

DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, by and between **Ryan Companies US, Inc.**, a **Minnesota Corporation**, (“**Developer**”), and City of Baxter, Minnesota, a municipal corporation duly organized and existing under the laws of the State of Minnesota, (“**City**”),

WITNESSETH:

WHEREAS, the Developer has submitted (**form of Surety**) No. ____ attached hereto as **Attachment A** from _____ Insurance Company, whose address is _____, **State zip code** in the amount of \$ _____ (125% of the Construction Contract Amount of the “Municipal Portion” of the Privately Installed Improvements and 125% of the Municipal Installed Improvements (defined below) as detailed on **Attachment B** attached hereto) issued to the City for the platting and development of what is to be known as **Lot 1, Block 1, of PLAT NAME** in the City of Baxter, Crow Wing County, Minnesota, **Attachment C** hereinafter referred to as the “**Development**”; and

WHEREAS, the Developer’s (**form of Surety**) No. ____ (**Attachment A**) includes the construction and installation of all improvements of what is to be known as **2024 Timberwood Drive and Unknown Road Name Improvements Project**, in the City of Baxter, hereinafter referred to as the “**Project**”; and

WHEREAS, the Development includes the construction and installation of private water mains, private sanitary sewer mains, private drainage controls, private 100-year storm water design, private bituminous surfaced parking lot, and related improvements (hereinafter collectively referred to as the “**Privately Installed Improvements**”) hereinafter described; and

WHEREAS, the Project includes the construction and installation of municipal water lines, municipal sanitary sewer mains, municipal drainage controls, municipal road improvements, municipal trail improvements, and related improvements (hereinafter collectively referred to as the “**Municipal Installed Improvements**”).

WHEREAS, the Developer will construct the Privately Installed Improvements pursuant to the terms of this Agreement and as described in sheets ____ through _____ (____ sheets total), Construction Plans and Specifications for Sanitary Sewer, Water, Storm Sewer, Streets, Grading, Drainage and Erosion Control and for **Project Timber Wolf** dated _____, _____, 2024 and prepared by _____ of Ryan Companies, a copy of which is attached hereto as **Attachment D**, and pay for all related costs, including any reasonable costs incurred or to be incurred by the City for engineering, legal and administrative services related to the Privately Installed Improvements; and

WHEREAS, The Developer will construct the Municipal Installed Improvements pursuant to the terms of this Agreement and as described in sheets ____ through _____ (____ sheets total), Construction Plans and Specifications for Sanitary Sewer, Water, Storm Sewer, Streets, Trails, Grading, Drainage, and Erosion Control and for **2024 Timberwood Drive and Unknown Road**

Name Improvements Project dated _____, 2024 and prepared by _____ of Kimley-Horn and Associates, Inc., a copy of which is attached hereto as **Attachment E**, and pay for all related costs, including any reasonable costs incurred or to be incurred by the City for engineering, legal and administrative services related to the Municipal Installed Improvements; and

WHEREAS, in anticipation of the Development, the City has received from the Developer a **Contractor's Bid/Engineer's Estimate** from the **Ryan Companies US, Inc.** in the amount of \$ _____ for completion of certain Development and Project related improvements as detailed on **Attachment B** attached hereto, and has had said estimate, plans, and specifications reviewed and approved by the City Engineer, the Utilities Commission and the City Council; and

WHEREAS, the City has approved the final plat of **NAME OF PLAT** subject to certain conditions. All conditions contained in the Resolution for the Final Plat shall be considered a condition of this Agreement; and

WHEREAS, the Developer will construct all Privately Installed Improvements and Municipal Installed Improvements pursuant to the terms of this Agreement and will pay for all related costs, including any costs reasonably incurred or to be incurred by the City for engineering, legal and administrative services related to the Development and Project.

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

1. 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 as stated in Section 1 above, and except for the "Municipal Portion" (defined in Section 5 below) of the Privately Installed Improvements and has the authority to enter into this Agreement.

