

CITY OF GREENFIELD
Department of Neighborhood Services
Engineering Division
7325 W. Forest Home Ave.
Greenfield, WI 53220

Milwaukee County
Milwaukee County Courthouse
901 North 9th Street
Milwaukee, WI 53233
567-9988-001

(FX)

TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement, hereinafter called **TCE**, made this _____ day of _____ 2012, by and between the City of Greenfield, a municipal corporation, duly organized and existing under the laws of the State of Wisconsin with principal offices at 7325 West Forest Home Avenue, Greenfield, WI 53220, hereinafter called "**CITY**", and Milwaukee County, a municipal corporation, duly organized and existing under the laws of the State of Wisconsin with principal offices at the Milwaukee County Courthouse, 901 North 9th Street, Milwaukee, WI 53233, hereinafter called "**COUNTY**".

Whereas, **CITY**, is proposing to construct a storm sewer backflow prevention device and to make minor storm sewer pipe repairs (hereinafter called "improvements") to Wisconsin Department of Transportation (WIDOT) storm sewer facilities. To facilitate the installation of said improvements, the **CITY** has obtained WI DOT permit 40-12m-12, attached hereto as Exhibit A; and

Whereas, existing WI DOT facilities are located in the limits of the Root River Parkway on property owner by **COUNTY**, 2012 Tax Key No. 567-9988-001. In order for **CITY** to construct said "improvements", **CITY** requires a **TCE** over, across, through, under and upon lands owned by **COUNTY** as illustrated on attached Exhibit B.

Now, therefore, for and in consideration of the mutual promises and covenants of the parties and the mutual benefits to be derived by the parties, **CITY** and **COUNTY** agree as follows:

1. **COUNTY** grants **CITY** a **TCE**, as illustrated on Exhibit B, to enter upon lands owned by **COUNTY** for the purpose constructing "improvements" on lands owned by **COUNTY**.
2. **CITY** will limit the disturbance to existing structures, trees, shrubs, vegetation, fencing and earthen material to the greatest extent possible during **CITY** access over, across, through and upon **TCE**. **CITY** shall restore **TCE** to conform to the approved plans, or to the condition it was in prior to **CITY** use of **TCE** if the approved plans do not require any alteration. **CITY** reserves the right to take photos and other documentation to document the condition of **TCE** prior to our use.

3. CITY reserves the right to use authorized CITY contractors to perform any work associated with the construction of "improvements", including any restoration and/or repair work in TCE, if needed.
4. In the event that restoration and/or repairs are required in TCE due to CITY use of TCE, said restoration and/or repairs shall be at CITY expense.
5. The CITY intends to execute a separate Permanent Storm Sewer Easement with COUNTY for easement rights to maintain said "improvements" in perpetuity. The limits of said Permanent Storm Sewer Easement shall be identical in location to the limits of this TCE, as illustrated on Exhibit B. This TCE shall remain in full force and effect until a) CITY has completed the installation of said "improvements", and b) CITY and COUNTY have executed said Permanent Storm Sewer Easement, after which this TCE will expire.

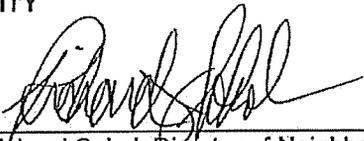
IN WITNESS WHEREOF, the parties hereto have set their hands and seals this _____ day of _____, 2012.

COUNTY

Sue Black, Director, Milwaukee County Department of Parks

Date

CITY



Richard Sokol, Director of Neighborhood Services

Date

6/13/12

This instrument was drafted by Jeffrey S. Tamblyn, Greenfield Neighborhood Services, Engineering Division.

APPLICATION/PERMIT TO WORK ON HIGHWAY RIGHT-OF-WAY

Wisconsin Department of Transportation (WisDOT)
 DT1812 6/2006 s.86.07(2), 86.16 and other applicable Wis. Stats.

