



MEMORANDUM

Date: February 14, 2020

To: Water Commission

From: Daniel S. Duchniak, General Manager

Re: Recommend Approval to the Common Council for Utility Easement with Max R. Grudzielanek

Max R. Grudzielanek is providing a utility easement for the proposed return flow main as part of our Great Water Alliance project. This property is located in the City of Franklin and is directly adjacent to the return flow reaeration facility at the discharge to the Root River. The easement will be 30-foot wide where it will contain the return flow main. This is our standard easement agreement with no exceptions at a cost of \$2,500.

The easement is shown on the attached exhibit.

Recommended Motion: Move to recommend approval of a permanent, exclusive easement with Max R. Grudzielanek at 5733 W. Oakwood Road in Franklin for the return flow pipeline portion of the Great Lakes Project to the Common Council.

Enc.

Document

Utility Easement Agreement

Name and Return Address
Dan Duchniak
P.O. Box 1648
Waukesha, WI 53187

«9489998002»
Parcel Identification Numbers (PIN)

UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT is granted by Max R. Grudzielanek (Grantor) to the City of Waukesha, a Wisconsin municipal corporation (Grantee).

Recitals:

A. The Grantor is the fee holder of certain real property located in the City of Franklin, Wisconsin, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference.

B. The Grantee has requested that Grantor grant a permanent, exclusive easement over certain portions of the property owned by Grantor, and such portions are more particularly described in **Exhibit B** (the "Permanent Limited Easement") attached hereto and incorporated herein by reference.

AGREEMENT

For Two Thousand, Five Hundred and No/100 Dollars \$2,500.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Grantor grants, conveys, transfers and assigns to Grantee a permanent, exclusive easement and right of way (the "Utility Easement") over, under, in, upon and across the Permanent Limited Easement to construct, reconstruct, maintain, operate, supplement, replace, remove and use force main infrastructure, facilities and other related fixtures, equipment, accessories and appurtenances that may from time-to-time be required in Grantee's sole judgment (the "Improvements") and for ingress and egress purposes at any time in order to exercise the rights and privileges granted herein. The Permanent Limited Easement is exclusive, and Grantor shall not allow any third party to

install any improvements or facilities over, under, in, upon, or across the Permanent Limited Easement.

2. The Grantor reserves the right to use the Utility Easement for purposes that will not interfere with the Grantee's full enjoyment of the easement rights granted in this Agreement, provided, however, that in no event shall Grantor make grade changes in the Permanent Limited Easement, or allow any third party to make grade changes, without prior written approval of Grantee. During the term of the Utility Easement, Grantee shall not interfere with ingress or egress to Grantor's property unless required for actions allowed by this instrument or for public health and safety. During the term of the Utility Easement, Grantor shall not, and shall not allow any third party to, place any buildings, fences or structures which require footings in the Permanent Limited Easement. During the term of the Utility Easement, Grantor shall not, and shall not allow any third party to, plant or maintain any tree or bush in excess of four (4) feet in height in the Permanent Limited Easement without the prior written approval of Grantee. During the term of this Utility easement, Grantor shall not, and shall not allow any third party to, excavate within the Permanent Limited Easement without the prior written approval of the Grantee.

3. Upon the completion of the initial construction of Improvements in the Permanent Limited Easement, the Grantee shall restore the surface of the Permanent Limited Easement disturbed by the initial construction, as nearly as is reasonably possible, to the condition existing prior to disturbance by any construction or installation of the Improvements, except that Grantee shall not be required to replace trees, shrubbery, items prohibited by this Agreement within the Permanent Limited Easement, or other above-grade items existing on or within the Permanent Limited Easement.

4. 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. All references to Grantor in this instrument shall be deemed to include Grantor's successors.

5. Non-use or limited use of the rights granted in this Agreement shall not prevent the Grantee from later use of the rights to the fullest extent authorized in this Agreement.

6. The Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

7. 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 Milwaukee County, Wisconsin.

8. All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to:

GRANTOR:

Max R. Grudzielanek
5733 W Oakwood Road
Franklin, WI 53132

GRANTEE:

City of Waukesha
c/o Waukesha
115 Delafield Street
Waukesha, WI 53188

Either party may change its address for notice by providing written notice to the other party.

9. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed by a court having jurisdiction to be 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.

10. 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 or breach of any other terms or conditions of this Agreement.

11. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees and court costs, from the non-prevailing party.

12. Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s. 32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

IN WITNESS WHEREOF, the parties have hereunto executed this Utility Easement Agreement this _____ day of _____, 2020.

Max R. Grudzielanek, Grantor

Print Name and Title

Date

STATE OF WISCONSIN

COUNTY OF _____

Personally came before me this _____ day of _____, 2020, the above named

to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, _____ County, WI
My commission _____

City of Waukesha, a Wisconsin municipal corporation, Grantee

Shawn Reilly, Mayor

Gina Kozlik, City Clerk/Treasurer

STATE OF WISCONSIN

COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2020, the above named

to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Notary Public, _____ County, WI
My commission _____

