

SEWER AND WATER EASEMENT IN
VACATED RIGHT-OF-WAY

Document Number

Document Title

SEWER AND WATER EASEMENT
IN VACATED RIGHT-OF-WAY
SE-2886, WE- 969

Drafted by:

City of Milwaukee
Department of Public Works

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

Tax Key Numbers: 466-1693-000,
466-0317-110

THIS SEWER AND WATER EASEMENT (the “**EASEMENT**”), made as of _____, 20____, by the CITY OF MILWAUKEE (“**City**”), a municipal corporation, is an assertion of City’s easement rights pursuant to 66.1005(2), Wis. Stats., for sewer, water, and underground conduit facilities located within former public right-of-way.

1. Right-of-Way Vacation; Easement Area. Public right-of-way known as East Archer Avenue was vacated by the City on the same date as the date of this Easement pursuant to Wis. Stat. Sec. 62.73 (“**Vacated ROW**”). City owns combined sewer and water facilities within the Vacated ROW and hereby asserts its rights under Wis. Stat. Sec. 66.1005(2) to continue to hold an easement and rights incidental to the easement in and to a part of that Vacated ROW – which part is herein called the “**Easement Area.**” The Easement Area is legally described on **EXHIBIT A** attached and is depicted on **EXHIBIT B** attached (Plan File No. 198-7-90).

2. Easement Purpose. City holds a permanent easement in and to the Easement Area, together with the right of ingress and egress to the Easement Area, so City may enter the Vacated ROW to use the Easement Area. Within the Easement Area, City may construct, operate, maintain, inspect, repair, enlarge, reconstruct, replace, and relocate, as City deems necessary, a 15-inch diameter combined sewer and 6-inch diameter water main and related facilities and appurtenances (collectively, the “**Facilities**”).

3. City Facilities Maintenance. City is responsible for maintaining the Facilities.

- 4. Easement Area Restriction.** No structures or improvements may be constructed within the Easement Area by the owner of the Vacated ROW except ordinary lawns, walkways, roadways, driveways and parking-lot surfacing (“**Permitted Improvements**”). If, in exercising City’s rights hereunder, City causes damage to, or removes, any Permitted Improvements, City shall replace or repair same, at City expense to substantially the same condition as existed previously. In no case shall the City be responsible for replacing aesthetic plantings.
- 5. Grantor Construction.** If the owner of the Vacated ROW constructs any structure, building, or improvement adjacent to the Easement Area, or any Permitted Improvement within the Easement Area, or the owner of the Vacated ROW undertakes any other work within the Easement Area, the owner of the Vacated ROW assumes liability for any damage to the Facilities in the Easement Area.
- 7. Charge.** No charge will be made against the Vacated ROW or its owner for the cost of construction, operation, maintenance, inspection, repair, enlargement, reconstruction or relocation of the Facilities in the Easement Area, except **(a)** when the owner of the Vacated ROW applies for a permit or approval to connect to the Facilities, the regular and customary connection permit fee in effect at the time of application shall be paid, and the owner of the Vacated ROW shall connect per City requirements, and **(b)** the sewer maintenance, user fees, and other sewer fees in effect for all City of Milwaukee serviced properties that are chargeable to or against real property or owners, shall be paid.
- 8. Access.** The Facilities and Easement Area shall be accessible to City at all times.
- 9. Prior Approval of Certain Work.** Prior to undertaking any work below surface within the Easement Area, and prior to any underground installation within the Easement Area, and prior to any surface-grade alteration within the Easement Area that would raise or lower the surface elevation by 1 foot or more, then, in any such event, the owner of the Vacated ROW shall first submit plans therefore to the City for approval by the City’s Commissioner of Public Works (“**DPW Commissioner**”), and any such work, installation or alteration, requires prior approval of the DPW Commissioner.
- 10. Recording; Miscellaneous.** This Easement **(a)** shall be recorded with the Milwaukee County Register of Deeds by City, **(b)** is governed by Wisconsin law, **(c)** may only be amended by written instrument signed by City and the then owner of the Vacated ROW, and **(d)** is binding on successors, assigns, and heirs of City and the owner of the Vacated ROW.
- 11. Public Right-of-Way.** If the Easement Area, or any part thereof, becomes public right-of-way, the rights of the owner of the Vacated ROW hereunder shall terminate but the Easement shall not.

THE CITY caused this Easement to be executed by its authorized signatories as of the date first written above.

CITY: CITY OF MILWAUKEE

By: _____
Jeffrey Polenske, Commissioner
Dept. of Public Works

Countersigned:

By: _____
Martin Matson, Comptroller

City Common Council Resolution File No.
_____, adopted on
_____.

