

**AGENDA
STORM WATER UTILITY
COMMITTEE**

**MONDAY, JANUARY 10, 2011
ROOM 204
4:30 P.M.**

***Anthony Nudo, Chairman
G. John Ruffolo, Vice Chairman
Steve Bostrom***

***Patrick Juliana
Jan Michalski
Ray Misner***

A. APPROVAL OF MINUTES

A-1 Approval of minutes of special meetings held on December 13, 2010 and December 20, 2010.

C. REFERRED TO COMMITTEE

C-1 Proposed Resolution to Direct the Office of the City Attorney to Take Enforcement Action against Brookstone Homes to Obtain Compliance with its Contract with the City of Kenosha.

CITIZENS COMMENTS RELATED ONLY TO JURISDICTION OF STORMWATER UTILITY COMMITTEE

ALDERMAN COMMENTS

IF YOU ARE DISABLED AND IN NEED OF ASSISTANCE CALL 653-4050 BEFORE NOON ON THE DATE INDICATED FOR THIS MEETING.

NOTICE IS HEREBY GIVEN THAT A MAJORITY OF THE MEMEBERS OF THE COMMON COUNCIL MAY BE PRESENT AT THE MEETING, AND ALTHOUGH THIS MAY CONSITUTE A QUORUM OF THE COMMON COUNCIL, THE COUNCIL WILL NOT TAKE ANY ACTION AT THIS MEETING.

STORM WATER UTILITY COMMITTEE
- MINUTES -

MONDAY, DECEMBER 13, 2010
4:30 P.M.

Anthony Nudo, Chairman
G. John Ruffolo, Vice Chairman
Steve Bostrom

Patrick Juliana
Jan Michalski
Ray Misner

A special meeting of the Storm Water Utility Committee was held on Monday, December 13, 2010 in Room 204 of the Municipal Building. The following members were present: Chairman Anthony Nudo, Aldermen Steve Bostrom, Patrick Juliana, and Jan Michalski. Vice Chairman G. John Ruffolo and Ray Misner were excused. The meeting was called to order at 5:19 pm. Staff members in attendance were Ron Bursek, Mike Lemens and Shelly Billingsley.

A-1 Approval of minutes of special meeting held on October 25, 2010.

It was moved by Alderman Michalski, seconded by Alderman Bostrom to approve. Motion passed 4-0.

C-1 Professional Services Agreement with Ruekert & Mielke for Multi-Plate Storm Sewer Inspection and Evaluation. **(District 2)**

It was moved by Alderman Juliana, seconded by Alderman Michalski to approve. Motion passed 4-0.

C-2 Professional Services Agreement with Ruekert & Mielke for Dry Weather Storm Sewer Outfall Screening. **(Citywide Locations)**

It was moved by Alderman Juliana, seconded by Alderman Michalski to approve. Motion passed 4-0.

C-3 Change Order for Project 10-1129 Interior Lights and Electrical Upgrades Truck Wash (3735 65th Street). **(District 11)** *(also referred to Finance Committee)*

It was moved by Alderman Michalski, seconded by Alderman Bostrom to approve. Motion passed 4-0.

C-4 Acceptance of Project 10-1111 Emergency Multi-Plate Storm Sewer Repair (5131 8th Avenue) which has been satisfactorily completed by DK Contractors, Inc., Pleasant Prairie, Wisconsin, in the amount of \$196,946.03. **(District 2)**

It was moved by Alderman Juliana, seconded by Alderman Michalski to approve. Motion passed 4-0.

C-5 Acceptance of Paving and Drainage Improvements.
A. Kilbourn Woods Subdivision **(District 17)**
B. Meadows at Hunter's Ridge Subdivision **(District 4)**

It was moved by Alderman Bostrom, seconded by Alderman Juliana to separate item A from item B. Motion passed 4-0. It was moved by Alderman Juliana, seconded by Alderman Bostrom to approve item A. Motion passed 4-0. Alderman Nudo abstained

from item B, due to lack of a quorum item B could not be voted on.

- C-6 Acceptance of Yardwaste, Brush and Branches from the Town of Somers at the City of Kenosha Yardwaste Drop-Off Site.

It was moved by Alderman Michalski, seconded by Alderman Juliana to approve recommendation subject to negotiations. Motion passed 4-0.

INFORMATIONAL:

1. River Crossing Swale Restoration Status
2. 2011 Yardwaste Coupon Program

ADJOURNMENT - There being no further business to come before the Storm Water Utility Committee, it was moved, seconded and unanimously approved to adjourn the meeting at 5:49 pm.

STORM WATER UTILITY COMMITTEE
- MINUTES -

MONDAY, DECEMBER 20, 2010
6:30 P.M.

Anthony Nudo, Chairman
G. John Ruffolo, Vice Chairman
Steve Bostrom

Patrick Juliana
Jan Michalski
Ray Misner

A special meeting of the Storm Water Utility Committee was held on Monday, December 20, 2010, in Room 200 of the Municipal Building. The following members were present: Chairman Anthony Nudo, Aldermen Steve Bostrom, Patrick Juliana, and Jan Michalski. Vice Chairman G. John Ruffolo Alderman and Ray Misner were excused. The meeting was called to order at 6:44 pm. Staff members in attendance were Ron Bursek and Mike Lemens.

- C-1 Acceptance of Paving and Drainage Improvements at Meadows at Hunters Ridge Subdivision. **(District 4)** *(due to lack of a quorum item could not be voted on at December 13, 2010 meeting)*

It was moved by Alderman Michalski, seconded by Alderman Bostrom to approve. Motion passed 3:0, Alderman Nudo abstained.

ADJOURNMENT - There being no further business to come before the Storm Water Utility Committee, it was moved, seconded and unanimously approved to adjourn the meeting at 6:46 pm.

RESOLUTION NO. _____

BY: ALDERPERSON ANTHONY NUDO
ALDERPERSON STEVE BOSTROM

**TO DIRECT THE OFFICE OF THE CITY ATTORNEY TO
TAKE ENFORCEMENT ACTION AGAINST BROOKSTONE
HOMES TO OBTAIN COMPLIANCE WITH ITS CONTRACT
WITH THE CITY OF KENOSHA**

WHEREAS, on December 2, 2008, the City of Kenosha, the Kenosha Water Utility, and Brookstone Homes, Inc. ("Brookstone Homes") entered into a Developer's Agreement ("Developer's Agreement") for the development of 29.77 acres of real estate formerly owned by the City of Kenosha and transferred to Brookstone Homes pursuant to a separate transaction; and,

WHEREAS, the Developer's Agreement imposes certain obligations on Brookstone Homes including, but not limited to, an obligation to construct streets, install sidewalks, and other infrastructure; and,

WHEREAS, said Developer's Agreement requires that Brookstone Homes posts various types of security to guaranty performance of its obligations, such security including a letter of credit, and bonds to assure quality of sidewalks; and,

WHEREAS, Brookstone Homes has failed to provide all of the assurances required by the Developer's Agreement.

NOW THEREFORE, BE IT RESOLVED that the Common Council for the City of Kenosha does hereby direct that the Office of the City Attorney take enforcement action against Brookstone Homes, Inc. with regard to potential material breaches of that Developer's Agreement, such potential material breaches specifically including, but not limited to, the failure to post the letter of credit and such bonds as are necessary to ensure the adequacy of the sidewalks that have been installed, such enforcement action to include, but not be limited to, an action in a competent court for specific performance of the developer's obligations.

Adopted this _____ day of _____, 2011.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Date: _____

Drafted By:
EDWARD R. ANTARAMIAN,
City Attorney

KAT SUBDIVISION PROJECT Chronology (11/02/10)

- June 18, 2003: Informational Kick Off Neighborhood Meeting for Proposed Wilson Neighborhood Plan
- 2003-2004: Neighborhood Planning Workshops with Neighborhood Planning Team & City Development staff develops plan
- October 14, 2004: Follow Up Neighborhood Meeting for Proposed Wilson Neighborhood Plan
- November 4, 2004: City Plan Commission Meeting adopts Wilson Neighborhood Plan which includes the development of KAT ball fields and KAT Subdivision
- 2004-2005: KAT Single Family Design Standards/Guidelines developed by City Development staff
- May 2, 2005: Common Council Meeting adopts Tax Incremental Finance District #10 which funds the construction of KAT ball fields and portion of KAT Subdivision area public infrastructure
- 2005-2008: City constructs Transit Garage, KAT ball fields and portion of KAT Subdivision area public infrastructure
- December 22, 2006: Release of KAT Subdivision Request for Proposals
- April 5, 2007: Re-release of KAT Subdivision Request for Proposals
- August 17, 2007: City staff selects Brookstone Homes as preferred developer
- March 3, 2008: Common Council Meeting adopts Contract of Purchase and Sale for KAT Subdivision Project which includes City constructing public infrastructure improvements along 40th Street
- June 20, 2008: Kenosha Water Utility increases water utility impact fees (approximately \$2000/single family home)
- November 3, 2008: Common Council adopts First Amendment to Contract of Purchase and Sale of KAT Subdivision Project which includes City constructing public infrastructure improvements along 35th Avenue instead of 40th Street and modifying progress and completion schedule
- November 1, 2010: Second Amendment to Contract of Purchase and Sale of KAT Subdivision Project which extends all remaining deadlines in progress and completion schedule from the First Amendment by one (1) year referred to Finance & Common Council

AMENDED

STATEMENT OF KIND, NUMBER AND LOCATION OF ALL PROPOSED PUBLIC WORKS OR IMPROVEMENTS
 WITHIN THE DISTRICT AND A DETAILED LIST OF ESTIMATED PROJECT COSTS AND WHEN THE COSTS ARE
 EXPECTED TO BE INCURRED

Description of Project Costs	2006	2007	2008	2009	2010	Total
Acquisition, Demolition and Relocation of Blighted Property	--	\$1,000,000	--	--	--	\$1,000,000
TOTAL	\$0	\$1,000,000	\$0	\$0	\$0	\$1,000,000

City of Kenosha - TID Amendment
Cash Flow Projections - TID No. 10 - Wilson Heights
Creation Date 05/02/05 - Expenditure Period 01/01/27
Dissolution Date 01/01/32
Dissolution Date With Extension 01/01/35
Transfers Allowed - None

Date Prepared: 05/23/06

Assumptions:

Improvement amounts in years 2012 through 2030 represent 3.5% increase in taxable incremental values.

Year	Increase In Incremental Value Amount	Collection Year	Taxable Incremental Value	Tax Rate	Tax Increment Collections	Other Revenues	Less Existing Debt Service	Less Projected \$2.6M CANs 12/22/05 with Refinancing	Amendment Financing 12/01/06	Fund Balance 31-Dec	Collection Year
2003	0	2005	0	22.08	0	52,974 (B)	(20,533)			32,441	2005
2004	0	2006	0	22.08	0		(42,000)			(9,559)	2006
2005	360,000 (E)	2007	360,000 (E)	22.08 (E)	7,949 (E)		(42,000)			(43,610)	2007
2006	3,200,000	2008	3,560,000	22.08	78,605		(42,000)			(7,005)	2008
2007	3,200,000	2009	6,760,000	22.08	149,261		(42,000)			100,255	2009
2008	3,200,000	2010	9,960,000	22.08	219,917		(42,000)			278,172	2010
2009	3,200,000	2011	13,160,000	22.08	290,573		(140,000)			428,745	2011
2010	3,200,000	2012	16,360,000	22.08	361,229		(136,000)			653,974	2012
2011	500,000	2013	16,860,000	22.08	372,269		(132,000)			894,243	2013
2012	590,100	2014	17,450,100	22.08	385,298		(725,000)			554,541	2014
2013	610,754	2015	18,060,854	22.08	398,784	3,000,000 (C)	(3,844,414)			108,910	2015
2014	632,130	2016	18,692,983	22.08	412,741		(382,500)			139,152	2016
2015	654,254	2017	19,347,238	22.08	427,187		(480,687)			85,652	2017
2016	677,153	2018	20,024,391	22.08	442,139		(383,100)			144,690	2018
2017	700,854	2019	20,725,245	22.08	457,613		(479,713)			122,590	2019
2018	725,384	2020	21,450,628	22.08	473,630		(430,550)			165,670	2020
2019	750,772	2021	22,201,400	22.08	490,207		(482,962)			172,915	2021
2020	777,049	2022	22,978,449	22.08	507,364		(481,700)			198,579	2022
2021	804,246	2023	23,782,695	22.08	525,122		(689,388)			34,313	2023
2022	832,394	2024	24,615,089	22.08	543,501			(500,000)		77,815	2024
2023	861,528	2025	25,476,618	22.08	562,524			(500,000)		140,338	2025
2024	891,682	2026	26,368,299	22.08	582,212			(2,330,000)		(1,607,450)	2026
2025	922,890	2027	27,291,190	22.08	602,589					(1,004,860)	2027
2026	955,192	2028	28,246,381	22.08	623,680					(381,180)	2028
2027	988,623	2029	29,235,005	22.08	645,509					264,329	2029
2028	1,023,225	2030	30,258,230	22.08	668,102					932,430	2030
2029	1,059,038	2031	31,317,268	22.08	691,485					1,623,916	2031
2030	1,096,104	2032	32,413,372	22.08	715,687					2,339,603	2032
<hr/>											
Total											
11,635,176											
3,052,974											
5,207,947											
3,810,600											
3,330,000											

(B) Deposit to Debt Service Fund on \$900,000 of the \$9,980,000 Issue Dated 04/05/05. Total deposit \$587,382 ÷ \$9,980,000 = .05886; TID #9 Portion (\$900,000)(.05886) = \$52,974

(C) Represents proceeds for refinancing of 2005D issue

(E) Estimate

**FIRST AMENDMENT TO
CONTRACT OF PURCHASE AND SALE**

By and Between

**BROOKSTONE HOMES, INC
A Wisconsin Corporation,**

and

**THE CITY OF KENOSHA, WISCONSIN,
A Municipal Corporation,**

THIS FIRST AMENDMENT OF THE CONTRACT OF PURCHASE AND SALE ("First Amendment") is made by and between **BROOKSTONE HOMES, INC**, a Wisconsin corporation, ("**BUYER**"), and the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation, ("**SELLER**"). This First Amendment shall be effective upon approval and execution by the parties. The effective date shall be the date of last execution of this First Amendment of the Contract ("Effective Date").

BUYER and **SELLER** agree to amend the Contract of Purchase and Sale dated March 3, 2008 as follows:

1. **Section 5.a.(3): Public Infrastructure & Grading Plans.** **SELLER** shall cause to be delivered to **BUYER**, on or before October 15, 2008, copies of the Public Infrastructure Improvements (the "Public Infrastructure Improvements") and grading plans for the Property as prepared by **SELLER** (the "Engineering Plans"). On or before the thirtieth (30th) day after receiving the Engineering Plans, **BUYER** shall in writing accept the Engineering Plans or reject the Engineering Plans if not satisfactory to **BUYER** and deliver an Objection Notice (as defined at the end of Section 5.a of the Contract of Purchase and Sale dated March 3, 2008) and **SELLER** shall have the right to cure on or before November 30, 2008.

2. **Section 5.a.(7): Developers Agreement.** **BUYER** and **SELLER** mutually approving a Developers Agreement between **SELLER** and **BUYER** on or before Closing Date for the Property. **SELLER's** approval is contingent upon receiving a written commitment from **BUYER's** bank to issue a Letter of Credit or Cash Bond for Public Infrastructure Improvements for Phase I of the Development Plan attached hereto as Exhibit "B". The terms and amount of the Letter of Credit shall be mutually acceptable to both **SELLER** and **BUYER**.

3. **Section 5.b.(2): Letter of Credit.** Receipt by **SELLER** of a written commitment from **BUYER's** bank to issue a Letter of Credit or Cash Bond for the Public

Infrastructure Improvements for Phase I of the Development Plan attached hereto as Exhibit "B". SELLER's approval of a Developers Agreement between SELLER and BUYER is contingent upon receiving such written commitment. Such written commitment is to be issued on or before the closing date.

4. **Section 6: Closing On The Property.** This transaction is to be closed at Landmark Title Corporation, 3501 - 30th Avenue, Kenosha, WI 53144, at such time as may be agreed to by BUYER and SELLER, on or before November 30, 2008.

5. **Section 9.e.: Additional Public Improvements.** SELLER shall complete additional Public Infrastructure Improvements to 35th Avenue and 34th Avenue in accordance with the Development Plan attached hereto as Exhibit "B". SELLER shall construct the additional Public Infrastructure Improvements to 35th Avenue and 34th Avenue during Phase I of the Development Plan.

6. **Section 30: Exhibits.** The following amended Exhibits are attached hereto and incorporated herein by reference:

- a. Exhibit "B" - Development & Phasing Plan.
- b. Exhibit "C" - Progress and Completion Schedule.

7. **Effective Date.** This First Amendment shall be in effect upon approval and execution by SELLER and BUYER. This First Amendment shall be effective on the date of last execution (the "Effective Date").

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed by their duly authorized officers, sealed, and delivered as of the day and year first above written.

