

**DEVELOPMENT AGREEMENT
FOR
MARINERS VIEW CONDOMINIUMS**

VILLAGE OF SISTER BAY, DOOR COUNTY, WISCONSIN

THIS AGREEMENT made this _____ day of _____, 2006, between MLG Capital/Sister Bay LLC, a Wisconsin limited liability company, 13400 Bishops Lane, Suite 100, Brookfield, WI 53005, hereinafter called "Developer," and the Village of Sister Bay in the County of Door and the State of Wisconsin, hereinafter called the "Village."

WITNESSETH:

WHEREAS, the Developer is the owner of approximately 11.76 acres of land in the Village, said land being described on Exhibit A attached hereto and incorporated herein, hereinafter called "Subject Lands"; and

WHEREAS, the Developer desires to plat and develop Subject Lands for residential condominium purposes by use of the standard regulations as set forth in Chapter 703 of the Wisconsin Statutes and the municipal ordinance regulating land division and development; and

WHEREAS, Section 703.27(1) of the Wisconsin Statutes provides that local subdivision ordinances may apply to a condominium project, and those ordinance in turn provide that as a condition of approval, the Village may require that the Developer make and install any public improvements reasonably necessary and/or that the Developer provide financial security to ensure that the Developer will make these improvements within reasonable time; and

WHEREAS, said Subject Lands are presently zoned R-2, which allows the above development; and

WHEREAS, the Developer and Village desire to enter into this agreement in order to ensure that the Developer will make and install all public improvements which are reasonably necessary and further that the Developer shall dedicate the public improvements to the Village, provided that said public improvements are constructed to municipal specifications, all applicable government regulations, this agreement and as required by the Village Engineer, without cost to the Village; and

WHEREAS, this agreement is necessary to implement the Village zoning and land division ordinances; and

WHEREAS, the Developer agrees to develop Subject Lands as herein described in accordance with this agreement, conditions approved by the Village Plan Commission and Village Board, conditions of certain agencies and individuals in the County, all Village ordinances and all laws and regulations governing said development; and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Developer does hereby agree to develop Subject Lands as follows and as otherwise regulated by Village ordinances and all laws and regulations governing said development, the parties hereto agree as follows:

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Special Additional Development Requirements

1. Access to the Waterfront

The Developer shall establish in the Declaration for the Mariner’s View Condominiums that if at any time in the future the Condominium Owners Association or similar entity creates or establishes a walking path, trail or powered lift to provide access to the high water mark of the waterfront, then in addition the Condominium Owners Association shall provide access of the same width so that there will be public access to the high water mark for the public. Such access shall be dedicated to the Village.

2. Downstream Sanitary Sewer Improvement Charge

The Developer acknowledges that project will have off site sanitary sewer impacts as detailed in a memo prepared by Dave Simmons of Short Elliot Hendrickson engineers dated _____. The Developer agrees to pay a fee per condominium unit of \$600.00 upon application for the building permit.

3. Connections to the Existing Water System

The Village has determined that the water system designed to serve the project must be connected to dead end water mains in order to insure adequate water pressure for fire protection and to maintain water quality. ~~Therefore,~~ the developer must connect to line terminating at hydrant 177 prior to above ground framing being started on the three most northerly buildings. The development must connect to hydrant 175 before any building permits are issued for unit’s number 1 – 6. The cost for such connections shall be at the Developer’s expense.

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4. Conditional Use Permit for Tree Trimming

On June 9, 2005, a public hearing was held to consider a conditional use permit to trim certain trees on the property. Resolution No 128 was approved at the June 14, 2005 Board meeting. ~~As approved by the Board of Trustees this Development Agreement shall modify those requirements as specified below:~~

a. A conditional use permit for special cutting be granted to Developer for the project located at 654 Sunny Side Road with the following additional conditions:

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- i. Within the Bluff Protection area, all dead trees may be removed.
- ii. No topping of any living trees will be allowed.

b. The applicant will be allowed to selectively prune within the area designated on the submitted map ~~no more than 20% of the summer~~ foliage that obstruct the view from the first floor of the three closest buildings to the water subject to the schedule below:

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- i. No more than a total of 20% of foliage and/or trees in the Bluff Protection Area may be cut or pruned; of that 20%,
- ii. 10% may be cut or pruned prior to construction and
- iii. 10% may be cut or pruned after first floor is framed in.

b. Upon completion of ~~the duplex buildings closest to the water,~~ Developer may request from the Village that an additional 10% of the foliage ~~in the Bluff Protection Area~~ be pruned or cut.

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c. No additional trimming of trees and/or foliage in the future shall occur before June 14, 2010 (unless an additional 10% is permitted as set forth in the previous paragraph). On or about June 14, 2010, the Village shall verify compliance with ~~this Agreement~~. If compliance was maintained then further trimming to maintain the views to the Bay shall be permitted subject to prior annual review by the Village Administrator.

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Deleted: ; provided, however, that after June 14, 2009, Developer may ask the Village Administrator for permission to trim foliage/trees if such foliage/trees have grown back to such an extent that the views to the Bay from the first floor of the three duplexes closest to the water have become obstructed.

