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DANE COUNTY
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**HIGHFIELD RESERVE
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS**

CITY OF FITCHBURG, DANE COUNTY, WI.

Return to:
**Angie Christensen
Veridian Homes
6801 South Towne Drive
Madison, WI53713**

PREAMBLE

See Exhibit "A"
(Parcel Identification Numbers)

This Declaration of Protective Covenants, Conditions and Restrictions (the "**Declaration**") is made this 21 day of October, 2022 by VH Highfield Reserve, LLC, a Wisconsin Limited Liability Company (hereinafter referred to as the "**Declarant**") and/or its successors and assigns.

WHEREAS, Declarant is the owner of certain real property located in the plat of Highfield Reserve (the "Plat") located in the City of Fitchburg, Dane County, Wisconsin. The Lots are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and the Plat is shown in Exhibit "B", attached hereto and incorporated herein by reference; and

WHEREAS, by this Declaration, Declarant subjects the Lots and Outlots to the terms hereof, so that the Lots and Outlots will be constructed as a planned development with housing units and shared common property (the "Development"); and

WHEREAS, Declarant desires to provide for the maintenance and enhancement of property values and amenities in said Development, and for the preservation of the properties and improvements thereon, as well as, for the preservation of said Development's distinctive style, and to prevent the erection, or maintenance of poorly designed or constructed improvements; and

WHEREAS, to the above end, Declarant desires to subject the Development to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has thought it desirable for the efficient maintenance and preservation of the values of said Development to create an Association to which should be delegated and assigned the powers of owning, maintaining and administering the Common Property and facilities, as set forth below, and administering and enforcing the covenants and restrictions, and collecting and disbursing the Assessments and charges as hereinafter or in the future created or established, and promoting the health, welfare and recreation of the Development's residents, and to that end Declarant has incorporated the Highfield Reserve Homeowners Association, Inc. a non-profit, non-stock corporation, under the laws of the State of Wisconsin (the "**Association**"); and **NOW, THEREFORE**, the Declarant declares that the real property constituting the Development will and shall be sold, transferred and conveyed subject to the easements, covenants, restrictions, assessments, charges and liens hereinafter set forth.

PART A
ASSOCIATION MATTERS

A-1) Definitions.

A) "Association" shall mean and refer to the Highfield Reserve Homeowners Association, Inc., and its successors and assigns.

B) "Common Property" includes all those areas located in the Development which are not contained within a Lot and which are intended for common use or are necessary or convenient to the existence, maintenance or safety of the Development. Common Property may also include any additions thereto designated by the Declarant or the Association in any subsequent amendment to this Declaration, and all improvements located on said property, which are intended to be devoted to the common use and enjoyment of members, Owners and Occupants. Common Property shall further include all public or private alleys (if any), access ways, traffic calming measures, plantings, landscaping islands or boulevards, which the City of Fitchburg is not obligated to maintain. Declarant may, by subsequent amendment or easement, designate parts of certain private lands within the Development as Common Property, rendering the Association responsible for maintenance thereof, without subjecting the same to the ownership provisions contained in Section A-3, below.

C) "Declarant" shall mean and refer to VH Highfield Reserve, LLC, a Wisconsin Limited Liability Company, and/or its successors and assigns.

D) "Lot" shall mean and refer to the individual subdivided single family lots in Highfield Reserve as described and depicted in Exhibit "A", now owned by Declarant, but which Declarant in the future intends to convey to purchasers who shall thereupon become members of the Association. Lots 144, 270 and 271 are excluded from the Declaration. The term "Property" or "Properties" shall be synonymous with the term Lot.

E) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any of the Properties described in Exhibit "A". A purchaser of any of said Properties by land contract shall be referred to as "Owner" instead of the land contract vendor.

F) "Occupant" shall mean and refer to the occupant of any of the Properties who shall either be an Owner or a lessee who holds a written lease having an initial term of twelve months or more.

G) "Subdivision" shall refer to the lands described in Exhibit "A". The term "Subdivision" is synonymous with the term "Development".

H) "City" shall refer to the City of Fitchburg, a Wisconsin Municipal Corporation.

A-2) Membership and Voting Rights.

A) **Members.** Declarant has incorporated the Association. The Association shall have two classes of membership. Each Owner of a Lot shall automatically become a Class A Member of the Association. The Declarant, or its successors or assigns, is the Class B Member of the Association. Declarant shall not be considered a Class A Member in the Association notwithstanding its ownership of Lots in the Subdivision. By acceptance of the Deed or other instrument of conveyance, the Owner(s) of each Lot consent to such Owner's membership in the Association whether or not specified on the deed to the Owner. A Class A membership in the Association is appurtenant to each Lot. Each Owner of a Lot shall automatically be entitled to the benefits and subject to the burdens relating to such Class A membership in the Association. The Association shall have authority to manage the Common Property. Persons or entities, including a land contract vendor, who hold an interest merely as security for the performance of an obligation, shall not be members of the Association. Tenants of Properties who are not Owners shall not be members of the Association. The rights, duties and obligations of the Class A and the Class B Members are specified in this Declaration and in the By-Laws of the Association.

B) **Articles of Incorporation and By-Laws.** The purposes and powers of the Association and the rights and obligations with respect to the members thereof, shall be governed by the Articles of Incorporation and By-Laws of the Association; provided, however, that such Articles of Incorporation and By-Laws shall be subject to, and shall not contravene, the terms, conditions, benefits and burdens set forth in this Declaration.

C) **Class B Member Obligation for Assessments.** Declarant has no responsibility to pay for operating expenses of the Association by virtue of its ownership of the Class B membership interest in the Association. Declarant's liability for operating expenses is limited by and subject to the provisions of this Declaration.

D) **Calculation of Assessments.** The Association shall calculate an Owner's responsibility for assessments based on the following formula:

Total Subdivision Expenses/Total Number of Assessment Units X Assessment Unit(s) of Lot in question.

As used above, the term "Total Subdivision Expenses" shall mean (i) all Common Area Expenses which the Association estimates actually incurring during the budget year in question, plus (ii) all Common Area Expenses which the Association estimates it would incur during the budget year in question if all phases of the Subdivision were completed at the time said calculation is made. Declarant shall not be responsible for assessments on Declarant owned Lots. Declarant shall be responsible for paying to the Association the amount by which the Assessments collected by the Association are less than the amount necessary to pay for all actual Common Area Expenses incurred by the Association for the budget year in question until such time as Declarant owns 5% or less of the lots in the subdivision or control of the Association is turned over to the Owners, whichever occurs first.

A-3) Description.

A) Responsibility for Assessments. The following table describes the number of assessment units (an "**Assessment Unit**"), which are assigned to various Lots in the Development based upon their intended use at the present time. Lots 144 and 270-271 shall be excluded for assessments. For the purposes of the following table, a single family residence shall be deemed a Dwelling Unit.

<u>Use</u>	<u>Number of Assessment Units</u>
1) Single Family:	One (1) per Dwelling Unit.
2) Twin Homes (2 unit attached residential)	One (1) per Dwelling Unit (each side defined as a dwelling unit)

B) Association Management. The Association is required to retain a professional property management company with the experience necessary to perform the duties of the Association (the "**Management Company**"). The Association shall enter into a management contract (the "**Management Contract**") with the Management Company on such terms and conditions as the Association and the Management Company shall agree. The initial Management Company is DSI Real Estate Group, Inc., a Wisconsin Corporation, which is affiliated with the Declarant by reason of common ownership. The Management Contract between DSI Real Estate Group, Inc. and the Association has not been negotiated on an arm's length basis.

C) General Fund. As used herein, the term "**Surplus**" shall mean the amount by which assessments collected by the Management Company on behalf of the Association to pay for common expenses relating to the Property exceed the common expenses for the fiscal year in question. The Management Company shall deposit and hold any Surplus in the Association's operating account maintained by the Management Company. The Surplus, in the discretion of the Association working in conjunction with the Management Company, may be applied to future Association expenses as they become due, but there shall be no obligation on either the Association's or the Management Company's part to return the Surplus to lot owners.

D) Declarant's Responsibility for Assessments. Declarant shall not be responsible for assessments on Declarant owned Lots. Declarant shall be responsible for paying to the Association the amount by which the Assessments collected by the Association are less than the amount necessary to pay for all actual Common Area Expenses incurred by the Association for the budget year in question.

E) Percentage Interest. For the purposes of establishing an Owner's percentage of assessments hereunder, insurance proceeds or condemnation awards in the event any portion of the Common Property is completely destroyed or taken by eminent domain and is not reconstructed, each Owner shall have a percentage interest in the insurance or condemnation proceeds equal to the Percentage Interest of such Owner in the Common Property. "Percentage Interest" shall be calculated as follows: the number of Assessment Units for a particular Lot will be divided by the total number of Assessment Units in the Development to arrive at a particular Lot's percentage share (the "**Percentage Interest**")_of assessments for common area maintenance and other expenses, which the Association is permitted to assess to Class A Members under the Declaration.

