

**DEDICATION AGREEMENT RELATING TO THE EAST SPRINGS DRIVE  
DRAINAGE WAY**

Between the City of Madison and East Town Plaza LLC

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THIS DEDICATION AGREEMENT (the “Agreement”), made and entered into by and between **East Town Plaza LLC**, a Delaware limited liability company, (“Grantor”) and the **City of Madison**, a Wisconsin municipal corporation (“City”), is effective as of the date by which both parties have signed hereunder.

RECITALS:

- A. Grantor owns part of Lot 42, Regional East III located in the Southwest ¼ of Section 27, Town 8 North, Range 10 East, City of Madison, Dane County Wisconsin, as more particularly described on Exhibit A attached hereto and depicted on Exhibit B (the “Property”). The Property is located at 2005 East Springs Drive, Madison WI.
- B. Grantor also has an interest in two underground private storm water pipes in the East Springs Drive right-of-way which connect a private storm water system to the North with the Property to the south (“Pipes”).
- C. City has proposed a reconstruction of an existing storm water detention area located adjacent to the Property, at 1801 Zeier Road, and has requested that the Grantor dedicate the Property for use in the City’s storm water detention area reconstruction project.
- D. The Grantor has agreed to dedicate the Property and Pipes and convey the same to the City pursuant to a quit claim deed, subject to the following conditions:
  - 1. Upon the dedication, the City will install box culverts at the point where the Pipes enter the East Springs Drive right-of-way. The box culverts will be accessible by manhole located in the terrace. The City will assume ownership and responsibility of the Pipes from the box culvert south to the Property.
  - 2. The City shall ensure that the public stormwater system, and any improvements or alterations thereto, will be designed and maintained to sufficiently accommodate the stormwater discharge currently being accepted by the Property and the Pipes, subject to any reduced demand that may be attributable to redevelopment of any properties currently served by the Pipes and the Property (“Benefitted Parcels”).
  - 3. The City agrees to take ownership of the Property and will become responsible for all maintenance of the Property and real estate taxes thereon after closing.
  - 4. The City agrees that, other than stormwater utility charges, there shall be no additional stormwater related charges levied against the Benefitted Parcels; provided, however, nothing herein shall be construed to limit the City’s ability to impose any special assessments upon any of the Benefitted Parcels in connection

with any reconstruction of or improvements to the City's storm water detention system utilized by the Benefitted Parcels.

- E. The City supports the Grantor's conditions of dedication and Grantor has agreed to dedicate the Property and the Pipes, via quit claim deed, for the City's storm water detention area project along East Spring Drive. The land and facilities to be dedicated as legally described on Exhibit A and depicted on Exhibit B (sometimes hereinafter called the "Dedicated Lands") will be used in conjunction with City's storm water detention area reconstruction project.
- F. The City and Grantor desire to memorialize the terms and conditions for the City's acceptance of dedication of the Property.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, the City and Grantor hereby agree as follows:

1. Description of Dedicated Lands. Grantor agrees to dedicate the Property and Pipes to the City via quit claim deed, at no cost to the City and the City agrees to accept such dedication.
2. Dedication Conditions.
  - a) Upon the dedication, the City will install box culverts at the point where the Pipes enter the East Springs Drive right-of-way. The box culverts will be accessible by manhole located in the terrace. The City will assume ownership and responsibility of the Pipes from the box culvert south to the Property. The private pipe draining into the box culvert shall be considered a permitted private connection to the public stormwater system.
  - b) The Property and Pipes will become part of the public stormwater system.
  - c) The City shall ensure that the public stormwater system, and any improvements or alterations thereto, will be designed and maintained to sufficiently accommodate the stormwater discharge currently being accepted by the Property and the Pipes, subject to any reduced demand that may be attributable to redevelopment of any of the Benefitted Parcels.
  - d) The City shall take ownership of the Property and the Pipes and will become responsible for all maintenance of the Property and Pipes, as well as all real estate taxes thereon after closing. Other than stormwater utility charges, there shall be no additional stormwater related charges levied against the Benefitted Parcels; provided, however, nothing herein shall be construed to limit the City's ability to impose any special assessments upon any of the Benefitted Parcels in connection with any reconstruction of or improvements to the City's storm water detention system utilized by the Benefitted Parcels.

