

**VILLAGE OF WINDSOR
BOARD RESOLUTION 2018-78**

**APPROVAL OF A DEVELOPMENT AGREEMENT AND ASSOCIATED
DOCUMENTS FOR THE DEVELOPMENT OF CORTLAND PARK
CONDOMINIUM**

WHEREAS, Cortland Park, LLC, a Wisconsin limited liability company ("Developer") is developing a residential development known as Cortland Park Condominium ("Development"), located in the Village of Windsor, Dane County, Wisconsin; and

WHEREAS, the Developer and Village Attorney have negotiated a Development Agreement and associated documents (collectively, the "Development Agreement") to address impacts of the Development on the public health, safety and welfare; and

WHEREAS, the Developer has executed the Development Agreement and is ready to proceed in the manner set forth therein; and

WHEREAS, Village staff and consultants have reviewed the Development Agreement and recommend the Village Board approve same.

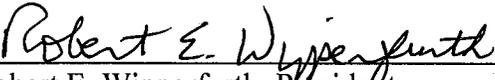
NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Windsor as follows:

1. The Village Board hereby approves the following documents, in the form attached hereto, and authorizes the Village President, Village Attorney and Staff to execute same; subject to the conditions that the Developer provide the letter of credit to the Village set forth in the Development Agreement on the Village's standard form, and pay any and all outstanding fees due and owing to the Village:
 - a. Development Agreement
 - b. Private Facilities Maintenance Agreement
2. The above approval is conditioned upon the Developer executing a Stormwater Maintenance Agreement in a form acceptable to Dane County and providing said agreement to the County with a letter of credit, in a form and amount acceptable to Dane County, to secure completion of the stormwater management measures required in the Stormwater Maintenance Agreement.
3. When the documents set forth in paragraph 1 above are provided to the Village and fully executed, and documentation of compliance the condition set forth in paragraph 2 is provided to the Village, the Development Agreement (or a notice thereof), and the Private Facilities Maintenance Agreement shall be recorded in the Dane County Register of Deeds office by the Director of Planning & Development, at the Developer's expense.

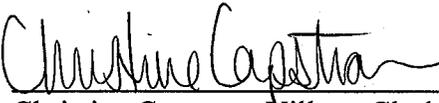
4. All of the conditions set forth in this Resolution shall be satisfied, as determined by the Village Administrator, prior to Developer commencing any work pursuant to the Development Agreement.

The above and foregoing Resolution was duly adopted at a meeting of the Village Board of the Village of Windsor on February 21, 2019, by a vote of 4 in favor and 1 opposed.

VILLAGE OF WINDSOR


Robert E. Wipperfurth, President

Attested by:


Christine Capstran, Village Clerk

Incorporated by Reference:

Development Agreement

Private Facilities Maintenance Agreement



9 0 8 9 7 8 7

T.#:9007090

KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
5474175

03/11/2019 02:59 PM

Trans Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 22

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**CORTLAND PARK CONDOMINIUM
LOCATED IN THE VILLAGE OF WINDSOR,
DANE COUNTY, WISCONSIN:
AGREEMENT FOR PUBLIC IMPROVEMENTS AND
DEVELOPMENT MATTERS
("Development Agreement")**

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO

Amy Schweppe Anderson, Village of Windsor
4084 Mueller Road
DeForest, WI 53532

DRAFTER BY

William S. Cole, Windsor Village Attorney
and
Angie Black, Developer Attorney

Parcel Nos: 0910-332-0601-1: 0910-332-
0604-1: 0910-332-0607-1: 0910-332-
0610-1: 0910-332-0613-1: 0910-332-
0616-1

DEVELOPMENT AGREEMENT

24 **THIS DEVELOPMENT AGREEMENT** (the "**Agreement**") is made and entered
25 into by and between Cortland Park, LLC a Wisconsin limited liability company, with its principal
26 business office located at 370 Campbell Hill Court, DeForest, Wisconsin 53532 ("**Developer**"),
27 and the Village of Windsor ("**Village**"), a body corporate and politic, with its principal business
28 office located at 4084 Mueller Road, DeForest, Wisconsin, 53532.

RECITALS

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30
31 **WHEREAS**, the Developer has received approval from the Village as set forth in Village
32 Board Resolution No. 2018-25, of a development to be known as Cortland Park Condominium, as
33 may be expanded from time to time pursuant to the "**Condominium Instruments**" (as defined in
34 Chapter 703 of the Wisconsin Statutes; the "**Development**") and located in the Village of Windsor,
35 Dane County, Wisconsin, and Developer wishes to enter this Agreement to satisfy conditions
36 required by the Village's Code of Ordinances ("**Village Ordinances**");
37
38

39 **WHEREAS**, the Village seeks to protect the health, safety, and general welfare of the
40 community by requiring the completion of various public improvements in the Development and
41 thereby to limit the harmful effects of substandard developments, including premature
42 development which leaves property undeveloped and unproductive;

