

7/30/2013

43-R-13

A RESOLUTION

Authorizing the City Manager to Execute a Public Utility Easement Agreement with Gendell/WNB LLC

WHEREAS, the City purchased two lots located at 1223-1225 Chicago Avenue (Lot 19) and 1229 Chicago Avenue (Lot 20) ("City Property") and executed certain license agreements with Gendell/WNB, LLC, an Illinois limited liability company ("Gendell") in order provide parking to service the future development of Trader Joe's by Gendell at 1211 Chicago Avenue pursuant to authority granted in Resolutions 32-R-12 (Lot 19) and 33-R-13 (Lot 20);

WHEREAS, in accordance with the license agreements, Gendell installed the sanitary and storm sewer pipes and shall conduct all necessary repairs, maintenance, and other obligations to the same going forward;

WHEREAS, Gendell requests a non-exclusive public utility easement for a ten foot (10') wide strip easement for the subject sanitary and storm sewer pipes to be located below the City's Property,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

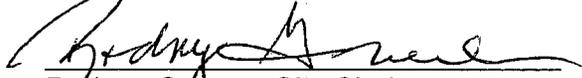
SECTION 1: The City Manager is hereby authorized and directed to sign, and the City Clerk hereby authorized and directed to attest, on behalf of the City, the Public Utility Easement Agreement attached hereto as Exhibit 1, by and between the City of Evanston and Gendell/WNB, LLC for a term of seventy (70) years.

SECTION 2: The City Manager is hereby authorized and directed to negotiate any additional conditions or terms of the Agreement as may be determined to be in the best interest of the City.

SECTION 3: This resolution shall be in full force and effect from and after the date of its passage and approval in the manner provided by law.


Elizabeth B. Tisdahl, Mayor

Attest:


Rodney Greene, City Clerk

Adopted: August 12, 2013

EXHIBIT 1

**Public Utility Easement Agreement between the City and
Gendell/WNB LLC**

**GRANT OF NON-EXCLUSIVE
PUBLIC UTILITY EASEMENT**

THE CITY OF EVANSTON, of the State of Illinois, County of Cook and its successors, assignees and transferees (all hereinafter referred to as "**Grantor**"), hereby grants to **GENDELL/WNB LLC**, an Illinois limited liability company, of the State of Illinois, County of Cook and its successors, assignees and transferees (all hereinafter referred to as "**Grantee**") a non-exclusive permanent easement for the purpose of the installation of sanitary and storm sewer services and appurtenances in, over, upon, through, along, across and under the following described real estate at 1223-1225 Chicago Avenue and 1229 Chicago Avenue, approximately ten foot (10') wide strip of land legally described on Exhibit 1, all situated in the City of Evanston, County of Cook, State of Illinois and hereby releases and waives all right under and by virtue of the Homestead Exemption Laws of the State of Illinois. The above-described real estate and improvements located thereon are herein referred to as the "Premises." Attached as Exhibit 2 is the Plat of Easement depicting said Easement on the Premises with a total easement area of 2,996 square feet.

Grantor hereby grants, conveys, warrants and dedicates to the Grantee, its agents, servants, employees, its successors and assigns, a non-exclusive public utilities easement for seventy (70) years to survey, construct, reconstruct, use, operate, maintain, test, inspect, repair, or alter the sanitary and storm sewer services and related appurtenances and to inspect and make alterations to the above describe systems, both only in consultation with the City of Evanston's Utilities Department and the Public Works Department and any and all of parameters and restrictions on said use described, in, over, upon, thru, along, across and under the Premises together with related attachments, equipment and appurtenances thereto (collectively "Public Utilities") subject to the terms and conditions hereinafter set forth and set forth in the License Agreements dated November 13, 2012 between Grantor and Grantee for the construction of the Licensed Improvements, as more fully described in the License Agreements for the real property commonly known as 1223-1225 Chicago Avenue and 1229 Chicago Avenue in upon, under, along and across the Premises, with the right of access thereto, including all reasonable rights of ingress and egress across any adjoining lands of Grantor necessary for the exercise of the rights herein granted. Grantee hereby acknowledges that it shall have the obligation to survey, construct, reconstruct, use, operate, maintain, test, inspect, repair, or alter the sanitary and storm sewer services and related appurtenances and to inspect and make alterations to the above describe systems, with no right of reimbursement from the City of Evanston.

