

MEETING:	REGULAR MEETING OF THE VILLAGE BOARD
DATE AND TIME:	Monday, August 21, 2023 7:00 PM
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

NOTICE: Pursuant to the recommendations of the Centers for Disease Control and Prevention concerning the prevention of COVID-19 infections, any member of the body and/or citizen may also attend the meeting virtually through the WebEx platform, Meeting #: **2551 746 8900** Password: **RGfHMePh684** which can be accessed by phone at **408-418-9388** or by logging on at <https://villageofgermantown.my.webex.com/villageofgermantown.my/j.php?MTID=m978a9591c68c815703e7da0a9f488d38>

Citizens not wishing to attend the meeting personally or virtually may submit any public comments by sending an email to comments@germantownwi.gov by 4 p.m. on the day of the meeting so that it can be provided to the members of the body for their consideration. Previously recorded VillageBoard Meeting Videos can be viewed at https://www.youtube.com/channel/UCOYp0EgELzTCa9X_iCohyhQ

AGENDA

- 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 AND DEPARTMENT REPORTS:
- VI. **CITIZEN INPUT:** *(Please be advised per 19.84(2) that information and comment will be received from the public. It is the policy of this municipality that public input be limited to a three (3) minute period per person with a time extension granted at the discretion of the Chairperson. Be advised that there may be limited discussion of the information received but no action will be taken under public comments.)*
- VII. **PUBLIC HEARINGS:**
 - A. Joseph & Suzanne Schuster, Applicants and Property Owners of W156 N10081 Pilgrim Road. Application for Historic Designation. (PUBLIC HEARING & ACTION)
 - B. M. Hensley Foster, Applicant and Property Owner of N144 W14315 Pioneer Road. Application for Historic Designation. (PUBLIC HEARING & ACTION)
- VIII. **CONSENT AGENDA:**
 - A. 8.7.23 Minutes
 - B. F-Street Development Agreement
 - C. The following has applied to the Village Board of the Village of Germantown, Washington County, Wisconsin, for an **ORIGINAL** Second Hand Jewelry Dealer License for the period August 8, 2023 (Board Approval Date) until December 31, 2023. Applicant **National Rarities LLC** (Dennis M McCaffrey); 2190 S Mason Rd Suite 209, St Louis MO.
- IX. **UNFINISHED BUSINESS**

- A. Eric and Ashley Evans, W130 N11622 Harvest Ridge, Lot 1 in Harvest Hills Subdivision. Subdivision Plat Amendment to revise the Elm Lane access restriction to allow a driveway on Elm Lane.

X. NEW BUSINESS:

- A. Carter Schmitz Training Systems, LLC, Agent for Ozaukee Development Corporation, Property Owner - W188 N11770 Maple Road Unit 5. Conditional Use Permit (CUP) application for an "Indoor Health or Recreation Establishment" pursuant to Section 17.33(3)(h) and Section 17.29(1)(kk) of the Village Zoning Code.
- B. Appointment of Donna Cox as Germantown Village Clerk
- C. A Resolution to Declare Official Intent re Bond Reimbursement Under Section 1.150-2 of the Internal Revenue Code
- D. Contract with Tracy Cross, Inc. for a Housing Market Study
- E. Cancellation of September 4th Village Board meeting (Labor Day)

XI. CLOSED SESSION:

- A. Agreement with Greystone Partners Inc. for Redevelopment and Property Acquisition Services. The Village Board may go into closed session as per Wis. Stat. 19.85(1)(e) for the purpose of deliberating or negotiating, when competitive or bargaining reasons require a closed session and then re-enter open session to take such action as it deems appropriate.
- B. Acquisition of Grosenik Property - N116 W15843 Main Street and W157 N11593 Fon du Lac Avenue. The Village Board May Enter into Closed Session per Wis Statute 19.85(1)(e) The Village Board may go into closed session for the purpose of deliberating or negotiating when competitive or bargaining reasons require a closed session, and then may reconvene into open session to take such action as it deems appropriate.
- C. Project Guardian Proposal. The Village Board may enter into Closed Session per Wis Stat. 19.85(1)(e) for the purpose of deliberating or negotiating when competitive or bargaining reasons require a closed session and then may reconvene into open session to take such action as it deems appropriate.
- D. Administrator 2023 Performance Goals Update. The Village Board May Enter into Closed Session per Wis Statute 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 may reconvene into open session to take such action as it deems appropriate.

XII. ADJOURNMENT:

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.

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Ordinance

ITEM TITLE: Joseph & Suzanne Schuster, Applicants and Property Owners of W156 N10081 Pilgrim Road. Application for Historic Designation. (PUBLIC HEARING & ACTION)

SUBMITTED BY: Jeff Retzlaff, Community Dev. Director

SUMMARY EXPLANATION:

Joseph and Suzanne Schuster, property owners, are seeking approval of the Village's Historic Designation for the "Schuster House" located at W156 N10081 Pilgrim Road.

ATTACHMENT:

1. Schuster HD 8-14-23
2. Schuster-HD Ordinance-8-21-23

RECOMMENDATION:

ACTION BY Committee:

On May 17, the Historic Preservation Commission (HPC) recommended approval of the application and forwarded it on to the Plan Commission and Village Board. On July 24, the Plan Commission also recommended approval of the application.

HISTORIC DESIGNATION APPLICATION

7/24/2023 Plan Commission Meeting

Schuster House / Joseph & Suzanne Schuster

Village Planner Report

Germantown, Wisconsin

Summary

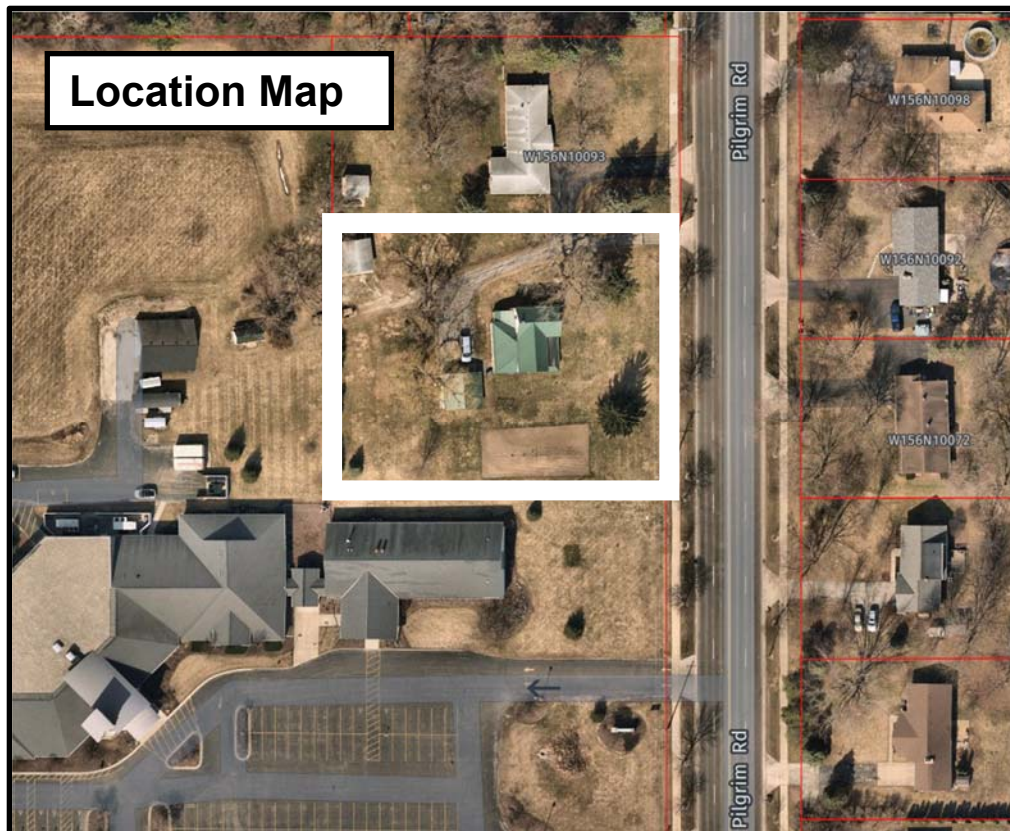
Joseph and Suzanne Schuster, property owners, are seeking approval of the Village's Historic Designation for the Schuster House located at W156 N10081 Pilgrim Road.

Location: W156 N10081 Pilgrim Road

**Owner/
Applicant:** Joseph and Suzanne Schuster
W156 N10081 Pilgrim Road
Germantown, WI

Current Zoning: Rs-4: Single-Family

Adjacent Land Uses		Zoning
North	Residential	Rs-4
South	Institutional	I
East	Residential	Rs-4
West	Institutional	I



Background

Historic Designation applications are part of an overall voluntary program as set forth in Section 26 of the Village Code. The Historic Designation (HD) serves as an “overlay” zoning district with specific design and improvement guidelines that need to be met to retain the Historic Designation. Once designated, the regulations set forth in Section 26 limit the type and amount of future improvements to designated structures or lands without meeting certain guidelines intended to protect and preserve historical character.

Proposal

Joseph and Suzanne Schuster, property owners, are seeking approval of the Village’s Historic Designation for the Schuster House located at W156 N10081 Pilgrim Road. As required, the owners have provided a detailed history of the property along with their application (attached).

As required, other Village Departments have been provided with a copy of the application for review and comment. Of the responses to date, all departments have expressed their support for the Historical Designation request or have no comment.

On May 17, the Historic Preservation Commission (HPC) approved the application and forwarded it on to the Plan Commission and Village Board. According to the procedural requirements of Section 26.06(1), Plan Commission action and recommendation to the Village Board is required within (30) days after HPC action.

Now that the HPC has acted on the application, the Plan Commission is required to review and make a recommendation to the Village Board just like a typical rezoning application. A recommendation from the Plan Commission for approval of the historic designation requires a 2/3-majority vote (5 of 7 members) of the Plan Commission.

VILLAGE STAFF RECOMMENDATION

APPROVE the requested Historic Designation for the Schuster House property located at W156 N10081 Pilgrim Road.



**HISTORIC PRESERVATION
COMMISSION**
N112 W17001 Mequon Road
P.O. Box 337
Germantown, WI 53022-0337

APPLICATION FOR HISTORIC DESIGNATION

PURSUANT TO SECTION 17.00 OF THE MUNICIPAL CODE

PLEASE READ AND COMPLETE THIS APPLICATION CAREFULLY. ALL APPLICATIONS MUST BE SIGNED AND DATED.

1. APPLICANT OR AGENT

Joseph P Schuster

Suzanne Schuster

PHONE

2. PROPERTY OWNER

Joseph P Schuster

Suzanne Schuster

PHONE

3. PROPERTY ADDRESS

W156 N10081 Pilgrim Road

4. TAX KEY NUMBER

GTNV 341008

5. PROPERTY HISTORY

HISTORIC NAME OF PROPERTY

Schuster House

DATE BUILT

1859-1873

ARCHITECT / BUILDER

Mortimer Hubanthal

SOURCE OF THIS INFORMATION

Vintage plot maps Wshington County

☐ CHECK HERE IF THIS PROPERTY IS THREATENED WITH DEMOLITION OR DESTRUCTION.

6. PURPOSE OF APPLICATION

BRIEFLY DESCRIBE THE REASON FOR YOUR REQUEST

Although the farm is gone our family house still stands which is 50% pioneer log cabin. I am 4th generation on the property and i believe in the preservation and reccognition of this property and other of being the staple of what had help formed Germantown.

7. HISTORIC SIGNIFICANCE OF PROPERTY

CHOOSE ONE OR MORE OF THE FOLLOWING.

- ☒ THIS PROPERTY ILLUSTRATES AN IMPORTANT ASPECT OF GERMANTOWN'S HISTORY THROUGH ITS ETHNIC, AGRICULTURAL, INDUSTRIAL, ETC., HISTORY.
- ☐ THIS PROPERTY IS DIRECTLY ASSOCIATED WITH A PERSON WHO MADE IMPORTANT CONTRIBUTIONS TO GERMANTOWN'S HISTORY.
- ☐ THIS PROPERTY IS ARCHITECTURALLY OR ARTISTICALLY SIGNIFICANT.

EXPLAIN BRIEFLY AND INCLUDE SOURCES IF APPROPRIATE. ATTACH ADDITIONAL PAGES AS NECESSARY.

Originally 160 acres owned by J.C. Hubanthal then in 1859-1860 he passed and gave his son Mortimer 80 acres in which time he built the pioneer log cabin and barn. Sometime later he added on to the south and later to the west. And later on added another 20 acres to the property. My great grand parents Joseph and Emma Schuster bought the property between 1905-1910. County Line school and Spassland park were originally my families property.

8. DOCUMENTATION

PLEASE CHECK ONE OR MORE OF THE FOLLOWING:

- ☒ RECENT PHOTOGRAPH (REQUIRED)
- ☐ BUILDING PLANS (IF AVAILABLE)
- ☒ HISTORIC PHOTOGRAPH (IF AVAILABLE)
- ☐ ANY ADDITIONAL SUPPORTING INFORMATION.
- ☒ SIMPLE MAP OF THE PROPERTY (REQUIRED)

BRIEFLY DESCRIBE. ATTACH ADDITIONAL PAGES AS NECESSARY.

9. ALTERATIONS / ADDITIONS TO PROPERTY

BRIEFLY DESCRIBE WITH DATES. ATTACH ADDITIONAL PAGES AND PHOTOGRAPHS AS NECESSARY.

log cabin was added on to the south and then later to the west

10. SIGNATURES

APPLICANT

OWNER

DATE

OWNER

DATE



ORDINANCE NO. xx - 2023

**AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE VILLAGE OF
GERMANTOWN ZONING CODE AND
ADOPT THE “HISTORIC SITE & STRUCTURE” DESIGNATIONS FOR THE
BUILDINGS LOCATED AT W156 N10081 PILGRIM ROAD
(Joseph & Suzanne Schuster, Property Owners of the “Schuster House”)**

THE VILLAGE BOARD OF THE VILLAGE OF GERMANTOWN, WASHINGTON
COUNTY, WISCONSIN, ORDAINS AS FOLLOWS:

SECTION 1. That the zoning map of the Village of Germantown be amended to include the Historic Designation Zoning District Overlay (“HD”) to the existing zoning designation of “Rs-4 Single-family” for the following described property:

Property: W156 N10081 Pilgrim Road
Tax Key No: GTNV#341-088

A .95 acre parcel being Parcel 1 of CSM 2821, Section 34, Town 9 North, Range 20 East. Village of Germantown, Washington County, Wisconsin.

SECTION 2. That Pursuant to the provisions of Section 26 of the Germantown Municipal Code (Historic Preservation Code), the designation of “Historic Site & Structure” is hereby assigned to the existing site and structures located at W156 N10081 Pilgrim Road having Tax Key GTNV #341-088.

SECTION 3. This ordinance shall take effect and be in full force the day after its passage and publication, as provided by law.

Introduced by Trustee: _____
Adopted: _____, 2023

Vote: Ayes: _____ Nays: _____

Dean Wolter, Village President

ATTEST:

Erin Hirn, Interim Village Clerk

APPROVED AS TO FORM:

Brian Sajdak, Attorney

Published:

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Ordinance

ITEM TITLE: M. Hensley Foster, Applicant and Property Owner of N144 W14315 Pioneer Road. Application for Historic Designation. (PUBLIC HEARING & ACTION)

SUBMITTED BY: Jeff Retzlaff, Community Dev. Director

SUMMARY EXPLANATION:

M. Hensley Foster, property owner, is seeking approval of the Village's Historic Designation for the Sunnyview Dairy Farm property located at N144 W14315 Pioneer Road.

ATTACHMENT:

1. Foster HD 7-24-23
2. Foster-HD Ordinance-8-21-23

RECOMMENDATION:

ACTION BY Committee:

On July 17, the Historic Preservation Commission (HPC) recommended approval of the application and forwarded it on to the Plan Commission and Village Board. On July 24, the Plan Commission recommended approval of the application.

HISTORIC DESIGNATION APPLICATION

7/24/2023 Plan Commission Meeting

Sunnyview Dairy Farm / M. Hensley Foster

Village Planner Report

Germantown, Wisconsin

Summary

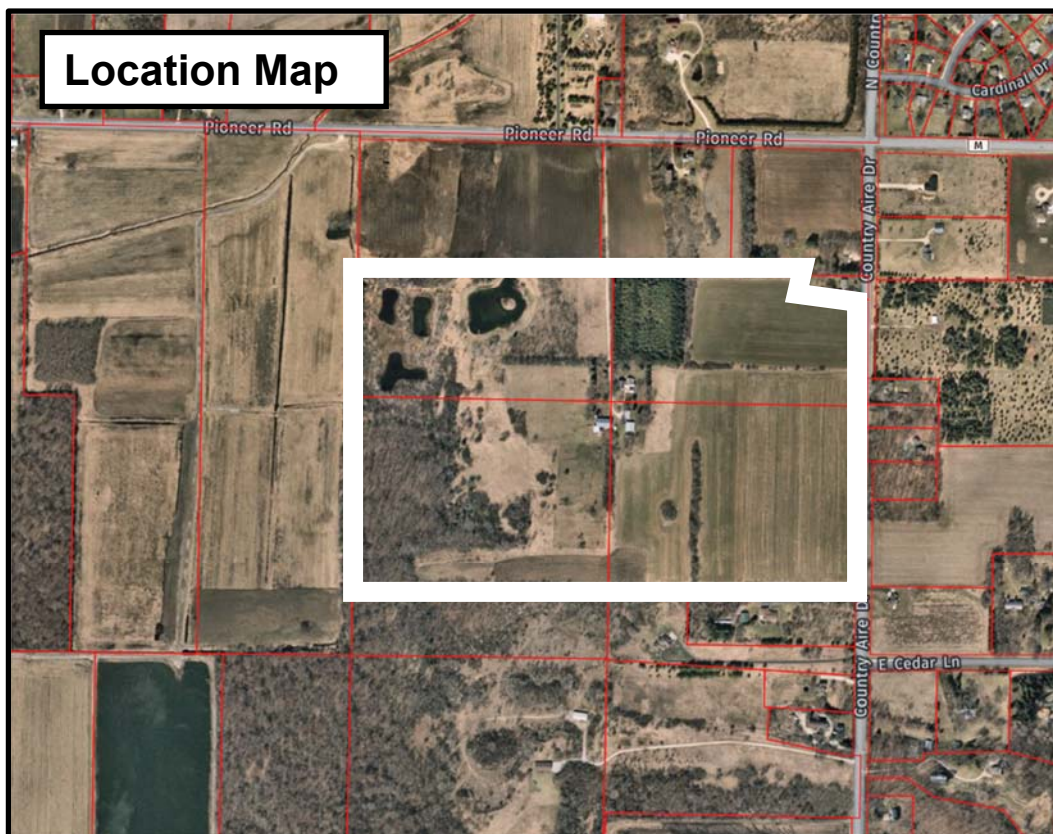
M. Hensley Foster, property owner, is seeking approval of the Village's Historic Designation for the Sunnyview Dairy Farm property located at N144 W14315 Pioneer Road.

Location: N144 W14315 Pioneer Road

**Owner/
Applicant:** M. Hensley Foster
N144 W14315 Pioneer Road
Jackson, WI

Current Zoning: A-1: Agricultural

Adjacent Land Uses		Zoning
North	Agricultural	A-2
South	Ag/Residential	A-1/Rs-2&3
East	Ag/Residential	A-2/Rs-1&3
West	Agricultural	A-1



Background

Historic Designation applications are part of an overall voluntary program as set forth in Section 26 of the Village Code. The Historic Designation (HD) serves as an “overlay” zoning district with specific design and improvement guidelines that need to be met to retain the Historic Designation. Once designated, the regulations set forth in Section 26 limit the type and amount of future improvements to designated structures or lands without meeting certain guidelines intended to protect and preserve historical character.

Proposal

M. Hensley Foster, property owner, is seeking approval of the Village’s Historic Designation for the Sunnyview Dairy Farm property located at N144 W14315 Pioneer Road. As required, the owners have provided a detailed history of the property along with their application (attached).

As required, other Village Departments have been provided with a copy of the application for review and comment. Of the responses to date, all departments have expressed their support for the Historical Designation request or have no comment.

On July 17, the Historic Preservation Commission (HPC) approved the application and forwarded it on to the Plan Commission and Village Board. According to the procedural requirements of Section 26.06(1), Plan Commission action and recommendation to the Village Board is required within (30) days after HPC action.

Now that the HPC has acted on the application, the Plan Commission is required to review and make a recommendation to the Village Board just like a typical rezoning application. A recommendation from the Plan Commission for approval of the historic designation requires a 2/3-majority vote (5 of 7 members) of the Plan Commission.

VILLAGE STAFF RECOMMENDATION

APPROVE the requested Historic Designation for the Sunnyview Dairy Farm property located at W N144 W14315 Pioneer Road.



Village of
★★★
Germantown
Willkommen

**HISTORIC PRESERVATION
COMMISSION**
N112 W17001 Mequon Road
P.O. Box 337
Germantown, WI 53022-0337

APPLICATION FOR HISTORIC DESIGNATION

Pursuant to Section 17.00 of the Municipal Code

Please read and complete this application carefully. All applications must be signed and dated.

1. APPLICANT OR AGENT	2. PROPERTY OWNER
M. Hensley Foster	M. Hensley Foster
	Purchased in August, 1986
Phone 262 377-3033	Phone 262 377-3033

3. PROPERTY ADDRESS	4. TAX KEY NUMBER
N144 W14315 Pioneer Rd. Jackson, WI 53037	GTVV-021994,021995,021996,021997

5. PROPERTY HISTORY	
<u>Historic Name of Property</u>	<u>Date Built</u>
Sunnyview Dairy Farm	1844
<u>Architect / Builder</u>	
Unknown (assuming it was original homesteader)Mader family	
<u>Source of this Information</u>	

☐ CHECK HERE IF THIS PROPERTY IS THREATENED WITH DEMOLITION OR DESTRUCTION.

6. PURPOSE OF APPLICATION
<u>Briefly describe the reason for your request</u>
Advantage of having land/homestead registere/recognized as a historic designation.

7. HISTORIC SIGNIFICANCE OF PROPERTY

Choose one or more of the following.

- ☒ This property illustrates an important aspect of Germantown's history through its ethnic, agricultural, industrial, etc., history.
- ☐ This property is directly associated with a person who made important contributions to Germantown's history.
- ☒ This property is architecturally or artistically significant.

Explain briefly and include sources if appropriate. Attach additional pages as necessary.

This 100 acre (homestead) including the original 2 story stonehouse and out buildings was established/built in 1844 and was originally a dairy farm. The existing barn was built circa 1880's. Interesting note: the ceilings in the stone house are 9' high which was very unusual at that time. The original homesteader was said to be very tall and he built the house to accommodate his height (so he had "clearance")!

8. DOCUMENTATION

Please check one or more of the following:

- ☒ Recent photograph (required)
- ☐ Building plans (if available)
- ☒ Historic photograph (if available)
- ☐ Any additional supporting information.
- ☒ Simple map of the property (required)

Briefly describe. Attach additional pages as necessary.

2 story stonehouse (1844). Stones used to build house from the property. Summer kitchen/smokehouse (1844) still stands as well as old corn crib (now a chicken coop). An old animal shelter (circa 1880's) is used as a garage today. Mr. Mader and wife had 13 children. Photo shows he and family on his 80th birthday (circa 1880's). Property has 4 ponds, pine woods, hardwood forest and many nature trails. Beautiful flora and fauna!!

9. ALTERATIONS / ADDITIONS TO PROPERTY

Briefly describe with dates. Attach additional pages and photographs as necessary.

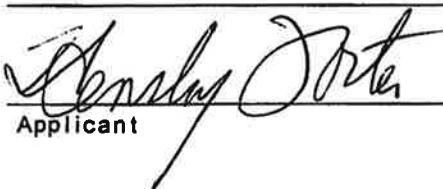
1997-1000 sq.ft. living space added (great room, bedroom, bathroom, mudroom)

2005-45'x36' tractor barn erected on property.

2021-original entrance front porch replacement-replicated to look like original porch(1884)

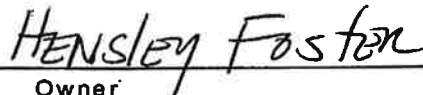
2021-2022-upstairs renovation of 4 bedrooms, bathroom, and hallway. Downstairs entrance renovated. All original hardwood floors (1844) completely restored.

10. SIGNATURES


Applicant

2-8-2023

Date


Owner

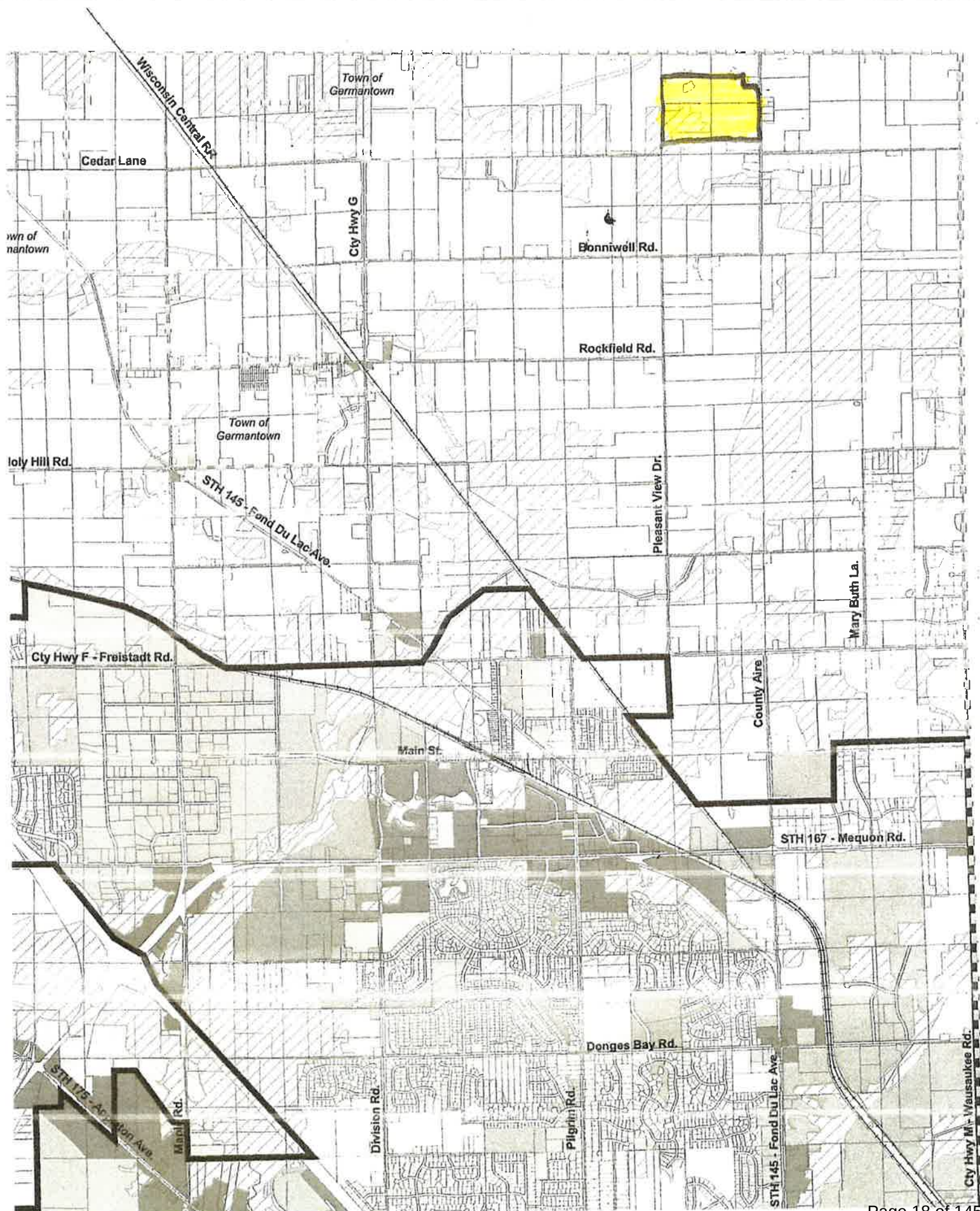
2-8-2023

Date









ORDINANCE NO. xx - 2023

**AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE VILLAGE OF
GERMANTOWN ZONING CODE AND
ADOPT THE “HISTORIC SITE & STRUCTURE” DESIGNATIONS FOR THE
PROPERTY LOCATED AT N144 W14315 PIONEER ROAD
(M. Hensley Foster, Property Owner of “Sunnyview Dairy Farm”)**

THE VILLAGE BOARD OF THE VILLAGE OF GERMANTOWN, WASHINGTON
COUNTY, WISCONSIN, ORDAINS AS FOLLOWS:

SECTION 1. That the zoning map of the Village of Germantown be amended to include the Historic Designation Zoning District Overlay (“HD”) to the existing zoning designation of “A-1: Agricultural” for the following described property:

Property: N144 W14315 Pioneer Road
Tax Key No: GTNV#021-994, 021-995, 021-996 & 021-997

A 100.2 acre property located at N144 W14315 Pioneer Road, Section 02, Town 9 North, Range 20 East. Village of Germantown, Washington County, Wisconsin.

SECTION 2. That Pursuant to the provisions of Section 26 of the Germantown Municipal Code (Historic Preservation Code), the designations of “Historic Site & Structure” are hereby assigned to the existing property & structures located at N144 W14315 Pioneer Road having Tax Key GTNV#021-994, 021-995, 021-996 & 021-997-088.

SECTION 3. This ordinance shall take effect and be in full force the day after its passage and publication, as provided by law.

Introduced by Trustee: _____
Adopted: _____, 2023

Vote: Ayes: _____ Nays: _____

Dean Wolter, Village President

ATTEST:

Erin Hirn, Interim Village Clerk

APPROVED AS TO FORM:

Brian Sajdak, Attorney

Published:

MEETING:	AMENDED REGULAR MEETING OF THE VILLAGE BOARD
DATE AND TIME:	Monday, August 7, 2023 7:00 PM
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

MINUTES

- 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.*
President Wolter called the meeting to order at 07:15 PM.
- II. **ROLL CALL:**
Present: Trustee David Baum, Trustee Terri Kaminski, Trustee Phil Hudson, Trustee Dennis Myers, Trustee Bill Neureuther, Trustee Jan Miller, Trustee Jolene Pieper, President Dean Wolter
 Others: Steve Kreklow, Erin Hirn, Brian Sajdak, Jeff Retzlaff, Matthew Uselding, Bruce Stelzner, Ryker Holmes, Tim Zimmerman, and Chief Mike Snow
Absent:
Excused: Trustee Rick Miller
- III. **PLEDGE OF ALLEGIANCE:**
- IV. **PRESIDENT'S REPORT:**
 President Wolter announced he met with the county executive on multiple occasions in regards to finding ways to share revenue from sales tax in response to the referendum. There is interest from the county in sharing services, including dispatch, which two other communities have done, GIS services, and IT services. Staff will do further research before bringing it before either a committee or the board.
- V. **ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST**
COMMITTEE AND DEPARTMENT REPORTS:
 Trustee Kaminski announced the next Public Works & Highway meeting is on Wednesday, September 6th at 5:30 pm.

 Trustee Hudson announced the next Public Safety meeting is on Wednesday, September 6th at 6:30 pm.

 President Wolter announced the next Government and Finance meeting is on Monday, August 21st, at 6:00 pm.

Trustee Pieper commended the police and fire department for the National night out event.

VI. CITIZEN INPUT:

Melanie Smyth, Cedar Lane, spoke to the board.

Scott Hefle, Old Farm Road, spoke to the board.

VII. CONSENT AGENDA:

Trustee Pieper requested to pull item D

Trustee Jan Miller requested to pull item E

Motion: Approve Item A, B, & C as presented

Motioned By: Dennis Myers

Seconded By: David Baum

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jan Miller, Jolene Pieper, Dennis Myers, Bill Neureuther, Phil Hudson

No: None

Abstain: None

Motion Passed (Yes 8, No 0, Abstained 0)

Motion: Approve item E as presented

Motioned By: Jolene Pieper

Seconded By: Jan Miller

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jan Miller, Jolene Pieper, Dennis Myers, Bill Neureuther, Phil Hudson

No: None

Abstain: None

Motion Passed

Motion: Approve item D as presented

Motioned By: Jan Miller

Seconded By: Dennis Myers

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jan Miller, Jolene Pieper, Dennis Myers, Bill Neureuther, Phil Hudson

No: None

Abstain: None

Motion Passed (Yes 8, No 0, Abstained 0)

A. Meeting Minutes from 07/17/2023

B. Engineering Contract Service Agreement with Foth services for Rehabilitation and Painting of Water Tower #3 in the amount not to exceed \$39,953.00

- C. Award of bid to Munson, Inc. for the Well Head Protection, Security fence around Wells project not to exceed the amount of \$48,464.00 Well Head Protection, Security fence around Wells 5 & 7
- D. Contract with Crexendo for Voice Over IP phone service for Village buildings
- E. Award of bid to Visu-Sewer in an amount not to exceed \$319,191.40 for the 2023 Sanitary Sewer Lining (CIPP) Project

VIII. UNFINISHED BUSINESS:

- A. Eric and Ashley Evans, W130 N11622 Harvest Ridge, Lot 1 in Harvest Hills Subdivision. Subdivision Plat Amendment to revise the Elm Lane access restriction to allow a driveway on Elm Lane.

NOTE: AT THE REQUEST OF THE PROPERTY OWNER, THIS ITEM WILL BE POSTPONED TO THE AUGUST 21, 2023 VILLAGE BOARD MEETING

The property owner has requested this be postponed until the next Village Board Meeting.

Motion: Postpone until the August 21st Village Board Meeting as presented

Motioned By: Dennis Myers

Seconded By: Jolene Pieper

Yes: David Baum, Dean Wolter, Terri Kaminski, Jan Miller, Jolene Pieper, Dennis Myers, Bill Neureuther, Phil Hudson

No: None

Abstain: None

Motion Passed (Yes 8, No 0, Abstained 0)

- B. Financing and Budgeting Related to the Kinderberg Park Playground Project
Gil Standridge requested to roll over the already approved \$300,000 from the Building Improvement Fund 40-552-570-8210 from 2023 to 2024. He also requested an additional 110,000 that will be requested for 2024 for the community splashpad and all-inclusive playground in Kinderburg Park.

Trustee Myers made a motion for the request and Trustee Keminski seconded. After further discussion, Trustee Myers retracted the original motion.

