

THIS AGREEMENT, By and between the Heritage Meadows Land Company L.L.C. hereinafter known as "Developer," and the City of Milwaukee, a municipal corporation, hereinafter known as "City;"

WITNESSETH:

IN CONSIDERATION of the sum of One Dollar (\$1.00) to each party in hand paid by the other, receipt whereof is hereby acknowledged, and in further consideration of the covenants and agreements hereinafter contained.

WHEREAS, The Developer is the owner of or has options on the property located generally south of West Heritage Drive, west of North 110th Street, east of North 114th Street and north of West Meadowcreek Drive. This property is more particularly described by Exhibit "A"; and

WHEREAS, The Developer has requested an agreement providing for the installation of various public improvements required to serve a residential development on the property, said residential development to be known as Heritage Meadows Addition No 2. The subdivision consists of 18 single family residential lots; and

WHEREAS, The requested public improvements could be installed under the terms of an out-of-program agreement upon condition that title to such facilities shall vest in the City of Milwaukee subject to conditions more fully hereinafter stated.

NOW, THEREFORE, In consideration of these premises and the mutual benefits herein accruing and for other good and valuable considerations,

IT IS AGREED, By and between the parties hereto that:

1. Funding Obligation

Developer agrees to provide all funds necessary for design and construction of the public improvements, easement preparation as may be required, water fittings, materials inspections, construction inspections and related City work necessitated by the project.

2. Construction Option

Upon mutual concurrence of Developer and the Commissioner of Public Works, Developer may let and administer construction contracts for one or more of the public improvements covered by the agreement. In the event Developer manages one or more public improvement construction contracts, City shall perform its normal inspections during the course of construction. In addition, Developer agrees to comply with and administer on behalf of the City, all applicable City rules and requirements pertaining to DBE and local resident involvement in the construction contracts. Developer shall not authorize any changes in improvement plans without the prior approval of the Commissioner of Public Works. All payments to contractors must be pre approved by the Commissioner. It is further understood and agreed that in the event Developer lets any public improvements contract there shall be no Developer refunds provided by the City, paragraph 23 notwithstanding.

3. Site Grading

Developer agrees to pregrade the entire site including proposed public street right-of-ways. Grading plans shall be reviewed and approved by the Commissioner of Public Works. The grading plan must be approved prior to design engineering of the public improvements. Grading shall be to within three (3) inches of the roadway subgrade as established in the paving plans. Grading shall match design grades at the right-of-way line. Material in any fill areas shall be placed in accord with Section 401.5 of the City of Milwaukee Department of Public Works Street Construction Specifications dated July 1, 1992. The Developer is responsible for obtaining any and all permits required to undertake grading activities.

4. Subdivision Map

Developer agrees to submit a subdivision map in accord with Chapter 119 of the Milwaukee Code of Ordinances for the entire site prior to the City's commencement of design engineering. Rights-of-way for all planned public streets shall be dedicated to the City at no cost.

5. Water Improvements

Water main will be installed in rights-of-way within the site. Connection will be made to nearby existing facilities. An easement allowing a secondary connection may be required.

Plans for water main improvements shall be prepared by the City's

Department of Public Works. The total estimated cost for water main design is \$_____.

6. Sanitary Sewer Improvements

Sanitary sewers will be constructed in right-of-way, and if necessary, in easement to serve the project. Plans for sanitary sewer improvements shall be prepared by the City's Department of Public Works and will be subject to review and approval by the Milwaukee Metropolitan Sewerage District. The total estimated cost for sanitary sewer design engineering is \$_____.

7. Paving Improvements

Asphalt, rural cross section public streets and associated drainage ditches, will be constructed to provide access within the project. Subject to Common Council approval (if necessary), public sidewalks shall not be required. Developer shall be responsible for seeding the right-of-way area between edge of pavement and property line in conjunction with site grading.

Plans for the paving improvements will be prepared by the City's Department of Public Works. The total estimated cost for paving design is \$_____.