1 SECTION I. IMPROVEMENTS

2
3 A. PUBLIC STREETS: The Developer hereby agrees that:

4
5 1. Prior to the start of construction of improvements, the Developer shall provide to the Village
6 written certification from the Developer’s Engineer or Surveyor that all public street plans are in
7 conformance with all federal, state, county and Village specifications, regulations and ordinances,
8 and the Village Engineer shall provide written proof evidencing review and approval of said plans.
9

10 2. The Developer shall grade and install all planned public streets in accordance with the con-
11 dominium plat and the plans and specifications on file in the Village Clerk's office dated the ____
12 day of _____, 2006.
13

14 3. Construction of the public streets providing access to and fronting a specific condominium
15 building will be completed, presented and accepted by the Village Board through the first lift of as-
16 phalt before any occupancy permits are issued for the units in said building.
17

18 4. The first lift of the public streets will be completed and presented to the Village Board no
19 later than November 1, 2006, or as extended by the Village Board.
20

21 5. The final lift of asphalt shall be placed on all public streets after at least one winter season,
22 but not later than November 1, 2008, unless extended by the Village Board.
23

24 6. The Developer shall maintain public streets, including snowplowing, until accepted by reso-
25 lution by the Village Board.
26

27 7. The Developer shall furnish “as built” plans showing changes from the construction plans,
28 pursuant to specifications approved by the Village Engineer. Said “as built” shall be on reproduc-
29 ible Mylar and digital file, and shall include field locations and hydrant valves and curb stops, if
30 any.
31

32 8. The Developer shall have ultimate responsibility for cleaning up all mud, dirt, stone or debris
33 on the streets until the final lift of asphalt has been installed by the Developer and accepted by the
34 Village Board. The Village shall make a reasonable effort to require the contractor, who is respon-
35 sible for placing the mud, dirt, stone or debris on the street, to clean up the same or to hold the
36 subject property owner who hired the contractor responsible. The Developer owner shall use its
37 best efforts to clean up the streets within twenty-four (24) hours after receiving a notice from the
38 Village. If said mud, dirt, stone or debris is not cleaned up after notification, the Village Board will
39 do so at the Developer’s expense, at the option of the Village.
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41 9. The Developer shall maintain continuous access around the buildings and to any on-site fire
42 hydrants as required by the Zoning Code as directed by the Fire Department and Water Utility.
43

44 B. SURFACE AND STORM WATER DRAINAGE: The Developer hereby agrees that:

45
46 1. Prior to the start of construction of improvements, the Developer shall provide to the Village
47 written certification from the Developer’s Engineer or Surveyor that all surface and storm water
48 drainage facilities and erosion control plans are in conformance with all federal, state, county and
49 Village regulations, guidelines, specifications, laws and ordinances, and written proof that the Vil-
50 lage Engineer has reviewed and approved said plans.
51

1 2. The Developer shall construct, install, furnish and provide adequate facilities for surface and
2 storm water drainage throughout the development with adequate capacity to transmit the antici-
3 pated flow from the development and adjacent property, in accordance with all plans and specifi-
4 cations, and all applicable federal, state, county and Village regulations, guidelines, specifications,
5 laws and ordinances, and as reviewed and approved by the Village Engineer and the Wisconsin
6 Department of Natural Resources, on file in the Village Clerk's office dated the ____ of
7 _____, 2006, including where necessary as determined by the Village Engineer, curb, gutter,
8 storm sewers, catch basins and infiltration/retention/detention basins.

9
10 3. The Developer agrees that the site grading and construction of surface and storm water
11 drainage facilities for the Subject Lands in general, but excluding rain garden water quality control
12 basins for each applicable condominium building, shall be completed and accepted by the Village
13 Board before any occupancy permits are issued for a particular building.

14
15 4. The Village Board will not accept the surface and storm water drainage system until the en-
16 tire system is installed in accordance with plans and specifications to the reasonable satisfaction of
17 the Village Engineer.

18
19 5. The Developer shall clean all storm sewers, if any, prior to issuance of occupancy permits
20 and acceptance of improvements by the Village Board.

21
22 6. The Village retains the right to require Developer to install additional surface and storm water
23 drainage measures if it is determined by the Village Engineer that the original surface and storm
24 water drainage plan as designed and/or constructed does not provide reasonable stormwater drain-
25 age within the development.

26
27 7. To furnish "as built" plans of the entire drainage system, pursuant to specifications approved
28 by the Village Engineer prior to the issuance of Zoning Permits, if required by the Village.

29
30 **C. GRADING, EROSION AND SILT CONTROL:** The Developer hereby agrees that:

31
32 1. Prior to commencing site grading and execution, the Developer shall provide to the Village
33 written certification from the Developer's Engineer or Surveyor that said plan, once implemented,
34 shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordi-
35 nances, including proof of notification of land disturbances to the State of Wisconsin Department
36 of Natural Resources, and written proof that the Wisconsin Department of Natural Resources and
37 the Army Corps of Engineers, if applicable, have approved said plans.

38
39 2. The Developer shall cause all grading, excavation, open cuts, side slopes and other land sur-
40 face disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, silt-
41 ation, sedimentation and washing are prevented in accordance with the plans and specifications re-
42 viewed and approved by the Village Engineer, the Wisconsin Department of Natural Resources,
43 and Army Corps of Engineers, if applicable.

44
45 3. All disturbed areas shall be restored to the satisfaction of the Village Engineer. Said cash or
46 letter of credit will not be released until the Village Engineer is reasonably satisfied that no further
47 erosion measures are required for the Subject Lands in general, but not for each particular building
48 to be constructed.

