUWATOSA will not take any action, omit to take any action, cause any
100 action to be taken, or cause the omission of any action that would adversely
101 affect the exclusion of the interest on the Bonds from the gross income of the
102 owners of the Bonds for federal income tax purposes, including without
103 limitation of any private use of the Tower (or the water stored therein)
104 provided that WAUWATOSA is not responsible for the effect that the
105 continuation or renewal of any existing contracts or use arrangements made
106 by MC with respect to the Tower have on the tax-exempt status of the
107 interest on the Bonds.
- 108 11. IN WITNESS WHEREOF, the Parties have caused this instrument to be
109 executed on the stated day and year.

110
111 ; now, therefore,

112
113 BE IT RESOLVED, pursuant to Wisconsin State Statute 59.17(2)(b)3, the
114 Milwaukee County Board of Supervisors hereby approves the Memorandum of
115 Agreement between Milwaukee County and the City of Wauwatosa for the transfer of
116 seven Milwaukee County water utility customers and the West Water Tower to the City
117 of Wauwatosa.

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MILWAUKEE COUNTY BOARD OF SUPERVISORS

DATE: June 20, 2013

AMENDMENT NO. #1 to Item #33 (Yellow Digest)

Resolution File No. 13-566

Ordinance File No.

COMMITTEE: County Board

OFFERED BY SUPERVISOR(S): Weishan

ADD AND/OR DELETE AS FOLLOWS:

Amend the final WHEREAS clause and BE IT RESOLVED clause as follows:

WHEREAS, based on the PPF's report on the Phase I and Phase II transfer of the seven water utility customers and Tower from the County to the City, negotiation of the following terms of a Memorandum of Agreement was negotiated as follows, as amended by the County Board:

1. This Agreement shall be for a term of 10 years. Ten years represents that length of time required to defease the general obligation bonds (the Bonds) issued by the County to finance the Tower (See Attachment A). Upon the conclusion of year ten, ownership of the Tower and underlying land shall be transferred to WAUWATOSA at fair market value based on an appraisal that shall be performed by an appraiser agreed to by the City and County a cost of \$1.00.
2. During the term of the Agreement, WAUWATOSA shall pay Milwaukee County (MC) an annual sum, which will be the greater of \$25,000 or forty percent (40%) of the total net revenue realized by WAUWATOSA from the transfer of the seven water utility customers to WAUWATOSA's water utility system. The payment shall be made by April 1 for the preceding year.
3. During the term of this Agreement, MC will retain the current cell antenna revenue collected at this location. ~~Any additional revenues from the siting of additional cell tower equipment on the Tower will accrue to WAUWATOSA.~~
4. WAUWATOSA will maintain the Tower and MC shall provide WAUWATOSA with technical support as necessary to effectuate transference of the Tower and seven water utility customers.

5. As part of the transfer, MC agrees to execute an easement agreement with WAUWATOSA for the water mains that will become part of the WAUWATOSA Water Utility through the transfer of the seven customers (as named in the recitals) and the Tower.
6. ~~MC and WAUWATOSA will negotiate costs for the capping, abandonment, valve adjustments, and cross-connections needed to complete Phases I and II.~~
7. Neither MC nor the seven customers transferred to WAUWATOSA shall be responsible for any costs not directly associated with the provision of water service or other services actually provided by WAUWATOSA to MC or those customers.
8. ~~MC and WAUWATOSA shall pursue the implementation of the recommendations of the Public Policy Forum upon receipt of the Public Policy Forum's independent analysis.~~
9. ~~MC and WAUWATOSA agree to discuss the fire protection fee charged to MC government as part of the next phase of the water utility transfer.~~
10. WAUWATOSA will not take any action, omit to take any action, cause any action to be taken, or cause the omission of any action that would adversely affect the exclusion of the interest on the Bonds from the gross income of the owners of the Bonds for federal income tax purposes, including without limitation of any private use of the Tower (or the water stored therein) provided that WAUWATOSA is not responsible for the effect that the continuation or renewal of any existing contracts or use arrangements made by MC with respect to the Tower have on the tax-exempt status of the interest on the Bonds.
11. IN WITNESS WHEREOF, the Parties have caused this instrument to be executed on the stated day and year.

; now, therefore,

BE IT RESOLVED, pursuant to Wisconsin State Statute 59.17(2)(b)3, the Milwaukee County Board of Supervisors hereby approves the Memorandum of Agreement between Milwaukee County and the City of Wauwatosa for the transfer of seven Milwaukee County water utility customers and the West Water Tower to the City of Wauwatosa as outlined in this resolution.

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(ITEM) From the Director of Operations, Department of Administrative Services, requesting authorization to enter into a Memorandum of Agreement with the City of Wauwatosa for the transfer of seven Milwaukee County water utility customers and the West Water Tower to the City of Wauwatosa, by recommending adoption of the following:

A RESOLUTION

WHEREAS, as Milwaukee County government’s presence on the County Grounds has diminished over the years, the County has considered the possible transfer of its water utility to the City of Wauwatosa; and

WHEREAS, the Zoo Interchange mitigation projects for Swan Boulevard and Watertown Plank Road have revived these discussions largely due to the significant costs that would be borne by the County’s water utility customers for the relocation of water mains and other related infrastructure that is located within the Watertown Plank Road and Swan Boulevard rights-of-way; and

WHEREAS, in the fall of 2012, Milwaukee County (the County) and the City of Wauwatosa (the City) met to discuss the possibility of transferring the County’s water utility to the City and agreed to engage the Public Policy Forum (PPF) in a professional services agreement for the analysis of the pros and cons of transferring the County’s water utility to the City; and

WHEREAS, the County and the City agreed to share equally in the \$20,000 cost of the contract, and in January of 2013, the County and the City executed separate professional service agreements with PPF for the analysis; and

WHEREAS, due to the Wisconsin Department of Transportation’s (WisDOT) deadlines for submission of plans and specifications related to the reconstruction of Swan Boulevard and Watertown Plank Road, the PPF, with the permission of the County and the City, analyzed those parts of the water system (described as Phase I and Phase II) directly impacted by the Swan Boulevard and Watertown Plank Road mitigation projects immediately with the remainder of the system (described as Phase III) to be analyzed separately in order for the County to meet WisDOT deadlines; and

WHEREAS, the final report for Phases I and II was presented to the County and the City in April of 2013, and subsequently, the County and the City agreed to commence negotiations for the transfer of seven customers and the West Water Tower (Tower) to the City; and

WHEREAS, transfer of the seven water utility customers, which include the University Wisconsin Milwaukee (UWM) Real Estate Foundation’s Innovation Park, LLC, Milwaukee County’s Camp Wil-O-Way building on Underwood Parkway, UW

47 Milwaukee County Cooperative Extension's Urban Gardens, Milwaukee County's Fleet
48 building, Wisconsin Lutheran College, Milwaukee County Research Park Corporation
49 (MCRPC), and Milwaukee County's Children's Court Center, will result in a positive
50 fiscal impact to Milwaukee County; and

51

52 WHEREAS, this positive fiscal impact is achieved by the County receiving a
53 portion of net realized revenue the City would gain from the addition of the County's
54 seven customers to its water system, for a total savings to the County of approximately
55 \$28,102 annually; and

56

57 WHEREAS, the most significant fiscal savings would result from avoiding costs
58 related to the relocation of water utility infrastructure for the reconstruction of Swan
59 Boulevard and Watertown Plank Road and for the future demolition and reconstruction
60 of the Tower for a total approximate savings, to all County water utility customers, of
61 \$3,132,250; and

62

63 WHEREAS, based on the PPF's report on the Phase I and Phase II transfer of the
64 seven water utility customers and Tower from the County to the City, negotiation of the
65 following terms of a Memorandum of Agreement was negotiated as follows, as
66 amended by the County Board:

