

**EASEMENT**  
Sanitary Sewerage Easement Agreement

**Parcel ID Number: WAKC 0985 999**

After recording return to:  
Chris Langemak  
City of Waukesha Engineering Division  
130 Delafield St  
Waukesha WI 53188

The Grantors, **Carol O. Smart Survivor's Trust, by Carol O. Smart, its Trustee; and Robert F. Smart and Carol O. Smart Family Trust, by Carol O. Smart, its Trustee**, for a good and valuable consideration, hereby conveys to the Grantee, the **City of Waukesha, Wisconsin**, a Sanitary Sewerage Easement, across and upon the following-described real property in Waukesha County, Wisconsin, referred to as the Permanent Easement Area, subject to all of the terms stated below:

**Subject Parcels:**

Parcel A:

The East 1/2 and the North West 1/4 of the North East 1/4; and the North East 1/4 of the South East 1/4 and all that part of the South East 1/4 of the South East 1/4 of Section 31, Town 7 North, Range 19 East, Town of Pewaukee (now City of Waukesha), County of Waukesha, State of Wisconsin lying Northerly of the Highway extending in an Easterly direction across said tract and known as the Waterville Road; EXCEPTING that part lying Southerly of the Highway known as the Waukesha and Waterville Road; ALSO EXCEPTING from that parcel of land conveyed in Warranty Deed recorded February 25, 1948 in Volume 461 of Deeds, on Page 112, as Document No. 310871; ALSO EXCEPTING those lands conveyed in Deeds recorded in Volume 856, Page 52, recorded as Document No. 527812, Volume 977, Page 63, as Document No. 608803, Volume 1124, Page 282 as Document No. 713877, Reel 1721, Image 1446, as Document No. 1846901, Reel 2259, Image 401 as Document No. 2136453 and Award of Damages recorded as Document No. 940897.

Parcel B:

All that part of the Southeast 1/4 of Section 31, Town 7 North, Range 19 East, Town of Pewaukee (now City of Waukesha), County of Waukesha, State of Wisconsin, bounded and described as follows: Commencing at the Northeast corner of said Southeast 1/4; thence South along the East line of said Southeast 1/4, 725.42 feet; thence West 596.19 feet to a point, being the place of beginning of said easement; thence Northwesterly 3.47 feet along the arc of a curve, curve center lies to the Southwest, curve radius 254.34 feet, chord bears North 29° 45' 14" West 3.47 feet; thence North 30° 08' 40" West 10.33 feet; thence South 11.94 feet; thence East 6.91 feet to the place of beginning. EXCEPTING Lot 1 of Certified Survey Map No. 10394, recorded June 8, 2007, in Volume 98 of Certified Survey Maps on Pages 331 to 334 as Document No. 3487280, being a part of the Southeast 1/4 of the Northeast 1/4 of Section 31, Town 7 North, Range 19 East, in the City of Waukesha, County of Waukesha, State of Wisconsin, as corrected by Affidavit of Correction recorded June 30, 2009, as Document No. 3673177.

**Permanent Easement Area:**

Part of the Southeast 1/4 of Section 31, Township 7 North, Range 19 East in the City of Waukesha, Waukesha County, Wisconsin.

Commencing at the Northeast corner of Lot 1 of Certified Survey Map No. 9398; thence South 35° 50' 50" West along the West line of said Lot 1 for a distance of 625.02 feet to the Point of Beginning "A"; thence South 35° 50' 50" West continuing along said West line 21.38 feet to a point; thence North 74° 52' 59" West 61.64 feet to a point; thence South 83° 40' 54" West 68.78 feet to a point; thence North 09° 10' 25" East 20.75 feet to a point; thence North 83° 40' 54" East 60.55 feet to a point; thence North 34° 32' 40" East 513.51 feet to a point; thence North 88°

38' 23" East 24.69 feet to a point; thence South 34° 32' 40" West 518.44 feet to a point; thence South 74° 52' 59" East 56.97 feet to the Point of Beginning.

Containing 13,005 sq. ft. or 0.2985 acres.

#### **Temporary Construction Easement Area:**

Part of the Southeast 1/4 of Section 31, Township 7 North, Range 19 East in the City of Waukesha, Waukesha County, Wisconsin.