43
44 **WHEREAS**, the Village Ordinances require, among other things, that provisions be made
45 for public improvements to serve development projects, including but not limited to, grading of
46 public lands, erosion and stormwater runoff control, sewer and water facilities, and street and
47 multi-use path improvements required to serve the Developer's Development, as more fully
48 described below and in the Plans (as defined below);
49

50 **WHEREAS**, the Developer now wishes to proceed with the installation of the
51 improvements to serve the Development as set forth in the plans and applications it has submitted
52 to the Village for the Development (collectively, the "**Plans**"), which Plans the Village has
53 conditionally approved;

54
55 **WHEREAS**, the purpose of this Agreement includes, but is not limited to, the avoidance
56 of harmful consequences of land development prior to satisfactory completion of the
57 Improvements, or prior to the payment of Improvement costs and related fees required by the
58 Village Ordinances and applicable County, State and Federal laws and regulations (collectively,
59 "**Laws**");
60

61 **WHEREAS**, this Agreement is made for the mutual benefit of the Developer and the
62 Village in order to assure compliance with Village Ordinances related to the standards for the
63 Improvements;

64
65 **NOW, THEREFORE**, in consideration of the above recitals, which are incorporated
66 herein by reference, and other good and valuable consideration, the sufficiency of which is hereby
67 acknowledged, the Village and Developer agree as follows:

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1. IMPROVEMENTS.

1.1. **Agreement Regarding Improvements.** For the public health, safety and welfare, the Developer shall construct and install, at its sole expense, all on-site and off-site public improvements needed to provide public services to the Development and meet the conditions of approval, requirements established by Village Ordinances, and obligations set forth in this Agreement. The Developer shall be required to connect the Development to existing utilities, which may include facilities outside of the boundaries of the Development. Construction of all Improvements (as defined below) shall be completed in accordance with the Village Ordinances and this Agreement.

The "**Public Improvements**" shall collectively include the following and identified on **Exhibit A-1**, to be installed in accordance with the approved Plans, which are identified on **Exhibit A** and incorporated by this reference: (1) a five foot wide public sidewalk on the west side of Pederson Crossing Boulevard, (2) water and sanitary sewer mains outside of the Development, and connections within the Reardon Road right-of-way, (3) street trees on the west side of Pederson Crossing Boulevard, (4) driveway connections to Reardon Road and Pederson Crossing Boulevard.

All other improvements needed to serve the Development which are identified on the Plans or as Common Elements within the Condominium Instruments (as defined in Wis. Stat. §703.02) for Cortland Park Condominiums, including but not limited to the entire length of the private road, will be privately owned (collectively, "**Private Improvements**": together with the Public Improvements, the "**Improvements**"). The Private Improvements include, but are not necessarily limited to, (1) the private drive running through and providing access to each of the condominium units within the Development (including curb, pavement and parking stalls), (2) except as expressly included as part of the Public Improvements above, all landscaping within the boundaries of the Development, (3) water and sanitary sewer main under the private drive and laterals connecting to each individual condominium unit, (4) all storm sewer lines and stormwater management facilities, and (5) all fire hydrants, required to serve the Development under the Village Ordinances and applicable Laws (whether located within or outside of the boundaries of the Development). The Private Improvements shall be maintained, including but not limited to snow plowing of the private drive, in accordance with separate maintenance agreements being executed by Developer and recorded simultaneous with the execution of this Agreement (collectively, the "**Private Maintenance Agreements**").

1.2. **Phasing.** The Development has been approved by the Village as a single phase development, however the Developer has recorded the condominium declaration as an expandable condominium pursuant to section 703.26, Wis. Stats. Notwithstanding such, the Developer shall construct and install all Public

114 Improvements necessary to serve the Development, including those required to
115 serve the expandable portion of the Development (specifically including but not
116 limited to the complete length of the private drive and all storm sewer lines and
117 storm water facilities, water lines, and sanitary sewer lines), at one time in
118 accordance with sections 4 and 5 below.

119
120 1.3. *[Reserved for Future Use.]*

121
122 1.4 **Village Engineer Review of Plans.** The Developer has presented the Plans for the
123 Improvements under the seal of the Developer's Engineer (the "**Plans**"). The
124 Village Engineer has issued a written statement of "no objection" to the Plans which
125 have been submitted and are set forth in Exhibit A. Subject to the other
126 requirements and conditions set forth herein, the Developer shall proceed with
127 construction in accordance with the Plans and the timetable submitted to the
128 Village, attached hereto as **Exhibit B**, unless otherwise extended by the Village in
129 writing, approval of which shall not be unreasonably withheld, conditioned or
130 delayed. The Improvements shall be constructed in accordance with the Plans and
131 as necessary to satisfy all Village construction standards, as established by the
132 Village Ordinances¹, to the extent applicable to condominiums, and in accordance
133 with any other applicable Laws.

