

Villages of Noble's Pond

DelDOT Off Site Improvements

Agreement Dated September 27, 2012

Improvement A (Contributing Member – CASH PAYMENT)

LOCATION: The intersection of Kenton Road (KCR 104) and DE Route 42 (KCR 45, Seven Hickories Road)

SCOPE: Modifying the intersection geometry to prohibit left turns from westbound DE Route 42, removing the existing storage area for the second stage of the westbound left-turn movement, installing a concrete island designed to prevent westbound left-turns at the intersection, pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction.

PROJECT MEMBERS:

	<i>Estimated % Share of Contribution</i>	<i>Max. % Share of Contribution</i>
Cherrington (Lead)	38%	52%
Nobles Pond	34%	48%
Palomar North & South	28%	28%

Improvement B (Managing Member – ENGINEERING & CONSTRUCTION)

LOCATION: The intersection of Kenton Road (KCR 104) and Central Church Road (KCR 155)

SCOPE: Pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction of a single lane roundabout.

PROJECT MEMBERS:

	<i>Estimated % Share of Contribution</i>	<i>Max. % Share of Contribution</i>
Nobles Pond (Lead)	24%	28%
Cherrington	63%	72%
Palomar North & South	13%	13%

Improvement C (Managing Member - ENGINEERING & CONSTRUCTION)

LOCATION: The intersection of Kenton Road (KCR 104) and Pearsons Corner Road (KCR 101)

SCOPE: Pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction of a single lane roundabout.

PROJECT MEMBERS:

	<i>Estimated % Share of Contribution</i>	<i>Max. % Share of Contribution</i>
Nobles Pond (Lead)	31%	35%
Cherrington	58%	65%
Palomar North & South	11%	11%

Improvement D (Managing Member - ENGINEERING & CONSTRUCTION)

LOCATION: Intersection of US Route 13 and Fork Branch Road (KCR 153)/Dyke Branch Road (KCR 331)

SCOPE: (PHASE 1): Extension of the existing left-turn lane on the northbound approach of US Route 13 to a total length of 750 feet including pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction

SCOPE: (PHASE 2): An exclusive right-turn lane on the eastbound approach on Fork Branch Road / Dyke Branch Road including acquiring land easements, pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction

PROJECT MEMBERS:

	<i>Estimated % Share of Contribution</i>	<i>Max. % Share of Contribution</i>
Nobles Pond (Lead)	53%	100%
Palomar North & South	47%	47%

Improvement E (Managing Member - ENGINEERING & CONSTRUCTION)

LOCATION: Kenton Road (KCR 104) for 1,000 feet in each direction from the rear Project Site Entrance.

SCOPE: (PHASE 1): The limits of the auxiliary lanes at the site entrance on Kenton Road including pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction.

SCOPE: (PHASE 2): The remaining portion of roadway improvements beyond the limits of the Project's Site Entrance's auxiliary lanes including acquiring land easements, pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction.

PROJECT MEMBERS:

	<i>Estimated % Share of Contribution</i>	<i>Max. % Share of Contribution</i>
Noble's Pond	100%	100%

Signal Agreement #1 (Contributing Member – CASH PAYMENT)

LOCATION: Intersection of Main Street (DE 42) and Commerce Street/Moorton Road (KCR 92).

SCOPE: The signal agreement should include pedestrian signals, crosswalks, and interconnections (including railroad).

PROJECT MEMBERS:

	<i>Estimated % Share of Contribution</i>	<i>Max. % Share of Contribution</i>
Saratoga (a/k/a Jo-Eve Farms)	55%	55%
Nobles Pond	30%	30%
Stonington	15%	15%

Signal Agreement #2 (Contributing Member – CASH PAYMENT)

LOCATION: Intersection of McKee Road (KCR 156) and Scarborough Road (294).

SCOPE: The signal agreement should include pedestrian signals, crosswalks, and interconnections (including railroad).

