Document Number

(Sample) Storm Water Management Practice Maintenance Agreement

Bielinski Commercial, L.L.C., as "Owner" of the property described below, in accordance with Chapter 32 City of Waukesha Storm Water Management and Erosion Control, agrees to install and maintain storm water management practice(s) on the subject property in accordance with approved plans and Storm Water Management Plan conditions. The owner further agrees to the terms stated in this document to ensure that the storm water management practice(s) continues serving the intended functions in perpetuity. This Agreement includes the following exhibits:

Exhibit A: Legal Description of the real estate for which this Agreement applies ("Property").
Exhibit B: Location Map(s) – shows an accurate location of each storm water management practice affected by this Agreement.
Exhibit C: Maintenance Plan – prescribes those activities that must be carried out to maintain compliance with this Agreement.

Note: After construction verification has been accepted by the City of Waukesha, for all planned storm water management practices, an addendum(s) to this agreement shall be recorded by the Owner showing design and construction details. The addendum(s) may contain several additional exhibits, including certification by City of Waukesha of Storm Water and Erosion Control Permit termination, as described below.

Name and Return Address

City of Waukesha
130 Delafield Street
Waukesha, WI 53188

WAKC1410999
Parcel Identification Number(s) – (PIN)

Through this Agreement, the Owner hereby subjects the Property to the following covenants, conditions and restrictions:

1. The Owner shall be responsible for the routine and extraordinary maintenance and repair of the storm water management practice(s) and drainage easements identified in Exhibit B until Storm Water and Erosion Control Permit termination by the City of Waukesha in accordance with Chapter 32 of the City Code of Ordinances.
2. After Storm Water and Erosion Control Permit termination under 1., the current Owner(s) shall be solely responsible for maintenance and repair of the storm water management practices and drainage easements in accordance with the maintenance plan contained in Exhibit C.
3. The Owner(s) shall, at their own cost, complete inspections of the storm water management practices at the time intervals listed in Exhibit C, and conduct the inspections by a qualified professional, file the reports with the City of Waukesha after each inspection and complete any maintenance or repair work recommended in the report. The Owner(s) shall be liable for the failure to undertake any maintenance or repairs. After the work is completed by the Contractor, the qualified professional shall verify that the work was properly completed and submit the follow-up report to the City within 30 days.
4. In addition, and independent of the requirements under paragraph 3 above, the City of Waukesha, or its designee, is authorized to access the property as necessary to conduct inspections of the storm water management practices or drainage easements to ascertain compliance with the intent of this Agreement and the activities prescribed in Exhibit C. The City of Waukesha may require work to be done which differs from the report described in paragraph 3 above, if the City of Waukesha reasonably concludes that such work is necessary and consistent with the intent of this agreement. Upon notification by the City of Waukesha of required maintenance or repairs, the Owner(s) shall complete the specified maintenance or repairs within a reasonable time frame determined by the City of Waukesha.
5. If the Owner(s) do not complete an inspection under 3. above or required maintenance or repairs under 4. above within the specified time period, the City of Waukesha is authorized, but not required, to perform the specified inspections, maintenance or repairs. In the case of an emergency situation, as determined by the City of Waukesha, no notice shall be required prior to the City of Waukesha performing emergency maintenance or repairs. The City of

Waukesha may levy the costs and expenses of such inspections, maintenance or repair related actions as a special charge against the Property and collected as such in accordance with the procedures under s. 66.0627 Wis. Stats. or subch. VII of ch. 66 Wis. Stats.

6. This Agreement shall run with the Property and be binding upon all heirs, successors and assigns. After the Owner records the addendum noted above, the City of Waukesha shall have the sole authority to modify this agreement upon a 30-day notice to the current Owner(s).

Dated this ___ day of _____, 201_.

Owner: Bielinski Commercial, LLC

_____
(Owners Signature)

_____
(Owners Typed Name)

Acknowledgements

State of Wisconsin:
County of Waukesha

Personally came before me this ____ day of _____, 201_, the above named ___[Owners name]_____ to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____.
[Name]
Notary Public, Waukesha County, WI
My commission expires:_____.

This document was drafted by:

Joshua D. Pudelko, M.S., P.E.
Trio Engineering, LLC
17700 West Capitol Drive
Brookfield, WI 53045

For Certification Stamp

Exhibit A – Legal Description

The following description and reduced copy map identifies the land parcels affected by this Agreement. For a larger scale view of the referenced document, contact the Waukesha County Register of Deeds office.

Project Identifier: **Stillwater Villas** Acres**: 4.18**
Date of Recording:
Map Produced By: **Trio Engineering, LLC**
12660 West North Avenue
Brookfield, WI 53005

Legal Description:

All that part of the Northwest *1/2* of the Northwest 1/4 and the North 1/2 of the South *1/2* of the Northwest 1/4 of Section 29, Township 6 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin now being more particularly described as follows:

Commencing at the Northwest corner of the Northwest 1/4 of said Section 29; Thence North 88°42'47" East, along the North line of said 1/4 Section, 1165.15 to the Southeast corner of River's Crossing Addition

#1, the Northeast corner of River's Crossing Addition #2 and the East right of way line of River's Crossing Drive; Thence South 00°23'30" East along said East right of line and East line of River's Crossing

