

Add Title

Document Number

**STORM WATER MANAGEMENT,  
FACILITY MAINTENANCE AND  
EASEMENT AGREEMENT**

1 This Storm Water Management, Facility Maintenance  
2 and Easement Agreement is dated as of \_\_\_\_\_, 2022 (this  
3 “Agreement”) by and between the VILLAGE OF ELM  
4 GROVE, a Wisconsin Municipality (“Village”) and  
5 \_\_\_\_\_ APARTMENTS LLC, a Wisconsin  
6 limited liability company (“Developer”), collectively referred  
7 to as the “Parties.”

8 **RECITALS:**

9 A. School Sisters of Notre Dame Central Pacific Province,  
10 Inc. (“SSND”) as the original owner of the real property  
11 located in the Village and legally described on Exhibit A  
12 (the “Property”) caused, and the Village approved, the  
13 Property being divided into four parcels by certified  
14 survey map, a copy of which is attached hereto as  
15 Exhibit B (the “CSM”), which CSM has now been  
16 recorded.

Name and Return Address

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

Tax Key Numbers: \_\_\_\_\_

17 B. Developer is now the owner of the real property depicted  
18 as Lot 2 on the CSM and legally described on Exhibit C  
19 attached hereto and located in the Village (the  
20 “Apartment Property”).

21 C. Affiliates of Developer have the right to purchase from SSND two parcels of real estate  
22 located in the Village, adjacent to the Apartment Property, depicted as Lots 1 and 4 of  
23 the CSM, and legally described on Exhibit D attached hereto (collectively the “Single-  
24 Family Parcels” and together with the Apartment Property, the “Property”).

25 D. Simultaneously herewith Developer and the Village have entered into a Development  
26 Agreement in connection with development of the Apartment Property and the  
27 preparation of the Single-Family Parcels for development through on and off-site  
28 improvements (the “Development Agreement”), pursuant to which, among other matters,  
29 Developer has agreed to develop a multifamily residential apartment project on the  
30 Apartment Property as more particularly described in the Development Agreement (the  
31 “Apartment Project”) and also agreed to certain restrictions in the Development  
32 Agreement with respect to any development of the Single-Family Parcels.

33 E. Pursuant to the Development Agreement, Developer has agreed to construct a storm  
34 water management system on and serving the Property, to enter into this Agreement  
35 covering the ongoing maintenance of the SWM System (as hereinafter defined), to  
36 provide for erosion control, and to provide for easements to be granted to Developer,  
37 SSND and the Village in connection therewith, all as more particularly set forth herein.

38 F. As the current owner of the Single-Family Parcels, SSND has agreed to execute a  
39 Consent to this Agreement, consenting to the recording of this Agreement against the  
40 Single-Family Parcels, consenting to and granting the easements on, over, under and  
41 across the Single-Family Parcels as more particularly set forth below, provided that so  
42 long as SSND does not attempt to develop the Single-Family Parcels, SSND will have no  
43 obligations under this Agreement other than as set forth above as to its consents and its  
44 grant of the above described easements and SSND's agreement that this Agreement will  
45 run with and bind the Single-Family Parcels and any future owners thereof, including,  
46 without limitation, any Developer affiliate.

47 IN WITNESS THEREOF, Developer and the Village for good and valuable  
48 consideration the receipt and sufficiency of which is hereby acknowledged, IT IS AGREED:

49 1. SWM System Construction. Pursuant to the terms of the Development Agreement,  
50 Developer has agreed to construct, install, furnish, and provide facilities for storm and  
51 surface water drainage management for the Property (the "SWM System") in substantial  
52 accordance with the Plans and Specifications set forth in Exhibit E (the "Plans and  
53 Specifications") or as may need to be modified to be in accordance with all applicable  
54 State, Federal, and Village statutes, regulations, ordinances, and MMSD Chapter 13  
55 regulations. The Plans and Specifications depict the planned location of each storm water  
56 management practice undertaking affected by this Agreement and contain a summary of  
57 key engineering calculations and other data used to design the infiltration pond, dry  
58 ponds #1, #2 and #3, and StormTrap System (as shown on the Plans and Specifications)  
59 and also show detailed cross-section and plan view of the infiltration basin and dry ponds  
60 #1, #2 and #3, and StormTrap System.

