

**TOWN OF WINDSOR
BOARD RESOLUTION 2015-44**

**RESOLUTION APPROVING
DECLARATION OF RESTRICTIONS AND MAINTENANCE REQUIREMENTS
FOR STORMWATER MANAGEMENT MEASURES AND WAIVER OF RIGHT
TO CONTEST SPECIAL ASSESSMENTS AND CHARGES IN THE FINAL
PLAT OF WOLF HOLLOW AT PLEASANT PRAIRIE CREEK, A REPLAT,
FOR LOTS OWNED BY WOLF HOLLOW WINDSOR, LLC**

WHEREAS, Wolf Hollow Windsor, LLC (“Petitioner”) has applied for and obtained conditional approval of the Final Plat of Wolf Hollow at Pleasant Prairie Creek, a Replat (“Final Plat”) located in the Town of Windsor, Dane County, Wisconsin, all as set forth in Town Board Resolution 2015-47, which is incorporated herein by reference; and

WHEREAS, to satisfy a condition in Board Resolution 2015-47, the Petitioner has agreed to the DECLARATION OF RESTRICTIONS AND MAINTENANCE REQUIREMENTS FOR STORMWATER MANAGEMENT MEASURES AND WAIVER OF RIGHT TO CONTEST SPECIAL ASSESSMENTS AND CHARGES (“Stormwater Management Agreement”), which Stormwater Management Agreement is attached hereto as Exhibit 1 and incorporated herein by reference; and

WHEREAS, the Town staff and consultants have reviewed the Stormwater Management Agreement and recommend approval of same by the Windsor Town Board; and

WHEREAS, the Windsor Town Board wishes to approve the Stormwater Management Agreement, as set forth in this Resolution.

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

1. The Windsor Town Board hereby approves the Stormwater Management Agreement, and authorizes execution and recording of the Stormwater Management Agreement with the Dane County Register of Deeds.
2. The condition set forth as item 3.c. of Board Resolution 2015-47 shall be deemed satisfied at such time as the Town Planning & Development Coordinator receives a copy of the fully executed and recorded Stormwater Management Agreement.

3. A copy of the recorded Stormwater Management Agreement shall be retained as a public record.

The above and foregoing Resolution was duly adopted at the regular meeting of the Town Board of the Town of Windsor on July 16, 2015, by a vote of 5 in favor, 0 opposed and — abstentions.

TOWN OF WINDSOR

Robert E. Wipperfurth
Robert E. Wipperfurth, Town Chairperson

Donald G. Madelung
Donald G. Madelung, Town Supervisor

Bruce Stravinski
Bruce Stravinski, Town Supervisor

Alan Buchner
Alan Buchner, Town Supervisor

Monica M. Smith
Monica M. Smith, Town Supervisor

Attested by:

Christine Capstran Deputy
Christine Capstran, Town Clerk *Clerk*



8 8 9 4 8 9 9
Tx: 6689661

**KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS**

**DOCUMENT #
5178094**

08/19/2015 2:44 PM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 9

**PLAT OF
WOLF HOLLOW AT PLEASANT PRAIRIE CREEK,
A REPLAT,
TOWN OF WINDSOR,
DANE COUNTY, WISCONSIN:**

**STORMWATER MANAGEMENT AGREEMENT
Phase 4 & Phase 5 Only
Developer-Wolf Hollow Windsor, LLC**

This Stormwater Management Agreement applies to the Property located in that portion of the PLAT OF WOLF HOLLOW AT PLEASANT PRAIRIE CREEK, A REPLAT that is in the NW ¼ of the SE ¼ of Section 29, Township 9 North, Range 10 East, and SW ¼ of the SE ¼ of Section 29, Township 9 North, Range 10 East Town of Windsor, Dane County, Wisconsin (hereafter, the **Property**).

(See also Location Map on Exhibit A.)

Replat Lots Affected:

Phase 4: Lots 301-308 and 348-366

Phase 5: Lots 309-324 and 339-347

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO:

Amy Anderson Schweppe

Town of Windsor

4084 Mueller Road

DeForest, WI 53532

DRAFTED BY:

Constance L. Anderson, Town Attorney

Anderson Consults, LLC

Madison, WI 53704

Connie@AndersonConsultsWI.com

PARCEL IDENTIFICATION NUMBERS:

See EXHIBIT A

**DECLARATION OF EASEMENT, RESTRICTIONS
AND MAINTENANCE REQUIREMENTS FOR STORMWATER MANAGEMENT
MEASURES
AND
WAIVER OF RIGHT TO CONTEST SPECIAL ASSESSMENTS AND CHARGES**

This **Agreement** is executed by and between Wolf Hollow Windsor, LLC ("**Owner**") and the Town of Windsor, Dane County, Wisconsin ("**Town**"), and shall bind the parties' heirs, successors and assigns. This Agreement shall run with the land and shall be effective when executed by the parties.

