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Tx:8701836

JOINT DRIVEWAY AGREEMENT

(This instrument establishes easement rights only, is not a conveyance within the meaning of Section 77.21(1), Wisconsin Statutes, and is exempt from transfer tax return and transfer fee.)

**KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS**

DOCUMENT #

5189253

10/07/2015 8:51 AM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 12

Name and return address:

Rick Schmidt

P.O. Box 927

Madison, WI 53701-0927

Parcel Identification Numbers: 060725196810
060725480520
060725485030
060725190021
060725485400
060725482600

Joint Driveway Agreement ("*Agreement*") made by Martin A. Bethke, Kathleen M. Van De Grift, and Dennis C. Midthun (collectively, the "*Partners*"), as the owners of Parcels A and B (defined below), and Dennis C. Midthun, individually, as the sole owner of Parcel C (defined below).

RECITALS

- A. The Partners own real estate located in Town of Springdale, Dane County Wisconsin, described on the attached **Exhibit A** ("*Parcel A*"). The term "Parcel A Owner" means the owner of Parcel A from time to time (whether the Partners or their successors or assigns).
- B. The Partners own real estate located in Town of Springdale, Dane County Wisconsin, described as Lot 3, Certified Survey Map No. 12742, Document No. 4587361, Dane County, Wisconsin, which is graphically depicted on **Exhibit B** as "Parcel B" ("*Parcel B*"). The term "*Parcel B Owner*" means the owner of Parcel B from time to time (whether the Partners or their successors or assigns).

- C. Parcel A is contiguous to Parcel B. A driveway that currently serves both Parcel B and Parcel A (the "*Driveway*") is located on Parcel B and within the area depicted on **Exhibit B** as the "Joint Driveway Easement" (the "*Easement Property*"). The Easement Property runs generally east and west, extending from the building envelope on the Parcel A, across the northern part of Parcel B, to Spring Rose Road. Any existing or future driveway located within any part of the Easement Property will be referred to in this Agreement as the "*Driveway*."
- D. Under the Current Town of Springdale ("Town") Land Use Plan and Ordinances, no further land divisions are permitted for the Parcels A, B and C.
- E. Dennis C. Midthun owns Lot 1, Certified Survey Map No. 12812, Document No. 3506294, Dane County, Wisconsin ("*Parcel C*"). Parcel C is adjacent to—but is not currently served by—the Driveway. The term "Parcel C Owner" means owner of Parcel C from time to time (whether Mr. Midthun or his successors or assigns). The Parcel A Owner, the Parcel B Owner, and the Parcel C Owner are sometimes hereinafter collectively referred to as the "*Owners*." Parcel A, Parcel B, and Parcel C are sometimes hereinafter collectively referred to as "*Parcels A, B & C*." On the basis of the granting of the easement and right of way specified in paragraph 1 below, Parcel C Owner is terminating his right to access Parcel C pursuant to the Joint Driveway Agreement recorded with the Dane County Register of Deeds as Document No. 3734 142. The portion of the Easement Property shown on Exhibit B on Parcel B that is 14 feet wide is considered a single use driveway under the Town's current Driveway Specifications for New Driveways.
- F. The Town is requiring the maintenance of certain stormwater detention improvements ("Detention Pond") be addressed as part of its approval of certain driveway improvements and a driveway permit.

AGREEMENT

FOR CONSIDERATION, and intending to be legally bound, the Owners hereby declare and agree as follows:

- I. Grant. The Partners hereby declare and grant an easement and right of way on, over, across, and under the Easement Property for the benefit of the Building Envelope Area of Parcel A as shown on Exhibit B and Parcel C. The purpose of the easement is to create a non-exclusive easement allowing shared access for the benefit of Parcels A, B, and C according to the terms and conditions of this Agreement. The Easement Property may be used for all ingress and egress purposes by the Owners and their respective families, tenants, licensees, permittees, and

invitees, including, without limitation, pedestrians, motor vehicles, farm equipment, horses and livestock, and emergency and other service vehicles.

