

CAUTION: Use of this model form is not appropriate for every circumstance. Consult your legal advisor.

*Caution: This is a model form - as changes are made, paragraph and exhibit numbers, and references to the same, must change.*

MODEL DEVELOPER'S AGREEMENT  
FOR  
(name of Development)  
MUNICIPALITY OF \_\_\_\_\_, \_\_\_\_\_ COUNTY, WISCONSIN

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between (Developer's Name), a (type of entity), (Address), hereinafter called "DEVELOPER", and the MUNICIPALITY of \_\_\_\_\_ in the County of \_\_\_\_\_ and the State of Wisconsin, hereinafter called the "MUNICIPALITY".

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of land in the MUNICIPALITY, said land being described on **EXHIBIT A** attached hereto and incorporated herein, hereinafter called "SUBJECT LANDS"; and

*(Note: This model agreement is drafted assuming that the DEVELOPER owns the subdivision land. If the DEVELOPER does not own the subdivision land at the time that this agreement is entered, numerous changes are needed throughout the agreement, and the owner of the subject lands must be a party to the agreement.)*

WHEREAS, the DEVELOPER desires to divide and develop SUBJECT LANDS for residential purposes by use of the standard regulations as set forth in Chapter 236 of the Wisconsin Statutes and the municipal ordinance regulating land division and development; and

WHEREAS, Section 236.13 of the Wisconsin Statutes provides that as a condition of approval, the governing body of a municipality within which the SUBJECT LANDS lie may require that the DEVELOPER make and install any public improvements reasonably necessary and/or that the DEVELOPER provide financial security to ensure that the DEVELOPER will make these improvements within a reasonable time; and

WHEREAS, said SUBJECT LANDS are presently zoned \_\_\_\_\_, which allows the above-described development; and

WHEREAS, the DEVELOPER may be required to grant additional easements over a part of the SUBJECT LANDS for sanitary sewer, storm sewer and water; and

WHEREAS, the DEVELOPER and MUNICIPALITY desire to enter into this agreement in order to ensure that the DEVELOPER will make and install all public improvements which are reasonably necessary and further that the DEVELOPER shall dedicate the public improvements to the MUNICIPALITY, provided that said public improvements are constructed to municipal specifications, all applicable government

regulations, this agreement and as required by the MUNICIPALITY Engineer, without cost to the MUNICIPALITY; and

WHEREAS, this agreement is necessary to implement the MUNICIPALITY zoning and land division ordinances; and

WHEREAS, the DEVELOPER agrees to develop SUBJECT LANDS as herein described in accordance with this agreement, conditions approved by the MUNICIPALITY Plan Commission and MUNICIPALITY Board, conditions of certain agencies and individuals in the County, all MUNICIPALITY ordinances and all laws and regulations governing said development; and

WHEREAS, the Plan Commission of the MUNICIPALITY of \_\_\_\_\_ has given conditional Preliminary Plat approval to the development, as shown on the document marked "Preliminary Plat" on file in the MUNICIPALITY Clerk's office, conditioned in part upon the DEVELOPER and the MUNICIPALITY entering into a DEVELOPER's Agreement, as well as other conditions as approved by the MUNICIPALITY Board; and

*(Note: This model assumes the land is divided by plat. If the land is divided by certified survey map (CSM), different terms apply. Note that the financial guarantee limitations of Wisconsin Statutes Section 236.13(2) apply only to plats.)*

WHEREAS, the DEVELOPER is now seeking from the Plan Commission and MUNICIPALITY Board of the MUNICIPALITY of \_\_\_\_\_ final plat approval for the development; and

WHEREAS, the DEVELOPER has offered to provide a financial guarantee in the form of a Letter of Credit to induce the MUNICIPALITY to allow the final plat to be recorded prior to completion of the improvements, which the Municipality has accepted, and this consideration forms an integral part of this agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the DEVELOPER does hereby agree to develop SUBJECT LANDS as follows and as otherwise regulated by MUNICIPALITY ordinances and all laws and regulations governing said development, the parties hereto agree as follows:

### **DEVELOPER'S COVENANTS**

#### **SECTION I. IMPROVEMENTS**

A. **PUBLIC STREETS**: The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER'S Engineer or Surveyor that all public street plans are in conformance with all federal, state, county and MUNICIPALITY specifications, regulations and ordinances, and written proof from the MUNICIPALITY Engineer evidencing review and approval of said plans.

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2. The DEVELOPER shall grade and install all planned public streets in accordance with the preliminary plat, approved development plan of said development or subdivision, or final plat as the case may be and the plans and specifications on file in the MUNICIPALITY Clerk's office.
3. Construction of the public streets providing access to and fronting a specific lot will be completed, presented and accepted by the MUNICIPALITY Board through the first lifts of asphalt before any building permits are issued for said lot.
4. The first lifts of the public streets will be completed and presented to the MUNICIPALITY Board no later than \_\_\_\_\_, or as extended by the MUNICIPALITY Board. The "first lifts" include the "binder course" as defined in Wisconsin Statutes Section 236.13(2)(ad)1.
5. The final lift of asphalt shall be placed on all public streets after at least one winter season, but not later than twelve (12) months after completion of the first lifts of asphalt, unless extended by the MUNICIPALITY Board and the DEVELOPER and the Post-substantial Security is extended by the same period of time.

*(Note: The financial guarantee can continue only for 14 months after the first lifts are complete, per Wisconsin Statutes Section 236.13 (2)(am)c. Therefore, the final lift must be completed within 12 months of the completion of the first lifts, leaving at least 2 months to consider whether it is necessary to draw on the financial guarantee before it expires.)*

*(Note: All references to phasing are removed, because Wisconsin Statute Section 236.13(2)(am)1.b. prohibits requiring a guarantee for any subsequent phase; therefore, a new agreement is needed for each phase.)*

6. The DEVELOPER shall maintain public streets, including snowplowing, unless otherwise approved by the MUNICIPALITY Administrator, until accepted by resolution by the MUNICIPALITY Board.
7. The DEVELOPER shall furnish "as built" plans showing changes from the construction plans, pursuant to specifications approved by the MUNICIPALITY Engineer. Said "as built" shall be on reproducible mylar and digital file, and shall include field locations and hydrant valves and curb stops, if any.
8. Contractors working on the development or on individual lots are required to clean up all mud, dirt, stone or debris on the streets no later than the end of each working day. In addition, the DEVELOPER shall have ultimate responsibility for cleaning up any and all mud, dirt, stone or debris on the streets until such time as the final lift of asphalt has been installed by the DEVELOPER and accepted by the MUNICIPALITY Board. The MUNICIPALITY shall make a reasonable effort to require the contractor, who is responsible for placing the mud, dirt, stone or debris on the street, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the streets within twenty-four (24) hours after receiving a

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notice from the MUNICIPALITY. If said mud, dirt, stone or debris are not cleaned up after notification, the MUNICIPALITY will do so at the DEVELOPER's and/or subject property owner's expense, at the option of the MUNICIPALITY.

