

**DEVELOPMENT AGREEMENT FOR SINGLE FAMILY HOMES IN THE
TIMBER CREEK SUBDIVISION**

THIS AGREEMENT made and entered into this ___ day of _____, 2016 (the “Effective Date”), by and between the VILLAGE OF KRONENWETTER (“VILLAGE”), and _____ (“DEVELOPER”).

RECITALS

WHEREAS, VILLAGE is the owner of various residential lots available for single family development located within the Village of Kronenwetter, Marathon County, Wisconsin; and

WHEREAS, DEVELOPER is an individual or entity that wishes to develop the property and has the means available to do so, and is financially responsible to complete the development on the property.

NOW THEREFORE in consideration of the mutual covenants herein contained, and other good and valuable consideration, the parties hereto mutually agree as follows:

AGREEMENT

1. VILLAGE agrees to sell to DEVELOPER the property located at 850 Windwood Drive: Lot 8, Block 4 - Timber Creek Crossing Subdivision (PROPERTY) for a purchase price of \$12,000.
 - a. Pursuant to a prior contractual obligation, the VILLAGE must provide Denyon Homes, Inc. a right of first refusal prior to completing as a condition precedent to its obligations under this AGREEMENT. The VILLAGE will provide Denyon Homes, Inc. a written notice of the offer to purchase this property within 2 business days of the full execution of this agreement. Within 5 business days of receiving the written notice Denyon Homes, Inc will notify the Village if they intend to exercise their right of first refusal. The VILLAGE will then notify the DEVELOPER of the result of Denyon Homes, Inc. decision to exercise its right of first refusal within 2 business days of its receipt of such determination. This agreement shall be void upon Denyon Homes, Inc exercise of its right of first refusal.

- b. Title shall be transferred free and clear of all liens and encumbrances at the time of payment subject to the terms and conditions of this DEVELOPMENT AGREEMENT in the form of a warranty deed;
 - c. Under this agreement transfer of the PROPERTY shall be effectuated and considered completed upon the execution and delivery of the deed by the VILLAGE to DEVELOPER.
 - d. It shall be the DEVELOPER'S responsibility to obtain and pay the costs of sufficient title evidence and recording fees related to the transfer of the PROPERTY to the DEVELOPER.
 - e. DEVELOPER shall not be allowed to sell, assign or transfer ownership of the PROPERTY without the express written consent of the VILLAGE until such time as an occupancy permit for the single family dwelling contemplated herein is issued.
2. DEVELOPER shall meet the following conditions each of which are material and conditional to the sale and transfer of the subject PROPERTY to DEVELOPER:
- a. The PROPERTY and all development on it shall be subject to the Restrictive and Protective Covenants for Timber Creek Crossing Subdivision. A copy of these restrictive covenants are attached hereto and incorporated herein by reference as EXHIBIT A.
 - b. DEVELOPER shall obtain a building permit for a single family dwelling consistent with the terms of this DEVELOPMENT AGREEMENT within one year of the transfer of the PROPERTY to DEVELOPER.
 - i. If the DEVELOPER does not obtain a building permit and substantially begin construction within one year of the transfer of the PROPERTY to DEVELOPER, the PROPERTY shall be transferred back to the VILLAGE at the DEVELOPER'S sole expense, and the purchase price shall be forfeited as liquidated damages to the VILLAGE. The parties hereto stipulate and agree that the failure to develop the property and delay caused by the same

constitutes damages to the VILLAGE that are difficult and speculative to assess and constitute a basis for liquidated damages.

c. DEVELOPER shall complete construction of a single family dwelling on the PROPERTY and obtain an occupancy permit within two years of the date of the transfer of the PROPERTY to DEVELOPER subject to all of the following requirements:

- i. Each single family dwelling shall have a minimum of 1,500 square feet of finished floor area.
- ii. The single family dwelling, improvements only, must meet a minimum assessed value under the Village's standard assessment procedures of at least \$130,000 or greater in the tax year following the issuance of an occupancy permit.
- iii. All driveways and parking surfaces must be surfaced with a hard surface of cement, asphalt, decorative brick, or a combination thereof. Gravel surfaces shall not be acceptable. A temporary occupancy permit may be issued between November 1st and May 1st to allow the DEVELOPER to meet this requirement.