2. Maintenance Costs. The Driveway is not currently improved, and the Detention Pond not yet built. The Driveway shall not be paved, relocated or expanded in size, except with the prior written consent of Owners. Each of the Owners shall pay 33.33% of the cost of paving (if approved), repairing, replacing, and maintaining the Driveway, as well as the cost of any maintenance, repair, or replacement of the Detention Pond from time to time. Unless the Owners agree otherwise, all such shared paving and stormwater facility maintenance, repair, and removal shall be performed by Parcel B Owner. The Parcel A Owner and Parcel C Owner each agrees to promptly pay its share of the expenses of maintenance, repair, and removal incurred by the Parcel B Owner within 30 days of billing for the expenses. If either fails to do so, then the Parcel B Owner may pay the full cost and then have an immediate right to reimbursement from the Parcel A Owner and Parcel C Owner, together with interest at the rate of Twelve Percent (12%) per year on the unpaid amount and all reasonable attorney fees and other collection costs incurred by the Parcel B Owner. Repairs and maintenance shall be performed at such times and in such a manner as are mutually agreeable to the Owners, or as may be required by governmental authorities. If the Owners are unable to agree within 10 days of a written request by one or the other on the need for the repair or maintenance, then the matter shall be referred, upon any Owner's request, to arbitration.

3. Indemnity. The Owners shall each indemnify and defend the other and the other's officers, owners, agents, heirs and employees from all liability, suits, actions, claims, costs, damages, and expenses of every kind and description, including court costs and legal fees, for claims of any character, including liability and expenses in connection with the loss of life, personal injury, or damage to property, brought because of any injuries or damages received or sustained by any person, persons, or property on account of or arising out of the use of the Easement Property by the indemnifying party or its agents, contractors, subcontractors, invitees, or employees.

4. Equal Rights of Use. The Owners shall have equal rights of ingress and egress over the Driveway and shall take no action to prevent the other party's enjoyment of such rights.

5. Covenants Run with Land. 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 Owners and their respective successors and assigns. The easement granted under Section 1 of this Agreement is an easement appurtenant to Parcel A and Parcel C, and burdens Parcel B. The benefits of the easements granted under this Agreement shall not be extended to additional users or any properties other than Parcel A and Parcel C as shown on Exhibit B, without the consent of all of the Owners and the express written consent

of the Town Board of the Town. The specific parties named as the Owners in this Agreement, and each of their respective successors and assigns as fee simple owners of Parcels A, B, or C, respectively, shall cease to have further liability under this Agreement with respect to facts or circumstances first arising after the party has transferred its fee simple interest in Parcels A, B, or C, respectively, except, however, for obligations that accrued during the party's period of ownership of title. Subject to any additional consent required under paragraph 9, this Agreement may only be amended by written instrument signed by the Owners.

6. **No Merger.** THIS AGREEMENT SHALL NOT BE EXTINGUISHED, INVALIDATED OR OTHERWISE MODIFIED BY THE DOCTRINE OF MERGER OR BY ANY OTHER CONSEQUENCE OF COMMON OWNERSHIP, NOW OR HEREAFTER, OF PARCELS A, B, OR C, OR ANY COMBINATION OR PART OF THOSE PROPERTIES.

7. **Non-Use.** Non-use or limited use of the easement rights granted in this Agreement shall not prevent any of the Owners from later use of the easement rights to the fullest extent authorized in this Agreement.

8. **Governing Law.** This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.

9. **Entire Agreement.** 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 Dane County, Wisconsin. Recital E, Paragraphs 1, 5, 9, 13 and the exhibits attached to this Agreement shall not be changed without a written document executed and acknowledged by the Town Board of the Town of Springdale and duly recorded in the office of the Register of Deeds of Dane County, Wisconsin.

10. **Notices.** All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the other party at that party's last known address. If the other party's address is not known to the party desiring to send a notice, the party sending the notice may use the address to which the other party's property tax bills are sent. Either party may change its address for notice by providing written notice to the other party.

11. **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.