B. SANITARY SEWER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER's Engineer that the sanitary sewer plans are in conformance with all Federal, State and MUNICIPALITY of \_\_\_\_\_ specifications, regulations, ordinances and guidelines and written proof that the MUNICIPALITY Engineer has approved said plans.
2. To construct, furnish, install and provide a complete sewerage system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the MUNICIPALITY Clerk's office and all applicable Federal, State and MUNICIPALITY of \_\_\_\_\_ ordinances, specifications, regulations and guidelines for the construction of sewerage systems in the MUNICIPALITY of \_\_\_\_\_ and as approved by the MUNICIPALITY Engineer.
3. To clean all sanitary sewers in the SUBJECT LANDS prior to acceptance of the improvements and issuance of building permits by the MUNICIPALITY of \_\_\_\_\_.
4. To furnish "as built" plans of the sanitary sewage system for the SUBJECT LANDS, including locations of laterals to lot lines, pursuant to specifications approved by the MUNICIPALITY Engineer prior to the issuance of building permits.
5. To televise the sanitary sewer system for the SUBJECT LANDS, repair any defects as determined by the MUNICIPALITY Engineer, supply the video tape to the MUNICIPALITY of \_\_\_\_\_ and clean all sewer lines prior to the issuance of building permits and acceptance of the improvements by the MUNICIPALITY of \_\_\_\_\_.
6. That no building permits shall be issued until the sanitary sewer system for the SUBJECT LANDS has been dedicated to and accepted by the MUNICIPALITY of \_\_\_\_\_.

C. WATER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER's Engineer that the water system plans are in conformance with all Federal, State and MUNICIPALITY of \_\_\_\_\_ specifications, regulations, ordinances and guidelines and written proof that the MUNICIPALITY Engineer has approved said plans.

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2. To construct, furnish, install and provide a complete water system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the MUNICIPALITY Clerk's office and all applicable Federal, State and MUNICIPALITY of \_\_\_\_\_ ordinances, specifications, regulations and guidelines for the construction of water systems in the MUNICIPALITY of \_\_\_\_\_ and as approved by the MUNICIPALITY Engineer.
3. The DEVELOPER shall furnish "as built" plans showing changes from the construction plans, pursuant to specifications approved by the MUNICIPALITY Engineer. Subject to intellectual property rights, said "as built" plans shall be on reproducible mylar and digital file, and shall include field locations and hydrant valves and curb stops, if any.
4. That no building permits shall be issued until the water system for the SUBJECT LANDS has been dedicated to and accepted by the MUNICIPALITY of \_\_\_\_\_.

D. SURFACE AND STORM WATER DRAINAGE: The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER'S Engineer or Surveyor that all surface and storm water drainage facilities and erosion control plans are in conformance with all federal, state, county and MUNICIPALITY regulations, guidelines, specifications, laws and ordinances, and written proof that the MUNICIPALITY Engineer and the \_\_\_\_\_ County Department of Park and Land Use, Land Resources Division, if applicable, have reviewed and approved said plans.
2. The DEVELOPER shall construct, install, furnish and provide adequate facilities for surface and storm water drainage throughout the development with adequate capacity to transmit the anticipated flow from the development and adjacent property, in accordance with all plans and specifications on file in the MUNICIPALITY Clerk's office, and all applicable federal, state, county and MUNICIPALITY regulations, guidelines, specifications, laws and ordinances, and as reviewed and approved by the MUNICIPALITY Engineer and the \_\_\_\_\_ County Department of Park and Land Use, Land Resources Division, if applicable, including where necessary as determined by the MUNICIPALITY Engineer, curb, gutter, storm sewers, catch basins and infiltration/retention/detention basins.
3. The DEVELOPER agrees that the site grading and construction of surface and storm water drainage facilities shall be completed and accepted by the MUNICIPALITY Board before any building permits are issued.
4. To maintain roads free from mud and dirt from construction of the development.

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5. The MUNICIPALITY Board will not accept the surface and storm water drainage system until the entire system is installed and landscaped in accordance with plans and specifications to the satisfaction of the MUNICIPALITY Engineer.
6. The DEVELOPER shall clean all storm sewers, if any, prior to issuance of building permits and acceptance of improvements by the MUNICIPALITY Board.
7. The MUNICIPALITY retains the right to require DEVELOPER to install additional surface and storm water drainage measures if it is determined by the MUNICIPALITY Engineer that the original surface and storm water drainage plan as designed and/or constructed does not provide reasonable stormwater drainage within the development and surrounding area.
8. To furnish "as built" plans of the entire drainage system, pursuant to specifications approved by the MUNICIPALITY Engineer prior to the issuance of building permits, if required by the MUNICIPALITY Engineer.

E. GRADING, EROSION AND SILT CONTROL: The DEVELOPER hereby agrees that:

1. Prior to commencing site grading and excavation, the DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER'S Engineer or Surveyor that said plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof of notification of land disturbances to the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the MUNICIPALITY Engineer and the \_\_\_\_\_ County Department of Park and Land Use, Land Resources Division, and the Army Corps of Engineers, if applicable, have approved said plans.
2. The DEVELOPER shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications reviewed and approved by the MUNICIPALITY Engineer, the \_\_\_\_\_ County Department of Park and Land Use, Land Resources Division, and Army Corps of Engineers, if applicable.
3. All disturbed areas shall be restored to the satisfaction of the MUNICIPALITY Engineer within seven (7) days of disturbance. Any cash or letter of credit posted with the MUNICIPALITY will not be released until the MUNICIPALITY Engineer is satisfied that no further erosion measures are required.

