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WATER MAIN EASEMENT

Document Number



8 0 6 0 6 0 6 7
Tx:40393255

DOC. # 10889713

RECORDED:
07/18/2019 11:04 AM
ISRAEL RAMON
REGISTER OF DEEDS
MILWAUKEE COUNTY, WI
AMOUNT: 30.00
FEE EXEMPT #:
TRANSFER TAX:

Recording Area

Name and Return Address

Shirley J. Roberts, Deputy City
Clerk
City of Franklin
9229 West Loomis Road
Franklin, Wisconsin 53132

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document.

WRDA Rev. 12/22/2010

WATER MAIN EASEMENT

FHCC, LLC

THIS EASEMENT, made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City," and FHCC, LLC, a Limited Liability Company, owner, (including heirs, executors, administrators, successors and assigns of above owner(s) as may be or may become applicable), hereinafter called "Grantor,"

WITNESSETH

WHEREAS, Grantor is the owner and holder of record Title to certain real property described on Exhibit "A" which is attached hereto and incorporated herein (the Property); and

WHEREAS, the City desires to acquire a permanent easement with the right of entry in and across the property hereinafter described with the right to build and construct and/or operate, maintain, repair, enlarge, reconstruct, relocate and inspect as may be or may become applicable the following facilities and appurtenances thereto, hereinafter called "Facilities," in, upon and across said portion of the property; a water main and associated fire hydrants, all as shown on the plan attached hereto as Exhibit "B"; and

WHEREAS, the initial construction and installation of the Facilities shall be made by Grantor at Grantor's expense and the Facilities shall be the property of the city and be deemed dedicated to the City upon the City's inspection and approval of the Facilities as installed, subject to the terms and conditions set forth below:

NOW, THEREFORE, in consideration of the grant of the easement hereinafter described and the payment of One Dollar (\$1.00) and other valuable considerations to the Grantor, receipt whereof is hereby acknowledged, said Grantor, being the owner and person interested in the land hereinafter described does hereby grant unto the City a permanent easement in that part of the SE ¼ of Section Six (6), Township Five (5) North, Range Twenty-one (21) East, in the City of Franklin, Milwaukee County, Wisconsin, more particularly described on Exhibit A, attached hereto (the "Easement Area").

UPON CONDITION

1. That said Facilities shall be maintained and kept in good order and condition by the City. Responsibility for maintaining the ground cover and landscaping within the easement area shall be that of the Grantor (including heirs, executors, administrators, successors and assigns).
2. That in and during whatever construction, reconstruction, enlargement or repair work is or becomes necessary in constructing and/or maintaining of 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 aesthetic plantings or improvements other than ordinary lawns or standard walks, roadways, driveways and parking lot surfacing which were required to be removed in the course of doing the above work. However, the City shall save harmless the Grantor from any loss, damage, injury or liability resulting from negligence on the part of the City in connection with said work involved in constructing and/or maintaining of said Facilities; provided that if above loss, damage, injury or liability results from the joint negligence of 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 with under law the City is entitled to raise excepting the defense of so-called "sovereign immunity."
3. That no structure may be placed within the limits of the easement by the Grantor except that improvements such as walks, pavements for driveways and parking lot surfacing may be constructed or placed within the Easement Area.
4. That, in connection with the construction by the grantor of any structure or building abutting said easement defined limits, the Grantor will assume all liability for any damage to the Facilities in the above described 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 Grantor, arising out of the construction by the Grantor of any structure or building abutting the said easement defined limits, and shall reimburse the City for the full amount of such loss or damage.
5. That no charges will be made against said lands for the cost of maintenance or operation of said Facilities in the afore-described property. Whenever the Grantor makes application for a service connection, the regular and customary service connection charge in effect at the time of the application shall be charged and paid. The Grantor shall be responsible for the routine maintenance of land on which the easement is located.
6. All conditions pertaining to the "Maintenance of Water Service Piping" as set forth in Chapter 5.12 of the "Rules and Regulations Governing Water Service" dated and subsequent amendments thereto shall apply to all water services which are within the easement defined limits and also within the limits of any adjoining easements; except that the City of Franklin Water Works, a utility owned by the City of Franklin shall in no case be responsible for maintaining at its expense any portion of said water services

outside of the easement defined limits and outside the limits of any adjoining easements regardless of any statement to the contrary in said "Rules and Regulations Governing Water Service."