Addition #2, 461.81 feet to a point of curvature; Thence Southeasterly along said East lines 31.42 feet along the arc of a curve, whose center lies to the Northeast, whose radius is 20.00 feet, whose chord bears South 45°23'30" East, 28.28 feet to a point of tangency on the North line of River's Crossing Drive and the North line of River's Crossing Addition #2; Thence North 89°36'30" East along said North lines,

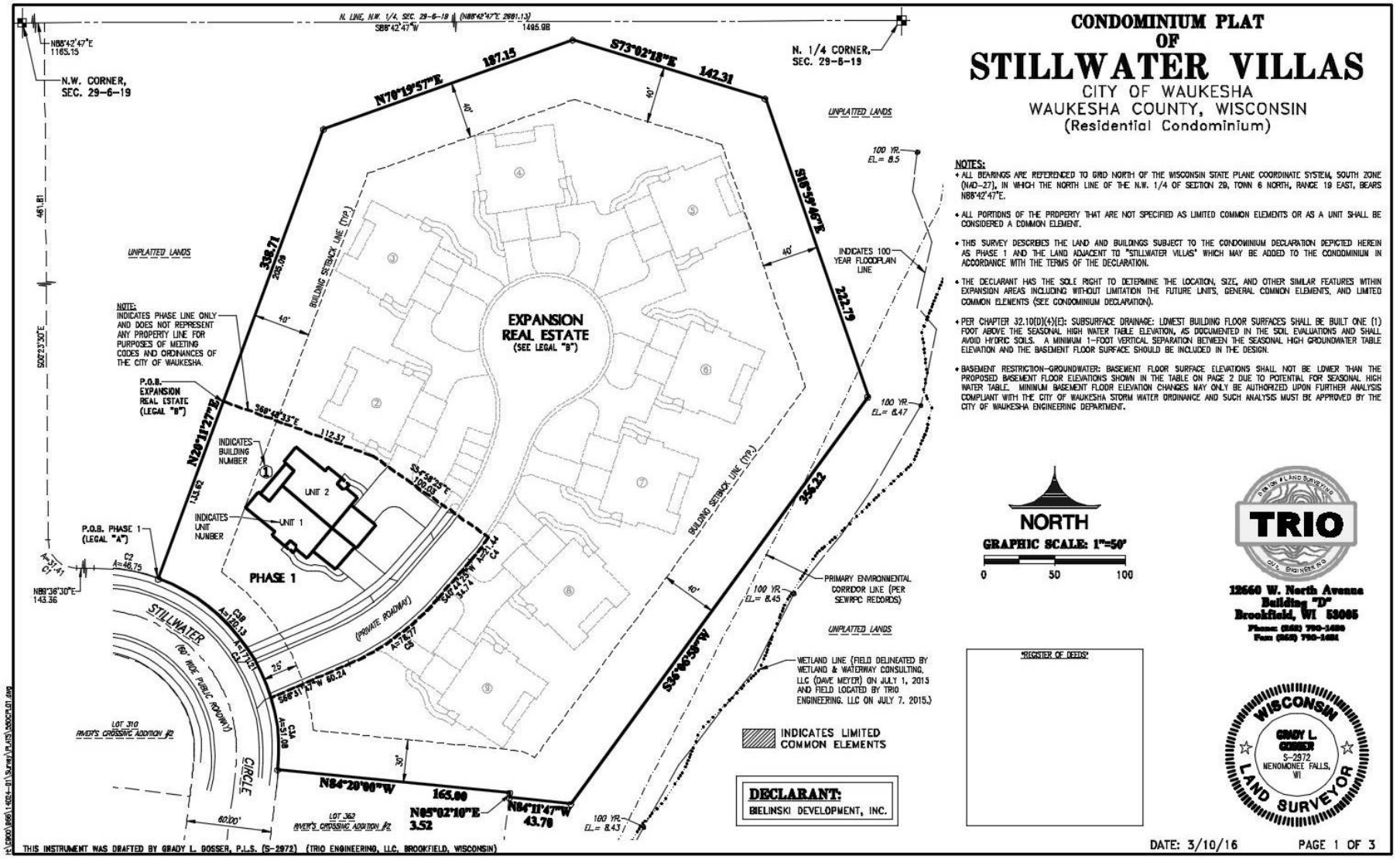
143.36 feet to a point of curvature; Thence Southeasterly along said North lines 46.75 feet along the arc of a curve, whose center lies to the Southwest, whose radius is 130.00 feet, whose chord bears South 80°05'25" East, 46.50 feet to the place of beginning of lands hereinafter described;

Thence North 20°11'27" East, 338.70 feet, Thence North 70°19'57" East, 187.15 feet, Thence South 73°02'18" East, 142.31 feet; Thence South 18°59'46" East, 222.79 feet; Thence South 36°06'58" West,

356.22 feet; Thence North 84°11'47" West, 43.84 feet to a point on the East line of Lot 352 of River's Crossing Addition #2; Thence North 07°21'42" East, along said East line, 3.52 feet to the North line of said Lot 352 of River's Crossing Addition #2; Thence North 84°20'00" West along said North line, 165.00 feet to a point on the East line of Stillwater Circle and the East line of River's Crossing Addition #2 to a point of curvature; Thence Northwesterly along said East lines 171.20 feet along the arc of a curve, whose center lies Southwest, whose radius is 130.00 feet, whose chord bears North 32°03'35" West,

159.10 feet to the point of beginning

Said Parcel contains 182,326 Square Feet, (or 4.186 Acres) of land more or less.



