

**FARMLAND DEVELOPMENT
RIGHTS EASEMENT**

Document Number

Document Title

DANE COUNTY
REGISTER OF DEEDS

3274899

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Trans. Fee

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Pages 6

000389

Recording Area

Name and Return Address

Gaylord Plummer
Rm. 425 City-County Building
Madison, Wisconsin 53709

James D. Woodburn, hereinafter referred to as the Grantor for and in consideration of benefits received and other good and valuable consideration, the receipt of which is acknowledged, conveys and warrants to the County of Dane, a Wisconsin quasi-municipal corporation, hereinafter referred to as the Grantee, in perpetuity, the development rights over, across, under and upon the following described Property situated in the Township of Springdale, County of Dane, State of Wisconsin.

PROPERTY DESCRIPTION:

Lot One (1), Certified Survey Map No. 8286, recorded in Volume 44 of Certified Survey Maps, Pages 315-316, as Document No. 2783084, in the Township of Springdale, Dane County, Wisconsin.

Parcel Identification No: 0607-293-8001-4

0607-293-8001-4
Parcel Identification Number (PIN)

OPEN SPACE AGRICULTURAL VALUES:

WHEREAS: Preservation of this particular parcel will create a buffer between park land parcels and adjacent farmland under development pressure and will therefore aid in protecting the agricultural farmland and the parkland recreational use, and

WHEREAS: Preservation of this particular parcel, in conjunction with other preserved lands in the vicinity, will create a block of protected agricultural and open space land, said block being necessary to maintain the agricultural and recreational support infrastructure in the area, which is also crucial in maintaining the viability of existing agriculture in the area, and

WHEREAS: The preservation of this parcel will act as a good demonstration project for the area and will support existing farmland and open space preservation efforts in the community, and

WHEREAS: The Grantor intends that the agricultural and recreational values of the Property be preserved and maintained by the continuation of the land use patterns, including, without limitation, those existing at the time of the grant, that do not significantly impair or interfere with those values.

NOW THEREFORE WITNESSETH:

That the Grantor, for and in consideration of benefits received and other good and valuable consideration, the receipt of which is acknowledged, does by these presents, grant, bargain, sell, transfer and convey unto the Grantee forever, all development rights, except as reserved in this document, in respect to the Property, hereby perpetually binding the Property to the restrictions limiting permitted activities to agricultural and recreational uses as specifically delineated in the covenants, terms and conditions contained herein, and do also grant such interests, rights, and easements, make such covenants and subject the land to such servitudes as are necessary to bind the Property, in perpetuity, to such restrictions.

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PURPOSE: To assure that the Property will not be developed as or for residential, commercial or industrial uses and that no use will be made of the Property which will significantly impair or interfere with the agricultural, open space and recreational values of the Property.

1. RESTRICTIONS: The Property shall be subject to easements and building and use restrictions of record and further subject to the following conditions:

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- a. The division or subdivision of the Property into additional parcels is prohibited.
- b. Grantor may grant easements for access or public utilities, such as sanitary sewer, water, drains and telephone lines, as long as any such easement, singly or in combination, does not substantially impact the agricultural, recreational and open space values of the Property. The Grantor shall provide notification to the Grantee of proposed easements via certified mail.
- c. Except as agreed to by the Grantee, the construction or placement of buildings, camping accommodations, mobile homes, or any other structures on the Property is prohibited, except as herein noted: Structures may be built for uses consistent with farm and recreational activities, as long as they do not significantly impair or interfere with the agricultural, recreational and open space values of the Property. Existing fences, power lines, access roadway and two (2) concrete culverts for crossing Deer Creek are allowed to remain, subject to their maintenance as required by applicable governmental regulations. Structures built must be in conformance with all applicable federal, state and local laws, ordinances and regulations. Grantor shall provide notification to the Grantee of such structures.
- d. The filling, excavating, dredging, mining, removal of topsoil, sand, gravel, rock, minerals or other materials and the building of roads or changes in the topography of the land in any manner excepting the maintenance of farmlanes, parking areas, landscape and pathway alterations consistent with agricultural and recreational practices is prohibited, unless specifically approved by the Grantee.
- e. The exploration and drilling for water supply may be permitted upon review and approval by the Grantee. The Grantor shall provide notification to the Grantee of such activity via certified mail.
- f. The dumping or accumulation of waste or other unsightly or offensive material is prohibited. This shall not be construed to preclude typical agricultural activities, such as the disposal or use of plant and animal waste.
- g. For purposes of this development rights easement, agricultural use means the production of plants and animals useful to humans including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including the breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and recreational use means equestrian, skiing, bicycling, fishing, or other outdoor recreational uses and activities. The management and harvesting of a woodlot is not considered as an agricultural or outdoor recreational use but is a permitted activity under this development rights easement. Open space values refers to the natural, undeveloped state of the Property, but shall not be construed to prohibit agricultural and recreational uses which involve associated development of the Property for such uses.
- h. The property shall be managed and operated to be compatible with park operations, consistent with park and recreational guidelines established by State and County Park service agencies.