To each copy of the application, attach one copy of the sketch showing location.

| | |
|---|--|
| Location Description - quarter section, section, township, range, etc. Section 10, Township 6N Range 21E <i>5 1/4 Sec 20</i> | Proposed Work Location <input type="checkbox"/> Town <input type="checkbox"/> Village <input checked="" type="checkbox"/> City of Greenfield |
| Applicant Name and Address City of Greenfield <i>7325 W. Forest Home Avenue Greenfield, WI 53220</i> | County Milwaukee |
| Starting Date May 2012 | Highway <input checked="" type="checkbox"/> STH 100 <input type="checkbox"/> USH <input type="checkbox"/> Interstate |
| Completion Date June 2012 | (Empty) |
| Type of Work Proposed This project is located just east of Highway 100 (108th Street) on the south side of the Root River. The project will replace an existing piece of 36" storm sewer with a new 36" Flared end section and install an internal backflow preventer inside the existing storm sewer pipe just upstream of the end section. The existing 36" storm sewer pipe is DOT owned. SEE ATTACHED ADDITIONAL PERMIT PROVISIONS | |

It is understood and agreed that approval is subject to the applicant's full compliance with the pertinent Statutes, as well as any codes, rules, regulations, and permit requirements of other jurisdictional agencies. The applicant shall also comply with all permit provisions, superimposed notes, and detail drawings, which may be added by WisDOT. Any alteration of this form by the applicant is prohibited and may be cause to revoke this permit.

CW Purpero

 (Main Contractor, if applicable)

Jim Barrett

 (Contractor Representative/Title)

(414)-856-2850

 (Office Telephone Number) (Cellular Telephone Number)

X Rick Sokol 5/07/2012

 (Applicant or Authorized Representative) (Date)
 (If Computer-filled, Brush Script Font)

Rick Sokol Director of Neighborhood Services

 (Printed Name) (Title)

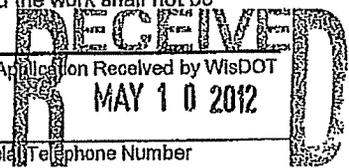
(414) 543-9815

 (Telephone Number)

* If the work described is not completed by the "Completion Date" specified, this permit is null and void and the work shall not be completed unless authorized through a subsequent permit or an approved time extension.

Transportation Regional Location and Telephone Number

Date Application Received by WisDOT



The applicant shall contact the Transportation Regional Office at the Telephone Number given at right NOT LESS THAN 3 WORKING DAYS prior to the start of the permitted work to arrange for a Regional Representative to locate and mark the existing traffic signal lines. No work under this permit shall be accomplished prior to the Regional Representative's arrival.

Special Telephone Number

BY: _____
 Diggers Hotline: 800-242-8511
 414-259-1181

Wisconsin Department of Transportation Permit Approval

- This permit is issued in conjunction with:
- This permit voids and supersedes: Permit # _____ Issued _____

| | |
|-----------------------------------|---------------------------------|
| Permit Number <i>40-12m-12</i> | Issuance Date <i>5-11-12</i> |
|-----------------------------------|---------------------------------|

X [Signature]

 (WisDOT Authorized Representative)
 (If Computer-filled, Brush Script Font)

THIS PERMIT IS REVOCABLE

INDEMNIFICATION

The Applicant shall save and hold the State, its officers, employees, agents, and all private and governmental contractors and subcontractors with the State under Chapter 84 Wisconsin Statutes, harmless from actions of any nature whatsoever (including any by Applicant itself) which arise out of, or are connected with, or are claimed to arise out of or be connected with any of the work done by the Applicant, or the construction or maintenance of facilities by the Applicant, pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, (1) while the Applicant is performing its work, or (2) while any of the Applicant's property, equipment, or personnel, are in or about such place or the vicinity thereof, or (3) while any property constructed, placed or operated by or on behalf of Applicant remains on the State's property or right-of-way pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way; including without limiting the generality of the foregoing, all liability, damages, loss, expense, claims, demands and actions on account of personal injury, death or property loss to the State, its officers, employees, agents, contractors, subcontractors or frequenters; to the Applicant, its employees, agents, contractors, subcontractors, or frequenters; or to any other persons, whether based upon, or claimed to be based upon, statutory (including, without limiting the generality of the foregoing, worker's compensation), contractual, tort, or whether or not caused or claimed to have been caused by active or inactive negligence or other breach of duty by the State, its officers, employees, agents, contractors, subcontractors or frequenters; Applicant, its employees, agents, contractors, subcontractors or frequenters; or any other person. Without limiting the generality of the foregoing, the liability, damage, loss, expense, claims, demands and actions indemnified against shall include all liability, damage, loss, expense, claims, demands and actions for damage to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way in the past or present, or that are located on any highway of State property or right-of-way with or without a permit issued by the State, for any loss of data, information, or material; for trademark, copyright or patent infringement; for unfair competition or infringement of personal or property rights of any kind whatever. The Applicant shall at its own expense investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