Commencing at the Northeast corner of Lot 1 of Certified Survey Map No. 9398; thence South 35° 50' 50" West along the West line of said Lot 1 for a distance of 625.02 feet to a point; thence South 35° 50' 50" West continuing along said West line 21.38 feet to a point; thence North 74° 52' 59" West 61.64 feet to a point; thence South 83° 40' 54" West 68.78 feet to a point; thence North 09° 10' 25" East 20.75 feet to the Point of Beginning "B"; thence North 09° 10' 25" East 20.75 feet to a point; thence North 83° 40' 54" East 45.87 feet to a point; thence North 34° 32' 40" East 489.89 feet to a point; thence North 88° 38' 23" East 24.69 feet to a point; thence South 34° 32' 40" West 513.51 feet to a point; thence South 83° 40' 54" West 60.55 feet to the Point of Beginning.

Containing 11,098 sq. ft. or 0.2547 acres.

#### **Terms of Easement**

- 1. Grant of Permanent Easement.** The Grantor grants to the Grantee a perpetual easement and right-of-way over, upon and beneath the surface of the Permanent Easement Area to construct, operate, inspect, maintain, repair, improve, supplement, reconstruct, and remove sanitary sewerage facilities; along with a right of ingress and egress across the real property which the Permanent Easement Area burdens, as reasonably required for the Grantee and the Grantee's contractors to perform such work. During times at which such work is being done, Grantee and Grantee's contractors may also place equipment and materials within the Permanent Easement Area as reasonably required to perform such work. The size, type and quantity of the sewerage facilities shall be as reasonably determined by the Grantee. All sewerage facilities shall be located at or below grade. Grantee agrees that the initial construction and installation of the sanitary sewerage facilities shall be completed by December 31, 2021 (the "Final Completion Date").
- 2. Grant of Temporary Construction Easement.** Additionally, during the period of construction or installation of improvements within the Permanent Easement Area, the Grantor grants to the Grantee a temporary construction easement over and upon the Temporary Construction Easement Area for the purpose of transporting and placement of equipment and materials in connection with the construction or installation of improvements within the Permanent Easement Area. This temporary construction easement shall expire on the earlier to occur of (a) completion of the construction and installation of the sanitary sewerage facilities as described in Paragraph 1, above, or (b) the Final Completion Date.
- 3. Restrictions within Permanent Easement Area.** Grantor, and any persons or entities under contract with Grantor or subject to Grantor's direction or control, shall not do any of the following within the Permanent Easement Area without the expressed, written, prior approval of the Grantee:
  - a. Place or construct any buildings or other permanent structures.
  - b. Change the grade elevations.
  - c. Excavate.
  - d. Plant trees or bushes that would reasonably be expected to grow to more than four feet in height.
  - e. Drive posts, drive stakes longer than 12 inches, drive pilings, drive helical footings, or bore holes of any size.
  - f. Place pavement, curbs or sidewalks, except as specifically approved in writing by the Grantee.
  - g. Place any items or do any acts which reasonably should be expected to interfere with Grantee's rights granted in section 1.