2. Construction. The Developer shall construct said utilities in accordance with City specifications as detailed in **Attachment F** Sanitary Sewer Construction Drawings, **Attachment G** Sanitary Sewer Specification, **Attachment H** Water Main Standard Construction Drawings, and **Attachment I** Water Main Specifications. All material and construction shall conform to the City of Baxter standard specifications. When conflicts that arise between the City specifications, general notes and Developer specifications, the more stringent shall take precedence.

3. Restoration. Right-of-way restoration of Timberwood Drive and **Unknown Road Name** shall be in accordance with City specifications as detailed in **Attachment J** Right-of-way Restoration.

4. Surety. Upon execution of this Agreement by the parties, the Developer shall deposit with the City a **(form of Surety) No. ____ (See Attachment A)** acceptable to the City in the amount of One Hundred Twenty Five percent (125%) of the Construction Contract Amount from the Developer **(See Attachment B)** for the Municipal Portion of the Privately Installed Improvements

and the Municipal Installed Improvements. This surety shall be provided to the City within ten days of approval of this Agreement by the City or prior to commencement of any development activities, whichever is first. Said surety shall be released by the City upon acceptance of the Development and Project by the City and once a one-year Warranty Bond has been assigned to the City.

5. As-Built Plans. The Developer shall complete as-built plans for that portion of the Privately Installed Improvements and Municipal Installed Improvements consisting of the municipal water lines, municipal sanitary sewer lines, all of which shall be installed in public rights-of-way or publicly dedicated easements, (collectively the “**Municipal Portion**”) 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 for all of the Privately Installed Improvements on Lot 1, Block 1, **NAME OF PLAT** and Municipal Installed Improvements within the Timberwood Drive and **Unknown Road Name** right-of-way showing 1-foot contours, percentage of pervious, impervious, Class 5 surfaces and Bench Marks and control points within two months of substantial completion. Upon written confirmation by the City, the deadline for submitting such plans may be extended to the end of the one-year warranty period. **(form of Surety) No. _____** may be reduced as set forth in paragraph 11 below up to 90% of said amount; provided, however, the **(form of Surety) No. _____** and shall not be released until as-built drawings are submitted to the satisfaction of the City.

6. GIS System. The Developer shall reimburse the City for its reasonable costs related to incorporating the Privately Installed Improvements and the Municipal Installed Improvements into the City’s GIS system. The City shall charge an hourly rate based upon the City’s adopted fee schedule in effect at the time services are performed. The 2024 hourly rate is \$91.00 (The City will charge in one-hour increments). The City’s estimate for the total cost of these charges is **\$xxx** and is attached hereto as **Attachment K**.

7. Engineer Inspections. The Developer agree that all construction of the Municipal Portion of the Privately Installed Improvements shall be inspected by the City Engineer or their designee. The Developer shall reimburse the City for all inspection costs related to said Municipal Portion ensuring that they are constructed to City specifications. The City shall inspect construction of the Municipal Portion full time at an hourly rate of **\$ _____** (The City will charge in one-hour increments). If overtime hours are incurred, the City will bill those hours at one and one-half times the hourly rate in effect at the time such services are performed. The City’s estimate for the total cost of these charges is **\$ _____** and is attached hereto as **Attachment L**.

The Developer agrees that all construction of the Municipal Portion of the Municipal Installed Improvements, to be owned or maintained by the City, shall be inspected by the City Engineer or

their designee. The Developer shall reimburse the City for all inspection costs related to said Municipal Portion ensuring that they are constructed to City specifications. The City has designated **Engineering Firm?** to inspect construction of the Municipal Portion full time at an hourly rate of \$_____ for a total estimated construction inspection cost of \$_____. In addition to the Construction inspection, **Engineering Firm?** will be responsible for the construction testing which is estimated at \$_____, see **Attachment L** for an estimate on the cost to inspect the Municipal Installed Improvement. If **Engineering Firm's** estimate for these charges as outlined in **Attachment L** is expected to exceed 110% of the estimate, the City will notify Developer in advance.

8. Easements. The Developer shall dedicate drainage and utility easements as shown on the final plat. 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.

