

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
PRAIRIE MEADOW SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions of Prairie Meadow Subdivision (this "Declaration") is made and entered into by Bielinski Holdings, LLC ("Declarant").

Recitals

Declarant owns or previously owned certain real property, described on the attached Exhibit A, upon which Declarant intends to develop a subdivision for residences and other related improvements.

By this Declaration, Declarant intends to subject such property and improvements to certain easements, rights, restrictions, and obligations with respect to the ownership, use and maintenance of such property and improvements and all components thereof.

Now, therefore, Declarant, as fee owner of such property, by this Declaration (1) establishes and imposes certain provisions, restrictions, conditions, easements and uses upon such real property; and (2) specifies that the provisions of this Declaration shall constitute covenants running with the land which shall be binding upon Declarant, its successors and assigns, and all subsequent owners and occupants of all or any part of such real property.

ARTICLE 1. DEFINITIONS

The following terms shall have the assigned definitions:

- 1.1 **Association**
The "Association" shall mean Prairie Meadow Homeowners Association, Inc., the members of which shall be all Owners of Lots in the Subdivision.
- 1.2 **Association Insurance**
"Association Insurance" shall mean all policies of insurance as may be maintained by the Association under this Declaration.
- 1.3 **Prairie Meadow Subdivision Documents**
"Prairie Meadow Subdivision Documents" shall consist of this Declaration, the Declaration of Environmental Covenants and Restrictions, Articles of Incorporation of the Association and the Bylaws of the Association.

- 1.4 **Board**
The "Board" or "Board of Directors" shall be the governing body of the Association, elected according to the Bylaws.
- 1.5 **Building**
A "Building" shall be any freestanding structure located in the Subdivision.
- 1.6 **Bylaws**
The "Bylaws" shall mean the Bylaws of the Association as adopted by the Board.
- 1.7 **Common Areas**
The "Common Areas" shall consist of the Outlots or easements on a portion of a Lot used for signage identifying the Subdivision as Prairie Meadow Subdivision.
- 1.8 **Common Improvements**
The "Common Improvements" consist of the following, some of which may be located in Common Areas and some of which may be located in public streets: all signs on the Property generally identifying the Subdivision as Prairie Meadow Subdivision, and any improvements made by the Association in the Common Areas.
- 1.9 **Declarant**
The "Declarant" shall mean Bielinski Holdings, LLC and the successors and assigns of Declarant pursuant to assignment in accordance with Section 14.7 of this Declaration.
- 1.10 **Declaration**
"Declaration" shall mean this Declaration as the same may be amended from time to time.
- 1.11 **Director**
A "Director" shall mean a member of the Board.
- 1.12 **Drawings**
The term "Drawings" is defined in Section 6.2.
- 1.13 **Environmental Declaration, Covenants and Restrictions**
Shall mean the Declaration of Environmental Covenants and Restrictions as the same may be amended from time to time.
- 1.14 **Lot**
"Lot" shall mean a platted lot intended for construction of a residence as shown on the Plat. The reference to a Lot by a number shall mean that particular Lot as shown on the Plat.
- 1.15 **Mortgage**
"Mortgage" shall mean a recorded first lien mortgage against a Lot or the vendor's interest under a recorded first lien land contract relating to a Lot.

- 1.16 **Mortgagee**
"Mortgagee" shall mean the holder of a Mortgage.
- 1.17 **Occupant**
"Occupant" shall mean the Owner and any other person residing on a Lot.
- 1.18 **Outlot**
"Outlot" shall mean an outlot as shown on the Plat. The reference to an Outlot by a number shall mean that particular Outlot as shown on the Plat.
- 1.19 **Owner**
"Owner" shall mean each fee simple owner of a Lot. The Declarant is an Owner with respect to Lots to which it holds title.
- 1.20 **Plat**
A "Plat" is the plat of the Property as recorded in the Register's Office.
- 1.21 **Property**
The "Property" shall mean the real estate subject to this Declaration, as described on Exhibit A and all Buildings and other improvements constructed or to be constructed thereon.
- 1.22 **Register's Office**
The "Register's Office" shall mean the office of the Register of Deeds for Washington County, Wisconsin.
- 1.23 **Rules**
The "Rules" shall mean rules established by the Association governing the administration of the Common Areas and Common Improvements.
- 1.24 **Subdivision**
"Subdivision" shall mean all of Lots as shown on the Plat.
- 1.25 **City**
"City" shall mean the City of West Bend, Wisconsin, and its successors.

ARTICLE 2. ASSOCIATION OF OWNERS

- 2.1 **Administration**
Declarant shall establish the Association to administer the property. Declarant shall include in the Bylaws for the governance and administration of the Common Areas and Common Improvements. The Board may, but need not, from time to time adopt and amend Rules that are binding on all Owners and Occupants. The Board shall administer and enforce the Common Areas, the provisions of this Declaration and the Bylaws, the

Rules, and all other uses of and restrictions on the Property. Until the establishment of the Association, all powers of the Association shall be exercised by Declarant.

2.2 Membership and Voting

Each Owner shall be a member of the Association. In the Association, the Owner(s) of each Lot acquired from Declarant shall be entitled to one (1) vote for each Lot owned. Each Lot owned by Declarant ("Declarant Lot") shall be entitled to three (3) votes for each Declarant Lot. No member shall be permitted to vote if such member is more than thirty (30) days delinquent in the payment of any amount due to the Association under Article 3 of this Declaration.

2.3 Control of Association

Declarant shall have the right to appoint and remove Directors of the Association and to exercise any and all powers and responsibilities assigned to the Association, the Board, or its officers, by the Articles, By Laws, this Declaration or the Wisconsin Nonstock Corporation Law (as amended from time to time), until the earliest of: (1) thirty (30) days after the receipt of occupancy permits from the City for all of the Lots; or (2) Declarant's election to waive its rights to control.

2.4 Management

The Association may employ a professional management agent or company to assist in carrying out its duties regarding the Common Areas, the Common Improvements, and this Declaration, with such experience and qualifications and on such terms and conditions as are acceptable to the Board. Any such agreement must be terminable by the Board, without cause, upon ninety (90) days notice without payment of any penalty.

2.5 Approvals

Except for proposals requiring approval by the ACC, defined below, pursuant to Article 6 hereof, any proposal by an Owner requiring Board approval shall be submitted in writing, in such detail and with such supporting documents as the Board may require to facilitate its understanding and review. The Board may approve or disapprove any proposal submitted by an Owner after considering one or more of the following concerns and any additional concerns as the Board deems prudent: (1) freedom and safety of access and convenience to other areas of the Property; (2) the costs to be paid by the Owner for restoration of Common Areas and Common Improvements to their prior physical condition upon the completion of work or use contemplated by the proposal; and (3) a fair and reasonable monthly charge to be paid by the Owner to the Association for any encroachment on any Common Areas resulting from the proposal. The Board may at its discretion impose further conditions upon its consent to any proposal as it deems appropriate, including payment of out of pocket charges for professional advice and a standard review fee. Approval of a proposal shall be deemed given if the Association president indicates approval in writing. Except for the signage identifying the Subdivision and the landscaping immediately adjacent thereto, all proposals to affect the Common Areas or Common Improvements require the approval of the NRS Committee ("NRSC") established under the Environmental Declaration, Covenants and Restrictions.

All proposals affecting the signage identifying the Subdivision and the landscaping immediately adjacent thereto shall be approved by the Board.

ARTICLE 3. ASSESSMENTS

3.1 Budget and Assessments

The Association shall annually adopt a budget of common expenses and levy assessments on the Lots allocating such assessments equally to each Lot, subject to the limitations herein. Common expenses shall include the costs associated with the maintenance of Outlots pursuant to the Environmental Declaration, Covenants and Restrictions. The budget shall include amounts representing assessments that are bad debts, and may but need not include a replacement reserve, which in each case shall constitute part of the general assessments. The Association may also levy (a) special assessments on all Lots for any purpose for which a general assessment may be levied and (b) special assessments, or fines on particular Owners for the purpose of collecting any amounts due the Association or enforcing compliance by such Owners with any provision of this Declaration, the Bylaws or any Rules. The Board may adopt a Rule to impose uniform charges for services which the Association provides related to transfer of Lots, review of proposals under Section 2.5, and the like. The Board may adopt an initial budget showing the anticipated amounts necessary to cover common expenses.

3.2 Installments; Late Payments

General assessments shall be levied on an annual basis but shall be due and payable as determined by the Board from time to time. Special assessments shall be due and payable at such time and in such manner as the Board may determine. Any assessment or installment of an assessment not paid within ten (10) days of its due date may be subject to a late charge and/or interest as set forth in the Bylaws or in a Rule.

3.3 Enforcement; Liens

If an Owner defaults in any payment, the Association shall take appropriate measures as permitted by law. The defaulting Owner shall be responsible for all costs incurred by the Association in seeking to enforce payment including the Association's reasonable attorneys' fees. Owners shall be personally liable for assessments or fines and a lien shall be imposed against such Owner's Lot for any unpaid assessments. The lien shall be effective as of the recording of a notice thereof in the Register's Office. Liens for unpaid assessments shall also extend to and secure interest, fines and reasonable costs of collection including attorneys' fees incurred by the Association incident to the collection of assessments or enforcement of liens. The Association may purchase a property upon the foreclosure of its lien. Under Section 2.2, an Owner delinquent in payments may in some cases not be permitted to vote on matters before the membership of the Association.

3.4 Association Statements

Within five (5) business days of written request from an Owner or a Mortgagee, the Association shall provide a letter stating the existence and amount of outstanding general or special assessments against the Owner's property, if any. Notwithstanding anything to

the contrary in the preceding sentence, all property conveyed by Declarant shall be deemed conveyed free from outstanding general, special or working capital assessments and no such letter shall be required or given as to such property.

3.5 Common Expenses and Surpluses

Common expenses and surpluses shall be allocated in the same manner as general assessments are allocated. All common surpluses for each fiscal year shall be retained for common expenses for the next succeeding fiscal year.

ARTICLE 4. MAINTENANCE AND ALTERATIONS

4.1 Owner Responsibility

Each Owner shall reimburse the Association for the cost of the Association's repair or replacement of any portion of the Common Areas or Common Improvements damaged through the fault or negligence of such Owner or such Owner's family, guests, invitees or tenants. Each Owner shall, at the Owner's cost, even if no residence has been constructed by such Owner, maintain the yard, including the cutting of grass and snow removal from driveways and, if any, sidewalks, in an orderly and neat manner and shall maintain all structures on the Lot in good repair and condition.

4.2 Association Responsibility

Except for the portions of the Common Areas and Common Improvements owned, controlled and/or maintained by the NRSC and/or the Open Spaces Steward, as defined in the Environmental Declaration, Covenants and Restrictions, the Association shall maintain in good condition and repair, replace and operate all of the Common Areas and Common Improvements, including landscaping, trees and plantings in the Common Areas and trimming of such trees for sight lines. The Association may, in its discretion, install additional Common Improvements in the Common Areas.

ARTICLE 5. RESTRICTIONS ON USE AND OCCUPANCY

5.1 Permitted Uses

Each Lot shall be occupied and used only for single family residential purposes and for no other purpose. No trade or business shall be carried on anywhere in the Subdivision, except for (1) the incidental use of a Lot for personal business conducted by mail and telecommunications which does not burden the use of the Subdivision by frequent visits by business service providers or customers, subject to any Rules relating to such burdens, or (2) the sale of Lots, subject to the other provisions of the Prairie Meadow Subdivision Documents and any Rules related thereto, or (3) the establishment of offices by Declarant or its agents for sales of Lots or by the Association for conducting its affairs. The term "residential purposes" includes only those activities necessary for or normally associated with the use and enjoyment of a homesite as a place of residence and limited recreation. No garage or other mobile or accessory structure shall be used for temporary or permanent living or sleeping for family or guests without prior approval of the ACC.

5.2 Connection Between Ownership and Occupancy of Lots

Each Lot must be occupied by its Owner; the Owner's equitable beneficiary; the Owner's tenants, the Owner's shareholder, director, member, partner, employee, trustee or officer; or a member of the Owner's immediate family. For purposes of this section, "immediate family" is limited to parents, grandparents, children, grandchildren, siblings, or in-laws. Notwithstanding the foregoing, an Owner shall be responsible to the Association and each other Owner for any breach of any provision of the Prairie Meadow Subdivision Documents caused by an Occupant. The Association will only need to deal with the Owner and may, but shall not be obligated to, address any breach with the offending Occupant. Any Owner may lease a residence on a Lot for a term of not less than six (6) months. Any lease or rental agreement must be in writing.

5.3 Vehicles

- a) No person shall occupy, park or otherwise use a vehicle so as to block access to a Lot. No vehicle maintenance or lubrication shall be permitted anywhere in the Subdivision except washing of cars in driveways or maintenance performed within a garage.
- b) Owners shall use their best efforts to store vehicles in garages. When more vehicles are actively used by household members, the vehicles shall be parked in driveways and not on the street, except for temporary parking, as later defined. Except for temporary parking as defined later, there shall be no outside storage of boats, trailers, buses, large trucks, campers, inoperable vehicles or other vehicles deemed to be unsightly by Declarant or the Board. Temporary parking of boats and vehicles shall be allowed between April 15th and November 15th of each year and shall be on site no more than a total of 90 days per year or no more than two weeks at a time during such seven (7) month period. The purpose of this provision is to provide an aesthetically pleasing subdivision for all residents. The Board shall use its best efforts to fulfill this purpose for the good of all Owners.

5.4 Waste

Accumulations of waste, litter, excess or unused building materials or trash other than in appropriate receptacles is prohibited, and garbage containers shall be situated only in locations designated by the Association. No incineration of waste is permitted on the Property. Lots shall be kept free of debris during construction of improvements thereon by maintenance of a dumpster on-site. The refuse and garbage receptacles for each occupied home shall be stored in the residence or garage, except for a period of 12 hours prior to and following the scheduled garbage pickup.

5.5 Restricted Dumping

No construction material, grass clippings, rocks or other debris or waste materials shall be dumped by any Owner onto any Lot which is vacant within the Subdivision.

- 5.6 Temporary Structures**
No structure, trailer, tent, shack or barn, temporary or otherwise, shall be placed or maintained on any portion of a Lot or Common Area without written approval of the Board, except for construction trailers maintained by Declarant and its successors and assigns, or the Association.
- 5.7 Quiet Enjoyment**
Each Owner shall have the right to use its property in accordance with this Declaration and applicable law, free from unreasonable interference from any other Owner, Occupant and other invitee. No person shall cause or permit the Common Areas to be used so as to deny any Owner or Occupant the full use of the Common Areas except as permitted by the Association under Section 2.5.
- 5.8 Noxious Activity**
No use or practice shall be allowed in the Subdivision or the Common Areas which is immoral, improper or offensive in the opinion of the Board or which is in violation of the Prairie Meadow Subdivision Documents. By way of example and not limitation, offensive activity shall include excessive amplification of musical instruments and/or audio or audiovisual equipment.
- 5.9 Patios and Balconies**
Patios, decks and balconies of Buildings on Lots shall not be used for storage of any kind, including, but not limited to, the storage of motorcycles, baby carriages, bicycles or wagons.
- 5.10 Signs**
No Owner or Occupant, except Declarant, may erect, post or display posters, signs or advertising material on the Common Areas or at locations within a Lot which are visible from the public streets or Common Areas without the prior written consent of the Board, except that an Owner may within the Unit erect or post a temporary sign of customary and reasonable dimension relating to the open house of a Lot for sale. Where Board consent is sought and obtained, the permitted signs will be erected and maintained in accordance with all ordinances, rules, regulations and conditions applicable thereto. "Signs" as used herein shall be construed and interpreted in the broadest possible sense and shall include any placard, posters or other such devices as may be affixed to the interior of any exterior windows so as to be visible from the exterior of the Building.
- 5.11 Environmental Matters**
Each Owner and Occupant shall comply with all applicable Rules, governmental statutes, ordinances, regulations or rules relating to the storage, transport and release to, from, on or in such Lot of any hazardous substances, pollutants or contaminants. Each Owner and Occupant shall comply with the Environmental Declaration, Covenants and Restrictions recorded against the Property

5.12 Pets

No animals, livestock, reptiles, poultry, or birds of any kind shall be raised, bred or kept within the Subdivision, except as allowed by City ordinance. No animals within the Subdivision shall be kept, bred or maintained for any commercial purposes. No pet shall be permitted which causes an unreasonable disturbance as determined by the Board, at the Board's sole discretion. The Board shall establish and enforce rules and regulations regarding pets, which shall be followed by all owners that keep pets. The Board may order the removal of any pet at any time in its sole discretion after notice and a hearing if such pet is or becomes offensive, a nuisance or harmful in any way to the Subdivision or those occupying or owning therein. The Association may charge a fee of any pet owner to cover the Association's administrative or enforcement costs. All pets shall be housed indoors and, if allowed outdoors, shall be kept on a leash unless the Architectural Control Committee has approved of a dog kennel as provided herein. Any pet excrement in portions of the Subdivision other than the pet owner's Lot shall be removed immediately by the Occupant of the residence in which the pet resides. A violation of the provisions of this paragraph shall subject the Lot Owner responsible for such violation to additional special assessments by the Board for the enforcement costs, including but not limited to reasonable attorneys' fees incurred by the Association incident to the enforcement of this paragraph and the rules and regulations established by the Board.

ARTICLE 6. ARCHITECTURAL CONTROL

6.1 Architectural Control Committee

Declarant shall establish an Architectural Control Committee ("ACC"), related to the Association as provided herein, which shall consist of the Board. One or more Committee members may delegate their Committee duties to any one or more of the other Committee members. Buildings and other improvements installed by Declarant, or existing on the date hereof, shall not be subject to any of the terms and conditions contained in this Article 6.

6.2 Prior Approval for Improvements

Prior to the commencement of any of the activities listed below, the Owner(s) of the Lot shall submit to the ACC two (2) copies of a sketch or survey ("Drawings") of the affected Lot prepared by a licensed surveyor, engineer, architect or designer:

- a) The construction of any Building or other improvements on any Lot, or the reconstruction thereof following a casualty loss thereto, or
- b) The demolition of any Building or other improvements on any portion or portions of a Lot, or
- c) The painting, decoration or alteration of the exterior of any Building or other improvement on a Lot, or

- d) The installation of any awning, enclosure, hot tub, deck, garden, swimming pool, grading, mailboxes, fixed grill, fences or other landscape features on any such property.

6.3 Prior Approval for Changes

If after the completion of any approved improvements to a Lot, the Owner thereof desires to construct any additional improvements to the Lot or to substantially alter the then existing improvements or the grade of the affected Lot, the Owner shall comply with the provisions of Section 6.2 above. A proposed alteration will be deemed substantial if it affects the location or exterior appearance of the prior approved improvements.

6.4 Review and Approval Process

None of the activities listed above in Section 6.2 shall take place without the prior written or deemed approval by the ACC of the Drawings for any such proposed activity, except if the activity is the repair or replacement of previously approved exterior features with features that are identical or if the action is the repainting of an exterior surface with paint of the same color.

a) The Drawings shall include the following:

- 1) the location, size, elevations and type of Building(s) and other improvements, including, but not limited to, homes, garages and fences or other matters proposed to be erected or reconstructed on such property,
- 2) detailed plans and specifications for construction or reconstruction, including building material, type and color and plans to screen the demolition, construction or reconstruction from view, and
- 3) the proposed landscaping.

b) Standards and Procedural Matters of Consideration for Approval

- 1) The ACC shall review and consider any Drawings submitted to the ACC provided that any fees imposed for ACC review have been paid by the Owner(s). In considering the Drawings, the ACC shall consider whether all of the proposed activities proposed in such Drawings comply with the terms of this Declaration and the City ordinances and in the ACC's sole opinion, do not detract from or depreciate any portion of the Property, even if the Drawings otherwise do not breach any other standard set forth in this Declaration. The ACC may approve Drawings (absolutely or conditionally) or may object to Drawings (absolutely or conditionally). The ACC may not disapprove of any reconstruction of any Building or other improvements on any portion or portions of such property following a casualty loss thereto.
- 2) If the ACC fails to approve or object to the Drawings within sixty (60) days after submittal of the complete Drawings and payment of any review fees to the ACC, the Drawings shall be deemed approved as submitted. If the ACC objects to Drawings in whole or in part for any reason, the

submitting Owner shall thereafter resubmit Drawings to the ACC with such revisions as are required. Each time an Owner so submits the Drawings, the ACC shall have the right to approve or object to the Drawings within sixty (60) days after the submittal of the complete revised Drawings and the payment of any additional review fees to the ACC.