134
135 **2. STANDARDS AND SPECIFICATIONS FOR IMPROVEMENTS.** Developer's
136 construction of the Improvements and performance of this Agreement shall be at its sole cost
137 and in accordance with the Plans and the then current Village Ordinances, whether or not
138 specifically referenced in this Agreement.

139
140 2.1. **Signage.** The Developer shall install an entry sign to the Development at the entrance
141 from Pederson Crossing Boulevard. The entry sign for the Development shall be
142 required to meet all applicable Laws, including the Village's signage requirements
143 and shall be subject to prior approval by the Village Board, or designee. The Village
144 may not include any conditions in approving signage that would infringe on
145 Developer's constitutional rights including, but not limited to, content-based
146 regulations of speech provided, however, the Developer agrees to include the
147 following wording on the sign serving the Development: Cortland Park of Windsor
148 Condominium Homes.

149 2.2. **Addressing.** The parties agree that the individual condominium units within the
150 Development shall be numbered consistent with the numbering set forth in **Exhibit**
151 **E**.

152
153 **3. CONTRACTORS ENGAGED BY DEVELOPER FOR DEVELOPMENT;**
154 **INDEMNIFICATION AND INSURANCE.**

155
156 3.1. **Approval of Contractor(s).** The Developer agrees to engage contractors for

¹ There is a QuickLink to the Village Ordinances at www.windsorwi.gov or through the library at the Municode web site (www.municode.com). See in particular, Village Ord. Chapter 38.

157 construction of all Public Improvements, who shall first be approved for such work
158 by the Village Engineer and who shall qualify with every applicable requirement
159 of the Village Ordinances. Prior to the commencement of construction of the Public
160 Improvements, the Developer shall furnish to the Village Engineer the names of all
161 contractors and subcontractors, together with a classification of the work performed
162 by each, and copies of all construction documents relating to the construction of the
163 Public Improvements. Such submittal shall be prior to the commencement of
164 construction of any of the Public Improvements. All construction documents for
165 the Public Improvements are subject to the prior review of the Village and the
166 Developer shall provide a copy to the Village, which may become a public record,
167 but may be subject to redaction of confidential and proprietary information as
168 permitted by applicable Laws.

169
170 **3.2. Indemnification by Contractor(s).** The Developer shall require all contractors
171 engaged in the construction of the Public Improvements to indemnify and hold the
172 Village and its engineers and consultants harmless from and against any and all
173 claims, losses, damages, costs, and expenses which such contractors may or might
174 incur in connection with the construction of the Public Improvements except to the
175 extent such claim is the result of the willful or negligent acts or omissions of the
176 Village. Such indemnification and hold harmless clause shall be in form and content
177 acceptable to the Village Attorney provided such language shall be limited by and
178 consistent with the prior sentence, and shall be included in each contract which the
179 Developer has with a contractor providing labor or materials for the Public
180 Improvements.

181
182 **3.3. Indemnification by Developer.** During any period of construction of the Public
183 Improvements and for a period expiring one (1) year from the date of substantial
184 completion², the Developer hereby expressly agrees to indemnify, save and hold
185 harmless the Village, its engineers, consultants, employees, officers and agents
186 from and against all claims, costs, suits, causes of actions, demands, and liability
187 of every kind and nature, for injury or damage received or sustained by any person
188 or persons or property, whomsoever and whatsoever, in connection with, or on
189 account of, the construction of the Public Improvements, except to the extent such
190 claim is the result of the willful or negligent acts of the Village.³ As requested by
191 the Village, the Developer further agrees to aid and defend the Village with legal
192 counsel reasonably acceptable to the Village in the event the Village is named as a
193 defendant in any action for which Developer is required to indemnify the Village

² Although Ch. 236 Wis. Stats. does not generally apply to Condominiums created pursuant to Ch. 703 Wis. Stats., the parties agree the definition of "substantial completion" set forth in Wis. Stat. § 236.13 shall apply to this Agreement, defined as follows: "(P)ublic improvements reasonably necessary for a project or a phase of a project are considered to be substantially completed at the time the binder course is installed on roads to be dedicated or, if the required public improvements do not include a road to be dedicated, at the time that 90% of the public improvements by costs are completed."

³ The Village does not, by this provision, or by any other provision in this Agreement, waive, reduce or in any way limit any governmental immunity (whether absolute, qualified, as to intentional torts or discretionary acts or other immunity) to which it may be entitled, and hereby expressly reaffirms its right to any and all such immunity, notice of injury, notice of claim, and limitation as to damages to the full extent provided by law.

