

## **DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_, 20\_\_, is by and among WonderTrek Children's Museum, a \_\_\_\_\_ ("**Developer**"), Sourcewell, a \_\_\_\_\_ ("**Owner**"), and City of Baxter, Minnesota, a municipal corporation duly organized and existing under the laws of the State of Minnesota, ("**City**")

### **WITNESSETH:**

**WHEREAS**, the Owner owns 9.0 acres of land described on Exhibit A and depicted on Exhibit B (the "**Property**"); and

**WHEREAS**, the Owner is platting the Property and will convey the Property to the Developer for the construction of a children's museum on the Property in two phases (the "**Development**"); and

**WHEREAS**, the City, the Developer, and the Owner intend for this Agreement to impose certain commitments in connection the development of the Property; and

**WHEREAS**, the Owner and the Developer intend to construct certain onsite and/or offsite public improvements and private improvements necessary to serve the Development; and

**WHEREAS**, the Development includes the construction and installation of water main, sanitary sewer, drainage facilities, and related improvements (hereinafter collectively referred to as the "**Private Improvements**") hereinafter described; and

**WHEREAS**, the Development includes the construction and installation of water main, sanitary sewer, street, storm sewer drainage, and trail improvements (hereinafter collectively referred to as the "**Public Improvements**") hereinafter described; and

**WHEREAS**, the Developer agrees to construct all Private Improvements and Public Improvements in accordance with all City ordinances, regulations, specifications, standards and policies ("**City Regulations**") pursuant to the terms of this Agreement and will pay for all related charges, fees, and costs set forth in this Agreement; and

**WHEREAS**, the City, the Owner, and the Developer agree that the Development can best proceed pursuant to a development agreement such as this Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual obligations of the parties contained herein, it is agreed between the parties as follows:

## **ARTICLE 1** **PUBLIC IMPROVEMENTS**

1.1 Construction. The Developer shall cause to be constructed the Public Improvements set forth in this Section 1.1 and depicted on Exhibit C in compliance with the City Regulations. Construction shall not begin until complete and accurate plans and specifications have been approved by the City. Each contract for construction of Public Improvements shall require a one-year warranty period following completion of the Public Improvements, which warranty shall run in favor of the City. All material and construction shall conform to the City Regulations.

(a) Road Improvements. As required by the City Regulations, the Developer shall, at its sole cost and expense, design and construct the following (“Roadway Improvement”):

(1) The extension of Ironwood Drive

(b) Water Improvements. As required by the City Regulations, the Owner and Developer, at their sole cost and expense, design and construct the following (“Water Improvements”):

(1) Extension of water main.

(c) Sanitary Sewer Improvements. As required by the City Regulations, the Developer shall, at its sole cost and expense, design and construct the following (“Sewer Improvements”):

(1) Extension of sanitary sewer line.

(d) Stormwater Improvements. As required by the City Regulations, the Developer shall, at its sole cost and expense, design and construct the following (“Stormwater Improvements”):

(1) Retention pond.

1.2 Security. Within ten (10) days of the Effective Date, the Developer shall deposit or cause its general contractor to deposit with the City security in the form acceptable to the City Attorney in the amount of 125% of the cost of the Public Improvements as shown on Exhibit D. Said surety shall be released by the City upon acceptance of the Public Improvements by the City and a one-year warranty bond has been assigned to the City.

1.3 As-Built Plans. The Developer shall submit as-built plans for that Public Improvements installed in public rights-of-way or public utility easements and submit them in electronic format in “.dwg file form” at the Developer’s expense. As-built plans shall include a complete set of plans depicting what was actually built and shall include all valves, hydrants, curb stops, sewer manholes, sewer clean-outs, and sewer service ends with a corresponding table showing County Coordinates on each item. Further plans shall include all storm sewer manhole, inverts, overflows, outflows, catch basins, and storm water ponds with elevations and a

corresponding table showing County Coordinates on each item within six (6) months after substantial completion.

1.4 Inspections.

(a) The City Engineer or designee shall have the right to inspect, at any time, the construction of Public Improvements in Section 1.1 and any related improvements necessary to support the Development. The Developer shall reimburse the City for all actual, out-of-pocket, reasonable inspection costs related to said Municipal Portion ensuring that they are constructed to City specifications. The estimated costs of inspections are set forth the attached Exhibit E. The City has designated Short Elliott Hendrickson Inc. (SEH) to inspect construction of the Municipal Portion full time at an hourly rate of \$XXX.00 for a total estimated construction inspection cost of \$XXXX. In addition to the Construction inspection, SEH will be responsible for the construction testing which is estimated at \$XXXX. If SEH'S estimate for these charges is expected to exceed 110% of the estimate, the City will notify the Developer in advance and the City and Developer shall coordinate cooperatively to resolve any comments or objections that Developer may have regarding such exceedance.

