

MEMO

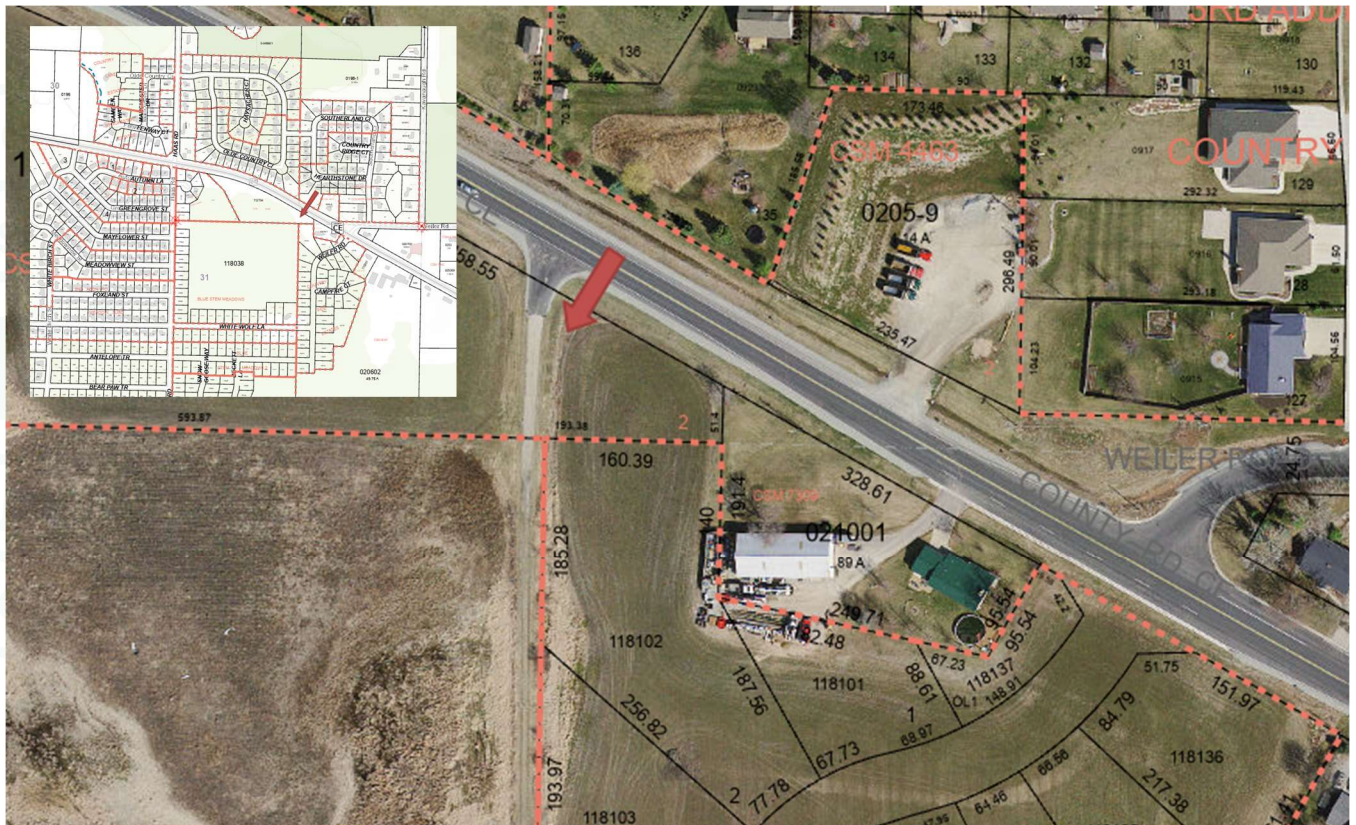


Engineering Department

To: Plan Commission
From: John Neumeier – DPW/City Engineer
Date: 7/28/2023
Re: Request to install groundwater monitoring well – CTH CE at old Weiler Road

The University of Wisconsin-Green Bay (UWGB) along with the United States Geological Survey (USGS) have reached out to Kaukauna Utilities to drill a test/research well for a project focused on groundwater arsenic and the cones of depression in Green Bay and the Fox Cities areas. UWGB and USGS are requesting to install a well at a location shown below, near the old Weiler Road on CTH CE. The City would request having an easement agreement in place, similar to the attached from 2021 in LaFollette Park. The City has requested that UWGB provide the easement legal description and exhibit.

