

(ATTACHMENT 1) ACTION ON A REQUEST TO APPROVE A TEMPORARY LIMITED EASEMENT BETWEEN MILWAUKEE PUBLIC SCHOOLS AND MILWAUKEE PABST HOLDINGS, LLC FOR A PORTION OF THE PROPERTY LOCATED AT 1124 NORTH 11TH STREET.

Document Number	TLE BETWEEN MPS & MILWAUKEE PABST HOLDINGS LLC Document Title	
<p>TEMPORARY LIMITED EASEMENT BETWEEN THE MILWAUKEE BOARD OF SCHOOL DIRECTORS AND MILWAUKEE PABST HOLDINGS, LLC</p> <p>Drafted by:</p> <p>City of Milwaukee Office of the City Attorney 841 North Broadway, 7th Floor Milwaukee, WI 53202</p>		
		<p>Recording Area</p> <hr/> <p>Name and Return Address</p> <p>Jeremy R. McKenzie 841 N. Broadway, 7th Floor Milwaukee, WI 53202</p>

Part of 3910261113

Parcel Identification Number (PIN)

THIS TEMPORARY LIMITED EASEMENT (“TLE”) is made as of _____, 2018, and is from Milwaukee Board of School Directors (“**Board**”), as Grantor, to Milwaukee Pabst Holdings LLC (“**Grantee**”), as the Grantee.

RECITALS

A. The Board (“**MPS**”) owns fee title to that certain property in the City of Milwaukee, Milwaukee County, Wisconsin, herein called “**MPS Facilities Parcel**” which is located at 1124 N. 11th Street, Milwaukee, WI 53233 and is more fully described in **Exhibit A**.

B. Grantee owns fee title to that certain property in the City of Milwaukee, Milwaukee County, Wisconsin, herein called “**Milwaukee Pabst Holdings Building Parcel**,” located immediately north of

the **MPS Facilities Parcel** which is located at 1009 West Juneau Avenue and is more fully described in **Exhibit B**.

C. In order to undertake certain construction related activities on the **Milwaukee Pabst Holdings Building Parcel** (“**the Project**”), Grantee requested that Grantor grant a Temporary Limited Easement over a portion of the **MPS Facilities Parcel** more fully described in **Exhibit C**.

AGREED

1. **Recitals.** The recitals above are hereby acknowledged and agreed to.
2. **TLE to Grantee.** A legal description of the **MPS Facilities Parcel** is attached as **EXHIBIT A**. Grantor hereby grants to Grantee and its contractors, and Grantee hereby accepts, a Temporary Limited Easement (“**TLE**”) in and to that part of the **MPS Facilities Parcel** herein called the “**TLE Area**,” described and depicted on **EXHIBIT C**, to enter the TLE Area for the purposes set forth in **Exhibit D**, and only those purposes. Any other activities conducted by Grantee or its contractors in the **TLE Area** shall be deemed a trespass.
3. **Termination.** This TLE expires on **December 31st, 2018**.
4. **Counterparts; Recording.** This Agreement may be signed in one or more counterparts each of which shall, when taken together, constitute one and the same document. Original signatures shall be provided for recording purposes. This Agreement shall be recorded in the Milwaukee County Register of Deeds Office by Grantee at Grantee’s expense.
5. **Governing Law; Amendment.** This Agreement shall be governed by and construed in accordance with Wisconsin law. This Agreement may only be amended by a written instrument signed by all of the parties hereto (or their successors in interest).
6. **Drafter-Doctrine Not Applicable.** The contract-interpretation doctrine of “construing against the drafter” shall not apply to interpretation of this Agreement.
7. **AS IS; Entry at Entrant’s Risk; No Liens.** Grantee agrees that its contractors will enter the TLE Area at their sole risk, and that they are fully responsible for themselves and their conduct while at or within the TLE Area, and that they are fully responsible for complying with all federal, state and local law, and for proper handling, treatment, and disposal of any environmentally contaminated soils encountered in conjunction with their activities hereunder, at no cost or expense whatsoever to Grantor. Grantee’s contractors shall also, to the extent provided for under any environmental laws, rules and regulations, be responsible for any required repair, clean-up, remediation or detoxification arising out of (1) any Hazardous Materials brought onto or introduced into the Project Area or surrounding areas by Grantee’s contractors, their agents or subcontractors, and/or (2) hazardous materials that are created or released by Grantee’s contractors’ construction activities, located in and on the TLE Area. Grantee’s contractors’ entry shall be conducted so as to not interfere with Grantor’s business activities at the **MPS Facilities Parcel**. Grantee shall not allow any contractor or materialman lien to be asserted or filed against the **MPS Facilities Parcel** as a result of the Project or any construction or work contemplated hereunder. The TLE Area is in AS IS, WHERE IS condition, and by recording this TLE, Grantee for itself and its contractors understand and accept such AS IS, WHERE IS condition, and accept that the TLE Area is subject to all defects, known or unknown, discovered or to be discovered, and that there is no representation or warranty whatsoever as to physical condition or environmental condition regarding the TLE Area or any of its component parts, or as to fitness or suitability of the TLE Area for any particular use or purpose. Neither Grantee nor its contractors have relied on any statement or representation, whatsoever, by or on behalf of Grantor concerning, in any way, the condition of the TLE Area.

