

SEWER EASEMENT IN  
VACATED RIGHT-OF-WAY

Document Number

Document Title

SEWER EASEMENT  
IN VACATED RIGHT-OF-WAY  
SE-2891

**Drafted by:**

City of Milwaukee  
Department of Public Works

Recording Area

Name and Return Address

City of Milwaukee  
Department of Public Works  
Infrastructure Services Division  
Environmental Engineering Section  
841 North Broadway – Room 820  
Milwaukee, WI 53202

498-1791-000

Parcel Identification Number (PIN)

**THIS SEWER EASEMENT** (the “**EASEMENT**”), made as of \_\_\_\_\_, 20\_\_\_\_, by the CITY OF MILWAUKEE (“**City**”), a municipal corporation, is an assertion of City’s easement rights pursuant to 66.1005(2), Wis. Stats., for sewer, water, and underground conduit facilities located within former public right-of-way.

- Right-of-Way Vacation; Easement Area.** Public right-of-way known as South 5<sup>th</sup> Street was vacated by the City on July 10, 2018 pursuant to Wis. Stat. Sec. 62.73 (“**Vacated ROW**”). City owns combined sewer facilities within the Vacated ROW and hereby asserts its rights under Wis. Stat. Sec. 66.1005(2) to continue to hold an easement and rights incidental to the easement in and to a part of that Vacated ROW – which part is herein called the “**Easement Area.**” The Easement Area is legally described on **EXHIBIT A** attached and is depicted on **EXHIBIT B** attached (Plan File No. 198-7-96).
- Easement Purpose.** City holds a permanent easement in and to the Easement Area, together with the right of ingress and egress to the Easement Area, so City may enter the Vacated ROW to use the Easement Area. Within the Easement Area, City may construct, operate, maintain, inspect, repair, enlarge, reconstruct, replace, and relocate, as City deems necessary, a 12-inch diameter combined sewer, and related facilities and appurtenances (collectively, the “**Facilities**”).
- City Facilities Maintenance.** City is responsible for maintaining the Facilities.

- 4. Easement Area Restriction.** No structures or improvements may be constructed within the Easement Area by the owner of the Vacated ROW except ordinary lawns, walkways, roadways, driveways and parking-lot surfacing (“**Permitted Improvements**”). If, in exercising City’s rights hereunder, City causes damage to, or removes, any Permitted Improvements, City shall replace or repair same, at City expense to substantially the same condition as existed previously. In no case shall the City be responsible for replacing aesthetic plantings.
- 5. Grantor Construction.** If the owner of the Vacated ROW constructs any structure, building, or improvement adjacent to the Easement Area, or any Permitted Improvement within the Easement Area, or the owner of the Vacated ROW undertakes any other work within the Easement Area, the owner of the Vacated ROW assumes liability for any damage to the Facilities in the Easement Area.
- 7. Charge.** No charge will be made against the Vacated ROW or its owner for the cost of construction, operation, maintenance, inspection, repair, enlargement, reconstruction or relocation of the Facilities in the Easement Area, except **(a)** when the owner of the Vacated ROW applies for a permit or approval to connect to the Facilities, the regular and customary connection permit fee in effect at the time of application shall be paid, and the owner of the Vacated ROW shall connect per City requirements, and **(b)** the sewer maintenance, user fees, and other sewer fees in effect for all City of Milwaukee serviced properties that are chargeable to or against real property or owners, shall be paid.
- 8. Access.** The Facilities and Easement Area shall be accessible to City at all times.
- 9. Prior Approval of Certain Work.** Prior to undertaking any work below surface within the Easement Area, and prior to any underground installation within the Easement Area, and prior to any surface-grade alteration within the Easement Area that would raise or lower the surface elevation by 1 foot or more, then, in any such event, the owner of the Vacated ROW shall first submit plans therefore to the City for approval by the City’s Commissioner of Public Works (“**DPW Commissioner**”), and any such work, installation or alteration, requires prior approval of the DPW Commissioner.
- 10. Recording; Miscellaneous.** This Easement **(a)** shall be recorded with the Milwaukee County Register of Deeds by City, **(b)** is governed by Wisconsin law, **(c)** may only be amended by written instrument signed by City and the then owner of the Vacated ROW, and **(d)** is binding on successors, assigns, and heirs of City and the owner of the Vacated ROW.
- 11. Public Right-of-Way.** If the Easement Area, or any part thereof, becomes public right-of-way, the rights of the owner of the Vacated ROW hereunder shall terminate but the Easement shall not.

THE CITY caused this Easement to be executed by its authorized signatories as of the date first written above.

<p><b>CITY: CITY OF MILWAUKEE</b></p> <p>By: _____ Jeffrey Polenske, Commissioner Dept. of Public Works</p> <p><b>Countersigned:</b></p> <p>By: _____ Aycha Sawa, Comptroller</p> <p><b>City Common Council Resolution File No.</b> _____, adopted on _____.</p> <p><b>CITY ATTORNEY APPROVAL/AUTHENTICATION</b></p> <p>Gregg Hagopian, a member in good standing of the State Bar of Wisconsin, hereby authenticates the signatures of the City representatives/signatories per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05 (2)(b), and approves those signatures per MCO 304-21.</p> <p>By: _____ Gregg Hagopian Assistant City Attorney State Bar No. 1007373 Date: _____</p>	
---	--

**EXHIBIT A**

LEGAL DESCRIPTION OF "EASEMENT AREA"

SE-2891

Easement in the Northeast one-quarter (N.E. ¼) of Section eight (8), Township six (6) North, Range twenty-two (22) East, in the City of Milwaukee, Wisconsin, bounded and described as follows;