194 hereunder, except where such suit is brought by the Developer. The provision is not
195 intended to and shall not be interpreted to limit insurance coverage that may be
196 available to the Village or governmental immunity or other defenses that may be
197 available to the Village, each and all of which are expressly reserved by the Village.
198 It is hereby agreed that the Developer is not an agent or employee of the Village.
199 and neither the Developer nor its contractors shall represent itself as an agent or
200 employee of the Village.
201

202 3.4. **Insurance by Contractor(s).** The Developer shall also require all contractors
203 engaged in the construction of the Public Improvements to maintain such
204 reasonable insurance as shall be required by the Village Attorney and Engineer,
205 which insurance requirements shall be consistent with requirements imposed on
206 other developers and contractors within the Village. Upon demand, Developer or
207 Contractors shall furnish to the Village Attorney and Engineer, a current certificate
208 of insurance to evidence such insurance. All such insurance shall comply with the
209 Village's contract requirements pertaining to damage claims, indemnification of
210 the Village, and insurance. The Contractor(s) so engaged are required to furnish
211 commercial general liability insurance of not less than \$1,000,000.00 aggregate for
212 any such damage sustained by two or more persons in any one accident. The
213 Developer is responsible for confirming that such insurance is in place and that the
214 Village is named as an additional insured on such insurance.
215

216 4. **CONSTRUCTION RELATED ACTIVITIES FOR IMPROVEMENTS.**
217

218 In connection with the construction of the Improvements, it is hereby agreed as follows:
219

220 4.1. **Scheduling.** The Developer agrees that no work shall be scheduled for construction
221 of the Improvements without the Village Engineer's (or designee's) approval of the
222 starting date(s) and estimated construction schedule. Subject to the terms,
223 conditions and exceptions in Section 1.4 above regarding timing of construction,
224 the construction of the Improvements shall be completed on or before the
225 completion date(s) set forth in the schedule, unless otherwise extended in writing
226 by the Village.
227

228 4.2. **Commencement.** The final plans and specifications, signed by the Developer's
229 Engineer, as identified in Exhibit A, shall be submitted to, and approved by, the
230 Village Engineer (or designee) prior to any land disturbance or commencement of
231 work. Additionally, no land disturbance or commencement of work on the
232 Improvements shall occur until the Letter of Credit or other security required by
233 Section 10.1 below is furnished to the Village.
234

235 4.3. *[Reserved For Future Use]*
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237 4.4. **Costs.** The Developer agrees that the Village shall not be responsible for any costs
238 or charges related to the construction of the Improvements, and that Developer is

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responsible for all such costs, except as otherwise expressly provided for in the Agreement.

4.5. Construction Related Activities; Inspection and Certification; Lien Waivers.

The Village may periodically review construction progress, conduct inspections and/or complete material testing of the Improvements and is granted access to the site for such purposes. The Developer shall have the obligation to provide such on-site inspection as is necessary to obtain written certification from Developer's Engineer that the Improvements as and when they are completed are in compliance with the standards and specifications in the Village Ordinances and this Agreement. The Developer's Engineer shall also provide written certification to the Village Engineer (or designee) before the Village Engineer (or designee) recommends acceptance of the Public Improvements to the Village Board. In addition, and also prior to recommendation of acceptance of the Public Improvements, the Developer shall present to the Village valid lien waivers from all persons providing materials and/or performing work on the Public Improvements for which certification is sought. The Developer agrees that no occupancy permits will be issued by the Village until the Public Improvements have been recommended for acceptance by the Village Engineer (or designee), the entire length of the private roadway has been substantially completed and approved by the Village Engineer, all outstanding engineering and inspection fees (including engineering and inspection charges of the Village) which Developer is required to pay under the Village Ordinances have been paid in full, and affidavits and lien waivers are received by the Village indicating that the contractors, suppliers and subcontractors have been paid in full for all work and materials furnished in order to construct the Public Improvements.

5. RESPONSIBILITY FOR MAINTENANCE AND REPAIR OF IMPROVEMENTS.

5.1. Public Improvements. The Developer shall continue to have maintenance responsibility for the Public Improvements until they have been substantially completed in accordance with the standards and specifications in the Village Ordinances, as certified by the Developer's Engineer, and provided there is a written statement of "no objection" from the Village Engineer (or designee), acceptance by the Village, and a release of the surety associated with a particular Public Improvement. Release of security and acceptance of Public Improvements requires the approval of a resolution by the Village Board.

