

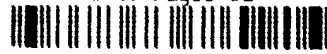
**RIGHT-OF-WAY AND
STORMWATER EASEMENT
CONVEYANCE AGREEMENT**

DOCUMENT # 1262924

Office of Register of Deeds
Dodge County, Wisconsin
RECEIVED FOR RECORD

May 11, 2018 11:24 AM

CHRIS PLANASCH - Registrar
Fee Amount: \$30.00
of Pages 16



This Right-of-Way and Stormwater Easement Conveyance Agreement ("Agreement") is made by MVS Holdings, LLC ("MVS"), a Wisconsin limited liability company, and the Village of Lomira ("Village"), a Wisconsin municipal corporation.

RECITALS

- A. MVS is the owner of certain property ("Property") described in the attached and incorporated Exhibit D, which Property is adjacent to East Avenue in the Village of Lomira.
- B. Village intends to extend East Avenue to benefit certain other property in the Village of Lomira lying north of the Property, and has requested MVS to grant certain easements as contained in this Agreement to allow Village to comply with state and federal law governing stormwater management.
- C. MVS is willing to accommodate Village by granting such easements, as the Property may benefit from the construction of East Avenue adjacent to the Property, and Village's installation of water and sanitary sewer mains within East Avenue right-of-way, which utilities will be available to service future development on the Property.

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO:
Susan K. Allen, Esq.
Stafford Rosenbaum LLP
1200 North Mayfair Road, #430
Milwaukee, WI 53226-3282

P.I.N.
146-1317-1431-001
146-1317-1432-033

D. The conveyances set forth below are necessary for Village's construction of East Avenue and installation of such utility mains.

AGREEMENT

Therefore, MVS and Village agree as follows:

1. **RIGHT-OF-WAY.** MVS hereby quitclaims to Village, without warranty, for use as East Avenue right-of-way, two strips of land adjacent to East Avenue, as such strips are described in the attached and incorporated Exhibit B and depicted on the attached and incorporated Exhibit A.

2. **EASEMENT GRANTS.** MVS grants to Village an: (i) easement ("Storm Easement") over and across the lands depicted on Exhibit A and legally described in the attached and incorporated Exhibit C as the "Storm Easement Area," for Village's construction of a detention pond and related stormwater management facilities (collectively, "Facilities"); and (ii) an easement for ingress and egress and a swale to convey storm runoff from East Avenue to the Facilities ("Access/Swale Easement") for Village Agents (as defined below) to exercise Village's Storm Easement rights over and across the lands depicted on Exhibit A and legally described in Exhibit C as the "Access/Swale Easement Area," and to conduct stormwater runoff to the Facilities.

a. The Storm Easement shall be to construct, install, use, maintain, repair, replace and inspect the Facilities, which convey, detain and retain stormwater. The Access/Swale Easement is to provide Village, and Village's employees, contractors, consultants and engineers (collectively, "Village Agents") ingress and egress for persons and equipment as reasonable and necessary for

Village to exercise its Storm Easement rights, and for the swale to convey storm runoff from East Avenue to the Facilities.

b. MVS reserves, from the grant of Access/Swale Easement above made, surface rights within the Access/Swale Easement Area for landscaping, paving and other purposes, which do not unreasonably interfere with Village's Access/Swale Easement rights. Further, MVS shall have the right to relocate the Access/Swale Easement Area to another area on the MVS Property to accommodate alternative plans for the original Access/Swale Easement Area, provided that replacement Access/Swale Easement Area is: (i) sufficient for Village access to discharge its ongoing maintenance rights and responsibilities respecting the Facilities; (ii) Village is not unreasonably inconvenienced by such relocated Access/Swale Easement Area; and (iii) the replacement Access/Swale Easement Area is constructed to adequately convey storm runoff to the Facilities. Upon any such relocation, the parties shall join in an amendment to this Agreement memorializing same, which shall be effective upon recordation in the Office of the Register of Deeds for Dodge County, Wisconsin ("Register").

3. SPECIAL ASSESSMENT WAIVER. In consideration for the conveyances set forth in Sections 1 and 2 above, Village agrees that special assessments will not be levied against the Property for the initial construction of the roadway, sanitary sewer facilities, storm sewer facilities, or water facilities in East Avenue adjacent to the Property nor for the initial construction of Facilities within the Storm Easement Area and other improvements within the Access/Swale Easement Area.