67

- 68 1. This Agreement shall be for a term of 10 years. Ten years represents that
69 length of time required to defease the general obligation bonds (the Bonds)
70 issued by the County to finance the Tower (See Attachment A). Upon the
71 conclusion of year ten, ownership of the Tower and underlying land shall be
72 transferred to WAUWATOSA at fair market value based on an appraisal that
73 shall be performed by an appraiser agreed to by the City and County a cost
74 of \$1.00.
- 75 2. During the term of the Agreement, WAUWATOSA shall pay Milwaukee
76 County (MC) an annual sum, which will be the greater of \$25,000 or forty
77 percent (40%) of the total net revenue realized by WAUWATOSA from the
78 transfer of the seven water utility customers to WAUWATOSA's water utility
79 system. The payment shall be made by April 1 for the preceding year.
- 80 3. During the term of this Agreement, MC will retain the current cell antenna
81 revenue collected at this location. ~~Any additional revenues from the siting of~~
82 ~~additional cell tower equipment on the Tower will accrue to WAUWATOSA.~~
- 83 4. WAUWATOSA will maintain the Tower and MC shall provide WAUWATOSA
84 with technical support as necessary to effectuate transference of the Tower
85 and seven water utility customers.
- 86 5. As part of the transfer, MC agrees to execute an easement agreement with
87 WAUWATOSA for the water mains that will become part of the
88 WAUWATOSA Water Utility through the transfer of the seven customers (as
89 named in the recitals) and the Tower.
- 90 6. ~~MC and WAUWATOSA will negotiate costs for the capping, abandonment,~~
91 ~~valve adjustments, and cross-connections needed to complete Phases I and~~
92 ~~II.~~

- 93 7. Neither MC nor the seven customers transferred to WAUWATOSA shall be
94 responsible for any costs not directly associated with the provision of water
95 service or other services actually provided by WAUWATOSA to MC or those
96 customers.
97 8. ~~MC and WAUWATOSA shall pursue the implementation of the~~
98 ~~recommendations of the Public Policy Forum upon receipt of the Public~~
99 ~~Policy Forum's independent analysis.~~
100 9. ~~MC and WAUWATOSA agree to discuss the fire protection fee charged to~~
101 ~~MC government as part of the next phase of the water utility transfer.~~
102 10. WAUWATOSA will not take any action, omit to take any action, cause any
103 action to be taken, or cause the omission of any action that would adversely
104 affect the exclusion of the interest on the Bonds from the gross income of the
105 owners of the Bonds for federal income tax purposes, including without
106 limitation of any private use of the Tower (or the water stored therein)
107 provided that WAUWATOSA is not responsible for the effect that the
108 continuation or renewal of any existing contracts or use arrangements made
109 by MC with respect to the Tower have on the tax-exempt status of the
110 interest on the Bonds.
111 11. IN WITNESS WHEREOF, the Parties have caused this instrument to be
112 executed on the stated day and year.

113
114 ; now, therefore,
115

116 BE IT RESOLVED, pursuant to Wisconsin State Statute 59.17(2)(b)3, the
117 Milwaukee County Board of Supervisors hereby approves the Memorandum of
118 Agreement between Milwaukee County and the City of Wauwatosa for the transfer of
119 seven Milwaukee County water utility customers and the West Water Tower to the City
120 of Wauwatosa as outlined in this resolution.

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jl
06/18/2013
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Chris Abele

MILWAUKEE COUNTY EXECUTIVE

DATE: July 9, 2013

TO: The Honorable Milwaukee Board of Supervisors

FROM: Chris Abele, Milwaukee County Executive

RE: Veto of County Board File No. 13-439 authorizing an amended development agreement with UWM Innovation Park, LLC and UWM Real Estate Foundation to develop an extended stay hotel at Innovation Park.

I am vetoing County Board File No. 13-439 pursuant to the authority granted to me by Article IV, Section 23(a) of the Wisconsin Constitution and Section 59.17(6) of the Wisconsin Statutes.

The County Board adopted an amended resolution on June 20, 2013 that placed illegal and unprecedented wage and sick pay requirements on an extended stay hotel development at Innovation Park, despite the administration's attempts to ensure the Supervisors were explicitly aware that such requirements would jeopardize the deal. In the wake of this vote by the Board, the developer has announced they will not move forward with the project unless the decision is overturned.

I am vetoing this resolution with the hope that the Board will realize that this project moving forward is in the best interest of our community.

The message sent to potential future developers is reflected clearly in response the Innovation Park developer gave to the Business Journal after the Board's vote, "We've just never dealt with something quite to this magnitude. I just don't understand the thought process that went into that. I don't. I've been hearing all of this business for years now about wanting to make government fair. What's fair about this?"

I know Supervisors agree with me that we should do everything we can to treat workers well, as well as create good paying jobs and an attractive business climate. While we might not all agree on the specifics on how exactly to get there, it's clear that imposing requirements at the 11th hour that result in pushing businesses away is not the way to do it.

The amended resolution passed by the Board violates state law restrictions on living wage and sick pay. I've attached a legal opinion from Corporation Counsel that was previously shared with you clarifying this point.

I know the Board shares my concern with making sure all resolutions and ordinances that are passed are legal. Consulting Corporation Counsel prior to submitting items will both increase the likelihood that items passed are legal and respect the County's, as well as our staff and partners', effort and reputation.

I urge the Board to sustain this veto and pass the original resolution to get this project back on track.

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

DATE: April 29, 2013

TO: Supervisor Marina Dimitrijevic, Chairwoman, Board of Supervisors

FROM: Teig Whaley-Smith, Economic Development Director, Department of Administrative Services

SUBJECT: Second Amendment to Development Agreement for UWM Innovation Park

REQUEST

Pursuant to Resolution 11-14(a)(a) (“Resolution”), approval is requested to enter into a Second Amendment to Development Agreement with UWM Innovation Park, LLC and The UWM Real Estate Foundation, Inc. (together “Developer”) regarding the development of an extended stay hotel

BACKGROUND

The County and the Developer are parties to a Development Agreement dated February 15, 2011 (the “Agreement”), wherein the parties set forth certain terms and conditions under which certain property purchased by the Developer from the County may be developed.

The County first amended the Agreement on December 21, 2011 to allow for the Industry Accelerator Facility.

The Developer is requesting of the County that the Agreement be amended to provide for a narrow and limited expansion of the uses permitted under the Agreement. Specifically, paragraph 1(e) of the Agreement will be modified to provide that an extended stay hotel containing up to 128 rooms may be developed in the northernmost portion of the northeast corner of Lot 3 of Certified Survey Map No. 8523, within the area north and east of Discovery Parkway, on a site not to exceed 3.5 acres.

RECOMMENDATION

Approval is recommended to allow the Department of Administrative Services – Economic Development division to enter into a Second Amendment to Development Agreement between the County and Developer to allow for an extended stay hotel, contingent upon a review of Risk Management and Corporation Counsel.

Teig Whaley-Smith
Economic Development Director, Department of Administrative Services

Attachments: Second Amendment to Development Agreement
CSM

cc: Supervisor Patricia Jursik, Chair, Economic & Community Development
Committee (ECD)
Supervisor David Bowen, Vice Chair, ECD Committee
Supervisor Willie Johnson, Jr., ECD Committee
Supervisor Michael Mayo, Sr., ECD Committee
Supervisor James (Luigi) Schmitt, ECD Committee
Supervisor Steve F. Taylor, ECD Committee
Supervisor John F. Weishan, Jr., ECD Committee
Don Tyler, Director, Department of Administrative Services
Julie Esch, Director of Operations, Department of Administrative Services
Amber Moreen, Chief of Staff, Office of the County Executive
Raisa Koltun, Director of Legislative Affairs, Office of the County Executive
Paul Kuglitsch, Corporation Counsel

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(ITEM NO.) From the Director, Department of Administrative Services – Economic Development Division, requesting authorization to enter into a Second Amendment to Development Agreement with UWM Innovation Park, LLC and The UWM Real Estate Foundation, Inc. to provide for the development of an extended stay hotel at Innovation Park.