BUYER:

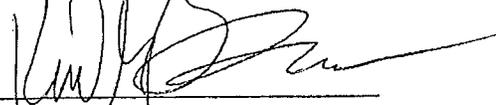
BROOKSTONE HOMES, INC

BY:  _____

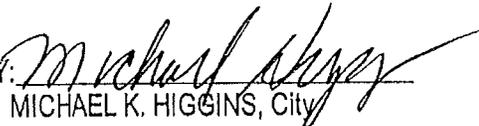
SCOTT B. THISTLE, President

Date: 11/4/08 _____

CITY OF KENOSHA, WISCONSIN,
A Municipal Corporation

BY: 

KEITH BOSMAN, Mayor
Date: 11/10/08

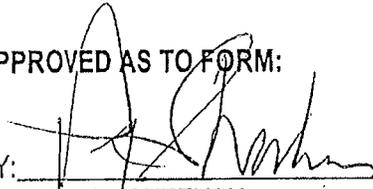
BY: 

MICHAEL K. HIGGINS, City
Clerk/Treasurer/Assessor
Date: 11/10/08

COUNTERSIGNED:

BY: _____
CAROL STANCATO,
Finance Director
Date: 
11/10/08

APPROVED AS TO FORM:

BY: 

PATRICK SHEEHAN,
City Attorney
Date: 11.7.08

Revised Exhibit C

Progress and Completion Schedule

KAT Subdivision

	Lots	Infrastructure		Home Construction	
		Start	Finish	Start	Finish
Phase #1	19	4/15/2009	8/15/2009	9/1/2009	12/15/2010
Phase #2	21	4/15/2011	8/15/2011	9/1/2011	2/15/2013
Phase #3	25	12/15/2012	4/15/2013	4/15/2013	12/15/2014
Phase #4	34	10/15/2014	4/15/2015	4/15/2015	4/15/2017
Phase #5	10	2/15/2017	4/15/2017	4/15/2017	12/15/2017
Total	109				

STATEMENT OF KIND, NUMBER AND LOCATION OF ALL PROPOSED PUBLIC WORKS OR IMPROVEMENTS WITHIN THE DISTRICT AND A DETAILED LIST OF ESTIMATED PROJECT COSTS AND WHEN COSTS ARE EXPECTED TO BE INCURRED

<u>Description of Project Costs</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010-2026</u>	<u>Total</u>
1. Administration, Legal, Property Maintenance and Acquisition	---	500,000	---	---	---	---	\$500,000
2. Public Infrastructure	2,500,000	---	---	---	---	---	\$2,500,000
3. Public Park Development	2,000,000	---	---	---	---	---	\$2,000,000
4. Public Transit Improvements	8,285,500	5,079,500	---	---	---	---	\$13,365,000
Total	12,785,500	5,579,500	0	0	0	0	\$18,365,000

<u>Description of Project Revenues</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010-2026</u>	<u>Total</u>
1. Federal Grants	6,628,400	4,063,600	---	---	---	---	\$10,692,000
2. CIP Funds	1,657,100	1,015,900	---	---	---	---	\$2,673,000
Total	8,285,500	5,079,500	0	0	0	0	\$13,365,000

<u>Costs to be Recovered by TID</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010-2026</u>	<u>Total</u>
1. Costs to be Recovered	4,500,000	500,000	---	---	---	---	\$5,000,000
2. Financing Costs	2,627,522	291,947	---	---	---	---	\$2,919,469
Total	7,127,522	791,947	0	0	0	0	\$7,919,469

ECONOMIC FEASIBILITY STUDY

City of Kenosha
 Tax Incremental District #10
 Estimated Tax Increments, Cash Flow & All Debt Service

Assumptions:

Mill Rate Increase: 0.00%
 Appreciation Rate: 3.50%

Year Increase Occurs	Assessed Value Date Jan. 1st	Year Tax Collected	Assessed Value	Yearly Assessment Increase	Cumulative Assessment Increase	Mill Rate	Yearly Tax Increment	Carry Forward	Funds Available	Debt Service	Year End Balance
2005	2005	2006	10,269,400	0	0	23.149	0	0	0	366,376	(956,376)
2006	2006	2007	10,628,829	0	359,429	23.149	8,321	(356,376)	(348,056)	395,973	(744,029)
2007	2007	2008	14,300,838	3,300,000	4,031,438	23.149	93,326	(744,029)	(650,703)	395,973	(1,046,677)
2008	2008	2009	18,101,367	3,300,000	7,831,967	23.149	181,306	(1,261,344)	(865,371)	395,973	(1,261,344)
2009	2009	2010	22,034,915	3,300,000	11,765,515	23.149	272,566	(1,261,344)	(988,978)	395,973	(1,384,952)
2010	2010	2011	26,106,137	3,300,000	15,896,737	23.149	366,613	(1,384,952)	(1,018,339)	395,973	(1,414,313)
2011	2011	2012	30,319,852	3,300,000	20,050,452	23.149	464,158	(1,414,313)	(950,155)	395,973	(1,346,128)
2012	2012	2013	31,381,047	0	21,111,647	23.149	488,724	(1,346,128)	(857,404)	395,973	(1,253,377)
2013	2013	2014	32,479,383	0	22,209,983	23.149	514,150	(1,253,377)	(739,227)	395,973	(1,135,201)
2014	2014	2015	33,616,162	0	23,346,762	23.149	540,466	(1,135,201)	(594,735)	395,973	(990,709)
2015	2015	2016	34,792,728	0	24,523,328	23.149	567,703	(990,709)	(423,006)	395,973	(818,979)
2016	2016	2017	36,010,473	0	25,741,073	23.149	595,893	(818,979)	(223,086)	395,973	(619,060)
2017	2017	2018	37,270,840	0	27,001,440	23.149	625,070	(619,060)	6,010	395,973	(389,963)
2018	2018	2019	38,575,319	0	28,305,919	23.149	655,268	(389,963)	265,305	395,973	(130,663)
2019	2019	2020	39,925,455	0	29,656,055	23.149	686,523	(130,663)	555,854	395,973	159,880
2020	2020	2021	41,322,846	0	31,053,446	23.149	718,872	159,880	878,752	395,973	482,779
2021	2021	2022	42,769,146	0	32,499,746	23.149	752,353	482,779	1,235,132	395,973	839,158
2022	2022	2023	44,266,066	0	33,996,666	23.149	787,006	839,158	1,626,164	395,973	1,230,191
2023	2023	2024	45,815,378	0	35,545,978	23.149	822,872	1,230,191	2,059,062	395,973	1,657,089
2024	2024	2025	47,418,916	0	37,149,516	23.149	859,993	1,657,089	2,517,081	395,973	2,121,108
2025	2025	2026	49,078,578	0	38,809,178	23.149	898,413	2,121,108	3,019,521	39,597	2,979,924
2026	2026	2027	50,796,329	0	40,526,929	23.149	938,178	2,979,924	3,918,102	0	3,918,102
2027	2027	2028	52,574,200	0	42,304,800	23.149	979,335	3,918,102	4,897,437	0	4,897,437
2028	2028	2029	54,414,297	0	44,144,897	23.149	1,021,992	4,897,437	5,919,369	0	5,919,369
2029	2029	2030	56,318,798	0	46,049,398	23.149	1,066,021	5,919,369	6,985,390	0	6,985,390
2030	2030	2031	58,289,955	0	48,020,555	23.149	1,111,652	6,985,390	8,097,041	0	8,097,041
2031	2031	2032	60,330,104	0	50,060,704	23.149	1,158,880	8,097,041	9,255,922	0	9,255,922
2032	2032		60,330,104	16,500,000			17,175,391				7,919,469

CONTRACT OF PURCHASE AND SALE

By and Between

BROOKSTONE HOMES, INC
An Wisconsin Corporation,

and

THE CITY OF KENOSHA, WISCONSIN,
A Municipal Corporation,

THIS CONTRACT OF PURCHASE AND SALE ("Contract") is made by and between **BROOKSTONE HOMES, INC**, a Wisconsin corporation, ("**BUYER**"), and the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation, ("**SELLER**"). This Contract shall be effective upon approval and execution by the parties. The effective date shall be the 3RD day of MARCH, 2008, the date of last execution ("Effective Date").

WITNESSETH:

WHEREAS, SELLER presently owns and holds fee simple title to that certain property described as the KAT Subdivision, containing approximately 30 acres, located in the City of Kenosha, County of Kenosha, State of Wisconsin, which is further described in Exhibit "A" (the "Property"); and

WHEREAS, SELLER desires to sell the Property with the exception of four (4) parcels to be developed by **SELLER**, and the remaining parcels to be developed into 105 single-family, detached residential homes by **BUYER**; and,

WHEREAS, SELLER, with the assistance of the DEPARTMENT OF CITY DEVELOPMENT, hereinafter referred to as the "Department", carried out the marketing of the Property through the issuance of a Request for Proposals (RFP); and,

WHEREAS, in response to the RFP, **BUYER** submitted a proposal for the development of the Property dated April 13, 2007 ("Proposal") which consists of the construction of 105 residential homes and related improvements to be constructed on the Property in phases; and,

WHEREAS, subsequently, **BUYER**, in cooperation with **SELLER**, has submitted a more detailed Development & Phasing Plan for the Property ("Development Plan") that is attached hereto as Exhibit "B"; and,

WHEREAS, the purchase and development of the Property is beneficial to **SELLER** in order to increase the City's tax base, provide housing and eliminate blight conditions.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by and among the undersigned, each being represented by legal counsel, and intending to be legally bound hereby, as follows:

1. Purchase/Sale. **BUYER** hereby agrees to purchase and acquire the Property from **SELLER**, and **SELLER** hereby agrees to sell and convey the Property to **BUYER** for and inconsideration of, and upon and subject to, the terms, covenants and conditions hereinafter set forth.

2. Purchase Price. The purchase price ("Purchase Price") for the Property is Eighty One Thousand (\$81,000.00) Dollars. Eight Thousand One Hundred (\$8,100.00) Dollars of the Purchase Price shall be delivered to **SELLER**, by cashier's check, within five (5) business days after execution and delivery of this Contract by **BUYER** to **SELLER**, as an earnest money deposit ("Earnest Money"). The remaining amount of the Purchase Price of Seventy Two Thousand Nine Hundred (\$72,900.00) Dollars shall be payable by cashier's check to be delivered to **SELLER** at or prior to the Closing for the Property.

3. Conveyance. At the Closing for the Property, **SELLER** shall sell and convey to **BUYER** good, marketable, and insurable title for the Property, by delivery of a fully executed and acknowledged Warranty Deed ("Deed"), in customary form.

4. Title Insurance. **SELLER** shall provide **BUYER** with a Title Insurance Commitment, issued by a title company licensed in Wisconsin ("Title Company"), pursuant to which the Title Company shall agree to issue to **BUYER** a standard ALTA 1992 Owner's Policy of Title Insurance in the amount of \$300,000, insuring good and marketable title to the Property expressly including all appurtenant easements and other appurtenances thereto.

5. Conditions Precedent To The Closing Of The Property.

a. BUYER'S Conditions Precedent. With respect to the Property, each and all of the obligations of the **SELLER** to **BUYER** hereunder are subject, without limitation, to **BUYER'S** satisfaction or waiver in writing of each and all of the following conditions precedent to the Closing of the Property on or before the dates therefor set forth below ("**BUYER'S** Conditions Precedent").

(1) Title Insurance Commitment. **SELLER** shall cause to be delivered to **BUYER** a Title Insurance Commitment for the Property, at the cost and expense of **SELLER**, on or before the sixtieth (60th) day after the Effective Date, in the form required under Section 4. hereof, together with a copy of each document to which reference is made in such commitment (including, but not limited to, the terms, covenants, and conditions of any easements appurtenant to the Property and the status of real estate taxes and levies and proposed or pending special assessments). On or before the one hundred twentieth (120th) day after the Effective Date, **BUYER**

shall, in writing, accept the Title Insurance Commitment or reject the Title Insurance Commitment if not satisfactory to **BUYER** and deliver an Objection Notice (as defined below) and **SELLER** shall have the right to cure as described at the end of this Section 5.a.

(2) **Survey.** **SELLER** shall cause to be delivered to **BUYER** an original survey of the Property, or a recorded copy of the final subdivision plat of the property, on or before the sixtieth (60th) day after the Effective Date, with a then current date, certified to **BUYER**, **SELLER**, and the Title Company, prepared by a registered Wisconsin surveyor, at the cost and expense of **SELLER**, which survey shall locate and describe the Property, all boundary lines thereof, all adjacent roadways and other means of access and limitations thereon, all utilities adjacent to said Property, all easements affecting said Property, all encroachments affecting said Property, and shall otherwise satisfy all ALTA/ACSM 1999 Survey Standards, including all "Table A" items, except Item 5 (contours). On or before the one hundred twentieth (120th) day after the Effective Date, **BUYER** shall, in writing, accept the survey and all matters disclosed therein, or reject the survey if not satisfactory to **BUYER** and deliver an Objection Notice (as defined below) and **SELLER** shall have the right to cure as described at the end of this Section 5.a.

(3) **Public Infrastructure & Grading Plans.** **SELLER** shall cause to be delivered to **BUYER**, within sixtieth (60th) days after the Effective Date, copies of the Public Infrastructure Improvements (the "Public Infrastructure Improvements") and grading plans for the Property as prepared by **SELLER** (the "Engineering Plans"). On or before the one hundred twentieth (120th) day after the Effective Date, **BUYER** shall in writing accept the Engineering Plans or reject the Engineering Plans if not satisfactory to **BUYER** and deliver an Objection Notice (as defined below) and **SELLER** shall have the right to cure as described at the end of this Section 5.a.

(4) **Utilities.** **SELLER** shall cause to be delivered to **BUYER** evidence satisfactory to **BUYER** that all necessary or appropriate utilities (including, but not limited to, sanitary sewer, storm sewer and water) are available to the Property in sufficient capacity and suitability for single family residential development shown on the Development Plan on or before the sixtieth (60th) day after the Effective Date. On or before the one hundred twentieth (120th) day after the Effective Date, **BUYER** shall accept the utility report, or reject the utility report if not satisfactory to **BUYER** and deliver an Objection Notice (as defined below) and **SELLER** shall have the right to cure as described at the end of this Section 5.a.

(5) **Environmental.**

(a) Receipt by **BUYER**, within sixtieth (60th) days after the Effective Date, of the Phase I Environmental Report for the Property as provided by **SELLER**.

(b) The property is being sold and will be delivered in its "AS IS WHERE IS" condition as specified in Section 7.c. **BUYER's** acceptance of the environmental condition of the Property is an exercise of **BUYER's** sole discretion. **BUYER** shall have 120 days from the Effective Date to inspect the property and to perform any tests to or inspections of the Property as **BUYER** deems necessary or advisable in the exercise of **BUYER's** sole discretion, and otherwise review the Phase I Environmental Report provided by **SELLER** or interview persons knowledgeable of the

Property, all as assisted by the best efforts of the **SELLER**. On or before the 120th day after the Effective Date, **BUYER** shall, in writing, accept the environmental condition of the Property or reject the environmental condition of the Property if not satisfactory to **BUYER** in the exercise of its sole discretion. **BUYER** shall include in that writing an Objection Notice and **SELLER** shall have the right to cure as described at the end of Section 5.a. **BUYER** shall be responsible, at its sole cost and expense, for promptly repairing any damage or injury to the Property occasioned by or resulting from **BUYER's** performance of any tests hereunder. This obligation shall survive the termination of this contract.

(6) **Subdivision Plat.** The approval by the Common Council of **SELLER** of the final subdivision plat of the Property consistent with the Development Plan, on or before the Closing Date for the Property.

(7) **Developers Agreement.** **BUYER** and **SELLER** mutually approving a Developers Agreement between **SELLER** and **BUYER** on or before Closing Date for the Property. **SELLER's** approval is contingent upon receiving a written commitment from **BUYER's** bank to issue a Letter of Credit or Cash Bond for Public Infrastructure Improvements. The terms and amount of the Letter of Credit shall be mutually acceptable to both **SELLER** and **BUYER**.

(8) **Financing.** A written loan commitment from an institutional lender of **BUYER's** choice setting forth an agreement to provide adequate financing for the purchase of the Property and development of improvements in an amount and upon terms acceptable to **BUYER**. Such commitment to be provided on or before the Closing Date for the Property.

(9) **Convenants, Conditions, and Restrictions.** Approval by both **BUYER** and **SELLER** of the Convenants, Conditions, and Restrictions referenced in Section 5.b.(3) of this Contract. Such approval to be provided on or before the date stated in Section 5.b.(3).

In the event that the **BUYER'S** Conditions Precedent set forth above are not satisfied on or before the dates for the respective **BUYER'S** Conditions Precedent set forth above and **BUYER** does not elect to waive such **BUYER'S** Conditions Precedent, **BUYER** shall immediately deliver written notice to **SELLER** identifying the **BUYER'S** Conditions Precedent that have not been satisfied or waived ("Objection Notice"). Notwithstanding any terms to the contrary set forth herein, **SELLER** will then have a period of thirty (30) days from the receipt of such Objection Notice in which **SELLER** may cure the problems that prevent the **BUYER'S** Conditions Precedent from being satisfied (the "Cure Period"). Upon **SELLER'S** cure of such problems to the reasonable satisfaction of **BUYER**, such **BUYER'S** Conditions Precedent shall be deemed to be satisfied. In the event **SELLER** fails to cure such problems within the Cure Period, **BUYER** shall have the option, within ten (10) days of the end of the cure period, of either (1) terminating this contract; or, (2) waiving the issues raised in the Objection Notice and proceeding to Closing. If no Objection Notice is given during the time period specified above, then the **BUYER'S** Conditions Precedent shall be deemed waived.

b. **SELLER'S Condition Precedent.** With respect to the Property, each and all of the obligations of **BUYER** to **SELLER** hereunder are subject, without limitation, to **SELLER'S**

satisfaction or waiver in writing of each and all of the following Conditions Precedent to the Closing of the Property on or before the dates therefor set forth below ("**SELLER'S** Conditions Precedent"):

(1) **Financing Commitment.** Receipt by **SELLER** of a written loan commitment to **BUYER** from an institutional lender setting forth an agreement to provide **BUYER** with adequate financing for the purchase of the Property and development of improvements in an amount and upon terms acceptable to **BUYER**. Such commitment to be provided on or before the Closing Date for the Property.

(2) **Letter of Credit.** Receipt by **SELLER** of a written commitment from **BUYER's** bank to issue a Letter of Credit or Cash Bond for the Public Infrastructure Improvements. **SELLER's** approval of a Developers Agreement between **SELLER** and **BUYER** is contingent upon receiving such written commitment. Such written commitment is to be issued on or before the closing date.

(3) **Covenants, Conditions and Restrictions.** Approval by **SELLER** of Proposed Covenants, Conditions and Restrictions (CCRs) with respect to the Property which shall be consistent with the Development Plan, on or before the Closing Date. The form of such CCR's shall be prepared by **BUYER** and submitted to **SELLER**. **SELLER** shall have a minimum of thirty (30) days to review and take action respecting the CCR's.

If **SELLER** does not give **BUYER** written notice of objection signed by the City Attorney for **SELLER** on or before the respective deadlines set forth in each of the **SELLER's** Conditions Precedent that the respective condition has not been satisfied, then the **SELLER's** Conditions Precedent shall be deemed satisfied and waived .

c. **Extensions of Dates.** **BUYER** and **SELLER** (acting through the City Administrator) may mutually extend any dates under this Section 5. to achieve **BUYER's** or **SELLER's** Condition Precedent, except for the Outside Closing Date (Section 6). Any such extension must be evidenced in writing and signed by both **BUYER** and **SELLER** to be effective, and shall become part of the Contract. Notwithstanding this provision, time is of the essence as provided in Section 25.

6. **Closing On The Property.** This transaction is to be closed at Landmark Title Corporation, 3501 - 30th Avenue, Kenosha, WI 53144, at such time as may be agreed to by **BUYER** and **SELLER**, on or before August 31, 2008.

7. **SELLER'S Representations and Warranties.** **SELLER** hereby represents, warrants to **BUYER** as follows, each of which representations and warranties shall survive the Closings.

a. **SELLER Matters.** **SELLER** is duly organized, validly existing, and in good standing under the laws of the State of Wisconsin, with full right, power, and authority to enter into this Contract and to perform all obligations of **SELLER** hereunder. This Contract, the Deed, and all other documents to be executed and delivered by **SELLER** in connection with the transaction contemplated hereby, do and shall constitute the valid and legally binding agreements of **SELLER**,

enforceable in accordance with their respective terms. Neither the consummation of the transaction contemplated hereby, nor the compliance by **SELLER** with the terms hereof, will result in a breach of any term or condition of or constitute a default under the terms of any instrument or agreement to which **SELLER** is a party, or by which **SELLER** may be bound, nor will the same result in any violation of any applicable statute, law, ordinance, judgment, order, rule or regulation. There are no suits filed or claims made, pending or threatened against **SELLER** or the Property that in any way jeopardize the ability of **SELLER** to perform its obligations hereunder or that would delay, limit, or prohibit **BUYER** from developing the Property as provided herein. **SELLER** has not filed any petition, nor has any petition been filed against **SELLER**, in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, custodian, or trustee or for the arrangement of debts, nor is **SELLER** or the Property the subject of any such action. **SELLER** is not insolvent, nor will it be rendered insolvent, by consummation of the transaction contemplated hereby.

b. Violations. **SELLER** agrees to indemnify and hold **BUYER** harmless from and against any and all liability, loss, cost, or expense including **BUYER's** reasonable attorney's fees arising in connection with any matter which is not as so represented and warranted, and **BUYER** shall not have the duty to close if it has reason to believe that any of such representations and warranties are not true, accurate, and complete on and as of the Closing.

c. Property Condition. **SELLER** has made no representations or warranties with respect to the quality or condition of the Property. The Property is being sold and will be delivered in its "AS IS AND WHERE IS" condition subject to all faults, environmental or otherwise, including both latent and patent defects, and the presence of any pollutants, contaminants, or hazardous or toxic substances or materials on, under or about the Property, known or unknown, to **BUYER** and **SELLER** at the time of Closing, without warranty of any kind. **BUYER** hereby waives all warranties, expressed or implied, including any warranty of merchantability or fitness for a particular purpose. **BUYER** hereby represents and warrants to **SELLER** that **BUYER** entered into this Contract without relying upon any representation or warranty by **SELLER** as to the quality or condition of the Property. This Section 7.c. shall survive closing.

d. Public Infrastructure Improvements. **SELLER** represents and warrants that the Public Infrastructure Improvements that have been constructed and are now located on the Property have been accepted by **SELLER**, that **SELLER** is the owner of all such Public Infrastructure Improvements and that **SELLER** is responsible for the maintenance and repair of all such Public Infrastructure Improvements.

e. Engineering Plans. The Engineering Plans which **SELLER** has provided to **BUYER** pursuant to Section 5.a.(3) for the construction of the Public Infrastructure Improvements to the Property and for the grading of the Property have received all approvals from all applicable governmental entities and are in final form and are complete and accurate and if the Public Infrastructure Improvements are constructed substantially in accordance with the Engineering Plans, **SELLER** shall accept the Public Infrastructure Improvements. **SELLER** further represents and warrants that all necessary permits for construction of the Public Infrastructure Improvements and for the grading of the Property pursuant to the Engineering Plans are issuable.

