WINDSOR TOWN BOARD
RESOLUTION 2015-07

APPROVAL OF SUBDIVISION AGREEMENT FOR HOLLAND FIELDS – PHASE X, LOTS 18 TO 25 (INCLUSIVE) OF HOLLAND FIELDS SUBDIVISION AND LOTS 253 TO 257 (INCLUSIVE) OF FIRST ADDITION TO HOLLAND FIELDS SUBDIVISION, ALL IN THE TOWN OF WINDSOR, DANE COUNTY, WI, AND RESTRICTION ON SALE AND TRANSFER OF LOTS AND AMOUNT OF LETTER OF CREDIT

WHEREAS, Veridian Homes AB, LLC ("Developer") has requested an amendment to the Holland Fields Subdivision Development Agreement, as previously amended ("Development Agreement") to provide for development of Phase X, Lots 18 to 25 (Inclusive) of Holland Fields Subdivision and Lots 253 to 257 (Inclusive) of First Addition to Holland Fields Subdivision and the Restriction on Transfer and Sale of Lots for future phases and other exhibits attached thereto (collectively, "Phase X Amendment"); and

WHEREAS, the Developer has provided data necessary for the Town Engineer to establish the amount of the letter of credit, which has been reviewed by the Town Engineer and is summarized in the attached Memorandum entitled "Veridian - Holland Fields Phase 10 - Engineer's Estimate of Town of Windsor Improvements, Project No. 14-05-158;" and

WHEREAS, the Town Engineer and Town Attorney have reviewed the Phase X Amendment and the documents related thereto, and recommend the approval of same on the terms set forth herein; and

WHEREAS, at its regularly scheduled meeting on March 19, 2015, the Town Board reviewed the Phase X Amendment and the documents related thereto.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Windsor as follows:

A. The Town Board **APPROVES** the proposed Phase X Amendment, **subject to each and every one of the following conditions**:
    1. Subject to proper execution by the Town and Developer.
    2. Subject to Developer filing the letter of credit with the Town in the form and amount approved by the Town Engineer on or before May 30, 2015.
    3. Subject to Developer providing the Town with the fully executed original of the Phase X Amendment, with the Restriction on Transfer and Sale of Lots executed, and updated exhibits attached including verified Parcel Identification Numbers, so that the Town can execute same and submit fully executed originals for recording at the Dane County Register of Deeds Office on or before May 30, 2015.

4. Subject to the deadlines established by this Resolution. Time is of the essence with respect to the deadlines set forth herein.
5. Subject to reimbursement to the Town of Windsor by the Developer for all costs and expenses incurred by the Town of Windsor in connection with the review and approval of this matter, including, but not limited to, the cost of professional services incurred by the Town of Windsor for the review and preparation of required documents, attendance at meetings or other related professional services.

B. The recorded documents shall be returned to the Town of Windsor following recording. The Town shall retain copies of the recorded document for the Town's records and thereafter return the original to the Developer.

C. The Town Board's approval shall expire if the May 30, 2015 deadlines set forth above are not met. Time is of the essence.

D. The Developer's letter of credit shall be in an amount established in the May 30, 2015 Memorandum from the Town Engineer, which is incorporated herein by reference.

E. It is the Developer's obligation to timely satisfy those conditions adopted by the Town Board, and to provide satisfactory verification of compliance to the Town. Any necessary or requested reviews or submissions to the Town for determinations of compliance with this Resolution shall be made at least ten (10) business days prior to the date upon which verification of compliance is required.

The above and foregoing Resolution was duly adopted at the regular meeting of the Town Board of the Town of Windsor on the 19th day of March, 2015.

TOWN OF WINDSOR

Robert E. Wipperfurth, Town Chairman

Donald G. Madelung, Town Supervisor

Bruce Stravinski, Town Supervisor

Excused Absence
Alan Buchner, Town Supervisor

Monica M. Smith, Town Supervisor

Attest:
Christine Capstran
Clerk

Veridian - Holland Fields Phase 10
Engineer's Estimate
Project No. 14-05-158
01/29/15 Surety Amount

Town of Windsor Improvements

Storm Sewer							
1	18" RCP Storm Sewer	152	LF	$	46.00	$	6,992.00
2	12" RCP Storm Sewer	204	LF	$	40.00	$	8,160.00
3	Storm Sewer Trench Compaction	356	TF	$	6.00	$	2,136.00
4	2'x3' Inlets	3	EA	$	1,600.00	$	4,800.00
5	Inlet Protection	3	EA	$	125.00	$	375.00
	Subtotal					**$**	**22,463.00**
Street Construction							
1	Finish Grade Streets	7	STA	$	425.00	$	2,975.00
2	Undercut Subgrade	175	CY	$	28.00	$	4,900.00
3	10" Crushed Stone Base	3025	SY	$	7.90	$	23,897.50
4	STD 30" Curb & Gutter	1500	LF	$	13.25	$	19,875.00
5	Adjust Castings	9	EA	$	160.00	$	1,440.00
6	2-1/4" Bituminous Binder	3025	SY	$	8.10	$	24,502.50
7	Clean and Tack	3025	SY	$	0.75	$	2,268.75
8	1-3/4" Bituminous Surface	3025	SY	$	6.30	$	19,057.50
9	5" Sidewalk w/ Sand Base	5700	SF	$	3.30	$	18,810.00
10	5" Sidewalk Ramps w/ Sand Base	300	SF	$	5.75	$	1,725.00
11	Detectable Warning Fields	5	EA	$	200.00	$	1,000.00
12	Street Name Sign	1	EA	$	280.00	$	280.00
13	Terrace Restoration	1450	SY	$	2.75	$	3,987.50
	Subtotal					**$**	**124,718.75**
	Total Estimate					**$**	**147,181.75**
					125% of Estimate	$	183,977.19
					Surety Amount	**$**	**184,000.00**

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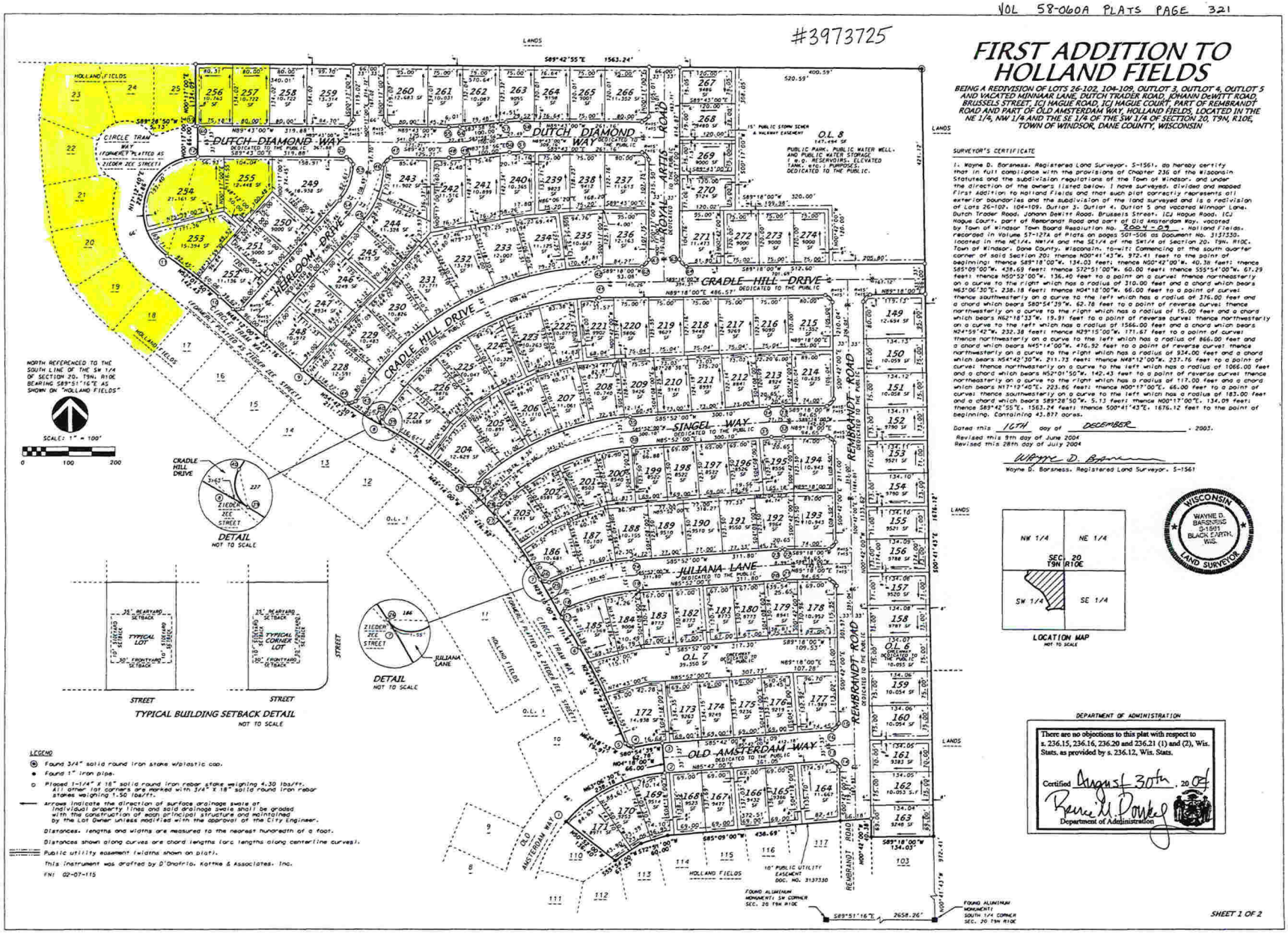
#3973725

