

# CITY OF WASHINGTON, ILLINOIS Committee of the Whole Agenda Communication

Meeting Date: January 8, 2024

Prepared By: Jon Oliphant, Planning & Development Director

Dennis Carr, City Engineer

Agenda Item: E. Cruger Road Detention Basin Maintenance Discussion

**Explanation**: The owner of the 798 E. Cruger Road property, Pat Minasian, has approached staff requesting

assistance with the maintenance of a detention basin at the front of his property. The property is slightly less than 0.5 miles from the current city limits and is not contiguous. It was part of an attached pre-annexation agreement that was approved by the City Council in 1996 with Donald and Marie Wagenbach for the 700 and 1000 E. Cruger parcels. (Note: The 700 E. Cruger address number was later changed to 798). The agreement was effective for 20 years, which is

the maximum allowable under Illinois statute.

Among other stipulations, the agreement set forth obligations of the City. The City, at its cost and expense, was to design and provide the construction engineering services for the construction of the detention basins on the two parcels. Additionally, the City was to provide "extraordinary maintenance assistance...above the normal pool for the overflow structure." The owners were to provide routine maintenance for the basins above and below the normal pool for the overflow structure. The agreement did not provide a definition for "extraordinary maintenance assistance." The owners would construct the basins and grant the City access to all parts of the real estate for the purpose of inspecting the basins, both during construction and after their completion.

Fiscal Impact: The City has not historically incurred any financial impact, as staff is not aware of any

maintenance that has been provided.

Action Requested: Staff does not feel that the City should be involved in the maintenance of a basin that is on private property and outside of the city limits. Additionally, the pre-annexation agreement is no longer valid. Furthermore, staff does not feel that the current condition of the basin above the normal pool requires "extraordinary maintenance." The issues that the owner addressed with staff are related to items below the normal pool. Staff seeks direction on any possible future extraordinary maintenance assistance at the January 8 Committee of the Whole meeting. Should there be interest in providing maintenance of the basin, staff would strongly recommend that a new agreement be drafted that more clearly identifies the City's obligations.

### ORDINANCE NO. 2027

AN ORDINANCE AUTHORIZING THE EXECUTION OF A PRE-ANNEXATION AGREEMENT WITH DONALD L. WAGENBACH AND MARIE A. WAGENBACH CONCERNING CERTAIN TERRITORY NOT CONTIGUOUS TO THE CITY OF WASHINGTON ILLINOIS, AND NOT NOW EMBRACED WITHIN THE CORPORATE LIMITS OF THE CITY OF WASHINGTON, ILLINOIS, LOCATED AT 700 E. CRUGER ROAD AND 1000 E. CRUGER ROAD, WASHINGTON, ILLINOIS

WHEREAS, Donald L. Wagenbach and Marie A. Wagenbach are the owners of the real estate described on Exhibit "A", hereto attached, which is not contiguous to the city limits of the City of Washington, Tazewell County, Illinois; and

WHEREAS, said Owners have signed a Pre-Annexation Agreement that has not yet been executed by the City wherein said owners agree to annex the above-described real estate to the City upon certain conditions set forth in said Pre-Annexation Agreement; and

WHEREAS, all legal requirements, including public notice and public hearings, have been held pursuant to law:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, ILLINOIS, that:

Section 1. The Mayor and City Clerk are hereby authorized to execute the Pre-Annexation Agreement in substantially the form of the document attached hereto, marked Exhibit "B", and by reference expressly made a part hereof.

Section 2. That a certified copy of this Ordinance, certified as correct by the City Clerk, shall be filed with the Recorder of Deeds of Tazewell County, Illinois, and copies of said ordinance shall be submitted to the Tazewell

County Board and Tazewell County Zoning Office.

Section 3. That this Ordinance shall be in full force and effect from and after its final passage by a two-thirds vote of the City Council of the City of Washington, Tazewell County, Illinois.

PASSED AND APPROVED in due form of law at a regular meeting of the City Council of the City of Washington, Tazewell County, Illinois, on the 5th day of <u>August</u>, 1996.

