

**RIGHT-OF-WAY VACATION AND PARK DEDICATION AGREEMENT BETWEEN
THE CITY OF MADISON AND HIGHLAND MANOR ASSOCIATES, LIMITED
PARTNERSHIP REGARDING THE HIGHLAND MANOR COMMUNITY SAFE
ROOM AND PARK IMPROVEMENT**

This Right-of-Way Vacation and Park Dedication Agreement (“Agreement”), made and entered into by and between the City of Madison, a Wisconsin municipal corporation (“City”), and Highland Manor Associates, Limited Partnership, a Michigan limited partnership (“HMA”), is effective as set forth below.

WHEREAS, on September 27, 1971 Planned Communities, Inc. recorded Certified Survey Map 668 as Doc. 1304920 with the Dane County Register of Deeds (page one (1) of which is attached hereto as Exhibit A) (the “CSM”). The land set forth in this CSM lies on the south side of the City of Madison, in between Moorland Road and Nine Springs Creek. In addition to the creation of two developable lots (Lots 1 and 2), the CSM dedicated to the public a one-hundred and twenty (120) foot wide and roughly sixteen-hundred and seventy (1670) feet long right-of-way through the land to be known as “Raywood Road” (and now known as “South Side Way”) (the “Raywood Road Right-of-Way”), a three-hundred (300) foot wide strip of property along the south border of the land adjacent to Nine Springs Creek that was dedicated to the public for park and greenway purposes (the “Nine Springs Creek Park and Greenway Area”), and a thirty (30) foot wide easement along the western property line for public sewer purposes and public access to the park; and,

WHEREAS, Lots 1 and 2 of CSM 668 now make up the Highland Manor Manufactured Home Community (“Highland Manor”) and the land itself is now owned by HMA. HMA is a limited partnership and its sole general partner is GP Highland Manor Corporation, a Michigan corporation; and,

WHEREAS, HMA mortgaged and conveyed a security interest in Highland Manor to Settlers Bank, a Wisconsin corporation (“Lender”), on August 10, 2009 (recorded as Doc. 4585997 with the Dane County Register of Deeds on August 14, 2009), which mortgage included the specific condition that HMA would not “sell, assign, lease, mortgage, convey or otherwise transfer any legal or equitable interest in all or part of [Highland Manor], or permit the same to occur without the prior written consent of Lender”; and,

WHEREAS, on November 24, 1982 Planned Communities, Inc. granted the City a perpetual easement and right of way for sanitary sewer purposes in Highland Manor, and with this easement conveyed to the City title to the private sanitary sewer system in Highland Manor (recorded as Doc. 1759625 with the Dane County Register of Deeds on November 29, 1982); and,

WHEREAS, Highland Manor has 361 improved sites, approximately 243 of which were occupied as of May, 2012. There are estimated to be approximately 544 City residents currently living in Highland Manor, and the entire property may eventually house around 813 City residents if fully occupied. The underlying land is owned by HMA, however the manufactured homes are either leased or owned by the residents of Highland Manor (“Residents”); and,

WHEREAS, the Raywood Road Right-of-Way has never been opened by the City, although the City has allowed some temporary park uses and private roadway encroachments within this platted right-of-way. In addition, the Nine Springs Creek Park and Greenway Area has not been developed as parkland by the City; and,

WHEREAS, the City Parks Division has sought to install park amenities in the Raywood Road Right-of-Way to serve the Residents of Highland Manor, but has been unable to do so because this land is unopened right-of-way that cannot be utilized as parkland; and,

WHEREAS, local emergency preparedness officials have identified Highland Manor as a residential community that could greatly benefit from the construction of a safe room that could accommodate Residents in the event of tornados, high winds, or other severe weather events; and,

WHEREAS, the City Parks Division has agreed that if a safe room is constructed in the Raywood Road Right-of-Way for the benefit of Highland Manor Residents, and the Raywood Road Right-of-Way is converted into parkland, that the safe room and parkland will be actively managed by the Parks Division at the Parks Division's sole expense, which will benefit not only the Residents of Highland Manor, but the City as a whole; and,

WHEREAS, HMA wishes to assist the City in converting the Raywood Road Right-of-Way into parkland to facilitate the construction of the safe room and the development of the parkland to serve its Residents; and,

WHEREAS, the City has applied for federal funding to build a safe room within Highland Manor through the Federal Emergency Management Agency (FEMA) Section 404-Hazard Mitigation Grant Program, and is anticipating being awarded grant money under this program, which grant program contains requirements of a 12.5% local match; and,

WHEREAS, the City has found that it would be desirable to convert the Raywood Road Right-of-Way into parkland, and construct the safe room within this parkland as a dual use facility managed by the Madison Parks Division (the "Project"). The shelter would be used as a safe room in the event of tornadoes, high winds, or other designated extreme weather, and would also be a reservable shelter accessible to members of the public, including the Residents of Highland Manor, on a permit basis; and,

WHEREAS, HMA desires to work with the City to support the Project, including supporting (or not opposing) vacation of the Raywood Rd. right-of-way, dedicating back to the City the vacated Raywood Road Right-of-Way, and granting certain easements necessary to allow for the development of the parkland and safe room, subject to the consent of Lender, all as provided in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants of the parties hereto, the City and HMA (the "Parties") agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the City's vacation of the Raywood Road Right-of-Way and HMA's dedication of the Raywood Road Right-of-Way back to the City, as well as the associated easements and

other agreements necessary by both Parties for the purposes of the Project and the current and future use of Highland Manor.

