



WC3283252-008

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3283252

STORM WATER INSPECTION
AND MAINTENANCE
AGREEMENT

NW 15

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

06-07-2005 12:20 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 18.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 8

Recording Data

Return to:

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

File 2/25/8

Overlook Trail, Addition No. 1 Subdivision

Tax Key No. MNFV 58.995

STORMWATER INSPECTION AND MAINTENANCE AGREEMENT

This Agreement, made and entered into this 7th day of June, 2005, 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 4 in **OVERLOOK TRAIL ADDN. NO. 1**, 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 ADDN. NO. 1** 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 ADDN. NO. 1** Subdivision, has granted an easement for the storm water detention areas and has constructed storm water detention basins within the said easements 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 ADDN. NO. 1**.

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

1. Each lot in **OVERLOOK TRAIL ADDN. NO. 1** shall have attached to it an equal and undividable ownership in Outlot 4 within the **PROPERTY** and each and every lot owner shall be considered the "**OWNER**" of the stormwater detention basin in Outlot 4 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, maintenance, and inspection of the stormwater detention basin located on the **PROPERTY**. If the Homeowner's 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 Homeowner's 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 ADDN. NO. 1**. 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. Every five (5) years from the date of this agreement, the Homeowner's Association shall hire a licensed professional engineer to inspect and certify the storm water detention basins on the **PROPERTY** and submit an inspection report to the **VILLAGE** as proof of compliance. The Inspection Report form provided by the **VILLAGE** shall be used to determine the condition of the storm water detention basins. The purpose of the inspection is to assure safe and proper functioning of the storm water detention basins. The inspection shall cover the entire facility such as berms, outlet structures, pond areas, access roads, etc.. The conditions shall be noted in the inspection report.
7. 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 ADDN. NO. 1**, 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 the easement areas in a manner consistent with the lands maintained by the individual residents of **OVERLOOK TRAIL ADDN. NO. 1**.

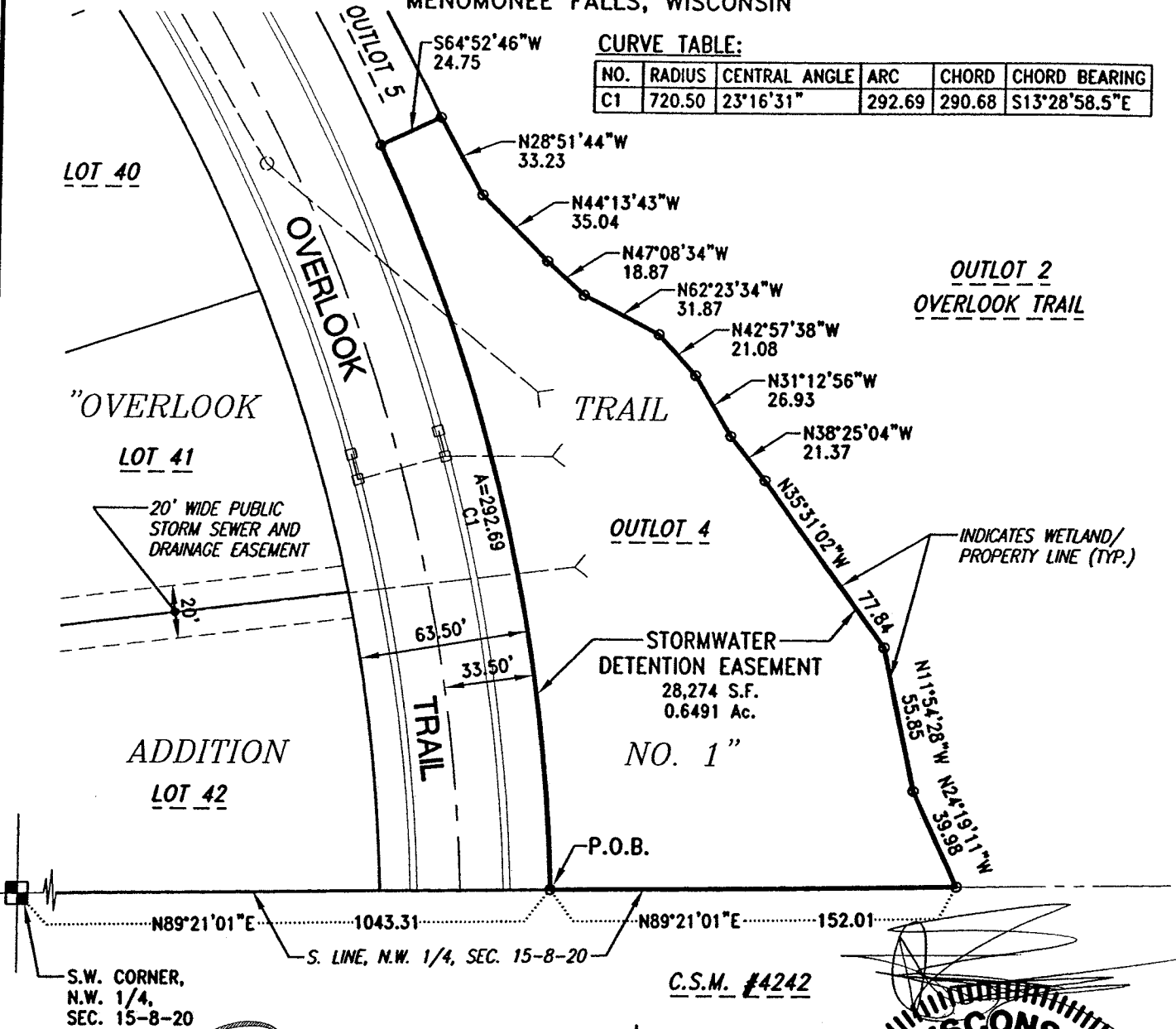
8. If the Homeowner's Association fails to conduct or submit an inspection certifying the basins; or, fails to return the slopes and elevations to the originally designed, established and constructed elevations and slopes, and make all the necessary repairs and/or improvements to correct damages, both natural and man made; 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 ADDN. NO. 1**, 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 ADDN. NO. 1**, payable with the next succeeding tax roll.
9. Each and every lot owner within **OVERLOOK TRAIL ADDN. NO. 1** shall be jointly and severally liable for any expense or cost incurred by the **VILLAGE** to inspect, preserve, maintain, or restore the aforesaid easement areas on the **PROPERTY**, or landscaping thereon. The **VILLAGE** shall be empowered, without notice of hearing, to levy a special assessment against each lot owner within **OVERLOOK TRAIL ADDN. NO. 1**, and each and every lot owner agrees to pay for any such special assessment for expenses incurred by the **VILLAGE**.
10. **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 easements. 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.
11. The rights and obligations created by this Agreement shall be covenants running with All Lots within **OVERLOOK TRAIL ADDN. NO. 1** and shall inure to the benefit of, and be binding upon, the parties, their heirs, personal representatives, successors and assigns.

