

RESOLUTION NO. 02/24/20-01

**A Resolution Approving Easement Acquisition as Part of a
Village Stormwater Management Project.**

WHEREAS, the Plan Commission for the Village of Fontana did previously recommend in favor of a series of easement acquisitions described and depicted more specifically in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the Village Board does intend by this Resolution to approve and authorize the acquisition of the easement interests set forth more specifically in Exhibit "A" on those terms subject to those conditions substantially similar to those terms and conditions described in the documents attached hereto as Exhibit "A".

Passed and adopted by the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin on the 24 day of February, 2020.

VILLAGE BOARD OF THE VILLAGE OF
FONTANA-ON-GENEVA LAKE

By: Patrick Kenny
Patrick Kenny, Village President

Attest: Theresa Loomer
Theresa Loomer, Village Clerk

STORM WATER MANAGEMENT EASEMENT AGREEMENT

Indenture made this ____ day of _____, 2020, by and between the undersigned Abbey Springs, Inc. ("Grantor"), a Wisconsin Non-Stock Corporation that exists as a condominium association for the Abbey Springs Condominium, including all phases thereof, and the Village of Fontana-on-Geneva Lake, a municipal corporation existing pursuant to the laws of the State of Wisconsin and located in Walworth County ("Grantee").

RECITALS:

WHEREAS, Grantor is the fee simple owner of the following described land, a portion of which is proposed to be utilized for a storm water main management project for the benefit of the Village of Fontana-on-Geneva Lake:

See Exhibit "A", "B" and "C", attached hereto and incorporated herein by reference; and

WHEREAS, Grantor desires and intends by this Storm Water Management Easement Agreement ("Agreement") to grant Grantee a temporary construction easement and a permanent utility easement, on the terms and conditions stated herein, over a portion of the Grantor's property, and Grantee desires and intends by this Agreement to accept said grant of easement.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does by this Agreement hereby grant, convey, transfer, bargain and assign to the Grantee the easements and rights hereinafter described, which said easements and rights are accepted by the Grantee.

1. **Recitals Incorporated.** The recitals set forth above are incorporated herein by reference as if set forth at length herein.
2. **Grant of Easement.**
 - a. **Permanent Easement.** Grantor does hereby grant, convey, transfer, bargain and assign onto the Grantee and its successors and assigns, a non-exclusive and perpetual easement (the "Permanent Storm Water Management Easement") over, under, across and through the property and the three parcels described and depicted in Exhibit "A", attached hereto and incorporated herein by reference, (the "Permanent Easement Area") including reasonable access thereto for the purpose of exercising the rights of Grantee as set forth in this Agreement over the abutting property of Grantor. The purpose of this Permanent Storm Water Management Easement shall be for the Grantee to construct, erect, install, maintain, operate, repair, replace and reconstruct a storm water collection, conveyance and ground infiltration (such as one or more french drains) system, and including all associated facilities and appurtenances

(hereinafter the “Storm Water Improvements”) within the Permanent Easement Area.

