



N64W23760 Main Street
Sussex, Wisconsin 53089
Phone (262) 246-5200
FAX (262) 246-5222
Email: info@villagesussex.org
Website: www.villagesussex.org

**AGENDA
PUBLIC WORKS COMMITTEE
VILLAGE OF SUSSEX
6:00 P.M. TUESDAY, APRIL 5, 2016
SUSSEX VILLAGE HALL – LOWER LEVEL**

Pursuant to the requirements of Section 19.84, Wis. Stats., notice is hereby given of a meeting of the Village of Sussex Public Works Committee, at which a quorum of the Village Board may attend in order to gather information about a subject which they have decision making responsibility. The meeting will be held at the above noted date, time and location. Notice of Village Board Quorum, (Chairperson to announce the following if a quorum of the Village Board is in attendance at the meeting: Please let the minutes reflect that a quorum of the Village Board is present and that the Village Board members may be making comments under the Public Comments section of the agenda, during any Public Hearing(s) or if the rules are suspended to allow them to do so.)

1. Roll call.
2. Consideration and possible action on minutes of the regular Public Works meeting on March 1, 2016.
3. Comments from citizens present and correspondence/communications received from citizens.
4. Consideration and possible action on bills for payment.
5. Consideration and possible action on Utility Items:
6. Consideration and possible action on Sidewalk and Street Items:
 - A. Easement for We Energies at Village Campus.
 - B. Easement for We Energies at Old Brooke Square Park.
 - C. Resolution to Vacate and Discontinue Deyer Drive.
7. Consideration and possible action on Other Public Works Items:
 - A. Request to use Corporate Center Roads for Sussex Criterium.
 - B. Ordinance creating Section 3.17 entitled “Public Construction by Village” of Chapter 3 entitled “Finance and Taxation” of the Sussex Municipal Code.
 - C. Update on Garbage.
8. Staff report, update and issues, and possible action regarding subdivision, developments, and projects:
 - A. Engineer’s Report
 - B. Second Amendment to the Developer’s Agreement for the Farmstead, Corners, Mammoth North, and Mammoth South Mixed Use Downtown Developments.

- C. Developer's Agreement for Johansen Farms including intermunicipal agreement with the Town of Lisbon as Exhibit L.
- 9. Other discussion for future agenda topics
- 10. Adjournment.

Tim Dietrich
Chairperson

Jeremy Smith
Village Administrator

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Jeremy Smith at 246-5200.

VILLAGE OF SUSSEX
SUSSEX, WISCONSIN

Minutes of the Public Works Committee meeting held on March 1, 2016.

Tim Dietrich called the meeting to order at 6:00 p.m.

Members present: Rick Vodicka, Trustees Tim Dietrich, Matt Carran and Bob Zarzynski.

Members excused: None

Staff present: Administrator Jeremy Smith, Asst. Administrator Melissa Weiss, Village Engineer Judith Neu.

Others present: Bill Wiesneski and Trustees Wendy Stallings, Pat Tetzlaff and Lee Uecker. President Greg Goetz.

A quorum of the Village Board was present at the meeting.

A motion by Vodicka, seconded by Zarzynski, to approve the minutes of the February 2, 2016 Public Works Committee meeting, as presented. Motion carried.

Comments from citizens present and correspondence/communications received from citizens:

There was no one present who wished to be heard.

Consideration and possible action on bills for payment:

A motion by Vodicka, seconded by Carran, to recommend that the Village Board approve the Public Works bills for payment in the amount of \$811,323.73 as presented. Motion carried.

Sewer, Water and Stormwater Items:

A motion by Vodicka, seconded by Zarzynski, to recommend that the Village Board approve the 2016 residential meter replacement order of \$90,000.00 and the commercial/industrial meter order of \$15,028.45 with as presented. Motion carried.

Sidewalk and Street Items: None

Other Public Works Items:

A motion by Zarzynski, seconded by Carran, to recommend that the Village Board adopt a resolution authorizing the street closure for the Lions Daze Parade. Due to the Main Street construction the Parade would start at the new civic campus this year and proceed to Village Park along Main Street. No parking would be enforced on Elmwood.

Rick Vodicka abstained. Motion carried.

A motion by Carran, seconded by Dietrich, to recommend that the Village Board approve the Lion's Club request to use Village equipment at the Lions Daze event in 2016.

Rick Vodicka Abstained. Motion carried.

Ms. Weiss gave an update on the garbage/recycling service.

Engineer's Report.

Ms. Neu and Ms. Weiss presented her report.

Other discussion for future agenda topics: None.

A motion by Vodicka, seconded by Carran, to adjourn the Public Works Committee meeting at 6:22 p.m. Motion carried.

Respectfully submitted,

Melissa Weiss
Asst. Village Administrator

VILLAGE OF SUSSEX
PUBLIC WORKS COMMITTEE
BILLS FOR PAYMENT

4/5/2016

| VENDOR | AMOUNT | | %COMPLETED | NOTES |
|--------------------------------|---------------|--|------------|-------------------------------------|
| ADVANTAGE PURCHASING, LLC | \$ 237,866.64 | VOS CIVIC CAMPUS - MATERIALS | 34% | |
| COMPUTERIZED STRUCTURAL DESIGN | \$ 4,710.18 | FONDER RESIDENCE - PROF. SERV. THRU 2/29/2016 | 100% | |
| KAHLER SLATER | \$ 6,606.88 | VOS CIVIC CAMPUS - PROF. SERV. 2/1-27/2016 | 89% | |
| MIRON CONSTRUCTION CO., INC. | \$ 364,004.13 | VOS CIVIC CAMPUS | 31% | |
| RUEKERT-MIELKE | \$ 372.50 | GIS UPDATES - PROF. SERV. 1/23-2/19/2016 | 100% | |
| RUEKERT-MIELKE | \$ 9,620.00 | 2016 GIS ANNUAL SERVICES - PROF. SERV. 1/1-2/19/2016 | 100% | |
| RUEKERT-MIELKE | \$ 955.00 | GOLNER FARM FLOODPLAIN WORK - PROF. SERV. 1/1-22/2016 | 100% | BILLABLE TO DEVELOPER - ART SAWALL |
| RUEKERT-MIELKE | \$ 899.95 | GOLNER FARM FLOODPLAIN WORK - PROF. SERV. 1/23-2/19/2016 | 100% | BILLABLE TO DEVELOPER - ART SAWALL |
| RUEKERT-MIELKE | \$ 442.19 | WOODSIDE RIDGE - PROF. SERV. 11/27/15-2/19/2016 | 90% | BILLABLE TO DEVELOPER - MIKE KAEREK |
| RUEKERT-MIELKE | \$ 143,000.24 | MAIN STREET RECON - PROF. SERV. 1/1-1/22/2016 | ONGOING | |
| THE SIGMA GROUP, INC. | \$ 385.00 | SPRING CREEK DAYLIGHTING - PROF. SERV. THRU 2/29/2016 | 90% | |
| TOTAL | \$ 768,862.71 | | | |

**DISTRIBUTION EASEMENT
UNDERGROUND**

Document Number

WR NO. **3831715** IO NO. **5472**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **VILLAGE OF SUSSEX, a municipal corporation**, hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to **WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies**, hereinafter referred to as "Grantee", a permanent easement upon, within, beneath, over and across a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as strips of land 12 feet in width being part of Grantor's land as described in the **Warranty Deed** recorded **August 5, 1988** in the office of the Register of Deeds in and for Waukesha County as **Document No. 1493990** being part of the **Southwest 1/4 of Section 23, Township 8 North, Range 19 East** in the Village of Sussex, Waukesha County, Wisconsin.

The location of the easement area with respect to Grantor's land is as shown on the attached drawing, marked Exhibit "A", and made a part of this document.

RETURN TO:
We Energies
PROPERTY RIGHTS & INFORMATION GROUP
231 W. MICHIGAN STREET, ROOM A252
PO BOX 2046
MILWAUKEE, WI 53201-2046

SUXV0235969003
(Parcel Identification Number)

- 1. Purpose:** The purpose of this easement is to construct, install, operate, maintain, repair, replace and extend underground utility facilities, conduit and cables, electric pad-mounted transformers, manhole, electric pad-mounted switch-fuse units, electric pad-mounted vacuum fault interrupter, concrete slabs, power pedestals, riser equipment, terminals and markers, together with all necessary and appurtenant equipment under and above ground as deemed necessary by Grantee, all to transmit electric energy, signals, television and telecommunication services, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.
- 2. Access:** Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor for the purpose of exercising its rights in the easement area.
- 3. Buildings or Other Structures:** Grantor agrees that no structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin electric codes or any amendments thereto.
- 4. Elevation:** Grantor agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by more than 4 inches without the written consent of Grantee.
- 5. Restoration:** Grantee agrees to restore or cause to have restored Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to the initial installation of said facilities or any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area.
- 6. Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.
- 7. Binding on Future Parties:** This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.
- 8. Easement Review:** Grantor acknowledges receipt of materials which describe Grantor's rights and options in the easement negotiation process and furthermore acknowledges that Grantor has had at least 5 days to review this easement document or voluntarily waives the five day review period.

Grantor:

VILLAGE OF SUSSEX, a municipal corporation

By _____

(Print name and title): _____

By _____

(Print name and title): _____

Personally came before me in _____ County, Wisconsin on _____, 2016,
the above named _____, the _____
and _____, the _____
of the VILLAGE OF SUSSEX, a municipal corporation, for the municipal corporation, by its authority, and pursuant to
Resolution File No. _____ adopted by its _____
on _____, 2016.

Notary Public Signature, State of Wisconsin

Notary Public Name (Typed or Printed)

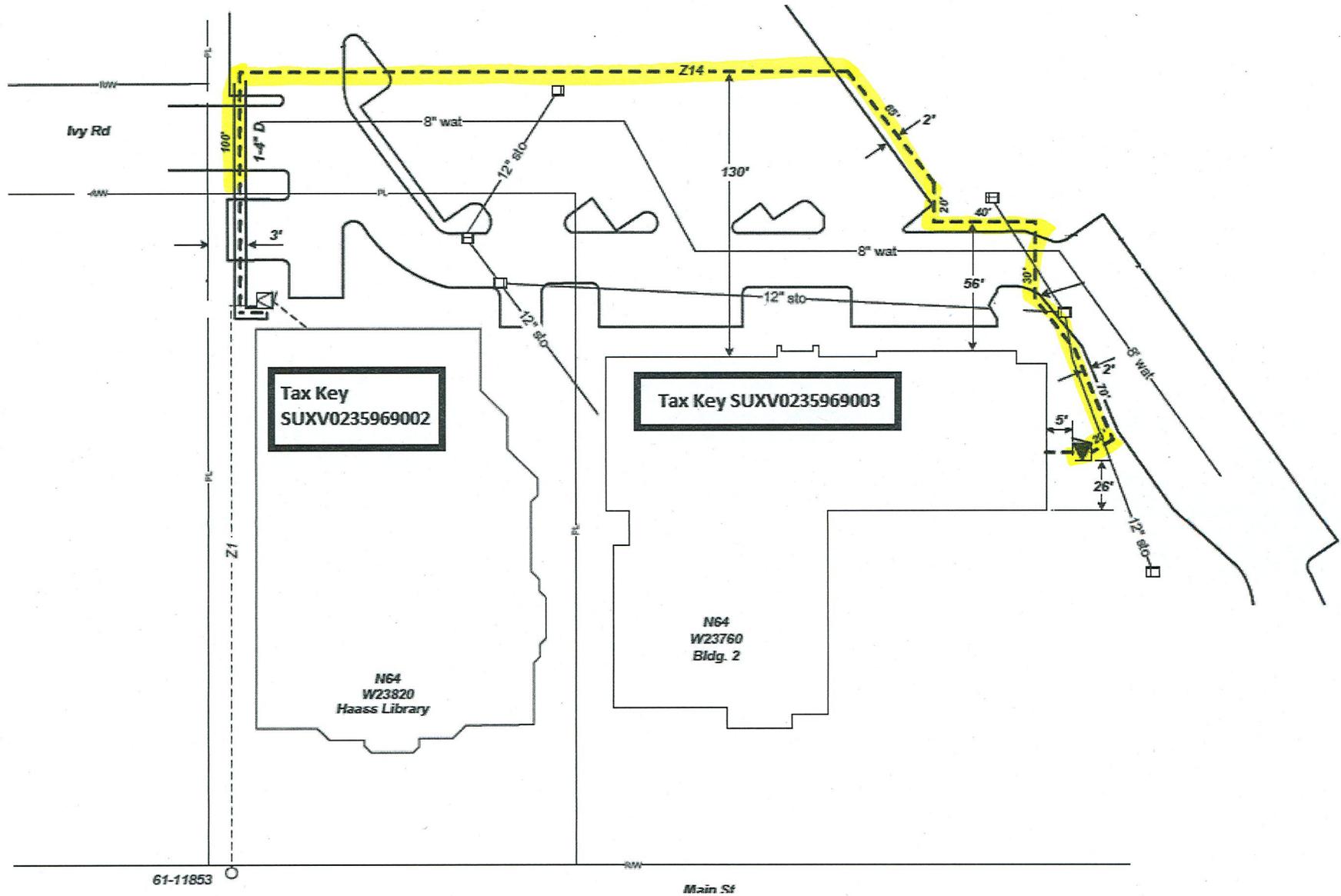
(NOTARY STAMP/SEAL)

My commission expires _____

This instrument was drafted by Michele M. Arendt on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, Wisconsin 53201-2046.

