

VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022

MEETING: REGULAR MEETING OF THE VILLAGE BOARD

DATE AND TIME: MONDAY, July 20, 2015 7:00 p.m.

LOCATION: Germantown Village Hall Board Room

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **PRESIDENT'S REPORT**
- V. **ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/COMMITTEE REPORTS:**
The following individuals will be given the opportunity to make announcements of future municipal activities: Village President, Village Board Members, Village Administrator, Village Attorney and Village Clerk.
- VI. **CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:**
Please be advised per §19.84(2), information will be received from the public. It is the policy of this municipality that there be a three (3) minute time period, per person, with time extension per the Chief Presiding Officer's discretion; be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments. (15 minutes)
- VII. **CONSENT AGENDA:**
 - A. Minutes – June 15 and July 6, 2015 Regular and June 29, 2015 Special Village Board Meetings
 - B. Accounts payable/payroll
 1. July 10, 2015 Accounts Payable \$ 764,305.10
 2. July 14, 2015 Payroll (hourly & salary) \$ 333,818.52
 - C. Operator Licenses: July 21, 2015 – June 30, 2016 [Recommended Approval]
Molly Kane-Viehlend, Jamie Klinka, Deena Noller, Ruth Numrich, Cheryl Rhoades

The following items were forwarded from the Public Works Committee with a unanimous recommendation:

 - D. **RESOLUTION NO. 23-15**, A Resolution To Adopt The 2014 Compliance Maintenance Annual Report (CMAR) [Recommended Approval]

VII. CONSENT AGENDA continued:

The following items were forwarded from the Public Safety Committee with a unanimous recommendation:

E. Replacement for Police Department Officer Vacancy [Recommended Approval]

VIII. UNFINISHED BUSINESS: None.

IX. PUBLIC HEARINGS – 7:00 P.M. OR LATER: *The purpose of said hearing(s) is to hear any and all parties, their attorneys or agents, for or against the application(s) filed by the petitioner(s).*

X. NEW BUSINESS:

- A. **RESOLUTION NO. 24-15**, a Resolution Authorizing and Directing Village Staff to Contact and Work with the Milwaukee Metropolitan Sewerage District (MMSD) to Amend the Regional Water Quality Management Plan to Include Lands Located Generally Between Appleton Avenue, Lannon Road, Highway 41 and Maple Road to MMSD's Sanitary Sewer Service Area
- B. Intergovernmental Agreement with Germantown School District
- C. Request Approval of Developer's Agreement for Germantown Memory Care on Virginia Avenue
- D. **Selection and Appointment of Director of Park and Recreation.** The Village Board may enter into closed session per Wis. Stats. §19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility and then re-enter open session to take such action as it deems appropriate.

X. ADJOURNMENT

The next Village Board meeting will be on August 3, 2015 at 7:00 p.m.

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For Additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

**VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
June 15, 2015**

CALL TO ORDER: The meeting was called to order at 7:00 p.m. by President Wolter

ROLL CALL: President Wolter, Trustees Baum, Daniels, Hughes, Kaminski, Miller, Myers, Warren and Zabel. Also present: Administrator Schornack, Attorney Sajdak, Chief Hoell, Communications Officer Schmidt, Interim DPW Director Bischke, Wastewater Supt. Zimmerman, Water Supt. Driver and Clerk Goeckner

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

PRESIDENT'S REPORT: None

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/COMMITTEE

REPORTS: Administrator Schornack discussed the need to set meeting for Director of Park and Recreation position. Clerk Goeckner also requested a date for a Special Village Board meeting to approve late liquor license applications. Trustees provided information on upcoming meetings and events.

CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing: None

CONSENT AGENDA:

A. Minutes – June 1, 2015 Regular Village Board Meeting

B. Accounts payable/payroll

1.	May 2015	Accounts Payable	\$ 43,496.79
2.	June 2, 2015	Payroll (hourly)	\$ 214,592.27
3.	June 10, 2015	Accounts Payable	\$ 400,949.54
4.	June 15, 2015	Payroll (salary)	\$ 81,230.11

C. Operator Licenses: July 1, 2015 – June 30, 2016

Renewals: Kimberly Anas, Brian Boettcher, Simon Bouwman, Patricia Chastain, Leza Dhein, Mary Erickson, Bonnie Fitzwilliams, Janyce Fossum, Marques Griep, Phyllis Groose, Christine Hellman, Julia Huggler, Jeanine Isaacson, Maranda Kennedy, Amanda Klauer, Carla Klinger, Steve Koenig, Christine Konvalinka, Celena Marcy, Michelle McGrath, Jennifer Meyer, Cynthia Nelson, Justin Nolan, Jill Peters, Jennifer Peterson, Shauna Petri, Dawn Reith, Annette Robenhorst, Wendy Sarwas, Dona Schneidervin, Jay Soni, Debra Sporer, Sara Stevenson, William Stark, Anthony Streng, and Meagan Sumter.

New: Tracie Anderson, Brandon Bliesner, McKenna Bushman, Denise Eineichner, Jamie Erickson, Denise Harthun, Ric Kohlbeck, Katelyn Kosmicki, Baltazar Lopez, Katawna Lowe, Maria Phillips, Elizabeth Reilly, Veronica Strassburg, Tyler Warnke, Daniel Weller, and La Tosha Young. [Recommended Approval]

The following items were forwarded from the Public Safety Committee with a unanimous recommendation:

D. Recommended Approval to Grant Request for Replacement for Police Officer Vacancy

E. Recommended Approval to Purchase 14 Squad Computers (Panasonic Toughbook Cf-54) from Baycom at a cost of \$90,425.00 Including Peripherals and Installation with Funds Allocated from Account #40-521-570-8430

CONSENT AGENDA continued:

All license approvals to be conditional upon compliance of all code violations/requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions noted.

F. Amusement Arcade License Renewals July 1, 2015 – June 30, 2016:

[Recommended Approval]

1. Barley Pop Brew Haus LLC, d/b/a Barley Pop Pub & Restaurant, N116 W16137 Main Street, 16 devices
2. Bubs on Main LLC, d/b/a Bubs Irish Pub, N116 W16218 Main Street, 16 devices
3. Maple Road, LLC, d/b/a Buzdum's Pub, W188 N10515 Maple Road, 12 devices
4. Eastern Kettle Moraine Moose Lodge, d/b/a E.K.M. Moose Lodge #1238, W198 N10217 Appleton Avenue, 16 devices
5. JK GAM, LLC, d/b/a Gamroth's Kuhburg Junction, W140 N10385 Fond du Lac Avenue, 8 devices
6. Northridge Automotive Enterprises, Inc., d/b/a Ivey's at Main, W157 N11618 Fond du Lac Avenue, 8 devices
7. Robin Bird LLC, d/b/a Sports Corner Bar & Grill, W187 N12793 Fond du Lac Avenue, 13 devices

G. "Class B" Fermented Malt Beverage and Intoxicating Liquor Licenses – July 1, 2015 – June 30, 2016: [Recommended Approval]

1. **(Renewal)** Barley Pop Brew Haus LLC, Deborah Reinbold, Agent, 1388 Parkview Dr., Hubertus, WI 53033, d/b/a **Barley Pop Pub & Restaurant**, N116 W16137 Main St., Germantown, WI 53022, (includes Brew Haus and fenced outside extension on north side of building to be open until 10:00 p.m. and outside extension July 4, 2015 from the east end of the building to the western end, all the way to the sidewalk, during the July 4th parade beginning at noon).
2. **(Renewal)** Bubs on Main, LLC, Scott H. Pecor, Agent, 306 W. Ravine Baye, Bayside, WI, 53217, d/b/a **Bubs Irish Pub**, N116 W16218 Main Street, Germantown, WI, 53022.
3. **(Renewal)** Germantown American Legion Post #1, Inc., James A. Heimann, Agent, 2584 Country Aire, Cedarburg, WI 53012, d/b/a **Germantown American Legion Post #1**, N120 W15932 Freistadt Rd, Germantown, WI

H. "Class A" Fermented Malt Beverage and Intoxicating Liquor Licenses– July 1, 2015 – June 30, 2016: [Recommended Approval]

1. **(New)** NSM Enterprises LLC, Naseem Abbas, Agent, N114 W15775 Sylvan Cir., #20, Germantown, WI 53022 d/b/a **Willow Creek BP**, W201 N10451 Appleton Avenue, Germantown, WI 53022.

I. Class "A" Fermented Malt Beverage Licenses– July 1, 2015 – June 30, 2016:

[Recommended Approval]

1. **(Renewal)** Speedway, LLC, Kimberly L. Doran, Agent, N108 W16526 Carriage Ave., Germantown, WI 53022 d/b/a **Speedway #4465**, W178 N9653 Riversbend Lane, Germantown, WI 53022
2. **(Renewal)** Speedway, LLC, Mary E. Wicklander, Agent, W226 N7256 Woodland Creek Dr., Sussex, WI 53089, d/b/a **Speedway #4495**, W164 N11233 Squire Drive, Germantown, WI 53022
- 3.

CONSENT AGENDA continued:

J. "Class B" Winery License – July 1, 2015 – June 30, 2016:

[Recommended Approval]

1. **(Renewal)** Apple Works Winery LLC, Kevin H. Behnke, Agent, W179 N12536 Fond Du Lac Ave., Germantown, WI 53022 d/b/a Apple Works Winery/Behnke Estates, W179 N12536 Fond Du Lac Ave., Germantown, WI 53022 (Includes an Outside Premises Extension which includes an outdoor patio area and tent until 9:00 p.m.)

- K. Recommended Approval of Application for Amendment of "Class B" Fermented Malt Beverage & Intoxicating Liquor License Outside Premises Extension, Gamroth's Kuhburg Junction, W140 N10385 Fond Du Lac Ave., Germantown WI, 20' x 30' tent, back yard area, southwest of building, June 27, 2015, 2:00 p.m. – 10:00 p.m.

The following items were forwarded from the Public Works Committee with a unanimous recommendation:

- L. Recommended Approval to Purchase a New 3500 Chassis and Dump Body Pickup Truck for the Highway Dept. from Bob Fish for an Amount not to Exceed \$40,563.00 with Funds to be Allocated from Account #40-542-570-8520
- M. Recommended Approval to Purchase a New Dodge Ram 5500 for the Parks Dept. from 5 Corners Dodge for an Amount not to Exceed \$45,693.00 with Funds to be Allocated from Account #40-553-570-8520
- N. Recommended Approval for the Letter Agreement Between the WISDOT and the Village Regarding the Responsive Signal Control Along the CTH "Q" Corridor

MOTION (Baum/Warren) to approve Consent Agenda Items A-N, by roll call vote, carried.

UNFINISHED BUSINESS:

- A. Contract for TID #6 Sanitary and Water Services

Developers Agreement not ready for this project yet. Will need to bring back to later date. **MOTION (Zabel/Myers) to postpone to June 29th for Special Village Board meeting agenda. Discussion. Carried.**

PUBLIC HEARINGS – 7:00 P.M. OR LATER: None

NEW BUSINESS:

MOTION (Hughes/Baum) to go to item G. President Wolter requested to wait until items A & B are completed first as the parties for the hearing are present.

- A. In The Matter Of The Complaint Against: Maple Road, LLC, Holder Of "Class B" Alcohol Beverage Licenses For Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises At W188 N10515 Maple Road, Germantown, Wisconsin; Hearing Pursuant To Wis. Stat. § 125.12(2) And §§12.02(1) And (12) Of The Municipal Code Of The Village Of Germantown, Wisconsin

1. Rules Of Evidence, Burden Of Proof, Impartial Decision-Maker And Other Procedural Matters.
2. Hearing Pursuant To Wis. Stat. §125.12(2)(B)1. Or 2. And 3.

President Wolter opened the hearing at 7:20 p.m.

NEW BUSINESS continued:

Village Attorney Sajdak stated this item was before us last year also. It involves Buzdum's on Maple Road. Property taxes are unpaid and Village Code of Ordinances requires them to be paid prior to issuance of their license. The attorney for the Receiver that had been appointed indicated they would be taken care of. Paid one year of taxes but did not pay current year and balance is the same amount as this time last year. Administrator Schornack filed the complaint just as they did last year. Attorney Vincent Bobbitt representing the property owner, Radomir Buzdum, spoke, stating the property had been foreclosed upon and a company called Colliers was looking to finalize it and pay the property taxes. Maple Road LLC (Buzdum's) has been current in their payments to Collier's, but they are not forwarding the funds to Washington County. Radomir Buzdum also testified to this effect. Attorney Sajdak confirmed Collier's was appointed as the receiver and tasked with operating the property including payment of bills, maintenance etc. The tenant's payments go to receiver. Tenant would have to file suit to force them to be sure this is done and no suit has been filed by Mr. Buzdum to force them to be sure the taxes are paid, as it impacts their business materially. Further testimony by Attorney Bobbitt regarding the non-payment of taxes and the need to take action. Discussion between Trustees, both attorneys and Mr. Buzdum regarding the unpaid taxes, verification of ownership and tenant and receivership responsibilities. Mr. Buzdum was instructed to come up with something by Monday June 29th when another meeting could be held before the expiration of the current license. **MOTION (Hughes/Baum) to postpone the item until June 29th, carried.**

- B. Action on Buzdum's License (Approval or Non-Renewal) The Village Board May Enter Closed Session During The Meeting Pursuant To Wis. Stat. § 19.85(1)(A) To Deliberate Upon Any Proposed And Submitted Stipulated Disposition And/Or Upon A Failure To Appear Or The Conclusion Of A Hearing To Discuss Its Determination, And To Reenter Open Session At The Same Place Thereafter To Act On Such Matters As Discussed Therein As It Deems Appropriate
Item 'B' removed by action under #8.

Motion Hughes/Kaminski to move to Item G., carried.

- G. Contract for Donges Bay Road Construction Inspection
Interim DPW Director/Engineer Bischke presented information regarding the request to contract for an inspector for the Donges Bay Road project due to workload in the department following retirement of DPW Director Ludwig and new staff engineer with limited practical experiences, as well as several other projects being worked on at the same time. Public Works Committee voted 3 to 1 for the contract. Discussion regarding projects, cost of contract and need for inspector on this project who can respond timely to any issues. Concerns of process, work delays, funding for project vs. TIF funding on TIF project. **MOTION (Hughes/Warren) to accept RA Smith's inspection contract, with estimate not to exceed \$27,952.** Further discussion of estimated cost and possible extenuating circumstances. Verification motion was 'not to exceed'. Concerns of requirements to go over this amount and need to return for further approvals.

NEW BUSINESS continued:

MOTION (Warren/Myers) to amend the motion to require consultant to revise proposal and Section 4 fees to state 'a cost not to exceed \$27,952, carried.

Discussion of attorney review of conditions in the standard general contract terms.

