

RESOLUTION NO. 2018-128

RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A STORMWATER EASEMENT AGREEMENT WITH THE ROBERT P. & PHYLLIS M. PETERSON JOINT REVOCABLE TRUST FOR CALEDONIA STORAGE

WHEREAS, the Caledonia Utility District has conditionally approved a Storm Water Management Plan and a Site Grading & Drainage Plan for Caledonia Storage for the construction of 3 Storage buildings and 1 Multi-tenant building located on the North side of Storage Drive. The Storm Water Management Plan and the Site Grading & Drainage Plan for the development requires the installation Drainage Facilities on the property. As a condition of approval of the Storm Water Management Plan and Site Grading & Drainage Plan for Caledonia Storage, a Stormwater Easement Agreement shall be granted over the Drainage Facilities.

WHEREAS, the Owner, the Robert P. & Phyllis M. Peterson Joint Revocable Trust, has executed said Stormwater Easement Agreement and the President and Secretary of the Caledonia Utility District and the President and Clerk of the Village need to execute the Stormwater 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 Easement Agreement as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, is authorized and approved and that the Village President and Village Clerk are authorized to execute said Agreement.

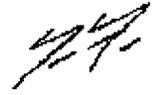
Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 9th day of November, 2018.

VILLAGE OF CALEDONIA

By: James R Dobbs
James R Dobbs, Village President

Attest: Karie Torkilsen
Karie Torkilsen, Village Clerk

**Stormwater Easement Agreement:
Robert P. and Phyllis M. Peterson
Joint Revocable Trust**



TYSON FETTES
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: \$30.00

Pages: 9

Document Number

Name and Return Address
Mr. Anthony A. Bunkelman P.E.
Village of Caledonia
Engineering Department
6922 Nicholson Road
Caledonia, Wisconsin 53108



104-04-22-27-018-030
Parcel Identification Number (PIN)

STORMWATER EASEMENT AGREEMENT:
ROBERT P. AND PHYLLIS M. PETERSON JOINT REVOCABLE TRUST

This Stormwater Easement Agreement ("Agreement") is made the _____ day of _____, 2018, by and between the **Robert P. and Phyllis M. Peterson Joint Revocable Trust**, with Robert P. Peterson and Phyllis M. Peterson being Co-Trustees of the said Trust, residing at 17225 Holly Lane, Brookfield, Wisconsin 53045, referred to in this Agreement as "Owner", and the **VILLAGE OF CALEDONIA**, Racine County, Wisconsin, and **VILLAGE OF CALEDONIA STORM WATER UTILITY DISTRICT**, a utility district of the Village of Caledonia, Racine County, Wisconsin. The Village of Caledonia and Village of Caledonia Storm Water 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 in the Letter Report of Title attached hereto as Exhibit A, and hereby incorporated herein by reference. 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 construct, at Owner's own cost and expense, a storm water drainage plan within the area of the Property described and depicted on Exhibit B attached hereto and incorporated herein. Said stormwater drainage plan includes, in part, the Stormwater Retention Pond (the "Pond") described therein and herein, and is referred to in this Agreement as the "Plan". 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 Plan and provide Grantees with an access easement.

C. The Grantees have requested that the Owner grant a permanent easement (referred to in this Agreement as the "Stormwater Drainage Easement") over that portion of the Property described in attached Exhibit B, hereinafter referred to in this Agreement as the "Stormwater Drainage Easement Area". The location of the Stormwater Drainage Easement Area with respect to the Property is as shown and described in Exhibit B.

D. The Grantees have requested that the Owner grant a permanent access easement (referred to in this Agreement as the "Ingress/Egress Easement") over the Owner's Property, that will grant to the Grantees, and their employees, officials, commissioners, contractors, consultants, and agents, pedestrian and/or vehicular ingress and egress to and from Storage Drive and the Stormwater Drainage Easement Area.

E. The Stormwater Drainage Easement Area and the Ingress/Egress Easement Area are collectively referred to in this Agreement as the "Utility Easement Area".

F. As used in this Agreement, the term "Drainage Facilities" shall mean the Plan (including the said Stormwater Retention Pond), the Stormwater Drainage Easement Area, the Ingress/Egress Easement Area, the drainage swales, drainage ditches, pipelines, laterals, culverts, storm sewers and any other structures or improvements that are constructed or installed upon the Utility 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 water 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 Drainage Facilities. The Owner agrees to construct, use, operate, clean, maintain, alter, repair and replace the Drainage Facilities, and including, without limitation, mowing, control of weed and algae growth, and 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 Drainage Facilities, so that the Drainage Facilities function properly and to their design capacity for the 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 Drainage Facilities. Said obligations shall include the obligation to construct, use, operate, clean, maintain, alter, repair and replace the 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 Drainage Facilities from becoming a nuisance.