4. TITLE. MVS warrants that it has good title to the Property described on Exhibit D, and that MVS has full right and authority to make the conveyances in Sections 1 and 2 above.

5. APPROVED PLANS. Village has submitted to MVS plans and specifications titled "East Avenue Extension Project," as prepared by MSA Professional Services, Inc. ("Village Engineer"), as Village Engineer's Project No. 03207012, and bearing the stamp of Jason M. Laue, Professional Engineer, under date of March 27, 2018. MVS has approved such plans and specifications, and such plans and specifications are hereinafter referred to as the "Approved Plans. Construction shall be performed in substantial conformity with the Approved Plans. If there is any material deviation proposed from the Approved Plans, Village shall submit to MVS for review and approval by MVS and MVS's consulting engineer, such modified plans. MVS shall have five (5) business days from receipt of the revised plans in which to approve or provide comments on same. MVS's failure to approve or comment within such five (5) business days shall be deemed approval. All work performed by Village shall be performed in a good and workmanlike manner, free from lien. If any liens are filed against the Property, Village shall immediately secure the release of such liens by posting an appropriate bond, as contemplated under applicable law. MVS shall obtain any and all permits or approvals required by any federal, state or local authority for installation of the Facilities prior to commencement of construction. All costs of permitting, design and construction shall be at Village's sole expense.

6. MAINTENANCE.

a. During such time as the MVS Property remains unimproved, Village shall solely be responsible for maintenance of all Facilities within the Storm Easement Area and Access/Swale Easement Area, at Village expense, and to keep the same in a good and serviceable condition, with all maintenance costs borne solely by Village.

b. At such time, if any, as MVS or any successor or assign of MVS elects to develop the Property or portions thereof as are subject to easements herein granted, and further, that such development would require enlargement of the existing Facilities or creation of new larger stormwater management facilities to address stormwater management for the new improvements, while continuing to handle stormwater management needs for East Avenue, MVS or such successor or assign shall be solely responsible for construction of such enlarged or replaced Facilities, at its sole cost. From and after MVS commencement of new construction requiring additional storm management, all Facilities maintenance shall be performed by MVS, at MVS's sole expense.

7. INDEMNITY. Village shall defend, indemnify and hold harmless MVS from and against and all claims, demands, costs, fees or causes of action from any injury or death to persons or damage to property connected to the construction or maintenance of the Facilities or use of the Storm Easement Area or Access/Swale Easement Area by Village Agents, which indemnification shall include costs of litigation, including reasonable attorneys' fees.

8. VILLAGE RESERVED RIGHTS.

a. Except as specifically provided in Section 3 above or Section 8b below, nothing in this Agreement limits or otherwise affects Village's rights and authority as set forth in its ordinances, or as otherwise provided by law. In particular, but without limitation:

i. Village authority to adopt, amend, and enforce zoning and other ordinances is not limited by this Agreement; and

ii. Village authority to levy special assessments for subsequent additional or subsequent replacement improvements after Village's original installation of the Facilities contemplated by the Approved Plans is not limited, except as respecting the degree of benefit to the Property conferred by such subsequent additional or replacement improvements.

b. In an action brought to enforce this Agreement, the prevailing party in such action shall be entitled to recover, in addition to all other remedy and relief, the prevailing party's attorneys' fees.

9. **AUTHORITY.** Each person signing this Agreement warrants that he or she has full right and authority to sign on behalf of the party for whom signature is made, and bind that party to the terms of this Agreement.

10. **SUCCESSORS AND ASSIGNS.** This Agreement is binding upon the undersigned parties, and shall run with the land, and be binding on all successors and assigns of MVS of any interest in the Storm Easement Area and Access/Swale Easement Area described in Exhibit D. "Successors and assigns" of MVS shall be limited to successors and assigns of ownership or other interest in the specific land subject to the Storm Easement or Access/Swale Easement. If, and to the extent, MVS or any successor

of MVS should convey other portions of the Property not including either the Storm Easement Area or Access/Swale Easement Area, such conveyed land, and holders of any interest therein, shall not be encumbered by this Agreement, and upon written request from the owner of such conveyed land, Village agrees to join in a partial termination of this Agreement, to be recorded in the Register, releasing the conveyed land. Upon conveyance of its ownership interest in the portion of the Property which includes the Storm Easement Area and Access/Swale Easement Area, MVS shall be released from further responsibility for maintenance or expense arising from and after the date of such conveyance, with the party to whom such portion of the Property is conveyed being responsible to assume such maintenance performance obligation and percentage expense allocation, starting with the conveyance date.

