



WC3206259-009

Heritage Reserve Holdings, L.L.C.
Stormwater Facilities Operation,
Inspection & Maintenance Agreement
Document Title

NE24

000032 SEP 21 2004

3206259

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

09-21-2004 8:26 AM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 20.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 9

Recording Data

Return to:

Village of Menomonee Falls
Department of Community Development
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051

Parcel Identification # (PIN)

93.947 & 93.947.001

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MNFV 27
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STORMWATER FACILITIES OPERATION, INSPECTION, & MAINTENANCE AGREEMENT

Village of Menomonee Falls

THIS AGREEMENT is between Heritage Reserve Holdings, L.L.C. and Sherwood Development, L.L.C. ("Property Owner"), and the Village of Menomonee Falls, (the "Village"). It is based upon the following:

- A. The Property Owner is the owner of certain real property (the "Property") located in the Village of Menomonee Falls, and which is further described in Exhibit "A".
- B. The Property Owner has entered into a Developers Agreement with the Village dated April 4, 2003 ("Development Agreement").
- C. The Property Owner intends to have the Property graded by the Village pursuant to the Development Agreement and the Grading Plan approved by the Village (the "Plan") as shown in Exhibit "B".
- D. The health, safety, and welfare of the residents of Menomonee Falls, Wisconsin, require that on-site Stormwater Management Facilities be provided on the Property.
- E. The Plan provides for the construction of any detention basin, retention basin, outlet structures, inlet structures, storm sewer, underground storage facility, swales, berms or any structure and grading associated with stormwater management (the "Stormwater Management Facilities") within the confines of the Property.
- F. The Village requires that on-site Stormwater Management Facilities as shown on the Plan be constructed (except to the extent of the Villages responsibilities per the Development Agreement), operated and adequately maintained by the Property Owner.

NOW, THEREFORE, based on the above, the parties agree as follows:

1. The on-site Stormwater Management Facilities shall comply with the policy outlined in the Village "Stormwater Management Guidelines," and with the Milwaukee Metropolitan Sewage District "Stormwater Rules, Chapter 13 of the MMSD Rules and Regulations," and shall be constructed by the Village of Menomonee Falls in compliance with Village approved plans and specifications identified in the Plan.
2. The Village of Menomonee Falls shall complete an as-built plan of the Stormwater Management Facilities within thirty (30) days of completion of the Village's work under the Development Agreement. The as-built plan will be used by the Village to determine if the Stormwater Management Facilities are constructed according to the Village approved plans. The Stormwater Management Facilities will be considered complete by the Village upon the Village's approval of the as-built plan.
3. The Property Owner shall not construct, place or allow or suffer the construction or placement of structures or improvements within the Stormwater Management Facilities that affect the operation of the facilities, or that alter the elevations and slopes from those designed, established and constructed, without the specific written approval of the Village.
4. The Property Owner shall adequately maintain the Stormwater Management Facilities. Adequate maintenance is defined as good working condition so that these facilities are performing their designed functions. The Property Owner must inspect the Stormwater Management Facilities within 24 hours of a 2 year storm event (2.6" of rain within a period of 24 hours).
5. The Property Owner shall hire a licensed professional engineer to inspect the Stormwater Management Facilities and submit an inspection report biannually to the Village as proof of compliance. The Village approved Biannual Inspection Report form shall be used to determine the condition of the facilities. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facility such as berms, outlet structure, pond areas, access roads, etc. The conditions shall be noted in the inspection report.

6. The Property Owner will perform or otherwise be responsible for any work necessary to keep the Stormwater Management Facilities in good working order . This obligation includes making all the necessary repairs and/or improvements to correct damages, both natural and man made; and to resolve any citizen complaints related to the "Property Owners" obligations under this agreement. If deficiencies or damages are noted in the inspection report provided to the Village under ¶5 or if complaints are reported to the Village related to the "Property Owners" obligations under this agreement, the Property Owner has thirty (30) days from the date of the report or complaint to take appropriate measures to correct any deficiencies or damages and respond to citizen complaints. The Property Owner shall promptly advise the Village of the actions taken to respond to, address or correct any deficiencies or complaints.
7. The Property Owner hereby grants permission to the Village, its authorized agents and employees, to enter upon the Property and to inspect the Stormwater Management Facilities whenever the Village deems necessary.
8. If the Property Owner fails to inspect the Stormwater Management Facilities as required, or maintain the Stormwater Management Facilities in good working condition acceptable to the Village and make all the necessary repairs and/or improvements to correct damages, both natural and man made, and to resolve any complaints related to the "Property Owners" obligations under this agreement, the Village, upon thirty (30) days written notice to the Property Owner, may enter upon the Property and take whatever steps necessary to correct deficiencies. In addition, if the Village performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Village shall be empowered without notice of public hearing, to impose a special charge for the cost of said work upon the Property Owner payable at the next succeeding tax bill.
9. This Agreement imposes no liability of any kind whatsoever on the Village. The Property Owner agrees to indemnify and hold harmless the Village, its board members, employees, agents, and officers from any costs, damages, loss, claim, suit, liability or award which may arise, come, be brought or incurred or assessed because of the existence of any action or failure to act with respect to the storm water facilities on the Property or because of any adverse effect upon any person or property related or alleged to be related to the Stormwater Management Facilities from any liability if the Stormwater Management Facilities fail to operate properly. The Village shall have the right to defend any such claim and the Property Owner shall reimburse the Village for any and all cost and/or expenses, including but not limited to attorney's fees, which the Village may incur as a result of such claims.
10. This Agreement shall be recorded With the Register of Deeds Waukesha County, Wisconsin, and shall constitute a covenant running with the land, and shall be binding on both parties, their successors or assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of 17 day of September, 2004.