AYES: 7 Brubaker, Godar, Vaughn, Habecker, Vanlandingham, NAYS: 0 Cunningham, Kiesewetter

#### EXHIBIT "A"

#### Parcel "A":

Part of the Northeast Quarter of Section 13, Township 26 North, Range 3 West of the Third Principal Meridian, Tazewell County, Illinois, being more particularly described as follows:

Beginning at the North Quarter corner of said Section 13; thence South 84° 28′ 46″ East along the North line of the Northeast Quarter of said Section 13, a distance of 332.02 feet; thence South 0° 48′ 22″ East, a distance of 660.00 feet to an iron monument; thence North 84° 28′ 46″ West, a distance of 332.02 feet to an iron monument on the West line of the Northeast Quarter of said Section 13; thence North 0° 48′ 22″ West along the West line of the Northeast Quarter of said Section 13 a distance of 660.00 feet to the point of beginning, containing 5.000 acres and being subject to all easements and rights-of-way as set forth in the attached plat, which by reference is made a part of this description.

PIN: 02-13-200-003

Property Address: 700 E. Cruger Road, Washington, IL 61571

#### Parcel "D":

Part of the Northeast Quarter of Section 13, Township 26 North, Range 3 West of the Third Principal Meridian, Tazewell County, Illinois, being more particularly described as follows:

Commencing at the North Quarter corner of said Section 13, thence South 84° 28′ 46″ East along the North line of the Northeast Quarter of said Section 13, a distance of 996.66 feet to the point of beginning of the tract to be described; thence continuing South 84° 28′ 46″ East along the North line of the Northeast Quarter of said Section 13, a distance of 332.02 feet; thence South 0° 48′ 22″ East, a distance of 660.00 feet to an iron monument; thence North 84° 28′ 46″ West, a distance of 332.02 feet to an iron monument; thence North 0° 48′ 22″ West, a distance of 660.00 feet to the point of beginning containing 5.000 acres and being subject to all easements and rights-of-way as set forth in the attached plat, which by reference is made a part of this description.

PIN: 02-13-200-006

Property Address: 1000 E. Cruger Road, Washington, IL 61571

## PRE-ANNEXATION AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_5th\_\_ day of August \_\_\_\_, 1996, by and between the CITY OF WASHINGTON, ILLINOIS, an Illinois municipal corporation, (hereinafter referred to as the "City"), organized and existing under and by virtue of the constitution and laws of the State of Illinois, and DONALD L. WAGENBACH and MARIE A. WAGENBACH (hereinafter referred to as "Owners").

### RECITALS

WHEREAS, Article 11, Division 15.1 of the Illinois Municipal Code (65 ILCS 5/11-15.1 et. seq.) authorizes the corporate authorities of Illinois municipalities to enter into agreements with the owners of record of land which may be annexed to such municipality at the time the land is or becomes contiguous to the municipality; and

WHEREAS, the Owners are the owners of the record or are otherwise interested in certain real estate described in Exhibit "A" attached hereto and incorporated herein by reference (which such real estate so described is hereinafter referred to as the "Property"); and

WHEREAS, the Property is not contiguous but at such time as it becomes contiguous, the Property will constitute territory which may be annexed to the City as provided in Article 7 of the Illinois Municipal Code (65 ILCS 5/7-1-1, et. seq.; and

WHEREAS, Owners are proposing to construct lakes or ponds on the property which can serve, if constructed properly, as storm water detention facilities, that will reduce or assist in reducing flooding and excessive storm water runoff in the City of Washington; and



WHEREAS, on July 8, 1996, pursuant to notices required by statute, the corporate authorities of the City conducted a public hearing on the question of entering into a Pre-Annexation Agreement with the Owners concerning the Property; and

WHEREAS, the Owners wish the Property to be zoned CE-1 upon annexation; and

WHEREAS, pursuant to Section 7-1-1 of the Illinois Municipal Code, the trustees of each Fire Protection District, the Public Library District, the Washington Township Commissioner of Highways and the Board of Town Trustees have been notified by certified mail, at least ten (10) days in advance of the adoption of this Agreement:

NOW, THEREFORE, in consideration of the mutual agreements and covenants hereinafter set forth, the Owners and City hereby covenant and agree, as follows:

### (1) OBLIGATIONS OF OWNERS:

- (A) Owners have executed and delivered to the City Clerk of the City (hereinafter called "City Clerk") a Deposit Agreement, substantially in the form of the document attached hereto, marked Exhibit "B" (hereinafter referred to as "Deposit Agreement").
- (B) Contemporaneously with the execution of this Agreement by Owners, and the execution and delivery of the Deposit Agreement, Owners have executed and deposited with the City Clerk, pursuant to the Deposit Agreement, a Petition for Annexation duly executed by the Owners of the property and by more than fifty-one percent (51%) of the qualified electors residing within the Property, a copy of such Petition is attached hereto, marked Exhibit "C", and by reference expressly made a part hereof.