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1 **D. LANDSCAPING AND SITE WORK:** The Developer hereby agrees that:

2
3 1. The Developer shall preserve to the maximum reasonable extent possible existing trees,
4 shrubbery, vines, and grasses not actually lying on the public streets, drainageways, building foun-
5 dation sites, private driveways, soil absorption waste disposal areas, paths and trails by use of
6 sound conservation practices.

7
8 2. The Developer, as required by the Village, shall remove and lawfully dispose of buildings,
9 destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.

10
11 3. Landscaping, construction of rain gardens for a particular building and removal of unwanted
12 items, will be completed and certified as complete by the Village for each particular building
13 within six (6) months of occupancy for that particular building or buildings.

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14
15 4. The Village has the right to trim and remove any foliage that would interfere with safe opera-
16 tion and maintenance of the Village right-of-ways and drainageways.

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17
18 **E. STREET SIGNS AND TRAFFIC CONTROL SIGNS:** The Developer hereby agrees that:

19
20 1. Street signs, traffic control signs, culverts, posts and guardrails as required by the Village shall
21 be obtained and placed by the Village, or by the Developer with approval of the Village, and the
22 cost thereof shall be paid by the Developer.

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23
24 2. All traffic control signs and street signs, as required by the Village will be installed within five
25 (5) working days of the placement of the first lift of asphalt.

26
27 **F. ADDITIONAL IMPROVEMENTS:** The Developer hereby agrees that if, at any time after plan ap-
28 proval and during construction, the Village Engineer reasonably determines that modifications to the
29 plans, including additional improvements such as additional drainage ways, erosion control measures,
30 and surface and storm water management measures, are necessary in the interest of public safety, are
31 necessary in order to comply with current laws or are necessary for implementation of the original intent
32 of the improvement plans, the Village is authorized to order Developer, at Developer's expense, to im-
33 plement the same within the development area on the Subject Lands. If Developer fails to construct the
34 additional improvement within a reasonable time under the circumstances, the Village may cause such
35 work to be carried out and shall charge against the financial guarantee held by the Village pursuant to
36 this agreement.

37
38 **SECTION II. TIME OF COMPLETION OF IMPROVEMENTS:** The improvements set forth in Section I
39 above shall be completed by the Developer in total within twelve (12) months of the date of this agree-
40 ment being signed except as otherwise provided for in this agreement (which includes the rain garden
41 water quality control basins referenced above).

42
43 **SECTION III. FINAL ACCEPTANCE.** Throughout this agreement, various stages of the development will
44 require approval by the Village. It is understood that building permits and occupancy permits may be is-
45 sued by the Village prior to the time of Final Acceptance of all of the improvements in the development.
46 The one-year correction period provided for in this agreement shall not commence to run until Final Ac-
47 ceptance by the Village Board of all improvements is granted. The issuance of zoning permits and ap-
48 proval of various items of development shall not commence the one-year correction period.

49
50 **SECTION IV. DEDICATION OF IMPROVEMENTS:** Subject to all of the other provisions of this agree-
51 ment, the Developer shall, without charge to the Village, upon completion of the above described im-

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1 improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the Vil-
2 lage, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and
3 including, without limitation because of enumeration, any and all land, buildings, structures, mains, con-
4 duits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way
5 be a part of or pertain to such improvements and together with any and all necessary easements for ac-
6 cess thereto. After such dedication, the Village shall have the right to connect or integrate other im-
7 provements as the Village decides, with no payment or award to, or consent required of, the Developer.
8

9 Dedication shall not constitute acceptance of any improvement by the Village Board of the Village of Sis-
10 ter Bay. All improvements will be accepted by the Village Board of the Village of Sister Bay by separate
11 resolution when such improvements are in acceptable form and according to the Village specifications.
12 The Village has the right to record said resolution, if needed, with the Door County Register of Deeds.
13 Developer will furnish proof to the Village, prior to the dedication required, that the public land and im-
14 provements proposed for dedication are free of all liens, claims and encumbrances, including mortgages.
15

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16 **SECTION V. ACCEPTANCE OF WORK AND DEDICATION:** When the Developer shall have completed
17 the improvements herein required and shall have dedicated the same to the Village as set forth herein, the
18 same shall be accepted by the Village Board if said improvements have been completed as required by
19 this agreement and as required by all federal, state, county or Village guidelines, specifications, regula-
20 tions, laws and ordinances and approved by the Village Engineer.
21

22 **SECTION VI. APPROVAL BY VILLAGE NOT TO BE DEEMED A WAIVER:** The ultimate responsibility for
23 the proper design and installation of streets, water facilities, drainage facilities, ditches, landscaping and
24 all other improvements are upon the Developer. The fact that the Village or its engineer, or its attorney, or
25 its staff may approve a specific project shall not constitute a waiver, or relieve the Developer from the ul-
26 timate responsibility for the design, performance and function of the development and related infrastruc-
27 ture.
28

29 **SECTION VII. GUARANTEES OF IMPROVEMENTS:**

30 A. Guarantee.

31 The Developer shall guarantee after Final Acceptance, the public improvements and all other im-
32 provements described in Section I hereof, against defects due to faulty materials or workmanship,
33 provided that such defects appear within a period of one year from the date of Final Acceptance,
34 by providing the Village with cash or a letter of credit or surety bond in a form acceptable to the
35 Village Attorney in an aggregate amount of fifteen (15%) percent of the total cost of all improve-
36 ments to be dedicated to the Village. For example, if the total cost of all improvements to be dedi-
37 cated to the Village equal \$100,000, then the amount of the letter of credit or bond shall be
38 \$15,000. The Developer shall pay for any damages to Village property and/or improvements result-
39 ing from such faulty materials or workmanship. This guarantee shall not be a bar to any action the
40 Village might have for negligent workmanship or materials. Wisconsin law on negligence shall
41 govern such situations. If the Developer fails to pay for any damages or defects to Village property
42 and/or improvements, and the Village is required to draw against the cash or letter of credit or
43 bond on file with the Village, the Developer is required to replenish said monies up to the aggre-
44 gate amount of fifteen (15%) percent of the total cost of all improvements.
45
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1 B. Obligation to Repair.