Motion: Approve Rolling over \$300,000 from the 2023 capital budget as presented

Motioned By: Dennis Myers

Seconded By: Terri Kaminski

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jan Miller, Jolene Pieper, Dennis

Myers, Bill Neureuther, Phil Hudson

No: None

Abstain: None

Motion Passed (Yes 8, No 0, Abstained 0)

IX. NEW BUSINESS:

- A. An Ordinance Amending Section 17 (Zoning Code) and Section 18 (Subdivision and Platting Code) of the Village of Germantown Municipal Code RelateD to the Use of "Green Infrastructure" Best Management Practices to Reduce Storm Water Pollution and Improve Water Quality.

Mr. Retzler gave a presentation on the item.

Motion: Approve as presented

Motioned By: Dennis Myers

Seconded By: David Baum

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jolene Pieper, Dennis Myers, Bill Neureuther, Phil Hudson

No: Jan Miller

Abstain: None

Motion Passed (Yes 7, No 1, Abstained 0)

- B. Briohn Building Corporation, Agent for Golden Pet Manufacturing and Goldendale Road IV LLC, Property Owner - W206 N12880 Gateway Court. Certified Survey Map (CSM) to combine/redivide parcels necessary to accommodate a 129,000 sqft facility expansion.

Mr. Retzlaff discussed the item.

Approved by the plan commission.

Motion: Approve as presented

Motioned By: Dennis Myers

Seconded By: David Baum

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jan Miller, Jolene Pieper, Dennis Myers, Bill Neureuther, Phil Hudson

No: None

Abstain: None

Motion Passed (Yes 8, No 0, Abstained 0)

- C. A Resolution for the Declaration of Public Necessity and Relocation Order to Construct a Highway Through the Area Generally Bounded By Freistadt Road, Goldendale Road, Interstate 41 and the Wisconsin And Southern Railroad

Motion: Approve as presented

Motioned By: Dennis Myers

Seconded By: Terri Kaminski

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jolene Pieper, Dennis Myers, Bill Neureuther

No: Jan Miller, Phil Hudson

Abstain: None

Motion Passed (Yes 6, No 2, Abstained 0)

D. 5-Year Capital Improvements Plan

Motion: Approve as presented

Motioned By: Terri Kaminski

Seconded By: David Baum

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jolene Pieper, Bill Neureuther

No: Jan Miller, Dennis Myers, Phil Hudson

Abstain: None

Motion Passed (Yes 5, No 3, Abstained 0)

E. Public Administration Associates Recommendations for the Recruitment of the Director of Public Works and Village Engineer

Discussion ensued around pay ranges.

Motion: Call to Question

Motioned By: Jan Miller

Seconded By: Dennis Myers

Yes: Dean Wolter, Terri Kaminski, Jolene Pieper, Dennis Myers, Bill Neureuther

No: David Baum, Jan Miller, Phil Hudson

Abstain: None

Motion Passed

Motion: Send to GGF for further discussion

Motioned By: Jolene Pieper

Seconded By: Terri Kaminski

Motion (Yes 8, No 0, Abstained 0)

F. Report on Additional Police Officer Candidate in WCTC Police Academy Fall Class

Indicated to Change WCTC to MATC as the location of the Police Academy.

Motion: Approve as presented

Motioned By: Dennis Myers

Seconded By: Jolene Pieper

On roll call vote:

Yes: David Baum, Dean Wolter, Terri Kaminski, Jan Miller, Jolene Pieper, Dennis Myers, Bill Neureuther, Phil Hudson

No: None

Abstain: None

Motion Passed (Yes 8, No 0, Abstained 0)

X. ADJOURNMENT:

President Wolter adjourned the meeting at 9:26 p.m.

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Action Item

ITEM TITLE: F-Street Development Agreement

SUBMITTED BY: Steve Kreklow, Administrator

SUMMARY EXPLANATION:

Attached is a Development Agreement for the F-Street Development which is part of TID 9. The form is largely the standard form agreement the Village uses for these types of developments with changes requested by F-Street's legal team and as may be necessary to reflect differences in this project compared to others. These changes have been reviewed by the Village Attorney.

The various exhibits are being finalized and will be part of the packet when the agreement prior to execution.

ATTACHMENT:

1. Development Agreement (F Street Germantown, LLC)

RECOMMENDATION:

To approve the Development Agreement as presented.

ACTION BY Committee:

TOWN 9 INDUSTRIAL BUILDING A 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 F Street Germantown, LLC, A Wisconsin Limited Liability Company, hereinafter referred to as "Developer".

WHEREAS, the Developer owns Lot # 1 (39.906 acres) of Certified Survey Map No. 7272, described as follows: lands located in Northwest $\frac{1}{4}$, the southwest $\frac{1}{4}$, and the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 36, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin and as identified in the attached Exhibit "C" in the Village of Germantown, Washington County, Wisconsin (the "Property"); and

WHEREAS, Developer has submitted a site plan for one (1) building on the parcel; having 374,804 sq. ft., the building will be an office and warehouse and manufacturing facility ("Development"); and

WHEREAS, the Village may require that Developer make and install any public improvements reasonably necessary 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 a water distribution facility in a dedicated easement on the Property, and the Village will require that such plans and designs be approved and permitted; and

WHEREAS, it will be necessary that Developer construct sanitary sewer facilities in a dedicated easement on the Property, and the Village will require that such plans and designs be approved and permitted; 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.

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 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 applicable provisions of that section and as directed by the Village

Engineer or Village Board and consistent with the plans and specifications described in the attached Exhibit D which have been approved by the Village ("Approved Plans"). 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 WATER SUPPLY FACILITIES. Developer has designed and submitted and the Village Engineer has approved plans for all water supply facilities, including an extension of 12" water main for a distance of approximately 2,077 lineal feet together with 3 each 12" valves and 4 fire hydrants assemblies (includes; hyd, 6" vlv & lead). Authorization for construction has been given, in accordance with Sec. 18.08(8) of the Municipal Code. All such documents have been 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. All water utility improvements that are to be transferred to the Village Water Utility Department shall be contained in a Village utility easement dedicated to the Village. The easement shall be dedicated to and accepted by the Village through an easement document prepared and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney.

1.03 SANITARY SEWERAGE SYSTEMS. Developer shall extend sanitary sewer within a utility easement for approximately 1,014 lineal feet of 8" pipe and 5 each manholes, beginning at the existing sanitary sewer located at approximately the southwest corner of the proposed building and proceed in a southeasterly direction to the end point and manhole of the sanitary sewer extension. The sampling manhole is to be private and the lateral to the building is private. Developer has designed and submitted and the Village Engineer has approved all proposed plans, specifications and contract documents for all sanitary sewerage systems facilities and authorization for construction has been given, in accordance with Sec.18.08(7) of the Municipal Code. All such documents have been 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. All sanitary sewerage system improvements that are to be transferred to the Village Waste Water Utility shall be contained in a utility easement dedicated to the Village. The easement shall be dedicated to and accepted by the Village through an easement document prepared and submitted by Developer, subject to review and approval by the Village Engineer and the Village Attorney. Sanitary Sewer main and lateral trenches in an existing roadway shall be aggregate slurry backfilled.

1.04 OTHER UTILITIES. All such services constructed after the date hereof shall be located underground in accordance with applicable codes.

1.05 EROSION CONTROL. In order to minimize and control erosion, siltation, sedimentation and washing of soils during the period of construction, Developer shall evaluate, initiate and undertake such measures as may be necessary from time to time and as the Village Engineer may require or direct pursuant to Chap. 29 of the Municipal Code, and, in addition, has undertaken the following measures to insure sediment control:

- (1) Submitted an Erosion Control Plan which the Village Engineer has approved.
- (2) Obtained an erosion control permit from the Building Inspection Department. Developer is required to maintain all erosion control until the final top-soiling, grading, seeding, mulching, sodding, has been completed for the Development and until the vegetation has sufficient growth to control the run-off as shall be determined by the Village Engineer. Silt fencing shall be removed by Developer promptly, following establishment of vegetation on all disturbed areas sufficient to control run-off from the site, as shall be determined by the Village Engineer.
- (3) Developer shall promptly undertake top soiling, fine grading, seeding and fertilizing of all drainage easements and areas within the public right-of-way and all approved drainage swales in accordance with the approved Master Grading and Erosion Control Plans after installation of all electric, gas, telephone, cable TV and drainage utilities and appurtenances. All surface restoration shall be completed prior to acceptance of dedication of improvements by the Public Works Committee.
- (4) Off-site sediment tracking is closely monitored by Village and County Inspectors. To assist in reduction of sediment infiltration of ponds and streams, sediment tracking must adhere to the sediment and erosion control plan. Violations of the approved Erosion Control Plan shall result in the Village cleaning the streets traveled by construction equipment with a street sweeper as deemed necessary by the Village Building Inspector or Engineer to restore compliance with the Erosion Control Plan. Such cleaning shall not exceed a frequency of twice weekly. Developer shall be charged and invoiced at standard rates set by the Village for any such services rendered, and Developer shall remit payment within 30 days of receipt of such invoice(s). If not so promptly paid, the Village may submit a draw request pursuant to Section 6.01 of this Agreement, 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 the Erosion Control Plan or be considered a substitute or replacement for such measures.
- (5) Topsoil to be stockpiled on site. No topsoil to be transported off site, except as provided by Section 17.441 of the Municipal Code.

1.06 STORM WATER DRAINAGE FACILITIES. Drainage from the Property comprising the "Development" discharge into two (2) proposed storm drainage Ponds located at the south end of the Property. The proposed Ponds will remain under the ownership of the owner of the Development or an affiliate of the owner of the Development. Developer has submitted and the Village Engineer has reviewed and approved storm water volumes to verify the proposed Ponds will be adequate to accommodate expected surface water flow within and through the Development. 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” and the Stormwater Management Plan for the Development described on the attached Exhibit D and approved by the Village Engineer (the “SWMP”). 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.

- (1) Developer shall install all storm water management facilities as shown on the SWMP.
- (2) The proposed Ponds shall be certified to verify that the Ponds were constructed to meet the requirements of the SWMP.
- (3) 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.
- (4) The Developer or its affiliates, successors, or assigns shall be responsible for the perpetual maintenance of all storm water drainage and detention and retention facilities consistent with the SWMP and applicable Village ordinance.

1.07 LANDSCAPING. Developer shall complete and continually maintain all landscaping as accepted by the Village in the site plan approval granted February 27, 2023.

1.08 STREET SIGNS AND MARKINGS. Developer shall install all required street signs and markings at Developers expense. (None are required.)

1.09 SIDEWALKS AND PATHWAYS. No sidewalks or pathways located in Public ROW on this Development.

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 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 the water supply and sanitary sewerage system construction. Developer agrees that no work shall be scheduled for the water supply and sanitary sewerage system improvements without the Village Engineer's written approval of the starting date and schedule.

The pre-construction meeting is required prior to starting installation of sanitary sewer and water main.

2.02 BUILDING AND OCCUPANCY PERMITS. No temporary occupancy permits shall be issued until the sanitary sewer, sampling manhole, water main, storm sewer improvements and landscaping are installed consistent with Approved Plans, inspected by the Village Utilities/Building Inspection and approved by the Village Engineer or Director of Public Works, all record drawings are filed with the Village and approved by the Village Engineer in accordance with 2.05 below. All public improvements required by the Agreement shall be installed and accepted by the Public Works Committee prior to issuance of any final occupancy permits.

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

- (1) Master site grading
- (2) Site Plan
- (3) Water main record-drawings
- (4) Erosion and sedimentation controls
- (5) Water main extensions
- (6) Sanitary Sampling Manhole
- (7) Sanitary Sampling Manhole Record Drawings
- (8) Sanitary Sewer Extensions
- (9) Sanitary Sewer Record Drawings
- (10) Landscaping

In addition, Developer has submitted and the Village Engineer has approved all specifications and authorized construction.

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, drainageways, 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. 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, not later than ninety (90) days following Final Acceptance of the public improvements, prepare and submit to the Village Engineering Department, record-drawing documents in Plan & Profile format in both hardcopy and digital format (i.e., AutoCAD .dwg file format) as defined in the Record Drawings Section (6.3) of the Village's Development Handbook. The Record Drawings shall be of all public improvements to be constructed pursuant to this Agreement.

All record-drawing measurements shall be prepared using the following approved and accepted survey datum for horizontal and vertical control as referenced to the Village coordinate system being the Wisconsin State Plane Coordinate System, South Zone, based on North American Datum of 1983, 2011 Adjustment, and the North American Vertical Datum of 1988.

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 the Developer's engineer and/or architect, in accordance with requirements of applicable Village Code.

In the event it shall become necessary to mark Village owned utilities through Digger's Hotline prior to the Record Drawings for the same being provided to the Village and mapped onto the Village GIS (which the Village agrees to do so promptly after receipt of the Record Drawings), Developer shall be responsible for the marking.

ARTICLE III - DEDICATION AND ACCEPTANCE

Developer agrees that the public improvements will not be accepted by the Village until (i) all outstanding charges to be paid by Developer relating to the Development under the Ordinances have been paid in full, (ii) copies of 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 reasonably satisfactory to it from Knight Barry Title, Inc. ("Knight Barry") that no liens or other encumbrances (except those approved in writing by the Village) encumber the public improvements. Any water main installation shall not be accepted until a bacteriologically safe sample and satisfactory pressure test results are obtained. Developer or its Contractor will flush the main and obtain the samples required for this testing under the supervision of the Village Inspector. Any sanitary sewer installation shall not be accepted until satisfactory pressure and vacuum test results are obtained. Upon completion of the sanitary sewer, water main and service laterals and acceptance of the systems by the Village Public Works 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 public improvements by the Village Inspector and a punch-list of corrections (if required) shall be forwarded to Developer within two days of such inspection 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 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"). Completion of the public improvements 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. Unless required to be pre-paid as a condition of the approval of this Agreement, such amount shall be paid by Developer within thirty (30) days after being billed by the Village. Nothing in this provision, or 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 are calculated for the Development as follows:

- | | |
|-----------------------------------|---------------------------------|
| (1) Water: | \$ 832.00/REC |
| (2) Fire Protection: | \$ 0.63549/\$1000 Building Cost |
| (3) Police Protection Facilities: | \$ 0.2809/\$1000 Building Cost |
| (4) Sanitary Sewer Connection: | \$ 4,764/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. The REC Fees change annually with the current year REC Fee to be used at time of Building Permit issuance. 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 the Development 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:

- 2.25% of the first \$250,000 of construction costs
- 1.75% of the next \$250,000 of construction costs, and
- 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.

4.04 PROFESSIONAL FEES AND INSPECTION FEES. In accordance with Sections 18.10(7) and (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. The Village shall be reimbursed for engineering services, whether provided by a staff engineer or technician or designated employee or by a consultant and shall also be reimbursed for services

rendered by the Village Attorney. Additionally, Developer shall reimburse the Village costs for inspection and related services provided by the Village or by a consultant, on the basis of all such services rendered as deemed necessary by the Village Engineer. Developer will be billed for Village personnel at the standard rates presented in Exhibit B. Estimated billings are also set forth on Exhibit B.

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 Development.

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

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 government agencies relative to the wetlands and floodplain areas which may be on the Property. Except as otherwise expressly approved by the Village, 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 or permitted on approved plans, will not be allowed to grade, fill, or conduct 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 for this Development 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.

5.05 ROADWAY MAINTENANCE. The Development is comprised of internal private roadways.

ARTICLE VI - FINANCIAL GUARANTY

6.01 AMOUNT. Developer has obtained a construction loan from Citizens Bank (the “Bank”) in the principal amount of \$21,862,000.00 to assure the faithful performance and funding of Developer's obligations under this Agreement as itemized in Exhibit A attached hereto and incorporated herein by reference, as well as the construction of the Development. The Bank is requiring construction disbursing through Knight Barry. Upon request, Developer shall provide the Village copies of the draw request and lien waivers relating to disbursements for public improvements for the Development. 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 (as such deadline may be extended and subject to Section 8.03) and the expiration of any applicable notice and cure periods, the Village is hereby authorized to submit a draw request to Knight Barry to fund any third party costs actually incurred by the Village after such one year period (as may be extended and subject to Section 8.03) and expiration of any applicable notice and cure periods, to construct the public improvements shown on the Approved Plans.

6.02 Intentionally deleted.

6.03 Intentionally deleted.

6.04 RESERVATION OF ASSESSMENT RIGHTS. In addition to the remedies for default provided to the Village under this Article VI, the Village reserves the right without notice or hearing to impose special assessments or charges for any third party costs actually incurred by the Village to construct the public improvements shown on the Approved Plans. 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. In the event of a material breach of this Agreement by the Developer, the Village shall, within a reasonable amount of time, give notice of such breach to the Developer. If Developer fails to remedy the breach within thirty (30) days of the notice (or such other amount of time to which the parties might agree or is reasonably necessary to remedy a breach or, if the breach cannot reasonably be corrected using commercially reasonable and diligent efforts within such 30-day period but could, with additional time, be corrected using commercially reasonable and diligent efforts, such 30-day remedy period shall be extended for the period reasonably necessary to correct if (and for such period as), (i) Developer uses commercially reasonable and diligent efforts during such 30-day period; (ii) Developer continues to use all commercially reasonable and diligent efforts to correct after such 30-day period; and (iii) such efforts are adequate to ensure a correction) (the “Cure Period”), the Village shall have the option of ordering the Developer to not proceed any further with the construction and

installation of the public improvements described in this Agreement until such time as the breach is remedied. 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 on cause its contractor to guaranty all dedicated public 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 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, 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, but not punitive damages, fines, penalties, or consequential damages) resulting from or relating in any way to (a) Developer's introduction of toxic or hazardous material or substances in or on the real property dedicated or

conveyed by Developer to the Village; or (b) toxic or hazardous material or substances not introduced by Developer, but which cause damage to the Village because of work performed pursuant to, or in connection with 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:

- (1) the Village shall provide Developer written notice of the losses, damages, costs, expenses, liabilities, obligations, claims or suits (including, without limitation, reasonable attorney’s fees but not punitive damages, fines, penalties, or 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;
- (2) subject to paragraphs (3) through (5) 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;
- (3) the Village may at its own expense hire counsel or consultants to monitor the Claim;
- (4) Developer shall not, without the prior written consent of the Village, which consent shall not be unreasonably delayed, withheld or conditioned, settle any Claim;
- (5) Developer shall lose its right to defend, negotiate and settle any Claim if, as determined by an arbitrator jointly selected by the parties, 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 thirty (30) days of receipt of written notice from the Village together with an invoice for work performed;

- (6) 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 public improvement work required by this Agreement shall be completed by Developer not later than one (1) year following the date of issuance of permits for such work by the Village.

8.02 DEFAULT. In the event Developer does not complete installation of the public improvements required by this Agreement by the time period required in Section 8.01 (as such deadline may be extended and subject to Section 8.03) and the expiration of 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 funded 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, inclement weather, bureaucratic delays 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 SUNSET 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 APPROVAL TERMS. No tax-exempt use is authorized by the approvals granted by the Village.

9.02 ENTIRE AGREEMENT. This written Agreement and written amendments and any referenced attachments thereto, together with the Purchase and Sale Agreement and TID Development Agreement dated August 19, 2022 by and between the parties, as amended by that certain First Amendment to Purchase and Sale Agreement and TID Development Agreement dated February 7, 2023, shall constitute the entire agreements between the Developer and the Village with respect to the construction and installation of utilities on the Property.

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

9.05 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 mortgages having interest in said real estate are as follows: F Street Germantown, LLC and the Bank. Developer also discloses to the Village that PACE Equity Warehouse C, LLC (as successor in interest to PACE Equity LLC) and the Wisconsin PACE Commission have an interest in said real estate pursuant to that certain PACE Special Charge and Financing Agreement, dated as of March 22, 2023 and recorded with the Washington County Register of Deeds as Document No. 1576529, as may be amended and assigned.

9.06 AUTHORITY. Developer, by the undersigned, represents, certifies and warrants that the undersigned has the authority to bind F Street Germantown, LLC as an agent of the same.

9.07 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.

9.08 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.

9.09 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.

9.10 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

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.

IN WITNESS WHEREOF, Developer and the Village have caused this Agreement to be signed in duplicate originals this _____ day of _____, 2023 which shall be the effective date of this Agreement.

DEVELOPER:

F Street Germantown, LLC
A Wisconsin Limited Liability Company

By: _____
Scott J. Lurie, Manager

STATE OF WISCONSIN)
) SS
 COUNTY)

Personally came before me this ____ day of _____, 2023, the above-named, Scott J. Lurie, Manager of F Street Germantown, LLC, to me known to be the person who executed the foregoing instrument and to me known to be such Manager of said Limited Liability Company and acknowledged that he executed the foregoing instrument in such capacity.

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

EXHIBIT “A” (financial & fee’s)

EXHIBIT “B” (labor & equipment rates)

EXHIBIT “C” (CSM)

EXHIBIT “D”
Approved Plans and Specifications

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Action Item

ITEM TITLE: The following has applied to the Village Board of the Village of Germantown, Washington County, Wisconsin, for an **ORIGINAL** Second Hand Jewelry Dealer License for the period August 8, 2023 (Board Approval Date) until December 31, 2023. Applicant **National Rarities LLC** (Dennis M McCaffrey); 2190 S Mason Rd Suite 209, St Louis MO.

SUBMITTED BY:

SUMMARY EXPLANATION:

ATTACHMENT:

1. National Rarities 2023 Second Hand Application

RECOMMENDATION:

ACTION BY Committee:

LICENSE APPLICATION

PAWNBROKER
SECONDHAND JEWELRY DEALER
SECONDHAND ARTICLE DEALER
SECONDHAND ARTICLE DEALER MALL or FLEA MARKET

LICENSE VALID FROM DATE OF ISSUANCE TO DECEMBER 31ST OF THE CURRENT YEAR

CHECK ALL THAT APPLY:

☒ Original application	☐ Renewal
TYPE: ☐ Pawnbroker	☒ Secondhand Jewelry Dealer
☐ Secondhand Article Dealer	☐ Mall or Flea Market

INSTRUCTIONS:

NATURAL PERSON (INDIVIDUAL) LICENSE – Complete Sections 1, 2, 3 and 6
PARTNERSHIP LICENSE – Complete Sections 1, 2, 3, 4 and 6
CORPORATE LICENSE – Complete Sections 1, 2, 3, 5, and 6

(SECTION 1) APPLICANT INFORMATION

Applicant Name (Last, First, MI)	Sex	Race	Date of Birth	Place of Birth (City, State, Country)
National Rarities LLC / McCaffrey, Dennis, M.	M	W	05/23/1981	St. Louis, MO, USA
Street Address	City	State	ZIP	Home Telephone Number
2190 S. Mason Road Suite 209	St. Louis	MO	63131	314-605-5943
E-Mail Address: lauren@nationalrarities.com				
List all states applicant previously resided: Missouri				
Is applicant a: ☐ Natural Person (Individual) ☐ Corporation ☒ Limited Liability Company ☐ Partnership				

(SECTION 2) CONVICTION RECORD

Has the applicant, been convicted or adjudicated of any of the following **within the last 10 years** where the circumstances of the offense substantially relate to the circumstances of the licensed activity :

a felony?	☐ YES	☒ NO
a misdemeanor?	☐ YES	☒ NO
statutory violation punishable by forfeiture?	☐ YES	☒ NO
county or municipal ordinance violation?	☐ YES	☒ NO

Provide the date of arrest, the nature of the offense and conviction or penalty information:

No
DOB for
Matt K.

(SECTION 3) BUSINESS INFORMATION

Business Name	Street Address	City	State	ZIP	Telephone Number
National Rarities LLC	2190 S. Mason Road Suite 209	St. Louis	MO	63131	888-787-1112
Owner's Name	Street Address	City	State	ZIP	Telephone Number
Dennis M. McCaffrey	2190 S. Mason Road Suite 209	St. Louis	MO	63131	888-787-1112
Owner's E-Mail Address: dennis@nationalrarities.com					
Business Manager's Name	Street Address	City	State	ZIP	Telephone Number
Matt Kruszynski	2190 S. Mason Road Suite 209	St. Louis	MO	63131	888-787-1112
Business Manager's E-Mail Address: matt@nationalrarities.com					
Building Owner's Name	Street Address	City	State	ZIP	Telephone Number
Kesslers Diamond, Inc.	N96 W 16920 County Line Rd	Germantown	WI	53022	262-251-4570
Building Owner's E-Mail Address:					

(SECTION 4) LIMITED LIABILITY COMPANY INFORMATIONLimited Liability Company Name: **National Rarities LLC**List name, address, and date of birth (DOB) of all members. *Attach additional sheets if necessary.*

Name (Last, First, MI)	DOB	Street Address	City	State	ZIP
McCaffrey, Dennis, M.	05/23/1981	3310 Quinette Road	St. Louis	MO	63122
Clough, Louis, D.	04/28/1985	2311 S. Madison Street	Denver	CO	80210

(SECTION 5) PARTNERSHIP INFORMATION

Partnership Name:

List name, address, and date of birth (DOB) of all partners. *Attach additional sheets if necessary.*

Name (Last, First, MI)	DOB	Street Address	City	State	ZIP

(SECTION 6) CORPORATE INFORMATION

Corporation Name:

State of
Incorporation:List name, address, and date of birth (DOB) of all corporation officers and directors. *Attach additional sheets if necessary.*

Name (Last, First, MI)	DOB	Street Address	City	State	Zip

(SECTION 7) PENALTY NOTICE

I understand that this license may be denied or revoked for fraud, misrepresentation or false statement contained in the application or for any violation of Wis. Stat. §§ 134.71, 943.34, 948.62 or 948.63.

Under penalty of law, I swear that the information provided in this application is true and correct to the best of my knowledge. I agree to inform the clerk within ten (10) days of any change in the information supplied in this application.

Signature of Applicant: _____

Print Name of Applicant: DENNIS MCCAFFREY**FOR ADMINISTRATIVE USE ONLY**

Licensing Authority	Date Approved by Village Board	License Number Assigned	Date Effective	Clerk / Deputy Clerk
VILLAGE OF GERMANTOWN				
FEES RECEIVED:				
Pawnbroker Bond	\$ 500.00		Secondhand Article License	\$ 27.50
Pawnbroker License	\$ 210.00		Secondhand Dealer Mall/Flea Market License	\$ 165.00
Secondhand Jewelry License	\$ 30.00		TOTAL FEE:	\$ _____

FOR LAW ENFORCEMENT USE ONLY☒ Recommend Approval to Village Board☐ Recommend Denial to Village Board (Attach explanation.)

Officer or the Investigating Officers Signature: _____

Date: 06/23/2023

Print Name of Officer or the Investigating Officers: _____

Michael Snow

National Rarities holds temporary 3-day events at local jewelry stores where it purchases secondhand jewelry. It does not sell any secondhand jewelry.

National Rarities is planning to hold a 3-day event starting on August 15, 2023 at Kesslers Diamonds located at N96 W 16920 County Line Road.

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Resolution

ITEM TITLE: Eric and Ashley Evans, W130 N11622 Harvest Ridge, Lot 1 in Harvest Hills Subdivision. Subdivision Plat Amendment to revise the Elm Lane access restriction to allow a driveway on Elm Lane.

SUBMITTED BY: Jeff Retzlaff, Community Dev. Director

SUMMARY EXPLANATION:

NOTE: This item is being brought back to the Village Board for further consideration and action as a result of a favorable vote (on July 17) to reconsider the Board's previous action (on June 19) to DENY this request (motion to approve the request failed on a vote of 4-4).

The property owners are requesting an amendment to the Harvest Hills subdivision plat to revise the access restriction prohibiting access to Elm Lane and to allow a new residential driveway for Lot 1 to Elm Lane located in the Harvest Hills Subdivision. The owners cite a number of reasons they feel justify their request, including:

1. A driveway on Harvest Ridge would be closer to the intersection;
2. Visibility on Elm Lane is different for westbound traffic on Elm Lane;
3. Common practice to install a driveway on the “high side” of a lot for grading purposes;
4. A driveway on Elm Lane would be “flatter” with a 2.9% slope vs. on Harvest Ridge with a 9.7% slope;
5. Harvest Hills Subdivision HOA deed restrictions require garages to be located on the side of the lot with the highest elevation and in compliance with the master grading plan.

The Subdivision Code contains general standards for subdivision design that require residential lots to access internal or “local” subdivision roads when possible and avoid direct access to “collector” and “arterial” roads that serve a higher function (i.e. “through traffic” vs. local access traffic). Although Elm Lane does not currently extend west and connect Wasaukee Road to Country Aire Drive, that possibility still exists. If Elm Lane is eventually extended and the connection completed from Country Aire to Wasaukee Road, Elm Lane would likely be considered the “collector” road and Harvest Ridge a “local” access road. For these reasons, direct access to Elm Lane is prohibited from lots in the Harvest Hills subdivision. That was a decision made by the Village before the developer prepared its HOA restrictions and before and without regard to what a future lot owner might prefer.

In staff's opinion, the owners justifications are not necessarily critical or disqualifying with respect to a driveway on Harvest Ridge, particularly if one assumes that the owner

of a lot should first consider the “lay of the land” and any access or other restrictions before choosing a lot and designing their house plan (and not the other way around). The amount of visibility distance and time to see a driveway on Elm Lane for westbound traffic would certainly be greater than a driveway on Harvest Ridge. Similarly, a driveway on Harvest Ridge would have greater visibility and distance to see and react to southbound traffic on Harvest Ridge... this argument is truly one of those “six of one, half dozen of the other” arguments. Similarly, a driveway on Elm Lane appears to have a “flatter” less steep slope (2.9%), but the apparent driveway slope for a driveway on Harvest Ridge (9.7%) is within an acceptable range for a safe driveway (typically maximum not to exceed 12-15%). The justification given simply supports what the owners want vs. proving that the access restriction creates a less safe situation.

With that said, the Public Works Director, Larry Ratayczak, supports the request:

“Looking at the requirement from a traffic safety viewpoint and the location of the proposed driveway at the eastern side of the parcel, I felt the driveway on Elm Lane poses less risk to traffic than a driveway on Harvest Ridge. I feel this way because the intersection of Harvest Ridge and Elm Lane is not a “T” intersection... but a long radius curve where drivers [are not required] to make the turn. Thus, the driveway on Elm Lane has a better vision of vehicles traveling through the intersection. Also, if a driveway is installed on Harvest Ridge opposite...the driveway... for Lot #37 [on the west side of Harvest Ridge]...that would be very dangerous”.

ATTACHMENT:

1. Evans Plat Amendment PC 6-12-23
2. Draft PC Minutes 6-12-23 Evans
3. RESOLUTION 09-2013-Evans-Access Restriction Release-6-19-23-FINAL-REVISED

RECOMMENDATION:

Plan Commission recommendation: **APPROVE** the request (4-3 vote in favor) to revise the Elm Lane access restriction on the Harvest Hills subdivision plat that prohibits driveway access to Elm Lane and to allow a new residential driveway to Elm Lane from Lot 1 in the Harvest Hills Subdivision subject to the following conditions:

1. The nearest point of the driveway shall be located not closer than 120 feet from the Elm Lane @ Harvest Ridge intersection as shown on the plat of survey submitted by the property owner.

ACTION BY Committee:

Motion to **APPROVE** the request and allow a driveway to Elm Lane from Lot 1 passed on a 4-3 vote. See June 12, 2023 PC meeting minutes in meeting packet.

SUBDIVISION PLAT AMENDMENT

6/12/23 Plan Commission Meeting

Eric & Ashley Evans

Planning & Zoning Report

Germantown, Wisconsin

Summary

Eric & Ashley Evans, property owners, are requesting an amendment to the Harvest Hills subdivision plat to revise the access restriction prohibiting access to Elm Lane and to allow a new residential driveway for Lot 1 to Elm Lane located at W130 N11622 Harvest Ridge in the Harvest Hills Subdivision.

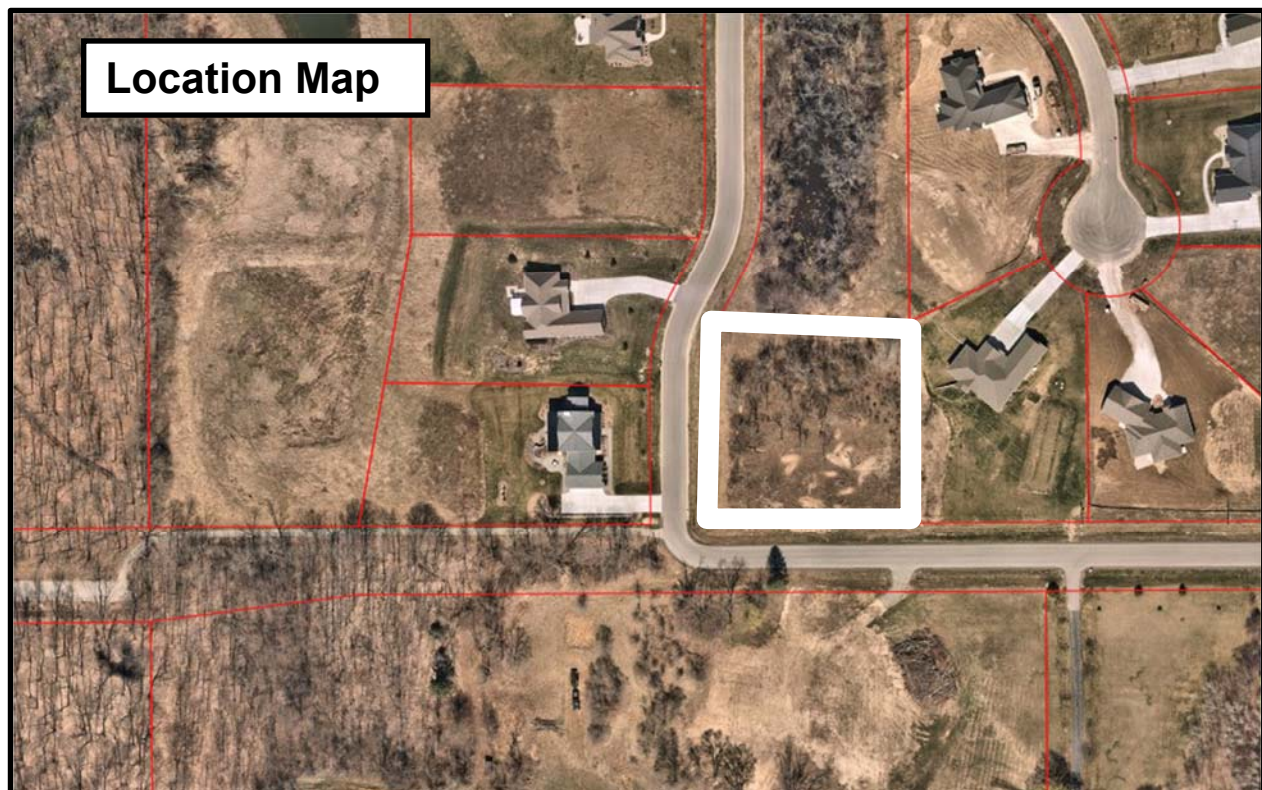
Location: W130 N11622 Harvest Ridge (address subject to change)

Agent/

Property Owners: Eric & Ashley Evans
W130 N11622 Harvest Ridge
Germantown, WI 53022

Zoning: Rs-3 Single-Family Residential

Adjacent Land Uses		Zoning
North	Single-family Residential	Rs-3
South	Single-family Residential	Rs-1
East	Single-family Residential	Rs-3
West	Single-family Residential	Rs-3



Background/Proposal

Eric & Ashley Evans, property owners, are requesting an amendment to the Harvest Hills subdivision plat to revise the access restriction prohibiting access to Elm Lane and to allow a new residential driveway for Lot 1 to Elm Lane located at W130 N11622 Harvest Ridge in the Harvest Hills Subdivision.