8. BUYER'S Representations and Warranties. BUYER hereby represents and warrants to SELLER as follows, each of which representations and warranties shall survive the Closing:

a. BUYER Matters. BUYER is duly organized, validly existing, and in good standing under the laws of the State of Wisconsin, with the full right, power, and authority to enter into this Contract and to perform all obligations of BUYER hereunder. This Contract and all other documents to be executed and delivered by BUYER in connection with the transaction contemplated hereby do and shall constitute the valid and legally binding agreements of BUYER, enforceable in accordance with their respective terms. Neither the consummation of the transaction contemplated hereby nor the compliance by BUYER with the terms hereof will result in a breach of any term or condition of or constitute a default under the terms of any instrument or agreement to which BUYER is a party or by which BUYER may be bound, nor will the same result in any violation of any applicable statute, law, ordinance, judgment, order, rule, or regulation. There are no suits filed or claims made, pending, or threatened against BUYER that in any way jeopardize the ability of BUYER to perform its obligations hereunder. BUYER has not filed any petition, nor has any petition been filed against BUYER, in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, custodian, or trustee or for the arrangement of debts, nor is BUYER the subject of any such action. BUYER is not insolvent nor will it be rendered insolvent by consummation of the transaction contemplated hereby.

b. Violations. BUYER agrees to indemnify and hold SELLER harmless from and against any and all liability, loss, cost or expense including reasonable attorney's fees arising in connection with any matter which is not as so represented and warranted, and SELLER shall not have the duty to close if it has reason to believe that any of such representations and warranties are not true, accurate, and complete on and as of any Closing.

9. SELLER'S Agreements. SELLER hereby agrees as follows, each of which agreements shall survive Closing.

a. Satisfaction of Contingencies. SELLER shall use reasonable efforts to satisfy the SELLER's Conditions Precedent to the Closing of the Property contained in Section 5.b.

b. Contracts and Leases. Between the Effective Date and the Closing of the Property, SELLER shall not enter into any contracts or leases affecting the Property that will survive the Closing, without BUYER'S prior written consent.

c. Access and Assistance. SELLER shall, between the execution of this Contract and the Closing for the Property or the prior termination of this Contract, assist BUYER in such manner and to such extent as BUYER shall request in providing information reasonably required for purposes of developing the Property. If BUYER requests such assistance, SELLER need not incur any costs or expenses in connection therewith unless BUYER agrees to reimburse such costs or expenses. To the extent reasonably necessary for BUYER'S satisfaction of the conditions set forth in Section 5.a., BUYER shall have access to all information relating to the Property in SELLER'S possession, or reasonably available to SELLER, at all times prior to the Closing for the Property.

d. **Closing Documents.** **SELLER** shall enter into and deliver to **BUYER** at the Closing for the Property the following documents:

(1) **Deed.** The Deed to the Property as more fully provided in Section 3.

(2) **FIRPTA Affidavit.** An affidavit pursuant to Section 1445 of the Internal Revenue Code certifying that **SELLER** is not a foreign person or entity as defined in such Internal Revenue Code section. If **SELLER** is a foreign entity, **BUYER** may withhold such amount from the Purchase Price as is required by such Internal Revenue Code section.

(3) **Transfer Tax Returns or Similar Forms.** Transfer tax returns or other similar forms as are required by Wisconsin law (the Property is currently tax exempt and will be placed on the tax roll on January 1, 2009).

(4) **Affidavits and Other Certifications.** Affidavits and other certifications as maybe reasonably requested by **BUYER** or the Title Company insuring title to more fully vest title to the Property in **BUYER** and to permit the Title Company to issue its title insurance policy in accordance with Section 4.

(5) **Closing Statement.** Closing Statement setting forth all debits and credits to **BUYER** and **SELLER** in connection with the Closing for the Property.

(6) **Form 1099-S.** Form 1099-S which may be submitted to the Internal Revenue Service to report **SELLER'S** sale of the Property.

(7) **Assignment and Assumption Agreement.** An Assignment and Assumption Agreement to ensure that **BUYER'S** obligations are fulfilled in the event of a transfer of the Property under Section 17.

e. **Additional Public Improvements.** **SELLER** shall complete additional Public Infrastructure Improvements to 40th Street and 34th Avenue in accordance with the Development Plan attached hereto as Exhibit "B". **SELLER** shall construct the additional Public Infrastructure Improvements to 40th Street during Phase I of the Development Plan and to 34th Street prior to or during Phase IV of the Development Plan.

f. **Soil Handling.** **SELLER** shall provide a site(s) within 5 miles of the Property where **BUYER** may transport soil excavated from the site. The total amount of soil transported may not exceed 58,000 cubic yards.

10. **BUYER'S Agreements.** **BUYER** hereby agrees as follows, each of which agreements shall survive the Closing:

a. **Satisfaction of Contingencies.** **BUYER** shall use reasonable best efforts to satisfy the **BUYER'S** Conditions Precedent contained in Section 5.a.

b. **Closing Documents.** At the Closing, **BUYER** shall deliver the following to **SELLER**:

(1) **Payment of Purchase Price.** Payment of the amount owing to **SELLER** for the purchase of the Property pursuant to Section 2. by cashier's check, payable to the **SELLER** or agent.

(2) **Closing Statement.** An executed copy of the closing statement described in Section 9.d. above.

(3) **Conditions and Restrictions.** At the Closing for the Property, evidence that the CCRs, as approved by **SELLER**, have been or will be immediately recorded with the Register of Deeds for Kenosha County.

(4) **Right To Repurchase.** Execute and record with the Kenosha County Register of Deeds documents in form and substance acceptable to **SELLER** evidencing the agreements set forth in Section 16., below.

(5) **Assignment and Assumption Agreement.** An Assignment and Assumption Agreement to ensure that **BUYER's** obligations are fulfilled in the event of a transfer of the Property under Section 17.

11. **Legal Possession.** Legal possession and physical occupancy of the Property shall be delivered to **BUYER** at the Closing. Certificates of Occupancy for individual units shall not be delivered at Closing.

12. Indemnification.

a. **BUYER.** **BUYER** shall indemnify and hold **SELLER** harmless from and against all suits, causes of action, damages, liabilities or other obligations, (together with all costs, expenses and disbursements of any nature incurred by **SELLER**), resulting from any warranties and representations made hereunder being false, **BUYER** failing to comply with any of its agreements, the negligence of **BUYER** or its agents, employees or consultants relating to **BUYER'S** due diligence activities or any conditions on the Property created by **BUYER**.

b. **SELLER.** **SELLER** shall indemnify and hold **BUYER** harmless from and against all suits, causes of action, damages, liabilities or other obligations (together with all costs, expenses and disbursements of any nature incurred by **BUYER**), resulting from any warranties and representations made by **SELLER** hereunder being false or **SELLER** failing to comply with any of its agreements.

13. **Earnest Money; Default.** The Earnest Money is to be held by **SELLER**. If any of the conditions set forth in Section 5. are not satisfied or waived, as set forth in such Section, then the Earnest Money shall be returned to **BUYER**, this Contract shall be null and void, and neither **BUYER** nor **SELLER** shall have any further liability hereunder. If all of the conditions set forth in Section 5. hereof are satisfied or waived within the dates set forth therein (and with respect to the **BUYER'S** Conditions Precedent, upon the expiration of the period for **SELLER** to cure any Objection Notice), as set forth above, but **BUYER** defaults and fails to close with respect to the Property, or if **BUYER** fails to purchase the Property prior to the termination of this Contract, then the entire Earnest Money shall be paid to and retained by **SELLER** as liquidated damages and as **SELLER's** sole remedy. **SELLER** and **BUYER** hereby recognize and agree that **SELLER** will be expending considerable time and money in order to attempt to satisfy the aforesaid conditions and that the actual damages, if any, suffered by **SELLER**, in the event of a default by **BUYER**, would be impossible or extremely difficult to determine. If **SELLER** cannot, after using reasonable efforts and due diligence, convey title to the Property, as required hereunder, then **BUYER'S** sole remedy shall

be to either: (a) terminate its obligation to purchase the Property under this Contract, whereupon the Earnest Money shall be returned to **BUYER**; or, (b) accept whatever title to the Property **SELLER** can convey, with a credit against the Purchase Price for such sums as may be necessary to satisfy and discharge whatever liens and encumbrances may exist against or with respect to said title. In no event shall the failure of the City of Kenosha or any subunit or agent thereof, in its reasonable legislative discretion, to grant an approval or permit be deemed to be a default by **SELLER**.

14. Progress and Completion Schedule. **BUYER** shall complete the development (including construction of 105 single family homes and public infrastructure to include streets, sidewalks, concrete curb & gutter, water, sanitary & storm sewer, parkway trees and other landscaping, exterior lighting and other site improvements) of the Property purchased from **SELLER** in accordance with the Development Plan attached hereto as Exhibit "B" and the Progress and Completion Schedule attached hereto as Exhibit "C" ("Progress and Completion Schedule").

15. Commencement of Development. The development of the Property shall be subject to the following conditions:

- a. Prior to commencing construction of Public Infrastructure Improvements, **BUYER** shall deliver to **SELLER** a Letter of Credit or Cash Bond for Public Infrastructure Improvements. Upon receipt, **SELLER** shall approve a developer's agreement between **SELLER** and **BUYER**, and **BUYER** may then proceed with the construction of Public Infrastructure Improvements.
- b. All construction shall be carried out in a good and workmanlike manner using first class materials, and in accordance with all applicable State and City laws, ordinances, rules and regulations, the approved plans and specifications and all recorded covenants, conditions and restrictions.
- c. No construction shall take place that is not specified in the Development Plan for the Property, unless the Development Plan is amended.
- d. All State and City consents, licenses and permits required to undertake the construction will be obtained by **BUYER** at **BUYER'S** expense, prior to the commencement of work.
- e. The **SELLER's** Department of City Development will monitor the progress and completion of the development of the Property. The Department of City Development will furnish **BUYER** with a certificate of completion upon the satisfactory completion of all construction work and related improvements.

16. Right to Repurchase. At the Closing of the Property, **BUYER** and **SELLER** shall execute a document in recordable form pursuant to which **BUYER** shall agree to develop the Property, in accordance with the milestones set forth in the Progress and Completion Schedule referenced in Section 14. and attached as Exhibit "C". If **BUYER** defaults in meeting any of the milestones, **SELLER** shall give to **BUYER** written notice of such default and if **BUYER** fails to correct the default within 60 days of **BUYER's** receipt of such written notice or if the default is such that it

cannot be corrected within 60 days, **BUYER** has failed to commence a reasonable good faith effort to correct the default within 60 days of the receipt of such written notice, **SELLER** may at its option declare **BUYER** in default. Upon **BUYER** being declared in default, **SELLER** shall have the right to repurchase from **BUYER** any of the vacant unsold Property remaining in **BUYER's** possession together with an Public Infrastructure Improvements thereon. The purchase price to be paid by **SELLER** to **BUYER** shall be an amount equal to 80% of the purchase price paid by **BUYER** to **SELLER** for such portion of the Property plus 80% of the **BUYER's** cost for constructing the Public Infrastructure Improvements on the Property as agreed to by **BUYER** and **SELLER**. The purchase price shall be paid to **BUYER** by a check from **SELLER** or agent at closing. Upon payment of the purchase price, the Property shall be reconveyed to **SELLER**, by warranty deed free and clear of any liens and encumbrances created by any act or default of **BUYER**, with taxes, water, sewer and other utility charges prorated as of the date closing.

17. Transfer of the Property.

a. Permitted Transfers. **BUYER**, after Closing and prior to obtaining the Certificate of Completion, shall not sell, transfer or assign or convey its interest in the Property without the prior written consent of **SELLER**, provided; however, the foregoing consent shall not apply to nor be required for the following: (i) the **BUYER** may create a separate limited liability company or such other entity to which the Property is sold, conveyed, transferred or assigned for purposes of developing the Property ("Development Entity"); (ii) **BUYER** or Development Entity, as the case may be, may sell each single family home and lot to an individual owner and **BUYER** may transfer the remaining interests in the Property to an association of the owners of such single family homes, and, (iii) **BUYER** or Development Entity, as the case may be, may assign or pledge as collateral its interest in any and all of the Property and improvements in connection with the **BUYER's** financing. These transfers are collectively referred to herein as the "Permitted Transfers".

b. Assignment of BUYER'S Obligations. Any sales, transfers, assignments or conveyances, whether a Permitted Transfer prior to the issuance of the Certificate of Completion or a transfer to any third party by **BUYER** or any of its successors or assigns, shall not be effective until: (i) the transferor and the transferee enter into an assignment and assumption agreement ("Assignment Agreement") to undertake **BUYER'S** obligations (to the extent they are continuing or unsatisfied) under this Contract and to obtain an equivalent agreement from all subsequent transferees; and, (ii) **SELLER** accepts such Assignment Agreement, which acceptance will not be unreasonably withheld. This provision shall not apply to any single family residential lots and homes that are sold.

18. Casualty; Condemnation. Risk of loss due to fire, other casualty, condemnation, or exercise of the right of eminent domain for the Property shall remain with **SELLER** through the date of the Closing. If any such loss occurs prior to Closing, then **BUYER** shall have the right and option to either: (a) terminate this Contract, whereupon neither **BUYER** nor **SELLER** shall have any further liability hereunder, and whereupon the Earnest Money shall be returned to **BUYER**; or, (b) consummate this transaction and been titled to all insurance and other proceeds relating to such loss, with a credit against the Purchase Price equal to the amount of the deductible applied to any such insurance proceeds.

19. Insurance. Prior to entry onto the Property, **BUYER** shall provide **SELLER** with written evidence of public liability insurance which shall be provided by an insurance company rated A12 or better by the current Best's Key Rating Guide and shall be licensed to do business in the State of Wisconsin. All insurance policies shall name **SELLER** as an additional insured and shall insure against injury to property, persons or loss of life arising in connection with the Property and its Development in an amount of not less than Two Million (\$2,000,000.00) Dollars, combined single limit per occurrence/aggregate, plus an umbrella policy of not less than Three Million (\$3,000,000.00) Dollars. Such insurance shall be written on an "occurrence" basis and not on a "claims made" basis. In the event the Property is sold, transferred, assigned or otherwise conveyed to a Development Entity or other third party (collectively, the "Transferee"), prior to the issuance of a Certificate of Completion for the Property, the Transferee shall be responsible for satisfying the obligations of this Section. The obligation to provide the insurance coverage as set forth in this Section shall be a continuing obligation of **BUYER** and Transferee, which obligation shall not be merged into the Deed, and shall survive Closing and continue so long as **BUYER** and/or Transferee does any work on the Property (including work done after the Closing). The obligation to provide insurance coverage as required in this Section shall terminate upon the completion of the development and issuance of a Certificate of Completion under Section 15.e.

20. Broker. **BUYER** and **SELLER** hereby represent and warrant to the other party that they have not dealt with any real estate broker in connection with this transaction. Each party shall indemnify and hold the other harmless from its breach of these representations and warranties. **BUYER** discloses to **SELLER** that **BUYER** is a licensed real estate broker in the state of Wisconsin.

21. Notices. All notices and other communications required or permitted hereunder shall be in writing and by personal service, mailed in the United States mail, postage prepaid, certified mail, or overnight courier, addressed to **SELLER** or **BUYER**, as the case maybe, at the address therefor set forth below, or at such other address as either party shall hereafter designate by like notice, which notices shall be deemed to have been given on the date received:

If to **SELLER**, then to:

Michael K. Higgins
City Clerk/Treasurer/Assessor,
Municipal Building, Room 105,
625 - 52nd Street,
Kenosha, Wisconsin 53140;

with a copy to:

City Attorney Patrick Sheehan,
Municipal Building, Room 201,
625 - 52nd Street,
Kenosha, Wisconsin 53140.

If to **BUYER**, then to:

Scott B. Thistle, President
Brookstone Homes, Inc.
1230 Corporate Center Drive,

Suite 200
Oconomowoc, WI 53066

with a copy to:

Attorney Bruce R. Briney
Nowlan & Mouat LLP
P.O. Box 8100
Janesville, WI 53547-8100

22. Modification. Neither this Contract nor any term or condition hereof may be modified or amended, except by an agreement in writing, executed and delivered by the party against whom enforcement of such modification or amendment is sought.

23. Successors; Assigns. This Contract and all of the terms and conditions hereof, and of the various instruments executed and delivered pursuant hereto shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding the foregoing and except as permitted in Section 17., **BUYER** may not assign this Contract without the prior written consent of **SELLER**.

24. Headings. The headings of the sections and subsections of this Contract are for purposes of convenience only and shall in no way affect the construction of any of the terms or conditions hereof.

25. Time Is of the Essence. **BUYER** and **SELLER** agree that time is of the essence with respect to all dates set forth in this Contract.

26. Choice of Law and Forum. **BUYER** and **SELLER** agree that Wisconsin law will apply to this Contract and all disputes will be adjudicated in State Circuit Court in Kenosha County, Wisconsin or in District Court in Milwaukee County, Wisconsin.

27. Force Majeure. Neither party shall be liable for any failure of performance hereunder (excluding the failure to make payments when due) due to causes beyond its reasonable control and despite its reasonable efforts, including, without limitation, acts of God, fire, flood, strikes, lockouts, civil disturbance, order of any government, court or regulatory body claiming jurisdiction, act of public enemy, war, riot, sabotage, blockage, embargo, or material shortage, tornado or other natural disaster. In the case of the occurrence of an event of force majeure, the dates and schedules specified hereunder shall be suspended until such event can be remedied.

28. Agreements That Survive The Closing. All of the agreements in all Sections of this document shall survive the Closing to the extent necessary to fulfill their purpose.

29. Memorandum. At the request of **BUYER** or **SELLER**, **BUYER** and **SELLER** shall execute, acknowledge, and deliver a Memorandum of Contract, setting forth the agreement by **SELLER** to sell the Property to **BUYER**, but not the Purchase Price, in recordable form, for purposes of recording the same in order to place third parties on notice of this Contract and the rights of **BUYER** and **SELLER** hereunder.

30. **Exhibits.** The following Exhibits are attached hereto and incorporated herein by reference:

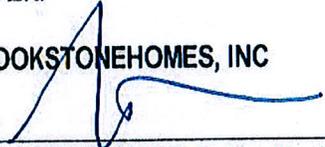
- a. Exhibit "A" - General Property Description.
- b. Exhibit "B" - Development & Phasing Plan.
- c. Exhibit "C" - Progress and Completion Schedule.

31. **Effective Date.** This Contract shall be in effect upon approval and execution by **SELLER** and **BUYER**. This Contract shall be effective on the date of last execution (the "Effective Date").

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized officers, sealed, and delivered as of the day and year first above written.