2. Failure to Construct, Clean, Maintain, Alter, Repair and Replace the 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 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 Pond or Drainage Facilities. The Owner shall not make or construct any alteration or change of the Drainage Facilities, including, without limitation, any alteration or change in the grade, elevations, size, shape, capacity, rate of inflow or rate of outflow of the 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. Owner shall, and hereby does, indemnify and hold harmless the Grantees, and their employees, officials, commissioners, contractors, consultants, and agents from and against any claims, actions, judgments, damages, costs, and expenses (including, but not limited to, reasonable actual attorney fees) and/or liability of any nature whatsoever, that may arise, directly or indirectly, as a result of (i) the existence, construction, use, operation, cleaning,

maintaining, alteration, repair, and/or replacement of the Drainage Facilities, and/or (ii) any property damage and/or bodily injury (including death) that may arise or occur as a result of the foregoing and/or at such locations.

5. Insurance. Owner shall, at Owner's own cost and expense, and prior to the construction of the Drainage Facilities, obtain and maintain a policy of general liability insurance, from a Wisconsin-licensed insurance carrier, that (i) has coverage and policy limits satisfactory to the Grantees, and (ii) has the Grantees named as additional insureds. Such insurance shall be kept and maintained by the Owner throughout the entire term of this Agreement.

6. Grant of Easement. The Owner hereby grants to the Grantees, and to the Grantees' employees, officials, commissioners, contractors, consultants, agents, successors, and assigns, the Ingress/Egress Easement over, across, under, and through the Owner's Property, for the purposes of (i) performing its duties, responsibilities, and easement rights imposed upon and/or granted to the Grantees under this Agreement, and/or (ii) inspecting, monitoring, and/or testing the Drainage Facilities and/or the Utility Easement Area, and (iii) for conveying and/or storing surface and storm waters in, over, across, under, and/or through the Utility Easement Area and the Drainage Facilities.

7. Removal of Obstructions. Owner hereby grants to the Grantees, and to Grantees' employees, officials, commissioners, contractors, consultants, and agents the right to:

- (a) Cut down and remove or trim all trees, bushes or other vegetation existing within the Utility Easement Area, and to cut down and remove or trim all trees, bushes and other vegetation located outside of the Utility Easement Area that interfere with (i) the construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Drainage Facilities within the Utility Easement Area, or (ii) ingress and egress through the Ingress/Egress Easement Area.
- (b) Remove any fences, structures or improvements located within the Utility Easement Area to the extent necessary to (i) carry out the construction, use, operation, cleaning, maintenance, alteration, repair and replacement of the Drainage Facilities within the Utility Easement Area, or (ii) maintain ingress and egress through the Ingress/Egress Easement Area.

8. Further Owner Requirements.

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

(b) The elevation of the existing ground surface within the Utility Easement Area will not be altered without the written consent of the Grantees.

(c) Owner shall construct and comply with the provisions and requirements of (i) the Plan, being the Stormwater Management Plan for the Property, prepared by Via Rail Engineering, Inc., having offices at 14727 Maribel Road, Maribel, Wisconsin 54227, Professional Engineer Stamped September 26, 2018, as may be approved and/or amended from time to time by the Grantees, and (ii) any Memoranda from Anthony A. Bunkelman, P.E., to Owner, regarding the Stormwater Management Plan.

9. 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 Drainage Facilities within the Utility 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 only be required to (i) restore any disturbed areas of soil with grass seed, and (ii) restore any disturbed paved portion or gravel portion of the Property with similar materials.

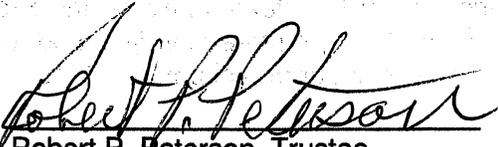
10. Non-Use. Non-use or limited use of the rights granted to the Grantees in this Agreement shall not prevent the Grantees from the later use of said rights to the fullest extent authorized in this Agreement.

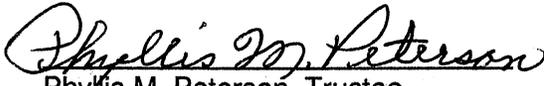
11. Covenants Run With Land. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land that is the Property and shall be binding upon, inure to the benefit of, and be enforceable by the Owner and the Grantees and their respective successors and assigns.

12. 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.

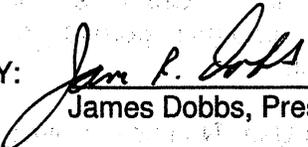
13. Term. The term of this Agreement shall continue indefinitely, in full force and effect, unless and until amended and/or terminated with the written approval of the Grantees.