2 The Developer shall make or cause to be made, at its own expense, any and all repairs that may
3 become necessary under and by virtue of the Developer's guarantee and shall leave the improve-
4 ments in good and sound condition, satisfactory to the Village Board at the expiration of the guar-
5 antee period.

6
7 C. Notice of Repair.

8 If during said guarantee period, the improvements shall, in the reasonable opinion of the Village,
9 require any repair or replacement which, in their judgment, is necessitated by reason of settlement
10 of foundation, structure of backfill, or other defective materials or workmanship, the Developer
11 shall, upon notification by the Village of the necessity for such repair or replacement, make such
12 repair or replacement, at its own cost and expense. Should the Developer fail to make such repair
13 or replacement within the time specified by the Village in the aforementioned notification, after
14 written notice has been sent as provided herein, the Village Board may cause such work to be
15 done, but has no obligation to do so, either by contract or otherwise, and the Village Board may
16 draw upon such guarantee security to pay any costs or expenses incurred in connection with such
17 repairs or replacements. Should the costs or expenses incurred by the Village Board in repairing or
18 replacing any portion of the improvements covered by this guarantee exceed the amount of the
19 guarantee security, then the Developer shall immediately pay any excess cost or expense incurred
20 in the correction process.

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21
22 D. Maintenance Prior to Acceptance.

23 1. All improvements shall be maintained by the Developer so they conform to the approved
24 plans and specifications at the time of their Final Acceptance by the Village Board. This mainte-
25 nance shall include routine maintenance, such as crack filling, roadway patching and the like. In
26 cases where emergency maintenance is required, the Village Board retains the right to complete the
27 required emergency maintenance in a timely fashion and bill the Developer for all such associated
28 costs. Said bill shall be paid immediately by the Developer. The Developer's obligation to maintain
29 all improvements shall expire at the expiration of the guarantee period.

30
31 2. Street sweeping and dust suppression shall be done by the Developer upon a regular basis as
32 needed to ensure a reasonably clean and safe roadway until Final Acceptance by the Village
33 Board. Should the Developer fail to meet this requirement within five (5) days after written notice
34 from the Village, the Village Board will cause the work to be done and will bill the Developer on a
35 time and material basis. Said bill shall be paid immediately by the Developer.

36
37 3. In the event drainage problems arise within the subject property or related activities on the
38 subject property, the Developer shall correct such problems to the reasonable satisfaction of the
39 Village. Such correction measures shall include, without limitation because of enumeration, clean-
40 ing of soil, loose aggregate and construction debris from culverts, drainage ditches and streets;
41 dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and
42 seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed
43 areas. This responsibility shall continue until the roads, ditches, and other disturbed areas have be-
44 come adequately vegetated and the Village Board is reasonably satisfied that the Developer has re-
45 stored all areas that were disturbed because of this development.

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46 **SECTION VIII. VILLAGE RESPONSIBILITY FOR IMPROVEMENTS:** The Village shall not be responsible to
47 perform repair, maintenance, or snow plowing on any improvements until accepted by the Village Board.

48 **SECTION IX. RISK OF PROCEEDING WITH IMPROVEMENTS PRIOR TO APPROVALS OF FINAL PLAT:**
49 If a Developer proceeds with the installation of public improvements or other work on the site prior to
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1 approval of the condominium plat, it proceeds at its own risk as to whether or not the condominium plat
2 will receive all necessary approvals. The Developer, prior to commencement of the installation of public
3 improvements or other work on site, shall notify the Village of the Developer’s intention to proceed with
4 the installation of public improvements or other work on site, prior to approval of the condominium plat.
5 Additionally, Developer shall arrange to have any public improvements and/or other work on site in-
6 spected by the Village Engineer.

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8 **SECTION X. FINANCIAL GUARANTEE:** Prior to the execution of this agreement by the Village Board, the
9 Developer shall file with the Village cash or a letter of credit or a surety bond setting forth terms and con-
10 ditions in a form approved by the Village Attorney in the amount of the amount of cost of improvements
11 to be dedicated to the Village as approved by the Village Engineer as a guarantee that the Developer will
12 perform all terms of this agreement no later than one year from the signing of this agreement except as
13 otherwise set forth in this agreement. If at any time:

- 15 A. The Developer is in default of any aspect of this agreement after receiving written notice of such
16 default from the Village and not curing the same within seven (7) days after such written notice, or
17
- 18 B. The Developer does not complete the installation of the improvements within one (1) year from the
19 signing of this agreement unless otherwise extended by this agreement or by action of the Village
20 Board, or
21
- 22 C. The letter of credit or surety bond on file with the Village is dated to expire thirty (30) days prior to
23 the expiration of the same if the same has not been extended, renewed or replaced, or
24
- 25 D. The Developer fails to maintain a cash deposit or letter of credit or surety bond in an amount ap-
26 proved by Village Engineer, and in a form approved by the Village Attorney, to pay the costs of im-
27 provements in the Subdivision,
28

29 The Developer shall be deemed in violation of this agreement and the Village Board shall have the au-
30 thority to draw upon the letter of credit or surety bond. The amount of the letter of credit or surety bond
31 may be reduced from time to time as and to the extent that the portion of work required under this
32 Agreement is completed and paid for, provided that the remaining letter of credit or surety bond is suffi-
33 cient to secure payment for any remaining improvements and also provided that no reduction shall occur
34 until it is approved in writing by the Village Administrator.

