

**DECLARATION OF EASEMENT
AND MAINTENANCE
AGREEMENT
FOR PRIVATE DRIVE,
SIDEWALK, RETAINING WALL
AND UTILITIES**

Drafted By and Return To:
Lori J. Bochniak
American Family Mutual Ins.
Co., S.I.
6000 American Parkway
Madison, WI 53783

PINs:
251/0810-153-0202-9
251/0810-153-0205-3

This Declaration of Easements and Maintenance Agreement for Private Drive, Sidewalk, Retaining Wall and Utilities ("**Declaration**") is made effective as of _____, 2024 by and between University of Wisconsin Hospitals and Clinics Authority ("**UWHCA**"), and American Family Mutual Insurance Company, S.I., a Wisconsin corporation ("**AmFam**") together, "**Parties**".

WHEREAS, AmFam owns property described as follows:

Being part Unplatted Lands located in the Northwest 1/4 and the Southwest 1/4 of Section 15, Township 8 North, Range 10 East, City of Madison, Dane County, Wisconsin, bounded and described as follows:

Commencing at the West 1/4 corner of said Northwest 1/4 of Section 15; thence bearing N88°57'11"E along the South line of said Northwest 1/4, a distance of 33.04 feet to the Easterly Right-of-Way (ROW) line of Portage Road also being the Point of Beginning (POB); thence bearing N01°32'09"E along said line, a distance of 524.41 feet; thence bearing N88°21'47"E, a distance of 1929.69 feet; thence bearing S01°01'24"W, a distance of 539.49 feet to the South line of said Northwest 1/4; thence bearing N88°57'11"E along said line, a distance of 663.93 feet to the East line of the Southwest 1/4 of said Section 15; thence bearing S01°14'49"W along said line, a distance of 1421.25 feet to the Northerly line of Lot 1 of Certified Survey Map (CSM) 15485;

thence 1328.95 feet along the arc of a curve to the right along said CSM and its Northwesterly extension, whose radius is 1580.00 feet, and whose chord bears N36°42'40"W, a distance of 1290.12 feet to the Northeast corner of Lot 1 of CSM 13226; thence bearing N89°28'22"W along said line and its Westerly extension, a distance of 1803.91 feet to the Easterly ROW line of Portage Road; thence bearing N01°32'09"E along said line, a distance of 322.73 feet to the Point of Beginning.

(hereinafter "**AmFam Lot**")

;and

WHEREAS, UWHCA owns property adjacent and to the South of the above described property described as follows:

Lot 1, CERTIFIED SURVEY MAP NO 13226 AS RECORDED IN DANE COUNTY REGISTER OF DEEDS IN VOL 85 PAGE 124 OF CERTIFIED SURVEYS, in the City of Madison, Dane County, Wisconsin.

(hereinafter "**UWHCA Lot**" and, with the AmFam Lot collectively the "**Properties**")

;and

WHEREAS, UWHCA wishes to complete an addition to the improvements on its UWHCA Lot northward and such addition will necessitate relocation of the fire lane, sidewalk, retaining wall and utilities north into AmFam's property; and

WHEREAS, AmFam wishes to grant UWHCA a permanent easement twenty eight (28) feet wide and three hundred seventy five (375) feet long along the southern boundary of the AmFam Lot to allow the above addition to UWHCA's improvements and to make agreements for maintenance and repair of the fire lane, sidewalk, retaining wall and utilities, including the allocation of performance and payment for maintenance, repair and replacement costs,

NOW, THEREFORE, in consideration of the mutual promises and benefits set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties grant to one another and agree as follows:

1. Grant of easement. AmFam hereby grants to UWHCA a permanent easement approximately twenty eight (28) feet wide and three hundred seventy five (375) feet long within the AmFam Lot as generally depicted on the attached **Exhibit A** ("**Easement Area**") for the sole purpose of installing and maintaining a private drive, sidewalk, retaining wall and utilities (collectively the "**Improvements**") for the benefit of the UWHCA Lot. UWHCA shall have the right to use of the Easement Area to excavate, install, operate, maintain, repair, replace, and/or modify a private drive, sidewalk, retaining wall and utilities.

