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WC3220142-010

DETENTION POND
MAINTENANCE AGREEMENT

3220142

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

11-04-2004 2:19 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 22.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 10

kwiktag® 012 773 603



Recording Data

Return to:

Village of Menomonee Falls
Engineering Services
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051

Overlook Trail Subdivision

MNFV Due 29
10

Tax Key No. MNFV 58.995
58.997
58.998

AGREEMENT

This Agreement, made and entered into this 5th day of ~~April~~ July, 2004, by and between **SHADY LANE DEVELOPMENT, INC.**, here-in-after referred to as "**DEVELOPER**", and the **VILLAGE OF MENOMONEE FALLS**, a Municipal Corporation, located in the County of Waukesha and the State of Wisconsin, here-in-after referred to as "**VILLAGE**".

WITNESSETH:

WHEREAS, DEVELOPER is the owner of certain lands located in the Northwest Quarter (NW ¼) of Section 15, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin identified as Outlot 1 in **OVERLOOK TRAIL**, a recorded subdivision, and further shown in **Exhibit "A"** attached hereto, and which is here-in-after referred to as the "**PROPERTY**"; and

WHEREAS, the **VILLAGE** has approved the plat of **OVERLOOK TRAIL** and the construction of storm water detention basins on the **PROPERTY**; and

WHEREAS, the **DEVELOPER** hereby warrants and represents that it is the owner in fee of the real estate described above, and that this real estate is free and clear of all liens and encumbrances. The **DEVELOPER** together with its respective heirs, personal representatives, and assigns, by separate document has granted unto the said Village of Menomonee Falls and its assigns, permanent and perpetual easements for storm water detention basins and related facilities, including storm sewer inlets and manholes.

The easement rights granted herewith include the right to build, construct, operate, inspect, maintain, repair, reconstruct and enlarge any and all presently existing and hereinafter constructed facilities, and the right of entry in, across, beneath, and above the real estate here-in-after more particularly described in **Exhibit "B"**; and

WHEREAS, DEVELOPER as a part of the development of the **OVERLOOK TRAIL** Subdivision, has granted an easement for the storm water detention areas and has constructed storm water detention basins within the said easement on the **PROPERTY**; and

WHEREAS, the hydraulic volume design calculations of the said detention basins includes the easement areas, and requires the establishment of certain elevations and slopes in the easement areas of the **PROPERTY**; and

WHEREAS, the **VILLAGE** finds it necessary to insure that the design volume of the detention basins is not reduced by changes in the established elevations and slopes in the easement areas on the **PROPERTY**; and

WHEREAS, the **DEVELOPER** intends to establish a Homeowner's Association which is primarily responsible for the maintenance of the landscaping thereon, and the maintenance of the stormwater detention basins within the **PROPERTY**; and

WHEREAS, the **VILLAGE** intends to reserve the right to enforce the requirement that the

stormwater detention basin areas within said easements are maintained in a manner consistent with the lands maintained by the individual residents of **OVERLOOK TRAIL**.

NOW THEREFORE, in consideration of the mutual covenants and agreements,
IT IS AGREED, as follows:

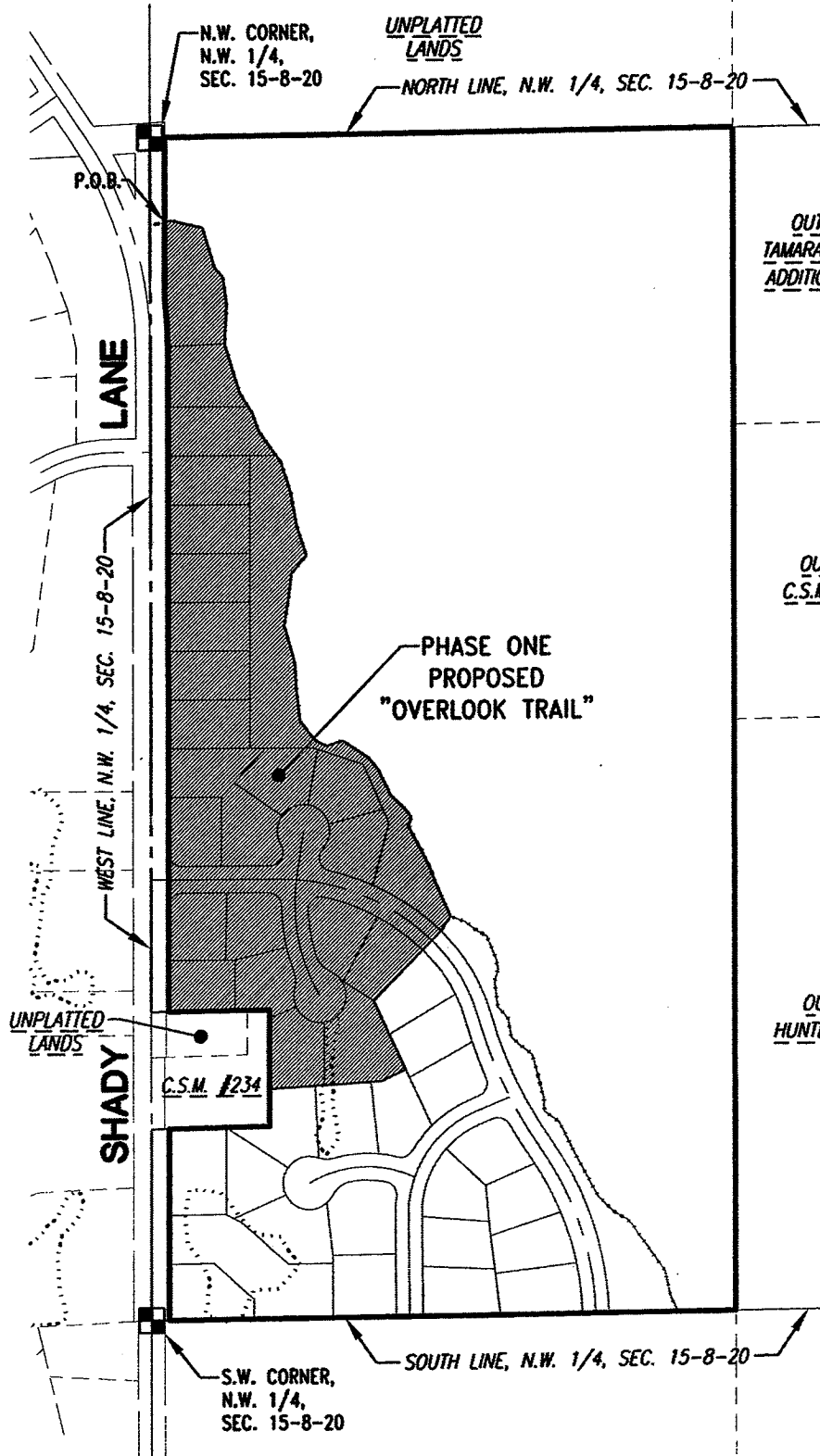
1. Each lot in **OVERLOOK TRAIL AND ANY FUTURE SUBDIVISION OF OUTLOT 3 IN OVERLOOK TRAIL** shall have attached to it an equal and undividable ownership in Outlot 1 within the **PROPERTY** and each and every lot owner shall be considered the "**OWNER**" of the stormwater detention basins in Outlot 1 within the **PROPERTY**. Subject to the other terms of the agreement, the Homeowner's Association shall, as the agent of the **OWNER**, thereafter be primarily responsible for the landscaping and the maintenance of the stormwater detention basins located on the **PROPERTY**. If the Homeowners Association is never created, is not responsive, or is dissolved, then the **OWNER** shall be responsible for all obligations in this agreement.
2. The elevations and slopes that have been established in the storm water detention easements on the **PROPERTY**, as identified on **Exhibit "C"**, shall not be altered from those designed, established and constructed, without the specific written approval of the **VILLAGE**.
3. No Structure of any type will be allowed within the aforesaid easements.
4. Before either may plant trees or shrubs in the aforesaid easements, the **OWNER** or Homeowner's Association must obtain a permit from the Village of Menomonee Falls Department of Public Works. The Department of Public Works shall have the right to determine which species of trees and shrubs are or are not appropriate for planting within the aforesaid easements. Neither the **OWNER** nor Homeowners Association may plant shrubs or trees in the easements, unless approved by the **VILLAGE**.
5. The easement areas shall be maintained in a manner consistent with the lands maintained by the individual residents of **OVERLOOK TRAIL**. This includes the obligation to maintain the slopes and elevations at the originally designed, established and constructed elevations and slopes within the easement areas; to and make all the necessary repairs and/or improvements to correct damages, both natural and man made; and to resolve any complaints.
6. Should the **VILLAGE** find that the aforesaid elevations and slopes have been altered, changed or for any reason deviate from those designed, established and constructed; or, if structures are found in the aforesaid easements; or, if shrubs or trees which have not been approved by the **VILLAGE** have been planted in the aforesaid easements; or, if the easement areas are not being maintained in a manner consistent with the lands maintained by the individual residents of **OVERLOOK TRAIL**, the Homeowner's Association shall be responsible for the cost and expense of returning the slopes and elevations to the originally designed, established and constructed elevations and slopes; removing structures; removing inappropriate shrubs or trees; and maintaining Outlot 1 in a manner consistent with the lands maintained by the individual residents of **OVERLOOK**

