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**KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS**

DOCUMENT #

5114617

12/03/2014 10:43 AM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 14

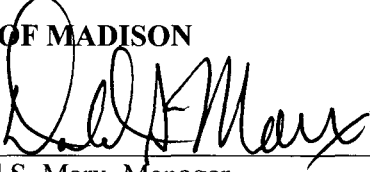
AFFIDAVIT OF RECORDING

The undersigned hereby swears or affirms that a certain Interim Trail Use/Rail Banking Agreement shall be recorded in the Dane County Register of Deeds Office, for the property legally described on attached Exhibit A and depicted on attached Exhibit B.

A copy of the original signed Interim Trail Use/Rail Banking Agreement is attached to this Affidavit.

Dated this 1ST day of December, 2014.

CITY OF MADISON

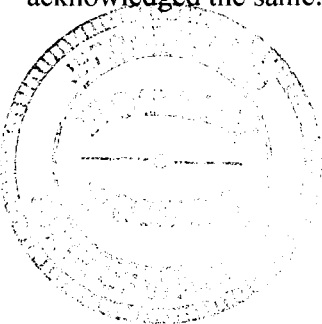
By: 
Donald S. Marx, Manager
Office of Real Estate Services

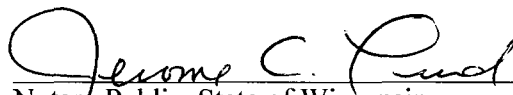
Return to: City of Madison
EDD – Office of Real Estate Services
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel No.s: 251/0609-052-0096-5
251/0709-323-0415-1
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251/0709-223-0813-9
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State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 1ST day of DECEMBER, 2014, the above named Donald S. Marx, Manager, Office of Real Estate Services of the City of Madison, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.




Notary Public, State of Wisconsin
 JEROME C. LUND

Print or Type Name
My Commission: 6/15/18

The City of Madison Office of Real Estate Services in is the drafter of this instrument.

Southwest Bike Path Agreement

RE Project No. 10680

EXHIBIT A
Legal Description of Trail Use Agreement Area

Being part of the Northwest $\frac{1}{4}$ of Section 5, Town 6, Range 9, City of Madison, Dane County, Wisconsin; and

Being part of the Southwest $\frac{1}{4}$, and the Northwest $\frac{1}{4}$, Section 32; and

Part of the Southeast $\frac{1}{4}$, Section 29; and

Part of the Southwest $\frac{1}{4}$, Southeast $\frac{1}{4}$, and the Northeast $\frac{1}{4}$, Section 28; and

Part of the Northeast $\frac{1}{4}$, and the Southwest $\frac{1}{4}$, Section 22; and

Part of the Southeast $\frac{1}{4}$, Section 21,

all being located in Town 7 North, Range 9 East, City of Madison, Dane County, Wisconsin.

