

**Confidential Memorandum
Privileged Lawyer-Client Communication**

To Village Board, Village of Shorewood Hills
Karl Frantz, Village Administrator

From Matthew P. Dregne, Village Attorney 

Date December 16, 2015

Re Tax Increment Grant Agreement – “The Boulevard”

As requested by the Village, we have prepared the enclosed Tax Increment Grant Agreement relating to Flad Development’s proposed redevelopment of the ATT Plaza property (referred to as “The Boulevard”). The purposes of this memo are to summarize the main elements of the agreement, and to highlight certain policy issues the Village Board will need to address. The two policy issues relate to: (1) the amount the Developer should pay the Village for the Village property that will be conveyed to the Developer, and (2) exactly when and to what extent the amount of TIF funding would be reduced if the project is more profitable than projected. There are several blanks in the agreement relating to these issues.

1. DEVELOPER OBLIGATIONS.

A. Construct the project.

B. Provide four units of affordable housing, if the Village elects to so require by not later than September 30, 2016. The affordable unit mix is required as one 3 bedroom unit, two 2 bedroom units, and one 1 bedroom unit. The affordable units must be marketed in accordance with an approved marketing plan.

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- C. Reimburse Village for Village costs associated with the approval process and the agreement.
- D. Contribute to the Village's Fire and EMS payment.
- E. As part of a multi-party easement agreement, the Developer would grant the Village ingress and egress rights on certain property between University Avenue and Locust Drive, and at a point onto Shorewood Boulevard. The Village would also have the right to use the 14 parking stalls located west of the Village property on Mondays, Tuesdays and Wednesdays from 6:00 p.m. to midnight, and any time on election days.

2. VILLAGE OBLIGATIONS.

- A. Provide developer financed (pay-as-you go) TIF funding to support the project. If the project is fully market-rate, the TIF grant would be \$495,000, payable with interest at 5%. If the project includes 4 affordable units, the TIF grant would be \$1,015,000.00, payable with interest at 5%. "The TIF grant is subject to a "look-back" provision that is discussed below.
- B. Convey 5,947 square feet of Village property (at the corner) to Developer. The Developer proposes to pay \$184,720 for the property. This figure represents \$40 per square foot for the Village property (\$237,880), less a proposed credit to the Developer for 1,329 square feet of sidewalk area the Developer is dedicating to the Village on the certified survey map (also calculated at \$40 per square foot). The Village Board needs to decide whether to accept the Developer's proposal. I note that the Village typically does not pay a Developer for right-of-way that is needed for public sidewalk that benefits the development.
- C. As part of a multi-party easement agreement, the Village would grant Developer ingress and egress rights on certain property between University Avenue and Locust Drive, and at a point onto Shorewood Boulevard.

3. LOOK-BACK PROVISION.

The look-back provision is designed to reduce the Village's financial support obligations in the future if the Project is more financially successful than the Village and Developer assumed it would be when approving the TIF grant. Board input is needed to determine at what rate of return this reduction in support will occur.

Dan Lindstrom's analysis was the starting point for structuring the look-back provision. Using financial projections provided by the Developer, and using three methodologies, Lindstrom determined that the Developer's return on investment is projected to be on the low end of what developers anticipate for similar projects, even with the TIF Grant. (See Table 4 of his report).

The look-back provision requires the Developer to provide the Village information on the Developer's actual income and expenses after 5 and 10 years. That information is then compared to Developer's current projections. If the Developer exceeds certain thresholds (still to be determined by the Board), the principal of the municipal revenue obligation will be decreased by a corresponding amount (also still to be established by the Board).

The Board could follow two general structures in setting these thresholds. First, the Board may consider reducing the municipal revenue obligation as soon as the Developer's net operating income is any amount more than projected. The Board might consider reducing the revenue obligation by a percentage of the amount by which actual income exceeds projections.

For example, the Developer projects that if the affordable units are not required, the Developer's projected cumulative net income in years 1 through 5 will be \$4,116,187. The Board could complete the look-back provision as follows:

*If the Project is developed without Affordable Housing Units, then the amount by which Developer's cumulative net operating income for Year 1 to Year 5 exceeds \$4,116,187 will be considered "Excess Income." If the Village determines that there is Excess Income, then the outstanding principal amount of the Municipal Revenue Obligation shall be reduced by an amount equal to **five percent¹ (5%)** of the Excess Income.*

Alternatively, the Board might allow the Developer significant cushion above its income projections and reduce the municipal revenue obligation by as much as 100% of the excess income only if the Developer substantially outpaces its projections. If the Board believes this is a better approach, it might complete the look-back provision as follows:

¹ (If affordable units are not required, the Village's TIF contribution is roughly 4% of the total financing for the project.)

*If the Project is developed without Affordable Housing Units, then the amount by which Developer's cumulative net operating income for Year 1 to Year 5 exceeds \$6,174,280² will be considered "Excess Income." If the Village determines that there is Excess Income, then the outstanding principal amount of the Municipal Revenue Obligation shall be reduced by an amount equal to **one hundred percent (100%)** of the Excess Income.*

The Board could also use some combination of these strategies, both providing the developer a margin above projection cumulative net operating income, and reducing the municipal revenue obligation by an amount less than 100% of the Excess Income.

In weighing these options, the Board may wish to consider the following additional facts we are aware of. The Developer's projections do not include the fire and EMS costs that will be charged by the Village. As such, that cost may cause the Developer's actual expenses to exceed projected expenses (effectively giving the Developer a built-in cushion against excess income that would trigger a look-back reduction in TIF funding). On the other hand, Developer's rental-increase assumptions are conservative and, as such, income may be more than projected. Finally, the Board may also want to keep in mind that Dan Lindstrom's analysis indicates that Developer's return on investment is projected to be on the low end of what developers anticipate for similar projects, even with the TIF Grant.

² \$6,174,280 is 1.5 times the projected cumulative net operating income.

TAX INCREMENT GRANT AGREEMENT

(The Boulevard)

THIS TAX INCREMENT GRANT AGREEMENT (the “Agreement”) is entered into as of _____, 2015 by and among the VILLAGE OF SHOREWOOD HILLS, Wisconsin, a Wisconsin municipal corporation (the “Village”), DANFORD PLAZA, LLC (the “Developer”), and Shorewood Commons Limited Partnership.

RECITALS

WHEREAS, the Village has created Tax Incremental Financing District No. 3 (the “District”); and

WHEREAS, the Village desires to facilitate the redevelopment of certain property within the District located generally at 3306-3310 University Avenue (the “Property”); and

WHEREAS, the Village established the District to, among other things, make certain grants and incur certain project costs as described in, and subject to the reservations contained in this Agreement; and

WHEREAS, Developer intends to construct a mixed-use, multi-family rental housing and commercial project consisting of 38 residential housing units, and approximately 11,739 square feet of commercial space, subject to the requirements and reservations contained in this Agreement; and

WHEREAS, Developer has requested tax increment grant funds from the Village to facilitate construction of the Project, including a potential affordable housing component of the Project; and

WHEREAS, the Village and Developer desire to enter into a tax increment grant agreement to facilitate the redevelopment of the Property consistent with the Project Plan for the District, and potentially to promote the development of affordable housing; and

WHEREAS, as an inducement to Developer to develop the Property and otherwise facilitate the Project, and in order to make the Project financially feasible and to implement the Project Plan, the Village finds it appropriate to provide tax increment development assistance for the Project as described in, and subject to the reservations contained in, this Agreement; and

WHEREAS, the Village finds and determines that unless the Village provides the development incentive assistance described in this Agreement, Developer will not construct the Project, and the Village will not accomplish the objectives of the Project Plan; and

WHEREAS, the Village finds that the Project and the fulfillment of the terms and conditions of this Agreement are in the vital and best interest of the Village and its residents, by redeveloping underutilized property in the Village and implementing the Project Plan and the Comprehensive Plan, and creating an opportunity to provide additional affordable housing; and

WHEREAS, Shorewood Commons Limited Partnership is a party to this Agreement for the limited purpose of facilitating the conveyance of certain easement rights pursuant to Section C. 2. of this Agreement; and

WHEREAS, the Village Board on December 21, 2015, approved this Agreement and authorized the Village, through its duly authorized officials and agents, to execute this Agreement; and

WHEREAS, Developer and Shorewood Commons Limited Partnership approved and authorized the execution of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals, and the mutual promises, obligations and benefits provided hereunder, the receipt and adequacy of which are hereby acknowledged, Developer, the Village and Shorewood Commons Limited Partnership agree as follows:

A. DEFINITIONS. As used in this Agreement, the following terms, when having an initial capital letter, shall mean:

1. Actual Tax Increment. The tax increment actually received by the Village from taxes levied on the Property in a given year, as reasonably calculated by the Village. As of the effective date of this Agreement, the Department of Revenue calculates the combined tax increment generated by all tax increment districts in the Village, using a methodology reflected on Wisconsin Department of Revenue form PC-202. A copy of form PC 202, for 2014 taxes payable in 2015, is attached as Attachment E. The parties agree that the Village may reasonably calculate Actual Tax Increment by multiplying the total “interim rate” from form PC-202 for the applicable year by the Value Increment for that year. The total interim rate is obtained by dividing the combined levies from each taxing jurisdiction (the sum of the apportioned levies in column A on form PC-202) by the total equalized value of all taxable property in the Village, excluding the value increment of all tax increment districts in the Village (the amount used in column B on form PC-202). If the Wisconsin Department of Revenue discontinues or modifies form PC-202, or otherwise modifies the manner in which it calculates tax increment, the Village may calculate Actual Tax Increment in such other reasonable manner as it determines appropriate. The Village may make such adjustments in calculating Actual Tax Increment needed so that, if tax increment is so calculated for all parcels in the District, the sum does not exceed the total tax increment received by the Village from taxes levied on all property in the District.

2. Affordable Housing. Housing that qualifies as “Affordable Housing” within the meaning of the Conciliation Agreement between William Thomas and the Village of Shorewood Hills, HUD Case Number 05-10-1624-8.

3. Base Value. For purposes of this Agreement, Base Value is \$2,395,700. This Base Value is intended to represent the fair market value of the Property, as equalized by the Wisconsin Department of Revenue, as of January 1, 2008 (the date as of which the District was created).

4. District. Village of Shorewood Hills Tax Increment District No. 3.

5. Project. A multi-family housing and commercial project consisting of 38 residential housing units and approximately 11,739 square feet of commercial space constructed in accordance with

the General Development Plan and Specific Development Plan for the Property approved by the Village Board on September 21, 2015, and any approved amendments thereto.

6. Property. The lands shown as “Lot 1” on the unrecorded Certified Survey Map attached as Attachment A.

7. Village Property. Certain property owned by the Village that is described in Attachment B, and is intended to be conveyed to Developer pursuant to this Agreement,

8. Value Increment. The fair market value of the Property in a given year, as shown on the real property tax bill for the Property for that year, minus the Base Value.

9. Village Fire and EMS Payment. The payment the Village is required to make to the City of Madison each year for fire protection and emergency medical service, pursuant to Section 4 of the Fire Protection and Emergency Medical Service Agreement Between the City of Madison and the Village of Shorewood Hills, signed by Village President Mark Sundquist on August 19, 2013 and Mayor Paul Soglin on September 17, 2013, and as that agreement may be amended from time to time.

B. DEVELOPER OBLIGATIONS.

1. Construct the Project. Developer shall use good faith efforts to commence construction of the Project within 120 days after the date of this Agreement and to substantially complete the Project within 15 months from the date of commencement.

2. Tax Agreement. Within 30 days after this execution of this Agreement, Developer shall execute and record a Tax Agreement that is not subordinate to any lien against the Property, in the form attached as Attachment G.

3. Land Use Restriction Agreement. Within 30 days after the execution of this Agreement, Developer and the Village shall execute and record a Land Use Restriction Agreement that is not subordinate to any lien against the Property. The Land Use Restriction Agreement shall be in substantially the same form as attached as Attachment H. If the Village does not give written notice of the Affordable Election pursuant to Section B. 4. of this Agreement on or before September 30, 2016, the Village shall execute and record an instrument terminating the Land Use Restriction Agreement.

4. Affordable Housing Units. The Village may elect to require the Project to include four Affordable Housing Units (the “Affordable Election”). The Village shall make such Affordable Election by giving written notice to Developer on or before September 30, 2016. If the Village does not give written notice of the Affordable Election on or before September 30, 2016, the Village’s right to make such election shall terminate. If the Village timely makes the Affordable Election, then all of the following shall apply:

(a) Except as otherwise provided in Section 2.1 of the Land Use Restriction Agreement attached as Attachment H, the Project’s 38 residential housing units shall include not fewer than 1 three-bedroom Affordable Housing unit, 2 two-bedroom Affordable Housing units, and 1 one-bedroom Affordable Housing unit.

(b) Developer and the Village shall use their best efforts to enter into an agreement that conforms substantially to Attachment C (the “Compliance Monitoring Agreement”) with the Wisconsin Housing and Economic Development Authority (WHEDA). If WHEDA is unwilling to enter such an agreement, then Developer and the Village shall use their best efforts to enter into a Compliance Monitoring Agreement with a mutually agreed third party to perform the tasks under the Compliance Monitoring Agreement. If the Developer and Village do not enter into a Compliance Monitoring Agreement with a mutually agreed third party, then Developer and the Village shall enter into a Compliance Monitoring Agreement, modified such that the Village will perform the compliance monitoring tasks under the agreement. Developer shall be responsible for paying the compliance monitoring costs under the Compliance Monitoring Agreement to WHEDA, a third party or the Village, as the case may be.

5. Payment of Village Administrative Costs. Developer shall reimburse the Village for all costs (“Administrative Costs”) that have been and may be incurred by the Village for services performed by or on behalf of the Village in conjunction with the Project, including but not limited to attorneys fees, engineering fees, planning and financial consulting fees, and publication costs. Developer acknowledges that Administrative Costs have been and may be incurred in connection with, among other things, processing Developer’s application to rezone the Property, processing Developer’s application for approval of a certified survey map of the Property, processing Developer’s request for a tax increment grant, and negotiating and preparing this Agreement and the attachments hereto. Consulting, engineering, and legal fees shall be the actual costs to the Village on the basis of submitted invoices. Bills shall be considered delivered upon personal delivery or mailing to Developer. Developer shall pay the Administrative Costs within thirty (30) days of the time when the Village delivers its bill. Developer acknowledges and understands that the legal, engineering, planning and other professional consultants retained by the Village are acting exclusively on behalf of the Village and not Developer.

6. Equal Opportunity. Developer shall advertise the Affordable Housing units in a manner designed to reach persons of diverse financial, racial and ethnic populations. Developer shall market and advertise the Affordable Housing units in accordance with the marketing and advertising plan attached as Attachment I, or as modifications to such plan may be approved by the Village. Developer shall comply with all federal, state and local laws and regulations prohibiting discrimination in renting housing units.

7. Contribution to Village Fire and EMS Payment. Developer shall contribute to the Village Fire and EMS Payments the Village is required to pay to the City of Madison, beginning with the Village Fire and EMS Payment in 2018, and ending with the Village Fire and EMS Payment in the last year the District exists. Prior to December 31, 2017, and prior to each December 31 thereafter during the life of the District, the Village shall notify Developer in writing of the amount of the Village Fire and EMS Payment for the following year, and of the amount of the Developer’s contribution to the Village Fire and EMS Payment for the following year. The Developer’s contribution for a given year shall be the difference between the following:

(a) The actual Village Fire and EMS payment for the given year; and

(b) The amount the Village Fire and EMS payment would have been for the given year if the Value Increment and population attributed to the Property were not included in calculating the Village Fire and EMS Payment for that year. The population of the Property shall be the monthly average number of people residing on the Property during the applicable year. Developer shall report the population of the Property to the Village for a given year by December 15 of that year. Upon the

Village's request, Developer shall provide documentation supporting the reported population of the Property.

One-half of Developer's contribution for a given year shall be paid to the Village by May 1 of the given year, and Developer's contribution shall be paid to the Village in full by September 1 of the given year.

C. CONVEYANCE OF VILLAGE PROPERTY, CERTIFIED SURVEY MAP, AND EASEMENTS.

1. Within 15 business days after this Agreement is fully executed, the Village shall deliver a quit claim deed to Developer that conveys the Village Property to Developer. At the time the Village delivers the quit claim deed to Developer, Developer shall pay \$ _____ to the Village as consideration for the conveyance of the Village Property to Developer. The Village makes no warranties regarding the title to or condition of the Village Property, and Developer agrees to accept the Village Property as is.

2. After the Village delivers a quit claim deed conveying the Village Property to Developer, Developer shall record a certified survey map in substantially the same form attached as Attachment A.

3. After a certified survey map conforming substantially to Attachment A is recorded, and not more than 20 business days after this Agreement is fully executed, the Village, Developer and Shorewood Commons Limited Partnership shall execute and record the Easement Agreement attached as Attachment D.

D. DEVELOPMENT INCENTIVE GRANT – MUNICIPAL REVENUE OBLIGATION.

Not earlier than 30 days prior to (i) the completion of and the issuance of occupancy permits for all housing units within the Project; and (ii) the completion of the building core and shell, ready for construction of tenant improvements for all commercial space within the Project, Developer shall provide to the Village a written request for issuance of a Municipal Revenue Obligation. Within forty-five days after submittal of the written request for issuance of the Municipal Revenue Obligation, or within 30 days after the conditions described in (i) and (ii) above have been satisfied, whichever is later, the Village shall issue a Municipal Revenue Obligation to Developer. If the Village timely makes the Affordable Election pursuant to Section B. 4 of this Agreement, then the principal amount of the Municipal Revenue Obligation shall be One Million Fifteen Thousand U.S. Dollars (\$1,015,000.00.) If the Village does not timely make the Affordable Election pursuant to Section B. 4 of this Agreement, then the principal amount of the Municipal Revenue Obligation shall be Four Hundred Ninety Five Thousand U.S. Dollars (\$495,000.00). The Municipal Revenue Obligation shall be in the form attached hereto as Attachment F, under the following terms and conditions:

1. The Municipal Revenue Obligation shall bear interest at an annual rate of 5 percent. Interest shall begin to accrue on the Municipal Revenue Obligation on the date on which the Municipal Revenue Obligation is issued.

2. Any payment on the Municipal Revenue Obligation which is due on any Payment Date shall be payable solely from and only to the extent that the Village has received as of such Payment Date Actual Tax Increment, and such Actual Tax Increment has been appropriated by the Village Board to payment of the Municipal Revenue Obligation.