As indicated in their supporting information, the owners are requesting that the Village revise the subdivision plat by removing the access restriction that prohibits direct access to Elm Lane from lots in the subdivision to allow their lot (Lot 1) an access driveway to Elm Lane.

The owners cite a number of reasons justifying their request, including:

1. A driveway on Harvest Ridge would be closer to the intersection;
2. Visibility on Elm Lane is different for westbound traffic on Elm Lane;
3. Common practice to install a driveway on the “high side” of a lot for grading purposes;
4. A driveway on Elm Lane would be “flatter” with a 2.9% slope vs. on Harvest Ridge with a 9.7% slope;
5. Harvest Hills Subdivision HOA deed restrictions require garages to be located on the side of the lot with the highest elevation and in compliance with the master grading plan.

Staff Comments

The Village’s Subdivision code contains general standards for subdivision design that typically require residential lots to access internal or “local” subdivision roads when possible and avoid direct access to “collector” and “arterial” roads that serve a higher function serving “through-traffic”. Although Elm Lane does not connect Wasaukee Road to Country Aire Drive, that possibility still exists. If Elm Lane was to be completed from Country Aire to Wasaukee Road, Elm Lane would likely be considered the “collector” road and Harvest Ridge a “local” access road. For these reasons, direct access from the lots to Elm Lane is prohibited in the Harvest Hills subdivision. That was a decision made by the Village without regard to what the developer or future lot owners might prefer.

With respect to the owner’s justification summarized above, the reasons given are not necessarily critical or disqualifying with respect to a driveway on Harvest Ridge, particularly if one assumes that the owner of a lot should consider the “lay of the land” and any restrictions before designing their house plan vs. picking a house plan first and then figuring out how to make it fit on the lot. The amount of visibility distance and time to see a driveway on Elm Lane for westbound traffic would certainly be greater than a driveway on Harvest Ridge. Similarly, a driveway on Harvest Ridge would have greater visibility distance and time for southbound traffic on Harvest Ridge... this argument is one of those “six of one, half dozen of the other” situations. Yes, a driveway on Elm Lane appears to have a “flatter” less steep slope (2.9%), but the apparent driveway slope for a driveway on Harvest Ridge (9.7%) is still within an acceptable range (typically maximum not to exceed 12-15%).

With that said, the Public Works Director, Larry Ratayczak, has indicated the following:

“Looking at the requirement from a traffic safety viewpoint and the location of the proposed driveway at the eastern side of the parcel, I felt the driveway on Elm Lane poses less risk to traffic than a driveway on Harvest Ridge. I feel this way because the intersection of Harvest Ridge and Elm Lane is not a “T” intersection... but a long radius curve where drivers [are not required] to make the turn. Thus, the driveway on Elm Lane has better vision of vehicles traveling through the intersection. Also, if a driveway is installed on Harvest Ridge opposite...the driveway... for Lot #37 [on the west side of Harvest Ridge]...that would be very dangerous”.

For this reason, Public Works Department Staff support the request, but recommend that the restriction be revised to only allow Lot 1 direct access to Elm Lane (and not any of the other subdivision lots that already have access to another internal road in the subdivision).

In terms of processing, the Village Board is required to consider the Plan Commission’s recommendation and make a final decision to grant (or not) the request. If granted, a separate document will be prepared and recorded that either eliminates the access restriction as it applies to the Evans parcel (Lot 1) or indicates that the Village intends to not enforce the restriction for the reasons stated therein.

VILLAGE STAFF RECOMMENDATION

APPROVE the request to revise the Elm Lane access restriction on the Harvest Hills subdivision plat that prohibits driveway access to Elm Lane and to allow a new residential driveway to Elm Lane from Lot 1 in the Harvest Hills Subdivision subject to the following conditions:

1. The nearest point of the driveway shall be located not closer than 120 feet from the Elm Lane @ Harvest Ridge intersection as shown on the plat of survey submitted by the property owner.



Fee must accompany application
Preliminary & Final Plat Fees Combined
Under 10 lots \$4,575
11-25 lots \$5,600
26-50 lots \$6,625
Over 51 lots \$7,650

☐
☐
☐
☐

SUBDIVISION PLAT APPLICATION

Pursuant to Section 18.04 and 18.05 of the Municipal Code

Please read and complete this application carefully. **All applications must be signed and dated.**

1 APPLICANT OR AGENT

Eric and Ashley Evans

N68W13337 Ranch Rd

Menomonee Falls, WI 53051

Phone (262) 239-5422

Fax ()

E-Mail evans5eric@gmail.com

PROPERTY OWNER

Eric and Ashley Evans

W130N11622 Harvest Ridge

Germantown, WI 53022

Phone (262) 239-5422

evans5eric@gmail.com

2 PROPERTY ADDRESS OR GENERAL LOCATION

TAX KEY NUMBER(S)

W130N11622 Harvest Ridge

GTNV-241021

3 READ AND INITIAL THE FOLLOWING:

- X I understand that the Subdivision Plat is not valid until recorded at the Washington County Register of Deeds. The Village will record the document and charge the applicant all applicable recording fees.
- X If technical corrections to the Plat are required, I understand that the document will not be recorded until all corrections are made and approved by the Village.
- X I understand that all applicable impact fees must be paid prior to recording. Failure to pay fees will delay recording and may ultimately result in the revocation of Village approval. I understand that parcels created outside the Sewer Service Area will require a soil test. I also understand that all properties abutting a State Highway will require DOT approval and I will be responsible for securing such approval prior to recording.
- X I understand all delinquent property taxes on any of the properties involved shall be paid prior to recording.
- X I understand that a Developer's Agreement will be required prior to recording of the plat.

4 SIGNATURES -- ALL APPLICATIONS MUST BE SIGNED BY OWNER!

Applicant

4-26-23

Date

Owner

4-26-23

Date

To the Office of Community Development,

As the owners of Lot 1, we would like to petition for a revision to be made to the plat survey of the Harvest Hills Subdivision. Currently the survey shows no vehicular access to Elm Lane which is where we are proposing to place our driveway. Since Elm Lane is a 25 mph road, traffic safety concerns don't appear to be an issue. We understand that the plat survey was drawn as it was due to the cul de sac for Lots 3 and 4, but for our particular lot, we believe that the best placement for the driveway is on Elm Lane for the following reasons:

- 1) In a scenario where the driveway would be on Harvest Ridge, the location of that driveway would be closer to the corner and the steeper slope area of the lot. This is because the approved septic location for our lot and required setbacks for drainage would push the home placement closer to Elm Lane. I have included a sketch for your reference.
- 2) Visibility is different on Elm Lane than on Harvest Ridge. Westbound traffic, which is closer to the lot, has a longer opportunity to see the driveway coming up if it is on Elm Lane which is safer for our family and our children. If the driveway is on Harvest Ridge, vehicles will come up to the driveway very quickly, which will be steeper and more likely to have kids' toys, balls, bikes, etc. coming onto the road.
- 3) It is common practice to place the driveway on the high side of a lot which would only be possible with a home and driveway placement on Elm Lane. It minimizes steps in the garage and front porch and makes grading easier with lower slopes around the house.
- 4) Our proposed location for the driveway on Elm Lane is also significantly flatter than Harvest Ridge Lane. The slope coming off of Harvest Ridge Lane would be 9.7% to the pavement. In comparison, the slope of our proposed location on Elm Lane would be 2.9% to the pavement. We have sketches of each scenario included for your reference.
- 5) According to our HOA covenants (as shown below), "garages must be located on the side of the lot which has the highest elevation." In this case, the ideal location for the driveway and garage would be located on Elm Lane.

3.6 Garage and Driveway.

(a) Each Dwelling on a Lot shall have a garage of not less than three (3) cars attached to the Dwelling. Garage entrances must be located on a side of the Dwelling which does not face the street fronting the Lot, except in the case of a Lot bordered by two streets, in which case, the garage entrance must be located on the side of the Dwelling which does not contain the front entrance. Garages must be located on the side of the Lot which has the highest elevation, except as permitted by the ACC. Garages must be constructed at the time of construction of the Dwelling and all exterior features must be completed prior to occupancy of the Dwelling.

The HOA covenants (as shown below) also state that the master grading plan is to be followed and no deviations are allowed without the approval of the Village and ACC.

3.14 Grade Plan. A Master Grading Plan has been prepared by the Developer's engineer designating the manner in which each Lot shall drain in relation to all other Lots in the Subdivision and designating the grade elevation of the Dwellings to be constructed thereon. A copy of this Plan is on file in the office of the Building Inspector at the Village. At the time a building permit is requested, the grade elevation of said Dwelling shall be obtained from the Building Inspector and the Dwelling shall be constructed accordingly. No deviation therefrom shall be permitted without the approval of the Village and ACC. Within thirty (30) days after substantial completion of a Dwelling on any Lot in the Subdivision, the Lot Owner shall grade the Lot to conform to said Master Grading Plan and from that time forward, nothing shall be done which will impede or obstruct the flow of surface drainage water in accordance with said Plan. It is the responsibility of the Lot Owner or Lot Owner's builder to determine the

Dwelling's exposure and if such grade is in compliance with the Master Grading Plan. Changes or deviations from the Plan need approval from the Village and ACC.

We look forward to having this request reviewed. We had initially received approval from our HOA board via email on March 17 to place our driveway on Elm Lane, however we understand that further approval by the Village is needed.

Thank you,

Eric and Ashley Evans
P: 262-293-5422
E: evans5eric@gmail.com

Harvest Hills Subdivision

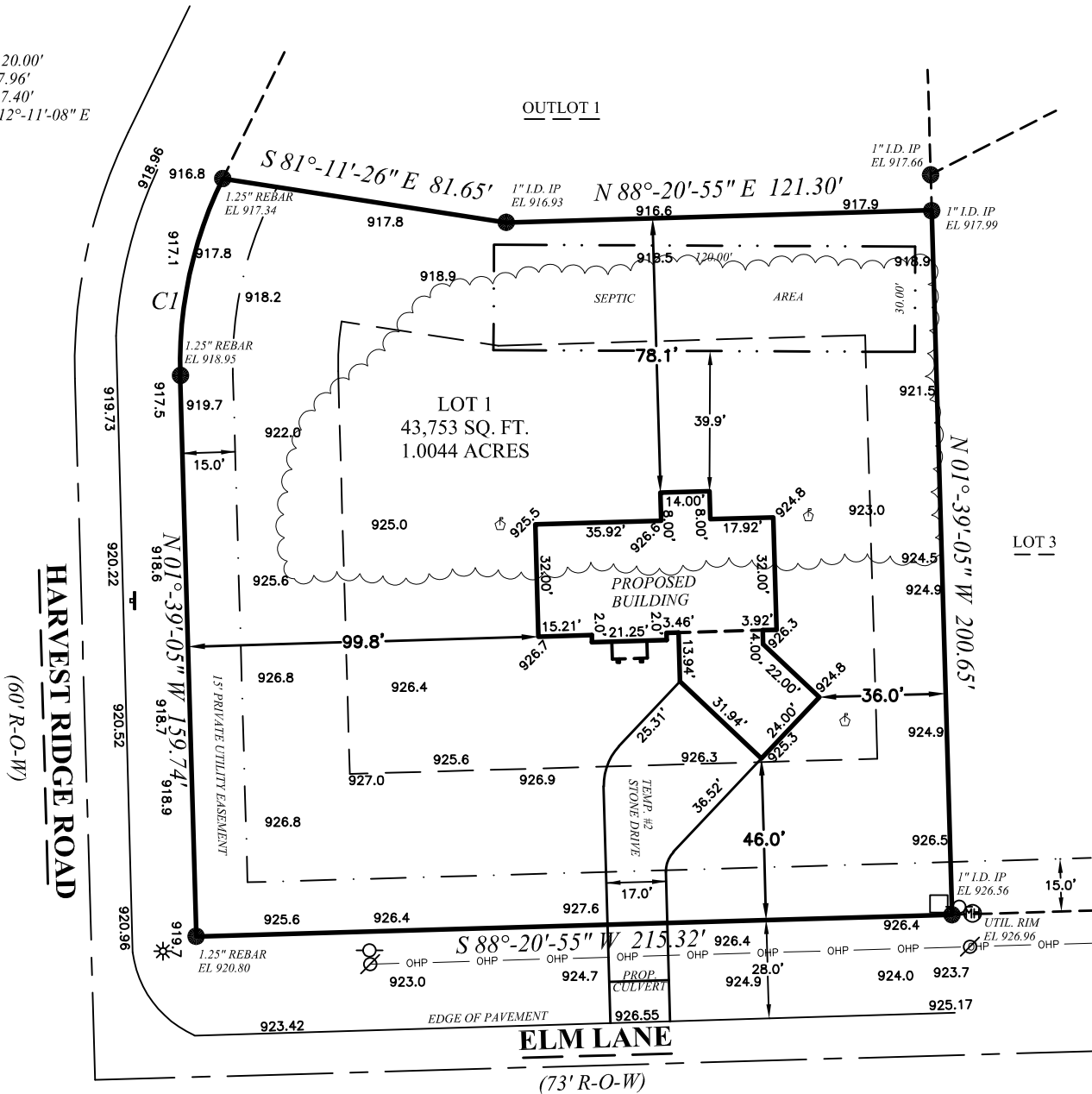
Architectural Control Committee

Homeowner:	Lot:	Requirements Met	
Minimum Square Footage: - One Story – 2,300 square feet - More than one story – 2,700 square feet (minimum of 1,350 square feet on first floor)	Plans Submitted (dated 2/23 / 23) Plans show - one story 2,328	Yes X	No ☐
Minimum Required Setbacks: - Front Setback – 45 feet - Rear Setback – 35 feet - Side Setback – 20 feet (Certain Lots within the cul-de-sacs may require greater minimum front setbacks. See final plat.)	Plans Submitted (dated / /) survey submitted 3/29/2023 - Front - 46' - Rear- 78.1' - Side - right 36' left 99.8'	Yes X	No ☐
Exterior Building Materials: - Brick, stone, stucco, cedar, Hardi-Plank, LP Smartside (no metal or vinyl) 50% of front shall be brick, stone or stucco	Plans Submitted - LP Smartside; Lap Siding, Board and Batton & Trim 50% stone - Cedar porch post trim - LP Smart Trim fascia and soffit	Yes X	No ☐
Shingles - Natural or dimensional roof shingles - Note color and style	Plans Submitted dimensional, Onyx Black, Owens Corning - Duration	Yes X	No ☐
Roof Pitch 8/12 pitch	Plans Submitted 12/12, 10/12	Yes X	No ☐
Exterior Feature Reminders	- Village required street trees along the roads, planted by Developer, may not be cut down. If tree is in the way, lot owner is responsible for relocating tree. - Lamppost installed prior to occupancy, but no later than 9 months after occupancy permit issuance - Landscaping – shall install at least 3 deciduous trees within 12 months of occupancy permit issuance		
Comments or objections	front porch roof; Standing Seam Metal Roof, black. HOA BOARD APPROVED		
Architectural Control Committee Harvest Hills HOA Board	Developer		
Date: 4/24/2023	Approved X	Not Approved ☐	

FOR LOT 1 OF HARVEST HILLS, AND BEING A PART OF THE SW 1/4 OF THE
NORTHEAST QUARTER OF SECTION 24, TOWN 9 NORTH, RANGE 20 EAST,
VILLAGE OF GERMANTOWN, WISCONSIN.

NOTE:
HARVEST HILLS SUBDIVISION PLAT STATES "NO VEHICULAR ACCESS" FROM ELM LANE
ACCESS WAS ALLOWED BY THE VILLAGE OF GERMANTOWN PER OWNER OF LOT 1

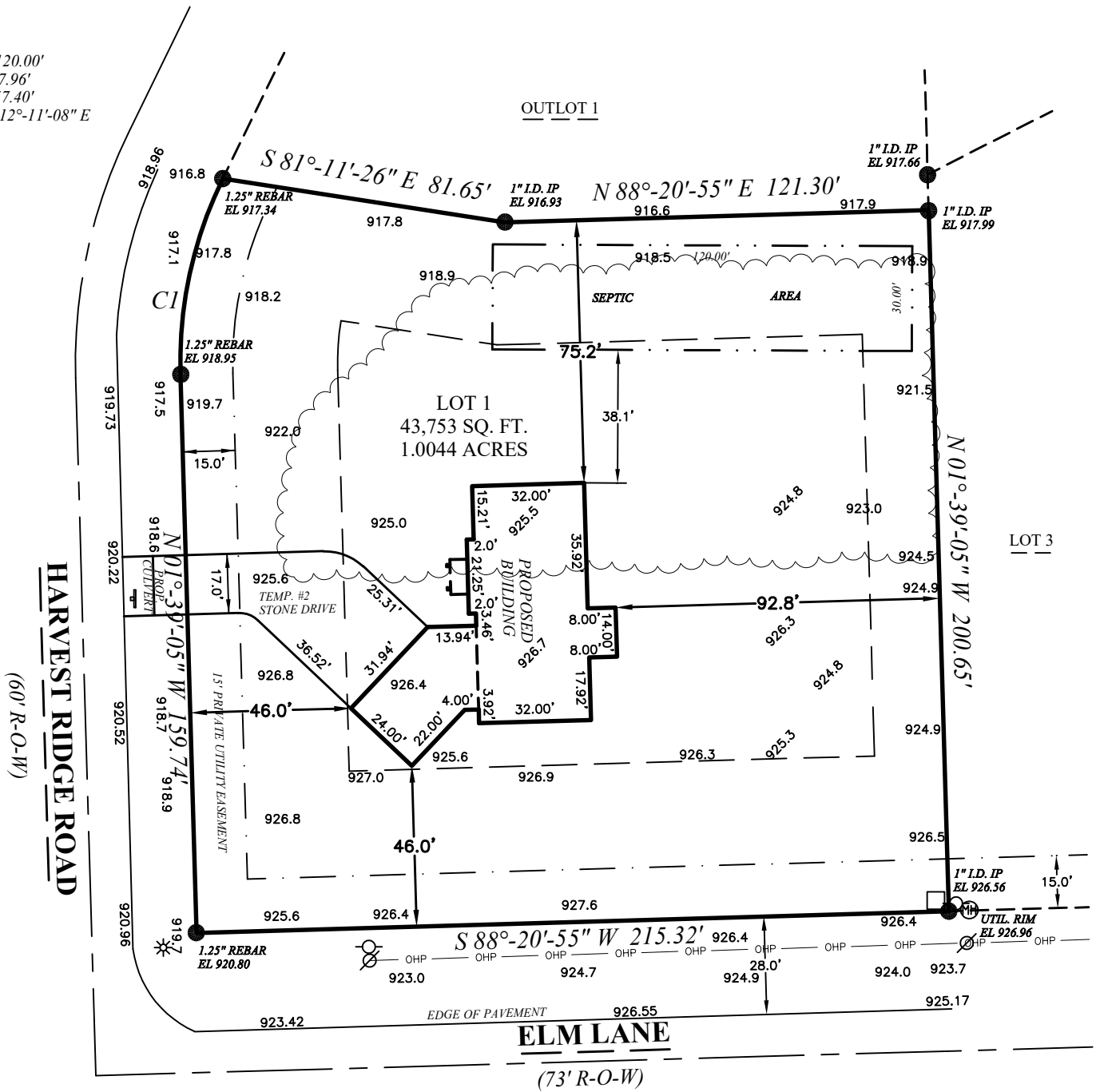
CI
RAD. = 120.00'
ARC = 57.96'
CHD = 57.40'
C.B. = N 12°-11'-08" E



PROPOSED TOP OF FOUNDATION: 929.17
PROPOSED GARAGE FLOOR EL.: 928.67
PROPOSED FINAL YARD GRADE: 928.50
PROPOSED EXPOSED YARD GRADE: 923.50
PROPOSED TOP OF FOOTING: 920.17
DRIVEWAY SLOPE: 2.9 % TO PAVEMENT
(ASSUMING 9' WALL- CHECK PLAN)

IF THE SURVEYOR'S SEAL IS NOT
WET STAMPED IN RED AND SIGNED
IN OPPOSABLE INK, THE PLAT IS
A COPY THAT SHOULD BE ASSUMED
TO CONTAIN UN-AUTHORIZED ALTERATIONS. THE CERTIFICATION ON
ON THIS DOCUMENT DOES NOT APPLY

C1
 RAD. = 120.00'
 ARC = 57.96'
 CHD = 57.40'
 C.B. = N 12°-11'-08" E



PROPOSED TOP OF FOUNDATION: 929.17
 PROPOSED GARAGE FLOOR EL: 928.67
 PROPOSED FINAL YARD GRADE: 928.50
 PROPOSED EXPOSED YARD GRADE: 923.50
 PROPOSED TOP OF FOOTING: 920.17
 DRIVEWAY SLOPE: 9.7 % TO PAVEMENT
 (ASSUMING 9' WALL- CHECK PLAN)

Declaration

Document Number

Document Title

Document # **1478619**
WASHINGTON COUNTY WISCONSIN
2019-08-28 9:47:00 AM

Sharon A. Martin
SHARON A MARTIN
WASHINGTON COUNTY
REGISTER OF DEEDS
Fee: **\$30.00**

Pages: 14

Recording Area

14

Name and Return Address

Harvest Hills Subdivision LLC
3955 Hawks Ridge Drive
Hubertus WI 53033

Parcel Identification Number (PIN)

Drafted by - Shari Waggoner

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

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document.

WRDA Rev. 12/22/2010

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
HARVEST HILLS SUBDIVISION**

This Declaration is made this 22nd day of August 2019, by Harvest Hills Subdivision LLC, a Wisconsin Limited Liability Company, hereinafter referred to as "Developer."

RECITALS

WHEREAS, DEVELOPER owns all the land which has been platted as "Harvest Hills", a Subdivision located in the Village of Germantown, consisting of thirty-seven (37) residential single-family Lots, excluding Lot 38, which is not bound to or required to follow this Declaration of covenants, conditions and restrictions and

WHEREAS, DEVELOPER desires to subject Harvest Hills Subdivision, excluding Lot 38, to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, for the benefit of said Subdivision and for the benefit of each Lot Owner in said Subdivision,

NOW, THEREFORE, DEVELOPER HEREBY DECLARES the real property hereafter described in Article 2 herein shall be used, held, transferred, sold, conveyed subject to the conditions set forth, which shall inure to the benefit of and pass with said property and each and every parcel thereof as covenants running with the land and shall apply to and bind all successors in interest and any Owner thereof.

ARTICLE 1. DEFINITIONS

The following terms shall have the assigned definitions:

1.1 Architectural Control Committee. The "Architectural Control Committee" (ACC) shall mean the Committee referred to in Article 5 created under this Declaration.

1.2 Association. The "Association" shall mean the Harvest Hills Homeowners Association, Inc., the Members of which shall be all Lot Owners in the Subdivision.

1.3 Board. The "Board" shall mean the Board of Directors of the Harvest Hills Homeowners Association, Inc. governed by this Declaration and the Bylaws of the Association.

1.4 Bylaws. The "Bylaws" shall mean the Bylaws of the Association as adopted by the Board.

1.5 Developer. The "Developer" shall mean Harvest Hills Subdivision LLC, a Wisconsin Limited Liability Company, as well as any Successor-Developer. Developer hereby expressly reserves the right to appoint, in writing, a third party to act as its agent to carry out Developer's duties and responsibilities.

1.6 Dwelling. A "Dwelling" shall be defined as such structure or structures as are permitted for human use and habitation pursuant to this Declaration.

1.7 Harvest Hills Documents. "Harvest Hills Documents" shall consist of this Declaration, Articles of Incorporation of the Association and the Bylaws of the Association.

1.8 Lot. "Lot" shall mean a platted Lot intended for construction of a Dwelling as shown on the Plat. The reference to a Lot by a number shall mean that particular Lot as shown on the Plat. The term "Lot" does not include any platted Outlot or Lot 38.

1.9 Member. A "Member" shall be that individual that is identified as having the right to vote on behalf of a Lot at any Association meeting.

1.10 Occupant. "Occupant" shall mean the Owner and any other person residing on a Lot.

1.11 Outlot. "Outlot" shall mean an Outlot as shown on the Plat. The reference to an Outlot by a number shall mean that particular Outlot as shown on the Plat.

1.12 Owner. "Owner" shall mean each fee simple Owner of a Lot. The Developer shall be considered an Owner with respect to any Lots to which it holds title.

1.13 Plat. The "Plat" is the Plat of the Property identified as Harvest Hills as recorded in the Register of Deeds for Washington County, Wisconsin.

1.14 Subdivision. "Subdivision" shall mean all the Lots and Outlots as shown on the Plat.

1.15 Successor-Developer. "Successor Developer" shall mean any person, corporation, partnership or other entity to which Developer expressly assigns or otherwise transfers his rights and obligations hereunder, or any Successor to the Developer by operation of law.

1.16 Village. "Village" shall mean the Village of Germantown, and its successors.

ARTICLE 2. PROPERTY

2.1 Property Subject to this Declaration. The "Property" shall consist of all the lands which Developer has included in the Plat of Harvest Hills, excluding Lot 38, as described in Exhibit "A" and subjected to this Declaration, and all Dwellings and other improvements constructed or to be constructed thereon.

ARTICLE 3. PURPOSE AND CONDITIONS

3.1 General Purpose. The general purpose of this Declaration is to help assure the Subdivision will become and remain an attractive residential community; to preserve and maintain the natural beauty of the property, maintain high aesthetic standards for all improvements, as well as the natural beauty of certain open spaces; to protect Owners of each Lot against such use of surrounding Lots that would detract from the residential value of their property; to guard against the erection of poorly designed or proportioned structures; to obtain harmonious use of material and color schemes; to insure the highest and best residential development of Lots in the Subdivision; to secure and maintain spatial relationship of buildings, structures, other improvements and Lot lines; and to otherwise secure mutual enjoyment of benefits for Owners and Occupants of residential property within the Subdivision.

It is inherent to protective covenants and restrictions that from time to time those covenants and restrictions are subject to interpretation. In those instances wherein an interpretation is required because there is no definitive rule to be followed, or because there is a question regarding an intangible concept such as, but not limited to, what constitutes harmonious architectural design, what is poor design or proportion and what is aesthetically pleasing, the matter shall be subject to the opinion of the Committee for the granting of final approval.

3.2 Suitability. Developer makes no representation or warranty, express or implied, regarding the physical condition of any Lot being fit for any particular purpose or Owners proposed use, including but not limited to, building exposures, subsoils, or grade. Developer recommends, but does not require, Owner utilize a properly licensed architect and/or builder in any construction.

3.3 Single-Family Lots. No Lot shall be used except for single-family, residential purposes. No building shall be erected, altered, placed, or permitted to remain on any such Lot other than one detached, single-family home, not exceeding two and one-half stories in height with an attached private garage for not less than three (3) cars and an optional additional detached garage per Section 3.6(c). No Lot may be subdivided.

3.4 Minimum Home Size Requirements.

(a) Only one single-family home may be constructed on each Lot. The following types of homes on Lots shall have the following minimum sizes:

<u>Dwelling Type</u>	<u>Minimum Size</u>
One story	2,300 square feet
More than one story	2,700 square feet (minimum of 1,350 square feet on the first floor)

(b) For purposes hereof, "more than one story" includes homes referred to as one and a half story, two story, split level or bi-level. The type of Dwelling and the number of square feet shall be determined on a uniform basis by the ACC and shall not include basement, attic, garage, porch, or patio areas in the computation.

3.5 Building Setbacks. The Subdivision is zoned RS-3. As such, the minimum building setbacks are as follows:

Front Setback: Forty-five (45) feet
Side Setback: Twenty (20) feet
Rear Setback: Thirty-five (35) feet

Certain Lots within the cul-de-sacs require a greater minimum front setback. The Final Plat states the required minimum front setback for these Lots.

Any variation from these requirements shall be permitted only upon the approval of the ACC and the Village of Germantown.

3.6 Garage and Driveway.

(a) Each Dwelling on a Lot shall have a garage of not less than three (3) cars attached to the Dwelling. Garage entrances must be located on a side of the Dwelling which does not face the street fronting the Lot, except in the case of a Lot bordered by two streets, in which case, the garage entrance must be located on the side of the Dwelling which does not contain the front entrance. Garages must be located on the side of the Lot which has the highest elevation, except as permitted by the ACC. Garages must be constructed at the time of construction of the Dwelling and all exterior features must be completed prior to occupancy of the Dwelling.

(b) The garage shall be connected to the street by a properly surfaced concrete, asphalt, or brick driveway. Said driveway shall be installed and completed within one (1) year from the date of issuance of the occupancy permit.

(c) In addition to the attached garage, an additional detached garage may be permitted by the ACC, provided the following requirements have been satisfied:

- (1) The garage shall have a minimum of two stalls
- (2) The maximum square footage shall be no greater than 960 square feet
- (3) Door openings and all overhead doors shall not exceed ten (10) feet in height
- (4) Color and building materials shall be consistent with the Dwelling on the Lot
- (5) Underground electric shall be required for all detached garages
- (6) No lean-to or carports of any nature shall be permitted

- (7) The garage must be connected to the driveway
- (8) No more than one detached garage may be permitted

(d) Storage sheds, garden houses, or similar outbuildings are not permitted.

3.7 Commencement and Completion. All Dwellings shall be completed and ready for occupancy within one (1) year from the date ground is broken.

3.8 Exterior Features.

(a) Exterior materials shall be of brick or stone, stucco, cedar, Hardi-Plank siding, LP Smartside, or a combination. No metal or vinyl siding shall be permitted. All exposed basement or foundation walls shall be covered with brick, stone, stucco, or siding consistent with other material used on the Dwelling. Not less than fifty percent (50%) of the front of the Dwelling shall be constructed of brick, stone or stucco. All exterior masonry materials shall terminate only at an inside corner or other suitable break in the architecture as approved by the ACC.

(b) All roof designs shall be subject to the approval of the ACC. Roof shall be a minimum 8/12 pitch or greater. Natural or dimensional roofing shingles are required.

(c) The design, layout and exterior appearances of each Dwelling proposed to be erected, altered or modified shall be such that, in the opinion of the ACC at the time of approval of the building plans, the Dwelling will be of high quality and shall have no (substantial) adverse effect upon property values within the subdivision.

(d) The proposed color schemes for the Dwelling to be erected, altered or modified shall be submitted to the ACC for approval prior to painting and staining. It shall be the aim of the ACC to harmonize colors for not only the proposed Dwelling, but to consider the effect of these colors and materials as they relate to other Dwellings.

(e) No solar panels, antennas, dishes or similar devices shall be erected, installed or used unless presented in drawings and approved by the ACC which may condition its approval on adequate screening from the front street and neighbors. Drawings should show size and location of any device as well as appropriate screening.

3.9 Mailboxes and Lampposts. Lot Owners shall install a front lamppost that is in conformance with Section 18.08(12) of the Village of Germantown Municipal Code. The code requires a lamppost be placed on each Lot at the time of finish grade within ten (10) feet of the access street right-of-way and aligned with the front entrance or walkway of the Dwelling. The lamppost shall be installed prior to occupancy of the Dwelling but no later than nine (9) months from the date of occupancy. In order to maintain uniformity of appearance, the Owner of each Lot shall purchase identical lampposts from the Developer at the time of the closing of the Lot. The cost will be charged to the Lot Owner on the settlement statement at closing. The lamppost shall be installed and maintained by the Lot Owner as directed by the Developer or the ACC. The lamppost shall be controlled by a photoelectric eye so the lamppost is illuminated during night-time hours.

Lot Owners shall install a mailbox and mailbox support of good quality. Mailbox must be metal and dark bronze or black in color. Mailbox and mailbox support must match. No wood or plastic mailboxes or mailbox supports are permitted. Each Lot Owner shall maintain the mailbox and mailbox support in good and working condition and replace it when necessary. Lot Owners shall replace light bulbs and properly maintain lampposts and mailboxes as necessary. In the event the Lot Owner fails to maintain the mailbox or lamppost, maintenance of the mailbox or lamppost may, after fifteen (15) days written notice to the Lot Owner, be performed by the Developer or the Association and the cost of such maintenance shall be charged to the Lot Owner as a special assessment.

3.10 Swimming Pools. Only in-ground swimming pools are permitted and must be installed in accordance with Village requirements. Hot tubs and spas shall be allowed and must be installed in accordance with Village requirements. A single tennis court is allowed on each Lot and must be installed in accordance with Village requirements. All swimming pools, tennis courts, hot tubs and spas must be approved in advance of construction by the ACC. Plans shall denote necessary setbacks, landscape treatment and fencing proposed.

3.11 Landscaping.

(a) Lots shall be seeded or sodded no later than six (6) months from Owners date of occupancy, weather permitting, and landscaping, including installation of at least three (3) deciduous trees with minimum caliper of two (2) inches, shall be completed no later than (12) months following the issuance of the occupancy permit of the dwelling, weather permitting.

(b) No plantings shall be permitted in the existing or proposed drainage swales.

(c) Landscaping plans do not require the approval of the ACC.

(d) In addition to the normal maintenance and mowing of lawn areas on a Lot, the Lot Owner shall also maintain the lawn, street trees, if any, and yard area in front of the Lot from the front property line to the back of the curb section or shoulder of the public roadway. The Lot Owner shall keep this area properly maintained and free of plantings, structures or debris.

3.12 Vision Corners. If applicable, the vision corner areas as identified on the final recorded Plat restrict the use of certain portions of the affected Lots. In the vision corner areas, no structure or improvement of any kind is permitted. No vegetation within the vision corner area may exceed thirty (30) inches in height. If the Owner of the Lot containing a vision corner shall fail to maintain the vision corner in accordance with this Article, the Association may, after fifteen (15) days written notice, perform any necessary maintenance and repair. The cost shall be charged to the Lot Owner as a special assessment.

