

THIS AGREEMENT, By and between Columbia St. Mary's Hospital, 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 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 known as Columbia St. Mary's Hospital, 2323 North Lake Drive, hereinafter referred to as the "site", more particularly described by Exhibit "A" attached here to; and

WHEREAS, The Developer has requested an agreement providing for relocation of City water main to serve the proposed redevelopment of the hospital campus; and

WHEREAS, The Developer has requested that the provisions of Common Council File No. 73-1849 relative to entering into out-of-program agreements for public works to serve industrial or commercial developments be waived; and, whereas, the City has agreed to do so; and

WHEREAS, The requested water main alterations for the hospital complex could be installed under the terms of an out-of-program agreement upon condition that title to such facilities shall vest in the City of Milwaukee subject to conditions more fully hereinafter stated:

NOW, THEREFORE, In consideration of these premises and the mutual benefits 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 necessary for design and construction of the relocated water main, water fittings, materials inspections, construction inspections and related City work necessitated by the project.

2. Construction Option

Upon mutual concurrence of Developer and the Commissioner of Public Works, Developer may let and administer construction contracts for the water main alterations covered by this agreement. In the event Developer manages the public improvement construction contract, City shall perform its normal inspections during the course of construction. In addition, Developer agrees to comply with and administer on behalf of the City, applicable City rules and requirements pertaining to EBE and local resident involvement in public improvement construction contracts. 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.

3. City Approval

Developer shall obtain any required zoning approvals necessary to undertake Phase I ("Make Ready Work") of the hospital redevelopment project prior to commencement of the water main alterations encompassed by the agreement.

4. Water Improvements

To accommodate the hospital redevelopment project, Developer intends to extend certain private utility lines across North Lake Drive. The location of these lines will conflict with an existing City water main located in the street. Therefore, approximately 60 feet of 8-inch water main will be relocated to a lower elevation allowing the private utility lines to pass over the top.

The estimated total cost of this work is \$44,800. This figure includes City costs related to design engineering (\$2,500); estimated construction costs (\$28,800), and City costs for materials, fittings, and inspections (\$13,500).

5. Other Improvements

Developer agrees that any other utility and access improvements necessary to serve Phase I of the hospital redevelopment project in addition to those already enumerated in this agreement 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 or other responsible parties.

6. 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.

7. Design Engineering Deposit

Developer shall deposit a total of \$2,500 with the City to cover the City's cost of reviewing design engineering plans submitted by Developer and completing such plans as may be appropriate.

8. Funding Guarantee

The Developer shall submit 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 for the infrastructure improvements enumerated in this agreement (\$28,800). The funding guarantee shall ensure that the Developer's bank or other financial agent will provide the required funds to cover the contract cost of installing the applicable infrastructure 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 letter-of-credit or other funding guarantee shall be submitted to the City prior to the Developer entering into any contracts for installation of public improvements.

9. City Force Work Costs

The total estimated cost for construction engineering (field inspections, water fittings, and materials, etc.) is \$13,500. Developer shall deposit this amount with the City prior to the Developer letting any contracts for public improvements.

10. End of Project Accounting

Developer shall be responsible for the City's actual costs associated with (1) public improvement design; (2) water main materials and fittings; and (3) construction inspections. If the cash deposits referenced in previous paragraphs are not sufficient to cover the City's actual costs, Developer shall be responsible for the difference upon the request of City. If the cash deposits exceed the City's actual costs, City shall refund the difference upon determining its final costs.

11. Conformance with Regulations

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 and inspection costs incidental to installation of the public improvements covered by this agreement shall be subject to all terms of this agreement. The cost of City staff services shall be established as the wages of the person or persons engaged in such work plus all costs of overhead.

12. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the public improvements covered by this agreement, title thereto shall vest in the City of Milwaukee and the City will accept the obligation of operation and maintenance in accordance with its standard practice.

13. City Ordinances and Regulations

City warrants that for any and all work to be performed by City it will follow its standard and customary public works contracting procedures unless such work is to be undertaken by City Forces. 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.