FIRST ADDITION TO HOLLAND FIELDS

BEING A REDIVISION OF LOTS 26-102, 104-109, OUTLOT 3, OUTLOT 4, OUTLOT 5 AND VACATED MINNAAR LANE, DUTCH TRADER ROAD, JOHANN DeWITT ROAD, BRUSSELS STREET, ICJ HAGUE ROAD, ICJ HAGUE COURT, PART OF REMBRANDT ROAD AND PART OF OLD AMSTERDAM WAY, HOLLAND FIELDS, LOCATED IN THE NE 1/4, NW 1/4 AND THE SE 1/4 OF THE SW 1/4 OF SECTION 20, T9N, R10E, TOWN OF WINDSOR, DANE COUNTY, WISCONSIN



LEGEND

- ⊙ Found 3/4" solid round iron stake w/plastic cap.
- ● Found 1" iron pipe.
- ○ Placed 1-1/4" X 18" solid round iron rebar stake weighing 4.30 lbs/ft. All other lot corners are marked with 3/4" X 18" solid round iron rebar stakes weighing 1.50 lbs/ft.
- Arrows indicate the direction of surface drainage swale or individual property lines and said drainage swale shall be graded with the construction of each principal structure and maintained by the Lot Owner unless modified with the approval of the City Engineer.

Distances, lengths and widths are measured to the nearest hundredth of a foot.

Distances shown along curves are chord lengths (arc lengths along centerline curves).

Public utility easement (widths shown on plat).

This instrument was drafted by D'Onofrio, Kottke & Associates, Inc.

FN: 02-07-115

SURVEYOR'S CERTIFICATE

I, Wayne D. Barsness, Registered Land Surveyor, S-1561, do hereby certify that in full compliance with the provisions of Chapter 236 of the Wisconsin Statutes and the subdivision regulations of the Town of Windsor, and under the direction of the owners listed below, I have surveyed, divided and mapped First Addition to Holland Fields and that such plat correctly represents all exterior boundaries and the subdivision of the land surveyed and is a redivision of Lots 26-102, 104-109, Outlot 3, Outlot 4, Outlot 5 and vacated Minnaar Lane, Dutch Trader Road, Johann DeWitt Road, Brussels Street, ICJ Hague Road, ICJ Hague Court, part of Rembrandt Road and part of Old Amsterdam Way, vacated by Town of Windsor Town Board Resolution No. 2004-09, Holland Fields, recorded in Volume 57-127A of Plats on pages 501-506 as Document No. 3137330, located in the NE1/4, NW1/4 and the SE1/4 of the SW1/4 of Section 20, T9N, R10E, Town of Windsor, Dane County, Wisconsin, to-wit: Commencing at the south quarter corner of said Section 20; thence N00°41'43"W, 972.41 feet to the point of beginning; thence S89°18'00"W, 134.03 feet; thence N00°42'00"W, 40.36 feet; thence S85°09'00"W, 438.69 feet; thence S72°51'00"W, 60.00 feet; thence S55°54'00"W, 67.29 feet; thence N50°52'00"W, 136.40 feet to a point on a curve; thence northeasterly on a curve to the right which has a radius of 310.00 feet and a chord which bears N63°06'30"E, 238.18 feet; thence N04°18'00"W, 66.00 feet to a point of curve; thence southwesterly on a curve to the left which has a radius of 376.00 feet and a chord which bears S80°54'39"W, 62.78 feet to a point of reverse curve; thence northwesterly on a curve to the right which has a radius of 15.00 feet and a chord which bears N62°18'33"W, 19.91 feet to a point of reverse curve; thence northwesterly on a curve to the left which has a radius of 1566.00 feet and a chord which bears N24°59'42"W, 232.38 feet; thence N29°15'00"W, 171.67 feet to a point of curve; thence northwesterly on a curve to the left which has a radius of 866.00 feet and a chord which bears N45°12'00"W, 476.92 feet to a point of reverse curve; thence northwesterly on a curve to the right which has a radius of 934.00 feet and a chord which bears N54°42'30"W, 211.73 feet; thence N48°12'00"W, 237.76 feet to a point of curve; thence northwesterly on a curve to the left which has a radius of 1066.00 feet and a chord which bears N52°01'50"W, 142.43 feet to a point of reverse curve; thence northeasterly on a curve to the right which has a radius of 117.00 feet and a chord which bears N17°12'40"E, 223.86 feet; thence N00°17'00"E, 66.00 feet to a point of curve; thence southeasterly on a curve to the left which has a radius of 183.00 feet and a chord which bears S89°28'50"W, 5.13 feet; thence N00°17'00"E, 134.09 feet; thence S89°42'55"E, 1563.24 feet; thence S00°41'43"E, 1675.12 feet to the point of beginning. Containing 43.877 acres.

Dated this 16TH day of DECEMBER, 2003.

Revised this 9th day of June 2004
Revised this 28th day of July 2004

Wayne D. Barsness

Wayne D. Barsness, Registered Land Surveyor, S-1561

LOCATION MAP
NOT TO SCALE

WISCONSIN
WAYNE D. BARSNESS
S-1561
BLACK EARTH, WIS.
LAND SURVEYOR

DEPARTMENT OF ADMINISTRATION

There are no objections to this plat with respect to s. 236.15, 236.16, 236.20 and 236.21 (1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified August 30th, 2004

Department of Administration

SHEET 1 OF 2

SUBDIVISION AGREEMENT
For
Holland Fields – Phase X
Holland Fields – Lots 18 to 25
First Addition to Holland Fields Subdivision – Lots 253 to 257
Town of Windsor, Wisconsin

THIS AGREEMENT is made and entered into this 19 day of March, 2015, by and between Veridian Homes AB, LLC, a Wisconsin Limited Liability Company, and or its successors and assigns (hereinafter referred to as the **"Developer"**) and the Town of Windsor, a body corporate and politic located in Dane County, Wisconsin (hereinafter referred to as the **"Town"**);

RECITALS:

1) The Developer has received final plat approval for subdivisions known as "Holland Fields" (the **"Original Plat"**) and "First Addition to Holland Fields" (hereinafter the **"First Addition"** and collectively with the Original Plat, the **"Subdivision"**), First Addition being a resubdivision of part of the Original Plat.

2) The Town Ordinances (the **"Ordinances"**) require that provisions be made for the installation of public sanitary sewer facilities, water mains and water service laterals, the grading of public and private lands, erosion and storm water runoff control, and street and other public improvements to serve the Subdivision.