2. Effective Date. Subject only to the written consent of Lender to this Agreement as incorporated herein as Exhibit B, this Agreement is effective as of the date by which all parties have signed hereunder. If Lender does not consent to this Agreement, this Agreement shall be void and of no further force or effect.
3. Vacation and Dedication Agreement. To facilitate the Project and the improvement of the Raywood Road Right-of-Way as parkland, the Parties agree as follows:
 - a. Vacation of Right-of-Way. After execution of this Agreement, the City will adopt a street vacation and discontinuance resolution under Wis. Stat. Sec. 66.1003(4) to vacate and discontinue the Raywood Road Right-of-Way through the CSM. Upon adoption of this resolution, under Wis. Stat. Sec. 66.1005(1) the vacated portion of Raywood Road passing through CSM 668 and currently constituting the Raywood Road Right-of-Way shall belong entirely to HMA. HMA agrees to support, or not oppose, this resolution.
 - b. Existing Encroachment Agreement. Upon the vacation of the Raywood Road Right-of-Way, the existing encroachment agreement entered into between the City and HMA dated October 14, 2010 and recorded with the Dane County Register of Deeds as Doc. # 4703594 (the "Encroachment Agreement") will be terminated due to convergence of title.
 - c. Dedication Back of Vacated Right-of-Way. Upon vacation of the Raywood Road Right-of-Way and transfer of the vacated land to HMA, HMA will immediately, or as soon as reasonably possible, dedicate back to the City the vacated land that was formerly the Raywood Road Right-of-Way for use as parkland and greenway purposes (the "Dedicated Area"), but reserving for itself the HMA Manor Drive Easement described in Subsection e.(1) below. This dedication back shall be without warranty, and shall be accomplished by the recording of a certified survey map ("New CSM"), as described below in Section 4.
 - d. Existing Improvements in Raywood Road Right-of-Way; Release. Upon dedication back to the City of the Dedicated Area, HMA relinquishes all title and claim it may have over any property or improvements, other than the improved private driveway known as Manor Drive as described below in Subsection e.(1), within the Dedicated Area including, but not limited to, the parking lot area and any storm water management facilities. The City hereby releases HMA from any claimed violation of zoning ordinances or other applicable ordinances, orders, statutes rules and regulations relating to zoning or use of the Dedicated Area and/or the Nine Springs Creek Park and Greenway Area prior to the date of this Agreement including, without limitation, violation CB2011-200-05133.
 - e. Easements. In recognition of HMA's existing encroachment agreement, the City's and the public's need to access the Dedicated Area for the Project and the use of the City's lands at Highland Manor, the Parties agree that the following easements will be granted by a separately recorded Declaration of Easements, a

draft of which is attached hereto as Exhibit C, or noted on the face of the New CSM:

- (1) New Permanent Private Driveway Easement. HMA's dedication back to the City of the vacated Raywood Road Right-of-Way will be subject to HMA's retention of a 35 foot wide permanent easement across the Dedicated Area for the purposes of a private access road currently known as Manor Drive that connects Lots 1 and 2 of CSM 668 (the "HMA Manor Drive Easement"). The HMA Manor Drive Easement shall be reflected on the New CSM, shall cover the entire area that is currently included in the scope of the Encroachment Agreement, and shall be memorialized in a separately recorded Declaration of Easement in a form acceptable to HMA. For avoidance of doubt, the HMA Manor Drive Easement shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by HMA and the City and their respective successors and assigns. HMA and any successor or assign to HMA as fee simple owner of Highland Manor shall cease to have any liability under this HMA Manor Drive Easement with respect to facts or circumstances arising after the party has transferred its fee simple interest in Highland Manor.
- (2) Permanent Easements. HMA agrees to grant the City the following permanent easements over Highland Manor:
 - (a) Public Access. HMA agrees to grant to the public a permanent easement over that portion of Manor Drive running through Lot 1 of the CSM to access the Dedicated Area and safe room. If, for any reason, HMA needs to temporarily restrict access to Manor Drive, HMA will allow the public to use Fairlane Court and LaSalle Street to access the Dedicated Area and safe room to the same extent such use shall be needed by Residents south of the Dedicated Area to access their homes.
 - (b) Emergency Parking. HMA agrees to grant the public a permanent limited parking easement over Manor Drive (from LaSalle Street to Bel-Aire Drive), Fairlane Court (from Lots 17 to 44) and Bel-Aire Drive (from Lots 1 to 40) for the sole purpose of short-term parking in the event of an emergency weather event that necessitates the use of the safe room for its designed emergency purposes. This limited easement shall only allow parking during the emergency weather event, and up to eight hours after the end of the event, at which point all such vehicles shall be removed from these private roads, unless otherwise permitted by HMA. HMA authorizes the City of Madison to enter into Highland Manor to remove any vehicles in violation of these easement terms, which vehicles may be cited and towed off site or to the safe room parking area. However, HMA agrees to work with the City to identify vehicles parked in violation of this limited easement.

- (c) Signage. As a requirement of the federal grant, and to ensure Resident and community awareness of the safe room, the City will need to install signs within Highland Manor informing Residents and the public of the safe room's presence and location. HMA agrees to grant to the City an easement for the placement of signs within Highland Manor as follows:
- i. The installation, care and maintenance of these signs shall be the sole responsibility and expense of the City.
 - ii. HMA shall work with the City in determining the sign locations within Highland Manor, which will, at a minimum, meet the federal standards required of the Project both in quantity and location.
 - iii. City staff, officers, agents, contractors, and subcontractors shall have the permission to access the sign locations agreed to pursuant to the terms of this easement for the purposes of installing, maintaining, repairing, replacing, or removing the signs.
 - iv. The City agrees that it will be responsible for any damages to the property of HMA or the Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this easement.
- (d) Other Project Related Utility Easements. During the Project, the City may discover that to serve the new parkland and safe room in the Dedicated Area that it may need additional utility easements over Highland Manor. HMA agrees to work with the City, or other utilities, and in its sole discretion shall consider granting additional reasonable easements needed to facilitate the Project's completion provided that (i) such easements do not interfere with HMA's or Residents' existing or planned uses and enjoyment of Highland Manor; and (ii) the grantee(s) of such easements (the City and/or utilities, as applicable) agree that they shall be responsible for any damages to the property of HMA or the Residents that are attributable the actions of the grantee(s), their contractors or their agents exercising rights under said easements.
- (e) Nine Springs Creek Park and Greenway Area Access. HMA agrees to grant City officials, contractors and agents an easement over Manor Drive, Bel-Aire Drive, and Rustic Parkway for the purposes of accessing and maintaining the Nine Springs Creek Park and Greenway Area south of Lot 2 of the CSM. This access easement does not extend to the use of these private roads to drive or operate heavy construction equipment or other heavy equipment to the Nine Springs Creek Park and Greenway Area, nor to general public access to the Nine Springs Creek Park and Greenway Area,

without the express written approval of HMA. The City agrees that it will be responsible for any damages to the property of HMA or the Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this easement.

