

TOWN OF HAMMOND
DEVELOPERS AGREEMENT

Developers Agreement is made this ____ day of _____, 20__, by and between the Town of Hammond, a municipal corporation, organized under the laws of the State of Wisconsin, hereinafter referred to as TOWN, and _____, hereinafter referred to as DEVELOPER.

RECITALS

WHEREAS, the DEVELOPER wishes to develop real estate located in the Town of Hammond with legal description(s) attached as Exhibit A (Legal Description), and

WHEREAS, the DEVELOPER desire to develop the Property for the following purposes:
_____; and

WHEREAS, the DEVELOPER has made application for concept, preliminary and final plat approval to the TOWN and desires to enter into a Developers Agreement with the TOWN; and

WHEREAS, in accordance with the provisions of the TOWN and St. Croix County ordinances, the TOWN is willing to enter into a Developers Agreement with the DEVELOPER under which the concept, preliminary and final plat may be approved and public improvements be installed for the mutual benefit of both parties under the Terms and Conditions set forth herein.

The purpose of this Developers Agreement includes, but is not limited to the avoidance of harmful consequences of land development prior to satisfactory completion of improvements, the grading of public and private lands, erosion and storm water runoff control and road improvements required to service the PROPERTY. This Developers Agreement is not executed for the benefit of materialmen, laborers, or others providing work, services or materials to the subdivision or for the benefit of lot or home buyers in the subdivision.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, THE PARTIES AGREE as follows:

A. DEVELOPER REPRESENTS AND WARRANTS THAT:

1. DEVELOPER is the sole owner in fee title absolute of all property shown on the concept, preliminary and final plats, with preliminary plat being incorporated herein by reference as Exhibit B (Preliminary Plat), which represents the preliminary plat for the entire property to be developed and, further, that the DEVELOPER has full authority to enter into this Developers Agreement, perform all obligations hereunder, to create any Restrictive Covenants and Homeowners Association Bylaws required herein, dedicate property necessary for the creation of any open areas and/or easement and complete construction of the public improvements called for in this Developers Agreement or in the preliminary plat and related plans.
2. If said improvements are to be completed in phases, it is the intention that this Developers Agreement specifically approves the terms and conditions governing the development of Phase 1 of the proposed development. It is the further intention of the parties for this Developers Agreement to serve as a general outline governing the development of all future phases, with the understanding that the development of future phases shall commence only after notification to and approval by the TOWN in writing and be constructed and completed by the DEVELOPER after satisfactions of all applicable conditions of this Developers Agreement and any applicable TOWN or County requirements in effect at the time the future phase is approved.
3. DEVELOPER has received no notice or communication from any local, state or federal officials that the activities of DEVELOPER on the property proposed for development may be or will be in violation of any rules, laws or regulation applicable to the DEVELOPER. Zoning is correct for the anticipated use of the land.
4. DEVELOPER is current with respect to the outstanding property taxes on the property which is the subject of the said plat and/or will have brought itself current at the time of final plat approval.
5. The DEVELOPER warranties and representations made herein are an inducement, to obtain the TOWN's approval of the preliminary plat of the subdivision, its entry into this Developers Agreement, and its eventual final plat approval. The TOWN is relying on said warranties and representations.

6. The duly authorized signatures of all fee owners and of all entities holding a mortgage or other security interest in the property are shown on the signature page of this document.
7. All parties to any sales contract concerning the subject property are identified as signatories herein.
8. DEVELOPER agrees that their full compliance with all applicable TOWN and County ordinances is a condition for the TOWN to enter into this Developers Agreement and a requirement of this Developers Agreement. This includes, but is not limited to, meeting all requirements of the TOWN ordinances on subdivision, driveway permits, utility permits, building code and road standards. DEVELOPER will comply with all such ordinance requirements as part of its obligations under this Developers Agreement.

