



**B. Conservation Policies.** Preservation of the Conservation Values of the Protected Property will serve the following public policies:

Section 700.40(1)(a) Wis. Stats., the Uniform Conservation Easements Act, which provides for the establishment of easements for the purpose of protecting agricultural, open space, and natural resource lands;

**C. Qualified Organization.** The Grantee is qualified to hold conservation easements under Section 700.40(1)(b), Wis. Stats., and is also a qualified organization within the meaning of Section 170(h)(3) of the Internal Revenue Code, as that section may be amended from time to time, and in the regulations promulgated thereunder.

**D. Conservation Intent.** The Grantor and Grantee share the common purpose of preserving the Conservation Values of the Protected Property in perpetuity. Accordingly, the Grantor intends to convey to the Grantee, and the Grantee agrees to accept, the right to protect and preserve the Conservation Values of the Protected Property for the benefit of this generation and generations to come. The Grantor intends that only those activities permitted or conditionally permitted under the Grantee's AP Zoning District regulations in furtherance of the agreed-upon conservation values of the property shall be allowed,.

### GRANT OF CONSERVATION EASEMENT

For and in consideration of the facts recited above and the mutual covenants, terms, conditions and restrictions contained herein a grant of permission to the Grantor to create a lot for residential development in the Grantee's AP Zoning District pursuant to § 7.6 of the Town Code and other good and valuable consideration, and pursuant to the laws of the State of Wisconsin, in particular the Uniform Conservation Easement Act, §700.40, Wis. Stats., the Grantor hereby voluntarily grants and conveys to the Grantee, its successors and assigns, a perpetual Conservation Easement over the Protected Property consisting of the following terms and conditions ("Easement"):

**1. Purpose.** The purpose of this Easement is to assure that the Protected Property will be preserved in perpetuity in its predominantly agricultural and open space condition and to prevent any use of the Protected Property that will significantly impair or interfere with its use for agricultural, conservancy, or open space purposes. Grantor intends that this Easement will confine the use of the Protected Property to activities that are consistent with the purpose this Easement, and Grantor accepts such restrictions on behalf of himself, his heirs, successors and assigns.

The terms of this Easement are specifically intended to:

Assure that the Protected Property will be preserved in perpetuity in its agricultural and open space condition and to prevent any use of the Protected Property that will significantly impair or interfere with its Conservation Values.

**2. Rights of Grantee.** To accomplish the purposes of this Easement, the following rights are conveyed to the Grantee or its assigns:

- (a) to preserve and protect the conservation protection values of the Property; and
- (b) to enter upon the Property in accord with 6.(b), below; and
- (c) to prevent any activity on or use of the Property that is inconsistent with the purposes of this Easement, and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

**3. Restricted Uses of Protected Property.** Any activities on or use of the Property inconsistent with the purposes of this Conservation Easement are prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- (a) construction or placement of any buildings, shelters, mobile homes, playing fields or play grounds, picnic areas or any other recreational facilities, asphalt, concrete pavement, antennas, utility poles, towers (including communication), conduits, lines, outdoor lights, roads, driveways or any other temporary or permanent structure or facility, except in relationship to and further agricultural use of the protected property.

- (b) signs, billboards, or outdoor advertising of any kind erected or displayed; provided, however, that the Grantors may erect and maintain reasonable signs indicating the name of the property, boundary markers, directional signs, signs restricting hunting or trespassing on the property, memorial plaques, temporary signs indicating that the property is for sale or lease, signs providing information about natural features of the property or providing directional guidance for approved uses of the property. The Grantee, with the permission of Grantors, may erect and maintain signs designating the property as land under the protection of the Grantee.
- (c) dumping or storage of trash, ashes, garbage, piles of gravel or other materials, hazardous or toxic substances or other unsightly or offensive material;
- (d) filling, excavation, mining or drilling, exploring for or removal of minerals, removal of topsoil, sand, gravel, rocks, minerals or other materials, nor any change in the topography of the land in any manner unless such changes in topography improve the land for agricultural production;
- (e) subdivision of the Property;
- (f) commercial or industrial activity undertaken on the Property;
- (g) the transfer of development rights. No development rights in and to the Property, or any part thereof which have been encumbered or extinguished by this Conservation Easement shall be transferred to any location outside the Property, whether pursuant to a cluster development plan or any other agreement or plan for transferable development rights.