OWNER:
**Robert P. and Phyllis M. Peterson Joint
Revocable Trust**

BY: 
Robert P. Peterson, Trustee

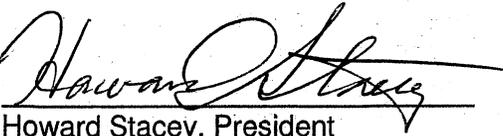
BY: 
Phyllis M. Peterson, Trustee

GRANTEES:
Village of Caledonia

BY: 
James Dobbs, President

Attest: 
Karie Torkilsen, Village Clerk

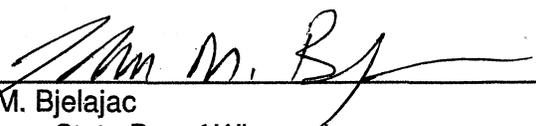
**Village of Caledonia Storm Water
Utility District**

BY: 
Howard Stacey, President

Attest: 
Harry Garnette, Secretary

AUTHENTICATION

Signatures of Robert P. Peterson and Phyllis M. Peterson, Trustees of the Robert P. and Phyllis M. Peterson Joint Revocable Trust; James Dobbs, Village President, and Karie Torkilsen, Village Clerk, of the Village of Caledonia; and Howard Stacey, President, and Harry Garnette, Secretary, of the Village of Caledonia Storm Water Utility District, authenticated this 15th day of December, 2018.


John M. Bjelajac
Member: State Bar of Wisconsin
State Bar No. 1015325

This document drafted by:
Atty. John M. Bjelajac
State Bar No. 1015325
601 Lake Avenue
Racine, Wisconsin 53403
Attorney for the Village of Caledonia
Storm Water Utility District



LANDMARK TITLE OF RACINE, INC.

Title Insurance Abstracts Escrows Closing Service

719 Washington Ave. PO Box 726 Racine, WI 53401 262-632-6262 FAX 262-632-6243

LML-65886

October 3, 2018

LETTER REPORT SCHEDULE A

We have examined the records relative to the premises described in Schedule B below and find that as of the date of this report the recorded title to said premises subject to the encumbrances and other matters set forth in Schedule B below appears in: Robert P. and Phyllis M. Peterson Joint Revocable Trust

SCHEDULE B

Description of Property situated in the County of Racine, State of Wisconsin:

Lot 1, Certified Survey Map No. 2745, recorded in the office of the Register of Deeds for Racine County, Wisconsin on October 28, 2005 in Volume 8 of Certified Survey Maps, Page 744, as Document No. 2056502, located in the Southeast 1/4 of the Southwest 1/4 of Section 27, Town 4 North, Range 22 East. Said land being in the Village of Caledonia, County of Racine, and State of Wisconsin.

The following is for informational purposes only:

Address: Storage Drive

Tax Key No. 104-04-22-27-018-030

1. Mortgages, Liens, Agreements, Stipulations: NONE
2. Construction Liens (for past two years only): NONE
3. Land Contracts, Leases, or Notices of Lis Pendens: NONE
4. Unpaid real estate taxes up to and including those for the year 2017: NONE (Special Assessments - Not Examined)
NOTE: Taxes for the year 2017 in the amount of \$3,273.46, have been paid in full.
5. No Money Judgments, State Income Tax Liens, State Sales and Use Tax Warrants or Federal Tax Liens - Docketed in Racine County, against the following parties only: Robert P. Peterson Phyllis M. Peterson Trust

Dated: October 2, 2018 at 08:00 AM

LANDMARK TITLE OF RACINE, INC.

Michael P. Staech

This report does not represent a detailed examination of, or an opinion as to the title to the above described premises. It is a report based on a search of the records of the Register's Office for Racine County. Liability is limited to the amount charged for this search.

EXHIBIT A

Stormwater Management Easement

An easement for the conveyance of stormwater located in that part of Lot 1 Certified Survey Maps 2745, as recorded in Volume 8, at Pages 744 thru 747 as document number 2056520 records of Racine County, Wisconsin being described as the Southerly 85 feet of the Easterly 300 feet of said Lot 1, being more particularly described as follows;

Commencing at the Southeast corner of said Lot 1, said point also being the POINT OF BEGINNING.