TEMPORARY EXHIBIT A

 = Proposed Easement Area



**DISTRIBUTION EASEMENT
UNDERGROUND**

Document Number

WR NO. **3902562** IO NO. **75853**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **VILLAGE OF SUSSEX, a municipal corporation**, hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to **WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies**, hereinafter referred to as "Grantee", a permanent easement upon, within, beneath, over and across a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as a strip of land 12 feet in width being part of Grantor's land as described in the **Warranty Deed** recorded **May 2, 1995** in the office of the Register of Deeds in and for Waukesha County as **Document No. 2036037** being part of the **Northwest 1/4 of Section 26, Township 8 North, Range 19 East** in the Village of Sussex, Waukesha County, Wisconsin.

The location of the easement area with respect to Grantor's land is as shown on the attached drawing, marked Exhibit "A", and made a part of this document.

RETURN TO:
We Energies
PROPERTY RIGHTS & INFORMATION GROUP
231 W. MICHIGAN STREET, ROOM A252
PO BOX 2046
MILWAUKEE, WI 53201-2046

SUXV0246987
(Parcel Identification Number)

1. **Purpose:** The purpose of this easement is to construct, install, operate, maintain, repair, replace and extend underground utility facilities, conduit and cables, electric pad-mounted transformers, manhole, electric pad-mounted switch-fuse units, electric pad-mounted vacuum fault interrupter, concrete slabs, power pedestals, riser equipment, terminals and markers, together with all necessary and appurtenant equipment under and above ground as deemed necessary by Grantee, all to transmit electric energy, signals, television and telecommunication services, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.
2. **Access:** Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor for the purpose of exercising its rights in the easement area.
3. **Buildings or Other Structures:** Grantor agrees that no structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin electric codes or any amendments thereto.
4. **Elevation:** Grantor agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by more than 4 inches without the written consent of Grantee.
5. **Restoration:** Grantee agrees to restore or cause to have restored Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to the initial installation of said facilities or any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area.
6. **Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.
7. **Binding on Future Parties:** This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.
8. **Easement Review:** Grantor acknowledges receipt of materials which describe Grantor's rights and options in the easement negotiation process and furthermore acknowledges that Grantor has had at least 5 days to review this easement document or voluntarily waives the five day review period.

Grantor:

VILLAGE OF SUSSEX, a municipal corporation

By _____

(Print name and title): _____

By _____

(Print name and title): _____

Personally came before me in _____ County, Wisconsin on _____, 2016,
the above named _____, the _____
and _____, the _____
of the VILLAGE OF SUSSEX, a municipal corporation, for the municipal corporation, by its authority, and pursuant to
Resolution File No. _____ adopted by its _____ on _____,
2016.

Notary Public Signature, State of Wisconsin

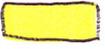
Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires _____

This instrument was drafted by Michele M. Arendt on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, Wisconsin 53201-2046.

Temporary
Exhibit A

 = Proposed Easement Area

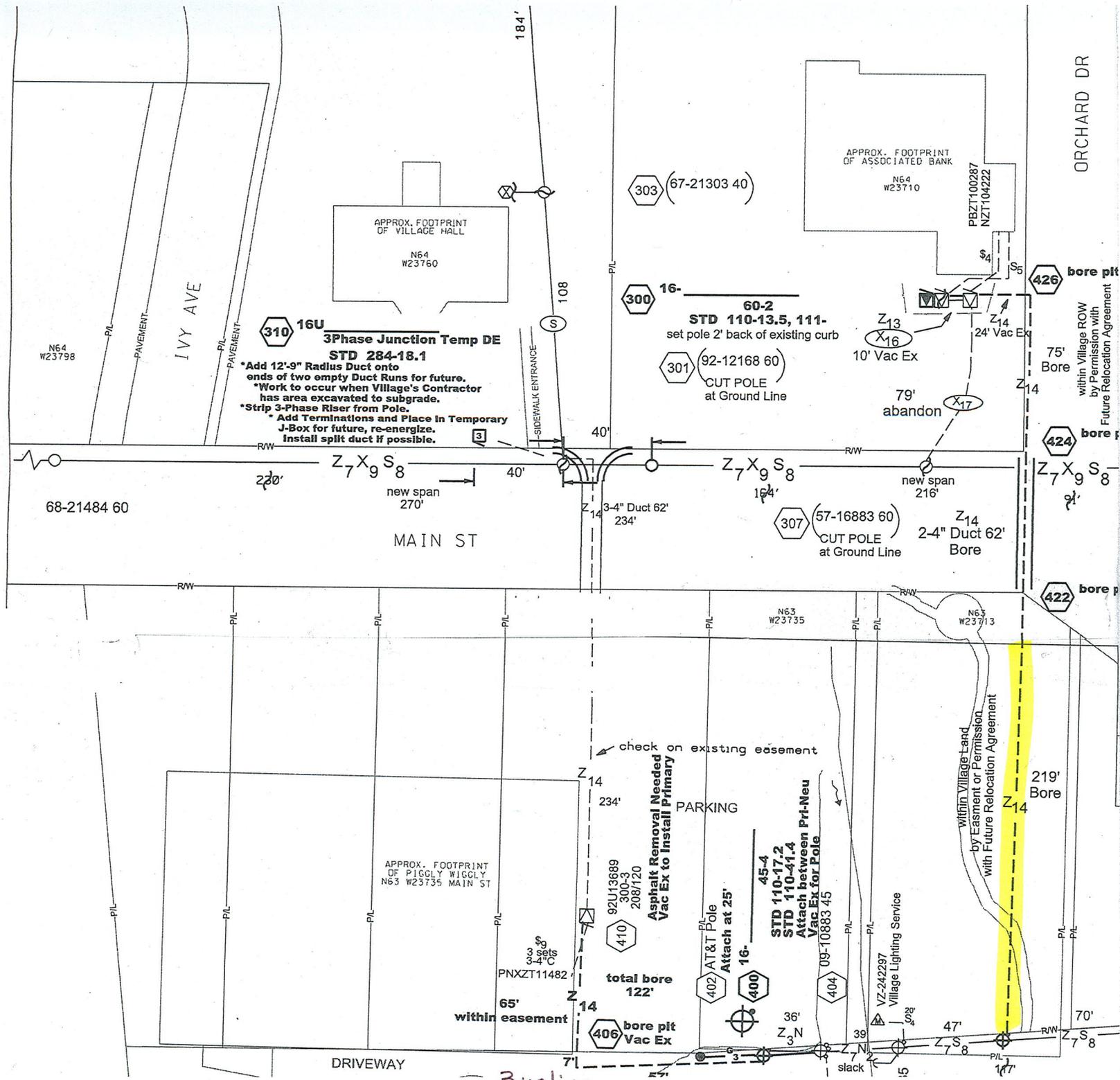


Exhibit C

RESOLUTION OF THE VILLAGE BOARD OF THE VILLAGE OF SUSSEX TO VACATE AND DISCONTINUE DEYER DRIVE

RESOLUTION NO: 16-_____

WHEREAS, pursuant to Wis. Stat. § 66.1003, the Village Board has statutory authority to vacate and discontinue Village roads within its jurisdiction; and

WHEREAS, the public interest requires vacation of Deyer Drive as depicted and described in Exhibit 1, as this is a segment of road that has no utility and the right-of-way can be used by an abutting owner; and

WHEREAS, this Resolution was introduced in this form before the Village Board of the Village of Sussex on April 12, 2016; and

WHEREAS, following introduction of this Resolution, the Village Board set a date for a public hearing which was not less than forty (40) days after the date on which this Resolution was introduced, specifically on _____; and

WHEREAS, notice of public hearing stating when and where this Resolution would be acted upon and stating what public way is proposed to be discontinued was published as a Class 3 Notice under Chapter 985, Wisconsin Statutes, and in addition was served on the owners of all of the frontage of the lots and lands abutting upon the public way sought to be discontinued (said properties described in Exhibit 2) in a manner provided for the service of Summons in Circuit Court at least 30 days before the hearing; and

WHEREAS, no written objections to the proposed discontinuance have been filed with the Village Clerk by any of the owners abutting on the public way sought to be discontinued, or by the owners of more than one-third of the frontage of the lots and lands abutting on the remainder of the public way which lies within 2,650 feet from the ends of the public way proposed to be discontinued or which lies within that portion of the 2,650 feet that is within the Village limits; or if such objection has been filed, two-thirds of the members of the Village Board voting on the proposed discontinuance have voted in favor of the discontinuance; and

WHEREAS, no landlocked parcel will be created by the proposed discontinuance, because the parcels will be combined prior to this road vacation taking effect; and

WHEREAS, the owners of all of the lands abutting Deyer Drive have submitted, or will submit prior to this Resolution taking effect, a certified survey map for approval under Chapter 236 of the Wisconsin Statutes, which will combine the properties along with the vacated road; and

WHEREAS, the Village board has conducted such public hearing on _____, pursuant to such notice; and

WHEREAS, following due consideration of all information received from Owners, the Village Engineer, and in the course of the public hearing of this matter and being duly advised, the Village Board, by this Resolution, does hereby declare the public interest requires the vacation and discontinuance of

Deyer Drive as specifically described and identified on Exhibit 1, and the Village Board further finds that the vacation and discontinuance of Deyer Drive will not land lock any property.

NOW THEREFORE, BE IT RESOLVED by the Village Board of the Village of Sussex, Waukesha County, Wisconsin, that Deyer Drive depicted in the attached Exhibit 1 is hereby discontinued pursuant to Wis. Stat. § 66.1003, subject to the approval and delivery to the Village Clerk for recording, and recording with the Waukesha County Register Deeds, Wisconsin of a certified survey map which combines the vacated road right-of-way with the abutting land currently known as parcel numbers SUXV0245-945-003, SUXV0245-940, SUXV0245-945-001, SUXV0245-941, SUXV0245-945 and SUXV0245-942;

BE IT FURTHER RESOLVED, that upon receipt by the Village of the original certified survey map bearing approval of all necessary governmental bodies and parties-in-interest, the Village Clerk shall record a certified copy of this Resolution together with said certified map with the Waukesha County Register of Deeds.

PASSED AND ADOPTED by the Village Board of the Village of Sussex, Waukesha County, Wisconsin, this ____ day of _____, 2016.

VILLAGE BOARD, VILLAGE OF SUSSEX

By: _____
Gregory L. Goetz, Village President

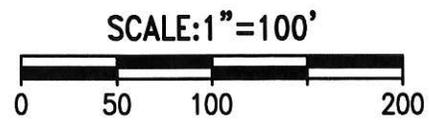
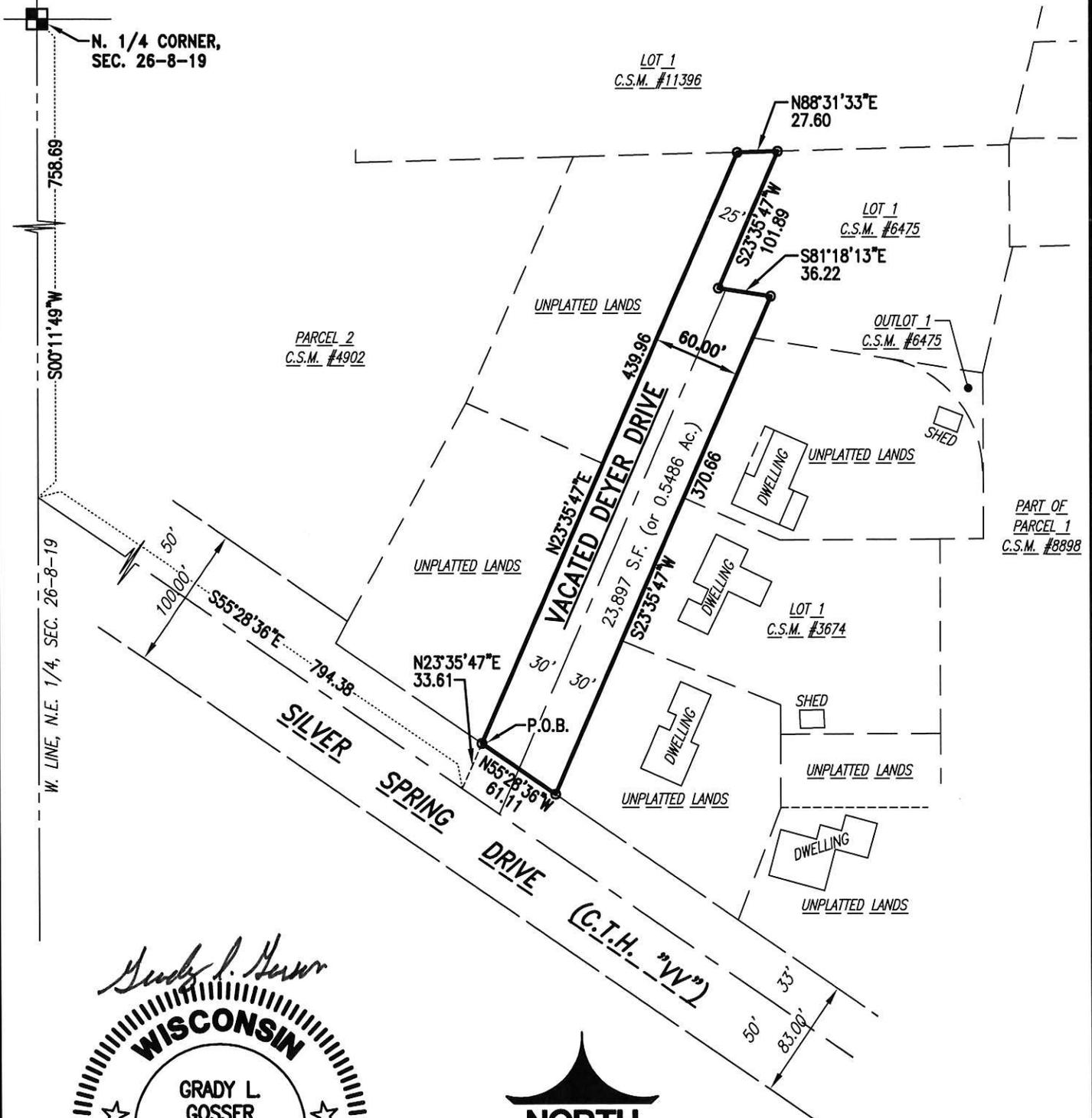
ATTEST:

Susan M. Freiheit, Village Clerk/Treasurer

B:\MyFiles\JPM Sussex\Mammoth Springs\Deyer Drive Vacation Resolution.VSX.03-17-16

EXHIBIT "A"

VACATED "DEYER DRIVE"



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EXHIBIT "B"

VACATED "DEYER DRIVE"

LEGAL DESCRIPTION:

All that part of the Northwest 1/4 of the Northeast 1/4 of Section 26, Town 8 North, Range 19 East, in the Village of Sussex, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the North 1/4 Corner of said Section 26; Thence South 00°11'49" West and along the West line of the said Northeast 1/4 Section, 758.69 feet to a point on the Centerline of "Silver Spring Drive" (C.T.H. "VV"); Thence South 55°28'36" East and along said Centerline, 794.38 feet to a point; Thence North 23°35'47" East, 33.61 feet to a point on the Northeasterly Right-of-Way line of said "Silver Spring Drive" (C.T.H. "VV") and the place of beginning of lands hereinafter described;

Continuing thence North 23°35'47" East and along the Easterly line of Unplatted Lands, 439.96 feet to a point on the South line of Lot 1 of Certified Survey Map No. 11396; Thence North 88°31'33" East and along the said South line of said Lot 1, 27.60 feet to a point; Thence South 23°35'47" West and along the Westerly line of Lot 1 of Certified Survey Map No. 6475, 101.89 feet to a point; Thence South 81°18'13" East and along the said Westerly line of said Lot 1, 36.22 feet to a point; Thence South 23°35'47" West and along the said Westerly line of said Lot 1 and the Westerly line of Lot 1 of Certified Survey Map No. 3674 and the Westerly line of Unplatted Lands, 370.66 feet to a point on the said Northeasterly Right-of-Way line of said "Silver Spring Drive" (C.T.H. "VV"); Thence North 55°28'36" West and along the said Northeasterly Right-of-Way line, 61.11 feet to the point of beginning of this description.

Said Parcel contains 23,897 Square Feet (or 0.5486 Acres) of land, more or less.

Date: 3-24-16




Grady L. Gosser, P.L.S.
Professional Land Surveyor, S-2972
TRIO ENGINEERING, LLC
12660 W. North Avenue, Building "D"
Brookfield, WI 53005
Phone: (262)790-1480 Fax: (262)790-1481

Hollander/Benelux Sussex Criterium

Date: Sunday May 1 2016

Time: 9AM – 5:30PM

Location: Sussex Corporate Center

Contact: Corey Dempski 414-218-5178

Overview: The Hollander/Benelux Sussex Criterium proposed date is Sunday May 1 2016 from 9:00 A.M. to 5:30 P.M. with a series of 12 races being held throughout the day. The race course will be a clockwise circular loop on North Corporate Circle, South Corporate Circle and Executive Drive. The intersections of Executive Drive, North and South Corporate Drives will be managed traffic control points during the race. While these intersections will be managed all businesses will have access to their facilities during races between laps. Our goal is to have minimal impact on the daily operation of the local businesses, which is why we chose a Sunday when the majority of the businesses are closed. We will have signs near business entrances to provide notification of the race. The signs will be up one week ahead of the race and will read “Caution Bike Race, Sunday” All local business will be notified by letter and also a personal visit to those businesses open on Sunday. We are also notifying the Village of Sussex DPW, Sussex Fire and Waukesha (Sussex) Police Department so they are aware of the logistics of the race.

We are committed to having a safe and well-organized event; our team has hosted numerous events over the years. The Hollander/Benelux Sussex Criterium is sanctioned by the United States Cycling Association, Wisconsin Cycling Association and our event is fully insured. In addition to our insurance coverage, the Village of Sussex and the Corporate Park tenants association are also insured. We will be responsible for all set-up and clean-up of the race course which will include a start/finish area near the Sussex water tower, barricades and cones marking the course, race signage, trash receptacles, portable bathrooms and a registration tent.

As a Sussex resident myself I have a personal interest in promoting Sussex and enhancing the Sussex experience. Our race will help promote local businesses and the greater Sussex area by attracting racers and spectators to our event.

Hollander RDC Cycling Squad: The Hollander/Benelux Cycling squad is comprised of 20 team members that have organized over a dozen races in the Milwaukee area. We are sponsored by Café Hollander/Benelux, Badger Alloys, Wheel and Sprocket, Trek and Bontrager. During our race we also organize a “bike drive” to donate used bikes to Dream Bikes a non-profit bike shop in low to moderate income areas that provides paid job skills training. As a member of USA Cycling our team and event is fully insured I have attached a copy of the insurance summary. We have also requested a certificate of insurance to be sent to the Village of Sussex and the tenants association listed as additionally insured.

Race Logistics: The race will be a Criterium style race, which is a short loop with multiple laps per race. The races range in time from 30 minutes to 60 minutes with racers completing the loop every 3-5 minutes, which provides an exciting race and an opportunity for spectators to watch the race.

The intersections of Executive Drive, North and South Corporate Drives will be managed traffic control points during the race. We will be using barricades and cones to block intersections and mark the course in order to maintain a safe event. Hollander/Benelux team members will be stationed at the intersections to direct racers and traffic. The start/finish will be on executive drive near the water tower.

We have contacted the corporate park tenants association and provided notification of the race. In addition, we have sent out letters to all businesses informing them of the race and providing them an opportunity to call us with questions or provide feedback, see attached letter. We have rented 2 portable bathrooms to use during the race and will arrange for delivery the Friday before and pick-up the Monday after the race. We will also have 6 trash receptacles and we will be responsible for all clean up immediately after the race. One week prior to the race we will set up signs (yard sale size reading “Caution Bike Race, Sunday”) near business entrances.

Community Benefits: We feel our race will help enhance the Sussex experience by attracting 300+ racers to the Sussex area and additional spectators. We will be having a kid’s race and hosting a bicycle safety class. We also promote a Bike Drive for bike donations to Dream Bikes a non-profit bike shop that teaches work and bike skills. We offer free registration to anyone who brings a bike for donation to dream bikes. Our race promotes a healthy lifestyle and is published on many endurance sports sites as the Sussex/Hollander Benelux Criterium.



USA Cycling

2016 Event Insurance Coverage

210 USA Cycling Point, Colorado Springs, CO 80919-2215

P: 719/434-4200 F: 719/434-4300 www.usacycling.org

EVENT AND MEMBER INSURANCE COVERAGE

USA Cycling, Inc. has general liability and member accident insurance that covers association events for which a permit has been issued. This insurance covers road/track, cyclo-cross, mountain biking, and collegiate events. **All events permitted under USA Cycling must use the insurance provided by USA Cycling.**

USAC GENERAL LIABILITY POLICY

USA Cycling has commercial general liability coverage for our member clubs, officials, USAC licensed coaches, USAC licensed mechanics, volunteers, and organizers/ promoters against claims that result from an event for which a USA Cycling permit has been issued, provided USA Cycling agreements, rules, and regulations have been adhered to. Coverage is limited to only the cycling activity of the event.

A. Policy Coverage

1. Participant legal liability
2. Premises-Operations liability
3. Products and completed operations
4. Personal injury liability
5. Limited worldwide liability

B. Policy Exclusions

1. Employee bodily injury or job-related injury; i.e., this policy does not provide the race organizer's employees or volunteers with workers' compensation, nor will it pay related medical expenses.
2. Participant vs. participant claims involving rider vs. rider are **excluded**.
3. This policy does not provide coverage for any automobiles or motorcycles except for hired/non-owned vehicles specifically scheduled and additional fee paid. For more information please see Non-Owned/Hired Insurance Information.
4. Non-cycling related activities including but not limited to fireworks, concerts, vending, moon walks, festivals, or stunts, big air jump contests, etc.
5. Terrorism
6. Professional liability for medical professionals
7. Liquor Liability

For coverage to be valid, the organizer/event director must obtain and keep from all participants for a minimum of 10 years, including volunteers, a hand-signed (original signature) USA Cycling Release Form with a minimum 10 point font (electronic waivers are not valid unless electronically signed using USA Cycling's on-line registration system). The insurance carrier has only approved USA Cycling's electronic signature system and use of electronic waiver by any other service is not approved or valid. In addition, all participants must have an annual or one-day membership for promoter's general liability insurance to be valid, except for USA Cycling sanctioned Fun Rides/Tours and Gran Fondo events.

This is only an overview of the policy coverage. **Coverage is subject to the terms, conditions and exclusions of the policy(ies). Should a discrepancy occur between this synopsis of coverage and the actual terms, conditions and exclusions of the policy(ies), the policy(ies) terms, conditions and exclusion will prevail.** The policy limits are \$1 million per occurrence with a \$3 million event aggregate and a \$10 million policy aggregate.

For all events, race directors do have an option to purchase an umbrella policy which provides an additional \$4 million (per occurrence/per policy aggregate) of liability coverage. See price structure below:

- 5000+ participant days- \$1,500
- 1,000-4999 participant days- \$1,000
- 250-999 participant days- \$750
- 100-249 participant days- \$550
- 1-99 participant days- \$350
- Events with 10,000+ spectators are an additional \$2,000

This fee is required with the permit application and will not be refunded unless the event is cancelled.

To purchase the umbrella policy, please call our Event Services team at 719-434-4200

USA Cycling clubs and race directors will receive a copy of USA Cycling's certificate of insurance for their event. Coverage is valid only during USA Cycling sanctioned races and sanctioned non-competitive events for which a USA Cycling permit is issued and only for the dates on the permit. If you are required to have a third party named as an additional insured **for an event**, you must complete the Certificate of Insurance Request and mail it with the race permit application to the USA Cycling national office. The first set of certificates of insurance naming the race director and sponsoring club as additional insured is at no additional cost. You can request certificates of insurance naming others as additional insured for \$10 per certificate issued. Reissues of certificates are subject to a \$10 reissue fee each time.

In the rare case a third party will not accept a certificate of insurance; the party can be added by endorsement on to the policy for an additional \$75 fee per endorsement in addition to the certificate fee.

Once the permit application has been approved by USA Cycling, the additional insured request is forwarded to the carrier who issues a certificate with the requested third party named. This certificate will reflect the USA Cycling permit number. **At least 30 days should be allowed for this process.**

In the event of an occurrence at a permitted event, the Chief Referee or official **must complete a First Report of Occurrence** which provides specific race information, the type of occurrence, names of involved parties, etc. The **First Report of Occurrence**, along with the original signed **USA Cycling Release Form**, executed by the athlete before participating in the event, should be forwarded to USAC with the Chief Referee or official's report. If there is a serious or catastrophic injury, notify the USA Cycling office on the next working day.

In addition to the normal competitive events, insurance is available to USAC member clubs for non-competitive events. These may include training rides, Gran Fondos, fun rides/tours, camps and clinics. Third party insurance is available using the same procedure as for regular USA Cycling races. Special rules govern these events. For more information contact USA Cycling.

Please remind all participants at every event to notify an official if they are injured. USA Cycling cannot process a claim if we have not received the related **First Report of Occurrence**.

NON-OWNED/HIRED AUTOMOBILE & NON-OWNED/HIRED MOTORCYCLE LIABILITY COVERAGE

For events that use automobiles and/or motorcycles, there is liability insurance available on a per vehicle basis through USA Cycling. All drivers must apply for and pass a motor vehicle record background check to be eligible for race director to add on the coverage. This insurance will provide \$1 million of liability coverage for non-owned and hired automobiles and motorcycles that are used at an event during the race.

The non-owned and hired automobile and motorcycle coverage is of an excess nature. This means the vehicles and motorcycles **must have primary coverage, and the primary coverage pays first.** It is recommended that the primary coverage has liability limits of \$300,000 or greater.

The Non-Owned/Hired insurance only covers vehicles driven by officials and marshals during the race on the race course (i.e. as a pace or follow vehicle). Only automobiles and motorcycles scheduled and paid for on USAC's hired/non-owned application will be covered. This optional insurance will also provide coverage for the owner of the vehicle as long as the owner is driving the vehicle as an official or marshal during the race and has primary liability insurance on the vehicle. Automobiles may only carry a maximum of 8 persons.

If this insurance purchase is declined or not purchased, and an automobile(s) or motorcycle(s) is used in the event that is not listed on the application, then the automobile(s) and motorcycle(s) will not receive insurance coverage through USA Cycling.