3. For purposes of the Municipal Revenue Obligation, a “Payment Date” shall mean each of the Scheduled Payment Dates set forth on a schedule to be prepared by the Village and attached to the Municipal Revenue Obligation when issued. The scheduled payment dates shall be prepared such that the payments on the Municipal Revenue Obligation are amortized over the remaining number of years that tax increment generated by the District may lawfully be allocated to make payments on the Municipal Revenue Obligation. On each of the Payment Dates, the Village shall pay to Developer the Actual Tax Increment, up to the Scheduled Payment Amount shown on the schedule attached to the Municipal Revenue Obligation, together with such additional amounts, if any, deferred from prior years as may be payable on the Payment Date as provided under the terms of the Municipal Revenue Obligation, that has been appropriated for that purpose by the Village Board in accordance with the requirements for revenue obligations.

4. The Village covenants and agrees that Actual Tax Increment held by the Village as of a given Payment Date shall not be appropriated for any other use, if not appropriated for the Municipal Revenue Obligation due as of such Payment Date, until the Village has paid the Municipal Revenue Obligation payment due on the Payment Date in that year (including the Scheduled Payment Amount plus any additional amounts deferred from prior years and payable on that Payment Date), or until said Municipal Revenue Obligation has been paid. The District shall not be terminated until the Municipal Revenue Obligation has been paid in full, or until the District must be terminated by law, whichever first occurs.

5. Developer may assign the Municipal Revenue Obligation to any lender providing financing to the Project and upon notice of such assignment, the Village shall pay directly to such lender the Scheduled Payment Amounts due on account on the Municipal Revenue Obligation.

6. If the Land Use Restriction Agreement attached as Attachment H terminates early due to foreclosure or transfer of title by deed-in-lieu of foreclosure, pursuant to Section 4.2 of the Land Use Restriction Agreement, then the Village’s obligation to make further payments under the Municipal Revenue Obligation shall also terminate, effective as of the date of early termination of the Land Use Restriction Agreement. Early termination of the Land Use Restriction Agreement, due to the Village not making the Affordable Election pursuant to Section B.4 of this Agreement, shall not affect the Village’s obligation to make payments on the Municipal Revenue Obligation.

E. ECONOMIC PERFORMANCE LOOK-BACK.

1. Generally. The financial assistance to the Developer under this Agreement is based on certain assumptions regarding likely costs and expenses associated with constructing and operating the Project. The Village and the Developer agree that those assumptions will be reviewed at the times described in this Section, and that the amount of the development incentive grant provided under Section D of this Agreement may be adjusted accordingly.

2. Baseline Projections. The Developer has submitted to the Village a pro forma financial statement (the “Developer’s Market Rate Projection” attached as Attachment J hereto) projecting the Project’s net operating income as follows:

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
2017	2018	2019	2020	2021	2022	2023	2024	2025	2026

\$401,213	\$877,485	\$934,105	\$945,781	\$957,603	\$969,574	\$946,076	\$872,522	\$883,429	\$894,471
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The Developer’s Market Rate Projection projects that Developer will have cumulative net operating income totaling \$4,116,187 by the end of Year 5. The Developer’s Market Rate Projection projects that Developer will have cumulative net operating income totaling \$8,682,259 by the end of Year 10.

The Developer has submitted to the Village a pro forma financial statement (the “Developer’s Affordable Units Projection” attached as Attachment K hereto) projecting the Project’s net operating income as follows:

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
\$393,077	\$870,969	\$937,094	\$998,807	\$960,668	\$972,676	\$984,834	\$997,145	\$1,009,609	1,022,229

The Developer’s Affordable Units Projection projects that by the end of Year 5 Developer will have cumulative net operating income totaling \$4,160,615. The Developer’s Affordable Units Projection projects that Developer will have cumulative net operating income totaling \$9,147,108 by the end of Year 10.

3. Five Year Lookback. On or before March 15, 2022, Developer shall submit to the Village updated financial information certified by the Developer as true and correct and calculated in substantially the same form as Developer’s projections as described in Section E. 2. above, showing Developer’s Actual Income and Actual Expenses for Year 1 to Year 5. “Actual Income” shall be the sum of residential rents, retail rents, municipal revenue obligation payments received, and underground parking payments received. “Actual Expenses” shall be the sum of residential operating expenses, commercial operating expenses, property taxes, residential vacancy losses, commercial vacancy losses, and Contribution to Village Fire and EMS Payment (which for the purposes of Developer’s projections was assumed to be zero). The Developer agrees to provide the Village background documentation related to the financial data, upon request.

(a) If the Project is developed without Affordable Housing Units, then the amount by which Developer’s cumulative net operating income for Year 1 to Year 5 exceeds \$_____ will be considered “Excess Income.” If the Village determines that there is Excess Income, then the outstanding principal amount of the Municipal Revenue Obligation shall be reduced by an amount equal to _____ percent (____%) of the Excess Income.

(b) If the Project is developed with Affordable Housing Units, the amount by which Developer’s cumulative net operating income for Year 1 to Year 5 exceeds \$_____ will be considered “Excess Income.” If the Village determines that there is Excess Income, then the outstanding principal amount of the Municipal Revenue Obligation shall be reduced by an amount equal to _____ percent (____%) of the Excess Income.

4. Ten Year Lookback. On or before March 15, 2027, Developer shall submit to the Village updated financial information certified by the Developer as true and correct and calculated in substantially the same form as Developer’s projections as described in Section E. 2. above showing Developer’s Actual Income and Actual Expenses for Year 1 to Year 10. “Actual Income” shall be the sum of residential rents, retail rents, municipal revenue obligation payments received, and underground parking payments

received. "Actual Expenses" shall be the sum of residential operating expenses, commercial operating expenses, property taxes, residential vacancy losses, commercial vacancy losses, and Contribution to Village Fire and EMS Payment (which for the purposes of Developer's projections was assumed to be zero). The Developer agrees to provide to the Village background documentation related to the financial data, upon request.

(a) If the Project is developed without Affordable Housing Units, the amount by which Developer's cumulative net operating income for Year 1 to Year 10 exceeds \$_____ will then be considered "Excess Income." If the Village determines that there is Excess Income, then the outstanding principal amount of the Municipal Revenue Obligation shall be reduced by an amount equal to _____ percent (____%) of the Excess Income.

(b) If the Project is developed with Affordable Housing Units, the amount by which Developer's cumulative net operating income for Year 1 to Year 10 exceeds \$_____ will then be considered "Excess Income." If the Village determines that there is Excess Income, then the outstanding principal amount of the Municipal Revenue Obligation shall be reduced by an amount equal to _____ percent (____%) of the Excess Income.

5. Repayment. If at any time the Village finds Excess Income as provided in E.3. or E.4 above, but the Municipal Revenue Obligation has been fully paid to the Developer, the Developer shall reimburse the Village for the Excess Income as calculated in E.3 or E.4 above, provided, however, that this reimbursement shall not exceed the original principal amount of the Municipal Revenue Obligation.

F. REPRESENTATIONS AND WARRANTIES.

Developer warrants that Developer's execution, delivery and performance of this Agreement have been duly authorized and do not conflict with, result in a violation of, or constitute a default under any provision of Developer's articles of organization or membership agreements, or any agreement or other instrument binding upon Developer, or any law, governmental regulation, court decree, or order applicable to Developer or to the Property.

G. GENERAL CONDITIONS.

1. No Vested Rights Granted. Except as provided by law, or as expressly provided in this Agreement, Developer shall have no vested right to develop the Project by virtue of this Agreement. Nor does the Village warrant that Developer is entitled to any other approvals required for development of the Property or construction of the Project as a result of this Agreement.

2. No Waiver. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by the Village and the Developer, nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults. Any party's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by another party hereto.

3. Amendment/Modification. This Agreement may be amended or modified only by a written amendment approved and executed by the Village and Developer.

4. Remedies upon Default. A default is defined herein as a party's breach of, or failure to comply with, the terms of this Agreement and the failure to cure such breach within thirty (30) days after the date of written notice from the non-defaulting party. The parties reserve all remedies at law or in equity necessary to cure any default or remedy any damages or losses under this Agreement. Rights and remedies are cumulative, and the exercise of one or more rights or remedies shall not preclude the exercise of other rights or remedies.

5. Entire Agreement/Appendices Incorporated. This written Agreement and the attachments hereto shall constitute the entire Agreement between Developer and the Village as of the date hereof.

6. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the invalid part, term, or provision was never part of the Agreement.

7. Binding Effect. The obligations of Developer under this Agreement shall be binding on its successors and assigns and shall inure to the benefit of the Village and its successors and assigns.

8. Immunity. Nothing contained in this Agreement constitutes a waiver of the Village's sovereign immunity under applicable law.

9. Notice. Any notice required or permitted by this Agreement shall be deemed effective when personally delivered in writing, or faxed, as follows:

To Developer: Mr. John Flad
Flad Development and Investment Corp.
7941 Tree Lane, Suite 105
Madison, WI 53717

To the Village: Village Administrator
Village of Shorewood Hills
810 Shorewood Boulevard
Madison, WI 53705
Fax: 608/266-5929

With a copy to: Matthew P. Dregne
Stafford Rosenbaum LLP
222 West Washington Avenue, Suite 900
P.O. Box 1784
Fax: 608/259-2600
Email: mdregne@staffordlaw.com

10. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by any party arising out of this Agreement shall be deemed to be proper only if such action is commenced in Circuit Court for Dane County unless it is determined that such Court lacks jurisdiction. Developer hereby consents to personal jurisdiction in Dane County. Developer also expressly waives the right to bring such action in, or to remove such action to, any other court whether state or federal, unless it is determined that the Circuit Court for Dane County lacks jurisdiction.

11. Ratification. Developer hereby approves and ratifies all actions taken to date by the Village, and its officers, employees and agents in connection with the District, and in connection with the zoning and other approvals relating to the Property and the Project.

12. Compliance with Laws. Developer shall comply with all federal, state and local laws with respect to the Project, including but not limited to laws governing building and construction, the environment, nondiscrimination, and employment and contracting practices, to the extent they are applicable.

13. No Partnership. The Village does not, in any way or for any purpose, become a partner, employer, principal, agent or joint venturer of or with Developer.

14. Good Faith. All parties to this Agreement shall exercise good faith in performing any obligation that party has assumed under the terms of this Agreement including, but not limited to, the performance of obligations that require the exercise of discretion and judgment.

15. Applicable Law. This Agreement shall be construed under the laws of the state of Wisconsin.

16. No Private Right or Cause of Action. Nothing in this Agreement shall be interpreted or construed to create any private right or any private cause of action by or on behalf of any person not a party hereto.

17. Effective Date. This Agreement shall be effective as of the date and year first written above.

18. Construction of Agreement. Each party participated fully in the drafting of each and every part of this Agreement. This Agreement shall not be construed strictly in favor of or against any party. It shall be construed simply and fairly to each party.

19. Recording. Any party may record a copy of this Agreement, or notice of this Agreement, with the Register of Deeds for Dane County.

20. Counterparts. This Agreement may be executed in one or more counterpart copies, each of which so executed, irrespective of the date of execution and delivery, which may be by facsimile, shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the year and date first set forth above, and by so signing this Agreement, certify that they have been duly authorized by their respective entities to execute this Agreement on their behalf.

VILLAGE:

VILLAGE OF SHOREWOOD HILLS
Dane County, Wisconsin

By: _____
Mark Sundquist, Village President

ATTEST:

Colleen Albrecht, Village Clerk

DEVELOPER:

DANFORD PLAZA, LLC.

By Flad Development and Investment Corp.,
its Manager

By: _____
John J. Flad, President

SHOREWOOD COMMONS LIMITED PARTNERSHIP

By Flad Development and Investment Corp.,
its General Partner

By: _____
John J. Flad, President

Approved as to Form:

Matthew P. Dregne, Village Attorney

Attachments:

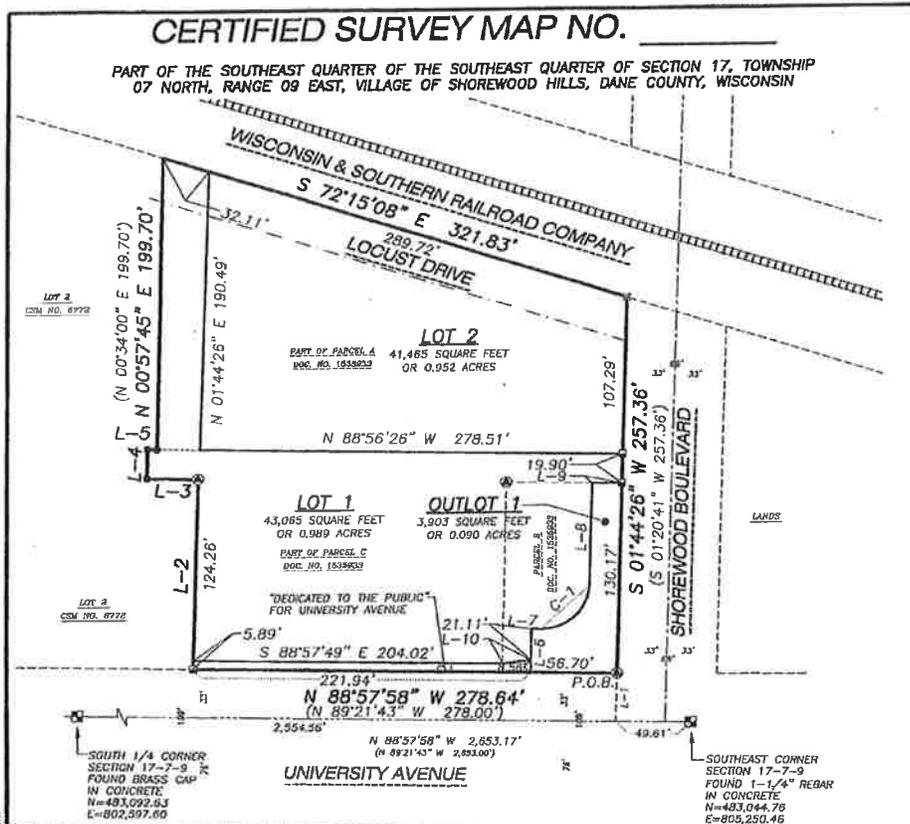
- A - Unrecorded Certified Survey Map
- B - Description of Village Property
- C - Compliance Monitoring Agreement
- D - Easement Agreement
- E - Form PC 202
- F - Form of Municipal Revenue Obligation
- G - Form of Tax Agreement
- H - Form of Land Use Restriction Agreement
- I - Approved Marketing Plan
- J - Developer's Market Rate Projection
- K - Developer's Affordable Units Projection.

ATTACHMENT A UNRECORDED CERTIFIED SURVEY MAP

PRELIMINARY

CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP
07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN

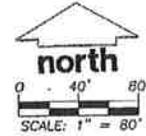


LEGEND

- ☐ GOVERNMENT CORNER
- COTTON SPINDLE SET
- 1/4" REBAR SET (1.50 LBS/LF)
- ✕ CHISELED 'X' FOUND
- ⊗ DRILL HOLE FOUND
- ⊙ PK/MAG NAIL FOUND
- 3/4" REBAR FOUND
- SECTION LINE
- PARCEL BOUNDARY
- PLATTED LOT LINE
- RIGHT-OF-WAY LINE
- CENTERLINE
- /// BUILDING
- () RECORDED INFORMATION

NOTES

1. BEARINGS FOR THIS SURVEY AND MAP ARE BASED ON THE WISCONSIN COUNTY COORDINATE SYSTEM, (WCCS), DANE COUNTY. THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 17-07-09 BEARS N 88°57'58" W.
2. FIELD WORK PERFORMED BY JSD PROFESSIONAL SERVICES, INC. THE WEEK OF AUGUST 28, 2009.
3. SEE SHEET 2 FOR EXISTING BUILDINGS.
4. SEE SHEETS 3, 4, AND 5 FOR EASEMENT DETAILS.

