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DANE COUNTY

REGISTER OF DEEDS

DOCUMENT #

4498220

01/29/2009 07:30AM

Exempt #:

Rec. Fee: 29.00

Pages: 10

STORM WATER MANAGEMENT SYSTEM MAINTENANCE AGREEMENT

THIS AGREEMENT ("Agreement"), entered into this 11th day of January 2007, by and between ATRIUM ONE LLC, a Wisconsin limited liability company (the "Owner"), with an address of 2275 Deming Way, Middleton, WI 53562 and CITY OF MADISON, a Wisconsin Municipal Corporation (the "City"), collectively, the "Parties".

RECITALS

A. The Owner is the owner of and is redeveloping certain real property located in the City of Madison, located at 5618 Odana Road, Madison, WI 53719, and legally described in Exhibit A herein (the "Property").

B. The Parties desire to set forth their rights and obligations for the maintenance of certain storm water management improvements which benefit the Property.

NOW THEREFORE, in consideration of the mutual covenants herein set forth and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

Recording area (Dane Co. Register of Deeds)

Send To: City Engineer
City of Madison
Room 115
City-County Building
210 Martin Luther King Blvd.
Madison, WI 53709

251/0709-303-0502-8

251/0709-303-0501-0

251/0709-303-0514-3

Parcel Identification Number

1. Maintenance. Owner and its successors and assigns shall be responsible to repair and maintain the stormwater management improvements located as shown in Exhibit B attached hereto ("Easement Location") in good condition and in working order and such that the improvements comply with approved plans on file with the City Engineer. Said maintenance shall be at the Owner's sole cost and expense. Owner will conduct such maintenance or repair work in accordance with all applicable laws, codes, regulations, and similar requirements.

2. Easement to City. If Owner fails to maintain the stormwater management improvements as required in Section 1, then City shall have the right, after providing Owner with written notice of the maintenance issue and thirty (30) days to comply with the City's maintenance request, to enter the Easement Location in order to conduct the maintenance specified in the Maintenance Notice. City will conduct such maintenance work in accordance with all applicable laws, codes, regulations, and similar requirements and will not unreasonably interfere with Owner's use of the Easement Location. All costs and expenses incurred by the City in conducting such maintenance may be charged to the owner of the Property by placing the amount on the tax roll for the Property as a special assessment in accordance with Section 66.0703, Wis. Stats. and Section 4.09 of the Madison General Ordinances.

10/29

3. Term/Termination. The term of this Agreement shall commence on the date that this Agreement is filed of record with the Register of Deeds Office 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 Office for Dane County, Wisconsin, a written instrument of termination signed by the City and all of the then-owners of the Property.

4. Miscellaneous.

- (a) Notices. Any notice, request or demand required or permitted under this Agreement shall be in writing and shall be deemed given when personally served or three (3) days after the same has been deposited with the United States Post Office, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to Owner: Atrium One LLC
 C/o Livesey Company LLC
 2275 Deming Way, Suite 300
 Middleton, Wisconsin 53562

If to City: City of Madison
 City Engineering Division
 Rm. 115, City-County Building
 Madison, Wisconsin 53709
 Attention: City Engineer

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

- (b) Governing Law. This agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.
- (c) Amendments or Further Agreements 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 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 successors and assigns.
- (e) Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid and unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other persons or circumstances shall be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

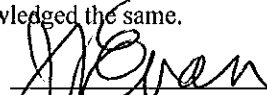
FOR THE OWNER:
ATRIUM ONE LLC




By: _____
Name: John K. Livesey, attorney in fact for John P. Livesey
Title: John P. Livesey, Manager of Atrium One LLC
Date: January 11, 2007

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

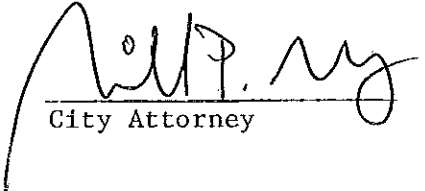
Personally came before me this 11th day of January, 2007, the above-named John K. Livesey, to me known to be the person who executed the foregoing and acknowledged the same.



