

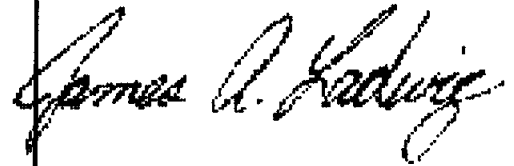
AMENDMENT NUMBER TWO TO
DEVELOPMENT AGREEMENT FOR A
UNIT DEVELOPMENT

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DOC # 2055801

Recorded

OCT. 24, 2005 AT 06:40:40PM



JAMES A LADWIG
RACINE COUNTY
REGISTER OF DEEDS

Fee Amount: \$131.00



Wisconsin Title Service Co.
PO BOX 618
Waukesha, WI 53187-0618

891-
10/24/05

MRED Burlington-Mark

Tax Key No.

AMENDMENT NUMBER TWO TO
DEVELOPMENT AGREEMENT FOR A PLANNED UNIT DEVELOPMENT

This Agreement is made and entered into by, between and among the following:

- The City of Burlington, a Municipal Corporation of the State of Wisconsin located in Racine County and Walworth County (the "City"); and
- Lynch Ventures, LLC, a Wisconsin limited liability company ("Lynch"); and
- MRED (Burlington) Associates, a Wisconsin limited partnership ("MRED"); and
- Menard, Inc., a Wisconsin corporation ("Menard").

RECITALS

WHEREAS, on September 14, 2004, Lynch and MRED (together hereinafter referred to as the "Developer") and the City entered into a Development Agreement for a Planned Unit Development approving and regulating a proposed commercial development of the real estate now described as follows:

Certified Survey Map No. 2651 being part of the northeast, southeast and southwest 1/4 of the northwest 1/4 and the northeast and northwest 1/4 of the southwest 1/4 of Section 22, Township 3 North, Range 19 East, in the City of Burlington, County of Racine, State of Wisconsin;

WHEREAS, subsequent thereto the Development Agreement was amended to change the width requirement for the pedestrian-bicycle path from ten (10) feet to eight (8) feet in certain areas; and

WHEREAS, pursuant to the terms, conditions and provisions of the Development Agreement for a Planned Unit Development as amended (the "PUD Agreement"):

- The Developer has proceeded to perform its obligations under and pursuant to the PUD Agreement including the commencement of development of said real estate; and
- Lynch has developed and improved Lot 1 of Certified Survey Map No. 2651 for use as an automobile sales and service facility; and

WHEREAS, the Developer desires to redivide Certified Survey Map No. 2651 pursuant to a certified survey map which the Developer has submitted to the Common Council of the City for approval (the "New CSM"); a copy of the New CSM being attached hereto as Exhibit A; and

WHEREAS, pursuant to the terms and provisions of various agreement and conditioned upon approval of the New CSM, the execution of this Developer's Agreement and other matters:

- Lynch will retain title to Lot 1 of the New CSM;
- MRED will obtain title to Lots 2, 3, 4 and Outlot 2 of the New CSM;
- MRED will convey title to Lot 2 of the New CSM to Menard; and
- Lynch, MRED and Menard will execute and record certain documentation providing for access to and use of the Lots in the New CSM.

WHEREAS, the Wisconsin State Statutes and the Land Division Ordinance of the City provide that as a condition of a approval of the New CSM, the City Council of the City of Burlington may require that the Developer and/or Menard make and install or have made and installed any public improvements reasonably necessary and related to the Lots and Outlots of the New CSM and that an irrevocable letter of credit, bond, or cash deposit approved by the City Attorney be provided guaranteeing that public improvements be made and installed within a reasonable time; and

WHEREAS, certain improvements are deemed necessary by the City to serve the Lots and Outlots in the new CSM in order to protect the public improvements being installed and dedicated to the public for the benefit of the property and its planned occupants; and

WHEREAS, it is necessary to amend the PUD Agreement to allow the development in the manner requested by the Developer and Menard; and

WHEREAS, the Plan Commission of the City has recommended to the Common council of the City that the proposed development of the Lots and Outlots contained within the New CSM be approved as outlined herein on the condition that the parties in interest enter into an amendment to the PUD Agreement relative to the manner and method by which said Lots and Outlots are to be developed, as well as the manner and method by which the development of the Lots and Outlots are guaranteed to their completion; and

WHEREAS, contemporaneous with the execution of this Agreement, the City, MRED and Menard have executed a Construction Escrow Agreement (the "Construction Escrow Agreement") which provides for the escrow of funds which serve to secure certain financial guarantees to the City required of MRED and Menard hereunder; and

WHEREAS, contemporaneous with the execution of this Agreement, MRED and Menard have executed an Agreement for payment of certain costs (the "Cost Sharing Agreement") which sets forth the responsibility of MRED for undertaking and completing described improvements and the responsibility of Menard to pay MRED for the same.

WHEREAS, the City believes that the orderly planned development of the Lots and Outlots in the New CSM will best promote the health, safety and general welfare of the community; and

WHEREAS, Lynch, MRED and Menard agree to develop the Lots and Outlots of the New CSM as herein described in accordance with this Agreement.

AGREEMENTS

1. Amendment of Existing PUD Agreement. This Agreement constitutes the Second Amendment to the PUD Agreement. All of the terms, conditions and provisions of the PUD Agreement are incorporated herein by reference and shall remain in full force and effect to the extent those terms, conditions and provisions are not inconsistent with the terms, conditions and provisions of this Agreement. In the event of an inconsistency between the terms, conditions and provisions of the PUD Agreement and this amending agreement, the terms, conditions and provisions of this amending agreement shall control.

2. Conditions. This Agreement is contingent upon the following:

- A. Approval and recording of the New CSM; and.
- B. Acquisition of record title to Lot 2, 3, 4 and Outlot 2 of the New CSM by MRED; and
- C. Conveyance of Lot 2 of the New CSM to Menard; and
- D. Issuance of a Conditional Use Permit to Menard for improvements and use of Lot 2; and
- E. Detailed Site Plans for the improvements contemplated hereunder are approved by the City in accordance with the terms of this Agreement.

If the conditions set forth above are not satisfied on or before October 30, 2005, any party hereto may terminate this Agreement by written notice to the others. Upon termination of this Agreement, the parties shall have no further rights or obligations hereunder and this Agreement shall be deemed null and void and any security deposited hereunder shall thereupon be returned by the City to the party making such deposit.

3. General. All of the terms and conditions of Section 1 of the PUD Agreement pertaining to site plans, compliance with the municipal code, detailed required plans, archive recorded documents, utility alignment, improvement standards, building and occupancy permits and other permits will continue to apply to the continued development of the property. In addition thereto, the following provisions apply:

A. Plans. MRED has presented to the City its site improvement plans for the land described in the New CSM. Menard has presented to the City its initial Detailed Site Plans for the proposed development of Lot 2 of the New CSM. Those site improvement plans from MRED and those Detailed Site Plans from Menard are submitted herewith, marked Exhibit B and made a part hereof, and are hereby approved by the City. The City, MRED and Menard agree that the provisions of this Agreement shall apply to the development to be undertaken by MRED and Menard.

B. Compliance with Code. MRED and Menard, at their own expense, shall construct and install all improvements and provide all plans, specifications and other documents in accordance with the provisions of this Agreement, the provisions of the Municipal Code of the City, the review and oversight by the pertinent committees of the Common Council charged with responsibility for the improvements subject of this Agreement, the City Engineer and, where applicable, the City Attorney.

C. Building and Occupancy Permits for Menard, Inc.

(1) Permitted and conditional uses for Lot 2 of the New CSM shall be as set forth in the City of Burlington Zoning Code, Section 315-26, B-1 Neighborhood Business District. The City represents and warrants that B-1 is a proper zoning classification for the "Menard's" store to be situated on Lot 2. The City Plan Commission has approved a Conditional Use Permit pursuant to City of Burlington Ordinances prior to the City's approval of this Agreement so as to allow the construction and development of such a "Menard's" store. No use inconsistent with the B-1 zoning classification or contrary to the Conditional Use Permit shall be permitted of Lot 2 unless this Agreement has been amended to allow such use or unless the City has otherwise granted its permission for such use.

(2) Building permits for the construction of the proposed "Menard's" store shall be issued by the City upon approval of the building construction plans and the City's receipt of the payment of the required building permit fees.

(3) No occupancy permit for structures on Lot 2 of the New CSM shall be issued until all improvements required by this Agreement are installed and approved by the City; provided that an occupancy permit may be issued by the City where outstanding work to complete construction required per the approved

Site and Building Plans is not life threatening, or a safety concern, and only upon the formulation of a punch list of said outstanding work with a corresponding reasonable completion date, which list is acceptable to the both the City's Building Inspector and Menard. Failure to complete any item on the punch list within the accepted time line will result in a penalty of Five Hundred Dollars (\$500.00) per day plus reimbursement to the City for inspection services at the rate of one hundred fifty-five percent (155%) of the actual hourly rate paid for the inspection services by the City. Payment of these penalties are guaranteed by the irrevocable letter of credit, bond, or cash deposit as provided in this Agreement.

D. Department of Natural Resources Permit. A grading permit has been granted by the Wisconsin Department of Natural Resources pursuant to §30.19, Wisconsin Statutes. MRED and Menard shall comply with all of the obligations and requirements of the permittee in the construction and maintenance of improvements on the Lots and Outlots of the New CSM.

4. Required Improvements.

A. Generally. MRED and Menard, entirely at their own expense, shall, except as herein provided, design and install the improvements required by the Municipal Code in accordance with the provisions of those sections, as directed by the City.

B. Roads and Streets. MRED hereby agrees:

(1) To cause to be dedicated to the City a 100-foot-wide right-of-way for the construction of Buckley Street, a public street as shown on the New CSM and the site improvement plans, to municipally determined specifications, to afford access from State Highway 36, with such design as is approved by the City Engineer and, if applicable, the Wisconsin Department of Transportation.

(2) To complete all intersection improvements, including signalization, at the intersection of Buckley Street and State Highway 36 and at the intersection of Buckley Street and Lynch Way.

(3) To complete all intersection improvements, including signalization, at the intersection of Brown's Lake Drive and the entrance to Lot 1 of the New CSM to municipally determined specifications to afford access from Brown's Lake Drive into Lot 1, with such design as is approved by the City Engineer, Racine County and, if applicable, the Wisconsin Department of Transportation.

(4) That all intersection and cross-access road improvements and all roads and streets shown on the site improvement plans will be excavated, rough

graded and graveled and a first lift of asphalt concrete pavement placed on the roads and streets within one (1) year of issuance of the building permit for the "Menard's" store to be situated on Lot 2 of the New CSM and prior to the issuance of an occupancy permit.

C. Sanitary Sewer. MRED hereby agrees:

(1) To construct, furnish, install and provide a sanitary sewer service in accordance with the site improvement plans and with the plans and specifications that shall be submitted and approved by the City Engineer prior to construction, and that construction of said sanitary sewer service will be completed in accordance with the plans and specifications approved by the City Engineer.

(2) To dedicate easements at the time of recording the New CSM for sewer mains constructed outside of the public rights-of-way as shown on the approved site improvements plans.

(3) That no occupancy permit shall be issued for the "Menard's" store to be situated on Lot 2 of the New CSM until the sanitary sewer line improvements have been constructed in their entirety as shown on the Detailed Site Plans and approved by the City Engineer or City Building Inspector, whichever is applicable.

D. Water. MRED and Menard hereby agree:

(1) To construct, furnish and install public water mains and services in accordance with the site improvements plans approved for construction by MRED and the Detailed Site Plans approved for construction by Menard and with the plans and specifications that shall be submitted and approved by the City Engineer prior to construction, and that construction of said water services will be completed in accordance with the plans and specifications approved by the City Engineer.

(2) To dedicate easements at the time of recording the New CSM for water mains constructed outside of public rights-of-way as shown on the approved site improvement plans.

(3) That construction of the system of water distribution will be completed in accordance with the site improvements plans and the Detailed Site Plans and the specifications approved by the City Engineer and after the final approval of the New CSM by the City Council.

(4) That no occupancy permit shall be issued for the "Menard's" store to be situated on Lot 2 of the New CSM until the water distribution lines have been constructed in their entirety as shown on the Detailed Site Plans and approved by the City Engineer or City Building Inspector, whichever is applicable.

E. Surface Water Drainage. MRED agrees:

(1) To design surface water drainage to accommodate the proposed development on Lot 2 of the New CSM in accordance with City Ordinances, site improvement plans, the Detailed Site Plans and the New CSM and with the plans and specifications that shall be submitted and approved by the City Engineer prior to construction.

(2) Construction of the detention pond for storm and surface water drainage will be completed in accordance with the site improvement plans, the Detailed Site Plans, the New CSM and as approved by the City Engineer.

(3) Where surface water is conveyed by storm water drainage sewers in public rights-of-way, said system shall be dedicated to the City, accepted by the City pursuant to this Agreement and shall become the responsibility of the City after the guarantee period has expired.

(4) That all above ground swales and berms, together with canals and any detention pond areas as constructed per this Agreement and the plans submitted, shall remain the property of the owner of the Lot upon which they are located subject to easements in favor of the City for maintenance of said surface water drainage systems and, where required by the City, shall be conveyed subject to deed restrictions which will limit the usage of property subject of the easement, so as to prohibit interference with elevations established for the surface water system. Prior to conveyance of any parcel burdened by the presence of this system, or any part thereof, the easement language and deed restriction language shall be reviewed and approved by the City Attorney.