5.2. Private Improvements. The Developer agrees to provide for maintenance and repair of all Private Improvements in accordance with the Private Maintenance Agreements and acknowledges that this obligation runs with the land. The Developer shall have no further obligations for maintenance or repair for Private Improvements when Developer's obligations as Declarant under the Condominium Instruments expire or are otherwise terminated, at which time the Cortland Park Condominium Owners Association, Inc. ("Association") shall be responsible for all maintenance and repair in accordance with this Agreement, the Private

285 Maintenance Agreements and the Condominium Instruments. The Village will
286 endeavor to provide timely notice to the Developer or the Association, as
287 applicable, whenever the Village Engineer (or designee) reasonably determines that
288 a Private Improvement does not conform to the applicable standards and
289 specifications in the Village Ordinances, other applicable Laws or the Private
290 Maintenance Agreements. The Developer or the Association, as applicable, shall
291 have thirty (30) days from the issuance of such notice to correct or substantially
292 correct the defect or such additional time as may reasonably be required under the
293 circumstances. It is agreed that the Village shall not declare a default under this
294 Agreement or the Private Maintenance Agreements during the aforesaid thirty
295 (30) day correction period on account of any such defect unless it is clear that
296 Developer or the Association, as applicable, does not intend to correct the defect or
297 unless the Village determines that immediate action is required in order to remedy
298 a situation which poses an imminent health or safety threat. In the event of a
299 conflict between this Agreement, other applicable Law, and the Private
300 Maintenance Agreements regarding the required maintenance and repairs of the
301 Private Improvements, the foregoing shall control in the following order:
302 applicable Laws, this Agreement and then the Private Maintenance Agreements.
303 Furthermore, nothing herein shall modify the rights and obligations between the
304 Association and the individual condominium unit owners, as set forth in the
305 Condominium Instruments (for example, but not limited to, if the Condominium
306 Instruments require one or more individual unit owners be responsible for
307 maintenance and repair of a particular Private Improvement, this Agreement or the
308 Private Maintenance Agreements shall not be interpreted to shift such responsibility
309 to the Association).

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311 6. **GUARANTEE OF THE WORK.** The Developer agrees to guarantee and warrant all
312 work performed under this Agreement for Public Improvements against defects in
313 workmanship or materials for a period of fourteen (14) months from the date of substantial
314 completion of the Public Improvements. If any defect should appear during the guarantee
315 period, Developer agrees to make required replacement or acceptable repairs of the
316 defective work at the Developer's own expense. Furthermore, following such notice to and
317 repair by the Developer, the guarantee period shall be extended for an additional fourteen
318 (14) month period from the date of Developer's completion of the repair. All guaranties or
319 warranties for materials or workmanship which extend beyond the guarantee period are
320 hereby assigned by the Developer to the Village, and confirmation of same shall be
321 provided to the Village Engineer (or designee).

322
323 7. **COMPLIANCE WITH LAW.** When performing its obligations under this Agreement,
324 the Developer shall comply with all terms of this Agreement, the Village Ordinances and
325 applicable Laws in effect, as promulgated by all governmental bodies having jurisdiction
326 thereover. In the event of a conflict among the requirements, the stricter provisions shall
327 control.

328
329 8. **FEES PAYABLE TO VILLAGE.** The Developer agrees to pay the Village for all
330 outstanding fees and assessments as set forth in **Exhibit C** prior to the start of construction

331 of the Improvements except as otherwise set forth in this Agreement. In addition, The
332 Developer shall reimburse the Village for its actual and reasonable costs of design,
333 inspection, testing, construction, and associated legal and other fees associated with any
334 Public Improvements or other submittal and reviews required in connection with
335 construction of the Development, as required by the Village's Ordinances. The Developer
336 shall maintain an escrow with the Village for payment of same, per Village Ordinance. In
337 the alternative, as determined by the Village Administrator, the Village shall bill the
338 Developer monthly for expenses incurred by the Village. Bills outstanding for more than
339 thirty (30) days shall accrue interest at the rate established by Village Ordinances.
340

341 **9. REQUIREMENTS AND LIMITATIONS ON PAYMENT OF FEES TO VILLAGE.**

342 The Village acknowledges that any fees payable by Developer under this Agreement
343 including, but not limited to, those set forth in Section 8 above, shall be subject to the
344 requirements and limitations set forth in §66.0167(6)(g) of the Wisconsin Statutes, as and
345 when due and payable under that statute.
346

347 **10. SURETY.**

348
349 10.1. The Developer agrees to furnish the Village, prior to the commencement of any
350 work under this Agreement, with surety in the form of an irrevocable Letter of
351 Credit⁴, in a form deemed acceptable by the Village Attorney, in the amount to be
352 approved by the Village Engineer (or designee) based on the reasonable estimate
353 to complete the Public Improvements as set forth in Exhibit D. The Letter of Credit
354 shall be payable at sight to the Village and will bear an expiration date not earlier
355 than twelve (12) months after the date of delivery to the Village. The Letter of
356 Credit shall include a provision requiring that the Village be given written notice
357 not less than thirty (30) days and not more than sixty (60) days prior to the
358 expiration of the letter. The Developer shall provide a new Letter of Credit
359 satisfactory to the Village not less than ten (10) days prior to the expiration of any
360 earlier Letter of Credit sufficient to cover the balance of any work on Public
361 Improvements to be performed by Developer hereunder and any sum required to
362 secure the guarantee of the Public Improvement work required by this Agreement.
363 The Letters of Credit will be payable to the Village at any time upon presentation
364 of: (i) a sight draft on the issuing Bank in the amount to which the Village is entitled
365 to draw pursuant to the terms of this Agreement; (ii) an affidavit executed by an
366 authorized Village official stating that the Developer is in default under this
367 Agreement related to the Public Improvement work (beyond applicable notice and
368 cure periods); and (iii) the original of the Letter of Credit.
369