- (C) Owners, or their successors, assigns, or grantees, agree that within thirty (30) days after City annexes the Property, Owners, or their successors, assigns, or grantees, shall, at their expense, prepare and submit to the City an annexation plat accurately depicting the Property.
- (D) Owners agree to lay out and develop the Property into residential lots substantially as shown on the Final Plat prepared by Daily & Associates and dated September 12, 1995, and in conformance with subdivision standards and regulations of the City of Washington.
- (E) Owners, at Owners' sole cost and expense, shall construct, erect and build the storm water retention and detention basins within the drainage way easements depicted and shown on the final plat for the real estate more particularly described in Exhibit "A" attached hereto and by reference expressly made a part hereof, pursuant to the plans and specifications attached hereto, marked Exhibit "D", and by reference expressly made a part hereof.
- (F) Owners, their heirs, personal representatives, successors and assigns, at Owners' sole cost and expense shall maintain, repair, reconstruct, operate, and clean said storm water detention and retention facilities on a regular and continuing basis from and after the construction thereof pursuant to the plans and specifications attached hereto, marked Exhibit "D".
- (G) Owners, for themselves, their heirs, personal representatives, successors and assigns, agree to give, grant and convey to the City, its officers, employees and agents, access to all parts of the real estate more particularly described in Exhibit "A", attached hereto, and by reference expressly made a part hereof, for the purpose of inspecting the storm water retention and detention basins and facilities to insure compliance in the construction thereof in accordance with the plans and specifications attached hereto as Exhibit "D", both during the construction

thereof as well as after completion of such constructions.

(H) Owners, for themselves, their heirs, personal representatives, successors and assigns, agree to give, grant, and convey to the City reasonable access over and across the real estate more particularly described in Exhibit "A" attached hereto and by reference expressly made a part hereof, on a continuing and continuous basis for the purpose of inspecting the storm water retention and detention facilities and for purposes of providing extraordinary maintenance in the area of the storm water retention and detention facilities above the normal pool and the overflow structure. The Owners, their heirs, personal representatives, successors and assigns, shall provide ordinary, routine, and continuing maintenance for the retention and detention facilities both above and below the normal pool, and at the overflow structure.

## (2) OBLIGATIONS OF THE CITY:

- (A) Upon Owners depositing the Petition for Annexation and the Deposit Agreement, the City Clerk shall provide the Owners with a fully executed copy of the Deposit Agreement and the Pre-Annexation Agreement.
- (B) At such time as the Property becomes contiguous to the City, the City shall cause its City Clerk to file the Petition for annexation with the City and will immediately thereafter annex the Property.
- (C) City agrees, upon annexation, to enact a zoning ordinance zoning the Property as classification CE-1.
- (D) The City, at its cost and expense, shall design and provide the construction engineering services for the construction of the storm water retention and detention basins on the real estate more particularly described in Exhibit "A" attached hereto and by reference expressly made a part hereof, pursuant to the plans and specifications attached hereto as Exhibit "D" and by reference expressly

made a part hereof.

- (E) The City shall apply for an erosion control permit from the County of Tazewell and shall act as the permit holder should such an erosion control permit be issued by the County.
- (F) The City shall provide extraordinary maintenance assistance for the area of said storm water retention and detention basins above the normal pool and for the overflow structure. Owners, their heirs, personal representatives, successors and assigns shall provide the routine and day-to-day maintenance for the storm water retention and detention basins above and below the normal pool and for the overflow structure.

## (3) SCHEDULE FOR MANNER IN DEVELOPMENT.

Except as otherwise provided in this Agreement, the Owners may lay out and develop the Property on such a time schedule as is determined reasonable by the Owners but in compliance with all applicable rules, regulations, ordinances, and laws of the City, the County of Tazewell, or the State of Illinois, which are presently in force or which may be enacted from time to time in the future.