61 Upon completion of the SWM System, Developer's project engineer shall provide as-  
62 built of the SWM System and certification to Developer and the Village that the design  
63 and construction of the dry ponds and infiltration basin (collectively, "Basins") comply  
64 with all regulatory agency requirements, applicable technical standards and the Village's  
65 requirements. After construction certification has been accepted by the Village engineer,  
66 the Parties agree that they shall add addendum(s) to this Agreement which shall be  
67 recorded with the Waukesha County Register of Deed by Developer showing any  
68 changes to the exhibits attached hereto as a result of actual construction with proof of  
69 such recording being delivered to the Village engineer for confirmation and the Village  
70 engineer shall then deliver the recorded addendum(s) to the Village Clerk. The  
71 addendum(s) may contain several additional exhibits.

72 2. Intentionally Deleted.

73 3. Grant of Perpetual Easements by Single-Family Parcels. By the execution of the  
74 Consent attached hereto, SSND hereby (a) consents to the recording of this Agreement  
75 against the Single-Family Parcels and agrees and acknowledges that this Agreement will  
76 run with and bind the Single-Family Parcels, (b) grants and conveys to Developer, as the  
77 owner of the Apartment Property, its successors and assigns, forever: (i) a non-exclusive

78 perpetual easement, for the benefit of the Apartment Property, on, over, under and across  
79 those portions of the Single-Family Parcels on which the SWM System will be located,  
80 which areas are described and illustrated on Exhibit F (“Single-Family Easement Areas”  
81 and together with the Apartment Easement Area, the “Easement Areas”), including the  
82 right, obligation and authority to install, construct, inspect, use, operate, maintain, repair,  
83 remove, and replace (including reconstruction) the portions of the SWM System and  
84 erosion control measures located or to be located in the Single-Family Easement Areas,  
85 (ii) a non-exclusive perpetual easement for the benefit of the Apartment Property, on,  
86 over, under and across the Single-Family Easement Areas for the natural drainage of  
87 ordinary surface water and storm water from the Property to the Basins on the Apartment  
88 Property included as part of the SWM System, (iii) a non-exclusive perpetual easement  
89 for the benefit of the Apartment Property, on, over, under and across those portions of the  
90 Single-Family Parcels as necessary or desirable for ingress and egress to and from the  
91 SWM System; (iv) a springing temporary non-exclusive easement and right of ingress  
92 and egress (“Temporary Easement”) for reasonable access across the Single-Family  
93 Parcels to perform the construction, repair, reconstruction or replacement of the SWM  
94 System; and (v) the right to grant the Village the easement rights described above without  
95 obligation. The Temporary Easement shall automatically cease thirty (30) days after the  
96 construction, repair, reconstruction or replacement work is completed and will be  
97 reinstated automatically when any other such work commences, provided that after the  
98 initial construction of the SWM System and final certification by the Developer’s  
99 engineer and approved by the Village and except in the event of an emergency,  
100 Developer or its successors or assigns, as owner of the Apartment Property, will provide  
101 the then owner of the impacted Single-Family Parcel(s) with at least 10 days’ prior  
102 written notice if Developer will be reinstating the Temporary Easement. For so long as  
103 SSND owns a Single Family Parcel, Developer, as the owner of the Apartment Property,  
104 and its successors and assigns, shall maintain commercial general liability insurance  
105 insuring the use of (or activities on) the Single-Family Easement Areas in an amount not  
106 less than \$1,000,000 per occurrence/\$2,000,000 annual aggregate. Such policy shall  
107 name SSND, as an additional insured and shall provide that the insurer waives any right  
108 of subrogation. Upon conveyance by SSND of the Single-Family Parcels, SSND is fully  
109 released from any obligation or liability, express or implied, that it may have associated  
110 with this Agreement. For the avoidance of doubt, provided SSND does not develop the  
111 Single-Family Parcels, then SSND’s only obligations under this Agreement are the above  
112 consent and grant of easements.

