

EASEMENT AGREEMENT

Document Number

Document Title

EASEMENT AGREEMENT

**Drafted By:**

Gregg C. Hagopian, Assistant City Attorney  
800 City Hall  
200 East Wells Street  
Milwaukee, WI 53202

Recording Area

Name and Return Address

Jennifer J. Goergen  
Greenfield City Clerk  
7325 West Forest Home Avenue  
Greenfield, WI 53220

Part of 647-9946-001

Tax Key Number

**THIS EASEMENT AGREEMENT** (the "Agreement"), is made by and between the CITY OF MILWAUKEE, a municipal corporation of the State of Wisconsin ("Milwaukee"), and the CITY OF GREENFIELD, a municipal corporation of the State of Wisconsin ("GREENFIELD"), and is dated as of this \_\_\_\_ day of \_\_\_\_\_, 2007.

**RECITALS**

A. Milwaukee owns certain lands in the City of Greenfield with an address of 5353 South 43<sup>rd</sup> Street, Greenfield, Wisconsin (tax key number 647-9946-001), legally described as:

Parcel 1 of Certified Survey Map No. 2964, being a part of the SE ¼ of the SE ¼ of Section 26, Town 6 North, Range 21 East, in the City of Greenfield, Milwaukee County, State of Wisconsin.

(herein called the "Water Works Parcel").

B. Greenfield desires to acquire a permanent easement in and to a portion of the Water Works Parcel, which portion is herein called the "Easement Area" and is depicted and legally described on the Map attached hereto as **Exhibit A**.

- C. Milwaukee is willing to grant an easement to Greenfield on the terms and conditions contained herein.
- D. Milwaukee, by its Common Council, approved this transaction by Council Resolution File No. \_\_\_\_\_.
- E. Greenfield, by its Common Council, approved this transaction by Council Resolution File No. \_\_\_\_\_.

**AGREEMENT**

- 1. **Recitals.** The recitals above are hereby acknowledged and agreed to.
- 2. **Grant of Permanent Easement.** For good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Milwaukee, the fee owner of the Water Works Parcel, hereby grants to Greenfield, and Greenfield hereby accepts from Milwaukee, a permanent non-exclusive easement in the Easement Area.
- 3. **Purpose of Easement; Greenfield's Construction & Maintenance Duties.** This easement allows Greenfield to, and Greenfield shall (at Greenfield's expense), undertake on the Easement Area all of the work described on **Exhibit B** attached hereto (the "Project") in a good and workmanlike manner, and in strict accordance with the provisions of **Exhibit B** and this Agreement. Greenfield shall complete the Project no later than **June 1<sup>st</sup>, 2008**, with vegetation stabilization by **September 1<sup>st</sup>, 2008**. Thereafter, Greenfield shall (at Greenfield's expense) be responsible for maintaining the Project in good condition - including, but not limited to, maintaining the grades, the ditch, the slopes, the mat, the topsoil and the turf required by **Exhibit B** and taking appropriate and responsible erosion control and protection measures if damage to the ditch is caused by discharges from areas upstream of the Easement Area. Milwaukee shall (at Milwaukee's expense) be responsible for all routine maintenance in the Easement Area including, but not limited to mowing and the removal of brush, vegetation and other debris.
- 4. **Access.** If Greenfield (or its officers, employees, agents, contractors, licensees, permittees, invitees and representatives) needs to access the Easement Area through or by means of the other part of the Water Works Parcel, Greenfield shall notify Milwaukee and obtain Milwaukee's prior written approval and such entry shall then be at Greenfield's own risk and on such other reasonable terms and conditions as Milwaukee may impose.

5. **Ownership.** Milwaukee, as owner of the Water Works Parcel (including the Easement Area), shall be owner of the Project – the intent being that Greenfield must perform all work for constructing the Project and maintaining it.
6. **Easement Termination.** Notwithstanding anything to the contrary contained herein, the easement interest herein granted, and the duties herein concerning the same and the Project, shall terminate upon such time as Milwaukee provides Greenfield with at least 120 days prior written notice that Milwaukee needs the Easement Area for expansion of the existing building at the Water Works Parcel or for construction of any new building or improvement at the Water Works Parcel. Thereafter, Milwaukee may unilaterally record in the Register of Deeds Office a “Termination of Easement” document signed by Milwaukee to constitute record evidence of the termination of this Agreement.
7. **Repair/Restoration.** If Greenfield (including its officers, employees, agents, contractors, licensees, permittees, invitees and representatives) causes damage to the Water Works Parcel or any portion thereof, Greenfield shall, at its expense, promptly repair or replace the damage to substantially the same condition as existed prior to the damage.
8. **Indemnification by Greenfield.** Greenfield shall and hereby does indemnify and save harmless Milwaukee from and against any and all loss, damage, injury, liability, claims, costs and expenses (collectively, “Claims”) that Milwaukee may suffer or incur as a result of breach by Greenfield hereunder, or as a result of the negligent acts or omissions of Greenfield (or its officers, employees, agents, contractors, licensees, permittees, invitees, and representatives) regarding its construction or maintenance of the Project or its acting hereunder or on any part of the Water Works Parcel.
9. **Non-Disturbance.** Greenfield’s construction and maintenance of the Project and its acting hereunder or on the Easement Area shall be conducted in a manner so as not to interfere with Milwaukee’s use of the other parts of the Water Works Parcel, or with Milwaukee’s building, fence, or improvements on the other parts of the Water Works Parcel.
10. **Notices.** Notices required or desired to be given by any party to another party with respect to this Easement Agreement shall be in writing and shall be delivered personally, sent by facsimile (provided any facsimile is sent during any Monday through Friday that Milwaukee’s City Hall is open for business, and is sent during the hours between 8:30 A.M. and 4:30 P.M.), sent by commercial overnight courier service, prepaid, sent by