- b. **Temporary Construction Easement.** The Village shall be granted a temporary construction easement over and across the property of Grantor in those locations depicted more specifically in Exhibit “C”, attached hereto and incorporated herein by reference (the “Temporary Easement Area”). Said Temporary Construction Easement shall automatically terminate upon completion of the initial installation of improvements pursuant to this Agreement. Said, Temporary Construction Easement may only be utilized by the Village between April 1, 2020 and May 1, 2020 and between September 8, 2020 and May 1, 2021.
3. **Grantor’s Covenants.** Grantor agrees that it shall not construct or install upon the Permanent Storm Water Management Easement any buildings or structures or grant any other easements which would interfere with the operation or maintenance of the Storm Water Improvements. Subject to Section 5., herein, Grantee is granted and retains the right to come upon the Permanent Easement Area at all reasonable times and for all purposes relating to the exercise of its rights hereunder. Grantor shall have the right to exercise any rights with respect to the Permanent Storm Water Management Easement which are not inconsistent with the terms of this Agreement.
4. **Indemnification by Grantee.** Grantee shall indemnify and hold Grantor and its mortgagee, its successors and assigns, harmless and defend them, and each of them, from and against any and all claims, actions, damages, liability, losses, expenses and liens, including reasonable attorney’s fees incurred by Grantor arising out of the exercise of any of the rights and privileges granted herein.
5. **Reasonable Prior Notice of Entry.** Except for in the event of emergency or urgent circumstances, Grantee agrees to provide to Grantor with seven (7) days prior notice of any entry by Grantee upon the Permanent Easement Area, and shall conduct such entry and any work in connection therewith, including monitoring and inspection and maintenance, so as to reasonably minimize interference with the Grantor’s property. Such notice may be in writing to the last known President, Secretary and Executive Director of the Grantor non-stock corporation, in person or by electronic communication.
6. **Property Restoration.** Following completion of installation, maintenance or repair work or any other excavation work to be performed hereunder in connection with the exercise of the rights and privileges granted hereby, Grantee shall reasonably restore the Permanent Easement Area and the Temporary Easement Area and any abutting areas used for access by restoring the grade, pavement, shoulders, gravel areas and seeding with grass seed where previously a grass area. Restoration of the seeded areas shall be deemed complete after vegetation has grown successfully through one growing season.

7. **Insurance Prior to Installation of the Storm Water Improvements.** Prior to undertaking the initial installation of the Storm Water Improvements, the Grantee shall provide the Grantor with copies of all Grantee and contractor certificates of insurance, or other suitable evidence of insurance if a certificate is not available. Said insurance shall name Grantor as an additional insured. The insurance coverage amounts shall not be less than the following:

Commercial General Liability: \$2,000,000
Umbrella or Excess Liability: \$6,000,000
Contractor's Pollution Liability: \$1,000,000

8. **Binding Effect and Assignability.** The Permanent Storm Water Management Easement granted by this Agreement shall run with the land and shall be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement the day and year first written above.

GRANTOR:

ABBEE SPRINGS, INC.

By: _____
_____, President

By: _____
_____, Secretary

STATE OF WISCONSIN)
)SS.
COUNTY OF _____)

Personally came before me this ____ day of _____, 2020, the above-named _____ and _____ to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission: _____

[Additional signatures on the following page]

GRANTEE:

VILLAGE OF FONTANA-ON-GENEVA LAKE, a
municipal corporation, Walworth County, Wisconsin

By: _____
Patrick Kenny, President

By: _____
Theresa Loomer, Village Clerk

STATE OF WISCONSIN)
)SS.
COUNTY OF _____)

Personally came before me this ____ day of _____, 2020, the above-named
_____ and _____ to me known to be the persons who
executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission: _____

