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CITY ATTORNEY

NOTICE OF CLAIM AND  
ITEMIZED STATEMENT OF RELIEF REQUESTED

TO: Mr. Jim Owczarski, City Clerk  
City of Milwaukee  
200 East Wells Street, Room 205  
Milwaukee, Wisconsin 53202

CITY CLERK'S OFFICE

12 JUN 29 PM 2:10

CITY OF MILWAUKEE

PLEASE TAKE NOTICE that the Milwaukee Metropolitan Sewerage District, 260 West Seeboth Street, Milwaukee, Wisconsin 53204, hereby gives notice that the District claims that it is entitled to recover the amount of \$44,000.00 from the City of Milwaukee on account of the City of Milwaukee's failure to fulfill its ministerial duties under Wis. Stat. § 182.0175 to adequately mark underground sewers following receipt by the City of a Diggers' Hotline work ticket. Contractors working for the District in the intersection of South Water Street and East Washington Street properly notified Diggers' Hotline, on October 5, 2011, that the District's contractor would be excavating in the above-referenced intersection on or about October 11, 2011. During excavation activity, the contractor struck and severely damaged a City-owned combined sewer that had not been properly marked as required by § 182.0175. Once the City's

combined sewer was struck, the District was then and there faced with an emergency situation, to which the District responded by expending \$44,000.00 of increased expense for pumping of sewage, clearing pipe materials, additional engineering expense, and related activities to fix the combined sewer and attempt to prevent improper discharges of untreated sewage to the environment.

The combined sewer was struck because the City failed to perform its ministerial duty to mark its combined sewer in the intersection of East Washington Street and North Barclay Street after having been properly notified by Diggers' Hotline that the District's contractor would be excavating in the intersection. The District's contractor timely requested issuance to the City of a Diggers Hotline work order for marking City facilities in the intersection.

As a matter of practice, the City of Milwaukee Department of Public Works does not mark its combined sewers, notwithstanding its ministerial duty to do so under § 182.0175. Department of Public Works practice is to instead advise

contractors to line-up the manholes and assume the sewer runs in a straight line between the two manholes.

The particular combined sewer in the intersection of South Water Street and East Washington Street did not lie in a straight line as depicted on City of Milwaukee plans and drawings, however. Instead, the combined sewer curved between manholes into the path of District construction.

City personnel were present at the site within approximately two (2) days to perform dye-testing on portions of the combined sewer.

The relief sought by the District is the reimbursement to the District of \$44,000, plus any applicable interest, for the cost of the repairs.

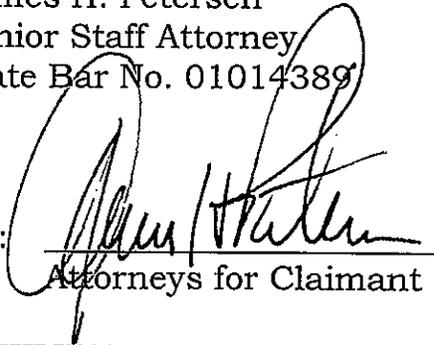
Dated at Milwaukee, Wisconsin, this 29<sup>th</sup> day of June 2012.

MILWAUKEE METROPOLITAN  
SEWERAGE DISTRICT

Susan B. Anthony  
Director of Legal Services  
State Bar No. 01017288

James H. Petersen  
Senior Staff Attorney  
State Bar No. 01014389

BY:



Attorneys for Claimant

**ADDRESS AND TELEPHONE NUMBER:**

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