

EASEMENT

In C.S.M. No. 439, Parcel 1
At 875' West of S. 76th St.
And 270' North of W. Layton Ave.

Recording Area

Name and Return Address
Department of City Development
Real Estate Section
809 North Broadway
Milwaukee, WI 53202

THIS INDENTURE, Made by and between the CITY OF GREENFIELD, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City", and Frank Grainer Real Estate Development Company, LLC,

owner, (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, an 6 inch water main in easement as shown on attached plan, file no. WE889.

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 that part of Parcel 1, CERTIFIED SURVEY MAP NO. 439 in the Southeast One-Quarter (SE ¼) of Section Twenty-one (21), Township Six (6) North, Range Twenty-one (21) East, in the City of Greenfield, Milwaukee County, Wisconsin, which is bounded and described as follows:

TO-WIT:

Commencing at the Southeast corner of the Southeast One-quarter (SE ¼) of Section Twenty-one (21), Town Six (6) North, Range Twenty-one (21) East; thence S. 88°54'00" W. along the South line of said ¼ Section 1121.18 feet to a point; thence due North 60.01 feet to the Southwest corner of Parcel 1 of CERTIFIED SURVEY MAP NO. 439; said point also being on the North right-of-way line of W. Layton Avenue; thence N. 88° 54' 00"E. along the South line of said Parcel 1 and the North right-of-way line of said Avenue 186.81 feet to a point on the West line of Water Easement W.E. 829; thence N. 00° 09' 02" W. along the West line of said Water Easement, 270.78 feet to the point of beginning of the easement to be described; thence N. 89° 28' 20" W., 19.00 feet to a point; thence N. 00° 09' 02" W., 20.00 feet to a point; thence S. 89° 28' 20" E., 19.00 feet to the West line of said Water Easement W.E 829; thence S. 00° 09' 02" E. along said West line, 20.00 feet to the point of beginning of the easement.

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, 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 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 will be made against said lands for the cost of 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" dated 1985 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".*
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.*
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. *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.*
10. *That the attached EASEMENT AGREEMENT is expressly subject to and conditioned by terms and conditions of a certain WATER AGREEMENT by and between the "CITY" and the CITY OF MILWAUKEE WATER WORKS and executed on the 8th day of October, 1973 said WATER AGREEMENT being incorporated herein by this reference thereto.*
11. *The "Grantor" by execution of this EASEMENT AGREEMENT, hereby consents to the assignment of this easement from the "CITY" to the CITY OF MILWAUKEE for the purposes and for the considerations expressed in this document upon the written consent of the officers of the "CITY" and upon a passage of a resolution by the Common Council of the "CITY" granting said assignment to the CITY OF MILWAUKEE.*

Water Easement
W.E. 889

IN WITNESS WHEREOF, the Grantor has hereunto set its hands and seals

ON THIS DATE OF:

By: Frank Grainer Real Estate Development Company, LLC
COMPANY NAME

In presence of:

_____ by
WITNESS

_____ by
WITNESS

STATE OF Wisconsin)
S.S.
COUNTY OF Milwaukee)

Before me personally appeared on this _____ day
of _____, A.D. 20

to me known to be the person(s) who executed the foregoing EASEMENT and acknowledged the same as the
voluntary act and deed of said corporation.

NOTARY PUBLIC

My commission expires

Water Easement
W.E. 889

SUBORDINATION AGREEMENT To Easement 889

The: INVESTORSBANK

hereby agrees and consents to the subordination of these certain mortgages

EXECUTED BY: Frank Grainer Real Estate
Development Company, LLC MSI Land Exchange, LLC
MORTGAGOR

ON DATE OF: April 29, 1999 August 5, 1998 November 14, 1997

RECORDED IN: Milwaukee County

AS DOCUMENT NO.: 7745925 7580008 7454777

REEL NO.: 4569 4368 4191

IMAGE NO.: 429 3007 435

ON DATE OF: May 24, 1999 August 10, 1998 November 28, 1997

to the above easement executed by above indicated mortgagor to the City of Milwaukee

dated this _____ day of _____ A.D. 19

IN WITNESS WHEREOF, the said INVESTORSBANK,

grantor has caused these presents to be signed by

and its corporate seal to be hereunto affixed.

Signed and sealed
in the presence of:

STATE OF _____)
)
COUNTY OF _____)

Personally came before me this _____ day of _____, A.D. 19
and to me known to be the persons who executed the foregoing SUBORDINATION AGREEMENT and acknowledged
the same, and who being by me duly sworn did say that they hold the above office and that they executed the
foregoing SUBORDINATION AGREEMENT as such officers as the deed of said corporation by its authority.

Notary Public, _____ County
My commission expires

ASSIGNMENT OF EASEMENT W.E. 889

IN WITNESS WHEREOF, said City of Greenfield for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, has caused this instrument to be assigned to the City of Milwaukee and these presents signed by Timothy T. Seider, its Mayor and Donna M. Rynders, its City Clerk and its corporate seal hereunto affixed at Greenfield, Wisconsin, this _____ day of _____, A.D. 20____.

City of Greenfield

In presence of

_____ by _____
Timothy T. Seider Mayor

_____ by _____
Donna M. Rynders City Clerk

STATE OF WISCONSIN)
S.S.
COUNTY OF MILWAUKEE)

On this _____ day of _____ A.D. 20____,
before me personally appeared Timothy T. Seider and Donna M. Rynders who being by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Greenfield, and that the seal affixed to said instrument is the corporate seal of said municipal corporation, and acknowledged that they executed the foregoing assignment as such officers as the deed of said municipal corporation by its authority, and pursuant to resolution file No. _____ adopted by its Common Council on _____, 20____.

Notary Public, Milwaukee County, Wisconsin

My commission expires

Water Easement
W.E. 889

This instrument was drafted by the City of Milwaukee.

Approved as to contents

Date:

.....
SUPERINTENDENT OF MILWAUKEE WATER WORKS

Approved as to form only

Date:

.....
ASSISTANT CITY ATTORNEY

Approved as to execution

Date:

.....
ASSISTANT CITY ATTORNEY

