

**WINDSOR TOWN BOARD**

**RESOLUTION 2015-11**

**RESOLUTION APPROVING DECLARATION OF RESTRICTIONS AND  
MAINTENANCE REQUIREMENTS FOR STORMWATER DETENTION POND  
AND DRAINAGEWAYS ("STORMWATER MAINTENANCE AGREEMENT")  
FOR BLUE ADDITION TO LAKE WINDSOR,  
TOWN OF WINDSOR, DANE COUNTY, WI**

**WHEREAS**, Windsor Golf Ventures, Inc. ("Petitioner") has applied for approval of the Final Plat of Blue Addition to Lake Windsor ("Final Plat") located in the Town of Windsor, Dane County, Wisconsin; and

**WHEREAS**, as a condition of approval of the Final Plat, the Petitioner and Town are required to enter a Stormwater Maintenance Agreement, a copy of which is attached hereto and incorporated by reference; and

**WHEREAS**, at its regularly scheduled meeting on March 19, 2015, the Town Board reviewed the terms and conditions of the Stormwater Maintenance Agreement, and wishes to approve the Stormwater Maintenance Agreement as presented.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Windsor as follows:

- A. The Town Board **APPROVES** the attached Stormwater Maintenance Agreement, **subject to each and every one of the following conditions:**
1. Subject to execution by the Developer, by its duly authorized representatives, and the Town by the Town Chairperson and attested to by the Town Clerk.
  2. Subject to recording at the Dane County Register of Deeds Office by the Town, at the Developer's expense, with a copy of the recorded document returned to the Developer and Town Attorney.
  3. Subject to Developer's reimbursement to the Town of Windsor for all costs and expenses incurred by the Town of Windsor in connection with the review and approval of this Resolution and the development associated therewith, including, but not limited to, the

cost of professional services incurred by the Town of Windsor for the review and preparation of required documents, attendance at meetings or other related professional services.

- B. The Town Board's approval expires on December 31, 2015. Time is of the essence.
- C. It is the Petitioner's obligation to timely satisfy those conditions adopted by the Town Board, and to provide satisfactory verification of compliance to the Town. Any necessary or requested reviews or submissions to the Town for determinations of compliance with this Resolution shall be made at least ten (10) business days prior to the date upon which verification of compliance is required.

The above and foregoing Resolution was duly adopted at the regular meeting of the Town Board of the Town of Windsor on the 19<sup>th</sup> day of March, 2015 by a vote of 4 in favor and 0 opposed.

**TOWN OF WINDSOR**

Robert E. Wipperfurth  
Robert E. Wipperfurth, Town Chairman

Donald G. Madelung  
Donald G. Madelung, Town Supervisor

Bruce Stravinski  
Bruce Stravinski, Town Supervisor

Excused Absence  
Alan Buchner, Town Supervisor

Monica M. Smith  
Monica M. Smith, Town Supervisor

Attest:  
Christine Capstran  
Christine Capstran, Town Clerk

PLAT OF BLUE ADDITION TO LAKE WINDSOR,  
AND LOTS 1, 2 AND 3 OF CERTIFIED SURVEY MAP  
13005 RECORDED AS DOC. NO. 4144251,  
ALL LOCATED IN THE TOWN OF WINDSOR,  
DANE COUNTY, WISCONSIN:

DECLARATION OF RESTRICTIONS  
AND MAINTENANCE REQUIREMENTS FOR  
STORMWATER DETENTION POND AND  
DRAINAGEWAYS

AND  
WAIVER OF RIGHT TO CONTEST SPECIAL  
ASSESSMENTS AND CHARGES

RECITALS

WHEREAS, Windsor Golf Ventures, Inc., a Wisconsin corporation ("**Developer**") and owner of Lots 1 through 13 (inclusive) in the plat known as Plat of Blue Addition to Lake Windsor, a recorded plat in Volume 60-037B of Plats on Pages 185, as Document Number 5163055 in the office of the Register of Deeds for Dane County, Wisconsin (the "**Plat**"), and Lots 1, 2 and 3 of Certified Survey Map 13005, recorded in the Dane County Register of Deeds Office as Document No. 4144251 (the "**CSM**") requested from the Town of Windsor ("**Windsor**") the authority to develop and market the lots (collectively, the "**Lots**") in the Plat and CSM (collectively, the "**Property**"); and

WHEREAS, as a condition for approval of development of the Property, Dane County ("**County**") and Windsor required the Developer to provide for adequate stormwater drainage and detention through the coordinated use of stormwater easements, drainageways, swales and a stormwater detention pond (collectively, the "**Stormwater Management Measures**") in accordance with a stormwater management plan for the Property (the "**Plan**"), which Plan was reviewed and approved by the Dane County Land Conservation Division/LWRD and Windsor's Town Engineer, and which approved Plan is on file in the offices of such agencies; and

