

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

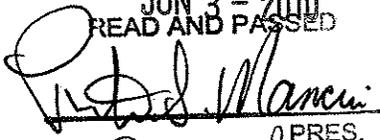
No. 189

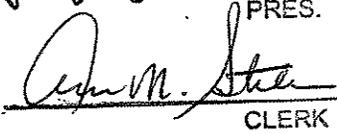
Approved June 7, 2010

RESOLVED, That the Members of the Providence City Council hereby Authorize a sewer easement to the City of Cranston on land owned by Providence Water (Assessor's Plat 10, Lot 116).

IN CITY COUNCIL

JUN 3 - 2010
READ AND PASSED


PRES.


CLERK

APPROVED



MAYOR

6/7/10



552 Academy Avenue
Providence, RI 02908

401-521-6300
www.provwater.com

March 11, 2010

Council President Peter S. Mancini
Providence City Hall
25 Dorrance Street
Providence, Rhode Island 02903

David N. Cicilline
Mayor

Pamela Marchand, P.E.
*Chief Engineer &
General Manager*

BOARD OF DIRECTORS

Andrew K. Moffit
Chairman

Joseph D. Cataldi
Vice Chairman

Bruce T. Miller
Ex-Officio

Joseph DeLuca
City Councilman

Michael A. Solomon
City Councilman

John A. Fagnoli
Member

Joan Badway
Member

Carissa R. Richard
Secretary

Fernando S. Cunha, Esq.
Legal Advisor

Dear President Mancini:

The Providence Water Supply Board has approved the request to grant a sewer easement to the City of Cranston on land owned by Providence Water, Plat 10, Lot 116. Providence Water is requesting City Council approval of this matter.

We are requesting that this issue be put on the docket of the March 18, 2010 meeting of the Providence City Council. I have attached a copy of the related Certificate of Secretary.

Please contact me at 521-6300 extension 7197 if you have any questions.

Respectfully,
PROVIDENCE WATER SUPPLY BOARD


Carissa Richard, Board Secretary

Member

Rhode Island Water Works Assn.
New England Water Works Assn.
American Water Works Assn.

An EPA WaterSense Partner

Only Tap Water DELIVERS

RECEIVED
CITY OF PROVIDENCE
CITY CLERK
MARCH 11 2010



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Providence, RI 02908

401-521-6300

www.provwater.com

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Mayor

Pamela Marchand, P.E.
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Michael A. Solomon
City Councilman

John A. Fagnoli
Member

Everett Bianco
Member

Carissa R. Richard
Secretary

Fernando S. Cunha, Esq.
Legal Advisor



Only Tap Water DELIVERS

CERTIFICATE OF SECRETARY

I, Carissa R. Richard, do upon oath say:

1. That I am the duly appointed Secretary of the Providence Water Supply Board (PWSB), an entity established by the Home Rule Charter of the City of Providence.
2. That at the regular monthly meeting of the PWSB held on Wednesday, August 12, 2009, the following was voted by all members of the Providence Water Supply Board present:

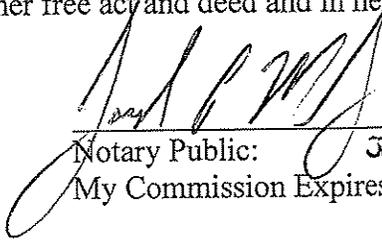
RESOLVED: That the Board of Directors voted to grant a sewer easement to the City of Cranston on land owned by Providence Water, Plat 10, Lot 116, and forward the easement request to the Providence City Council for approval.