35 The lending institution providing the irrevocable letter of credit or surety bond shall pay to the Village
36 Board all sums available for payment under the irrevocable letter of credit or surety bond upon demand,
37 subject to the terms and conditions of the irrevocable letter of credit or surety bond, and upon its failure
38 to do so, in whole or in part, the Village shall be empowered in addition to its other remedies, without
39 notice or hearing, to impose a special charge for the amount of said completion costs, upon each and
40 every lot in the development payable with the next succeeding tax roll.
41
42

43 **SECTION XI. ZONING AND OCCUPANCY PERMITS:** It is expressly understood and agreed that no oc-
44 cupancy permits shall be issued for any condominium units, including model condominium units, until
45 the Village Engineer has determined that:

- 47 A. The installation of the first lift of asphalt of the public street(s) providing access to and fronting a
48 specific unit for which a building permit is requested has been completed and accepted by the Vil-
49 lage Board.
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- 1 B. The site grading and construction of surface and storm water drainage facilities required to serve
- 2 such unit(s), with the exception of the rain garden water quality control basin for each unit, are
- 3 completed, are connected with an operating system as required herein, are cleaned as needed, and
- 4 are accepted by the Village Board.
- 5
- 6 C. All removal of unwanted items, including buildings, has been certified as complete by the Village,
- 7
- 8 D. All required grading plans for the Subject Lands have been submitted to, reviewed by and ap-
- 9 proved by the Village Engineer.
- 10
- 11 E. The Developer has paid in full all permit fees and reimbursement of administrative costs as re-
- 12 quired by this agreement.
- 13
- 14 F. The Developer has prepared and recorded condominium documents with the Register of Deeds.
- 15
- 16 G. All destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish are removed
- 17 from the development and disposed of lawfully.
- 18
- 19 H. The Developer is not in default of any aspect of this agreement.
- 20
- 21 I. There is no default of any aspect of this agreement.
- 22

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23 **SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF ZONING PERMITS:** The Village re-

24 serves the right to withhold issuance of ~~all~~ zoning permits if Developer is in violation of this agreement.

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26 **SECTION XIII. MISCELLANEOUS REQUIREMENTS:** The Developer shall:

- 27
- 28 A. EASEMENTS:
- 29 Provide any easements including vision easements on Subject Lands deemed necessary by the Vil-
- 30 lage Engineer before the condominium plat is recorded.
- 31
- 32 B. MANNER OF PERFORMANCE:
- 33 Cause all construction called for by this agreement to be carried out and performed in a good and
- 34 workmanship like manner.
- 35
- 36 C. SURVEY MONUMENTS:
- 37 Properly place and install any lot, block or other monuments required by State Statute, Village Or-
- 38 dinance or the Village Engineer.
- 39
- 40 D. (Intentionally Omitted)
- 41
- 42 E. GRADES:
- 43 Prior to the issuance of a building permit for a specific condominium building, the Developer
- 44 and/or its agent shall furnish to the Building Inspector of the Village a copy of the stake out survey
- 45 showing that the first floor grade of the building is no more than two (2) feet above the existing
- 46 grade at the highest grade of the building, except for the first three duplex buildings on the northern
- 47 front part of the Property, which shall be permitted to no more than (to be determined) feet above
- 48 the existing grade at the highest point of the building.
- 49
- 50 F. UNDERGROUND UTILITIES:

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1 Install all electrical, telephone, cable and gas utilities to be run to the Subject Lands underground.
2 Coordination of installation and all costs shall be the responsibility of the Developer.

3
4 (This paragraph will change if no underground utilities are required.)

5
6 G. PERMITS:

7 Provide and submit to the Village requesting the same, valid copies of ~~all~~ governmental agency
8 permits.

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9
10 H. REMOVAL OF TOPSOIL:

11 The Developer agrees that no topsoil shall be permanently removed from the Subject Lands with-
12 out approval from the Village.

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13
14 I. (Intentionally Omitted)

15
16 J. NOISE:

17 Make every effort to minimize noise, dust and similar disturbances, recognizing that the Subject
18 Lands are located near existing residences. Construction of improvements shall not begin before
19 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays.

20
21 K. DEBRIS:

22 Have ultimate responsibility for cleaning up debris that has blown from buildings under construc-
23 tion within the Subject Lands ~~until~~ all improvements have been installed and accepted by the Vil-
24 lage Board. The Village shall make a reasonable effort to require the contractor, who is responsible
25 for the debris, to clean up the same. The Developer and/or subject contractor shall clean up the
26 debris within forty-eight (48) hours after receiving a notice from the Village. ~~If said debris is not~~
27 cleaned up after notification, the Village will do so at the Developer's and/or subject contractor's
28 expense.

