

**RESOLUTION NO. 2022-29
(03/21/2022)**

**RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A
STORMWATER DETENTION POND AND EASEMENT AGREEMENT WITH TNG 19,
LLC – MASSENZA CSM**

WHEREAS, the Caledonia Utility District has conditionally approved a Storm Water Management Plan and Site Grading & Drainage Plan for TNG 19, LLC. for the construction of the Massenza CSM. The Storm Water Management Plan and the Site Grading & Drainage Plan for the development require the installation of a Drainage Pond and Drainage Facilities on the property. As a condition of approval of the Storm Water Management Plan and Site Grading Plan for TNG 19, LLC., a Stormwater Easement shall be granted over the Drainage Pond and Drainage Facilities.

WHEREAS, the Owner, TNG 19, LLC. will execute said Stormwater Detention Pond and Easement Agreement.

WHEREAS, the Caledonia Utility District has recommended authorizing the President & Secretary of the Caledonia Utility District to execute the Stormwater Detention Pond and Easement Agreement at their March 9, 2022 meeting.

WHEREAS, the President and Clerk of the Village need to execute the Stormwater Detention Pond and Easement Agreement in order to allow it to be recorded.

NOW, THEREFORE, BE IT RESOLVED by the Caledonia Village Board that the execution of the Stormwater Detention Pond and Easement Agreement as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, is approved and that the Village President and Village Clerk are authorized to execute said Stormwater Detention Pond and Easement Agreement.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 21 day of March, 2022.

VILLAGE OF CALEDONIA

By: _____

James R Dobbs, Village President

Attest: _____

Joslyn Hoeffert, Village Clerk

Document Number

**Stormwater Detention Pond
and Easement Agreement**

Name and Return Address
Mr. Anthony A. Bunkelman P.E.
Village of Caledonia
Engineering Department
5043 Chester Lane
Racine, Wisconsin 53402

51-104-04-22-33-016-001
51-104-04-22-33-016-002
Parcel Identification Number (PIN)

STORM WATER DETENTION POND AND EASEMENT AGREEMENT

This Storm Water Detention Pond and Easement Agreement is made the th 18 day of March, 2022, by and between **TNG 19, LLC (and its members)**, a Wisconsin limited liability company with offices located at 8338 Corporate Drive Suite 300, Mount Pleasant, WI 53406, referred to in this Agreement as "Owner", and the **VILLAGE OF CALEDONIA**, Racine County, Wisconsin, and the **VILLAGE OF CALEDONIA UTILITY DISTRICT**, a utility district of the Village of Caledonia, Racine County, Wisconsin. The Village of Caledonia and Village of Caledonia Utility District are collectively referred to in this Agreement as the "Grantees".

RECITALS:

A. The Owner is the fee simple holder of certain real property in the Village of Caledonia, Racine County, State of Wisconsin, as more particularly described on Page 1 of Exhibit X attached hereto and incorporated herein. Said real property is referred to in this Agreement as the "Property".

B. As a part of the approval by the Grantees of a development of the Property, the Grantees have required the Owner to create and then construct, at the Owner's own cost and expense, a storm water detention pond within the area of the Property described and depicted on Page 2 of Exhibit X attached hereto and incorporated herein. Said stormwater detention pond is referred to in this Agreement as the "Detention Pond".

The said Detention Pond, to be constructed by the Owner on the Property, shall be constructed in accordance with (i) the Plan Documents, diagrams, and specifications and (ii) the Development Agreement dated November 14, 2018, that the Owner and the Village previously entered into for the development of the Property. A copy of the Plan and Development Agreement is on file with the Village Clerk and the Public Services Director, at their offices in the Village Hall of the Village of Caledonia. The Grantees have further required as part of said approval that the Owner enter into an agreement with Grantees setting forth the Owner's responsibility to maintain the Detention Pond and provide Grantees with an access easement.

C. The Grantees have requested that the Owner grant a permanent easement and access easement (referred to in this Agreement as the "Storm Water, Access & Maintenance Easement") over certain portions of the Property, described on Page 2 of Exhibit X attached. The portions of the Property described on Page 2 of Exhibit X are referred to in this Agreement as the "Storm Water, Access & Maintenance Easement Area". The Storm Water, Access & Maintenance Easement Area grants to the Grantees, and their employees, officials, commissioners, contractors, consultants, agents, pedestrian, vehicular and construction equipment to and from the public roadways servicing the Property and the Storm Water, Access & Maintenance Easement Area.

D. As used in this Agreement, the term "Drainage Facilities" shall mean drainage swales, drainage ditches, pipelines, laterals, culverts, storm sewers and any other structures or improvements that are constructed or installed upon the Storm Water, Access & Maintenance Easement Area from time to time by the Owner or Grantees, or any other person or entity, or their contractors, successors and assigns, for the conveyance of surface and storm waters over, across, under and through the Property.

AGREEMENT:

For \$1.00 and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Construction, Use, Operation, Cleaning, Maintenance, Altering, Repairs and Replacements of the Detention Pond and Drainage Facilities. The Owner agrees to construct, use, operate, clean, maintain, alter, repair and replace the Detention Pond and Drainage Facilities, including, without limitation, mowing, control of weed and algae growth, repair of erosion, and the removal of trees, brush, vegetation and silt, and all other obstacles to the flow of surface water to and from the Detention Pond and Drainage Facilities, so that the Detention Pond and Drainage Facilities function properly and to their design capacity for the storage and conveyance of storm water and so that there are no obstructions interfering with the location, construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities. Said obligations shall include the obligation to construct, use, operate, clean, maintain, alter, repair and replace the Detention Pond and Drainage Facilities both during the construction thereof and thereafter and in conformity with this Agreement and the Ordinances of the Village of Caledonia and any restrictive covenants applicable to the Property. The Owner shall prevent the Detention Pond and Drainage Facilities from becoming a nuisance.

