

RESOLUTION NO. 2020-18

RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A DEPOSIT AGREEMENT WITH CARLA FREEMAN AND JAY BENKOWSKI – 5645 COUNTY TRUNK HIGHWAY V

WHEREAS, the Caledonia Utility District has conditionally approved a Storm Water Management Plan and a Site Grading & Drainage Plan for Carla Freeman and Jay Benkowski for the construction of a pond located at 5645 County Trunk Highway V. To guarantee the completion and construction of the pond, in conformity with the approved Plans and Specifications, the Owner is required to enter into the Deposit Agreement prior to the construction of the pond. The Deposit Agreement is to be entered into by the Owner, the Caledonia Utility District and the Village of Caledonia; and

WHEREAS, the Owners, Carla Freeman and Jay Benkowski have executed said Deposit Agreement and will made the required deposit with the Village of Caledonia by May 31, 2020; and

WHEREAS, the Caledonia Utility District has authorized the President & Secretary of the Caledonia Utility District to execute the Deposit Agreement at their March 4, 2020 meeting; and

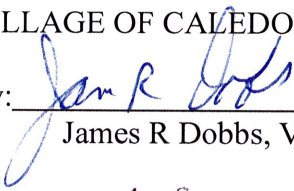
WHEREAS, the President and Clerk of the Village need to execute the Deposit Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Caledonia Village Board that the execution of the Deposit 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 Deposit Agreement.

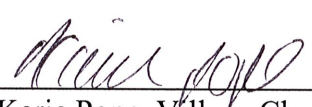
Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 16th day of March, 2020.

VILLAGE OF CALEDONIA

By: _____


James R Dobbs, Village President

Attest: _____


Karie Pope, Village Clerk

DEPOSIT AGREEMENT

This Deposit Agreement (referred to as the "Agreement") is made the 23 day of FEBRUARY, 2020, by and between **CARLA FREEMAN and JAY BENKOWSKI**, being adult residents of Racine County, Wisconsin, residing at 5645 Highway V, Caledonia, Wisconsin 53108, hereafter referred to in this Agreement, jointly and severally, in the singular tense, as "Owner", and the **VILLAGE OF CALEDONIA**, Racine County, Wisconsin, and **VILLAGE OF CALEDONIA 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 "Caledonia".

RECITALS

A. Owner is the fee simple holder of certain real property in the Village of Caledonia, Wisconsin, described in attached Exhibit A. Said real property is referred to in this Agreement as the "Property".

B. As a part of the approval by Caledonia of Owner's desired improvement of the Property, Owner is constructing, at its own cost and expense, a recreational pond, that will serve as a part of the storm water drainage facilities on the Property. Said storm water drainage facilities are referred to in this Agreement as the "Drainage Facilities".

C. Owner has provided Caledonia with a Storm Water Management Plan and Site Grading & Drainage Plans, dated July 14, 2019, prepared by VPI Engineering, LLC, for the Drainage Facilities to be constructed on the Property (referred to in this Agreement as the "Plan"). The areas of the Owner's Property affected by the Drainage Facilities are described in attached Exhibit B, and include a Pond. Caledonia has approved the Plan (in accordance with recommendations of Village Director Anthony A. Bunkelman P.E.).

D. Because Caledonia has made a determination that it is important that the Plan and Drainage Facilities be constructed at the Property in a timely manner in order to lessen the impact of the Owner's desired improvement of the Property on other property owners in the Village of Caledonia, the approval by Caledonia of the Owner's desired improvement of the Property was conditioned upon:

(1) Owner completing construction of the Plan and Drainage Facilities, in conformity with the Plan, prior to July 31, 2021, subject to an extension in the event of force majeure as defined below (the "Completion Date"); and

(2) Owner entering into an agreement with Caledonia requiring Owner to deposit the sum of \$10,000.00 with Caledonia in order to guarantee the completion of construction by Owner of the Plan and Drainage Facilities, in conformity with the Plan, prior to the Completion Date. Owner is required to enter into said agreement prior to commencement of construction of the Plan and Drainage Facilities.

E. Owner has indicated that it agrees to all of Caledonia's conditions of approval for the Owner's desired development of 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. The recitals set forth above are hereby incorporated herein as part of the agreement of the parties.

2. Owner shall deposit the sum of \$10,000.00 (referred to in this Agreement as the "Deposit") with Caledonia on or before May 31, 2020. Caledonia is not required to set up a separate account for the Deposit and may commingle the Deposit with its other funds.