A RESOLUTION

WHEREAS, Milwaukee County (the "County") and UWM Innovation Park, LLC and The UWM Real Estate Foundation, Inc. (together "Developer") are parties to a Development Agreement dated February 15, 2011 (the "Agreement"), wherein the parties set forth certain terms and conditions under which certain property purchased by the Developer from the County may be developed; and

WHEREAS, the Agreement was previously amended on December 21, 2011 to provide for the Industry Accelerator Facility; and

WHEREAS, the Developer is now requesting of the County that the Agreement again be amended to provide for a narrow and limited expansion of the uses permitted under the Agreement; and

WHEREAS, this expansion of the permitted uses is the development of an extended stay hotel containing up to 128 rooms and located in the northernmost portion of the northeast corner of Lot 3 of Certified Survey Map No. 8523, within the area north and east of Discovery Parkway, on a site not to exceed 3.5 acres; and

BE IT RESOLVED, that the Director, Department of Administrative Services – Economic Development Division, is hereby authorized to enter into a Second Amendment to Development Agreement between the County and the Developer to provide for the development of an extended stay hotel at Innovation Park, contingent upon a review of Risk Management and Corporation Counsel.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 4/24/13

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: Second Amendment to Development Agreement for UWM Innovation Park

FISCAL EFFECT:

- | | |
|--|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	\$0	\$0
	Revenue	\$0	\$0
	Net Cost	\$0	\$0
Capital Improvement Budget	Expenditure	\$0	\$0
	Revenue	\$0	\$0
	Net Cost	\$0	\$0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.
 - A. Approval of the resolution will allow County to enter into a Second Amendment to Development Agreement with UWM Innovation Park, LLC and The UWM Real Estate Foundation, Inc. (together "Developer") regarding the development of an extended stay hotel.
 - B. Although there is no immediate costs or savings, if the affected parcel is sold the County would receive 75% of the land sale.
 - C. There are no budgetary impacts at this time.
 - D. There are no assumptions or interpretations used at this time.

Department/Prepared By Economic Development, Department of Administrative Services

Authorized Signature _____
Teig Whaley-Smith

Did DAS-Fiscal Staff Review? Yes No

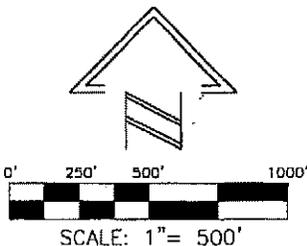
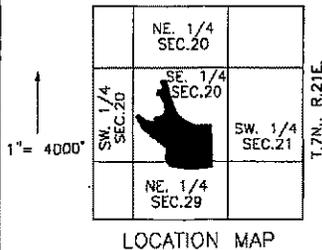
Did CDBP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.
County Board July 10 Page65

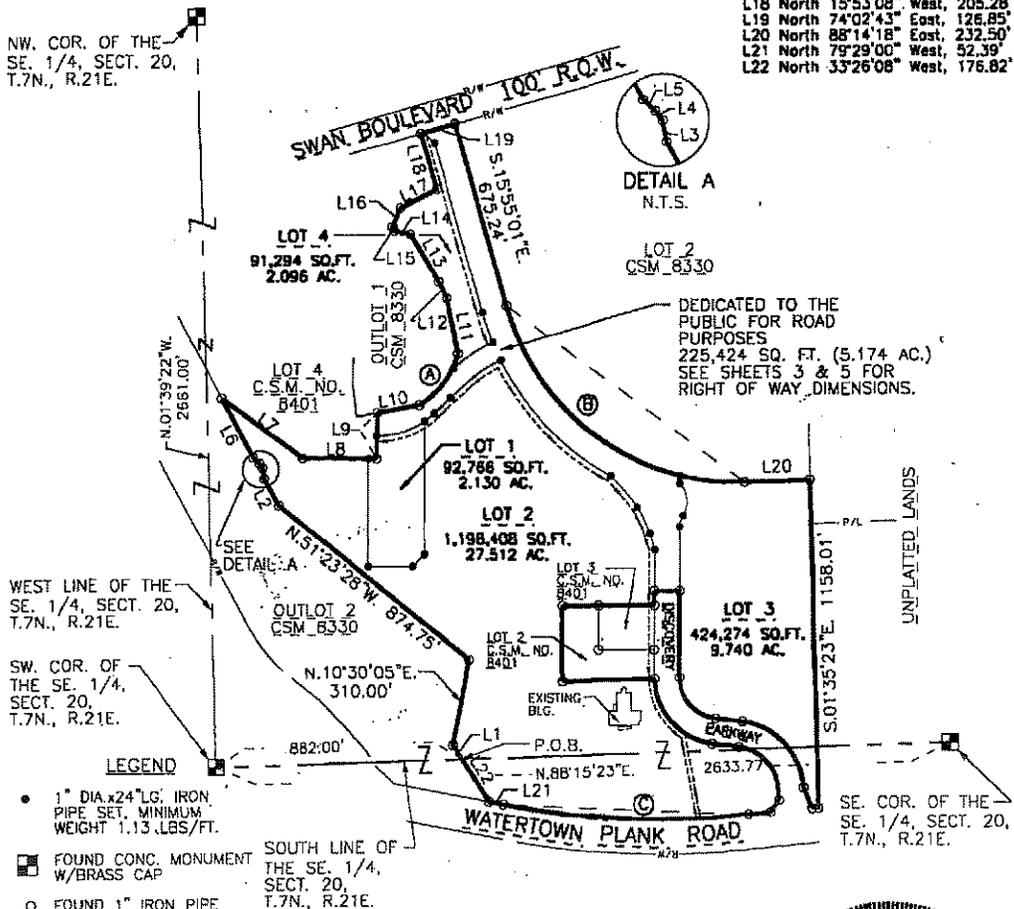
CERTIFIED SURVEY MAP NO. 8523

Being a division of Lot 1 of Certified Survey Map No. 8401 in the Northwest 1/4, Southeast 1/4, and the Southwest 1/4 of the Southeast 1/4 of Section 20 and the Northeast 1/4 and the Northwest 1/4 of the Northeast 1/4 of Section 29 in the Township 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, Wisconsin.



LINE TABLE

L1	North	33°26'08"	West	57.68'
L2	North	28°29'22"	West	109.67'
L3	North	09°02'58"	West	38.81'
L4	North	34°18'22"	West	20.13'
L5	North	49°10'23"	West	30.80'
L6	North	28°29'22"	West	233.86'
L7	South	54°14'37"	East	356.08'
L8	North	69°11'42"	East	265.49'
L9	North	00°48'25"	East	160.83'
L10	North	80°00'16"	East	153.37'
L11	North	11°55'15"	West	203.18'
L12	North	25°29'54"	West	67.42'
L13	North	30°33'38"	West	197.94'
L14	North	78°18'30"	West	60.47'
L15	North	24°44'55"	West	15.71'
L16	North	23°31'53"	East	71.75'
L17	North	63°08'26"	East	148.23'
L18	North	15°53'08"	West	205.28'
L19	North	74°02'43"	East	126.85'
L20	North	88°14'18"	East	232.50'
L21	North	79°29'00"	West	52.39'
L22	North	33°26'08"	West	176.82'



THIS INSTRUMENT WAS DRAFTED BY: MICHAEL J. RATZBURG JOB NO. 20090184 SHEET 1 OF 15

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

UW-MILWAUKEE INNOVATION PARK

THIS SECOND AMENDMENT to Development Agreement (this “Amendment”) is made as of the ___ day of _____, 2013 (the “Effective Date”), by and between MILWAUKEE COUNTY (the “County”), and UWM INNOVATION PARK, LLC, a Wisconsin limited liability company, and THE UWM REAL ESTATE FOUNDATION, INC., a Wisconsin non-stock corporation (together, hereinafter “Developer”).

