

A quorum of the Administration Committee, Board of Public Works, Park Board, and/or Common Council may attend this meeting; (Although it is not expected than any official action of any of those bodies will be taken).

**CITY OF MENASHA
REDEVELOPMENT AUTHORITY
Council Chambers, 3rd Floor, City Hall
140 Main Street, Menasha**

November 7, 2011

5:00 PM

AGENDA

A. CALL TO ORDER

B. ROLL CALL/EXCUSED ABSENCES

C. MINUTES TO APPROVE

1. [Minutes of the October 24, 2011 Redevelopment Authority Meeting](#)

D. PUBLIC COMMENTS ON ANY MATTER OF CONCERN ON THIS AGENDA

(five (5) minute time limit for each person)

E. COMMUNICATION

1. [Development Agreement Between the City of Menasha and Ponds of Menasha , LLC](#)
2. [Development Agreement Between the City of Menasha and Cypress Homes and Realty, Inc.](#)

F. DISCUSSION

1. Update on Land Transactions – City/RDA/Developers
2. Marketing Strategy for Lake Park Villas

G. ACTION ITEMS

1. None

H. ADJOURNMENT

CITY OF MENASHA
Redevelopment Authority
Council Chambers, City Hall – 140 Main Street
October 24, 2011
DRAFT MINUTES

A. CALL TO ORDER

The meeting was called to order at 5:00 p.m. by Chairman Kim Vanderhyden.

B. ROLL CALL/EXCUSED ABSENCES

REDEVELOPMENT AUTHORITY MEMBERS PRESENT: Ald. Jim Englebert, Kim Vanderhyden
Kip Golden, and Bob Stevens

REDEVELOPMENT AUTHORITY MEMBERS EXCUSED: Linda Kennedy

OTHERS PRESENT: Dave Wuestenberg, Mayor Merkes, CDD Keil, CAHRD Captain, CT Stoffel,
and Mike King

C. MINTUES TO APPROVE

1. **Minutes of the October 17, 2011 Redevelopment Authority Meeting**

Motion by Ald. Jim Englebert, seconded by Kip Golden to approve the October 17, 2011
Redevelopment Authority meeting minutes.

The motion carried.

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

(five (5) minute time limit for each person)

1. No one spoke.

E. DISCUSSION

1. None

F. ACTION ITEMS

1. **Development Agreement between the City of Menasha and Redevelopment Authority**

CAHRD Pamela Captain reviewed the substantive terms of the development agreement.
Commissioners discussed:

- The terms of the promissory note and repayment schedule.
- Application of the land sale proceeds and TIF increment to repayment of the note.
- Prospects for revenue shortfalls and possible need to adjust the repayment schedule.
- Responsibilities of the RDA with respect to land sale transactions and implementing the development agreements with the Ponds of Menasha and Cypress Homes and Realty
- RDA responsibilities with respect to the existing Lake Park Villas Phase II Homeowners Association
- The need to develop a real estate marketing strategy
- RDA budget and future revenues/expenditures

Motion by Ald. Jim Englebert, seconded by Bob Stevens to approve the Development Agreement between the City of Menasha and the Redevelopment Authority of the City of Menasha. The motion carried.

2. **Set Next Meeting Date**

The consensus was to set the next meeting date for Monday, November 7, 2011 at 5:00 p.m.

The motion carried.

G. ADJOURNMENT

Motion by Bob Stevens, seconded by Kim Vanderhyden to adjourn at 5:57 p.m.

The motion carried.

Minutes respectfully submitted by Greg Keil, Community Development Director.

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN,

AND

THE PONDS OF MENASHA, LLC

DATED AS OF SEPTEMBER 7, 2011

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the 7th day of September, 2011, by and between the CITY OF MENASHA, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "CITY"), and The Ponds of Menasha, LLC, a Wisconsin limited liability company with its principal offices located at 1300 N. Kimps Ct., Green Bay, Wisconsin 54313 (hereinafter "DEVELOPER").

RECITALS

The Project to be undertaken by the DEVELOPER, as described herein, is of particular importance to the CITY and provides special benefits to the CITY because it promotes the physical and economic development of the CITY, increases the range of choice in the CITY's housing stock, accelerates sales of CITY-owned property, provides a means of paying the CITY's debt associated with land acquisition and improvements of the CITY-owned development known as Lake Park Villas.

ARTICLE I

SECTION 1.01 PURPOSE OF AGREEMENT. The parties hereto are entering into this Development AGREEMENT for the preparation and construction of a residential development within Lake Park Villas Project Area and City of Menasha Tax Incremental District Number 12 (TID #12). The parties have worked cooperatively regarding initial planning, financing and feasibility of such a development. Further, the parties have reached an understanding regarding participation in the future development and intend to enter into this Development AGREEMENT to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed.

SECTION 1.02 CERTAIN DEFINITIONS. As used in this AGREEMENT, the following terms shall have the meanings indicated:

"ACCUMULATED TAX INCREMENT" – The total of all financial incentive earned by DEVELOPER in accordance with Section 4.02.

"ACTUAL ASSESSED VALUE" – The value also known as "AAV" is defined as the actual assessed value of land and/or buildings on the real estate tax bill for a particular parcel.

"AVAILABLE TAX INCREMENT" – The amount of tax increment (as defined in Sec. 66.1105, Wis. Stats.) generated solely by the Development Property and Development Improvements as of January 1 of each calendar year.

"COMPLETED PROPERTIES"- Single-family residential units or multi-family structures that are completed such that an Occupancy Permit has been issued by the City.

"CONCEPT PLAN" – The conceptual plan, estimated schedule and value estimates for the contemplated development of the Development Property. It is attached as **EXHIBIT A**.

"DEVELOPMENT" – The Development Improvements and Infrastructure that constitute

the planned development project that is the subject of this AGREEMENT.

“DEVELOPMENT IMPROVEMENTS” - Means structures, buildings and accoutrements constructed by DEVELOPER in compliance with Implementation Plans comprised of the following:

- PHASE I – A single family residential development within Lot 1 of the CONCEPT PLAN comprised of not less than 74 units at a density not less than three units per acre with an estimated improved value of \$11,900,000.
- PHASE II – A single family residential development within Lot 4 comprised of not less than 29 units (in total) at a density not less than three units per acre with an estimated improved value of \$4,800,000.
- PHASE III– A single-family residential development within Lot 2 of the CONCEPT PLAN comprised of not less than 20 units (in total) at a density not less than three units per acre with an estimated improved value of \$3,200,000.
- PHASE IV- A multi-family residential development within Lot 16 (**EXHIBIT C**) comprised of not less than 54 units with an estimated improved value of \$2.7million (54 units @ \$54,000 estimate = \$2.7 million).

“LOT 1” – An area consisting of 24.557 acres located in the NW ¼ of the NE ¼ of Section 17, T20N, R17E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as **EXHIBIT E**, Certified Survey Map No. 3277.

“LOT 2” – An area consisting of 5.2062 acres located in the NW ¼ of the NE ¼ of Section 17, T20N, R17E and proposed CITY of Menasha Tax Incremental Financing District #12 attached as **EXHIBIT F**, Certified Survey Map No. 3275

“LOT 4” – An area consisting of 11.4544 acres located in the NW ¼ of the NE ¼ of Section 17, T20N, R17E and proposed CITY of Menasha Tax Incremental Financing District #12 attached as **EXHIBIT G**, Certified Survey Map No. 3276.

“LOT 16” - An area consisting of approximately 3 acres, described as Lot 16 Lake Park Villas Plat and located in the proposed City of Menasha Tax Incremental Financing District # 12 attached as **EXHIBIT C**.

“DEVELOPMENT PROPERTY” - consists of Lot 1, Lot 2, Lot 4, and lot 16 all as set forth in Phases I, II, III and IV.

“DEVELOPMENT COSTS” — The hard and soft costs enumerated in the development budget set forth in **EXHIBIT B**.

“INFRASTRUCTURE” – Public and Private Infrastructure.

“IMPLEMENTATION PLAN” – Detailed plans, drawings, specifications and other information as required for the site plan review under CITY Ordinances regarding the construction of Private Infrastructure, Infrastructure and Development Improvements. A specific Implementation Plan must be submitted to and approved by the CITY prior to

construction as provided by CITY Ordinance. Each specific Implementation Plan shall be attached to this AGREEMENT as an exhibit upon approval by the CITY.

“PERFORMANCE INCENTIVE” – Annual payments of the Available Tax Increment, commencing in 2014 (based upon actual assessed value as of January 1, 2013) through 2031 or earlier through the date of payment in full to the DEVELOPER. Performance Incentive shall be payable to DEVELOPER as provided in this AGREEMENT.

“PUBLIC IMPROVEMENTS” – The road improvements including final roadway street base course and four inch asphalt pavement, concrete curb and gutter, concrete sidewalks as well as sanitary sewer, water mains, storm water drainage, drainage ponds, and other public facilities normally provided by or required by local governments fronting the Development Property whether in place or to be constructed or upgraded in conjunction with the development contemplated in the Concept Plan, including storm water management ponds, but specifically excluding Infrastructure. Public Improvements shall also include payment of roadway improvements to the lot line of Phase I and Phase III as depicted in the attached **EXHIBIT D**.

“PUBLIC INFRASTRUCTURE” – Consists of those Public Improvements that will be the responsibility of the DEVELOPER and shall include sanitary sewer service, storm sewer, water mains, and two (2) inch binder temporary asphalt paving, street lighting, that have been constructed by DEVELOPER and dedicated to the CITY under this AGREEMENT.

“PRIVATE INFRASTRUCTURE” – Site grading in accordance with an approved grading and drainage plan, sanitary sewer laterals, potable water laterals and other facilities owned, constructed and maintained by DEVELOPER to service the Development Improvements from the Public Improvements or Private Infrastructure.

“TID # 12” means CITY of Menasha Tax Incremental District Number 12 and project plan created by CITY.

ARTICLE II

OVERVIEW OF THE PROJECT

SECTION 2.01 The Project consists of residential development to take place in four phases resulting in the creation of not less than 120 single family residential units and 54 multi-family units. The construction of at least ten (10) homes within Phase I is to begin by December 1, 2011 with an expected completion date of December 31, 2012. Projected completion dates are January 1, 2017 for Phase I, January 1, 2021 for Phase II and Phase III. For Phase IV, the projected completion date shall be thirty-six (36) months after the DEVELOPER acquires the Property. Upon completion, the entire project is expected to have a value of \$23 million including Development Phase IV.

ARTICLE III

DEVELOPER OBLIGATIONS

SECTION 3.01 Acquisitions of Development Areas. Upon completion of the pre-closing conditions but in no case later than July 31, 2011, DEVELOPER shall acquire fee simple title to Lot 1, Lot 2 and Lot 4 (for Phases I, II and III). Upon the City securing the purchase of Lot 16

(for Phase IV) in accordance with Section 5.02.2 and before December 31, 2012, DEVELOPER shall acquire fee simple title to Lot 16 for Phase IV.

SECTION 3.01.1 CITY shall transfer Lot 1, Lot 2 and Lot 4 for Phase I, Phase II and Phase III to DEVELOPER by warranty deed for \$17,000 per acre subject to the terms and conditions of this AGREEMENT and a separate Real Estate Purchase AGREEMENT to be executed by the parties. The Real Estate Purchase AGREEMENT shall provide that DEVELOPER shall pay \$27,200 down at date of closing and shall execute a Promissory Note in favor of CITY in the amount of the balance of the Purchase Price. The terms of the Note shall be zero percent (0%) interest until paid in full, except that in the event DEVELOPER fails to pay in full before January 1, 2020, then interest shall be paid at five percent (5%) per annum of the remaining balance assessed from the date of closing. DEVELOPER shall be required to make a payment of \$5,700 to CITY toward the outstanding balance of the Promissory Note for each Lot sold or transferred by DEVELOPER prior to or at the time of each closing using first proceeds for said payment. As security for said Promissory Note, the DEVELOPER shall give CITY a first mortgage position on Lot 2 and Lot 4 which CITY shall subordinate upon Phase I Development Improvements being completed and a second mortgage position on Lot 1, second to the first mortgage position of the commercial lending institution approved by DEVELOPER in the approximate amount of \$2,000,000 representing monies necessary for DEVELOPER's Public and Private Infrastructure obligations herein for Phase I, Phase II and Phase III. Closing shall take place on or before October 18, 2011. Real estate shall be defined as Lot 1 (for Phase I), Lot 2 (for Phase II), Lot 4 (for Phase III) estimated to be 41.2176 acres of land (Purchase Price estimated to be \$700,699.20 (\$17,000 x 41.2176)). CITY shall be responsible for any and all transfer taxes as well as preparation of any and all Certified Survey Maps. CITY shall further be responsible for obtaining the separate legal descriptions, one description for each respective Lot within each Phase. Certified Survey Map and legal description shall be provided to DEVELOPER by CITY, at CITY's sole expense, at least thirty (30) days prior to closing. The AGREEMENT of sale shall also provide that the CITY shall update all wetland studies for the Real Estate and provide a copy of said wetland studies to DEVELOPER at least fifteen (15) days prior to closing. The AGREEMENT shall further provide that the AGREEMENT is contingent upon the CSM mappings allowing for the development of one hundred twenty-four (124) or more residential real estate lots, as approved by DEVELOPER, within the real estate areas for Development Phase I and Development Phases II and III.

SECTION 3.01.2 Title Insurance. The CITY shall obtain and pay for a title insurance commitment in the amount of the purchase price. A commitment by the title company agreeing to issue a title policy upon the recording of proper documents as agreed herein shall be deemed sufficient performance. DEVELOPER may obtain additional title insurance at its cost. The CITY shall provide to DEVELOPER a preliminary commitment for title insurance not less than fifteen (15) days prior to the closing.

SECTION 3.01.3 Title. The CITY shall cooperate with DEVELOPER to clear up any defect in title that may be pertaining to the property; provided, however, the Real Estate shall be conveyed subject to (1) reasonable and customary easements and restrictions of record; (2) a reversion of title in accordance with this AGREEMENT; (3) requisite public and private utility easements; and (4) all other terms and

conditions of this AGREEMENT.

SECTION 3.01.4 Closing Date. The closing date for the transfer of the Real Estate shall be on or before October 18, 2011 for Lot 1, Lot 2, and Lot 4 (for Phase I, Phase II and Phase III) and shall be held at the office of the City Attorney, City Hall, 140 Main Street, Menasha, Wisconsin or where the parties may otherwise agree. The closing date for Lot 16 (for Phase IV) shall be on or before December 31, 2012.

SECTION 3.01.5 The Real Estate shall be conveyed "as is." The CITY is not responsible for any subsequent remediation, demolition, underground debris, or other clean up costs after conveyance.

SECTION 3.01.6 Listing Contract. CITY had previously engaged a broker for listing Lot 1, Lot 2 and Lot 4 (for Phase I, II and III) and the CITY may owe a brokerage fee to said listing broker as a result of the sale of real estate contemplated herein. Said CITY shall be responsible for the payment of any brokerage fees associated with the sale of the real estate.

SECTION 3.02 DEVELOPER's Covenant to Develop. DEVELOPER agrees and covenants to use its best efforts to proceed with due diligence to complete the Development substantially in accordance with the Concept Plan and Implementation Plans which plans and specifications shall be subject to such reasonable review and approval by the CITY as may be normal, customary or required in order to proceed with the Development in accordance with all applicable rules, codes, regulations, ordinances and laws. The DEVELOPER shall cause IMPROVEMENTS to the DEVELOPMENT AREAS to create a value of not less than \$21 million for Phase I, II and III. The cost for such improvements shall include Development hard and soft costs, site clearance and preparation and costs associated with the construction of single family and multi-family housing units. DEVELOPER shall be required to complete construction of Phase I of the Development by January 1, 2017. DEVELOPER shall be required to complete construction of Phase II and Phase III of the Development by January 1, 2022. DEVELOPER shall be required to complete construction of Phase IV within thirty-six (36) months after acquisition of Lot 16 by DEVELOPER. DEVELOPER agrees not to create a condominium unless or until Cypress Homes Inc. has sold all condominium units constructed in accordance with its development agreement with the City.

SECTION 3.03 Compliance with Codes, Plans and Specifications. DEVELOPER, at its own expense, shall obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the Development. The building and other improvements to be constructed upon the Property, the construction thereof, and their uses shall be in compliance with all applicable codes and ordinances of the CITY, and with all pertinent provisions of this AGREEMENT, the Project Plan and the Plans and Specifications.

SECTION 3.04 Taxes. It is understood that the land, improvements and personal property resulting from the Development shall be subject to property taxes. DEVELOPER shall pay when due all federal, state and local taxes in connection with the Project and all operating expenses in connection with the Real Estate and Development.

SECTION 3.05 Reversion of Undeveloped Portion of Development Property. Notwithstanding the foregoing, in the event that the DEVELOPER does not construct Phase 1 on or before January 1, 2017 or the Actual Assessed Value does not reach \$8.925 million by January 1, 2017, the CITY may, at its discretion demand the reversion of any property in the Development Areas that have not been improved by Development Improvements contemplated by the Concept Plan. Upon receipt of such demand, the DEVELOPER shall deliver by warranty deed the property identified by the CITY free and clear of any encumbrances within 60 days of the demand. The purchase price of the property so conveyed shall be \$17,000 per acre. In the event that the DEVELOPER fails to timely deliver the property, the CITY may commence an action to enforce this provision without further cure.

SECTION 3.06 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development and shall be completed upon substantial completion of the Development. The Public Infrastructure shall be funded solely by the DEVELOPER. Public Improvements designed and constructed by the CITY such as sidewalks, curb and gutter and final street paving will be constructed at City's sole cost and expense and will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER, but, as pertaining to Development Phase I, not before at least eighty percent (80%) of the Development Improvements within Development Phase I have been constructed as COMPLETED PROPERTIES or January 1, 2018, whichever occurs first and as pertaining to Development Phase II and III, not before at least eighty percent (80%) of the Development Improvements have been constructed as COMPLETED PROPERTIES or January 1, 2022, whichever occurs first. DEVELOPER agrees to provide notice to each subsequent owner/purchaser of any real estate in Phase I, II and III of the expected curb and gutter and final paving special assessment through a covenant recorded with the Calumet County register of deeds office.

SECTION 3.07 Private Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Private Infrastructure in accordance with approved IMPLEMENTATION PLAN.

SECTION 3.08 Easements. DEVELOPER shall grant the CITY or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other need necessary to effectuate the Development in accordance with approved plans at no cost to the CITY.