Resident Holly Basting of N104W16053 Donges Bay Road spoke regarding the cost for the contract and felt the TIF could pay for the inspector since it is funded with TIF revenue and is another project taking time from the department which causes need for inspector contract on this project. Discussion between Trustees and Engineer Bischke, who felt the department could handle the inspections internally while Director Ludwig and the engineering staff felt an inspector was warranted. Interim DPW Director/Engineer Bischke recommends not spending the \$27,952 but instead have an inspector on call for the project when he is unable to be there due to other duties. Discussion of the 'not to exceed' phrase when having someone on call and the sudden change in what would be needed and how to approach it. After further discussion, Trustee Myers called for the question which closed further debate. Attorney Sajdak stated this is a motion that would require a second. **MOTION (Myers/Baum) to call for the question. Roll call vote, 6 opposed, 3 in favor, motion fails.** Interim DPW Director/Engineer Bischke recommends having an on-call outside inspector and he would call them as needed.

MOTION (Warren/Myers) to amend to have the proposal for an on call consultant whose hours and presence on site is determined by the Village Engineer/Interim DPW Director with an amount not to exceed \$15,000, carried. Original motion as amended, roll call vote, 7 in favor, 2 opposed (Baum/Zabel), carried.

MOTION (Baum/Zabel) to go to Item F, carried.

F. Cost-Sharing Proportions for a Private Property Infiltration/Inflow Project Plan

Interim DPW Director/Engineer Bischke presented information regarding the cost sharing program for PPIP and possible options. Utility Advisory Committee recommended paying 100% for inspections so there would be no cost to residents for the linings. Wastewater Superintendent Zimmerman had expressed concerns of sustainability of the program if covering 100% of cost. Future residents would not have any funding to assist in cost for replacement linings once funding is expended even though they are also water and sewer customers. Information provided on process and methodology with recommendation to only use this for residential properties. Majority of cost is initial setup and focus to start are on neighborhoods with more issues. Trustee Kaminski discussed her dissenting vote at committee level with Trustees involved owning homes in neighborhoods that would receive cost sharing, particularly Trustee Zabel's neighborhood which has been vetted very closely. If paying 100% of those areas would not have funding left for others. Other neighborhoods in other Districts have issues as well and if no funding left what will we do for them? Further discussion on current funding from MMSD, plan presented by WWTP Superintendent and possible percentage of funding costs, funding to be spent by 2020, possibility of investing funding while providing some cost coverage. Trustee Zabel passed out a document and President Wolter questioned why this had not been provided to the board previously. The document contained information on what some other communities provide for funding,

NEW BUSINESS continued:

with 15 of the 28 providing 100% funding according to Trustee Zabel's information. More discussion was held on the various options for funding, resident's costs, and fairness to all residents vs. specific neighborhoods, funds from MMSD, difficulties in convincing residents to pay for repairs and getting them done, no enforcement for repairing currently but should be required as responsibility for homeowner. **MOTION (Myers/Daniels) to accept the cost sharing portions as stated in backup materials.** Further discussion on percentage to be offered and difficulty in being 'fair' to everyone, plan considered 3 years ago with funding to last 10 years from now at a 70/30 split (70% resident, 30% village). MMSD need for data, difficulty in getting residents to make repairs at their cost, process for letting contract etc. **Roll call vote, 7 in favor, 2 opposed (Kaminski, Wolter), carried.**

- C. **"Class A" Fermented Malt Beverage and Intoxicating Liquor Licenses**
Walgreen Co., Vickie Matt, Agent, 1411 Deer Trail Court, Hubertus, WI 53033, d/b/a **Walgreens #05427**, W156 N11261 Pilgrim Road, Germantown, WI 53022
MOTION (Baum/Miller) to approve the "Class A" Combination License for Walgreens, carried.
- D. **Acceptance of Temporary Grading Easement from Speedway, Inc., for Riversbend Lane Reconstruction Project**
MOTION Kaminski/Baum) to approve as presented, carried.
- E. **Request Approval of Contract – Epoxy Paint Hydrants**
MOTION (Baum/Kaminski) to approve Davies Water Equipment Co. for epoxy painting hydrants at a cost of \$85.00 per hydrant, in an amount not to exceed \$20,000, by roll call vote, 8 in favor, 1 opposed (Zabel), carried.

There being no further business, the meeting adjourned at 9:22 p.m.

Barbara K. D. Goeckner MMC/WCPC
Village Clerk

**VILLAGE OF GERMANTOWN
SPECIAL VILLAGE BOARD MEETING MINUTES
JUNE 29, 2015**

CALL TO ORDER: The meeting was called to order at 8:00 p.m. by President Wolter

ROLL CALL: President Wolter, Trustees Baum, Daniels, Hughes, Kaminski, Miller, Myer, Warren and Zabel. Also present: Administrator Schornack, Attorney Sajdak, Engineer Bischke, and Clerk Goeckner.

NEW BUSINESS:

All license approvals to be conditional upon compliance of all code violations/requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions.

- A. **(Renewal) "Class B" Fermented Malt Beverage and Intoxicating Liquor License, July 1, 2015 – June 30, 2016** for Gtown Pub LLC, Craig Scott Braidigan Agent, 2385 Scenic Hill Trail, Richfield WI 53076, d/b/a **The Public House**, W201N10466 Appleton Ave., Germantown, WI 53022, *(to include deck on rear of building for outside premises)*

MOTION (Hughes/Baum) to approve the license for The Public House. Clerk Goeckner explained the deck on the rear of the building has been cleared of all issues. However there remains a non-conforming zoning related issue with the use of the adjacent property for a parking lot, which is not owned by the Public House operator Craig Braidigan. A letter from the Village Planner to Mr. Braidigan from 2013 was provided to all Trustees regarding the outstanding zoning issue. Mr. Braidigan spoke stating he was in the process of trying to buy the property and he has no problem getting the required Conditional Use Permit (CUP) if that is what it comes down to but he feels Planner Retzlaff has made this a personal vendetta. His issue to complete the purchase and CUP is money, but he stated he will get the CUP within the next 3 months. President Wolter stated the issue is the adjacent lot is used extensively by Public House patrons and because it is not combined with your lot it creates an off-site parking situation therefore CUP is required. The Village Planner is sworn to uphold the laws and is required to enforce the municipal code of ordinances and this is not a personal vendetta for him – it is the law. President Wolter recommended Mr. Braidigan post the lot for no parking and then if someone parks there it would be at their own risk and this would be the quickest resolution to this issue. Mr. Braidigan stated it is safer for his patrons to be able to park there and he doesn't want to post it. Discussion regarding posting of the lot and related requirements. Concern by Trustees this will come back again next year without any change or compliance with zoning requirement. Attorney Sajdak spoke regarding the non-renewal process should the Board choose to go that route. If so, business would function in place with expired license until hearing for non-renewal was held. **Motion to approve carried.**

- B. In The Matter Of The Complaint Against: Maple Road, LLC, Holder Of "Class B" Alcohol Beverage Licenses For Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises At W188 N10515 Maple Road, Germantown, Wisconsin; Hearing Pursuant To Wis. Stat. § 125.12(2) And §§12.02(1) And (12) Of The Municipal Code Of The Village Of Germantown, Wisconsin
1. Rules Of Evidence, Burden Of Proof, Impartial Decision-Maker And Other Procedural Matters.
 2. Hearing Pursuant To Wis. Stat. §125.12(2)(B)1. Or 2. And 3.

NEW BUSINESS continued:

Attorney Sajdak stated Attorney Bobbitt representing Maple Road LLC is present and prepared to inform the board of progress since the last meeting on June 15th. Attorney Bobbitt spoke concerning the unpaid property taxes for the business location. Spoke with the receiver company and have come to the conclusion they will have to litigate the issue with them for payment of the taxes. Mr. Buzdum has a cashier's check for \$20,000 toward the taxes which is just under half of the amount owed. Requesting renewal of his license with that payment while he pursues court action on behalf of Maple Road LLC regarding the receivership for past due taxes. Discussion of lease and related terms between tenant and original owner vs. receivership company and responsibilities of receivership as well as process for suit.

- C. Action on Buzdum's License (Approval or Non-Renewal) The Village Board May Enter Closed Session During The Meeting Pursuant To Wis. Stat. § 19.85(1)(A) To Deliberate Upon Any Proposed And Submitted Stipulated Disposition And/Or Upon A Failure To Appear Or The Conclusion Of A Hearing To Discuss Its Determination, And To Reenter Open Session At The Same Place Thereafter To Act On Such Matters As Discussed Therein As It Deems Appropriate

MOTION (Baum/Zabel) to approve license as presented tonight with payment of \$20,000 toward property taxes by cashier's check payable to Washington County Treasurer. 7 in favor, 2 opposed (Miller, Hughes), carried. Check given to Village Clerk to be provided to Washington County Treasurer

- D. Contract for TID #6 Sanitary and Water Services

Discussion of project and Developers Agreement with prospective tenant for TID #6.

MOTION (Baum/Zabel) to postpone until Developers agreement is finalized. 8 in favor, 1 opposed (Daniels), carried.

- E. **MOTION (Baum/Myers) to enter into closed session for the Review of Applicants for the Park and Recreation Director position per Wis. Stats. §19.85(1)(c)** Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility and then re-enter open session to take such action as it deems appropriate and include Administrator Schornack and Clerk Goeckner, by roll call vote, carried.

Committee of the Whole meeting scheduled for Tuesday, July 7th at 5:00 p.m. for interviews.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:00 p.m.

Barbara K. D. Goeckner MMC/WCPC
Village Clerk

STATE OF WISCONSIN VILLAGE OF GERMANTOWN WASHINGTON COUNTY

RESOLUTION NO. 23-15

A RESOLUTION ADOPTING THE 2014 WISCONSIN POLLUTION DISCHARGE
ELIMINATION SYSTEM COMPLAINT MAINTENANCE ANNUAL REPORT

WHEREAS, the by action taken in Resolution NO. 23-15, the Village is a participant in the Wisconsin Pollutant Discharge Elimination System ("WPDES") program; and

WHEREAS, participants in the WPDES program are required to renew their General Permits issued under that program; and

WHEREAS, the permit renewal requires the Village to complete and submit a Compliance Maintenance Annual Report ("CMAR"); and

WHEREAS, the Village's Public Works Committee reviewed the attached CMAR report and forwarded the same to the Village Board with a recommendation for adoption; and

WHEREAS, the Village Board having reviewed the same concurs with the recommendation of the Public Works Committee;

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Germantown, Wisconsin, do hereby adopt the attached Compliance Maintenance Annual Report.

BE IT FURTHER RESOLVED that the Village Wastewater Superintendent is hereby directed and authorized to include the attached CMAR in the Village's application for the renewal of its WPDES General Permit.

Introduced by Trustee:

Adopted: July 20, 2015 Vote: Ayes: Nays: Absent:

Dean M. Wolter, Village President

ATTEST:

Barbara K.D. Goeckner, Village Clerk

**BUSINESS OF THE VILLAGE BOARD
GERMANTOWN, WI**

MEETING DATE: July 20, 2015

AGENDA ITEM: New Business

ITEM TITLE: A RESOLUTION AUTHORIZING AND DIRECTING VILLAGE STAFF TO CONTACT AND WORK WITH THE MILWAUKEE METROPOLITAN SEWERAGE DISTRICT (MMSD) TO AMEND THE REGIONAL WATER QUALITY MANAGEMENT PLAN TO INCLUDE LANDS LOCATED GENERALLY BETWEEN APPLETON AVENUE, LANNON ROAD, HIGHWAY 41 AND MAPLE ROAD TO MMSD'S SANITARY SEWER SERVICE AREA

SUBMITTED BY: Brionne R. Bischke, P.E., Interim DPW Director / Village Engineer 

SUMMARY EXPLANATION:

TID #6 development requires sanitary sewer extension beyond the sanitary sewer service area limits. The Southeast Wisconsin Regional Planning Commission (SEWRPC) has authorized the extension. Now the Milwaukee Metropolitan Sewerage District (MMSD) must authorize it.

This resolution is the vehicle for the request to the MMSD.

MMSD committee authorization is anticipated in August, 2015, and MMSD commission authorization is anticipated in September, 2015.

ATTACHMENTS:

- Resolution; and
- June 2015 SEWRPC Memorandum entitled, "Response to Request by the Village of Germantown to Amend the Germantown Sanitary Sewer Service Area"

INTERIM DPW DIRECTOR RECOMMENDATION TO BOARD:

Approval

COMMITTEE ACTION:

Proper parliamentary procedure to deny a request is to have a motion made in the affirmative and by voting NAY would deny the request if a majority vote.

STATE OF WISCONSIN VILLAGE OF GERMANTOWN WASHINGTON COUNTY

RESOLUTION NO. 24-15

A RESOLUTION AUTHORIZING AND DIRECTING VILLAGE STAFF TO
CONTACT AND WORK WITH THE MILWAUKEE METROPOLITAN SEWERAGE
DISTRICT (MMSD) TO AMEND THE REGIONAL WATER QUALITY
MANAGEMENT PLAN TO INCLUDE LANDS LOCATED GENERALLY BETWEEN
APPLETON AVENUE, LANNON ROAD, HIGHWAY 41 AND MAPLE ROAD TO
MMSD'S SANITARY SEWER SERVICE AREA

WHEREAS, the Village of Germantown falls within the Milwaukee Metropolitan Sewerage District ("MMSD") boundaries and portions of the Village are within a MMSD sanitary sewer service area; and

WHEREAS, the Village Board of the Village of Germantown anticipate that development within the Village will push beyond the current sewer service area boundaries; and

WHEREAS, the Village Board wishes to extend the current sewer service area boundaries to include the areas of anticipated development; and

WHEREAS, Chapter 7 of MMSD's Rules and Regulations provides for the process to add area to a sanitary sewer service area commencing with an amendment to the applicable Regional Water Quality Management Plan; and

WHEREAS, the Village's current sanitary sewer service area is part of Southeastern Wisconsin Regional Planning Commission's ("SEWRPC") Community Assistance Planning Report No. 70 dated July 1983 and as amended in 1989, 1998, 2003 and 2009 (the "Plan");

WHEREAS, SEWRPC, working in cooperation with the Village of Germantown, has prepared an amendment to the sanitary sewer service area for the Germantown area; and

WHEREAS, the amendment is set forth in a June 2015 SEWRPC Memorandum entitled, "Response to Request by the Village of Germantown to Amend the Germantown Sanitary Sewer Service Area"; and

WHEREAS, the Village of Germantown concurs with the amended sanitary sewer service area set forth in the aforementioned SEWRPC Memorandum.

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Germantown, Wisconsin,

1. Do hereby adopt the June 2015 SEWRPC Memorandum entitled, "Response to Request by the Village of Germantown to Amend the Germantown Sanitary Sewer Service Area", provided in the attached Exhibit A as a guide for the provision of sanitary sewer service within the Germantown area; and
2. Do hereby authorize and direct Village staff to contact MMSD requesting that they authorize and adopt the June 2015 SEWRPC Memorandum entitled, "Response to Request by the Village of Germantown to Amend the Germantown Sanitary Sewer Service Area", as a guide for the provision of sanitary sewer service within the Germantown area; and
3. The Village will transmit a certified copy of this Resolution to the SEWRPC.