3) The Developer previously received approvals for Phase I, Phase II, Phase III, Phase IV, Phase V, Phase VI, Phase VII, Phase VII and Phase IX of the Subdivision and constructed public improvements pursuant to development agreements with the Town as to Phase I, III, IV, V, VI and VII and the Village of DeForest as to Phase II, and has completed or is in the process of completing public improvements as to Phase VIII and IX, pursuant to a subdivision agreement with the Town.

4) This Agreement benefits both the Town and the Developer, and it is acknowledged by the Developer that the Town will suffer damages in the event the Developer shall fail to develop the Subdivision in accordance with the terms hereof.

5) The provisions of this Agreement are authorized by State law and Town rules, regulations and ordinances.

6) The Developer wishes to proceed with the installation of public improvements to serve the Subdivision. The Ordinances require that the Developer

enter into this Agreement with the Town regarding the installation of said improvements in the Subdivision prior to commencement of construction of improvements.

7) The Developer has dedicated lots 10 and 12 of Holland Fields to the Town of Windsor for the purposes of storm water management.

NOW, THEREFORE, the Developer and the Town hereby agree as follows:

A) Contractors.

All contractors, subcontractors and material suppliers performing services for the Developer in connection with this Agreement (hereinafter, individually a **"Contractor,"** together the **"Contractors"**) shall be subject to the approval of the Town Engineer, which approval shall be deemed granted if not withheld in writing on or before seven (7) days after the latter of the date hereof or the date on which Developer identifies the Contractors by written notice to the Town Engineer.

B) Improvements.

1) The specific improvements (the **"Improvements"**) required by the Town to be installed by the Developer within the Subdivision are described in detail on Exhibit A which is attached hereto and made a part hereof. The Improvements specified in Section II of Exhibit A (**"Town Improvements"**) shall be constructed in accordance with the plans and specifications for such improvements prepared by a licensed professional engineer (the **"Plans"**) and in accordance with all conditions listed on Exhibit B which is attached hereto and made a part hereof. The Plans shall have been approved by all appropriate regulatory agencies; and a copy of the Plans shall have been delivered to the Town Engineer and approved in writing by the Town Engineer prior to the execution of the Subdivision final plat and this Agreement by the Town. No change shall be made in the Plans without the written approval of the Town Engineer.

2) The Town and the Developers' predecessor in interest, entered into that certain document entitled Holland Fields Development Agreement, which document was dated July 1, 1999 (the **"Original Agreement"**). Developer accepts the obligations created by paragraph (11) of the Original Agreement. The Town of Windsor's Park Commission has approved a plan of using the funds for the improvements as proposed in paragraph (11) of the Original Agreement to fund improvements on Outlot 2 of the Plat of Holland Fields and Outlot 8 of the First Addition to Holland Fields. To fulfill the requirements of paragraph (11) of the Original Agreement, the Developer agrees to pay Town invoices for park improvements up to an amount of $74,625. As of the date of this agreement, all obligations have been fulfilled created by paragraph (11) of the Original Agreement.

C) Specifications for Improvements.

The Developer agrees to install the Town Improvements in accordance with the Plans and the requirements of the Ordinances. The Developer agrees to follow erosion control procedures under the Ordinances, and the Developer shall acquire an erosion control permit from the Dane County Land Conservation Department prior to commencement of any construction.

The Developer shall submit to the Town with submittal of this signed Agreement, a Town approved set of Project Specifications. The Project Specifications shall include as an Exhibit to the document the prevailing wage rate determination issued by the State of Wisconsin Department of Workforce Development for this project, if applicable. The documents shall conform to the conditions of this Agreement and shall be incorporated into this Agreement by reference.

D) Town Approval of Starting Dates.

The Developer shall provide a schedule of construction setting forth the approximate dates of commencement and completion of the construction. The Developer agrees that no work shall be scheduled for the Improvements without the Town Engineer's written approval of the starting date and schedule. Notwithstanding the foregoing or anything else set forth herein, Developer may elect to complete construction of the Town Improvements in phases, in which event, the schedule of construction under this Subsection (D), shall be the anticipated schedule for each phase of construction. Developer may amend the schedule from time-to-time in order to meet Developer's requirements hereunder. Each phase of the development shall comply with the time of completion provisions set forth in paragraph (G), below. In addition, the fees, reimbursement of costs and surety, provided for in paragraphs (K), (L) and (M), shall, if Developer elects to construct the subdivision in phases, be applicable to each phase of the development at such time as the Developer wishes to commence construction of a phase, and not to the property as a whole.

E) Town Responsibility.

The Developer agrees that the Town shall not be responsible for any costs or charges related to the Improvements except those specifically enumerated and agreed to in this Agreement, if any.

F) Acceptance of Work.

The Developer agrees that the Town Improvements will not be accepted by the Town until (i) completion of all required Town Improvements as specified in this Agreement for the Subdivision, (ii) all outstanding charges to be paid by the Developer in connection with the respective phase of the Subdivision under the Ordinances have been paid in full, (iii) affidavits and lien waivers are received by the Town indicating that all Contractors providing work, services or materials in connection with the Town Improvements, or performing any work within streets or other areas dedicated to the public, have been paid in full for all such work, services and materials, (iv) Windsor

Sanitary District No. 1 has accepted dedication or ownership of the water and sanitary sewer facilities serving the respective phase of the Subdivision, (v) the Town has received evidence satisfactory to it that no liens or other encumbrances (except those approved in writing by the Town) encumber the Town Improvements, (vi) the Town Engineer has inspected and accepted the Town Improvements as being in compliance with the Town Ordinances, and (vii) any documentation necessary to show compliance with current prevailing wage laws, if applicable. Upon completion of the above items, the Developer shall submit a written request for final acceptance of the Town Improvements to the Town. The Town Improvements will be subject to acceptance by the Town Board (the **"Final Acceptance"**). The Developer agrees to maintain the Town Improvements during the time period between completion and Final Acceptance, and thereafter to guarantee such work in accordance with paragraph (J), below.

G) Time of Completion.

The Developer hereby agrees to construct the Improvements in a good and workmanlike manner and in accordance with the terms of this Agreement. All work specified herein will be completed by the Developer within 12 months from the date of this Agreement except the final asphalt surface of streets which shall be completed as reasonably determined by the Town Engineer.

The Developer has installed street trees in phases 1, 2, 3, 4, 5, 6 and 7 of this development. The Developer also hereby agrees to install the street trees required as part of the original development agreement and subsequent agreements for phase 8 by December 31, 2015, phase 9 by December 31, 2016 and phase 10 by December 31, 2017.

H) Insurance Required of Contractors.

The Developer shall assure that the general contractor maintains sufficient comprehensive general liability and other insurance as determined by the Town Engineer to be appropriate for the work being performed and as will protect the Town from liability for personal injury, property damage, worker's compensation or any other damages arising out of the work to be performed, whether caused by the acts or omissions of the general contractor, any subcontractor, any person directly or indirectly employed by them or any other person for whom they might be liable. The Town shall be named an additional insured on such policy. Limits of coverage shall be in amounts as determined sufficient by the Town Engineer. The Developer shall require the general contractor to provide to the Town Engineer a current certificate of insurance to evidence compliance with this Agreement. The Developer shall require each contractor who is not covered by the general contractor's insurance policy, as determined by the general contractor's certificate of insurance, to provide to the Town Engineer a current certificate of insurance determined by said Engineer to be appropriate for the work being performed.

I) Indemnification.

The Developer agrees to indemnify, defend with counsel satisfactory to the Town in the reasonable exercise of the Town's discretion and hold the Town harmless from and against any and all lawsuits, claims, losses, damages, costs and expenses which the Town may be subject to or liable for arising out of or occurring in connection with the construction of the Improvements.

J) Guarantee of Work.

The Developer agrees to guarantee all work performed under this Agreement against defects in workmanship or materials for a period of eighteen (18) months from the date of Final Acceptance by the Town Engineer. If any defect should appear during this guarantee period, the Town shall provide Developer with written notice of such defect. The Developer agrees to make any and all required replacements or repairs of the defective work at its own expense on or before thirty (30) days after receipt of such notice. This expense includes total and complete restoration of any disturbed surface within the project or on adjacent property, to the standards provided in the Plans. Each repair or replacement performed pursuant to this paragraph shall be guaranteed for eighteen (18) months from the completion thereof.

