

**MEMORANDUM OF UNDERSTANDING
REGARDING CONTRIBUTIONS FOR
WISCONSIN STATE TRUNK HIGHWAY 165 CORRIDOR IMPROVEMENTS**

THIS MEMORANDUM OF UNDERSTANDING REGARDING CONTRIBUTIONS FOR WISCONSIN TRUNK STATE HIGHWAY 165 CORRIDOR IMPROVEMENTS (this "MOU") is entered into by and between **VILLAGE GREEN DEVELOPMENT, LLC**, a Delaware limited liability company, with a business address in care of Land & Lakes Development Co., 123 N. Northwest Highway, Park Ridge, IL 60068-0778 (together with its successors and assigns, hereinafter referred to as the "Developer"), and the **VILLAGE OF PLEASANT PRAIRIE**, a Wisconsin Municipal Corporation with offices located at 9915 39th Avenue, Pleasant Prairie, Wisconsin 53158 (hereinafter referred to as the "Village"), with regard to the following facts:

A. Developer is the owner of certain undeveloped property, consisting of 187 acres, legally described as follows:

THE SOUTHWEST QUARTER OF SECTION 23, AND THE WEST 30 ACRES OF THE
SOUTHEAST QUARTER OF SECTION 23, ALL IN TOWNSHIP 1 NORTH, RANGE 22 EAST OF
THE FOURTH PRINCIPAL MERIDIAN, IN THE VILLAGE OF PLEASANT PRAIRIE,
KENOSHA COUNTY, WISCONSIN.

(the "Property").

B. The Board of Trustees of the Village (the "Village Board") approved the Village Green Heights Final Plat of Subdivision on Feb. 2, 2004 (the "Final Plat of Subdivision"), subject to certain conditions, one of which is that the applicant and owner of the Property shall enter into a Development Agreement with the Village.

C. The Village and Land & Lakes Development Co., an Illinois corporation, the sole Manager of the Developer (the "Original Developer") have entered into a Development Agreement of even date herewith that sets forth the terms and conditions imposed by the Village in granting its approval of the Final Plat of Subdivision.

D. On the date hereof, but after executing and delivering the Development Agreement, and with the consent of the Village, the Original Developer conveyed its interest in the Property to the Developer and assigned to the Developer all of the Original Developer's right, title and interest in, to and under the Development Agreement, and the Developer assumed all of the obligations of the Original Developer under the Development Agreement.

E. The Development requires, among other things, that the Developer and Village shall enter into this MOU providing for the contribution by the Developer of funds for certain highway and roadway improvements hereinafter described in detail.

F. The Developer intends to develop the Property in stages as follows:

The first stage ("Stage 1") will, when the Final Plat of Subdivision is recorded in the Register of Deeds Office of Kenosha County, Wisconsin, consist of one hundred thirty-five (135) single-family lots to be shown on the Final Plat of Subdivision as Lots 1 through 135, inclusive, and two (2) "outlots" shown on the Final Plat of Subdivision as Outlot 4 and Outlot 6.

The second stage ("Stage 2"), subject to the approval by the Village of a Certified Survey Map and Plat of Condominium, will contain ten (10) buildings each containing four residential townhome units for a total of forty (40) residential townhome units with attached garages, all to be located on Outlot 1 (as shown on the Final Plat of Subdivision).

The third stage ("Stage 3"), subject to the approval by the Village of a Certified Survey Map and a Supplement to the Plat of Condominium, will contain seven (7) buildings each containing four residential townhome units for a total of twenty-eight (28) residential townhome units with attached garages, all to be located on Outlot 2 (as shown on the Final Plat of Subdivision).

The fourth stage ("Stage 4"), subject to the approval by the Village of a Plat of Resubdivision of Outlot 5 (as shown on the Final Plat of Subdivision) will contain eighty-three (83) single-family lots and two (2) "outlots," all to be located on Outlot 5 (as shown on the Final Plat of Subdivision).