2. Failure to Construct, Clean, Maintain, Alter, Repair and Replace the Detention Pond and Drainage Facilities. The Grantees shall have the right, but not the responsibility, to enter upon the Property in order to perform construction, cleaning, maintenance, alterations, repairs and replacements of the Detention Pond and Drainage Facilities if the Owner fails to do so after receiving a written request from the Grantees. The Owner shall be given at least ten business days after the date of said written request to perform whatever construction, cleaning, maintenance, alterations, repairs and replacements are deemed reasonable and necessary by the Grantees as stated in said notice. Provided, however, that in the event the Grantees determine that emergency action should be performed, then the Grantees may enter upon the Property immediately and perform said emergency action. The Owner shall reimburse Grantees for all costs incurred by the Grantees in performing said construction, cleaning, maintenance, alterations, repairs, replacements, and emergency action, including, without limitation, any construction, engineering, legal and administrative costs with respect to the same, upon receiving an invoice for said costs. If Owner fails to pay said costs, then said costs may be assessed upon the Property by the Grantees as a special charge as provided in Wisconsin Statutes Sections 66.0627 and 66.0703, and Owner consents to said assessments and waives notice and hearing with respect to the levying of said assessments in accordance with Wisconsin Statutes Section 66.0703.

3. Alteration or Changes of the Detention Pond or Drainage Facilities. The Owner shall not make or construct any alteration or change of the Detention Pond or Drainage Facilities, including, without limitation, any alteration or change in the size, shape, capacity, rate of inflow or rate of outflow of the Detention Pond or Drainage Facilities, unless the Grantees approve the alteration or change in writing prior to the making or construction of said alteration or change.

4. Indemnification, Hold Harmless, Release and Insurance. The Owner hereby agrees to indemnify and hold harmless the Grantees, and their agents, commissioners, officials and employees, from and against any and all expenses (including reasonable attorney's fees), claims, damages, liabilities and costs whatsoever, whether known or unknown, arising from the existence, construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities. The Owner hereby releases the Grantees, and

their agents, commissioners, officials and employees, from and against any and all expenses (including reasonable attorney's fees), claims, damages, liabilities and costs whatsoever, whether known or unknown, arising from the existence, construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities and any action performed by Grantees, and their agents, commissioners, officials and employees. The Owner shall carry general liability insurance covering the Property and, if requested by Grantees, provide Grantees with certificates of said coverage.

5. Grant of Easement. The Owner grants to the Grantees, and their contractors, successors and assigns:

- (a) A permanent and perpetual easement and right-of-way over, across, under and through the Storm Water, Access & Maintenance Easement Area for conveying surface and storm waters over, across, under and through the Property and for storing surface and storm waters in, and draining, conveying and transporting of surface and storm waters to and from, the Detention Pond and Drainage Facilities, including, without limitation, the right to enter upon the Storm Water, Access & Maintenance Easement Area with workers, materials and equipment, for the purpose of constructing, using, operating, cleaning, maintaining, altering, repairing and replacing the Detention Pond and Drainage Facilities.
- (b) A permanent and perpetual easement and right-of-way over, across, and through the Storm Water, Access & Maintenance Easement Area for ingress and egress to and from the Detention Pond and Drainage Facilities for the purpose of transporting workers, materials, and equipment in connection with the construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities within the Storm Water, Access & Maintenance Easement Area;
- (c) The right to cut down and remove or trim all trees, bushes or other vegetation existing within the Storm Water, Access & Maintenance Easement Area, and to cut down and remove or trim all trees, bushes and other vegetation located outside of the Storm Water, Access & Maintenance Easement Area that interfere with (i) the construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities within the Storm Water, Access & Maintenance Easement Area, or (ii) ingress and egress to the Detention Pond and Drainage Facilities via the Storm Water, Access & Maintenance Easement Area; and
- (d) The right to remove any fences, structures or improvements located within the Storm Water, Access & Maintenance Easement Area to the extent necessary to (i) carry out the construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities within the Storm Water, Access & Maintenance Easement Area, or (ii) maintain ingress and egress to the Detention Pond and Drainage Facilities via the Storm Water, Access & Maintenance Easement Area.

6. Restrictions On the Storm Water, Access & Maintenance Easement Area. The Owner covenants and agrees that:

(a) No fences, structures or improvements will be erected, and no trees, bushes or other vegetation will be planted, within the Storm Water, Access & Maintenance Easement Area without the written consent of the Grantees; and

(b) The elevation of the existing ground surface within the Storm Water, Access & Maintenance Easement Area will not be altered without the written consent of the Grantees.

7. Restoration of Surface. The Grantees shall reasonably restore the surface of the Property disturbed by the Grantees' (i) construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities within the Storm Water, Access & Maintenance Easement Area or (ii) ingress and egress to the Detention Pond and Drainage Facilities via the Storm Water, Access & Maintenance Easement Area. Said restoration shall be to the condition that existed prior to the Grantees' entry on the Property; provided, however that the Grantees shall not be required to replant any trees, bushes or other vegetation that would interfere with the (i) construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Detention Pond and Drainage Facilities within the Storm Water, Access & Maintenance Easement Area, or (ii) ingress and egress to the Detention Pond and Drainage Facilities via the Storm Water, Access & Maintenance Easement Area.

8. Non-Use. Non-use or limited use of the rights granted in this Agreement shall not prevent the Grantees from the later use of said rights to the fullest extent authorized in this Agreement.

9. Covenants Run With Land. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land that is the Property and shall be binding upon, inure to the benefit of, and be enforceable by the Owner and the Grantees and their respective successors and assigns.

10. Warranty. The Owner does hereby warrant and covenant that the Owner owns the Property in fee simple and is lawfully seized and possessed of the Property; that the Owner has a good and lawful right to grant the rights granted to the Grantees hereunder; that the Property is free and clear of all liens and encumbrances, except for recorded easements and recorded covenants, that the persons executing this Agreement on behalf of the Owner are fully authorized to execute this Agreement on behalf of the Owner; and that this Agreement is the binding obligation of the Owner.