3.13 Trees.

(a) Per the Village of Germantown Municipal Code, street trees were planted by the Developer every fifty (50) feet along the roadways within the Right-of-Way. Removal of any street tree is not permitted. Dwelling driveways shall avoid the street trees. If there is a significant conflict, relocation or replacement of the street tree by the Lot Owner and at the Lot Owner's expense may be approved by the ACC.

(b) No existing tree, with a diameter of six (6) inches or more at a height of four (4) feet from the ground, beyond ten (10) feet from the approved Dwelling location shall be moved, removed, or destroyed in anyway, other than upon prior, written approval of the ACC. All existing trees shall be protected during periods of construction and grading.

(c) No Lot Owner or agent thereof shall cut down or remove any trees, brush, or shrubs located within any Outlot as designated on the recorded Plat of Harvest Hills Subdivision.

3.14 Grade Plan. A Master Grading Plan has been prepared by the Developer's engineer designating the manner in which each Lot shall drain in relation to all other Lots in the Subdivision and designating the grade elevation of the Dwellings to be constructed thereon. A copy of this Plan is on file in the office of the Building Inspector at the Village. At the time a building permit is requested, the grade elevation of said Dwelling shall be obtained from the Building Inspector and the Dwelling shall be constructed accordingly. No deviation therefrom shall be permitted without the approval of the Village and ACC. Within thirty (30) days after substantial completion of a Dwelling on any Lot in the Subdivision, the Lot Owner shall grade the Lot to conform to said Master Grading Plan and from that time forward, nothing shall be done which will impede or obstruct the flow of surface drainage water in accordance with said Plan. It is the responsibility of the Lot Owner or Lot Owner's builder to determine the

Dwelling's exposure and if such grade is in compliance with the Master Grading Plan. Changes or deviations from the Plan need approval from the Village and ACC.

3.15 Ground Fill on Building Site. Where fill is necessary on a Lot to obtain the proper topography and finished grade elevations, it shall be ground fill free of waste material that may emit odors or produce health hazards of any kind. All dumping of fill materials shall be leveled immediately upon completion of the Dwelling and shall be graded and contoured in accordance with the Master Grading Plan approved by and on file with the Village.

3.16 Construction Materials and Debris. No building or construction material shall be stored on any Lot outside of a Dwelling or garage, other than during periods of actual construction or remodeling and only for as long as may be necessary. It shall be the primary responsibility of the Lot Owner and the Lot Owner's builder to keep the Lot clean and free of debris and garbage during the period of construction. The Lot Owner shall further be responsible for the repair of any and all damage to the public right-of-way adjacent to the Lot, including but not limited to any pavement, sidewalk, curb, gutter, ditch, swale, or culvert. No Owner shall knowingly allow disposal of any waste building material, tree stumps, branches, tree trunks, or other material on any Lot or Outlot within the Subdivision. In the event the Lot Owner or the contractor shall fail in this responsibility, the Developer or Association shall have the right to perform the necessary cleanup or repairs and charge the construction deposit for any costs incurred as set forth in Article 3.29.

3.17 Utility Lines. All cable, telephone and electric service to any Dwelling on any Lot shall be from the underground utilities systems and no overhead service shall be provided or allowed.

3.18 Signs. No sign of any kind shall be placed or displayed to the public view on any Lot, except one professional sign of not more than six (6) square feet advertising the Dwelling for sale or signs used by a building contractor or by the Developer to advertise the property during the construction and sales period.

3.19 Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except domesticated dogs, cats or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose nor in any unreasonable number or which may be contrary to applicable law. The right of any Lot Owner to keep such a pet on any Lot is subject to the condition the pet is not allowed to unreasonably annoy any other Lot Owner and is not allowed to run at large. The pet must immediately and permanently be removed from the Property if, in the sole judgement of the Board, the pet is or becomes offensive, a nuisance or harmful in any way to the Property or any Owner or Occupant. Pit bulls or a mix including a pit bull breed are not permitted.

3.20 Nuisances.

(a) No noxious or offensive odor, activities or conditions shall be permitted to exist in, on or about any Dwelling or Lot, which may be, or may become, an annoyance or nuisance to the Subdivision or Lot Owners or Occupants. By way of example and not limitation, offensive activity shall include excessive amplification of musical instruments and/or audio or audio visual equipment.

(b) Each Lot Owner shall perform periodic yard maintenance as may be necessary to keep the Lot neat and clean in appearance, including without limitation, the mowing of grass, removal of weeds, leaves and unsightly debris.

3.21 Patios and Balconies. Patios, decks and balconies on Lots shall not be used for storage of any kind, including, but not limited to, the storage of motorcycles, bicycles, strollers or wagons.

3.22 Fences and Walls. No fence or wall of any height shall be permitted on any Lot except upon the prior, written approval of the ACC, provided, however, that in no event, shall any proposed fence or wall be permitted to extend into the minimum setback lines specified in Article 3.5.

3.23 Temporary Structures. No structure, trailer, shack or barn, temporary or otherwise, shall be placed or maintained on any portion of a Lot or Common Area without written approval of the ACC.

3.24 Off Road Vehicles/Recreation Vehicles. No off-road motorcycles, snowmobiles, dune buggies, or four-wheelers (ATVs) shall be operated on any Lot, Outlot, driveway, road, or any other land within the boundaries of the Subdivision. All recreational vehicles, including but not limited to, any and all motorcycles, snowmobiles, trail bikes, dune buggies, ATVs, boats, off-street motorized vehicles or recreation vehicles of any kind shall be stored in enclosed garages on the Lot and shall not be operated or stored on the Lot, driveway, parking area, open space or Common Area within the Subdivision, except for the necessary transportation of these vehicles to and from the Subdivision on the public street system.

3.25 Garbage and Disposal. No Lot shall be used or maintained as a dumping ground for trash, garbage or debris of any kind. All trash, garbage or waste materials shall be in sanitary containers either inside the garage or, when outside, in sanitary containers adjacent to the Dwelling, and suitably screened from view from streets and adjoining Lots. There shall be no burning or burial of any garbage, trash or debris at any time other than burning leaves and light brush if approved by the Board of the Association and conducted in compliance with all applicable laws and ordinances.

3.26 Retaining Walls. Retaining walls shall be subject to the regulation of the Village and must be approved in advance of construction by the ACC. No retaining wall shall be of concrete block or unfaced poured concrete.

3.27 Entrance Sign. The Developer has constructed a permanent entrance sign on Lot 18. The Developer hereby grants to the Association an easement to keep, maintain, and restore such sign in accordance with the requirements of this Declaration. Such easement shall preclude Lot Owners from interfering with, removing or altering such entrance signs. The Association shall landscape and perform all maintenance on the sign. The entrance sign shall be the property of the Association.

3.28 Construction Deposit. At the time of closing on a Lot, a construction deposit in the amount of two thousand dollars (\$2,000) shall be collected from the Lot Owner and held in escrow by the Association. This deposit is transferable to subsequent buyers of a Lot after the initial sale by the Developer. These funds are to insure compliance with the terms of this Declaration during the construction process. In the event a Lot Owner or contractor fails to comply with the terms of the Declaration during the construction process and the Developer or Association is required to repair or remedy the noncompliance or is charged or assessed by the Village for the same, the Developer or Association shall be entitled to deduct and retain from the construction deposit a sum sufficient to reimburse Developer or Association for the cost of such repair or remedy. In the event the Lot Owner or contractor fails to comply with the architectural or other requirements of the Declaration and the Developer or Association is required to retain an attorney to pursue enforcement, the Developer or Association shall be entitled to deduct and retain from the construction deposit a sum sufficient to reimburse the Developer or Association for all costs incurred with respect to the enforcement. In the event the construction deposit is not sufficient to reimburse the Developer or Association, the Lot Owner shall be liable to the Developer or Association for any excess and the deficiency shall constitute a lien on the Lot. In the event no deductions are made, or in the event there is a balance remaining after all deductions, the balance of the construction deposit shall be returned to the Lot Owner upon completion of the Dwelling construction, occupancy, and final landscaping.

ARTICLE 4. HOMEOWNERS ASSOCIATION

4.1 Purpose of the Association. The Developer has established the Harvest Hills Homeowners Association, Inc. ("Association") as a non-stock, non-profit corporation under Chapter 181 of the Wisconsin Statutes. Control of the Association shall be turned over to the Lot Owners, only after all the Lots in the Subdivision owned by Developer, have been sold. The purpose of the Association is to manage the affairs of the Subdivision, control and maintain

signs and Outlots, assess, collect and disburse the assessments and charges provided for herein, enforce this Declaration and consider concerns of Lot Owners in the Subdivision.

4.2 Management. Upon Developer turning control of the Association over to the Lot Owners, it shall be managed by a Board of Directors who shall be elected from the Association's membership. The Board of Directors shall consist of not less than three (3) nor more than five (5) Members, who shall act by majority vote. As long as the Developer owns any Lots in the Subdivision, the Developer shall have sole control of the Association. However, nothing contained in Article 4 herein shall prevent the Developer, at its sole discretion, from turning control of the Board of Directors of the Association over to the Members of the Association at any time. The Developer shall be entitled to one vote for each Lot owned by Developer, provided, however, that notwithstanding any other provision for voting, the Developer shall have sufficient votes to constitute a majority of votes until all of its Lots are sold. The Board may employ a professional management agent or company to assist in carrying out its duties regarding the Common Areas, the Common Improvements, and this Declaration, with such experience and qualifications and on such terms and conditions as are acceptable to the Board. Any such agreement must be terminable by the Board, without cause, upon no more than ninety (90) days notice without payment of any penalty.

4.3 Membership and Voting. Every person or entity who is an Owner of a Lot as defined herein shall be a Member of the Association, provided that no person or entity who holds an interest merely as security for the performance of an obligation shall be a Member. For purposes of voting at any meeting of the membership of the Association, only one (1) vote per Lot shall be allowed regardless of the number of Owners of the Lot. When more than one (1) person holds an interest in any Lot, including without limitation, as tenant in common, survivorship marital property or living trust, the Owners shall designate the Member who will vote on behalf of the Lot. No Member shall be permitted to vote if such Member is more than thirty (30) days delinquent in the payment of any amount due to the Association under Article 6 of this Declaration.

4.4 Amendment of this Declaration. While the Developer owns any Lots, the Developer may amend this Declaration at any time. After ownership of all Lots has been conveyed by the Developer, the Association may amend this Declaration to the extent permitted by law, but only by an affirmative vote of no less than seventy-five percent (75%) of the Members.

ARTICLE 5. THE ARCHITCTURAL CONTROL COMMITTEE

5.1 Architectural Control Committee Composition. Developer hereby establishes for the Harvest Hills Subdivision an Architectural Control Committee (ACC). The ACC shall have the duties and responsibilities set forth in this Declaration and shall consist of three (3) Members of the Association appointed by the Board. Notwithstanding the foregoing, so long as the Developer shall own any of the Lots covered by these restrictions, the ACC shall be composed of representatives of the Developer. When the Developer no longer owns any of the Lots covered by these restrictions, then the ACC shall be controlled by the Board as noted herein. Nothing contained herein shall prevent the Developer, at its sole discretion, from relinquishing control over the ACC prior to Developer conveying its last Lot.

5.2 No Development Without Prior Approval. In order to maintain harmony in appearance and to protect the Owners of the Lots in the Subdivision, no Dwelling, detached garage, fence, sign, wall, swimming pool or other improvement shall be erected, constructed or maintained upon any Lot nor shall any change or alteration be made thereon unless the complete plans and specifications thereof, a plan showing the exact location of such Dwelling, detached garage, fence, sign, wall, swimming pool or other improvement, the elevation thereof and the grade of the Lot shall have been submitted to and approved in writing by the ACC. The decision of the ACC with respect to any such matter shall be rendered no later than thirty (30) days after receipt of the complete and final plans, specifications, elevation and grade of such Dwelling, detached garage, fence, sign, wall, swimming pool or other improvement and shall be final and binding upon all parties. The ACC shall have the right to refuse to

approve any such plans or specifications which, in the conclusive judgment of a majority of its Members, are not in conformity with these restrictions or are not desirable for aesthetic or any other reason. In passing upon such plans and specifications, the ACC may take into consideration the suitability of the proposed Dwelling, detached garage, fence, sign, wall, swimming pool or other improvement, its design, elevation, and the materials of which it is to be constructed on the Lot; the harmony thereof with the surrounding buildings and the view from the adjacent Lots. The ACC shall have the right to waive minor infractions or deviations from these restrictions if it is determined to be in the best interest of the Subdivision. Each Lot purchaser should be fully aware of the restrictions that are contained herein and the building and zoning codes of the Village of Germantown before purchasing a Lot in the Harvest Hills Subdivision.

5.3 Separate Village Approval. Matters which require approval of the ACC may also require approval of the Village of Germantown. Obtaining approval from the ACC and from the Village is solely the responsibility of the Owner desiring approval. Approval of the drawings by the ACC shall not be deemed approved by the Village and approval by the Village shall not be deemed approved by the ACC.

5.4 Indemnification. Each Member or former Member of the ACC, together with personal representatives and heirs of each such person, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees reasonably incurred by or imposed by such Member in connection with any proceeding to which he or she may be a party, or in which he or she may become involved by reason of his or her being or having been a Member of the ACC, or any settlement thereof, whether or not he or she is a Member of the ACC at the time such expenses are incurred, except in such cases wherein the Member of the ACC is adjudged guilty of willful malfeasance in the performance of his or her duties. The foregoing rights to indemnification shall be in addition to and not exclusive of any right of indemnification to which a Member of the ACC may be entitled by Wisconsin statute or common law.

ARTICLE 6. ASSESSMENTS

6.1 Annual Assessments. Each Lot Owner shall be subject to a general annual charge or assessment to be determined solely by the Board of Directors of the Association in accordance with the annual budget for the purpose of defraying the cost of operating the Association, establishing a reserve for capital replacements, maintaining and administering the signs, Outlots, including storm water management ponds, and including without limitation, the cost of taxes, insurance, maintenance and repairs. The assessment shall be levied uniformly among Lots except for fines, fees or charges assessed against an individual Lot for violation of the Declaration. Annual assessments shall be levied by the Association as of January 31st for each year and the statement for such amount shall be e-mailed to the Owner of each Lot on such date and be payable on or before March 31st of each year. Developer shall be expressly exempted from paying a general annual charge on any Lots it holds for the years 2019 and 2020, but shall then be responsible for such payments on any Lots it holds as of January 1, 2021.

6.2 Special Assessments. If the annual assessment based upon the budget is inadequate or if special circumstances arise, the Board of Directors may levy a special assessment payable in such reasonable manner as the Board directs.

6.3 Proof of Payment. The Association shall, upon request at any time, furnish to any Lot Owner a certificate in writing signed by the Secretary or President of the Board of Directors of the Association setting forth whether said assessments have been paid.

6.4 Common Expenses and Surpluses. Common expenses and surpluses shall be allocated in the same manner as general assessments are allocated. All common surpluses for each fiscal year shall be retained for common expenses for the next succeeding fiscal year.

6.5 Individual Assessments - Violation or Breach of these Restrictions or Covenants. For violation or breach of any of the covenants or restrictions, the Developer and/or the Association, shall have the right to proceed at law or in equity (including, but not limited to, injunctive relief) to compel compliance with the terms hereof or to prevent the violation or breach of any of them. In addition, to the foregoing right, the Developer or the Association shall have the right, whenever there shall be built on any Lot any structure which is in violation of these restrictions, to enter upon the Lot where such violation exists and summarily abate or remove the same at the expense of the Lot Owner and any such entry and abatement or removal shall not be deemed a trespass. The Developer and/or the Association shall have the right to assess a Lot Owner for all costs incurred in abating or removing any such violation plus a fine not to exceed one hundred dollars (\$100) for each day the violation occurs. Any such individual assessment shall be paid by the assessed Lot Owner within fifteen (15) days from the date of imposition by the Developer or the Association.

6.6 Late Payments. Any assessment or installment of an assessment not paid within ten (10) days of its due date may be subject to a late charge and/or interest as set forth in the Bylaws or Rules of the Association.

6.7 Liens and Collection of Assessments. Any and all assessments made by the Developer or Association in accordance with the provisions of this Declaration together with interest thereon at the rate of twelve percent (12%) per annum plus the costs of collection, including, but not limited to, reasonable attorney's fees for any sums unpaid shall be the personal obligation of each Lot Owner. Such obligations shall become and are hereby declared to be a charge and a continuing lien upon the Lots against which each such assessment was made until paid in full. Said lien shall be effective only from and after the time of the recordation with the Register of Deeds of Washington County, of a written statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the Association shall issue and record a Satisfaction of the statement of lien. The Developer or Association as the case may be, shall have the following options to collect on any outstanding obligations assessed against any Lot:

- (a) To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in like manner as the foreclosure of a mortgage on real property.
- (b) To file an action at law to collect said assessment, plus interest, at the rate of twelve percent (12%) per annum, plus court costs and reasonable attorney's fees without waiving any lien rights or rights of foreclosure.

6.8 Litigation Reserve. Upon initial conveyance of each Lot by Developer, each new Owner shall deposit with the Association a nonrefundable sum of three hundred dollars (\$300), to be placed in a litigation reserve fund. The litigation reserve fund shall be used to pay legal fees and costs in the event the Association is involved in a proceeding to enforce or defend the terms and conditions of this Declaration, whether in a proceeding commenced by or against the Association or in which the Association intervenes. The Board shall place funds in an interest-bearing account and all returns shall become a part of the fund, provided the Board may transfer amounts out of the fund to the Association's general funds if it is determined that a lesser amount in the litigation fund is appropriate. If necessary, the Board may levy a general or special assessment to replenish such fund. The Developer shall not be obligated to contribute any funds to the litigation reserve fund.

ARTICLE 7. DECLARATION TERMS

7.1 Term. This Declaration shall be in effect for a period of twenty-five (25) years and automatically renew for successive periods of ten (10) years each, unless there is recorded an instrument executed by the Owners of at least seventy-five percent (75%) of the Lots in the Subdivision, with written agreement by the Village, terminating this Declaration, in which case this Declaration shall terminate following the recording of an instrument of termination.

7.2 Severability. The invalidity of any provision of this Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.

7.3 Amendment. This Declaration may be voided, waived, changed, modified or amended at any time by written Declaration setting forth said change, executed by the Owners of at least seventy-five percent (75%) of the Lots in the Subdivision and the Village.

7.4 Enforcement by Lot Owners. The covenants and restrictions contained herein may be enforced by any Lot Owner by proceedings at law or in equity against any other Lot Owner who is violating or attempting to violate the same to recover damages or to demand compliance, provided, however, that no such actions shall be commenced more than one (1) year from the date on which the violation occurred.

7.5 Conflict. In addition to the provisions of this Declaration, all Lots shall be subject to all ordinances, zoning laws and other restrictions of the Village of Germantown, Washington County and the State of Wisconsin. In the event of any conflict between this Declaration and the zoning code and building regulations of the Village, the stricter provisions shall apply.

ARTICLE 8. EASEMENT AREAS

8.1 Drainage Easements. An easement is reserved to the Developer, Association and/or the Village as the case may be, over any Lots or Outlots for the installation, maintenance and repair of swales, streams, ponds or other storm water management facilities and drainage system elements as are shown on the Plat, are contained in any Master Grading Plan, any development construction drawings or in the Storm Water Management Plan approved by the Village. Each Lot Owner shall have the responsibility for proper day to day maintenance of any drainage easements located on that Owner's Lot. Maintenance shall include cutting grass, raking leaves, removing fallen trees and branches and removing other minor obstructions. The Association shall have responsibility for setting and maintaining proper grade in the drainage easement areas. Lot Owners shall not change the grade of, construct improvements on, or in any way obstruct the drainage easement areas.

8.2 Landscaping/Sign Easement. Developer shall complete the landscaping in the landscaping/sign easement identified on the final Plat hereof. After completion of the landscaping, the Association shall have responsibility for maintaining the landscaping/sign easement areas.

8.3 Right of Entry. A right of entry to each Lot, Common Area, or Outlot is reserved to the Developer, Association and/or Village and their successors, agents or assigns, to service utility installations, maintain vision corners, signage, drainage easements and/or stormwater management facilities as is necessary, provided a request for entry is made in advance to any individual Lot Owner which may be affected and such entry is limited in scope to that which is reasonably necessary for the purpose for which it is intended. In case of emergency, entry by the Developer, Association and/or Village onto any Lot, may be made immediately and without notice to such Lot Owner.

8.4 Stormwater and Outlot Maintenance Access Easement. An easement for ingress and egress as is shown on the Plat for Harvest Hills Subdivision, is reserved to the Developer, the Association and/or the Village as the case may be, for purposes of access to Outlot 5 and 6. Said access is for the purpose of allowing for maintenance and repair of any storm water management facilities located thereon or other Outlot maintenance which may be necessary or required.

ARTICLE 9. OUTLOTS

9.1 Ownership of Outlots. Each Owner of a Lot shall own a percentage interest in the Outlots as a tenant in common with all other Lot Owners. The interest of each Lot Owner is calculated as a fraction equal to 1 divided by the number of Lots. Initially, the interest is 1/37. The Outlot ownership interest shall be appurtenant to ownership

of a Lot and may not be transferred separately from the Lot to which it pertains. Thus, each Lot Owner shall be responsible for 1/37th of the maintenance costs of the Outlots, which will be handled through the Homeowners Association.

9.2 Outlot Maintenance. Maintenance of Outlots includes, but is not limited to, perpetual maintenance of all privately-owned storm water management basins, storm sewer, ditches, and swales, and other privately-owned improvements including the monument entrance sign(s). Maintenance shall include any mowing, trimming, pruning, clearing necessary to ensure proper functioning of drainage basins and proper aesthetics as determined by the Committee. Should the Association fail to maintain the landscaping as required herein, the Village may take remedial action and assess a special charge as allowed.

9.3 Damage or Destruction of Outlots. In the event any Outlot is damaged or destroyed by a Lot Owner or any of his or her guests, tenants, licensees, agents or member of his or her family, such Lot Owner does hereby authorize the Association to repair said damaged area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. The amount necessary for such repairs shall become a Special Assessment upon the Lot of said Owner.

9.4 Wetland and Primary Environmental Corridor (PEC) Preservation. Wetlands and the Primary Environmental Corridor depicted on the Subdivision Plat within Outlot 6 are to be preserved and protected from development and any uses or activities that would damage or destroy the natural resource features, wildlife and associated habitat therein, including but not limited to, the unnecessary removal of trees or other vegetation, the use of motorized vehicles, recreational hunting, etc.

Executed this 27th day of August, 2019.

Harvest Hills Subdivision, LLC

By: Shari Waggoner
Shari Waggoner, Member

State of Wisconsin)
) ss.
County of ~~Washington~~ Waukesha

Personally came before me this 27th day of August, 2019, the above-named Shari Waggoner, Member, to me known to be the persons who executed the foregoing instrument and acknowledge the same.

Tania J. Nabors
Notary Public, ~~Washington~~ Waukesha County, Wisconsin
My Commission: 09/01/2019

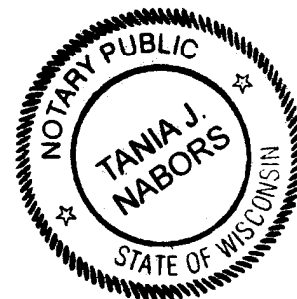


Exhibit A

Lots One through Thirty-Seven (1-37) and Outlots One through Six (1-6) in Harvest Hills, being a subdivision that is a portion of Parcel 1 of C.S.M. No. 3641 (a portion of the SE 1/4 of the NW 1/4), Washington County Records, and also the NW 1/4 of the NE 1/4 and the SW 1/4 of the NE 1/4, all in Section 24, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin. More particularly described as follows:

Commencing at the North 1/4 corner of said Section 24-9-20, said corner being on the centerline of C.T.H. 'F'; thence N. 88°13'31" E., 660.00 feet along the north line of the NW 1/4 of the NE 1/4 of said Section 24-9-20 (centerline of C.T.H. 'F') to the point of beginning of lands to be described; thence continue N. 88°13'31" E., 676.98 feet along said north line (centerline) to the NE corner of the NW 1/4 of the NE 1/4 of said Section 24-9-20; thence S. 01°39'58" E., 2630.97 feet along the east line of the West 1/2 of the NE 1/4 of said Section 24-9-20 to the SE corner of the SW 1/4 of the NE 1/4 of said Section 24-9-20, said corner also being on the centerline of Elm Lane; thence S. 88°20'55" W., 1331.92 feet along the south line of the SW 1/4 of the NE 1/4 of said Section 24-9-20 (centerline of Elm Lane) to the Center of said Section 24-9-20; thence N. 01°46'35" W., 728.07 feet along the west line of the SW 1/4 of the NE 1/4 of said Section 24-9-20; thence S. 88°13'25" W., 141.32 feet; thence N. 01°46'35" W., 585.89 feet to the north line of the SE 1/4 of the NW 1/4 of said Section 24-9-20, said line also being the northerly line of Parcel 1 of said C.S.M. No. 3641; thence N. 88°11'13" E., 141.32 feet along said north line to the NW corner of the SW 1/4 of the NE 1/4 of said Section 24-9-20 (NE corner of Parcel 1 of said C.S.M. No. 3641); thence N. 01°46'35" W., 786.06 feet along the west line of the NW 1/4 of the NE 1/4 of said Section 24-9-20 to the SW corner of Parcel 1 of C.S.M. No. 386, Washington County Records; thence N. 88°13'31" E., 663.08 feet along the southerly line of said C.S.M. No. 386 to the SE corner of Parcel 3 of said C.S.M. No. 386; thence N. 02°06'39" W., 528.00 feet along the easterly line of said Parcel 3 to the point of beginning.

Said parcel contains 74.44 acres.

MEETING:	REGULAR MEETING OF THE PLAN COMMISSION
DATE AND TIME:	Monday, June 12, 2023 6:30 PM
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

MINUTES

- 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.*
The meeting was called to order at 6:30 pm.
- II. **ROLL CALL:**
Chairman Dean Wolter, Trustee Rep David Baum, Commissioners Tony Laszewski, Peter Nilles, Bob Williams, Bill Shadid and Josh Tarantino, Community Development Director Jeff Retzlaff and Planning Assistant Lori Johnson
- III. **APPROVAL OF MINUTES:**

A. May 8, 2023
MOTION Baum second Shadid to Approve the Minutes from May 8, 2023
MOTION carried 4-3 (Nilles and Williams abstained).
- IV. **NEW BUSINESS:**

A. Eric and Ashley Evans, W130 N11622 Harvest Ridge, Lot 1 in Harvest Hills Subdivision. Subdivision Plat Amendment to revise the Elm Lane access restriction to allow a driveway on Elm Lane. (ACTION)
Director Retzlaff summarized the proposal.
MOTION Baum second Laszewski to Approve the request to revise the Elm Lane access restriction on the Harvest Hills subdivision plat that prohibits driveway access to Elm Lane and to allow a new residential driveway to Elm Lane from Lot 1 in the Harvest Hills Subdivision subject to the following conditions:
1. The nearest point of the driveway shall be located not closer than 120 feet from the Elm Lane @ Harvest Ridge intersection as shown on the plat of survey submitted by the property owner.
Trustee Baum said he will not support the proposal because when the subdivision came forward a conscious effort was made to keep traffic off Elm Lane. He said if Elm Lane is pushed through to Country Aire Drive to provide access to the park, it will become a major thoroughfare.
MOTION carried 4-3 (Wolter, Baum, Laszewski)

RESOLUTION NO. 09-2023

RESOLUTION RELEASING THE ELM LANE ACCESS RESTRICTION
SHOWN ON THE HARVEST HILLS SUBDIVISION PLAT FOR LOT 1

WHEREAS, the Harvest Hills Subdivision Plat contains an access restriction that prohibits access to Elm Lane from the lots in the Harvest Hills Subdivision plat for the purpose for protecting the public and preserving the traffic mobility function of Elm Lane; and

WHEREAS, the Village of Germantown Village Board is the authority responsible for approving the Harvest Hills Subdivision Plat and the entity that has the right and responsibility to enforce the Elm Lane access restriction contained therein; and

WHEREAS, Eric and Ashley Evans, the owners of Lot 1 having Parcel ID Number GTNV241-021, have requested that the Village not enforce this access restriction in order that may construct a driveway from Lot 1 to Elm Lane (vs. the required driveway location on Harvest Ridge) as shown on Exhibit A attached hereto ; and

WHEREAS, the owners have submitted information to support their request that concludes a driveway to Elm Lane would meet the requirements of the Harvest Hills Homeowner's Association covenants and be safer than a driveway on Harvest Ridge for the owners and the general public traveling on Elm Lane and Harvest Ridge; and

WHEREAS, the Director of the Village Public Works Department has expressed his support for the request indicating that a driveway on Elm Lane would be safer than a driveway on Harvest Ridge; and

WHEREAS, the Village Plan Commission did, following a 4-3 vote in favor of a motion to approve the request to release the access restriction, recommend to the Village Board that the access restriction be released for Lot 1 (and not for any other lots in the subdivision) with a requirement that a driveway from Lot 1 to Elm Lane be located a distance not less than 120 feet to the Harvest Ridge @ Elm Lane intersection as shown on Exhibit A; and

WHEREAS, the Wisconsin State Platting Manual, prepared and adopted by the Wisconsin Department of Administration as a guide to the platting regulations under Wis. Stats. 236, indicates that the authority responsible for approving a subdivision plat may need to release a plat restriction provided that such release is executed in writing by the entity that has the right of enforcement of said restriction;

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Germantown, Wisconsin, does hereby release the access restriction prohibiting access to Elm Lane and will allow driveway access from Lot 1 to Elm Lane as shown on the attached Exhibit A.

Introduced by Trustee _____, at the Village Board Meeting of the Village of Germantown on August 21, 2023.

Adopted on: August 21, 2023

Vote: Ayes: Nays: Absent:

Dean Wolter, Village President

ATTEST:

Erin Hirn, Interim Village Clerk

This is to certify that the foregoing resolution was adopted by the Village Board of the Village of Germantown, Wisconsin, at a meeting held on the 19th day of June, 2023.

Published: _____, 2023

Erin Hirn, Interim Village Clerk

OFFICE OF THE VILLAGE CLERK
Germantown Village Hall
N112 W17001 Mequon Rd.
Germantown, WI 53092

I hereby certify that this document is a true and correct copy of Resolution No. xx-2023, adopted by the Village Board of the Village of Germantown, Washington County, Wisconsin, at a meeting of said Village Board on the 19th day of June, 2023.

Erin Hirn, Interim Village Clerk

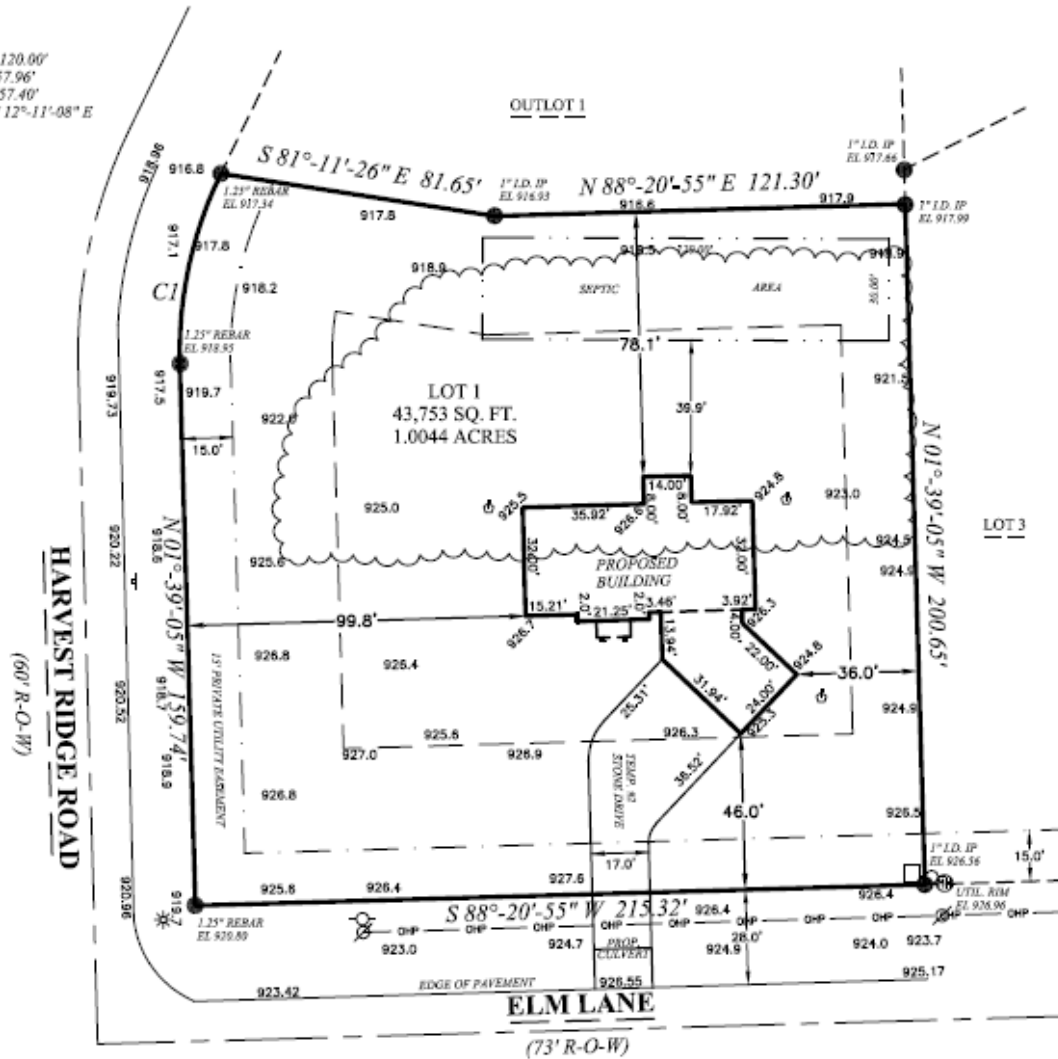
This Document drafted by:
Jeffrey W. Retzlaff, AICP
Village Planner & Community Development Director

EXHIBIT A TO RESOLUTION NO. 09-2023

FOR LOT 1 OF HARVEST HILLS, AND BEING A PART OF THE SW 1/4 OF THE
NORTHEAST QUARTER OF SECTION 24, TOWN 9 NORTH, RANGE 20 EAST,
VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN.