Recommended Action: Approve the request and direct staff to work with UWGB and USGS to develop a final easement location and agreement for Common Council consideration.



INFORMATION ONLY

RESOLUTION NUMBER _____

RESOLUTION AUTHORIZING MAYOR PENTERMAN TO SIGN A GROUND WATER MONITORING STATION EASEMENT TO U.S. DEPARTMENT OF INTERIOR, U.S. DEPARTMENT OF GEOLOGICAL SURVEY AND WISCONSIN GEOLOGICAL AND NATURAL HISTORY SURVEY – UNIVERSITY OF WISCONSIN - MADISON

WHEREAS, the City of Kaukauna (herein after “Grantor”) and U.S. Department of Interior, U.S. Department of Geological Survey and Wisconsin Geological and Natural History Survey – University of Wisconsin - Madison (herein after “Grantees”) wish to enter into an agreement to cooperatively collect long-term groundwater levels in order to fulfill the Grantor’s requirement to regulate high-capacity wells under s. 281.34, Wis. Stats., and Chapter NR 820, Wis. Adm. Code, and its responsibility to implement the Great Lake Compact under s. 281.343(4)(a), Wis. Stats.; and

WHEREAS, the portion of Grantor’s property subject to this Easement (“Premises”) is described below and more particularly shown on Exhibit “A”:

BEING PART OF “KLEINS PARK” (NOW KNOWN AS LAFOLLETTE PARK) PER THE ASSESSOR’S MAP OF THE CITY OF KAUKAUNA, LOCATED IN AND BEING PART OF GOVERNMENT LOT 8, SECTION 22, TOWNSHIP 21 NORTH, RANGE 18 EAST, SOUTH OF THE FOX RIVER, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH ¼ CORNER OF SECTION 23, TOWNSHIP 21 NORTH, RANGE 18 EAST, NORTH OF THE FOX RIVER; THENCE S26°32’23”E, 3298.11 FEET TO THE POINT OF BEGINNING; THENCE N90°00’00”E, 18.00 FEET; THENCE S00°00’00”E, 18.00 FEET; THENCE S90°00’00”W, 18.00 FEET; THENCE N00°00’00”W, 18.00 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINS 324 SQ. FT. OF LAND MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD; and

WHEREAS, the Grantee requests an Easement allowing it to access Grantor’s property in order to collect groundwater data by constructing, installing, operating and maintaining, removing and replacing a monitoring station containing one groundwater well; and

NOW, THEREFORE, Be It Resolved, by the Common Council of the City of Kaukauna that the Mayor and Clerk are authorized on behalf of the City to sign the easement to Grantees, attached and made a part hereof, granting an easement for groundwater monitoring purposes.

Introduced and adopted this _____ day of May, 2021.

APPROVED: _____
Anthony J. Penterman, Mayor

ATTEST: _____
Sally A. Kenney, Clerk

INFORMATION ONLY

GROUND WATER MONITORING STATION EASEMENT

Document Name

THIS GROUNDWATER MONITORING STATION EASEMENT (“Easement”) made by and between the City of Kaukauna, a Municipal Corporation (“Grantor”), and the U.S. Department of the Interior, U.S. Department of Geological Survey and Wisconsin Geological and Natural History Survey – University of Wisconsin - Madison (“Collectively Grantee”).

