

RESOLUTION NO. 2019-28

**RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A
STORMWATER EASEMENT AGREEMENT WITH DR INVESTMENTS 5231 LLC &
IN AUTO INC. FOR IN AUTO INC. – 4730 STATE TRUNK HIGHWAY 41**

WHEREAS, the Caledonia Utility District has conditionally approved a Storm Water Management Plan and a Site Grading & Drainage Plan for In Auto Inc. for the construction of a multi – tenant commercial building located on the West side of the East Frontage Road (State Trunk Highway 41). 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 Plan for In Auto Inc., a Stormwater Easement Agreement shall be granted over the Drainage Facilities.

WHEREAS, the Owners, DR Investments 5231 LLC and In Auto Inc. have executed said Stormwater Easement Agreement.

WHEREAS, the Caledonia Utility District has authorized the President & Secretary of the Caledonia Utility District to execute the Stormwater Easement Agreement at their March 13, 2019 meeting.

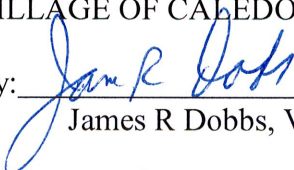
WHEREAS, the President and Clerk of the Village need to execute the Stormwater Easement Agreement in order to allow it to be recorded.

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 approved and that the Village President and Village Clerk are authorized to execute said Stormwater Easement Agreement.


Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin,
this 18th day of March, 2019.

VILLAGE OF CALEDONIA

By: _____


James R Dobbs, Village President

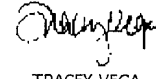
Attest: _____


Karie Torkilsen, Village Clerk

Document Number

**Stormwater Easement Agreement:
DR Investments 5231 LLC
and IN Auto Inc.**

Document # **2519623**
RACINE COUNTY REGISTER OF DEEDS
May 08, 2019 10:13 AM



TRACEY VEGA
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: \$30.00

Pages: 9

30-9

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

51-104-04-22-30-019-020 and
51-104-04-22-30-020-001
Parcel Identification Number (PIN)

STORMWATER EASEMENT AGREEMENT:
DR INVESTMENTS 5231 LLC and IN Auto Inc.

This Stormwater Easement Agreement ("Agreement") is made the 21ST day of March, 2019, by and between **DR Investments 5231 LLC**, a Wisconsin limited liability company with offices located at 7228 South 27th Street, Oak Creek, Wisconsin 53154, with Dragan Radeta as a Member, and **IN Auto Inc.**, a Wisconsin corporation with offices located at 7228 South 27th Street, Oak Creek, Wisconsin 53154, with Dragan Radeta as its Registered Agent, said two entities collectively referred to, in the singular tense, 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 two adjacent parcels of real property in the Village of Caledonia, Racine County, State of Wisconsin, such two parcels having real estate tax numbers 51-104-04-22-30-019-020 and 51-104-04-22-30-020-001, and further described in attached Exhibit A, and hereby incorporated herein by reference. Said two parcels of real property are jointly referred to, in the singular tense, 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 in Exhibit B. 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 this 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 (and labeled "Storm Water Drainage, Access & Maintenance Easement" 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 the East Frontage Road and the Stormwater Drainage Easement Area. (This Ingress/Egress Easement is over Owner's entire Property, and not just the limited area marked as the "Storm Water Drainage Access & Maintenance Easement" shown in Exhibit B.)

E. The Stormwater Drainage Easement Area and the Ingress/Egress Easement over Owner's Property 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 over Owner's Property 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. The Drainage Facilities, including the construction and proper functioning of the Pond, shall be constructed and installed by Owner on or before the date of September 15, 2019.

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 (including, but not limited to, the Stormwater Management Plan dated September 7, 2018, and stamp-dated September 11, 2018, and the Site Grading & Drainage Plan dated September 7, 2018, and stamp-dated September 10, 2018, as approved by the Utility District Commission on October 10, 2018), prepared by Nielsen Madsen & Barber, S.C., having offices at 1458 Horizon Boulevard, Suite 200, Racine, Wisconsin 53406, 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 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.

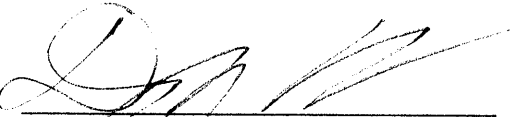
10. Non-Use. Non-use or limited use of the rights granted to the Grantees in this Agreement shall not prevent the Grantees from the later use of said rights to the fullest extent authorized in this Agreement.