**CITY ATTORNEY
APPROVAL/AUTHENTICATION**

_____, 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).

By: _____

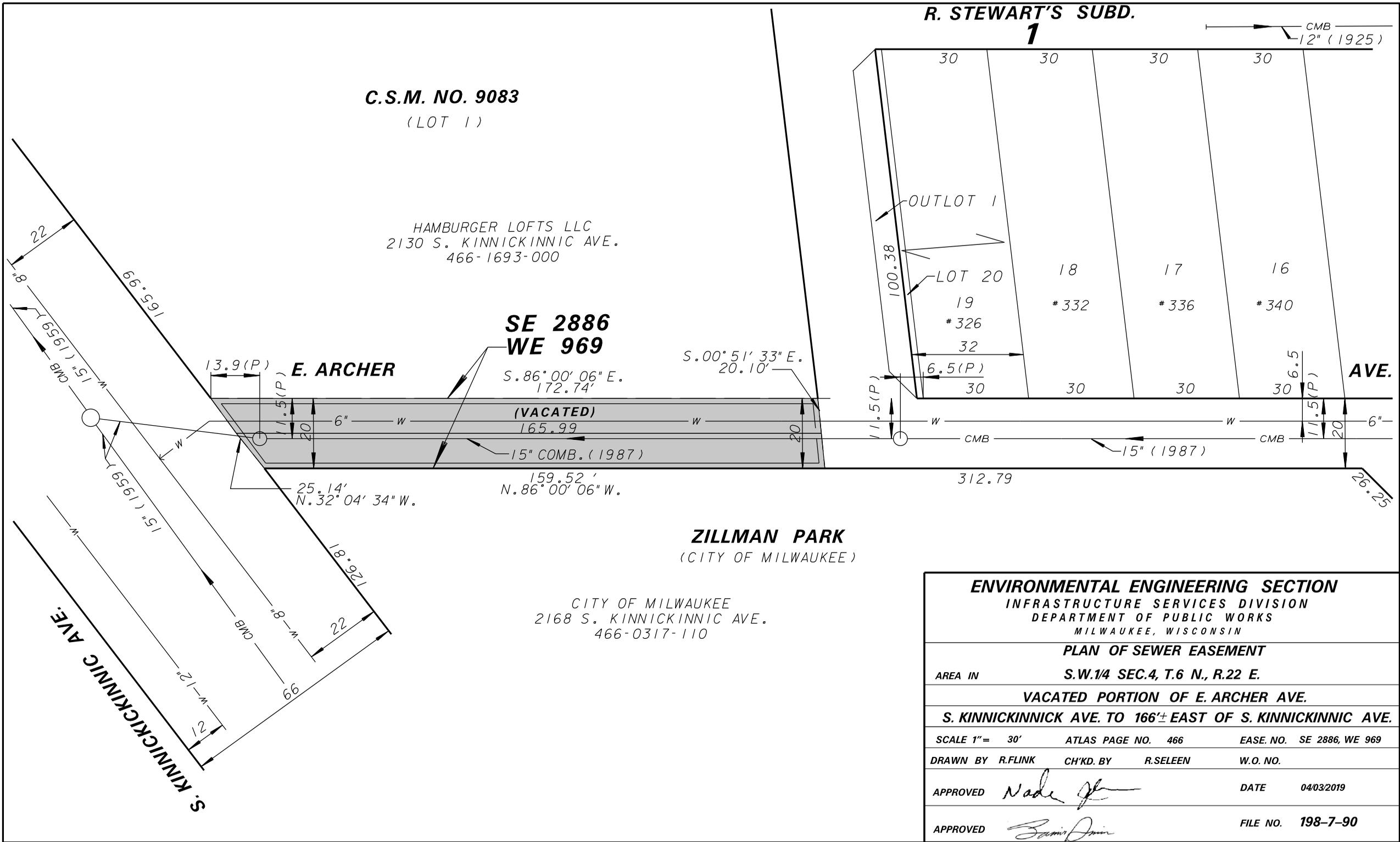
Name Printed: _____
Assistant City Attorney
State Bar No. _____
Date: _____

1047-2012-719:204382

EXHIBIT A
LEGAL DESCRIPTION OF "EASEMENT AREA"

Easement in the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 4, Town 6 North, Range 22 East, In the City of Milwaukee, Milwaukee County, Wisconsin, bounded and described as follows;

Vacated East Archer Avenue between the east line of S. Kinnickinnic Avenue and the southerly extension of the east line of Lot 1 of Certified Survey Map No. 9083 in said Southwest $\frac{1}{4}$.



C.S.M. NO. 9083
(LOT 1)

HAMBURGER LOFTS LLC
2130 S. KINNICKINNIC AVE.
466-1693-000

**SE 2886
WE 969**

S. 00° 51' 33" E.
20.10'

S. 86° 00' 06" E.
172.74'

(VACATED)
165.99'
15" COMB. (1987)

159.52'
N. 86° 00' 06" W.

E. ARCHER

ZILLMAN PARK
(CITY OF MILWAUKEE)

CITY OF MILWAUKEE
2168 S. KINNICKINNIC AVE.
466-0317-110

R. STEWART'S SUBD.

1

CMB
12" (1925)

30 30 30 30

OUTLOT 1

18 17 16
326 # 332 # 336 # 340

32 6.5 (P) 30 30 30 30 6.5 (P)

AVE.

11.5 (P) 15" (1987) 11.5 (P) 26.25

ENVIRONMENTAL ENGINEERING SECTION
INFRASTRUCTURE SERVICES DIVISION
DEPARTMENT OF PUBLIC WORKS
MILWAUKEE, WISCONSIN

PLAN OF SEWER EASEMENT

AREA IN **S.W.1/4 SEC.4, T.6 N., R.22 E.**
VACATED PORTION OF E. ARCHER AVE.
S. KINNICKINNICK AVE. TO 166'± EAST OF S. KINNICKINNIC AVE.

SCALE 1"= 30' ATLAS PAGE NO. 466 EASE. NO. SE 2886, WE 969

DRAWN BY R.FLINK CH'KD. BY R.SELEEN W.O. NO.

APPROVED *Nade* DATE 04/03/2019

APPROVED *Bassim Amin* FILE NO. 198-7-90