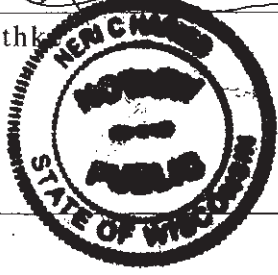
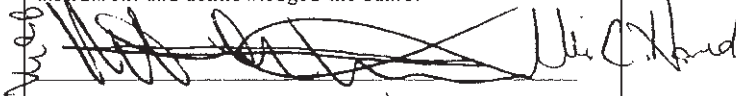

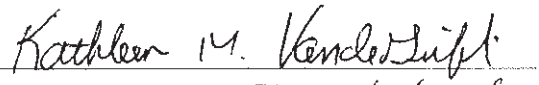
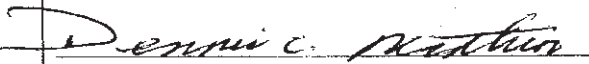
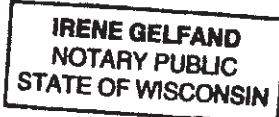
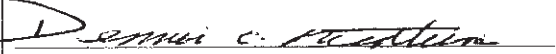
12. Waiver. No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

13. 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, including reasonable attorney fees, from the nonprevailing party. Pursuant to Town Ordinances regarding shared driveways, the Owners hereby absolve the Town from responsibility for and agree to not involve the Town in any dispute regarding this Agreement.

14. No Public Dedication. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the easement granted under this Agreement to the general public or for any public purpose whatsoever. The Owners agree to cooperate with each other and to take such measures as may be necessary to prevent the dedication to the public of the Driveway, whether by express grant, implication, or prescription, including, without limitation, the posting of "Private Drive" or "No Trespassing" signs. Such measures shall not, however, unreasonably interfere with the easement rights granted under this Agreement.

15. Self Help. If the parties to this Agreement fail to maintain, repair, or replace the Detention Pond as reasonably necessary, at any time or from time to time, and if that failure continues for 30 days after written notice, then the Town of Springdale is hereby granted the right to perform the necessary maintenance, repair, or replacement, and to charge the parties for the cost of that work. The liability of the parties to the Town of Springdale will be joint and several, will bear interest at the rate of 12% until paid, and will constitute a lien against Parcels A, B & C until paid.

[signatures follow]

<p> Martin A. Bethke</p> 	<p style="text-align: center;">ACKNOWLEDGMENT</p> <p>STATE OF WISCONSIN) ss. COUNTY OF DANE)</p> <p>Personally came before me this <u>20</u> day of <u>August</u>, 2015, Martin A. Bethke, to me known to be the person who executed the foregoing instrument and acknowledged the same.</p> <p> Print name of Notary: <u>Neril C. Hendricks</u> Notary Public, State of Wisconsin My Commission is permanent (or if not, state expiration date: <u>June 8, 2018</u>)</p>
<p>Kathleen M. Van De Grift</p> 	<p style="text-align: center;">ACKNOWLEDGMENT</p> <p>STATE OF WISCONSIN) ss. COUNTY OF DANE)</p> <p>Personally came before me this <u>17th</u> day of <u>August</u>, 2015, Kathleen M. Van De Grift, to me known to be the person who executed the foregoing instrument and acknowledged the same.</p> <p> Print name of Notary: <u>Irene Gelfand</u> Notary Public, State of Wisconsin My Commission is permanent (or if not, state expiration date: _____)</p>
<p> Dennis C. Midthun</p> 	<p style="text-align: center;">ACKNOWLEDGMENT</p> <p>STATE OF WISCONSIN) ss. COUNTY OF DANE)</p> <p>Personally came before me this <u>17th</u> day of <u>August</u>, 2015, Dennis C. Midthun, to me known to be the person who executed the foregoing instrument and acknowledged the same.</p> <p> Print name of Notary: <u>Irene Gelfand</u> Notary Public, State of Wisconsin My Commission is permanent (or if not, state expiration date: _____)</p>

Drafted by John Starkweather, Boardman & Clark LLP

**SIGNATURE PAGE OF MORTGAGEE
OF PARCEL A**

The undersigned, a mortgagee of the captioned the Parcel A, consents to this Agreement and subordinates the lien of its mortgage to the Agreement.

MORTGAGEE:

By: _____

Name: _____

Title: _____

Date: _____, 2015.

ACKNOWLEDGMENT

STATE OF WISCONSIN)

) ss.

COUNTY OF _____)

Personally came before me this _____ day of _____,
2015, the above named _____
to me known to be the person(s) who executed the foregoing instrument and
acknowledged the same.

Print name of Notary: _____

Notary Public, State of Wisconsin

My Commission is permanent. (If not, state expiration date:
_____, _____.)

**SIGNATURE PAGE OF MORTGAGEE
OF PARCEL B**

The undersigned, a mortgagee of the captioned the Parcel B, consents to this Agreement and subordinates the lien of its mortgage to the Agreement.