CONDOMINIUM PLAT OF STILLWATER VILLAS

CITY OF WAUKESHA
WAUKESHA COUNTY, WISCONSIN
(Residential Condominium)

NOTES:

- ALL BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE (NAD-27), IN WHICH THE NORTH LINE OF THE N.W. 1/4 OF SECTION 29, TOWN 6 NORTH, RANGE 19 EAST, BEARS N88°42'47"E.
- ALL PORTIONS OF THE PROPERTY THAT ARE NOT SPECIFIED AS LIMITED COMMON ELEMENTS OR AS A UNIT SHALL BE CONSIDERED A COMMON ELEMENT.
- THIS SURVEY DESCRIBES THE LAND AND BUILDINGS SUBJECT TO THE CONDOMINIUM DECLARATION DEPICTED HEREIN AS PHASE 1 AND THE LAND ADJACENT TO "STILLWATER VILLAS" WHICH MAY BE ADDED TO THE CONDOMINIUM IN ACCORDANCE WITH THE TERMS OF THE DECLARATION.
- THE DECLARANT HAS THE SOLE RIGHT TO DETERMINE THE LOCATION, SIZE, AND OTHER SIMILAR FEATURES WITHIN EXPANSION AREAS INCLUDING WITHOUT LIMITATION THE FUTURE LIMITS, GENERAL COMMON ELEMENTS, AND LIMITED COMMON ELEMENTS (SEE CONDOMINIUM DECLARATION).
- PER CHAPTER 32.10(D)(4)(E): SUBSURFACE DRAINAGE: LOWEST BUILDING FLOOR SURFACES SHALL BE BUILT ONE (1) FOOT ABOVE THE SEASONAL HIGH WATER TABLE ELEVATION, AS DOCUMENTED IN THE SOIL EVALUATIONS AND SHALL AVOID HYDRIC SOILS. A MINIMUM 1-FOOT VERTICAL SEPARATION BETWEEN THE SEASONAL HIGH GROUNDWATER TABLE ELEVATION AND THE BASEMENT FLOOR SURFACE SHOULD BE INCLUDED IN THE DESIGN.
- BASEMENT RESTRICTION-GROUNDWATER: BASEMENT FLOOR SURFACE ELEVATIONS SHALL NOT BE LOWER THAN THE PROPOSED BASEMENT FLOOR ELEVATIONS SHOWN IN THE TABLE ON PAGE 2 DUE TO POTENTIAL FOR SEASONAL HIGH WATER TABLE. MINIMUM BASEMENT FLOOR ELEVATION CHANGES MAY ONLY BE AUTHORIZED UPON FURTHER ANALYSIS COMPLIANT WITH THE CITY OF WAUKESHA STORM WATER ORDINANCE AND SUCH ANALYSIS MUST BE APPROVED BY THE CITY OF WAUKESHA ENGINEERING DEPARTMENT.

TRIO
12660 W. North Avenue
Building "D"
Brookfield, WI 53005
Phone: (262) 790-1480
Fax: (262) 790-1481

WISCONSIN
GRADY L. GOSSER
S-2972
WENOMONEE FALLS, WI
LAND SURVEYOR

THIS INSTRUMENT WAS DRAFTED BY GRADY L. GOSSER, P.L.S. (S-2972) (TRIO ENGINEERING, LLC, BROOKFIELD, WISCONSIN)

DATE: 3/10/16

Exhibit B – Location Map

The storm water management practices covered by this Agreement are depicted in the reduced copy of a portion of the construction plans, as shown below. The practices include one dry Bio-retention basin, five (5) Rain Gardens and all associated pipes, earthen berms, rock chutes and other components of these practices. All of the noted storm water management practices are located within a drainage easement in Outlot 1 of the condominium plat, as noted in Exhibit A.

Development Name(s):	**Stillwater Villas**
Storm water Practices:	**Bio-retention Basin, Rain Gadens, Grassed Swales.**
Location of Practices:	**South and east perimeter of subject property as noted within Condominium Plat.**
Owner:	**The Owner of the property, shall be responsible for the cost to repair, maintain or restore said Storm water Management Facilities and Storm water Infiltration Facilities. Said repairs, maintenance and restoration shall be performed by the Owner of this property.**