Commencing at the northwest corner of Lot 1 of Certified Survey Map (CSM) No. 9175, thence Easterly 39.72-feet along the northerly line of said Lot 1 to the point of beginning of the land to be described:

Thence, Easterly 15.07-feet along said northerly line of said Lot 1;

Thence, Southerly 105.00-feet parallel to the westerly line of said Lot 1;

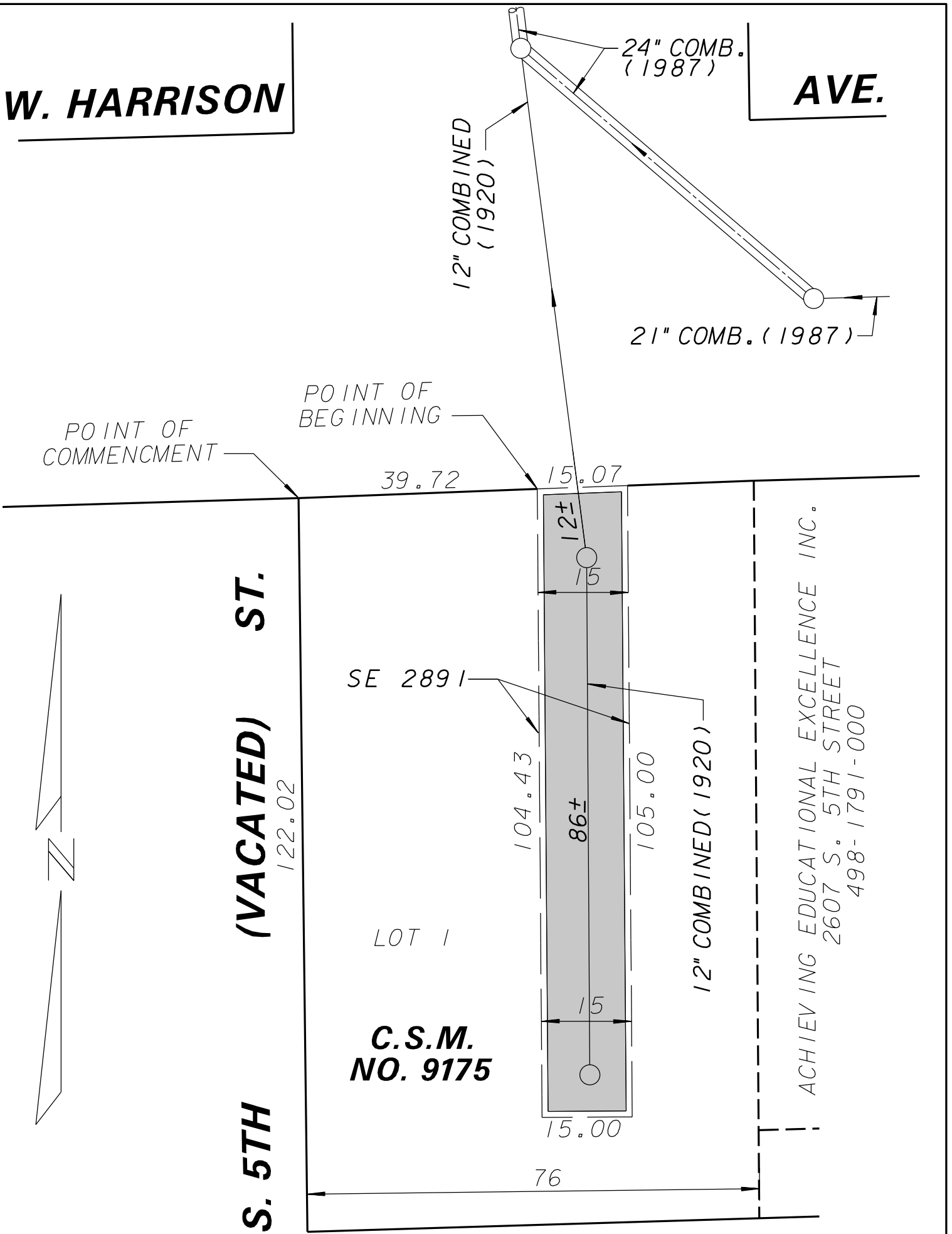
Thence, Westerly 15.00-feet to a point;

Thence, Northerly 104.43-feet parallel to the westerly line of said Lot 1 to the point of beginning.

TIN: 498-1791-000

**W. HARRISON**

**AVE.**



**S. 5TH ST. (VACATED)**  
122.02

SE 2891

LOT 1

**C.S.M. NO. 9175**

ACHIEVING EDUCATIONAL EXCELLENCE INC.  
2607 S. 5TH STREET  
498-1791-000

**EXHIBIT "B"**

<b>ENVIRONMENTAL ENGINEERING SECTION</b>				
INFRASTRUCTURE SERVICES DIVISION				
DEPARTMENT OF PUBLIC WORKS				
MILWAUKEE, WISCONSIN				
<b>PLAN OF SEWER EASEMENT</b>				
AREA IN	N.,E. 1/4 SEC.8,T.6 N.,R.22.E			
<b>VACATED S. 5TH ST. FROM W. HARRISON AVE. TO</b>				
<b>105' SOUTH OF W. HARRISON AVENUE</b>				
SCALE 1" =	20'	ATLAS PAGE NO.	498	EASE. NO. SE 2891
DRAWN BY	J.DESAI	CH'KD. BY	M.DAKWAR	W.O. NO.
APPROVED				DATE 1/25/2021
APPROVED				FILE NO. 198-7-96