F. ELECTRIC SERVICE FACILITIES: Prior to the installation of electric service facilities, the DEVELOPER shall pay to the MUNICIPALITY an estimated cost of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for such facilities. After completion of the installation of such facilities, a final determination of the DEVELOPER's obligation shall be made based on actual construction costs. As necessary to reflect the actual construction costs, the DEVELOPER shall either pay additional funds or be

refunded an amount by the MUNICIPALITY if the costs are less than \_\_\_\_\_ dollars (\$\_\_\_\_\_).

G. LANDSCAPING AND SITE WORK: The DEVELOPER hereby agrees that:

1. The DEVELOPER shall preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying on the public streets, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails by use of sound conservation practices.
2. The DEVELOPER, as required by the MUNICIPALITY, shall remove and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.
3. Landscaping and removal of unwanted items, including buildings, will be completed and certified as complete by the MUNICIPALITY Engineer prior to the issuance of any building permits.
4. The DEVELOPER shall delineate all wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the MUNICIPALITY staff prior to the issuance of building permits.
5. The MUNICIPALITY has the right to trim and remove any features which would interfere with safe operation and maintenance of the MUNICIPALITY rights-of-way and drainageways.

H. STREET SIGNS AND TRAFFIC CONTROL SIGNS: The DEVELOPER hereby agrees that:

1. Street signs, traffic control signs, culverts, posts and guard rails as required by the MUNICIPALITY shall be obtained and placed by the MUNICIPALITY, or by the DEVELOPER with approval of the MUNICIPALITY, and the cost thereof shall be paid by the DEVELOPER.
2. All traffic control signs and street signs, as required by the MUNICIPALITY will be installed within five (5) working days of the placement of the first lifts of asphalt.

I. STREET LIGHTS: The DEVELOPER hereby agrees to install a street lighting system in the development according to a plan prepared by the Wisconsin Electric Power Company and on file with the MUNICIPALITY Clerk and approved by the MUNICIPALITY of \_\_\_\_\_ prior to issuance of building permits unless waived by MUNICIPALITY Staff.

*(Note: Other specific required improvements should be listed as separate lettered categories, as may be necessary with regard to specific developments. Not all of the foregoing improvements apply to every project.)*

J. ADDITIONAL IMPROVEMENTS: The DEVELOPER hereby agrees that if, at any time after plan approval and during construction, the MUNICIPALITY Engineer determines that modifications to the plans including additional improvements such

as additional drainage ways, erosion control measures, and surface and storm water management measures are necessary in the interest of public safety, are necessary in order to comply with current laws or are necessary for implementation of the original intent of the improvement plans, the MUNICIPALITY is authorized to order DEVELOPER, at DEVELOPER'S expense, to implement the same. If DEVELOPER fails to construct the additional improvement within a reasonable time under the circumstances, the MUNICIPALITY may cause such work to be carried out and shall charge against the financial guarantee held by the MUNICIPALITY pursuant to this agreement.

**SECTION II. TIME OF COMPLETION OF IMPROVEMENTS:** The improvements set forth in Section I above shall be completed by the DEVELOPER in total within twelve (12) months of the date of this agreement being signed except as otherwise provided for in this agreement. In every case, regardless of circumstances, all work contemplated by this agreement must be completed no later than \_\_\_\_\_, unless this ultimate deadline is extended in writing by the MUNICIPALITY Board.

**SECTION III. FINAL ACCEPTANCE.** Throughout this agreement, various stages of the development will require approval by the MUNICIPALITY. "Final Acceptance" as used herein, however, shall be the ultimate acceptance of all of the improvements in the completed development as a whole, and shall be granted specifically by separate resolution of the MUNICIPALITY Board. The two-year Guarantee Period provided for in this agreement shall not commence to run until Final Acceptance. The issuance of building permits and approval of various items of development shall not commence the two-year Guarantee Period.

**SECTION IV. DEDICATION OF IMPROVEMENTS:** Subject to all of the other provisions of this agreement, the DEVELOPER shall, without charge to the MUNICIPALITY, upon completion of the above described improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the MUNICIPALITY, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and including, without limitation because of enumeration, any and 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 and together with any and all necessary easements for access thereto. After such dedication, the MUNICIPALITY shall have the right to connect or integrate other improvements as the MUNICIPALITY decides, with no payment or award to, or consent required of, the DEVELOPER.

Dedication shall not constitute acceptance of any improvement by the MUNICIPALITY Board. All improvements will be accepted by the MUNICIPALITY Board by separate resolution at such time as such improvements are in acceptable form and according to the MUNICIPALITY specifications. Said resolution shall be recorded, if needed, with the \_\_\_\_\_ County Register of Deeds. DEVELOPER will furnish proof to the MUNICIPALITY, prior to the dedication required, that the public land and improvements proposed for dedication are free of all liens, claims and encumbrances, including mortgages.



**SECTION V. ACCEPTANCE OF WORK AND DEDICATION:** When the DEVELOPER shall have completed the improvements herein required and shall have dedicated the same to the MUNICIPALITY as set forth herein, the same shall be accepted by the MUNICIPALITY Board if said improvements have been completed as required by this agreement and as required by all federal, state, county or MUNICIPALITY guidelines, specifications, regulations, laws and ordinances and approved by the MUNICIPALITY Engineer.

**SECTION VI. APPROVAL BY MUNICIPALITY NOT TO BE DEEMED A WAIVER.**

The ultimate responsibility for the proper design and installation of streets, water facilities, drainage facilities, ditches, landscaping and all other improvements are upon the DEVELOPER. The fact that the MUNICIPALITY or its engineer, or its attorney, or its staff may approve a specific project shall not constitute a waiver, or relieve the DEVELOPER from the ultimate responsibility for the design, performance and function of the development and related infrastructure.

**SECTION VII. GUARANTEES OF IMPROVEMENTS:**

A. **Guarantees.** The DEVELOPER shall guarantee after Final Acceptance, the public improvements and all other improvements described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of two years from the date of Final Acceptance (such two-year period referred to herein as the "Guarantee Period"). The DEVELOPER shall pay for any damages to MUNICIPALITY property and/or improvements resulting from such faulty materials or workmanship or other defective conditions arising during the Guarantee Period. This guarantee shall not be a bar to any action the MUNICIPALITY might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations.