Introduced by Trustee:

Adopted: July 20, 2015 Vote: Ayes: Nays: Absent:

Dean M. Wolter, Village President

ATTEST:

Barbara K.D. Goeckner, Village Clerk

EXHIBIT A

June 2015 SEWRPC Memorandum entitled, “Response to Request by the Village of Germantown to Amend the Germantown Sanitary Sewer Service Area”

COPY

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

W239 N1812 ROCKWOOD DRIVE • PO BOX 1607 • WAUKESHA, WI 53187-1607 •

TELEPHONE (262) 547-6721
FAX (262) 547-1103

Serving the Counties of:

KENOSHA
MILWAUKEE
OSHAUKEE
RACINE
WALWORTH
WASHINGTON
WAUKESHA



July 1, 2015

President and Members of the
Board of Trustees
Village of Germantown
c/o Ms. Barbara Goeckner, Clerk
N112 W17001 Mequon Road
P.O. Box 337
Germantown, WI 53022-0337

Dear President and Members of the Board of Trustees:

In accordance with Section 66.0309(10) of the *Wisconsin Statutes* and Section 208 of the Federal Clean Water Act, the Southeastern Wisconsin Regional Planning Commission is hereby transmitting a certified copy of a document amending the regional water quality management plan as refined and detailed in SEWRPC Community Assistance Planning Report No. 70, *Sanitary Sewer Service Area for the Village of Germantown, Washington County, Wisconsin*, dated July 1983, as amended. The plan amendment, which was formally adopted by the Regional Planning Commission on June 17, 2015, pertains to a change in the Village of Germantown sanitary sewer service area tributary to the Milwaukee Metropolitan Sewerage District sewerage system. The plan amendment has also been formally certified to the Wisconsin Department of Natural Resources with a request that the Department endorse the change to the regional water quality management plan identified in the plan amendment.

The purpose of this letter is to inform you of the Regional Planning Commission's action on the subject plan amendment. No further action by the Village is required, since the Board of Trustees adopted the amendment on May 18, 2015.

Should you have any questions concerning this matter, please do not hesitate to contact the Commission offices.

Sincerely,

David L. Stroik
Chairman

DLS/jps
#226705a - Germantown SSA June 2015 Amendment transmittal letters
Enclosure

cc: Mr. David Schornack, Administrator, Village of Germantown (enclosure)
Mr. Jeffrey Retzlaff, Planner and Zoning Administrator, Village of Germantown (enclosure)
Mr. Brionne Bischke, Engineer, Village of Germantown (enclosure)

AMENDMENT TO THE

REGIONAL WATER QUALITY

MANAGEMENT PLAN

VILLAGE OF GERMANTOWN

AS ADOPTED BY THE

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

JUNE 2015

SOUTHEASTERN WISCONSIN
REGIONAL PLANNING COMMISSION

KENOSHA COUNTY

Adelene Greene,
Secretary
Robert W. Pitts
Michael J. Skaitzky

RACINE COUNTY

Mike Dawson
David L. Eberle
Peggy L. Shumway

MILWAUKEE COUNTY

Marina Dimitrijevic
Brian R. Dranzik
William R. Drew,
Treasurer

WALWORTH COUNTY

Charles L. Colman,
Vice Chairman
Nancy Russell
Linda J. Seemeyer

OZAUKEE COUNTY

Thomas H. Buestrin
Jennifer Rothstein
Gus W. Wirth, Jr.

WASHINGTON COUNTY

Daniel S. Schmidt
Daniel W. Stoffel
David L. Stork,
Chairman

WAUKESHA COUNTY

Michael A. Crowley
José M. Delgado
James T. Dwyer

SOUTHEASTERN WISCONSIN REGIONAL
PLANNING COMMISSION STAFF

Kenneth R. Yunker, PE Executive Director
Michael G. Hahn, PE, PH Deputy Director
Stephen P. Adams Public Involvement and Outreach Manager
Nancy M. Anderson, AICP Chief Community Assistance Planner
Christopher T. Hiebert, PE. Chief Transportation Engineer
Laura L. Kleffli, PE, CFM. Chief Environmental Engineer
Elizabeth A. Larsen, SPHR Assistant Director-Administration
John G. McDougall Geographic Information Systems Manager
Rob W. Merry, PLS Chief Surveyor
David A. Schilling Chief Land Use Planner
Dr. Thomas M. Slawski Chief Biologist

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

W239 N1812 ROCKWOOD DRIVE • PO BOX 1607 • WAUKESHA, WI 53187-1607 •

TELEPHONE (262) 547-6721
FAX (262) 547-1103

Serving the Counties of:

KENOSHA
MILWAUKEE
DUAKEE
RACINE
WAUWATOSH
WASHINGTON
WAUKESHA



SUBJECT: Certification of Amendment to the Adopted Regional Water Quality Management Plan (Germantown Sanitary Sewer Service Area)

TO: The Legislative Bodies of Concerned Local Units of Government within the Southeastern Wisconsin Region, namely: the County of Washington, the Village of Germantown, and the Milwaukee Metropolitan Sewerage District

This is to certify that at the meeting of the Southeastern Wisconsin Regional Planning Commission, held on the 17th day of June 2015, the Commission did by unanimous vote of all Commissioners present, being 16 ayes and 0 nays, and by appropriate Resolution, a copy of which is made a part hereof and incorporated by reference to the same force and effect as if it had been specifically set forth herein in detail, adopt an amendment to the regional water quality management plan, which plan was originally adopted by the Commission on the 12th day of July 1979, as part of the master plan for the physical development of the Region. Said amendment to the regional water quality management plan pertains to the revised Germantown sanitary sewer service area and consists of the documents attached hereto and made a part hereof. Such action taken by the Commission is recorded on, and is a part of, said plan, and the plan as amended is hereby transmitted to the constituent local units of government for consideration, adoption, and implementation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal and cause the Seal of the Southeastern Wisconsin Regional Planning Commission to be hereto affixed. Dated at the City of Pewaukee, Wisconsin, this 18th day of June 2015.

A handwritten signature in cursive script, reading "David L. Stroik".

David L. Stroik, Chairman
Southeastern Wisconsin
Regional Planning Commission

ATTEST:

A handwritten signature in cursive script, reading "Kenneth R. Yunker".

Kenneth R. Yunker, Deputy Secretary

RESOLUTION NO. 2015-07

RESOLUTION OF THE SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION AMENDING THE ADOPTED REGIONAL WATER QUALITY MANAGEMENT PLAN, THAT PLAN BEING A PART OF THE MASTER PLAN FOR THE PHYSICAL DEVELOPMENT OF THE REGION CONSISTING OF THE COUNTIES OF KENOSHA, MILWAUKEE, OZAUKEE, RACINE, WALWORTH, WASHINGTON, AND WAUKESHA IN THE STATE OF WISCONSIN (GERMANTOWN SANITARY SEWER SERVICE AREA)

WHEREAS, pursuant to Section 66.0309(10) of the *Wisconsin Statutes*, the Southeastern Wisconsin Regional Planning Commission, at a meeting held on the 12th day of July 1979, duly adopted a regional water quality management plan as documented in the three-volume SEWRPC Planning Report No. 30, *A Regional Water Quality Management Plan for Southeastern Wisconsin: 2000*; and

WHEREAS, the Commission duly adopted an amendment to the regional water quality management plan refining and detailing the Germantown sanitary sewer service area as documented in SEWRPC Community Assistance Planning Report No. 70, *Sanitary Sewer Service Area for the Village of Germantown, Washington County, Wisconsin*, July 1983, as amended; and

WHEREAS by e-mail letter received January 12, 2015, the Village of Germantown requested that the Commission amend the Germantown sanitary sewer service area to include certain lands located outside of the currently adopted sewer service area; and

WHEREAS, the proposed amendment to the regional water quality management plan is documented in a Commission staff memorandum entitled, "Response to Request by the Village of Germantown to Amend the Germantown Sanitary Sewer Service Area," attached hereto and made a part hereof; and

WHEREAS, the requested change to the regional water quality management plan, as documented in the aforementioned staff memorandum, was the subject of a public hearing held jointly by the Village of Germantown and the Regional Planning Commission on May 18, 2015; and

WHEREAS, Section 66.0309(9) of the *Wisconsin Statutes* authorizes and empowers the Regional Planning Commission, as the work of making the whole master plan progresses, to amend, extend, or add to the master plan or carry any part or subject thereof into greater detail;

NOW, THEREFORE, BE IT HEREBY RESOLVED:

FIRST: That the regional water quality management plan for the Southeastern Wisconsin Region, being a part of the master plan for the physical development of the Region and comprised of SEWRPC Planning Report No. 30, Volumes One, Two, and Three, which was adopted by the Commission as a part of the master plan on the 12th day of July 1979, and which was subsequently amended to include the refined Germantown sewer service area, be and the same hereby is amended in the manner identified on Map 1 of the aforementioned SEWRPC staff memorandum.

SECOND: That the Executive Director is authorized to submit findings to the Wisconsin Department of Natural Resources and the Wisconsin Department of Safety and Professional Services that public and private sanitary sewer extensions necessary to serve the anticipated development on the lands concerned are in conformance with, and would serve to implement, the adopted regional water quality management plan as herein amended.

RESOLUTION NO. 2015-07

THIRD: That a true, correct, and exact copy of this resolution, together with the aforementioned SEWRPC staff memorandum, shall be forthwith distributed to each of the local legislative bodies of the local governmental units within the Region entitled thereto and to such other bodies, agencies, or individuals as the law may require or as the Commission, its Executive Committee, or its Executive Director, at their discretion, shall determine and direct.

The foregoing resolution, upon motion duly made and seconded, was regularly adopted at the meeting of the Southeastern Wisconsin Regional Planning Commission held on the 17th day of June 2015, the vote being: Ayes 16; Nays 0.

A handwritten signature in dark ink, appearing to read "David L. Stroik".

David L. Stroik, Chairman

ATTEST:

A handwritten signature in dark ink, appearing to read "Kenneth R. Yunker".

Kenneth R. Yunker, Deputy Secretary

SEWRPC STAFF MEMORANDUM

RESPONSE TO REQUEST BY THE VILLAGE OF GERMANTOWN TO AMEND THE GERMANTOWN SANITARY SEWER SERVICE AREA

INTRODUCTION

By e-mail letter received January 12, 2015, the Village of Germantown requested that the Southeastern Wisconsin Regional Planning Commission (SEWRPC) amend the Village of Germantown sanitary sewer service area tributary to the Milwaukee Metropolitan Sewerage District (MMSD) sewerage system, as that area is currently documented in SEWRPC Community Assistance Planning Report No. 70, *Sanitary Sewer Service Area for the Village of Germantown, Washington County, Wisconsin*, dated July 1983, as amended. The basic purpose of the amendment would be to include within the planned sewer service area certain lands located immediately adjacent to, but outside, the currently adopted sewer service area.

AREA DESCRIPTION

As shown on Map 1, the area proposed to be added to the Germantown sewer service area encompasses approximately 17 acres and is located within the northeast quarter of U.S. Public Land Survey Section 32, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin. It includes the entire tax key parcel GTNV 321981 (16 acres) in addition to a small portion (one acre) of the northern right-of-way of Appleton Avenue.

Under the Village comprehensive plan, the subject area is identified as mixed use to accommodate potential commercial/business uses in the area.

The subject area contains just over two acres of wetlands. There are no environmental corridors or isolated natural resource areas in the subject area.

A more detailed delineation of the amended sewer service area is shown on the aerial photograph reproduced as Map 2.

RELATIONSHIP OF THE PROPOSED CHANGE TO THE EXISTING SANITARY SEWER SERVICE AREA

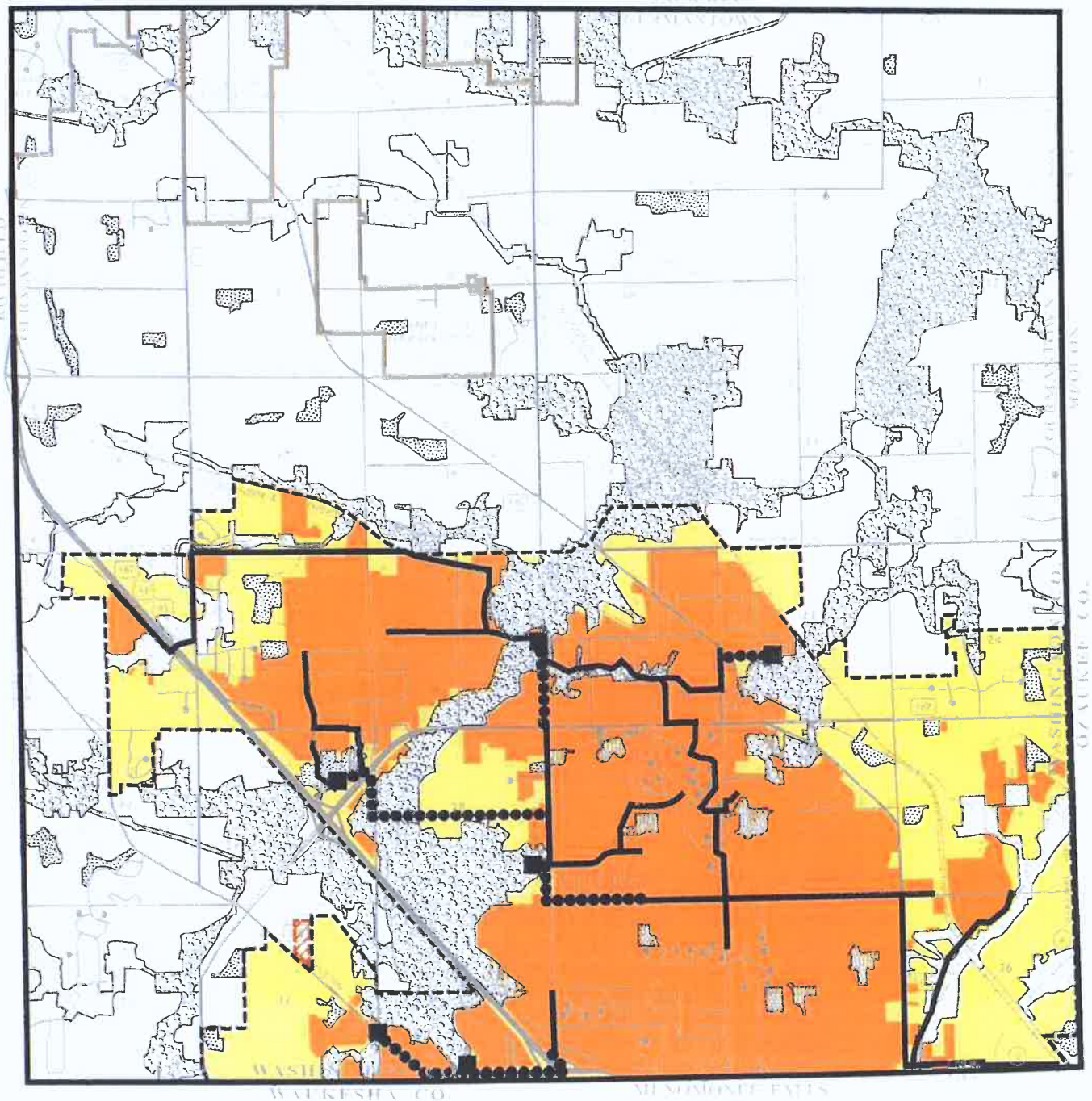
The proposed addition of about 17 acres to the Germantown sanitary sewer service area tributary to the MMSD sewerage system represents an increase in the planned sewer service area of less than 1 percent.