3. Owner agrees that prior to the Completion Date, it will:

(a) Complete the construction of the Plan and Drainage Facilities in conformity with the Plan;

(b) Provide Caledonia with as-built drawings of the Plan and Drainage Facilities that are stamped by a registered engineer and indicate that the Drainage Facilities were constructed in conformity with the Plan. Caledonia shall review the as-built drawings to confirm conformity with the Plan; and

(c) Pay for any direct damage caused to Village of Caledonia roads and rights-of-way and any other property of Caledonia on the Property as a result of said construction.

The Owner's agreement to complete construction of the Plan and Drainage Facilities as described above in Section 3(a), provide as-built drawings as described above in Section 3(b) and pay for any damage as described above in Section 3(c) are collectively referred to as the "Owner's Obligations".

4. The Completion Date shall be extended if an event of force majeure occurs. As used herein, the term "force majeure" shall mean an event that causes Owner to be delayed in completing construction of the Pond and Drainage Facilities by reason of the inability to procure materials, failure of power, riots, insurrection, war or other reason of a like nature not the fault of the Owner. If an event of force majeure occurs, then the Completion Date shall be extended for the period of the delay. Owner shall give Caledonia written notice as soon as possible of its claim of right to such extension and the reasons therefor.

5. Owner shall provide Caledonia with a written notice of completion after Owner believes that it has completed Owner's Obligations. Caledonia shall make a determination as to whether Owner has completed Owner's Obligations within thirty (30) days after Caledonia's receipt of said notice.

(a) If Caledonia determines that Owner has completed Owner's Obligations, Caledonia shall return the Deposit to Owner within ten (10) days after the making of said determination.

(b) If Caledonia determines that Owner has not completed the Owner's Obligations, Caledonia shall provide a written notice to Owner specifying which of Owner's Obligations have not been completed.

Owner shall thereafter have a cure period of forty-five (45) days from the date of said notice to complete Owner's Obligations and provide Caledonia with a notice of such completion. Caledonia shall make another determination as to whether Owner has completed Owner's obligations within thirty (30) days after Caledonia's receipt of said notice.

(a) If Caledonia determines that Owner has completed Owner's Obligations, Caledonia shall return the Deposit to Owner within ten (10) days after the making of said determination.

(b) If Caledonia determines that Owner has not completed Owner's Obligations, Caledonia shall provide written notice of said determination to Owner, and the Deposit shall be retained by Caledonia and paid to and kept by Caledonia as compensation for Owner's failure to complete Owner's Obligations as required herein, and as reimbursement for any expense incurred by Caledonia because of Owner's failure to complete Owner's Obligations as required herein. Accordingly, Owner shall not have any right to the Deposit if it fails to complete Owner's Obligations as required herein. Caledonia's retention of the Deposit shall not: (i) release Owner of its obligations to complete Owner's Obligations, or (ii) be in lieu of, or foreclose, any other rights or remedies that Caledonia may have in law or equity regarding Owner's failure to complete Owner's Obligations as required herein, it being the intent of the parties that Caledonia shall continue to possess all such rights and remedies in addition to retaining the Deposit.

6. All notices, demands and requests which may be given or which are required to be given by either party to the other shall be in writing and shall be deemed effective either: (a) on the date personally delivered to the address indicated below, or (b) three (3) business days after mailed via certified mail, return receipt requested, addressed to such party at the address set forth below (unless changed by similar notice in writing given by the party whose address is to be changed).

Carla Freeman and
Jay Benkowski
5645 Highway V
Caledonia, Wisconsin 53108

Village of Caledonia, Wisconsin
Village of Caledonia Storm Water Utility District
5043 Chester Lane
Racine, Wisconsin 53402

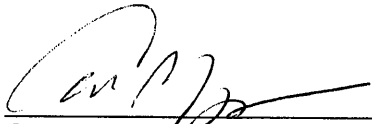
7. This Agreement may not be altered, changed or amended except by an instrument in writing signed by the parties.