EXHIBIT "B"

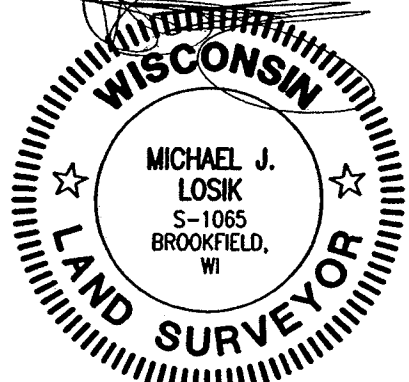
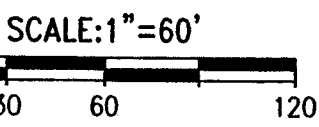
OF:
STORMWATER DETENTION EASEMENT
 BEING ALL OF "OUTLOT 4"
 OF:
 "OVERLOOK TRAIL ADDITION NO. 1"
 MENOMONEE FALLS, WISCONSIN

CURVE TABLE:

NO.	RADIUS	CENTRAL ANGLE	ARC	CHORD	CHORD BEARING
C1	720.50	23°16'31"	292.69	290.68	S13°28'58.5"E



**LOSIK ENGINEERING
 DESIGN GROUP**
 3815 N. Brookfield Road Ste. 201
 Brookfield, WI 53045
 Phone: (262) 790-1480
 Fax: (262) 790-1481
 E-mail: ledg@bizwi.rr.com