SECTION 3.09 Record Retention. DEVELOPER understands and acknowledges that the CITY is subject to Public Records Law of the State of Wisconsin. As such, DEVELOPER agrees to retain all records as defined by Wisconsin Statute §19.35(2) applicable to this AGREEMENT for a period of not less than seven (7) years. DEVELOPER agrees to assist the CITY in complying with any public records request that they receive pertaining to this AGREEMENT. DEVELOPER agrees to indemnify and hold the CITY, their officers, employees and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from DEVELOPER's actions or omissions which contribute to the Indemnified Party's inability to comply with the Public Records Law. In the event DEVELOPER decides not to retain its records for a period of seven (7) years, then it shall provide written notice to the CITY whereupon the CITY shall take custody of said records assuming such records are not already maintained by the CITY. This provision shall survive termination of this AGREEMENT.

SECTION 3.10 Prevailing Wages. DEVELOPER shall pay all applicable prevailing wages as required by Wisconsin law.

ARTICLE IV

CITY OBLIGATIONS

SECTION 4.01 The CITY shall be responsible for the installation of Public Improvements including sidewalk, curb and gutter and final street paving, which will not be constructed earlier than one (1) winter season following substantial completion of the development project. The CITY will assess each property/lot owner the cost and expenses associated with these public improvements in accordance with CITY ordinances and state statutes, but, as pertaining to Development Phase I, not until at least eighty percent (80%) of the Development Improvements within Development Phase I have been constructed or January 1, 2018, whichever occurs first and as pertaining to Development Phase II and III, not until at least eighty percent (80%) of the Development Improvements have been constructed or January 1, 2022, whichever occurs first. **Notwithstanding the foregoing, with respect to the roadway improvement and construction as required at Exhibit D, DEVELOPER shall pay for the construction of said roadways and shall be reimbursed for all reasonable construction costs for said roadways by CITY within thirty (30) days of presenting the invoices for said construction to CITY provided Note to CITY is paid in full. Otherwise, CITY to reimburse costs to DEVELOPER as payments from Lot sales are received by CITY in accordance with SECTION 3.01.1. CITY to reimburse DEVELOPER within five days of receipt of said payments.**

SECTION 4.02 Provision of Tax Increment Financial Incentive. In order to induce DEVELOPER to undertake the DEVELOPMENT within TID #12, the DEVELOPER has requested and the CITY may be required to make available financial incentive to the DEVELOPER in a total amount not to exceed \$4 million, for the purpose of implementing the TID #12 Project Plan and this AGREEMENT (the "CITY Contribution"). The CITY Contribution is made pursuant to Sections 66.1105(2)(f)1 of the Wisconsin Statutes, and shall be made available in the amount as follows:

SECTION 4.02.1 DEVELOPER agrees to advance funds for project costs, which the CITY shall reimburse through financial incentive under the terms of this AGREEMENT, with funds to be made available upon verification of the Tax Increment / Actual Assessed Value increase as defined herein.

SECTION 4.02.2 CALCULATION OF FINANCIAL INCENTIVE

- PHASE I

- 16% of the Actual Assessed Value (AAV) will be paid to the DEVELOPER for Completed Properties valued at \$170,000 or less.
- 18% of the Actual Assessed Value (AAV) will be paid to the DEVELOPER for Completed Properties valued between \$170,000 and \$180,000.
- 19% of the Actual Assessed Value (AAV) will be paid to the DEVELOPER for Completed Properties valued greater than \$180,000.

SECTION 4.02.3

- PHASE II and Phase III

- 17% of the Actual Assessed Value (AAV) will be paid to the DEVELOPER for Completed Properties valued at \$160,000 or less.
- 18% of the Actual Assessed Value (AAV) will be paid to the DEVELOPER for Completed Properties valued between \$160,000 and \$170,000.
- 19% of the Actual Assessed Value (AAV) will be paid to the DEVELOPER for Completed Properties valued greater than 170,000.

SECTION 4.02.4

- PHASE IV

- 10% of the Actual Assessed Value (AAV) will be paid to the DEVELOPER for Completed Properties.

SECTION 4.02.5 A total amount not to exceed \$4 million of AVAILABLE TAX INCREMENT may be distributed to the DEVELOPER according to the schedule set forth herein when and only when the threshold value of the Development Improvements reaches \$2.5 million. The threshold value will be the Actual Assessed Value of the project on January 1, 2013.

PAYMENT OF FINANCIAL INCENTIVE TO DEVELOPER

- For four years, beginning in 2014, or earlier commencing 2013 per Exhibit H if Thresholds are met, 25% of the Available Tax Increment attributable to the Development Improvements will be distributed to the

DEVELOPER payable on or before September 1 of each of the four years.

- Beginning in 2018 (based upon 2017 AAV and each year thereafter based upon the prior year AAV) or earlier commencing 2017 per Exhibit H if thresholds are met, until termination of the City contribution, 80% of the Available Tax Increment attributable to the Development Improvements will be distributed to the DEVELOPER payable on or before September 1 of each year.
- Escrow of 2013 Available Tax Increment. City shall escrow 25 % of any Available Tax Increment in 2013 (from 1/1/12 Assessment, paid in 2013) due to Development Improvements made on or before December 31, 2011. Said Escrow shall be distributed to DEVELOPER upon Developer attaining the AAV threshold no later than September 1, 2014 and shall be credited against the DEVELOPERS ACCUMULATED TAX INCREMENT.

SECTION 4.02.6 CONDITIONS TO PAYMENT OF CITY CONTRIBUTION/SHORTFALL PROTECTION. If DEVELOPER has not attained a threshold AAV value of \$2.5 million on January 1, 2013, the CITY may delay the commencement of payment of the Performance Incentive until the year following the attainment of a threshold AAV of \$2.5 million, said AAV being measured as of January 1 of any particular year.

SECTION 4.02.7 If on or before January 1, 2017, the DEVELOPER has not completed Phase I, the DEVELOPER shall be required to pay in full, monies owed to the CITY for the purchase of Lot 2 and Lot 4 (Phase II and Phase III).

SECTION 4.02.8 No City contribution to DEVELOPER provided for in this AGREEMENT shall be paid or deemed due and owing to DEVELOPER for any year in which any property tax pertaining to any portion of the Development Property which is under the ownership of the DEVELOPER, is not timely paid. In the event of any delinquency the CITY may give the DEVELOPER 30 days to cure. If the DEVELOPER fails to cure, the City contribution shall be withheld in that year. Nothing in this AGREEMENT shall in any way affect the City's right to enforce collection of property taxes in the manner provided by law.

SECTION 4.02.9 EXAMPLE OF FINANCIAL INCENTIVE. See Attached **EXHIBIT H**.

SECTION 4.03 CERTIFICATION OF COMPLETION. Upon completion and review of the improvements of each phase by the CITY, the CITY shall provide the DEVELOPER with an appropriate recordable instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans for each said phase and any amendment or modifications thereto.

SECTION 4.04 CITY PERFORMANCE SUBJECT TO REQUIRED GOVERNMENT APPROVALS. The DEVELOPER acknowledges that various of the specific undertakings of the CITY described in this AGREEMENT require approvals from the City's Common Council and/or Planning Commission as well as from governmental bodies external to the CITY, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City's obligations are conditioned upon the obtaining of all such approvals in the

manner required by law. The CITY cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain such approvals on a timely basis. DEVELOPER shall receive a reasonable extension on all time requirement deadlines set forth within this AGREEMENT due to approval delays by CITY.

SECTION 4.05 CITY REMOVAL OF SILOS. As and for additional consideration to DEVELOPER with respect to this AGREEMENT, CITY agrees that within one (1) year from the date of signing this AGREEMENT, CITY shall arrange for the removal of the two (2) silos within parcel Outlot 6 which lies adjacent to Lot 2 and Lot 4 (Phase II and III) ("Silo Parcel").

ARTICLE V

CONDITIONS PRECEDENT TO CLOSING

SECTION 5.01 Purpose. The parties acknowledge that the Development will require substantial financial resources. While each party is willing and prepared to perform its obligations hereunder, the parties recognize that each must begin its performance under this AGREEMENT and continue it up to the point of Closing without absolute assurance that the other will be able to raise and commit all the funds necessary for Closing.

SECTION 5.02 Conditions to DEVELOPER's Obligation to Close. DEVELOPER's obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

SECTION 5.02.1 The CITY, at its expense, causing Lot 1, Lot 2 and Lot 4 (for Phase I, II and III) to be split from Lot 2 of the Lake Park Villas subdivision and that part, if any, of Parcel #7-01722-00 comprising the Development Area via Certified Survey Map.

SECTION 5.02.2 As it relates to Phase IV, DEVELOPER is not required to DEVELOP Phase IV unless and until CITY arranges for DEVELOPER to acquire Lot 16 for not more than \$165,000. The parties acknowledge that CITY is not required to litigate in order to arrange for DEVELOPER to acquire Lot 16.

SECTION 5.02.3 Creation of a Mixed Use Tax Incremental Financing District – Proposed TID#12 for twenty (20) years in duration. The TID#12 further shall provide that if the CITY elects to close the TID prior to full payment of the Performance Incentive to DEVELOPER, the DEVELOPER shall continue to be paid all due and owing Performance Incentives in full in accordance with this Agreement.

SECTION 5.03 Pre-Closing Undertakings of the DEVELOPER. Prior to Closing, the DEVELOPER agrees that it shall:

SECTION 5.03.1 Financing Commitment. DEVELOPER shall obtain and provide to the CITY: (1) a written financial commitment from a conventional lender for Public and Private Infrastructure of Phase I of not less than \$950,000 (2) written construction contract to construct and finance the Development, (3) other written proof of financial resources to construct the Development, or (4) any combination thereof. Said documents shall be acceptable in all respects to the CITY, in the sole and absolute discretion of the CITY Comptroller or other agent for the CITY. DEVELOPER shall have closed the loan, which is the subject of

the financing commitment and in connection therewith, DEVELOPER shall have provided copies of the documents to be executed in connection with the construction loan to the CITY Comptroller. DEVELOPER shall provide to the CITY copies of all appraisals and market studies prepared in connection with the financial commitment.

SECTION 5.03.2 Prepare conceptual lot layouts and restrictive covenants for the Development which are acceptable to the CITY and DEVELOPER.

SECTION 5.03.3 Financial Statements. Within five (5) business days of the execution of this Agreement, DEVELOPER, Lexington Homes and Jeffrey Marlow shall have provided to the City Comptroller, audited financial statements (if available, and if audited financial statements are not available, financial statements in a form reasonably acceptable to the City Comptroller) for fiscal years 2009 and 2010 plus three years complete tax returns, including all schedules. The financial statements must show a financial condition acceptable to the CITY, in the judgment of the CITY Comptroller.

SECTION 5.03.4 DEVELOPER shall at its expense have obtained all necessary approvals and permits necessary to undertake the Development, including but not limited to, site plan review, zoning approvals, and any other local, state or federal approvals or permits.

SECTION 5.03.5 Within 120 days of the execution of this AGREEMENT, DEVELOPER will, at its own cost and expense, prepare and file with the appropriate City offices, a Preliminary Plat pursuant to Sec. 14-1-4 of the City of Menasha Code of Ordinances.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 6.01 DEVELOPER represents and warrants to and covenants with the CITY and the CITY represents and warrants to and covenants with DEVELOPER as respectively follows:

SECTION 6.02.1 Each of the parties will use its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this AGREEMENT.

SECTION 6.01.2 Each party shall give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in this AGREEMENT.

SECTION 6.01.3 DEVELOPER shall not engage in any practice, take any action, or enter into any transaction outside the Ordinary Course of Business and shall at its own cost and expense, maintain and preserve its business in accordance with prudent business practices.

SECTION 6.01.4 DEVELOPER will permit representatives of CITY (including legal counsel, accountants, inspectors and consultants) to have full access at all reasonable

times, and in a manner so as not to interfere with the normal business operations of DEVELOPER, to all premises, properties, personnel, books, records (including tax records), contracts, and documents of or pertaining to DEVELOPER's business.

SECTION 6.01.5 CITY represents and warrants it is a municipality, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.01.6 DEVELOPER represents and warrants it is a corporation, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.01.7 CITY and DEVELOPER have full power and authority to execute and deliver this AGREEMENT and to perform their obligations hereunder.

SECTION 6.01.8 The execution and delivery of this AGREEMENT, the consummation of the transactions contemplated in this AGREEMENT, and the execution and delivery of the documents required to be executed, delivered or acknowledged by DEVELOPER at the closing will not violate any provision of DEVELOPER's articles or bylaws or any applicable statute, rule, regulation, judgment, order or decree of the state of Wisconsin or a court having jurisdiction over DEVELOPER or its properties.

SECTION 6.01.9 DEVELOPER represents and warrants it has timely filed all tax returns required by law, all tax returns of DEVELOPER are true and correct in all material respects, DEVELOPER has paid all taxes due, except those, if any, currently being contested by it in good faith.

SECTION 6.01.10 DEVELOPER represents and warrants there is no action, suit, proceeding, claim, arbitration against DEVELOPER, its activities or assets before any court or governmental agency except as disclosed in writing to CITY.

SECTION 6.01.11 DEVELOPER represents and warrants its balance sheets and statements of income provided for review hereunder are true, correct and complete, and fairly represent the financial condition of DEVELOPER at the date or dates therein indicated and the results of operations for the period or periods therein specified and that there has not been any Material Adverse Change since the Balance Sheet Date.

SECTION 6.01.12 The Representations and Warranties set forth herein shall be true and correct in all material respects at and as of the Closing Date.

SECTION 6.01.13 DEVELOPER shall have a continuing obligation to immediately report to the CITY Comptroller any material adverse changes in its financial condition to the CITY from the Date of Closing through completion of construction.

ARTICLE VII

POST-CLOSING OBLIGATIONS OF DEVELOPER

SECTION 7.01 DEVELOPER will, at its expense, cause the Development Area to be platted.

SECTION 7.02 Public Infrastructure. DEVELOPER shall in connection with and during

the construction of the Development Area undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Phase I and shall be completed upon substantial completion of said Phase I. The Public Infrastructure shall be funded solely by the DEVELOPER. DEVELOPER agrees to provide either an Irrevocable Letter of Credit in favor of CITY or an escrow or other restricted account to be maintained, acceptable to the CITY, in an amount sufficient to cover all expenses associated with the construction of public infrastructure. DEVELOPER shall be responsible to ensure that Contractors installing such infrastructure comply with and pay prevailing wage rates as set forth by the Wisconsin Department of Workforce Development.

SECTION 7.03 DEVELOPER pledges that it shall complete the construction of the Public Infrastructure shown on Exhibit A / Phase I on or before December 31, 2018. In the event the public infrastructure has not been completed by that date, the parties may either agree to an extension, or the CITY may complete the public infrastructure and assess the costs of the public infrastructure against those portions of the Development Area that are benefitted.

SECTION 7.04 Dedication of Public Infrastructure. The DEVELOPER shall dedicate the Public Infrastructure to the CITY without cost to the CITY under the following terms. The CITY shall accept dedication of Public Infrastructure upon (a) receipt of As-Built Drawings, and (b) inspection and satisfaction of CITY staff that the Public Infrastructure was constructed in accordance with the as-built drawings; and (c) DEVELOPER's contractors execute a guarantee, in the form normally required by the CITY for similar work, guaranteeing the workmanship, adequacy and fitness for purpose of the Public Infrastructure for at least one (1) year after conveyance to the CITY. After the conveyance of the Public Infrastructure, the City shall be responsible for all future costs associated with said Public Infrastructure other than for warranty claims within said one year period.

SECTION 7.05 Maintenance of Private Infrastructure. The DEVELOPER shall be responsible for the cost of maintenance of the Private Infrastructure and Development Improvements.

SECTION 7.06 Failure to Dedicate Public Infrastructure. If the DEVELOPER does not timely dedicate the Public Infrastructure or the Public Infrastructure is not accepted by the CITY, the CITY shall give the DEVELOPER 30 days written notice to cure. Upon failure to cure the CITY may enter the Development Property and repair or reconstruct the Public Infrastructure to the CITY's satisfaction and assess the cost of the repair or reconstruction against benefitted properties or bring an action for specific performance or to otherwise compel compliance with this AGREEMENT.

SECTION 7.07 Except as may be mutually agreed by the CITY and DEVELOPER, the DEVELOPER will participate in FVHB Parade of Home events.

SECTION 7.08 DEVELOPER will initiate construction of at least ten (10) homes no later than December 1, 2011 in Phase I with an expected completion date of December 31, 2012. Projected completion dates are estimated to be January 1, 2017 for Phase I and January 1, 2022 for Phase II and III.

SECTION 7.09 Standards of Construction. DEVELOPER shall see to it that all infrastructure and improvements are constructed in a good and workmanlike manner and consistent with prevailing industry standards for high quality construction in the area of the

CITY. DEVELOPER shall perform all work in compliance with applicable laws, regulations, ordinances and permits and DEVELOPER shall at its own cost and expense obtain all necessary permits and licenses for such development.

SECTION 7.10 If the DEVELOPER has not completed improvements on at least 75 % of the lots in Phase I by January 1, 2017, the CITY shall have the option to repurchase Lot 2 and/or Lot 4 (Phase II and Phase III) for an amount of \$17,000 per acre.

ARTICLE VIII

BUDGET AND BUDGET RECONCILITATION; FINANCIAL REPORTS

SECTION 8.01 Attached hereto as **EXHIBIT B** is the DEVELOPER's budget for the Development. The DEVELOPER agrees to maintain records such that its actual expenditures for the Development may be ascertained and reconciled against such budget. From time to time upon reasonable notice from the CITY, authorized representatives of the CITY, including the CITY Comptroller, shall be entitled to examine such records at the DEVELOPER's offices to verify construction costs during and after construction.

ARTICLE IX

ASSIGNMENT

SECTION 9.01 The rights, duties and obligations of the DEVELOPER hereunder may not be assigned by DEVELOPER without the written consent of the CITY to the assignment, which consent shall not be unreasonably withheld. Any assignee or purchaser or transferee of any portion of the Real Estate shall be bound by the terms and conditions of this AGREEMENT, which shall run with the land and be binding upon all such assignees, purchasers and transferees. Written evidence satisfactory to the CITY that such assignee or entity has agreed in writing to be bound by the terms of this AGREEMENT must be provided to the CITY. Any such sale, transfer or conveyance of any portions of the Real Estate shall not relieve the DEVELOPER of its obligations hereunder.