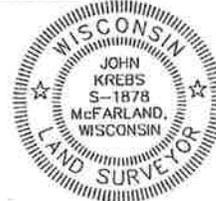


CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C-1	48.00'	31.45'	87°26'47"	43.48'	N 46°53'37" E

LINE TABLE

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L-1	N 01°44'26" E	33.00'	L-5	S 88°56'26" E	6.13'
L-2	N 01°30'46" E	130.15'	()	S 89°20'11" E	6.13'
()	N 01°07'09" E	130.15'	L-6	N 01°03'34" E	29.67'
L-3	N 88°56'26" W	33.50'	L-7	S 88°56'30" E	6.23'
()	N 89°20'11" W	33.50'	L-8	N 01°44'26" E	70.19'
L-4	N 01°21'09" E	20.04'	L-9	S 89°02'59" E	20.00'
()	N 00°57'24" E	20.04'	L-10	N 82°29'24" E	18.08'



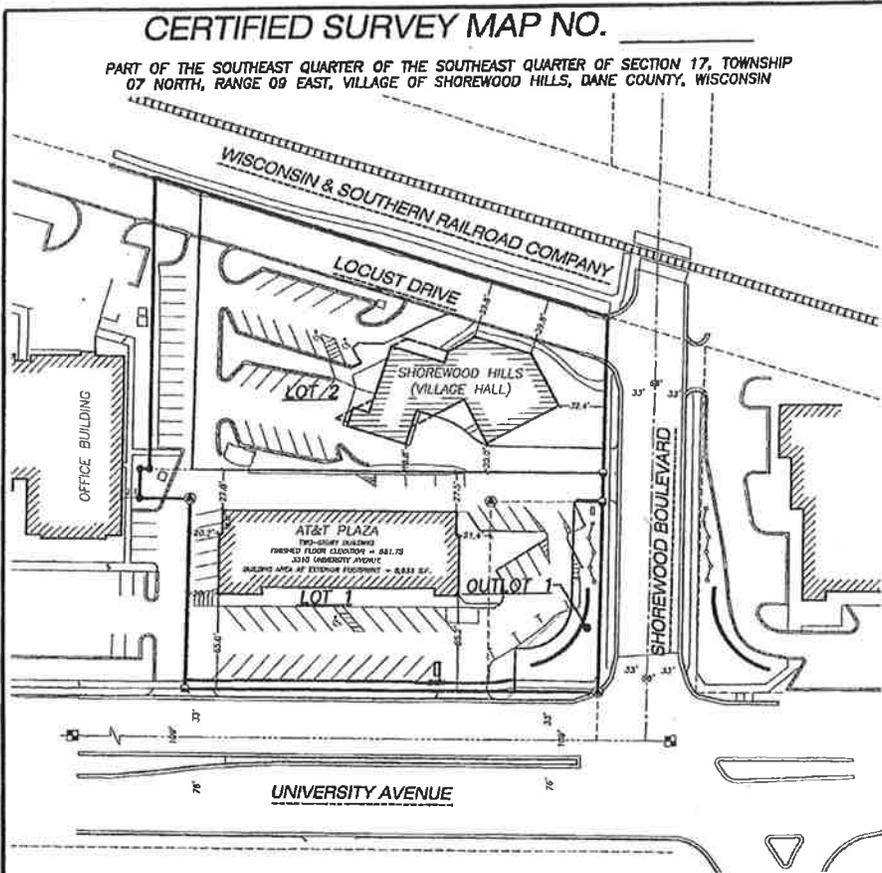
PREPARED BY: JSD Professional Services, Inc. <small>Wisconsin • Minnesota • Florida</small> 181 HORIZON DRIVE, SUITE 101 VERONA, WISCONSIN 53593 PHONE: (608)948-5050	PREPARED FOR: FLAD DEVELOPMENT AND INVESTMENT CORP. 7041 TREE LANE, SUITE 105 MADISON, WI 53717-2029	PROJECT NO.: 14-5414 FILE NO.: B-6 FIELDBOOK/PG.: 234/88 SHEET NO.: 1 OF 7	SURVEYED BY: JK DRAWN BY: JK CHECKED BY: TJB APPROVED BY: DMJ
VOL. _____ PAGE _____		DOC. NO. _____	
C.S.M. NO. _____			

Plotter: S&P, 2015 1 2:45pm
 User: J. Plotter: S&P, 2015 1 2:45pm
 Layout: 1 of 7

PRELIMINARY

CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN

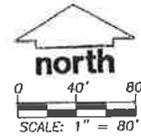
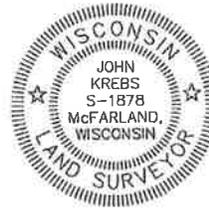


LEGEND

- GOVERNMENT CORNER
- COTTON SPINDLE SET
- ⊗ ¾" REBAR SET (1.50 LBS/LF)
- ⊗ CHISELED "X" FOUND
- ⊗ DRILL HOLE FOUND
- ⊗ PK/MAC NAIL FOUND
- ¾" REBAR FOUND
- SECTION LINE
- PARCEL BOUNDARY
- PLATTED LOT LINE
- RIGHT-OF-WAY LINE
- CENTERLINE
- ▨ BUILDING
- () RECORDED INFORMATION

NOTES

1. BEARINGS FOR THIS SURVEY AND MAP ARE BASED ON THE WISCONSIN COUNTY COORDINATE SYSTEM, (WCCS), DANE COUNTY. THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 17-07-09 BEARS N 88°57'58" W.
2. FIELD WORK PERFORMED BY JSD PROFESSIONAL SERVICES, INC. THE WEEK OF AUGUST 28, 2009.
3. SEE SHEETS 3 AND 4 FOR EASEMENT DETAILS.



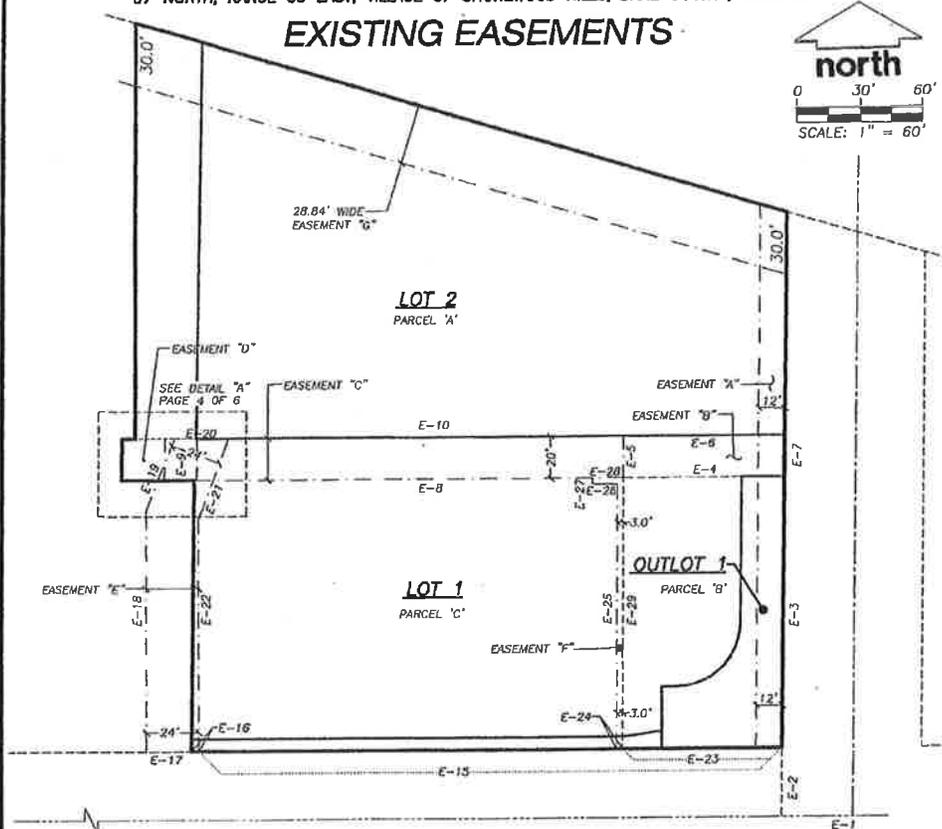
File: I:\2014\146714.DWG\146714_P-C36.dwg Layout: 2 of 2 User: J. Plotter: S32 2015 - 2:45pm

PREPARED BY: JSD Professional Services, Inc. Engineering • Surveying • Planning 101 HORIZON DRIVE, SUITE 101 VERONA, WISCONSIN 53593 PHONE: (608)848-5080	PREPARED FOR: FLAD DEVELOPMENT AND INVESTMENT CORP. 7941 TREE LANE, SUITE 105 MADISON, WI 53717-2029	PROJECT NO: 14-0414 FILE NO: B-a FIELDBOOK/PG: 234/88 SHEET NO: 2 OF 7	SURVEYED BY: JK DRAWN BY: JK CHECKED BY: TJB APPROVED BY: DMJ	VOL. _____ PAGE _____ DOC. NO. _____ C.S.M. NO. _____
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CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP
07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN

EXISTING EASEMENTS



LEGEND

- GOVERNMENT CORNER
- COTTON SPINDLE SET
- 3/4" REBAR SET (1.50 LBS/LF)
- ⌘ CHISELED 'X' FOUND
- DRILL HOLE FOUND
- ⊙ PK/MAG NAIL FOUND
- 3/4" REBAR FOUND
- SECTION LINE
- PARCEL BOUNDARY
- PLATTED LOT LINE
- RIGHT-OF-WAY LINE
- CENTERLINE
- ▨ BUILDING
- () RECORDED INFORMATION

NOTES

1. BEARINGS FOR THIS SURVEY AND MAP ARE BASED ON THE WISCONSIN COUNTY COORDINATE SYSTEM, (WCCS), DANE COUNTY. THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 17-07-09 BEARS N 88°57'58" W.
2. FIELD WORK PERFORMED BY JSD PROFESSIONAL SERVICES, INC. THE WEEK OF AUGUST 28, 2009.
3. SEE SHEET 5 FOR EASEMENT LINE TABLES.

EASEMENTS

- A.) 12' WIDE RESERVATION, VOL. 17133, PG. 1, DOCUMENT No. 2301976.
- B.) INGRESS AND EGRESS EASEMENT FOR PARCEL B, VOL. 852, PG. 370, DOCUMENT No. 1535933.
- C.) 20' x 278' EASEMENT SUBJECT TO 30 YEAR BUILDING RESTRICTION, DOCUMENT No. 1501735. NO LONGER APPLIES.
- D.) RIGHT-OF-WAY GRANT, UNDERGROUND ELECTRIC, VOL. 30037, PG. 50, DOCUMENT No. 2881227.
- E.) INGRESS AND EGRESS EASEMENT, VOL. 21874, PG. 4, DOCUMENT No. 2443245.
- F.) 3' WIDE WISCONSIN TELEPHONE COMPANY EASEMENT, VOL. 245, PG. 336, DOCUMENT No. 829974.
- G.) HIGHWAY EASEMENT PER DOCUMENT No. 1157818 FOR LOCUST DRIVE.



PREPARED BY:

JSD Development Services, Inc.
181 HORIZON DRIVE, SUITE 101
VERONA, WISCONSIN 53593
PHONE: (608)848-5080

PREPARED FOR:

FLAD DEVELOPMENT AND
INVESTMENT CORP.
7941 TREE LANE, SUITE 103
MADISON, WI 53717-2029

PROJECT NO:

14-6414

FILE NO:

B-*

FIELDBOOK/PG:

234/88

SHEET NO:

3 OF 7

SURVEYED BY:

JK

DRAWN BY:

JK

CHECKED BY:

TJB

APPROVED BY:

DMJ

VOL. _____ PAGE _____

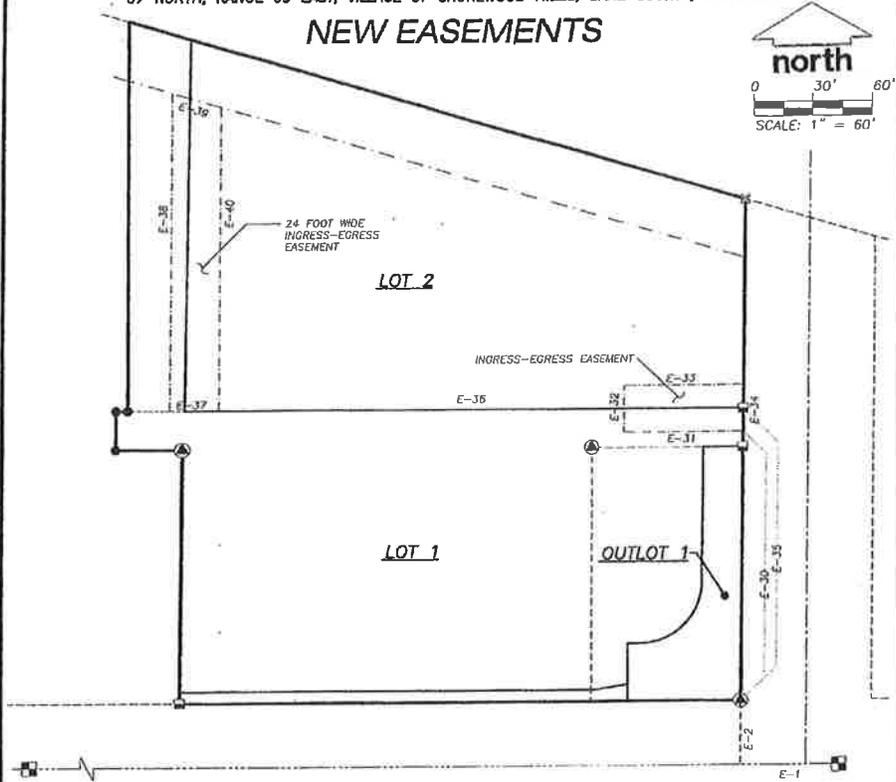
DOC. NO. _____

C.S.M. NO. _____

CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN

NEW EASEMENTS



LEGEND

- ☐ GOVERNMENT CORNER
- COTTON SPINDLE SET
- 3/4" REBAR SET (1.50 LBS/LF)
- ✕ CHISELED 'X' FOUND
- ☐ DRILL HOLE FOUND
- ⊕ PK/MAG NAIL FOUND
- 3/4" REBAR FOUND
- SECTION LINE
- PARCEL BOUNDARY
- PLATTED LOT LINE
- RIGHT-OF-WAY LINE
- CENTERLINE
- ////// BUILDING
- () RECORDED INFORMATION

NOTES

1. BEARINGS FOR THIS SURVEY AND MAP ARE BASED ON THE WISCONSIN COUNTY COORDINATE SYSTEM, (WCOS), DANE COUNTY. THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 17-07-09 BEARS N 88°57'58" W.
2. FIELD WORK PERFORMED BY JSD PROFESSIONAL SERVICES, INC. THE WEEK OF AUGUST 28, 2009.
3. SEE SHEET 5 FOR EASEMENT LINE TABLES.



JSD 146414 (DWG) 146414 P-CB/A-G-9

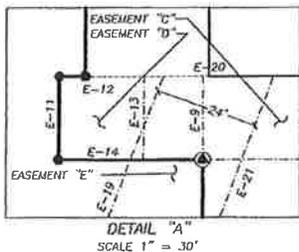
PREPARED BY: JSD Professional Services, Inc. <i>Engineers • Surveyors • Planners</i> 181 HORIZON DRIVE, SUITE 101 VERONA, WISCONSIN 53593 PHONE: (608)849-5080	PREPARED FOR: FLAD DEVELOPMENT AND INVESTMENT CORP. 7841 TREE LANE, SUITE 105 MADISON, WI 53717-2029	PROJECT NO.: 14-6414 FILE NO.: B-A RELEASING/PG: 234/88 SHEET NO.: 4 OF 7	SURVEYED BY: JK DRAWN BY: JK CHECKED BY: TJB APPROVED BY: DMJ	VOL. _____ PAGE _____ DOC. NO. _____ C.S.M. NO. _____
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CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP
07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN

EASEMENT DETAILS AND TABLES

EASEMENT LINE TABLE					
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
E-1	N 88°57'58" W	49.61'	E-21	S 21°38'29" W	41.51'
E-2	N 01°44'26" E	33.00'	E-22	S 00°53'31" W	111.33'
E-3	N 01°44'26" E	130.17'	E-23	N 88°57'58" W	75.34'
E-4	N 88°02'59" W	76.08'	E-24	N 88°57'58" W	3.00'
E-5	N 01°24'57" E	20.05'	E-25	N 01°24'57" E	127.50'
E-6	S 88°56'26" E	76.19'	E-26	N 88°56'19" W	12.00'
E-7	S 01°44'26" W	19.90'	E-27	N 01°24'57" E	3.00'
E-8	N 89°02'59" W	278.00'	E-28	S 88°56'19" E	15.00'
E-9	N 01°44'26" E	20.04'	E-29	S 01°24'57" W	130.05'
E-10	S 88°56'26" E	278.00'	E-30	N 01°44'26" E	108.07'
E-11	N 01°21'09" E	20.04'	E-31	N 88°56'26" W	60.00'
E-12	S 88°56'26" E	20.00'	E-32	N 01°44'26" E	24.00'
E-13	S 01°21'09" W	20.04'	E-33	S 88°56'26" E	60.00'
E-14	N 88°56'26" W	20.00'	E-34	S 01°44'26" W	24.00'
E-15	N 88°57'58" W	275.28'	E-35	N 01°44'26" E	150.07'
E-16	N 88°57'58" W	3.36'	E-36	N 88°56'26" W	261.66'
E-17	N 88°57'58" W	20.64'	E-37	N 88°56'26" W	24.00'
E-18	N 00°53'31" E	115.66'	E-38	N 01°18'12" E	162.99'
E-19	N 21°38'29" E	36.89'	E-39	S 72°15'08" E	25.02'
E-20	S 88°56'26" E	25.64'	E-40	S 01°18'12" W	155.81'



LEGEND

- ☐ GOVERNMENT CORNER
- ⊙ COTTON SPINDLE SET
- 3/4" REBAR SET (1.50 LBS/LF)
- ⊗ CHISELED 'X' FOUND
- ⊕ DRILL HOLE FOUND
- ⊙ PK/MAG NAIL FOUND
- 3/4" REBAR FOUND
- SECTION LINE
- PARCEL BOUNDARY
- PLATTED LOT LINE
- RIGHT-OF-WAY LINE
- CENTERLINE
- ////// BUILDING
- () RECORDED INFORMATION

NOTES

1. BEARINGS FOR THIS SURVEY AND MAP ARE BASED ON THE WISCONSIN COUNTY COORDINATE SYSTEM, (WCCS), DANE COUNTY. THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 17-07-09 BEARS N 88°57'58" W.
2. FIELD WORK PERFORMED BY JSD PROFESSIONAL SERVICES, INC. THE WEEK OF AUGUST 28, 2009.



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PREPARED BY: JSD Professional Services, Inc. <small>• Engineers • Surveyors • Planners</small> 101 HORIZON DRIVE, SUITE 101 VERONA, WISCONSIN 53593 PHONE: (608)840-5050	PREPARED FOR: FLAD DEVELOPMENT AND INVESTMENT CORP. 7941 TREE LANE, SUITE 105 MADISON, WI 53717-2029	PROJECT NO: 14-6414 FILE NO: 8-A FIELDBOOK/PG: 234/88 SHEET NO: 5 OF 7	SURVEYED BY: JK DRAWN BY: JK CHECKED BY: JJB APPROVED BY: DJM
VOL. _____ PAGE _____		DOC. NO. _____	
		C.S.M. NO. _____	

PRELIMINARY

CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN

LEGAL DESCRIPTION

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 17; THENCE NORTH 88 DEGREES 57 MINUTES 58 SECONDS WEST ALONG THE SOUTH LINE OF THE SAID SOUTHEAST QUARTER A DISTANCE OF 49.61 FEET; THENCE NORTH 01 DEGREES 44 MINUTES 26 SECONDS EAST, 33.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF UNIVERSITY AVENUE AND THE POINT OF BEGINNING; THENCE NORTH 88°57'58" WEST ALONG SAID RIGHT-OF-WAY LINE, 278.64 FEET TO THE SOUTHEAST CORNER OF LOT 2 OF CERTIFIED SURVEY MAP NO. 6772 AS RECORDED IN VOLUME 33 ON PAGES 340-341, AS DOCUMENT No. 2385943; THENCE NORTH 01 DEGREES 30 MINUTES 46 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 2 A DISTANCE OF 130.15 FEET; THENCE NORTH 88 DEGREES 56 MINUTES 25 SECONDS WEST ALONG SAID EAST LINE A DISTANCE OF 33.50 FEET; THENCE NORTH 01 DEGREES 21 MINUTES 09 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 20.04 FEET; THENCE SOUTH 88 DEGREES 56 MINUTES 26 SECONDS EAST ALONG THE SAID EAST LINE, 6.13 FEET; THENCE NORTH 00 DEGREES 57 MINUTES 45 SECONDS EAST ALONG SAID EAST LINE, 199.70 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE WISCONSIN AND SOUTHERN RAILROAD COMPANY; THENCE SOUTH 72 DEGREES 15 MINUTES 08 SECONDS EAST ALONG SAID RIGHT-OF-WAY LINE, 321.83 FEET TO THE WEST RIGHT-OF-WAY LINE OF SHOREWOOD BOULEVARD; THENCE SOUTH 01 DEGREES 44 MINUTES 26 SECONDS WEST ALONG SAID RIGHT-OF-WAY LINE, 257.36 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 89,762 SQUARE FEET OR 2.061 ACRES.

