

THIS AGREEMENT, By and between St. Luke's Medical Center, hereinafter known as "Developer," and the City of Milwaukee, a municipal corporation, hereinafter known as "City;"

WITNESSETH:

IN CONSIDERATION of the sum of One Dollar (\$1.00) to each party in hand paid by the other, receipt whereof is hereby acknowledged, and in further consideration of the covenants and agreements hereinafter contained.

WHEREAS, The Developer is the owner of the property located generally north of West Oklahoma Avenue, west of South 27<sup>th</sup> Street, south of the West Kinnickinnic River Parkway and east of the southeast branch of the Kinnickinnic River. This property, known as St. Luke's Medical Center, is illustrated by Exhibit "A"; and

WHEREAS, The Developer has requested an agreement providing for a water main extension in the West Kinnickinnic River Parkway, and

WHEREAS, Subject water main improvements will facilitate expansion of St. Luke's Medical Center; and

WHEREAS, The requested water main improvements could be installed under the terms of an Out-of-Program Agreement upon condition that title to the water main extension upon its completion shall vest in the City of Milwaukee subject to conditions more fully hereinafter stated; and

NOW, THEREFORE, In consideration of these premises and the mutual benefits herein accruing and for other good and valuable considerations,

IT IS AGREED, By and between the parties hereto that:

1. Funding Obligation

Developer agrees to provide all funds required for design, construction, and inspection of the water main improvements, easement preparation as may be required, and any related City work necessitated by the project.

2. Water Main Improvements

A new 8-inch water main shall be constructed from the intersection of South 29<sup>th</sup> Street and West Kinnickinnic River Parkway for a distance of approximately 425 feet west. One branch/service connection and one fire hydrant shall be included. City shall design these new water facilities.

The estimated cost for the water main work, is:

Design Engineering	\$ 3,500.00
Construction Engineering	15,000.00
(including fittings & materials)	
Construction Contract	<u>36,500.00</u>
Total Cost:	\$55,000.00

3. Construction Option

Upon mutual concurrence of Developer and the Commissioner of Public Works, Developer may let and administer the construction contract for the water main extension. In the event Developer manages the water main construction contract, City shall perform its normal inspections during the course of construction. City shall also provide all fittings and associated materials, and City forces shall install the fire hydrant. Developer agrees to comply with and administer, on behalf of the City, all applicable City rules and requirements pertaining to EBE and local resident involvement in the construction contract. Developer shall not authorize any changes in improvement plans without the prior approval of the Commissioner of Public Works. All payments to contractors must be pre approved by the Commissioner.

4. Other Improvements

Developer agrees that any other utility and access improvements necessary to serve the site shall be its responsibility and shall be undertaken by Developer at its sole expense. Developer further agrees that the City shall review and approve plans for any work to occur in the public right-of-way. Permits necessary for any such work shall be obtained by Developer.

5. Private Utilities

Developer agrees that all private utility lines necessary to provide telephone, communications, and electrical services to the development shall be installed underground, except where the City Plan Commission finds that such underground installations are not feasible.

6. Funding Guarantee

Developer shall provide an irrevocable Letter of Credit or other funding guarantee satisfactory in format to the City Attorney, in an amount equal to the estimated construction contract cost of the water main (Est: \$36,500) work prior to the award of any improvement contract, whether by City or Developer.

The irrevocable Letter of Credit or other form of funding guarantee shall ensure that the Developer's bank or savings and loan will provide the required funds to cover the estimated construction contract cost of installing the applicable public improvements and will, upon simple request by the Commissioner of Public Works and the City Treasurer, release same to City as required, all such funds to be furnished interest free.

The Developer shall further provide a cash deposit to the City in the amount of the design and construction engineering estimates (Est: \$3,500) prior to the City commencing design of the new water main extension.

7. Excess Costs

It is understood and agreed that any actual cost in excess of amounts estimated herein will be billed to Developer upon determination that such excess costs have or will be incurred by City. It shall be further understood and agreed that where Developer funded work covered under the terms of this agreement does not proceed to the bid or contract stage, the City shall still retain a sufficient amount of the Developer's engineering fund deposit to cover expenses incurred by the City

for engineering and plan preparation work commenced by the City at the Developer's request.

8. Inspections, Fittings & Materials

Both parties agree that all materials furnished and all work performed hereunder shall conform to all regulations and specifications of the City of Milwaukee and its Commissioner of Public Works and shall be subject to inspection by and approval of inspectors and engineers furnished by the Department of Public Works. All engineering, inspection, materials and fittings costs incidental to the installation of the public improvements covered by this agreement shall be subject to the terms of this agreement, the cost of such service when furnished by City being established as the wages of the person or persons engaged in such work plus all costs of overhead. (Est: \$15,000)

9. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the water main extension and associated improvements, title to such improvements shall vest in the City of Milwaukee and that the City will accept the obligation of operation and maintenance in accordance with its standard practice.

10. Building Permits

It is understood and agreed by both parties hereto that building permits for any planned structures to be served by the extended water main shall not be issued until the Developer has provided the City with the Letter-of-Credit and cash deposit referenced in paragraphs six (6) and eight (8).

11. Occupancy Permits

It is understood and agreed by both parties hereto that occupancy permits for any structure to be served by the extended water main shall not be issued until all planned public improvements have been sufficiently completed so essential public utility services are provided to the structure.

12. City Ordinances and Regulations

It is further understood and agreed that this agreement is subject to all City ordinances and regulations and nothing herein shall be deemed to waive or supercede such requirements.

THIS AGREEMENT, drafted by the City of Milwaukee, shall be binding upon the Developer, its lessees, successors and assigns, and upon the City its successors and assigns.

IN WITNESS WHEREOF, the Developer has caused this document to be signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 2003.

In Presence Of:

\_\_\_\_\_ St. Luke's  
Medical Center

IN WITNESS WHEREOF, the proper City Officers have caused this document to be signed and the City's seal to be affixed this \_\_\_\_ day of \_\_\_\_\_, 2003.

In Presence Of:

CITY OF MILWAUKEE

\_\_\_\_\_ John O.  
Norquist, Mayor

\_\_\_\_\_ City Clerk

COUNTERSIGNED:

Comptroller

STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003, who executed the foregoing instrument, and acknowledged that they executed the same.

\_\_\_\_\_Notary Public,  
State of Wisconsin

My Commission expires:

STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003,  
John O. Norquist, Mayor of the City of Milwaukee, a municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, its authority, and pursuant to Resolution File No. \_\_\_\_\_, adopted \_\_\_\_\_, 2003.

\_\_\_\_\_Notary Public,  
State of Wisconsin

My Commission expires:

STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003,  
\_\_\_\_\_, City Clerk of the above-named municipal corporation, to me known to be the person  
who executed the foregoing instrument and to me known to be such City Clerk of said municipal  
corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of  
said municipal corporation, its authority, and pursuant to Resolution File No. \_\_\_\_\_, adopted  
\_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public,  
State of Wisconsin

My Commission expires:

STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003,  
\_\_\_\_\_, City Comptroller of the City of Milwaukee, a municipal corporation, to me known to be  
the person who executed the foregoing instrument and to me known to be such City Comptroller of said  
municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the  
deed of said municipal corporation, its authority, and pursuant to Resolution File No. \_\_\_\_\_,  
adopted \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public,  
State of Wisconsin

My Commission expires: