

RESOLUTION NO. 2019-21

**RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A
PERMANENT SANITARY SEWER EASEMENT AT 10012 DUANE COURT
WITH RYAN MERKL**

WHEREAS, the Caledonia Utility District has identified a Sanitary Sewer project in the Caddy Vista West Sanitary Sewer Basin. The project is proposed to replace and relocate the existing sanitary sewer line along the Root River, relaying and upsizing of sanitary sewer on Caddy Lane, Root River Drive and Duane Court, new manholes, spot repairs of sanitary sewer, lining of sanitary sewer, a new lift station, relay of sanitary force main and a sanitary sewer line for Jellystone Park; and

WHEREAS, the Caledonia Utility District, through the design of the project, has identified 3 Permanent Sanitary Sewer Easements that are required from various property owners in order to install the sanitary sewer; and

WHEREAS, the Village of Caledonia has adopted Resolution 2018-45, Relocation Order of the Village of Caledonia affecting properties along or adjacent to Caddy Lane and Duane Court for Sanitary Sewer main improvements in the Village of Caledonia, Racine County, Wisconsin to obtain the required Permanent Sanitary Sewer Easements; and

WHEREAS, the Caledonia Utility District has retained the services of Southern Wisconsin Appraisal for appraisals of the 3 identified Permanent Sanitary Sewer Easements required for the project; and

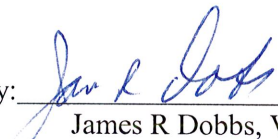
WHEREAS, the Utility Director & the Utility District's Attorney have met and negotiated with Ryan Merkl, property owner of 10012 Duane Court, to obtain one of the required Permanent Sanitary Sewer Easements required for the project; and

WHEREAS, the Owner, Ryan Merkl has executed said Permanent Sanitary Sewer Easement and the President and Secretary of the Caledonia Utility District and the Village President and Village Clerk need to execute the Permanent Sanitary Sewer Easement in order to allow it to be recorded.

NOW, THEREFORE, BE IT RESOLVED by the Caledonia Village Board that the execution of the Permanent Sanitary Sewer Easement as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, is authorized and approved and that the Village President and Village Clerk are authorized to execute said Easement.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 18th day of February, 2019.

VILLAGE OF CALEDONIA

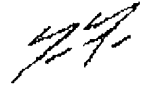
By: 
James R Dobbs, Village President

Attest: 
Karie Torkilsen, Village Clerk

**VILLAGE OF CALEDONIA
EASEMENT AGREEMENT (For a
Permanent Sanitary Sewer Easement)**
Title of Document

Document Number

Document # **2516773**
RACINE COUNTY REGISTER OF DEEDS
March 29, 2019 11:28 AM



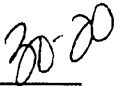
TYSON FETTES
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: \$30.00

Pages: 20

The real property affected by this document is described in the attached.

Record this document with the Register of Deeds

Name and Return Address:
Atty. John M. Bjelajac
601 Lake Avenue
Post Office Box 38
Racine, Wisconsin 53401-0038



104-04-22-04-149-000

(Parcel Identification Number)

**VILLAGE OF CALEDONIA
EASEMENT AGREEMENT (For a
Permanent Sanitary Sewer Easement)**
Title of Document

Document Number

The real property affected by this document is described in the attached.

We are returning your ORIGINAL document
It has been recorded electronically.
The recording information is shown on the
attached copy. Keep both documents
with your Real Estate records.

Record this document with the Register of Deeds

Name and Return Address:

Atty. John M. Bjelajac

601 Lake Avenue

Post Office Box 38

Racine, Wisconsin 53401-0038



104-04-22-04-149-000

(Parcel Identification Number)

(JMB Draft: 1/4/19)

VILLAGE OF CALEDONIA
EASEMENT AGREEMENT
(For a Permanent Sanitary Sewer Easement)

This agreement (“Agreement”) is made and entered into as of the 13 day of March, 2019 (the “Effective Date”), by and between:

- a) RYAN MERKL, being an adult resident of Racine County, Wisconsin, residing at 10012 Duane Court, Caledonia, Wisconsin 53108 (hereinafter referred to as the “Owner”); and
- b) The VILLAGE OF CALEDONIA, being a municipal corporation and village created under the laws of the State of Wisconsin, with its Village Hall located at 5043 Chester Lane, Racine, Wisconsin 53402 (hereinafter referred to as the “Village”); and
- c) The VILLAGE OF CALEDONIA SEWER UTILITY DISTRICT, being a utility district established by the Village of Caledonia under the laws of the State of Wisconsin, with utility district offices located at 333 4½ Mile Road, Racine, Wisconsin 53402 (hereinafter referred to as the “Utility District” and/or the “Sewer Utility District”).