7. The Facilities shall be accessible for maintenance by the City at all times. The owner shall submit plans for approval to the City Engineer for any underground installation within the easement area, which approval shall not be unreasonably withheld, conditioned or delayed.
8. That the Grantor shall submit plans for all surface alterations of plus or minus 0.50 foot or greater within the limits of said easement. Said alterations shall be made only with the approval of the City Engineer of the City of Franklin, which approval shall not be unreasonably withheld, conditioned or delayed.
9. The City and Grantor shall each use, and take reasonable measures to cause their employees, officers, customers, agents, contractors and assigns to use the Easement Area in a reasonable manner and so as not to obstruct or otherwise use the Easement Area in a manner that would unreasonably interfere with the use thereof by the other party hereto or its employees, officers, customers, agents, contractors and assigns.
10. The City and Grantor each hereby waive all rights of subrogation that either has or may hereafter have against the other for any damage to the Easement Area or any other real or personal property or to persons covered by such party's insurance, but only to the extent of the waiving party's insurance coverage; provided, however, that the foregoing waivers shall not invalidate any policy of insurance now or hereafter issued, it being hereby agreed that such a waiver shall not apply in any case which would result in the invalidation of any such policy of insurance and that each party shall notify the other if such party's insurance would be so invalidated.
11. Either party hereto may enforce this easement by appropriate action, and should it prevail in such litigation, that party shall be entitled to recover, as part of its costs, reasonable attorneys' fees.
12. This easement may not be modified or amended, except by a writing executed and delivered by the City and Grantor or their respective successors and assigns.
13. No waiver of, acquiescence in, or consent to any breach of any term, covenant, or condition hereof shall be construed as, or constitute, a waiver of, acquiescence in, or consent to any other, further, or succeeding breach of the same or any other term, covenant, or condition.
14. If any term or provision of this easement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this easement shall not be affected thereby, and each such remaining term and provision shall be valid and enforceable to the fullest extent permitted by applicable law.
15. This easement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
16. It is understood that in the event the above described Real Estate may become portions of public streets; in which event, in the proceedings for the acquisition of the property needed for such streets by purchase, dedication or by condemnation, said lands shall be considered the same as though this easement had not been executed or any rights granted thereby exercised.
17. That the Grantor shall submit as-built drawings of the installed facilities for approval to the City Engineer, which approval shall not be unreasonably withheld, conditioned, or delayed.

IN WITNESS WHEREOF, the Grantor has hereunto set its hands and seals

ON THIS DATE OF: April 17th, 2019

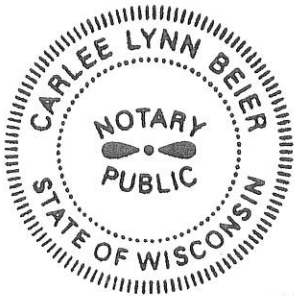
FHCC, LLC
COMPANY NAME

By: [Signature] Member
Name and Title
Michael Dilworth,

STATE OF WISCONSIN
COUNTY OF Milwaukee

SS

Before me personally appeared on the 17th day of April, 2019, the above named
Michael Dilworth, Member of FHCC, LLC
(Name printed) (Title) (Development)
to me known to be the person(s) who executed the foregoing EASEMENT and acknowledged the same as the
voluntary act and deed of said corporation



Carlee Beier
NOTARY PUBLIC
My commission expires 9/11/2020

CITY OF FRANKLIN

By: [Signature]
Stephen R. Olson, Mayor



By: Sandra L. Wesolowski
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN
SS
COUNTY OF MILWAUKEE

On this 17th day of June, 2019 before me personally appeared Stephen R. Olson and Sandra L. Wesolowski who being by me duly sworn, did say that they are respectively the Mayor and City Clerk of Franklin, and that the seal affixed to said instrument is the corporate seal of said municipal corporation, and acknowledged that they executed the foregoing assignment as such officers as the deed of said municipal corporation by its authority, and pursuant to resolution file No. 2019-7507 adopted by its Common Council on June 4, 2019.

