

EASEMENT - UNDERGROUND CONDUIT
AND MANHOLES

Document Number

Document Title

UG-22

Easement 1095 feet long and 60 feet wide
located in vacated North 10th Street between
West Winnebago Street and West Highland Avenue and
centered on the old street right-of-way.

Recording Area

Name and Return Address

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

391-0266-100-5
391-0257-110-3
361-1403-113-X
361-1520-110-1
361-1521-110-7

Parcel Identification Number (PIN)

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Located in vacated North 10th Street
Between West Winnebago Street
And West Highland Avenue
Centered on the vacated street right-of-way

E A S E M E N T

THIS AGREEMENT, made by and between the CITY OF MILWAUKEE, a municipal corporation in the State of Wisconsin, hereinafter referred to as "City", and Juneau Avenue Partners LLC, owner(s), (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

WHEREAS, the City desires to acquire a temporary, non-exclusive EASEMENT as shown on the attached plan, (Exhibit A) Common Council Resolution File Number 031513, with the right of entry in, to, and across the property hereinafter described (the "Easement Area") 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 the Easement Area, namely underground conduit, manholes 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 Easement Area and land hereinafter described, does hereby grant unto the City a temporary EASEMENT for the aforementioned FACILITIES with the right of entry in, to, and across the Easement Area 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 Easement Area which is the following described property in that part of the Southwest ¼ of Section 20, Township 7 North, Range 22 East and Northwest ¼ of Section 29, Township 7 North, Range 22 East in the City of Milwaukee, County of Milwaukee, State of Wisconsin, bounded and described as follows, to-wit:

Portion of easement north of West Juneau Avenue

A 60.00-foot wide easement, in the Southwest ¼ of Section 20, Township 7 North, Range 22 East, centered along the centerline of vacated North 10th Street, in Plat of the Town of Milwaukee on the West Side of the river, a recorded subdivision in said ¼ Section, lying between the north line of West Juneau Avenue and the southerly line of West Winnebago Street.

Portion of easement south of West Juneau Avenue

A 60.00-foot wide easement, in the Northwest ¼ of Section 29, Township 7 North, Range 22 East, centered along the centerline of vacated North 10th Street, in Survey and Subdivision into City Lots of the North 30 Acres of the West ½ of the Northwest ¼, and the North 14 Acres of the West 24 of the South 50 Acres of the West ½ of the Northwest ¼, a recorded subdivision, in said ¼ Section, lying between the north line of West Highland Avenue and the south line of West Juneau Avenue.

The Easement Area is a part of Tax Key Numbers 391-0266-100-5, 391-0257-110-3, 361-1403-113-X, 361-1520-110-1 and 361-1521-110-7.

UPON CONDITION:

1. That said FACILITIES shall be maintained and kept in good order and condition by the City, and that no charges will be made against the Grantor or the Grantor's property for the cost of maintenance or operation of said FACILITIES (except as Grantor may otherwise incur in the form of general property taxes levied alike against owners of taxable property in the City of Milwaukee).

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 Area

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 paying 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 the City will notify the Grantor in writing not less than ten (10) days prior to commencing any repairs, installation, maintenance or other activities within the Easement Area; provided, however, that in the case of need for immediate action to prevent damage or harm to persons or property or in the case of emergency, no advance written notice shall be required.

5. That, in connection with the construction by the Grantor of any structure or building abutting said Easement Area, or with Grantor (or anyone claiming by, through, or under Grantor) making any underground installation within the Easement Area, the Grantor will assume all liability for any damage caused by the Grantor (or any of its agents, contractors, or subcontractors) (or anyone claiming by, through, or under Grantor) to the FACILITIES in the Easement Area. Grantor agrees that neither Grantor nor anyone claiming by, through, or under Grantor, shall – without the prior written consent of City's DPW Commissioner (which shall not be unreasonably withheld) – install within, excavate, or disturb any area that is within 3 feet horizontally and 6 inches vertically of the Facilities

6. That the FACILITIES shall be accessible for maintenance at all times. The Grantor (and anyone claiming by, through, or under Grantor) shall submit plans for approval by the City's DPW Commissioner for any underground installation within the Easement Area; provided, however, that the Grantor shall retain the right, for itself and others, to use the Easement Area for underground installations in any manner that is lawful, and that does not prevent, limit, or restrict the exercise of the rights granted hereunder to the City. Said underground installation shall be made only with the prior written approval of the City's DPW Commissioner. Approval under this section will not be unreasonably withheld.

7. That the Grantor shall submit plans for all surface grade alterations of plus or minus 1-foot or greater within the Easement Area. Said alterations shall be made only with the approval of the City's DPW Commissioner, such approval not to be unreasonably withheld.

8. That the Grantor shall be responsible for adjusting the elevations of all appurtenances necessitated by alteration of surface elevations within the Easement Area by the Grantor. Said adjustments shall be required to provide free access to all conduit appurtenances and shall be made only with the approval of the City's DPW Commissioner, such approval not to be unreasonably withheld.

9. This EASEMENT shall be in effect until North 10th Street between West Winnebago Street and West Highland Avenue becomes public right-of-way. At which time, an EASEMENT will no longer be needed, and this EASEMENT shall be void and of no effect.

10. 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 notice by delivering written notice thereof in accordance with the requirements of this paragraph.

A. To Juneau Avenue Partners, LLC
301 West Wisconsin Avenue
Milwaukee, WI 53203
Attn: _____
Phone: (414) 274-4600
Facsimile: (414) 274-4640
E-mail: _____

B. To City:
Commissioner
Department of Public Works
841 North Broadway, Room 516
Milwaukee, WI 53202
Phone: 414-286-3301
Facsimile: 414-286-3953
E-mail: _____

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

12. 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 15th day of April, 2004.

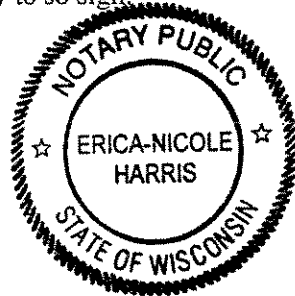
GRANTOR: Juneau Avenue Partners, LLC

Attest: _____ By: [Signature]
Name Printed: _____ Name Printed: John J. Ferchill
Title: _____ Title: _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

This instrument was acknowledged before me on April 15th, 2004 by John J. Ferchill and _____, the managing member and _____, respectively, of Juneau Avenue Partners, LLC, and on behalf of said entity, to me personally known, and representing requisite authority to so sign.

[Signature]
Notary Public, State of Wisconsin
My commission: 11.04.07



CITY: CITY OF MILWAUKEE

City Engineer (who also approves as to contents)
Per Common Council Resolution File No. 031513

COUNTERSIGNED:

Comptroller

CITY ATTORNEY'S OFFICE

Approved this ____ day of _____, 2004.

By: _____
Gregg C. Hagopian, Assistant City Attorney

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

This instrument was acknowledged before me on _____, 2004 by _____
the City Engineer.

Notary Public, State of Wisconsin
My commission: _____

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

This instrument was acknowledged before me on _____, 2004 by _____, the City
Comptroller.

Notary Public, State of Wisconsin
My commission: _____

1029-2004-147:77785