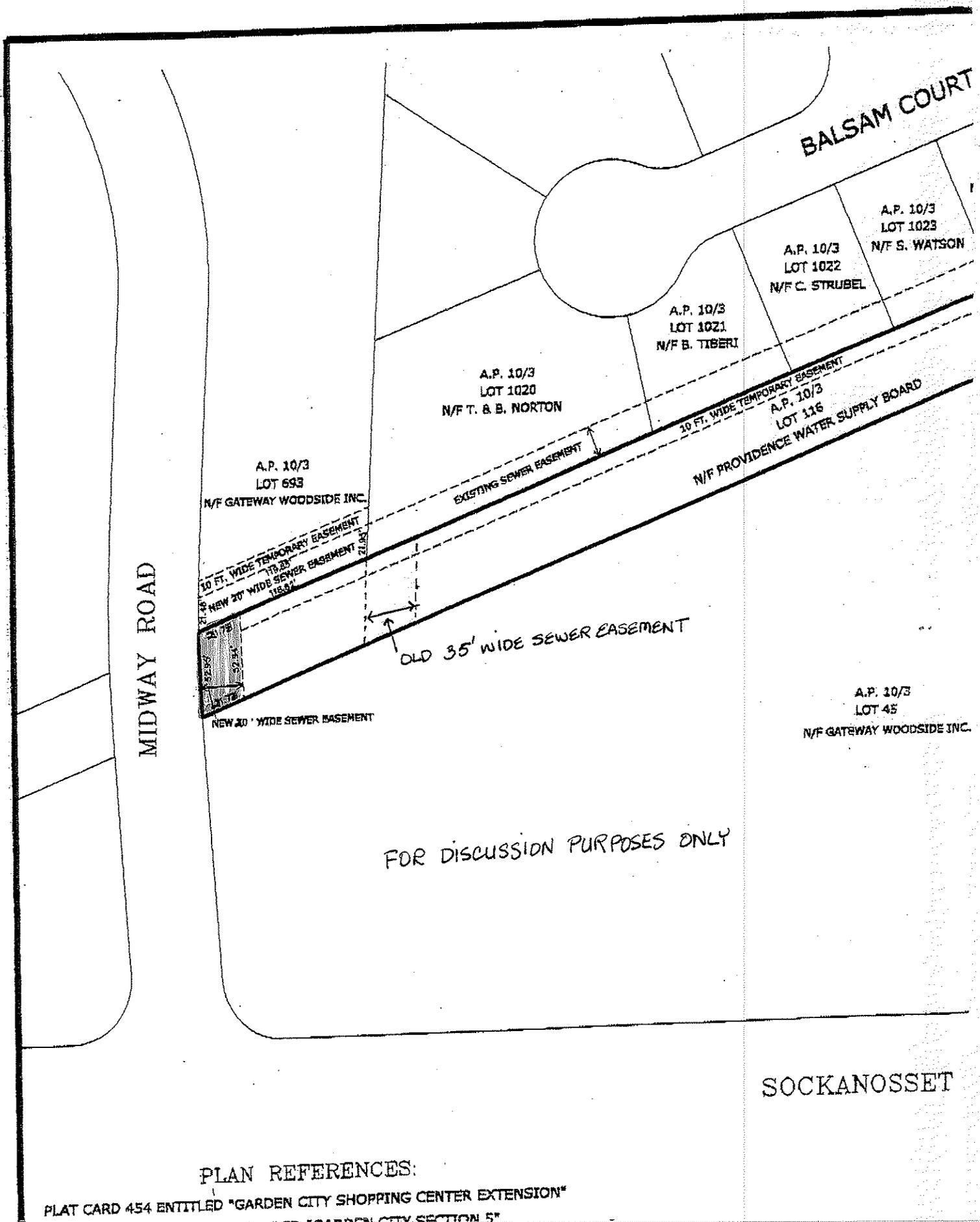
In Witness Whereof, I have set my hand this 1st day of March, 2010.


 Carissa R. Richard
 Secretary
 Providence Water Supply Board

STATE OF RHODE ISLAND
PROVIDENCE, sc.

In Providence on the 1st day of March, 2010, there personally appeared before me the above-named, Carissa R. Richard, individually and in her capacity as Secretary of the Providence Water Supply Board, and she acknowledged the execution of this certificate to be her free act and deed and in her said capacity.


 Notary Public: Joseph P. Murphy
 My Commission Expires: 3.27.2010



PLAN REFERENCES:

PLAT CARD 454 ENTITLED "GARDEN CITY SHOPPING CENTER EXTENSION"
GARDEN CITY SECTION 5"

INTERIM AGREEMENT

(Providence Water Supply Board and the City of Cranston
Cranston Tax Assessor's Plat 10, Lot 116)

PARTIES

Owner is the City of Providence and its Providence Water Supply Board having its principal place of business at 552 Academy Avenue, Providence, RI.

Applicant is the City of Cranston having its principal place of business at 869 Park Avenue, Cranston, RI.