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Deleted: Engineer

29
30 L. PUBLIC CONSTRUCTION PROJECTS (Intentionally Omitted):

31
32
33 **SECTION XIV. PAYMENT OF COSTS, INSPECTION & ADMINISTRATIVE FEES:** The Developer shall pay
34 and reimburse the Village promptly upon billing for all fees, expenses, costs and disbursements which
35 shall be incurred by the Village in connection with this subdivision or relative to the construction, instal-
36 lation, dedication and acceptance of the condominium improvements covered by this agreement, includ-
37 ing without limitation by reason of enumeration, design, engineering, review, supervision, inspection and
38 legal, administrative and fiscal work. Any such charge not paid by Developer within forty-five (45) days
39 of being invoiced may be charged against the financial guarantee held by the Village pursuant to this
40 agreement, or assessed against the subdivision land as a special charge pursuant to §66.60(16), Wiscon-
41 sin Statutes.

42
43 **SECTION XV. GENERAL INDEMNITY:** In addition to, and not to the exclusion or prejudice of, any provi-
44 sions of this agreement or documents incorporated herein by reference, the Developer shall indemnify
45 and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, ac-
46 counting, consulting, engineering and other expenses relating to the defense of any claim asserted or im-
47 posed upon the Village, its officers, agents, employees and independent contractors growing out of this
48 agreement as stated above by any party or parties. The Developer shall also name as additional insured's
49 on its general liability insurance the Village, its officers, agents, employees and any independent contrac-
50 tors hired by the Village to perform services as to this subdivision and give the Village evidence of the
51 same upon request by the Village.

1
2 **SECTION XVI. INSURANCE:** The Developer, its contractors, suppliers and any other individual working
3 on the Subject Lands shall maintain at all times until the expiration of the guarantee period, insurance
4 coverage in the forms and in the amounts as required by the Village.
5

6 **SECTION XVII. EXCULPATION OF Village CORPORATE AUTHORITIES:** The parties mutually agree that
7 the Village President of the Village Board, and/or the Village Clerk, entered into and are signatory to this
8 agreement solely in their official capacity and not individually, and shall have no personal liability or re-
9 sponsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or
10 waived.
11

12 **SECTION XVIII. GENERAL CONDITIONS AND REGULATIONS:** All provisions of the Village Ordi-
13 nances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be
14 a part of this agreement as fully as if set forth at length herein. This agreement and all work and improve-
15 ments required hereunder shall be performed and carried out in strict accordance with and subject to the
16 provisions of said Ordinances.
17

18 **SECTION XIX. ZONING:** The Village does not guarantee or warrant that the subject lands of this agree-
19 ment will not at some later date be rezoned, nor does the Village herewith agree to rezone the lands into
20 a different zoning district. It is further understood that any rezoning that may take place shall not void this
21 agreement.
22

23 **SECTION XX. COMPLIANCE WITH CODES AND STATUTES:** The Developer shall comply with all cur-
24 rent and future applicable codes of the Village, County, State and federal government and, further, De-
25 veloper shall follow all current and future lawful orders of all duly authorized employees and/or represen-
26 tatives of the Village, County, State or federal government.
27

28 **SECTION XXI. PRELIMINARY PLAT AND FINAL PLAT CONDITIONS: (Intentionally Omitted)**
29

30 **SECTION XXII. AGREEMENT FOR BENEFIT OF PURCHASERS:** The Developer agrees that in addition to
31 the Village's rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any
32 condominium unit.
33

34 **SECTION XXIII. ASSIGNMENT:** The Developer shall not assign this agreement without the written con-
35 sent of the Village, which consent shall not be unreasonably withheld, conditioned or delayed. The as-
36 signee must agree to all terms and conditions of this document in writing.
37

38 **SECTION XXIV. PARTIES BOUND:** The Developer or its assignees shall be bound by the terms of this
39 agreement or any part herein as it applies to any phase of the development of the condominium.
40

41 **SECTION XXV. HEIRS & ASSIGNS:** This agreement is binding upon the Developer, owners, their heirs,
42 their assigns, and all future owners of the subject lands.
43

44 **SECTION XXVI. AMENDMENTS:** The Village and the Developer, by mutual consent, may amend this
45 Developer's Agreement at any meeting of the Village Board. The Village shall not, however, consent to
46 an amendment until after first having received a recommendation from the Village's Plan Commission.
47

1 IN WITNESS WHEREOF, the Developer and the Village have caused this agreement to be signed by their
2 appropriate officers and their corporate seals to be hereunto affixed in three original counterparts the day
3 and year first above written.
4

5
6 MLG Capital/Sister Bay LLC

7
8 By: _____

9
10 Authorized Signatory

11 STATE OF WISCONSIN

12
13 COUNTY OF DOOR

14
15
16 Personally came before me this ____ day of _____, 2006, the above named
17 _____, Authorized Signatory of the Village of Sister Bay, to me known to be the person who
18 executed the foregoing instrument and acknowledged the same.
19

20
21 _____
22 Notary Public, State of WI
23 My commission expires: _____

24
25 Village of Sister Bay
26 Door County, Wisconsin

27
28 _____
29 Village President

30
31 _____
32 Village Clerk

33 STATE OF WISCONSIN

34
35 COUNTY OF DOOR

36 Personally came before me this ____ day of _____, 2006, the above named
37 _____, and _____, Village Clerk, of the above-named municipal
38 corporation, to me known to be the persons who executed the foregoing instrument and to me known to
39 be such individual and Village Clerk of said municipal corporation and acknowledged that they executed
40 the foregoing instrument as such officers as the deed of said municipal corporation by its authority and
41 pursuant to the authorization by the Village Board from their meeting on the ____ day of _____,
42 2006.
43

44
45 _____
46 Notary Public, State of WI
47 My commission expires: _____

48 Approved As To Form:

49
50 _____
51 Village Attorney

52 As Revised March 17, 2006

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EXHIBIT B
VILLAGE OF SISTER BAY DEVELOPMENT STANDARDS

1. INTRODUCTION

The detailed standards for the design and construction of all improvements required in this exhibit shall conform to the Village of Sister Bay Engineering Design Manual, adopted by the Board of Trustees and all future amendments thereof.

