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Document No.

STORM WATER
DETENTION BASIN
AGREEMENT

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

06-24-2004 12:39 PM

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



WC3178268-009

Recording Data

Return to:

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

Lilly Creek Highlands III

Tax Key No. MNFV 0096.980.003

AGREEMENT

This Agreement, made and entered into this 19th day of April, 2004, by and between **LILLY CREEK LLC**, 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 Southwest Quarter (SW1/4) and Southeast Quarter (SE1/4) of Section 24, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin identified as Outlot 7 in the **LILLY CREEK HIGHLANDS III**, a recorded subdivision, and further shown in **Exhibit "A"** attached hereto, and which subdivision is here-in-after referred to as the "**PROPERTY**"; and

WHEREAS, the VILLAGE has approved the plat of **LILLY CREEK HIGHLANDS III** 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 hereinafter described and that said 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 **LILLY CREEK HIGHLANDS III**, 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, landscape easements, including Outlot 6 and Outlot 7 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 **LILLY CREEK HIGHLANDS III**.

NOW THEREFORE, in consideration of the mutual covenants and agreements,

IT IS AGREED, as follows:

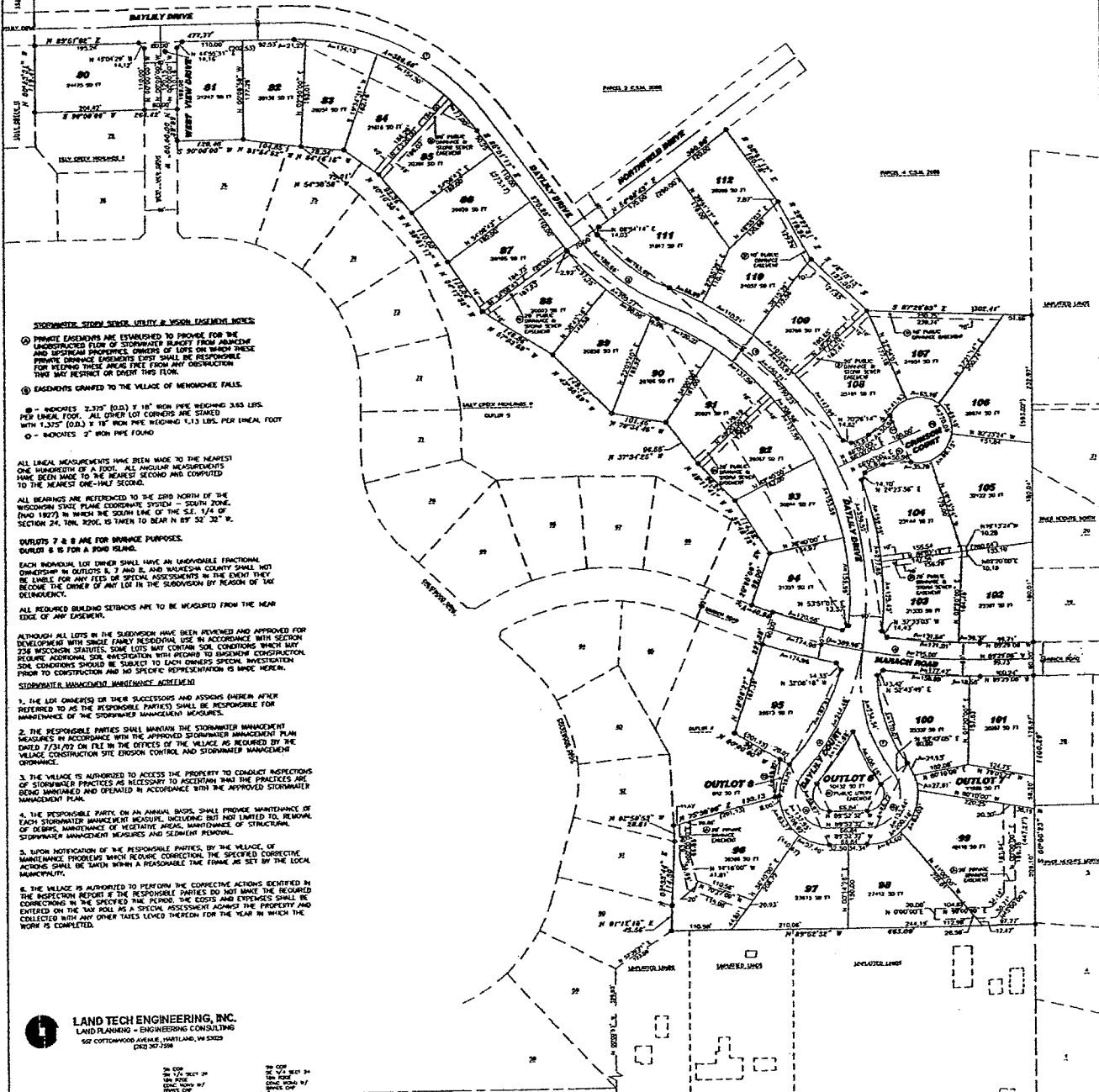
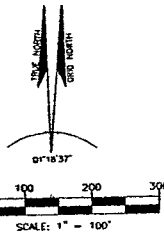
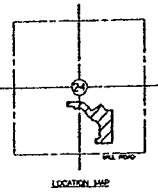
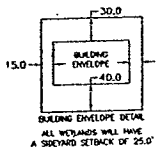
1. Each lot in **LILLY CREEK HIGHLANDS III** subdivision shall have attached to it an equal and undividable ownership in Outlot 6, Outlot 7 and Outlot 8 within the **PROPERTY** and each and every lot owner shall be considered the "**OWNER**" of the stormwater detention basins in Outlot 7, as well as Outlot 6 and Outlot 8 within **PROPERTY**.
2. 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 Outlot 6, Outlot 7, outlot 8, and all landscape easements 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.
3. The elevations and slopes that have been established in the stormwater detention basin 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**.
4. No Structure of any type will be allowed within the aforesaid easements.
5. The **OWNER** or Homeowner's Association shall obtain a permit from the Village of Menomonee Falls Department of Public Works prior to planting trees or shrubs in the aforesaid easements. 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**.
6. The landscape easement areas, stormwater detention ponds, and all outlots shall be maintained in a manner consistent with the lands maintained by the individual residents of **LILLY CREEK HIGHLANDS III**. 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.
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 landscape easement areas, stormwater detention basins, or Outlot 6 and Outlot 8 are not being maintained in a manner consistent with the lands maintained by the individual residents of **LILLY CREEK HIGHLANDS III**, 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 6, Outlot 7, Outlot 8, and all landscape easements in a manner consistent with the lands maintained by the individual residents of **LILLY CREEK HIGHLANDS III**.