WAUKESHA WATER UTILITY
WAUKESHA COUNTY, WISCONSIN

Daniel S. Duchniak, P.E., General Manager

Commission President

Commission Secretary

STATE OF WISCONSIN

COUNTY OF WAUKESHA

Personally came before me this _____ day of
_____, 2020, the above named

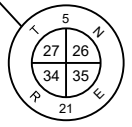
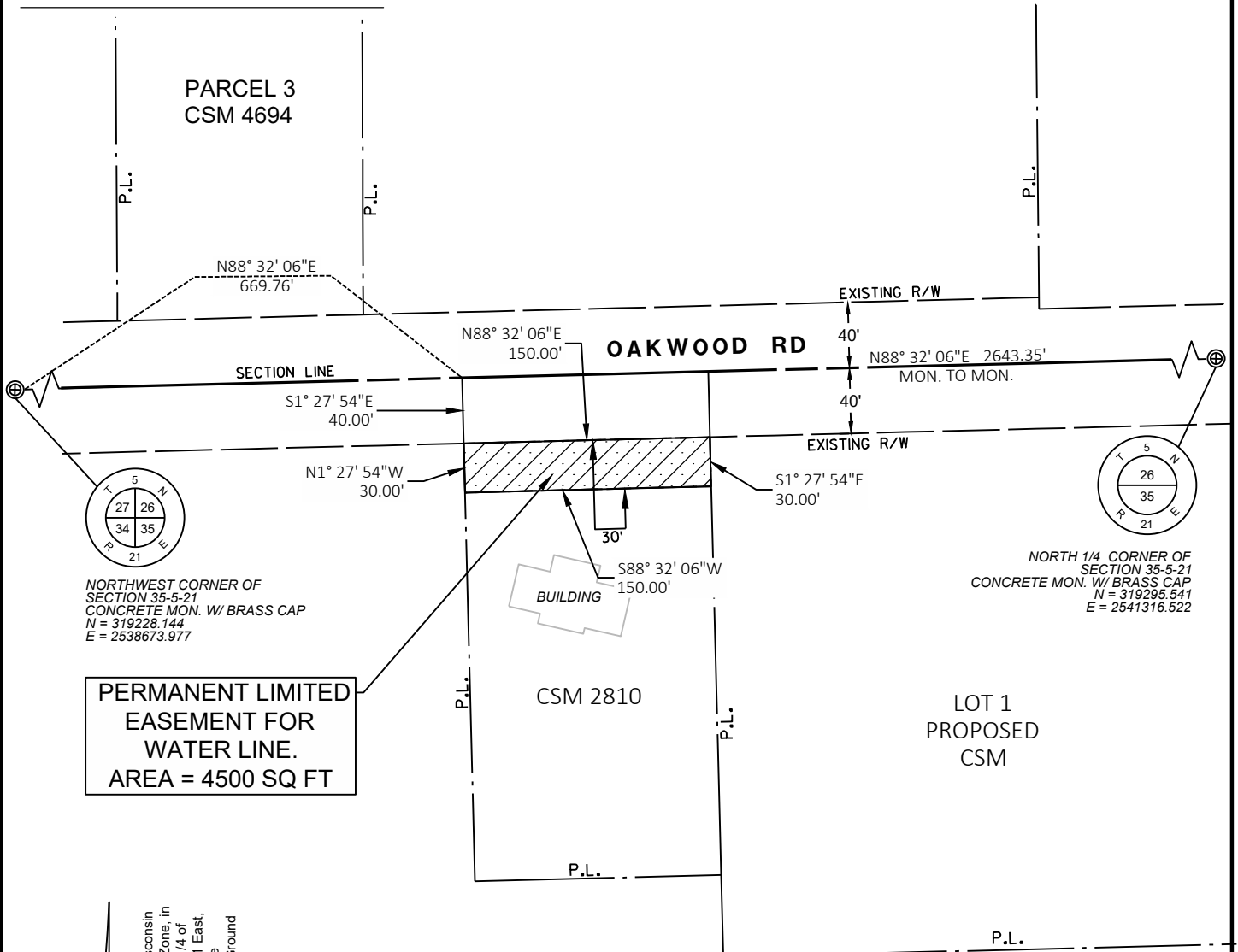
to me known to be the person(s) who executed
the foregoing instrument and acknowledged
the same.

Notary Public, _____ County, WI
My commission _____

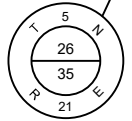
This instrument was drafted by:
Chris Walter
Waukesha Water Utility
115 Delafield Street
Waukesha, WI 53188

EXHIBIT B

PARCEL 3
CSM 4694



NORTHWEST CORNER OF
SECTION 35-5-21
CONCRETE MON. W/ BRASS CAP
N = 319228.144
E = 2538673.977



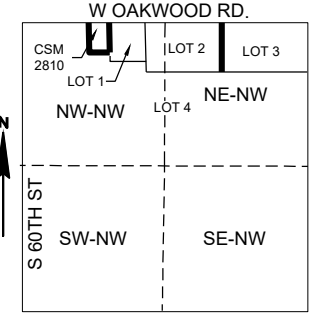
NORTH 1/4 CORNER OF
SECTION 35-5-21
CONCRETE MON. W/ BRASS CAP
N = 319295.541
E = 2541316.522

**PERMANENT LIMITED
EASEMENT FOR
WATER LINE.
AREA = 4500 SQ FT**

Bearings are referenced to NAD 27, Wisconsin State Plane Coordinate System, South Zone, in which the North Line of the Northwest 1/4 of Section 35, Township 5 North, Range 21 East, which bears N88°32'06"E. Distances are Ground Values. Coordinates are Grid. Ground to Grid Scale Factor is 0.99992991.

0 50' 100'
SCALE: 1"=100'

LOT 4
PROPOSED
CSM



**VICINITY MAP
MILWAUKEE COUNTY**
NW 1/4, SEC. 35-5-21
Scale: 1" = 2000'

**AYRES
ASSOCIATES**

N17 W24222 Riverwood
Drive, Suite 310
Waukesha, WI 53188
(262) 523-4488