John J. McEwan
Notary Public, State of Wisconsin
My Commission is permanent

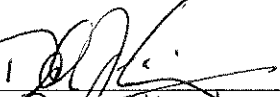


Maibeth Witzel-Behl
City Clerk



City Attorney

CITY OF MADISON

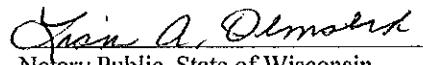
By: 

Name: David Ciestewicz
Title: Mayor
Date: _____

Attest:


STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

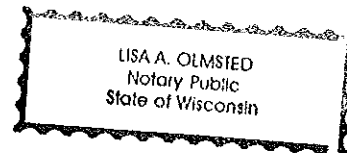
Personally came before me this 21st day of JANUARY, 2009, the above-named David J. Ciestewicz and _____, to me known to be the persons who executed the foregoing and acknowledged the same by and on behalf of the City of Madison.

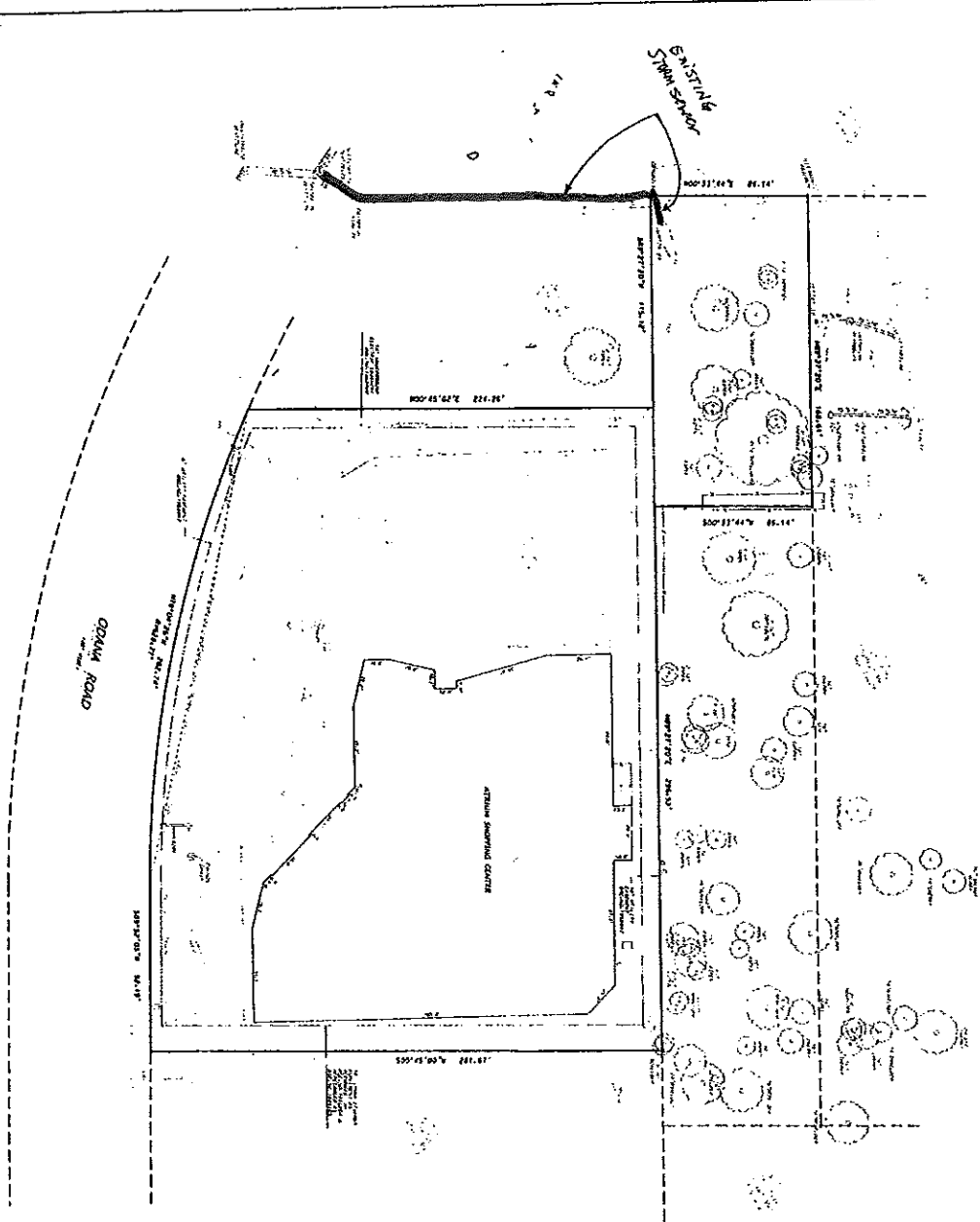


Notary Public, State of Wisconsin
My Commission: 12/11/14

This instrument drafted by:

Attorney John J. McEwan
General Counsel, Livesey Company LLC
2275 Deming Way, Suite 300
Middleton, WI 53562





Viewers are advised to ignore the illegible text on this map. It is presented to show spatial relationships only.
 Authorized by: *[Signature]* And Following Pages

1.00' = 1" (Horizontal)	1.00' = 1" (Vertical)
2.00' = 1" (Horizontal)	2.00' = 1" (Vertical)
3.00' = 1" (Horizontal)	3.00' = 1" (Vertical)
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6.00' = 1" (Horizontal)	6.00' = 1" (Vertical)
7.00' = 1" (Horizontal)	7.00' = 1" (Vertical)
8.00' = 1" (Horizontal)	8.00' = 1" (Vertical)
9.00' = 1" (Horizontal)	9.00' = 1" (Vertical)
10.00' = 1" (Horizontal)	10.00' = 1" (Vertical)
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12.00' = 1" (Horizontal)	12.00' = 1" (Vertical)
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18.00' = 1" (Horizontal)	18.00' = 1" (Vertical)
19.00' = 1" (Horizontal)	19.00' = 1" (Vertical)
20.00' = 1" (Horizontal)	20.00' = 1" (Vertical)

