

SEWER EASEMENT

Document Number

Document Title

**SEWER EASEMENT
SE-2879**

Drafted by:

City of Milwaukee, Office of the City Attorney

CAO Doc #244583

Recording Area

Name and Return Address

City of Milwaukee
Department of Public Works
Infrastructure Services Division
Environmental Engineering Section
841 North Broadway – Room 820
Milwaukee, WI 53202

436-0088-00, 436-0089-000

Parcel Identification Number (PIN)

THIS SEWER EASEMENT (the “EASEMENT”) for surface water drainage purposes, made as of _____, 2018, is from the Trans Center for Youth (“TCY”), as the Grantor, to City of Milwaukee (“CITY”), as the Grantee, and is for good and valuable consideration, the receipt and sufficiency of which are acknowledged.

1. TCY Parcel; Easement Area. TCY owns property in the City of Milwaukee, Wisconsin, with an address of 701 South 37th Street and 705 South 37th Street and a tax key numbers of 436-0088-000 and 436-0089-000 respectively (the “PARCELS”), and, for the purposes stated herein, TCY is willing to subject a portion of the PARCELS to this Sewer Easement, and to grant to CITY the easement in and to a part of the PARCELS - which part is herein called the “EASEMENT AREA.” The EASEMENT AREA is legally described on **EXHIBIT A** attached, and depicted on **EXHIBIT B**, attached (Plan File No. 198-7-70).

2. City Stormwater Facilities. CITY owns and operates stormwater management facilities, e.g. inlets, sewer pipes, drains, etc. located in the public right of way to the north and west of the PARCELS.

3. TCY’s Green Infrastructure. TCY desires to install certain green infrastructure improvements on the PARCELS, including but not limited to a 70,000 gallon cistern to hold stormwater generated on the PARCELS as well as stormwater entering the PARCELS from the CITY’s alley which abuts the PARCELS to the west (the cistern and other features are collectively referred to as the “Green Infrastructure”). TCY is willing to subject the PARCELS to an easement to allow water from the alley abutting the PARCELS to the west to flow into the Green Infrastructure TCY is installing on the PARCELS. Prior to agreeing to any final plans for the Green Infrastructure, TCY shall provide CITY plans and specifications for the Green Infrastructure. Because the Green Infrastructure will involve

connections to CITY's sewer, CITY shall have the right to approve or disapprove of the plans and specifications. TCY will own all laterals connecting Green Infrastructure to CITY sewers. CITY's approval of the plans and specifications shall not be unreasonably withheld or delayed. Any physical modification to the CITY's sewers required in order to allow the installation of the Green Infrastructure by TCY shall be subject to prior CITY approval, and shall be done at TCY's sole expense.

4. Indemnification. TCY agrees to accept water from CITY's storm sewer on an AS-IS, WHERE-IS basis. CITY makes no representations regarding the condition of the stormwater entering the PARCELS, including but not limited to the presence of any environmental contaminants. TCY hereby forever releases and waives any claims against the CITY related to or arising from the presence of any environmental contaminants in any water entering the PARCELS via CITY's stormwater system.

TCY covenants and agrees to indemnify, defend, and hold the CITY, and its officers, employees, officials and agents harmless from any and all claims, demands, actions and causes of actions and resulting liability, loss damages, costs and expenses for injury to persons (including death) and damages to or loss of physical property to the extent caused directly or proximately by any act or omission of TCY, its employees, officers, students, invitees, agents, and volunteers who participate in the activities covered by this Agreement. TCY further covenants and agrees to indemnify, defend, and hold the CITY, and its officers, employees, officials and agents harmless from any and all claims, damages, costs, expenses (including reasonable legal, consulting and engineering fees) and awards of every type and nature arising in connection with the activities of TCY (or other persons acting under TCY's direction or control) that constitute violations or alleged violations of all federal, state and local laws (including common law), statutes, ordinances, codes, regulations, rules and orders of any applicable federal, state or local governmental authority, whether presently in force or hereafter enacted, relating to human health, worker health and safety, environmental quality, pollution, contamination or protection of the environment.

5. Easement Grant. TCY hereby grants to CITY, in furtherance of the implementation of TCY's Green Infrastructure installation, and subjects the Easement Area portion of the PARCELS to, this Easement in and to the Easement Area, for the sole purpose of allowing storm water from the CITY's storm sewer to flow into the PARCELS to be held until they are released back into the CITY's storm sewer.