RECITALS

Whereas, Owner is the owner of a parcel of land identified by the City of Cranston Tax Assessor as Plat 10, Lot 116; and,

Whereas, Applicant is requesting an easement within said parcel for installation and management of a 24" sewer line, from the City of Providence and its Providence Water Supply Board, said easement to be a twenty (20') foot wide corridor through Owner's parcel (hereinafter "permanent easement"); and,

Whereas, for purposes of facilitating the installation of its sewer line, Applicant is requesting the temporary right to use an additional ten (10') foot wide corridor of land running parallel with and adjacent to the proposed easement corridor on its easterly side, said temporary construction easement (hereinafter "temporary construction easement") to terminate upon completion of the sewer line construction work; and,

Whereas, Applicant requests said rights be conferred at the earliest possible time; and,

Whereas, Owner is constrained from giving permanent rights until certain procedures are followed and approvals of the Providence Water Supply Board and the Providence City Council are obtained (hereinafter "approvals"), the Parties have agreed to enter into this interim agreement until such time as the easements identified in this instrument have received all necessary approvals and can be made permanent; and,

Whereas, Applicant is willing to accept the entire risk of reliance upon an interim agreement pending the resolution of an easement request which is subject to approval or disapproval by the Providence Water Supply Board and the Providence City Council; and,

Whereas, subject to the power and supervision of the Providence Water Supply Board, the Chief Engineer is given sole charge of the water system in every particular, and enters this agreement as an exercise and use of said authority.

Therefore, the parties agree:

That the City of Cranston is granted temporary approval to install the aforementioned sewer line within the described permanent easement area requested and as described in Exhibit "A" attached hereto, which temporary approval shall become permanent upon obtaining of the said approvals, and which interest shall remain un-recorded and withheld from publication in the Land Evidence Records of the City of Cranston or any other applicable jurisdiction until such time as the Providence Water Supply Board notifies the City of Cranston that all approvals are conferred, which notice shall be contemporaneous with receipt of all required said approvals; and

That the City of Cranston shall, during the installation of its sewer line in the proposed permanent easement area, have the temporary rights and duties of an easement holder in said proposed temporary construction easement corridor, said easement being limited only to the reasonable use necessary for the purposes of constructing its sewer line through the proposed permanent easement corridor, which temporary construction easement interest shall not be recorded on the Land Evidence Records under any circumstances; and

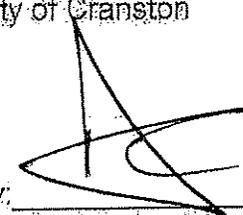
In consideration of which the City of Cranston shall apply for and cooperate with the Providence Water Supply Board and make all efforts to obtain permanent approval of the permanent easement corridor, and at all times keep said easement corridors and the land and conditions within them safe, and on completion restore to as good or better and safe condition the permanent easement corridor and the temporary easement corridor; and

That the City of Cranston accepts the entire risk of reliance upon the temporary rights conferred by this agreement and that said rights would be not made permanent by the obtainance of said approvals; and

In further consideration of which Applicant agrees to hold harmless and indemnify the City of Providence and the Providence Water Supply Board from every claim and cause of action arising out of the negligence of the Applicant, its agents, employees, contractors, subcontractors, and successors or assigns, and the possession, maintenance or use of the permanent easement corridor and/or the temporary easement corridor.

Applicant,
City of Cranston

By:


Vito Sciolto, City Solicitor

6/2/08

In Cranston this 2nd day of June, 2008, before me personally appeared Vito Sciolto in his capacity as Solicitor for the City of Cranston, to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument, by him executed, to be his free act and deed and the free act and deed of the City of Cranston.

Rosalba Zanni
ROSALBA ZANNI Notary Public
My commission expires: 6/28/09

Owner,
City of Providence, by and through the
Providence Water Supply Board

By: Pamela M. Marchand
Pamela M. Marchand, PE
Chief Engineer

In Providence this 2 day of JUNE, 2008, before me personally appeared Pamela M. Marchand, PE, in her capacity as Chief Engineer of the Providence Water Supply Board, to me known and known by me to be the party executing the foregoing instrument and she acknowledged said instrument, by her executed, to be his free act and deed and the free act and deed of the Providence Water Supply Board.