EXHIBIT A, PAGE 1 OF 4

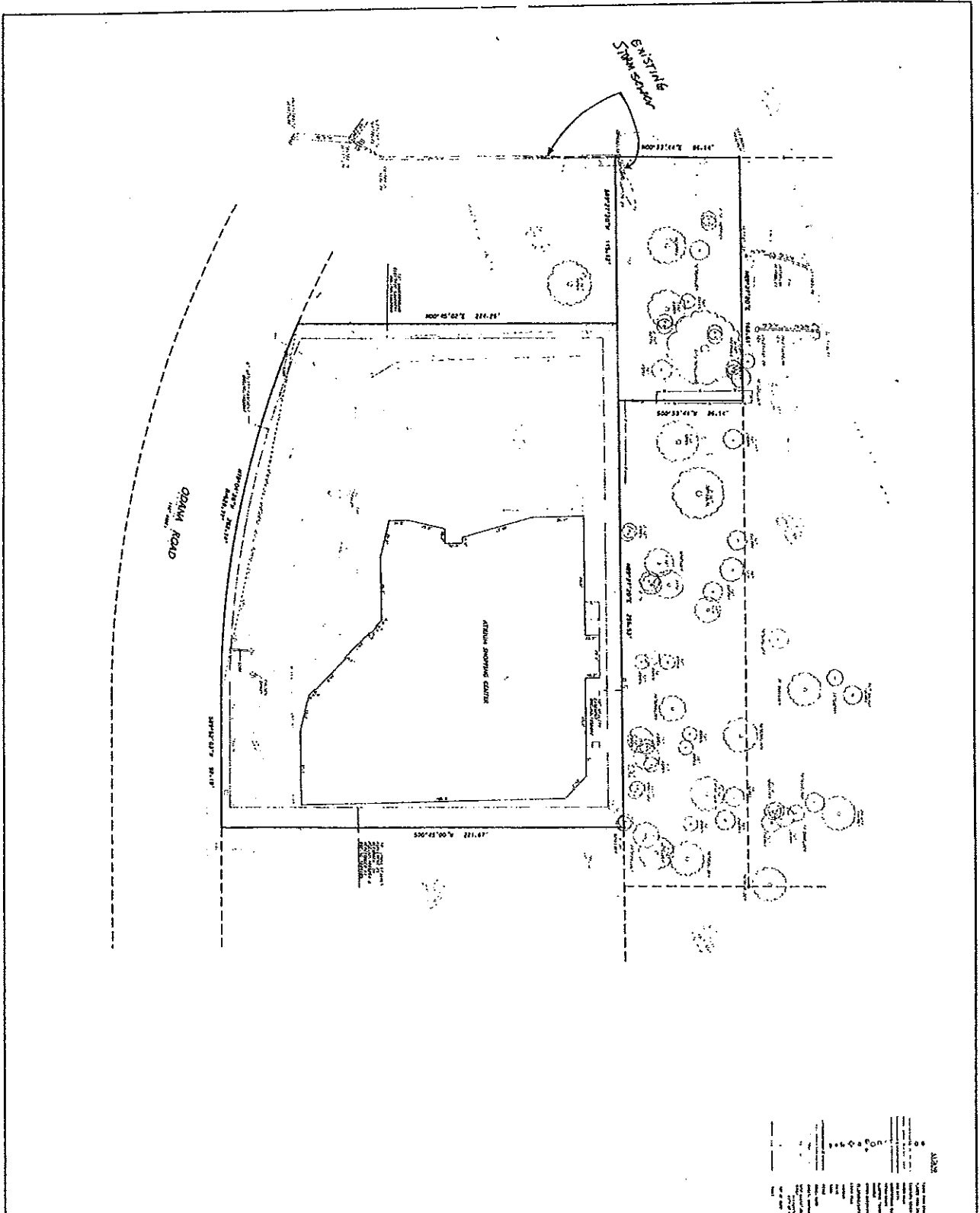
