

JOINT DRIVEWAY EASEMENT AGREEMENT

THIS JOINT DRIVEWAY AGREEMENT (the *Agreement*) is between **TOWER TAVERN REAL ESTATE, LLC**, a Wisconsin limited liability company (*Parcel A Owner*) and **CITY OF MANITOWOC**, a Wisconsin municipal corporation (*Parcel B Owner*).

RECITALS:

A. Parcel A Owner is the owner of certain real property located in the City of Manitowoc, Manitowoc County, Wisconsin, as described on the attached Exhibit A and referred to on the exhibit and in this Agreement as *Parcel A*.

B. Parcel B Owner is the owner of certain real property located in the City of Manitowoc, Manitowoc County, Wisconsin, as described on the attached Exhibit B and referred to on the exhibit and in this Agreement as *Parcel B*.

C. Parcel A Owner and Parcel B Owner acknowledge that an entrance or driveway (the *Street*) is on that portion of Parcel B more particularly described on the attached Exhibit C which is known as Park Street and referred to on the exhibit and in this Agreement as the *Street*.

D. Parcel A Owner allows the users of Parcel B to exit through a driveway through Parcel A to exit onto North Water Street (the *Driveway*) referred to in this Agreement as the *Easement Property*.

E. Parcel A Owner is willing to create an easement over the Easement Property to enable Parcel B Owner to use the Driveway, under the terms of this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **Grant.** Parcel A Owner grants a nonexclusive easement and right-of-way to Parcel B Owner as the owner of Parcel A to use the Driveway and the Easement Property as a joint driveway for egress to North Water Street from Parcel A.

2. **Permitted Users.** The easement granted in Section 1, above, may be used by those vehicles using the designated parking area on Park Street, which is a one-way street with angle parking on both sides, to park or use said street to access additional parking owned by Parcel A Owner, and employees, customers, and invitees in common with Parcel A Owner and its tenants, employees, customers, and

invitees.

3. **Maintenance Costs.** Parcel A Owner shall bear all maintenance expenses incurred in daily usage of the Easement Property. Unless Parcel A Owner and Parcel B Owner agree otherwise, all maintenance, repair, and snow removal shall be performed by Parcel A Owner. Repairs and maintenance shall be performed at such times and in such a manner as Parcel A Owner shall choose. Parcel B Owner shall be responsible for the repair or maintenance of Park Street at its cost and discretion and in accordance with City policies and ordinances.

4. **Indemnity.** Parcel A Owner shall indemnify and defend Parcel B Owner and its officers, agents, 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 Parcel B by Parcel A Owner or its agents, contractors, subcontractors, invitees, or employees.

5. **Insurance.** Parcel A Owner shall maintain in effect at all times during the term of this Agreement a policy of commercial general liability insurance naming Parcel B Owner and any other party designated by Parcel B Owner as the insured, to insure against injury to property, person, or loss of life arising out of Parcel A Owner's use, occupancy, or maintenance of the Easement Property or the Driveway with limits of coverage that are at levels customarily maintained by businesses in the community in which the Easement Property is located. For each year in which this easement is in effect, Parcel A Owner shall provide Parcel B Owner and the other parties designated by Parcel B Owner with a copy of the insurance policy endorsement or wording showing that Parcel B Owner and the other parties have been added as additional insureds. The policy shall contain a supplemental endorsement covering contractual liability voluntarily assumed by the insured under this Agreement. Insurance required of Parcel A Owner under this Agreement shall be written by companies duly qualified to do business in the State of Wisconsin and shall be satisfactory in all respects to Parcel B Owner and the holder of any mortgage against Parcel B. Parcel A Owner shall deliver to Parcel B Owner copies of the policies or certificates evidencing the existence and amounts of the insurance with loss payable clauses satisfactory to Parcel B Owner. No such policy shall be cancelable or subject to reduction of coverage or modification except after 30 days' prior written notice to Parcel B Owner. At least 30 days before the expiration of Parcel A Owner's policies, Parcel A Owner shall furnish Parcel B Owner with renewals or "binders" of the policies, or Parcel B Owner may order such insurance and charge the cost to Parcel A Owner. Parcel A Owner shall not do or permit anything to be done that will invalidate the insurance policies furnished by Parcel A Owner. Parcel B Owner may from time to time require that the policy limits of any or all such insurance be increased to reflect the effects of inflation and changes in normal commercial insurance practice.

6. **Equal Rights of Use.** Parcel A Owner and Parcel B Owner shall have equal rights of ingress over the Driveway and shall take no action to prevent the other party's enjoyment of such rights. Parcel B Owner's right to use said driveway shall cease should the City of Manitowoc decide to redirect traffic on Park Street to a two-way street.

