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WC3213571-011

STORM WATER DETENTION
BASINS AGREEMENT

DOCUMENT TITLE

3213571

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

10-14-2004 11:01 AM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 24.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 11

Return to:

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

Christman Crossing Subdivision

MNFV

Tax Key Nos. MNFV 0016.990
0016.989.004

104
31
11

AGREEMENT

This Agreement, made and entered into this 6th day of October, 2004, by and between **CHRISTMAN CROSSING, LLC**, hereinafter referred to as "**DEVELOPER**", and the **VILLAGE OF MENOMONEE FALLS**, a Municipal Corporation, located in the County of Waukesha and the State of Wisconsin, hereinafter referred to as "**VILLAGE**".

WITNESSETH:

WHEREAS, DEVELOPER is the owner of certain lands located in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 4, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin identified as Outlot 1 in **CHRISTMAN CROSSING**, a recorded subdivision, and further shown in **Exhibit "A"** attached hereto, and which subdivision is hereinafter referred to as the "**PROPERTY**"; and

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

WHEREAS, 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 a storm water detention basin 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 hereinafter more particularly described in **Exhibit "B"**; and

WHEREAS, DEVELOPER as a part of the development of the **CHRISTMAN CROSSING** Subdivision, has granted an easement for a storm water detention area and has constructed a storm water detention basin within the said easement on the **PROPERTY**; and

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

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

WHEREAS, the VILLAGE intends to reserve the right to enforce the requirement that the stormwater detention basin areas within said easement are maintained in a manner consistent with the lands maintained by the individual residents of **CHRISTMAN CROSSING**.

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

1. Each lot in **CHRISTMAN CROSSING** subdivision 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 basin in Outlot 1 within **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 basin 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 easement 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 easement.
4. Before either may plant trees or shrubs in the aforesaid easement, 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 easement, unless approved by the **VILLAGE**.
5. The easement area shall be maintained in a manner consistent with the lands maintained by the individual residents of **CHRISTMAN CROSSING**. This includes the obligation to maintain the slopes and elevations at the originally designed, established and constructed elevations and slopes within the easement area; 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 easement; or, if shrubs or trees which have not been approved by the **VILLAGE** have been planted in the aforesaid easement; or, if the easement area are not being maintained in a manner consistent with the lands maintained by the individual residents of **CHRISTMAN CROSSING**, 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 **CHRISTMAN CROSSING**.
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 **CHRISTMAN CROSSING**, 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 **CHRISTMAN CROSSING**, payable with the next succeeding tax roll.

8. Each and every lot owner within **CHRISTMAN CROSSING** 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 **CHRISTMAN CROSSING**, 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 parties understand that the Property is subjected to certain liens and encumbrances prior to the granting of easements on the Property. Developer shall either:
 - a. Obtain satisfaction(s) or release(s) of such liens or encumbrances in a form acceptable to the Village; or
 - b. Obtain subordination or similar agreements in a in a form acceptable to the Village subordinating any and all such liens and encumbrances to the Village subordinating any and all such liens and encumbrances to the Village interests in such public improvements.

The rights and obligations created by this Agreement shall be covenants running with all Lots within **CHRISTMAN CROSSING**, and shall inure to the benefit of, and be binding upon, the parties, their heirs, personal representatives, successors and assigns.

END OF TEXT, SIGNATURE PAGES AND EXHIBITS TO FOLLOW

IN WITNESS WHEREOF, **Christman Crossing, LLC** has caused this Agreement to be signed this 6th day of October 2004.

Christman Crossing, LLC

By: Ronald W. Crass
Ronald W. Crass, Managing Member

By: Curt Hackbarth
Curt Hackbarth, Member

By: Roger B. Christman
Roger B. Christman, Member

State of Wisconsin)
) ss.
County of Waukesha

Personally came before me this 6th day of October, 2004, the above named Ronald W. Crass, Curt Hackbarth, and Roger B. Christman, to me known to be the persons who executed the foregoing instrument in their respective official capacity as Members of CHRISTMAN CROSSING LLC, and acknowledged that they executed the foregoing instrument as corporate officers as the deed of said CHRISTMAN CROSSING LLC by its authority.