- 3) Following the ACC's approval of the Drawings, the improvements described therein shall be developed strictly in accordance with the approved Drawings. If the approved improvements are not completed within one (1) year of their initial approval, then such approval shall be deemed withdrawn and the same or different Drawings required to be submitted or resubmitted, as the case may be. The ACC may, in its discretion, extend the withdrawal period by up to an additional 6 months if it reasonably determines that the delay has been primarily caused by factors outside of the control of the Owner.

6.5 Separate City Approval

Matters which require approval of the ACC may also require approval of the City. Obtaining approval from the ACC and from the City is solely the responsibility of the Owner desiring approval. Approval of Drawings by the ACC shall not be deemed approval by the City and approval by the City shall not be deemed approval by the ACC.

6.6 Procedures and Budget

The ACC may set its own operating procedures consistent with this Declaration. The costs of operating the ACC shall be assessed by the Association as common expenses, except as permitted below. The ACC may, but need not require the payment of a review fee by an applicant Owner in connection with the submittal and review of any Drawings. The ACC may engage and employ consultants (e.g., architects, engineers or attorneys) either on a general or on a case-by-case basis, and the costs thereof may be charged to an applicant Owner. The members of the ACC shall not receive any compensation for serving on the ACC but may be reimbursed for expenses incurred in performing their duties. All funds relating to the ACC shall be handled by the treasurer of the Association.

6.7 Uniformity Standards; Waiver

The ACC may adopt additional written standards of uniformity, setback, grading, landscaping, basements, roofing, or exterior, whether generally or for certain types of improvements. The ACC may waive any such standard which it has adopted, may waive any standard contained herein, and may waive any floor area requirements by up to 10% so long as the reduction does not exceed the minimums provided by the City of West Bend Zoning Ordinance. The ACC may in its discretion also permit comparable or superior construction materials as substitutes for those required in this Declaration. Any such waiver or approval must be express and in writing. The ACC may enforce any standard even if it has, expressly or by acquiescence, permitted previous deviations from such standard. Any variance granted hereunder may be conditioned, and may be permanent or time-limited (and if not expressly time limited will be deemed to be

effective for so long as the use of such property is not materially altered). The ACC may waive any standard even in the absence of an "unnecessary hardship"; those judicially determined standards for granting variances under zoning regulations shall not apply to the ACC.

6.8 Indemnification

Each member or former member of the ACC, together with the personal representatives and heirs of each such person, shall be indemnified by the Association against all loss, costs, damages and expenses, including reasonable attorneys' fees, asserted against, incurred by, or imposed in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which such person is made or threatened to be made a party by reason of service as a member thereof, except as to matters resulting in a final determination of negligence or willful misconduct on the part of such member. In the event of a settlement of such proceeding, this indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of negligence or willful misconduct in the such person's performance as a member in the matter involved. This right of indemnification shall be in addition to all other rights and defenses. All liability, loss, damage, costs and expense incurred or suffered by the Association in connection with this indemnification shall be a common expense. Nothing herein shall be deemed an indemnification of such person with respect to such person's status as an Owner, Occupant or otherwise.

6.9 Architectural Requirements & Guidelines

a) Minimum Square Feet

Only one single family home may be constructed on each Lot. Homes shall have the following minimum sizes excluding basements, attics, porches, garages, patios, and similar additions into the calculations.

1 Story:	1600 Square Feet
More than 1 Story:	1800 Square Feet

For purposes hereof, "more than 1 story" includes homes referred to as one and a half story, two story, split-level or tri-level.

b) Lot Setbacks

Front Yard:	25'
Rear Yard:	20'
Side Yard:	6' with a minimum sum of side yards being 14'

c) Diversity of Model Type

Homes adjacent to, directly across from, or in the immediate vicinity of each other can not be exactly the same or so similar as to be monotonous or aesthetically displeasing. The ACC shall be acting reasonably if it does not

approve the Drawings for a residence because another residence in close proximity would be too similar in appearance.

d) Basements

The ACC shall be acting reasonably if it requires portions of basement walls to be exposed on Lots with significant grades to allow for a more natural transition between residences. Any such exposed basement or foundation walls shall be covered with material consistent with the overall architecture of the residence.

e) Garage

Each home on a Lot is required to have a minimum 2-car garage attached to the home. The garage must be a minimum of 480 square feet.

Garages must be constructed at the time of construction of the home and all exterior features must be completed prior to occupancy of the residence.

f) Driveway

Driveways shall be paved within (12) months of Owner's receipt of an occupancy permit. The driveway must be paved with concrete.

All driveways are to be constructed at least three (3) feet from the Lot boundary lines, and each Lot is restricted to only one (1) access point to the street.

No driveway or parking area is permitted within the vision triangles which are located at all street intersections within the Subdivision. Refer to the City Ordinances to determine the size of the vision triangles.

g) Siding

The exterior siding of a home may be made of materials such as cedar, fiber cement, maintenance free aluminum or vinyl siding.

A minimum of 20% of the front façade of each home shall consist of brick or stone material. The ACC at its discretion may require more than 20% brick or stone material on the front façade of each home to ensure that the home has a high quality of aesthetics.

h) Windows

Each home is required to use shutters or wide window trim (rough sawn cedar or aluminum wrapped) on every window. Whichever shutter or window trim materials are used on the front façade of the home, then such materials must be used on the side facades and rear façade of the home to maintain architectural consistency.

Window grids are required on all windows, and the style of windows used on the front façade of the home is the style of windows that is required on the side facades and rear façade of the home to maintain architectural consistency.

There shall be no windowless elevations.

i) Patio Doors

Each home is required to use wide patio door trim (rough sawn cedar or aluminum wrapped) on every patio door. Whichever trim is used as the window trim is required to be used as the patio door trim.

j) Corner Boards

Each home is required to use rough sawn cedar or aluminum wrapped corner boards on all corners of the home. The type of corner boards that are used on the front façade of the home must be used on the side facades and rear façade of the home to maintain architectural consistency..

k) Aluminum Wrapped Exterior

The exterior of the home may have aluminum-clad soffit, fascia, frieze boards, gable vent trim, entry door frame trim, overhead door jamb/trim, box windows, fixture blocks and/or aluminum porch columns.

l) Roof

A residence shall have a roof of architectural grade dimensional shingles.

Initial roof color is restricted to Driftwood. In the event that the manufacturer is changed or the Driftwood color is no longer available it will become the responsibility of the ACC to choose a comparable color to replace the original color.

Each home must have a minimum roof pitch ratio of 8:12 on the main body of the roof. Roof pitches are subject to ACC approval and may be modified for structural or aesthetic purposes.

m) Mailbox

Each Lot Owner is required to install and maintain a uniform mailbox and mailbox support post in a style, size, color and material determined by the ACC. The mailbox will be supplied and installed by the builder.

The location of mailboxes must be consistent on every Lot.

Each owner shall maintain its mailbox in good condition and working order.

n) Yard Lamp

Yard Lamps are not required.

o) Fences

All fencing must be approved by the ACC prior to installation. The ACC shall make the final determination on what fencing will be permitted, the location of

fencing, and the height of the fencing. In general, no fence erected on any residential Lot shall be higher than four (4) feet from the graded surface of the ground on which it is erected with the exception of privacy fences installed near the home for the purpose of screening views between neighbors from side to side. In this situation the privacy fence shall be no more than six (6) feet from the graded surface of the ground. No chain link fencing shall be permitted.

Fences are not allowed to encroach into electrical easements without permission from WE Energies. Each homeowner is advised to contact WE Energies in the event they want to encroach into an electrical easement to make sure they understand all restrictions and rules regarding such easements.

p) Additions to the Exterior Home

Additions such as sunrooms, enclosures, awnings, or any other similar structures must be approved by the ACC. All future additions are subject to the architectural controls of this document.

All structural additions must be designed by a qualified engineer, architect or designer experienced in residential design.

q) Antennas/Satellite Dishes

No antenna, aerial, satellite dish, cable for television or radio reception which is greater than 24" in diameter shall be erected or installed on any roof or any other portion of a Building or on the unimproved portions of a Lot, except as erected or installed by Declarant, the Association, or any individual Owner with written approval by the ACC. Notwithstanding the foregoing, no antenna, aerial, satellite dish or cable for television or radio reception shall be installed on the front elevation of any Building on a Lot. Any satellite dish approved by the ACC shall be the smallest sized satellite dish available and shall be installed near the rear of the home. In every case, the antenna, aerial, satellite dish, cable for television or radio reception must be in compliance with City ordinances.

r) Clotheslines

Clotheslines may be installed and/or used on a Lot provided the clothesline installation is approved by the ACC. Any clothesline allowed on a Lot shall be limited to portable or retractable lines and shall be limited to the rear yard of the Lot.

s) Pools

No above ground swimming pools shall be installed. In-ground swimming pools may be installed on a Lot only with the approval of the ACC, which will be acting reasonably if it does not approve an in-ground swimming pool which is not completely enclosed by a secure wall or fence of a minimum of four (4) foot elevation, with a self closing or self latching gate or door (at the top of such gate or door). There must be an unobstructed area of at least four (4) feet between the fence and the swimming pool.

- t) **Walkways**
All walks leading up to the front door must be paved with a hard surface such as concrete, stamped concrete, brick or flagstone. Asphalt walks are not allowed.
- u) **Decks**
Decks must be located to the rear of the home.

The height of the deck is limited to the ground level finished floor line on single story homes and to the second story finished floor line on two story homes.

Decks may be constructed of treated wood as long as the material is in harmony with the adjacent home. Decks may have a clear or tinted preservative stain applied to them or be left to weather naturally. Paint is not permitted on the walking surface of the deck, but can be applied to hand railings and all other deck surfaces.
- v) **Patios**
Patios must be constructed with a hard surface material such as concrete, stamped concrete, brick pavers, flagstone or similar materials as long as the material is in harmony with the home.
- w) **Fixed Grills**
All fixed grills must be approved by the ACC. Permanent grills should be placed behind the rear elevation of the home and should not be placed within ten (10) feet of the side and rear property lines.
- x) **Dog Kennels**
Dog kennels must be located immediately adjacent to the home in the rear yard of the Lot and must be approved by the ACC prior to construction. The ACC may condition any approval for a dog kennel by requiring the appropriate screening of the dog kennel.
- y) **Utilities**
All utilities must be installed underground.
- z) **Solar Collectors**
No exterior active solar collectors shall be erected, installed or used unless presented in drawings and approved by the ACC.
- aa) **Accessory Structures/Sheds**
No accessory structures or sheds of any kind shall be permitted.

6.10 Landscaping Requirements & Guidelines

- a) **Existing Vegetation**
No existing live tree with a diameter of four inches or more, at a height of four feet above the ground shall be cut down, destroyed, mutilated, moved, or disfigured without the approval of the ACC.
- b) **Grading**
Declarant and the City of West Bend have agreed to a certain Storm Water Management Plans and Master Grading Plans. Each Lot Owner shall conform to the Storm Water Management Plan and Master Grading Plan and shall not alter the grades established in such plans. In the event of a conflict between any proposed Drawings and the Storm Water Management Plan or the Master Grading Plan, the Storm Water Management Plan and/or the Master Grading Plan shall control. The Declarant and the City, their agents, employees or independent contractors shall each have the right to enter upon any Lot after giving reasonable notice to the Owner for the purpose of inspection, maintenance, or correction of any drainage condition, and the Owner is responsible for the costs thereof. Owner shall be provided with a written notice of any drainage condition requiring maintenance or correction and given thirty (30) days to cure such condition before the Declarant or City will rectify such condition at Owner's cost.
- c) **Ponds**
No ponds shall be constructed on a Lot without the prior approval of the City. Rain gardens are encouraged to help slow the rates of storm water runoff, but the ACC and the City must first approve them.
- d) **Lawns**
Each homeowner is responsible for planting a lawn within the first twelve (12) months after receipt of the occupancy permit from the City.
- e) **Plantings**
Plantings (other than turf grass) and landscaping are not allowed within drainage casements without the approval of the City of West Bend.
 - 1) **Foundation Plantings**
At a minimum, each homeowner is encouraged to plant a foundation planting in the front of their home within the first twelve (12) months after receipt of the occupancy permit from the City.
 - 2) **Native Plantings**
Each homeowner is encouraged to use native Wisconsin plants when preparing their yard with landscaping. At a minimum the invasive species listed in the "Living with Nature" handbook provided to each homeowner at the time of sale must be avoided.

3) **Shade Trees**

Each homeowner is responsible for planting one (1) shade tree in the front yard of the Lot. The trees must be selected from the approved list attached to this document as Exhibit B. The trees must be planted within the first twelve (12) months after receipt of the occupancy permit from the City.

f) **Vision Triangles**

There shall be no planting of perennials, shrubs, or trees within the vision triangles located at the intersections of all streets within the Subdivision that exceed a height of twenty-four (24) inches. Refer to the City Ordinances to determine the size of the vision triangles.

g) **Retaining Walls**

All retaining walls must be approved by the ACC.

Retaining walls are to be built out of boulders or manufactured stone products. Railroad ties, sawn timbers or any other wood product are prohibited from use as retaining wall structure materials.

h) **Maintenance**

Each Lot Owner is responsible for keeping their Lot free from debris and weeds prior to the planting of grass on the Lot.

Until grass is planted on each Lot, the Lot Owner shall be responsible for compliance with the City of West Bend's Weed Control Ordinance.

Each homeowner is responsible for keeping the lawn and landscaping in their yard in good maintenance. Should the landscaping be left to grow wild as to become a nuisance or an eye sore, the ACC retains the right to remedy the nuisance and assess the costs back to the homeowner. Owner shall be provided with written notice of situation and will be afforded fifteen (15) days to cure such condition before the ACC can take action.

ARTICLE 7. INSURANCE

7.1 Association Insurance

The Association shall obtain and maintain comprehensive general public liability insurance for occurrences on the Common Areas (including areas which are included in such definition by virtue of easements granted herein) and with respect to Common Improvements not in the Common Areas, all-risk casualty insurance coverage on all Common Improvements, and such other policies and/or coverages as the Board deems necessary or advisable.

- 7.2 Coverage of Association Insurance**
The casualty insurance coverage shall be in an amount equal to the maximum insurable replacement value, with an "agreed amount" and a "replacement cost" endorsement, without deduction or allowance for depreciation. This coverage amount shall be annually reviewed and shall insure against loss or damage by fire and other hazards as commonly covered by a standard extended coverage endorsement and such other hazards as customarily covered with respect to buildings similar in construction, location and use. Comprehensive general liability coverage shall be in such amounts as the Board determines annually, but not less than \$1,000,000 per occurrence.
- 7.3 Proceeds**
Association Insurance proceeds for casualty loss shall be for the benefit of the Association in order to finance construction of damaged Common Areas or Common Improvements. Liability coverage and other insurance proceeds shall be applied as the Association directs.
- 7.4 Cost**
All premiums for Association Insurance and other insurance obtained by the Association shall be a common expense.
- 7.5 Waiver**
The Association and, by acceptance of a conveyance to a Lot or Outlot or the use thereof, or any portion thereof or interest therein, each Owner or Occupant acting both for themselves and for their respective insurers, waive any claim it or they may have against the other for any loss insured under any policy obtained by either to the extent of insurance proceeds actually received, however the loss is caused, including such losses as may be due to the negligence of the other party, its agents or employees. All policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to be effective if the existence thereof precludes the Association from obtaining any policy of insurance at a reasonable and customary rate.
- 7.6 Acts Affecting Insurance**
No Owner or Occupant shall commit or permit any violation of covenants or agreements contained in any of the Association Insurance, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (a) result in termination of any such policies, (b) adversely affect the right of recovery thereunder, (c) result in reputable insurance companies refusing to provide such insurance, or (d) result in an increase in the insurance rate or premium over the premium which would have been charged in the absence of such violation or condition, unless, in the case of such increase, the Owner or Occupant responsible for such increase shall pay the same. If the rate of premium payable with respect to the Association Insurance shall be increased by reason of, (1) the size, design or composition of a Building, (2) anything done or kept in a property subject to this Declaration, or (3) the failure of an Owner or Occupant to comply with Association Insurance requirements, or (4) the failure of any such Owner or Occupant to comply with this Declaration or the Bylaws, then the particular Owner or Occupant shall reimburse the Associations for the resulting

additional premiums. The Association reimbursement right is without prejudice to any other Association remedy, and may be enforced by special assessment against the particular property involved.

7.7 Exclusions From Coverage

Association Insurance coverage shall exclude (a) coverage on any residence or personal property located within or pertaining to the exclusive use of an Owner except to the extent included as a standard coverage in the policy of Association Insurance; and (b) liability coverage on an Owner or Occupant, its guests, invitee, employees or tenants, arising out of any occurrences within a Lot and/or relating in any way to an Owner's or Occupant's personal property. It is the sole responsibility of each Owner or Occupant to obtain such insurance coverages as are excluded from Association Insurance.

ARTICLE 8. AMENDMENT OF DECLARATION

8.1 General

This Declaration and all terms and conditions hereof shall constitute covenants and restrictions running with the Property forever, and shall be binding upon all persons claiming an interest in a Lot or any portion of the Property. Until all Lots subject to this Declaration are subject to an occupancy permit, subject to Declarant's reserved rights, this Declaration may be amended by recording a written instrument executed by or on behalf of the Owners of Lots having at least seventy percent (70%) of the total votes allocated to Lots and Declarant Lots, of which one vote must be that of the Declarant. After all Lots subject to this Declaration have been sold by Declarant, this Declaration may be amended by recording an instrument executed by or on behalf of the Owners of at least seventy-five (75%) of the Lots subject hereto. Each Owner shall have the right to cast one vote for each Lot owned by that Owner. Declarant shall have three (3) votes for each of the Declarant Lots it owns. In addition to the amendment requirements stated above, any amendment must be approved by at least 51% of the Mortgagees.

8.2 Procedures

Amendments shall be prepared and executed by the president of the Association and shall become effective when recorded in the Register's Office. No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded.

ARTICLE 9. RIGHTS OF MORTGAGE HOLDERS

9.1 Notice

Any Mortgage holder, insurer or guarantor of a Mortgage on a Lot who submits a written request to the Association, identifying the name and address of such holder, insurer or guarantor and the property involved, will be entitled to timely written notice of:

- (a) Any thirty (30) day delinquency in the payment of assessments owed by the Owner of the property on which it holds a Mortgage or any breach of the provisions of any of the Prairie Meadow Subdivision Documents which is not cured by such Owner within thirty (30) days of such Owner's receipt of notice of such breach;
- (b) A lapse, cancellation or material modification of any Association Insurance; and
- (c) Any proposed action that requires the consent of a Mortgage holder as specified in Article 8.

9.2 Mortgagee Acquisition of Lot

A Mortgagee acquiring title to a Lot pursuant to remedies provided in its Mortgage or by a deed in lieu of foreclosure following an Owner's default under the Mortgage shall not be liable for such property's unpaid assessments under this Declaration accruing prior to the Mortgagee's acquisition of title to such property (except to the extent unpaid assessments are included in subsequent budgets generally).