K) Fees Payable Prior to Construction.

The Developer agrees to pay the Town all of the fees and charges described on Exhibit C, which is attached hereto and made a part hereof, in strict compliance with its terms.

L) Developer to Reimburse the Town of Costs Sustained.

1) The Developer shall reimburse the Town for its actual cost of design, inspection, testing, construction, and associated legal and real estate fees for the Town Improvements. The Town's costs shall be determined as follows:

a) The cost of the Town Engineer's and Town Attorney's time while engaged in:

i) the review, evaluation or alteration of the Plans, this Agreement and any amendment to either;

ii) the construction, supervision or inspection of the Improvements or any activity associated with their construction;

iii) the enforcement of this Agreement or any ordinance or other regulation relating to the Improvements;

iv) the design and obtaining necessary approvals of plans to provide public utility service to future planned phases of construction within the approved subdivision plat;

v) any other activity which is reasonably necessary and associated with the construction of the Improvements.

Said costs shall be based on the actual amount properly charged to the Town under the usual arrangement said officials have with the Town.

b) The cost of Town employees' time while engaged in any of the activities described in sub.(a) based on the hourly rate paid to the employee multiplied by a factor determined by the Town to represent the Town's cost for statutory expense benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0.

c) The cost, as determined by the Town Engineer, of Town equipment employed, if any.

d) The cost of mileage reimbursed to Town employees, if any, which is attributed to the Improvements.

e) The actual costs of Town materials incorporated into the Improvements, if any, including transportation costs plus a restocking and/or handling fee not to exceed 10% of the cost of the materials.

2) The Developer shall, at the Town's request, advance to the Town an amount equal to an estimate of the Town's costs described in paragraph 1. as set forth in a written estimate prepared by the Town. In the event that the actual cost is calculated to be less than the advanced amount, the difference shall be refunded to the Developer. In the event the advance is less than the actual amount, the Developer shall be billed the difference and payment shall be a condition precedent to acceptance of any major components of the Improvements. Interest shall be charged on any amount not paid to the Town within thirty (30) days of the invoice date at the rates set forth in the Ordinances.

M) <u>Surety</u>.

1) The Developer agrees to furnish the Town with an irrevocable letter of credit (the **"Surety"**) for the length of time that each phase of the project will take to complete plus an additional period of eighteen months following the date of Final Acceptance. The surety shall be in an amount equal to 125% of the cost of the Town Improvements for said phase, which sum equals $184,000.00. The surety shall be issued in favor of the Town, shall identify the name of the subdivision and the owner of the subdivision, and shall be approved by the Town Attorney.

2) In the event the Developer fails to complete all improvements in compliance with this agreement, the Town may draw upon the Developer's surety and perform or have performed all necessary work, and supply or have supplied all necessary equipment, goods, materials or services, to complete all or any part of some or all of the required public improvements in satisfactory form.

3) The Town may, in its sole discretion following the Developer's request and acceptance of some but not all of the Improvements constructed as part of this Agreement, reduce the surety to the amount estimated by the Town Engineer (in a manner consistent with the Ordinances) to be necessary to secure performance by the Developer hereunder. Estimates of the costs of the Improvements are included as part of the attached Exhibit A.

4) After construction and total completion of the project and Final Acceptance by the Town, the surety will be reduced to 15% of the actual cost of construction for a period of eighteen months (the guarantee period). In the event the original surety would, by its terms, expire prior to the end of the eighteen month guaranty period, or if the guaranty period is extended due to repairs of defects as provided in sec. (J), a new surety shall be issued to cover the remaining guarantee period for the 15% of actual original construction costs.

5) This Agreement shall be in default should Developer fail to perform any term, covenant or condition hereof, and fail to cure the same on or before expiration of the notice period specified herein. Upon default, the Town shall provide written notice of such default to Developer. Developer shall have thirty (30) days after receipt of such notice to cure such default. In the event the default requires more than the payment of money to cure, and is of a type and character that requires in excess of thirty (30) days to cure, Developer shall be deemed to have cured the default if Developer, within the thirty (30) day time period, commences such action as is reasonably necessary to cure the default within a reasonable period of time, and prosecutes such action to completion with reasonable due diligence and speed under all of the circumstances then existing.

6) Any notices required or permitted hereunder, shall be in writing, and shall be addressed to the party at the address specified below. Notices shall be effective when (a) hand delivered; (b) three (3) business days after being mailed in the United States mails, postage prepaid, certified, return receipt requested; or (c) sent via facsimile to a party, with confirmation copy sent no later than the next business day. The addresses for notices to the parties are as follows:

If to the Town:

Town of Windsor
Attn: Town Clerk
4084 Mueller Road
DeForest, Wisconsin 53532
Fax: (608) 846-2328

With a copy to: Constance L. Anderson
222 West Washington Avenue
Suite 900
P.O. Box 1784
Madison, WI 53701-1784

If to Developer: Veridian Homes AB, LLC
Attn: Jeff Rosenberg
6801 South Towne Drive
Madison, Wisconsin 53713
Fax: (608) 223-0443

With a copy to: Dan Day
D'Onofrio, Kottke and Associates, Inc.
7530 Westward Way
Madison, Wisconsin 53717
Fax: (608) 833-1089

7) Any breach of this Agreement by the Town shall give rise only to damages permitted by State of Wisconsin contract law, and shall not give rise to any liability for violation of the Fifth and Fourteenth Amendments of the Constitution of the United States or any similar State constitutional provisions. Performance by the Town of its duties under the terms of this Agreement, are expressly conditioned upon the Developer's substantial compliance with each term, condition, provision and covenant of this Agreement, and all applicable federal, state and local laws and regulations.

N) Pre- Construction Meeting.

1) A pre-construction meeting shall be scheduled between the Developer, the Contractors, the Town; and Town Engineer prior to commencement of any construction of the Improvements. Developer shall, prior to such meeting, notify all utilities of the planned construction and the date and location of the pre-construction meeting.

O) "As Built" Plan.

The Developer shall, not later than sixty (60) days following completion of the Improvements, provide the Town with three (3) copies of a complete plan of the Improvements as constructed. As built measurements shall include horizontal and vertical location referenced to the Town (Dane County; Wisconsin) coordinate system. Street and utility locations shall be provided on the plans as well as in digital form compatible with AutoCAD format. If the Developer is unable to furnish the location and digital files as required, the Town Engineer shall complete the as-built plans with costs charged back to the Developer.

P) General Provisions.

1) Except as provided herein, nothing set forth in this Agreement shall be construed as, nor is intended to be, a waiver or release of any obligations imposed upon the Developer by the Ordinances, or any statutes or regulations applicable to the Improvements.

2) This Agreement shall be binding upon the Developer (jointly and severally if more than one), upon his or her personal representatives and heirs, and upon the successors and assigns of the parties.

3) Nothing in this Agreement is intended to be construed so as to make the Developer or the Contractors agents of the Town; the parties hereto agree that said persons are independent contractors.

4) The Developer represents that it is the lawful owner of the Subdivision and is now lawfully seized and possessed of the Subdivision.

5) The Developer represents that it has obtained any and all easements or rights of way necessary to gain access to the Subdivision and to provide drainage and utility service to and from the Subdivision.

6) In the event the Town validly exercises its right to draw upon the surety deposited by the Developer pursuant to Section M above, or if the Developer shall breach this Agreement in any other respect, the Developer agrees to pay to the Town all of its costs and expenses, including attorneys' fees, relating to such exercise or to the enforcement of this Agreement.

7) No approval by the Town Engineer or the Town Attorney or any other person acting on behalf of the Town shall be construed as a waiver of any of the requirements of the Ordinances, or any statute or regulation governing the Improvements. It is understood that the Developer has selected and appointed all Contractors, and the Town shall have no responsibility whatsoever for the Contractors or for the quality of the materials or workmanship provided by such Contractors. No authority granted herein to the Town in connection with the review or approval of the Contractors, or the Improvements, shall be deemed to create any liability whatsoever on the part of the Town.

