

THIS AGREEMENT, By and between USF Holland, Inc. hereinafter known as "Developer", and the City of Milwaukee, a municipal corporation, hereinafter known as "City",

WITNESSETH:

IN CONSIDERATION of the sum of One Dollar (\$1.00) to each party in hand paid by the other, receipt whereof is hereby acknowledged, and in further consideration of the covenants and agreements hereinafter contained.

WHEREAS, The developer is the owner of the property known as 6177 and 6201 South 6th Street, more particularly described by Exhibit "A" attached here to; and

Whereas, Developer has requested an agreement providing for the installation of public improvements to serve a planned truck terminal facility; and

Whereas, The planned facility has been reviewed and approved by the City of Milwaukee's Board of Zoning Appeals; and

Whereas, The Developer has requested that the provisions of Common Council File No. 73-1849 relative to entering into out-of-program agreements for public works to serve industrial or commercial developments be waived; and, whereas, the City has agreed to do so; and

Whereas, The requested public improvements for the truck terminal facility could be installed under the terms of an out-of-program agreement upon condition that title to such facilities shall vest in the city of Milwaukee subject to conditions more fully hereinafter stated;

NOW, THEREFORE, In consideration of these premises and the mutual benefits accruing and for other good and valuable considerations,

IT IS AGREED, By and between the parties hereto that:

1. Funding Obligation

Developer agrees to provide all funds initially necessary for design and construction of the public improvements, easement preparation as may be required, water fittings, materials inspections, construction inspections and related City work necessitated by the project. It is understood that Developer will be entitled to a partial refund of the improvement costs as stipulated in paragraph 17 below.

2. Storm Water Management Plan

A Storm Water Management Plan for the truck terminal facility must be submitted by the Developer. Approval by the City Engineer is required before contracts for the public improvements will be let and/or permits for the public improvements issued.

3. Paving Improvements

South 6th Street will be improved from West College Avenue to a point approximately 330 feet north. City shall prepare plans and specifications for the paving improvements. In addition, City shall let and administer the construction contract for the paving work.

Estimated costs are:

- | | | |
|----|---------------------------|-------------|
| 1. | Design engineering: | \$ 8,000.00 |
| 2. | Construction: | \$65,000.00 |
| 3. | Construction inspections: | \$ 7,000.00 |

4. Storm Sewer Improvements

Storm sewer will be constructed in South 6th Street right-of-way from the southern property line of the site to a point approximately 2000 feet north.

The estimated cost of sewer main construction is \$362,500. Plans for storm sewer improvements shall be prepared by the City's Department of Public Works. The City shall let and administer the construction contract for the storm sewer work.

Estimated costs are:

- | | | |
|----|---------------------------|-----------|
| 1. | Design engineering: | \$ 2,000 |
| 2. | Construction: | \$362,500 |
| 3. | Construction inspections: | \$ 22,500 |

5. Utility Laterals

A sewer and water lateral for the truck terminal facility are the responsibility of Developer and will be installed upon issuance of the appropriate permit by City's Department of Neighborhood Services.

6. Other Improvements

Developer agrees that any utility and access improvements necessary to serve the site in addition to those listed above shall be its responsibility and shall be undertaken by Developer at its sole expense. Developer further agrees that the City shall review and approve plans for any work to occur in the public right-of-way. Developer or other responsible parties shall obtain permits necessary for any such work.

7. Private Utilities

Developer agrees that all private utility lines necessary to provide telephone, communications, and electrical services to the development shall be installed underground, except where the City Plan Commission finds that such underground installations are not feasible.

8. Design Engineering Deposit

Developer shall deposit a total of \$10,000 with the City's Department of Public Works to cover the cost of design engineering and other City costs

anticipated prior to construction of the storm sewer and paving improvements. Design work shall not begin until the deposit has been submitted.

9. Funding Guarantee

The Developer shall submit an irrevocable letter of credit or other funding guarantee, satisfactory in format to the City Attorney, in an amount equal to the estimated construction cost for the storm sewer and paving improvements identified above (i.e. \$427,000.00) prior to the award of any public improvement contracts.

Any and all irrevocable letters of credit shall guarantee that the Developer's bank or savings and loan will provide the required funds to cover the contract cost of installing the applicable infrastructure improvements and will, upon simple request by the Commissioner of Public Works and the City Treasurer, release same to City as required, all such funds to be furnished interest free.

