

**TOWN OF WINDSOR
TOWN BOARD RESOLUTION 2015-81**

**RESOLUTION APPROVING DOCUMENTS RELATED TO DEVELOPMENT OF
LOT 97 OF PLAT OF WOLF HOLLOW INCLUDING
AMENDMENT TO DEVELOPMENT AGREEMENT TO ALLOW FOR
ASSIGNMENT TO NORTH TOWNE, LLC,
UTILITY EASEMENTS, AND LENDER'S DOCUMENTS**

RECITALS

WHEREAS, Craig Frank (“Developer”), an individual, entered into a Development Agreement with the Town of Windsor, Dane County, Wisconsin, to undertake development (the “Project”) in the Town of Windsor Tax Incremental Financing District No. 1 on the real estate described as Lot 97 of the Plat of Wolf Hollow in the Town of Windsor, Dane County, Wisconsin;

WHEREAS, that Development Agreement was recorded at the office of the Dane County Register of Deeds on August 7, 2015 as Document No. 5175010;

WHEREAS, the Developer is preparing for closing on the construction loan financing the Project and wishes to obtain the Town Board’s approval of certain documents required for that loan closing as well as confirmation of the current status of the Project;

WHEREAS, the Town Board has reviewed documents related to the Project and wishes to confirm its approval, all as set forth in this Resolution.

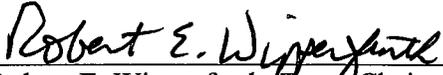
NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Windsor as follows:

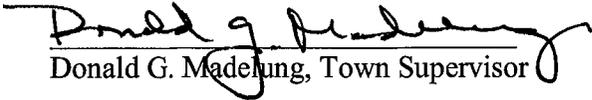
1. The following documents have been reviewed and are hereby approved by the Town Board, and the Town Chairperson and Town Clerk are hereby authorized to execute same on behalf of the Town of Windsor:
 - a. Release of Restrictive Covenants recorded in the Dane County Register of Deeds Office on July 19, 2005 as Document No. 4081753.
 - b. First Amendment to TID Development Agreement.
 - c. Path Maintenance and Easement Agreement.
 - d. Public Access Easement for Park Equipment.
 - e. Estoppel Letter.
 - f. Collateral Assignment and Consent to Collateral Assignment.

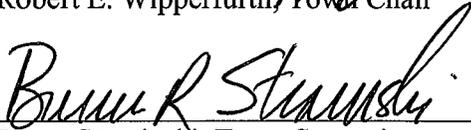
2. The Town further acknowledges receipt of the following:
 - a. Notice of No Objection to Plans from Town Engineer.
 - b. Notice of No Objection to Plans from WSD No. 1 Engineer.
 - c. WSD No. 1 Utility Easements.

The above and foregoing Resolution was duly adopted at the regular meeting of the Town Board of the Town of Windsor on the 29th day of October, 2015, by a vote of 5 in favor and 0 opposed.

TOWN OF WINDSOR


Robert E. Wipperfurth, Town Chair


Donald G. Madelung, Town Supervisor


Bruce Stravinski, Town Supervisor


Alan Buchner, Town Supervisor


Monica M. Smith, Town Supervisor

Attested by:

Christine Capstran, Town Clerk

DOCUMENT NO.

DOCUMENT AND TITLE

FIRST AMENDMENT TO AGREEMENT TO UNDERTAKE
DEVELOPMENT IN TAX INCREMENT DISTRICT NO. 1

**KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS**

**DOCUMENT #
5195363**

11/03/2015 3:19 PM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 4

Attorney Jesse Spankowski
P.O. Box 200
Portage, WI 53901

068/0910-294-2337-0

(Tax Parcel Number(s)

**THIS IS NOT A CONVEYANCE AS DEFINED IN SECTION 77.21(1). STATS., AND
THEREFORE IS EXEMPT FROM A RETURN AND FEE**

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

**FIRST AMENDMENT TO AGREEMENT TO UNDERTAKE DEVELOPMENT IN TAX
INCREMENT DISTRICT NO. 1 – LOT 97, PLAT OF WOLF HOLLOW**

WHEREAS, Craig Frank, an individual, entered into a Development Agreement with the Town of Windsor, Dane County, Wisconsin, to undertake development in the Town of Windsor Tax Incremental Financing District No. 1 on the real estate described as Lot 97 of the Plat of Wolf Hollow in the Town of Windsor, Dane County, Wisconsin;

AND, WHEREAS, that Development Agreement was recorded at the office of the Dane County Register of Deeds on August 7, 2015 as Document No. 5175010;

AND, WHEREAS, the Development Agreement stated that Mr. Frank intended to assign this Agreement to a corporate entity, known as North Towne Homes, Inc., of which he was to be the sole shareholder;

AND, WHEREAS, the Development Agreement requires that Mr. Frank obtain the written approval from the Town of Windsor for any assignment to an entity other than North Towne Homes, Inc.;

AND, WHEREAS, the Development Agreement requires that Mr. Frank obtain the approval from the Town of Windsor for any transfer of the property other than to North Towne Homes, Inc.;

AND, WHEREAS, Mr. Frank intends to assign the Development Agreement, and transfer the Property, to North Towne Homes, LLC, a Wisconsin Limited Liability Company of which he is the sole member, and the Town of Windsor desires to approve of this assignment of the Agreement and transfer of the Property;

AND, WHEREAS, the Town Engineer for the Town of Windsor has determined that the Stormwater Management Facilities easement described in Section L, Paragraph 4, on Page 4 of the Development Agreement is unnecessary, and the parties desire to remove this obligation from the Development Agreement.

