

NOTICE OF OPTION

Document Number

Title of Document

Notice of Option made this 10<sup>th</sup> day of March, 2006, by Veridian Homes, LLC ("Veridian").

1) This Notice affects the real property described in Exhibit "A," attached hereto and incorporated herein by reference (the "Property").

2) That on or about the date of this notice, the City of Madison, a Wisconsin Municipal Corporation, granted Veridian the option to acquire the Property.

3) That said option requires that the City of Madison, upon exercise of the option, convey said Property to Veridian free and clear of all liens, encumbrances, restrictions and covenants, that would interfere with the use and development of the Property as a school.

4) This Notice of Option is being recorded to give record notice of the option rights of Veridian in and to the Property.

Dated as of the date and year first above written.

VERIDIAN HOMES, LLC

By: [Signature]

Print Name: Donald A. Esposito, Jr.

Print Title: Assistant Secretary

STATE OF WISCONSIN )  
                                  )ss>  
COUNTY OF DANE        )

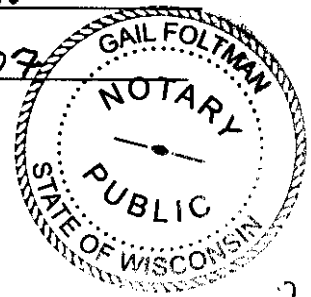
Personally came before me, a notary public for the above State and County, this 10<sup>th</sup> day of March, 2006, the above named Donald A. Esposito, Jr., to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

[Signature]

Print Name: GAIL FOLTMAN

Notary Public, State of Wisconsin

My Commission expires: 2/25/07



THIS DOCUMENT DRAFTED BY:  
Attorney Gregory J. Paradise  
MOHS, MACDONALD, WIDDER & PARADISE  
20 North Carroll Street, Madison, WI 53703

DANE COUNTY REGISTER OF DEEDS

DOCUMENT # 4174399

03/27/2006 02:49PM

Trans. Fee:  
Exempt #:

Rec. Fee: 13.00  
Pages: 2

001169

Record this document with the Register of Deeds

Name and Return Address:

Attorney Gregory J. Paradise  
Mohs, MacDonald, Widder & Paradise  
20 North Carroll Street  
Madison, WI 53703

SEE Exhibit "A"

(Parcel Identification Number)

**EXHIBIT "A"**

**Legal Description of Property**

**001170**

Outlot 17, Plat of the Village of Autumn Lake, located in the City of Madison, Dane County, Wisconsin.

Parcel Identification Numbers:

Part of the following Parcels:

251-0810-264-0099-5

251-0810-263-0099-5

251-0810-262-0095-7

251-0810-263-0098-9



# City of Madison Master

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

**File Number: 02310**

**File Number:** 02310

**File Type:** Resolution

**Status:** Passed

**Version:** 1

**Reference:**

**Controlling Body:** BOARD OF PARK COMMISSIONERS

**Requester:** BOARD OF PARK COMMISSIONERS

**Cost:**

**Introduced:** 10/31/2005

**File Name:** Veridian to Purchase Land for Public Purposes in Village of Autumn Lake

**Final Action:** 01/17/2006

**Title:** Authorizing the Mayor and City Clerk to execute an Option To Purchase Agreement with Veridian Homes, LLC, which would allow Veridian to purchase land dedicated for public purposes in the Village of Autumn Lake subdivision under specific and limited terms and conditions.

