

Water Easement
W.E. 911

EASEMENT

*In Parcel 1, C.S.M. No. 2945
At West Greenbrook Drive Extended
From North 84th Street Extended
To North 85th Street*

Recording Area

Name and Return Address
*Milwaukee Water Works
Water Engineering Section
809 North Broadway, 4th Floor
Milwaukee, WI 53202*

THIS INDENTURE, Made by and between the CITY OF MILWAUKEE, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City", and Milwaukee County,

owners, (including heirs, executors, administrators, successors and assigns of above owner(s) as may be or may become applicable), hereinafter called "Grantor," (If more than one grantor is listed above, said language herein referring thereto shall be interpreted in the plural and refer jointly and severally to such grantors).

WITNESSETH

That, WHEREAS, the City desires to acquire a permanent easement with the right of entry in and across the property hereinafter described with the right to build and construct and/or operate, maintain, repair, enlarge, reconstruct, relocate and inspect as may be or may become applicable the following facilities and appurtenances thereto, hereinafter called "Facilities," in said property; namely, a 6" water main as shown on attached plan, file no. WE911.

NOW, THEREFORE, in consideration of the grant of the easement hereinafter described and the payment of One Dollar (\$1.00) and other valuable considerations to the Grantor, receipt whereof is hereby acknowledged, said Grantor, being the owner and person interested in the land hereinafter described does hereby grant unto the City a permanent easement in the Southwest One-quarter (S.W. ¼) of Section Four (4), Township Eight (8) North, Range Twenty-one (21) East, in the City of Milwaukee, Milwaukee County, Wisconsin, which is bounded and described as follows:

TO-WIT:

Commencing at the northwest corner of Parcel 1, CERTIFIED SURVEY MAP NO. 2945, said point being on the east line of North 85th Street; thence East, 335.00 feet to a point, said point being on the east line of said Parcel 1, C.S.M. No. 2945, and the west line of Water Easement W.E. 295F, Parcel 5; thence South, 15.50 feet, along said east line of Parcel 1, C.S.M. No. 2945, and said west line of W.E. 295F, Parcel 5, to a point; thence West, 335.00 feet to a point, said point being on the west line of said Parcel 1, C.S.M. No. 2945, and the east line of North 85th Street; thence North, 15.50 feet, along said west line of Parcel 1, C.S.M. No. 2945, and said east line of North 85th Street, to the point of commencement.

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UPON CONDITION

1. *That said Facilities shall be maintained and kept in good order and condition by the City.*
2. *That in and during whatever construction, reconstruction, enlargement or repair work is or becomes necessary in constructing and/or maintaining of said Facilities within the property herein described, so much of the surface or subsurface of the property as may be disturbed, will at the expense of the City be replaced in substantially the same condition as it was prior to such disturbance; except that the City will in no case be responsible for replacing or paying for replacing any aesthetic plantings or improvements other than ordinary lawns or standard walks, roadways, driveways and parking lot surfacing which were required to be removed in the course of doing the above work. However, the City shall save harmless the Grantor from any loss, damage, injury, loss of life, or liability resulting from negligence on the part of the City in connection with said work involved in constructing and/or maintaining of said Facilities; provided that if above loss, damage, injury or liability results from the joint negligence of parties hereto, then the liability therefore shall be borne by them in proportion to their respective degree of negligence; provided further, however, that these provisions are subject to the legal defenses which under law the City is entitled to raise.*
3. *That no structure may be placed within the limits of the easement by the Grantor except that improvements such as walks, pavements for driveways and parking lot surfacing may be constructed.*
4. *That, in connection with the construction by the Grantor of any structure or building abutting said easement defined limits, the Grantor will assume all liability for any damage to the Facilities in the above described property. The Grantor will also save and keep the City clear and harmless from any claims for personal injuries or property damage caused by any negligence of the Grantor or person other than the Grantor, arising out of the construction by the Grantor of any structure or building abutting the said easement defined limits, and shall reimburse the City for the full amount of such loss or damage.*
5. *That no charges or assessments will be made against said lands for the cost of installation, maintenance or operation of said Facilities in the afore-described property. Whenever the Grantor makes application for a service connection, the regular and customary service connection charge in effect at the time of the application shall be charged and paid.*
6. *All conditions pertaining to the "Maintenance of Water Service Piping" as set forth in Chapter 3.3.0 of the "Rules and Regulations Governing Water Service and Water Service Piping Specifications 2002" and subsequent amendments thereto shall apply to all water services which are within the easement defined limits and also within the limits of any adjoining easements; except that the City of Milwaukee Water Works, a utility owned by the City of Milwaukee shall in no case be responsible for maintaining at its expense any portion of said water services outside of the easement defined limits and outside the limits of any adjoining easements regardless of any statement to the contrary in said "Rules and Regulations Governing Water Service and Water Service Piping Specifications 2002".*
7. *The Facilities shall be accessible for maintenance at all times. The owner shall submit plans for approval to the City for any underground installation within the easement, which approval shall not be unreasonably withheld.*
8. *That the Grantor shall submit plans for all surface alterations of plus or minus 1 foot or greater within the limits of said easement. Said alterations shall be made only with the approval of the Commissioner of Public Works of the City of Milwaukee.*
9. *The City shall provide written notice to the Grantor's Director of Transportation Planning prior to the*

commencement of any work within the easement area by the City. Said notice shall indicate the anticipated start and completion dates of the proposed work. City shall employ generally recognized design and construction standards for underground water facilities. City shall restore all disturbed surfaces to their pre-construction condition after completion of its work. City shall utilize best management practices during construction to control sedimentation and erosion.

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10. It is understood that in the event the above described Real Estate may become portions of public streets; in which event, in the proceedings for the acquisition of the property needed for such streets by purchase, dedication or by condemnation, said lands shall be considered the same as though this easement had not been executed or any rights granted thereby exercised.

11. This easement shall terminate upon abandonment or non-use of the water main. Prior to abandonment or non-use, the water main and related structures shall be removed and the land restored, at the discretion of and to the satisfaction of the grantor.

12. Grantor and City agree that there is no indication of any hazardous materials in the easement area. Should hazardous materials be found during construction of the City facilities, the City shall be responsible for proper testing, handling, and removal of the soils disturbed during such construction/installation work.

13. The Milwaukee County Department of Public Works, utilizing available data, has reviewed this easement, but in no way can the Grantor assure complete accuracy regarding existing easements and/or utilities within the easement area. The City shall comply with all state and local laws regarding location and protection of existing utilities and/or easements. The City shall contact Diggers Hotline and all applicable sources, including engaging a title company prior to commencing any construction to check the public record to verify all pertinent easements and existing utility locations, if any, within the easement area boundaries. Punitive damages will be charged, if easements are not strictly adhered to, for additional personal charges and subsequent property damages.

(Print or Type Name, Notary Public, State of Wisconsin)

Approved for execution:

Reviewed by:

Milwaukee County Corporation Counsel

Milwaukee County Risk Management

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This instrument was drafted by the City of Milwaukee.

Approved as to contents

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SUPERINTENDENT OF MILWAUKEE WATER WORKS

Date:

Approved as to form only

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ASSISTANT CITY ATTORNEY

Date:

Approved as to execution

Date:

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ASSISTANT CITY ATTORNEY