ARTICLE 10. RIGHTS OF DECLARANT

10.1 Reserved Rights

Pending the sale of all Lots by Declarant, Declarant:

- (a) may use the Outlots, and any unsold Lots in any manner as may facilitate the sale of Lots including, but not limited to, maintaining a sales and/or rental office or offices, models and signs and/or showing the Lots. Declarant may from time to time also delegate such rights (on a non-exclusive basis and subject to such conditions as Declarant may impose) to persons desiring to construct Buildings on particular Lots as model homes. In delegating such rights to other persons, Declarant's delegates shall not have the right, without Declarant's express written consent, to locate a general office operation in any such model home, although use of a model home to facilitate sales of Lots or sales of Buildings on Lots may be permitted so long as that (1) once a model home is used as a residence for an Occupant, it may not thereafter be used as a "model home"; and (2) construction materials shall not be delivered to or stored at a model home, except for construction of such model home.
- (b) shall have the right to (1) grant easements upon, over, through and across the Lots (limited to the 10 feet area adjacent to each Lot line), which rights shall expire one year after conveyance of a Lot by Declarant), and the Outlots as may be required in Declarant's opinion for furnishing any kind of utility services, and maintenance and replacement thereof, or for drainage or other public purposes including, but not limited to, cable television or master antenna service, which easements may be granted to itself or its nominee and as may be necessary for excavation and construction of any Buildings and (2) grant easements upon, over,

through or across the Common Areas for ingress and egress and maintenance and replacement thereof, to and from, and within, the Property and other real property adjacent to it.

- (c) shall have the right to veto any proposed amendment to this Declaration for any reason or no reason, in which case it shall not be deemed approved or effective.
- (d) may apply the covenants contained in this Declaration to future stages of the development of Prairie Meadow. The future stages of the development of Prairie Meadow shall only include lands which are adjacent to the real estate which is or becomes subject to this Declaration or any additional supplemental declaration. The future stages shall become subject to this Declaration by the recording of an amendment to this Declaration with the Register of Deeds for Washington County, Wisconsin. Except with respect to future stages of the development of Prairie Meadow, such an amendment to this Declaration shall not revoke, modify or add to the restrictions and covenants contained herein. Notwithstanding anything contained within to the contrary, such an amendment as referred to in this Section, shall only require the consent, approval and signature of the Declarant.

ARTICLE 11. REMEDIES FOR VIOLATION BY OWNER

11.1 General Remedies

If any Owner or Occupant fails to comply with this Declaration, the Bylaws, or the Rules, such Owner or Occupant shall be liable for damages, subject to injunctive relief including an order requiring the removal at the Owner's expense of Buildings constructed without ACC approval, subject to any other remedy provided by the Bylaws, or all of the above, as a result of such noncompliance. The Association or, in a proper case, an aggrieved Owner, may bring an action because of such noncompliance. The "prevailing party" in any action brought to enforce this Declaration or any term or condition hereof shall be entitled to recover from the other party the prevailing party's costs incurred in enforcing this Agreement, including its reasonable attorneys' fees, in addition to any other relief to which the prevailing party is entitled. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment.

11.2 Owner or Occupant Violation; Association Right to Cure

In addition to any other remedies provided herein, if any Owner or Occupant fails to comply with this Declaration, the Bylaws or the Rules, which failure continues for a period of fifteen (15) days following written notice from the Association, the Association shall have the right, but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the Association deems necessary or appropriate, and if an action or other proceeding is commenced in connection therewith, using the fund established in Section 3.7. Expenses incurred therefor by the Association shall be assessed against the Owner or Occupant and shall be subject to all rights and remedies reserved under this Declaration with respect to collection, expense,

late payment penalties or interest, filing of a lien and/or foreclosure as reserved at Article 3 of this Declaration. Once the Association has taken such an action, it shall not be obligated to take any other or further action with respect to the same, similar or subsequent failure by the same or a different Owner or Occupant.

ARTICLE 12. EASEMENTS

12.1 Right of Entry

A right of entry to each Lot, Common Area or Outlot is reserved to the Association to service utility installations located on, in or under such Lot, Common Area or Outlot provided request for entry is made in advance and such entry is limited in scope so as to extend only as is reasonably necessary to service such utility installations. In case of emergency, entry by the Association onto any such Lot, Common Area or Outlot may be made immediately, whether the Owner or Occupant of such Lot, Common Area or Outlot is or is not present and without liability of the Association or its agents if such entry is necessary for the safety or welfare of persons or property. Any damage or loss caused as a result of such emergency entry shall be the sole expense of the Owner or Occupant if, in the reasonable judgment of those authorizing the entry, such entry was for emergency purposes.

12.2 Drainage

An easement is reserved to Declarant, the Association and the City over Lots and Outlots for the installation of drainage tile, swales, streams or other storm sewer and drainage system elements as shown on the Plat or in any Storm Water Management Plan referenced in Section 6.10.

ARTICLE 13. TERMINATION

13.1 Termination

This Declaration shall be in effect for a period of 25 years and automatically renewed for successive periods of 10 years each, unless terminated at the end of the original or any extended term by: (1) Declarant (if during the period of Declarant control of the Association), or (2) the written consent of the owners of at least 90% of the aggregate Lots provided that no vote shall effect an amendment to or termination of any provision hereof conferring on or reserving a special right or easement to Declarant without the express written consent of Declarant, as appropriate. Voluntary termination of this Declaration must be express and shall be effective upon recording a written instrument to such effect in the Register's Office.

ARTICLE 14. CONSTRUCTION AND EFFECT

14.1 Number and Gender

Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

14.2 Including

Whenever used herein, the term "including" preceding a list of one or more items shall indicate that the list contains examples of a general principle and is not intended as an exhaustive listing.

14.3 Captions

The captions and article and section headings in this Declaration are intended for convenience and reference only and in no way define or limit the scope or intent of the various provisions hereof.

14.4 Severability

If any portion of this Declaration or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby. The remainder of this Declaration shall be valid, and enforced, to the fullest extent permitted by law.

14.5 Remedies

All remedies herein are cumulative.

14.6 Waivers

Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. A waiver, consent or approval to any one matter shall not be deemed a waiver, consent or approval to any subsequent matter whether similar or not.

14.7 Assignment of Declarant's Rights

Declarant may from time to time assign any or all of the rights and benefits conferred on or reserved herein for Declarant in its status as such (as opposed to those rights or benefits conferred on or reserved for all Owners or groups thereof), by an instrument in writing specifically identifying the rights and benefits so assigned which is recorded in the Register's Office.

14.8 Other Regulation

Nothing herein shall preclude or restrict Declarant recording other covenants, conditions or restrictions which further regulate portions of the Subdivision which Declarant owns at the time of recordation.

14.9 Adjacent Property

Certain real estate located adjacent to the Subdivision is used as by a business selling landscape materials with a topsoil screening operation as of the date of this Declaration. Each Owner acknowledges receipt of notice that such business produces noise and operates equipment in its normal operating procedure.

14.10 Zoning Code

Nothing contained herein shall be construed to reduce, modify or alter the minimum requirements set forth in the present zoning ordinance, building code or subdivision control ordinance of the City, except as specifically modified in writing by the City of, within the framework of the planned unit development portion of the present zoning ordinance.

14.11 Other Owners

The undersigned Owners of Lots 94, 95, 97, 98, 99, and 136 join in this Declaration to submit their Lots to the covenants and restrictions contained herein.

Executed at Waukesha, Wisconsin, on the 11th day of February, 2003.

BIELINSKI HOLDINGS, LLC

By: [Signature]
Frank Bielinski, Manager

By: [Signature]
Harry Bielinski, Manager

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 11th day of Feb, 2003, the above named Frank Bielinski and Harry Bielinski, as Managers of Bielinski Holdings, LLC, to me known to be the persons who executed the foregoing instrument in such capacities and acknowledged the same.

This instrument was drafted by:
Timothy J. Voelter, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, #3300
Milwaukee, Wisconsin 53202



Owner(s) of Lot 98 of Prairie Meadow Subdivision.

LANCE J KEENE
Name: John J Keene

Name: _____

MARILYN M. KEENE
Name: Marilyn M. Keene

Name: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 6 day of FEBRUARY, 2003, the above named LANCE J. KEENE + MARILYN M. KEENE to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.



John P. Ochtrup
Notary Public, State of Wisconsin
My commission: 1-9-05

Owner(s) of Lot 94 of Prairie Meadow Subdivision.

Allen J. Skibinski
Name: Allen J. Skibinski

Carrie L. Skibinski
Name: Carrie L. Skibinski

Name: _____

Name: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 12 day of Feb, 2003, the above named Allen & Carrie Skibinski to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.



Jessica Martin
Jessica Martin
Notary Public, State of Wisconsin
My commission: 2/12/06

Owner(s) of Lot 97 of Prairie Meadow Subdivision.

Name: _____

Margaret S Stelzer
Name: Margaret S Stelzer

Name: _____

Scott Stelzer
Name: Scott Stelzer

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 12 day of Feb 2005 the above named
Margaret & Scott Stelzer to be the person(s)
who executed the foregoing instrument and acknowledged the same.

Barbara M. Glinney
Notary Public, State of Wisconsin
My commission expires 5-1-2005


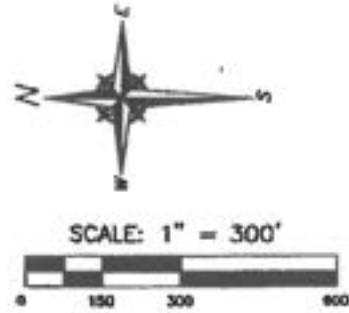
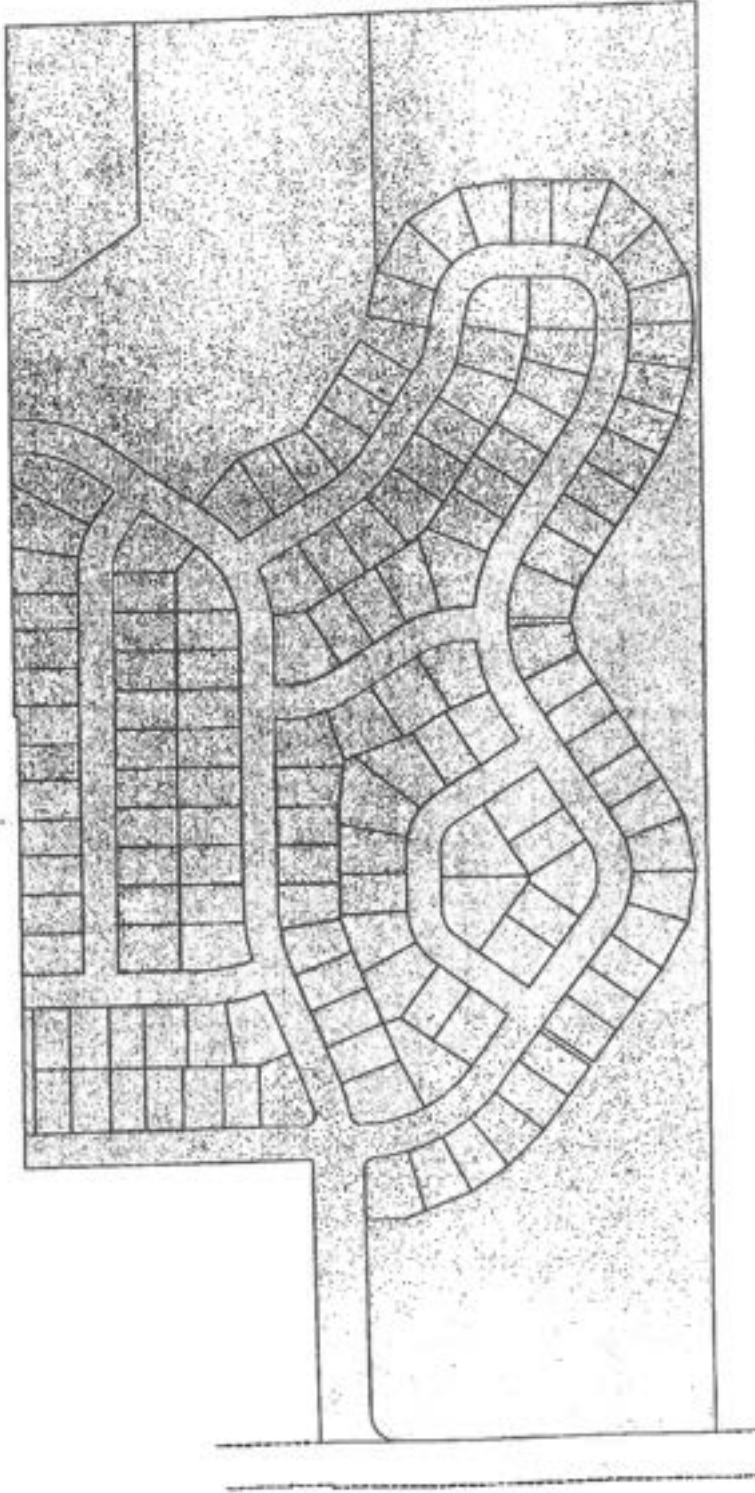


EXHIBIT A

BEING ALL OF PRAIRIE MEADOW LOCATED IN THE NW 1/4 OF THE SW 1/4 OF SEC. 30 AND
ALL OF THE NE 1/4 OF THE SW 1/4 OF SECTION 30, T11N., R20E., CITY OF WEST BEND,
WASHINGTON COUNTY, WISCONSIN



PROJECT NO. 11869

Exhibit B
Approved Tree List

Large Trees

Red Maple
Sugar Maple
White Ash
Green Ash
Ginkgo Biloba (male)
Kentucky Coffeetree
White Oak
Burr Oak
Red Oak
Little Leaf Linden
Redmond Linden
Horse Chestnut
River Birch
White Birch
Shagbark Hickory
Northern Catalpa
Common Hackberry

Small Trees

Serviceberry
Hornbeam (Musclewood)
Crabapple Hybrids
Ironwood (Hop Hornbeam)
Flowering Pear
Japanese Tree Lilac
Pagoda Dogwood
Cockspur Hawthorn
Washington Hawthorn

Trees to Avoid (Invasive Non-Native Species)

Black Locust
Norway Maple
Amur Maple
Siberian Peashrub
Russian Olive
Tatarian Honeysuckle

Many cultivars exist for this species. Cultivars are used for variety among species and improved performance through characteristics: i.e. shape, structure, growth habit, insect/disease resistance, absence/persistence of fruit and color.

DOC#: 978980



Document Number

**DECLARATION OF
ENVIRONMENTAL
COVENANTS, CONDITIONS
AND RESTRICTIONS OF
PRAIRIE MEADOW
SUBDIVISION**

Document Title

Recorded
MAR. 10, 2003 AT 03:00PM
SHARON A. MARTIN
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Amount: \$47.00

Recording Area

Name and Return Address:

Timothy J. Voeller, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, Wisconsin 53202

47-A

Tax Parcel No.

Handwritten initials or mark

DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS

For

PRAIRIE MEADOW SUBDIVISION

THIS DECLARATION OF ENVIRONMENTAL COVENANTS AND RESTRICTIONS (the "Environmental Deed Restrictions"), by Bielinski Holdings, LLC., a Wisconsin limited liability company ("Declarant"), dated as of the 11th day of February, 2003, sets forth the conditions, restrictions, easements, reservations and rights that shall apply to the lots (singularly the "Lot", collectively the "Lots") listed on the recorded plat for property owned by Declarant for purposes of the Prairie Meadow Subdivision (as described in the legal description attached hereto as Exhibit A), in the City of West Bend, Washington County, Wisconsin.

WHEREAS, Declarant desires to create a residential conservation community called Prairie Meadow with natural open space areas held in common for all residents, where residents appreciate and care for the natural environment, and where the unique natural, ecological, and scenic resources are maintained for the benefit of the Owners (as hereinafter defined) and the community; and

WHEREAS, Declarant will prepare a uniform comprehensive plan to manage and protect the Open Space Areas, as herein defined;

NOW THEREFORE, Declarant hereby declares that the following conditions, restrictions, easements, reservations and rights which affect the Open Space Areas and each Lot on the Property are necessary to protect the value and desirability of each Owner's property and the Subdivision, and to promote environmentally sound living practices; and further declares that such conditions, restrictions, easements, reservations and rights as set forth in this Declaration shall apply to the Property as stated herein and shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the Property or any portion thereof; all as further set forth below:

ARTICLE 1. DEFINITIONS

- 1.1 **Bio-Filtration Area(s)** means the area(s) of the Property designed or designated for stormwater management and water quality enhancement and designated as such herein or by Declarant which may include created wetlands, uplands and fringe areas that buffer natural resource areas from developed areas.
- 1.2 **Declarant** means Bielinski Development, Inc. in the role as the entity which declares and imposes these Environmental Covenants and Restrictions on the Property and or its assigns.

- 1.3 **Developer** means Bielinski Development, Inc. in its role as developer of the Prairie Meadow Subdivision and or its assigns.
- 1.4 **Homeowners Association** means the Prairie Meadow Homeowners Association, Inc.
- 1.5 **Improvements** means any and all of the following, regardless of whether permanent or temporary in nature or usage: buildings, outbuildings, sheds, exterior lighting or electric fixtures, antenna including dish receivers and towers, pools, pet kennels, houses or runs, screened or other type porches, patios or gazebos, fences, and Landscaping.
- 1.6 **Landscaping Plan** means the plan for planting, care and maintenance of vegetation, plantings, trees, shrubs and groundcover submitted by Owner for approval by the NRS Committee. The Landscaping Plan may include integration of Native Landscaping, as appropriate to the Lot.
- 1.7 **Landscaping** means the vegetation, plantings, trees, shrubs and groundcover on a Lot, and may, but is not required to include Native Landscaping.
- 1.8 **"Living with Nature" Handbook** means a handbook or set of documents provided to the Owner which describes how to perform environmentally sound land management, including Landscaping and Native Landscaping, in keeping with the General Purpose of this Declaration described in Section 2.1 hereof.
- 1.9 **Lot** means any platted lot or outlot shown on the recorded plat of the Property.
- 1.10 **NRS Committee** means the Natural Resources Stewardship Committee, as further described in Article 3. Its obligations with respect to each Lot, including Open Space Areas, are as follows:
- (a) To review, approve and assure conformity with the Landscaping Plan; and
 - (b) To assure conformity with the Stewardship Plan.
- 1.11 **Native Landscaping** means plantings of indigenous trees, native grasses, shrubs, and herbaceous plants on a Lot using species from wetlands, prairies, savannahs, lakeshores, rivers and other natural resource systems.
- 1.12 **Nature Preserve(s)** means such area(s) of the Property as may be designated herein or by Declarant based on a determination that the ecological and natural resource features are appropriate for protection, restoration, and monitoring.
- 1.13 **Open Space Area(s)** means the Bio-Filtration Area(s), Nature Preserve(s) and Recreational Trail Area(s), individually or together, as defined herein. These areas shall be established by Declarant, initially provided for and maintained by Declarant, and subsequently provided for and maintained by the Open Space Areas Steward, its successor or assignee as set forth in Sections 5.4 and 5.5.

- 1.14 **Open Space Areas Account** means the account established by the Open Space Areas Steward to receive annual assessments, as described in Section 5.5, to be used by the Open Space Areas Steward, its successor or assignee: (i) for the restoration, management and monitoring of the ecology and natural resources in the Open Space Areas, and (ii) to retain a qualified ecologist to advise and assist the NRS Committee as specified in Section 3.2.
- 1.15 **Open Space Areas Steward**, or its successor or assignee, means the entity designated by Declarant to assure restoration, management and monitoring of the ecology and natural resources, in conformity with the Stewardship Plan, of the Open Space Areas of this Subdivision. Such entity shall be either one of the following: (i) governmental entity, or (ii) a nonprofit organization that is exempt from tax under Internal Revenue Code Section 501(c)(3) and that is a "qualified organization" to hold a conservation easement pursuant to Internal Revenue Code Section 170(h)(3).
- 1.16 **Owner** means the person or persons, including any business organization, having the power to convey the fee simple title or land contract vendee's interest to a given Lot.
- 1.17 **Property** means the entire property owned by the Developer for purposes of this Subdivision, regardless of whether it is platted or unplatted, as described in the legal description attached hereto as Exhibit A.
- 1.18 **Recreational Trail Area(s)** means pedestrian and/or bicycle trails on the Property as may be designated herein or by Declarant, and which may be established as either private or public. Pedestrian trails and bicycle trails may be managed according to different management plans appropriate to the surface material used and the adjacent vegetation.
- 1.19 **Stewardship Plan** means the plan created by Declarant which guides the restoration, management and monitoring of the ecology and natural resources in the Subdivision.
- 1.20 **Subdivision** means the Property and Improvements thereon, whether developed in a single or two or more phases, all of which are intended to be subject to this Declaration upon the platting thereof consistent with the provisions of Wis. Stat. Chapter 236.

