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SW & SE 24

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WC2926931-006

STORMWATER FACILITIES
OPERATION, INSPECTION &
MAINTENANCE AGREEMENT

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

02-07-2003 2:22 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 14.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 6

DOCUMENT TITLE

Recording Data

Return to:

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

Lilly Creek Highlands II

Tax Key No. MNFV 95.996.001
Part of 96.976
Part of 96.980.002

pd
2/6

004042 FEB-78

STORMWATER FACILITIES OPERATION, INSPECTION, & MAINTENANCE AGREEMENT

Village of Menomonee Falls

THIS AGREEMENT is between Lilly Creek LLC (the "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 as follows: PARCEL 4 of CSM 2088 as recorded by deed in the land records of Waukesha County Document Number 884500, Vol. 14, Pages 309 to 314.
- B. The Property Owner intends to develop the Property pursuant to a Site Plan approved by the Village and consisting of a stormwater detention basin with connecting storm sewer and inlet with discharge structures as shown in Exhibit A (the "Plan").
- C. The health, safety, and welfare of the residents of Menomonee Falls, Wisconsin, require that on-site Stormwater Management Facilities be provided on the Property.
- D. 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.
- E. The Village requires that on-site Stormwater Management Facilities as shown on the Plan be constructed, 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 Property Owner in compliance with Village approved plans and specifications identified in the Plan.
2. Upon completion of the project, The Property Owner shall supply the Village with an as-built plan of the Stormwater Management Facilities within thirty (30) days of completion of the project. 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 accepted as complete only after the Village approves the as-built plans.
3. The Property owner shall not construct, place or allow or suffer the construction or placement of structures 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 submit a landscape proposal and diagram with vegetation types to the Village prior to planting trees or shrubs in the Stormwater Management Facilities. The Village shall have the right to determine which species of trees and shrubs are appropriate for planting within the Stormwater Management Facilities. The Property Owner shall not plant shrubs or trees in the Stormwater Management Facilities unless approved by the Village.
5. 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 design functions.

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. If deficiencies or damages are noted or if complaints are reported to the Village, 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.
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 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, 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 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 storm water detention basins 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 until such time as both the Property is platted and a subsequent stormwater management agreement is approved by the Village as part of the subdivision development of the Property.

IN WITNESS WHEREOF, P. J. BURBACH has caused this Agreement to be signed this 23 day of December, 2002.

Lilly Creek, LLC

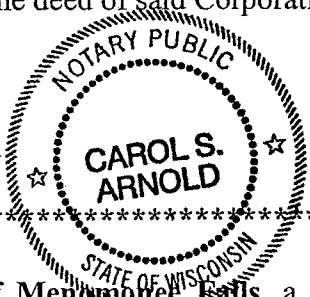
By: _____
P. J. BURBACH JR., PRESIDENT

State of Wisconsin)
 MILWAUKEE) Ss.
County of Waukesha)

Personally came before me this 23rd day of December, 2002, the above named P. J. Burbach to me known to be the person who executed the foregoing instrument in his respective official capacity as President of said corporation, and acknowledged that he executed the foregoing instrument as a corporate officer as the deed of said Corporation by its authority.

Carol S. Arnold

Notary Public
Malwaukee County, Wisconsin
My Commission Expires on 9/28/2003



IN WITNESS WHEREOF, the said Village of Menomonee Falls, a Wisconsin Municipal Corporation, has caused these presents to be signed by Joseph J. Greco, its Village President, and Countersigned by Richard A. Farrenkopf, its Village Clerk at Menomonee Falls, Wisconsin, this 2nd day of December, 2002.