The fifth stage ("Stage 5"), subject to the approval by the Village of a Certified Survey Map and a Plat of Condominium, will contain fifty (50) buildings each containing two residential townhome units for a total of one hundred (100) residential townhome units with attached garages on Outlot 3 (as shown on the Final Plat of Subdivision).

G. The southern portion of the Property abuts Wisconsin State Trunk Highway 165 ("STH 165"), a portion of which highway, from Wisconsin State Trunk Highway 31 ("STH 31") to Wisconsin State Trunk Highway 32 ("STH 32") (the "STH 165 Corridor") is, according to surveys and evaluations conducted by the Village, in general fair to poor condition. Based upon the traffic impact analysis prepared by the Developer's traffic engineer, with which the Village concurs, the Wisconsin Department of Transportation and the Village projects that increases in traffic attributable to development on the Property and on other property abutting or in the vicinity of the STH 165 Corridor will result in the need for improvements to STH 165.

H. The Village and the Wisconsin Department of Transportation desire to provide for the preparation of a corridor traffic study for the coordinated planning of the overall improvement of the STH 165 Corridor.

I. The Village's budget and public works schedule do not include the preparation of the STH 165 Corridor study or the installation of traffic-related improvements to the STH 165 Corridor that are reasonably necessary and required for the proposed development of the Property and certain other real property abutting or within the vicinity of the STH 165 Corridor, and there will be a substantial delay in the construction and installation of such improvements unless the Village apportions the cost thereof among the owners of such real estate, including, but not limited to, the Developer.

J. The Village has determined that there exists approximately 1,100 acres of developable real estate which either abuts or is within a one-half mile band on either side of the STH 165 Corridor (the

“Affected Property”), which, when developed, can be reasonably expected to generate additional traffic on the STH 165 Corridor, and receive the benefits of any traffic improvements thereto (the “Affected Property”).

K. The Property is part of the Affected Property.

L. The Village has determined that development of the Affected Property would impose substantial burdens upon the Village which can be appropriately mitigated by the allocation of the cost of the STH 165 Corridor Improvements among the owners of land classified as Affected Property pursuant to agreements with owners of real estate classified as Affected Property substantially similar to this MOU.

M. The Village intends to enter into agreements similar to this MOU with the owners of other real estate that falls within the definition of “Affected Property” as a condition to the issuance of Village approval for development on such real estate (whether by rezoning, subdivision, the issuance of building permit(s) or otherwise).

THEREFORE, in consideration of the mutual provisions of this MOU and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer and the Village hereby agree as follows:

1. The recital Paragraphs set forth at the beginning of this MOU are incorporated as a part of this MOU as though fully set forth herein.
2. For purposes of this MOU, the following terms shall have the following meanings:
 - 2.01 The “Transportation Improvement Fee” shall be calculated for a given parcel of real estate classified as Affected Property, including but not limited to, the Property, by multiplying the Cost Per Acre by the number of acres in such parcel.
 - 2.02 The Cost per Acre shall be \$2,100.00, based on the Village’s estimate of a total cost for the STH 165 Corridor Improvements of \$2,300,000.00, divided by the Village’s estimate of 1,100 acres of developable land classified as Affected Property.
3. The Transportation Improvement Fee allocable to the Property by the formula set forth in Section 2.02 hereof is \$392,700.00, determined by multiplying \$2,100.00 by 187 acres. The Village has elected to give the Developer a credit of \$6,700.00 against the Transportation Fee in consideration of various concessions agreed to by the Developer in the Development Agreement which are not required under Village ordinances and regulations, resulting in a Transportation Improvement Fee for the Property equal to \$386,000.00.
4. The Developer and the Village have agreed that the Transportation Improvement Fee allocable to the Property shall be paid as follows:
 - 4.01 The Transportation Improvement Fee for the entire Property shall be reallocated within the Property based upon the total number of dwelling units projected to be built in each stage of development on the Property, so long as the entire Transportation Improvement Fee for the Property is collected.
 - 4.02 As a condition to the Village’s approval of the Final Subdivision Plat:
 - (a) Developer shall pay to the Village \$67,500.00, constituting fifty percent (50%) of the Transportation Improvement Fee attributable to the 135 dwelling units in Stage 1, at or prior to the time the Final Subdivision Plat is recorded; and
 - (b) The Village shall have the right to collect the remainder of the Transportation Improvement Fee attributable to the Development on the following basis: \$500.00 per single-

family lot for each of Lots 1 through 135, inclusive, shall be paid by the owner of such lot to the Village at the time of , and as a condition precedent to the issuance of a building permit for such lot.