NOW, THEREFORE, it is agreed as follows:

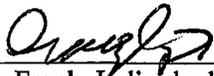
1. Craig Frank may assign the Development Agreement to North Towne Homes, LLC, a Wisconsin Limited Liability Company, of which he is the sole member.
2. Craig Frank, by and through CF Investments, LLC, a Wisconsin Limited Liability Company of which he is the sole member, may transfer the Property to North Towne Homes, LLC, a Wisconsin Limited Liability Company, of which he is the sole member.
3. That the requirement for the Stormwater Management Facilities easement described in Section L, Paragraph 4; on Page 4 of the Development Agreement be removed and no longer an obligation of the parties.

4. That in all other respects the Development Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to the Agreement to be signed as of the date(s) set forth below.

Signed by Developer on October 30, 2015, in Dane County, Wisconsin.

FOR THE DEVELOPER:

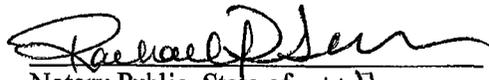
By: 
Craig Frank, Individually

ACKNOWLEDGMENT

STATE OF WISCONSIN)
 (ss.
DANE COUNTY)

Personally came before me this 30 day of October, 2015, the above named Craig Frank, individually, and as authorized representative of the Developer, to me known to be the person who executed the foregoing instrument.

NOTARY PUBLIC
RACHAEL R. SCHROEDER
STATE OF WISCONSIN


Notary Public, State of WI
Name: Rachael R. Schroeder
My Commission: expires 8/16/19

Signed by the Town on October 29, 2015, in Dane County, Wisconsin, following approval by Board Resolution 2015-81 of the Town Board on October 29, 2015.

FOR THE TOWN:

TOWN OF WINDSOR

Robert E. Wipperfurth
By: Robert E. Wipperfurth, Town Chairperson

ATTESTED BY:

Christine Capstran
Christine Capstran, Town Clerk

STATE OF WISCONSIN)
 (ss.
DANE COUNTY)

Personally came before me this 29th day of October, 2015, the above-named Town Chairperson and Town Clerk of the Town of Windsor, to me known to be the persons who executed the foregoing instrument on behalf of the Town of Dekorra and acknowledged the same.



Amy Anderson Schweppe
Notary Public, State of Wisconsin
Name: Amy Anderson Schweppe
My Commission: May 23, 2017

THIS INSTRUMENT WAS DRAFTED BY:
Attorney Jesse Spankowski
Miller and Miller, LLC
PO Box 200
Portage, WI 53901
Telephone: (608) 742-8585

**KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS**

**LOT 97 PLAT OF WOLF HOLLOW,
TOWN OF WINDSOR,
DANE COUNTY, WISCONSIN:**

**PATH MAINTENANCE AGREEMENT AND
GRANT OF EASEMENT**

This Agreement is by and between NORTH TOWNE HOMES, LLC a Wisconsin limited liability company ("NTH") and the TOWN OF WINDSOR, a corporate body and politic located in Dane County, Wisconsin ("Windsor"), and shall bind the parties' heirs, successors and assigns. This Agreement shall run with the land and shall be effective when executed by the parties.

RECITALS

WHEREAS, North Towne Homes, LLC ("NTH") is the current owner, or will be prior to recording this Agreement, of property in the Town of Windsor, County of Dane, State of Wisconsin, more particularly described as Lot 97 of the Plat of Wolf Hollow in the Town of Windsor, Dane County Wisconsin ("Property"), and enters this Agreement as a covenant running with the Property;

WHEREAS, NTH shall construct multi-use paths within the Property (the "Paths") in accordance with the Site Plan approved by Windsor (the "Plan"), which Plan is incorporated in the Development Agreement for the Property recorded at the Dane County Register of Deeds office;

WHEREAS, Windsor and NTH acknowledge that, following construction, the Paths will require maintenance and wish to set forth in this Agreement the terms and conditions for maintenance of the Paths.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals set forth above, which are incorporated herein by reference, the covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NTH and Windsor agree as follows:

1. **Paths: General Overview of Purposes and Requirements.** The Paths are an important component of the Property. For that reason:
 - a. **No person shall place or permit an improvement or obstruction to be located or remain on the Paths.** Examples of impermissible obstructions are buildings, sheds, fences, trees, shrubs, gardens, plantings of other than grass or prairie-type landscaping, and moveable or temporary items.

**DOCUMENT #
5195366**
11/03/2015 3:19 PM
Trans. Fee:
Exempt #:
Rec. Fee: 30.00
Pages: 5

Return to:
Town Clerk, Town of Windsor
4084 Mueller Road
DeForest, WI 53532
Parcel No:
068/0910-294-2337-0

- b. NTH shall construct and maintain the Paths in a manner that is consistent with the Plan, this Agreement, and the Development Agreement.
- c. The Windsor Engineer is hereby granted exclusive authority to determine whether the Paths meet the standards required by this Agreement. (See Definitions section below for description of standards.)

2. **Construction by NTH.** NTH shall be responsible for the construction of all required Paths located on the Property.

Construction shall be completed in accordance with the Plan, and completion in accordance with the Plan shall be certified to Windsor by NTH. NTH's obligations for completion of construction of the Paths shall be deemed satisfied when Windsor's Engineer confirms in writing no objection to the construction and/or to NTH's certification for the Paths. All construction shall be at the sole cost and expense of NTH.

