

**Proposed Comprehensive  
Plan Amendment**

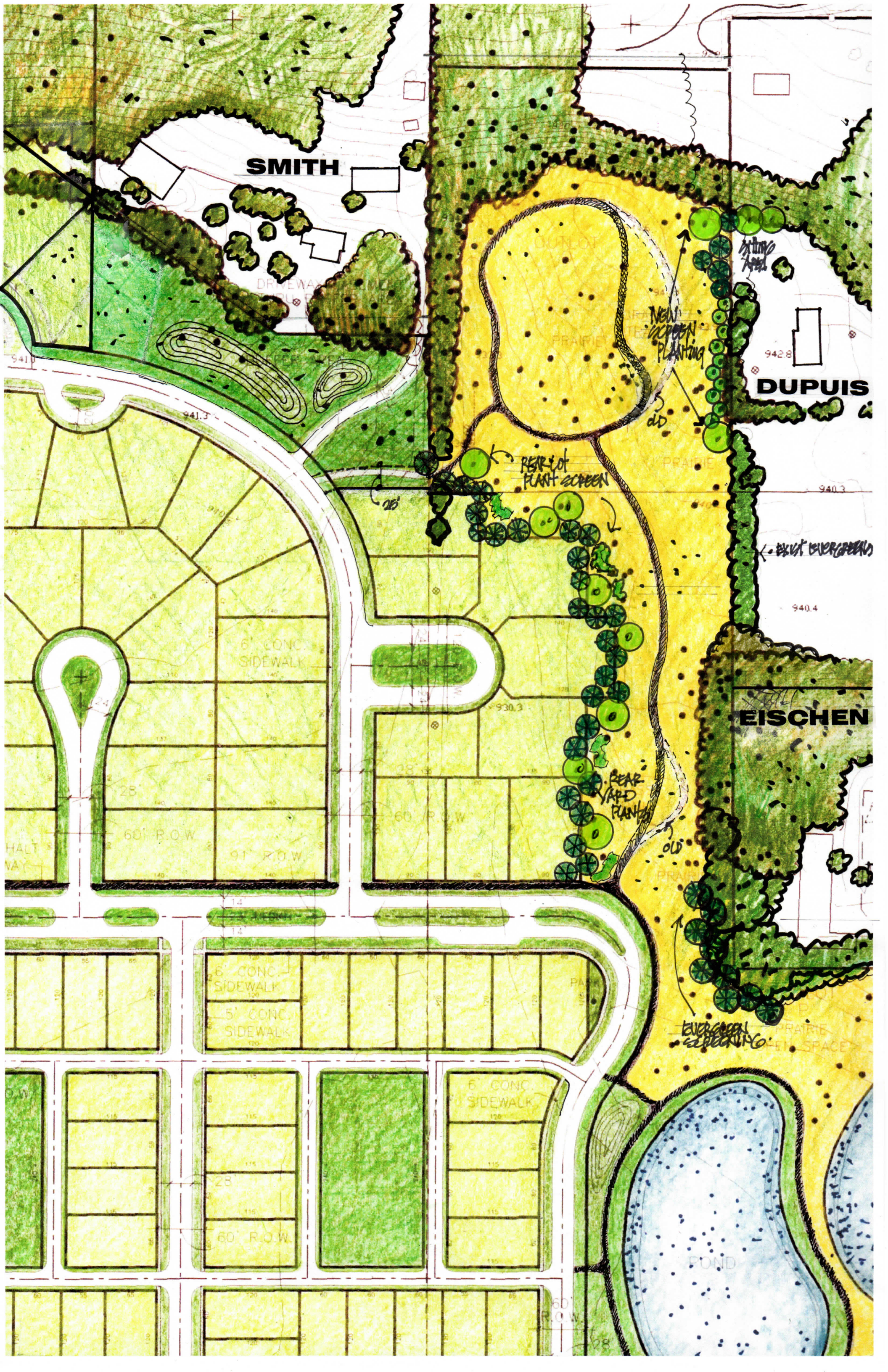
*Wildflower at Lake Elmo Concept Plan*



**SMITH**

**DUPUIS**

**EISCHEN**



## **WILDFLOWER**

### PLANT LIST

( Dry mesic soils )

- A. Sugar Maple – 1” – 1 ½”
- B. American Basswood - #2
- C. Swamp Oak
- D. Crab Apple
  - Donald Wyman
  - Spring Snow
  - Red Splendor
- E. Japanese Lilac
- F. Black Hills Spruce and/or Colorado Spruce – 5’-6’
- G. Shrubs
  - 1. Chokecherry
  - 2. Highbush Cranberry
  - 3. Dogwood
  - 4. Lilac
  - 5. Service Berry (multi-stem) - #2
  - 6. Fragrant Sumac - #2
  - 7. Grow Low Sumac ( ground cover ) - #1
  - 8. Arrowwood Viburnum - #2
  - 9. Nannyberry Viburnum - #2
  - 10. Big Bluestem ( grass )

## **WILDFLOWER**

### Plant Quantities & Layout

Note:

Plans as shown are illustrated with plant materials deemed appropriate for soil conditions existing at sites (dry mesic soils). The attached list names these materials. The developer would like to have the flexibility to substitute within this group if better or larger selections are available at time of planting. The homeowner will be asked for substitution approval. Planting schedule will occur at such time when the site is in final graded condition and weather is cooperative. Actual tree planting locations will be done in the field with property owner's input.

Dupuis Property:

Developer will plant a screen grouping at NE corner of property to screen an existing sitting area. Plant screen will wrap lot corner west and north.