Introduction

The Village is located in Racine County, Wisconsin. The Village, through the Utility District, owns and operates a municipal sanitary sewerage system (hereinafter referred to as the “District System”).

Owner is the sole record-title owner of the parcel of real property (hereinafter referred to as the “Property”) located in the Village of Caledonia, Racine County, Wisconsin, that is described in attached Exhibit A.

This present Agreement is being entered into by the above-named parties to allow the Village, through the Utility District, to construct (i) municipal sanitary sewer mains, and (ii) related infrastructure (collectively, the “Construction Project”) on the Property, as a part of the District System, as further described in attached Exhibit B.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES HEREINAFTER DESCRIBED, THE ABOVE-NAMED PARTIES HEREBY AGREE AS FOLLOWS:

1. Introduction is Correct. The foregoing “Introduction” is true and correct, and is hereby incorporated into this Agreement by reference.
2. Easements Granted. Owner hereby grants to the Village and the Utility District the below-described sanitary sewer easement on its Property, to undertake the Construction Project and to construct, install, operate, maintain, repair, and/or replace sanitary sewer mains (“Sanitary Sewer Mains”), and the related infrastructure to the same, in, on, and under the easement areas hereafter described on the Property. The Village and/or Utility District shall, at

its own expense, maintain and repair the Sanitary Sewer Mains, to keep them in good condition and repair.

3. Sanitary Sewer Easement. Attached hereto as Exhibit C is (i) a diagram showing the Sanitary Sewer Easement Area granted by Owner on the Property to the Village and the Utility District, and (ii) the legal description of such Sanitary Sewer Easement Area.

4. Access to Sanitary Sewer Easement Area. The Village, the Utility District, and/or their officials, officers, employees, contractors, engineers, consultants, and agents are hereby given the permanent non-exclusive right to go upon and enter the Sanitary Sewer Easement Area, at such times as the Village and/or the Utility District may see fit, for the purpose of exercising the easement rights granted herein.

5. Restrictions on Owner. Owner shall not construct (nor allow any third party to construct) any type of structure and/or place any type of object or materials in, over, under, on, or upon the Sanitary Sewer Easement Area, and shall not materially impede or obstruct the exercise of the easement rights granted hereunder. Notwithstanding the foregoing, however, Owner (and/or his/her/its assignee, successor(s) in title, or tenant) may construct, install, and maintain pedestrian pathways, landscaping, driveways, parking lots, and/or roadways over the Sanitary Sewer Easement Area, provided that such construction and use does not damage the Sanitary Sewer Main located in the Sanitary Sewer Easement Area.

6. Restoration of Disturbed Areas. To the extent the Village and/or the Utility District, in its reasonable discretion, deems it necessary for the exercise of its easement rights granted hereunder, the Village/Utility District may remove from the Easement Areas any structure, object, material, or any other obstructions, and/or any plants, shrubs, bushes, trees, or other vegetation, and the Village/Utility District shall not be required to restore or replace such

items, except, however, the Village/Utility District shall (i) restore any disturbed portion of the natural vegetation and/or landscaping of such Easement Areas by seeding the same with grass seed, and (ii) repair and restore any pedestrian pathways, driveways, parking lots, and/or roadways (to its previously existing condition) located in the Easement Areas that may be damaged during the course of the exercise of these present easement rights by the Village/Utility District. Included in the sanitary sewer work that will be performed by the Village/District on the Property, the entire driveway presently located on the Property will be repaved at such time as Duane Court is repaved by the Village/District.

7. Runs with the Land. This Agreement shall run with the land of the Property described herein, and shall inure to the benefit of, and be binding upon, the parties to this Agreement and their respective successors and assigns.