8) The parties acknowledge that this Agreement does not vest any rights in Developer except as specifically set forth herein, and the Town does not warrant or represent, that any additional Town approvals required by Developer for this or any subsequent phase of this project will be granted by the Town, except as specifically set forth or contemplated herein. This Agreement may only be amended by a written agreement executed by the parties hereto. Amendments to this Agreement which concern subsequent phases may be in the form of an addendum to this Agreement or as otherwise agreed upon by the parties.

9) This Agreement represents the entire agreement between the parties, and replaces and supercedes all prior agreements between the parties with respect to the Subdivision. In the event any portion of this Agreement shall be deemed unenforceable by a court of competent jurisdiction, the offending portion shall be severed from the remainder, and the remainder shall be fully enforced in accordance with all applicable laws, rules and regulations. In the event performance of any obligation hereunder by a party is prevented by inclement weather, labor stoppages, unavailability of materials or other act of God, then any deadline for such performance shall be extended for the period of time in which the event causing the delay in performance is in effect. During the period of such delay, performance by a party shall be excused.

IN WITNESS WHEREOF, the parties hereto, have executed this Agreement in DeForest, Wisconsin, as of the date and year first above written.

*** TOWN ***

Town of Windsor

By: Robert Wipperfurth
Print Name: Robert Wipperfurth
Print Title: Town Chairperson

By: Christine Capstran
Print Name: Christine Capstran
Print Title: Clerk

*** DEVELOPER ***

Veridian Homes AB, LLC,
A Wisconsin Limited Liability Company

By: _____
Jeffrey S. Rosenberg
Vice President

EXHIBIT "A"

Public Improvement Requirements

Holland Field – Phase X

Section I - Windsor Sanitary District Improvements.

1) **Public Water System Improvements.** A potable public water supply system shall be installed to provide water service to all lots within the Subdivision in accordance with the applicable rules, standards and plan approvals of the appropriate municipal water utility. Developer shall be responsible for arranging service extensions from Windsor Sanitary District No. 1 and shall comply with all ordinances, agreements and other requirements for the provision of such service.

2) **Sanitary Sewer System Improvements.** Necessary facilities shall be installed to provide public sanitary sewer service to all lots within the Subdivision in accordance with the applicable rules, standards and plan approvals of the appropriate municipal sewer utility. Developer shall be responsible for arranging service extensions from Windsor Sanitary District No. 1 and shall comply with all ordinances, agreements and other requirements for the provision of such service.

All Work to be completed under the agreement between the Developer and Windsor Sanitary District #1 is attached hereto as Exhibit "D." Work may be completed in Phases in accordance with paragraph (D) of the Subdivision Agreement.

Section II - Town of Windsor Required Improvements.

The improvements required herein are as follows:

Storm sewer and storm water management and erosion control measures; streets, sub base and surfacing; curb and gutter, sidewalks; gas and electric utilities; cable television; telephone service; street lights; landscaping and trees in accordance with the plans and specifications. Inspection shall be provided by the Town's Engineer and reimbursed by the Developer. In addition, the Developer further agrees to construct improvements required to connect the subdivision to existing utilities, including facilities required outside the boundaries of the subdivision and to dedicate said improvements, rights-of-way, parklands, and storm water detention lands to the Town.

Developer hereby states that the cost of construction for Town Improvements associated with the Holland Fields – Phase X to be $184,000.00 based upon the actual accepted bid(s) of it(s) contractor(s), as attached to Exhibit "A-1" hereto:

EXHIBIT "B"

The Developer must comply with the following conditions:

1) TRAFFIC CONTROL SIGNS

The Developer shall provide and install all traffic control signs and pavement markings including but not limited to: stop signs, crosswalk striping and no parking restrictions, per the Manual on Uniform Traffic Control Devices (MUTCD). Adequacy of signage shall be determined by the Town Engineer. Proposed stop sign and crosswalk locations for this phase are as noted on the plans.

2) CURB AND GUTTER

Thirty (30) inch concrete curb and gutter shall be installed by Developer along both sides of all internal streets within the proposed development. Curb and gutter shall be reinforced at trench crossings. The curb and gutter shall meet the specifications for Windsor curb and gutter street construction requirements.

3) STREETS

The entire phase's internal street system shall be paved by Developer a full width approved by the Town Engineer. Type III fixed barricades shall be erected at the points of closure of all streets. Barricade design shall comply with the "Manual on Uniform Traffic Control Devices".

4) SIDEWALKS

Sidewalks are required on both sides of all streets within the subdivision. Walks shall be ramped at curb crossings and extend to the road pavement in compliance with ADA requirements. Developer and/or lot owner shall be responsible for repair of any damage to the sidewalk resulting from ingress and egress of construction vehicles. Sidewalks shall be reinforced at trench crossings. Concrete sidewalks shall be 5" thick by 5' wide.

5) WATER

A potable public water system shall be installed to provide water service to all lots within the Subdivision in accordance with the applicable rules, standards and plan approvals of the appropriate municipal water utility. Developer shall be responsible for arranging service extensions from Windsor Sanitary District No. 1 and shall comply with all ordinances. agreements and other requirements for the provision of such service.

6) SEWER

Necessary facilities shall be installed to provide public sanitary sewer to all lots within the Subdivision in accordance with the applicable rules, standards and plan approvals of the appropriate municipal sewer utility. Developer shall be responsible for arranging service extensions from Windsor Sanitary District No. 1 and shall comply with all ordinances, agreements and other requirements for the provision of such service.

7) STREET WIDTHS

Street widths shall be as shown on the approved plans.

8) STORMWATER

The storm sewer pipe system and inlets or catch basins shall be designed for a ten year storm event according to the Town subdivision ordinance. Final surface contouring, catch basin locations, storm sewer pipe, manhole locations and drainage flow patterns are subject to review and approval by the Town Engineer and must meet the provisions of the storm water master plan approved by the Town.

9) STREET LIGHTING

Street lights shall be installed at all intersections and street curves of dedicated Town streets. The maximum distance between street lights shall be 300 feet. The location of all street lights shall be shown on the final street plan as determined by the Town Engineer. All utilities are to be underground. Street light poles shall be the standard Alliant Energy concrete pole. The poles shall be equipped with Cobra Eye Lens and 150 watt HPS bulb. Proposed street light locations shall be as noted on the plans.

10) REFORESTATION AND LANDSCAPING

Developer shall provide for street trees for every 50 lineal feet of street frontage as stipulated in Section 12 of the Town development Agreement dated July 1, 1999.

11) FIRE HYDRANTS

Fire hydrants shall be installed according to plans approved by the Town Engineer. Each fire hydrant shall be equipped with a hydrant flag as specified by the Town Engineer.

12) STREET NAME SIGNS

Developer shall also provide and install all street name signs. Sign design and installation standards will be determined by the Town Engineer. Street name signs shall be shown on the traffic sign plan. All street name signs shall be installed prior to occupancy of any unit within the subdivision.

13) EROSION CONTROL

The Developer is responsible for obtaining all required permits including a land disturbance permit. Chapter 24, Erosion and Storm Water Runoff Ordinance shall be adhered to by the Developer. In addition, the Town requires the terraced areas to be sloped for sidewalk installation, seeded and covered with erosion matting from curb to the property line or a minimum of 8 feet behind the curb. All disturbed land including topsoil stockpiles shall be seeded and mulched for erosion control immediately following the completion of site grading. Developer shall coordinate cleaning of all streets affected by construction of the Subdivision to the satisfaction of the Town Building Inspector and Town Engineer. If, in the opinion of the Town Building Inspector or Town Engineer, additional street cleaning is needed to control a potential erosion or nuisance problem, the Town reserves the right to perform street cleaning and invoice the Developer at a standard rate set by the Town. Such cleaning shall not be considered as a replacement of standard erosion control measures.

14) EASEMENTS

The Developer shall dedicate all easements as required by Windsor Sanitary District No. I and the Town's engineer at no cost to the Town.

15) HOUSE NUMBERING

Prior to occupation of any dwelling unit, numbers shall be installed identifying the street address which shall be visible from the street.

