

**DECLARATION OF
DEED RESTRICTIONS**

Document Number

Document Title

DECLARATION OF DEED RESTRICTIONS

DRAFTED BY:

Gregg Hagopian
Asst. City Attorney
City of Milwaukee
841 N. Broadway, 7th Floor
Milwaukee, WI 53202

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

670-1622-000

670-1641-000

Parcel Identification Number (PIN)

The City of Milwaukee (“**City**”) hereby records the following Deed Restriction against the following parcels in the City of Milwaukee, Milwaukee County, Wisconsin (herein collectively called the “**Parcels**”), more specifically described below.

The Parcels - Descriptions:

1. **Parcel 1:** Parcel 2 in Certified Survey Map No.3663 (recorded July 6, 1979 as Document No. 5326291) in the Northeast one quarter (NE ¼) of Section 31, Town 6 North, Range 22 East.
Address: 5664 South 20th Street, Milwaukee, Wisconsin, 53221
Tax Key No.:670-1622-000
2. **Parcel 2:** Parcel 1 in Certified Survey Map No 3742 (recorded October 9, 1979 as Document No. 5355097) in the Northeast one quarter (NE ¼) of Section 31, Town 6 North, Range 22 East.
Address: 5710 South 20th Street, Milwaukee, Wisconsin, 53221
Tax Key No.: 670-1641-000

City purchased the Parcels with funds from the State of Wisconsin, Department of Natural Resources (“**WDNR**”), Municipal Flood Control Grant Program.

In conformance with WDNR’s Municipal Flood Control Grant No. MFC-40251-12, Project title Acquire 2 Parcels for Future Pond at S. 20th Street, the following Deed Restrictions are implemented, and shall run with the Parcels and be incorporated with any subsequent transfers of the said Parcel, and are binding upon successors and assigns of the City.

1. The Parcels are to be left as natural permanent open space, and no structures or encumbrances that would affect flood levels or obstruct the natural water flowage to a water body shall be allowed, *except* that the City may construct, repair, replace, and maintain on the Parcels a stormwater management facility, including a detention pond, infrastructure, inlet and outlet structures (the “**Facility**”)¹.

2. The City agrees to manage the Parcels consistent with Wis. Stat. § 281.665 and Wis. Admin. Code Chapter NR 199, and all of the terms and conditions in the WDNR’s Municipal Flood Control Grant Agreement, Grant No. MFC-40251-12, Project title Acquire 2 Parcels for Future Pond at S. 20th Street.

3. The natural, conservation, open space and outdoor recreation values of the Parcels will be protected in perpetuity as permanent open space with only open-space activities (and Facility activities) allowed, and any use of the Parcels that will significantly impair or interfere with those values is prohibited.

4. There shall be no topographic changes, extraction of subsurface materials, or alteration of the natural landscape of the Parcels by excavation, filling, drainage, tiling, ditching, or any other means except as needed for the Facility, for flood control measures, or as required for maintenance by Wis. Admin. Code Chapter NR 199.

5. Other than the Facility, there shall be no construction or placement of any new building or structures, permanent or mobile, on the Parcels, or construction or placement of any billboards or other advertising material, or playing fields or playgrounds, or placement of an obstacle that would obstruct the natural water flowage to the water body.

6. There shall be no placing or storing, temporarily or permanently, of any equipment, vehicles or material including animal feeds and wastes, soil, ashes, trash, sawdust, brush, piles of gravel, garbage or any unsightly, offensive or hazardous material on, under or in the Parcels except in connection with activities authorized herein.

¹ The Facility will also exist on 5674 South 20th Street (tax key no. 670-1623-000), Milwaukee, which property is also City-owned.

7. There shall be no industrial or commercial activity undertaken or allowed on or across the Parcels.
8. The Parcels shall be open to the public for outdoor recreational purposes subject to applicable federal, state, and local law, and limited to open-space activities such as a walking path, unless (a) the WDNR determines it is necessary to close the Parcels to the public to protect wild animals, plants or other natural features, (b) the WDNR authorizes closure to the public in writing, or (c) the City, acting under its police powers, determines in good faith that closure is necessary to protect public health, safety and welfare.
9. The WDNR, its agents, officers, employees and permittees, shall have the right to enter the Parcels to monitor compliance with the Deed Restrictions. The WDNR may take actions necessary to prevent any activity on or use of the Parcels that is inconsistent with the purpose of this document as required under Wis. Admin. Code Chapter NR 199, and may require the restoration of any area or feature of the Parcels that is damaged by the inconsistent activity or use by City.
10. The WDNR shall have the right, but not the obligation, to undertake land management responsibility for the Parcels if the City fails to meet its land management responsibilities outlined in these Deed Restrictions and under Wis. Admin. Code Chapter NR 199. Before undertaking such responsibility, the WDNR shall provide the City with a minimum of six months prior written notice of the land management activity required and shall give the City the opportunity to perform that activity within the six-month period, or within a reasonable time thereafter if more time is needed due to weather constraints.
11. The City may grant various utility easements throughout the Parcels as long as they do not conflict with these Deed Restrictions or Wis. Admin. Code Chapter NR 199. In addition, no utility structure may be erected on the Parcels that would obstruct the water flowage to the water body.
12. The City may sell or transfer the Parcels to a third party other than a creditor of City with the prior written approval of the WDNR (not to be unreasonably withheld, conditioned, or delayed). All restrictions imposed by the above-referenced grant contract and land management plan shall remain with the Parcels and any subsequent owners shall execute a grant agreement assignment which states that they have received and reviewed the grant contract and land management plan and shall abide by their provisions and the terms and conditions of this Deed Restriction. WDNR approval of the transfer is not valid until the contract assignment is signed by the parties thereto and recorded with the Milwaukee County Register of Deeds office.
13. Any changes or modifications to these Deed Restrictions must be approved in writing by the WDNR Municipal Flood Control Grant Manager and filed with the Milwaukee County Register of Deeds as an amendment to this document.

This document has been authorized and approved by the City by Common Council Resolution File No. _____, and signed by the City by its authorized signatories identified below.

Dated this _____ day of _____, 2015.

<p>CITY: CITY OF MILWAUKEE</p> <p>By: _____ Ghassan Korban, Commissioner Dept. of Public Works</p> <p>Countersigned:</p> <p>By: _____ Glenn Steinbrecher, Deputy Comptroller</p> <p>City Common Council Resolution File No. _____.</p>	<p>CITY ATTORNEY APPROVAL/AUTHENTICATION</p> <p>_____, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the City representatives above per M.C.O. § 304-21, and also authenticates the signatures of those City representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).</p> <p>By: _____</p> <p>Name Printed: _____ Assistant City Attorney State Bar No. _____ Date: _____</p>
---	--

178730