MORTGAGEE:

By: _____

Name: _____

Title: _____

Date: _____, 2015.

ACKNOWLEDGMENT

STATE OF WISCONSIN)

) ss.

COUNTY OF _____)

Personally came before me this _____ day of _____, 2015, the above named _____ to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Print name of Notary: _____

Notary Public, State of Wisconsin

My Commission is permanent. (If not, state expiration date: _____.)

**SIGNATURE PAGE OF MORTGAGEE
OF PARCEL C**

The undersigned, a mortgagee of the captioned the Parcel C, consents to this Agreement and subordinates the lien of its mortgage to the Agreement.

MORTGAGEE:

State Bank of Cross Plains

By: Melissa M. Torres

Name: Melissa M Torres

Title: Vice President - Credit Risk

Date: 9-2-15, 2015.

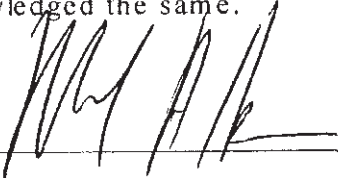
ACKNOWLEDGMENT

STATE OF WISCONSIN)

) ss.

COUNTY OF Dane)

Personally came before me this 2nd day of September, 2015, the above named Melissa M. Torres to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.



Print name of Notary: Melissa A. Kraemer

Notary Public, State of Wisconsin

My Commission is permanent. (If not, state expiration date:

October 2, 2016.)

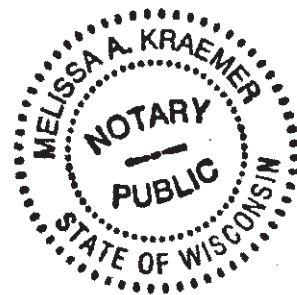


Exhibit A—Legal Description of Parcel A

THE WEST 2/3RDS OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 6 NORTH, RANGE 7 EAST, TOWN OF SPRINGDALE, DANE COUNTY, WISCONSIN. (PARCEL No. 060725196810)

THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 6 NORTH, RANGE 7 EAST, TOWN OF SPRINGDALE, EXCEPT COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF NORTHEAST 1/4; THENCE NORTH 1 1/2 RODS; THENCE EAST 12 RODS 4 FEET 6 INCHES; THENCE SOUTH 15 RODS 6 FEET TO THE CENTER LINE OF HIGHWAY; THENCE SOUTHWESTERLY ALONG SAID CENTER LINE TO THE WEST LINE OF SAID WEST 1/2 OF NORTHEAST 1/4; THENCE NORTH ALONG SAID WEST LINE TO THE POINT OF BEGINNING. (PARCEL No. 060725190021)

THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE WEST 2/3RDS OF THE N.E. 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 6 NORTH, RANGE 7 EAST, TOWN OF SPRINGDALE, DANE COUNTY, WISCONSIN. (PARCEL No. 060725485030)

EXCEPT ANY OF THE FOLLOWING DESCRIBED PARCELS WHICH MAY BE WITHIN THE ABOVE DESCRIPTION:

CERTIFIED SURVEY MAP NO. 10435, RECORDED IN VOLUME 61 OF CERTIFIED SURVEYS, PAGE 282 AS DOCUMENT NO. 3506294.

CERTIFIED SURVEY MAP NO. 12742, RECORDED IN VOLUME 80 OF CERTIFIED SURVEYS, PAGE 246 AS DOCUMENT NO. 4587361.