370 10.2. As work progresses on installation of the Public Improvements constructed as part
371 of this Agreement, the Village Engineer (or designee), upon written request from
372 the Developer from time to time, is authorized to recommend a reduction in the
373 amount of surety as hereinafter provided. When portions of construction of Public

⁴ If the Developer prefers to provide a form of security other than a letter of credit, the Developer must contact the Village Attorney prior to executing this Development Agreement so that appropriate language can be incorporated in the Development Agreement.

374 Improvements (street, stormwater or other improvements) are substantially
375 completed by the Developer, the Village Engineer (or designee) is authorized, upon
376 submission of lien waivers by the Developer's contractors, to recommend reduction
377 in the amount of surety. Any reduction shall require approval by resolution of the
378 Village Board.

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380 10.3. Upon acceptance by the Village of the Public Improvements, as approved by
381 resolution of the Village Board, the Village agrees to reduce the surety to an amount
382 which does not exceed ten percent (10%) of the cost of the Public Improvements,
383 as estimated by the Village Engineer (or designee), to secure performance of the
384 guarantee described in this Agreement.

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386 10.4. Developer agrees to provide written notice of the expiration of any Letter of Credit
387 (or replacement Letter of Credit) provided for herein not less than thirty (30) days
388 nor more than sixty (60) days prior to its expiration, by sending notice to the
389 following address:

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391 Village Clerk
392 Village of Windsor
393 4084 Mueller Road
394 DeForest, WI 53532

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396 11. *[Reserved For Future Use].*

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398 12. **SURVEY MONUMENTS.** The Developer shall install, at its sole expense, all survey
399 monuments in the manner set forth by applicable Law and Village Ordinances, identifying
400 the common elements and limited common elements to the extent they include Private
401 Improvements and can reasonably be staked, and the stormwater management facilities
402 within the Development.

403
404 13. **FEE IN LIEU OF PARKLAND DEDICATION.** The Developer shall submit payment
405 of fees in lieu of parkland dedication in an amount set forth in Exhibit C pursuant to section
406 38-636 of the Village Ordinances at the time of execution of this Agreement.

407
408 14. **FEE FOR INITIAL IMPROVEMENT OF PARKLAND PER WIS. STAT.,**
409 Developer shall be required to pay fees for initial improvement of parkland in amounts set
410 forth in Exhibit C pursuant to section 38-638(e) of the Village Ordinances, payable at such
411 times as required by Wis. Stat. §66.0617(6)(g)(i.e., periodically, upon issuance of a
412 building permit for each unit and only the amount due for such unit). The Developer shall
413 provide notice to all buyers of units within the Development of existing fees and
414 assessments associated with the unit, if any, that will be due and owing to the Village after
415 the buyers purchase the unit.*[Reserved for Future Use.]*

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417 15. **GENERAL CONDITIONS.**

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419 15.1 **No Vested Rights Granted.** Except as provided by law, or as expressly provided

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in this Agreement, no vested right in connection with this Development shall inure to the Developer. Nor does the Village warrant by this Agreement that the Developer is entitled to any other required approvals.

- 15.2 **No Waiver.** No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the Village and Developer; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Village's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by the Developer or the acceptance of any Improvement.
- 15.3 **Village Rights Retained.** The Village does not hereby waive, and expressly retains, its right to governmental immunity and other defenses that may be available to the Village. The obligations set forth herein are not intended to, and shall not be interpreted to, limit the Village's insurance coverage or other similar protections. To the extent not expressly contracted in this Agreement, the Village retains and expressly reserves its legislative discretion.
- 15.4 **Amendment/Modification.** This Agreement may be amended or modified only by a written amendment approved and executed by the Village and the Developer.
- 15.5 **Default.** A default is defined herein as a party's breach of, or failure to comply with, the terms of this Agreement. In the event of either party's breach or default under this Agreement, the other party shall provide notice and breaching/defaulting party shall have a reasonable period of time to cure the breach or default, as set forth in the notice. The parties each have all remedies available at law or equity as necessary to cure any default. The Village also reserves to itself the right to draw on a Letter of Credit or other surety as expressly provided hereunder in addition to pursuing any other available remedies. The rights and remedies of the parties shall be cumulative, and the exercise of one shall not preclude the exercise of others.
- 15.6 **Entire Agreement.** This written Agreement, and written amendments, and any referenced attachments thereto, shall constitute the entire Agreement between the Village and Developer.
- 15.7 **Time.** For the purpose of computing the commencement, abandonment and completion periods, and time periods for Village or Developer action, such times in which war, civil disasters, acts of God, or extreme weather conditions occur or exist shall not be included if such times prevent the Village or Developer from performing their/its obligations under the Agreement.
- 15.8 **Severability.** If any part, term or provision of this Agreement is held by the courts

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to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term or provision was never part of the Agreement.