- 3. **Maintenance Responsibility.** NTH shall be responsible for maintenance of all Paths on the Property, and all maintenance shall be at the sole cost and expense of NTH.
- 4. **Grant of Easement for Public Access.** NTH hereby irrevocably grants to Windsor the right to make available to the public a perpetual easement and right of way over the Paths on the Plan.
- 5. **Term/Termination.** The term of this Agreement shall commence on the date that this Agreement is recorded with the Register of Deeds for Dane County, Wisconsin, and except as otherwise herein specifically provided, shall continue in perpetuity. Notwithstanding the foregoing, this Agreement may be terminated by recording with the Register of Deeds for Dane County, Wisconsin, a written instrument of termination signed by Windsor and NTH.
- 6. **Definitions.** When used herein, the following terms shall be defined and are used as follows:

- a. The standard for maintenance of the Paths shall be determined following consideration of all of the factors that impact the condition of the Paths. For example, asphalt paths may become uneven, crack or develop potholes over time. NTH shall use good faith efforts to identify, repair or cold patch significant cracks or potholes on a reasonable basis. NTH shall use good faith efforts to plow, sand and/or salt so that the Paths are reasonably free of snow during the winter. Both NTH and Windsor acknowledge that, in Wisconsin, snow, ice and wet areas are to be expected and that it is likely that there will be slippery patches on the Paths during winter months, much as there are slippery patches on roadways. *Users of the Paths are advised to take all reasonable precautions when using the Paths, particularly during inclement weather that may adversely impact the condition of the Paths.*
- b. NTH's heirs, successors and assigns are included when the term NTH is used in this Agreement.

- c. A party's agents, staff, consultants, independent contractors and permittees are included when the party's name is used in this Agreement. For example, Windsor's agents, staff, consultants, independent contractors and permittees are included when the terms Windsor or Town are used in this Agreement.
- d. The terms Windsor or Town shall also mean any successor governmental entity to Windsor that has primary local government jurisdiction over the Property.
- e. Development Agreement shall mean the development agreement executed by and between Windsor and NTH, as recorded in the Dane County Register of Deeds office.

7. Miscellaneous.

- a. Notices. Any notice, request or demand required or permitted under this Agreement shall be in writing and shall be deemed given on the date personally served or the date four (4) days after the same has been addressed as indicated below and deposited with the United States Post Office, postage prepaid.

If to NTH: North Towne Homes, LLC
 3636 Skytop Road
 McFarland, WI 53558
 Attention: Craig Frank

If to Windsor: Town Clerk
 Town of Windsor
 4084 Mueller Road
 DeForest, Wisconsin 53532

Any party may change its address for the receipt of notice by written notice to the other parties.

- b. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.
- c. Amendments to be in Writing. This Agreement may not be modified in whole or in part unless such agreement is in writing and signed by all parties bound hereby.
- d. Covenants Running with the Land. All of the easements, restrictions, covenants and agreements set forth in this Agreement are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the parties hereto and their respective heirs, successors and assigns.
- e. Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be

TOWN OF WINDSOR

By: Robert E. Wipperfurth
Robert E. Wipperfurth, Town Chairperson

Attest: Christine Capstran
Christine Capstran, Town Clerk

STATE OF WISCONSIN)
)ss.
COUNTY OF DANE)

Personally came before me this 21st day of October, 2015, the above-named Robert E. Wipperfurth and Christine Capstran, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Town of Windsor.

[Signature]
Notary Public, State of Wisconsin
My Commission: May 23, 2017



This Instrument Drafted By:
Jesse Spankowski
Miller & Miller, LLC
P.O. Box 200
Portage, WI 53901

LOT 97 PLAT OF WOLF HOLLOW,
TOWN OF WINDSOR,
DANE COUNTY, WISCONSIN:

PUBLIC ACCESS AND USE AGREEMENT

This **Agreement** is by and between NORTH TOWNE HOMES, LLC a Wisconsin limited liability company ("**NTH**") and the TOWN OF WINDSOR, a corporate body and politic located in Dane County, Wisconsin ("**Windsor**"), and shall bind the parties' heirs, successors and assigns. This Agreement shall run with the land and shall be effective when executed by the parties.

RECITALS

WHEREAS, North Towne Homes, LLC ("**NTH**") is the current owner, or will be prior to recording this Agreement, of property in the Town of Windsor, County of Dane, State of Wisconsin, more particularly described as Lot 97 of the Plat of Wolf Hollow in the Town of Windsor, Dane County Wisconsin ("**Property**"), and enters this Agreement as a covenant running with the Property;

WHEREAS, NTH shall construct park and recreation improvements ("**Improvements**") on the Property in accordance with the Site Plan approved by Windsor (the "**Plan**") which Plan is incorporated into the Development Agreement for the Property recorded at the Dane County Register of Deeds office;

WHEREAS, Windsor and NTH desire to provide access and use of the Improvements to the public;

WHEREAS, Windsor and NTH wish to set forth in this Agreement the terms and conditions for construction and maintenance of the Improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals set forth above, which are incorporated herein by reference, the covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NTH and Windsor agree as follows:

1. **Grant of Easement for Public Access and Use.** NTH grants to Windsor, a perpetual, non-exclusive easement and right-of-way for public access and public use of the Improvements on the Plan.