2. Construction and Maintenance. UWHCA will be responsible for the excavation, installation, construction, maintenance, repair, modification or replacement of the Improvements in the Easement Area at its sole expense. Any of the aforementioned activities shall be subject to the review and approval of the City of Madison and the Development Design and Control Committee of The American Center, if applicable under applicable governing law, regulation,

ordinance, declaration or the like. Subsequent to the installation of the Improvements, UWHCA shall not modify the grade within the Easement Area without the approval of the City of Madison. UWHCA shall bear and promptly pay without the imposition of any lien or charge on or against all or any portion of AmFam Lot, all costs and expenses incurred by UWHCA in connection with the construction, maintenance, repair or replacement of the Improvements within the Easement Area. In the event that the UWHCA must disturb or open any part of AmFam Lot for the purpose of construction, maintenance, repair or replacement of the Improvements in the Easement Area, it is authorized to do so provided it uses commercially reasonable efforts to minimize the disturbance and shall restore the Easement Area at their sole cost to at least the same condition it was in prior to such construction, maintenance, repair or replacement.

3. Use. Use of the Easement Area, the Improvements maintained within it, and UWHCA's access to the Easement Area shall be subject to all laws, regulations, ordinances and lawful orders issued under them including, but not limited to, zoning/land use/building approvals and permits, all as may be amended from time to time (collectively, "**Laws**"), to the extent applicable.

4. Stormwater. UWHCA shall not alter or interfere with the existing stormwater drainage pattern unless required by the planned Improvements and allowed by the City of Madison provided it does not negatively impact the drainage of the AmFam lot or place an unreasonable burden on the AmFam Lot to fulfill its storm water and surface water drainage responsibilities. In the event the Improvements result in a material, adverse impact to the drainage of the AmFam Lot or place an unreasonable burden on the AmFam Lot to fulfill its stormwater and/or surface water drainage responsibilities, the parties agree to work together to document necessary easements or licenses reflecting the intent of this provision.

5. Taxes. UWHCA shall be liable for and shall pay all taxes and assessments levied against the Improvements located in the Easement Area. If any taxes on the Improvements are levied against AmFam or if the tax on the AmFam Lot is increased by the inclusion of a value placed upon the Improvements of UWHCA, and if AmFam pays the taxes based upon the increased assessment, UWHCA shall pay to AmFam an amount equal to the portion of the taxes so levied against AmFam that the Parties mutually agree are reasonably allocatable to the Improvements so levied against AmFam or the proportion of the taxes resulting from the increase in the assessment that is reasonably allocatable to the Improvements within 20 days of AmFam's request for payment with a paid receipt or other proof of payment of such taxes.

6. Reservation of Rights. The Easement Area is subject to the rights of AmFam, provided, however, that AmFam shall not: (a) enact or maintain any improvements within the Easement Area which may cause damage to or interfere with the Improvements to be placed within the Easement Area; or (b) develop, landscape, or beautify the Easement Area in any way which would unreasonably or materially obstruct or unreasonably increase the cost to UWHCA for installing or maintaining its Improvements or restoring the Easement Area and the surrounding access area, if impacted, after such installation or maintenance. AmFam shall have the right to grant additional easement rights in the Easement Area, provided the same shall not unreasonably interfere with, or otherwise adversely affect any of UWHCA's rights herein. Notwithstanding the foregoing, AmFam shall not grant any other easement rights within the Easement Area to any other individual or entity (each, an "**Other Interest Holder**") without first obtaining from UWHCA and

Other Interest Holder an indemnity agreement reasonably satisfactory to UWHCA, which agreement shall be between UWHCA, AmFam, and Other Interest Holder and shall provide AmFam and UWHCA with an indemnification from Other Interest Holder in connection with Other Interest Holder's use of the Easement Area. UWHCA agrees that in exercising its rights under this Declaration, it shall not unreasonably interfere with, or adversely affect any of AmFam's rights herein.

