

CITY OF RAMSEY
DEVELOPMENT AGREEMENT FOR RUM RIVER PRAIRIE

This Agreement (hereinafter the “Agreement”) is dated as of this 12th day of June, 2018 and is by and between the **CITY OF RAMSEY**, a Minnesota municipal corporation (the “**CITY**”) and **Rum River Prairie, LLC**, a Limited Liability Company (Domestic), under the laws of State 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** received approval from the **CITY** to subdivide the Subject Property and plat the same as Rum River Prairie (the “Plat”).

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 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. Marketable Title. That prior to recording the Plat, the **DEVELOPER** 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 Final Plat, prepared by LHB Engineers & Architects. The Plans remain subject to: (a) **CITY** Staff’s review and approval by the **CITY’S** Engineer, and among other things, approval and confirmation that the revisions requested in the **CITY** Staff’s April 17, 2018 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. Stage I Improvements. The improvements, as stated in City Code Section 117-615 (b) (1), the **PERMITTEE** is required to construct or install are as follows (unless otherwise noted):
- a. Trunk and lateral sanitary sewer (not required)
 - b. Trunk and lateral water main (not required)
 - c. Storm drainage facilities
 - d. Stormwater maintenance through ninety percent (90%) buildout
 - e. Streets
 - f. Concrete curb and gutter (not required)
 - g. Street traffic control signals (not required)
 - h. Lot grading (per building permit with stockpiling as shown on site grading plan)
 - i. Trail development
 - j. Sidewalks (not required)
 - k. Electricity (within one-fourth mile)
 - l. Phone (within one-fourth mile)
 - m. Natural gas (within one-fourth mile)
 - n. Boulevard seeding.
 - o. Water shut off boxes (not applicable)
 - p. Landscaping (installed at time of building permit)

(the “Stage I Improvements”).

The **PERMITTEE** agrees to construct the Stage I 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 re-producible as-built plans in Computer Aided Drafting (CAD) format upon completion of the Stage I Improvements and acceptance by the **CITY**. As as-built plans are a required Stage I Improvement item per City Code Section 117-615, the **CITY** will not release the required Stage I Improvement Financial Guarantee noted in paragraph #6 below until said as-built plans are provided to 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 and acceptance of the Stage I Improvements, the **PERMITTEE** shall provide the **CITY** with a complete set of reproducible “As Built” plans in CAD format for the Stage I Improvements.

7. Time of Performance for the Stage I Improvements. The **PERMITTEE** must complete the Stage I Improvements within one (1) year after the recording of the Plat.
8. Ownership of the Stage I Improvements. The **PERMITTEE** owns the Stage I Improvements until the **CITY'S** acceptance of the Stage I Improvements. Title to the Stage I Improvements automatically passes to the **CITY** upon the **CITY'S** written acceptance of the Stage I Improvements. Except to the extent the **CITY** has accepted all or portions of the Stage I Improvements, in writing, prior to the lapse, expiration, or other termination of the **CITY'S** financial guaranty described in Section 6 and except to the extent the **CITY** and the **PERMITTEE** may agree, in writing, to defer the **CITY'S** acceptance of certain specified Stage I Improvements, the **CITY** is deemed to have accepted the Stage I Improvements when the **CITY** releases the financial guaranty described in Section 6 or allows such financial guarantee to lapse, expire or otherwise terminate.
9. Stage I Improvements License. The **PERMITTEE** hereby grants the **CITY** and the **CITY'S** agents, employees, officers, and contractors an irrevocable license to enter the Subject Property to perform all necessary work and/or inspections the **CITY** deems appropriate during the **PERMITTEE'S** installation of the Stage I Improvements. The license shall expire after the **CITY** accepts ownership of Stage I Improvements.
10. Stage II CITY Improvements. The future improvements the **PERMITTEE** must construct or install are as follows:
 - a. Street lights (not required)
 - b. Installation of survey monumentation.

(the "Stage II Improvements"). The **PERMITTEE** must complete the construction of the Stage II Improvements within one (1) year after the date upon which the Plat is recorded.

PERMITTEE must install the Stage II Improvements in accordance with the Plans. Per City Code Section 117-615, the **PERMITTEE** shall provide the **CITY** with a set of re-producible as-built plans CAD format upon completion of the Stage II Improvements and acceptance 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 II Improvements.

11. Required Private Improvements. The private improvements the **PERMITTEE** will construct or install are as follows:
 - a. Sanitary Sewer (not required)
 - b. Water (not required)
 - c. Storm drainage facilities
 - d. Stormwater maintenance
 - e. Parking lot (not required)

- f. Concrete Curb and gutter (not required)
- g. Lot grading
- h. Landscaping (noted as State I improvement)