WHEREAS, Developer shall be responsible for initial construction of the Stormwater Management Measures in accordance with the Plan and shall thereafter provide for adequate maintenance of the Stormwater Management Measures in accordance with the Plan by establishing a homeowner's association known as the **Property Owners of Blue Addition to Lake Windsor, Inc.** (the "**Association**") which Association shall become responsible for maintenance of the Stormwater Management Measures serving the Property, and all located on property referred to hereafter collectively as the "**Stormwater Management Lands**;" and



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Tx:8682701

KRISTI CHLEBOWSKI  
DANE COUNTY  
REGISTER OF DEEDS

DOCUMENT #  
**5170541**

07/22/2015 3:41 PM  
Trans. Fee:  
Exempt #:  
Rec. Fee: 30.00  
Pages: 8

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO:  
Amy Schweppe Anderson  
Town of Windsor  
4084 Mueller Road  
DeForest, WI 53532

See Exhibit A  
(Parcel Identification Numbers)

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**WHEREAS**, this Declaration serves as the required document providing for construction and maintenance of the Stormwater Management Measures required by the Plan, and shall be recorded to run with the land.

## **AGREEMENT**

**NOW THEREFORE**, in consideration of the above recitals, which are incorporated herein by reference, and other valuable consideration, the sufficiency of which is hereby acknowledged, the Developer and Association hereby declare and agree to be bound as set forth herein:

1. **Stormwater Management: General Purposes and Requirements.** Stormwater management is an integral component of this Property and each Lot contributes to the overall stormwater management plan. Drainageways, swales, retention and on-site infiltration methods are required on the Property to provide for the transport of stormwater in a manner that slows the stormwater and allows for greater infiltration and recharge of groundwater. Implementation of the Plan designed to achieve these benefits requires participation by the owners of the Lots in accordance with the Plan, and all as set forth in this Declaration. To that end:
  - a. No person shall allow Lot elevations to be substantially altered in a manner that materially affects the flow of stormwater over the Property.
  - b. No person shall grade or obstruct any swale or drainageway so as to impede the flow of surface water through such swale or drainageway.
  - c. No person shall place or permit an improvement or obstruction to remain on Stormwater Management Lands or allowed to change the direction or impede the flow of stormwater in accordance with the Plan. Examples of impermissible obstructions are buildings, sheds, trees, shrubs, gardens, plantings of other than grass or prairie-type landscaping, moveable or temporary items located on the Stormwater Management Lands.
  - d. Each Lot and building site shall be graded so stormwater is directed as indicated on the final Plat or CSM.
  - e. All downspouts shall be directed to pervious surfaces, French drains, berms, rain gardens or other similar detention/infiltration systems.
  - f. All Stormwater Management Lands and Stormwater Management Measures shall be constructed, maintained and repaired in accordance with the Plan.
  
2. **Easement and Right of Access Granted to Stormwater Management Lands for Construction, Maintenance and Repair of Stormwater Management Measures.** The Developer, as the owner of the Property, hereby grants Windsor, the County, the Association, the Developer, and their agents, independent contractors and permittees (collectively, the "**Entities**") the perpetual right to access and enter the Stormwater Management Lands and perform construction, maintenance and repair work of the Stormwater Management Measures. The Stormwater Management Lands shall be

located as depicted on the Plat, CSM and/or Plan. The access granted hereby shall include the Entities' right of access across such portions of the Property as deemed reasonably necessary in order to access the Stormwater Management Lands, and shall include the right to bring repair trucks and other machinery and equipment as the Entities deem necessary to evaluate the Stormwater Management Measures and perform construction, maintenance and repair work of the Stormwater Management Measures. This perpetual easement and right of access burdens the Stormwater Management Lands and such portions of the Property deemed necessary to access the Stormwater Management Lands.

The Entities may remove and dispose of any impermissible obstruction located on the Stormwater Management Lands, with or without prior notice to the Lot owner(s). The Entities shall not be liable for damage to any such obstruction or for the costs of removal of any obstructions, which costs shall be the Lot owner's responsibility and may be charged back to the Lot owner as set forth herein.

Restoration as a result of access, construction, maintenance and/or repair of Stormwater Management Measures shall be limited to grass seeding, fertilizer and mulch only.