**Notes:** JAZ  
Assgn. # 05-1514

**Code Sections:**

**Agenda Date:** 01/17/2006

**Indexes:**

**Agenda Number:** 39

**Sponsors:** Paul E. Skidmore

**Enactment Date:** 01/18/2006

**Attachments:**

**Enactment Number:** RES-06-00077

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office	10/31/2005	Fiscal Note Required / Approval	Comptroller's Office/Approval Group		11/02/2005	
1	Comptroller's Office/ Approval Group	11/02/2005	Approved Fiscal Note By The Comptroller's Office	Attorney's Office		11/02/2005	
1	Attorney's Office	11/02/2005	Refer for Introduction				
1	COMMON COUNCIL	11/08/2005	Refer	BOARD OF PARK COMMISSIONER S		01/11/2006	
1	BOARD OF PARK COMMISSIONERS	11/09/2005	Refer	BOARD OF ESTIMATES		11/21/2005	
1	BOARD OF PARK COMMISSIONERS	11/09/2005	Refer	PLAN COMMISSION		11/21/2005	
1	PLAN COMMISSION	11/21/2005	Return to Lead with the Recommendation for Approval	BOARD OF PARK COMMISSIONER S		01/11/2006	Pass

1	BOARD OF ESTIMATES	11/21/2005	Return to Lead with the Recommendation for Approval	BOARD OF PARK COMMISSIONER S	01/11/2006	Pass
1	BOARD OF PARK COMMISSIONERS	01/11/2006	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER			Pass
1	COMMON COUNCIL	01/17/2006	Adopt			Pass

**Text of Legislative File 02310**

**..Fiscal Note**

Sale proceeds of \$45,000 per acre plus other costs will, if the Option to Purchase is exercised, be credited to the City General Land Acquisition Fund, the Affordable Housing Trust Fund, or for such other purpose as determined by the Common Council. (Such determination, if necessary, would be made by the Council via a subsequent Resolution at the time the Option is exercised.)

**..Title**

Authorizing the Mayor and City Clerk to execute an Option To Purchase Agreement with Veridian Homes, LLC, which would allow Veridian to purchase land dedicated for public purposes in the Village of Autumn Lake subdivision under specific and limited terms and conditions.

**..Body**

WHEREAS, Veridian Homes, LLC ("Veridian") has caused to be platted certain real property located in the City of Madison and known as the Village of Autumn Lake (the "Plat"), located on Madison's far east side between Highway 151 and Lien Road; and

WHEREAS, City took dedication of a portion of the Plat (the "Property") for public purposes as part of the required park dedication, which dedication complied with the intent of the adopted plat and neighborhood plan to make the site available for development of an elementary school by the Sun Prairie School District which is the School District in which the Plat is located; and

WHEREAS, the Property would remain City park land if it is not selected by the Sun Prairie School District as a school site; and

WHEREAS, the Agreement provides Veridian with an Option to Purchase the Property any time prior to January 1, 2018, only if the Sun Prairie School District uses the Property for a school site and Veridian provides City with a written agreement between Veridian and the Sun Prairie School District indicating the Sun Prairie School District's intent to use the Property as a school site; and

WHEREAS, if Veridian exercises the Option To Purchase, Veridian will donate the current land value of the Property to the Sun Prairie School District for use as a school site; and

WHEREAS, Veridian's Option To Purchase the Property and donate said land to Sun Prairie School District for a school site is necessary to facilitate future long term planning; and

WHEREAS, Veridian shall pay City One Hundred Dollars (\$100.00) as consideration for the Option To Purchase; and

WHEREAS, if Veridian exercises the Option To Purchase, Veridian shall pay City Forty-Five Thousand Dollars (\$45,000) per acre (the "Per Acre Price"), with the total purchase price calculated by multiplying the Per Acre Price by each full and partial acre contained within the Property, plus improvement costs paid by City plus interest on the improvements from the date the Plat is recorded in the office of the Dane County, Wisconsin, Register of Deeds, to the date of payment, at the rate of four percent (4%) per annum compounded annually; and

WHEREAS, if Veridian exercises the Option To Purchase, Veridian shall pay the purchase price in cash and City will transfer the Property to Veridian free and clear of all liens and encumbrances, by Warranty Deed, subject only to easements, covenants and restrictions of record, municipal and zoning ordinances and future real estate taxes and assessments; and

WHEREAS, City will not grant any easements, covenants or restrictions affecting the Property which would survive the closing with Veridian or which would prevent Veridian from donating the Property to the Sun Prairie School District for construction of a school site.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Clerk are authorized to enter into an Option To Purchase Agreement with Veridian to allow Veridian to purchase land dedicated for public purposes in the Village of Autumn Lake subdivision under specific and limited terms and conditions.

