
DEVELOPMENT AGREEMENT

BY AND BETWEEN

MANTRAP TOWNSHIP

AND

This document drafted by:

Kennedy & Graven, Chartered
150 South Fifth Street
Suite 700
Minneapolis, MN 55402
(612) 337-9300 (TJG)

This Development Agreement (“**Agreement**”) is made and entered into this ____ day of _____, 2022, by and between Mantrap Township, a Minnesota public corporation, (“**Town**”) and _____, a _____ company (“**Developer**”). The Town and the Developer may hereinafter be referred to individually as a “party” or collectively as the “parties.”

RECITALS

1. The Developer is the fee owner of the following property in the Town, which is legally described in the attached Exhibit A (“**Property**”):

Hubbard County,
Minnesota;

2. The Developer is proposing to plat the Property, under Minnesota Statutes, chapter 505, Hubbard County’s subdivision regulations, and such other laws and regulations as may apply, into ____ single-family residential lots (“**Plat**”);
3. The Town has created the Mantrap Township Planning Commission and has adopted zoning regulations, but has not yet adopted subdivision regulations under Minnesota Statutes, section 462.358;
4. Hubbard County (“**County**”) needs to make the final decision on approval of the Plat, but under Minnesota Statutes, section 505.09, subdivision 1(a), the County is prohibited from approving the Plat until the Town Board first approves the Plat and the laying of the streets and other public ways shown on it;
5. The Town has a direct interest in the platting of land since the roads and other lands dedicated to the public within a plat become dedicated to the Town and are held in trust until such time as the Town Board determines, by resolution, to open and maintain them as part of the Town’s system of roads or parks;
6. The Town has adopted the Mantrap Township Minimum Road Standards for New or Re-Construction, which are attached hereto as Exhibit B (“**Road Standards**”);
7. The Town has a limited road and bridge fund, which is set by the Town electors, and it is not sufficient to subsidize building or improving newly established platted roads to meet the Road Standards or to significantly improve the roads leading to a new plat;
8. Securing the proper construction of the roads dedicated to the public within plats and establishing the terms under which the Town Board would be willing to open and maintain the dedicated roads as publicly maintained Town roads is critical to protecting the interests of the Town, its taxpayers and those purchasing lots within the Plat ; and
9. The Town Board is not willing to approve or accept new plats containing land to be dedicated to the public unless the Developer agrees to enter into a development agreement

- with the Town in which the Developer agrees to construct the roads according to the Town's Road Standards and agrees to pay the Town's administrative costs and fees.
10. The parties desire to enter into this Agreement to set out the requirements the Developer is requested to comply with to obtain the Town's approval of the Plat and what must occur before the Town will open and maintain the roads within the Plat as part of the Town's system of publicly maintained Town roads.

AGREEMENT

In considerations of the mutual covenants and obligations contained herein, and intending to be legally bound, the parties agree as follows:

1. **Town Approval.** Subject to the execution of this Agreement, the Town Board agrees to approve the Plat proposed for the Property and the laying of the streets and other public ways shown on it, provided the Developer complies with the terms and conditions of this Agreement and incorporates into the final Plat any changes agreed to herein. The Town agrees to communicate its approval to the County upon receipt of the fully executed Agreement and to provide the County a copy of this Agreement for its information.
2. **Lot Requirements.** The lots within the Plat shall, at a minimum, comply with the dimensional requirements and all other applicable requirements set out in the Mantrap Township Land Use Ordinance ("**Town Ordinance**"). The requirements of the Town Ordinance shall apply and must be complied with to the extent they are at least as strict as or stricter than the requirements imposed by the County.
3. **Road Improvements.** The Developer shall, at its own cost, construct and install all roads dedicated to the public within the proposed Plat in accordance with the Road Standards attached as Exhibit B, the County's road requirements applicable to the Plat, and the specific requirements set out below (collectively, the "**Road Improvements**"). The Road Improvements shall include, but are not limited to, the following: building a sufficient base, grading, graveling, stabilizing, and constructing the road; clearing the entire right-of-way of trees and brush except those trees the Town Board specifically marks and agrees to leave; seeding the right-of-way as needed to establish grass along the road; and perform such other work as set out in Road Standards. To the extent there are any inconsistencies between the Road Standards and the County requirements, the requirement or standard that is the strictest or that produces a higher quality outcome shall prevail and the Developer must comply with that stricter or higher standard. The Developer is required to seek direction from the Town Board if it has any questions regarding which is the stricter or higher standard.
 - (a) **Specific Requirements.** The Developer shall comply with the following additional specific requirements as part of constructing the Road Improvements (the following shall be considered part of the Road Standards for the purposes of this Agreement).
 - (1) The roads shall have at least a 24 foot driveway surface.