TRAIL.

7. If the Homeowner's Association does not return the slopes and elevations to the originally designed, established and constructed elevations and slopes; or remove structures or inappropriate shrubs or trees, or maintain the easement area in a manner consistent with the lands maintained by the individual residents of **OVERLOOK TRAIL**, the **VILLAGE** shall have the authority, upon thirty (30) days written notice to the **OWNER** or Homeowner's Association to complete said work as described above. In addition, the **VILLAGE** shall be empowered without notice of public hearing, to impose a special assessment for the cost of said work upon each and every lot within **OVERLOOK TRAIL AND ANY FUTURE SUBDIVISION OF OUTLOT 3 IN OVERLOOK TRAIL**, payable with the next succeeding tax roll.
8. Each and every lot owner within **OVERLOOK TRAIL AND ANY FUTURE SUBDIVISION OF OUTLOT 3 IN OVERLOOK TRAIL** shall be jointly and severally liable for any expense or cost incurred by the **VILLAGE** to preserve, maintain, or restore Outlot 1, or landscaping thereon. The **VILLAGE** shall be empowered, without notice of hearing, to levy a special assessment against each lot owner within **OVERLOOK TRAIL AND ANY FUTURE SUBDIVISION OF OUTLOT 3 IN OVERLOOK TRAIL**, and each and every lot owner agrees to pay for any such special assessment for expenses incurred by the **VILLAGE**.
9. **DEVELOPER, OWNER** and Homeowner's Association agree 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 detention basins, and the storm water easements on the **PROPERTY** or because of any adverse effect upon any person or property related or alleged to be related to the storm water detention basins and storm water easement. The **VILLAGE** shall have the right to defend any such claim and **DEVELOPER, OWNER** and Homeowner's Association 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. The rights and obligations created by this Agreement shall be covenants running with All Lots within **OVERLOOK TRAIL AND ANY FUTURE SUBDIVISION OF OUTLOT 3 IN OVERLOOK TRAIL** and shall inure to the benefit of, and be binding upon, the parties, their heirs, personal representatives, successors and assigns.