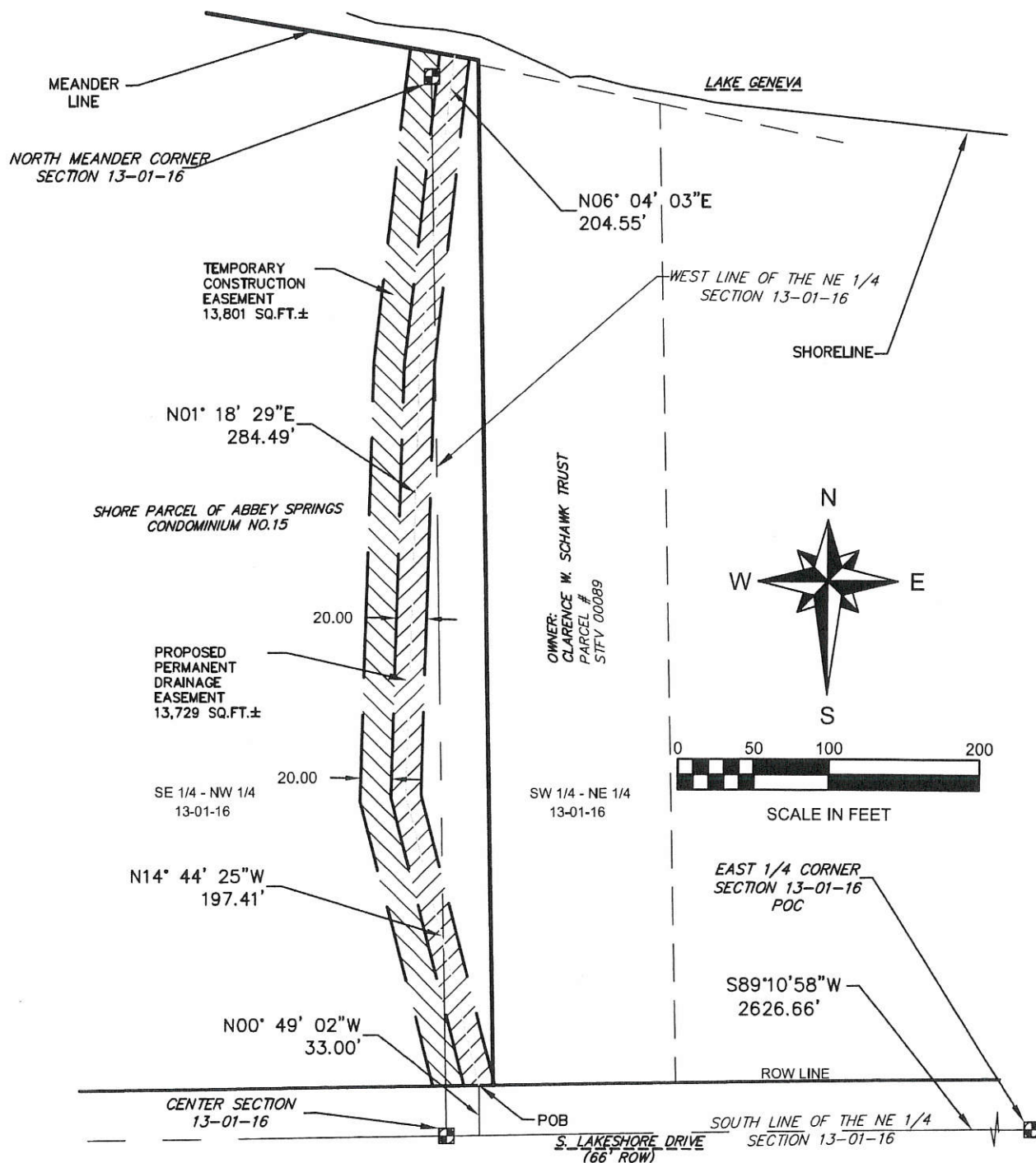
THIS INSTRUMENT DRAFTED BY:
Attorney Dale L. Thorpe
Thorpe & Christian, S.C.
1624 Hobbs Drive, Suite 1
Delavan, WI 53115
Phone: (262) 740-1971
Fax: (262) 740-1090

EXHIBIT "A"

SHEET 1 OF 2

DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

Being part of the Common Element of the Shore Parcel of Abbey Springs Condominium No. 15, located in part of SE 1/4 of the NW 1/4, and part of the SW 1/4 of the NE 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin.



PREPARED FOR:

Village of Fontana-on-Geneva Lake
P.O. Box 200
Fontana WI, 53125

PREPARED BY:

Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Pkwy.
Waukesha, WI 53188

 **Ruekert • Mielke**
www.ruekertmielke.com

EXHIBIT "A"

SHEET 2 OF 2

DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

Being part of the Common Element of the Shore Parcel of Abbey Springs Condominium No. 15, located in part of SE 1/4 of the NW 1/4, and part of the SW 1/4 of the NE 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin.

Being part of the Common Element of the Shore Parcel of Abbey Springs Condominium No. 15, located in part of the Southeast 1/4 of the Northwest 1/4, and part of the Southwest 1/4 of the Northeast 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, bounded and described as follows:

A centerline of a 20 foot wide Permanent Drainage Easement, commencing at the East 1/4 corner of Section 13; thence bearing S89°10'58"W, along the South line of the Northeast 1/4 of said Section, a distance of 2626.66 feet; thence bearing N00°49'02"W, a distance of 33.00 feet to the Northerly line of South Lakeshore Drive and the POINT OF BEGINNING (POB); thence bearing N14°44'25"W, a distance of 197.41 feet; thence bearing N01°18'29"E, a distance of 284.49 feet; thence bearing N06°04'03"E, a distance of 204.55 feet to the END of said centerline. The sidelines of which are to be prolonged or shortened to terminate at the property lines of the subject parcel described as the Shore Parcel of Abbey Springs Condominium No. 15. Excluding the following land described by Parcel Number STFV 00089, said easement containing 13,729 square feet more or less of land. Subject to, but not limited to, covenants, restrictions and easements of record.

