

RECORDED AND EFFECTIVE
per Village of Elm Grove Ord.
§ 335-30(J)(4): _____, 2019

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DEVELOPMENT AGREEMENT

**Between the
VILLAGE OF ELM GROVE
and
Elm Grove Heights, LLC**

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DEVELOPMENT AGREEMENT
Between the
VILLAGE OF ELM GROVE and
ELM GROVE HEIGHTS, LLC

55 THIS AGREEMENT (“Agreement”) is made and effective this _____ day of
56 _____. 2019 by and between the Village of Elm Grove, a Wisconsin Municipality
57 (“Village”); and Elm Grove Heights, LLC, a Wisconsin Limited Liability Company
58 (“Developer”).
59

60
61

Recitals

62 The Village and Developer acknowledge the following:

63
64 WHEREAS, Developer represents and warrants that it currently holds a contract to
65 purchase approximately 2 acres of property located in the Village at 13040 W. Bluemound Road,
66 which is more fully identified in the attached **Exhibit 1**, and is hereby incorporated by reference
67 (the "Property"); and
68

69 WHEREAS, Developer represents and warrants that it will obtain fee simple title to the
70 Property prior to the recording of this Agreement and provide proof of same to Village before
71 recording; and
72

73 WHEREAS, Developer seeks to develop the Property by constructing one residential
74 apartment building that will be (1) approximately 93,000 square feet in size and (2) comprised of
75 no more than seventy-five (75) residential units (the “Senior Apartments Project” or “SAP”); and
76

77 WHEREAS, the Property is currently zoned as B-3 Mid-Rise Office and Professional
78 District; and
79

80 WHEREAS, the Rm-2 Multiple-Family Residential District (Section 335-21.1(C)(2))
81 conditionally permits densities of up to 38 units per acre of multiple-family independent senior
82 living dwellings as part of a Residential Planned Development Overlay District (“Residential
83 PDO”) project, subject to the adjustments provided for in Section 335-30(F)(3); and
84

85 WHEREAS, Developer is eligible to request a Residential PDO under Section 335-
86 30(D)(4) because the Property is (1) at least 1.5 acres in size and (2) is adjacent on at least one
87 complete side to a business and office zoning district in the Village; and
88

89 WHEREAS, Developer has requested that the Property be rezoned to Rm-2 Multiple-
90 Family Residential District with a Residential PDO; and
91

92
93 WHEREAS, the Village conducted a public hearing concerning the SAP and the rezoning

94 of the Property on March 25, 2019; and
95

96 WHEREAS, the Developer has provided plans and specifications for the SAP (attached
97 hereto and incorporated by reference as **Exhibit 2**, the “Plans and Specifications”); and
98

99 WHEREAS, the Building Board, at its meeting dated January 16, 2019 recommended
100 approval of Developer’s Plans and Specifications; and
101

102 WHEREAS, the Plan Commission, at its meeting dated March 4, 2019 recommended
103 approval of Developer’s Plans and Specifications, rezoning of the Property, and the proposed
104 certified survey map; and
105

106 WHEREAS, the Plan Commission has further recommended that Developer be granted
107 enhanced density for the SAP based on Developer’s representation of the quality of materials and
108 construction for the SAP; and
109

110 WHEREAS, the Plan Commission has further recommended approval of the SAP
111 conditioned upon entry by the Village and Developer into a Development Agreement pursuant to
112 Section 335-30 of the Village Code of Ordinances; and
113

114 WHEREAS, the Village of Elm Grove is requiring that, as conditions of development
115 approval, that Developer install certain improvements illustrated in the Plans and Specifications
116 that are to be dedicated by Developer to the Village upon completion (the “Public
117 Improvements”); and
118

119 WHEREAS, on March 25, 2019 the Village Board duly approved Developer’s Plans and
120 Specifications and the rezoning of the Property, subject to Developer obtaining title to the
121 Property in fee simple and further subject to the terms and provisions of this Agreement; and
122

123 NOW, THEREFORE, in consideration of the granting of approval of the SAP by the
124 Village Board, \$1.00, the representations by Developer set forth herein, the mutual promises set
125 forth herein, and other good and valuable consideration, receipt and sufficiency of which is
126 hereby acknowledged, the Parties hereby agree as follows:
127

128 **I. Incorporation of Recitals.**
129

130 The Recitals set forth above are hereby incorporated and made part of this Agreement.
131

132 **II. Improvements.**
133

134 Subject to the provisions set forth in Section XIV, Developer hereby agrees that, upon
135 undertaking any land disturbing or construction work on the SAP governed by this Agreement,
136 Developer shall prepare the Property and construct public and private improvements (all at
137 Developer’s sole cost and expense) in accordance with the Plans and Specifications as follows:
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A. Buildings.

1. Residential Apartments:
Developer shall construct one (1) residential apartment building approximately 93,000 square feet in size, consisting of not more than seventy-five (75) individual independent senior living residential apartment units (as defined under Section 335-21.1), together with related improvements. Construction by Developer shall be in strict accordance with the Plans and Specifications set forth in **Exhibit 2**.
2. Construction of such building and related improvements and their completion in strict compliance with all Plans and Specifications and within the times stated in Section V shall constitute material terms of this Agreement. Village understands, acknowledges, and agrees that the “strict accordance” standard does allow for commercially reasonable change orders during the construction process, so long as such change orders do not modify (1) the exterior materials as approved by the Building Board; (2) the building’s physical appearance as approved by the Building Board and the interior materials/finishes specifications as attached to **Exhibit 2**, and constituting a material representation by DEVELOPER; (3) the number of units; or (4) the number of parking spaces, but allows the installation of additional outdoor parking spaces per section II(F)(4).

B. Sanitary Sewer.

1. Developer shall construct, install, and furnish a completed sanitary sewer system for the SAP in accordance with the Plans and Specifications. The sanitary sewer improvements are private improvements and shall be connected to the Village sanitary sewer system.
2. As a condition of obtaining any plumbing permit(s) pertaining to the SAP, Developer shall acquire for the SAP and submit to the Village an approved Wisconsin Department of Safety and Professional Services permit approval and submit a copy to the Village prior to installing the sanitary sewer system.
3. As a condition of obtaining any plumbing permit(s) pertaining to the SAP, Developer shall acquire approval for the SAP from the Milwaukee Metropolitan Sewerage District ("MMSD") and submit a copy of such approval to the Village.
4. All work on the sanitary sewer/plumbing shall be in accordance with "Standard Specifications for Sewer and Water Construction in Wisconsin" and applicable specifications and standards provided by MMSD.
5. Developer shall be responsible for payment of all applicable connection and permit charges associated with said sanitary sewer system for the SAP including the abandonment of the existing sewer lateral and the installation of a new lateral to the PROPERTY from the sewer main.
6. Developer shall, at its sole expense, televise the existing lateral to the Property to ensure its structural water-tight integrity and shall provide a videotape report thereof to the Village prior to the connection of the lateral to the village’s sewer

185 system.

