

CITY OF BAXTER ASSESSMENT WAIVER AGREEMENT FOR WATERMAIN AND WATER SERVICE CONSTRUCTION ON CROW WING COUNTY PID 40240611 FOR CITY PROJECT 4138- SOUTH FORESTVIEW AREA IMPROVEMENTS

THIS ASSESSMENT WAIVER AGREEMENT (“Agreement”) is entered into and effective as of the ____ day of _____, 2024 (“Agreement Date”), by and between the City of Baxter, a Minnesota municipal corporation (“City”), and Daniel Cochran, a single person (“Owner”).

WITNESSETH:

WHEREAS, the Owner is the fee simple owner of property legally described on the attached **Exhibit A**, located in City of Baxter, Crow Wing County, Minnesota (“Property”) that will be benefited by certain public improvements; and

WHEREAS, the Owner has requested that the City cause the construction of watermain and water service construction along Paris Road, near Trunk Highway 371 and adjacent to the Property that serves the Property (“Improvements”); and

WHEREAS, the City has determined that the benefiting value to the Property for the Improvements is at least \$5,556.00 (“Assessment Amount”) which could be assessed against the Property pursuant to Minnesota Statutes, Chapter 429; and

WHEREAS, the Owner is willing to waive its assessment appeal rights up to the full value of the Assessment Amount which constitutes an estimated benefit of the Improvements pursuant to Minnesota Statutes, Chapter 429 in the manner authorized by Minnesota Statutes § 462.353.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained in this Agreement and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto do covenant and agree as follows:

ARTICLE I
THE AGREEMENT

Section 1.01 Purpose. The purpose of this Agreement is to memorialize the covenants and agreements between the Owner and the City with regard to the Property and the Improvements and that Owner's acceptance of the assessment up to the Assessment Amount which constitutes an estimated benefit of the Improvements pursuant to Minnesota Statutes, Chapter 429 in the manner authorized by Minnesota Statutes § 462.3531.

Section 1.02 Term. The term of this Agreement shall commence on the Agreement Date and shall terminate upon the expiration of the Assessment Term or repayment of the Assessment Amount.

Section 1.03 Survival. Notwithstanding the termination of this Agreement pursuant to Section 1.02, the Owner's Covenants and Agreements contained in Section 3.01 and the City's Covenants and Agreements contained in Section 3.02 shall survive the termination of this Agreement.

ARTICLE II
DEFINITIONS

Section 2.01 Definitions. The following are terms used in this Agreement. Their meanings as used in this Agreement shall be expressly indicated below, unless the context of this Agreement requires otherwise:

- (a) **Assessment Interest Rate:** The Assessment Amount shall accrue interest at a rate of 7% per year for the Assessment Term. Interest shall begin accruing 30 days after the City Council's approval of this Agreement.
- (b) **Assessment Term:** The term of the special assessment shall be from the date that the interest accrual begins in 2.01 (a) until the Assessment Amount is paid in full, or 15 years after the Assessment Amount is levied against the Property.
- (c) **Assessment Amount:** The Assessment Amount is the total value of the Improvements in the amount of \$5,556.00. The Assessment Amount is equal to or exceeds the estimated special benefit of the Improvements to the Property.

ARTICLE III
COVENANTS AND AGREEMENTS

Section 3.01 Covenants and Agreements of the Owner. The Owner covenants and agrees with the City that:

- (a) **Assessment Appeal Waiver:** Owner hereby authorizes the City to certify a special assessment against the Property up to the Assessment Amount for Improvements. The Owner hereby waives all rights to assessment notices, hearings and appeals, and all other rights pursuant to Minn. Stat. § 429.061, § 429.071 and § 429.081 for the special

assessment against the Property up to the Assessment Amount. The Owner hereby waives any and all procedural and substantive objections to the assessment up to the Assessment Amount against the Property, including, but not limited to, notice and hearing requirements and any claim that any or all of the Assessment Amount against the Property exceeds the benefit to the Property for the Improvements. The Owner acknowledges and agrees that the benefit of the Improvements to the Property does in fact equal or exceed the Assessment Amount. The City and the Owner acknowledge and agree that the Owner's waiver of assessment appeal rights pursuant to Minnesota Statutes, Chapter 429, is capped at the Assessment Amount by operation of Minn. Stat. § 462.3531. The City and the Owner acknowledge and agree that the Owner may appeal any special assessment above the Assessment Amount.