WATER QUALITY IMPACTS

Under the adopted regional water quality management plan and the Germantown sanitary sewer service area plan, it is envisioned that all new urban development within the planned sewer service area would receive sanitary sewer service. Assuming that all applicable Federal, State, and local permits are obtained and that proper site development and construction practices are employed, there should be no significant adverse water quality impacts attributable to the development of the planned sanitary sewer service area.

Map 1

PROPOSED AMENDMENT TO THE VILLAGE OF GERMANTOWN SANITARY SEWER SERVICE AREA



- PRIMARY ENVIRONMENTAL CORRIDOR
- SECONDARY ENVIRONMENTAL CORRIDOR
- ISOLATED NATURAL RESOURCE AREA
- EXISTING AREA SERVED BY VILLAGE OF GERMANTOWN SANITARY SEWERS, 2010
- PLANNED SANITARY SEWER SERVICE AREA

- PLANNED SANITARY SEWER SERVICE AREA BOUNDARY
- EXISTING TRUNK SEWER
- EXISTING FORCE MAIN
- EXISTING PUMPING STATION
- VILLAGE BOUNDARY
- AREA PROPOSED TO BE ADDED TO THE GERMANTOWN SANITARY SEWER SERVICE AREA



Source: SEWRPC

WASTEWATER TREATMENT PLANT CAPACITY

The size and capacity of the MMSD sewage conveyance and treatment facilities are set forth in the District's facility plan completed in 2007.¹ The area proposed to be added to the planned sewer service area would be tributary to Sewershed GE3007. The MMSD facility plan is based upon a planned Sewershed GE3007 peak hourly flow of 5.6 million gallons per day (mgd). The proposed addition to the sewer service area would add a planned commercial development area of 16 acres. The MMSD staff has verified that there is planned capacity available for the area proposed to be added to the sewer service area.

PUBLIC REACTION TO THE PLAN AMENDMENT

A public hearing was held on May 18, 2015, at the Germantown Village Hall to receive public comment on, and reaction to, the proposed sewer service area amendment. The hearing was sponsored by the Village of Germantown and the Regional Planning Commission. A summary of the amendment was presented prior to receiving public comment. No objections to the proposed amendment were expressed at the hearing.

LOCAL ACTION ON THE PLAN AMENDMENT

The Germantown Village Board approved the sewer service area amendment following the public hearing on May 18, 2015.

CONCLUDING RECOMMENDATION

The Regional Planning Commission's evaluation of proposed sanitary sewer service area amendments includes a consideration of whether the amendment is consistent with the regional land use plan, the regional water quality management plan, and the provisions of the *Wisconsin Administrative Code* governing water quality management plans, and whether established procedures for amending sewer service areas have been followed.

- **Consistency with the Regional Land Use Plan**

The regional land use plan recommends that, in addition to the infilling and redevelopment of existing urban centers, new urban development within the Region be accommodated through the orderly expansion of existing urban centers in locations which can be readily served by basic urban facilities, including sanitary sewer service, with the overall amount of new urban development consistent with projected growth in population and the economic base. The regional land use plan further recommends the preservation of primary environmental corridors and that consideration be given to the preservation of secondary environmental corridors and isolated natural resource areas. The proposed sewer service area amendment is consistent with these recommendations of the regional land use plan.

- **Consistency with the Regional Water Quality Management Plan**

The regional water quality management plan recommends that new urban development within the Region be provided with centralized sanitary sewer service. The plan designates a wastewater treatment plant to serve each of the urban centers within the Region that are identified in the regional land use plan. In the case at hand, the regional plan recommends that wastewater from the Germantown urban service area be served through the MMSD sewerage system. The proposed sewer service area amendment is consistent with these recommendations of the regional water quality management plan.

¹ Milwaukee Metropolitan Sewerage District 2020 Facilities Plan, June 2007.

- **Consistency with Chapter NR 121 of the *Wisconsin Administrative Code***

Chapter NR 121 of the *Wisconsin Administrative Code* governs the preparation of areawide water quality management plans, including the component sewer service area plans. The code requires that sewer service areas be determined in a way that promotes cost-effective and environmentally sound wastewater collection and treatment and that is consistent with 20-year population projections. Under the code, sewer service area plans must identify lands that are to be excluded from sewer service because of physical or environmental constraints or potential adverse water quality impacts. The proposed sewer service area amendment is consistent with these provisions of the *Wisconsin Administrative Code*.

- **Consistency with Procedural Requirements**

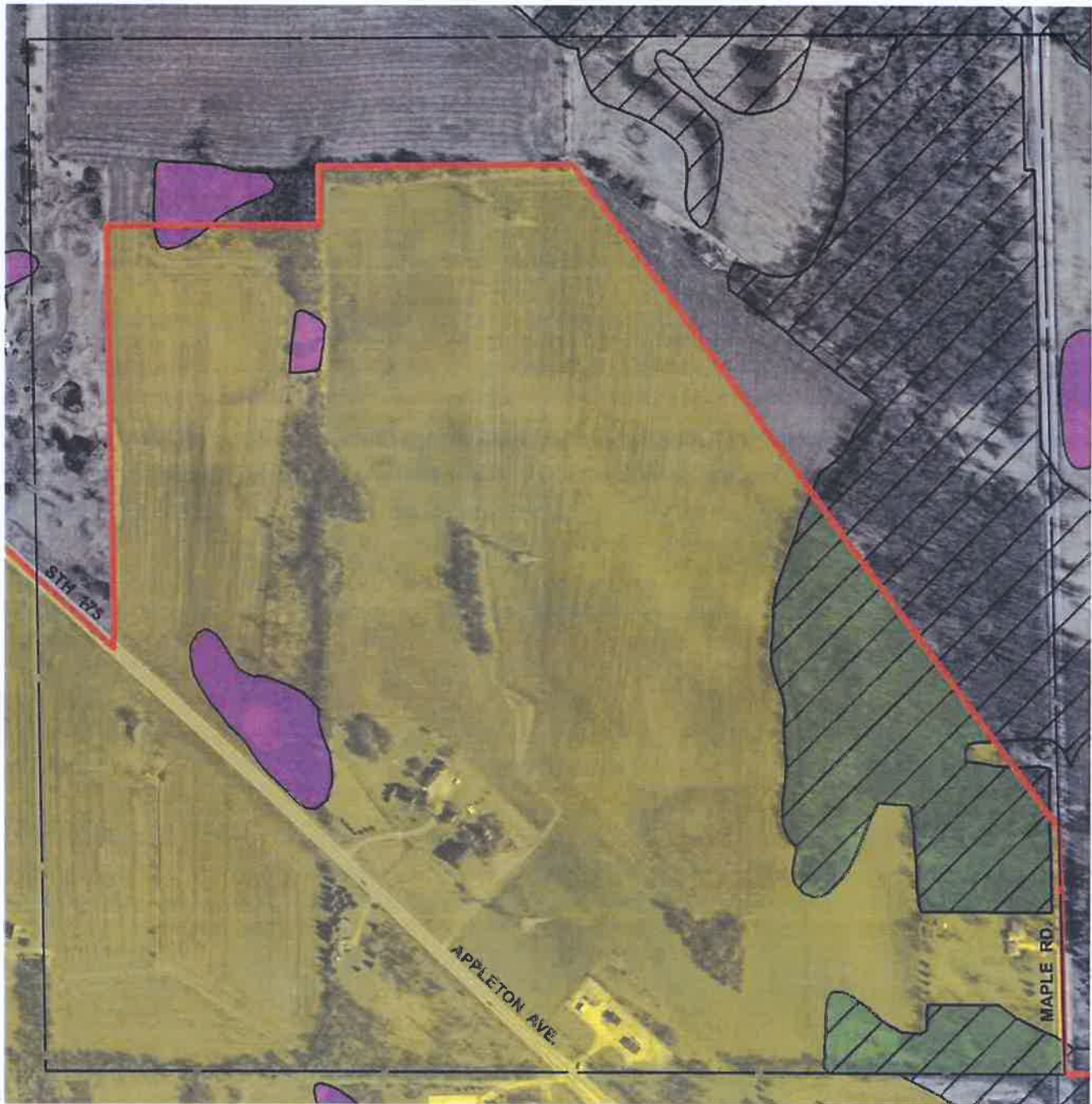
As carried out by the Regional Planning Commission, the sewer service area amendment process must begin with a request to the Commission from the appropriate local unit of government or government agency to process the amendment. A public hearing must be held on the proposed amendment; the hearing is jointly sponsored by the Regional Planning Commission and the requesting agency or unit of government. Subsequent to the public hearing, the requesting agency or unit of government must act to approve the amendment as presented at the hearing, approve a modified amendment, or deny the amendment. Only after approval by the requesting agency or unit of government will the proposed amendment be considered for adoption by the Regional Planning Commission as an amendment to the areawide water quality management plan. All of the Commission's procedural requirements have been met for this amendment.

Given all of the foregoing, it is recommended that the Southeastern Wisconsin Regional Planning Commission formally amend the Village of Germantown sanitary sewer service area as documented in SEWRPC Community Assistance Planning Report No. 70, as amended, in the manner shown on Map 1. It is also recommended that the Wisconsin Department of Natural Resources approve this sewer service area plan amendment and transmit the plan amendment to the U.S. Environmental Protection Agency for certification.

Map 2

ENVIRONMENTALLY SIGNIFICANT LANDS AND PLANNED SANITARY
SEWER SERVICE AREA FOR THE VILLAGE OF GERMANTOWN

Northeast Quarter of U.S. Public Land Survey Section 32
Township 9 North, Range 20 East



Photography Date: April 2010



PRIMARY ENVIRONMENTAL CORRIDOR



WETLANDS AND SURFACE WATER AREAS LESS THAN
FIVE ACRES IN SIZE LOCATED OUTSIDE ENVIRONMENTAL
CORRIDORS AND ISOLATED NATURAL RESOURCE AREAS



PLANNED SANITARY SEWER SERVICE AREA



GROSS SANITARY SEWER SERVICE AREA BOUNDARY

RESTRICTIONS ON SEWERED DEVELOPMENT



PRIMARY ENVIRONMENTAL CORRIDORS WITHIN THE PLANNED SANITARY
SEWER SERVICE AREA. THE EXTENSION OF SEWERS TO SERVE NEW
DEVELOPMENT IS CONFINED TO LIMITED RECREATIONAL AND INSTITUTIONAL
USES AND RURAL DENSITY RESIDENTIAL DEVELOPMENT IN AREAS OTHER
THAN WETLANDS, FLOODLANDS, SHORELANDS, AND STEEP SLOPES

NOTE

This map replaces a portion of Map 5-7, page 17, of SEWRPC
Amendment to the Regional Water Quality Management
Plan: Village of Germantown March 1998

Source: SEWRPC



APPENDIX

Appendix A

REGIONAL HOUSING PLAN: JOB/HOUSING BALANCE ANALYSIS

On March 13, 2013, the Regional Planning Commission adopted a regional housing plan for the seven-county Southeastern Wisconsin Region. That plan is documented in SEWRPC Planning Report No. 54, *A Regional Housing Plan for Southeastern Wisconsin*, dated March 2013. The plan addresses a range of housing issues and concerns, including the balance between jobs and housing throughout the Region. The plan includes a generalized analysis of the “job/housing balance” for subareas of the Region. The regional housing plan recommends that the findings of the job-housing analysis be provided to communities seeking to amend their sanitary sewer service areas, with the intent to inform communities of any job/housing imbalance, and to encourage them to consider addressing the imbalance when they review and update their community comprehensive plan and zoning ordinance. Accordingly, the findings of that analysis are summarized in this appendix.

The job/housing analysis conducted under the regional housing study examined the relationship between jobs and housing that would exist in areas planned by local governments to be served by a public sanitary sewer system, assuming implementation of adopted long-range comprehensive plans for those areas. For each sewered community, the analysis compared the projected relative shares of lower-cost, moderate-cost, and higher-cost housing¹ with the projected relative shares of lower-wage, moderate-wage, and higher-wage jobs,² respectively. Job/housing imbalances identified under this analysis are indicated on Map A-1. A “lower-cost” job/housing imbalance indicates a community projected to have a higher percentage of lower-wage jobs than lower-cost housing. A “moderate-cost” job/housing imbalance indicates a community projected to have a higher percentage of moderate-wage jobs than moderate-cost housing.

Map A-1 shows the Village of Germantown is projected to have moderate-cost job/housing imbalances. The regional housing plan would encourage the Village to consider conducting a more detailed job/housing analysis specific to their community, with the community-level analysis considering community-specific wage data and housing price data. The community-specific analysis could also consider the effect of multiple workers in a household, which was not incorporated in the regional-level analysis.