8. 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 landscape easement areas, Outlot 6, Outlot 7, and Outlot 8 in a manner consistent with the lands maintained by the individual residents of **LILLY CREEK HIGHLANDS III**, the **VILLAGE** shall have the authority, upon thirty (30) days written notice to the **OWNER** or Homeowner's 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 **LILLY CREEK HIGHLANDS III**, payable with the next succeeding tax roll.
9. Each and every lot owner within **LILLY CREEK HIGHLANDS III** shall be jointly and severally liable for any expense or cost incurred by the **VILLAGE** to preserve, maintain, or restore Outlot 6, Outlot 7, Outlot 8, and all landscape easements, or landscaping thereon. The **VILLAGE** shall be empowered, without notice of hearing, to levy a special assessment against each lot owner within **LILLY CREEK HIGHLANDS III**, 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 **LILLY CREEK HIGHLANDS III** and shall inure to the benefit of, and be binding upon, the parties, their heirs, personal representatives, successors and assigns.

LILLY CREEK HIGHLANDS III

BEING A PART OF PARCEL 4 OF CERTIFIED SURVEY MAP NO. 2088 AND LANDS BEING A PART OF THE NW 1/4 AND SW 1/4 OF THE SE 1/4 AND THE NE 1/4 OF THE SW 1/4 OF SECTION 24, TOWN 8 NORTH, RANGE 20 EAST, VILLAGE OF MENOMONEE FALLS, WAUKESHA COUNTY, WISCONSIN