11. NOTICE. All notices required or desired to be given hereunder shall be in writing and shall be deemed properly served if: (i) delivered in person; (ii) electronically transmitted; or (iii) sent by nationally recognized commercial overnight courier to the following addresses, or to such other addresses as either party may subsequently designate, consistent with this notice provision:

IF TO MVS: MVS Holdings, LLC
c/o Mr. Eric J. von Schledorn
Ernie von Schledorn-Random Lake, Inc.
W4873 CTH RR
Random Lake, WI 53075
Telephone: 262.284.8000
E-mail: thechevypeddler@aol.com

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COPY TO: Paul G. Hoffman, Esq.
Michael Best & Friedrich LLP
Two Riverwood Place, Suite 200
N19 W24133 Riverwood Drive
Waukesha, WI 53188-1174
Telephone: 262.956.6549
E-mail: pghoffman@michaelbest.com

IF TO VILLAGE: Village of Lomira
c/o Village Clerk
Village of Lomira
425 Water Road
Lomira, WI 53048
Telephone: 920.269.4112
E-mail: _____

COPY TO: Susan K. Allen, Esq.
Stafford Rosenbaum LLP
1200 North Mayfair Road
Milwaukee, WI 53226-3282
Telephone: 414.982.2867
E-mail: sallen@staffordlaw.com

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For purposes of this Agreement, all notices shall be deemed received on the date of delivery or transmittal, if personally delivered or electronically transmitted prior to 3 PM recipient's local time on a business day, otherwise on the next regularly occurring business day. Notices sent by nationally recognized commercial overnight courier shall be deemed received on the business day following deposit.

12. MISCELANEOUS.

a. This Agreement may not be modified, except in a writing executed by both Village and MVS or their successors and assigns. No amendment or modification of this Agreement shall be effective until recorded in the Register. The only party whose signature is required respecting MVS or the Property shall

be the then-owner(s) of land within which either or both the Storm Easement Area and Access/Swale Easement Area is/are located.

b. This Agreement shall be interpreted in accordance with the laws of the State of Wisconsin.

[SIGNATURE PAGES FOLLOW]

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This Agreement is made as of the Effective Date.

**MVS:
MVS HOLDINGS, LLC**

By: 

Name: Eric J. von Schledorn

Title: Manager

Date: April 20, 2018

ACKNOWLEDGMENT

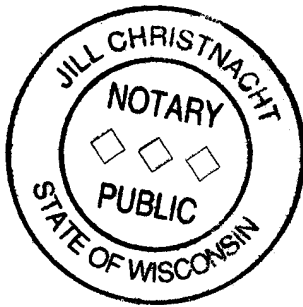
STATE OF WISCONSIN)

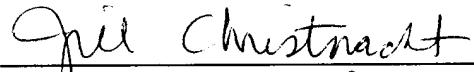
)

COUNTY OF WAUKESHA)

Personally came before me this ____ day of April, 2018, the above-named Eric J. von Schledorn, the Manager of MVS Holdings, LLC, to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same on behalf of the MVS Holdings, LLC.

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Printed Name: Jill Christnacht

My Commission expires: 08/03/18

[MVS Signature Page to Right-of-Way and Stormwater Easement Conveyance Agreement]

VILLAGE:
VILLAGE OF LOMIRA

By: [Signature]
Name: Tony Schraufnagel
Title: Village President
Date: 4-27-18

By: [Signature]
Name: Jenna Rhein
Title: Village Clerk-Treasurer
Date: 4-27-18

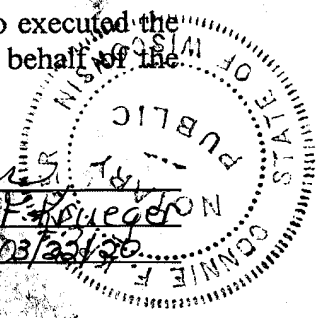
ACKNOWLEDGMENT

STATE OF WISCONSIN)
)
COUNTY OF DODGE)

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Personally came before me this 27 day of April, 2018, the above named Tony Schraufnagel and Jenna Rhein, the Village President and Village Clerk-Treasurer respectively of the Village of Lomira, to me known to be the persons who executed the foregoing instrument in such capacities and acknowledged the same on behalf of the Village of Lomira.

