



## Legislation Text

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**File #:** 020977, **Version:** 1

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020977

### SUBSTITUTE THE CHAIR

Substitute resolution granting a special privilege to Brian Maahs of Total Service, to keep and maintain one groundwater monitoring well in West Burnham Street, adjacent to 3633 West Burnham Street, in the 8<sup>th</sup> Aldermanic District in the City of Milwaukee.

This resolution grants a special privilege to Brian Maahs of Total Service to keep and maintain one groundwater flush-mounted monitoring well in the public right-of-way of West Burnham Street, near 3633 West Burnham Street.

Whereas, The Wisconsin Department of Natural Resources has deemed it necessary to conduct an environmental assessment for a site located at 3633 West Burnham Street to determine petroleum product migrational patterns; and

Whereas, It has been determined that, in addition to the proposed monitoring wells needed to be placed on private property, one location needs to be monitored within the public right-of-way for an extended period of time; and

Whereas, This monitoring well may only legally remain in the public right-of-way by the granting of a special privilege by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Brian Maahs of Total Service, 3633 West Burnham Street, Milwaukee, WI 53215, is hereby granted the following special privilege:

To keep and maintain one flush-mounted monitoring well in the vicinity of 3633 West Burnham Street as follows: the well is located in the tree border of the north sidewalk area of West Burnham Street, centered approximately 6.5 feet south of the northline of West Burnham Street and 75 feet east of the eastline of South 37<sup>th</sup> Street.

This monitoring well shall be maintained and used/removed to the satisfaction of the Departments of Public Works and Neighborhood Services in accordance with the City of Milwaukee Building Codes and Zoning Ordinances. All necessary permits shall be obtained from the Departments of Public Works and Neighborhood Services/City Development of the City of Milwaukee

; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantee, Brian Maahs of Total Service, shall:

1. Become primarily liable for damages to persons or property by reason of the granting of this special privilege.

2. File with the City Clerk a bond of a surety company duly incorporated in the State of Wisconsin, or duly licensed to do business in this State, in the sum of \$1,000.00 such bond to be approved by the City Attorney. The applicant shall also file with the City Clerk a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident and \$10,000 covering property damage to any one owner on the area or areas included within the special privilege and naming the City of Milwaukee as an insured. Both bond and insurance policy shall provide that they shall not be canceled until after at least thirty days' notice in writing to the City Clerk.
3. Pay to the City Treasurer an annual fee which has an initial amount of \$35.00. The subsequent annual fee is subject to change pursuant to the annual fee schedule in effect at the time of annual billing.
4. Whenever this special privilege is discontinued for any reason whatsoever, including public necessity whenever so ordered by resolution adopted by the Common Council not only remove all construction work executed pursuant to this special privilege, but shall also restore to its former condition and to the approval of the Commissioner of Public Works any curb, pavement or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Such grantee shall be entitled to no damages due to the alteration and/or removal for such purposes.
5. Waive the right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes (1999), or the amount of the annual fixed fee, payable on or before July 1<sup>st</sup> of each year.
6. Put this special privilege into use within one year after approval by the Common Council of the City of Milwaukee; failing to do so in the time specified, the Commissioner of the Department of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.
7. Hold the City of Milwaukee harmless from all claims regarding the remediation process, which includes the public right-of-way of South Burnham Street.

Department of Public Works  
Infrastructure Services Division  
JJM:cjt  
January 27, 2003  
020977

Clerical error (in 2nd paragraph, change "55 feet" to "6.5 feet") corrected, per Ron Sweet, DPW, 2/7/03. mbh