RECITALS

WHEREAS, the Owner owns the Property affected by this Agreement, all as described above and on Exhibit A, which is attached hereto and incorporated by reference (the "**Property**"); and

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WHEREAS, both the Owner and the Town wish to provide for adequate stormwater drainage for the Property; and

WHEREAS, to that end, Owner acknowledges that to the extent a stormwater drainage easement ("**Drainage Easement**") burdens a portion of the Property owned by Owner and/or to be maintained by the Homeowners Association established for owners of lots in the Property that is part of this Plat, Owner agrees to maintain the Drainage Easement, all as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which are incorporated by reference, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and Windsor agree as follows:

1. **Acknowledgement of Drainage Easement.** Owner hereby acknowledges the Drainage Easements over, under and across part of the Property are located as and where depicted on the PLAT OF WOLF HOLLOW AT PLEASANT PRAIRIE CREEK, A REPLAT that is recorded in the Dane County Register of Deeds office. The Drainage Easements are part of the Drainageway and Stormwater Management Measures described in this Agreement.
2. **Stormwater Management Measures: Drainageways and Basins.** As part of the review and approval process for this development, the **Developer**, Wolf Hollow Windsor, LLC, prepared and obtained approval of a Stormwater Management Plan. The Stormwater Management Measures that comprise the Stormwater Management Plan fall within two broad categories: **Drainageways** and **Basins**. "**Drainageways**" generally include areas for stormwater conveyance, swales, delineated wetlands and related stormwater management measures that are generally located on and encumber a portion of the lots within a development. Drainageways often provide for some infiltration of the stormwater and convey the stormwater to retention or detention ponds or other stormwater basins where further infiltration may occur (the "**Basins**"). Basins are generally located on outlots and are designed to benefit a wider area.
3. **Maintenance of Drainageway on Lot is the Responsibility of the Lot Owner.** The Drainage Easements acknowledged by this Agreement are part of the Drainageway. Because Drainageways and Basins are important components of an effective stormwater management plan, both are subject to restrictions and maintenance requirements. With respect to Drainageways:
 - a. **No person shall place or permit an improvement or obstruction to remain on a Drainageway or change the direction or impede the flow of stormwater in the Drainageway.** Examples of impermissible obstructions are buildings, sheds, fences, trees, shrubs, gardens, plantings of other than grass or prairie-type landscaping, and moveable or temporary items.

- b. The Windsor Engineer is hereby granted exclusive authority to determine whether a Drainageway is or is not being maintained in a manner that allows the Drainageway to function effectively and thereby meets the standards required by this Agreement.

While a homeowner's association is generally responsible for maintenance of the Basins, the lot owner is responsible for maintaining such portions of the Drainageway as are located on his or her lot. This responsibility includes keeping the Drainageway free from obstructions.

4. **Easement and Right of Access Granted to Windsor for Maintenance of Stormwater Management Measures.** The Owner hereby ratifies the Drainage Easement(s) acknowledged by this Agreement, and the Drainageways and Basins identified on the Plat, replats, certified survey maps and other such recorded documents, and irrevocably grants to Windsor the perpetual right to access and enter the Stormwater Management Measures and perform construction, maintenance, repair and restoration of the Stormwater Management Measures. The access granted hereby shall include the right of access across such portions of the property as deemed reasonably necessary by Windsor to access the Drainageway and Basins, and shall include the right to bring repair trucks and other machinery and equipment as Windsor deems necessary to evaluate the effectiveness of the Drainageway and Basins, and perform maintenance of the Stormwater Management Measures. This perpetual easement and right of access burdens the Drainageway, Basins and such other areas deemed by Windsor to be necessary to access the Stormwater Management Measures. The obligation for restoration as a result of access to or maintenance of Stormwater Management Measures shall be limited to grass seeding, fertilizer and mulch only.
5. **Windsor's Right To Take Corrective Action and Charge Back Costs to Lot Owner(s).** If the lot owner fails to maintain the Drainageway on his or her lot, or negatively impacts a Basin through his or her action or inaction, then Windsor shall have the right, *but not the obligation*, to evaluate the situation and take corrective action. Prior to taking corrective action, Windsor shall provide the lot owner with written notice of the need for maintenance ("**Maintenance Notice**") and thirty (30) days to fully comply with the request set forth in the Maintenance Notice. In the event of an emergency or urgent situation, as determined in Windsor's sole discretion, this thirty (30) day notice may be reduced or eliminated as set forth in the Maintenance Notice.