B. OBLIGATIONS OF THE DEVELOPERS

1. Road Construction, Paving Requirements and Open Acres. As a condition of the approval of the preliminary plat, the DEVELOPER shall, at his own and sole expense:
 - (A) Build all roads, including placing asphalt, that are shown on the preliminary plans to all applicable ordinance specifications, and make the appropriate intersections and extensions for future expansion.
 - (B) Install all required road signs immediately after the installation of the new road base, i.e., the crushed limestone or base course required by the Town Road, Driveway, Erosion and Sediment Control and Right-of-Way Construction Ordinance.
 - (C) Meet all requirements of the Town Road, Driveway, Erosion and Sediment Control and Right-of-Way Construction Ordinance, and all other applicable Town, County and State standards and ordinances in the design and construction of all new roads.
 - (D) Build to the property line all roads shown on the preliminary plat as connecting through to future roads planned to be located outside the platted area, including the installation of all culverts and all storm water management and erosion control devices, driveways, and install temporary turnarounds on such roads, all according to TOWN standards.

(E) Not install any asphalt pavement on any proposed public road being built pursuant to this Developers Agreement between October 31 and May 1 without the express, written, advance approval by the TOWN or the designated engineer for the Town.

As used herein, roads refer to both private roads (driveways) and public roads and cul-de-sacs, and also include roadside ditches and any culverts underneath said roads to otherwise discharging water into said ditches.

No lot in the subdivision may be sold until the TOWN has given all necessary approvals on all improvements up to and including gravel base (asphalt ready) and the final plat has been recorded by St. Croix County.

2. TOWN Approval of Starting Dates. The DEVELOPER agrees that no construction work shall be scheduled for the abovementioned improvements without TOWN approval of the starting date and schedule which shall be submitted by the DEVELOPER for approval by TOWN at a regularly scheduled Town Board meeting and at a minimum of seven (7) calendar days before work is scheduled to begin. This schedule shall be attached as Exhibit E (Schedule of Improvements), and incorporated herein as fully set forth. No work shall commence on the property until all parties have signed this Developers Agreement, all Exhibits have been attached, and an approved irrevocable Letter of Credit and insurance certificate as required, is on file with the Town Clerk/Treasure. No building permits shall be issued until the TOWN has given all necessary approvals on all improvements up to and including gravel base (asphalt ready) and the final plat has been recorded by St. Croix County.
3. DEVELOPERS Responsibilities Concerning Installation of Utilities in Utility Easement Areas. All utilities installed in areas shown on the plat as being encumbered by a private utility easement shall be installed in a row twenty (20) feet from center of the road to thirty (30) feet from center of road so as to avoid the need for utility installations in any area outside of the area encumbered on the plat for that purpose.
4. DEVELOPERS Repair and Maintenance of Roads Prior to Acceptance. Notwithstanding any dedication to the public at the time of final plat approval of the public roads shown on the preliminary plat, the TOWN shall have no responsibility for repair, maintenance, grading, snow removal or any other duty with respect to the said road/s until they have been completely constructed,

including both lifts of pavement, by DEVELOPER. Until that time the said road/s shall be repaired, maintained, and plowed by the DEVELOPER. After the road/s has/have been completed, the DEVELOPER may notify the TOWN of road/s completion and the TOWN shall inspect the finished product. If the TOWN or designated engineer for the TOWN, agrees that the said road/s are built in complete conformity with all the TOWN and County standards, then the TOWN shall formally accept the road/s in a written document, signed by the Town Chair and ratified by the Town Board at its next regularly scheduled meeting, and only thereafter shall the TOWN become responsible for maintenance, repair, grading, snow removal, and all other duties relating to the road/s. Notwithstanding acceptance of any road/s by the Town Board, the DEVELOPER shall remain financially responsible for all repairs to Town road/s shown on the plat and built pursuant to this Developers Agreement for one (1) year from the time of acceptance of said road/s by the TOWN. Written objections to road/s acceptance with specified reasons therefore, shall be provided within fourteen (14) days of inspection by the Town Chair or designee. Road/s acceptance is effective when ratified by Town Board action at its next regularly scheduled meeting.

