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| Document Number | INTERIM EASEMENT (Westlawn Gardens - ROW) |
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| <p><u>Drafted by:</u> Gregg Hagopian, Milwaukee City Attorney's Office</p> | |
| <p style="text-align: right;">Recording Area Name and Return Address: Gregg Hagopian Assistant City Attorney 841 North Broadway, 7th Floor Milwaukee, WI 53202</p> | |
| <p>See EXHIBIT A</p> <hr/> Parcel Identification Number | |

THIS INTERIM EASEMENT (the “**Agreement**”) is dated as of December 1, 2017, and is between the Housing Authority of the City Of Milwaukee, a public body corporate and public created and existing under the laws of the State of Wisconsin (“**HACM**”) and City of Milwaukee, a Wisconsin municipal corporation (“**City**”).

RECITALS

- A. HACM is the sole fee simple owner of land located south of West Silver Spring Drive, West of North 64th Street and East of North 68th Street in the City of Milwaukee, Milwaukee County, Wisconsin, which is legally described on **EXHIBIT B (“Westlawn Gardens - West”)**.
- B. Within and at Westlawn Gardens – West was public right-of-way (including streets and sidewalks) that was vacated per City Common Council File 170502 (“**Former ROW**”). Former ROW is depicted on the Map attached as **EXHIBIT C**.
- C. HACM is in the process of a comprehensive redevelopment of the Westlawn Gardens – West that requires:
 - the demolition of all existing structures located at Westlawn Gardens – West

- the demolition of the Former ROW
 - the re-subdivision of Westlawn Gardens – West that happened by the subdivision known as Westlawn West that was recorded in the Milwaukee County Register of Deeds (“ROD”) Office as Document No. 10735796, as corrected by an Affidavit of Correction recorded at the ROD Office as Document No. 10782017 (the “**Plat**”)
 - the construction of new roadways and improvements within the new ROW established and depicted on the Plat (the “**New ROW**”), and in accordance with the terms of an Out of Program Agreement (Westlawn Gardens – West) between HACM and City dated as of December 1, 2017 (the “**2017 OOPA**”)
 - the construction of other infrastructure at Westlawn Gardens – West per the 2017 OOPA and
 - the ultimate redevelopment of Westlawn Gardens – West as a new residential development.
- D. City approval of the Plat under Milwaukee Code of Ordinances (“**MCO**”) Ch. 119 accomplished re-subdivision of Westlawn Gardens – West and dedication of the New ROW.
- E. City approval of vacation of the Former ROW under MCO 308-28 accomplished vacation of the Former ROW and the cessation of those areas being public ROW.
- F. Construction of the New ROW and infrastructure per the 2017 OOPA and the completion of Westlawn Gardens – West are intended to take place over a period of five or more years.
- G. As used in this Agreement, “**Gap Time**” means the time period from the date of the vacation of the Former ROW to the date when construction has been completed under the 2017 OOPA, including construction of (i) New ROW, and (ii) new infrastructure.
- H. This Agreement is intended to allow – during and until the end of the Gap Time (or until sooner terminated by the parties) – City, the public and utility companies the right to continued use of the Former ROW as those areas are currently being used.
- I. HACM, City, Westlawn Renaissance LLC (“**WR**”), Victory Manor LLC (“**VM**”), WG Scattered Sites LLC (“**SS**”), and the Westlawn Gardens Property Owners’ Association Inc. (“**Association**”) are parties to a Storm Water Management Facility and Common Area Maintenance and Easement Agreement, dated as of December 1, 2017 (the “**2017 Maintenance Easement**”).

AGREEMENT

1. **Recitals.** The recitals above are hereby accepted and agreed to.

2. **Grant of Easement – Former ROW.**
 - A. HACM grants and conveys a temporary, interim easement, during the Gap Time:
 - to City for the benefit of the general public to continue to use Former ROW and public infrastructure within Former ROW, in particular presently existing street and alley segments, for pedestrian and vehicular ingress, egress and travel, and municipal purposes

 - to City and to private utility companies that have utility facilities within Former ROW (“**Existing Utility Companies**”) the continued access to and right to operate, use and maintain above and below grade public and private infrastructure and utilities located within Former ROW. This is in addition to easement rights City and Existing Utility Companies have under Wis. Stat. 66.1005.