RECITALS:

WHEREAS, the County and the Developer are parties to that certain Development Agreement dated February 15, 2011 (the “Agreement”), wherein the parties set forth certain terms and conditions under which certain property purchased by the Developer from the County may be developed; and

WHEREAS, the Developer is requesting of the County that the Agreement be amended to provide for a narrow and limited expansion of the uses permitted under the Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, it is agreed as follows:

PROVISIONS:

1. **PERMITTED USES.** Paragraph 1(e) of the Agreement is hereby modified to provide that an extended stay hotel containing up to 128 rooms may be developed in the northernmost portion of the northeast corner of Lot 3 of Certified Survey Map No. 8523, within the area north and east of Discovery Parkway, on a site not to exceed 3.5 acres.
2. **CONFLICT.** In the event of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement, the terms and provisions of this Amendment shall govern, control and prevail. Except as specifically provided herein, the terms and provisions of the Agreement shall remain in force and effect.
3. **COUNTERPARTS.** This Amendment may be executed in counterpart originals, each of which shall constitute an original of this Amendment and that, collectively, shall constitute one and the same agreement.
4. **AUTHORIZATION.** The County has executed this Amendment pursuant to action taken by its Board of Supervisors on _____, Resolution File No. _____.

SIGNATURE PAGE FOLLOWS:

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

MILWAUKEE COUNTY

By: _____ Date: _____
Chris Abele, County Executive

UWM INNOVATION PARK, LLC

By: _____ Date: _____
Name:
Title:

THE UWM REAL ESTATE FOUNDATION, INC.

By: _____ Date: _____
Name:
Title:

Approved as to form and independent status:

Reviewed as to insurance requirements:

By: _____ Date: _____
Corporation Counsel

By: _____ Date: _____
Risk Management

Innovation Campus Current Projects

 Habitat Improvement

Forest Exploration Center

 Discovery Parkway

Extended Stay Hotel

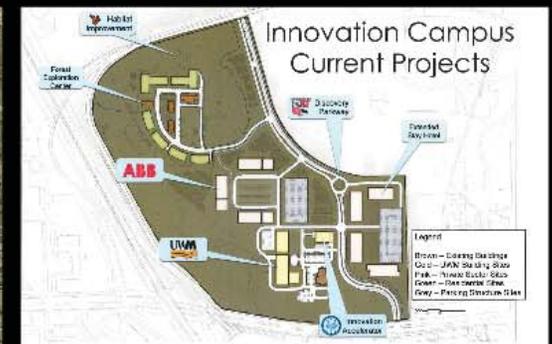
ABB

UWM

 Innovation Accelerator

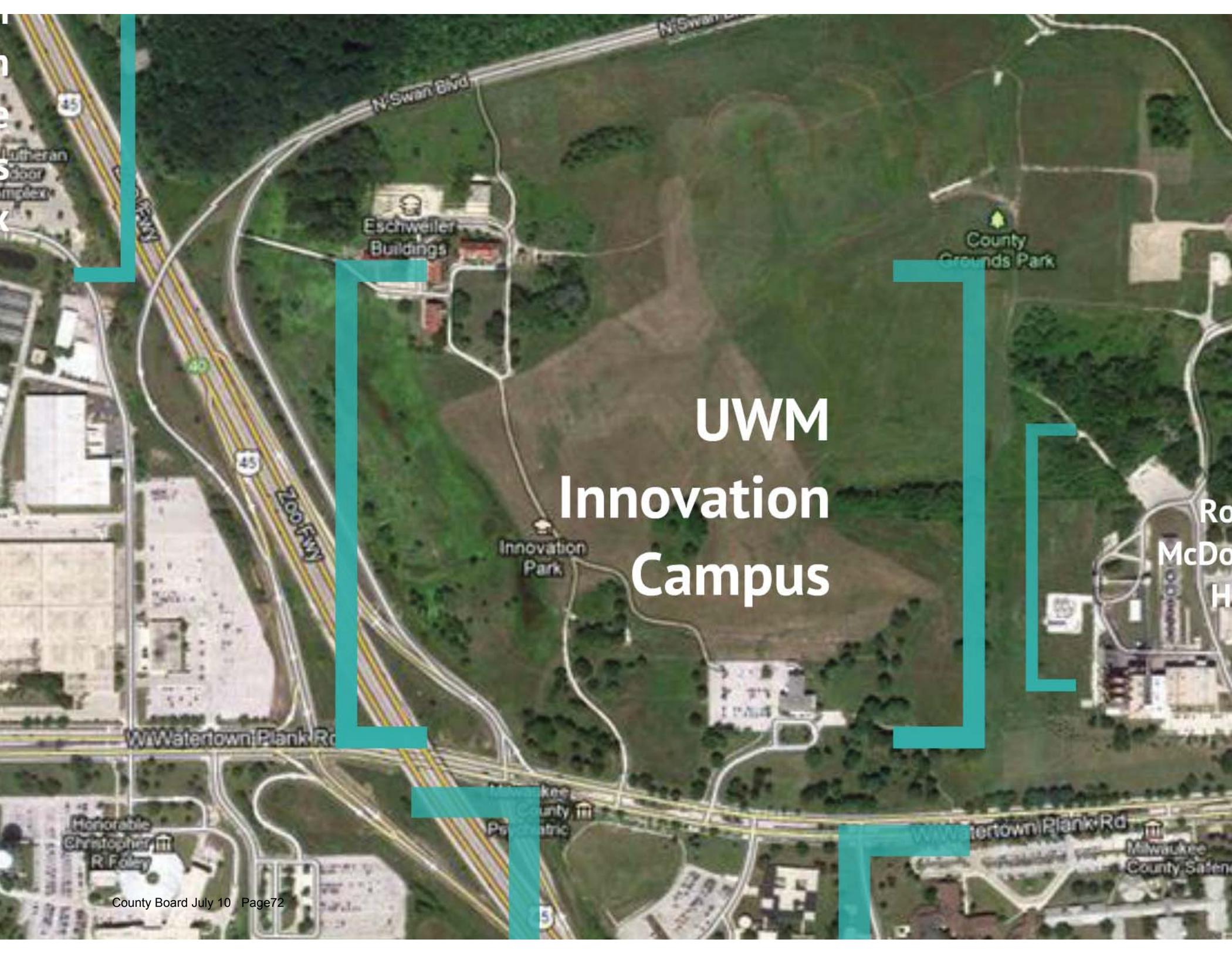
Legend

- Brown – Existing Buildings
- Gold – UWM Building Sites
- Pink – Private Sector Sites
- Green – Residential Sites
- Grey – Parking Structure Sites