All such swales, berms, canals and any detention pond areas as constructed per this Agreement shall also be subject to maintenance easements in favor of the City for storm water detention and/or collection of drainage waters from storm runoff directly from public roads located upon or serving the Lots and Outlots of the New CSM.

(5) That any surface water detention pond constructed pursuant to plans shall be landscaped and maintained to limit vegetative and algae growth and the terms of approval of the Wisconsin Department of Natural Resources.

Menard shall perform, if necessary, post construction clean out of the detention pond situated on Lot 2 of the New CSM upon completion of the building and site improvements.

F. Building Construction and Maintenance on Lot 2. The exterior of the building to be constructed on Lot 2 shall be as shown on the Building Elevations attached hereto as Exhibit C. Menard hereby agrees that its construction of all improvements on Lot 2 will conform to the Detailed Site Plans and the standards and specifications reviewed and approved by the City and that it will maintain such improvements as needed. It is expressly agreed that nothing contained herein shall be construed to contain a covenant, either express or implied, to either commence the operation of a business or thereafter to continuously operate a business by Menard on Lot 2.

G. Landscaping on Lot 2. Menard hereby agrees that when construction of a "Menard's" store on Lot 2 is occurring and after completion of construction:

(1) To install landscaping pursuant to the Landscape Plans reviewed and approved by the City, in conformance with Municipal Code requirements and the financial surety as required therein and in this Agreement.

(2) To provide living and growing flora and to maintain, as needed, the landscaped areas, materials, fixtures and improvements in conformance with Municipal Code provisions and the financial surety as required in this Agreement.

(3) In areas where tree and brush removal is approved pursuant to the Landscape Plans, to remove and lawfully dispose of all destroyed trees, brush, tree trunks, shrubs and other natural growth and to remove and lawfully dispose of all rubbish and debris.

H. Other Utilities. MRED and Menard shall be responsible for and cause electrical power, telephone facilities, cable TV lines, if any, and natural gas facilities to be installed underground in such a manner as to make proper and adequate service available to the building to be constructed on Lot 2 of the New CSM. Plans indicating the proposed location of each such utility to service Lot 2 shall be provided to the City prior to the installation of the utility, as approved and shown on the Detailed Site Plans.

5. Dedication. Subject to all of the other provisions of this Agreement, MRED and Menard shall, without charge to the City, upon completion of all of the within described public improvements, unconditionally give, grant, convey title and fully dedicate the same to the City, its successors and assigns, and in fee simple, free and clear of all monetary encumbrances, together with, including without limitation because of enumeration, all lands upon which they stand (unless such land is located within a dedicated public easement), and all structures, mains,

conduits, pipes, lines, machinery, equipment and appurtenances which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication and acceptance thereof by the City, said public improvements shall thereafter be under the jurisdiction of and subject to inspection by the City Engineer or his representatives, and the City shall have the right to connect or integrate other sewer or water facilities provided hereunder as the City decides, with no payment or award to, or consent required of, the MRED and Menard, except as provided herein.

If MRED requests that the Common Council accept the CSM prior to completion of all public improvements, MRED shall file with the City an irrevocable letter of credit, bond, or cash deposit acceptable to the City, in an amount as established by MRED's civil engineer and approved by the City Engineer that will reasonably compensate the City for completion of said public improvements in the event MRED fails to complete the public improvements within the time requirements as set forth hereinabove, and the amount of the letter of credit, bond, or cash deposit shall be established in an amount which is one hundred fifteen percent (115%) of the City Engineer's approved estimate of the cost of completion of the required improvements.

Necessary permits shall be obtained for all work. Dedication shall not constitute acceptance of any improvements by the City. All public improvements will be accepted by the City by separate resolution at such time as said improvements are in acceptable form and according to City specifications, but no later than one (1) year after submission by MRED for acceptance by the City, provided said submittal is in acceptable form and according to City specifications. Acceptance of any improvements does not constitute a waiver by the City of the right to draw funds under the irrevocable letter of credit, bond, or cash deposit on account of any defect in or failure of the improvements, or failure to pay the cost thereof, that is detected or which occurs during the warranty period running after acceptance of the improvements by the City.

6. Certificate of Acceptance. Promptly after completion of construction of the improvements described in paragraph 4 above, submittal of as-built documents, and upon written request of MRED or Menard, as the case may be, to the City Administrator, the City, following proper inspection, testing, approval and acceptance will execute and deliver to MRED or Menard, as the case may be, a certificate of acceptance. The certificate of acceptance by the City shall be (and it shall be so provided in the Resolution of Acceptance authorizing issuance of the certificate of acceptance) conclusive determination of satisfaction with respect to the obligations of MRED or Menard, as the case may be, and its successors and assigns that the construction of such improvements has been completed in accordance with the provisions of this Agreement subject, however, to the provisions below.

If the City refuses or fails to place said Resolution in accordance with the provisions of this Agreement on the Common Council agenda for approval within thirty (30) days of the City's receipt of MRED's or Menard's letter requesting acceptance, then the City shall, within thirty (30) days after such written request, provide MRED or Menard, as the case may be, with a

written statement indicating in adequate detail in which respects MRED or Menard, as the case may be, has failed to complete construction of such element in accordance with the provisions of this Agreement, or is otherwise in default and what measures or steps will be necessary for MRED or Menard, as the case may be, to take or perform in order to obtain such Resolution. Said Resolution as provided herein shall not be unreasonably withheld by the City and such shall be deemed approved if the City fails to conform to the provisions of this section within a period of one (1) year from the date of the written request being received by the City Administrator.

7. Payment of Fees.

A. Generally. MRED and Menard shall pay all fees, expenses, costs and disbursements which they are required to pay pursuant to the Municipal Code of the City of Burlington and/or this Agreement. Unless required to be paid as a condition of the approval of this Agreement, such amount(s) shall be paid within forty-five (45) days after being billed therefor. All billing of fees, expenses, costs and disbursements outlined below shall be forwarded to MRED and to Menard at the address set forth herein for Notice for processing. This does not absolve MRED or Menard from their financial responsibility for payment to the City.

B. Review Professional and Inspection Fees and Costs. MRED and Menard shall be responsible for payment of all fees and costs incurred by them in connection with construction and improvements contemplated by this Agreement. Payment shall be made as set forth herein.

(1) Review Fees and Costs. MRED and Menard shall pay the fees and costs equal to the actual technical, planning and administrative review and processing costs of the City and its consultants, and the publication costs that are associated with performing necessary reviews and approval services relating to the New CSM or Plat Reviews, Site Plans and this Agreement.

(2) Professional Fees and Costs.

a. Legal. MRED and Menard agree to pay all of the City's legal fees and costs incurred in relation to the approval of this development, whether performed by the City Attorney or his designee, including but not limited to: the review of all documents, plans and plats submitted by MRED and Menard and/or their representatives, the negotiation and drafting of this Agreement, all legal research, the drafting of any related documents (including Ordinances), as well as any time incurred in the various and miscellaneous involvements which have been required during the plan approval process.

b. Engineering. MRED and Menard agree to pay all of the City's engineering fees and costs incurred in relating to the approval of this development, whether provided by the City Engineer, a staff engineer or technician, or designated employee or by a consultant including, but not limited to: the review of all documents, plans and plats submitted, oversight of the development, and the cost to update the Official City Map and the City water and sewer maps.

c. Planning. MRED and Menard agree to pay all of the City's planning fees and costs incurred in relation to the approval of this development, whether provided by staff, technicians, designated employees or by a consultant included, but not limited to: the review of all documents, plans and plats submitted and oversight of the development.

(3) Inspection Fees and Costs. MRED and Menard shall reimburse the City for the costs of inspection and related services provided by the City or by a consultant on the basis of all such services rendered. The inspector of the improvements on behalf of the City shall be chosen by the City. In the event that the inspector chosen by the City for site inspection during the improvement construction phase is someone other than an employee of the City Engineer's office, the City Engineer may require involvement by his firm in oversight of those inspection processes from time to time as he deems necessary, the cost of which MRED and Menard agree to pay.

C. Cash Deposit Required. MRED and Menard shall deposit, on the sole behalf of the City at a mutually acceptable depository, the sum of 5,000 Dollars Dollars (\$ Five Thousand), being the estimated total of all fees and charges enumerated in paragraph B above to cover "out-of-pocket" costs and expenses incurred by the City for legal, planning, engineering, technical, administrative, review fees and expenses for work performed while representing the interests of the City as they relate to this Development Agreement. The sum shall be deposited in an interest-bearing account with all interest accruing also credited to the account. Itemized statements of withdrawal(s) by the City shall be furnished to MRED and Menard at the time of withdrawal.

D. Sewer Connection Charges. Menard shall pay sewer connection charges pursuant to Burlington Municipal Code Chapter 23.

E. Existing Special Assessments. Any existing special assessments for sewer and water improvements levied against the Property shall remain the responsibility of MRED.

8. Financial Guarantees.

A. Construction Escrow Agreement. MRED and Menard have executed the Construction Escrow Agreement which shall assure the faithful performance of their obligations under this Agreement.

B. Special Letter of Credit.

(1) Menard shall deposit with the City a separate letter of credit on the sole behalf of the City at a mutually acceptable depository or shall furnish, renew and maintain a performance bond in an amount which is ten percent (10%) of the costs of the landscaping and storm water drainage facility installation as approved by the City Engineer, which amount shall guarantee that Menard will strictly adhere to the installation of landscaping pursuant to Municipal Code requirements and, upon the expiration of the requirements of the Municipal Code, the landscaping maintenance and replacement requirements set forth in paragraph 4G and the surface water detention pond requirements in paragraph 4E(5). The letter of credit or performance bond shall remain in effect permanently or until the terms of the conditional use permit issued by the Plan Commission are modified, from the completion of the installation of all landscaping referenced herein.

(2) Menard shall maintain the landscape and storm water detention pond and if the City reasonably determines that Menard has not done so, it shall provide written notice to Menard by certified mail at the address for Notice set forth herein and to the local store manager at the store's local address of the maintenance required and, if such work is not completed within thirty (30) days of the notice, the City shall proceed with the work and deduct the cost of such work by drawing against the above referenced letter of credit or performance bond. Itemized statements of withdrawal(s) and the supporting documentation, including but not limited to invoices by the City, shall be furnished to Menard at the time of draw down, and Menard shall increase the letter of credit for that amount within thirty (30) days of receiving such statement. The cost of such work shall be established at a rate of one hundred fifty-five percent (155%) of the actual cost in order to cover the cost of administration in addition to the work itself. If the City is to do required work after the expiration of the letter of credit, the cost to the City under this section shall be assessed as a special charge against Lot 2 and shall be added to the real estate tax bill for the year in question and Menard will not protest the special assessment. Any notice delivered by the City to Menard under this paragraph shall specifically identify this Agreement and reference this paragraph as well as the one hundred fifty-five percent (155%) penalty described above.

C. Form. Irrevocable letters of credit or performance bonds shall be approved as to form agreed to by the City Attorney. Letters of credit shall be payable to the City

and shall be conditioned upon, and guarantee to the City the performance by MRED and Menard of their obligations under this Agreement.

D. Liability not Released. All letters of credit, performance bonds, or cash deposits given hereunder are security devices only, which in no manner limit the liability of MRED or Menard to the City, however arising and regardless of the amount. It shall be the responsibility of MRED or Menard or their successors to provide the City not less than sixty (60) days notice of the expiration of any required letter of credit, ~~or~~ performance bond, or cash deposit agreement herein, or the payment of the existing letter of credit amount prior to expiration date.

E. Reservation of Assessment Rights. In the event that the letter of credit or performance bond does not provide sufficient funds to complete the improvements to be dedicated to the City as provided herein, in addition to the remedies for default provided to the City by this financial guarantee, the City reserves the right with notice or notice of hearing to impose special assessments or charges for any amount to which it is entitled by virtue of this Agreement upon the development. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessment or charges.

9. Guarantee and Indemnification.

A. Guarantee of Improvements. MRED and Menard shall guarantee all dedicated public improvements constructed by each respectively against defects due to faulty materials or workmanship which appear within eighteen (18) months from the date of acceptance of dedication of such improvements as provided in paragraph 5 of this Agreement. MRED or Menard shall repair or replace any such improvements deemed by the City necessary to eliminate such defects and shall pay for all damages to City property or easements and all other City costs resulting from such defects during such period.

B. General Indemnification. MRED and Menard shall each indemnify and hold the City harmless against and from any and all liabilities, costs and expenses incurred by the City which may in any manner result from or arise in the course of, out of, or as a result of their negligence or the negligence of their agents, successors, assigns, contractors, or employees in connection with the construction of the public improvements to be dedicated to the City pursuant to this Agreement. The City shall first look to its insurance coverage before claiming under this indemnity. This indemnification shall terminate at the end of eighteen (18) months and one (1) day from the acceptance of dedication of the public improvements required by this Agreement.

C. Contract Insurance. Contractors engaged by MRED to perform the work required by this Agreement within the development and public rights-of-way shall, prior to commencing such work, submit to the City acceptable proof of the following

coverages. Further, these certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least ten (10) days written notice has been give to the City. MRED shall file a certificate of insurance showing the City as additional insured and containing a ten (10) day notice to the City of cancellation:

1. Unemployment and works compensation insurance which is in strict compliance with state laws.

2. Comprehensive personal and public liability insurance which is not less than Five Million Dollars (\$5,000,000.00).

3. Comprehensive property damage insurance having limits of not less than Five Million Dollars (\$5,000,000.00).

4. Comprehensive automobile liability and property insurance for operations of all hired and non-hired motor vehicles of not less than One Million Dollars (\$1,000,000.00).