F) Conveyance, Lease or Encumbrance of Percentage Interest. Any deed, mortgage, lease or other instrument purporting to convey, encumber or lease for a period of time in excess of one (1) year (a "**Lease**") any Lot shall be deemed to include the Owner's Percentage Interest in the Common Property and in the insurance proceeds or condemnation awards even though such interest is not expressly described

or referred to therein. The conveyance, encumbrance or Lease of an Owner's Percentage Interest in the Common Property independent of the appurtenant Lot and the conveyance, encumbrance or Lease of an appurtenant Lot independent of the Owner's Percentage Interest in the Common Property shall be prohibited.

G) Ownership.

1) The Common Property shall be initially owned by the Declarant until conveyed as provided below.

2) At the time of purchase, legal title to a percentage interest in the Common Property shall be deemed conveyed with each lot to an Owner, whether or not specified on the deed to the Owner. Legal title to the percentage interest in the Common Property shall be deemed conveyed with any subsequent conveyance of a Lot whether or not specifically stated. Taxes, assessments or other charges on the Common Property may be divided according to each Owner's Percentage Interest by the taxing authority or may be an assessment by the Association against each of the Lots in an amount equal to the Percentage Interest attributable to such Lot.

3) The Common Property shall be conveyed to the Association by the Declarant. The Association shall be responsible for the payment of any and all present and future general taxes, assessments or other charges against any portion of the Common Property owned by the Association.

H) Damage or Destruction of Common Property by Owner. In the event any Common Property is damaged or destroyed by an Owner or any of his guests, lessees, tenants, licensees, agents or member(s) of his family, including pets, said Owner does hereby irrevocably authorize the Association to repair said damage. The Association shall repair and restore any damaged area to its former condition. The amount necessary for said repair shall become a special assessment upon the Property of said Owner.

A-4) Maintenance of Common Property

A) Maintenance Requirements.

1) **Responsible Party.** Declarant shall initially provide for the care, operation, management, maintenance and repair of the Common Property, until the Common Property is conveyed as provided herein. After such time, the Association shall provide for the care, operation, management, maintenance and repair of the Common Property and shall keep the Common Property maintained in good and safe condition.

2) **General Responsibilities.** Maintenance shall include, but not be limited to, responsibility for landscaping and lawn care, trash removal in the alleyways, snow removal including shoveling with particular attention being paid to cross walk ramps and islands, improvements to common areas, upkeep of stormwater management facilities which may include detention basins and drainage swales, common property lighting and/or other common property utility charges and any special street design features or traffic calming features.

3) **Specific Responsibilities.** Certain streets within the Property may include special traffic islands and traffic calming measures within the public right-of-way. The Association shall be responsible, at the Association's sole cost and expense, for the maintenance and upkeep of such physical traffic measures. Such maintenance and upkeep shall be performed at the discretion of the

Association except to the extent required by the City, and shall include landscaping, snow and ice removal. If the special street design features or landscaping are not maintained, the City will give notice to the Association that it is not being maintained. If the Association does not respond to the notice within sixty (60) days, the City may modify the physical traffic measures to minimize maintenance needs; including replacing landscaped surfaces with asphalt. The Association and persons involved with the maintenance and upkeep of the special traffic measures shall indemnify and hold harmless the City and its boards and commissions, and their officers, agents and employees from and against all claims, demands, loss or liability of any kind, type or description, related to the maintenance and upkeep of the special traffic measures.

4) Any and all expenses incurred by the Declarant, or by the Management Company, on behalf of and pursuant to its contract with the Association, in connection with the management and maintenance of the Common Property and administration of the Association shall be deemed to be common expenses (“**Common Expenses**”), including, without limitation, expenses incurred for: landscaping and lawn care; snow shoveling and plowing; trash removal in alleyways; improvements to the Common Property; common grounds security lighting; municipal utility services for Common Property enforcement of this Declaration (including attorneys’ fees); and maintenance and management salaries and wages.

B) Maintenance and Conditions of Private Alleys

1) All maintenance, replacement and repairs for Outlots 2, 5, 7, 8, 9, 11 and 15 shall be the responsibility and obligation of the Declarant until conveyed to the Association, at which time the Association shall assume responsibility.

The obligation for maintenance, replacement and repairs of the aforesaid Outlots shall include, without limitation:

- a) Maintaining the alleyways in good order and repair, with the type of surfacing materials originally installed or such substitute as shall in all respects be equal in quality, use and durability; and
- b) Removing all litter, ice and snow, mud and sand, debris and refuse, and sweeping the surfaces to the extent reasonably necessary to keep the surfaces in a reasonably clean condition; and
- c) Paying for the real estate taxes and assessments and other governmental impositions related to the easements, and procuring and paying for such insurance for the easements as required herein.
- d) Maintaining certain public and private improvements and facilities which are the subject of certain agreements placed of record by Declarant, which Declarant deems necessary for the development of the Subdivision and the use and enjoyment thereof by the Lot Owners. The obligations of Declarant under the terms of such agreements will be binding on the Association

C) Assessments.

1) The Association, or the Management Company, on its behalf, shall levy annual general assessments (“**General Assessments**”) against each Lot beginning January 1 of every year for the purpose of maintaining a fund from which Common Expenses may be paid. The General Assessments against each Lot shall be assessed according to their Percentage Interests in the Common Property. General

Assessments shall be due in advance on the first day of each year, or in such other manner as the Association may set forth in the Bylaws. Any General Assessment not paid when due shall bear annual interest at a rate of ten percent (10%) until paid and, together with interest, collection costs, and reasonable attorneys' fees, shall constitute a lien on the Lot on which it is assessed.

2) The Association, or the Management Company, on behalf of and pursuant to its contract with the Association, may, whenever necessary or appropriate, levy special assessments (“**Special Assessments**”) against the Lots for deficiencies in the case of destruction or condemnation, for defraying the cost of improvements to the Common Property or for any other purpose for which the Association and/or the Management Company may determine a Special Assessment is necessary or appropriate for the improvement or benefit of the Subdivision. In addition, the Association shall have the authority to levy Special Assessments against one or more of the Lots, but less than all, in cases where the Association incurs expenses that are attributable to the act or failure to act by one or more Lot Owners in violation of this Declaration, the Articles of Incorporation, By-laws or rules of the Association in effect from time to time. Special Assessments may also be imposed by the Association for failure to pay any Fines levied against an Owner pursuant to the provisions of this Declaration. Special Assessments shall be paid at such time and in such manner as the Association or the Management Company may determine. Any Special Assessment or installment not paid when due shall bear annual interest at a rate of ten percent (10%) until paid and, together with the interest, collection costs and reasonable attorneys' fees, shall constitute a lien on the Lot on which it is assessed.

3) The Association, or the Management Company, on behalf of and pursuant to its contract with the Association, shall have the right to collect all General and Special Assessments and such sums shall constitute a lien on the Lot or Lots against which the Assessment is made. The Owner of a Lot, or any portion thereof, shall be personally obligated to pay such charges which were assessed or accrued upon the land owned during the period of Ownership. The Association or the Management Company, on behalf of and pursuant to its contract with the Association, may commence an action against any Owner personally obligated to pay the charges or to foreclose the lien for such charge against any Lots. Any such foreclosure action may be brought at the Association's election, either in the same manner as an action to foreclose a real estate mortgage, or as a proceeding to enforce a statutory maintenance lien as provided in Section 779.70, Wis. Stats., to the extent said Section is applicable. Any lien in favor of the Association/Management Company securing unpaid charges arising by virtue of this Declaration shall be subject and subordinate to the lien of any mortgage whether the mortgage is executed or recorded prior to or after the creation of such lien.

D) **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Property shall not release the assessment lien. However, the sale or transfer of any Property pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment(s) as to payments which become due prior to such sale or transfer. No sale or transfer pursuant to foreclosure or proceedings in lieu thereof shall relieve such Property from liability from any assessments thereafter becoming due or from the lien thereof.

E) **Joint and Several Liabilities of Grantor and Grantee.** Upon a voluntary conveyance, the grantee of a Property shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor as provided in this Declaration up to the time of conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Association setting forth the amount of such unpaid assessment and any such grantee shall not be liable for, nor shall the Property conveyed be subject to a lien for, any unpaid assessments against the grantor pursuant to this Declaration in excess of the amount therein set forth.

PART B
CONDITIONS, COVENANTS AND RESTRICTIONS

B-1) Applicability. The following provisions in this Part B shall apply to all Lots as described in Exhibit "A" and such other Lots as may, in the future, be acquired by Declarant and subjected to this Declaration, as the same may be amended from time to time, by Declarant in the sole exercise of Declarant's discretion. Uses, other than the uses set forth in this Part B, shall not be permitted on the Lots or Outlots, as applicable, without the prior written approval of the Declarant and Committee (defined in Section C-2 below), as appropriate. After Declarant control of the Association has terminated, approval from the Association and the Committee shall be required.

B-2) Land Use And Building Type. Only the following designated uses for Lots shall be permitted:

A) Lots 1-118, 122-129, 139-143 and 145-269 shall be used for single family residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling unit not to exceed two and one-half stories in height. Each dwelling unit shall have an attached or detached garage of a size to be approved by the Committee, as that term is defined below. The size of a dwelling unit to be constructed on specific Lots shall not be less than the minimum size to be established hereinafter.