If requested maintenance is not fully completed within the time period set forth in the Maintenance Notice, Windsor may access the Drainageway and/or Basin to further evaluate the situation and/or take corrective action. All corrective action shall be conducted in accordance with applicable laws, codes, regulations, industry standards and similar requirements and in a manner that does not unreasonably interfere with other use of the property.

Windsor may remove and dispose of any impermissible obstruction located on the Drainageway, with or without prior notice to the lot owner(s). Windsor shall not be liable for damage caused to any such obstruction because of its removal or for the costs of removal of

any obstructions, which costs shall be charged back to the lot owner as maintenance of the Stormwater Management Measures.

All costs and expenses incurred by Windsor in evaluating the condition and/or taking corrective action for maintenance of the Stormwater Management Measures shall be charged to the lot owner as a special charge, by placing the amount of the special charge on the tax roll for the lot in accordance with Wis. Stat. s. 66.0627, or such other method allowed by Wisconsin statutes and Windsor Ordinances. The lot owner, for itself, and its heirs, successors and assigns, waives the right to contest any and all such actions by Windsor, and the special charges or assessments imposed for the Stormwater Management Measures.

If Windsor fails to exercise its rights under this Section, then following thirty (30) days written notice to Windsor, the County shall have the rights and responsibilities granted to Windsor, all as set forth in this Agreement.

6. **Absolute Waiver of Right to Contest Special Assessments and Charges for Stormwater Management Measures.** THE PARTY SIGNING AS THE OWNER, FOR ITSELF AND ITS HEIRS, SUCCESSORS AND ASSIGNS, HEREBY FULLY AND FOREVER WAIVES THE RIGHT TO CONTEST THE ASSESSMENT OR CHARGE IMPOSED AGAINST THE LOTS FOR COSTS THAT WINDSOR INCURS FOR MAINTENANCE OF THE STORMWATER MANAGEMENT MEASURES.
7. **Term/Termination.** The term of this Agreement shall commence on the date that this Agreement is recorded with the Register of Deeds for Dane County, Wisconsin, and except as otherwise herein specifically provided, shall continue in perpetuity. Notwithstanding the foregoing, this Agreement may be terminated by recording with the Register of Deeds for Dane County, Wisconsin, a written instrument of termination signed by the County, Windsor and Developer, so long as the Developer owns any lots within the Property. If the Developer no longer owns any lots within the Property, then such instrument must be signed by the County, Windsor and a majority of all of the then-owners of the Property.
8. **Definitions.** When used herein, the following terms shall be defined and are used as follows:
 - a. Maintain or maintenance shall mean any and all construction, maintenance, repair, restoration or other act prudent and necessary to assure that the Stormwater Management Measures function in a manner that allows each component to be an effective part of the overall stormwater management plan approved by Windsor.
 - b. Heirs, successors and assigns are included when the terms Developer, Owner, or lot owner, and/or Association are used in this Agreement.
 - c. A party's agents, staff, consultants, independent contractors and permittees are included when the party's name is used in this Agreement. For example, Windsor's agents, staff, consultants, independent contractors and permittees are included when the terms Windsor or Town are used in this Agreement.
 - d. The terms Windsor or Town shall also mean any successor governmental entity to Windsor that has primary local government jurisdiction over the Property.

- e. Costs and expenses associated with maintenance of Stormwater Management Measures shall include associated materials, equipment, labor, inspection, administrative, staff, engineering, legal and consulting fees incurred for services determined by Windsor to be prudent and necessary for the evaluation and/or corrective action.
- f. Development Agreement shall mean the development agreement executed by and between Windsor and Developer, as recorded in the Dane County Register of Deeds office.

9. Miscellaneous.

- a. Notices. Any notice, request or demand required or permitted under this Agreement shall be in writing and shall be deemed given on the date personally served or the date four (4) days after the same has been addressed as indicated below and deposited with the United States Post Office, postage prepaid.

If to Developer: Wolf Hollow Windsor, LLC
 Attention: Don Esposito
 N27 W24075 Paul Court, Suite 200
 Pewaukee, WI 53072

If to Lot Owner:
 Notice to the lot owner shall be to the person(s) and address listed as the owner of the lot on the real estate tax roll, as currently maintained by the County.

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

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

- b. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.
- c. Amendments to be in Writing. This Agreement may not be modified in whole or in part unless such agreement is in writing and signed by all parties bound hereby.
- d. Covenants Running with the Land. All of the easements, restrictions, covenants and agreements set forth in this Agreement 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 parties hereto and their respective heirs, successors and assigns.