[Signature]
Printed Name: Connie F. Kueger
My Commission expires: 03/23/20



Attachments:

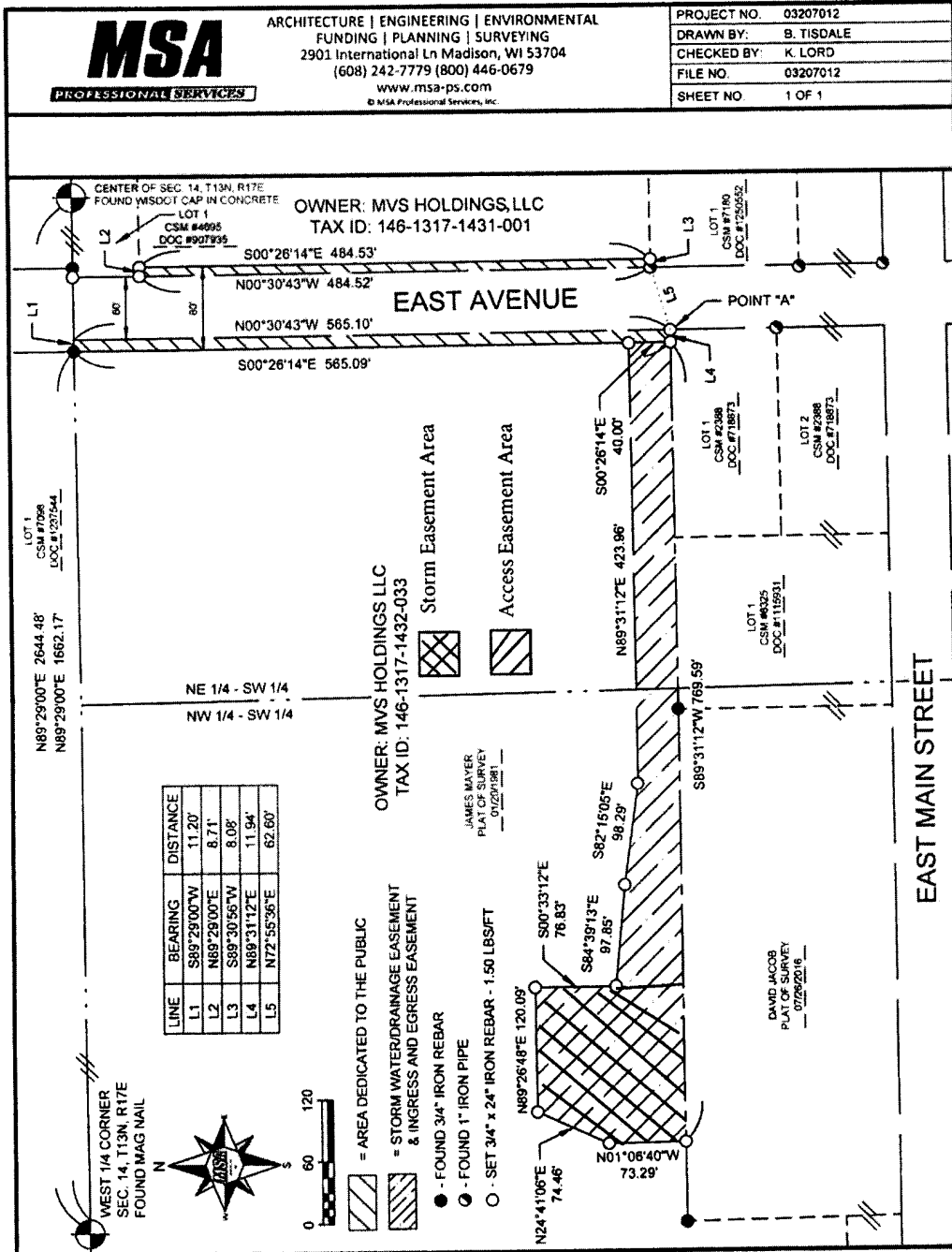
- Exhibit A – Map of Stormwater/Drainage and Ingress/Egress Easement Locations
- Exhibit B – Legal Description – Lands Dedicated to the Public
- Exhibit C – Legal Description – Stormwater/Drainage and Ingress/Egress Easement
- Exhibit D – Legal Descriptions – Property owned by MVS Holdings, LLC