B) Lots 119-121 and 130-138 shall be used as 2-unit attached residential.

C) Lot 144 shall be zoned RL but for Institutional purposes (future school site).

D) Lot 192 will be owned by land seller, and in the future, may become part of single family residential use. Lot 192 Owner will be responsible for maintenance (including mowing, landscaping and snow removal of sidewalk) until home is constructed.

E) Lots 270-271 shall be used as multifamily residential purposes.

F) Outlots 1 and 12 shall be dedicated to the public for stormwater management purposes

G) Outlots 1 and 12 shall be used as Pedestrian Path Purposes.

H) Outlots 2, 5, 7, 8, 9, 11 and 15 shall be used for private Alley and utility easement purposes for the benefit of Lots 10-52, 83-118, 120-129, 133-138, 139 (if has side entry off private alley), 145-176 and 211-226 as well as the private driveway for the benefit of Lots 119 and 130-132. Private alley and private driveway shall be maintained by the Association. Parking in the private alley and private driveway is prohibited, unless where parking spaces are designated.

I) Outlots 4 and 13 shall be reserved for future development.

J) Outlots 3, 6, 10 and 14 shall be used for the purpose of a public park. Uses, other than the uses set forth in this section B-2, shall not be permitted on the Lots, as applicable, without the prior written approval of the Declarant and Committee (defined in Section B-3 below), as appropriate. After Declarant control of the Association has terminated, approval from the Association and the Committee shall be required.

Except as otherwise provided herein, no buildings, signs or other structures incidental to the use of any Outlot, which have not been approved in advance by the Committee, may be constructed on any Outlot.

The Plat shows the streets and rights of ways which are to be dedicated as permanent public streets and rights-of-way and which shall be improved in accordance with agreements entered into between the Declarant and the municipality in which the Development is located.

B-3) Architectural Control. No building shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure have been approved by a majority of the Architectural Control Committee (the “Committee”) as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. There shall be a variation in building elevations on adjacent Lots. Approval shall be as provided below.

B-4) Dwellings and Landscaping. The landscaping to be installed on all Lots must meet or exceed the minimum number of points for foundation planting and cumulative total landscaping points, including foundation planting points as set forth hereafter as described in Exhibit “C”, attached hereto and incorporated herein by reference. The number of points attributable to various elements of the landscaping to be installed shall be determined by reference to Exhibit “D”, attached hereto and incorporated herein by reference and further referenced in the Design Guidelines. The structure and the minimum landscaping requirements shall be completed within nine (9) months after issuance of a building permit. Landscaping installed by the Declarant may or may not meet the minimum number of required points. All driveways shall be of concrete and shall be installed within nine (9) months after substantial completion of the structure. No outbuilding or accessory building of any nature shall be erected on any Lot with the exception of detached garages approved by the Committee in advance of construction. No above-ground swimming pools shall be permitted. All Lot areas not used as a building site, or under cultivation as a family garden, shall be planted with grass seed or shall be sodded, and shall be maintained on a regular seasonal basis, including mowing of a frequency of not less than once every fourteen (14) days during the lawn growing season. Maintenance of all improvements on a Lot shall be performed by the Owner. Maintenance shall include, but not be limited to, watering, pruning and routine fertilizing and mulching of all plantings and plant beds, replacement of dead, dying and/or diseased trees and shrubs, prompt removal of weeds, trash and debris from plant beds and areas adjacent to shrubs and trees so as to keep said landscaping in a healthy, attractive and neat condition.

If the Owner of any Lot, after reasonable notice, fails or refuses to install landscaping as described herein, or maintain it as required above, the Committee, through its duly authorized agents or employees, shall have the right to enter upon said Lot at reasonable hours to perform said landscaping and/or maintenance. The costs of the materials and labor to perform such landscaping and/or maintenance shall be assessed against said Lot in accordance with the terms of Section A-4 (C)(2) above, which assessment may be foreclosed or collected in accordance with the terms hereof or collected as provided herein.

B-5) Vehicle and/or Equipment Storage. No inoperable, dilapidated or junk vehicles of any nature may be kept upon any Lot except in a fully enclosed garage. The exterior storage of boats, trailers, travel trailers, campers, motorcycles, recreational vehicles, automobiles or trucks, portable moving and storage containers, mini storage or on-site storage containers (collectively, without limitation by reason of enumeration “Equipment”), of any nature is prohibited whether or not screened from public view. No Equipment shall be parked or stored on lawns. The temporary storage of vehicles in a drive area for the purpose of loading or unloading for a period not to exceed forty-eight (48) hours is permitted. No commercial vehicles, including trucks, semi-trailers, trailers, may be stored or parked overnight on or in front of said Lots except in an enclosed garage.

B-6) Construction On Adjoining Lots. Nothing contained herein shall be construed to prohibit the construction of a residential dwelling or private garage partially on one Lot and partially on an adjoining Lot without regard to side yards between adjoining Lots, provided that all such Lots are owned by the same person or persons.

B-7) Easements.

A) No structure, planting, or other materials shall be placed or permitted to remain within any easement of record (an "**Easement**") if any, which may damage or interfere with the installation and maintenance of utilities, or which may change, obstruct or retard the flow of water or the direction of such flow through the Easement or through such other drainage channels or swales that may have been created by the Plat or otherwise. The Easements located on each Lot and all improvements therein shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

B) The Intra-block drainage Easement shall be graded with the construction of each principal structure in accordance with the approved Stormwater Drainage Plan on file with the City Engineer and the Zoning Administration, as amended in accordance with the Fitchburg General Ordinances.

C) Public utility easements as set forth on the Plat are for the use of public and private utilities having the right-of-way to serve the area.

D) Temporary Construction Easement. Each Lot which has been made subject to this Declaration (for the purposes of this paragraph each Lot described herein shall be referred to as the "**Primary Lot**") is hereby made subject to a temporary, non-exclusive easement over, under, upon, across and through so much of the side yards of the Primary Lot as may be necessary for the safe and code compliant construction of a basement, including but not limited to footings, foundation and basement walls, on the adjoining Lot (the "**Adjoining Lot**"). The purpose of this Temporary Construction Easement is to permit Declarant to adequately slope and provide lateral support to the walls of the basement excavation in question so as to protect against cave-ins and loss of lateral support, and it shall be broadly construed to effectuate such purpose. This Temporary Construction Easement shall remain in effect for so long as it is needed to permit construction of the basement on the Adjoining Lot in a safe and code compliant manner. After completion, Declarant shall backfill the excavated area, compact such backfill in accordance with good construction practices, and restore the area affected by this easement to the condition existing immediately preceding the excavation, including replacement of sod, trees, shrubs and other landscaping, at no expense to the Owner of the Adjoining Lot (collectively "**Restoration**"). This Temporary Construction Easement shall, without further notice, terminate upon completion of said Restoration." This Temporary Construction Easement shall, without further notice, terminate upon completion of said Restoration.

E) Multi-User Mailbox Easement. Based on new, recently adopted requirements of the United States Postal Service, this neighborhood will receive mail by using CBU's (cluster box units) instead of curb side mailboxes on newly constructed homesites. These new requirements will phase out curb side mailboxes nationwide solely at the Postal Service's discretion. Certain Lots or Outlots will feature CBU's and will be determined by phase as constructed and will be noted in the Neighborhood Disclosure Addendum A to be received by Buyer at the time a Sales Contract is signed. There will be a separate recorded Multi-User Mailbox Easement for such Lots. All maintenance (concrete pad repair and replacement, CBU and snow removal around the CBU) shall be the sole responsibility of the Association.

F) Outlots 6, 10 and 14 shall have a thirty foot (30') wide public sanitary sewer and water easement and shall be maintained by the City.

G) Lots 1-2 shall have a twenty foot (20') wide public storm sewer easement (10 on each Lot) and shall be maintained by the City.

H) Lots 169-170 shall have a twenty foot (20') wide public water main easement (10' on each Lot) and shall be maintained by the City.

I) Lots 130-132 will benefit from a private driveway easement and shall be maintained by the Association.

B-8) Slope and Swale Areas.

A) The graded slopes and swales as established by Declarant shall remain as permanent. Within these slopes and swales, no structure, planting or other material shall be placed or permitted to remain, or other activities undertaken which may damage or interfere with established slope and swale ratios, create erosion or sliding problems or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slopes and swales of each Lot and all improvements in them shall be maintained continuously by the Owner of a Lot, at the Owner's sole expense, except for those improvements for which a public authority or utility company is responsible.

B) In order to control run off, all down spouts and down spout extenders are to drain into a permeable area such as grass or a planting bed.

C) Declarant and the City have agreed to a certain Storm Water Management Plan. In the event of conflict between any plans and such Storm Water Management Plan, the Storm Water Management Plan shall control. Declarant and the Association shall each have the right to enter upon any Lot at any time for the purpose of inspection, maintenance or correction of any drainage condition and the Lot Owner shall be responsible for the cost thereof.