Applications to purchase the Non-owned/Hired Automobile and Non-owned/Hired Motorcycle Coverage can be found on the USA Cycling website and are included with permit packets that are distributed by USA Cycling. **No refunds will be issued unless the application is declined because of an unfavorable motor vehicle search and review of driving records.**

MEMBER ACCIDENT POLICY

The member accident policy provides excess coverage for USA Cycling members for dates specified on the permit application when they:

1. Participate in a USA Cycling permitted event;
2. Participate in training programs of USA Cycling under the direct supervision of the USA Cycling staff;
3. Notify a race official about their accident when it happens, even if they do not think they are badly injured;
4. Receive medical care and treatment within 30 days of the covered accident; and
5. File an accident claim form with the insurance company within 30 days.

* Claimants are advised to NOT pay for services up front without speaking with USA Cycling/Fairly Group representatives!

The benefit provisions are as follows:

Medical Expense (maximum) \$25,000*
Accidental Death and Dismemberment \$1,000

*Maximum benefit of \$500 for Dental, Orthopedic, Physical Therapy and Transportation.

Our 2016 policy provides coverage as follows:

1. It is excess coverage which means that if the member has health insurance, the member's health insurance pays first
2. There is a matching deductible per accident if the member has primary coverage (minimum of \$1,000/maximum of \$5,000) and \$5,000 deductible per accident if the member does not have primary coverage.

Policy exclusions:

Member Accident Insurance does not apply to loss caused by or resulting from:

1. An Insured Person who is in, entering or exiting any aircraft owned, operated or leased by USA Cycling;
2. An Insured Person acting or training as a pilot or crew member;
3. Emotional trauma, mental or physical illness, disease, pregnancy, childbirth or miscarriage, bacterial or viral infection, or bodily malfunctions;
4. Suicide, attempted suicide, or self-inflicted injuries; or
5. Declared or undeclared war.

FILING ACCIDENT FORMS

1. Anyone injured at an event must have his or her accident reported to a race official the **day of the race**.
2. If an injured member wishes to file a claim, he or she must call at 800-445-3126. The claim form, which is available on the USA Cycling website, must be filed with the insurance company within 30 days of the accident.
3. If an injured member has primary insurance coverage:
 - a. They need to file a claim with their primary insurance carrier.
 - b. They need to call Specialty Benefits, Inc. at the number listed above.
 - c. They need to submit copies of their medical invoices and an Explanation of Benefits from their primary carrier to:

USA Cycling
c/o BMI Benefits, LLC
PO Box 511
76 Main Street
Matawan, NJ 07747
Phone: 800-445-3126
Fax 732-583-9610

4. Once the primary carrier has paid their portion of the medical expenses, the USA Cycling carrier will pay 70% of the Reasonable and Customary remaining expenses ABOVE the deductible, up to a limit of \$25,000.
5. If an injured member has no other medical insurance coverage:
 - a. Rider must do 1, 2, and 3B as outlined above.
 - b. Rider must submit their medical invoices directly to the USA Cycling insurance carrier.
 - c. The USA Cycling carrier will pay 70% of the Reasonable and Customary medical expenses after the \$5,000 out-of-pocket deductible up to a limit of \$25,000.

CLUB AND LOCAL ASSOCIATION GENERAL LIABILITY INSURANCE

USAC's insurance carrier through Fairly Group (1-800-530-4809 x 3659) offers a discounted General Liability Insurance program for USA Cycling member clubs and local associations.

The club and local association insurance policy provides coverage with a liability limit of \$1 million for clubs during cycling-related club activities, such as awards banquets, meetings, approved fund-raisers, and club training rides that are not sanctioned by USA Cycling. This coverage includes bodily injury and property damage, including participant legal liability coverage, as well as personal and advertising injury, including libel, slander, and defamation of character. **For coverage to be valid, the club must obtain and keep from all participants and club members for a minimum of 10 years the approved club waiver and release with original signatures.**

Coverage is specifically excluded for practices for which permits have been issued by USA Cycling and for all competitions and tours, including fun rides, whether USAC-permitted or not, and whether involving cycling or not. There is no coverage for riders for suits brought against them by another rider and there is an abuse and molestation exclusion.

Applications for the club and local association general liability insurance can be downloaded from USAC's website.

CLUB AND LOCAL ASSOCIATION DIRECTORS AND OFFICERS LIABILITY INSURANCE

USA Cycling's Directors and Officers Liability insurance broker, Fairly Group (1-800-530-4809 x 3650), offers a group Directors and Officers Liability Insurance program for USA Cycling member clubs and local associations. The premium rates are significantly less than each club could negotiate independently.

Directors and Officers Liability Insurance provides for "Wrongful Acts", "Errors", and "Omissions" alleged to have been committed by a club's Board of Directors, employees, volunteers and officers while executing their duties in service to the club. Directors' and Officers' services to the club are generally considered to be rendered in a fiduciary capacity. A trustee is held responsible and accountable for his or her actions; so, too, are the directors and officers who owe their club a duty to exercise their powers in good faith and with prudent judgment. While federal and state statutes provide much guidance in establishing standards of conduct, common-law principles are still the basis of determining when wrongdoing has been committed where there is no statutory law. Common law, unlike statutory law, does not impose absolute and inflexible rules; rather, it is subject to the changing interpretations of the courts and is based on principles of equity and public policy.

This program offers a limit of liability of \$1 million with higher limits as an option to those interested clubs. It offers coverage for Non-Pecuniary Defense, which provides defense coverage for those allegations not requesting monetary awards. For more information and an application to purchase this coverage, please contact:

Kim Horn
Fairly Group
PO Box 1149
Amarillo, TX 79105-1149
Phone: 1-800-530-4809 x 3650

POLICY SUMMARY DISCLOSURE

This brochure only summarizes the above policies and is just an overview. Coverage is subject to the terms, conditions and exclusions of the policy(ies). Should a discrepancy occur between this synopsis of coverage and the actual terms, conditions and exclusions of the policy(ies), the policy(ies) terms, conditions and

exclusions will prevail. The Member Accident Policy is underwritten by Nationwide Life Insurance Company. A copy of the policy or certificate of insurance is available upon request.

■ Hollander/Benelux Racing
■ Corey Dempski
■ N58 W 24882
Cardinal Ct
■ Sussex WI 53089

March 22, 2016

Dear Sussex Corporate Center Business,

I would like to notify you about the Hollander/Benelux Sussex Criterium bicycle race that will take place at the Sussex Corporate Center Sunday May 1, 2016. This is an exciting event that will positively impact the Sussex community. The Hollander/Benelux Cycling Squad is organizing the race with support from the Village of Sussex and Corporate Center Tenants Association. This will be our ninth year hosting this event with a successful race last year and minimal impact or inconvenience to businesses in the Sussex Corporate Center. Please let me know if your business has any concerns or questions we will make sure your operations are not inconvenienced by our race. I can be contacted at- Corey Dempski 414.218.5178 or csdemp@yahoo.com.

The Hollander/Benelux Sussex Criterium will be held on Sunday May 1 from 9 A.M. to 5:30 P.M. with a series of 12 races being held throughout the day. The race course will be a circular loop on North Corporate Circle, South Corporate Circle and Executive Drive. The intersections of Executive Drive, North and South Corporate Drives will be managed traffic control points during the race. While these intersections will be managed you will have access to your facilities at ALL TIMES during the race. Team personnel will be stationed at intersections at all times to allow access to the course in a clockwise direction behind the group of racers. Racers will be in a small group and traffic will be able to travel in the same direction (clockwise) behind the group of racers. We will be putting up signs around the course and near business entrances providing a reminder about the race and cautioning traffic. We will also have arrows indicating the clockwise direction to exit onto the course.

We are committed to having a safe and well-organized event and encourage your feedback and input. The Hollander/Benelux Sussex Criterium is sanctioned by the United States Cycling Association and Wisconsin Cycling Association we are fully insured. We will be responsible for all set-up and clean-up of the race course which will include a start/finish area near the Sussex water tower, barricades and cones marking the course, race signage, trash receptacles, portable bathrooms and registration tent.

As a Sussex resident myself I have a personal interest in promoting Sussex and creating a great experience for everyone involved. I will provide another reminder in May and personally visit businesses that are open on Sundays to answer questions and remind you of the event. I appreciate your support!

Regards,

Hollander/Benelux Racing- Corey Dempski

ORDINANCE NO. _____

AN ORDINANCE TO CREATE SECTION 3.17 ENTITLED “PUBLIC CONSTRUCTION BY VILLAGE” OF CHAPTER 3 ENTITLED “FINANCE AND TAXATION” OF THE VILLAGE OF SUSSEX MUNICIPAL CODE.

WHEREAS, from time to time Ordinances need to be refreshed to reflect best practices; and

WHEREAS, the Village of Sussex has found that certain public works construction projects are most effectively done with internal resources; and

WHEREAS, the Village Board wishes to have the flexibility and adaptability to complete projects in the most efficient and cost effective manner; and

WHEREAS, Wisconsin State Statute 61.54, which adopts Wis. Stats. 62.15 for Villages; allows Villages to perform such public construction or any part thereof directly by the Village without submitting the same for bids if there has been an Ordinance adopted to allow the same and the public construction project is approved by three-fourth vote of the members-elect of the Village Board; and

NOW, THEREFORE BE IT ORDAINED by the Village Board of the Village of Sussex, Waukesha County, Wisconsin, that:

SECTION 1. Section 3.17 entitled “Public Construction by Village” of Chapter 3 entitled “Finance and Taxation” is hereby created as follows:

3.17. Public Construction by Village.

The Village Board by a vote of three-fourths of all the members-elect may allow any class of public construction or any part thereof to be done directly by the Village without submitting the same for bids.

SECTION 2. The Village Clerk is hereby directed to update and correct any code references including Table of Contents in this Chapter or other Chapters of the Municipal Code that may be impacted by the creation of this Section of Village of Sussex Municipal Code.

SECTION 3. The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of the court of competent jurisdiction to be

invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections, or portions thereof the ordinance which shall remain in full force and effect. Any other ordinances are hereby repealed as to those terms that conflict.

SECTION 4. This ordinance shall take effect immediately upon passage and posting or publication as provided by the law.

Passed and adopted this _____ day of _____, 2016.

Village President

ATTEST: _____
Clerk-Treasurer



N64W23760 Main Street
Sussex, Wisconsin 53089
Phone (262) 246-5200
FAX (262) 246-5222
Email: info@villagesussex.org
Website: www.village.sussex.wi.us

MEMORANDUM

To: Melissa Weiss, Assistant Village Administrator / Public Works Director
From: Judith A. Neu, Village Engineer
Date: April 1, 2016
Re: Engineering Monthly Report – March 2016

Dead End Hydrant Flushing

- PW staff is has prepared a plan for more frequent flushing of dead end mains.
- Improve water quality by improving chlorine residual and reduce water aging issues.
- This is a low velocity flush, a little higher than a garden hose. Hydrants are run for about 10-15 minutes.
- Plan to flush dead end mains twice each summer. In the winter months, we plan to limit our additional flushing to only our very long dead ends where we can safely flush without creating icing issues.
- We will only flush publicly owned dead end mains, not apartment areas or other private areas.
- Residents will not experience the potential dirty water issues that we occasionally experience during our bi-annual flushing and need not change their normal routines. The only thing we expect them to experience is fresher tasting water.

Radium:

- Consent decree with DNR for radium approved by Village Board February 9, 2016.
- Staff is working on a recommendation for dealing with this system wide issue.

Main Street Reconstruction – Phase 1:

- Construction started April 1, 2016.
- Our first Business meeting is scheduled for Wednesday, April 6, 2016 at 2:00 PM at Village Hall. We will hold these meetings weekly until at least May 4th. At that time, we may change to every other week.
- The next 2-3 weeks will consist of water main and storm sewer construction on the Civic Campus, followed by grading in Area A (east half of the parking lot).
- The berm and landscaping at the north end of the parking lot and the wall, fence and landscaping along the west side of the parking lot (along the residences) are also planned for later this month.
- Installation of the fiber line between the new Civic Campus building and the Public Safety Building will begin about April 18th. Expect parking lane closures along the north side of the road between the two buildings.
- The Bridge Construction is expected to start April 18th. Stage 1 of Main Street will be closed starting April 18th. Stage 1 is between Orchard Drive and the Village Hall Driveway. Access to the Library, Village Hall, and the Piggly Wiggly will be from the WEST.

Miscellaneous

- Removal of the Grogan Park playground equipment took place this week.
- Removal of the Weyer Park playground equipment and reinstallation of that equipment will take place next week.
- New playground equipment will be installed at Weyer Park in June.

Developments:

- Village Estates: Top lift of asphalt remains in phases 1 and 2, to be installed by June 15, 2016.

- Meijer: Executive Drive, Lisbon Road and signal work is essentially complete. We expect Meijer to officially request acceptance of the road in the next couple of weeks. Building construction is nearing completion.
- Woodside Ridge (Butler Farm): Road and utilities are complete. Some sidewalk construction and punch list items remain. Home construction has begun.
- Sussex Preserve: Private grading work has been suspended until Spring. Utility work is complete, curb and gutter and pavement have been installed on extension of Maple Grove Lane, but road remains closed. Road construction will continue in Spring. Private utility installation has started.
- Johannsen Farms: Road and utility plans are expected this month. Developer would like to start construction in May or early June.
- Marchese / Duchow: DOT and County have given direction on road and traffic signal work needed for remaining development.