5. Fire and extended coverage which shall insure against losses and damages to incomplete and completed work, materials, or equipment covering the improvements to be dedicated to the City until the same have been accepted by the City.

10. Miscellaneous Requirements of MRED and Menard.

A. Survey Monuments. MRED hereby agrees to properly place and install survey or other monuments required by statutes and ordinance.

B. Debris. MRED and Menard shall be responsible for cleaning up any debris resulting from construction by MRED and Menard, its contractors, or its subcontractors within the development. MRED and Menard shall clean up all debris within forty-eight (48) hours after receiving notice from the City Engineer or Building Inspector.

C. Cleanup. During construction of the improvements required hereunder, MRED and Menard shall be responsible for cleaning up the mud and dirt on the roadways within the development and its abutting streets resulting from construction of such improvements. MRED and Menard shall clean the roadways within eighteen (18) hours after receiving notice from the City Engineer or the Department of Public Works.

D. Erosion Control. Erosion control shall be carried out pursuant to all applicable state codes and statutes, and ordinance of the City of Burlington, pursuant to the City's Municipal Code as follows: MRED and Menard shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so mulched,

seeded, sodded, or otherwise protected that erosion, siltation, sedimentation and washing are prevented, in accordance with the plans and specifications approved by the City Engineer. In addition:

1. Sod shall be laid in strips at those intervals necessary to prevent erosion and at right angles to the direction of drainage.
2. Temporary vegetation and mulching shall be used to protect critical areas and permanent vegetation shall be installed as soon as practical.
3. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
4. Sediment basins shall be installed and maintained at all drainage ways to trap, remove and prevent sediment and debris from being washed outside the area being developed.
5. Temporary erosion control devices shall be removed upon the installation of permanent erosion control devices.

Any conflict with the requirements of the City and the Wisconsin Department of Natural Resources (WDNR) shall be resolved in favor of the City provided that the WDNR does not object to the City's requirements.

E. Wisconsin Department of Transportation Review. MRED shall be responsible for compliance with the Traffic Impact Analysis report and permits providing for highway, road and intersection access and improvements.

F. Construction in Additional Phases. Any and all damage to completed improvements, public or private, caused by construction in additional phases of this development shall be repaired by MRED, its successors and assigns as determined by the City Engineer.

11. Miscellaneous Requirements of Menard. The following requirements shall apply to Menard and the "Menard's" store on Lot 2:

A. Outside Sales and Storage. Outside sales or storage in the Development shall be permitted on the front sidewalk of the "Menard's" store and in the "Outside Yard Area" identified as the fenced area on the Detailed Site Plans. In the event any such Outside Yard Area is later converted to vehicle parking use, those areas so converted shall no longer be used for outside sales or storage.

B. Outside Speakers. No outside public address speakers may be used except as required for emergency purposes.

C. Outside Lighting. The outside lighting shall conform to the Municipal Code of the City, as shown on the Site Plan so as to minimize the effect of such lighting on the surrounding area.

D. Noise. The City may determine in the future to limit the time of deliveries to the building to between 6:00 a.m. and 11:00 p.m. so as to minimize the effect of the noise on the surrounding area, in accordance with the City's noise regulations.

E. Overnight Parking. Parking lots shall not be utilized for camping, nor parking of semi-trailers between 1:00 a.m. and 5:00 a.m., except for utilization of delivery docks.

F. Vacant Building. In order to promote community values and mitigate any perceived negative impact of a vacant store, Menard shall undertake the following measures in the event the "Menard's" store becomes vacant for a period in excess of four (4) years from the date of the store closing:

(1) Menard will consider demising the existing building for adaptive re-uses, as necessary, in order to meet the needs of future tenants. Menard may need to subdivide the building and accepts responsibility for the costs of demising the building, however, other arrangements may be negotiated with tenants, depending upon the nature of the tenants' lease requirements.

(2) Keep all lights illuminated in the parking lot and some on the exterior of the building to offer a positive appearance and safe condition of the property.

(3) Should the building remain completely vacant in excess of four (4) continuous years from the date of the "Menard's" store closing, Menard shall completely demolish the structure and rough grade the building pad site.

(4) Menard shall deposit, renew and maintain with the City a performance bond in the amount of one hundred percent (100%) of the estimated cost to demolish the building, computed by Menard's engineer and approved by the City Engineer. If, however, Menard sells the building during that four (4) year period of time frame or leases it, the buyer or lessee will be required to post, renew and maintain a substitute performance bond and the performance bond deposited by Menard may be cancelled once that purchaser or lessee posts a substitute performance bond with the City.

(5) The City shall cooperate in a reasonable manner to amend this Agreement as required to promote redevelopment or reuse of the Building and/or Lot 2. The City will not act unreasonably in approving new tenants or owners, provided they meet City zoning and conditional use requirements.

12. General Provisions.

A. Platting Regulations. All provisions of City of Burlington Municipal Zoning Code, Building Code and Land Division Ordinance, along with Wisconsin Statutes Chapter 236, Platting Land, along with all applicable state statutes and codes and Municipal Code provisions which are not inconsistent with or in conflict with any of the provisions of this Agreement are incorporated herein by reference and all such provisions shall bind the parties hereto and be a part of this Agreement as fully as if set forth herein and as shown on the Detailed Site Plans.

This Agreement and all work and improvements required by this Agreement shall be performed and carried out in strict compliance with and subject to the provisions of the Municipal Code. In the event that the City accepts dedication of the improvements as provided in this Agreement, MRED and Menard will be deemed to have met all of the requirements of the Municipal Code and as shown on the Detailed Site Plans.

B. Amendments. This Agreement may be amended or modified only by an instrument in writing executed by all of the parties to this Agreement.

C. Ownership. MRED certifies to the city that all of the owners of the real estate within said development and all of the land contract vendors and/or mortgagees having an interest in said real estate as of the date hereof are set forth in the recitals hereto.

D. No Waiver. No waiver of any provision of this Agreement will be deemed to or constitute a waiver of any other provision, nor shall it be deemed to or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by the City, MRED and Menard; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by MRED or Menard or the acceptance of any improvement except as provided herein.

E. Amendment or Modification. The parties to this Agreement, or their successors or assigns, may amend or modify this Agreement from time to time only by written instrument executed by the Common Council and by MRED and Menard. Such amendment or modification shall be properly notarized before it may be effective.

F. Vested Rights. The City does not warrant by this Agreement that MRED or Menard is entitled to any other approval(s) required by the City, if any, before MRED or Menard is entitled to proceed with development and construction on Lot 2 of the New CSM, or transfer ownership of Lot 2 to Menard.

G. Scope. This Agreement and the Exhibits and PUD Agreement referenced herein constitute the entire agreement between the parties and no statement(s), promise(s), or inducement(s) that is/are not contained in this Agreement shall be binding on the parties.

H. Time. For the purpose of computing time periods for City, MRED and/or Menard action and other time periods herein, such times in which labor strikes and lockouts, war, civil disasters, acts of God, or extreme weather conditions occur or exist shall not be included if such times prevent MRED, Menard, or the City from performing their respective obligations under the Agreement.

I. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term, or provision and the rights of the parties shall be construed as if the part, term, or provision was never part of the Agreement.

J. Enforcement. Any party to this Agreement, or their respective successors or assigns, may either in law or in equity by suit, action, mandamus, or other proceeding, enforce and compel performance of this Agreement against any other party hereto and their respective successors and assigns.

K. Meets Statutory Requirements. Execution of this Agreement and the provision of the security required herein shall be accepted by the City as adequate provision for the improvements within the meaning of Section 136.13(2) of the Wisconsin State Statutes.

L. Benefits. The benefits of this Agreement to MRED and Menard are personal and may not be assigned without the express written approval of the City, except to a purchaser or lessee of any portion of the Property. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal joint and several obligations of MRED or Menard and also shall be binding on the successors and assigns of MRED or Menard. The City shall release the original irrevocable letters of credit if it accepts new security from any developer or lender who obtains the Property.

M. Engagement of Qualified Contractors. MRED and Menard agree to engage a general contractor for all work included in this Agreement who is qualified to perform the work. The name of said general contractor shall be furnished to the City.

N. Notices. Any notice required or permitted by this Agreement shall be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

If to Lynch Ventures, LLC:
Attention: David J. Lynch
2300 Brown's Lake Drive
Burlington, Wisconsin 53105

With a copy to
R. William Phenicie
Lloyd, Phenicie, Lynch, Kelly & S.C.
& Hotvedt, S.C.
P.O. Box 700
Burlington, Wisconsin 53105

If to MRED:
Attention: Mark C. Lake
Director of Development
Redmond Commercial Development Corp.
W228 N745 Westmound Drive
Waukesha, Wisconsin 53186

If to Menard:
Menard, Inc.
Attn: Vice President/Real Estate
4777 Menard Drive
Eau Claire, Wisconsin 53186

If to the City:

City Administrator
City of Burlington
300 N. Pine Street
Burlington, Wisconsin 53105

With a copy to

City Attorney
City of Burlington
300 N. Pine Street
Burlington, Wisconsin 53105

O. Term. This Agreement shall be in full force and effect for a period of fifteen (15) years from the date on which it was executed by the last party so executing the same as hereinbefore set forth, unless executed by agreement of the parties hereto or terminated by the agreement of the parties hereto or by the completion of all duties to be performed hereunder. This Agreement shall be deemed extended for five (5) years if the City records in the real estate records of Racine County, prior to expiration of any term hereof, a statement that the work required hereunder has not been completed, or a statement that any letter of credit, ~~or~~ performance bond, or cash deposit required herein remains an ongoing obligation of MRED or Menard, or the deferred obligations as set

forth herein remain an ongoing obligation of MRED or Menard. Notwithstanding the foregoing, the financial guarantees and obligations hereunder of Menard will continue as long as the Conditional Use Permit issued to Menard remains in existence.

P. Recordation. The City shall file an original copy of this Agreement in the office of the City Clerk of the City of Burlington, Racine County, Wisconsin. In addition, the City shall record either an original copy or certified copy of this Agreement in the office of the Racine County Register of Deeds.

Q. Immunity. Nothing contained in this Agreement constitutes a waiver of the City's sovereign immunity under any applicable state law.

R. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement, whether arising out of or relating to the Agreement or an irrevocable letter of credit, performance bond, or cash deposit made pursuant to the Construction Escrow Agreement shall be deemed to be proper only if such action is commenced in Circuit Court for Racine County, Wisconsin, unless another court is necessary to join an issuer of an irrevocable letter of credit. MRED expressly waives its right to bring such action in or to remove such action to any other court whether state or federal.

S. Headings. Paragraph and section headings in this Agreement are included in this Agreement for the convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

T. Terms and Definitions. The definitions of terms used herein are as set forth in the City of Burlington's Land Division Ordinance as amended from time to time and the City of Burlington's Zoning Ordinance as amended from time to time, unless the context requires otherwise.

13. Plan Approval. The City shall, upon execution of this Developer's Agreement, allow development pursuant to Detailed Site Plans in conformance with the Municipal Code.

14. Other. This Agreement is and shall be binding upon the parties hereto, their contractors, agents, officers, employees, personal representatives, successors, whether individual, firm, partnership, or corporation, or assigns.

