

**Sewer Easement and
Agreement
SE-2821**

Document Number

Please return Document to:

City of Milwaukee
Infrastructure Services Division
Environmental Engineering Section
841 North Broadway – Room 820
Milwaukee, WI 53202

Irregularly shaped easements
located near West Mount Vernon
Avenue, North 21st Street and
North 25th Street

Recording Area

400-9995-117

Parcel ID Number

SEWER EASEMENT and AGREEMENT

THIS INDENTURE, Made by and between the CITY OF MILWAUKEE, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City", and Giuffre VIII, LLC, (including heirs, personal representatives, successors or assigns, of above owner(s), as may be or may become applicable), hereinafter called "Grantor".

WITNESSETH

That, **WHEREAS**, The City desires to acquire a permanent EASEMENT as shown on the attached Exhibit "A", with the right of entry in and across the property hereinafter described, with the right to construct, operate, maintain, inspect, repair, enlarge, reconstruct and relocate, as may be or may become applicable, the following facilities and all other related appurtenances, hereinafter called "FACILITIES", in said property, namely 8-inch diameter storm sewers; and

WHEREAS, The Grantor, as part of the City Lights development and as part of the Development Agreement (City Lights Project), shall construct catch basins and sewers to collect runoff from the proposed public right of ways of West Mt. Vernon Avenue and in North 21st Street; and

WHEREAS, Once the development is completed, the City of Milwaukee shall take ownership of the catch basins and sewers; and

WHEREAS, Some of said catch basins shall be connected to biofiltration areas owned and maintained by the Grantor in West Mt. Vernon Avenue at a point approximately 450 feet west and 320 feet west of the east line of North 21st Street, and in North 21st Street at a point approximately 200 feet north and 135 feet north of the south line of West Mt. Vernon Avenue as shown on the attached Exhibit "A"; and

WHEREAS, The Grantor shall construct manholes at the locations where the drainage from the West Mt. Vernon Avenue road right of way enters the private sewers as shown on Exhibit "B"; and

WHEREAS, The Grantor has agreed to the public sewers being connected to the private sewers for public drainage purposes; and

WHEREAS, The Grantor shall keep in good order the sewers into which drainage from the public right of discharges as shown on Exhibit "B"; and

NOW, THEREFORE, in consideration of the grant of the EASEMENT and of the mutual covenants and conditions for aforementioned FACILITIES and the payment of One Dollar (\$1.00) and other valuable consideration to the Grantor, receipt whereof is hereby acknowledged, said Grantor, being the owner interested in the land hereinafter described, does hereby grant unto the City a permanent EASEMENT for aforementioned FACILITIES, with the right of entry in and across the property hereinafter described 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 bio-filtration facilities and a 10 foot-wide strip of land, running the length of each 8-inch diameter storm sewer and centered on the centerline of each 8-inch storm sewer, at the Grantor's property located in that part of the Southwest $\frac{1}{4}$ (SW $\frac{1}{4}$) of Section 30, Township 7 North, Range 22 East in the City of Milwaukee, County of Milwaukee, State of Wisconsin, as shown on the attached Exhibit "A".

The above described permanent EASEMENT is a part of Tax Key Number 400-9995-117.

UPON CONDITION:

1. That said FACILITIES in the EASEMENT shall be maintained and kept in good order and condition by the City.

2. That no structures may be placed within the limits of the EASEMENT by the Grantor excepting that improvements such as lawns, concrete walks, roadways, driveways, storm drains and parking lot surfacing may be constructed, and that the City will replace such damaged or removed lawns, concrete walks, roadways, driveways, storm drains and parking lot surfacing, at its own cost, after making any necessary repairs, reconstruction, or enlargement of the FACILITIES in the EASEMENT.

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 improvements other than lawns, concrete walks, roadways, driveways, bio-filtration areas, storm drains and 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 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 is entitled to raise.

4. That, in connection with the construction by the Grantor of any structure or building abutting said EASEMENT, the Grantor will assume all liability for any damage to the FACILITIES in the abovedescribed property. The Grantor will also save and keep the city clear and harmless from any claims for personal injuries or property damage caused by any negligence of the Grantor or person other than the City, arising out of the construction by the Grantor of any structure or building abutting the said EASEMENT, and shall reimburse the City for the full amount of such loss or damage.

5. That no additional charges will be made against said lands for the cost of construction, operation, maintenance, inspection, repair, enlargement, reconstruction or relocation of said FACILITIES in the aforescribed property. Excepting that 1) When the Grantor makes application for a permit to connect to said FACILITIES in the aforescribed EASEMENT, the regular and customary connection permit fee in effect at the time of application shall be paid, and 2) The sewer maintenance, user fees or other sewer fees in effect for all City of Milwaukee serviced properties, that appear as charges to Grantor's herein described property, shall be paid.