16) PEDESTRIAN AND BIKE PATHS

All pedestrian and bike paths shall have a pavement width of eight (8) feet. Developer shall construct the bicycle path for the east side of Circle Tram Way in the existing dedicated right-of-way as shown on the approved plans in phases commensurate with the phased completion of the Improvements.

EXHIBIT "C"

Fees To Be Paid To The Town Prior To Construction

No fees at this time.

EXHIBIT "D"

(Copy of Agreement with Windsor Sanitary District #1)

To be Supplied.

SUBDIVISION AGREEMENT
For
Holland Fields – Phase X
Holland Fields – Lots 18 to 25
First Addition to Holland Fields Subdivision – Lots 253 to 257
Town of Windsor, Wisconsin

THIS AGREEMENT is made and entered into this 19 day of March, 2015, by and between Veridian Homes AB, LLC, a Wisconsin Limited Liability Company, and or its successors and assigns (hereinafter referred to as the **"Developer"**) and the Town of Windsor, a body corporate and politic located in Dane County, Wisconsin (hereinafter referred to as the **"Town"**);

RECITALS:

1) The Developer has received final plat approval for subdivisions known as "Holland Fields" (the **"Original Plat"**) and "First Addition to Holland Fields" (hereinafter the **"First Addition"** and collectively with the Original Plat, the **"Subdivision"**), First Addition being a resubdivision of part of the Original Plat.

2) The Town Ordinances (the **"Ordinances"**) require that provisions be made for the installation of public sanitary sewer facilities, water mains and water service laterals, the grading of public and private lands, erosion and storm water runoff control, and street and other public improvements to serve the Subdivision.

3) The Developer previously received approvals for Phase I, Phase II, Phase III, Phase IV, Phase V, Phase VI, Phase VII, Phase VII and Phase IX of the Subdivision and constructed public improvements pursuant to development agreements with the Town as to Phase I, III, IV, V, VI and VII and the Village of DeForest as to Phase II, and has completed or is in the process of completing public improvements as to Phase VIII and IX, pursuant to a subdivision agreement with the Town.

4) This Agreement benefits both the Town and the Developer, and it is acknowledged by the Developer that the Town will suffer damages in the event the Developer shall fail to develop the Subdivision in accordance with the terms hereof.

5) The provisions of this Agreement are authorized by State law and Town rules, regulations and ordinances.

6) The Developer wishes to proceed with the installation of public improvements to serve the Subdivision. The Ordinances require that the Developer

enter into this Agreement with the Town regarding the installation of said improvements in the Subdivision prior to commencement of construction of improvements.

7) The Developer has dedicated lots 10 and 12 of Holland Fields to the Town of Windsor for the purposes of storm water management.

NOW, THEREFORE, the Developer and the Town hereby agree as follows:

A) Contractors.

All contractors, subcontractors and material suppliers performing services for the Developer in connection with this Agreement (hereinafter, individually a **"Contractor,"** together the **"Contractors"**) shall be subject to the approval of the Town Engineer, which approval shall be deemed granted if not withheld in writing on or before seven (7) days after the latter of the date hereof or the date on which Developer identifies the Contractors by written notice to the Town Engineer.

B) Improvements.

1) The specific improvements (the **"Improvements"**) required by the Town to be installed by the Developer within the Subdivision are described in detail on Exhibit A which is attached hereto and made a part hereof. The Improvements specified in Section II of Exhibit A (**"Town Improvements"**) shall be constructed in accordance with the plans and specifications for such improvements prepared by a licensed professional engineer (the **"Plans"**) and in accordance with all conditions listed on Exhibit B which is attached hereto and made a part hereof. The Plans shall have been approved by all appropriate regulatory agencies; and a copy of the Plans shall have been delivered to the Town Engineer and approved in writing by the Town Engineer prior to the execution of the Subdivision final plat and this Agreement by the Town. No change shall be made in the Plans without the written approval of the Town Engineer.

2) The Town and the Developers' predecessor in interest, entered into that certain document entitled Holland Fields Development Agreement, which document was dated July 1, 1999 (the **"Original Agreement"**). Developer accepts the obligations created by paragraph (11) of the Original Agreement. The Town of Windsor's Park Commission has approved a plan of using the funds for the improvements as proposed in paragraph (11) of the Original Agreement to fund improvements on Outlot 2 of the Plat of Holland Fields and Outlot 8 of the First Addition to Holland Fields. To fulfill the requirements of paragraph (11) of the Original Agreement, the Developer agrees to pay Town invoices for park improvements up to an amount of $74,625. As of the date of this agreement, all obligations have been fulfilled created by paragraph (11) of the Original Agreement.

C) Specifications for Improvements.

The Developer agrees to install the Town Improvements in accordance with the Plans and the requirements of the Ordinances. The Developer agrees to follow erosion control procedures under the Ordinances, and the Developer shall acquire an erosion control permit from the Dane County Land Conservation Department prior to commencement of any construction.

The Developer shall submit to the Town with submittal of this signed Agreement, a Town approved set of Project Specifications. The Project Specifications shall include as an Exhibit to the document the prevailing wage rate determination issued by the State of Wisconsin Department of Workforce Development for this project, if applicable. The documents shall conform to the conditions of this Agreement and shall be incorporated into this Agreement by reference.

D) Town Approval of Starting Dates.

The Developer shall provide a schedule of construction setting forth the approximate dates of commencement and completion of the construction. The Developer agrees that no work shall be scheduled for the Improvements without the Town Engineer's written approval of the starting date and schedule. Notwithstanding the foregoing or anything else set forth herein, Developer may elect to complete construction of the Town Improvements in phases, in which event, the schedule of construction under this Subsection (D), shall be the anticipated schedule for each phase of construction. Developer may amend the schedule from time-to-time in order to meet Developer's requirements hereunder. Each phase of the development shall comply with the time of completion provisions set forth in paragraph (G), below. In addition, the fees, reimbursement of costs and surety, provided for in paragraphs (K), (L) and (M), shall, if Developer elects to construct the subdivision in phases, be applicable to each phase of the development at such time as the Developer wishes to commence construction of a phase, and not to the property as a whole.

E) Town Responsibility.

The Developer agrees that the Town shall not be responsible for any costs or charges related to the Improvements except those specifically enumerated and agreed to in this Agreement, if any.

F) Acceptance of Work.

The Developer agrees that the Town Improvements will not be accepted by the Town until (i) completion of all required Town Improvements as specified in this Agreement for the Subdivision, (ii) all outstanding charges to be paid by the Developer in connection with the respective phase of the Subdivision under the Ordinances have been paid in full, (iii) affidavits and lien waivers are received by the Town indicating that all Contractors providing work, services or materials in connection with the Town Improvements, or performing any work within streets or other areas dedicated to the public, have been paid in full for all such work, services and materials, (iv) Windsor

Sanitary District No. 1 has accepted dedication or ownership of the water and sanitary sewer facilities serving the respective phase of the Subdivision, (v) the Town has received evidence satisfactory to it that no liens or other encumbrances (except those approved in writing by the Town) encumber the Town Improvements, (vi) the Town Engineer has inspected and accepted the Town Improvements as being in compliance with the Town Ordinances, and (vii) any documentation necessary to show compliance with current prevailing wage laws, if applicable. Upon completion of the above items, the Developer shall submit a written request for final acceptance of the Town Improvements to the Town. The Town Improvements will be subject to acceptance by the Town Board (the **"Final Acceptance"**). The Developer agrees to maintain the Town Improvements during the time period between completion and Final Acceptance, and thereafter to guarantee such work in accordance with paragraph (J), below.

G) Time of Completion.

The Developer hereby agrees to construct the Improvements in a good and workmanlike manner and in accordance with the terms of this Agreement. All work specified herein will be completed by the Developer within 12 months from the date of this Agreement except the final asphalt surface of streets which shall be completed as reasonably determined by the Town Engineer.

The Developer has installed street trees in phases 1, 2, 3, 4, 5, 6 and 7 of this development. The Developer also hereby agrees to install the street trees required as part of the original development agreement and subsequent agreements for phase 8 by December 31, 2015, phase 9 by December 31, 2016 and phase 10 by December 31, 2017.