**4. Permitted Uses of the Protected Property.** The Grantors' use of the Property, and activity thereon shall be permitted which, in the reasonable opinion of the Grantee, does not possess the potential to be inconsistent with the intent of this Easement, such intent being the continued agricultural use of and conservation of open space resources. Notwithstanding the foregoing, Grantors shall have the right to make the following uses accessory of the Property:

- (a) Engaging in any use that is permitted or conditionally permitted, if a conditional use permit has been granted by the Grantee in accord with the regulations of the Grantee's AP Zoning District regulations.
- (b) maintenance of existing trails and existing field roads. In the event that a trail or field road needs to be revegetated to prevent adverse environmental affects, a new trail or field road may be developed;
- (c) hunting, fishing, and harvesting mushrooms, berries, and nuts.
- (d) bird-watching and wildlife observation, picnicking, hiking, snow shoeing, sledding and cross country skiing;
- (e) repairing and replacing existing fences and new fences for purposes of reasonable and customary control of livestock, and preventing trespassing on the Property;
- (f) undertaking recreational uses such as nature appreciation and educational activities which do not degrade the natural features of the Property; however, there will not be any intensive recreational activities which would interfere with the habitat values of the Property. Any use which damages vegetation and habitat or otherwise impairs the natural conditions will be discouraged and if necessary will be controlled;
- (g) maintaining, and using gardens and orchards;
- (h) operation of all-terrain vehicles on the roads and trails;

**5. Local Ordinances.** It is hereby agreed that the construction of any buildings, structures or improvements, or any use of the land, otherwise permitted under this Easement, shall be in accordance with all applicable ordinances, statutes and regulations of the Town of Bloomer, Chippewa County and the State of Wisconsin.

**6. Grantee's Rights and Remedies.** In order to accomplish the purpose of this Easement, the Grantee has the following rights and remedies:

(a) **Enforcement.** The Grantee has the right to enforce the provisions of this Easement by proceedings at law or in equity and prevent or remedy violations through appropriate judicial action brought against the Grantor or other responsible party in a court of competent jurisdiction.

- (1) Remedies. Remedies available to the Grantee in enforcing this Easement include the right to request temporary or permanent injunctive relief for any violation or threatened violation of this Easement; to require restoration of the Protected Property to its condition at the time of this conveyance or as otherwise necessitated by a violation of this Easement; to seek specific performance or declaratory relief; and to recover damages resulting from a violation of this Easement or injury to any Conservation Values protected by this Easement.

These remedies are cumulative and are available without requiring the Grantee to prove actual damage to the Conservation Values protected by this Easement. The Grantee and the Grantor also recognize that restoration, regardless of cost, may be the only adequate remedy for certain violations of this Easement.

The Grantee is entitled to seek expedited relief, ex parte if necessary, and shall not be required to post any bond applicable to a petition for such relief.

- (2) Cost of Enforcement. The Grantor shall be responsible for all reasonable costs incurred by the Grantee in enforcing this Easement, including without limitation costs of suit, attorneys' fees, and expenses related to restoration of the Protected Property. If, however, the Grantor ultimately prevails in a judicial enforcement action, each party shall be responsible for its own costs and attorneys' fees.
- (3) Discretionary Enforcement. Enforcement of the terms of this Easement is solely at the discretion of the Grantee. The Grantee shall not waive or forfeit the right to take any action necessary to assure compliance with the terms of this Easement by any delay or prior failure of the Grantee to act.
- (4) Acts Beyond Grantor's Control. The Grantee may not bring any action against the Grantor for any change to the Protected Property resulting from causes beyond Grantor's control, such as changes caused by fire, flood, storm, earth movement, natural deterioration or the unauthorized acts of persons other than the Grantor or the Grantor's agents, employees or contractors, or resulting from prudent action taken in good faith under emergency conditions to prevent or mitigate damage from such causes.
- (5) Right to Report. In addition to other remedies, the Grantee has the right to report any environmental concerns or conditions or any actual or potential violations of any environmental laws to appropriate regulatory agencies.

(b) **Right of Enter.** The Grantee, and its employees and agents, have the right to enter the Protected Property at reasonable times, in a reasonable manner, and with prior notice to the Grantor (except in cases where the Grantee determines that immediate entry is required to prevent, terminate or mitigate a suspected or actual violation of this Easement) for the following purposes:

- (1) To inspect the Protected Property and monitor compliance with the terms of this Easement.
- (2) To obtain evidence for use in seeking judicial or other enforcement of this Easement.
- (3) To otherwise exercise its rights under this Easement.

(c) **Limitation on Rights of Grantee.** Nothing in this Easement gives the Grantee the right or ability to become the operator of the *Protected* Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act by exercising physical control over the day-to-day operations of the Grantor or becoming involved in management decisions of the Grantor regarding the generation, handling or disposal of hazardous substances.

7. **Assignment.** Grantee shall transfer the Easement and restrictions conveyed by Grantors herein only to a qualified conservation organization under 26 USCS s. 170 (h) that agrees to enforce the conservation purposes of this Easement, in accordance with the regulations established by the Internal Revenue Service governing such transfers.