The Developer is responsible for required improvements, plans, and conditions:

2. DEVELOPMENT GRADING AND DRAINAGE

- a) Required Improvements. Design, install, and provide grading of land as necessary to establish lot pads for future buildings, provide adequate drainage to prevent flooding, accept upstream runoff, and safely discharge runoff downstream to avoid property damage.
b) Plans and Specifications
1. A grading and drainage plan shall be prepared showing 2' contours for both existing and proposed condition, and proposed finished yard grades.
2. System plan showing all tributary areas to the proposed condominium drainage and downstream analysis. Included on the system plan shall be all proposed and existing drainage structures.
3. Building grade plan showing only minimum setback, offset dimensions, and proposed building grades.
4. Storm water management plan that meets current Village storm water requirements along with the DNR Chapter 151 storm water requirements.
5. As-built grading plan certifying that all grading was performed in accordance with the approved grading and drainage plan. All grades shall be with +/- .3' of proposed grade. Certification shall be performed after topsoil installation. The plan shall be prepared by a consulting engineer, selected by and reimbursed by the Developer.
c) Prior to the installation of any public improvements, the Developer shall perform rough grading, including planned street areas and drainage swales.
d) Establish permanent vegetative cover on all exposed soil by topsoil, seeding, and mulching to prevent erosion. A permanent lawn shall be established for each building within one year after the issuance of the occupancy permit.
e) The Developer, at his expense, shall provide detailed soil analysis and compaction results by a competent soils engineer for all areas requiring fill. The results shall be submitted to the Village Engineer as soon as they are available.
f) The Developer is responsible for restoring all damage to finish grades and vegetative cover caused, but not restored by, utility companies.

Deleted: setback and offset dimensions

- 1 g) If soil borings determine that the existing soil material on site is unsuitable for structural areas
2 such as road or building construction, the Developer shall remove the material and replace
3 with approved engineered fill.
4
- 5 h) After site grading is completed, the Developer shall place 3" of topsoil on all exposed soil
6 and seed, fertilize and mulch.
7

8 **3. STORM DRAINAGE SYSTEM**

- 9 a) Required Improvements. Design, install, and provide a complete storm drainage system, in-
10 cluding culverts, curb and gutter, storm sewer and/or open ditches as required to adequately
11 convey surface water from and through the development.
12
- 13 b) Plans and Specifications
14 1. Storm sewer plans showing plan and profile views.
15
16 2. Storm sewer calculations in compliance with the Department of Natural Resources NR
17 151 requirements.
18
19 3. Storm sewer system plan update.
20
- 21 c) Additional considerations will be required on all ditch slopes exceeding five percent. All ar-
22 eas within drainage easements shall have a minimum one percent slope. Ditch slopes with
23 less than one percent will require storm sewer.
24
- 25 d) (Intentionally Omitted)
26
- 27 e) The permanent maintenance of the storm water detention facility shall be the responsibility
28 of the Developer or a condominium association.
29
- 30 f) The permanent maintenance of all drainage swales shall be vested with the Developer until
31 the Developer turns over the condominium association.
32

33 **4. EROSION AND RUN-OFF CONTROL**

- 34 a) Required Improvements. Installation and construction of Best Management Practices in the
35 proposed development that shall conform with the most current edition of the Department of
36 Natural Resources publication, "Wisconsin Construction Site Best Management Practice
37 Handbook."
38
- 39 b) Plans and Specifications. Control plan for land-disturbing activities showing existing contours
40 at least 200' into adjacent parcels. This plan will show locations and dimensions of all con-
41 struction site management measures to control erosion and sedimentation.
42
- 43 c) The Developer shall not commence land-disturbing activities until all erosion control meas-
44 ures are installed and approved by the Village. An erosion control permit must be obtained,
45 which requires the Developer to construct and maintain such measures in conformance with
46 the Village's erosion control ordinance.
47
- 48 d) Both during and after construction, the surface of exposed bare soils shall be protected by
49 mulches and perennial grasses. This does not apply to the immediate building site area that is
50 subject to men and equipment working in and around the perimeter of a new structure.
51

1 5. **SANITARY SEWER**

- 2 a) Required Improvements. Design, install, and provide a complete sanitary sewer system de-
3 signed to meet the ultimate needs of this development and all tributary areas, in accordance
4 with the Village's sanitary sewer system plan with rules, regulations and procedures of the
5 Village, and the State of Wisconsin Department of Natural Resources.
6
7 b) Plans and Specifications
8 1. Sanitary sewer plans, specifications, design calculations, and copies of all easements.
9
10 2. The ~~Developer~~ is to furnish "as-built" plans of the entire system on Mylar, including loca- Deleted: Village
11 tion and elevation of laterals to mains.
12
13 3. Sanitary sewer system plan update.
14
15 4. All reports required by the State of Wisconsin.
16
17 5. Separate sanitary sewer easements, where appropriate, shown on the plat.
18
19 c) Installation of one sanitary sewer lateral from the sanitary sewer main to property line, for
20 each proposed building.
21