SURVEYOR'S CERTIFICATE

I, JOHN KREBS, PROFESSIONAL LAND SURVEYOR S-1878, DO HEREBY CERTIFY THAT BY DIRECTION OF FLAD DEVELOPMENT AND INVESTMENTS, CORP., I HAVE SURVEYED, DIVIDED AND MAPPED THE LANDS DESCRIBED HEREON AND THAT THE MAP IS A CORRECT REPRESENTATION IN ACCORDANCE WITH THE INFORMATION PROVIDED. I FURTHER CERTIFY THAT THIS CERTIFIED SURVEY MAP IS IN FULL COMPLIANCE WITH CHAPTER 236.34 OF THE WISCONSIN STATUTES AND THE SUBDIVISION REGULATIONS OF THE VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN.



JOHN KREBS, S-1878
PROFESSIONAL LAND SURVEYOR

DATE

CORPORATE OWNER'S CERTIFICATE

DANFORD PLAZA, LLC, A LIMITED LIABILITY CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, AS OWNER ^{of Lot 1} DOES HEREBY CERTIFY THAT SAID CORPORATION HAS CAUSED THE LAND DESCRIBED ON THIS CERTIFIED SURVEY MAP TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED HEREON. SAID CORPORATION FURTHER CERTIFIES THAT THIS CERTIFIED SURVEY MAP IS REQUIRED BY S.236.34, WISCONSIN STATUTES TO BE SUBMITTED TO THE VILLAGE OF SHOREWOOD HILLS FOR APPROVAL.

IN WITNESS WHEREOF, THE SAID DANFORD PLAZA, LLC, HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS REPRESENTATIVES THIS _____ DAY OF _____, 201____.

DANFORD PLAZA, LLC

BY: _____

FLAD DEVELOPMENT AND INVESTMENT CORP., MANAGING MEMBER
JOHN J. FLAD, PRESIDENT

STATE OF WISCONSIN) SS
DANE COUNTY) SS

PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 201____,
THE ABOVE NAMED REPRESENTATIVES OF THE ABOVE NAMED DANFORD PLAZA, LLC, TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THE SAME.

NOTARY PUBLIC, DANE COUNTY, WISCONSIN

MY COMMISSION EXPIRES

L:\2014\1454614\DWG\1454614 P-CSM.dwg

PREPARED BY: 161 HORIZON DRIVE, SUITE 101 VERONA, WISCONSIN 53593 PHONE: (608)848-5080	PREPARED FOR: FLAD DEVELOPMENT AND INVESTMENT CORP. 7941 TREE LAKE, SUITE 105 MADISON, WI 53717-2029	PROJECT NO: 14-0114 FILE NO: 8-" FIELDBOOK/PG: 234/88 SHEET NO: 6 OF 7	SURVEYED BY: JK DRAWN BY: JK CHECKED BY: JJB APPROVED BY: DMJ	VOL. _____ PAGE _____ DOC. NO. _____ C.S.M. NO. _____
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PRELIMINARY

CERTIFIED SURVEY MAP NO. _____

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 07 NORTH, RANGE 09 EAST, VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN

of Lot 2 & Outlot 1,

CORPORATE OWNER'S CERTIFICATE

THE VILLAGE OF SHOREWOOD HILLS, A CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, AS OWNER DOES HEREBY CERTIFY THAT SAID CORPORATION HAS CAUSED THE LAND DESCRIBED ON THIS CERTIFIED SURVEY MAP TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED HEREON. SAID CORPORATION FURTHER CERTIFIES THAT THIS CERTIFIED SURVEY MAP IS REQUIRED BY S.236.34, WISCONSIN STATUTES TO BE SUBMITTED TO THE VILLAGE OF SHOREWOOD HILLS FOR APPROVAL.

IN WITNESS WHEREOF, THE SAID VILLAGE OF SHOREWOOD HILLS, HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS REPRESENTATIVES THIS _____ DAY OF _____, 201_____.

VILLAGE OF SHOREWOOD HILLS,

BY: _____
COKIE ALBRECHT, CLERK
VILLAGE OF SHOREWOOD HILLS

STATE OF WISCONSIN) SS
DANE COUNTY) SS

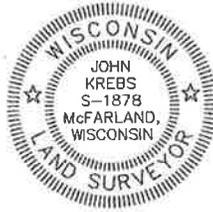
PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 201_____, THE ABOVE NAMED REPRESENTATIVES OF THE ABOVE NAMED VILLAGE OF SHOREWOOD HILLS, TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THE SAME.

NOTARY PUBLIC, DANE COUNTY, WISCONSIN MY COMMISSION EXPIRES _____

VILLAGE BOARD APPROVAL CERTIFICATE

APPROVED FOR RECORDING BY THE VILLAGE BOARD OF THE VILLAGE OF SHOREWOOD HILLS, DANE COUNTY, WISCONSIN ACTION OF THIS _____ DAY OF _____, 201_____.

COKIE ALBRECHT, CLERK
VILLAGE OF SHOREWOOD HILLS



OFFICE OF THE REGISTER OF DEEDS

COUNTY, WISCONSIN
RECEIVED FOR RECORD _____
20 ____ AT _____ O'CLOCK ____ M AS
DOCUMENT # _____
IN VOL. _____ OF CERTIFIED SURVEY
MAPS ON PAGE(S) _____
REGISTER OF DEEDS

12-2014\146414.DWG\146414_P--CSM.dwg

PREPARED BY: JSD Professional Services, Inc. * Engineers * Surveyors * Planners 183 HORIZON DRIVE, SUITE 101 VERONA, WISCONSIN 53593 PHONE: (608)448-5000	PREPARED FOR: FLAD DEVELOPMENT AND INVESTMENT CORP. 7341 TREE LANE, SUITE 105 MADISON, WI 53717	PROJECT NO: 14-6414 FILE NO: B-* FB/PG: 234/88 SHEET NO: 7 OF 7	SURVEYED BY: JK DRAWN BY: JK CHECKED BY: TJB APPROVED BY: DMJ
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ATTACHMENT B
DESCRIPTION OF VILLAGE PROPERTY



Flad Development and Investment Corp.
7941 Tree Lane, Suite 105
Madison, WI 53717-2029

LEGAL DESCRIPTION
Parcel B-1

Part of the Southeast Quarter of the Southeast Quarter of Section 17, Township 07 North, Range 09 East, Village of Shorewood Hills, Dane County, Wisconsin, more particularly described as follows:

Commencing at the Southeast corner of Section 17, aforesaid; thence North 88 degrees 57 minutes 58 seconds West along the South line of the Southeast Quarter, 105.92 feet; thence North 01 degrees 03 minutes 34 seconds East, 33.00 feet to the North right-of-way line of University Avenue and the Point of Beginning; thence North 88 degrees 57 minutes 58 seconds West along said right-of-way line, 18.64 feet; thence North 01 degrees 24 minutes 57 seconds East, 130.05 feet; thence South 89 degrees 02 minutes 59 seconds East, 56.08 feet; thence South 01 degrees 44 minutes 26 seconds West, 70.19 feet to a point of curve; thence Southwesterly 48.00 feet along an arc of a curve to the right, having a radius of 31.45 feet, the chord bears South 46 degrees 53 minutes 37 seconds West, 43.48 feet; thence North 88 degrees 56 minutes 30 seconds West, 6.23 feet; thence South 01 degrees 03 minutes 34 seconds West, 29.67 feet to the Point of Beginning.

Parcel Contains 5,947 square feet or 0.136 acres.

I:\2014\146414\Legal Descriptions\Legal Description-Parcel B-1(a).doc

ATTACHMENT C
COMPLIANCE MONITORING AGREEMENT

COMPLIANCE MONITORING AGREEMENT

THIS COMPLIANCE MONITORING AGREEMENT (the "**Agreement**") is made as of the ___ day of _____, 2016 (the "**Effective Date**"), by and between the Village of Shorewood Hills, a Wisconsin Municipal Corporation, 810 Shorewood Boulevard, Madison, WI 53705 (the "**Village**"), Danford Plaza, LLC, a Wisconsin Limited Liability Company, 7941 Tree Lane, Suite 105, Madison, WI 53717-2029 (the "**Owner**"), and the Wisconsin Housing and Economic Development Authority, a Wisconsin public body corporate and politic, 201 W. Washington Avenue, Suite 700, P.O. Box 1728, Madison, WI 53701-1728 (the "**Authority**").

WITNESSETH:

WHEREAS, Owner intends to construct a multi-unit mixed-use development in the Village (the "**Development**") which Development shall have 38 residential apartment units; and

WHEREAS, the Village and Owner have entered into a Land Use Restriction Agreement, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference (the "**LURA**"); and

WHEREAS, the Village and Owner have requested that the Authority monitor compliance by the Owner with the terms, covenants and conditions of the LURA, and the Authority is willing to do so in accordance with the terms of this Agreement.

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

1) Purpose of LURA. Developer has agreed with the Village that Developer shall subject not less than one 1-bedroom unit, not less than two 2-bedroom units and not less than one 3-bedroom unit (collectively the "**Set Aside Units**"), to the occupancy and rent restrictions set forth in Sections 2.1, 2.2 of the LURA (the "**Set Aside Requirements**"), on a voluntary basis, so as to provide affordable housing in the Village for the term specified in Article 4 of the LURA.

2) Term. The term of this Agreement shall be equal to the term of the LURA, and this Agreement shall terminate at such time as Owner's obligations under the LURA shall terminate. Notwithstanding the foregoing, if in the future the Authority no longer administers the federal Low Income Housing Tax Credits ("**LIHTC**") for the State of Wisconsin, the Authority may terminate this Agreement upon written notice to Owner and the Village.

3) Compliance Requirements. On an annual basis, Owner shall provide to the

Village and the Authority a certification (the "Annual Certification") certifying as to the following matters:

- A. The minimum Set Aside Requirements described in paragraph (1) above and the LURA, have been met for the term of the certification period.
- B. An annual resident income certification on forms acceptable to the Authority has been received from each resident of a Set Aside Unit. Owner has obtained documentation to support the resident income certification, and such documentation remains in the possession of Owner.
- C. That during the period of such Annual Certification, the Gross Rent for Affordable Units was in compliance with Section 2.2 of the LURA.
- D. The identity of each qualifying Set Aside Unit in the Development for the period covered by the Annual Certification.
- E. That during the period of such Annual Certification, there has been no finding of discrimination with respect to the Development under federal, state or local fair housing laws.
- F. That the Development and each Set Aside Unit in the Development, have been issued occupancy permits which are not revoked, and that each Set Aside Unit complies with applicable health, safety, accessibility and building codes and regulations. The Owner shall further certify that the Village has not issued any notices for violation of health, safety or building code matters with respect to the Development or any Set Aside Unit in the Development.
- G. That all facilities in the Development open and available to residents are open and available to all residents, on a comparable basis, without a separate fee being charged, or if a fee is charged the fee is applicable to all residents on an equal basis.
- H. The Owner shall certify that reasonable attempts were made to rent Set Aside Units in the Development meeting the Set Aside Requirements to residents having a qualifying income if such Set Aside Units became vacant during the Annual Certification period.
- I. The Annual Certification shall describe any changes in ownership or management of the Development during the applicable period.
- J. Owner shall provide any additional certifications reasonably requested by the Authority, or otherwise required under the then-current version of the

4) Records and Inspections. Owner shall maintain all records relating to the Set Aside Units, including resident income certifications and documentation of rental charges, for a period of not less than three (3) complete calendar years after the date of such records. Upon reasonable notice to Owner, either the Authority or Village may inspect the Owner's books or records relating to the Set Aside Units and any statement of facts contained in any Annual Certification. The Authority or Village may physically inspect the Development in order to verify any of the factual matters set forth in the Annual Certification at any time during the term hereof upon reasonable notice to Owner, but not more frequently than one (1) time per year unless a breach of this Agreement or the LURA is alleged to have occurred. The Authority agrees to physically inspect the Development at least one time during every three (3)-year period of the term of this Agreement.

5) Compliance Monitoring Standard. Notwithstanding anything to the contrary in the LURA, the Authority shall inspect the Development as if it is a LIHTC property, using the compliance standards and procedures set forth in the then-current version of the Authority's Affordable Housing Tax Credit Compliance Manual, as such manual may be amended from time-to-time.

6) Annual Report. The Authority shall provide to the Village and the Owner an annual report (the "**Report**") detailing any non-compliance issues or other concerns of the Authority as a result of the Authority's review of the Annual Certification, the Authority's inspection of the Development or both. Such Report shall be in the form the Authority typically generates when assessing compliance of LIHTC properties. The Report shall be provided not later than one hundred twenty (120) days after receipt of the Annual Certification from Owner. The first Annual Certification from Owner hereunder shall be delivered to the Village and the Authority no later than 2017, and on or before the same date each year thereafter during the term hereof. Each Report shall be prepared solely for the benefit of the Village, and may not be relied upon by any other party without the prior written consent of the Authority.

7) Breach. Should the Owner breach its obligations hereunder, the Village on its own accord or after notice from the Authority, shall provide notice to Owner of such breach (a "**Default**"), specifying the Default and directing Owner to remedy the same within a reasonable period of time after such notice, but in no event less than thirty (30) days after the date of the notice. If the Default is of a type incapable of being cured within such period of time, the same shall be deemed cured if Owner has commenced action to cure the same within a reasonable period of time under all of the facts and circumstances then existing, and has prosecuted the same to completion with reasonable due diligence, but in all cases such Default shall be cured within ninety (90) days from the date of the Village's notice. In the event a Default shall remain uncured after notice, the Village may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such

violation, to compel specific performance hereunder, and to recover monetary damages, together with the costs and expenses of any proceedings for the collection thereof, caused by such breach, or may take any other action available to remedy the violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the same or such party's ability to obtain relief against or recover damages for the continuation or repetition of such breach or violation, or of any similar breach or violation thereof at any later time or times.

8) Fees to Authority. Upon the Effective Date, Owner shall pay a one-time initial fee to the Authority in the amount of \$1,000.00. With each Annual Certification, Owner shall pay an annual fee on a per Set Aside Unit bases equal to the annual compliance fee per unit published in the Authority's then-current Low Income Housing Tax Credit Qualified Allocation Plan (the "QAP") for the "All Other" category under the "Initial 15 Year Compliance Period", plus an additional thirty percent (30%) of such fee. For example, based on the \$45 per unit fee published in the Authority's 2015-2016 QAP, such annual fee would equal \$526.50 (equal to 9 Set Aside Units x \$45 per unit x 1.3). If the Authority is called upon to do work it deems outside normal LIHTC compliance duties, as determined in its reasonable discretion, the Authority may bill Owner for such out-of-scope work on an hourly basis.

9) Limitation of Liability of the Authority. Under no circumstances shall the Authority be liable for any indirect, incidental, special or consequential damages, including loss of revenue, or economic damages howsoever arising. Should the Authority breach its obligations under this Agreement, the Authority's aggregate liability is hereby limited to the fees received by the Authority under this Agreement in the calendar year in which the breach occurred.

10) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

11) Binding Effect. This Agreement shall be binding up on the parties hereto, and their respective successors and assigns.

12) Miscellaneous. In the event any portion of this Agreement shall be deemed unenforceable by a court of competent jurisdiction, the offending portion shall be severed from the remainder, and the remainder shall be fully enforced in accordance with all applicable laws, rules and regulations.

13) Counterparts. This Agreement may be executed in any number of counterparts, each one of which, shall be deemed an original document.

14) Electronic Signatures. Any party may elect to execute and deliver this Agreement electronically, and when so executed and delivered, this Agreement shall be the

valid, lawful and binding obligation of said party.

[Signature page(s) to follow]

Dated as of the date and year first above written.

VILLAGE OF SHOREWOOD HILLS

By: _____
Mark Sundquist, Village President

Attest: _____
Colleen Albrecht, Village Clerk

DANFORD PLAZA, LLC

By: Flad Development and Investment Corp., its Manager

By: _____
John J. Flad, President

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

By: _____

EXHIBIT "A"

Land Use Restriction Agreement

ATTACHMENT D
EASEMENT AGREEMENT

Document Number	Title
<p style="text-align: center;">EASEMENT AGREEMENT</p> <p>THIS EASEMENT AGREEMENT (“Agreement”) is made and entered into as of the ___ day of _____, 2015 (the “Effective Date”), by and between DANFORD PLAZA, LLC, a Wisconsin limited liability company (“Danford Plaza”), the VILLAGE OF SHOREWOOD HILLS, a Wisconsin municipal corporation (the “Village”), and SHOREWOOD COMMONS LIMITED PARTNERSHIP, a Wisconsin limited partnership (“Shorewood Commons”). Danford Plaza, the Village and Shorewood Commons are sometimes hereinafter referred to individually as an “Owner” and collectively as the “Owners.”</p>	<p>Name and Return Address:</p> <p>Katherine R. Rist Foley & Lardner LLP 150 East Gilman Street P.O. Box 1497 Madison, Wisconsin 53701-1497</p>

WITNESSETH:

WHEREAS, Danford Plaza owns the real property commonly known as 3306-3310 University Avenue, in the Village of Shorewood Hills, Wisconsin, and legally described on Exhibit A (“**Lot 1**”) attached hereto and incorporated herein by reference;

WHEREAS, the Village owns the real property adjacent and to the North of Lot 1 commonly known as 810 Shorewood Boulevard (“**Lot 2**”), and the real property adjacent and to the East of Lot 1 located at the corner of Shorewood Boulevard and University Avenue (“**Outlot 1**”), both being in the Village of Shorewood Hills, Wisconsin, and legally described on Exhibit A;

WHEREAS, Shorewood Commons owns the real property adjacent and to the West of Lot 1 commonly known as 3330 University Avenue, in the Village of Shorewood Hills, Wisconsin, and legally described on Exhibit A (“**Shorewood Commons Property**”)

WHEREAS, in connection with the redevelopment of Lot 1, the Owners desire to establish a joint driveway easement in the areas shown on Exhibit B (the “**Joint Easement Area**”) and a joint driveway easement in the areas shown on Exhibit C (the “**Shorewood Boulevard Easement Area**”) and to grant certain easements and set forth their respective rights and responsibilities with respect to the easements in this Agreement.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners agree as follows:

4826-8380-1385.2

1. Incorporation of Recitals. The above recitals are true and correct and form a material part of this Agreement upon which the Owners have relied.