EXHIBIT "A"

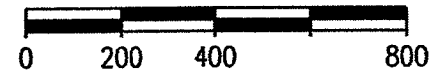
OF:
PHASE ONE OF
PROPOSED "OVERLOOK TRAIL" SUBDIVISION
MENOMONEE FALLS, WISCONSIN



OUTLOT 1
TAMARACK HILLS
ADDITION NO. 1



SCALE: 1" = 400'



OUTLOT 1
C.S.M. #4589

LOSIK ELLENA
DESIGN GROUP

3815 N. Brookfield Road Ste. 201
Brookfield, WI 53045

Phone: (262) 790-1490
Fax: (262) 790-1481
E-mail: ledg@bizwlr.com

OUTLOT 2
HUNTERS' RIDGE



595/01016-01/885DEX01.

EXHIBIT "B"

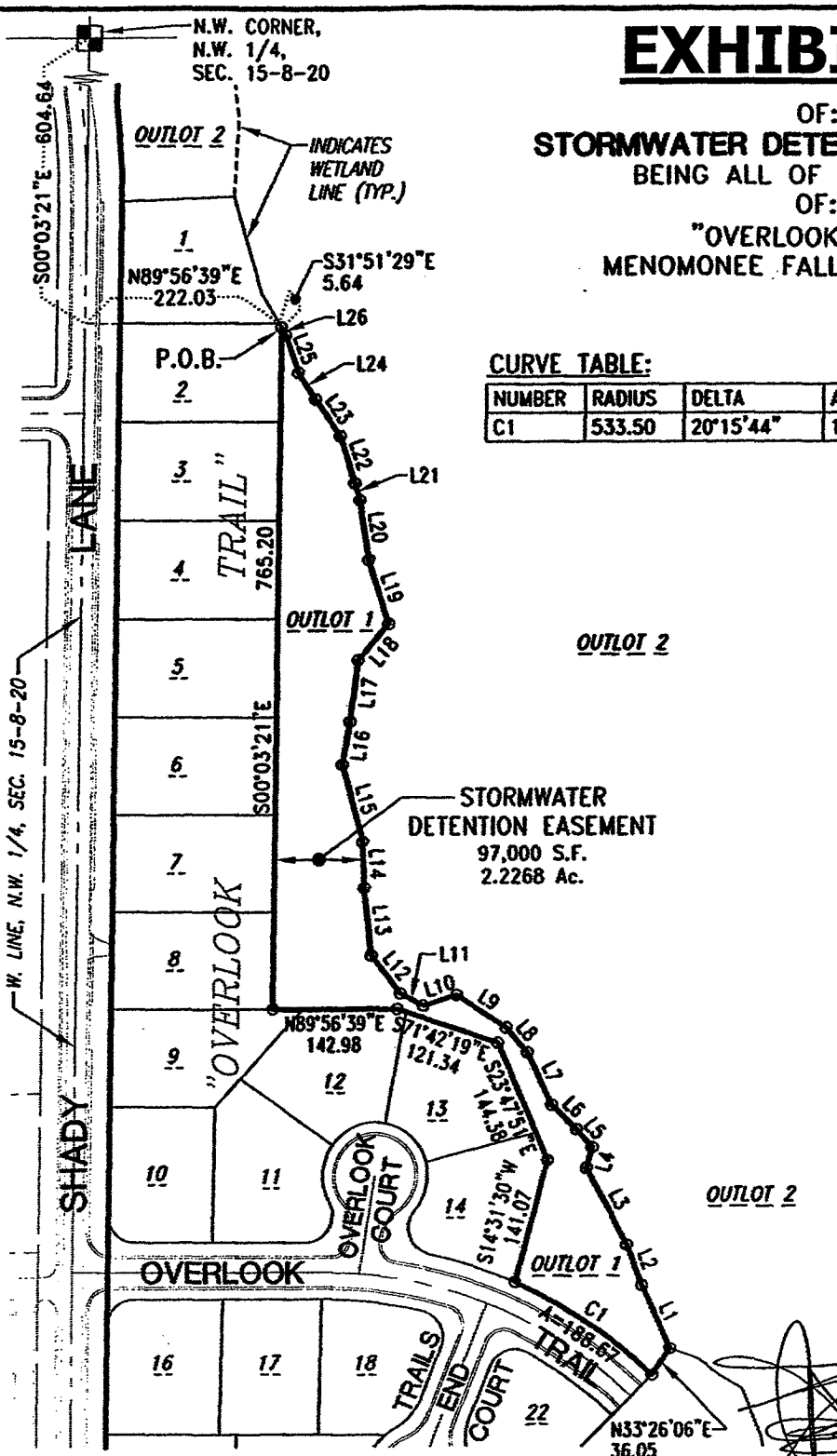
OF:
STORMWATER DETENTION EASEMENT
 BEING ALL OF "OUTLOT 1"
 OF:
 "OVERLOOK TRAIL"
 MENOMONEE FALLS, WISCONSIN