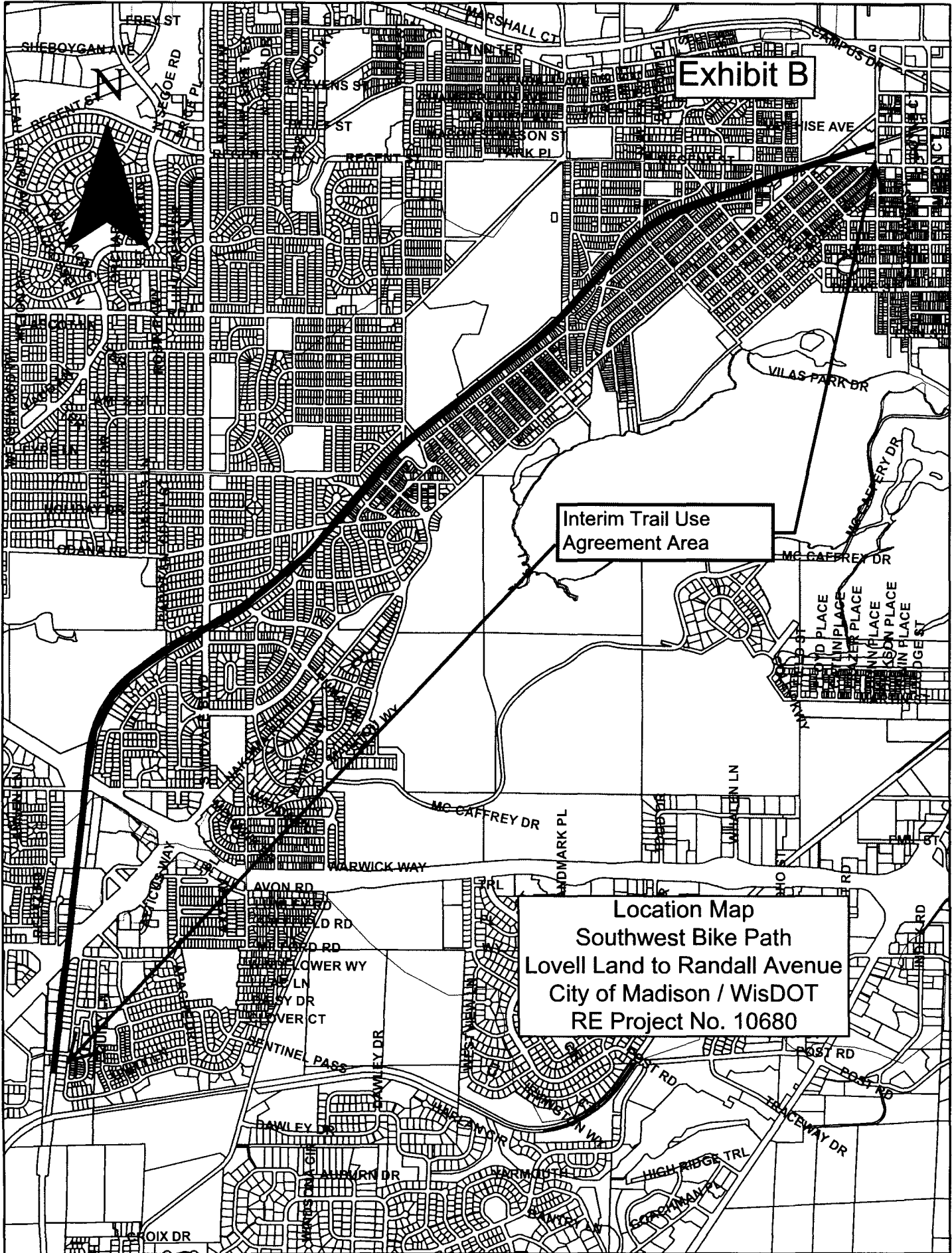


Exhibit B

Interim Trail Use Agreement Area

Location Map
Southwest Bike Path
Lovell Land to Randall Avenue
City of Madison / WisDOT
RE Project No. 10680

**Interim Trail Use/Rail Banking Agreement
By and Among
The Wisconsin Department of Transportation
and
South Central Wisconsin Rail Transit Commission
and
The City of Madison**

This agreement made and entered into as of this 1st day of April, 2000, by and among the Wisconsin Department of Transportation (WisDOT), the South Central Wisconsin Rail Transit Commission (SCWRTC) and the City of Madison (the CITY):

WITNESSETH

Whereas, WisDOT has received all of the right, title and interest in certain railroad property extending between a point at the Wisconsin state line at milepost 16.68 and milepost 60.63 in Madison, Wisconsin, a distance of approximately 44 miles;

Whereas, SCWRTC has an interest in the property by virtue of an agreement between SCWRTC and WisDOT dated December 29, 1980, and further owns the improvements to and over such property;

Whereas, the SCWRTC and WisDOT have banked the corridor until such time as the corridor can be restored and reconstructed for railroad purposes and placed into railroad operations;

Whereas, the CITY desires to obtain use of a portion of the corridor for the purpose of temporarily establishing a recreational trail, including bicycle and pedestrian uses and the establishment of certain vending sites, to be used in the interim before the restoration and reconstruction of the rail line;

Whereas, SCWRTC and WisDOT have agreed to permit the CITY the temporary use of said property until such time as WisDOT and SCWRTC, or its successor in interest, are able to commence restoration and reconstruction of the property for railroad purposes, subject at all times to the right of WisDOT and SCWRTC, or its successor in interest, to reenter said property and take possession of any part thereof for the restoration and reconstruction purposes aforesaid;

