

Document No.

**UTILITY EASEMENT
AGREEMENT**

Return to:
City of Waukesha
201 Delafield Street
Waukesha, Wi 53188

WAKC974.081

Parcel Numbers

THIS UTILITY EASEMENT AGREEMENT ("*Agreement*") is granted by Humble Westport, LLC, a California limited liability company (the "*Grantor*") to the City of Waukesha (the "*Grantee*").

R E C I T A L S :

A. The Grantor is the fee holder of certain real property in the City of Waukesha, Waukesha County, State of Wisconsin, as more particularly described on the attached and incorporated Exhibit A (the Property).

B. The Grantee has requested that the Grantor grant a permanent easement (the "*Easement*") over certain portions of the Property as such portions are described on the attached and incorporated Exhibit B (the "*Utility Easement Area*").

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Grant of Easement. The Grantor grants to the Grantee, and its licensees, a perpetual easement and right-of-way to construct, reconstruct, maintain, operate, supplement, and/or

remove sanitary sewer facilities, and other related and appurtenances that may from time to time be required, with the right of ingress and egress for the purpose of this grant, over the Utility Easement Area. All improvements shall be located below grade.

2. Indemnification. The Grantee shall indemnify the Grantor from and against all loss, costs (including reasonable attorney fees), injury, death, or damage to persons or property that at any time during the term of this Agreement may be suffered or sustained by any person or entity in connection with the Grantor's activities conducted on the Property, regardless of the cause of the injury, except to the extent caused by the gross negligence or misconduct of the Grantor or its agents or employees.

3. Consistent Uses Allowed. The Grantor reserves the right to use the Easement for purposes that will not interfere with the Grantee's full enjoyment of the Easement rights granted in this Agreement. No trees or bushes which would grow to more than four (4) feet in height shall be planted within said easement without approval of the Grantee. Grantor, however, shall not make grade changes exceeding one (1) foot in the Utility Easement Area without prior written approval of the Grantee. Grantor shall not place any buildings, fences or structures in the Easement Area.

4. Restoration of Surface. The Grantee shall restore the surface disturbed by any construction or maintenance of any equipment located within the Easement as nearly as is reasonably possible. . The Grantee shall not be required to replace pavement, trees, bushes or other items existing on or within the Utility Easement Area.

5. Covenants Run with Land. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by the Grantor and the Grantee and their respective successors and assigns. The party named as owner in this Agreement and any successor or assign to the Grantor as fee simple Grantor of the Property shall cease to have any liability under this Agreement with respect to facts or circumstances arising after the party has transferred its fee simple interest in the Property.

6. Non-Use. Non-use or limited use of the Easement or Temporary Construction Easement rights granted in this Agreement shall not prevent the benefiting party from later use of the Easement or Temporary Construction Easement rights to the fullest extent authorized in this Agreement.

7. Governing Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.

8. Entire Agreement. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement and duly recorded in the office of the Register of Deeds of Waukesha County, Wisconsin.

9. Notices. All notices to either party to this Agreement shall be delivered in person or sent by Certified mail, postage prepaid, return receipt requested, to the other party at that party's last known address. If the other party's address is not known to the party desiring to send a notice, the party sending the notice may use the address to which the other party's property tax bills are sent. Either party may change its address for notice by providing written notice to the other party.

10. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

11. Waiver. No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

12. Enforcement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees, from the nonprevailing party. The Grantee shall take all reasonable action to prevent the attachment of any construction liens on

the property as a result of its construction activities. In the event such a lien attaches, the Grantee shall take all reasonable action to discharge the lien.

Dated: _____, 2015

Humble Westport, LLC (Grantor)

By:

Name:

Title:

City of Waukesha (Grantee)

By:

Name:

Title:

ACKNOWLEDGMENT

STATE OF WISCONSIN

COUNTY OF _____

This instrument was acknowledged before me on _____, 2015, by _____,
_____ of Humble Westport, LLC .

Notary Public, State of _____
My commission expires: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF Waukesha

This instrument was acknowledged before me on _____, 2015, by
_____, the _____, of the City of Waukesha.