3. No Personal Property. Other than the dedication of the Pipes, the transactions contemplated by this Agreement do not include any personal property.
  
4. Contingencies of Dedication. This Agreement and the City's acceptance of the dedication of the Property are contingent upon the City's receipt of a Phase I environmental site assessment for the Property performed by a qualified independent environmental consultant at City's sole cost and expense which discloses no potential defects. A "defect" is defined as a material violation of any environmental law, a material contingent liability affecting the Property arising under any environmental law, the presence of an underground storage tank(s) or material levels of substances either on the Property or presenting a significant risk of contaminating the Property due to migration from adjacent properties. If a defect is disclosed, this Agreement shall automatically be null and void. This paragraph shall create no liability for the Grantor arising from any defect found on the Dedicated Lands after the City's acceptance of the dedication of the Property. The City shall not conduct, or cause to be conducted, any invasive testing of the Property, including, but not limited to any Phase II environmental assessments without Grantor's prior written consent, which consent may be granted or withheld by Grantor in its sole and absolute discretion. The City shall hold the results of the Phase I and Phase II environmental site assessments confidential, unless the City is required by state or federal laws to disclose the same.
  
5. Legal Description. The City shall prepare a full legal description and exhibit map to describe the Dedicated Lands to the City, including the location of the Pipes.
  
6. Representations. Grantor represents the following:
  - a) No Prior Right to Purchase. No person has any option, right of first refusal or similar right to purchase all or any portion of the Dedicated Lands.
  
  - b) No Adverse Possessors. There are no parties in possession of any portion of the Dedicated Lands as tenants at sufferance or trespassers.
  
  - c) No Lessees. There are no parties in possession of any portion of the Dedicated Lands as lessees.
  
7. Notices. Any notice or communication to be given hereunder shall be given in writing signed by the party giving notice, personally delivered or mailed by first class mail, proper postage affixed, to the parties' respective addresses as set forth below:

To Grantor:                      Ed Eickhoff  
    Ramco-Gershenson Inc.  
    31500 Northwestern Hwy Suite 300  
    Farmington Hills, MI 48334

To the City:                      City of Madison  
    Attn.: Real Estate Manager

Post Office Box 2983  
Madison, WI 53701-2983

8. Miscellaneous.

- a) Cooperation. The parties each agree at any time or from time to time at the written request of any other to sign and deliver such other documents as may be reasonably requested or as may be reasonably necessary or appropriate to give full effect to the terms and conditions of this Agreement.
- b) No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties hereto, to any person or entity other than the parties hereto.
- c) Benefit and Burden. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors, and assigns. The provisions herein contained shall survive recordation of a quit claim deed of the Dedicated Lands and shall not be merged therein.
- d) Entire Agreement. This Agreement contains the entire agreement between the parties and any modification, alteration or addendum to this Agreement shall be valid only when written and executed by both parties.
- e) Severability. If any non-material part, paragraph, or article of this Agreement shall be determined to be invalid, or otherwise unenforceable, the validity of all the remaining parts, paragraphs, and articles shall not be affected thereby. Any such non-material parts, paragraphs, or articles shall be deemed severable.
- f) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of or applicable to the State of Wisconsin.
- g) Headings. The headings in this Agreement are meant for reference purpose only and shall not in any way affect the meaning or interpretation herein.

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

**EAST TOWN PLAZA LLC**

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print or type name and title)

**CITY OF MADISON**

By: \_\_\_\_\_  
Paul R. Soglin, Mayor

By: \_\_\_\_\_  
Maribeth Witzel-Behl, City Clerk

**APPROVED AS TO FORM:**

Approved:

Approved as to form:

\_\_\_\_\_  
Finance Director, David Schmiedicke

\_\_\_\_\_  
City Attorney, Michael P. May

Execution of this Dedication Agreement is authorized by Resolution No. RES-\_\_\_\_\_, ID No. \_\_\_\_\_, adopted by the Common Council of the City of Madison on \_\_\_\_\_.