Norman C. Reardon Jr.
Notary Public
My commission expires: 6-25-09

EXHIBIT "A"

Beginning at a point on the southerly side of Midway Road, said point also being the most westerly corner of record lot 1 on the Plat entitled "Garden City Shopping Center Extension by Charles Maguire & Associates, November, 1962" located within the records of land evidence in the City of Cranston on Plat Card 454;

Thence running in a southeasterly direction along the southwesterly line of said record lot 1, bounded northeasterly by land now or formerly of Gateway Woodside Inc. a distance of twenty-one and 18/100 feet (21.18') to a point;

Thence turning an interior angle of $70^{\circ}-49'-03''$ and running in a southwesterly direction a distance of fifty-two and 94/100 feet (52.94') to a point;

Thence turning an interior angle of $109^{\circ}-10'-57''$ and running in a northwesterly direction bounded southwesterly by land now or formerly of Gateway Woodside Inc. a distance of twenty-one and 18/100 feet (21.18') to a point on the southerly side of said Midway Road;

Thence turning an interior angle to the chord of a curve of $70^{\circ}-49'-03''$ and running in a northeasterly direction along the southerly side of said Midway Road and in a clockwise direction, along the arc of a curve, an arc length of fifty-two and 95/100 feet (52.95') to the point and place of beginning.

The first described line forms an interior angle of $109^{\circ}-10'-57''$ with the chord of the last described line, said parcel containing 1,000 square feet, more or less.

EASEMENT

CITY OF PROVIDENCE, a municipal corporation for and on behalf of the PROVIDENCE WATER SUPPLY BOARD, a municipal agency of the City of Providence (hereinafter "PWSB"), (the "Grantor"), with a usual place of business at 552 Academy Avenue, Providence, RI ("Grantor") for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, grants to the CITY OF CRANSTON, a Rhode Island municipal corporation and their successors and/or assigns (the "Grantee"), a perpetual twenty (20) foot wide easement over, across, above and under the Land together with a right of way, on, along and in all of the Easement Area described on the attached Exhibit "A" together with the right to construct, repair, replace, remove, maintain and use appliances, equipment and fixtures for use in connection with the installation of the a (twenty one) 21" sewer line. The Easement Area is further depicted on that sketch attached hereto as Exhibit B and incorporated herein by reference.

Grantor further grants to the Grantee the right of ingress to and egress from the Easement Area over and across the Land by means or roads and lanes thereon.

Grantor shall have the right to use the Easement Area for purposes not inconsistent with the Grantee's use and rights hereby granted.

Grantor shall have the right to require the Grantee to mark the location of the Easement Area by suitable markers set in the ground but the markers when set in the ground shall not interfere with the reasonable use the Grantee shall make of the Easement Area. The construction, repair, replacement, removal maintenance and use of the Easement Area by the Grantee shall be conducted so as to interfere to the minimum extent possible with the use by the Grantor of the Easement Area.

Grantee agrees, at its sole cost, to repair any damage to the easement area granted to it caused by such party's use of such easement area. Grantee, after five (5) days' prior notice (except in the event of an emergency), shall be entitled to enter upon the easement area with such employees, agents, servants, machinery and equipment as may reasonably be required for the maintenance or repair of such easement area. Any such maintenance or repair to be performed by Grantee from time to time shall be performed in a prompt, efficient and continuous manner. Upon completion of any such maintenance or repair, the Grantee agrees to promptly restore the easement area to the same condition it was in immediately prior to such maintenance or repair or as otherwise mutually agreed upon by the parties hereto. Prior to commencing any such maintenance or repair, the Grantee shall secure any and all necessary permits and approvals, and shall be solely responsible for insuring against any and all property damage or public liability which may result from such activity.

If the Grantee shall fail to perform any repair or maintenance for a period of thirty (30) days after notice thereof (or such shorter period of time as circumstances may require in the case of a situation where damage to property or injury to persons is threatened); then the Grantor may elect to perform such repair or maintenance work and the Grantee shall promptly reimburse the Grantor for the cost thereof after completion.