Recommended plant materials will be spruce trees 5'-6' ht and sugar maple 1 1/2" cal. An additional understory plant screen will be planted in front of existing norway pines to screen approx. 6'-8' of open area between ground and existing top mass of trees. Plant material selection will be selected from group G.

Eischen Property:

Developer will plant spruce evergreen trees at SW corner of lot to provide screening of car head lights. Screen will wrap corner as shown on site plan. Other plantings along west property line will be determined after an assessment of existing trees is made and determined what plants will be appropriate.

Smith Property:

Developer has provided a south buffer area along the total south line of property. Exact berming and plantings along with a new road easement is in the process of final negotiations.



## **ROBERT & MARCELLA EISCHEN**

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Date: June 24, 2014  
To: Kyle Klatt  
Community Development Director  
Subject: Wildflower Proposal

As we are adjoining property owners to the proposed Engstrom Wildflower Development, my wife Marcy and I met with Bob Engstrom and architect Jerry Mazarra on June 19<sup>th</sup> to review our proposals for changes to the most recently proposed changes to the conservation easement adjacent to our land. As we previously agreed:

- ✚ Remove large parking and small Public Park from the close proximity to the S/E portion of our property.
- ✚ Straighten the walking path away from the western edge of our property and more toward the middle of the conservation easement.
- ✚ Straighten Wildflower property road with circular drive and remove pie shaped circular turn to help eliminate vehicle lights shining and flashing on our home.
- ✚ As proposed by the developer, plant a buffer of evergreen trees near S/W corner of our property. We request two rows of 5' trees planted on the S/W corner estimated some 40 feet long. We feel this is a satisfactory solution for the S/W corner of our property.

We withdraw our previous request for a 5' earthen berm with trees and shrubs planted on the berm's western side of our property.

The developer now proposes trees and shrubs be planted in front of homes located adjacent to the west side of our property. We agree this is a good idea but not an alternative to our request for trees and shrubs, i.e., Black Hills and Colorado Spruce interspaced with Maple Trees and shrubs such as High Bush

Cranberry, Bridal Wreath and shrubs compatible with butterfly conservation issues. These plantings should be adjacent to the western edge of the Eischen property line and extending north from the evergreens planted to serve as a light buffer to the N/W Eischen property line marker. These plantings should be further extended north through the western edge of the Dupuis property as recommended by Mary Jean. We feel the developer and/or property association is further responsible for maintenance of these plantings.

We request these agreements and/or lack thereof be recorded and put in writing. Where reasonable requests and/or agreements can't be agreed upon, we would suggest a further opportunity to review these issues with a mediator and/or arbitrator.

Respectfully

Robert Eischen

*Robert Eischen*

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Marcela Eischen

*Marcella Eischen*

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June 9, 2014

*The following is a summary of a tentative agreement between the Fields of St Croix Community Association (FoSC) and Robert Engstrom Companies (RECo) regarding RECo's proposed Wildflower development. This summary is provided for summary purposes only and is not meant to be a complete statement of the proposed agreement and is subject to change.*

Subject: The Fields of St Croix Community Association (FoSC) and Robert Engstrom Companies (RECo) Wildflower development

Background: The Open Space Agreement(s) is/are key to this discussion because it explicitly prohibits the Wildflower development proposed for Outlots O & P, which are part of the FoSC. The express intent of the Open Space Agreement is in summary to:

- Permanently retain the protected land in its predominately natural, scenic, agricultural, forested and open space condition;
- Prevent or remedy action or use that significantly impairs or interferes with the Conservation Values of the land;
- Expressly prohibits the Owner (RECo) from subdividing all or part of the protected lands for residential, commercial or industrial development;
- Prohibits construction of roads, driveways and the alteration of the surface of the protected land, including excavation.

FoSC Homeowners

- Purchased lots and built homes understanding FoSC was a conservation community with Open Space Agreement protection.
- Do not want development on Outlot O & Outlot P, but will support *limited* residential development on part of Outlot P in turn for "additional" legal protection preventing development on the other Outlots associated with FoSC.
- Requested that representatives of FoSC conduct negotiations with RECo. Tentative agreement between FoSC and RECo was reached, pending City approval to allow limited residential development on Outlot P, given the terms of the agreement, which are attached.

The FoSC Community Association requests this agreement become part of Wildflower's development plan, and its terms enforced by the City of Lake Elmo.

Respectfully submitted on behalf of the FoSC Association homeowners:

John W. Hodler  
Fields of St Croix Board President



The following are highlights of the tentative agreement:

- No development will occur on Outlot O.
  - Retain the existing Open Space Easement condition;
  - Fields of St Croix Community Association (FoSC) will be added as a party to the easement, thereby requiring FoSC's approval for any future changes thereto.
  
- Outlot P will have *limited* development on its west boundary (plan on page #4):
  - Includes small number of RECo-constructed homes along the west boundary of Outlot P;
  - No coffee shop or other retail/commercial facilities located on Outlot P;
  - RECo will install a path around part of the storm water system on Outlot P. This path will not connect to the FoSC pathways;
  - FoSC will have easement access rights for pedestrian and bicycles to Outlots O & P, and any Outlot created out of Outlot P for the storm water system;
  - FoSC will be added as a party to the existing easement on the title to the section of Outlot P not included in the new development's homes;
  - The exact boundary of the re-sized Outlot P will be defined by a survey (paid by RECo).
  