- (b) Owner's Covenant Not to Sue the City: Owner hereby covenants with the City not to appeal or sue the City for a court to set aside, reduce, repeal, or invalidate the assessment, or for other relief from the payment of the City's assessment up to the Assessment Amount against the Property for the Improvements constructed by the City.
- (c) Owner's Covenant that Owner is the Property Fee Owner: Owner hereby covenants and warrants with the City that Owner is seized in fee of the Property and has good right to enter into this Agreement with the City.
- (d) Owner's Agreement to Assessment Amount: Owner understands and agrees that the value of the Improvements will increase the market value of the Property in an amount that equals or exceeds the Assessment Amount.
- (e) When Payment is Due: Owner agrees to pay the Assessment Amount, plus accrued interest during the Assessment Term.

Section 3.02 Covenants and Agreements of the City. The City covenants and agrees with the Owner that:

- (a) Assessment Amount: The City agrees that it will only certify/levy the Assessment Amount against the Property if the Owner does not pay the Assessment Amount when due and then, only up to the Assessment Amount for the Improvements pursuant to this Agreement.
- (b) City Recording of this Agreement: The City will record this Agreement against the Property.
- (c) Prepayment of Assessment: The City agrees the Owner may prepay some or all of the City's Assessment Amount against the Property for the Improvements with no penalty and only with interest accrual pursuant to Minn. Stat. § 429.061.

ARTICLE IV **DEFAULT**

Section 4.01 Default. If a party to this Agreement materially defaults in the due and timely performance of any of its covenants, or agreements hereunder, the other party(s) may give notice

Section 5.04 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 5.05 Amendments, Changes and Modifications. This Agreement may be amended or any of its terms modified or changed only by a written amendment authorized and executed by the City and the Owner.

Section 5.06 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.07 Entire Agreement. This Agreement shall constitute the entire agreement between the parties and shall supersede all prior oral or written negotiations.

Section 5.08 Notice To Buyers. The Owner agrees to notify and provide any buyer of the Property with an executed copy of this Agreement if the Owner sells any interest in the Property following the execution of this Agreement by both the Owner and the City, but before the recording of this Agreement with Washington County Recorder and/or Registrar of Titles.

[The remainder of this page was intentionally left blank.]

IN WITNESS WHEREOF, the City and the Owner have caused this Agreement to be executed by their duly authorized representatives.

**CITY:
CITY OF BAXTER**

By: _____
Darrel Olson
Mayor

By: _____
Kelly Steele
Assistant City Administrator/City Clerk

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

On this ____ day of _____, 2024 before me a Notary Public within and for said County, personally appeared Darrel Olson and Kelly Steele to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and the City Administrator/City Clerk of the City of Baxter, the Minnesota municipal corporation named in the foregoing instrument, and that it was signed on behalf of said municipal corporation by authority of its City Council and said Mayor and City Administrator/City Clerk acknowledged said instrument to be the free act and deed of said municipal corporation.

Notary Public

OWNER

Daniel Cochran
Daniel Cochran

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

The foregoing instrument was executed this 21st day of March, 2024, by Daniel Cochran, a single person.

Sheri L Glindmyer
Notary Public

SHERI L. GLINDMYER
Notary Public, State Of New York
No. 01BE6026601
Qualified In Schenectady County
Commission Expires July 26, 2025

**This instrument drafted by
And after recording, please return to:**
City of Baxter
13190 Memorywood Drive
Baxter, MN 56425

EXHIBIT A

Legal Description of Property

Crow Wing County PID: 40240611

Real property in Crow Wing County, Minnesota, legally described as follows:

Lot 5, Block 2, PARIS ACRES, according to the recorded plat thereof, Crow Wing County, Minnesota.