IN WITNESS WHEREOF, THE PARTIES HERETO have caused this Agreement to be executed by their authorized signatories as of the date first written above.

<p>GRANTOR: MILWAUKEE BOARD OF SCHOOL DIRECTORS</p> <p>By: _____</p> <p>Name Printed: <u>Mark A. Sain</u></p> <p>Title: <u>President</u></p> <p>And By: _____</p> <p>Name Printed: <u>Darienne B. Driver, Ed.D.</u></p> <p>Title: <u>Superintendent of Schools</u></p> <p>Grantor Authentication</p> <p>_____, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the _____ representatives above, and also authenticates the signatures of those MPS representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).</p> <p>By: _____</p> <p>Name Printed: _____</p> <p>Title: _____</p> <p>State Bar No.: _____</p> <p>Date: _____</p>	<p>GRANTEE: MILWAUKEE PABST HOLDINGS LLC, a Delaware limited liability company</p> <p>By: MILWAUKEE PABST LOFTS LP, a Delaware limited partnership, its Manager</p> <p>By: WHITESTONE PABST LOFTS ASSOCIATES LLC, a Delaware limited liability company, its Manager</p> <p>By: _____</p> <p>Name: Michael Zukerman Title: Managing Director</p> <p>Grantee Authentication</p> <p>STATE OF NEW YORK)) SS. COUNTY OF _____)</p> <p>Personally came before me this ____ day of _____, 2018, Michael Zuckerman, Managing Director of the above-named WHITESTONE PABST LOFTS ASSOCIATES LLC, a Delaware limited liability company, the manager of MILWAUKEE PABST LOFTS LP, a Delaware limited partnership, the manager of MILWAUKEE PABST HOLDINGS LLC, a Delaware limited liability company, to me known to be the person who executed the foregoing instrument and to me known to be such Managing Director of said limited liability company, and acknowledged he executed the foregoing instrument as such Managing Director.</p> <p>_____ Notary Signature Name Printed: _____ Notary Public, State of New York My commission expires: _____</p> <p>[NOTARIAL SEAL]</p>
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EXHIBIT A TO MPS TLE
LEGAL DESCRIPTION OF “MPS FACILITIES PARCEL”
(ALL OF 1124 N. 11th Street)

Lots 4 through 15, in Block 200 and part of vacated North 10th Street in Survey and Subdivision into City Lots of the North 30 Acres of the West 1/2 of the Northwest 1/4 and the North 14 Acres of the West 24 Acres of the South 50 Acres of the West 1/2 of the Northwest 1/4 of Section 29, Town 7 North Range 22 East in the City of Milwaukee, Milwaukee County, Wisconsin

Address: 1124 North 11th Street

Tax Key Number: 3910261113

EXHIBIT B TO MPS TLE
LEGAL DESCRIPTION OF "MILWAUKEE PABST HOLDINGS BUILDING PARCEL"
(ALL OF 1009 West Juneau Avenue)

Lot Two (2) of CERTIFIED SURVEY MAP NO. 8444, recorded June 12, 2012 in Reel 7891, as Document No. 10127033, being a division of Lot 1 of Certified Survey Map No. 7863, being in the Northwest 1/4 of the Northwest 1/4 of Section 29, Township 7 North, Range 22 East, in the City of Milwaukee, Milwaukee County, Wisconsin.

