

SA-1975, Parcels A and B

Sewer Permit and Agreement for a Property Located at 7700S West Brown Deer Road

PERMIT AND AGREEMENT

THIS AGREEMENT, Made this ____ day of AD 2003 between the City of Milwaukee, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City" and the owner of the property whose address is 7700S West Brown Deer Road, including heirs, personal representatives, successors or assigns, of above owner, as may be or may become applicable hereinafter referred to as "Owner".

WITNESSETH

That, **WHEREAS**, On March 15, 1971 the City was granted an easement, SE-1975, Parcels A and B for sewer purposes in the property whose address is 7700S West Brown Deer Road; and

WHEREAS, The Owner has requested the City's permission to construct portions of a proposed building over a portion of the easement area; and

WHEREAS, There is an existing City of Milwaukee 15-inch diameter sanitary sewer in said easement; and

WHEREAS, Said portion of the easement is located in the following described parcel of land in that part of the Southeast ¼ (SE ¼) of Section 4, Township 8 North, Range 21 East in the City of Milwaukee, County of Milwaukee, State of Wisconsin, as shown on the attached Plan File No. 198-1-32, to-wit:

Parcel "A"

(Tax Key Number 032-9997-114)

The entire legal description of Sewer Easement SE-1975, Parcel A, an easement that was recorded on May 19, 1971 at Milwaukee County as document number 4592446, reel number 587, and images 202 to 210 (inclusive).

Parcel "B"

(Tax Key Number 032-9997-114)

The southwesterly 60 feet of Sewer Easement SE-1975, Parcel B, an easement that was recorded on May 19, 1971 at Milwaukee County as document number 4592446, reel number 587, and images 202 to 210 (inclusive).

And

WHEREAS, The City shall allow the construction of said portions of the building in the easement area subject to the following conditions;

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:

1. The Owner is hereby permitted to construct portions of a building hereinafter referred to as "Improvements" over the above described easement area.
2. The Owner shall submit three (3) sets of footing plans to the Commissioner of Public Works of the City for approval prior to commencing any construction work.
3. That the Owner hereby assumes all liability for any damage to the existing sewers and their appurtenances, hereinafter referred to as "Facilities", and said Improvement or personal injuries to a person or persons resulting from construction, maintenance and 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 operating, inspecting, maintaining, repairing, reconstructing, enlarging or using said Improvements, then the Owner shall reimburse the City for the full amount of the loss 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.
4. That any parts of said Improvements therein 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.
5. That any subsequent costs for the replacement of any part of said Improvements shall be borne by the Owner at no cost to the City.
6. That any footings required for said Improvements over said Facilities within said easement limits shall be so designed and at such elevation that the weight of the Improvement will not bear on said Facilities.
7. That the Owner shall so construct said Improvements within said easement so that in the event it becomes necessary for the City to repair, reconstruct, enlarge, or relocate said Facilities provisions can be made to bring construction equipment into said easement area.
8. That all provisions of the said easement which are not inconsistent with this agreement shall remain in full force and effect.
9. That this agreement shall extend to and apply to both parties, City and Owner, including heirs, personal representatives, successors or assigns, as may be or may become applicable.

IN WITNESS WHEREOF William Romo, Director of Facilities Development, hereunto set his hands and seals the day and year first above written.

IN THE PRESENCE OF

Date

Date

STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____ AD, 20____, the above-named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission Expires _____

IN WITNESS WHEREOF, the said City of Milwaukee, has caused these presents to be signed by John O. Norquist, its Mayor and Ronald D. Leonhardt, its City Clerk and countersigned by W. Martin Morics, Comptroller, at Milwaukee, Wisconsin, and its corporate seal to be affixed this _____ day of _____ AD, 20_____.

Signed and sealed in presence of:

CITY OF MILWAUKEE

By: _____
John O. Norquist, Mayor

By: _____
Ronald D. Leonhardt, City Clerk

COUNTERSIGNED

By: _____
W. Martin Morics, Comptroller

STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____ AD, 20____, John O. Norquist, Mayor of the City of Milwaukee, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of the City of Milwaukee and acknowledged that he executed the foregoing instrument as such officer as the deed of the City of Milwaukee, by its authority, and pursuant to Resolution File Number _____ adopted by its Common Council on _____.

Notary Public, State of Wisconsin
My Commission Expires _____

STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____ AD, 20____, the above-named Ronald D. Leonhardt, to me known to be the City Clerk of the City of Milwaukee, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission Expires _____

STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____ AD, 20____, the above-named W. Martin Morics, to me known to be the Comptroller of the City of Milwaukee, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission Expires _____

This instrument was drafted by the City of Milwaukee.

Approved as to contents
Date: _____

Jeffrey S. Polenske, P.E., City Engineer

Approved as to form and execution
Date: _____

Harry A. Stein, Assistant City Attorney