

**City Code, Chapter 8: SUBDIVISION REGULATIONS
Appendix D1: DEVELOPMENT CONTRACT FORM FOR PLATS**

**(FORM A / Work Performed After Plat Approval and Recording)
DEVELOPMENT CONTRACT
(Optional) [AND VARIANCE FOR]
[name of plat]**

THIS AGREEMENT, made this ____ day of _____, 20__, is by and between the City of Columbus, Anoka County, Minnesota, hereinafter referred to as the “City ,” and _____, hereinafter [collectively] referred to as “Developer.”

A. DEVELOPMENT CONTRACT / GENERAL AGREEMENT.

WITNESSETH:

WHEREAS, Developer has obtained preliminary approval for a new subdivision plat to be known as [name of plat] containing dedications of roads and easements to the City of Columbus over the property described on the attached Exhibit “A”, which is by reference incorporated herein;

WHEREAS, Developer desires to obtain final plat approval from the Columbus City Council, and the City desires that all improvements as required by the Columbus City Code be installed and constructed in [name of plat] in compliance with said City Code;

WHEREAS, the City desires that all development fees payable to the City by Developer be paid and that all paper and mylar copies of the recorded plat be delivered to City as required by the City Code;

WHEREAS, the City Code, Chapter 8, Article IX., Section 8-902, requires that this Development Contract be executed prior to the approval of the final plat.

NOW, THEREFORE, in consideration of the mutual promises of the parties herein and in further consideration of the benefits to the public and to the parties to be derived by this Contract:

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO:

1. Plat Approval. The City Council shall approve the proposed final plat of [name of plat] [and approve by metes-and-bounds description of those parts of Developer’s lands which are not included within the proposed plat] and release the plat and other recordable instruments to Developer for recording when all of the subdivision and title requirements of the Columbus City Code have been met by the Developer, and when all fees, deposits, and bonds have been properly paid or delivered to and accepted by the appropriate City officials. This Development Contract affects, encumbers, and otherwise concerns the lands described on the attached Exhibit[s] “A” [and “B”?].

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2. Construction by Developer. The Developer will provide all materials and construct all improvements on the property to be platted as [name of plat], which improvements shall be constructed and installed in accordance with the Columbus City Code, and which improvements shall be constructed at the Developer's own expense. All roads shall be constructed with bituminous surfacing according to current City Road Specifications. Developer acknowledges receipt of a complete copy of the Standard Specifications for Roadway Construction, the City of Columbus, Minnesota, bearing a revision date of _____.

(Optional) [3. RENUMBER SUBSEQUENT PARAGRAPHS? Connecting Roads. The Developer shall obtain from owners adjacent to the plat and provide to the Town fully executed Quit Clam Deeds or other easement grants for the easements described on the attached Exhibit "B", incorporated herein by reference. The Developer and the Town shall provide assurances to those adjoining property owners clarifying that the construction costs for the road shall be borne by the Developer and that for this initial construction of the road, there will be no special assessments charged to the adjoining property owners. The adjoining property owners are those whose property is subject to or which adjoins the easement which is described on the attached Exhibit "B". [The restriction on special assessments for this road construction shall not be deemed to prohibit the Town from making future improvements for which future special assessments would be charged.] The Developer shall construct Town roads within the easements described on the attached Exhibit "B". The construction shall be to connect the existing [name of road] to the [direction] terminus of [name of road] as shown on the new plat.]

4. Remaining Requirements. As of the date of this Contract, it appears from an examination of City records that some platting requirements have been met by the Developer and that the following platting and development requirements remain unperformed by the Developer:

- a. Pursuant to Columbus City Code, Chapter 8, Article VI., Section 600, paragraph 4, the Developer is required, after recording of the final plat, to provide the City Clerk with four paper copies of the recorded plat and one transparency print of the recorded plat.
- b. Pursuant to Columbus City Code, Chapter 8, Article IX., Section 900, paragraph 1, the Developer is required to place survey monuments in locations on the boundary of the subdivision and within the subdivision. The Developer's fulfillment of this requirement shall be confirmed by the City Engineer.
- c. Pursuant to Columbus City Code, Chapter 8, Article IX., Section 900, paragraph 2, the Developer is required to construct streets according to the design standards of the City. The Developer's fulfillment of the requirement shall be confirmed by the City Engineer.
- d. Pursuant to Columbus City Code, Chapter 8, Article IX., Section 900, paragraphs 3 and 4, the Developer is required to pay for street name signs which conform to current municipal, county, or state highway standards, and that these street name signs be placed at all street intersections within or abutting the subdivision. This requirement includes stop signs which conform to current State of