[Signature]
Notary Public
My commission expires 3-27-2020



MORTGAGE HOLDER CONSENT

The undersigned, McCormick 102 LLC, a Maryland, Limited Liability Corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering the Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on May 28, 2008, as Document No. 9606307, hereby consents to the execution of the foregoing easement and its addition as an encumbrance against title to the Property.

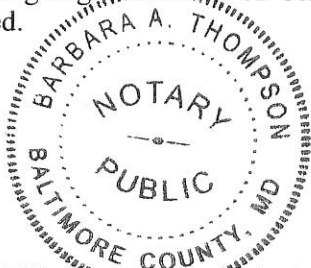
IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officers, and its corporate seal to be hereunto affixed, as of the day and year first above written.

McCormick 102, LLC
By Beltway Capital Management, it's
Manager

By: Christine K. McSherry
Name: Christine K. McSherry
Title: General Counsel

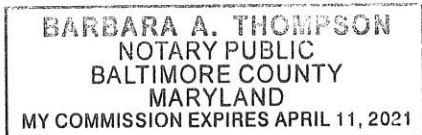
STATE OF MARYLAND
SS
COUNTY OF BALTIMORE

On this, the 11th day of April 2019, before me, the undersigned, personally appeared Christine McSherry the General Counsel of Beltway Capital Management as Manger for McCormick 102, LLC, Maryland limited liability corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.



Name: Barbara A. Thompson
Notary Public Barbara A. Thompson
State of Maryland
County of Baltimore
My commission expires on: 4-11-2021

This instrument was drafted by the City of Franklin.



Approved as to contents
Date: 6/9/19

Chris McSherry
Manager of Water Works of Franklin

Approved as to form only
Date: 6/20/19

[Signature]
City Attorney

WATER MAIN EASEMENT

Part of the Southeast 1/4 of Section 6, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin.

Commencing at the Southeast corner of the Southeast 1/4 of said Section 6; thence North 88°41'23" West along the South line of the Southeast 1/4 a distance of 980.85 feet to a point; thence North 00°23'49" West along the East line of Certified Survey Map No. 6596 a distance of 379.59 feet to a point; thence North 88°41'23" West along the South line of Outlot 2 of said Certified Survey Map 419.09 feet to a point; thence North 01°01'18" West along the West line of said Outlot 2 a distance of 449.25 feet to a point; thence North 88°37'29" West 550.86 feet to a point on the Easterly line of West Forest Home Ave; thence North 16°36'58" East along said Easterly line 259.56 feet to the point of beginning of the lands to be described; thence continuing North 16°36'58" East 20.74 feet to a point; thence South 88°42'39" East 375.60 feet to a point; thence North 01°07'51" East 54.14 feet to a point; thence South 88°32'06" East 10.21 feet to a point; thence North 01°17'21" East 6.67 feet to a point; thence South 88°42'39" East 20.00 feet to a point; thence South 01°17'21" West 6.73 feet to a point; thence South 88°32'06" East 256.74 feet; thence North 01°27'54" East 65.80 feet to a point; thence South 88°32'06" East 20.00 feet to a point; thence South 01°27'54" West 85.80 feet to a point; thence North 88°32'06" West 286.84 feet to a point; thence South 01°07'51" West 54.07 feet to a point; thence North 88°42'39" West 323.21 feet to a point; thence North 01°17'21" East 2.32 feet to a point; thence North 88°42'39" West 16.73 feet to a point; thence South 01°17'21" West 2.32 feet to a point; thence North 88°42'39" West 61.19 feet to the point of beginning.

Said land contains 16,199 square feet or 0.3719 acres.

March 19, 2019

Drawing No. 167727-ATF



16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000
rasmith.com

Exhibit B
(Depiction of the Facilities)