11. Stormwater Maintenance. Attached hereto as Exhibit Y is a document entitled "Massenza Storm Water Management Practice Maintenance Agreement". This document, including its own Exhibits A, B, and C, shall be, and through this Agreement, hereby is a restrictive covenant (referred to in this Agreement as the "Restrictive Covenant") on the Property imposing duties and obligations on the Owner, its successors and/or assigns in title, for the Use, Operation, Cleaning, Maintenance, Altering, Repairs and Replacements of the Detention Pond and Drainage Facilities

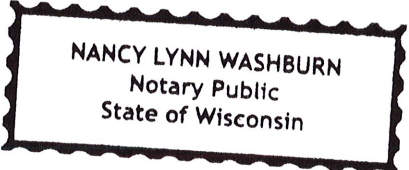
**OWNER:
TNG 19, LLC**

BY: *Raymond C. Leffler*
Raymond C. Leffler, Member

STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 18th day of March 2022, the above-named **Raymond C. Leffler**, a Member TNG 19, LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same on behalf of said limited liability company.

Nancy L. Washburn
Notary Public, State of Wisconsin, Racine County



My Commission expires: 3-8-2025

VILLAGE OF CALEDONIA

BY: *James R. Dobbs*
James R. Dobbs, President

ATTEST: *Joslyn Hoeffert*
Joslyn Hoeffert, Clerk

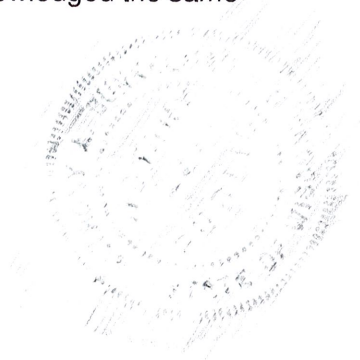
STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 21st day of March 2022, the above-named **James R. Dobbs, President** and **Joslyn Hoeffert, Clerk**, of the Village of Caledonia, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Village of Caledonia.

Anthony A. Bunkelman
Notary Public, Racine County, WI

Anthony A. Bunkelman

My Commission expires: July 26, 2023



VILLAGE OF CALEDONIA UTILITY DISTRICT

BY: Howard Stacey
Howard Stacey, President

ATTEST: Michael Pirk
Michael Pirk, Secretary

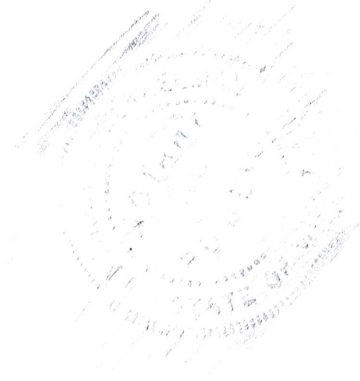
STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 21st day of March 2022, the above-named, **Howard Stacey, President** and **Michael Pirk, Secretary**, of the Village of Caledonia Utility District, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Village of Caledonia Utility District.

Anthony A. Bunkelman
Notary Public, State of Wisconsin

Anthony A. Bunkelman

My Commission expires: July 26, 2023



This Instrument Was Drafted By: Anthony A. Bunkelman P.E., Public Services Director

Exhibit X – Legal Description

The following description and reduced copy map identifies the land parcel(s) affected by this Plan. For a larger scale view of the referenced document, contact the Village of Caledonia.

Project Name: **Massenza**

Map Produced By: **Pinnacle Engineering Group**

Location: **Being part of the Southwest 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 33, Township 4 North, Range 22 East, Village of Caledonia, Racine County, Wisconsin.**