ARTICLE 2. GENERAL PROVISIONS

- 2.1 **General Purpose.** The express purpose of this Declaration is to assure that the Subdivision will become and remain an attractive community in which the health, integrity and natural beauty of the natural resources and ecological system are protected and enhanced to the benefit of the Subdivision, the Owners, and members of the general public in the surrounding community. This Declaration is made to ensure that the Landscaping and Native Landscaping within the Subdivision, on the Lots and in Open Space Areas, are consistent with that purpose.

- 2.2 **Use Restrictions.** Each Lot and any Improvements located thereon shall be used exclusively for single-family residential purposes in a manner consistent with the General Purpose of this Declaration.
- 2.3 **Phased Development.** The Subdivision may be developed in one or more phases, each of which shall be subject to the terms and conditions of this Declaration. In the event the entire Property is not subject to a single plat of subdivision, when the Developer records the plat of subdivision for a subsequent phase or phases the Developer shall specify on that plat that it is subject to this Declaration. Restoration and management for purposes of protecting and enhancing the natural resources and ecology of the Property may be initiated and completed on a schedule which is different from the schedule for development of the Lots.

ARTICLE 3. NATURAL RESOURCES STEWARDSHIP COMMITTEE

- 3.1 **Committee Composition and Selection.** The Natural Resources Stewardship Committee (NRS Committee) shall be composed of not less than three (3) members. During the time that Developer continues to own any Lots in the Subdivision and the two years immediately following the date of the sale by Developer of the last Lot in the Subdivision the NRS Committee shall consist of five (5) members and the Developer shall appoint all NRS Committee members. Two years after the sale by Developer of the last Lot in the Subdivision owned by Developer, all NRS Committee members except for two (2) members designated by the Developer ("Developer Members") shall tender their resignations, provided that their successors have been designated in accordance with this Section 3.1. The Developer Members shall remain on the NRS Committee and the Developer shall continue to appoint and designate the Developer Members for as long as Developer desires in its sole discretion or for as long as this Declaration is in effect. Upon the resignations of the non-Developer Members, the Open Space Areas Steward shall appoint no more than two (2) and no less than one (1) NRS Committee members to the NRS Committee. Vacancies for the non-Developer Member positions and Developer Members, when vacated by the Developer and for which Developer has notified the Open Space Steward in writing that Developer desires not to designate any further Developer Members, shall be filled by the Open Space Areas Steward. NRS Committee members need not be but may be Owners.

The NRS Committee members initially appointed by Developer are:

- a. Paul Bielinski
 - b. Joseph Harvey
 - c. Robert G. Brownell
 - d. Brian Carney
 - e. Steve Apfelbaum
- 3.2 **NRS Committee Charge and Authority.** The charge of the NRS Committee is to a) approve Landscaping Plans for all Lots, or portions thereof which are within 50 feet of

any specific Open Space Area, and the Landscaping Plans for the Open Space Areas in general; b) monitor and enforce conformity with the Stewardship Plan on all Lots, including Open Space Areas; and c) monitor and enforce conformity with the General Purpose of this Declaration. The NRS Committee is authorized to work with a qualified ecologist retained by the Open Space Areas Steward, its successor or assignee, to be paid from the Open Space Areas Account, to advise and assist the NRS Committee in carrying out its obligations.

3.3 Procedure for NRS Committee Review and Approval.

- (a) An Owner desiring to implement or significantly alter a Landscaping Plan upon a Lot, or portions thereof which are within 50 feet of any specific Open Space Area or upon the Open Space Areas in general shall deliver the Proposed Landscaping Plan, as described in Section 3.4 below, to the NRS Committee for its consideration.
- (b) The NRS Committee shall inform the Owner in writing when the Proposed Landscaping Plan submittal is deemed complete. Within thirty (30) days thereafter, the NRS Committee shall review the Proposed Landscaping Plan, approve, conditionally approve, or reject it, and notify the Owner in writing of the decision. If the NRS Committee does not so notify the Owner within such thirty (30) day period, the Proposed Landscaping Plan shall be deemed approved.
- (c) In carrying out its obligations, the NRS Committee may establish criteria to allow alterations to an approved Landscaping Plan to be implemented without further NRS approval.

3.4 Proposed Landscaping Plan Submittal to NRS Committee.

- (a) The Proposed Landscaping Plan submitted to the NRS Committee shall include the following information: (1) a Landscaping Plan, or proposed alterations to an approved Landscaping Plan, showing proposed plantings, restoration and maintenance plans; and (2) such other relevant plans, specifications, information or detail which the NRS Committee may reasonably request.
- (b) In addition, any Proposed Landscaping Plan related to any Lot which abuts the Bio-Filtration Area or Nature Preserve shall show how the Landscaping and/or Native Landscaping will harmonize with the habitat of that Open Space Area, and shall include means to minimize any adverse impact on and to support ecological and natural resources stewardship of the habitat of that Open Space Area.
- (c) In addition, any Proposed Landscaping Plan related to any Lot which requires special grading, as shown on the master grading plan of the City of West Bend on file in the City engineer's office or as designated by the Developer, shall incorporate such special requirements.

- 3.5 **Standards of Review.** The NRS Committee shall review the Proposed Landscaping Plan for conformity with the elements of the Stewardship Plan applicable to Lots, or portions thereof which are within 50 feet of any specific Open Space Area, the Open Space Areas in general and the requirements of this Declaration. The NRS Committee may approve or conditionally approve the Proposed Landscaping Plan; it may also reject it if a majority of the NRS Committee members, as advised and assisted by any retained professional ecologist, determine it (a) does not conform to the Stewardship Plan; or (b) is otherwise not in conformity with this Declaration.
- 3.6 **Fees.** The Committee, by majority vote, may from time to time adopt or revise a fee schedule that is in addition to any annual fee that is assessed against each lot pursuant to Section 5.5. Such additional fee shall be designed to defray the committee's out-of-pocket costs incurred in connection with its review of Proposed Landscaping Plans.

ARTICLE 4. PROTECTION AND USE OF OPEN SPACE AREAS

- 4.1 **Grant of Easements for Use and Enjoyment of Open Space Areas.** Declarant grants to all Owners easements for the use and enjoyment in, to, over, across and upon the Open Space Areas, subject to the restrictions provided in this Declaration, provided no use shall be made of the Open Space Areas which is inconsistent with the General Purpose of this Declaration. Such inconsistent use include but is not limited to mowing grass, disposing of animal wastes, removing planting or altering vegetation, applying chemicals, or disposing of grass clippings.
- 4.2 **Limitation on Liability for Open Space Areas.** Use of any Open Space Area by Owner or Owner's invitee, guest, tenant, or agent, or by any other person shall be at the risk of the person, and Declarant, its successors or assigns shall not be responsible for any injury, loss or damages, or any claim related to or arising therefrom. Owner agrees to indemnify and hold harmless Declarant, Developer, the Open Space Areas Steward, the Homeowners Association, their successors or assigns for any injury, loss or damage relating to or arising from the use of any Open Space Area(s) by an Owner or an invitee, guest, tenant, or agent of Owner.
- 4.3 **Use of Open Space Areas by Schools to Teach Environmental Stewardship.** Open Space Areas may be used by schools or other educational groups ("Educational Group"). An Educational Group must provide the NRS Committee with a written request for use at least thirty (30) days prior to the requested date of use. Such written request shall state the time, date and reason for requesting such use and shall include in writing, satisfactory evidence of insurance. Further, any Educational Group shall agree to indemnify and hold harmless Declarant, Developer, the Open Space Areas Steward, Homeowners Association, and their successors and assigns, for any and all injury, loss or damage relating to or arising from use of any Open Space Area(s). Declarant, Developer, the Open Space Area Steward, Homeowners Association (either singularly or collectively) reserve the right to refuse admission to any such Educational Group if the use by such

Educational Group would be detrimental to the Open Space Areas or inconsistent with the General Purpose of this Declaration.

- 4.4 **Recreational Trail Area.** Declarant shall use its best efforts to connect the public Recreational Trail Area to any other trails in the vicinity of the Property to allow and provide for greater access to and enjoyment by the Owners.
- 4.5 **Use of Recreational Vehicles Prohibited in Open Space Areas.** No snowmobile, all terrain vehicle (ATV), or similar motorized recreational vehicle may be operated on any Open Space Area, except to the extent the use of any such vehicle is required for maintenance or for the transportation of the physically disabled.
- 4.6 **Commercial and Industrial Activity Prohibited in Open Space Areas.** No commercial or industrial activity may be undertaken on any Open Space Area, nor shall any right of passage across or upon the Property be allowed or granted in conjunction with authorized commercial or industrial activity which could reasonably be expected to interfere in any manner with any Open Space Area(s) as contemplated herein. Use of the public Recreational Trail Area to connect to other public trails is excluded from this prohibition. Nothing herein prohibits development of a community garden(s).
- 4.7 **Drawdown or Pumping of Water.** No Owner may draw water from or pump water into any Open Space Area.
- 4.8 **Grades and Drainage.** Declarant reserves the exclusive right to establish grades and slopes, drainage easements and retention ponds on the Property and to establish the grade for any dwellings erected or placed on the Property. No portion of any Lot shall be filled, graded or regraded without the written consent of Declarant. No Owner may alter the grade or slope of any Lot or change the direction of, obstruct or retard flow of surface water drainage, dig a pond (except for rain gardens to intercept sump pump and gutter runoff), or interfere in any way with the established drainage pattern within the Property unless adequate provision is made for proper drainage and such alteration is first approved in writing by the Declarant until the last Lot owned by Declarant is sold, and thereafter by the NRS Committee.

ARTICLE 5. MAINTENANCE OF LOTS AND OPEN SPACE AREAS

5.1 Maintenance of Lots

- (a) Each Lot shall be maintained by Owner at Owner's sole expense. All Landscaping and Native Landscaping shall be kept in good repair and clean condition, including without limitation, the mowing of lawns, trimming of plants, care for Landscaping and Native Landscaping, repainting and repair of structures, removal of snow and ice from drive and walk areas, repair and/or replacement of drive and walk surfaces, and such other measures necessary to maintain a clean and orderly environment within the Subdivision in accordance with the General

Purpose of this Declaration. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept on a Lot, except in sanitary containers and with no undue accumulation. If any public sidewalk is extended through the Subdivision, each Owner shall at its own expense keep the portion of any such sidewalk which is adjacent to the Owner's Lot free of snow and ice.

- (b) Following reasonable notice to the Owner, duly authorized representatives of the NRS shall have the right to enter an Owner's Lot and take such actions as are necessary to assure compliance with the provisions of this Section 5.1(a) at the Owner's expense. Such right of action by the NRS is separate and independent from, and in addition to, the rights of enforcement set forth in Section 6.2.

- 5.2 **"Living with Nature" Handbook.** The "Living with Nature" Handbook shall be provided to each Owner to assist in understanding and implementing opportunities for environmentally sound management of each Lot.
- 5.3 **Minimization of Fertilizers, Pesticides and Chemicals.** Each Owner shall minimize the use of fertilizers, pesticides, de-icing salts and other chemicals on its Lot in order to avoid or minimize any damage which could be done to Native Landscaping, Landscaping, Open Space Areas, wetlands, streams and other natural resources. Information on alternatives will be included in the "Living with Nature" Handbook provided to each Owner.
- 5.4 **Maintenance of Open Space Areas.** The Open Space Areas shall be maintained by a qualified professional ecological firm or individual hired by Declarant or the Open Space Areas Steward, its successor or assignee (the "Open Space Areas Maintenance Firm"). The contract with the Open Space Areas Maintenance Firm for such services shall run until two years from the date when legal title to the last Lot owned by Developer is transferred by Developer. From that time on, the Open Space Areas Steward, its successor or assignee, shall be responsible for the maintenance of the Open Space Areas and shall retain a qualified professional ecological firm or individual to continue to maintain, manage, monitor, and enhance the Open Space Areas.
- 5.5 **Open Space Areas Assessment.** An annual fee (collectively, hereinafter referred to as the "Annual Fee") shall be assessed against each Lot to pay for the perpetual restoration, maintenance and monitoring of the Open Space Areas. The Annual Fee shall be collected by the Homeowners Association and within ten (10) business days, deposited in the Open Space Areas Account established by the Open Space Areas Steward, its successor or assignee for this purpose. The Annual shall initially be assessed by Declarant according to a formula to be determined for the Subdivision, and subsequently by the Homeowners Association. If the Annual Fee is not paid by an Owner as required, it shall become a lien against the Property and collected pursuant to the Wisconsin Statutes. Any Annual Fee collected pursuant to this Section 5.5 shall be used by the Open Space Areas Steward as provided under Section 1.15.

ARTICLE 6. MISCELLANEOUS

- 6.1 **Term and Amendment.** This Declaration and all terms and conditions hereof shall constitute covenants and restrictions running with the lands described on Exhibit A forever, and shall be binding upon all persons claiming an interest in a Lot or any portion of the Property. Until all Lots subject to this Declaration have been sold by Developer, subject to Developer's reserved rights this Declaration may be amended by recording a written instrument executed by or on behalf of the Owners of at least seventy percent (70%) of the Lots subject to this Declaration, one of which Owners must be Developer. After all Lots subject to this Declaration have been sold by Developer, this Declaration may be amended by recording an instrument executed by or on behalf of the Owners of at least seventy-five percent (75%) of the Lots subject hereto. Each Owner shall have the right to cast one vote for each Lot owned by that Owner. Developer shall have the right to assign, by written assignment recorded in the office of the Register of Deeds for Washington County, Wisconsin, any and all rights specifically reserved to Developer under this Declaration.
- 6.2 **Enforcement.**
- (a) Except as specifically provided in Section 6.2(b) or elsewhere in this Declaration, the NRS Committee shall have the sole right to enforce this Declaration or any NRS Committee order with respect to any Lot, including Open Space Areas, by proceeding in a court of competent jurisdiction against any person or persons to obtain such relief as is deemed appropriate; such relief may include, without limitation, an injunction against any noncompliant Landscaping and the requirement that the Owner remedy same at Owner's sole expense, recovery of damages, or both. In the event of an alleged violation of the terms of this Declaration or any NRS Committee order, the NRS Committee shall give the Owner written notice of the alleged violation and fifteen (15) days in which to cure such violation to the satisfaction of the NRS Committee. In the event the Owner fails to cure, or in the event of alleged violations or other matters not susceptible to cure in such time period, the NRS Committee may initiate appropriate legal action. If damages are awarded by the court, they shall be distributed as follows: first, to pay the costs of the enforcement action, including attorneys fees; second, to the Owner of any Lot found to be uniquely damaged by the violation to remedy or reimburse the Owner for that damage; and third, to the Open Space Areas Account.
- (b) Any Owner aggrieved by an occurrence on another Lot, excluding Open Space Areas, which is alleged to violate this Declaration may file a written petition requesting the NRS Committee to redress such alleged violation. From the date of filing of such petition with the NRS Committee, the NRS Committee shall have thirty (30) days in which to take the action it deems appropriate. Thereafter, in the event the NRS Committee denies the petition or otherwise fails to act thereon to the satisfaction of the petitioner, the petitioner may enforce the terms of this

Declaration by proceeding in a court of competent jurisdiction to obtain such relief as is deemed appropriate, which relief may include, without limitation, an injunction against such alleged violation, recovery of damages, or both.

- (c) Each remedy set forth in this Section 6.2 shall be in addition to all other rights and remedies available at law or equity. The election of one remedy by the NRS Committee shall not constitute the waiver of any other, nor shall any forbearance or failure by the NRS Committee to exercise any right or remedy for any alleged violation be deemed a waiver of such right or remedy, unless a written waiver is issued by the NRS Committee.
- 6.3 Acceptance.** By acceptance of a deed to a Lot within the Property, each Owner shall be deemed to approve and consent to be bound by this Declaration and all terms, conditions and covenants contained herein.
- 6.4 Severability.** Invalidation of any one provision of this Declaration by judgment or order of a court of competent jurisdiction shall not affect any other provision of this Declaration, and all other provisions shall remain in full force and effect.
- 6.5 Nonforfeiture.** A violation of any of the terms, conditions or covenants of this Declaration shall not result in a forfeiture of or reversion of title to any Lot in the Subdivision.
- 6.6 Developer's Reserved Rights.** Developer hereby reserves the right, but is under no obligation to, establish one or more portions of the Property as Bio-Filtration Area(s), Nature Preserve(s), or Recreational Trail Area(s). At such time as chosen by Developer, title to any such Bio-Filtration Area(s), Nature Preserve(s), or Recreational Trail Area(s) (Open Space Areas) shall be conveyed to the Open Space Areas Steward, to hold and to administer the same as set forth in this Declaration and provided in Sections 5.4 and 5.5.
- 6.7 Right and Duties of Declarant.** At such time as chosen by Declarant, all of Declarant's rights, duties, obligations and responsibilities hereunder may be assigned and transferred by Declarant to the Homeowners Association which shall then assume such rights, duties, obligations and responsibilities.
- 6.8 Disclaimer.** Notwithstanding any provision of this Declaration, Developer shall be under no obligation to develop or plat any portion of lands described on Exhibit A which is not platted as of the date of the recording of this Declaration. Developer hereby reserves the right to remove from the provisions of this Declaration any such unplatted lands described on Exhibit A by recording an instrument in the office of the Register of Deeds for Washington County, Wisconsin, describing the lands so removed.
- 6.9 Governing Law.** This Declaration shall be governed by the laws of the State of Wisconsin.

Owner(s) of Lot 97 of Prairie Meadow Subdivision.

Name: _____

Margaret Stelzner
Name: Margaret Stelzner

Name: _____

Scott Stelzner
Name: Scott Stelzner

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 12 day of Feb, 2003, the above named Margaret - Scott Stelzner to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Barbara J. Gilbert
Notary Public, State of Wisconsin
My commission: exp. 5-1-2005



Owner(s) of Lot 95 of Prairie Meadow Subdivision.

