

January 21, 2015

Dr. Fred Abadi, Director
City of Waukesha Public Works Dept.
130 Delafield Street
Waukesha, WI 53188

Re: Robert F. Smart and Carol O. Smart Revocable Trust of 2010
Big Bend Road Storm Water and Infiltration Ponds

Dear Dr. Abadi:

The purpose of this Letter is to set forth certain non-binding understandings between the City of Waukesha, a Wisconsin municipal corporation ("City") and the Robert F. Smart and Carol O. Smart Revocable Trust of 2010, or its assigns ("Trust"), with respect to the construction, and eventual dedication to the City, of storm water quality and infiltration ponds, as well as additional infrastructure improvements, by the City, in the area of Big Bend Road and Rivera Drive in the City of Waukesha.

The following paragraphs reflect our understanding of the matters described in them, but are not to constitute a complete statement of, or a legally binding or enforceable agreement or commitment on the part of, the Trust or the City, with respect to the matters described therein. While we understand this Letter does not reflect all the terms of a definitive agreement, we believe it sets forth the information to permit the parties to proceed to a final agreement as to the eventual improvements within the area and respective obligations to those improvements.

1. The parties would enter into a separate agreement which would provide for the Trust's dedication of an improved storm-water-quality pond and infiltration basin on approximately 3 acres in the area of the east side of Big Bend Road at Rivera Drive, as well as the City's completion of certain improvements within the area.
2. At its sole cost and expense, the Trust shall construct storm water quality and infiltration ponds that shall substantially conform to the features depicted in the drawing attached hereto, made a part hereof, and marked as Exhibit "A". This construction shall incorporate sufficient berms, trees and other landscaping along the perimeter of said ponds. The Trust shall not be responsible for any piping, outfall structure, or level spreader at the north entry and the south terminus of the pond(s).

3. The City, at its sole cost and expense, shall install or construct:

Redundant sanitary sewer main pipe within the east side of the Big Bend Road right-of-way, running from the intersection of Rivera Drive, north approximately 400 feet along the frontage of the property owned by the Trust on the east side of Big Bend Road – WAKC 1350.993.001 (“Parcel”) Length of redundant sanitary sewer is necessary to avoid conflict between the proposed storm sewer and sanitary sewer service laterals to parcels on the east side of Big Bend Rd.

Sanitary and water lateral extensions into the Parcel to a point five feet beyond the back of sidewalk for the four proposed lots within the Parcel as well the parcel owned by the Trust, identified as WAKC 1350.994. Two sets of laterals shall also be extended up to the front property line of the parcel identified as WAKT 1350.992. Sanitary sewer lateral extensions for WAKC 1350.994 and WAKT 1350.992 will originate from the existing sanitary sewer main in Big Bend Rd.

8” Water Main shall be extended from its location in Big Bend Road at the intersection of Rivera Drive east into the Trust property approximately 210 feet.

Road reconstruction and finish pavement, sidewalk, curb, gutter, driveway aprons, terrace and any additional storm-water piping, manholes or connections required along the Big Bend Road Parcel, identified as WAKC 1350.993.001. Additionally a required sidewalk / access / recreational path extended east from Big Bend Road at approximately the Rivera Drive intersection approximately 210 feet.

Any piping, outfall structure, or level spreader at the north entry and the south terminus of the pond(s).

4. The Trust would have no further obligation as to the construction of roadways, sidewalks, utilities or other improvements adjacent to and within the Big Bend Road right-of-way south of the intersection of Rivera Drive or any extension of Rivera Drive east into Trust property.
5. Although it is contemplated that the City may seek a grant from the Wisconsin Department of Natural Resources for the construction of the storm water quality and infiltration ponds, the City’s obligations under the final agreement of the parties shall not be contingent on the City’s receipt of such grant.
6. The dedication of the completed pond is intended to occur on or about May 1, 2015.
7. The definitive agreement of the parties will contain such representations, warranties, covenants and other agreements on behalf of the parties as are satisfactory to both parties.
8. The Trust and the City will negotiate in good faith and use their best efforts to arrive at a mutually acceptable definitive agreement for approval, execution and delivery on the earliest reasonable practical date. The Trust and the City will thereupon use their best efforts to effect

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the dedication and construction proposed herein and to proceed with the obligations contemplated by the definitive agreement as provided for therein.

9. Except as otherwise agreed, the Trust and City will be solely responsible for all of their own respective expenses, including, without limitation, expenses of engineering, legal counsel, accountants and other advisors, incurred in connection with pursuing or consummating the definitive agreement and the transactions contemplated thereby.
10. The Trust hereby warrants that it has good and marketable title to the real property to be conveyed by the dedication, and that no action or proceeding has been instituted or threatened before a court or other governmental body or by any public authority to restrain or prohibit the consummation of the transactions contemplated herein.

Please sign and date this letter in the spaces provided below to confirm the mutual understandings and agreements as set forth in this Letter and return a signed copy to the undersigned.

Sincerely,

ROBERT F. SMART AND CAROL O. SMART
REVOCABLE TRUST OF 2010 ("Trust")

Carol O. Smart, Its Sole Trustee

Acknowledged and agreed to:

CITY OF WAUKESHA ("City")

Signature

Name: _____

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Title: _____

Date: _____