- (f) Sanitary Sewer Access Easement. HMA agrees to grant the City a perpetual sanitary sewer access easement over Lasalle Street, Fairlane Court, Manor Drive, Bel-Aire Drive and the parking lot areas along the West side of Bel-Aire Drive marked on the attached Exhibit D to allow the City to access the sanitary sewer structures contained within the public sanitary sewer easement set forth in Doc. 1759625. This access easement will give the City the right to operate the necessary equipment on the easement areas so that the City may effectively service the public sewer main that serves Highland Manor. The City agrees that it will be responsible for any damages to the property of HMA or the Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this easement. The City's rights under this easement shall be subject to: (i) those having rights under recorded easements within Highland Manor; and (ii) the rights of HMA, its Residents, and each of their successors and assigns relating to the use and enjoyment of temporary and permanent structures and improvements within Highland Manor including, without limitation, mobile homes. To the extent that recorded easements and/or temporary or permanent structures and improvements interfere with this easement, the easement granted herein shall be restricted to a width that does not impair or impact any temporary and permanent structures, improvements and easement rights.
- (3) Temporary Limited Easement. HMA agrees to grant to the City, its officers, contractors and agents, a temporary limited easement ("TLE") over Manor Drive for the purposes of accessing the Dedicated Area for the Project, and over the portions of Lots 1 and 2 of the CSM ten (10) feet on either side of the Dedicated Area to perform sloping and grading on lands located outside of the existing Raywood Road Right-of-Way and to make necessary storm sewer connections from Highland Manor's private storm sewer system to the public storm sewer system that will be constructed as part of the Project. The City agrees that it will be responsible for any damages to Manor Drive, other property belonging to HMA, or property owned by Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this TLE during the Project.

This TLE is subject to the following conditions:

- i. The City's use of the TLE areas shall be for construction, sloping and grading purposes including, but not limited to, the right of

ingress and egress, the right to operate necessary equipment thereon, the right to extend and connect private storm sewer pipes to public storm sewer pipes, and the right to preserve, protect, remove or plant thereon any vegetation that the City may deem desirable to prevent erosion of the soil.

- ii. Construction shall be performed and completed in a good and workmanlike manner and shall not interfere with or endanger the use of the abutting land owned by HMA or used by the Residents.
- iii. The City will promptly restore the TLE areas after completion of the Project (or as soon thereafter as weather reasonably permits) and in a manner satisfactory to HMA.
- iv. HMA reserves the right to use and occupy the TLE areas in a manner consistent with the rights conveyed herein, provided that such use and occupancy shall not interfere with or disturb the construction and/or grading of the TLE areas.
- v. The City shall require the general contractor to meet Section 107.4 of the City of Madison Standard Specifications for Public Works Construction, 2013 Edition (adopted by the City of Madison Common Council on December 11, 2012 as RES-12-00930, Legislative File ID # 28223) (the "Standard Specifications") and include HMA as an additional insured on their general liability and automobile liability policies. In addition, the worker's compensation policies required under Section 107.4 of the Standard Specifications will include a waiver of subrogation endorsement in favor of HMA. The policies required pursuant to this paragraph shall provide that such insurance may not be cancelled or amended with respect to HMA, except upon thirty (30) days' prior written notice to HMA. Pursuant to 107.4(h) of the Standard Specifications, and prior to entering or using the TLE areas, the City shall secure copies of additional insured endorsements reflecting coverage of HMA as provided herein, and shall provide copies of same to HMA.
- vi. This TLE shall terminate upon completion of the Project.

4. New CSM. To effectuate the dedication back to the City of the vacated Raywood Road Right-of-Way and to create a developable lot upon which the City may construct the safe room and develop the parkland, HMA and the City agree to prepare and record the New CSM as follows:

- a. City to prepare. The City will prepare the New CSM. The New CSM will contain solely the currently platted Raywood Road Right-of-Way, which newly created Lot shall be dedicated to the public for parkland and gateway purposes. The New CSM will show the location of the HMA Manor Drive Easement described above in Section 3.e.(1), along with other known existing easements.

Once prepared, the City shall forward the draft New CSM to HMA for approval. All preparation costs shall be borne by the City.

- b. Approval and Recording Process. After HMA's approval of the draft New CSM, the City shall take all steps necessary to have the New CSM approved and recorded, including the possibility of having the New CSM approved subject only to the approval of the vacation resolution. HMA agrees to participate in this process as necessary, including timely executing any documents reasonably required for the application, approval, or recording of the New CSM, including reasonable efforts to secure Lender's approval of the New CSM. Any costs associated with this process shall be paid for by the City.
5. Zoning Map Amendment. Prior to developing the Dedicated Area, the City will have to establish and amend the zoning for the Dedicated Area. HMA agrees to provide the City with reasonable assistance in order to effectuate this change to the current zoning designation for the Dedicated Area, provided that HMA shall not be required to incur any expense in connection with such zoning change. Any such amendments shall not affect the zoning over Lots 1 and 2 of the CSM.
6. Storm Water. Current plans call for the construction of storm water devices on the Dedicated Area to serve the safe room and Dedicated Area related development. As currently designed, HMA has some private storm sewer devices that discharge into the Raywood Road Right-of-Way. The City will connect and incorporate these devices and storm water measures into the new City storm sewer system that will be installed in the Raywood Road Right-of-Way and surrounding areas in a manner that complies with all applicable statutes, ordinances, rules and regulations of duly constituted governmental authorities ("Applicable Law"), does not cause any of HMA's existing storm water devices and measures to violate Applicable Law, and does not negatively affect current flow rates and drainage from Highland Manor. The City agrees to consult with HMA regarding its storm sewer plans prior to construction and will attempt to accommodate HMA's storm water related concerns where possible.
7. Donation Valuation. Prior to recording the New CSM, the parties shall determine the value of the vacated Raywood Road Right-of-Way and the easements being conveyed to the City. This value shall be considered HMA's financial contribution to the Project. HMA shall not be required to make any additional financial contribution to the Project.
8. Maintenance Responsibilities. Upon the vacation and dedication back to the City, the City shall be solely responsible for performing all maintenance activities in the Dedicated Area, at the City's sole expense. HMA agrees to be responsible for the maintenance of Manor Drive, including that portion subject to the HMA Manor Drive Easement described above in Section 3.e.(1). In addition, HMA agrees to provide snow plowing services to the safe room parking lot, provided however, that the City acknowledges that such snow plowing services will be performed in the normal course of HMA's snow removal activities (with existing personnel and/or contractors used for such activities), and are not required to be performed until such time as HMA has completed clearing of the private roads in Highland Manor. The City shall be responsible for the construction, maintenance and repair of all storm water infrastructures within the Dedicated Area, and HMA shall be responsible for any storm water infrastructure located on portions of