END.

**SECOND AMENDMENT TO THE DEVELOPER'S AGREEMENT FOR THE
FARMSTEAD, CORNERS, MAMMOTH NORTH, AND MAMMOTH SOUTH
MIXED USE DOWNTOWN DEVELOPMENTS VILLAGE OF SUSSEX,
WAUKESHA COUNTY, WISCONSIN**

This Second Amendment to the Developer's Agreement ("Amendment") made this _____ day of _____, 2016, between ECT International Inc., a Wisconsin-based business corporation, with offices at 4375 Pilgrim Hollow Court, Brookfield, WI 53005 hereinafter called "DEVELOPER", and the VILLAGE of Sussex in the County of Waukesha and the State of Wisconsin, hereinafter called the "VILLAGE".

RECITALS:

WHEREAS, pursuant to the Development Agreement, DEVELOPER would complete construction to earn certain incentives that would benefit VILLAGE and DEVELOPER upon DEVELOPER obtaining certain economic threshold milestones at certain specific dates in order to ensure the TIF District could pay said funds; and

WHEREAS, the Development Agreement for the Mixed Use Downtown Development and the Mammoth Springs Development Site had anticipated certain costs in the TIF Plan, which have changed as some property was not acquired, but other properties were, and the Phase 2 of the Mammoth South Development has been pursued more quickly and to a larger extent than anticipated, with the purchase of two additional parcels along Deyer Drive and Silver Spring, which will allow a stronger mixed use development to occur at the site and allows the Village to vacate unnecessary public infrastructure; and

WHEREAS, the DEVELOPER will have completed construction of the Mammoth Springs development ahead of schedule and is ahead of schedule for the developments set forth in the Mixed Use Downtown Developer's Agreement, and

WHEREAS, realizing the completion of the developments ahead of schedule is beneficial to the VILLAGE in progression of the vitalization in the downtown, simplifies the administration of this agreement, promotes stronger Village infrastructure designs, and benefits the TIF District, while benefiting the DEVELOPER from having the improved infrastructure; and

WHEREAS, the DEVELOPER by purchasing for a combined total of \$397,000 the remaining parcel on Deyer Drive (tax key number SUXV0245-942) and the adjoining parcels on Silver Spring (tax key numbers SUXV0245-943 and SUXV0245-944) collectively hereinafter the "Additional Mammoth South Lots" will incur additional costs and is seeking to shift incentive costs that were scheduled to be paid by the Village to ECT, International from the Mammoth Springs site to allow the transaction, and

WHEREAS, such action sets forth the opportunity to fully vacate Deyer Drive reducing significant maintenance costs to the Village, which will benefit the VILLAGE, and in turn will help the TIF District and the DEVELOPER's projects, and

WHEREAS, the net amount of TIF project costs are not increasing or changing, but their project orientation is and the Village wants a clear accounting of those costs, and whereas portions of right of way are to be deeded by the Village to the DEVELOPER to allow the developments to proceed and reduce the costs to the Village.

NOW, THEREFORE, in consideration of the terms of the Developer's Agreement and this Second Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Village and DEVELOPER agree as follows:

I. Developer's Agreement Section SECTION XIX.B.1.E is hereby created to read as follows:

E. Additional Mammoth South Lots Acquisition. The following terms and conditions apply to the acquisition of the Additional Mammoth South Lots, defined above.

1. Acquisition. The DEVELOPER shall purchase the Additional Mammoth South Lots, free and clear for \$397,000 and remove the structures on said lots.
2. Additional Development. The DEVELOPER shall establish one additional 18 unit high end residential apartment building on the Additional Mammoth South Lots in a consistent manner with the Mammoth South development as maybe approved by the Plan Commission, whose value shall be at least \$1.75 million upon completion.
3. TIF Payment. The VILLAGE shall pay to the DEVELOPER the amount of \$100,000, upon Acquisition of the Additional Mammoth South Lots, as an incentive for the DEVELOPER's obligations under this Second Amendment. This incentive is from the TIF Project Plan originally slated for the Mammoth Springs development.
4. Utility Relocation Costs. The VILLAGE shall pay up to \$150,000 for the relocation of private utilities in the anticipated vacation of Silver Spring corridor as part of the VILLAGE's Main Street project.

II. Except as amended herein, all other terms of the Developer's Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the DEVELOPER, OWNER and the VILLAGE have caused this agreement to be signed by their appropriate officers and their corporate seals

(if any) to be hereunto affixed in three original counterparts the day and year first above written.

ECT International Inc.,

By: _____
Arthur Sawall

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2016, the above named Arthur Sawall, Authorized Signatory of _____ to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

Mammoth Springs, LLC.

By: _____
Arthur Sawall

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2016, the above named Arthur Sawall, Authorized Signatory of _____ to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

VILLAGE OF SUSSEX
WAUKESHA COUNTY, WISCONSIN

VILLAGE President

VILLAGE Clerk-Treasurer

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this ____ day of _____, 2016, the above-named Greg Goetz, VILLAGE President, and Susan Freiheit, VILLAGE Clerk-Treasurer, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such VILLAGE President and VILLAGE Clerk-Treasurer of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority and pursuant to the authorization by the VILLAGE Board from their meeting on the ____ day of _____, 2016.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

APPROVED AS TO FORM:

VILLAGE Attorney

DEVELOPER'S AGREEMENT FOR

**Johanssen Farms
Single Family Development**

VILLAGE OF SUSSEX, WAUKESHA COUNTY, WISCONSIN

THIS AGREEMENT made this _____ day of _____, 2016, between _____ a Wisconsin-based limited liability corporation, with offices at _____, hereinafter called "DEVELOPER", and the VILLAGE of Sussex in the County of Waukesha and the State of Wisconsin, hereinafter called the "VILLAGE".

WITNESSETH:

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

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

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

WHEREAS, said SUBJECT LANDS are presently zoned RS-3 Single Family, with the Planned Development Overlay District, under rezoning ordinance No. 815 shown as **EXHIBIT B** which allows the above-described development; and

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

WHEREAS, the DEVELOPER and VILLAGE desire to enter into this agreement in order to ensure that the DEVELOPER will make and install all public improvements which are reasonably necessary and further that the DEVELOPER shall dedicate the public improvements to the VILLAGE, provided that said public improvements are constructed to municipal specifications, all applicable government regulations, this agreement and as required by the VILLAGE Engineer, without cost to the VILLAGE; and

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

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

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

WHEREAS, the DEVELOPER will soon be seeking from the Plan Commission and VILLAGE Board of the VILLAGE of Sussex Final Plat approval upon completion of the required improvements for the development as shown in **EXHIBIT D**, which shall be attached as approved, if it is.

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

DEVELOPER'S COVENANTS

SECTION I. IMPROVEMENTS.

A. **PUBLIC STREETS, SIDEWALKS, AND PATHS:** The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that all public street and sidewalk plans are in conformance with all federal, state, county and VILLAGE specifications, regulations and ordinances, and written proof from the VILLAGE Engineer evidencing review and approval of said plans.
2. The DEVELOPER shall grade and install all planned public streets and sidewalks in accordance with the Preliminary Plat, approved development plan of said subdivision, or Final Plat as the case may be and the plans and specifications on file in the VILLAGE Clerk's office.
3. Construction of the public streets and sidewalks providing access to and fronting a specific Lot will be completed, presented and accepted by the VILLAGE Board through the first lift of asphalt before any building permits are issued for said Lot.
4. The first lift of asphalt on the public streets and the sidewalk for Phase 1 of the Development shall be completed and presented to the VILLAGE Board no later than October 1, 2016, or as extended by the VILLAGE Board. The first lift of asphalt on the public streets and the sidewalk for Phase 2 of the Development shall be completed and presented to the VILLAGE Board no later than October 1, 2017, or as extended by the Village Board.

5. The final lift of asphalt shall be placed on all public streets after at least one winter season and shall be completed and presented to the VILLAGE Board no later than August 1, 2017, or as extended by the VILLAGE Board. It is the general intent of the VILLAGE for the final lift of asphalt not to be established prior to 80% of the homes being constructed in a phase to minimize the damage to the final roadway and additional costs to the DEVELOPER, therefore the VILLAGE Board may require placement of the final lift at an earlier or later date if the VILLAGE Board determines in its discretion that it is necessary or appropriate to do so.

6. The DEVELOPER shall maintain public streets, sidewalks, and paths, including snowplowing, unless otherwise approved by the VILLAGE Administrator, until accepted by resolution by the VILLAGE Board. Once the first lift of asphalt is established VILLAGE will provide snowplowing service for the public roadways and DEVELOPER shall pay VILLAGE at a rate of \$250 per hour or part of an hour therein, for said plowing service to ensure the roadway is open and safe for public and emergency access until the roadway is accepted by resolution by the VILLAGE Board. The VILLAGE shall provide snow plowing service in a manner consistent with that of the rest of the Village and shall in no way be responsible to DEVELOPER for any damage caused to infrastructure by snow plow operations. The DEVELOPER shall properly ramp any manholes prior to November 1 of each year to ensure safe snow plow operations. The rate per hour for snow plowing shall remain the same through May 1, 2017 and shall increase 3% annually each year thereafter. During construction sidewalks shall be blocked and labeled with signage saying "closed during construction."

7. The DEVELOPER shall furnish "as-built" plans showing changes from the construction plans, pursuant to specifications approved by the VILLAGE Engineer. Said "as-builts" shall be on reproducible Mylar and digital file, and shall include data as set forth in the VILLAGE Development Requirements.

8. Contractors working on the development or on individual buildings are required to clean up all mud, dirt, stone or debris on the streets, sidewalks, and paths no later than the end of each working day. In addition, the DEVELOPER shall have ultimate responsibility for cleaning up any and all mud, dirt, stone or debris on the streets until such time as the final lift of asphalt has been installed by the DEVELOPER and accepted by the VILLAGE Board. The VILLAGE shall make a reasonable effort to require the contractor, who is responsible for placing the mud, dirt, stone or debris on the street, sidewalk, and path, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the streets, sidewalk, and path within twenty-four (24) hours after receiving a notice from the VILLAGE. If said mud, dirt, stone or debris is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER's and/or subject property owner's expense, at the option of the VILLAGE.

9. An Easement, attached as **Exhibit E**, hereinafter known as the "Sidewalk/Path Easement" shall be established over the public sidewalks/paths to the maximum extent of 10 feet off of the edge of the sidewalk/path towards the Lot where said area falls outside of the proposed right-of-way area to ensure the VILLAGE is able to repair the sidewalk/path.

10. DEVELOPER is permitted to have a roadway width of 33' back of curb to back of curb for the DEVELOPMENT. Said roadway width is narrower than the Village standard width of 35' back of curb to back of curb. DEVELOPER shall provide the normal 60' right of way for all proposed local roadways. Said narrowed roadway enhances the DEVELOPMENT, providing for more greenspace for the subject lands and creates a better atmosphere for the development along with providing cost reductions, which benefit the DEVELOPER. The narrowed roadways shall require parking to be allowed on one side of the street only, which the VILLAGE shall establish on the roads.

11. The sidewalk required by Village Code along the portion of Maple Avenue frontage of the Development as depicted in attached **Exhibit E-1**(the "Deferred Sidewalk Improvements") will not be required to be installed at this time as the roadway improvements to Maple Avenue will likely change the elevation and location of said sidewalk. The DEVELOPER shall therefore pay the VILLAGE \$30,000 for the Deferred Sidewalk Improvements and VILLAGE shall use said funds to establish said sidewalk at the time of Maple Avenue construction.

B. SANITARY SEWER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER's Engineer that the sanitary sewer plans are in conformance with all Federal, State and VILLAGE of Sussex specifications, regulations, ordinances and guidelines and written proof that the VILLAGE Engineer has approved said plans. The sanitary sewerage system shall include a lift station, all details of which shall be specified in the sewerage system plan.

2. To construct, furnish, install and provide a complete sewerage system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the VILLAGE Clerk's office and all applicable Federal, State and VILLAGE of Sussex ordinances, specifications, regulations and guidelines for the construction of sewerage systems in the VILLAGE of Sussex and as approved by the VILLAGE Engineer.

3. To clean all sanitary sewers in the SUBJECT LANDS prior to acceptance of the improvements and issuance of building permits by the VILLAGE of Sussex.

4. To furnish "as-built" plans of the sanitary sewage system for the SUBJECT LANDS, including locations of laterals to lot lines, pursuant to specifications approved by the VILLAGE Engineer prior to the issuance of building permits.

5. To televise the sanitary sewer system for the SUBJECT LANDS, repair any defects as determined by the VILLAGE Engineer, supply the video tape to the VILLAGE of Sussex, and clean all sewer lines prior to the issuance of building permits and acceptance of the improvements by the VILLAGE.

6. That no building permits shall be issued until the sanitary sewer system for of the SUBJECT LANDS has been dedicated to and accepted by the VILLAGE.

7. The development requires the installation of a lift station and said lift station shall be constructed to Village specifications and be fully operational including all necessary communications equipment and software updates to allow the lift station to operate remotely and communicate in real time with the Village wastewater treatment plant, all to the satisfaction of the VILLAGE Engineer, prior to issuance of a building permit.

