

..Number

140508

..Version

SUBSTITUTE

..Reference

..Sponsor

..Title

Substitute resolution granting a special privilege to Marshall & Wells LLC to construct and maintain a stationary raised planter in the public right-of-way for the premises at 807 North Marshall Street, in the 4<sup>th</sup> Aldermanic District.

..Analysis

This resolution grants a special privilege to Marshall & Wells LLC to construct and maintain a stationary raised planter in the public right-of-way for the premises at 807-09 North Marshall Street.

..Body

Whereas, The applicant is requesting permission to keep and maintain a stationary planter which has been present in the public right-of-way for several years; and

Whereas, Said planter may only legally encroach into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that Marshall & Wells LLC, c/o Siegel-Gallagher Management Company, 252 East Highland Avenue, Milwaukee, Wisconsin 53202 is hereby granted the following special privilege:

To construct and maintain a stationary planter projecting 4 feet into the west, 22-foot wide sidewalk area of North Marshall Street. Said 2-foot tall planter commences at a point approximately 40 feet north of the northline of East Wells Street and extends north 12 feet 6 inches. The stationary planter is constructed of 6-inch wide timbers.

Said stationary planter shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

Said stationary planter shall be maintained or removed from the public right-of-way, at such future time as they are no longer needed, to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantee, Marshall & Wells LLC, shall:

1. Become primarily liable for damages to persons or property by reason of the granting of this special privilege.
2. File with the Commissioner of Public Works a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident and \$10,000 covering property damage to any one owner on the area or areas included within the special privilege and naming the City of Milwaukee as an insured. The insurance policy shall provide that it shall not be cancelled until after at least thirty days' notice in writing to the Commissioner of Public Works.

3. Pay to the City Treasurer an annual fee, which has an initial amount of \$35.00. The subsequent annual fee is subject to change pursuant to the annual fee schedule in effect at the time of annual billing.
4. Whenever this special privilege is discontinued for any reason whatsoever, including public necessity whenever so ordered by resolution adopted by the Common Council not only remove all construction work executed pursuant to this special privilege, but shall also restore to its former condition and to the approval of the Commissioner of Public Works and curb, pavement or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Such grantee shall be entitled to no damages due to the alteration or removal for such purposes.
5. Waive the right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes (1999), or the amount of the annual fixed fee, payable on or before July 1<sup>st</sup> of each year.
6. Put this special privilege into use within one year after approval by the Common Council of the City of Milwaukee; failing to do so in the time specified, the Commissioner of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

..Requestor

Department of Public Works

..Drafter

Administration Division

MICHAEL LOUGHRAN/DAWN SCHMIDT/C. MURPHY

November 24, 2014