- The City of Lake Elmo will ensure the design of the Wildflower development's storm water system does not include a storm water retention basin on Outlot O; and will not increase the current flow of storm water drained onto Outlot O or any FoSC II Outlot (exception Outlot P):
  - The storm water design will not allow drainage to adversely affect any FoSC II homeowner;
  - Lake Elmo City will ensure the contractor and developer install the storm water system as designed;
  - The City of Lake Elmo will be responsible for maintenance of any portion of the Wildflower storm water system installed on Outlot P, or any Outlot created from Outlot P for the storm water system.
  
- Road access to Wildflower development:
  - The existing FOOSC, phase II, entry will remain "as is". This access road will not connect to the Wildflower development;
  - No access road for the new development will be constructed that connects to highway #5 through any Outlot.

- Ensure FoSC has the right to object to or modify any future development requests involving any one or more of the Outlots located in the Fields of St Croix development (see Outlots page #5).
  - FoSC will be added as a party to all Open Space Easements now in place for Phase II Outlots;
  - FOSC will be added as a party to the Minnesota Land Trust Conservation Easement now in place for Phase I Outlots.
- Phase I Outlots A & E's Minnesota Land Trust Conservation Easement revisions.
  - Rescind the right to construct a farm home;
  - Livestock operation or use of temporary farm buildings will only be granted if all parties to the easement (including FoSC) agree.
- RECo will transfer ownership of the Bluestem Village Green property (PIN1202921440009) if it is not under a 'public right of way restriction'.
- All easement updates or amendments and Outlot ownership transfers will be completed prior to approval of the new development's plans by the City of Lake Elmo.
- RECo's creation of the storm water system, path, natural setting, and plantings on Outlots O and P will be completed ~~in the beginning stage of the new development. The "beginning stage" is defined as a date equal to the completion of the first home.~~ *per the requirements and timeline established by Lake Elmo City and incorporated in the final plan sheet REC 6/9/2014*
- RECo coordinates with Lake Elmo City & FoSC during the design and installation of Wildflower's sewer pipe
  - Ensure adequate capacity to handle the wastewater from FoSC's phase I, phase II (including Bluestem) and Tana Ridge homes;
  - Sewer easement across the Northeast corner of the new development and Outlots O & P will be granted to FoSC;
  - Final connection, if and when completed, between the Lake Elmo City sewer system and the FoSC wastewater system (currently serving the above homes) will be coordinated by the FoSC Association at a later time.

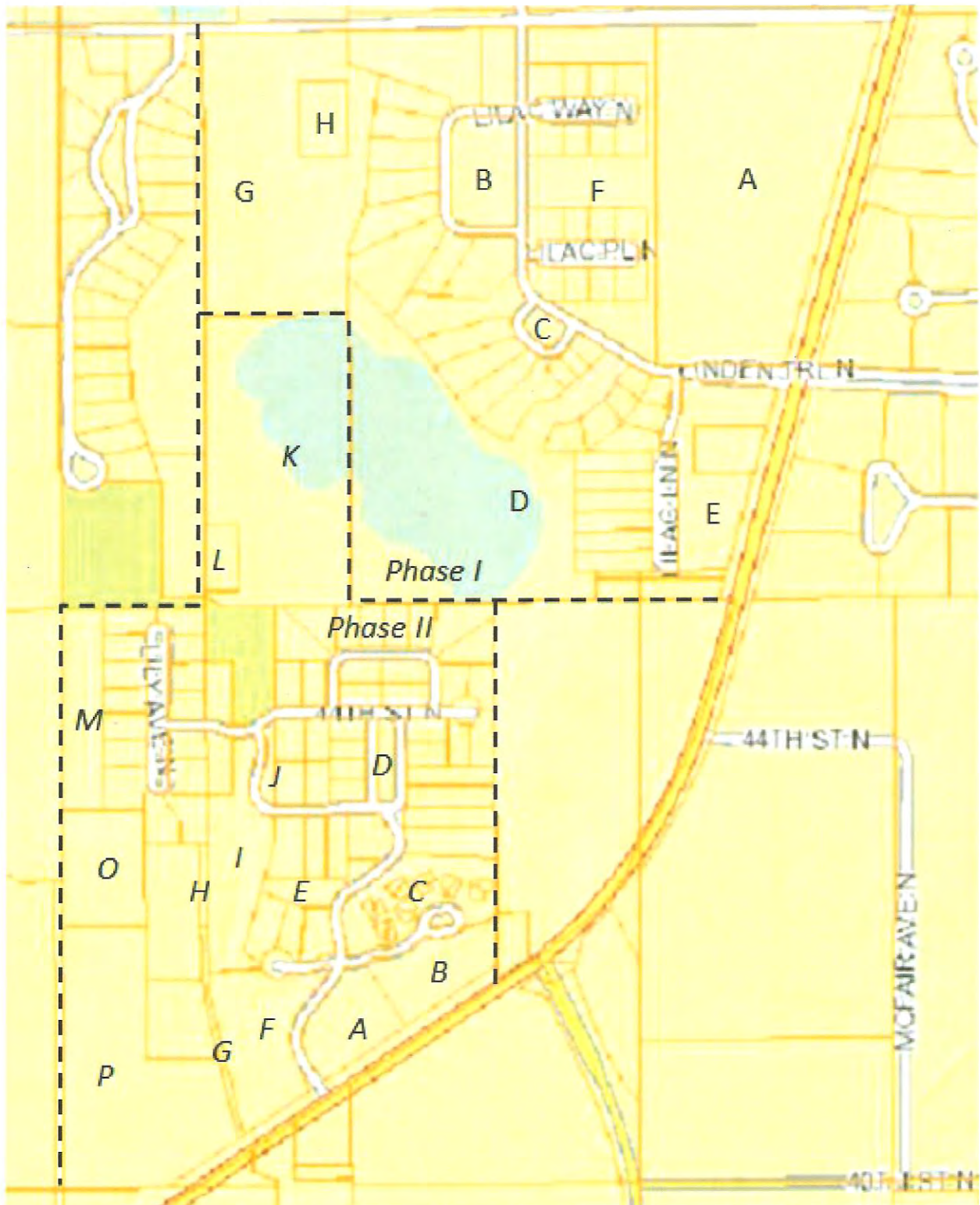
It is understood, that any agreements between RECo and FOSC will be subject to approval by the Lake Elmo City Council and other regulatory bodies.