7. **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 Parcel A Owner and Parcel B Owner and their respective successors and assigns. The easement granted under Section 1 of this Agreement is an easement appurtenant to Parcel A and may not be transferred separately from, or severed from, title to Parcel A. Furthermore, the benefits of the easements granted under this Agreement shall not be extended to any properties other than Parcel A without the consent of Parcel B Owner. The specific parties named as Parcel A Owner and Parcel B Owner in this Agreement, and each of their respective successors and assigns as fee simple owners of Parcel A and Parcel B, respectively, or any portion of Parcel A or Parcel B, 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 Parcel A or Parcel B, respectively, except, however, for obligations that accrued during the party's period of ownership of title.

8. **Non-Use.** Non-use or limited use of the easement rights granted in this Agreement shall not prevent Parcel A Owner from later use of the easement rights to the fullest extent authorized in this Agreement.

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

10. **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 Manitowoc County, Wisconsin.

11. **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.

12. **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.

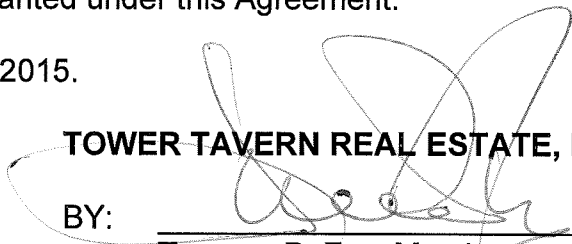
13. Waiver. No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed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

14. 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 non-prevailing party.

15. 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. Parcel A Owner and Parcel B Owner 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.

Dated this _____ day of May 2015.

TOWER TAVERN REAL ESTATE, LLC

BY: 
Terence P. Fox, Member

BY: 
Brian Laurent, Member

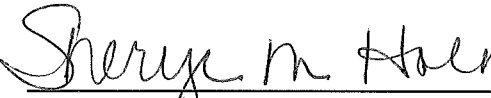
CITY OF MANITOWOC

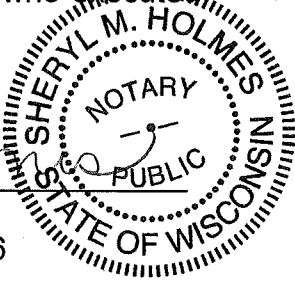
BY: _____
Justin M. Nickels, Mayor

BY: _____
Jennifer Hudon, City Clerk

STATE OF WISCONSIN)
)SS
MANITOWOC COUNTY)

Personally came before me this 26th day of May 2015, the above-named **Terence P. Fox and Brian J. Laurent**, to me known to be the persons who executed the foregoing instrument and acknowledged the same.



Sheryl M. Holmes, Notary Public
My Commission: Expires 7/10/16


STATE OF WISCONSIN)
)SS
MANITOWOC COUNTY)

Personally came before me this _____ day of May 2015, the above-named **Justin M. Nickels**, Mayor of the city of Manitowoc, and **Jennifer Hudon**, City Clerk of the City of Manitowoc, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

_____, Notary Public
My Commission: _____

EXHIBIT A

The South 45 feet of the East 150 feet of Lot Numbered Ten (10) and also All
of Lot Numbered Eleven (11);

All in Block Numbered Sixty-three (63) of the Original Plat in the City of Manitowoc,
according to the Recorded Plat thereof.

Tax Parcel No. 000-063-110

EXHIBIT B
(Legal description of Parcel B)

That part of the dedicated Park St. as shown on the Original Plat of the City of Manitowoc, recorded at the Manitowoc County Register of Deeds Office; which is west of N. 10th St. and extends west to the edge of the Manitowoc River. Said Right-of-Way is 80 feet wide.

EXHIBIT C

(Legal description of Easement Property)