VILLAGE OF MENOMONEE FALLS

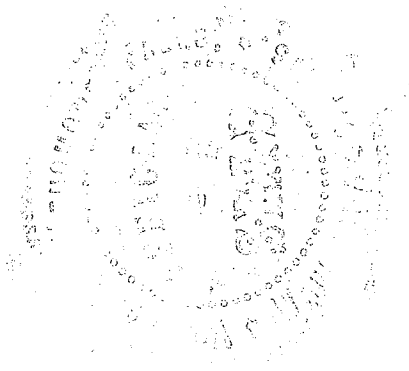
Joseph J. Greco

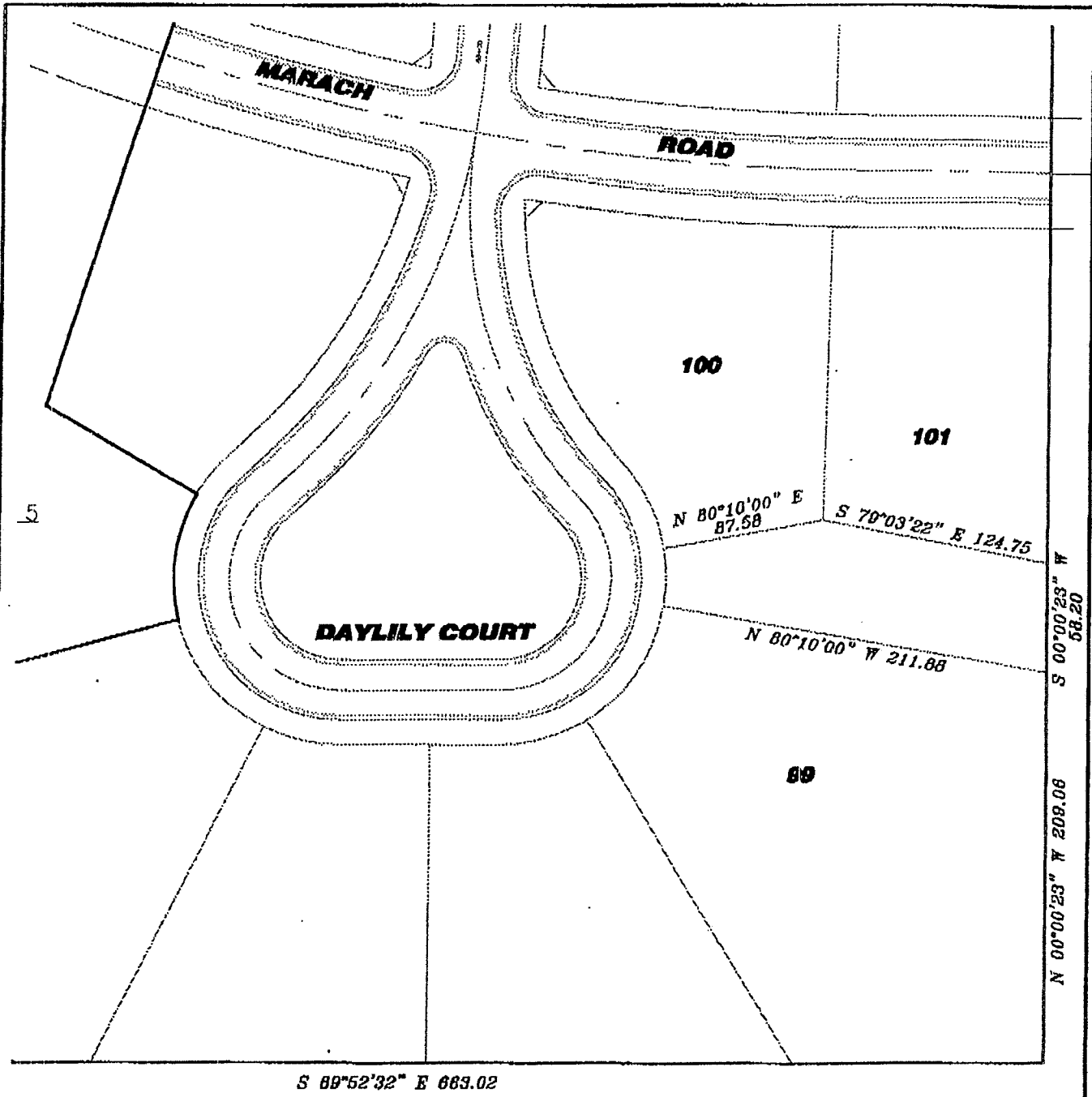
Joseph J. Greco, Village President

Richard A. Farrenkopf

Richard A. Farrenkopf, Village Clerk

This instrument was drafted by
The Village of Menomonee Falls
Jonathan M. Bretl
Date: September 23, 2002





ATTED LANDS
ANA MUCKER
ZONED R-2

UNPLATTED LANDS
RICHARD & JUDITH BLOOMBERG
ZONED PRD. R-2

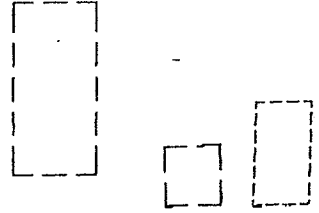


EXHIBIT A



LAND TECH ENGINEERING, INC.
 LAND PLANNING • ENGINEERING CONSULTING
 557 COTTONWOOD AVENUE, HARTLAND, WI 53028
 (262) 387-7599

LEGAL DESCRIPTION
OF A DETENTION POND

Being a part of parcel 4 of Certified Survey Map No. 2088, and being part of the Southwest $\frac{1}{4}$ and Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, and Southeast $\frac{1}{4}$ and Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 24, Town 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the Southwest corner of the Southeast $\frac{1}{4}$ of said Section 24; thence along the South line of said Southeast $\frac{1}{4}$, South $89^{\circ}52'32''$ East, 559.32 to a point; thence North $00^{\circ}00'53''$ West, 329.93 feet to a point; thence North $57^{\circ}39'21''$ East, 123.08 feet to a point; thence South $89^{\circ}52'32''$ East, 663.00 feet to a point on the west line of "River Heights North"; thence along the said west line of "River Heights North" North $00^{\circ}00'23''$ East, 209.09 feet to the point of beginning.