Margo J Connors
Name: Margo J Connors

Douglas A. Connors
Name: Douglas A. Connors

Name: _____

Name: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

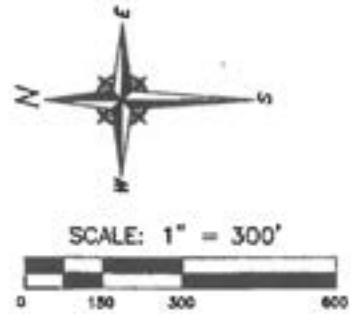
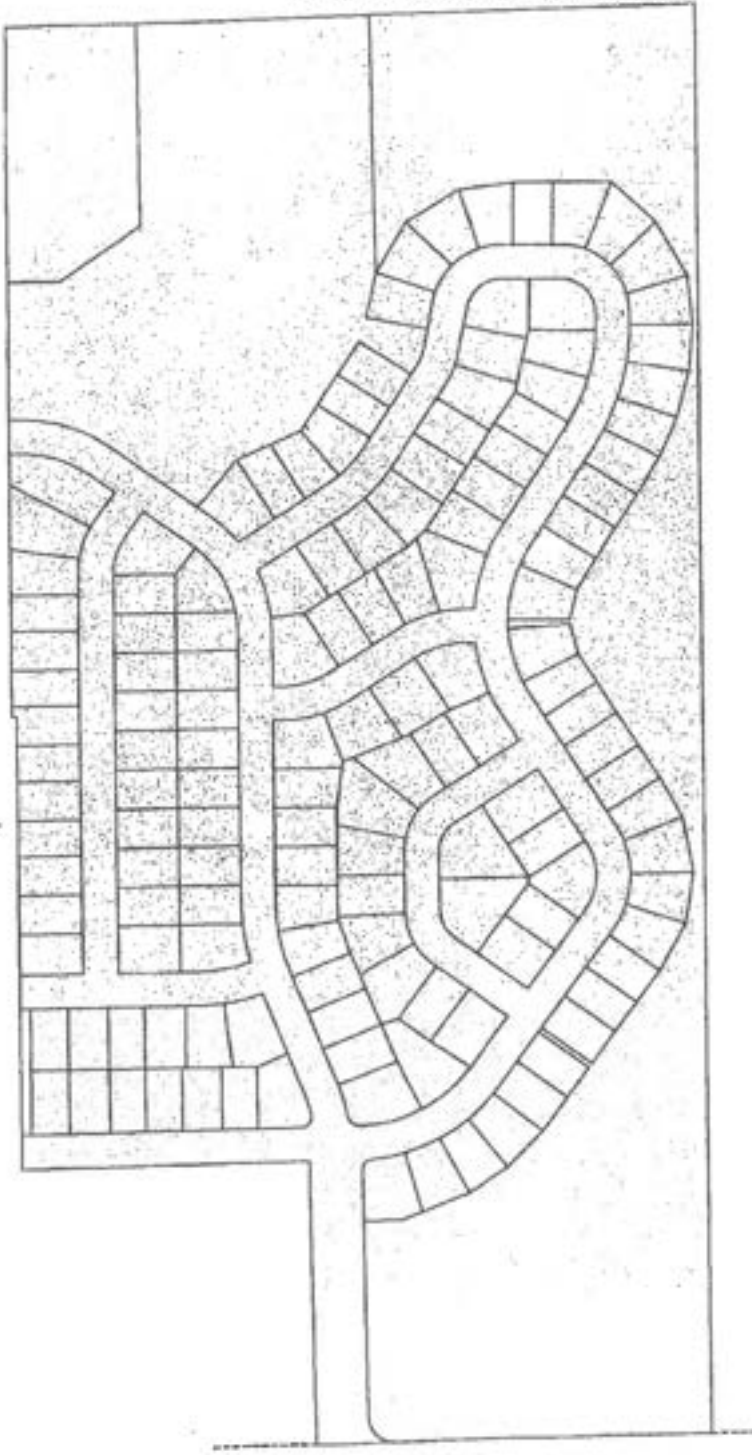
Personally came before me this 20th day of February, 2003, the above named Margo & Douglas Connors who executed the foregoing instrument and acknowledged the same to be known to be the person(s)

Barbara J. Connors
Notary Public, State of Wisconsin
My Commission: 5-1-2005


EXHIBIT A

DGC#: 978980

BEING ALL OF PRAIRIE MEADOW LOCATED IN THE NW 1/4 OF THE SW 1/4 OF SEC. 30 AND
ALL OF THE NE 1/4 OF THE SW 1/4 OF SECTION 30, T11N., R20E., CITY OF WEST BEND,
WASHINGTON COUNTY, WISCONSIN



PROJECT NO. 11869

DOC# : 990154



Document Number

**AMENDMENT TO
DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS OF
PRAIRIE MEADOW
SUBDIVISION**

Document Title

Recorded
MAY 06, 2003 AT 12:30PM
SARAH R. HORTER
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Amount: \$12.00

THIS AMENDMENT ("Amendment") to Declaration of Covenants, Conditions and Restrictions of Prairie Meadow Subdivision is made and entered into by Bielinski Holdings, LLC ("Bielinski").

WITNESSETH:

Bielinski is the Declarant and the owner of lots numbered 1 through 93, 96, 100 through 128, 130 through 135 and 137 through 139 which are subject to a Declaration of Covenants, Conditions and Restrictions of Prairie Meadow dated February 11, 2003 recorded in the Office of the Register of Deeds for Washington County, Wisconsin on March 10, 2003 as Document No. 978979 ("Declaration") affecting the real estate described as:

Being all of Prairie Meadow located in the NW 1/4 of the SW 1/4 of Section 30 and all of the NE 1/4 of the SW 1/4 of Section 30, Township 11 North, Range 20 East, City of West Bend, Washington County, Wisconsin.

Bielinski, pursuant to Article 8 of the Declaration, as the Declarant and the owner of more than 70% of the 139 lots subject to the Declaration, desires to amend the Declaration to alter Section 6.9(h) of the Declaration.

NOW THEREFORE, the undersigned hereby amends the Declaration as follows:

1. Section 6.9(h) of the Declaration is deleted in its entirety and replaced with the following:

"h) Windows

Each home is required to use shutters or wide window trim (rough sawn cedar or aluminum wrapped) on every window. Whichever shutter or window trim materials are used on the front façade of the home, then such materials must be used on the side façades and rear façade of the home to maintain architectural consistency.

Recording Agent

Name and Return Address:
Timothy J. Voelker, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

PIN:

STATE OF WISCONSIN
Washington County Register of Deeds

I certify this is a true and correct copy
of the document of record in my office.

Date: 5-6-03

No. of Pages 2

by Susan M. Olson
Register of Deeds

DOC#: 1048880



Document Number

**AMENDMENT TO
DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS OF
PRAIRIE MEADOW
SUBDIVISION**

Document Title

Recorded
MAY 18, 2004 AT 10:00AM
SHARON A. MARTIN
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Assmt: \$13.00

THIS AMENDMENT ("Amendment") to Declaration of Covenants, Conditions and Restrictions of Prairie Meadow Subdivision is made and entered into by Bielinski Holdings, LLC. ("Bielinski").

WITNESSETH:

Bielinski is the Declarant and the owner of lots numbered 1 – 139 which are subject to a Declaration of Covenants, Conditions and Restrictions of Prairie Meadow dated February 11, 2003 recorded in the Office of the Register of Deeds for Washington County, Wisconsin on March 10, 2003 as Document No. 978979 ("Declaration") affecting the real estate described as:

Prairie Meadow being all of Lot 1, CSM #3856 located in the NW ¼ of the SW ¼ of Section 30 and all of the NE ¼ of the SW ¼ of Section 30, T11N, R20E, City of West Bend, Washington County, Wisconsin.

Bielinski, pursuant to Article 8.1 of the Declaration, as the Declarant and the owner of more than 70% of the 139 lots subject to the Declaration, desires to amend the Declaration to alter Section 6.9(l) of the Declaration.

NOW THEREFORE, the undersigned hereby amends the Declaration as follows:

1. Section 6.9(l) of the Declaration is deleted in its entirety and replaced with the following:

(l) **Roof**

A residence shall have a roof of architectural grade dimensional shingles.

Each home must have a minimum roof pitch ratio of 8:12 on the main body of the roof. Roof pitches are subject to ACC approval and may be modified for structural or aesthetic purposes.

2. Except as otherwise stated herein, the Declaration shall remain unchanged and in full force and effect.

Recording Area

Name and Return Address:

Timothy J. Voelker, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

13-2

PIN:

Document Number

Developer's Agreement

**PRAIRIE MEADOW
DEVELOPER'S
AGREEMENT**

An agreement governing development of
Prairie Meadow and imposing current and
future obligations and restrictions on the lots
within Prairie Meadow, including special
assessments for maintenance of storm water management
facilities and restrictions on the grading of lots and
construction of houses.

The restrictions and obligations imposed by this
Agreement are not limited to those set forth above.

DOC#: 960473



Recorded
NOV. 27, 2002 AT 09:30AM
DOROTHY C. BONNERING
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Recount: \$51.00

51-21

Return to:

City of West Bend
Department of Community Development
1115 S. Main St.
West Bend, WI 53095

DEVELOPER'S AGREEMENT

This Agreement is made this 25th day of November, 2002, by and between Bielinski Holdings, LLC, (the "Developer"), and the City of West Bend, a municipal corporation of the State of Wisconsin, located in Washington County, Wisconsin (the "City").

WHEREAS, the Developer is the owner of Prairie Meadow, which is all of Lot 1, CSM #3856 located in the NW ¼ of the SW ¼ of Section 30 and all of the NE ¼ of the SW ¼ of Section 30, Town 11 North, Range 19 East in the City of West Bend, Washington County, Wisconsin; and,

WHEREAS, the City Plan Commission has recommended to the Common Council that Prairie Meadow Subdivision Plat (the "Plat") be approved on the condition that the Developer enter into an Agreement with the City relative to the manner and method by which the Plat will be developed in accordance with Chapter 18 of the Municipal Code;

NOW, THEREFORE, in consideration of the approval by the City of the Plat prior to the installation and completion of all required improvements, it is agreed as follows:

SECTION I. IMPROVEMENTS

A. Streets

1. The street(s) depicted on the Plat shall be constructed by the Developer as shown on the Plat in accordance with the design plans prepared by Welch Hanson Associates, and as approved by the City Engineer on July 19, 2001.
2. The Developer shall construct and install curb and gutter on both sides of each street.
3. The Developer shall construct all streets including gravel base and install the curb and gutter in accordance with the standard specifications of the City.
4. The Developer shall erect a Class III barricade at the end of Tumbleweed Avenue, Sandalwood Avenue, Cloverview Street, Prairie Drive and Tumbleweed Circle.
5. The second course of asphalt shall be installed in all streets in the plat within one year after the completion of the base course of asphalt or by October 30, 2003, whichever is earlier.

B. Sanitary Sewer Collection

1. The Developer shall furnish, construct and install sanitary sewer in accordance with the design plans prepared by Welch Hanson Associates and as approved by the City Engineer on July 19, 2001.
2. The Developer shall install sanitary sewer service laterals to serve each lot in the Plat.
3. All sanitary sewer main and lateral construction shall be done in accordance with standard specifications of the City and shall be completed prior to the application of the first lift of asphalt street pavement.

C. Water Distribution

1. The Developer shall furnish, construct and install water main in accordance with the design plans prepared by Welch Hanson Associates and as approved by the City Engineer on July 19, 2001.
2. The Developer shall install water service laterals to serve each lot in the Plat.
3. All water main and service lateral construction shall be done in accordance with standard specifications of the City and shall be completed prior to the application of the first lift of asphalt street pavement.

D. Storm Sewers and Storm Water Management Facilities

1. The Developer shall furnish, construct and install storm sewers in accordance with the design plans prepared by Welch Hanson Associates and as approved by the City Engineer on July 19, 2001.
2. All storm sewer construction shall be done in accordance with standard specifications of the City and shall be completed prior to the application of the first lift of asphalt street pavement.
3. The Developer shall construct all storm water management facilities as required by the Developer's Storm Water Management Plan as approved by the City on June 29, 2001.
4. Outlots 1, 2, 3, and 5 of the Plat and the storm water management facilities therein, shall be owned and maintained by the owners of the lots in the plat. The City may at any time inspect, repair, alter, maintain, replace or reconstruct the storm water management facilities in Outlots 1, 2, 3, and 5 and assess the costs thereof in accordance with Paragraph B.2. of Section III of this Agreement.

E. Sidewalks

The Developer shall construct and install sidewalks on both sides of all streets within the Plat in accordance with the standard specifications of the City.

F. Street Lamps

1. The Developer shall pay for the installation of street lamps and restoration including the restoration required by the installation of underground wiring. Street lamps shall be placed at intervals and in locations as set forth on a street lamp plan approved by the City Engineer and the We Energies. The type and specifications of the street lamps shall be approved by the City Engineer prior to installation.
2. The Developer has proposed to install non-standard City street lamps in the Plat. In consideration for non-standard street lamps the Developer shall pay to the City an amount equal to the cost difference of the monthly maintenance and energy charges for a period of 10 years between the City's standard street lamps and the Developer's proposed street lamps. The Developer shall pay the non-standard street lamp charges prior to approval by the City Engineer of the street lamp plan set forth in this Section.

G. Street Trees

The Developer shall pay to the City a street tree fee in the amount of \$28,090 at the time of final plat approval.

H. Street Signs

The Developer shall pay for the installation of all traffic control signs and street name signs in accordance with City specifications as determined by the City Engineer and the Director of the City's Department of Public Works. Pursuant to Tax 11.68 of the Wisconsin Administrative Code, the Developer shall pay sales tax on the cost of installation of street signs.

I. Erosion Control Plan

Prior to the commencement of construction, the Developer must receive approval from the City of an erosion control plan which conforms to the provisions of Chapter 22 of the West Bend Municipal Code. The Developer shall comply with the approved erosion control plan.

J. Grading Plan

1. The Plat and individual lots shall be graded in conformity with the Developer's "Final" Grading Plan dated May 6, 2002, as approved by the City Plan Commission on April 16, 2002, which is on file in the City's Department of Community Development.
2. Upon completion of the grading of the Plat the Developer shall submit to the City an as-built grading plan identifying the grades as established by the Developer. The Developer shall certify that the grades on the as-built grading plan are in conformance with the final approved grading plan.

K. Completion Date

With respect to Phase I, all work and improvements for which a completion date is not otherwise specified shall be completed on or before October 30, 2003.

L. Installation of Improvements

Following the completion date set forth in the preceding paragraph, the City may perform, install, replace, repair or construct, or arrange for the performance, installation, replacement, repair or construction, of any work or improvements not completed by the Developer in accordance with this Agreement and the City's standard specifications. Prior to proceeding with such performance, installation, replacement, repair or construction, the City shall give the Developer written notice of any deficiency in the Developer's performance and allow not less than 20 business days for the Developer to correct such deficiency. The Developer shall pay the City all costs associated with such performance, installation, replacement, repair or construction. The City may draw on the letter of credit for such costs prior to incurring the costs pursuant to Section III, Paragraph A of this Agreement.

M. Utilities

In accordance with Chapter 18 of the Municipal Code, all utilities serving the Plat including but not limited to electric power, natural gas, telephone and cable, shall be installed underground. Except as otherwise provided in this section, all utility equipment appurtenances, conduits, lines and structures, shall be installed along side or rear yard lot lines and shall not be permitted in the front yard without written approval by the City.

N. Phasing

1. The Developer and City agree to the phased construction of the Plat. Phase I is Lots 1-14, 35-37, 94-113, and 129-136. Phase II is lots 15-34, 38-49, 65-70, and 114-120. Phase III is lots 50-64, 71-93 and 121-139.
2. Prior to the start of construction of improvements in each phase the Developer shall:
 - a. Submit and have approved by the City an as-built grading plan in accordance with Section I, Paragraph J.2. of this Agreement.
 - b. Submit and have approved by the City a Soil Mitigation Plan.
 - c. Attend a pre-construction conference with the City Engineering Department.
 - d. Pay to the City any park fees in accordance with Section IV, Paragraph A. of this Agreement.
 - e. Submit a letter of credit in accordance with Section III, Paragraph A. of this Agreement.

SECTION II. APPROVAL AND TRANSFER OF IMPROVEMENTS

A. Inspection

All improvement construction shall be inspected and tested by the City Engineer or a consultant retained by her to assure that it complies with all construction and improvement requirements of the City. Prior to the City Engineer's inspection and approval of sanitary and storm sewers, the Developer shall have performed, at its cost, a television inspection of those utilities. Before any sureties or other financial guarantees are released to the Developer, the City Engineer shall report the satisfactory completion and recommend acceptance of improvements to the Board of Public Works and Common Council. The Developer shall pay the actual cost of such inspections as required by Section 18.10 of the West Bend Municipal Code.

B. As-Built

After completion of all public improvements and prior to final acceptance of those improvements, the Developer shall prepare and have approved by the City as-built documents in accordance with Section 18.09(7) of the West Bend Municipal Code.

C. Dedication

Subject to all of the other provisions of this Agreement and the exhibits hereto attached, the Developer shall, upon completion of the above described improvements, unconditionally, and without charge to the City, give, grant, convey and fully dedicate the same (excepting sanitary sewer laterals and water laterals lying outside of dedicated right-of-way) to the City, its successors and assigns forever, free and clear of all encumbrances whatever; together with (without limitation because of enumeration) all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a part of or pertain to such improvements, together with any and all necessary easements for access thereto.

D. Acceptance

Following completion and dedication of the improvements and upon written request by the Developer, the City Engineer shall forthwith inspect the improvements, and if the improvements meet all requirements, the City Engineer shall report completion of the improvements to the Board of Public Works and Common Council. The City shall thereupon accept such improvements in accordance with Section 18.09(7)(e) of the West Bend Municipal Code. The City shall thereafter have the right to connect or integrate other utility facilities with the facilities provided hereunder without payment or award to, or consent required of, the Developer. The City Clerk shall provide the Developer with a certified copy of the Common Council resolutions accepting improvements hereunder which the Developer may record to evidence compliance with this Agreement.

E. Improvement Guarantee

The Developer guarantees all improvements against defects which appear within a period of one year from the date of acceptance by the City as herein provided and shall pay for any damages resulting therefrom to City property.

F. Title

1. The Developer warrants that the Developer is the owner of all property within the Plat, that the Developer has full right and authority to make the agreements, warranties, consents and waivers in this Agreement and that upon recording the City shall have good, indefeasible title to all interests in property dedicated or

conveyed to the City by the Plat, this Agreement or other instruments required by this Agreement.

2. Prior to recording the Plat, the Developer shall provide the City with title evidence acceptable to the City showing that the Developer has title as warranted above.
3. The Developer shall defend, indemnify and hold the City harmless from any claims, suits or damages related to the City's acquisition or ownership of interests in property including, but not limited to, claims for inverse condemnation or relocation benefits under Chapter 32 of the Wisconsin Statutes.

SECTION III. FINANCIAL GUARANTEE

A. Letter of Credit

The Developer shall provide to the City an irrevocable letter of credit issued pursuant to Chapter 405 of the Wisconsin Statutes in the initial amount of \$1,251,018 (minimum accepted value \$163,176.30) which shall assure the faithful performance of the Developer's obligations under this Agreement. Exhibit A is attached only to show the calculation used to determine the amount of the letter of credit. The amount of the credit may be reduced from time to time by the Department of Community Development in amounts equal to the value of improvements which have been installed, completed and accepted by the City or shall be increased in the event of delay in the installation of improvements and the escalation of costs. In no event shall the amount of the credit be reduced below the aggregate total estimated cost of the improvements not yet installed or accepted plus 15%. The letter of credit shall be payable to the City and shall be conditioned upon and guarantee to the City the performance by the Developer of his obligations under this Agreement. The letter of credit shall be approved as to form by the City Attorney.

B. Preservation of Assessment Rights

1. In addition to other remedies provided to the City by this Agreement, the City shall have the right, without notice or hearing, to impose special assessments on the lots in the Plat for any amount to which the City is specifically entitled by virtue of this Agreement. This provision constitutes the Developer's consent to the installation by the City of all public improvements specifically required by this Agreement and acknowledgment of special benefit and the Developer's waiver of notice and hearing on, and consent to, all special assessment proceedings as described in Sec. 66.0703(7)(b) of the Wisconsin Statutes.
2. Upon determination by the City that it is necessary to inspect, maintain, repair, replace, alter or reconstruct the storm water management facilities in the Plat, the

City's cost of inspection, maintenance, repair, replacement, alteration or reconstruction shall be assessed against all of the lots in the Plat as a special assessment or special charge and this provision constitutes consent to the work, acknowledgment of special benefit, waiver of notice and hearing on, and consent to, all special assessment proceedings as described in Section 66.0703(7)(b), Wisconsin Statutes by the Developer.

C. Remedies Not Exclusive

The remedies provided in this section are not exclusive. The City may use any other remedies available to it under the Agreement or in law or equity in addition to, or in lieu of, the remedies provided above.

SECTION IV. PERMITS AND FEES

A. Park Fees and Land Dedication

The Developer has a park fee obligation of \$275,081 for the plat (139 lots at \$1979 per lot). In consideration for the dedication of Outlot 4 to the City for park purposes, the City shall reduce the park fee obligation by \$136,890 (Outlot 4 – 10.53 acres at \$13,000 per acre). The remaining park fee obligation of \$138,191 shall be paid by the Developer in two equal installments (\$69,095.50) prior to the construction of Phase II and Phase III of the Plat.

B. Building Permits

The City shall not issue building permits for lots within the Plat if any of the following conditions have not been met:

1. The Developer has complied with the provisions of this Agreement.
2. The Developer has installed and the City has accepted the sanitary sewer main and laterals, the water main and laterals, the storm sewer main and appurtenances, and the gravel base in any phase of the Plat.
3. The Developer has submitted and the City has approved an as-built grading plan in accordance with Section I, Paragraph J of this Agreement.

C. Occupancy Permits

The City will not issue an occupancy permit for any dwelling within the Plat until all fees are paid, and all dedications and improvements are approved and accepted by the City in accordance with this Agreement, except the second lift of asphalt street pavement need not be installed provided there is a sufficient financial guarantee under Section III, Paragraph A hereof to insure the installation of the second lift.