d. If DEVELOPER fails to complete the construction of the single family dwelling, or an occupancy permit is not issued for any improvement constructed on the property, within two years of the transfer of the PROPERTY the following penalties may be imposed at the sole election of the Village:

- i. DEVELOPER shall pay a "penalty fee" of \$5,000 for each tax year following two years from the transfer of the PROPERTY to the DEVELOPER that an occupancy permit is unable to be obtained for a single family dwelling improvement on the PROPERTY. Said penalty shall be payable on or before January 31 in the applicable tax year.
- ii. At the election of the VILLAGE, and regardless of whether a penalty fee has been paid as provided in the immediately preceding paragraph i., the VILLAGE shall be entitled to require the DEVELOPER to transfer the PROPERTY along with any

improvements constructed thereon back to the VILLAGE at the sole expense of DEVELOPER, free and clear of all liens and at no cost to the VILLAGE therefore. This right hereunder including the forfeiture of the purchase price and costs of improvement on the PROPERTY shall be considered liquidated damages. The parties hereto stipulate and agree that the failure to develop the property and the delay caused by such failure constitutes damages to the VILLAGE that are difficult and speculative to assess and constitute a basis for liquidated damages. Furthermore, the parties stipulate that if the VILLAGE elects to require DEVELOPER to transfer the property back to VILLAGE, this provision may be enforceable as an action for specific performance.

- iii. In the event the VILLAGE elects to require DEVELOPER to transfer the property back to the VILLAGE as provided herein, the DEVELOPER shall no longer be subject to the “penalty fee” provisions herein for any tax year following the year in which the property has been transferred back to the VILLAGE. A “penalty fee” shall be payable for the tax year in which the property was transferred regardless of when in that year the transfer as effectuated.
- e. The VILLAGE shall be entitled to a “penalty fee” payable from DEVELOPER for each tax year following the issuance of an occupancy permit the improvements on said property fails to meet the minimum assessed value of \$130,000, payable on or before January 31 in the applicable tax year, as follows:
 - i. For each tax year the assessed value of the improvement is below \$100,000, the DEVELOPER shall pay to the VILLAGE an annual penalty payment of \$5,000.
 - ii. For each tax year the assessed value is between \$100,000 and \$120,000, the DEVELOPER shall pay to the VILLAGE an annual penalty payment of \$2,000.

- iii. For each tax year the assessed value is more than \$120,000 but less than \$130,000, the DEVELOPER shall pay to the VILLAGE an annual penalty payment of \$1,000.
- iv. The DEVELOPER'S obligation to pay said penalty payment shall cease upon earlier of either: (1) the first full tax year that the single family dwelling, improvements only, meets the minimum assessed value of \$130,000 or (2) the termination of the life of the Village of Kronenwetter TID No. 2.

3. Indemnification. The DEVELOPER hereby agrees to indemnify, defend and hold harmless the VILLAGE from and against all claims, damages, fines, judgments, penalties, costs, liabilities and losses, including reasonable attorneys' fees and costs, suffered or incurred by the VILLAGE in any manner in connection with subject PROPERTY and/or the development of the PROPERTY including, without limitation:

- a. The DEVELOPER'S failure to comply with any environmental law, rule, regulation or ordinance, or any order of any regulatory or administrative authority with respect thereto;
- b. Any release of petroleum products or hazardous materials or Hazardous Substances on, upon or into the PROPERTY and/or the development of the PROPERTY;
- c. Any and all damage to natural resources or real property or harm or injury to persons resulting or alleged to have resulted from any failure to comply with any law, rule, regulation or ordinance or any release of petroleum products or hazardous materials or Hazardous Substances;
- d. Claims arising under the Americans With Disabilities Act, historic preservation laws and any other laws, rules, regulations or ordinances;
- e. All damages, liabilities and expenses, to include loss of tax revenues, delay of construction, and damages to structures or improvements caused directly or indirectly by required remediation of environmental contamination by the VILLAGE except physical damage caused by the negligent acts of the

VILLAGE, its agents, employees or contractors;