PROJECT MEMBERS:

	<i>Estimated % Share of Contribution</i>	<i>Max. % Share of Contribution</i>
Nobles Pond	46%	46%
Stonebrook East (a/k/a Bush Farm)	23%	23%
Stonebrook West (a/k/a Bush Farm)	31%	31%



Pearsons Corner Rd OFF SITE IMPROVEMENTS

SIGNAL AGREEMENT #1 30%
42 ↑ MORTON ROAD



SIGNAL AGREEMENT #2 46%

Map data ©2018 Google 1000 ft

LETTER OF TRANSMITTAL

DELAWARE D.O.T.
PLANNING
SUBDIVISIONS
 P.O. Box 778
 Dover, Delaware 19903
 (302) 760-2266

Date: 10/9/2012	Contract No.
Attention: Mr. Kevin E. Burdette	
RE: SKR2010 The Villages of Noble's Pond	
Executed Letter Agreement	

To: KNB Associates

26177 Deep Branch Road

Milton, DE 19968

- We are returning/sending: Attached Under separate cover via ___ the following:
 Shop drawings Prints Plans Samples Specifications
 Copy of Letter Change Order Other: _____

COPIES	DATE	NO.	DESCRIPTION
1	10/3/12		Executed Letter Agreement

- These are transmitted (as checked): Stamped as per specifications
 For approval Reviewed as submitted Resubmit ___ copies for review
 For your use Reviewed as noted Submit ___ copies for distribution
 As requested Returned for resubmission Return ___ corrected prints

Remarks:

Copy to: File

Signed: Cliff Mumford

Clifton D. Mumford
 Subdivisions
 Dover, Delaware

AY0208



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

SHAILEN P. BHATT
SECRETARY

September 27, 2012

Regal Contractors, LLC
13 Noble's Pond Crossing
Dover, DE 19904
c/o Mr. Harry D. Miller, III – Managing Member

**RE: SKR 2010: The Villages of Noble's Pond
Tax Parcel # KH-00-056.00-01-12.00
McKee Road (KCR 156A) and Kenton Road (KCR 104)
Kenton Hundred, Kent County**

This **AGREEMENT**, made and executed in quadruplicate, the day, month, and year affixed by the signature of the Department of Transportation's representative by and between the **DELAWARE DEPARTMENT OF TRANSPORTATION**, a Department created under the laws of the State of Delaware, hereinafter designated as "**DEPARTMENT**", and Regal Contractors, LLC, its assigns and/or successors whose address is 13 Noble's Pond Crossing, Dover, DE 19904 hereinafter called "**DEVELOPER**".

The following terms used in this Agreement shall have the following meaning:

"**MANAGING DEVELOPER**" shall mean the developer identified by the **DEPARTMENT** to take the lead in constructing and coordinating the particular road improvement project identified herein.

"**FAIR SHARE CONTRIBUTION**" shall mean each developer's contribution for newly identified intersection improvements costs required by **DEPARTMENT**, as set forth on the attached Exhibit A. Developer's Fair Share Contribution to the Road Improvements contained herein shall not exceed the maximum percent share of contribution shown on Exhibit A attached hereto and made a part hereof. **DEVELOPER**'s fair share contribution is calculated by dividing the **DEVELOPER**'s land development project's generated PM peak trips passing through the intersection by the total number of PM peak trips generated by all participating and proposed land development projects passing through the intersection. For example, if a cost sharing participant's land development project generates 100 pm peak trips passing through an



intersection, and the total number of pm peak trips generated by all participants contributing to the intersection improvement costs is 800 trips, then the cost sharing participant is required to contribute 12.5% of the costs ($100 / 800 = .125 = 12.5\%$).

"PARTICIPANT(S)" shall mean a developer other than the **DEVELOPER** who has been identified by the **DEPARTMENT** as needing to make a **FAIR SHARE CONTRIBUTION** to a particular road improvement. Other developer's development projects may be considered a **PARTICIPANT** by the **DEPARTMENT** if a submittal is made within the **RECOUPMENT TIME PERIOD** to any Federal, State, County or Municipal authority requiring review or action by the **DEPARTMENT** including but not limited to the Regional Planning Commission (RPC), Planning and Land Use Service (PLUS), a Support Facilities Request, or a Traffic Impact Study scoping meeting. Failure of a **PARTICIPANT** to make their appropriate **FAIR SHARE CONTRIBUTION** will be just cause for the **DEPARTMENT** to withhold any processing of Reviews, Permits or Approvals for the **PARTICIPANT'S DEVELOPMENT**. The **DEPARTMENT** will not hinder or deter the **DEVELOPER'S** project for lack of receiving the appropriate **FAIR SHARE CONTRIBUTION** from a **PARTICIPANT**.

"INTERIM FINANCE COSTS" shall mean the finance costs as defined by the International Accounting Standard 23, for specified improvements made by the **MANAGING DEVELOPER** to include:

- Amortization of discounts or premiums that are related to the borrowing of funds.
- Amortization of ancillary costs incurred in connection with the borrowing.
- Finance charges in respect of the financed amount or leases.
- Exchange differences arising from foreign currency borrowings to the extent that they are regarded as adjustments to the interest costs.