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Minnesota highway standards as to size, shape and placement. The signs will be purchased and erected by the City .

e. Pursuant to Columbus City Code, Chapter 8, Article IX., Section 900, paragraph 7, the Developer is required to install drainage facilities, holding ponds, and easements which will adequately provide for the immediate drainage of surface water. The Developer's fulfillment of this requirement shall be confirmed by the City Engineer.

f. Pursuant to Columbus City Code, Chapter 8, Article IX., Section 907, the Developer is to reimburse the City for all engineering consulting fees, planning consulting fees, inspection fees, and fees for legal services reasonably incurred by the City in processing this subdivision application. The Developer's fulfillment of this requirement shall be confirmed by the City Treasurer.

g. Any others?

5. Developer's Performance Guarantee and Payment Guarantee.

a. Performance Guarantee. To guarantee to the City that the Developer will comply with the Columbus City Code and that Developer will fully perform this Contract, Developer has, contemporaneously with the signing of this Contract, deposited with the Columbus Treasurer a performance security in the amount of \$_____. The \$_____ represents 125% of the amount of the contracted public work, as estimated by the City Engineer, and this is the amount which the City Engineer recommends as an amount sufficient to guarantee the Developer's performance, as an amount which should be sufficient for the City to provide substitute performance of the contract in the event of a default by Developer, and as an amount sufficient to guarantee the durability of the improvements installed by the Developer, including inspections and reimbursement for professional services [and including delivery to the Town of the easements described on the attached Exhibit "B"]. This deposit of a performance security further guarantees that the Developer will produce the copies of the plat, as stated above. The performance security shall also serve to guarantee that the Developer: timely provides environmental testing; timely submits reports to the City Engineer according to the City Code; performs all work required by a wetlands mitigation or replacement plan; performs all work required by a stormwater management plan; and performs all other elements of this agreement and all work required by the City Code. In the event that the Developer later submits a request to withdraw part or all of the performance security and to substitute a performance security in a smaller amount pursuant to an amendment to this agreement, the effective dates of the substituted performance security (commencement and termination) shall be determined by the City Council at the time that the substituted performance security is submitted. The performance security will need to be effective through _____, 20___. The City is under no obligation to accept a later substitution of the performance security, but if the City considers the request, the Developer shall reimburse the City for all of its administrative and legal costs incurred in effecting such substitution. The Developer's obligations, covenants and liabilities under this agreement are not limited by the value of the performance security required by the City Council.

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b. **Payment Guarantee.** To guarantee to the City that the Developer will pay all persons who may furnish labor and material to the public work which is the subject of this agreement, the Developer has, contemporaneously with the signing of this Contract, deposited with the City Treasurer a payment security in the amount of \$_____. The payment security of \$_____ represents 100% of the City Engineer's estimate of the amount of the contracted public work and represents an amount which should be sufficient to pay all claims for labor and material. The payment security shall be reduced or released unless the City Council has received the Developer's Sworn Construction Statement (Interim or Final) and supporting Waivers of Bond Claims, as required by the City Code. If the Developer submits a request to withdraw part or all of the payment security and to substitute a payment security in a smaller amount pursuant to an amendment to this agreement, the effective dates of the substituted payment security (commencement and termination) shall be determined by the City Council at the time that the substituted payment security is submitted. The payment security will need to be effective through _____, 20___. The City is under no obligation to accept a later substitution of the payment security, but if the City considers the request, the Developer shall reimburse the City for all of its administrative and legal costs incurred in effecting such substitution. The Developer shall be liable for all of the City's costs in administering, defending, or enforcing any claim by any party who has provided labor and material to the public work under this contract. The Developer's obligations, covenants and liabilities under this agreement are not limited by the value of the payment security required by the City Council.

c. **Acceptable Forms of Performance Securities and Payment Securities.** All performance securities and payment securities shall be in the forms and amounts as prescribed by Minn. Stat. § 574.26 (1994) and as prescribed by the City Code. This applies to cash deposits, letters of credit, performance bonds and payment bonds. All cash deposits shall be deposited with the City Treasurer and pooled with other City funds. Any interest accruing on cash deposits shall accrue to benefit of the City and not to the Developer.