8. The time of the performance of all the terms, conditions and covenants of this Agreement is of the essence.

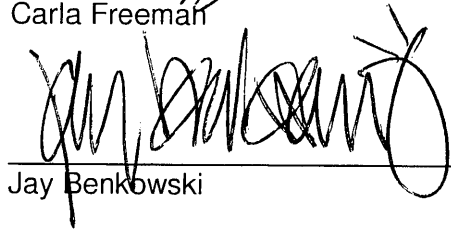
9. This Agreement shall be governed, controlled, and construed by and under the laws of the State of Wisconsin. Venue for any legal action arising under and/or pertaining to this Agreement shall solely and exclusively be Racine County Circuit Court in Racine County, Wisconsin.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

OWNER:

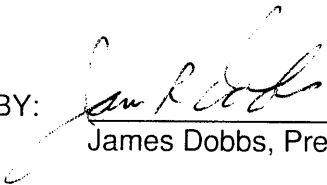


Carla Freeman



Jay Benkowski

**CALEDONIA:
Village of Caledonia**

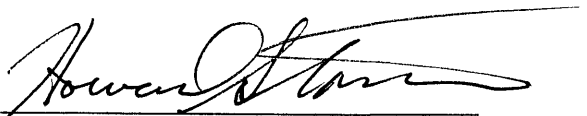
BY: 

James Dobbs, President

Attest: 

Karie Pope, Village Clerk

Village of Caledonia Utility District

BY: 

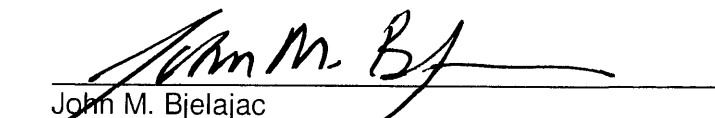
Howard Stacey, President

Attest: 

Michael Pirk, Secretary

AUTHENTICATION

Signatures of Carla Freeman and Jay Benkowski; James Dobbs, Village President, and Karie Pope, Village Clerk, of the Village of Caledonia; and Howard Stacey, President, and Michael Pirk, Secretary, of the Village of Caledonia Utility District, authenticated this 20~~E~~ day of March, 2020.



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

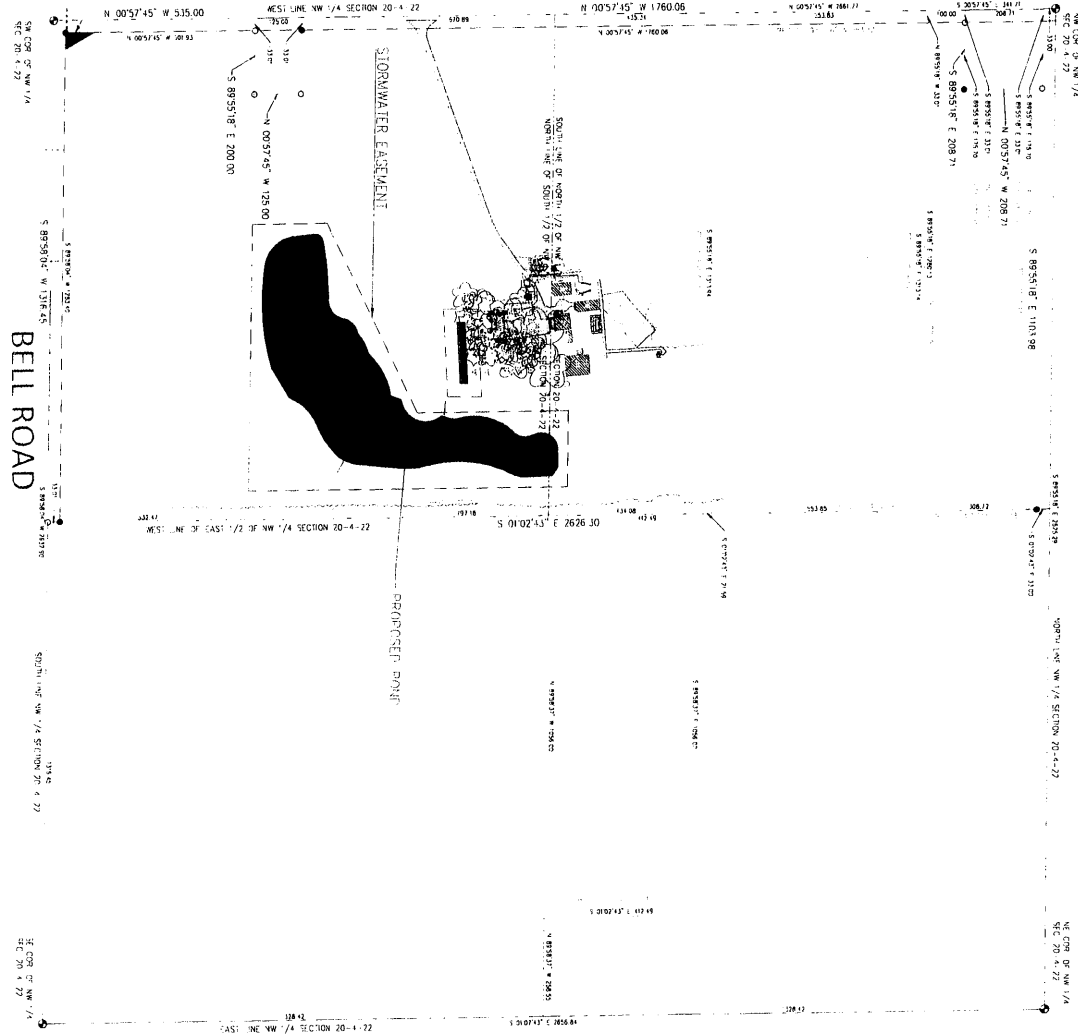
NOTE:
 INFORMATION: 8/10/2014 10:00 AM
 2014/09/30 10:00 AM
 2014/09/30 10:00 AM
 2014/09/30 10:00 AM
LEGEND:
 ● Survey Point
 ○ Survey Point
 ○ Survey Point
 ○ Survey Point



