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CONSENT TO PARTIAL OCCUPANCY OF PERMANENT SEWER EASEMENT



Doc#: 0934918025 Fee: \$60.00
Eugene "Gene" Moore
Cook County Recorder of Deeds
Date: 12/15/2009 11:49 AM Pg: 1 of 13

between

METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO,
"District"

and

LARRABEE DICKENS CORPORATION
a/k/a James Whitmer, Permittee,
365 N. Canal Street, Chicago,
Illinois 60606-1207

with respect to a 30-foot wide permanent easement strip extending in an east-west direction parallel to Kinzie Street between the North Branch of the Chicago River on the east and Canal Street on the west which was acquired by the District for the construction, reconstruction, repair, maintenance and operation of a 4-foot by 5-foot intercepting sewer, connecting structures and the west portal of the Kinzie Street inverted sewer siphon, all of the aforesaid structures being parts of the District's West Side Intercepting Sewer, Contract No. 7

P.I.N. 17-09-306-022-0000, legally described in "Exhibit A" attached hereto and made a part hereof.

This document consists of 13 pages, this page included, and an exhibit, and bears the date of September 5, 1985.

This Instrument was prepared by Carlton Lowe, Head Assistant Attorney, 100 East Erie Street, Chicago, Illinois 60611

EXEMPT FROM ILLINOIS TRANSFER TAX PURSUANT TO 35ILCS 200/31-45(b)

RETURN TO: RECORDERS BOX 369

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CONSENT TO PARTIAL OCCUPANCY OF PERMANENT SEWER EASEMENT

THIS AGREEMENT, made and entered into this 5th day of September, 1985, by and between THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO, a Municipal Corporation, organized and existing under the laws of the State of Illinois, herein- after called the "District" and LARRABEE DICKENS CORPORATION, a corporation organized and existing under the laws of the State of Illinois, hereinafter called the "Permittee", and

WHEREAS, Permittee is planning and designing a proposed townhouse development to be erected south of Kinzie Street, east of Canal Street, and west of the North Branch of the Chicago River in the City of Chicago; and

WHEREAS, the proposed building site is traversed by a 30-foot wide permanent easement strip extending in an east-west direction parallel to Kinzie Street between the North Branch of the Chicago River on the east and Canal Street on the west which was acquired by the District for the construction, reconstruction, repair, maintenance and operation of a 4-foot by 6 foot intercepting sewer, connecting structures and the west portal of the Kinzie Street inverted sewer syphon, all of the aforesaid structures being parts of the District's West Side Intercepting Sewer, Contract No. 7; and

WHEREAS, Permittee desires to construct a building above, over and across said 30-foot wide permanent easement strip which is shown on a plat of survey marked "Exhibit A" attached hereto and made a part here; and

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WHEREAS, in order to bridge the building above, over and across the 30-foot wide permanent easement strip Permittee desires to construct supporting walls and columns extending 2.5 feet into said easement strip along, both, its north and south lines; and

WHEREAS, the District is willing to consent to the Permittee's request to construct supporting structures extending 2.5 feet into said easement strip along, both, its north and south lines upon the conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of a payment of \$2,687.50 in hand paid by the Permittee to the District, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE ONE

1.01 The District hereby grants its consent unto the Permittee, its successors and assigns to construct, reconstruct, repair, maintain and operate supporting walls and structures extending 2.5 feet into said 30-foot wide permanent easement strip along, both, its north and south lines.

To avoid interference with the District's access to its manholes and underground structures, Permittee shall provide and maintain a minimum 12-foot high clearance between the underside of the proposed building and the tops of existing manhole covers.

To assure unimpeded truck access to District's structures, Permittee shall provide and maintain 20-foot wide

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clearance between supporting columns. In addition, there shall be a 2.5 foot space between the columns and a proposed building wall.

1.02 The Permittee covenants and agrees in consideration of the grant of said Consent to pay to the District the sum of \$2,687.50.

ARTICLE TWO

The Permittee shall at its sole cost, risk and expense construct, reconstruct, repair, maintain and operate the walls, columns, and supporting structures within the respective north and south 2.5 foot wide strips of land situated within the District's 30-foot wide easement strip which is shown upon said "Exhibit A".

ARTICLE THREE

3.01 The construction and installation of the structures of the Permittee on the subject premises shall be in accordance with plans and specifications prepared at Permittee's expense and supplied to the District by the Permittee. No work shall commence until said plans and specifications have been approved in writing by the Chief Engineer of the District.

3.02 The construction and installation of the structures by the Permittee on the subject premises shall be done to the satisfaction of the Chief Engineer of the District.

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ARTICLE FOUR

4.01 The District expressly retains its interest in and rights to the use and occupation of the easement premises subject to the Consent herein granted and subject to the Permittee's right to a reasonable means of access to said improvements for the construction, reconstruction, repair, relocation, maintenance or removal of same.