The regional housing plan further recommends that communities which are demonstrated to have a job/housing imbalance following a community-specific analysis consider making changes to their comprehensive plan and zoning ordinance, as appropriate, in order to enable the provision of housing suitable for the people holding jobs in their community. Actions to address a moderate-cost job/housing imbalance could include modifying the comprehensive plan to permit some single-family residences on smaller lots (1/4 acre or less) and of modest square footage (1,200 square feet or less). Actions to address

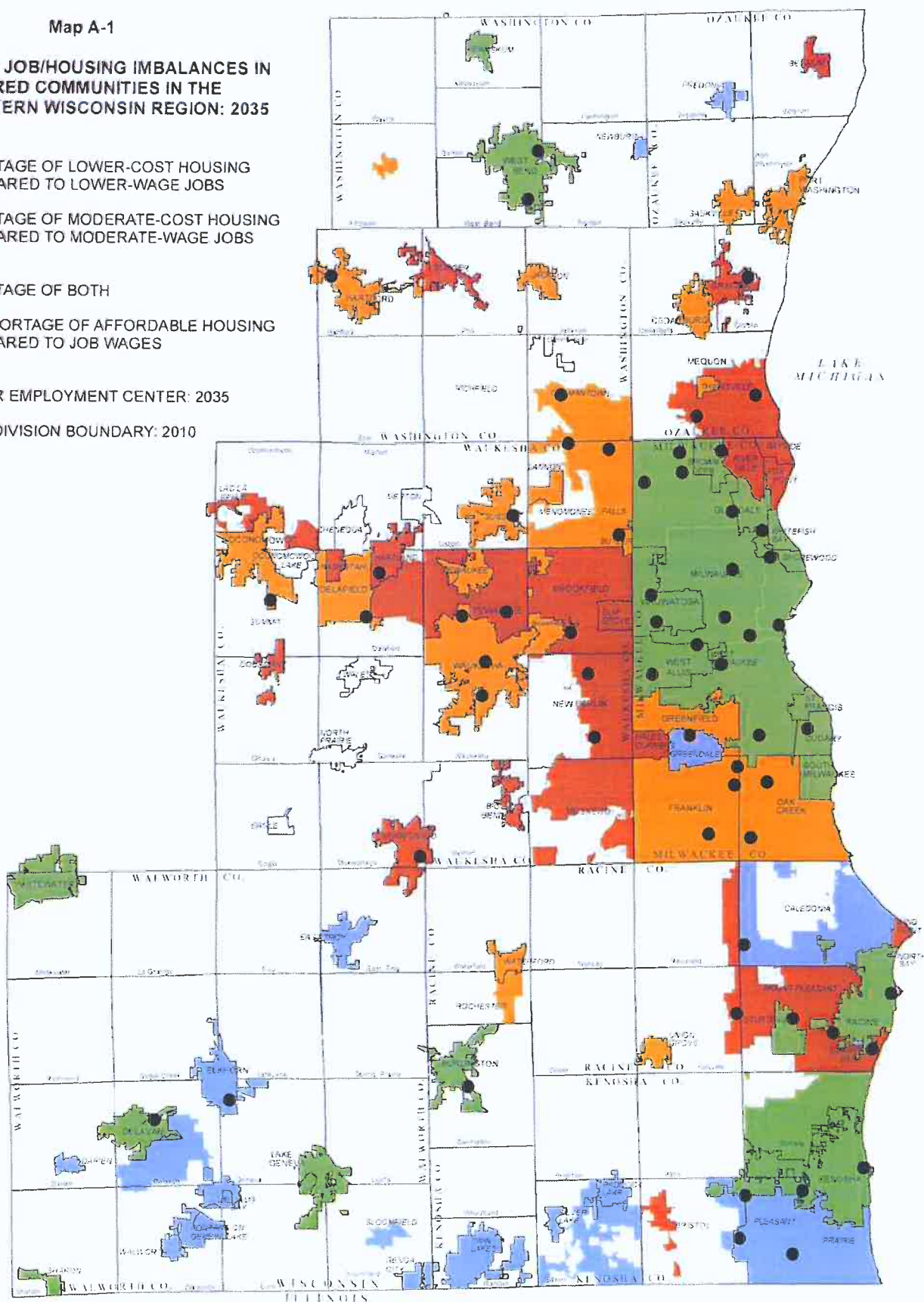
¹ For purposes of the analysis, lower-cost housing generally includes multi-family dwellings and single- and two-family dwellings at densities of 6,000 square feet or less per dwelling unit; moderate-cost housing includes single- and two-family dwellings at densities of one dwelling per 6,000 to 20,000 square feet for homes constructed prior to 2000 and at densities of one dwelling per 6,000 to 10,000 square feet for housing constructed after 2000; and higher-cost housing includes the balance of the housing stock.

² For purposes of the analysis, lower-wage jobs include those with an average annual wage that is 80 percent or less than the average annual wage for all jobs in the county; moderate-wage jobs include those with an average annual wage between 80 percent and 135 percent of average annual wage for all jobs in the county; and higher-wage jobs include those with an average annual wage that is 135 percent or more of the annual average wage for all jobs in the county.

a lower-cost job/housing imbalance could include modifying the comprehensive plan to permit some modest multi-family housing (density of about 10 housing units per acre and 800 to 850 square feet per two bedroom apartment).

Additional information about the housing plan and the job/housing balance analysis is available on the SEWRPC website (www.sewrpc.org/sewrpc/housing.htm) or by contacting the SEWRPC staff.

PROJECTED JOB/HOUSING IMBALANCES IN SEWERED COMMUNITIES IN THE SOUTHEASTERN WISCONSIN REGION: 2035



11

**BUSINESS OF THE VILLAGE BOARD
GERMANTOWN, WI**

MEETING DATE: Monday, July 20, 2015

AGENDA ITEM: New Business

ITEM TITLE: Intergovernmental Agreement with Germantown School District

SUBMITTED BY: Patti Heinen, Interim Park & Recreation Director
Dave Schornack, Village Administrator

SUMMARY EXPLANATION:

Attached is a copy of the facility use intergovernmental agreement with the Germantown School District for the period of September 1, 2015 through August 31, 2018. This agreement is essential to the continued success of the recreation department because it waives hourly facility use fees that if in place would substantially increase the program fees. Any fees paid to the district will come from the "facility fund" for the maintenance and improvement facilities used by the recreation department. This is essentially the same agreement that has been in place for the past twelve years.

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER_ X _
Intergovernmental Agreement with the Germantown School District

RECOMMENDATION:

To approve the Intergovernmental Agreement with the Germantown School District

FACILITY USAGE AGREEMENT

This Facility Usage Agreement ("Agreement") entered into as of the ____ day of _____, 2015, by and between the **VILLAGE OF GERMANTOWN**, a Wisconsin municipal corporation (the "Village") and **GERMANTOWN SCHOOL DISTRICT**, a school district duly organized under Wisconsin law (the "School District").

WHEREAS, Wis. Stat. § 66.0301 allows the Village and the School District to enter into intergovernmental cooperation agreements for the purposes of effectuating joint goals; and

WHEREAS, the parties previously entered into a use agreement on December 17, 2012; and

WHEREAS, the parties wish to continue and renew their relationship relating to the usage of certain facilities;

NOW, THEREFORE, in consideration of the mutual obligations, undertakings, promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **PURPOSE:** The Village may make reasonable use of certain School District facilities (the "Facilities") for the educational or recreational uses (the "Permitted Uses"). The Village agrees that the Facilities shall not be used for any unlawful purpose or for any purpose that will damage or harm in any way the Facilities or any third party, and the Village will not use or keep about the Facilities any article or equipment that would in any way affect the validity of the fire and extended coverage insurance policy carried by the School District or would cause an increase in any premium for insurance carried by the School District.
2. **RIGHT OF USAGE:** Subject to the Village's observance of the terms and conditions of this Agreement, the School District hereby grants to the Village the non-exclusive right to use the Facilities for the Permitted Uses. The Village and School District understand and agree that given the changing nature of the programming needs of both parties, specific facility needs and uses shall be identified by the Village and approved by the School District in a schedule of facilities and uses. The right of usage granted hereunder shall be subject to such specific locations and limitations as negotiated between the parties on or before the dates indicated below:

(a) For programming that takes place
during the School Year
(August 25 through June 15):

By August 1 of the
program year

(b) For programming that takes place

By April 1 of the

during the Summer
(June 15 to August 25):

program year

In the event that the Village and the School District are unable to agree upon a schedule of facilities and uses to be used in an upcoming program period by the stated date, this Agreement shall terminate upon the expiration of the then-current schedule of facilities and uses. The Village will provide use requests to the School District in advance of the requested usage. During the hours in connection with the Permitted Uses, the Village shall have the restricted nonexclusive use of the common areas of the Facilities, including corridors, stairways, elevators, entryways and restrooms, for the following purposes (i) purposes necessary or incidental to the Village's Permitted Use (ii) purposes necessary or incidental to the Village's complying with all laws and regulations (including, without limitation, for emergency exit purposes), and (iii) purposes necessary to permit the Village to complete the Village's obligations under this Agreement.

3. **COMPLIANCE WITH LAWS:** The Village, at its sole costs and expense, shall comply and shall cause its Users (as defined herein) to comply with any and all laws, statutes, ordinances, and regulations (federal, state, county or municipal), now or hereafter enforced, that are applicable. The Village, at its sole cost and expense, also covenants to comply and to cause its Users to comply with all rules and regulations issued from time to time by the School District. The Village understands that the School District is subject to the strictures of the First Amendment to the United States Constitution respecting an establishment of religion and of comparable provisions in article 1, section 18 of the Wisconsin Constitution (which constitutional provisions are referred to collectively as the Establishment Clause). The Villages thus expressly represents and warrants that it shall not act or fail to act with respect to the Facilities in a manner that would cause the School District's use of the Facilities to contravene the Establishment Clause. The Parties each recognize that the application of the Establishment Clause or other laws and regulations to particular situations may present difficult legal questions and hence the Parties agree to act in good faith to resolve any issues that might arise and to do so with the purpose of avoiding any violation of any laws or regulations by the School District in connection with the Village's use of the Facilities.
4. **TERM OF AGREEMENT:** The term of this agreement is three (3) years and shall commence on September 1, 2015 and terminate on August 31, 2018 unless terminated or renewed in accordance with this agreement.
5. **IMPROVEMENTS AND REPAIRS:** In consideration of the use of the Facilities according to the terms of this Agreement, the Village shall fund the purchase of replacement equipment and/or maintenance, repairs and improvements to the Facilities when such expenditures satisfies the following criteria: (i) to the extent funds are available from the Germantown Park and Recreation Department Special Non-Lapsing Operating Fund, created by the Village Board by Resolution No. 4-10 for that purpose; (ii) for which the parties

to this Agreement mutually determine will benefit and promote the Permitted Uses under this Agreement; and (iii) which disbursements shall be made strictly in accordance with Village expenditure policy. Any equipment or improvements funded hereunder shall remain the property of the School District on termination of this Agreement.

6. **USAGE FEES:** The Village shall pay to the School District twenty-five percent (25%) of the School District's published usage fees as described in Germantown School District Policy 7310.01. The fee schedule shall be as it exists on the date of the execution of this Agreement. The Village shall not pay more than \$3000.00 per year for the Permitted Uses each calendar year. If the Village is granted use of facilities beyond those Permitted Uses, the Village shall pay the aforementioned twenty-five percent (25%) of the published fees.
7. **VILLAGE FEE WAIVER:** The Village shall waive all inspection, permit, plan examination, conditional use, and all similar fees \$1000 and under pursuant to Germantown Resolution No. 18-10 for the School District when requested by the School District.
8. **PROGRAM FEES:** The Village agrees to charge School District residents the same usage fees for participation in the Permitted Uses of the Facilities as the Village charges residents of the Village of Germantown.
9. **TAXES:** Both parties represent that they are exempt from real property taxation under the Wisconsin Statutes.
10. **INSURANCE:** The Village shall carry fire and extended coverage insurance, public liability insurance, and other risk insurance as required by the District's insurance coverage provider(s). Every year during the Term of this Agreement, the Village shall provide the School District with a certificate of insurance evidencing that insurance satisfying the requirements of this Agreement are in effect. The School District shall have the right to take any action or make any payment required to continue coverage as required by this Section. The Village hereby covenants to reimburse and hold the School District harmless for the cost of any such action or payment.
11. **MAINTENANCE AND REPAIRS:** The School District shall maintain the Facilities consistent with its own standards of maintenance. Before each use of the Facilities, the Village will record the condition of each Facility. After each use of the Facilities, the Village shall return the Facilities to the same condition the Facilities were in prior to their use, normal wear and tear excepted, including without limitation the clean-up of any activity, the collection and disposal of all waste generated by or due to the activity, and the return of any equipment or furniture to its position prior to the Village's use. The Village shall notify the School District in the event the Village or any User determine that the Facilities or any equipment or furniture therein are unsafe or in need of repair or replacement. In consideration of the fact that multiple parties may use the Facilities during the same program period, the Village shall promptly identify

any damage that is (a) discovered at the beginning of Village's use of the Facilities and/or (b) caused while the Village is using the Facilities.

12. **DAMAGE OR DESTRUCTION:** In the event any of the Facilities shall be damaged or destroyed, in whole or in part, by fire or any other casualty, the School District, in its sole discretion may decide either to terminate this Agreement (or a part hereof) or to repair or replace that portion of the Facilities which has been damaged or destroyed by such casualty. During the time of any such repair or replacement, the School District shall use reasonable efforts to accommodate the Village in its anticipated uses of the Facilities. In no event shall the School District be liable for any damages to the Village or its Users for failing to provide any of the Facilities in the event the Facilities have been damaged or destroyed.
13. **TERMINATION:** In the event the Village breaches any representation or warranty or fails to perform any obligation in this Agreement, the School District may, after providing the Village with a 30 calendar day written notice to cure, terminate this Agreement. Any fees or expenses owing by the Village at the time of termination shall be paid by the Village. This Agreement may also be terminated by either party without cause upon six months prior written notice to the other party.
14. **SECURITY:** The Village agrees to provide all of its instructors with Village identification. The Village agrees that all instructors, employees, and similar persons who are engaged in the presentation of the Activities shall abide by the security policies of the District, including those policies which govern the disbursement of keys, FOBs, pass codes, etc. The Village shall take such reasonable steps necessary to ensure that its instructors and users only access locations necessary for the Permitted Use in which such instructor or user is participating. The Village shall immediately contact the District if any keys, FOBs, or passcodes are lost or otherwise compromised. In the event that the District justifiably believes that the Village has breached its duties under this Section, the Agreement may be terminated by simple majority vote of the School District Board of Education and no remedies shall be granted by the District to the Village.
15. **INDEMNIFICATION BY VILLAGE:** THE VILLAGE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT NEITHER THE SCHOOL DISTRICT NOR ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF THE SCHOOL DISTRICT IS MAKING, AND THE VILLAGE IS NOT RELYING ON, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, OTHER THAN THOSE PROVIDED IN THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE FACILITIES OR ANY EQUIPMENT ON THE FACILITIES, INCLUDING WITHOUT LIMITATION THAT THE EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR IS IN GOOD WORKING CONDITION.

The Village shall defend, indemnify and hold the School District and its employees, officers, directors, agents, and authorized representatives harmless from and against any and all claims, demands, suits, losses, damages, costs, expenses, obligations, judgments, or other forms of liability to third parties, actual or claimed arising out of (i) the breach of the Village's representations, warranties and agreements herein, and (ii) any injury to property or persons occurring or allegedly occurring in connection with the negligence or intentionally wrongful act or omission of the Village or its employees, officers, directors, contractors, representatives or guests and invitees of any kind with respect to the Facilities, (iii) any damage or harm to the Facilities, the School District's land, buildings, parking lots and sidewalks or to third parties as a result of the Village or its Users use of the Facilities.