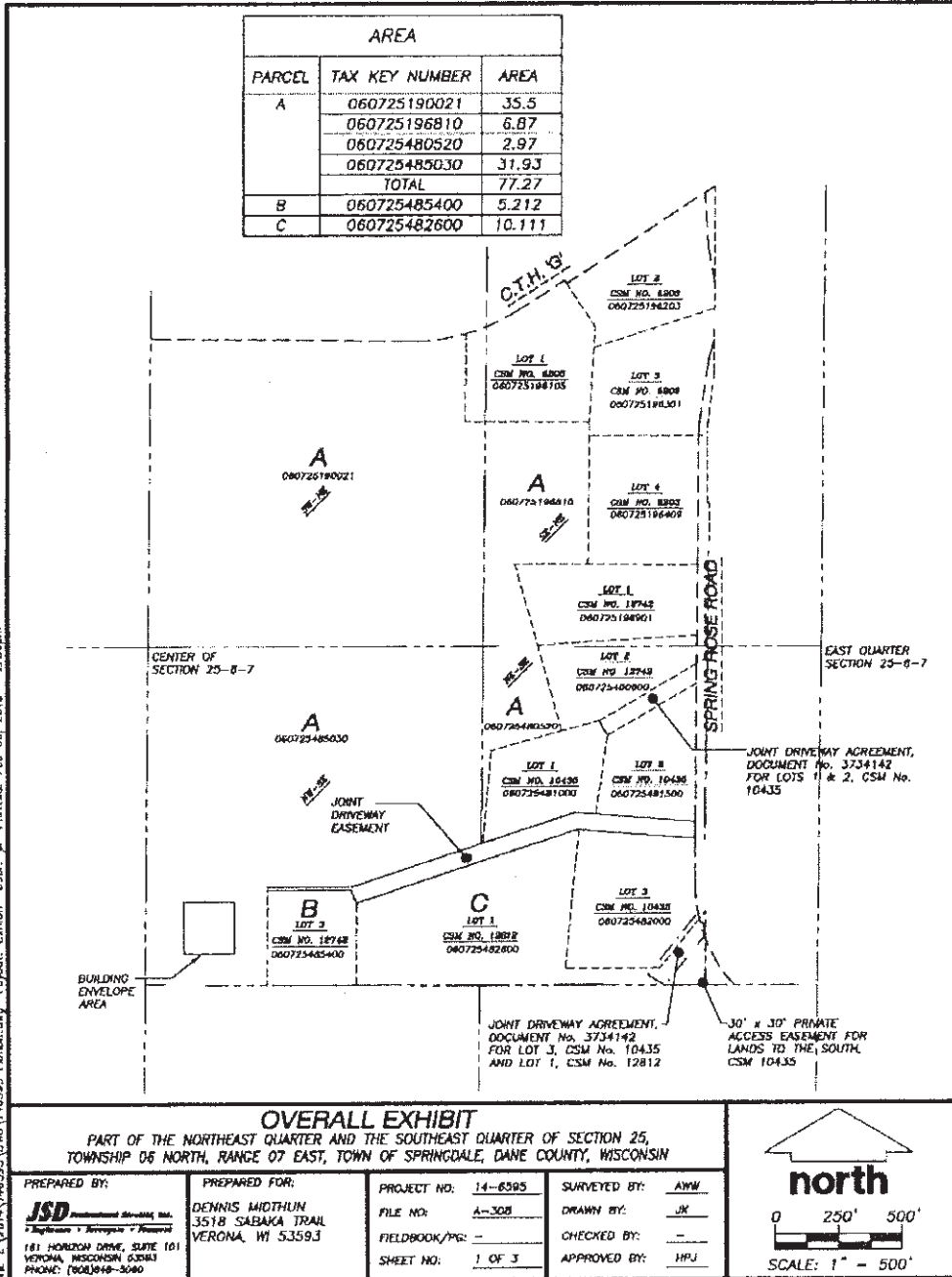
CERTIFIED SURVEY MAP NO. 12812, RECORDED IN VOLUME 61 OF CERTIFIED SURVEYS, PAGE 281 AS DOCUMENT NO. 3506294.