Address: 1009 West Juneau Avenue

Tax Key Number: 3910862000

**EXHIBIT C TO MPS TLE
LEGAL DESCRIPTION OF "TLE AREA"**

EXHIBIT

CLIENT

Milwaukee Pabst Holdings LLC

SITE ADDRESS

1124 North 11th Street, Milwaukee, Wisconsin.

LEGAL DESCRIPTION OF ORIGINAL NORTHEAST TLE AREA

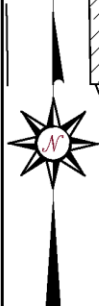
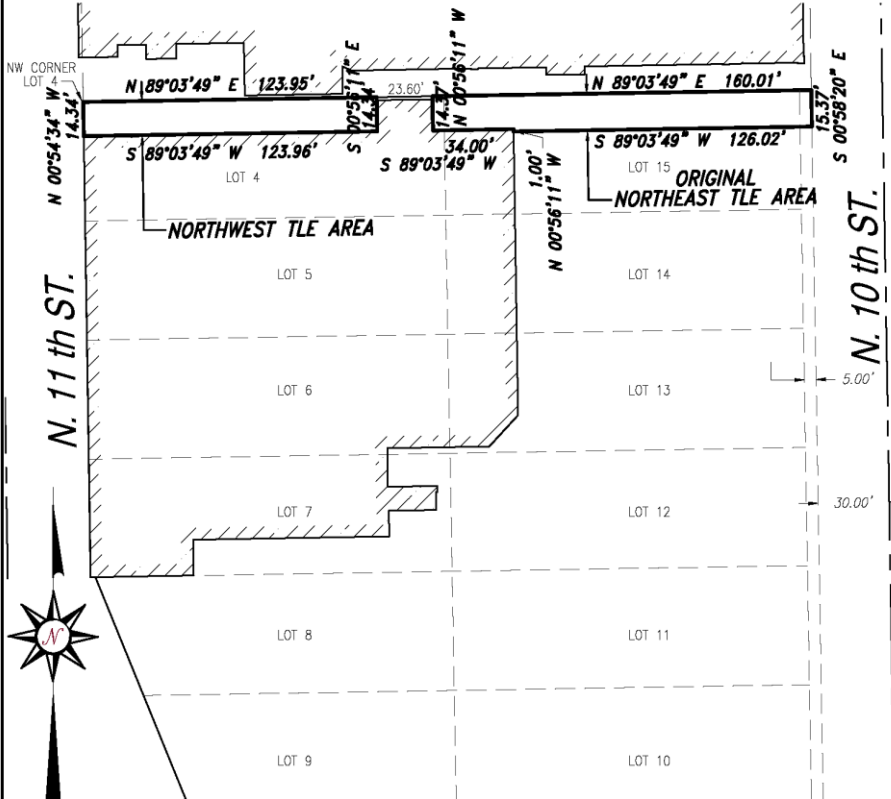
Being that part of Lot 4 and Lot 15, in Block 200 and part of vacated North 10th Street in Survey and Subdivision into City Lots of the North 30 Acres of the West 1/2 of the Northwest 1/4 and the North 14 Acres of the West 24 Acres of the South 50 Acres of the West 1/2 of the Northwest 1/4 of Section 29, Town 7 North Range 22 East in the City of Milwaukee, Milwaukee County, Wisconsin, being further described as follows:

Commencing at the Northwest corner of said Lot 4; thence North 89°03'49" East along the north line of said Lot 147.55 feet to the point of beginning; thence North 89°03'49" East continuing along the north line of said Lots 4 and 15 and its continuation 160.01 feet to the west line of North 10th Street; thence South 00°58'20" East along said west line 15.37 feet; thence South 89°03'49" West 126.02 feet; thence North 00°56'11" West 1.00 feet; thence South 89°03'49" West 34.00 feet; thence North 00°56'11" West 14.37 feet to the point of beginning.