4.02 The Permittee shall be solely responsible for and shall defend, indemnify, keep and save harmless the District, its Commissioners, officers, agents and employees against all injuries, deaths, loss, damages, claims, patent claims, liens, suits, liabilities, judgments, costs, or expenses which may in any wise accrue, directly or indirectly, against the District, its Commissioners, officers, agents and employees, in consequence of the granting of this Consent, or which may in any wise result therefrom or from any work done thereunder, whether or not it shall be alleged or determined that the act was caused through the negligence or omission of the Permittee or Permittee's employees, or of any contractor or subcontractor, or their employees, if any, and the Permittee shall, at Permittee's sole expense, appear defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against the District, its Commissioners, officers, agents or employees, in any such action, the Permittee shall, at Permittee's sole expense, satisfy and discharge the same, provided that Permittee shall first have been given adequate prior notice of the suit in which such judgment

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shall be rendered, that Permittee shall have been given an opportunity to defend the same, and that the District shall have given Permittee its full cooperation. Permittee expressly understands and agrees that any performance bond or insurance protection required by this easement, or otherwise provided by Permittee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the District as herein provided.

4.03 The Permittee, prior to entering upon said premises and using the same for the purposes for which this Consent is granted shall procure, maintain and keep in force, at Permittee's expense, public liability and property damage insurance in which the District, its Commissioners, officers, agents and employees, are a named insured from a company to be approved by the District, said policy with limits of not less than:

<u>Bodily Injury Liability</u>	<u>Property Damage Liability</u>
\$5,000,000.00 ✓ 3,500,000	\$1,000,000.00 ✓ 3,500,000

Prior to entering upon said premises, the Permittee shall furnish to the District certificates of such insurance or other suitable evidence that such insurance coverage has been procured and is maintained in full force and effect. Such insurance shall provide that no change, modification in or cancellation of any insurance shall become effective until the expiration of ten (10) days after written notice thereof shall have been given by the insurance company to the District. The provisions of this Paragraph shall in no wise limit the liability of the Permittee as set forth under the provisions of Paragraph 4.02, above.

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ARTICLE FIVE

5.01 In the event of any default on the part of the Permittee to faithfully keep and perform all and singular of the covenants, agreements and undertakings herein agreed by it to be kept and performed, or if said improvements are abandoned, the District shall give the Permittee notice in writing of such default or abandonment; and if such default or abandonment shall not have been rectified within thirty (30) days after receipt of such notice by the Permittee, all rights and privileges granted herein by the District to the Permittee may be terminated by the District; and upon such termination the Permittee shall immediately vacate the easement premises and remove its improvements from said real estate and restore the land to its original condition, all at the sole cost of the Permittee.

5.02 The Permittee shall have the right to give a thirty (30) day notice in writing to cease and terminate all rights and privileges under this agreement. In the event of the termination for any reason of this agreement or the rights and privileges herein granted, the Permittee shall within twelve (12) months from such termination date remove or cause to be removed its improvements and any other things which Permittee has erected or placed upon said easement premises. Permittee further agrees to yield up said premises in as good condition as when the same was entered upon by Permittee. Upon Permittee's failure so to do, the District may do so at the sole expense and cost of Permittee.

ARTICLE SIX

6.01 The Permittee also agrees that if the District incurs any additional expense for additional work which the

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District would not have had to incur if this Consent had not been granted, then, in that event, the Permittee agrees to pay to the District such additional expense as determined by the Chief Engineer of the District, promptly upon rendition of bills therefor to the Permittee.

6.02 The Permittee covenants and agrees that it will reimburse the District, make any necessary repairs at its sole cost and expense, and otherwise keep and save harmless the District from any loss, cost or expense suffered to the property of the District by way of damage to or destruction thereof, caused by any act or omission of the Permittee, Permittee's agents, employees, contractors or subcontractors, or their employees, or any other person.

6.03 During the term of this Consent, District shall not be liable to the Permittee for any loss, cost or expense which the Permittee shall sustain by reason of any damage to its property or business located on said easement premises caused by or growing out of the construction, repair, reconstruction, maintenance, existence, operation, or failure of any of the sewers, structures, or other works or equipment of the District now located or to be constructed on said premises, or on the land of the District adjacent to said premises.

ARTICLE SEVEN

7.01 Detailed plans of any subsequent construction or alteration of said improvements shall first be submitted to the Chief Engineer of the District for approval.

7.02 The Consent herein granted shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

7.03 Any notice herein provided to be given shall be deemed properly served if delivered in writing personally or mailed by registered or certified mail, postage prepaid, to the District in

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care of the General Superintendent, 100 East Erie Street, Chicago, Illinois, 60611, or to the Permittee, Larrabee-Dickens Corporation, Harry M. Weese, Registered Agent, 10 West Hubbard Street, Chicago, Illinois, 60610, or to such other persons or addresses as either party may from time to time designate in writing.