- (2) The Developer shall install all culverts necessary for adequate drainage as determined by the Town in consultation with the County Engineer or other qualified engineer selected by the Town.
 - (3) The Developer shall gravel all roads necessary with 5" of gravel (Class 1 or its equivalent) in accordance with Town instructions after consultation with the County Engineer or other qualified engineer selected by the Town.
 - (4) The Developer shall remove all extra fill, stumps, refuse, and any other materials resulting from construction of improvements on the Property. No stumps or other debris will be buried inside the roadbed.
 - (5) The Developer shall finish all roadsides, ditches, and slopes with at least 3" of topsoil and seeded with an approved mixture of seed, so as to prevent erosion, in accordance with the requirements of the Town after consultation with the County Engineer.
 - (6) The entire 66 ft. road right-of-way will be cleared of stumps and debris removed.
 - (7) All topsoil will be removed from entire construction area and stockpiled.
 - (8) No rocks over 12" in diameter can be placed in roadbed.
 - (9) No rocks over 6" can be placed within 1' of top of roadbed.
 - (10) No backslope steeper than 2:1 ratio.
 - (11) The Developer shall be responsible for any/all road signs required to provide for public safety (i.e., stop, caution, yield, street name signs, etc.) and as required by the Minnesota Manual on Uniform Traffic Control Devices. Signs will be ordered and installed by the Town, and the Developer will be billed for the costs.
 - (12) If the Developer blacktops the roads, it shall provide a minimum blacktop width of 24 ft., 2 inch base course, and 1.5 inch wear course.
- (b) Exceptions. The Developer may make a written request the Town Board requesting an exception to one or more particular requirements in the Road Standards. The request must explain the reasons for the requested exception. No exception is valid unless it is approved by the Town Board and is issued in writing.
- (c) Construction Inspections. The Town, its officers, employees, and agents may inspect the Property at all reasonable times during construction of the Road Improvements, and may conduct such tests as they deem necessary to determine

compliance with the applicable standards regarding construction of the Road Improvements.