4. **Removal of Items from Permanent Easement Area.** In order to perform any activities authorized in section 1, Grantee may remove any items from the Permanent Easement Area which are in violation of the restrictions in section 3, and Grantee shall not be liable for damage to such items resulting from removal. However, Grantee shall provide advance notice of work to be performed in the Permanent Easement Area, and shall cooperate with Grantor to minimize damage to items to be removed from the Permanent Easement Area.
5. **Consistent Uses Allowed.** The Grantor reserves the right to use the Permanent Easement Area for all uses and purposes that will not interfere with the rights granted to Grantee by this instrument.
6. **Indemnification.** The Grantee shall indemnify the Grantor from and against all damages, liabilities and losses, including those arising from personal injury, death, and property damage, and including reasonable attorney fees, arising as a proximate result of Grantee's presence upon, use of, installation of improvements on or in, or exercise of the rights granted by this instrument on or in, the Temporary Construction Easement Area and Permanent Easement Area; except those liabilities, damages or losses arising from the acts or omissions of the Grantor or Grantor's permittees, licensees, employees, agents, or contractors. Grantee shall take all reasonable actions necessary to prevent the attachment of any liens on the property as a result of its activities on the property. In the event such any such liens attach, Grantee shall take all reasonable actions necessary to discharge said liens, at no cost to Grantor.
7. **Restoration of Surface.** Grantee shall restore the surface of the Temporary Construction Easement Area, Permanent Easement Area and the parcel across which the Temporary Construction Easement Area and Permanent Easement Area lies, disturbed by any of Grantee's acts permitted under section 1, as nearly as is reasonably possible to its condition before the disturbance. The Grantee shall not be required to replace pavement, trees, or bushes.
8. **Covenants Run with Land.** All of the terms and conditions of this instrument shall run with the land, shall be binding upon and inure to the benefit of, all of Grantor's and Grantee's successors in interest.
9. **No Waiver by Non-Use.** Neither non-use nor limited use of the rights granted by this instrument shall constitute a waiver or partial waiver of later exercise and enforcement of such rights.
10. **Governing Law.** This instrument shall be construed and enforced in accordance with the laws of the State of Wisconsin.
11. **Entire Agreement.** This instrument 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 recorded in the office of the Register of Deeds of Waukesha County, Wisconsin.
12. **Notices.** All notices to either party to this instrument 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, the party giving 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.
13. **Severability.** If any term or condition of this instrument is deemed invalid or unenforceable by a court of competent jurisdiction, such invalid or unenforceable provision shall be severed and the remainder shall remain fully enforceable.
14. **Waiver.** Waivers of the right to exercise any right granted by this instrument shall not be deemed, inferred or construed by the acts or inactions of the parties, and shall only be effective if expressly stated, in writing, by the waiving party.
15. **Costs of Enforcement.** If a lawsuit is commenced to enforce this instrument, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees.
16. **No Public Dedication.** The rights granted by this instrument shall not be deemed to be a public dedication of any fee interest in the Temporary Construction Easement Area or Permanent Easement Area.

Conveyance made this 11<sup>th</sup> day of September, 2020.

Grantors: Carol O. Smart Survivor's Trust, by Carol O. Smart, its Trustee; and Robert F. Smart and Carol O. Smart Family Trust, by Carol O. Smart, its Trustee

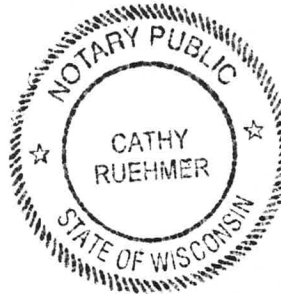
Carol O Smart, trustee  
By: Survivor's Trust  
Title: \_\_\_\_\_

Carol O Smart, trustee  
By: Smart Family Trust  
Title: \_\_\_\_\_

State of Wisconsin }  
Waukesha County } ss.

Carol D. Smart and Carol D. Smart personally came before me this 11<sup>th</sup> day of September, 2020, and are known to me to be the persons who executed this instrument in the indicated capacities and acknowledged the same.

Cathy Ruehmer  
Cathy Ruehmer, Notary Public,  
Waukesha County, Wisconsin  
My commission (is permanent)(expires 3-1-2024)



**Grantee: City of Waukesha**

\_\_\_\_\_  
By Shawn N. Reilly, Mayor

\_\_\_\_\_  
Attest: Gina L. Kozlik, City Clerk

State of Wisconsin }  
Waukesha County } ss.