D) Any disputes relating to drainage swales, drainage or other surface water issues, shall be resolved by the Board of Directors of the Association, which may seek the advice of the City Engineer of the City. The Association shall establish procedures by which such decisions can be heard by the Board of Directors and decided by said Board.

B-9) Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or which may have a detrimental effect on the value of other Lots and/or improvements.

B-10) Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

B-11) Signs. No sign of any kind shall be displayed to the public view on any Lot except, one professional sign of not more than one square foot, one sign of not more than six square feet advertising the property for sale or rent or signs without regard to size used by the Declarant, a builder or licensed

real estate broker to advertise the property during the construction and sales period or to identify the subdivision and/or its Declarant. No signs will be located in the Outlots.

B-12) Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. No animal enclosure, house, pen or fences or similar device shall be placed on any Lot without the prior written approval of the Committee which may require special landscaping and screening.

B-13) Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. No incinerators shall be permitted. Other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No trash, building materials, debris, leaves, lawn clippings, rocks or earth shall be placed in any Outlot.

B-14) Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 30" and 72" above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

B-15) Telephone (Land Line Service). Due to updated FCC government regulations, telephone communication providers are no longer required to provide land line service to new phases. As a result, Declarant cannot guarantee that all new phases will have access to traditional land line phones. However, most of the cable company service providers have the ability to bundle in those services.

B-16) Notices to Owners. The following information is being put of record in order to give record notice to all Owners, mortgagees and other persons and entities having an interest in the Property:

A) Private Alleys (collectively, "Alleys") are shown on the Plat as Outlots. Alleys will be dedicated to the Association. The cost of the maintenance of the Alleys shall be the responsibility of the Association. Certain Lots in the Development border Alleys, which are intended to serve as the access to such Lots. Restrictions on the Alleys are summarized as follows:

1) Certain Outlots in the subdivision may be shown on the Plat as either public or private alleys. Public and private alleys may or may not benefit from services provided by the municipality typically associated with public streets, including but not limited to repairs, replacement, trash pickup and snow plowing. Services not provided by the municipality will be provided by the Association at the expense of all Lot Owners, whether the alley is public or private.

2) Homes with garage access to an Outlot are required to have two (2) "coach" lights on each side of the garage door, which will be wired to a photo electric eye for automatic use from dusk to dawn. The lights have been pre-selected by Declarant. There are four (4) selections available. It is the Buyer's responsibility to maintain the lights so that they are always operational.

3) After control of the Association is turned over by the Declarant to the Owners, the foregoing provisions of this Declaration shall not be amended, repealed, modified or changed without the advance, written consent of 75% of all Owners of Lots bordering any Alleys in the Subdivision, it being the intent of the Declarant that any change in the obligations of the Association with respect to the Alleys require the approval of a super majority of the Owners whose Lots border the Alleys and who benefit from the maintenance and services provided by the Association.

B) Plantings, flower beds, and entry signs (including utility installations connected therewith) constructed and installed by Declarant, if any, shall be deemed a part of the Common Area. The Association is obligated to maintain any entry feature; maintenance shall include electrical charges (if any), sign repair and maintenance of the landscaping including mowing of all lawns and grass areas. The cost of maintenance of said Common Property shall be an assessment against all of the Property in the subdivision in accordance with the Declaration, for so long as such maintenance is necessary or required adversely affects the natural flow of surface or underground waters with in the area permitted.

B-17) Improvements Within Easements. Any improvements (for example, fences, dog kennels, landscaping) located within any part of a Lot which is subject to a utility easement is subject to removal at the Owner's expense for utility maintenance and other reasons as determined by the party benefitted by the easement. Reinstallation of any improvement would be at the Owner's cost and would also be subject to the discretion of the party benefitted by the easement and is subject to terms and conditions as set forth on the final plat.

B-18) Lots 119-121 and 130-132 shall be subject to a Declaration of Party Wall Agreement. The Lots described are proposed twin homes which are two homes that share a party wall and roof with each other.

B-19) *Lease Requirements.* The following provisions are not applicable to Lots 144, 270-271 of the Subdivision. An Owner may rent its dwelling by written Lease (a "Lease"), provided that

- a) The term of any such Lease shall not be less than six (6) months;
- b) The Owner has obtained the prior written approval of the Association to the proposed tenant and the terms of the proposed Lease, and the written approval for any proposed extension of the Lease; and
- c) The Lease contains a statement obligating all tenants to abide by this Declaration, the Articles, the Bylaws, and the Rules and Regulations, providing that the Lease is subject and subordinate to those instruments; and
- d) The Lease provides that any default arising out of the tenant's failure to abide by the Declaration, the Articles, the Bylaws, and the Rules and Regulations shall be enforceable by the Association as a third-party beneficiary to the Lease and that the Association shall have, in addition to all rights and remedies provided under the Declaration, the Articles, the Bylaws and the Rules and Regulations, the right to evict the tenant and/or terminate the Lease should any such violation continue for a period of ten (10) days following delivery of written notice to the Owner and the tenant specifying the violation.

2) *Standard for Approval of Lease and Tenant.* The Association may withhold approval on any reasonable basis, including, but not limited to: the failure of the Lease terms to comply with all

provisions of this Declaration, the Articles, the Bylaws, and the Rules and Regulations; the past failure of the Owner, the tenant or tenant's guests to abide by all provisions of this Declaration, the Articles, the Bylaws, and the Rules and Regulations; and the past use by Owner, the tenant or its invitees or guests of any part of the Lot in a manner offensive or objectionable to the Association or other occupants of the Property by reason of noise, odors, vibrations, or nuisance.

3) *Violations / Remedies.*

a) During the term of any Lease of all or any part of a Lot, each Owner of such Lot shall remain liable for the compliance of the Lot, such Owner and all tenants of the Lot with all provisions of this Declaration, the Bylaws, and the Rules and Regulations of the Association, and shall be responsible for securing such compliance from the tenants of the Lot. The Association may require that a copy of each Lease of all or any part of a Lot be filed with the Association.

b) In the event that an Owner leases out its dwelling or any portion of its Lot in violation of this provision, the Association may impose a daily fine up to the greater of (i) an amount equal to the daily rental amount being charged by Owner to its tenant and (ii) \$100 (this daily fine shall be adjusted up every five years by 5%).

In addition to any fines imposed under this Section, the Owner shall reimburse the Association for all costs incurred by the Association, including attorneys' fees, incurred to enforce this Section, any action the Association takes under this Section B-19 against Owner or Owner's tenant, and to collect any outstanding amounts owed by Owner to the Association.

B-20) Provisions Relating to Outlot 13. Notwithstanding the terms of Section B-2 (I), above, Outlot 13 shall be subject to the following restrictions. The following restrictions may be amended pursuant to the terms of this Declaration provided, however, that no such amendment shall be effective unless it is consented to in writing by Fahey Land, LLC, a Wisconsin Limited Liability Company, or its successors and assigns ("**Fahey**").

A) Outlot 13 is encumbered by certain access easements (the "**Tower Access Easements**") which provide access to cell tower facilities located on real property owned by Fahey which is south of Outlot 13 and the Plat (the "**Fahey Land**"). The consent of Fahey is required in order to modify or terminate the Tower Access Easements.

B) The Association shall be responsible for maintaining Outlot 13 at its sole cost and expense. For purposes of the preceding paragraph, the term "maintaining" shall consist solely of mowing lawn and grass areas on a seasonal basis. Fahey, not the Association or the Declarant, shall be responsible for any snow removal associated with the Tower Access Easements or the Fahey Improvements and all other maintenance.

C) Fahey may make improvements to Outlot 13 in order to provide access to the Fahey Land located to the south of Outlot 13 from Waterville Way for any lawful purpose and an easement is granted to Fahey for such purposes (the "**Fahey Improvements**"); provided, however, that (i) all plans and specifications for any such Fahey Improvements receive all required approvals from the City of Fitchburg and any other governmental entity from which such approvals are required; (ii) Fahey is solely responsible for all costs and expenses relating to the Fahey Improvements and indemnifies and holds Declarant and the Association harmless from any construction liens, costs, expenses and damages arising out of or relating to construction and use of the Fahey Improvements; (iii) Fahey is solely responsible for all costs to maintain the Fahey Improvements in accordance with all applicable laws, statutes and

ordinances as well as sound property management practices; and (iv) any portion of Outlot 13 which is damaged as a result of the construction, use or maintenance of the Fahey Improvements shall be promptly restored by Fahey at Fahey's sole cost and expense to the condition existing prior to the occurrence of such damages.

PART C
ARCHITECTURAL CONTROL COMMITTEE

C-1) Membership. Declarant shall establish an Architectural Control Committee (the "Committee") consisting of three (3) members. So long as Declarant has title to any Lot subject to this Declaration, the Committee shall be appointed by Declarant. After Declarant no longer has title to any Lot within the Development or at such earlier time as determined by the Declarant, the initial members of the Committee shall resign and the Association shall elect three (3) Owners to serve on the Committee. At any time, Declarant may elect to surrender the selection of the members of the Committee to the Association.