Grantor shall have and retain all rights to use and occupy the premises and access to Grantor's remaining property, except as herein expressly granted; provided, however,

Grantor's use and occupation of the premises may not interfere with Grantee's use of the premises for the purposes herein described.

In consideration of the Grantee constructing, maintaining, repairing, and replacing the above named utilities, the yearly easement fee of \$1,498 (total fee is \$104,860 over the 70-year term to match the License Agreement term) is hereby waived and other good and valuable consideration, the receipt of which hereby is acknowledged. Grantor, without limiting the interest above granted and conveyed, acknowledges that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including without limitation, any diminution in value to any remaining property of the Grantor caused by opening, improving, and using the premises for highway purposes. This acknowledgment does not waive any claim for trespass or negligence against the Grantee or Grantee's agents which may cause damage to Grantor's remaining property.

This grant shall constitute a covenant, which runs with the land, and shall be binding upon the legal representatives, successors and assigns of Grantor.

Dated this _____ day of _____, 2013.

GRANTOR: CITY OF EVANSTON

By: _____
Signature

ATTEST:

City Manager, Wally Bobkiewicz

By: _____
Signature

City Clerk, Rodney Greene

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that Wally Bobkiewicz, City Manager of the City of Evanston who is personally know to me to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person

and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

Given under by hand and notarial seal this _____ day of _____, 2013

Notary Public

GRANTEE: GENDELL/WNB, LLC

By: _____

Signature

Manager, Kevin Gazley

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that Kevin Gazley, Manager of the Gendell/WNB, LLC who is personally know to me to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

Given under by hand and notarial seal this _____ day of _____, 2013

Notary Public

EXHIBIT 1

LEGAL DESCRIPTION

THAT PART OF LOTS 19 AND 20 IN BLOCK 76 IN THE VILLAGE OF EVANSTON, IN THE NORTH HALF OF THE NORTH HALF OF SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 20; THENCE SOUTH 00 DEGREES 29 MINUTES 40 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 20, A DISTANCE OF 43.16 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 87 DEGREES 06 MINUTES 55 SECONDS EAST, A DISTANCE OF 10.29 FEET; THENCE SOUTH 64 DEGREES 04 MINUTES 24 SECONDS EAST, A DISTANCE OF 73.37 FEET; THENCE NORTH 84 DEGREES 03 MINUTES 26 SECONDS EAST, A DISTANCE OF 89.02 FEET; THENCE SOUTH 05 DEGREES 56 MINUTES 34 SECONDS EAST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 84 DEGREES 03 MINUTES 26 SECONDS WEST, A DISTANCE OF 72.93 FEET; THENCE SOUTH 64 DEGREES 04 MINUTES 24 SECONDS EAST, A DISTANCE OF 41.04 FEET, TO THE SOUTH LINE OF SAID LOT 19; THENCE NORTH 89 DEGREES 36 MINUTES 47 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 23.19 FEET; THENCE NORTH 64 DEGREES 04 MINUTES 24 SECONDS WEST, A DISTANCE OF 36.19 FEET; THENCE SOUTH 84 DEGREES 03 MINUTES 26 SECONDS WEST, A DISTANCE OF 69.02 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 39.23 FEET; THENCE SOUTH 87 DEGREES 06 MINUTES 55 SECONDS WEST, A DISTANCE OF 5.72 FEET, TO THE WEST LINE OF SAID LOT 19; THENCE NORTH 00 DEGREES 29 MINUTES 40 SECONDS WEST, ALONG THE WEST LINE OF SAID LOTS 19 AND 20, A DISTANCE OF 10.01 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PART DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 20; THENCE SOUTH 00 DEGREES 29 MINUTES 40 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 20, A DISTANCE OF 43.16 FEET; THENCE NORTH 87 DEGREES 06 MINUTES 55 SECONDS EAST, A DISTANCE OF 10.29 FEET; THENCE SOUTH 64 DEGREES 04 MINUTES 24 SECONDS EAST, A DISTANCE OF 6.15 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 11.12 FEET, TO THE POINT OF BEGINNING;