2. Joint Access Easements.

a. Danford Plaza, as the owner of Lot 1, hereby grants to the Owners of Lot 2 and the Shorewood Commons Property, and their respective tenants, residents, agents, employees, customers, visitors, invitees, successors and assigns, as applicable (the “**Permitted Users**”), a perpetual, nonexclusive easement appurtenant to Lot 2 and the Shorewood Commons Property, over, under and across that portion of the Joint Easement Area which is located on Lot 1 and depicted on the attached Exhibit B, for vehicular and pedestrian ingress and egress to and from Locust Drive, University Avenue, Lot 2 and the Shorewood Commons Property (the “**Lot 1 Access Easement**”).

b. The Village, as the owner of Lot 2, hereby grants to the Owners of Lot 1 and the Shorewood Commons Property, and their respective Permitted Users, a perpetual, nonexclusive easement appurtenant to Lot 1 and the Shorewood Commons Property, over, under and across that portion of the Joint Easement Area which is located on Lot 2 and depicted on the attached Exhibit B, for vehicular and pedestrian ingress and egress to and from Locust Drive, University Avenue, Lot 1 and the Shorewood Commons Property (the “**Lot 2 Access Easement**”).

c. Shorewood Commons, as the owner of the Shorewood Commons Property, hereby grants to the Owners of Lot 1 and Lot 2, and the respective Permitted Users, a perpetual, nonexclusive easement appurtenant to Lot 1 and Lot 2, over, under and across that portion of the Joint Easement Area which is located on the Shorewood Commons Property and depicted on the attached Exhibit B, for vehicular and pedestrian ingress and egress to and from Locust Drive, University Avenue, Lot 1 and Lot 2 (the “**Shorewood Commons Access Easement**”).

d. To the extent any improvements are required to the Joint Easement Area in connection with the redevelopment of Lot 1, Danford Plaza shall have the right to construct, at its sole cost and expense, such improvements within the Joint Easement Area, including but not limited to paved driveways, vehicle parking spaces, curbs, gutters, sidewalks, street lighting, signage and such other improvements as may be necessary for the redevelopment of Lot 1 (collectively, with all existing improvements in the Joint Easement Area, the “**Access Improvements**”) and in accordance with plans and specifications as approved by the Village, if necessary. To the extent the Access Improvements are constructed slightly outside of the Joint Easement Area, the Joint Easement Area shall be deemed to be expanded to include the area upon which the Access Improvements are constructed.

e. The Owner of Lot 1 shall maintain, repair, and replace the Access Improvements located on the Joint Easement Area and shall keep them in good condition and repair, in accordance with all applicable governmental rules, ordinances and regulations, including, without limitation, keeping all driveways and other paved areas free of snow, mud, ice, refuse, garbage, holes and breaks in pavement and related matters (any such work being the “**Joint Area Work**”). The Owner of the Shorewood Commons Property shall be responsible for

one-half (1/2) of any costs related to the Joint Area Work (the “**Joint Easement Proportionate Share**”). The Owner of the Shorewood Commons Property shall reimburse the Owner of Lot 1 for its Joint Easement Proportionate Share of any such costs within thirty (30) days of its receipt of an invoice for all expended funds for any Joint Area Work. If the cost of any Joint Area Work is anticipated to exceed \$5,000, the Owner of Lot 1 shall provide prior written notice to the Owner of the Shorewood Commons Property of the need for such Joint Area Work and the anticipated cost prior of undertaking such Joint Area Work and shall receive the prior written consent of the Owner of the Shorewood Commons Property, which consent shall not be unreasonably withheld, conditioned or delayed.

f. The Lot 2 Access Easement and a portion of the Lot 1 Access Easement together are intended to constitute the “24 foot wide Ingress-Egress Easement” as shown on Page 4 of Certified Survey Map No. _____ (“CSM _____”). To the extent that there are any inconsistencies between CSM _____ and this Agreement, this Agreement shall control, and any use of the 24 foot wide Ingress-Egress Easement shall be subject to the terms and conditions of this Agreement.

g. The prior owners of Lot 1, Lot 2 and the Shorewood Commons Property previously entered into an Easement for Joint Driveway, dated December 30, 1992, recorded in Vol. 21874, Page 4 as Document No. 2443245 (the “**Existing Driveway Easement**”), which Existing Driveway Easement is shown on page 3 of CSM _____ as Easement “E.” This Agreement shall supersede the Existing Driveway Easement in its entirety, such that the Existing Driveway Easement shall have no further force and effect.

3. Shorewood Boulevard Access Easements.

a. Danford Plaza, as the owner of Lot 1, hereby grants to the Owner of Lot 2, and the Permitted Users of Lot 2, a perpetual, nonexclusive easement appurtenant to Lot 2, over, under and across that portion of the Shorewood Boulevard Easement Area which is located on Lot 1 and depicted on the attached Exhibit C for vehicular and pedestrian ingress and egress to and from Shorewood Boulevard and Lot 2 (the “**Lot 1 Shorewood Boulevard Easement**”).

b. The Village, as the owner of Lot 2, hereby grants to the Owner of Lot 1, and the Permitted Users of Lot 1, a perpetual, nonexclusive easement appurtenant to Lot 1, over, under and across that portion of the Shorewood Boulevard Easement Area which is located on Lot 2 and depicted on the attached Exhibit C for vehicular and pedestrian ingress and egress to and from Shorewood Boulevard and Lot 1 (the “**Lot 2 Shorewood Boulevard Easement**”).

c. To the extent any improvements are required to the Shorewood Boulevard Easement Area in connection with the redevelopment of Lot 1, Danford Plaza shall have the right to construct, at its sole cost and expense, such improvements within the Shorewood Boulevard Easement Area, including but not limited to paved driveways, vehicle parking spaces, curbs, gutters, sidewalks, street lighting, signage and such other improvements as may be necessary in connection with the redevelopment of Lot 1 (collectively, with the existing improvements in the Shorewood Boulevard Easement Area, the “**Shorewood Boulevard Access Improvements**”) and in accordance with plans and specifications as approved by the Village, if

necessary. To the extent the Shorewood Boulevard Access Improvements are constructed slightly outside of the Shorewood Boulevard Easement Area, the Shorewood Boulevard Easement Area shall be deemed to be expanded to include the area upon which the Shorewood Boulevard Access Improvements are constructed.

d. The Owner of Lot 1 shall maintain, repair, and replace the Shorewood Boulevard Access Improvements located in the Shorewood Boulevard Easement Area and shall keep them in good condition and repair, including, without limitation, keeping all driveways and other paved areas free of snow, mud, ice, refuse, garbage, holes and breaks in pavement and related matters (any such work being the “**Shorewood Boulevard Easement Work**”).

e. The Lot 1 Shorewood Boulevard Easement and the Lot 2 Shorewood Boulevard Easement together are intended to constitute the “Ingress-Egress Easement” as shown on Page 4 of Certified Survey Map No. _____ (“CSM _____”). To the extent that there are any inconsistencies between CSM _____ and this Agreement, this Agreement shall control, and any use of the Ingress-Egress Easement shall be subject to the terms and conditions of this Agreement.

f. The prior owners of Lot 1 and Lot 2 previously entered into an Agreement, dated April 7, 1977, recorded in Vol. 852, Page 370 as Document No. 1535933 (the “**Existing Agreement**”), which Existing Agreement is shown and referenced on page 3 of CSM _____ as Easement “B,” and clarifies a certain grant of easement established in a Deed dated October 9, 1928, recorded in Vol. 338, page 408 as Document No. 494798 (the “**Prior Deed**”). This Agreement shall supersede the Existing Agreement and the Prior Deed in their entirety, such that the easements and rights created therein shall have no further force and effect

4. Parking Easement. Danford Plaza, as the owner of Lot 1, hereby grants to the Village, and the Permitted Users of Lot 2, a limited, nonexclusive parking easement, over the fourteen (14) parking stalls (the “**Parking Stalls**”) located immediately west of the Joint Easement Area on Lot 1 in the areas depicted on the attached Exhibit D, for vehicular parking (the “**Parking Easement**”) during the following times: Mondays, Tuesdays and Wednesdays from 6:00 p.m. until midnight and any time on official election days. At all other times, the Parking Stalls shall be for the exclusive use of the Owner of Lot 1 and its Permitted Users. At such time as the Village no longer owns Lot 2, the Parking Easement automatically shall terminate and shall be of no further force or effect.

5. Signage Easement. Shorewood Commons, as the owner of the Shorewood Commons Property, hereby grants to the Owner of Lot 1, a perpetual easement on, over and across that portion of the Shorewood Commons Property identified on the attached Exhibit E (the “**Sign Easement Area**”), for the placement, construction, installation, use, inspection, maintenance, repair, replacement, improvement, and removal of a monument sign for the businesses located on Lot 1 (the “**Sign**”), and (b) the placement, construction, installation, use, inspection, maintenance, repair, replacement, improvement, and removal of utilities upon, across and beneath the Property, its building and improvements to service the Sign. Such easement includes the right of the Owner of Lot 1 and its agents and contractors to enter upon and use such portions of the Shorewood Commons Property as may be reasonably necessary to permit

the Owner of Lot 1 to exercise its easement rights hereunder. Prior to the commencement of any construction of the Sign, or any material modifications thereto, the Owner of Lot 1 shall, at its sole cost and expense, prepare and deliver to the Owner of the Shorewood Commons Property plans and specifications reasonably requested by the Owner of the Shorewood Commons Property, detailing the exact location and size of the Sign, specifically describing the proposed construction and work. No work shall commence until the Owner of the Shorewood Commons Property has approved such plans and specifications, which approval shall not be unreasonably withheld or unduly delayed. The Owner of Lot 1, shall obtain, at said Owner's sole cost and expense, any necessary zoning, permits and any other governmental approvals necessary for the placement of the Sign. The Owner of Lot 1 shall cause all work performed in connection with the Sign to be done in a good and workmanlike manner, free and clear of all mechanics and construction liens.

6. No Unreasonable Interference. Each Owner shall use, and take reasonable measures to cause their respective tenants, residents, agents, employees, customers, and invitees to use the Easement Areas in a reasonable manner and not obstruct or otherwise use the Easement Areas in a manner which would interfere with the other Owner's use thereof in accordance with this Agreement. For purposes of this Agreement "**Easement Areas**" shall include the Joint Easement Area, the Shorewood Boulevard Easement Area, the Parking Stalls and the Sign Easement Area.

7. Enforcement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees, from the nonprevailing party.

8. Damage. Notwithstanding anything contained herein to the contrary, each Owner shall be solely responsible for any and all costs and expenses of repairing damage to any Easement Area proximately caused by such Owner, their tenants, residents, agents, employees, or invitees, including, without limitation, the general public in the case of the Village.

9. Term. Except as set forth in Section 4 above, the easements granted and agreements made hereunder shall constitute covenants running with the land and shall be perpetual.

10. Liens. Each party retains the right to encumber its property, but any such encumbrance created after the effective date hereof shall be subject to this Agreement. No party shall allow any construction or other liens to be made against property owned by another party.

11. Severability. All provisions of this Agreement are deemed severable, and if any one or more provision is deemed unenforceable for any reason, the remaining provisions shall remain in full force and effect.

12. Amendment or Termination. This Agreement may be amended or terminated only by a document signed by all parties hereto or their respective successors or assigns, and duly recorded in the office of the Dane County, Wisconsin Register of Deeds.

13. Governing Law. This Agreement shall at all times be governed by and enforced in accordance with the laws of the State of Wisconsin.

14. Notice. All notices and communications to be given under this Agreement by any party to any other party shall be in writing and shall be sent, postage prepaid, by certified or registered mail, return receipt requested, and shall be deemed given two days after being postmarked. In the alternative, such notices may be delivered personally or transmitted by an overnight delivery service. Notices shall be given to the owner of property subject to this Agreement at the address shown in the records of the Village of Shorewood Hills Property Tax Assessor for delivery of property tax notices to such owner.

15. No Rights in Public; No Implied Easements. Nothing contained in this Agreement, including the grant of easements, shall be deemed to constitute a dedication of Lot 1 or the Shorewood Commons Property, or any portion or portions thereof, to any governmental body, agency or entity, or to the general public, or to be construed to create any rights in or for the benefit of any person not a party to this Agreement. No easements, except those expressly set forth herein shall be implied by this Agreement.

16. Entire Agreement. This Agreement contains the complete understanding and agreement of the Owners with respect to all matters referred to herein, and any and all prior representations, negotiations and/or understandings are superseded hereby, and the terms of this Agreement are contractually binding upon all parties, their successors and assigns.

17. Insurance. Each Owner shall procure and maintain in full force and effect throughout the term of this Agreement general public liability insurance and property damage insurance against claims for personal injury, property damage, bodily injury or death occurring upon, in or about its property, with each Owner's insurance to afford protection to the limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the general aggregate. Each Owner shall provide the other Owner with certificates of insurance from time to time upon request.

[Signatures Begin on the Following Page.]

SHOREWOOD COMMONS LIMITED PARTNERSHIP

By: Flad Development & Investment Corp.
Its: General Partner

By: _____
John J. Flad, President

STATE OF WISCONSIN)
)SS
COUNTY OF DANE)

Personally came before me this _____ day of _____, 2015, the above named John Flad, to me known to be the President of Flad Development & Investment Corp., the General Partner of Shorewood Commons Limited Partnership, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

(Signature)

(Printed Name)

Notary Public, _____ County, _____
My commission expires: _____

[Signatures continue on following page]

4826-8380-1385.2

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

DANFORD PLAZA, LLC

By: Flad Development & Investment Corp.
Its: Manager

By: _____
John J. Flad, President

STATE OF WISCONSIN)
)SS
COUNTY OF DANE)

Personally came before me this _____ day of _____, 2015, the above named John Flad, to me known to be the President of Flad Development & Investment Corp., the Manager of Danford Plaza, LLC, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

(Signature)

(Printed Name)

Notary Public, _____ County, _____
My commission expires: _____

[Signatures Continue on Following Page]

4826-8380-1385.2

EXHIBIT A
LEGAL DESCRIPTIONS

LOT 1:

Lot One (1), Certified Survey Map No. _____, recorded in the Office of the Register of Deeds for Dane County, Wisconsin, on _____, as Document No. _____, located in the Village of Shorewood Hills, Dane County, Wisconsin.

Tax Parcel Nos.
070917498601
070917498316
Part of 070917498709

LOT 2:

Lot Two (2), Certified Survey Map No. _____, recorded in the Office of the Register of Deeds for Dane County, Wisconsin, on _____, as Document No. _____, located in the Village of Shorewood Hills, Dane County, Wisconsin.

Tax Parcel No.: 070917499002

OUTLOT 1:

Outlot One (1), Certified Survey Map No. _____, recorded in the Office of the Register of Deeds for Dane County, Wisconsin, on _____, as Document No. _____, located in the Village of Shorewood Hills, Dane County, Wisconsin.

Tax Parcel No.: Part of 070917498709

SHOREWOOD COMMONS PROPERTY:

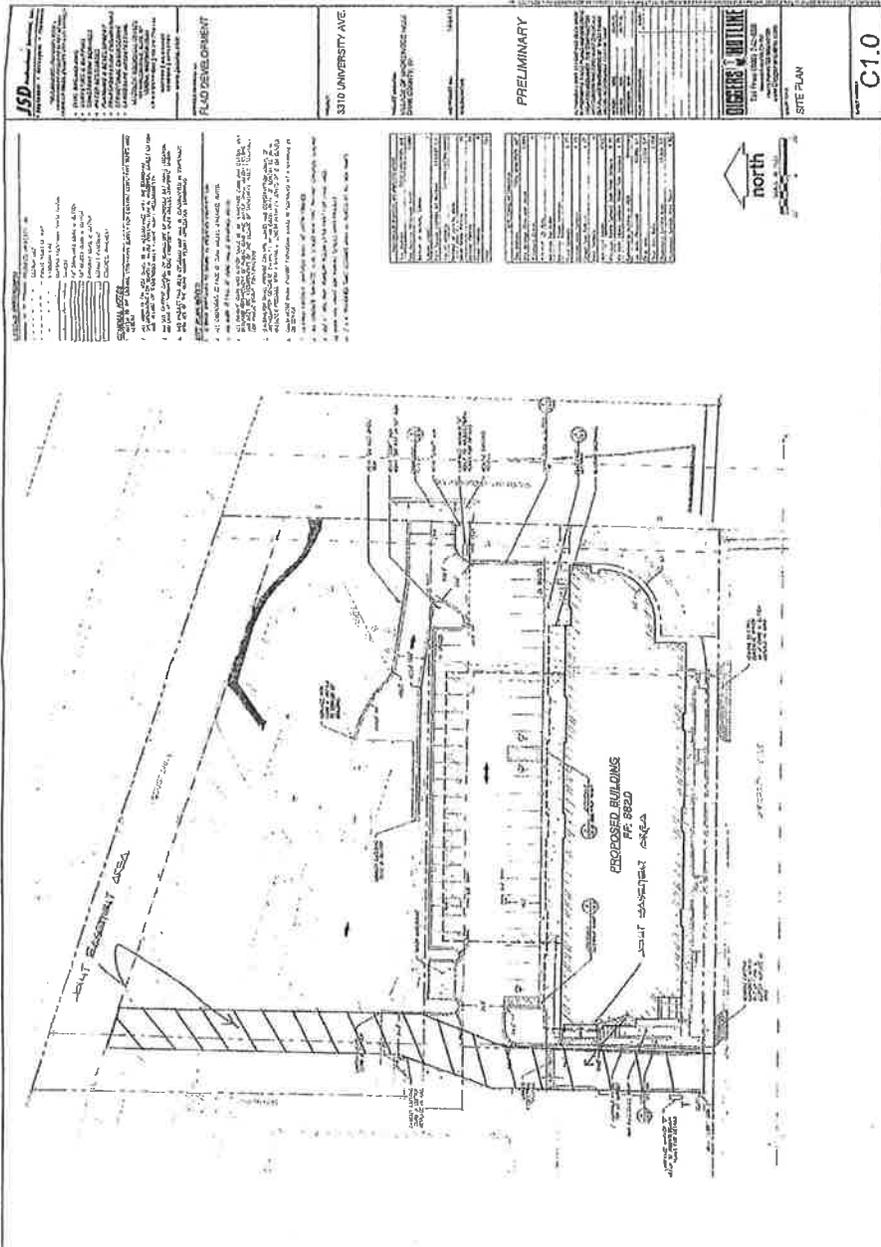
Lot 2, Certified Survey Map 6772, recorded in Volume 33 of Certified Survey Maps, page 340, as Document No. 2365943, in the Village of Shorewood Hills, Dane County, Wisconsin except that part to-wit: Commencing at the Southeast corner of said Section 17; thence North 89°21'38" West, 49.60 feet to the prolongation of the Westerly line of Shorewood Boulevard; thence along said Westerly line, North 01°20'18" East, 255.89 feet; thence North 72°38'44" West, 321.36 feet to the East line of Lot 2, Certified Survey Map 6772 and the point of beginning; thence continuing North 72°38'44" West, 1.64 feet to a point on a curve; thence Northwesterly along a curve to the left which has a radius of 5647.08 feet and a chord which bears North 74°44'13" West, 412.15 feet to the Westerly line of said Lot 2; thence along said Westerly line, North 00°17'57" East, 33.85 feet to a point on a curve on the Southerly right of way line of the former Chicago, Milwaukee, St. Paul and Pacific Railroad; thence along said Southerly right of way line, Southeasterly along a curve to the right which has a radius of 5680.08 feet and a chord which bears South 74°49'01" East, 413.78 feet to the Easterly line of said Lot 2; thence along said Easterly line, South 00°33'37" East, 34.46 feet to the point of beginning.