16. **INDEMNIFICATION BY SCHOOL DISTRICT:** The School District shall defend, indemnify and hold the Village and its employees, officers, directors, agents, and authorized representatives harmless from and against any and all claims, demands, suits, losses, damages, costs, expenses, obligations, judgments, or other forms of liability to third parties, actual or claimed arising out of (i) the breach of the School District's representations, warranties and agreements herein, and (ii) any injury to property or persons occurring or allegedly occurring in connection with the negligence or intentionally wrongful act or omission of the School District or its employees, officers, directors, contractors, and authorized representatives of any kind with respect to the Facilities.
17. **ASSIGNMENT AND SUBOCCUPANCY:** The School District shall have the right at any time during the Term to sell or convey the Facilities subject to all the terms of this Agreement, or to assign its rights, title and interest under this Agreement in whole or in part. In the event of any such sale or assignment, the School District shall be relieved from and after the date of such transfer or conveyance of liability for the performance of any of its obligations contained herein as per Facility assignment, except for obligations or liabilities accrued prior to the date of such assignment or sale, to the extent that the buyer or assignee has not assumed such liabilities. The Village affirms and acknowledges that its right hereunder to use certain portions of the Facilities is in the nature of a license and hence that such right is personal to the Village and not transferable by it. Accordingly, the Village shall not attempt to sublet its interests hereunder in the Facilities, or in any portion of the same, nor shall it attempt to assign, mortgage, pledge, transfer or otherwise encumber or dispose of its interests under this Agreement. Any effort to so transfer such interests shall be void ab initio and hence of no force and effect. In addition, the Village shall not advertise, publish, or otherwise promote the real or implied use of any District facilities or portions thereof by any third party at any time without the written consent of the District. Failure to comply with this requirement shall constitute an immediate breach of this Agreement, and no remedies shall be granted by the District to the Village.

18. **RELATIONSHIP OF PARTIES:** This Agreement does not create the relationship of principal and agent, or of partnership or joint venture, or of any association or relationship between the parties.
19. **NO THIRD-PARTY BENEFICIARIES:** This Agreement shall not confer any rights or remedies upon any person other than the Parties and their respective successors and permitted assigns.
20. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they related in any way to the subject matter hereof. This Agreement shall be deemed to amend and restate any prior written agreements relating to the Facilities. This Agreement shall not be modified, amended, or supplemented in any manner, except by an instrument in writing executed by the Parties except as provided in Section 2 hereof (Schedule of Facilities and Uses).
21. **NO MERGER:** There shall be no merger of this Agreement with any other estate or interest in the Facilities.
22. **SUCCESSION:** This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns
23. **NOTICES:** All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given if (and then two business days after) it is sent by registered or certified mail, return receipt requested, postage prepaid, and addressed to the intended recipient as set forth below:

If to the Village:

Village of Germantown
N112 W17001 Mequon Road
Germantown, WI 53022-0337
Attn: Village Administrator

If to the School District:

Germantown School District
District Administrative Offices
N104 W13840 Donges Bay Road
Germantown, WI 53022-4499
Attn: District Administrator

Any Party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier,

messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the intended recipient. Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

24. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the Wisconsin, without giving effect to any choice or conflict of law provision or rule.
25. **WAIVERS:** No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
26. **CONSTRUCTION:** The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.
27. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.
28. **FORCE MAJEURE:** If either party is prevented from carrying out its obligations under this Agreement by events beyond its reasonable control, including acts or omissions of the other party, acts of God or government, natural disasters or storms, fire, act of terrorism, explosion, riot, war or political strike, labor disputes, failure or delay of third party transportation, or the availability of raw materials, then such party's performance of its obligations hereunder shall be excused during the period of such event and the time for performance of such obligations shall be automatically extended by the same period.

[SIGNATURES FOLLOW ON PAGE 8]

IN WITNESS WHEREOF, the Village and School District have entered into this Agreement as of the date set forth above.

VILLAGE OF GERMANTOWN

GERMANTOWN SCHOOL DISTRICT

Village President

President

Village Clerk (Attest)

Clerk (Attest)

Park & Recreation Director

Superintendent/Business Manager

Park & Recreation Commission Chair

X.-C.

DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the Village of Germantown, a municipal corporation of the State of Wisconsin located in Washington County, hereinafter called the "Village", and Midwest Assisted Living Partners I, LLC, hereinafter referred to as "Developer".

WHEREAS, the Village has heretofore approved Lot 2 CSM Map 6090 Vol. 45 Doc. 1142756 of Section 28, T9N, R20 E in the Village of Germantown, Washington County, Wisconsin; and

WHEREAS, Developer has submitted for approval by the Village a development plan for a proposed Memory Care Facility to be located in the Village of Germantown on Lot 2 CSM Map 6090 Vol. 45 Doc. 1142756 of Section 28, T9N, R20 E which real estate is more particularly described in Exhibit "C" attached hereto (the "Property") which Developer proposes to complete as described in the plans submitted to the Village, and as ultimately approved by it; and

WHEREAS, the Village may require that Developer make and install any public improvements reasonably necessary and/or that Developer execute a certified check or irrevocable letter of credit to ensure that those improvements will be made within a reasonable time; and further that the acceptance of dedication of these improvements may be conditioned upon the construction of such improvements according to Village specifications and without cost to the Village; and

WHEREAS, it will be necessary that Developer construct and install water distribution, sanitary sewer, and roadway facilities partly in public right-of-way and storm water management facilities in a dedicated easement on the subject Property, and the Village will require that such plans and designs be approved and permitted, and that the Developer furnish an appropriate financial guarantee; and

WHEREAS, The Village seeks to protect the health, safety and general welfare of the Village as a whole and, in particular, property owners who abut the site or are potentially affected by the project through application of the Municipal Code and rules and regulations of governmental agencies with jurisdiction. and

NOW, THEREFORE, in consideration of these recitals, the mutual agreements, benefits and responsibilities outlined herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as followsit is agreed as follows:

ARTICLE I - REQUIRED IMPROVEMENTS

1.01 GENERALLY. Developer, entirely at its own expense, shall, except as herein provided, design and install the public improvements required by Sec.18.08 of the Municipal Code in accordance with the provisions of that section and as directed by the Village Engineer or

DEVELOPMENT AGREEMENT

Village Board. It is the intent of this Agreement that all public improvements shall be installed by Developer. Notwithstanding the foregoing, the public improvements described in this Agreement are deemed to be undertaken for a public (not a private) purpose.

1.02 SANITARY SEWERAGE SYSTEMS. Developer shall extend public sanitary sewer along the full north frontage of Development. Developer shall design and submit to the Village Engineer for review and approval all proposed plans, specifications and contract documents for all sanitary sewerage system facilities before authorization for construction will be given. Design and installation shall conform to Milwaukee Metropolitan Sewerage District Ch. 2 Rule, Sec. 18.08(7) of the Municipal Code, and the Village Design, Drafting & Construction Standards & Specifications, Sec. 5.0 "Sanitary Sewer System Requirements". All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All sanitary sewer improvements that are to be transferred to the Wastewater Utility shall be contained within the Village right-of-way or a utility easement. The easement shall be dedicated to the Village through an easement document prepared and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney.

Public utility and/or work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. Private utility permits shall be applied for by Developer and secured from the Village Building Inspection Dept. Wisconsin Department of Natural Resources and Milwaukee Metropolitan Sewerage District sanitary sewer extension forms shall be prepared by Developer and provided to the Village Engineer. All sanitary sewer improvements (public and private) shall be inspected by Wastewater Utility personnel prior to acceptance by the Public Works & Highway Committee.

Sanitary sewer main and lateral trenches in an existing roadway shall be aggregate slurry backfilled. Street resurfacing required due to surface disturbance for connection to the Village sanitary sewer shall be inspected and approved by the Highway Superintendent prior to acceptance by the Public Works & Highway Committee. Lateral ends shall be marked with green painted maple heart boards 2" x 4". A minimum of 6 feet of engineered fill shall be maintained over the pipe in all areas of installation.

1.03 WATER SUPPLY FACILITIES. Developer shall extend public water main along the full north frontage of Development. Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all water supply facilities before authorization for construction will be given. Design and installation shall conform to Sec. 18.08(8) of the Municipal Code and the Village Design, Drafting & Construction Standards & Specifications, Sec. 6.0 "Water Distribution System Requirements". All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for

DEVELOPMENT AGREEMENT

review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All water utility improvements that are to be transferred to the Water Utility shall be contained in Village right-of-way or a utility easement dedicated to the Village. The easement shall be dedicated to the Village through an easement document prepared and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney. Developer shall prepare and submit a Private Water Main Operation/Inspection/Maintenance Agreement for all fire hydrant leads overlaying the leads from connection to the public water main throughout to and including the fire hydrants themselves.

Public utility and/or work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. Private utility permits shall be applied for by Developer and secured from the Village Building Inspection Dept. Wisconsin Department of Natural Resources water main extension forms shall be prepared by Developer and submitted to the Department of Natural Resources. All water supply improvements (public and private) shall be inspected by Water Utility personnel prior to acceptance by the Public Works & Highway Committee.

Water main and lateral trenches in an existing roadway shall be aggregate slurry backfilled. Street resurfacing required due to surface disturbance for connection to the Village water supply system shall be inspected and approved by the Highway Superintendent prior to acceptance by the Public Works & Highway Committee. Lateral ends shall be marked with blue painted maple heart boards 2" x 4". A minimum of 6 feet of engineered fill shall be maintained over the pipe in all areas of installation.

1.04 OTHER UTILITIES. Developer shall be responsible for and cause electrical power, telephone, cable and natural gas facilities to be installed in such manner as to make proper and adequate service available to each occupied building in the Development. All such services shall be located underground in accordance with applicable codes. Design and installation shall conform to Sec. 18.08(11) of the Municipal Code. Public utility and/or work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. Private utility permits shall be applied for and secured from the Village Building Inspection Dept.

1.05 GRADING, STREET SURFACING, RURAL STREET SECTIONS, AND IMPROVEMENTS TO STREETS ABUTTING DEVELOPMENT. Developer shall extend Virginia Ave. roadway along the full north frontage of Development. Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all grading, street surfacing, rural street sections, and improvements to streets abutting development before authorization for construction will be given. Design and installation shall conform to Sec. 18.08(2), 18.08(3), 18.08(5) and 18.08(15) of the Municipal Code and the Village Design, Drafting & Construction Standards & Specifications, Sec. 3.0 "Grading and Erosion Control Requirements" and Sec. 8.0 "Roadway Requirements". All such

DEVELOPMENT AGREEMENT

documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village. All grading, street surfacing, rural street sections, and improvements to streets abutting development that are to be transferred to the Village shall be contained in Village right-of-way dedicated to the Village.

Final yard grades, building elevations and contours shall conform to a 0.25-foot tolerance as compared to the grading plan pursuant to Sec. 14.076 of the Municipal Code. Developer shall not export topsoil without permission from the Public Works & Highway Committee pursuant to Sec. 17.441 of the Municipal Code.

Work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. All grading, street surfacing, rural street sections, and improvements to streets abutting development (public and private) shall be inspected by Engineering Dept. and Highway Dept. personnel prior to acceptance by the Public Works & Highway Committee.

1.06 EROSION CONTROL. Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all construction site erosion and sediment control before authorization for construction will be given. Design and installation shall conform to Wisconsin Department of Natural Resources Conservation Practice Standards, Ch. 29 of the Municipal Code, and the Village Design, Drafting & Construction Standards & Specifications, Sec. 3.0 "Grading and Erosion Control Requirements". All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village.

Work-in-right-of-way permits shall be applied for and secured from the Village Engineering Dept. Wisconsin Department of Natural Resources construction site storm water permit forms shall be prepared by Developer and submitted to the Department of Natural Resources. An erosion control permit shall be applied for and secure from the Village Building Inspection Dept.

Developer shall monitor and mitigate off-site tracking through use of tracking pads and daily sweeping of streets. In event Developer defaults in keeping the Village streets clear of tracking, the Developer will reimburse the Village for performing street sweeping services within 30 days of invoice. In event Developer defaults payment, the Village may charge the Developer's escrow account or draw from the Developer's letter-of-credit to recover such costs. Notwithstanding the foregoing, the right of the Village to respond to off-site sediment tracking hereunder shall not excuse Developer from strict compliance with required erosion control measures or be considered a substitute or replacement for such measures.

DEVELOPMENT AGREEMENT

Developer shall remove and dispose of all erosion and sediment control devices after 85% successful vegetative cover has been achieved to the satisfaction of the Village Engineer.

1.07 POST-CONSTRUCTION STORMWATER MANAGEMENT AND STORMWATER DRAINAGE FACILITIES. Developer shall design and submit to the Village Engineer for approval all proposed plans, specifications and contract documents for all post-construction storm water management and storm water drainage facilities before authorization for construction will be given. Design and installation shall conform to Wisconsin Department of Natural Resources Conservation Practice Standards, Milwaukee Metropolitan Sewerage District Ch. 13 Rule, Ch. 27 and Sec. 18.08(10) of the Municipal Code, and the Village Design, Drafting & Construction Standards & Specifications, Sec. 7.0 "Storm Water Management Requirements" and Sec. 4.0 "Storm Water Conveyance System Requirements". All such documents shall be prepared in accordance with state and local standards by a Professional Engineer registered in the State of Wisconsin and submitted stamped and signed for review by the Village Engineer and by all applicable governmental agencies. Implicit in this provision is the right of the Village Engineer and Building Inspector to require document revisions and modifications in the best interests of the Village.

Work-in-right-of-way permits shall be applied for by Developer and secured from the Village Engineering Dept. Wisconsin Department of Natural Resources and Milwaukee Metropolitan Sewerage District storm water management forms shall be prepared by Developer and provided to the Village Engineer.

Developer shall prepare, submit to the Village Engineer for review, and record with the Washington Co. Register of Deeds a Declaration of Covenant for Storm Water Management Facility Maintenance before applying for an occupancy permit. Developer shall prepare and submit to the Village Engineer a Storm Water Management Facility Compliance Report and an Engineering/Construction Certification letter before applying for an occupancy permit.

1.08 LANDSCAPING. Developer shall design and submit to the Village Zoning Administrator for approval all proposed plans, specifications and contract documents for all landscaping before authorization for construction will be given. Design and installation shall conform to Sec. 17.085 and 17.43(5) of the Municipal Code. All such documents shall be prepared in accordance with state and local standards by a Landscape Architect registered in the State of Wisconsin and submitted stamped and signed for review by the Village Zoning Administrator and by all applicable governmental agencies. Implicit in this provision is the right of the Village Zoning Administrator and Building Inspector to require document revisions and modifications in the best interests of the Village.

A minimum of 4" of topsoil (i.e., after settlement) free of deleterious materials shall cover all areas of the site not covered by impervious roofs and/or pavements.

DEVELOPMENT AGREEMENT

1.09 STREET TREES: Developer shall design and submit to the Village Forester for approval all proposed plans, specifications and contract documents for all street trees before authorization for construction will be given. Design and installation shall conform to Sec. 18.08(14) of the Municipal Code. All such documents shall be prepared in accordance with state and local standards by a Landscape Architect registered in the State of Wisconsin and submitted stamped and signed for review by the Village Forester and by all applicable governmental agencies. Implicit in this provision is the right of the Village Forester to require document revisions and modifications in the best interests of the Village.