7. Insurance. UWHCA shall maintain, at its expense, and cause its general contractor and their subcontractors of any tier who may perform work in connection with this Declaration, and keep in force at all times during the term of this Declaration a policy of commercial general public liability insurance, which shall include coverage against claims for any injury, death, or damage to persons or property occurring on, in, or about the Easement Area with a combined single limit of not less than \$5,000,000 with respect to the Easement Area and UWHCA's use thereof. AmFam shall be named as an additional insured on such insurance policies on a primary and non-contributory basis. A waiver of subrogation endorsement shall apply waiving rights of subrogation against AmFam. Thirty (30) days advance written notice of cancellation or non-renewal shall be provided to AmFam.

UWHCA shall also maintain, at its expense, and cause its general contractor and their subcontractors of any tier who may perform work in connection with this contract, to maintain a ~~Contractor's Pollution Legal liability policy. The Contractors Pollution Legal Liability policy~~ shall include coverage as generally reasonable for the risk involved with limits of not less than \$5,000,000.

UWHCA shall also maintain at its expense and keep in force during the excavation, installation, construction, maintenance, repair, modification or replacement of the Improvements as provided herein during the term of this Agreement, and cause its general contractor and their subcontractor of any tier who may perform work in connection with this contract, to maintain a workers' compensation providing statutory benefits in the jurisdiction where work will be performed and employers liability limits not less than \$1,000,000 bodily injury by disease, each employee, \$1,000,000 bodily injury by disease, policy limit, \$1,000,000 bodily injury by accident, each accident. A Waiver or Subrogation endorsement shall apply waiving rights of subrogation against AmFam.

8. Indemnification. Except to the extent arising from or related to the negligence or intentional misconduct of AmFam, UWHCA shall defend, indemnify, and hold harmless AmFam and its directors, officers, employees, agents, and representatives (collectively, "**Indemnified Parties**") from and against all claims, causes of action, demands and litigation (including governmental agencies) against any Indemnified Party ("**Claim**"), and all judgments, settlements, losses, damages, liabilities, fines, penalties and other expenses (including, without limitation, reasonable attorneys' fees and court costs) in connection therewith, to the extent arising from or related to: (a) UWHCA's breach of this Declaration; (b) UWHCA's negligence or willful misconduct in exercising its rights and responsibilities under this Declaration; (c) personal injury, death, or property damage caused by UWHCA's exercise of rights and responsibilities under this Declaration; and/or (d) UWHCA's alleged violation of applicable laws, rules or regulations in the exercise of its rights and responsibilities under this Declaration. If either party herein or their

successors or assigns receives notice or becomes aware of any Claim which might form the basis for indemnification under this section, such party will provide prompt written notice of such Claim to the other party. AmFam will have the right to participate in its defense in any such suits or proceedings, through counsel of its own choosing. UWHCA may not settle or compromise a Claim which it has assumed under this section without AmFam's prior written consent.

9. Recordation. This Declaration shall be recorded in the office of the Register of Deeds of Dane County, Wisconsin.

10. Run with The Land. The rights and obligations granted herein shall be deemed to be covenants running with the land and shall inure to the benefit (and/or detriment) of, and shall be binding upon, the Parties hereto and their respective successors and/or assigns. AmFam and UWHCA, for themselves and their respective successor owners, agree to be bound by all of the covenants and agreements set forth in this Declaration. AmFam and UWHCA acknowledge and agree that the Properties may be subject to further legal division in the future. All references to any party or the parties in this Declaration shall refer to all then-current owners of any portion of the Properties.

11. Remedies. In the event of a breach of any of the terms or conditions of this Declaration, those affected shall be entitled to full and adequate relief by all available legal and equitable remedies, including, without limitation, specific performance.

12. Governing Law. This Declaration shall be interpreted according to, and governed by, the procedural and substantive laws of the State of Wisconsin without giving effect to its conflict of laws provisions. The successful party in any negotiation or court action brought to enforce or interpret any provision of this Declaration will be entitled to recover its reasonable attorney's fees and court costs from the unsuccessful party. The term "successful party" means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment.