Whereas, the CITY has filed a Statement of Willingness to Assume Financial Responsibility for that portion of the corridor between milepost 56.41 and 60.63, between a point 370 feet south of Lovell Lane and Randall Avenue, all in the City of Madison, Wisconsin, and which is more particularly described on the attached Exhibit A, hereinafter described as "PROPERTY";

Whereas, the CITY is to provide the management and maintenance of said corridor, directly or indirectly, during the interim period of rail banking;

Whereas, this agreement has been negotiated by and among the parties hereto for the purpose of accomplishing the above purposes;

Now, Therefore, WisDOT, SCWRTC and the CITY do hereby provide, agree and covenant as follows:

1. SCWRTC and WisDOT hereby deliver possession of the PROPERTY, described in Exhibit "A", attached hereto, incorporated by reference, and hereafter referred to as the "PROPERTY" to the CITY on a temporary basis to be occupied, managed, maintained and used as hereinafter set forth.

2. The CITY may take possession of the PROPERTY and may establish a trail on, over and across such property for recreational purposes such as pedestrian, bicycle travel and the establishment of certain vending sites, and shall have use of, possession of and access to the property for such purposes, subject to the right of repossession of any and all of said property at any time in the future or on retaking or several retakings whenever SCWRTC and/or WisDOT determine that either of them needs repossession for the purpose of restoration and reconstruction on said property for rail purposes. SCWRTC and/or WisDOT shall notify the CITY no less than one year before exercising any right of repossession described in this agreement.

3. During the period of this agreement, the CITY agrees and assumes responsibility (which it may assign by separate agreement) to fully manage and maintain the PROPERTY which shall include without affecting the generality of this agreement the responsibilities set forth in the following paragraphs. In the event the CITY assigns its rights or obligations under this contract to third parties by separate agreement, copies of any such agreement shall be filed with SCWRTC, WisDOT and/or their designee, successors or assigns within ten (10) days of the execution of such agreement.

4. The CITY assumes responsibility for preserving public order upon the PROPERTY and for resolving matters concerning trespass upon and from the PROPERTY to adjacent private property. The CITY shall have the right to post signs and erect barricades as necessary to delineate the PROPERTY as a recreational trail and to prevent entrance upon the PROPERTY of unauthorized vehicles and individuals.

5. The CITY assumes such responsibility as may exist for providing fencing as may be required by Chapter 90, Wisconsin Statutes, local ordinance or contract.

6. The CITY assumes responsibility for the maintenance, repair or replacement of all culverts and bridge structures so as to insure the unrestricted flow of applicable waters and the preservation of the necessary drainage systems that may be affected by the construction and operation of a recreational trail by the CITY. SCWRTC shall be responsible for correcting any drainage problems of which it has received notice prior to the date of this agreement.

7. The CITY assumes such responsibility as may exist for the maintenance of the corridor through all highways and streets, including but not limited to keeping brush removed at crossings for improved visibility and the placement of warning signs to notify the motorist of a trail crossing.

8. The CITY hereby restates and commits itself to assuming full responsibility for the management of the PROPERTY and all recreation operations thereon and for any legal liability arising out of any of its acts or omissions relating to its occupation, management, or recreational use of the PROPERTY, to the extent provided by law.

9. The CITY is permitted to reconstruct the Spooner Street Overhead, which will reduce the existing overhead clearance. Upon receipt of notification of repossession of the PROPERTY for the restoration of railroad service as provided in paragraph 2, the CITY shall be required to remove the Spooner Street structure, or reconstruct the overhead structure to provide the necessary legal clearance for train operations within one year of said notification. All of the work, lowering of the structure and future removal or reconstruction, will be at CITY expense.

10. This agreement is not a lease and does not convey or transfer any ownership or rights of ownership. This instrument is a permit and the extent of the permit is to permit the use of the PROPERTY temporarily for certain activities as set forth herein. All rights of property ownership are retained by WisDOT and SCWRTC and any invasion of said ownership rights can only be granted by WisDOT and SCWRTC. Several types of retention are detailed in the next three paragraphs.