Grantee agrees to promptly pay for all materials furnished and labor supplied in connection with any such maintenance or repair or other use of the easement area granted to such party. If any mechanic's lien or other lien or order for the payment of money shall be filed against the land owned by the Grantor as a result of any material supplied or labor furnished for or on behalf of the Grantee, the Grantee shall, at its sole cost, cause the same to be discharged of record or bonded within thirty (30) days after the Grantor is notified of the filing of same and shall indemnify, defend and hold the Grantor harmless from and against any and all claims, demands, actions, causes of action or other liabilities arising out of or in connection with any such lien or order.

Grantee agrees to indemnify, defend and hold the Grantor harmless from and against any and all claims, demands, actions, causes of action, costs (including, without limitation, reasonable attorneys' fees) or other liabilities arising out of or in connection with any damage to property or injury to any person on or upon or otherwise in connection with the easement area caused by Grantee or anyone for whose acts the Grantee is legally responsible.

The Grantor hereby reserves for itself; its successors and assigns, the right to use any and all portions of the land comprising the easement area owned by it for any purpose not inconsistent with the easement created by this instrument.

All notices required or contemplated hereunder shall be sent by registered or certified mail, return receipt requested, postage prepaid, to the parties at the address designed below or to such other address or addressee as either party may designate from time to time:

If to the Grantee:

CITY OF CRANSTON
869 PARK AVENUE
CRANSTON, RI 02910

If to the Grantor:

PROVIDENCE WATER SUPPLY BOARD
552 ACADEMY AVENUE
PROVIDENCE, RI 02908

This Agreement is executed, delivered and accepted upon the express terms, covenants and conditions contained herein, which terms, covenants and conditions shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. All reserved rights and other rights and obligations of each party shall also run for the benefit of the successors and assigns of each party. This Agreement is intended to be governed by and construed in accordance with the laws of the State of Rhode Island. This Agreement may not be amended or modified except pursuant to a written agreement signed by all parties hereto.

This Easement is granted pursuant to that Resolution of the Providence City Council No. _____ approved on _____ 2010.

This instrument shall be binding upon and shall inure to the benefit of the respective successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, CITY OF PROVIDENCE has caused these presents to be signed by its proper officer for that purpose duly authorized this day of _____, 2010.

In the presence of:

CITY OF PROVIDENCE

By: DAVID N. CICILLINE
Its: Mayor

STATE OF RHODE COUNTY
OF PROVIDENCE

In Providence in said County on the _____ day of _____, 2010, before me personally appeared the above named DAVID N. CICILLINE, Mayor of the CITY OF PROVIDENCE, to me known and known by me to be the party executing the foregoing instrument, and he acknowledged said instrument, by him executed, to be his free act and deed of said CITY OF PROVIDENCE, individually and in said capacity.

Notary Public
My Commission expires: _____

EXHIBIT A

Beginning at a point on the southerly side of Midway Road, said point also being the most westerly corner of record lot 1 on the Plat entitled "Garden City Shopping Center Extension by Charles Maguire & Associates, November, 1962" located within the records of land evidence in the City of Cranston on Plat Card 454;

Thence running in a southeasterly direction along the southwesterly line of said record lot 116, bounded northeasterly by land now or formerly of Gateway Woodside Inc. a distance of twenty-one and 18/100 feet (21.18') to a point;