15.9 Benefits. The benefits and burdens of this Agreement shall be binding upon and inure to the parties, and their successors and assigns, and run with title to the Property. Furthermore, upon completion of the Improvements pursuant to this Agreement and the Village's acceptance of the Public Improvements, and expiration of the guarantee period under Sections 4 and 6, respectively, all rights and obligations of the Developer under this Agreement shall transfer to the Association and Developer shall have no further obligations under this Agreement except to the extent of Developer's role as an owner of any Units and corresponding membership in the Association.

15.10 Notice. Any notice required or permitted by this Agreement shall be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified mail and return receipt requested, and addressed as follows:

If to Developer: Cortland Park, LLC
Attn: Mr. Dwight Ziegler
370 Campbell Hill Court
DeForest, WI 53532

If to Village: Village of Windsor
Attn: Village Clerk
4084 Mueller Road
DeForest, WI 53532

15.11 Recordation. The Village may record this Agreement or a memorandum of this Agreement in the Register of Deeds Office. All costs of recording shall be paid by the Developer.

15.12 Effective Date. This Agreement shall be effective as of the date and year executed by both parties.

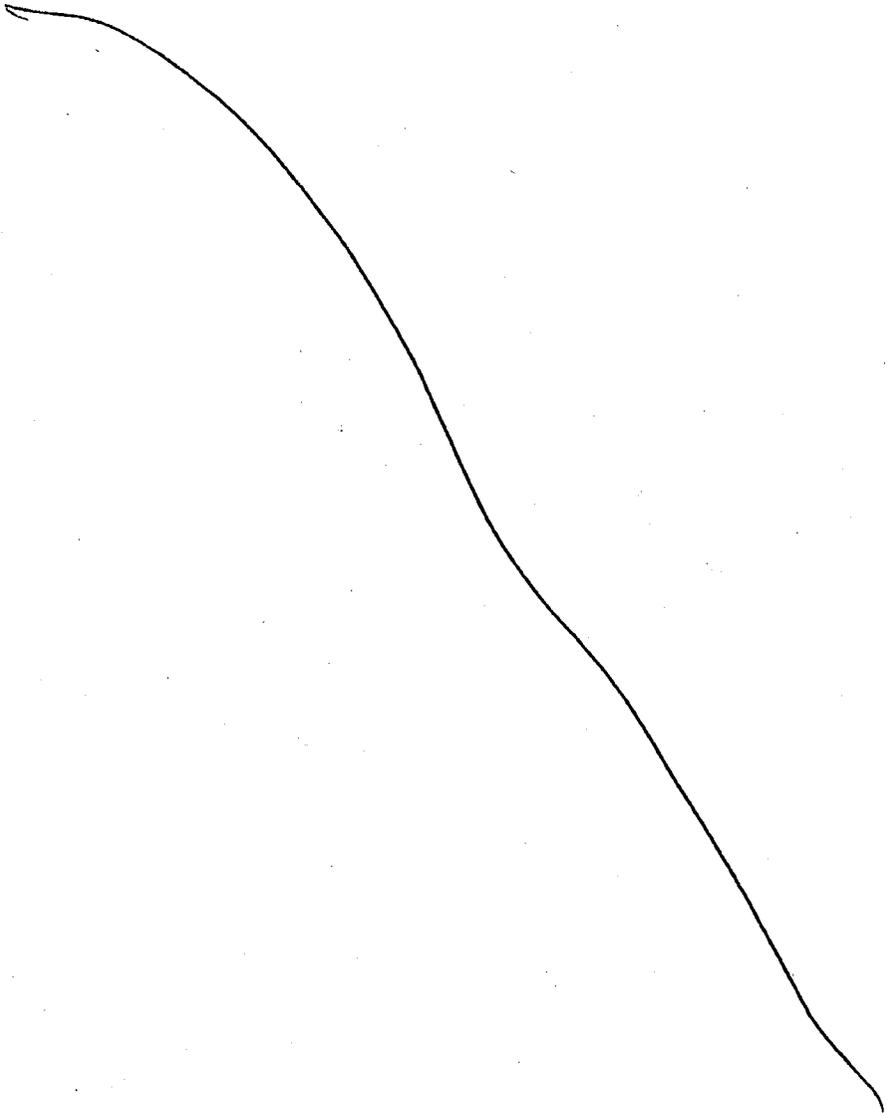
15.13 Exhibits. The following Exhibits attached hereto are incorporated by reference:

- A. - Plans
- A.1. - Public Improvements
- B. - Construction Timetable
- C. - Special Assessments, Impact Fees, Building Permit Fees and Parkland Improvement Fees
- D. - Public Improvement Estimate

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E. - Addressing

*[SIGNATURES ON FOLLOWING TWO PAGES]
[EXHIBITS INCORPORATED BY REFERENCE]*



Executed in Dane County, Wisconsin, on this 4th day of March, 2019.