This Document drafted by:
Richard C. Yde, Esq.
608.259.2639

[Village Signature Page to Right-of-Way and Stormwater Easement Conveyance Agreement]

EXHIBIT A

MAP OF STORMWATER/DRAINAGE AND INGRESS/EGRESS EASEMENT LOCATIONS



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EXHIBIT B

LEGAL DESCRIPTION – LANDS DEDICATED TO THE PUBLIC

Part of the Northeast 1/4 of the Southwest 1/4 of Section 14, T13N, R17E, Village of Lomira, Dodge County, Wisconsin; described as follows:

Commencing at the West 1/4 corner of said Section 14; thence, N089°29'00"E along the north line of the Southwest 1/4 of said Section 14, 1662.17 feet to the Point of Beginning; thence, S00°26'14"E, 565.09 feet to the north line of Lot 1 of CSM #2388; thence, N89°31'12"E along said north line 11.94 feet to the west right of way of East Avenue (Point "A" for descriptive purposes); thence, N00°30'43"W along the westerly right of way, 565.10 feet to the north line of the Southwest 1/4 of said Section 14; thence, S89°29'00"W along said north line 11.20 feet to the Point of Beginning.

And

Commencing at aforementioned Point "A"; thence, N72°55'36"E, 62.60 feet to the northwest corner of Lot 1 of CSM #7180 and the Point of Beginning; thence, N00°30'43"W along the easterly right-of-way of East Avenue, 484.52 feet to the southwest corner of Lot 1 of CSM #4695; thence, N89°29'00"E along the south line of CSM #4695, 8.71 feet; thence, S00°26'14"E, 484.53 feet to the north line of CSM #7180; thence, S89°30'56"W along said north line, 8.08 feet to the Point of Beginning.

Said parcel contains 10,608 sq ft or 0.244 acres.

EXHIBIT C

**LEGAL DESCRIPTION – STORMWATER/DRAINAGE AND
INGRESS/EGRESS EASEMENT**

Part of the Northeast 1/4 of the Southwest 1/4 and the Northwest 1/4 of the Southwest 1/4 of Section 14, T13N, R17E, Village of Lomira, Dodge County, Wisconsin; described as follows:

Commencing at the West 1/4 corner of said Section 14; thence, N89°29'00"E along the north line of the Southwest 1/4 of said Section 14, 1662.17 feet; thence, S00°26'14"E, 565.09 feet to the north line of Lot 1 of CSM #2388 and the Point of Beginning; thence, S89°31'12"W, 769.59 feet; thence, N01°06'40"W, 73.29 feet; thence, N24°41'06"E, 74.46 feet; thence, N89°26'48"E, 120.09 feet; thence, S00°33'12"E, 76.83 feet; thence, S84°39'13"E, 97.85 feet; thence, S82°15'05"E, 98.29 feet; thence, N89°31'12"E, 423.96 feet; thence, S00°26'14"E, 40.00 feet to the point of Beginning.

Said parcel contains 47,551 sq ft or 1.092 acres.

**[NOTE: DEVELOP SEPARATE STORM EASEMENT AREA AND
ACCESS/SWALE EASEMENT AREA DESCRIPTIONS]**

EXHIBIT D

LEGAL DESCRIPTIONS – PROPERTY OWNED BY MVS HOLDINGS, LLC

LEGAL DESCRIPTIONS

TAX PARCEL N0.146-1317-1431-001:

A part of the Northeast 1/4 of the Southwest 1/4 of Section 14, Township 13 North, Range 17 East, Village of Lomira, Dodge County, Wisconsin and more particularly described as follows:

Commencing at the Southeast corner of the Southwest 1/4 of said Section 14 and running thence North 01 degrees 57 minutes 16 seconds West along the East line of the Southwest 1/4 of said Section 14, a distance of 2082.44 feet; thence South 88 degrees 39 minutes 21 seconds West, 221.43 feet to the point of beginning; thence continuing South 88 degrees 39 minutes 21 seconds West, 696.60 feet to a point on the Easterly right-of-way line of East Avenue; thence North 01 degrees 20 minutes 39 seconds West along said right-of-way line, 484.76 feet; thence North 88 degrees 38 minutes 18 seconds East 694.47 feet; thence South 01 degrees 35 minutes 44 seconds East along the Westerly right-of-way line United States Highway No. "41" 484.98 feet to the point of beginning.