- 4.03 As a condition to the Village's approval of a Plat of Condominium for Outlot 1:
- (a) Developer shall pay to the Village \$20,000.00, constituting fifty percent (50%) of the Transportation Improvement Fee attributable to the 40 condominium units in Stage 2, at the time that the Village approve the Plat of Condominium for Outlot 1; and
 - (b) The Village shall have the right to collect the remaining fifty percent (50%) of the Transportation Improvement Fee attributable to Stage 2 on the following basis: \$500.00 per condominium unit to be built on Outlot 1, which shall be paid by the owner of Outlot 1 to the Village at the time at the time of , and as a condition precedent to the issuance of a building permit for such condominium unit.
- 4.04 As a condition to the Village's approval of a Supplemental Plat of Condominium for Outlot 2:
- (a) Developer shall pay to the Village \$14,000.00, constituting fifty percent (50%) of the Transportation Improvement Fee attributable to the 28 condominium units in Outlot 2 at the time that the Village approves the Supplemental Plat of Condominium for Outlot 2; and
 - (b) The Village shall have the right to collect the remaining fifty percent (50%) of the Transportation Improvement Fee attributable to Stage 3 on the following basis: \$500.00 per condominium unit to be built on Outlot 2 shall be paid by the owner of Outlot 2 to the Village at the time at the time of , and as a condition precedent to the issuance of a building permit for such condominium unit.
- 4.05 As a condition to the Village's approval of a Plat of Resubdivision for Outlot 5:
- (a) Developer shall pay to the Village \$41,500.00, constituting fifty percent (50%) of the Transportation Improvement Fee attributable to the 83 dwelling units in Stage 4 at the time the Final Plat of Resubdivision for Outlot 5 is recorded; and
 - (b) The Village shall have the right to collect the remaining fifty percent (50%) of the Transportation Improvement Fee attributable to Stage 4 on the following basis: \$500.00 per single-family lot on resubdivided Outlot 5 shall be paid by the owner of such lot to the Village at the time at the time of , and as a condition precedent to the issuance of a building permit for such lot.
- 4.06 As a condition to the Village's approval of a Plat of Condominium for Outlot 3:
- (a) Developer shall pay to the Village \$50,000.00, constituting fifty percent (50%) of the Transportation Improvement Fee attributable to the 100 condominium units in Stage 5 at the time that the Village approves of the Plat of Condominium for Stage 5; and
 - (b) The Village shall have the right to collect the remaining fifty percent (50%) of the Transportation Improvement Fee attributable to Stage 5 on the following basis: \$500.00 per condominium unit to be built on Outlot 3 shall be paid by the owner of Outlot 3 to the Village at the time at the time of , and as a condition precedent to the issuance of a building permit for such condominium unit.

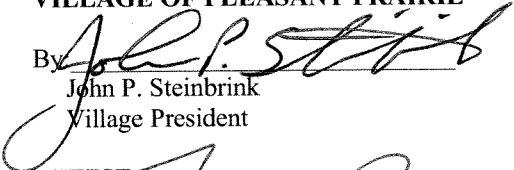
5. The Village shall enter into agreements substantially similar to this MOU with the owners of other real estate that falls within the definition of "Affected Property" as a condition to the issuance by the Village of approval for development on such real estate (whether by rezoning, subdivision, the issuance of building permit(s) or otherwise); provided, however, that the Village may, in its discretion, allocate the Transportation Improvement Fee for a given property among parcels subparcels constituting such property, or based upon the number or square footage of buildings on such property, or any other basis agreed to by the Village and the owner of such property, so long as the entire Transportation Improvement Fee for such property is collected.

