

Petition for Change in Alley and Agreement for Conveyance of Real Property

This agreement is entered into by the City of West Allis, a domestic municipal corporation ("City"), RMSB Properties, LLC, a domestic limited liability company ("RMSB"), Timber Holdings LLC, a domestic limited liability company ("Timber"), and CTR Partnership LP, a Delaware partnership ("CTR") (collectively, the "Parties").

WHEREAS, the City owns 13** South 74th Street (tax key # 440-0423-002), RMSB owns 7418-20 West Greenfield Avenue (tax key # 440-0413-000), Timber owns 7412 West Greenfield Avenue (tax key # 440-0414-000), and CTR owns 7400 West Greenfield Avenue (tax key # 440-0415-001); and

WHEREAS, a public alley runs alongside the above-referenced real estate owned by the Parties; and

WHEREAS, the current configuration of the alley is not conducive to use by the public, nor use by the Parties; and

WHEREAS, a petition for the opening, widening, extension or change of an alley may be made to the council by the owner or owners of one-third or more of the land in the block in which the alley or proposed alley is situated, whether such owner or owners shall be residents of the city or not; and

WHEREAS, the Parties are the owners of the land in the block in which the alley is situated and wish to change the alley located between and alongside their above-described properties to a more functional route; and

WHEREAS, when the petition shall be presented to the council it shall be referred to the board of public works, and said board shall make a report to the council stating whether or not such petition is sufficiently signed

WHEREAS, no description of a lot, parcel or subdivision of land proposed to be taken is necessary because all Parties agree to convey land in accordance with this Agreement; and

WHEREAS, a plat of the proposed alley change is included in this Agreement;

NOW, THEREFORE, for valid consideration, the receipt of which is hereby acknowledged, and in consideration for the promises and covenants in this Agreement, the Parties agree as follows:

Section 1. Petition for Change of Alley

- A. The Parties jointly petition the West Allis Common Council under Wis. Stat. § 62.22(4)(b) to change the alley abutting the frontage of the property described above and further described and identified in **Exhibit A (Original Alley)**.
- B. The Parties jointly petition the West Allis Common Council to relocate the alley to the approximate locations described in **Exhibit B (New Alley)** subject to final surveying and to be recorded through a certified survey map approximately as described in Exhibit B.
- C. This petition shall be presented to the council and referred to the board of public works.

Section 2. Duties Applicable to All Parties

- A. All Parties, to the extent necessary, shall convey ownership of any privately owned property created because of this change in alley to the Parties as identified on Exhibit B.
- B. All Parties, to the extent necessary, shall accept ownership of any privately owned property created because of this change in alley from the Parties as identified on Exhibit B.
- C. All Parties shall grant easements that prevents the construction of any permanent improvements on private land which would interfere with existing sanitary or storm water piping, electrical wiring, or other underground or overhead facilities as described on **Exhibit D (Facility Easement)**.
- D. The Parties agree that the alley described and identified in Exhibit B sufficiently provides a common right in the free and unobstructed use of the full width of the alley, and the configuration of the alley does not materially interfere with its usefulness as a highway or so as to damage abutting property.
- E. The Parties agree that sufficient consideration has been given and waive any right to seek damages of any kind related to the changing and reconfiguration of the alley, the reapportioning of private property,

Section 3. Individual Duties of Each Party

- A. RMSB hereby agrees to:
 - a. Pay to the City \$_____ as consideration for the execution of this Agreement.
- B. Timber hereby agrees to:
 - a. Grant an easement to CTR for the area identified on **Exhibit C (Private Easement)** for the purposes of utility work and other work related to upkeep and maintenance of the building.
 - b. Install and maintain a filter on any smokers located on 7412 West Greenfield Avenue to reduce all smoke and odors to a level that prevents smoke from entering adjacent buildings and significantly reduces odors.
 - c. Comply with any applicable health codes in the operation of a retail food establishment and provide a bond in the amount of \$_____ to ensure compliance.
 - d. Relocate all garbage bins to its private property
 - e. Pay to the City \$_____ as consideration for the execution of this Agreement.
- C. CTR hereby agrees to:
 - a. Accept an easement from Timber for the area identified on Exhibit C for the purposes of utility work and other work related to upkeep and maintenance of the building.
 - b. Relocate all garbage bins to its private property
 - c. Pay to the City \$_____ as consideration for the execution of this Agreement.

Section 3. Miscellaneous

- A. Public Record. This document is a public record under Wis. Stat. Ch. 19
- B. Payments. Any payments due under this Agreement shall be paid within 30 days after approval of the Agreement by all Parties and approval of the petition by the West Allis Common Council. If

payment is not timely received, the Parties agree that any outstanding amounts may be placed upon the tax roll as a special tax against the relevant property affected by this Agreement.