The type of street shall be selected by Developer from an approved list and approved by the Village Forester. A variety of types of trees shall be planted on a block. Listed within Developer Agreement will be a dollar value of trees to be planted for inclusion in the letter of credit.

1. Location. Trees shall be planted in the terrace along all streets no closer than ten (10) feet from any driveway and forty (40) feet from the corner of an intersection as measured from the right-of-way lines extended. The number of trees shall be determined by the spacing criteria established. The exact location of each tree shall be in accordance with Developer's street tree plan, and shall either be established by the Village Forester or approved by the Village Forester.

2. Timing. Plantings shall not be installed until building construction is complete and the occupancy permit is issued by the Village Building Inspection Department.

3. Size. All street trees planted shall be a minimum size of 2"-2.5" in caliper. Said caliper reading shall be taken six (6) inches above ground level.

4. Warranty. The party planting the trees shall replace any trees that do not live for a minimum of two (2) growing seasons. The replacement trees shall also be guaranteed for two (2) growing seasons after replacement planting.

In lieu of terrace tree planting requirements, Developer may deposit with the Village, funds in an amount determined in accordance with the procedure indicated below, which funds shall be expended by the Village solely for the installation of terrace trees in the Development. The deposit amount is to be determined by taking the median bid of not less than three proposals solicited by Developer from landscape firms acceptable to the Village.

ARTICLE II - CONSTRUCTION

2.01 GENERALLY. Developer, entirely at its own expense, shall construct and install all public improvements and provide all plans, specifications and other documents in accordance with Sec. 18.09 of the Municipal Code or as required by the Village Engineer pursuant to Sec. 18.09. Developer understands and acknowledges that the Municipal Code may be and is subject to revision from time to time, and that such revisions may impose altered or additional

DEVELOPMENT AGREEMENT

obligations on individual and entities creating subdivisions and other developments in the Village, including Developer. Developer hereby agrees that with respect to any such revision which shall be approved by the Village prior to issuance of permits for all public improvements provided for herein, or as mutually agreed upon between Developer and the Village after the commencement of work, Developer shall incorporate any such revision into Developer's plans, specifications and work.

Developer shall provide a schedule of construction setting forth approximate dates of commencement and completion of each phase of the construction. Developer agrees that no work shall be scheduled for the improvements without the Village Engineer's written approval of the starting date and schedule.

A pre-construction meeting shall be scheduled between Developer, the Contractors and the Village prior to commencement of any construction on the improvements. Developer shall, prior to such meeting, notify all utilities of the planned construction and the date and location of the pre-construction meeting.

2.02 BUILDING AND OCCUPANCY PERMITS. No occupancy building permits shall be issued until the master site grading, the water main, sanitary sewer, and storm sewer improvements are installed; inspected by the Village Water Utility, Wastewater Utility and Highway Dept. and approved by the Village Engineer; all record-drawings are filed with the Village approved by the Village Engineer in accordance with 2.05 below; and all other improvements required by this Agreement, except the final street surfacing, are installed and accepted by the Public Works & Highway Committee.

2.03 REQUIRED PLANS. Developer shall submit to the Village Engineer for approval all of the plans, profiles and specifications required by Sec. 18.09(3) of the Municipal Code. Required plans for improvements shall include the following:

- (1) Grading plans, including interim and final;
- (2) Erosion & sediment control plans, including interim and final;
- (3) Private utility plans and capacity computations, including sanitary sewer & laterals, water main & laterals, and storm sewer & laterals;
- (4) Public utility plans, profiles and capacity computations, including sanitary sewer & laterals, water main & laterals, and storm sewer & laterals;
- (5) Paving plans, including public and private roads, driveways, parking lots, truck docks, sidewalks, curb-and-gutter, and truck turning movements;
- (6) Storm water management plan;
- (7) Other utilities;
- (8) Landscape plan; and
- (9) Street trees plan.

In addition, Developer shall submit to the Village Engineer for approval all specifications before authorization for construction will be given. Implicit in this provision is the right of the

DEVELOPMENT AGREEMENT

Village Engineer to require document revisions and modifications in the best interests of the Village.

2.04 EXISTING FLORA. Developer shall, in accordance with Sec. 18.09(5) of the Municipal Code, make reasonable efforts to protect and retain all existing trees, shrubbery, vines and grasses not actually lying within public roadways, drainage-ways, building foundation sites, private driveways and parking areas, soil absorption waste and disposal areas, paths and trails, except as necessary for implementation of the Development Plan. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by use of wells or islands or retaining walls whenever abutting grades are altered.

2.05 RECORD DRAWING DOCUMENTS. Developer shall prepare and submit to the Village Engineer record-drawing documents in digital format (i.e., .dwg extension) of the public water main extension, public sanitary sewer extension, storm water management pond outlet structure and emergency overflow area, and the Virginia Ave. roadway extension. All record-drawing measurements shall include horizontal and vertical location referenced to the Village coordinate system (Wisconsin State Plane Coordinate System, South Zone, based on North American Datum of 1927 (NAD 27). If Developer is unable to furnish the location and digital files as required, the Village Engineer shall complete the record-drawing plans with costs charged back to Developer. Each original or copy shall be certified by Developer's engineer and/or architect, in accordance with requirements of the Village Engineering Department. Record drawings shall be submitted by Developer before applying for a Village occupancy permit.

ARTICLE III - DEDICATION AND ACCEPTANCE

Developer agrees that the improvements will not be accepted by the Village until: (i) all outstanding charges to be paid by Developer under the Ordinances have been paid in full, (ii) affidavits and lien waivers are received by the Village indicating that all contractors providing work, services or materials in connection with the improvements have been paid in full for all such work, services and materials, and (iii) the Village has received evidence satisfactory to it that no liens or other encumbrances (except those approved in writing by the Village) encumber the improvements.

Any water main installation shall not be accepted until two consecutive bacteriological safe samples have satisfactorily pass and one pressure test has successfully passed. Developer or his Contractor shall flush the main and obtain the samples required for this testing under the supervision of the Village Engineering Dept. or Water Utility. Upon completion of the water mains and service laterals and acceptance of the system by the Village Public Works & Highway Committee, ownership and control shall be turned over without reservation to the Village.

Developer shall request in writing to the Village Engineer, acceptance of the public improvements. The Village Engineer will order an inspection of the improvements by the

DEVELOPMENT AGREEMENT

Village Water Utility, Wastewater Utility, Highway Dept., and Engineering Dept., and a punch-list of corrections (if needed) shall be forwarded to Developer for completion prior to acceptance. Upon completion of corrective action, Developer shall inform the Village Engineer in writing and request acceptance by the Public Works & Highway Committee. Upon satisfaction of the conditions set forth in this Agreement, and upon written request by Developer, the Village shall accept the improvements (the "Final Acceptance"). The acceptance of the public improvements by the Public Works & Highway Committee shall commence running of the one-year warranty period provided for and in accordance with Section 7.01 of this Agreement.

ARTICLE IV - PAYMENT OF FEES

4.01 GENERALLY. Developer shall pay all fees, expenses, costs and disbursements which Developer is required to pay, pursuant to Sec. 18.10 of the Municipal Code. Nothing in this provision, nor in the remaining provisions of this article, shall be construed as exempting Developer, its successors and assigns, from such future fees, expenses, costs, or assessments which might be imposed by way of general operation of law or ordinance, and as otherwise assessable against properties within the Village of Germantown.

4.02 IMPACT FEES. As a condition of the approval of this Agreement by the Village, Developer shall pay to the Village Treasurer tax impact fees/Residential Unit that have been determined in accordance with Sec. 3.14 of the Municipal Code. These fees include:

- | | |
|-----------------------------------|--------------------------------|
| (1) Water: | \$832.00/REC |
| (2) Fire Protection: | \$0.63549/\$1000 Building Cost |
| (3) Police Protection Facilities: | \$0.2809/\$1000 Building Cost |
| (4) Sewer Connection Fee | \$3,688.00/REC |

REC is a residential unit equivalent for pumping and storing municipal water or as per Section 15.07(2) of the Municipal Code and per Resolution No. 27-07, establishing the sewer connection charge. These fees are payable at the time of Building Permit issuance.

4.03 IMPROVEMENT REVIEW FEE. Developer shall pay a fee based on the cost of required development improvements for all phases of the project to cover the cost of the Village for checking and reviewing plan and specification documents. Such improvement review fee shall be as provided by Sec. 18.10(3) of the Municipal Code. The fee shall be calculated as follows:

- (1) 2.25% of the first \$250,000 of construction costs;
- (2) 1.75% of the next \$250,000 of construction costs; and
- (3) 1.25% of construction costs which exceed \$500,000.

If a Developer's Agreement is required for this project, the Engineering Department shall charge a minimum fee of \$5,000 for a fee as per Section 18.10(3) of the Municipal Code.

DEVELOPMENT AGREEMENT

4.04 PROFESSIONAL FEES AND INSPECTION FEES. In accordance with Sec. 18.10(4), 18.10(7), and 18.10(8) of the Municipal Code, Developer shall be responsible for all professional (technical and legal) fees incurred by the Village in connection with this Development. Inspection costs shall be reimbursed to Village by Developer, whether performed by the Village Engineering Dept., Water Utility, Wastewater Utility, Highway Dept., or outsourced to a third-party engineering consultant, and shall also be reimbursed for services rendered by the Village Attorney. Developer will be billed for Village personnel at the standard rates presented in Exhibit B. Developer will be billed for third-party engineering consultants by presenting their invoices.

4.05 DATA CONVERSION FEE. In accordance with Section 18.10(13) of the Municipal Code, Developer shall be responsible for all fees associated with the upload of Geographic Information System data incurred by the Village in connection with this project.

4.06 PREPAYMENT OF CERTAIN FEES. Developer shall pay the fees specified in Paragraphs 4.02, 4.03 and 4.05, as itemized in Exhibit A, prior to the issuance of any building permit for the Property.

4.07 PROPERTY RECORD MAINTENANCE FEE. In accordance with Sec. 14.055 of the Municipal Code, Developer shall reimburse the Village for Assessor's office for processing existing records, creating new records, physical on-site review and processing of information gathered in the field according to the schedule of fees contained within Sec. 14.055.

ARTICLE V - SPECIAL PROVISIONS

5.01 SEWER CONNECTIONS. In accordance with the rules and regulations of the Village, Developer has been authorized one (1) sewer connection for this Development, subject to the provisions of Sec. 5.02 of this Agreement.

5.02 SEWER CAPACITY. It is understood by and between the parties that the Village, by entering into this Agreement, makes no representations or guarantees with respect to sewer capacity for the Development contemplated by this Agreement. It is understood by Developer that other governmental authorities having jurisdiction may impose limitations or restrictions upon the Village's decision to authorize the sewer connections referred to in Sec. 5.01 of this Agreement.

5.03 WETLAND AND FLOODPLAIN CONDITIONS. It shall be an explicit condition that Developer shall comply with all required regulations and shall obtain all necessary approvals in writing from the appropriate agencies relative to the wetlands and floodplain areas which may be on the Property. Approval of the subject Development Plan by the Village Plan Commission shall not be construed to be Village approval of intrusions into wetland or floodplain areas, or Village approval of filling or modifications to wetlands or floodplain areas. Developer, except as required on approved plans, will not be allowed to grade, fill, or conduct

DEVELOPMENT AGREEMENT

any other type of development within 75 feet of the high water mark of a navigable waterway or 25 feet from a wetland. If the Zoning Administrator suspects the presence of wetlands or navigable stream upon site inspection, an updated delineation will be required. Final delineation of wetlands and navigable streams shall be confirmed by the Southeastern Wisconsin Regional Planning Commission.

5.04 PHASES. Developer has represented that it will construct the public improvements proposed for this project in one phase. All public improvement work associated with the Development shall be completed within one year following the date of issuance of permits for such work by the Village.

ARTICLE VI - FINANCIAL GUARANTY

6.01 AMOUNT. Developer shall deposit with the Village a certified check or provide an irrevocable letter of credit which shall assure the faithful performance of Developer's obligations under this Agreement as itemized in Exhibit "A" attached hereto and incorporated herein by reference. The Village may in its sole discretion following Developer's request and acceptance by the Village Public Works & Highway Committee of some but not all of the improvements constructed as part of this Agreement, reduce the deposit or letter of credit to the amount estimated by the Village Engineer (in a manner consistent with the Ordinances) to be necessary to secure performance by Developer hereunder. In no event shall the amount of the guaranty be reduced below the aggregate total estimated cost of the improvements not yet installed or accepted, plus fifteen percent (15%). The Village is hereby authorized to contact directly Developer's financial agent from time to time regarding the sufficiency of the financial guaranty. The termination date of the Letter of Credit, following acceptance by the Village shall be no earlier than one year following the date of issuance of permits for public improvement work by the Village. If the public improvements to be undertaken by Developer under this Agreement are not complete within one year following the issuance of permits for such work, for any reason including force majeure under Section 8.03 below and without regard to the fault of Developer, then Developer's obligation to provide a letter of credit shall be extended through the completion of the work and its inspection and acceptance of dedication by the Village. After construction and total completion of the project and acceptance of the project by the Village Public Works & Highway Committee, the surety will be reduced to 10% of the actual cost of construction for a period of one (1) year (the guaranty period). In the event the original surety would, by its terms, expire prior to the end of the one year guaranty period, or if the guaranty period is extended due to repairs of defects as provided in Sec 7.01, a new surety shall be issued to cover the remaining guaranty period for the 10% of actual original construction costs.

6.02 FORM. The form of the letter of credit shall be approved by the Village Attorney prior to acceptance of the letter of credit by the Village as satisfying Developer's obligation as provided in Section 6.01 above. The letter of credit shall provide that it may be drawn upon only by the Village to guaranty to the Village the performance by Developer of all obligations under this Agreement. The letter of credit shall be from a local lending institution, in the form of an irrevocable standby letter of credit and auto renewable.

DEVELOPMENT AGREEMENT

6.03 LIABILITY NOT RELEASED. All deposits or Letters of Credit given hereunder are security devices only which in no manner limit the liability of Developer to the Village, however arising and regardless of the amount.

6.04 RESERVATION OF ASSESSMENT RIGHTS. In addition to the remedies for default provided to the Village by this financial guaranty, the Village reserves the right without notice or hearing to impose special assessments or charges for any amounts to which it is specifically entitled by virtue of this Agreement for improvements specifically provided for herein upon the property described in Exhibit "C" attached hereto. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessments or charges. This provision constitutes Developer's Waiver of Notice and Consent to all special assessment or special charges proceedings which may be required by law.