- A. **Water Main Improvements.** There are portions of the water main within the Privately installed 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. Developer shall grant the City access to all hydrants within the Development site for flushing purposes via a permanent hydrant access easement or other agreement as deemed appropriate. If Developer sells any building or lot to another entity and the water main will serve multiple properties with multiple owners, then the Developer shall provide notice of the sale to the City and the City shall decide in its sole discretion, if the Maintenance Agreement should be modified, amended or terminated. If terminated, the Developer shall convey an easement to the City over the improvements stated therein, thereby making the Privately Installed Improvements public infrastructure. Developer shall cooperate and comply with the City's decision in order to effectuate the modification or amendment or the conveyance of the Privately Installed Improvements.

- B. **Sanitary Sewer Improvements.** There are portions of the sanitary sewer main within the Privately Installed 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. If Developer sells any building or lot to another entity and the sewer main will serve multiple properties with multiple owners, then the Developer shall provide notice of the sale to the City and the City shall decide in its sole discretion, if the Maintenance Agreement should be modified, amended or terminated. If terminated, the Developer shall convey an easement to the City over the improvements stated therein, thereby making the Privately Installed Improvements public infrastructure. Developer shall cooperate and comply with the City's decision in order to effectuate the modification or amendment or the conveyance of the Privately Installed Improvements.

- 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.

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

- A. All surveying, platting and recording requirements normally and customarily required by the City; 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 **NAME OF PLAT** 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.

10. City Acceptance. The City agrees that the Municipal Installed 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. Developer agrees that it or its contractor(s) will carry a performance bond to warranty the Municipal Installed Improvements installed per this Agreement for a warranty period of one (1) year after completion of the Development and Project by the City. Developer agrees to assign the bond to the City after all Privately Installed Improvements, Municipal Installed Improvements, Development and Project related activities are completed to the reasonable satisfaction of the City, whereupon the City will indicate its acceptance of the Municipal Installed Improvements. The assignment shall extend to the City all rights and ability to have the Developer's contractor (Development) and the General Contractor (Project) perform any required warranty work. If a bond cannot be assigned, the Developer agrees to extend surety for the one-year warranty period at an amount equal to the final construction price of the Municipal Portion plus ten percent, (10%) and in that event, the City shall not accept the Municipal Portion until the end of said warranty period. The City reserves the right to extend the time frame for acceptance of the Development or Project if any problems with the Municipal Installed Improvements are not resolved.

11. Bonds/Surety. The Developer shall provide the City a copy of (form of Surety) No. prior to starting any construction activities. The Developer agrees that the City may exercise its right to utilize surety to complete the Municipal Portion of the Privately Installed Improvements and Municipal Installed Improvements in event of default hereunder, to mitigate any public hazard created by the Municipal Portion of the Privately Installed Improvements or Municipal Installed Improvements or to compensate the City for any unpaid costs it incurs related to the construction of the Municipal Portion.

As Development costs, Project costs and City expenses are paid by Developer, the City, in its discretion, may allow a reduction in the (form of Surety) account herein above provided for in an amount as determined by City so as to provide sufficient security for the performance of all terms and conditions provided for herein. In no case shall surety be reduced to less than actual construction cost of the Municipal Portion until the City accepts the Development and Project.

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

- A. Sewer Availability Charge (SAC) (\$3,400 per each unit in year 2024);
and
- B. Water Availability Charge (WAC) (\$3,100 per each unit in year 2024).

The SAC and WAC fees will be payable at such time as a building permit is requested from the City. The fees are subject to an increase by the City Council. The City's estimate for the total cost of SAC and WAC charges is \$ _____ and is attached hereto as Attachment M.

13. Monuments. The Developer shall place iron monuments at all lot corners and at all other angle points on boundary lines for Lot 1, Block 1, of NAME OF PLAT. Such iron monuments

shall be placed after all streets and lawn grading has been completed in order to preserve the lot markers for future property owners. More monuments may be required by the City engineer to service the area.

14. Grant of License. The Developer hereby grants to the City, its agents, employees, officers and contractors a 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 Privately Installed Improvements.