BUYER:

BROOKSTONEHOMES, INC

BY: 

SCOTT B. THISTLE, President

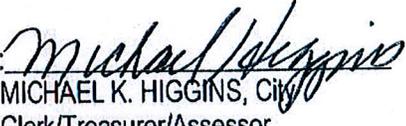
Date: 2/22/08

**CITY OF KENOSHA, WISCONSIN,
A Municipal Corporation**

BY: 

JOHN M. ANTARAMIAN, Mayor

Date: 2-29-08

BY: 

MICHAEL K. HIGGINS, City
Clerk/Treasurer/Assessor

Date: 2/29/8

COUNTERSIGNED:

BY: Carol Stancato
CAROL STANCATO,
Finance Director

Date: 3/3/08

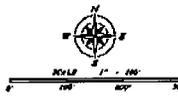
APPROVED AS TO FORM:

BY: Patrick Sheehan
PATRICK SHEEHAN,
City Attorney

Date: 2.27.08

PRELIMINARY PLAT OF K. A.T. SUBDIVISION

BEING A REVISION OF PART OF LOT 3 AND ALL OF LOT 5 OF CERTIFIED SURVEY MAP NO. 4630, RECORDED AS DOCUMENT NO. 14474521 OF PART OF PARCELS 1 AND 2 OF CERTIFIED SURVEY MAP NO. 1884, RECORDED AS DOCUMENT NO. 10643511 OF PART OF THE LAND RECORDED IN WARRANT DEED - VOL. 46, PAGE 141 ON FEBRUARY 10, 1923 AND OF ALL OF THE LAND RECORDED AS PARCEL 11 IN WARRANT DEED - DOCUMENT 1066818 ON NOVEMBER 8, 1935; ALL BEING RECORDED WITH THE KENOSHA COUNTY REGISTER OF DEEDS OFFICE, AND ALL BEING IN THE SOUTHWEST QUARTER OF SECTION 25, TOWN 2 NORTH, RANGE 22 EAST OF THE FOURTH PRINCIPAL MERIDIAN IN THE CITY OF KENOSHA, KENOSHA COUNTY, WISCONSIN.



NORTH ARROW AND BEARINGS ON THIS PLAT REFER TO GRID NORTH, WISCONSIN STATE PLANE CO-ORDINATE SYSTEM, SOUTH ZONE (NAD-83), AND ARE BASED ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 25, TOWN 2 NORTH, RANGE 22 EAST AS BEARING N 89°30'56" W. SEE LEGEND AND NOTES ON SHEET 3 OF 3.

07-222-25-326-063
M 40° 29' 32" W
1,022.00 TO W. L.I.N.E., SECTION 25

40TH STREET

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

EXHIBIT "A"



**CROSS-HATCHING
DENOTES
LOTS 1, 20, 40, 64, 90
AND
OUTLOTS 1, 2 AND 3
WHICH ARE TO
BE RETAINED BY THE
CITY OF KENOSHA**

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

07-222-13-227-001
OWNED BY LOCAL UNION 72
U. A. W. BAKING CORPORATION

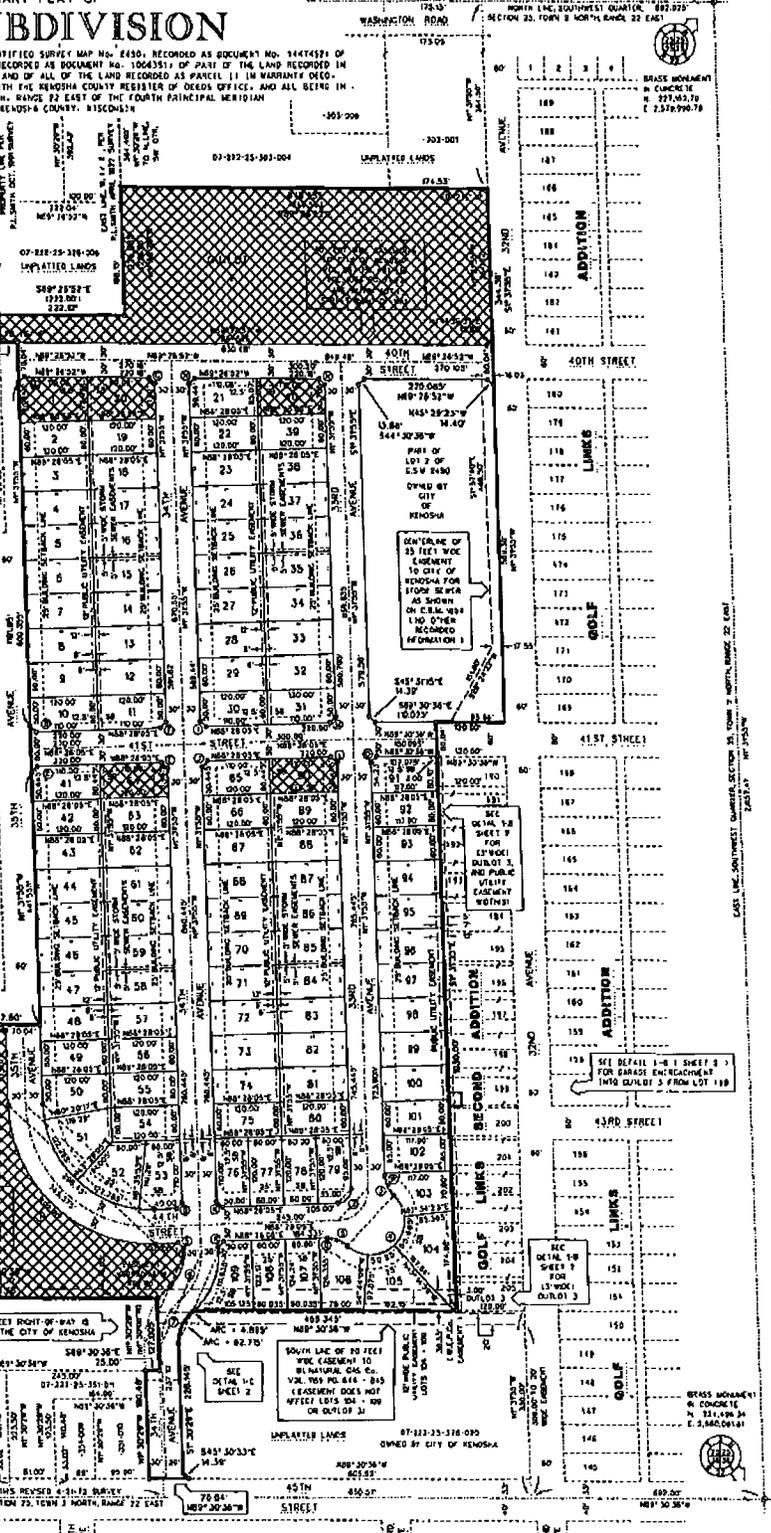
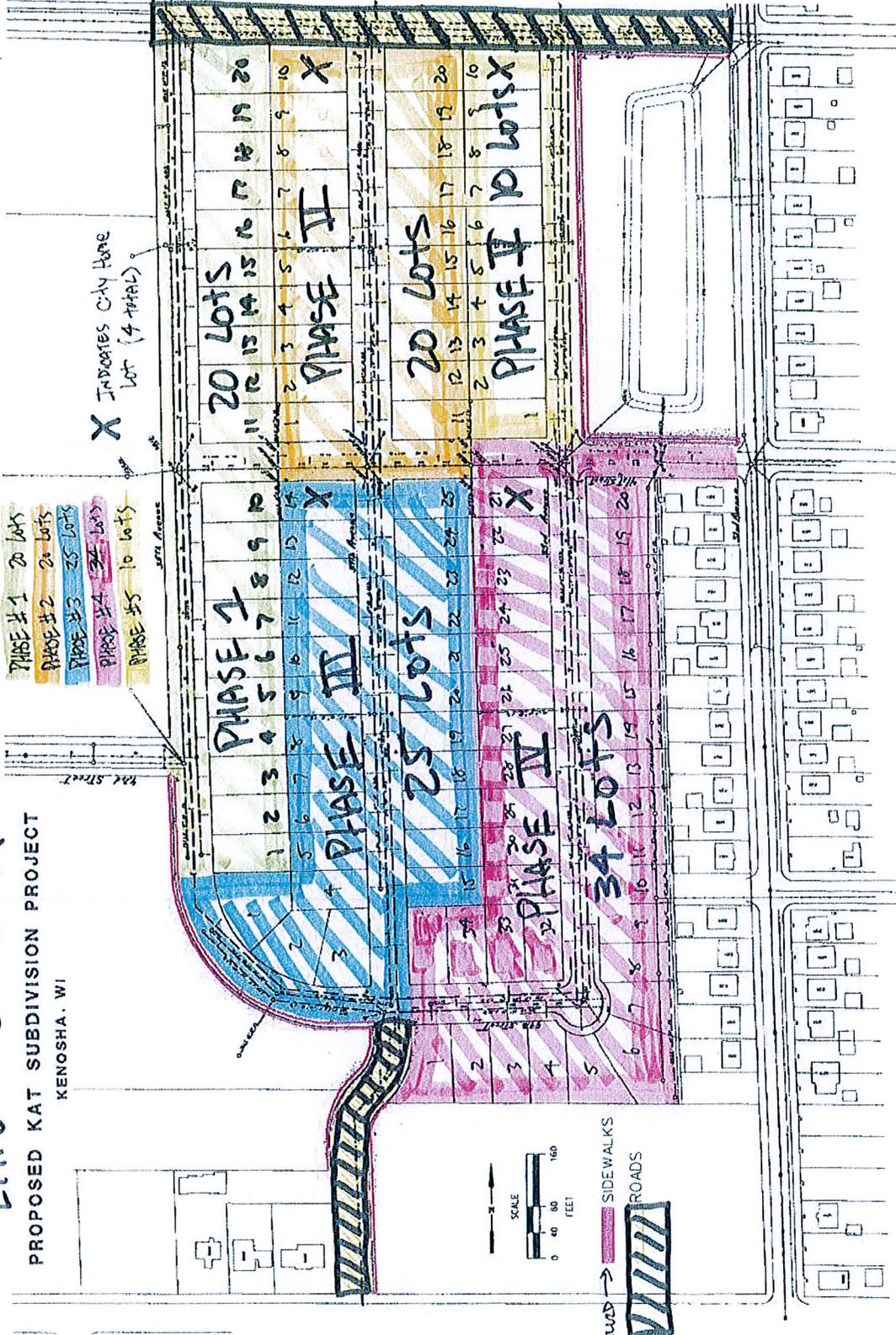


EXHIBIT B "B" DEVELOPMENT + PHASING PLAN

REVISED COPY
2/26/08

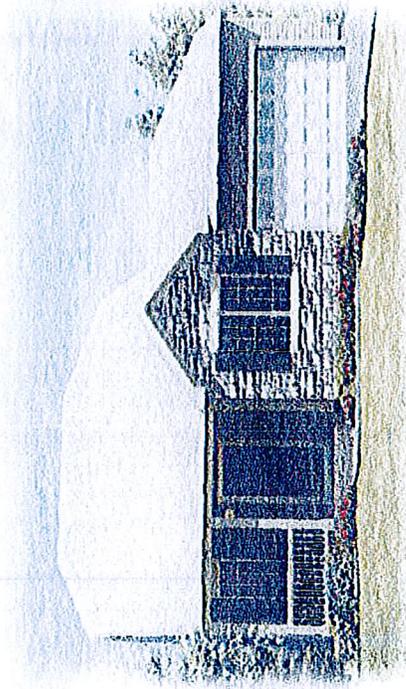
PROPOSED KAT SUBDIVISION PROJECT
KENOSHA, WI



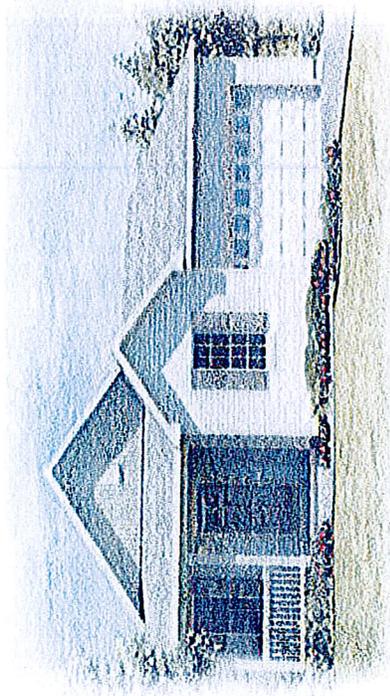
* City Instruction → SIDEWALKS
* City Instruction → ROADS

PLAN 2010

ELEVATION STYLES



Elevation 1



Elevation 2



Elevation 3

RENDERINGS AND FLOOR PLANS ARE THE ARTIST'S CONCEPTION. DIMENSIONS AND DETAILS MAY VARY FROM ELEVATION STYLES IN ACTUAL PLANS & CONSTRUCTION. JOHNSON HOMES, INC. RESERVES THE RIGHT TO MAKE CHANGES WITHOUT NOTICE. VISIT US AT WWW.JOHNSONHOMES.COM. ALL RIGHTS RESERVED.

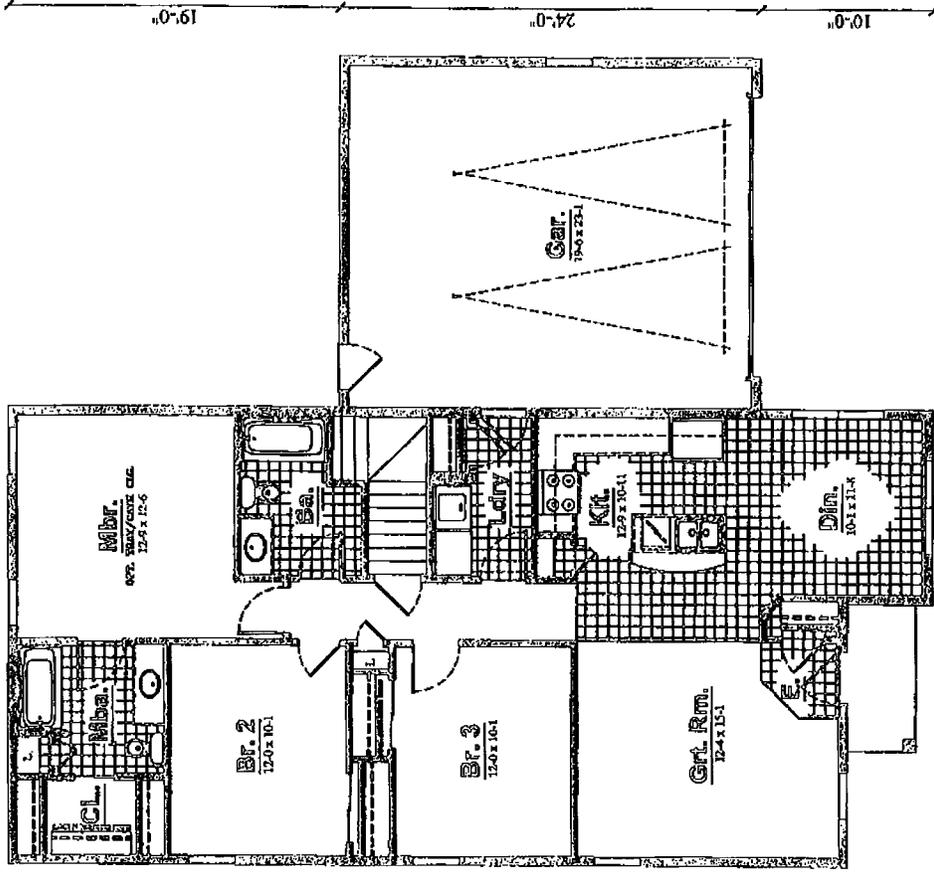
SHP LLC

WISCONSIN DIVISION 414.223.5715

SHEET 4

PLAN 2010

TOTAL LIVING: 1303 SF



First Floor Plan
Scale: 1/8" = 1'-0"

SHP LLC

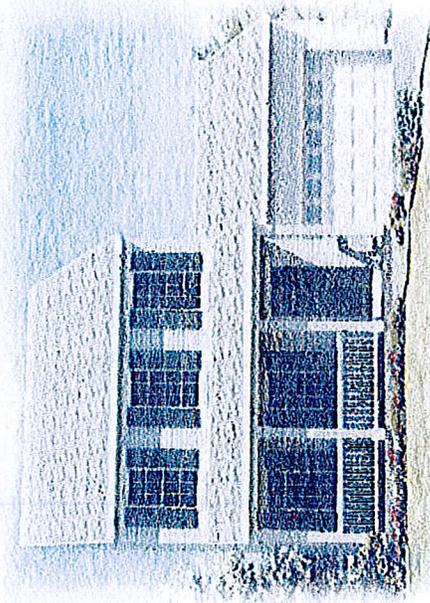
WISCONSIN DIVISION 414.223.5715

SHEET 2

RENDERINGS AND FLOOR PLANS ARE THE ARTIST'S CONCEPTION. DIMENSIONS AND DETAILS MAY VARY PER SUBMITTER. THIS PLAN IS FOR INFORMATION ONLY. THE SUBMITTER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE SUBMITTER IS NOT TO BE HELD LIABLE FOR ANY DAMAGES, INCLUDING ATTORNEY'S FEES, ARISING FROM THE USE OF THIS PLAN. ALL RIGHTS RESERVED.

PLAN 1010

ELEVATION STYLES



Elevation 1



Elevation 2



Elevation 3

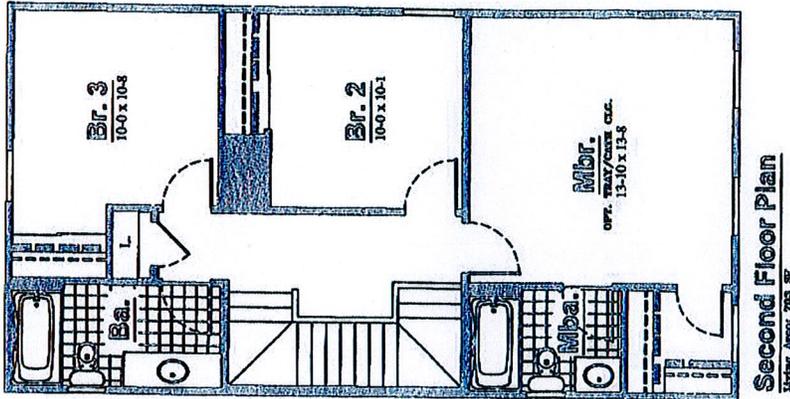
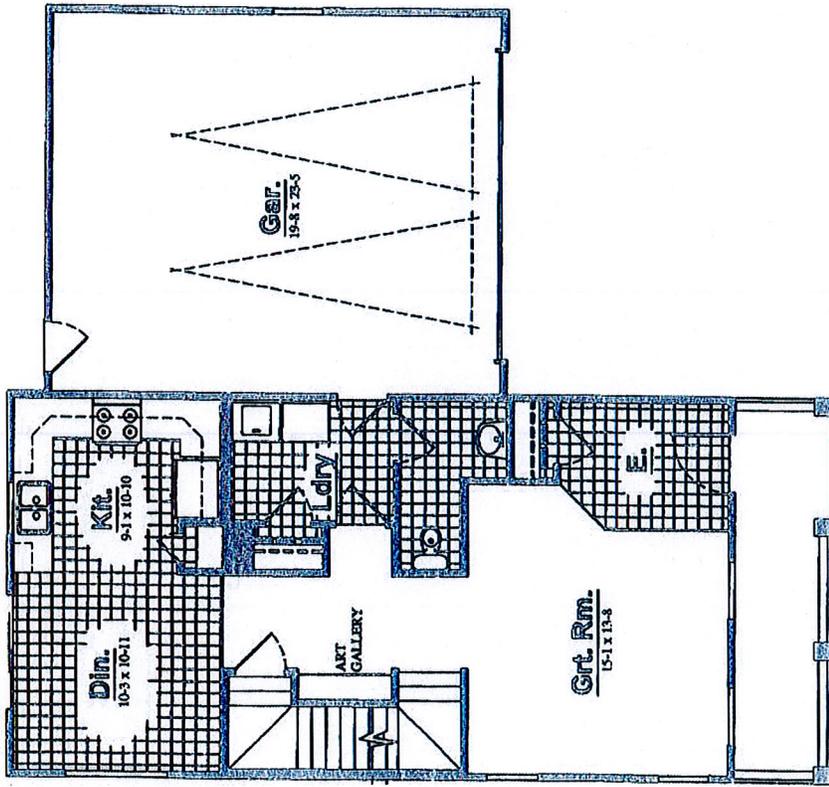
RENDERINGS AND FLOOR PLANS ARE THE ARTIST'S CONCEPTION. DIMENSIONS AND DETAILS MAY VARY FROM
 EXISTING STYLE IN ACTUAL PLANS & CONSTRUCTION. SUBJECT HOMEPLANNING LLC RESERVES THE RIGHT TO
 MAKE CHANGES TO ANY DESIGN WITHOUT NOTICE. ALL RIGHTS RESERVED. © 2006 HOMEPLANNING LLC. ALL RIGHTS RESERVED.