6. Easement Area Maintenance. TCY, as owner of the PARCELS, is solely responsible for maintaining the Easement Area and the Green Infrastructure located thereon. CITY shall only be responsible for the maintenance of the CITY's storm sewers. In the event that TCY does not properly maintain the PARCELS, City shall notify TCY in writing of the maintenance deficiencies. In the event TCY does not rectify the maintenance deficiencies within the time established in the written notification (which shall not be less than 30 days), CITY may, at CITY's sole discretion, either (1) begin undertaking maintenance responsibility for the PARCELS and may make any changes to the PARCELS it deems necessary, all costs incurred by CITY for such maintenance of the Plaza shall be invoiced to and paid by TCY; or (2) disconnect the Green Infrastructure located on the PARCELS from the CITY's storm sewer.

7. Access. The CITY (including its employees and agents) shall have access to the EASEMENT AREA to visually inspect.

8. Insurance. Throughout the term of this Agreement, TCY shall maintain insurance coverage acceptable to CITY but not less than the following: (a) comprehensive liability insurance, naming CITY and its officers, agents and employees, as additional insureds, against all claims, demands, actions for personal injury to or death in an amount not less than \$1,000,000 for each personal injury to or death of one person in any one accident; \$5,000,000 for personal injury or death of more than one person in any one accident; and in an amount not less than \$5,000,000 for damage to property in any one accident. TCY shall have the right to maintain the insurance coverage required to be maintained hereunder under umbrella or blanket insurance coverage covering other premises so long as such umbrella or blanket insurance policies expressly provide coverage for the requirements provided under this Agreement. At the option of CITY, the aforesaid minimum amounts may be reviewed and increased or decreased every five (5) years, with any such adjustment being commercially reasonable and proportionate to the then current economic conditions.

TCY shall provide CITY with a certificate(s) of insurance, naming CITY as an additional insured for purposes of this Agreement, and providing that the insurance company will furnish CITY with a thirty (30) days written notice of cancellation, non-renewal, or material change.

9. Notice. All notices to be given by one party to the other under this Agreement shall be in writing and given either by personal delivery or certified mail, postage prepaid, to the addresses set forth in this paragraph. A notice shall be deemed delivered either upon actual receipt or upon refusal by a party to accept delivery. Either party may change its address for purposes of receiving notice by delivering written notice thereof in accordance with the requirements of this paragraph.

To TCY:

Trans Center for Youth, Inc.
1749 North 16th Street
Milwaukee WI 53205-1624

To CITY:

City of Milwaukee
Department of Public Works
841 North Broadway
Milwaukee, WI 53202
Attn: Commissioner

11. Consent/Approval. Whenever in this Agreement the consent or approval of either party is required or the discretion of either party may be exercised, such consent or approval shall not be unreasonably withheld, conditioned, or delayed, and any such discretion shall be exercised in good faith and in a commercially reasonable manner. Whenever in this Agreement the consent or approval of CITY is required or the discretion of CITY may be exercised, the Commissioner of Public Works shall have the authority to provide such consent or approval or to exercise such discretion.

12. Enforcement. This Agreement may be enforced either at law or in equity, with the nonbreaching party entitled to injunctive relief and monetary damages. If any action for enforcement of this Agreement is brought, the nonprevailing party in such action shall reimburse the prevailing party for its reasonable attorney's fees and other costs incurred in such action.

13. Successors and Assigns. This Easement is binding on CITY and TCY's successors and assigns.

14. Amendment; Termination. This Agreement may be amended only by a written instrument executed by both CITY and TCY. This Easement may only be amended or terminated if same complies with requirements of MCO Chapter 120 and any SWM Plan in place or required thereunder.

15. Recording. This Sewer Easement shall be recorded with the Milwaukee County Register of Deeds by CITY.

IN WITNESS WHEREOF, TCY caused this document to be duly executed as of the date first written above.

TCY:
TRANS CENTER FOR YOUTH

By: _____
_____, _____

STATE OF WISCONSIN}
MILWAUKEE COUNTY}

Personally came before me this ____ day of _____, 2017, the above named _____ the _____ of _____, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Notary Public - State of Wisconsin
My Commission: _____

