

CITY OF RAMSEY
DEVELOPMENT AGREEMENT FOR BUNKER LAKE INDUSTRIAL PARK FOURTH
ADDITION AND BLIP BUILDING 5

This Agreement (hereinafter the “Agreement”) is dated as of this)_____day of _____, 2023 and is by and between the **CITY OF RAMSEY**, a Minnesota municipal corporation (the “**CITY**”) and PSD, LLC, a limited liability corporation 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 subdivide the **Subject Property** and plat the same as Bunker Lake Industrial Park Fourth Addition (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** enters into this **Agreement**.
 - b. Marketable Title. That prior to recording the Plat, 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 Site Plan and Final Plat Plans prepared by Hakanson Anderson, dated 03/08/2023 and revised on **XXXXXXXXXX**, 2023. 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 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 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. Concrete curb and gutter (urban).
 - f. Lot grading.
 - g. Sidewalks.
 - h. Electricity (within one-fourth mile).
 - i. Phone (within one-fourth mile).
 - j. Natural gas (within one-fourth mile).
 - k. Boulevard sodding.
 - l. Water shut off boxes.

(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 reproducible as-built plans in Computer Aided Drafting (CAD) and Portable Document File (PDF) 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 in its entirety the required Stage I Improvement Financial Guaranty noted in Section 12 below until such as-built plans are received by the **CITY**. Additionally, the **PERMITTEE** agrees to provide to the **CITY** the plans in CAD and PDF 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 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 12 or allows such financial guaranty 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 public improvements the **PERMITTEE** must construct or install are as follows:
 - a. 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 reproducible as-built plans in Computer Aided Drafting (CAD) format and Portable Document File (PDF) format upon completion of the Stage II Improvements and acceptance by the **CITY**. As as-built plans are a required Stage II Improvement item per City Code Section 117-615, the **CITY** will not release the required Stage I Improvement Financial Guaranty noted in Section 12 below until the **CITY** has received the as-built plans. Additionally, the **PERMITTEE** agrees to provide to the **CITY** the plans in CAD and PDF 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
 - b. Water
 - c. Storm drainage facilities
 - d. Stormwater maintenance
 - e. Parking lot

- f. Concrete curb and gutter
- g. Lot grading
- h. Landscaping

12. Financial Guaranty for Stage I Improvements, Stage II Improvements, and Required Private Improvements. The **PERMITTEE** shall provide a financial guaranty 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 guaranty in the amount of **(\$1,562,500.00)**, which amount is 125% of the **CITY** Engineer's estimated cost of the Stage I Improvements. Upon completion of Stage I Improvements, acceptance by the **CITY**, supported by appropriate lien waivers, the **PERMITTEE** may request a reduction in the amount of the financial guaranty.
13. Inspection Fee for the 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 **(\$62,500.00)**, 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**.
14. Warranty for Stage I and Stage II Improvements. The **PERMITTEE** shall provide a one-year warranty in the amount of **\$148,727.00**, 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 a Letter of Credit in a form acceptable to the **CITY'S** Finance Director or a cash escrow.
15. Maintenance Guaranty for Landscaping. It is herein agreed that the **PERMITTEE** shall provide the **CITY** a maintenance guaranty to ensure the survival of the plantings. Said maintenance guaranty shall consist of cash or a Letter of Credit, approved as to form by the **CITY**, in the amount of Eleven Thousand Three Hundred Forty Dollars and No Cents **\$11,340.00** [# plantings (76 trees) x cost/planting (\$300/tree x 30% average non-survival rate, (200 shrubs) x cost/planting \$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 Private Improvements.

At the end of the two-year period, the maintenance guaranty 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 **CITY**. 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 maintenance guaranty for payment. Only the City Council shall have the authority to direct replacement of the plantings and withdraw from the maintenance guaranty. The **PERMITTEE** hereby grants permission and a

license to the **CITY** and/or its contractors and assigns to enter upon the **Subject Property** for the purpose of replacing plantings in the event of the **PERMITTEE**'s default.

16. 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.
17. 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.
18. 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 12 to the **CITY**; and (d) obtained all necessary permits from other agencies and has provided a copy of such permit(s) to the **CITY**;
 - 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 accepted by the **CITY**; (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; (d) installed and planted the sod and landscaping that are required as a part of the Stage I Improvements; and (e) recorded a Shared Access Easement Agreement against Lots 1-2, Block 1 Bunker Lake Industrial Park Fourth Addition.
19. **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 **Subject 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** has provided to the **CITY** pursuant to Section 12 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 20 (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 19(d).

20. 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. 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.
- 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 **Plans**. 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. 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, Stage II, and Required Private 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.

- 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 **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.

- 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. Off-Site Grading. This **Agreement** covers the proposed grading activities on the parcels legally described as Lot 2, Block 1 Hy-10 Ramsey 2nd Addition and Lot 2, Block 1 Hy-10 Ramsey 4th Addition, as reflected on the **Plans**.

- m. Shared Access Easement. The **PERMITTEE** shall record a Shared Access Easement against Lots 1-2, Block 1 Bunker Lake Industrial Park Fourth Addition.

- n. Notices. Required notices shall be in writing, and shall be either hand delivered to the below parties, their employees or agents, or mailed to them by certified or registered mail at the following addresses:

TO PERMITTEE:

PSD, LLC
Attn: Matt Kuker
7533 Sunwood Dr NW #315
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

Outlot A, Bunker Lake Industrial Park 3rd Addition, Anoka County, Minnesota

Or upon platting:

Lots 1-2, Block 1, Bunker Lake Industrial Park Fourth Addition, Anoka County,
Minnesota

EXHIBIT B

Fees Payable to the City

1. Park Dedication. The **PERMITTEE** is responsible for satisfying applicable Park Dedication Fee requirements. **PERMITTEE** must pay a Park Dedication Fee of **\$84,044.00** (19.21 acres x \$4,375.00 per unit). 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 **\$24,973.00** (19.21 acres x \$1,300.00 per unit). 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 **\$78,050.00** (19.21 acres x \$4,063.00). 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 **\$141,059.00** (19.21 acres x \$7,343.00 per unit). The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
5. Stormwater Management Fee. The **PERMITTEE** is responsible for satisfying applicable Stormwater Trunk Fee requirements. **PERMITTEE** must pay a Stormwater Management Fee of **\$102,216.00** (19.21 acres x \$5,321.00 per unit). The **PERMITTEE** acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.