DOCUMENT #

5195367

11/03/2015 3:19 PM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 4

Return to:

Town Clerk, Town of Windsor

4084 Mueller Road

DeForest, WI 53532

Parcel No:

068/0910-294-2337-0

2. **Purposes of this Agreement.** NTH and Windsor acknowledge the purposes of this Agreement is to allow the general public to have access to the Improvements for recreational use.
3. **Rules and Regulations.** NTH may enact reasonable rules and regulations governing use of the Improvements consistent with the Purposes of this Agreement.
4. **Public Access.** NTH, Windsor, and the general public may access and use the Improvements for the purposes authorized under this Agreement, subject to any rules and regulations enacted under Paragraph 3. Notwithstanding the foregoing, NTH reserves the right to exclude individuals who cause damage or disturbance or engage in unsafe or illegal activity within the Improvements.
5. **Construction and Maintenance.** NTH shall be responsible for constructing and maintaining all Improvements at its sole cost.
6. **Term/Termination.** The term of this Agreement shall commence on the date that this Agreement is recorded with the Register of Deeds for Dane County, Wisconsin, and except as otherwise herein specifically provided, shall continue in perpetuity. Notwithstanding the foregoing, this Agreement may be terminated by recording with the Register of Deeds for Dane County, Wisconsin, a written instrument of termination signed by Windsor and the then-owners of the Property.
7. **Miscellaneous.**
 - a. **Notices.** Any notice, request or demand required or permitted under this Agreement shall be in writing and shall be deemed given on the date personally served or the date four (4) days after the same has been addressed as indicated below and deposited with the United States Post Office, postage prepaid.

If to NTH: North Towne Homes, LLC
 3636 Skytop Road
 McFarland, WI 53558
 Attention: Craig Frank

If to Windsor: Town Clerk
 Town of Windsor
 4084 Mueller Road
 DeForest, Wisconsin 53532

Any party may change its address for the receipt of notice by written notice to the other parties.
 - b. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

- c. Amendments to be in Writing. This Agreement may not be modified in whole or in part unless such agreement is in writing and signed by all parties bound hereby.
- d. Covenants Running with the Land. All of the easements, restrictions, covenants and agreements set forth in this Agreement are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the parties hereto and their respective heirs, successors and assigns.
- e. Partial Invalidity. If any provisions, or portions thereof, of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- f. Authority to Bind. By signing below, the signatory warrants and represents that he or she is duly authorized to bind the party for whom he or she is signing. Persons signing for entities further warrant and represent that the entity is duly and properly organized in the State of Wisconsin and in good standing.
- g. Warranty and Representation as to Ownership of Property. The person signing on behalf of the NTH warrants and represents that the entity named as the owner in this Agreement is the fee owner, or will be prior to recording this Agreement, of the Property described as Lot 97 of the Plat of Wolf Hollow in the Town of Windsor, Dane County, Wisconsin.

Dated this 30 day of October, 2015.

NORTH TOWNE HOMES, LLC

By: 
 Craig Frank, Member

STATE OF WISCONSIN)
)ss.
 COUNTY OF Dane)

Personally came before me this 30 day of October, 2015, the above-named Craig Frank, as Member of North Towne Homes, LLC to me known to be the person who executed the foregoing instrument and acknowledged the same on behalf of such entity.


 Notary Public, State of Wisconsin Rachael R. Schroeder
 My Commission: expires 8/16/19

NOTARY PUBLIC RACHAEL R. SCHROEDER STATE OF WISCONSIN

TOWN OF WINDSOR

By: Robert E. Wipperfurth
Robert E. Wipperfurth, Town Chair

Attest: Christine Capstran
Christine Capstran, Town Clerk

STATE OF WISCONSIN)
)ss.
COUNTY OF DANE)

Personally came before me this 29th day of October, 2015, the above-named Robert E. Wipperfurth and Christine Capstran, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Town of Windsor.

[Signature]
Notary Public, State of Wisconsin
My Commission: May 23, 2017

This Instrument Drafted By:
Jesse Spankowski
Miller & Miller, LLC
P.O. Box 200
Portage, WI 53901





ESTOPPEL LETTER

McFarland State Bank
5990 Highway 51
P.O. Box 7
McFarland, Wisconsin 53558

RE: McFarland State Bank Loan to North Towne Homes, LLC

The Town of Windsor, Wisconsin ("**Town**") is a party to the Agreement to Undertake Development in Tax Increment District No. 1 entered into as of July 28, 2015 by and between the Town and Craig Frank as assigned by Craig Frank to North Towne Homes, LLC ("**Borrower**") pursuant to an assignment between Craig Frank and North Towne Homes, LLC (collectively, the "**Development Agreement**").

The Town understands this letter and the information contained in it is a necessity in McFarland State Bank ("**Lender**") determining whether or not it will fund the Construction Loan Agreement between the Lender and the Borrower.