3. **Responsibility for Construction, Maintenance and Repair of Stormwater Management Measures.**

- a. **Developer.** Developer and its successors and assigns shall be responsible for the construction of required Stormwater Management Measures located on the Property in accordance with the Plan. Developer shall maintain and repair the Stormwater Management Measures in good condition and in working order, all in accordance with the Plan, until completion of construction of the public infrastructure as described in the Development Agreement between the Developer and Windsor and the sale of at least 90% of the Lots to bona fide third parties. Said construction, maintenance and repair shall be at the Developer's sole cost and expense, until completion.
- b. **Association.** Upon such completion of construction and sale of the Lots, the responsibility of Developer for maintenance and repair shall cease and the Association and its successors and assigns shall maintain and repair the Stormwater Management Measures in good condition and in working order, all in accordance with the Plan. Said maintenance and repair shall be at the Association's sole cost and expense, and may thereafter be charged back in equal shares to the owners of the Lots. By Developer's execution of this Declaration, each Lot owner has irrevocably consented to such chargebacks by the Association.

c. **Standards.** All construction, maintenance and repair shall be conducted in accordance with applicable laws, codes, regulations and industry standards and in a manner that does not unreasonably interfere with other use of the Property.

4. **Windsor and County Have the Right to Access Stormwater Management Lands; Construct, Maintain and/or Repair Stormwater Management Measures; and, Charge Back Costs to Lot Owners.** If either the Developer or Association fails to construct, maintain and repair the Stormwater Management Measures as required in the Plan, then the County or Windsor shall have the right, but not the obligation, to take corrective action. Prior to taking any such corrective action, the County or Windsor shall provide Developer or Association, as applicable, with written notice of the construction, maintenance or repair issue ("**Maintenance Notice**") and thirty (30) days<sup>1</sup> to comply with the request set forth in the Maintenance Notice. Thereafter, the County or Windsor may access and enter the Stormwater Management Lands in order to take the corrective action. All construction, maintenance and repair shall be conducted in accordance with applicable laws, codes, regulations and industry standards and in a manner that does not unreasonably interfere with other use of the Property.

All costs and expenses incurred by the County or Windsor in conducting such construction, maintenance or repair of Stormwater Management Measures shall be charged to the owners of the Lots as special charges, by placing the amount of the special charge on the tax roll for the Property in accordance with Wis. Stat. s. 66.0627, or such other method permitted by Wisconsin statutes and applicable portions of County or Windsor Ordinances. The Developer, for itself, and its heirs, successors and assigns, waives the right to contest any such special charges or assessments imposed for the purpose of construction, maintenance or repair of the Stormwater Management Measures.

5. **Absolute Waiver of Right to Contest Special Assessments and Charges for Stormwater Management Measures.** The Developer, for itself, and its heirs, successors and assigns, hereby fully and forever waives the right to contest any such assessment or charge imposed against the Lots by Windsor or the County. This waiver includes, but is not limited to, the right to contest: (1) that construction, maintenance and repair of the Stormwater Management Measures confers a *benefit* on the Lots; (2) that the Lots are the appropriate *assessment area* for such maintenance and repair; (3) that assessing the amount of the assessment or charge on a per Lot basis by prorating the total costs and expenses over all of the Lots is a reasonable and acceptable *method* of assessing the costs for construction, maintenance and repair of the Stormwater Management Measures; and, (4) that the actual costs incurred by Windsor for such construction, maintenance and repairs (which may include materials, labor, inspection,

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<sup>1</sup> In the event of an emergency, as determined in the sole discretion of the County or Windsor, this thirty (30) day notice may be reduced or eliminated.

administrative, engineering, legal and professional fees) are the *reasonable amount* for the assessment or special charge. The County and Windsor have approved development of the Property with express reliance on this Declaration and waiver, and shall have the right to use this waiver as a defense against claims made related to the special charges or assessments imposed as set forth in this Declaration.

6. **Term; Termination.** This Declaration shall be effective when executed and recorded with the Register of Deeds for Dane County, Wisconsin, and unless terminated as specifically provided herein, shall continue in perpetuity. This Declaration may be terminated by recording with the Register of Deeds for Dane County, Wisconsin, a written instrument of termination signed by the County and Windsor and all of the then-owners of the Property.

7. **Miscellaneous.**

a. **Notices.** Any notice, request or demand required or permitted under this Declaration shall be in writing and shall be deemed given when personally served or four (4) days after the same has been deposited with the United States Post Office, postage prepaid and addressed as follows:

If to DEVELOPER: Windsor Golf Ventures, Inc.  
Attention: Timothy Gotzion  
6592 Lake Road, Suite D  
Windsor, WI 53598

If to ASSOCIATION: Property Owners of Blue Addition to Lake Windsor, Inc.  
c/o Timothy Gotzion  
6592 Lake Road, Suite D  
Windsor, WI 53598

If to COUNTY: Dane County SM/ES/RD/SS Permitting  
1 Fen Oak Court, Room 208  
Madison, WI 53718

If to WINDSOR: Town Clerk  
Town of Windsor  
4084 Mueller Road  
DeForest, WI 53532

Any party may change its address for the receipt of notice by written notice to the other parties.

b. **Governing Law.** This Declaration shall be governed by and construed in accordance with the laws of the State of Wisconsin.