Drafted by the City of Madison Office of Real Estate Services

Project No. 10189

## **EXHIBIT A**

### **Legal Description for Fee Dedication**

Part of Lot Forty-Two (42), Regional East III, recorded in Volume 56-89A of Plats, Pages 260, 261, and 262, as Document No. 2209218, Dane County Registry, located in the Southwest  $\frac{1}{4}$  of Section 27, Township 8 North, Range 10 East, in the City of Madison, Dane County, Wisconsin, to-wit;

Commencing at the Southwest corner of said Section 27; thence North 88 degrees, 36 minutes, 12 seconds East, 1566.31 feet; thence North 1 degree 23 minutes 48 seconds West, 40.0 feet to a point on a curve; thence Northwesterly on a curve to the right which has a radius of 25.0 feet and a chord which bears North 45 degrees, 55 minutes, 46 seconds West, 35.64 feet; thence North 0 degrees, 27 minutes, 44 seconds West, 1031.45 feet; thence North 2 degrees, 12 minutes, 52 seconds East, 195.61 feet to the point of beginning;

Thence continuing North 2 degrees, 12 minutes, 52 seconds East 24.87 feet to a point of curve; thence Northwesterly on a curve to the left which has a radius of 713.0 feet and a chord which bears North 3 degrees, 02 minutes, 34 seconds West, 130.66 feet to a point of reverse curve; thence Northeasterly on a curve to the right which has a radius of 25.0 feet and a chord which bears North 33 degrees, 56 minutes, 00 seconds East, 33.61 feet; thence North 76 degrees, 10 minutes, 00 seconds East, 700.51 feet to a point of curve; thence Northeasterly on a curve to the left which has a radius of 840.0 feet and a chord which bears North 67 degrees, 56 minutes, 47 seconds East, 240.23 feet; thence North 59 degrees, 43 minutes, 30 seconds East, 98.91 feet; thence South 13 degrees, 50 minutes, 00 seconds East, 258.42 feet; thence South 82 degrees, 05 minutes, 00 seconds West, 598.81 feet to a point of curve; thence Southwesterly on a curve to the left which has a radius of 1000.0 feet and a chord which bears South 75 degrees, 02 minutes, 30 seconds West, 245.18 feet; thence South 68 degrees, 00 minutes, 00 seconds West, 251.15 feet to the point of beginning.