13. Invalidity. Every term of this Declaration shall be enforceable to the fullest extent permitted by law. If any term of this Declaration is determined to be to any extent unenforceable, that provision will be deemed modified in the most minimal manner so as to make it enforceable, and the remainder of this Declaration shall not be affected.

14. Entire Agreement; Amendment. This Declaration constitutes the entire agreement between the Parties regarding the subject matter of this Declaration. This Declaration may not be terminated, amended or changed except by a written document executed and acknowledged by all of the then-current owners of the Properties and duly recorded in the office of the Register of Deeds of Dane County, Wisconsin.

15. General. No waiver of any term of this Declaration shall be deemed to be a continuing waiver of that term or a waiver of any other term of this Declaration. Time is of the essence in the performance of each and every provision of this Declaration. The undersigned personally represents and warrants that he is duly authorized to execute this Declaration in the capacity shown.

16. Notices. All notices to any party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested to such party at both (a) such

IN WITNESS WHEREOF, SIGNED THIS 8th DAY OF August, 2024.

University of Wisconsin Hospitals and Clinics Authority

By: Jay Robaidek
Name: Jay Robaidek
Title: SVP, External Affairs
Date: 8-8-24

ACKNOWLEDGEMENT

18.

STATE OF WISCONSIN

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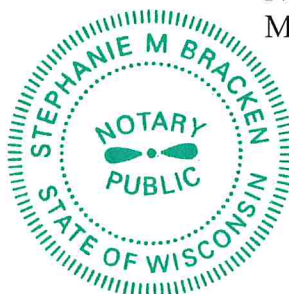
ss.

DANE COUNTY

)

Personally came before me this 8th day of August, 2024, the above named Jay Robaidek, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Stephanie M Bracken
Notary Public, State of Wisconsin
My commission: 8/16/2026



American Family Mutual Insurance Company,
S.I.

By:

Name:

Jessie J. Stauffacher

Title:

Chief People Officer

Date:

8/7/24

ACKNOWLEDGEMENT

STATE OF WISCONSIN

)

)

ss.

DANE COUNTY

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Personally came before me this ____ day of August, 2024, the above named Jessie J. Stauffacher, Chief People Officer for American Family Mutual Insurance Company, S.I. , to me known to be the person who executed the foregoing instrument and acknowledged the same.