- 186 7. Developer shall, at its sole expense, furnish a complete electronic file containing
187 all "as-built" plans for the sanitary sewer system; including location and elevation
188 of laterals at the lot lines compatible with the Village's GIS software prior to the
189 granting of an occupancy permit. Developer shall be responsible for any costs of
190 integrating said GIS data into the Village's GIS database.

191
192 **C. Water.**

- 193
194 1. Developer shall construct, install, furnish, and provide for the extension of
195 municipal water to service the SAP in accordance with (1) the Plans and
196 Specifications; (2) code requirements for the Village of Elm Grove and the City
197 of Brookfield; and (3) "Standard Specifications for Sewer and Water Construction
198 in Wisconsin", all at no cost to the Village.
199 2. Developer shall dedicate the constructed public water main to the Village.
200 Developer shall also connect to the municipal water supply via a 6" lateral. The
201 water lateral is a private improvement that will not be dedicated.
202 3. Developer shall construct, install, furnish, and provide fire suppression systems
203 for the Property to the extent required by, and in accordance with, plans and
204 specifications approved by the State of Wisconsin, and install stand pipes in all
205 stair wells, and two (2) public fire hydrants pursuant to the Plans and
206 Specifications.

207
208 **D. Storm/Surface Water System.**

- 209
210 1. Developer shall construct, install, furnish, and provide adequate facilities for
211 storm and surface water drainage management in accordance with the Plans and
212 Specifications and in accordance with all applicable State, Federal, and Village
213 statutes, regulations, ordinances, and MMSD Chapter 13 regulations.
214 2. The storm and surface water drainage system on the Property is a private
215 improvement and will not be dedicated to the Village.
216 3. The Village shall have no obligation to issue any occupancy permits until the
217 storm and surface drainage systems have been inspected by the Village Engineer
218 and fully installed in accordance with the Plans and Specifications.
219 4. Developer shall, at its sole expense, furnish a complete electronic file containing
220 all "as-built" plans of the storm/surface water systems provided by Developer
221 under this Agreement together with survey coordinate locations for manholes,
222 inlets, and other structures provided by Developer under this Agreement, both on
223 and off the Property, together with an electronic data file for integration into the
224 Village's GIS database. Developer shall be responsible for the costs of
225 integration of said data into the Village's GIS database.
226 5. Developer or its successors and assigns shall be responsible for the inspection on
227 not less than an annual basis, perpetual maintenance, operation, and replacement
228 of all storm/surface water facilities required under this Agreement. This includes,
229 but is not limited to, the responsibility for, on a routine and emergency basis, and
230 as needed, conducting all dredging and/or cleaning of the storm/surface water
231 facilities and equipment to assure that they perform, at a minimum, in accordance

232 with the performance standards set forth in the Plans and Specifications.
233 Developer acknowledges that the storm/surface water drainage facilities and
234 equipment are subject to Section 325-21 through 325-45 of the Village Code of
235 Ordinances as amended from time-to-time, and the provisions of any then
236 applicable State or Federal statute or regulation concerning storm water
237 management and discharge. The responsibility under this Section shall be
238 recorded in a Storm Water Management Facility Maintenance Agreement with
239 respect to the Site in the form attached hereto as **Exhibit 8**. Developer may, at
240 Developer's sole option, transfer its maintenance obligations for the storm water
241 facilities to its successors and assigns at any time after the SAP is constructed.

- 242 6. Developer shall provide an irrevocable letter of credit¹ as provided for in Section
243 VII B or certified check in an amount determined by the Zoning Administrator, or
244 designee, to guarantee implementation of proposed storm water management
245 measures per Village of Elm Grove Ordinance § 325-40.

246
247 **E. Grading/Erosion Control/Landscaping.**

- 248 1. Developer shall grade, seed, and otherwise landscape the Property pursuant to the
249 Plans and Specifications.
- 250 2. Developer and each of its agents, contractors, and subcontractors shall at all times
251 remain in compliance with all applicable municipal and state erosion control
252 restrictions and requirements including, but not limited to the Wisconsin
253 Department of Natural Resources Best Management Practices.
- 254 3. Prior to commencement of any ground disturbing activities, Developer shall
255 submit, or cause to be submitted, one or more erosion control plans conforming to
256 the requirements in Sections 325-9(A)-(D)(1) of the Village Code of Ordinances
257 that are acceptable to the Director of Public Works, in his/her reasonable
258 discretion, and obtain erosion control permits. In addition to paying the then
259 applicable permit fee(s), Developer shall provide a letter of credit as provided for
260 in Section VII B or cash escrow to the Village in the amount of \$10,000.00 to
261 guarantee a good faith execution of the approved erosion control plan and any
262 erosion control permit conditions. Said letter of credit shall be subject to
263 reduction and release following the procedures set forth in Sections VII(E)-(G) of
264 this Agreement.
- 265 4. Developer shall notify the Public Works Director within forty-eight (48) hours of
266 commencing any land disturbing activity on the Property.
- 267 5. Developer shall notify the Public Works Director of completion of any erosion
268 control measures within forty-eight (48) hours after their installation.
- 269 6. Developer shall install all erosion control measures as identified in the approved
270 erosion control plan for the Property.
- 271 7. Developer shall maintain all road drainage systems, storm water drainage
272 systems, erosion control measures, and other facilities on the Property identified
273
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¹ All letters of credit required by this Agreement shall be consolidated into one comprehensive letter whose duration shall not be less than one year and which shall be renewed not less than thirty (30) days prior to its expiration and shall be subject to being drawn upon in its full amount by the Village if not renewed at least thirty (30) days before the stated expiration date of the letter of credit.

275 in the control plan.