Highland Manor outside of the Dedicated Area. The City agrees that it will be responsible for any damages to the property of HMA or the Residents that are attributable to the actions of the City, or its contractors or agents, performing maintenance as required in this Agreement.

9. Parking and Traffic Enforcement.

a. Parking. The City shall not allow overnight parking in the Dedicated Area and shall enforce municipal parking regulations at that location on a complaint basis. HMA shall not allow its residents to park vehicles upon the portion of Manor Drive subject to the HMA Manor Drive Easement as set forth in Section 3.e.(1).

b. Traffic Enforcement. In consideration of the easements granted to the City in this Agreement, HMA agrees to allow the City to enforce traffic regulations under Wis. Stats. Ch. 346 and Madison General Ordinances Chapter 12 on the private roads and driveways located within Highland Manor, and the City agrees to provide such enforcement. This is an agreement pursuant to Wis. Stat. Sec. 349.03(5).

10. Liability. Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, committees, commissions, agencies, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions, including providing its own defense. In situations including joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, commissions, committees, agencies, and representatives. It is not the intent of the parties to waive any statutory protections or impose liability beyond that imposed by state statutes.

11. Binding on Parties; Amendments. This Agreement shall be binding on the parties hereto, their respective heirs, devisees and successors and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto unless the same be in writing signed by the duly authorized agent or agents of the parties.

12. Default; Remedy. It shall be a default under this Agreement if either party fails to perform or abide by the terms of this Agreement, and upon such a default the parties may exercise any remedy available at law or in equity, including specific performance.

13. Entire Agreement. Except for the Declaration of Easement and/or the HMA Manor Drive Easement that will be executed and recorded subsequent to this Agreement, this Agreement contains the entire agreement between the City and HMA with respect to the subject matter of this Agreement, and supersedes all previous negotiations, agreements, or understandings whether written or oral.

14. Counterparts; Electronic/Facsimile Signatures. This Agreement may be executed in counterparts. Each such counterpart shall be considered an original, and all of such counterparts shall constitute a single agreement binding the parties as if they had signed a single document. The signature of a party transmitted by fax or the electronic signature of a party shall be considered an original signature for purposes of this Agreement.

15. Governing Law and Venue. Interpretation of this Agreement and performance thereof will be determined by the laws of the State of Wisconsin. Any dispute arising under the terms of this Agreement will be filed exclusively in Dane County Circuit Court.
16. Notices. All notices required to be given under the terms of this Agreement shall be personally delivered or sent, postage prepaid, by depositing the same in United States mail addressed as follows:

City of Madison Superintendent of Parks
City of Madison Parks Division
210 Martin Luther King, Jr. Blvd., Room 104
P.O. Box 2987
Madison, WI 53703

HMA 1117 Summit Court
Windsor, Colorado 80550
Attention: Glenn Couch

And

280 Daines Street, #300
Birmingham, MI 48009
Roger Zlotoff, President

With a copy to:

Haus, Roman and Banks, LLP
148 E. Wilson St., Ste. 200
Madison, WI 53703
Attention: Michael E. Banks

The address to which notices or other communications shall be mailed may be changed from time-to-time by giving written notice to the other party as provided above.

17. Non-Discrimination. In the performance of the services under this Agreement, HMA agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin, ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, or student status. HMA further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, or national origin.
18. No Waiver. No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or HMA shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or HMA therein. A

waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

- 19. Joint Preparation. Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.
- 20. Authority. The parties each represent that they have the authority to enter into this Agreement, and the person(s) signing on behalf of the City and HMA represent and warrant that he or she have been duly authorized to bind the City and HMA and sign this Agreement on their behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers on the day and year first above written.

FOR THE CITY OF MADISON

Paul Soglin, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

Approved as to form:

David P. Schmiedicke, Finance Director

Date

Michael P. May, City Attorney

Date

HIGHLAND MANOR ASSOCIATES, LIMITED PARTNERSHIP

BY: _____
GP Highland Manor Corporation, its sole General Partner

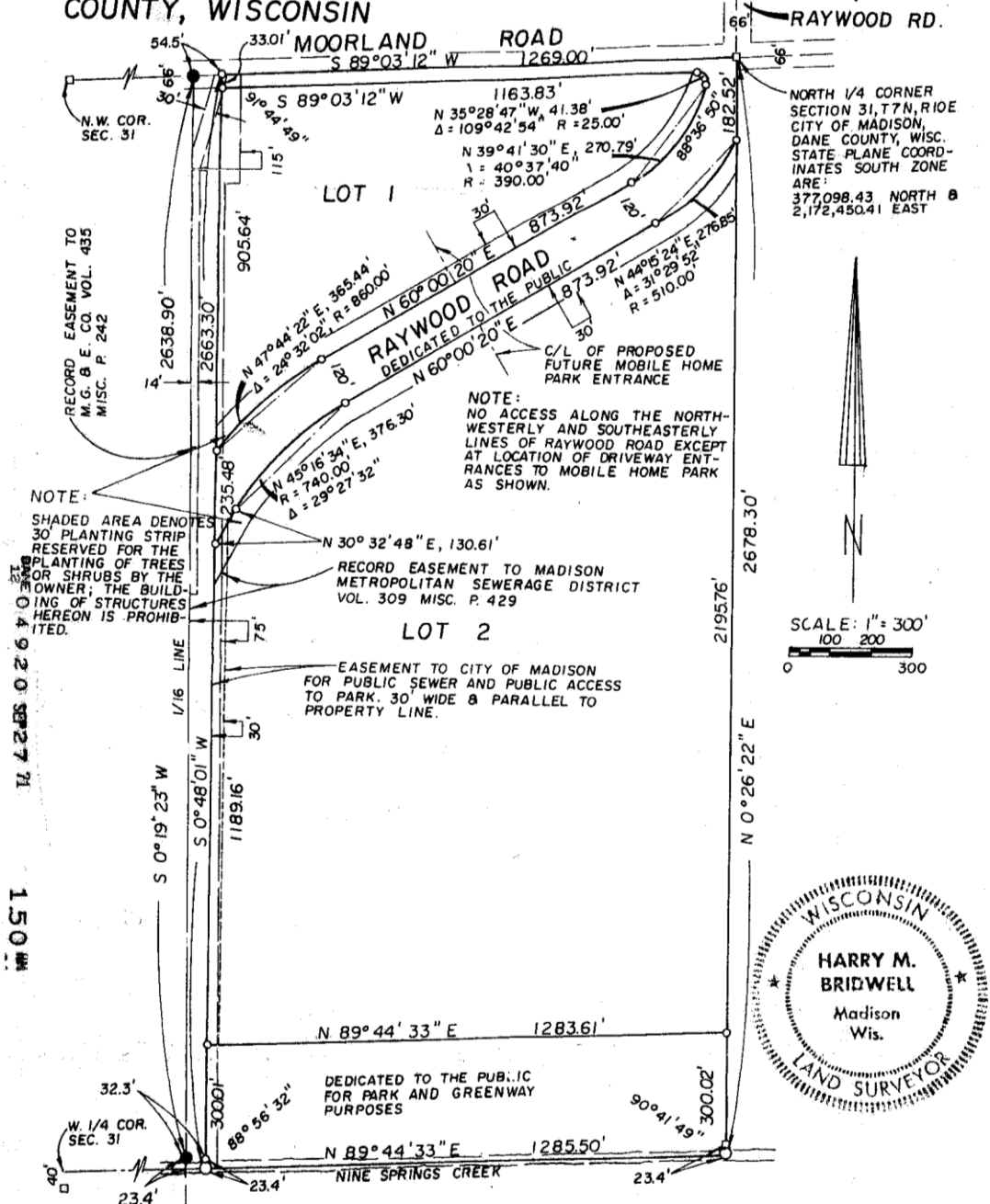
BY: _____
Roger Zlotoff, Vice President/Secretary

EXHIBIT A

CSM 668

1304920

CERTIFIED SURVEY MAP NUMBER 668
 BEING A SURVEY IN THE EAST 1/2 OF THE NORTHWEST
 1/4 OF SECTION 31, T7N, R10E, CITY OF MADISON, DANE
 COUNTY, WISCONSIN

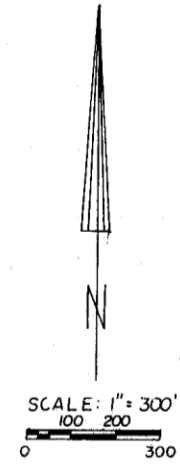


RECORD EASEMENT TO M.G. & E. CO. VOL. 435 MISC. P. 242
 150 W. 04920 SEP 27 71

NOTE:
 SHADED AREA DENOTES 30' PLANTING STRIP RESERVED FOR THE PLANTING OF TREES OR SHRUBS BY THE OWNER; THE BUILDING OF STRUCTURES HEREON IS PROHIBITED.

NOTE:
 NO ACCESS ALONG THE NORTH-WESTERLY AND SOUTHEASTERLY LINES OF RAYWOOD ROAD EXCEPT AT LOCATION OF DRIVEWAY ENTRANCES TO MOBILE HOME PARK AS SHOWN.

NORTH 1/4 CORNER SECTION 31, T7N, R10E, CITY OF MADISON, DANE COUNTY, WISC. STATE PLANE COORDINATES SOUTH ZONE ARE:
 377,098.43 NORTH &
 2,172,450.41 EAST



LEGEND

- CITY OF MADISON BRASS CAP MONUMENT IN PLACE
- 3/4" SOLID IRON ROD SET- 1.50 LBS./FT.
- PROPERTY CORNER
- EXISTING 7/8" SOLID IRON ROD

NOTES

BEARINGS FOR THIS SURVEY REFER TO GRID NORTH OF THE WIS. STATE PLANE SYSTEM SOUTH ZONE

EXHIBIT B

Consent of Settlers Bank

Settlers Bank, 4021 Meridian Drive, Windsor, WI 53598, being the mortgagee and lender of the Real Estate Mortgage recorded as document no. 4585997 on August 14, 2009 with Dane County Register of Deeds, and secured by the property described below, hereby acknowledges, upon the execution of this document, giving Highland Manor Associates Limited Partnership, the mortgagor of this Mortgage, prior written consent, as required under Section 8(f) of the Mortgage, to enter into the Right-of-Way Vacation and Park Dedication Agreement with the City of Madison (the "Vacation and Dedication Agreement"). Settlers Bank understands that upon the vacation of the existing right-of-way that the property securing this Mortgage will increase in size, and specifically authorizes Highland Manor Associates Limited Partnership to immediately dedicate this vacated land back to the City of Madison upon the terms and conditions set forth in the Vacation and Dedication Agreement. Settlers Bank further agrees that it will sign off on (a) the CSM dedicating this vacated right-of-way back to the City, and (b) the easements referenced in Sections 3(e)(2) and 3(e)(3) of the Vacation and Dedication Agreement .