JOINT DRIVEWAY EASEMENT AGREEMENT

FROM: Tower Tavern Real Estate LLC

TO: City of Manitowoc
900 Quay St.
Manitowoc, WI 54220
Parcel # 000-063-110

Address: 602 N. Water St.
Manitowoc, WI 54220

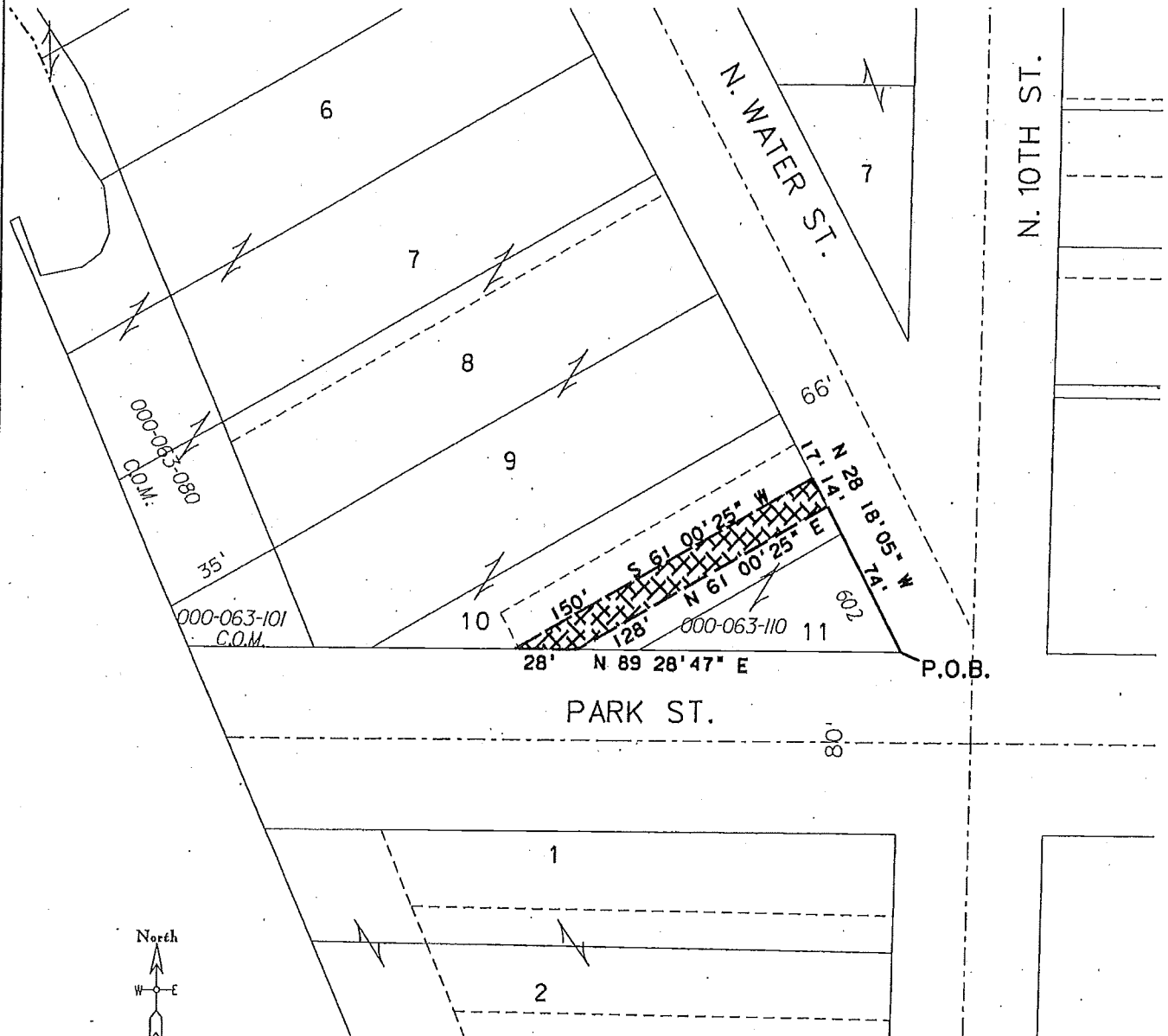
A parcel of land located in the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of Section 19, Township 19 North, Range 24 East, City of Manitowoc, Manitowoc County, Wisconsin, being part of parcel #052-000-063-110, recorded at the Manitowoc County Courthouse Register of Deeds Office in Volume 2570 Page 668, and being more particularly described as follows:

Commencing at the southeast corner of said parcel, also being the northwest corner of Park St. and N. Water Street Intersection; thence N 28°18'05" W, along the east line of said parcel, also being the Westerly line of N. Water Street, 74 feet more or less to the true point of beginning; thence N 28°18'05" W, along the west Right-of-Way line of N. Water St., a distance of 14 feet more or less; thence S 61°00'25" W, a distance of approximately 150 feet more or less to the north Right-of-Way of Park Street; thence N 89°28'47" E, 28 feet more or less along said north Right-of-Way of Park St.; thence N 61°00'25" E, along a line that is 31 feet parallel to the north line of said parcel to the west Right-of-Way line of N. Water Street also being the true point of beginning. All measurements are approximate.

Said parcel contains 0.04 acres more or less, and is shown on the attached map.

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jme 6/08/2015

JOINT DRIVEWAY EASEMENT AGREEMENT



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