8. Initial Condemnation Proceedings. In July/August of 2018, the Village commenced eminent domain proceedings under the provisions of Section 32.05 of the Wisconsin Statutes for the acquisition of the easement rights described in this Agreement. After the Village took the initial procedural steps required under Section 32.05 for the acquisition of such easement rights, the Village/Utility District and Owner entered into negotiations regarding this transaction, all as provided for in Section 32.05. As a result of those negotiations, the Village/Utility District and Owner have agreed to the terms and provisions of this Agreement, making further eminent domain proceedings by the Village unnecessary. The Village shall, however, comply with the requirements for the certified mailing of a copy of this Agreement, as required under the provisions of Section 32.05(2a) of the Wisconsin Statutes. As also required by Section 32.05(2a) of the Wisconsin Statutes, the Village hereby gives to the Owner the information contained in attached Exhibit X.

9. Payment to Owner. Within Ten (10) Business Days (Mondays-Fridays) after (i) this Agreement is signed by all of the parties, and (ii) the Village Board of the Village of Caledonia, Wisconsin approves this Agreement, the Village/Utility District shall pay to Owner the amount of Three Thousand Five Hundred Dollars (\$3,500.00). This payment amount is the agreed-upon valuation of the easement rights being given by the Owner to the Village/Utility District. To the extent allowed under the law, Owner hereby expressly waives any and all rights to any relocation benefits that the Owner may have otherwise been entitled to under Chapter 32 of the Wisconsin Statutes. This waiver is a part of the consideration being given by the Owner to the Village/Utility District in this transaction.

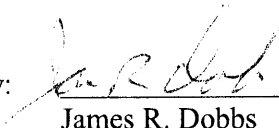
10. Governing Law. This Agreement shall be governed, controlled, construed, and interpreted by and under the laws of the State of Wisconsin. The venue for any legal action pertaining to and/or arising under this Agreement shall solely and exclusively be Racine County Circuit Court in Racine County, Wisconsin.


11. Recording. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns. This Agreement shall be recorded by the Village at the Office of the Register of Deeds for Racine County, Wisconsin.


IN WITNESS WHEREOF, the above-named parties, either personally or through their
duly authorized officers, have executed this Agreement as of the date indicated above.

VILLAGE:
Village of Caledonia

UTILITY DISTRICT:
The Village of Caledonia Sewer Utility
District

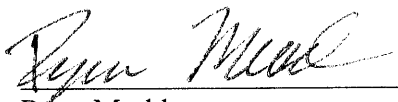
By: 
James R. Dobbs
Village President

By: 
Howard Stacey
President

Attest: 
Karie Torkilsen
Village Clerk

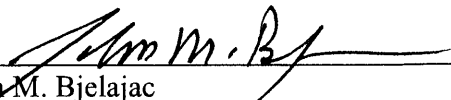
Attest: 
Harry Garnette
Secretary

OWNER:


Ryan Merkl

AUTHENTICATION

Signatures of Ryan Merkl, and James R. Dobbs and Karie Torkilsen, Village President and Village Clerk, respectively, of the Village of Caledonia; and Howard Stacey, President, and Harry Garnette, Secretary, of the Village of Caledonia Sewer Utility District and the Village of Caledonia Water Utility District, authenticated this 21st day of March, 2019.



John M. Bjelajac
Member: State Bar of Wisconsin
State Bar No. 1015325

This Agreement drafted by
Attorney John M. Bjelajac
601 Lake Avenue
Post Office Box 38
Racine, Wisconsin 53401-0038
Phone: (262)633-9800
FAX: (262)633-1209
(Attorney for the Village of Caledonia,
and the Village of Caledonia Sewer
Utility District)