Tax Parcel No. 070917498218

A-1

4826-8380-1385.2

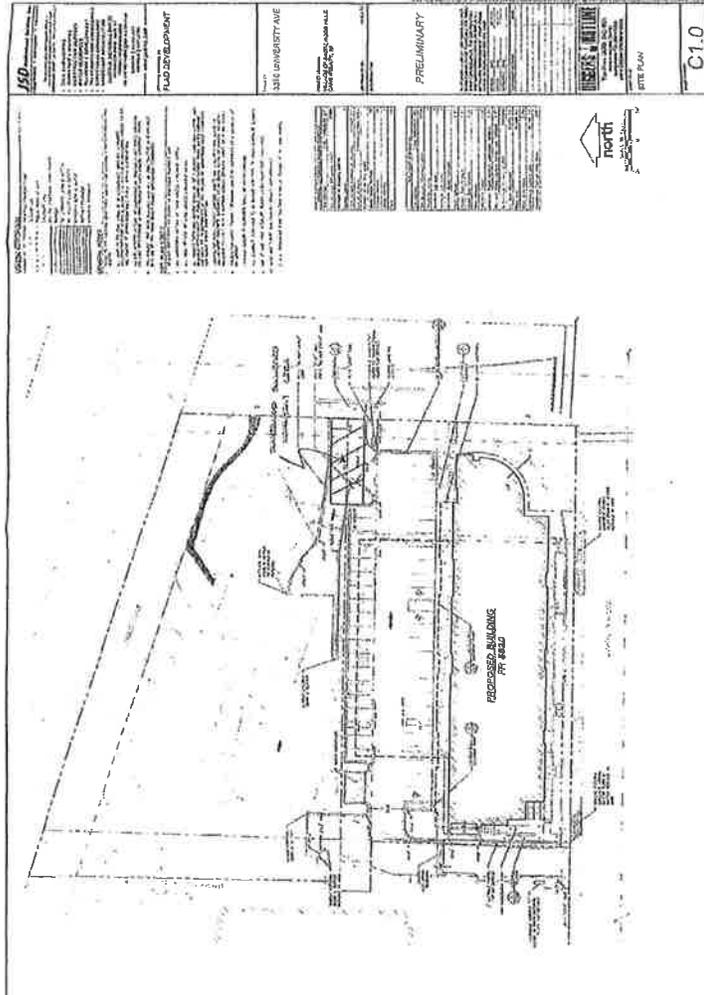
**EXHIBIT B
JOINT EASEMENT AREA**



4826-8380-1385.2

B-1

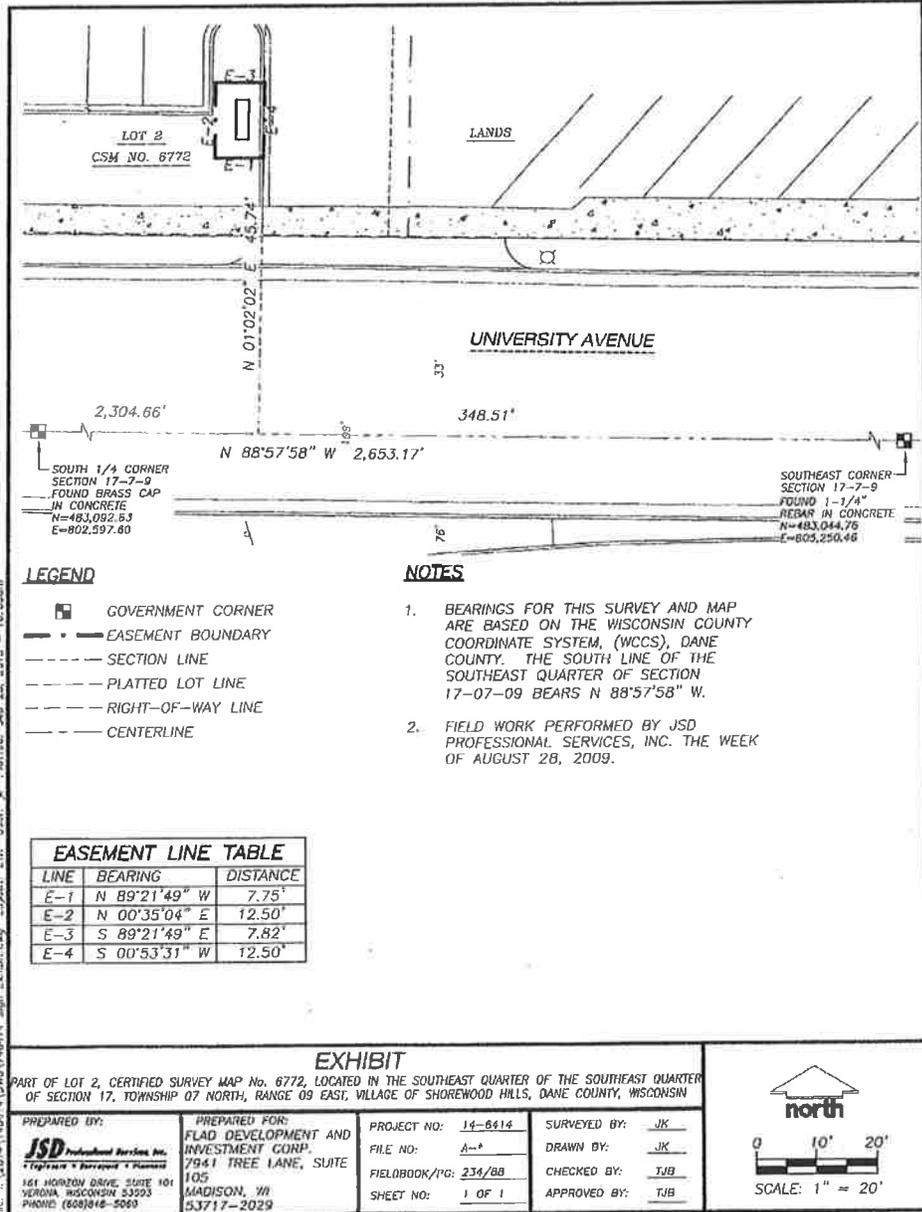
**EXHIBIT C
SHOREWOOD BOULEVARD EASEMENT AREA**



C-1

4826-8380-1385.2

EXHIBIT E
SIGNAGE EASEMENT AREA



4826-8380-1385.2

E-1

TAX INCREMENT WORKSHEET

Wisconsin Department of Revenue

For <input type="text" value="2014"/>	Report Type <input type="text" value="ORIGINAL"/>	CoMun Code <input type="text" value="13181"/>	Muni Type <input style="border: 1px solid black; border-radius: 50%;" type="text" value="VILLAGE"/>	Account Number <input type="text" value="0387"/>	Equalized TID Value Increment(s) <input type="text" value="27,909,000"/> <small>(Must be TOTAL if more than one TIF District)</small>
Payable In <input type="text" value="2015"/>			Municipality <input type="text" value="SHOREWOOD HILLS"/>		
			County <input type="text" value="DANE"/>		
This worksheet is for all TIDs in this municipality	Preparer Information			2014 worksheet(s) submitted	
	Name <input type="text" value="COLLEEN ALBRECHT"/>	Work Phone <input type="text" value="(608) 267-2680"/>	Original <input type="text" value="12/1/2014"/>		Amended <input type="text"/>
	Email <input type="text" value="COKIE@SHOREWOOD-HILLS.ORG"/>	Other Phone <input type="text"/>			

	A		B		C		D		E	F
Taxing Jurisdiction	Apportioned Levy	/	Equalized Value (less TID value Increment)	=	Interim Rate	X	Equalized Value (with TID value Increment)	=	Amount to be Levied	E - A = Tax Increment
1. County										
DANE	1,792,970.20	/	510,750,000	=	0.003510465	X	538,659,000	=	1,890,943.57	97,973.37
2. Special District (metro, sanitary, lake)										
5150	0.00	/	510,750,000	=	0.000000000	X	538,659,000	=	0.00	0.00
3. Tax District (city, village, town)										
SHOREWOOD HILLS	2,524,709.00	/	510,750,000	=	0.004943140	X	538,659,000	=	2,662,666.85	137,957.85
4. School District(s)										
3269	6,100,559.72	/	510,750,000	=	0.011944317	X	538,659,000	=	6,433,913.85	333,354.13
5. Technical College District(s)										
0400	476,905.20	/	510,750,000	=	0.000933735	X	538,659,000	=	502,964.76	26,059.56
6. Total for Tax Increment										
	10,895,144.12								11,490,489.03	595,344.91




ATTACHMENT F
FORM OF MUNICIPAL REVENUE OBLIGATION

MUNICIPAL REVENUE OBLIGATION

**VILLAGE OF SHOREWOOD HILLS
MUNICIPAL REVENUE OBLIGATION SERIES _____
\$ _____**

THIS MUNICIPAL REVENUE OBLIGATION (the "Obligation") is issued pursuant to Wis. Stat. § 66.0621 this ____ day of _____, 201_ by the Village of Shorewood Hills, Dane County, Wisconsin (the "Village") to Danford Plaza, LLC, a Wisconsin limited liability company, its successors and assigns ("Developer").

WITNESSETH:

A. The Village and Developer have entered into a Tax Increment Grant Agreement dated _____ (the "Development Agreement").

B. This Obligation is issued by the Village pursuant to the Development Agreement.

C. Terms that are capitalized in this Obligation that are not defined in this Obligation and that are defined in the Development Agreement shall have the meanings assigned to such terms by the Development Agreement.

D. *Promise to Pay.* The Village shall pay to Developer the principal amount of \$ _____, together with interest thereon at a rate of five percent 5% per annum, solely from Actual Tax Increment, in Scheduled Payments in accordance with Schedule 1 attached hereto and made a part hereof. Interest shall accrue beginning on the date on which this Obligation is issued. To the extent that on any Payment Date the Village is unable to make a payment from Actual Tax Increment at least equal to the Scheduled Payment due on such date as a result of having received, as of such date, insufficient Actual Tax Increment, or as the result of the Village Board not having appropriated sufficient Actual Tax Increment, such failure shall not constitute a default under this Obligation and, except as hereinafter provided, the Village shall have no obligation under this Obligation, or otherwise, to subsequently pay any such deficiency unless the deficiency is the direct result of the failure of Dane County to timely remit the proper amount of Tax Increment, in which case, such deficiency shall be paid promptly upon remittance by Dane County. Any payments on the Municipal Revenue Obligation, which are due on any Payment Date, shall be payable solely from and only to the extent that, as of such Payment Date, the Village has received Actual Tax Increment. If, on any Payment Date there is insufficient Actual Tax Increment to make the scheduled payment due on such date, or if the Village Board shall not otherwise appropriate sufficient Actual Tax Increment to make the scheduled payment due on such date in full, the amount of such deficiency in the scheduled payment shall be deferred and shall be paid with interest at a rate equal to five percent (5%) per annum, on the next Payment Date on which the

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Village has Actual Tax Increment in Actual of the amount necessary to make the scheduled payment due on such Payment Date, and if such deficiency has not been paid in full by the final Payment Date as set forth on Schedule 1, then the term of this Obligation shall be extended to include additional successive payment dates on which any Actual Tax Increment will be applied to the payment of such accrued and unpaid deficiencies in the scheduled payments to be made hereunder. In no case, however, shall the term of this Obligation and the Village's obligation to make payments hereunder, extend beyond the termination date of the District, (as defined in the Tax Increment Law). Nor shall the Village be obligated to pay any amount not appropriated for such purpose by the Village Board. This Obligation shall terminate and the Village's obligation to make any payments under this Obligation shall be discharged, and the Village shall have no obligation and incur no liability to make any payments hereunder, after the termination date of the District.

E. *Limited Obligation of Village.* This Obligation shall be payable solely from Actual Tax Increment, and shall not constitute a charge against the Village's general credit or taxing power. The Village shall not be subject to any liability hereunder, or be deemed to have obligated itself to pay Developer any amounts from any funds, except the Actual Tax Increment, and then only to the extent and in the manner herein specified.

F. *Subject to Annual Appropriations.* Each payment under this Obligation shall be subject to annual appropriation by the Village in accordance with the requirements for revenue obligations and in a manner approved by the Village's bond counsel.

G. *Prepayment Option.* To satisfy in full the Village's obligations under this Obligation, the Village shall have the right to prepay all or a portion of the outstanding principal balance of this Obligation at any time, at par and without penalty.

H. *Miscellaneous.* This Obligation is subject to the Tax Increment Law and to the Development Agreement.

Dated this _____ day of _____, 201__.

VILLAGE OF SHOREWOOD HILLS

By _____
Mark Sundquist, Village President

ATTEST:

Colleen Albrecht
Village Clerk

Attachment – Schedule 1

ATTACHMENT G
FORM OF TAX AGREEMENT

TAX AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____, _____ (the Agreement), by and between the Village of Shorewood Hills, a Wisconsin municipal corporation (the "Village"), and Danford Plaza, LLC, a Wisconsin limited liability company (the "Owner").

RECITALS

A. Owner is the sole owner of the following described property (the "Property") in the Village of Shorewood Hills:

Lot 1 of Certified Survey Map _____, recorded in Vol. ___ of Certified Survey Maps, page ___5, as Document No. _____, in the Village of Shorewood Hills, Dane County, Wisconsin.

B. The Village has enacted Ordinance No. L-2015-3 (the "Ordinance") changing the zoning classification of the Property to a Planned Unit Development, subject to the terms and conditions of the Ordinance.

C. The Ordinance provides that it shall not take effect unless an agreement relating to the development of the Property, and preservation of the taxable status of the Property that is satisfactory to the Village and the owner of the Property, has been signed by all of the owners of the Property and the Village.

D. Owner and the Village have entered into an Tax Increment Grant Agreement (the "Development Agreement"), relating to development of the Property.

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THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO

Matthew P. Dregne
Stafford Rosenbaum LLP
P.O. Box 1784
Madison, WI 53701-1784

P.I.N.

E. Owner and the Village wish to enter into this Agreement concerning preservation of the taxable status of the Property.

F. The Village and other taxing jurisdictions have provided and shall continue to provide public health, safety, fire and police protection, streets and street maintenance, snow removal, and other governmental services ("Municipal Services") that are funded by property taxes.

NOW, THEREFORE, in consideration of the Recitals, and the mutual promises, obligations and benefits provided under this Agreement and the Development Agreement, the receipt and adequacy of which are hereby acknowledged, Owner and the Village agree as follows:

1. **Recitals Incorporated.** The recitals stated above are incorporated in this Agreement by reference.

2. **Representations and Warranties by Owner.** Owner represents and warrants that Owner: (1) is organized and existing under the laws of the State of Wisconsin; (2) has taken all actions necessary to enter into this Agreement; (3) has duly authorized the individual signers of this Agreement to do so; (4) is the sole owner of the Property, in fee simple; and (5) the Property is not encumbered by any lien, and that Owner will not allow any lien to be placed upon or taken against the Property prior to the recording of this Agreement with the Register of Deeds for Dane County.

3. **Tax Status of the Property.** The Property shall be subject to property taxation in perpetuity and shall not be exempt from property taxation, in full or in part, except as

required by law. Owner shall take all reasonable actions to assure that the Property shall not be exempt from property taxation, in full or in part, except as required by law. Owner shall not submit any request or application for property tax exemption of the Property, in full or in part, challenge the status of the Property as fully subject to property taxation, or seek any ruling by a court or any statutory change that would entitle the Property to exemption, in full or part. Nothing herein shall be construed as preventing Owner from challenging the Property's assessed value or the amount of property tax claimed due. Nothing herein shall be construed as preventing Owner from conveying all or part of the Property, subject to the terms and conditions of this Agreement.

4. **Payment for Municipal Services If Property Becomes Tax Exempt.** If in any year (the "Valuation Year") the Property is exempt from property taxation, in full or in part, Owner shall pay the Village, as a payment for Municipal Services provided by the Village with respect to the Property ("Payment for Municipal Services"), the difference between (1) the amount of property taxes, if any, on the Property, actually received by the Village from Owner for the Valuation Year, and (2) the amount of property taxes on the Property that the Village would have received for the Valuation Year if the Property were fully subject to property taxation. The Village shall send Owner an invoice for the Payment for Municipal Services due. One-half of the Payment for Municipal Services shall be due on January 31 of the year after the Valuation Year. The balance of the Payment for Municipal Services shall be due on July 31 of the year after the Valuation Year. Each payment shall be deemed made when actually received by the Village. Any amount due that is not paid on time

shall bear interest in the same manner and at the same rate as provided by law for unpaid property taxes. The Payment for Municipal Services shall constitute payment for Municipal Services provided with respect to the Property during the Valuation Year. The Village and Owner acknowledges and agrees that this Payment for Municipal Services would constitute a reasonable and appropriate means of carrying out the intent of the parties and would fairly and reasonably compensate the Village for the Municipal Services provided during the Valuation Year.