C. WATER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER's Engineer that the water system plans are in conformance with all Federal, State and VILLAGE of Sussex specifications, regulations, ordinances and guidelines and written proof that the VILLAGE Engineer has approved said plans. The VILLAGE Engineer may require that the plans include water system work outside the territory of the current phase of the development as the VILLAGE Engineer deems necessary to ensure the system will function properly.

2. To construct, furnish, install and provide a complete water system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the VILLAGE Clerk's office and all applicable Federal, State and VILLAGE of Sussex ordinances, specifications, regulations and guidelines for the construction of water systems in the VILLAGE of Sussex and as approved by the VILLAGE Engineer.

3. The DEVELOPER shall furnish "as-built" plans showing changes from the construction plans, pursuant to specifications approved by the VILLAGE Engineer. Subject to intellectual property rights, said "as built" plans shall be on reproducible Mylar and digital file, and shall include field locations of hydrant valves and curb stops, if any.

4. That no building permits shall be issued until the water system for the SUBJECT LANDS has been dedicated to and accepted by the VILLAGE. The VILLAGE may require that parts or all of the water system for the SUBJECT LANDS be installed, dedicated, and approved prior to the issuance of any building permits for any phase to ensure that the system will function properly.

5. In conjunction with the final lift of asphalt in each phase the Hydrants shall be sandblasted and repainted at DEVELOPER's cost to address any damage done to the paint of the Hydrant by DEVELOPMENT and Home construction.

6. The water system includes the requirement for looping on Maple Avenue and through Armory Park. Installation of said improvements shall be scheduled as to not interfere with the use of Armory Park as determined by the Village. An easement attached as **Exhibit F** "Water Main easement" shall be established over the water main of at least ten (10) feet on each side of the water main where the water main or that twenty foot work zone falls outside of the right of

way or outside of VILLAGE owned property which shall also be addressed in depictions and in language on the Plat to ensure the VILLAGE is able to repair the water main.

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

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that all surface and storm water drainage facilities and erosion control plans are in conformance with all federal, state, county and VILLAGE regulations, guidelines, specifications, laws and ordinances, and written proof that the VILLAGE Engineer, DNR, and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, have reviewed and approved said plans.
2. The DEVELOPER shall construct, install, furnish and provide adequate facilities for surface and storm water drainage throughout the development with adequate capacity to transmit the anticipated flow from the development and adjacent property, in accordance with all plans and specifications on file in the VILLAGE Clerk's office, and all applicable federal, state, county and VILLAGE regulations, guidelines, specifications, laws and ordinances, and as reviewed and approved by the VILLAGE Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, including where necessary as determined by the VILLAGE Engineer, curb, gutter, storm sewers, catch basins and infiltration/retention/ detention basins.
3. The DEVELOPER agrees that the site grading and construction of surface and storm water drainage facilities shall be completed and accepted by the VILLAGE before any building permits are issued.
4. To maintain roads free from mud and dirt from construction of the development.
5. The VILLAGE Board will not accept the surface and storm water drainage system until the entire system serving a given phase is installed and landscaped in accordance with plans and specifications to the satisfaction of the VILLAGE Engineer.
6. The DEVELOPER shall clean all storm sewers, if any, prior to issuance of building permits and acceptance of improvements by the VILLAGE Board.
7. The VILLAGE retains the right to require DEVELOPER to install additional surface and storm water drainage measures if it is determined by the VILLAGE Engineer that the original surface and storm water drainage plan as designed and/or constructed does not provide reasonable stormwater drainage within the development and surrounding area.
8. For that part of the SUBJECT LANDS located in the VILLAGE, the DEVELOPER shall establish the stormwater facilities within outlots that the Village shall have the right, but not the obligation, to maintain according to a Stormwater Facility Maintenance Agreement, attached herein as **EXHIBIT G** and hereinafter known as the "SFMA". The SFMA shall state that the VILLAGE shall agree to maintain the stormwater management facilities in the Development except for specific annual maintenance activities such as grass mowing, etc.; which shall be

spelled out in the SFMA. DEVELOPER shall provide the necessary easement hereinafter known as the "2016 Stormwater Easement" and attached herein as **EXHIBIT G-1** for any stormwater facilities that are located outside of the right-of-way or have the necessary maintenance zone outside of the right-of-way, which shall be addressed in depictions and in language on the Plat.

9. For that part of the SUBJECT LANDS located outside the VILLAGE, the DEVELOPER shall convey all such land to the VILLAGE free and clear, which conveyance shall be recorded simultaneously with the final plat. Prior to commencement of construction or site development or any other work on the SUBJECT LANDS, the DEVELOPER shall determine whether the Town of Lisbon and/or Waukesha County will require that a stormwater maintenance agreement, or other restriction, must be recorded against such land, and if so, the terms of any such restriction shall be provided by the DEVELOPER to the VILLAGE. The DEVELOPER shall provide proof to the satisfaction of the VILLAGE of any such requirements that the Town of Lisbon and/or Waukesha County may or may not require, prior to conveyance. The VILLAGE reserves all right to accept or reject any such agreements or restrictions as may be required. In the event the VILLAGE declines to accept any such requirements, the VILLAGE shall have the right to declare this agreement null and void.

10. To furnish "as built" plans of the entire drainage system, pursuant to specifications approved by the VILLAGE Engineer prior to the issuance of building permits.

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

1. Prior to commencing site grading and excavation, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that said plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof of notification of land disturbances to the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the VILLAGE Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, and the Army Corps of Engineers, if applicable, have approved said plans.

2. The DEVELOPER shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications reviewed and approved by the VILLAGE Engineer, the Waukesha County Department of Park and Land Use, Land Resources Division, and Army Corps of Engineers, if applicable.

3. All disturbed areas shall be restored to the satisfaction of the VILLAGE Engineer within seven (7) days of disturbance. Any cash or letter of credit posted with the VILLAGE will not be released until the VILLAGE Engineer is satisfied that no further erosion measures are required.

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

1. The DEVELOPER shall preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying on the public streets, drainage ways, building

foundation sites, private driveways, paths and trails by use of sound conservation practices as set forth in the Tree Mitigation Plan and Landscape Plan attached herein as (**EXHIBIT H and H-1**).

2. The DEVELOPER, as required by the VILLAGE, shall remove and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.
3. Landscaping and removal of unwanted items, including buildings, will be completed and certified as complete by the VILLAGE Engineer prior to the issuance of any building permits.
4. The DEVELOPER shall delineate all wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the VILLAGE prior to the issuance of building permits.
5. The VILLAGE has the right to trim and remove any features which would interfere with safe operation and maintenance of the VILLAGE right-of-ways and drainage ways.
6. The DEVELOPER shall establish Street Trees per the Street Tree Plan attached as **Exhibit H-2**. The Street Trees shall be established only within the appropriate times per year as listed on the plan and the trees shall not be installed until construction activity is completed in the area as determined by the VILLAGE to avoid damage from construction. Street Trees shall be maintained by the DEVELOPER until the warranty period ends for said STREET Trees unless otherwise approved by the VILLAGE Board.
7. The DEVELOPER shall establish the necessary easements attached as **Exhibit H-3** for any landscape and or monument sign areas within the right of ways to require the homeowners association to maintain those areas.

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

1. Street signs, traffic control signs, culverts, posts and guard rails as required by the VILLAGE shall be obtained and placed by the VILLAGE, or by the DEVELOPER with approval of the VILLAGE, and the cost thereof shall be paid by the DEVELOPER.
2. All traffic control signs and street signs, as required by the VILLAGE will be installed by the VILLAGE at the cost of DEVELOPER following the placement of the first lift of asphalt.

H. STREET LIGHTS: The DEVELOPER hereby agrees to install a street lighting system in the development according to a plan prepared by We Energies and on file with the VILLAGE Clerk and approved by the VILLAGE of Sussex prior to issuance of building permits unless waived by VILLAGE Staff. The Lighting Plan shall be **EXHIBIT I**, which shall be attached to this agreement prior to the approval of the Final Plat of Phase 1.

I. ADDITIONAL IMPROVEMENTS AND REQUIREMENTS:

The DEVELOPER hereby agrees that if, at any time after plan approval and during construction, the VILLAGE Engineer determines that modifications to the plans including additional improvements such as additional drainage ways, erosion control measures, and surface and storm water management measures are necessary in the interest of public safety, are necessary in order to comply with current laws or are necessary for implementation of the original intent of the improvement plans, the VILLAGE is authorized to order DEVELOPER, at DEVELOPER'S expense, to implement the same. If DEVELOPER fails to construct the additional improvement within a reasonable time under the circumstances, the VILLAGE may cause such work to be carried out and shall charge against the financial guarantee held by the VILLAGE pursuant to this agreement.

1. DEVELOPER shall establish easements over right of way intended to be granted to the Village by a future phase of the development on a future Final Plat per the intents of the preliminary plat to enable VILLAGE to maintain infrastructure installed and complete the DEVELOPMENT's Future phases should the DEVELOPER fail to complete subsequent phases. Said easement shall be shown on the first Final Plat of the DEVELOPMENT unless all of the infrastructure is completed and the rights of way dedicated for the entire DEVELOPMENT with the first Final Plat for the DEVELOPMENT. If an easement is given the easement shall end once the subsequent Final Plat is approved and the necessary rights of way are granted.

2. DEVELOPER shall bury all power and utilities within the Development including any above ground power poles adjacent to the SUBJECT LANDS.

3. DEVELOPER shall make any necessary improvements or guarantees as required by the Town of Lisbon for the roadway connection and stormwater improvements within the Town of Lisbon portion of right of way adjacent to the DEVELOPMENT. Said requirements shall be attached, and incorporated as **Exhibit L**.

4. DEVELOPER shall provide as-built information for all improvements and as-planted information for street trees in electronic format and shall reimburse the Village for updates to the Village's G.I.S. system for the same.

SECTION II. TIME OF COMPLETION OF IMPROVEMENTS:

The improvements set forth in Sections I above shall be completed by the DEVELOPER, in total within twelve (12) months of the date of this Agreement being signed except as otherwise provided for in this Agreement.

SECTION III. FINAL ACCEPTANCE.

Throughout this agreement, various stages of the development will require approval by the VILLAGE. "Final Acceptance" as used herein, however, shall be the ultimate acceptance of all of the improvements in the completed development as a whole, and shall be granted specifically by separate resolution of the VILLAGE Board. The two-year guarantee period provided for in this agreement shall not commence to run until Final Acceptance. The issuance of building

permits and approval of various items of development shall not commence the two-year guarantee period.

SECTION IV. DEDICATION OF IMPROVEMENTS:

Subject to all of the other provisions of this agreement, the DEVELOPER shall, without charge to the VILLAGE, upon completion of the above described improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the VILLAGE, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and including, without limitation because of enumeration, any and all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication, the VILLAGE shall have the right to connect or integrate other improvements as the VILLAGE decides, with no payment or award to, or consent required of, the DEVELOPER.

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

SECTION V. ACCEPTANCE OF WORK AND DEDICATION:

When the DEVELOPER shall have completed the improvements herein required and shall have dedicated the same to the VILLAGE as set forth herein, the same shall be accepted by the VILLAGE Board if said improvements have been completed as required by this agreement and as required by all federal, state, county or VILLAGE guidelines, specifications, regulations, laws and ordinances and approved by the VILLAGE Engineer.

SECTION VI. APPROVAL BY VILLAGE NOT TO BE DEEMED A WAIVER.

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

SECTION VII. GUARANTEES OF IMPROVEMENTS:

A. Guarantee. DEVELOPER shall guarantee after Final Acceptance, the public improvements and all other improvements described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of two years from the date of Final Acceptance by providing the VILLAGE with cash or a letter of credit in a

form acceptable to the VILLAGE Attorney in an aggregate amount of 10 percent of the total costs of the improvements. The DEVELOPER shall pay for any damages to VILLAGE property and/or improvements resulting from such faulty materials or workmanship. This guarantee shall not be a bar to any action the VILLAGE might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations. If the DEVELOPER fails to pay for any damages or defects to VILLAGE property and/or improvements, and the VILLAGE is required to draw against the cash or letter of credit on file with the VILLAGE, the DEVELOPER is required to replenish said monies up to the aggregate amount of ten percent (10%) of the total cost of all improvements.

B. Obligation to Repair. The DEVELOPER shall make or cause to be made, at its own expense, any and all repairs which may become necessary under and by virtue of the DEVELOPER'S guarantee and shall leave the improvements in good and sound condition, satisfactory to the VILLAGE Board at the expiration of the guarantee period.

C. Notice of Repair. If during said guarantee period, the improvements shall, in the reasonable opinion of the VILLAGE Staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the DEVELOPER shall, upon notification by the VILLAGE of the necessity for such repair or replacement, make such repair or replacement, at its own cost and expense. Should the DEVELOPER fail to make such repair or replacement within the time specified by the VILLAGE in the aforementioned notification, after notice has been sent as provided herein, the VILLAGE Board may cause such work to be done, but has no obligation to do so, either by contract or otherwise, and the VILLAGE Board may draw upon such guarantee security to pay any costs or expenses incurred in connection with such repairs or replacements. Should the costs or expenses incurred by the VILLAGE Board in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the guarantee security, then the DEVELOPER shall immediately pay any excess cost or expense incurred in the correction process.

