

**Easement – Underground
Conduit and Manhole**

Document No.

UG – 30 Easement area located in the vacated right
turn bypass at East Pittsburgh Avenue and
South Water Street

Recording Area

Infrastructure Services Division
Room 802, Municipal Building
841 N. Broadway
Milwaukee, WI 53202

428-0983-9
428-0984-4

Tax Key Numbers

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vacated right turn bypass at
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E A S E M E N T

THIS INDENTURE, Made by and between the CITY OF MILWAUKEE, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City", and 235 East Pittsburgh Avenue and 209-261 South Water Street, LDC-235 Pittsburgh, LLC c/o Lighthouse Development, owners (including heirs, personal representatives, successors or assigns, of above owner(s), as may be or may become applicable), hereinafter called "Grantor". (If more than one grantor is listed above, said language herein referring thereto shall be interpreted in the plural and refer jointly and severally to such grantors).

WITNESSETH

That, WHEREAS, the City desires to acquire a permanent EASEMENT as shown on attached plan, Resolution File Number _____, with the right of entry in and across the property hereinafter described and with the right to construct, operate, maintain, inspect, repair, enlarge, reconstruct and relocate, as may be or may become applicable, the following facilities and appurtenances thereto, hereinafter called "FACILITIES", in said property, namely manhole, underground conduit and cables.

NOW, THEREFORE, in consideration of the grant of the EASEMENT hereinafter described and in consideration of the payment of One Dollar (\$1.00) and other valuable considerations to the Grantor, receipt whereof is hereby acknowledged, said Grantor, being the owner and persons interested in the land hereinafter described, does hereby grant unto the City a permanent EASEMENT for the aforementioned facilities with the right of entry in and across the property hereinafter described and with the right to construct, operate, maintain, inspect, repair, enlarge, reconstruct and relocate, as may be or may become applicable, the FACILITIES in and across the following described property:

Parcel A

In that part of vacated East Pittsburgh Avenue in the Northeast $\frac{1}{4}$ of Section 32 and the Northwest $\frac{1}{4}$ of Section 33, Township 7 North, Range 22 East, described as follows:

Commencing at the northeast corner of Lot 4 of Certified Survey Map No. 8011; thence North $32^{\circ}36'07''$ West, along the present westerly line of South Water Street, to a point lying 9.00 feet north of, as measured normal to, the north line of Certified Survey Map No. 8011; thence North $89^{\circ}45'17''$ West, parallel to said north line, 66.81 feet to a point in the northerly extension of the west line of Lot 4 and the point of beginning of the land to be described: thence continuing North $89^{\circ}45'17''$ West, parallel to the north line of Certified Survey Map No. 8011 aforesaid, 55.35 feet to a point in the present southerly line of East Pittsburgh Avenue; thence North $72^{\circ}56'38''$ East, along said southerly line, 36.89 feet to a point; thence North $60^{\circ}01'46''$ East, continuing along said southerly line, 23.30 feet to a point in the northerly extension of the west line of Lot 4; thence South $00^{\circ}14'43''$ West, along said northerly extension, 22.69 feet to the point of beginning.

Parcel B

In that part of vacated East Pittsburgh Avenue in the Northwest ¼ of Section 33, Township 7 North, Range 22 East, described as follows:

Commencing at the northeast corner of Lot 4 of Certified Survey Map No. 8011; thence North 32°36'07" West, along the present westerly line of South Water Street, to a point lying 9.00 feet north of, as measured normal to, the north line of Certified Survey Map No. 8011 and the point of beginning of the land to be described; thence North 89°45'17" West, parallel to said north line, 66.81 feet to a point in the northerly extension of the west line of Lot 4; thence North 00°14'43" East, along said northerly extension, 22.69 feet to a point in the present southerly line of East Pittsburgh Avenue; thence North 60°01'46" East, along said southerly line, 33.86 feet to a point; thence South 76°17'10.5" East, continuing along said southerly line, 14.46 feet to its point of intersection with the present westerly line of South Water Street; thence South 32°36'07" East, along said westerly line, 43.29 feet to the point of the beginning.

The above described permanent EASEMENTS are a part of Tax Key Numbers 428-0983-9 and 428-0984-4.

The location of the easement areas with respect to the grantor's land is as shown on the attached drawing, marked Exhibit A, and made a part of this document.

