

**CITY OF RAMSEY
DEVELOPMENT AGREEMENT FOR TROTT BROOK
ADDITION AND BUILDING EXPANSION**

This Agreement (hereinafter the “Agreement”) is dated as of this __ day of ____, 2017 and is by and between the **CITY OF RAMSEY**, a Minnesota municipal corporation (the “**CITY**”) and **TROTT BROOK HALL**, a Minnesota non-profit corporation (the “**PERMITTEE**”).

WHEREAS, the **PERMITTEE** is the owner of land legally described on the attached Exhibit A (the “Subject Property”).

WHEREAS, the **PERMITTEE** has received approval from the **CITY** to expand their existing facility at 17301 Nowthen Blvd NW.

THEREFORE, THE **CITY** AND THE **PERMITTEE** AGREE AS FOLLOWS:

1. Conditions of Approval. The **CITY** has approved the Plat subject to satisfaction of the following conditions subsequent:
 - a. The **PERMITTEE’S** Execution of this Agreement. That the **PERMITTEE** enter into this Agreement.
 - b. Proof of Authority. That the **PERMITTEE** provide proof that the respective governing boards of the **PERMITTEE** have authorized the **PERMITTEE’S** execution of this Agreement. This proof of authority may be satisfied by providing the **CITY** with a certified copy of the minutes of the governing board of each entity which grants such authority.
2. The Plans. The term “Plans” as used in this Agreement means the Final Plat Plans prepared by Plowe Engineering, Inc., dated March 9, 2017, revised May 22, 2017, revised _____ and E. G. Rud & Sons, Inc., dated May 31, 2017, revised June 27, 2017. The Plans remain subject to: (a) **CITY** Staff’s review and approval of the Plans to, among other things, confirm that the revisions requested in the **CITY** Staff’s review letter have been made; and (b) such further revisions as the **PERMITTEE** may propose and the **CITY** approves. The Plans shall not be attached to this Agreement, but are in the **CITY’S** files. The Plan set includes the following sheets.

C1: Civil Title Sheet
C2: Civil Site Plan
C3: Grading and Drainage Plan
C4: Details
C4.2: Details
C4.3: Turn Lane Detail
C4.4: Turn Lane X-Sections
C5.1: Stormwater Pollution Prevention Plan

C5.2: Stormwater Pollution Prevention Plan
L1: Landscape Plan

3. Required Improvements. The improvements the **PERMITTEE** will construct or install are as follows:
 - a. Parking lot with continuous concrete curb and gutter.
 - b. Stormwater ponding.
 - c. Stormwater piping.
 - d. Turn lanes.
 - e. Landscaping.

(the “Required Improvements”).

The **PERMITTEE** agrees to construct the Required Improvements according to the terms and conditions of this Agreement and in accordance with the Plans and the City Code. The **PERMITTEE** shall provide the **CITY** with a set of reproducible as-built plans in Computer Aided Drafting (CAD) format upon completion of the Required Improvements and acceptance by the **CITY**. The **CITY** will not release in its entirety the Required Improvement Financial Guarantee noted in paragraph #4 below until such as-built plans are received by the **CITY**. Additionally, the **PERMITTEE** agrees to provide to the **CITY** the plans in CAD format prior to the commencement of construction of the Required Improvements.