D. Maintenance Prior to Acceptance.

1. All improvements shall be maintained by the DEVELOPER so they conform to the approved plans and specifications at the time of their Final Acceptance by the VILLAGE Board. This maintenance shall include routine maintenance, such as crack filling, roadway patching and the like. In cases where emergency maintenance is required, the VILLAGE Board retains the right to complete the required emergency maintenance in a timely fashion and bill the DEVELOPER for all such associated costs. Said bill shall be paid immediately by the DEVELOPER. The DEVELOPER'S obligation to maintain all improvements shall expire at the expiration of the guarantee period.

2. Street sweeping and dust suppression shall be done by the DEVELOPER upon a regular basis as needed to ensure a reasonably clean and safe roadway until Final Acceptance by the VILLAGE Board. Should the DEVELOPER fail to meet this requirement, the VILLAGE Board

will cause the work to be done and will bill the DEVELOPER on a time and material basis. Said bill shall be paid immediately by the DEVELOPER.

3. In the event drainage problems arise within the SUBJECT LANDS or related activities on the SUBJECT LANDS, the DEVELOPER shall correct such problems to the satisfaction of the VILLAGE Staff. Such correction measures shall include, without limitation because of enumeration, cleaning of soil, loose aggregate and construction debris from culverts, drainage ditches, storm sewers, and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as the roads, ditches, and other disturbed areas have become adequately vegetated and the VILLAGE Board is satisfied that the DEVELOPER has restored all areas which were disturbed.

SECTION VIII. VILLAGE RESPONSIBILITY FOR IMPROVEMENTS:

The VILLAGE shall not be responsible to perform repair, maintenance, or snow plowing, unless otherwise approved by the VILLAGE Administrator, until accepted by the VILLAGE Board.

SECTION IX. RISK OF PROCEEDING WITH IMPROVEMENTS PRIOR TO APPROVALS OF FINAL PLAT:

If a DEVELOPER proceeds with the installation of public improvements or other work on the site prior to approval of the Final Plat, it proceeds at its own risk as to whether or not the Final Plat will receive all necessary approvals. The DEVELOPER, prior to commencement of the installation of public improvements or other work on site, shall notify the VILLAGE of the DEVELOPER'S intention to proceed with the installation of public improvements or other work on site, prior to approval of the Final Plat. Additionally, DEVELOPER shall make arrangements to have any public improvements and/or other work on site inspected by the VILLAGE Engineer.

SECTION X. FINANCIAL GUARANTEE:

Prior to the execution of this agreement by the VILLAGE Board, the DEVELOPER shall file with the VILLAGE cash or a letter of credit (**EXHIBIT J**) setting forth terms and conditions in a form approved by the VILLAGE Attorney in the amount as approved by the VILLAGE Engineer as a guarantee that the DEVELOPER will perform all terms of this agreement no later than one year from the signing of this agreement except as otherwise set forth in this agreement. If at any time:

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

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

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

The lending institution providing the irrevocable letter of credit shall pay to the VILLAGE Board all sums available for payment under the irrevocable letter of credit upon demand, subject to the terms and conditions of the irrevocable letter of credit, and upon its failure to do so, in whole or in part, the VILLAGE shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll.

SECTION XI. BUILDING AND OCCUPANCY PERMITS:

It is expressly understood and agreed that no building or occupancy permits shall be issued for any homes, including model homes, until the VILLAGE Engineer has determined that:

- A. The installation of the first lift of asphalt of the public street(s) providing access to and fronting a specific building for which a building permit is requested has been completed and accepted by the VILLAGE Board.
- B. The site grading and construction of surface and storm water drainage facilities required to serve such homes are completed, are connected with an operating system as required herein, are cleaned as needed, and are accepted by the VILLAGE Board.
- C. All landscaping and removal of unwanted items, including buildings, has been certified as complete by the VILLAGE Engineer.
- D. All required grading plans have been submitted to, reviewed by and approved by the VILLAGE Engineer.
- E. The DEVELOPER has paid in full all permit fees and reimbursement of administrative costs as required by this agreement.
- F. The DEVELOPER has prepared appropriate deed restrictions which are approved by the VILLAGE, filed with the VILLAGE Clerk and recorded with the Register of Deeds.
- G. All destroyed trees, brush, tree trunks, shrubs and other growth and all rubbish including buildings and unwanted items are lawfully removed and disposed of from the development.
- H. All required "as built" plans for the SUBJECT LANDS have been submitted and approved by the VILLAGE Engineer.

I. All public and private utilities have been installed in the SUBJECT LANDS, including street lighting fixtures (unless waived by the VILLAGE Administrator), the sanitary sewer system, and the water system.

J. The DEVELOPER is not in default of any aspect of this agreement.

K. There is no default of this agreement as determined by the VILLAGE Administrator.

L. The DEVELOPER has delineated the wetlands that are on or adjacent to private lots by means of cedar posts, as approved by VILLAGE Staff prior to the issuance of building permits.

SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF BUILDING PERMITS:

The VILLAGE reserves the right to withhold issuance of any and all building permits if DEVELOPER is in violation of this agreement.

SECTION XIII. VACANT LOT MAINTENANCE EASEMENT.

Developer shall grant a vacant lot maintenance easement to the VILLAGE, in a form that is subject to the approval of the VILLAGE Attorney, and which shall be recorded with the Waukesha County Register of Deeds. The easement shall grant the VILLAGE the right (but not the obligation) to enter upon any vacant lot in the SUBJECT LANDS in order to inspect, repair, or restore the property so that it is in compliance with all applicable provisions of the VILLAGE of Sussex Municipal Code, including but not limited Chapter 10, entitled "Public Nuisance", and Chapter 11, entitled "Health and Sanitation", including Section 11.07 entitled "Property Maintenance Code". A vacant lot shall include any Lot that does not have an occupied principal structure that is used for residential purposes at the time of inspection, repair or restoration. All costs incurred by the VILLAGE in exercising its right to inspect, repair or restore the Lot shall be borne by the owner of the Lot necessitating such inspection, repair or restoration and if not paid for by such Lot owner within forty-five (45) days of receipt of any invoice therefore, may be placed against the tax roll for the Lot and collected as a special charge by the VILLAGE.

SECTION XIV. PROMOTION OF ARCHITECTURAL UNIQUENESS.

The parties intend that all homes in the Subject Land shall be owned, occupied and used for residential purposes. The parties further intend that there shall be architectural uniqueness to the neighborhood between buildings. Therefore, no two identical buildings may be constructed directly adjacent to one another or directly across the street from one another. No more than 7 homes per any phase of development shall be of the same design model as determined by the VILLAGE.

SECTION XV. MISCELLANEOUS REQUIREMENTS

The DEVELOPER shall:

A. EASEMENTS:

Provide any easements including vision easements on SUBJECT LANDS deemed necessary by the VILLAGE Engineer before the Final Plat(s) are signed or on the Final Plat(s) and such easements shall be along lot lines if at all possible.

B. TREE PLANTING:

Tree planting shall follow the plan approved by the VILLAGE and attached hereto as **Exhibit H-1 through H-3.**

C. MANNER OF PERFORMANCE:

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

D. SURVEY MONUMENTS:

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

E. HOME-OWNERS ASSOCIATION DECLARATION:

Execute and record a HOME-OWNERS ASSOCIATION Declaration, Articles, and/or Bylaws as applicable, in a form that is subject to the approval of the VILLAGE Board and VILLAGE Attorney, and provide proof of recording prior to sale of Lots for the SUBJECT LANDS.

F. DEED RESTRICTIONS:

Execute and record deed restrictions in a form that is subject to the approval of the VILLAGE Board and VILLAGE Attorney, and provide proof of recording prior to sale of Lots for the SUBJECT LANDS. The Deed Restrictions shall contain language to require the lot owners and/or homeowner's association within the subdivision to maintain all stormwater management facilities in accordance with the "Owners Maintenance Requirements: Stormwater Management Systems Detention/Retention Ponds and Grass Swales" specifications on file with the Village of Sussex, dated July, 2002, including such amendments as may be made thereto from time to time by the Village Engineer. The deed restrictions shall also contain the following language:

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

The DEVELOPER shall also have language in the restriction that obligates the Association to maintain the landscaping islands being placed in the right of ways and any other landscaping features in or along the right of way. The VILLAGE shall have the right, but not the obligation, to maintain the landscaping and charge the Homeowner's Association if the Association fails in the Village's sole determination to adequately maintain the landscaping areas.

The Deed Restrictions shall also include a notice in a form approved by the VILLAGE Attorney, notifying all lot owners of the operation of a quarry adjacent to the SUBJECT LANDS.

G. GRADES:

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

H. RESERVE CAPACITY ASSESSMENTS - SANITARY SEWER:

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

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

The DEVELOPER further waives its right to appeal from the special assessments and stipulates that the amount of special assessment levied against its property has been determined on a reasonable basis and that the benefits to its property from the proposed improvements exceed the amount of the special assessment against such property. In addition, the DEVELOPER waives its right under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

I. RESERVE CAPACITY ASSESSMENTS - WATER:

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

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

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

J. UNDERGROUND UTILITIES:

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

K. PERMITS:

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

L. REMOVAL OF TOPSOIL:

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

M. DIGGERS HOTLINE.

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

N. PREVAILING WAGE RATES AND HOURS OF LABOR:

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

O. NOISE:

Make every effort to minimize noise, dust and similar disturbances, recognizing that the SUBJECT LANDS are located near existing residences. Construction of improvements shall not begin before 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays, nor shall it continue beyond 7:00 p.m. during weekdays and Saturdays, and 5:00 p.m. on Sundays.

P. DEBRIS:

Have ultimate responsibility for cleaning up debris that has blown from buildings under construction within the SUBJECT LANDS until such time as all improvements have been

installed and accepted by the VILLAGE Board. The VILLAGE shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the debris within forty-eight (48) hours after receiving a notice from the VILLAGE Engineer. If said debris is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER'S and/or subject property owner's expense.

Q. DUTY TO CLEAN ROADWAYS:

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

R. PUBLIC CONSTRUCTION PROJECTS:

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

S. IMPACT FEES:

DEVELOPER and VILLAGE acknowledge that the VILLAGE has caused a needs assessment study to be performed pursuant to Wis. Stat. 66.0617 and that the VILLAGE has enacted an ordinance (18.10065) that imposes impact fees pertaining to the VILLAGE's parks, playgrounds and land for athletic fields, and that imposes impact fees pertaining to the VILLAGE's Library. The DEVELOPER acknowledges and agrees that the ultimate occupants of the Lots on the SUBJECT LANDS will likely utilize the Village's parks, playgrounds, and athletic fields, and Library and that the impact fees imposed by VILLAGE Ordinances are necessary to pay for the capital costs of the facilities described in this section in order to accommodate land development. This Fee shall be paid prior to the release of the BUILDING PERMIT.

T. ZONING CODE:

The DEVELOPER acknowledges that the lands to be developed are subject to the VILLAGE of Sussex Zoning Code.

U. NO AGRICULTURE USE

The DEVELOPER shall not permit any open space or undeveloped lands within an area with a Final Plat to be used for any agricultural uses as defined in Tax 18 of the Wisconsin Administrative Code.

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

The DEVELOPER shall pay and reimburse the VILLAGE promptly upon billing for all fees, expenses, costs and disbursements which shall be incurred by the VILLAGE in connection with this development or relative to the construction, installation, dedication and acceptance of the development improvements covered by this agreement, including without limitation by reason of

enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. VILLAGE employee costs shall be based on regular VILLAGE pay rates (or Engineering and administrative overtime, if applicable) plus 60% on the hourly rate for overhead and fringe benefits for any time actually spent on the project. Any costs for outside consultants shall be charged at the rate the consultant charges the VILLAGE. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be charged against the financial guarantee held by the VILLAGE pursuant to this agreement, or assessed against the development land as a special charge pursuant to §66.0627, Wis. Stats.

SECTION XVII. METHOD OF IMPROVEMENT

Developer hereby agrees to engage contractors for all work performed by the DEVELOPER under this agreement who are qualified to perform the work. Developer further agrees to use materials and make the various installations in accordance with the approved specifications and plans, which are made part of this agreement by reference, including those standard specifications as the Village Board or its Committees may have adopted and published prior to this date.

SECTION XVIII. GENERAL INDEMNITY:

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

SECTION XIX. VILLAGE RESPONSIBILITY:

A. The VILLAGE agrees to pay for the following oversizing costs, if it is determined by the VILLAGE that the oversizing is necessary. The oversizing costs shall be calculated by viewing bids for similar improvements to determine the cost differences between the stated sizes. The VILLAGE reserves the right to determine the bid amounts to be used in this calculation.

1. Cost of increasing the size of the water main from eight inches to a larger size, including the cost of larger valves.
2. Cost of increasing the size of the sewer main from eight inches to a larger size.
3. The VILLAGE agrees to allow the DEVELOPER to connect to the VILLAGE of Sussex's municipal water system and sewerage system at such time as the water system and sanitary sewer system required herein has been dedicated to and accepted by the VILLAGE of Sussex and the appropriate approvals have been granted for such service from all Federal, State, SEWRPC, and local governments and agencies.

SECTION XX. INSURANCE:

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

SECTION XXI. EXCULPATION OF VILLAGE CORPORATE AUTHORITIES:

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

SECTION XXII. GENERAL CONDITIONS AND REGULATIONS:

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

SECTION XXIII. ZONING:

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

SECTION XXIV. COMPLIANCE WITH CODES AND STATUTES:

The DEVELOPER shall comply with all current and future applicable codes of the VILLAGE, County, State and federal government and, further, DEVELOPER shall follow all current and future lawful orders of any and all duly authorized employees and/or representatives of the VILLAGE, County, State or federal government.