A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor.

The Committee appointed hereunder shall serve for the time period specified in paragraph C-10, below. Any Committee member may resign prior to said date. Such resignation shall be effective upon receipt. If a resignation shall occur, prior to turning over control of the Committee, then the remaining members of the Committee may appoint a replacement.

C-2) Architectural Control. No structure, whether residence, accessory building, tennis or sport court, swimming pool, decks, patios, antenna (whether located on a structure or on a Lot), flag pole, wall, fence, landscaping, recreational equipment or other improvements, including exterior colors and materials to be applied to said improvements, shall be constructed, maintained or performed upon any Lot and no alteration or repainting of the exterior of a structure shall be made unless complete Architectural Review Application ("**Application**"). Plans, specification and plot plans therefore shall have been submitted to and approved in writing by a majority of the Committee. Approval shall also be required for location of improvements with respect to topography and finish grade elevation. Said Application, plans, specifications and plot plans shall show the exterior design, height, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, the plans for required landscaping, and the grading plan. A copy of such Application, plan specifications and plot plans as finally approved shall be deposited with the Committee. The Application can be found on the DSI Real Estate website www.dsirealestate.com. Select Condo & HOA, then Architectural Control (ACC) – Project Approval and select the appropriate application for your request.

C-3) Plan Review. The Committee shall review said Application, plans and specifications as to quality of workmanship and materials, harmony of external design with existing or proposed structures and as to location with respect to topography and finish grade elevation. The Committee shall use the guidelines set forth in this Declaration as an aid in exercising its architectural control responsibilities hereunder, but nothing contained herein or therein shall limit the Committee's discretion to grant variances from or make changes to, the guidelines, as they shall determine in the sole exercise of their discretion.

C-4) Procedure.

A) Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant for the initial approval of a residential structure. Thereafter, said Committee may charge a “request for action” or “approval” fee not to exceed Fifty and no/100 Dollars (\$50.00) for each such request or approval. The Committee’s approval or disapproval, as required in these Covenants, shall be in writing. In the event the Committee fails to provide, in writing, approval or disapproval within thirty (30) days after application, plans and specifications or any other matters requiring approval have been submitted to it, the request shall be deemed denied.

B) A submission will not be complete, and the thirty (30)-day approval time, as applicable, set forth above shall not commence until all documents required herein have been submitted. All such submissions shall be made to the Committee at the address set forth in this Declaration or to such other address that the Committee may designate.

C) The Committee shall have the sole right to reject any Application and plans which, in the judgment and sole opinion of a majority of its members are not in conformity with this Declaration; or are not desirable for aesthetic reasons; or are not in harmony with buildings located on the surrounding Lots; or are not in conformity with the general purposes of this Declaration.

D) The Committee shall exercise its sole approval authority and discretion in good faith and each Owner, by acceptance of a deed to, or any other interest in, a Lot, agrees to hold the Committee harmless from any perceived discrepancies in the Committee’s good-faith performance of its duties. Refusal of approval of plans by the Committee may be based on any grounds, including purely aesthetic grounds, which in the sole discretion of the Committee shall be deemed sufficient.

E) The Committee may set its own operating procedures consistent with this Declaration and any limitations hereafter imposed by the Association. The costs of operating the Committee shall be assessed by the Association as Common Property expenses, except as permitted below. The Committee may engage consultants (e.g., architects, engineers or attorneys) either on a general or on a case-by-case basis, and the costs thereof may be charged to an applicant. The members of the Committee shall not draw any compensation for serving thereon but may be reimbursed for expenses incurred in performing their duties. All funds relating to the Committee shall be handled by the Association.

C-5) Separate City Approval. Matters which require approval of the Committee may also require approval of the City. Obtaining approval from the Committee and the City is solely the responsibility of the Owner desiring approval. Approval of Plans by the Committee shall not be deemed approval by the City and approval by the City shall not be deemed approval by the Committee.

C-6) Records. Until such time as a replacement Committee is designated, all plans, applications and requests shall be submitted to said Committee at the following address:

Highfield Reserve Homeowners Association, Inc.
Architectural Control Committee
708 River Place
Madison, Wisconsin 53713
acc@dsirealestate.com

C-7) Committee Liability. Neither the Committee nor any member thereof shall be liable for damages to any person submitting request for approval or to any Owner of any Lot by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests. The Committee is not responsible for ensuring that the application and plans submitted by an Owner are in compliance with applicable laws, rules, regulations, ordinances or customary and typical building practices. The Committee does not review plans for structural design.

C-8) Indemnification. Each member or former member of the Committee, together with the personal representatives and heirs of each such person, shall be indemnified by the Association against all loss, costs, damages and expenses, including reasonable attorney's fees, asserted against, incurred by or imposed in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which such person is made or threatened to be made a party by reason of service as a member thereof, except as to matters resulting in a final determination of gross negligence or willful misconduct on the part of such member. In the event of settlement of such proceeding, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of such person as a member in the matter involved. This right of indemnification shall be in addition to all other rights and defenses. All liabilities, losses, damages, costs and expenses incurred or suffered by the Association in connection with this indemnification shall be a Common Property expense. Nothing in this Section C-8 shall be deemed an indemnification of such person with respect to such person's status as an Owner, occupant or otherwise.

C-9) Variance. The Committee shall have the power and absolute discretion to authorize a variance from any of the requirements of this Declaration if it finds that the strict application thereof would, in its sole discretion and opinion, result in difficulties or undue hardship to the Lot owner or in the event the architecture of the proposed Lot improvement is such as to present, in its opinion, a particularly pleasing appearance compatible with other houses in the development.

C-10) Successor to Committee. Declarant may turn over control of the Committee to the Members of the Association at any time, and shall turn over control when Declarant no longer has any ownership interest in the Property. At such time as Declarant turns over Committee control, the Association's Board of Directors shall designate not less than three (3) or more than five (5) Members of the Association to serve and act as the Committee for all purposes hereunder.

PART D **DESIGN GUIDELINES**

D-1) Single Family Dwelling Units / Twin Home Dwelling Units.

A) Dwelling unit siting, form and construction shall be in accordance with PDD documents approved by City of Fitchburg as applicable to this development.

B) Architectural Character. Architecture within the development will be developed with a unified architectural theme of mid-century modern as well as contemporary interpretations of regional vernacular styles. The overall character of the development will be created to establish a cohesive appearance throughout the community.

The requirements as itemized in the following section will be used as applicable to the context of the specific architectural style. Declarant reserves the right to grant variances in its sole discretion. Where city zoning is more restrictive, such requirements will govern.

C) **Front Porch.** Front porches are encouraged as both visual and functional design elements with a style consistent with the overall architectural style of the home and provide a visually appealing entry point. Minimum standard porch design details include the following; porch posts or alternate per plan, porch balustrades, when provided, of nominal 2" x 2" square wood at a maximum of six inches (6") on center; and newel posts that are compatible with the design of the column posts. Porch columns and railings shall be painted to match the trim color of the house.

D) **Garage.**

1) Garages shall be provided in accordance with PDD documents and specific unit plans.

2) The garage door shall be a raised panel design painted to match the siding on the home. The use of windows in the door, appropriate to the architectural style, is encouraged. The maximum single garage door size is 8' x 18".

E) **Ornamental Design Elements.**

1) Ornamental design elements, such as dormers, shutters, window wrap window grids, gable vents, pilasters, pediments, etc., shall be used in a manner consistent with the overall architectural style of the home and with emphasis on elevations exposed to public space.

2) Window wrap or shutters and window grids are required on front and other primary elevations facing a public space. Gable ornamentation, 5" horizontal vinyl trim, and/or eyebrow roofs are required on front elevation gables greater than 10'-0" in width and are encouraged on other gables as deemed appropriate by the Architectural Control Committee.

3) The shutters shall be wood or polystyrene with colors as approved by the Architectural Control Committee or of other material or color as deemed acceptable by the Architectural Control Committee. Panel or louver design shutters shall be used as appropriate to home materials & style.

4) The window wrap and corner trim shall be minimum 3½" vinyl or composite material as approved by the Architectural Control Committee and used with box outs or when part of the standard plan.

5) Gable ornamentation when required for the front elevation and side elevations facing a public street shall be appropriate to architectural style per standard detail.

F) **Roof/Facias/Soffits/Eaves.**

1) Roof Standards:

a) Roof design must be consistent with the overall architectural style of the home. Roof forms and pitches as established on individual styles may not be altered without approval by the Architectural Control Committee.

b) Roof material shall be Owens Corning Oakridge 30 architectural shingle or equal and in colors as approved by the Architectural Control Committee. Rubber roofing is allowed on flat roof areas and metal roofing is allowed on feature elements.

- c) Hip roof design, porches or other elements deemed appropriate by the Architectural Control Committee may be used in lieu of specific gable requirements.
- 2) Fascia, Soffit and Eave Standards:
- a) Facia shall be 6" minimum aluminum with colors as approved by the Architectural Control Committee, wood or composite material may be used when appropriate to the architectural style.
 - b) Aluminum soffit and eave color shall match facia.
 - c) A minimum 12" overhang is required at typical eaves and gable ends. However, 6" is allowable with projections less than 6'-0" in width, such as the fireplace chase, dormers and small bay windows. Larger overhangs may be required as appropriate to the architectural style.