United States registered or certified mail, return receipt requested, postage prepaid, or sent by e-mail (so long as sent successfully and no error or inability to send message is generated as a result of any e-mail sent), and addressed as herein provided. All notices under this Easement Agreement shall be given to the following:

**Milwaukee** Superintendent of Water Works  
Carrie Lewis  
DPW Water Administration  
841 North Broadway, Room 409  
Milwaukee, WI 53202  
(414) 286-2801 – Telephone  
(414) 286-2672 – Facsimile  
[clewis@milwaukee.gov](mailto:clewis@milwaukee.gov)

**With a copy to:** Gregg C. Hagopian  
Assistant City Attorney  
200 East Wells Street, Room 800  
Milwaukee, WI 53202  
(414) 286-2601 – Telephone  
(414) 286-8550 – Facsimile  
[ghagop@milwaukee.gov](mailto:ghagop@milwaukee.gov)

**With a copy to:** Roger C. Pyzyk, Esq.  
Roger C. Pyzyk Law Office  
10701 West National Avenue  
West Allis, WI 53227-3239  
(414) 321-1400 – Telephone  
(414) 321-1404 – Facsimile  
[rcpyzyk@aol.com](mailto:rcpyzyk@aol.com)

Recipient address information (such as change in facsimile number or e-mail address) may, from time to time, be changed by notice duly sent hereunder.

11. **Recording.** This Agreement shall be recorded by Greenfield, at its expense, in the Milwaukee County Register of Deeds Office against the Water Works Parcel. Greenfield shall promptly inform Milwaukee in writing of the date of recording and the document number assigned by the Register of Deeds Office.

12. **Counterparts.** This Agreement may be signed in one or more counterparts each of which shall, when taken together, constitute one and the same document.
13. **Governing Law; Amendment.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Wisconsin. This Agreement may only be amended by a written instrument signed by all of the parties hereto (or their successors in interest).
14. **Drafter-Doctrine Not Applicable.** The contract-interpretation doctrine of “construing against the drafter” shall not apply to interpretation of this Agreement.
15. **No Liens.** Greenfield agrees not to suffer or permit any lien of mechanics, laborers, contractors, subcontractors, materialmen or suppliers to be placed upon or against the Water Works Parcel in conjunction with Greenfield’s construction and maintenance of the Project and/or its duties hereunder; and, in case of any such lien attaching, Greenfield shall (at its expense) promptly cause the same to be removed.
16. **SW LLC.** Milwaukee understands that Greenfield has a contract with Stonewater Investment, LLC (16800 West Greenfield Avenue #200, Brookfield, WI 53005) (“SW LLC”) concerning certain work associated with SW LLC’s creation of a residential subdivision west and north of the Water Works Parcel, and that Greenfield wishes to have SW LLC construct the Project. Greenfield is free to use contractors of its choice to construct the Project (but not for the maintenance which Greenfield itself shall do unless Milwaukee otherwise agrees in writing). In any event, Greenfield shall remain responsible to Milwaukee concerning all terms and conditions herein, and concerning all acts and omissions of its officers, employees, agents, contractors, licensees, permittees, invitees, and representatives – including SW LLC.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their authorized signatories as of the date first written above.

**MILWAUKEE:**

CITY OF MILWAUKEE

By: \_\_\_\_\_  
 DPW Commissioner Jeff Mantes Per  
 Common Council File No. \_\_\_\_\_

CITY CLERK

\_\_\_\_\_  
Ronald Leonhardt, City Clerk

**Countersigned:**

By: \_\_\_\_\_  
Michael J. Daun, Deputy Comptroller

**Milwaukee City Attorney  
Approval and Authentication**

By: \_\_\_\_\_  
GREGG C. HAGOPIAN  
Assistant City Attorney

Gregg C. Hagopian, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the Milwaukee representatives above, and also authenticates the signatures of each of the above Milwaukee representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

By: \_\_\_\_\_  
GREGG C. HAGOPIAN  
Assistant City Attorney  
State Bar No. 1007373

Date: \_\_\_\_\_

**GREENFIELD:**

CITY OF GREENFIELD

By: \_\_\_\_\_  
Mayor Michael J. Neitzke

**Countersigned:**

By: \_\_\_\_\_  
Donna M. Rynders, City Clerk

**Greenfield City Attorney  
Approval and Authentication**

Roger C. Pyzyk, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of the Greenfield representatives above, and also authenticates the signatures of each of the above Greenfield representatives/signatories per Wis. Stat. § 706.06 so this document may be recorded per Wis. Stat. § 706.05 (2)(b).

By: \_\_\_\_\_  
Roger C. Pyzyk  
State Bar No. \_\_\_\_\_

Date: \_\_\_\_\_

1048-2005-741:112887