Milwaukee County Grounds

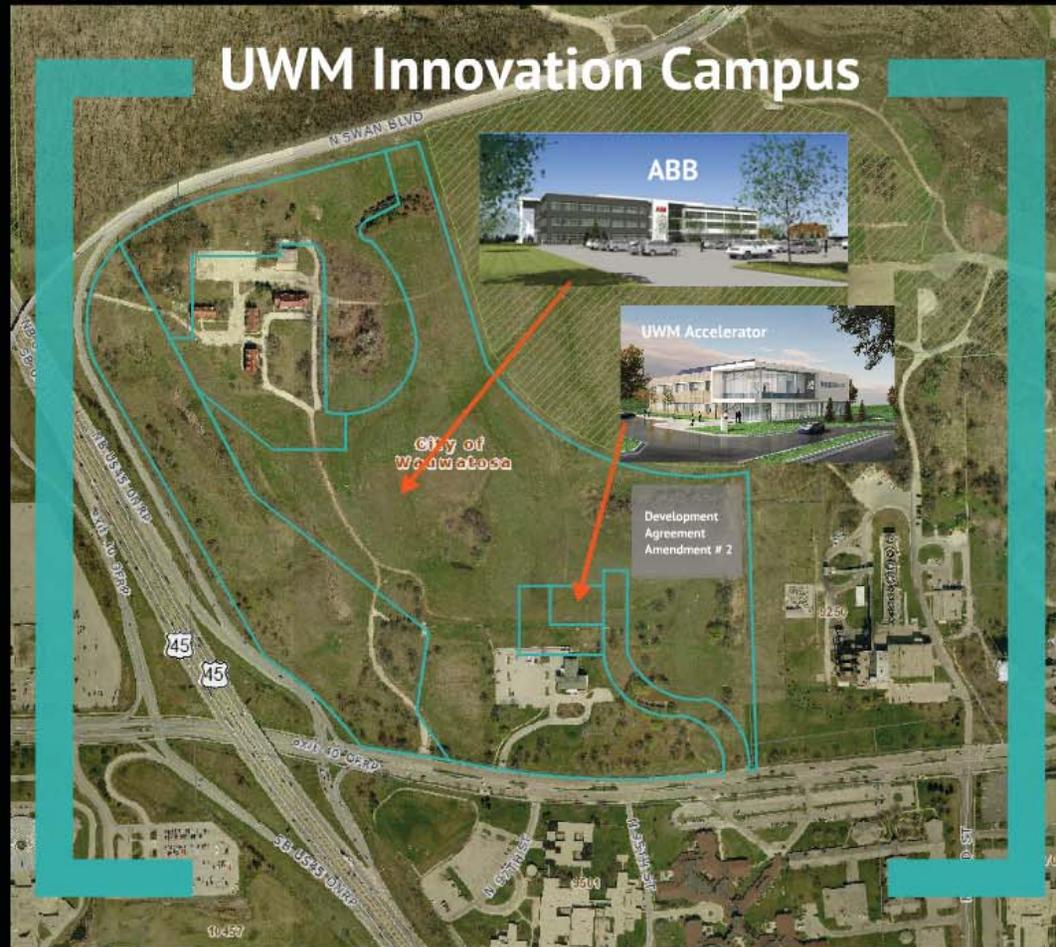




UWM Innovation Campus

Milwaukee County Grounds





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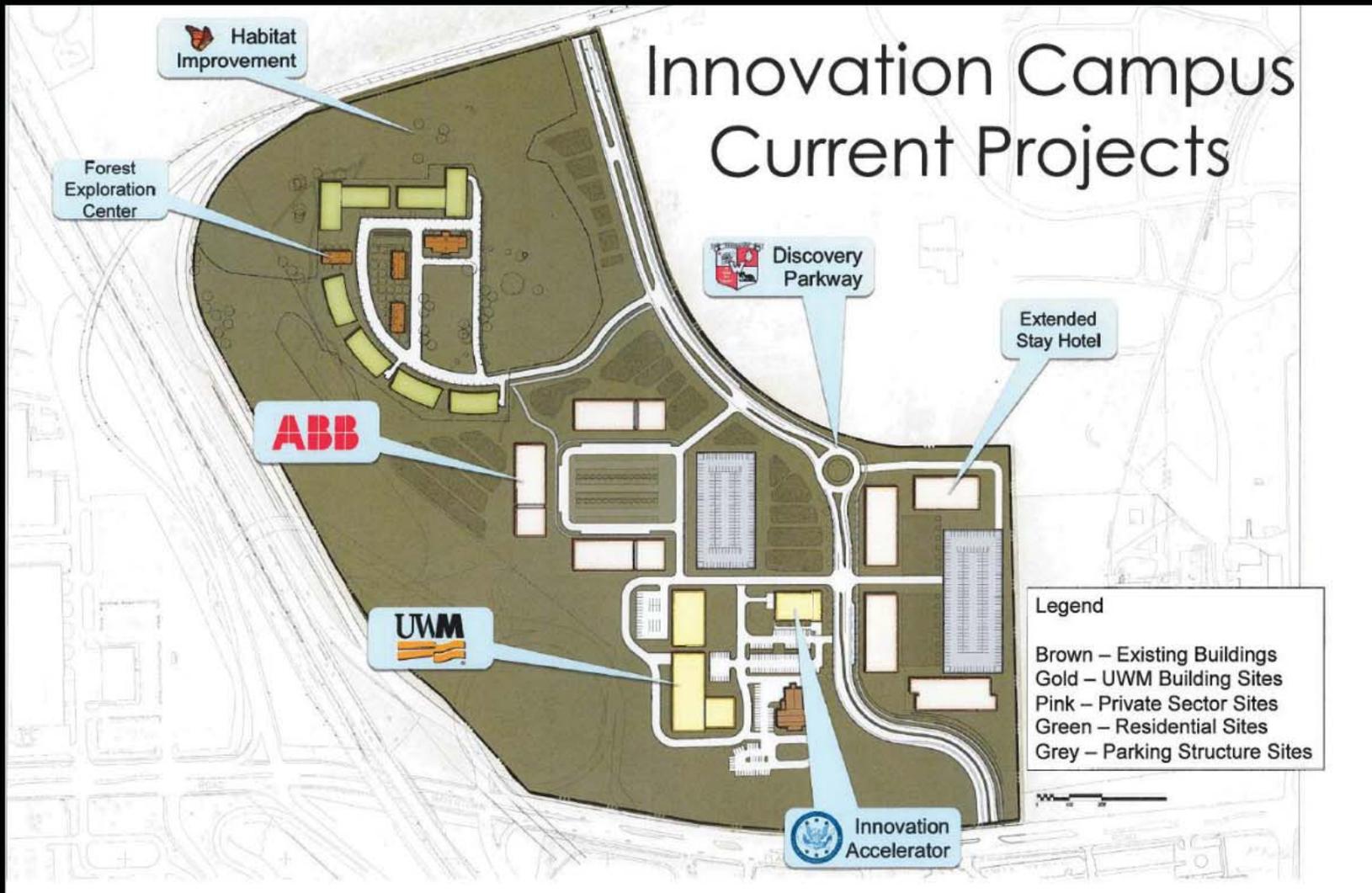


**Development
Agreement
Amendment # 2**



9250

Innovation Campus Current Projects



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(ITEM) From the Director of County Economic Development, Department of Administrative Services, requesting authorization to enter into a Second Amendment to the Development Agreement with UWM Innovation Park, LLC and UWM Real Estate Foundation, Inc. to provide for the development of an extended stay hotel at Innovation Park, by recommending adoption of the following:

A RESOLUTION

WHEREAS, Milwaukee County (the "County") and UWM Innovation Park, LLC, and UWM Real Estate Foundation, Inc. (together "Developer"), are parties to a Development Agreement dated February 15, 2011 (the "Agreement"), wherein the parties set forth certain terms and conditions under which certain property purchased by the Developer from the County may be developed; and

WHEREAS, the Agreement was previously amended on December 21, 2011, to provide for the Industry Accelerator Facility; and

WHEREAS, the Developer is now requesting of the County that the Agreement again be amended to provide for a narrow and limited expansion of the uses permitted under the Agreement; and