**OPTION TO PURCHASE**

This Option to Purchase (the "**Option**") is made as of the 20<sup>th</sup> day of February, 2006, by and between the City of Madison, a Wisconsin Municipal Corporation ("**City**") and Veridian Homes, LLC, a Wisconsin Limited Liability Company ("**Veridian**").

**WITNESSETH:**

**WHEREAS**, Veridian has caused to be platted certain real property located in the City of Madison known as the Village of Autumn Lake (the "**Plat**"); and

**WHEREAS**, the parties wish to plan for the future use of certain lands within the Plat as a site for a school which may, at some time in the future, be constructed by the Sun Prairie School District, the School District in which the Plat is located; and

**WHEREAS**, it is necessary that the City grant Veridian an option to purchase the lands on which a school may be located in the future in order to facilitate such long term planning.

**NOW, THEREFORE**, for a good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and between the parties hereto as follows:

1) **Consideration**. Upon execution hereof by the parties, Veridian shall pay to the City as separate consideration for this Option the sum of One Hundred and no/100<sup>th</sup> (\$100.00) Dollars.

2) **Grant of Option**. City hereby grants to Veridian the right and option to purchase the real property (the "**Property**") described and depicted in Exhibit "A," attached hereto and incorporated herein by reference (the "**Option**"). The Option may be exercised by Veridian at any time after the date hereof but not later than December 31, 2017 (the "**Option Expiration Date**"). The Option is deemed exercised if Veridian, on or before the Option Expiration Date, gives written notice to the City that it elects to exercise this Option to purchase the Property. Notice shall be given in accordance with the provisions of paragraph (5), below. The notice must (i) identify this Option; (ii) affirmatively indicate that Veridian elects to acquire the Property pursuant to the terms of this Option; and (iii) be accompanied by a memorandum, offer to purchase or other written agreement, executed by Veridian and the Sun Prairie Area School District, or its successors and assigns (the "**District**") stating that Veridian and the District have agreed upon the terms under which the District will acquire the Property from Veridian for use and development as a District school site (the "**Use**"). Veridian may only exercise this Option for the purpose of conveying the land to the District for the Use, unless otherwise agreed to by the parties to this Option.

3) **Purchase Price.** The purchase price shall be Forty-Five Thousand and no/100<sup>th</sup> (\$45,000.00) Dollars per acre plus interest from the date on which the Plat is recorded in the office of the Dane County, Wisconsin Register of Deeds, to the date of payment, at the rate of four (4%) percent per annum compounded annually (the "**Per Acre Price**"). The total purchase price shall be calculated by multiplying the Per Acre Price by each full and partial acre contained within the Property (the "**Purchase Price**").

4) **Closing.** If Veridian shall exercise the Option granted it hereunder, a closing on the Option shall take place thirty (30) days after the date the Option is exercised by Veridian, if such date is a business day, or if not, on the next following business day. At the closing, Veridian shall pay the Purchase Price in cash and City shall transfer the Property to Veridian, free and clear of all liens and encumbrances, by Warranty Deed, subject only to easements, covenants and restrictions of record, municipal and zoning ordinances and future real estate taxes and assessments. City covenants and agrees that between the date hereof and the date of closing, City will not grant any easements, covenants or restrictions affecting the Property which would survive the closing with Veridian or which would prevent Veridian from using the Property in connection with the development and construction of a school on the Property.

