

Document Number

**PERMANENT
EASEMENT
REGARDING MPS BUILDING**

Document Title

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Recording Area

Name and Return Address

Mr. Larry Stein
WISDOT
141 NW Barstow St.
P.O. Box 798
Waukesha, WI 53187-0798

Part of 391-0261-111-3

Parcel Identification Number (PIN)

PERMANENT EASEMENT REGARDING MPS BUILDING

Wisconsin Department of Transportation

THIS AGREEMENT, dated as of this ____ day of _____, 2006, is made and entered into by and between the City of Milwaukee (for the Board of School Directors of the Milwaukee Public Schools [“MPS”] under Wis. Stat. § 119.60(2)), hereinafter called CITY, and the State of Wisconsin, Department of Transportation, hereinafter called DOT.

1. **Grant of PE.** As contemplated by that certain “Agreement Relating to Damage to Property at 1111 North 10th Street” among MPS and DOT, dated May 11, 2006 (the “Damage Agreement”), under which the DOT agreed to direct Walsh Construction Company of Illinois (“Walsh”) (as DOT’s contractor for the North Leg of the Marquette Interchange Construction Project) to repair certain foundational and structural damage caused to the MPS parcel and building at 1111 N. 10th Street (aka 1124 N. 11th Street; aka 1110 N. 10th Street), Milwaukee, Tax Key No. 391-0261-111-3 (DOT refers to said real estate as Parcel 36, Project I.D. No. 1060-05-20) (herein called the “MPS Parcel” and more particularly described on **EXHIBIT A** attached hereto, with the building thereat being herein called the “FM Building”), the City hereby grants to DOT a permanent easement (“PE”) under the MPS Parcel so that tie-backs can be located subsurface in the area depicted and labeled on the map attached hereto as **EXHIBIT B1** as “PE.” This easement shall not disturb City’s surface rights in and to the MPS Parcel.
2. **Purpose of PE.** The PE’s purpose is to allow the DOT to locate in the PE area tie-backs as depicted on the drawing attached hereto as **EXHIBIT B2**. Those tie-backs will be located approximately 12 feet under the foundational footings of the main FM Building and 11 feet under the foundational footings of the annex part of the FM Building, and were required for the Walsh-repair work required by the Damage Agreement.
3. **Maintain Retaining Wall and Tie-Backs.** DOT agrees to keep in place the retaining wall and tie-backs depicted on **EXHIBIT B** so as to protect the FM Building and MPS Parcel from damage that might otherwise occur. DOT (at its expense) has all maintenance, repair, and replacement duties associated with said retaining wall and tie-backs, and shall keep same in good condition, understanding that the FM Building and MPS Parcel need to be protected. DOT has reasonable entry rights for its maintenance, repair, and replacement duties but must first obtain MPS’s approval prior to entry (not to be unreasonably withheld).
6. **Recording Agreement.** This Agreement shall promptly be recorded by DOT against the MPS Parcel at DOT’s expense.
7. **Restoration.** DOT agrees, at its expense (to the extent permitted by law), to promptly restore and repair any damage to the MPS Parcel or FM Building attributable to the construction, repair, maintenance or replacement of the retaining wall or tie-backs.

8. **DOT.** DOT shall not levy any special assessment against City (or MPS) with respect to the retaining wall, tie-backs, and work required of DOT hereunder.
9. **Headings.** The headings used herein are for convenience only.
10. **Approvals.** This Agreement was:
 - (a) approved by the City per Common Council Resolution File No. _____;
 - (b) approved by the School Board of MPS on May 25, 2006; and
 - (c) approved by DOT.
11. **No Waiver.** Nothing contained herein is a waiver of DOT's or MPS's respective rights under law or at equity.
12. **Termination.** Notwithstanding anything to the contrary contained herein, at any time after DOT completes construction of the on-ramp adjacent to, and abutting the MPS Parcel to the west, MPS or any successor owner of the MPS Parcel may unilaterally record a "Termination of Easement" in the Register of Deeds Office to terminate this Agreement in its entirety and the easement interest herein granted, and MPS or any successor owner of the MPS Parcel, shall be free to sever all tie-backs at the western boundary of the MPS Parcel. DOT shall promptly be provided with a copy of any such "Termination of Easement" instrument recorded.

IN WITNESS WHEREOF, the parties entered into this Agreement, dated as of the date first written above.

CITY: City of Milwaukee (acting upon request of the School Board of the Milwaukee Public Schools under Wis. Stat. § 119.60(2)).

By: _____
Tom Barrett, Mayor

Attest: _____
Ronald D. Leonhardt, City Clerk

COMPTROLLER COUNTERSIGNATURE
(Milwaukee City Charter § 3-18-2)

By: _____
Name Printed: _____
Comptroller's Office

CITY ATTORNEY'S OFFICE
(Milwaukee Code of Ordinances § 304-21)

Approved by: _____
Gregg C. Hagopian, Assistant City Attorney

Gregg C. Hagopian, as a member of the State Bar of Wisconsin (State Bar No. 1007373), by signing above, hereby also AUTHENTICATES the _____ signatures _____ of _____, _____, and _____, on this _____ day of _____, 2006, in accordance with Wis. Stat. § 706.06 in order that this instrument may be recorded per Wis. Stat. § 706.05 (2)(b).

DOT: State of Wisconsin, Department of Transportation

By: _____

Name Printed: _____

Title: _____

(An authorized DOT representative). NOTE: must be signed by a DOT Administrator or other DOT authorized representative.

James S. Thiel, as a member of the State Bar of Wisconsin (State Bar No. 1012582), hereby AUTHENTICATES the signature of _____ in accordance with Wis. Stat. § 706.06 in order that this instrument may be recorded per Wis. Stat. § 706.05 (2)(b).

Name Printed: James S. Thiel.

State Bar

No.: 1012582 _____

Date: _____

1034-2006-996:110112

EXHIBIT A

LEGAL DESCRIPTION OF MPS PARCEL



Whole Parcel
Legal.pdf

EXHIBITS B1 AND B2

- **MAP [B1] AND DRAWING [B2] SHOWING PE ON B1 MAP, AND RETAINING WALL AND TIE-BACKS ON B2 DRAWING**



PE Shown on
Plat.pdf



MPS_PE2.pdf



Acrobat Document