The Town certifies and affirms to McFarland State Bank that:

1. The Development Agreement has not been modified except as stated above and is in full force and effect as written and amended.
2. To the best of our knowledge, neither the Borrower nor the Town is in default or breach of the Development Agreement as of the date of this letter.
3. To the best of our knowledge the Borrower is in full compliance with the terms of the Development Agreement as of the date of this letter and the Borrower and the Town have satisfied all conditions precedent to the issuance of a building permit for the Property described as Lot 97, Wolf Hollow, Town of Windsor, Wisconsin. Neither the Borrower nor the Town has issued a notice of default under the Development Agreement as of the date of this letter, and to the best of our knowledge, neither the Town nor the Borrower has a right to issue a notice of default under the Development Agreement as of the date of this letter.
4. Based solely on the representation of Lender, the Town acknowledges that the Borrower has agreed to grant a security interest to the Lender in the Town of

Windsor Pay-As-You-Go Development Incentive Obligation and all other Development Incentive (collectively "**Obligation**") and the proceeds thereof that the Town executes and delivered to Craig Frank and assigned to the Borrower pursuant to a further assignment in connection with the Development Agreement. Based solely on the representation of Lender, the Town acknowledges that upon the occurrence of an event of default by Borrower under the applicable loan documents with the Lender, the Lender may notify the Town to make any payments that the Borrower may be entitled to pursuant to the Obligation directly to Lender and upon receiving such notice the Town will make such payments directly to Lender. Based solely on the representation of Lender, the Town understands that the Borrower has waived any claim it may have against the Town for making such payments directly to Lender. In accepting delivery of this letter, Lender and Borrower agree that the Town will not be liable to Borrower or Lender for any expense, claim, loss, damage or cost arising out of or relating to its performance under this paragraph. The Town will be excused from failing to act or delay in acting, and no such failure or delay shall constitute a breach of this paragraph or otherwise give rise to any liability of the Town, if (i) such failure or delay is caused by circumstances beyond the Town's reasonable control or (ii) such failure or delay resulted from the Town's reasonable belief that the action would have violated any guideline, rule or regulation of any governmental authority. In accepting delivery of this letter, Borrower and Lender agree that the Town shall have no duty to inquire or determine whether Borrower's obligations to Lender are in default or whether Lender is entitled to provide the notice described herein to the Town. The Town may rely on notices and communications it believes in good faith to be genuine and given by Lender.

5. The Town expressly reserves all of its rights under the Development Agreement.

The information provided and the representations made in this letter are intended only for use and benefit of the Lender.

Dated: October 29, 2015.

TOWN OF WINDSOR, WISCONSIN

By Robert E. Wippenmuth
Robert E. Wippenmuth, Town Chairperson

ATTESTED BY:

Christine Capstran
Christine Capstran, Town Clerk

COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT

(NOTICE TO TOWN OF ADDITIONAL ASSIGNMENT REQUIRED)

THIS COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT (this "Assignment") is made as of October 30, 2015, by North Towne Homes, LLC, a Wisconsin limited liability company ("Borrower") to McFarland State Bank (the "Lender").

RECITALS:

WHEREAS, pursuant to that certain Construction Loan Agreement of even date herewith and Letter of Credit Agreements dated October 2, 2015, by and between Borrower and Lender, Lender has this date agreed to loan to Borrower up to Five Million Eight Hundred Fifty Thousand and no/100 Dollars (\$5,850,000.00) (the "Construction Loan") and has issued letters of credit to the Windsor Sanitary District No. 1 in the principal amount of One Hundred Eighty-nine Thousand and Dollars (\$189,000.00) and to Dane County Land & Water Resources Department in the principal amount of Ten Thousand Eight Hundred and Nine Dollars (\$10,809.00) (collectively, the "Letters of Credit"), the repayment of which Construction Loan and Letters of Credit are secured in part by a First Lien Construction Mortgage and Fixture Filing, Assignment of Leases and Rents, Assignment of Warranties, Contracts and Plans and Specifications and Selective Business Security Agreement (collectively, the "Mortgage" in this Assignment) pertaining to interests in certain land described in the Mortgage and the improvements to be constructed thereon (collectively, the "Property") owned by Borrower and located in Dane County, Wisconsin;

WHEREAS, the Borrower is a party to that certain Agreement to Undertake Development in Tax Increment District No. 1, dated as of July 28, 2015, as assigned by Craig Frank to Borrower by an additional assignment and as further amended by the First Amendment to Agreement to Undertake Development in Tax Increment District No. 1 (collectively, the "Development Agreement") relating to the Property, by and between the Borrower and the Town of Windsor, a Wisconsin Body Corporate and Politic (the "Town");

WHEREAS, it is a condition precedent to Lender's obligation to make the Construction Loan to Borrower that Borrower execute and deliver this Assignment with respect to the Development Agreement;

ASSIGNMENT:

NOW, THEREFORE, in consideration of the promises and the covenants hereinafter contained, and to induce Lender to provide and maintain the Construction Loan to Borrower pursuant to the Construction Loan Agreement, Borrower agrees as follows:

1. Assignment. As security for all obligations of Borrower under the Loan Agreement and the Letter of Credit Agreements, including, without limitation, the repayment of the Construction Loan and the Letters of Credit (collectively, the "Obligations"), Borrower assigns, pledges and transfers to Lender for collateral purposes and grants to Lender a security interest in all of its rights, remedies (at law or in equity), title and interest in and to (a) the

Development Agreement and (b) all agreements, documents, certificates, instruments, and other materials relating to the Development Agreement (collectively, with the Development Agreement, the "**Assigned Documents**") and (c) with all proceeds thereof, including, without limitation, its rights and remedies with respect to any breach by any counterparty of any of its representations, warranties, covenants and obligations under the Assigned Documents. Without limiting the generality of the foregoing, as security for the Obligations, Borrower specifically assigns, pledges and transfers to Lender for collateral purposes, and grants to Lender a security interest in all rights of Borrower to receive any sums of money or property in connection with the Assigned Documents.