SECTION V. LEGAL REQUIREMENTS & PUBLIC RESPONSIBILITY

A. LAWS TO BE OBSERVED

The Developer shall at all times observe and comply with all federal, state and local laws, regulations and ordinances which are in effect or which may be placed in effect which may affect the conduct of the work to be accomplished under this Agreement (the "Work"). The Developer shall indemnify and save harmless, the City and all its agents, officers and employees, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation or order, whether by itself or its agents, employees or contractors. The Developer shall procure all permits and licenses and pay all charges and fees and give all notices necessary and incident to the lawful prosecution of the work to be completed under this Agreement.

B. PUBLIC PROTECTION AND SAFETY

The Developer shall be responsible for all damage, bodily injury or death arising out of the Work whether from maintaining an "attractive nuisance" or otherwise. Where apparent or potential hazards occur incident to his conduct of the Work, the Developer shall provide other reasonable safeguards. Developer's responsibility under this paragraph shall terminate when all improvements have been accepted by the City.

C. DEVELOPER'S RESPONSIBILITY FOR WORK

The Work shall be under the charge and care of the Developer until all improvements have been accepted by the City.

D. INSURANCE REQUIREMENTS

General:

The Developer shall obtain insurance acceptable to the City as required under this Section. The Developer shall maintain all required insurance under this Section until improvements have been accepted and during any subsequent period in which the Developer does work under this Agreement pursuant to the improvement guarantee or otherwise.

Certificates of Insurance

Certificates of Insurance on all policies specified shall be filed with the City Clerk which shall include a fifteen (15) day prior written notice of material change or cancellation to the City and which clearly state that liability insurance is provided and, if applicable to work under this Agreement, explosion, collapse and underground coverage. Explosion, collapse and underground coverage may be provided by the Developer's contractor.

Insurance

Where the City does not specify other limits for liability insurance, the minimum limits of liability shall be as follows:

Employer's Liability	\$100,000	Per occurrence (if applicable)
Comprehensive Motor Vehicle Liability, Bodily Injury & Property Damage combined	\$1,000,000	Per accident (if applicable)
Comprehensive General Liability Bodily Injury	\$2,000,000	Per occurrence
Property Damage	\$2,000,000	Aggregate

The Developer may furnish coverage for bodily injury and property damage for Comprehensive Motor Vehicle Liability and Comprehensive General Liability through the use of primary liability policies or in a combination with an umbrella excess third party liability.

Other coverages shall include the following:

Completed Operations and Products Liability

The Developer shall provide completed Operations and Products Liability coverage for the life of the Agreement and maintain coverage for a period of one (1) year after the improvements have been accepted by the City. The liability limits shall be as required above for Comprehensive General Liability.

Owner's Protective Liability (Independent Contractor Insurance)

The liability limits shall be the same as those of the Comprehensive General Liability Policy.

Insurance required under this Agreement shall be carried with an insurer authorized to do business in Wisconsin by the Wisconsin

Commissioner of Insurance. The City reserves the right to disapprove any insurance company.

E. Indemnification

The Developer shall indemnify and hold harmless the City, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claim, damage loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (b) is caused in whole or in part, by any negligent act or omission of the Developer, its contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder; provided, however, that such indemnification shall not extend to directions by the City or its employees to perform acts if the acts are performed in accordance with such direction. A claim for indemnification under this Section shall be conditioned upon the City giving to the Developer, within five business days of receiving the same, written notice of any claim made against the City for which indemnification is sought and if requested to do so by the Developer's insurance carrier, the City shall tender the defense of such claim to the Developer's insurance carrier.

In any and all claims against the City, its officers, agents and employees, by any employee of the Developer, its contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Developer, its contractor or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

The indemnification obligation of Developer under this paragraph shall be limited to events or claims which occurred prior to the date which is one year from the date of acceptance of the improvements by the City as herein provided.

F. PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the provisions of this Agreement or in exercising any power or authority granted to them thereby, there shall be no personal liability of the City's officers, agents or employees, it being understood and agreed that in such matters they act as agents and representatives of the City.

SECTION VI. MISCELLANEOUS PROVISIONS

A. Survey Monuments

The Developer has certified that all survey or other monuments required by statute or ordinance have been properly placed and installed. Any monuments disturbed during construction of improvements shall be restored.

B. Zoning

The City does not guarantee or warrant that the lands subject to this Agreement will not at some later date be rezoned, nor does the City agree to rezone the lands into a different zoning district. Any rezoning that may take place shall not void this Agreement.

C. Indemnification for Environmental Contamination

The Developer shall indemnify, defend, and hold the City and its officers, employees, and agents harmless from any claims, judgments, damages, penalties, fines, costs, or loss (including reasonable fees for attorneys, consultants, and experts) that arise as a result of the presence or suspected presence in or on the real property dedicated or conveyed to the City by, under, pursuant to, or in connection with the Plat or this Agreement (including, but not limited to, street right of way and park land) of any toxic or hazardous substances arising from any activity occurring prior to the acceptance of all improvements. Without limiting the generality of the foregoing, the indemnification by the Developer shall include costs incurred in connection with any site investigation or any remedial, removal, or restoration work required by any local, state, or federal agencies because of the presence or suspected presence of toxic or hazardous substances on or under the real property, whether in the soil, groundwater, air or any other receptor.

The City shall immediately notify the Developer of the discovery of any contamination or of any facts or circumstances that reasonably indicate that such contamination may exist in or on the real property. The City also agrees that following notification to the Developer that contamination may exist, the City shall make all reasonable accommodations to allow the Developer to examine the real property and conduct such clean-up operations as may be required by appropriate local, state, or federal agencies to comply with applicable laws.

D. Restrictive Covenants

1. Lot Grading and Building and Driveway Construction

- a. All lot grading and building construction activities shall conform to the intent of the approved "Final" Grading Plan.

- b. All lot grading and building construction plans as proposed on Plats of Survey, including building recertification surveys, shall conform to the intent of the approved "Final" Grading Plan. Lots 53-59, 69-76, 97-108, 125-129 and 139 are restricted to partial or full exposure type structures.
- c. All lot grading, including all finished grades and final lot landscaping shall conform to the intent of the approved "Final" Grading Plan.
- d. All lot improvements, including but not limited to, driveways, retaining walls, drainage swales, landscaping berms, patios, decks, swimming pools and accessory structures, shall be completed in a manner in accordance with the approved "Final" Grading Plan and Storm Water Management Plan, and shall not adversely affect adjoining lots.
- e. In accordance with Section 17.38(4) of the Municipal Code, all lot owners in the Plat shall install, within 12 months from the date of building permit issuance, a driveway pavement surface of asphalt or portland cement.

2. Preservation of Private Easements

All private drainage easements shown on the Plat shall be preserved and maintained by property owners in accordance with the approved Grading Plan and Storm Water Management Plan.

3. Soil Mitigation Plan

Building construction methods within the Plat, as they pertain to site preparation, footings and foundations, shall be consistent with the requirements of the Soil Mitigation Plan attached as Exhibit B.

The foregoing covenants are binding upon the Developer and the owners of all lots within the Plat and may be enforced by the City, the Developer, or any owner of a lot within the Plat.

E. Public Easements

All easements dedicated to the City or the public on the Plat or by this Agreement grant the City the right to construct, install, maintain, inspect, repair and replace the designated improvements in, on, over or under such easements. Lots within the Plat shall not be used in a manner which interferes with the City's easement rights. The City's only obligation to restore the property after any use by the City of its easements shall be to grade the soil, replace topsoil and plant grass seed.

F. Soil Compaction Certification

The Developer shall obtain certification of the soil compaction from a qualified soils engineer and approval of the compaction shall be obtained from the City Engineer for those portions of lots that are substantially filled prior to issuance of building permits.

SECTION VII. APPROVAL

This Agreement shall be effective if the City approves the Plat and causes the same to be signed and endorsed by the appropriate officers. The Developer shall thereupon provide the City with a conformed mylar copy of the Plat in accordance with Section 18.05(11) of the West Bend Municipal Code.

SECTION VIII. AMENDMENTS

The City and the Developer may, by mutual written consent, amend this Developer's Agreement.

SECTION IX. BINDING EFFECT

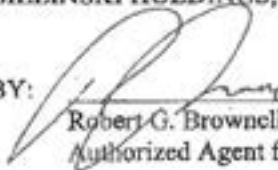
The Developer warrants that it is the owner of all property within the Plat and has full right and authority to make this Agreement. This Agreement and the grants, warranties, obligations, consents and waivers contained herein shall run with the land and be binding upon the Developer and its successors and assigns including all individual lot owners within the Plat.

IN WITNESS WHEREOF, the Developer has caused this Agreement to be signed this

12 day of November, 2002.

BIELINSKI HOLDINGS, LLC

BY:



Robert G. Brownell,
Authorized Agent for Bielinski Holdings LLC

STATE OF WISCONSIN)
) ss.
WAUKESHA COUNTY)

Personally came before me this 12 day of November, 2002, the above named Robert G. Brownell, to me known to be the Chief Executive Officer of Bielinski Holdings LLC, and to me known to be the person who executed the foregoing agreement and acknowledged the same.

Jessica Martin
Notary Public, State of Wisconsin
My Commission is permanent.
(IF NOT, Expiration Date: 2/12/06.)



[Additional signatures on following page.]

EXHIBIT A

<u>CATEGORY</u>	<u>AMOUNT PHASE I</u>
Grading and Erosion Control (Incl. ROW restoration)	\$205,000.00
Sanitary Sewer and Laterals	262,700.00
Watermain and Laterals	151,945.00
Storm Sewer	208,182.00
Base Course Asphalt (inc. stone base)	95,034.00
Surface Course Asphalt	35,958.00
Curb and Gutter	54,054.00
Sidewalks	61,803.00
Street Lighting	11,666.00
Street Signage	1,500.00
Sub-Total	<u>\$1,087,842.00</u>
15% (City of West Bend	<u>\$163,176.30</u>
Total	<u>\$1,251,018.30</u>

EXHIBIT B

Groundwater & Soil Mitigation Plan Prairie Meadow – Phase I

The purpose of Exhibit B is to summarize the groundwater management strategy for Phase I of the Prairie Meadow Subdivision. There is a general concern that the many springs and flowing draitiles in this area may pose difficult groundwater conditions that could be encountered during the subdivision and home construction process. This plan is supplementary to the original Soil Mitigation Plan prepared by Midwest Engineering Services, Inc. on a file in the City of West Bend, Department of Community Development. (No. 7-93011-6, dated February 10, 2000).

The measures being used to deal with groundwater in the Prairie Meadow subdivision are as follows:

- A curtain drain has been placed on the west end of Prairie Drive to relieve any groundwater flow migrating down the utility trenches and discharge it into the wetland. The sanitary sewer trench has been constructed to allow the transmission of groundwater and discharge through this curtain drain into the wetlands.
- All flowing draitiles encountered during the subdivision construction will be connected to either storm sewer manholes, inlets, or the sump line behind the back of curb.
- All garage slab (pad) elevations have been set with proposed driveway slopes of 6%.
- If groundwater is encountered during excavation, a curtain drain, with draitile or similar engineered solution, may need to be added to the lot to intercept the source of groundwater flow prior to continued construction. The draitile used must be a perforated pipe, with sock.

Should groundwater be encountered during the basement and footing excavation process, the following measures shall be required of the homebuilder:

1. De-watering of the footing trench and installation of the sanitary sewer lateral shall be done prior to pouring the footing. The lateral trench must be excavated to a depth of 6 inches below the elevation of the lateral and backfilled with 6 inches of compacted No. 2 stone. The stone filled portion of the lateral trench shall be wrapped in a geotextile filter fabric.
2. Prior to pouring the basement foundation concrete, a total of 6 inches of No. 2 clear crushed stone shall be spread in layers over the floor of the basement excavation. The stone should be thoroughly work into the subgrade with a static compactor or tamping with a backhoe bucket. Should groundwater begin to accumulate in the basement excavation, the basement floor subgrade may need to be further stabilized with a working mat of No. 2 clear crushed stone, as needed. Undercutting of the footing trench and basement floor is required for any additional stone that is needed.
3. The exterior of all below-grade walls shall be damp-proofed with a spray-applied or mopped-on rubber or bituminous sealer.
4. All basement levels shall contain an exterior perimeter drainage system that drains to daylight or the collector sump. The drainpipes must be surrounded with a

- minimum of 8 inches of filter material and encapsulated with a geo-textile fabric to reduce the potential for migration of fines.
5. All lots within the subdivision will have a storm sewer lateral available to allow for a sump pump discharge connection to the storm sewer system.
 6. Backfill around the basement excavations shall consist of a granular material and be capped at the surface with two feet of compacted on-site clay soil and graded to slope away from the building. All granular backfill shall meet the requirements of Section 209 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction.
 7. If groundwater is encountered during excavation, a curtain drain, with drintile or similar engineered solution, may need to be added to the lot to intercept the source of groundwater flow prior to continued construction. The drintile used must be a perforated pipe, with sock.

The attached Table 1 identifies the lots in Phase I that may be susceptible to high groundwater conditions (in bold). The table provides the lot number, the proposed yard grade elevation, top of footing elevation, and general comments on where a sump line from the footing might be connected. This provides the builder with another option to tie the footing drain or curtain drain into should it be necessary. It should be noted that the static groundwater elevation of 915, per the Midwest Engineering Services report, is an estimate only. It is also important to note that the sanitary sewer and water main construction for Phase I encountered only localized adverse groundwater conditions.

Table 1
 rev 3-06-02, rev 3-22-02, rev. 5-23-02
PRAIRIE MEADOW - City of West Bend
PHASE I

Groundwater Mitigation Plan Details

per MES report, anticipated ground water elevation near 915

Recently completed san. sewer and water construction only encountered localized adverse groundwater conditions

Note: All lots will have a storm sewer lateral stubbed to the property line

Lot #	Prop Pad Elev	Top of Footing	Additional Options for footing or certain drain discharge
1	918.1	910.4	Tie a sump line to the Storm Inlet 85 along the north lot line
2	920.2	912.5	Tie a sump line to the Storm Inlet 89 along the north lot line of Lot 1
3	922.2	914.5	Tie a sump line to the Storm Inlet 96 along the north lot line of Lot 1
4	924.2	916.5	
5	924.9	918.9	
6	923.1	915.4	Tie into Catch Basin 11 (L.S.=915.0)
7	921.2	913.5	Tie into Catch Basin 11 (L.S.=915.0)
8	924.2	918.5	
9	925.8	918.1	
10	920.2	915.5	
11	924.2	916.5	Tie a sump line to Storm Inlet 88 along north lot line of Lot 18
12	921.2	913.8	Tie a sump line to Storm Inlet 88 along north lot line of Lot 18
13	917.5	910.1	Tie a sump line to Storm Inlet 88 along north lot line of Lot 18
14	922.9	914.6	Tie a sump line west to the detention basin (elev 910.4)
35	922.8	915.1	Tie into Catch Basin 103 (L.S.=915.5)
36	922.7	915.0	Tie into Catch Basin 103 (L.S.=915.5)
37	925.4	917.7	
84	928.8	920.9	
95	928.5	920.9	
98	928.0	920.3	
97	927.3	918.9	
98	927.3	918.8	
99	926.9	919.3	
100	928.0	918.8	
101	928.0	918.8	
102	925.4	917.7	
103	925.5	917.9	
104	928.9	918.8	
105	928.0	918.8	
106	925.5	917.8	
107	923.9	918.3	Drain sump line west towards wetlands
108	921.5	915.3	Drain sump line west towards wetlands
109	923.4	915.7	Tie into Catch Basin 84 (L.S.=915.3)
110	923.1	915.4	Tie into Storm MH 22 (L.S.=915.8)
111	923.7	918.0	
112	928.4	918.7	
113	925.1	917.4	
129	934.0	926.9	
130	928.1	918.4	
131	932.0	924.3	
132	928.8	921.1	
133	923.3	918.6	
134	928.4	918.7	
135	927.8	920.1	
136	928.4	920.7	

**AMENDED AND RESTATED BY-LAWS OF
PRAIRIE MEADOW HOMEOWNER'S ASSOCIATION, INC.**

ARTICLE 1. APPLICATION AND ORGANIZATION

1.1 Name. The name of the corporation shall be PRAIRIE MEADOW HOMEOWNER'S ASSOCIATION, INC. (the "Association").

1.2 Application. These By-Laws are adopted pursuant to the Declaration of Covenants, Conditions and Restrictions of Prairie Meadow Subdivision (the "Declaration"), and the Articles of Incorporation for this Association ("Articles"). Capitalized terms not defined herein shall have the meanings set forth in the Declaration.

1.3 Members. "Members" of the Association shall consist of the Lot Owners set forth in the Declaration.

1.4 Initial Organization. Notwithstanding any provision set forth in these By-Laws to the contrary, the Developer shall designate the initial Board of Directors, consisting of three (3) persons, none of whom must be Members, who shall have all of the rights and powers reserved to the Board under these By-Laws. Such members of the Board, or successors to any of them as designated by Developer, shall continue to serve until the Developer has sold all Lots of the Subdivision or any additions thereto.

1.5 Location. The principal office of the Association shall be at N16 W23377 Stone Ridge Drive, Waukesha, Wisconsin 53188-1108. The Association may have offices at such other places as the Board of Directors may from time to time determine or the Association may from time to time require.

ARTICLE 2. VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

2.1 Voting.

(a) Each Lot is vested with one (1) vote. If a Member owns more than one Lot, such Member shall have one (1) vote for each Lot owned.

(b) If a Lot is owned by more than one person, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by all of the record owners of the Lot and filed with the Secretary of the Association. If the owners of a Lot cannot agree on how to vote, such Lot shall lose its vote for the particular item to be voted upon. If a Lot is owned by a legal entity, the person entitled to cast the vote for the Lot shall be designated by a certificate of appointment signed by a duly authorized officer of such

entity and filed with the Secretary of the Association. Certificates of appointment shall be valid until revoked or superseded by a subsequent certificate or a change in ownership to the Lot occurs.

(c) There shall be no cumulative voting.

2.2 Majority of Members.

(a) The term "majority of Members" shall mean those Members holding more than fifty (50%) percent of the votes to be cast on the particular matter to be voted upon.

(b) A matter shall be deemed approved if approved by a majority of Members.

2.3 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of Members shall constitute a quorum.

2.4 Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

ARTICLE 3. MEETINGS

3.1 Roster of Members. The Association shall maintain a current roster of names and addresses of every Member. Each Member shall be given notice of all meetings of Members of the Association. Every Member shall furnish the Association with his or her name and current mailing address. No Member may vote at meetings of the Association until the foregoing information is furnished.

3.2 Place of Meetings. Meetings of the Association shall be held at such place as is designated by the Board.

3.3 Annual Meeting. The annual meeting of the Association shall be held on the second Tuesday of September of each year. At the annual meeting, one or more members of the Board may be elected by the Members in accordance with the requirements of Section 4.2 of these By-Laws. The Members may also transact such other business of the Association as may properly come before them.

3.4 Special Meetings. The President shall call a special meeting of the Members if directed by resolution of the Board or upon a petition signed by a majority of the Members and presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated

in the notice unless by consent of four-fifths (4/5) of the Members present, either in person or by proxy.

3.5 Notice of Meetings. The Secretary shall deliver or mail a notice of each meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at the address shown on the roster, at least ten (10) days but not more than thirty (30) days prior to such meeting, unless waivers are duly executed by all Members. The delivery or mailing of a notice in the manner provided in this Section shall be considered notice served, and such notice shall be effective upon the date of delivery or mailing.

3.6 Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called and no additional notice shall be required.

3.7 Order of Business. The order of business at all meetings of the Members shall be as follows:

- 3.7.1 Roll call.
- 3.7.2 Proof of notice of meeting or waiver of notice.
- 3.7.3 Reading of minutes of preceding meeting.
- 3.7.4 Reports of officers.
- 4.7.5 Report of committees.
- 3.7.6 Election of directors (when applicable).
- 3.7.7 Unfinished business.
- 3.7.8 New business.

3.8 Parliamentary Procedure. Except where inconsistent with these By-laws, meetings of the Association shall be conducted in accordance with the latest revised edition of **Roberts Rules of Order**.