Liz Jean Madsen
Notary Public
Waukesha County, Wisconsin
My Commission Expires on 2/25/07

VILLAGE OF MENOMONEE FALLS

Approved by the Village Board of the Village of Menomonee Falls on the 4th day of October 2004.

By: Jefferson E. Davis
Jefferson E. Davis, Village President

Attest: Richard A. Farrenkopf
Richard A. Farrenkopf, Village
Manager/Clerk-Treasurer

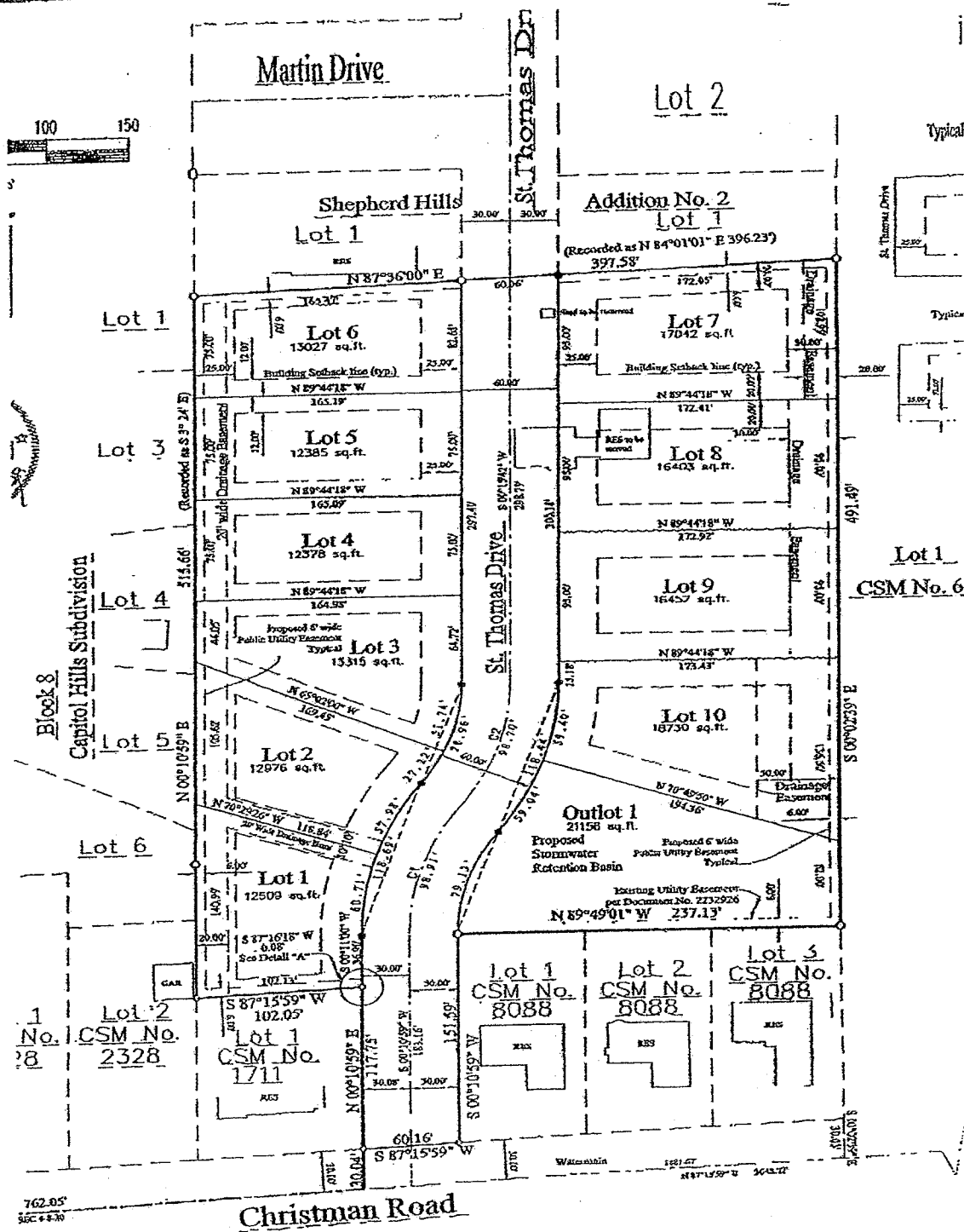
Approved as to Form: Michael J. Morse
Michael J. Morse, Village Attorney