6.05 REMEDIES. At the option of the Village, a material breach of this Agreement shall result in the Village having the right to revoke any and all occupancy or use permits, or to rescind any zoning granted in consideration of the proposed project. Compliance with this contract shall be deemed a condition of any such zoning, which shall revert to the original zoning classification upon action of the Village Board under authority of this provision. As an alternative thereto, and at the option of the Village the Village may impose a liquidated damage penalty in the amount of \$500.00 per diem as until such time as there shall be compliance. In addition, the Village shall have the right to remedy such breach at its expense and assess the cost thereof against the subject property. All remedies as stated herein shall be deemed alternative remedies, and cumulative as and to such other remedies in law or equity as the Village may assert and herein reserves.

ARTICLE VII - GUARANTEE AND INDEMNIFICATION

7.01 GUARANTEE OF IMPROVEMENTS. Developer shall guarantee all dedicated improvements against defects due to faulty materials or workmanship which appear within one (1) year from the date of Final Acceptance by the Village, as provided in Article III of this Agreement. Developer shall repair or replace any such improvements as required by the Village Engineer to eliminate such defects and shall pay for all damages to Village property resulting from such defects. Each repair or replacement performed pursuant to this paragraph shall be guaranteed for one (1) year from the completion thereof.

7.02 GENERAL INDEMNIFICATION. Developer shall indemnify and hold the Village harmless against and from any and all liability, judgments, costs and expenses incurred by the Village as the result of any action by whomsoever or whenever brought or obtained against the Village or Developer, or both, which may in any manner result from or arise in the course of, out of, or as a result of the carelessness, negligence or neglect of Developer, its agents, contractors or employees. In every case where judgment is recovered against the Village and where notice of the pendency of the suit and an opportunity to defend the same has been given to Developer within ten (10) days after its commencement, the judgment shall be conclusive upon

DEVELOPMENT AGREEMENT

Developer, not only as to the amount of damages, but also as to its liability to the Village.

7.03 CONTRACTOR INSURANCE. Contractors engaged by Developer to perform the work required by this Agreement within public rights-of-way shall, prior to commencing such work, submit to the Village proof of the following:

- (1) Unemployment and Workers' Compensation insurance which is in strict compliance with state laws.
- (2) Personal and public liability insurance having limits of not less than \$1,000,000.00.
- (3) Property damage insurance having limits of not less than \$500,000.00.
- (4) Fire and extended coverage which shall insure against losses and damage to completed work, materials or equipment until the same has been accepted by the Village.

7.04 INDEMNIFICATION FOR ENVIRONMENTAL CONTAMINATION: Developer shall indemnify, defend, and hold the Village and its officers, agents and employees harmless from and against any and all losses, damages, costs, expenses, liabilities, obligations, claims or suits (including, without limitation, reasonable attorneys' fees, punitive damages, fines, penalties and consequential damages) resulting from or relating in any way to the presence of toxic or hazardous material or substances present or suspected to be present in or on the real property dedicated or conveyed to the Village, pursuant to, or in connection with the platting/subdivision of Developer's Property or this Agreement. For purposes of this Agreement, "toxic or hazardous material or substances" is defined as any pollutant, contaminant, waste or toxic or hazardous chemicals, wastes or substances, including, without limitation, asbestos, urea formaldehyde insulation, petroleum, PCBs, lead, air pollutants, water pollutants, soil pollutants and other substances defined as hazardous or toxic or words of similar import under federal, state or local statute, rule, regulation or order of any government entity having jurisdiction over the control of such wastes or substances.

Upon the Village becoming aware of the occurrences of any event or the existence of any state of facts in respect of which the Village has or will have a claim for indemnification under this Agreement ("Claim"), as soon as reasonably practicable thereafter:

- (a) the Village shall provide Developer notice of the losses, damages, costs, expenses, liabilities, obligations, claims or suits (including, without limitation, reasonable attorney's fees, punitive damages, fines, penalties, and consequential damages) as and when reasonably apprehended. Notwithstanding anything to the contrary contained herein, the Village's failure to timely notify Developer shall not prevent or in any way impair recovery by the Village unless Developer is materially prejudiced as a result of such failure;

DEVELOPMENT AGREEMENT

- (b) subject to paragraphs (c) through (f) below, Developer diligently, at its own expense, shall control and shall be responsible for the defense, negotiation and/or settlement of the Claim, including the diligent performance of any remediation associated therewith;
- (c) the Village may at its own expense hire counsel or consultants to monitor the Claim;
- (d) Developer shall not, without the prior written consent of the Village, which consent shall not be unreasonably delayed, withheld or conditioned, settle any Claim;
- (e) Developer shall lose its right to defend, negotiate and settle any Claim if, in the reasonable judgment of the Village, it fails to diligently defend, negotiate or settle such Claim. In the event that Developer has lost its right to defend, negotiate or settle any Claim: (i) the Village shall have the right, without prejudice to its right of indemnification hereunder, at Developer's cost and expense, to defend, negotiate and settle any Claim, and (ii) Developer shall pay such reasonable costs and expenses incurred by the Village within twenty (20) days of receipt of written notice from the Village;
- (f) If Developer does not timely assume responsibility for any Claim, the Village shall have the right, without prejudice to its right of indemnification hereunder, at the sole cost and expense of Developer, to assume control of the defense, negotiation and/or settlement of the Claim, and may engage counsel or other agents, consultants, and contractors to contest, defend, settle or otherwise dispose of such Claim, including, without limitation, hiring any environmental consultant or contractor to perform any remediation necessary to address the Property or the toxic or hazardous materials or substances at the Property.

ARTICLE VIII - TIME OF COMPLETION

8.01 COMPLETION DATE. The work required by this Agreement shall be completed by Developer not later than one (1) year after acceptance of this Agreement by the Village Board.

8.02 DEFAULT. In the event Developer does not complete installation of the public improvements required by this Agreement within thirty (30) days after the Village has served notice of default upon Developer, the Village may complete the same and take title thereto. The costs of doing such work shall be collected as provided in Article VI of this Agreement.

8.03 FORCE MAJEURE. Notwithstanding anything herein to the contrary, in the event that Developer is delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental regulations, orders or decrees, riots, insurrection, war, acts of God,

DEVELOPMENT AGREEMENT

inclement weather, or other reasons beyond Developer's reasonable control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for the period of such delay.

8.04 SUSET CLAUSE. The conditions of this Agreement shall terminate two (2) years after Village Board approval unless construction has begun or amended in writing by both parties.

ARTICLE IX - GENERAL PROVISIONS

9.01 PLATTING REGULATIONS. All provisions of the Village's subdivision and platting code as set forth in Chapter 18 of the Municipal Code of the Village which are not inconsistent with or in conflict with any of the provisions of this Agreement are incorporated herein by reference and all such provisions shall bind the parties hereto and be a part of this Agreement as fully as if set forth herein. This Agreement, shall be performed and carried out in strict compliance with and subject to the provisions of Chapter 18.

9.02 APPROVAL TERMS. The approvals granted by the Village for the Midwest Assisted Living Partners I, LLC are conditioned upon the fact that the Midwest Assisted Living Partners I, LLC use is not tax-exempt and shall be subject to general property taxation; No tax-exempt use is authorized by the aforesaid approvals.

9.032 AGREEMENT FOR BENEFIT OF PURCHASER. Developer agrees that in addition to the Village's rights herein, the provisions of this Agreement shall be for the benefit of the purchaser of any dwelling unit, building, lot or parcel of land within the Development.

9.04 ENTIRE AGREEMENT. This written Agreement and written amendments and any referenced attachments thereto shall constitute the entire agreement between the Developer and the Village.

9.053 AMENDMENTS. This Agreement may be amended or modified only by an instrument in writing executed by all of the parties to this Agreement.

9.064 OWNERSHIP. Developer certifies and warrants to the Village that all of the owners of the real estate within said Development and all of the land contract vendors and/or mortgagees having interest in said real estate are as follows: Midwest Assisted Living Partners I, LLC.

9.07 AUTHORITY. Developer, by the undersigned, represents, certifies and warrants that the undersigned has the authority to bind Midwest Assisted Living Partners I, LLC as a general partner of the same.

9.08 NO VESTED RIGHTS GRANTED. Except as expressly provided by law or as expressly provided by this Agreement, no vested rights in connection with this project shall inure to the Developer, its heirs, successors or assigns.

DEVELOPMENT AGREEMENT

9.09 NO WAIVER. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided for by a duly signed and executed, written amendment by all parties to this Agreement. The Village's failure to act or exercise any right under this Agreement shall not constitute the approval or a waiver of its right to act or exercise any right under this Agreement or a ratification of any wrongful or negligent act by the Developer or the acceptance of any improvement or performance on the part of the Developer.

9.10 APPROVAL. No approval by the Village Engineer or the Village attorney or any other person acting on behalf of the Village shall be construed as a waiver of any of the requirements of the Ordinances, or any statute or regulation governing the improvements.

9.11 COVENANTS AND DEED RESTRICTIONS. All proposed covenants and deed restrictions shall be submitted to and be approved by the Village Attorney prior to recording, and shall include the following:

- (1) YARD LIGHTS: Yard lights as required by Sec.18.08 (12) of the Municipal Code
- (2) MAINTENANCE OF OPEN SPACE AND LANDSCAPED AREAS. All open space shown on the General Development Plan shall be owned and maintained by a Homeowner's Association in perpetuity and landscaped areas within the easements of the Development shall be maintained by the owners of the lots on which the easement is platted.
- (3) DRAINAGE EASEMENT AND DETENTION BASIN PROTECTION. The drainage easement and detention basins shall be maintained free of obstruction.
- (4) VILLAGE REMEDIES. The Village shall have the right to remedy deficiencies under the preceding paragraphs, the right to charge Developer for costs incurred and the right to enforce collection of such amounts in accordance with § SS66.0627 of the Wisconsin Statutes.

9.12 SEVERABILITY. If any part, term or provision of this Agreement is held by a court to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term or provision; and the right of the parties will be construed as if the part, term or provision was never part of the Agreement.

ARTICLE X - NON-ASSIGNMENT

DEVELOPMENT AGREEMENT

This Agreement which is binding upon Developer, Developer's agents, officers, employees, personal representatives, guardians and trustees shall not be assigned by Developer to any individual, firm, partnership or corporation without the express approval of the Village.

DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, Developer and the Village have caused this Agreement to be signed in duplicate originals this _____ day of _____, 2015 which shall be the effective date of this Agreement.

The
Midwest Assisted Living Partners I, LLC.

GERMANTOWN MEMORY CARE

By:

_____, General Partner

By: _____

STATE OF WISCONSIN)
) SS
_____) COUNTY)

Personally came before me this ____ day of _____, 2015, the above-named, _____, General Partner of Midwest Assisted Living Partners I, LLC, to me known to be the person who executed the foregoing instrument and to me known to be such General Partner of said Limited Partnership and acknowledged that he executed the foregoing instrument in such capacity. Signed or attested before me this _____ day of _____, 2015 by the above named _____.

By: _____
 Print Name: _____
 Notary Public, State of Wisconsin
 My Commission Expires: _____

DEVELOPMENT AGREEMENT

"In Duplicate"

VILLAGE OF GERMANTOWN

By _____
Dean Wolter, Village President

By _____

Per Village Board Approval: Dated _____

STATE OF WISCONSIN)
) SS
_____ COUNTY)

Personally came before me this ____ day of _____, 2015, the above-named, Dean M. Wolter, Village President, and Barbara K.D. Goeckner, Village Clerk, to me known to be the persons who executed the foregoing instrument and to me known to be such President and Clerk of the above-named municipal corporation, Village of Germantown, and acknowledged that they executed the foregoing instrument as such officers, as the deed of said municipal corporation, by its authority and pursuant to Resolution No. _____ adopted by its Village Board on the ____ day of _____, 2015. Signed or attested before me this ____ day of _____, 2015 by the above named Dean M. Wolter, Village President and Barbara K.D. Goeckner, Village Clerk of the Village of Germantown.

By _____
Print Name: _____
Notary Public, State of Wisconsin
My Commission Expires:

Approved as to form:

Brian C. Sajdak, Village Attorney

This instrument was drafted by:
Brionne R. Bischke, P.E., Interim Director of Public Works

**MIDWEST ASSISTED LIVING
DEVELOPMENT AGREEMENT**

Item Description	Basis	Est. Amount	
Public Sanitary Sewer Extension	1.02	\$50,000.00	
Public Water Main Extension	1.03	\$50,000.00	
Underground Private Utilities	1.04	not included	
Site Grading	1.05	not included	
Virginia Ave. Grading	1.05	\$15,000.00	
Virginia Ave. Pavement Structure	1.05	\$35,000.00	
Virginia Ave. Permanent Barricades	1.05	\$1,000.00	
Erosion Control	1.06	\$1,000.00	
Storm Water Management and Drainage	1.07	not included	
Storm Water Maintenance Agmt and Certs	1.07	\$1,000.00	
Landscaping	1.08	\$5,000.00	
Street Trees	1.09	\$1,000.00	
Record Drawings	2.05	\$1,000.00	
SUBTOTAL			\$160,000.00
Impact Fees			
Water: (\$832.00/REC)	4.02*	pending	
Fire: (\$0.63549/\$1000 Building Cost)	4.02*	pending	
Police: (\$0.2809/\$1000 Building Cost)	4.02*	pending	
Sewer Connection Fee: (\$3,688.00/REC)	4.02*	pending	
SUBTOTAL			\$0.00
Improvement Review Fee			
2.25% of 1st \$250,000 of Construction Cost	4.03*	pending	
1.75% of 2nd \$250,000 of Construction Cost	4.03*	pending	
1.25% of Construction Cost > \$250,000	4.03*	pending	
SUBTOTAL			\$0.00
Misc. Fees			
Professional Fees (Estimate)	4.04	\$500.00	
Inspection Fees (Estimate)	4.04	\$5,000.00	
Data Conversion Fee (Estimate)	4.05*	\$2,000.00	
SUBTOTAL			\$7,500.00
TOTAL			\$167,500.00
* Amount To Be Paid At Time Of Signing		\$2,000.00	
INITIAL LETTER OF CREDIT AMOUNT			\$165,500.00

 Developer or Owner

 Print Name

 Date

 Brionne R. Bischke, P.E.
Interim Director of Public Works

 Date

EXHIBIT "B"**MIDWEST ASSISTED LIVING
DEVELOPERS AGREEMENT**

Position	2015 Hourly Rate
Director of Public Works	\$95.00
Village Engineer	\$90.00
Project Engineer	\$68.00
Engineer Tech III/Land Surveyor	\$65.00
Land Surveyor/Survey Crew w/Robot	\$152.00
Highway Superintendent	\$67.00
Zoning Administrator/Planner	\$77.00
Engineering Assistant II	\$61.00
Record Drawing Documentation Preparation	\$96.00
Construction Inspection	\$96.00
Highway Maintenance Worker II	\$53.00
Highway Operations (Traffic Signals)	\$93.00
Water Superintendent	\$67.00
Wastewater Superintendent	\$67.00
Utility Operator	\$53.00
Clerical	\$46.00

Developer or Owner

Brionne R. Bischke, P.E.
Interim Director of Public Works

Print Name

Date

Date