Thence North $80^{\circ}10'00''$ West, 211.86 feet to a point on a curve; thence along the arc of said curve 30.89, whose radius is 90.00 feet, whose center lies to the Northwest, and whose chord bears North $00^{\circ}00'00''$ West, 30.74 feet to a point; thence North $80^{\circ}10'00''$ East, 87.58 feet to a point; thence South $79^{\circ}03'22''$ East, 124.73 feet to a point on said west line of "River Heights North"; thence along said west line of "River Heights North" South $00^{\circ}00'23''$ West, 58.20 feet to the point of beginning.

Contains 0.257 acres more or less

Prepared by: Norbert F. Stachowski, RLS # S-1480



SW & SE 24

Village of Menomonee Falls

W156 N8480 Pilgrim Road

Menomonee Falls, WI 53051-3140

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

April 10, 2003

The Burbach Co.
2645 N. Mayfair Rd.
Suite 130
Wauwatosa, WI 53226

Attn: P.J. Burbach

**Re: Sanitary Sewer Easement
Storm Sewer Easement
Storm Water Detention Basin Easement
Storm Water Detention Basin Agreement
Stormwater Facilities Operation, Inspection & Maintenance Agreement
Lilly Creek Highlands II
Tax Key Nos. 95.996.001
96.976
96.980.002**

Dear Mr. Burbach,

Please find enclosed the fully executed copies of the above-mentioned documents for Lilly Creek Highlands II 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 Jon Bretl at 532-4414 or myself at 532-4418.

Sincerely,
VILLAGE OF MENOMONEE FALLS

Linda I. Losiniecki
Administrative Assistant

Enclosures

Cc: Jerome H. Brahm, Director of Engineering Services
Jonathan M. Bretl, Associate Civil Engineer
Frank J. Gebauer, Civil Engineer I
Vault