2. Representations and Warranties. Borrower hereby acknowledges and affirms that the representations, warranties and covenants of the Borrower with respect to the Assigned Documents and the rights and remedies of Lender with respect to the pledge of security interest in and collateral assignment of the Assigned Documents made and granted hereby are more fully set forth in the Loan Agreement and the Letter of Credit Agreements, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

3. Performance and Enforcement. So long as no Event of Default, as defined in the Construction Loan Agreement, the Letter of Credit Agreements or the Mortgage, has occurred and is continuing, insofar as the Borrower may have any right, privilege or claim under the Assigned Documents, the Borrower will perform all of its obligations under the Assigned Documents and timely exercise its enforcement rights under such Assigned Documents, will enforce the same diligently and will give Lender notice of each such enforcement undertaken by the Borrower.

4. Rights following Event of Default. Upon the occurrence and during the continuance of an Event of Default, Lender shall have the right, power and authority to (a) declare this Assignment to be unconditional and absolute, and thereby succeed fully to all of Borrower's rights, remedies, title and interest in, to and under the Assigned Documents, (b) notify Counterparties that the Assigned Documents have been assigned to Lender, whether or not it has commenced or completed foreclosure or taken possession thereof, and (c) exercise all rights of Borrower under the Assigned Documents. In furtherance of the foregoing, upon the occurrence and during the continuance of an Event of Default, Borrower hereby irrevocably authorizes and empowers Lender, in its sole discretion, to assert, either directly or on behalf of Borrower, any right, privilege or claim which Borrower then or thereafter may have under the Assigned Documents, as Lender may deem proper, and to receive and collect any and all damages, awards and other monies resulting therefrom and to apply the proceeds thereof against any Obligation then outstanding. Nothing herein shall be construed to require Lender to take any action in respect of the Assigned Documents, whether for the account of Borrower or otherwise.

5. Lender as Attorney-in-Fact. Borrower hereby irrevocably makes, constitutes and appoints Lender (and all officers, employees or agents designated by it) as its true and lawful attorney-in-fact for the purposes of enabling Lender or its agent or designee to exercise its rights under Section 4 hereof.

6. Notice of Events. Borrower shall keep Lender informed of all circumstances which have a material and adverse effect upon the exercise of its rights and remedies under the

Assigned Documents. In any event, Borrower shall not release, cancel, sell, compromise, waive, amend, alter or modify any of its rights or remedies under the Assigned Documents, without first obtaining the prior written consent of Lender.

7. Responsibilities of Borrower. Borrower expressly acknowledges and agrees that it shall remain liable under the Assigned Documents, to observe and perform all of the conditions and obligations therein contained to be observed and performed by it, and that neither this Assignment, nor any action taken by Lender pursuant hereto, shall cause Lender to be under any obligation or liability in any respect whatsoever to any party to the Assigned Documents or for the observance or performance of any of the representations, warranties, conditions, covenants, agreements or terms therein contained.

8. Lender not Responsible. Notwithstanding Lender's rights hereunder, Lender shall not be obligated to perform, and Lender does not undertake to perform, any obligation, covenant, condition or term with respect to the Assigned Documents on account of this Assignment. Lender shall have no responsibility on account of this Assignment for the control or care of the Assigned Documents, other than to handle the Assigned Documents in the same manner as it handles other collateral in the ordinary course of business.

9. Successor and Assigns. This Assignment and all obligations of Borrower hereunder shall be binding upon the successors and assigns of the Borrower (including any debtor-in-possession on behalf of the Borrower) and shall, together with the rights and remedies of Lender, inure to the benefit of Lender and all future holders of any instrument evidencing any of the Obligations and the respective successors and assigns. No sales of participations, sales, assignments, transfers or other dispositions of any agreement governing or instrument evidencing the Obligations or any portion thereof or interest therein shall in any manner affect the assignment made and security interest granted hereunder to Lender. Borrower may not assign, sell, hypothecate or otherwise transfer any interest in or obligation under this Assignment.

10. Notices. All notices, requests and other communications to the Borrower or Lender hereunder shall be made in accordance with the provisions of the Loan Agreement.

11. No Waiver. No failure or delay on the part of Lender in exercising any right or remedy hereunder, and no course of dealing between Borrower on the one hand and Lender on the other hand shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy hereunder, under the Construction Loan Agreement, under the Letter of Credit Agreements or under the Mortgage, preclude any other or further exercise thereof or the exercise of any other right or remedy hereunder or thereunder. The rights and remedies herein, in the Construction Loan Agreement, in the Letter of Credit Agreements and in the Mortgage are cumulative and not exclusive of any rights or remedies which Lender would otherwise have. No notice to or demand on Borrower not required hereunder in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Lender to any other or further action in any circumstances with notice or demand.

12. Amendment. No amendment or waiver of any provision of this Assignment, nor consent to any departure by Borrower from this Assignment, shall in any event be effective

unless the same shall be in writing and signed by Lender and then such waiver or consent shall be effective only the specific instance and for the specific purpose for which given.

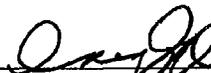
13. Governing Law. This Assignment and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the internal laws (without giving effect to the conflict of law principles thereof) of the State of Wisconsin.

14. Severability. In case any provision in or obligation under this Assignment shall be invalid, illegal or unenforceable, in whole or in part, in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

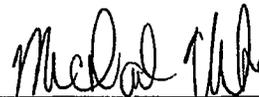
15. Counterparts. This Assignment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, Borrower and Lender have caused this Assignment to be executed by their respective duly authorized officers as of the date first above written.