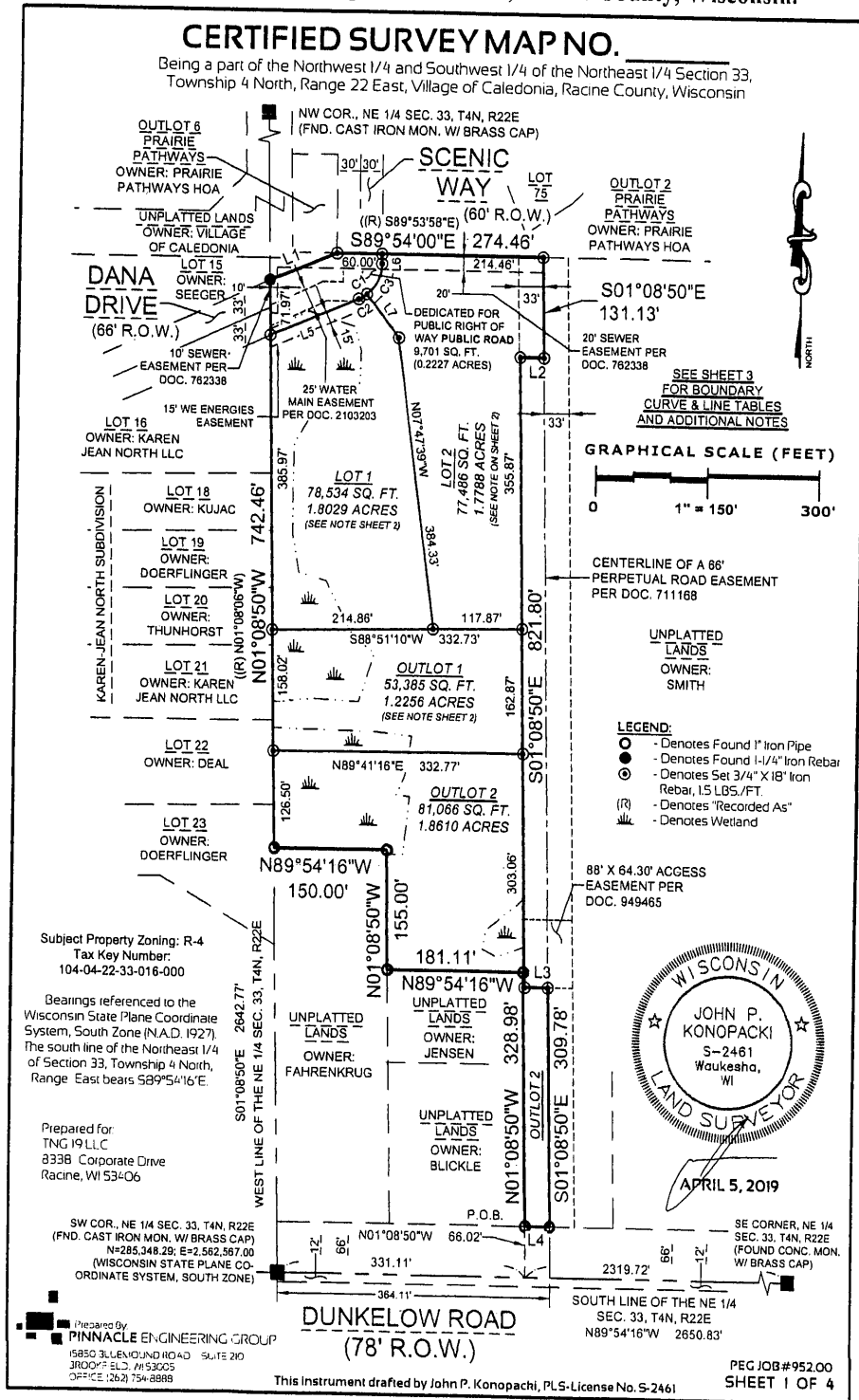


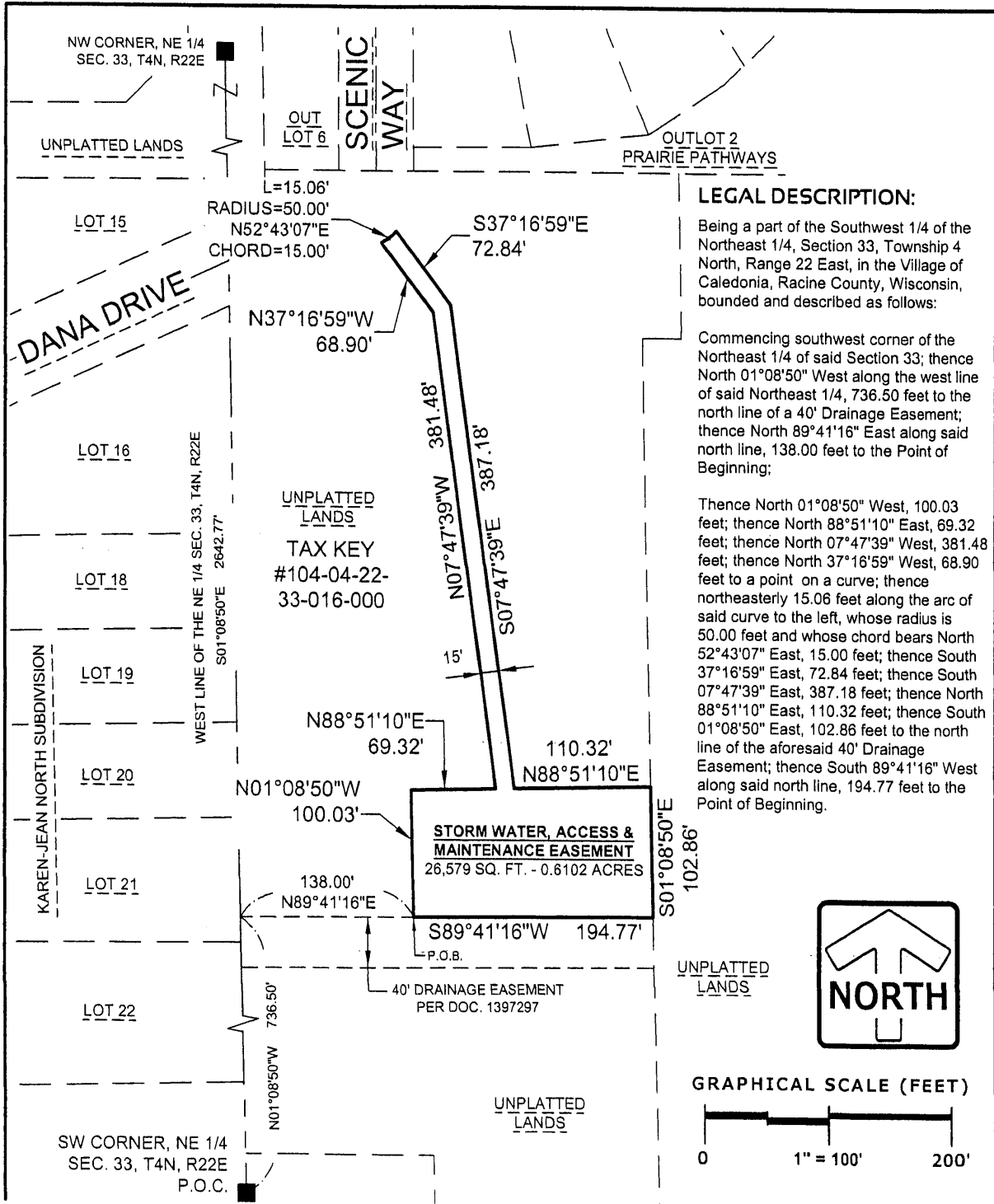
Exhibit X (con't) – Easement

The following description and reduced copy map identifies the land parcel(s) affected by this Plan. For a larger scale view of the referenced document, contact the Village of Caledonia.