- 113 4. Grant of Perpetual Easements to Lot 1 and Lot 3 of the CSM and to Lot 4 of the CSM.  
114 Developer hereby grants and conveys to SSND, as the owner of Lot 1 and Lot 3 of the  
115 CSM, its successors and assigns, forever a non-exclusive perpetual easement, for the  
116 benefit of Lot 1 and Lot 3 of the CSM, the right to drain ordinary surface water and storm  
117 water on, over, under and across those portions of the Apartment Property to Lot 4 of the  
118 CSM, all as described on Exhibit G (“Lot 1 Drainage Easement” ) and all of which are  
119 part of the SWM System. Developer hereby grants and conveys to SSND, as the owner  
120 of Lot 4 of the CSM, its successors and assigns, forever a non-exclusive perpetual  
121 easement, for the benefit of Lot 4 of the CSM, the right to drain ordinary surface water

122 and storm water on, over, under and across the Apartment Property to the Basin located  
123 on Lot 4 of the CSM, as described on Exhibit H (“Lot 4 Drainage Easement”) and which  
124 Basin is part of the SWM System.

125 5. Outlots. As more particularly set forth in Section IX.C. of the Development Agreement,  
126 an affiliate of the Developer intends to purchase the Single Family Parcels and to convey  
127 the Single Family Parcels to a developer of single family residences. Pursuant to the  
128 Development Agreement, in order to develop the Single Family Parcels as individual  
129 residential lots the single family developer will be required to record a plat as to each  
130 Single Family Parcel. The plat for Lot 4 of the CSM will create outlots upon which the  
131 Basins and other parts of the SWM System will have been constructed. The Developer  
132 intends to require the single family developer to convey the outlots to the owner of the  
133 Apartment Property once the plat for Lot 4 has been recorded. Immediately following  
134 the conveyance of the outlots to the owner of the Apartment Property, the owner of the  
135 Apartment Property shall grant a non-exclusive perpetual easement to the then owner(s)  
136 of remaining portions of Lot 4 of the CSM and its/their successors and assigns, granting  
137 such remaining portions of Lot 4 of the CSM the right to drain ordinary surface water and  
138 storm water on, over, under, across and the outlots to the Basins and other areas located  
139 on the outlots and included as part of the SWM System. For the avoidance of doubt, the  
140 outlots and, if the outlots are not created for any reason, the land upon which the outlots  
141 are intended to be located, is and will remain subject to the easements and rights set forth  
142 in the Agreement no matter their ownership.

143 6. Maintenance Plan. In accordance with Village of Elm Grove Code – Part III, Land Use  
144 Legislation/Water Control/Article III Stormwater Management 325-21 to 325-45,  
145 Developer, as the owner of the Apartment Property, together with its successors and  
146 assigns, but only while each owns the Apartment Property, agrees to maintain storm  
147 water management practice(s) on the Property in accordance with the Storm Water  
148 Maintenance Plan agreed to by Developer and the Village and attached hereto as Exhibit  
149 I (the “SWM Maintenance Plan”). The SWM Maintenance Plan describes those ongoing  
150 maintenance activities that must be carried out to maintain compliance with this  
151 Agreement. In particular, Developer, as the owner of the Apartment Property, together  
152 with its successors and assigns, but only while each owns the Apartment Property, shall  
153 be responsible for the perpetual maintenance, operation, and, as needed, replacement of  
154 the SWM System in accordance with the SWM Maintenance Plan, including any erosion  
155 control required in connection with any such activities and shall be responsible for the  
156 inspection on not less than an annual basis of the SWM System as required under the  
157 SWM Maintenance Plan or to satisfy applicable storm and surface water management  
158 performance standards as may be promulgated by any governmental authority with  
159 jurisdiction and that are both applicable to and then enforceable against the SWM  
160 System. This includes, but is not limited to, the responsibility for, on a routine and  
161 emergency basis, and as needed, conducting all dredging and/or cleaning of the SWM  
162 System and maintaining or replacing storm water management or conveyance facilities to  
163 assure that they perform, at a minimum, in accordance with the performance standards set  
164 forth in the SWM Maintenance Plan or to satisfy applicable storm and surface water