- 276 8. Developer shall promptly within forty-eight (48) hours repair any siltation or
277 erosion damage to adjoining surfaces and drainage ways resulting from land
278 developing or disturbing activities on the Property.
- 279 9. Developer shall inspect the construction erosion control measures on the Property
280 after each rain of 0.5 inches or more and at least once each week and make
281 needed repairs as often as needed.
- 282 10. Developer shall allow the Public Works Director, or designee, to enter the
283 Property for the purpose of inspecting for compliance with the erosion control
284 plan or for performing any work necessary to bring the site into compliance with
285 the erosion control plan.
- 286 11. Developer shall keep a copy of the erosion control plan on the Property.
- 287 12. If any erosion control facilities (including but not limited to bails, silt fence and
288 berms) are washed out or otherwise rendered ineffective as determined by the
289 Building Inspector, the Developer shall replace said facilities within forty-eight
290 (48) hours of being so notified by the Building Inspector.
- 291
- 292 a. If Developer fails to reinstall said facilities within forty-eight (48) hours of
293 being so notified by the Building Inspector, the Village may, but is not
294 required to, reinstall said facilities and charge one hundred ten percent
295 (110%) of all costs incurred by the Village in so reinstalling said facilities
296 to Developer. The Village may collect this amount from the security the
297 Village is holding pursuant to this Agreement.
- 298 b. Developer shall, simultaneous with the execution of this Agreement,
299 provide the Village with temporary access easement to the Property in the
300 form attached hereto and incorporated by reference as **Exhibit 3** to permit
301 repair or replacement of said facilities.
- 302
- 303 13. Developer shall provide and plant on the Property all tree/shrub plantings of the
304 size and species, and at the locations, identified in the Plans and Specifications
305 provided, however, that Developer may substitute larger size plantings of the
306 same species. Following the planting of said trees and shrubs, Developer shall
307 water and maintain said trees and shrubs on the Property to ensure their survival
308 for not less than two (2) years. In the event any tree(s) or shrub(s) fails to survive
309 for two (2) years following its planting, Developer shall replace said tree(s) or
310 shrub(s) at its sole expense.
- 311 14. All disturbed areas on which construction is not actively ongoing shall be restored
312 to grade and re-vegetated within 60 days of the cessation of active construction.
- 313

314 **F. Roads and Parking.**

- 315
- 316 1. Developer shall grade, construct, and surface private roads, driveways, and
317 parking areas for the Property as shown on, and in accordance with the Plans and
318 Specifications.
- 319 2. Direct access to the Property from public streets shall be only via Bluemound
320 Road.

- 321 3. Developer shall, at its expense perform the modifications to the curb and gutter on
322 the private entry drive and complete the pavement marking for parking as shown
323 on the Plans and Specifications.
- 324 4. Developer shall install, at its sole expense, the “banked” parking spaces as shown
325 and designed with cross sections on **Exhibit 9** at the indicated location(s) and in
326 full conformity with the specifications indicated therein within one hundred and
327 eighty (180) days of a written request from the Village of Elm Grove Plan
328 Commission based on its concurrence with the professional recommendation of
329 the Elm Grove Zoning Administrator, or designee, predicated on his/her
330 monitoring and observations and those reported/shared by citizens, tenants in the
331 building, the Developer or its successors or assigns, members of the Elm Grove
332 Police Department, the Village Manager and surveyed members of the Village
333 Board of Trustees.
- 334 5. In the event that Developer or its successor or assign fails to install the banked
335 parking spaces as provided herein, the Village and any agent or subcontractor
336 thereof shall have a perpetual general easement throughout the PROPERTY to
337 install requested banked parking spaces as shown on **Exhibit 10** and shall invoice
338 Developer or its then successor or assign.
- 339 6. Installation of additional banked parking shall occur in two phases labeled Areas
340 A and B on **Exhibit 9** attached hereto. Phase One shall be the installation of six
341 parking spaces. Phase two shall be the installation of an additional eight parking
342 spaces.
- 343 7. The Village may direct the installation of Phase Two only if, after Developer has
344 fully installed Phase One, the Village has made a separate and subsequent
345 determination pursuant to subsection 4 that the six Phase One parking spaces,
346 together with the existing surface and underground parking, do not provide
347 adequate parking for the Property. The separate and subsequent determination
348 must be based on new evidence of inadequate parking presented after installation
349 of Phase One in accordance with processes and procedures as contained in
350 subsection 4 above.
- 351 8. Developer shall have the right at any time to voluntarily install any or all of the
352 banked parking spaces after providing notice to the Village that Developer desires
353 additional parking at the Property.
- 354 9. Installation of Banked Parking spaces shall comply with all applicable codes.
- 355 10. Unless otherwise prevented by Federal Emergency Management Agency or the
356 State of Wisconsin Department of natural Resources, the installation of Banked
357 Parking Spaces shall occur within 180 days after a Notice to Install Banked
358 parking is issued by the Village.
- 359 11. If Developer or its successor or assign fails to make payment within thirty (30)
360 days of being invoiced, the Village may impose a special charge against the
361 PROPERTY pursuant to Wis. Stat. § 66.0627 as subsequently amended from time
362 to time. This section II(F)(4) - (12) shall survive the performance of this
363 Agreement and shall bind Developer, its successors and assigns until all parking
364 improvements provided for in **Exhibit 9** have been fully installed.
- 365 12. In the event Developer wishes to contest an alleged error in the Notice to Install
366 Banked Parking, then Developer shall comply with all appeals procedures as
367

368 outlined in §330-26 within the Village Code of Ordinances.
369
370
371

372 **G. Exterior Lighting and Signage.**
373

- 374 1. Developer shall provide and install exterior lighting and signage for the Property
375 in accordance with the Plans and Specifications. Developer shall bear all electrical
376 and operational expenses for all lighting on the Property.
377

378 **H. Pathways/Sidewalks.**
379

- 380 1. Developer shall install concrete sidewalks on the Property in accordance with the
381 Plans and Specifications.
382

383 **III. Dedication of Public Improvements.**
384

385 **A. Transfer to Village**

386 Subject to all of the other provisions of this Agreement and the Exhibits attached,
387 Developer shall, without charge to the Village, upon completion of any Public
388 Improvements situated on or off the Property, unconditionally give, grant, convey
389 and fully dedicate the same to the Village, its successors and assigns, forever, free
390 and clear of all encumbrances whatever, together with, including without
391 limitation, all structures, mains, conduits, pipes, lines, machinery, equipment and
392 appurtenances which may in any way be a part of such Public Improvements and
393 together with any and all necessary easements for access thereto. At the time of
394 conveyance, Developers shall provide the Village evidence of title insurance
395 reflecting Developers' ownership of the Property. Developer shall also pay, when
396 due, any transfer taxes that arise as a result from said dedication(s).
397