- STORMWATER SINKING UTILITY & VISION TREATMENT NOTES:**
- 1. PRIVATE EASEMENTS ARE ESTABLISHED TO PROVIDE FOR THE UNOBSTRUCTED FLOW OF STORMWATER SUBJECT FROM IMPROVEMENT AND STRUCTURAL PROPERTIES, OWNERS OF LOTS ON WHICH THESE PRIVATE DRAINAGE EASEMENTS EXIST SHALL BE RESPONSIBLE FOR MAINTAINING THESE AREAS FREE FROM ANY OBSTRUCTION THAT MAY RESTRICT OR OVERTHIS FLOW.
 - 2. EASEMENTS GRANTED TO THE VILLAGE OF MENOMONEE FALLS.
 - - INDICATES 2.375" (0.03) x 18" HIGH PIPE HAVING 3.05 LBS. PER LINEAL FOOT. ALL OTHER LOT CORNERS ARE STAKED WITH 1.375" (0.03) x 18" HIGH PIPE HAVING 1.13 LBS. PER LINEAL FOOT
 - - INDICATES 2" HIGH PIPE FOUND

ALL LINEAL MEASUREMENTS HAVE BEEN MADE TO THE NEAREST ONE HUNDREDTH OF A FOOT. ALL ANGULAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST SECOND AND COMPUTED TO THE NEAREST ONE-HALF SECOND.

ALL BEARINGS ARE REFERENCED TO THE GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM - SOUTH ZONE, (BMD 1872) IN WHICH THE COORDINATE OF THE SE. 1/4 OF SECTION 24, TOW. 8N., R. 20E. IS TAKEN TO BEAR N 89° 32' 32" W.

OUTLOTS 7 & 8 ARE FOR FINANCE PURPOSES. OUTLOT 8 IS FOR A ROAD ISLAND.

EACH INDIVIDUAL LOT OWNER SHALL HAVE AN UNDIVIDABLE FRACTONAL OWNERSHIP IN OUTLOTS 7 & 8, AND WAUKESHA COUNTY SHALL NOT BE LIABLE FOR ANY FEES OF SPECIAL ASSIGNMENTS IN THE EVENT THEY BECOME THE OWNER OF ANY LOT IN THE SUBDIVISION BY REASON OF THE DECEDENCY.

ALL REQUIRED BUILDING SETBACKS ARE TO BE MEASURED FROM THE NEAR EDGE OF ANY EASEMENT.

ALTHOUGH ALL LOTS IN THE SUBDIVISION HAVE BEEN REVIEWED AND APPROVED FOR DEVELOPMENT WITH SINGLE FAMILY RESIDENTIAL USE IN ACCORDANCE WITH SECTION 234 WISCONSIN STATUTES, SOME LOTS MAY CONTAIN SOIL CONDITIONS WHICH MAY REQUIRE ADDITIONAL SOIL INVESTIGATION WITH REGARD TO EASEMENT CONSTRUCTION. SOIL CONDITIONS SHOULD BE SUBJECT TO EACH OWNER'S SPECIAL INVESTIGATION PRIOR TO CONSTRUCTION AND NO SPECIFIC REPRESENTATION IS MADE HEREIN.

- STORMWATER MANAGEMENT AGREEMENT**
1. THE LOT OWNERS OR THEIR SUCCESSORS AND ASSIGNS (HEREIN AFTER REFERRED TO AS THE RESPONSIBLE PARTIES) SHALL BE RESPONSIBLE FOR MAINTENANCE OF THE STORMWATER MANAGEMENT MEASURES.
 2. THE RESPONSIBLE PARTIES SHALL MAINTAIN THE STORMWATER MANAGEMENT MEASURES IN ACCORDANCE WITH THE APPROVED STORMWATER MANAGEMENT PLAN DATED 1/31/02 ON FILE IN THE OFFICES OF THE VILLAGE AS REQUIRED BY THE VILLAGE CONSTRUCTION SITE EROSION CONTROL AND STORMWATER MANAGEMENT ORDINANCE.
 3. THE VILLAGE IS AUTHORIZED TO ACCESS THE PROPERTY TO CONDUCT INSPECTIONS OF STORMWATER PRACTICES AS NECESSARY TO ASCERTAIN THAT THE PRACTICES ARE BEING MAINTAINED AND OPERATED IN ACCORDANCE WITH THE APPROVED STORMWATER MANAGEMENT PLAN.
 4. THE RESPONSIBLE PARTIES SHALL PROVIDE MAINTENANCE OF EACH STORMWATER MANAGEMENT MEASURE, INCLUDING BUT NOT LIMITED TO, REMOVAL OF DEBRIS, MAINTENANCE OF VEGETATIVE BARRIERS, MAINTENANCE OF STRUCTURAL STORMWATER MANAGEMENT MEASURES AND SEDIMENT REMOVAL.
 5. UPON NOTIFICATION OF THE RESPONSIBLE PARTIES, BY THE VILLAGE OF MAINTENANCE PROBLEMS WHICH REQUIRE CORRECTION, THE SPECIFIED CORRECTIVE ACTIONS SHALL BE TAKEN WITHIN A REASONABLE PERIOD, AS SET BY THE LOCAL MUNICIPALITY.
 6. THE VILLAGE IS AUTHORIZED TO PERFORM THE CORRECTIVE ACTIONS DESCRIBED IN THE PRECEDING PARAGRAPH IF THE RESPONSIBLE PARTIES DO NOT MAKE THE REQUIRED CORRECTIONS WITHIN THE SPECIFIED PERIOD. THE COSTS AND EXPENSES SHALL BE COLLECTED ON THE TAX ROLL AS A SPECIAL ASSESSMENT AGAINST THE PROPERTY AND ENTERED ON THE TAX ROLL AS A SPECIAL ASSESSMENT FOR THE YEAR IN WHICH THE WORK IS COMPLETED.