EXHIBIT A
Page 1 of 3
PLAT BEFORE ACQUISITION

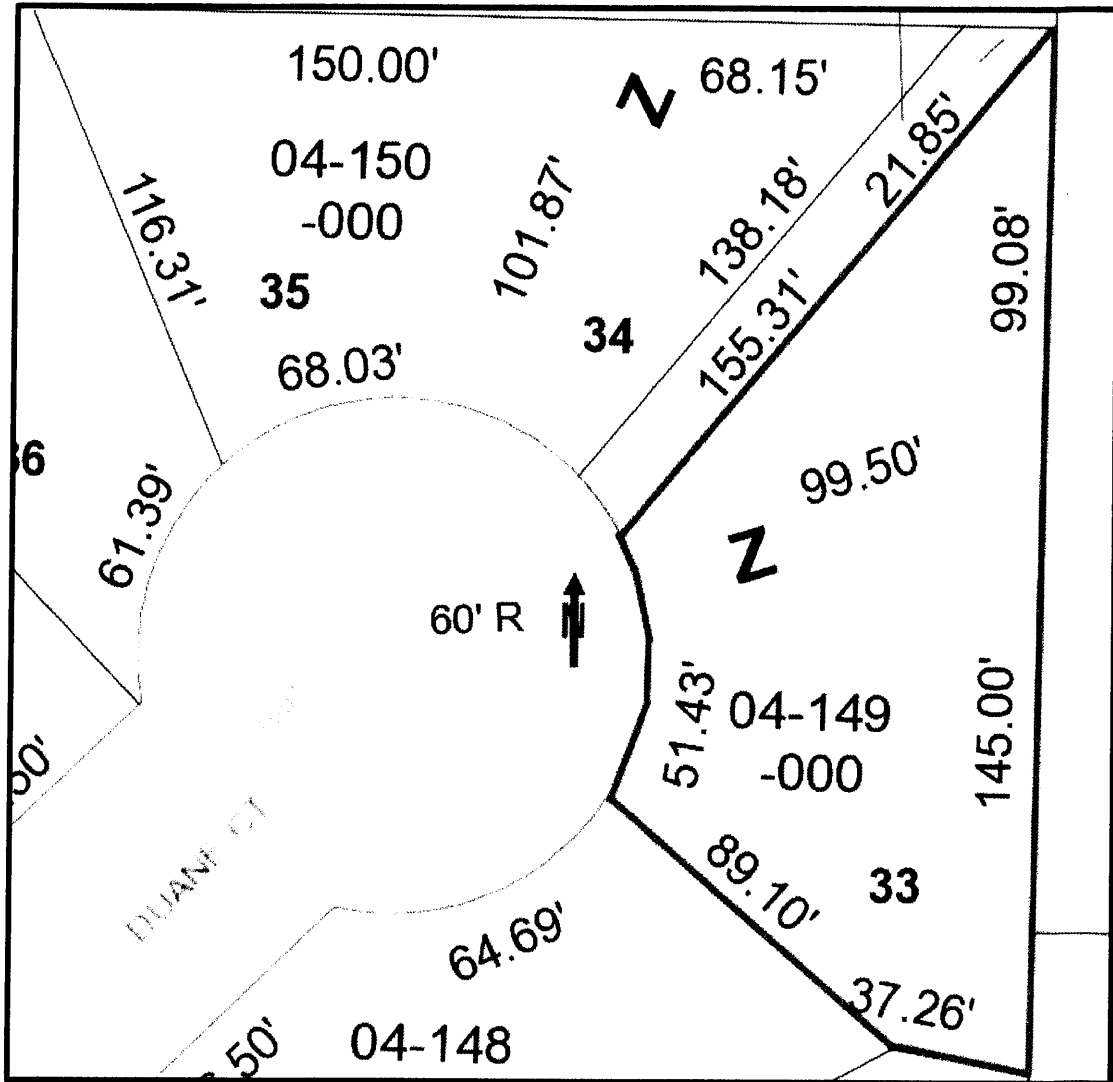
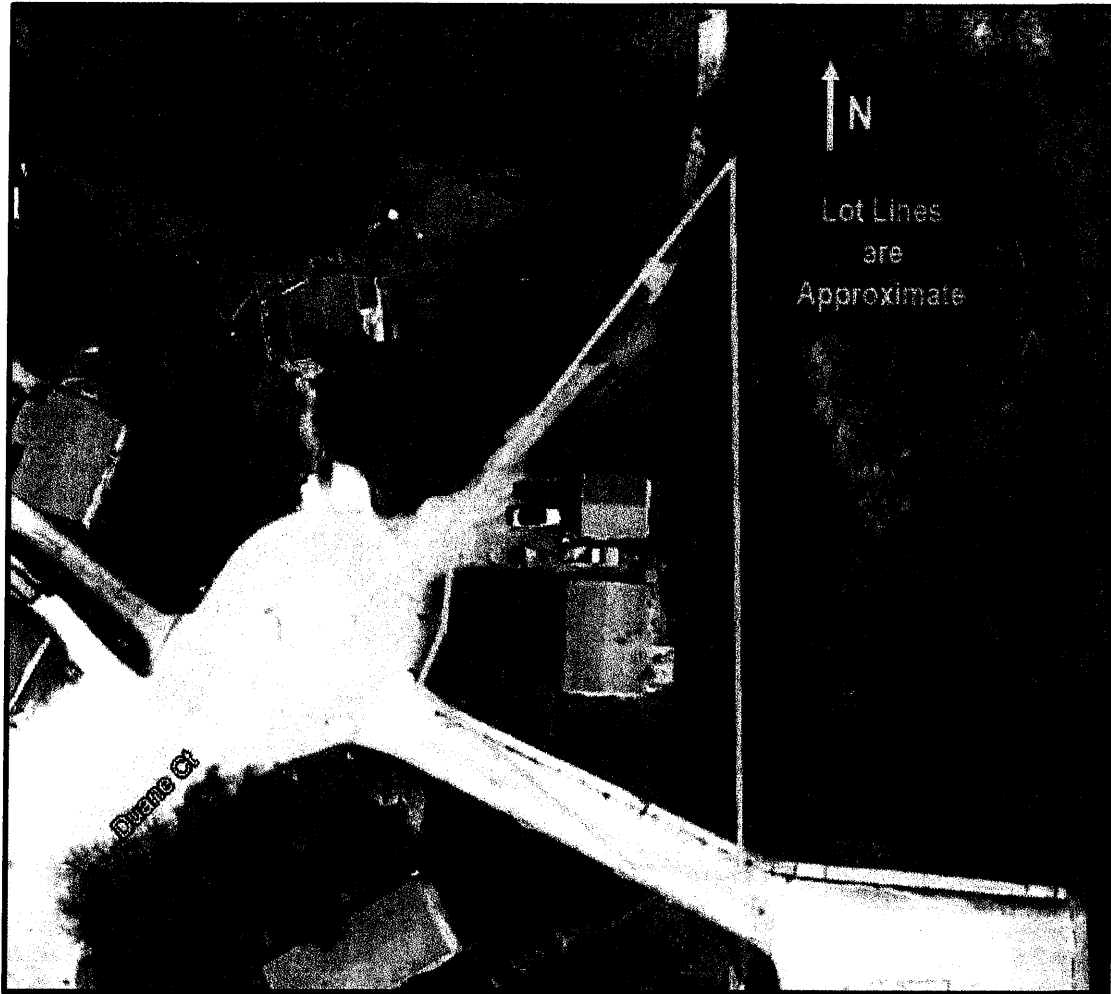