Project Name: **Massenza**

Map Produced By: **Pinnacle Engineering Group**

Location: **Being part of the Southwest ¼ and Northwest ¼ of the Northwest ¼ of Section 33, Township 4 North, Range 22 East, Village of Caledonia, Racine County, Wisconsin.**



Massenza
Storm Water Management Practice
Maintenance Agreement

Document Number

TNG 19, LLC as "Owner" of the property described below, in accordance with State and the Village of Caledonia Code of Ordinances 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.

Name and Return Address

TNG 19, LLC
8338 Corporate Drive
Mount Pleasant, WI 53406

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) identified in Exhibit B.
2. The Owner 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 Village of Caledonia, 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. Upon written notification by Village of Caledonia or their designee, the Owner shall, at their own cost and within a reasonable time period determined by the Village of Caledonia, have an inspection of the storm water management practice conducted by a qualified professional, file a report with the Village of Caledonia and complete any maintenance or repair work recommended in the report. The Owner shall be liable for the failure to undertake any maintenance or repairs.
4. Upon notification by the Village of Caledonia of required maintenance or repairs, the Owner shall complete the specified maintenance or repairs within a reasonable time frame determined by the Village of Caledonia.
5. If the Responsible Party does not complete an inspection under 3. above or required maintenance or repairs under 4. above within the specified time period, the Village of Caledonia is authorized, but not required, to perform the specified inspections, maintenance or repairs. In the case of an emergency situation, as determined by the Village of Caledonia, no notice shall be required prior to the Village of Caledonia performing emergency maintenance or repairs. The Village of Caledonia 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.

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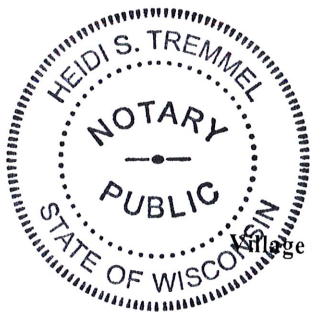
Parcel Identification Number(s) – (PIN)

Owner: TNG 19, LLC

TNG 19 LLC
By: Raymond C. Leffler

STATE OF WISCONSIN)
) ss.
RACINE COUNTY)

Personally came before me this 17th day of March, 2022, the above named Raymond C. Leffler, to me known to be the person who executed the foregoing instrument and acknowledged the same.



Heidi S. Tremmel
Notary Public, State of Wisconsin
My Commission expires 2/7/26

Village of Caledonia:
Jan R. Dobb
Village President

STATE OF WISCONSIN)
) ss.
RACINE COUNTY)

Personally came before me this 21st day of March, 2022 the above named James R. Dobb, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Anthony R. Benkehn
Notary Public, State of Wisconsin
My Commission July 26, 2023

Village of Caledonia:
Joslyn Harbott
Village Clerk

This document was drafted by:

Pinnacle Engineering Group
15850 West Bluemound Road
Suite 210
Brookfield, WI 53005

Exhibit A – Legal Description

The following description and reduced copy map identifies the land parcel(s) affected by this Plan. For a larger scale view of the referenced document, contact the Village of Caledonia.

Project Name: **Massenza**

Map Produced By: **Pinnacle Engineering Group**

Location: **Being part of the Southwest 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 33, Township 4 North, Range 22 East, Village of Caledonia, Racine County, Wisconsin.**