The final agreement will include a provision that neither party may assign the agreement to any other person without the express prior written consent of the other party or its successor in interest.

REC  
 Rob E. Engstrom<sup>3</sup>  
 6/9/14

FOSC  
 J. J. Holden  
 6/9/2014

# FoSC Phase I & II outlots



**AMENDED AND RESTATED OPEN SPACE EASEMENT  
FIELDS OF ST. CROIX  
2ND ADDITION**

THIS AMENDED AND RESTATED OPEN SPACE EASEMENT is entered into this \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014 by and between the Robert Engstrom Companies, a Minnesota Corporation, ("Owner"), The Fields of St. Croix Community Association, a Minnesota Non-Profit Corporation, ("Association"), and the City of Lake Elmo, a Minnesota statutory city (the "City") (hereinafter collectively referred to as the "Parties").

WITNESSETH

1. This Amended and Restated Open Space Easement amends and restates those certain Open Space Easements filed with the Washington County Recorder as Document Numbers 3094199 and 3298378.
2. Owner and Association are the fee owners of the following described Real Property located in Washington County, Minnesota (the "Protected Land").  
  
Outlots A, D, F, I, J, K, M, O, [part of P to be determined at the time of the plat of Wildflower at Lake Elmo], all in the Fields of St. Croix 2<sup>nd</sup> Addition; and Outlot C, Bluestem at the Fields of St. Croix.
3. The Protected Land is primarily farmland, woodland and open space as defined in the Comprehensive Use Plan and Open Space Preservation District Regulations (both herein "City Development Regulations").
4. The natural, scenic and agricultural qualities, and the forested and open space character ("Conservation Values") of the Protected Land are described in the City's Development File for The Fields of St. Croix 2nd Addition ("Development File"). The City intends to use the description of the Protected Property as contained in the City's Development File for monitoring the subsequent uses of the Protected Land and enforcing the terms of this Open Space Easement. Notwithstanding this intent, the Parties may use other relevant evidence to establish the present condition of the Protected Land in the event of a disagreement as to whether a subsequent activity or use is inconsistent with the terms of this Open Space Easement.
5. Owner and Association intend to convey to the City the right to preserve and protect the Conservation Values of the Protected Land in perpetuity and to prevent or remedy subsequent activities or uses that are inconsistent with the terms of this Open Space Easement.

6. The grant of this Open Space Easement will further the purpose and intent of the City's Development Regulations.
7. The parties acknowledge that as a Local unit of government, the City has a direct interest in the enforcement of the terms of this Open Space Easement and that the City is in a position to monitor compliance with the terms of this Open Space Easement.

NOW, THEREFORE, in consideration of their mutual covenants and pursuant to the provisions of the City's Development Regulations, Owner and Association convey and warrant to the City and the City accepts a perpetual open space easement on the Protected Land of the character and to the extent set forth herein.

1. Intent. The parties intend to permanently retain the Protected Land in its predominantly natural, scenic, agricultural, forested, and open space condition and to prevent or remedy any subsequent activity or use that significantly impairs or interferes with the Conservation Values of the Protected Land. Owner and Association intend to restrict all subsequent use of the Protected Land to activities consistent with the terms of this Open Space Easement.
2. City's Rights. To accomplish the parties' intent, Owner and Association convey the following rights to the City as specified below:
  - a. The City shall preserve and protect the Conservation Values of the Protected Land, pursuant to the terms of this Open Space Easement.
  - b. The City may enter the Protected Land at reasonable times to monitor subsequent activities and uses and to enforce the terms of this Open Space Easement. The City shall give reasonable notice to Owner and Association of all such entries and shall not unreasonably interfere with Association's and Owner's use and quiet enjoyment of the Protected Land.
  - c. The City may act, pursuant to Paragraph 19, to prevent or remedy all, subsequent activities and uses of the Protected Land not consistent with the terms of this Open Space Easement.
3. Prohibited Uses. Owner and Association shall not perform or knowingly allow others to perform acts on the Protected Land that would significantly impair or interfere with the Conservation Values of the Protected Land. This general restriction is not limited by the more specific restrictions set forth in Paragraphs 4-14. The Parties acknowledge that the present use of the Protected Land is consistent with the terms of this Open Space Easement and the City's Development Regulations.. The Owner and Association may, subject to the restrictions set forth in Paragraphs 4-14, continue making such use of the Protected Land.
4. Residential, Commercial & Industrial Use. Owner and Association shall not subdivide all or part of the Protected Lands for residential, commercial or

industrial development. Owner and Association shall not subdivide, either legally or physically, the Protected Land for any other reason without each other's prior written approval. Owner and Association shall not engage in commercial or industrial activities on the Protected Land, other than the activities relating to agricultural operations as set forth in Paragraph 7. Owner and Association shall not engage in the exploration or extraction of soil, sand, gravel, rock minerals, hydrocarbons or any other natural resource on or from the Protected Land. Owner and Association shall not grant rights of way on the Protected Land in conjunction with commercial or industrial activities, or residential development, or any other purpose inconsistent with the Conservation Values, on Lands other than the Protected Land, except for access to adjacent parcels owned by Owner and Association.