SECTION CORNER



C.T.H. "V"



2011EX1
 SHEET
 1 OF 2

PART OF THE NW 1/4 OF SECTION 20-4-22 ENTIRE PARCEL EXHIBIT
 FOR
CARLA FREEMAN & JAY BENKOWSKI
 VILLAGE OF CALEDONIA, RACINE COUNTY, WISCONSIN

VPI ENGINEERING LLC
 10028 Goldenrod Lane, Franksville, WI 53126
 Tele: (262)732-4192

LEGAL DESCRIPTION

Plat of a survey for JAY BENKOWSKI and CARLA FREEMAN of lands described as follows:

Parcel 1: A tract of land in the Northwest 1/4 of Section 20, Township 4 North, Range 22 East, bounded and described as follows: Commence at the Northwest corner of said Section; thence South 00 deg. 57'46" East for a distance of 341.71 feet, along the West line of said 1/4 Section to the point of beginning; thence South 89 deg. 55'19" East for a distance of 1313.14 feet, to a point; thence South 01 deg. 02'44" East for a distance of 553.85 feet, along the East line of the West 1/2 of said 1/4 Section, to a point; thence North 89 deg. 55'17" West for a distance of 1313.94 feet, to a point; thence North 00 deg. 57'46" West for a distance of 553.82 feet, along the West line of said 1/4 Section, to the point of beginning. Reserving the Westerly 33.00 feet for Public Road purposes. Said land being in the Village of Caledonia, County of Racine and State of Wisconsin.

Parcel 2: That part of the Northwest 1/4 of the Northwest 1/4 of Section 20, Township 4 North, Range 22 East, bounded as follows: Commence at a Standard Racine County Monument marking the Northwest corner of said Northwest 1/4; run thence South 00 deg. 57'45" East on the West line of said Section 20, 33.00 feet; thence South 89 deg. 55'18" East parallel with the North line of said Section 20, 33.00 feet to a 3/4" diameter iron pipe stake; thence continue South 89 deg. 55'18" East 175.71 feet to a 3/4" diameter iron pipe marking the beginning of this description; run thence South 89 deg. 55'18" East parallel with the North line of said Section 20, 1103.94 feet to a 3/4" diameter iron pipe stake; thence South 01 deg. 02'44" East 308.71 feet to a 3/4" diameter iron pipe stake; thence North 89 deg. 55'18" West parallel with the North line of Section 20, 1280.15 feet to a 3/4" diameter iron pipe stake; thence continue North 89 deg. 55'18" West 33.00 feet to a point on the West line of Section 20; thence North 00 deg. 57'45" West 100.00 feet along said West line; thence South 89 deg. 55'18" East parallel with the North line of Section 20, 33.40 feet to a 3/4" diameter iron pipe stake; continue thence South 89 deg. 55'18" East 175.31 feet to a 3/4" diameter pipe stake; thence North 00 deg. 57'45" West, parallel with the West line of said Section 20, 208.71 feet to the point of beginning. Said land being in the Village of Caledonia, County of Racine and State of Wisconsin.