THENCE SOUTH 64 DEGREES 04 MINUTES 24 SECONDS EAST, A DISTANCE OF 46.28 FEET; THENCE SOUTH 84 DEGREES 03 MINUTES 26 SECONDS WEST, A

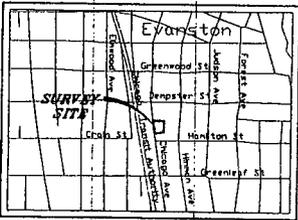
DISTANCE OF 41.84 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00
SECONDS EAST, A DISTANCE OF 24.57 FEET TO THE POINT OF BEGINNING.

EXHIBIT 2
PLAT OF EASEMENT

PLAT OF EASEMENT

LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

LOTS 19 AND 20 IN BLOCK 78 IN THE VILLAGE OF EVANSTON IN THE NORTH HALF OF THE NORTH HALF OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS



LOCATION SKETCH
(NOT TO SCALE)

PUBLIC UTILITY EASEMENT PROVISIONS

THE CITY OF EVANSTON, OF THE STATE OF ILLINOIS, COUNTY OF COOK AND ITS SUCCESSORS, ASSIGNED AND TRANSFERRED (ALL HEREINAFTER REFERRED TO AS "GRANTOR"), HEREBY GRANTS TO GENERAL AND LOCAL AUTHORITY LIMITED LIABILITY COMPANY OF THE STATE OF ILLINOIS, COUNTY OF COOK AND ITS SUCCESSORS, ASSIGNED AND TRANSFERRED (ALL HEREINAFTER REFERRED TO AS "GRANTEE") A PERPETUOUS EASEMENT FOR THE PURPOSE OF THE INSTALLATION OF SANITARY AND STORM SEWER SERVICES AND APPURTENANCES IN, OVER, UPON, THROUGH, ALONG, ACROSS AND UNDER THAT PART OF THE REAL ESTATE SHOWN BY LINES SHADING HEREIN, BEING APPROXIMATELY 100 FOOT (100') WIDE STRIP HEREON AND UNDER THE COUNTY OF COOK, STATE OF ILLINOIS AND HEREBY RELEASES AND WIVES UP ALL RIGHT, TITLE AND INTEREST OF THE HOMEHEAD EASEMENT LINES IN THE STATE OF ILLINOIS. ALL ABOVE-DESCRIBED REAL ESTATE AND IMPROVEMENTS LOCATED THEREON ARE HEREBY REFERRED TO AS THE "PREMISES".