TAX PARCEL N0.146-1317-1432-033:

All that part of the Northeast 1/4 and the Northwest 1/4 of the Southwest 1/4 of Section 14, Township 13 North, Range 17 East, Village of Lomira, Dodge County, Wisconsin, described as follows: Commencing at the West 1/4 corner of Section 14; thence North 88°42' 48" East, 265.51 feet along the North line of the Southwest 1/4 to the point of beginning; thence South 01°56'48" East, 546.26 feet, (542.00 feet); thence South 88°44' 18" West, 80.50 feet to the Southeast corner of Outlot 8; thence South 01°56'48" East, 93.12 feet (92.00 feet) along the East line of Outlots 9 and 10 to the Northeast corner of the South 50.00 feet of Outlot 10; thence North 88°44'37" East, 80.50 feet; thence South 01°56'48" East, 71.00 feet; thence South 88°44'36" West, 240.51 feet to the Southwest corner of the North 21.00 feet of Outlot 11; thence South 01°56'48" East, 50.54 feet (50.00 feet) along the West line of Outlot 11, also being the East right of way line of Water Street to the Southwest corner of Outlot 11; thence North 88°44'36" East, 180.01 feet along the South line of Outlot 11 and its extension; thence South 01°56' 48" East, 54.42 feet (54.00 feet) to the North line of Outlot 16; thence North 88°45'15" East, 60.00 feet along the North line of Outlot 16 to the Northeast corner of Outlot 16; thence North 01°56'48" West, 20.00 feet; thence North 88°45'15" East, 62.00 feet; thence South 01°56'48" East, 161.09 feet (160.00 feet) to the Southwest corner of the East 18.00 feet of Outlot 17; thence North 88°45'15" East, 64.00 feet along the South line of Outlots 17 and 18, also being the North right of way line of East Main Street, to the Southwest corner of the East 4.00 feet of Outlot 18; thence North 01°56'

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48" West, 161.09 feet (160.00 feet) along the West line of the East 4.00 feet of Outlot 18 and its extension; thence North 88°45'15" East, 144.00 feet to the West line of Outlot 21; thence North 01°56' 48" West, 80.71 feet along the West line of Outlot 21 to the Northwest corner of Outlot 21; thence North 88°45'15" East 272.50 feet along the North line of Outlot 21 to the Northeast corner of Outlot 21; thence North 01°56'48" West, 150.23 feet; thence North 88°45'15" East, 889.46 feet to the center line of proposed East Avenue extended North 01°14'45" West; thence North 01°14'45" West, 565.41 feet along the proposed center line of East Avenue to the North line of the Southwest 1/4, thence South 88°42'48" West, 1438.35 feet along the North line of the Southwest 1/4 to the point of beginning.

Excepting therefrom the following parcel: commencing at the South West corner of the East 18.00 feet of Outlot 17; thence North 88°45' 15" East, 64.00 feet along the South line of Outlots 17 and 18, also being the North right of way line of East Main Street to the Southwest corner of the East 4.00 feet of Outlot 18; thence North 01°56' 48" West, 161.09 feet (160.00 feet) along the West line of the East 4.00 feet of Outlot 18 and its extension; thence South 88°45'15" West, a distance of 64.00 feet; thence South 01°56'48" East, 161.09 feet (160.00 feet) to the place of beginning.

Except premises described in Warranty Deed recorded in Volume 602 of Records on page 348 in the Office of the Register of Deeds, Dodge County, Wisconsin.

Also, except premises described in Warranty Deed recorded in Volume 646 of Records on page 793 in the Office of the Register of Deeds, Dodge County, Wisconsin.

Also, except premises described in Quit Claim Deed recorded in Volume 698 of Records on page 1 in the Office of the Register of Deeds, Dodge County, Wisconsin.

Also, except Premises described in Quit Claim Deed recorded as Document No. 1238886 in the Office of the Register of Deeds, Dodge County, Wisconsin.