Recording Area

Name and Return Address:
City Of Kaukauna
Planning Dept.
144 W. Second St.
Kaukauna, WI 541401

RECITALS

WHEREAS, Grantor and Grantee enter into this agreement to cooperatively collect long-term groundwater level data to fulfill Grantor’s requirement to regulate high-capacity wells under s. 281.34, Wis. Stats., and Chapter NR 820, Wis. Adm. Code, and its responsibility to implement the Great Lake Compact under s. 281.343(4)(a), Wis. Stats.;

Parcel Identification Number

WHEREAS, Grantee desires to install monitoring station in order to collect said data;

WHEREAS, Grantee requests an Easement allowing access over and upon Grantor’s property to collect groundwater data by constructing, installing, operating, maintaining, removing and replacing a monitoring station containing one groundwater well; and

WHEREAS, the portion of Grantor’s property subject to this Easement (“Premises”) is described below and more particularly shown on Exhibit “A”:

BEING PART OF “KLEINS PARK” (NOW KNOWN AS LAFOLLETTE PARK) PER THE ASSESSOR’S MAP OF THE CITY OF KAUKAUNA, LOCATED IN AND BEING PART OF GOVERNMENT LOT 8, SECTION 22, TOWNSHIP 21 NORTH, RANGE 18 EAST, SOUTH OF THE FOX RIVER, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH ¼ CORNER OF SECTION 23, TOWNSHIP 21 NORTH, RANGE 18 EAST, NORTH OF THE FOX RIVER; THENCE S26°32’23”E, 3298.11 FEET TO THE POINT OF BEGINNING; THENCE N90°00’00”E, 18.00 FEET; THENCE S00°00’00”E, 18.00 FEET; THENCE S90°00’00”W, 18.00 FEET; THENCE N00°00’00”W, 18.00 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINS 324 SQ. FT. OF LAND MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

NOW, THEREFORE, Grantor hereby agrees to convey to Grantee and its assigns, a non-exclusive perpetual easement to access, construct, install, operate, maintain, repair, remove and replace monitoring stations drilled and/or placed on the above described Premises, along with activities directly related to water sampling as required collect long-term groundwater level data.

It is understood by Grantor and Grantee that this Easement is subject to the following conditions:

1. Grantor and Grantee hereto confirm and agree that the recitals set forth above are true and correct and incorporate the same herein for all purposes.

2. Grantor grants and conveys to Grantee this non-exclusive Easement for the construction, installation, operation, maintenance, repair, replacement and removal of monitoring stations consisting of, but not limited to a drilled well which shall be constructed in compliance with Ch. NR 141 and Ch. NR 812, Wis. Adm. Codes, along with vehicle and walk in access to the Premises, as is reasonably deemed necessary for installation and collecting data including, but not limited to water-level measurements, geophysical measurements and/or water quality sampling purposes. Grantee shall share all information gained from said monitoring upon request of the Grantor.
3. This Easement is limited to Grantee and its assigns and is not transferrable to any other third party, except after prior written notification to Grantor. Grantee will not have the right to allow additional co-location of other facilities in the Easement.
4. The Easement shall be non-exclusive and Grantor may use the Premises and shall have the right to lease or convey other easements to one or more other person(s), company(ies) or other entity(ies); provided that any such subsequent use, lease or conveyance shall not interfere with Grantee's rights.
5. Grantee shall submit a written notification of project commencement to Grantor's Project Manager identified in Paragraph 18 herein at least thirty (30) days prior to the initiation of any well construction work on the Premises. Grantee may commence said work unless Grantor informs Grantee not to proceed ten (10) days prior to commencing work. If an emergency situation arises within the Premises requiring immediate action by Grantee, Grantee shall immediately notify Grantor's project manager that an emergency exists, and that Grantee is proceeding to correct the emergency situation.
6. If approved in writing in advance by Grantor's Property Manager, Grantee may enter upon the Premises at a specified location outside of the Easement Area to gain access to the Easement Area in order to construct, install, operate, maintain, repair, remove and replace an underground electric line and to do any and all other such work as is reasonably necessary in accordance with the rights granted under this Easement.
7. Grantee may cut, trim and remove any brush, trees, logs, stumps or branches within the Premises which by reason of their proximity may interfere with the installation, repair, maintenance, operation, removal and replacement of the station. Grantee's representative (employee or contractor) will communicate in writing, the planned vegetative activities with Grantor's project manager prior to vegetation work commencing. Grantee may commence said work unless Grantor informs Grantee not to proceed five (5) working days prior to commencing work. Accepted arborist pruning/removal and equipment practices must be adhered to and all waste debris, stumps and slash must be removed and disposed of by Grantee off site before project completion in accordance with all applicable federal, state and local statutes, rules, regulations and ordinances. When the removal of a tree is permitted, the stump shall be cut flush with the ground or be removed. All trees having a commercial value, including firewood, shall be cut in 100-inch lengths and piled conveniently by Grantee, for disposal, by sale or otherwise, by Grantor.
8. Use of pesticides and herbicides shall only be allowed with the prior written approval of the Grantor. Any pesticides or herbicides used as part of a management plan must conform to the Forest Stewardship Council list found at <https://ic.fsc.org/en/our-impact/program-areas/forest-program/pesticides>. Grantee shall report to the Grantor (i.e. property manager), prior to December 1 of each year chemicals are applied, the chemicals that are applied on the Premises including the date, product trade name, active ingredient(s) and corresponding CAS number(s), purpose, rate, location with a map, total area treated, and total amount of