15. Payment of City Fees. The City shall not execute this Agreement until the Developer has paid all fees for this Development and Project as described in this Section. Prior to execution of 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 Privately Installed Improvements and Municipal Installed Improvements. The estimated fees for any engineering costs are as set forth in Sections 6 and 7 above. All other fees due to the City for any legal or administrative fees are estimated at \$ _____ as shown on **Attachment N** attached hereto. These fees shall also be due upon execution. Upon completion of the Development and Project, the City shall refund to 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. No interest shall accrue on any monies held by the City pursuant to this Section 15. If any bill due to the City is unpaid after 30 days, a one-time late fee shall be assessed equaling 5% of the unpaid balance and additional late fees 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 and Project, a bill(s) remains unpaid, the Developer agrees the City may certify the outstanding balance, with certification fees and interest, to **Lot 1, Block 1, of NAME OF PLAT** 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.

16. Estoppel. The City agrees, upon the written request of the Developer, within thirty (30) 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).

17. Certificate of Occupancy. Developer agrees and understands that no building permits for any building to be constructed with the Development will be issued by City until such time as City reasonably deems it appropriate to do so. The following minimum improvements (as applicable) for the Development and Project must be completed and accepted by City before consideration is given to issuance of a certificate of occupancy:

- A. Sanitary sewer, water drainage controls, water mains, water and sewer lot services, fire hydrants, recording of this Agreement, the final plat and final covenants, easements, agreements, and restrictions.
- B. Compliance with all other normal building permit requirements and policies of City, including payment of sewer and water hook-up charges and availability charges.
- C. Installation of all electricity, telephone, gas, lot monumentation and street and traffic signs.
- D. Road, trail, and stormwater improvements of the Municipal Installed Improvements.

18. Miscellaneous. 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, NAME OF PLAT** 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.

[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:

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 _____, 2024.

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 _____, 2024, 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:

Ryan Companies US, Inc.

By: _____
Name of Individual, Its: Title

STATE OF **MINNESOTA**)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by **Name of Individual**, the **Title of Individual**, a **Corporation** under the laws of the State of Minnesota, on behalf of the **Corporation**.

Notary Public

My commission expires:

THIS INSTRUMENT WAS DRAFTED BY:
City of Baxter
13190 Memorywood Dr.
Baxter, Minnesota 56425
218/454-5100

SCHEDULE OF ATTACHMENTS

ATTACHMENT A	(form of Surety) No. ____ for Privately Installed Improvements and for Municipal Installed Improvements.
ATTACHMENT B	Contractor's Bid from Ryan Companies US, Inc. in the amount of \$xxxxxx for Construction of Municipal Portion of Privately Installed Improvements and for construction of Municipal Installed Improvements.
ATTACHMENT C	Plat –NAME OF PLAT.
ATTACHMENT D	Construction Plans and Specifications for Sanitary Sewer, Water, Storm Sewer, Trail, Streets, Grading, Drainage and Erosion Control dated _____, __, 2024 prepared by _____ with Ryan Companies US, Inc. for the Privately Installed Improvements.
ATTACHMENT E	Construction Plans and Specifications for Sanitary Sewer, Water, Storm Sewer, Trail, Streets, Grading, Drainage and Erosion Control dated _____, __, 2024 prepared by _____ with Kimley-Horn and Associates, Inc., for the Municipal Installed Improvements.
ATTACHMENT F	Sanitary Sewer Standard Construction Drawings.
ATTACHMENT G	Sanitary Sewer Specifications.
ATTACHMENT H	Watermain Standard Construction Drawings.
ATTACHMENT I	Watermain Specifications.
ATTACHMENT J	Right-of-way Restoration.
ATTACHMENT K	GIS Incorporation Costs estimated time/cost.
ATTACHMENT L	Estimated Inspection Costs for Privately Installed Improvements and for Municipal Installed Improvements to be completed by Engineering Firm.
ATTACHMENT M	Detail of SAC/WAC Fees.
ATTACHMENT N	Detail of Legal, Administrative and Other Fees Due City.