4. Required Improvement Financial Guarantee. The **PERMITTEE** shall provide a financial guarantee to the **CITY** guaranteeing the construction of the Required Improvements and their timely completion. The **PERMITTEE** shall be responsible for a financial guarantee in the amount of One Hundred Eight Nine Thousand Eight Hundred Seven Dollars and No Cents (**\$189,807.00**), which amount is 125% of the **CITY** Engineer's estimated cost of the Stage I Improvements ($\$151,846 \times 1.25$). Upon completion of Required Improvements (including the removal of “temporary” erosion control measures as identified in the approved Grading Plan), acceptance by the **CITY**, supported by appropriate lien waivers, the **PERMITTEE** may request a reduction in the amount of the financial guarantee.
5. Inspection Fees for the Stage I Improvements. The **PERMITTEE** shall provide an inspection fee to the **CITY** to inspect the Required Improvements. The **PERMITTEE** shall be responsible for an inspection fee in the amount of Seven Thousand Five Hundred Ninety Two Dollars and No Cents (**\$7,592.00**), which amount is 5% of the City Engineer’s estimated cost of the Required Improvements ($\$151,846 \times .05$). The inspection fee must be in the form of a cash escrow. The **PERMITTEE** may request a refund of the remaining balance in the escrow upon completion of the Required Improvements, acceptance by the **CITY**.
6. Installation of the Required Improvements. The **PERMITTEE** shall obtain all necessary permits from all governmental agencies before commencing construction

of the Stage I Improvements. The **PERMITTEE** must provide the **CITY** with copies of all necessary permits from other governmental agencies prior to or when the **PERMITTEE** applies for a building permit to construct improvements on a lot within the Plat. Within thirty (30) days after the completion of the Required Improvements, the **PERMITTEE** shall provide the **CITY** with a complete set of reproducible “As Built” plans for the Stage I Improvements.

7. Maintenance Guarantee for Landscaping. The **PERMITTEE** shall provide a maintenance guarantee to ensure the survival of the plantings. Said maintenance guarantee shall consist of cash or a Letter of Credit, approved as to form by the City, in the amount of Nine Hundred Sixty Seven Dollars (**\$967.00**) [required plantings (7 trees; 15 shrubs) x cost/planting (\$300/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 Subject Property 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’S** default.

8. Time of Performance for the Required Improvements. The **PERMITTEE** must complete the Required Improvements within one (1) year after the issuance of a Building Permit.
9. Warranty for Required Improvements. The **PERMITTEE** shall provide a one year warranty in the amount of 25% of the cost of the Required Improvements. Said warranty shall be in force for one year following the final acceptance of any required improvements and shall guarantee satisfactory performance of said improvements. The warranty must be in the form of cash or a Letter of Credit in a form acceptable to the **CITY’S** Finance Director or a cash escrow.
10. Street Cleaning and Clean Up. After the street surfacing that is a part of the Stage I Improvements is installed, the **PERMITTEE** shall clear any soil, earth, or debris from the streets. From time to time, the **CITY** may remove accumulations of soil, earth, and debris from the streets resulting from the construction of the Stage I Improvements. It shall be the **PERMITTEE’S** responsibility to pay the costs associated with this necessary street cleaning. Invoices from the **CITY** to the **PERMITTEE** for such costs shall be paid within fifteen (15) days of the date of the invoice.

11. Requirements for Building and Occupancy Permits.

- a. No building permit for any lot in the Plat shall be issued until the **PERMITTEE** has: (a) installed a Class 5 driving surface to within 300 feet of the structure; (b) provided the **CITY** Building Official with a Certificate of Survey; c.) the financial guaranty described in Section 6 to the **CITY**; d.) obtained all necessary permits from the Lower Rum River Watershed Management Organization and the Anoka County Soil Conservation District and has provided a copy of each such permit to the **CITY**; and
- b. No occupancy permit for any lot in the Plat shall be issued until the **PERMITTEE** has: (a) constructed vehicular access to the lot, including the installation of at least one layer of bituminous surfacing; (b) constructed all utilities and storm water facilities this Contract requires to serve the lot and such utilities and storm water facilities are in place, and operational and the **CITY** has accepted those utilities and storm water facilities; (c) for lots that have a slope of less than 2%, provided the **CITY** with a certificate of grading, prepared by a licensed (State of Minnesota) professional land surveyor, certifying that the flattest grade on the lot is 1% or greater; and (d) installed and planted the sod and landscaping that are required as a part of the Stage I Improvements.