- e. Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, 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 Agreement shall be valid and enforceable to the fullest extent permitted by law.
- f. Authority to Bind. By signing below, the signatory warrants and represents that he or she is duly authorized to bind the party for whom he or she is signing. Persons signing for entities further warrant and represent that the entity is duly and properly organized in the State of Wisconsin and in good standing.
- g. Warranty and Representation as to Ownership of Property. The person signing this Agreement as an owner warrants and represents that he or she, or the entity named as the owner in this Agreement, is the fee owner of the Property described on Exhibit A.
- h. Change in Status of Town or County. In the event that the Town incorporates as a city or village, or in the event that the County no longer regulates stormwater within the Town for any other reason, then any and all references to the County within this Agreement shall be deemed deleted and such provisions shall no longer be of any force and effect.

IN WITNESS WHEREOF, Wolf Hollow Windsor, LLC, the party owning the Property burdened by the Easement, has caused this Agreement to be signed by Matt K. Neumann, President of Neumann Companies, Inc., its authorized representative, as of this 23 day of July, 2015.

WOLF HOLLOW WINDSOR, LLC

By: Matt K. Neumann
 Matt K. Neumann, President
 Neumann Companies, Inc., sole member

ACKNOWLEDGEMENT

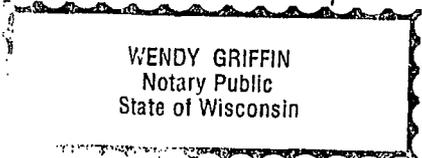
STATE OF WISCONSIN

COUNTY OF ~~DANE~~ Waushara

Personally came before me this 23 day of July, 2015, the above-named Matt K. Neumann, who identified himself as the President and duly authorized representative of Wolf Hollow Windsor, LLC, and who executed the foregoing instrument and acknowledged the same. Neumann Companies, Inc.

Wendy Griffin
 Notary Public, State of Wisconsin

Print Name: Wendy Griffin
 My Commission is ~~permanent~~ expires 2/5/17



IN WITNESS WHEREOF, the Town of Windsor, a party benefitting from the Drainage Easement(s) and having the right to enforce the Agreement, has caused this to be signed by Robert E. Wipperfurth, Town Chairperson, its authorized representative, and attested by Christine Capstran, Town Clerk, all on this 16 day of July, 2015.

TOWN OF WINDSOR

By: Robert E. Wipperfurth
Robert E. Wipperfurth, Town Chairperson

ATTEST

By: Christine Capstran
Christine Capstran, Town Clerk

ACKNOWLEDGEMENT

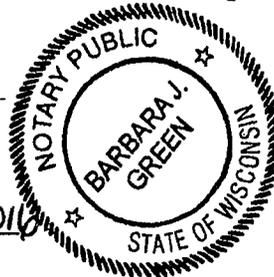
STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me, this 16 day of July, 2015, the above-named Robert E. Wipperfurth and Christine Capstran, known to me to be the persons who executed the foregoing instrument on behalf of the Town of Windsor and acknowledged the same.