Figure 1

Stormwater Management Easement Exhibit

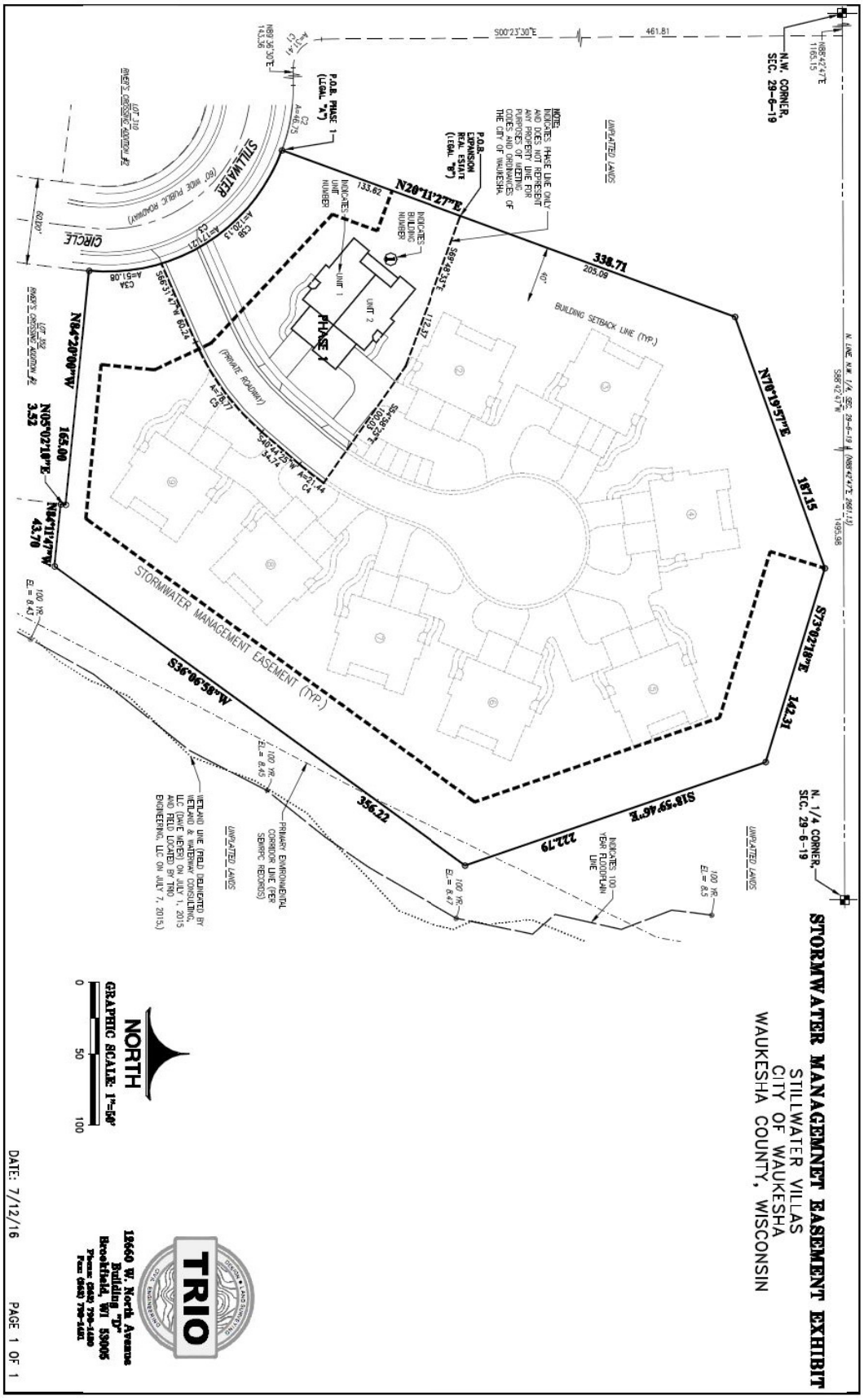
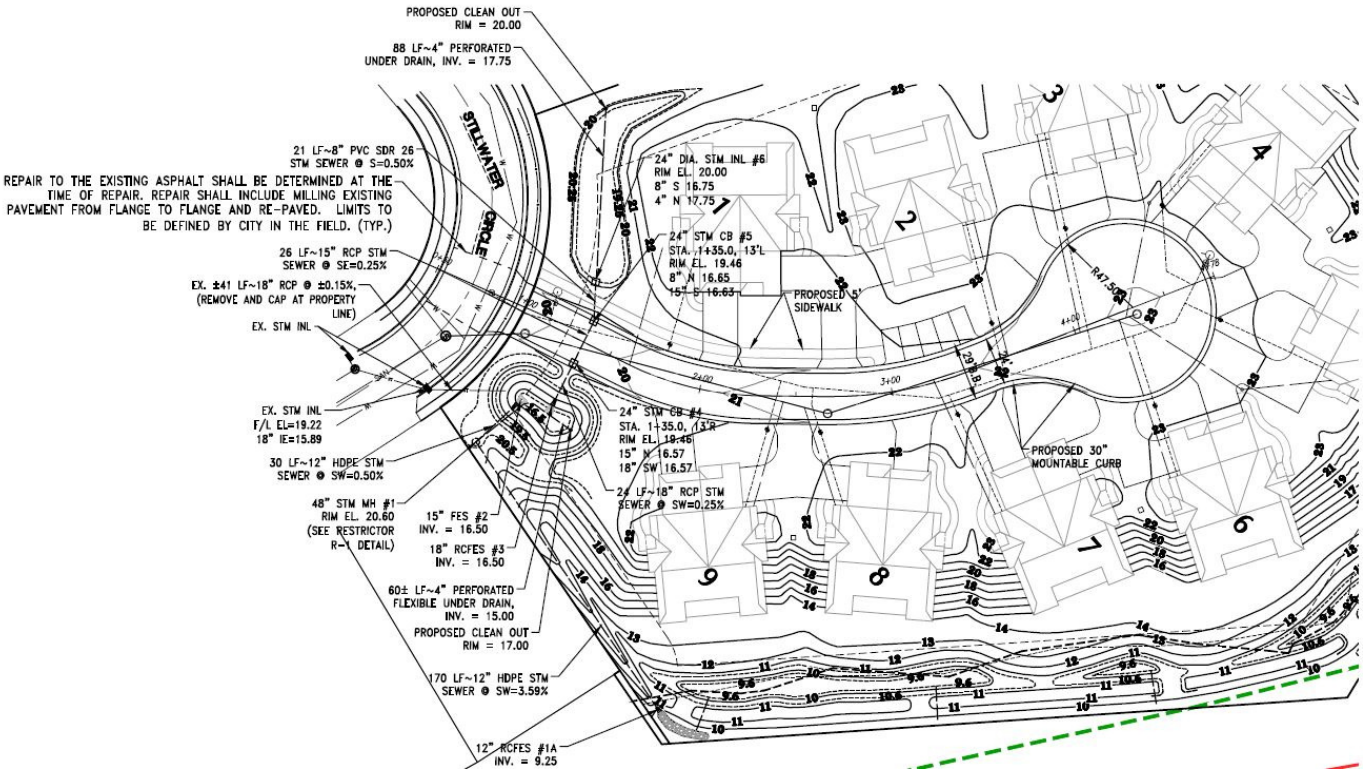