d. It is the intent of the parties hereto that all performance securities, payment securities, and rights and remedies attendant thereto shall comply with the Minnesota Public Contractors' Performance and Payment Bond Act, Minn. Stat. §§ 574.26 through 574.32 (1994), inclusive. Any provision of this agreement or of any performance security or of any payment security which conflicts with said Act shall be deemed revised to conform to the Act and shall be incorporated herein. It is the further intent of the parties hereto that all performance securities and payment securities shall on deposit and in full force and effect until the subdivider has been released from further obligation under the terms of this agreement, including guarantees concerning durability of installed improvements. Upon request, after all of Developer's obligations herein have been performed and satisfied, Developer or Developer's Surety may obtain a written release of the performance security and/or payment security from the City.

6. **Guarantee Retention.** The parties agree that, after completion by the Developer of the required work, the performance guarantee and payment guarantee shall remain the same until their termination dates unless this agreement is amended. The portion of the performance guarantee to be retained, shall be a dollar amount equal to the City Engineer's estimate of the amount needed to guarantee that the Developer will repair any physical improvements which fail to withstand the first winter and first spring

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thaw and to guarantee the durability of those repairs, according to the City Code, and to guarantee the Developer's performance of any unfinished work under this agreement. The portion of the payment guarantee to be retained shall be equal to the amount of the performance guarantee to be retained.

7. Construction Deadline. All of the physical improvements required to be constructed by the Developer shall be accomplished by _____, 20___. If the Developer has not performed all of its work by that date, the City Council may, at its option, contract to have the work completed and pay for this work out of the Developer's performance guarantee. No building permits for the construction of new homes in the plat will be issued until the platted roads have been constructed and given a favorable "Completed Inspection" by the City Engineer. (City Code Section 8-903.) (Optional) [Given that winter is nearly upon us as of the date of this Agreement, building permits may be issued to the Developer if the Developer constructs a Class V aggregate-surfaced road according to Town Road Specifications, which in the opinion of the Town Engineer, will remain serviceable through May 1, 20___.]

8. Township's Remedies. The parties agree that the Developer's failure to perform its requirements or the Developer's failure to provide corrective work when called upon to honor a guarantee shall entitle the City to use the cash deposits or to make claims on the bonds or drafts on letters of credit in amounts sufficient to provide a substitute performance for the Developer's obligations. Any funds remaining on deposit after completion of all work and expiration of all guarantees shall be refunded to the Developer; provided that the subdivider has first delivered to the City Clerk an original sworn construction statement attesting to the full payment of all contractors, subcontractors and material suppliers who provided labor or material for construction of the required improvements; and provided that the sworn construction statement is in a form approved by the City Attorney and accompanied by such additional waivers, affidavits or releases from contractors and suppliers as may be required by the City Attorney. {See forms: Developer's Interim Sworn Construction Statement, Exhibit "C" to this Contract; Developer's Final Sworn Construction Statement, Exhibit "D" to this Contract; and, Waiver of Bond Claims and Mechanic's Lien Rights, Exhibit "E" to this Contract.} Notwithstanding Developer's guarantee, Developer shall hold the City harmless from any and all claims which may arise from third parties, including contractors and subcontractors, for contract claims and/or damages sustained resulting from the performance or failure of performance of the Developer's work described in this Contract.

9. Construction Restrictions.

SELECT ONE OF THE FOLLOWING VERSIONS FOR THE BEGINNING TEXT OF PARAGRAPH 9., AND DELETE THE OTHER:

VERSION NO. 1:

The following construction restrictions are imposed upon the below identified lots. Each lot shall have an [11,000] square foot contiguous finished building site area constructed no lower in elevation than the elevation shown in the chart below. Each building constructed shall have a lowest floor elevation

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(measured at the top surface of the lowest footing) no lower than that stated on the chart below. All elevations in the chart below are stated in feet MSL (N.G.V.D., 1929):

<u>Lot</u>	<u>Block</u>	<u>Minimum Building Site Elevation</u>	<u>Minimum Lowest Floor Elevation</u>

[These elevations are the lowest permitted elevations. Because of the wide variety of soil conditions and the high water table in Columbus, and because of the inherent lack of certainty in soil testing and site evaluation, the City Council strongly recommends that all floors be constructed higher in elevation than the lowest permitted elevations stated above.]

VERSION NO. 2.