- C. Good Faith. All Parties shall cooperate in good faith to timely execute document necessary to effectuate the terms of this Agreement.
- D. Venue. This Agreement shall be governed by the laws of the State of Wisconsin.
- E. Assignment. No Party may assign any rights or duties under this Agreement without the prior written consent of the other until after a certified survey map has been recorded to effectuate the changing of the alley and reapportionment of private property.
- F. Non-Severability. This Agreement is agreed upon as a whole, and the invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall void this Agreement in its entirety.
- G. Counterparts. This Agreement may be executed in multiple originals, each of which together shall constitute a single Agreement.

By signing below, the Parties agree to submit this document as a joint petition to the West Allis Common Council and agree to the terms and provisions contained herein.

City of West Allis

Timber Holdings LLC

By: _____

By: _____

Dan Devine, Mayor

Date: _____

Date: _____

RMSB Properties, LLC

CTR Partnership LP

By: _____

By: _____

Date: _____

Date: _____

EXHIBIT A
Original Alley



EXHIBIT B

New Alley

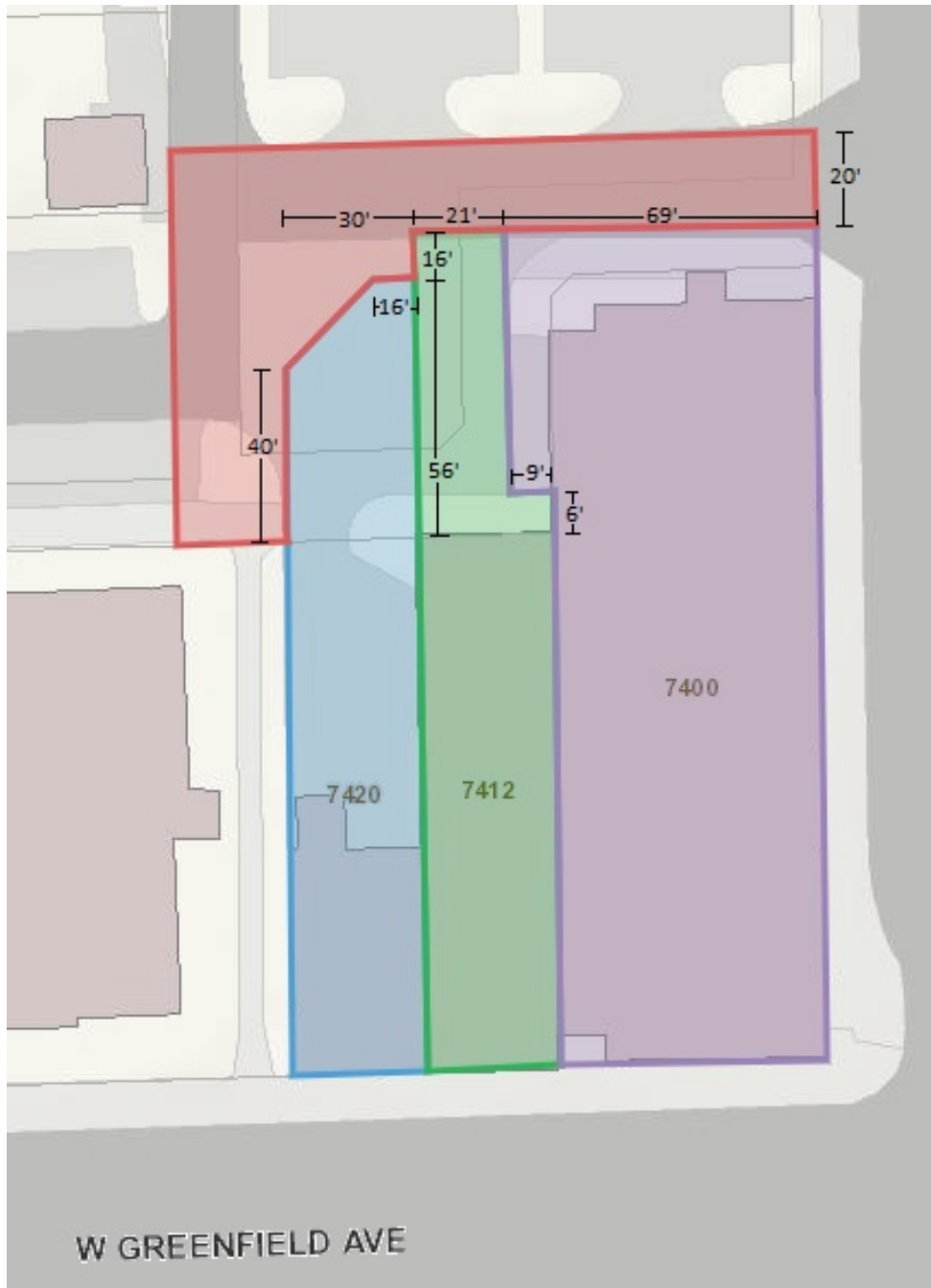


EXHIBIT C
Private Easement

EXHIBIT D
Facility Easement