

**STONEY RIVER  
DEVELOPMENT PERMIT  
CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA**

**THIS DEVELOPMENT PERMIT**, is made and entered into by and between the **CITY OF RAMSEY**, a municipal corporation under the laws of the State of Minnesota (the "**City**"), and **FIRST PHOENIX RAMSEY, LLC**, a limited liability corporation under the laws of the State of Minnesota, whose address is \_\_\_\_\_ (the "**Permittee**").

**WITNESSETH:**

**WHEREAS**, the **Permittee** is the fee owner of the following described property situated in the **CITY OF RAMSEY**, County of Anoka, State of Minnesota, and legally described as follows:

Lot 2, Block 1, STONEY RIVER, Anoka County, Minnesota

(the "**Subject Property**"); and

**WHEREAS**, on August 9, 2011, the **City** approved the final plat of the **Subject Property** for STONEY RIVER (the "**Plat**"),

**WHEREAS**, on August 9, 2011, the **City** approved the final site plan for the Stoney River on the **Subject Property**, which final site plan consist of the following, subject to the changes required by the City Staff Review Letter dated June 28, 2011, *revised August 3, 2011*, and are on file with the **CITY**:

- Sketch Plan Sheets 1 and 2 prepared by Harry S. Johnson Co., Inc. dated 6/1/11
- Sheets C0.1, C1.0, C1.1, C2.0, C2.1, C2.2, C3.1, C3.2, C4.1, C4.2, C7.1, C7.2, C7.3, L2.1, and L2.2 prepared by Landform Professional Services dated 6/7/11
- South Elevation prepared by Mudrovich Architects undated
- Proposed Main and Second Floor Plans prepared by Mudrovich Architects dated 6/7/11

(the "**Site Plan**"); and

**WHEREAS**, the **Permittee** intends to cause the Required Improvements to the **Subject Property** to be constructed without financial participation by the **City**; and

**WHEREAS**, the **PERMITEE** and the **CITY** have entered into a development contract related to required improvements for the Plat known as STONEY RIVER (the "**Development Contract**").

**NOW, THEREFORE**, the **City** and **Permittee** agree as follows:

**SECTION I  
REQUIRED IMPROVEMENTS AND FINANCIAL RESPONSIBILITIES**

1. **City Code Compliance.** The **City** approves the **Site Plan** conditioned on the **Permittee** developing the **Subject Property** in accordance with the applicable provisions of City Code.

2. **Conformance with Site Plan.** Permittee shall develop the Subject Property in accordance with the Site Plans.
3. **Incorporation of All City Code Requirements.** That the recitals above and the applicable provisions of the City Charter, Subdivision Code, Zoning Code and Public Improvement Code of the City, as amended to date hereof, are incorporated herein by reference.
4. **State Building Code Compliance.** The structures on the Subject Property shall be constructed in accordance with the requirements of the Building Code.
5. **Fire Lanes.** Fire lanes shall be maintained on the Subject Property. The exact locations of these items on the Subject Property shall be as directed by the Fire Chief or his/her designee. The Permittee herein agrees to post "No Parking" signs along private streets in accordance with City Code requirements and in conjunction with the instructions of the Fire Chief or his/her designee.
6. **Required Building Façade.** The Permittee agrees to construct the building on the Subject Property in accordance with the Site Plan.
7. **Improvements.** The Permittee shall construct and install the following site improvements on the Subject Property in accordance with the specifications and location as shown on the **Site Plan**. The Required Improvements are as follows:
  - a. Site grading in accordance with the Grading Plan prepared by Landform Professional Services dated 6/7/11.
  - b. Private storm sewer and appurtenances.
  - c. Private sanitary sewer system
  - d. Private watermains and appurtenances
  - e. Private trunk and lateral storm drainage facilities
  - f. Bituminous driveways, parking lots, and maneuvering areas.
  - g. Continuous, B6/12 concrete curbing and gutter around the perimeter of all bituminous surfaces.
  - h. Installation of Landscaping in accordance with the Landscape Plan prepared by Landform Professional Services dated 6/7/11.
  - i. Irrigation metering and backflow devices shall be approved as part of the Utility Plan, and installed accordingly.
  - j. Irrigation rain sensors shall be installed and appropriately placed throughout the development.
  - k. Establishment of turf in areas disturbed during construction and in accordance with the Plat.
  - l. Temporary and permanent erosion control

("Required Improvements").

The Permittee agrees to construct the Required Improvements according to the terms and conditions of this agreement and in accordance with Site Plan.

