

DEVELOPMENT AGREEMENT

ASPEN MEADOW SUBDIVISION

THIS AGREEMENT, made by and between the CITY OF APPLETON, Outagamie County, Wisconsin, a body politic and municipal corporation by its City Council (“City”) and, _____, the owner and developer (“Developer”) of property lying within the City of Appleton:

WHEREAS, Section 17-3 of the Appleton Municipal Code provides for the installation of required improvements in new subdivisions;

WHEREAS, the Developer has proposed to develop **Aspen Meadow**, a residential subdivision on property within the corporate limits of the City, described in Exhibit 1 (Legal Description provided by developer) attached hereto; and

WHEREAS, a concept plan of the **Aspen Meadow** Development, shown in Exhibit 2 (provided by developer) attached hereto, has been submitted to the City for review and comment by relevant City Departments and City officials; and

WHEREAS, a series of meetings and negotiations have taken place between the City and the Developer to determine various development and financial responsibilities as between the City and the Developer for on-site and off-site public improvements and fees in connection with the proposed subdivision; and

WHEREAS, the City and the Developer, for their mutual benefit, have mutually agreed as to development and financial responsibilities for public improvements and fees in connection with the proposed subdivision;

NOW THEREFORE, it is mutually agreed as follows:

1. The Developer shall be responsible for the installation of the following:
 - a. Sanitary sewer mains, manholes and laterals
 - b. Water mains, valves, hydrants, hydrant leads, fittings and services
 - c. Storm sewer ditch conveyance systems, overland flow paths and any associated piping
 - d. Storm water facilities necessary to meet storm water management requirements for the development
 - e. Street excavation and graveling, terrace seeding, and lot grading and seeding
 - f. All other infrastructure required for development not specifically set forth in this agreement
2. The Developer shall provide an estimate for items 1a – 1f.

3. The Developer shall place in escrow or provide the City with proof of one established standby letter of credit for the following:
 - a. Administration Fees
 - b. Sanitary Area Assessment
 - c. Street Name Signs
 - d. Televising sanitary sewer lines
 - e. Temporary Asphalt Surface (Spartan Drive)
 - f. Traffic Control Signs

4. Public Street (Officially mapped Spartan Drive)

The Developer shall be responsible for the initial construction of the public street meeting all construction standards and access requirements of the Appleton Fire Department and Department of Public Works. A temporary asphalt surface will be installed by the City of Appleton in the year following initial street construction with the cost to be borne by the Developer as described in 3.e. The City will assume maintenance responsibility for this street after the grading and graveling construction is officially accepted by the City.

The Developer shall be responsible for the installation of the water main, valves, hydrants and all associated appurtenances. The water main shall be constructed in accordance with City standards. The City will assume all maintenance for this water main once it is officially accepted by the City.

The Developer shall be responsible for the installation of the temporary roadside drainage ditches. The ditches shall be constructed in accordance with a stormwater management plan approved by the City. The Developer shall be responsible for the maintenance of the roadside ditches until such time as public storm sewers are installed in Spartan Drive.

The Developer agrees to convey by deed or dedication to the City the public street and public water main. All public improvements contemplated in the final plat shall be constructed within areas to be dedicated to the City either by deed, dedication or easement as contemplated in the final plat and this agreement.

The costs of any future improvements by the City within or along the Spartan Drive right-of-way will be assessed equally among all six lot owners at the time of the improvements in accordance with the City's Policy for Special Assessments. Separate deed restrictions and/or covenants will be required to accomplish this. Said deed restrictions and/or covenants shall be recorded with the Outagamie County Register of Deeds

5. Private Street

The Developer shall be responsible for the construction of the private street meeting all access requirements of the Appleton Fire Department and Department of Public Works. A temporary asphalt

surface shall be installed by the Developer within one year of the City issuing the first building permit within the plat. The permanent pavement surface shall be installed no later than one year following the issuance of the fourth building permit within the plat. The Developer assumes full maintenance responsibility for this street, including snow removal.

The Developer shall be responsible for the installation of the water main, valves, hydrants, services and all associated appurtenances. The water main shall be constructed in accordance with City standards. The City will assume all maintenance for this water main once it is officially accepted by the City.

The Developer shall be responsible for the installation of the sanitary sewer main, manholes, laterals and all associated appurtenances within the private street and within other dedicated easement areas within the plat. The sanitary sewer system shall be constructed in accordance with City standards. The City will assume all maintenance for the sanitary sewer main once it is officially accepted by the City.

The Developer shall be responsible for the installation of the roadside drainage ditches. The ditches shall be constructed in accordance with a stormwater management plan approved by the City. The Developer assumes full responsibility for the maintenance of the roadside ditches.

The Developer agrees to convey by deed or dedication to the City the public sanitary sewer and public water main. All public improvements contemplated in the final plat shall be constructed within areas to be dedicated to the City either by deed, dedication or easement as contemplated in the final plat and this agreement.

6. Stormwater Ponds

The Developer shall be responsible for the initial construction of all stormwater facilities and conveyance systems throughout the plat in accordance with a stormwater management plan approved by the City. Subsequent transfer of ownership and maintenance of the northwest pond to the City shall be clearly identified in the approved stormwater management plan. A separate Outlot shall be created for this pond. Once initial construction of the northwest pond is completed to city satisfaction, including the initial cover crop, the Outlot shall be deeded at no cost to the City for future ownership and maintenance.

7. The Developer shall provide the City with copies of all final costs, invoices, labor costs, the contract documents and specifications, design documentation, all contract administration supporting documentation, an itemized list of all expenses for the installation of sanitary sewer, stormwater facilities, water main, street excavation and graveling, and all appurtenances. Said information provided by developer shall meet City's Infrastructure Adjustment Form requirements. The Developer's design engineer shall perform the construction staking and the City shall inspect the same.