(b) The Developer agrees that all construction of the Private Improvements that are related to the Public Improvements shall be inspected by the City Engineer or designee. The Developer shall reimburse the City for all actual, out-of-pocket, reasonable inspection costs related ensuring that they are constructed to City Regulations. The estimated costs of inspections are set forth in the attached Exhibit E. The City's hourly rate is \$XXX (The City will charge in one-hour increments). The City's estimate for the total cost of these charges is \$XXXX. In addition to the Construction inspection, SEH will be responsible for the construction testing which is estimated at \$XXXX and is attached hereto as Exhibit E. If the charges are expected to exceed 110% of the estimate, the City will notify the Developer in advance and the City and Developer shall coordinate cooperatively to resolve any comments or objections that Developer may have regarding such exceedance.

1.5 Easements. The Developer shall dedicate drainage and utility easements as shown on the final plat of the Property. The Developer agrees that it will, at its own expense, provide necessary easements over all sanitary sewer lines, sanitary sewer manholes, water lines, water valves and fire hydrants, to the extent necessary or convenient for the City to inspect, maintain, repair, and replace such utilities and related improvements; provided, however, that the Developer shall retain rights to use the surface over such easements so long as such use does not unreasonably interfere with the City's rights to inspect, maintain, repair, and replace such utilities and related improvements the Developer shall not place any permanent vertical structures, including pylon signs or monument signs, but excluding signage mounted on 3lb/sq foot galvanized steel posts or its equivalent, in the easement area, it being expressly agreed that temporary or horizontal improvements such as fencing, parking areas, and truck courts, are expressly approved in the easement areas.

(a) Water Main Improvements. There are portions of the water main within the Private Improvements that shall be owned and maintained by the Developer as required in the Construction, Repair and Maintenance Agreement for Water Main and Hydrants. The Developer shall grant the City access to all hydrants within the Development site for flushing purposes via a permanent hydrant access easement in form and substance acceptable to the Developer.

(b) Sanitary Sewer Improvements. There are portions of the sanitary sewer main within the Private Improvements that shall be owned and maintained by the Developer as required in the Construction, Repair and Maintenance Agreement for Stormwater Utilities, Sanitary Sewer and Water Main Easement for the Development.

(c) Private Stormwater Utilities. There are portions of the stormwater utilities within the Development that shall be owned and maintained by the Developer as required in the Construction, Repair and Maintenance Agreement for Stormwater Utilities, Sanitary Sewer and Water Main Easement for the Development.

1.6 Coordination. The Developer agrees that it will, at its own expense, provide for and coordinate obtaining and/or installing each of the following items in connection with, and to the extent applicable to the Project:

- (a) All surveying, platting and recording requirements provided herein; and
- (b) Survey services to establish vertical and horizontal control and alignment points and staking for the placement of main line sanitary sewer, storm sewer and water main; and
- (c) Electricity, telephone, gas and cable television installations; and
- (d) Monumentation of lot corners; and
- (e) Plans and specifications for the Privately Installed Improvements and Municipal Installed Improvements; and
- (f) Payment of all fees, permits, licenses and recording fees; and
- (g) Erosion control in accordance with MPCA guidelines; and
- (h) All other items or site improvements necessary and incidental to completion of the Project; and
- (i) Lot grading, including stabilization and erosion controls; and
- (j) Municipal Water mains, gate valves, curb stops and fire hydrants; and

(k) Municipal Sanitary sewer mains and manholes; and

(l) Private topsoil, sod, seeding, and mulching of street right of way (only for that part disturbed as part of the construction of the Privately Installed Improvements and Municipal Installed Improvements); and

(m) Construct and maintain a 100-year storm water drainage system serving Lot 1, Block 1, of Third Addition to City Center of Baxter affected by the Privately Installed Improvements. The Developer shall be responsible for any sediment and erosion that is caused by the over land, overflow system from the 100-year storm water infiltration basins to the City or discharge to any public water way systems.

1.7 City Acceptance. The City agrees that the Public Improvements when fully constructed and approved for acceptance by the City Engineer, Baxter Utility Commission and City Council shall become part of the municipal utility, owned and/or controlled by the City.