398 **B. Notice and Acceptance.**

399 At the end of the SAP's construction timeline, Developer shall notify the Village
400 in writing of the completion of any Public Improvements described as such in the
401 Plans and Specifications attached hereto as Exhibits. Within seven (7) days of the
402 date of such notice, the Village shall inspect and/or re-inspect as necessary any
403 Public Improvements described in Developer's notice and prepare and deliver to
404 Developer a written punch list of repairs necessary to bring such Public
405 Improvements into conformance with the Plans and Specifications. Upon
406 Developer's written notice to the Village that all punch list repairs for any such
407 public improvement are complete, and following satisfactory completion of any
408 applicable re-inspection, the Village shall, no later than forty-five (45) days
409 following the date of such notice and subject to the re-inspection and approval of
410 the Village, by separate resolution, accept the dedication of such Public
411 Improvement. Simultaneous with the acceptance by the Village of any sanitary
412 sewer improvement on the Property, Developer shall, at its sole expense, furnish
413 to the Village one complete electronic file containing all "as built" plans.

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C. Construction Warranty for Dedicated Public Improvements.

Developer warrants that all materials and workmanship furnished by Developer for construction of the Public Improvements shall meet all state, federal, and local requirements and specifications and that the Public Improvements which will be dedicated to the Village are and will remain in good and sound condition for and during a period of twelve (12) months from the date of final acceptance of dedication by the Village.

D. Warranty Security.

Developer shall furnish to the Village, prior to final acceptance of dedication of any Public Improvements by the Village, warranty security, as provided for in section VII B, equaling ten percent (10%) of the total final cost of the Public Improvements. Such letter of credit will be retained by the Village for a period of twelve (12) months after the final acceptance of the Public Improvements as security for Developer's guarantee that the workmanship and materials furnished meet all state, federal, and local requirements and specifications and that the applicable Public Improvements are and will remain in good and sound condition for and during the twelve-month period from and after their acceptance. Separate letters of credit may be issued for each component of the Public Improvements.

E. Obligation to Repair.

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 Developer's warranty and shall leave the Public Improvements which will be dedicated to the Village in good and sound condition, satisfactory to the Village at the expiration of the warranty period; provided, however, Developer's obligation to repair shall not extend to repairs necessitated by or related to any act, omission, neglect or misconduct of the Village, its agents, employees or contractors (and the letter of credit may not be drawn against in such instances). In the absence of a written notice from the Village identifying any specific deficiency, the Public Improvements will be deemed approved at the end of the twelve-month warranty period and at such time the letter of credit for such Public Improvements shall be released.

F. Notice of Repair.

If, during the warranty period, the Public Improvements dedicated to the Village shall, in the reasonable opinion of the Village Engineer in his or her reasonable discretion, require any repairs or replacements which in his/her reasonable judgment are necessitated by reason of settlement of foundation, structure or backfill, or other defective workmanship and/or materials, the Developer shall, upon written notification by the Village Clerk of the necessity for such repairs, make such repairs, at its own cost and expense. In the event Developer fails to make such repairs within a reasonable time after written notice has been sent as provided herein, or fails to start work within thirty (30) consecutive days after such written notice, weather permitting, the Village may cause such work to be

460 done, but has no obligation to do so, either by contract or otherwise, and the
461 Village may draw upon any letter of credit then in the Village's possession to pay
462 any costs or expenses incurred in connection with such repairs or replacements. If
463 the cost or expense incurred by the Village in repairing or replacing any portion of
464 the Public Improvements covered by this warranty exceeds the amount of the
465 letter of credit, then Developer shall, within thirty (30) consecutive days of being
466 invoiced by the Village, pay any excess cost or expense actually incurred in the
467 correction process. If Developer or its successors or assigns fail to make payment
468 within said thirty (30) consecutive days, the Village may assess a special charge
469 against the Property pursuant to Wis. Stat. § 66.0627 as subsequently amended
470 from time-to-time.

471
472 **G. Maintenance Prior to Acceptance.**

- 473
474 1. Developer shall maintain the Public Improvements which will be dedicated to the
475 Village until such time as they are accepted for dedicating by the Village. This
476 maintenance shall include routine maintenance. In cases where emergency
477 maintenance is required, such as sewer blockages, the Village retains the right to
478 complete the required emergency maintenance in a timely fashion and bill the
479 Developer for all actual associated costs.
480
481 2. All improvements to be dedicated to the Village under this Agreement shall be
482 maintained by Developer until they are accepted so they conform to the applicable
483 plans and specifications attached as Exhibits to this Agreement at the time of their
484 acceptance by the Village.
485

486 **IV. Miscellaneous Requirements.**

- 487
488 **A. Underground Utilities.** All electrical, telephone, gas, and cable utilities shall be
489 underground. Normal and customary above-ground utility facilities such as
490 transformers, service pedestals, gas vents, and the like approved in writing by the
491 Village Engineer and/or Zoning Administrator, or designee, in their reasonable
492 discretion are permissible. Coordination of installation as shown on the Plans and
493 Specifications shall be the responsibility of Developer.
494
495 **B. Manner of Performance.** Developer shall cause all construction called for by
496 this Agreement to be carried out and performed in a good and workmanlike
497 manner.
498
499 **C. Permits.** Developer hereby agrees to obtain all necessary permits and approvals
500 from all governmental authorities, including but not limited to the Village,
501 MMSD and State of Wisconsin, prior to the start of construction, demolition,
502 and/or hazardous waste abatement. Developer shall be solely responsible for
503 payment of all applicable permit fees and costs.
504
505 **D. Locations.** The Developer agrees that the locations of existing municipal sanitary

506 sewer, storm water and water facilities as indicated on the Plans and
507 Specifications are approximate locations only. Developer is solely responsible for
508 definitively locating all such municipal facilities in the field, and no municipality
509 shall bear any liability if any of said facilities are not located within a reasonable
510 distance from that indicated in the documents described in this subsection.

511
512 **E. Pre-Construction Meetings.** Developer and its general contractor(s) shall attend
513 pre-construction meetings with Village and City staff and consultants prior to
514 commencing construction on the SAP.