22 6. **WATER**

- 23 a) Required Improvements. Design, install, and provide a complete water distribution system
24 designed to meet the ultimate needs of this development and all tributary areas, in accor-
25 dance with the Village's water main system plan and with the rules, regulations, and proce-
26 dures of the Village and the State of Wisconsin Department of Natural Resources.
27
28 b) Plans and Specifications
29 1. Water main plans, specifications, design calculations, and copies of all easements.
30
31 2. The ~~Developer~~ shall furnish "as-built" plans of the entire system on Mylar, including hy- Deleted: Village
32 drant and valve locations, and the location and elevation of laterals to the lot lines.
33
34 3. Separate water main easements for each parcel, where appropriate, recorded on the plat.
35
36 c) Upon completion, furnish and provide to the Village a complete summary of the actual con-
37 struction costs for water distribution, itemized in sufficient detail to satisfy the requirements
38 of the Public Service Commission of the State of Wisconsin in establishing or revising a rate
39 base.
40
41 d) Installation of one water lateral from the water main to the property line, for each proposed
42 building.
43
44 e) Provide hydrant marker flags for each installed fire hydrant.
45

46 7. **STREETS**

- 47 a) Required Improvements. A 22-foot paved asphalt pavement. The pavement section shall be
48 comprised of an 8" crushed stone base, pavement edge drains, 1 1/2" asphalt binder course
49 and a 1 1/2" layer of asphalt surface course.

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- b) Plans and Specifications
 1. Street plans, including plan and profile view, road cross-section and specifications.
 2. Pavement design calculations.
 3. Proposed established street grade drawing.
- c) The initial binder course shall be installed prior to approval of the first occupancy permit, and the final surface course shall be installed at such time as homes representing 90% of the units are issued occupancy permits, or as directed by the Village. Surface course shall be laid no later than one year after 90% occupancy.
- d) Clean up, repairs, and restoration of all pavement, sub grade, shoulder, or curb and gutter defects shall be performed prior to the placement of the final asphalt surface course.
- e) If directed by the Village Engineer, soil borings shall be taken within the roadway at sufficient intervals to determine sub-base composition. If material is determined unsuitable for a stable road base, the material shall be removed and replaced with material approved by the Village Engineer.
- f) The Developer shall repair all damage to Village streets caused by construction operations.
- g) Developer shall arrange for installation of approved street signs.
- h) Provide Class III barricades at all dead end streets.
- i) (Intentionally Omitted)

Deleted: Engineer

8. MISCELLANEOUS

The Developer shall:

- a) The Developer is responsible to preserve existing trees, brush, or shrubs, not approved for removal. If unauthorized removal occurs, landscaping will be replaced at the Developer's expense.
- b) Developer shall acquire all required underground utility easements. All sanitary, drainage, and other public utility easements must be shown on the certified survey map or plat. If required easements are omitted, or errors are detected on the plat, the Developer shall make all necessary modifications to the plat at his expense.
- c) (Intentionally Omitted)
- d) Developer, as used in the context of these deed restrictions shall mean the Developer, his heirs, personal representatives, successors and assigns. Electric, telephone and cable television services shall be provided by the installation of underground service lines.
- e) A copy of the approved grading plans referred to in the development agreement shall be on file at the office of the Village Engineer.

- f) The installation of any type of improvement on the public street right-of-way (walks, drives, sprinkler systems, etc.) requires the issuance of a permit by the Village and/or the State of Wisconsin, as may be applicable.
- g) The Developer shall provide certification from a registered land surveyor or professional engineer that the final grade along all lot lines, in the invert of all drainage swales, building pads, and at other critical locations as determined by the Village Engineer, complies with the approved grading plan. Such certification shall be on a plan copy with the elevations as existing so indicated. All such elevations shall be within plus or minus 0.3 feet of the accepted grading plan elevations. If not in compliance, appropriate regrading shall be performed
- h) A driveway approach in accord with the provisions of Chapter 66 of the Sister Bay Municipal Code shall be installed to service each parcel within one year after the issuance of the occupancy permit. A permit from the Village is required for this construction.

9. SPECIFICATIONS

The improvements shall be constructed in accordance with the following specifications.

- a) Village of Sister Bay Engineering Design Manual, most recent edition.
- b) Standard Specifications for Sewer and Water Construction in Wisconsin, Fifth Edition, March 1, 1988, and as amended January 1, 1992.
- c) The Wisconsin Construction Site Best Management Practice Handbook for Erosion Control.
- d) State of Wisconsin, Department of Transportation Standard Specifications for Highway and Structure Construction, 1996 and supplemental specifications.

10. SPECIAL PROVISIONS

The development process shall strictly conform to the conditions set forth in the development agreement. Request for final plat approval is subject to the Village Engineer's certification that all public improvements required to be installed are satisfactorily completed and a homeowner's association is in place. Security deposit will only be allowed for the final asphalt surface course and landscaping. Apart from the above, the Village will not accept escrows in lieu of completion of the improvement prior to final plat approval.

Approved by:

 NAME, P.E. Date
 Village Engineer