G) Exterior Wall Surfaces.

1) Siding material shall be premium vinyl or composite material as approved by the Architectural Control Committee. Vertical board and batten siding or shake siding is encouraged for accent areas appropriate to the style of the home. Colors shall be approved by the Architectural Control Committee.

2) Windows may be vinyl; vinyl clad, aluminum clad or wood with colors as approved by the Architectural Control Committee.

3) Variation of wall planes on primary elevations is encouraged as appropriate to architectural style and building scale. A front porch per section C may also be used to provide front elevation articulation as appropriate.

4) Any elevations facing public streets or spaces shall have a minimum of three (3) windows with wrap trim and grids. Front door and garage windows may be included per specific building design.

5) The use of brick or stone is encouraged as appropriate to architectural style. Brick or stone facing must return a minimum of 2'-4" when terminated at an outside corner. Brick or stone material and color selections shall be as approved by the Committee and harmonious with overall neighborhood palette, as well as with the specific home design and be used consistently on all elevations.

6) **Colors.** The Declarant or the Architectural Control Committee, whichever is then applicable shall approve the trim, siding and roofing colors to assure the most aesthetic combination for a particular house as well as for the other Lots in the Plat. Any subsequent changes in such colors shall be approved by the Declarant or Committee, whichever is then applicable.

7) **Chimneys, facia and soffits.** All chimneys and exterior flues shall be enclosed using brick, stone, stucco or siding material.

D-2) Other Improvements.

A) **Fences** All fencing must receive prior written approval of the Committee and

shall comply with any requirements set out below. The Committee may also require the installation and maintenance of landscape materials for screening and aesthetic purposes. All fence material shall be constructed of vinyl. Zoning approval and/or building permit from the City may be required to construct fencing. Committee approval does not supersede the need for any municipal approvals or permits.

- 1) The fence style required is the PlyGem Stratford Vinyl, Exhibit "E".
 - a) All fencing shall be erected finish side out (i.e. pickets on the outside of the rail facing the street or neighboring lot).
 - b) Posts shall be spaced a minimum of 72" and a maximum of 96" on center. Rails shall be discontinuous and abut into the posts.
 - c) Gates are permitted and shall be consistent with the fencing style. All gates shall open into the lot. Gates may be required for access to utility easements.
 - d) Fencing color by PlyGem Fence/Railing of White is the only color permitted.
- 2) Appropriate uses of fencing:
 - a) Fencing shall be limited to rear and side yards only.
 - b) Fencing shall meet up with the corners of the home or garage and may not project past the front face of home or garage.
 - c) Only one fence is permitted along adjoining properties. Corners of adjoining properties fencing shall intersect at common corners.
 - d) Fencing at side yards of corner lots shall be placed a minimum of 6 inches from the property line (approximately 1 foot from sidewalk) for all zoning classifications.
- 3) Inappropriate use of fencing:
 - a) Fencing in front yards shall not be permitted.
 - b) Fencing shall not occur in freestanding segments or be placed arbitrarily.
 - c) Fencing shall not meet porch or deck corners.
 - d) Fencing shall not interfere with utility equipment. Your utility companies shall be consulted for current requirements and the most restrictive shall apply.

B) Decks. All decks must receive prior written approval of the Committee and shall comply with any requirements set out below. The Committee may also require the installation and maintenance of landscape materials for screening and aesthetic purposes. A zoning approval or building

permit from the City may be required to construct a deck. Committee approval does not supersede the need for any municipal approvals or permits.

- 1) Appropriate deck design shall incorporate the following criteria:
 - a) Deck(s) shall be proportionate in size to the footprint of the dwelling
 - b) Deck(s) shall be proportionate in length and width
 - c) Deck(s) shall not project past the rear or side yard setbacks
 - d) Deck(s) at side yards of corner lots may not project past the corner of the home or garage for that side facing the street.
 - e) Deck(s) must be stained or painted
- 2) Inappropriate deck design:
 - a) Deck(s) in front yards shall not be permitted.
 - b) Deck(s) shall not occur in freestanding segments or be placed arbitrarily on the lot.
 - c) Deck(s) shall not interfere with utility equipment. Your utility companies shall be consulted for current requirements and the most restrictive shall apply.

C) Outbuildings. No outbuilding, shed or accessory building of any nature shall be erected on any Lot, with the exception of a detached garage that is the only garage on the lot and is approved by the Committee prior to construction. Secondary units (granny flats) above detached garages may be allowed with prior written approval from the ACC.

D) Antennae/Wind Powered Electric Generators. No wind powered electric generators, exterior television, radio receiving or transmission antennae, satellite signal receiving station or dish shall be placed or maintained upon any portion of a Lot without prior written approval of the Committee.

- 1) Appropriate antennae or satellite dish placement:
 - a) Only one antennae or satellite dish shall be allowed per lot.
 - b) The location of the satellite dish can be any of the following and shall not be visible from the curb directly in front of the home:
 - i. On a pole in the backyard and located close to the home.
 - ii. Attached to the deck.
 - iii. On the rear roof line of the home.
 1. A satellite dish shall not project past the uppermost roof ridgeline. This method is not recommended by the Committee as you may have water infiltration issues if the dish is not properly installed and roof repairs may not be covered under the applicable roof warranty.
- 2) Inappropriate antennae or satellite dish placement:
 - a) Antennae or satellite dish in front or side yards shall not be

permitted.

b) Antennae or satellite dish shall not interfere with utility equipment.

E) **Firewood Storage.** No firewood or woodpile shall be kept on any lot unless it is neatly stacked, placed in the rear yard and screened from street view by plantings or a fence first approved in writing by the Committee.

F) **Solar Collectors.** No active solar collector or apparatus may be installed on any Lot unless such installation is first approved in writing by the Committee, which shall consider the aesthetic and sun reflection effects on neighboring structures. Solar collectors or apparatus installed flat against or parallel to the plane of the roof shall be preferred.

G) **Lighting.** Exterior lighting installed on any Lot shall either by indirect or of such controlled focus and intensity that such lighting will not disturb the residents of adjacent Lots.

H) **Landscaping Requirements.** Pursuant to Section B-4 of the Declaration of Conditions, Covenants and Restrictions, Developer hereby imposes upon all Lots described in Exhibit "A", attached hereto and incorporated herein by reference, the requirement that the Owners thereof install landscaping on such Lots which meets or exceeds the minimum number of points for landscaping set forth in Exhibit "C". The number of points attributable to various elements of the landscaping to be installed shall be determined by reference to Exhibit "D", attached hereto and incorporated herein by reference. All terms, covenants and conditions of Section B-4 of the Declaration of Conditions, Covenants and Restrictions, as amended herein, shall be applicable to the landscaping to be installed pursuant to the terms of this paragraph. Landscape installed by the Declarant may or may not meet the minimum number required.

PART E **GENERAL PROVISIONS**

E-1) **Term.** This Declaration shall run with the Property and Common Property, and shall be binding on Declarant, the Association and all of its Members and/or its successors and assigns, and all persons claiming under them for a period of twenty-five (25) years from the date this Original Declaration was recorded, after which time said Declaration shall be extended automatically for successive periods of five (5) years each unless an instrument signed by a majority of the Class A Members and all of the Class B Members agreeing to change said Covenants in whole or in part or to terminate the same.

E-2) **Enforcement.** The Declarant (or either one of them if more than one), the Association or Management Company on behalf of the Association, or any Owner shall have the right to enforce by any proceedings at law or in equity all restrictions, conditions and covenants created or imposed herein, against any person or persons violating or attempting to violate any covenant, by any action to either restrain violation or to recover damages, or both including reasonable attorney fees. The Architectural Control Committee may refer any violation which shall come to its attention to the Declarant or Association for action under the terms of this paragraph and this Declaration. Failure to enforce any covenant, condition or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. In the event of a violation of this Declaration the Association shall have the right to assess and collect from the violating party a fine (the "**Fine**") for such violation equal to the greater of (i) the actual damages suffered on account of the violation, or (ii) the sum of \$100.00 per day for each day the violation remains outstanding plus (iii) all costs of collection and enforcement, including actual attorney fees. Any Fine imposed by the Association or the Management Company acting on its behalf, may be assessed against the Owner(s) by

means of a Special Assessment against the Lot or Lots owned by the Owner in violation. In such event, the Association, or the Management Company acting on its behalf, shall have all rights provided in Section A-4 (C) (3), above, regarding collection of Special Assessments and foreclosure of the lien thereof.

E-3) Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

E-4) Model Homes. So long as Declarant shall own any Lot in the Development, Declarant shall be permitted to maintain model homes in the Development, including therein a sales office for the purpose of sales and marketing of its homes.