12. **PERMITTEE Defaults.** If the **PERMITTEE** defaults in the performance of one or more of the **PERMITTEE'S** obligations under this Contract, i) the **CITY** gives the **PERMITTEE** thirty (30) days written notice of the default and ii) the **PERMITTEE** fails to cure the default within said thirty (30), then the **CITY** may pursue any and all remedies available at law or in equity including, but not limited to, the following:

- a. The **CITY** may, at its option, perform or engage one or more third parties to perform the **PERMITTEE'S** obligations. If, in the reasonable judgment of the **CITY'S** staff, the **PERMITTEE'S** default creates an immediate risk to public health or safety, the **CITY** may perform or engage one or more third parties to perform the work before the **CITY** provides the notice described in the initial paragraph of this Section, but the **CITY** must use commercially reasonable efforts to notify the **PERMITTEE** as promptly as possible that the **CITY** is undertaking to perform the **PERMITTEE'S** obligation or obligations. If the **CITY** performs one or more obligations of the **PERMITTEE**, the **PERMITTEE** must reimburse the **CITY** for any costs or expenses the **CITY** incurs, including costs and expenses for **CITY** staff time, to perform the work within 30 days after the **CITY** notifies the **PERMITTEE**, in writing, of the costs and expenses the **CITY** incurred to perform the work. If the **PERMITTEE** does not reimburse the **CITY** within said 30 day period, the **CITY** may pursue any remedies available to the **CITY** either at law or in

equity or, in the alternative, the **CITY** may draw on the financial guaranty the **PERMITTEE** has provided to the **CITY** pursuant to this Agreement to reimburse itself for the expenses the **CITY** incurs to perform the work. This Agreement is a license for the **CITY** to act, and it shall not be necessary for the **CITY** to seek a Court Order for permission to enter the **PERMITTEE** Property. As an alternative to seeking recovery from the **PERMITTEE** or the financial guaranty, the **CITY** may levy special assessments against the **PERMITTEE** Property in accordance with Minnesota Statutes Section 429, and the **PERMITTEE**, for itself and its successors in title, hereby expressly waives any and all substantive and procedural objections or defenses the **PERMITTEE** may have to such special assessments;

- b. The **CITY** may commence an action in Anoka County District Court to pursue any remedy available to the **CITY** at law or in equity including, but not limited to, injunctive relief;
- c. The **CITY** may refuse to grant building permits for improvements to be constructed on any lots within the Plat until the **PERMITTEE** has cured all of its defaults; and
- d. The **CITY** may draw upon all or any portion of the financial guaranty the **PERMITTEE** has provided to the **CITY** pursuant to Section 6 and (i) use all or any portion of the proceeds from the financial guaranty to reimburse the **CITY** pursuant to subsection (a) above; (ii) use all or any portion of the proceeds from the financial guaranty to satisfy any judgment the **CITY** obtains against the **PERMITTEE** pursuant to subsection (b) above; (iii) use all or any portion of the proceeds to reimburse the **CITY** pursuant to Section 19 (j) below; and (iv) hold all or any portion of the proceeds for a reasonable time for the future application as described in subsections (i), (ii) and (iii) of this Section 18(d).

13. Miscellaneous.

- a. Invalidity of Any Section. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason invalid, such decision shall not affect the validity of the remaining portion of this Agreement.
- b. Written Amendments Only. The action or inaction of the **CITY** or the **PERMITTEE** shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties, and approved by a resolution of the **CITY**

Council. The **CITY'S** or the **PERMITTEE'S** failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.