CURVE TABLE:

NUMBER	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	533.50	20°15'44"	188.67	187.69	S56°12'30"E

LINE TABLE:

NO.	DIRECTION	DISTANCE
L1	N24°44'03"W	77.51
L2	N21°12'28"W	48.79
L3	N28°17'03"W	97.93
L4	N15°46'31"E	23.76
L5	N41°03'46"W	27.17
L6	N46°09'31"W	39.64
L7	N25°49'56"W	66.05
L8	N41°26'09"W	36.83
L9	N56°45'54"W	67.39
L10	S72°18'44"W	39.96
L11	N62°16'19"W	29.77
L12	N38°10'09"W	54.48
L13	N06°48'34"W	77.42
L14	N02°47'02"W	52.42
L15	N15°37'39"W	90.54
L16	N09°17'03"E	49.33
L17	N06°59'20"E	69.19
L18	N40°07'17"E	53.08
L19	N18°12'44"W	75.17
L20	N09°44'14"W	67.83
L21	N16°55'42"W	19.78
L22	N18°22'42"W	55.62
L23	N35°58'11"W	49.98
L24	N33°47'12"W	36.28
L25	N20°00'52"W	44.07
L26	N31°51'29"W	9.79



**LOSIK ENGINEERING
 DESIGN GROUP**

3815 N. Brookfield Road Ste. 201
 Brookfield, WI 53045

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SCALE: 1"=200'

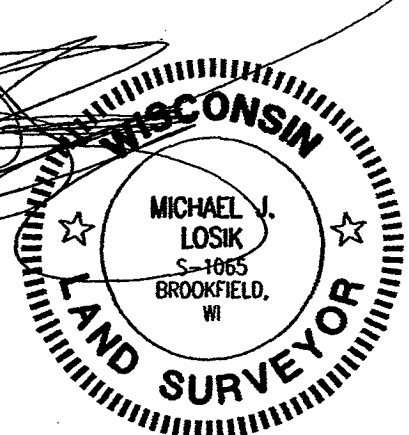
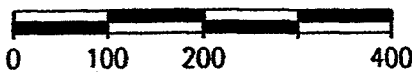


EXHIBIT "B" (CONTINUED)

OF:
**STORMWATER DETENTION EASEMENT
 BEING ALL OF "OUTLOT 1"**

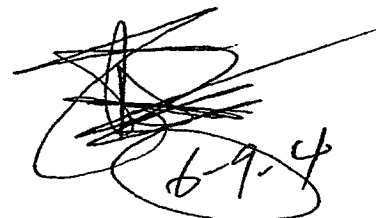
OF:
**"OVERLOOK TRAIL"
 MENOMONEE FALLS, WISCONSIN**

Legal Description:

A Stormwater Detention Easement being all of Outlot 1 of "Overlook Trail" Subdivision, being a part of the Northwest 1/4 and Southwest 1/4 of the Northwest 1/4 of Section 15, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the Northwest corner of the said Northwest 1/4 Section; Thence South 00° 03' 21" East and along the West line of the said Northwest 1/4 Section and the centerline of "Shady Lane", 604.64 feet to a point; Thence North 89° 56' 39" East and along the North line of Lot 2 of said "Overlook Trail" Subdivision and the Westerly extension thereof, 222.03 feet to a point; Thence South 31° 51' 29" East and along the East line of said Lot 2, 5.64 feet to the place of beginning of lands hereinafter described;

Thence Southerly and Easterly along the Westerly line of said Outlot 1 the following courses; Thence South 00° 03' 21" East and parallel to the said West line of the said Northwest 1/4 Section, 765.20 feet to a point; Thence North 89° 56' 39" East, 142.98 feet to a point; Thence South 71° 42' 19" East, 121.34 feet to a point; Thence South 23° 47' 51" East, 144.38 feet to a point; Thence South 14° 31' 30" West, 141.07 feet to a point on the Northeasterly Right-of-Way line of "Overlook Trail"; Thence Southeasterly 188.67 feet along the said Northeasterly Right-of-Way line and the arc of a curve, whose center lies to the Southwest, whose radius is 533.50 feet, whose central angle is 20° 15' 44", and whose chord bears South 56° 12' 30" East, 187.69 feet to a point; Thence North 33° 26' 06" East and along the Southeasterly line of said Outlot 1, 36.05 feet to a point; Thence Northwesterly along the Easterly line of said Outlot 1 the following courses; Thence North 24° 44' 03" West, 77.51 feet to a point; Thence North 21° 12' 28" West, 48.79 feet to a point; Thence North 28° 17' 03" West, 97.93 feet to a point; Thence North 15° 46' 31" East, 23.76 feet to a point; Thence North 41° 03' 46" West, 27.17 feet to a point; Thence North 46° 09' 31" West, 39.64 feet to a point; Thence North 25° 49' 56" West, 66.05 feet to a point; Thence North 41° 26' 09" West, 36.83 feet to a point; Thence North 56° 45' 54" West, 67.39 feet to a point; Thence South 72° 18' 44" West, 39.96 feet to a point; Thence North 62° 16' 19" West, 29.77 feet to a point; Thence North 38° 10' 09" West, 54.48 feet to a point; Thence North 06° 48' 34" West, 77.42 feet to a point; Thence North 02° 47' 02"

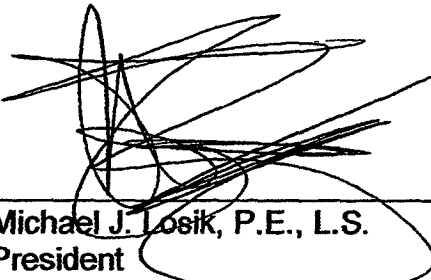


Legal Description Exhibit "B" (continued):

West, 52.42 feet to a point; Thence North 15° 37' 39" West, 90.54 feet to a point; Thence North 09° 17' 03" East, 49.33 feet to a point; Thence North 06° 59' 20" East, 69.19 feet to a point; Thence North 40° 07' 17" East, 53.08 feet to a point; Thence North 18° 12' 44" West, 75.17 feet to a point; Thence North 09° 44' 14" West, 67.83 feet to a point; Thence North 16° 55' 42" West, 19.78 feet to a point; Thence North 18° 22' 42" West, 55.62 feet to a point; Thence North 35° 58' 11" West, 49.98 feet to a point; Thence North 33° 47' 12" West, 36.28 feet to a point; Thence North 20° 00' 52" West, 44.07 feet to a point; Thence North 31° 51' 29" West, 9.79 feet to the point of beginning of this description.

Said Easement contains 97,000 Square Feet (or 2.2268 Acres) of land, more or less.