chemical used.

9. Any signage placed by Grantee for purposes of project activities shall have prior written approval from Grantor.
10. Grantee shall maintain the Premises in a decent, sanitary, and safe condition during construction, repair, maintenance, removal and replacement, and at no time shall Grantee allow its work to cause a hazard or unsafe conditions.
11. Grantee is responsible for identifying any existing utility lines located within the Premises and for any and all damages, costs or liabilities that result caused by Grantee that result from any damages to any exiting utilities within the Premises.
12. Grantor does not warrant that title to the Premises is free and clear of all encumbrances or that it has sole ownership or that it will defend Grantee in its peaceful use and occupancy of the Premises. Grantee assumes all liability in determining the sufficiency of Grantor's right to convey this Easement.
13. Grantee shall obtain all necessary permits, approvals, and licenses and comply with all applicable federal, state, and local statutes, regulations and ordinances affecting the design, materials or performance of exercising any and all rights granted by this Easement.
14. Grantee shall properly abandon the monitoring well and restore the Premises to pre-existing conditions when monitoring work has been completed and the monitoring station is decommissioned. If a replacement monitoring well is drilled, due to some unforeseen problem, the replaced well will be properly abandoned and this Easement will remain in place for a newly drilled replacement well. Upon final decommissioning of wells at this monitoring station, this Easement shall terminate.
15. The Easement shall automatically terminate upon Grantee's abandonment of the Premises and shall automatically revert to and re-vest in Grantor without reentry upon the abandonment of the use of the same for groundwater data collection purposes, or upon non-use of the same for a period of 2 years. Grantee's duties as reflected in paragraph 14 shall survive the reversion.
16. Grantee agrees to hold harmless Grantor, its officers, agents and employees from any and all liability, including claims, demands, losses, costs, damages, and expenses of every kind and description (including death), or damages to persons or property arising out of or in connection with or occurring during the course of this Easement where such liability is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of Grantee while acting within the scope of their employment where protection is afforded by secs. 893.82 and 895.46(1), Wis. Stats.
17. Grantor retains management, supervision and control over the Premises for the purpose of enforcing pertinent state laws needed to protect the Premises, its natural resources or the general public, including Chapter NR 45, Wis. Admin. Code, which governs the conduct of visitors to state lands.
18. All notices or other writings this Easement requires to be given, or which may be given, to either party by the other shall be deemed to have been fully given when made in writing and deposited in the United States mail, prepaid and addressed as follows:

- a. To Grantor: City of Kaukauna, 144 W. 2nd Street, Kaukauna, WI 54130.
 - b. To Grantee: U.S. Department of the Interior, U.S. Geological Survey, c/o Robert Waschbusch, 8505 Research Way, Middleton, WI 53562-3581
 - c. The address to which any notice, demand, or other writing may be given, made or sent to either party to this Easement may be changed by written notice.
19. This Easement shall be binding on Grantor and Grantee, their successors and assigns.
 20. This Easement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
 21. This Easement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged Grantor and Grantee.
 22. If any term or condition of this Easement shall be deemed invalid or unenforceable, the remainder of this Easement shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.
 23. Enforcement of this Easement 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 Easement, either to restrain or prevent the violation or to obtain any other relief.