515
516 **V. Time**

517
518 **A.** Developer shall complete, or cause the completion of the following aspects of the
519 improvements of the Property, all in compliance with the requirements of this
520 Agreement, but subject to Section 106-3(F) of the Village Code of Ordinances,
521 and in accordance with the following SAP schedules:

- 522
523 1. Upon the recording of the Development Agreement Developer shall commence
524 construction within twelve (12) months thereafter.
- 525
526 2. Subject to the provisions of Section V(D)(1) of this Agreement, failure by
527 Developer to begin construction within said twelve (12) month period will result
528 in the automatic revocation of the rezoning to a Rm-2 Multiple-Family
529 Residential District and the Residential PDO zoning applied to the Property and
530 reversion of the zoning for the Property to B-3 Mid-Rise Office and Professional
531 District zoning classification.
- 532
533 3. Within ten (10) months of the recording of the Development Agreement, the
534 Developer shall submit construction plans that strictly conform to the Plans and
535 Specifications to the Village simultaneously with Developer's submission of said
536 construction plans to the Village of Elm Grove for approval. The Village agrees
537 to conduct an initial review of copies of such construction plans to determine
538 whether they conform with Plans and Specifications approved by the Building
539 Board and to notify Developer within ten business days of the date the Village
540 becomes aware of any discrepancy between the construction plans submitted by
541 Developer and the Plans and Specifications as approved by the Village.
- 542
543 4. All SAP improvements shall be completed pursuant to Section 106-3(H) of the
544 Elm Grove Village Code; however, Developer may apply for building permit
545 extensions upon expiration of the initial building permit to complete customized
546 interior improvements within individual apartment units.

547
548 **B.** Time is of the essence as to all deadlines set forth in this Agreement. Subject to
549 the provisions of section V(D)(1) of this Agreement, upon failure of any
550 Developer to meet one or more deadlines specified in this section, Village may
551 (but is not required to) draw on the letter of credit provided for in section VII (B)
and complete that aspect of the SAP pertaining to the Public Improvements which
will be dedicated to the Village. The Village may also (but is not required to)
restore the Property to grade and stabilize the Property to achieve a dust-free,

erosion-proof condition provided, however, that this subsection B shall not be construed to grant the Village authority to remove any building constructed by Developer on the Property solely due to Developer's failure to meet one or more deadlines specified in this Agreement. In the event the Village performs work on the Property under this Agreement, the Village may charge the Developer one hundred ten percent (110%) of the actual costs incurred by Village in completing that aspect of the SAP or restoring the Property to grade and stabilizing the Property to a dust-free, erosion-proof condition. The Village may draw upon any security provided in this Agreement for the payment of said charges against the defaulting Developer and invoice said Developer(s) for any costs in excess of any such security. If Developer fails to pay such invoice, the Village shall have the right to assess a special charge against the Property, or any portion thereof, under Wis. Stat. § 66.0627 as subsequently amended from time-to-time.

- C. Subject to the provisions of Section V(D) of this Agreement, Developer shall be deemed to have forfeited its rights under this Agreement to construct the Improvements set forth in the Plans and Specifications upon occurrence of any one or more of the following events:
 - a. Developer fails to commence construction within the time permitted under Section V(A)(1) of this Agreement, as applicable; or
 - b. Developer fails to obtain building permit(s) within Twelve (12) months of the date of the recording of this Agreement.

D. Cause of Delay and Notice of Default

- 1. If delay in construction start or in completion of any Improvements on the Property described in this Agreement is caused or contributed to by act, omission, misconduct or neglect of the Village or those acting for the Village, labor disputes, casualties, acts of God or the public enemy, governmental embargo restrictions, shortages of fuel, labor or materials, action or non-action of public utilities or of local, state or federal governments affecting the work or any other causes beyond Developer's reasonable control, then the time of completion of such Improvement shall be extended for the additional time caused by such delay. Developer shall give written notice to the Village within twenty (20) calendar days of the first occurrence of any event together with substantiation that the event qualifies for the granting of additional time under this Section. Failure by Developer to provide written notice within the time provided hereunder shall constitute a waiver by Developer of any right to an extension under the terms of this Section.
- 2. The Village shall give Developer written notice of default twenty (20) consecutive days prior to exercising its rights to cure any defaults by Developer in its completion of Public Improvements in conformity with section V(B) above unless the Village Manager in his or her sole discretion determines that such delay would unreasonably endanger the health or safety of any persons or property within the Village in which case the Village may provide a shorter time for cure.

598 **VI. Payment of Village Fees.**
599

600 Developer agrees to reimburse the Village for its planning, engineering, inspection, and
601 legal work associated with the SAP. Village shall keep a detailed accounting of such
602 costs and bill Developer at the rates contracted by the Village for such services.
603

604 **A.** Developer shall, at the time of entry into this Agreement, pay the Village for:
605

- 606 1. The Village's reasonable engineering and legal expenses incurred as of March 25,
607 2019, and shall further deposit with the Village Ten Thousand Dollars
608 (\$10,000.00) with respect to reimbursement of the Village's subsequent expenses
609 arising out of or related to entry into this Agreement. If Village reasonably incurs
610 expenses which exceed said posted \$10,000.00, Developer shall pay the Village
611 such additional sums within ten (10) consecutive days of the date of Village's
612 invoice to Developer, together with such other additional funds as necessary to
613 maintain a balance of not less than Five Thousand Dollars (\$5,000.00) at all times
614 until the termination of all other financial security provided to the Village under
615 this Agreement. Said invoice shall contain a summary of Village's costs for which
616 payment is required under this Section.
- 617 2. The Village hereby acknowledges that there are no municipal sanitary sewer
618 impact, reserve capacity, or similar municipal sewer impact fees due or owing as
619 a result of the Project. To the best of the Village's knowledge, there are no
620 MMSD sewer impact, reserve capacity, or similar district impact fees due or
621 owing as a result of the Project.
- 622 3. Developer acknowledges that it shall be responsible for payment at the time of
623 application for plumbing permits for the SAP and for any periodic sanitary sewer
624 charges that may be established by the Village and/or MMSD on a municipality-
625 or district-wide basis as well as any fees, assessments, and/or costs applicable to
626 the SAP that may be associated with Developer's extension of municipal water
627 referred to in Section II(C)(1) of this Agreement or Elm Grove storm water utility
628 district fees.