Any transfer, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the

Applicant that remains on the State's property or right-of-way pursuant to this permit shall not release Applicant from any of the indemnification requirements of this permit, unless the State is notified of such transfer in writing. Any acceptance by any other person or entity, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the Applicant that remains on the State's property or right-of-way pursuant to this permit, shall include acceptance of all of the indemnification requirements of this permit by the other person or entity receiving ownership or control.

Notwithstanding the foregoing, a private contractor or subcontractor with the State under Chapter 84 Wisconsin Statutes, that fails to comply with sections 66.047 and 182.0175 Wisconsin Statutes (1985-1986), remains subject to the payment to the Applicant of the actual cost of repair of intentional or negligent damage by the contractor or subcontractor to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remains subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the contractor or subcontractor.

Notwithstanding the foregoing, if the State, or its officers, employees and agents, fail to comply with sections 66.047 and 182.0175 Wisconsin Statutes (1985-1986), the State or its officers, employees and agents, remain subject to the payment to the Applicant of the actual cost of repair of willful and intentional damage by the State, or its officers, employees and agents, to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remain subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the State, its officers, employees and agents.

No indemnification of private contractors or subcontractors with the State under Chapter 84 Wisconsin Statutes, shall apply in the event of willful and intentional damage by such private contractors or subcontractors to the property, lines and facilities of the Applicant located on the highway right-of-way pursuant to this permit or any other permit issued by the State for the location of property, lines or facilities on highway right-of-way.

PERMIT PROVISIONS AND CONDITIONS OF APPROVAL

Pursuant to the Wisconsin Statutes, this permit is granted to allow performance of that specific work described over which WisDOT has permit authority. The following provisions and any attached provisions shall govern.

1. No part of the permitted work shall be commenced until warning signs, devices and methods adequate to protect the public are in place and fully functional. Warning signs and devices shall conform to the appropriate sizes, designs and arrangements specified within the Wisconsin Manual on Uniform Traffic Control Devices, current edition. It shall be the responsibility of the applicant to provide and maintain at least the quantity of signs and devices therein described, but to also supplement those with such additional signs, devices and flaggers as are necessary to functionally protect persons and property from injury or damage at all times and under all conditions, including changed or changing conditions. Warning signs, devices and methods shall be in place and protectively functional prior to the commencement of any of the permitted works within the limits of the highway right-of-way, and shall protect the public until all permit-associated works are complete.
2. Vehicles, equipment and materials shall be regulated by the applicant to assure consistently safe conditions. Particular care shall be exercised at all times to assure a safe traffic environment at and near the site of the work. These requirements pertain while the work operations are in active progress, as well as during periods of work shut down. Any discovered violation of this permit, and particularly as regards any failing to maintain a safe traffic and general public environment will require an immediate cure by the applicant of the fault discovered, could result in an order by WisDOT to stop further progress of the work, and may result in revocation of the permit and expulsion from the highway right-of-way.
3. Holiday and seasonal work restrictions apply to the permitted works. The applicant should obtain a copy of the applicable restrictions from the Transportation Regional Office identified on the face of this permit.
4. The permitted work shall be coordinated, and in no case interfere, with any highway improvement project being undertaken at the same time.
5. Blasting within the limits of the state highway right-of-way is expressly prohibited, unless specifically authorized by WisDOT.
6. The applicant shall provide the supervisor of the permitted work(s) with a copy of this permit and is responsible to assure that the supervisor is familiar with all the permit's details and requirements. A complete copy of the permit shall be in the possession of the work force at all times that work is being performed within the right-of-way. The applicant shall be responsible to the State for any failure to comply with any part of this permit.