ASSIGNOR:
NORTH TOWNE HOMES, LLC (SEAL)

By: 
Name: Craig Frank
Title: Member

LENDER:
MCFARLAND STATE BANK (SEAL)
a Wisconsin state chartered bank

By: 
Name: Michael Urben
Title: Assistant Vice President-Commercial
Lending

ACKNOWLEDGEMENT OF ASSIGNMENT AND CONSENT

The Town of Windsor, Wisconsin hereby acknowledges the above Collateral Assignment of Development Agreement by North Townes Homes, LLC to McFarland State Bank, and consents thereto and further consents to McFarland State Bank as assignee under the Development Agreement if McFarland State Bank elects to exercise its rights and remedies under the Collateral Assignment of Development Agreement. The Town of Windsor agrees that it shall continue to perform its obligations under the Development Agreement in the event that McFarland State Bank assumes the rights, title and obligations of the Developer under the Development Agreement or any successor or authorized agent of McFarland State Bank, provided, however, any defaults by North Towne Homes, LLC under the said agreement have been cured by the Bank or its successor, in the manner provided for therein, provided that the Town has notified the Bank of any defaults by North Towne Homes, LLC under the Development Agreement prior to the Bank's exercise of its rights under the Collateral Assignment of Development Agreement and has given the Bank an opportunity to cure such defaults.

Dated: October 29, 2015.

TOWN OF WINDSOR, WISCONSIN (SEAL)

By Robert E. Wipperturth
Robert E. Wipperturth, Town Chairperson

ATTESTED BY:

Christine Capstran
Christine Capstran, Town Clerk

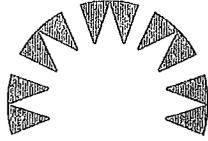
McFarland State Bank shall give the Town of Windsor prior written notice of any assignment or transfer by McFarland State Bank to any unrelated third party of the Development Agreement. Any such assignment or transfer to an unrelated third party shall include unrelated third party's express assumption of any and all obligations that the Borrower has to the Town of Windsor under the Development Agreement.

McFarland State Bank

By Michael Urben
Michael Urben, Assistant Vice
President—Commercial Lending

Dated: October 30, 2015

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Windsor

Growing Forward

October 21, 2015

Craig Frank
CF Investments, LLC
3636 Sky Top Road
McFarland, WI 53558

Dear Mr. Frank:

Re: Town Engineer Review Lot 97 Wolf Hollow - Construction Drawings, Stormwater Maintenance Facilities, Playground and Equipment

Windsor has reviewed the construction drawings prepared by K.D. Engineering Consultants, Inc., dated July 30, 2015, last revision September 8, 2015. Windsor has no objections to the construction of site improvements, as shown on the construction drawings.

Windsor has reviewed the proposed stormwater management facilities and has determined that the Stormwater Maintenance Agreement with Dane County Land and Water Resources Department is sufficient to assure that the stormwater facilities will be properly maintained.

Windsor has reviewed the proposed playground and equipment. Windsor agrees that supplying the playground and its equipment fulfills Windsor's parkland dedication requirements.

If you have any questions please do not hesitate to contact me at 608-846-3854.

Sincerely,
Town of Windsor

Kevin W. Richardson, PE, BCEE
Town Engineer

Cc: Robert Wipperfurth, Town Chair
Constance Anderson, Town Attorney
Tina Butteris, Finance Director-Treasurer
Amy Anderson-Schwepe, Planning Coordinator

October 23, 2015

Mr. Craig Frank
CF Investments LLC
McFarland, WI 53558

Subject: WSD#1 Review and Approval for Lot 97, Wolf Hollow, Windsor, WI

Dear Mr. Frank:

Windsor Sanitary District No. 1 (WSD#1) has reviewed your water and sanitary sewer plans submitted for Lot 97 in Wolf Hollow, prepared by K.D. Engineering Consultants, Inc., dated July 30, 2015 with last revision of September 8, 2015. WSD#1 has no objections to the construction of water and sanitary improvements, as shown on the construction drawings.

WSD#1 has received signed Easement documents for the water and sanitary sewer improvements. Additionally we have received appropriate Letter of Credit and insurance certificates to allow construction.

WSD#1 has received required MMSD and Runway Sewer fees for the proposed sanitary sewer improvements. Water Impact fees will be collected when you apply for Building permits.

Please feel free to contact me with additional questions.

Sincerely,

BAXTER & WOODMAN, INC.
CONSULTING ENGINEERS



Gerald D. Groth, P.E.
Project Engineer

Cc: Jeff Bartosiak, WSD#1
Kevin Richardson, PE, Town of Windsor
Dean Hefter, K.D. Engineering
Mark Langer, PE, Baxter & Woodman, Inc.

EXHIBIT 2(a)

UTILITY EASEMENT

Return To:

Attorney Timothy D. Fenner
Axley Brynelson, LLP
Post Office Box 1767
Madison, WI 53701-1767

0910-294-2337-0

Tax Parcel Numbers (PIN)

This is NOT Homestead Property

UTILITY EASEMENT

Indenture made this 12 day of October, 2015, by and between North Towne Homes, LLC, a Wisconsin limited liability company and Windsor Sanitary District No. 1, a town sanitary district or its assigns (hereinafter called "Grantee").

WITNESSETH:

FOR AND IN CONSIDERATION OF the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does hereby convey, grant, bargain, sell and assign unto the Grantee and its assigns, the Easements and rights hereinafter described.