NOTE:
HARVEST HILLS SUBDIVISION PLAT STATES "NO VEHICULAR ACCESS" FROM ELM LANE
ACCESS WAS ALLOWED BY THE VILLAGE OF GERMANTOWN PER OWNER OF LOT 1

CI
RAD. = 120.00'
ARC = 57.96'
CHD = 57.40'
C.B. = N 12°-11'-08" E



BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Action Item

ITEM TITLE: Carter Schmitz Training Systems, LLC, Agent for Ozaukee Development Corporation, Property Owner - W188 N11770 Maple Road Unit 5. Conditional Use Permit (CUP) application for an "Indoor Health or Recreation Establishment" pursuant to Section 17.33(3)(h) and Section 17.29(1)(kk) of the Village Zoning Code.

SUBMITTED BY: Jeff Retzlaff, Community Dev. Director

SUMMARY EXPLANATION:

Carter Schmitz, agent for Ozaukee Development Corp, property owner, is seeking a Conditional Use Permit for an indoor health, fitness and performance training facility in the building located at W188 N11770 Maple Road in the Germantown Industrial Park. Carter Schmitz Training Systems (CSTS) is a human performance training facility for athletes and other citizens that will provide on-site strength & conditioning training, education, and coaching services utilizing state-of-the-art training equipment and qualified coaches. CSTS will provide these services in an overall positive health, wellness and exercise program and in collaboration with local youth sports organizations, and other local groups, businesses and government agencies. Hours of operation are proposed to be Monday through Saturday, 6:00am to 10:00pm. The number of employees is expected to be 1-2 employees.

Although "health, fitness and performance facilities" are not specifically listed as a permitted use in the M-1: Limited Industrial Zoning District, uses like this can be allowed in the M-1 District with a conditional use permit. The list of CUP uses that may be allowed in the M-1 District includes ***"Commercial activities allowed in the B-2 Community Business District when the Plan Commission finds that the activity directly supports the businesses in the Industrial Park and can be integrated into an overall plan..."*** [see Section 17.33(3)(h)]. "Indoor health and recreation establishments" are a permitted use in the B-2 District under Section 17.29(1)(kk) and like many other uses that have been allowed in the M-1 District, including but not limited to martial arts training, children daycare centers, and dog-related training establishments such as the Redline Canine Training Center & Behavioral Consultation right next door.

ATTACHMENT:

1. Carter Schmitz Training-CUP 8-21-23
2. Carter Schmitz Training Systems CUP 8-14-23

RECOMMENDATION:

ACTION BY Committee:

At their August 14 meeting, the Plan Commission voted favorably to recommend that the Village Board **APPROVE** a conditional use permit to Carter Schmitz Training Systems LLC for the operation of an indoor health, fitness and performance training facility in the existing building located at W188 N11770 Maple Road in the Germantown Industrial Park subject to seven (7) conditions (see draft CUP ordinance)

CUP # xx-2023 Document No.	CONDITIONAL USE PERMIT Document Title
VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN CONDITIONAL USE ZONING PERMIT	
Whereas the Applicants: Carter Schmitz, agent for Carter Schmitz Training Systems LLC, and for Ozaukee Development Corporation, Property Owner agree to comply with applicable Codes and Ordinances of the Village of Germantown, Wisconsin, and further agrees that all work done pursuant to the permission granted herewith will conform with the applications and drawings filed with and approvals granted by officials of the Village for the purpose of obtaining this permit. Now, therefore, this permit is issued to allow the operation of an indoor health, fitness and performance training facility from the property located at W188 N11770 Maple Road pursuant to Section 17.33(3)(h) and 17.29(1)(kk) of the Village Zoning Code.	
Name & Return Address: Village of Germantown P.O. Box 337 Germantown, WI 53022	
Parcel Identification No: GTNV 212-960	

On the following described property located in the Village of Germantown, Washington County, Wisconsin:

Lot 1 of Certified Survey Map (CSM) 3184; a 2.88-acre parcel of Section 21, Town 9 North, Range 20 East, in the Village of Germantown, County of Washington, State of Wisconsin.

Tax Key No: 212-960

Address: W188 N11770 Maple Road, Suite 5

Pursuant to the following condition(s):

1. This permit authorizes limited uses and activities as set forth in the conditional use permit application dated April 27, 2023 and in the supporting documents made part of the application on file with the Village. All the operational characteristics and services as described, as well as any commitments made by the Applicant as set forth in the application, supporting documents, and made during presentations to the Village Plan Commission, Village Board and Village staff are deemed to be conditions of approval.
2. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or, where there is a change in the nature, character, intensity or extent of the activities and/or uses which cause problems or harmful effects not anticipated at the time of approval of this CUP or where conditions imposed were anticipated to ameliorate or eliminate such problems or harmful effects but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.

3. All interior and exterior building modifications (including exterior lighting) and/or site improvements may require permits and/or other approvals from the Village. State-approved plans may be required for any proposed improvements or remodeling. Detailed plans for any interior or exterior improvements shall be submitted to the Village as part of a building permit application.
4. If the proposed use constitutes the type of change in occupancy that requires interior and/or exterior remodeling or additional fire safety features to comply with current building, fire safety and other applicable codes and regulations, the operator shall coordinate the preparation and submittal of state-approved plans to and approved by the Village Fire Department and Inspection Services prior to occupancy.
5. The owner/operator shall coordinate with the Fire Department to determine maximum occupancy for the tenant space. If the maximum capacity is exceeded on a regular basis as determined by the Fire Department, the owner/operator will be required to re-classify the occupancy type from "business" to "assembly" and, as a result, install any additional, necessary fire-safety measures required by the Fire Department, or discontinue operation.
6. The owner/operator shall contact the Fire Department and Inspection Services for a pre-occupancy inspection prior to commencing operations.
7. All exterior signage, including temporary signs, require a permit from the Village.

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin on the ____ day of _____, 2023.

Dean Wolter, Village President

ATTEST:

Erin Hirn, Interim Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

Personally came before me this ____ day of _____, 2023, the above named Dean Wolter, Village President, and Erin Hirn, Interim Village Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin

My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY OPERATOR

As the business owner/operator, Carter Schmitz Training Systems LLC, I hereby accept the terms and conditions set forth in this Permit and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2023

Carter Schmitz, Agent for Carter Schmitz Training Systems LLC

STATE OF WISCONSIN) SS
_____ COUNTY)

Personally came before me this ____ day of _____, 2023, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY PROPERTY OWNER

As property owner, Ozaukee Development Corporation, I hereby accept the terms and conditions set forth in this Permit and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2023

Agent for Ozaukee Development Corporation, Property Owner

STATE OF WISCONSIN) SS
_____) COUNTY)

Personally came before me this ____ day of _____, 2023, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

This instrument was drafted by:
Jeffrey W. Retzlaff, AICP
Community Development Director/Zoning Administrator
Village of Germantown, Wisconsin

Notary Public, State of Wisconsin
My Commission Expires: _____

CONDITIONAL USE PERMIT APPLICATION

8/14/23 Plan Commission Meeting

Carter Schmitz Training Systems LLC

Village Planner Report

Germantown, Wisconsin

Summary

Carter Schmitz, agent for Ozaukee Development Corp, property owner, is seeking a Conditional Use Permit for an indoor health, fitness and performance training facility in the building located at W188 N11770 Maple Road in the Germantown Industrial Park.

Property Location: W188 N11770 Maple Road Unit #5

Applicant/

Property Owner:

Carter Schmitz

W157 N10822 Catskill Ln

Germantown, WI

Ozaukee Dev Corp

W188 N11786 Maple Road

Germantown, WI

Current Zoning: M-1: Limited Industrial District

Adjacent Land Uses		Zoning
North	Industrial	M-1
South	Industrial	M-1
East	Industrial	M-1
West	Industrial	M-1



Proposal

Carter Schmitz, agent for Ozaukee Development Corp, property owner, is seeking a Conditional Use Permit for an indoor health, fitness and performance training facility in the building located at W188 N11770 Maple Road in the Germantown Industrial Park.

As discussed in the application materials, Carter Schmitz Training Systems (CSTS) is a human performance training facility for athletes and other citizens that will provide on-site strength 7 conditioning training, education, and coaching services utilizing state-of-the-art training equipment and qualified coaches. CSTS will provide these services in an overall positive health, wellness and exercise program and in collaboration with local youth sports organizations, and other local groups, businesses and government agencies.

Hours of operation are proposed to be Monday through Saturday, 6:00am to 10:00pm. The number of employees is expected to be 1-2 employees. While no new construction is expected, the interior space will be set up in a manner like that presented in the photos included with the application.

Staff Comments

Although "health, fitness and performance facilities" are not specifically listed as a permitted use in the M-1: Limited Industrial Zoning District, the use could be allowed in the M-1 District with a conditional use permit. As set forth in the Zoning Code, the list of CUP uses that may be allowed in the M-1 District includes ***“Commercial activities allowed in the B-2 Community Business District when the Plan Commission finds that the activity directly supports the businesses in the Industrial Park and can be integrated into an overall plan...”*** [see Section 17.33(3)(h)]. “Indoor health and recreation establishments” are a permitted use in the B-2 District under Section 17.29(1)(kk) and like many other uses that have been allowed in the M-1 District, including but not limited to martial arts training, children daycare centers, and dog-related training establishments such as the Redline Canine Training Center & Behavioral Consultation right next door.

As a matter of procedure, the PC needs to consider and determine if the proposed use is the type of business or activity is like and compatible with other uses in the Industrial Park. Staff is of the opinion that it does.

Village Planner Recommendation

APPROVE a conditional use permit for the operation of an indoor health, fitness and performance training facility in the existing building located at W188 N11770 Maple Road in the Germantown Industrial Park subject to the following conditions:

1. This permit authorizes limited uses and activities as set forth in the conditional use permit application dated April 27, 2023 and in the supporting documents made part of the application on file with the Village. All the operational characteristics and services as described, as well as any commitments made by the Applicant as set forth in the application, supporting documents, and made during presentations to the Village Plan Commission, Village Board and Village staff are deemed to be conditions of approval.
2. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or, where there is a change in the nature, character, intensity or extent of the activities and/or uses which cause problems or harmful effects not anticipated at the time of approval of this CUP or where conditions imposed were anticipated to ameliorate or eliminate such problems or harmful effects but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
3. All interior and exterior building modifications (including exterior lighting) and/or site improvements may require permits and/or other approvals from the Village. State-approved plans may be required for any proposed improvements or remodeling. Detailed plans for any interior or exterior improvements shall be submitted to the Village as part of a building permit application.
4. If the proposed use constitutes the type of change in occupancy that requires interior and/or exterior remodeling or additional fire safety features to comply with current building, fire safety and other applicable codes and regulations, the operator shall coordinate the preparation and submittal of state-approved plans to and approved by the Village Fire Department and Inspection Services prior to occupancy.
5. The owner/operator shall coordinate with the Fire Department to determine maximum occupancy for the tenant space. If the maximum capacity is exceeded on a regular basis as determined by the Fire Department, the owner/operator will be required to re-classify the occupancy type from "business" to "assembly" and, as a result, install any additional, necessary fire-safety measures required by the Fire Department, or discontinue operation.
6. The owner/operator shall contact the Fire Department and Inspection Services for a pre-occupancy inspection prior to commencing operations.
7. All exterior signage, including temporary signs, require a permit from the Village.



Village of

Germantown

Willkommen

Fee must accompany application

☐ \$1460 Paid _____ Date _____

CONDITIONAL USE PERMIT APPLICATION

Pursuant to Section 17.42 of the Municipal Code

Please read and complete this application carefully. All applications must be signed and dated.

1 APPLICANT OR AGENT

CARTER SCHMITZ TRAINING
SYSTEMS, LLC

Phone (262) 352-3848

Fax (-) -

E-Mail CSTRAININGSYSTEMS@GMAIL.COM

PROPERTY OWNER

Ozaukee Development Corp

Phone (262) 377-8597

Laneentities@gmail.com

2 TO WHOM SHOULD THE PERMIT BE ISSUED?

APPLICANT AND PROPERTY OWNER

3 PROPERTY ADDRESS

W188 N11770 MAPLE RD #5
GERMANTOWN, WI 53022

TAX KEY NUMBER

212 960

4 DESCRIPTION OF EXISTING OPERATION

Briefly describe the use as it exists today, including use, size, number of employees, hours of operation, etc. If this permit involves new construction, describe the current status of the property, e.g. "vacant." Use additional pages as necessary.

VACANT

5 DESCRIPTION OF PROPOSED OPERATION

Write the name of the proposed conditional use exactly as it appears in the Municipal Code

INDOOR HEALTH AND/OR RECREATION ESTABLISHMENTS

Describe the proposed use, including size, number of employees, hours of operation and extent of any new construction/alterations.

ATHLETE TRAINING AND GENERAL POPULATION FITNESS FACILITY. THE 3200 SQUARE FEET WILL BE CONVERTED INTO A WEIGHT ROOM AND TRAINING ENVIRONMENT FILLED WITH TURF, SQUAT RACKS, WEIGHTS, AND OTHER VARIOUS EXERCISE MACHINES. HOURS OF OPERATION WILL

VARY BY THE SEASON, BUT GENERALLY WILL BE 6 AM - 10 PM.

NO CONSTRUCTION OR ALTERATIONS TO THE BUILDING OR PROPERTY

WILL BE COMPLETED. SEE ATTACHED COMMUNITY IMPACT DOCUMENT

AND PHOTOS. ~~WILL~~ ~~CARTER~~ EMPLOYEES 1-2 DEPENDENT ON

Monday
through
Saturday

6 **METES AND BOUNDS LEGAL DESCRIPTION OF PROPERTY - REQUIRED**

Attach pages as necessary

W188N11770 Maple Rd
Sec. 21, T9N, R20E
Lot 1 - CSM 3184 DOC 958719 SEC 21-9-20 2.88 Ac
2.880 Acres

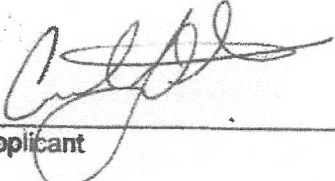
7 **SUPPORTING DOCUMENTATION:**

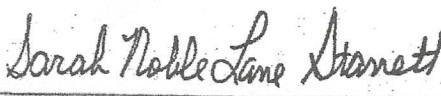
- ☐ Site Plan and elevations for new construction (can be conceptual) N/A
- ☒ Photos of existing use and/or proposed use operating elsewhere
- ☒ COMMUNITY IMPACT DOCUMENT ATTACHED!
- ☐

8 **READ AND INITIAL THE FOLLOWING:**

- CS ✓ I understand that the Village is under no obligation to issue a Conditional Use Permit and will do so only if the applicant successfully demonstrates that the proposed use is harmonious with the neighborhood and the long range goals of the Village.
- CS ✓ I will notify the Village if any aspects of the conditional use changes. I understand that failure to do so may result in the revocation of the CUP.
- CS ✓ I understand that a Conditional Use Permit is valid only if the conditions and restrictions of the permit are met. I understand that failure to comply with any aspect of the permit may result in revocation.
- CS ✓ I understand that Village Staff is required to post one or more signs along the street frontage of and/or on the property subject of this application that indicate to nearby property owners and the general public that a public hearing of my application will be held before the Village Plan Commission and/or Village Board prior to action being taken on this application; I hereby grant Village Staff permission to enter onto the property for the expressed purpose of installing said sign(s) provided Village Staff is responsible for installing, maintaining and removing said signs in a reasonable manner and timeframe.

9 **SIGNATURES - ALL APPLICATIONS MUST BE SIGNED BY OWNER!**


Applicant _____ Date 4/19/23


Owner Sarah Noble Lane Starnett _____ Date 4-27-23

Andrew R. Lane _____ Date 4/27/2023

Carter Schmitz Training Systems, LLC
Alpine Business Center Proposal: Community Impact

Carter Schmitz Training Systems (CSTS) is excited to be an active and engaged member of the greater Germantown Community and is eager to empower athletes and citizens through physical fitness training.

We plan to play a significant role in the community by building relationships with local schools, businesses, and organizations to promote our mission and support the members of Germantown.

With input and collaboration from the community, CSTS will provide athletes and citizens with various programming and training options that will take place on-site at our facility. At CSTS, we are prepared to offer:

Human Performance Training and Coaching

At CSTS, we intend to work alongside youth, high school, and collegiate athletes helping them improve their physical abilities as it relates to athletic performance and resilience. We will strive to empower leadership skills and positive character traits within all of the athletes that we coach. With state-of-the-art training equipment, and more importantly qualified and experienced coaches, athletes of all ages will get stronger, faster, move better, and become more injury resilient.

Experienced, Qualified Coaching Staff

The Founder and Head Coach, Carter Schmitz, is a Certified Strength and Conditioning Specialist, has his Master of Science degree in Kinesiology, and has more than 5 years in the strength and conditioning industry working with athletes ranging from youth to the professional level. We are eager to spread our breadth of experiences and knowledge with the Germantown Community, providing value to athletes and citizens alike.

Youth Athlete Development

Youth athletes will prioritize building a foundation of movement quality, exploring their movement abilities through games and play-based activities, as well as learning about the importance of health and fitness in their lives. Youth athletes will train in groups (limited to ~20 athletes per group) that have similar goals, maturity levels, and physical abilities. These groups will give youth athletes the opportunity to socialize, engage with, and build friendships amongst their peers in the community!

Athlete Performance Training

More experienced athletes will prioritize gaining muscle mass, getting faster, stronger, and more athletic, as well as learning leadership and interpersonal skills that will help them in both sport and life! Similar to above, athletes will train in groups (limited to ~20 athletes per group) that have similar goals and physical abilities. These training groups will promote community, friendships, as well as a positive social experience for athletes!

General Adult Fitness Coaching

Aside from athletes, CSTS will also coach general population clients, helping them achieve higher levels of fitness, health, and longevity. With 64% of WI adults considered obese or overweight, providing community members with a space to learn, train, and grow will promote positive health habits, making Germantown a healthier and more active community!

Civic Engagement

Promoting Positive Health, Wellness, and Exercise Habits

At CSTS, we will work to engrain positive health, wellness, and exercise habits into all of our athletes - young and old. Healthier citizens maintain more positive attitudes and higher productivity rates. They also have a decreased risk of obtaining chronic diseases such as cardiovascular disease or Type II diabetes. All-in-all, a healthier community is beneficial for the growth, development, and health of Germantown more holistically!

Organization Partnerships

CSTS will work to create partnerships with local youth athlete organizations, such as those listed below, providing athlete training resources, information, and education...

- Germantown Girls Basketball Club
- Germantown Hawks Youth Football
- Germantown Jr Warhawks Fastpitch and Baseball
- Adversity Volleyball Club
- Germantown Jr Warhawks Basketball
- Wisconsin Lakers Girls Basketball
- SC Wave Soccer Club
- Germantown Hornets Wrestling Club

We will strive to create partnerships with other youth and adult groups that could find value in fitness, community, and wellness education such as:

- Germantown Police and Fire Departments
- 4H Groups
- Church Groups
- Senior-Aged Groups
- Big Brothers, Big Sisters of Washington County
- Germantown Youth Futures

Supporting Local Business and Government

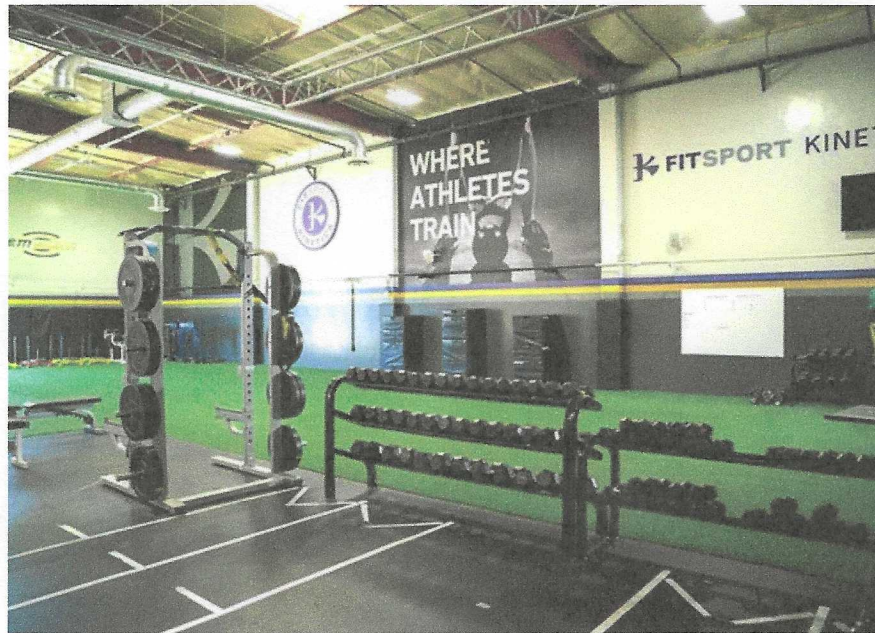
CSTS is eager to support the Germantown Police Department, Chamber of Commerce, Germantown Parks and Rec, and other government entities. Furthermore, we look forward to being able to sponsor local athletic events such as the annual wrestling tournament, softball tournaments, soccer tournaments, youth basketball tournaments, and golf outings that work to bring community members together!

Germantown is the ideal spot to establish this performance training facility. As a graduate of Germantown High School, our founder and head coach, Carter Schmitz, will make use of connections, experiences, and knowledge of the community to spread awareness of the CSTS mission and the value that our training facility will be able to offer individuals. Furthermore, we will use these previously established relationships to partner with and grow alongside the many active organizations, businesses, and groups that currently call Germantown home.

Germantown is a growing community - with a population up to 21,914 - filled with athletes and citizens that are eager to improve their health, wellness, and fitness! Youth athletics has become increasingly popular as parents work to expose their kids to a myriad of social groups as well as physically active experiences. At CSTS we are here to support these athletes, young and old, on their mission to healthier and injury-free lifestyles.

We firmly believe that a positive, healthy community will be cultivated within the walls of Carter Schmitz Training Systems, which will provide the utmost value for its members and the Germantown Community.

Carter Schmitz Training Systems Proposed Photo Examples



The two photos above are pictures of athlete and human performance training facilities currently in operation in CA (top) and AZ (bottom). These are close to what CSTS will look like when complete.

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Action Item

ITEM TITLE: Appointment of Donna Cox as Germantown Village Clerk

SUBMITTED BY:

SUMMARY EXPLANATION:

ATTACHMENT:

1. 230821 Appointment of Donna Cox as Village Clerk
2. Signed Offer Letter
3. Cox Resume

RECOMMENDATION:

ACTION BY Committee:

VILLAGE BOARD
GERMANTOWN, WI

MEETING DATE: August 21, 2023

AGENDA ITEM: New Business

ITEM TITLES: Appointment of Donna Cox as Village Clerk

SUBMITTED BY: Steven Kreklow, Village Administrator

SUMMARY EXPLANATION:

I am requesting confirmation of Donna Cox as the Germantown Village Clerk. Ms. Cox is very qualified for the position. She is currently the Deputy Clerk for the Village of Richfield and was previously Deputy Clerk for the Town of Lisbon. She has also served as an Accounting Clerk for the City of Hartford and a Records Technician for the City of New Berlin. Ms. Cox has achieved Wisconsin Municipal Clerk Certification and is near completion of the Wisconsin Professional Clerk Certification. I have attached a copy of her signed offer of employment and her resume.

Attached: Ordinance_____ Resolution_____ Other X

Recommendation:

Confirmation of appointment of Donna Cox as Village Clerk.

Village of

Germantown

August 11, 2023

Donna Cox
256 Willow Lane
Hartford, WI 53027
Ottman82@hotmail.com

Dear Ms. Cox:

We are pleased to conditionally offer you the position of Village Clerk for the Village of Germantown. If you accept this offer, your appointment will go before the board on August 21, 2023 at 7:00 pm. Your start date will be Tuesday September 5, 2023, pending the results of a pre-employment physical and a routine background check.

You will be eligible for fringe benefits as outlined in the Employee Policy & Procedure Manual, a summary of which is attached to this letter. The manual generally illustrates the major benefits you would be eligible for, but I would be happy to go over the benefits in greater detail as you desire.

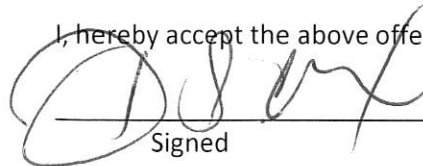
You will be required to take an employee health screening physical. The physical will include a hearing test (audio), vision test and drug screening. You should go to Workforce Health in Menomonee Falls for this physical, a map is attached. Their phone number is 262-253-5150. You should call ahead for an appointment.

Your starting salary will be \$43.33/hour (\$90,126.40/year), you will receive three (3) weeks of vacation annually which will be given starting your second paycheck at a rate of 4.615 per pay period over 26 paychecks as well as 40 hours upon hire.

I trust that you will find Germantown a pleasant and enjoyable place to work. I look forward to working with you as a key part of our staff and that the association will be a long and successful experience for all.

Sincerely,

Steven R. Kreklow
Village Administrator

I, hereby accept the above offer of employment.

Signed _____ Date 8/11/23

Attachments: Summary of Benefits
Map showing location of Workforce Health in Menomonee Falls

cc: Erin M. Hirn, Support Services Manager (this copy to Personnel File)
Paula Winter, Senior Deputy Treasurer

DONNA COX



PROFESSIONAL SUMMARY

I am a professional public servant with 14 years of experience working in local government. I have a passion for serving others, a graduate of the UWGB Clerk's and Treasures Institute, serves on various boards and committees, served/serves in a leadership capacity as Municipal Deputy Clerk with proven public sector expertise and excellent managerial, organizational and communication skills.

PROFESSIONAL EXPERIENCE

Village of Richfield / Deputy Clerk

June 2017 – Present

Performs the duties of the Clerk per Wisconsin State Statutes (limited description ▼)

- Facilitate and administer elections and oversee the process related to same
- Serve as the official custodian of Village Records and Village Seal
- Serve as the Clerk to the Board of Review
- Create and compile agendas, packets, and minutes of meetings and distribution thereof
- Attends various meetings of boards, committees, and commissions as required
- Create and distributes notices for publication and posting
- Maintains records retention schedule and destruction of same
- Assists the Deputy Treasurer with the collection and reconciliation of taxes
- Train all election officials and staff on electoral processes
- Administer the Oath of Office, Statement of Understanding and Code of Ethics to all newly elected, appointed and re-appointed officials
- Serves as a Notary Public (Expires: 2025)
- Conduct background investigations on all applicants for specific licenses/permits, new staff and officials representing the Village
- Serve as a Work Permit Officer for the DWD (Department of Workforce Development) for underage work permits
- Assists residents and members of the public at the front counter in Clerk's Office
- Process payments for various fees and receipting of same
- Review applications for various licenses / permits with Deputy Sheriff for approval/denial process
- Create and distribute all licenses and permits
- Create articles for publication for Village newsletter
- Train all election officials and office personnel
- Maintain records and reports generated in WisVote / Train staff to be a user in WisVote

- Maintain all voters records
 - Communicate with Assessor to coordinate Open Book, Board of Review, Objections to Hearings, etc and certify tax rolls
 - File reports with the Wisconsin Department of Revenue and the Elections Commission per deadlines
 - Compile, distribute, review, and accept nomination papers
 - Work closely with the County Clerk regarding electoral processes, audits, recounts, machine maintenance, etc.
 - Assist in the preparation of Ordinances and Resolutions and submit Ordinances for Codification and maintain records of same
-

Town of Lisbon / Deputy Clerk

2015-2017

Same responsibilities and duties as noted above with the *exception* of serving as the Clerk to the Board of Review, creation of newsletter articles, reviewal of applications with the Deputy Sheriff for the approval / denial process and working with the Assessor reference the Board of Review.

Additional responsibilities and tasks performed not reflected in my current position

- Served as the Secretary to the Plan Commission
 - Attended scheduled meetings with the Village Engineer regarding potential items going before the Plan Commission and Town Board, ie developments, CUP's, rezonings, TUP's
-

EDUCATION / CERTIFICATIONS

University of Wisconsin Green Bay

2021

Clerk & Treasurers Institute (Completed)

CPR Certified (recertification 2022)

Certified Nursing Assistant (2012)

Moraine Park Technical College, West Bend, Wisconsin

2010-2013

General Studies / Certified Nursing and Medical Assistant Studies

AFFILIATIONS

- Member of WMCA – Wisconsin Municipal Clerk's Association
 - UWGB – Advisory Board Member
 - WMCA Conference Committee Member
-

SKILLS - WisVote, Microsoft Word, Excel, PowerPoint, Office, Adobe Acrobat, Publisher, Civic Plus, Ascent Tax Program, GIS, Survey Monkey, DOJ and DOT background investigations software, BDS accounting software, Facebook, Instagram, Laserfische

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Resolution

ITEM TITLE: A Resolution to Declare Official Intent re Bond Reimbursement
Under Section 1.150-2 of the Internal Revenue Code

SUBMITTED BY:

SUMMARY EXPLANATION:

ATTACHMENT:

1. Resolution Declaring Official Intent re Bond Reimbursement

RECOMMENDATION:

ACTION BY Committee:

VILLAGE OF GERMANTOWN
WASHINGTON COUNTY

RESOLUTION NO. ____-2023

A RESOLUTION TO DECLARE OFFICIAL INTENT RE BOND REIMBURSEMENT
UNDER SECTION 1.150-2 OF THE INTERNAL REVENUE CODE

WHEREAS, the Department of the Treasury has issued final regulations (Treas. Reg. Section 1.150-2) (the “Reimbursement Bond Regulations”) that, for the purpose of determining whether interest on certain obligations of a state or local government is excluded from gross income for federal income tax purposes, permit the use of the proceeds of tax-exempt obligations to reimburse capital expenditures made prior to the date such obligations are issued only if the state or local government, within 60 days of the date of expenditure, declares its official intent to reimburse the expenditure with proceeds of a borrowing; and

WHEREAS, the Reimbursement Bond Regulations require that if a current expenditure is to be permanently financed by a later issue of tax-exempt obligations a state or local government must declare its intention to reimburse itself for the expenditure from proceeds of a borrowing within 60 days from when the expenditure is made (the “Declaration of Official Intent”); and

WHEREAS, the Village of Germantown, Wisconsin, (the “Issuer”) proposes to make certain capital expenditures in connection with the construction of certain capital projects, to wit: the installation of Germantown Well # 12 together with associated appurtenances including the well house; and Glenwood Park underground utility main replacement (collectively, the “Project”).

WHEREAS, the Issuer expects and intends to issue revenue bonds or promissory notes (the “Bonds”) for the purpose of paying for the Project; and

WHEREAS, because certain expenditures may be made in connection with the Project prior to the issuance of the Bonds, it is necessary, desirable, and in the best interests of the Issuer to advance moneys from its funds on hand on an interim basis to pay the costs of the Project until the Bonds are issued at which time the Issuer will seek reimbursement for such Project expenditures from the proceeds of the Bonds;

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

Section 1. Expenditure of Funds. The Municipality shall make expenditures as needed from its funds on hand to pay the costs of the Project until Bond proceeds become available.

Section 2. Declaration of Official Intent. The Municipality hereby officially declares its intent under Treas. Regs. Section 1.150-2 to reimburse said expenditures with proceeds of the

Bonds, the principal amount of which is not expected to exceed \$4.6 million for the Well 12 component and \$1.2 million of the utility main replacement component.

Section 3. Unavailability of Long-Term Funds. No funds for payment of the Project from sources other than the Bonds are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the Municipality pursuant to its budget or financial policies.

Section 4. Public Availability of Official Intent Resolution. This Resolution shall be made available for public inspection at the Village Clerk's office after its approval in compliance with applicable State law governing the availability of records of official acts including Subchapter II of Chapter 19 of the Wisconsin Statutes, and shall remain available for public inspection until the Bonds are issued.

Section 5. Effective Date. This Resolution shall be effective upon its adoption and approval.

Introduced by: _____

Adopted: August 21, 2023

Vote: Ayes: _____ Nays: _____

Dean M. Wolter, Village President

ATTEST:

Erin Hirn, Interim Village Clerk

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Action Item

ITEM TITLE: Contract with Tracy Cross, Inc. for a Housing Market Study

SUBMITTED BY:

SUMMARY EXPLANATION:

ATTACHMENT:

1. 230821 Tracy Cross Housing Market Study
2. Tracy Cross Housing Market Analysis Proposal 230809

RECOMMENDATION:

ACTION BY Committee:

**BUSINESS OF THE GERMANTOWN GENERAL GOVERNMENT
& FINANCE COMMITTEE**

MEETING DATE: August 21, 2023

PLACEMENT New Business

ITEM TITLE: Approval of a Contract with Tracy Cross & Associates, Inc. for a Housing Market Study

SUBMITTED BY: Steven R. Kreklow, Village Administrator

SUMMARY EXPLANATION:

At their August 9th meeting, the Next Generation Housing Committee approved a request for \$20,000 from the Village of Germantown to fund a housing market study to be completed by Tracy Cross & Associates. The study will provide important data and analysis needed to complete community development master plans that the Plan Commission is working on for the Holy Hill and Freistadt Districts, and potentially the Village Center District.

A detailed scope for the study is included in the attached proposal from Tracy Cross & Associates. There will be no cost to the Village for the study.

ATTACHMENT: ORDINANCE ____ RESOLUTION ____ OTHER X ____

RECOMMENDATION:

Approve a motion recommending that the Village Board approve a contract with Tracy Cross & Associates for up to \$20,000 to complete a Housing Market Study for the Village of Germantown.

ACTION BY Committee:



TRACY CROSS & ASSOCIATES, INC.
REAL ESTATE MARKET ANALYSIS

August 9, 2023

Mr. Steven R. Kreklow
Village of Germantown
N112 W17001 Mequon Road
Germantown, WI 53022

Re: Service Agreement No. 8680-F

Dear Mr. Kreklow:

This letter will acknowledge the services to be rendered by Tracy Cross & Associates, Inc. (hereinafter referred to as "Cross") on behalf of the *Village of Germantown* (hereinafter referred to as "Client"). To wit:

I. Services

Cross will provide selected research and consulting services to determine the highest-and-best market-driven residential development opportunities throughout the village of Germantown, Wisconsin. Specifically, Cross will offer strategic planning guidelines for the introduction (and sustainability) of new construction housing alternatives throughout the municipality. In meeting this goal, the objectives of our analysis are:

- ☐ To determine the depth of the market for residential development in the village of Germantown over the next 5-10 years. This evaluation will be based upon economic, demographic, socio-economic and residential construction trends throughout the Milwaukee metropolitan region as a whole, with focused attention upon its northwest suburban area and the village of Germantown in particular.
- ☐ To forward conclusions regarding the marketability of various forms of housing throughout the village in order to meet the needs/demands of area residents (current and future); fill voids that exist in the marketplace; and address future growth initiatives. Investigative uses will include, but not be limited to, single family, duplex, villa, townhome, and condominium for sale offerings, as well as various rental housing forms – focusing upon all age group and income categories, i.e., ranging from younger profiles through active adults aged 55+. These conclusions will be based upon the depth of market in each residential sector and/or consumer segment, and the alignment of residential developments, both existing and planned.
- ☐ To offer specific design, product and pricing/rental rate recommendations for those housing forms that are viewed to have measurable market support now and into the future including market rate alternatives as well as work force/affordable options. These recommendations will address total unit count potentials, product criteria, plan types and sizes, unit mix, parking requirements, etc., along with benchmark pricing/rental rate guidelines viewed as necessary to attain acceptable levels of sales or absorption.
- ☐ To offer a geographic positioning strategy for the introduction of new housing products throughout the village focusing on those areas viewed most suitable for the recommended housing forms over the next 5-10 years. This analysis will give full consideration to any of the Client's pre-determined investigative properties or development area. In addition, Cross will provide input regarding specific site locations and/or general areas Client should strongly consider for development.

