

**SIDEWALK EASEMENT
OLDE HOWELL COURT**

Document Number

Document Title

This sidewalk easement agreement (this “Agreement”) is made as of this ____ day of _____, 2022, between the undersigned property owner, hereinafter referred to as the “Owner”, and the City of Waukesha, a municipal corporation located in Waukesha County, Wisconsin, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, this Agreement relates to Lots 152, 153, 154, 155, 156, 158, and Outlot 10 and in Howell Oaks Addn. No. 5 Subdivision, in the City, as further described on Exhibit A (“Owner Parcels”); and

WHEREAS, the City desires to acquire a permanent and perpetual sidewalk easement over the portions of the Owner Parcels as shown on the attached Exhibit B and as described on the attached Exhibit C (the “Easement Area”) for the operation, use, maintenance, and repair, including reconstruction, of a sidewalk and certain related terraces and improvements to be open to the public; and

WHEREAS, Owner is willing to grant certain easement rights to the City, pursuant to this Agreement, over the Easement Areas for the operation, use, maintenance, and repair (including reconstruction) of a sidewalk to be open to the general public within the Owner Parcels; and

NOW, THEREFORE, in consideration of good and valuable consideration, receipt of which is hereby acknowledged, Owner grants and conveys unto the City a perpetual sidewalk easement for the operation, use, maintenance and repair (including reconstruction) of a sidewalk and any necessary and related terracing or retaining walls, in the Easement Area, as described and/or shown as follows:

1. Owner hereby grants and conveys to the City, a perpetual right and easement across and through the Easement Area. The easement shall be for the use of the public, to cross upon the sidewalk to be constructed in the Easement Area pursuant to paragraph 2, below, in any manner in which the public may lawfully use a public sidewalk.

2. Owner shall construct a sidewalk within the Easement Area according to the requirements of Section 6.08 of the City of Waukesha Ordinances, and Owner shall repair, maintain, and replace the sidewalk in compliance with all applicable City ordinances and Section 66.0907 of the Wisconsin State Statutes. Collection of expenses with respect to the sidewalk shall be in compliance with applicable City ordinances.

3. Owner reserves the right to use the Easement Areas and for purposes which will not interfere with the City's full enjoyment of the easement rights granted hereby. All of the terms,

Recording Area

Name and Return Address

Attorney Brian Running
City of Waukesha
201 Delafield Street, Room 206
Waukesha, WI 53188

Parcel Identification Number (PIN)

conditions, covenants and other provisions contained in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of and be enforceable by Owner and the City and their respective successors and assigns. The party named as "Owner" herein and any successor or assign to Owner as fee simple owner of the Owner Parcels shall cease to have any liability under this Agreement with respect to facts or circumstances arising after such party has transferred its fee simple interest in the Owner Parcels.

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

5. 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.

6. All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt to such party at such party's last known address. If a party's address is not known to the party desiring to send a notice, the address to which property tax bills for the Owner Parcels owned by such party are sent may be used. Either party may change its address for notice by written notice to the other party.

7. If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant 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, covenant and condition shall be valid and enforceable to the fullest extent permitted by law.

8. No delay or omission by any party in exercising any right or power accruing upon any default, non-compliance or failure of performance of any of the provisions of this Agreement shall be construed to be a waiver thereof. 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, covenants or conditions of this Agreement.

9. 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 covenant herein, either to restrain or prevent such violation or to obtain any other relief. In the event a suit should be brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney's fees from the non-prevailing party.

[Signature Pages to Follow]

[Signature Page to Sidewalk Easement]

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date first above written.

Owner Lots 152, 153, 154, 155, 156, 158 and
Outlot 10:
Howell Oaks Development, LLC

By: _____
Timothy J. Smits, Vice President

STATE OF WISCONSIN)
) SS.
_____ COUNTY)

Personally came before me this _____ day of _____, 2022, the above named Timothy J. Smits to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, _____ County, Wisconsin
My Commission Expires: _____

[Signature Page to Sidewalk Easement]

Accepted Pursuant to the Authority of Common Council on the ____ day of _____, 2022.