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:
DR Investments LLC**

BY: 
Dragan Radeta, Member

IN Auto Inc.

By: 
Dragan Radeta, Registered Agent


**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 Dragan Radeta; 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 21st day of March, 2019.


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

State Bar of Wisconsin Form 1-2003
WARRANTY DEED

Document Number

Document Name

THIS DEED, made between IN THE DOG HOUSE, LLC

_____ ("Grantor," whether one or more),
and DR INVESTMENTS 5231 LLC

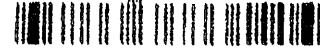
_____ ("Grantee," whether one or more).

Grantor, for a valuable consideration, conveys to Grantee the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in Racine County, State of Wisconsin ("Property") (if more space is needed, please attach addendum):

Lot 2 of Certified Survey Map No. 2995 recorded in the office of the Register of Deeds for Racine County, Wisconsin on August 13, 2010 in Volume 9 of Certified Survey Maps, page 687, as Document No. 2258141, being a part of the West 1/2 of the Northwest 1/4 of Section 30, Township 4 North, Range 22 East, in the Village of Caledonia, Racine County, Wisconsin.

TYSON FETTES
RACINE COUNTY
REGISTER OF DEEDS
Fee Amount: \$30.00
Transfer Fee: \$840.00

Pages: 1



Recording Area

Name and Return Address

7228 S. 27th ST
Oak Creek WIS.
53154
30

51-104-04-22-30-019-020

Parcel Identification Number (PIN)

This _____ is not _____ homestead property
(is) (is not)

Grantor warrants that the title to the Property is good, indefeasible in fee simple and free and clear of encumbrances except: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's Real Estate Condition Report and in the Offer, general taxes for 2016, and will warrant and defend the same.

Dated June 9, 2016

IN THE DOG HOUSE, LLC

Nancy A. Simonson (SEAL)
*NANCY A. SIMONSON, MEMBER

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

AUTHENTICATION

Signature(s) _____
authenticated on _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
RACINE COUNTY) ss.

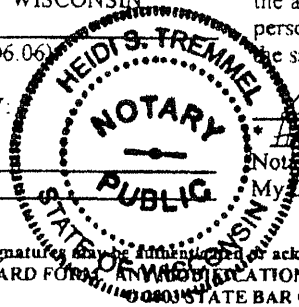
TITLE: MEMBER STATE BAR OF WISCONSIN
(If not, _____
authorized by Wis. Stat. § 706.06)

Personally came before me on June 9, 2016,
the above-named NANCY A. SIMONSON to me known to be the
person(s) who executed the foregoing instrument and acknowledged
the same.

THIS INSTRUMENT DRAFTED BY:

JOHN U. SCHNEIDER
ATTORNEY AT LAW

File 73790



Heidi S. Tremmel
Notary Public, State of Wisconsin
My Commission (is permanent) (expires: 2/20/18)

(Signatures may be fingerprinted or acknowledged. Both are not necessary.)

NOTE: THIS IS A STANDARD FORM. ANY MODIFICATIONS TO THIS FORM SHOULD BE CLEARLY IDENTIFIED.

WARRANTY DEED

STATE BAR OF WISCONSIN

FORM NO. 1-2003

* Type name below signatures.

F16102061R
Document Number

State Bar of Wisconsin Form 7-2003
TRUSTEE'S DEED

Document #: **2476500**
Date: 10-05-2017 Time: 04:01 PM Pages: 1
Fee: \$30.00 County: RACINE State: WI
Requesting Party: Milwaukee Title, Inc.
Register of Deeds: TYSON FETTES
RACINE COUNTY REGISTER OF DEEDS
Transfer Fee: \$228.00
**The above recording information verifies
this document has been electronically
recorded and returned to Milwaukee Title, Inc.**

This deed, made between **Harold R. DeBack**, as Trustee of **Harold R. DeBack and Carol J DeBack Revocable Trust**("Grantor," whether one or more), and **IN Auto INC**("Grantee," whether one or more)
Grantor conveys to Grantee, without warranty, the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in the following described real estate in Racine County, State of Wisconsin:

Name and Return Address
IN Auto INC

*PO BOX 28827
MILWAUKEE WI 53228*

104-04-22-30-020-001

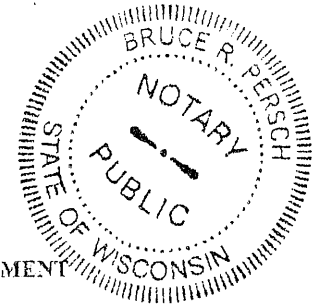
Parcel Identification Number (PIN)
This is NOT homestead property.