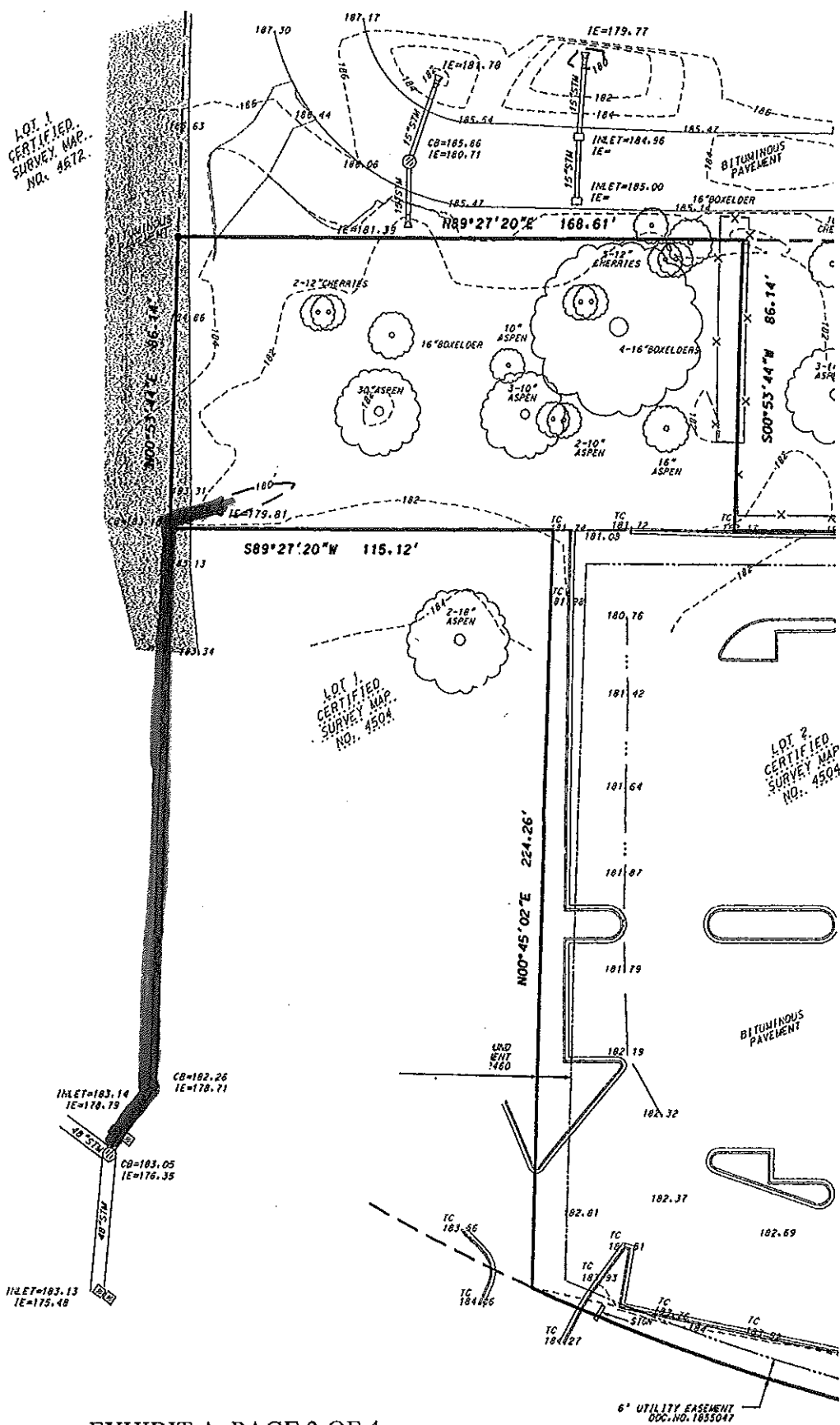