- ☐ To offer action items necessary for implementing all recommendations such as builder/developer recommendations and the priority ranking of opportunities.

II. Process, Timing and Deliverables

Services, which will encompass field work, data collection, and analysis, will be divided into phases:

Phase One Project Start/Data Collection/Analysis:

- ☐ Conduct a teleconference/videoconference with Client to confirm assignment parameters and discuss other pertinent items related to scope.
- ☐ Conduct a thorough “on the ground” market investigation to determine geographic boundaries of the local study area and identify factors likely to affect housing demand throughout the village. As a part of this evaluation, Cross will conduct site analyses on properties (or areas of Germantown) identified by Client as likely development candidates.
- ☐ Collect secondary employment and residential construction data and condense regional analyses into an operating perspective of the defined study area.
- ☐ Conduct a comprehensive demographic analysis of the defined study area focusing upon its household base in terms of age segment, size, composition, incomes, etc.
- ☐ Based upon our experience in the greater Milwaukee region, determine who are/will be the target consumer groups for residential development within the municipality. Measure the depth of these market segments based upon their income, lifestyle, current choice of housing, and propensity to move.
- ☐ Conduct an audit of selected new construction residential developments in the defined market area (and surrounding areas) which may serve as a source of competitive influence including apartments, single family, townhomes, duplexes, condominiums, etc. This audit will address model offerings, unit size, bedroom/bath ratios, price/rent/value positioning, sales trends, occupancy/absorption, and other pertinent factors.
- ☐ Conduct a thorough analysis of the existing home market, i.e. resale sector, to evaluate its potential influence on future new construction development.
- ☐ Examine projects in the planning pipeline/under construction which may pose some degree of future competitive influence.
- ☐ Develop a demand forecast for residential development in the defined study area, focusing upon Germantown and its capture potential by product type and price/rent range.

Phase Two Written Report:

- ☐ Within eight (8) to ten (10) weeks of contract execution and receipt of contract deposit as outlined in Section III, Cross will prepare and submit a written document fully addressing market conditions, demand potentials, and competitive assessments, and provide detailed conclusions and recommendations regarding the highest-and-best residential offerings for Germantown. ***This analysis will provide all the tools necessary for the Client to make an “informed” business decision regarding the most appropriate direction for developing and marketing both for sale and rental housing within the municipality over the next 5-10 years – in order to fully inform future planning decisions.***

- ☐ Following the completion of the final report, Cross will conduct a teleconference, video conference or meeting with Client and other stakeholders to review the findings of the analysis and answer any questions regarding market potential, recommendations, etc.

III. Fee Schedule

Client agrees to pay Cross as compensation for services rendered a fee of \$17,750 with a deposit of \$10,750 due at contract execution and the remaining \$7,000 payable upon submission of report and receipt of invoice.

Reimbursable expenses, including but not limited to mileage/tolls and the cost of secondary data available only through purchase, will be billed separately at cost.

Timing and fee schedule noted are valid for 60 days from date of agreement.

IV. Authority to Act/Payment of Fees and Expenses

The undersigned hereby acknowledges that he/she has authority to accept and enter into an agreement with Cross on behalf of the Client, and further promises and agrees to pay all invoices for fees, costs and expenses when due, including but not limited to all collection costs, attorney's fees and other related costs incurred in enforcing any of Cross' rights hereunder. **All payments are due within thirty (30) days of receipt of invoice.**

V. Entire Agreement/Choice of Forum

This letter constitutes the entire agreement between the parties without regard to any statements or representations made prior or subsequent to its execution. No changes, modifications or revisions can or will affect or alter the agreement unless the changes, modifications or revisions are in writing and acknowledged by both parties. The agreement shall be governed by the laws of the State of Illinois, and any legal proceedings relating to the agreement shall take place in the Circuit Court of Cook County, Municipal or Law Division, Rolling Meadows, Illinois.

VI. Approval and Acceptance

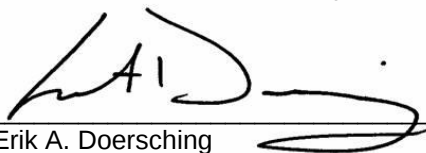
If this agreement is acceptable to you, please sign and return one executed contract **together with the \$10,750 contract deposit** as outlined in Paragraph III above.

The undersigned hereby agrees with the provisions set forth above and authorizes Tracy Cross & Associates, Inc. to proceed.

TRACY CROSS & ASSOCIATES, INC.

CLIENT: VILLAGE OF GERMANTOWN

By:


Erik A. Doersching
Its: President & CEO

By:

Steven R. Kreklow

Date: August 9, 2023

Date: _____

TRACY CROSS & ASSOCIATES, INC.

BUSINESS OF THE VILLAGE BOARD

MEETING DATE: August 21, 2023

PLACEMENT: Action Item

ITEM TITLE: Cancellation of September 4th Village Board meeting (Labor Day)

SUBMITTED BY:

SUMMARY EXPLANATION:

ATTACHMENT:

RECOMMENDATION:

ACTION BY Committee:

WB-15 COMMERCIAL OFFER TO PURCHASE

LICENSEE DRAFTING THIS OFFER ON August 11, 2023 **[DATE] IS (AGENT OF BUYER)**

(AGENT OF SELLER/LISTING FIRM) (AGENT OF BUYER AND SELLER) STRIKE THOSE NOT APPLICABLE

The Buyer, Village of Germantown, a Wisconsin municipal corporation, or its assigns

offers to purchase the Property known as

W157N11593 Fond du Lac Ave, Germantown, WI 53022 (Tax Key No. GTNV 224009)

[e.g., Street Address, Parcel Number(s), legal description, or insert additional description, if any, at lines 620-

650, or attach as an addendum per line 676] in the Village of Germantown, County

of Washington Wisconsin, on the following terms:

PURCHASE PRICE The purchase price is Four Hundred Fifty Thousand and No/100
Dollars (\$ 450,000.00).

INCLUDED IN PURCHASE PRICE Included in purchase price is the Property, all Fixtures on the Property as of the date
stated on line 1 of this Offer (unless excluded at lines 20-23), and the following additional items: None

All personal property included in purchase price will be transferred by bill of sale or

NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are included or not included.

NOT INCLUDED IN PURCHASE PRICE Not included in purchase price is Seller's personal property (unless included at
lines 12-15) and the following: None

CAUTION: Identify trade fixtures owned by tenant, if applicable, and Fixtures that are on the Property (see lines 26-34) to be excluded by Seller or that are rented and will continue to be owned by the lessor.

"Fixture" is an item of property which is physically attached to or so closely associated with land or improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the premises, items specifically adapted to the premises and items customarily treated as fixtures, including, but not limited to, all: garden bulbs; plants; shrubs and trees; screen and storm doors and windows; electric lighting fixtures; window shades; curtain and traverse rods; blinds and shutters; central heating and cooling units and attached equipment; water heaters and treatment systems; sump pumps; attached or fitted floor coverings; awnings; attached antennas; garage door openers and remote controls; installed security systems; central vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans; fences; storage buildings on permanent foundations and docks/piers on permanent foundations. A Fixture does not include trade fixtures owned by tenants of the Property.

CAUTION: Exclude Fixtures not owned by Seller such as rented fixtures. See lines 20-23.

BINDING ACCEPTANCE This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before August 18, 2023. Seller may keep the Property

on the market and accept secondary offers after binding acceptance of this Offer.

CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.

ACCEPTANCE Acceptance occurs when all Buyers and Sellers have signed one copy of the Offer, or separate but identical copies of the Offer.

CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term deadlines running from acceptance provide adequate time for both binding acceptance and performance.

CLOSING This transaction is to be closed on See attached Addendum A

at the place selected by Seller, unless otherwise agreed by the Parties in writing. If the date for closing falls on Saturday, Sunday, or a federal or a state holiday, the closing date shall be the next Business Day.

CAUTION: To reduce the risk of wire transfer fraud, any wiring instructions received should be independently verified by phone or in person with the title company, financial institution, or entity directing the transfer. The real estate licensees in this transaction are not responsible for the transmission or forwarding of any wiring or money transfer instructions.

EARNEST MONEY

■ EARNEST MONEY of \$ None accompanies this Offer.

If Offer was drafted by a licensee, receipt of the earnest money accompanying this Offer is acknowledged.

■ EARNEST MONEY of \$ \$25,000 will be mailed, or commercially, electronically or personally delivered within 5 days ("5" if left blank) after acceptance.

~~118 presence of asbestos or asbestos-containing materials, radon, radium in water supplies, mold, pesticides or other potentially~~
~~119 hazardous or toxic substances on the Property.~~
~~120 h. Manufacture of or spillage of methamphetamine (meth) or other hazardous or toxic substances on the Property.~~
~~121 i. Zoning or building code violations, any land division involving the Property for which required state or local permits had~~
~~122 not been obtained, nonconforming structures or uses, conservation easements.~~
~~123 j. Special purpose district, such as a drainage district, lake district, sanitary district or sewer district, that has the authority~~
~~124 to impose assessments against the real property located within the district.~~
~~125 k. Proposed, planned or commenced construction of public improvements which may result in special assessments or~~
~~126 otherwise materially affect the Property or the present use of the Property.~~
~~127 l. Federal, state or local regulations requiring repairs, alterations or corrections of an existing condition, such as orders to~~
~~128 correct building code violations.~~
~~129 m. Flooding, standing water, drainage problems or other water problems on or affecting the Property.~~
~~130 n. Material damage from fire, wind, floods, earthquake, expansive soils, erosion or landslides.~~
~~131 o. Nearby airports, freeways, railroads or landfills, or significant odor, noise, water intrusion or other irritants emanating~~
~~132 from neighboring property.~~
~~133 p. Current or previous termite, powder post beetle, or carpenter ant infestations or Defects caused by animal, reptile, or~~
~~134 insect infestations.~~
~~135 q. Property or portion of the Property in a floodplain, wetland or shoreland zoning area under local, state or federal~~
~~136 regulations.~~
~~137 r. Property is subject to a mitigation plan required under administrative rules of the Department of Natural Resources~~
~~138 related to county shoreland zoning ordinances, which obligates the owner of the Property to establish or maintain certain~~
~~139 measures related to shoreland conditions and which is enforceable by the county.~~
~~140 s. Nonowners having rights to use part of the Property, other than public rights-of-way, including, but not limited to, private~~
~~141 rights of way and private easements, other than recorded utility easements; lack of legal access or access restrictions;~~
~~142 restrictive covenants and deed restrictions; shared fences, walls, wells, driveways, signage or other shared usages; or~~
~~143 leased parking.~~
~~144 t. Boundary or lot line disputes, encroachments, or encumbrances affecting the Property.~~
~~145 u. High voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the~~
~~146 Property.~~
~~147 v. Structure on the Property designated as a historic building, all or any part of the Property located in a historic district, or~~
~~148 burial sites or archeological artifacts on the Property.~~
~~149 w. All or part of the land has been assessed as agricultural land, the owner has been assessed a use-value conversion~~
~~150 charge or the payment of a use-value conversion charge has been deferred.~~
~~151 x. All or part of the Property is subject to, enrolled in or in violation of a certified farmland preservation zoning district or a~~
~~152 farmland preservation agreement, or a Forest Crop, Managed Forest Law (see disclosure requirements in Wis. Stat. §~~
~~153 710.12), Conservation Reserve or a comparable program.~~
~~154 y. A pier is attached to the Property that is not in compliance with state or local pier regulations, a written agreement~~
~~155 affecting riparian rights related to the Property; or the bed of the abutting navigable waterway is owned by a hydroelectric~~
~~156 operator.~~
~~157 z. A dam is totally or partially located on the Property; or an ownership interest in a dam not located on the Property will~~
~~158 be transferred with the Property because the dam is owned collectively by a homeowners' association, lake district, or~~
~~159 similar group of which the Property owner is a member.~~
~~160 aa. Government investigation or private assessment/audit of environmental matters conducted.~~
~~161 bb. Presence of or a Defect caused by unsafe concentrations of, unsafe conditions relating to, or the storage of hazardous~~
~~162 or toxic substances on neighboring properties.~~
~~163 cc. Owner's receipt of notice of property tax increases, other than normal annual increases, or notice or knowledge of a~~
~~164 pending property reassessment, remodeling that may increase the property's assessed value, or pending special~~
~~165 assessments.~~
~~166 dd. Agreements that bind subsequent owners of the property, such as a lease agreement or an extension of credit from~~
~~167 an electric cooperative.~~
~~168 ee. Remodeling, replacements, or repairs affecting the Property's structure or mechanical systems that were done or~~
~~169 additions to the Property that were made during the owner's period of ownership without the required permits.~~
~~170 ff. Rented items located on the Property or items affixed to or closely associated with the Property.~~
~~171 gg. Owner is a foreign person as defined in the Foreign Investment in Real Property Tax Act in 26 IRC § 1445(f).~~
~~172 hh. Other Defects affecting the Property, including, without limitation, drainage easement or grading problems, or excessive~~
~~173 sliding, settling, earth movement or upheavals.~~

174 **PROPOSED USE CONTINGENCIES:** This Offer is contingent upon Buyer obtaining, at Buyer's expense, the reports or
175 documentation required by any optional provisions checked on lines 185-197 below. The optional provisions checked on
176 lines 185-197 shall be deemed satisfied unless Buyer, within 90 days ("30" if left blank) after acceptance, delivers: (1)
177 written notice to Seller specifying those optional provisions checked below that cannot be satisfied and (2) written evidence
178 substantiating why each specific provision referred to in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice,
179 this Offer shall be null and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingency provisions
180 checked at lines 185-197.

181 **Proposed Use:** Buyer is purchasing the Property for the purpose of: potential commercial/residential development

182 _____
183 _____ **[insert proposed use and type and**
184 **size of building, if applicable, e.g. restaurant/tavern with capacity of 350 and 3 second floor dwelling units].**

185 ☒ **ZONING:** Verification of zoning and that the Property's zoning allows Buyer's proposed use described at lines
186 181-183.

187 ☒ **EASEMENTS AND RESTRICTIONS:** Copies of all public and private easements, covenants and restrictions
188 affecting the Property and a written determination by a qualified independent third party that none of these prohibit or
189 significantly delay or increase the costs of the proposed use or development identified at lines 181-183.

190 ☐ **APPROVALS:** All applicable governmental permits, approvals and licenses, as necessary and appropriate, or
191 the final discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses, for
192 the following items related to Buyer's proposed use: _____

193 _____ or delivering written notice
194 to Seller if the item(s) cannot be obtained or can only be obtained subject to conditions which significantly increase the
195 cost of Buyer's proposed use described at lines 181-183.

196 ☐ **ACCESS TO PROPERTY:** Written verification that there is legal vehicular access to the Property from public
197 roads.

198 ☐ **LAND USE APPROVAL/PERMITS:** This Offer is contingent upon (Buyer)(Seller) **STRIKE ONE** ("Buyer" if neither
199 stricken) obtaining the following, including all costs: a **CHECK ALL THAT APPLY:** ☐ rezoning; ☐ conditional use permit;
200 ☐ variance; ☐ other _____ for the Property for its proposed use described at lines 181-183.
201 Seller agrees to cooperate with Buyer as necessary to satisfy this contingency. Buyer shall deliver, within _____ days of
202 acceptance, written notice to Seller if any item cannot be obtained, in which case this Offer shall be null and void.

203 ☒ **MAP OF THE PROPERTY:** This Offer is contingent upon (Buyer obtaining) (~~Seller providing~~) **STRIKE ONE** ("Seller
204 providing" if neither is stricken) a ALTA/NSPS Land Title Survey _____ survey
205 (ALTA/NSPS Land Title Survey if survey type is not specified) dated subsequent to the date of acceptance of this Offer and
206 prepared by a registered land surveyor, within 60 days ("30" if left blank) after acceptance, at (Buyer's)
207 (Seller's) **STRIKE ONE** ("Seller's" if neither is stricken) expense. The map shall show minimum of 0.4 acres,
208 maximum of 0.5 acres, the legal description of the Property, the Property's boundaries and dimensions, visible
209 encroachments upon the Property, the location of improvements, if any, and: those items necessary to cause the
210 removal by the Title Company of standard exceptions 6, 7, and 8 on Schedule B, Part II of the Title Commitment.

211 **STRIKE AND COMPLETE AS APPLICABLE** Additional map features which may be added include, but are not limited to:
212 staking of all corners of the Property; identifying dedicated and apparent streets; lot dimensions; total acreage or square
213 footage; utility installations; easements or rights-of-way. Such survey shall be in satisfactory form and accompanied by any
214 required surveyor's certificate sufficient to enable Buyer to obtain removal of the standard survey exception(s) on the title
215 policy.

216 **CAUTION: Consider the cost and the need for map features before selecting them. Also consider the time required**
217 **to obtain the map when setting the deadline.**

218 This contingency shall be deemed satisfied unless Buyer, within 5 days after the deadline for delivery of said map, delivers
219 to Seller a copy of the map and a written notice which identifies: (1) a significant encroachment; (2) information materially
220 inconsistent with prior representations; (3) failure to meet requirements stated within this contingency; or (4) the existence
221 of conditions that would prohibit the Buyer's intended use of the Property described at lines 181-183. Upon delivery of
222 Buyer's notice, this Offer shall be null and void. Once the deadline for delivery has passed, if Seller was responsible to
223 provide the map and failed to timely deliver the map to Buyer, Buyer may terminate this Offer if Buyer delivers a written
224 notice of termination to Seller prior to Buyer's Actual Receipt of said map from Seller.

225 ☒ **DOCUMENT REVIEW CONTINGENCY:** This Offer is contingent upon Seller delivering the following documents to
226 Buyer within 30 days ("30" if left blank) after acceptance: **CHECK THOSE THAT APPLY; STRIKE AS APPROPRIATE**

227 ☒ Documents evidencing the sale of the Property has been properly authorized, if Seller is a business entity.

228 ☒ A complete inventory of all furniture, fixtures, equipment and other personal property included in this transaction which
229 is consistent with representations made prior to and in this Offer.

230 ☒ Uniform Commercial Code lien search as to the personal property included in the purchase price, showing the Property
231 to be free and clear of all liens, other than liens to be released prior to or at closing.

232 ☒ Rent roll.

233 ☒ Other As Attached Addendum A

234 _____

235 Additional items which may be added include, but are not limited to: building, construction or component warranties,
236 previous environmental site assessments, surveys, title commitments and policies, maintenance agreements, other
237 contracts relating to the Property, existing permits and licenses, recent financial operating statements, current and future
238 rental agreements, notices of termination and non-renewal, and assessment notices.

239 All documents Seller delivers to Buyer shall be true, accurate, current and complete. Buyer shall keep all such documents
240 confidential and disclose them to third parties only to the extent necessary to implement other provisions of this Offer. Buyer
241 shall return all documents (originals and any reproductions) to Seller if this Offer is terminated.

242 ■ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within days ("5" if left
243 blank) after the deadline for delivery of the documents, delivers to Seller a written notice indicating this contingency has not
244 been satisfied. Such notice shall identify which document(s) have not been timely delivered or do not meet the standard set
245 forth for the document(s). Upon delivery of such notice, this Offer shall be null and void.

246 ☒ **ENVIRONMENTAL EVALUATION CONTINGENCY:** This Offer is contingent upon a qualified independent
247 environmental consultant of Buyer's choice conducting an Environmental Site Assessment of the Property (see lines 274-
248 291), at (Buyer's) (~~Seller's~~) expense **STRIKE ONE** ("Buyer's" if neither is stricken), which discloses no Defects.

249 **NOTE: "Defect" as defined on lines 523-525 means a condition that would have a significant adverse effect on the**
250 **value of the Property; that would significantly impair the health or safety of future occupants of the Property; or**
251 **that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life**
252 **of the premises.**

253 For the purpose of this contingency, a Defect is defined to also include a material violation of environmental laws, a material
254 contingent liability affecting the Property arising under any environmental laws, the presence of an underground storage
255 tank(s) or material levels of hazardous substances either on the Property or presenting a significant risk of contaminating
256 the Property due to future migration from other properties. Defects do not include conditions the nature and extent of which
257 Buyer had actual knowledge or written notice before signing the Offer.

258 ■ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within 90 days ("30" if
259 left blank) after acceptance, delivers to Seller a copy of the Environmental Site Assessment report and a written notice
260 listing the Defect(s) identified in the Environmental Site Assessment report to which Buyer objects (Notice of Defects).

261 **CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.**

262 ■ **RIGHT TO CURE:** Seller (~~shall~~) (shall not) **STRIKE ONE** ("shall" if neither is stricken) have a right to cure the Defects.
263 If Seller has the right to cure, Seller may satisfy this contingency by:

264 (1) delivering written notice to Buyer within ("10" if left blank) days after Buyer's delivery of the Notice of
265 Defects stating Seller's election to cure Defects;

266 (2) curing the Defects in a good and workmanlike manner; and

267 (3) delivering to Buyer a written report detailing the work done no later than three days prior to closing.

268 This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written Environmental Site
269 Assessment report and:

270 (1) Seller does not have a right to cure; or

271 (2) Seller has a right to cure but:

272 (a) Seller delivers written notice that Seller will not cure; or

273 (b) Seller does not timely deliver the written notice of election to cure.

274 ■ **ENVIRONMENTAL SITE ASSESSMENT:** An "Environmental Site Assessment" (also known as a "Phase I Site Assessment")
275 may include, but is not limited to: (1) an inspection of the Property; (2) a review of the ownership and use history of the
276 Property, including a search of title records showing private ownership of the Property for a period of 80 years prior to the
277 visual inspection; (3) a review of historic and recent aerial photographs of the Property, if available; (4) a review of
278 environmental licenses, permits or orders issued with respect to the Property (5) an evaluation of results of any
279 environmental sampling and analysis that has been conducted on the Property; and (6) a review to determine if the Property
280 is listed in any of the written compilations of sites or facilities considered to pose a threat to human health or the environment
281 including the National Priorities List, the Department of Nature Resources' (DNR) Registry of Waste Disposal Sites, the
282 DNR's Contaminated Lands Environmental Action Network, and the DNR's Remediation and Redevelopment (RR) Sites
283 Map including the Geographical Information System (GIS) Registry and related resources. Any Environmental Site
284 Assessment performed under this Offer shall comply with generally recognized industry standards (e.g. current American
285 Society of Testing and Materials "Standard Practice for Environmental Site Assessments"), and state and federal guidelines,
286 as applicable.

287 **CAUTION: Unless otherwise agreed an Environmental Site Assessment does not include subsurface testing of the**
288 **soil or groundwater or other testing of the Property for environmental pollution. If further investigation is required,**
289 **insert provisions for a Phase II Site Assessment (collection and analysis of samples), Phase III Environmental Site**
290 **Assessment (evaluation of remediation alternatives) or other site evaluation at lines 620-650 or attach as an**
291 **addendum per line 676.**

292 **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific contingencies are included as a
293 part of this Offer. An "inspection" is defined as an observation of the Property, which does not include an appraisal or testing
294 of the Property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel
295 source, which are hereby authorized. A "test" is defined as the taking of samples of materials such as soils, water, air or

building materials from the Property for laboratory or other analysis of these materials. Seller agrees to allow Buyer's inspectors, testers and appraisers reasonable access to the Property upon advance notice, if necessary, to satisfy the contingencies in this Offer. Buyer or licensees or both may be present at all inspections and testing. Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property.

NOTE: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose of the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms of the contingency.

Buyer agrees to promptly restore the Property to its original condition after Buyer's inspections and testing are completed unless otherwise agreed to with Seller. Buyer agrees to promptly provide copies of all inspection and testing reports to Seller. Seller acknowledges that certain inspections or tests may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

☒ **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines 292-306).

(1) This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s) of the Property which discloses no Defects.

(2) This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing an inspection of _____

(list any Property feature(s) to be separately inspected, e.g., dumpsite, etc.) which discloses no Defects.

(3) Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection, provided they occur prior to the Deadline specified at line 320. Each inspection shall be performed by a qualified independent inspector or independent qualified third party.

Buyer shall order the inspection(s) and be responsible for all costs of inspection(s).

CAUTION: Buyer should provide sufficient time for the primary inspection and/or any specialized inspection(s), as well as any follow-up inspection(s).

This contingency shall be deemed satisfied unless Buyer, within 120 days ("20" if left blank) after acceptance, delivers to Seller a copy of the inspection report(s) dated after the date on line 1 of this Offer and a written notice listing the Defect(s) identified in the inspection report(s) to which Buyer objects (Notice of Defects).

CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.

For the purpose of this contingency, Defects do not include conditions the nature and extent of which Buyer had actual knowledge or written notice before signing the Offer.

NOTE: "Defect" as defined on lines 523-525 means a condition that would have a significant adverse effect on the value of the Property; that would significantly impair the health or safety of future occupants of the Property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

■ RIGHT TO CURE: Seller (~~shall~~)(shall not) STRIKE ONE ("shall" if neither is stricken) have a right to cure the Defects.

If Seller has the right to cure, Seller may satisfy this contingency by:

(1) delivering written notice to Buyer within 10 days of Buyer's delivery of the Notice of Defects stating Seller's election to cure Defects;

(2) curing the Defects in a good and workmanlike manner; and

(3) delivering to Buyer a written report detailing the work done no later than three days prior to closing.

This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s) and:

(1) Seller does not have a right to cure; or

(2) Seller has a right to cure but:

(a) Seller delivers written notice that Seller will not cure; or

(b) Seller does not timely deliver the written notice of election to cure.

IF LINE 342 IS NOT MARKED OR IS MARKED N/A LINES 392-403 APPLY.

☒ **FINANCING COMMITMENT CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written _____ [loan type or specific lender, if any] first mortgage loan commitment as described below, within _____ days after acceptance of this Offer. The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years, amortized over not less than _____ years. Initial monthly payments of principal and interest shall not exceed \$ _____. Buyer acknowledges that lender's required monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private mortgage insurance premiums. The mortgage shall not include a prepayment premium. Buyer agrees to pay discount points in an amount not to exceed _____% ("0" if left blank) of the loan. If Buyer is using multiple loan sources or obtaining a construction loan or land contract financing, describe at lines 620-650 or in an addendum attached per line 676. Buyer agrees to pay all customary loan and closing costs, wire fees, and loan origination fees, to promptly apply for a mortgage loan, and to provide evidence of application promptly upon request of Seller. Seller agrees to allow lender's appraiser access to the Property.

■ LOAN AMOUNT ADJUSTMENT: If the purchase price under this Offer is modified, any financed amount, unless otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain the term and amortization stated above.

CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 358 or 359.

☐ **FIXED RATE FINANCING:** The annual rate of interest shall not exceed _____%.

☐ **ADJUSTABLE RATE FINANCING:** The initial interest rate shall not exceed _____%. The initial interest rate shall be fixed for _____ months, at which time the interest rate may be increased not more than _____% ("2" if left blank) at the first adjustment and by not more than _____% ("1" if left blank) at each subsequent adjustment. The maximum interest rate during the mortgage term shall not exceed the initial interest rate plus _____% ("6" if left blank). Monthly payments of principal and interest may be adjusted to reflect interest changes.

NOTE: If purchase is conditioned on Buyer obtaining financing for operations or development consider adding a contingency for that purpose.

■ **SATISFACTION OF FINANCING COMMITMENT CONTINGENCY:** If Buyer qualifies for the loan described in this Offer or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of a written loan commitment.

This contingency shall be satisfied if, after Buyer's review, Buyer delivers to Seller a copy of a written loan commitment (even if subject to conditions) that is:

(1) signed by Buyer; or

(2) accompanied by Buyer's written direction for delivery.

Delivery of a loan commitment by Buyer's lender or delivery accompanied by a notice of unacceptability shall not satisfy this contingency.

CAUTION: The delivered loan commitment may contain conditions Buyer must yet satisfy to obligate the lender to provide the loan. Buyer understands delivery of a loan commitment removes the Financing Commitment Contingency from the Offer and shifts the risk to Buyer if the loan is not funded.

■ **SELLER TERMINATION RIGHTS:** If Buyer does not deliver a loan commitment on or before the Deadline on line 344. Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of written loan commitment from Buyer.

■ **FINANCING COMMITMENT UNAVAILABILITY:** If a financing commitment is not available on the terms stated in this Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies of lender(s)' rejection letter(s) or other evidence of unavailability.

☐ **SELLER FINANCING:** Seller shall have 10 days after the earlier of:

(1) Buyer delivery of written notice of evidence of unavailability as noted in lines 380-383; or

(2) the Deadline for delivery of the loan commitment set on line 344

to deliver to Buyer written notice of Seller's decision to finance this transaction with a note and mortgage under the same terms set forth in this Offer, and this Offer shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, the option for Seller to provide financing shall be considered waived. Buyer agrees to cooperate with and authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing.

~~**IF THIS OFFER IS NOT CONTINGENT ON FINANCING COMMITMENT** Within _____ days ("7" if left blank) after acceptance, Buyer shall deliver to Seller either:~~

~~(1) reasonable written verification from a financial institution or third party in control of Buyer's funds that Buyer has, at the time of verification, sufficient funds to close; or~~

~~(2) _____~~

~~_____ [Specify documentation Buyer agrees to deliver to Seller].~~

~~If such written verification or documentation is not delivered, Seller has the right to terminate this Offer by delivering written notice to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written verification. Buyer may or may not obtain mortgage financing but does not need the protection of a financing commitment contingency. Seller agrees to allow Buyer's appraiser access to the Property for purposes of an appraisal. Buyer understands and agrees that this Offer is not subject to the appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of access for an appraisal constitute a financing commitment contingency.~~

☐ **APPRAISAL CONTINGENCY:** This Offer is contingent upon Buyer or Buyer's lender having the Property appraised at Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report dated subsequent to the date stated on line 1 of this Offer, indicating an appraised value for the Property equal to or greater than the agreed upon purchase price.

This contingency shall be deemed satisfied unless Buyer, within _____ days after acceptance, delivers to Seller a copy of the appraisal report indicating an appraised value less than the agreed upon purchase price, and a written notice objecting to the appraised value.

~~■ **RIGHT TO CURE:** Seller (shall) (shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure.~~

~~If Seller has the right to cure, Seller may satisfy this contingency by delivering written notice to Buyer adjusting the purchase price to the value shown on the appraisal report within _____ days ("5" if left blank) after Buyer's delivery of the appraisal report and the notice objecting to the appraised value. Seller and Buyer agree to promptly execute an amendment initiated by either Party after delivery of Seller's notice, solely to reflect the adjusted purchase price.~~

416 This Offer shall be null and void if Buyer makes timely delivery of the notice objecting to appraised value and the written
417 appraisal report and:

418 (1) Seller does not have the right to cure; or

419 (2) Seller has the right to cure but:

420 (a) Seller delivers written notice that Seller will not adjust the purchase price; or

421 (b) Seller does not timely deliver the written notice adjusting the purchase price to the value shown on the appraisal
422 report.

423 ☐ **SECONDARY OFFER:** This Offer is secondary to a prior accepted offer. This Offer shall become primary upon
424 delivery of written notice to Buyer that this Offer is primary. Unless otherwise provided, Seller is not obligated to give Buyer
425 notice prior to any Deadline, nor is any particular secondary buyer given the right to be made primary ahead of other
426 secondary buyers. Buyer may declare this Offer null and void by delivering written notice of withdrawal to Seller prior to
427 delivery of Seller's notice that this Offer is primary. Buyer may not deliver notice of withdrawal earlier than _____ days ("7"
428 if left blank) after acceptance of this Offer. All other Offer Deadlines that run from acceptance shall run from the time this
429 Offer becomes primary.

430 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing values:
431 real estate taxes, rents, prepaid insurance (if assumed), private and municipal charges, property owners or homeowners
432 association assessments, fuel and _____
433 _____.

434 **CAUTION: Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.**

435 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.

436 Real estate taxes shall be prorated at closing based on **CHECK BOX FOR APPLICABLE PRORATION FORMULA:**

437 ☒ **XX** The net general real estate taxes for the preceding year, or the current year if available (Net general real estate
438 taxes are defined as general property taxes after state tax credits and lottery credits are deducted). NOTE: THIS CHOICE
439 APPLIES IF NO BOX IS CHECKED.

440 ☐ Current assessment times current mill rate (current means as of the date of closing).

441 ☐ Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior
442 year, or current year if known, multiplied by current mill rate (current means as of the date of closing).

443 ☐ _____
444 **CAUTION: Buyer is informed that the actual real estate taxes for the year of closing and subsequent years may be**
445 **substantially different than the amount used for proration especially in transactions involving new construction,**
446 **extensive rehabilitation, remodeling or area-wide re-assessment. Buyer is encouraged to contact the local**
447 **assessor regarding possible tax changes.**

448 ☐ Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes on
449 the actual tax bill for the year of closing, with Buyer and Seller each owing his or her pro-rata share. Buyer shall, within 5
450 days of receipt, forward a copy of the bill to the forwarding address Seller agrees to provide at closing. The Parties shall
451 re-prorate within 30 days of Buyer's receipt of the actual tax bill. Buyer and Seller agree this is a post-closing obligation
452 and is the responsibility of the Parties to complete, not the responsibility of the real estate Firms in this transaction.

453 **TITLE EVIDENCE**

454 **■ CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed
455 (trustee's deed if Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as
456 provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements
457 entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use
458 restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's disclosure report,
459 and Real Estate Condition Report, if applicable, and in this Offer, general taxes levied in the year of closing and
460 None
461 _____

462 _____ (insert other allowable exceptions from title, if any) that constitutes
463 merchantable title for purposes of this transaction. Seller, at Seller's cost, shall complete and execute the documents
464 necessary to record the conveyance and pay the Wisconsin Real Estate Transfer Fee.