Parcel 3: A tract of land in the Northwest 1/4 of Section 20, Town 4 North, Range 22 East, in the Village of Caledonia, County of Racine and State of Wisconsin, bounded and described as follows: Commence at the Northwest corner of said Section; thence South 00 deg. 57'46" East along the West line of said One Quarter Section 895.53 feet to the point of beginning; thence South 89 deg. 55' 18" East for a distance of 1313.94 feet, parallel to the North line of said 1/4 Section, to a point; thence South 1 deg. 2'43" East for a distance of 21.59 feet, along the East line of the West 1/2 of said 1/4 Section, to a point; thence South 89 deg. 58'37" East for a distance of 1056.00 feet, to a point; thence South 1 deg. 2'44" East for a distance of 412.50 feet, to a point; thence North 89 deg. 58'37" West for a distance of 1056.00 feet, along the South line of the Northeast 1/4 of said 1/4 Section, to a point; thence South 1 deg. 2'44" East for a distance of 797.18 feet, to a point; thence North 89 deg. 55'18" West for a distance of 1115.72 feet, to a point; thence N 0 deg. 57'45" West for a distance of 125.00 feet, to a point; thence North 89 deg. 55'18" West for a distance of 200.00 feet, to a point; thence North 0 deg. 57'46" West for a distance of 1105.24 feet, along the West line of said 1/4 Section, to the point of beginning. Together with and subject to covenants, easements and restrictions of record. EXCEPTING Therefrom premises conveyed in Warranty Deed recorded in Volume 2377 of Records, Page 396, Document No. 1468806.

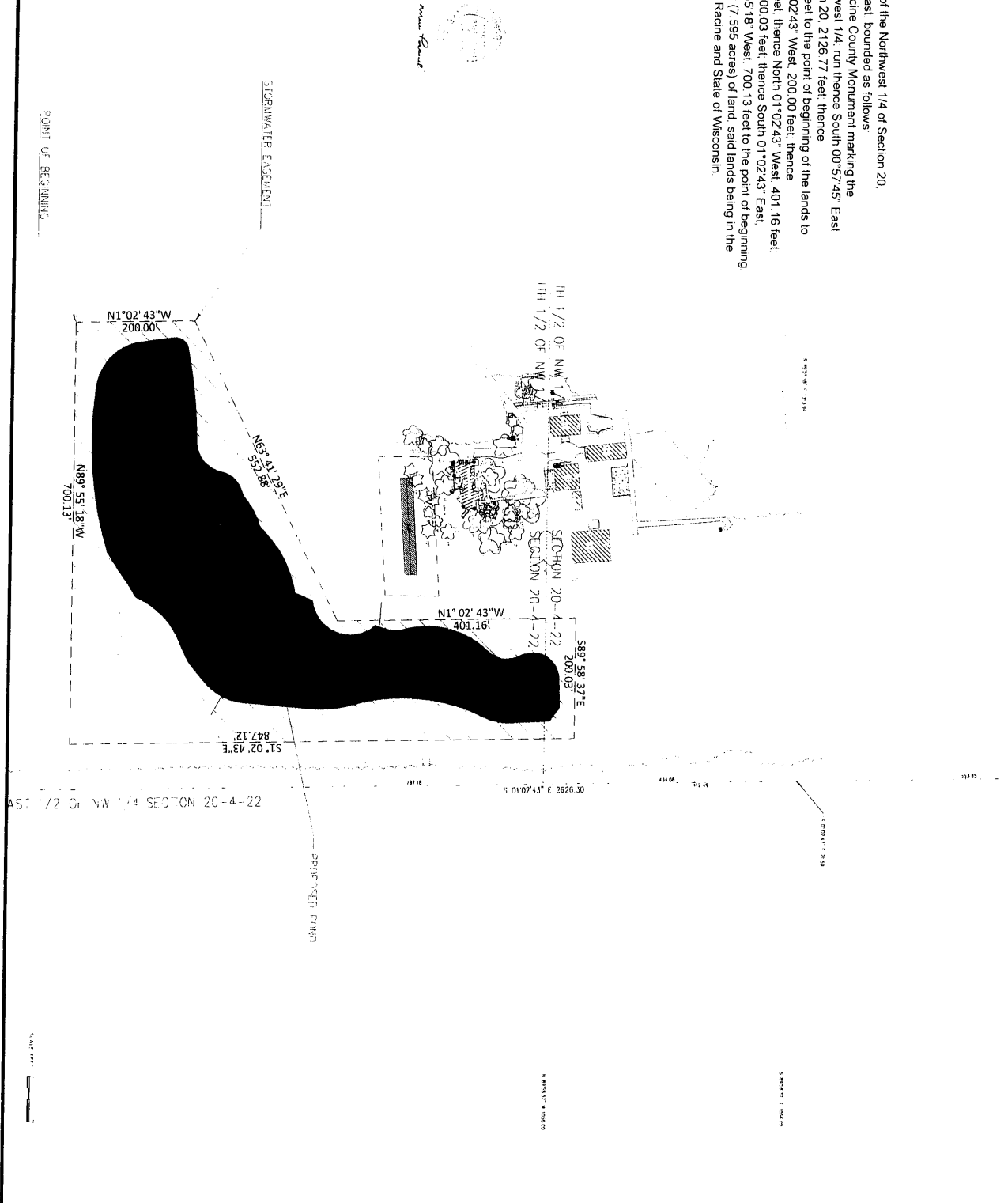
Parcel 4: That part of the Northwest 1/4 of Section 20, Township 4 North, Range 22 East, described as follows: Begin at a standard Racine County cast iron monument with a brass cap marking the West 1/4 corner of said Section in the centerline of C.T.H. "V"; run thence North 00 deg. 57'45" West 535 feet along said West line; thence South 89 deg. 55'18" East 1315.72 feet to a point on the East line of the West 1/2 of said Northwest 1/4; run thence South 01 deg. 02'44" East 535 feet, more or less, along said East line of the West 1/2 of said Northwest 1/4 to a point on the South line of said Section; run thence South 89 deg. 58'04" West 1316 feet, more or less, along said South line to the point of beginning. Said land being in the Village of Caledonia, County of Racine, State of Wisconsin.