1. Utility Easements. Grantor does hereby grant, convey, transfer, and assign unto the Grantee, a perpetual right of way and easement over, under and across the premises described in Exhibit A attached hereto and incorporated herein (the "Easement Area") for the following purposes: (i) to construct, erect, install, maintain, operate, repair, replace and reconstruct sewerage force and gravity mains; storm water mains and associated facilities; and water mains and associated facilities, together with all necessary associated facilities and appurtenances thereto, and (ii) for ingress and egress purposes thereon in order to exercise the rights and privileges granted herein.

2. Restoration And Clean Up. Following installation of the utility facilities described in Paragraph 1 hereof, the Grantee shall reasonably restore the surface of the Easement Area promptly to a condition at least equal to that immediately prior to the commencement of installation activities and shall clear out and remove all trees and brush therefrom, and remove all construction debris from the Easement Area and the other property of the Grantor.

3. Binding Effect and Assignability. The Easements granted by this Instrument are covenants which shall run with the lands described herein and are binding upon the successors and assigns of the parties hereto. Grantee shall have the right to assign the Easements granted hereunder, without the consent of the Grantor.

4. Restrictions on Grantor. Grantor agrees that they will not construct or install upon the Easement Areas any buildings or structures which would interfere with the operation or maintenance of the utility facilities described in Paragraph 1 above. Grantee retains the right to come upon the Easement Area at any time and for all purposes relating to the exercise of its rights hereunder. Grantor shall have the right to exercise any rights with respect to the Easement Area which are not inconsistent with the terms of this Agreement. The Easement Area shall remain open space and be used only for access purposes, or yard purposes, unless Grantee otherwise consents in writing.

5. Covenants Running With the Land. The agreements set forth in this Instrument shall constitute covenants running with the premises described in Exhibit A attached hereto.

6. Counterparts. This Instrument may be executed in counterparts and shall be valid when the Instrument has been executed by all of the Grantors.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Instrument on the day and year first written above.

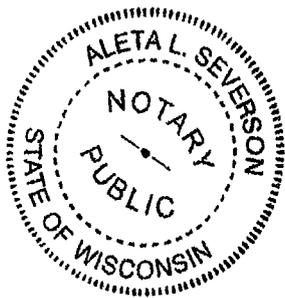
GRANTOR:

NORTH TOWNE HOMES, LLC

By: *Craig Frank*
Name: *Craig Frank*
Managing Member

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 7th day of October, 2015, the above-named Craig Frank, Managing Member of North Towne Homes, LLC, who executed the foregoing instrument.



Aleta L. Severson
Notary Public, State of Wisconsin
My Commission: October 16, 2017

GRANTEE:
WINDSOR SANITARY DISTRICT NO. 1

By: *Brian Coulter*
Name: Brian Coulter
Title: President

Attest: *James Vieweger*
Name: James Vieweger
Title: Secretary

By: *Merlin Dorman*
Name: Merlin H. Dorman
Title: Treasurer

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 12 day of October, 2015, the above-named Brian Coulter, James Vieweger and Merlin H. Dorman, respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Jeffrey S. Bartusiak
Print Name: Jeffrey S. Bartusiak
Notary Public, State of Wisconsin
My Commission: January 18, 2019

This document was prepared by:
Timothy D. Fenner
Axley Brynson, LLP
P.O. Box 1767
Madison, WI 53701-1767

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EXHIBIT A

Utility Easement located in Lot 97 of the Plat of Wolf Hollow, in the Town of Windsor, Dane County, Wisconsin, described as follows:

Beginning at the Southeast corner of lot 96 of Wolf Hollow thence $N01^{\circ}16'59''W$, 4.16' along the East line of said lot 96; thence $N45^{\circ}00'00''E$, 91.66'; thence; $N90^{\circ}00'00''E$, 325.01'; thence $S89^{\circ}01'57''E$, 96.22', thence 54.39' along and arc of a curve concaved to the East having a radius of 350.00', a delta angle of $08^{\circ}54'16''$, a chord bearing $S20^{\circ}15'08''E$, and a chord length of 54.34'; thence $S00^{\circ}00'00''W$, 108.88'; thence $N89^{\circ}37'11''W$, 20.00'; thence $N00^{\circ}00'00''E$, 137.27'; thence $N89^{\circ}01'57''W$, 37.09'; thence $S00^{\circ}00'00''W$, 41.59'; thence $N90^{\circ}00'00''W$, 10.60'; thence $N00^{\circ}00'00''E$, 41.76'; thence $N89^{\circ}01'57''W$, 43.35'; thence $N90^{\circ}00'00''W$, 49.69'; thence $S00^{\circ}00'00''W$, 41.59'; thence $N90^{\circ}00'00''W$, 10.60'; thence $N00^{\circ}00'00''E$, 41.59'; thence $N90^{\circ}00'00''W$, 26.84'; thence $S00^{\circ}00'00''W$, 41.59'; thence $N90^{\circ}00'00''W$, 10.60'; thence $N00^{\circ}00'00''E$, 41.59'; thence $N90^{\circ}00'00''W$, 92.40'; thence $S00^{\circ}00'00''W$, 41.18'; thence $N89^{\circ}32'31''W$, 48.38'; thence $N00^{\circ}21'07''E$, 40.79'; thence $N90^{\circ}00'00''W$, 77.47'; thence $S45^{\circ}00'00''W$, 38.78'; thence $S46^{\circ}28'07''E$, 4.81'; thence $S45^{\circ}45'50''W$, 10.61'; thence $N46^{\circ}59'08''W$, 4.67'; thence $S45^{\circ}00'00''W$, 38.94'; thence $N44^{\circ}03'13''W$, 22.34' to the point of beginning.