- (d) Corrective Work. The Developer shall, at its own cost, correct all construction that does not comply with the Road Standards within a reasonable time after receipt of notice from the Town informing the Developer of the noncompliance and identifying the required corrective work. The Town will not act to issue final approval of the construction of the Road Improvements until all corrective work is completed.
- (e) Final Inspection and Acceptance of Construction. The Developer shall notify the Town upon completion of the Road Improvements and request the Town to conduct a final inspection of the work. If upon inspection the Town Board determines, in its sole discretion, the Developer has completed the Road Improvements in accordance with the Road Standards, it shall pass a resolution to accept the construction of the Road Improvements. Final acceptance of construction does not obligate the Town to accept the maintenance obligation for the roads within the Plat. The Developer shall be responsible for maintaining the roads in the Plat until the Town Board acts by separate resolution to open and maintain the roads within the Plat as part of the Town's system of publicly maintained Town roads as provided herein.
- (f) Warranty. The Developer warrants that the Road Improvements will be free from defects and the roads will continue to meet all Road Standards for two (2) years from the date the Town Board passes the resolution accepting final construction of the Road Improvements. The Developer is responsible, at its own cost, for completing any warranty work. The Town may, but is not required to, provide the Developer written notice of any needed warranty work. All warranty work shall be completed before the expiration of the warranty period. The Town will not act to take over the maintenance of a road until all warranty work is completed. The Town, in the exercise of its reasonable judgment, shall decide whether any Road Improvements or portion thereof shows signs of failure. If the Developer fails to repair or replace a defective Road Improvements during the warranty period, the Town may, but is not required to, repair or replace the defective Road Improvements. The Town may deduct the costs it incurs from the Security and may avail itself of any other remedies available to it at law to reimburse itself for such costs. The Developer agrees to reimburse the Town fully for the cost of the repair or replacement. Such reimbursement shall be made within 30 days of the date upon which the Town notifies the Developer of the cost due under this paragraph. The Developer hereby agrees to permit the Town to assess any unreimbursed costs as an unpaid service charge under Minnesota Statutes, section 366.012, or as a special assessment under Minnesota Statutes, section 429, against any unsold lots within the Plat if the Developer fails to make required payments to the Town. The Developer, on behalf of itself and its successors and assigns, acknowledges the unpaid costs constitute an unpaid service charge, and that the benefit to the lots within the Plat of the repair or replacement of the Road Improvements and hereby

consents to such assessment and waives the right to a hearing or notice of hearing or any appeal thereon.

- (g) Developer Maintenance. The Developer shall be solely responsible for the maintenance of the roads within the Plat until the Town acts by resolution to accept a particular road for Town maintenance as provided herein. The Developer's maintenance responsibility shall include, but is not limited to, grading, snowplowing, mowing, brushing, weed control and dust control as needed. The Town shall not maintain a road within the Plat until the Town Board adopts a resolution expressly making the identified road or road segment part of the Town's system of publicly maintained Town roads. Such a resolution shall not be adopted until after the Town Board has acted to finally accept the Road Improvements, all conditions related to the Town agreeing to the maintain the roads have been satisfied, and all warranty work has been completed.
 - (h) Acceptance for Town Maintenance. The Developer may make a written request to the Town Board asking that it open and maintain a road within the Plat as part of the Town's system of publicly maintained Town roads once at least 51% of the lots within the Plat adjacent to the road have been developed with a principal structure and all other requirements to request public maintenance have been satisfied. The request must identify the particular road that is the subject of the request and the portion the Developer is asking the Town to maintain. The Town Board shall make its determination by resolution. If it agrees to initiate public maintenance of the road, the Town may condition its approval on any corrective work that must be completed before it will begin public maintenance. The Town's maintenance obligation shall not begin until all such conditions, if any, are satisfied. Thereafter, the Town shall maintain the road in accordance with its usual procedures and policies for maintenance and similar Town roads. The acceptance of one road for public maintenance within the Plat does not constitute acceptance of any other roads or portions thereof for public maintenance. The Developer shall remain responsible for maintenance on all roads not expressly accepted by the Town Board for public maintenance.
 - (i) Driveway Permits. Anyone constructing a driveway to a road within the Plat shall be required to follow the Town's procedures to obtain a driveway permit regardless of whether the driveway is being installed before or after the Town accepts the particular road for public maintenance.
4. **Drainage and Storm Water Facilities.** To the extent the Developer propose to dedicate any storm water or other drainage facilities (collectively, the "**Drainage Improvements**") to the public within the Plat, the Developer shall construct them in accordance with all applicable laws, the plans approved for the Drainage Improvements by the County or, if not approved by the County, by the Town Board, and the requirements of this section. The Road Improvements and the Drainage Improvements are hereinafter be referred to collectively as the "**Public Improvements.**"