SHP LLC
 WISCONSIN DIVISION 414.223.5715

SHEET 3

PLAN 1010

TOTAL LIVING: 1463 SF



20'-0" 20'-0"

First Floor Plan
Living Area: 740 SF

Second Floor Plan
Living Area: 703 SF

SHP LLC
WISCONSIN DIVISION 414.223.5715

SHEET 1

RENDERING AND FLOOR PLANS ARE THE ARCHITECT'S CONCEPTION. DIMENSIONS AND DETAILS MAY VARY PER MANUFACTURER'S SPECIFICATIONS. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS OR FOR ANY DAMAGE TO PROPERTY OR CHANGE IN VALUE WITHOUT NOTICE. THE USE OF THIS DOCUMENT IS FOR STUDY PURPOSES ONLY AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT WRITTEN CONSENT FROM SOMERSET HOMES PLANNING LLC. 2006 COPYRIGHT. ALL RIGHTS RESERVED.

PLAN 1220 & 1225

ELEVATION STYLES



Plan 1220 Elevation 1



Plan 1225 Elevation 1

PERMISSIONS AND FLOOR PLANS ARE THE ARTIST'S CONCEPTION. DIMENSIONS AND DETAILS MAY VARY PER ELEVATION STYLE. IN ACTUAL PLANS & CONSTRUCTION, HOMESET HOME PLANNING LLC RESERVES THE RIGHT TO MODIFY OR CHANGE THE PLANS WITHOUT NOTICE. THE USE OF THIS DOCUMENT IS FOR STUDY PURPOSES ONLY AND IS NOT TO BE USED FOR CONSTRUCTION WITHOUT WRITTEN CONSENT FROM HOMESET HOME PLANNING LLC. 2006 COPYRIGHT. ALL RIGHTS RESERVED.

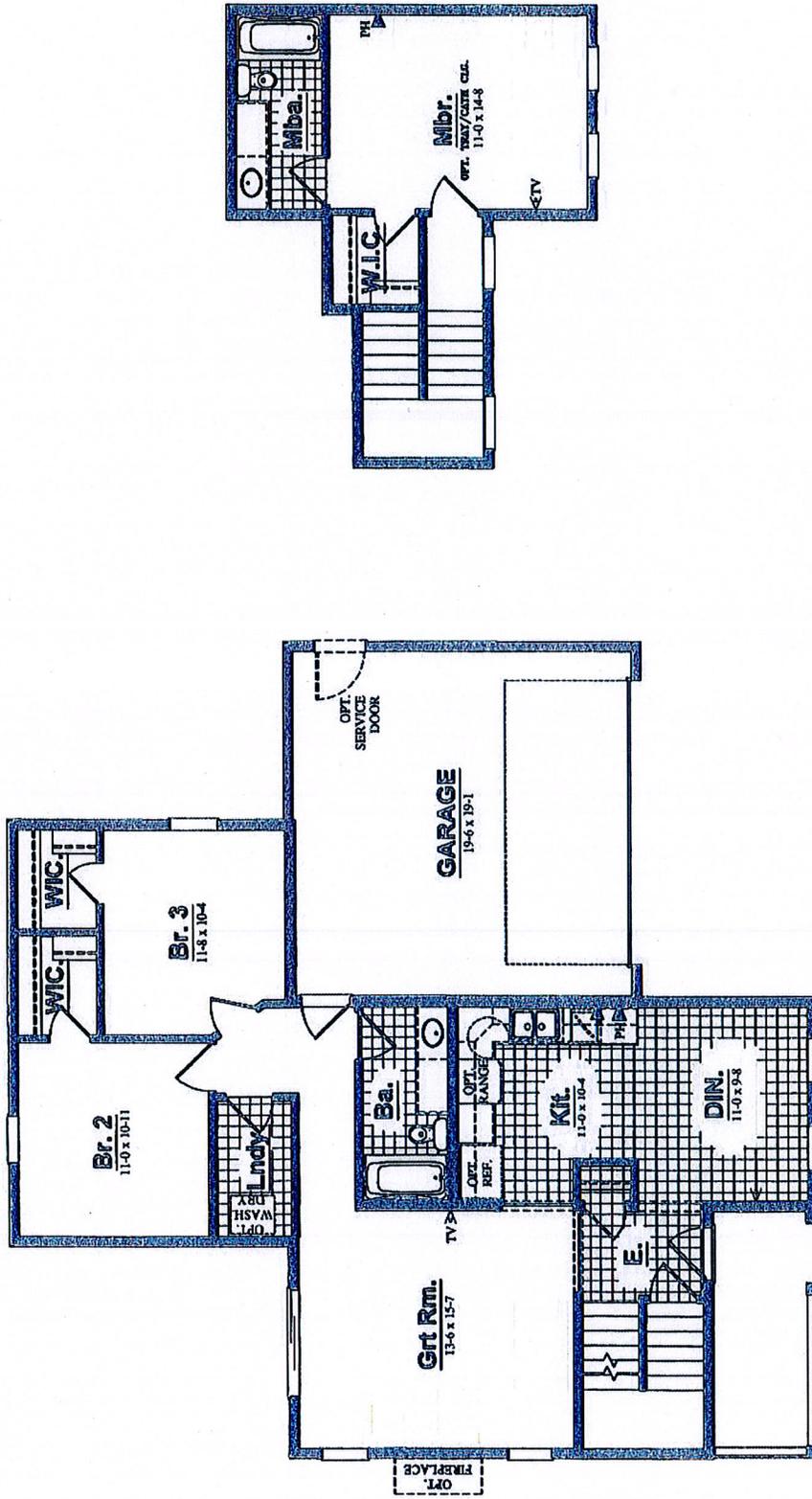
SHEET 7

SHP LLC

WISCONSIN DIVISION 414.223.5715

PLAN 1225

TOTAL LIVING: 1385 SF



RENDERINGS AND FLOOR PLANS ARE THE ARCHITECT'S CONCEPTION. DIMENSIONS AND DETAILS MAY VARY PER ELEVATION SETS IN ACTUAL PLANS & CONSTRUCTION. SOMEWHAT HOMER PLANNING LLC. RESERVES THE RIGHT TO MAKE CHANGES TO ANY DESIGN OR CONSTRUCTION WITHOUT NOTICE. ALL RIGHTS RESERVED.

SHP LLC

WISCONSIN DIVISION 414.223.5715

Exhibit C

Progress and Completion Schedule

KAT Subdivision

		Infrastructure		Home Construction	
	Lots	Start	Finish	Start	Finish
Phase #1	20	8/1/2008	1/9/2009	1/1/2009	1/1/2011
Phase #2	20	7/1/2010	12/1/2010	1/1/2011	1/1/2013
Phase #3	25	7/1/2012	12/1/2012	1/1/2013	1/1/2015
Phase #4	34	7/1/2014	12/1/2014	1/1/2015	1/1/2018
Phase #5	10	7/1/2016	12/1/2016	1/1/2018	1/1/2019

DEPARTMENT OF CITY DEVELOPMENT
625 - 52ND STREET - ROOM 308
KENOSHA, WISCONSIN 53140
(262) 653-4030
FAX (262) 653-4045
www.kenosha.org



CITY PLAN
REAL ESTATE
HISTORIC PRESERVATION
COMMUNITY DEVELOPMENT BLOCK GRANT
REDEVELOPMENT

JEFFREY B. LABAHN
Director of City Development
MEMO

TO: Mayor Keith Bosman
Members of the Common Council
Members of the Finance Committee

FROM: A. Zohrab Khaligian, Department of City Development ^{AZK}

RE: **Second Amendment to Contract of Purchase and Sale By and Between Brookstone Homes, Inc., and the City of Kenosha**

DATE: October 12, 2010

This memo is to request the adoption of the *Second Amendment to Contract of Purchase and Sale By and Between Brookstone Homes, Inc., and the City of Kenosha, Wisconsin*. If adopted, the Second Amendment would extend all remaining construction deadlines for the KAT Subdivision by one (1) year per Brookstone Home's attached request.

The original Contract of Purchase and Sale was executed on March 3, 2008 and designated that Brookstone Homes would construct a single-family home subdivision with 109 lots (Brookstone would construct 105 homes and the City would construct 4 homes) in accordance with Enclosure #1, Progress and Completion Schedule. The subdivision is located in Tax Incremental District #10 and is the only source of tax increment in the TID.

The First Amendment to the Contract was executed on November 10, 2008 due to a significant increase in Kenosha Water Utility impact fees that occurred after the original Contract was executed. To lessen the impact, the First Amendment designated that the City would construct the Phase I public infrastructure improvements instead of the Phase II public infrastructure improvements. In addition, the progress and completion schedule was modified as shown in Enclosure #2, Revised Progress and Completion Schedule.

As stated above, the Second Amendment to the Contract would extend all remaining construction deadlines of the First Amendment by one (1) year. Although the City has the right to repurchase the lots in those phases where construction has not been initiated, the Department of City Development recommends the adoption of the Second Amendment. City Development recommends adoption because it concurs with the problems that Brookstone Homes is experiencing and their proposed remedy, and the final completion date shown in Enclosure #3, Revised Progress and Completion Schedule, does not extend past the final completion date of the original progress and completion schedule.

Please contact me at 653-4030 if you have any questions.

AZK:kas
Attachment



Brookstone Homes

September 28, 2010

Mr. Zohrab Kaligian
City of Kenosha
625 52nd Street
Kenosha, WI 53140

Re: Grandview Meadows (KAT)

Dear Zohrab,

As you have probably noticed, we are almost officially behind our schedule for sales and construction at Grandview Meadows. Our agreement with the City requires completion of the nineteen homes in Phase I by December 15, 2010. With six lots remaining in this phase, it is unlikely that we will complete the final homes by year end.

The problem we are facing at Grandview Meadows is that we have been unable to realize the sales prices that we need to successfully develop the entirety of this project. I believe that we have demonstrated a firm commitment to this project by keeping three to four spec homes in this development at all times. Although the homes are eventually selling, the sales have been aided by Brookstone's discounts and Kenosha's financing program.

Despite these problems, we are still optimistic that this project will rebound. We believe the most appropriate strategy is to continue selling spec homes into the market, albeit at a slower pace. We request an amendment to the Developers Agreement to move all deadlines back one year to help facilitate this strategy.

Please contact me with any questions or comments regarding this matter or to schedule a meeting to discuss our progress.

Sincerely,

Steve DeCleene
Executive Vice President
Brookstone Homes, Inc.
1230 Corporate Center Drive
Oconomowoc, WI 53066

1230 Corporate Center Drive
Suite 200
Oconomowoc, WI 53066
262.567.5700
1.800.NEW.HOME
FAX 262.567.7228

www.brookstonehomes.com

ENCLOSURE #1

Original Contract Progress and Completion Schedule KAT Subdivision

	Lots	Infrastructure		Home Construction	
		Start	Finish	Start	Finish
Phase #1	20	08/01/08	01/09/09	01/01/09	01/01/11
Phase #2	20	07/01/10	12/01/10	01/01/11	01/01/13
Phase #3	25	07/01/12	12/01/12	01/01/13	01/01/15
Phase #4	34	07/01/14	12/01/14	01/01/15	01/01/18
Phase #5	10	07/01/16	12/01/16	01/01/18	01/01/19
Total	109				

ENCLOSURE #2

First Amendment Revised Progress and Completion Schedule KAT Subdivision

	Lots	Infrastructure		Home Construction	
		Start	Finish	Start	Finish
Phase #1	19	04/15/09	08/15/09	09/01/09	12/15/10
Phase #2	21	04/15/11	08/15/11	09/01/11	02/15/13
Phase #3	25	12/15/12	04/15/13	04/15/13	12/15/14
Phase #4	34	10/15/14	04/15/15	04/15/15	04/15/17
Phase #5	10	02/15/17	04/15/17	04/15/17	12/15/17
Total	109				

ENCLOSURE #3

Second Amendment Revised Progress and Completion Schedule KAT Subdivision

	Lots	Infrastructure		Home Construction	
		Start	Finish	Start	Finish
Phase #1	19	04/15/09	08/15/09	09/01/09	12/15/11
Phase #2	21	04/15/12	08/15/12	09/01/12	02/15/14
Phase #3	25	12/15/13	04/15/14	04/15/14	12/15/15
Phase #4	34	10/15/15	04/15/16	04/15/16	04/15/18
Phase #5	10	02/15/18	04/15/18	04/15/18	12/15/18
Total	109				

**SECOND AMENDMENT TO
CONTRACT OF PURCHASE AND SALE**

By And Between

**BROOKSTONE HOMES, INC
A Wisconsin Corporation**

And

**THE CITY OF KENOSHA, WISCONSIN,
A Wisconsin Municipal Corporation,**

THIS SECOND AMENDMENT is made and entered into by and between **BROOKSTONE HOMES, INC**, a Wisconsin corporation, and **THE CITY OF KENOSHA, WISCONSIN**, a Wisconsin municipal corporation.

WITNESSETH:

WHEREAS, a Contract of Purchase and Sale was entered into on March 3, 2008 ("**Contract**"), by and between **BROOKSTONE HOMES, INC** ("**BUYER**"), and **THE CITY OF KENOSHA, WISCONSIN**, ("**SELLER**"); and,

WHEREAS, pursuant to the terms of the Contract, **BUYER** was to purchase and develop certain real estate, as more particularly set forth in the Contract and further described in Exhibit "A" (the "**Property**"); and,

WHEREAS, on November 26, 2008, **BUYER** purchased the Property, with the exception of four (4) parcels to be developed by **SELLER**, for the sum of Eighty One Thousand (\$81,000.00) Dollars; and,

WHEREAS, prior to the purchase of the Property, a First Amendment to the Contract was executed by **BUYER** and **SELLER** with an effective date of November 10, 2008; and

WHEREAS, pursuant to the terms of the First Amendment, **BUYER** was to develop nineteen (19) single family homes by December 15, 2010 in accord with the Revised Progress and Completion Schedule attached as Exhibit "C" to the First Amendment to the Contract; and,

WHEREAS, development of Phase I was commenced but will not be completed by December 15, 2010; and,

WHEREAS, **SELLER** has the right to enforce various remedies under the Contract, including the right to repurchase parcels which were not developed in a timely manner, but has not to date asserted those rights; and,

WHEREAS, the parties are agreeable to an extension of time for **BUYER** to complete Phase I and all subsequent phases.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained therein, together with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between the undersigned as follows:

1. Extension. **BUYER** shall have until December 15, 2011, to complete the development of nineteen (19) single family homes in Phase I of the Progress and Completion Schedule. In addition, **BUYER** shall have one (1) additional year to complete subsequent phases.

The Progress and Completion Schedule attached as Exhibit "C" to the First Amendment of the Contract is deleted and replaced with the following:

	Lots	Infrastructure		Home Construction	
		Start	Finish	Start	Finish
Phase #1	19	04/15/09	08/15/09	09/01/09	12/15/11
Phase #2	21	04/15/12	08/15/12	09/01/12	02/15/14
Phase #3	25	12/15/13	04/15/14	04/15/14	12/15/15
Phase #4	34	10/15/15	04/15/16	04/15/16	04/15/18
Phase #5	10	02/15/18	04/15/18	04/15/18	12/15/18
Total	109				

2. Recording. The parties agree that this Second Amendment of the Contract, or a memorandum thereof, shall be recorded at the Office of the Register of Deeds for Kenosha County and the covenants and agreements contained herein shall run with the land and be binding upon heirs, assigns, legal representatives and successors to the parties hereto.

3. Exhibits. The following Exhibits are attached hereto and incorporated herein by reference:

- a. Exhibit "A" - General Property & Legal Description.
- b. Exhibit "B" - Phasing Map.
- c. Exhibit "C" - Revised Progress and Completion Schedule

4. Waiver. No extension of time, forbearance, neglect or waiver by a party to this Contract with respect to any one or more of the covenants, terms or conditions of this Contract shall be construed as a waiver of any of the other covenants, terms or conditions of this Contract, nor shall any extension of time, forbearance or waiver by a party hereto in any one or more instance or particulars to be a waiver or act as an estoppel with respect to any other instance or particular covered by this Contract.

5. Effective Date. This Amendment shall be effective on the date of last execution by a party hereto (the "Effective Date").

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized officers, sealed, and delivered as of the day and year first above written.

BROOKSTONE HOMES, INC.
A Wisconsin Corporation

By: _____
SCOTT B. THISTLE, President
Date: _____

STATE OF WISCONSIN)
:SS.
COUNTY OF WAUKESHA)

Personally came before me this _____ day of November, 2010, **SCOTT B. THISTLE**, the President of **BROOKSTONE HOMES, INC.**, a Wisconsin corporation, to me known to be such President of said corporation and acknowledged to me that he executed the foregoing instrument as such President as the agreement of said corporation, by its authority.

Notary Public, Waukesha County, WI.
My Commission expires/is: _____

PRELIMINARY PLAT OF K. A. T. SUBDIVISION

BEING A REVISION OF PART OF LOT 2 AND ALL OF LOT 3 OF CERTIFIED SURVEY MAP NO. 2480, RECORDED AS DOCUMENT NO. 14474881 OF PART OF PARCELS 1 AND 2 OF CERTIFIED SURVEY MAP NO. 1856, RECORDED AS DOCUMENT NO. 10088811 OF PART OF THE LAND RECORDED IN WARREN COUNTY, MISSOURI, PLAT 141 ON FEBRUARY 10, 1939; AND OF ALL OF THE LAND RECORDED AS PARCEL 11 IN VARIETY CITY, MISSOURI, DOCUMENT 1001878 ON NOVEMBER 4, 1938; ALL BEING RECORDED WITH THE WARREN COUNTY REGISTER OF DEEDS OFFICE, AND ALL BEING IN THE SOUTHWEST QUARTER OF SECTION 28, TOWN 2 NORTH, RANGE 28 EAST OF THE FOURTH PRINCIPAL MERIDIAN IN THE CITY OF KENOSHA, WARREN COUNTY, MISSOURI.



NORTH ARROW AND BEARINGS ON THIS PLAT REFER TO GRID NORTH, MISSOURI STATE PLUMB COORDINATE SYSTEM, SOUTH ZONE 1242-27, AND ARE BASED ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 28, TOWN 2 NORTH, RANGE 28 EAST AS BEING 89°30'34" W.

SEE LEGEND AND NOTES ON SHEET 2 OF 3

07-222-23-318-003

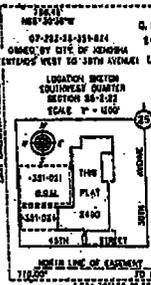
07-222-23-327-001

REMAINDER OF WEST PART OF 30TH AVENUE NORTH OF LOT 1 IS BEING ACQUIRED BY THE CITY OF KENOSHA.

EXHIBIT "A"



CROSS-HATCHING
DENOTES
LOTS 20, 40, 64, 90
AND
OUTLOTS 1, 2 AND 3
WHICH ARE TO
BE RETAINED BY THE
CITY OF KENOSHA.