E-5) Parade of Homes and/or Condominiums. So long as Developer shall own any Lots in the Development, or condominium units in any condominium located within the Development (collectively a "Lot/Unit"). Developer reserves the right to submit some or all of said Lots/Units as a site for the Parade of Home and/or the Parade of Condominiums of the Madison Area Builders Association (the "Parade"). In the event that some or all of said Lots/Units are selected as a site for a Parade, this Declaration of Protective Covenants, Conditions and Restrictions shall, as to the Lots/Units enrolled in the Parade, for a limited period of time ending 48 hours after the conclusion of the Parade, be deemed temporarily altered and modified, to the extent necessary, to permit the Madison Area Builders Association to hold its Parade in this Development pursuant to the then current Parade Rules and Checklist of the Madison Area Builders Association. All purchasers of Lots/Units, and/or their successors and assigns, shall take title subject to this specific reservation by the Developer and shall waive all rights to object to violations of this Declaration of Protective Covenants, Conditions and Restrictions by the Developer, the Madison Area Builders Association, or any of the builders or participants in the Parade for the period of the Parade as set forth above, including the closing of any public or private streets in the Parade area. All Lot/Unit owners appoint the Developer their attorney-in-fact to execute all necessary petitions; applications and consents to facilitate said street closings for the Parade.

E-6) Governing Law. This Declaration shall be construed and enforced in accordance with the terms of the laws of the State of Wisconsin. The terms of this Declaration are not intended to replace or affect any applicable laws, ordinances, rules or regulations of the City.

E-7) Notices.

A) Notices to Declarant shall be given to Declarant at the following address: 6801 South Towne Drive, Madison, WI53713.

B) Notices to an Owner of any Lot within the Development shall be given in care of the street address of the Lot.

C) Any party may change its address by written notice given to the other parties. Party, its successors and/or assigns, may change said addresses by notice properly given hereunder.

E-8) Amendment and Release. At any time until Declarant conveys all of the Lots which comprise the entire Property, or turns control of the Association over to the Class A Members, whichever occurs first, Declarant may modify, amend, alter and grant variances to this Declaration without the consent of any Member, Owner or Occupant, their Mortgagees or any other party, including the Association and its Board of Directors. These restrictions or any part thereof may be cancelled, released or amended in writing as to the entire Plat or any part thereof by the Declarant at any time until Declarant conveys all of the Lots or until the Declarant turns over control to the Committee, whichever comes first. After the Declarant has sold all of the Lots or otherwise released or assigned its right to enforce this

Declaration, then this Declaration or any part thereof may be released, cancelled, amended or waived by an instrument approved and signed by a majority of the Class A Members and all of the Class B Members.

E-9) No Waiver. Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or any other provision of this Declaration.

E-10) Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

E-11) Including. Whenever used herein, the term “including” preceding a list of one or more items shall indicate that the list contains examples of a general principle and is not intended as an exhaustive listing.

E-12) Captions. The captions and article and section headings in this Declaration are intended for convenience and reference only and in no way define or limit the scope or intent of the various provisions hereof.

E-13) Remedies. All remedies herein are cumulative.

[See attached signature page.]

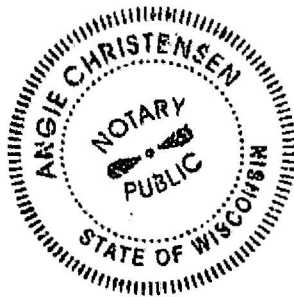
IN WITNESS WHEREOF, the said VH Highfield Reserve, LLC, a Wisconsin Limited Liability Company has caused these presents to be signed and sealed this 21 day of October, 2022

VH Highfield Reserve, LLC
By: VH Holdings, LLC, Its Sole Member

By: [Signature]
Chris Ehlers, Authorized Signatory

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Personally came before me this 21 day of October, 2022 Chris Ehlers the Authorized Signatory of VH Highfield Reserve, LLC a Wisconsin Limited Liability Company, to me know to be such persons and officers who executed the foregoing instrument and acknowledged that they executed the same as such officers, by its authority for the purposes therein contained.



[Signature]
Notary Public
Dane County, Wisconsin
My Commission Expires: May 1, 2024

This document was drafted by:

Gregory J. Paradise
Mohs Widder Paradise LLC
20 North Carroll Street
Madison, WI 53703

Exhibit "A"

Description of Highfield Reserve

**Lots 7-9, 122-129, 133-143 and Outlots 1, 8, 9, Highfield Reserve, City of Fitchburg, Dane County,
Wisconsin**

Exhibit "A"

LOT#	PIN
7	060915400672
8	060915400782
9	060915400892
122	060915412122
123	060915412232
124	060915412342
125	060915412452
126	060915412562
127	060915412672
128	060915412782
129	060915412892
133	060915413232
134	060915413342
135	060915413452
136	060915413562
137	060915413672
138	060915413782
139	060915413892
140	060915414002
141	060915414012
142	060915414122
143	060915414232
Outlot 1	060915415012
Outlot 8	060915415782
Outlot 9	060915415892

Exhibit "B"

Please be advised that the Declarant hereby directs viewers to ignore the printed text material on the maps attached to this Exhibit "B." Only the spacial relationships of the illustrators on the maps are being presented for your information.

DECLARANT

VH HIGHFIELD RESERVE, LLC

**BY: VH HOLDINGS, LLC, ITS SOLE
MEMBER**

By: 

Print Name: Chris Ehlers

Print Title: Authorized Signatory

EXHIBIT "C"

Total Minimum Points for Landscaping

Lot(s)	Minimum Points for Foundation Plantings	Total Minimum Points for Landscaping
122-129, 133-138	300	425
139	350	500
7-9, 140-143	400	550

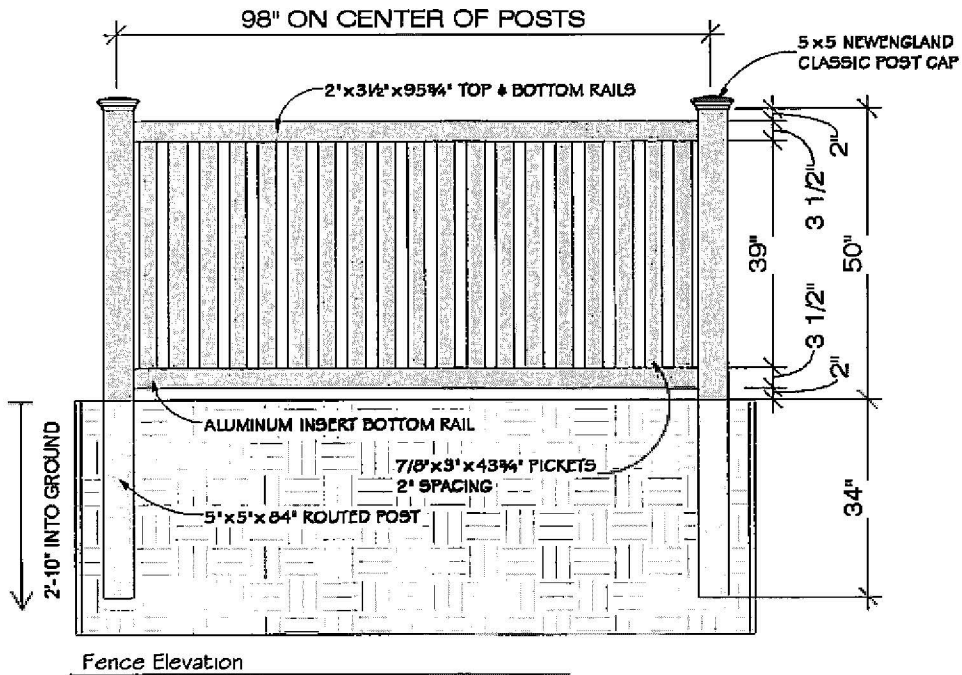
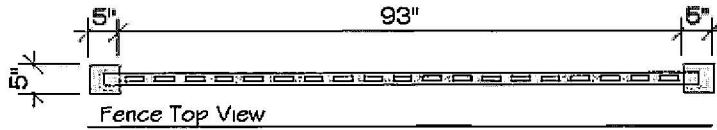
EXHIBIT "D"
Landscaping Elements

Elements	Point Schedule
A) <i>Small Shade Trees (balled and burlaped)</i> (1.5"-2" caliper at 6" from the roots)	50
B) <i>Medium Shade Trees (balled and burlaped)</i> (2"-3" caliper at 6" from the roots)	100
C) <i>Large Shade Trees (balled and burlaped)</i> (3"-4" caliper at 6" from the roots)	150
D) <i>Extra-Large Shade Trees (balled and burlaped)</i> (4" + caliper at 6" from the roots)	200
E) <i>Ornamental Trees (balled and burlaped)</i> (1.5"-2" caliper at 6" from the roots)	50
F) <i>Small Evergreen Trees</i> (3' to 4.5' when planted)	25
G) <i>Medium Evergreen Trees</i> (5' to 6.5' when planted)	50
H) <i>Large Evergreen Trees</i> (7' + when planted)	100
I) <i>Evergreen Shrubs</i> (18" minimum diameter)	20
J) <i>Small Deciduous Shrubs</i> (18" to 35" in diameter)	10
K) <i>Medium Deciduous Shrubs</i> (35" to 60" in diameter)	15
L) <i>Large Deciduous Shrubs (balled and burlaped)</i> (60" or greater in diameter)	25
M) <i>Decorative Retaining Walls</i> (Points are per face foot. Boulders, timbers, and stones only – no concrete walls included.)	10
N) <i>Paver Stone Walks, Paths or Patios</i> (Points per square foot – no driveways included.)	1
O) <i>Planting Beds</i> (Points per square foot – must be decorative stone or mulch.)	1

The final point totals must consist of a balanced variety of the listed elements acceptable to the Architectural Control Committee. Existing vegetation, trees and shrubs may be included in the point totals if they are properly protected and maintained during the construction process and located as such on the landscape plans submitted to the Architectural Control Committee for approval.