11. SCWRTC and WisDOT retain full and final authority regarding sale, disposal or lease of the PROPERTY or any portions thereof. Further, this agreement is subject to existing leases and permits.

12. SCWRTC and WisDOT retain authority for the issuance of permits allowing a public or privately owned utility the right to construct, place and operate, repair and replace any power or communications line, gas or other pipeline, water mains and sewer lines over, across, upon and within the PROPERTY. If a permit is granted under this paragraph, it shall be a condition of the permit that use of the PROPERTY not be impaired and that the utility permittee repair the PROPERTY and return it to the condition specified in the trails construction specifications. The SCWRTC and WisDOT shall provide written notice prior to the issuance of any permit under this paragraph, and shall coordinate with the CITY on matters pertaining to utility applications.

13. SCWRTC and WisDOT retain complete authority as to approving applications for new public or private crossings of the PROPERTY, including the setting of design and specification requirements, but will coordinate with the CITY on matters pertaining to said applications.

14. The parties mutually agree that, as related to this agreement, each party shall be responsible for any loss or expense (including costs, damages and attorney fees) by reason of liability imposed by law, attributable to the acts or omissions of its respective officers, employees or agents, to the extent provided by law.

15. The term of this agreement shall be twenty (20) years from the date of its execution or until terminated by SCWRTC, WisDOT or their designee, successors or assigns, upon its retaking for restoration and reconstruction for rail purposes. If at the end of the twenty (20) years SCWRTC, WisDOT, or their designee, successors or assigns has not retaken the PROPERTY for rail purposes, the permit may be extended for up to another twenty (20) year term. If a permit extension is requested, the CITY shall, no later than one (1) year prior to the expiration date of this agreement, request such extension from SCWRTC, WisDOT or their designee, successors or assigns who shall, within ninety (90) days of the filing of the request, determine whether or not the extension shall be granted and advise the CITY in writing of such action. SCWRTC and WisDOT covenant and agree that if and when they or either of them retakes any portion of the PROPERTY for rail restoration and reconstruction purposes, that they will give the CITY at least one year's written notice of the same to be served on the Mayor of the CITY, the CITY Clerk and the CITY Engineer. During the one year period, the CITY shall have the right to remove any property it has placed on the premises. SCWRTC and WisDOT further covenant and agree that if and when they retake any portion of the PROPERTY for rail restoration and reconstruction purposes, that they will allow the CITY to relocate elsewhere on the rail corridor any portion of the PROPERTY upon which the CITY's use under this agreement has been displaced by the retaking, if it is reasonably safe to do so and such relocation does not interfere with normal railroad operations. In the event that SCWRTC and WisDOT retake the PROPERTY or a portion of the property during the first 10 years of this agreement, and the CITY is required under the terms of any grant agreement to repay all or a portion of grant money it has received to implement this agreement, SCWRTC and WisDOT further covenant that they will reimburse the CITY for funds it is required to repay under the terms of such grant agreement due to the retaking of any portion of the PROPERTY.

16. It is hereby stated and agreed by the parties hereto that the consideration for this permit is the assumption of the management and maintenance responsibility by the CITY.

17. If any term, covenant, condition or provision (or part thereof) of this agreement, or the application thereof to any part or circumstance, shall at, any time or to any extent, be held to be invalid or unenforceable, the remainder of this agreement, or the application of such term or provision, (or remainder thereof) to parties or circumstances other than those as to which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this agreement shall be valid and enforced to the fullest extent permitted by law.

18. No term or provision of this agreement, or any of its attachments, may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by all parties to this agreement. Consents and approvals required under this instrument may be made or granted by exchange of letters among the parties.

19. This agreement together with those documents referred to herein contains the entire agreement of the parties and supersedes any and all prior agreements and draft agreements,

or oral understandings between the parties.