REMAINDER OF STREET RIGHT-OF-WAY IS BEING ACQUIRED BY THE CITY OF KENOSHA.

07-222-23-321-002

07-222-23-322-001

07-222-23-323-001

07-222-23-324-001

07-222-23-325-001

07-222-23-326-001

07-222-23-327-001

07-222-23-328-001

07-222-23-329-001

07-222-23-330-001

07-222-23-331-001

07-222-23-332-001

07-222-23-333-001

07-222-23-334-001

07-222-23-335-001

07-222-23-336-001

07-222-23-337-001

07-222-23-338-001

07-222-23-339-001

07-222-23-340-001

07-222-23-341-001

07-222-23-342-001

07-222-23-343-001

07-222-23-344-001

07-222-23-345-001

07-222-23-346-001

07-222-23-347-001

07-222-23-348-001

07-222-23-349-001

07-222-23-350-001

Exhibit "A"
Legal Description

Lots 1 thru 19, 21 thru 39, 41 thru 63, 65 thru 89, 91 thru 109 and Outlot 4 in K.A.T. Subdivision, being a redivision of all of Lot 2 and Lot 3 of Certified Survey Map No. 2490, recorded as Document No. 1447452; of part of Parcel I and all of Parcel II of Certified Survey Map No. 1854, recorded as Document No. 1006351; of part of the land recorded in Warranty Deed, Volume 53, page 141 on February 10, 1903; and all of the land recorded with the Kenosha Register of Deeds office, and being in the Northeast Quarter, the Northwest Quarter, the Southeast Quarter and the Southwest Quarter, all in the Southwest Quarter of Section 25, Town 2 North, Range 22 East of the Fourth Principal Meridian. Said land lying and being in the City of Kenosha, Kenosha County, Wisconsin.

Revised Exhibit "C"
Progress and Completion Schedule
KAT Subdivision

	Lots	Infrastructure		Home Construction	
		Start	Finish	Start	Finish
Phase #1	19	04/15/09	08/15/09	09/01/09	12/15/11
Phase #2	21	04/15/12	08/15/12	09/01/12	02/15/14
Phase #3	25	12/15/13	04/15/14	04/15/14	12/15/15
Phase #4	34	10/15/15	04/15/16	04/15/16	04/15/18
Phase #5	10	02/15/18	04/15/18	04/15/18	12/15/18
Total	109				

**City of Kenosha Developers Agreement
By and Between Brookstone Homes, Inc. and
the City of Kenosha, Wisconsin
and the Kenosha Water Utility
(KAT Subdivision)**

This Developers Agreement, hereinafter referred to as **AGREEMENT**, is made by and between Brookstone Homes, Inc., hereinafter referred to as **DEVELOPER**, the City of Kenosha, a municipal corporation of the State of Wisconsin, located in Kenosha County, Wisconsin, hereinafter referred to as **CITY**; and the Kenosha Water Utility, hereinafter referred to as **UTILITY**.

WHEREAS, DEVELOPER will be the owner of approximately 29.77 acres of real estate in City, which is legally described on Exhibit "A", which is attached hereto and made a part hereof, hereinafter referred to as **REAL ESTATE**; and

WHEREAS, DEVELOPER desires to subdivide and develop **REAL ESTATE** for single-family residential purposes and Outlot #4 for stormwater detention and except for Outlots #1, #2 and #3, which shall be retained by the City; and

WHEREAS, REAL ESTATE is zoned RS-2 at the time of execution of this **AGREEMENT**, which zoning permits the development set forth in this **AGREEMENT**; and

WHEREAS, the Plan Commission of **CITY** has recommended to the Common Council and the Common Council of **CITY** has approved a Final Plat of subdivision of **REAL ESTATE** on the condition that **DEVELOPER** enter into **AGREEMENT** relative to the manner and method by which **REAL ESTATE** is to be developed subject to the guidelines of **AGREEMENT**; and

WHEREAS, UTILITY is the accepting and approving agency for **CITY** with respect to sanitary sewerage and water supply systems for **REAL ESTATE**, and **UTILITY** is willing to approve the provision of sanitary sewerage and water supply to **REAL ESTATE** subject to the terms and conditions of **AGREEMENT**; and

WHEREAS, DEVELOPER agrees to develop **REAL ESTATE** as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual promises and undertakings of the parties, including the approval by **CITY** of a Final Plat of subdivision of **REAL ESTATE** and the provision of **UTILITY** of sanitary sewerage and water supply, and the agreement of **DEVELOPER** to subdivide and develop **REAL ESTATE**, the parties agree that **REAL ESTATE** will be developed as hereinafter provided.

I. IMPROVEMENTS AND DESIGN STANDARDS

A. Streets

1. **DEVELOPER** shall at its cost and expense grade, gravel and pave all streets in **REAL ESTATE**, except for 40th Street and 34th Avenue from 45th Street to 44th Street, which shall be constructed by and at the expense of **CITY**, in accordance with the street layout and Phasing Plan indicated in the Final Plat of Subdivision, attached hereto as Exhibit "B", and in accordance with the Street Layout Plan, attached hereto as Exhibit "C". All streets shall be improved with Portland cement concrete curb and

gutter and with a pavement of bituminous concrete or Portland cement concrete pavement with integral curb in accordance with **CITY** standards.

2. Street constructions, which shall be phased, shall be completed and presented to **CITY** for acceptance in accordance with the Street Layout and Phasing Plan, Exhibit "C" and completion schedule, Exhibit "J".
3. **CITY** shall accept all streets and right-of-way lying within the Final Plat of subdivision upon (i) completion, in accordance with approved plans and specifications, (ii) construction and delivery without defect, damage, or nonconformity, (iii) delivery to **CITY** of a certified reproducible mylar "as-built" drawing, and in digital form acceptable to the **CITY**; and (iv) receipt of lien waivers from all contractors. Said acceptance of said streets and rights-of-way shall be upon recommendation of City Engineer, Board of Public Works, and formal action by the Common Council. The City Engineer shall inspect said streets without unreasonable delay, upon request by **DEVELOPER**, and issue written notice to **DEVELOPER** to correct any defect, damage, or nonconformity which may be discovered. Streets found to contain any defect, damage or nonconformity shall be reinspected by the City Engineer and shall not be accepted until corrective action is taken. Upon acceptance by **CITY**, **CITY** shall have full jurisdiction and ownership of said streets for all intents and purposes and be responsible for the maintenance of said streets, subject to the coverage of express warranties of **DEVELOPER** provided herein.
4. **DEVELOPER** shall provide easements for utilities: (a) having a minimum width of ten (10) feet adjacent to both sides of the street right-of-way where required by **CITY**, **UTILITY**, or applicable utilities; (b) having a minimum width of five (5) feet on rear lot lines, and (c) having a minimum width of five (5) feet on all interior lot lines where required by **CITY**, **UTILITY**, or applicable utilities. Easements shall be indicated on any Final Plat of subdivision and utility plans. Required easements may be modified or terminated only in the event that **CITY**, **UTILITY**, and other appropriate utilities determine that said easement(s), in full or part, are not required to provide essential service. **DEVELOPER** shall provide easements for **UTILITY** as required with a minimum width of twenty (20) feet for water mains and thirty (30) feet for sanitary sewers. **UTILITY** may require forty (40) foot wide easements for deep sewers.
5. **DEVELOPER** shall grade, gravel and construct the binder course on all streets within the Final Plat prior to the issuance of any building permit by **CITY** for any lot within the development phase.
6. **DEVELOPER** shall not conduct any street paving or curb and gutter after November 15th of any calendar year without express written approval of the City Engineer, and no paving work will be permitted after December 1st of any calendar year. Construction may commence after April 1st with the approval of the City Engineer.
7. **DEVELOPER** shall construct streets as depicted in Exhibit "C", except for 40th Street and 34th Avenue from 44th Street to 45th Street, which shall be constructed by **CITY**. All streets shall be constructed to **CITY** requirements.

8. **DEVELOPER** shall construct a temporary cul-de-sac or turnaround when an interim dead end street exceeds 150 feet in length. **DEVELOPER** shall design and construct said temporary cul-de-sac or turnaround in conformance with AASHTO (American Association of State Highway Transportation Officials) standards. Such cul-de-sacs or turnarounds can be located beyond the limits of the **REAL ESTATE**, subject to the recording of an easement authorizing their placement on the adjacent property. Otherwise, if any cul-de-sac or turnaround is located within any platted lot within **REAL ESTATE**, no building permit shall be issued for said lots until the permanent street improvements are constructed.

B. Design Standards

1. The following design standards shall govern the single-family development of **REAL ESTATE**
 - a. A two-car garage not less than four hundred forty (440) square feet in area shall be provided for each residential unit. Each residential lot shall have a paved driveway having a minimum width of eighteen (18) feet and a paved apron and approach.
 - b. Maximum impervious surface coverage on an individual lot shall be in accordance with Section 3.03 of the City Zoning Ordinance.
 - c. **DEVELOPER** shall obtain all applicable permits from the **CITY** and the Kenosha County Highway Department.
 - d. All residences constructed upon **REAL ESTATE** shall comply with Section 9.10 of the Code of General Ordinances, entitled, "Exterior Building Variation for One- and Two-Family Residential Housing Units."
 - e. All homes shall comply with the RS-2 design standards referenced in Section 3.05 of the Zoning Ordinance or as in effect at time of the issuance of a building permit.

C. Sidewalks

1. **DEVELOPER** except as hereafter provided, shall construct and install, at its cost and expense, sidewalks in **REAL ESTATE**, in accordance with the Final Plat of Subdivision, attached hereto as Exhibit "B" and in accordance with the Street Layout and Phasing Plan, attached hereto as Exhibit "C". The sidewalks shall be five (5) feet in width, using 4 inches of Portland cement concrete over a 2 inch aggregate base, along both sides of each street, except that portion of sidewalk running through the driveway approach which should be 6" thick. Sidewalks shall be installed prior to occupancy of residential units, where practical, but not later than six (6) months from the date of occupancy of each residential unit served thereby. In the event the sidewalk is not installed prior to issuance of a certificate of occupancy, the owner of a residential unit other than **DEVELOPER**, shall provide **CITY** with an assurance in an amount determined by the City Engineer. The **CITY** shall install sidewalks along Outlot #2, along both sides of 34th Avenue, south of Lot #109 and along

the retention basin.

2. **CITY** shall accept all such sidewalks located in the public right-of-way or in any easement lying within **REAL ESTATE** upon (i) completion in accordance with plans and specifications, (ii) construction and delivery without defect, damage, or non-conformance, (iii) delivery to **CITY** of a certified reproducible mylar "as built" drawing and in digital form acceptable to the **CITY**, and (iv) receipt of lien waivers from all contractors. Said acceptance of sidewalks shall be upon recommendation of the Director of Public Works, Board of Public Works and formal action by the Common Council. The Director of Public Works shall inspect said sidewalks without unreasonable delay upon request by **DEVELOPER** and issue written notice to **DEVELOPER** to correct any defects, damage, or nonconformity which may be discovered. Sidewalks found to contain any defect, damage or nonconformity shall be reinspected by the Director of Public Works and shall not be accepted until corrective action is taken.

D. Sanitary Sewerage System

1. **DEVELOPER** shall construct, furnish, install and provide, at its cost and expense, a complete sanitary sewerage system in phases throughout **REAL ESTATE**, including the mains and appurtenances which abut land dedicated for any public purpose, in accordance with Sanitary Sewer Plan attached hereto as Exhibit "D", and in accordance with approved specifications. Said system shall be approved by the Wisconsin Department of Natural Resources. Copies of WDNR approvals shall be provided to **UTILITY**. The **CITY** shall be responsible for sanitary sewer construction in 40th Street and within the 34th Avenue right-of-way south of 44th Street
2. Phased sanitary sewer construction for Final Plat of subdivision shall commence within the timeline specified within the completion schedule, Exhibit "J".
3. **CITY** and **UTILITY** shall assist **DEVELOPER** in obtaining the right to make connections to **UTILITY'S** sanitary sewerage system.
4. **UTILITY** shall allow **DEVELOPER** to extend and connect its sanitary sewerage system to the sanitary sewerage system of **UTILITY** which will serve **REAL ESTATE** at the cost and expense of **DEVELOPER**, subject to payments, permits and other fees required under any special assessment or other applicable ordinances or regulations enacted and applied on an equal and nondiscriminatory basis. **CITY** and **UTILITY** shall cooperate with **DEVELOPER** in obtaining all necessary permits required from the United States of America, State of Wisconsin, and County of Kenosha for such sanitary sewerage systems, extensions, and connections.
5. **UTILITY** shall accept all sanitary sewerage systems located in the public right-of-way or in any easement lying within **REAL ESTATE** upon (i) completion in accordance with approved plans and specifications, (ii) construction and delivery without defect, damage or non-conformance, (iii) delivery to **UTILITY** of certified copies of all tests of sanitary sewerage

system and a certified reproducible mylar "as-built" drawing thereof and in digital form on Intergraph Microstation format (or DXF) on 3.5" MS-DOS diskettes or CD-ROM (iv) receipt of lien waivers from all contractors, and (v) certification by **UTILITY** Engineer of the above. Said acceptance shall be subject to approval by the Board of Water Commissioners. The **UTILITY** Engineer shall inspect said sanitary sewerage system without unreasonable delay upon request by **DEVELOPER** and issue written notice to **DEVELOPER** to correct any defect, damage or nonconformity which may be discovered. Any element of the sanitary sewerage system found to contain any defect, damage or nonconformity shall be reinspected by the **UTILITY** Engineer after repair by **DEVELOPER** and shall not be accepted until corrective action is taken. **DEVELOPER** shall be responsible for operation and maintenance until accepted by **UTILITY**. Upon acceptance by **UTILITY**, **UTILITY** shall be responsible for the operation and maintenance of said sanitary sewerage system.

6. Sanitary sewer service shall be subject to applicable user and impact fees.

E. Water

1. **DEVELOPER** shall construct, furnish, install and provide at its cost and expense a complete system of water distribution throughout **REAL ESTATE**, including the mains and appurtenances which abut land dedicated for any public purpose, in accordance with the Water Main Plan, attached hereto as Exhibit "E", and in accordance with approved specifications. Said system shall be approved by the Wisconsin Department of Natural Resources. **CITY** shall install water within 40th Street and within 34th Avenue, south of 44th Street.
2. Water distribution system construction, which shall be phased, shall commence as noted in the completion schedule, Exhibit "J".
3. **CITY** and **UTILITY** shall assist **DEVELOPER** in obtaining the right to make connections to **UTILITY'S** water supply system.
4. **UTILITY** shall allow **DEVELOPER** to extend and connect its water system to the water system of **UTILITY** which will serve **REAL ESTATE** at the cost and expense of **DEVELOPER**, subject to payments, permits and other fees as required under any special assessment or other applicable ordinances or regulations enacted and applied on an equal and nondiscriminatory basis.
5. **UTILITY** shall accept all such water distribution system located in the public right-of-way or in any easement lying within **REAL ESTATE** upon (i) completion in accordance with approved plans and specifications, (ii) construction and delivery without defect, damage or non-conformance, (iii) delivery to **UTILITY** of certified copies of all tests of the water distribution system and a certified reproducible mylar "as-built" drawing thereof and in digital form on Intergraph Microstation format (or DXF) on 3.5" MS-DOS diskettes or CD-ROM, (iv) receipt of lien waivers from all contractors, and (v) certification by **UTILITY** Engineer of the above. Said acceptance shall be subject to approval by the Board of Water

Commissioners. **UTILITY** Engineer shall inspect said water distribution system without unreasonable delay upon request by **DEVELOPER** and issue written notice to **DEVELOPER** to correct any defect, damage or nonconformity which may be discovered. Any element of the water distribution system found to contain any defect, damage or nonconformity shall be repaired by **DEVELOPER** and reinspected by **UTILITY** Engineer and shall not be accepted until corrective action is taken. **DEVELOPER** shall be responsible for operation and maintenance until accepted by **UTILITY**. Upon acceptance by **UTILITY**, **UTILITY** shall be responsible for the operation and maintenance of said water distribution system.

6. Water service shall be subject to payment of applicable user charges.

F. Storm and Surface Water Drainage

1. **DEVELOPER** shall construct, furnish, install, and provide at its cost and expense adequate facilities for storm and surface water drainage throughout **REAL ESTATE**, including the facilities which abut land dedicated or acquired for any public purpose. Storm and surface water drainage shall be in accordance with any applicable master plan for the area served, in accordance with the Stormwater Management Plan attached hereto as Exhibit "F" and Storm Sewer Plan attached hereto as Exhibit "G", and in accordance with **CITY** criteria for design of storm sewers. Sump pump discharge lines shall be installed and connected to the storm sewer in accordance with Section 5.115 of the Code of General Ordinances. Sump pump laterals shall terminate inside the house with a clean out. Where the sump pump discharge line will be connected to the storm sewer, no part of the line shall have less than two (2) feet of earth cover with insulation or three (3) feet of earth cover without insulation. **DEVELOPER** shall provide **CITY** with density test to certify proper compaction of trench backfill.

Tracer wires shall be installed on all storm sewer mains and laterals including sump pump laterals per City of Kenosha specifications.

2. **CITY** shall assist **DEVELOPER** in obtaining the right to make connections and in procuring easements to **CITY'S** nearest appropriate and available storm sewer or drainage system and in allowing **DEVELOPER** to connect to any future storm sewer or drainage system of **CITY**, which is constructed to serve **REAL ESTATE**
3. All portions of the **REAL ESTATE** designated as retention basins and outlet structures located in Outlot #4 shall either be retained by **DEVELOPER** or assigned to an owner's association.

DEVELOPER or the owner's association, shall be responsible for maintenance, replacement or repair of all retention basins, storm and surface water conveyance system and outlet structures lying within **REAL ESTATE**, excepting those on public rights-of-way and shall provide **CITY** with a Maintenance Agreement. The **CITY'S** storm water utility district shall be responsible for any dredging of the basin if required. **CITY** and **UTILITY** shall review and approve of any owners association prior to final acceptance of the storm and surface water drainage system.

DEVELOPER, prior to transfer to an owners association, shall provide **CITY** with a maintenance easement for the storm and surface water drainage system not located within public rights-of-way and the **CITY** may specially assess benefited property for any service performed. **CITY** shall assume all control and maintenance responsibility for storm sewers in any public right-of-way upon approval and acceptance of completed improvements. Maintenance and payment of all future taxes and special assessments for Outlot #4 shall be the responsibility of the homeowners association and/or owners of Lots 1 - 109 of the Final Plat.

DEVELOPER shall install a spray pump aerating fountain in the detention basin and operate it during mild weather. (Approximately May through October). The Cost of installation, operation and maintenance shall be the responsibility of the **DEVELOPER** or Home Owners Association.

4. **CITY** shall approve all such storm and surface water drainage facilities, including storm and surface water conveyance systems, located in the public right-of-way or in any easement lying within **REAL ESTATE** upon (i) completion in accordance with approved plans and specifications, (ii) construction and delivery without defect, damage or non-conformance, (iii) delivery to **CITY** of certified copies of all tests of storm sewer system and a certified reproducible mylar "as-built" drawing and in a digital form acceptable to the **CITY**, (iv) receipt of lien waivers from all contractors, and (v) certification by City Engineer of the above. Approval of the storm and surface water drainage facilities shall be upon recommendation by the City Engineer, Board of Public Works and formal action by the Common Council. The City Engineer shall inspect said storm and surface water drainage facilities without unreasonable delay upon request by **DEVELOPER** and issue written notice to correct any defect, damage or nonconformity which may be discovered. Any element of the storm and surface water drainage system found to contain any defect, damage or nonconformity shall be reinspected by the City Engineer and shall not be accepted until corrective action is taken. Upon acceptance by **CITY**, **CITY** shall be responsible for the operation and maintenance of said storm and surface water drainage facilities lying within the public rights-of-way within said **REAL ESTATE**, subject to the Indemnity and Hold Harmless Agreement of **DEVELOPER** herein provided. **CITY** may specially assess benefited property or initiate a user fee for the cost of maintenance thereof.