Exhibit "E"

STRATFORD



NOTE:

MANDATORY REQUIREMENTS (NO VARIANCE WILL BE ALLOWED)

- FENCE MUST BE VINYL
- VINYL COLOR: WHITE
- FENCE STYLE IS A PLYGEM PRODUCT (STRATFORD)

- CUSTOM BUILT ON THE JOBSITE
- INSTALLED WITH METAL BRACKETS THAT ATTACH TO POST AND SCREW INTO STRINGERS



6901 South Towns Drive
Madison, WI 53713
Phone 608.226.3100
Fax 608.225.0600

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

KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
5923887
09/14/2023 08:32 AM
Trans Fee:
Exempt #:
Rec. Fee: 30.00
Pages: 7

**The above recording information
verifies that this document has
been electronically recorded and
returned to the submitter.**

HIGHFIELD RESERVE
FIRST AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS

CITY OF FITCHBURG, DANE COUNTY, WI.

PREAMBLE

Return to:
Angie Christensen
Veridian Homes
6801 South Towne Drive
Madison, WI53713

See Exhibit "A"
(Parcel Identification Numbers)

This is the First Amendment to that certain Declaration of Protective Covenants, Conditions and Restrictions for Highfield Reserve, which Declaration was dated October 21, 2022, recorded October 24, 2022 in the Office of Dane County, Wisconsin Register of Deeds as Document No. 5869796 (the "**Declaration**"). This Amendment is made by VH Highfield Reserve, LLC, a Wisconsin Limited Liability Company (hereinafter referred to as the "**Declarant**"). Declarant hereby amends the Declaration as follows:

- 1) **Defined Terms.** Terms not otherwise defined herein shall be as defined in the Declaration.
- 2) **Legal Description.** The legal description of the real property subject to this Amendment is contained in Exhibit "A", attached hereto and incorporated herein by reference, and is collectively referred to herein as the "Property", the "Subdivision" or "Highfield Reserve".
- 3) Title of Section A-4)B)1 is hereby modified to read "Maintenance and Conditions of Private Alleys and Private Driveway".
- 4) Section A-4)B)1 is hereby deleted in its entirety and replaced with the following: "All maintenance, replacement and repairs for Outlots 2, 5, 7, 8, 9, 11 and 15 shall be the responsibility and obligation of the Declarant until conveyed to the Association, at which time the Association shall assume responsibility. Snow removal from the private driveway (the "**Private Driveway**") shared by Lots 119, 130-132 shall be the responsibility and obligation of the Association; all other maintenance responsibilities with respect to the Private Driveway shall be the responsibility of the Owners of Lots 119 and 130-132 pursuant to the terms of a separate recorded document. Parking in the Outlots and Private Driveway is prohibited."

The obligation for maintenance, replacement and repairs of the aforesaid Outlots and Private Driveway shall include, without limitation.” All other terms of Section A-4)B shall remain unchanged.

- 5) Section A-4)B)1)a) is hereby deleted in its entirety and replaced with the following: “Maintaining the alleyways and Private Driveway in good order and repair, with the type of surfacing materials originally installed or such substitute as shall in all respects be equal in quality, use and durability; and”
- 6) Section B-2 is amended as follows:
 - a. The first sentence of Section B-2)A is hereby deleted in its entirety and replaced with the following: “Lots 1-17, 21-118, 122-129, 139-143 and 145-269, Highfield Reserve plat, and Lots 501-504, Certified Survey Map No. 16336 shall be used for single family residential purposes.”
 - b. Section B-2)D is hereby deleted in its entirety and replaced with the following: “Lot 144 shall be zoned RL.”
- 7) Section B-7)I is hereby deleted in its entirety and replaced with the following: “Lots 119, 130-132 will benefit from a private driveway easement and shall be maintained by the Association.”
- 8) Section B-18 is hereby deleted in its entirety and replaced with the following: “Lots 119-121 and 130-138 shall be subject to a Declaration of Party Wall Agreement. The Lots described are proposed twin homes which are two homes that share a party wall and roof with each other.”
- 9) Exhibit “C” is hereby replaced and superseded by Exhibit “C”, attached hereto and incorporated herein by reference.

[See attached signature page.]

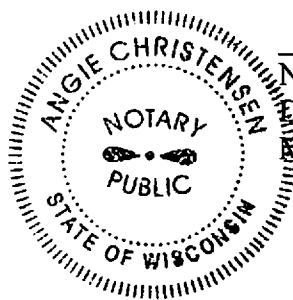
IN WITNESS WHEREOF, the said VH Highfield Reserve, LLC, a Wisconsin Limited Liability Company has caused these presents to be signed and sealed this 11 day of September, 2023

VH Highfield Reserve, LLC
By: Forgewell Building Group, LLC, Its Sole Member

By: *Chris Ehlers*
Chris Ehlers, Authorized Representative

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Personally came before me this 11 day of September, 2023 Chris Ehlers the Authorized Representative of VH Highfield Reserve, LLC a Wisconsin Limited Liability Company, to me know to be such persons and officers who executed the foregoing instrument and acknowledged that they executed the same as such officers, by its authority for the purposes therein contained.



Angie Christensen
Notary Public
Dane County, Wisconsin
My Commission Expires: May 1, 2023

This document was drafted by:

Gregory J. Paradise
Mohs Widder Paradise LLC
20 North Carroll Street
Madison, WI 53703

**CONSENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS**

The undersigned, The Park Bank, a Wisconsin Banking Corporation, hereby consents to the forgoing First Amendment Declaration of Protective Covenants, Conditions and Restrictions for the Plat of Highfield Reserve. This consent does not limit, restrict or affect in any way Mortgagee's rights, interest and remedies regarding Mortgagee's interest in the Property.

Dated at Madison, Wisconsin this 9th day of August, 2023

The Park Bank, a Wisconsin Banking Corporation

By: Mark Retzlaff
Print Name: Mark Retzlaff
Title: Vice President Business Banking

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 9th day of August, 2023, the above named Mark Retzlaff, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Tracy L. Zeichert
Notary Public
County of Dane, State of Wisconsin
My Commission Expires: 6-28-2025

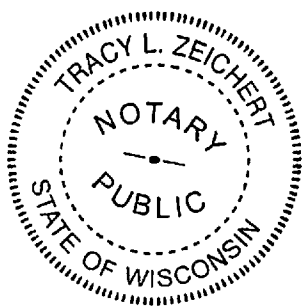


Exhibit "A"

Description of Highfield Reserve

**Lots 6-9, 27-31, 83-85, 109-143 and Outlots 1-9, Highfield Reserve, City of Fitchburg, Dane County,
Wisconsin**

Lots 501-504, Certified Survey Map No. 16336, City of Fitchburg, Dane County, Wisconsin

Exhibit "A"

LOT#	PIN
6	060915400562
7	060915400672
8	060915400782
9	060915400892
27	060915402672
28	060915402782
29	060915402892
30	060915403002
31	060915403012
83	060915408232
84	060915408342
85	060915408452
109	060915410892
110	060915411002
111	060915411012
112	060915411122
113	060915411232
114	060915411342
115	060915411452
116	060915411562
117	060915411672
118	060915411782
119	060915411892
120	060915412002
121	060915412012
122	060915412122
123	060915412232
124	060915412342
125	060915412452
126	060915412562
127	060915412672
128	060915412782
129	060915412892
130	060915413002
131	060915413012
132	060915413122
133	060915413232
134	060915413342
135	060915413452
136	060915413562
137	060915413672

LOT#	PIN
138	060915413782
139	060915413892
140	060915414002
141	060915414012
142	060915414122
143	060915414232
501, CSM No. 16336	060915416232
502, CSM No. 16336	060915416342
503, CSM No. 16336	060915416452
504, CSM No. 16336	060915416562
Outlot 1	060915415012
Outlot 2	060915415122
Outlot 3	060915415232
Outlot 4	060915415342
Outlot 5	060915415452
Outlot 6	060915415562
Outlot 7	060915415672
Outlot 8	060915415782
Outlot 9	060915415892

EXHIBIT "C"

Total Minimum Points for Landscaping

Lot(s)	Minimum Points for Foundation Plantings	Total Minimum Points for Landscaping
27-31, 83-85, 109-138, 501-504	300	425
139	350	500
6-9, 140-143	400	550