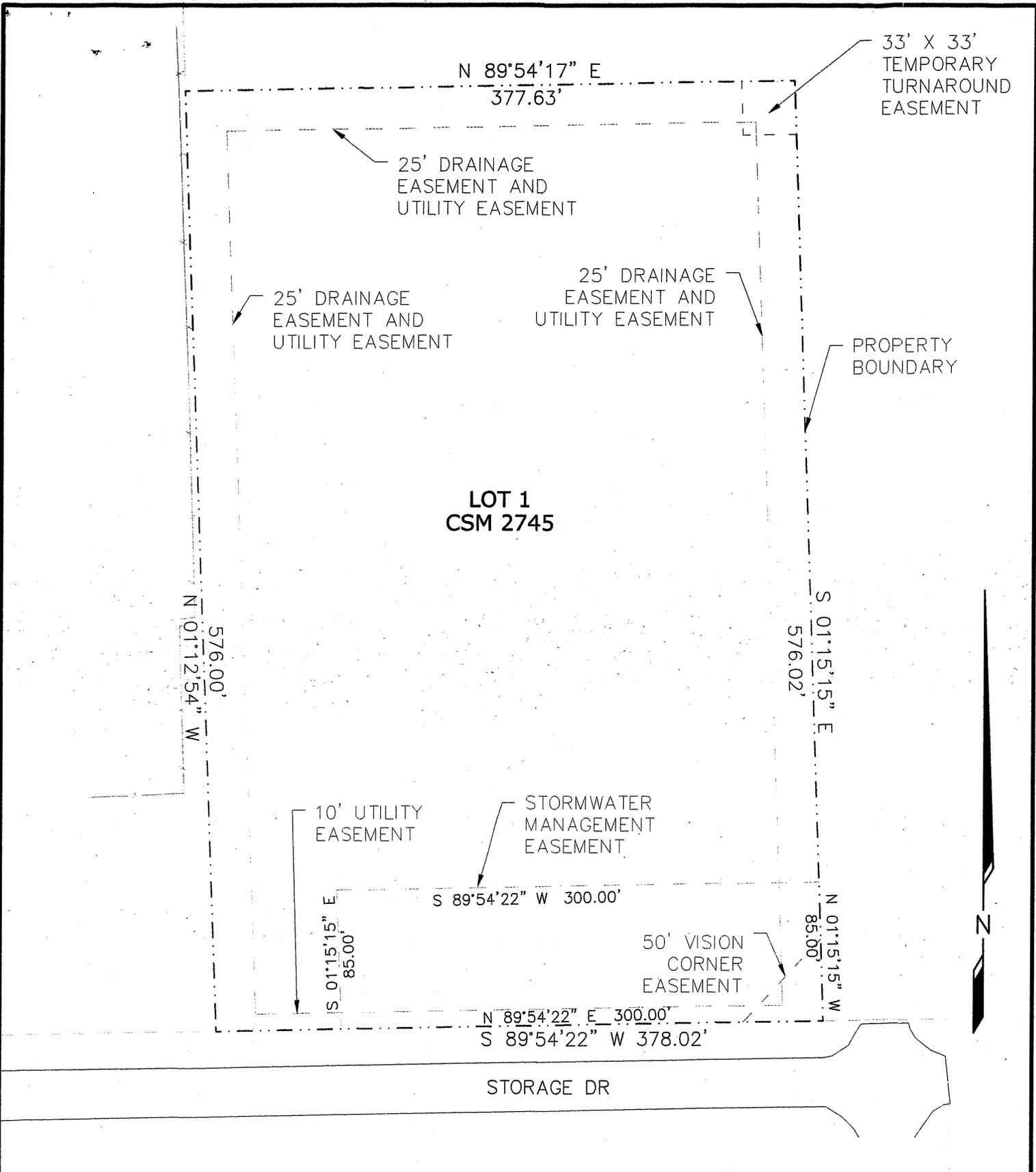
Thence North $01^{\circ} 15' 15''$ West along the East Line of said Lot 1, a distance of 85.00';

Thence South $89^{\circ} 54' 22''$ West, a distance of 300.00';

Thence South $01^{\circ} 15' 15''$ East, a distance of 85.00' to a point on the South Line of said Lot 1;

Thence North $89^{\circ} 54' 22''$ East, along the said South Line of Lot 1, a distance of 300.00' to the POINT OF BEGINNING.

Said stormwater management easement contains 25,495 square feet and is subject to any other recorded easements, roadways, or other matters of public record.



LOT 1
CSM 2745

STORAGE DR



VIA RAIL
ENGINEERING INC.

14727 Maribel Road - PO Box 137
Maribel, Wisconsin 54227
corporate phone: 920.367.2000
web: viarailengineering.com

DESIGNED BY:

EPN

DRAWN BY:

EPN

APPROVED BY:

DATE ISSUED:

9/26/18

PROPERTY EXHIBIT

PETERSON STORAGE UNITS

CALEDONIA, WISCONSIN

SHEET #

EX-1

SHEET

1 OF

1