Figure 2

Plan View of Stormwater Practices

Rain Gardens 1A, 2 & Pond P-1



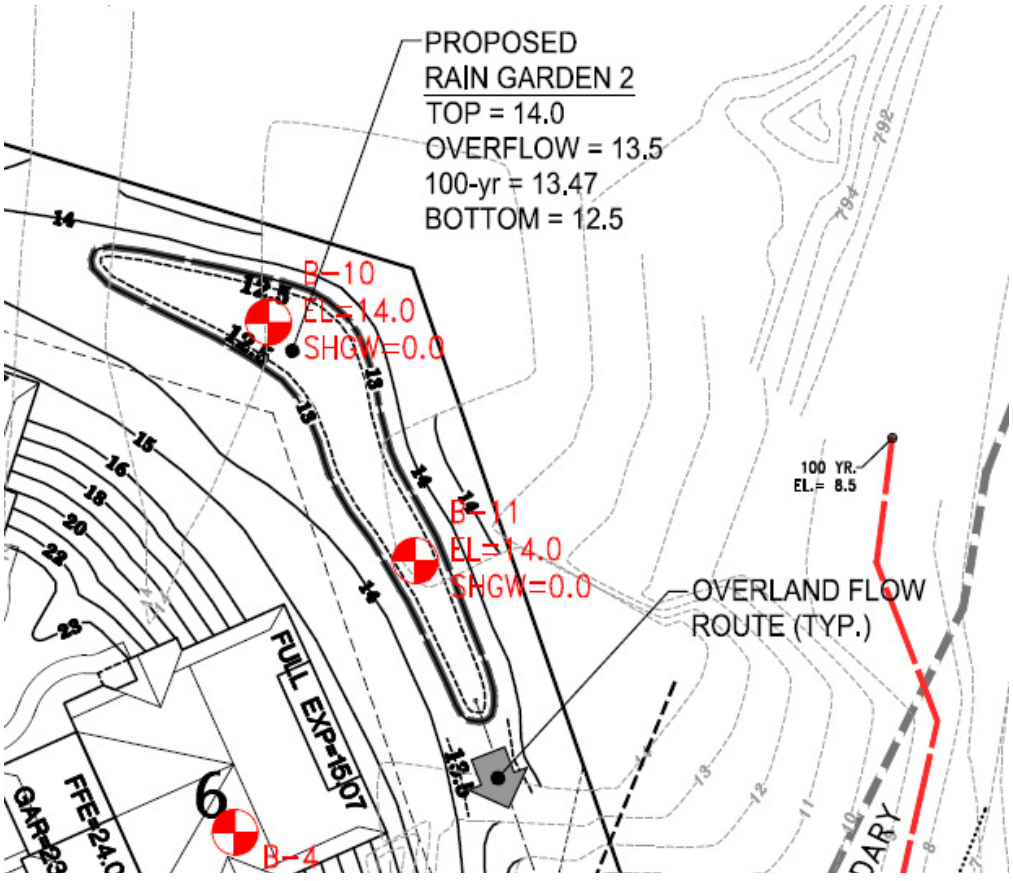


Figure 3

Plan View of Stormwater Practices (continued)