20. Any notice required to be made in writing or any filing required to be made with any party to this agreement shall be sent to the following addresses:

For SCWRTC, to:

Attorney Eileen A. Brownlee
Kramer, Brownlee & Infield, LLC
1038 Lincoln Avenue
P. O. Box 87
Fennimore, Wisconsin 53809

For WisDOT, to:

Mr. Ronald E. Adams, Director
Bureau of Railroads and Harbors
4802 Sheboygan Avenue, Room 701
P. O. Box 7914
Madison, Wisconsin 53707-7914

For the CITY, to:

City Clerk
210 Martin Luther King Jr. Blvd.
City-County Building, Room 103
Madison, Wisconsin 53709

Office of the Mayor - City of Madison
210 Martin Luther King Jr. Blvd.
City-County Building, Room 403
Madison, Wisconsin 53709

City Engineer
210 Martin Luther King Jr. Blvd
City-County Building, Room 115.
Madison, Wisconsin 53709

Each party shall have an affirmative obligation to provide each other party with any permanent change of address within thirty (30) days of such change.

In Witness Whereof, the parties hereto have caused this agreement to be executed by their duly authorized officers as of the date and year first above written.

WISCONSIN DEPARTMENT OF TRANSPORTATION

By: Ronald E. Adams
Ronald E. Adams, Director
Bureau of Railroads and Harbors

STATE OF WISCONSIN)
) ss
DANE COUNTY)

Personally came before me this 26th day of April, 2000, the above named Ronald E. Adams, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Hickie D. Steyer
Notary Public, State of Wisconsin
My commission expired 05-12-02

SOUTH CENTRAL WISCONSIN RAIL TRANSIT COMMISSION

By: Robert M. Hoesly
Robert M. Hoesly, Chairman
Greg Engen
Greg Engen, Secretary

STATE OF WISCONSIN)
) ss
GREEN COUNTY)

Personally came before me this 07 day of April, 2000, the above named Robert M. Hoesly, Chairman, and Greg Engen, Secretary, to me known to be the persons and to me known to be such officers who executed the foregoing instrument and acknowledged the same.

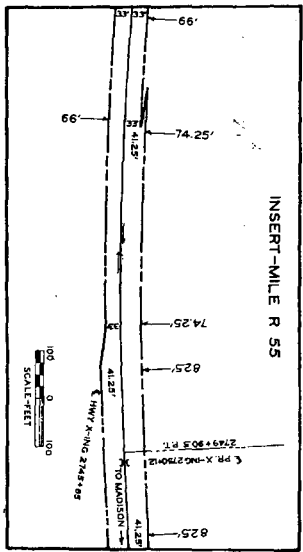
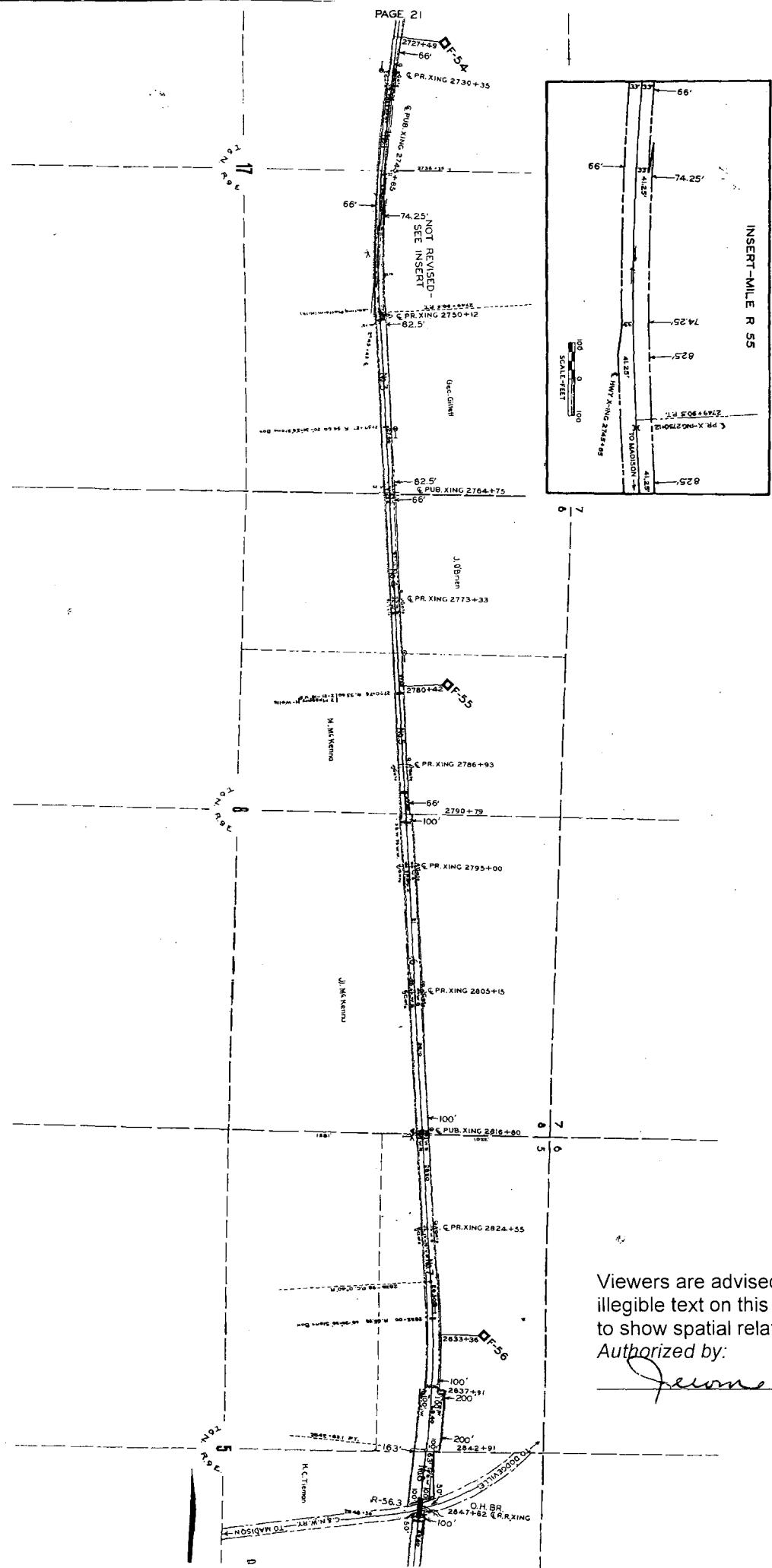
Ed. A. Brundage
Notary Public, State of Wisconsin
My commission is permanent

