

UTILITY EASEMENT  
AGREEMENT

Document Number

Drafted by and upon recording return to:

Frank Pitsoulakis, Esq.  
CCM - Roosevelt School, LLC  
901 S. 70<sup>th</sup> Street  
West Allis, WI 53214

Recording Area

438-0196-001

Tax Key Nos.

This Utility Easement Agreement (this "Agreement") is entered into as of August \_\_\_\_, 2016 by and between CCM – ROOSEVELT SCHOOL, LLC ("Grantor") and CITY OF WEST ALLIS, a Wisconsin municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of certain real property located in the City of West Allis, Wisconsin, which is legally described on **Exhibit A** attached hereto (the "Grantor Property").

B. The Grantor Property is depicted on Certified Survey Map No. \_\_\_\_\_, recorded on \_\_\_\_\_ in the Office of the Register of Deeds of Milwaukee County, Wisconsin as Document No. \_\_\_\_\_ (the "CSM").

C. This Agreement documents all of the terms and conditions relating to the "20' Wide Electric Easement for the Benefit of the City of West Allis" over the Property which is depicted and noted in the CSM.

D. Grantee desires that Grantor grant an easement for the installation of electrical utility facilities under the portion of the Grantor Property legally described on **Exhibit B** attached hereto (the "Easement Area") to allow Grantee to access and maintain, repair, rebuild and operate the such utility

facilities (the "Grantee Facilities"), and Grantor is willing to grant Grantee such and easement to Grantee, on the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the terms and provisions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledge, IT IS AGREED:

1. **Easement.** Grantor hereby grants and conveys to Grantee, its successors and assigns, a perpetual non-exclusive easement (the "Utility Easement") under and through the Easement Area for the purpose of constructing, maintaining, repairing, rebuilding and operating the Grantee Facilities. All lines, equipment and their related components comprising the Grantee Facilities, now or in the future, shall be installed underground only.

2. **Use of Easement Area.** Grantee shall use the Utility Easement solely for the purposes of accessing constructing, maintaining, repairing, rebuilding and operating the Grantee Facilities and for no other purpose. Grantor reserves the right to grant to third parties additional easements affecting the Easement Area without the consent of Grantee. Grantee may close the Easement Area for maintenance or repair and to avoid the acquisition of adverse or prescriptive rights. Grantor reserves the right to make any improvements to the Easement Area or the Grantor Property as Grantor desires. Notwithstanding the foregoing, Grantor agrees that no buildings or structures will be erected in the easement area or in such close proximity to the electric facilities as to create a violation of the Wisconsin State Electrical Code or any amendments to it.

3. **Maintenance.** Grantee shall be responsible for all costs relating to the maintenance and repair to the Grantee Facilities and for the costs relating to repairing any improvements located from time to time on the Grantor Property to the extent such costs arise due to the use of the Easement Area by Grantee.

4. **Restoration.** If, during the course of exercising any of the rights granted to it by the Agreement, Grantee shall damage or disturb any portion of the Grantor Property or the improvements located thereon, Grantee shall restore the Grantor Property and all improvements located thereon which may be damaged during the completion of any repair or maintenance work performed by Grantee to the condition the same or prior to the commencement of such maintenance or repair, all at Grantee's sole cost and expenses.

5. **Liability.** Grantee agrees to save Grantor harmless and indemnify Owner (with legal counsel selected by Grantee and reasonably acceptable to Grantor) from and against any and all claims, demands, costs (including reasonable attorneys' fees), expense, causes of action or obligations, whatsoever, that may or shall arise in connection with the Grantee's use of the Easement Area or its activities on the Grantor Property except those claims resulting from the negligence of officers, employees or agents of Grantor for whom Grantor is legally responsible. Grantee shall have the right to direct the defense and settle any such claim subject to Grantor's reasonable objections.

6. **Self Help.** If Grantor shall determine that Grantee is not fulfilling its maintenance and repair obligations set forth herein, Grantor shall provide written notification of such defect or condition to Grantee. Grantee shall have thirty (30) days from the date of receipt of such notice to correct the defective conditions and to perform its obligations as required by this Agreement. In the case of non-compliance, Grantor shall have the right, but not the obligation, to perform such obligations with all costs incurred by Grantor in the performance of such obligations being paid by Grantee.