465 **WARNING: Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements**
466 **may prohibit certain improvements or uses and therefore should be reviewed, particularly if Buyer contemplates**
467 **making improvements to Property or a use other than the current use.**

468 **■ TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of
469 the purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall
470 pay all costs of providing title evidence to Buyer. Buyer shall pay the costs of providing the title evidence required by Buyer's
471 lender and recording the deed or other conveyance.

472 **■ GAP ENDORSEMENT:** Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's)(Buyer's)
473 **STRIKE ONE** ("Seller's" if neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded
474 after the commitment date of the title insurance commitment and before the deed is recorded, subject to the title insurance
475 policy conditions, exclusions and exceptions, provided the title company will issue the coverage. If a gap endorsement or

476 equivalent gap coverage is not available, Buyer may give written notice that title is not acceptable for closing (see lines 482-
477 489).

478 ■ **DELIVERY OF MERCHANTABLE TITLE:** The required title insurance commitment shall be delivered to Buyer's attorney
479 or Buyer not more than 15 days ("15" if left blank) after acceptance showing title to the Property as of a date
480 no more than 15 days before delivery of such title evidence to be merchantable per lines 454-464, subject only to liens
481 which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions.

482 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of
483 objections to title within 15 days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In
484 such event, Seller shall have 15 days ("15" if left blank) from Buyer's delivery of the notice stating title objections, to
485 deliver notice to Buyer stating Seller's election to remove the objections by the time set for closing. If Seller is unable to
486 remove said objections, Buyer shall have five days from receipt of notice thereof, to deliver written notice waiving the
487 objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Offer shall
488 be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable
489 title to Buyer.

490 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced
491 prior to the date stated on line 1 of this Offer shall be paid by Seller no later than closing. All other special assessments
492 shall be paid by Buyer. "Levied" means the local municipal governing body has adopted and published a final resolution
493 describing the planned improvements and the assessment of benefits.

494 **CAUTION: Consider a special agreement if area assessments, property owners association assessments, special**
495 **charges for current services under Wis. Stat. § 66.0627 or other expenses are contemplated. "Other expenses" are**
496 **one-time charges or ongoing use fees for public improvements (other than those resulting in special assessments)**
497 **relating to curb, gutter, street, sidewalk, municipal water, sanitary and storm water and storm sewer (including all**
498 **sewer mains and hook-up/connection and interceptor charges), parks, street lighting and street trees, and impact**
499 **fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).**

500 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights
501 under said lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the
502 (written) (oral) **STRIKE ONE** lease(s), if any, are to be provided by Seller within 15 days of acceptance

503 _____
504 _____ Insert additional terms, if any, at lines 620-650 or attach as an addendum per line 676.

505 **XX** **ESTOPPEL LETTERS:** Seller shall deliver to Buyer no later than 7 days ("7" if left blank) before closing, estoppel
506 letters dated within 15 days ("15" if left blank) before closing, from each non-residential tenant, confirming the lease term,
507 rent installment amounts, amount of security deposit, and disclosing any defaults, claims or litigation with regard to the lease
508 or tenancy.

509 **DEFINITIONS**

510 ■ **ACTUAL RECEIPT:** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document
511 or written notice physically in the Party's possession, regardless of the method of delivery. If the document or written notice
512 is electronically delivered, Actual Receipt shall occur when the Party opens the electronic transmission.

513 ■ **BUSINESS DAY:** "Business Day" means a calendar day other than Saturday, Sunday, any legal public holiday under
514 Wisconsin or Federal law, and any other day designated by the President such that the postal service does not receive
515 registered mail or make regular deliveries on that day.

516 ■ **DEADLINES:** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by
517 excluding the day the event occurred and by counting subsequent calendar days. The Deadline expires at Midnight on the
518 last day. Additionally, Deadlines expressed as a specific number of Business Days are calculated in the same manner
519 except that only Business Days are counted while other days are excluded. Deadlines expressed as a specific number of
520 "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by
521 counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific
522 event, such as closing, expire at Midnight of that day. "Midnight" is defined as 11:59 p.m. Central Time.

523 ■ **DEFECT:** "Defect" means a condition that would have a significant adverse effect on the value of the Property; that would
524 significantly impair the health or safety of future occupants of the Property; or that if not repaired, removed or replaced would
525 significantly shorten or adversely affect the expected normal life of the premises.

526 ■ **FIRM:** "Firm" means a licensed sole proprietor broker or a licensed broker business entity.

527 ■ **PARTY:** "Party" means the Buyer or the Seller; "Parties" refers to both Buyer and Seller.

528 ■ **PROPERTY:** Unless otherwise stated, "Property" means the real estate described at lines 4-8.

529 **INCLUSION OF OPTIONAL PROVISIONS** Terms of this Offer that are preceded by an OPEN BOX (☐) are part of
530 this Offer ONLY if the box is marked such as with an "X". They are not part of this offer if marked "N/A" or are left blank.

531 **PROPERTY DIMENSIONS AND SURVEYS** Buyer acknowledges that any land, building or room dimensions, or total
532 acreage or building square footage figures, provided to Buyer by Seller or by a broker, may be approximate because of
533 rounding, formulas used or other reasons, unless verified by survey or other means.

534 **CAUTION: Buyer should verify total square footage formula, total square footage/acreage figures, and land,**
535 **building or room dimensions, if material.**

DISTRIBUTION OF INFORMATION

Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession data to multiple listing service sold databases; (iii) provide active listing, pending sale, closed sale and financing concession information and data, and related information regarding seller contributions, incentives or assistance, and third party gifts, to appraisers researching comparable sales, market conditions and listings, upon inquiry; and (iv) distribute copies of this Offer to the seller, or seller's agent, of another property that Seller intends on purchasing.

MAINTENANCE

Seller shall maintain the Property and all personal property included in the purchase price until the earlier of closing or Buyer's occupancy, in materially the same condition it was in as of the date on line 1 of this Offer, except for ordinary wear and tear and changes agreed upon by Parties.

PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING

If, prior to closing, the Property is damaged in an amount not more than five percent of the purchase price, other than normal wear and tear, Seller shall promptly notify Buyer in writing, and will be obligated to restore the Property to materially the same condition it was in as of the date on line 1 of this Offer. Seller shall provide Buyer with copies of all required permits and lien waivers for the lienable repairs no later than closing. If the amount of damage exceeds five percent of the purchase price, Seller shall promptly notify Buyer in writing of the damage and this Offer may be terminated at option of Buyer. Should Buyer elect to carry out this Offer despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the damage to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy, if any. However, if this sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust for the sole purpose of restoring the Property.

BUYER'S PRE-CLOSING WALK-THROUGH

Within three days prior to closing, at a reasonable time pre-approved by Seller or Seller's agent, Buyer shall have the right to walk through the Property to determine that there has been no significant change in the condition of the Property, except for ordinary wear and tear and changes agreed upon by Parties, and that any Defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

OCCUPANCY

Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer at lines 620-650 or in an addendum attached per line 676. At time of Buyer's occupancy, Property shall be in broom swept condition and free of all debris, refuse, and personal property except for personal property belonging to current tenants, or sold to Buyer or left with Buyer's consent. Occupancy shall be given subject to tenant's rights, if any.

DEFAULT

Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer. A material failure to perform any obligation under this Offer is a default that may subject the defaulting party to liability for damages or other legal remedies.

If Buyer defaults, Seller may:

- ~~(1) sue for specific performance and request the earnest money as partial payment of the purchase price; or~~
- ~~(2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual damages.~~

If Seller defaults, Buyer may:

- ~~(1) sue for specific performance; or~~
- ~~(2) terminate the Offer and request the return of the earnest money; sue for actual damages; or both.~~

In addition, the Parties may seek any other remedies available in law or equity. The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the arbitration agreement.

NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS DOCUMENT CAREFULLY. THE FIRM AND ITS AGENTS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.

ENTIRE CONTRACT

This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of the Parties to this Offer and their successors in interest.

NOTICE ABOUT SEX OFFENDER REGISTRY

You may obtain information about the sex offender registry and persons registered with the registry by contacting the Wisconsin Department of Corrections on the Internet at <http://www.doc.wi.gov> or by telephone at (608) 240-5830.

FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)

Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the total "Amount Realized" in the sale if the transferor (Seller) is a "Foreign Person" and no exception from FIRPTA withholding applies. A "Foreign Person" is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign

594 estate. The "Amount Realized" is the sum of the cash paid, the fair market value of other property transferred, and the
595 amount of any liability assumed by Buyer.

596 **CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer**
597 **may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed**
598 **upon the Property.**

599 Seller hereby represents that Seller is a non-Foreign Person, unless (1) Seller represents Seller is a Foreign Person in a
600 condition report incorporated in this Offer per lines 93-95, or (2) no later than 10 days after acceptance, Seller delivers
601 notice to Buyer that Seller is a Foreign Person, in which cases the provisions on lines 607-609 apply.

602 **IF SELLER IS A NON-FOREIGN PERSON.** Seller shall, no later than closing, execute and deliver to Buyer, or a qualified
603 substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller's
604 non-foreign status in accordance with IRC § 1445. If Seller fails to timely deliver certification of Seller's non-foreign status,
605 Buyer shall: (1) withhold the amount required to be withheld pursuant to IRC § 1445; or, (2) declare Seller in default of this
606 Offer and proceed under lines 571-578.

607 **IF SELLER IS A FOREIGN PERSON.** If Seller has represented that Seller is a Foreign Person, Buyer shall withhold the
608 amount required to be withheld pursuant to IRC § 1445 at closing unless the Parties have amended this Offer regarding
609 amounts to be withheld, any withholding exemption to be applied, or other resolution of this provision.

610 **COMPLIANCE WITH FIRPTA.** Buyer and Seller shall complete, execute, and deliver, on or before closing, any instrument,
611 affidavit, or statement needed to comply with FIRPTA, including withholding forms. If withholding is required under IRC §
612 1445, and the net proceeds due Seller are not sufficient to satisfy the withholding required in this transaction, Seller shall
613 deliver to Buyer, at closing, the additional funds necessary to satisfy the applicable withholding requirement. Seller also
614 shall pay to Buyer an amount not to exceed \$1,000 for actual costs associated with the filing and administration of forms,
615 affidavits, and certificates necessary for FIRPTA withholding and any withholding agent fees.

616 **Any representations made by Seller with respect to FIRPTA shall survive the closing and delivery of the deed.**

617 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption
618 applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding
619 FIRPTA.

620 **ADDITIONAL PROVISIONS/CONTINGENCIES**

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651 **TAX DEFERRED EXCHANGE** If this Property is purchased or sold to accomplish an IRC § 1031 Tax Deferred exchange
652 of like-kind property, both Parties agree to cooperate with any documentation necessary to complete the exchange. The
653 exchangor shall hold the cooperating party harmless from any and all claims, costs or liabilities that may be incurred as a
654 result of the exchange.

DELIVERY OF DOCUMENTS AND WRITTEN NOTICES

Unless otherwise stated in this Offer, delivery of documents and
 accomplished by one of the authorized methods specified at lines

(1) Personal: giving the document or written notice personally to the Party, or the Party's recipient for delivery if named at 660 or 661.

Name of Seller's recipient for delivery, if any: Gerald M. Grosenick

Name of Buyer's recipient for delivery, if any: Steven Kreklow

N/A (2) Fax: fax transmission of the document or written notice to the following number:

Seller: () Buyer: ()

xx (3) Commercial: depositing the document or written notice, fees prepaid or charged to an account, with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery, for delivery to the Party's address at line 669 or 670.

☐ (4) **U.S. Mail:** depositing the document or written notice, postage prepaid, in the U.S. Mail, addressed either to the Party, or to the Party's recipient for delivery, for delivery to the Party's address.

Address for Seller: 206 Fernandina Street, Fort Pierce, FL 34949

Address for Buyer: N112 W17001 Mequon Road, Germantown, WI 53022

☐ (5) Email: electronically transmitting the document or written notice to the email address.

Email Address for Seller: qr8rib@gmail.com

Email Address for Buyer: skreklow@germantownwi.gov

PERSONAL DELIVERY/ACTUAL RECEIPT Personal delivery to, or Actual Receipt by, any named Buyer or Seller constitutes personal delivery to, or Actual Receipt by, all Buyers or Sellers.

☒ **ADDENDA:** The attached Addendum A is/are made part of this Offer.

This Offer was drafted by [Licensee and Firm] Brian C. Saidak, Village Attorney (SBN 1027287)

Buyer Entity Name (if any): Village of Germantown

(X) _____

Buyer's/Authorized Signature ▲ Print Name/Title Here ► Dean M. Wolter, President

Date ▲

(x) _____

Buyer's/Authorized Signature ▲ Print Name/Title Here ► , Clerk Date ▲

SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.

Seller Entity Name (if any): Gerald M. Grosenick Revocable Trust

(x) _____

Seller's/Authorized Signature ▲ Print Name/Title Here ► Gerald M. Grosenick, Trustee

Date ▲

(x) _____

Seller's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

This Offer was presented to Seller by [Licensee and Firm] _____

on at a.m./p.m.

This Offer is rejected _____ This Offer is countered [See attached counter] _____

Seller Initials ▲ Date ▲

ADDENDUM A
TO COMMERCIAL OFFER TO PURCHASE BETWEEN
VILLAGE OF GERMANTOWN AND GERALD M. GROSENICK REVOCABLE TRUST

This Addendum is made part of the WB-15 Commercial Offer to Purchase dated August 11, 2023 (the “Offer”), attached hereto, between the Village of Germantown (“Buyer”) and Gerald M. Grosenick Revocable Trust (“Seller”) for the property located at W157N11593 Fond du Lac Ave, Germantown, WI 53022 (Tax Key No. GTNV 224009)(the “Property”). If any term or provision of this Addendum A conflicts or is inconsistent with any term or provision of the Offer, this Addendum A shall control.

ARTICLE I
GENERAL PROVISIONS

1.1 **Binding Acceptance; Effective Date.** This Offer is only binding upon the parties following execution by the Buyer as authorized by action of the Germantown Village Board. The Effective Date shall be the day that the Offer is accepted and signed by the Seller following said Village Board authorization.

1.2 **Earnest Money; Amount and Payment.** Not later than three (3) business days from the Effective Date, Buyer shall deliver, in cash or immediately available funds, the amount of Twenty-Five Thousand and No/100 Dollars (\$25,000) (the “Earnest Money”) to Knight Barry Title, Inc., 201 E. Pittsburgh Ave, Suite 200, Milwaukee, WI 53204 (the “Title Company”). The Title Company shall deposit the Earnest Money in an interest-bearing account acceptable to Buyer, with interest to accrue to the benefit of Buyer, and such interest does not become part of the Earnest Money but shall be distributed to Buyer from time to time upon Buyer’s requests to the Title Company. The Earnest Money, unless earlier returned to Buyer or delivered to Seller as herein provided, at Buyer’s option either shall be applied to the Purchase Price or returned to Buyer at the Closing.

ARTICLE II
PRE-CLOSING OBLIGATIONS AND CONDITIONS

2.1 **Items to be Delivered by Seller.** Within thirty (30) days after the date of execution of this Offer, Seller shall provide Buyer with each of the following at Seller's sole cost and expense (the “Due Diligence Materials”):

- (a) Seller's current title policy for the Property;
- (b) A copy of the most recent survey (the “Survey”) of the Property in Seller’s possession, if any;
- (c) All applicable licenses, permits, zoning, development and governmental approvals received by the Seller (or, if requested but not yet received by Seller, copies of all applicable requests/applications and related documents), if any;
- (d) Environmental, soils, traffic and other pre-development reports in Seller’s possession or control, if any;

- (e) Any other relevant documentation, such as tax abatement agreements, easement agreements, leases and the like, if applicable;
- (f) Any and all written correspondence in Seller's possession relating to the Property.

ARTICLE III

TITLE REVIEW AND SURVEY

3.1 **Title Review Period.** Upon execution of this Offer, Buyer shall order a current commitment for the issuance of an owner policy of title insurance to Buyer from the Title Company, including true, correct and legible copies of all instruments referred to in the commitment as conditions or exceptions to title to the Land, including items listed in Schedule C of the commitment (the "Title Commitment"). Buyer shall have until fifteen (15) days following the date of receipt of the Title Commitment (the "Title Review Period") in which to review the state of Seller's title to the Property. If the Title Commitment reflects or discloses any defect, exception or other matter affecting the Property that is unacceptable to Buyer for any reason whatsoever, then, prior to the expiration of the Title Review Period, Buyer may provide Seller with written notice of its objections (the "Title Defect Notice"). Seller shall use its reasonable efforts to remove or cure such objections to Buyer's satisfaction; provided, however, Seller shall in all events cause to be released at its sole expense all mortgages, deeds of trust and other liens affecting the Property. Seller shall notify Buyer in writing (the "Title Cure Notice"), within ten (10) days after Seller's receipt of the Title Defect Notice, of those matters that Seller will or will not cure pursuant to its obligations in the immediately preceding sentence. If this Offer is not terminated or is not deemed terminated by Buyer prior to the expiration of the Inspection Period (hereinafter defined), then any title exceptions which are shown on Schedule B of the Title Commitment, as finally amended or endorsed prior to the expiration of the Inspection Period (other than matters that Seller has agreed to cure or has indicated in the Title Cure Notice will be cured) shall be "Permitted Exceptions."

3.2 **New Survey.** Within sixty (60) days after the Effective Date, Buyer shall, at Buyer's sole cost and expense, obtain a new survey ("New Survey") of the Land made on the ground by a registered professional land surveyor. The New Survey shall contain the surveyor's certification of the Land Area together with those items necessary to cause the removal by the Title Company of standard exceptions 6, 7, and 8 on Schedule B, Part II of the Title Commitment.

ARTICLE IV

INSPECTION

4.1 **As-Is.** The Land is being sold in "As-Is" condition. Buyer accepts the Land in its present condition and acknowledges that Seller is not completing a real estate condition report.

4.2 **Due Diligence Period.** Buyer's Offer is contingent upon Buyer, at Buyer's sole expense, conducting and making such inspections, tests and studies as Buyer deems appropriate, including but not limited to: ALTA surveys, historical site assessments, environmental assessments, financial feasibility studies including development, sales or leasing prospects, local government requirements, zoning studies and/or approvals as required, and further, upon Buyer conducting any

and all physical inspections of the Land. Buyer shall have 90 days from the Effective Date of this Offer to conduct and make any and all such inspections, tests or studies that Buyer deems necessary (“Due Diligence Period”). Buyer and Buyer’s agents shall be given full access to the Land at any and all reasonable times during the Due Diligence Period for the purpose of performing the above-referenced inspections and tests, provided that any and all invasive testing shall be subject to Seller’s prior written consent, such consent shall not be unreasonably withheld.

Should Buyer, in its sole and absolute discretion, determine during the Due Diligence Period that the Land is, for any reason whatsoever including no reason, not suitable for its needs, then Buyer may terminate this Offer at any time prior to expiration of the Due Diligence Period by giving a written termination notice to Seller and receive a full refund of the Earnest Money.

This contingency shall be deemed satisfied unless Buyer, within the Due Diligence Period, delivers written notice to Seller that the Offer is null and void pursuant to the terms of and conditions of this Due Diligence Period provision.

4.3 Termination; Provision of Due Diligence Materials. In the event of any termination of this Offer:

(a) Buyer shall provide to Seller copies of the New Survey and any third-party inspection reports which Buyer has obtained regarding the Land as consideration for the entering into of this Offer. Such copies shall be provided without warranty or representation on the part of Buyer.

(b) If Buyer is deemed to have terminated this Agreement as provided above for reasons related to the physical condition of the Property, the Title Company shall immediately deliver the Earnest Money and any undistributed accrued interest to Buyer free of any claims by Seller; and neither Seller nor Buyer thereafter shall have any further right or obligation under this Agreement unless expressly provided otherwise in this Agreement. For the purposes of this Section 4.3, “reasons related to the physical condition of the Property” shall mean any reason related to the physical characteristics of the Property that would be discovered by physical testing, inspections, surveys, assessments, and the like. “Reasons related to the physical condition of the Property” shall not include financial feasibility analysis and related reasons (e.g., the costs of development are too high) except where such analysis is impacted by a physical condition of the property (e.g., a wetland delineation reveals developable acreage below that necessary to make development on the Property financially feasible).

(c) If Buyer is deemed to have terminated this Agreement as provided above for any reason other than reasons related to the physical condition of the Property, the Title Company shall immediately deliver the Earnest Money and any undistributed accrued interest to Seller free of any claims by Buyer; and neither Seller nor Buyer thereafter shall have any further right or obligation under this Agreement unless expressly provided otherwise in this Agreement.

4.4 No Damage; Indemnification. Buyer expressly agrees as follows: (i) any activities by or on behalf of Buyer, including, without limitation, the entry by Buyer or Buyer’s designees onto the Land in connection with the Due Diligence Activities shall not damage the Land in any

manner whatsoever or disturb or interfere with the rights or possession of any tenant on the Land; (ii) in the event the Land is altered or disturbed in any manner in connection with the Due Diligence Activities, Buyer shall return the Land to substantially the same condition as it existed prior to the Due Diligence Activities; and (iii) Buyer shall indemnify, defend and hold Seller harmless from and against any and all claims, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, attorneys' fees and expenses and court costs) suffered, incurred or sustained by Seller as a result of, by reason of, or in connection with the Due Diligence Activities or the entry by Buyer or Buyer's designees onto the Land except for those claims resulting from negligent or intentional acts or omissions of the Seller. The responsibilities described in this paragraph shall survive termination of this Offer.

4.5 Lien Waivers. Upon receipt of a written request from Seller, Buyer will provide Seller with lien waivers following completion of the Due Diligence Activities from each and every contractor, materialman, engineer, architect and surveyor who might have lien rights, in form and substance reasonably satisfactory to Seller. Buyer shall be bound by the same indemnification, defense, and hold harmless obligation as specified above in Section 4.4 with respect to any claims or demands for payment, or any liens or lien claims made against Seller or the Land, arising out of the Due Diligence Activities.

4.6 Insurance. Buyer shall, and shall cause all of Buyer's designees performing the Due Diligence Activities to, procure or maintain a policy of commercial general liability insurance covering each of the Due Diligence Activities with a single limit of liability (per occurrence and aggregate) of not less than \$1,000,000, and deliver to Seller, upon Seller's request, a certificate of insurance evidencing that such insurance is in force and effect. Such insurance shall be maintained in force throughout the term of this Offer.

ARTICLE V

REPRESENTATIONS. WARRANTIES.

COVENANTS AND AGREEMENTS OF SELLER

5.1 Representations and Warranties. In order to induce Buyer to enter into this Offer, Seller makes the following warranties and representations, which shall be true and correct as of the Effective Date and on the Closing Date:

- (a) Authority. Seller has full power and authority to enter into and perform this Offer in accordance with its terms.
- (b) Title. Seller is the owner in fee simple of all of the Property.
- (c) Litigation. There is no litigation or proceeding pending or, to the best of Seller's knowledge, threatened against Seller or the Property.
- (d) Eminent Domain/Condemnation. No condemnation or eminent domain proceedings are now pending or threatened concerning the Property, and Seller has received no notice from any governmental or quasi-governmental agency or authority or potential condemnor concerning any right-of-way, utility or other taking which may affect the Property.
- (e) Foreign Investment and Real Property Tax Act. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code, or under any

comparable state statutes that are applicable to this transaction. Seller is not a “disregarded entity” and is considered the “transferor” for purposes of Section 1445 of the Internal Revenue Code. At Closing Seller will execute and deliver to Buyer an affidavit regarding such matters. If Seller fails to execute and deliver such affidavit, Buyer may deduct and withhold from the Purchase Price such amount as Buyer may be required to withhold to satisfy any of Buyer’s tax withholding obligations under such statutes or regulations promulgated pursuant thereto.

- (f) Consents and Approvals: No Violation. Neither the execution and delivery of this Offer by Seller nor the consummation by Seller of the transactions contemplated hereby will (i) require Seller to file or register with, notify or obtain any permit, authorization, consent or approval of any governmental, quasi-governmental or regulatory authority (except to the extent required by Seller to comply with the terms of this Section 5.1); (ii) conflict with or breach any provisions of the organizational documents of Seller; (iii) violate or breach any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, lease, contract, agreement or other instrument, commitment or obligation to which Seller is a party, or by which Seller, the Property or any of Seller’s material assets may be bound; or (iv) violate any order, writ, injunction, decree, judgment, statute, law or ruling of any court or governmental authority applicable to Seller, the Property or any of Seller’s material assets.
- (g) Compliance with Laws. There are no violations of any laws, ordinances, rules, regulations, zoning, or other legal requirements with respect to the Property. The Property has direct access to a public right-of-way.
- (h) Contracts. Leases. There are no contracts, leases, or other agreements affecting the Property other than (i) those recorded in the office of the Register of Deeds of the County in which the Property is located, and (ii) those which Seller delivers to Buyer pursuant to Section 2.1. All bills and other payments due from Seller with respect to the ownership, operation, and maintenance of the Property have been (or will be by Closing) paid in full, other than ad valorem real property taxes contemplated in Section 7.4 and Section 7.5.
- (i) No Outstanding Obligations. There will be no debts, liabilities or obligations of Seller with respect to the Property or for services, labor or material furnished to the Property (whether known, unknown, absolute, accrued, contingent, or of any other character) outstanding as of the Closing Date.
- (j) Bankruptcy. There are no attachments, executions, or assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy or under any other debtor relief laws contemplated by a pending or threatened action or suit against Seller or the Property.
- (k) No Parties in Possession: Leases. As of the Closing there will be no parties in possession of any portion of the Property as lessees, tenants at sufferance, trespassers or otherwise except for those tenants identified in the lease(s) provided pursuant to Section 2.1.
- (l) No Options. No person, firm or corporation or other entity has or at the Closing Date

shall have any right or option to acquire all or any portion of the Property.

- (m) No Untrue Statement. Neither this Offer nor any exhibit nor any written statement furnished or to be furnished by Seller to Buyer in connection with the transactions contemplated by this Offer contains or will contain any untrue statement of material fact or omits or will omit any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. Seller shall furnish to Buyer copies of any notice, claim, or demand received by Seller during the pendency of this Offer that would materially change any representation given by Seller herein.

5.2 Covenants and Agreements. Seller and Buyer covenant and agree as follows:

- (a) From and after the Effective Date, Seller shall (i) maintain and operate the Property in its current state and condition; (ii) continue all insurance policies relative to the Property in full force and effect to the extent such insurance policies continue to be commercially available at commercially reasonable rates; (iii) perform, when due, all material obligations under any and all agreements relating to the Property and otherwise in accordance with applicable laws, ordinances, rules and regulations; (iv) not permit the introduction or storage of any Hazardous Materials on the Property; (v) not perform any grading or excavation, construction or removal of any improvement or make any other change or improvement upon or about the Property; (vi) not create or incur, or suffer to exist, any mortgage, lien, pledge or other encumbrance in any way affecting the Property, other than the lien for taxes not yet due and payable and existing liens to be released at the Closing; (vii) not commit any waste or nuisance upon the Property; (viii) not impose any easements, covenants, conditions or restrictions on the Property or institute or participate in any annexation, zoning, platting, dedication or other governmental action regarding the Property; (ix) not take any action or omit to take any action that would result in the violation of any of Seller's representations and warranties contained in this Offer.
- (b) At the Closing, Seller shall deliver to Buyer an affidavit in compliance with Section 1445 of the Internal Revenue Code and applicable regulations stating, under penalty of perjury, Seller's United States taxpayer identification number and that Seller is not a "foreign person" as that term is defined in Section 1445.
- (c) Notwithstanding any other provisions contained herein, Seller, from the Purchase Price proceeds or otherwise, shall pay and discharge all liens against the Property other than the lien for current taxes which are not yet due and payable such that title to the Property will be conveyed to Buyer free and clear of all liens other than the lien for current taxes which are not yet due and payable.
- (d) Seller shall not, without the prior written consent of Buyer, enter into, transfer, encumber, amend, extend, modify or in any way alter any lease, contract or agreement which affects the Property (provided, however, Seller shall terminate all leases, if any, on or before Closing).
- (e) Provided this Offer has not been terminated, Seller shall promptly furnish Buyer with any and all notices concerning the Property that Seller receives from any and all appraisal districts, taxing authorities or any other governmental entities or of any

litigation, arbitration or administrative hearing concerning the Property and any other material changes prior to Closing in any of the facts reflected in any statements, certificates, schedules, or other documents or any representation or warranties made or furnished by Seller in connection with this transaction. This covenant shall survive the Closing.

- (f) From and after the Effective Date, Buyer shall seek to obtain all governmental approvals necessary to develop the Property as Buyer desires, including, without limitation, rezoning the Property for Buyer's intended use (the "Entitlements"). Seller agrees that Buyer may act on its behalf in all matters related to the negotiation and procurement of such Entitlements and that it shall do all things reasonably requested by Buyer in order to obtain approval of the Entitlements.

ARTICLE VI

CONDITIONS PRECEDENT TO CLOSING

6.1 **Conditions Precedent to Buyer's Performance.** The obligation of Buyer to close the transaction described in this Offer, unless waived in writing by Buyer, shall be subject to the following conditions precedent:

- (a) All the representations and warranties of Seller set forth in this Offer shall be true and correct as of the date hereof and on the Closing Date.
- (b) Seller shall not have, on or prior to the Closing Date, failed to meet, comply with or perform any covenants or agreements of Seller required by the terms of this Offer.
- (c) There shall be no change in the matters reflected on the Title Commitment from those matters appearing therein on the date of the expiration of the Inspection Period (except those changes requested by Buyer in its Title Defect Notice).
- (d) There shall be no judicial or administrative suit, action, investigation, inquiry or other proceeding by any person may have been instituted against the Property.
- (e) The environmental condition of the Property on the Closing Date shall not be materially different from the environmental condition existing as of the date of the expiration of the Inspection Period.
- (f) The Title Company must be committed to issue the Title Policy substantially in the form required by Section 7.2 with respect to the Property.
- (g) This Offer is contingent upon Buyer separately closing on and purchasing from Seller approximately 5.2 acres of land located at N116W15843 Main Street, Germantown, WI (Tax Key No. GTNV224965) ("Main Street Property") prior to or simultaneously with Buyer's closing on the purchase of the Property which is the subject of this Offer, located at W157N11593 Fond du Lac Ave. Germantown, WI (Tax Key No. GTNV224009) ("Fond du Lac Property"). If Buyer fails or refuses to separately close on and purchase the Main Street Property prior to or simultaneously with Buyer's closing on the purchase of the Fond du Lac Property, this Offer shall be null and void.

In the event that any of the above conditions are not satisfied or waived in writing by Buyer prior to the Closing, Buyer may terminate this Offer by delivery of a written termination notice to Seller on or before the Closing Date, in which event of termination, the Earnest Money and any

undistributed accrued interest shall be distributed to Buyer free of any claim by Seller, and neither party thereafter shall have any further rights or obligations to each other under this Offer (except for any liability that Seller may have to Buyer for Seller's breach of its representations, warranties and covenants contained in this Offer, and except as otherwise expressly provided in this Offer). If Buyer proceeds with the Closing, then Buyer shall be deemed to have waived its objections; provided, however, if Seller intentionally breaches a representation or warranty contained in Section 5.1, then in such event Buyer shall be entitled to pursue against Seller a suit for actual, direct damages caused by such breach.

ARTICLE VII

CLOSING

7.1 **Time and Place.** The sale and purchase of the Property shall be completed at a closing (the "Closing") to be held at the offices of the Title Company. The Closing shall occur on the date (the "Closing Date") that is ten (10) days after the expiration of the Inspection Period or on an earlier date designated by Buyer (provided that Buyer gives Seller at least five (5) days' advance written notice of such earlier designated date). Time is of the essence as to the closing date unless waived in writing by Seller.

7.2 **Items to be Delivered by Seller at the Closing.** At the Closing, Seller shall deliver or cause to be delivered to Buyer, at Seller's sole cost and expense, each of the following items:

- (a) A warranty deed (the "Deed") duly executed and acknowledged by Seller granting, conveying and warranting unto Buyer good and indefeasible fee simple title to the Land, free and clear of any liens, encumbrances, easements or other matters affecting title to the Property except the Permitted Exceptions.
- (b) An owner's policy of title insurance (the "Title Policy") issued by the Title Company on the standard form in use in the state where the Property is located, naming the Buyer as the insured, in the amount of the Purchase Price, effective as of the date of recording Deed, subject only to the Permitted Exceptions, taxes not yet due and payable (as applicable) and those matters set forth in the "Exclusions from Coverage" and "Conditions and Stipulations" sections of the Title Policy (or the equivalent thereof in the particular state), with such endorsements and modifications to the promulgated policy form as may have been requested by Buyer and agreed to by the Title Company.
- (c) An owner's affidavit in form acceptable to the Title Company and any other affidavit required by the Title Company to close this Offer and issue the Title Policy.
- (d) Such evidence or other documents that may be reasonably required by Buyer or the Title Company evidencing the status and capacity of Seller and the authority of the person or persons who are executing the various documents on behalf of the Seller in connection with the sale of the Property.
- (e) Seller's affidavit as required by 5.2(b).
- (f) A closing statement in form and content satisfactory to Seller and Buyer (the "Closing Statement") signed by Seller.
- (g) Such additional assignments, instruments and documents appropriate to be executed

and delivered by Seller as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Offer provided the same are commercially reasonable and do not require disclosure of proprietary information.

7.3 Items to be Delivered by Buyer at the Closing. At the Closing, Buyer shall deliver, or cause to be delivered, to Seller:

- (a) the Purchase Price.
- (b) The Closing Statement, signed by Buyer.
- (c) Such additional assignments, instruments and documents appropriate to be executed and delivered by Buyer as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Offer provided the same are commercially reasonable and do not require disclosure of proprietary information.

7.4 Closing Costs. Seller shall pay any expenses Seller might incur in connection with its election to remove objections to title, expenses Seller might incur in connection with its obligation to terminate any service agreements or leases, any title examination costs, title premiums or fees, the commission to Brokers, the cost of the issuance of the Title Policy, one hundred percent (100%) of any transfer and recordation taxes in connection with the sale, one-half (1/2) of any escrow charges, the cost of recording any instruments required to discharge any liens or encumbrances against the Property required to be discharged at Closing, and any apportionment to be made pursuant to Section 7.5. Buyer shall pay all Buyer's legal fees, the costs of any endorsements requested by Buyer to the Title Policy, the cost of the New Survey and one-half (1/2) of any escrow charges. Except as otherwise provided herein, each party shall pay its share of all other closing costs as is normally paid by a seller or buyer, respectively, in a transaction of this character in the county where the Property is located.