2. **RIGHTS OF THE GRANTEE:** The Grantor confers the following rights upon the Grantee in order to preserve and maintain the agricultural, recreational and open space values of the Property in perpetuity:

a. **Right to Enter.** The Grantee has the right to enter the Property at reasonable times, on advance notice to persons residing or employed on the Property, if possible, to monitor or to enforce compliance with this development rights easement by the Grantor or his successors, heirs or assigns. The Grantee may not, however, unreasonably interfere with the Grantor's use and quiet enjoyment of the Property. The Grantee has no right to permit others to enter the Property for purposes unrelated to this development rights easement.

b. The right to enforce by proceedings at law or in equity the above covenants, including but not limited to, the right to require restoration of the property to the condition at the time of the grant of this development rights easement.

3. **PERMITTED USES:** Grantor retains all ownership rights which are not expressly restricted by this development rights easement. In particular, the following rights are reserved:

a. **Agricultural Use.** The Grantor retains the right to develop and continue agricultural uses on the Property consistent with the scale of such operations extant at the time of the grant of this development rights easement.

b. **Right to Convey.** The Grantor retains the right to sell, mortgage, bequeath or donate the Property. Any conveyance will remain subject to the terms of this development rights easement and the subsequent owner will be bound by all obligations in this agreement. The Grantee shall be notified by first class mail, within 90 days, when any conveyance of the Property occurs.

c. **Right to Add Designated Structures or Uses.** The Grantor retains the right to add the following modifications or use of the Property: Shelters for recreational and sanitary purposes; Administrative and maintenance facilities; Development of horse riding trails, ski trails, fishing access and parking and other recreational facilities to assure handicapped access. The Grantor retains the right to erect signs or marker monuments, or both, stating historically significant or recreational use information related to the property. These shall not be higher than eight (8') feet nor wider than six (6') feet.

4. **NOTICE OF INTENTION TO UNDERTAKE CERTAIN PERMITTED ACTIONS.** The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, as provided in paragraphs 1(b), 1(c), 1(d), and 1(e) is to afford Grantee an opportunity ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this development rights easement. Whenever notice is required Grantor shall notify Grantee in writing not less than 90 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purpose of the development rights easement.

Where Grantee's approval is required, as set forth in paragraphs 1(b), 1(c), 1(d), and 1(e) Grantee shall grant or withhold its approval in writing within 90 days of receipt of Grantor's written request therefor. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this development rights easement. Grantee's failure to act within the said 90 days shall constitute approval.

5. **CONTINGENT RIGHT IN THE UNITED STATES OF AMERICA.** In the event that the State of Wisconsin or the County of Dane unreasonably fails to enforce any of the terms of this easement, as determined in the sole discretion of the Secretary of the United States Department of Agriculture, the said Secretary of Agriculture, and his or her successors and assigns, shall have the right to enforce the terms of the easement through any and all authorities available under Federal or State law.

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In the event that the State of Wisconsin or the County of Dane attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of this easement without the prior consent of the Secretary of the United States Department of Agriculture, then, at the option of such Secretary, all right, title, and interest in this easement shall become vested in the UNITED STATES OF AMERICA.