5. **Calculation of Property Taxes as If Property Were Not Exempt.** If, for purposes of this Agreement, it becomes necessary to calculate the amount of property taxes on the Property that the Village would have received if the Property were fully subject to property taxation, this amount shall be calculated as follows: (1) The fair market value of the Property as of January 1 of the Valuation Year shall be determined, in the same manner as provided by law for property that is fully taxable, by the Village Assessor or, if the Village Assessor is unable or unwilling to do so, by a competent and impartial appraiser selected by the Village in its sole discretion. (2) The fair market value, as so determined, shall be divided by the average assessment ratio for the year for property in the Village, as determined by the Wisconsin Department of Revenue. (3) The resulting amount shall be multiplied by the mil rate at which taxable property in the Village is taxed to levy taxes for all taxing jurisdictions to which the Property is subject for the Valuation Year. That amount shall be deemed the amount of property taxes on the Property that the Village would have received if the Property were fully taxable. Following the termination of Tax Increment District No. 4,

the Village shall allocate any Payments for Municipal Services made pursuant to this Agreement to all taxing jurisdictions in which the Property is located or to which the Property is subject for the Valuation Year, based on each taxing jurisdiction's mil rate.

6. **Binding Effect of Calculation; Dispute Resolution.** The amount of any Payment for Municipal Services, determined as provided in this Agreement, shall be binding on the parties unless determined to be excessive in an arbitration proceeding conducted in accordance with chapter 788, Wisconsin Statutes, or any successor statute, by a single arbitrator, chosen by mutual agreement of the Parties or, if they do not agree, by the Circuit Court for Dane County, Wisconsin, on application of either party. The arbitrator shall be an assessor or appraiser licensed by the State of Wisconsin with at least ten years experience in the valuation of commercial property. Any demand for arbitration shall be made within thirty days after an invoice for Payment of Municipal Services is sent by the Village to Owner. If a demand for arbitration is not made within that time, the parties shall be deemed to have waived arbitration. The non-prevailing party shall pay the costs of arbitration, but each party shall be responsible for its own attorneys' fees and expert witness expenses. Chapter 788, Wisconsin Statutes, or any successor statute, shall govern the arbitration proceeding, except that Owner and the Village each waive any right to trial by jury. Any other dispute between the parties arising out of, related to, or connected with this Agreement shall be arbitrated in the same manner.

7. **Special Assessment If Any Required Payment For Municipal Services Is Not Timely Made.** Any Payment for Municipal Services that is not made when due shall

entitle the Village to levy a special assessment against the Property for the amount due, plus interest. Owner hereby consents to the levy of any such special assessment, and pursuant to Wis. Stat. § 66.0703(7)(b), waive any right to notice of or any hearing on any such special assessment.

8. **Insurance.** Owner shall maintain insurance coverage on the Property, including all improvements, insuring against loss or damage in amounts sufficient to rebuild or replace the improvements constructed on the Property.

9. **Indemnification.** Owner shall indemnify the Village for all amounts of attorneys' fees and expenses and expert fees and expenses incurred in enforcing this Agreement. This paragraph shall not be applicable to cases where Owner has, in good faith, disputed the Village's valuation.

10. **Remedies.** The Village shall have all remedies provided by this Agreement, and provided at law or in equity, necessary to cure any default or remedy any damages under this agreement. Remedies shall include, but are not limited to, special assessments under section 7 of this Agreement, indemnification under section 9 of this Agreement, and all remedies available at law or in equity.

11. **Term of Agreement.** The term of this Agreement shall begin on the date the Agreement is signed by both parties and shall continue unless terminated by mutual written agreement.

12. **Successors and Assigns.** This Agreement shall run with the land and is binding on the successors and assigns of the parties, including, but not limited to, any

subsequent owner of the Property, any part of the Property, or any real property interest in the Property or any part of the Property. If at any time the Property has more than one owner, any Payment for Municipal Services due under this Agreement for any Valuation Year shall be allocated among the owners in proportion to the fair market value of their property interests as of January 1 of the Valuation Year, as determined under section 5 of this Agreement. Notwithstanding the foregoing or anything else set forth herein, if Owner shall sell or otherwise convey its interest in the Property, Owner shall be deemed released from all obligations hereunder and the Village shall look solely to successors in interest for the performance of all of the obligations imposed on Owner by this Agreement.

13. **Recording.** This Agreement shall be recorded with the Register of Deeds for Dane County as soon as practicable following execution by Owner and the Village.

14. **Entire Agreement; Amendments.** This Agreement encompasses the entire agreement of the parties. Any amendment hereto shall be made in writing, signed by all parties.

15. **Severability.** If any part of this Agreement is determined to be invalid or unenforceable, the rest of the Agreement shall remain in effect.

16. **Waiver.** No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

17. **Interpretation of Agreement.** The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this

Agreement, neither party shall be deemed the drafter of this Agreement for purposes of its interpretation.

18. **Notices.** Any notice required to be given under this Agreement shall be deemed given when deposited in the United States mail, postage prepaid, to the party at the address stated below or when actually received by the party, whichever is first. The addresses are:

If to Village: Village Clerk
Village of Shorewood Hills
810 Shorewood Boulevard
Madison, WI 53705

If to Owner: Flad Development and Investment Corp.
c/o John J. Flad
791 Tree Lane
Madison, WI 53717

Addresses may be changed by notice given in the manner provided in this section.

19. **Governing Law.** This Agreement has been negotiated and signed in the State of Wisconsin and shall be governed, interpreted, and enforced in accordance with the laws of the United States and the State of Wisconsin.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

VILLAGE:

VILLAGE OF SHOREWOOD HILLS

By _____
Mark Sundquist, Village President

By _____
Colleen Albrecht, Village Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this _____ day of _____, _____, the above-named Mark Sundquist and Colleen Albrecht, to me known to be the persons and officers who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
Print Name: _____
My Commission: _____

Approved as to form:

Matthew P. Dregne
Village Attorney

OWNER:

DANFORD PLAZA, LLC

By: Flad Development and Investment Corp., its
Manager

By _____
John J. Flad, President

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this _____ day of _____, 2013, the above-named John J. Flad, and to me known to be the president of Flad Development and Investment Corp., who executed the foregoing instrument, and acknowledged the same on behalf of said company.

Print Name: _____
Notary Public, State of Wisconsin
My Commission: _____

This instrument drafted by:
Matthew P. Dregne
Stafford Rosenbaum LLP
P.O. Box 1784
Madison, WI 53701
608/256-0226

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ATTACHMENT H
FORM OF LAND USE RESTRICTON AGREEMENT

Document Number	LAND USE RESTRICTION AGREEMENT
	Document Title

Recording Area

Name and Return Address

Village Clerk
Village of Shorewood Hills
810 University Avenue
Madison, WI 53705

Parcel Identification Number (PIN)

This Instrument was drafted by:

Matthew P. Dregne
Stafford Rosenbaum LLP
222 West Washington Avenue, Suite 900
P.O. Box 1784
Madison, Wisconsin 53701-1784

LAND USE RESTRICTION AGREEMENT

THIS LAND USE RESTRICTION AGREEMENT (the “**Agreement**”) is made and entered into as _____, between Danford Plaza, LLC a Wisconsin limited liability company, (the “**Owner**”), and the Village of Shorewood Hills, a Wisconsin municipal corporation, whose address is 810 Shorewood Boulevard, Madison, Wisconsin 53705 (the “**Village**”).

RECITALS:

WHEREAS, the Owner will be the owner of a mixed-use, multifamily rental housing and commercial project containing _____ rental housing units, known as 3306-3310 University Avenue, located in the Village of Shorewood Hills, Dane County, Wisconsin, as more particularly described in Exhibit A attached hereto (the “**Property**”);

WHEREAS, the Owner has requested that the Village make a tax incremental financing grant to the Owner (the “**Grant**”); and

WHEREAS, as a condition precedent to the making of the Grant, the Village requires that the Owner enter into this Agreement; and

WHEREAS, Owner and the Village have agreed to enter into an agreement under which the Village or a third party (“**Third Party Monitor**”) will monitor Owner’s compliance with this Agreement.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Owner and the Village hereby agree as follows:

ARTICLE 1 REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE OWNER

The Owner represents, warrants, covenants, and agrees as follows:

1.1 **Authority.** The Owner has the full legal right, power and authority to execute and deliver this Agreement and to perform all the undertakings of the Owner hereunder.

1.2 **Title to Property.** The Owner will have on or about _____, 2016 good and marketable title to the Property.

1.3 **Application.** The Owner warrants that all information heretofore supplied by the Owner to the Village in connection with the Owner’s request to the Village for the Grant (collectively the “**Application**”) is true and correct in all respects as of the date of the Application and, except as otherwise provided to the Village in writing since the date of the Application, as of the date hereof.

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Page 1

1.4 **Conflicting Agreements.** The Owner has not and shall not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

1.5 **Use of the Property.** The Property shall at all times be used as a mixed-use, multifamily rental housing and commercial project containing ___ rental housing units subject to the restrictions set forth herein.

1.6 **Non-Discrimination.** Owner shall comply with all federal, state and local fair housing laws, rules and regulations as now or hereafter in effect and shall not discriminate upon any basis prohibited by law in the lease, use or occupancy of the Property or in connection with the employment or application for employment of persons for the operation and management of the Property or refuse to lease a unit to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 ("**Section 8**") because of the status of the prospective tenant as such a holder.

ARTICLE 2: AFFORDABLE UNITS.

The Village may elect to require the Project to include four affordable units (the "**Affordable Election**"). The Village shall make such Affordable Election by giving written notice to the Owner on or before September 30, 2016. If the Village does not give written notice of the Affordable Election on or before September 30, 2016, the Village's right to make such election shall terminate. If the Village timely makes the Affordable Election, then all of the following shall apply:

2.1 **Occupancy Restrictions.** The Property shall at all subsequent times contain no fewer than 4 units set aside for occupancy by Qualifying Tenants (such units are hereinafter referred to "**Affordable Units**"). Except as provided in the last sentence of this Section 2.1, the Affordable Units shall include no fewer than 1 three-bedroom unit, 2 two-bedroom units, and 1 one-bedroom units. As used in this Agreement, "**Qualifying Tenants**" means persons or families whose income at the time of initial occupancy does not exceed 60% of the Dane County Median Income ("**CMI**") as adjusted for family size and as published by the United States Department of Housing and Urban Development ("**HUD**"). If any Affordable Unit is occupied by a Qualifying Tenant at the time of initial occupancy, and such Qualifying Tenant's income should subsequently exceed 140% of the applicable income limit, the Owner shall, after such determination of income, rent the next available residential unit of comparable size on the Property to another Qualified Tenant.

2.2 **Rent Restrictions.** The Gross Rent for Affordable Units shall not exceed 30% of 60% of the CMI, as adjusted for family size and as published by HUD; provided that the Imputed Income Limitation (as defined in Section 42(g)(2)(C) of the Internal Revenue Code of 1986, as amended (the "**Code**")) shall apply to all Affordable Units. As used in this Section 2.2, "**Gross Rent**" means the rental charge for an Affordable Unit including any utility allowance determined by HUD in accordance with Section 8. Gross Rent does not include any subsidy payment under Section 8 or any comparable rental assistance program (with respect to such unit or the tenant(s) thereof), nor does it include any fee for a basis of the low-income status of the tenant(s) of the unit by any governmental program of assistance (or by an organization described in Section 501(c)(3) of the Code and exempt from tax under Section 501(a) of the Code) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is

not separable from the amount of assistance provided for supportive services. Gross Rent does not include any rental payment to the owner of a unit if the owner pays an equivalent amount to the Farmers Home Administration under Section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

2.3 **Notice to the Village.** Immediately upon discovering any violation of any of the covenants, restrictions and representations set forth herein, the Owner shall notify the Village in writing of such violation.

2.4 **Monitoring by the Village and Third Party Monitor.**

(a) The Owner shall permit, during normal business hours and upon reasonable notice, but not more than two times in any 12 calendar month time period, any duly authorized representative of the Village or a Third Party Monitor to inspect any books and records of the Owner regarding the Project and with respect to the incomes of Qualifying Tenants which pertain to compliance with the provisions of this Agreement.

(b) The Owner shall submit any other information, documents, or certifications requested by the Village that the Village may deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of this Agreement.

(c) Owner shall comply with any obligations of Owner under the any Agreement with the Village or a Third Party Monitor regarding compliance with this Agreement, including the payment of any compliance monitoring fees.

2.5 **Evidence of Tenant Income.**

(a) The Owner shall obtain and maintain on file, as a condition to occupancy for each person who is intended to be a Qualifying Tenant, an Income Certification in a form acceptable to the Authority, which form may change from time to time ("**Income Certification**"). In addition, the Owner shall obtain from each such person whatever other information, documents or certifications are deemed necessary by the Authority to substantiate the Income Certification.

(b) The form of lease to be utilized by the Owner in renting any units in the Project to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Income Certification or the failure by such tenant to execute an Income Certification.

(c) Income Certifications shall be maintained and accessible to the Village and any Third Party Monitor with respect to each Qualifying Tenant who resides in a Project unit, and the Owner shall, promptly upon request, file a copy thereof with the Village and the Third Party Monitor.

ARTICLE 3

EVENTS OF DEFAULT; REMEDIES; ENFORCEMENT BY VILLAGE

3.1 **Events of Default.** If the Village becomes aware of a violation of any of the provisions hereof (an "**Event of Default**"), it shall give written notice thereof to the Owner directing the Owner to remedy the violation within a reasonable specified period of time, but not

Page 3

less than 60 days if the remedy requires Owner to evict a tenant. If the remedy of a claimed violation of this Agreement is incapable of being cured within the period of time specified by the Village, but Owner has commenced action to cure the violation within a reasonable period of time under all the facts and circumstances then existing, the period of time to cure the violation shall be extended for that additional number of days reasonably necessary to cure the violation under all the facts and circumstances then existing, but in no case longer than 120 days, provided Owner continues with reasonable diligence to prosecute such cure to completion. If any violation of this Agreement by the Owner is not corrected to the satisfaction of the Village within the period of time specified by the Village in the notice described above, as the same may be extended in accordance with the terms of this paragraph, the Village shall have the right, without further notice, to declare an event of uncured default (“**Event of Uncured Default**”) under this Agreement.

3.2 **Remedies.**

(a) Upon and after the occurrence of an Event of Uncured Default, the Village may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation, to compel specific performance hereunder, to recover monetary damages, together with the costs and expenses of any proceedings for the collection thereof, caused by such violation or take any other action available to remedy the violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of any party entitled to enforce the same or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

(b) Upon an Event of Default under section 2.1 or section 2.2 of this Agreement, and so long as such default is continuing, Owner shall pay the Village, with respect to each Affordable Unit which is the subject of the default, the 100% Non-Compliance Premium. The “100 % Non-Compliance Premium” means an amount equal to 100% times the Excess Income. “Excess Income” means, with respect to each Affordable Unit which is the subject of the default, the difference between: (a) rent collected by or payable to Owner under the terms of any rental or other agreement with Owner and (b) Gross Rent. Any 100% Non-Compliance Premium due the Village (including any prorated amount of the 100% Non-Compliance Premium for partial months) shall be remitted to the Village monthly no later than the 20th of each month. The Owner shall prepare and provide the Village with each remittance a schedule (with rent roll) supporting the calculation of Excess Income for each Affordable Unit in default in reasonably sufficient detail. Owner acknowledges and agrees that the actual damages likely to result from an Event of Default under sections 2.1 or 2.2 of this Agreement are difficult to estimate on the date of this Agreement and would be difficult for the Village to prove. The parties intend that Owner’s payment of the 100% Non-Compliance Premium would serve to compensate the Village for any breach by Owner of its obligations under sections 2.1 and 2.2 and to deter such a breach, and they do not intend for it to serve as punishment for any such breach by Owner. This subsection shall in no way limit any other remedies available to the Village under this Agreement, at law or in equity.

(c) Upon an Event of Uncured Default under section 2.1 or section 2.2 of this Agreement, and so long as such default is continuing, Owner shall pay the Village, with respect to each Affordable Unit which is the subject of the default, the 150% Non-Compliance Premium. The “150% Non-Compliance Premium” means an amount equal to 150% times the Excess Income. “Excess Income” means, with respect to each Affordable Unit which is the subject of

the default, the difference between: (a) rent collected by or payable to Owner under the terms of any rental or other agreement with Owner and (b) Gross Rent. Any 150% Non-Compliance Premium due the Village (including any prorated amount of the 150% Non-Compliance Premium for partial months) shall be remitted to the Village monthly no later than the 20th of each month. The Owner shall prepare and provide the Village with each remittance a schedule (with rent roll) supporting the calculation of Excess Income for each Affordable Unit in default in reasonably sufficient detail. Owner acknowledges and agrees that the actual damages likely to result from an Event of Default under sections 2.1 or 2.2 of this Agreement are difficult to estimate on the date of this Agreement and would be difficult for the Village to prove. The parties intend that Owner's payment of the 150% Non-Compliance Premium would serve to compensate the Village for any uncured breach by Owner of its obligations under sections 2.1 and 2.2 and to deter such a breach, and they do not intend for it to serve as punishment for any such breach by Owner. This subsection shall in no way limit any other remedies available to the Village under this Agreement, at law or in equity.

(d) In the case of an Event of Default, or if an Event of Uncured Default is declared by the Village, Owner agrees to pay or reimburse the Village on demand: all out-of-pocket expenses incurred by the Village in connection with the administration, amendment or enforcement of this Agreement including the reasonable fees and expenses of the Village's counsel; and all out-of-pocket costs of collection before and after judgment, including in each instance, the reasonable fees and expenses of the Village's counsel (including those incurred in the defense or settlement of any claim brought by Owner or incident to any action or proceeding involving Owner brought pursuant to the United States Bankruptcy Code).

3.3 **Enforcement by the Village Only.** No person other than the Village or agents thereof shall be entitled to enforce this Agreement.

ARTICLE 4 TERM OF AGREEMENT

4.1 **Term of Agreement.** The term of this Agreement and the restrictions imposed hereby shall become effective immediately (the "**Commencement Date**"); and shall end on the 30th anniversary of the Commencement Date.