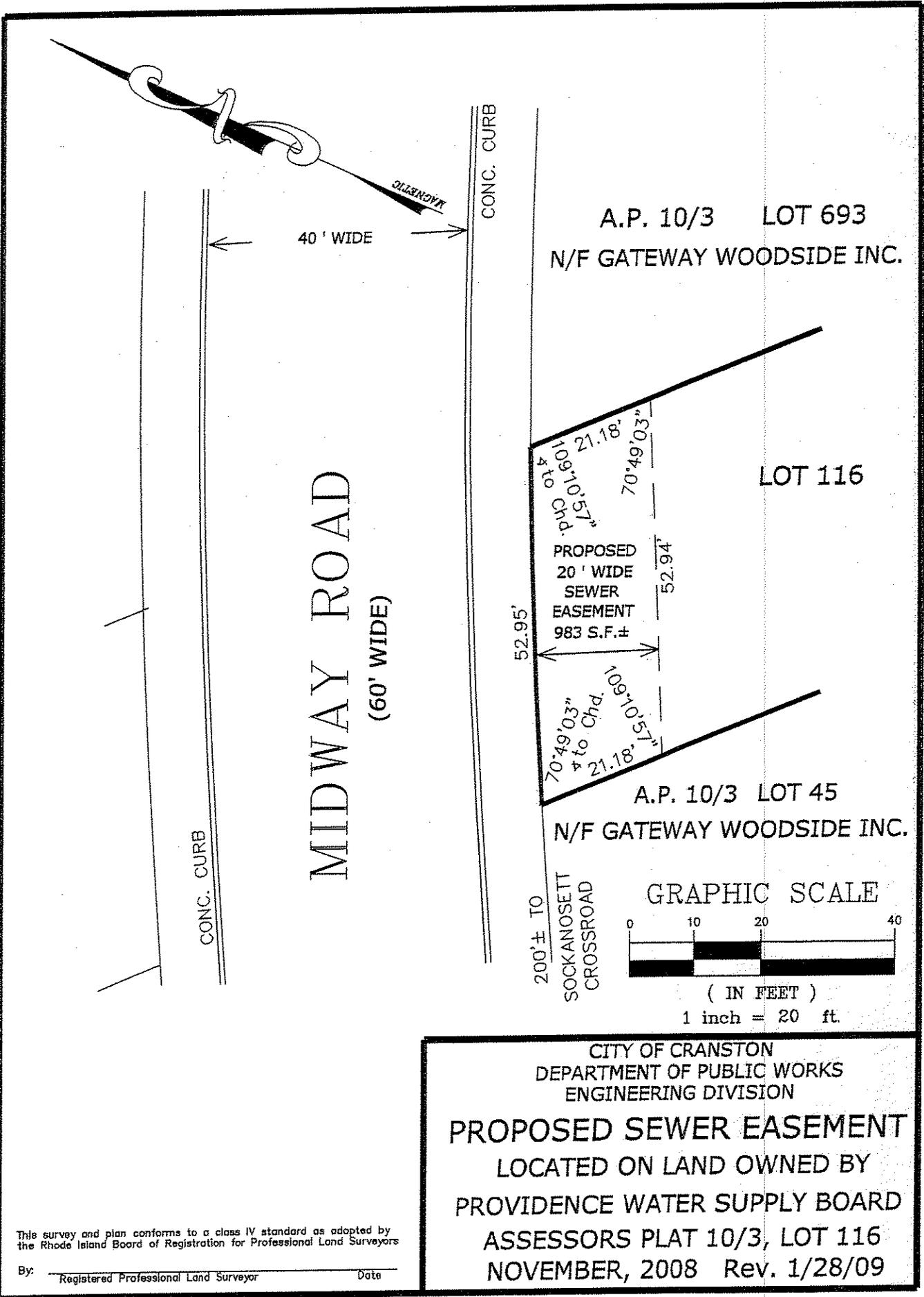
Thence turning an interior angle of $70^{\circ}-49'-03''$ and running in a southwesterly direction a distance of fifty-two and 94/100 feet (52.94') to a point;

Thence turning an interior angle of $109^{\circ}-10'-57''$ and running in a northwesterly direction bounded southwesterly by land now or formerly of Gateway Woodside Inc. a distance of twenty-one and 18/100 feet (21.18') to a point on the southerly side of said Midway Road;

Thence turning an interior angle to the chord of a curve of $70^{\circ}-49'-03''$ and running in a northeasterly direction along the southerly side of said Midway Road and in a clockwise direction, along the arc of a curve, an arc length of fifty-two and 95/100 feet (52.95') to the point and place of beginning.

The first described line forms an interior angle of $109^{\circ}-10'-57''$ with the chord of the last described line, said parcel containing 1,000 square feet, more or less.

