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**ENCROACHMENT AGREEMENT**

**THIS AGREEMENT** (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the **CITY OF RAMSEY**, a municipal corporation under the laws of the State of Minnesota (“City”), and **Riverstone Development, LLC**, and their successors and assigns (“Landowner”).

**RECITALS:**

**WHEREAS**, Landowner is the fee owner of the real property located at 8744, 8756, and 8788 151<sup>st</sup> Avenue NW; 15146, 15213, 15216, 15225, and 15228 Tiger Street NW; 15214 and 15226 Snowy Owl Street NW; and 15273, 15275, and 15286 Quintana Court NW, Ramsey, Minnesota, and legally described as follows:

Lots 1, 2, and 7, Block 2, Lots 1, 11, and 12, Block 3, Lots 10, 11, 20, and 21, Block 4, Lot 6, Block 7, and Lots 8 and 9, Block 8, Riverstone 5<sup>th</sup> Addition

(the “Properties”); and

**WHEREAS**, the City currently has ten (10) foot wide Drainage and Utility Easements (“Easements”) over, under and across a portion of the Properties, as dedicated to the public pursuant to the Plat known as “RIVERSTONE 5<sup>TH</sup> ADDTION” recorded in the Office of the County Recorder, Anoka County, Minnesota; and

**WHEREAS**, Landowner seeks permission from the City to partially encroach upon the Easements up to a maximum of one (1) foot with eave overhangs (foundations would not encroach into the Easements).

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties agree as follows:

1. The City hereby approves an encroachment of no more than one (1) foot on and over the Easements by Landowner for the purposes of constructing and maintaining eave overhangs (the “Overhangs”) over that part of the Easements subject to the terms of this Agreement.

2. Landowner shall not expand the Overhangs in width, depth, or height unless approved in writing by the City. If the Overhangs are demolished, destroyed, or substantially replaced, any replacement shall not encroach upon the Easements without written consent of the City.

3. Nothing in this Agreement shall be deemed a waiver or abandonment of the City’s rights under the Easements.

4. The Landowner is responsible for all costs relating to use, maintenance and repair of the Overhangs.

5. Landowner agrees that if the City, during its normal construction, reconstruction, maintenance and/or repair of the public utilities located within the Easements including, but not limited to, watermain, sanitary sewer and/or storm sewer systems, deems it necessary and expedient to excavate within the Easements, Landowner shall be responsible for removing, reconstructing and/or repairing that portion of the Overhangs within the Easements. The City’s only obligation shall be to fill the excavated area and level the same to the grade that it was prior to the City’s excavation. Notwithstanding the above, in the event the City finds it is necessary to completely restore the easement area, the Landowner agrees to remove that portion of the Overhangs that has been placed in the Easements. Landowner will promptly comply with said

removal request at their expense and will remove the Overhangs within sixty (60) days of the written request by the City.

6. In the event that Landowner fails to take any action required in this Agreement and the City is required to repair, reconstruct or take other actions to maintain the City's utilities, as a result of the Landowner's use and maintenance of the Overhangs, the City may take any and all actions permitted by law to collect the costs of those repairs and the City may further levy an assessment against the Properties for all costs incurred by the City. Landowner waives any and all rights to challenge or appeal the assessment.

7. Landowner and his/her successors and assigns do hereby agree to defend, indemnify, and hold the City harmless from any and all costs and expenses, all claims and liability, including attorney's fees, relating to or arising from granting the Landowner permission to encroach on the Easements for the maintenance, use, and operation of the Overhangs, including third party claims against flooding issues that may occur due to filling within the drainage easement.

8. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following:

**TO CITY:** Colleen Lasher, City Clerk  
City of Ramsey  
7550 Sunwood Drive NW  
Ramsey, MN 55303

**TO LANDOWNER:** Riverstone Development LLC  
14015 Sunfish Lake Blvd NW  
Ramsey, MN 55303

or to any successors or assigns of the Landowner or City, or any future address of the Landowner or City, if Landowner or City gives the other party notice of said change of address as provided pursuant to the provision for notice herein.

9. This Agreement shall be recorded against the title to each of the Properties.

**CITY OF RAMSEY**

By: \_\_\_\_\_  
Mark E. Kuzma, Mayor

By: \_\_\_\_\_  
Kurtis Ulrich, City Administrator

STATE OF MINNESOTA    )  
                                          )ss.  
COUNTY OF ANOKA        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Mark E. Kuzma and Kurtis Ulrich, respectively the Mayor and City Administrator of the City of Ramsey, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

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

