

CONSERVATION
EASEMENT AGREEMENT

Document Number

Document Title

1941488
SHEBOYGAN COUNTY, WI
RECORDED ON
03/21/2012 3:06 PM
ELLEN R. SCHLEICHER
REGISTER OF DEEDS
RECORDING FEE: 30.00
EXEMPTION #
Cashier ID: 9
PAGES: 7

Recording Area

Name and Return Address

Robert W. Habich
Reinhart Boerner Van Deuren s.c.
N16 W23250 Stone Ridge Drive
Suite 1
Waukesha, WI 53188

Part of 59271827939

Parcel Identification Numbers (PINs)

CONSERVATION EASEMENT
AGREEMENT

This Conservation Easement Agreement (this "Agreement") is made and effective as of this 16th day of March, 2012, by and among Concord 36, LLC ("**Concord**") and Commonwealth Real Estate Investments, LLC ("**Commonwealth**").

RECITALS

A. Commonwealth is purchasing certain real property from Concord 27, LLC, an affiliate of Concord, pursuant to that certain Amended and Restated WB-13 Vacant Land Offer to Purchase dated February 22, 2012, which property includes the real property described and depicted on **Exhibit A** attached hereto (the "**Protected Property**").

B. In connection with Commonwealth's purchase, Commonwealth desires to grant to Concord an easement (the "**Conservation Easement**") benefitting that certain real property owned by Concord and described in **Exhibit B** attached hereto (the "**Concord Parcel**"), which easement shall require, among other provisions, that Commonwealth preserve and maintain the natural elements and aesthetic values of the Protected Property pursuant to the terms of this Agreement.

C. Concord is willing to accept the Conservation Easement subject to the covenants, terms, conditions, reservations and restrictions contained in this Agreement.

AGREEMENT

Commonwealth, for and in consideration of the foregoing recitals and of the mutual covenants, terms, conditions, reservations and restrictions contained herein, does hereby grant and convey unto Concord the Conservation Easement as set forth herein.

1. Purpose. The purpose of this Agreement is to preserve and maintain the natural elements and aesthetic values of the Protected Property.

2. Rights of Concord. Among other rights, Concord shall have the right to enjoin Commonwealth from using the Protected Property in a manner inconsistent with the terms of this Agreement through such means, in equity or at law, and including injunctive relief, as may reasonably be required to accomplish the purpose of this Agreement.

3. Prohibitions. Except as may be specifically provided in this Agreement, any activity on, or use of, the Protected Property which is inconsistent with the purpose of this Agreement, as set forth in Section 1 above, is expressly prohibited. By way of explanation, but not limitation, the following activities and uses are prohibited:

A. The placement or construction of any improvements on the Protected Property including, but not limited to, buildings, fences, roads and parking lots.

B. Any cutting or removal of trees or vegetation on the Protected Property, except for the cutting or removal of trees or vegetation that pose a threat to human life or property and reasonable pruning and trimming.

4. Reserved Rights of Commonwealth. Except as otherwise provided herein, Commonwealth, for itself and its successors and assigns, hereby reserves all rights as owner of the Protected Property including, without limitation, the right to sell, give, transfer, mortgage or otherwise convey Commonwealth's ownership interest in the Protected Property or any portion or portions thereof, subject, however, to the prohibitions set forth and the rights conveyed by the terms of this Agreement.

5. Utilities. Notwithstanding anything to the contrary contained herein, Commonwealth shall retain the right to install utility lines upon or under the Protected Property in accordance with applicable law, including, without limitation, lines for gas, electric, sewer and water, fiber optic, cable, telephone and other similar services ("Utilities"). Commonwealth shall have the right to alter trees or vegetation to the extent reasonably necessary to install such utility lines. In the event that Concord desires to connect to any such Utilities, Concord (or its successor) is hereby granted a non-exclusive easement for the benefit of the Concord Parcel and for the purpose of connecting to any Utilities either currently existing or installed in the future upon or under the Protected Property; provided however, that: (a) Concord shall not commence connection to any Utilities without the prior approval of Commonwealth (or its successor), which approval shall not be unreasonably withheld, conditioned or delayed; and (b) Commonwealth shall not be obligated to incur any additional expense as a result of the Concord Parcel's connection to such Utilities, including but not limited to the costs of any "upsizing" in capacity necessary to serve the Concord Parcel's connection. Commonwealth and Concord agree to enter into additional or supplemental easement agreements governing the use and maintenance of any such utility easement upon commercially reasonable terms.