ARTICLE X

INDEMNITY

SECTION 10.01 DEVELOPER shall indemnify and hold harmless the CITY, its officers, employees and authorized representatives (Indemnified Party) from and against any and all liabilities, including, without limitation, remediation required by any federal or state agency having jurisdiction, losses, damages, costs and expenses, including reasonable attorney fees and costs, arising out of any third-party claims, causes of action, or demands made against or suffered by the Indemnified Party on account of this AGREEMENT, unless such claims, causes of action, or demands: (a) relate to the Indemnified Party failing to perform its obligations to DEVELOPER; or (b) arise out of any willful misconduct of the Indemnified Party. At the Indemnified Party's request, DEVELOPER shall appear for and defend the Indemnified Party, at DEVELOPER's expense, in any action or proceeding to which the Indemnified Party may be made a party by reason of any of the foregoing.

ARTICLE XI

NOTICES

SECTION 11.01 All notices, demands, certificates or other communications under this AGREEMENT shall be sufficiently given and shall be deemed given when hand delivered or when mailed by first class mail, postage prepaid, property addressed as indicated below:

To the DEVELOPER:

The Ponds of Menasha, LLC
1300 N. Kimps Court
Green Bay, WI 54313

With a copy to:

Attorney Paul P. Umentum
Umentum & Kimps, S.C.
P.O. Box 1115
Green Bay, WI 54305-1115

To the CITY:

City of Menasha, Wisconsin
City Hall
140 Main Street
Menasha, WI 54952
Attn: CITY Clerk

With a copy to:

Greg Keil, Community Development Director
City Hall
140 Main Street
Menasha, WI 54952

SECTION 11.02 Any party may, by written notice to the party (ies), designate a change of address for the purposes aforesaid.

ARTICLE XII

NONDISCRIMINATION

SECTION 12.01 In the performance of work under this AGREEMENT, the DEVELOPER agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age, color, sex, sexual orientation, physical condition, disability, national origin or ancestry and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

SECTION 13.01 ENTIRE AGREEMENT. This document contains the entire AGREEMENT between DEVELOPER and the CITY and it shall inure to the benefit of and shall be binding upon the parties hereto and the respective heirs, executives, successors and assigns. This AGREEMENT may be modified only by a written Amendment signed by the parties, which Amendment shall become effective upon the recording in the Office of Register of Deeds for the

County.

SECTION 13.02 SURVIVAL OF WARRANTIES, REPRESENTATIONS AND AGREEMENTS. Any warranty, representation or AGREEMENT herein contained shall survive the Closing. Any provision of this AGREEMENT which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

SECTION 13.03 DEFAULT. In addition to any remedies set forth within this AGREEMENT, the Parties shall have all rights and remedies available under law or equity with respect to said default. All remedies shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.

SECTION 13.04 FAILURE TO ENFORCE NOT A WAIVER. Failure of the CITY to enforce any provision contained herein shall not be deemed a waiver of the City's right to enforce such provision or any other provision in the event of a subsequent default.

SECTION 13.05 NO SUBORDINATION. Other than as specifically set forth in this Agreement, the CITY shall not subordinate any interest it has in this AGREEMENT for any reason, unless it is determined to be in the best interests of the CITY.

SECTION 13.06 MEDIATION OF DISPUTES REQUIRED. Except as expressly provided herein, prior to litigation and as a condition precedent to bringing litigation, any party deeming itself aggrieved under this AGREEMENT shall be obligated to request nonbinding mediation of this dispute. Mediation shall proceed before a single mediator. In the event the parties cannot agree, the aggrieved party may then commence an action. However, the parties will be bound to agree to alternative dispute resolution as ordered by the Court.

SECTION 13.07 GOVERNING LAW. This AGREEMENT shall be governed by, enforced and construed in accordance with the domestic laws of the State of Wisconsin.

SECTION 13.08 COUNTERPARTS. This AGREEMENT may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 13.09 AMENDMENTS AND WAIVERS. No amendment of any provision of this AGREEMENT shall be valid unless the same shall be in writing and signed by CITY and DEVELOPER. No waiver by any party of any provision of this AGREEMENT or any default, misrepresentation, or breach of warranty shall be valid unless the same shall be in writing and signed by the parties making such a waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

SECTION 13.10 SEVERABILITY. If any provisions of this AGREEMENT shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 13.11 RECORDING OF AGREEMENT. The parties hereto agree that the CITY may record this AGREEMENT or a memorandum of this AGREEMENT on the record title to the Real Estate. The DEVELOPER shall upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

SECTION 13.12 NO PARTNERSHIP. This AGREEMENT specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

SECTION 13.13 CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this AGREEMENT. In the event an ambiguity or question of intent or interpretation arises, this AGREEMENT shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this AGREEMENT.

SECTION 13.14 INCORPORATION OF EXHIBITS. The **EXHIBITS A, B, C, D, E, F, G and H** identified in this AGREEMENT are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT, or caused it to be duly executed, as of the 7th day of September, 2011

THE PONDS OF MENASHA, LLC

By: Jeffrey T. Marlow

By: _____

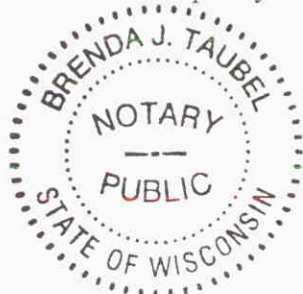
CITY OF MENASHA

By: Donald Merkes
Donald Merkes, Mayor

Attest: Deborah A. Galeazzi
Deborah A. Galeazzi, City Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this 7th day of September, 2011, the above named JEFFREY T. MARLOW, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.



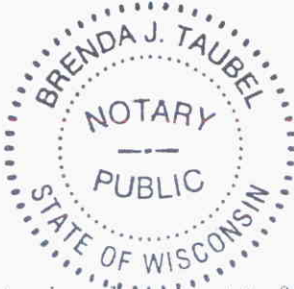
Brenda J. Taubel
Notary Public, State of Wisconsin
My Commission: expires 03-25-2012

STATE OF WISCONSIN)

) SS.

COUNTY OF WINNEBAGO)

Personally came before me this 7th day of September, 2011, the above named Donald Merkes, Mayor, and Deborah A. Galeazzi, City Clerk, of the City of Menasha, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.



Mrenda Z. Saubel

Notary Public, State of Wisconsin

My Commission: expires 03-25-2012

Countersigned pursuant to §62.09(10) Wis. Stats.

Thomas Stippel
City Comptroller

City Comptroller

APPROVED AS TO FORM:


Pamela A. Captain, City Attorney

Pamela A. Captain, City Attorney

EXHIBITS

| | |
|---|------------|
| EXHIBIT A - Concept Plan with Description of Phase I, Phase II and Phase III.... | Page 2, 14 |
| EXHIBIT B - Developer Costs / Budget | Page 3, 15 |
| EXHIBIT C - Phase IV Plan..... | Page 3 |
| EXHIBIT D – Roadway Access / Construction..... | Page 4, 8 |
| EXHIBIT E CSM for Lot 1..... | Page 3 |
| EXHIBIT F CSM for Lot 2..... | Page 3 |
| EXHIBIT G CSM for Lot 4..... | Page 3 |
| EXHIBIT H Example of earned Financial Incentive and Payment of Financial Incentive ... | Page 9, 10 |

City Of Menasha
"THE PONDS" - PUBLIC IMPROVEMENTS
74 Lot Development

Updated: 07/26/11

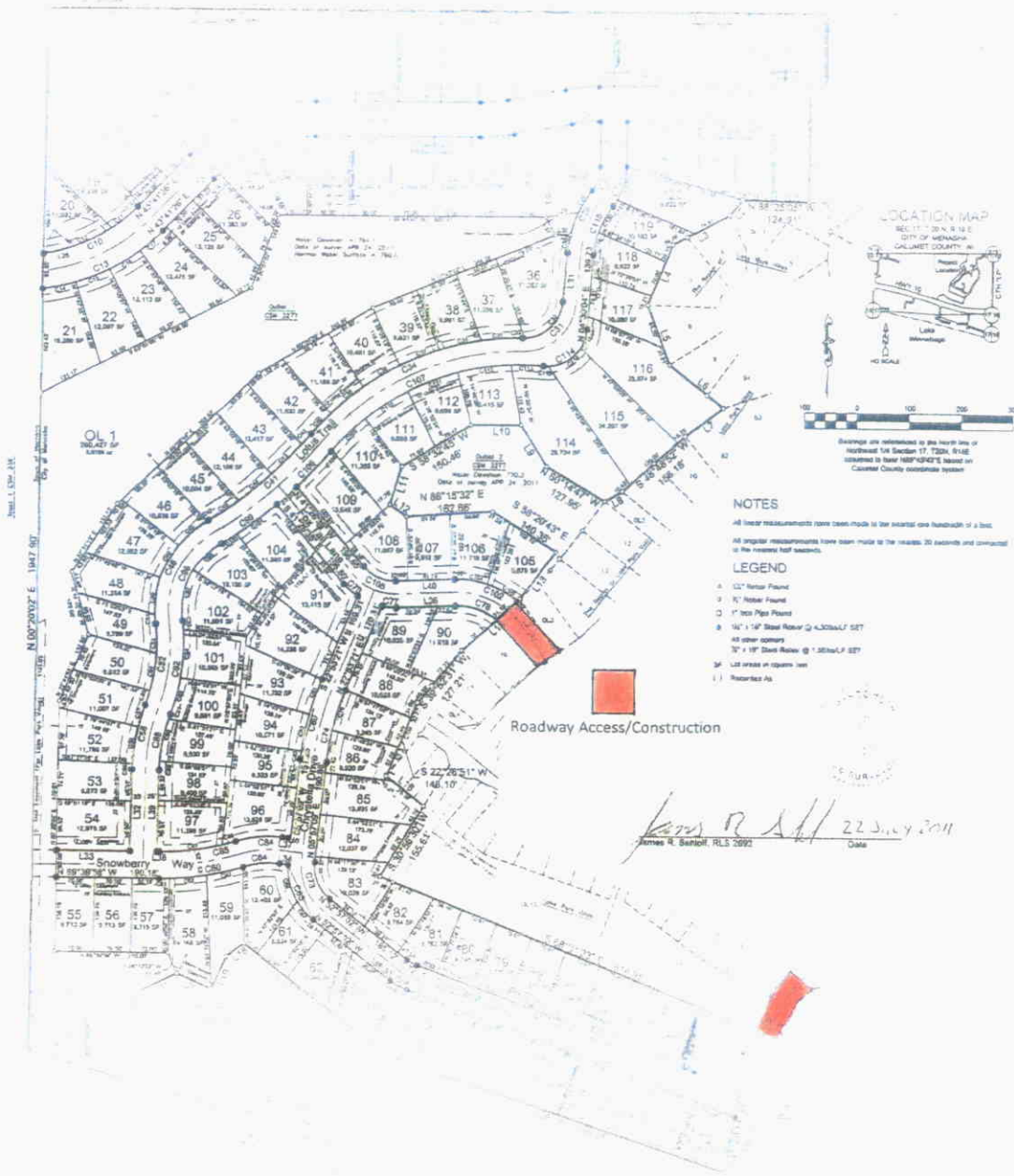
| # | Item | Unit | Quantity | Unit Price | Total Cost |
|----|---|------|----------|--------------|-----------------|
| 1 | SANITARY SEWER | | | | |
| 2 | 10" PVC Sanitary Sewer | LF | 703 | \$ 24.00 | \$ 16,872.00 |
| 3 | 8" PVC Sanitary Sewer | LF | 3,293 | \$ 20.00 | \$ 65,860.00 |
| 4 | 48" Sanitary Manhole | VF | 263 | \$ 140.00 | \$ 36,848.00 |
| 5 | Outside Drop Manhole | VF | 21 | \$ 200.00 | \$ 4,202.00 |
| 6 | Manhole Casting (NF R-1550-A) | EACH | 19 | \$ 550.00 | \$ 10,450.00 |
| 7 | Manhole Rim Adjustment | EACH | 1 | \$ 500.00 | \$ 500.00 |
| 8 | 4" PVC Sanitary Lateral | LF | 3,273 | \$ 10.00 | \$ 32,730.00 |
| 9 | 4" Sanitary Riser | VF | 243 | \$ 25.00 | \$ 6,075.00 |
| 10 | TOTAL SANITARY SEWER | | | | \$ 173,537.00 |
| 11 | | | | | |
| 12 | WATERMAIN | | | | |
| 13 | 10" PVC Watermain | LF | 420 | \$ 34.00 | \$ 14,280.00 |
| 14 | 8" PVC Watermain | LF | 3,857 | \$ 20.00 | \$ 77,140.00 |
| 15 | Hydrants | EACH | 10 | \$ 2,600.00 | \$ 26,000.00 |
| 16 | 6" Hydrant Lead | LF | 80 | \$ 22.00 | \$ 1,749.00 |
| 17 | Water Lateral - 1 1/4 Inch | LF | 3,160 | \$ 9.00 | \$ 28,440.00 |
| 18 | Service Lateral Connections | EACH | 75 | \$ 275.00 | \$ 20,625.00 |
| 19 | 10" Gate Valve and Valve Box | EACH | 1 | \$ 2,100.00 | \$ 2,100.00 |
| 20 | 8" Gate Valve and Valve Box | EACH | 13 | \$ 1,450.00 | \$ 18,850.00 |
| 21 | 6" Gate Valve and Valve Box | EACH | 8 | \$ 1,050.00 | \$ 8,400.00 |
| 22 | TOTAL WATER MAIN | | | | \$ 197,584.00 |
| 23 | | | | | |
| 24 | STORM SEWER | | | | |
| 25 | 8" HDPE Storm Sewer | LF | 561 | \$ 15.00 | \$ 8,415.00 |
| 26 | 10" HDPE Storm Sewer | LF | 409 | \$ 16.00 | \$ 6,544.00 |
| 27 | 12" HDPE Storm Sewer | LF | 1,111 | \$ 17.00 | \$ 18,887.00 |
| 28 | 15" HDPE Storm Sewer | LF | 489 | \$ 18.00 | \$ 8,802.00 |
| 29 | 18" HDPE Storm Sewer | LF | 655 | \$ 20.00 | \$ 13,100.00 |
| 30 | 27" HDPE Storm Sewer | LF | 218 | \$ 29.00 | \$ 6,322.00 |
| 31 | 36" HDPE Storm Sewer | LF | 417 | \$ 35.00 | \$ 14,595.00 |
| 32 | 42" HDPE Storm Sewer | LF | 424 | \$ 45.00 | \$ 19,080.00 |
| 33 | 48" HDPE Storm Sewer | LF | 15 | \$ 85.00 | \$ 1,275.00 |
| 34 | 4" PVC Storm Lateral | LF | 1,498 | \$ 11.00 | \$ 16,478.00 |
| 35 | 96" Storm Manhole | VF | 6 | \$ 470.00 | \$ 2,923.40 |
| 36 | 84" Storm Manhole | VF | 38 | \$ 470.00 | \$ 17,817.70 |
| 37 | 60" Storm Inlet/Manhole | VF | 9 | \$ 295.00 | \$ 2,663.85 |
| 38 | 60" Storm Manhole | VF | 21 | \$ 350.00 | \$ 7,381.50 |
| 39 | 48" Storm Manhole | VF | 75 | \$ 210.00 | \$ 15,716.40 |
| 40 | 2x3 Curb Inlet with Casting (R-3290-A) | EACH | 22 | \$ 1,250.00 | \$ 27,500.00 |
| 41 | 24" ID Yard Drain with Castings | EACH | 6 | \$ 1,050.00 | \$ 6,300.00 |
| 42 | Manhole Casting (NF R-1550) | EACH | 20 | \$ 300.00 | \$ 6,000.00 |
| 43 | Inlet Casting (NF R-3448-C) | EACH | 1 | \$ 700.00 | \$ 700.00 |
| 44 | 12" Precast End Sections | EACH | 1 | \$ 900.00 | \$ 900.00 |
| 45 | 36" Precast End Sections | EACH | 1 | \$ 1,800.00 | \$ 1,800.00 |
| 46 | 42" Precast End Sections | EACH | 1 | \$ 1,900.00 | \$ 1,900.00 |
| 47 | 48" Precast End Sections | EACH | 1 | \$ 2,100.00 | \$ 2,100.00 |
| 48 | Relocate Inlet, (Fox Tail Lane, Sta. 6+83) | EACH | 1 | \$ 878.15 | \$ 878.15 |
| 49 | Remove Inlet, (Fox Tail Lane, Sta. 6+75) | EACH | 1 | \$ 300.00 | \$ 300.00 |
| 50 | Manhole Adjustments | EACH | 1 | \$ 500.00 | \$ 500.00 |
| 51 | TOTAL STORM SEWER | | | | \$ 208,879.00 |
| 52 | | | | | |
| 53 | STREET CONSTRUCTION/EXCAVATION | | | | |
| 54 | 2" Asphalt Binder | SY | 11,000 | \$ 6.00 | \$ 66,000.00 |
| 55 | CABC | TON | 9,943 | \$ 8.80 | \$ 87,498.40 |
| 56 | Unclassified Excavation | CY | 5,479 | \$ 3.00 | \$ 16,437.00 |
| 57 | Roadway/Pavement Removal | LS | 1 | \$ 1,000.00 | \$ 1,000.00 |
| 58 | Borrow Excavation | CY | 1,850 | \$ 6.25 | \$ 11,562.50 |
| 59 | Temporary Tracking Pad | EACH | 1 | \$ 453.40 | \$ 453.40 |
| 60 | TOTAL STREET CONSTRUCTION/EXCAVATION | | | | \$ 182,951.30 |
| 61 | | | | | |
| 62 | MISCELLANEOUS ITEMS | | | | |
| 63 | Streetscape Type II, Ornamental Lighting | EACH | 1 | \$ 20,000.00 | \$ 20,000.00 |
| 64 | TOTAL MISCELLANEOUS ITEMS | | | | \$ 20,000.00 |
| 65 | | | | | |
| 66 | GRADING/STORMWATER | | | | |
| 67 | Seed/Fertilizer/Mulch Terraces | SY | 19,526 | \$ 0.35 | \$ 6,834.10 |
| 68 | Temporary Seeding | SY | 5,400 | \$ 0.25 | \$ 1,350.00 |
| 69 | Fine Grading | SY | 38,202 | \$ 0.55 | \$ 21,011.10 |
| 70 | Stripping Topsoil | SY | 23,000 | \$ 0.60 | \$ 13,800.00 |
| 71 | Silt Fence | LF | 1,690 | \$ 0.90 | \$ 1,521.00 |
| 72 | Drainage Swale Construction | LF | 955 | \$ 2.50 | \$ 2,387.50 |
| 73 | Lot Line Swale Construction | LF | 420 | \$ 2.75 | \$ 1,155.00 |
| 74 | Stone Ditch Liner | SY | 420 | \$ 12.00 | \$ 5,040.00 |
| 75 | North West Pond Outlet Channel | LS | 1 | \$ 4,000.00 | \$ 4,000.00 |
| 76 | Fill/Grade East of Lots 118-120 | LS | 1 | \$ 1,500.00 | \$ 1,500.00 |
| 77 | Move Soil Pile, Sta. 7+50, Lotus Trail | LS | 1 | \$ 2,500.00 | \$ 2,500.00 |
| 78 | Ditch Checks | EACH | 10 | \$ 10.00 | \$ 100.00 |
| 79 | TOTAL GRADING AND STORM WATER | | | | \$ 61,198.70 |
| 80 | | | | | |
| 81 | SUBTOTAL CONSTRUCTION | | | | \$ 844,150.00 |
| 82 | | | | | |
| 83 | Contingency - (5%) | | 1 | 5% | \$ 42,207.50 |
| 84 | Engineering and Design Fee | EACH | 1 | \$ 75,000.00 | \$ 75,000.00 |
| 85 | State of Wisconsin Plat Review | EACH | 1 | \$ 3,200.00 | \$ 3,200.00 |
| 86 | Outagamie County Preliminary Review Plat Review | EACH | 1 | \$ 2,225.00 | \$ 2,225.00 |
| 87 | Outagamie County Final Plat Review | EACH | 1 | \$ 4,342.00 | \$ 4,342.00 |
| 88 | Electric/Gas/Telephone/Cable | EACH | 74 | \$ 1,000.00 | \$ 74,000.00 |
| 89 | GC Site/Administration Fee | EACH | 74 | \$ 2,500.00 | \$ 185,000.00 |
| 90 | SUBTOTAL | | | | \$ 1,230,124.50 |
| 91 | | | | | |
| 92 | | | | | |
| 93 | TOTAL - PROJECT | | | | \$ 1,230,124.50 |
| 94 | PER RUNNING FOOT PRICE | LF | 4,006 | | \$ 307.07 |
| 95 | PER LOT COST | EACH | 74 | | \$ 16,623.30 |

[illegible]

Exhibit D

The Ponds of Menasha

Map of the Ponds of Menasha, Wisconsin, showing the location of the ponds and the surrounding area. The map is a detailed survey of the ponds and the surrounding land, showing the location of the ponds and the surrounding area. The map is a detailed survey of the ponds and the surrounding land, showing the location of the ponds and the surrounding area.