5. Road Inspections. The TOWN will provide, within seven (7) days, a written notice to the DEVELOPER whenever inspections reveal that an improvement does not conform to the Road, Driveway, Erosion and Sediment Control and Right-of-Way Construction Ordinance and associated standards and specifications.
6. Road Damage Deposit for Use on Existing Roads. At time of executing this Developers Agreement, DEVELOPER shall pay to the Town Clerk/ Treasure a road damage deposit in the form of an irrevocable Letter of Credit in the amount of \$_____ (suggested percentage of internal asphalt cost). This deposit shall be used by the Town to repair any damage to existing roads caused by the construction activities of the development. Said deposit shall be increased if additional damage to the road over and above said amount occurs during construction. Said deposit shall be returned to DEVELOPER upon certification by the Town Chair or designated engineer for the TOWN that there is no damage to existing town roads.
7. Stormwater Management and Erosion Control Devices. The DEVELOPER shall, at its own and sole expense, install all stormwater management measures and all erosion control measures, whether temporary or permanent, as shown on the said preliminary and final plat and as required by State or County statute, or TOWN ordinance, rule of practice. DEVELOPER shall also take measures to ensure that future responsibility for all stormwater management and/or erosion

control drainage easements and drainage ponds shall be made the responsibility of a Homeowner's Association consisting of all lots in the subdivisions, so that any lot on which a stormwater management or erosion control measure is located shall not be assigned sole responsibility for maintenance or repair for said stormwater management or erosion control measure. The TOWN shall not be responsible for the maintenance and repair of any stormwater management or erosion control measure shown on the final plat or draining from it. However, the TOWN shall have the authority, but not the obligation, to enter onto any lot or out lot to perform such maintenance or repairs that have not been performed by said Homeowner's Association following written notice by the TOWN to the Homeowner's Association that said measures require repair or maintenance and following a fifteen (15) day opportunity for it to do so. The costs and expenses of the TOWN in taking said measures shall be deemed to be for the benefit of all lots in the subdivision and shall be considered a special charge pursuant to Wis. Stats. Ch. 66.0627 which shall then be charged back pro rata against the property tax bill of each lot in the said subdivision. The TOWN shall have no liability for property damage or personal injury that may result from any drainage easements or storm water detention/drainage ponds located in said subdivision. Said drainage easements and drainage ponds are necessary for stormwater protection purposes. The drainage easements and drainage ponds on the final plat shall be shown as restricted areas for non-building and/or placement of fill material of any kind on the preliminary and final plats. Prior to the construction of any stormwater or erosion control measures, DEVELOPER shall obtain all necessary permits from St. Croix County, and/or other appropriate state or local agencies.

8. Restrictive Covenants. The DEVELOPER represents and warrants that the Restrictive Covenants, to be attached hereto and incorporated herein by reference as Exhibit C (Restrictive Covenants), before final plat approval, are the final Restrictive Covenants, which shall be, or will have been recorded in precisely that form after review and approval by the Town Attorney and Town Board, which shall attach to and encumber all lots in the subdivision. The Restrictive Covenants shall require that drainage easements and drainage ponds, including all areas shown as (H.W.E. areas on the plat), shall not be altered or filled, and that the Homeowner's Association or special assessed, shall be responsible for maintenance and repair of said drainage easements and drainage ponds, including all areas shown as (H.W.E. areas on the plat), with the costs thereof to be charged against each lot in the subdivision. The DEVELOPER agrees that there shall be no change to the provisions of the Restrictive Covenants which in any way relates to the Homeowner's Association

responsibility for continued maintenance and repairs of the drainage easements and drainage ponds, including all areas shown as (H.W.E. areas on the plat), or the Town's right, but not obligation, to perform maintenance and repairs and specially assess the cost against the property if continued maintenance or repairs are not adequately performed by the Homeowner's Association pursuant to the Restrictive Covenants and Homeowner's Association Bylaws.

