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SEWER EASEMENT

Document Number

Document Title

SEWER EASEMENT
SE-2874

Drafted by: Mary Schanning
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

Part of 396-0511-000
Parcel Identification Number (PIN)

THIS SEWER EASEMENT (the “EASEMENT”), made as of April 30, 2021, is from COUTURE PARKING LLC, a Wisconsin limited liability company (“Grantor”) to the CITY OF MILWAUKEE (“City”), a municipal corporation, and is for good and valuable consideration, the receipt and sufficiency of which are acknowledged.

1. **Grantor Parcel; Easement Area.** Grantor owns property in the City of Milwaukee, Wisconsin, more particularly described on **EXHIBIT A** (the “Parcel”), and Grantor is willing to grant to City a permanent easement in and to a part of that Parcel – which part is herein called the “Easement Area.” The Easement Area is legally described on **EXHIBIT B** attached and is depicted on **EXHIBIT C** attached (Plan File No. 198-7-62).
2. **Easement Grant.** Grantor grants to City, and City accepts, 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 Parcel 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, one 12-inch diameter sanitary sewer, one 48-inch x 76-inch horizontal elliptical combined sewer, 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 Grantor except ordinary lawns, walkways, roadways, driveways, parking

lot surfacing, and a proposed parking structure as described in Section 5, below (“**Permitted Improvements**”).

5. **Parking Structure.** Grantor’s plans to redevelop the Parcel as described in the Amended and Restated Cooperation, Contribution and Redevelopment Agreement for the Couture Project for Tax Incremental District No. 82 (East Michigan Street) dated April 30, 2021 (the “Development Agreement”) include constructing a parking structure in and over a portion of the Easement Area (the “Parking Structure”). City hereby grants Grantor permission to construct the Parking Structure within the Easement Area subject to the terms contained in the Development Agreement and herein, and as outlined below:

- A. That Grantor shall submit footing and foundation plans, sewer encasement details and calculations for review by City and for approval by the City’s Commissioner of Public Works (“**DPW Commissioner**”) before any construction is commenced in the Easement Area.
- B. That Grantor hereby assumes all liability for any damage to the Facilities located within the Easement Area or injuries to a person or persons resulting from construction, maintenance and use of the Permitted Improvements on, over and abutting the Facilities and Easement Area.
- C. That the Facilities shall be constructed per the approved City of Milwaukee plan file nos. 246-24 and 246-25 dated March 22, 2017. That any footings or foundation elements required for the Permitted Improvements over the Facilities shall be so designed and at such elevation that no loads will bear on the facilities, such footings or foundation elements shall not be closer than 5 feet from the outside edge of the Facilities.
- D. If, in exercising City’s rights contained herein, City causes damage to, or removes, any Permitted Improvements other than the Parking Structure, City shall replace or repair same, at City’s own expense, to substantially the same condition as existed previously. In no case shall the City be responsible for replacing aesthetic plantings. The parties acknowledge that the Facilities are designed to allow City to access, maintain and repair the Facilities with minimal disturbance of the operation of the Parking Structure by use of 2 access points located outside of the Parcel and 1 manhole on the first level of the Parking Structure.
- E. In the event City needs to repair, replace, relay or otherwise have access to the Facilities, City shall provide a 24-hour written notice to Grantor of such activities unless the DPW Commissioner determines that there is the potential for imminent damage to the Facilities, in which case the notice may be verbal and immediate. In the event City needs to access the Facilities through the manhole in the Parking Structure, such notice shall specify that need. Upon receiving such notice, Grantor shall block off the parking space in which the manhole is located as well as the adjacent parking spaces as necessary to provide City access to the Facilities. If Grantor fails to block the necessary parking spaces in the Parking Structure, City may tow or otherwise remove vehicles or other items located in the parking spaces at Grantor’s expense. Grantor shall be responsible for

using barricades or other measures to block the parking spaces at Grantor's expense. Grantor also agrees that the effected parking spaces shall be utilized as general public parking spaces and not leased to anyone for regular use in order to minimize disruptions in operation of the Parking Structure under this subsection.