"RECOUPMENT TIME PERIOD" shall mean the time period established by the **DEPARTMENT** to determine that other developers having an impact upon a particular roadway need to make a **FAIR SHARE CONTRIBUTION** to the roadway improvement. The **RECOUPMENT TIME PERIOD** shall be defined as the effective date of this Agreement until the final acceptance of road improvement by the **DEPARTMENT**, including insuring all **FAIR SHARE CONTRIBUTIONS** have been made by the **PARTICIPANTS** to the **MANAGING DEVELOPER**.

The **DEPARTMENT** has determined that the construction of The Villages of Noble's Pond subdivision containing 879 units (the **"PROJECT"**), will require the upgrade of certain roadways at the **DEVELOPER'S** expense. The purpose of this Agreement is to formally outline all requirements between the **DEPARTMENT** and the **DEVELOPER** with respect to the **PROJECT**, as follows.

1. The **DEVELOPER** shall contribute to the construction of improving the intersection of Kenton Road (KCR 104) and DE Route 42 (KCR 45, Seven Hickories Road) (the

“ROAD IMPROVEMENTS A”). ROAD IMPROVEMENTS A are required in a manner acceptable to the **DEPARTMENT** as outlined below:

- a. **ROAD IMPROVEMENTS A** shall include, but not be limited to, modifying the intersection geometry to prohibit left turns from westbound DE Route 42, removing the existing storage area for the second stage of the westbound left-turn movement, installing a concrete island designed to prevent westbound left-turns at the intersection, pavement modifications, drainage and utility relocations, signing, re-striping, and any associated work or incidentals necessary for the completed construction.
- b. **MANAGING DEVELOPER A** shall be responsible for the design and construction of **ROAD IMPROVEMENTS A**. The **DEPARTMENT** must approve the construction plans and engineering estimate for **ROAD IMPROVEMENTS A**. The estimate will include the costs for the design, right-of-way acquisition, and construction of **ROAD IMPROVEMENTS A**.
- c. **MANAGING DEVELOPER A** shall acquire the necessary rights-of-way to build **ROAD IMPROVEMENTS A**. Where necessary, the **DEPARTMENT** will assist **MANAGING DEVELOPER A** in obtaining right-of-way dedications and/or acquisitions from adjacent land owners, using the authority granted to the **DEPARTMENT** by the *Development Related Improvements Requiring New Rights-of-Way Regulation*.
- d. **MANAGING DEVELOPER A** or its designee shall obtain competitive bids for the construction of **ROAD IMPROVEMENTS A**. The lowest responsible competitive bid for construction, the design cost, and the cost of right-of-way acquisition shall constitute the total costs for **ROAD IMPROVEMENTS A** (**“COSTS A”**). The **DEPARTMENT** and all **PARTICIPANTS A** shall have the right to review the submitted bids prior to the award of the construction contract.
- e. **DEVELOPER**'s sole responsibility for **ROAD IMPROVEMENTS A** shall be to make its **FAIR SHARE CONTRIBUTION** thereof to **MANAGING DEVELOPER A**. The **FAIR SHARE CONTRIBUTION** of **COSTS A** required from **PARTICIPANTS A** shall be known as **“CONTRIBUTION A”**.
- f. Upon determination of **COSTS A**, **MANAGING DEVELOPER A** shall establish an escrow fund for collection of **CONTRIBUTION A** from **PARTICIPANTS A**, and for disbursement of funds to pay **COSTS A** upon execution of a construction contract and commencement of construction of **ROAD IMPROVEMENTS A**. **MANAGING DEVELOPER A** shall notify **DEVELOPER** and all known **PARTICIPANTS A**, in writing, of the need to deposit **CONTRIBUTION A** in the escrow fund. Prior to the commencement of work, **PARTICIPANTS A** shall deposit **CONTRIBUTION A** into the escrow fund. The **DEVELOPER** shall not make **CONTRIBUTION A** to the



MANAGING DEVELOPER A escrow fund prior to the issuance of the 430th building permit or before December 31, 2014, whichever occurs first.