Rain Garden 3, 4, & 5

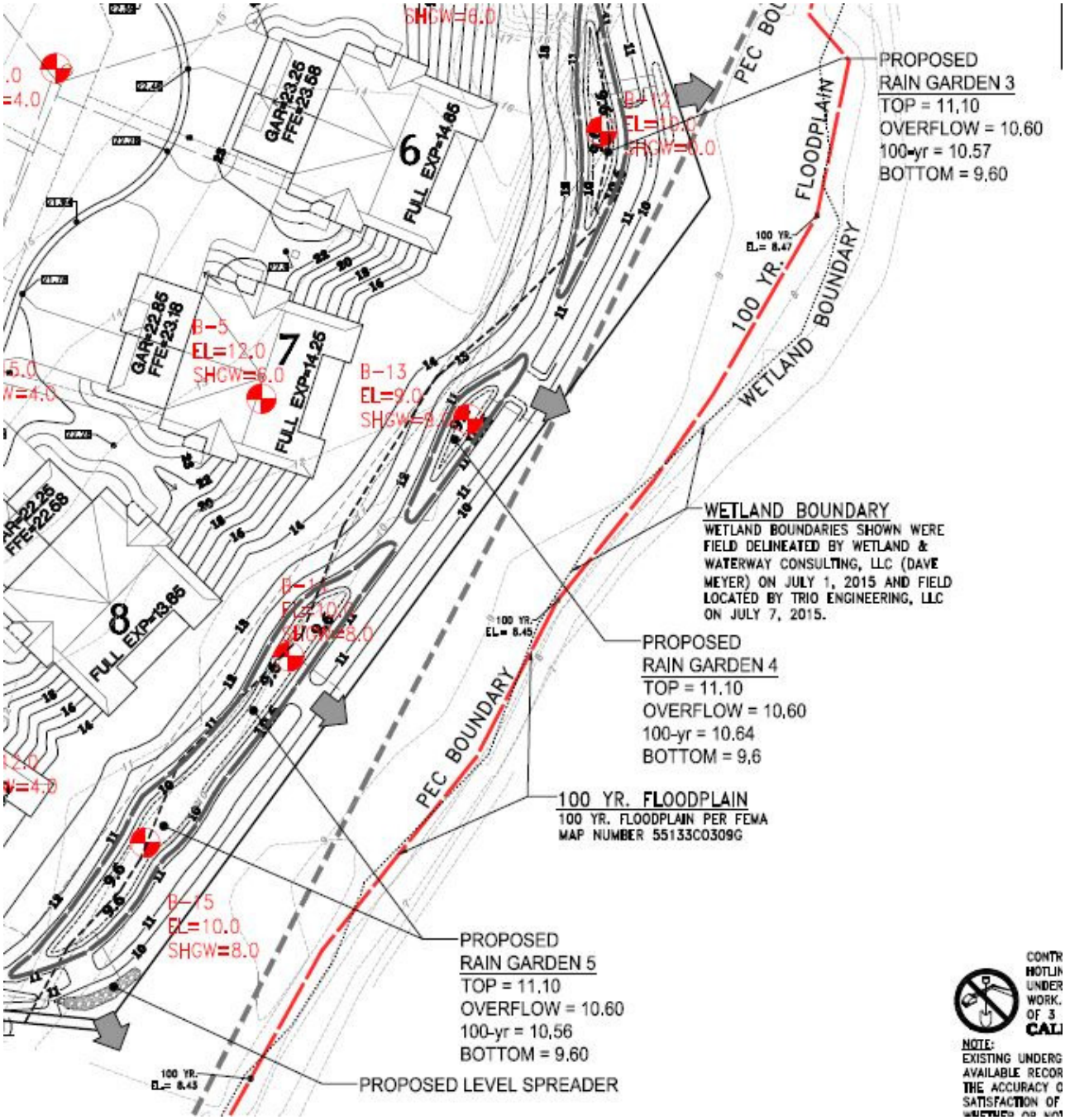


EXHIBIT "B"

STORMWATER MANAGEMENT EASEMENT

LEGAL DESCRIPTION:

All that part of the North 1/2 of the Northwest 1/4 of Section 29, Town 6 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the Northwest Corner of said Section 29; Thence North 88°42'47" East and along the North line of the said Northwest 1/4 Section, 1165.15 feet to a point on the East Right-of-Way line of "River's Crossing Drive"; Thence South 00°23'30" East and along the said East Right-of-Way line, 461.81 feet to a point of curvature; Thence Southeasterly 31.41 feet along the said East Right-of-Way line and the arc of a curve, whose center lies to the Northeast, whose radius is 20.00 feet, whose central angle is 89°58'58", and whose chord bears South 45°23'30" East, 28.28 feet to a point of tangency on the North Right-of-Way line of "Stillwater Circle"; Thence North 89°36'30" East and along the said North Right-of-Way line, 143.36 feet to a point of curvature; Thence Southeasterly 46.75 feet along the said North Right-of-Way line and the arc of a curve, whose center lies to the Southwest, whose radius is 130.00 feet, whose central angle is 20º36'16", and whose chord bears South 80°05'25" East, 46.50 feet to the place of beginning of lands hereinafter described;

Thence North 20°11'27" East, 82.20 feet to a point; Thence South 69°48'33" East, 30.00 feet to a point; Thence South 20º11'27" West, 33.45 feet to a point; Thence South 46º47'46" East, 124.22 feet to a point; Thence South 25º11'04" East, 43.52 feet to a point; Thence South 05º40'00" West, 37.46 feet to a point; Thence South 84º20'00" East, 108.56 feet to a point; Thence North 36º06'58" East, 337.25 feet to a point; Thence North 18º59'46" West, 181.52 feet to a point; Thence North 73º02'18" West, 121.91 feet to a point; Thence North 16º57'42" East, 40.00 feet to a point; Thence South 73°02'18" East, 142.31 feet to a point; Thence South 18°59'46" East, 222.79 feet to a point; Thence South 36°06'58" West, 356.22 feet to a point; Thence North 84°11'47" West, 43.70 feet to a point on the East line of Lot 352 of "River's Crossing Addition No. 2" (A Subdivision Plat of Record); Thence North 05°02'10" East and along the said East line, 3.52 feet to a point; Thence North 84°20'00" West and along the North line of said Lot 352, 165.00 feet to a point on the Northeasterly Right-of-Way line of said "Stillwater Circle"; Thence Northwesterly 171.21 feet along the said Northeasterly Right-of-Way line and the arc of a curve, whose center lies to the Southwest, whose radius is 130.00 feet, whose central angle is 75º27'23", and whose chord bears North 32º03'35.5" West, 159.10 feet to the point of beginning of this description.