7. It shall be the responsibility of the applicant to determine the location of, and protect or cause to be protected from any damage, any facilities existing in the area to be influenced by the permitted work. All notifications to others are likewise a responsibility of the applicant.
8. All operations shall be performed without obstructing nor closing all or any part of any highway traffic lane unless specifically sanctioned by WisDOT.
9. All costs for constructing and maintaining the permitted facilities shall be the obligation of the applicant. The permitted facilities shall, if necessary, be altered at the expense of the applicant to facilitate alteration, improvement, safety control, or maintenance of the highway, as may be ordered by WisDOT.
10. The permit does not transfer any land; nor give, grant or convey any land right, right in land, nor easement.
11. The permit authorizes only the described works of and for the applicant indicated on the face of the permit. It does not grant authority for the facilities of any other, either by present or future installation.
12. Any disturbance to, operation within, or use of a highway median is expressly prohibited, unless specifically sanctioned by WisDOT.
13. Construction methods and restorations shall be in accordance with applicable parts of WisDOT Standard Specifications for Road and Bridge Construction, current edition.
14. The applicant shall assure that proper erosion control measures are implemented prior to and at all times during work operations. The applicant shall also be responsible for providing and maintaining erosion control measures to protect all restored areas upon completion of the permitted works until the replacement vegetation achieves sustained growth.
15. No direct access for the installation, maintenance or repair of the permitted facility shall derive from the travel lane or shoulder of any freeway, nor from any ramp or loop or an interchange, except access rendered imperative by an actual emergency. In the latter event, contact shall be established by the applicant with the Wisconsin State Patrol and with the Transportation Regional Office indicated on the face of this permit by the earliest means possible.
16. Permitted facilities shall be located as defined within this permit. Any part of the facility found to be otherwise located shall be subject to correction by and at the cost of the applicant to such extent as WisDOT may specify. Any facility or part thereof which is located other than as the permit defines occupies such location solely at the risk of the applicant. Accordingly, if the same is undetected or is suffered to remain in variance to the permit, the applicant agrees to hold the State, its employees, agents and officers harmless and free of any cost, claim or liability associated with any accidental damage to such facility which may result from a highway construction, maintenance, traffic control, or right-of-way management function.
17. All highway facilities disturbed by the permitted works or associated operations shall be restored promptly. If restoration is not accomplished voluntarily, without delay, WisDOT may issue a notice setting a time-certain by which the restoration must be complete. If the applicant fails to satisfactorily complete all restorations within the time thus established, WisDOT may arrange directly for all needful restorations, and all costs associated with such restorations and the arrangements therefore shall be a cost-obligation of the applicant. The applicant agrees to pay any and all such costs.
18. Any brush, trash or waste materials resulting from the permitted works shall be removed from the highway right-of-way. No tree or shrub shall be cut, trimmed or damaged to facilitate the installation or maintenance of the permitted facility except as authorized by the owner of such tree or shrub. See Wisconsin Statutes 88.03(2), (4), 88.16(3), and 182.017(5). Disposal of such materials off the right-of-way shall be in accordance with applicable solid waste disposal regulations.
19. Upon completion of the work and restorations, written notice shall be filed within 10 calendar days with the authorized Department representative who approved the permit.
20. Operations and safety precautions pertinent to any trenching, tunneling, or excavation activities shall comply with the most strict requirements of all applicable regulations and codes, including, but not limited to, those of the Wisconsin Department of Workforce Development.
21. Smooth and finished slopes shall be constructed at any location where any regraded portion of the highway right-of-way meets the lands of the adjacent property owner.
22. Any excavation authorized within the limits of any normal highway pavement or shoulder area shall be backfilled with suitable granular material, placed in lifts or layers 12" or less each in depth, and compacted mechanically to the compaction of the adjacent and undisturbed ground or material. Water flooding and the use of moisture in excess of necessity to facilitate mechanical compaction are prohibited. Any subsequent heavings, settlements, or other failings attributable to the permitted works shall be repaired to the satisfaction of WisDOT at the applicant's expense. Temporary sheeting and shoring shall be used as necessary to prevent soil caving in trenches and tunnels.
23. Any curb, gutter, sidewalk, driveway, gravel base, ballast or shoulder material, or other element of the highway right-of-way or facility disturbed by the permitted works shall be restored in kind to the qualities, grades, compactions and conditions at least equal to those prevailing ahead of the permitted work operations and all to the satisfaction of WisDOT.
24. Any turfed area of the right-of-way disturbed by the permitted works and operations shall be restored with fine-graded topsoil having a depth of not less than 4 inches, and reseeded to perennial grass, or sodded to the satisfaction of WisDOT.
25. If, in the opinion of WisDOT, the permitted works or facilities obstruct highway drainage, unduly increase the difficulty of highway maintenance, or in any other manner adversely affect a highway interest, the applicant shall, upon notice, cure the fault as directed, and restore the highway facility to the satisfaction of WisDOT.
26. For jacked or augered installations across and beneath any freeway, no vehicle, equipment nor material shall be any nearer to any freeway travel lane than the jacking pits; and no jacking pit shall be any nearer to the outer edge of the nearest freeway lane than 30 feet.
27. The applicant is responsible to assure that the site of construction is secure against any hazard to the public, both when the site is attended and during off-hours, any holiday, and the hours of night when the site is unattended.
28. The applicant should be aware that future upgrading of the highway may require the adjustment of part or all of the permitted facility in order to conform to the State's Utility Accommodation Policy.
29. The covers of manholes, shut-off and regulator valves, and like facilities shall be adjusted to the level of the immediately adjacent grades.
30. No vehicle, equipment or material relating to the permitted work shall be parked or stored within the limits of the highway right-of-way except such as are actively engaged in the work operation.
31. No greater length of trench shall be open at any time than is necessary to maintain essential progress of the work.