10. City Force Work Costs

The total estimated cost for construction engineering (field inspections, contract management, materials and fittings etc.) is \$29,500.00. Developer shall deposit this amount with the City prior to the City advertising for public improvement construction bids.

11. Contract costs for the public improvements will be billed to Developer upon determination that City has incurred such costs. Developer shall provide the City with funds to make contract payments. If such funds are not provided within 30 days of being requested, City may draw against the funding guarantee referenced in paragraph 10. It shall be further understood and agreed that where Developer funded work covered under the terms of this agreement does not proceed to the bid or contract stage, the City shall still retain a sufficient amount of the Developer's engineering fund deposit to cover expenses incurred by the City for engineering and plan preparation work commenced by the City at the Developer's request.

Upon completion of the public improvements and all associated City work, City shall return any unspent portions of the Developer's cash deposits (Design Engineering and Construction Engineering) to the Developer.

12. Inspections

Both parties agree that all materials furnished and all work performed hereunder shall conform to all regulations and specifications of the City of Milwaukee and its Commissioner of Public Works and shall be subject to inspection by and approval of inspectors and engineers furnished by the Department of Public Works. All engineering and inspection costs incidental

to the installation of the public improvements covered by this agreement shall be subject to the terms of this agreement, the cost of such service when furnished by City being established as the wages of the person or persons engaged in such work plus all costs of overhead.

13. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the public improvements, title to all public facilities installed under the terms of this agreement shall vest in the City of Milwaukee and that the City will accept the obligation of operation and maintenance in accordance with its standard practice.

14. Building Permits

It is understood and agreed by both parties hereto that a building permit for the truck terminal facility shall not be issued until the Developer has provided the City with both a funding guarantee and a deposit for City Force Work.

15. Occupancy Permits

It is understood and agreed by both parties hereto that an occupancy permit for the truck terminal facility shall not be issued until all planned public improvements have been sufficiently completed so essential public utility services are provided to the site.

16. City Ordinances and Regulations

City warrants that for all work to be performed by City it will follow its standard and customary public works contracting procedures unless such is to be undertaken by City Forces. It is further understood and agreed that this agreement is subject to all City ordinances and regulations and nothing herein shall be deemed to waive or supercede such requirements.

17. Developer refunds

Developer refunds will be made subject to the terms and conditions outlined below.

In the year following completion of the storm sewer work covered hereunder, the City shall refund the non-assessable portion of the storm sewer improvement project cost plus any assessments levied against other immediately benefiting properties fronting the new storm sewer.

THIS AGREEMENT, drafted by the City of Milwaukee, shall be binding upon the Developer, its lessees, successors and assigns, and upon the City its successors and assigns.

IN WITNESS WHEREOF, the Developer has caused this document to

be signed and sealed this _____ day of _____, 2001.

In Presence Of:

Developer

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2001, who executed the foregoing instrument, and acknowledged that they executed the same.

Public, State of Wisconsin

My Commission expires: _____

IN WITNESS WHEREOF, the proper City Officers have caused this document to be signed and the City's seal to be affixed this _____ day of _____, 2001.

In Presence Of:

CITY OF MILWAUKEE

John O. Norquist, Mayor

City Clerk

COUNTERSIGNED:

Comptroller

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2001,

John O. Norquist, Mayor of the City of Milwaukee, a municipal corporation, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, its authority, and pursuant to Resolution File No. 001391 adopted _____, 2001.

Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2001,
_____, City Clerk of the above-named municipal corporation, to me known to
be the person who executed the foregoing instrument and to me known to be such City
Clerk of said municipal corporation, and acknowledged that he executed the foregoing
instrument as such officer as the deed of said municipal corporation, its authority, and
pursuant to Resolution File No. 001391 adopted _____, 2001.

Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2001,
_____, City Comptroller of the City of Milwaukee, a municipal corporation, to
me known to be the person who executed the foregoing instrument and to me known to
be such City Comptroller of said municipal corporation, and acknowledged that he
executed the foregoing instrument as such officer as the deed of said municipal
corporation, its authority, and pursuant to Resolution File No. 001391 adopted
_____, 2001.

Notary Public, State of Wisconsin

My Commission expires: _____