5) **Notices.** Any notices required or permitted hereunder shall be deemed given (i) when hand delivered to a party; (ii) three (3) days after being mailed United States Mails, postage prepaid, certified, return receipt requested; or (iii) sent via overnight mail by a recognized national overnight courier delivery service, for next business day delivery, delivery fees billed to the sender. Notices shall be addressed to the parties as follows:

**If to Veridian:** Veridian Homes, LLC  
Attn: Chief Operating Officer  
6801 South Town Drive  
Madison, Wisconsin 53713

**If to City:** City Clerk  
City of Madison  
City-County Building  
Room 103  
Madison, Wisconsin 53703

**With a Copy to:** City Attorney  
City of Madison  
City-County Building, Room 401  
Madison, Wisconsin 53703

Either party may change the recipient of notices or the address to which notices are to be sent by written notice given in accordance with the provisions of this paragraph.

6) **Closing Costs.** At closing, Veridian shall pay all costs relating to title insurance, closing escrow fees and recording fees for the recording of the deed. The City shall pay all costs of any transfer fee, documentary stamps or other costs and fees relating to the transfer of title of the Property. Each party shall be responsible for payment of their own attorney fees.

7) **Default.** This Agreement shall be in default if either party shall fail to perform any term, covenant or condition of this Option and such failure shall continue for a period of twenty (20) days after written notice of such default by one party (the "**Non-Defaulting Party**") to the other (the "**Defaulting Party**"). In the event of default, the Non-Defaulting Party may take any action allowed at law or equity to enforce the terms, covenants and conditions of this Option. If the Non-Defaulting Party shall be the prevailing party in any action concerning a default, then the Non-Defaulting Party shall be entitled to collect from the Defaulting Party, in addition to all damages, costs and other sums awarded in the action, the Non-Defaulting Party's actual attorney fees incurred in connection with any such action.

8) **Notice of Option.** The parties agree that Veridian may cause a Notice of Option, in the form contained in Exhibit "B," attached hereto and incorporated herein by reference, to be recorded in the office of the Dane County, Wisconsin Register of Deeds, in order to give record notice of the option rights granted Veridian herein.

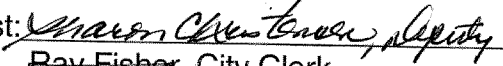
9) **Miscellaneous.** This Agreement shall be binding upon the parties hereto, and their respective heirs, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. In the event any portion of this Agreement shall be deemed unenforceable by a court of competent jurisdiction, the offending portion shall be severed from the remainder, and the remainder shall be fully enforced in accordance with all applicable laws, rules and regulations.

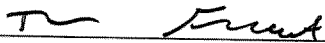
Dated as of the date and year first above written.

\* CITY \*

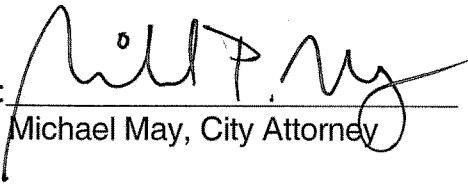
CITY OF MADISON

By:   
David Cieslewicz, Mayor

Attest:   
Ray Fisher, City Clerk

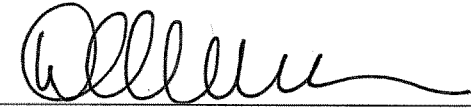
for   
Dean Brassler, Comptroller  
City of Madison

Approved as to Form:

By:   
Michael May, City Attorney

\* VERIDIAN \*

VERIDIAN HOMES, LLC


By: 

Print Name: DONALD A. ESPOSITO, JR.