5. Storm and surface water conveyance systems shall meet **CITY'S** current requirements. **DEVELOPER** shall submit plans, specifications, and calculations for such storm and surface water drainage system to City Engineer and obtain written approval therefrom prior to construction.

DEVELOPER or Home Owners Association shall be responsible for the maintenance, replacement or repair of all storm and surface water conveyance systems required for the development of property lying within **REAL ESTATE** excepting those on public rights-of-way. **CITY** shall assume all control and maintenance responsibility for storm sewers in any public right-of-way upon approval and acceptance of completed improvements.

6. Storm and surface water which flows onto any abutting private property may be tied into existing drain tiles, if available, at the perimeter of **REAL ESTATE** with the permission of the abutting property owner where approved by the City Engineer.
7. **DEVELOPER** shall, during the term of **AGREEMENT**, indemnify, defend, and hold harmless **CITY**, **UTILITY**, and officers and employees thereof from and against any and all claims, damages, judgments, costs, expenses, and attorneys' fees which any of them may pay, sustain or incur should any person or party incur property loss or damage arising out of the construction of the storm and surface water drainage system, provided that the legal counsel representing any indemnified person or party shall be selected by **DEVELOPER**, and provided further, that **CITY** and **UTILITY** shall cooperate with **DEVELOPER**, and provided further, that **CITY** and **UTILITY** shall cooperate with **DEVELOPER** and **DEVELOPER'S** legal counsel in defending against any such claim. **CITY** and **UTILITY** shall be permitted to assist in the defense of any such claim.
8. **DEVELOPER** can mass grade **REAL ESTATE** upon execution of this **AGREEMENT** by all parties, obtaining Final Plat approval by **CITY**, and posting all required assurances. All lots not to be immediately built on must be stabilized with seeding and mulch within seven (7) days of the completion of grading of these lots.

G. Landscaping

1. **DEVELOPER** shall at its cost and expense, furnish, install, and provide landscaping for Final Plat of subdivision within **REAL ESTATE** in conformity with the Tree Planting Plan attached hereto as Exhibit "H". Said landscaping shall be installed and presented to the **CITY** for acceptance prior to or concurrent with the street improvements stipulated in Section I.A.2. of **AGREEMENT**. **DEVELOPER** shall be responsible to water and maintain street trees for thirty (30) days after installation.
2. **DEVELOPER** shall remove and lawfully dispose of all rubbish, barns and outbuildings, dead trees, branches, brush, tree trunks, shrubs, and other natural growth that are inconsistent with approved plans.
3. **DEVELOPER** shall supply and install six (6) inches of topsoil in all lawn parks to bring lawn parks up to final grade.
4. **DEVELOPER** shall protect existing trees within **REAL ESTATE** in accordance with Section 34.10 of the Code of General Ordinances.

H. Street Lamps

1. **DEVELOPER** shall, at its cost and expense, install or contract with WE Energies for installation of street lamps within **REAL ESTATE** as recommended by the Traffic Engineer in accordance with the Street Lighting Plan, Exhibit "I". Said street lighting shall be installed and presented to the **CITY** for acceptance prior to or concurrent with the street improvements stipulated in Section I.A.2. of **AGREEMENT**. Cost of street lamp operation shall be the responsibility of **CITY**. Poles and fixtures shall

be of a type approved by the CITY. The use of wood poles for lighting is prohibited.

I. Street Signs, Regulatory Signs, Traffic Signals

1. **DEVELOPER** shall reimburse **CITY** in an amount equal to its actual cost of the materials for and installation of street name signs at all intersections within the subdivision within thirty (30) days after being billed therefor. Street designations shall be in numeric sequence as determined by **CITY**.
2. **DEVELOPER** shall reimburse **CITY** in an amount equal to its actual cost of materials and installation of all regulatory signs required by **CITY** within the subdivision, within thirty (30) days after being billed therefor.

J. Driveways and Approaches

1. **DEVELOPER** shall construct a driveway and approach for each residential unit within **REAL ESTATE** at its cost and expense. The portion between the sidewalk and curb (approach) shall be a six (6) inch Portland cement concrete surface course in accordance with City ordinances. Paving bricks having a minimum thickness of four (4) inches are an acceptable alternative for driveways. The driveway and approach shall be installed prior to occupancy where practical, but not later than six (6) months from the date of occupancy of each residential unit served thereby. In the event the driveway and approach are not paved prior to issuance of a certificate of occupancy, the owner, if other than **DEVELOPER**, shall provide **CITY** with an assurance in an amount determined by City Engineer.

K. Grading

1. **DEVELOPER** shall, at its cost and expense, grade all streets to within six inches sub-grade and submit an "as-built" plan for approval by **CITY** prior to installation of any utilities. All lots shall be graded to within six inches of final grade at the lot lines and the interior of the lots must be graded to drain with no area at less than a 0.50% grade. Stabilization of the interior lot areas by seeding and mulching shall be done within seven (7) days of grading and "as-built" Grading Plan shall be submitted for approval by **CITY** and is subject to verification by **CITY** prior to the issuance of any building permits. **DEVELOPER** shall grade **REAL ESTATE** in conformity with the Stormwater Management Plan attached hereto as Exhibit "F" and Storm Sewer Plan attached hereto as Exhibit "G".

L. Construction Management

1. **DEVELOPER** shall obtain permits and comply with the requirements of Chapter XXXIII of the Code of General Ordinances entitled, "Construction Site Maintenance and Erosion Control Code". Stockpiles of topsoil shall be identified on Grading Plan for any total plat of subdivision for a term as specified by **CITY**.

All erosion and sediment controls shall be maintained and inspected by the **DEVELOPER** at least weekly and within 24 hours after a rainfall event

of 0.5 inches or greater. A rainfall event shall be considered to be the total amount of rainfall recorded in any continuous 24 hour period. The **DEVELOPER** shall maintain a monitoring record that contains information on the condition of the erosion and sediment control practices at the intervals stated above, and a description of the maintenance conducted to repair or replace erosion and sediment control practices. The monitoring record shall be made available to the **CITY** on demand.

2. **CITY** and/or **UTILITY** shall provide engineering and inspection services during the installation of water, sanitary sewer, storm sewer, drainage, paving and sidewalk construction for adherence to approved plans and specifications. The cost of the inspection shall be billed to **DEVELOPER** who shall pay the bill within thirty (30) days of receipt. This inspection shall not relieve **DEVELOPER**, **DEVELOPER'S** engineer, or **DEVELOPER'S** contractor from their responsibility to install the infrastructure to proper horizontal and vertical alignment as shown on the approved plans or from providing "as-built" plans. Any and all testing services deemed necessary by **CITY** and/or **UTILITY** shall be performed by and paid for by **DEVELOPER**
3. **UTILITY** Engineering Services Division reserves the right to hire outside testing services if proper testing is not being performed or the results of the testing does not conclusively determine the property completion of the work covered under Sections 1.D and 1.E. of the **AGREEMENT**. **DEVELOPER** shall reimburse **UTILITY** for all costs for outside testing services.
4. **DEVELOPER** shall complete a tv inspection of the completed sanitary sewer system. The tv inspection shall be performed by an inspection service acceptable to the **UTILITY**. Video tapes and written logs of all sanitary sewer inspections shall be submitted to **UTILITY** for review. Any repairs or cleaning identified by the tv inspection shall be promptly performed by the **DEVELOPER** and the effected area re-televised.
UTILITY reserves the right to perform the tv inspection of the sanitary sewer system with **DEVELOPER** reimbursing the **UTILITY** for the cost of inspection.
5. **CITY** reserves the right to hire outside testing services if proper testing is not being performed or the results of the testing does not conclusively determine the proper completion of the work under all sections of the **AGREEMENT**. **DEVELOPER** shall reimburse **CITY** for all costs for outside testing services.
6. **DEVELOPER** shall complete a tv inspection of the completed storm sewer system. The tv inspection shall be performed by an inspection service acceptable to the **CITY**. Video tapes and written logs of all storm sewer inspections shall be submitted to **CITY** for review. Any repairs or cleaning identified by the tv inspection shall be promptly performed by the **DEVELOPER** and the effected area re-televised.

CITY reserves the right to perform the tv inspection of the storm sewer system with **DEVELOPER** reimbursing the **CITY** for the cost of inspection.

7. **DEVELOPER** shall abandon any wells on **REAL ESTATE** per Wisconsin Department of Natural Resources requirements Chapter NR 112, Wisconsin Administrative Code and Section 32.09 of the City Code of General Ordinances. **DEVELOPER** shall provide a copy of any completed well abandonment form to **UTILITY**.
8. **CITY** shall provide **DEVELOPER** with final improvement plans for Exhibits "C" through "I" prior to the closing of **REAL ESTATE**.
9. Construction of public improvements can commence only upon written authorization of **CITY** and **UTILITY**, which authorization shall not be unreasonably withheld. **DEVELOPER** shall hold a pre-construction meeting which shall be attended by **CITY**, **UTILITY**, contractor and consultants' inspector.
10. At the time a grading or mass grading erosion control permit is issued, the **DEVELOPER** shall post a cash assurance with the **CITY** in the amount of Five Thousand (\$5,000) Dollars to guarantee that the conditions of the erosion control permit and Chapter XXXIII of the Code of General Ordinances are being followed as they relate to maintaining the public right-of-way and storm sewer system. The cash assurance shall be used if the **CITY** determines that the **DEVELOPER** or his/her contractor have not kept the right-of-ways clean from mud-tracking, if there is damage to the stormwater drainage improvements, or if erosion and sediment controls are not being maintained. If the cash assurance is depleted prior to completion of the project, the **DEVELOPER** shall post another cash assurance in the same amount. The cash assurance shall be refunded to the **DEVELOPER** once all streets and stormwater drainage improvements are accepted by the **CITY**.
11. The finished or final yard elevation and slope around the perimeter of any new one and two-family structure, along the entire site area, shall be final graded, finished with topsoil and seeded or sodded to required elevations as shown on the approved building permit plat of survey as submitted at the time of the building permit issuance. A copy of survey, prepared by a Wisconsin registered land surveyor or Wisconsin licensed professional engineer shall be submitted to the **CITY** showing proposed elevations as approved by the **CITY**, and actual final elevations in the following locations: 1) At the property corners and all corners of the structures; and 2) at twenty-five (25) foot intervals along each property line.

II. **DEDICATION AND ASSURANCE OF COMPLETION OF IMPROVEMENTS**

- A. Subject to all other provisions of **AGREEMENT** and the exhibits hereto attached, **DEVELOPER** shall, without charge to **CITY** or **UTILITY** upon completion of all of the above described improvements located in public areas, unconditionally give, grant, convey and fully dedicate same to **CITY** and **UTILITY**, its successors and assigns, forever, free and clear of all encumbrances whatever, together with, including without limitation because of enumerations, all buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment appurtenances and habiliments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After

such dedication, **CITY** and **UTILITY** shall have the right to connect or integrate same into their related facilities as **CITY** and **UTILITY** shall determine, with no payment to, award of damages, or consent of **DEVELOPER**. Dedication shall not constitute acceptance of any improvement by **CITY** or **UTILITY**. All improvements will be accepted by **CITY** or **UTILITY** in writing in the manner herein set forth, where in conformance with **AGREEMENT**. **DEVELOPER** shall be responsible for the maintenance and snow plowing of any streets constructed within **REAL ESTATE** until said streets are formally accepted by **CITY** as specified in this **AGREEMENT**.

- B. Prior to approval by **CITY** of the Final Plat of subdivision of **REAL ESTATE**, **DEVELOPER** shall deposit with the Clerk-Treasurer of **CITY** an assurance for completion of all improvements located within Phase I, in an amount established by the City Engineer and **UTILITY** General Manager that will reasonably compensate **CITY** and **UTILITY** for their cost of completion of any improvements not timely completed by **DEVELOPER** in accordance with plans and specifications. Prior to the construction of future phases, the **DEVELOPER** shall deposit a cash escrow prior to work occurring for that phase.
- C. If and to the extent that **DEVELOPER** shall properly complete portions of improvements for which it shall have deposited an assurance with the Clerk-Treasurer of **CITY**, then, upon request of **DEVELOPER**, the Clerk-Treasurer of **CITY** shall, upon recommendation of City Engineer or General Manager of **UTILITY**, accordingly reduce the amount of the assurance required in proportion to the work completed. Prior to the release of any amount of the assurance, **DEVELOPER** shall submit to **CITY** and **UTILITY** a waiver of lien from all contractors and subcontractors.
- D. The form of the assurance required hereby is a cash assurance or an Irrevocable Letter of Credit which must be approved by the City Attorney as protecting **CITY** and **UTILITY** and providing access to funds to timely complete required improvements in accordance with approved plans and specifications. Should assurance funds be insufficient, **CITY** and **UTILITY** may perform required work at the cost and expense of the **DEVELOPER** and specially assess benefited **REAL ESTATE** therefor, if **DEVELOPER** has not timely paid for said improvements. If required improvements have not been completed within the term of a Letter of Credit and the Letter of Credit is about to expire and has not been renewed, **CITY** and **UTILITY** may draw upon the Letter of Credit to assure funds are available for completion of required improvements.

III. MISCELLANEOUS REQUIREMENTS

A. Survey Monuments

- 1. **CITY** shall properly place and install all survey and other monuments required by statute or ordinance.

B. Impact Fees

- 1. **DEVELOPER** shall pay impact fees which are in effect at the time the Final Plat is recorded or upon obtaining building permits as specified in Chapter XXXV of the City Code of General Ordinances and **AGREEMENT**.

C. Grade

1. **DEVELOPER** shall furnish **CITY** with final engineering plans on reproducible mylar, and digital format, a final grading plan indicating the street grade in front of each lot and the recommended basement floor grade and finished yard grade at building, elevation of sidewalks, elevation of finished yard grade at building and property lines, elevation of swales (if required), and elevation of top of foundation wall (8 inches above finished grade) prior to the construction of any improvement in the area thereof, except for portions of plans prepared by **CITY** shall not be subject to this requirement.

D. Notice of Installation and Construction of Public Improvements

1. **DEVELOPER** shall not construct any public or private improvement until Final Plat and Development Agreement have been approved by the Common Council, the Development Agreement has been signed by all parties and all required assurances have been received and approved. **DEVELOPER** shall not commence the installation and construction of any public improvement without first obtaining written authorization from **CITY** and **UTILITY** and then notifying **CITY** and **UTILITY** two working days in advance of the physical commencement of construction. This notification requirement shall also apply to a work resumption following a work interruption of over five (5) working days.

E. Sale of Lots

1. Conveying subdivided land for which a Final Plat has not been recorded is prohibited except as follows: In accordance with Section 236.31(1), Wisconsin Statutes, a contract or offer to convey any subdivision or lot or parcel within a subdivision for which the Final Plat has not yet been approved and recorded, may be entered into by **DEVELOPER**, but only where the preliminary or Final Plat has been submitted to **CITY** for approval and the offer or contract states on its face that it is contingent upon approval of the Final Plat and shall be void if such plat is not approved.

F. Assurance

1. Assurance shall mean cash or irrevocable letter of credit approved by the City Attorney.

IV. GUARANTEE OF STREETS, SIDEWALKS AND UTILITIES

- A. **DEVELOPER** shall guarantee the street, sidewalk, and all utility improvements required herein against defects due to faulty materials or workmanship of which it is notified in writing within a period of one (1) year from the date of acceptance of any improvement by the Common Council or Board of Water Commissioners. **DEVELOPER** shall perform and pay for any required repairs. **UTILITY** may elect to complete repairs to sanitary sewer and water system if **UTILITY** deems necessary. **DEVELOPER** shall pay **UTILITY** for said repairs at **UTILITY'S** time and material rates.

- B. In order to assure compliance with said guarantee, **DEVELOPER** shall deposit with **CITY** a cash bond, letter of credit, or other assurance in an amount determined sufficient by **CITY** and **UTILITY** to support guarantee.
- C. With respect to any portion of **REAL ESTATE** for which **CITY** shall approve a Final Plat of subdivision, **DEVELOPER** shall assume responsibility for any settlement of fill material that may occur in any utility trenches in any right-of-way or easement not under street pavement or sidewalk for a period of one (1) year from the date of the last acceptance by **CITY** or **UTILITY** of any **UTILITY** improvement located in such portion of **REAL ESTATE**.

V. **CITY'S RESPONSIBILITIES**

- A. **CITY** shall process occupancy permits for residential units at such time as required improvements have been constructed. **CITY** shall not unreasonably withhold an occupancy permit due to the lack of any improvement, where applicant is otherwise entitled thereto and where an assurance therefor has been posted with **CITY** or **UTILITY** as herein required. Occupancy permits may be denied if utilities and storm and surface water drainage system required to serve property are not fully operational. **CITY** shall have the authority to withhold building and inspection services if **DEVELOPER** does not reasonably comply with the requirements of Chapter XXXIII of the Code of General Ordinances entitled, "Construction Site Maintenance and Erosion Control Code."
- B. **CITY** shall process and issue building permits without unreasonable delay after application so long as there is compliance with standards for the issuance thereof set forth in applicable City and State laws, rules or regulations. Ordinances governing City building and occupancy permits shall be applicable as they exist on the date of permit issuance.

VI. **CONSTRUCTION AND FINANCE**

- A. An entryway monument may be erected and maintained by **DEVELOPER** until **REAL ESTATE** shall be fully developed and upon obtaining all applicable **CITY** permits. **DEVELOPER** shall remove said monument when the development is complete, unless it is to be maintained by a homeowners association.
- B. Granular trench backfill shall be used under all pavement and sidewalks and within twenty-four (24) inches thereof, but shall not be required in any unpaved parkways, provided that **DEVELOPER** shall deposit with **CITY** the assurances herein required to guarantee improvements. **CITY** shall test granular backfill for proper compaction and shall charge **DEVELOPER** therefor, at its actual cost.
- C. Following execution of **AGREEMENT**, **DEVELOPER** may perform rough grading work on any portion of **REAL ESTATE** prior to installation of required utilities after approval by **CITY** of Final Plat of **REAL ESTATE**, subject to the requirements of Chapter XXXIII of the City Code of General Ordinances entitled, "Construction Site Maintenance and Erosion Control Code," and upon approval of a drainage plan and all required exhibits by **CITY** and posting of all required assurances and execution of this agreement by all parties.
- D. Inspection fees shall be computed at **CITY** or **UTILITY** employee's hourly rate plus

indirect costs.

VII. MISCELLANEOUS

A. **CITY** represents that the provisions of **AGREEMENT** are consistent with its Zoning and Code of General Ordinances, or if inconsistent, are lawfully inconsistent therewith.

B. All notices, requests, demands, and other matters required to be given or which may be given hereunder shall be in writing and shall be deemed given when delivered in person or when deposited in the United States mail, registered or certified, return receipt requested, postage prepaid, addressed to the respective parties at the addresses stated below:

If to **CITY**:
City Clerk
Municipal Building
625 52nd Street
Kenosha, WI 53140

with copies to:
Mayor and City Attorney
Municipal Building
625 52nd Street
Kenosha, WI 53140

If to **UTILITY**:
General Manager
Kenosha Water Utility
4401 Green Bay Road
Kenosha, WI 53144

with a copy to:
City Attorney
(see address above)

If to **DEVELOPER**:
Scott B. Thistle, President
Brookstone Homes, Inc.
1230 Corporate Drive - Suite 200
Oconomowoc, WI 53066

C. Any party hereto may, in law or in equity, by suit, action, or mandamus, or other proceedings, including specific performance, enforce or compel the performance of **AGREEMENT**.

