



Legislation Text

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An ordinance to grant authority to Construction Resources Management, Inc. to construct, operate and maintain a spur track across South Water Street and East Washington Street, extended, serving the property known as 301 East Washington Street, Tax Key #430-9998, in the 12th Aldermanic District of the City of Milwaukee, Wisconsin. (Infrastructure Services Div.)

- Analysis -

This ordinance establishes the location and conditions for the construction of a spur track across South Water Street and East Washington Street serving the property at 301 East Washington Street currently owned by Construction Resources Management, Inc. Said spur track will be used for delivery of materials associated with asphalt production. In the event that the Office of the Commissioner of Railroads of the State of Wisconsin does not authorize the establishment of this crossing, this ordinance shall be null and void.

Whereas, The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Permission and authority are hereby given and granted to Construction Resources Management, Inc., its successors in interest, and/or its assigns, hereinafter referred to as the "Company", to construct, sign, operate and maintain a spur track across South Water Street and East Washington Street in the City of Milwaukee. The centerline of the spur track shall extend in South Water Street from a point approximately 455 feet northerly of the intersection point of the right-of-way lines at the eastline of South Water Street and the northline of East Washington Street, thence to the northline of East Washington Street, thence crossing the northline of East Washington Street 45 feet, more or less, and the southline of East Washington Street 30 feet, more or less, west of the eastline of South Water Street and thence extending southeasterly into premises known as 301 East Washington Street, Tax Key #430-9998.

Part 2. Said spur track shall be constructed at no cost to the City and to the approval of the Commissioner of Public Works. Plans and specifications shall be submitted to the Commissioner of Public Works for review and approval, said approval not to be unreasonably withheld. Upon approval, permits shall be obtained from the Commissioner of Public Works (CPW) prior to construction. The cost of constructing traffic control and/or detour routes, altering or relocating manholes, poles, hydrants, catch basins, pavements, or any other municipal installations, which are necessary due to the construction of this spur track, shall be borne by the Company. The Department of Public Works (DPW) permit shall not be issued until a Finding of Fact and Order is issued by the State of Wisconsin Office of the Commissioner of Railroads establishing the conditions upon which the track installation may be made an Industry Track Agreement is entered into between the Company and the Union Pacific Railroad (UP) and an Agreement is entered into between the Company and the City of Milwaukee as described in part 6 of this Ordinance.

Part 3. The Company shall be responsible for the construction, maintenance and replacement of the pavement, sidewalk and/or sidewalk area between the rails and 2.5 feet on the sides of said spur track where they extend into South Water Street and East Washington Street with material satisfactory to the Commissioner of Public Works of the City of Milwaukee. The crossing material shall be of such a type to satisfactorily accommodate light vehicles, heavy truck and bicycle traffic. Should the Company fail to maintain the facility to the satisfaction of the CPW in a timely fashion, the CPW may cause the necessary maintenance with all costs payable by the Company.

Part 4. Said spur tracks shall be laid down, used, operated, signed, maintained and removed in accord with the Milwaukee Code of Ordinances and DPW specifications and applicable state statutes as it relates to protective devices, and to the approval of the Commissioner of Public Works, and the right is hereby reserved to revoke the authority hereby conveyed whenever public necessity so requires.

Part 5. Should the Company discontinue use of the spur track, void the Industry Track Agreement, or should the spur be severed from the mainline feed, the Company shall remove the spur and all ancillary facilities from the right-of-way. Upon removal of said spur tracks for any reason, the Company shall restore South Water Street and East Washington Street in the area of the spur tracks, with substantially the same materials and in the same manner as the adjacent street, which work is subject to the approval of the Commissioner of Public Works.

In the event the Company fails to restore the spur track area after reasonable notice by the City, the Commissioner of Public Works may take appropriate action to restore said area and shall, along with the City Attorney, seek to be reimbursed by the Company through proper legal actions. Should the lands owned by the Company and served by this spur track ever be subdivided, reimbursement may be sought proportioned from the parts as though the lands were whole.

Part 6. This ordinance and the permission hereby granted are expressly conditioned that such permission does not become effective until the Company shall furnish to the City of Milwaukee an instrument in writing, so executed as to be entitled to record, waiving and releasing the City

of any damages to the spur track area that could, at any time, be occasioned by future public improvements; and saving harmless the City of Milwaukee from any loss, injury, damage or liability of any kind whatsoever, as a result of the existence, reconstruction, maintenance and/or operation of this spur track, such instrument to be approved as to form and execution by the City Attorney. The Company shall have such instrument recorded with the Register of Deeds Office, Milwaukee County, and shall furnish proof of such recording to the Commissioner of Public Works.

The Company, as a condition of the granting of this ordinance, shall be responsible for:

- a. The temporary suspension of use, alteration and/or removal of the spur track at no cost to the City if it is required to allow for the maintenance, repair, replacement or installation of City utilities; and
- b. Any costs, expenses, damages or the cost of related public improvements resulting from the spur track that otherwise would be assessable to or affect abutting property owners or lessees.

Part 7. The Company and/or the Union Pacific Railroad, as a condition of the granting of this ordinance, shall be responsible for:

- a. Petitioning the Office of the Commissioner of Railroads, as specified under State Statute 190.16(4)(c), for authority to construct the spur track in the public right-of-way.
- b. Entering into an Industry Track Agreement which provides for the Railroad to serve the industry over this spur track, and provides for maintenance of the spur track within South Water Street and East Washington Street in accord with parts 3, 4 and 5 of this ordinance.

Part 8. The Company shall be responsible for any other carrier permitted by them to operate over this spur and agrees that it indemnifies and saves harmless the City of Milwaukee from any loss, injury, damage or liability of any kind whatsoever as a result of any other carriers' operation.

Part 9. All ordinances or parts of ordinance contravening the provisions of this ordinance are hereby repealed.

Part 10. This ordinance shall take effect and be in force from and after its passage and publication.

Part 11. This ordinance shall be null and void if the Office of Commissioner of Railroads of the State of Wisconsin does not authorize the establishment of this crossing or if the Company does not enter into an agreement with the railroad for service on this spur track.

Infrastructure Services Division
JJM:cjt
May 7, 1999
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