1.8 Warranty. The Public Improvements shall require a one-year maintenance bond following acceptance by the City. The maintenance bond shall be in the form acceptable to the City Attorney. The amount of the bond shall be equal to 110% of the final construction cost of the Public Improvements. The City shall not accept the Public Improvements until the end of said warranty period. The City reserves the right to extend the time frame for acceptance of the Development if any problems with the Municipal Installed Improvements are not resolved.

## **ARTICLE 2**

### **PRIVATE IMPROVEMENTS**

2.1 Private Improvements. All Private Improvements shall be designed, constructed, and installed by the Developer in compliance with all City Regulations. Construction and installation of Private Improvements shall not begin until complete and accurate plans and specifications have been approved by the City Engineer.

2.2 Grant of License. The Developer hereby grants to the City, its agents, employees, officers and contractors a temporary, non-exclusive, revocable license to enter upon the property on which the Development work is being conducted to perform all necessary inspections deemed appropriate by the City during the construction of the Private Improvements. Notwithstanding the foregoing grant, the City shall follow all site safety rules as required by Developer during all periods of entry upon the Development, and shall be solely responsible for any damage or injury it causes while on site.

## **ARTICLE 3**

### **DEVELOPMENT FEES AND CHARGES**

3.1 General. The Developer shall be subject to those lawfully adopted fees and charges due and payable to the City in connection with the Development, including permit fees, and the fees and charges set forth in this Article 3.

3.2 SAC/WAC Charges. The Developer agrees that the following SAC/WAC charges will also apply to the Project:

- (a) Sewer Availability Charge (SAC) (\$3,400 per each unit in year 2025);  
and
- (b) Water Availability Charge (WAC) (\$3,100 per each unit in year 2025).

The City's estimate for the total cost of SAC and WAC charges is attached hereto as Exhibit F. The SAC and WAC fees are estimates and final fees will be determined at the time of issuance of the building permit and based upon the fee schedule in effect at the time of building permit application.

3.3 Payment of City Fees. The City shall not issue a building permit until the Developer has paid all fees due and payable for this Development in accordance with this Agreement. The City shall present Developer with estimated costs for engineering inspections and observation, legal or administrative costs incurred by the City to review the construction of the Private Improvements and Public Improvements. The estimated fees for any engineering costs are as set forth in Section 1.4 above. All other fees due to the City for any legal or administrative fees are shown on Exhibit E attached hereto. Upon completion of the Development, the City shall refund to the Developer any remaining funds if the actual costs were lower than estimated. If the actual costs exceed the estimates, the City shall bill the Developer for this surplus and the bill shall be paid by Developer within 30 days; provided, however, that the City and Developer shall coordinate cooperatively to resolve any comments or objections that Developer may have regarding such exceedance. No interest shall accrue on any monies held by the City pursuant to this Section 3.3. If any invoice due to the City is unpaid after 30 days, a one-time late fee shall be assessed equaling 5% of the unpaid balance and interest at the rate of 1.5% per month shall be assessed for each month thereafter. If after multiple attempts to collect any outstanding bill(s) at the completion of the Development, a bill(s) remains unpaid, the Developer agrees the City may certify the outstanding balance, with certification fees and interest, to the Property for collection by the county on the following year's property taxes. The Developer, or its successors, further agrees that when said assessment is levied it will not appeal or challenge this assessment amount and waives any notice of hearing related to adopting said assessment.

3.4 GIS System. The Developer shall reimburse the City for its reasonable costs related to incorporating the Public Improvements into the City's GIS system as set forth in Exhibit F. The City shall charge an hourly rate based upon the City's adopted fee schedule in effect at the time services are performed. The 2025 hourly rate is \$95 (The City will charge in one-hour increments).

## **ARTICLE 4**

### **CERTIFICATE OF OCCUPANCY**

4.1 Certificate of Occupancy. The following minimum improvements (as applicable) for the Development must be substantially completed and accepted by the City before consideration is given to issuance of a certificate of occupancy:

- (a) Sanitary sewer, water drainage controls, water main, and fire hydrants.
- (b) Installation of all electricity, telephone, gas, lot monumentation and street and traffic signs.
- (c) Road, trail, and stormwater improvements of the Public Improvements.

## **ARTICLE 5**

### **TERM; EXPIRATION**

5.1 Expiration. This Agreement shall expire after the parties have fulfilled their respective obligations required by this Agreement.

## **ARTICLE 6**

### **DEFAULT AND ESTOPPEL**

6.1 Default. No party shall be in default under this Agreement until notice of the alleged failure of such party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such party has been given 30 days to cure the alleged failure.

