

CONSERVATION EASEMENT

(DEVELOPMENT NAME)

This Conservation easement is made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as “grantee,” and _____, a _____ Corporation, hereinafter referred to as “Grantor,” and shall become effective upon the recording of this Grant of Conservation Easement, together with the Acceptance following, with the Office of the Register of Deeds for Milwaukee County, pursuant to §700.40(2)(b) of the Wisconsin Statutes.

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property described in Exhibit A [if more than one Exhibit, also note Exhibit B, C, etc.] attached hereto and hereby made a part hereof (protected property); and

WHEREAS, the grantor desires and intends that the natural elements and the ecological and aesthetic values of the protected property including, without limitation, [describe only resources present: woodlands, wetlands, wetland buffer, shore buffer, steep slopes, etc.] be preserved and maintained by the continuation of land use that will not interfere with or substantially disrupt the natural elements or the workings of natural systems; and

WHEREAS, grantee is a “holder”, as contemplated by §700.41(1)(b)1. of the Wisconsin Statutes, whose purposes include, while exercising regulatory authority granted to it, *inter alia*, under §62.23 and §236.45 of the Wisconsin Statutes, the conservation of land, natural areas, open space, and water areas; and

WHEREAS, the grantor and grantee, by the conveyance to the grantee of the conservation easement on, over, and across the protected property, desire to conserve the natural values thereof and prevent the use or development of the protected property for any purpose or in any manner inconsistent with the terms of this conservation easement; and

WHEREAS, the grantee is willing to accept this conservation easement subject to the reservations and to the covenants, terms, conditions, and restrictions set out herein and imposed hereby;

NOW, THEREFORE, the grantor, for and in consideration of the foregoing recitations and of the mutual covenants, terms, conditions, and restrictions subsequently contained, and as an absolute and unconditional dedication, does hereby grant and convey unto the grantee a conservation easement in perpetuity on, over, and across the protected property.

Grantee’s rights hereunder shall consist solely of the following:

1. To view the protected property in its natural, scenic, and open condition;
2. To enforce by proceeding at law or in equity the covenants subsequently set forth, including, and in addition to all other enforcement proceedings, proceedings to obtain all penalties and remedies set forth under Division 15-9.0500 of the Unified Development Ordinance of the City of Franklin, as amended from time to time, any violation of the covenants subsequently set forth being and constituting a violation of such Unified Development Ordinance, as amended from time to time, or such local applicable ordinance as may be later adopted or in effect to enforce such covenants or the purposes for which they are made, it being agreed that there shall be no waiver or forfeiture of the grantee’s right to insure compliance with the covenants and conditions of this grant by reason of any prior failure to act; and
3. To enter the protected property at all reasonable times for the purpose of inspecting the protected property to determine if the grantor is complying with the covenants and conditions of this grant.

And in furtherance of the foregoing affirmative rights of the grantee, the grantor makes the following covenants which shall run with and bind the protected property in perpetuity, namely, that, on, over, or across the protected property, the grantor, without the prior consent of the grantee, shall not:

1. Construct or place buildings or any structure;
2. Construct or make any improvements, unless, notwithstanding Covenant 1 above, the improvement is specifically and previously approved by the Common Council of the City of Franklin, upon the advice of such other persons, entities, and agencies as it may elect; such improvements as may be so approved being intended to enhance the resource value of the protected property to the environment or the public and including, but not limited to animal and bird feeding stations, park benches, the removal of animal blockage of natural drainage or other occurring blockage of natural drainage, and the like;

3. Excavate, dredge, grade, mine, drill, or change the topography of the land or its natural condition in any manner, including any cutting or removal of vegetation, except for the removal of dead or diseased trees;
4. Conduct any filling, dumping, or depositing of any material whatsoever, including, but not limited to soil, yard waste, or other landscape materials, ashes, garbage, or debris;
5. Plant any vegetation not native to the protected property or not typical wetland vegetation;
6. Operate snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles.

To have and to hold this conservation easement unto the grantee forever. Except as expressly limited herein, the grantor reserves all rights as owner of the protected property, including, but not limited to, the right to use the protected property for all purposes not inconsistent with this grant. Grantor shall be responsible for the payment of all general property taxes levied, assessed, or accruing against the protected property pursuant to law.

The covenants, terms, conditions, and restrictions set forth in this grant shall be binding upon the grantor and the grantee and their respective agents, personal representatives, heirs, successors, and assigns, and shall constitute servitudes running with the protected property in perpetuity. This grant may not be amended, except by a writing executed and delivered by grantor and grantee or their respective personal representatives, heirs, successors, and assigns. Notices to the parties shall be personally delivered or mailed by U.S. Mail registered mail, return receipt requested, as follows:

To Grantor:

[NAME, ADDRESS OF DEVELOPER]

To Grantee:

City of Franklin
Office of the City Clerk
9229 W. Loomis Road
Franklin, Wisconsin 53132

In witness whereof, the grantor has set its hand and seals this on this date of _____, 20____.

[DEVELOPER'S NAME]

By: _____

TITLE: _____

By: _____

TITLE: _____

[* must provide the notary in a representative capacity for entities (i.e. LLC, Corp, INC, etc) and an alternate form for individuals (i.e., John Doe), samples of which are provided with this template (at the end of the document) – remove this statement once correct notary provision has been inserted from below.]

MORTGAGE HOLDER CONSENT

The undersigned, _____, a Wisconsin banking corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering encumbering the Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on _____, 20____, as Document No. _____, hereby consents to the execution of the foregoing easement and its addition as an encumbrance title to the Property.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officers, and its corporate seal to be hereunto affixed, as of the day and year first above written.

a Wisconsin Banking Corporation
By: _____
Name: _____
Title: _____

STATE OF WISCONSIN)
)ss
COUNTY OF MILWAUKEE)

On this, the _____ day of _____, 20____, before me, the undersigned, personally appeared _____, the _____ of _____, a Wisconsin banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.

Name: _____
Notary Public: _____
State of _____
County of _____
My commission _____

Exhibit A

Notary provision forms(10/30107)

Following are the suggested notary forms in section 706.07(8). Stats., for a person signing in an individual capacity and a person signing in a representative capacity.

(8) Short forms. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by sub. (7)(a):

(a) For an acknowledgment in ,an individual capacity:

State of
County of

This instrument was acknowledged before me on (date) by (name(s) of person(s)).

(Signature of notarial officer)

(Seal, if any)

Title (and Rank)
[My commission expires:]

(b) For an acknowledgment in a representative capacity (LLC, Corp, Inc, etc):

State of
County of

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

(Signature of notarial officer)

(Seal, if any)

Title (and Rank)
[My Commission expires:]

W.S.A. 706.07

The following is a work product draft to assist in writing notarial acknowledgments in a representative capacity for the party delivering a document to the City:

State of
County of

Personally came before me this ___ day of ,2005_____, the above named [name], [title], and (if a second person/officer signing) [name] [title], of the above named [specify the type of entity, i.e., corporation, limited liability company, limited partnership, etc.], [name of entity], to me known to be such [title] and [title, if second one] of said [type of entity], and acknowledged that [he, she, they] executed the foregoing instrument as such officer[s] as the deed of said [specify entity] by its authority.