

THIS AGREEMENT, By and between St. Michael Hospital of Franciscan Sisters of Milwaukee, Inc., hereinafter known as "Hospital," 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 Hospital is the owner of the property located generally north of West Villard Avenue, west of North 24<sup>th</sup> Street extended, south of West Lawn Avenue and east of North 25<sup>th</sup> Street. This property, known as St. Michael Hospital, is illustrated by Exhibit "A"; and

WHEREAS, The Hospital has requested an agreement providing for a water main extension around the north side of the hospital property, and

WHEREAS, Subject water main improvements will facilitate expansion of St. Michael Hospital; and

WHEREAS, The requested water main improvements could be installed under the terms of an Out-of-Program Agreement upon condition that title to the water main extension upon its completion 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 herein accruing and for other good and valuable considerations,

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

1. Funding Obligation

Hospital agrees to provide all funds required for design, construction, and inspection of the water main improvements, easement preparation as may be required, and any related City work necessitated by the project.

2. Water Main Improvements

A new 8-inch water main shall be constructed in street right-of-way from the intersection of North 25<sup>th</sup> Street and Rohr Avenue northward to a point just south of west Lawn Avenue and thence eastward within an easement through Hospital property to a connection with existing water main in North 24<sup>th</sup> Street. Total approximate length of new water main is 500 feet. City shall design these new water facilities.

The estimated cost for the water main work is:

Design Engineering	\$ 4,000.
Construction Engineering (including fittings & materials)	11,000.
Construction Contract	<u>45,000.</u>
Total Cost:	\$60,000.

3. Construction Option

Consistent with previously reached mutual concurrence of Hospital and the Commissioner of Public Works, and subject, however, to any subsequently discovered conditions, which require City administration of construction, Hospital may let and administer the construction contract for the water main extension. During Hospital management and administration of the water main construction contract, City shall perform normal inspections during the course of construction. City shall also provide all fittings and associated materials. Hospital agrees to comply with and administer, on behalf of the City, all-applicable City rules and requirements pertaining to Emerging Business Enterprises and local resident involvement in the construction contract. Hospital shall not authorize any changes in improvement plans without the prior approval of the Commissioner of Public Works. All payments to contractors must be pre approved by the Commissioner.

4. Other Improvements

Hospital agrees that any other utility and access improvements necessary to serve the site shall be its responsibility and shall be undertaken by Hospital at its sole expense. Hospital further agrees that the City shall review and approve plans for any work to occur in the public right-of-way. Permits necessary for any such work shall be obtained by Hospital.

5. Responsibility for Damage

During construction of the water main referenced in paragraph 3 above, the existing City water main located in easement in vacated West Rohr Avenue between North 24<sup>th</sup> and North 25<sup>th</sup> Streets shall remain in service. Hospital intends to begin construction of the new hospital facility to be located on top of this water main while the new main is being constructed. City hereby agrees to allow such construction in its easement area and Hospital hereby agrees to assume all responsibility for any drainage such construction may cause to City's water main. In the event City's water main is damaged by Hospital construction activities, Hospital shall be responsible for all repair costs and Hospital shall assume all potential liability associated with the damage.

6. Private Utilities

Hospital agrees that all private utility lines, if any, as 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.

7. Funding Guarantee

Hospital shall provide an irrevocable Letter of Credit or other funding guarantee satisfactory in format to the City Attorney, in an amount equal to the estimated construction contract cost of the water main work (Est: \$45,000) prior to the award of any improvement contract, whether by City or Hospital.

The irrevocable Letter of Credit or other form of funding guarantee shall ensure that the Hospital's bank or savings and loan will provide the required funds to cover the estimated construction contract cost of installing the applicable public 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.

Prior to the execution of this Agreement, Hospital has provided a deposit to the City in the amount of the design engineering estimate of Four Thousand Dollars (\$4,000). An additional deposit for construction engineering in an estimated amount of Eleven Thousand Dollars (\$11,000) shall be made prior to the City commencing construction engineering (including fittings and materials) of the new water main extension.



8. Excess Costs

It is understood and agreed that any actual cost in excess of amounts estimated herein will be billed to Hospital upon determination that such excess costs have or will be incurred by City. It shall be further understood and agreed that where Hospital 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 Hospital's engineering fund deposit to cover expenses incurred by the City for engineering and plan preparation work commenced by the City at the Hospital's request.

9. Inspections, Fittings & Materials

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, inspection, materials and fittings 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.

10. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the water main extension and associated improvements, title to such improvements 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. It is further understood and agreed that upon completion of the water main extension, the existing water main located in easement in vacated West Rohr Avenue between North 24<sup>th</sup> and North 25<sup>th</sup> Streets shall be abandoned by the City and taken over by the Hospital. City shall cap the eastern end of the main at North 24<sup>th</sup> Street and shall install a meter box at North 25<sup>th</sup> Street. City shall also initiate steps to relinquish its easement rights in vacated West Rohr Avenue.

11. Building Permits

It is understood and agreed by both parties hereto that building permits for any planned structures to be served by the extended water main shall not be issued until the Hospital has provided the City with the Letter of Credit (or other funding guarantees) and cash deposits referenced in paragraph seven (7).

12. Occupancy Permits

It is understood and agreed by both parties hereto that occupancy permits for any structure to be served by the extended water main shall not be issued until all planned public improvements have been sufficiently completed so essential public utility services are provided to the structure.

13. City Ordinances and Regulations

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.

14. Easements

Hospital shall provide to the City, at no cost, a water main easement across the northern edge of Hospital property between North 24<sup>th</sup> and North 25<sup>th</sup> Streets. Said easement shall be of sufficient width to allow City convenient access to its water main improvements located therein.

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

IN WITNESS WHEREOF, the Hospital has caused this document to be signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 2003.

In Presence Of:

ST. MICHAEL HOSPITAL OF FRANCISCAN  
SISTERS OF MILWAUKEE, INC.

\_\_\_\_\_

By: \_\_\_\_\_  
R. Bruce James, President

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 \_\_\_\_\_, 2003.

In Presence Of:

\_\_\_\_\_

\_\_\_\_\_  
John O. Norquist, Mayor

\_\_\_\_\_

\_\_\_\_\_  
Ronald Leonardt, City Clerk

COUNTERSIGNED:

\_\_\_\_\_  
W. Martin Morics, Comptroller

STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003, R. Bruce James, as President of St. Michael Hospital of Franciscan Sisters of Milwaukee, Inc., who executed the foregoing instrument, and acknowledged that he executed the same in such capacity.

\_\_\_\_\_ Notary Public,  
State of Wisconsin

My Commission expires:

STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003,  
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. \_\_\_\_\_, adopted \_\_\_\_\_, 2003.

\_\_\_\_\_ Notary Public,  
State of Wisconsin

My Commission expires:



STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003,  
\_\_\_\_\_, 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. \_\_\_\_\_, adopted  
\_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public,  
State of Wisconsin

My Commission expires:

STATE OF WISCONSIN            )  
  ) SS.  
MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2003,  
\_\_\_\_\_, 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. \_\_\_\_\_,  
adopted \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public,  
State of Wisconsin

My Commission expires:

DOC: St. Michael Hospital.opa  
REV. 07/15/03