END OF CONDITIONS

GRANTOR:

CITY OF KAUKAUNA

By: _____
Name: Anthony J. Penterman
Title: Mayor

By: _____
Name: Sally A. Kenny
Title: Clerk

STATE OF WISCONSIN)
) SS
COUNTY OF OUTAGAMIE)

Personally came before me on _____, 2021, the above-named Anthony J. Penterman and Sally A. Kenney, to me known by the person(s) who executed the foregoing instrument and acknowledged to me that they executed the same in their authorized capacity, and that by his/her signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

Notary Public, State of Wisconsin
My commission expires:

IN WITNESS WHEREOF, U.S. Department of the Interior, U.S. Geological Survey, c/o Hydrologist, 8505 Research Way, Middleton, WI 53562 hereby accepts and consents to the terms and conditions of this Easement this _____ day of _____, 2021.

U.S. Department of the Interior,
U.S. Geological Survey

By _____ (SEAL)
Robert Waschbusch, Hydrologist
Midwest Region

State of Wisconsin)
) ss.
County of _____)

Personally came before me this _____ day _____, 2021, the above named, Robert Waschbusch, Hydrologist, U.S. Department of the Interior, U.S. Geological Survey, to me known to be the person who executed the foregoing instrument and acknowledged that he executed and delivered the same as and for the act and deed of Grantee.

*

Notary Public, State of Wisconsin
My Commission (expires)(is)_____.

IN WITNESS WHEREOF, Wisconsin Geological and Natural History Survey – UW Madison, c/o hydrologist, 3817 Mineral Point Road, Madison, WI 53705 hereby accepts and consents to the terms and conditions of this Easement this _____ day _____, 2021.

Wisconsin Geological and Natural History Survey, University of Wisconsin - Madison

By _____ (SEAL)

Dan Langer

Assistant, Vice Chancellor/Controller

State of Wisconsin)

) ss.

County of _____)

Personally came before me this _____ day of _____, 2021, the above named, Dan Langer Assistant Vice Chancellor/Controller for UW-Madison, to me known to be the person who executed the foregoing instrument and acknowledged that he executed and delivered the same as and for the act and deed of the Grantee.

*

Notary Public, State of Wisconsin

My Commission (expires)(is) _____.

This instrument prepared by:

City of Kaukauna

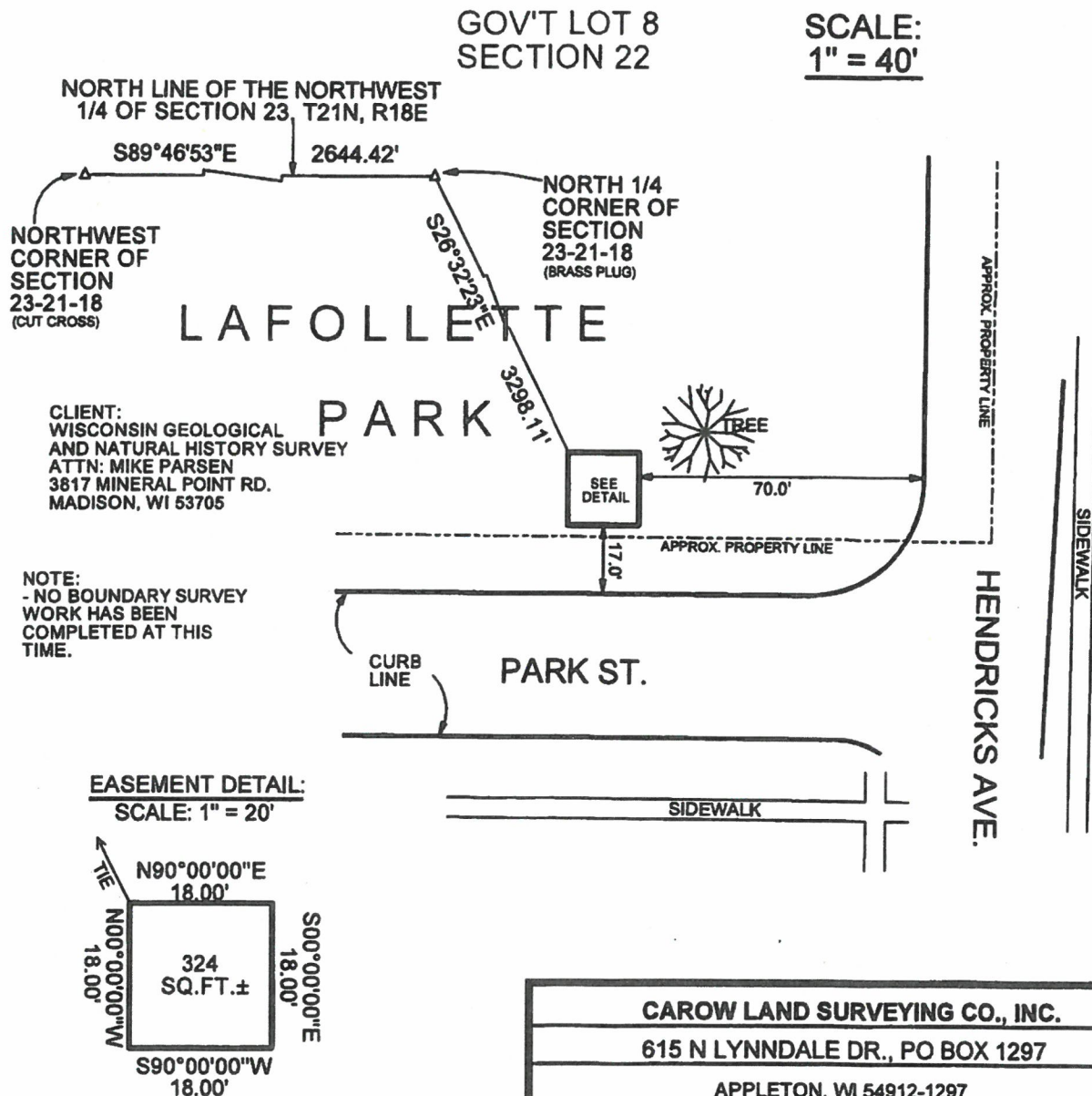
Attorney Kevin Davidson, 144 W. Second Street, Kaukauna, WI 54130

EASEMENT EXHIBIT A

"NGWMN 2020 - WELL OU-1900"

DESCRIPTION:

BEING PART OF "KLEINS PARK" (NOW KNOWN AS LAFOLLETTE PARK) PER THE ASSESSOR'S MAP OF THE CITY OF KAUKAUNA, LOCATED IN AND BEING PART OF GOVERNMENT LOT 8, SECTION 22, TOWNSHIP 21 NORTH, RANGE 18 EAST, SOUTH OF THE FOX RIVER, CITY OF KAUKAUNA, OUTAGAMIE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 23, TOWNSHIP 21 NORTH, RANGE 18 EAST, NORTH OF THE FOX RIVER; THENCE S26°32'23"E, 3298.11 FEET TO THE POINT OF BEGINNING; THENCE N90°00'00"E, 18.00 FEET; THENCE S00°00'00"E, 18.00 FEET; THENCE S90°00'00"W, 18.00 FEET; THENCE N00°00'00"W, 18.00 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINS 324 SQ. FT. OF LAND MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.



A2104.45

CAROW LAND SURVEYING CO., INC.

615 N LYNNDAL DR., PO BOX 1297

APPLETON, WI 54912-1297

DATE: 4/27/2021

SCALE: 1" = 40'

DRAWN BY: CP