- (a) Construction Inspections. The Town, its officers, employees, and agents may inspect the Property at all reasonable times during construction of the Drainage Improvements and may conduct such tests as they deem necessary to determine compliance with the applicable standards.
- (b) Corrective Work. The Developer shall, at its own cost, correct all construction that does not comply with the Road Standards within a reasonable time after receipt of notice from the Town informing the Developer of the noncompliance and identifying the required corrective work. The Town will not act to issue final approval of the construction of the Road Improvements until all corrective work is completed.
- (c) Drainage Areas. All ponding and drainage areas within public drainage easements (collectively, the “**Drainage Areas**”) shall not be filled, altered or disturbed without the prior written consent of the Town and such other regulatory bodies as may be required by law.
- (d) Right to Maintain. The Town, and its agents and contractors, shall have the right, but not the obligation, to enter upon any lot on which Drainage Areas exist for the purpose of inspecting and maintaining the Drainage Improvements. Additionally, in the event that any Drainage Areas on a lot have been filled, altered, or disturbed (and such an event is hereafter referred to as a “**Disturbance**”) without the prior written consent of the Town and the same is not corrected within thirty (30) days after notice thereof by the Town to the owner(s) of such lot, or such other reasonable time period giving consideration to the time of year indicated in the notice, the Town, and its agents and contractors, shall have the right, but not obligation, to enter upon such lot for the purpose of performing work necessary to correct the Disturbance, repair any damage caused by the Disturbance, and assess the costs thereof against the lot as an unpaid service charge under Minnesota Statutes, section 366.012, Minnesota Statutes, chapter 429, or such other authority as may exist. In the event of an emergency, the Town shall not be required to provide notice and an opportunity to the lot owner(s) to perform such necessary work, but may nonetheless assess the cost thereof to the lot.
- (e) Maintenance Obligation. Among the purposes of the homeowners’ association, if one is established for the Plat, will be maintenance, repair or replacement of the Drainage Improvements as needed. If a homeowners’ association is not established for the Plat, it shall be the responsibly of the owners of the lots adjacent to and on which the Drainage Improvements are located to maintain such Drainage Areas. The Developer agrees to inform purchasers of lots within the Plat that: i) the Town does not plan to maintain or pay for maintenance, repair or replacement of the storm water improvements and that the homeowners’ association or the owners will have primary responsibility for such work; ii) the Town has the right, but not the obligation, to enter and to perform necessary work upon the failure or refusal by the homeowners’ association or owners to do so; and iii) if the Town performs any

work on the storm water Improvements, the Town intends to assess the cost of such work against the lots within the Plat.

- (f) **Warranty.** The Developer agrees to warrant the Drainage Improvements against defects in labor and materials for a period of three (3) years from the date of the recording of the final Plat with the office of the County Recorder. During such period, the Developer agrees to repair or replace any Drainage Improvements which show signs of failure, normal wear and tear excepted. The Town, in the exercise of its reasonable judgment, shall decide whether any Drainage Improvement or portion thereof shows signs of failure. If the Developer fails to repair or replace a defective Drainage Improvement during the warranty period, the Town may, but is not required to, repair or replace the defective Drainage Improvement. The Town may deduct the costs it incurs from the Security and may avail itself of any other remedies available to it at law to reimburse itself for such costs. The Developer agrees to reimburse the Town fully for the cost of the repair or replacement. Such reimbursement shall be made within 30 days of the date upon which the Town notifies the Developer of the cost due under this paragraph. The Developer hereby agrees to permit the Town to assess any unreimbursed costs as an unpaid service charge under Minnesota Statutes, section 366.012, or as a special assessment under Minnesota Statutes, section 429, against any unsold lots within the Plat if the Developer fails to make required payments to the Town. The Developer, on behalf of itself and its successors and assigns, acknowledges the unpaid costs constitute an unpaid service charge, and that the benefit to the lots within the Plat of the repair or replacement of the Drainage Improvement and hereby consents to such assessment and waives the right to a hearing or notice of hearing or any appeal thereon.
5. **Financial Security.** No work shall be commenced under this Agreement, and the Plat will not be executed by the Town or released for recording, until the Developer has filed with the Town Clerk a cash deposit, an irrevocable and unconditional Letter of Credit in a form acceptable to the Town, or some equivalent security acceptable to Town in its sole discretion, in the amount of _____ dollars (\$ _____) (the "Security") reflecting one hundred five percent (105%) of the estimated cost of completing of the Public Improvements. Said Security shall provide that funds shall be paid to the Town upon written demand of the Town to the extent of default herein by Developer. After expiration of all warranty periods and after all corrective work has been completed and accepted in writing by resolution of the Town Board in its sole discretion, the Security may be fully released by the Town, upon written request by the Developer. The Developer shall insure that the Security required for this Agreement shall remain continuously in effect, and shall be renewed by the Developer prior to any expiration of such security. Any lapse of such Security shall result in the Town suspending any Town approvals previously issued, refusing to grant future approvals until the Security is reinstated.
6. **Costs and Escrow.**
- (a) **Developer's Costs.** The Developer is responsible for its own costs related to carrying out its obligations under this Agreement including, but not limited to, all