5. Construction. Owner and Association shall not construct or install additional buildings or improvements of any kind including, without limitation, fences, driveways, parking lots, and roads, on the Protected Land, except as specified herein. Owner and Association may maintain, repair, and replace existing roads but shall not widen them unless doing so lessens the environmental impact of the road on the Protected Land and Owner and Association have obtained each other's, and the City's, prior written approval. Owner and Association may maintain, renovate, expand or replace existing agricultural and related buildings or improvements in substantially their present Location. Any expansion or replacement of an existing building or improvement shall not substantially alter its character or function, and shall not exceed its current square footage, without the prior written approval of all of the Parties to this Agreement..
6. Utility Systems. Owner and Association may maintain, repair, and replace utility systems in place as of the date of this Amended and Restated Open Space Easement on the Protected Land including, without limitation, water, sewer, power, fuel, and communications lines and related Facilities. Owner and Association shall not install new utility systems or extensions or expansions of existing utility systems on the Protected Land including, without limitation, water, sewer, power, fuel, and communications lines and related facilities, without each other's prior approval. Owner and Association may install, maintain, and replace irrigation systems used on the Protected Land. Owner and Association may install sewage systems on or under the Protected Land which comply with all existing federal, state and local regulations regarding water quality and other environmental concerns, and which do not disrupt other activities permitted under the terms of this Open Space Easement.
7. Agricultural Use. Owner and Association may conduct agriculture operations, except livestock operations, on the Protected Land provided that such use is in compliance with the City's Development Regulations and with each other's prior written approval.
8. Surface Alteration. Owner and Association shall not alter the surface of the Protected Land including, without limitation, the filling, excavation, or removal of soil, sand, gravel, rocks, or other material. Notwithstanding the forgoing, surface

alteration on Outlots O and P may be conducted as may be reasonably required in the course of activities or uses permitted under the terms of this Open Space Easement or as reasonably required during the initial development of the adjacent property owned by Owner or Association. Such initial development period shall expire no later than the 30<sup>th</sup> day of September, 20\_\_.

9. Soil and Water Degradation. Owner and Association shall not engage in activities or uses that cause or are likely to cause soil degradation, erosion, or water pollution, either on the surface or underground, except for activities or uses reasonably required in the course of Agricultural Operations permitted by Paragraph 7.
10. Waste Removal. Owner and Association shall not dump or dispose of refuse or other waste material on the Protected Land although, subject to applicable laws and regulations, Owner and Association may dispose of brush and other plant material from the Protected Land by burning or composting if such material results from Agricultural Operations permitted by Paragraph 7 or other activities or uses permitted by this Open Space Easement. Subject to the applicable laws and regulations, Owner and Association may store and make use of agricultural products and by-products including, without limitation, crops, silage, fertilizers, Lime, and manure on the Protected Land if such material results from or is to be used in agricultural operations permitted by Paragraph 7.
11. Water Bodies and Courses. Owner and Association shall not alter existing bodies of water or water courses or construct new bodies of water or water courses on the Protected Land except as reasonably required for the activities or uses permitted by the terms of this Open Space Easement or to enhance wildlife habitat or water quality.
12. Trees, Shrubs, and Vegetation. Owner and Association shall not remove, destroy, cut, mow, or alter trees, shrubs, and other vegetation except (i) for areas immediately adjacent to buildings or improvements permitted by Paragraph 5, (ii) as reasonably required for agricultural operations permitted by Paragraph 7, (iii) to prevent or control insects, noxious weeds, diseases, fire, personal injury, or property damage, (iv) for firewood or construction material intended for residential use on the protected Land or adjacent land (v) as reasonably required to construct and maintain the trails permitted in Paragraph 13, (vi) selective cutting for harvest pursuant to sound forest management practices, and (vii) for other activities or uses permitted by the terms of this Open Space Easement.
13. Recreational Uses. Owner and Association may establish and maintain trails for fire breaks, walking, horseback riding, cross-country skiing, and other non-motorized recreational activities on or across the Protected Land. Owner and Association shall not use or allow others to use motorcycles, all-terrain vehicles, or other motorized vehicles on the Protected Land except as reasonably required for other activities or uses permitted by the terms of this Open Space Easement.