# (4) BINDING UPON SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, successor owners of record of the Property or any part thereof, assignees, and lessees, and upon any successor municipal authorities of the City and any successor municipalities.

## (5) EFFECTIVE PERIOD OF AGREEMENT.

The provisions of this Agreement shall be binding upon and be enforceable against the City and the Owners and their respective successors and assigns for a period of twenty (20) years from the date hereof.

## (6) RECORDING OF AGREEMENT.

An executed copy of this Pre-Annexation Agreement, or Memorandum thereof, shall be filed among the land records in the Office of the Recorder of Deeds of Tazewell County within thirty (30) days of the execution of this Agreement. Upon annexation, an annexation map shall be filed among the land records in the Office of the Recorder of Deeds of Tazewell County within ninety (90) days of said annexation.

### (7) ENFORCEABILITY.

This Agreement shall be enforceable in any court of competent jurisdiction by either of the parties hereto by any appropriate action at law or equity to secure the performance of the covenants herein contained.

### (8) SEVERABILITY.

If any provision of this Agreement or any section, sentence, clause or word or the application thereof in any circumstance is held invalid, the validity of the remainder of this Agreement and the application of such provision, section, sentence, clause or word in any other circumstances shall not be affected thereby.

# (9) APPLICATION TO ENTIRE PROPERTY.

The rights, obligations, and duties of the parties as herein set forth shall be applicable to each and every portion of the Property.

### (10) COUNTERPARTS.

This Agreement may be executed in any number of counterparts each of which shall nevertheless constitute but one agreement.

IN WITNESS WHEREOF, the corporate authorities of the City and the Owners have hereunto set their hands and seals

and have caused this Agreement to be executed by duly authorized individuals all on the day and year first above written.

CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS

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CITY

Donald L. Wag back

Marie A. Wagenbach

OWNERS

#### EXHIBIT "A"

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PIN: 02-13-200-003

Property Address: 700 E. Cruger Road, Washington, IL 61571

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PIN: 02-13-200-006

Property Address: 1000 E. Cruger Road, Washington, IL 61571

STATE OF ILLINOIS, )

COUNTY OF TAZEWELL, )

In the Matter of the Petition of DONALD L. WAGENBACH and MARIE A. WAGENBACH for Annexation of Certain Territory to the City of Washington, Tazewell County, Illinois

# PETITION FOR ANNEXATION

The undersigned, DONALD L. WAGENBACH and MARIE A. WAGENBACH, respectfully petition for the annexation of the territory hereinafter described to the City of Washington, Illinois, and in support thereof, state:

- (1) That the undersigned are the owners of all of the real estate described on Exhibit "A" attached hereto and by reference expressly made a part hereof.
- (2) That all electors residing on said real estate have signed this Petition.
- (3) That the described territory is not presently within the corporate limits of any municipality.
- (4) That the described territory is not contiguous to the City of Washington, Tazewell County, Illinois, but, at the time such property does become contiguous to the City of Washington, Illinois, Petitioners desire annexation.
- (5) That this Petition for Annexation is conditioned upon the provisions of a certain Pre-Annexation Agreement and Deposit Agreement between the City of Washington by and through its Mayor and City Council and Petitioners.

WHEREFORE, Petitioners respectfully request that the



corporate authorities of the City of Washington, Tazewell County, Illinois, annex the described territory to the City of Washington in accordance with the provisions of this Petition and said Pre-Annexation Agreement and in accordance with the law of the State of Illinois.

DATED:	-29-	Donald L. Wagenbach
		Marie A. Wagenbach  Marie A. Wagenbach
STATE OF ILLINOIS,	) ) ss.	

DONALD L. WAGENBACH and MARIE A. WAGENBACH, on affirmation state, that they are the owners of the premises above described, that they have signed the above and foregoing Petition for Annexation in the capacity therein set forth, that they understand the contents thereof, and declare that the matters and things therein set forth are true and correct.