The following construction restrictions are imposed upon the lots within the proposed plat. Each lot shall have an [11,000] square foot contiguous finished Buildable Area, as defined by the City Code, constructed no lower in elevation than the elevation required by the City Code at the time of actual construction. Each building constructed shall have a lowest floor elevation (measured at the top surface of the lowest footing) no lower than the elevation required by the City Code at the time of actual construction. All elevations for this development are stated in feet MSL (N.G.V.D., 1929).

If development takes place based upon test data required for plat approval herein, minimum elevations for Buildable Areas and for new construction may be determined by reference to the City of Columbus Planning File No. [], and to the preliminary plat, grading plan, and City Engineer's requirements contained therein, which file may be reviewed in the office of the Columbus City Clerk. All development shall comply with the Erosion Control Plan contained in said file No. P.C. [].

Because of the wide variety of soil conditions and the high water table in Columbus, and because of the inherent lack of certainty in soil testing and site evaluation, the City Council strongly recommends that all floors be constructed higher in elevation than the lowest permitted elevations required by the City Code at the time of actual construction.

REMINDER: DID YOU DELETE ONE OF THE TWO VERSIONS ABOVE?

A benchmark for the elevations required by this Agreement was established by _____, Minnesota Registered Land Surveyor No. _____, on the plat of [name of plat].

The City Building Inspector will require that all construction conform to the elevations stated herein. The Developer, or its heirs, successors and assigns, shall provide the Building Inspector with a

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Certificate of Survey showing the constructed elevations of the footings and foundation to verify that construction takes place to conform to these elevation requirements. The Certificate of Survey submitted to meet this requirement must be signed and certified by a Minnesota Registered Land Surveyor. The Certificate of Survey shall, at a minimum, state the legal description of the property, show the actual elevation of the building site as measured at four corner points of the perimeter of said site, show the actual elevation of the lowest floor as measured at the top of the lowest footing, and recite that the elevations are stated in reference to the platted benchmark.

(Optional) [The conditions and restrictions contained within the Anoka County Conditional Use Permit, dated _____, ____, recorded _____, ____, as Document No. _____, are incorporated herein by reference.]

(Optional) [The restrictions and conditions contained within the Rice Creek Watershed District Permit _____, dated _____, ____, are incorporated herein by reference. The Rice Creek Watershed District Board established a separate benchmark for this permit. It shall be the obligation of the Developer to reconcile any differences between the elevation measurements required by the Rice Creek Watershed District and the elevation requirements of this Development Contract.]

(Optional) [The restrictions and conditions contained within the Minnesota Department of Natural Resources Permit _____, dated _____, ____, are incorporated herein by reference. The Department of Natural Resources established a separate benchmark for this permit. It shall be the obligation of the Developer to reconcile any differences between the elevation measurements required by the Department of Natural Resources and the elevation requirements of this Development Contract.]

(Optional) [The restrictions and conditions contained within the United States Army Corps of Engineers Permit _____, dated _____, ____, are incorporated herein by reference. The United States Army Corps of Engineers established a separate benchmark for this permit. It shall be the obligation of the Developer to reconcile any differences between the elevation measurements required by the United States Army Corps of Engineers and the elevation requirements of this Development Contract.]

or...

(Optional) [The restrictions and conditions contained within the United States Army Corps of Engineers National Permit, as referenced in that agency's letter to [Developer/Town] dated _____, 20__, a copy of which is on file in Columbus

10. Restrictive Covenants. All roads, rights-of-way, in fee title or in easement title, and all easements for drainage or utility purposes, hereinafter donated, dedicated, or expressly granted to "the public," to the City of Columbus, or to Anoka County by deed, by plat or by other recorded instrument, are hereby declared by Developer to be subject to the following restrictive covenants:

- a. The City of Columbus, Anoka County, or the public is deemed to be the owner of all trees and shrubs and all other natural or artificial impediments or structures lying within any road, right-of-

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way, or easement area, and, as owner, has the unrestricted right to trim, remove, relocate, or destroy said trees, shrubs, impediments and structures.

b. Owners of any real property subject to these covenants shall not construct, place or erect or allow the construction, erection, or placement of any impediment or structure within any road, right-of-way or easement.

c. These covenants shall run with the land and are binding upon the heirs, successors, and assigns of Developer for all lands which are subject to this Development Contract, whether or not said lands are later described by metes-and-bounds or by reference to a plat.