8. Utility Laterals

Sewer and water laterals will be installed for each lot. These may be contracted out by the City or may be installed by Developer under permit from the City's Department of Neighborhood Services. Under the latter option, the Neighborhood Services Department

would inspect the work.

9. Storm Water Management Plan

Prior to letting contracts for public improvements, the City Engineer shall confirm that the grading plan and storm water improvements proposed for the subdivision are consistent with the approved Storm Water Management Plan for the combined Heritage subdivisions. Any additions to or modifications of the approved Storm Water Management Plan necessitated by the Heritage Meadows Addition No. 1 Subdivision shall be completed and approved prior to construction of any of the public improvements described herein.

10. Storm Water Improvements

A system of private storm sewers connected to a nearby detention pond will be constructed to serve the project. Plans for this system will be based upon the approved Storm Water Management Plan. Developer shall be responsible for design, construction and maintenance of any inlet/outlet structures and pipes needed to connect the site to the adjacent detention pond. Maintenance responsibilities may be assigned by Developer to the project's Homeowner's Association.

11. Other Improvements

Developer agrees that any utility and access improvements necessary to serve the site in addition to those listed in paragraphs five through eight and paragraph ten above shall be its responsibility and shall be undertaken by Developer at its sole

expense. Developer further agrees that the City shall review and approve plans for any work to occur in the public right-of-way. Permits necessary for any such work shall be obtained by Developer or other responsible parties.

12. Easements

Developer agrees to provide, where necessary on its property and at no cost to the City, all easements and other property rights required by the City to construct, operate and maintain the public improvements described in paragraphs five through eight and ten above. All easement areas are to be pre-graded by the developer prior to the construction of public improvements therein. It shall be the Developer's responsibility to obtain any permits and/or easements necessary for the operation and maintenance of the storm water management system and outlets, as approved.

13. Private Utilities

Developer agrees that all private utility lines necessary to provide telephone, communications, and electrical services to the development shall be installed underground, except where the City Plan Commission finds that such underground installations are not feasible.

14. Design Engineering Deposit

Developer shall deposit a total of \$_____ with the City to cover the cost of design engineering, easement preparation and other City costs anticipated prior to actual construction.

Design work shall not begin until the deposit, the subdivision plat, and the grading plan have been submitted.

15. Funding Guarantee

The Developer shall submit an irrevocable letter of credit or other funding guarantee, satisfactory in format to the City Attorney, in an amount equal to the estimated construction contract cost for the infrastructure improvements identified in paragraphs five through eight and ten prior to the award of any public improvement contracts, whether privately or publicly let.

Any and all irrevocable letters of credit shall guarantee that the Developer's bank or savings and loan will provide the required funds to cover the contract cost of installing the applicable infrastructure improvements and will, upon simple request by the Commissioner of Public Works and the City Treasurer, release same to City as required, all such funds to be furnished interest free. The letter-of-credit or other funding guarantee shall be submitted to the City prior to the City or the Developer entering into any contracts for installation of public improvements.

16. City Force Work Costs

The total estimated cost for construction engineering (field inspections, contract management, materials and fittings etc.) is \$_____. Developer shall deposit this amount with the City prior to the City advertising for public improvement construction bids or prior to Developer letting any contracts for public improvements.

17. Payments

In the event the City lets public improvement construction contracts, the contract costs for the public improvements will be billed to Developer upon determination that such costs have been incurred by City. Developer shall provide the City with funds to make contract payments. If such funds are not provided within 30 days of being requested, City may draw against the funding guarantee referenced in paragraph 15. It shall be further understood and agreed that where Developer funded work covered under the terms of this agreement does not proceed to the bid or contract stage, the City shall still retain a sufficient amount of the Developer's engineering fund deposit to cover expenses incurred by the City for engineering and plan preparation work commenced by the City at the Developer's request.

Upon completion of the public improvements and all associated City work, City shall return any unspent portions of the Developer's cash deposits (Design Engineering and Construction Engineering) to the Developer.