GRANTOR HEREBY GRANTS, CONVEYS, WARRANTS AND DEDICATES TO THE GRANTEE, ITS AGENTS, SERVANTS, EMPLOYEES, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE, PUBLIC UTILITY EASEMENT FOR STREET, CONDUIT, RECONSTRUCTION, USE, OPERATE, MAINTAIN, TEST, INSPECT, REPAIR, OR ALTER THE SANITARY AND STORM SEWER SERVICES AND RELATED APPURTENANCES AND TO INSPECT AND MAKE ALTERATIONS TO THE ABOVE DESCRIBED SYSTEMS, BOTH DAILY IN CONSULTATION WITH THE CITY OF EVANSTON'S UTILITIES DEPARTMENT AND THE PUBLIC WORKS DEPARTMENT AND ANY AND ALL OF PARAMETERS AND RESTRICTIONS ON LAND USE DESCRIBED, IN, OVER, UPON, THROUGH, ALONG, ACROSS AND UNDER THE PREMISES TOGETHER WITH RELATED ATTACHMENTS, EQUIPMENT AND APPURTENANCES (COLLECTIVELY "PUBLIC UTILITIES") SUBJECT TO THE TERMS AND CONDITIONS HEREINAFTER SET FORTH AND SET FORTH IN THE SCHEDULE HEREON DATED NOVEMBER 13, 2013 BETWEEN GRANTOR AND GRANTEE FOR THE CONSTRUCTION OF THE LICENSED IMPROVEMENTS, AS WORK CONVEYED SHOWN AS THE LICENSE AGREEMENTS FOR THE REAL PROPERTY IN UPON, UNDER, ALONG AND ACROSS THE PREMISES, WITH THE RIGHT OF ACCESS THEREON, INCLUDING AS REASONABLE NUMBER OF PERSONS AND LOGS ACROSS ANY ADJOINING LANDS OF GRANTOR NECESSARY FOR THE EXERCISE OF THE RIGHTS HEREIN GRANTED.

GRANTOR SHALL HAVE AND RETAIN ALL RIGHTS TO USE AND OCCUPY THE PREMISES AND ACCESS TO GRANTOR'S REMAINING PROPERTY, EXCEPT AS NOWHERE EXPRESSLY GRANTED, PROVIDED HOWEVER GRANTOR'S USE AND OCCUPATION OF THE PREMISES MAY NOT INTERFERE WITH GRANTEE'S USE OF THE PREMISES FOR THE PURPOSES HEREIN DESCRIBED.

GRANTOR, WITHOUT LIMITING THE INTEREST ABOVE GRANTED AND CONVEYED, ACKNOWLEDGES THAT UPON PAYMENT OF THE AGREED CONSIDERATION, ALL CLAIMS ARISING OUT OF THE ABOVE ACQUISITION HAVE BEEN SETTLED, INCLUDING THE GRANTOR CAUSED BY OPINION, APPROVING AND USING THE PREMISES FOR THE FOREGOING PURPOSES. THIS ACKNOWLEDGMENT DOES NOT WAIVE ANY CLAIM FOR DAMAGES OR INDEMNITY AGAINST THE GRANTEE OR GRANTEE'S AGENTS WHICH MAY CAUSE DAMAGE TO GRANTOR'S REMAINING PROPERTY.

OWNER'S CONSENT

STATE OF ILLINOIS)
COUNTY OF COOK)

THIS IS TO CERTIFY THAT THE CITY OF EVANSTON IS THE HOLDER OF THE TITLE OF ALL OF THE PROPERTY DESCRIBED HEREON AND THAT THEY HAVE CAUSED THE SAME TO BE PLATTED FOR THE PURPOSES OF GRANTING EASEMENTS AS SHOWN HEREON.

DATED THIS _____ DAY OF _____ A.D. 20____

GRANTEE NAME AND ADDRESS

THE CITY OF EVANSTON
2100 PRIDE AVENUE
EVANSTON, ILLINOIS 60121

BY: _____

PRINTED NAME AND TITLE

NOTARY PUBLIC

STATE OF ILLINOIS)
COUNTY OF COOK)