EXHIBIT A, PAGE 2 OF 4

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LOT 1
CERTIFIED
SURVEY MAP
NO. 8672.



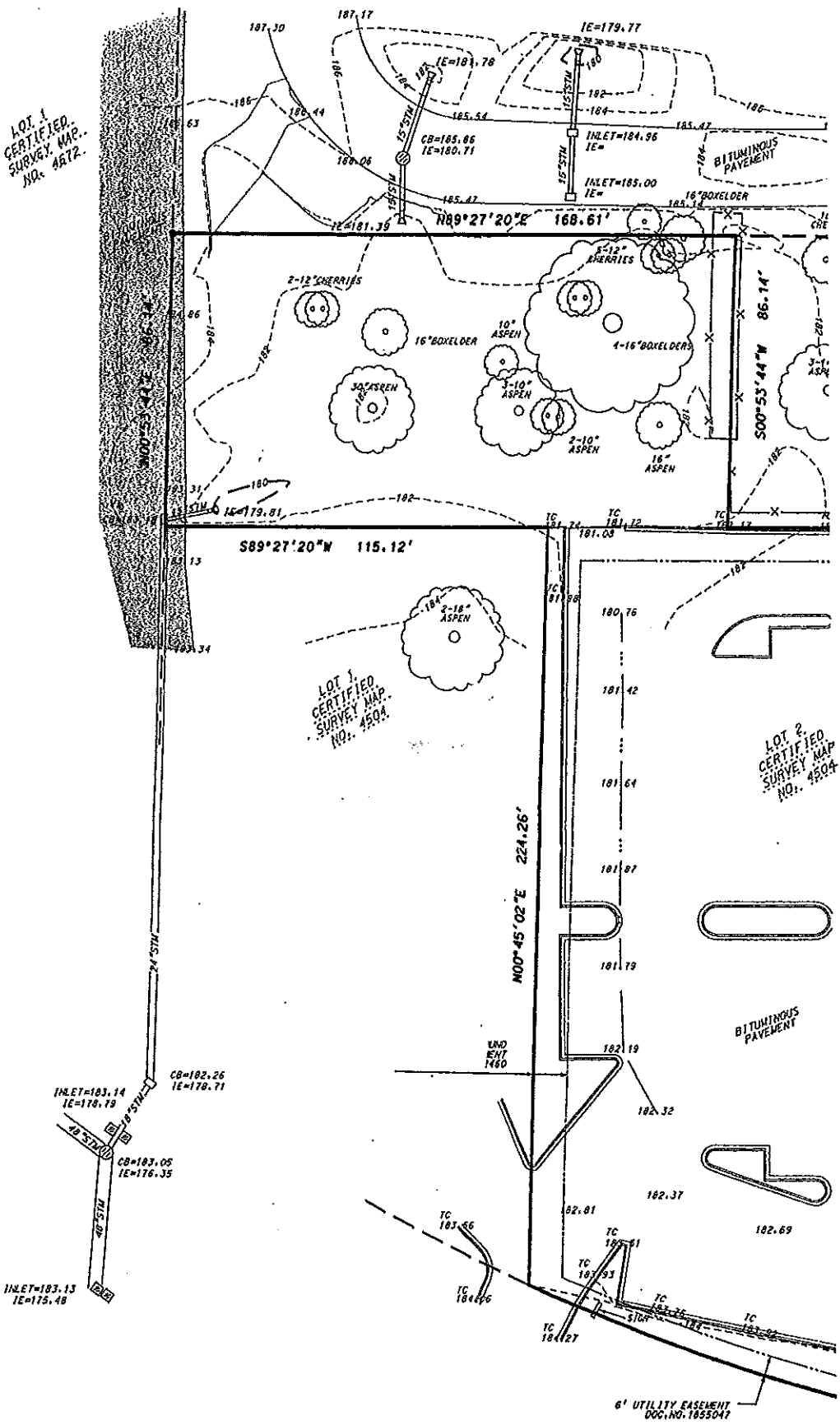
LOT 1
CERTIFIED
SURVEY MAP
NO. 4504.

LOT 2
CERTIFIED
SURVEY MAP
NO. 4504.

EXHIBIT A, PAGE 3 OF 4

6\"/> UTILITY EASEMENT
DCC. NO. 1855047

LOT 1
CERTIFIED
SURVEY MAP
NO. 4672



LOT 1
CERTIFIED
SURVEY MAP
NO. 4504

LOT 2
CERTIFIED
SURVEY MAP
NO. 4504

Exhibit B

Atrium Lot

Parcel A:

Lot 2, Certified Survey Map 4504, recorded in Vol. 19 of Certified Survey Maps, page 243, as #1855047, in the City of Madison, Dane County, Wisconsin.

Parcel B:

Together with the easements created by a Cross-Easement Agreement recorded in Vol. 6806 of Records, page 47, as #1880204; re-recorded in Vol. 6900 of Records, page 56, as #1884160.

Parcel C:

Part of Lot 1, Certified Survey Map 442, recorded in Vol. 2 of Certified Survey Maps, page 231, as #1278269, located in the Northeast 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 30, Township 7 North, Range 9 East, in the City of Madison, Dane County, Wisconsin, to-wit: Commencing at the West 1/4 corner of said Section 30; thence N89°27'20"E, along the North line of said Southwest 1/4, 1623.85 feet; thence S00°17'45"W, 66.02 feet to the Northwest corner of Lot 2 of the said Certified Survey Map 442; thence S00°53'44"W, along the Westerly line of said Lot 2 extended, 836.89 feet to the point of beginning; thence continuing S00°53'44"W, 86.14 feet to the Southerly line of Lot 1, Certified Survey Map 442; thence S89°27'20"W, along the Southerly line of said Lot 1, 505.85 feet; thence North 00°53'44"E, 86.19 feet; thence N89°27'20"E, 505.85 feet to the point of beginning, EXCEPT that part conveyed in Warranty Deed recorded as #3640670.

Exhibit C

S & E Lot

Lot 1, Certified Survey Map No. 4672, in the City of Madison, Dane County, Wisconsin.