 - B. The streets and sidewalks within the Former ROW shall remain available for public use at all times, except for such times as they must be closed for demolition, construction, maintenance or repair. HACM, with the approval of City’s Commissioner of Public Works (“**Commissioner**”), shall have the right periodically to close off portions of the Former ROW for these purposes, provided that HACM obtains all necessary permits for any planned street, alley or sidewalk closure, and otherwise complies with City ordinances and requirements for obstructing or closing public ways.

3. **Maintenance and Control of Former ROW During Gap Time, Subject to Early Termination by Amendment & Termination.**
 - A. **Maintenance.** During the Gap Time, unless otherwise agreed by the parties by written amendment, the Former ROW shall continue to be plowed, salted, maintained, repaired, controlled and regulated by City consistent with the standards City employs for public ROW, and in accordance with applicable law. City is not responsible, however, for salting or shoveling sidewalks.

HACM may, in its discretion and at its expense, undertake maintenance of and capital repairs to streets and sidewalks within Former ROW at a greater frequency or at a higher standard than would generally be undertaken by City on public

streets and sidewalks. Any such maintenance and repair, however, shall be in accordance with plans and specifications first approved by the Commissioner.

- B. **Partial termination.** Notwithstanding the foregoing, however, when segments of New ROW adequately replace Former ROW for travel and use purposes, as determined by the Commissioner and as reasonably agreed to by HACM, then City and HACM shall enter into and record with the Register of Deeds (“**ROD**”) an amendment to this Agreement to terminate the easement for ingress, egress and travel use of that particular segment of Former ROW.
- C. **Final termination.** At the end of the Gap Time, City and HACM shall also enter into and record with the ROD a termination of this Agreement.
- D. **Private utilities.** Private utility companies (including Existing Utility Companies) remain responsible for maintaining their own facilities.
4. **Other Utility Easements in Former ROW.** Notwithstanding para. 3, and subject to City’s and public’s and Existing Utility Companies’ continued use of Former ROW per paragraph 2 and subject to rights existing under Wis. Stat. 66.1005, since Former ROW has already been vacated per MCO 308-28, HACM may grant easements within Former ROW to private utility companies and to City for utility and infrastructure purposes so long as those easements do not interfere with contemplated vehicular and pedestrian use of the Former ROW.
5. **New ROW, License to Install; Maintenance.** Per the 2017 Maintenance Easement, City granted HACM a license in New ROW, among other things, to install, in accordance with the 2017 OOPA, street and sidewalk within New ROW.
- Until the street and sidewalk improvements within New ROW are completed per the 2017 OOPA and available for public use as determined by the Commissioner, HACM shall be responsible for and maintain the New ROW areas unless the Commissioner directs otherwise.
6. **Construction of Improvements.** HACM shall comply with the 2017 OOPA and design and construct the New ROW and other improvements required to be constructed thereunder.
7. **Liability.** HACM and City retain all rights under applicable law including Wis. Stat. 893.80. This Agreement is executed to facilitate redevelopment of Westlawn Gardens – West and establishment of the New ROW. While City maintains, controls and regulates the Former ROW hereunder, City will be responsible for same to the same

extent and in the same manner as if it had not been vacated and as if it had remained public ROW under City's jurisdiction. Notwithstanding the foregoing, HACM remains responsible for HACM's acts and omissions. While HACM maintains the New ROW hereunder, HACM will be responsible for same.

8. **Recording.** This Agreement, and any amendment hereto or termination hereof, shall be recorded in the ROD Office at HACM's expense.
9. **Binding Effect.** This Agreement is binding upon the parties hereto. HACM may not assign its rights or duties hereunder without City's prior written approval.
10. **Enforcement.** This Agreement may be enforced at law and in equity, with the non-breaching party entitled to injunctive relief and/or monetary damages. The parties retain any respective rights they have under Wis. Stat. 893.80.
11. **Governing Law; Amendment.** This Agreement is governed by Wisconsin law, and may only be amended by written instrument signed by the parties hereto.
12. **Drafter-Doctrine Not Applicable; Headings.** The contract-interpretation doctrine of "construing against the drafter" shall not apply to interpretation of this Agreement. Headings are for convenience only.
13. **Open Records.** This Agreement and records kept or maintained hereunder or as a result hereof are subject to Wisconsin Open Records Law, Wis. Stat. Chapter 19, and the parties hereto agree to cooperate regarding duties under such law, including providing copies of records required to comply with such law.
14. **Notice.** Notices required or desired to be given with respect to this Agreement shall be in writing, addressed to the respective party as per the contact information below, and shall be (i) delivered personally, (ii) sent by United States mail, postage prepaid, or (iii) sent by email provided no error or inability to send message is generated in response. Contact information may be changed by providing notice to all parties per this "notice" section.