ARTICLE EIGHT

8.01 The Permittee, prior to entering upon said premises and using the same for the purposes for which this Consent is granted, shall at Permittee's sole cost and expense obtain all permits, consents and licenses which may be required under any and all statutes, laws, ordinances and regulations of The Metropolitan Sanitary District of Greater Chicago, the United States of America, the State of Illinois, the County, and the city, village, town, or municipality in which the subject property is located, and furnish to the District suitable evidence thereof.

8.02 The rights and obligations of the Permittee and the Sanitary District, respectively hereunder, shall inure to the benefit of and be binding upon their respective successors and assigns, and all terms, conditions, and covenants herein shall be construed as covenants running with the land.

8.03 The Permittee covenants and agrees that it shall strictly comply with any and all statutes, laws, ordinances and regulations of The Metropolitan Sanitary District of Greater Chicago, the United States of America, the State of Illinois, the County and the city, village, town, or municipality in which the subject property is located, which in any manner affect this Consent, any work done hereunder or control or limit in any way

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the actions of Permittee, its agents, servants, and employees, or of any contractor or subcontractor of Permittee, or their employees.

8.04 This Consent Agreement shall be subject to any and all existing easements, leases, permits, licenses or rights of any other parties.

IN WITNESS HEREOF, on the day and year first above written, the parties hereto have caused these presents, including Riders and Exhibits, if any, to be executed in triplicate by their duly authorized officers, duly attested and their corporate seals to be hereunto affixed.

THE METROPOLITAN SANITARY DISTRICT
OF GREATER CHICAGO

By: *Kevin C. Kiser*
Chairman, Committee on Finance of
the Board of Commissioners

ATTEST:

David Scraggia
Clerk

LARRABEE-DICKENS CORPORATION

By: *George Mullica*
Vice President
Title

ATTEST:

[Signature]
PRESIDENT
Title

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STATE OF ILLINOIS)
COUNTY OF COOK)

I, _____, a Notary Public in and for
said County, in the State aforesaid, DO HEREBY CERTIFY that
_____, personally known to me to be the
Chairman of the Committee on Finance of the Board of Commissioners
of The Metropolitan Sanitary District of Greater Chicago, a municipal
corporation, and _____, personally known to me
to be the Clerk of said municipal corporation, and personally known
to me to be the same persons whose names are subscribed to the fore-
going instrument, appeared before me this day in person and severally
acknowledged that as such Chairman of the Committee on Finance and
such Clerk, they signed and delivered the said instrument as Chairman
of the Committee on Finance of the Board of Commissioners and Clerk
of said municipal corporation, and caused the corporate seal of said
municipal corporation to be affixed thereto, pursuant to authority
given by the Board of Commissioners of said municipal corporation, as
their free and voluntary act and as the free and voluntary act and
deed of said municipal corporation, for the uses and purposes therein
set forth.

GIVEN under my hand and Notarial Seal this _____ day of
_____, A.D. 19__.

NOTARY PUBLIC

My Commission expires:
_____, A.D. 19__.

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STATE OF ILLINOIS }
COUNTY OF COOK }

I Karen Krogan a Notary Public in and
for said County, in the State aforesaid, DO HEREBY CERTIFY that
Harry Weiss, personally known to me to be
the _____

President of Lambert-Dickens Corporation
_____, a Illinois

corporation, and George Vrethel, personally
known to be to be the ^{VICE PRESIDENT} Clerk (Secretary) of said _____

corporation, and personally known to me to be the same
persons whose names are subscribed to the foregoing instrument,
appeared before me this day in person and severally acknowledged
that as such _____

^{VICE PRESIDENT} President and such Clerk (Secretary); they signed and delivered
the said instrument as _____

^{VICE PRESIDENT} President and Clerk (Secretary) of said _____
corporation, and caused the corporate seal of said _____

corporation to be affixed thereto pursuant
to authority given by the Board of _____ City

Council of said _____ corporation, as their
free and voluntary act and as the free and voluntary act and

deed of said _____ corporation, for the uses
and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day
of JUNE, A.D. 19 86.

Karen Krogan
NOTARY PUBLIC

My Commission expires:
April 20, A.D. 19 88.

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APPROVED as to Plat and Legal Description

F. E. Juliano

Engineer of Field Services

Raymond Blencoe

Assistant Chief Engineer

Leo P. White

Chief Engineer

APPROVED as to Form and Legality

Frederick M. Tied 9-2-86

Head Assistant Attorney

Alvin K. ... 9-2-86

Attorney

APPROVED:

Frank ...

General Superintendent

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**EXHIBIT
FORWARD
TO PLAT COUNTER
FOR SCANNING**

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