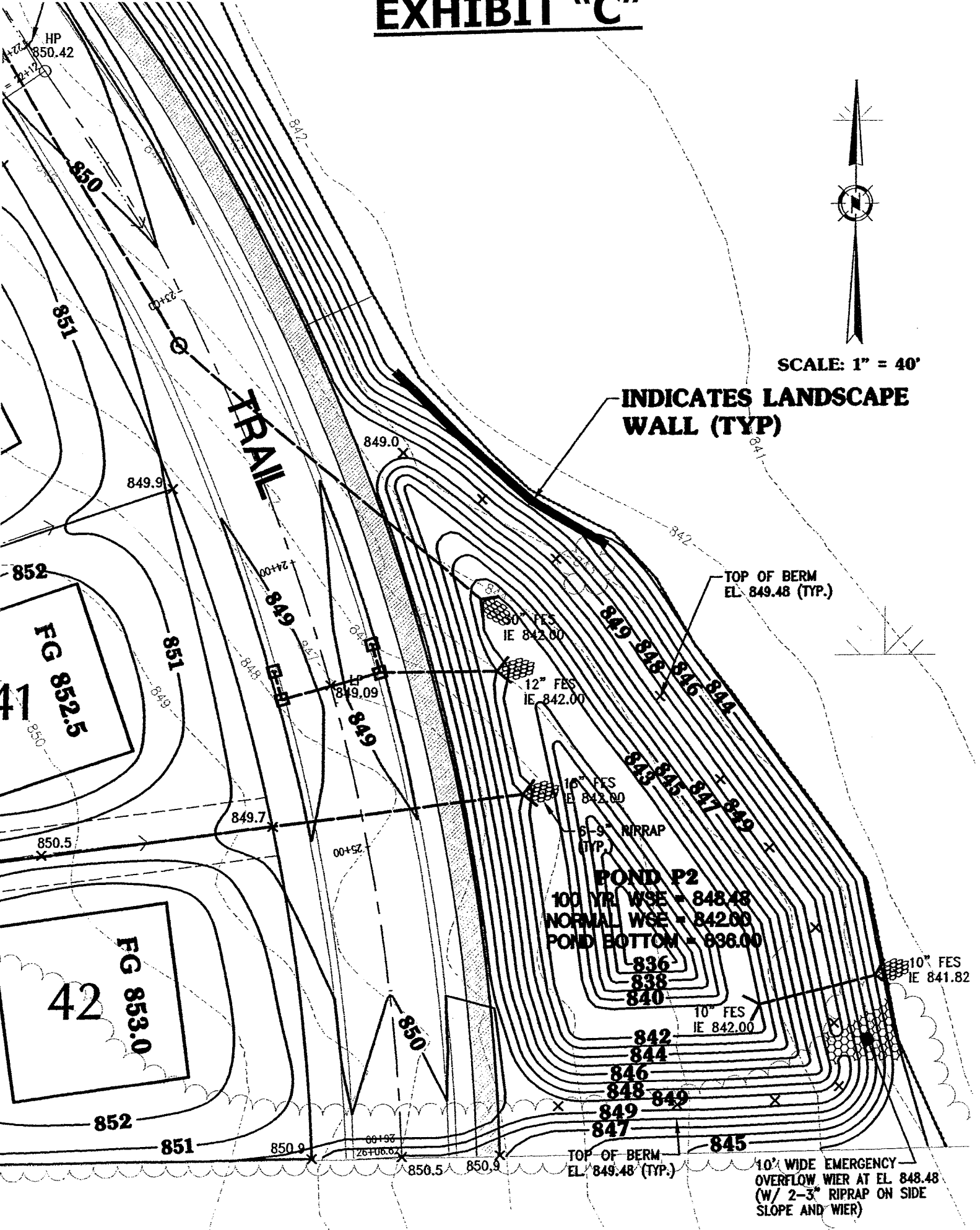


595/01016-02/885DEX02

EXHIBIT "C"



SCALE: 1" = 40'



INDICATES LANDSCAPE WALL (TYP)

TOP OF BERM
EL. 849.48 (TYP.)

POND P2
100 YR WSE = 848.48
NORMAL WSE = 842.00
POND BOTTOM = 836.00

10' WIDE EMERGENCY
OVERFLOW WIER AT EL. 848.48
(W/ 2-3" RIPRAP ON SIDE
SLOPE AND WIER)

HP
850.42

41
FG 852.5

42
FG 853.0

TRAIL

POND P2

100 YR WSE = 848.48
NORMAL WSE = 842.00
POND BOTTOM = 836.00

TOP OF BERM
EL. 849.48 (TYP.)

10" FES
IE 841.82

10" FES
IE 842.00

6-9" RIPRAP
(TYP.)

16" FES
IE 842.00

12" FES
IE 842.00

30" FES
IE 842.00

HP
850.42

41
FG 852.5

42
FG 853.0

TRAIL

POND P2

100 YR WSE = 848.48
NORMAL WSE = 842.00
POND BOTTOM = 836.00

TOP OF BERM
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10" FES
IE 841.82

10" FES
IE 842.00

6-9" RIPRAP
(TYP.)

16" FES
IE 842.00

12" FES
IE 842.00

30" FES
IE 842.00