- g. A separate construction agreement based on the terms and conditions set forth herein will be executed by **MANAGING DEVELOPER A** for **ROAD IMPROVEMENTS A**. **MANAGING DEVELOPER A** shall provide the **DEPARTMENT** with security in the form of a performance bond or commercial letter of credit in an amount equal to 100% of **COSTS A**. The security may be reduced as the improvements are completed. The **DEPARTMENT** shall have the right to draw on the bond or letter of credit, to reimburse it for costs incurred to perform the construction, in the event that **MANAGING DEVELOPER A** does not construct **ROAD IMPROVEMENTS A** within the timeframe set forth in this Agreement.
 - h. **ROAD IMPROVEMENTS A** shall be constructed by entities hired by **MANAGING DEVELOPER A**.
 - i. Upon the **DEPARTMENT**'s acceptance of **ROAD IMPROVEMENTS A**, the balance of the escrow account for **COSTS A** shall be adjusted to zero by additional contributions or rebates as necessary in direct proportion to each **PARTICIPANT A**'s **CONTRIBUTION A**.
2. The **DEVELOPER** shall participate in the construction of a single lane roundabout at the intersection of Kenton Road (KCR 104) and Central Church Road (KCR 155) (the "**ROAD IMPROVEMENTS B**"). **ROAD IMPROVEMENTS B** are required in a manner acceptable to the **DEPARTMENT** as outlined below:
- a. **ROAD IMPROVEMENTS B** shall include, but not be limited to, pavement modifications, drainage and utility relocations, signing, re-striping and any associated work or incidentals necessary for the completed construction.
 - b. **DEVELOPER** shall be responsible for the design and construction of **ROAD IMPROVEMENTS B**. The **DEPARTMENT** must approve the construction plans and engineering estimate for **ROAD IMPROVEMENTS B** prior to the issuance of the 650th building permit for the **PROJECT**. The estimate will include the costs for the design, right-of-way acquisition, bonding, Interim Finance Costs, and construction of **ROAD IMPROVEMENTS B**.
 - c. **DEVELOPER** shall acquire the necessary rights-of-way to build **ROAD IMPROVEMENTS B**. Where necessary, the **DEPARTMENT** will assist **DEVELOPER** in obtaining right-of-way dedications and/or acquisitions from adjacent land owners, using the authority granted to the **DEPARTMENT** by the *Development Related Improvements Requiring New Rights-of-Way Regulation*.
 - d. **DEVELOPER** or its designee shall obtain competitive bids for the construction



of **ROAD IMPROVEMENTS B**. The lowest responsible competitive bid for construction, the actual design cost, the cost of right-of-way acquisition, bonding, and **INTERIM FINANCE COSTS** shall constitute the total costs for **ROAD IMPROVEMENTS B ("COSTS B")**. The **DEPARTMENT** and **PARTICIPANTS B** shall have the right to review the submitted bids prior to the award of the construction contract.

- e. The **FAIR SHARE CONTRIBUTION** of **COSTS B** required from **PARTICIPANTS B** shall be known as "**CONTRIBUTION B**".
 - f. Upon determination of **COSTS B**, **DEVELOPER** shall establish an escrow fund for collection of **CONTRIBUTION B** from **PARTICIPANTS B**, and for disbursement of funds to pay **COSTS B** upon execution of a construction contract and commencement of construction of **ROAD IMPROVEMENTS B**. **DEVELOPER** shall notify all known **PARTICIPANTS B**, in writing, of the need to deposit **CONTRIBUTION B** in the escrow fund. Prior to the commencement of work, **PARTICIPANTS B** shall deposit **CONTRIBUTION B** into the escrow fund.
 - g. A separate construction agreement based on the terms and conditions set forth herein will be executed by **DEVELOPER** for **ROAD IMPROVEMENTS B** prior to the issuance of the 680th building permit for the **PROJECT**. **DEVELOPER** shall provide the **DEPARTMENT** with security in the form of a performance bond or commercial letter of credit in an amount equal to 100% of **COSTS B**. The security may be reduced as the improvements are completed. The **DEPARTMENT** shall have the right to draw on the bond or letter of credit, to reimburse it for costs incurred to perform the construction in the event that **DEVELOPER** does not construct **ROAD IMPROVEMENTS B** within the timeframe set forth in this Agreement.
 - h. **ROAD IMPROVEMENTS B** shall be constructed by entities hired by **DEVELOPER**. Construction of **ROAD IMPROVEMENTS B** shall be completed prior to the issuance of the 780th building permit for the **PROJECT**.
 - i. Upon **DEPARTMENT**'s acceptance of **ROAD IMPROVEMENTS B**, the balance of the escrow account for **COSTS B** shall be adjusted to zero by additional contributions or rebates as necessary in direct proportion to each **PARTICIPANT B**'s **CONTRIBUTION B**.
3. The **DEVELOPER** shall participate in the construction of a single lane roundabout at the intersection of Kenton Road (KCR 104) and Pearsons Corner Road (KCR 101) (the "**ROAD IMPROVEMENTS C**"). **ROAD IMPROVEMENTS C** are required in a manner acceptable to the **DEPARTMENT** as outlined below:



- a. **ROAD IMPROVEMENTS C** shall include, but not be limited to, pavement modifications, drainage and utility relocations, storm water management, signing, re-striping, and any associated work or incidentals necessary for the completed construction.
- b. **DEVELOPER** shall be responsible for the design and construction of **ROAD IMPROVEMENTS C**. The **DEPARTMENT** must approve the construction plans and engineering estimate for **ROAD IMPROVEMENTS C** prior to the issuance of the 550th building permit for the **PROJECT**. The estimate will include the costs for the design, right-of-way acquisition, bonding, **INTERIM FINANCE COSTS**, and construction of **ROAD IMPROVEMENTS C**.
- c. **DEVELOPER** shall acquire the necessary rights-of-way to build **ROAD IMPROVEMENTS C**. Where necessary, the **DEPARTMENT** will assist **DEVELOPER** in obtaining right-of-way dedications and/or acquisitions from adjacent land owners, using the authority granted to the **DEPARTMENT** by the *Development Related Improvements Requiring New Rights-of-Way Regulation*.
- d. **DEVELOPER** or its designee shall obtain competitive bids for the construction of **ROAD IMPROVEMENTS C**. The lowest responsible competitive bid for construction, the design cost, the cost of right-of-way acquisition, bonding and, **INTERIM FINANCE COSTS** shall constitute the total costs for **ROAD IMPROVEMENTS C** ("**COSTS C**"). The **DEPARTMENT** and **PARTICIPANTS C** shall have the right to review the submitted bids prior to the award of the construction contract.
- e. The **FAIR SHARE CONTRIBUTION** of **COSTS C** required from **PARTICIPANTS C** shall be known as "**CONTRIBUTION C**".
- f. Upon determination of **COSTS C**, **DEVELOPER** shall establish an escrow fund for collection of **CONTRIBUTION C** from **PARTICIPANTS C**, and for disbursement of funds to pay **COSTS C** upon execution of a construction contract and commencement of construction of **ROAD IMPROVEMENTS C**. **DEVELOPER** shall notify all known **PARTICIPANTS C**, in writing, of the need to deposit **CONTRIBUTION C** in the escrow fund. Prior to the commencement of work, **PARTICIPANTS C** shall deposit **CONTRIBUTION C** into the escrow fund.
- g. A separate construction agreement based on the terms and conditions set forth herein will be executed by **DEVELOPER** for **ROAD IMPROVEMENTS C** prior to the issuance of the 580th building permit for the **PROJECT**. **DEVELOPER** shall provide the **DEPARTMENT** with security in the form of a performance bond or commercial letter of credit in an amount equal to 100% of **COSTS C**. The security may be reduced as the improvements are completed. The **DEPARTMENT** shall have the right to draw on the bond or letter of credit,

to reimburse it for costs incurred to perform the construction in the event that **DEVELOPER** does not construct **ROAD IMPROVEMENTS C** within the timeframe set forth in this Agreement.

- h. **ROAD IMPROVEMENTS C** shall be constructed by entities hired by **DEVELOPER**. Construction of **ROAD IMPROVEMENTS C** shall be completed prior to the issuance of the 680th building permit for the **PROJECT**.
 - i. Upon the **DEPARTMENT**'s acceptance of **ROAD IMPROVEMENTS C**, the balance of the escrow account for **COSTS C** shall be adjusted to zero by additional contributions or rebates as necessary in direct proportion to each **PARTICIPANT C**'s **CONTRIBUTION C**.
4. The **DEVELOPER** shall participate in the construction of adding an extension of the existing left-turn lane on the northbound approach to a total length of 750 feet and an exclusive right-turn lane on the eastbound approach at the intersection of US Route 13, Fork Branch Road (KCR 153), and Dyke Branch Road (KCR 331) (the "**ROAD IMPROVEMENTS D**"). **ROAD IMPROVEMENTS D** may be constructed in two phases; an extension of the existing left-turn lane on the northbound approach to a total length of 750 feet (the "**ROAD IMPROVEMENTS D, PHASE 1**"); an exclusive right-turn lane on the eastbound approach (the "**ROAD IMPROVEMENTS D, PHASE 2**"), is required in a manner acceptable to the **DEPARTMENT** as outlined below:
 - a. **ROAD IMPROVEMENTS D** shall include, but not be limited to, pavement modifications, drainage and utility relocations, stormwater management, signing, re-striping and any associated work or incidentals necessary for the completed construction.
 - b. **DEVELOPER** shall be responsible for the design and construction of **ROAD IMPROVEMENTS D**. The **DEPARTMENT** must approve the construction plans and engineering estimate for **ROAD IMPROVEMENTS D, PHASE 1** prior to the issuance of the 220th building permit for the **PROJECT**. **DEPARTMENT** must approve the construction plans and engineering estimate for **ROAD IMPROVEMENTS D, PHASE 2** prior to the issuance of the 300th building permit for the **PROJECT**. The estimates will include the costs for the design, right-of-way acquisition, bonding, **INTERIM FINANCE COSTS**, and construction of **ROAD IMPROVEMENTS D**.
 - c. **DEVELOPER** shall acquire the necessary rights-of-way to build **ROAD IMPROVEMENTS D**. Where necessary, the **DEPARTMENT** will assist **DEVELOPER** in obtaining right-of-way dedications and/or acquisitions from adjacent land owners, using the authority granted to the **DEPARTMENT** by the *Development Related Improvements Requiring New Rights-of-Way Regulation*.
 - d. **DEVELOPER** or its designee shall obtain competitive bids for the construction