The above described properties are subject to the rights of the public in and to Bell Road and County Trunk Highway "V". Containing 77.708 acres inclusive.

Legal Description
Storm Water Pond Easement

That part of the Northwest 1/4 of the Northwest 1/4 of Section 20, Township 4 North, Range 22 East, bounded as follows:
 Commencing at a Standard Racine County Monument marking the Northwest corner of said Northwest 1/4, run thence South 00°57'45" East on the West line of said Section 20, 2126.77 feet; thence South 89°55'18" East, 540.40 feet to the point of beginning of the lands to be described; thence North 01°02'43" West, 200.00 feet; thence North 63°41'29" East, 552.88 feet; thence North 01°02'43" West, 401.16 feet; thence South 89°58'37" East, 200.03 feet; thence North 01°02'43" West, 847.12 feet; thence North 89°55'18" West, 700.13 feet to the point of beginning. Containing 330.841 square feet (7.595 acres) of land, said lands being in the Village of Caledonia, County of Racine and State of Wisconsin.

- NOTES**
- 1. All dimensions are in feet.
 - 2. All bearings are true bearings.
 - 3. All areas are in square feet.
 - 4. All areas are in acres.
- LEGEND**
- 1. Storm Water Pond Easement
 - 2. Storm Water Pond
 - 3. Storm Water Pond
 - 4. Storm Water Pond



2011EX2
 SHEET
 2 OF 2

PART OF THE NW 1/4 OF SECTION 20-4-22
STORM WATER EASEMENT EXHIBIT
 FOR
CARLA FREEMAN & JAY BENKOWSKI
 VILLAGE OF CALEDONIA, RACINE COUNTY, WISCONSIN

10028 Goldenrod Lane, Franksville, WI 53126
 Tele: (262)732-4192

POND EASEMENT LEGAL DESCRIPTION

That part of the Northwest 1/4 of the Northwest 1/4 of Section 20, Township 4 North, Range 22 East, bounded as follows: Commencing at a Standard Racine County Monument marking the Northwest corner of said Northwest 1/4; run thence South 00°57'45" East on the West line of said Section 20, 2126.77 feet; thence South 89°55'18" East, 540.40 feet to the point of beginning of the lands to be described; thence North 01°02'43" West, 200.00 feet; thence North 63°41'29" East, 552.88 feet; thence North 01°02'43" West, 401.16 feet; thence South 89°58'37" East, 200.03 feet; thence South 01°02'43" East, 847.12 feet; thence North 89°55'18" West, 700.13 feet to the point of beginning. Containing 330,841 square feet (7.595 acres) of land, said lands being in the Village of Caledonia, County of Racine and State of Wisconsin.