0001321

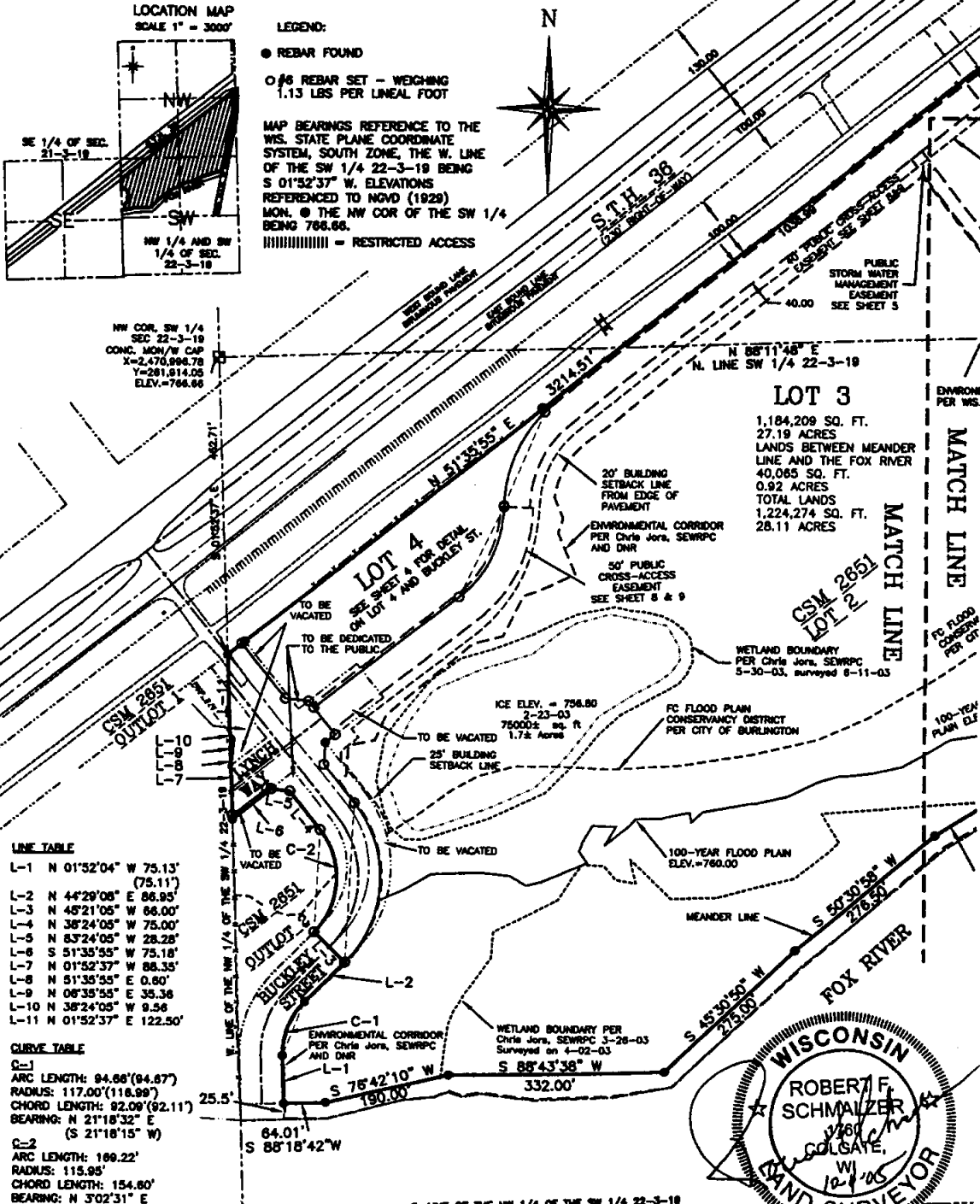
BADGER
BLUEPRINT
COMPANY, INC.
(262) 542-8200

FORM BBC-101

CERTIFIED SURVEY MAP NO. COPY 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

V 8
Pg 720



SIGMA
DEVELOPMENT, INC.
 1300 WEST CANAL STREET
 MILWAUKEE, WISCONSIN 53233
 PHONE: (414) 843-4200
 FAX: (414) 843-4210

0001322

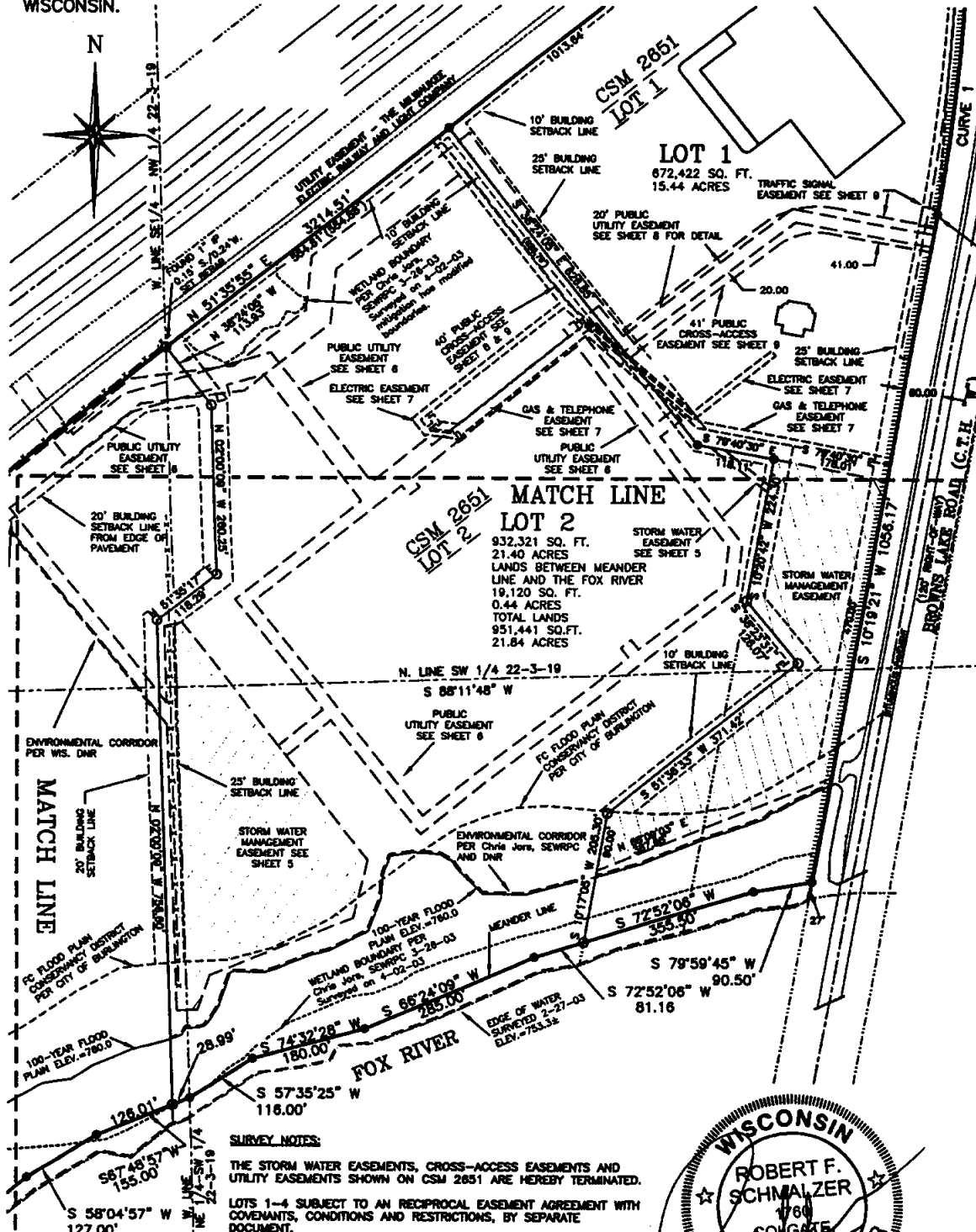
BADGER
BLUEPRINT
COMPANY, INC.
(262) 542-8200

FORM BBC-101

CERTIFIED SURVEY MAP NO. 2742

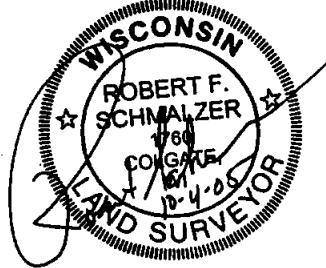
BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

V 8
P 721



SIGMA
DEVELOPMENT, INC.
1300 WEST CANAL STREET
MILWAUKEE, WISCONSIN 53233
PHONE: (414) 843-4200
FAX: (414) 843-4210

SURVEY NOTES:
THE STORM WATER EASEMENTS, CROSS-ACCESS EASEMENTS AND UTILITY EASEMENTS SHOWN ON CSM 2651 ARE HEREBY TERMINATED.
LOTS 1-4 SUBJECT TO AN RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS, BY SEPARATE DOCUMENT.
LOT 1 & 2 STORM WATER MANAGEMENT EASEMENT GRANTED TO THE CITY OF BURLINGTON, MEANDER, INC., LYNCH VENTURES, LLC AND MRED (BURLINGTON) ASSOCIATES.



0001323

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COMPANY, INC.
(262) 542-8200

FORM BBC-101

CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

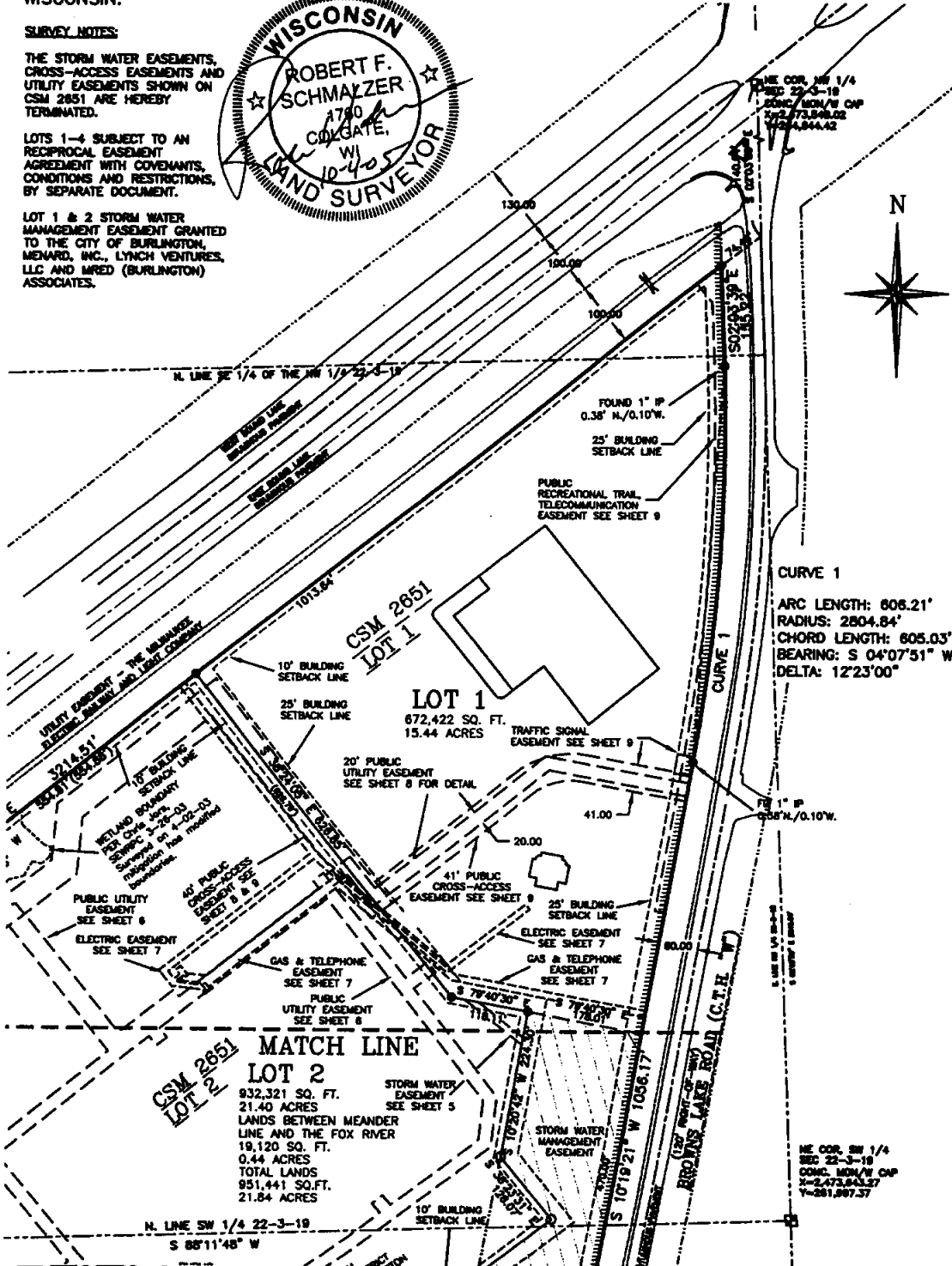
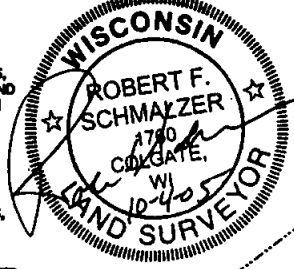
V8
P 722

SURVEY NOTES:

THE STORM WATER EASEMENTS, CROSS-ACCESS EASEMENTS AND UTILITY EASEMENTS SHOWN ON CSM 2651 ARE HEREBY TERMINATED.

LOTS 1-4 SUBJECT TO AN RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS, BY SEPARATE DOCUMENT.

LOT 1 & 2 STORM WATER MANAGEMENT EASEMENT GRANTED TO THE CITY OF BURLINGTON, MEHARD, INC., LYNCH VENTURES, LLC AND MRED (BURLINGTON) ASSOCIATES.