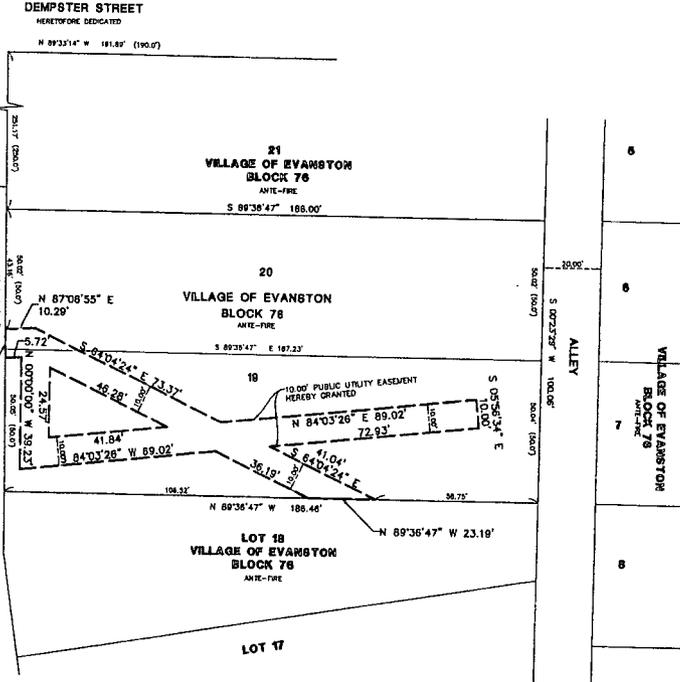
I, _____ A NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT _____

OF THE CITY OF EVANSTON WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING CERTIFICATE, APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT HE OWNED SAID LAND AND HELD THE INSTRUMENT AS A FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES HEREIN SET FORTH.

GIVEN UNDER MY HAND AND NOTORIAL SEAL THIS _____ DAY OF _____ A.D. 20____

NOTARY PUBLIC

GAL LIMITED PARTNERSHIP CONSOLIDATION
REGISTERED AS COMPANY NUMBER 00000000000000000000



SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF LAKE)

THIS IS TO CERTIFY THAT I, MANHARD CONSULTING LTD., HAVE PLATTED THE ABOVE DESCRIBED PROPERTY FOR THE PURPOSE OF GRANTING AN EASEMENT FOR THE PURPOSES SHOWN IN PARTNERSHIP (458.87) ARE RECORD OR DEED VALUES, NOT FIELD MEASUREMENTS.

GIVEN UNDER MY HAND AND SEAL THIS 30th DAY OF JULY, A.D. 2013.

Timothy J. Murrain
TIMOTHY J. MURRAIN
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2400
LICENSE EXPIRES NOVEMBER 25, 2014



SURVEYOR'S NOTES

1. DISTANCES ARE MARKED IN FEET AND DECIMAL PLACES THEREOF. NO DIMENSION SHALL BE ASSIGNED BY SCALE MEASUREMENT HEREON. DISTANCES AND/OR BEARINGS SHOWN IN PARTNERSHIP (458.87) ARE RECORD OR DEED VALUES, NOT FIELD MEASUREMENTS.
2. THIS SURVEY IS SUBJECT TO MATTERS OF TITLE, WHICH MAY BE REVEALED BY A CURRENT TITLE REPORT, EASEMENTS, ERECTIONS AND OTHER INSTRUMENTS WHICH MAY BE FOUND IN A CURRENT TITLE REPORT, LOCAL OR NATIONAL DEEDS OR OTHER INSTRUMENTS OF RECORD MAY NOT BE SHOWN.
3. THIS SURVEY WAS PREPARED FOR TERRACCO, INC. BASED ON A FIELD BOUNDARY SURVEY COMPLETED ON DECEMBER 19, 2011. THE BASIS OF BEARINGS ARE BASED UPON THE ILLINOIS STATE PLANE COORDINATE SYSTEM OF 1983, EAST ZONE.
4. MANHARD CONSULTING, LTD. IS A PROFESSIONAL DESIGN FIRM, REGISTRATION NUMBER 184003350, EXPIRES APRIL 30, 2015.

Manhard CONSULTING LTD

TRADER JOES DEVELOPMENT
EVANSTON, ILLINOIS
PLAT OF EASEMENT

SHEET
1 OF 1
TERRY 110698