Once the improvements are substantially complete, as defined in Wisconsin Statutes Section 236.13(2)(am)2., the DEVELOPER shall provide financial security in a form permitted by Wisconsin Statutes Section 236.13(2)(am)1m, and as acceptable to the MUNICIPALITY Administrator, in an amount equal to the total cost to complete any uncompleted public improvements plus ten percent (10%) of the total cost of the completed public improvements. Such security shall remain in effect, as financial security for the guarantee, for 14 months after the date of substantial completion, unless extended (such 14-month period, as extended if applicable, referred to herein as the "Post-substantial Security Period"; and the security provided by this Section is referred to herein as the "Post-substantial Security"). If the DEVELOPER fails to pay for any damages or defects to MUNICIPALITY property and/or improvements, and the MUNICIPALITY is required to draw against the Post-substantial Security on file with the MUNICIPALITY, the DEVELOPER is required to replenish said monies up to the aggregate amount of the total cost to complete any uncompleted public improvements plus ten percent (10%) of the total cost of the completed public improvements.

Expiration of the Post-substantial Security Period shall not reduce or impact upon the Guarantee Period hereby provided. Following the expiration of the Post-substantial Security, the DEVELOPER and the DEVELOPER's successors and

assigns shall be solely responsible to correct all defective conditions, whether they were known or unknown during the Post-substantial Security Period. The term of the Post-substantial Security Period may be extended by the DEVELOPER. In the event the Post-substantial Security, by its terms, remains in effect beyond what would otherwise be the end of the Post-substantial Security Period, the Post-substantial Security Period is automatically extended to include all such time the Post-substantial Security remains in effect.

The DEVELOPER shall give written notice to the MUNICIPALITY no fewer than eleven (11) and no more than twelve (12) months after the date of substantial completion, indicating the date that the Post-substantial Security Period shall expire. Upon receipt of such notice, in addition to such other remedies as the MUNICIPALITY may have with or without such notice, the MUNICIPALITY may draw any remaining funds from the Post-substantial Security as the MUNICIPALITY deems necessary to complete or to correct any work that is not satisfactorily completed at that time. Failure of the DEVELOPER to provide the notice required by this paragraph shall constitute the DEVELOPER's agreement to extend the term of the Post-substantial Security Period indefinitely, to a date that is two (2) months beyond the date that the DEVELOPER eventually provides such written notice.

- B. Obligation to Repair. The DEVELOPER shall make or cause to be made, at its own expense, any and all repairs which may become necessary under and by virtue of the DEVELOPER'S guarantee and shall leave the improvements in good and sound condition, satisfactory to the MUNICIPALITY Board at the expiration of the Guarantee Period.
- C. Notice of Repair. If during said Guarantee Period, the improvements shall, in the reasonable opinion of the MUNICIPALITY Staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the DEVELOPER shall, upon notification by the MUNICIPALITY of the necessity for such repair or replacement, make such repair or replacement, at its own cost and expense. Should the DEVELOPER fail to make such repair or replacement within the time specified by the MUNICIPALITY in the aforementioned notification, after notice has been sent as provided herein, the MUNICIPALITY Board may cause such work to be done, but has no obligation to do so, either by contract or otherwise. The MUNICIPALITY Board may draw upon the Post-substantial Security to pay any costs or expenses incurred in connection with such repairs or replacements, if it is available. Should the costs or expenses incurred by the MUNICIPALITY Board in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the Post-substantial Security, or should the Post-substantial Security not be available for any reason, then the DEVELOPER shall immediately pay to the MUNICIPALITY all cost or expense incurred in the correction process. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be imposed against the development land as a special charge pursuant to §66.0627, Wis. Stats. or assessed. Any such charges or assessments may be imposed on the SUBJECT LANDS or any portion thereof then owned by the DEVELOPER, or then owned by any successor or assign of the DEVELOPER including Lot owners.

D. Maintenance Prior to Acceptance.

1. All improvements shall be maintained by the DEVELOPER so they conform to the approved plans and specifications at the time of their Final Acceptance by the MUNICIPALITY Board. This maintenance shall include routine maintenance, such as crack filling, roadway patching and the like. In cases where emergency maintenance is required, the MUNICIPALITY Board retains the right to complete the required emergency maintenance in a timely fashion and bill the DEVELOPER for all such associated costs. Said bill shall be paid immediately by the DEVELOPER. The DEVELOPER'S obligation to maintain all improvements shall expire at the expiration of the Guarantee Period.
2. Street sweeping and dust suppression shall be done by the DEVELOPER upon a regular basis as needed to ensure a reasonably clean and safe roadway until Final Acceptance by the MUNICIPALITY Board. Should the DEVELOPER fail to meet this requirement, the MUNICIPALITY Board will cause the work to be done and will bill the DEVELOPER on a time and material basis. Said bill shall be paid immediately by the DEVELOPER.
3. In the event drainage problems arise within the SUBJECT LANDS or related activities on the SUBJECT LANDS, the DEVELOPER shall correct such problems to the satisfaction of the MUNICIPALITY Staff. Such correction measures shall include, without limitation because of enumeration, cleaning of soil, loose aggregate and construction debris from culverts, drainage ditches and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as the roads, ditches, and other disturbed areas have become adequately vegetated and the MUNICIPALITY Board is satisfied that the DEVELOPER has restored all areas which were disturbed because of this development.

*(Note: This paragraph may need to be modified depending upon the required public improvements for specific developments.)*

SECTION VIII. MUNICIPALITY RESPONSIBILITY FOR IMPROVEMENTS: The MUNICIPALITY shall not be responsible to perform repair, maintenance, or snow plowing, unless otherwise approved by the MUNICIPALITY Administrator, on any improvements until accepted by the MUNICIPALITY Board.

SECTION IX. RISK OF PROCEEDING WITH IMPROVEMENTS PRIOR TO APPROVALS OF FINAL PLAT: If a DEVELOPER proceeds with the installation of public improvements or other work on the site prior to approval of the final plat, it proceeds at its own risk as to whether or not the final plat will receive all necessary approvals. The DEVELOPER, prior to commencement of the installation of public improvements or other work on site, shall notify the MUNICIPALITY of the DEVELOPER'S intention to proceed with the installation of public improvements or other work on site, prior to approval of the final plat. Additionally, DEVELOPER shall

make arrangements to have any public improvements and/or other work on site inspected by the MUNICIPALITY Engineer.