6. **Hold Harmless.** City will hold Grantor harmless from loss or injury resulting from City's willful or negligent acts or omissions under this Easement. Grantor will hold City harmless from loss or injury resulting from Grantor's willful or negligent acts or omissions under this Easement. If there is joint negligence or culpability on the part of City and Grantor, liability shall be borne by them, respectively, in proportion to their respective negligence or culpability. The foregoing provisions are subject to legal defenses and statutory limitations on liability and immunities available, respectively, to City and to Grantor.

7. **Grantor Construction.** If Grantor constructs any structure, building, or improvement adjacent to the Easement Area, or any Permitted Improvement within the Easement Area, or if Grantor undertakes any other work within the Easement Area, Grantor assumes liability for any damage to the Facilities in the Easement Area including, but not limited to, the cost to repair or replace the Facilities as necessitated by such damage.

8. **Charge.** No charge will be made against the Parcel or Grantor for the cost of operation, maintenance, non-construction related inspections, repair, enlargement, reconstruction or relocation of the Facilities in the Easement Area, except (a) when Grantor 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 Grantor 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.

9. **Access.** The Facilities and Easement Area shall be accessible to City as further described above.

10. **Prior Approval of Certain Work.** Prior to undertaking any work below the 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, Grantor shall first submit plans therefore to the City for approval by the DPW Commissioner and any such work, installation or alteration, requires prior approval of the DPW Commissioner.

11. **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 all parties, and (d) is binding on successors, assigns, and heirs. Grantor has full right and authority to enter, and grant, this Easement.

12. **Public Right-of-Way.** If the Easement Area, or any part thereof, becomes public right-of-way, Grantor's rights hereunder as to such shall terminate but the Easement shall not.

EXHIBIT A

LEGAL DESCRIPTION OF PARCEL

PARCEL A:

Unit Two (2), together with said unit's undivided appurtenant interest in the common elements, and the use of the limited common elements appurtenant to said unit, all in THE COUTURE LAKEFRONT, A CONDOMINIUM, being a condominium created and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin and by Declaration of Condominium of The Couture Lakefront, a Condominium, and recorded April 6, 2021 as Document No. 11099452 (the "Declaration"); and Condominium Plat recorded April 6, 2021, as Document No. 11099453, said condominium being located in the City of Milwaukee, Municipal Grantor of Milwaukee, State of Wisconsin on the real estate described in and made subject to said Declaration and incorporated herein by this reference thereto.

Tax Key No. 396-0511-000 (pt)
Address: 909 E. Michigan Street, Milwaukee, WI

PARCEL B:

Easements benefitting the above-described Unit as set forth in Section 14.8 of the Declaration and/or otherwise under Article XIV of the Declaration

EXHIBIT B

LEGAL DESCRIPTION OF "EASEMENT AREA"

Easement located in the Southwest ¼ of Section 28, Township 7 North, Range 22 East in the City of Milwaukee, County of Milwaukee, State of Wisconsin, bounded and described as follows, to wit:

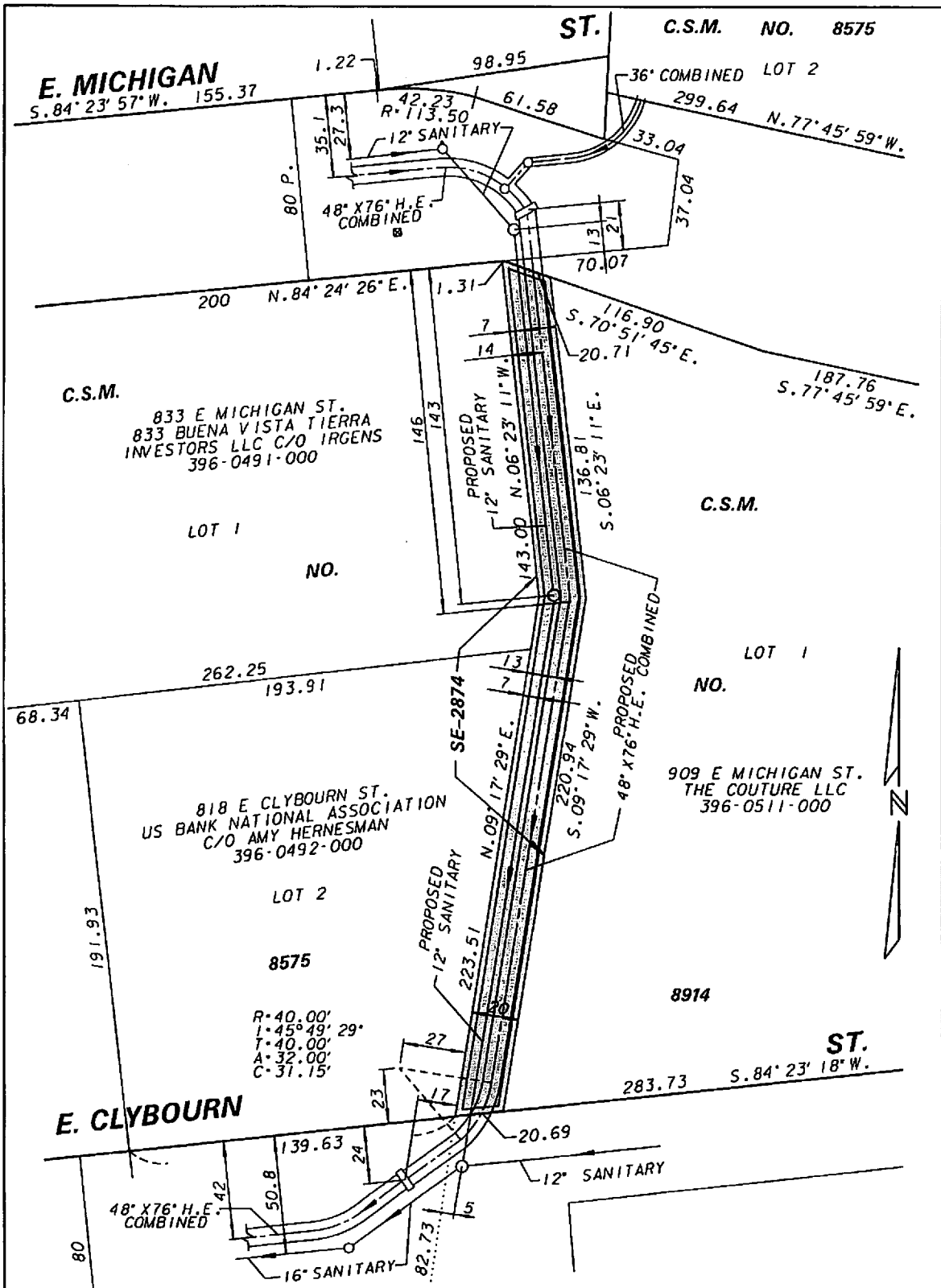
SE-2874

Commencing at the Southwest corner of Lot 1 of Certified Survey Map (CSM) No. 8914, a recorded CSM in said ¼ section; said point also being the point of beginning of the land to be described;

Thence, North 9° 17' 29" East 223.51 feet to a point;
Thence, North 6° 23' 11" West 143.00 feet to a point;
Thence, North 84° 24' 26" East 1.31 feet to a point;
Thence, South 70° 51' 45" East 20.71 feet to a point;
Thence, South 6° 23' 11" East 136.81 feet to a point;
Thence, South 9° 17' 29" West 220.94 feet to a point;
Thence, South 84° 23' 18" West 20.69 feet to the point of beginning.

The above described land is shown on the drawing attached hereto as Exhibit "C".

EXHIBIT C
DEPICTION OF "EASEMENT AREA"
PLAN FILE NOS. 198-7-62



ENVIRONMENTAL ENGINEERING SECTION.			
INFRASTRUCTURE SERVICES DIVISION			
DEPARTMENT OF PUBLIC WORKS			
MILWAUKEE, WISCONSIN			
PLAN OF SEWER EASEMENT			
AREA IN	S.W.1/4 SEC.28, T.7 N., R.22 E.		
	VACATED R.O.W. 495' E. OF N. VAN BUREN STREET		
	FROM E. CLYBOURN STREET TO E. MICHIGAN STREET		
SCALE 1"=	60'	ATLAS PAGE NO. 398	EASE NO. SE 2874
DRAWN BY	F. RATILLO	CH'KD. BY R. SELEEN	W.O. NO.
APPROVED	<i>[Signature]</i>	DATE	12-28-2020
APPROVED	<i>[Signature]</i>	FILE NO.	198-7-62