NOTES

All linear measurements were taken from the center line of the road to the center line of the pond. All angular measurements were taken from the center line of the road to the center line of the pond.

LEGEND

- 1. 12" Water Pond
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- 198. 12" Water Pond
- 199. 12" Water Pond
- 200. 12" Water Pond

Roadway Access/Construction

James R. Bartlett, RLS 2092 Date 22 July 2011

Certified Survey Map No. 3277

Unplotted Lands

N/L of the NE 1/4 Section 17
S89°45'43"W 1048.82'

North 1/4 Corner
Section 17, T20N, R18E
(Cul Stone Monument)

Trail 1 CSM 336
W/L of the NE 1/4 Section 17
S00°20'02"W 716.85'
S00°20'02"W 1150.00'

Lot 4
CSM 3276

N 89°45'43" E
503.31'

L31 L32 L33 L34 L35

N 63°01'05" E
436.90'

N 67°43'22" E
368.28'

N 60°00'39" E
248.84'

OL 1
272,036 SF
6.2451 ac

N 46°56'44" E
359.93'

Lot 1
CSM 3275

Lot 1
1069,704 SF
24.5570 ac

OL 2
53,184 SF
1.2209 ac

S 36°52'42" W
117.81'

19.53'

5.71'

OL 3
2,874 SF
0.0660 ac

C1 C2 C3 C4 C5 C6 C7 C8 C9 C10 C11 C12 C13 C14 C15 C16 C17 C18 C19 C20 C21 C22 C23 C24 C25 C26 C27 C28 C29 C30 C31 C32 C33 C34 C35 C36 C37 C38 C39 C40 C41 C42 C43 C44 C45 C46 C47 C48 C49 C50 C51 C52 C53 C54 C55 C56 C57 C58 C59 C60 C61 C62 C63 C64 C65 C66 C67 C68 C69 C70 C71 C72 C73 C74 C75 C76 C77 C78 C79 C80 C81 C82 C83 C84 C85 C86 C87 C88 C89 C90 C91 C92 C93 C94 C95 C96 C97 C98 C99 C100

Replot of Lake Park Villas

Replot of Lake Park Villas

Fountain Way

Georgetown Place

OL 10

15' Trail Easement (Per Lake Park Villas)

15' Trail Easement

25' Sanitary Construction Sewer Easement

USH "10" & STH "114"

Trail 1 CSM 336
S00°20'02"W 1150.00'

N 00°20'02" E 1231.05'

N 00°20'02" E 470.81'

N 89°39'58" W 210.00'

N 73°18'35" W 178.68'

Out Claim Deed
Doc # 373654

Lot 1
CSM 3276

Lot 2
CSM 3276

Lot 3
CSM 3275

Lot 4
CSM 3276

Lot 5
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Lot 100
CSM 3276

NE 1/4 Corner
Section 17, T20N, R18E
(Aluminum Monument)
S89°45'43"W 1158.51'

Trail 1 CSM 336
S00°20'02"W 1150.00'

N 89°45'43" E
420.00'

E 59°14'17" N
136.99'

Villa Way

Replot of Lake Park Villas

Replot of Lake Park Villas

Fountain Way

Georgetown Place

OL 10

15' Trail Easement (Per Lake Park Villas)

15' Trail Easement

25' Sanitary Construction Sewer Easement

USH "10" & STH "114"

Trail 1 CSM 336
S00°20'02"W 1150.00'

N 00°20'02" E 1231.05'

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N 73°18'35" W 178.68'

Out Claim Deed
Doc # 373654

Lot 1
CSM 3276

Lot 2
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Lot 49
CSM 3276

LEGEND

- ¾" x 18" Steel Rebar @ 1.50lbs/LF SET
- △ 1¼" Rebar Found
- ¾" Rebar Found
- 1" Iron Pipe Found
- ⊙ Government Corner
- () Recorded As



James R. Schloff 17 July 2011
Date
Registered Land Surveyor No. S-2692

Survey for:
City of Menasha
140 Main Street
Menasha, WI 54952

File: 3754CSM3.dwg
Date: 06/22/2011
Drafted By: jim
Sheet: 1 of 4



Stock No. 26273

Certified Survey Map No. 3277

CURVE TABLE

| Curve | Radius | Chord Direction | Chord Length | Arc Length | Central Angle |
|-------|---------|-----------------|--------------|------------|---------------|
| C1 | 475.01' | S 62°39'50" E | 30.05' | 30.05' | 3°37'29" |
| C2 | 225.00' | N 30°38'15" E | 136.79' | 138.99' | 35°23'32" |
| C3 | 75.00' | N 24°03'35" E | 61.67' | 63.55' | 48°32'53" |

LINE TABLE

| Line | Bearing | Length |
|------|---------------|---------|
| L1 | S 89°47'09" W | 32.09' |
| L2 | S 00°14'17" E | 215.47' |
| L3 | N 88°25'05" W | 124.91' |
| L4 | S 39°37'03" W | 38.64' |
| L5 | S 62°31'01" W | 121.55' |
| L6 | S 22°23'46" W | 122.36' |
| L7 | S 21°15'10" E | 119.30' |
| L8 | S 52°55'13" E | 130.51' |
| L9 | S 52°57'34" W | 89.97' |
| L10 | S 48°48'52" W | 158.18' |
| L11 | S 61°00'20" W | 37.52' |
| L12 | S 37°51'25" W | 165.74' |
| L13 | S 45°53'19" W | 77.83' |
| L14 | S 46°37'51" W | 25.23' |
| L15 | S 48°22'44" W | 119.31' |
| L16 | S 39°52'31" W | 127.21' |
| L17 | S 23°59'57" W | 50.23' |
| L18 | S 39°08'03" W | 99.52' |
| L19 | S 50°51'57" E | 90.57' |
| L20 | S 30°56'30" W | 155.61' |
| L21 | S 68°31'23" E | 27.26' |
| L22 | S 32°18'56" W | 126.12' |
| L23 | S 15°56'13" W | 147.71' |
| L24 | N 52°57'01" W | 218.85' |

LINE TABLE

| Line | Bearing | Length |
|------|---------------|---------|
| L25 | S 52°52'40" W | 42.99' |
| L26 | S 22°38'13" W | 67.40' |
| L27 | N 65°57'47" W | 71.94' |
| L28 | S 63°14'44" W | 78.77' |
| L29 | S 27°00'47" W | 60.11' |
| L30 | S 02°14'47" W | 109.49' |
| L31 | N 20°07'22" E | 145.82' |
| L32 | S 29°41'49" E | 38.00' |
| L33 | N 89°45'43" E | 27.82' |
| L34 | N 00°12'51" W | 41.16' |
| L35 | S 89°47'09" W | 30.33' |
| L36 | N 24°12'22" W | 41.46' |
| L37 | N 22°41'53" E | 132.95' |
| L38 | N 14°46'40" W | 122.08' |
| L39 | N 32°11'13" E | 151.13' |
| L40 | N 22°26'51" E | 148.10' |
| L41 | N 58°20'43" W | 154.19' |
| L42 | S 86°15'32" W | 162.66' |
| L43 | N 54°35'39" W | 38.33' |
| L44 | N 17°12'31" E | 73.95' |
| L45 | N 58°32'45" E | 150.46' |
| L46 | N 89°23'40" E | 93.52' |
| L47 | S 32°32'12" E | 91.55' |
| L48 | S 60°14'47" E | 127.95' |



James R. Sehloff Registered Land Surveyor No. S-2692 Date

17 July 2011



Stock No. 26273

Certified Survey Map No. 3277

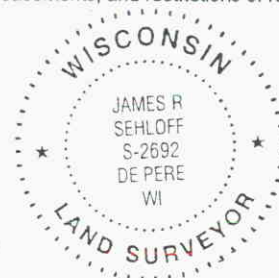
Surveyor's Certificate

I, James R. Sehloff, registered land surveyor, hereby certify: That in full compliance with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations of the City of Menasha and Calumet County, and under the direction of City of Menasha and Waverly Sanitary District, the property owners of said land, I have surveyed divided and mapped this Certified Survey Map; that such map correctly represents all exterior boundaries and the subdivision of the land surveyed; and that this land is all of Lot 1 CSM 3275 and all of Lot 3 CSM 3276 being part of the Northwest 1/4 of the Northeast 1/4, part of the Northeast 1/4 of the Northeast 1/4 and part of the Southwest 1/4 of the Northeast 1/4 all located in Section 17, Township 20 North, Range 18 East, City of Menasha, Calumet County, Wisconsin, containing 1,679,988 Square Feet (38.5672 Acres) of land described as follows:

Commencing at the Northeast 1/4 corner of Section 17; thence along the North line of the Northeast 1/4 of said Section 17, S89°45'43"W, 1158.51 feet to the point of beginning; thence along the West line of Lot 1 CSM 3276, S00°14'17"E, 136.99 feet to the North right of way line of Villa Way; thence along said North line S89°47'09"W, 32.09 feet to the Northwest corner of said Villa Way; thence along the westerly line of Villa Way and the extension thereof, S00°14'17"E, 215.47 feet to a point on the North line of Outlot 1 of the Replat of Lots 1, 2, 55-61, 65-69, 73, 75, 76, 78-80, 119, 120, Outlots 4-5, Outlots 8-9 and Outlot 24 of Lake Park Villas (hereafter referred to as Replat of Lake Park Villas), thence along the North line of said Outlot 1, N88°25'05"W, 124.91 feet to a point on the said North line of Outlot 1; thence continuing along said North line of Outlot 1; S39°37'03"W, 38.64 feet to the Northerly corner of Lot 6 of said Replat of Lake Park Villas; thence along the Northwestern line of said Lot 6 and the extension thereof; S62°31'01"W, 121.55 feet to a point on the Northwestern line of Lot 7 of said Replat of Lake Park Villas; thence along the said Northwestern line S22°23'46"W, 122.36 feet to the Northwest corner of Lot 8 of said Replat of Lake Park Villas; thence along the West line of said Lot 8, S21°15'10"E, 119.30 feet to the Northwest Corner of Lot 9 of said Replat of Lake Park Villas; thence along the Southwesterly line of Lot 9 and the extension thereof S52°55'13"E, 130.51 feet to the Southwest corner of Lot 64 of said Lake Park Villas; thence along the Northwestern line of Lot 62 of said Lake Park Villas, S52°57'34"W, 89.97 feet to the Northerly Corner of Lot 10 of said Replat of Lake Park Villas; thence along the Northwestern line of said Lot 10 and the extension thereof, S48°48'52"W, 158.18 feet to the Northerly corner of Outlot 2 of said Replat of Lake Park Villas; thence along the West line of said Outlot 2, S61°00'20"W, 37.52 feet to the Northerly corner of Lot 12 of said Replat of Lake Park Villas; thence along the Westerly line of Lot 12 and the extension thereof, S37°51'25"W, 165.74 feet to a point on the Northwestern line of Lot 14 of said Replat of Lake Park Villas; thence continuing along said West line and the extension thereof, S45°53'19"W, 77.83 feet to the Westerly corner of Outlot 3 of said Replat of Lake Park Villas; thence S46°37'51"W, 25.23 to the North Corner of Lot 16 of said Replat of Lake Park Villas; thence along the Westerly line of said lot 16, S48°22'44"W, 119.31 feet to the North corner of Lot 17 of the Replat of Lake Park Villas; thence along the Westerly line of said Lot 17 and the extension thereof, S39°52'31"W, 127.21 feet, to the Westerly corner of Outlot 4 of said Replat of Lake Park Villas; thence along the Southwest line of said Outlot 4, 30.05 feet along the arc of a curve to the right with a radius of 475.01 feet and a chord of 30.05 feet which bears S62°39'50"E to the Westerly right of way of Georgetown Place; thence along said Westerly right of way line, S23°59'57"W, 50.23 feet to the Northwest corner of Lot 54 of Lake Park Villas; thence along the West line of said Lot 54, S39°08'03"W, 99.52 feet to the Southwest corner of said Lot 54; thence along the South line of said Lot 54 and the extension thereof, S50°51'57"E, 90.57 feet to a point on the West line of Outlot 12 of said Lake Park Villas; thence along said West line, S30°56'30"W, 155.61 feet to the Southwest corner of said Outlot 12; thence along the South line of said Outlot 12, S68°31'23"E, 27.26 feet to the West line of Lot 2, CSM 3275; thence continuing along said West line S32°18'56"W, 126.12 feet; thence continuing along said West line S15°56'13"W, 147.71 feet to the North line of Outlot 10 of said Lake Park Villas; thence along said North line, N52°57'01"W, 218.85 feet to a corner on the Northerly line of Outlot 10 of said Lake Park Villas; thence along the Westerly line of said Lot 10, S52°52'40"W, 42.99 feet; thence continuing along said Westerly line, S22°38'13"W, 67.40 feet; thence continuing along said Westerly line, N65°57'47"W, 71.94 feet; thence continuing along said Westerly line, S63°14'44"W, 78.77 feet; thence continuing along said Westerly line, S27°00'47"W, 60.11 feet; thence continuing along said Westerly line, S02°14'47"W, 109.49 feet to a point on the Northerly right of way line of U.S.H. "10" & S.T.H. "114"; thence along said Northerly right of way line, N73°18'35"W, 178.68 feet to said West line of the Northeast 1/4; thence along said West line, N00°20'02"E, 1231.05 feet to the Southerly line of Lot 4 of said CSM 3276; thence along said South line, N63°01'05"E, 436.90 feet; thence continuing along said Southerly line, N20°07'22"E, 145.82 feet; thence continuing along said Southerly line, N89°45'43"E, 503.31 feet; thence continuing along said Southerly line, S29°41'49"E, 38.00 feet; thence continuing along said Southerly line, N89°45'43"E, 27.82 feet to the Southeast Corner of Said Lot 4 of CSM 3276; thence along said Easterly line of said Lot 4, 138.99 feet along the arc of a curve to the right with a radius of 225.00 feet and a chord of 136.79 feet which bears N30°38'15"E; thence continuing along said Easterly line, 63.55 feet along the arc of a curve to the left with a radius of 75.00 feet and a chord of 61.67 feet which bears N24°03'35"E; thence continuing along said Easterly line, N00°12'51"W, 41.16 feet; thence continuing along said Easterly line, S89°47'09"W, 30.33 feet; thence continuing along said Easterly line, N00°14'17"W, 201.81 feet to said North line of the Northeast 1/4; thence along said North line N89°45'43"E, 420.00 feet to the point of beginning, subject to all easements, and restrictions of record.

Given under my hand this 17 day of July, 2011.

James R. Sehloff
James R. Sehloff, Wisconsin Registered Land Surveyor No. S-2692



File: 3754CSM3.dwg
Date: 07/18/2011
Drafted By: jim
Sheet: 3 of 4



Stock No. 26273

Certified Survey Map No. 3277Treasurers' Certificate

We, being the duly elected, qualified and acting Treasurers' of the City of Menasha and Calumet County, do hereby certify that in accordance with the records in our office, there are no unredeemed tax sales and unpaid taxes, or special assessments on and of the land included in this certified survey map.

Thomas Stoffel
City Treasurer

7/19/11
Date

Michael Schlaack
County Treasurer

7-21-11
Date

Common Council Resolution

Resolved, this minor subdivision in the City of Menasha is hereby approved by the Common Council on

this 5th day of July, 2011.