H) Insurance Required of Contractors.

The Developer shall assure that the general contractor maintains sufficient comprehensive general liability and other insurance as determined by the Town Engineer to be appropriate for the work being performed and as will protect the Town from liability for personal injury, property damage, worker's compensation or any other damages arising out of the work to be performed, whether caused by the acts or omissions of the general contractor, any subcontractor, any person directly or indirectly employed by them or any other person for whom they might be liable. The Town shall be named an additional insured on such policy. Limits of coverage shall be in amounts as determined sufficient by the Town Engineer. The Developer shall require the general contractor to provide to the Town Engineer a current certificate of insurance to evidence compliance with this Agreement. The Developer shall require each contractor who is not covered by the general contractor's insurance policy, as determined by the general contractor's certificate of insurance, to provide to the Town Engineer a current certificate of insurance determined by said Engineer to be appropriate for the work being performed.

I) Indemnification.

The Developer agrees to indemnify, defend with counsel satisfactory to the Town in the reasonable exercise of the Town's discretion and hold the Town harmless from and against any and all lawsuits, claims, losses, damages, costs and expenses which the Town may be subject to or liable for arising out of or occurring in connection with the construction of the Improvements.

J) Guarantee of Work.

The Developer agrees to guarantee all work performed under this Agreement against defects in workmanship or materials for a period of eighteen (18) months from the date of Final Acceptance by the Town Engineer. If any defect should appear during this guarantee period, the Town shall provide Developer with written notice of such defect. The Developer agrees to make any and all required replacements or repairs of the defective work at its own expense on or before thirty (30) days after receipt of such notice. This expense includes total and complete restoration of any disturbed surface within the project or on adjacent property, to the standards provided in the Plans. Each repair or replacement performed pursuant to this paragraph shall be guaranteed for eighteen (18) months from the completion thereof.

K) Fees Payable Prior to Construction.

The Developer agrees to pay the Town all of the fees and charges described on Exhibit C, which is attached hereto and made a part hereof, in strict compliance with its terms.

L) Developer to Reimburse the Town of Costs Sustained.

1) The Developer shall reimburse the Town for its actual cost of design, inspection, testing, construction, and associated legal and real estate fees for the Town Improvements. The Town's costs shall be determined as follows:

a) The cost of the Town Engineer's and Town Attorney's time while engaged in:

i) the review, evaluation or alteration of the Plans, this Agreement and any amendment to either;

ii) the construction, supervision or inspection of the Improvements or any activity associated with their construction;

iii) the enforcement of this Agreement or any ordinance or other regulation relating to the Improvements;

iv) the design and obtaining necessary approvals of plans to provide public utility service to future planned phases of construction within the approved subdivision plat;

v) any other activity which is reasonably necessary and associated with the construction of the Improvements.

Said costs shall be based on the actual amount properly charged to the Town under the usual arrangement said officials have with the Town.

b) The cost of Town employees' time while engaged in any of the activities described in sub.(a) based on the hourly rate paid to the employee multiplied by a factor determined by the Town to represent the Town's cost for statutory expense benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0.

c) The cost, as determined by the Town Engineer, of Town equipment employed, if any.

d) The cost of mileage reimbursed to Town employees, if any, which is attributed to the Improvements.

e) The actual costs of Town materials incorporated into the Improvements, if any, including transportation costs plus a restocking and/or handling fee not to exceed 10% of the cost of the materials.

2) The Developer shall, at the Town's request, advance to the Town an amount equal to an estimate of the Town's costs described in paragraph 1. as set forth in a written estimate prepared by the Town. In the event that the actual cost is calculated to be less than the advanced amount, the difference shall be refunded to the Developer. In the event the advance is less than the actual amount, the Developer shall be billed the difference and payment shall be a condition precedent to acceptance of any major components of the Improvements. Interest shall be charged on any amount not paid to the Town within thirty (30) days of the invoice date at the rates set forth in the Ordinances.

M) Surety.

1) The Developer agrees to furnish the Town with an irrevocable letter of credit (the **"Surety"**) for the length of time that each phase of the project will take to complete plus an additional period of eighteen months following the date of Final Acceptance. The surety shall be in an amount equal to 125% of the cost of the Town Improvements for said phase, which sum equals $184,000.00. The surety shall be issued in favor of the Town, shall identify the name of the subdivision and the owner of the subdivision, and shall be approved by the Town Attorney.

2) In the event the Developer fails to complete all improvements in compliance with this agreement, the Town may draw upon the Developer's surety and perform or have performed all necessary work, and supply or have supplied all necessary equipment, goods, materials or services, to complete all or any part of some or all of the required public improvements in satisfactory form.

3) The Town may, in its sole discretion following the Developer's request and acceptance of some but not all of the Improvements constructed as part of this Agreement, reduce the surety to the amount estimated by the Town Engineer (in a manner consistent with the Ordinances) to be necessary to secure performance by the Developer hereunder. Estimates of the costs of the Improvements are included as part of the attached Exhibit A.

4) After construction and total completion of the project and Final Acceptance by the Town, the surety will be reduced to 15% of the actual cost of construction for a period of eighteen months (the guarantee period). In the event the original surety would, by its terms, expire prior to the end of the eighteen month guaranty period, or if the guaranty period is extended due to repairs of defects as provided in sec. (J), a new surety shall be issued to cover the remaining guarantee period for the 15% of actual original construction costs.

5) This Agreement shall be in default should Developer fail to perform any term, covenant or condition hereof, and fail to cure the same on or before expiration of the notice period specified herein. Upon default, the Town shall provide written notice of such default to Developer. Developer shall have thirty (30) days after receipt of such notice to cure such default. In the event the default requires more than the payment of money to cure, and is of a type and character that requires in excess of thirty (30) days to cure, Developer shall be deemed to have cured the default if Developer, within the thirty (30) day time period, commences such action as is reasonably necessary to cure the default within a reasonable period of time, and prosecutes such action to completion with reasonable due diligence and speed under all of the circumstances then existing.

6) Any notices required or permitted hereunder, shall be in writing, and shall be addressed to the party at the address specified below. Notices shall be effective when (a) hand delivered; (b) three (3) business days after being mailed in the United States mails, postage prepaid, certified, return receipt requested; or (c) sent via facsimile to a party, with confirmation copy sent no later than the next business day. The addresses for notices to the parties are as follows:

If to the Town:
Town of Windsor
Attn: Town Clerk
4084 Mueller Road
DeForest, Wisconsin 53532
Fax: (608) 846-2328

With a copy to: Constance L. Anderson
222 West Washington Avenue
Suite 900
P.O. Box 1784
Madison, WI 53701-1784

If to Developer: Veridian Homes AB, LLC
Attn: Jeff Rosenberg
6801 South Towne Drive
Madison, Wisconsin 53713
Fax: (608) 223-0443

With a copy to: Dan Day
D'Onofrio, Kottke and Associates, Inc.
7530 Westward Way
Madison, Wisconsin 53717
Fax: (608) 833-1089

7) Any breach of this Agreement by the Town shall give rise only to damages permitted by State of Wisconsin contract law, and shall not give rise to any liability for violation of the Fifth and Fourteenth Amendments of the Constitution of the United States or any similar State constitutional provisions. Performance by the Town of its duties under the terms of this Agreement, are expressly conditioned upon the Developer's substantial compliance with each term, condition, provision and covenant of this Agreement, and all applicable federal, state and local laws and regulations.

N) Pre- Construction Meeting.

1) A pre-construction meeting shall be scheduled between the Developer, the Contractors, the Town; and Town Engineer prior to commencement of any construction of the Improvements. Developer shall, prior to such meeting, notify all utilities of the planned construction and the date and location of the pre-construction meeting.

O) "As Built" Plan.

The Developer shall, not later than sixty (60) days following completion of the Improvements, provide the Town with three (3) copies of a complete plan of the Improvements as constructed. As built measurements shall include horizontal and vertical location referenced to the Town (Dane County; Wisconsin) coordinate system. Street and utility locations shall be provided on the plans as well as in digital form compatible with AutoCAD format. If the Developer is unable to furnish the location and digital files as required, the Town Engineer shall complete the as-built plans with costs charged back to the Developer.