629
630 **B.** Developer acknowledges and agrees that, in the event the Developer remains in
631 default concerning payment of any fees and/or the making of any deposits
632 required under this Agreement for twenty (20) days, the Village shall have the
633 right, subject to section V(D)(2), at its sole discretion, to draw upon any security
634 provided by Developer and held by the Village under this Agreement, post a Stop
635 Work order on the SAP pertaining to Developer, withhold inspections and/or the
636 granting of any permit(s) and/or pursue any other remedy available to the Village
637 under this Agreement or Wisconsin law.
638

639 **C.** Developer shall be responsible for payment of all applicable permit fees set forth
640 in the Village Code of Ordinances and the costs of all inspections of the SAP.
641

642 **VII. Representations, Guarantee, Security for Payment and Performance of Developer's**
643 **Obligations.**

644
645 **A. Financing.**

- 646
647 1. Developer shall represent through its written submittals to Village Staff and
648 attorney members that Developer has sufficient financial resources committed to
649 allow Developer to complete the SAP as proposed for approval. Developer shall
650 cause any conditions to such commitment(s) to be removed as a condition of the
651 recording of this Agreement and, upon Developer's failure to remove all
652 conditions of its financing commitment(s) within twelve (12) months of the
653 approval of this Agreement of the SAP, the Developer's rights and obligations
654 under this Agreement shall terminate and the Rm-2 Multiple-Family Residential
655 District and Residential PDO District zoning granted to the Property shall be
656 revoked and the Property shall revert back to the underlying B-3 Mid-Rise Office
657 and Professional District zoning classification.

658
659
660 **B. Performance Guarantee.**

- 661
662 1. As a condition of obtaining execution of this Agreement, Developer shall deliver
663 or cause to be delivered to the Village Manager one original irrevocable letter of
664 credit, as follows:
- 665
- 666 a. One letter of credit equal to _____ Dollars
667 (\$_____.00) issued by a federally insured banking institution,
668 the financial condition of which is acceptable to the Village, naming
669 Village as payee and being in a form acceptable to the Village Attorney.
670 Said letter of credit shall guarantee one hundred twenty-five percent
671 (125%) of the construction of landscaping, parking lot, access/egress
672 improvements, sidewalks, curbing, exterior lighting, water distribution
673 system installation, storm water system facilities, site restoration, and
674 erosion control measures required under this Agreement for the SAP
675 together with the Village's engineering, administrative, and inspection
676 fees projected by the Village to arise out of this Agreement. Upon receipt,
677 the letter of credit provided hereunder shall be in substantial compliance
678 with that form attached hereto as **Exhibit 4**. Except for such amounts that
679 may otherwise be released under the provisions of this Section, said letter
680 of credit shall be renewed annually and evidence of renewal presented to
681 the Village not less than thirty (30) nor more than sixty (60) days prior to
682 its expiration. Failure to renew the letter of credit prior to its expiration
683 shall entitle the Village to withdraw all funds remaining.
- 684
- 685 c. The letter of credit under this Section shall be released within twelve (12)
686 months of Developer completing the SAP provided all material terms and
687 provisions of this Agreement have been satisfied, except for 10% of the

688 Public Improvement cost as outlined in III D.
689

690 **C. Impact Fee Waiver.**
691

692 Wisconsin Statute § 66.0617 restricts the ability of the Village to collect impact
693 fees. The Developer agrees that any payments to the Village under this
694 Agreement are not intended to nor constitute impact fees and are not intended to
695 be restricted or controlled by Wis. Stat. § 66.0617. Developer, on behalf of itself
696 and its successors and assigns, waives the right to claim application of Wis. Stat.
697 § 66.0617 to the payments made in accordance with this Agreement.
698

699 **D. Reduction of Security Upon Partial Completion.**
700

701 The amount of the security will be reduced as the improvements are partially
702 completed and approved by the Village Engineer in accordance with the
703 following procedure:
704

- 705 1. From time-to-time during the course of construction Developer may request the
706 Village Engineer to inspect the construction work, including but not limited to
707 landscaping, completed by Developer to that date for purposes of seeking partial
708 release, and the Village Engineer, as agent of the Village, shall use its best efforts
709 to make such inspection within seven (7) days after the request.
- 710 2. The request to inspect shall be accompanied by a certification prepared by the
711 Developer's architect and stating the work completed, an estimate of the dollar
712 value of the work completed to the date of the request and since the Developer's
713 architect's last certification and that the work has been completed in a good and
714 workmanlike manner and in compliance with the Plans and Specifications and
715 Ordinances. Developer's architect's certification shall also include an estimate of
716 the cost to complete the remaining balance of the improvements, on a form and
717 presented in a manner reasonably acceptable to the Village Engineer.
- 718 3. The request for inspection shall further be accompanied by a sworn contractor's
719 statement and appropriate photocopies or originals of lien waivers showing that
720 all work in place and for which a reduction in the Security is requested has been
721 fully paid for or that all liens have been waived.
- 722 4. Upon receipt of the required documentation, the Village Engineer shall conduct
723 its inspection and certify to the Village and to the financial institution issuing any
724 letter of credit the dollar value of the work completed to the date of the request for
725 inspection and since the last certification by the Village Engineer, provided the
726 Village Engineer finds that the work has been completed in a good and
727 workmanlike manner and in compliance with the approved the Plans and
728 Specifications and Ordinances, that no mechanic's or other liens will attach to the
729 Property or to any property of the Village as a result of the installation-of the
730 improvements and that Developer's architect's estimate of the dollar value of the
731 work completed and the cost to complete the remaining improvements are
732 reasonable. Based upon those findings, the Village Engineer shall approve a
733 reduction in the Security so long as the balance remaining in the Security is at

734 least equal to one hundred and ten percent (110%) of the cost to complete all the
735 remaining improvements' depending on the projected time of completion of same.

736
737 **E. Release of Security Upon Completion.**
738

739 Upon final completion of all of the SAP Improvements, the acceptance by the
740 Village of the Public Improvements, and posting of any required warranty or
741 maintenance security, the then remaining balance of Developer's Security shall be
742 released and returned, after first drawing upon the security (if required) for any
743 fees and costs due and owing to the Village pursuant to all applicable ordinances
744 upon thirty (30) days' prior written notice to Developer.