LAND TECH ENGINEERING, INC.
 LAND PLANNING & ENGINEERING CONSULTING
 502 COTTAGEWOOD AVENUE, WAUKESHA, WI 53095
 (262) 787-2288

REVISED THIS 2ND DAY OF JANUARY, 2004
 REVISED THIS 18TH DAY OF DECEMBER, 2003
 REVISED THIS 27TH DAY OF OCTOBER, 2003
 REVISED THIS 24TH DAY OF OCTOBER, 2003
 SHEET 1 OF 3

**LEGAL DESCRIPTION
OF A PUBLIC DRAINAGE & STORM SEWER EASEMENT
IN OUTLOT 7 OF
OF LILLY CREEK HIGHLANDS III**

Being a public storm sewer and drainage easement, being Outlot 7 of Lilly Creek Highlands III, being a parcel 4 of C.S.M. No. 2088 and lands being a part of the Northwest $\frac{1}{4}$ and Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ and the 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:

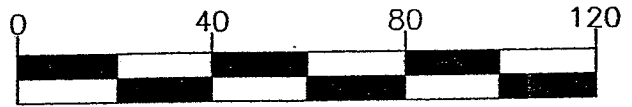
Commencing at the Southwest corner of the Southeast $\frac{1}{4}$ of Section 24, running thence South $89^{\circ}52'32''$ East, along the South line of said Section 24, 559.32 feet to the point of the Southeast corner of "Lilly Creek Highlands II", thence North $00^{\circ}00'53''$ West along the Easterly line of "Lilly Creek Highlands II", 329.93 feet to a point; thence North $57^{\circ}39'21''$ East, along the Easterly line of "Lilly Creek Highlands II", 123.08 feet to a point, Thence South $89^{\circ}52'32''$ East, 663.00 feet to a point; thence North $00^{\circ}00'23''$ East, 209.10 feet to the point of beginning.

Thence North $80^{\circ}10'00''$ West, 220.25 feet to a point on a curve, thence along the arc of said curve 27.61 feet, whose center lies to the west, whose radius is 90.00 feet and whose chord bears North $12^{\circ}38'14''$ West, 27.50 feet to a point, thence North $80^{\circ}10'00''$ East 102.08 feet to a point, thence South $79^{\circ}03'22''$ East, 124.73' to a point, thence South $00^{\circ}00'23''$, 58.20 feet to the point of beginning.

w

Contains 0.26 acres more or less

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



SCALE: 1" = 40'

100

25337 SQ FT

N 52°42'05" E
60.00

N 01°20'00"

157.53'

101

20287 SQ FT

179.97'

1100.29'

A=24.93'

102.08'

N 80°10'00" E

124.73'

N 79°03'22" W

OUTLOT 7

11528 SQ FT

N 80°10'00" W

220.25'

58.20'

A=27.61'

20.30'

38.19'

99

42418 SQ FT

161.54'

N 00°00'00" E

166.36'

(447.27')

09.10'

W

S 00°00'23" W

RIVER

(A) 20' PRIVATE DRAINAGE

9

PUBLIC STORMWATER EASEMENT



LAND TECH ENGINEERING, INC.

LAND PLANNING • ENGINEERING CONSULTING

557 COTTONWOOD AVENUE, HARTLAND, WI 53029
(262) 367-7599

EXHIBIT "C"

100708 JUN 24