6. The Village shall establish a separate fund (the STH165 Improvement Fund") into which shall be paid the amounts paid by the Developer pursuant to this MOU and paid by the owners of other real estate classified as Affected Property which shall be used by the Village solely for the planning, design and construction (but not the maintenance) of the STH 165 Corridor Improvements. The STH 165 Corridor Improvements shall include, but are not limited to: (a) improvements of the intersection of STH 165 and County Trunk Highway ML; (b) improvements of the intersection of STH 165 and County Trunk Highway EZ; (c) improvements of the intersection of STH 165 and STH 31; (d) acquisition of right-of-way in connection with the foregoing; (e) widening and resurfacing of STH 165; and (f) planning, engineering and administrative costs associated with the foregoing.


7. If the Village fails or is prohibited by law from requiring any owner of property which is Affected Property to enter into an agreement substantially similar to this MOU or to collect when due the Transportation Improvement Fee from any owner of property which is Affected Property, then Developer and any other person or entity which has paid a portion of the Transportation Improvement Fee with respect to the Property, shall be entitled to a refund of the amount therefore paid.

IN WITNESS WHEREOF, the Developer and the Village have caused this **MEMORANDUM OF UNDERSTANDING REGARDING CONTRIBUTIONS FOR WISCONSIN STATE HIGHWAY 165 CORRIDOR IMPROVEMENTS** to be signed and dated as of this 2nd day of February, 2004.

VILLAGE OF PLEASANT PRAIRIE

By: 
John P. Steinbrink
Village President

ATTEST:

By: 
Jane M. Romanowski, CMC
Village Clerk

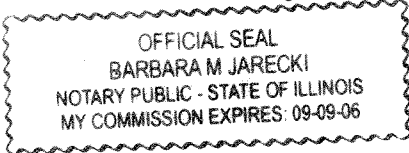
VILLAGE GREEN DEVELOPMENT, LLC, a Delaware limited liability company

By: **LAND & LAKES DEVELOPMENT CO.**, an Illinois corporation, its sole Manager

By: 
Martin S. Hanley, its President

STATE OF Illinois)
)SS:
Cook COUNTY)

This MEMORANDUM OF UNDERSTANDING REGARDING CONTRIBUTIONS FOR WISCONSIN STATE HIGHWAY 165 CORRIDOR IMPROVEMENTS was acknowledged before me this 2nd day of February, 2004 by Martin S. Hanley, President of Land & Lakes Development Co., an Illinois corporation, in its capacity as the sole Manager of Village Green Development, LLC, a Delaware limited liability company.

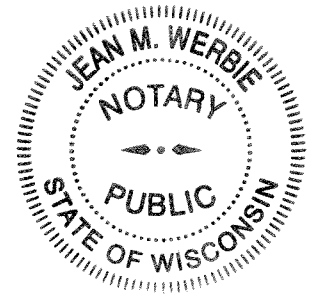


Barbara M. Jarecki
Print Name: Barbara M. Jarecki
Notary Public, Cook County, State of Illinois
My Commission expires: 09-09-06

STATE OF WISCONSIN)
)SS:
KENOSHA COUNTY)

This MEMORANDUM OF UNDERSTANDING REGARDING CONTRIBUTIONS FOR WISCONSIN STATE HIGHWAY 165 CORRIDOR IMPROVEMENTS was acknowledged before me this 2nd day of Feb., 2004 by John P. Steinbrink, Village President and Jane M. Romanowski, Village Clerk.

Jean M. Werbie
Print Name: Jean M. Werbie
Notary Public, Kenosha County, State of Wisconsin
My Commission expires: 2/12/06



This Agreement Drafted by:
Village of Pleasant Prairie
9915 39th Avenue
Pleasant Prairie, WI 53158