CORTLAND PARK, LLC
Windsor Associates, Ltd. member

By: *DW Ziegler*
Dwight Ziegler
Its: *President*

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 4th day of March, 2019, the above-named Dwight Ziegler, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Bonnie D. Ziegler

Notary Public, State of Wisconsin
My Commission Expires: *7/20/2022*

This instrument drafted by:
William S. Cole
Axley Brynson, LLP
2 E. Mifflin Street, Ste. 200
Madison, WI 53703
wcole@axley.com
(608) 283-6766
www.axley.com

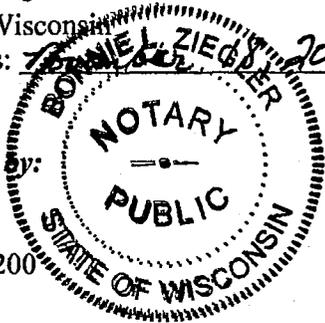


EXHIBIT A
SPECIAL PROVISIONS

PLANS: The Village Engineer has no objection to the following OVERALL plans presented by the Developer or the Developer's Engineer, which plans are dated and marked as follows:

- i. Condominium Plat – Recorded 8/1/2018 as Document # 5429992
- ii. Site Plan - C100 Dated 10/24/2018
- iii. Grading and Erosion Control Plan - C200-C300 Dated 10/24/2018
- iv. Utility Plan – C400 Dated 10/24/2018
- v. Details – C500 Dated 10/24/2018
- vi. Details (2) – C600 Dated 10/24/2018
- vii. Detail (3) – C700 Dated 10/24/2018
- viii. Landscape Plan - L101 Dated 10/24/2018
- ix. Landscape Plan - L102 Dated 10/24/2018
- x. Architectural Floor Plans & Elevations (Condo #1) Dated 1/18/2017
- xi. Architectural Floor Plans & Elevations (Condo #2) Dated 1/17/2017
- xii. Erosion Control & Stormwater Management Report for Cortland Park prepared by D'Onofrio, Kottke & Associates, Inc., dated September 27, 2018, for Project #FN: 17-05-110.

EXHIBIT B
CORTLAND PARK

PROJECT SCHEDULE

	WEEK
1. Grading & Erosion Control	1
2. Sanitary Sewer Construction	2
3. Water Main	3
4. Install Storm Sewer	4
5. Gas & Electric	5-6
6. Subgrade, Place Stone	7
7. Curb & Sidewalk	8-9
8. Paving	10
9. Install Bio-Beds & Final Restoration	11-12

NOTE: Schedule dependent on approval date & winter weather

EXHIBIT C

CORTLAND PARK SPECIAL ASSESSMENTS, IMPACT FEES, BUILDING PERMIT FEES, AND PARKLAND IMPROVEMENT FEES

Fees in Lieu of Parkland (2018 Rate)

Number of Units	2018 Cost per Unit	Total Cost
22	\$1,499.887	\$32,997.36

Fees for Initial Improvement of Parkland (2018 Rate)

Number of Units	2018 Cost per Unit	Total Cost
22	\$1,177.59	\$25,906.98

Fees Due at Time Building Permit Issued (2018 Rates)

Design Review	\$150.00
Erosion Control	\$100.00
Inspection	(Varies)
**Address Assignment/Unit	\$40.00
Plan Review	\$50.00
2018 Refuse/Recycling	(Varies)
Wis. Permit Seal	\$40.00
Zoning Permit	(Varies)
**Public Safety Residential/Unit	\$355.00
**Traffic Impact West Residential/Unit	\$891.74
**Utility #1 Impact Fee - Reservoir/Unit	\$3,000
**Utility #1 Sewer Connection Fee/Unit	\$600.00
**Construction - Unmetered Water/Unit	\$59.40

** Cost per unit

Special Assessment (as of October 10, 2018 Rates)

Number of Units	10/10/2018 Cost per Unit	Total Cost
22	\$2,291.51	\$50,413.22***

***Daily Interest after 10/10/18 closing = \$0.23 per unit

Exhibit D

Public Improvements
Estimate

Cortland Park - Phase I
Engineer's Estimate
January 18, 2019

Item No.	Description	Est. Quantity	Unit	Unit Price	Amount
1	Water, Sanitary Sewer, Storm Sewer and Road connections in Reardon Road ROW				\$26,400.00
Total Estimate					\$26,400.00

Exhibit E

Addressing (all on Cortland Park Drive)