Description of Property: Lots One (1) and Two (2), Certified Survey Map No. 668, recorded in the Office of the Register of Deeds for Dane County, Wisconsin, in Volume 3 of Certified Survey Maps, page 186, as document no. 1304920, located in the City of Madison, Dane County, Wisconsin.

FOR SETTLERS BANK

David M. Fink, Founder & President

Date

Thomas E. Lyons, Assistant Vice President

Date

**DECLARATION OF EASEMENTS FOR
HIGHLAND MANOR**

Highland Manor Associates, Limited Partnership, a Michigan limited partnership (“HMA”), being the owner of the parcel of land hereinafter described and known as the Highland Manor Manufactured Home Community (“Highland Manor”), and the **City of Madison**, a Wisconsin municipal corporation (the “City”), being the owner of the parcel of land hereinafter described (the “Dedicated Area”) and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the sufficiency and receipt whereof is hereby acknowledged, do hereby grant and convey to each other the easements set forth in this Declaration of Easements for Highland Manor (“Declaration”).

Highland Manor is the parcel with the tax parcel identification numbers 251-0710-312-0097-7 and 251-0710-312-0096-9 located at 1501 and 1515 Moorland Road in the City of Madison, depicted on attached Exhibit A, and described as follows:

Lots 1 and 2 of Certified Survey Map No. 668, recorded with the Dane County Register of Deeds on September 27, 1971, in Vol. 3 of Certified Survey Maps, Pages 186-188, as document number 1304920.

The Dedicated Area is the parcel with the tax parcel identification number 251-0710-XXX-XXXX-X located at XXXX Moorland Road in the City of Madison, depicted on attached Exhibit B, and described as follows:

Lot 1 of Certified Survey Map No. XXXX, recorded with the Dane County Register of Deeds on XXXX, 2013, in Vol. XX of Certified Survey Maps, Pages XXX-XXX, as document number XXXXXXXX.

WITNESSETH:

WHEREAS, HMA and the City (the “Parties”) have entered into a Right-of-Way Vacation and Park Dedication Agreement on _____, 2013 (the “Agreement”), which Agreement involves the City’s vacation of the currently platted and unopened Raywood Road right-of-way through Highland Manor and the immediate dedication back of this area to the City as parkland to allow for the City’s development of the Dedicated Area as parkland and the construction and operation of a Federal Emergency Management Agency approved community safe room (the “Safe Room”); and,

WHEREAS, as a condition of the Agreement, the Parties agreed to grant each other a series of easements to facilitate the improvement, development and use of the Dedicated Area as parkland and the construction and operation of the Safe Room; and,

RETURN TO: Heidi Fischer
City of Madison
Office of Real Estate Services
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel Nos.: 251-0710-312-0097-7
251-0710-312-0096-9
251-0710-XXX-XXXX-X

WHEREAS, in preparing the Agreement, the Parties agreed that additional easements were necessary to protect and clarify the Parties' existing rights at Highland Manor; and,

WHEREAS, Highland Manor has one public access point on Moorland Road and a network of private roads (Manor Drive, LaSalle Street, Fairlane Court, Bel-Aire Drive, Sierra Court, Hollywood Drive, Malibu Drive, Harvest Circle and Rustic Parkway) through the property, as depicted on the June 30, 1993 Land Title Survey attached hereto as Exhibit C.

NOW, THEREFORE, as noted herein, each party hereby grants to and for the benefit of the other party, their successors and assigns, the following easements, subject to the terms and conditions set forth herein:

1. Easement Granted by City. The City, as the owner of the Dedicated Area, hereby grants to HMA, the owner of Highland Manor, a thirty-six (36) foot wide permanent driveway easement over the Dedicated Area for the purpose of a private access road, private walkways, and curb stops (including, without limitation, continued use, maintenance, repair and replacement of the existing private access road, private walkways, and curb stops and other improvements), connecting Lots 1 and 2 of CSM 668 and allowing for an access point to the Highland Manor, the private roads within the Highland Manor, and the City's Safe Room parking lot. The location of the easement is depicted on CSM XXXX and currently makes up a segment of Manor Drive, connecting Lots 1 and 2 of CSM 668. This driveway easement shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by HMA, and its respective successors and assigns. HMA and any successor or assign to HMA as fee simple owner of Highland Manor shall cease to have any liability under this easement with respect to facts or circumstances arising after the party has transferred its fee simple interest in Highland Manor.
2. Easements granted by HMA.
 - b. Permanent Easements. HMA hereby grants the following permanent easements over Highland Manor:
 - (1) Public Access Easement. HMA grants to the public a permanent easement over that portion of Manor Drive running through Lot 1 of CSM 668 to access the Dedicated Area and Safe Room. If, for any reason, HMA needs to temporarily restrict access to this easement area, HMA will allow the public to use Fairlane Court and LaSalle Street to access the Dedicated Area and Safe Room to the same extent such use shall be needed by the residents of Highland Manor (the "Residents") south of the Dedicated Area to access their homes.
 - (2) Emergency Parking Easement. HMA grants to the public a permanent limited parking easement over Manor Drive (from LaSalle Street to Bel-Aire Drive), Fairlane Court (from Lots 17 to 44) and Bel-Aire Drive (from Lots 1 to 40) for the sole purpose of short-term parking in the event of an emergency weather event that necessitates the use of the Safe Room for its designed emergency purposes.

EXHIBIT C

This limited easement shall only allow parking during the emergency weather event necessitating the use of the Safe Room, and up to eight (8) hours after the end of the event, at which point all such vehicles shall be removed from these private roads, unless otherwise permitted by HMA. As a condition of this easement, HMA authorizes the City, and its authorized contractors, to enter into Highland Manor to remove any vehicles in violation of these easement terms, which vehicles may be cited and towed off site or to the Safe Room parking area. However, HMA agrees to work with the City to identify vehicles parked in violation of this limited easement.