745
746 **F. Return of Excess Proceeds After Default.**
747

748 In the event of default by Developer, if any of the Security funds remain in the
749 possession of the Village after all of the private and Public Improvements
750 guaranteed under this Section VII have been completed in a good and
751 workmanlike manner and in accordance with the Plans and Specifications and
752 Ordinances, all warranty or maintenance obligations (if any) are satisfied and all
753 fees, costs and expenses of the Village, including reasonable attorney's fees,
754 engineering fees, consultant fees or other out-of-pocket expenses incurred in
755 completing the improvements, in releasing liens thereon in paying for work
756 completed prior to default are paid, or other costs incurred as a result of the
757 default of Developer; then any remaining balance shall be paid to the Developer,
758 subject to any claim to said funds asserted by any financial institution issuing any
759 letter of credit given as Security.
760

761 **VIII. Method of Improvement.**
762

763 Developer has requested and been granted "enhanced density" under Sections 335-
764 21.1(C)(2) , 335-30(F)(3) of the Village Code of Ordinances based on Developer's
765 representations to the Village concerning the high quality of exterior and interior
766 materials, design details, workmanship and features to be provided by Developer under
767 this Agreement. Therefore, Developer hereby agrees to engage contractors for all work
768 included in this Agreement that will perform the work in a good and workmanlike
769 manner. Developer further agrees to use materials and make the various installations in
770 accordance with the Plans and Specifications made a part of this Agreement by reference
771 and including those standard specifications for public improvements as the Village Board
772 or its Commissions may have adopted and published prior to the signing of this
773 Agreement.
774

775 **IX. Indemnification and Insurance.**
776

777 **A. Indemnification.**
778

779 1. In addition to, and not to the exclusion or prejudice of, any provisions of this

780 Agreement or documents incorporated herein by reference, Developer shall
781 INDEMNIFY AND SAVE HARMLESS the Village, its officers, agents and
782 employees, and shall defend the same from and against any and all liability,
783 claims, loss damages, interest, actions, suits, judgments, costs, expenses,
784 attorneys' fees, and the like, which result from or arise in the course of, out of, or
785 as a result of the performance, incorrect performance, or nonperformance (other
786 than where Section V(A)(2) of this Agreement results in a reversion of the PDO
787 District zoning for the SAP) of Developer's obligations under this Agreement or
788 Developer's negligent construction of Improvements covered thereby until the
789 granting of the last occupancy permit pertaining to the SAP and thereafter only if
790 the occurrence giving rise to the claim predates the granting of the last occupancy
791 permit. The language of this Section IX notwithstanding, Developer shall have no
792 obligation to indemnify, save harmless or defend the Village resulting from
793 negligent or intentional acts of the Village, its officers, agents, employees, or the
794 residents of individual apartment units.

- 795 2. In every case where Developer is obligated to indemnify and save harmless the
796 Village, its officers, agents and employees, if judgment is rendered against the
797 Village, its officers, agents, or employees and notice and opportunity to defend
798 was given to the Developer of the pendency of the suit within ten (10) days after
799 service of the summons and complaint on the Village, such judgment shall be
800 conclusive upon the Developer not only as to the amount of damages, but also as
801 to its liability to the Village and/or its officers, agents, and employees.

802
803 **B. Insurance.**

804
805 Developer shall maintain at all times, until the granting by the Village of the final
806 occupancy permit, insurance with minimum limits and coverage as shown below:
807

- 808 1. Worker's Compensation, including Occupational Disease, Insurance meeting the
809 statutory requirements of the State of Wisconsin, and Employer's Liability
810 insurance in an amount of at least Five Hundred Thousand Dollars (\$500,000.00).
- 811 2. Comprehensive Liability Insurance providing limits for bodily injury and personal
812 injury of Two Million Dollars (\$2,000,000.00) combined single limit. The policy
813 must include the Village and its agents, officers, and employees as "additional
814 insureds" and provide premises, operations, elevators, damage, blanket
815 contractual covering indemnities within contract documents, products and
816 completed operations coverage and be endorsed as "primary and non-
817 contributory" to any insurance of the additional insured, except from their sole
818 negligence
- 819 3. Comprehensive Automobile Liability Insurance, on occurrence basis, covering all
820 owned, non-owned, and hired vehicles with limits of liability equal to those set
821 forth in paragraph IX(B)(2) hereinabove.

822
823 **C. Certificate of Insurance.**
824

825 Developer shall furnish to the Village one or more certificates of insurance²
826 evidencing the issuance of policies covering the above-recited insurance
827 requirements at the time of the execution of this Agreement, which shall be
828 attached hereto as **Exhibit 5**. All certificates of insurance must state that notice of
829 any material change in coverage, non-renewal, or cancellation will be provided to
830 the Village thirty (30) days prior to the effective date of any such change, non-
831 renewal, or cancellation. The form of the certificate of insurance will be subject to
832 the approval of the Village. The certificate of insurance shall be delivered prior to
833 the signing of this Agreement.

834
835 **D. No Limit on Liability.**

836
837 It is understood and agreed that the insurance coverage and limits required above
838 shall not limit the extent of Developers' responsibilities and liabilities pursuant to
839 this Agreement or imposed by law.
840

841 **X. General Conditions and Regulations.**

842
843 All the provisions of the Village Ordinances relating to use and development of land, as
844 amended from time-to-time are incorporated herein by reference, and all such provisions
845 shall bind the parties hereto and be a part of this Agreement as fully as if set forth at
846 length herein. This Agreement and all work and improvements required hereunder shall
847 be performed and carried out in strict accordance with and subject to the provision of said
848 ordinances and this Agreement.
849

850 **XI. Assignment of Rights.**

851
852 **A.** Neither Developer nor any successor and/or assign permitted under this
853 Agreement shall assign this Agreement or any rights granted hereunder without
854 the prior written consent of the Village and prior to the performance of all of the
855 provisions of this Agreement. The Village Board reserves the right to increase the
856 amount of security hereunder in the event of any consent to any assignment.
857

858 **XII. Amendments.**

859
860 The Village Board and Developer, by mutual consent, may amend this Agreement only
861 upon entry into a subsequent written agreement approved at a meeting of the Village
862 Board of Trustees for the Village of Elm Grove. The Village Board shall not, however,
863 consent to an amendment until after first having received a recommendation from the
864 Village Plan Commission.
865

866 **XIII. Notices.**

867
868 The Parties consent that any notice given hereunder shall be in writing and delivered by
869 two (2) of the following: electronic or facsimile transmission, or in person, mailed by
870

² An ACORD 25 is NOT acceptable.