WHEREAS, this expansion of the permitted uses is the development of an extended stay hotel containing up to 128 rooms and located in the northernmost portion of the northeast corner of Lot 3 of Certified Survey Map No. 8523, within the area north and east of Discovery Parkway, on a site not to exceed 3.5 acres; now, therefore,

BE IT RESOLVED, that the Interim Director of County Economic Development, Department of Administrative Services, is hereby authorized to enter into a Second Amendment to the Development Agreement between the County and the Developer to provide for the development of an extended stay hotel at Innovation Park, contingent upon review of Risk Management and Corporation Counsel.

jmj
05/04/13
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MILWAUKEE COUNTY BOARD OF SUPERVISORS

DATE: June 4, 2013

COMMITTEE AMENDMENT NO: 1

**Resolution File No: 13-439
Item No: 1**

COMMITTEE: Committee on Economic and Community Development

OFFERED BY SUPERVISOR(S): Weishan

1. To add the following BIFR clauses after line 35 in the resolution:

BE IT RESOLVED, that the Director, Department of Administrative Services – Economic Development Division, is hereby authorized to enter into a Second Amendment to Development Agreement between the County and the Developer to provide for the development of an extended stay hotel at Innovation Park, contingent upon a review of Risk Management and Corporation Counsel; and;

BE IT FURTHER RESOLVED that the closeness of the hotel to the naturalized Parkland should require that the landscapes around the hotel be “all natural,” and provide the consistent character to achieve this vision; and

BE IT FURTHER RESOLVED that the County Board shall authorize that the conservation area be put into a conservation easement, or hold a deed restriction.

MILWAUKEE COUNTY BOARD OF SUPERVISORS

DATE: June 5, 2013

AMENDMENT NO: 2

Resolution File No: 13-439
Item No: 1

COMMITTEE: Committee on Economic and Community Development

OFFERED BY SUPERVISOR(S): Rainey

1. To amend the resolution by inserting the following language:

[inserted after the third 'WHEREAS' clause]

“WHEREAS, the development of said property provides an opportunity to create long-term, sustainable community benefits including an increase in much-needed, family-supporting jobs for Milwaukee County residents; and

...

[inserted after the 'BE IT RESOLVED' clause]

“BE IT FURTHER RESOLVED that the Second Amendment to Development Agreement between the County and the Developer to provide for the development of an extended stay hotel at Innovation Park shall include the following contingencies for execution:

- **Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive a wage not less than that, for 2080 hours per work in a calendar year, sufficient to produce an income of 125% of the poverty level for a family of four, as issued annually by the United States Department of Health and Human Services; and**
- **Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive no fewer than 5 paid sick days per calendar year, pro-rata for employees working less than 40 hours per week; and**
- **Requirements for wages and paid sick days of employees at the extended stay hotel employee may be waived in a bona fide collective bargaining**

agreement, if the waiver is set forth explicitly in such an agreement in clear and unambiguous terms; and

- **The Milwaukee County Board shall approve the final selection by the developer of the affiliation of the hotel brand and any firm operating or managing the extended stay hotel.”**

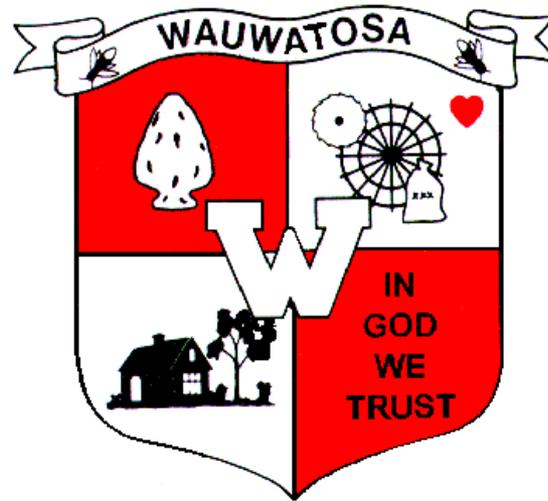
2. Amend the DEVELOPMENT AGREEMENT by including the following underlined language in the ‘PROVISIONS’ section:

1. **PERMITTED USES.** Paragraph 1(e) of the Agreement is hereby modified to provide an extended stay hotel containing up to 128 rooms may be developed in the northernmost portion of the northeast corner of Lot 3 of Certified Survey Map No. 8253, within the area north and east of Discovery Parkway, on a site not to exceed 3.5 acres.

Development of the extended stay hotel shall be subject to the following terms and conditions:

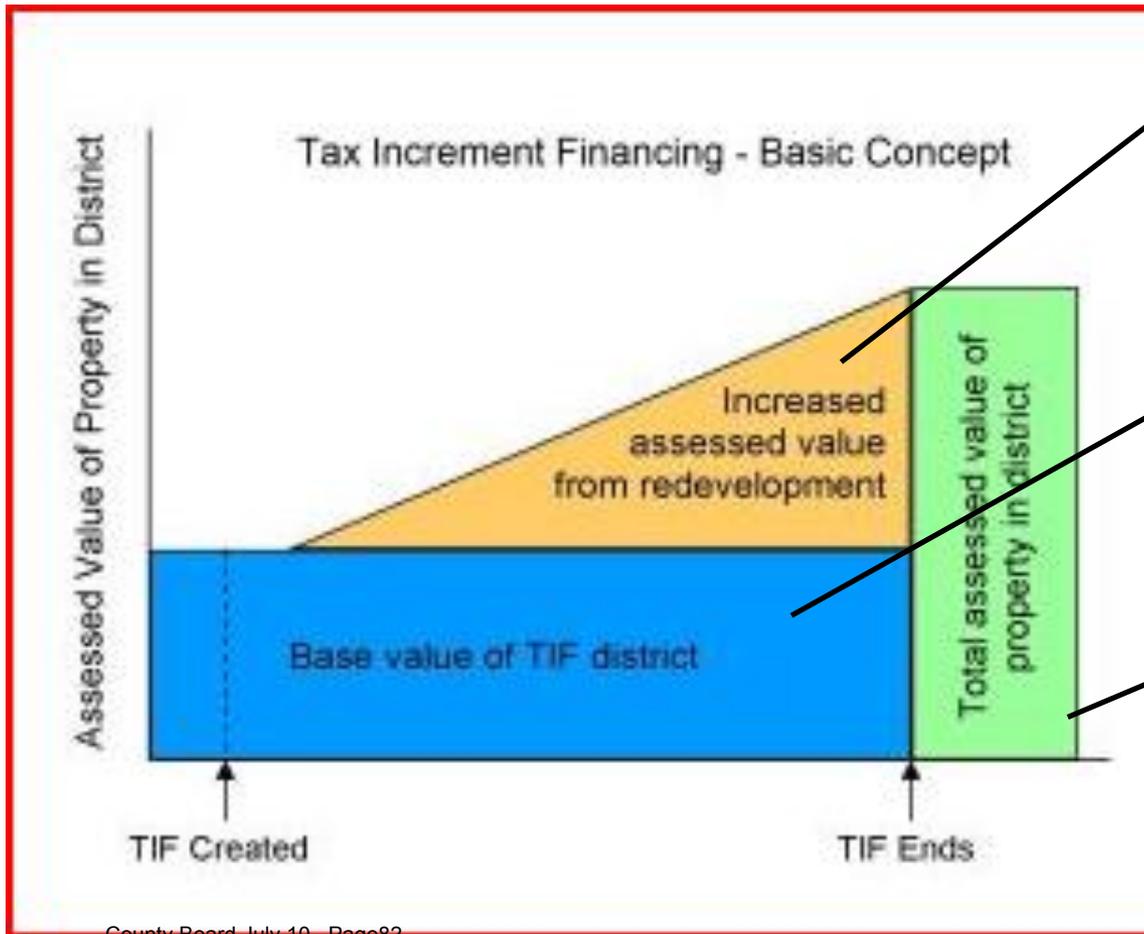
- a. **Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive a wage not less than that, for 2080 hours per work in a calendar year, sufficient to produce an income of 125% of the poverty level for a family of four, as issued annually by the United States Department of Health and Human Services; and**
- b. **Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive no fewer than 5 paid sick days per calendar year, pro-rata for employees working less than 40 hours per week; and**
- c. **Requirements for wages and paid sick days of employees at the extended stay hotel employee may be waived in a bona fide collective bargaining agreement, if the waiver is set forth explicitly in such an agreement in clear and unambiguous terms; and**
- d. **The Milwaukee County Board shall approve the final selection by the developer of the affiliation of the hotel brand and any firm operating or managing the extended stay hotel.”**