Also, a 20 foot wide Temporary Construction Easement adjacent to, and immediately West of the above described 20 foot Permanent Drainage Easement. The sidelines of which are to be prolonged or shortened to terminate at the property lines of the subject parcel described as the Shore Parcel of Abbey Springs Condominium No. 15, containing 13,729 square feet more or less of land. Subject to, but not limited to, covenants, restrictions and easements of record.

PROPERTY LINES SHOWN ON THIS EXHIBIT ARE DRAWN FROM DATA DERIVED FROM MAPS AND DOCUMENTS OF PUBLIC RECORD AND/OR OCCUPATION LINES. THIS EXHIBIT MAY NOT BE A TRUE REPRESENTATION OF EXISTING PROPERTY LINES, EXCLUDING LINES OF THE PUBLIC LAND SURVEY SYSTEM AND RIGHT-OF-WAY LINES, AND SHOULD NOT BE USED AS A SUBSTITUTE FOR AN ACCURATE PROPERTY SURVEY AS DEFINED AND PURSUANT TO THE WISCONSIN ADMINISTRATIVE CODE A-E 7.

 **Ruekert • Mielke**
www.ruekertmielke.com

PREPARED FOR:

Village of Fontana-on-Geneva Lake
P.O. Box 200
Fontana WI, 53125

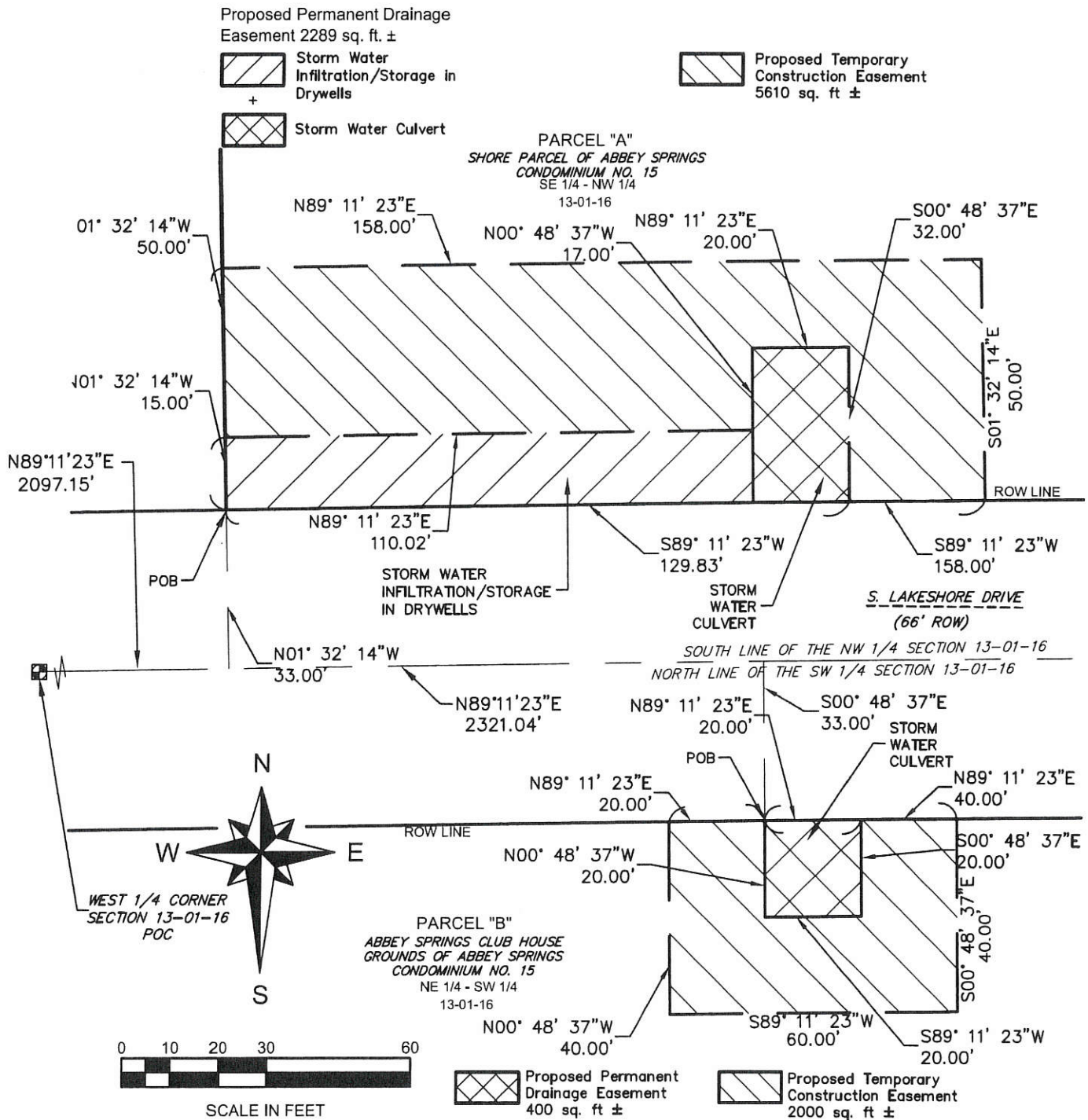
PREPARED BY:

Ruekert & Mielke, Inc.
W233 N2080 Ridgeview Pkwy.
Waukesha, WI 53188

EXHIBIT " B "

SHEET 1 OF 3

PERMANENT DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT
Being part of the SE 1/4 of the NW 1/4, and part of the NW 1/4 of the SW 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin.



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EXHIBIT " B "

SHEET 2 OF 3

PERMANENT DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

Being part of the SE 1/4 of the NW 1/4, and part of the NW 1/4 of the SW 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin.

PARCEL "A"

Being part of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, bounded and described as follows:

PERMANENT DRAINAGE EASEMENT:

Commencing at the West corner of said Section 13; thence bearing N89°11'23"E, along the South line of the Northwest 1/4, a distance of 2097.15 feet; thence bearing N01°32'14"W, a distance of 33.00 feet to the Northerly line of South Lakeshore Drive, and the POINT OF BEGINNING (POB); thence bearing N01°32'14"W, along the West line of property described as the Shore Parcel of Abbey Springs Condominium No. 15, a distance of 15.00 feet; thence bearing N89°11'23"E, a distance of 110.02 feet; thence bearing N00°48'37"W, a distance of 17.00 feet; thence bearing N89°11'23"E, a distance of 20.00 feet; thence bearing S00°48'37"E, a distance of 32.00 feet to the Northerly line of South Lakeshore Drive; thence bearing S89°11'23"W along said Northerly line, a distance of 129.83 feet to the POINT OF BEGINNING, containing 2289 square feet more or less of land. Subject to, but not limited to, covenants, conditions, restrictions and easements of record.

TEMPORARY CONSTRUCTION EASEMENT:

Commencing at the West corner of said Section 13; thence bearing N89°11'23"E, along the South line of the Northwest 1/4, a distance of 2097.15 feet; thence bearing N01°32'14"W, a distance of 33.00 feet to the Northerly line of South Lakeshore Drive, and the POINT OF BEGINNING (POB); thence bearing N01°32'14"W, along the West line of property described as the Shore Parcel of Abbey Springs Condominium No. 15, a distance of 50.00 feet; thence bearing N89°11'23"E, a distance of 158.00 feet; thence bearing S01°32'14"E, a distance of 50.00 feet to the Northerly line of South Lakeshore Drive; thence bearing S89°11'23"W along said Northerly line, a distance of 158.00 feet to the POINT OF BEGINNING, excluding the above described PERMANENT DRAINAGE EASEMENT, said TEMPORARY CONSTRUCTION EASEMENT contains 5610 square feet more or less of land. Subject to, but not limited to, covenants, conditions, restrictions and easements of record.