12. Financial Guaranty for Stage I Improvements, Stage II Improvements, and Required Private Improvements. The **PERMITTEE** shall provide a financial guarantee to the **CITY** guaranteeing the construction of the Stage I Improvements, Stage II Improvements, Required Private Improvements, and their timely completion. The **PERMITTEE** shall be responsible for a financial guarantee in the amount of **(\$646,424.54)**, which is 125% of the estimated cost of the Stage I Improvements as approved by the City Engineer. 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.
13. Inspection Fees for Stage I Improvements, Stage II Improvements, and 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 **(\$25,856.98)**, which is 5% of the estimated cost of the Stage I Improvements, Stage II Improvements, and Required Private Improvements as approved by the City Engineer. 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 Stage I Improvements, Stage II Improvements, and Required Private Improvements, acceptance by the **CITY**.
14. Warranty for Stage I and Stage II Improvements. The **PERMITTEE** shall provide a one year warranty in the amount of **(\$129,356.13)**, which is 25% of the cost of the Stage I and Stage II 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 an Irrevocable Letter of Credit in a form acceptable to the **CITY’S** Finance Director or cash escrow.
15. 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.
16. 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 (not applicable), Water Connection (Trunk) Fees (not applicable), Sanitary Sewer Lateral Fees (not applicable), Water Lateral Fees (not applicable), Stormwater Management

Fees, Street Light as well as Street Light Operation and Maintenance Fees (not applicable).

17. 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) provided the financial guaranty described in Section 6 to the **CITY**; and d) obtained all necessary permits from the Lower Rum River Watershed Management Organization, the Anoka County Soil Conservation District, and any other agencies, 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 Agreement requires to serve the lot and such utilities and storm water facilities are in place, 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.

18. 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) days, 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** 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 **Subject** 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** 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).

19. Miscellaneous.

- a. Invalidity of Any Section. If any portion, section, subsection, sentence, clause, paragraphs 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. Mailbox Locations. If the **PERMITTEE** desires to construct mailboxes within the public right of way, the **PERMITTEE** agrees that the placement of mailboxes along public streets is subject to the approval by the **CITY**. Utility locates will be necessary. Mailboxes shall not be located within the bulb of cul-de-sacs.
- e. 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.
- f. 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. (Saturdays require 72-hour notice to the **CITY**). 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.
- g. 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.
- h. Estimated Cost. It is understood and agreed that cost amounts set forth in this Agreement as to Stage I and Stage II Improvements, and Required Private

Improvements unless qualified as fixed amounts, are estimated. The **PERMITTEE** agree to pay the entire cost of said improvements including interest, engineering and legal fees related thereto.

- i. Plat Approval Expenses. The **PERMITTEE** agrees that it will pay to **CITY** all **CITY** expenses incurred in the approval of the Plat, 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 a 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.

- j. 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.

- k. 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.

- l. 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 DEVELOPER:

Rum River Prairie, LLC
Attn: Eric Thomsen
6210 Green Valley Road NW
Ramsey, MN 55303

TO THE CITY:

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

EXHIBIT A

Legal Description of the Subject Property

The Southeast Quarter of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 7, Township 32, Range 25, Anoka County, Minnesota, except that part that has been platted as Anoka County Highway Right of Way Plat No. 33.

-or upon recording-

Lots 1-12, Block 1 (Inclusive), Lots 1-8, Block 2 (Inclusive), Lots 1-4, Block 3 (Inclusive), and Lot 1, Block 4 RUM RIVER PRAIRIE, Anoka County, Minnesota.

EXHIBIT B

Fees Payable to the City

1. Park Dedication. The **PERMITTEE** is responsible for satisfying applicable Park Dedication requirements. The 2018 Park Dedication Fee applicable to the Plat is \$3,000 per residential unit. **PERMITTEE** must pay a Park Dedication Fee of **\$75,000.00**). 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** requirements. The 2017 Trail Development Fee applicable to the Plat is \$1,000 per residential unit. **PERMITTEE** must pay a Trail Development Fee of **\$25,000.00**). The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
3. Trail Credit. The **PERMITTEE** intends to construct trail outside of the bounds of the plat at the request of the **CITY**. The **CITY** will credit back to the **PERMITTEE** the costs associated with the development and construction of that trail outside of the bounds of the Final Plat. The **PERMITTEE** shall provide the **CITY** with documentation of actual trail costs.
4. Sanitary Sewer Connection (Trunk) Fees. The **PERMITTEE** is not responsible for satisfying applicable Sanitary Sewer Trunk Fee requirements.
5. Water Connection (Trunk) Fees. The **PERMITTEE** is not responsible for satisfying applicable Water Trunk Fee requirements.
6. Sanitary Sewer Lateral Benefit Fees. The **PERMITTEE** is not responsible for satisfying Sanitary Sewer Lateral Benefit Fees.
7. Water Lateral Benefit Fees. The **PERMITTEE** is not responsible for satisfying Water Lateral Benefit Fees.
8. Stormwater Management Fee. The **PERMITTEE** is responsible for satisfying applicable Stormwater Trunk Fee requirements. The 2018 Stormwater Management Fee is \$487 per residential unit. **PERMITTEE** must pay a Stormwater Management Fee of **\$12,175.00**). The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
9. Street Light Fee. The **PERMITTEE** is not responsible for satisfying Street Light Fees.
10. Street Light Operation and Maintenance Fee. The **PERMITTEE** is not responsible for satisfying Street Light Operation and Maintenance Fees.