**SECTION X. FINANCIAL GUARANTEE<sup>1</sup>:** Prior to the execution of this agreement by the MUNICIPALITY Board, the DEVELOPER shall file with the MUNICIPALITY cash or a letter of credit setting forth terms and conditions in a form approved by the MUNICIPALITY Attorney in the amount as approved by the MUNICIPALITY Engineer as a guarantee that the DEVELOPER will perform all terms of this agreement no later than one year from the signing of this agreement except as otherwise set forth in this agreement (hereinafter referred to as the "Substantial Security"). If at any time:

- A. The DEVELOPER is in default of any aspect of this agreement, or
- B. The DEVELOPER does not complete the installation of the improvements within one (1) year from the signing of this agreement unless otherwise extended by this agreement or by action of the MUNICIPALITY Board, or
- C. The letter of credit on file with the MUNICIPALITY is dated to expire sixty (60) days prior to the expiration of the same if the same has not been extended, renewed or replaced, or
- D. The DEVELOPER fails to maintain a cash deposit or letter of credit in an amount approved by MUNICIPALITY Engineer, and in a form approved by the MUNICIPALITY Attorney, to pay the costs of improvements in the development,

the DEVELOPER shall be deemed in violation of this agreement and the MUNICIPALITY Board shall have the authority to draw upon the letter of credit.

The amount of the letter of credit may be reduced from time to time as and to the extent that the portion of work required under this Agreement is completed and paid for, provided that the remaining letter of credit is sufficient to secure payment for any remaining improvements and also provided that no reduction shall occur until it is approved in writing by the MUNICIPALITY Administrator.

The Substantial Security may be replaced with the Post-substantial Security described in Section VII upon substantial completion of the improvements as and to the extent required by Wisconsin Statutes Section 236.13(2)(am)2., upon the written request of the DEVELOPER and written approval of the MUNICIPALITY Administrator. The Substantial Security is not reduced or terminated by the fact of substantial completion alone, but may be reduced or terminated upon request and approval as described above.

The lending institution providing the irrevocable letter of credit shall pay to the MUNICIPALITY Board all sums available for payment under the irrevocable letter of credit upon demand, subject to the terms and conditions of the irrevocable letter of credit, and upon its failure to do so, in whole or in part, the MUNICIPALITY shall be

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<sup>1</sup> Note: If the DEVELOPER chooses to provide a bond, all of the work in the development must be completed before the Final Plat is recorded, and the bond must be in the form that is approved by the MUNICIPALITY Attorney.

empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll.

**SECTION XI. BUILDING AND OCCUPANCY PERMITS:** It is expressly understood and agreed that no building or occupancy permits shall be issued for any homes, including model homes, until the MUNICIPALITY Engineer has determined that the following requirements which are deemed to be related to public safety, are met:

- A. The installation of the first lifts of asphalt of the public street(s) providing access to and fronting a specific lot for which a building permit is requested has been completed and accepted by the MUNICIPALITY Board.
- B. The site grading and construction of surface and storm water drainage facilities required to serve such homes are completed, are connected with an operating system as required herein, are cleaned as needed, and are accepted by the MUNICIPALITY Board.
- C. All landscaping and removal of unwanted items, including buildings, has been certified as complete by the MUNICIPALITY Engineer.
- D. All required grading plans have been submitted to, reviewed by and approved by the MUNICIPALITY Engineer.
- E. The DEVELOPER has paid in full all permit fees and reimbursement of administrative costs as required by this agreement.
- F. The DEVELOPER has prepared appropriate deed restrictions which are approved by the MUNICIPALITY, filed with the MUNICIPALITY Clerk and recorded with the Register of Deeds.
- G. All destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish are removed from the development and disposed of lawfully.
- H. All required "as built" plans for the SUBJECT LANDS have been submitted and approved by the MUNICIPALITY Engineer.
- I. All public and private utilities have been installed in the SUBJECT LANDS, including street lighting fixtures (unless waived by the MUNICIPALITY Administrator), the sanitary sewer system, and the water system.
- J. The DEVELOPER is not in default of any aspect of this agreement.
- K. There is no default of any aspect of this agreement as determined by the MUNICIPALITY Administrator.
- L. The DEVELOPER has delineated the wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the MUNICIPALITY Staff prior to the issuance of building permits.

**SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF BUILDING**

**PERMITS:** This agreement is necessary to ensure public safety. No permit to commence construction of a foundation or any other noncombustible structure shall be granted before substantial completion of all public improvements, unless the MUNICIPALITY Administrator determines that all public improvements related to public safety are complete. Any violation by the DEVELOPER of the terms of this agreement concerning completion of public improvements, or timing of completion, or lack of completion regardless of violation, exposes the municipality to safety risks associated with construction sites, and therefore is related to public safety. The MUNICIPALITY reserves the right to withhold issuance of any and all building permits if DEVELOPER is in violation of this agreement, to the full extent permitted by law. In the event the MUNICIPALITY issues a permit pursuant for a foundation or other noncombustible structure, per Wisconsin Statute Section 236.13(2)(am)3.c., the DEVELOPER assumes the risk that no further construction, nor future building permit to complete such structure, will be permitted.

**SECTION XIII. VACANT LOT MAINTENANCE EASEMENT:** Developer hereby grants a vacant lot maintenance easement to the MUNICIPALITY. The easement grants the MUNICIPALITY the right (but not the obligation) to enter upon any vacant Lot in the SUBJECT LANDS in order to inspect, repair, or restore the property so that it is in compliance with all applicable provisions of the MUNICIPALITY of \_\_\_\_\_ Municipal Code. A vacant lot shall include any lot that does not have an occupied principal structure that is used for single family purposes at the time of inspection, repair or restoration. All costs incurred by the MUNICIPALITY in exercising its right to inspect, repair or restore the Lot shall be borne by the owner of the Lot necessitating such inspection, repair or restoration and if not paid for by such Lot owner within forty-five (45) days of receipt of any invoice therefore, may be placed against the tax roll for the Lot and collected as a special charge by the MUNICIPALITY.