**EXHIBIT B**

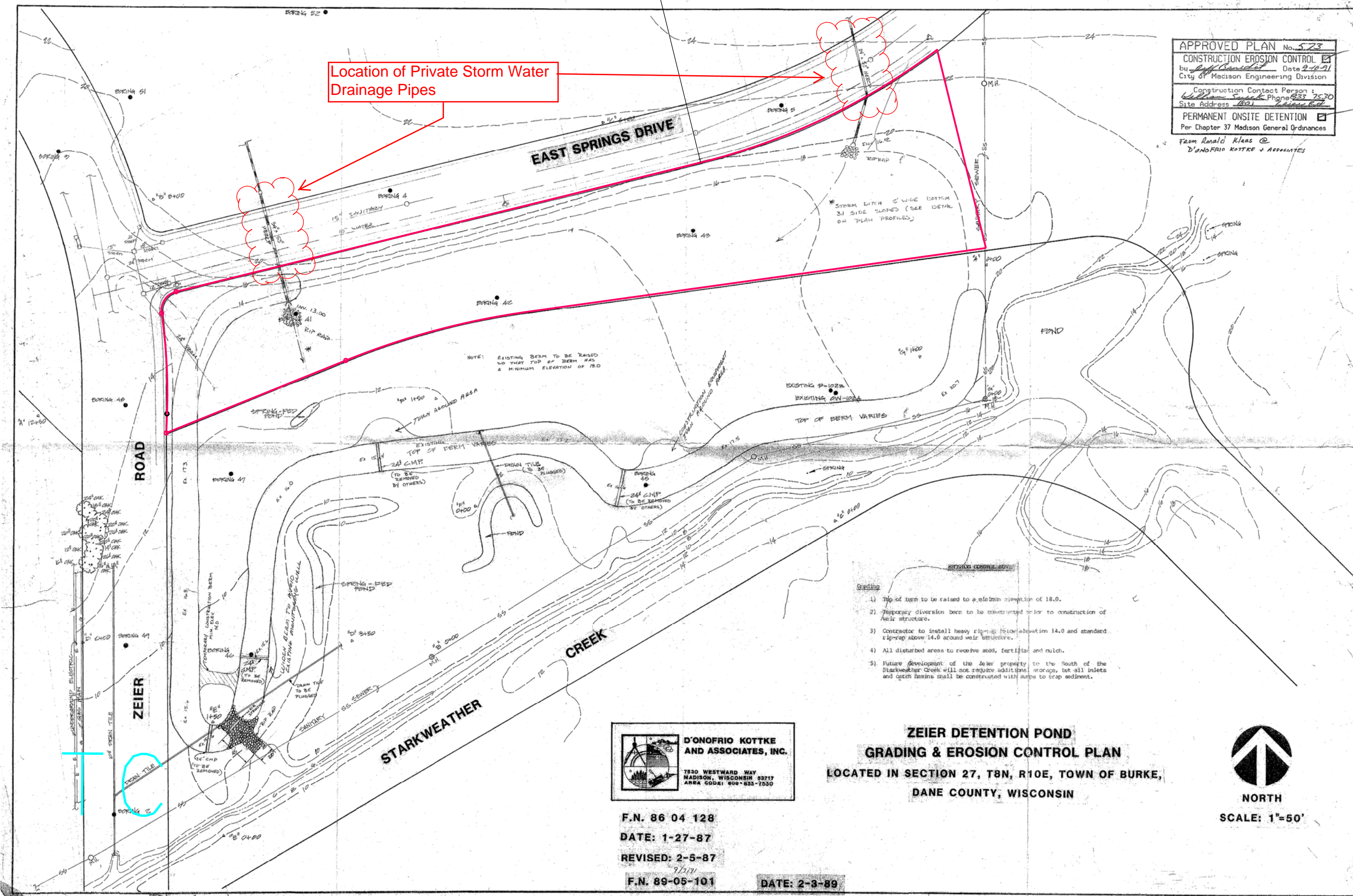
Map of Dedication Lands (not to scale)

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Location of Private Storm Water Drainage Pipes

APPROVED PLAN No. 523  
 CONSTRUCTION EROSION CONTROL  
 by Jeff D'Onofrio Date 2-11-91  
 City of Madison Engineering Division  
 Construction Contact Person:  
William Sank Phone 833-7530  
 Site Address 1801 Wisconsin  
 PERMANENT ONSITE DETENTION   
 Per Chapter 37 Madison General Ordinances

From Ronald Klaas @  
D'ONOFRIO KOTTKE & ASSOCIATES



NOTE: EXISTING BERM TO BE RAISED SO THAT TOP OF BERM HAS A MINIMUM ELEVATION OF 18.0

- Grading
- 1) Top of berm to be raised to a minimum elevation of 18.0.
  - 2) Temporary diversion berm to be constructed prior to construction of weir structure.
  - 3) Contractor to install heavy rip-rap below elevation 14.0 and standard rip-rap above 14.0 around weir structure.
  - 4) All disturbed areas to receive seed, fertilizer and mulch.
  - 5) Future development of the Zeier property to the South of the Starkweather Creek will not require additional storage, but all inlets and catch basins shall be constructed with ramps to trap sediment.

**D'ONOFRIO KOTTKE AND ASSOCIATES, INC.**  
 7530 WESTWARD WAY  
 MADISON, WISCONSIN 53717  
 AREA CODE 1 608 833-7530

F.N. 86 04 128  
 DATE: 1-27-87  
 REVISED: 2-5-87  
 7/1/77  
 F.N. 89-05-101      DATE: 2-3-89

**ZEIER DETENTION POND  
 GRADING & EROSION CONTROL PLAN**  
 LOCATED IN SECTION 27, T8N, R10E, TOWN OF BURKE,  
 DANE COUNTY, WISCONSIN