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| <p>If to CITY:</p> <p>Commissioner, Dept. of Public Works City of Milwaukee 841 N. Broadway, Room 501 Milwaukee, WI 53202</p> <p>Phone: 4147-286-3301 Email: gkorba@milwaukee.gov With copy to:</p> <p>Gregg Hagopian City Attorney's Office 841 N. Broadway, 7th Floor Milwaukee, WI 53202 Phone: 414-286-2620 Email: ghagop@milwaukee.gov</p> | <p>If to HACM:</p> <p>Executive Director Housing Authority of the City of Milwaukee 809 N. Broadway, 3rd Floor Milwaukee, WI 53202</p> <p>Phone: 414-286-5824 Email: tony.perez@hacm.org</p> <p>With copy to:</p> <p>Thomas O. Gartner Michael Best & Friedrich LLP 100 E. Wisconsin Ave., Suite 3300 Milwaukee, WI 53202 Phone: 414-270-2716 Email: togartner@michaelbest.com</p> |
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15. **Counterparts.** This Agreement may be signed in counterparts. Facsimile or email signatures shall be accepted as originals.

IN WITNESS WHEREOF, the parties sign and enter this document as of the date first written above.

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| <p>CITY: CITY OF MILWAUKEE</p> <p>By: _____ Ghassan Korban, Commissioner Dept. of Public Works</p> <p>Countersigned:</p> <p>By: _____ Martin Matson, Comptroller</p> <p>City Common Council Resolution File No. 171022 and File No. 180572. See, also, File Numbers 170502 and 171000.</p> <p>CITY ATTORNEY APPROVAL/AUTHENTICATION</p> <p>The undersigned, as a member in good standing of the State Bar of Wisconsin, hereby approves the signatures of City representatives above per MCO 304-21, and also authenticates the signatures of those City representatives per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05 (2)(b).</p> <p>By: _____ Gregg Hagopian, Asst. City Attorney State Bar No. 1007373 Date: _____</p> | <p>HACM: HOUSING AUTHORITY OF THE CITY OF MILWAUKEE</p> <p>By: _____ Antonio M. Perez, Sec./Exec. Director</p> <p>HACM Board Resolution R-12925 and R-12984.</p> <p>HACM AUTHENTICATION</p> <p>The undersigned, as a member in good standing of the State Bar of Wisconsin, hereby authenticates the signature of the HACM representative above per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05 (2)(b).</p> <p>By: _____ Thomas O. Gartner State Bar No. 1003072 Date: _____</p> |
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EXHIBIT A – TIN's