- f. Damage to adjacent properties attributable to stormwater run-off from the PROPERTY.
4. All indemnities set forth in this paragraph 3. shall survive the execution and delivery of this DEVELOPMENT AGREEMENT and shall be binding on the heirs, assigns and successors in interest of each party.
5. No waiver, amendment, or variation in the terms of this DEVELOPMENT AGREEMENT shall be valid unless in writing signed by both VILLAGE and DEVELOPER, and then only to the extent specifically set forth in writing.
6. The respective rights and liabilities of VILLAGE and DEVELOPER under this DEVELOPMENT AGREEMENT are not assignable or delegable, in whole or in part, without the prior written consent of the other party. The provisions of this DEVELOPMENT AGREEMENT shall inure to the benefit of and be binding upon the permitted successors and assigns of the parties. The VILLAGE will not unreasonably withhold consent to DEVELOPER assigning its rights and entitlements under this DEVELOPMENT AGREEMENT to a third party to assume the liabilities of DEVELOPER hereunder.
7. This DEVELOPMENT AGREEMENT contains the entire understanding of the parties with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth in this DEVELOPMENT AGREEMENT. This DEVELOPMENT AGREEMENT supersedes all prior negotiations, agreements, and undertakings between the parties with respect to the subject matter hereof.
8. This DEVELOPMENT AGREEMENT is intended solely for the benefit of the DEVELOPER and the VILLAGE, and no third party (other than successors and permitted assigns) shall have any rights or interest in any provision of this DEVELOPMENT AGREEMENT. Without limiting the foregoing, no approvals given pursuant to this DEVELOPMENT AGREEMENT by the DEVELOPER or the VILLAGE, or any person acting on behalf of either of them, shall be available for use by any contractor or other person in any dispute relating to construction of the Project.

9. This DEVELOPMENT AGREEMENT shall be governed by, and construed and interpreted in accordance with, the laws of the State of Wisconsin applicable to contracts made and wholly performed within each state.
10. Any provisions of this DEVELOPMENT AGREEMENT which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DEVELOPMENT AGREEMENT in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.
11. Nothing contained in this DEVELOPMENT AGREEMENT, shall be deemed or construed as creating a partnership or joint venture between the VILLAGE and DEVELOPER or between the VILLAGE and any other person, or cause the VILLAGE to be responsible in any way for the debts or obligations of the DEVELOPER or any other person. The DEVELOPER further represents, warrants and agrees, for itself and its successors and permitted assigns, not to make any assertion inconsistent with its acknowledgment and agreement contained in the preceding sentence in the event of any action, suit or proceeding, at law or in equity, under this DEVELOPMENT AGREEMENT, and this Section may be pleaded and construed as a complete bar and estoppel against any assertion by or for the DEVELOPER, and its successors and permitted assigns, that is inconsistent with its acknowledgment and agreement contained in the preceding sentence.
12. Time is of the essence as to each and every obligation or agreement contained in this DEVELOPMENT AGREEMENT.
13. This DEVELOPMENT AGREEMENT may be recorded, in memorandum form, in the office of the Register of Deeds of Marathon County, Wisconsin and shall be a covenant and agreement running with the land, binding and inuring to the benefit of DEVELOPER and the VILLAGE and their respective successors and assigns.

IN WITNESS WHEREOF, this DEVELOPMENT AGREEMENT is executed as of the date first above written.

DEVELOPER

By: _____

Name:

VILLAGE OF KRONENWETTER

By: _____

Chris Voll, President

VILLAGE OF KRONENWETTER REDEVELOPMENT AUTHORITY

By: _____

Richard Rappa, Chairman

STATE OF WISCONSIN)

) ss.

MARATHON COUNTY)

Personally came before me this ____ day of _____, 201__, the above named _____ to me known to be the person who executed the foregoing instrument personally.

Notary Public, State of Wisconsin

My Commission: _____

STATE OF WISCONSIN)

) ss.

MARATHON COUNTY)

Personally came before me this ____ day of _____, 201__, the above named, Chris Voll, President, to own to be the person and officer who executed the foregoing instrument and acknowledged that they executed the same as such officers by the Village of Kronenwetter's authority.

Notary Public, State of Wisconsin

My Commission: _____

STATE OF WISCONSIN)

) ss.

MARATHON COUNTY)

Personally came before me this ____ day of _____, 201__, the above named, Richard Rappa, Chairman, to own to be the person and officer who executed the foregoing instrument and acknowledged that they executed the same as such officers by the Village of Kronenwetter's authority.

Notary Public, State of Wisconsin

My Commission: _____