of **ROAD IMPROVEMENTS D**. The lowest responsible competitive bid for construction, the design cost, the cost of right-of-way acquisition, bonding, and **INTERIM FINANCE COSTS** shall constitute the total costs for **ROAD IMPROVEMENTS D** ("**COSTS D**"). The **DEPARTMENT** and **PARTICIPANTS D** shall have the right to review the submitted bids prior to the award of the construction contract.

- e. The **FAIR SHARE CONTRIBUTION** of **COSTS D** required from **PARTICIPANTS D** shall be known as "**CONTRIBUTION D**".
- f. Upon determination of **COSTS D**, **DEVELOPER** shall establish an escrow fund for collection of **CONTRIBUTION D** from **PARTICIPANTS D**, and for disbursement of funds to pay **COSTS D** upon execution of a construction contract and commencement of construction of **ROAD IMPROVEMENTS D**. **DEVELOPER** shall notify all known **PARTICIPANTS D**, in writing, of the need to deposit **CONTRIBUTION D** in the escrow fund. Prior to the commencement of work, **PARTICIPANTS D** shall deposit **CONTRIBUTION D** into the escrow fund.
- g. A separate construction agreement based on the terms and conditions set forth herein will be executed by **DEVELOPER** for **ROAD IMPROVEMENTS D, PHASE 1** prior to the issuance of the 240th building permit for the **PROJECT**. A separate construction agreement based on the terms and conditions set forth herein will be executed by **DEVELOPER** for **ROAD IMPROVEMENTS D, PHASE 2** prior to the issuance of the 350th building permit for the **PROJECT**. **DEVELOPER** shall provide the **DEPARTMENT** with security in the form of a performance bond or commercial letter of credit in an amount equal to 100% of **COSTS D**. The security may be reduced as the improvements are completed. The **DEPARTMENT** shall have the right to draw on the bond or letter of credit, to reimburse it for costs incurred to perform the construction in the event that **DEVELOPER** does not construct **ROAD IMPROVEMENTS D** within the timeframe set forth in this Agreement.
- h. **ROAD IMPROVEMENTS D** shall be constructed by entities hired by **DEVELOPER**. Construction of **ROAD IMPROVEMENTS D, PHASE 1** shall be completed prior to the issuance of the 250th building permit for the **PROJECT**. Construction of **ROAD IMPROVEMENTS D, PHASE 2** shall be completed prior to the issuance of the 390th building permit for the **PROJECT**.
- i. Upon the **DEPARTMENT**'s acceptance of **ROAD IMPROVEMENTS D**, the balance of the escrow account for **COSTS D** shall be adjusted to zero by additional contributions or rebates as necessary in direct proportion to each **PARTICIPANT D**'s **CONTRIBUTION D**.