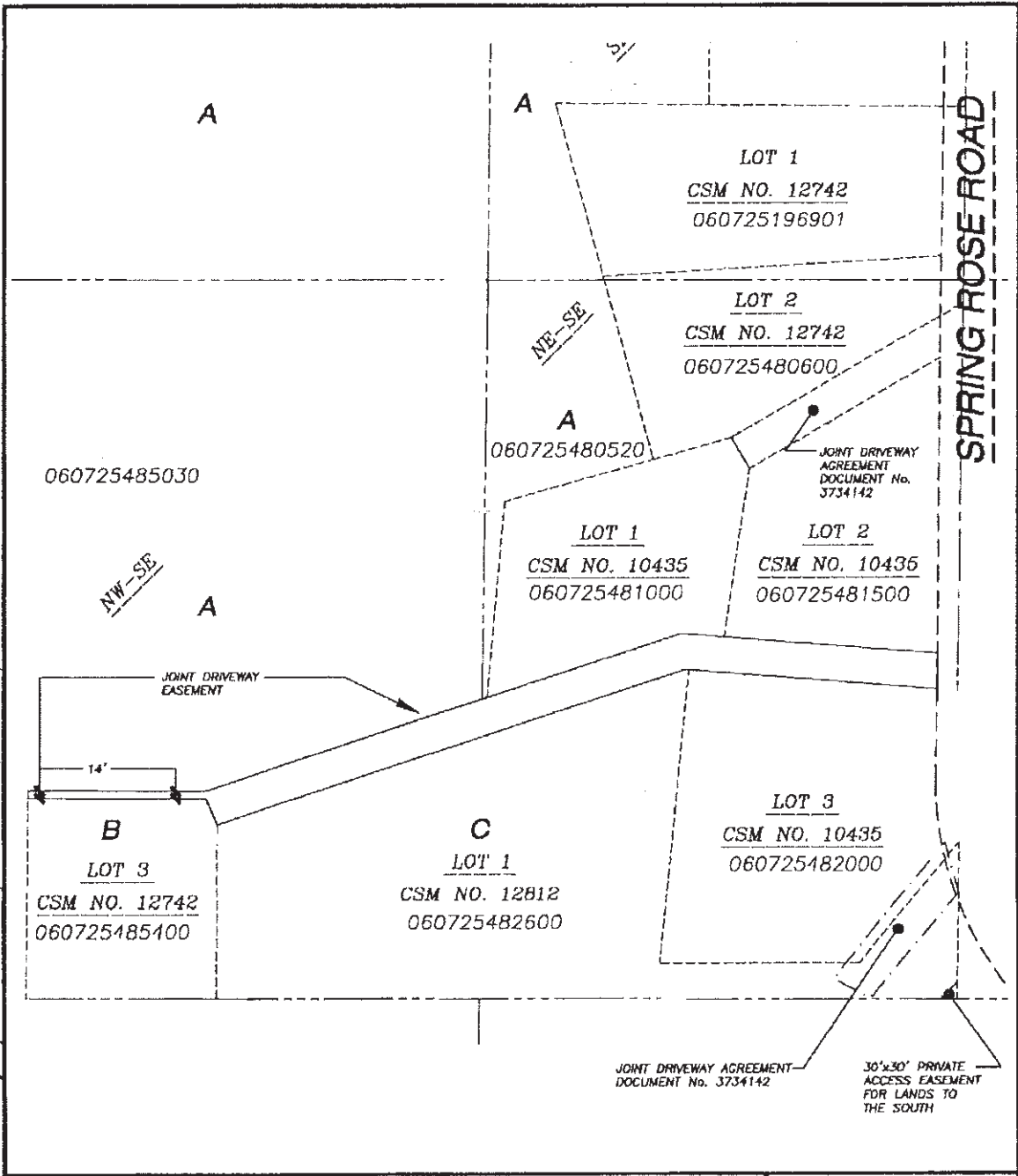
CERTIFIED SURVEY MAP NO. 6203, RECORDED IN VOLUME 30 OF CERTIFIED SURVEYS, PAGE 32 AS DOCUMENT NO. 2222650.

PARCEL NO. 060725480520

Exhibit B

THIS IS A GRAPHIC DEPICTION OF PARCELS A, B & C INTENDED ONLY TO SHOW SPATIAL RELATIONS:





File: I:\2014\146595\DMG\146595 Exhibit.dwg Layout: Exhibit-2 User: J Plot/Text: Feb 06, 2015 - 2:51pm

EXHIBIT			
PART OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 06 NORTH, RANGE 07 EAST, TOWN OF SPRINGDALE, DANE COUNTY, WISCONSIN			
PREPARED BY: JSD Professional Services, Inc. <small>• Engineering • Surveying • Planning</small> 181 HORIZON DRIVE, SUITE 101 VERONA, WISCONSIN 53593 PHONE: (800)848-3080	PREPARED FOR: DENNIS MIDTHUN 3518 SABAKA TRAIL VERONA, WI 53593	PROJECT NO: 14-6595 FILE NO: A-308 FIELDBOOK/PG: -- SHEET NO: 2 OF 3	SURVEYED BY: AWW DRAWN BY: JK CHECKED BY: -- APPROVED BY: HPJ