14. Signs. Owner and Association shall not erect or install any signs or billboards on the Protected Land without consent of the City.
15. City's Approval. The Owner and Association may not change the use of the Protected Land as described in the City's Development file without prior written approval of the City so that the City may determine if the proposed change is consistent with this Open Space Easement and maintains or enhances the Conservation Values of the Protected Land. Owner and Association shall submit a request in writing to the City at least ninety (90) days prior to the proposed date of commencement of the use in question. The request shall set out the use for which approval is sought, its design and location, the impact of the proposed use on the Conservation Values of the Protected Land, and other material information in sufficient detail to allow the City to make an informed judgment that the proposed use is or is not consistent with this Open Space Easement or would adversely affect the Conservation Values of the Protected Land. The City shall notify Owner and Association in writing of its decision within sixty (60) days of its receipt of Owner or Association's request. Where the proposed use or modification of use requires a development permit or other approval from the City pursuant to the City's Development Regulations, the Owner and Association shall follow the process described in such regulations and the City shall notify the Owner and Association of its decision within sixty (60) days of receipt of a completed application from the Owner and Association. The City may withhold its approval only on a reasonable determination that the proposed use would be inconsistent with this Open Space Easement, impairs the Conservation Values of the Protected Land, results in violation of any law or regulation or that it lacks information in sufficient detail to reach an informed judgment that the proposed use is or is not consistent with this Open Space Easement. The City may condition its approval on the Owner or Association's acceptance of modifications which, in the City's judgment, would make the proposed use, as modified consistent with this Open Space Easement or protects the Conservation values of the Protected Land.
16. Public Access. No right of access by the public to any portion of the Protected Land is conveyed by this Open Space Easement.
17. Reserved Rights. Owner and Association reserve all rights accruing from their ownership of the Protected Land including, without Limitation, the right to engage in or allow others to engage in all activities or uses of the Protected Land that are not prohibited or Limited by this Open Space Easement or the City's Development Regulations, the right to exclude all or any of the public from the Protected Land and to sell or transfer all or part of the Protected Land subject to this Open Space Easement. Owner and Association shall inform all others who exercise any right by or through it on the Protected Land of the terms of this Open Space Easement. Owner and Association shall incorporate by reference the terms of this Open Space Easement in all deeds or other legal instruments by which they transfer any interest, including a Leasehold interest, in all or part of the Protected Land. Owner and Association shall give sixty (60) days prior written notification to the City of a transfer of all or any part of fee title to the Protected Land.



18. Costs and Liabilities. Owner and Association retain all obligations and shall bear all costs and liabilities of any kind accruing from their ownership of the Protected Land including the following responsibilities:

- a. Owner and Association shall remain solely responsible for the operations, upkeep, and maintenance of the Protected Land. Owner and Association shall keep the Protected Land free of all liens arising out of work performed for, materials furnished to, or obligations incurred by Owner and Association.
- b. Owner and Association shall pay all taxes, special assessments and other assessments levied against the Protected Land.
- c. Owner and Association shall remain solely responsible for maintaining liability insurance for their uses of the Protected Land. Liability insurance policies maintained by the Owner and Association covering the Protected Land will name the City as an additional named insured. Owner and Association shall hold harmless, indemnify, and defend the City from and against all liabilities, penalties, costs, Losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorney's fees, arising out of or relating to (i) personal injury, data or property damage resulting from an act, omission, or condition on or about the Protected Land, unless due solely to the negligence or willful act of the City, (ii) the obligations retained by Owner and Association to maintain the Protected Land and pay taxes in Paragraphs 18(A) and (B) , and (iii) the existence of this Open Space Easement.

19. Enforcement. If the City finds at any time that Owner and/or Association have breached or may breach the terms of this Open Space Easement, the City may give written notice of the breach to Owner and Association and demand action to cure the breach including, without limitation, restoration of the Protected Land. If Owner and Association do not cure the breach within thirty (30) days of notice, the City may commence an action to (i) enforce the terms of this Open Space Easement (ii) enjoin the breach, ex parte if needed, either temporarily or permanently, (iii) recover damages, (iv) require restoration of the Protected Land to its condition prior to Owner and/or Association's breach, and (v) pursue any other remedies available to it is law or equity. If the City determines that immediate action is needed to prevent or mitigate significant damage to the Protected Land, the City may pursue its remedies under this Paragraph without written notice or giving Owner and Association time to cure the breach

20. Costs of Enforcement. If the City prevails in an action brought under Paragraph 19, Owner and/or Association shall reimburse the City for all costs incurred by the City in enforcing the terms of this Open Space Easement including, without limitation, costs of suit, reasonable attorney's fees, and costs of restoration. If Owner and/or Association prevails and the District Court finds that the City brought the action without reasonable cause or in bad faith, the City, as determined by the Court, shall reimburse Owner and/or Association's costs of defense including, without limitation, costs of suit and reasonable attorney's fees.

21. Waiver. The enforcement of the terms of this Open Space Easement is subject to the City's discretion. A decision by the City not to exercise its respective rights of enforcement in the event of a breach of a term of this Open Space Easement shall not constitute a waiver by the City of such term, or of any subsequent breach of the same or any other term, or any of the City's rights under this Open Space Easement. The delay or omission by the City to discover a breach by Owner or Association or to exercise a right of enforcement as to such breach shall not impair or waive its rights of enforcement against Owner or Association.
22. Acts Beyond Owner and Association's Control. The City shall not exercise its respective rights of enforcement against Owner and Association for injury or alteration to the Protected Land resulting from causes beyond the reasonable control of Owner and Association including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Owner or Association under emergency conditions to prevent, abate, or mitigate significant injury or alteration to the Protected Land resulting from such causes.
23. Extinguishment. If, in the judgment of the City, subsequent unexpected changes in the conditions surrounding the Protected Land make it impossible to preserve and protect the Conservation Values of the Protected Land, this Open Space Easement can be extinguished, either in full or in part, by proceedings in a court having jurisdiction. The City agrees that it will not commence proceedings in such court to extinguish this Open Space Easement without providing notice of the City's intent to the Owner and the Association under Section 25 (Notices) at least 120 days in advance thereof.
24. Assignment of Easement. The City may transfer its rights and obligations in this Open Space Easement only to a qualified conservation organization, as provided in Section 170 (h) of the Internal Revenue Code, which may hold Open Space Easements, as provided in Minnesota Statutes Sect. 84C.01(2) (1992). As a condition of such transfer, the City shall require the continued enforcement of this Open Space Easement unless the Open Space Easement has been extinguished.
25. Notices. Any notice or other communication that either party wishes to or must give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the following addresses or such other address as any party shall designate by written notice to the others:

**OWNER:**

Robert Engstrom Companies  
4801 West 81st Street Suite 101  
Minneapolis, MN-55437

**CITY:**

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MW 55042

ATTN: City Administrator

ASSOCIATION:

The Fields of St. Croix Community Association  
PO Box 56  
Lake Elmo, MN 55042

26. **Governing Law and Construction.** This Open Space Easement shall be governed by the laws of the Minnesota. Nothing contained in this Open Space Easement shall be construed to allow any use or development of the Protected Land in a manner which is not in compliance with the City's Development Regulations or to allow the use or development of the Protected Land without obtaining all permits required by the City's Development Regulations. Where inconsistencies occur between the provisions of state law, city regulations, or the terms of this Open Space Easement, the most restrictive regulation shall apply.
27. **Entire Agreement.** This Open Space Easement sets forth the entire agreement of the parties and supersedes all prior discussions.
28. **Amendment.** The parties may amend this Open Space Easement provided that such amendment shall not impair or threaten the Conservation Values of the Protected Land and shall not affect the perpetual duration of this Open Space Easement. Any purported amendment to this Agreement shall be in writing and shall be executed by all of the Parties hereto.
29. **Binding Effect.** The covenants, terms, conditions, and restrictions of this Open Space Easement shall bind and inure to the benefit of the parties, their personal representatives, heirs, successors, assigns, and all others who exercise any right by or through them and shall run in perpetuity with the Protected Land. Notwithstanding anything to the contrary contained herein, the rights and obligations of the Owner and Association shall relate solely to the property which is owned by the Owner and Association. The Association shall have no obligations with regard to Owner's property and the Owner shall have no obligation with regard to Association's property.

OWNER:

Robert Engstrom Companies, Minnesota Corporation

By: \_\_\_\_\_  
Robert E. Engstrom  
Its: President

CITY:

City Of Lake Elmo, A Minnesota statutory city

By: \_\_\_\_\_

Its: \_\_\_\_\_

ASSOCIATION:

The Fields of St. Croix Community Association, Minnesota non Profit Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MINNESOTA )

)ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me a, notary public within and for said county, personally appeared Robert E. Engstrom, to me known to be the President of the above described corporation, and he executed the foregoing instrument and acknowledged that he executed the same by authority of and on behalf of Robert Engstrom Companies.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA )

)ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me a, notary public within and for said county, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the above described Minnesota statutory city, and he executed the foregoing instrument and acknowledged that he executed the same by authority of and on behalf of the City of Lake Elmo.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me a, notary public within and for said county, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the above described non-profit corporation, and he executed the foregoing instrument and acknowledged that he executed the same by authority of and on behalf of The Fields of St. Croix Community Association.

\_\_\_\_\_  
Notary Public

Drafted by:  
Netzell Legal Services, PLLC  
7900 International Dr.  
Suite 300  
Bloomington, MN 55425

**AMENDED CONSERVATION EASEMENT  
THE FIELDS OF ST. CROIX**

THIS AMENDED CONSERVATION EASEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between Robert Engstrom Companies, a Minnesota corporation, whose address is 4801 W. 81<sup>st</sup> Street, Suite 101, Bloomington, MN, 55437 (“Owner 1”); The Fields of St. Croix Community Association (“Owner 2”) (Owner 1 and Owner 2 collectively referred to as “Owner” or “Owners”); the Minnesota Land Trust, a Minnesota nonprofit corporation having its principal office in Minneapolis, Minnesota (“Trust”); and the City of Lake Elmo, a Minnesota statutory city (“City”).

WITNESSETH:

- A. This Amended Conservation Easement Agreement is executed for the purpose of amending that certain Conservation Easement recorded with the Washington County Recorder’s office as Document Number 992829.
- B. Owner 1 is currently the sole owner in fee simple of certain real property legally describer as Outlots A and E, The Fields of St. Croix (“Property 1”).
- C. Owner 2 is currently the sole owner in fee simple of certain real property legally described as Outlots D, G and H, The Fields of St. Croix (Property 2”).
- D. Property 1 and Property 2 consist of approximately 81.59 acres of land, together with buildings and other improvements located in Washington County, Minnesota ("Protected Land").
- E. Owners intend to convey to the trust the right to preserve and protect the Conservation Values of the Protected Land in perpetuity and to prevent or remedy subsequent activities or uses that are inconsistent with the terms of this Conservation Easement.
- F. The grant of this Amended Conservation Easement will serve the policies of the State of Minnesota which encourage the protection of Minnesota's natural resources and which encourage the use and improvement of the agricultural land for the long term production of food, as set forth, in part, in Minnesota Statutes Section 40A.04 (State Agricultural Land Preservation), and in Section 84C.01-02 (Conservation Easements), as well as the policies of the City of Lake Elmo in its Open Space Preservation District Ordinance (81-37).
- G. The Trust is a publicly supported, nonprofit corporation which seeks to protect the natural, scenic, agricultural, forested, and open space conditions of land in Minnesota. In addition, the Trust is qualified as a conservation organization under Sections 50 I (c)(3) and 170(h) of the Internal Revenue Code. The Trust has agreed to assume the obligation of protecting the natural and scenic qualities of the Protected Land in perpetuity according to the terms of this Conservation Easement.