4.2 **Early Termination.** Notwithstanding Section 4.1 above, this Agreement and the restrictions imposed hereby shall terminate in the event of any a) the recording of a written instrument by the Village with the Register of Deeds for Dane County releasing Owner and its successors from their obligations hereunder; or b) involuntary noncompliance caused by foreclosure or transfer of title by deed-in-lieu of foreclosure.

ARTICLE 5 MISCELLANEOUS

5.1 **Covenants Run With the Land; Successors Bound.** This Agreement shall be recorded with the Register of Deeds for Dane County. This Agreement shall run with the land and bind the Owner and its successors and assigns and all subsequent owners of the Property and all holders of any other interest therein.

5.2 **Reliance by the Village.** The Owner hereby agrees that the Owner's representations and covenants set forth herein may be relied upon by the Village. The Village

may conclusively rely upon statements, certificates, and other information provided by the Owner, and upon audits of the books and records of the Owner or the Property.

5.3 **Release**. The Owner hereby releases the Village from any claim, loss, demand, or judgment arising out of this Agreement, the making of the Grant, or the exercise in good faith by the Village of any rights or remedies granted to the Village under this Agreement. .

5.4 **Amendment**. Except as otherwise provided herein, this Agreement shall not be amended, revised or terminated prior to the termination of the covenants, representations and restrictions provided for herein except by an instrument in writing duly executed by the Village and the Owner or their respective successors or assigns and duly recorded.

5.5 **Uniformity**. The provisions of this Agreement shall apply uniformly to the Property.

5.6 **Notices**. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

If to the Village: Village Administrator
Village of Shorewood Hills
810 Shorewood Boulevard
Madison, WI 53705
Fax: (608) 266-5929

With a copy to: Matthew P. Dregne
Stafford Rosenbaum LLP
222 West Washington Avenue, Suite 900
P.O. Box 1784
Fax: 608/259-2600
Email: mdregne@staffordlaw.com

If to the Owner: Danford Plaza, LLC
c/o John Flad
Flad Development and Investment Corp.
7941 Tree Lane, Suite 105
Madison, WI 53717-2029

With a copy to: _____

The Village and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. If the address of the Owner changes from that given above or subsequently designated under the previous sentence, the Village may conclusively presume that the address of the Owner for purposes of this Section 5.6 is the address to which property tax bills for the Property are delivered.

5.7 **Definitions and Interpretation.** Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine gender and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. All the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof. The titles and headings of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall not be considered or given any effect in construing this instrument or any provision hereof or in ascertaining intent, if any question of intent should arise.

5.8 **Governing Law.** This Agreement shall be governed by the laws of the State of Wisconsin.

5.9 **Severability.** The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

5.10 **Multiple Counterparts.** This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument and each of which shall be deemed to be an original.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

DANFORD PLAZA, LLC

By: Flad Development and Investment Corp., its
Manager

By: _____
John J. Flad, President

VILLAGE OF SHOREWOOD HILLS

By: _____
Mark Sundquist, Village President

Attest: _____
Colleen Albrecht, Village Clerk

[Acknowledgements Follow.]

EXHIBIT A
Legal Description of the Property

4831-2088-2447.3

A-1

ATTACHMENT I
APPROVED MARKETING PLAN

**The Boulevard – 3306-3310 University Avenue
Marketing Plan
2016**

1. Applicability and purpose.

This Marketing Plan applies to the advertising and marketing of Affordable Housing Units (“Units”) in the development to be constructed and located at 3306-3310 University Avenue, in the Village of Shorewood Hills, Wisconsin. Danford Plaza, LLC will market residential the Units in a manner designed to reach persons of diverse financial, racial and ethnic populations, and in accordance with all applicable Fair Housing Laws. In order to meet these objectives, the Units shall be advertised and marketed in accordance with this Marketing Plan.

2. Timing and implementation.

In order to ensure that persons of diverse financial, racial and ethnic populations are timely informed of the availability of the Units, the diversity marketing techniques described in Section 3 of this Marketing Plan shall be fully implemented before any Units are advertised or marketed using any other advertising or marketing techniques, both at the time the Units are initially marketed and leased, and at the time of any future vacancy.

3. Diversity marketing techniques.

- A. A notice of all available or vacant Units will be sent to a list of organizations and service providers representing and aiding minority and low income populations in the Dane County area, including but not necessarily limited to the following: Access to Independence, Community Action Coalition, St., Vincent de Paul, Salvation Army, Urban League, Madison Community Development Authority, Centro Hispano, the YWCA, The Road Home, and Joining Forces for Families.
- B. Available units such advertisements or marketing materials shall be published in print and electronic media serving minority and low income populations in the Dane County area, including but not necessarily limited to the following: The Madison Times, Capital City Hues, La Comunidad.
- C. The Dane County Housing Authority will be contacted on a regular basis with lists of upcoming vacancies for their current voucher holders.

- D. Advertisements shall be in both English and Spanish languages in publications that have a dual language presence such as La Comunidad and Craigslist. Other marketing material may be provided in Spanish upon request.
 - E. All web-based or other advertising or marketing of affordable Units shall provide rental rate information in a readily accessible manner.
 - F. The Equal Housing Opportunity slogan shall be used with all advertising and notices.
 - G. The Fair Housing Poster shall be displayed in all offices where applications are accepted and leases signed.
4. **Marketing Records.** Records of all advertising and notices shall be kept for not less than three years.
5. **Marketing tracking.** The source of the applicant's knowledge of the vacancy will be tracked in the application and inquiry process.

Marketing Sources

- 1) Property Website
- 2) Direct Mailers to social agencies
- 3) Facebook / Social Media
- 4) Madison Apartment Living or similar rental guide
- 5) The Madison Times, Capital City Hues, La Comunidad.
- 6) CD Living
- 7) Craigslist
- 8) Rentals. com or similar website

Shorewood Hills "The Boulevard" - No Affordable Units, 1.25% Annual Rent Growth, Const. Mgmt. Fee, Reduced TIF

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Property Info	
		2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	
CASH FLOWS												
Res. Rent growth (begins @ Year 2)	1.25%											
Res. Rent growth (begins @ Year 2)	1.25%											
Commercial Lease Rents*	\$ 32.00											
Residential Operating Expenses	35%											
Commercial Management Fee	4%											
Max. Residential Rent (Year 1)	\$ 174											
Alternative Rent (Year 1)	\$ 0.90											
Underground Parking lease rate (monthly)	\$ 70											
Underground Parking Spaces	38											
1st year vacancy - Res	10%											
Stabilized vacancy - Res	5%											
1st year vacancy - Retail	5%											
Stabilized vacancy - Retail	4%											
Leasable value (million/acre)	1.25%											
Residential Units (Market Rate)	34											
Residential Units (Affordable)	4											
Gross # (Residential)	41,047											
Gross # (Commercial)	12,052											
Total Gross Building sq	54,500											
Construction Cost (residential)	\$ 5,149,888											
Construction Cost (retail)	\$ 2,714,038											
Estimated Construction Cost	\$ 7,863,926											
Estimated Land Acquisition Cost	\$ 3,334,720											
Retail Tenant Imp Allowance	\$ 180,000											
Soft Costs (site prep, marketing, A&E)	\$ 800,000											
Demolition/Relocation	\$ 575,000											
Project Subtotal	\$ 12,553,519											
Construction Mgmt Fee (deferred equity)	8.0%											
Construction Mgmt Fee	\$ 1,004,281											
Developer Fee (deferred equity)	0.0%											
Developer Fee	\$ -											
Total Project Costs	\$ 13,557,800											
Demolition/Relocation	\$ 575,000											
Total Project Costs for Sales Valuation*	\$ 12,972,800											
MORTGAGE FINANCING												
Loan-to-value ratio (total project cost)	50%											
Mortgage Principal	\$ 6,577,400											
Interest Rate	5.75%											
Term (years)	30											
Monthly Payment	\$ 150,250											
Annual Debt Service	\$ 1,803,000											
TIF FINANCING (program provided)												
Annual TIF Rebate (% of tax paid)	80%											
TIF reb-cost ratio (total project cost)	4%											
Reimbursement	\$ 495,000											
TIF Principal**	\$ 458,000											
Interest Rate	5.00%											
Term (years)	7											
Total Mortgage Financing	\$ 6,577,400											
Total Developer Equity	\$ 4,872,996											
Developer Equity Stake	32%											
DEVELOPER'S MARKET RATE PROJECTION												
Residential (Market Rate)	\$ 304,501	\$ 313,195	\$ 321,948	\$ 330,764	\$ 339,637	\$ 348,567	\$ 357,551	\$ 366,589	\$ 375,681	\$ 384,826	\$ 393,925	34.4% net income test
Retail	\$ 242,137	\$ 247,048	\$ 251,984	\$ 256,943	\$ 261,924	\$ 266,926	\$ 271,948	\$ 276,989	\$ 282,050	\$ 287,130	\$ 292,229	11.7% net income test
Total	\$ 546,638	\$ 560,243	\$ 573,932	\$ 587,707	\$ 601,561	\$ 615,493	\$ 629,500	\$ 643,578	\$ 657,731	\$ 671,955	\$ 686,154	80% of annual property tax payment
Base Income	\$ 188,778	\$ 194,581	\$ 200,432	\$ 206,329	\$ 212,271	\$ 218,258	\$ 224,290	\$ 230,367	\$ 236,489	\$ 242,656	\$ 248,868	48.17% net rentable of total
Underground Parking	\$ 17,243	\$ 17,620	\$ 18,000	\$ 18,382	\$ 18,767	\$ 19,154	\$ 19,543	\$ 19,934	\$ 20,327	\$ 20,722	\$ 21,119	30.0000
Total Income	\$ 205,978	\$ 212,201	\$ 218,432	\$ 224,711	\$ 231,038	\$ 237,413	\$ 243,833	\$ 250,301	\$ 256,816	\$ 263,377	\$ 269,987	1,241,845
EXPENSES												
Residential Operating Expenses	\$ 142,471	\$ 147,720	\$ 153,011	\$ 158,344	\$ 163,719	\$ 169,135	\$ 174,592	\$ 180,090	\$ 185,629	\$ 191,208	\$ 196,827	Estimated 10% of gross income, less gross tax
Commercial Operating Expenses/Mgmt Fee	\$ 2,665	\$ 2,735	\$ 2,806	\$ 2,878	\$ 2,951	\$ 3,025	\$ 3,100	\$ 3,176	\$ 3,253	\$ 3,331	\$ 3,410	5% of gross lease revenues
Property Tax	\$ 4,357	\$ 4,472	\$ 4,588	\$ 4,705	\$ 4,823	\$ 4,942	\$ 5,062	\$ 5,183	\$ 5,305	\$ 5,428	\$ 5,552	Effective Tax Rate (2014)
Residential Vacancy Losses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	40.51% net stabilized
Commercial Vacancy Losses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	45% stabilized
Total Expenses	\$ 149,493	\$ 154,927	\$ 160,405	\$ 165,927	\$ 171,494	\$ 177,102	\$ 182,757	\$ 188,455	\$ 194,198	\$ 199,986	\$ 205,819	
Total Expenses with 3% Contingency	\$ 154,976	\$ 160,618	\$ 166,326	\$ 172,092	\$ 177,913	\$ 183,788	\$ 189,717	\$ 195,700	\$ 201,737	\$ 207,828	\$ 213,974	
Net Operating Income (NOI)	\$ 48,123	\$ 51,583	\$ 54,126	\$ 56,664	\$ 59,194	\$ 61,716	\$ 64,236	\$ 66,751	\$ 69,261	\$ 71,769	\$ 74,277	
TIF DEBT FINANCING (Year)												
BOY Balance	\$ 495,000	\$ 478,750	\$ 462,500	\$ 446,250	\$ 430,000	\$ 413,750	\$ 397,500	\$ 381,250	\$ 365,000	\$ 348,750	\$ 332,500	
Interest	\$ 24,750	\$ 23,938	\$ 23,125	\$ 22,313	\$ 21,500	\$ 20,688	\$ 19,875	\$ 19,063	\$ 18,250	\$ 17,438	\$ 16,625	
Principal Payment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
EOY Balance	\$ 519,750	\$ 478,750	\$ 437,750	\$ 396,750	\$ 355,750	\$ 314,750	\$ 273,750	\$ 232,750	\$ 191,750	\$ 150,750	\$ 109,750	
MORTGAGE DEBT FINANCING (Year)												
BOY Balance	\$ 3,277,400	\$ 3,466,968	\$ 3,656,535	\$ 3,846,103	\$ 4,035,671	\$ 4,225,238	\$ 4,414,806	\$ 4,604,374	\$ 4,793,942	\$ 4,983,510	\$ 5,173,078	7.5% cap rate, 100% debt to EBT
Interest	\$ 463,204	\$ 480,594	\$ 498,000	\$ 515,413	\$ 532,825	\$ 550,238	\$ 567,650	\$ 585,063	\$ 602,475	\$ 619,888	\$ 637,300	5.00% of Sales Value
Principal Payment	\$ 107,400	\$ 118,735	\$ 130,070	\$ 141,405	\$ 152,740	\$ 164,075	\$ 175,410	\$ 186,745	\$ 198,080	\$ 209,415	\$ 220,750	8.00% cap rate, 100% debt to EBT
EOY Balance	\$ 3,466,968	\$ 3,585,283	\$ 3,703,598	\$ 3,821,913	\$ 3,940,228	\$ 4,058,543	\$ 4,176,858	\$ 4,295,173	\$ 4,413,488	\$ 4,531,803	\$ 4,650,118	5.00% of Sales Value
INVESTMENT RETURNS (Year)												
Net Operating Income (NOI)	\$ 48,123	\$ 51,583	\$ 54,126	\$ 56,664	\$ 59,194	\$ 61,716	\$ 64,236	\$ 66,751	\$ 69,261	\$ 71,769	\$ 74,277	864,471
Annual Debt Service	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	600,000
After Debt Cash Flow (ADCF)	\$ 1,883,500	\$ 1,916,813	\$ 1,946,526	\$ 1,973,337	\$ 2,000,144	\$ 2,027,950	\$ 2,055,756	\$ 2,083,563	\$ 2,111,370	\$ 2,139,177	\$ 2,166,984	293,800
Cash on Cash Return	-4.9%	8.8%	8.2%	8.3%	8.9%	8.9%	5.1%	8.5%	6.7%	8.5%	7.2%	ADCF / Developer Equity
Discounted Cash on Cash Return	-4.7%	8.2%	7.1%	7.2%	8.9%	8.9%	8.2%	8.2%	4.5%	8.2%	4.2%	6.00% Discount Rate
SALES VALUE (Market Rate)												
Cost of Sale	\$ 12,972,800	\$ 13,557,800	\$ 14,142,800	\$ 14,727,800	\$ 15,312,800	\$ 15,897,800	\$ 16,482,800	\$ 17,067,800	\$ 17,652,800	\$ 18,237,800	\$ 18,822,800	11,200,000
Margin on Sale*	-27.5%	-15.2%	-14.2%	-13.2%	-12.2%	-11.2%	-10.2%	-9.2%	-8.2%	-7.2%	-6.2%	5.00% of Sales Value
Cost of Sale	\$ 12,972,800	\$ 13,557,800	\$ 14,142,800	\$ 14,727,800	\$ 15,312,800	\$ 15,897,800	\$ 16,482,800	\$ 17,067,800	\$ 17,652,800	\$ 18,237,800	\$ 18,822,800	11,200,000
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Margin on Sale*	-27.5%	-15.2%	-14.2%	-13.2%	-12.2%	-11.2%	-10.2%	-9.2%	-8.2%	-7.2%	-6.2%	5.00% of Sales Value
DEVELOPER'S MARKET RATE PROJECTION												
Residential (Market Rate)	\$ 304,501	\$ 313,195	\$ 321,948	\$ 330,764	\$ 339,637	\$ 348,567	\$ 357,551	\$ 366,589	\$ 375,681	\$ 384,826	\$ 393,925	34.4% net income test
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Commercial Operating Expenses/Mgmt Fee	\$ 2,665	\$ 2,735	\$ 2,806	\$ 2,878	\$ 2,951	\$ 3,025	\$ 3,100	\$ 3,176	\$ 3,253	\$ 3,331	\$ 3,410	5% of gross lease revenues
Property Tax	\$ 4,357	\$ 4,472	\$ 4,588	\$ 4								

RESOLUTION NO. R-2015-16

VILLAGE OF SHOREWOOD HILLS

A RESOLUTION APPROVING A TAX INCREMENT
GRANT AGREEMENT FOR “THE BOULEVARD”

RECITALS

1. The Village has created Tax Incremental Financing District No. 3 (the “District”), and desires to facilitate the redevelopment of certain property within the District located generally at 3306-3310 University Avenue (the “Property”); and
2. Danford Plaza, LLC (the “Developer”) wishes to construct a mixed-use, multi-family rental housing and commercial project consisting of 38 residential housing units, and approximately 11,739 square feet of commercial space.
3. Developer has requested tax increment grant funds from the Village to facilitate construction of the Project, including a potential affordable housing component of the Project.
4. The Village and Developer desire to enter into a tax increment grant agreement to facilitate the redevelopment of the Property consistent with the Project Plan for the District, and potentially to promote the development of affordable housing.
5. As an inducement to Developer to develop the Property and otherwise facilitate the Project, and in order to make the Project financially feasible and to implement the Project Plan, the Village finds it appropriate to provide tax increment development assistance for the Project as described in, and subject to the reservations contained in, the Tax Increment Grant Agreement attached as Exhibit A to this Resolution.
6. The Village Board finds that the Project and the fulfillment of the terms and conditions of the Tax Increment Tax Agreement are in the vital and best interests of the Village and its residents, by redeveloping underutilized property in the Village and implementing the Project Plan and the Comprehensive Plan, and creating an opportunity to provide additional affordable housing.

RESOLUTION

The Tax Increment Grant Agreement between the Village of Shorewood Hills and Danford Plaza, LLC, attached as Exhibit A to this Resolution, is approved, and the Village President and Village Clerk are hereby authorized to execute the Agreement on the Village's behalf.

The above and foregoing resolution was duly adopted by the Village Board of the Village of Shorewood Hills at its meeting held on December 21, 2015, by a vote of _____ in favor, _____ opposed, and _____ not voting.

APPROVED:

By _____
Mark Sundquist, Village President

ATTEST:

Colleen Albrecht, Village Clerk

EXHIBIT A
TAX INCREMENT GRANT AGREEMENT