(Donald L. Wagenbach)

(Marie A. Wagenbach)

Subscribed and affirmed before me this

Notary Public

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#### EXHIBIT "A"

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PIN: 02-13-200-006

Property Address: 1000 E. Cruger Road, Washington, IL 61571

### DEPOSIT AGREEMENT

TO: CITY CLERK

CITY OF WASHINGTON

TAZEWELL COUNTY, ILLINOIS

## Dear Madam:

## (A) DEPOSIT BY OWNERS

We deposit a Pre-Annexation Agreement signed by us, which shall become effective upon its acceptance by the Corporate Authorities of the City of Washington, Tazewell County, Illinois, for the annexation of the real estate described therein in Exhibit "A" hereto attached.

We further deposit a Petition for Annexation of even date herewith executed by Owners for the annexation of the real estate more particularly described in Exhibit "A" hereto attached.

### (B) DEPOSIT INSTRUCTIONS

Upon the real estate more particularly described in Exhibit "A" attached hereto becoming contiguous to the City, the Owners shall send notice of same to the City Clerk within thirty (30) days of the occurrence thereof. Upon receipt of said notice, the City Clerk shall submit the



Petition to the City Council with appropriate ordinances annexing and rezoning the subject real estate in accordance with the Pre-Annexation Agreement. In lieu of said notice as above described, the City Clerk may submit the Petition to the City Council after fifteen (15) days' written notice to Owners that the real estate more particularly described in Exhibit "A" attached hereto is contiguous to the City. The City Clerk shall send said notice to said Owners by certified mail, return receipt requested, delivery restricted, to any one of the Owners only. Should Owners object to the City Clerk's determination that the above described real estate is contiguous to the city, Owners shall send written notice to the City Clerk within said 15day period. Said notice from Owners to City Clerk shall stay the submission of the Petition to the Corporate Authorities, until and unless the City Clerk sends a second written notice to Owners in the manner specified, despite Owners' objection, stating that the Petition is being submitted to the Corporate Authorities of the City of Washington for annexation and rezoning. In the event a second notice is sent to Owners, the Petition shall be submitted by the City Clerk to the Corporate Authorities with appropriate ordinances annexing and rezoning the subject real estate within seven (7) days of the mailing of the second notice.

(2) The addresses for the purposes of any and all notices hereunder is as follows:

Owners:

Donald L. Wagenbach Marie A. Wagenbach 1144 E. Cruger Road Washington, IL 61571

City:

City Clerk City of Washington 115 West Jefferson Street Washington, IL 61571

In the event either the Owners or the City shall have a

change of address, each shall be responsible for notifying the other in writing of such change indicating the new address and that address will thereafter be the address to which all notices shall be directed. Any notice called for by this Agreement sent to the last address as provided herein and returned as undeliverable shall be deemed to have been received in all events.

- This Agreement shall bind and inure to the benefit (3) of the legal representatives, heirs, successors and assigns of the parties hereto.
- The City Clerk signs below to evidence her receipt of the items deposited and the City's acceptance of the agreement herein stated.

IN WITNESS WHEREOF, the parties hereto have executed this Deposit Agreement on this 5th day of August 1996