6. That the FACILITIES shall be accessible for maintenance at all times. The Grantor shall submit plans for approval by the Commissioner of Public Works of the City for any underground installation within the EASEMENT.

7. That the Grantor shall submit plans for all surface grade alterations which would raise or lower the surface elevation by 1 foot or more within the limits of said EASEMENT. Said alterations shall be made only with the approval of the Commissioner of Public Works of the City.

8. That the Grantor shall be responsible for adjusting the elevations of all sewer appurtenances necessitated by alteration of surface elevations within the aforescribed property. Said adjustments shall be required to provide free access to all sewer appurtenances and shall be made only with the approval of the Commissioner of Public Works of the City.

9. That the Grantor's bio-infiltration facilities and all associated appurtenances in the bio-infiltration area on the Grantor's property, other than the 8-inch diameter storm sewers, shall be maintained and kept in good order and condition by the Grantor to maintain uninterrupted surface drainage at no cost to the City. The Grantor acknowledges that the City shall have no obligation to maintain the Grantor's bio-infiltration facilities or any associated appurtenances in the bio-infiltration area on the Grantor's property, other than the 8-inch diameter storm sewers, and the Grantor expressly stipulates and agrees to release the City from any and all claims or demands for damages, costs, loss of use expenses, consequential damage, or any other thing whatsoever arising out of the maintenance or use of the bio-infiltration areas for storm water drainage purposes.

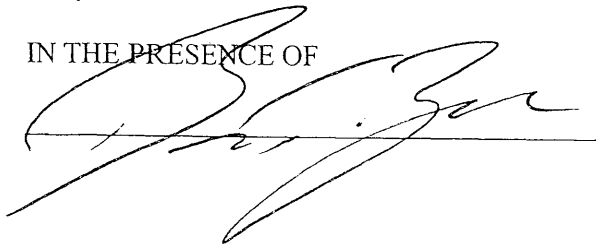
10. That all sewer and structures on the Grantor's property, other than the 8-inch diameter storm sewers in the bio-infiltration areas, into which drainage from the public rights of way discharges shall be kept in good order and condition by the Grantor to maintain uninterrupted surface drainage at no cost to the City.

11. That any and all associated costs of constructing and connecting the proposed catch basins and sewers shall be borne by the Grantor at no cost to the City as part of the Development Agreement (City Lights Project) with the City.

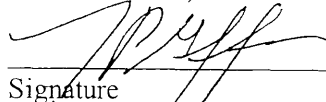
12. That this agreement shall extend to and apply to both parties, City and Grantor, including heirs, personal representatives, successors or assigns, as may be or may become applicable.

IN WITNESS WHEREOF Frank P. Giuffre, hereunto set his hands and seals the day and year first above written.

IN THE PRESENCE OF



GIUFFRE VIII, LLC


Signature

MANAGING MEMBER
Title

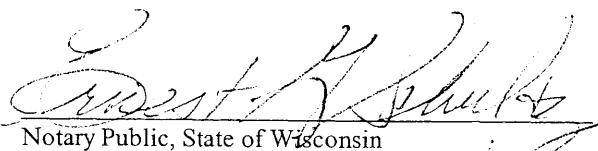
11/15/10
Date

STATE OF WISCONSIN)

) SS

MILWAUKEE COUNTY)

Personally came before me this 15th day of November A.D., 20 10, the above-named Frank Giuffre, to me known to be the person who executed the foregoing instrument and acknowledged the same.


Notary Public, State of Wisconsin

My Commission Expires 11/02/2014

IN WITNESS WHEREOF, the said City of Milwaukee, has caused these presents to be signed by Tom Barrett, its Mayor and Ronald D. Leonhardt, its City Clerk and countersigned by W. Martin Morics, Comptroller, at Milwaukee, Wisconsin, and its corporate seal to be affixed this _____ day of _____ A.D., 20____.

Signed and sealed in presence of:

CITY OF MILWAUKEE

By: _____
Tom Barrett, Mayor

By: _____
Ronald D. Leonhardt, City Clerk

COUNTERSIGNED

By: _____
W. Martin Morics, Comptroller

MILWAUKEE COUNTY)

Personally came before me this _____ day of _____ A.D., 20_____, Tom Barrett, Mayor of the City of Milwaukee, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of the City of Milwaukee and acknowledged that he executed the foregoing instrument as such officer as the deed of the City of Milwaukee, by its authority, and pursuant to Resolution File Number _____ adopted by its Common Council on _____

My Commission Expires

MILWAUKEE COUNTY)

Personally came before me this _____ day of _____ A.D.,
20_____, the above-named Ronald D. Leonhardt, to me known to be the City Clerk of the City of Milwaukee, who
by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

My Commission Expires

MILWAUKEE COUNTY)

Personally came before me this _____ day of _____ A.D., 20_____, the above-named W. Martin Morics, to me known to be the Comptroller of the City of Milwaukee, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

My Commission Expires

This instrument was drafted by the City of Milwaukee.