Barbara J. Green
Notary Public, State of Wisconsin

Print Name: Barbara J. Green
My Commission is permanent/expires 04/03/2016



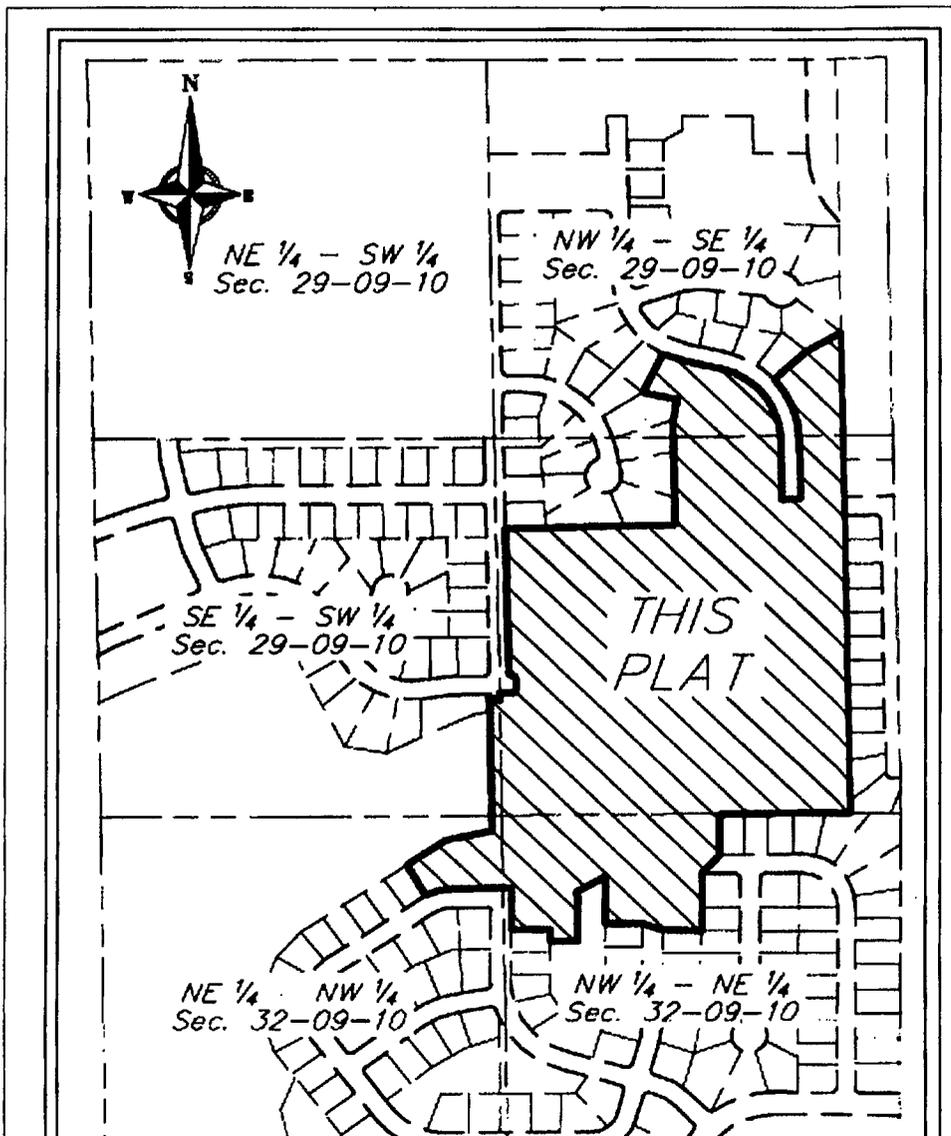
This instrument drafted by:
Constance L. Anderson, Town Attorney
Madison, WI
connie@andersonconsultswi.com

Attachments Incorporated by Reference:

Exhibit A: LOCATION MAP AND PARCEL IDENTIFICATION NUMBERS

EXHIBIT A

LOCATION MAP AND PARCEL IDENTIFICATION NUMBERS



Wolf Hollow at Pleasant Prairie Creek

Lot Number	Parcel ID Number
301	068/ 0910-294-2901-0
302	068/ 0910-294-4902-0
303	068/ 0910-294-4913-0
304	068/ 0910-294-4924-0
305	068/ 0910-294-4935-0
306	068/ 0910-294-4946-0
307	068/ 0910-294-4957-0
308	068/ 0910-294-4968-0
309	068/ 0910-294-4979-0
310	068/ 0910-294-4990-0
311	068/ 0910-294-5001-0
312	068/ 0910-294-5012-0
313	068/ 0910-294-5023-0
314	068/ 0910-294-5034-0
315	068/ 0910-294-5045-0
316	068/ 0910-294-5056-0
317	068/ 0910-294-5067-0
318	068/ 0910-294-5078-0
319	068/ 0910-294-5089-0
320	068/ 0910-294-5100-0
321	068/ 0910-294-5111-0
322	068/ 0910-294-5122-0
323	068/ 0910-294-5133-0
324	068/ 0910-294-5144-0
339	068/ 0910-294-5169-0
340	068/ 0910-294-5180-0

Lot Number	Parcel ID Number
341	068/ 0910-294-5191-0
342	068/ 0910-294-5202-0
343	068/ 0910-294-5213-0
344	068/ 0910-294-5224-0
345	068/ 0910-294-5235-0
346	068/ 0910-294-5246-0
347	068/ 0910-294-5257-0
348	068/ 0910-294-5268-0
349	068/ 0910-294-5279-0
350	068/ 0910-294-5290-0
351	068/ 0910-294-5301-0
352	068/ 0910-294-5312-0
353	068/ 0910-294-5323-0
354	068/ 0910-294-5334-0
355	068/ 0910-294-5345-0
356	068/ 0910-294-5356-0
357	068/ 0910-294-2927-0
358	068/ 0910-294-2938-0
359	068/ 0910-294-2949-0
360	068/ 0910-294-2960-0
361	068/ 0910-294-5371-0
362	068/ 0910-294-5382-0
363	068/ 0910-294-5393-0
364	068/ 0910-294-5404-0
365	068/ 0910-294-5415-0
366	068/ 0910-294-5426-0