6. Landscaping and Plantings. Commonwealth does hereby grant, convey and warrant to Concord, for the benefit of the Concord Parcel, forever, a non-exclusive easement for the purpose of installing and maintaining landscaping and plantings on the Protected Property; provided, however that: (a) landscaping and plantings shall not interfere with any utilities or services upon or under the Protected Property; (b) Concord shall obtain Commonwealth's approval prior to the installation of any such landscaping or plantings, which approval shall not be unreasonably withheld, conditioned or delayed; and (c) Commonwealth shall not be obligated to incur any additional expense as a result of Concord's landscaping or planting. This easement shall run for the benefit of the land.

7. Maintenance. With the exception of any costs related to the Concord Parcel's utility connections or landscape installations pursuant to Sections 5 and 6 hereof, Commonwealth hereby agrees that it shall, at its sole cost and expense, maintain the Protected Property in compliance with this Agreement and all applicable laws and regulations.

8. No Public Rights. Nothing contained in the Agreement shall be deemed to constitute a gift or dedication of any portion of Protected Property to the general public, for the benefit of the general public, or for any public purpose whatsoever.

9. Indemnity. Commonwealth and its respective successors or assigns, shall defend, indemnify and save harmless Concord, and its respective officers, agents, members and employees, against liability or claim thereof for injury to persons, including death, or damage to property (i) arising out of any maintenance, construction or repairs performed by Commonwealth, its respective employees, licensees or contractors, their agents or employees, on or about the Protected Property, or (ii) arising out of any defaults hereunder, provided that this indemnity shall not extend to any liability, claims or damages resulting from the negligent or intentional misconduct of Concord. Concord and its respective successors or assigns, shall defend, indemnify and save harmless Commonwealth, and its respective officers, agents, members and employees, against liability or claim thereof for injury to persons, including death, or damage to property (i) arising out of any maintenance,

construction or repairs performed by Concord, its respective employees, licensees or contractors, their agents or employees, on or about the Protected Property, or (ii) arising out of any defaults hereunder, provided that this indemnity shall not extend to any liability, claims or damages resulting from the negligent or intentional misconduct of Commonwealth.

10. General Provisions. The following general provisions shall apply to this Agreement:

A. The benefits and burdens contained in this Agreement shall be deemed covenants running with the land and shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

B. This Agreement sets forth the entire agreement of the parties with respect to the provisions contained herein, and may be amended only by the written agreement of the parties hereto. Any such amendment shall be recorded in the same office wherein this Agreement has been recorded.

C. This Agreement, its validity, construction and enforcement, shall be governed by the laws of the State of Wisconsin.

D. If any provision of this Agreement is found to be invalid, the remainder hereof shall not be affected thereby.

E. In the event that circumstances arise in the future making it impossible or impractical to continue to restrict the Protected Property as provided herein, then this Agreement can be extinguished by mutual agreement of the parties or by judicial proceedings.

[Signatures on the following page]

EXHIBIT B

Description of Concord Property

Lot 10, Wal-Mart Subdivision, recorded in Volume 15, Page 127, Plats, Sheboygan County Register of Deeds Office and being a part of the Northwest 1/4 of the Southeast 1/4 and a part of the Southwest 1/4 of the Southeast 1/4, Section 23 T. 15 N.-R. 21 E., City of Plymouth, Sheboygan County, Wisconsin.