- (3) Signage Easement. HMA grants to the City a permanent easement for the placement of signs within Highland Manor as required by the terms and conditions of the federal grant supporting the construction of the Safe Room, and to ensure overall community awareness of the presence and location of the Safe Room. The terms and conditions of this signage easement are as follows:
- (a) The installation, care and maintenance of signs installed under this easement shall be the sole responsibility and expense of the City.
 - (b) HMA shall work with the City in determining the sign locations within Highland Manor, which will, at a minimum, meet the federal standards required of the Safe Room project both in quantity and location.
 - (c) City staff, officers, agents, contractors, and subcontractors shall have the permission to access the sign locations agreed to pursuant to the terms of this easement for the purposes of installing, maintaining, repairing, replacing, or removing the signs.
 - (d) The City agrees that it will be responsible for any damages to the property of HMA or the Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this easement.
 - (e) Upon the removal or relocation of a sign, the City shall restore the sign location to the condition it was in prior to the installation of the sign at the City's expense.
- (4) Nine Springs Creek Park and Greenway Area Access Easement. HMA grants to City officials, contractors and agents an easement over Manor Drive, Bel-Aire Drive, and Rustic Parkway for the purposes of accessing and maintaining the Nine Springs Creek Park and Greenway Area south of Lot 2 of CSM 668 (the area shown on Exhibit A that is approximately 300 feet deep (North to South) and 1285 feet wide (East to West) lying immediately to the south of Lot 2 and is dedicated to the public for park and greenway purposes)(the "Nine Springs Creek Park and Greenway Area").

EXHIBIT C

This access easement does not extend to the use of these private roads to drive or operate heavy construction equipment or other heavy equipment to the Nine Springs Creek Park and Greenway Area, nor to general public access to the Nine Springs Creek Park and Greenway Area, without the express written approval of HMA. The City agrees that it will be responsible for any damages to the property of HMA or the Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this easement.

- (5) Sanitary Sewer Access Easement. HMA grants to the City a perpetual sanitary sewer access easement over LaSalle Street, Fairlane Court, Manor Drive, Bel-Aire Drive and the parking lot areas along the West side of Bel-Aire Drive to allow the City to access the sanitary sewer structures contained within the public sanitary sewer easement set forth in Doc. 1759625. This easement gives the City, and its contractors, the right to operate the necessary equipment on the easement area to enable the City to effectively service the public sewer main that runs through and serves Highland Manor. This easement area is marked on the attached Exhibit D.

The City agrees that it will be responsible for any damages to the property of HMA or the Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this sanitary sewer access easement. The City's rights under this sanitary sewer access easement shall be subject to: (i) those having rights under recorded easements within Highland Manor; and (ii) the rights of HMA, the Residents, and each of their successors and assigns relating to the use and enjoyment of temporary and permanent structures and improvements within the Highland Manor including, without limitation, mobile homes. To the extent that recorded easements and/or temporary or permanent structures and improvements interfere with this easement, the easement granted herein shall be restricted to a width that does not impair or impact any temporary and permanent structures, improvements and easement rights.

- c. Temporary Limited Easement. HMA hereby grants to the City, its officers, contractors and agents, a temporary limited easement ("TLE") over Manor Drive for the purposes of accessing the Dedicated Area for the improvement of the parkland and construction of the Safe Room (the "Project"), and over the portions of Highland Manor ten (10) feet on either side of the Dedicated Area to perform sloping and grading on lands located adjacent to the Dedicated Area and to make necessary storm sewer connections from Highland Manor's private storm sewer system to the public storm sewer system that will be constructed as part of the Project. The City agrees that it will be responsible for any damages to Manor Drive, other property belonging to HMA, or property owned by Residents that are attributable to the actions of the City, or its contractors or agents, exercising their rights under this TLE during the Project.

This TLE is subject to the following conditions:

EXHIBIT C

- (1) The City's use of the TLE areas shall be for construction, sloping and grading purposes including, but not limited to, the right of ingress and egress, the right to operate necessary equipment thereon, the right to extend and connect private storm sewer pipes to public storm sewer pipes, and the right to preserve, protect, remove or plant thereon any vegetation that the City may deem desirable to prevent erosion of the soil.
 - (2) Construction shall be performed and completed in a good and workmanlike manner and shall not interfere with or endanger the use of the abutting land owned by HMA or used by the Residents.
 - (3) The City will promptly restore the TLE areas after completion of the Project (or as soon thereafter as weather reasonably permits) and in a manner satisfactory to HMA.
 - (4) HMA reserves the right to use and occupy the TLE areas in a manner consistent with the rights conveyed herein, provided that such use and occupancy shall not interfere with or disturb the construction and/or grading of the TLE areas.
 - (5) The City shall require the general contractor to meet Section 107.4 of the City of Madison Standard Specifications for Public Works Construction, 2013 Edition (adopted by the City of Madison Common Council on December 11, 2012 as RES-12-00930, Legislative File ID # 28223) (the "Standard Specifications") and include HMA as an additional insured on their general liability and automobile liability policies. In addition, the worker's compensation policies required under Section 107.4 of the Standard Specifications will include a waiver of subrogation endorsement in favor of HMA. The policies required pursuant to this paragraph shall provide that such insurance may not be cancelled or amended with respect to HMA, except upon thirty (30) days' prior written notice to HMA. Pursuant to 107.4(h) of the Standard Specifications, and prior to entering or using the TLE areas, the City shall secure copies of additional insured endorsements reflecting coverage of HMA as provided herein, and shall provide copies of same to HMA.
 - (6) This TLE shall terminate upon completion of the Project.
3. Compliance. In exercising their respective rights under this Declaration, HMA and the City shall comply with all applicable laws, including, but not limited to, any laws, standards, regulations, or permit requirements relating to environmental pollution or contamination or to occupational health and safety.
 4. Severability. If any of the easements granted herein shall be held unenforceable for any reason, the remaining easements shall continue in full force and effect. If any provision of this Declaration is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.