THAT PART OF NORTHWEST ¼ OF SECTION 30, TOWNSHIP 4 NORTH, RANGE 22 EAST, IN THE VILLAGE OF CALEDONIA, RACINE COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHEAST CORNER OF SAID LOT 2; RUN THENCE N00°37'06"W 606.82 FEET ALONG THE EAST LINE OF SAID LOT 2 TO THE WESTERLY RIGHT-OF-WAY OF THE EAST FRONTAGE ROAD; THENCE S38°13'28"E 60.67 FEET ALONG SAID RIGHT-OF-WAY TO THE POINT OF CURVATURE OF A CURVE OF NORTHEASTERLY CONVEXITY WHOSE RADIUS IS 1290.00 FEET AND WHOSE CHORD BEARS S29°54'19"E 372.51 FEET; THENCE SOUTHERLY 373.82 FEET ALONG THE ARC OF SAID CURVE AND SAID RIGHT-OF-WAY; THENCE S22°22'38"W 254.05 FEET; THENCE S89°22'54"W 120.00 FEET TO THE POINT OF BEGINNING.

Dated this 5th day of June, 2017.

Harold R. DeBack and Carol J. DeBack Revocable Trust

Harold R. DeBack
By: Harold R. DeBack, Trustee



AUTHENTICATION

ACKNOWLEDGMENT

Signature(s) _____

STATE OF WISCONSIN

ss.

Authenticated this _____ day of _____, _____

Waukesha COUNTY

TITLE: MEMBER STATE BAR OF WISCONSIN

(If not, _____)

Authorized by § 706.06, Wis. Stats.)

Personally came before me this 5th day of June, 2017
the above named, Harold R. DeBack, to me known to be
the person(s) who executed the foregoing instrument and
acknowledge the same.

THIS INSTRUMENT WAS DRAFTED BY

Harold R. DeBack

Harold R. DeBack
Bruce Persch

(Signatures may be authenticated or acknowledged. Both are not necessary.)

Notary Public, State of Wisconsin

My Commission is permanent. (If not, state expiration date)