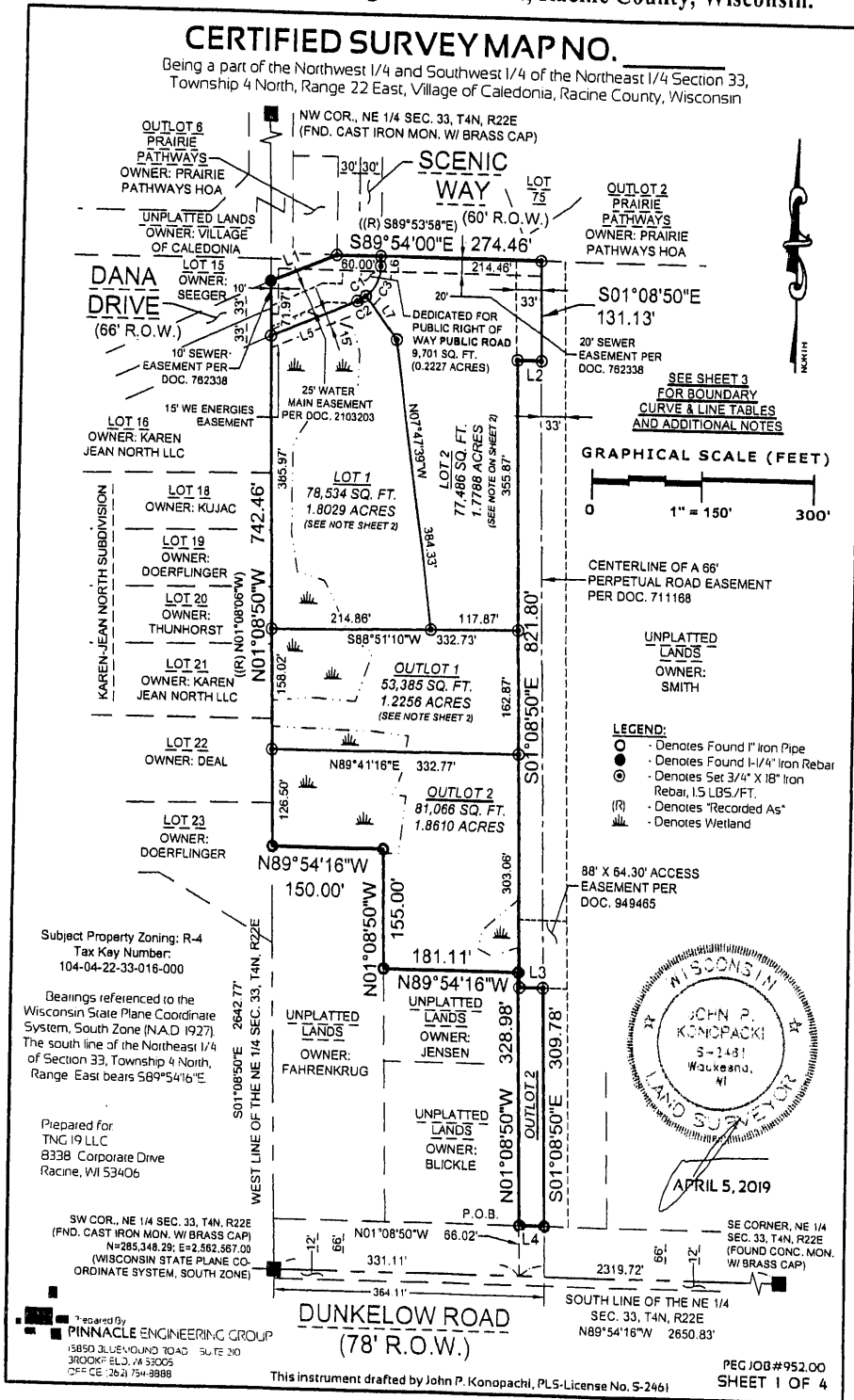


Exhibit A (con't) – Easement

The following description and reduced copy map identifies the land parcel(s) affected by this Plan. For a larger scale view of the referenced document, contact the Village of Caledonia.

Project Name: **Massenza**

Map Produced By: **Pinnacle Engineering Group**

Location: **Being part of the Southwest 1/4 and Northwest 1/4 of the Northwest 1/4 of Section 33, Township 4 North, Range 22 East, Village of Caledonia, Racine County, Wisconsin.**

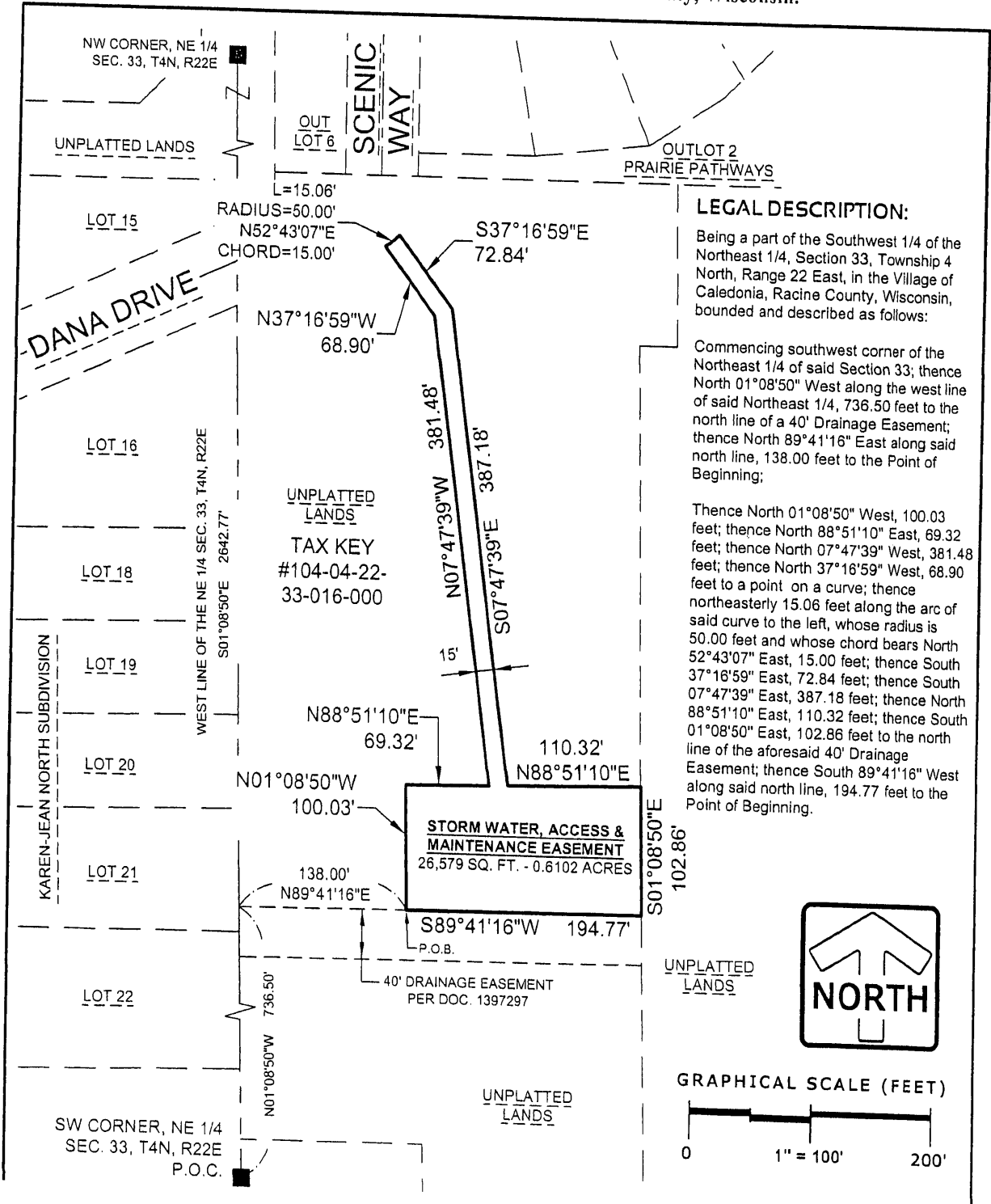


Exhibit B – Wet Pond Overall Drainage & Grading Plan

The storm water management practices covered by this Plan are depicted in the reduced copy of the construction plans, as shown below. The practices include water quality basins, spillways, earthen berms and other components of these practices.

