

CITY OF RAMSEY
DEVELOPMENT AGREEMENT FOR RAMSEY ELEMENTARY SCHOOL

This Agreement (hereinafter the “Agreement”) is dated as of this _____ day _____, 2018 and is by and between the **CITY OF RAMSEY**, a Minnesota municipal corporation (the “**CITY**”) and Anoka Hennepin School District No. 11, a Minnesota School District under the laws of Minnesota (the “**PERMITTEE**”).

Recitals

- A. The **PERMITTEE** is the owner of land legally described on the attached Exhibit A (the “Subject Property”).
- B. The **PERMITTEE** has received approval from the **CITY** to construct a new elementary school (the “Project”).

Agreement

- 1. Recitals. Recitals incorporated. The recitals stated above are hereby incorporated into this Agreement and are made part of this Agreement by reference.
- 2. Conditions of Approval. The **CITY** has approved the Project subject to satisfaction of the following conditions subsequent:
 - a. The **PERMITTEE’S** Execution of this Agreement. That the **PERMITTEE** enter into this Agreement.
 - b. Marketable Title. That prior to constructing the Project, the **PERMITTEE** shall provide the **CITY** with proof of marketable title to the Subject Property either through a currently certified abstract, registered property abstract or title insurance commitment or policy.

- c. 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.
3. The Plans. The term "Plans" as used in this Agreement means the plans prepared by AJA, Inc, dated February 28, 2018. 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.
4. Required Improvements. The public improvements the **PERMITTEE** will construct or install are as follows:
 - a. Trunk and lateral sanitary sewer.
 - b. Trunk and lateral water main.
 - c. Storm drainage facilities (when specified).
 - d. Stormwater maintenance through 90 percent buildout.
 - e. Streets.
 - f. Concrete curb and gutter (urban).
 - g. Street traffic control signals.
 - h. Lot grading.
 - i. Trail development.
 - j. Sidewalks.
 - k. Electricity (within one-fourth mile).
 - l. Phone (within one-fourth mile).
 - m. Natural gas (within one-fourth mile).
 - n. Boulevard sodding.
 - o. Water shut off boxes.
 - p. 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. Per City Code Section 117-615, 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**. As as-built plans are a required Required Improvement item per City Code Section 117-615, the **CITY** will not release in its entirety the required Required Improvement Financial Guarantee noted in paragraph #8 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 Stage I Improvements.

5. Lot Corner Staking. The **PERMITTEE** must install lot corner stakes at all lot corners.
6. Installation of the Stage I 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 Stage I Improvements, the **PERMITTEE** shall provide the **CITY** with a complete set of reproducible “As Built” plans for the Stage I Improvements.

7. Time of Performance for the Required Improvements. The **PERMITTEE** must complete the Stage I Improvements within two (2) years after approval of the Project.
8. Financial Guaranty for Required Improvements. 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 **(\$1,466,250.00)**, which amount is 125% of the **CITY** Engineer's estimated cost of the Stage I Improvements. Upon completion of Stage I 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.
9. Inspection Fees for the Required Private Improvements. The **PERMITTEE** shall provide an inspection fee to the **CITY** to inspect the Stage I Improvements, Stage II Improvements, and Required Private Improvements. The **PERMITTEE** shall be responsible for an inspection fee in the amount of **(\$58,650.00)**, which amount is 5% of the City Engineer’s estimated cost of the Stage I Improvements, Stage II Improvements, and Required Private Improvements. 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 Stage I Improvements, Stage II Improvements, and Required Private Improvements, acceptance by the **CITY**.
10. Warranty for Stage I and Stage II Improvements. The **PERMITTEE** shall provide a one year warranty in the amount of **\$293,250.00**, which is 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 improvement. The warranty must be in the form of a Letter of Credit in a form acceptable to the **CITY’S** Finance Director or a cash escrow.
11. Street Cleaning and Clean Up. After the street surfacing that is a part of the Required Improvements are 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 Required 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.
12. Payment of Development Fee’s. The **PERMITTEE** 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, Sanitary Sewer Connection (Trunk) Fees, Water Connection (Trunk) Fees, Sanitary Sewer Lateral Fees, Water Lateral Fees, Storm Management Fees, Street Light as well as Street Light Operation and Maintenance Fees.

13. 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 has provided a copy of 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 (including utility extensions in Bunker Lake Boulevard and Puma Street) 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.
14. 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 8 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).

15. 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 Required 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. Project 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:

Anoka Hennepin School District No. 11
Attn: Steven Anderson
2727 N Ferry Street
Anoka, MN 55303

TO THE CITY:

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

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EXHIBIT A

Legal Description of the Subject Property

Lot 2, Block 1, Anoka Hennepin 2nd Addition

EXHIBIT B

Fees Payable to the City

1. Park Dedication. The **PERMITTEE** is responsible for satisfying applicable Park Dedication requirements. **PERMITTEE** must pay a Park Dedication Fee of **\$170,800.00**. 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. **PERMITTEE** must pay a Trail Development Fee of **\$44,408.00**. The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
3. Sanitary Sewer Connection (Trunk) Fees. The **PERMITTEE** is responsible for satisfying applicable Sanitary Sewer Trunk Fee requirements. **PERMITTEE** must pay a Sanitary Sewer Trunk Fee of **\$121,712.00**. The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
4. Water Connection (Trunk) Fees. The **PERMITTEE** is responsible for satisfying applicable Water Trunk Fee requirements. **PERMITTEE** must pay a Water Trunk Fee of **\$225,524.00**. The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
5. Sanitary Sewer Lateral Benefit Fees. The **PERMITTEE** is constructing its own lateral service lines; therefore no sanitary sewer lateral benefit fee is due.
6. Water Lateral Fees. The **PERMITTEE** is constructing its own lateral service lines; therefore no water lateral benefit fee is due.
7. Stormwater Management Fee. The **PERMITTEE** is responsible for satisfying applicable Stormwater Trunk Fee requirements. **PERMITTEE** must pay a Stormwater Management Fee of **\$165,847.00**. The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.