

SPECIAL PERMISSION AGREEMENT

THIS AGREEMENT, Made by and between the City of Milwaukee, a municipal corporation, party of the first part, and MRED (Lincoln/Forest Home) Associates, a Wisconsin Limited Partnership, party of the second part.

WITNESSETH:

WHEREAS, MRED (Lincoln/Forest Home) Associates, a Wisconsin Limited Partnership owns an area of land known as 2410 West Forest Home Avenue; and

WHEREAS, MRED (Lincoln/Forest Home) Associates, a Wisconsin Limited Partnership has proposed that a new Walgreen's building be constructed at this location; and

Whereas, A new public alley has been dedicated adjacent to this property; and

WHEREAS, MRED (Lincoln/Forest Home) Associates, a Wisconsin Limited Partnership is desirous to utilize the new alley to access the above property; and

WHEREAS, MRED (Lincoln/Forest Home) Associates, a Wisconsin Limited Partnership requests the City of Milwaukee enter into a special permission agreement to allow them to improve and maintain the public alley at no cost to the City of Milwaukee;

NOW, THEREFORE, In consideration of One Dollar (\$1.00) and the mutual covenants and conditions herein described, the parties hereto agree to the following conditions:

1. That the party of the second part, at no cost to the City, may improve the public alley in the described special permission agreement area (the "Special Permission Agreement Area"). Plans and specifications for this work must be reviewed and approved by the Commissioner of Public works.

The Special Permission Agreement Area is described as follows:

That part of Certified Survey Map No. 7214, recorded March 28, 2003 as document no. 8485989, in the Southwest $\frac{1}{4}$ of Section 6, Township 6 North, Range 22 East, described as follows: Commencing at the northeast corner of Lot 1 in said Certified Survey Map; thence North $70^{\circ}13'01''$ West, along the northerly line of Lot 1 aforesaid, 120.01 feet to a point; thence North $79^{\circ}25'06''$ West, along said northerly line, 5.11 feet to a point; thence North $20^{\circ}11'48''$ East, along the northerly line of said Certified Survey Map, 9.04 feet to a point; thence South $69^{\circ}34'51''$ East, continuing along said northerly line, 5.03 feet to a point; thence North $20^{\circ}08'39''$ East, continuing along said northerly line, 15.86 feet to the southwest corner of Outlot 1 of said Certified Survey Map; thence South $70^{\circ}13'01''$ East, along the southerly line of Outlot 1 aforesaid, 120.03 feet to the southeast corner of Outlot 1; thence South $20^{\circ}11'46''$ West, along the easterly line of said Certified Survey Map, 24.03 feet to the point of commencement.

2. That the party of the second part agrees to accept all responsibility to maintain, repair, reconstruct, replace, or remove said alley improvements, the cost of which shall be borne by the party of the second part. The Department of Public Works of the City of Milwaukee will have the right to order the party of the second part to maintain the Special Permission Agreement Area, the cost to be borne by the party of the second part, so that no condition of mud, dust, or standing water will occur.

3. That the party of the second part agrees to save the party of the first part harmless from any and all claims, demands, causes of action, liability, or obligations including, but not limited to, claims or liability for environmental contamination or remediation, which may arise in connection with the construction, operation, maintenance or use of the proposed alley.

4. That the party of the second part agrees to obtain all necessary Department of Public Works permits so that all interested City agencies and the Commissioner of Public

Works will have opportunity to review and approve the final plans prior to construction activities.

5. That the party of the second part agrees that no structures other than surfacing for the alley or surface drainage facilities and appurtenances thereto, and landscaping will be constructed on the above described lands. Any installations shall not cause a condition of standing water on any of the abutting property.

6. That the party of the second part agrees that the public right-of-way, within the Special Permission Agreement Area will not be used for the parking or storage of vehicles.

7. That the party of the first part reserves the right to enter onto the Special Permission Agreement Area for the purpose of repairing, maintaining, constructing or reconstructing any City facilities which are in said area or for any other reason dictated by the public interest.

8. That any governmental agencies and utility companies having the right to install and maintain facilities within the public way will continue to enjoy these rights within the Special Permission Agreement Area.

9. That the party of the second part agrees to reconstruct any roadway or appurtenances that it had previously constructed following any repair, maintenance, construction or reconstruction of the City facilities by the party of the first part and/or others, enjoying rights as set out in paragraph 8 above.