EXHIBIT A

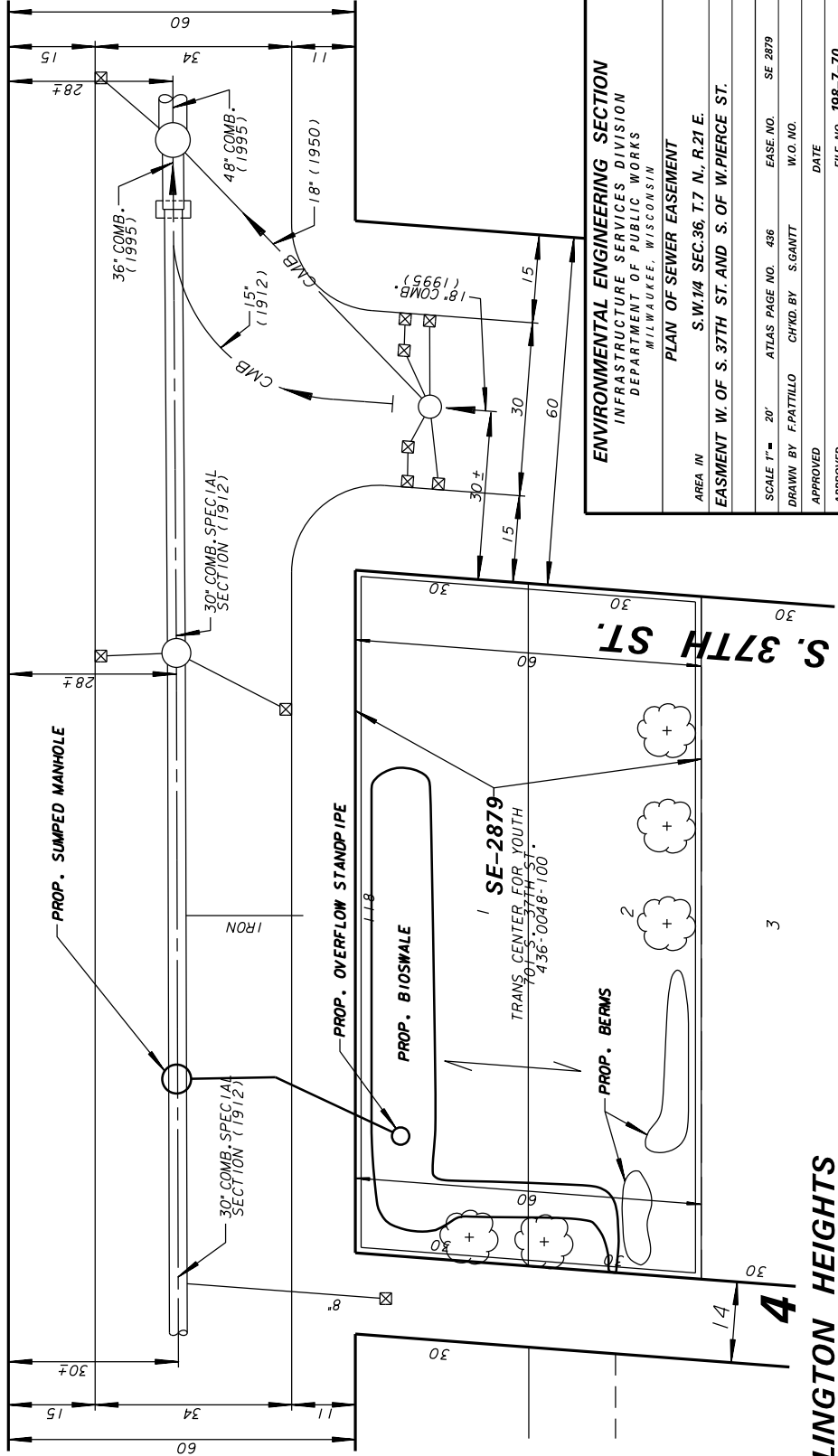
LEGAL DESCRIPTION OF "EASEMENT AREA"

Easement located over all of Lot 1 and Lot 2 of Block 4 in Arlington Heights subdivision in the southwest one-quarter (SW ¼) Section thirty-six (36), Township seven (7) North, Range twenty-one (21) East.

W. PIERCE

ST.

EXHIBIT "B"



ENVIRONMENTAL ENGINEERING SECTION	
INFRASTRUCTURE SERVICES DIVISION	
DEPARTMENT OF PUBLIC WORKS	
MILWAUKEE, WISCONSIN	
PLAN OF SEWER EASEMENT	
AREA IN	S.W.¼ SEC.36, T.7 N., R.21 E.
EASEMENT W. OF S. 37TH ST. AND S. OF W. PIERCE ST.	
SCALE 1" = 20'	ATLAS PAGE NO. 436
EASE. NO.	SE 2879
DRAWN BY	F. PATILLO
CHKD. BY	S. GANITT
DATE	
APPROVED	
FILE NO.	198-7-70

ARLINGTON HEIGHTS

3

4

S. 37TH ST.