D. If any provision, covenant, or portion of **AGREEMENT** or its application to any person, entity or property is held invalid or unenforceable by a Court of Law or Equity, such status shall not affect the application or validity or other provisions covenants, or portions of **AGREEMENT** which can be given effect without the invalid provisions or applications, and to this end, the provisions and covenants of **AGREEMENT** are declared to be severable.

E. It is understood and agreed by the parties hereto that time is of the essence with respect to the provisions of **AGREEMENT** specifying dates and deadlines and the parties agree to expeditiously comply therewith.

F. Copies of all exhibits described herein are appended hereto and are by reference incorporated herein.

VIII. AMENDMENTS

The parties may, by mutual consent, amend **AGREEMENT**, subject to approval thereof by the respective governing bodies of **CITY** and **UTILITY**.

IX. AUTHORIZATION

- A. **DEVELOPER** enters into this **AGREEMENT** by authority of action taken by the partnership on the _____ day of _____, 2008.
- B. **CITY** enters into this **AGREEMENT** by authority of action taken by its Common Council on the _____ day of _____, 2008.
- C. **UTILITY** enters into this **AGREEMENT** by authority of action taken by its Board on the _____ day of _____, 2008.

X. EXHIBITS

The exhibits to **AGREEMENT** listed below are made a part of **AGREEMENT**, as approved by **CITY**, and shall be provided to **CITY** and **UTILITY** by **DEVELOPER** on reproducible mylar.

- Exhibit A: Legal Description
- Exhibit B: Final Plat of Subdivision
- Exhibit C: Street Layout and Phasing Plan
- Exhibit D: Sanitary Sewer Plan
- Exhibit E: Water Main Plan
- Exhibit F: Stormwater Management & Storm Sewer Plan
- Exhibit G: Storm Sewer Plan
- Exhibit H: Tree Planting Plan
- Exhibit I: Street Lighting Plan
- Exhibit J: Completion Schedule

XI. EXECUTION

This AGREEMENT is executed as follows:

A. By DEVELOPER on the 12th day of MAY, 2008.



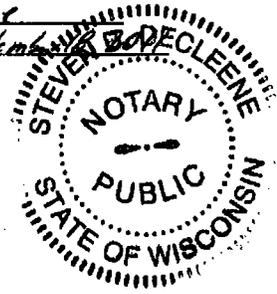
Scott B. Thistle, President
Brookstone Homes, Inc.

STATE OF WISCONSIN)
: SS
COUNTY OF KENOSHA)

Personally came before me this 13th day of May, 2008, the
above-named Scott B. Thistle, to me known to be the persons who executed the foregoing
instrument and acknowledge same.



Notary Public, Steve DeCleene
My Commission Is/Expires: September 2011



B. By CITY on the 2nd day of December, 2008.



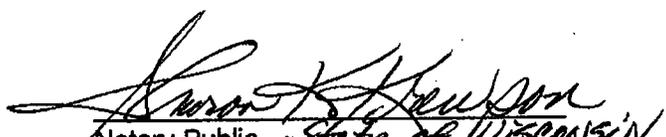
Keith Bosman, Mayor



Michael Higgins, City Clerk/Treasurer

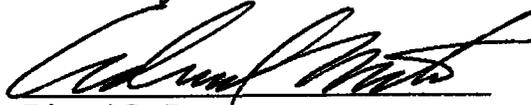
STATE OF WISCONSIN)
: SS
COUNTY OF KENOSHA)

Personally came before me this 2nd day of December, 2008, the above-named Keith Bosman and Michael Higgins, to me known to be the persons who executed the foregoing instrument and acknowledge same.

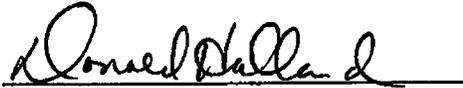


Notary Public, State of Wisconsin
My Commission Is/Expires: 2/3/09

C. By UTILITY on the 28th day of April, 2008.



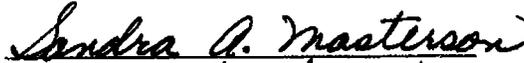
Edward St. Peter
General Manager



Donald Holland
Board of Water Commissioners Chairman

STATE OF WISCONSIN)
: SS
COUNTY OF KENOSHA)

Personally came before me this 28th day of April, 2008, the above-named Edward St. Peter and Donald Holland to me known to be the persons who executed the foregoing instrument and acknowledge same.



Notary Public, Kenosha, WI
My Commission Is/Expires: February 5, 2012

The following exhibits to the developers agreement are on file in the office of the Department of City Development, City of Kenosha, located at 625 52nd Street, Room 308, Kenosha, WI 53140:

- Exhibit C: Street Layout and Phasing Plan
- Exhibit D: Sanitary Sewer Plan
- Exhibit E: Water Main Plan
- Exhibit F: Stormwater Management and Storm Sewer Plan
- Exhibit G: Storm Sewer Plan
- Exhibit H: Tree Planting Plan
- Exhibit I: Street Lighting Plan
- Exhibit J: Completion Schedule

Exhibit A

All of Lot 2 and Lot 3 of Certified Survey Map No. 2490, recorded as Document No. 1447452; part of Parcel 1 and all of Parcel 2 of Certified Survey Map No. 1854, recorded as Document No. 1006351; part of the land recorded in Warranty Deed, Volume 53, Page 141 on February 10, 1903; and all of the land recorded as Parcel 11 in Warranty Deed, Document No. 100618 on November 8, 1995; all being recorded with the Kenosha County Register of Deeds Office and being in the Northeast Quarter, the Northwest Quarter, the Southeast Quarter and the Southwest Quarter, all in the Southwest Quarter of Section 25, Town 2 North, Range 22 East of the Fourth Principal Meridian in the City of Kenosha, Kenosha County, Wisconsin, the exterior boundaries of which are described as follows: Commencing at the southeast corner of said Quarter Section; thence North 89°30'36" West along the south line of said Quarter Section, 892.00 feet; thence North 1°31'55" West, parallel to the east line of said Quarter Section, 330.00 feet to the southeast corner of Lot 205 of Golf Links Second Addition, a subdivision of record; thence North 89°30'36" West 120.00 feet to the southeast corner of Lot 2 of said Certified Survey Map No. 2490 and the point of beginning; thence North 89°30'36" West along the south line of said lot, 465.345 feet; thence southwesterly along the arc of a circular curve which is concave northwesterly, 4.895 feet, said curve having a central angle of 2°09'28", a radius of 130.00 feet, and a chord which bears South 48°44'51" West a distance of 4.895 feet; thence southwesterly along the arc of a circular curve which is concave southeasterly, 62.715 feet, said curve having a central angle of 51°20'04", a radius of 70.00 feet, and a chord which bears South 24°09'33" West a distance of 60.64 feet; thence South 1°30'29" East, 226.145 feet; thence South 45°30'33" East 14.39 feet to the present north line of 45th Street; thence North 89°30'36" West along said north line, being here parallel to, and 33.00 feet north of, the south line of said Quarter Section, 70.04 feet; thence North 1°30'29" West 190.48 feet; thence South 89°30'36" East parallel to said south line, 25.00 feet; thence North 1°30'29" West 127.005 feet to the south line of Lot 3 of said certified survey map; thence North 89°30'36" West along said south line, 534.68 feet to the west line of said lot; thence North 0°29'24" East along said west line, 477.50 feet to the north line of said lot; thence South 89°30'36" East along said north line, and its extension easterly, 327.80 feet to the east line of 35th Avenue; thence North 1°31'55" West along said east line, 1,191.95 feet to the north line of 40th Street; thence North 89°26'52" West along said north line, 31.325 feet to a westerly line of Lot 2 of said certified survey map; thence North 1°29'03" West along said westerly line, 48.23 feet to a northerly line of said lot; thence South 89°26'52" East along said northerly line, 222.12 feet; thence North 1°30'29" West, 226.085 feet to the north line of said Lot 2; thence South 89°26'52" East along said north line, 649.555 feet to the west line of 32nd Avenue; thence South 1°31'55" East along said west line, 933.66 feet to the north line of 41st Street; thence North 89°30'36" West along said north line, 120.00 feet to the northerly extension of the west line of Lots 190 through 205 of said Golf Links Second Addition; thence South 1°31'55" East along the west line of said lots, and said northerly extension, 1,030.00 feet to the southeast corner of Lot 2 of said Certified Survey Map 2490 and the point of beginning.

This description containing 1,656,977 square feet (38.039 acres) of land, more or less.

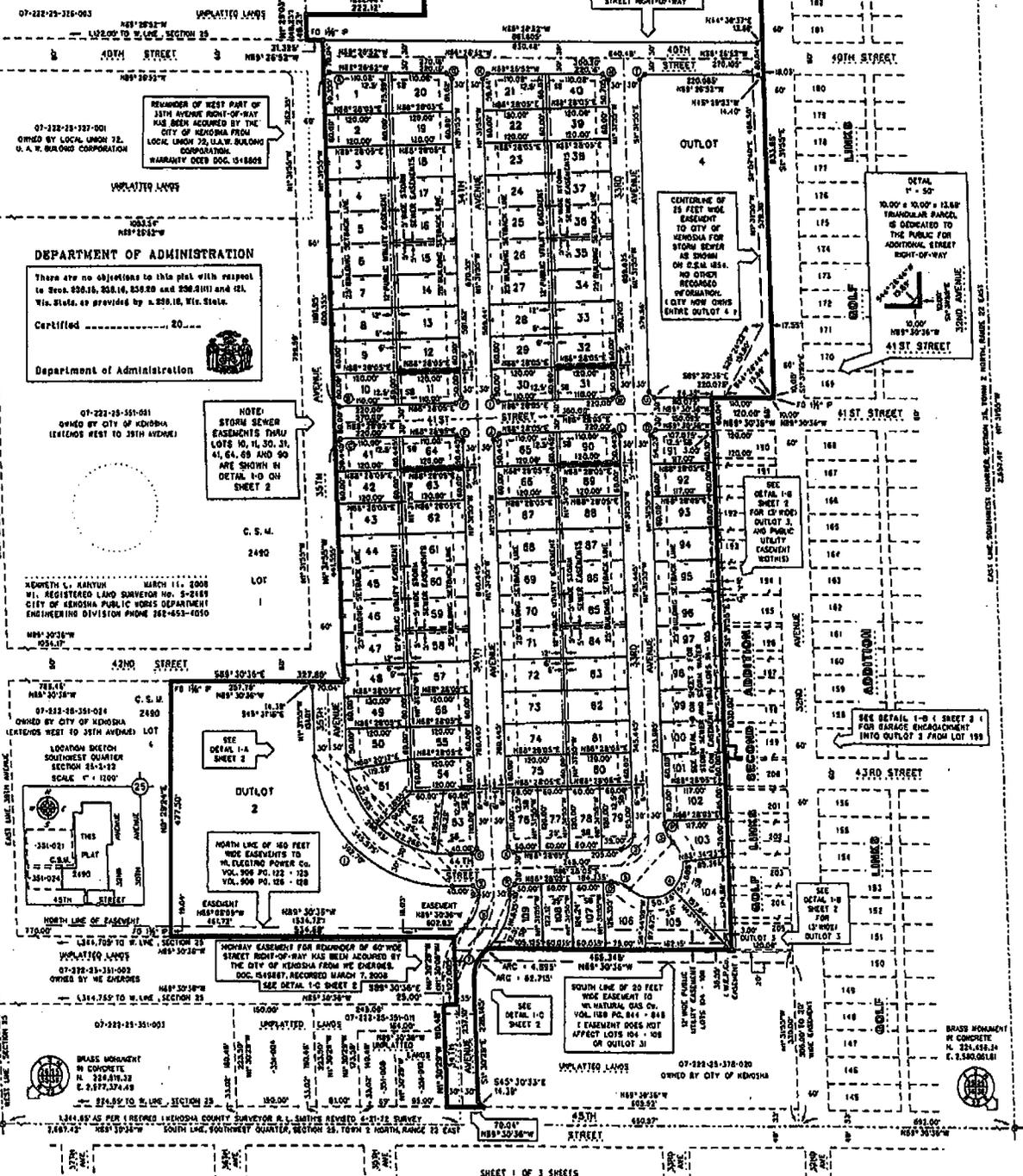
Exhibit B

K. A. T. SUBDIVISION

BEING A REVISION OF ALL OF LOT 2 AND LOT 3 OF CERTIFIED SURVEY MAP NO. 2490, RECORDED AS DOCUMENT NO. 1447424 OF PART OF PARCEL 1 AND ALL OF PARCEL 2 OF CERTIFIED SURVEY MAP NO. 1854, RECORDED AS DOCUMENT NO. 1006351; OF PART OF THE LAND RECORDED IN WARRANTY DEED, VOL. 53, PAGE 141 ON FEBRUARY 10, 1931 AND OF ALL OF THE LAND RECORDED AS PARCEL 11 IN WARRANTY DEED, DOCUMENT 1006618 ON NOVEMBER 8, 1931 ALL BEING RECORDED WITH THE KENOSHA COUNTY REGISTER OF DEEDS OFFICE, AND BEING IN THE NORTHEAST QUARTER, THE NORTHWEST QUARTER, THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER ALL IN THE SOUTHWEST QUARTER OF SECTION 25, TOWN 2 NORTH, RANGE 22 EAST OF THE FOURTH PRINCIPAL MERIDIAN IN THE CITY OF KENOSHA, KENOSHA COUNTY, WISCONSIN



NORTH ARROW AND BEARINGS ON THIS PLAN REFER TO GRID NORTH, WISCONSIN STATE PLANE CO-ORDINATE SYSTEM, SOUTH ZONE 1420-2711 AND ARE BASED ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 25, TOWN 2 NORTH, RANGE 22 EAST AS BEARING N 91°30'36" SEE LEGEND AND NOTES ON SHEET 3 OF 3



REMAINDER OF WEST PART OF 18TH AVENUE RIGHT-OF-WAY HAS BEEN ACQUIRED BY THE CITY OF KENOSHA FROM LOCAL UNION 72, U.A.W. RAILROAD CORPORATION, WARRANTY DEED DOC. 1348628

DEPARTMENT OF ADMINISTRATION
 There are no objections to this plat with respect to Secs. 226.16, 226.16, 226.20 and 226.21(1) and (2) Wis. Stats. as provided by s. 226.16, Wis. Stats.
 Certified _____
 Department of Administration

NOTE: STORM SEWER EASEMENTS THRU LOTS 10, 11, 20, 21, 41, 42, 43 AND 50 ARE SHOWN IN DETAIL 1-B ON SHEET 2

KENNETH L. RANTON MARCH 11, 2008
 WI. REGISTERED LAND SURVEYOR NO. 5-2188
 CITY OF KENOSHA PUBLIC WORKS DEPARTMENT
 ENGINEERING DIVISION PHONE 262-451-4050

LOCATION SKETCH SOUTHWEST QUARTER SECTION 25-T-2N-R-22E SCALE 1" = 1200'

DETAILED SKETCH OF LOT 105

BRASS MONUMENT IN CONCRETE N. 226.476.32 E. 0.877.374.18

1344.87' AS PER 1929 KENOSHA COUNTY SURVEYOR R. L. SMITH'S REVISED 6-11-72 SURVEY 2497.72' N89°30'36" W SOUTH LINE, SOUTHWEST QUARTER, SECTION 25, TOWN 2 NORTH, RANGE 22 EAST

Exhibit C

11' 11" EXHIBIT C DEVELOPMENT + PHASING PLAN

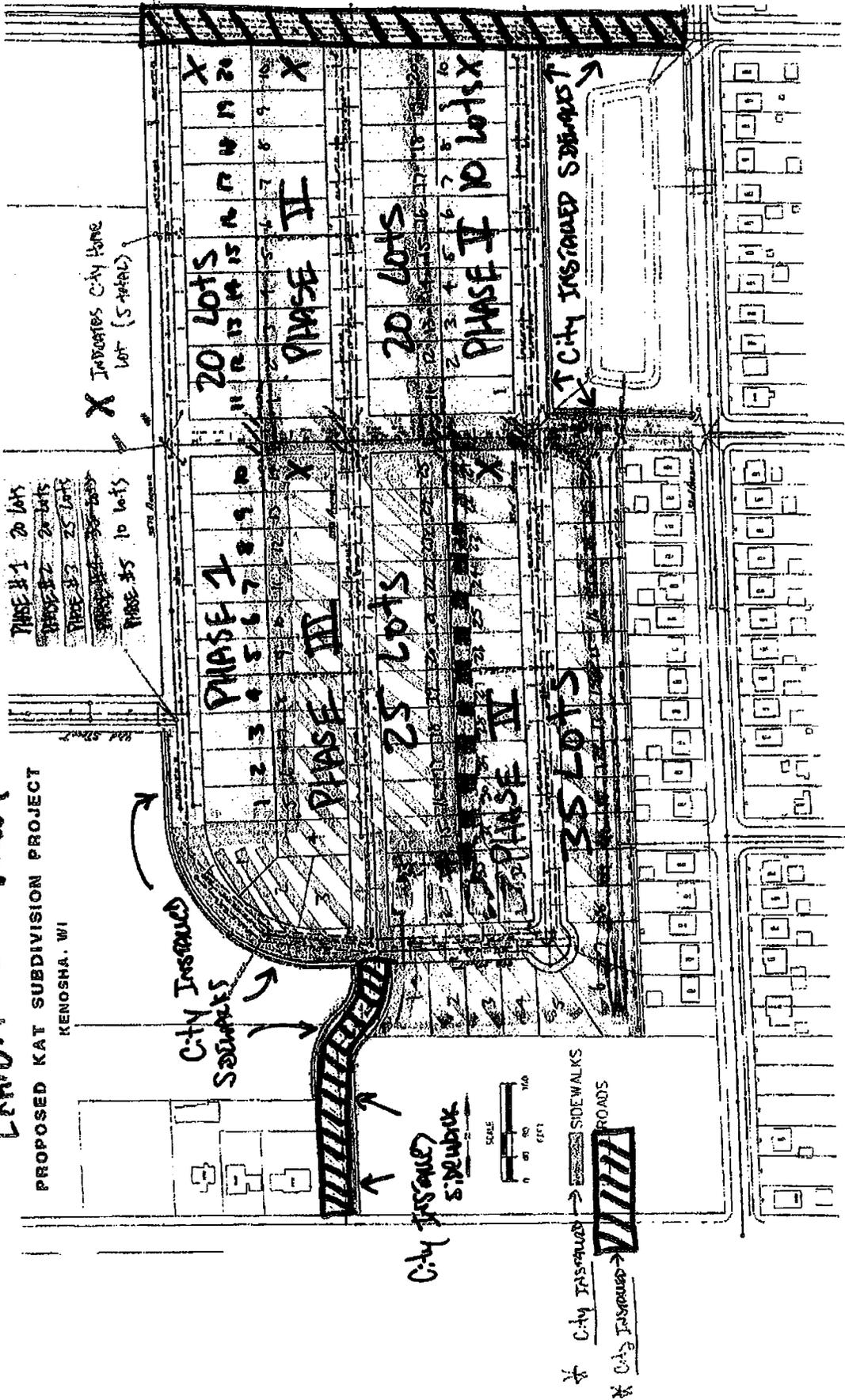


Exhibit J

Progress and Completion Schedule

KAT Subdivision

	Acres	Project Schedule		Project Completion	
		Start	Finish	Start	Finish
Phase #1	20	8/1/2008	1/9/2009	1/1/2009	1/1/2011
Phase #2	20	7/1/2010	12/1/2010	1/1/2011	1/1/2013
Phase #3	25	7/1/2012	12/1/2012	1/1/2013	1/1/2015
Phase #4	35	7/1/2014	12/1/2014	1/1/2015	1/1/2018
Phase #5	10	7/1/2016	12/1/2016	1/1/2018	1/1/2019