SIGMA
DEVELOPMENT, INC.
1300 WEST CANAL STREET
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CONTACT: RFS

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0001325

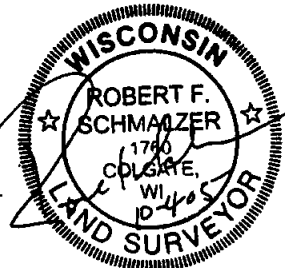
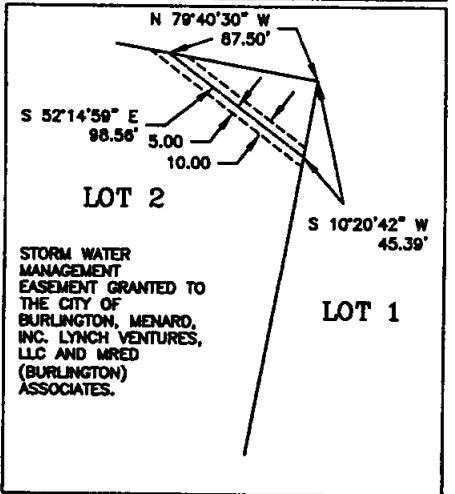
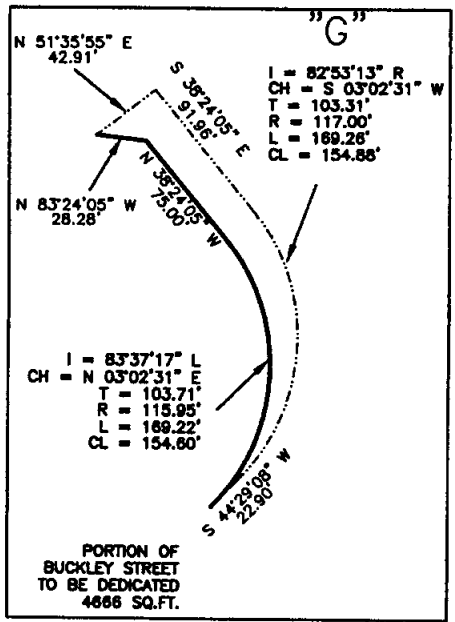
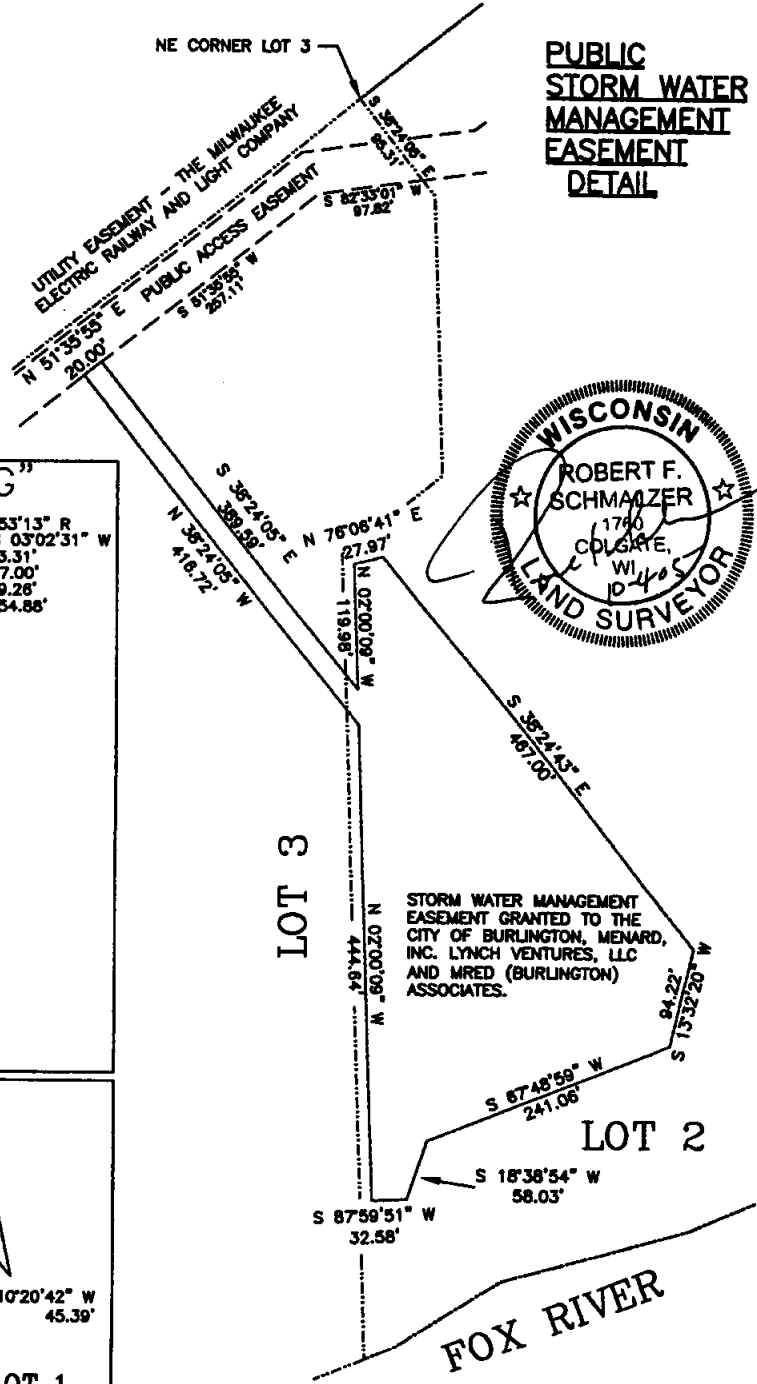
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(262) 542-8200

FORM BBC-101

CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

V 8
P 724



SIGMA
DEVELOPMENT, INC.
1300 WEST CANAL STREET
MILWAUKEE, WISCONSIN 53233
PHONE: (414) 643-4200
FAX: (414) 643-4210
CONTACT: RFS
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(262) 542-8200

FORM BBC-101

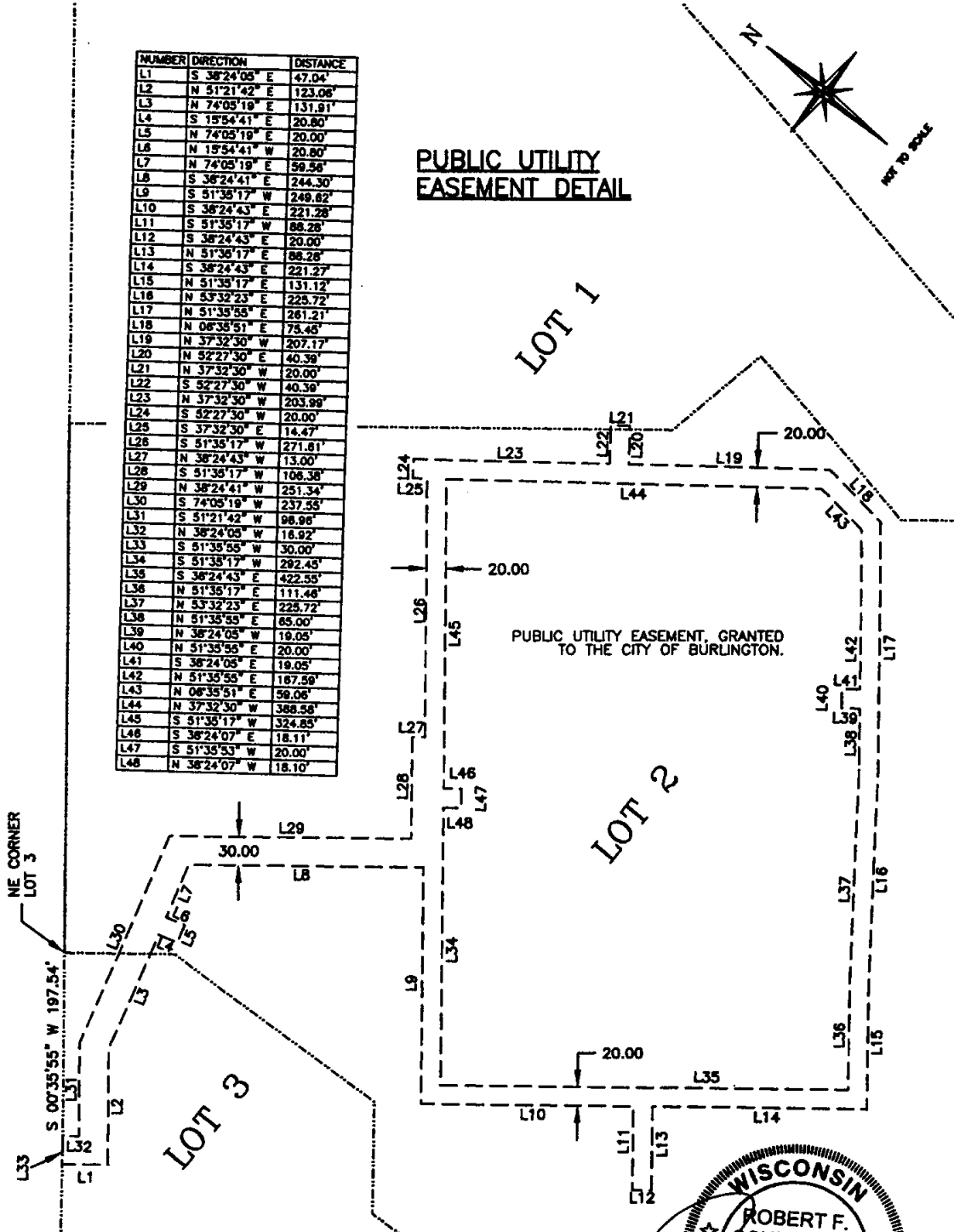
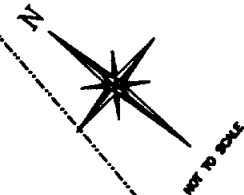
CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

V8
P725

NUMBER	DIRECTION	DISTANCE
L1	S 38°24'08" E	47.04'
L2	N 51°21'42" E	123.08'
L3	N 74°05'19" E	131.81'
L4	S 15°54'41" E	20.80'
L5	N 74°05'19" E	20.00'
L6	N 15°54'41" W	20.80'
L7	N 74°05'19" E	59.58'
L8	S 38°24'41" E	244.30'
L9	S 51°35'17" W	249.62'
L10	S 38°24'43" E	221.28'
L11	S 51°35'17" W	88.28'
L12	S 38°24'43" E	20.00'
L13	N 51°35'17" E	88.28'
L14	S 38°24'43" E	221.27'
L15	N 51°35'17" E	131.12'
L16	N 53°32'23" E	225.72'
L17	N 51°35'55" E	261.21'
L18	N 06°35'51" E	75.45'
L19	N 37°32'30" W	207.17'
L20	N 52°27'30" W	40.36'
L21	N 37°32'30" W	20.00'
L22	S 52°27'30" W	40.36'
L23	N 37°32'30" W	203.99'
L24	S 52°27'30" W	20.00'
L25	S 37°32'30" E	14.47'
L26	S 51°35'17" W	271.61'
L27	N 38°24'43" W	13.00'
L28	S 51°35'17" W	106.38'
L29	N 38°24'41" W	251.34'
L30	S 74°05'19" W	237.55'
L31	S 51°21'42" W	98.98'
L32	N 38°24'05" W	18.92'
L33	S 51°35'55" W	30.00'
L34	S 51°35'17" W	292.45'
L35	S 38°24'43" E	422.55'
L36	N 51°35'17" E	111.48'
L37	N 53°32'23" E	225.72'
L38	N 51°35'55" E	65.00'
L39	N 38°24'05" W	19.05'
L40	N 51°35'55" E	20.00'
L41	S 38°24'05" E	19.05'
L42	N 51°35'55" E	187.59'
L43	N 06°35'51" E	58.06'
L44	N 37°32'30" W	388.58'
L45	S 51°35'17" W	324.85'
L46	S 38°24'07" E	18.11'
L47	S 51°35'53" W	20.00'
L48	N 38°24'07" W	18.10'