LEGAL DESCRIPTION OF NORTHWEST TLE AREA

Being that part of Lot 4, in Block 200, in Survey and Subdivision into City Lots of the North 30 Acres of the West 1/2 of the Northwest 1/4 and the North 14 Acres of the West 24 Acres of the South 50 Acres of the West 1/2 of the Northwest 1/4 of Section 29, Town 7 North Range 22 East in the City of Milwaukee, Milwaukee County, Wisconsin, being further described as follows:

Beginning at the Northwest corner of said Lot 4; thence North 89°03'49" East along the north line of said Lot 123.95 feet to a point; thence South 00°56'11" East 14.34 feet to a point; thence South 89°03'49" West 123.96 feet to a point on the east line of North 11th Street; thence North 00°54'34" West along said east line 14.34 feet to the point of beginning.



CHAPUT LAND SURVEYS
 0 50 100 150
 W. HIGHLAND AVE.

234 W. Florida Street Milwaukee, WI 53204 414-224-8068 www.chaputlandsurveys.com Date of Map: January 30, 2018. Drawing No. 2316-ajs

EXHIBIT D TO MPS TLE
APPROVED AND REQUIRED ACTIVITIES BY
MPS AND MILWAUKEE PABST HOLDINGS'S CONTRACTORS
IN THE TLE AREA

The Contractor working on the Project has approved use of the driveway at the north end of the Milwaukee Public Schools Services Building site to; improve access to the south side of the brewery building, use as a staging area for equipment and material, and to generally facilitate access to the building for renovation work.

Contractor will provide, erect, and maintain barricades, warning signs and guards as necessary for protection of material storage, streets, sidewalks, drives, and adjoining property, public and building. Contractor will use caution at all times to protect persons against injury resulting from job operations, movement of materials and standing equipment.

Contractor will maintain the permanently mounted ten foot high chain link fence, with aluminum privacy slats, currently located along the entire south portion of the Original Northeast TLE Area (as identified on the Exhibit C drawing) to protect Milwaukee Public School employees and the vehicles parked in the lot adjacent to the staging area. The fence will be removed and post holes will be filled and patched upon completion of the Project, and to the extent any fencing existed in such location immediately prior to the commencement of the Project, such fencing will be restored with same post configuration, fence fabric gauge, and overall height as existed immediately prior to the removal of the same in connection with the Project, upon completion of the Project.

Contractor will provide twenty hours of student engagement activities for Milwaukee Public Schools as described in the Schedule H1-B Student Career Awareness/Education Plan and Commitment submitted on June 5th, 2016.

At no time shall any trucking or vehicular removal of debris through the TLE Area be conducted.

Access to the MPS dust collection system in the Original Northeast TLE Area is required for cleaning. Upon notice to the Contractor, all equipment, vehicles and materials must be removed from the TLE Area within ten (10) days in order for MPS to conduct the cleaning activities. Upon completion of the MPS cleaning activities, Contractor may resume their activities within the TLE Area.

Masonry tuck-pointing and window installations on the former Pabst's South Building Elevation shall include any required grinding, sawing, drilling, cutting or abrading work to be completed using equipment staged from boom lifts which are to be equipped with vacuum extraction devices attached to HEPA Vacuums specifically designed for silica exposure control. and area silica exposure shall be maintained below the OSHA action limit of 25 µg/m³ (micrograms of silica per cubic meter of air). Upon hiring of the subcontractor for the masonry work, a site specific safety plan, including a Silica Exposure Control Plan for their activities shall be on file in the Contractor's office on site and provided to MPS for review upon request. The results of industrial hygiene silica exposure monitoring conducted during the course of this work to ensure the protection of project personnel and the surrounding environment will also be made available to MPS upon request. Any removal of brick for new windows shall be done from a boom lift and from the outside inward, and any grinding, sawing, drilling, cutting or abrading work to accomplish this shall be treated the same way as described above. Care will be taken to remove debris from the inside in order to prevent debris from entering MPS's parking lot south of the TLE Area.

Contractor will be allowed to perform the following work within the Northwest TLE Area identified through the Exhibit C drawing only. This work is not permissible in the Original Northeast TLE Area identified on the Exhibit C drawing. In order to access and complete roofing work, the Contractor may

install, only within the Northwest TLE Area, scaffolding with a 5' wide base for their employees which shall be erected and allowed in place for a maximum period of 60 days from start to removal of scaffolding. No scaffolding may be erected within the Original Northeast TLE Area. No masonry work is to be allowed in this area. Netting shall be provided to eliminate the possibility of anything falling to the ground. Upon removal of the scaffolding, the Northwest TLE Area granted under this TLE shall be terminated and no further access to the Northwest TLE Area will be allowed.