165 management performance standards as may be promulgated by any governmental  
166 authority with jurisdiction and that are both applicable to and then enforceable against the  
167 SWM System. Developer, as the owner of the Apartment Property, together with its  
168 successors and assigns, but only while each owns the Apartment Property, shall also  
169 comply with all provisions of Sections 325-21 through 325-45 of the Village Code of  
170 Ordinances and the provisions of any then applicable State or Federal statute or  
171 regulation concerning storm water management and discharge or, but only if applicable  
172 to and required for then existing facilities such as the SWM System, as such ordinances,  
173 statutes or regulations are amended from time-to-time.

174 Upon written notification by the Village, and only if the Village has good faith reason to  
175 believe the SWM System has not been maintained in compliance with this Agreement,  
176 the Developer or its successors or assigns shall, at their own cost and within a reasonable  
177 time period determined by the Village, have an inspection of the storm water  
178 management practice conducted by an independent, qualified professional, file a report  
179 with the Village (a “Report”) and complete any maintenance or repair work  
180 recommended in the Report. Developer, or its successors or assigns shall be liable for the  
181 failure to undertake any required maintenance or repairs. The Village shall be entitled to  
182 be reimbursed for and awarded its reasonable attorney and engineering fees in enforcing  
183 this Agreement even if litigation is not commenced. The Village shall not request a  
184 Report more than once in any calendar year unless there is a Village Declared  
185 Emergency.

186 In addition, and independent of the requirements of the SWM Maintenance Plan, the  
187 Village, or its designee, is authorized to access the Easement Areas upon at least one  
188 day’s prior written notice except in the event of a Village Declared Emergency, as  
189 necessary to conduct inspections of the storm water management practices or drainage  
190 easements to ascertain compliance with the intent of this Agreement and the activities  
191 prescribed in the SWM Maintenance Plan. Upon notification by the Village of required  
192 maintenance or repairs, Developer or its successors or assigns shall complete the  
193 specified maintenance or repairs within a reasonable time frame determined by the  
194 Village.

195 7. Erosion Control: Apartments. Developer, as the owner of the Apartment Property,  
196 together with its successors and assigns, but only while each owns the Apartment Project,  
197 shall at all times promptly repair any siltation or erosion damage to adjoining surfaces  
198 and drainage ways resulting from land developing, disturbing or construction activities on  
199 the Apartment Property. Developer, as the owner of the Apartment Property, together  
200 with its successors and assigns, but only while each owns the Apartment Property, shall  
201 maintain all drainage systems, erosion control measures and other facilities located on the  
202 Apartment Property in a manner consistent with other similarly situated developments in  
203 the southeastern Wisconsin area.

204 In particular, Developer shall install and maintain Village-approved erosion control  
205 methods/procedures in the approved erosion control plan for the Property as set forth in  
206

207 the Plans and Specifications (as such term is defined in the Development Agreement) (the  
208 “Erosion Control Plan”) prior to and until commencement of any ground disturbing  
209 activities by Developer on the Property. Developer shall thereafter provide and maintain  
210 erosion control in accordance with Wisconsin Department of Natural Resources (the  
211 “DNR”) Best Management Practices until the Apartment Project and, but only if  
212 applicable, the Single-Family Parcels are landscaped in accordance with Developer’s  
213 Plans and Specifications.

214 Unless construction commences within thirty (30) days after completion of all demolition  
215 activity on the Apartment Property by Developer, weather permitting, Developer shall  
216 restore the Property to an erosion-controlled and dust-free condition, which may include  
217 temporary vegetation and/or other approved erosion control devices, in conformity with  
218 the Plans and Specifications and in accordance with all applicable Village ordinances,  
219 and State and Federal statutes and regulations.