- c. Amendments to be in Writing. This Declaration may not be modified in whole or in part unless such agreement is in writing and signed by all parties bound hereby.
- d. Covenants Run with the Land. All of the easements, restrictions, covenants and agreements set forth in this Declaration are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the signatories hereto and their respective successors and assigns, Windsor and the County.
- e. Partial Invalidity. If any provisions, or portions thereof, of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.
- f. Binding on Successors and Assigns. This Declaration shall be binding on the Developer's heirs, successors and assigns. If the Town's governmental structure changes as a result of incorporation, merger or consolidation, this Declaration shall continue in force and the new government entity providing local governance to the Property shall be considered the Town's successor with respect to this Declaration, without the need for further action by the Lot owner(s) or the Town.

IN WITNESS WHEREOF, the parties have executed this Declaration in Dane County, Wisconsin to be effective as of this 11th day of March, 2015.

WINDSOR GOLF VENTURES, INC.

By: [Signature]  
 Timothy W. Gotzian, President

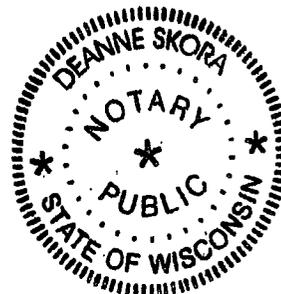
**ACKNOWLEDGEMENT**

STATE OF WISCONSIN            )  
   )ss.  
 COUNTY OF DANE                )

Personally came before me this 11th day of March, 2015, the above-named Timothy W. Gotzian, who identified himself as the President and duly authorized representative of Windsor Golf Ventures, Inc., and who executed the foregoing instrument and acknowledged the same.

[Signature]

Notary Public, State of Wisconsin  
 My Commission is Permanent/Expires: 2-19-2019



PROPERTY OWNERS OF BLUE ADDITION TO LAKE WINDSOR, INC.

By: [Signature]  
Timothy Gotzlow, President

ACKNOWLEDGMENT

STATE OF WISCONSIN )  
 )ss.  
COUNTY OF DANE )

Personally came before me this 11<sup>th</sup> day of March, 2015, the above-named Timothy Gotzlow as President of Property Owners of Blue Addition to Lake Windsor Inc., to me known to be the person who executed the foregoing instrument and acknowledged the same on behalf of the Association.

[Signature]  
Notary Public, State of Wisconsin  
My Commission: EXPIRES 2-19-2019



**THE TOWN OF WINDSOR JOINS IN THIS DECLARATION AND ACKNOWLEDGES THE DECLARATION AND THE TOWN OF WINDSOR'S RIGHTS, BUT NOT OBLIGATIONS, ALL AS SET FORTH IN THE DECLARATION.**

TOWN OF WINDSOR

Attest:

By: [Signature]  
Robert Wipperfurth, Town Chair

[Signature]  
Christine Capstran, Town Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN )  
 )ss.  
COUNTY OF DANE )

Personally came before me this 19 day of March, 2015, the above-named Robert Wipperfurth and Christine Capstran, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Town of Windsor.

[Signature]  
Notary Public, State of Wisconsin  
My Commission is Permanent/Expires: 5/23/2017

**This Instrument Drafted By:**

Constance L. Anderson, Anderson Consults, LLC, P.O. Box 3004, Madison, WI 53704  
608-249-1865; [connie@andersonconsultswi.com](mailto:connie@andersonconsultswi.com)



**EXHIBIT A**  
**PROPERTY**  
**LOTS AND PARCEL NUMBERS**

The Property subject to this Declaration is the Plat of Blue Addition To Lake Windsor ("Plat") (including outlots), and Lots 1, 2 and 3 of Certified Survey Map No. 13005, recorded in Dane County Register of Deeds Office as Document No. 4144251 ("CSM"), each and all of which are located in the Town of Windsor, Dane County, Wisconsin.

Lots and Parcel Numbers are set forth below:

Lots in Plat	Tax Parcel Nos.
Lot 1	068/0910-304-5501-0
Lot 2	068/0910-304-5512-0
Lot 3	068/0910-304-5523-0
Lot 4	068/0910-304-5534-0
Lot 5	068/0910-304-5545-0
Lot 6	068/0910-304-7106-0
Lot 7	068/0910-304-7117-0
Lot 8	068/0910-304-7128-0
Lot 9	068/0910-304-7139-0
Lot 10	068/0910-304-7150-0
Lot 11	068/0910-304-7161-0
Lot 12	068/0910-304-7172-0
Lot 13	068/0910-304-5563-0

Lots in CSM 13005	Tax Parcel Nos.
Lot 1	068/0910-304-9710-0
Lot 2	068/0910-304-9720-0
Lot 3	068/0910-304-9730-0