5. Binding Effect. The covenants and conditions contained in this Declaration shall apply to and bind the Parties and their heirs, legal representatives, successors and assigns. Nothing herein shall prevent HMA from transferring its interests in Highland Manor, and upon such transfer the rights and obligations of HMA under this Declaration shall become the rights and obligations of the transferee.
6. Entire Agreement. Except for the Agreement, this Declaration constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior understanding or representation of any kind preceding the date of this Declaration and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Declaration.
7. Waiver. The failure of any party to enforce any provisions of this Declaration shall not be deemed a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Declaration.
8. Runs with the Land. All the terms, conditions, covenants and other provisions contained in this Declaration, including the benefits and burdens, shall run with the properties described above and shall be binding upon and inure to the benefit of and be enforceable by the City and the HMA and their respective successors and assigns.
9. Liability. In exercising their respective rights under this Declaration, and except as provided otherwise in this Declaration or the Agreement, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, committees, commissions, agencies, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions, including providing its own defense. In situations including joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, commissions, committees, agencies, and representatives. It is not the intent of the Parties to waive any statutory protections or impose liability beyond that imposed by state statutes.
10. Default; Remedy. It shall be a default under this Declaration if either party fails to perform or abide by the terms of this Declaration, and upon such a default the Parties may exercise any remedy available at law or in equity, including specific performance.
11. Counterparts. This Declaration may be executed in counterparts. Each such counterpart shall be considered an original, and all of such counterparts shall constitute a single agreement binding the Parties as if they had signed a single document.
12. Governing Law and Venue. Interpretation of this Declaration and performance thereof will be determined by the laws of the State of Wisconsin. Any dispute arising under the terms of this Agreement will be filed exclusively in Dane County Circuit Court.

13. Notices. All notices required to be given under the terms of this Declaration shall be personally delivered or sent, postage prepaid, by depositing the same in United States mail addressed as follows:

City of Madison Office of Real Estate Services
Economic Development Division
City of Madison
215 Martin Luther King Jr. Blvd.
P.O. Box 2983
Madison, WI 53701-2983

HMA 1117 Summit Court
Windsor, CO 80550
Attention: Glenn Couch

And

280 Daines Street, #300
Birmingham, MI 48009
Roger Zlotoff, President

With a copy to:

Haus, Roman and Banks, LLP
148 E. Wilson St., Ste. 200
Madison, WI 53703
Attention: Michael E. Banks

The address to which notices or other communications shall be mailed may be changed from time-to-time by giving written notice to the other party as provided above.

14. Joint Preparation. Each party and its counsel have participated fully in the review and revision of this Declaration and acknowledge that the preparation of this Declaration has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other. The language in this Declaration shall be interpreted as to its fair meaning and not strictly for or against any party.
15. Authority. The Parties each represent that they have the authority to enter into this Declaration, and the person(s) signing on behalf of the City and HMA represent and warrant that he or she have been duly authorized to bind the City and HMA and sign this Declaration on their behalf.

EXHIBIT C

IN WITNESS WHEREOF, the Parties have caused this Declaration of Easements for Highland Manor to be executed by their proper officers, effective upon the last date written below.

FOR HIGHLAND MANOR ASSOCIATES, LIMITED PARTNERSHIP

By GP Highland Manor Corporation, its sole General Partner

By: _____ Date: _____
Roger Zlotoff, Vice President/Secretary

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

Personally came before me this ___ day of _____, 2013, the above named Roger Zlotoff who acknowledged himself to be the Vice President and Secretary of GP Highland Manor Corporation, the sole general partner of Highland Manor Associates, Limited Partnership, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public _____
My Commission Expires: _____

FOR THE CITY OF MADISON

Paul Soglin, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

Approved as to form:

David P. Schmiedicke, Finance Director

Date

Michael P. May, City Attorney

Date

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this _____ day of _____, 2013, Paul Soglin, Mayor, to me known to be such persons and City of Madison officers who executed the foregoing instrument and acknowledged that they executed the same as such officers, by its authority for the purposes therein contained.

Notary Public Dane County, Wisconsin
My Commission Expires:_____

Personally came before me this _____ day of _____, 2013, Maribeth Witzel-Behl, City Clerk, to me known to be such persons and City of Madison officers who executed the foregoing instrument and acknowledged that they executed the same as such officers, by its authority for the purposes therein contained.

Notary Public, Dane County, Wisconsin
My Commission Expires:_____

The execution of this Declaration of Easements is authorized by Resolution Enactment No. RES-13-XXXXX, File ID No. XXXXX, adopted by the Common Council of the City of Madison on XXXXXX.

This instrument was drafted by the City of Madison City Attorney's Office.

CONSENT OF MORTGAGEE

The undersigned, being the holder of a mortgage executed by Highland Manor Associates, Limited Partnership, a Michigan limited partnership to the undersigned recorded in the office of the Register of Deeds of Dane County, Wisconsin on August 14, 2009, as Document No. 4585997, does hereby consent to all of the terms and conditions of the foregoing Declaration, and agrees that its interest in the property described below shall be subject in all respects to the terms thereof.

Description of Property: Lots One (1) and Two (2), Certified Survey Map No. 668, recorded in the Office of the Register of Deeds for Dane County, Wisconsin, in Volume 3 of Certified Survey Maps, page 186, as document no. 1304920, located in the City of Madison, Dane County, Wisconsin.

Dated this ____ day of _____, 2013.

FOR SETTLERS BANK

David M. Fink, Founder & President

Date

Thomas E. Lyons, Assistant Vice President

Date

STATE OF WISCONSIN)
) ss.
COUNTY OF _____)

Personally came before me this ____ day of _____, 2013, the above named David M. Fink, the Founder and President of Settlers Bank and who acknowledged the foregoing document for the purposes recited therein on behalf of Settlers Bank.

Signature: _____
Printed Name: _____
Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF _____)

Personally came before me this ____ day of _____, 2013, the above named Thomas E. Lyons, the Assistant Vice President of Settlers Bank and who acknowledged the foregoing document for the purposes recited therein on behalf of Settlers Bank.

Signature: _____
Printed Name: _____
Notary Public, State of Wisconsin
My Commission: _____

EXHIBIT D Sanitary Sewer Access Easement



Green: Center line of existing sanitary sewer easement (Doc. 1759625)
Yellow: Location of new sanitary sewer access easement