[Signature]
Mayor

19 July 2011
Date

Deborah A. Galeazzi
Clerk

7/19/11
Date

This Certified Survey Map is contained wholly within the property described in the following recorded instruments:

the property owners of record:
City of Menasha

Recording Information:
Doc # 295197
Doc # 295198

Waverly Sanitary District

Doc # 373654

Document #: 466103



Register of Deeds
Calumet County, WI

Received for Record
Date: 7/21/11 8:27
Vol: 0028 Page: 73
Tamara Alten

pd 30-8

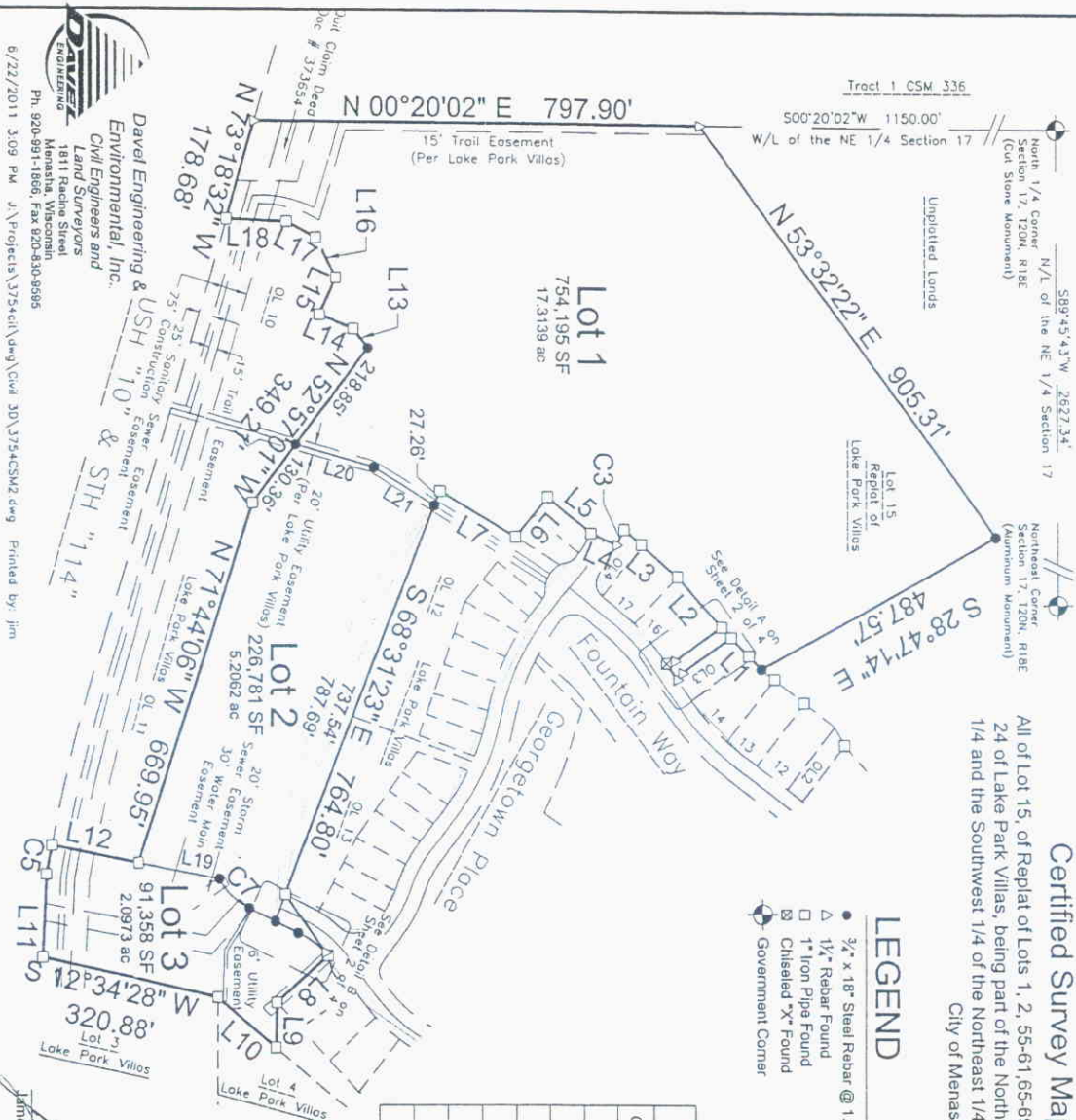


James R. Sehloff 17 July 2011
James R. Sehloff Registered Land Surveyor No. S-2692 Date

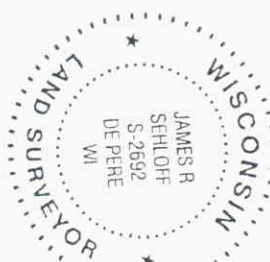
FORM NO. 985-A

HCMiller
DIST. ENGINEERS

Stock No. 26273



James R. Sehlhoff R.L.S. 2692
Date 17 July 2011



Survey for:
City of Menasha
140 Main Street
Menasha, WI 54952

File: 3754CSM2.dwg
Date: 06/22/2011
Drafted By: jrm
Sheet: 1 of 4

Certified Survey Map No. 3275

All of Lot 15, of Replat of Lots 1, 2, 55-61, 65-69, 73, 75, 76, 78-80, 119, 120, Outlots 4-5, Outlots 8-9 and Outlot 24 of Lake Park Villas, being part of the Northwest 1/4 of the Northeast 1/4 and Northeast 1/4 of the Northeast 1/4 and the Southwest 1/4 of the Northeast 1/4 all being part of Section 17, Township 20 North, Range 18 East, City of Menasha, Calumet County, Wisconsin.

LEGEND

- 3/4" x 18" Steel Rebar @ 1.50lbs/LF SET
- 1/4" Rebar Found
- 1" Iron Pipe Found
- Chiselled "X" Found
- Government Corner

Bearings are referenced to the N/L of the NE 1/4 Section 17, T20N, R18E. Assumed to bear S89°45'43"W, based on the Calumet County Coordinate System



6/22/2011 3:09 PM J:\Projects\3754CSM2.dwg Printed by: jrm



Dave Miller Engineering, Inc.
Civil Engineers and
Land Surveyors

1811 Racine Street
Menasha, WI 54952
Ph: 920-931-1866, Fax: 920-830-9095

Certified Survey Map No. 3275

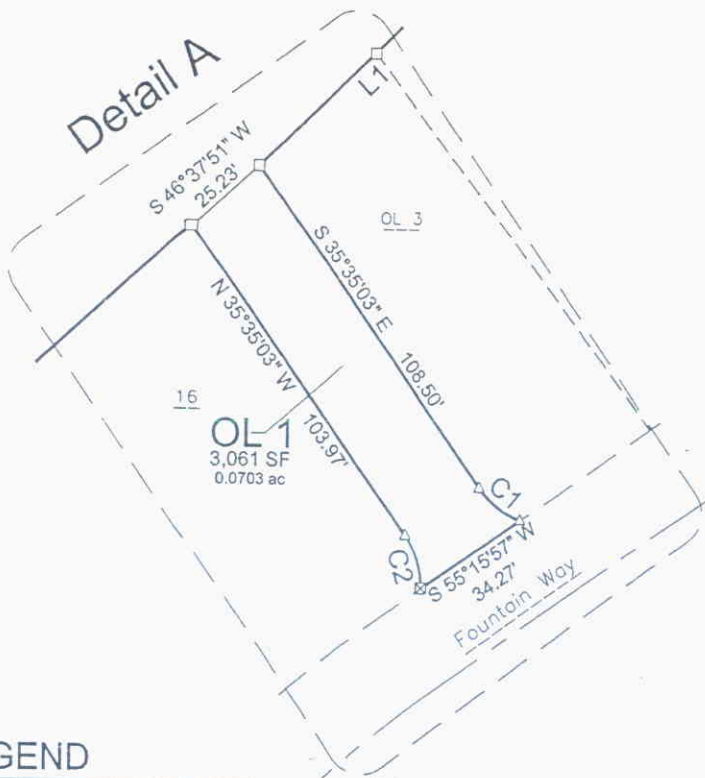


Bearings are referenced to the
 N/L of the NE 1/4 Section 17, T20N, R18E,
 Assumed to bear S89°45'43"W, based on
 the Calumet County Coordinate System.

| LINE TABLE | | |
|------------|---------------|---------|
| Line | Bearing | Length |
| L1 | S 45°53'19" W | 77.83' |
| L2 | S 48°22'44" W | 119.31' |
| L3 | S 39°52'36" W | 127.21' |
| L4 | S 23°59'57" W | 50.23' |
| L5 | S 39°08'03" W | 99.52' |
| L6 | S 50°51'57" E | 90.57' |
| L7 | S 30°56'30" W | 155.61' |
| L8 | S 41°42'52" E | 124.11' |
| L9 | S 88°58'16" E | 80.39' |
| L10 | S 40°18'04" W | 138.44' |
| L11 | N 87°05'30" W | 144.95' |
| L12 | N 11°45'09" E | 154.87' |
| L13 | S 52°52'40" W | 42.99' |
| L14 | S 22°38'13" W | 67.40' |
| L15 | N 65°57'47" W | 71.94' |
| L16 | S 63°14'44" W | 78.77' |
| L17 | S 27°00'47" W | 60.11' |
| L18 | S 02°14'47" W | 109.49' |
| L19 | N 10°20'14" E | 150.35' |
| L20 | S 15°41'47" W | 145.63' |
| L21 | S 32°18'56" W | 128.29' |

LEGEND

- 3/4" x 18" Steel Rebar @ 1.50lbs/LF SET
- △ 1 1/2" Rebar Found
- 1" Iron Pipe Found
- ⊗ Chiseled "X" Found
- ⬢ Government Corner



Whisper Falls Lane
 2,327 Sq.Ft.
 Dedicated to the Public



James R. Sehloff 17 July 2011
 James R. Sehloff RLS 2692 Date



Davel Engineering &
 Environmental, Inc.
 Civil Engineers and
 Land Surveyors
 1811 Racine Street
 Menasha, Wisconsin
 Ph. 920-991-1866, Fax 920-830-9595



Stock No. 26273

Certified Survey Map No. 3275

Surveyor's Certificate

I, James R. Sehloff, registered land surveyor, hereby certify: That in full compliance with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations of the City of Menasha and Calumet County, and under the direction of City of Menasha and Waverly Sanitary District, the property owners of said land, I have surveyed divided and mapped this Certified Survey Map; that such map correctly represents all exterior boundaries and the subdivision of the land surveyed; and that this land is all of Lot 15, of Replat of Lots 1, 2, 55-61, 65-69, 73, 75, 76, 78-80, 119, 120, Outlots 4-5, Outlots 8-9 and Outlot 24 of Lake Park Villas (hereafter referred to as Replat of Lake Park Villas), being part of the Northwest 1/4 of the Northeast 1/4 and Northeast 1/4 of the Northeast 1/4 and the Southwest 1/4 of the Northeast 1/4 all being part of Section 17, Township 20 North, Range 18 East, City of Menasha, Calumet County, Wisconsin containing 1,077,723 Square Feet (24.7411 Acres) of land described as follows:

Commencing at the Northeast corner of Section 17; thence along the North line of the Northeast 1/4 of said Section 17, S89°45'43"W, 2627.34 feet to the North 1/4 corner of said Section 17; thence along the West line of said Northeast 1/4, S00°20'02"W, 1150.00 feet to the point of beginning; thence along said a Southerly line of Lot 1 of said Replat of Lake Park Villas, N53°32'22"E, 905.31 feet; thence continuing along said Southerly Line, S28°47'14"E, 487.57 feet to a point on the West line of Lot 14 of said Replat of Lake Park Villas; thence along said West line and the extension thereof, S45°53'19"W, 77.83 feet to the Southwest corner of Outlot 3 of said Replat of Lake Park Villas; thence along the Southwest line of said Outlot 3, S35°35'03"E, 108.50 feet; thence continuing along said Southwest line, 15.09 feet along the arc of a curve to the left with a radius of 25.00 feet and a chord of 14.87 feet which bears S52°53'04"E to the Westerly right of way of Fountain Way; thence along said Westerly right of way line, S55°15'57"W, 34.27 feet to the East Corner of Lot 16 of said Replat of Lake Park Villas; thence along said Northeast line of said Lot 16, 15.83 feet along the arc of a curve to the left with a radius of 25.00 feet and a chord of 15.57 feet which bears N17°26'27"W; thence continuing along said Northeasterly line, N35°35'03"W, 103.97 feet to the North corner of said Lot 16; thence along the Westerly line of said lot 16, S48°22'44"W, 119.31 feet to the North corner of Lot 17 of the Replat of Lake Park Villas; thence along the West line of said Lot 17 and the extension thereof, S39°52'36"W, 127.21 feet, to the Westerly corner of Outlot 4 of said Replat of Lake Park Villas; thence along the Southwest line of said Outlot 4, 30.05 feet along the arc of a curve to the right with a radius of 475.00 feet and a chord of 30.05 feet which bears S62°39'51"E to the Westerly right of way of Georgetown Place; thence along said Westerly right of way line, S23°59'57"W, 50.23 feet to the Northwest corner of Lot 54 of Lake Park Villas; thence along the West line of said Lot 54, S39°08'03"W, 99.52 feet to the Southwest corner of said Lot 54; thence along the South line of said Lot 54 and the extension thereof, S50°51'57"E, 90.57 feet to a point on the West line of Outlot 12 of said Lake Park Villas; thence along said West line, S30°56'30"W, 155.61 feet to the Southwest corner of said Outlot 12; thence along the South line of said Outlot 12 and the extension thereof, S68°31'23"E, 764.80 feet to the Southeast corner of Outlot 13 of said Lake Park Villas; thence along the Southerly right of way line of Whisper Falls Lane, N54°14'02"E, 124.66 feet; thence continuing along said Southerly right of way line 6.95 feet along the arc of a curve to the right with a radius of 24.00 feet and a chord of 6.93 feet which bears N51°34'27"E to the West corner of Lot 38 of said Lake Park Villas; thence along the South line of said Lot 38, S41°42'52"E, 124.11 feet to the Southwest corner of Outlot 14 of said Lake Park Villas; thence along the South line of said Outlot 14, S88°58'16"E, 80.39 feet to a point on the West line of Lot 4 of said Lake Park Villas; thence along said West line, S40°18'04"W, 138.44 feet; thence continuing along the said West line, S12°34'28"W, 320.88 feet to the Northerly right of way line of U.S.H. "10" & S.T.H. "114"; thence along said Northerly right of way line, N87°05'30"W, 144.95 feet; thence continuing along said Northerly right of way line, 51.89 feet along the arc of a curve to the left with a radius of 3712.20 feet and a chord of 51.89 feet which bears N79°19'17"W to the Southeast corner of Outlot 11 of said Lake Park Villas; thence along the East line of said Outlot 11, N11°45'09"E, 154.87 feet to the Northeast Corner of said Outlot 11; thence along the North line of said Outlot 11, N71°44'06"W, 669.95 feet; thence continuing along said North line and the extension thereof, N52°57'01"W, 349.21 feet to a corner on the Northerly line of Outlot 10 of said Lake Park Villas; thence along the Westerly line of said Lot 10, S52°52'40"W, 42.99 feet; thence continuing along said Westerly line, S22°38'13"W, 67.40 feet; thence continuing along said Westerly line, N65°57'47"W, 71.94 feet; thence continuing along said Westerly line, S63°14'44"W, 78.77 feet; thence continuing along said Westerly line, S27°00'47"W, 60.11 feet; thence continuing along said Westerly line, S02°14'47"W, 109.49 feet to a point on the Northerly right of way line of U.S.H. "10" & S.T.H. "114"; thence along said Northerly right of way line, N73°18'32"W, 178.68 feet to said West line of the Northeast 1/4; thence along said West line, N00°20'02"E, 797.90 feet to the point of beginning, subject to all easements, and restrictions of record.

Given under my hand this 17 day of July, 2011.


James R. Sehloff, Wisconsin Registered Land Surveyor No. S-2692



File: 3754CSM2.dwg
Date: 06/22/2011
Drafted By: jim
Sheet: 3 of 4



Stock No. 26273

Certified Survey Map No. 3275

Treasurers' Certificate

We, being the duly elected, qualified and acting Treasurers' of the City of Menasha and Calumet County, do hereby certify that in accordance with the records in our office, there are no unredeemed tax sales and unpaid taxes, or special assessments on and of the land included in this certified survey map.

Thomas Stoffel 7/19/11
City Treasurer Date

Michael Schlaack 7-21-11
County Treasurer Date

Common Council Resolution

Resolved, this minor subdivision in the City of Menasha is hereby approved by the Common Council on

this 5th day of July, 2011.

[Signature] 17 July 2011
Mayor Date

Deborah A. Galeazzi 7/19/11
Clerk Date

This Certified Survey Map is contained wholly within the property described in the following recorded instruments:

the property owners of record:
City of Menasha

Recording Information:
Doc # 295197
Doc # 295198

Waverly Sanitary District

Doc # 373654

Document #: 466101



Register of Deeds
Calumet County, WI

Received for Record
Date: 7/21/11 8:18
Vol: 0028 Page: 65
Tamara Alten

9/30/11
1.



James R. Sehloff 17 July 2011
James R. Sehloff Registered Land Surveyor No. S-2692 Date

File: 3754CSM2.dwg
Date: 06/22/2011
Drafted By: jim
Sheet: 4 of 4

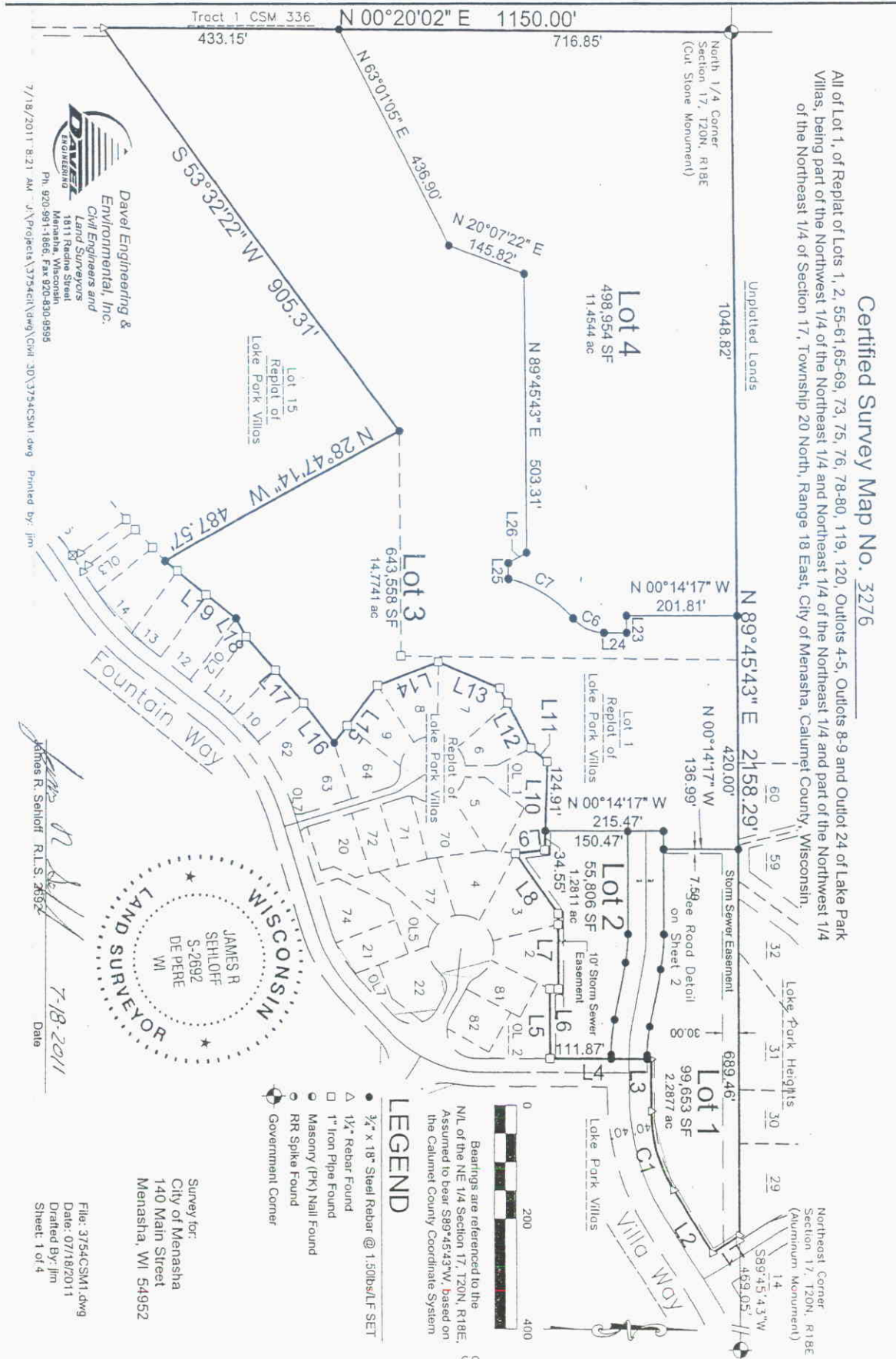
FORM NO. 985-A



Stock No. 26273

Certified Survey Map No. 3276

All of Lot 1, of Replat of Lots 1, 2, 55-61, 65-69, 73, 75, 76, 78-80, 119, 120, Outlots 4-5, Outlots 8-9 and Outlot 24 of Lake Park Villas, being part of the Northwest 1/4 of the Northeast 1/4 and Northeast 1/4 of the Northwest 1/4 of the Northeast 1/4 of Section 17, Township 20 North, Range 18 East, City of Menasha, Calumet County, Wisconsin.