City of Wauwatosa TIF 6 Update



Milwaukee County
Economic Development Committee
June 2013

TIF Overview



Incremental property tax revenue based on increased value for redevelopment. Property tax amount based on rate for all taxing jurisdictions

Throughout life of TIF, all taxing jurisdictions continue to receive property tax revenue from base value

When TIF closes, all taxing jurisdictions benefit from increased property tax revenue that would not have been available **but for** the TIF

TIF 6 Financial Pro Forma

- Current Developments

	<u>VALUE</u>	<u>EXPENSE</u>
– Land	\$13.6M	\$11.6M
– Accelerator	\$ 6.0 M	\$ 0.7M
– ABB	\$13.6 M	\$2.1M

Scenario	Estimated Value	Additional TIF Funding Capacity	Debt Coverage	Years Below 100%	Years to Close TIF
Land+Accelerator+ABB	\$ 33,125,000	\$ (4,652,482)	72%	20	No

TIF 6 Financial Pro Forma

- Current Developments + **Hotel**

	<u>VALUE</u>	<u>EXPENSE</u>
– Land	\$ 13.6M	\$ 11.6M
– Accelerator	\$ 6.0 M	\$ 0.7M
– ABB	\$ 13.6 M	\$ 2.1M
– Hotel	\$ 8.0 M	-

Scenario	Estimated Value	Additional TIF Funding Capacity	Debt Coverage	Years Below 100%	Years to Close TIF
Land+Accelerator+ABB +Hotel - No TIF 2	\$ 41,125,000	\$ (841,282)	89%	19	No

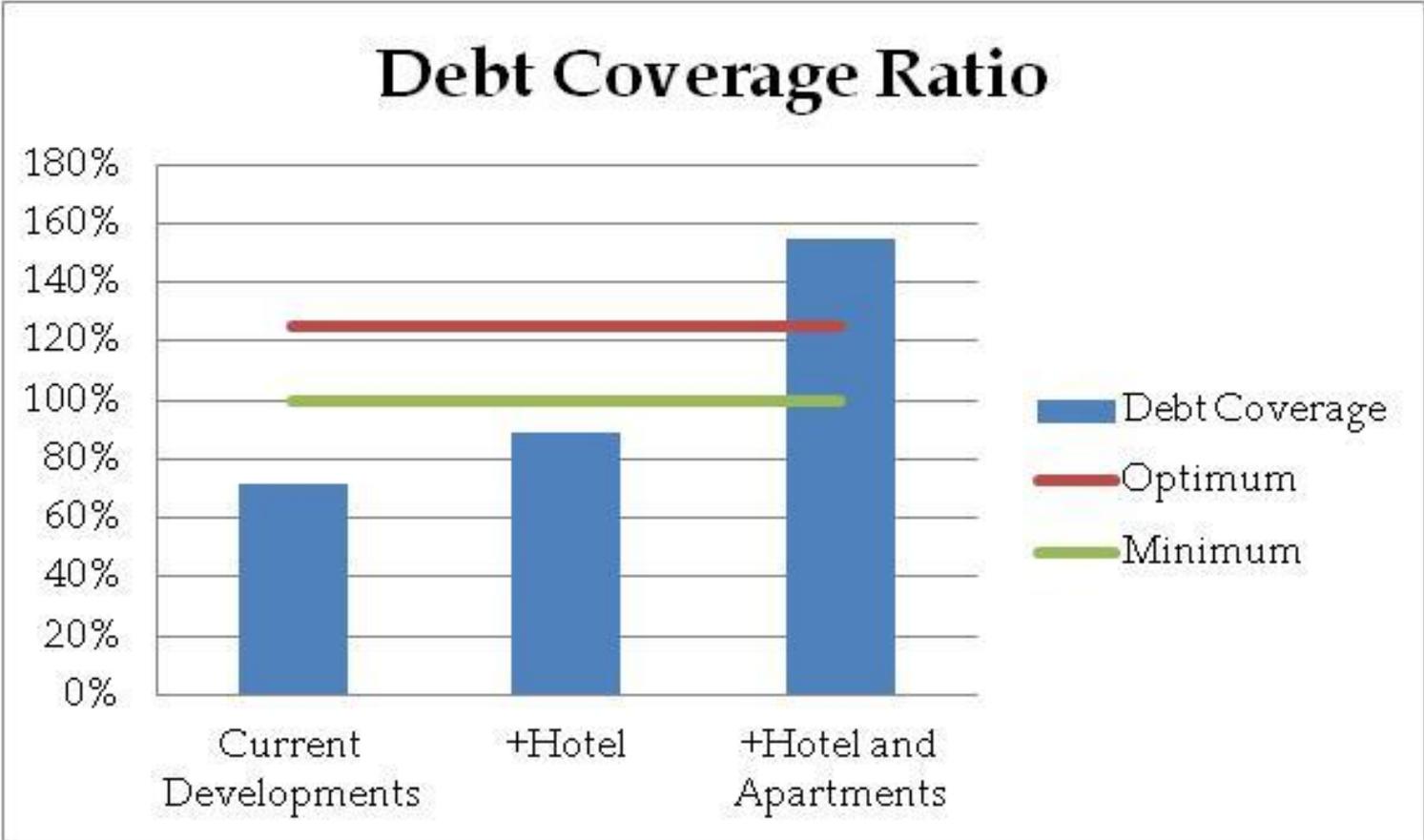
TIF 6 Financial Pro Forma

- Current Developments + Hotel + **Residential Development with \$2.5 million in TIF Assistance**

	<u>VALUE</u>	<u>EXPENSE</u>
– Land	\$ 13.6M	\$ 11.6M
– Accelerator	\$ 6.0 M	\$ 0.7M
– ABB	\$ 13.6 M	\$ 2.1M
– Hotel	\$ 8.0 M	-
– Apartments	\$ 20.0 M	\$ 2.5M

Scenario	Estimated Value	Additional TIF Funding Capacity	Debt Coverage	Years Below 100%	Years to Close TIF
Land+Accelerator+ABB +Hotel+Apts w/\$2.5M	\$ 61,125,000	\$ 12,136,849	155%	-	18

Scenario Comparison



Conservation Requirements

Advanced Conservation – Kubala Washatko Plan



Current Master Plan



- “Development of the EDZ is dramatically impacted by how intensely conservation principles are implemented . . . Structured parking will be necessary to conserve natural areas of the site”

Conservation = Structured Parking

Approved Master Plan



- 6.7 acres = 724 surface parking spots
- 475,000 sq. ft requires 1,663 spots
- Insufficient surface parking assuming conservation goals

TIF 6 Financial Pro Forma

- Current Developments + Hotel + Residential Development with \$2.5 million in TIF Assistance + **Full Build out of Commercial and 770 structured parking spots (2.0 per 1000 sq. ft)**