9. Homeowner's Association. The DEVELOPER represents and warrants that the Homeowner's Association Bylaws for the said subdivision, to be attached hereto, and incorporated herein, by reference as Exhibit D (Homeowner's Association Bylaws), before final plat approval, are the final Homeowner's Association Bylaws, and shall have been reviewed and approved by the Town Attorney and Town Board, in advance of final plat approval. Said Homeowner's Association Bylaws shall govern the use, improvement and maintenance of common areas in the said subdivision, if any, along with all stormwater management, erosion control measures, all drainage easements and drainage ponds, including all areas shown as (H.W.E. areas on the plat), and shall provide for the maintenance and repair of those areas with the costs thereof to be charged against each lot in the subdivision. The DEVELOPER agrees that there shall be no change to the provisions of the Homeowner's Association Bylaws which in any way relates to the Homeowner's Association responsibility for continued maintenance and repairs of common areas in the said subdivision, if any, along with all stormwater management, erosion control measures all drainage easements and drainage ponds, including all areas shown as (H.W.E. areas on the plat), or the Town's right, but not obligation, to perform maintenance and repairs and specially assess the cost against the property if continued maintenance and repairs are not adequately performed by the Homeowner's Association pursuant to the Restrictive Covenants and Homeowner's Association Bylaws.

10. DEVELOPER Installed Improvements. The DEVELOPER hereby agrees that they shall be solely responsible for the cost of, and actual installation of, any and all infrastructure in the subdivision. Infrastructure includes building, grading, graveling and paving the road/s and cul-de-sacs, installation of approved signage for said road/s, installation of any public sidewalks, curbing, gutters or lighting that may be permitted by the TOWN, improvements or development of drainage easements and drainage control measures such as culverts, detention ponds, ditch-ways, H.W.E. areas, etc., and erosion control measures such as seeding, matting and rip-rap, as shown on the final plat to be attached hereto prior to recording as Exhibit E (Schedule of Improvements), all of which are incorporated herein by reference. All work shall be done in conformance with the plans

approved by the TOWN and County. DEVELOPER shall follow the Schedule of Improvements, attached hereto and incorporated unless there is an extension of the times set forth therein that is agreed by the TOWN, County and DEVELOPER.

11. Inspection. An engineer designated by the TOWN, shall regularly inspect all public improvement work. The engineer designated by the TOWN, shall have the right to make final approval of such improvements. The engineer designated by the TOWN, shall have unlimited right to enter the property to inspect all work undertaken by DEVELOPER pursuant to this agreement.
12. Payment of Town Fees. The DEVELOPER hereby agrees to promptly pay all professional fees, including, but not limited to, legal and engineering fees of any kind that the TOWN incurs, or has incurred in reviewing the said plat, in verifying DEVELOPER's compliance with TOWN requirements, and in drafting this Developer's Agreement, all within thirty (30) days of being presented with such a bill.
13. Letter of Credit. As security for the undertaking to install the road/s and all other infrastructures shown on the plat or called for herein, DEVELOPER shall provide the TOWN with an irrevocable Letter of Credit of at least one (1) year's duration in the amount of one hundred twenty (120) percent of the accepted bid amount, or engineers estimate if an accepted bid is not available, required to build and pave the road/s in the subdivision and to install any other infrastructure being required by the TOWN. If the Letter of Credit is based on an engineer's estimate, DEVELOPER shall provide the TOWN with a copy of an accepted bid within seven (7) days of bid acceptance. If the accepted bid amount exceeds the estimate on which the amount of the Letter of Credit is based by five (5) percent or more, the Letter of Credit shall be amended by the DEVELOPER to an amount equal to one hundred twenty (120) percent of bid price within fourteen (14) days of bid acceptance. The governing body may not require the subdivider to provide the security for more than fourteen(14) months after the date the public improvements for which the security is provide is substantially completed and upon substantial completion of public improvements, the amount of the security the subdivider is required to provide may be no more than the amount equal to the total cost to complete any uncompleted public improvements plus ten (10) percent of the total cost of the completed public improvements. WI S.S. 236.13(am)1c. That remaining amount shall be held and available for use by the TOWN to make repairs to the public improvements installed by DEVELOPER, to cover the cost of review, inspection and other work undertaken by the designated