220 Developer, and each of its agents, contractors, and subcontractors shall at all times  
221 remain in compliance with all applicable municipal and state erosion control restrictions  
222 and requirements including, but not limited to the DNR’s Best Management Practices and  
223 conditions of its DNR Chapter 30 permit until the Apartment Project is landscaped in  
224 accordance with the Plans and Specifications. Until completion of the Apartment Project,  
225 Developer shall implement erosion control plans as set forth in the Erosion Control Plan  
226 and conforming to the requirements of the Village Code of Ordinances and in connection  
227 therewith:

228 A. Developer shall notify the Public Works Director of the Village 48 hours prior to  
229 the commencing of any land disturbing activity on the Property.

230 B. Developer shall notify the Public Works Director of completion of any erosion  
231 control measures at the Property within 24 hours after their installation.

232 C. Developer shall install all erosion control measures as identified in the Erosion  
233 Control Plan.

234 D. During construction of the Public Improvements, the SWM System and the  
235 Apartment Project, Developer shall at all times promptly repair any siltation or  
236 erosion damage to adjoining surfaces and drainage ways on adjacent private  
237 property and public rights-of-ways resulting from land developing, disturbing or  
238 construction activities by Developer on the Property.

239 E. During construction of the Public Improvements, the SWM System and the  
240 Apartment Project, Developer shall inspect the construction erosion control  
241 measures on the Property after each rain of 0.5 inches or more and at least once  
242 each week and make all needed repairs without delay. Developer shall prepare a  
243 written report detailing each inspection using a format approved by the  
244 Department of Natural Resources. A copy of each report shall be provided to the  
245 Village upon completion. The Village retains the right, but not the obligation, to

246 perform its own periodic erosion control inspections. Inspections performed by  
247 the Village do not relieve the Developer from its obligation to perform periodic  
248 inspections described above.

249 F. Developer shall keep a copy of the Erosion Control Plan for construction on the  
250 Apartment Property.

251 G. If, during construction of the Public Improvements (as defined in the  
252 Development Agreement), the SWM System and the Apartment Project, any  
253 erosion control facilities or measures (including but not limited erosion logs,  
254 erosion bales, ditch checks, inlet protection, temporary sediment basins, tracking  
255 pads, swales and berms) are washed out or otherwise rendered ineffective as  
256 determined by the Building Inspector, Public Works Director or Village Engineer,  
257 Developer shall replace said facilities within 24 hours of being so notified in  
258 writing by the Building Inspector, Village Engineer or Public Works Director. If  
259 Developer fails to reinstall said facilities or measures within 48 hours of being so  
260 notified by the Building Inspector, Village Engineer or Public Works Director, the  
261 Village may, but is not required to, reinstall said facilities and charge one hundred  
262 ten percent (110%) of all costs incurred by the Village in so reinstalling said  
263 facilities to Developer. The Village may collect this amount from the security the  
264 Village may be holding pursuant to the Development Agreement.

265 H. All disturbed areas on all parcels of the Property on which construction is not  
266 actively ongoing shall be restored by Developer to grade and re-vegetated,  
267 weather permitting, within thirty (30) days of the cessation of any site preparation  
268 and construction activities on and as to the Single-Family Parcels and the  
269 cessation of all demolition, site preparation and construction activities on the  
270 Apartment Project until the Apartment Project is landscaped in accordance with  
271 the Plans and Specifications.

272 8. Erosion Control: Single Family. Until such time as a Single-Family Parcel is conveyed  
273 to a third party unaffiliated with Developer, Developer, as the owner of the Apartment  
274 Property, together with its successors and assigns, but only while each owns the  
275 Apartment Property, shall maintain all drainage systems, erosion control measures and  
276 other facilities located on all Single-Family Parcels so owned in a manner consistent with  
277 other similarly situated developments in the southeastern Wisconsin area. Upon the  
278 conveyance of a Single-Family Parcel to third party unaffiliated with Developer, then the  
279 then owner of that Single-Family Parcel shall maintain all drainage systems, erosion  
280 control measures and other facilities located on the applicable Single Family Parcel in a  
281 manner consistent with other similarly situated developments in the southeastern  
282 Wisconsin area, except if and only to the extent such maintenance is to the SWM System  
283 and the responsibility of the Apartment Property owner under the SWM Maintenance  
284 Plan.