This instrument was drafted by:
Attorney Charles W. Cousland
Godfrey & Kahn, S.C.
N21 W23350 Ridgeview Parkway
Waukesha, WI 53188



000787 OCT 14 5

EXHIBIT "A"



000789 OCT 14 6

EXHIBIT "B"

HILMER ENGINEERING, INC.

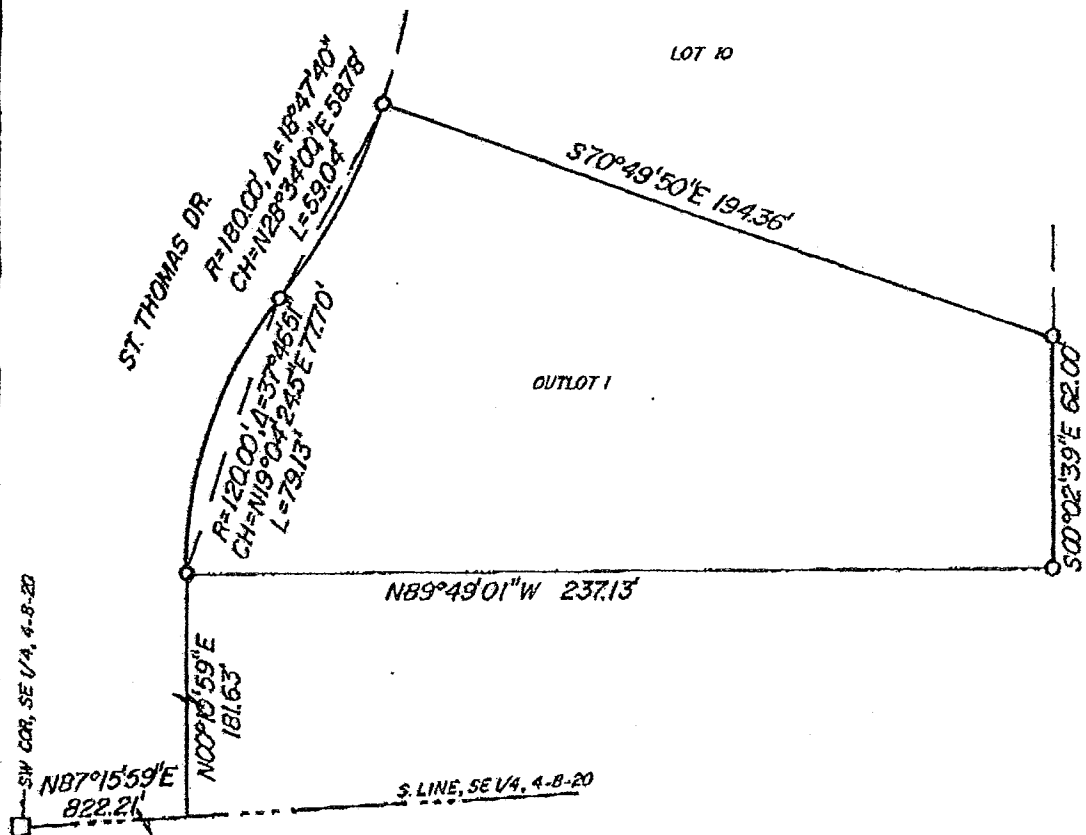
N9 W31035 CONCORD COURT
DELAFIELD, WISCONSIN 53018-2727