10. That the party of the second part agrees to remove without cost to the City all installations constructed as a result of this agreement whenever the public interest or safety requires, or when so ordered in writing by the Commissioner of Public Works of the City of Milwaukee or by a resolution of the Common Council. Said removal of all installations to be accomplished within 30 days of the issuance of written notice or

adoption of Common Council resolution. In the case of non-compliance, the City shall have the right to remove all installations, with all costs of removal to be the responsibility of the party of the second part.

11. That this agreement does not relieve the party of the second part from their responsibilities and obligations to obtain any City permits and/or approvals necessary to construct and use said alley and adjacent property.

12. That, the alley is intended to be utilized for refuse pickup by the City, as well as for general use by area residents for access to their properties.

13. The party of the second part has submitted a letter dated January 23, 2003 indicating that the Walgreen Company maintains a comprehensive program of self-insurance and insurance coverages to protect Walgreen assets. A copy of the letter is attached and is incorporated as part of the Special Permission Agreement.

14. That the provisions contained herein shall be binding upon both parties, their personal representatives, heirs, successors, and assigns, upon the adoption of this Agreement by the Common Council of the City of Milwaukee. This Agreement shall not be assignable by the party of the second part without first obtaining written consent from the party of the first part. Such consent shall not be unreasonably withheld.

15. That this agreement may be terminated by the party of the first part if the land is sold or the type of land use changes.

IN WITNESS WHEREOF, the said City of Milwaukee, party of the first part, has caused these presents to be signed by John O. Norquist, its Mayor, and by Ronald D. Leonhardt, its City Clerk, and countersigned by W. Martin Morics, its City Comptroller, at Milwaukee, Wisconsin and its corporate seal to be hereunto affixed, this _____ Day of _____, 2003.

SIGNED AND SEALED IN PRESENCE OF:

CITY OF MILWAUKEE

JOHN O. NORQUIST, Mayor

Ronald D. Leonhardt, City Clerk

COUNTERSIGNED:

W. Martin Morics, Comptroller

IN WITNESS WHEREOF, the said Irgens Development Partners, LLC, party of the second part has caused these presents to be signed this ____ day of _____

2003.

SIGNED AND SEALED IN PRESENCE OF:

_____ Title

_____ Title

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this ____ day of _____, 2003 John O. Norquist, Mayor 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 mayor of said municipal corporation, and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, by its authority and pursuant to Resolution File No. _____, adopted by the Common Council of the City of Milwaukee on _____.

Notary Public, State of Wisconsin
My commission expires _____

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this ____ day of _____, 2003, Ronald D. Leonhardt, City Clerk of the above named municipal corporation, 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, by its authority, and pursuant to Resolution File No. _____, adopted by the Common Council on _____.

Notary Public, State of Wisconsin
My commission expires _____

STATE OF WISCONSIN
MILWAUKEE COUNTY

Personally came before me this _____ day of _____, 2003, W. Martin Morics, City Comptroller 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 Comptroller of said municipal corporation and acknowledged that he executed the foregoing instrument as such officer as the deed of said municipal corporation, by its authority, and pursuant to Resolution File No. _____, adopted by its Common Council on _____.

Notary Public, State of Wisconsin
My commission expires _____.

Personally came before me this _____ day of _____, 2003 _____, to me known to be the person who executed the foregoing instrument.

Notary Public, State of Wisconsin
My commission expires _____.

This instrument was drafted by the City of Milwaukee

Approved as to content this _____ day of _____, 2003.

Jeffrey S. Polenske, P.E.
City Engineer

Approved as to form and execution this _____ day of _____, 2003.

City Attorney

JJM:cjt

WORD97\AGRMT\SP-PERMISS

WALGREENS

January 23,2003

City of Milwaukee

Re: Certificate of Insurance Request for Walgreen's located at:
Store#7661 Lincoln & Forest Home, Milwaukee, WI

Walgreen Co. and its subsidiaries maintain a comprehensive program of self-insurance and insurance coverages to protect our company assets as required by the terms of our lease. We can Self-Insure due to our asset size. Walgreen Co. has a Net Worth of 6.4 Billion. Since the lease allows us the option to self-insure/ self-assume the risk on the above captioned property(ies), we have chosen to take that option. Please accept this letter in lieu of a certificate of insurance or a copy of our insurance policy.

Sincerely,


Sharon S. Clore, Manager of Insurance

SSC:kb