EXHIBIT A
Page 2 of 3
AERIAL PHOTOGRAPH



LEGAL DESCRIPTION BEFORE ACQUISITION

Lot 33 and that part of Lot 34 bounded and described as follows: Commencing at the Northeast corner of Lot 34; thence South 38° 55' 15" West 155.31 feet to Duane Court; thence 10.00 feet along a chord whose bearing is South 23° 28' 15" East to the most Southerly corner of Lot 34; thence North 71° 25' 15" East along the South line of Lot 34 aforesaid 99.50 feet to the Southeast corner of Lot 34; thence North 00° 03' 00" West along the East line of Lot 34 aforesaid 99.08 feet to the point of commencement, in Block "B", in Caddy Vista South First Addition, in the Village of Caledonia, Racine County, Wisconsin.

The following is for informational purposes only:

Address: 10012 Duane Court

Tax Key No. 104-04-22-04-149-000

EXHIBIT B

The Construction Project involves the reconstruction of the Village's sanitary sewer system, from approximately 10338 Root River Drive, along Root River Drive east to Caddy Lane, then east along Caddy Lane to Duane Court, then North along Duane Court to the Village's lift station, and includes the installation of new sanitary sewer mains along the route. The construction work for the Construction Project is expected to begin in the second half of 2018, and will go into 2019 to complete.

PARCEL 2

LEGAL DESCRIPTION FOR A PERMANENT SANITARY SEWER EASEMENT

That part of Lot 33 and Lot 34 in Block B of Caddy Vista South – First Addition, a recorded subdivision plat being part of the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 and part of the Southwest 1/4 of the Northeast 1/4 of Section 4, Township 4 North, Range 22 East, Village of Caledonia, Racine County, Wisconsin more particularly described as follows:

Beginning at the northeast corner of said Lot 34; thence S00°28'00"E along the east line of said Lot 34, 15.90 feet; thence S38°30'05"W, 149.33 feet to the northerly right of way line of Duane Court and the beginning of a curve to the left having a radius of 60.00 feet and a chord bearing N23°07'22"W, 11.37 feet; thence northwesterly along the arc of said curve and said northerly right of way line, 11.38 feet; thence N38°30'05"E, 156.29 feet to the point of beginning. Containing 1,526 square feet, more or less.