7. **Required Improvements Completion Date.** The Required Improvements shall be completed on or before August 9, 2012.

8. **Required Improvements Financial Guarantee.** The PERMITTEE agrees that no Certificate of Occupancy shall be issued until such time the Required Improvements are completed. If the PERMITTEE requests a Certificate of Occupancy prior to completion of the Required Improvements, the PERMITTEE shall be required to deposit with the City a cash escrow or letter of credit, approved as to form by the City, in the amount 125% of the City's estimated cost of the uncompleted Required Improvements. Prior to the issuance of the building permit, all financial guarantees must be provided as required herein. [NOTE: If the Developer has bids for the required improvements that are proven to be lower than our Engineer's Estimate, the City Engineer will take those bids in consideration for the financial guarantee. Bids may need to be accepted and signed to be used for this purpose.]

Upon completion of the construction of the Required Improvements, the financial guarantee shall be returned to the **Permittee** and the **Permittee** shall be required to provide the landscaping maintenance guarantee described in Paragraph 12 of this Development Permit. The determination of completion of the construction of the Required Improvements shall be made by the City Council after consultation with the City Engineer. In the event the **Permittee** fails to construct and install the Required Improvements as required herein, the City Council may order the completion of the Required Improvements with City day labor and/or by letting contracts for said completion and draw upon the escrow for payment. Only the City Council shall have the authority to direct completion of the Required Improvements and withdraw from the escrow account. The **Permittee** hereby grants permission and a license to the City and/or its contractors and assigns to enter upon the Site for the purpose of completing the construction and installation of the Required Improvements in the event of the **Permittee's** default.

9. **Inspection Fees.** The **Permittee** shall be responsible for all inspection costs incurred by the City related to the installation of Required Improvements. The **Permittee** shall make a cash deposit into the appropriate escrow account at the City, prior to the issuance of any permit for the development of the Subject Property, and the City shall have the authority to draw upon these funds for the purpose of compensating for inspection services. The amount of the deposit shall be equal to five percent (5%) of the estimated cost of the Required Improvements, which equates to \_\_\_\_\_ Dollars and No Cents (\$\_\_\_\_.00) (5% x \$\_\_\_\_\_). Upon completion of the Required Improvements to the satisfaction of the City, any surplus balance remaining in the City's escrow account shall be refunded to the **Permittee**.

## SECTION II PERMITS AND OCCUPANCY

10. No building permit for any lot in the Plat shall be issued until: (a) a Class 5 driving surface is installed to within 300 feet of the proposed structure; (b) a Certificate of Survey, including the survey information required by the **CITY**, has been supplied to the **CITY** Building Official; (c) all the financial guarantees required by the **CITY** have been satisfied; (d) a permit from the Lower Rum River Watershed Management Organization has been obtained; (e) a permit from Anoka County Soil Conservation District has been obtained (if necessary); and (f) this Contract has been signed and received by the **CITY**.
11. No Certificate of Occupancy for any lot in the Plat shall be issued until: (a) vehicular access to the lot is provided, including installation of at least one layer of bituminous surfacing; (b) all utilities are in place, operational and accepted by the **CITY** in accordance with this Agreement; (c) for lots that have a slope of less than 2%, a

certificate of grading, prepared by a licensed (State of Minnesota) professional land surveyor, is provided to the **CITY** documenting that the flattest grade on the lot is 1% or greater; and (d) boulevard sod and landscape tree, or escrow for same, have been provided (e) all improvements included in the Permittee Plans, including amendment required of the City Staff Review Letter dated June 29, 2011, *revised August 3, 2011* are completed, or financial guarantee in the amount of 125% the City Engineer's estimate of the cost of said improvements is secured in the form of cash escrow or letter of credit.

#### SECTION IV LANDSCAPING

12. **Maintenance Guarantee for Landscaping.** It is herein agreed that the **Permittee** shall provide a maintenance guarantee to ensure the survival of the plantings for the Subject Property, in accordance with the Landscape Plan prepared by \_\_\_\_\_ dated \_\_\_\_\_. Said maintenance guarantee shall consist of cash or a letter of credit, approved as to form by the City, in the amount of \_\_\_\_\_ Dollars and No Cents (**\$\_\_\_\_\_**.00) [# plantings (\_\_\_ trees, \_\_\_ shrubs) x cost/planting (\$150/tree, \$75/shrub) x 30% average non-survival rate], which shall be in effect for a two-year period commencing on the date of the City's acceptance of said plantings as part of the Required Improvements.