Davel Engineering & Environmental, Inc.
Civil Engineers and Land Surveyors
1811 Racine Street
Menasha, Wisconsin
Ph: 920-991-1888, Fax: 920-830-9595
7/18/2011 8:21 AM J:\Projects\3754CSM1.dwg C:\3754CSM1.dwg Printed by: jim



Stock No. 26273

Certified Survey Map No. 3276

Surveyor's Certificate

I, James R. Sehloff, registered land surveyor, hereby certify: That in full compliance with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations of the City of Menasha and Calumet County, and under the direction of City of Menasha, the property owners of said land, I have surveyed divided and mapped this Certified Survey Map; that such map correctly represents all exterior boundaries and the subdivision of the land surveyed; and that this land is all of Lot 1, of Replat of Lots 1, 2, 55-61, 65-69, 73, 75, 76, 78-80, 119, 120, Outlots 4-5, Outlots 8-9 and Outlot 24 of Lake Park Villas (hereafter referred to as Replat of Lake Park Villas), being part of the Northwest 1/4 of the Northeast 1/4 and Northeast 1/4 of the Northeast 1/4 and part of the Northwest 1/4 of the Northeast 1/4 of Section 17, Township 20 North, Range 18 East, City of Menasha, Calumet County, Wisconsin containing 1,324,800 Square Feet (30.4132 Acres) of land described as follows:

Commencing at the Northeast corner of Section 17; thence along the North line of the Northeast 1/4 of said Section 17, S89°45'43"W, 469.05 feet to the point of beginning; thence along the Westerly right of way of Manitoba Street, S32°17'48"E, 60.00 feet to the Northerly right of way line of Villa Way; thence along said Northerly right of way, S57°42'16"W, 132.83 feet; thence continuing along said Northerly right of way, 145.48 feet along the arc of a curve to the right with a radius of 260.00 feet and a chord of 143.59 feet which bears S73°43'58"W; thence continuing along said Northerly right of way, S89°45'43"W, 92.82 feet to the East line of said Lot 1 of said Replat of Lake Park Villas; thence along said East line, S00°14'17"E, 184.38 feet the North line of Outlot 2, Lake Park Villas; thence along said North line of Outlot 2, S89°45'43"W, 126.00 feet to a point on the East line of Lot 2, of said Replat of Lake Park Villas; thence along said East line of Lot 2, N00°14'17"W, 15.71 feet to the Northeast Corner of said Lot 2; thence along said North line of Lot 2 and the extension thereof, S89°45'43"W, 136.45 feet to a corner on the Northerly line of Lot 3 of said Replat of Lake Park Villas; thence along said Northerly line of Lot 3, S53°52'53"W, 132.04 feet to the East line of Outlot 1, of said Replat of Lake Park Villas; thence along said East line of Outlot 1, N06°40'19"W, 53.85 feet to the Northeast corner of said Outlot 1; thence along the North line of said Outlot 1, N88°25'05"W, 159.46 feet to a point on the said North line of Outlot 1; thence continuing along said North line of Outlot 1; S39°37'03"W, 38.64 feet to the Northerly corner of Lot 6 of said Replat of Lake Park Villas; thence along the Northwesterly line of said Lot 6 and the extension thereof; S62°31'01"W, 121.55 feet to a point on the Northwesterly line of Lot 7 of said Replat of Lake Park Villas thence along the said Northwesterly line S22°23'46"W, 122.36 feet to the Northwest corner of Lot 8 of said Replat of Lake Park Villas; thence along the West line of said Lot 8, S21°15'10"E, 119.30 feet to the Northwest Corner of Lot 9 of said Replat of Lake Park Villas; thence along the Southwest line of Lot 9 and the extension thereof S52°55'13"E, 130.51 feet to the Southwest corner of Lot 64 of said Lake Park Villas; thence along the North line of Lot 62 of said Lake Park Villas, S52°57'34"W, 89.97 feet to the Northerly Corner of Lot 10 of said Replat of Lake Park Villas; thence along the Northwesterly line of said Lot 10 and the extension thereof, S48°48'52"W, 158.18 feet to the Northerly corner of Outlot 2 of said Replat of Lake Park Villas; thence along the West line of said Outlot 2, S61°00'20"W, 37.52 feet to the Northerly corner of Lot 12 of said Replat of Lake Park Villas; thence along the Westerly line of Lot 12 and the extension thereof, S37°51'25"W, 165.74 feet to a point on the Northwesterly line of Lot 14 of said Replat of Lake Park Villas; thence along the Northerly line of Lot 15 of said Replat of Lake Park Villas, N28°47'14"W, 487.57 feet to the Northerly corner of said Lot 15; thence continuing along said Northerly line S53°32'22"W, 905.31 feet to a point on the West line of said Northeast 1/4; thence along said West line N00°20'02"E, 1150.00 feet to the North 1/4 corner of said Section 17; thence along the North line of said Northeast 1/4 N89°45'43"E, 2158.29 feet to the point of beginning, subject to all easements, and restrictions of record.

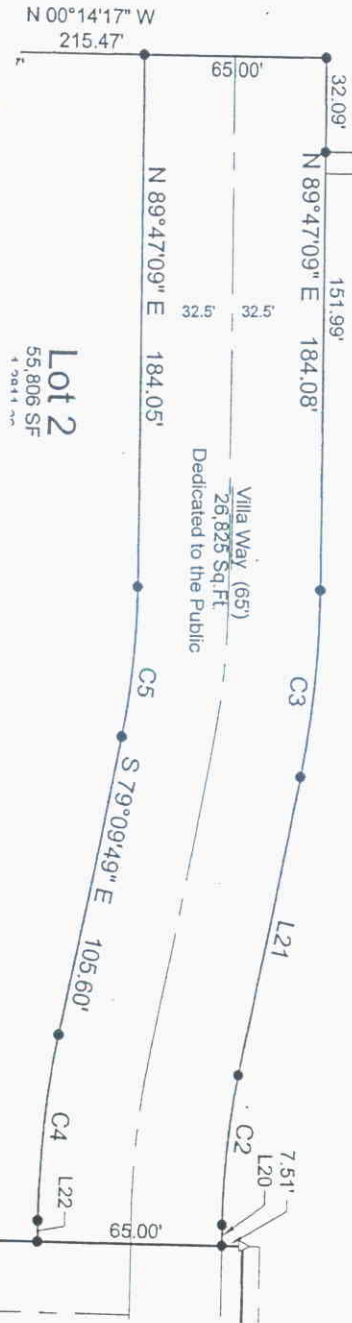
Given under my hand this 17 day of July, 2011


James R. Sehloff, Wisconsin Registered Land Surveyor No. S-2692



Certified Survey Map No. 3276

Road Detail



Lot 2
 55,806 SF



Bearings are referenced to the
 N1/4 of the NE 1/4 Section 17, T20N, R18E.
 Assumed to bear S89°45'3\"/>

LINE TABLE

| Line | Bearing | Length |
|------|---------------|---------|
| L1 | S 32°17'48" E | 60.00' |
| L2 | S 57°42'16" W | 132.63' |
| L3 | S 89°45'43" W | 92.82' |
| L4 | S 00°14'17" E | 184.38' |
| L5 | S 89°45'43" W | 126.00' |
| L6 | N 00°14'17" W | 15.71' |
| L7 | S 89°45'43" W | 136.45' |
| L8 | S 53°52'53" W | 132.04' |
| L9 | N 06°40'19" W | 53.85' |

LINE TABLE

| Line | Bearing | Length |
|------|---------------|---------|
| L10 | N 88°25'05" W | 159.46' |
| L11 | S 38°37'03" W | 38.64' |
| L12 | S 62°31'01" W | 121.55' |
| L13 | S 22°23'46" W | 122.36' |
| L14 | S 21°15'10" E | 119.30' |
| L15 | S 52°55'13" E | 130.51' |
| L16 | S 52°57'34" W | 89.97' |
| L17 | S 48°48'52" W | 158.18' |
| L18 | S 61°00'02" W | 37.52' |

LINE TABLE

| Line | Bearing | Length |
|------|---------------|---------|
| L19 | S 37°51'25" W | 165.74' |
| L20 | N 89°46'26" E | 7.24' |
| L21 | S 79°09'45" E | 105.60' |
| L22 | N 89°46'26" E | 7.25' |
| L23 | S 89°47'09" W | 30.33' |
| L24 | N 00°12'51" W | 41.16' |
| L25 | N 89°45'43" E | 27.82' |
| L26 | S 29°41'49" E | 38.00' |

CURVE TABLE

| CURVE TABLE | | | | | |
|-------------|---------|-----------------|--------------|------------|---------------|
| Curve | Radius | Chord Direction | Chord Length | Arc Length | Central Angle |
| C1 | 260.00' | S 73°43'58" W | 143.59' | 145.48' | 32°03'31" |
| C2 | 267.50' | S 84°41'41" E | 51.57' | 51.65' | 11°03'45" |
| C3 | 332.50' | S 84°41'20" E | 64.03' | 64.13' | 11°03'02" |
| C4 | 332.50' | S 84°41'41" E | 64.10' | 64.20' | 11°03'45" |
| C5 | 267.50' | S 84°41'20" E | 51.51' | 51.59' | 11°03'02" |
| C6 | 75.00' | N 24°03'35" E | 61.67' | 63.55' | 48°32'53" |
| C7 | 225.00' | N 30°38'15" E | 136.79' | 138.99' | 35°23'32" |

7/18/2011 8:11 AM J:\Projects\3754CSM1.dwg (Sheet 30) 3754CSM1.dwg Printed by: jim

James R. Sehlhoff R.L.S. 2692

7-18-2011
 Date





Stock No. 26273

Certified Survey Map No. 3276

Treasurers' Certificate

We, being the duly elected, qualified and acting Treasurers' of the City of Menasha and Calumet County, do hereby certify that in accordance with the records in our office, there are no unredeemed tax sales and unpaid taxes, or special assessments on and of the land included in this certified survey map.

Thomas Stoffel 7/19/11
City Treasurer Date

Michael Schlaak 7-21-11
County Treasurer Date

Common Council Resolution

Resolved, this minor subdivision in the City of Menasha is hereby approved by the Common Council on

this 5th day of July, 2011.

[Signature] 19 July 2011
Mayor Date

Deborah A. Galeazzi 7/19/11
Clerk Date

This Certified Survey Map is contained wholly within the property described in the following recorded instruments:

the property owners of record:
City of Menasha

Recording Information:
Doc # 295197
Doc # 295198

Document #: 466102



Register of Deeds
Calumet County, WI

Received for Record
Date: 7/21/11 8:20
Vol: 0026 Page: 69
Tamara Alten

Handwritten initials: J.R. 2011



James R. Sehloff 17 July 2011
James R. Sehloff Registered Land Surveyor No. S-2692 Date

File: 3754CSM2.dwg
Date: 06/15/2011
Drafted By: jim
Sheet: 4 of 4

EXHIBIT H

Examples of earned Financial Incentive and Payment of Financial Incentive

SECTION 4.02.9 PERFORMANCE INCENTIVE EXAMPLES

Above SECTIONS 4.02.2 – 4.02.4 set forth how the financial incentive amounts to DEVELOPER will be determined. Above SECTIONS 4.02.5 – 4.02.8 set forth when financial incentive payments will be made.

Financial Incentive payments may begin in 2013 if DEVELOPER constructs COMPLETED PROPERTIES before January 1, 2012 and Development Improvements of a threshold AAV of \$2.5 million exists as of January 1, 2012.

Financial Incentive may accrue beginning in 2013 if DEVELOPER constructs COMPLETED PROPERTIES before January 1, 2012. In the event there was an Escrow pursuant to SECTION 4.02.5 said Escrow would be paid to DEVELOPER on or before September 1, 2014 and also credited against said Accumulated Tax Increment earned by DEVELOPER but not yet paid by CITY.

Example YEAR 1: DEVELOPER completes 10 PHASE 1 homes on December 31, 2011 (as determined by occupancy permit issued) each of which has an AAV of \$175,000 on January 1, 2012.

Example YEAR 2: DEVELOPER completes 15 PHASE 1 homes and one PHASE IV multi-family building on December 31, 2012 each home of which has an AAV of \$175,000 and the multi-family having an AAV of \$1.35 million on January 1, 2013.

Example YEAR 3: DEVELOPER completes 15 PHASE 1 homes and one PHASE IV multi-family building on December 31, 2013 with each home having an AAV of \$175,000 and the multi-family having an AAV of \$1.35 million on January 1, 2014.

Example YEAR 4: DEVELOPER completes 15 PHASE 1 homes on December 31, 2014 each of which has an AAV of \$175,000 on January 1, 2015.

Example YEAR 5: DEVELOPER completes 15 PHASE 1 homes on December 31, 2015 each of which has an AAV of \$175,000 on January 1, 2016.

Example YEAR 6: DEVELOPER completes 15 PHASE II homes on December 31, 2016 each of which has an AAV of \$175,000 on January 1, 2017.

For Example, YEAR 1, DEVELOPER completes 10 PHASE 1 homes on December 31, 2011. On January 1, 2012, the AAV of each of the 10 completed homes is \$175,000 or \$1,750,000 in aggregate. The AAV of the 10 completed homes plus an additional AAV of other Development

Improvements is \$2.5 million. DEVELOPER has earned \$315,000 Financial Incentive which is first payable by September 1, 2013.

For Example, YEAR 2, Performance Incentive earned is \$607,500.

For Example, YEAR 3, Performance Incentive earned is \$607,500.

For Example, YEAR 4, Performance Incentive earned is \$472,500.

For Example, YEAR 5, Performance Incentive earned is \$472,500.

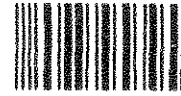
For Example, YEAR 6, Performance Incentive earned is \$498,750.

Based on Examples, YEARS 1 – 6, in accordance with SECTION 4.02.5, DEVELOPER will receive 25% of the available tax increment the CITY receives for 4 years beginning in 2013 and 80% of the available tax increment the CITY receives beginning in 2017 until \$2,973,750 has been paid or the TIF ends in 2031, whichever occurs first.

DEVELOPMENT AGREEMENT BETWEEN
CITY OF MENASHA & CYPRESS HOME

Document Number

Document Title

Register of Deeds
Calumet County, WIReceived for Record
Date: 10/13/11 13:21
Tawara Alten

Legal Description

Lot 1 of CSM #3276, City of Menasha, Calumet County, WI recorded as
Document #466102 Calumet County R.O.D. Said lot comprises 2.2877 acres.

AND

Lot 2 of CSM #3276, and the part of CSM #3276 consisting of street ROW,
City of Menasha, Calumet County, WI recorded as Document #466102
Calumet County R.O.D. Said lot comprises 2.2811 acres and said ROW
comprises 0.6158 acres.

Recording Area

Name and Return Address
City of Menasha Clerk's Office
140 Main Street
Menasha, WI 54952

ENVELOPE

7-01700-01

Parcel Identification Number (PIN)

Document Drafted by Attorney Pamela A. Captain
SBN: 1023192

THIS PAGE IS PART OF THIS LEGAL DOCUMENT – DO NOT REMOVE.

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document.

WRDA Rev. 12/22/2010

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN,

AND

CYPRESS HOMES AND REALTY, INC.

DATED AS OF JUNE 20, 2011

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the 20th day of June 2011, by and between the CITY OF MENASHA, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "CITY"), and CYPRESS HOMES AND REALTY, INC., a Wisconsin corporation with its principal offices located at 1500 W. College Avenue, Ste A, Appleton, WI 54914 (hereinafter "DEVELOPER").

ARTICLE I

SECTION 1.01 PURPOSE OF AGREEMENT. The parties hereto are entering into this Development AGREEMENT for the preparation and construction of a residential development within Lake Park Villas Project Area and proposed City of Menasha Tax Incremental District Number 12 (TID #12). The parties have worked cooperatively regarding initial planning, financing and feasibility of such a development. Further, the parties have reached an understanding regarding participation in the future development and intend to enter into this Development AGREEMENT to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed.

SECTION 1.02 CERTAIN DEFINITIONS. As used in this AGREEMENT, the following terms shall have the meanings indicated:

"AVAILABLE TAX INCREMENT" – The amount of tax increment (as defined in Sec. 66.1105, Wis. Stats.) generated solely by the Development Property and Development Improvements as of January 1 of each calendar year.

"CONCEPT PLAN" – The conceptual plan, estimated schedule and value estimates for the contemplated development of the Development Property. It is attached as **EXHIBIT B**.