Date: 6/9/04



Michael J. Losik, P.E., L.S.
President

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SHADY LANE

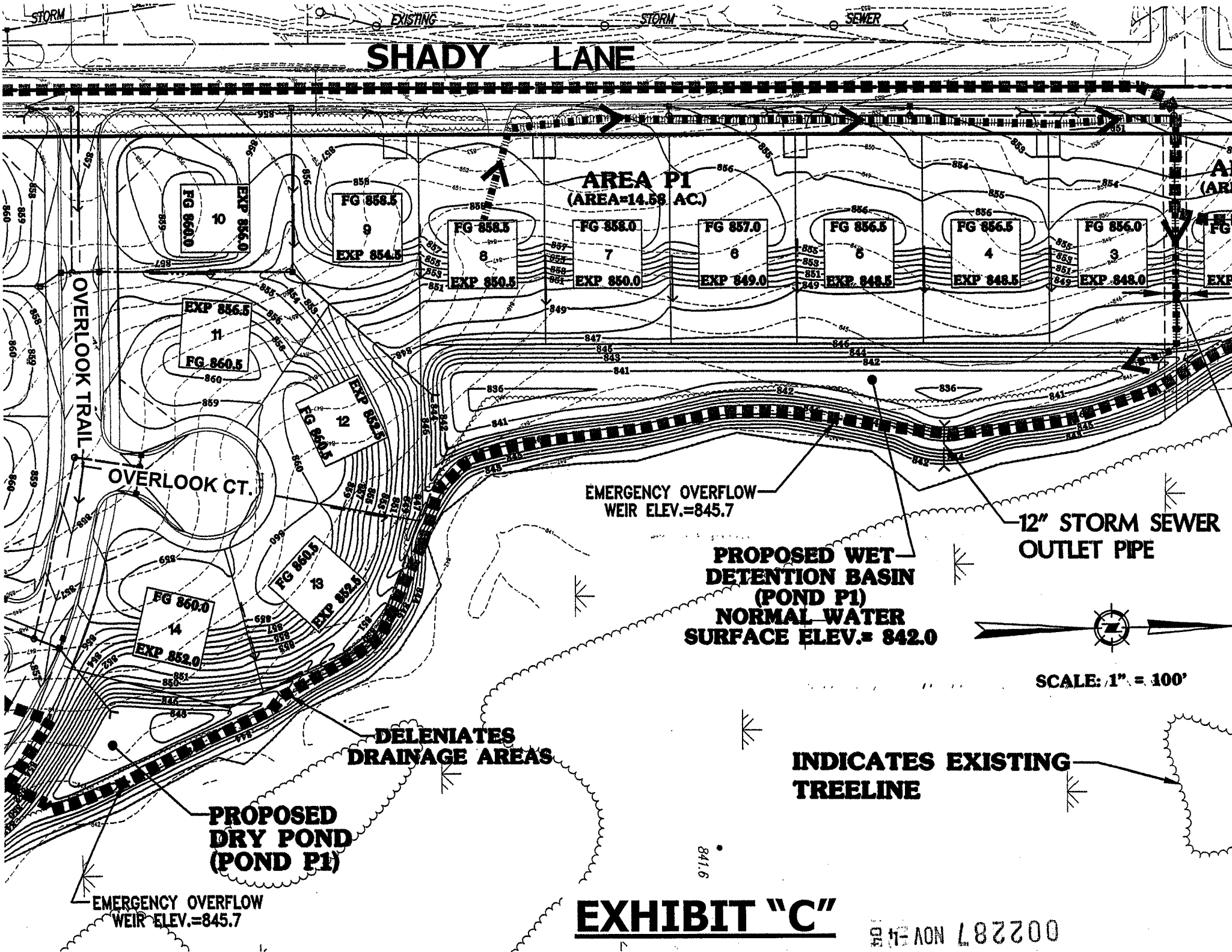


EXHIBIT "C"

NOV 14 2004