PROPERTY LINES SHOWN ON THIS EXHIBIT ARE DRAWN FROM DATA DERIVED FROM MAPS AND DOCUMENTS OF PUBLIC RECORD AND/OR OCCUPATION LINES. THIS EXHIBIT MAY NOT BE A TRUE REPRESENTATION OF EXISTING PROPERTY LINES, EXCLUDING LINES OF THE PUBLIC LAND SURVEY SYSTEM AND RIGHT-OF-WAY LINES, AND SHOULD NOT BE USED AS A SUBSTITUTE FOR AN ACCURATE PROPERTY SURVEY AS DEFINED AND PURSUANT TO THE WISCONSIN ADMINISTRATIVE CODE A-E 7.

 **Ruekert • Mielke**
www.ruekertmielke.com

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Waukesha, WI 53188

EXHIBIT "B"

SHEET 3 OF 3

PERMANENT DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

Being part of the SE 1/4 of the NW 1/4, and part of the NW 1/4 of the SW 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin.

PARCEL "B"

Being part of the Northeast 1/4 of the Southwest 1/4 of Section 13, Township 01 North, Range 16 East, Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, bounded and described as follows:

PERMANENT DRAINAGE EASEMENT:

Commencing at the West corner of said Section 13; thence bearing N89°11'23"E, along the North line of the Southwest 1/4, a distance of 2321.04 feet; thence bearing S00°48'37"E, a distance of 33.00 feet to the Southerly line of South Lakeshore Drive, and the POINT OF BEGINNING (POB); thence bearing N89°11'23"E along said Southerly line, a distance of 20.00 feet; thence bearing S00°48'37"E, a distance of 20.00 feet; thence bearing S89°11'23"W, a distance of 20.00 feet; thence bearing N00°48'37"W, a distance of 20.00 feet to the POINT OF BEGINNING, containing 400 square feet more or less of land. Subject to, but not limited to, covenants, conditions, restrictions and easements of record.

TEMPORARY CONSTRUCTION EASEMENT:

Commencing at the West corner of said Section 13; thence bearing N89°11'23"E, along the North line of the Southwest 1/4, a distance of 2321.04 feet; thence bearing S00°48'37"E, a distance of 33.00 feet to the Southerly line of South Lakeshore Drive, and the POINT OF BEGINNING (POB); thence bearing N89°11'23"E along said Southerly line, a distance of 40.00 feet; thence bearing S00°48'37"E, a distance of 40.00 feet; thence bearing S89°11'23"W, a distance of 60.00 feet; thence bearing N00°48'37"W, a distance of 40.00 feet to the Southerly line of South Lakeshore Drive; thence bearing N89°11'23"E along said Southerly line, a distance of 20.00 feet to the POINT OF BEGINNING, excluding from the above described PERMANENT DRAINAGE EASEMENT, said TEMPORARY CONSTRUCTION EASEMENT contains 2000 square feet more or less of land. Subject to, but not limited to, covenants, conditions, restrictions and easements of record.

PROPERTY LINES SHOWN ON THIS EXHIBIT ARE DRAWN FROM DATA DERIVED FROM MAPS AND DOCUMENTS OF PUBLIC RECORD AND/OR OCCUPATION LINES. THIS EXHIBIT MAY NOT BE A TRUE REPRESENTATION OF EXISTING PROPERTY LINES, EXCLUDING LINES OF THE PUBLIC LAND SURVEY SYSTEM AND RIGHT-OF-WAY LINES, AND SHOULD NOT BE USED AS A SUBSTITUTE FOR AN ACCURATE PROPERTY SURVEY AS DEFINED AND PURSUANT TO THE WISCONSIN ADMINISTRATIVE CODE A-E 7.