"DEVELOPMENT" – The Development Improvements and Infrastructure that constitute the planned development project that is the subject of this AGREEMENT.

"DEVELOPMENT AREA 'D'" – An area consisting of approximately 5 acres located in the NW ¼ of the NE ¼ of Section 17, T20N, R17E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as **EXHIBIT A**, the actual area of which is to be determined via a Certified Survey Map pursuant to Section 3.02.1

"DEVELOPMENT IMPROVEMENTS" - Means structures, buildings and accoutrements constructed by DEVELOPER in compliance with Implementation Plans comprised of the following:

- Residential condominium development within Development Area "D" comprised of not less than 16 single family residential units with an estimated improved value of \$2.8 million.

"DEVELOPMENT PROPERTY" - means Development Area "D."

"DEVELOPMENT COSTS" — The hard and soft costs enumerated in the development

budget set forth in **EXHIBIT C**.

“INFRASTRUCTURE” – Public and Private Infrastructure.

“IMPLEMENTATION PLAN” – Detailed plans, drawings, specifications and other information as required for the site plan review under CITY Ordinances regarding the construction of Private Infrastructure, Infrastructure and Development Improvements. A specific Implementation Plan must be submitted to and approved by the CITY prior to construction as provided by CITY Ordinance. Each specific Implementation Plan shall be attached to this AGREEMENT as an exhibit upon approval by the CITY.

“PERFORMANCE INCENTIVE” – Payment of Available Tax Increment to the DEVELOPER as provided in this AGREEMENT.

“PUBLIC IMPROVEMENTS” – The road improvements, curb and gutter, storm water drainage ponds and other public facilities normally provided by or required by local governments fronting the Development Property whether in place or to be constructed or upgraded in conjunction with the development contemplated in the Concept Plan, including storm water management ponds, but specifically excluding Infrastructure.

“PUBLIC INFRASTRUCTURE”– Those Public Improvements that will be the responsibility of the DEVELOPER shall include, without limitation, improvements necessary to provide adequate access, sanitary sewer service, storm sewer, water mains and any appurtenances associated with these facilities, storm water drainage, street base course, temporary asphalt paving consisting of at least a two inch binder course, street lighting, pedestrian facilities, trails, sidewalks or other public utility improvements to the Development Property that have been constructed by DEVELOPER and dedicated to the CITY under this AGREEMENT.

“PRIVATE INFRASTRUCTURE” – Site grading in accordance with an approved grading and drainage plan, sanitary sewer laterals, potable water laterals and other facilities owned, constructed and maintained by DEVELOPER to service the Development Improvements from the Public Improvements or Private Infrastructure described more particularly in **EXHIBIT D**.

“TID # 12” means CITY of Menasha Tax Incremental District Number 12 and project plan created by CITY in accordance with Section 5.02.3 hereinafter.

ARTICLE II

OVERVIEW OF THE PROJECT

SECTION 2.01 The Project consists of residential condominium development resulting in the creation of not less than 16 single family residential units. Construction is to begin by July 15, 2011 with an expected completion date of December 31, 2017. Upon completion, the Development Improvements will have a value of at least \$2.8 million.

10. 7/11 dg

ARTICLE III

DEVELOPER OBLIGATIONS

SECTION 3.01 Acquisition of Development Areas. Upon completion of the pre-closing conditions but in no case later than July 31, 2011, DEVELOPER shall acquire fee simple title to Development Area "D."

SECTION 3.01.1 CITY shall transfer the Real Estate to DEVELOPER by warranty deed for \$17,000 per acre subject to the terms and conditions of this AGREEMENT and a separate Real Estate Purchase Agreement to be executed by the parties. The Real Estate Purchase Agreement shall provide that DEVELOPER shall pay 8% of the purchase price at closing and DEVELOPER shall execute a Promissory Note in favor of CITY in the amount of the purchase price less the 8% paid at closing. The terms of the Promissory Note shall be zero percent (0%) interest until paid in full, except that in the event DEVELOPER fails to make any installment payment when due, then interest shall be paid at 5% per annum of the remaining balance assessed from the date of closing. Equal installment payments on the Promissory Note shall be due 12/31/2011, 12/31/2012, 12/31/2013 and 12/31/2014.

SECTION 3.01.2 Title Insurance. The CITY shall obtain and pay for a title insurance commitment in the amount of the purchase price. A commitment by the title company agreeing to issue a title policy upon the recording of proper documents as agreed herein shall be deemed sufficient performance. DEVELOPER may obtain additional title insurance at its cost. The CITY shall provide to DEVELOPER a preliminary commitment for title insurance not less than fifteen (15) days prior to the closing.

SECTION 3.01.3 Title. The CITY shall cooperate with DEVELOPER to clear up any defect in title that may be pertaining to the property; provided, however, the Real Estate shall be conveyed subject to (1) reasonable and customary easements and restrictions of record; (2) a reversion of title in accordance with this AGREEMENT; (3) requisite public and private utility easements; (4) CITY covenants, none of which may be removed or modified without City's approval; and (5) all other terms and conditions of this AGREEMENT.

SECTION 3.01.3 Closing Date. The closing date for the transfer of the Real Estate shall be on or before July 31, 2011 for Development Area "D" and shall be held at the office of the City Attorney, City Hall, 140 Main Street, Menasha, Wisconsin or where the parties may otherwise agree.

SECTION 3.01.4 The Real Estate shall be conveyed "as is." The CITY is not responsible for any subsequent remediation, demolition, underground debris, or other clean up costs after conveyance.

SECTION 3.02 DEVELOPER's Covenant to Develop. DEVELOPER agrees and covenants to use its best efforts to proceed with due diligence to complete the Development substantially in accordance with the Concept Plan and Implementation Plans which plans and specifications shall be subject to such review and approval by the CITY as may be normal, customary or required in order to proceed with the Development in accordance with all applicable rules, codes, regulations, ordinances and laws. The DEVELOPER shall cause IMPROVEMENTS to the DEVELOPMENT AREAS to create a value of not less than \$2.8 million. The cost for such improvements shall include

Development hard and soft costs, site clearance and preparation and costs associated with the construction of single family condominium housing units. DEVELOPER shall be required to complete construction of the Development by December 31, 2017.

SECTION 3.03 Compliance with Codes, Plans and Specifications. DEVELOPER, at its own expense, shall obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the Development. The building and other improvements to be constructed upon the Property, the construction thereof, and their uses shall be in compliance with all applicable codes and ordinances of the CITY, and with all pertinent provisions of this AGREEMENT, the Project Plan and the Plans and Specifications.

SECTION 3.04 Taxes. It is understood that the land, improvements and personal property resulting from the Development shall be subject to property taxes. DEVELOPER shall pay when due all federal, state and local taxes in connection with the Project and all operating expenses in connection with the Real Estate and Development.

SECTION 3.05 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development and shall be completed on or before September 1, 2011. The Public Infrastructure shall be funded solely by the DEVELOPER. Improvements designed and constructed by the CITY such as curb and gutter and final paving will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER. DEVELOPER agrees to provide notice to each subsequent owner/purchaser of any real estate in Development Area "D" of the expected curb and gutter and final paving special assessment through a covenant recorded with the Calumet County register of deeds office.

SECTION 3.06 Private Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Private Infrastructure in accordance with the approved IMPLEMENTATION PLAN.

SECTION 3.07 Easements. DEVELOPER shall grant the CITY or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other need necessary to effectuate the Development in accordance with approved plans at no cost to the CITY.

SECTION 3.08 Record Retention. DEVELOPER understands and acknowledges that the CITY is subject to Public Records Law of the State of Wisconsin. As such, DEVELOPER agrees to retain all records as defined by Wisconsin Statute §19.35(2) applicable to this AGREEMENT for a period of not less than seven (7) years. DEVELOPER agrees to assist the CITY in complying with any public records request that they receive pertaining to this AGREEMENT. DEVELOPER agrees to indemnify and hold the CITY, their officers, employees and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from DEVELOPER's actions or omissions which contribute to the Indemnified Party's inability to comply with the Public Records Law. In the event DEVELOPER decides not to retain its records for a period of seven (7) years, then it

shall provide written notice to the CITY whereupon the CITY shall take custody of said records assuming such records are not already maintained by the CITY. This provision shall survive termination of this AGREEMENT.

SECTION 3.09 Repair and/or Replacement of Infrastructure. DEVELOPER shall repair and/or replace any damaged CITY infrastructure or other CITY property that may occur as a result of the Development.

SECTION 3.10 Prevailing Wages. DEVELOPER shall pay all applicable prevailing wages as required by Wisconsin law.

ARTICLE IV

CITY OBLIGATIONS

SECTION 4.01 The CITY shall be responsible for the installation of curb and gutter and final paving, which will not be constructed earlier than one (1) winter season following completion of the development project. The CITY, in its sole discretion, will assess each property/lot owner the cost and expenses associated with these public improvements in accordance with CITY ordinances and state statutes.

SECTION 4.02 Provision of Tax Increment Financial Incentive. In order to induce DEVELOPER to undertake the DEVELOPMENT within proposed TID #12, the DEVELOPER has requested and the CITY may be required to make available financial incentive to the DEVELOPER in a total amount not to exceed \$175,000, for the purpose of implementing the proposed TID #12 Project Plan and this AGREEMENT (the "CITY Contribution"). The CITY Contribution is made pursuant to Sections 66.1105(2)(f)1 of the Wisconsin Statutes, and shall be made available in the amount as follows:

SECTION 4.02.1 DEVELOPER agrees to advance funds for project costs, including costs associated with the installation of the Public Infrastructure. The CITY shall pay the DEVELOPER financial incentive under the terms of this AGREEMENT with funds to be made available upon verification of the Tax Increment increase as defined below.

SECTION 4.02.5 Earned financial incentive based on AVAILABLE TAX INCREMENT may be distributed to the DEVELOPER according to the schedule set forth herein when and only when the 10th residential unit in Development Area "D" is completed and certificate of occupancy have been issued: DEVELOPER to be paid an annual payment made on or before September 1, commencing in 2013, equal to 75% of AVAILABLE TAX INCREMENT received by CITY until \$175,000 is paid out or until 2018, whichever occurs first.

SECTION 4.02.6 CONDITIONS TO PAYMENT OF CITY CONTRIBUTION

If on or before December 31, 2017, the DEVELOPER has not met the Minimum Development or threshold value of \$2.8 million, the CITY shall not be required to continue to pay DEVELOPER the City contribution.

SECTION 4.02.7 No City contribution to DEVELOPER provided for in this AGREEMENT shall be paid or deemed due and owing to DEVELOPER for any year in which any property tax pertaining to the Development Property or any portion thereof which is under the ownership and control of the DEVELOPER, is not timely paid. In the event of any delinquency the CITY may give the DEVELOPER 30 days to cure. If the DEVELOPER fails to cure, the City contribution shall be withheld in that year. Nothing in this AGREEMENT shall

in any way affect the City's right to enforce collection of property taxes in the manner provided by law.

SECTION 4.03 CERTIFICATION OF COMPLETION. Upon completion and review of the Development Improvements by the CITY, the CITY shall provide the DEVELOPER with an appropriate recordable instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans and any amendment or modifications thereto.

SECTION 4.04 CITY PERFORMANCE SUBJECT TO REQUIRED GOVERNMENT APPROVALS. The DEVELOPER acknowledges that various of the specific undertakings of the CITY described in this AGREEMENT require approvals from the City's Common Council and/or Planning Commission as well as from governmental bodies external to the CITY, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City's obligations are conditioned upon the obtaining of all such approvals in the manner required by law. The CITY cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain such approvals on a timely basis.

ARTICLE V

CONDITIONS PRECEDENT TO CLOSING

SECTION 5.01 Purpose. The parties acknowledge that the Development will require substantial financial resources. While each party is willing and prepared to perform its obligations hereunder, the parties recognize that each must begin its performance under this AGREEMENT and continue it up to the point of Closing without absolute assurance that the other will be able to raise and commit all the funds necessary for Closing.

SECTION 5.02 Conditions to DEVELOPER's Obligation to Close. DEVELOPER's obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

SECTION 5.02.1 The CITY, at its expense, causing Development Areas "D" to be split from Lot 2 of the Lake Park Villas subdivision and that part, if any, of Parcel #7-01722-00 comprising the Development Area via Certified Survey Map.

SECTION 5.02.2 Creation of a Mixed Use Tax Incremental Financing District – Proposed TID#12 sufficient to meet obligations under this Agreement.

SECTION 5.03 Pre-Closing Undertakings of the DEVELOPER. Prior to Closing, the DEVELOPER agrees that it shall:

SECTION 5.03.1 Financing Commitment. DEVELOPER shall obtain and provide to the CITY: (1) a written financial commitment from a conventional lender, (2) written construction contract to construct and finance the Development, (3) other written proof of financial resources to construct the Development, or (4) any combination thereof. Said documents shall be acceptable in all respects to the CITY, in the sole and absolute discretion of the CITY Comptroller or other agent for the CITY. DEVELOPER shall have closed the loan, which is the subject of the financing commitment and in connection

therewith, DEVELOPER shall have provided copies of the documents to be executed in connection with the construction loan to the CITY Comptroller. DEVELOPER shall provide to the CITY copies of all appraisals and market studies prepared in connection with the financial commitment.

SECTION 5.03.2 Prepare conceptual lot layouts and restrictive covenants for the Development which are acceptable to the CITY.

SECTION 5.03.3 Financial Statements. DEVELOPER shall have provided to the City Comptroller, audited financial statements (if available, and if audited financial statements are not available, financial statements in a form reasonably acceptable to the City Comptroller) for fiscal years 2009 and 2010 plus two years complete tax returns, including all schedules for DEVELOPER and any successors or assigns or transferees of DEVELOPER and each of the members of any of the foregoing and each member of the Board of Directors (or equivalent) of any of the foregoing. The financial statements must show a financial condition acceptable to the CITY, in the judgment of the CITY Comptroller.

SECTION 5.03.4 DEVELOPER shall at its expense have obtained all necessary approvals and permits necessary to undertake the Development, including but not limited to, site plan review, zoning approvals, and any other local, state or federal approvals or permits.

SECTION 5.03.5 Within 120 days of the execution of this AGREEMENT, DEVELOPER will, at its own cost and expense, prepare and file with the appropriate City offices, a Condominium Plat or Preliminary Plat pursuant to City of Menasha Code of Ordinances. DEVELOPER will prepare restrictive covenants regarding home and development standards for the Development Area subject to design and permitting requirements of the CITY.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

DEVELOPER represents and warrants to and covenants with the CITY and the CITY represents and warrants to and covenants with DEVELOPER as respectively follows:

SECTION 6.01 Each of the parties will use its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this AGREEMENT.

SECTION 6.02 Each party shall give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in this AGREEMENT.

SECTION 6.03 DEVELOPER shall not engage in any practice, take any action, or enter into any transaction outside the Ordinary Course of Business and shall at its own cost and expense, maintain and preserve its business in accordance with prudent business

practices.

SECTION 6.04 DEVELOPER will permit representatives of CITY (including legal counsel, accountants, inspectors and consultants) to have full access at all reasonable times, and in a manner so as not to interfere with the normal business operations of DEVELOPER, to all premises, properties, personnel, books, records (including tax records), contracts, and documents of or pertaining to DEVELOPER's business.

SECTION 6.05 CITY represents and warrants it is a municipality, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.06 DEVELOPER represents and warrants it is a corporation, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.07 CITY and DEVELOPER have full power and authority to execute and deliver this AGREEMENT and to perform their obligations hereunder.

SECTION 6.08 The execution and delivery of this AGREEMENT, the consummation of the transactions contemplated in this AGREEMENT, and the execution and delivery of the documents required to be executed, delivered or acknowledged by DEVELOPER at the closing will not violate any provision of DEVELOPER's articles or bylaws or any applicable statute, rule, regulation, judgment, order or decree of the state of Wisconsin or a court having jurisdiction over DEVELOPER or its properties.

SECTION 6.09 DEVELOPER represents and warrants it has timely filed all tax returns required by law, all tax returns of DEVELOPER are true and correct in all material respects, DEVELOPER has paid all taxes due, except those, if any, currently being contested by it in good faith.

SECTION 6.10 DEVELOPER represents and warrants there is no action, suit, proceeding, claim, arbitration against DEVELOPER, its activities or assets before any court or governmental agency except as disclosed in writing to CITY.

SECTION 6.11 DEVELOPER represents and warrants its balance sheets and statements of income provided for review hereunder are true, correct and complete, and fairly represent the financial condition of DEVELOPER at the date or dates therein indicated and the results of operations for the period or periods therein specified and that there has not been any Material Adverse Change since the Balance Sheet Date.

SECTION 6.12 The Representations and Warranties set forth herein shall be true and correct in all material respects at and as of the Closing Date.

SECTION 6.13 DEVELOPER shall have a continuing obligation to immediately report any material adverse changes in its financial condition to the CITY from the Date of Closing through completion of construction.

ARTICLE VII

POST-CLOSING OBLIGATIONS OF DEVELOPER

SECTION 7.01 DEVELOPER will, at its expense, cause the Development Area to be

platted.

SECTION 7.02 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development Area undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development Area and shall be completed upon substantial completion of the Development Improvements. The Public Infrastructure shall be funded solely by the DEVELOPER. DEVELOPER agrees to provide either an Irrevocable Letter of Credit in favor of CITY or an escrow or other restricted account to be maintained, acceptable to the CITY, in an amount sufficient to cover all expenses associated with the construction of public infrastructure. DEVELOPER shall be responsible to ensure that Contractors installing such infrastructure comply with and pay prevailing wage rates as set forth by the Wisconsin Department of Workforce Development. Other improvements constructed by the City, including sidewalks, curb and gutter and final paving will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER.

SECTION 7.03 DEVELOPER acknowledges that the costs of the public infrastructure contemplated by this AGREEMENT is approximately \$150,000. DEVELOPER pledges that it shall complete the construction of the infrastructure shown on [insert plan name] on or before September 1, 2011. In the event the public infrastructure has not been completed by that date, the parties may either agree to an extension, the CITY may complete the public infrastructure and assess the costs of the public infrastructure against those portions of the Development Area that are benefitted or the City may declare the DEVELOPER in default.

SECTION 7.04 Dedication of Public Infrastructure. The DEVELOPER shall dedicate the Public Infrastructure to the CITY without cost to the CITY under the following terms. The CITY shall accept dedication of Public Infrastructure upon (a) receipt of As-Built Drawings, and (b) inspection and satisfaction of CITY staff that the Public Infrastructure was constructed in accordance with the as-built drawings; and (c) DEVELOPER's contractors execute a guarantee, in the form normally required by the CITY for similar work, guaranteeing the workmanship, adequacy and fitness for purpose of the Public Infrastructure for at least 1 year(s) after conveyance to the CITY.