6. **GRANTEE REMEDIES.** This section addresses cumulative remedies of the Grantee and limitation on these remedies:

a. **Grantee's Discretion.** The Grantee has discretion to enforce, forbear or delay to exercise its rights under this development rights easement. A delay in enforcement shall not be construed as a waiver of the Grantee's right to eventually enforce the terms of this development rights easement.

b. **Acts Beyond Grantor's Control.** The Grantee may not bring an action against the Grantor for modifications to the Property resulting from causes beyond the Grantor's control. Examples are: unintentional fires, storms, natural earth movement, trespassers or even a Grantor's well-intentioned actions in response to an emergency resulting in changes to the Property. The Grantor has no responsibility under this development rights easement for such unintended modifications.

c. **Notice and Demand.** If the Grantee determines that the Grantor is in violation of this development rights easement, or that a violation is threatened, the Grantee will provide written notice, via certified mail, to the Grantor. The written notice will identify the violation and request corrective action to cure the violation or to restore the Property.

d. **Failure to Act.** If, for a 28-day period after written notice, the Grantor continues violating this development rights easement, or if the Grantor does not abate the violation and implement corrective measures requested by the Grantee, the Grantee may bring an action in law for the violation through injunctive relief, seek specific performance, declaratory relief, restitution, reimbursement of expenses, or an order compelling restoration of the Property. If the court determines that the Grantor has failed to comply with this development rights easement, then the Grantor also agrees to reimburse all reasonable costs and attorney fees incurred by the Grantee.

e. **Grantor's Absence.** If the Grantee determines that this development rights easement is, or is expected to be violated, the Grantee will make good faith efforts to notify the Grantor. If, through reasonable efforts, the Grantor cannot be notified, and if the Grantee determines that circumstances justify prompt action to mitigate or prevent impairment of the agricultural or open space values, then the Grantee may pursue its lawful remedies without prior notice and without awaiting the Grantor's opportunity to cure. The Grantor agrees to reimburse all costs associated with this effort.

f. **Cumulative Remedies.** The preceding remedies of the Grantee are cumulative.

7. **OWNERSHIP COSTS AND LIABILITIES.** Grantor or his successors, heirs or assigns retains ownership with full rights to control and manage the Property and shall bear all costs and liabilities of any kind related to property ownership, operation, maintenance, and taxes, including maintaining adequate comprehensive general

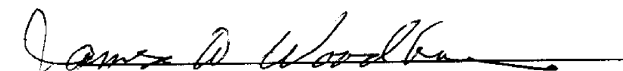
liability insurance. This paragraph is intended to ensure that none of the liabilities attendant on land ownership are inadvertently transferred to Grantee under this development rights easement as the Grantee will have no management responsibilities and will exercise no direct control over any potential hazards on the Property.

8. **SUCCESSORS.** The covenants, terms, conditions, and restrictions of this development rights easement shall be binding upon, and inure to the benefit of, the Grantor's and Grantee's respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property regardless of whether future conveyances of the Property expressly refer to this development rights easement.

9. **WISCONSIN LAW.** This development rights easement will be construed in accordance with State of Wisconsin Law.

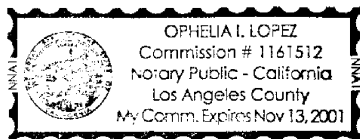
Dated this 14 day of December, 2000.

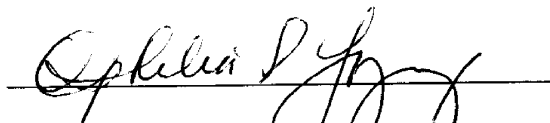
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James D. Woodburn - Grantor

STATE OF CALIFORNIA)
COUNTY OF Los Angeles)SS

Personally came before me, this 14 day of December, 2000, the above named James D. Woodburn, known to me to be the person who executed the foregoing instrument.




Notary Public, State of California
My Commission NOV 13, 2001

ACCEPTANCE AND CONSENT OF GRANTEE

The undersigned, as authorized officers of Grantee, the County of Dane, hereby accepts the above said Farmland Development Rights Easement and consents to the terms thereof.

Dated this 22 day of December, 2000.

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COUNTY OF DANE

By: Kathleen M. Falk
Kathleen M. Falk
County Executive

By: Joseph T. Parisi
Joseph T. Parisi
County Clerk

STATE OF WISCONSIN)
)SS
COUNTY OF DANE)

Personally came before me, this 22nd day of December, 2000, the above named Kathleen M. Falk and Joseph T. Parisi, known to me to be the persons who executed the foregoing instrument and acknowledged the same as the act of said Grantee.

Yvonne Hill

Notary Public, State of Wisconsin
My Commission exp. 5/12/01.

This Instrument Drafted By:
Attorney Duane P. Schumacher