EXHIBIT "A"

All that land as acquired by the Wisconsin Department of Transportation by deed dated December 29, 1980 and recorded by the Dane County Register of Deeds on March 11, 1981 as Document 1699653 in Vol. 2633, Pages 3-8, more particularly described as follows:

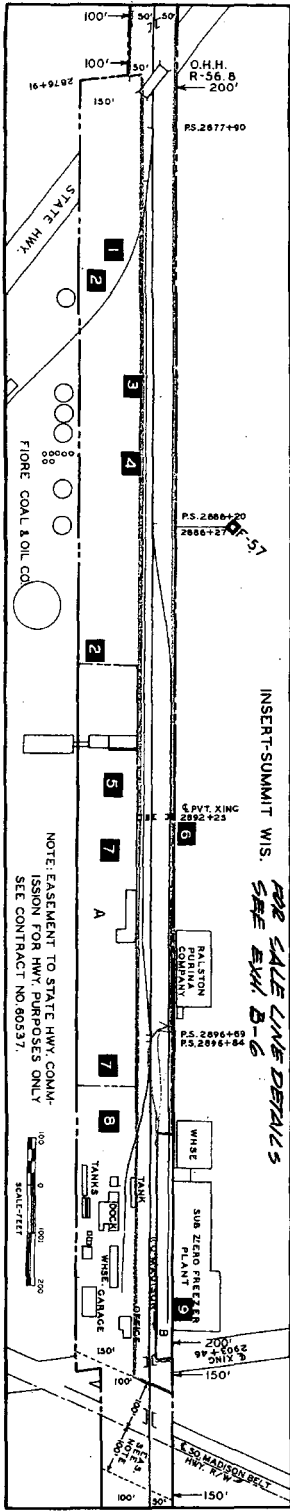
A strip of land of varying widths beginning at a point in the NW $\frac{1}{4}$ of Section 5, Township 6 North, Range 9 East, at Milepost 56.41 approximately 370 feet southerly of the centerline of Lovell Lane, thence northerly through said Section 5; and

Over and across Township 7 North, Range 9 East through sections 32, 29, 28, 21 and 22 to a point in the NE $\frac{1}{4}$ of Section 22 at the east line of Randall Avenue.