EXHIBIT B



CITY OF CRANSTON
 DEPARTMENT OF PUBLIC WORKS
 ENGINEERING DIVISION

PROPOSED SEWER EASEMENT
 LOCATED ON LAND OWNED BY
 PROVIDENCE WATER SUPPLY BOARD
 ASSESSORS PLAT 10/3, LOT 116
 NOVEMBER, 2008 Rev. 1/28/09

This survey and plan conforms to a class IV standard as adopted by the Rhode Island Board of Registration for Professional Land Surveyors

By: _____ Registered Professional Land Surveyor Date _____

CITY OF PROVIDENCE, a municipal corporation created by the General Assembly of the State of Rhode Island, hereinafter called the grantor, in consideration of One Dollar and other good and valuable consideration to it paid by the CITY OF CRANSTON, a municipal corporation created by the General Assembly of the State of Rhode Island, hereinafter called the grantee, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell and convey unto said grantee, their heirs and assigns forever, an easement or right-of-way for the purpose of installing and maintaining a sanitary sewer in a strip or parcel of land in the City of Cranston owned by the City of Providence and located southeasterly of New London Avenue, a public highway in said City of Cranston, and bounded and described as follows:

Beginning at a point on the southwesterly boundary line of lot numbered 116 owned by the City of Providence and shown on City of Cranston Assessor's Card numbered 10, said point being six hundred ninety two and 71/100 (692.71) feet southeasterly of a granite bound at the intersection of the southwesterly boundary line of said lot and the northeasterly boundary line of Beekanosset Crossroad so called, thence northeasterly making an interior angle of 60°-00'-00" a distance of fifty-seven and 73/100 (57.73) feet to the northeasterly boundary line of said lot, thence southeasterly making an interior angle of 120°-00'-00" along the northeasterly boundary line of said lot a distance of forty and 41/100 (40.41) feet, said course bounding on land now or formerly owned by Harold V. Bride and wife Betty S. as joint tenants, thence southwesterly making an interior angle of 60°-00'-00" a distance of fifty seven and 73/100 (57.73) feet to the southwesterly boundary line of said lot, said course being parallel to and thirty-five and 00/100 (35.00) feet distant from the first mentioned course, thence northwesterly making an interior angle of 120°-00'-00" a distance of forty and 41/100 (40.41) feet along the southwesterly boundary line of said lot to the point of beginning, said course being parallel to and fifty and 00/100 (50.00) feet distant from the second-mentioned course and bounding on land now or formerly owned by Garden City Builders, Inc., the whole being a part of that parcel of land described in a deed from John C. Harris et al to the City of Providence dated December 30, 1870 and recorded in Deed Book 51 at page 461 in the office of the Recorder of Deeds in the City of Cranston, R. I., and further delineated in a plat entitled "City of Providence - Water Supply Board - Proposed Easement Across Lot No. 116, Southeasterly of New London Avenue, Cranston, R. I." dated April 18, 1960, attached hereto and made a part of this deed.

PROVIDED, HOWEVER, that the City of Providence does hereby reserve unto itself, its successors and assigns, the right to, at any time, obstruct said easement or right-of-way for the purpose of inspecting, installing, repairing and maintaining its pipe line or lines located thereon.

Said grantees by their acceptance of this deed do hereby, for themselves, their heirs, executors, administrators and assigns, covenant to and with said grantor, its successors and assigns, that no sewer pipe line or lines will be installed across or under said easement or right-of-way until a plan and profile showing the construction of the proposed sewer pipe line or lines shall have been submitted to and approved by the Water Supply Board of the City of Providence or such other agency of said City of Providence as at the time has the control and administration of the Water Department of the City of Providence, and that said grantees will keep such sewer pipe line or lines in good order and repair at all times at the expense of said grantees, and shall not construct or erect any building or structure upon said easement or right-of-way which would in any way obstruct or prevent the grantor from inspecting, installing, repairing and maintaining its pipe line or lines located thereon.

IN WITNESS WHEREOF, said City of Providence has caused this instrument to be executed and its corporate seal to be hereunto affixed by Walter H. Reynolds, its Mayor, hereunto duly authorized by a resolution adopted by the City Council of the City of Providence.

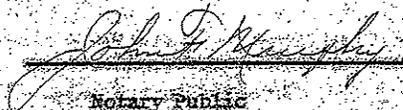
CITY OF PROVIDENCE

By: 
Walter H. Reynolds, Mayor

STATE OF RHODE ISLAND

PROVIDENCE, R.I.

In Providence on the 3rd day of June A.D. 1960 before me personally appeared Walter H. Reynolds, Mayor of the City of Providence, to me known and known by me to be the party executing the foregoing instrument for and in behalf of said City of Providence, and he acknowledged said instrument, by him executed, to be his free act and deed in said capacity, and the free act and deed of the City of Providence.



Notary Public