engineering services, labor, materials, equipment, and all other costs and expenses incurred to construct the Public Improvements.

- (b) **Town's Costs.** The Developer agrees to pay to the Town an administrative fee in the amount necessary to reimburse the Town for its costs and expenses in reviewing the Developer's Plat and request for the Town Approval, including the drafting and negotiation of this Agreement, and other legal, engineering and other professional fees and costs the Town may incur.
 - (c) **Escrow.** In order to secure the payment of those costs, the Developer shall make a cash deposit (certified check or cashier's check) with the Town in the amount of \$ _____. The Town shall deduct its costs from the deposit and may require the Developer to deposit additional funds if the original amount escrowed is not sufficient to fully reimburse the Town for the actual costs it incurs. The Town will provide the Developer an accounting of the payments from the escrow and shall, within 80 days after the recording of the Plat with the County Recorder's office, return to the Developer any unused amounts remaining in escrow. The Developer also agrees to reimburse the Town for any costs incurred in the enforcement of any provision of this Agreement, including reasonable inspection, engineering, attorney, and other professional and administrative fees and costs. In the event the escrow provided with the application is not sufficient to fully reimburse the Town, the Developer shall be required to pay such additional amounts within fourteen (14) days of receiving a bill from the Town. The Developer agrees that all costs the Town incurs related to this minor subdivision, this Agreement, and the enforcement of its provisions constitute a service charge that may be imposed on the Property or the resulting lots pursuant to Minnesota Statutes, section 366.012 or any other applicable law if such costs are not paid in full as provided herein. Any approvals the Town has provided for the replat shall be suspended until the outstanding amounts have been paid in full.
7. **Legal Compliance.** The Developer shall be responsible for complying with all applicable laws and for obtaining any permits or permissions as may be required by federal, state, or local law to construct the Public Improvements. This obligation includes placing appropriate barricades and other warning signs as may be required on any existing Town roads that may be impacted by the construction of the Public Improvements.
8. **Default.** In the event the Developer, or its heirs, successors or assigns, violates any of the covenants and agreements herein contained, the Town, in its sole judgment and discretion, may at its option, in addition to its other rights and remedies, declare the Developer to be in default of this Agreement. If such default or defaults are not cured within 10 business days of the Town's written notice of default to the Developer, the Town may, in its sole judgment and discretion, at its option, draw on the Security provided by Developer pursuant to this Agreement for the purpose of assuring installation, maintenance, and repair of the Public Improvements as required in this Agreement and to reimburse itself for all costs associated with such work including commencing legal action against Developer as needed to collect the entire amount owed by the Developer. In addition, the Town may, upon an event of

default by the Developer, order all work within the Plat to be halted until such time as the Developer cures such event of default.