Project Name: Massenza
Storm water Practices: Wet Pond
Location of Practices: South Portion of Site

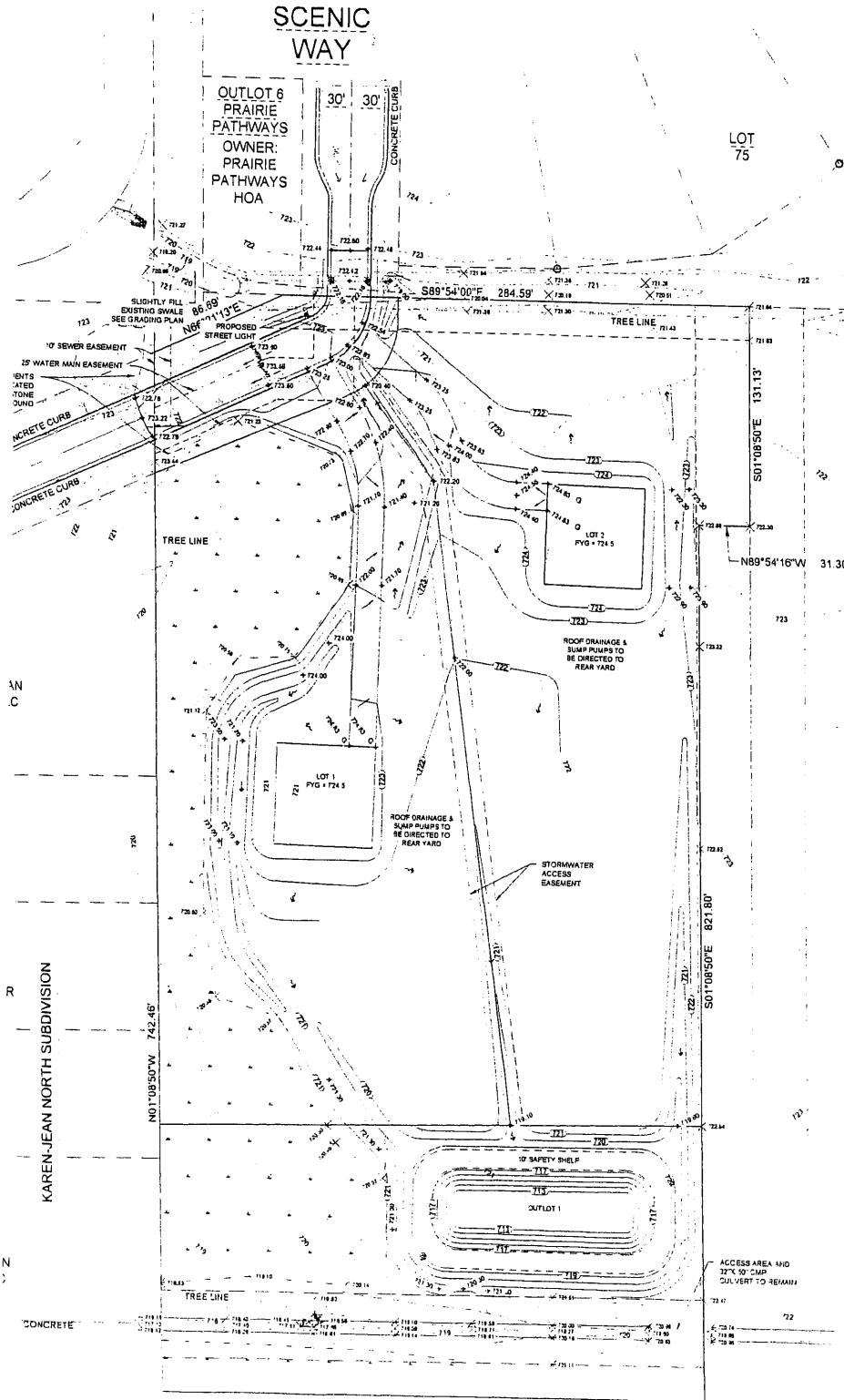


Exhibit B – Wet Pond Outlet Structure

The storm water management practices covered by this Plan are depicted in the reduced copy of the construction plans, as shown below. The practices include water quality basins, spillways, earthen berms and other components of these practices.

Project Name: Massenza
Storm water Practices: Wet Pond
Location of Practices: South Portion of Site