285 9. Single Family Parcel Obligations. No improvements, including without limitation,  
286 buildings, monuments, gazebos, or landscaping or similar items shall be constructed,  
287 installed, placed or maintained on the Single Family Easement Areas which may cause  
288 damage to or interfere in any way with the flow of storm water or which would in any  
289 way unreasonably or materially increase the costs to Developer of any maintenance or  
290 repair within the Easement Areas; provided that a developer of a Single-Family Parcel  
291 shall be permitted to install any such landscaping if required by applicable laws. No  
292 changes of grade shall be made to a Single-Family Parcel which would alter, interrupt,  
293 reduce or increase the flow of surface water runoff from such parcels in violation of the  
294 SWM Plan or Erosion Control Plan, without the consent of Developer as owner of the  
295 Apartment Property, which consent may be withheld in Developer's sole discretion.

296 10. Failure to Maintain SWM System/Easement Grant: Village. If Developer, as the owner  
297 of the Apartment Property, together with its successors and assigns, but only while each  
298 owns the Apartment Property, defaults in its obligations hereunder to maintain and repair  
299 the SWM System, then the Village may give Developer, its successors or assigns, as  
300 owner of the Apartment Property, written notice requiring that the failure be cured  
301 within thirty (30) days (or such other longer reasonable period of time) thereafter, except  
302 in the event of an emergency. If Developer or its successors or assigns fails to comply  
303 with the demands of the notice or if such failure cannot reasonably be cured within such  
304 thirty (30) day or other specified period, then provided Developer or its successors or  
305 assigns, has commenced and is diligently pursuing such cure, then such longer period of  
306 time as may be reasonably necessary to cure such failure, then Village shall have the  
307 right but not the obligation to provide the required repair or maintenance and to charge  
308 the cost thereof, including administrative charges, to Developer or its successors or  
309 assigns and if Developer, or its successors or assigns, do not pay such amounts within  
310 thirty (30) days after written demand therefor, together with an itemization and  
311 reasonable evidence of such costs, then the Village may levy the costs and expenses of  
312 such inspections, maintenance or repair related actions as a special charge against the  
313 Apartment Property and collected as such in accordance with the procedures under s.  
314 66.0627 Wis. Stats. or subch. VII of ch. 66 Wis. Stats. For the avoidance of doubt, and  
315 notwithstanding the foregoing, no notice shall be required in the event of a Village  
316 Declared Emergency. In furtherance of such right, Developer grants the Village, forever,  
317 a non-exclusive easement over and across the Apartment Property and a sub-easement  
318 across the Single-Family Parcels for the purpose of access to the SWM System to  
319 exercise the Village's rights for the inspection, maintenance and repair thereof, but only  
320 to the extent reasonably necessary or such inspection, repair or maintenance purposes.

321 11. Failure to Maintain SWM System: Single Family. If Developer, as the owner of the  
322 Apartment Property, together with its successors and assigns, but only while each owns  
323 the Apartment Property, defaults in its obligations hereunder to maintain and repair the  
324 SWM System, then if such failure has or is reasonably likely to have a materially adverse  
325 impact on drainage for all of, or any lot located within, a Single Family Parcel, then the  
326 owner of the impacted lot or a Single Family Parcel may give Developer, its successors  
327 or assigns, as owner of the Apartment Property, written notice requiring that the failure



328 be cured within thirty (30) days thereafter (or if such failure cannot reasonably be cured  
329 within thirty (30) days, then such longer period of time as may be reasonably necessary to  
330 cure such default). If Developer or its successors or assigns fails to comply with the  
331 demands of the notice or if such failure cannot reasonably be cured within such thirty  
332 (30) day or other specified period, then provided Developer or its successors or assigns,  
333 has commenced and is diligently pursuing such cure, then such longer period of time as  
334 may be reasonably necessary to cure such failure, then if not cured such impacted owner  
335 shall have the right, as its sole remedy, to sue for specific performance.