	<u>VALUE</u>	<u>EXPENSE</u>
– Land	\$ 13.6M	\$ 11.6M
– Accelerator	\$ 6.0 M	\$ 0.7M
– ABB	\$ 13.6 M	\$ 2.1M
– Hotel	\$ 8.0 M	-
– Apartments	\$ 20.0 M	\$ 2.5M
– Commercial	\$ 57.8M	\$ 13.9M

Scenario	Estimated Value	Additional TIF Funding Capacity	Debt Coverage	Years Below 100%	Years to Close TIF
Full Buld Out w/ 2.0 spots per 1000, hotel, residential +\$2.5M	\$ 118,875,000	\$ 7,346,925	117%	7	25

1 Supervisor Patricia Jursik, Chairperson,
2 From the Committee on Economic and Community Development, reporting on:

3
4 File No. 13-439
5

6 (ITEM) From the Director of County Economic Development, Department
7 of Administrative Services, requesting authorization to enter into a Second
8 Amendment to the Development Agreement with UWM Innovation Park, LLC
9 and UWM Real Estate Foundation, Inc. to provide for the development of an
10 extended stay hotel at Innovation Park, by recommending adoption of the
11 following:

12
13 **A RESOLUTION**
14

15 WHEREAS, Milwaukee County (the "County") and UWM Innovation Park,
16 LLC, and UWM Real Estate Foundation, Inc. (together "Developer"), are parties
17 to a Development Agreement dated February 15, 2011 (the "Agreement"),
18 wherein the parties set forth certain terms and conditions under which certain
19 property purchased by the Developer from the County may be developed; and
20

21 WHEREAS, the Agreement was previously amended on December 21,
22 2011, to provide for the Industry Accelerator Facility; and
23

24 WHEREAS, the Developer is now requesting of the County that the
25 Agreement again be amended to provide for a narrow and limited expansion
26 of the uses permitted under the Agreement; and
27

28 WHEREAS, this expansion of the permitted uses is the development of an
29 extended stay hotel containing up to 128 rooms and located in the
30 northernmost portion of the northeast corner of Lot 3 of Certified Survey Map No.
31 8523, within the area north and east of Discovery Parkway, on a site not to
32 exceed 3.5 acres; now, therefore,
33

34 BE IT RESOLVED, that the Director of County Economic Development,
35 Department of Administrative Services, is hereby authorized to enter into a
36 Second Amendment to the Development Agreement between the County and
37 the Developer to provide for the development of an extended stay hotel at
38 Innovation Park, contingent upon review of Risk Management and Corporation
39 Counsel.
40

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MILWAUKEE COUNTY BOARD OF SUPERVISORS

DATE: June 19, 2013

CB AMENDMENT NO: 1

**Resolution File No: 13-439
Item No: 27**

COMMITTEE: Committee on Economic and Community Development

OFFERED BY SUPERVISOR(S): Weishan

1. To amend the resolution by inserting the following language:

[inserted after the third 'WHEREAS' clause]

WHEREAS, the development of said property provides an opportunity to create long-term, sustainable community benefits including an increase in much-needed, family-supporting jobs for Milwaukee County residents; and

...

[inserted after the 'BE IT RESOLVED' clause]

BE IT FURTHER RESOLVED that the Second Amendment to Development Agreement between the County and the Developer to provide for the development of an extended stay hotel at Innovation Park shall include the following contingencies for execution:

- Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive a wage not less than that, for 2080 hours per work in a calendar year, sufficient to produce an income of 125% of the poverty level for a family of four, as issued annually by the United States Department of Health and Human Services; and
- Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive no fewer than 5 paid sick days per calendar year, pro-rata for employees working less than 40 hours per week; and
- Requirements for wages and paid sick days of employees at the extended stay hotel employee may be waived in a bona fide collective bargaining agreement,

if the waiver is set forth explicitly in such an agreement in clear and unambiguous terms.

2. Amend the DEVELOPMENT AGREEMENT by including the following underlined language in the ‘PROVISIONS’ section:

1. PERMITTED USES. Paragraph 1(e) of the Agreement is hereby modified to provide an extended stay hotel containing up to 128 rooms may be developed in the northernmost portion of the northeast corner of Lot 3 of Certified Survey Map No. 8253, within the area north and east of Discovery Parkway, on a site not to exceed 3.5 acres.

Development of the extended stay hotel shall be subject to the following terms and conditions:

- a. Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive a wage not less than that, for 2080 hours per work in a calendar year, sufficient to produce an income of 125% of the poverty level for a family of four, as issued annually by the United States Department of Health and Human Services; and
- b. Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive no fewer than 5 paid sick days per calendar year, pro-rata for employees working less than 40 hours per week; and
- c. Requirements for wages and paid sick days of employees at the extended stay hotel employee may be waived in a bona fide collective bargaining agreement, if the waiver is set forth explicitly in such an agreement in clear and unambiguous terms.

1 Supervisor Patricia Jursik, Chairperson,
2 From the Committee on Economic and Community Development, reporting on:

3
4 File No. 13-439

5
6 (ITEM) From the Director of County Economic Development, Department of
7 Administrative Services, requesting authorization to enter into a Second Amendment to
8 the Development Agreement with UWM Innovation Park, LLC and UWM Real Estate
9 Foundation, Inc. to provide for the development of an extended stay hotel at Innovation
10 Park, by recommending adoption of the following:

11
12 **A RESOLUTION**

13
14 WHEREAS, Milwaukee County (the "County") and UWM Innovation Park, LLC,
15 and UWM Real Estate Foundation, Inc. (together "Developer"), are parties to a
16 Development Agreement dated February 15, 2011 (the "Agreement"), wherein the
17 parties set forth certain terms and conditions under which certain property purchased by
18 the Developer from the County may be developed; and

19
20 WHEREAS, the Agreement was previously amended on December 21, 2011, to
21 provide for the Industry Accelerator Facility; and

22
23 WHEREAS, the Developer is now requesting of the County that the Agreement
24 again be amended to provide for a narrow and limited expansion of the uses permitted
25 under the Agreement; and

26
27 WHEREAS, the development of said property provides an opportunity to create
28 long-term, sustainable community benefits including an increase in much-needed,
29 family-supporting jobs for Milwaukee County residents; and

30
31 WHEREAS, this expansion of the permitted uses is the development of an
32 extended stay hotel containing up to 128 rooms and located in the northernmost portion
33 of the northeast corner of Lot 3 of Certified Survey Map No. 8523, within the area north
34 and east of Discovery Parkway, on a site not to exceed 3.5 acres; now, therefore,

35
36 BE IT RESOLVED, that the Director of County Economic Development,
37 Department of Administrative Services, is hereby authorized to enter into a Second
38 Amendment to the Development Agreement between the County and the Developer to
39 provide for the development of an extended stay hotel at Innovation Park, contingent
40 upon review of Risk Management and Corporation Counsel.

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42 BE IT FURTHER RESOLVED that the Second Amendment to Development
43 Agreement between the County and the Developer to provide for the development of an
44 extended stay hotel at Innovation Park shall include the following contingencies for
45 execution:

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- Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive a wage not less than that, for 2080 hours per work in a calendar year, sufficient to produce an income of 125% of the poverty level for a family of four, as issued annually by the United States Department of Health and Human Services; and
- Employees of the extended stay hotel, or of a firm controlling, managing or operating the extended stay hotel, shall receive no fewer than 5 paid sick days per calendar year, pro-rata for employees working less than 40 hours per week; and
- Requirements for wages and paid sick days of employees at the extended stay hotel employee may be waived in a bona fide collective bargaining agreement, if the waiver is set forth explicitly in such an agreement in clear and unambiguous terms.

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