

**DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS
FOR MAINTENANCE OF STORMWATER MANAGEMENT MEASURES**

RECITALS:

- A. Benson Properties 1 LLC is the owner of parcels in the City of La Crosse at the following addresses:
1117 Pine Street
1119 Pine Street
1125 Pine Street
1129 Pine Street
1131 Pine Street
1135 Pine Street
415 12th Street
more particularly described on Exhibit A attached hereto (“Property”).
- B. Owner desires to construct buildings and/or parking facilities on the Property in accordance with certain plans and specifications approved by the City.
- C. The City requires Owner to record this Declaration regarding maintenance of stormwater management measures to be located on the Property. Owner agrees to maintain the stormwater management measures and to grant to the City the rights set forth below.

NOW, THEREFORE, in consideration of the declarations herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the owner agrees as follows:

This space is reserved for recording data

Return to:

City of La Crosse
Engineering Department
400 La Crosse Street
La Crosse, Wisconsin 54601

Tax Parcel No.: 17-20160-20
17-20200-60
17-20200-70
17-20200-80
17-20200-90

- 1. Maintenance. Owner and its successors and assigns shall be responsible to repair and maintain the stormwater management measures located on the Property in good condition and in working order and such that the measures comply with the 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, and pursuant to the Maintenance Provisions attached hereto as Exhibit B.
- 2. Easement to City. If Owner fails to maintain the stormwater management measures as required in Section 1, then City shall have the right, after providing Owner with written notice of the maintenance issue (“Maintenance Notice”) and thirty (30) days to comply with the City’s maintenance request, to enter the Property 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 Property. 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 charge in accordance with Section 66.0627, Wis. Stats.
- 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 La Crosse 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 La Crosse 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: Benson Management Inc
326 West Ave N
La Crosse, WI 54601

If to City: City of La Crosse
Engineering Department
400 La Crosse Street
La Crosse, WI 54601
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 and shall be construed as covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the parties hereto and their respective successors and assigns.
- (e) Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20_____.

STATE OF WISCONSIN
COUNTY OF LA CROSSE) SS

Personally came before me this _____ day of _____, 20_____, the above named _____, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC

My Commission Expires: _____

Drafted by: City of La Crosse
Engineering Department
400 La Crosse Street
La Crosse, Wisconsin 54601

EXHIBIT A
Legal Description

Lot 10 and all of Lot 9 except the north 42.3 feet thereof, Block 25, T. Burns, H.S. Durand, S.T. Smith and R.F. Rublee's Addition to the City of La Crosse, along with

Lot 228, Lot 229, and the west 80 feet of Lots 230 and 231, Block 24, Allen Overbaugh & Peter Burns Addition to the City of La Crosse, La Crosse County, Wisconsin.

Subject to any easements, covenants, and restrictions of record.

EXHIBIT B
Maintenance Provisions

All components of the storm water system shall be inspected at least semi-annually in early Spring and early Autumn. Repairs will be made whenever the performance of a storm water feature is compromised. Inspection and repairs shall be made as follows:

Storm Pipes

When storm pipes become blocked, preventing the flow, pipes shall be cleaned with a higher velocity jetter to clear the obstruction.

Rain Garden

Water rain garden a minimum of weekly for the first three months after installation. Inspect rain garden a minimum of three times per growing season. Remove any nuisance or invasive plants, and note any issues with excess moisture, soil erosion, berm settling, or potential failure of any component of the rain garden. Remove excessive dead plant material annually, and replace dead plants in the case of significant losses. Stabilize eroding soil. Repair any damage or settling of the berm that may affect ponding area and/or proper discharge of water from the device. If the rain garden retains surface water for greater than 72 hours, remove established turf and replace with fresh soil and deep-rooted native plant species. Avoid using the rain garden as a snow storage area.