engineer for the TOWN after final plat approval, and as security for any other TOWN fees and costs related to review and approval of the said plat that remain unpaid and for which the DEVELOPER is responsible. Amounts unused for these purposes shall be released after the subject town road/s have been accepted by the required Town Board action for one (1) full year. Said irrevocable Letter of Credit shall be issued in a form acceptable to the TOWN and must be in the possession of, and accepted by the Town Clerk/Treasurer prior to the approval of the final plat. Providing and maintaining such an irrevocable Letter of Credit is an express requirement of this agreement and of final plat approval, and a copy thereof shall be attached hereto and included herein as (Exhibit F) by the time of final plat approval. No moving of earth or excavation in the area shown on the preliminary plat is permitted until after the irrevocable Letter of Credit required herein has been delivered to the Town Clerk/Treasurer.

14. Plat Approvals and Submission. By action of the Town Board in approving this agreement, the TOWN grants preliminary plat approval to the subdivision preliminary plat, in the form attached hereto as Exhibit B and subject to all requirements and conditions set forth herein. The final plat shall be submitted by DEVELOPER in conformity with the requirements of this agreement, Wisconsin Statutes Chapter 236 and the ordinances of St. Croix County and the TOWN. Upon approval and recording of the final plat Exhibit G (Final Plat), by St. Croix County, the sale of lots shall be authorized. Preliminary plat approval does not mean the automatic approval of final plat. Final plat approval shall be subject to the Developer providing Restrictive Covenants, Homeowner's Association Bylaws, irrevocable Letter of Credit, the Developers Agreement and other relevant requirements that need TOWN approval. After TOWN approval Restrictive Covenants and Homeowner's Association Bylaws are required to be filed with St. Croix County. Cost estimates for the public improvements shall be timely submitted to the designated engineer for the TOWN, for approval, for purposes of establishing the amount of the irrevocable Letter of Credit, and shall be shown as Schedule of Improvements (Exhibit E).
15. Indemnification and Insurance. The DEVELOPER shall indemnify and hold harmless the TOWN, the Town Board and the agents and employees of the TOWN from any and all claims, damages, losses or expenses, including attorney's fees, which the TOWN, Town Board, the agents and employees of the TOWN suffer or for which it/they may be held liable, arising out of or resulting from the assertion against it/them of any claims, debts or obligations in consequence of the performance of this Developers Agreement by the DEVELOPER, their employees, agents or subcontractors, which are the result of

the reckless or intentional acts, negligence, error or omission of the DEVELOPER, their agents, employees or subcontractors. The DEVELOPER further agrees to aid and defend the TOWN or its agents (at no cost to the TOWN or its agents) in the event they are named as a defendant in an action concerning the performance of work pursuant to this Developers Agreement. Nothing contained within this paragraph or Developers Agreement is intended to be a waiver or estoppel of the TOWN, or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained with Wisconsin Statutes 893.80, 895.52 and 345.05. To the extent that indemnification is available and enforceable, the TOWN, or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law.

DEVELOPER will provide and maintain at all times during the process of constructing the improvements until six (6) months after acceptance of all Improvements and, from time to time, at the request of the TOWN, furnish proof of payment of premiums on:

- a. Comprehensive general liability insurance together with an Owner's Contractor's Policy with limits against bodily injury, including death, and property damage (to include, but not be limited to damages caused by erosion or flooding) which may arise out of the DEVELOPER's work or the work of any of its subcontractors.

Limits for bodily injury or death shall not be less than \$500,000.00 for one (1) person and \$1,000,000.00 for each occurrence; limits for property damage shall not be less than \$1,000,000.00 for each occurrence. The TOWN and designated engineer for the TOWN shall be an additional named insured on said policy. DEVELOPER's insurance shall be primary and TOWN's insurance noncontributory. DEVELOPER's insurance company shall provide endorsements to DEVELOPER's liability policy establishing such terms and acceptable to TOWN.