**SECTION XIV. RESTRICTION AGAINST UNFINISHED OR UNOCCUPIED HOMES:**

The parties intend that all homes in the Subject Land shall be owned, occupied and used for single family purposes. The parties also intend that homes on the lots will not be left unfinished or unoccupied for extended period of time. Therefore, no more than 4 Lots owned by the Developer and/or by any person or entity for the benefit of the Developer, shall be subject to a current building permit at any one time, unless a larger number of lots is specifically approved by action of the MUNICIPALITY Board. Following the sale and residential occupancy of one such Lot, the Developer is entitled to receive one additional building permit for an additional Lot, and so forth, provided that at no time shall the number of unfinished or unoccupied homes on Lots owned, or beneficially owned, by the Developer exceed said number.

**SECTION XV. MISCELLANEOUS REQUIREMENTS:** The DEVELOPER shall:

**A. EASEMENTS:**

Provide any easements including vision easements on SUBJECT LANDS deemed necessary by the MUNICIPALITY Engineer before the final plat is signed or on the final plat and such easements shall be along lot lines if at all possible.

B. TREE PLANTING:

Plant one tree, having a diameter of 2-1/2 inches at breast height at the time of planting, in the front yard of each lot in the development.

C. MANNER OF PERFORMANCE:

Cause all construction called for by this agreement to be carried out and performed in a good and workerlike manner.

D. SURVEY MONUMENTS:

Properly place and install any lot, block or other monuments required by State Statute, MUNICIPALITY Ordinance or the MUNICIPALITY Engineer.

E. DEED RESTRICTIONS:

Execute and record deed restrictions in a form that is subject to the approval of the MUNICIPALITY Board and MUNICIPALITY Attorney, and provide proof of recording prior to sale of lots for the SUBJECT LANDS. The Deed Restrictions shall contain language to require the lot owners and/or homeowner's association within the subdivision to maintain all stormwater management facilities in accordance with the specifications on file with the MUNICIPALITY including such amendments as may be made thereto from time to time by the MUNICIPALITY Engineer. The deed restrictions shall also contain the following language:

*(Alternate No. 1: Use this language if there will be a master lot grading plan:)*

"Each lot owner must strictly adhere to and finish grade its lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the MUNICIPALITY Engineer on file in the office of the MUNICIPALITY Clerk. The DEVELOPER and/or the MUNICIPALITY and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same."

*(Alternate No. 2: Use this language if there will not be a master lot grading plan:)*

"No owner of any lot shall or will at any time alter the grade of any lot from that which is naturally occurring on that lot at the time the site development improvements have been completed by the DEVELOPER unless and until the lot owner shall first obtain the written approval of the MUNICIPALITY Engineer for such grade alteration. In order to obtain this approval, it shall first be necessary for the lot owner, at the lot owner's expense, to have prepared a grading plan which shows in detail the area to be re-graded, the existing and proposed topography, analyzes the effects on site drainage, states that the effects on site drainage will not be in violation of law as to alteration of natural drainage courses, and is a plan which does not unreasonably affect an adjacent property owner as

regards drainage or their viewing of unreasonable slope treatment. The MUNICIPALITY Engineer's approval, if granted, shall not relieve the lot owner from the ultimate responsibility for the design, performance, and function of the grade alteration and/or drainage condition, and the lot owner by requesting the alteration, and/or by altering the grade, thereby agrees to indemnify and hold harmless the MUNICIPALITY and its agents, employees and independent contractors regarding the same. The DEVELOPER and/or the MUNICIPALITY and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same."

F. GRADES:

Prior to the issuance of a building permit for a specific lot, the DEVELOPER and/or lot owner and/or their agent shall furnish to the Building Inspector of the MUNICIPALITY a copy of the stake out survey showing the street grade in front of the lot, the finished yard grade, the grade of all four corners of the lot, and the lot corner grades of the buildings on adjoining lots where applicable, as existing and as proposed.

G. RESERVE CAPACITY ASSESSMENTS - SANITARY SEWER:

As provided in the MUNICIPALITY Land Division Ordinance, the DEVELOPER agrees to pay a reserve capacity assessment to be used for the costs of reserve capacity created by the MUNICIPALITY in the MUNICIPALITY's sanitary sewerage collection and treatment facilities for the benefit of the DEVELOPER. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII, Wisconsin Statutes. The reserve capacity assessments against the above-described property shall be in an amount established by the MUNICIPALITY's Land Division Ordinance and including annual increases.

The DEVELOPER hereby waives, pursuant to Section 66.0703(7)(b), Wisconsin Statutes, any and all requirements of the Wisconsin Statutes which must be met prior to the imposition of special assessments [including, but not limited to, the notice and hearing requirements of Chapter 66 Subchapter VII] and agrees that the municipality may proceed immediately to levy the special assessments as outlined herein.

The DEVELOPER further waives its right to appeal from the special assessments and stipulates that the amount of special assessment levied against its property has been determined on a reasonable basis and that the benefits to its property from the proposed improvements exceed the amount of the special assessment against such property. In addition, the DEVELOPER waives its right under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this



Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

*(Note: The foregoing applies only if the development includes sewer facilities, and only if the MUNICIPALITY imposes such fees by RCA. Some municipalities with sewer facilities impose Impact Fees, rather than RCA, in which case changes are necessary.)*

H. RESERVE CAPACITY ASSESSMENTS - WATER:

The DEVELOPER agrees to pay a reserve capacity assessment as required in Section 22.23(2)(b) and other relevant sections of the MUNICIPALITY Code, to be used for the costs of reserve capacity created by the MUNICIPALITY in the MUNICIPALITY's water system for the benefit of the DEVELOPER. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII, Wisconsin Statutes. The reserve capacity assessments against the above-described property shall be an amount established in the MUNICIPALITY's Land Division Ordinance and is subject to annual increases.

The DEVELOPER hereby waives, pursuant to Section 66.0703(7)(b), Wisconsin Statutes, any and all requirements of the Wisconsin Statutes which must be met prior to the imposition of special assessments [including, but not limited to, the notice and hearing requirements of Chapter 66 Subchapter VII] and agrees that the municipality may proceed immediately to levy the special assessments as outlined herein. The DEVELOPER further waives its right to appeal from the special assessments and stipulates that the amount of the special assessments levied against its property has been determined on a reasonable basis and that the benefits to its property from the proposed improvements exceed the amount of the special assessment against such property.