Approved as to contents

CITY ENGINEER, Jeffrey S. Polenske, P.E.

11/12/10
Date

Approved as to form and execution

ASSISTANT CITY ATTORNEY, Gregg C. Hagopian

Date _____

C. S. M. NO. 8264
LOT 1

W. MT. VERNON

461.47

AVE.

ST.
2100

246.99

N. 21ST

PROP.
12" STORM
(2010)

PROP.
8" STORM
(2010)

PROP.
8" STORM
(2010)

S.E.-2821

LOT 2

C. S. M. NO. 8264

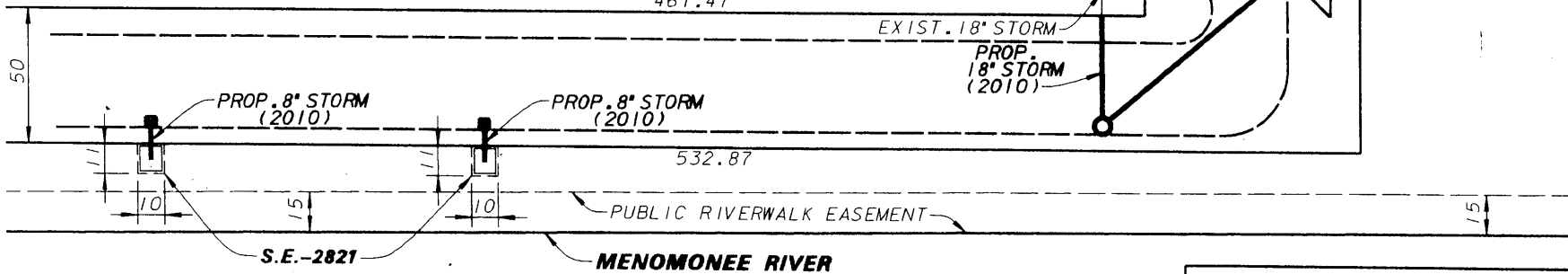


EXHIBIT "A"

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

PLAN OF SEWER EASEMENT

AREA IN SW. 1/4 SEC. 30, T. 7 N., R. 22E.

W. MT. VERNON AVENUE AND N. 21ST STREET

SCALE 1"= 50' ATLAS PAGE NO. 400 EASE NO. SE-2821

DRAWN BY SIMPRAPHONE CH'D. BY S. BEKELE W.O. NO. TD87304030

APPROVED *Timothy J. Thoma* DATE 10/5/10

APPROVED *[Signature]* FILE NO. 198-6-83

W. MT. VERNON
R-2058.14
163.49

2300

C. S. M. NO. 8264

LOT 1

2200

R-142
106.59

PROP.
12" STORM
(2010)

37.17

EXIST.
15" STORM

R-1697.67
170.89

R-210
62.74

EXIST.
15" STORM

31.81

R-210
62.74

19.83

PROP.
12" STORM
(2010)

269.69

PROP.
15" STORM
(2010)

78

PROP.
18" STORM
(2010)

229.41

54.79

PEDESTRIAN EASEMENT

27.14

6.97

PROP.
18" STORM
(2010)

10

AVE.

461.47

N. 21ST ST.

LOT 2

C. S. M. NO. 8264

PROP.
18" STORM
(2010)

EXIST.
20" STORM

32.04

6.44

32.90

PROP.
12" STORM
(2010)

61.16

532.87

EXHIBIT "B"

ENVIRONMENTAL ENGINEERING SECTION

INFRASTRUCTURE SERVICES DIVISION

DEPARTMENT OF PUBLIC WORKS

MILWAUKEE, WISCONSIN

PLAN OF SEWER EASEMENT

AREA IN SW 1/4 SEC. 30, T. 7 N., R. 22E.

W. MT. VERNON AVENUE AND WEST OF N. 21ST STREET

SCALE 1"= 50' ATLAS PAGE NO. 400 EASE NO. SE-2021

DRAWN BY SAMPRAPHONE CH'D. BY S. BESELE W.O. NO. TD67304030

APPROVED *Timothy J. Thun* DATE 10/5/10

APPROVED *[Signature]* FILE NO. 198-6-84