336 12. Indemnity. Developer agrees to indemnify and hold harmless the Village, its officers,  
337 agents and employees against any and all actions, damages, judgments, costs, or fees of  
338 any kind whatsoever arising out of any negligence or willful misconduct of Developer, its  
339 agents, or employees relating to this Agreement.

340 13. Run with the Land/Release upon Conveyance. This Agreement shall be binding upon,  
341 inure to the benefit of and run with the Apartment Property and the Single Family Parcels  
342 and be binding upon all the owners thereof and their heirs, successors and assigns,  
343 provided that upon the conveyance of by any owner, including without limitation,  
344 Developer, its affiliates and SSND, of any portion of the Property, transferring owner  
345 shall be fully released from all liability or obligations hereunder with respect to the  
346 portion of the Property so conveyed arising after the date of such conveyance.

347 14. Estoppel Certificate. Within ten (10) days after request therefor, the parties hereto agree  
348 to provide an estoppel certificate to the requesting party, its lenders, or any proposed  
349 purchaser of all or any part of the Property, or such purchaser's lenders, stating that the  
350 requesting party is not in default hereunder or if the requesting party is in default  
351 hereunder setting forth any such defaults.

352 15. Severability. If any term, provision or condition contained in the Agreement shall, to any  
353 extent, be invalid or unenforceable, the remainder of the Agreement (or the application of  
354 such term, provision or condition to persons or circumstances other than those in respect  
355 of which it is invalid or unenforceable) shall not be affected thereby, and each term,  
356 provision or condition of the Agreement shall be valid and enforceable to the fullest  
357 extent permitted by law.

358 16. Recording. The Agreement and all addendums thereto shall be recorded in the records of  
359 Waukesha County, Wisconsin.

360 17. Exhibits. All exhibits referred to herein and attached hereto shall be deemed part of the  
361 Agreement.

362 18. Notices. Any notice given hereunder shall be in writing and personally delivered, mailed  
363 by registered or certified mail, return receipt requested, or delivered via overnight  
364 courier: To the Village: Village Clerk, 13600 Juneau Blvd., Elm Grove, WI 53122 and to  
365 Developer: c/o Mandel/\_\_\_\_\_ Apartments LLC, 330 East Kilbourn St., Suite 600  
366 South, Milwaukee, WI 53202, Attention: Phil Aiello, with a copy to Foley & Lardner





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

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_, the above-named Michele Luedtke, Village Clerk, to me known to be the person and officer who executed the foregoing instrument and acknowledged that she executed the same as such officer by the Village of Elm Grove.

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
NOTARY PUBLIC, State of Wisconsin  
Print Name: \_\_\_\_\_  
My Commission: \_\_\_\_\_

DEVELOPER:

\_\_\_\_\_ Apartments LLC

By: Mandel/\_\_\_\_\_ Apartments LLC  
Its: Manager

By: BR Mandel LLC  
Its: Manager

By: \_\_\_\_\_  
Name:  
Its:

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

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_ the above-named \_\_\_\_\_, to me known to be the person who executed the foregoing acknowledged that he executed the same as the Manager of BR Mandel LLC, the Manager of Mandel/\_\_\_\_\_ Apartments LLC, the Manager of \_\_\_\_\_ Apartments LLC.

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
NOTARY PUBLIC, State of Wisconsin  
Print Name: \_\_\_\_\_  
My Commission: \_\_\_\_\_



**EXHIBIT A**

**Legal Description –Property**

**EXHIBIT B**

**Certified Survey Map – Property**



**EXHIBIT C**

**Legal Description – Apartment Property**

**EXHIBIT D**

**Legal Description – Single Family Parcels**

**EXHIBIT E**  
**Plans and Specifications**

**EXHIBIT F**

**Single-Family Easement Areas**

**EXHIBIT G**

**Lot 1 Drainage Easement**

**EXHIBIT H**

**Lot 4 Drainage Easement**

**EXHIBIT I**  
**SWM Maintenance Plan**