P) General Provisions.

1) Except as provided herein, nothing set forth in this Agreement shall be construed as, nor is intended to be, a waiver or release of any obligations imposed upon the Developer by the Ordinances, or any statutes or regulations applicable to the Improvements.

2) This Agreement shall be binding upon the Developer (jointly and severally if more than one), upon his or her personal representatives and heirs, and upon the successors and assigns of the parties.

3) Nothing in this Agreement is intended to be construed so as to make the Developer or the Contractors agents of the Town; the parties hereto agree that said persons are independent contractors.

4) The Developer represents that it is the lawful owner of the Subdivision and is now lawfully seized and possessed of the Subdivision.

5) The Developer represents that it has obtained any and all easements or rights of way necessary to gain access to the Subdivision and to provide drainage and utility service to and from the Subdivision.

6) In the event the Town validly exercises its right to draw upon the surety deposited by the Developer pursuant to Section M above, or if the Developer shall breach this Agreement in any other respect, the Developer agrees to pay to the Town all of its costs and expenses, including attorneys' fees, relating to such exercise or to the enforcement of this Agreement.

7) No approval by the Town Engineer or the Town Attorney or any other person acting on behalf of the Town shall be construed as a waiver of any of the requirements of the Ordinances, or any statute or regulation governing the Improvements. It is understood that the Developer has selected and appointed all Contractors, and the Town shall have no responsibility whatsoever for the Contractors or for the quality of the materials or workmanship provided by such Contractors. No authority granted herein to the Town in connection with the review or approval of the Contractors, or the Improvements, shall be deemed to create any liability whatsoever on the part of the Town.

8) The parties acknowledge that this Agreement does not vest any rights in Developer except as specifically set forth herein, and the Town does not warrant or represent, that any additional Town approvals required by Developer for this or any subsequent phase of this project will be granted by the Town, except as specifically set forth or contemplated herein. This Agreement may only be amended by a written agreement executed by the parties hereto. Amendments to this Agreement which concern subsequent phases may be in the form of an addendum to this Agreement or as otherwise agreed upon by the parties.

9) This Agreement represents the entire agreement between the parties, and replaces and supercedes all prior agreements between the parties with respect to the Subdivision. In the event any portion of this Agreement shall be deemed unenforceable by a court of competent jurisdiction, the offending portion shall be severed from the remainder, and the remainder shall be fully enforced in accordance with all applicable laws, rules and regulations. In the event performance of any obligation hereunder by a party is prevented by inclement weather, labor stoppages, unavailability of materials or other act of God, then any deadline for such performance shall be extended for the period of time in which the event causing the delay in performance is in effect. During the period of such delay, performance by a party shall be excused.

IN WITNESS WHEREOF, the parties hereto, have executed this Agreement in DeForest, Wisconsin, as of the date and year first above written.

*** TOWN ***

Town of Windsor

By: Robert Wipperfurth
Print Name: Robert Wipperfurth
Print Title: Town Chairperson

By: Christine Capstran
Print Name: Christine Capstran
Print Title: Clerk

*** DEVELOPER ***

Veridian Homes AB, LLC,
A Wisconsin Limited Liability Company

By: _____
Jeffrey S. Rosenberg
Vice President

EXHIBIT "A"

Public Improvement Requirements

Holland Field – Phase X

Section I - Windsor Sanitary District Improvements.

1) **Public Water System Improvements.** A potable public water supply system shall be installed to provide water service to all lots within the Subdivision in accordance with the applicable rules, standards and plan approvals of the appropriate municipal water utility. Developer shall be responsible for arranging service extensions from Windsor Sanitary District No. 1 and shall comply with all ordinances, agreements and other requirements for the provision of such service.

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Section II - Town of Windsor Required Improvements.

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Developer hereby states that the cost of construction for Town Improvements associated with the Holland Fields – Phase X to be $184,000.00 based upon the actual accepted bid(s) of it(s) contractor(s), as attached to Exhibit "A-1" hereto:

EXHIBIT "B"

The Developer must comply with the following conditions:

1) TRAFFIC CONTROL SIGNS

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2) CURB AND GUTTER

Thirty (30) inch concrete curb and gutter shall be installed by Developer along both sides of all internal streets within the proposed development. Curb and gutter shall be reinforced at trench crossings. The curb and gutter shall meet the specifications for Windsor curb and gutter street construction requirements.

3) STREETS

The entire phase's internal street system shall be paved by Developer a full width approved by the Town Engineer. Type III fixed barricades shall be erected at the points of closure of all streets. Barricade design shall comply with the "Manual on Uniform Traffic Control Devices".

4) SIDEWALKS

Sidewalks are required on both sides of all streets within the subdivision. Walks shall be ramped at curb crossings and extend to the road pavement in compliance with ADA requirements. Developer and/or lot owner shall be responsible for repair of any damage to the sidewalk resulting from ingress and egress of construction vehicles. Sidewalks shall be reinforced at trench crossings. Concrete sidewalks shall be 5" thick by 5' wide.

5) WATER

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7) STREET WIDTHS

Street widths shall be as shown on the approved plans.

8) STORMWATER

The storm sewer pipe system and inlets or catch basins shall be designed for a ten year storm event according to the Town subdivision ordinance. Final surface contouring, catch basin locations, storm sewer pipe, manhole locations and drainage flow patterns are subject to review and approval by the Town Engineer and must meet the provisions of the storm water master plan approved by the Town.

9) STREET LIGHTING

Street lights shall be installed at all intersections and street curves of dedicated Town streets. The maximum distance between street lights shall be 300 feet. The location of all street lights shall be shown on the final street plan as determined by the Town Engineer. All utilities are to be underground. Street light poles shall be the standard Alliant Energy concrete pole. The poles shall be equipped with Cobra Eye Lens and 150 watt HPS bulb. Proposed street light locations shall be as noted on the plans.

10) REFORESTATION AND LANDSCAPING

Developer shall provide for street trees for every 50 lineal feet of street frontage as stipulated in Section 12 of the Town development Agreement dated July 1, 1999.

11) FIRE HYDRANTS

Fire hydrants shall be installed according to plans approved by the Town Engineer. Each fire hydrant shall be equipped with a hydrant flag as specified by the Town Engineer.

12) STREET NAME SIGNS

Developer shall also provide and install all street name signs. Sign design and installation standards will be determined by the Town Engineer. Street name signs shall be shown on the traffic sign plan. All street name signs shall be installed prior to occupancy of any unit within the subdivision.

13) EROSION CONTROL

The Developer is responsible for obtaining all required permits including a land disturbance permit. Chapter 24, Erosion and Storm Water Runoff Ordinance shall be adhered to by the Developer. In addition, the Town requires the terraced areas to be sloped for sidewalk installation, seeded and covered with erosion matting from curb to the property line or a minimum of 8 feet behind the curb. All disturbed land including topsoil stockpiles shall be seeded and mulched for erosion control immediately following the completion of site grading. Developer shall coordinate cleaning of all streets affected by construction of the Subdivision to the satisfaction of the Town Building Inspector and Town Engineer. If, in the opinion of the Town Building Inspector or Town Engineer, additional street cleaning is needed to control a potential erosion or nuisance problem, the Town reserves the right to perform street cleaning and invoice the Developer at a standard rate set by the Town. Such cleaning shall not be considered as a replacement of standard erosion control measures.

14) EASEMENTS

The Developer shall dedicate all easements as required by Windsor Sanitary District No. I and the Town's engineer at no cost to the Town.

15) HOUSE NUMBERING

Prior to occupation of any dwelling unit, numbers shall be installed identifying the street address which shall be visible from the street.

16) PEDESTRIAN AND BIKE PATHS

All pedestrian and bike paths shall have a pavement width of eight (8) feet. Developer shall construct the bicycle path for the east side of Circle Tram Way in the existing dedicated right-of-way as shown on the approved plans in phases commensurate with the phased completion of the Improvements.

EXHIBIT "C"

Fees To Be Paid To The Town Prior To Construction

No fees at this time.

EXHIBIT "D"

(Copy of Agreement with Windsor Sanitary District #1)

To be Supplied.