[Signature]
Notary Public, State of Wisconsin

My commission: is ~~permanent~~

Expires: 5/21/27

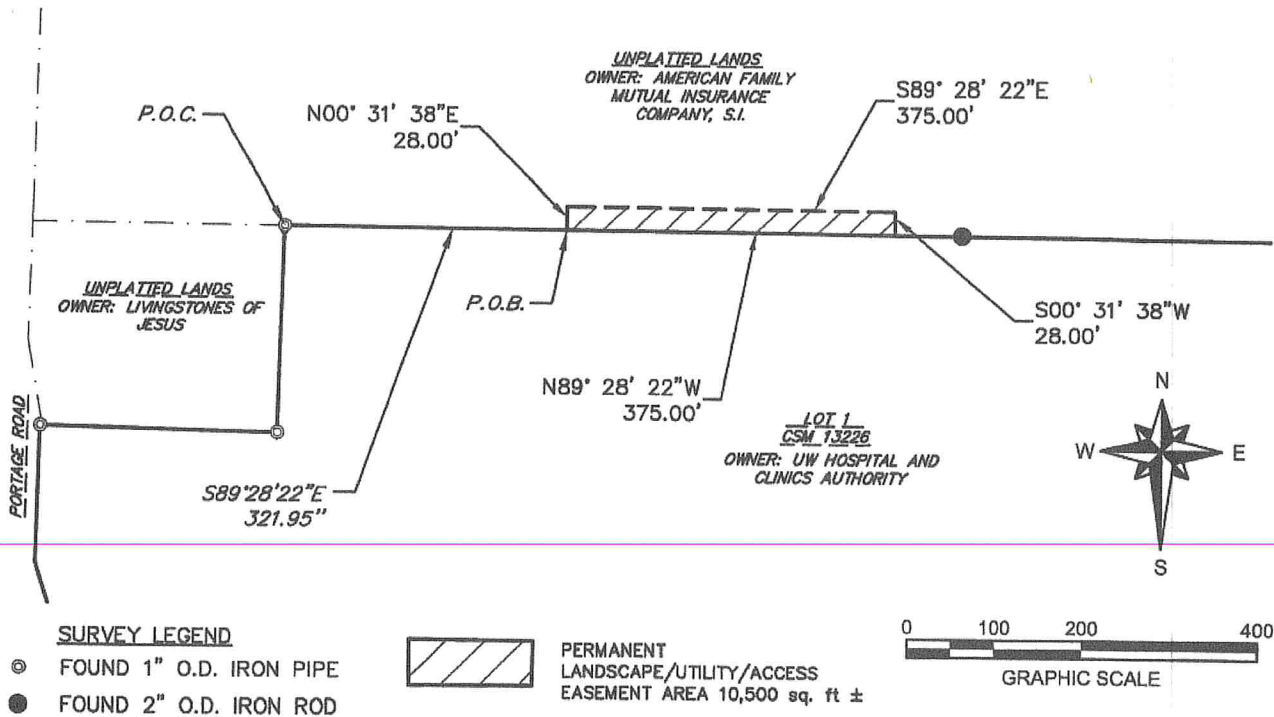


EXHIBIT "A"

SHEET 1 OF 1

PERMANENT LANDSCAPE/UTILITY/ACCESS EASEMENT

Being part of Unplatted Lands, located in the Northwest 1/4 of the Southwest 1/4 of Section 15, Township 8 North, Range 10 East, City of Madison, Dane County, Wisconsin



Description:

Being part of Unplatted Lands, located in the Northwest 1/4 of the Southwest 1/4 of Section 15, Township 8 North, Range 10 East, City of Madison, Dane County, Wisconsin, bounded and described as follows:

Commencing at the Northwest corner of Lot 1 of Certified Survey Map No. 13226; thence bearing S89°28'22"E along the North line of said Lot 1, a distance of 321.95 feet to the Point of Beginning (POB); thence bearing N00°31'38"E, a distance of 28.00 feet; thence bearing S89°28'22"E, a distance of 375.00 feet; thence bearing S00°31'38"W, a distance of 28.00 feet to the North line of said Lot 1; thence bearing N89°28'22"W along said line, a distance of 375.00 feet to the Point of Beginning, containing 10,500 square feet (0.24 acres) more or less of land. Subject to, but not limited to, covenants, conditions, restrictions and easements of record.

PROPERTY LINES SHOWN ON THIS EXHIBIT ARE DRAWN FROM DATA DERIVED FROM MAPS AND DOCUMENTS OF PUBLIC RECORD AND/OR OCCUPATION LINES. THIS EXHIBIT MAY NOT BE A TRUE REPRESENTATION OF EXISTING PROPERTY LINES, EXCLUDING LINES OF THE PUBLIC LAND SURVEY SYSTEM AND RIGHT-OF-WAY LINES, AND SHOULD NOT BE USED AS A SUBSTITUTE FOR AN ACCURATE PROPERTY SURVEY AS DEFINED AND PURSUANT TO THE WISCONSIN ADMINISTRATIVE CODE A-E 7.

PREPARED FOR:

American Family Mutual
Insurance Company S.I.
6000 American Parkway
Madison, WI 53783

PREPARED BY:

Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Pkwy.
Waukesha, WI 53188

 **Ruekert • Mielke**
www.ruekertmielke.com

THIS INSTRUMENT WAS DRAFTED BY JOHN M. SCHULZ P.L.S. (6/27/24) CHECKED BY: TAYLOR PLACEK (6/27/24)