In addition, the DEVELOPER waives its rights under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

*(Note: The foregoing applies only if the development includes water facilities, and only if the MUNICIPALITY imposes such fees by RCA. Some municipalities with water facilities impose Impact Fees, rather than RCA, in which case changes are necessary.)*

I. UNDERGROUND UTILITIES:

Install all electrical, telephone, cable and gas utilities underground. Coordination of installation and all costs shall be the responsibility of the DEVELOPER.

*(Note: This paragraph will change if underground utilities are not required in specific situations.)*

J. PERMITS:

Provide and submit to the MUNICIPALITY requesting the same, valid copies of any and all governmental agency permits.

K. REMOVAL OF TOPSOIL:

The DEVELOPER agrees that no topsoil shall be removed from the SUBJECT LANDS without approval from the MUNICIPALITY Engineer.

L. PARK AND PUBLIC SITE DEDICATION IMPACT FEES:

To pay as provided in the MUNICIPALITY'S Ordinances, a fee per lot developed in lieu of dedication of lands for park and public sites. The fee for the entire development shall be paid prior to final approval of the final plat.

M. PREVAILING WAGE RATES AND HOURS OF LABOR:

If any aspect of the development involves a project of public works that is regulated by Wisconsin Statutes Section 66.0903, then: (1) The Developer shall pay wage rates not less than the prevailing hourly wage rate as described and regulated pursuant to such statutes and related laws; and (2) The Developer shall comply with the prevailing hours of labor as described and regulated pursuant to such statutes and related laws; and (3) The Developer shall fully comply with the reporting obligations, and all other requirements of such laws; and (4) The Developer shall ensure that the Developer's subcontractors also fully comply with such laws. The Developer's General Indemnity obligation of this Agreement shall apply to any claim that alleges that work contemplated by this Agreement is being done, or has been done, in violation of prevailing wage rates, prevailing hours of labor, or Wisconsin Statutes Section 66.0903, for any work arising out of this agreement.

N. NOISE:

Make every effort to minimize noise, dust and similar disturbances, recognizing that the SUBJECT LANDS are located near existing residences. Construction of improvements shall not begin before 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays. Construction of improvements shall not continue beyond 7:00 p.m. during weekdays and Saturdays, and 5:00 p.m. on Sundays.

O. DEBRIS:

Have ultimate responsibility for cleaning up debris that has blown from buildings under construction within the SUBJECT LANDS until such time as all improvements have been installed and accepted by the MUNICIPALITY Board. The MUNICIPALITY shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the debris within forty-eight (48) hours after receiving a notice from the MUNICIPALITY Engineer. If said debris is not cleaned up after

notification, the MUNICIPALITY will do so at the DEVELOPER'S and/or subject property owner's expense.

P. DUTY TO CLEAN ROADWAYS:

The DEVELOPER shall be responsible for cleaning up the mud and dirt on the roadways until such time as the final lift of asphalt has been installed. The DEVELOPER shall clean the roadways within forty-eight (48) hours after receiving a notice from the MUNICIPALITY Engineer. If said mud, dirt and stone is not cleaned up after notification, the MUNICIPALITY will do so at the DEVELOPER's expense. The MUNICIPALITY will do its best to enforce existing ordinances that require builders to clean up their mud from construction.

Q. PUBLIC CONSTRUCTION PROJECTS:

If any aspect of the development involves a public construction project subject to the State law, all requirements of the State Public Construction Bidding Law must be satisfied, including but not limited to, providing a performance bond.

R. ZONING CODE:

The DEVELOPER acknowledges that the lands to be developed are subject to the MUNICIPALITY of \_\_\_\_\_ Zoning Code.

S. DIGGERS HOTLINE:

The DEVELOPER shall become a member of Diggers Hotline and provide evidence such membership to the Municipality Clerk before commencing any land disturbing activities on the Subject Lands. The DEVELOPER shall maintain said membership until all subsurface improvements required under Section I have received final acceptance from the Municipality as provided in Section III.

T. NO AGRICULTURAL USE:

The DEVELOPER shall not permit any open space or undeveloped lands within the Subject Property to be used for any agricultural uses as defined in Tax 18 of the Wisconsin Administrative Code. In the event the DEVELOPER uses the land in a manner that causes the Subject Property or any portion thereof to be assessed in a manner that reduces the property tax liability below what would apply to residential property in the Municipality, the DEVELOPER shall make an additional payment in lieu of taxes (PILOT) so that the total tax payment plus PILOT equals the amount that would be paid if the Subject Property were classified for assessment as residential.

*(Note: Additional miscellaneous requirements may apply in specific situations, which may then be added to this section. Such additional items may include sight distances, sump pump connections, wetland regulations, impact fees, etc.)*

**SECTION XVI. PAYMENT OF COSTS, INSPECTION & ADMINISTRATIVE FEES:**

The DEVELOPER shall pay and reimburse the MUNICIPALITY promptly upon billing for all fees, expenses, costs and disbursements which shall be incurred by the MUNICIPALITY in connection with this development or relative to the construction, installation, dedication and acceptance of the development improvements covered by this agreement, including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. MUNICIPALITY employee costs shall be based on regular MUNICIPALITY pay rates (or Engineering and administrative overtime, if applicable) plus 40% on the hourly rate for overhead and fringe benefits for any time actually spent on the project. Any costs for outside consultants shall be charged at the rate the consultant charges the MUNICIPALITY. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be charged against the financial guarantee held by the MUNICIPALITY pursuant to this agreement, or assessed against the development land as a special charge pursuant to §66.0627, Wis. Stats. Any such charges or assessments may be imposed on the SUBJECT LANDS or any portion thereof then owned by the DEVELOPER, or then owned by any successor or assign of the DEVELOPER including Lot owners.

**SECTION XVII. GENERAL INDEMNITY:** In addition to, and not to the exclusion or prejudice of, any provisions of this agreement or documents incorporated herein by reference, the DEVELOPER shall indemnify and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the MUNICIPALITY, its officers, agents, employees and independent contractors growing out of this agreement by any party or parties. The DEVELOPER shall also name as additional insureds on its general liability insurance the MUNICIPALITY, its officers, agents, employees and any independent contractors hired by the MUNICIPALITY to perform services as to this development and give the MUNICIPALITY evidence of the same upon request by the MUNICIPALITY.