8. **Conveyance.** In any deed conveying an interest in all or part of the Property, Grantors shall make reference to the Easement and restrictions described herein and shall indicate that said Easement and restrictions are binding upon all successors and assigns in perpetuity.
9. **Waiver Not Implied.** The failure of the Grantee to enforce against any particular violation of this Easement shall not constitute a waiver of any other or further violations of this Easement by Grantors and it shall not be deemed or construed to be a waiver by Grantee of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement.
10. **Public Access.** No right of access by the general public to the Protected Property is conveyed by this Grant of a Conservation Easement

#### 11. **General Provisions.**

- (a) **Amendment.** If circumstances arise under which an amendment is appropriate, this Easement may be jointly amended by a written instrument recorded in the official records for the county in which the Protected Property is located. However, no amendment or modification shall be allowed if, in the sole judgment of the Grantee, it (i) diminishes the Conservation Values of the Protected Property (ii) does not further the purposes of this Easement (iii) affects the perpetual duration of this Easement, or (iv) affects the validity of the Easement under §700.40, Wis. Stats., or the status of the Grantee under Section 170(h) of the Internal Revenue Code of 1986 or any successor provision.
- (b) **Assignment.** The Grantee may assign or transfer its interests in this Easement to an organization that is (i) qualified within the meaning of Section 170(h)(3) of the Internal Revenue Code or any successor provision then applicable, and (ii) qualified to hold conservation easements under §700.40, Wis. Stats. As a condition of any assignment or transfer, any future holder of this Easement shall be required to carry out its conservation purposes in perpetuity.
- The Grantee agrees to notify the Grantor of any assignment at least fifteen (15) days prior to the date of such assignment; however, failure to give such notice shall not affect the validity of such assignment or limit its enforceability in any way.
- (c) **Controlling Law and Liberal Construction.** This Easement shall be governed by the laws of the State of Wisconsin. Any ambiguities in this Easement shall be construed in a manner that best effectuates the purpose of this Easement and protects the Conservation Values of the Protected Property.
- (d) **Costs of Ownership and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property
- (e) **Counterparts.** The parties to this Easement may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- (f) **Definitions.** The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall mean either masculine or feminine, singular or plural, and shall include Grantor's and Grantee's respective personal representatives, heirs, successors, and assigns.
- (g) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.
- (h) **Extinguishment.** This Easement shall terminate in the event that the Protected Property is rezoned from AP zoning to Rural Residential zoning classification by the Grantee in accord with Wisconsin law, and thereafter, the Grantee's Town Board, in its discretion, takes action to release it.

- (i) Merger of Fee and Easement Interests. Grantor and Grantee agree that the terms of this Easement shall survive any merger of the fee and easement interests in the Protected Property.
- (j) Real Estate Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Protected Property by competent authority, including any taxes imposed upon or incurred as a result of this Easement.
- (k) Recording. The Grantee shall record this Easement in a timely manner in the Register of Deeds for Chippewa County. The Grantee may re-record this Easement or any other documents necessary to protect its rights under this Easement or to assure the perpetual enforceability of this Easement.
- (l) Severability. If any provision or specific application of this Easement is found to be invalid, the remainder of the provisions of this Easement, and the application of such provisions to persons or circumstances other than those to which it was found to be invalid, shall not be affected thereby.
- (m) Successors. This Easement shall run with and burden the Protected Property in perpetuity and shall bind the Grantor and Grantee and their respective personal representatives, heirs, successors and assigns, and any other parties entitled to possess or use the Protected Property.
- (n) Termination of Rights and Obligations. A party's obligations under this Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer or conveyance.
- (o) Title Warranty. The Grantor hereby warrants and represents that the Grantor is the sole owner of the Protected Property in fee simple and has the right and the ability to grant and convey this Easement to the Grantee. The Protected Property is free and clear of all encumbrances other than those subordinated to this Easement.

**Consent to Easement by Lien Holder:**

(Name of Person or Institution)

of \_\_\_\_\_ being the owner

(Address)

and holder of a certain \_\_\_\_\_

(Lien, mortgage, and contract, etc.)

which is \_\_\_\_\_

(Insert recording data: doc number, volume, page, etc.)

against said premises, does hereby join in and consent to said conveyance free of said lien.



**ACCEPTANCE**

\_\_\_\_\_ [ Name of Grantee], by a resolution of its Town Board adopted at a duly convened meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ hereby accepts this Conservation Easement.

**TOWN OF BLOOMER**

By: \_\_\_\_\_  
Chairperson

Attest: \_\_\_\_\_  
Clerk

STATE OF WISCONSIN )  
 ) ss.  
\_\_\_\_\_ COUNTY )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above-named Chairman and Clerk to me known to be the person who executed the foregoing instrument and acknowledged the same.

	Signature of Notary Public
	Typed Name of Notary Public
	Notary Public, State of Wisconsin My Commission (expires) (is) _____

This Instrument Drafted By:  
Attorney William G. Thiel  
Eau Claire, Wisconsin

## **SCHEDULE OF EXHIBITS**

- A. Legal description of the Protected Property
- B. Property Map and Description of Zones

Conservation Easement.pages