**PUBLIC UTILITY
EASEMENT
DETAIL**



SIGMA
DEVELOPMENT, INC.
1300 WEST CANAL STREET
MILWAUKEE, WISCONSIN 53233
PHONE: (414) 643-4200
FAX: (414) 643-4210

CONTACT: RFS

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REVISED 9-29-05

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0001327

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(262) 542-8200

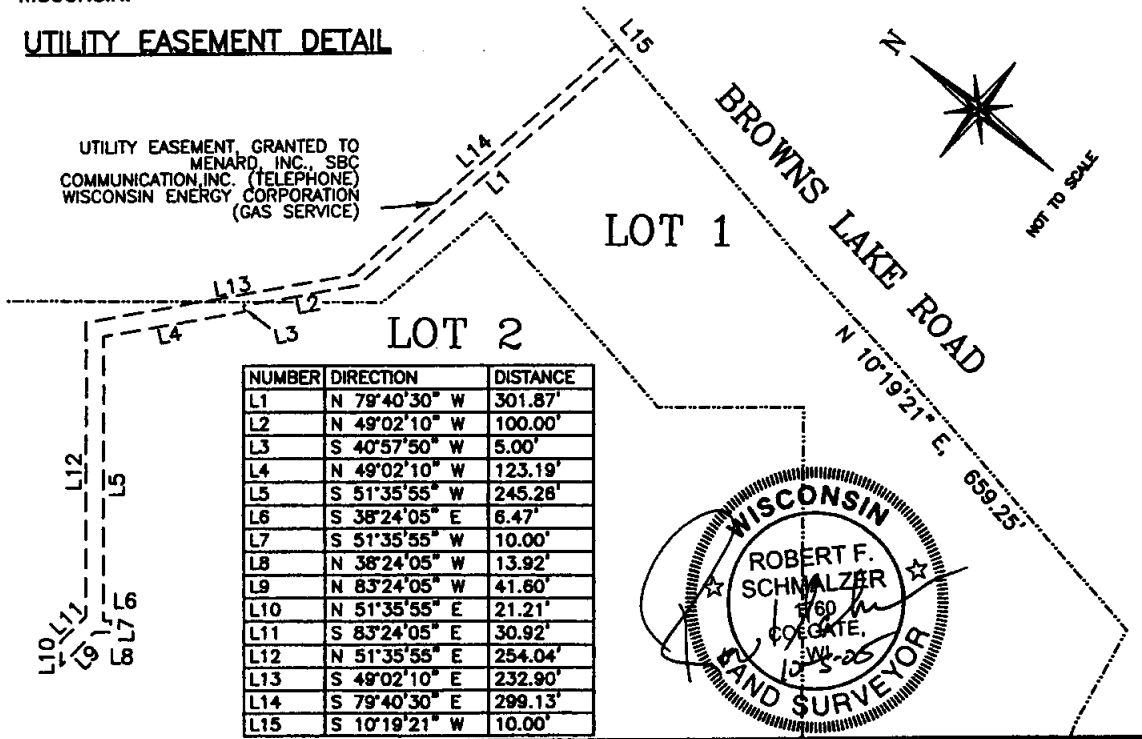
FORM BBC-101

CERTIFIED SURVEY MAP NO. 2742

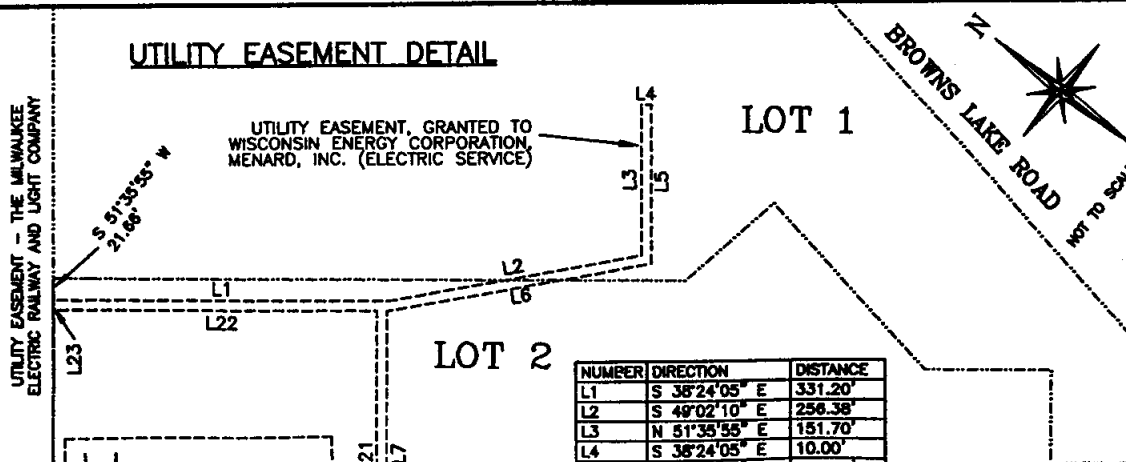
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V 8
P 726

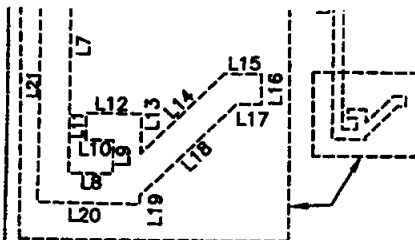
UTILITY EASEMENT DETAIL



UTILITY EASEMENT DETAIL



0001328



L5	S 51°35'55" W	180.00'
L6	N 49°02'10" W	288.56'
L7	S 51°35'55" W	282.52'
L8	S 38°24'05" E	14.38'
L9	N 51°35'55" E	11.01'
L10	N 38°24'05" W	8.99'
L11	N 51°35'55" E	9.00'
L12	S 38°24'05" E	18.00'
L13	S 51°35'55" W	13.02'
L14	S 83°24'05" E	38.19'
L15	S 38°24'05" E	12.28'
L16	S 51°35'55" W	10.00'
L17	N 38°24'05" W	8.13'
L18	N 83°24'05" W	44.05'
L19	S 51°35'55" W	2.85'
L20	N 38°24'05" W	33.36'
L21	N 51°35'55" E	292.69'
L22	N 38°24'05" W	321.20'
L23	N 51°35'55" E	10.00'

SIGMA

DEVELOPMENT, INC.

1300 WEST CANAL STREET
MILWAUKEE, WISCONSIN 53233
PHONE: (414) 843-4200
FAX: (414) 843-4210

CONTACT: RFS

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PROJECT NUMBER SD-1737 THIS INSTRUMENT DRAFTED BY ROBERT F. SCHMALZER SHEET 7 OF 14

0001329

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BLUEPRINT
COMPANY, INC.
(262) 542-8200

FORM B8C-101

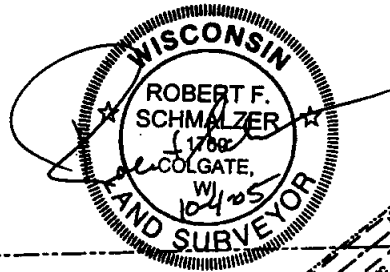
CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

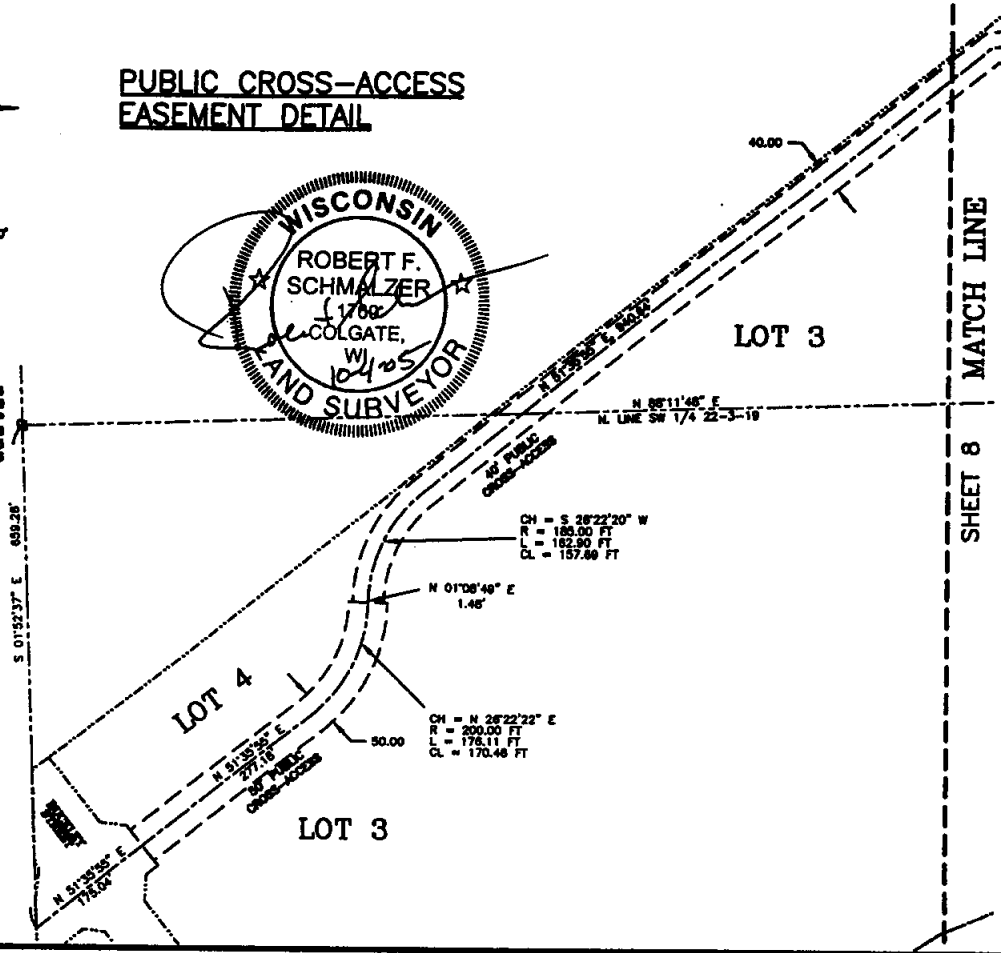
V 8
P 727



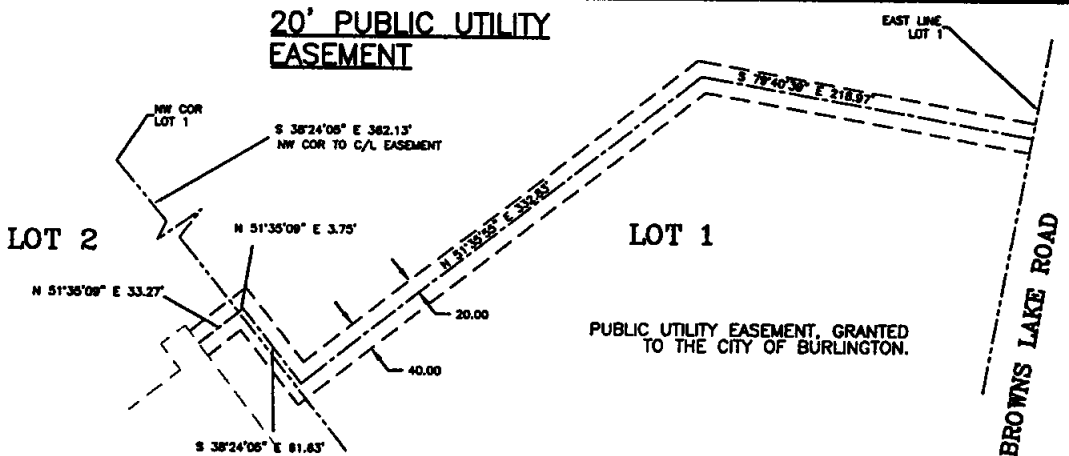
PUBLIC CROSS-ACCESS EASEMENT DETAIL



NW COR. SW 1/4
SEC 22-3-19
CONC. MON. W/ CAP
X=2470.886.78
Y=281.814.08
ELEV.=788.88



20' PUBLIC UTILITY EASEMENT



SIGMA
DEVELOPMENT, INC.
1300 WEST CANAL STREET
MILWAUKEE, WISCONSIN 53233
PHONE: (414) 843-4200
FAX: (414) 843-4210

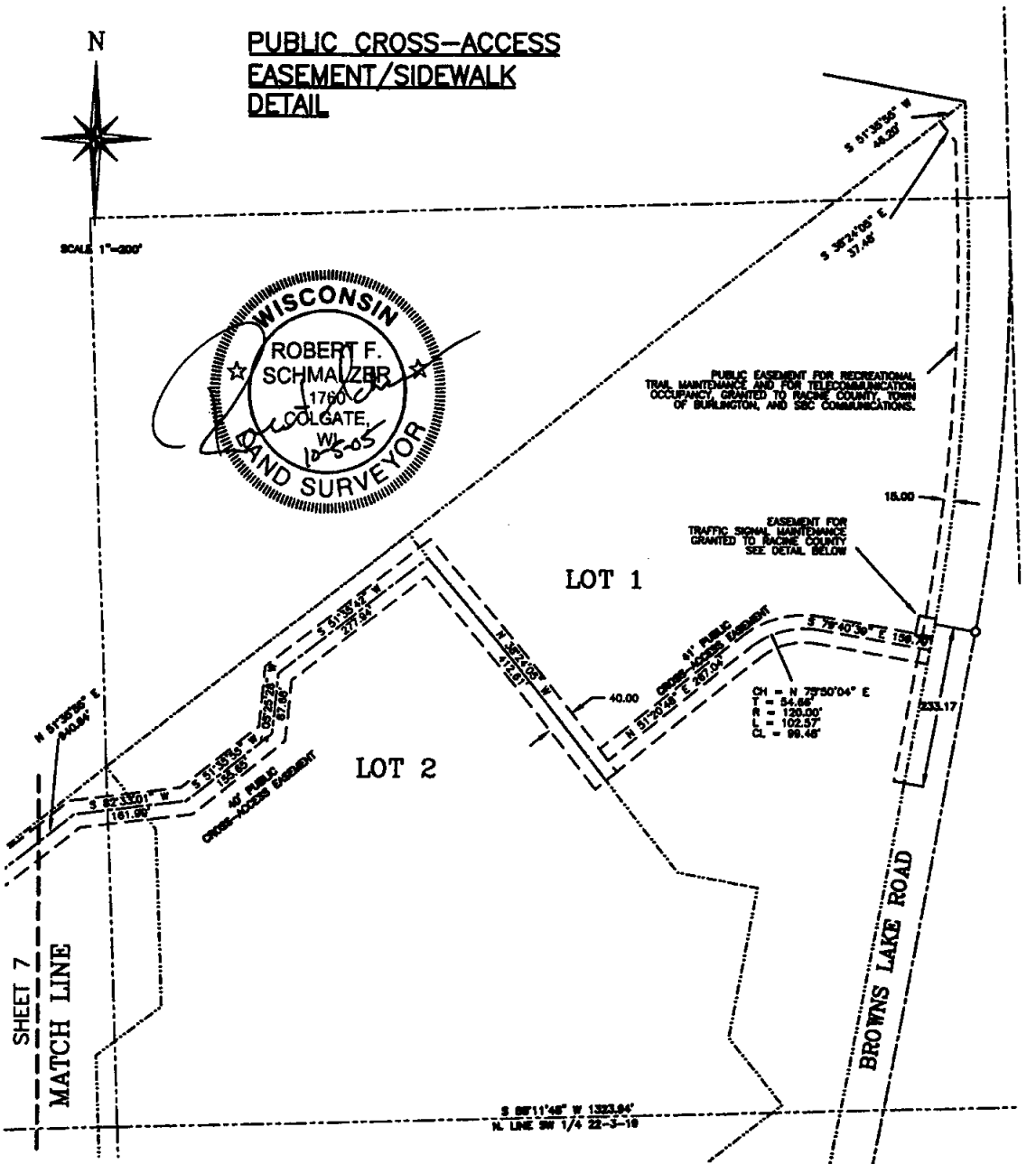
0001330

BADGER
BLUEPRINT
COMPANY, INC.
(262) 542-8200

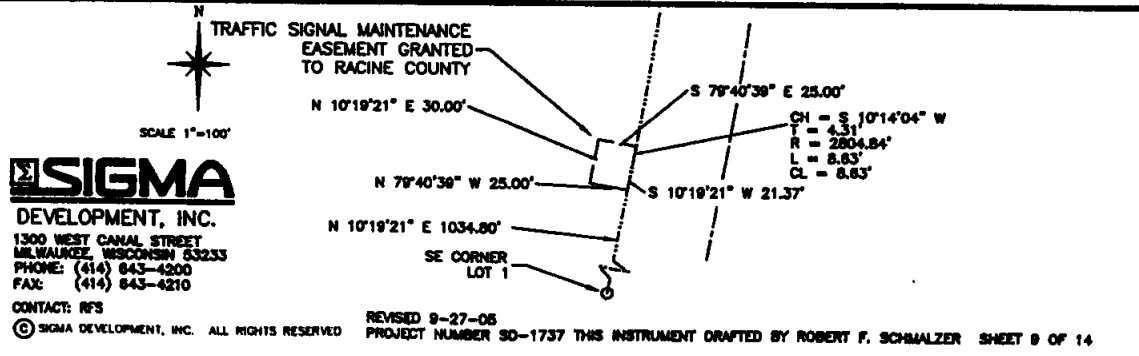
FORM BBC-101

CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.