UPON CONDITION:

1. That said FACILITIES shall be maintained and kept in good order and condition by the City.
2. That no structures may be placed within the Easement Area by the Grantor excepting that minimal adverse impact improvements such as lawns, concrete walks, roadways, driveways, and parking lot surfacing may be constructed, and that the City will replace such damaged or removed lawns, concrete walks, roadways, driveways, and parking lot surfacing (excluding special treatments), at its own cost, after making any necessary repairs, reconstruction, or enlargement of the FACILITIES in the EASEMENT.
3. That in and during whatever construction, operation, maintenance, inspection, repair, enlargement, reconstruction or relocation is or becomes necessary with respect to said FACILITIES, so much of the surface or subsurface of the property as may be disturbed will, at the expense of the City, be replaced in substantially the same condition as it was prior to such disturbance: except that the City will in no case be responsible for replacing or paving for replacing any aesthetic plantings or improvements other than ordinary lawns, standard concrete walks, roadways, driveways, or parking lot surfacing which were required to be removed in the course of doing the above work. However, the City shall save the Grantor harmless from any loss, damage, injury or liability resulting from negligence, or default hereunder, on the part of the City in connection with said work with respect to said FACILITIES; provided, however, that if above loss, damage, injury or liability 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 or the Grantor is entitled to raise.

4. That, in connection with the construction by the Grantor of any structure or building abutting said EASEMENT, the Grantor will assume all liability for any damage to the FACILITIES in the above described property. The Grantor will also save and keep the City clear and harmless from any claims for personal injuries or property damage caused by any negligence of the Grantor or person other than the City, arising out of the construction by the Grantor of any structure or building abutting the said EASEMENT, and shall reimburse the City for the full amount of such loss or damage.

5. That the FACILITIES shall be accessible for maintenance at all times. The Grantor shall submit plans for approval by the Commissioner of Public Works of the City for any underground installation with the Easement.

6. That the Grantor shall submit plans for all surface grade alterations of plus or minus 1-foot or greater within the limits of said EASEMENT. Said alterations shall be made only with the approval of the Commissioner of Public Works of the City.

7. That the Grantor shall be responsible for adjusting the elevations of all appurtenances necessitated by alteration of surface elevations within the aforescribed property. Said adjustments shall be required to provide free access to all conduit appurtenances and shall be made only with the approval of the Commissioner of Public Works of the City.

8. All notices to be given by one party to the other under this agreement shall be in writing and shall be given either by personal delivery, by U.S. Mail, postage prepaid, by facsimile, or by e-mail, to the respective recipients set forth in this paragraph. A notice shall be deemed delivered either upon actual receipt or upon refusal by a party to accept delivery – providing, however, that notices sent by e-mail or facsimile must be sent during the hours between 8:30 A.M. and 4:30 P.M. during the days that the City's City Hall is open for business. Either party may change its address for purposes of receiving notices written notice thereof in accordance with the requirements of this paragraph.

A. LDC – 235 Pittsburgh, LLC
c/o Lighthouse Development
2140 North Prospect Avenue
Milwaukee, WI 53202
Telephone: _____
Facsimile: _____
E-mail: _____

B. To City:
Commissioner
Department of Public Works
841 North Broadway, Room 516
Milwaukee, WI 53202
Telephone: (414) 286-3301
Facsimile: (414) 286-3953
E-mail: jeffrey.mantes@milwaukee.gov

9. This Agreement may be amended only by a written instrument executed by all of the parties hereto.

10. This document shall be recorded in the Milwaukee County Register of Deeds Office, by and at the City's expense, to give notice of the same.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this _____ day of _____, A.D., 20 _____.

Attest: _____ By: _____

Name Printed _____ Name Printed _____

Title: _____ Title: _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

This instrument was acknowledged before me on _____, 20____, by _____ and _____, the _____ and _____ respectively, of _____ and on behalf of said entity, to me personally known, and representing requisite authority to so sign.

Notary Public, State of Wisconsin
My Commission: _____

CITY: CITY OF MILWAUKEE

City Engineer (who also approves as to contents)
Per Common Council Resolution File No. _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

This instrument was acknowledged before me on _____, 20____, by Jeffrey Polenske, the City Engineer.

Notary Public, State of Wisconsin
My Commission: _____