Print Title: ASSISTANT SECRETARY

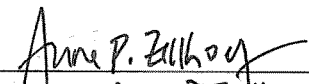
STATE OF WISCONSIN )  
  )ss>  
COUNTY OF DANE )

10<sup>th</sup> Personally came before me, a notary public for the above State and County, this day of March, 2006, the above named Mayor Dave Cieslewicz, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

  
Print Name: Pamela Williamson  
Notary Public, State of Wisconsin  
My Commission expires: 1-17-2010

STATE OF WISCONSIN )  
  )ss>  
COUNTY OF DANE )

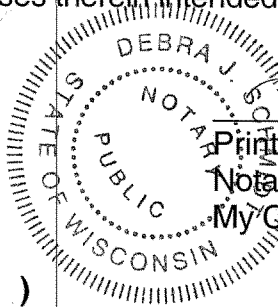
9<sup>th</sup> Personally came before me, a notary public for the above State and County, this day of March, 2006, the above named <sup>Tim Fawcett</sup> ~~Dean Brasser~~, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

  
Print Name: Anne P. Zellhoefer  
Notary Public, State of Wisconsin  
My Commission expires: not



STATE OF WISCONSIN )  
 )ss>  
COUNTY OF DANE )

Personally came before me, a notary public for the above State and County, this 3 day of March, 2006, the above named ~~Ray Fisher~~ <sup>Sharon Christenson</sup>, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.



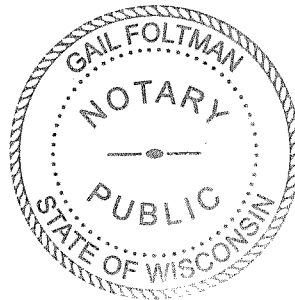
Debra J. Schmidt  
Print Name: Debra J. Schmidt  
Notary Public, State of Wisconsin  
My Commission expires: 8/5/07

STATE OF WISCONSIN )  
 )ss>  
COUNTY OF DANE )

Personally came before me, a notary public for the above State and County, this 20<sup>th</sup> day of February, 2006, the above named Donald A. Esposito, Jr., to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

Gail Foltman  
Print Name: GAIL FOLTMAN  
Notary Public, State of Wisconsin  
My Commission expires: 2/25/07

**THIS DOCUMENT DRAFTED BY  
AND SHOULD BE RETURNED TO:  
Attorney Gregory J. Paradise  
MOHS, MACDONALD, WIDDER & PARADISE  
20 North Carroll Street  
Madison, WI 53703**



**EXHIBIT "A"**

**Legal Description and Depiction of  
Property Subject to Option**

Outlot 17, Plat of the Village of Autumn Lake, located in the City of Madison,  
Dane County, Wisconsin.

**EXHIBIT "B"**

**Notice of Option**

[Attached.]

NOTICE OF OPTION

Document Number

Title of Document

Notice of Option made this \_\_\_\_ day of \_\_\_\_\_, 2005, by Veridian Homes, LLC (“Veridian”).

1) This Notice affects the real property described in Exhibit “A,” attached hereto and incorporated herein by reference (the “Property”).

2) That on or about the date of this notice, the City of Madison, a Wisconsin Municipal Corporation, granted Veridian the option to acquire the Property.

3) That said option requires that the City of Madison, upon exercise of the option, convey said Property to Veridian free and clear of all liens, encumbrances, restrictions and covenants, that would interfere with the use and development of the Property as a school.

Record this document with the Register of Deeds

Name and Return Address:

Attorney Gregory J. Paradise  
Mohs, MacDonald, Widder & Paradise  
20 North Carroll Street  
Madison, WI 53703

(Parcel Identification Number)

4) This Notice of Option is being recorded to give record notice of the option rights of Veridian in and to the Property.

Dated as of the date and year first above written.

VERIDIAN HOMES, LLC

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

STATE OF WISCONSIN )  
 )ss>  
COUNTY OF DANE )

Personally came before me, \_\_\_\_\_, notary public for the above State and County, this \_\_\_\_ day of \_\_\_\_\_, 2005, the above named \_\_\_\_\_, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires:

THIS DOCUMENT DRAFTED BY:  
Attorney Gregory J. Paradise  
MOHS, MACDONALD, WIDDER & PARADISE  
20 North Carroll Street, Madison, WI 53703