Sewer Easement Permit and Agreement SA-2694B

Document Number

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

> Permit and Agreement located north of West Oklahoma Avenue, east of South 31st St, and along and through the Kinnickinnic River

> > Recording Area

510-9998-111-7

Tax Key Number

PERMIT AND AGREEMENT

THIS INDENTURE, Made this _______ day of ________, A.D. 20 ______ by and between the CITY OF MILWAUKEE, a Municipal Corporation of the State of Wisconsin, hereinafter referred to as "City", and Aurora Health Care Metro, Inc., (including heirs, personal representatives, successors or assigns, of above owners, as may be or may become applicable) hereinafter called "Aurora".

WITNESSETH

That, WHEREAS, On January 8, 2002, the City was granted an easement, SE-2694B, for sewer purposes located north of West Oklahoma Avenue and east of South 31st Street, and along and through the Kinnickinnic River, hereinafter referred to as "EASEMENT", by Milwaukee County, a Municipal Body Corporate, hereinafter referred to as "County" and;

WHEREAS, The EASEMENT is located in the following described parcel of land having Tax Key Number 510-9998-111-7, in that part of the Southeast ¼ (SE ¼) of Section 12, Township 6 North, Range 21 East in the City of Milwaukee, County of Milwaukee, State of Wisconsin, to-wit:

That portion bounded and described as the Permanent Sanitary Sewer Easement on Exhibit 1 attached hereto and made a part hereof.

And, WHEREAS, Aurora has received the County's permission to construct portions of buildings, loading docks, stairways and other appurtenant structures, asphalt and concrete pavements; hereinafter referred to as "IMPROVEMENTS," in and over a portion of County land, a portion of which is the EASEMENT area; and

WHEREAS, The City will allow the construction of the IMPROVEMENTS in and over the EASEMENT area, subject to the consent of the County to this permit and agreement and the following conditions which the City believes to be necessary;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and the mutual covenants and conditions hereinafter described, the parties hereto agree to the following conditions:

UPON CONDITION

- 1. That Aurora is hereby permitted to construct the "IMPROVEMENTS" in and over the EASEMENT in accordance with the Foundation Plans that have been submitted to the City Engineer.
- 2. That Aurora hereby assumes all liability for: 1) Any damage to the existing sanitary sewer and its appurtenances, hereinafter referred to as "FACILITIES"; 2) Any damage to said IMPROVEMENTS, and; 3) Personal injuries to a person or persons, resulting from construction, maintenance or use of said IMPROVEMENTS on, over and abutting said FACILITIES and said EASEMENT; and will save and keep the City clear and harmless at all times from any and all claims from any negligence on the part of the Owner, or of persons other than the City; and in case the City shall suffer or become liable for any loss or damage whatsoever resulting from negligence on the part of the Owner arising from or growing out of operation, inspecting, maintaining, repairing, reconstructing, enlarging or using said IMPROVEMENTS, then the Owner shall reimburse the City for the full amount of the loss, cost or damage which the City may have sustained, or for which it may become liable; provided however, that if any loss, cost or damage results from the joint negligence of the 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 any parts of the IMPROVEMENTS interfering with the right of full, ready and free access to said FACILITIES for the purpose of operating, inspecting, maintaining, repairing, reconstructing or enlarging said FACILITIES, shall be removed by the Owner, at the request of the City at no cost to the City; provided that in the event the Owner fails within thirty (30) days after being requested in writing by the City to so remove any part of said IMPROVEMENTS, the City will do so at the cost of the Owner. However, in case of emergency, where in the judgment of the Commissioner of Public Works the potential for damage exists, the notice may be verbal and the 30-day period shall be waived.
- 4. That any footings, piles, grade beams and other structures which transfer the load of the IMPROVEMENTS to the surrounding soil within the EASEMENT shall be so designed, constructed, and at such elevation that the weight of the IMPROVEMENTS will not bear on the FACILITIES.
- 5. That any subsequent costs for the replacement of any part of said IMPROVEMENTS or their contents will be borne by Aurora, its successors or assigns, at no cost to the City.
- 6. That all provisions of the EASEMENT which are not inconsistent with this agreement shall remain in full force and effect.
- 7. That this agreement shall extend to and apply to both parties, City and Aurora, including heirs, personal representatives, successors or assigns, as may be or may become applicable.
- 8. That prior to construction of the IMPROVEMENTS and immediately after construction is complete, Aurora shall televise or pay to have the sanitary sewer televised and provide the tapes to the City for review. The sewer shall be televised from City manhole number 510D004 to 510C028.
- 9. That all manholes in the EASEMENT which provide access to the sanitary sewer shall be maintained before, during and after construction of the IMPROVEMENTS so that they shall be accessible at all times by truck for cleaning, inspection, maintenance and other activities associated with sewer operations.
- 10. That in the event of the structural failure of the sanitary sewer, as determined by the City, before the sewer's expected 90 year life, Aurora shall reimburse the City for the portion of the sewer life which was lost.

11. That when the sewer is to be replaced, alternate routes for the sewer will be reviewed. If alternate routes are feasible, the City shall pursue these routes prior to replacing the sewer within the EASEMENT.

IN WITNESS WHEROF, Aurora has	s hereunto set its ha	ands and seals this	s date of		
		Aurora Health C	Care Metro, Inc.		
	Signature				
	Name & Title				
	Signature				
STATE OF WISCONSIN)	Name & Title				
) SS MILWAUKEE COUNTY)					
Personally came before named	me this	_ day of and	A.D., 20	_, the	above
IN WITNESS WHEREOF, the said Norquist, its Mayor and Ronald I Comptroller, at Milwaukee, Wiscons	D. Leonhardt, its in, and its coporate	My Commission kee, has caused City Clerk and	countersigned by W.	gned by Jo Martin 1	ohn O
Signed and sealed in presence of:					
	CITY	OF MILWAUK	EE		
	By:	ohn O. Norquist,	Mayor		
	By:_ F	Ronald D. Leonha	rdt, City Clerk		
	COU	UNTERSIGNED			
	By:	V Montin Moni	Comptroller		
	\	w Marin Mories	t OHIHHUUHPT		

STATE OF WISCONSIN)					
) SS MILWAUKEE COUNTY)					
Personally came before me this Norquist, Mayor if the City of Milwaukee, to and to me known to be such Mayor of the Cit instrument as such officer as the deed of the C Number adopted by its	y of Milwaukee and ackno City of Milwaukee, by its au	owledged that he execut	ted the foregoing		
	Notary Public, State of Wisconsin My Commission Expires				
STATE OF WISCONSIN)) SS					
MILWAUKEE COUNTY)					
Personally came before me this, the above-named Ronald D. Leon who by its authority and on its behalf executed	nhardt, to me known to be t	the City Clerk of the Cit			
	Notary Public, State of V My Commission Expires				
STATE OF WISCONSIN)) SS MILWAUKEE COUNTY)					
Personally came before me this named W. Martin Morics, to me known to be t on its behalf executed the foregoing instrument	day ofhe Comptroller of the City and acknowledged the sar	A.D., 20 of Milwaukee, who by ne.	_, the above- its authority and		
	Notary Public, State of V My Commission Expires				
This instrument was drafted by the City of Mile	waukee.				
Approved as to contents					
CITY ENGINEER, Jeffrey S. Polenske, P.E		Date			
Approved as to form and execution					
ASSISTANT CITY ATTORNEY Harry A St	ein	Date			