Shawn Reilly, Mayor

Gina Kozlik, City Clerk

STATE OF WISCONSIN)
) SS.
_____ COUNTY)

Personally came before me this ____ day of _____, 2022, the above Shawn Reilly and Gina Kozlik, Mayor and City Clerk, respectively, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public _____ County, Wisconsin
My Commission Expires: _____

Drafted by:
Daniel J. Habeck
Cramer, Multhauf & Hammes, LLP
1601 E. Racine Ave., Suite 200
Waukesha, WI 53186

EXHIBIT A

“Owner Parcels” Legal Description

Lots 152, 153, 154, 155, 156, 158 and Outlot 10 in Howell Oaks Addn. No. 5 Subdivision located in a part of the NW $\frac{1}{4}$ and SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 6, Town 6 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin.

DRAFT

EXHIBIT B

EXHIBIT MAP OF EASEMENT

"HOWELL OAKS ADDITION NO. 5"

ALL THAT PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 6, TOWN 6 NORTH,
RANGE 19 EAST, IN THE CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN

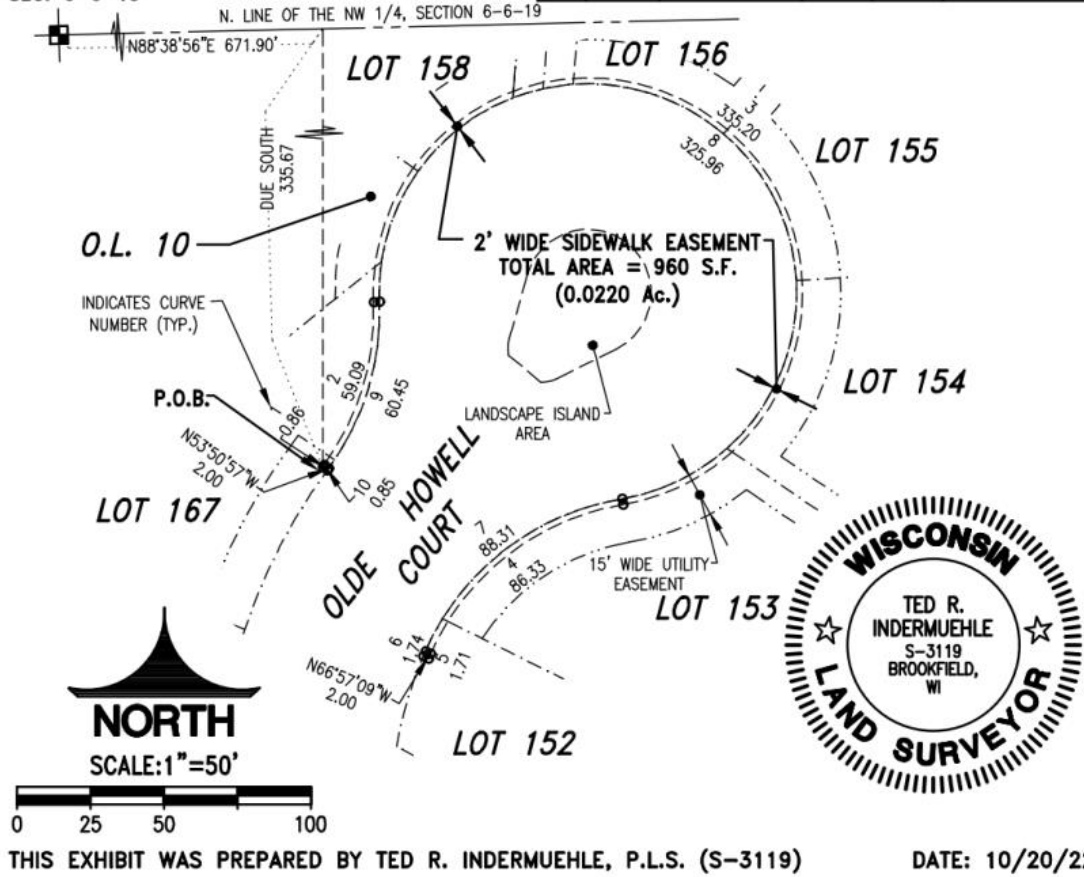
CURVE TABLE:

NO.	RADIUS	CENTRAL ANGLE	ARC	CHORD	CHORD BEARING
C1	202.00	0°14'42"	0.86	0.86	N36°16'24"E
C2	87.00	38°52'32"	59.03	57.90	N16°57'29"E
C3	73.00	263°05'31"	335.20	109.27	S50°56'02"E
C4	87.00	56°51'13"	86.33	82.83	S52°11'07"W
C5	138.00	0°42'39"	1.71	1.71	S23°24'11"W
C6	140.00	0°42'39"	1.74	1.74	N23°24'11"E
C7	89.00	56°51'13"	88.31	84.73	N52°11'07"E
C8	71.00	263°02'36"	325.96	106.32	N50°54'35"W
C9	89.00	38°54'51"	60.45	59.29	S16°56'19"W
C10	200.00	0°14'41"	0.85	0.85	S36°16'24"W



4100 N. CALHOUN ROAD
Suite 300
Brookfield, WI 53005
Phone: (262) 790-1480
Fax: (262) 790-1481

P.O.C.
N.W. CORNER,
SEC. 6-6-19



H:\C250\205\01006-H\SURVEY\EXHIBITS\8850EX-SIDEWALK-PH-6.dwg

EXHIBIT C

LEGAL DESCRIPTION OF SIDEWALK EASEMENT

That part of Lots 152, 153, 154, 155, 156, 158 and Outlot 10 of Howell Oaks Addition No. 5 Subdivision located in the Northwest 1/4 of the Northwest 1/4 of Section 6, Town 6 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the Northwest corner of the Northwest 1/4 of said Section 6, Thence North $88^{\circ}38'56''$ East along the North line of said Northwest 1/4, 671.90 feet to a point; Thence Due South 335.67 feet to the place of beginning of lands hereinafter described;

Thence Northerly 0.86 feet along the arc of a curve whose center lies to the Southeast, whose radius is 202.00 feet, whose central angle is $00^{\circ}14'42''$ and whose chord bears North $36^{\circ}16'24''$ East 0.86 feet to a point; Thence Northerly 59.09 feet along the arc of a curve whose center lies to the Northwest, whose radius is 87.00 feet, whose central angle is $38^{\circ}52'32''$ and whose chord bears North $16^{\circ}57'29''$ East 57.90 feet to a point; Thence Northeasterly 335.20 feet along the arc of a curve whose center lies to the East, whose radius is 73.00 feet, whose central angle is $263^{\circ}05'31''$ and whose chord bears South $50^{\circ}56'02''$ East 109.27 feet to a point; Thence Southwesterly 86.33 feet along the arc of a curve whose center lies to the South, whose radius is 87.00 feet, whose central angle is $56^{\circ}51'13''$ and whose chord bears South $52^{\circ}11'07''$ West 82.83 feet to a point; Thence Southerly 1.71 feet along the arc of curve whose center lies to the East, whose radius is 138.00 feet, whose central angle is $00^{\circ}42'39''$ and whose chord bears South $23^{\circ}24'11''$ West 1.71 feet to a point; Thence North $66^{\circ}57'09''$ West 2.00 feet to a point on the East Right-of-Way of "Olde Howell Court"; Thence Northerly 1.74 feet along the arc of a curve whose center lies to the east, whose radius is 140.00 feet, whose central angle is $00^{\circ}42'39''$ and whose chord bears North $23^{\circ}24'11''$ East 1.74 feet to a point; Thence Northeasterly 88.31 feet along the arc of a curve whose center lies to the Southeast, whose radius is 89.00 feet, whose central angle is $56^{\circ}51'13''$ and whose chord bears North $52^{\circ}11'07''$ East 84.73 feet to a point; Thence Northwesterly 325.96 feet along the arc of a curve whose center lies to the North, whose radius is 71.00 feet, whose central angle is $263^{\circ}02'36''$ and whose chord bears North $50^{\circ}54'35''$ West 106.32 feet to a point; Thence Southerly 60.45 feet along the arc of a curve whose center lies to the West, whose radius is 89.00 feet, whose central angle is $38^{\circ}54'51''$ and whose chord bears South $16^{\circ}56'19''$ West 59.29 feet to a point; Thence Southerly 0.85 feet along the arc of a curve whose center lies to the East, whose radius is 200.00 feet, whose central angle is $00^{\circ}14'41''$ and whose chord bears South $36^{\circ}16'24''$ West 0.85 feet to a point on the West Right-of-Way of "Olde Howell Court"; Thence North $53^{\circ}50'57''$ West 2.00 feet to the point of beginning of this description.

Said Easement contains 960 Square Feet (or 0.0220 Acres) of land, more or less.