EXHIBIT B – LEGAL DESCRIPTION, WESTLAWN GARDENS – WEST

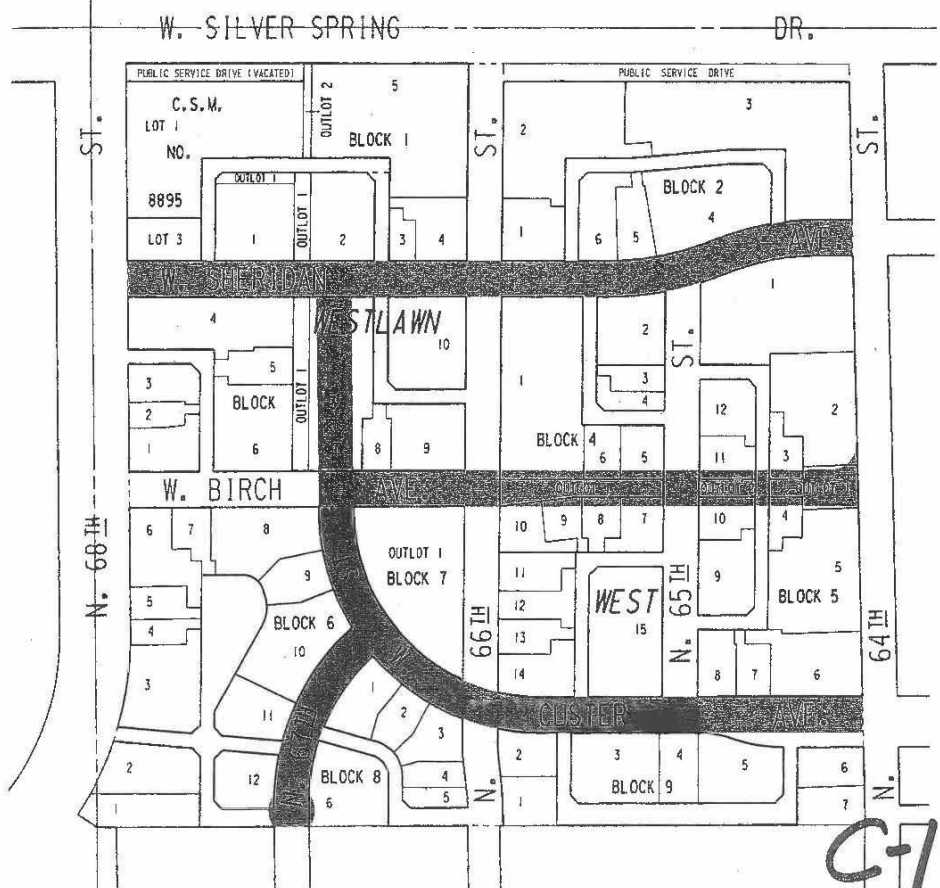
WESTLAWN WEST


That part of the Northeast 1/4 and the Northwest 1/4 of Section 34, Township 8 North, Range 21 East, in the City of Milwaukee, Milwaukee County, Wisconsin, described as follows: Commencing at the northwest corner of said Northeast 1/4 Section; thence North 89°52'59" East, along the north line of said Northeast 1/4 Section, 60.01 feet to a point in the northerly extension of the east line of North 68th Street; thence South 01°11'57" East, along said east line and its extension, 389.98 feet to the southwest corner of Lot 3 of Certified Survey Map No. 8895 and the point of beginning of the lands to be described; thence North 89°52'59" East, along the south line of said Lot 3 and its extension, 149.207 feet to a point in the east line of a public alley; thence North 00°07'01" West, along said east line, 129.403 feet to the southwest corner of Outlot 1 of said Certified Survey Map No. 8895; thence North 89°52'59" East, along said south line, 134.499 feet to the southeast corner of said Outlot 1; thence North 00°07'01" West, along the east line of Outlot 1 aforesaid, 18.58 feet to a point on the south line of a public alley; thence North 89°52'59" East, along said south line, 161.644 feet to a point; thence North 00°07'01" West 24.00 feet to a point in the north line of said alley; thence South 89°52'59" West, along said north line, 147.644 feet to the east corner of Lot 1 of said Certified Survey Map No. 8895; thence North 00°07'01" West, along the east line of Lot 1 aforesaid, 157.924 feet to a point in the south line of West Silver Spring Drive; thence North 89°52'59" East, along said south line, 931.957 feet to its point of intersection with the west line of North 64th Street; thence south 01°53'57" East, along said west line, 1273.118 feet to a point in the north line of Block 2 of Assessment Subdivision No. 84, a recorded subdivision, in said Northeast 1/4 Section; thence South 89°44'18" West, along said north line and the north lines of Royal Terrace Subdivision and H.A. Protzmann Subdivision, recorded subdivisions, in said Northeast 1/4 Section, 1311.404 feet to a point in the east line of North 68th Street; thence North 57°00'52" West, along said east line, 39.27 feet to a point on a curve; thence Northeasterly, 319.296 feet along the said east line and the arc of said curve which has a radius of 535.00 feet with its center lying to the northwest having a central angle of 17°05'51" and whose chord bears North 15°53'54" East 314.578 feet to a point; thence North 01°11'57" West, along said east line, 622.201 feet to the point of beginning.

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EXHIBIT C FORMER ROW

N.E. 1/4 SEC. 34, T.8N., R.21E.



 INTERIM PUBLIC ACCESS
EASEMENTS OVER FORMER
PUBLIC RIGHT-OF-WAY

INFRASTRUCTURE SERVICES DIVISION

MILWAUKEE, WISCONSIN

APPROVED BY:

DATE: AUGUST 13, 2018

you west
CENTRAL DRAFTING & RECORDS MANAGER

[Signature]
CITY ENGINEER

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