6.2 Estoppel. The City agrees, upon the written request of the Developer, within ten (10) business days of the request, to issue to the Developer or its prospective mortgagee or purchaser, an estoppel certificate stating, to the best of the City's knowledge: (i) whether it knows of any default under this Agreement, and if there are known defaults, specifying the nature thereof; (ii) whether this Agreement is in full force and effect; and (iii) whether there are any sums due and owing by the Developer to the City that remain outstanding (that have not otherwise been assessed to the Property).

## **ARTICLE 7**

### **ADDITIONAL PROVISIONS**

7.1 Binding Obligations. This Agreement shall inure to the benefit of and shall be binding upon the Developer, General Contractor and the City and their respective successors, agents and assignees, and shall be binding upon all future owners of all or any part of Lot 1, Block 1, Third Addition to City Center of Baxter, and shall be deemed covenants running with the land. However, nothing in this Agreement, expressed or implied, shall give to any other person or entity any benefit or legal or equitable right, remedy or claim under this Agreement.

7.2 Notices. Notices shall be communicated to the following addresses:

If to the City:                      City of Baxter  
                                                 Attn: \_\_\_\_\_  
                                                 13190 Memorywood Dr.  
                                                 Baxter, MN 56425

e-mail: \_\_\_\_\_

If to the Owner:      Sourcewell  
Attn: \_\_\_\_\_  
202 12<sup>TH</sup> Street NE, P.O. Box 219  
Staples, MN 56479  
e-mail: \_\_\_\_\_

If to the Developer      WonderTrek Children's Museum  
Attn: \_\_\_\_\_  
1001 Kingwood Street, Suite 118  
Brainerd, MN 56401  
e-mail: \_\_\_\_\_

Notices are effective when actually received by the party designated above by personal delivery by overnight courier or by electronic mail or 72 hours following deposit of the same in any United States Post Office, registered or certified mail postage prepaid. The addresses of the parties may be changed upon notice to the other party given as provided in this section.

7.3      Authority of Developer. The Developer warrants and represents that Developer is the sole owner of and has marketable title to the property to be developed for all Privately Installed Improvements, except for the "Municipal Portion" (defined in Section 5 below) of the Privately Installed Improvements, and has the authority to enter into this Agreement.

7.4      Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the parties.

7.5      Delays. No party shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics or pandemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by the City, the Owner, or the Developer under this Agreement. If such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to another party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7.6      Severability. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason held to be invalid, then (a) such enforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the

intent of the parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the parties

7.7 Applicable Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Exclusive venue for any action to enforce or construe this Agreement shall be in Crow Wing County, Minnesota.

7.8 Non-Waiver. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver

7.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

7.10 Exhibits. The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

|           |                              |
|-----------|------------------------------|
| Exhibit A | Legal Description            |
| Exhibit B | Depiction of Property        |
| Exhibit C | Public Improvements          |
| Exhibit D | Construction Costs           |
| Exhibit E | Inspection Fees              |
| Exhibit F | Development Fees and Charges |

*[SIGNATURES APPEAR ON THE NEXT PAGE]*

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

**CITY:**

CITY OF BAXTER, MINNESOTA

By:\_\_\_\_\_

Darrel Olson, Its Mayor

By:\_\_\_\_\_

Kelly Steele, Its Asst. City Administrator/City Clerk

RATIFIED AND APPROVED BY THE CITY COUNCIL OF BAXTER, MINNESOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.

By:\_\_\_\_\_

Darrel Olson , Its Mayor

By:\_\_\_\_\_

Kelly Steele, Its Asst. City Administrator/City Clerk

STATE OF MINNESOTA    )  
                                          )ss.  
COUNTY OF CROW WING)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by Darrel Olson and Kelly Steele, the Mayor and Assistant City Administrator/City Clerk of the City of Baxter, a municipal corporation under the laws of Minnesota, on behalf of the corporation.

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

**DEVELOPER:**

**WONDERTREK CHILDREN’S MUSEUM**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF MINNESOTA            )  
                                                  )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, the \_\_\_\_\_ of WonderTrek Children’s Museum, a \_\_\_\_\_, on behalf of the entity.

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

My commission expires:

EXHIBIT A  
LEGAL DESCRIPTION

**Outlot C, Second Addition to the City Center of Baxter**

EXHIBIT B  
DEPICTION OF PROPERTY

EXHIBIT C  
PUBLIC IMPROVEMENTS

EXHIBIT D  
CONSTRUCTION COSTS

**EXHIBIT E**  
**INSPECTION FEES**

EXHIBIT F  
DEVELOPMENT FEES AND CHARGES