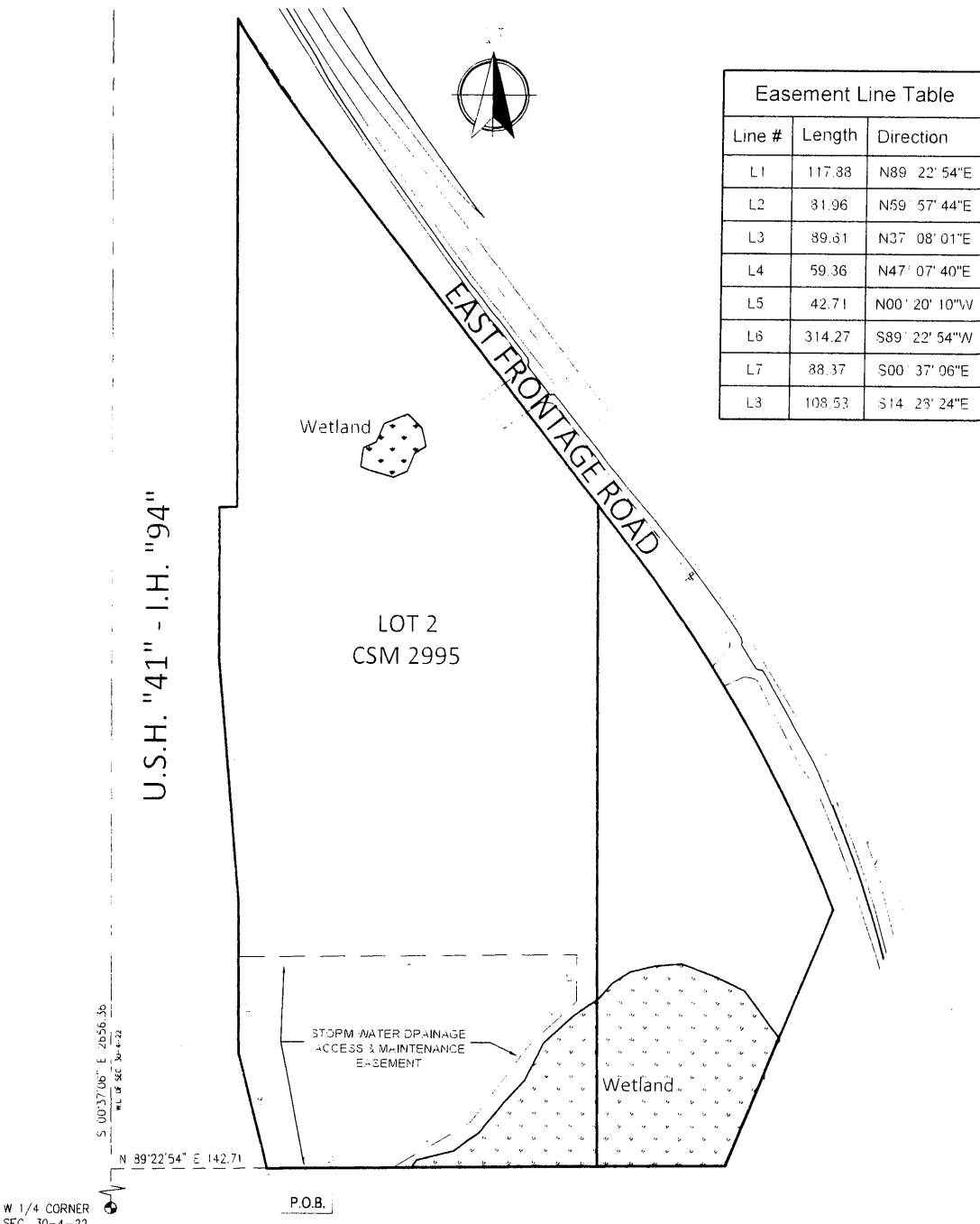
8/14/2017

(Signatures may be authenticated or acknowledge. Both are not necessary.)

DESCRIPTION OF A STORM WATER DRAINAGE, ACCESS & MAINTENANCE EASEMENT

That part of Lot 2 of Certified Survey Map No. 2995 (C.S.M. No. 2995), a map recorded in the office of the Register of Deeds for Racine County, Wisconsin on August 13, 2010 as Document No. 2258141, and being a part of the West 1/2 of the Northwest 1/4 of Section 30, Township 4 North, Range 22 East of the Fourth Principal Meridian, bounded and described as follows: Beginning at a point on the Easterly right-of-way line of United States Highway "41" - Interstate Highway "94" (U.S.H. "41" - I.H. "94"), and being the Southwest corner of Lot 2 of said C.S.M. No. 2995; run thence N89°22'54"E, 117.88 feet along the South line of Lot 2 of said C.S.M. No. 2995; thence N59°57'44"E, 81.96 feet; thence N37°08'01"E, 89.61 feet; thence N47°07'40"E, 59.36 feet; thence N00°20'10"W, 42.71 feet; thence S89°22'54"W, 314.27 feet parallel with the South line of Lot 2 of said C.S.M. No. 2995 to the Easterly right-of-way line of said U.S.H. "41" - I.H. "94" and the Westerly line of Lot 2 of said C.S.M. No. 2995; thence S00°37'06"E, 88.37 feet along the Easterly right-of-way line of said U.S.H. "41" - I.H. "94" and the Westerly line of Lot 2 of said C.S.M. No. 2995; thence S14°28'24"E, 108.53 feet along the Easterly right-of-way line of said U.S.H. "41" - I.H. "94" and the Westerly line of Lot 2 of said C.S.M. No. 2995 to the Southwest corner of Lot 2 of said C.S.M. No. 2995 and the point of beginning of this description. Said land being in the Village of Caledonia, County of Racine and State of Wisconsin. Containing 1.105 acres.

10-18-2018



Tuesday, November 13, 2018 2:09:43 PM



Nielsen Madsen & Barber
 CIVIL ENGINEERS AND LAND SURVEYORS
 1458 Horizon Blvd. Suite 200, Racine, WI 53406
 Tele: (262)534-5588 Website: www.nmbss.com

Scale: 1" = 100'
 Drawn By: SCB/FTH
 DATE: 10-18-2018
 2016.0070.02
 Storm Water Drainage, Access &
 Maintenance Easement Exhibit Drawing
 M&M Express, Inc.
 Caledonia, Wisconsin