Owner: Ryan Merkel

Tax Parcel ID No.: 104-042204149000

Physical Address: 10012 Duane Court

EXHIBIT X

STATUTORY NOTICE PURSUANT TO SECTION 32.05(2a)
OF THE WISCONSIN STATUTES, INCLUDING THE RIGHT TO APPEAL

Pursuant to the provisions of Section 32.05(2a) of the Wisconsin Statutes, the Village of Caledonia (the "Village") hereby gives to the Owner the following information:

- a) The person(s) and/or entity(ies) having an interest of record in the Property are described in the Letter Report of Title (the "Report"), dated November 9, 2018, prepared by Landmark Title of Racine, Inc. for the Property.
- b) The legal description for the entire Property owned by Owner is described in the Report.
- c) The interest being acquired by the Village is a permanent sanitary sewer easement. The compensation paid by the Village to the Owner is a total of Three Thousand Five Hundred Dollars (\$3,500.00).
- d) The Owner has the right to appeal the amount of the compensation under Section 32.05(2a) of the Wisconsin Statutes. Any person named in this conveyance and/or attached Report having an interest in the Property may, within six (6) months after the date of the recording of this document, appeal from the amount of the compensation stated in this conveyance document, in the manner set forth in Subsections (9) to (12) of Section 32.05 and Chapters 808 and 809 for appeals from an award under Subsection (7) of Section 32.05, all being Wisconsin Statutes. For the purposes of any such appeal, the amount of compensation stated in this conveyance shall be treated as the award and the date that this conveyance is recorded shall be treated as the date of taking and the date of evaluation.

First American Title Insurance Company

UPDATED(11/12/2018)

Commitment Number: LMT-63642

SCHEDULE A

- 1. Effective Date: November 9, 2018 at 08:00 AM
- 2. Policy or Policies to be issued: Amount
 - (a) X Owner's Policy (ALTA Own. Policy (06/17/06)) \$ 15,000.00
Proposed Insured:
Ryan Merkl
 - (b) _____ Loan Policy (ALTA Loan Policy (06/17/06)) NONE
Proposed Insured:

- 3. The estate or interest in the land described or referred to in this Commitment is Fee Simple.
- 4. Title to the Fee Simple estate or interest in the land is at the Effective Date vested in:
Ryan Merkl

5. The land referred to in the Commitment is described as follows:

Lot 33 and that part of Lot 34 bounded and described as follows: Commencing at the Northeast corner of Lot 34; thence South 38° 55' 15" West 155.31 feet to Duane Court; thence 10.00 feet along a chord whose bearing is South 23° 28' 15" East to the most Southerly corner of Lot 34; thence North 71° 25' 15" East along the South line of Lot 34 aforesaid 99.50 feet to the Southeast corner of Lot 34; thence North 00° 03' 00" West along the East line of Lot 34 aforesaid 99.08 feet to the point of commencement, in Block "B", in Caddy Vista South First Addition, in the Village of Caledonia, Racine County, Wisconsin.

The following is for informational purposes only:

Address: 10012 Duane Court
Tax Key No. 104-04-22-04-149-000

By: Michael P. Staech

Authorized Officer or Agent

Landmark Title of Racine, Inc. 719 Washington Avenue Racine, WI 53403
PH262-632-6262 FAX262-632-6243

(any provisions to the contrary notwithstanding, this policy is valid without a countersignature)

First American Title Insurance Company

**SCHEDULE B - SECTION I
REQUIREMENTS**

Commitment Number: LMT-63642

The following are the requirements to be complied with:

1. Pay the full consideration to, or for the account of, the grantors or mortgagors.
2. Pay all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable.
3. Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractor, sub-contractors, labor and materialmen are all paid; and have released of record all liens or notice of intent to perfect a lien for labor or material.
4. NOTE: Taxes for the year 2017 in the amount of \$1,929.31, have been paid in full.