HERITAGE RESERVE HOLDINGS L.L.C., DEVELOPER

By: Bruce D. Behling
BRYCE D. BEHLING

Typed/Printed Name

PRESIDENT

Title

STATE OF WISCONSIN)

) SS

Waukesha COUNTY)



By: _____

Typed/Printed Name

Personally came before me this 17 day of September, 2004, the above named Bruce D. Behling and _____, the President and _____ of Heritage Reserve Holdings, L.L.C., to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Matthew A. Carran

Notary Public, Wisconsin

My commission 7-22-07

SHERWOOD DEVELOPMENT, L.L.C.

By: Bruce D. Behling
BRYCE D. BEHLING

Typed/Printed Name

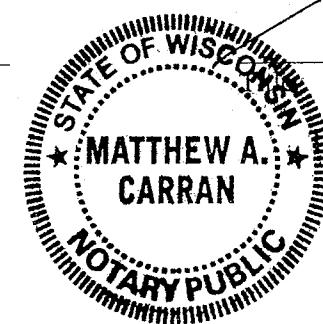
PRESIDENT

Title

STATE OF WISCONSIN)

) SS

Waukesha COUNTY)



By: _____

Typed/Printed Name

Personally came before me this 17 day of September, 2004, the above named Bruce D. Behling and _____, the President and _____ of Sherwood Development, L.L.C., to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Matthew A. Carran

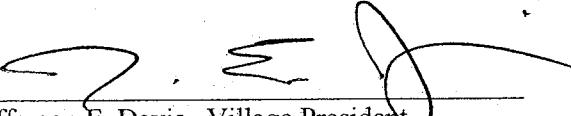
Notary Public, Wisconsin

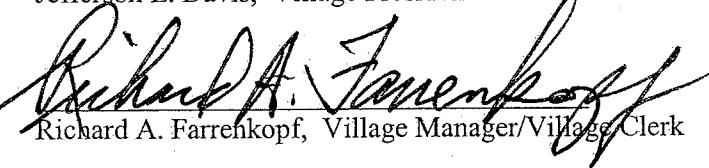
My commission 7-22-07

000014 SEP 21 2004

Approved by the Board of Trustees of the Village of Menomonee Falls, this 20 day of
September, 2004.

VILLAGE OF MENOMONEE FALLS


Jefferson E. Davis, Village President


Richard A. Farrenkopf, Village Manager/Village Clerk

This instrument was drafted by
The Village of Menomonee Falls
Thomas M. Hoffman, PE
Date: June 21, 2004

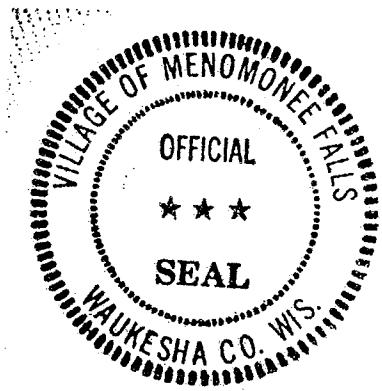


EXHIBIT A

DEVELOPER'S LAND

Parcel No.	Tax ID Number	Legal Description
1	0093-947	Parcel 1 of Certified Survey Map No. 2413, recorded on October 23, 1975, in Volume 17 of Certified Survey Maps, on Pages 232-235, as Document No. 928387, being a part of the Northeast 1/4 of Sec 24, T8N, R20E, Village of Menomonee Falls, County of Waukesha, State of Wisconsin.
2	0093-947-001	Parcel 2 of Certified Survey Map No. 2413, recorded on October 23, 1975, in Volume 17 of Certified Survey Maps, on Pages 232-235, as Document No. 928387, being a part of the Northeast 1/4 of Sec 24, T8N, R20E, Village of Menomonee Falls, County of Waukesha, State of Wisconsin.



NEZ4

Village of Menomonee Falls

W156 N8480 Pilgrim Road

Menomonee Falls, WI 53051-3140

Telephone: (262) 532-4200 Fax: (262) 532-4219

October 22, 2004

Heritage Reserve Holdings, LLC
100 Heritage Reserve
Menomonee Falls, WI 53051

Attn: Bruce Behling

**Re: Municipal Utility Easements
Stormwater Retention Easements
Stormwater Facilities Operation, Inspection & Maintenance Agreement
Tax Key Nos. 93.947
93.947.001**

Dear Mr. Behling,

Please find enclosed a recorded copy of the Municipal Utility Easement, Stormwater Retention Easement, and Stormwater Facilities Operation, Inspection & Maintenance Agreement for your records. It contains recording information showing proof of recording by the Waukesha County Register of Deeds.

Should you have any questions or require additional information, please do not hesitate to contact either Tom Hoffman at (262) 532-4415 or myself at (262) 532-4418.

Sincerely,
VILLAGE OF MENOMONEE FALLS

Linda I. Losiniecki
Administrative Assistant III

Enclosures

Cc: Arlyn R. Johnson, Director of Engineering Services
Thomas M. Hoffman, PE Sr. Civil Engineer
Frank J. Gebauer, Civil Engineer I
Dave Bate, Financial Services
Vault
File