Said Easement contains 42,060 Square Feet (or 0.9656 Acres) of land, more or less.

Exhibit C
Minimum Storm Water Practice Maintenance Requirements

This exhibit explains the basic function of each of the storm water practices listed in Exhibit B and prescribes the minimum maintenance requirements to remain compliant with this Agreement. The maintenance activities listed below are aimed to ensure these practices continue serving their intended functions in perpetuity. The list of activities is not all inclusive, but rather indicates the minimum type of maintenance that can be expected for this particular site. Access to the stormwater practices for maintenance vehicles is shown in Exhibit B. Any failure of a storm water practice that is caused by a lack of maintenance will subject the Owner(s) to enforcement of the provisions listed on page 1 of this Agreement by the City of Waukesha.

"As-built" construction drawings of the basin, showing actual dimensions, elevations, outlet structures, etc. will be recorded as an addendum(s) to this agreement within 60 days after the City of Waukesha accepts verification of construction from the project engineer.

INFILTRATION/BIO-RETENTION BASIN OPERATIONS AND MAINTENANCE

To ensure the proper function of the storm water infiltration basins, the following list of maintenance activities are recommended:

1. A minimum of 70% soil cover made up of native grasses should be maintained on the bottom of the infiltration basin area to promote the desired infiltration rates. Periodic mowing is recommended to enhance establishment of the prairie grasses (which may take 2-3 years) and maintain the minimum native cover. To reduce competition from cool season grasses (bluegrass, fescues, quack, etc.) and other weeds:
    - For the first year, cut to a 6" height three times – once each in June, July and early August. To prevent damage to the native grasses, do not mow below a 6" height. Remove excessive accumulation of clippings to avoid smothering next year's seedlings.
    - After the first year, mowing may only be needed in early June each year to help control the spread of cool season plants. The mowing should also be raised to 10-12" to avoid damage to the warm season plants.
    - Any major bare areas or areas taken over by non-native species must be reseeded. To clear area of weeds and cool season grasses, treat with an herbicide that contains glysophosphate in accordance with manufacturer's instructions. Ensure a firm seedbed is prepared to a depth of 3 inches (a roller is recommended). Seeding should occur in early-mid June. Seed with Big Bluestem, Indian Grass, Little Blue Stem or Switchgrass (preferably an equal mix of all four types). A companion crop of oats is recommended. Seed must be placed at a depth of 1/4 – 1/2" and a minimum rate of 1/4 pound per 100 square feet. If broadcast seeding by hand, drag leaf rake over soil surface after seeding. Then roll it again and cover with a light layer of mulch and staked erosion control netting to hold it in place until germination. For other planting details, see NRCS standard 342 (Critical Area Planting).
2. The basin and all components (grass swales, inlets, outlets, etc.) should be inspected after each heavy rain, but at a minimum of once per year. If the basin is not draining properly (within 72 hours), further inspection may be required by persons with expertise in storm water management and/or soils.
    - If soil testing shows that the soil surface has become crusted, sealed or compacted, some tillage of the soil layer at the bottom of the basin should be performed – note the location of the perforated underdrain before tilling to avoid damage to the underdrain. Types of tillage equipment that can be used include a subsoiler or straight, narrow-shanked chisel plow.
    - If sedimentation is determined to be causing the failure, the accumulated sediment must be removed and the area reseeded in accordance with the notes above.
    - If inspection of the basin shows that groundwater is regularly near the surface, additional design features may need to be considered, such as additional subsurface drainage or conversion to a wetland treatment system.

3. All outlet pipes, soil layers and other flow control devices must be kept free of debris. Any blockage must be removed immediately.
4. Any eroding areas must be repaired immediately to prevent premature sediment build-up in the system. Erosion matting is recommended for repairing grassed areas.
5. Heavy equipment and vehicles must be kept off of the bottom and side slopes of the engineered soil area to prevent soil compaction. Soil compaction will reduce infiltration rates and may cause failure of the basin, resulting in ponding and possible growth of wetland plants.
6. No trees are to be planted or allowed to grow in the bottom of the basin, as trees may shade out the native grasses. The basin must be inspected annually and any woody vegetation removed.
7. Grass swales leading to the basin shall be preserved to allow free flowing of surface runoff in accordance with approved grading plans.
8. No grading or filling of the basin or berms other than for sediment removal is allowed.
9. Any other repair or maintenance needed to ensure the continued function of the infiltration basin as ordered by the Village of Hartland under the provisions listed in this Agreement.

RAIN GARDEN
OPERATIONS AND MAINTENANCE

I. ROUTINE MAINTENANCE

A. Inspection

1. Performance of the rain garden should be inspected monthly and after every major storm event, following the initial construction to evaluate if the basin is draining within the design time limits.

   a. Water plants should be watered as necessary the first year to establish plants.