- c. Compliance with Laws and Regulations. The **PERMITTEE** represents to the **CITY** that the Plat complies with all **CITY**, County, metropolitan, State, and Federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances and environmental regulations. If the **CITY** determines that the Plat does not comply, the **CITY** may, at its option, refuse to allow any construction or development work in the Plat until the **PERMITTEE** does comply. Upon the **CITY'S** demand **PERMITTEE** shall cease work until there is compliance.
- d. Boulevard and Wetland Restoration. The **PERMITTEE** shall be responsible for the cost of establishing seed in all boulevards within thirty (30) days of the completion of the street improvements, and restoring all other areas disturbed by the development grading operation in accordance with the approved Grading and Erosion Control plan. The **PERMITTEE** shall be responsible for the cost of cleaning any soil, earth, or debris from the wetlands within and adjacent to this Plat resulting from grading performed in the development of the Plat.
- e. Construction, Hours and Entrance Signs. The **CITY** restricts construction and delivery hours to Monday through Saturday 7:00 a.m. to 10:00 p.m. The **PERMITTEE** is required to provide a sign at each entrance point stating delivery and construction operation hours. Said signs are not to exceed eighty (80) square feet in size and must be clearly visible at all times during the construction period.
- f. Construction Site Maintenance. The **PERMITTEE** shall adhere to all of the **CITY** ordinances relating to, but not limited to, dumping of garbage, site development, construction debris, open burning, etc. The **CITY** reserves the right to withhold permits, inspections, or certificates of occupancy to correct violations relating to construction site maintenance.
- g. Estimated Cost. It is understood and agreed that cost amounts set forth in this Agreement as to Stage I and Stage II Improvements, unless qualified as fixed amounts, are estimated. The **PERMITTEE** agrees to pay the entire cost of said improvements including interest, engineering and legal fees related thereto.

- h. Approval Expenses. The **PERMITTEE** agrees that it will pay to **CITY** all **CITY** expenses incurred in the approval of the project, including, but not limited to, administration expenses, engineering and legal fees. Said expenses incurred after recording of the Final Plat 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 Agreement for payment.

- i. 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, or any portion thereof, including court costs and reasonable engineering and attorney's fees.

- j. Certificate of Occupancy. The term "Certificate of Occupancy" as used in this Agreement shall be defined as a document issued by the **CITY'S** Building Official, which authorizes the structure to be used for its intended purposes.

- k. Notices. Required notices shall be in writing, and shall be either hand delivered to the Parties, its employees or agents, or mailed to them by certified or registered mail at the following address:

TO PERMITTEE:

Trott Brook Hall
Attn: Phil Johnson
17301 Nowthen Blvd NW
Ramsey, MN 55303

TO THE CITY:

City of Ramsey
Attn: Community Development Director
7550 Sunwood Drive NW
Ramsey, MN 55303

- 14. Payment of Development Fee's. The **DEVELOPER** must pay to the **CITY** the fees described on Exhibit B which may include, but are not limited to, Park Land Dedication Fees, Trail Development Fees, and Stormwater Management Fees.

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EXHIBIT A

Legal Description of the Subject Property

Lot 1, Block 1, TROTT BROOK ADDITION

EXHIBIT B

Fees Payable to the City

1. Park Dedication. The **PERMITTEE** is responsible for satisfying applicable Park Dedication requirements. The 2017 Park Dedication Fee applicable to the Plat is \$5,000 per acre. **PERMITTEE** must pay a Park Dedication Fee of Twelve Thousand Four Hundred Fifty Dollars and No Cents ($\$5,000 \times 2.49 \text{ acres} = \mathbf{\$12,450.00}$). The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
2. Trail Development Fees. The **PERMITTEE** is responsible for satisfying applicable Trail Development Fee requirements. The 2017 Trail Development Fee applicable to the Plat is \$1,200 per acre. **PERMITTEE** must pay a Trail Development Fee of Two Thousand Nine Hundred Eighty Eight Dollars and No Cents ($\$1,200 \times 2.49 \text{ acres} = \mathbf{\$2,988.00}$). The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
3. Stormwater Management Fee. The **PERMITTEE** is responsible for satisfying applicable Stormwater Trunk Fee requirements. The 2017 Stormwater Management Fee is \$4,714 per acre. **PERMITTEE** must pay a Stormwater Management Fee of Eleven Thousand Seven Hundred Thirty Seven Dollars and No Cents ($\$4,714 \times 2.49 \text{ acres} = \mathbf{\$11,738.00}$). The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.