5. **DEVELOPER** shall participate in the construction improving Kenton Road (KCR 104) for 1,000 feet in each direction from the site entrance in order to meet the **DEPARTMENT's** collector road standards, which includes two twelve-foot travel lanes and two eight-foot shoulders (the "**ROAD IMPROVEMENTS E**"). **ROAD IMPROVEMENTS E** may be constructed in two phases; the limits of the auxiliary lanes at the site entrance on Kenton Road (the "**ROAD IMPROVEMENTS E, PHASE 1**"); the remaining portion of roadway beyond the limits of the **PROJECT's** site entrance's auxiliary lanes (the "**ROAD IMPROVEMENTS E, PHASE 2**"), is required in a manner acceptable to the **DEPARTMENT** as outlined below:
- a. **ROAD IMPROVEMENTS E** shall include, but not be limited to, pavement modifications, drainage and utility relocations, storm water management, signing, re-striping, and any associated work or incidentals necessary for the completed construction.
 - b. **DEVELOPER** shall be responsible for the design and construction of **ROAD IMPROVEMENTS E**. The **DEPARTMENT** must approve the construction plans and engineering estimate for **ROAD IMPROVEMENTS E** prior to the issuance of the 375th building permit for the **PROJECT**. The estimate will include the costs for the design, right-of-way acquisition, and construction of **ROAD IMPROVEMENTS E**.
 - c. **DEVELOPER** shall acquire the necessary rights-of-way to build **ROAD IMPROVEMENTS E**. Where necessary, the **DEPARTMENT** will assist **DEVELOPER** in obtaining right-of-way dedications and/or acquisitions from adjacent land owners, using the authority granted to the **DEPARTMENT** by the *Development Related Improvements Requiring New Rights-of-Way Regulation*.
 - d. **DEVELOPER** shall provide the **DEPARTMENT** with separate securities for costs of **ROAD IMPROVEMENTS E, PHASE I** and **ROAD IMPROVEMENTS E, PHASE 2** in the form of a performance bond or commercial letter of credit in an amount equal to 100% of **ESTIMATE E, PHASE 1** and **ESTIMATE E, PHASE 2**, respectively.
 - e. **DEVELOPER's FAIR SHARE CONTRIBUTION** to **ROAD IMPROVEMENTS E** shall be 100%.
 - f. Separate construction agreements based on the terms and conditions set forth herein will be executed by **DEVELOPER** for **ROAD IMPROVEMENTS E**. **DEVELOPER** will provide the executed construction agreement and the security for **ROAD IMPROVEMENTS E, PHASE I** required by Subsection d of this Section 5 to the **DEPARTMENT** prior to the issuance of the 600th building permit for the **PROJECT**. **DEVELOPER** will provide the executed construction agreement and the security for **ROAD IMPROVEMENTS E, PHASE 2** required by Subsection d of this Section 5 to **DEPARTMENT** prior to the

issuance of the 650th building permit for the **PROJECT**.

- g. **ROAD IMPROVEMENTS E** shall be constructed by entities hired by the **DEVELOPER** per the plans and specifications previously approved by the **DEPARTMENT**. Construction of **ROAD IMPROVEMENTS E, PHASE 1** must be completed prior to the issuance of the 650th building permit for the **PROJECT**. Construction of **ROAD IMPROVEMENTS E, PHASE 2** must be completed prior to the issuance of the 699th building permit for the **PROJECT**.
 - h. After final inspection and acceptance of **ROAD IMPROVEMENTS E, PHASE 1** by the **DEPARTMENT**, the security shall be released and **DEVELOPER**'s obligations for **ROAD IMPROVEMENTS E, PHASE 1** therefore shall be complete. After final inspection and acceptance of **ROAD IMPROVEMENTS E, PHASE 2** by the **DEPARTMENT**, the security shall be released and **DEVELOPER**'s obligations **ROAD IMPROVEMENTS E, PHASE 2** therefore shall be complete.
6. The **DEVELOPER** shall enter into a traffic signal agreement with the **DEPARTMENT** for the **intersection of Main Street and Commerce Street/Moorton Road (KCR 92)**. The traffic signal agreement should include pedestrian signals, crosswalks, and interconnections (including railroad) at the **DEPARTMENT**'s discretion. The traffic signal agreement shall be executed prior to the issuance of the 225th building permit for the **PROJECT**.
7. The **DEVELOPER** shall enter into a traffic signal agreement with the **DEPARTMENT** for the **intersection of McKee Road (KCR 156) and Scarborough Road (294)**. The traffic signal agreement should include pedestrian signals, crosswalks, and interconnections at the **DEPARTMENT**'s discretion. The traffic signal agreement shall be executed prior to the issuance of the 225th building permit for the **PROJECT**.

It is understood by all parties that the **DEVELOPER** is the contractual owner of the land on which the development project is to be constructed, and in the event the **DEVELOPER** assigns, conveys, transfers or gives up their interest in the property or any part thereof, the obligations and/or requirements contained within this Agreement shall become the responsibility of the assignee, successor and/or subsequent property owner and/or developer.