2. If performance does not meet the design goals, complete repairs to the facility to meet the design requirements.

3. Following the initial growing season of monthly inspections, quarterly inspections of the facility should be made. Inspect the facility for:

   a. Differential settlement

   b. Cracking

   c. Erosion

   d. Leakage

   e. Tree and woody plant growth on the embankments and plant health

   f. Condition of the inlets and outlets

   g. Sediment accumulation

   h. Vigor and density of vegetation on the floor of the basin and buffer strips

   i. pH testing of the soil (if plants growth issues exist)

j. Observation wells and/or under drains

B. Mowing – Native Vegetation

1. During establishment of vegetation, the first mowing shall occur once it reaches a height of 10 to 12 inches.

2. Control woody plant invasion by mowing once a year. The vegetation height shall be 5 to 6 inches after mowing.

3. Mow once per year in the fall after November 1st.

4. Remove trash and debris at the time of mowing.

C. Erosion Control

1. Inspect seasonally for erosion. Inspection after major storm events for erosion problems is also recommended if practical.

2. Repair all eroded areas immediately. Temporary erosion controls may be necessary to facilitate repairs.

D. Tilling

1. If the basin is located on marginally permeable soils, annual or semi- annual tilling may be needed to maintain infiltration capacity. NOTE THE LOCATION OF DRAIN TILE and avoid disturbing during tilling.

2. Tilled areas should be immediately re-vegetated to prevent erosion.

II. NON-ROUTINE MAINTENANCE

A. Structural Maintenance

1. Inspect pipe systems quarterly.

2. Remove and replace pipe systems that have eroded or rusted.

3. Earthen structures should be inspected annually. Erosion should be repaired immediately upon discovery.

B. Restoration of Infiltration Capacity

1. Over time the original infiltration capacity of the basin will be diminished.

2. Deep tilling can be done to restore the infiltration capacity of the basin. The basin will be drained and the soils dried to a depth of 8 inches. NOTE THE LOCATION OF DRAIN TILE BEFORE TILLING.

3. The top 2 to 3 inches of topsoil, chisel plowing, and adding topsoil and compost can be done.

4. The basin must be restored with native plantings.

C. Watering

1. Water plants need to be watered as necessary during the first growing season.

2. After the first growing season, water as necessary during dry periods.

STORM SEWER SYSTEM
OPERATIONS AND MAINTENANCE

I. INSPECTION

A. Frequency

a. Inspect catch basins, inlets and manholes at least once per year.

b. Inspect storm sewer end sections at least twice per year and after major rainfall events.

B. Inspection

a. Catch Basins, Inlets and Manholes

i. Inspect for sediment deposition in the bottom of structures.

ii. Check frames and lids for cracks and wear such as rocking lids or lids moved by traffic and for shifted frames.

iii. Check chimneys for cracked mortar, cracked lift rings and spalling.

iv. Check for leaks at joints.

v. Check surrounding areas for pollutants such as leaks from dumpsters, minor spills and oil dumping.

b. Storm Sewer End sections

i. Observe for obstructions, accumulation of sediment and trash, undermining and joint separation.

ii. Inspect end treatment for settlement, scour and displaced armoring.

II. STANDARD MAINTENANCE

A. Catch Basins, Inlets and Manholes

a. Repair any deterioration threatening structural integrity immediately.

b. Replace worn or cracked frames and lids. Frames that have shifted should be re-centered and re-set on the structure.

c. Repair any spalled or cracked mortar. Cracked rings should be repaired or replaced.

d. Repair leaking joints.

e. Clean manhole and storm inlet inverts of deposited material. Catch basins should be cleaned before the sump is 40 percent full.

f. Remove potential sources of contamination away from catch basins, inlets and manholes.

B. Storm Sewer End sections

a. End sections should be free flowing; trash, debris and obstructions should be removed to prevent backups.

b. End sections which have separated from the storm sewer pipe shall be reset on firm bedding and reconnected to the existing storm sewer pipe. Restrain joints if necessary.

c. Scour areas shall be repaired immediately. Replace missing soil with clean fill and replace/install end treatment. Missing armoring will require additional stone, typically one class larger.

d. Excessive material deposited at the storm sewer outfall is indicative of: a disturbed area upstream draining to the system or a potential failure of a system component. Disturbed areas draining to the system should be stabilized immediately or diverted to drain to a BMP. Potential system failures require non-standard maintenance.

III. NON-STANDARD MAINTENANCE

A. Non-standard maintenance includes inspection, repair or replacement of buried structures.

a. Televising of buried structures (pipes) should occur when excessive material is found within the system or at an outfall with no apparent source area visible at the surface, or the system experiences frequent backups.

b. Follow the recommendations for the repair and/or replacement of system components televised by a firm specializing in this work.

CULVERTS
OPERATION AND MAINTENANCE

I. INSPECTION

A. Culverts should be inspected twice a year and after heavy rainfall.

B. Inspect for sediment deposition, scour at the ends of pipe, accumulations of trash and obstructions.

II. MAINTENANCE

A. Scour areas should be repaired with clean fill and replacement of end treatment (rip rap, TRM, etc.). Scour areas with no end treatment should be stabilized with topsoil, seed and erosion control mat at a minimum.

B. Sediment deposits, trash and obstructions should be removed from the pipe ends.

C. Material deposited within the pipe should be promptly removed to maintain the conveyance capacity of the pipe.