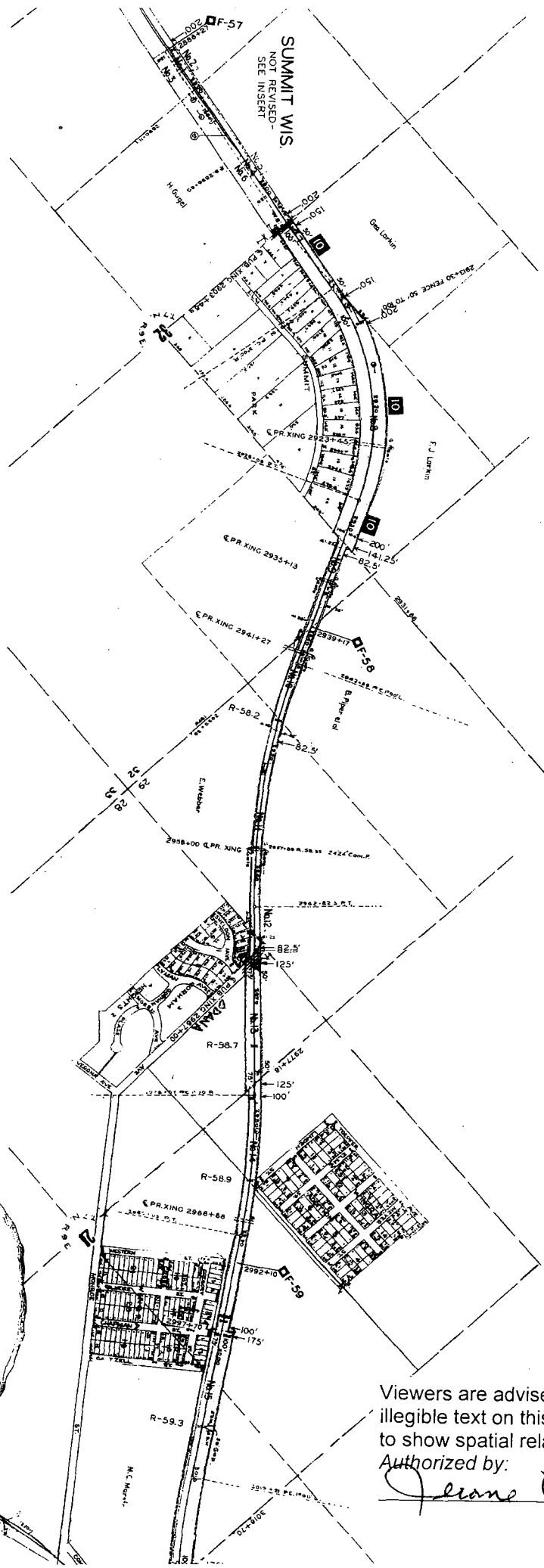


Viewers are advised to ignore the illegible text on this map. It is presented to show spatial relationships only.
 Authorized by:

Jerome Paul



INSERT-SUMMIT WIS. FOR SALE LINE DETAILS
SEE EXH. B-6



A-135000 (COPY SOLD) 9-27-1971
B-1350231 2-13-1976

Viewers are advised to ignore the illegible text on this map. It is presented to show spatial relationships only.
Authorized by:
Jerome Paul

Viewers are advised to ignore the illegible text on this map. It is presented to show spatial relationships only.

Authorized by:

Glenn

FOR SALE LINE DETAILS
SEE EXH. B-7, 8, +9
MADISON WIS.

B-X34907 QCD(SOLD) 6-3-1971
C-X35120 " " " " " "
D-X36432 " " 9-27-1976
E-X36828 " " 9-15-1977

NOTE: AN EASEMENT TO THE CITY OF MADISON WIS. FOR STREET AND PARK PURPOSES, AS SHOWN. SEE L.&T. DEED NO. 146 R-DANE CO. WIS. DATED JULY 1, 1931.

CON'T. AT LEFT BELOW

LAND CHANGES			
PARCEL	TRANSACTION	AUTHORITY	DATE
A	SOLD	AFR 2509	9-15-22