18. Inspections

Both parties agree that all materials furnished and all work performed hereunder shall conform to all regulations and specifications of the City of Milwaukee and its Commissioner of Public Works and shall be subject to inspection by and approval of inspectors and engineers furnished by the Department of Public Works. All engineering and inspection costs incidental to the

installation of the public improvements covered by this agreement shall be subject to the terms of this agreement, the cost of such service when furnished by City being established as the wages of the person or persons engaged in such work plus all costs of overhead.

19. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the public improvements, title to all public facilities installed under paragraphs five through eight above shall vest in the City of Milwaukee and that the City will accept the obligation of operation and maintenance in accordance with its standard practice.

20. Building Permits

It is understood and agreed by both parties hereto that building permits for any homes to be constructed in the project (exclusive of any homes that can be served by pre-existing public infrastructure) shall not be issued until the Developer has provided the City with both a funding guarantee and a deposit for City Force Work for that phase and the City Engineer has approved plans for any required inlet/outlet project sewers.

21. Occupancy Permits

It is understood and agreed by both parties hereto that occupancy permits for any structure shall not be issued until all planned public improvements have been sufficiently completed so essential public utility services and traffic access are provided to the structure.

22. City Ordinances and Regulations

City warrants that for all work to be performed by City it will follow its standard and customary public works contracting procedures unless such is to be undertaken by City Forces. It is further understood and agreed that this agreement is subject to all City ordinances and regulations and nothing herein shall be deemed to waive or supercede such requirements.

23. Developer Refunds

No refunds will be made in the event any of the improvement contracts are let and managed by the Developer. If the City lets the construction contracts for the public improvements described herein, Developer refunds will be made subject to the terms and conditions outlined below.

In the year following completion of the work covered hereunder, the City shall refund the amount of anticipated assessments to be collected from other property owners benefited by the public improvements, if any.

THIS AGREEMENT, drafted by the City of Milwaukee, shall be binding upon the Developer, its lessees, successors and assigns, and upon the City its successors and assigns.

IN WITNESS WHEREOF, the Developer has caused this document to be signed and sealed this _____ day of _____, 2002.

In Presence Of:

Developer

IN WITNESS WHEREOF, the proper City Officers have caused this document to be signed and the City's seal to be affixed this _____ day of _____, 2002.

In Presence Of:

CITY OF MILWAUKEE

John O. Norquist, Mayor

City Clerk

COUNTERSIGNED:

Comptroller

STATE OF FLORIDA)
) SS.
PALM BEACH COUNTY)

Personally came before me this ____ day of _____, 2002,
who executed the foregoing instrument, and acknowledged that they executed the
same.

Notary Public, State of Florida

My Commission expires:_____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2002,
John O. Norquist, Mayor of the City of Milwaukee, a municipal corporation, to me known
to be the person who executed the foregoing instrument and to me known to be such
Mayor of said municipal corporation, and acknowledged that he executed the foregoing
instrument as such officer as the deed of said municipal corporation, its authority, and
pursuant to Resolution File No. _____, adopted _____, 2002.

Notary Public, State of Wisconsin

My Commission expires:_____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2002,
_____, City Clerk of the above-named municipal corporation, to me known
to be the person who executed the foregoing instrument and to me known to be such
City Clerk of said municipal corporation, and acknowledged that he executed the
foregoing instrument as such officer as the deed of said municipal corporation, its
authority, and pursuant to Resolution File No. _____, adopted
_____, 2002.

Notary Public, State of Wisconsin

My Commission expires: _____

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2002,
_____, City Comptroller of the City of Milwaukee, a municipal corporation,
to me known to be the person who executed the foregoing instrument and to me known
to be such City Comptroller of said municipal corporation, and acknowledged that he
executed the foregoing instrument as such officer as the deed of said municipal
corporation, its authority, and pursuant to Resolution File No. _____,
adopted _____, 2002.

Notary Public, State of Wisconsin

My Commission expires: _____