ARTICLE 4. BOARD OF DIRECTORS

4.1 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) persons. Subject to the provisions of Section 1.4, two (2) Directors shall be Members or designees of entity Members in a certificate filed with the Association under Section 2.1(b) and the third Director may be a non-Member.

4.2 Election and Term of Office. Within thirty (30) days after the conveyance of the last vacant Lot by the Developer to an unrelated purchaser, the Board shall call a meeting of the Members to elect three (3) new Directors replacing the Developer appointed Directors. The terms of office of the Directors elected by the Members shall be fixed for 3 years each from the date of the annual meeting first following the meeting at which such Director is first elected by the Members. Each Director shall hold office until a successor is elected and the successor has attended his or her first meeting of the Board. When more than one Director is to be elected at any meeting, each Member shall cast votes for candidates equal in number to the Directors to be elected; provided, however, that a Member may not cast more than one (1) vote for each Lot owned by the Member for any single candidate. The candidates who are elected shall be those receiving the greatest number of votes, in decreasing order, until the number of directors to be elected have been so elected.

4.3 Powers and Duties. The Board shall have the powers necessary to administer the Subdivision and Common Areas in accordance with the Declaration, including the power to do the following:

4.3.1 Make and enforce (including enforcement through the establishment of a system of fines), rules and regulations, and amendments thereto from time to time, respecting the operation, use and occupancy of the Subdivision and Common Areas.

4.3.2 Make and collect assessments from the Members in accordance with the provisions of the Declaration, and expend said assessments for insurance, taxes, utility services for and maintenance, repair and operation of the Common Areas as required under the Declaration or for such other purposes as fall within the responsibility of the Association and general powers of the Board.

4.3.3 Approve all building, outbuilding or other structures, swimming pools, fences, walls, driveways, tennis courts, light posts, landscaping or other structures or improvements to be constructed, erected, placed or altered on any Lot as the Architectural Control Committee as provided in the Declaration. In so doing, the Board shall be acting as the Architectural Control Committee as required under the Declaration, and the approval process outlined in the Declaration shall be followed by the Board. The initial Architectural Control Committee shall be appointed by the Developer and shall exercise the powers of the Architectural Control Committee as outlined in the Declaration. The Board shall assume the powers of the Architectural Control Committee after the Developer has conveyed the last vacant Lot to an unrelated purchaser.

4.3.4 Execute contracts on behalf of the Association, employ necessary personnel, and carry out all functions and purposes necessary for the operation of the Association.

4.3.5 Satisfy all liens against the Association and pay necessary expenses connected therewith.

4.3.6 Employ a professional property manager, management company or managing agent on a salaried basis to perform such duties as the Board shall authorize including but not limited to, the duties listed in this Section.

4.3.7 Perform such other functions as are required by law.

4.4 Fees. No fee or other compensation shall be paid to any member of the Board at any time except by specific resolution of the Members.

4.5 Reimbursement of Expenses. Directors shall be entitled to reimbursement of all expenses relating to their activities as Directors.

4.6 Vacancies. A vacancy on the Board created by any reason other than removal by a vote of the Members or the resignation of a Developer appointed Director shall be filled by vote of the majority of the remaining Directors, even though they constitute less than a quorum. Each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

4.7 Removal of Directors. At any regular or special meeting of the Members duly called, any one or more of the Directors elected by the Members may be removed with or without cause by a majority of the Members and a successor elected by the Members to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

4.8 Organization Meeting. The first meeting of a Board, after one or more Directors is newly elected, shall be held within ten (10) days of such election at such place as determined by the Board at the meeting at which such Directors were newly elected. No notice shall be necessary in order to legally constitute such meeting, providing a majority of the whole Board shall be present.

4.9 Regular Meetings. Regular meetings of the Board may be held at such time and place as is designated by a majority of the Directors, but at least one such meeting shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each director, personally or by mail,

telephone or telegraph, at least three (3) days prior to the day named for each meeting.

4.10 Special Meetings. A special meeting of the Board may be called by the President on three (3) days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner on the written request of at least two (2) or more Directors.

4.11 Waiver of Notice. Before or at any meeting of the Board, any Director may waive notice of such meeting in writing and such waiver shall be deemed the equivalent of notice duly given. Attendance by a Director at any meeting of the Board shall also be deemed a waiver of notice. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

4.12 Board Quorum. A majority of the Directors shall constitute a quorum for the transaction of business at all Board meetings. If, at any meeting of the Board, less than a quorum is present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the original meeting may be transacted without further notice.

4.13 Fidelity Bonds. The Board shall require that all officers and employees of the Association responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

4.14 Liability of Directors and Officers. No person shall be liable to the Association or Members for any loss or damage suffered by it or them on account of any action taken or omitted to be taken as a Director or officer of the Association if such person exercised and used the same degree of care and skill as a prudent individual would exercise under the circumstances in the conduct of such individual's own affairs, or for any action or nonaction based upon advice of counsel for the Association or upon statements made or information furnished by officers or employees of the Association which was reasonably believed to be true. The foregoing shall not be exclusive of any other right or defense.

4.15. Indemnity of Directors and Officers.

4.15.1 Every person who is or was a Director or officer of the Association (together with the personal representatives and heirs of such person) shall be indemnified by the Association against all loss, costs, damages and expenses (including reasonable attorneys' fees) asserted against, incurred by or imposed in connection with or resulting from any claim, action, suit or

entity and filed with the Secretary of the Association. Certificates of appointment shall be valid until revoked or superseded by a subsequent certificate or a change in ownership to the Lot occurs.

(c) There shall be no cumulative voting.

2.2 Majority of Members.

(a) The term "majority of Members" shall mean those Members holding more than fifty (50%) percent of the votes to be cast on the particular matter to be voted upon.

(b) A matter shall be deemed approved if approved by a majority of Members.

2.3 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of Members shall constitute a quorum.

2.4 Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

ARTICLE 3. MEETINGS

3.1 Roster of Members. The Association shall maintain a current roster of names and addresses of every Member. Each Member shall be given notice of all meetings of Members of the Association. Every Member shall furnish the Association with his or her name and current mailing address. No Member may vote at meetings of the Association until the foregoing information is furnished.

3.2 Place of Meetings. Meetings of the Association shall be held at such place as is designated by the Board.

3.3 Annual Meeting. The annual meeting of the Association shall be held on the second Tuesday of September of each year. At the annual meeting, one or more members of the Board may be elected by the Members in accordance with the requirements of Section 4.2 of these By-Laws. The Members may also transact such other business of the Association as may properly come before them.

3.4 Special Meetings. The President shall call a special meeting of the Members if directed by resolution of the Board or upon a petition signed by a majority of the Members and presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated

in the notice unless by consent of four-fifths (4/5) of the Members present, either in person or by proxy.

3.5 Notice of Meetings. The Secretary shall deliver or mail a notice of each meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at the address shown on the roster, at least ten (10) days but not more than thirty (30) days prior to such meeting, unless waivers are duly executed by all Members. The delivery or mailing of a notice in the manner provided in this Section shall be considered notice served, and such notice shall be effective upon the date of delivery or mailing.

3.6 Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called and no additional notice shall be required.

3.7 Order of Business. The order of business at all meetings of the Members shall be as follows:

- 3.7.1 Roll call.
- 3.7.2 Proof of notice of meeting or waiver of notice.
- 3.7.3 Reading of minutes of preceding meeting.
- 3.7.4 Reports of officers.
- 4.7.5 Report of committees.
- 3.7.6 Election of directors (when applicable).
- 3.7.7 Unfinished business.
- 3.7.8 New business.

3.8 Parliamentary Procedure. Except where inconsistent with these By-laws, meetings of the Association shall be conducted in accordance with the latest revised edition of **Roberts Rules of Order**.

ARTICLE 4. BOARD OF DIRECTORS

4.1 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) persons. Subject to the provisions of Section 1.4, two (2) Directors shall be Members or designees of entity Members in a certificate filed with the Association under Section 2.1(b) and the third Director may be a non-Member.

4.2 Election and Term of Office. Within thirty (30) days after the conveyance of the last vacant Lot by the Developer to an unrelated purchaser, the Board shall call a meeting of the Members to elect three (3) new Directors replacing the Developer appointed Directors. The terms of office of the Directors elected by the Members shall be fixed for 3 years each from the date of the annual meeting first following the meeting at which such Director is first elected by the Members. Each Director shall hold office until a successor is elected and the successor has attended his or her first meeting of the Board. When more than one Director is to be elected at any meeting, each Member shall cast votes for candidates equal in number to the Directors to be elected; provided, however, that a Member may not cast more than one (1) vote for each Lot owned by the Member for any single candidate. The candidates who are elected shall be those receiving the greatest number of votes, in decreasing order, until the number of directors to be elected have been so elected.

4.3 Powers and Duties. The Board shall have the powers necessary to administer the Subdivision and Common Areas in accordance with the Declaration, including the power to do the following:

4.3.1 Make and enforce (including enforcement through the establishment of a system of fines), rules and regulations, and amendments thereto from time to time, respecting the operation, use and occupancy of the Subdivision and Common Areas.

4.3.2 Make and collect assessments from the Members in accordance with the provisions of the Declaration, and expend said assessments for insurance, taxes, utility services for and maintenance, repair and operation of the Common Areas as required under the Declaration or for such other purposes as fall within the responsibility of the Association and general powers of the Board.

4.3.3 Approve all building, outbuilding or other structures, swimming pools, fences, walls, driveways, tennis courts, light posts, landscaping or other structures or improvements to be constructed, erected, placed or altered on any Lot as the Architectural Control Committee as provided in the Declaration. In so doing, the Board shall be acting as the Architectural Control Committee as required under the Declaration, and the approval process outlined in the Declaration shall be followed by the Board. The initial Architectural Control Committee shall be appointed by the Developer and shall exercise the powers of the Architectural Control Committee as outlined in the Declaration. The Board shall assume the powers of the Architectural Control Committee after the Developer has conveyed the last vacant Lot to an unrelated purchaser.

4.3.4 Execute contracts on behalf of the Association, employ necessary personnel, and carry out all functions and purposes necessary for the operation of the Association.

4.3.5 Satisfy all liens against the Association and pay necessary expenses connected therewith.

4.3.6 Employ a professional property manager, management company or managing agent on a salaried basis to perform such duties as the Board shall authorize including but not limited to, the duties listed in this Section.

4.3.7 Perform such other functions as are required by law.

4.4 Fees. No fee or other compensation shall be paid to any member of the Board at any time except by specific resolution of the Members.

4.5 Reimbursement of Expenses. Directors shall be entitled to reimbursement of all expenses relating to their activities as Directors.

4.6 Vacancies. A vacancy on the Board created by any reason other than removal by a vote of the Members or the resignation of a Developer appointed Director shall be filled by vote of the majority of the remaining Directors, even though they constitute less than a quorum. Each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

4.7 Removal of Directors. At any regular or special meeting of the Members duly called, any one or more of the Directors elected by the Members may be removed with or without cause by a majority of the Members and a successor elected by the Members to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

4.8 Organization Meeting. The first meeting of a Board, after one or more Directors is newly elected, shall be held within ten (10) days of such election at such place as determined by the Board at the meeting at which such Directors were newly elected. No notice shall be necessary in order to legally constitute such meeting, providing a majority of the whole Board shall be present.

4.9 Regular Meetings. Regular meetings of the Board may be held at such time and place as is designated by a majority of the Directors, but at least one such meeting shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each director, personally or by mail,

telephone or telegraph, at least three (3) days prior to the day named for each meeting.

4.10 Special Meetings. A special meeting of the Board may be called by the President on three (3) days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner on the written request of at least two (2) or more Directors.

4.11 Waiver of Notice. Before or at any meeting of the Board, any Director may waive notice of such meeting in writing and such waiver shall be deemed the equivalent of notice duly given. Attendance by a Director at any meeting of the Board shall also be deemed a waiver of notice. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

4.12 Board Quorum. A majority of the Directors shall constitute a quorum for the transaction of business at all Board meetings. If, at any meeting of the Board, less than a quorum is present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the original meeting may be transacted without further notice.

4.13 Fidelity Bonds. The Board shall require that all officers and employees of the Association responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

4.14 Liability of Directors and Officers. No person shall be liable to the Association or Members for any loss or damage suffered by it or them on account of any action taken or omitted to be taken as a Director or officer of the Association if such person exercised and used the same degree of care and skill as a prudent individual would exercise under the circumstances in the conduct of such individual's own affairs, or for any action or nonaction based upon advice of counsel for the Association or upon statements made or information furnished by officers or employees of the Association which was reasonably believed to be true. The foregoing shall not be exclusive of any other right or defense.

4.15. Indemnity of Directors and Officers.

4.15.1 Every person who is or was a Director or officer of the Association (together with the personal representatives and heirs of such person) shall be indemnified by the Association against all loss, costs, damages and expenses (including reasonable attorneys' fees) asserted against, incurred by or imposed in connection with or resulting from any claim, action, suit or

proceeding, including criminal proceedings, to which such person is made or threatened to be made a party by reason of service as a Director or officer, except as to matters resulting in a final determination of negligence or willful misconduct on the part of such Director or officer. In the event of settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of negligence or willful misconduct in the performance of such person as a Director or officer in relation to the matter involved. The Association, by its Board, may indemnify in like manner, or with any limitations, any employee or former employee of the Association, with respect to any action taken or not taken as an employee. This right of indemnification shall be in addition to all other rights and defenses.

4.15.2 All liability, loss, damage, costs and expense incurred or suffered by the Association in connection with the foregoing indemnification shall be a common expense; provided, however, that nothing in this Section shall be deemed to obligate the Association to indemnify any Member who is or has been an employee, Director or officer of the Association with respect to duties or obligations imposed by the Declaration, Articles or these By-Laws due to status as a Member of the Association.

ARTICLE 5. OFFICERS

5.1 Designation. The principal officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board and serve one year terms. The Directors may appoint an assistant treasurer and an assistant secretary, and such other officers as in their judgment may be necessary.

5.2 Election of Officers. The officers of the Association shall be elected annually by the Board at its organizational meeting following the annual meeting. Officers shall hold office at the pleasure of the Board.

5.3 Removal of Officers. Upon an affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and a successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

5.4 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which usually vested in the office of president of a non-profit corporation, including, but not limited to, the power to appoint committees from among the Members from time to time as appropriate to assist in the conduct of the affairs of the Association.

5.5 Vice President. The Vice President shall take the place of the President whenever the President is absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint a director to serve in such capacity on an interim basis. The Vice President shall also perform such other duties imposed by the Board from time to time.

5.6 Secretary. The Secretary shall keep the minutes of all meetings of the Board and the Association. The Secretary shall have charge of such books and papers as the Board directs and in general, perform all duties incident to the office of Secretary. The Secretary shall count the votes cast at any annual or special meeting of the Association or the Board of Directors.

5.7 Treasurer. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all Association receipts and disbursements. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as designated by the Board.

5.8 Compensation. No officer shall receive compensation for services rendered the Association unless authorized by a resolution of the Members.

ARTICLE 6. FISCAL MATTERS

6.1 Budget. The Board shall adopt a budget for the operation of the Association at least annually. The budget will contain estimates of the cost of operating the Association and shall include all common expense items and may include a reserve for capital replacements.

6.2 Assessments. The estimate of common expenses of the Association, in accordance with the provisions of the Declaration, shall be assessed against each Lot in the Subdivision, on an annual basis and paid as determined by the Board provided, however, that Developer shall only be assessed as provided in the Declaration. Assessments shall be levied uniformly among the Lots except for special assessments, fines, fees or charges levied on the Lots. The first installment shall be paid on a prorated basis where proper, upon receipt by a Member of the deed to a Lot. If the annual assessment based on the budget proves inadequate, or if special circumstances arise, the Board at any time may levy a special assessment for any purpose for which a general assessment may be levied which special assessment shall be payable in such reasonable manner as the Board directs. Assessments and installments of assessments shall be paid on or before thirty (30) days after the date when such assessments and installments are due. Any assessment or installment not paid within thirty (30) days of its due date shall be delinquent and the Member shall be charged interest at the rate of fourteen (14%) percent per annum on the unpaid assessment or installment of such assessment. Interest

shall accrue from the date when the assessment or installment was first due until paid. All payments upon account shall be first applied to interest, if any, and then to the assessment payment first due. No Member who is more than thirty (30) days delinquent in the payment of an assessment or installment on an assessment shall be entitled to vote at any regular or special meeting of the Members. If a Member fails to timely pay an assessment or installment such Member shall be in default and the Board shall take appropriate measures as allowed by the Declaration or at law, including, but not limited to, the filing of a statement of lien in accordance with the Declaration, which statement shall be signed and verified by the Secretary of the Association or any other officer authorized by the Board.

6.3 Depositories. The funds of the Association shall be deposited in such bank(s) or other depositories designated by the Board and shall be withdrawn therefrom only upon check or order signed by the officers who shall from time to time be designated by the Board for the purpose. The Board may elect to require Members to pay assessments imposed by the Board directly to a designated depository. The Board may elect to direct that checks of less than \$500.00 for payment of Association obligations, bear only one (1) signature of a designated officer and that checks for a greater amount bear a signature and counter-signature of designated officers.

6.4 Fiscal Year. The fiscal year of the corporation shall begin on January 1 and end on December 31 of each year.

ARTICLE 7. OBLIGATIONS OF THE MEMBERS

7.1 Maintenance and Repair. A Member shall be responsible to the Association and each other Member for any claims, damages or other liabilities arising from the Member's failure to discharge its obligations under the Declaration. A Member shall reimburse the Association or another Owner on demand for any expenditures incurred in repairing or replacing any part of such other owner's improvements or the Common Areas damaged by the reimbursing Member, any member of such Member's family, or a tenant, employee or other user or occupant of the reimbursing Member's Lot.

ARTICLE 8. AMENDMENTS

8.1 Amendments. These By-Laws may be amended by the Members in a duly constituted meeting for such purpose. No amendment shall take effect unless approved by the Owners of at least 60% of the Lots in the Subdivision. No amendment shall limit any right granted to or reserved by Developer herein.

ARTICLE 9. MORTGAGES, STATEMENT OF UNPAID ASSESSMENTS

9.1 Notice to Association. Any Member who mortgages a Lot shall notify the Secretary of the Association of such mortgage or mortgages and the

name and address of the mortgage or mortgagee(s). The Secretary of the Association shall maintain a record of the names and addresses of all mortgagees of which the Secretary is given notice.

9.2 Notice of Unpaid Assessments. Upon twenty (20) days request by a mortgagee, proposed mortgagee or purchaser who has a contractual right to purchase a Lot, the Association shall furnish a statement setting forth the amount of the then unpaid assessments pertaining to such Lot. If any mortgagee, proposed mortgagee or purchaser of such Lot, in reliance upon such statement disburses mortgage loan proceeds or expends the purchase price, such mortgagee, proposed mortgagee or purchaser shall not be liable for, nor shall such Lot be subject to a lien which is not properly filed in accordance with law prior to the date of the statement, for any unpaid assessments in excess of the amount set forth in the statement. If the Association does not provide such a statement within twenty (20) business days after such request, then the Association is barred from making claim for any delinquent assessments other than against any such mortgagee, proposed mortgagee or purchaser under a lien properly filed in accordance with law prior to the request for the statement.

9.3 Notice to Mortgagee. Any notice required or permitted to be given to any mortgagee pursuant to these By-Laws shall be deemed given if mailed or delivered to such mortgagee at the address shown in such record and shall be deemed effective as of the date of mailing or delivery.

ARTICLE 10. CONFLICTS

10.1 Conflicts. If any provision of these By-Laws conflicts with the Declaration, the Declaration will control.

Approved this 30th day of December, 2004 by Bielinski Holdings, LLC, the owner of lots 2, 3, 5, 6, 11, 13 through 26, 28 through 34, 38 through 93, 105, 109 through 112, 114 through 128, 135, 138 and 139, constituting more than 60% of the Lots in the Subdivision.

Bielinski Holdings, LLC

By: 

Frank Bielinski, Manager

CONSENT TO ACTION BY BIELINSKI HOLDINGS, LLC

The undersigned, the Declarant of Prairie Meadow Subdivision, hereby removes Deb Hall, Alan Peters and Heather Gall from the Board of Directors for the Prairie Meadow Homeowner's Association, Inc.