First American Title Insurance Company

Commitment Number: LMT-63642

**SCHEDULE B - SECTION II
EXCEPTIONS**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

NOTE: Exception 1 of Schedule B-II will be removed only if a gap endorsement is attached to this commitment and the requirements for the issuance of gap coverage as described in the endorsement are met, including the payment of the premium

2. Special taxes or assessments and special charges, if any, payable with the taxes levied or to be levied for the current and subsequent years.
3. Liens, hook-up charges or fees, deferred charges, reserve capacity assessments, impact fees, or other charges or fees due and payable on the development or improvement of the Land, whether assessed or charged before or after the Date of Policy.

The company assures the priority of the lien of the insured mortgage over any such lien, charge or fee.

NOTE: Exception 3 of Schedule B-II will be removed only if the Company receives (1) written evidence from the municipality that there are no deferred charges, hookup fees, or other fees or charges attaching to the property; (2) evidence that the Land contains a completed building; and (3) statement showing that the Land has a water and sewer use account. If the Land is vacant, this exception will not be removed.

4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

NOTE: Contact the Company for information on the deletion of this exception.

5. Rights or claims of parties in possession not shown by the public records.

NOTE: Exception 5 of Schedule B-II will be removed only if the Company receives a Construction Work and Tenants Affidavit on a form prepared by the Company. If the affidavit shows that there are tenants, Exception 5 will be replaced by an exception for the rights of the tenants disclosed by the Affidavit.

6. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.

7. Easements or claims of easements not shown by the public records.

First American Title Insurance Company

Commitment Number: LMT-63642

SCHEDULE B - SECTION II

EXCEPTIONS

(Continued)

8. Any claim of adverse possession or prescriptive easement.

NOTE: Exceptions 6, 7, and 8 of Schedule B-II will be removed only if the Company receives an original survey which (i) has a current date, (ii) is satisfactory to the Company, and (iii) complies with current ALTA/NSPS Minimum Survey Standards or Wisconsin Administrative Code Chapter AE-7 together with the certification agreed on between the Wisconsin Land Title Association and the Wisconsin Society of Land Surveyors on April 1, 1974. If the survey shows matters, which affect the title to the property, Exceptions 6, 7 and 8 will be replaced by exceptions describing those matters.

9. General taxes for the year 2017 and subsequent years, not yet due or payable.
10. Possible Transmission Line Easement from Wisconsin Electric Power Company, to American Transmission Company, LLC dated December 1, 2000 and recorded in the office of the Register of Deeds for Racine County, Wisconsin on March 26, 2001 in Volume 3142 of Records, Page 599, as Document No. 1763585. Easement Assignment as contained in document recorded on March 26, 2001, as Document No. 1763586. Easement Assignment as contained in document recorded on March 26, 2001, as Document No. 1763587. Easement Assignment as contained in document recorded on March 26, 2001, as Document No. 1763588. Easement Assignment as contained in Document recorded March 26, 2001 as Document No. 1763589. Due to the generality of the Easement and poor copy quality, we are unable to determine the proper location.
11. Covenants, conditions, restrictions and easements contained in Protective Covenants executed by John M. Couture & Associates, Inc.; Lemonweir Realty co., Inc.; Jopete Realty Co., Inc.; St. Francis Building and Loan Association, dated November 26, 1954 and recorded in the office of the Register of Deeds for Racine County, Wisconsin on February 21, 1955 in Volume 570 of Deeds, at page 579, as Document No. 627257.
12. Five foot public utility easement along the rear of said premises, as noted on the recorded plat.
13. Easement as contained in document dated September 25, 1954 and recorded in the office of the Register of Deeds for Racine County, Wisconsin on October 18, 1954 as Document No. 622496.
14. Easement as contained in document dated January 3, 1955 and recorded in the office of the Register of Deeds for Racine County, Wisconsin on January 28, 1955 as Document No. 626533.
15. Caledonia Sewer and Water Utility District Assessments, if any.
16. Root River Storm Water Drainage District Assessments, if any.

First American Title Insurance Company

Commitment Number: LMT-63642

SCHEDULE B - SECTION II

EXCEPTIONS

(Continued)

17. Temporary Construction Easement as contained in document dated January 9, 1992 and recorded in the office of the Register of Deeds for Racine County, Wisconsin on January 16, 1992 as Document No. 1361685.

18. Restrictions in Deed dated September 14, 1962 and recorded in the office of the Register of Deeds for Racine County, Wisconsin on September 26, 1962 as Document No. 741771