SECTION XXVI. PRELIMINARY PLAT, FINAL PLAT, AND REZONING CONDITIONS:

The DEVELOPER acknowledges that the SUBJECT LANDS are subject to a conditional Preliminary Plat approval and a conditional rezoning ordinance by the VILLAGE. The DEVELOPER also acknowledges that if the development is to proceed the SUBJECT LANDS will also be subject to a conditional Final Plat approval, if it is approved. The DEVELOPER further agrees that it is bound by these conditions. A copy of the conditional Preliminary Plat approval for the SUBJECT LANDS is attached hereto and incorporated herein as **EXHIBIT C**, and the conditional rezoning ordinance for the SUBJECT LANDS is attached hereto and incorporated herein as **EXHIBIT B**. At such time as the Final Plat is approved, if it is, the conditional Final Plat approval shall be attached hereto and incorporated herein as **EXHIBIT D**.

1. If there is a conflict between the conditions as forth in said conditional approvals and the Developer's Agreement, the more restrictive shall apply.

SECTION XXVII. PHASING OF DEVELOPMENT:

In that the DEVELOPER has voluntarily agreed to develop the subject land in two phases and has further agreed to submit along with the Final Plat of the first phase a phasing plan for the entire development, which shall be in substantial conformity with the phasing plan (**EXHIBIT K**) prepared and discussed by the Plan Commission for the VILLAGE of Sussex and shall be subject to review and must be specifically approved by the VILLAGE Board, Section 236.11(b), Wisconsin Statutes, which requires Final Plats to be filed within thirty-six (36) months of the date of approval of the Preliminary Plat is hereby waived by the VILLAGE provided the DEVELOPER complies with the approved phasing plan and further provided that the Final Plat of each phase complies substantially with the Preliminary Plat, as provided in Section 236.11(b), Wisconsin Statutes. Due to the compact nature of the DEVELOPMENT, and the technical requirements to properly serve the DEVELOPMENT with water, stormwater, and sewer and provide public safety access during construction the DEVELOPER shall be installing all of the public improvements as one Phase, but in compliance with Village Ordinance the final platting will be done in Phases to spread the impact on house construction across the VILLAGE. DEVELOPER acknowledges and accepts that the financial guarantees are for the entire improvements for the entire SUBJECT property and is performing construction as such as a benefit to the DEVELOPER as the most efficient way to construct the DEVELOPMENT.

SECTION XXVIII. AGREEMENT FOR BENEFIT OF PURCHASERS:

The DEVELOPER agrees that in addition to the VILLAGE'S rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any Lot or any interest in any Lot or parcel of land in the SUBJECT LANDS.

SECTION XXIX. ASSIGNMENT:

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

SECTION XXX. PARTIES BOUND:

The DEVELOPER or its assignees shall be bound by the terms of this agreement or any part herein as it applies to any phase of the development.

SECTION XXXI. HEIRS & ASSIGNS:

This agreement is binding upon the DEVELOPER, owners, their successors and assigns, and any and all future owners of the SUBJECT LANDS (the "Successors") This section allows for VILLAGE enforcement of the terms and conditions of this Agreement against all such Successors. This section does not, however, grant rights to such Successors absent VILLAGE written consent, as described in Section XXIX.

SECTION XXXII. SURVIVAL:

All agreements, representations, or warranties made herein shall survive the execution of this Agreement, performance of this Agreement, and the making of the grants hereunder. This Agreement shall be binding upon the Parties their respective heirs, personal representatives, executors, or successors and assigns.

SECTION XXXIII. OWNERSHIP OF SUBJECT LANDS.

DEVELOPER warrants and represents that, as of the date of this Agreement it has title to the Property.

SECTION XXXIV. PARAGRAPH HEADINGS.

The paragraph headings in this Agreement are inserted for convenience only and are not intended to be part of, or to affect, the meaning or interpretation of this Agreement.

SECTION XXXV. INCORPORATION OF RECITALS.

The recitals to this Agreement are hereby incorporated by reference and made a part of Agreement, and are intended to affect the meaning and/or interpretation of this Agreement.

SECTION XXXVI. COUNTERPARTS.

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.

SECTION XXXVI. ENTIRE AGREEMENT.

This Agreement constitutes the entire understanding and agreement between the parties. In the event of a conflict between this Agreement and the Village Code of Ordinances or any other enabling code, law or regulation in effect at the time of this Agreement or thereafter, the terms and conditions of the Village Code of Ordinances in effect at the time of the acceptance by DEVELOPER shall be controlling. If this Agreement is silent with respect to any specific issue, the Village Code of Ordinances and any applicable federal and state statutes shall govern.

SECTION XVII. RECORDING OF AGREEMENT.

This Agreement, or a Memorandum thereof, shall be recorded with the Register of Deeds for Waukesha County.

SECTION XVIII. AMENDMENTS:

The VILLAGE and the DEVELOPER, by mutual consent, may amend this Developer's Agreement at any meeting of the VILLAGE Board.

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

_____.

By: _____

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2016, the above named _____, Authorized Signatory of Settlement at Sussex Creek the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

VILLAGE OF SUSSEX
WAUKESHA COUNTY, WISCONSIN

VILLAGE President

VILLAGE Clerk-Treasurer

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2016, the above-named Greg Goetz, VILLAGE President, and Susan Freiheit, VILLAGE Clerk-Treasurer, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such VILLAGE President and VILLAGE Clerk-Treasurer of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority and pursuant to the authorization by the VILLAGE Board from their meeting on the _____ day of _____, 2016.

NOTARY PUBLIC, STATE OF WI

My commission expires: _____

APPROVED AS TO FORM:\

VILLAGE Attorney

EXHIBIT L
DEVELOPER'S AGREEMENT FOR
JOHANSEN FARMS
SINGLE FAMILY DEVELOPMENT

THIS AGREEMENT made this _____ day of _____, 2016, between Johanssen Farms, LLC, hereinafter called "DEVELOPER", and the VILLAGE of Sussex in the County of Waukesha and the State of Wisconsin, hereinafter called the "VILLAGE", and the TOWN of Lisbon in the County of Waukesha State of Wisconsin, hereinafter called the "TOWN".

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of land in the TOWN, said land hereinafter called "TOWN LANDS" and being described as:

OUTLOT 1 of Certified Survey Map No. _____ recorded in Book No. _____ on Pages _____ as Document No. _____, located in the Northwest Quarter (NW1/4) of Section 35, Town 8 North, Range 19 East.

WHEREAS, the DEVELOPER is the owner of land located in the VILLAGE, said land hereinafter called "VILLAGE LANDS" being described as:

Commencing at the Northwest corner of said Section 35; thence North 89° 59' 17" East, along the North line of said Northwest 1/4, 242.00 feet to the point of beginning of the hereinafter described lands; thence continuing along said North line, North 89° 59' 17" East, 1066.24 feet to a point; thence South 01° 41' 17" West, 787.64 feet to a point; thence North 89° 58' 43" West, 81.64 feet to a point; thence South 01° 41' 17" West, 484.38 feet to a point being on the Northerly right of way line of Northview Drive, a public street; thence West, along said Northerly right of way line, 811.87 feet to a point; thence North 01° 15' 00" East, 230.00 feet to a point; thence West, 89.92 feet to the Southeast corner of said Certified Survey Map; thence North 88° 45' 00" West, along the North line of said Certified Survey Map, 315.00 feet to the West line of said Northwest 1/4 and centerline of Maple Avenue, a public street; thence North 01° 15' 00" East, along said West line and centerline, 453.30 feet to the Southwest corner of Certified Survey Map No. 2588; thence South 88° 45' 00", 315.00 feet to the Southeast corner of said Certified Survey Map; thence North 01° 15' 00" East, 125.94 feet to the Northeast corner of said Certified Survey Map; thence South 89° 58' 00" West, along the North line of said Certified Survey Map, 73.08 feet to a point; thence North 01° 15' 00" East, 345.21 feet to the North line of said Northwest 1/4 and the place of beginning.

WHEREAS, the DEVELOPER desires to divide and develop the VILLAGE LANDS for residential purposes, hereinafter called "SUBDIVISION"; and

WHEREAS, the DEVELOPER desires to develop TOWN LANDS for use as part of the stormwater management of the SUBDIVISION.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

SECTION 1 – STORMWATER MANAGEMENT

1. DEVELOPER shall make improvements to the TOWN LANDS which is part of the stormwater management facilities of the SUBDIVISION. Said improvements shall be constructed in accordance with the approved construction plans prepared by TRIO Engineering and approved by Waukesha County, the VILLAGE and Strand Engineering.
2. The VILLAGE shall ~~issue all permits and~~ perform all inspections for improvements performed on TOWN LANDS. The VILLAGE shall assist with issuance of any permits, as necessary, on TOWN LANDS.
3. The DEVELOPER shall convey ownership of the TOWN LANDS free and clear to the VILLAGE, and such conveyance, in a form approved by the Village Attorney, shall be recorded simultaneously with the final plat. TOWN LANDS shall remain within the TOWN limits and shall not be annexed into the VILLAGE throughout the development of the SUBDIVISION.
4. The VILLAGE shall be responsible for any and all repairs, improvements and maintenance activities and expenses to the stormwater facilities, whether located within the VILLAGE LANDS or located within the TOWN LANDS, in perpetuity, as and to the extent described within the separately recorded Declaration of Restrictions for Johanssen Farms ("Restrictions"), and Stormwater Facilities Maintenance Agreement ("Stormwater Agreement"). ~~and the~~ The TOWN shall not be responsible for any expenses related to any costs associated with any repairs, improvements or maintenance of said stormwater facilities. The VILLAGE shall have the right to recover its costs as described in the Restrictions and Stormwater Agreement.

Comment [E1]: The Village can't issue Town permits, legally, so we need to soften that statement. The Town may also have to perform inspection pursuant to Town ordinances, but as worded it is fine to say that the Village will inspect (which may be in addition to Town inspection). Keep in mind that the County is likely to also be involved both with permitting and inspecting these stormwater facilities.

Comment [E2]: Forever is too long, I think, due to the possibility of changed circumstances.

SECTION 2 – NORTHVIEW DRIVE

1. DEVELOPER shall install a public street on the VILLAGE LANDS which shall connect to Northview Drive within the TOWN, and shall be a northern extension of Parkview Drive.
2. DEVELOPER shall issue a financial assurance Bond in the amount of Five Thousand Dollars (\$5,000.00) to cover improvements to be made to Northview Drive.
3. DEVELOPER shall provide for ~~Class III barricades signage~~ to be placed at the SUBDIVISION entrance from Northview Drive onto Parkview Drive (North side of Northview Drive) indicating that construction vehicles are prohibited. Said ~~barricades signage~~ shall remain in place until (a) 75% of the lots within the SUBDIVISION are built upon and occupancy permits are issued ~~for,~~ and (b) the final lift of asphalt pavement is in place.
4. DEVELOPER shall saw cut the existing Northview Drive pavement at full depth where the northerly connection to Parkview Drive is made. Temporary ramping shall be required along pavement edge until the final lift of asphalt is completed.

Comment [E3]: I received your comments about the barricades and 75%, and offer this suggestion for your policy consideration.

5. DEVELOPER shall install concrete curbing along the northerly extension of Parkview Drive with Ten (10) feet tapers where Parkview Drive matches the asphalt of Northview Drive.
6. DEVELOPER and VILLAGE shall require the TOWN be present when proof roll is performed on the northerly extension of Parkview Drive where Parkview Drive connects to Northview Drive.

SECTION 3 – BLASTING

1. DEVELOPER agrees to notify the TOWN and VILLAGE no later than 24 hours before any desired blasting activities on VILLAGE LANDS or TOWN LANDS is to be completed. Blasting activities shall be allowed only between the hours of 8:00 am and 6:00 pm, Monday through Friday, and excluding Federal holidays. All blasting shall be conducted fully in compliance with the VILLAGE Code.

Comment [E4]: Do you want to limit this to blasting that is conducted during the period of developing the subject lands?

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

By: _____

STATE OF WISCONSIN
 COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2016, the above named _____, Authorized Signatory of Johanssen Farms, LLC the foregoing instrument and acknowledged the same.

 NOTARY PUBLIC, STATE OF WI
 My commission expires: _____

VILLAGE OF SUSSEX
 WAUKESHA COUNTY, WISCONSIN

VILLAGE President

VILLAGE Clerk-Treasurer

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this ____ day of _____, 2016, the above-named Greg Goetz, VILLAGE President, and Susan Freiheit, VILLAGE Clerk-Treasurer, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such VILLAGE President and VILLAGE Clerk-Treasurer of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority and pursuant to the authorization by the VILLAGE Board from their meeting on the ____ day of _____, 2016.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

APPROVED AS TO FORM:

VILLAGE Attorney

TOWN OF LISBON
WAUKESHA COUNTY, WISCONSIN

TOWN Chairman

TOWN Clerk - Administrator

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this ____ day of _____, 2016, the above-named Joseph Osterman , Town Chairman, and Matthew Janecke, Town Clerk-Administrator, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such TOWN Chairman and TOWN Clerk-Administrator of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority and pursuant to the authorization by the TOWN Board from their meeting on the ____ day of _____, 2016.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

APPROVED AS TO FORM:

TOWN Attorney