871 registered or certified mail, return receipt requested, or delivered via overnight courier:

872
873 1. Electronic notices must be delivered to the below addresses:

- 874
875 a. Developer:
- 876 i. William Rutherford: w.rutherford@horizondbm.com; or
 - 877 ii. Scott Kwiecinski: s.kwiecinski@horizondbm.com
- 878 b. Village:
- 879 i. Dave DeAngelis: ddeangelis@elmgrovewi.org; or
 - 880 ii. Tom Harrigan: tharrigan@elmgrovewi.org

881
882
883
884 2. Mail Delivery:

- 885
886 a. To the Village:
- 887 i. Village Clerk, 13600 Juneau Blvd., Elm Grove, WI 53122.
- 888 b. To the Developer:
- 889 i. 5201 East Terrace Drive, Suite 300, Madison, WI 53718
- 890

891 Any party may, by notice as provided above, designate a different address from time to
892 time. Any such notice shall be effective on the date of receipt.

893
894 **XIV. Default by Developer.**

895
896 A. The failure of the Village to insist in any one or more instances upon performance
897 of any term or condition of this Agreement shall not be construed a waiver of
898 future performance. The obligations of the Developer with respect to such term,
899 covenant or condition shall continue in full force and effect.

900
901 B. In addition to any other remedies otherwise provided under this Agreement or the
902 Village Code of Ordinances, the Village shall have the right to withhold
903 inspections and/or permits for the SAP, and/or to bring an action in the Circuit
904 Court for Waukesha County for violation(s) of this Agreement and shall be
905 entitled to recover reasonable attorneys' fees from the defaulting Developer.

906
907 If Developer fails to commence construction of the SAP, the Village shall not
908 have the right to seek or compel specific performance for the construction of said
909 SAP under this Agreement.

910 **XV. Exculpation of Village Elected Officials in Personal Capacity.**

911
912 The parties mutually agree that the President, Board of Trustees, and Plan Commission of
913 the Village of Elm Grove, entered into and are signatory to this Agreement solely in their
914 official capacity and not individually, and shall have no personal liability or
915 responsibility hereunder; and personal liability as may otherwise exist, being expressly
916 released and/or waived.

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XVI. Execution of Deed Restriction Precluding Occupancy by a Person Under Sixty-Two Years of Age.

- A. Developer acknowledges that but for its expressed representation to utilize the proposed SAP exclusively for senior apartments for persons sixty-two (62) years of age with units significantly smaller than the average residential unit and with limited parking spaces, it would not have obtained the rezoning provided for under this Agreement.
- B. To induce the Village to enter into this Agreement Developer hereby agrees:
 - 1. To execute and deliver prior to the time of the recording of this Agreement a deed restriction precluding residential occupancy within the SAP by anyone younger than sixty-two (62) years of age.

XVII. Miscellaneous Provisions.

- A. The Parties acknowledge and represent that this Agreement is the subject of negotiation by all parties and that all parties together shall be construed to be the drafter hereof and this Agreement shall not be construed against any party individually as drafter.
- B. Legal Relationship. Nothing in this Agreement shall be construed to create an employer/employee relationship, joint employer, a joint venture or partnership relationship, or a principal/agent relationship between the Village and Developer.
- C. This Agreement shall not be construed to abridge or waive the Village’s authority under Wis. Stat. § 62.23.
- D. The parties hereby acknowledge that this Agreement imposes on them, and their respective officers, agents, and employees, a duty of good faith and fair dealing.
- E. Survival. Except as otherwise expressly provided in Section V(D) of this Agreement, all guarantees, agreements, representations, and warranties made herein shall survive the execution of this Agreement. The Indemnification and Insurance section IX shall survive for nine (9) years following the signing of this Agreement. This Agreement shall be binding upon the Parties their respective heirs, personal representatives, executors, or successors and assigns.
- F. Developer represents and warrants that it is a duly organized and validly existing limited liability company in good standing under the laws of the State of Wisconsin and that the execution and performance of this Agreement has been duly authorized by resolution.

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- G. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- H. Recording. This Agreement and its Exhibits thereof, shall be recorded with the Register of Deeds for Waukesha County.
- I. All time periods referred to in this Agreement shall be calculated on the basis of consecutive calendar days.

DRAFT

974 **IN WITNESS WHEREOF**, Developer and Village have caused this Agreement to be signed by
975 their appropriate officers and their corporate seals to be hereunto affixed in two (2) original
976 counter-parts the day and year first above written.

977
978 **VILLAGE OF ELM GROVE**

979
980 By: _____
981 Neil H. Palmer, Village President

982
983 ATTEST: _____
984 Mary S. Stredni, Village Clerk [Village Seal]

985
986 State of Wisconsin }
987 }ss.
988 County of Waukesha }

989
990 Personally came before me this _____ day of _____ 2019, the above-named
991 Neil H. Palmer, Village President and Mary S. Stredni, Village Clerk, of the Village of Elm
992 Grove, who executed the foregoing instrument by its authority and on its behalf and
993 acknowledged the same.

994
995
996
997 _____
998 Notary Public, State of Wisconsin
999 My Commission: _____

1000 **Elm Grove Heights, LLC**

1001
1002
1003 By: _____ [Seal]
1004 Daniel D. Fitzgerald, Manager

1005
1006 State of Wisconsin }
1007 }ss.
1008 County of Waukesha }

1009 Personally came before me this _____ day of _____ 2019, the above-named
1010 Philip Shultz, Manager of Elm Grove Heights, LLC, who executed the foregoing instrument by
1011 its authority and on its behalf and acknowledged the same.

1012
1013
1014
1015 _____
1016 Notary Public, State of Wisconsin
1017 My Commission: _____

1018

Exhibit List

- 1019
- 1020
- 1021 Exhibit 1 Legal Description
- 1022 Exhibit 2 Plans and Specifications
- 1023 Exhibit 3 Temporary Access Easement
- 1024 Exhibit 4 Irrevocable Letter of Credit
- 1025 Exhibit 5 Certificate of Insurance
- 1026 Exhibit 6 Reciprocal Maintenance Easements
- 1027 Exhibit 7 Utility Easement
- 1028 Exhibit 8 Storm Water Management Facility Maintenance Agreement
- 1029 Exhibit 9 “Banked” Parking Installation Plan
- 1030 Exhibit 10 Perpetual General Easement
- 1031
- 1032 32890447_1
- 1033

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