**SECTION XVIII. MUNICIPALITY RESPONSIBILITY:**

- A. The MUNICIPALITY agrees to pay for the following oversizing costs, if it is determined by the MUNICIPALITY that the oversizing is necessary. The oversizing costs shall be calculated by viewing bids for similar improvements to determine the cost differences between the stated sizes. The MUNICIPALITY reserves the right to determine the bid amounts to be used in this calculation.
  - 1. Cost of increasing the size of the water main from eight inches to a larger size, including the cost of larger gate valves.
  - 2. Cost of increasing the size of the sewer main from eight inches to a larger size.
- B. The MUNICIPALITY agrees to allow the DEVELOPER to connect to the MUNICIPALITY of \_\_\_\_\_'s municipal water system and sewerage system at such time as the water system and sanitary sewer system required herein has been dedicated to and accepted by the MUNICIPALITY of \_\_\_\_\_.

**SECTION XIX. INSURANCE:** The DEVELOPER, its contractors, suppliers and any other individual working on the SUBJECT LANDS in the performance of this agreement shall maintain at all times until the expiration of the guarantee period, insurance coverage in the forms and in the amounts as required by the MUNICIPALITY.

**SECTION XX. EXCULPATION OF MUNICIPALITY CORPORATE AUTHORITIES:** The parties mutually agree that the MUNICIPALITY President of the MUNICIPALITY Board, and/or the MUNICIPALITY Clerk, entered into and are signatory to this agreement solely in their official capacity and not individually, and shall have no personal liability or responsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or waived.

**SECTION XXI. GENERAL CONDITIONS AND REGULATIONS:** All provisions of the MUNICIPALITY Ordinances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be a part of this agreement as fully as if set forth at length herein. This agreement and all work and improvements required hereunder shall be performed and carried out in strict accordance with and subject to the provisions of said Ordinances.

**SECTION XXII. ZONING:** The MUNICIPALITY does not guarantee or warrant that the SUBJECT LANDS will not at some later date be rezoned, nor does the MUNICIPALITY herewith agree to rezone the lands into a different zoning district. It is further understood that any rezoning that may take place shall not void this agreement.

**SECTION XXIII. COMPLIANCE WITH CODES AND STATUTES:** The DEVELOPER shall comply with all current and future applicable codes of the MUNICIPALITY, County, State and federal government and, further, DEVELOPER shall follow all current and future lawful orders of any and all duly authorized employees and/or representatives of the MUNICIPALITY, County, State or federal government.

**SECTION XXIV. PRELIMINARY PLAT AND FINAL PLAT CONDITIONS:** The DEVELOPER acknowledges that the SUBJECT LANDS are subject to a conditional preliminary plat approval and a conditional final plat approval by the MUNICIPALITY. The DEVELOPER further agrees that it is bound by these conditions. A copy of the conditional preliminary plat approval for the SUBJECT LANDS is attached hereto and incorporated herein as **EXHIBIT B**, and the conditional final plat approval for the SUBJECT LANDS is incorporated herein as **EXHIBIT C**. If there is a conflict between the conditions as forth in said conditional approvals and the Developer's Agreement, the more restrictive shall apply.

*(Note: Additional conditions may also apply, and if so, should be added; e.g., conditions of rezoning, or conditional use permit, etc.)*

**SECTION XXV. AGREEMENT FOR BENEFIT OF PURCHASERS:** The DEVELOPER agrees that in addition to the MUNICIPALITY'S rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any lot or any interest in any lot or parcel of land in the SUBJECT LANDS.

CAUTION: Use of this model form is not appropriate for every circumstance. Consult your legal advisor.

**SECTION XXVI. ASSIGNMENT:** The DEVELOPER shall not assign this agreement without the written consent of the MUNICIPALITY. If required by the MUNICIPALITY, the assignee must agree to all terms and conditions of this document in writing.

**SECTION XXVII. PARTIES BOUND:** The DEVELOPER or its assignees shall be bound by the terms of this agreement.

**SECTION XXVIII. HEIRS & ASSIGNS:** This agreement is binding upon the DEVELOPER, owners, their successors and assigns, and any and all future owners of the SUBJECT LANDS (the "successors"). This Section allows for MUNICIPALITY enforcement of the terms and conditions of this agreement against all such successors, as though such successors were the DEVELOPER. This Section does not, however, grant rights to such successors absent MUNICIPALITY written consent, as described in Section XXVI.

**SECTION XXIX. SALES OF LOTS:** No lots in the SUBJECT LANDS may be sold until Final Acceptance has been granted by the MUNICIPALITY, unless otherwise expressly approved in writing by the MUNICIPALITY Board.

**SECTION XXX. MORTGAGEE CONSENT:** The undersigned mortgagee of the property identified in Exhibit A, consents to this Developer's Agreement, and agrees that its lien of mortgage shall be subordinate to the rights of the MUNICIPALITY granted by this Developer's Agreement.

**SECTION XXXI. RECORDING:** This agreement shall be recorded against the SUBJECT LANDS, and shall run with the land.

**SECTION XXXII. STORMWATER AGREEMENT:** Prior to the sale of any lot in the subdivision, the property owner and DEVELOPER shall enter a Stormwater Agreement in a form approved by the MUNICIPALITY Attorney and the MUNICIPALITY Engineer to ensure the proper maintenance of all stormwater facilities within the SUBJECT LANDS, and such Stormwater Agreement shall be recorded against the SUBJECT LANDS.

**SECTION XXXIII. AMENDMENTS:** The MUNICIPALITY and the DEVELOPER, by mutual consent, may amend this Developer's Agreement at any meeting of the MUNICIPALITY Board. The MUNICIPALITY shall not, however, consent to an amendment until after first having received a recommendation from the MUNICIPALITY'S Plan Commission.

IN WITNESS WHEREOF, the DEVELOPER and the MUNICIPALITY have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.

(Developer's Name)

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

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

Authorized Signatory

STATE OF WISCONSIN )  
 )ss.  
COUNTY OF  (County)  )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the above named \_\_\_\_\_, Authorized Signatory of \_\_\_\_\_, to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF WI  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

MUNICIPALITY OF \_\_\_\_\_  
\_\_\_\_\_ COUNTY, WISCONSIN

\_\_\_\_\_  
MUNICIPALITY President

\_\_\_\_\_  
MUNICIPALITY Clerk

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

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the above-named \_\_\_\_\_, MUNICIPALITY President, and \_\_\_\_\_, MUNICIPALITY Clerk, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such MUNICIPALITY President and MUNICIPALITY Clerk of said