Donald L. Wagen

OWNERS

CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS an Illinois municipal

corporation

Mayor

ATTEST

City Clerk

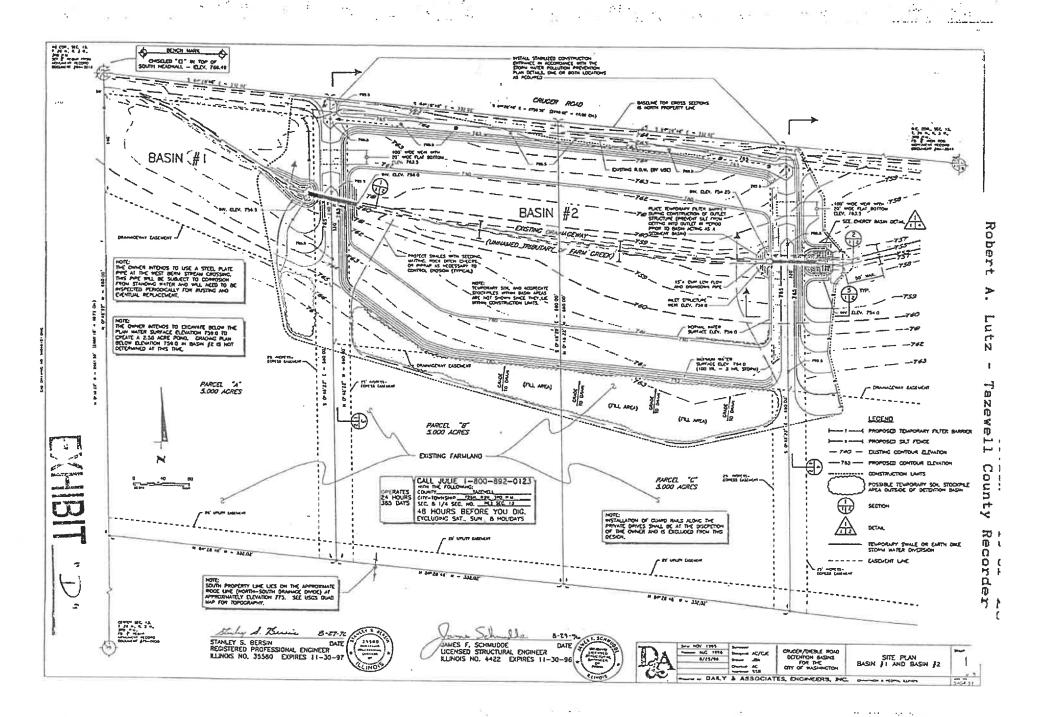
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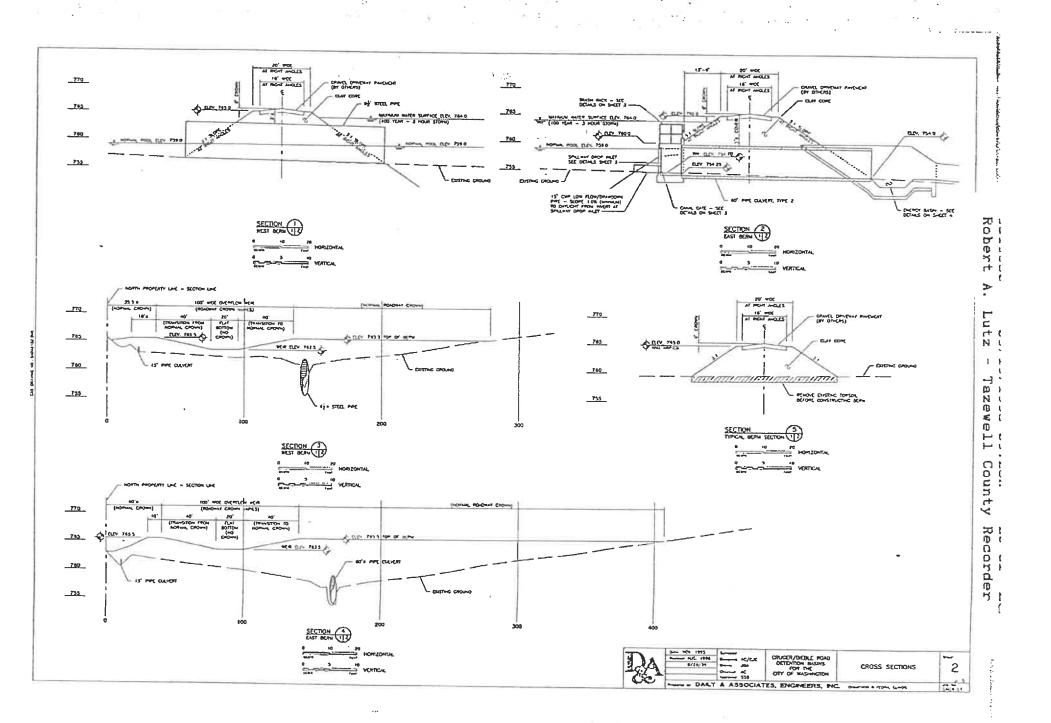
ACCEPTED this 5th day of August