V8
P728



0001331

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BLUEPRINT
COMPANY, INC.
(262) 542-8200

FORM BBC-101

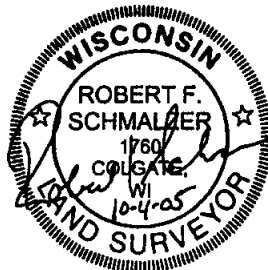
CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

WETLAND BOUNDARY
SCALE 1" = 100'

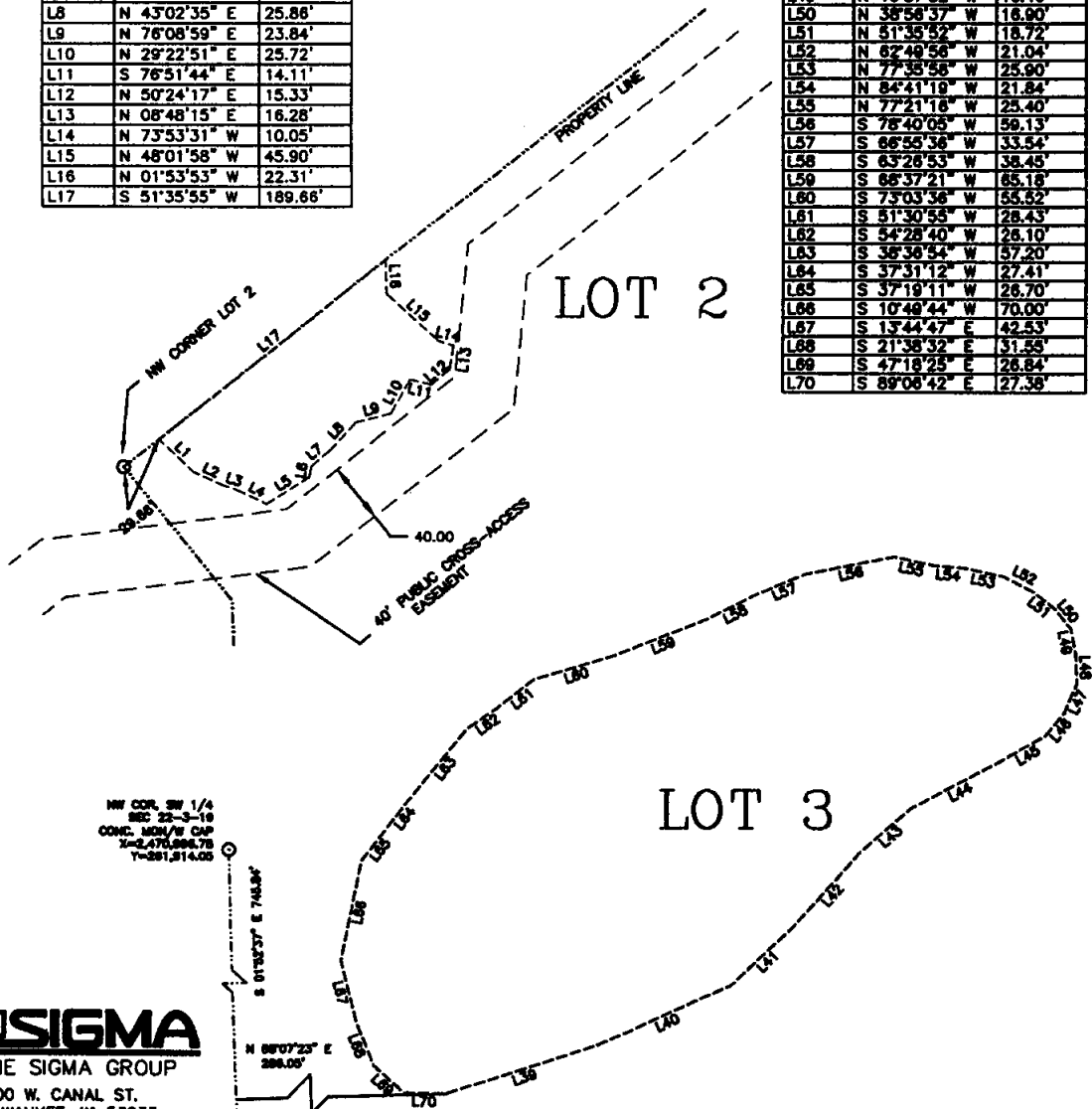


V 8
P 729



NUMBER	DIRECTION	DISTANCE
L1	S 45°38'45" E	30.87'
L2	S 65°14'14" E	20.80'
L3	S 70°12'42" E	12.87'
L4	S 63°50'23" E	19.21'
L5	N 57°18'17" E	33.27'
L6	N 10°00'35" E	7.50'
L7	N 50°04'12" E	15.76'
L8	N 43°02'35" E	25.86'
L9	N 76°08'59" E	23.84'
L10	N 29°22'51" E	25.72'
L11	S 76°51'44" E	14.11'
L12	N 50°24'17" E	15.33'
L13	N 08°48'15" E	16.28'
L14	N 73°53'31" W	10.05'
L15	N 48°01'58" W	45.90'
L16	N 01°53'53" W	22.31'
L17	S 51°35'55" W	189.66'

NUMBER	DIRECTION	DISTANCE
L39	N 71°39'45" E	104.45'
L40	N 65°19'15" E	95.66'
L41	N 45°27'43" E	56.53'
L42	N 40°15'09" E	65.89'
L43	N 48°22'56" E	42.63'
L44	N 61°56'28" E	68.78'
L45	N 60°23'02" E	32.25'
L46	N 39°37'36" E	19.03'
L47	N 23°33'51" E	21.51'
L48	N 02°51'50" W	20.25'
L49	N 10°57'32" W	16.46'
L50	N 38°56'37" W	16.90'
L51	N 51°35'52" W	18.72'
L52	N 62°49'56" W	21.04'
L53	N 77°35'56" W	25.90'
L54	N 84°41'19" W	21.84'
L55	N 77°21'16" W	25.40'
L56	S 78°40'06" W	59.13'
L57	S 66°55'38" W	33.54'
L58	S 63°28'53" W	34.45'
L59	S 66°37'21" W	65.18'
L60	S 73°03'36" W	55.52'
L61	S 51°30'55" W	28.43'
L62	S 54°28'40" W	26.10'
L63	S 36°36'54" W	57.20'
L64	S 37°31'12" W	27.41'
L65	S 37°19'11" W	26.70'
L66	S 10°49'44" W	70.00'
L67	S 13°44'47" E	42.53'
L68	S 21°38'32" E	31.55'
L69	S 47°18'25" E	26.64'
L70	S 89°06'42" E	27.36'



NW COR. SW 1/4
SEC 22-3-19
CONC. MON/W CAP
X=2,476,894.78
Y=261,214.05

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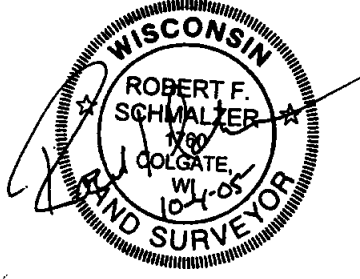
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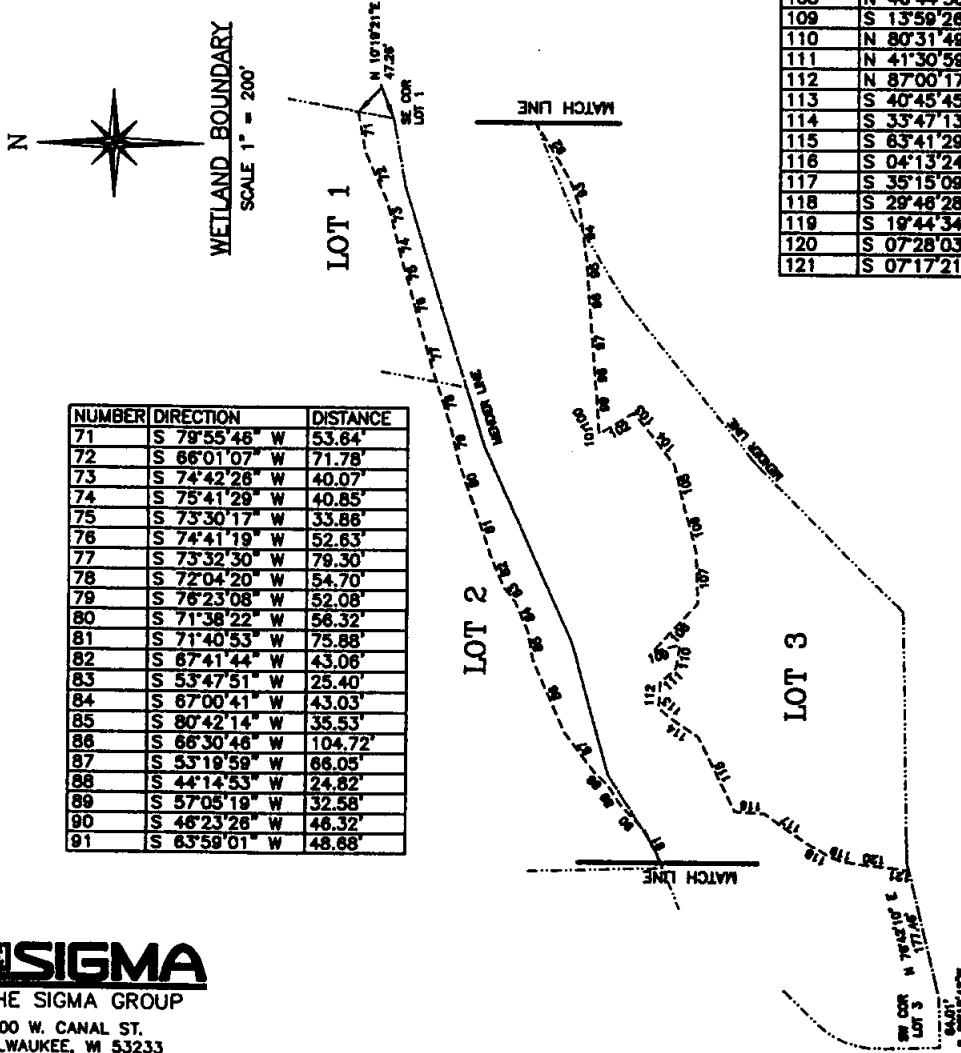
CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

V8
P720



NUMBER	DIRECTION	DISTANCE
92	S 59°12'40" W	85.34
93	S 69°20'35" W	37.96
94	S 81°55'14" W	72.39
95	S 86°06'38" W	24.29
96	S 85°21'36" W	55.28
97	S 85°13'15" W	53.62
98	S 85°44'05" W	33.02
99	S 85°42'48" W	43.82
100	N 81°07'14" E	0.06
101	S 85°09'14" W	15.84
102	S 31°08'49" E	51.87
103	S 46°55'06" W	22.59
104	S 52°10'45" W	64.96
105	S 76°57'58" W	35.31
106	S 74°53'08" W	64.25
107	S 88°03'32" W	69.62
108	N 46°44'30" W	87.10
109	S 13°59'26" E	37.40
110	N 80°31'49" W	31.52
111	N 41°30'59" W	27.40
112	N 87°00'17" W	33.42
113	S 40°45'45" W	16.66
114	S 33°47'13" W	48.56
115	S 63°41'29" W	110.84
116	S 04°13'24" W	39.96
117	S 35°15'09" W	72.02
118	S 29°46'28" W	33.35
119	S 19°44'34" W	19.81
120	S 07°28'03" W	71.50
121	S 07°17'21" W	11.45



NUMBER	DIRECTION	DISTANCE
71	S 79°55'46" W	53.64
72	S 66°01'07" W	71.78
73	S 74°42'26" W	40.07
74	S 75°41'29" W	40.85
75	S 73°30'17" W	33.86
76	S 74°41'19" W	52.63
77	S 73°32'30" W	79.30
78	S 72°04'20" W	54.70
79	S 76°23'08" W	52.08
80	S 71°36'22" W	56.32
81	S 71°40'53" W	75.88
82	S 67°41'44" W	43.06
83	S 53°47'51" W	25.40
84	S 67°00'41" W	43.03
85	S 80°42'14" W	35.53
86	S 66°30'46" W	104.72
87	S 53°19'59" W	86.05
88	S 44°14'53" W	24.82
89	S 57°05'19" W	32.58
90	S 48°23'26" W	46.32
91	S 63°59'01" W	48.68



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FORM BBC-101

CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

V 8
P 731

DESCRIPTION "DETAIL A"
PORTION OF OUTLOT 1, CSM 2651 TO BE DEDICATED TO THE PUBLIC.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST; THENCE S 01°52'37" E, 508.16 FEET ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION TO THE POINT OF BEGINNING; THENCE S 38°24'05" E, 83.44 FEET; THENCE S 51°35'55" W, 69.21 FEET; THENCE N 01°52'37" W, 6.22 FEET; THENCE N 51°35'55" E, 0.80 FEET; THENCE N 06°35'55" E, 35.36 FEET; THENCE N 38°24'05" W, 9.56 FEET; THENCE N 01°52'37" W, 87.05 FEET TO THE POINT OF BEGINNING. CONTAINING 3103 SQ. FEET MORE OR LESS.