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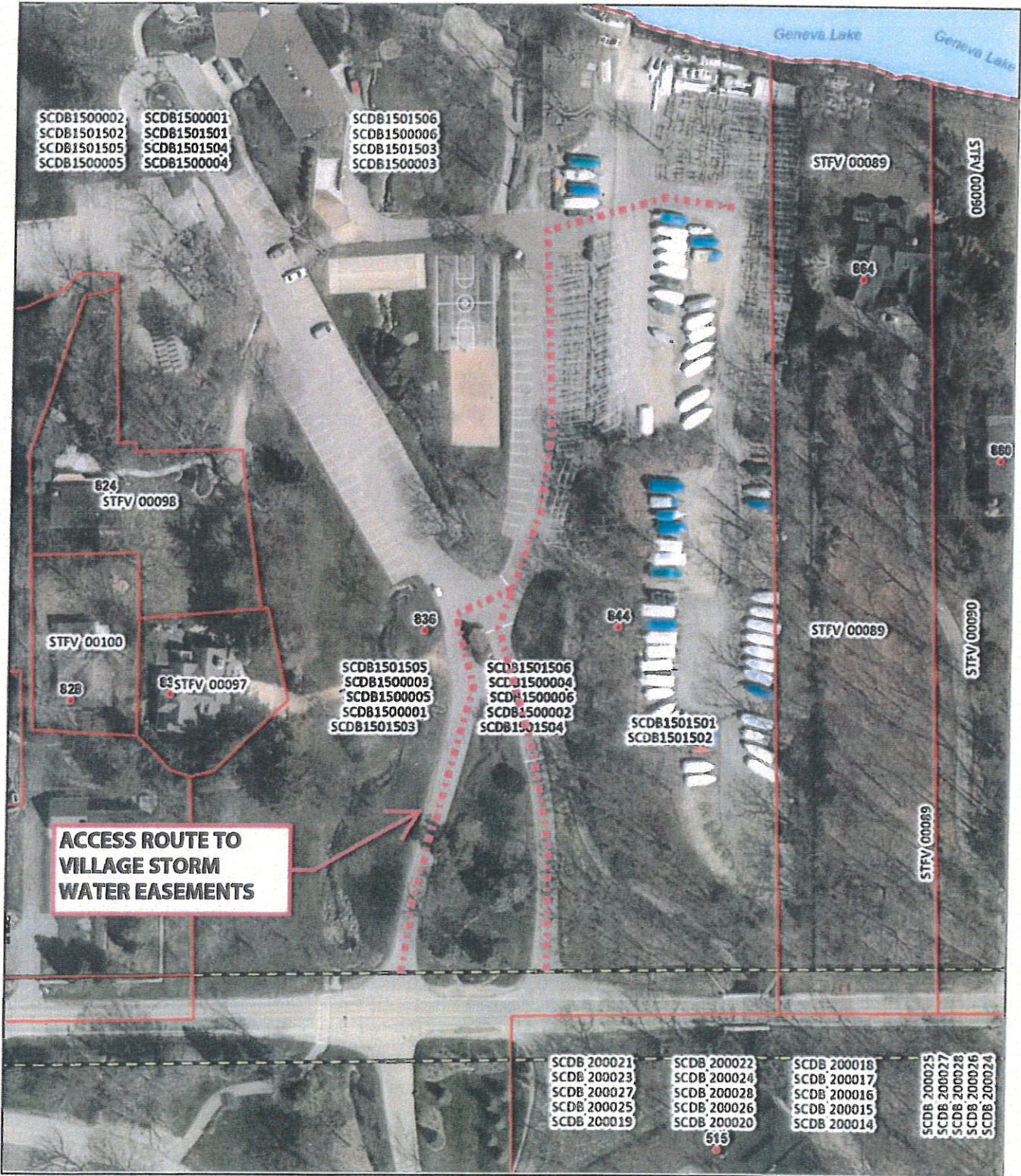
PREPARED FOR:

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Waukesha, WI 53188

EXHIBIT "C"



Village of Fontana-on-Geneva Lake GIS



DISCLAIMER: The Village of Fontana does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.

SCALE: 1" = 100'

Village of Fontana
175 Valley View Drive
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(262) 275-6136

Print Date: 1/30/2020