9. **Indemnification.** The Developer hereby agrees to indemnify, defend, and hold the Town and its officials, employees, contractors, and agents harmless from claims made by it for damages sustained or costs incurred resulting from the approval of the minor subdivision. The Developer hereby agrees to indemnify, defend, and hold the Town and its officials, employees, contractors, and agents harmless for all costs, damages, or expenses which the Town may pay or incur in consequence of such claims, including attorneys' fees, except matters involving acts of negligence by the Town.
10. **Warranty of Title and Authority.** The Developer warrants and represents to the Town that it is the fee owner of the Property and that it has the authority to execute this Agreement and agree to the conditions contained herein. The Developer shall be responsible for obtaining all such other approvals and consents as may be required for the Plat and development of the Property.
11. **Recording.** The Town will record this Agreement with the Hubbard County Recorder's Office at the Developer's expense unless the parties agree the Developer shall be responsible for recording it. The party that records this Agreement shall provide the other party a copy of the recorded document within 20 days of receiving it from the County Recorder's office. The Developer shall be responsible for providing any corrective descriptions or other information as may be needed to record this Agreement.
12. **Binding Effect.** This Agreement creates obligations for the Developer despite any other agreement the Developer may have been required to enter into as part of obtaining approval for its Plat, whether with the county or otherwise. The terms and provisions hereof shall be binding upon, and inure to the benefit of the heirs, representatives, successors and assigns of the parties hereto and shall be binding upon all future owners of all or any part of the Plat and shall be deemed covenants running with the land. References herein to Developer, if there be more than one, shall mean each and all of them. This Agreement shall be placed of record so as to give notice hereof to subsequent purchasers and encumbrances of all or any part of the Plat, and all recording fees shall be paid by the Developer.
13. **Severable.** In the event that any portion of this Agreement shall be held invalid for any reason, the same shall not affect in any respect whatsoever the validity of the remainder of this Agreement.
14. **Waiver.** Any waiver, whether express or implied, by any party of a breach of any provision of this Agreement will not operate as or be construed to be a waiver of any subsequent breach of this Agreement.
15. **Entire Agreement.** This Agreement, including the recitals and the exhibits, which are incorporated herein, constitute the entire agreement between the parties regarding the Plat and the construction of the public improvements. No amendments to or modifications of this Agreement are valid unless they are in writing and executed by the parties.

16. **Assignment**. The Developer may not assign any part of this Agreement without the written permission of the Town, which permission shall not be unreasonably denied. No assignment shall be effective unless the assignee assumes all the obligations of the Developer, as applicable, under this Agreement and the documents related thereto are in a form reasonably acceptable to the Town.

17. **License**. The Developer hereby grants the Town, its agents, employees, officers and contractors a license to enter the Plat to perform all work and inspections as provided herein in conjunction with the development of the Plat and the identified Public Improvements.

18. **Notices**. All notices and demands specified herein shall be deemed appropriately and timely given when delivered personally or deposited in the United States mail to the addresses hereinafter set forth by certified mail (return receipt requested). The addresses of the parties hereto are as follows until changed by written notice given as above:

To the Town at:

Town Clerk
Mantrap Township
PO Box 227
Nevis, MN 56467

With a copy to:

Troy J. Gilchrist
Kennedy & Graven, Chartered
150 South 5th Street, Suite 700
Minneapolis, MN 55402

To the Developer at:

Attn. _____

15. **No Replacement**. This Agreement is in addition to and is not in replacement of any other agreement, application, understanding or action relating to the Plat executed by Developer.

16. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be an original and shall constitute one and the same Agreement.

17. **Effective Date**. This Agreement shall be effective as of the date of the last party to execute it.

IN WITNESS WHEREOF, the Town and Developer have caused this Agreement to be duly executed on the day and year below written.

MANTRAP TOWNSHIP:

Date: _____

By: _____

Its: Chairperson

By: _____

Its: Town Clerk

DEVELOPER:

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me, this ____ day of _____, 200_, by _____, (title) of (name of developer), a Minnesota (incorporation status), on behalf of the company.

Notary Public

EXHIBIT A

[Legal Description of Property]

EXHIBIT B

ROAD IMPROVEMENT SPECIFICATIONS AND REQUIREMENTS

(Specifications are attached hereto)