SECTION 7.05 Maintenance of Private Infrastructure. The DEVELOPER shall be responsible for the cost of maintenance of the Private Infrastructure and Development Improvements.

SECTION 7.06 Failure to Dedicate Public Infrastructure. If the DEVELOPER does not timely dedicate the Public Infrastructure or the Public Infrastructure is not accepted by the CITY, the CITY shall give the DEVELOPER 30 days written notice to cure. Upon failure to cure the CITY may enter the Development Property and repair or reconstruct the Public Infrastructure to the CITY's satisfaction and assess the cost of the repair or reconstruction against benefitted properties or bring an action for specific performance or to otherwise compel compliance with this AGREEMENT.

SECTION 7.07 Except as may be mutually agreed by the CITY and DEVELOPER, the DEVELOPER will participate in FVHB Parade of Home events.

ds
DJM
SECTION 7.08 DEVELOPER will initiate construction of at least one (1) home no later than July 15, 2011 in Development Area "D" with an expected completion date of November 1, 2011. All Development Improvements must be completed by December 31, 2017.

SECTION 7.09 Standards of Construction. DEVELOPER shall see to it that all

infrastructure and improvements are constructed in a good and workmanlike manner and consistent with prevailing industry standards for high quality construction in the area of the CITY. DEVELOPER shall perform all work in compliance with applicable laws, regulations, ordinances and permits and DEVELOPER shall at its own cost and expense obtain all necessary permits and licenses for such development.

ARTICLE VIII

BUDGET AND BUDGET RECONCILITATION; FINANCIAL REPORTS

SECTION 8.01 Attached hereto as **EXHIBIT C** is the DEVELOPER's budget for the Development. The DEVELOPER agrees to maintain records such that its actual expenditures for the Development may be ascertained and reconciled against such budget. From time to time upon reasonable notice from the CITY, authorized representatives of the CITY, including the CITY Comptroller, shall be entitled to examine such records at the DEVELOPER's offices to verify construction costs during and after construction.

ARTICLE IX

ASSIGNMENT

SECTION 9.01 The rights, duties and obligations of the DEVELOPER hereunder may not be assigned by DEVELOPER without the written consent of the CITY to the assignment, which consent shall not be unreasonably withheld. Any assignee or purchaser or transferee of any portion of the Real Estate shall be bound by the terms and conditions of this AGREEMENT, which shall run with the land and be binding upon all such assignees, purchasers and transferees. Written evidence satisfactory to the CITY that such assignee or entity has agreed in writing to be bound by the terms of this AGREEMENT must be provided to the CITY. Any such sale, transfer or conveyance of any portions of the Real Estate shall not relieve the DEVELOPER of its obligations hereunder.

ARTICLE X

INDEMNITY

SECTION 10.01 DEVELOPER shall indemnify and hold harmless the CITY, its officers, employees and authorized representatives (Indemnified Party) from and against any and all liabilities, including, without limitation, remediation required by any federal or state agency having jurisdiction, losses, damages, costs and expenses, including reasonable attorney fees and costs, arising out of any third-party claims, causes of action, or demands made against or suffered by the Indemnified Party on account of this AGREEMENT, unless such claims, causes of action, or demands: (a) relate to the Indemnified Party failing to perform its obligations to DEVELOPER; or (b) arise out of any willful misconduct of the Indemnified Party. At the Indemnified Party's request, DEVELOPER shall appear for and defend the Indemnified Party, at DEVELOPER's expense, in any action or proceeding to which the Indemnified Party may be made a party by reason of any of the foregoing.

ARTICLE XI

NOTICES

SECTION 11.01 All notices, demands, certificates or other communications under this AGREEMENT shall be sufficiently given and shall be deemed given when hand delivered or

when mailed by first class mail, postage prepaid, property addressed as indicated below:

To the DEVELOPER: Cypress Homes and Realty, Inc.
1500 W. College Ave., Ste A
Appleton, WI 54914

With a copy to:

To the CITY: City of Menasha, Wisconsin
City Hall
140 Main Street
Menasha, WI 54952
Attn: CITY Clerk

With a copy to: Greg Keil, Community Development Director
City Hall
140 Main Street
Menasha, WI 54952

Any party may, by written notice to the party (ies), designate a change of address for the purposes aforesaid.

ARTICLE XII

NONDISCRIMINATION

SECTION 12.01 In the performance of work under this AGREEMENT, the DEVELOPER agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age, color, sex, sexual orientation, physical condition, disability, national origin or ancestry and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

SECTION 13.01 ENTIRE AGREEMENT. This document contains the entire AGREEMENT between DEVELOPER and the CITY and it shall inure to the benefit of and shall be binding upon the parties hereto and the respective heirs, executives, successors and assigns. This AGREEMENT may be modified only by a written Amendment signed by the parties, which Amendment shall become effective upon the recording in the Office of Register of Deeds for the County.

SECTION 13.02 SURVIVAL OF WARRANTIES, REPRESENTATIONS AND AGREEMENTS. Any warranty, representation or AGREEMENT herein contained shall survive the Closing. Any provision of this AGREEMENT which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

SECTION 13.03 DEFAULT. In addition to any remedies set forth within this

AGREEMENT, the Parties shall have all rights and remedies available under law or equity with respect to said default. All remedies shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.

SECTION 13.04 FAILURE TO ENFORCE NOT A WAIVER. Failure of the CITY to enforce any provision contained herein shall not be deemed a waiver of the City's right to enforce such provision or any other provision in the event of a subsequent default.

SECTION 13.05 NO SUBORDINATION. The CITY shall not subordinate any interest it has in this AGREEMENT for any reason, unless it is determined to be in the best interests of the CITY.

SECTION 13.06 GOVERNING LAW. This AGREEMENT shall be governed by, enforced and construed in accordance with the domestic laws of the State of Wisconsin.

SECTION 13.07 COUNTERPARTS. This AGREEMENT may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 13.08 AMENDMENTS AND WAIVERS. No amendment of any provision of this AGREEMENT shall be valid unless the same shall be in writing and signed by CITY and DEVELOPER. No waiver by any party of any provision of this AGREEMENT or any default, misrepresentation, or breach of warranty shall be valid unless the same shall be in writing and signed by the parties making such a waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

SECTION 13.09 SEVERABILITY. If any provisions of this AGREEMENT shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 13.10 RECORDING OF AGREEMENT. The parties hereto agree that the CITY may record this AGREEMENT or a memorandum of this AGREEMENT on the record title to the Real Estate. The DEVELOPER shall upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

SECTION 13.11 NO PARTNERSHIP. This AGREEMENT specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

SECTION 13.12 CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this AGREEMENT. In the event an ambiguity or question of intent or interpretation arises, this AGREEMENT shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this AGREEMENT.

SECTION 13.13 INCORPORATION OF EXHIBITS. The **EXHIBITS** identified in this

AGREEMENT are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT, or caused it to be duly executed, as of the 20th day of June, 2011

CYPRESS HOMES AND REALTY, INC.

By: _____

By: _____

CITY OF MENASHA

By: _____

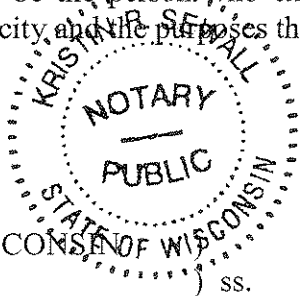
Donald Merkes, Mayor

Attest: _____

Deborah Galeazzi, City Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

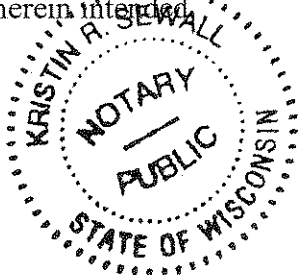
Personally came before me this 20th day of June 2011, the above named
Michael Blank,
to me known to be the person who executed the foregoing instrument and acknowledged the
same in the capacity and for the purposes therein intended.



Kristin R. Sewall
Notary Public, State of Wisconsin
My Commission: 3-10-13

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally came before me this 20th day of June 2011, the above named Donald
Merkes, Mayor, and Deborah Galeazzi, City Clerk, of the City of Menasha, to me known to be
the person who executed the foregoing instrument and acknowledged the same in the capacity
and the purposes therein intended.



Kristin R. Sewall
Notary Public, State of Wisconsin
My Commission: 3-10-13

Countersigned pursuant to §62.09(10) Wis. Stats.



City Comptroller

DEVELOPMENT AREA D

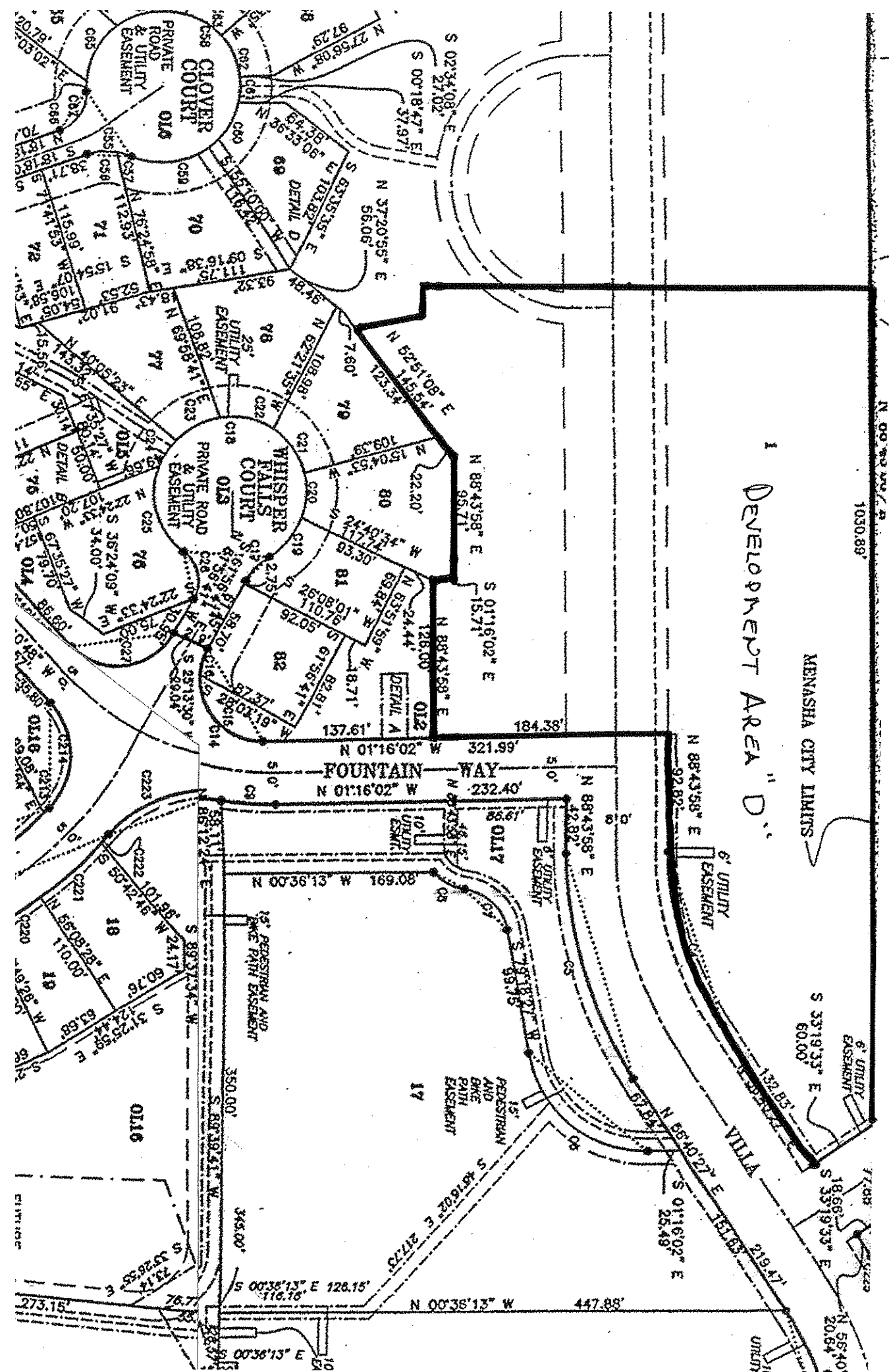


EXHIBIT "B"

CYPRESS MENASHA CONCEPT

6-30-10

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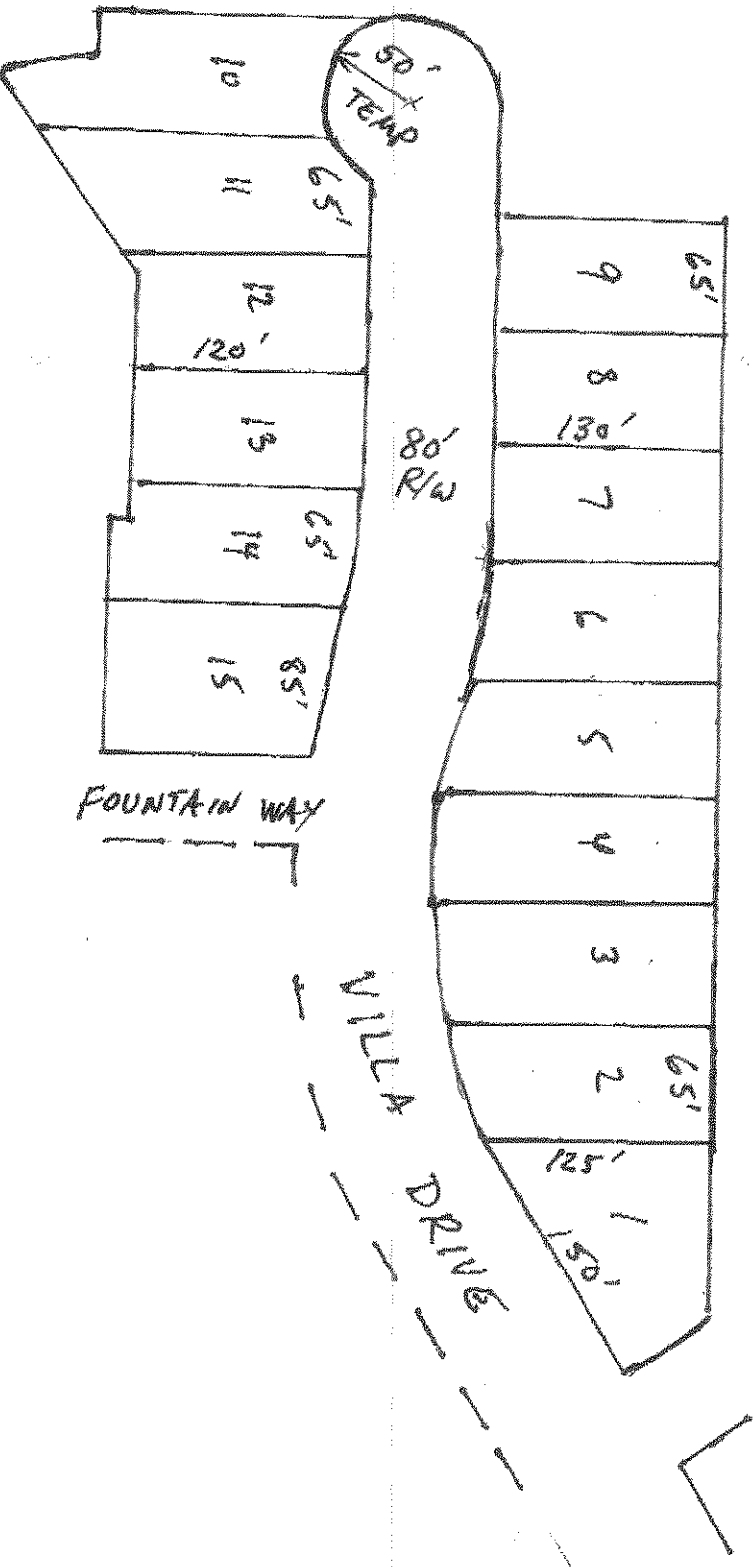


Exhibit B
Schedule of Planned Improvements and Estimated of Value

Schedule of Planned Improvements

- Public Infrastructure Installation 2011
- Construct 2 homes 2011
- Construct 4 homes 2012
- Construct 4 homes 2013
- Construct 4 homes 2014
- Construct 2 homes 2015

Estimates of Value

- 1/1/2012 \$ 350,000
- 1/1/2013 \$1,050,000
- 1/1/2014 \$1,750,000
- 1/1/2015 \$2,450,000
- 1/1/2016 \$2,800,000



September 7, 2011

The Cottages at Lake Park
 City of Menasha
 Budget

| | |
|-----------------------------------|------------------|
| land | \$ 60,673.00 |
| surveying | \$ 6,900.00 |
| infrastructure | \$126,866.28 |
| blacktop road | \$ 17,440.00 |
| waverly sanitary | \$ 5,800.00 |
| electric, gas, street lighting | \$ 2,800.00 |
| Total | \$220,479.28 |
| cost per lot | \$ 13,779.96 |

Exhibit D
Private Infrastructure

| | |
|---|--------------------|
| Sanitary Sewer Laterals | \$ 4,663.44 |
| Water Laterals, Corporation Stops & Top | \$ 3,417.00 |
| Storm Sewer Laterals | \$ 3,825.00 |
| Miscellaneous Grading and Erosion Control | \$ 7,650.00 |
| Electric, Gas, Telephone, Cable | \$ 8,840.00 |
| Total | \$28,395.44 |

**Gene
Frederickson
Trucking & Excavating, Inc.**

4450 Fieldcrest Drive
Kaukauna, WI 54130
Ph 920-766-1100 Fax 920-766-3788

September 7, 2011

Cypress Homes
ATTN: Mike
611 Lynndale Dr.
Appleton, WI

Upon acceptance of the proposal dated June 10, 2011, Gene Frederickson agrees to perform the work described in said proposal. After completion of the project, Cypress Homes agrees to pay \$50,000.00 towards the project. Upon closing of each additional lot, Cypress Homes agrees to pay lot proceeds to Frederickson Trucking until paid in full.

Gene Frederickson Trucking & Excavating, Inc. thanks you for the opportunity to be of service. Please call with any questions you may have.

GENE FREDERICKSON TRUCKING

By: Gene Frederickson

Title: Pres

CYPRESS HOMES

By: Mike H. Cypress Homes

Title: president



Proud Recipient of: 2009 Platinum Safety Award of Honor - Zero Accidents