This **AGREEMENT** and the terms thereof shall be construed in accordance with the laws of the State of Delaware.

The terms and conditions of this Agreement are hereby mutually accepted upon the signing by an authorized agent of the **DEPARTMENT** and the **DEVELOPER**. This **AGREEMENT** constitutes the sole understanding by and between the **DEPARTMENT** and the **DEVELOPER** and shall not be modified except in writing subscribed to by both parties. Please sign and return all enclosed copies to this office. The **DEPARTMENT** will return a final copy to your office upon acceptance.

Sincerely,



Marc Coté
Assistant Director, Development Coordination

Cc: Eric Cimo, Central District Public Works Engineer
Todd Sammons, Kent County Manager, Development Coordination
Julio Seneus, Kent County Reviewer, Development Coordination
Brad Herb, Kent County, Development Coordination



IN WITNESS WHEREOF, the parties hereto have duly executed this letter Agreement in quadruplicate, under their respective seals, the day and year first above written.

Approved as to Form:


Frederick H. Schranck
Frederick H. Schranck
Deputy Attorney General

Dated: 9/27/12

Developer

SEALED, AND DELIVERED IN THE presence of

REGAL BUILDERS, L.L.C.
Name of Developer

Attest: *J. A. Alexander*


By: *Harry D. Miller*
Authorized Signature

HARRY D. MILLER - MEMBER.
Title

Dated: October 1, 2012

In the case of a corporation, firm, or partnership, this contract must be signed by the appropriate officials of such corporation, firm, or partnership and their corporate seal must be affixed hereto.

Delaware Department of Transportation

SEAL

Attest: *Martha N. Dobson*
Martha N. Dobson, Director,
Technology and Support Services

By: *Drew A. Boyce*
Drew A. Boyce, Director, Planning

Dated: 10/3/12

Intersection	Developments	Unit Type		Total Units	ADT	AM Peak	PM Peak	Percentage Distribution	PM Peak Intersection Trips	Percent Share of Contribution	Maximum Percent Share of Contribution
		Single Family/Senior Adult Housing	Townhomes/Duplex								
Kenton Road (104/DE 15) & Seven Hickories Road (045/DE 42) (Road Improvements A)	Cherrington (Project Lead)	225	0	225	2194	167	223	5%	11	38%	52%
	Villages at Noble's Pond	879	0	879	3261	275	334	3%	10	34%	48%
	Palomar North and South	159	0	159	1676	130	170	5%	8	28%	28%
Total											
Kenton Road (104/DE 15) & Central Church Road (155) (Road Improvements B)	Villages at Noble's Pond (Project Lead)	879	0	879	3261	275	334	25%	82	24%	28%
	Cherrington	225	0	225	2194	167	223	95%	211	63%	72%
	Palomar North and South	159	0	159	1676	130	170	25%	43	13%	13%
Total											
Kenton Road (104/DE 15) & Pearsons Corner Road (101) (Road Improvements C)	Villages at Noble's Pond (Project Lead)	879	0	879	3261	275	334	11%	36	31%	35%
	Cherrington	225	0	225	2194	167	223	30%	67	58%	65%
	Palomar North and South	159	0	159	1676	130	170	8%	13	11%	11%
Total											
US 13 N Dupont Highway (002) & Fork Branch Road (331) (Road Improvements D)	Villages at Noble's Pond (Project Lead)	879	0	879	3261	275	334	33%	109	53%	100%
	Palomar North and South	159	0	159	1676	130	170	56%	95	47%	47%
	Total										
Total											
Improve Kenton Road (104) for 1,000' in each direction from the site entrance (Road Improvements E)	Villages at Noble's Pond (Project Lead)	879	0	879	3261	275	334	100%		100%	100%
	Total										
Main Street (DE 42) & Commerce Street (156)/Moorton Road (092) (Traffic Signal)	Saratoga (fka Jo-Eve Farms)	716	252	968	5871	404	512	19%	93	55%	55%
	Stonington	99	642	741	4149	308	384	7%	26	15%	15%
	Villages at Noble's Pond	879	0	879	3261	275	334	15%	51	30%	30%
Total											
McKee Road & Scarborough Road (Traffic Signal)	Villages at Noble's Pond	879	0	879	3261	275	334	4%	12	46%	46%
	Stonebrook East (fka Bush Farm)	0	255	255	1683	129	158	4%	6	23%	23%
	Stonebrook West (fka Bush Farm)	155	44	199	1877	145	191	4%	8	31%	31%
Total											

Note: All the trip generation numbers are based on the edition of Trip Generation Manual