DESCRIPTION "DETAIL B"
PORTION OF BUCKLEY STREET TO BE VACATED.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST; THENCE S 01°52'37" E, 700.34 FEET ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION TO THE POINT OF BEGINNING; THENCE N 51°35'55" E, 66.39 FEET; THENCE S 83°24'05" E, 7.07 FEET; THENCE S 51°35'55" W, 75.10 FEET; THENCE N 01°52'37" W, 6.22 FEET TO THE POINT OF BEGINNING. CONTAINING 354 SQ. FEET MORE OR LESS.

DESCRIPTION "DETAIL C"
PORTION OF BUCKLEY STREET TO BE VACATED.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST; THENCE S 01°52'37" E, 452.71 FEET ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION; THENCE N 51°35'55" E, 27.09 FEET TO THE POINT OF BEGINNING; THENCE N 51°35'55" E, 5.91 FEET; THENCE S 38°24'05" E, 113.91 FEET; THENCE N 83°24'05" W, 5.91 FEET; THENCE N 38°24'05" W, 106.00 FEET TO THE POINT OF BEGINNING. CONTAINING 655 SQ. FEET MORE OR LESS.

DESCRIPTION "DETAIL D"
PORTION OF LOT 2, CSM 2651 BE DEDICATED TO THE PUBLIC.

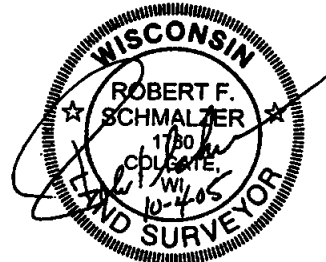
COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST; THENCE S 01°52'37" E, 452.71 FEET ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION; THENCE N 51°35'55" E, 27.09 FEET; THENCE S 38°24'05" E, 108.00 FEET; THENCE N 83°24'05" W, 5.91 FEET TO THE POINT OF BEGINNING; THENCE S 83°24'05" E, 27.00 FEET; THENCE S 51°35'55" W, 19.09 FEET; THENCE N 38°24'05" W, 19.09 FEET TO THE POINT OF BEGINNING. CONTAINING 182 SQ. FEET MORE OR LESS.

DESCRIPTION "DETAIL E"
PORTION OF BUCKLEY STREET TO BE VACATED.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST; THENCE S 01°52'37" E, 700.34 FEET ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION; THENCE N 51°35'55" E, 66.39 FEET; THENCE S 83°24'05" E, 7.07 FEET; THENCE N 51°35'55" E, 42.99 FEET; THENCE S 38°24'05" E, 20.17 FEET; THENCE N 51°35'55" E, 43.06 FEET TO THE POINT OF BEGINNING; THENCE N 03°54'19" E, 34.03 FEET; THENCE S 38°24'05" E, 96.98 FEET; THENCE SOUTHWESTERLY 284.74 FEET ALONG A CURVE DEFLECTING TO THE RIGHT HAVING A CHORD BEARING AND DISTANCE OF S 03°02'31" W, 242.25 FEET AND A RADIUS OF 183.00 FEET; THENCE S 44°29'08" W, 23.08 FEET; THENCE NORTHEASTERLY 265.08 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT, HAVING A CHORD BEARING AND DISTANCE OF N 03°02'31" E, 242.25 FEET AND A RADIUS OF 181.95 FEET; THENCE N 38°24'05" W, 74.65 FEET TO THE POINT OF BEGINNING. CONTAINING 5605 SQ. FEET MORE OR LESS.



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FORM BBC-101

CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

V 8
P 7 32

SURVEYOR'S CERTIFICATE

I, ROBERT F. SCHMALZER, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY:

THAT I HAVE SURVEYED AND MAPPED A PARCEL OF LAND BEING PART OF CERTIFIED SURVEY MAP NO. 2651 LOCATED IN PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST; THENCE S 01°52'37" E, 452.71 FEET ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 SECTION TO A POINT ON THE SOUTHERLY LINE OF THE WISCONSIN ELECTRIC COMPANY RIGHT-OF-WAY AND THE POINT OF BEGINNING OF THE LANDS HEREIN TO BE DESCRIBED THENCE N 51°35'55" E, 3214.51, FEET ALONG SAID SOUTHERLY LINE TO A POINT ON THE WESTERLY LINE OF BROWNS LAKE ROAD (C.T.H. "W"); THENCE ALONG SAID WESTERLY LINE S 02°03'30" E, 153.22 FEET; THENCE SOUTHWESTERLY 608.21 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT, HAVING A CHORD BEARING AND DISTANCE OF S 04°07'51" W, 805.03 FEET AND RADIUS OF 2,804.84 FEET; THENCE CONTINUING ALONG THE WESTERLY LINE OF BROWNS LAKE ROAD (C.T.H. "W"), S 10°19'21" W, 1056.17 FEET TO A POINT ON A MEANDER LINE OF THE FOX RIVER; THENCE ALONG SAID MEANDER LINE THE FOLLOWING COURSES: S 79°59'45" W, 90.50 FEET; THENCE S 72°52'08" W, 355.50 FEET; THENCE S 86°24'09" W, 285.00 FEET; THENCE S 74°32'28" W, 180.00 FEET; THENCE S 57°35'25" W, 118.00 FEET; THENCE S 67°46'57" W, 155.00 FEET; THENCE S 58°04'57" W, 127.00 FEET; THENCE S 50°30'58" W, 278.50 FEET; THENCE S 45°30'50" W, 275.00 FEET; THENCE S 88°43'36" W, 332.00 FEET; THENCE S 78°42'10" W, 190.00 FEET; THENCE S 88°18'42" W, 64.01 FEET TO THE EASTERLY LINE OF BUCKLEY STREET; THENCE ALONG SAID EASTERLY LINE N 01°52'04" W, 75.13 FEET; THENCE NORTHEASTERLY 94.86 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT, HAVING A CHORD BEARING AND DISTANCE OF N 21°18'32" E, 92.09 FEET AND RADIUS OF 117.00 FEET; THENCE N 44°29'08" E, 86.95 FEET; THENCE N 45°21'05" W, 86.00 FEET TO THE WESTERLY LINE OF BUCKLEY STREET; THENCE NORTHEASTERLY 169.22 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT, HAVING A CHORD BEARING AND DISTANCE OF N 03°02'31" E, 154.60 FEET AND RADIUS OF 115.95 FEET; THENCE N 38°24'05" W, 75.00 FEET; THENCE N 83°24'05" W, 28.28 FEET; THENCE S 51°35'55" W, 75.18 FEET TO THE WEST LINE OF THE NW 1/4 OF THE SW 1/4 OF SECTION 22-3-19; THENCE ALONG SAID WEST LINE N 01°52'37" W, 88.35 FEET; THENCE N 51°35'55" E, 0.80 FEET; THENCE N 06°35'55" E, 35.38 FEET; THENCE N 38°24'05" W, 9.56 FEET TO SAID WEST LINE OF THE SW 1/4, THENCE N 01°52'37" EAST, 122.50 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 2,898,046 SQ. FT. OR 66.53 ACRES, MORE OR LESS AND APPROXIMATELY 72,235 SQ. FT. OR 1.66 ACRES OF LAND BETWEEN THE FOX RIVER AND THE ABOVE MENTIONED MEANDER LINE.

THAT I HAVE MADE SUCH SURVEY AND MAP BY THE DIRECTION OF LYNCH VENTURES, LLC AND MRED (BURLINGTON) ASSOCIATES, OWNER'S OF SAID LANDS.

THAT THIS MAP IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED.

I FURTHER CERTIFY THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236.34 OF THE WISCONSIN STATUTES AND CHAPTER 18.0800 OF THE MUNICIPAL CODE OF THE CITY OF BURLINGTON IN SURVEYING, DIVIDING AND MAPPING THE SAME.

DATED THIS 4TH DAY OF OCT, 2005.

Robert F. Schmalzer
ROBERT F. SCHMALZER
REGISTERED WISC. LAND SURVEYOR #1760

PLAN COMMISSION APPROVAL

APPROVED BY THE PLAN COMMISSION, CITY OF BURLINGTON THIS _____ DAY OF _____, 2005.

CLAUDE S. LOIS - CHAIRMAN

ANGELA HANSEN - SECRETARY

COMMON COUNCIL APPROVAL

RESOLVED THAT THE CERTIFIED SURVEY MAP OF LYNCH VENTURES, LLC AND MRED (BURLINGTON) ASSOCIATES, OWNER'S OF SAID LANDS, BEING A PART OF THE NORTHWEST 1/4 AND THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, RACINE COUNTY, WISCONSIN, HAVING BEEN APPROVED BY THE PLAN COMMISSION AND THE SAME IS HEREBY APPROVED BY THE COMMON COUNCIL OF THE CITY OF BURLINGTON.

DATED THIS _____ DAY OF _____, 2005.

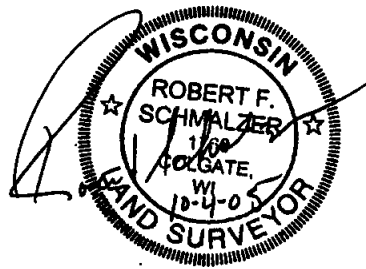
CLAUDE S. LOIS - MAYOR

BEVERLY R. GILL - CITY CLERK



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TOLL FREE 1-800-732-4871



CERTIFIED SURVEY MAP NO. 2742

BEING A REDIVISION OF CSM 2651, A PART OF THE NORTHEAST, SOUTHEAST AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 19 EAST, IN THE CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.

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P 733

CORPORATE OWNER'S CERTIFICATE:

LYNCH VENTURES, LLC AND OAKLAND ENTERPRISES, LLC DO HEREBY CERTIFY THAT AS OWNERS, SAID COMPANIES HAVE CAUSED THE LAND DESCRIBED ON THIS MAP TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED ON THIS MAP.

WE FURTHER CERTIFY THAT THIS MAP IS REQUIRED BY WISCONSIN STATUTE S. 236.34 TO BE SUBMITTED TO THE CITY OF BURLINGTON FOR APPROVAL OR OBJECTION.

WITNESS THE HAND AND SEAL OF SAID OWNERS THIS _____ DAY OF _____, 2005.

LYNCH VENTURES, LLC. - OFFICER OAKLAND ENTERPRISES, LLC - OFFICER

STATE OF WISCONSIN)
SS
RACINE COUNTY)

PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 2005, _____ TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND TO ME KNOWN TO BE REPRESENTATIVES, OF SAID CORPORATIONS, AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICERS AS THE DEED OF SAID CORPORATIONS, BY ITS AUTHORITY.

NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION EXPIRES:

CONSENT OF MORTGAGEE:

_____, MORTGAGEE OF THE ABOVE DESCRIBED LAND, DO HEREBY CONSENT TO THE SURVEYING, DIVIDING, MAPPING AND DEDICATING OF LANDS DESCRIBED ON THIS MAP, AND DO HEREBY CONSENT TO THE CERTIFICATE OF LYNCH VENTURES, LLC, OWNER.

WITNESS THE HAND AND SEAL OF SAID MORTGAGEE THIS _____ DAY OF _____, 2005.

STATE OF WISCONSIN)
SS
MILWAUKEE COUNTY)

PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 2005, _____ TO ME KNOWN TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT, AND TO ME KNOWN TO BE OWNER, OF SAID CORPORATION, AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICER AS THE DEED OF SAID CORPORATION, BY ITS AUTHORITY.

NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION EXPIRES:

CONSENT OF MORTGAGEE:

_____, MORTGAGEE OF THE ABOVE DESCRIBED LAND, DO HEREBY CONSENT TO THE SURVEYING, DIVIDING, MAPPING AND DEDICATING OF LANDS DESCRIBED ON THIS MAP, AND DO HEREBY CONSENT TO THE CERTIFICATE OF OAKLAND ENTERPRISES, LLC, OWNER.

WITNESS THE HAND AND SEAL OF SAID MORTGAGEE THIS _____ DAY OF _____, 2005.

STATE OF WISCONSIN)
SS
MILWAUKEE COUNTY)

PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 2005, _____ TO ME KNOWN TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT, AND TO ME KNOWN TO BE OWNER, OF SAID CORPORATION, AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICER AS THE DEED OF SAID CORPORATION, BY ITS AUTHORITY.

NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION EXPIRES:



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