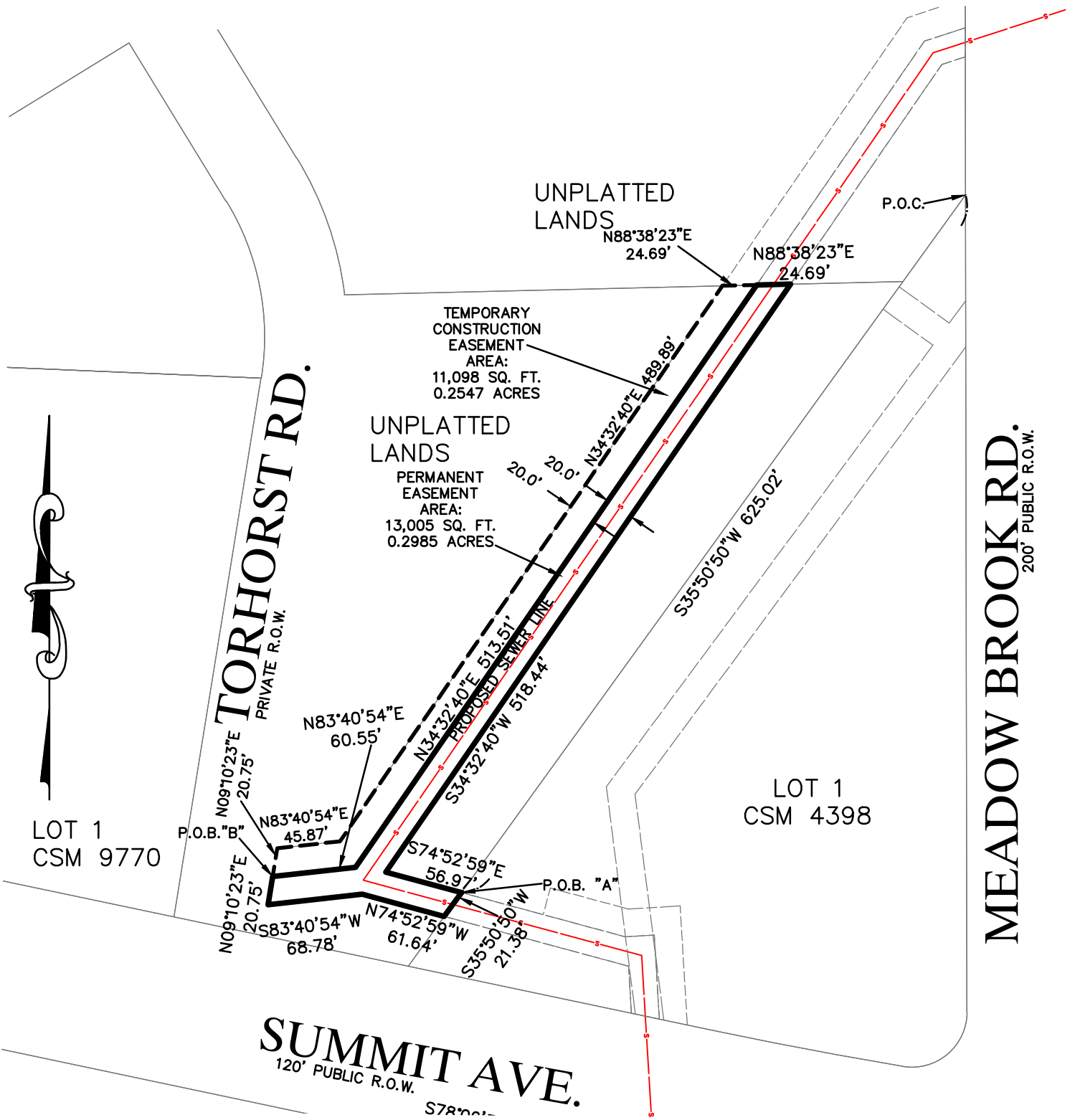
Shawn N. Reilly and Gina L. Kozlik personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, and are known to me to be the persons who executed this instrument in the indicated capacities and acknowledged the same.

\_\_\_\_\_, Notary Public,  
Waukesha County, Wisconsin  
My commission (is permanent)(expires \_\_\_\_\_)

This instrument was drafted by City of Waukesha Department of Public Works.

# EASEMENT EXHIBIT

TAX PARCEL ID # WAKC 0985999



LOT 1  
CSM 9770

LOT 1  
CSM 4398

SUMMIT AVE.  
120' PUBLIC R.O.W.

MEADOW BROOK RD.  
200' PUBLIC R.O.W.

GRAPHIC SCALE



(1" = 100')

**raSmith**

CREATIVITY BEYOND ENGINEERING

16745 W. Bluemound Road  
Brookfield, WI 53005-5938

(262) 781-1000

[rasmith.com](http://rasmith.com)