NOW, THEREFORE, in consideration of their mutual covenants and pursuant to the provisions relating to conservation easements set forth in Minnesota Statutes Sections 84C.011-.05, the parties hereto agree that the Conservation Easement shall be amended in the following manner:

Paragraph 5, Construction, shall be amended to read as follows:

5. Construction. Owners shall not construct or install additional buildings or improvements of any kind including, without limitation, fences, driveways, parking lots, and roads, on the Protected Land, except as specified herein. Owners may maintain, repair, and replace existing roads but shall not widen them unless doing so lessens the environmental impact of the road on the Protected Land and such Owner has obtained the prior written approval of the Trust. Owners may maintain, renovate, expand, or replace existing agricultural and related buildings or improvements in substantially their present location. Any expansion or replacement of an existing building or improvement shall not substantially alter its character or function, and shall not exceed its current square footage by more than twenty-five percent, without the prior written approval of the Trust. Owners may construct temporary agricultural buildings on Outlots A, E and/or G as needed to conduct agricultural activities as provided in Paragraph 7, only upon the consent of all of the parties to this Agreement.

Paragraph 7, Agricultural Use, shall be amended to read as follows:

7. Agricultural Use. Owners may conduct agricultural operations in areas currently being used for agricultural operations on the Protected Land. For purposes of this paragraph, the term Agricultural Operations shall mean raising livestock, growing crops to feed such livestock, and growing crops for in the agricultural or retail marketplace. The use of any portion of the Protected Property for livestock purposes shall be allowed only in the event that all parties to this Amended Conservation agreement consent to such use for livestock purposes.

Paragraph 26, Notices shall be amended to read as follows:

26. Notices. Any notice or other communication that either party wishes to or must give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the following addresses or such other address as either party shall designate by written notice to the other:

OWNER:  
Robert Engstrom Companies  
4801 W. 81st Street, #101  
Bloomington, MN 55437

TRUST:  
Minnesota Land Trust  
70 North 22nd Avenue  
Minneapolis, MN 55411-2237  
ATTN: Land Projects Committee

ASSOCIATION:  
The Fields of St. Croix Community Association

\_\_\_\_\_  
\_\_\_\_\_

CITY  
The City of Lake Elmo

\_\_\_\_\_  
\_\_\_\_\_

Binding Effect. The covenants, terms, conditions, and restrictions of this Conservation Easement shall bind and inure to the benefit of the parties, their personal representatives, heirs, successors, assigns, and all others who exercise any right by or through them and shall run in perpetuity with the Protected Land. The parties hereto confirm and ratify the validity and enforceability of the Conservation Agreement, as modified herein

OWNER:

Robert Engstrom Companies

\_\_\_\_\_  
Its President  
Bloomington, MN 55437

TRUST:  
Minnesota Land Trust

\_\_\_\_\_  
Its \_\_\_\_\_

ASSOCIATION:  
The Fields of St. Croix Community Association

\_\_\_\_\_  
Its \_\_\_\_\_

CITY  
The City of Lake Elmo

\_\_\_\_\_  
Its \_\_\_\_\_

STATE OF MINNESOTA    )



\_\_\_\_\_ ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by Robert E. Engstrom, the President of Robert Engstrom Companies, a Minnesota corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA )  
\_\_\_\_\_ ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, the \_\_\_\_\_ of Minnesota Land Trust, a Minnesota non-profit corporation, on behalf of the non-profit corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA )  
\_\_\_\_\_ ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, the \_\_\_\_\_ of The Fields of St. Croix Community Association, a Minnesota non-profit corporation, on behalf of the non-profit corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, the \_\_\_\_\_ of the City of Lake Elmo, a Minnesota statutory city, on behalf of the statutory city.

\_\_\_\_\_  
Notary Public

Drafted by:  
Netzell Legal Services, PLLC  
7900 International Dr., #300  
Bloomington, MN 55425

# ROBERT ENGSTROM COMPANIES

August 28, 2014

Nick Johnson  
Lake Elmo City Planner

Re: Wildflower at Lake Elmo

Nick,

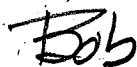
Regarding the maintenance and management of the Conservancy areas that we are converting from farmland into native habitat, we have obtained estimates for planting and maintenance from Minnesota Native Landscapes, a reputable firm that also maintains the prairies at The Fields of St. Croix. After the initial three-year period of establishment, which REC, as the developer will maintain, it appears that the maintenance costs are reasonable enough to be handled by the Homeowner Association fees. In addition, we are contemplating a system of requiring .25% of the sales price upon resale of the new homes. This is similar to what some of my fellow-developers are doing around the country, and locally at Stonemill Farm in Woodbury.

As stated before, the pathways will be open to the public. We also have had some conversations with our neighboring developer, Gonyea, about making a small contribution for maintenance. The city could assist by tax-abatement on the open space parcels.

The second issue was the Conservation Easements, which, I understand, that our attorney, Tim Netzell and the city attorney, Dave Snyder, have essentially agreed upon. Copies are available if you so desire.

I hope this answers your questions and that we will be on the agenda for Tuesday, September 2.

Kind Regards,



Bob Engstrom

...RESIDENTIAL COMMUNITY DEVELOPERS...

4801 West 81st Street • Suite 101 • Minneapolis, Minnesota 55437

www.engstromco.com • (952) 893-1001 • Fax (952) 893-1841