SPECIAL PERMIT PROVISIONS

The following checked provisions apply to this permit:

GENERAL

- 1. The applicant shall contact the Transportation Regional Office at the address and telephone number indicated on the face of this permit to arrange for a Regional representative to inspect the work site. No work under this permit shall be accomplished prior to his/her arrival.
- 2. The applicant shall notify the Transportation Regional Office at the address and telephone number indicated on the face of this permit prior to the completion of the work authorized and at a time that enables Regional personnel ample opportunity to inspect the work before the applicant's employees leave the site.
- 3. Construction by open-trench methods is authorized only if the permitted installation can be accomplished in advance of the highway paving. If this cannot be accomplished, the permitted facility shall be jacked and/or dry augured.
- 4. At any location where open-trench installation across highway pavement is authorized, the surfacing shall be saw-cut full depth to enable it to be restored with smooth joints.
- 5. All excavations shall be back-filled in accordance with the attached detail.

TRIMMING/CUTTING OF VEGETATION

- 6. Vegetation shall not be cut or trimmed without the consent of the owner. Non-target trees and shrubs shall not be damaged.
- 7. Trimming is limited to only that which is necessary to afford safe clearance. This does not authorize clear swath cutting.
- 8. The vegetation to be removed shall be surveyed and inspected jointly with a Department representative prior to any work commencing on the highway right-of-way.

ROADSIDE PLANTING

- 9. Trees and other plant materials may be planted only in such locations and in such species as indicated on the attached plans or as specified in the field by WisDOT.
- 10. The applicant shall maintain all plantings by watering and mulching when necessary during the first growing season. The applicant may replace dead or dying plantings at any time during this period.
- 11. No sign or marker identifying the plantings may be placed within the limits of the highway right-of-way.
- 12. WisDOT agrees to provide reasonable care and maintenance of the plantings to the extent of its usual and customary procedure in relation to any and all roadside vegetation.
- 13. WisDOT accepts no responsibility for loss that may occur to the plantings. The applicant shall be fully aware that the plantings are subject to mortality; thinning; normal hazards due to maintenance operations, snow control, and public utility installation or alteration; trimming or removal if and when the plantings cause restrictions to sight distance or hazardous snow and ice conditions on the highway; possible destruction should reconstruction of the highway be undertaken; and possible partial or complete abandonment or obliteration or return to private ownership if future changes in highway location should be made.

WI Dept. of Transportation
SE Region
P.O. Box 798
Waukesha, WI 53187-0798
(262) 621-5344

ADDITIONAL PERMIT PROVISIONS

1. During the performance of work described within this permit, the applicant and/or their contractor shall have a fully signed and executed copy of this permit on site. Failure to do so will cause this permit to become null and void and the work shall not be completed unless authorized through a subsequent permit.
2. Storm sewer construction shall conform to Section 607 of the Wisconsin Department of Transportation "Standard Specifications for Highway and Structure Construction"
3. It shall be the applicant's responsibility to maintain the backflow preventer.