7.5 Adjustments and Prorations. At Closing, the following items shall be adjusted or prorated between Seller and Buyer:

- (a) Ad valorem taxes for the Property for the year in which the Closing occurs shall be prorated as of the Closing Date, and Seller shall pay to Buyer in cash at the Closing Seller's pro rata portion of such taxes. Seller's pro rata portion of such taxes shall be based upon taxes actually assessed for the current calendar year or, if for any reason such taxes for the Property have not been actually assessed, such proration shall be based upon the amount of such taxes for the immediately preceding calendar year. All special taxes or assessments approved or assessed prior to the Closing Date shall be paid by Seller. Seller shall pay when due, and indemnify and hold Buyer harmless from, any subsequent tax assessment of the Property for periods prior to the Closing Date due to changes in land usage or ownership.

7.6 Right to Possession. At the Closing, Buyer shall have full and unrestricted right to possession of the Property and Seller will do such acts, execute such instruments and take such action as may be appropriate or required to assure to Buyer uninterrupted and full possession of the

Property immediately following the Closing.

7.7 Indemnification. Seller shall indemnify and hold Buyer and its partners, agents and employees harmless from and against any and all liabilities, claims, demands and expenses, of any kind or nature (including reasonable attorneys' fees) related to, resulting from or in any way arising out of (i) a breach of any representation, warranty, covenant or agreement of Seller hereunder, or (ii) the condition, ownership or operation of the Property on or prior to the Closing Date, but excluding any claims arising from actions taken by or on behalf of Buyer. This indemnity shall survive the termination or Closing of this Offer for a period of three (3) years after the Closing Date.

ARTICLE VIII **REMEDIES UPON DEFAULT**

8.1 Default by Seller. In the event that Seller fails to comply with any condition, covenant or obligation it has hereunder, and such default continues for a period of ten (10) business days after written notice to Buyer, Buyer shall have the right to terminate this Agreement by giving written notice thereof to Seller, whereupon neither party shall have any further rights or obligations under this Agreement unless expressly provided otherwise in this Agreement and the Title Company immediately shall deliver the Earnest Money and any undistributed accrued interest to Buyer, free of any claims by Seller. This provision shall survive the Closing or any termination of this Agreement.

8.2 Default by Buyer. In the event all conditions of this Agreement are satisfied and all covenants and agreements to be performed by Seller prior to Closing are fully performed, and in the event that performance of this Agreement is fully tendered by Seller and the sale is not consummated through default by Buyer, and such default continues for a period of ten (10) business days after written notice to Buyer, then Seller's sole and exclusive remedy shall be to terminate this Agreement by giving written notice thereof to Buyer, whereupon neither party hereto shall have any further rights or obligations under this Agreement, and the Title Company shall deliver the Earnest Money plus any undistributed accrued interest to Seller, free of any claims by Buyer, as liquidated damages. The Earnest Money is a good faith estimate of actual damages that Seller would suffer and shall be liquidated damages for default of Buyer in failing to consummate this Agreement because of the difficulty, inconvenience and uncertainty of ascertaining Seller's actual damages for Buyer's default.

ARTICLE IX **MISCELLANEOUS**

9.1 Notices. All notices, demands or other communications given in connection with or required under this Offer must be in writing and delivered to the person to whom it is directed; notices, demands or other communications not given in the manner set forth in this Section 9.1 shall be void and of no effect. Notices, demands or other communications may be given by (a) overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such courier, (b) electronic mail, in which case

notice shall be deemed delivered upon transmission of such notice provided that an original of such facsimile is also sent to the addressee by U.S. Mail or by the means described in clauses (a) or (c), or (c) personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery. All notices, demands and other communications shall be given to the parties hereto at the following addresses:

TO SELLER:

Gerald M. Grosenick, Trustee
Gerald M. Groesnick Revocable Trust
206 Fernandina Street
Fort Pierce, FL 34949
gr8rib@gmail.com

TO BUYER:

Village Administrator
Village of Germantown
N112 W17001 Mequon Road
Germantown WI 53022
skreklow@germantownwi.gov

Any party entitled to receive notices hereunder may change the address for notice specified above by giving the other parties entitled to receive notices written notice of such change of address.

9.2 **Agreement to Survive.** Any and all representations, warranties, covenants and agreements contained herein shall not be deemed to be merged into or waived by the instruments of the Closing but shall expressly survive the Closing.

9.3 **Binding Agreement.** This Offer shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns. This Offer may be assigned by the Buyer to any person, firm, corporation, or other entity which the Buyer, at its sole discretion, may choose. If Buyer so assigns its rights to this Offer, such assignment shall release Buyer from all liability hereunder accruing after the date of such assignment without the necessity of further documentation.

9.4 **Applicable Law; Interpretation.** This Offer shall be construed and interpreted in accordance with the laws of the State of Wisconsin. The descriptive headings contained in this Offer are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions.

9.5 **Amendment.** This Offer may not be modified or amended, except by an agreement in writing signed by the Seller and the Buyer. The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such conditions or obligations.

9.6 **Attorneys' Fees.** In the event either party files a lawsuit in connection with this Offer or any provisions contained herein, then the party that prevails in such action shall be entitled to recover from the nonprevailing party, in addition to all other remedies or damages as limited herein, reasonable attorneys' fees and costs of court incurred in such lawsuit. This provision shall survive the termination or Closing of this Offer.

9.7 **Entire Agreement.** This Offer constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. Unless set forth in this Offer, no representations, warranties, covenants, agreements or conditions shall be binding upon the parties hereto or shall affect or be effective to interpret, change or restrict the provisions of this Offer.

9.8 **Brokers.** Each party represents and warrants to the other that no brokers or finders have been engaged by it, respectively, in connection with the transaction contemplated by this Offer or, to its knowledge, is in any way connected with this transaction. In the event of any claim for broker's or finder's fees or commissions in connection with the negotiation, execution or consummation of this Offer, then each party shall indemnify, save and hold harmless and defend the other party from and against such claim if it shall be based upon any statement or representation or agreement made by or allegedly made by the indemnifying party. This indemnity shall survive the Closing or termination of this Offer.

9.9 **Miscellaneous.** This Offer may be executed in two or more separate counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signatures on counterparts of this Offer that are transmitted by electronically shall be deemed effective for all purposes. In the event that any provision of this Offer shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Offer shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SELLER

Gerald M. Grosenick Date
Trustee

BUYER

Dean M. Wolter Date
Village President

ATTEST:

Village Clerk

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “Agreement”) is entered into by and between the Gerald M. Grosenick Revocable Trust (the “Seller”), and the Village of Germantown, a Wisconsin municipal corporation, or its assigns (the “Buyer”). The “Effective Date” of this Agreement shall be the date on which it is fully executed by the last of Seller or Buyer.

ARTICLE I **AGREEMENT OF PURCHASE AND SALE**

1.1. Agreement of Purchase and Sale. For the consideration and upon and subject to the terms, provisions and conditions hereinafter set forth, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the tract of land containing approximately 5.2 acres located at N116 W15843 Main Street, Germantown, Wisconsin (Tax Key No. GTNV224965)(the “Land”), and all buildings, fixtures and other improvements located on the Land, together with all and singular the rights, privileges, hereditaments and appurtenances pertaining to such real property, including, but not limited to, any right, title and interest of Seller in and to any strips and gores adjoining such real property and in and to adjacent streets, roads, alleys, easements and rights-of-way and any and all mineral interests of whatever nature, producing or nonproducing, relating to said Land, including, but not limited to, rights of Seller under any and all oil and gas leases covering the Land.

1.2. Binding Acceptance. This Agreement is only binding upon the parties following execution by the Buyer as authorized by action of the Germantown Village Board.

ARTICLE II **PURCHASE PRICE**

2.1. Purchase Price. The purchase price to be paid for the Land (the “Purchase Price”) shall be an amount equal to the product obtained by multiplying \$140,000 per acre by the total number of acres of Land shown on the final Survey (hereinafter defined). The Purchase Price shall be payable in cash or other good funds at the Closing subject to such offsets and credits as described herein.

ARTICLE III **EARNEST MONEY**

3.1. Earnest Money; Amount and Payment. Not later than three (3) business days from the Effective Date, Buyer shall deliver, in cash or immediately available funds, the amount of Fifty Thousand and No/100 Dollars (\$50,000) (the “Earnest Money”) to Knight Barry Title, Inc., 201 E. Pittsburgh Ave, Suite 200, Milwaukee, WI 53204 (the “Title Company”). The Title Company shall deposit the Earnest Money in an interest-bearing account acceptable to Buyer, with interest to accrue to the benefit of Buyer, and such interest does not become part of the Earnest Money but shall be distributed to Buyer from time to time upon Buyer’s requests to the Title Company. The Earnest Money, unless earlier returned to Buyer or delivered to Seller as herein provided, at Buyer’s option either shall be applied to the Purchase Price or returned to Buyer at the Closing.

ARTICLE IV
PRE-CLOSING OBLIGATIONS AND CONDITIONS

4.1. Items to be Delivered by Seller. Within thirty (30) days after the date of execution of this Agreement, Seller shall provide Buyer with each of the following at Seller's sole cost and expense (the "Due Diligence Materials"):

- (a) Seller's current title policy for the Land;
- (b) A copy of the most recent survey (the "Survey") of the Land in Seller's possession, if any;
- (c) All applicable licenses, permits, zoning, development and governmental approvals received by the Seller (or, if requested but not yet received by Seller, copies of all applicable requests/applications and related documents), if any;
- (d) Environmental, soils, traffic and other pre-development reports in Seller's possession or control, if any;
- (e) Any other relevant documentation, such as tax abatement agreements, easement agreements, ground leases and the like, if applicable;
- (f) A list of all federal, state, county, and local conservation, farmland, environmental, or other land use programs, agreements, restrictions, or conservation easements, which apply to any part of the Land (e.g., farmland preservation agreements, use value assessments, Forest Crop, Managed Forest, Conservation Reserve Program, wetland mitigation, or comparable programs), along with the disclosure of any penalties, fees, withdrawal charges, or payback obligations pending, or presently deferred; and
- (g) Any and all written correspondence in Seller's possession relating to the Land.

ARTICLE V
TITLE REVIEW AND SURVEY

5.1. Title Review Period. Upon execution of this Agreement, Buyer shall order a current commitment for the issuance of an owner policy of title insurance to Buyer from the Title Company, including true, correct and legible copies of all instruments referred to in the commitment as conditions or exceptions to title to the Land, including items listed in Schedule C of the commitment (the "Title Commitment"). Buyer shall have until fifteen (15) days following the date of receipt of the Title Commitment (the "Title Review Period") in which to review the state of Seller's title to the Land. If the Title Commitment reflects or discloses any defect, exception or other matter affecting the Land that is unacceptable to Buyer for any reason whatsoever, then, prior to the expiration of the Title Review Period, Buyer may provide Seller with written notice of its objections (the "Title Defect Notice"). Seller shall use its reasonable efforts to remove or cure such objections to Buyer's satisfaction; provided, however, Seller shall in all events cause to be released at its sole expense all mortgages, deeds of trust and other liens affecting the Land. Seller shall notify Buyer in writing (the "Title Cure Notice"), within ten (10) days after Seller's receipt of the Title Defect Notice, of those matters that Seller will or will not cure pursuant to its obligations in the immediately preceding sentence. If this Agreement is not terminated or is not deemed terminated

by Buyer prior to the expiration of the Inspection Period (hereinafter defined), then any title exceptions which are shown on Schedule B of the Title Commitment, as finally amended or endorsed prior to the expiration of the Inspection Period (other than matters that Seller has agreed to cure or has indicated in the Title Cure Notice will be cured) shall be "Permitted Exceptions."

5.2. New Survey. Within sixty (60) days after the Effective Date, Buyer shall, at Buyer's sole cost and expense, obtain a new survey ("New Survey") of the Land made on the ground by a registered professional land surveyor. The New Survey shall contain the surveyor's certification of the Land Area together with those items necessary to cause the removal by the Title Company of standard exceptions 6, 7, and 8 on Schedule B, Part II of the Title Commitment.

ARTICLE VI **INSPECTION**

6.1. As-Is. The Land is being sold in "As-Is" condition. Buyer accepts the Land in its present condition and acknowledges that Seller is not completing a real estate condition report.

6.2. Due Diligence Period. Buyer's Offer is contingent upon Buyer, at Buyer's sole expense, conducting and making such inspections, tests and studies as Buyer deems appropriate, including but not limited to: ALTA surveys, historical site assessments, environmental assessments, financial feasibility studies including development, sales or leasing prospects, local government requirements, zoning studies and/or approvals as required, and further, upon Buyer conducting any and all physical inspections of the Land. Buyer shall have 90 days from the Effective Date of this Agreement to conduct and make any and all such inspections, tests or studies that Buyer deems necessary ("Due Diligence Period"). Buyer and Buyer's agents shall be given full access to the Land at any and all reasonable times during the Due Diligence Period for the purpose of performing the above-referenced inspections and tests, provided that any and all invasive testing shall be subject to Seller's prior written consent, such consent shall not be unreasonably withheld.

Should Buyer, in its sole and absolute discretion, determine during the Due Diligence Period that the Land is, for any reason whatsoever including no reason, not suitable for its needs, then Buyer may terminate this Agreement at any time prior to expiration of the Due Diligence Period by giving a written termination notice to Seller.

This contingency shall be deemed satisfied unless Buyer, within the Due Diligence Period, delivers written notice to Seller that the Agreement is null and void pursuant to the terms of and conditions of this Due Diligence Period provision.

6.4. Termination; Provision of Due Diligence Materials; Return of Earnest Money. In the event of any termination of this Agreement:

- (a) Buyer shall provide to Seller copies of the New Survey and any third-party inspection reports which Buyer has obtained regarding the Land as consideration for the entering into of this Agreement. Such copies shall be provided without warranty or representation on the part of Buyer.
- (b) If Buyer is deemed to have terminated this Agreement as provided above for reasons

related to the physical condition of the Property, the Title Company shall immediately deliver the Earnest Money and any undistributed accrued interest to Buyer free of any claims by Seller; and neither Seller nor Buyer thereafter shall have any further right or obligation under this Agreement unless expressly provided otherwise in this Agreement. For the purposes of this Section 6.4, “reasons related to the physical condition of the Property” shall mean any reason related to the physical characteristics of the Property that would be discovered by physical testing, inspections, surveys, assessments, and the like. “Reasons related to the physical condition of the Property” shall not include financial feasibility analysis and related reasons (e.g., the costs of development are too high) except where such analysis is impacted by a physical condition of the property (e.g., a wetland delineation reveals developable acreage below that necessary to make development on the Property financially feasible).

- (c) If Buyer is deemed to have terminated this Agreement as provided above for any reason other than reasons related to the physical condition of the Property, the Title Company shall immediately deliver the Earnest Money and any undistributed accrued interest to Seller free of any claims by Buyer; and neither Seller nor Buyer thereafter shall have any further right or obligation under this Agreement unless expressly provided otherwise in this Agreement.

6.5. No Damage; Indemnification. Buyer expressly agrees as follows: (i) any activities by or on behalf of Buyer, including, without limitation, the entry by Buyer or Buyer’s designees onto the Land in connection with the Due Diligence Activities shall not damage the Land in any manner whatsoever or disturb or interfere with the rights or possession of any tenant on the Land; (ii) in the event the Land is altered or disturbed in any manner in connection with the Due Diligence Activities, Buyer shall return the Land to substantially the same condition as it existed prior to the Due Diligence Activities; and (iii) Buyer shall indemnify, defend and hold Seller harmless from and against any and all claims, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, attorneys’ fees and expenses and court costs) suffered, incurred or sustained by Seller as a result of, by reason of, or in connection with the Due Diligence Activities or the entry by Buyer or Buyer’s designees onto the Land except for those claims resulting from negligent or intentional acts or omissions of the Seller. The responsibilities described in this paragraph shall survive termination of this Agreement.

6.6. Lien Waivers. Upon receipt of a written request from Seller, Buyer will provide Seller with lien waivers following completion of the Due Diligence Activities from each and every contractor, materialman, engineer, architect and surveyor who might have lien rights, in form and substance reasonably satisfactory to Seller. Buyer shall be bound by the same indemnification, defense, and hold harmless obligation as specified above in Section 6.5 with respect to any claims or demands for payment, or any liens or lien claims made against Seller or the Land, arising out of the Due Diligence Activities.

6.7. Insurance. Buyer shall, and shall cause all of Buyer’s designees performing the Due Diligence Activities to, procure or maintain a policy of commercial general liability insurance

covering each of the Due Diligence Activities with a single limit of liability (per occurrence and aggregate) of not less than \$1,000,000, and deliver to Seller, upon Seller's request, a certificate of insurance evidencing that such insurance is in force and effect. Such insurance shall be maintained in force throughout the term of this Agreement.

ARTICLE VII
REPRESENTATIONS, WARRANTIES,
COVENANTS AND AGREEMENTS OF SELLER

7.1. Representations and Warranties. In order to induce Buyer to enter into this Agreement, Seller makes the following warranties and representations, which shall be true and correct as of the Effective Date and on the Closing Date:

- (a) Authority. Seller has full power and authority to enter into and perform this Agreement in accordance with its terms.
- (b) Title. Seller is the owner in fee simple of all of the Land.
- (c) Litigation. There is no litigation or proceeding pending or, to the best of Seller's knowledge, threatened against Seller or the Land.
- (d) Eminent Domain/Condemnation. No condemnation or eminent domain proceedings are now pending or threatened concerning the Land, and Seller has received no notice from any governmental or quasi-governmental agency or authority or potential condemnor concerning any right-of-way, utility or other taking which may affect the Land.
- (e) Foreign Investment and Real Property Tax Act. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code, or under any comparable state statutes that are applicable to this transaction. Seller is not a "disregarded entity" and is considered the "transferor" for purposes of Section 1445 of the Internal Revenue Code. At Closing Seller will execute and deliver to Buyer an affidavit regarding such matters. If Seller fails to execute and deliver such affidavit, Buyer may deduct and withhold from the Purchase Price such amount as Buyer may be required to withhold to satisfy any of Buyer's tax withholding obligations under such statutes or regulations promulgated pursuant thereto.
- (f) Consents and Approvals: No Violation. Neither the execution and delivery of this Agreement by Seller nor the consummation by Seller of the transactions contemplated hereby will (i) require Seller to file or register with, notify or obtain any permit, authorization, consent or approval of any governmental, quasi-governmental or regulatory authority (except to the extent required by Seller to comply with the terms of this Section 7.1); (ii) conflict with or breach any provisions of the organizational documents of Seller; (iii) violate or breach any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, lease, contract, agreement or other instrument, commitment or obligation to which Seller is a party, or by which Seller, the Land or any of Seller's material assets may be bound; or (iv) violate any order, writ, injunction, decree, judgment, statute, law or ruling of any court or governmental authority applicable to Seller, the Land or any of Seller's material assets.

- (g) Compliance with Laws. There are no violations of any laws, ordinances, rules, regulations, zoning, or other legal requirements with respect to the Land. The Land has direct access to a public right-of-way.
- (h) Contracts. Leases. There are no contracts, leases, or other agreements affecting the Land other than (i) those recorded in the office of the Register of Deeds of the County in which the Land is located, and (ii) those which Seller delivers to Buyer pursuant to Section 4.1. All bills and other payments due from Seller with respect to the ownership, operation, and maintenance of the Land have been (or will be by Closing) paid in full, other than ad valorem real property taxes contemplated in Section 9.4 and Section 9.5.
- (i) No Outstanding Obligations. There will be no debts, liabilities or obligations of Seller with respect to the Land or for services, labor or material furnished to the Land (whether known, unknown, absolute, accrued, contingent, or of any other character) outstanding as of the Closing Date.
- (j) Bankruptcy. There are no attachments, executions, or assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy or under any other debtor relief laws contemplated by a pending or threatened action or suit against Seller or the Land.
- (k) No Parties in Possession: Leases. As of the Closing there will be no parties in possession of any portion of the Land as lessees, tenants at sufferance, trespassers or otherwise.
- (l) No Options. No person, firm or corporation or other entity has or at the Closing Date shall have any right or option to acquire all or any portion of the Land.
- (m) No Untrue Statement. Neither this Agreement nor any exhibit nor any written statement furnished or to be furnished by Seller to Buyer in connection with the transactions contemplated by this Agreement contains or will contain any untrue statement of material fact or omits or will omit any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. Seller shall furnish to Buyer copies of any notice, claim, or demand received by Seller during the pendency of this Agreement that would materially change any representation given by Seller herein.

7.2. Covenants and Agreements. Seller and Buyer covenant and agree as follows:

- (a) From and after the Effective Date, Seller shall (i) maintain and operate the Land in its current state and condition; (ii) continue all insurance policies relative to the Land in full force and effect to the extent such insurance policies continue to be commercially available at commercially reasonable rates; (iii) perform, when due, all material obligations under any and all agreements relating to the Land and otherwise in accordance with applicable laws, ordinances, rules and regulations; (iv) not permit the introduction or storage of any Hazardous Materials on the Land; (v) not perform any grading or excavation, construction or removal of any improvement or make any other change or improvement upon or about the Land; (vi) not create or incur, or suffer to exist, any mortgage, lien, pledge or other encumbrance in any way affecting the Land, other than the lien for taxes not yet due and payable and

existing liens to be released at the Closing; (vii) not commit any waste or nuisance upon the Land; (viii) not impose any easements, covenants, conditions or restrictions on the Land or institute or participate in any annexation, zoning, platting, dedication or other governmental action regarding the Land; (ix) not take any action or omit to take any action that would result in the violation of any of Seller's representations and warranties contained in this Agreement.

- (b) At the Closing, Seller shall deliver to Buyer an affidavit in compliance with Section 1445 of the Internal Revenue Code and applicable regulations stating, under penalty of perjury, Seller's United States taxpayer identification number and that Seller is not a "foreign person" as that term is defined in Section 1445.
- (c) Notwithstanding any other provisions contained herein, Seller, from the Purchase Price proceeds or otherwise, shall pay and discharge all liens against the Land other than the lien for current taxes which are not yet due and payable such that title to the Land will be conveyed to Buyer free and clear of all liens other than the lien for current taxes which are not yet due and payable.
- (d) Seller shall not, without the prior written consent of Buyer, enter into, transfer, encumber, amend, extend, modify or in any way alter any lease, contract or agreement which affects the Land (provided, however, Seller shall terminate all leases, if any, on or before Closing).
- (e) Provided this Agreement has not been terminated, Seller shall promptly furnish Buyer with any and all notices concerning the Land that Seller receives from any and all appraisal districts, taxing authorities or any other governmental entities or of any litigation, arbitration or administrative hearing concerning the Land and any other material changes prior to Closing in any of the facts reflected in any statements, certificates, schedules, or other documents or any representation or warranties made or furnished by Seller in connection with this transaction. This covenant shall survive the Closing.
- (f) From and after the Effective Date, Buyer shall seek to obtain all governmental approvals necessary to develop the Property as Buyer desires, including, without limitation, rezoning the Property for Buyer's intended use (the "Entitlements"). Seller agrees that Buyer may act on its behalf in all matters related to the negotiation and procurement of such Entitlements and that it shall do all things reasonably requested by Buyer in order to obtain approval of the Entitlements.

ARTICLE VIII

CONDITIONS PRECEDENT TO CLOSING

8.1. Conditions Precedent to Buyer's Performance. The obligation of Buyer to close the transaction described in this Agreement, unless waived in writing by Buyer, shall be subject to the following conditions precedent:

- (a) All the representations and warranties of Seller set forth in this Agreement shall be true and correct as of the date hereof and on the Closing Date.
- (b) Seller shall not have, on or prior to the Closing Date, failed to meet, comply with or perform any covenants or agreements of Seller required by the terms of this

Agreement.

- (c) There shall be no change in the matters reflected on the Title Commitment from those matters appearing therein on the date of the expiration of the Inspection Period (except those changes requested by Buyer in its Title Defect Notice).
- (d) There shall be no judicial or administrative suit, action, investigation, inquiry or other proceeding by any person may have been instituted against the Land.
- (e) The environmental condition of the Land on the Closing Date shall not be materially different from the environmental condition existing as of the date of the expiration of the Inspection Period.
- (f) The Title Company must be committed to issue the Title Policy substantially in the form required by Section 9.2 with respect to the Land.
- (g) This Agreement is contingent upon Buyer separately closing on and purchasing from Seller the land and building located at W157N11593 Fond du Lac Ave. Germantown, WI (Tax Key No. GTNV224009) ("Fond du Lac Property") prior to or simultaneously with Buyer's closing on the purchase of the Land which is the subject of this Agreement, located at N116W15843 Main Street, Germantown, WI (Tax Key No. GTNV224965) ("Main Street Property"). If Buyer fails or refuses to separately close on and purchase the Fond du Lac Property prior to or simultaneously with Buyer's closing on the purchase of the Main Street Property, this Offer shall be null and void.

In the event that any of the above conditions are not satisfied or waived in writing by Buyer prior to the Closing, Buyer may terminate this Agreement by delivery of a written termination notice to Seller on or before the Closing Date, in which event of termination, the Earnest Money and any undistributed accrued interest shall be distributed to Buyer free of any claim by Seller, and neither party thereafter shall have any further rights or obligations to each other under this Agreement (except for any liability that Seller may have to Buyer for Seller's breach of its representations, warranties and covenants contained in this Agreement, and except as otherwise expressly provided in this Agreement). If Buyer proceeds with the Closing, then Buyer shall be deemed to have waived its objections; provided, however, if Seller intentionally breaches a representation or warranty contained in Section 7.1, then in such event Buyer shall be entitled to pursue against Seller a suit for actual, direct damages caused by such breach.

ARTICLE IX

CLOSING

9.1. Time and Place. The sale and purchase of the Land shall be completed at a closing (the "Closing") to be held at the offices of the Title Company. The Closing shall occur on the date (the "Closing Date") that is ten (10) days after the expiration of the Due Diligence Period or on an earlier date designated by Buyer (provided that Buyer gives Seller at least five (5) days' advance written notice of such earlier designated date). Time is of the essence as to the closing date unless waived in writing by Seller.

9.2. Items to be Delivered by Seller at the Closing. At the Closing, Seller shall deliver or cause

to be delivered to Buyer, at Seller's sole cost and expense, each of the following items:

- (a) A warranty deed (the "Deed") duly executed and acknowledged by Seller granting, conveying and warranting unto Buyer good and indefeasible fee simple title to the Land, free and clear of any liens, encumbrances, easements or other matters affecting title to the Land except the Permitted Exceptions.
- (b) An owner's policy of title insurance (the "Title Policy") issued by the Title Company on the standard form in use in the state where the Land is located, naming the Buyer as the insured, in the amount of the Purchase Price, effective as of the date of recording Deed, subject only to the Permitted Exceptions, taxes not yet due and payable (as applicable) and those matters set forth in the "Exclusions from Coverage" and "Conditions and Stipulations" sections of the Title Policy (or the equivalent thereof in the particular state), with such endorsements and modifications to the promulgated policy form as may have been requested by Buyer and agreed to by the Title Company.
- (c) An owner's affidavit in form acceptable to the Title Company and any other affidavit required by the Title Company to close this Agreement and issue the Title Policy.
- (d) Such evidence or other documents that may be reasonably required by Buyer or the Title Company evidencing the status and capacity of Seller and the authority of the person or persons who are executing the various documents on behalf of the Seller in connection with the sale of the Land.
- (e) Seller's affidavit as required by Section 7.2(b).
- (f) A closing statement in form and content satisfactory to Seller and Buyer (the "Closing Statement") signed by Seller.
- (g) Such additional assignments, instruments and documents appropriate to be executed and delivered by Seller as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Agreement provided the same are commercially reasonable and do not require disclosure of proprietary information.

9.3. Items to be Delivered by Buyer at the Closing. At the Closing, Buyer shall deliver, or cause to be delivered, to Seller:

- (a) the Purchase Price as set forth in Section 2.1.
- (b) The Closing Statement, signed by Buyer.
- (c) Such additional assignments, instruments and documents appropriate to be executed and delivered by Buyer as may be reasonably necessary to complete the transaction contemplated hereby and to carry out the intent and purposes of this Agreement provided the same are commercially reasonable and do not require disclosure of proprietary information.

9.4. Closing Costs. Seller shall pay any expenses Seller might incur in connection with its election to remove objections to title, expenses Seller might incur in connection with its obligation to terminate any service agreements or leases, any title examination costs, title premiums or fees, the commission to Brokers in accordance with Section 11.7, the cost of the issuance of the Title Policy, one hundred percent (100%) of any transfer and recordation taxes in connection with the

sale, one-half (1/2) of any escrow charges, the cost of recording any instruments required to discharge any liens or encumbrances against the Land required to be discharged at Closing, and any apportionment to be made pursuant to Section 9.5. Buyer shall pay all Buyer's legal fees, the costs of any endorsements requested by Buyer to the Title Policy, the cost of the New Survey and one-half (1/2) of any escrow charges. Except as otherwise provided herein, each party shall pay its share of all other closing costs as is normally paid by a seller or buyer, respectively, in a transaction of this character in the county where the Land is located.

9.5. Adjustments and Prorations. At Closing, the following items shall be adjusted or prorated between Seller and Buyer:

- (a) Ad valorem taxes for the Land for the year in which the Closing occurs shall be prorated as of the Closing Date, and Seller shall pay to Buyer in cash at the Closing Seller's pro rata portion of such taxes. Seller's pro rata portion of such taxes shall be based upon taxes actually assessed for the current calendar year or, if for any reason such taxes for the Land have not been actually assessed, such proration shall be based upon the amount of such taxes for the immediately preceding calendar year. All special taxes or assessments approved or assessed prior to the Closing Date shall be paid by Seller. Seller shall pay when due, and indemnify and hold Buyer harmless from, any subsequent tax assessment of the Land for periods prior to the Closing Date due to changes in land usage or ownership.

9.6. Right to Possession. At the Closing, Buyer shall have full and unrestricted right to possession of the Land and Seller will do such acts, execute such instruments and take such action as may be appropriate or required to assure to Buyer uninterrupted and full possession of the Land immediately following the Closing.

9.7. Indemnification. Seller shall indemnify and hold Buyer and its partners, agents and employees harmless from and against any and all liabilities, claims, demands and expenses, of any kind or nature (including reasonable attorneys' fees) related to, resulting from or in any way arising out of a breach of any representation, warranty, covenant or agreement of Seller hereunder, but excluding any claims arising from actions taken by or on behalf of Buyer. This indemnity shall survive the termination or Closing of this Agreement for a period of three (3) years after the Closing Date.

ARTICLE X

REMEDIES UPON DEFAULT

10.1. Default by Seller. In the event that Seller fails to comply with any condition, covenant or obligation it has hereunder, and such default continues for a period of ten (10) business days after written notice to Buyer, Buyer shall have the right to terminate this Agreement by giving written notice thereof to Seller, whereupon neither party shall have any further rights or obligations under this Agreement unless expressly provided otherwise in this Agreement and the Title Company immediately shall deliver the Earnest Money and any undistributed accrued interest to Buyer, free of any claims by Seller. This provision shall survive the Closing or any termination of this

Agreement.

10.2. Default by Buyer. In the event all conditions of this Agreement are satisfied and all covenants and agreements to be performed by Seller prior to Closing are fully performed, and in the event that performance of this Agreement is fully tendered by Seller and the sale is not consummated through default by Buyer, and such default continues for a period of ten (10) business days after written notice to Buyer, then Seller's sole and exclusive remedy shall be to terminate this Agreement by giving written notice thereof to Buyer, whereupon neither party hereto shall have any further rights or obligations under this Agreement, and the Title Company shall deliver the Earnest Money plus any undistributed accrued interest to Seller, free of any claims by Buyer, as liquidated damages. The Earnest Money is a good faith estimate of actual damages that Seller would suffer and shall be liquidated damages for default of Buyer in failing to consummate this Agreement because of the difficulty, inconvenience and uncertainty of ascertaining Seller's actual damages for Buyer's default.

ARTICLE XI

MISCELLANEOUS

11.1. Notices. All notices, demands or other communications given in connection with or required under this Agreement must be in writing and delivered to the person to whom it is directed; notices, demands or other communications not given in the manner set forth in this Section 11.1 shall be void and of no effect. Notices, demands or other communications may be given by (a) overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such courier, (b) electronic mail, in which case notice shall be deemed delivered upon transmission of such notice provided that an original of such facsimile is also sent to the addressee by U.S. Mail or by the means described in clauses (a) or (c), or (c) personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery. All notices, demands and other communications shall be given to the parties hereto at the following addresses:

TO SELLER:

Gerald M. Grosenick, Trustee
Gerald M. Groesnick Revocable Trust
206 Fernandina Street
Fort Pierce, FL 34949
gr8rib@gmail.com

TO BUYER:

Village Administrator
Village of Germantown
N112 W17001 Mequon Road
Germantown WI 53022
skreklow@germantownwi.gov

Any party entitled to receive notices hereunder may change the address for notice specified above by giving the other parties entitled to receive notices written notice of such change of address.

11.2. Agreement to Survive. Any and all representations, warranties, covenants and agreements contained herein shall not be deemed to be merged into or waived by the instruments of the Closing but shall expressly survive the Closing.

11.3. Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns. This Agreement may be assigned by the Buyer to any person, firm, corporation, or other entity which the Buyer, at its sole discretion, may choose. If Buyer so assigns its rights to this Agreement, such assignment shall release Buyer from all liability hereunder accruing after the date of such assignment without the necessity of further documentation.

11.4. Applicable Law; Interpretation. This Agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin. The descriptive headings contained in this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions.

11.5. Amendment. This Agreement may not be modified or amended, except by an agreement in writing signed by the Seller and the Buyer. The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such conditions or obligations.

11.6. Entire Agreement. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. Unless set forth in this Agreement, no representations, warranties, covenants, agreements or conditions shall be binding upon the parties hereto or shall affect or be effective to interpret, change or restrict the provisions of this Agreement.

11.7. Brokers. Each party represents and warrants to the other that no brokers or finders have been engaged by it, respectively, in connection with the transaction contemplated by this Agreement or, to its knowledge, is in any way connected with this transaction. In the event of any claim for broker's or finder's fees or commissions in connection with the negotiation, execution or consummation of this Agreement, then each party shall indemnify, save and hold harmless and defend the other party from and against such claim if it shall be based upon any statement or representation or agreement made by or allegedly made by the indemnifying party. This indemnity shall survive the Closing or termination of this Agreement.

11.8. Miscellaneous. This Agreement may be executed in two or more separate counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signatures on counterparts of this Agreement that are transmitted by electronically shall be deemed effective for all purposes. In the event that any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such

invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SELLER

Gerald M. Grosenick Date
Trustee

BUYER

Dean M. Wolter Date
Village President

ATTEST:

Village Clerk