C. ADDITIONAL TERMS

1. Transfer of Title. The DEVELOPER may not sell, transfer or lease any of the property within the subdivision until the TOWN has given all necessary approvals on all improvements up to and including gravel base (asphalt ready) and the final plat has been approved by the TOWN and recorded by St. Croix County.

2. Remedy for Default Regarding Lots Owned by Developer. DEVELOPER agrees that breach of any of the terms of this Developers Agreement may result in the unilateral suspension or withholding by the TOWN of all permits, licenses, or other authorization issued by the TOWN in connection with the property shown on the final plat. This is in addition to any other remedies to which the TOWN may be entitled by law in this Developers Agreement.
3. Mortgagee Consent. Any mortgagee of all or a portion of the lands in the subdivision, hereby joins in the execution and delivery of this instrument for the purpose of manifesting its knowledge of and consent to entry into the Developers Agreement by its mortgagor(s), and of its intent to be bound by the requirements herein in the event it acquires title to the subject property or any part thereof, as by sale, foreclosure or deed in lieu of foreclosures.
4. Wisconsin Law. This Developers Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
5. Other Agreements. Any prior oral and written agreements between TOWN and DEVELOPER are terminated and released, as this document represents all agreements existing between the parties with respect to the development property and the construction of the improvements.
6. Disclaimer by Town. It is understood and agreed that the TOWN, the Town Board, the Plan Commission and the agents of the TOWN shall not be personally liable or responsible in any manner to DEVELOPER or to DEVELOPER's contractors, subcontractors, materialmen, laborers, or any other person, firm or corporation, for any debt, claim, demand, damages, action or causes of action of any kind of character arising out of or by reason of the execution of the improvements being required herein.
7. No Additional Waiver Implied by One Waiver. In the event any provision contained in this agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach of this agreement.
8. Benefits. The benefits of this Developers Agreement to the DEVELOPER are personal and shall not be assigned without the express written approval of the TOWN. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding or foregoing, the burdens of this Developers

Agreement are personal obligations of the DEVELOPER and also shall be binding on their heirs, successors, and assigns of the DEVELOPER. There is no prohibition on the right of the TOWN to assign its rights under this Developers Agreement. The TOWN shall release the original DEVELOPER's Letter of Credit if it accepts new security from any developer or lender who obtains the property. However, no act of the TOWN shall constitute a release of the original DEVELOPER from his/her/their liability under this Developers Agreement.

IN WITNESS WHERE, the undersigned have executed this Developers Agreement, or caused the same to be executed as of the date first above-written.

THE TOWN

THE DEVELOPER

Town of Hammond

By: _____

Town Chair Date

Date

Attest: _____

Town Clerk/Treasure Date

Date

MORTGAGEE

By: _____

Date

Title: _____

EXHIBIT LIST

- EXHIBIT A: Legal Description
- EXHIBIT B: Preliminary Plat
- EXHIBIT C: Restrictive Covenants
- EXHIBIT D: Homeowner's Association Bylaws
- EXHIBIT E: Schedule of Improvements to be Installed by Developer
- EXHIBIT F: Letter of Credit
- EXHIBIT G: Final Plat
- EXHIBIT H: Developer Contacts

EXHIBIT H – DEVELOPER CONTACTS

Developer: _____

Developer Point of Contact: _____

Developer POC Phone: _____

Developer POC Email: _____

Surveyor: _____

Surveyor Phone: _____

Surveyor Email: _____

Engineer: _____

Engineer Phone: _____

Engineer Email: _____

Contractor: _____

Contractor Point of Contact: _____

Contractor POC Phone: _____

Contractor POC Email: _____

Utility Companies (Name, POC, Phone, Email):

Electric: _____

Gas: _____

Telephone: _____

Cable: _____

Soils Testing and Septic System Design (Name, POC, Phone, Email):

Soils Testing: _____

Septic Design/Installation: _____