Notary Public, State of _____
My commission expires: _____

This document was drafted by
Michael D. Orgeman
Lichtsinn & Haensel, s.c.
111 E. Wisconsin Avenue, Suite 1800
Milwaukee, WI 53202

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY with Tax Key # WAKC 974.081

Being a part of vacated Meadow Lane located in the West ½ of the Northwest ¼ of Section 28, in the Township 7 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin, more fully described as follows:

Commencing at the West ¼ corner of said Section 28; Thence N.87°58'19"E. along the South line of said Northwest ¼, 1322.30 feet; Thence N.00°56'41"W., 741.88 feet; Thence N.50°04'02"W., 393.27 feet; Thence N.41°25'34"E., 251.37 feet to the point of beginning of the hereinafter described lands;

Thence N.50°08'05"W. along the centerline of vacated Meadow Lane, 165.30 feet;

Thence N.39°51'55"E. perpendicular to the centerline of vacated Meadow Lane, 33.00 feet to the Northeasterly right-of-way of vacated Meadow Lane;

Thence S.50°08'05"E. along said right-of-way, 166.20 feet;

Thence S.41°25'34"W., 33.01 feet to the point of beginning.

Said lands contain approximately 5,470 square feet (0.13 acre).

(Add remainder of legal description for property here)

EXHIBIT B
(UTILITY EASEMENT AREA)

LEGAL DESCRIPTION OF UTILITY EASEMENT FOR SANITARY SEWER

Being a part of vacated Meadow Lane located in the West ½ of the Northwest ¼ of Section 28, in the Township 7 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin, more fully described as follows:

Commencing at the West ¼ corner of said Section 28; Thence N.87°58'19"E. along the South line of said Northwest ¼, 1322.30 feet; Thence N.00°56'41"W., 741.88 feet; Thence N.50°04'02"W., 393.27 feet; Thence N.41°25'34"E., 251.37 feet; Thence N.50°08'05"W. along the centerline of vacated Meadow Lane, 105.89 feet to the point of beginning of the hereinafter described lands;

Thence continuing N.50°08'05"W. along the centerline of vacated Meadow Lane, 30.00 feet;
Thence N.16°16'34"E., 36.01 feet to the Northeasterly right-of-way of vacated Meadow Lane;
Thence S.50°08'05"E. along said right-of-way, 30.00 feet;
Thence S.16°16'47"W., 36.01 feet to the point of beginning.

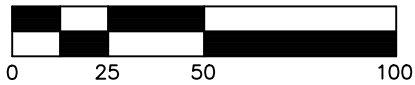
Said lands contain approximately 990 square feet (0.023 acre).

EXHIBIT B

BEING A PART OF VACATED MEADOW LANE LOCATED IN THE WEST
1/2 OF THE NW. 1/4 OF SECTION 28, T.7N., R.19E., CITY OF
WAUKESHA, WAUKESHA COUNTY, WISCONSIN



SCALE: 1" = 50'



LOT 1
CSM #11224

PARCEL 4
CSM #8360

PARCEL 3
CSM #8359

PROPOSED 30' SANITARY SEWER
EASEMENT TO BE GRANTED BY
HUMBLE WESTPORT, LLC TO
THE CITY OF WAUKESHA

PROPOSED 20' SANITARY SEWER
EASEMENT TO BE GRANTED BY
HUMBLE WESTPORT, LLC TO
GOOD HARVEST MARKET II LLC

LOT 2
CSM #11224

N50°04'02"W 393.27'

N0°56'41"W 741.88'

N87°58'19"E 1322.30'

W 1/4 CORNER
SEC. 28-7-19

SOUTH LINE OF THE NW 1/4 SEC. 28-7-19

MEADOW LANE

UNPLATTED
LANDS

EXISTING 30' SANITARY SEWER
EASEMENT TO THE CITY OF WAUKESHA

N16°16'47"E 36.01'
S50°08'05"E 30.00'
S16°16'47"W 36.01'
N50°08'05"W 30.00'

VACATED MEADOW LANE 105.89'