ENGINEERING • PERCOLATION TESTING • LAND SURVEYING

PLAT OF SURVEY # 2793

DESCRIPTION: All that part of Lot 4 of Certified Survey Map No. 8088, recorded in the office of the Register of Deeds for Waukesha County, Wisconsin on August 8, 1996, in Volume 70 of Certified Survey Maps on pages 153-155, as Document No. 2148195, and part of the Southwest Quarter of the Southeast Quarter of Section 4, Town 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin, bounded and described as follows: Commencing at the Southwest Corner of said Quarter Section 822.21 feet; thence North 87° 15' 59" East along the South line of said Quarter Section 822.21 feet; thence North 00° 10' 59" East along the East line of St. Thomas Dr. 181.63 feet to the place of beginning of the lands hereinafter described; thence Northerly 79.13 feet along the Easterly Right-of-Way Line of St. Thomas Drive and the arc of a curve having a radius of 120.00 feet and whose center lies to the East, Chord bears North 19° 04' 24.5" East 77.70 feet to a point of reverse curve; thence Northerly 59.04 feet along the Easterly Line of St. Thomas Drive and the arc of a curve having a radius of 180.00 feet and whose center lies to the West, Chord bears North 28° 34' 00" East 58.78 feet; thence South 70° 49' 50" East 194.36 feet; thence South 00° 02' 39" East 62.00 feet; thence North 89° 49' 01" West 237.13 feet to the place of beginning.

Notes:
Scale: 1"=30'.



STATE OF WISCONSIN }
COUNTY OF WAUKESHA } SS

I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION AND DIMENSIONS OF ALL VISIBLE STRUCTURES THEREON, FENCES, APPARENT EASEMENTS AND ROADWAY AND VISIBLE ENCROACHMENTS, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM DATE THEREOF.

NOT VALID
UNLESS SEAL
IS IMPRESSED
HERE

DATED AT DELAFIELD, WISCONSIN, THIS 27th DAY OF August, 2004

SIGNED: *[Signature]*

REGISTERED WISCONSIN LAND SURVEYOR NO. 904

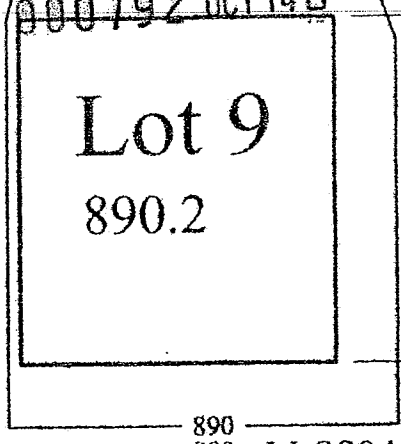


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EXHIBIT "C"

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St. Thomas Dr



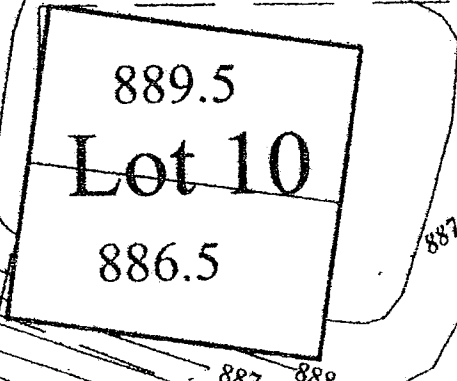
Lot 9
890.2

N 89°44'18" W

95.00'

15.10'

173.36'



889.5
Lot 10
886.5

N 70°49'33" W 194.34'

Drainage
Basement

64.63'
51.49'
79.01'

98.76'
60.00'

118.51'

59.42'

59.06'

79.17'

Outlot 1

Proposed
Stormwater
Retention Basin

62.00'

N 89°49'01" W 237.13'

Lot 1
CSM No.

Lot 2
CSM No.

Lot 3
CSM No.
8088