At the end of the two-year period, the maintenance guarantee shall be returned to the **Permittee**. The determination that all plantings that have been planted in accordance with the **Site Plan** have either survived or have been replaced shall be made by the Community Development Department. In the event the **Permittee** fails to maintain the required plantings for a two-year period, the City Council may order the replacement of plantings with City day labor and/or by letting contracts and draw upon the escrow for payment. Only the City Council shall have the authority to direct replacement of the plantings and withdraw from the escrow account. The **Permittee** hereby grants permission and a license to the City and/or its contractors and assigns to enter upon the Site for the purpose of replacing plantings in the event of the **Permittee** default.

#### SECTION V GENERAL

13. **Boulevard and Area Restoration.** The **Permittee** shall be responsible for restoring all areas disturbed by the development grading operation in accordance with the approved erosion and sediment control plan. The **Permittee** shall also be responsible for the cost of cleaning any soil, earth or debris from the wetlands within and adjacent to this **Site Plan** resulting from grading or other construction performed in the development of the land.
14. **Construction Site Maintenance.** The **Permittee** shall adhere to all City ordinances relating to, but not limited to, dumping of garbage, site development, construction debris, open burning, etc.

15. **Estimated Cost.** It is understood and agreed that cost amounts set forth in this Agreement as Required Improvements, unless specified as fixed amounts, are estimated. The **Permittee** agrees to pay the entire cost of said improvements including interest, engineering and legal charges.
16. **Site Plan Approval Expenses.** The **Permittee** agrees that it will pay to the **City** all **CITY** expenses incurred in the approval of the **Site Plan**, including, but not limited to administration expenses, engineering and legal fees. Said expenses shall be paid within fifteen (15) days of billing by the **City** and outstanding billings shall be paid prior to issuance of the building permit. Any expenses incurred after the release of the building permit shall also be paid within said fifteen (15) day billing period. Failure to pay the **City's** expenses within the fifteen (15) day billing period will permit the **City** to draw upon any of the escrows required by this contract for payment.
17. **Reimbursement to the City.** The **Permittee** agrees to reimburse the **City** for all costs incurred by the **City** in defense or enforcement of this Agreement if the **City** prevails in such action, or any portion thereof, including court costs and reasonable engineering and attorney's fees.
18. **Invalidity of Any Section.** If any portion, section, subsection, sentence, clause, paragraph or phase of this Development Permit is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not effect or void any of the other provisions of this Development Permit.
19. **Proof of Authority.** When the **Permittee** is a corporation, the **City** requires proof of authority by the corporation to execute this Development Permit.
20. **Violation of This Permit.** If the **Permittee** fails to perform any of the terms of this Permit in the manner required by the **City**, the **City** shall be entitled to recover, from the **Permittee** or the issuer of **Permittee** financial guarantee, the full amount of any and all financial guarantees. Breach of any of the terms of this Development Permit by the **Permittee** shall also be grounds for denial of Building Permit or issuance of Certificate of Occupancy.
21. **Agreement Binding On Successors and Assigns.** The **Permittee** agrees that this Development Permit shall be binding upon its successors and assigns.
22. Payment of Development Fees. In accordance with Items #19 through #23 of the Development Contract by and between the City of Ramsey and First Phoenix Ramsey, LLC, all development fees must be paid at time of execution of this Permit. No Building Permit will be approved for the Property until all payments and obligations of the Development Contract are satisfied.

IN WITNESS THEREOF, the parties have hereunto set their hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**FIRST PHOENIX RAMSEY, LLC**

**CITY OF RAMSEY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_ Mayor

ATTEST

By: \_\_\_\_\_

Its: City Administrator

STATE OF MINNESOTA     )  
  )  
COUNTY OF ANOKA    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, before me a Notary Public personally appeared Bob Ramsey and Kurt G. Ulrich, to me personally known, being each by me duly sworn did say that they are respectively the Mayor and City Administrator of the City of Ramsey, the municipal corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said municipal corporation, and the said instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council and said Bob Ramsey and Kurt G. Ulrich acknowledge said instrument to be the free act and deed of said municipal corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  )  
COUNTY OF            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010, by \_\_\_\_\_, \_\_\_\_\_ of First Phoenix Ramsey, LLC, a non-profit corporation under the laws of the State of Minnesota, on behalf of the company.

\_\_\_\_\_  
Notary Public

**THIS INSTRUMENT WAS DRAFTED BY:**

City of Ramsey  
7550 Sunwood Drive NW  
Ramsey, MN 55303

**REVIEWED BY:**

Randall and Goodrich  
2140 Fourth Avenue  
Anoka, MN