Executed as of the 30th day of December, 2004.

Bielinski Holdings, LLC

By 

Frank Bielinski, Manager

Ss. 180.0502, 180.1506,
181.0502, 181.1504, 181.1508,
& 183.1608, Wis. Stats.

2004 DEC 21 AM 8:54

State of Wisconsin
DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Corporate & Consumer Services



**REGISTERED AGENT and/or
REGISTERED OFFICE CHANGE**

1. Prairie Meadow Homeowners Association, Inc.
(name of the corporation or limited liability company or its fictitious name, if so licensed)
2. The corporation or limited liability company submitting this statement is organized under the laws of
 Wisconsin OR _____ (name the foreign state or country)

3. A <input checked="" type="checkbox"/> This statement is submitted for the purpose of changing the corporation or limited liability company's REGISTERED AGENT in Wisconsin to be: New (or continuing) registered AGENT in Wisconsin: <u>Timothy J. Voeller</u>	NO FILING FEE
3. B <input type="checkbox"/> This statement is submitted for the purpose of changing the corporation or limited liability company's REGISTERED OFFICE in Wisconsin to be: New registered OFFICE in Wisconsin: _____ (complete street address of registered office) _____, Wisconsin _____ (ZIP code)	FILING FEE \$10.00

4. The street address of the registered office and the business office of the registered agent, as changed or continued, are identical.

5. Executed on 12-10-04
(Date)

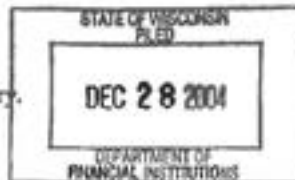
(Signature)
Timothy J. Voeller
(Printed name)

Select and mark (X) below the appropriate title of the person executing the document.

For a corporation
Title: President OR Secretary
or other officer title _____

For a limited liability company
Title: Member OR Manager

DFI/CORP/13(R02/10/03) Use of this form is voluntary.



NOTE: Limited Partnerships and Limited Liability Partnerships change registered agent and/or registered office by amendment, rather than by Form 13. Domestic limited partnerships use Form 304 (Certificate of Amendment - Domestic Limited Partnership), foreign limited partnerships use Form 321A (Foreign Limited Partnership Certificate of Amendment). Domestic and foreign limited liability partnerships use Form 604 (Domestic or Foreign Limited Liability Partnership Registration Statement Amendment).

REGISTERED AGENT and/or REGISTERED OFFICE CHANGE

↑
Peggy M. Attwood, Paralegal
Michael Best & Friedrich LLP
100 E. Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202-4108

↓
▲ Your return address and phone number during the day: (414) 223-2538

CONSENT TO ACTION BY BIELINSKI HOLDINGS, LLC

The undersigned, the Declarant of Prairie Meadow Subdivision, hereby Debbie Hall, Alan Peters, Brett Engelking, Timothy J. Voeller, Peter Collins and Heather Gall to replace Frank Bielinski, Paul Bielinski, Robert G. Brownell, Steve Bruskiewicz and Joseph Harvey of the Board of Directors for the Prairie Meadow Homeowners Association, Inc.

Executed as of the 10th day of December, 2004.

Bielinski Holdings, LLC

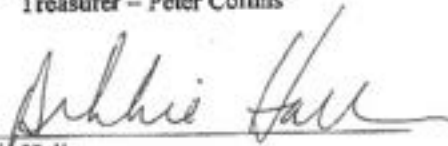
By 

Frank Bielinski, Manager

**CONSENT TO ACTION BY THE BOARD OF DIRECTORS OF PRAIRIE MEADOW
HOMEOWNERS ASSOCIATION, INC.**

The undersigned, the Board of Directors of Prairie Meadow Homeowners Association, Inc., hereby appoints the following as Officers to hold office until their successors are elected or until their prior death, resignation or removal:

President – Timothy J. Voeller
Vice President – Peter Collins
Secretary – Brett Engelking
Treasurer – Peter Collins



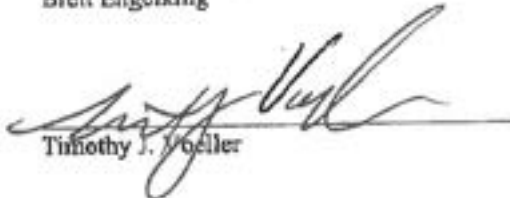
Debbie Hall



Alan Peters



Brett Engelking



Timothy J. Voeller



Peter Collins



Heather Gall

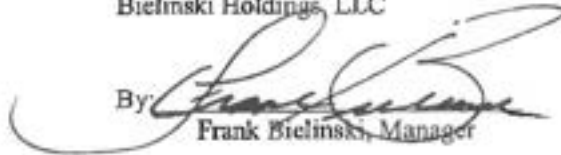
CONSENT TO ACTION BY BIELINSKI HOLDINGS, LLC

The undersigned, the Declarant of Prairie Meadow Subdivision, hereby removes Peter W. Collins from the Board of Directors for the Prairie Meadow Homeowner's Association, Inc. and replaces him with Meg Douglas.

Executed as of the 2nd day of November, 2007.

Bielinski Holdings, LLC

By:

A handwritten signature in black ink, appearing to read "Frank Bielinski", written over a horizontal line. The signature is stylized and cursive.

Frank Bielinski, Manager

ASSOCIATION DEVELOPER MANAGEMENT AGREEMENT

<p>"Association": Prairie Meadow Homeowners Association, Inc. Address: PO Box 1615, Waukesha, WI 53187 "Expenditure Limit": \$1,000.00 "Fee": \$5,400.00 per year or \$450 per month</p>	<p>"Term": Beginning date: March 1, 2006 Ending date: Date Bielinski Declarant ceases control over Association "Meetings": All annual owner meetings and all board of director meetings</p>
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This Agreement is entered into this February 28, 2006, by and between Bielinski Management, Inc., ("BMI") and the above named Association. In consideration of the mutual terms and conditions set forth in this Agreement, the parties hereto agree as follows:

I. FINANCIAL MANAGEMENT

A. **ASSESSMENT COLLECTION.** BMI is hereby authorized to request, demand, collect, receive and offer receipt for any and all assessments, rents, dues, fees and other sums which may at any time be or become due to the Association and to take such action in the name of the Association by legal process or otherwise as may be required for the collection of fees and other sums which may at any time be or become due. This includes the authority to take action in the name of the Association by way of legal process to collect the same upon approval by the Association's Board of Directors. Each month included with the financial report, BMI shall furnish the Association with an itemized list of all accounts which were delinquent as of the end of the then prior month. BMI shall not be liable for any rents, assessments, fees or other sums which it is unable to collect. BMI shall not provide collection services on behalf of the Association but shall use its best efforts and, upon request of the Association, will arrange for legal services to be taken on behalf of the Association.

B. **BANK ACCOUNTS.** BMI shall establish and maintain a separate bank account as agent of the Association for the deposit of the money of the Association with authority to draw thereon for any payments to be made by BMI to discharge liabilities or obligations as well as for the payment of the Fee due to BMI. All costs associated with maintaining such account shall be an operating expense charged to and paid by the Association. BMI shall have full authority over any account which it opens on behalf of the Association. Copies of all bank statements shall be available to the Association monthly.

C. **ACCOUNTING.** BMI shall maintain a record of income, expenses, assets and other liabilities of the Association utilizing the cash or accrual method of accounting. BMI may utilize its computerized payable system, which includes computer printed Association checks. The Association shall be responsible for providing initial financial records with audited or otherwise verified opening balances for both assessments and general ledger accounts.

D. **BUDGET PREPARATION.** BMI shall prepare and submit to the Association, 60 days prior to the beginning of the new fiscal year, a recommended operating budget for that fiscal year showing anticipated receipts and expenditures. Adoption of each budget by the Association shall occur at least 30 days prior to its effective date.

E. **ASSESSMENT BILLING.** BMI will provide annual dues statements for payment. BMI will provide delinquency notices to all delinquent Association members on a monthly basis.

F. **ASSESSMENT COLLECTION AND RECORDS.** BMI shall maintain a record of assessment charges, adjustments and receipts and include them in the financial reports. This information will also show the name of each unit owner in the Association, their unit number and the monthly charges for assessments.

G. **DELINQUENCY PROCESSING.** Upon request by the Association, BMI shall work with the Board of Directors to develop a delinquency policy and procedure for the Association. BMI will administer the delinquency procedure by charging late fees, securing legal counsel to represent and work for the Association, at the Association's expense, and answering questions regarding accounts. BMI shall prepare delinquency rolls containing the delinquent owners' names, unit numbers and balances owing to Association on a monthly basis.

H. **INVOICE/DISBURSEMENT PROCEDURES.** BMI will receive, review, and approve invoices and other bills received by the Association; prepare checks for payments of approved Association expenses as permitted, and maintain vendor files with attached checks, copies and invoices.

I. **FINANCIAL STATEMENTS.** BMI will prepare and maintain the records necessary to produce monthly computerized financial statements and provide the Association with copies of the balance sheets, income statements,

cash disbursements summaries and delinquency reports. Upon the calendar year-end closing, BMI will prepare for the Association a year-end cumulative report. Due to the nature and extent of the financial reports being provided by BMI, the Association understands the reports may not be available until April 1st of the new year.

J. *TAX PREPARATION/AUDIT.* BMI will cooperate with the Association's independent certified public accountant in the annual audit and/or tax preparation by making all records, books and files available for inspection and review by the certified public accountant, review the resulting audit and make the certified public accountant's recommended adjustments to the Association's records.

K. *INVESTMENTS.* Although BMI will not offer any investment advice, it will assist the Association in obtaining the appropriate information necessary to develop an investment program utilizing savings account, money market funds or other investment products. BMI will gather the information for review by the Association, but cannot endorse any specific investment products. BMI will assist the Association in preparation of necessary documents required by banking and investment institutions and further implement the investment program selected by the Association for reserves and other funds, as cash flow demands allow.

II. ADMINISTRATIVE MANAGEMENT

A. *FILES AND RECORDS.* The Association is responsible for providing BMI with complete copies of all governing documents (including declarations, by-laws, rules and regulations together with all amendments or supplements thereto), current resolutions, current and accurate financial information, a current roll of members, owners or tenants, plus other pertinent information requested by BMI, as may be necessary to assist BMI in performing its obligations hereunder. BMI, at its option, may utilize its own organization system with the records it receives and maintains. Originals of all records will be maintained by BMI. BMI will develop and maintain a filing system of the Association's important papers, such as contracts, resident communications, public agency filings, financial information and other information which may be important in future decision making by the Association. BMI will make the Association's routine books and records available for inspection by any owner upon reasonable notice during regular business hours. At the end of this agreement all original documents and records will be turned over to the Association. It is expressly understood that all documents and records are the property of the Association.

B. *CORRESPONDENCE.* BMI will prepare or advise the Association in the preparation of general correspondence dealing with business matters between the Association and residents, contractors, agents, government officials, or other entities. BMI will maintain files for all such correspondence. BMI will arrange for the mailing or other distribution of notices required by the Association's governing documents or as may be directed by the Association. The Association shall promptly respond to all inquiries, requests and actions requested by BMI. All notices provided for herein shall be in writing and shall be deemed to have been given when delivered personally or when deposited in the United States mail, registered or certified, postage prepaid, and addressed to the parties at the addresses listed above.

C. *INSURANCE CLAIM ADMINISTRATION.* BMI will assist the Association in the selection of an insurance broker and aid the Association and its broker in placing insurance as required by the governing documents of the Association, or as otherwise decided by the board of directors. BMI will provide administrative oversight of insurance claims.

D. *RULES ADMINISTRATION.* BMI will assist the Association in the development of reasonable and enforceable rules by coordinating with the Board of Directors, or a separate rule committee, and legal counsel. BMI will notify homeowners of any rule violations, as may be determined by the Board of Directors, and take such other actions as may be consistent with Association policy to assist the Association in the administration of its governing documents.

E. *POLICY DEVELOPMENT.* BMI will inform the Association concerning significant legislation, insurance, financial practices, court decisions, or other such changes in the laws pertaining to community associations which may come to the attention of BMI. BMI will work with the Board of Directors and offer advice and direction to the Association regarding their governing procedures and the responsibilities of the Board of Directors.

F. *LOT TRANSITION SERVICES.* BMI will provide basic information about the Association as requested by a member who wishes to sell or refinance his/her lot, a prospective buyer or their real estate agents. BMI will prepare resale disclosures certificates, refinancing forms and any other information as may be required or requested, on behalf of any lot owner which desires to sell or refinance a lot; the costs for processing such disclosures or forms are not included in the Fee but shall be the responsibility of the selling or refinancing party. BMI shall attempt to

use the most current information available to it; however, the Association shall indemnify BMI for any claim, action or suit by a member of the Association alleging errors or omissions in a resale disclosure statement. BMI will not charge Bielinski Homes or any related entity ("Bielinski Homes") for the preparation of any documents by BMI in connection with the sale of a lot or property by Bielinski Homes.

G. *PROFESSIONAL SERVICES COORDINATION.* BMI will provide assistance to the Association in selection of consultants to accomplish specialized functions for the Association in the areas of engineering, law, public accounting and other needs of the Association and fully cooperate with those consultants as may be retained.

III. PROPERTY MANAGEMENT

A. *SERVICES REQUEST PROCESSING.* BMI will receive and record reasonable service requests for repairs or maintenance of the common elements, as may be consistent with established policy, and as agreed upon with the Board of Directors. This may include arranging for prompt and satisfactory response (within 48 hours) to service requests for maintenance or repairs as permitted by Association policy and budget limitations.

B. *CONTRACTOR BIDDING PROCEDURES.* BMI will assist the Association in undertaking a competitive bidding process for non-emergency services. This assistance may include finding contractors for the various projects, receiving bids and other contractor information and submission of the information to the Board of Directors.

C. *CONTRACT DEVELOPMENT.* BMI will assist the Association in selection of contractors for frequent or continuing services. This service may include obtaining bid information, insurance certificates, and contracts. Pursuant to the budget approved by the Board of Directors, BMI is authorized to enter into contracts in the name of the Association or in its name on behalf of the Association, and to place orders for such services, equipment, tools, appliances, materials and supplies as are necessary to maintain the buildings and property of the Association. BMI can also arrange for legal counsel to review the contracts presented to the Association in order to help the Association protect its interests; however, should the Association elect to omit legal review of its contracts, BMI shall not be responsible for the legal consequences of any agreement entered into on behalf of the Association.

D. *SERVICE CONTRACTORS.* BMI will assist the Association by meeting with or otherwise communicating the Association's directions to the providers of recurring services, such as landscape maintenance professionals, janitorial service providers, snowplowers, as well as any other contractors consistently providing services to the Association.

E. *MEETING ATTENDANCE.* BMI shall attend the number of regularly scheduled meetings set forth above under "Meetings." BMI will support the operation of the meetings by providing the necessary materials, personnel and helping the board of directors with any procedural questions which they may have.

F. *EXPENDITURE LIMITS.* BMI is authorized to make disbursements, expenditure commitments and enter into contracts related to its responsibilities to the Association up to the Expenditure Limit set forth above, without prior approval from the Association. The Association grants BMI this authority without limit in those situations requiring emergency repairs or services involving danger to life or property which may be immediately necessary for the preservation and safety of the property or its residents. In all such cases, BMI shall make a reasonable effort to minimize costs and to consult with a member of the board of directors in a timely fashion.

IV. COMPENSATION/TERMINATION

A. *COMPENSATION.* For the services specified in this Agreement, the Association shall pay to BMI the monthly fee identified above as "Fee". The Fee is due and payable by the end of each month during the Term of this Agreement. BMI is authorized to tender this payment, and any costs or charges it is due in excess of the Fee, to itself from the Association's bank account.

B. *TERM/TERMINATION.* Unless terminated pursuant to any provisions contained within this Agreement shall be effective for the Term set forth above. During the term either party hereto may terminate this contract with a 90 day written notice, with or without cause and without penalty. Upon termination, the parties shall account to each other with respect to all matters outstanding. BMI shall freely yield the Association's records as soon as possible after termination but no later than thirty days after the effective date of termination. Either party may terminate this Agreement without notice to the other in the event a petition in bankruptcy or corporate reorganization is filed by or against BMI or the Association. The provisions of this paragraph shall survive termination of this Agreement.

V. MISCELLANEOUS

A. **LIABILITY.** Except for damages or injuries caused by the negligence or willful misconduct of BMI, its agents, or its employees, the Association shall indemnify and hold BMI harmless for all damages, liabilities, claims, suits, costs and expenses sustained by BMI when carrying out the provisions of this Agreement, acting under the express direction of the Association or as a result of the actions or inaction of the Association, its contractors, members or its employees. BMI shall indemnify and hold the Association harmless for all damages, liabilities, claims, suits, costs and expenses that arise due to the BMI's negligence or willful misconduct.

B. **INSURANCE.** BMI shall maintain liability and business insurance in force for the entire Term of this Agreement in the amount not to be less than \$200,000.00.

C. **COMPLIANCE.** BMI may take such action as may be necessary to comply promptly with any and all orders or requirements affecting the buildings or land of the Association by any federal, state, county or municipal authority having jurisdiction thereover and any other legal orders. However, BMI shall not be responsible for the Association's compliance with any federal, state or local laws and the Association hereby acknowledges that it is solely responsible to maintain itself in strict legal compliance with all federal, state and local laws, rules, orders and regulations of any type. Should the Association fail to operate itself in strict compliance with all federal, state and local laws or illegally discriminate in any manner, BMI may terminate this Agreement, without notice, as may be required elsewhere in this Agreement.

D. **MODIFICATIONS/AMENDMENTS/HEADINGS.** Timing is of the essence in all matters herein. All hold harmless and indemnification provisions throughout this Agreement shall include costs, disbursements and attorneys' fees incurred by the party who is to be held harmless or indemnified. This Agreement is a final and complete statement of the terms, conditions and representations made by both parties. No modification or amendment shall be binding unless it is reduced to writing and executed by both parties. Should any provisions of this Agreement be found to be unenforceable, they alone shall be stricken and the remaining provisions shall remain as written. The headings in this Agreement are for convenience only and shall not be used in the interpretation of this Agreement. This Agreement shall be interpreted under the laws of the State of Wisconsin and any litigation between the parties hereto shall be venue in Waukesha County, Wisconsin.

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

Association:
Prairie Meadow Homeowners Association, Inc.

By: 
Its: _____

BMI:
Bielinski Management, Inc.

By: 
Its: _____

Prairie Meadow Homeowners Association

2011 Budget
January 1 - December 31, 2011

139 Lots

Ledger Number	Ledger Description	2010 Budget	2011 Budget	2011 Per Lot/Per Yr.	Notes
4100	Total Assessment	\$16,124.00	\$16,680.00	\$120.00	2010 Dues: \$116.00
Operating Expenses					
6200	Lawn Care	\$5,400.00	\$5,660.00	\$40.72	Extra Mile
6300	Snow Maintenance	\$1,800.00	\$2,680.00	\$19.28	Extra Mile
6350	Landscape Improvements	\$250.00	\$250.00	\$1.80	Replace or add trees, shrubs, signs, etc.
	TOTAL	\$7,450.00	\$8,590.00	\$61.80	
Administrative Expenses					
4500	Reserve Payments	\$1,424.00	\$1,325.00	\$9.53	Future replacement costs for lands
5100	Management Fees	\$5,400.00	\$5,400.00	\$38.85	Professional management costs
5200	Accounting & Audit	\$110.00	\$115.00	\$0.83	Annual tax returns
5300	Property Insurance	\$340.00	\$200.00	\$1.44	Liability Insurance on the common areas
5400	General Admin Expenses	\$100.00	\$100.00	\$0.72	Community events, meeting room expenses, etc.
5500	Postage	\$150.00	\$50.00	\$0.36	Annual notices, violation notices, etc.
5600	Copies	\$150.00	\$50.00	\$0.36	Annual notices, violation notices, etc.
5700	Property Tax	\$1,000.00	\$850.00	\$6.12	Taxes on common areas
	TOTAL	\$8,674.00	\$8,090.00	\$58.20	

Surplus/Deficit

\$0.00

\$0.00