7. **Nature of Easement.** This Agreement and the terms and provisions hereof shall be binding upon the Grantor and Grantee, and their permitted successors and assigns and shall be covenants running with the land.

8. **Amendment.** This Agreement shall not be modified or amended except by written notification, executed and delivered by each of the parties hereto.

9. **Invalidity.** If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed 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. **Waiver.** 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 of any breach of any other terms or conditions of this Agreement.

11. **Enforcement.** 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 term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney fees, from the nonprevailing party.

[Signature pages follow]



**Signature Page to Utility Easement Agreement**

IN WITNESS WHEREOF, the parties hereto have caused this Utility Easement Agreement as of \_\_\_\_\_, 2016.

CITY OF WEST ALLIS

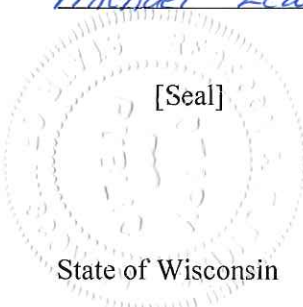
By [Signature]  
Name Michael Lewis  
Its Director of Public Works/CE

CCM – ROOSEVELT SCHOOL, LLC

By [Signature]  
Name ERICH SCHWENKER  
Its PRESIDENT

State of Wisconsin )  
: SS  
Milwaukee County )

This instrument was acknowledged before me on the 22nd day of August, 2016, by Michael Lewis, the Dir. of Public Works of the City of West Allis.  
City Engineer



[Seal]

[Signature]  
Rebecca C. Fleming  
Notary Public, State of Wisconsin  
My commission expires on 12-27-19

State of Wisconsin )  
: SS  
Milwaukee County )

This instrument was acknowledged before me on the 18<sup>th</sup> day of AUGUST, 2016, by Erich Schwenker, the President of Cardinal Capital Management, Inc., the manager of CCM – Roosevelt School, LLC.

[Seal]

[Signature]  
CHRISTOPHER A. GEIGER  
Notary Public, State of Wisconsin  
My commission expires on 8/28/17

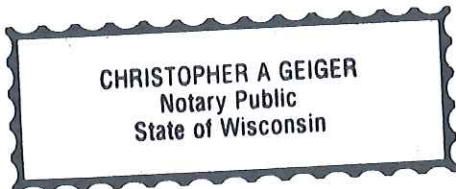


Exhibit A

Legal Description of Grantor Property

Lot 1 of Certified Survey Map No. \_\_\_\_\_

Exhibit B

Legal Description of Easement Area

A portion of Lot 1 of Certified Survey Map No. \_\_\_\_\_ described as follows:

See Attached Exhibit

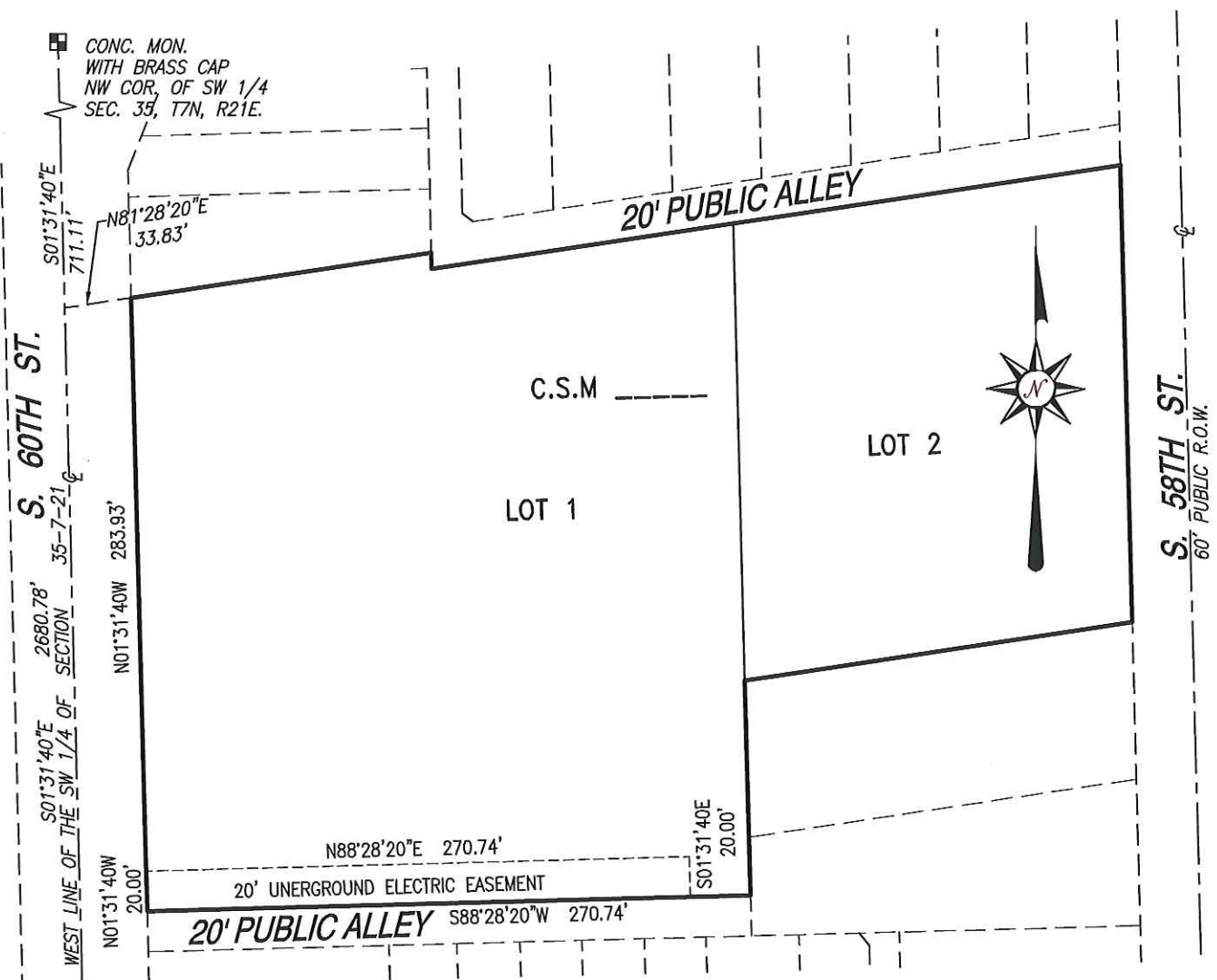
# EASEMENT EXHIBIT

## SITE ADDRESS

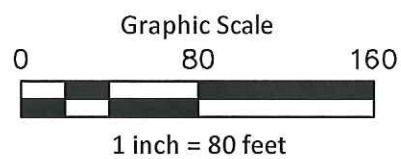
932 South 60th Street, City of West Allis, Milwaukee County, Wisconsin

## LEGAL DESCRIPTION

Part of Lot 1 of Certified Survey Map No. \_\_\_\_\_ in the Northwest 1/4 of the Southwest 1/4 of Section 35, Town 7 North, Range 21 East in the City of West Allis, Milwaukee County, Wisconsin bounded and described as follows: Commencing at the Northwest corner of said 1/4 Section; thence South 01°31'40" East along the West line of said 1/4 Section 711.11' to a point; thence North 81°28'20" East 33.83 feet to the Northwest corner of said Lot 1; thence South 01°31'40" East along the West line of said Lot 1 a distance of 283.93' to the point of beginning of lands hereinafter described; thence North 88°28'20" East 270.74' to a point; thence South 01°31'40" East 20.00' to a point on the South line of said Lot 1; thence South 88°28'20" West along said South line 270.74' to the Southwest corner of said Lot 1; thence North 01°31'40" West along the west line aforesaid 20.00' to the point of beginning.



CONC. MON.  
WITH BRASS CAP  
SW COR. OF SW 1/4  
SEC. 35, T7N, R21E.



CHAPUT LAND SURVEYS LLC  
234 W. FLORIDA STREET  
MILWAUKEE, WI 53204 Date: July 18, 2016  
414-224-8068 Drawing No. 1925-dje  
www.chaputlandsurveys.com