8. The Developer's contractor shall perform the testing of the water main and sanitary sewer under the supervision of City of Appleton inspectors.
9. The Developer shall provide lien waivers to the City from prime contractor, subcontractors, suppliers and consultants.
10. Upon completion of construction, and prior to acceptance of any streets, the Developer shall provide a certification from a professional land surveyor licensed in the State of Wisconsin that all monumentation within the development is properly installed and within 3 inches of finished grade.
11. The City agrees to accept the dedication of all the Public Improvements in the Plat, whether by deed, dedication or easement subject to the City's Acceptance of the Public Improvements in accordance with and subject to the terms of the City's Subdivision Ordinance.
12. The Developer shall repair or replace, as directed by the City and to the City's satisfaction, at his own cost, any damage caused by the installation of the improvements.
13. The estimate of costs paid by the Developer for items 3a – 3f is attached hereto as Exhibit 3 and shows the items and amounts projected to be paid by the Developer. The total of the estimate of costs provides the basis for determining the amount of the anticipated assessment bill.
14. The Developer shall pay the cost of all items listed under Paragraph 1 above. Sidewalks will be installed on the officially mapped public street (Spartan Drive) at a future date. The costs associated with the sidewalks will be assessed to abutting property owners at the time of the improvements in accordance with the City's Policy for Special Assessments. Sidewalks are not required on the private street.
15. The schedule for **Aspen Meadow** Development shall be as follows:
 - Infrastructure installation may commence after City approval of Final Plat/Certified Survey Map, Drainage Plan, Established Grades, Storm Water Management Plan, Plans and Specifications.
 - Building Permits may be issued upon City approval and acceptance of all infrastructure. Streets must be officially opened to the public by the City Engineer prior to the issuance of Building Permits.
16. The City represents that this Agreement and the terms and conditions contained herein are consistent with adopted ordinances and resolutions on the subject matter.
17. The Developer agrees that lots in Aspen Meadow shall require in the deeds which transfer title to said Lots, that the homes built on said Lots shall have either an automatic fire sprinkler system that meets the code requirements of NFPA-13D or an alarm and detection system that meets the code requirements of NFPA-72 unless otherwise approved by the Fire Chief or his designee. An alarm and detection system shall be of an approved make and model that carries the appropriate Fire Alarm UL

listing. Either system shall electronically notify to a UL listed central monitoring agency. All fire protection system plans shall be submitted to the Appleton Fire Department for review and approval prior to installation. Subsequent field verification and commissioning by the Fire Department shall occur prior to occupancy. This requirement may be waived at a future date by the Appleton Fire Department if alternative facilities or measures are established which offer similar levels of fire detection and/or response to the properties within this development.

18. The Developer shall pay the entire cost associated with installation of underground gas, electric, telephone and cable TV utilities. The City shall review proposed locations of all utilities prior to installation. The Developer shall pay all costs associated with any streetlights installed on the private street, including subsequent monthly electrical charges from WE Energies. The City will arrange for the installation of street lights on officially mapped Spartan Drive at a future date. The City standard for street lights is wooden poles. The street lighting plan shall be designed by WE Energies and approved by the City. The City shall pay WE Energies the monthly electrical charge for street lighting on officially mapped Spartan Drive. If the developer desires decorative streetlights, then the developer shall be responsible for all costs associated with the decorative streetlights. The developer shall be responsible for requesting said decorative lights from WE Energies. The developer must also sign a Waiver of Special Assessments document for the annual assessments associated with decorative lighting.
19. The City represents and warrants to Developer that it has the power, authority and legal right to enter into all of the transactions and to perform all of the covenants and obligations required to be entered into or performed by the City under this Agreement.

The City represents and warrants to Developer that it is empowered and authorized to execute and deliver this Agreement and other agreements and documents, if any, required hereunder to be executed and delivered by the City. This Agreement has been, and each such document at the time it is executed and delivered, will be duly executed and delivered on behalf of the City. When executed and delivered to Developer, all such agreements shall constitute a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

20. The Developer represents and warrants to the City that Developer is a Wisconsin Corporation, duly organized and existing under the laws of the State of Wisconsin, and that all proceedings of Developer necessary to authorize the negotiation and execution of this Agreement and the consummation of the transaction contemplated by this Agreement have been taken in accordance with applicable law.

The Developer represents and warrants to the City that the execution and delivery of this Agreement, the consummation of the transactions contemplated in this Agreement and the execution and delivery of the documents required to be executed, delivered or acknowledged by Developer at the closing will not violate any provision of Developer's partnership agreement or any applicable statute, rule, regulation, judgment, order or decree of the State of Wisconsin or a court having jurisdiction over Developer or its properties.

21. This Agreement, along with Exhibits 1, 2, and 3, sets forth the entire understanding of the parties relative to its subject matter and supersedes and merges any and all prior communications, negotiations and agreements, oral or written.
22. It is understood and agreed that the provisions of this agreement shall be deemed severable and the invalidity or unenforceability of any one or more of the provisions contained herein shall not affect the validity and enforceability of the other provisions contained herein.
23. This agreement may not be modified or amended, except in writing, with the written consent of both the City and the Developer.

CITY OF APPLETON

(Developer)

Timothy M. Hanna, Mayor

BY: _____

ATTEST:

Charlene Peterson, Clerk

Provision has been made to pay the liability that will accrue under this contract.

Lisa A. Remiker, Director of Finance

Approved as to Form:

James P. Walsh, City Attorney

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