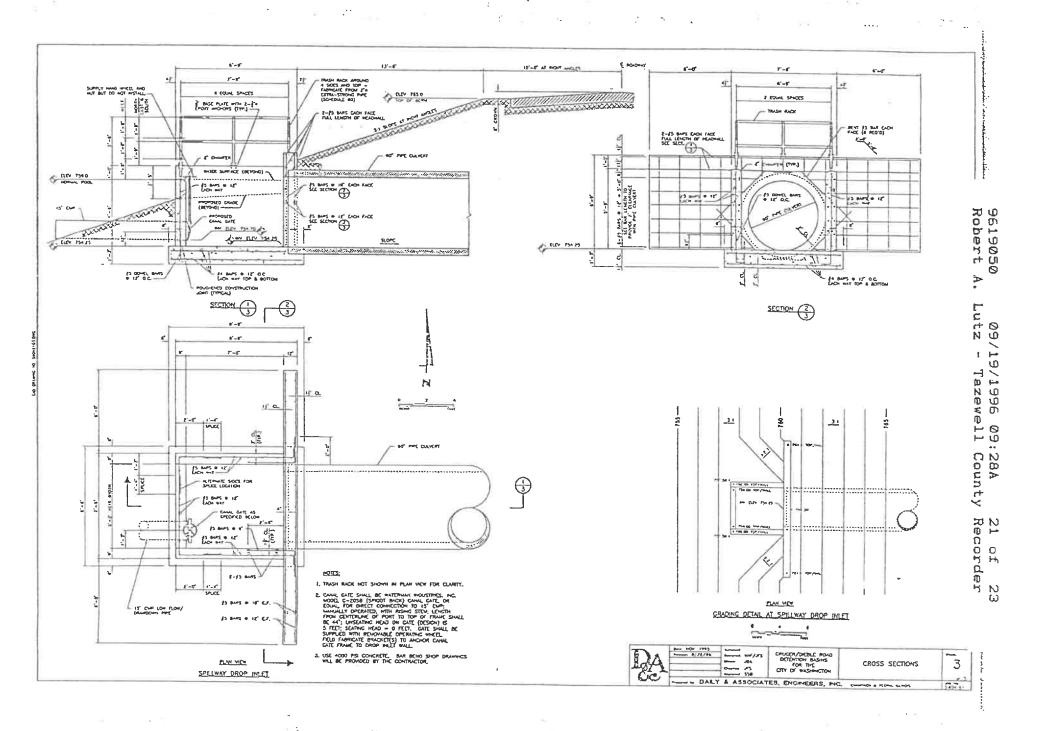
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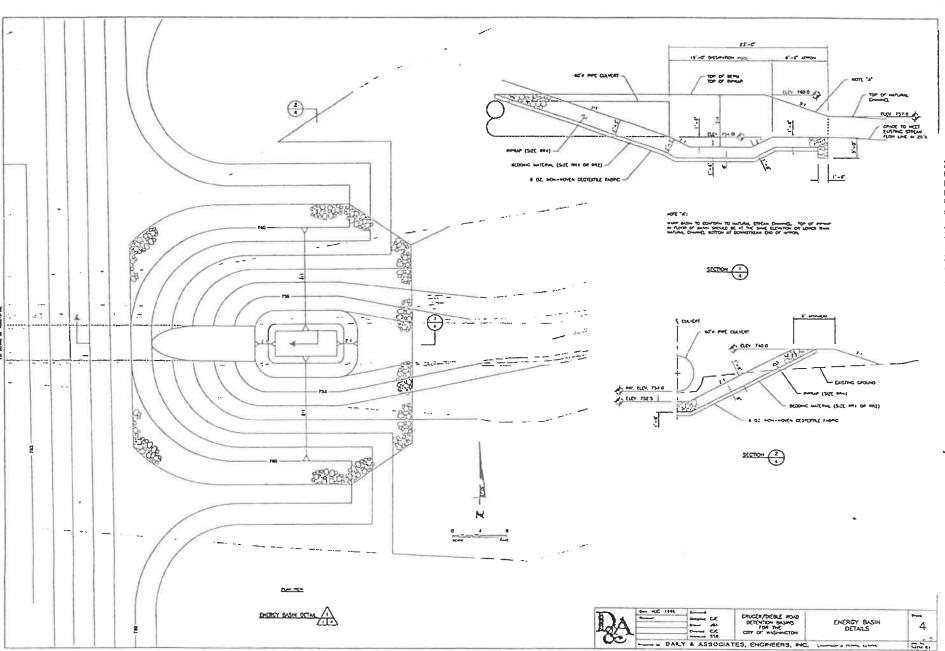
Clerk

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Robert Tazewell County Recorder