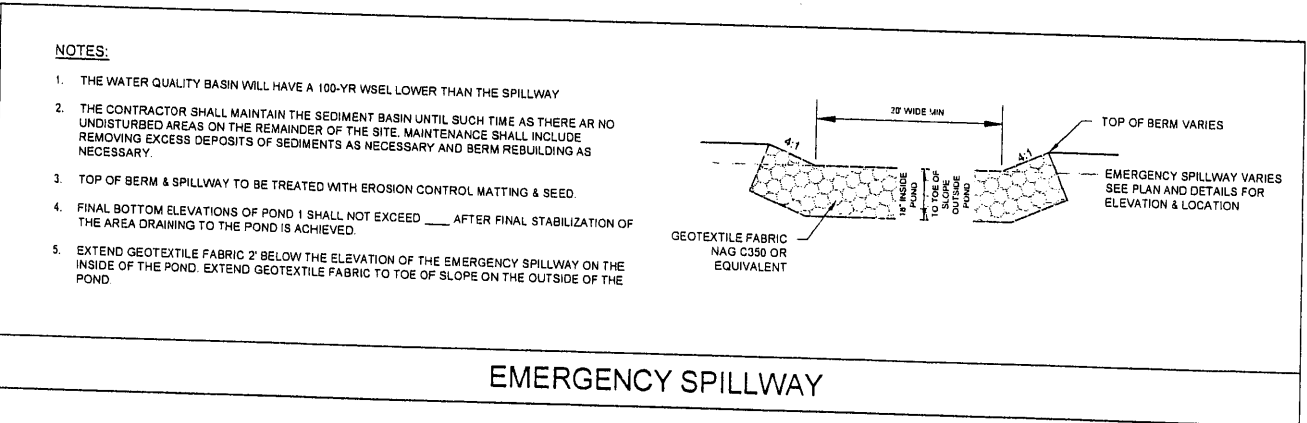
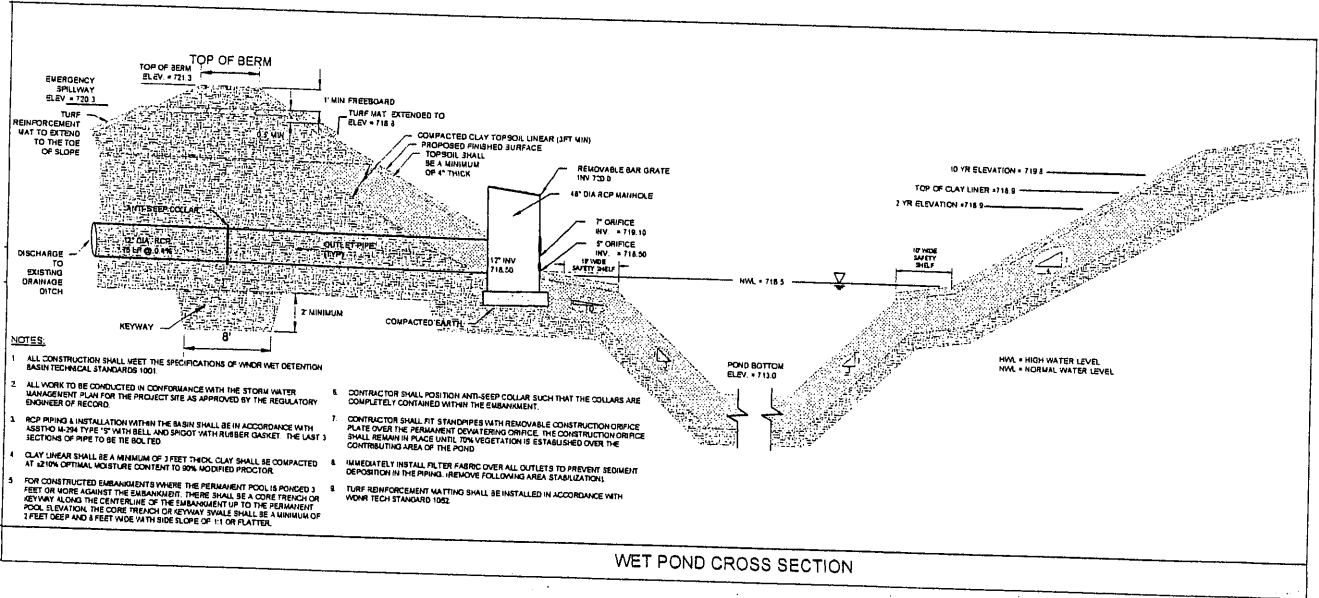


Exhibit C

Minimum Storm Water Practice Maintenance Requirements

This exhibit explains the basic function of each of the storm water practices listed in Exhibits A through B and prescribes the minimum maintenance requirements to remain compliant with this Plan. 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.

WET DETENTION BASINS

System Description:

The wet pond is designed to remove at least 80% of the Total Suspended Solids (TSS) in the site runoff and to reduce pre-development downstream peak flows. To function correctly, the pond size, water level and outlet structures must be maintained as specified in this Plan (see Exhibits A through B).

Massenza is a proposed subdivision development. The project is located on Dana Drive and Scenic Way in the Village of Caledonia, Racine County, Wisconsin.

Minimum Maintenance Requirements:

To ensure the proper function of the storm water management practices described above, the following activities must be completed:

1. All outlet structures and pipes must be checked monthly to ensure there is no blockage from floating debris or ice, especially the washed stone in front of the orifices and the trash rack on the risers in the main part of the wet pond. Any blockage must be removed immediately. The washed stone must be replaced when it becomes clogged.
2. Grass swales shall be preserved to allow free flowing of surface runoff in accordance with approved grading plans. No buildings or other structures are allowed in these areas. No grading or filling is allowed that may interrupt flows in any way.
3. Grass swales, inlets and outlets must be checked at least twice yearly (spring and fall) and after heavy rains for signs of erosion. Any eroding areas must be repaired immediately to prevent premature sediment build-up in the basin. Erosion matting is recommended for repairing grassed areas.
4. NO trees are to be planted or allowed to grow on the earthen berms. Tree root systems can reduce soil compaction and cause berm failure. The berms must be inspected annually and any woody vegetation removed.
5. If floating algae or weed growth becomes a nuisance (decay odors, etc.), it must be removed from the basin and deposited where it cannot drain back into the basin. Removal of the vegetation from the water reduces re-growth the following season (by harvesting the nutrients). Wetland vegetation must be maintained along the waters edge for safety and pollutant removal purposes.
6. The wet pond is to be cleaned out prior to the depth of sediment reaching the dewatering hole. All removed sediment must be placed in an appropriate upland disposal site and stabilized (grass cover) to prevent sediment from washing back into the basin.
7. No grading or filling of the wet pond or berms other than for sediment removal is allowed, unless otherwise approved by the Village of Caledonia.
8. To promote more effective infiltration, mowing in the drainage ways, detention basins, and wetland fringe areas should be minimized. If mowing is deemed necessary, the mowing heights should be no shorter than six (6) inches. Restricting any mowing to late summer or autumn will minimize mortality to ground nesting birds. To discourage the presence of nuisance waterfowl (i.e. Canada Geese), a minimum 30-foot wide no-mow fringe shall be maintained around all detention basins, where possible.
9. After Vegetation is 70% established, the use of herbicides/pesticides is to be discontinued along the swales & basins.