(Optional) [11. RENUMBER PARAGRAPHS BELOW? The parties agree that since several portions of the proposed plat are wetlands unsuited for development but well suited for natural preservation, the Developer shall dedicate the wetlands to the public as conserved wetlands and drainage easements and the Town shall grant a variance to the Developer from strict adherence to the 5:1 length to width ratio for platted lots as contained in the Town Code.]

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B. DEVELOPMENT CONTRACT / HAZARDOUS WASTE INDEMNITY AGREEMENT.

WHEREAS, the City has agreed to receive from Developer, by way of plat dedication, deed(s), or a combination thereof, fee title and easement title to certain real property in Anoka County, Minnesota (hereinafter, the "Dedications"). The Dedications will be over, across and within the lands to be platted, as described in Exhibit "A," and over, across and within other lands affected by this Development Contract, as described in Exhibit "B," copies of which Exhibits are attached hereto and made a part hereof by reference.

WHEREAS, to induce City to accept said Dedications, Developer has agreed to indemnify City against loss or damage from hazardous substance liability. The purpose of this agreement is to specify the terms and conditions of the indemnity.

NOW, THEREFORE, incorporating the recitals above, and to induce City to accept said Dedications, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

11. Definitions.

a. "Hazardous Substance" means hazardous substance or waste, toxic substances, polychlorinated biphenyls, asbestos or related materials and also includes, but is not limited to substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601, et seq. (Federal Superfund Act) as amended by the Superfund Amendments and Re-Authorization Act of 1986 (SARA), Hazardous Materials Transportation Act, 49 U.S.C. Sec. 6901, et seq., Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991, et seq., or as "hazardous substance," "hazardous waste" or "pollutant or contaminant" in the Environmental Response and Liability Act. Minn. Stat. Sec. 115B.01, et seq., or the Petroleum Tank Release Cleanup Act, Minn. Stat. Sec. 115C.01, et seq. The term does include petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquified natural gas, synthetic gas usable for fuel or mixtures thereof.

b. Hazardous Substance Claim ("Claim") means discovery of Hazardous Substance on the real property to be platted or receipt of a notice, claim, demand or complaint from any government agency or office or from any third party for the payment of damages, costs or expenses for Hazardous Substance disposal or remedial action pursuant to federal, state or local law relative to the Project and relating to Hazardous Substance deposited on the real property prior to the time that City becomes an owner of the Dedications, including, but not limited to, legal, engineering, testing and other fees.

c. Hazardous Substance Liability ("Liability") means the occurrence of a claim, and all damages, costs and expenses in connection therewith, including, but not limited to, legal engineering, testing and other fees, and including a final determination or judgment entered or agreed upon.

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12. Notice. If a Claim occurs, the party (either Developer or City) receiving notice thereof shall immediately notify the other party in writing.

13. Disposal. If a Claim occurs, Developer will proceed immediately and diligently after receipt of notice of the Claim to dispose of or secure the Substance in full compliance with all applicable laws and regulations, and if Developer fails to commence disposal or security within five (5) days after receipt of notice of a Claim, City may, at its option, proceed to so dispose of or secure the Substance, provided, however, if the Developer, in good faith, believes that the claimed Substance is not in fact a Hazardous Substance, Developer shall have the right to challenge such Claim in an appropriate forum before commencing such disposal work.

14. Legal Actions. In the event legal action is taken against City or the Dedications regarding a Claim or commenced by Developer to challenge a Claim, Developer shall defend such action at its own expense, and City shall cooperate with Developer in the defense thereof, or, at City's election, assume the defense, at the expense of Developer. City shall have the right to join Developer as party defendant in any such legal action brought against it or the Dedications, and Developer hereby consents to the entry of an order making it a party defendant.

15. Indemnity. Developer shall at all times indemnify and save City harmless from and against all Liability which City may for any cause and at any time sustain or incur by reason of a Claim. This indemnity shall survive all transactions and inspections between City and Developer. This indemnity shall not be modified, except by subsequent written agreement between the parties. The Developer's obligations, covenants and liabilities under this agreement are not limited by the value of the guaranty required by the City Council. A performance bond or a payment bond posted by Developer pursuant to Minn. Stat. § 574.26 (1994) and pursuant to part A., of this agreement is not included within this indemnity and may not be utilized for any Claim. Cash or letters of credit posted by Developer pursuant to part A., of this agreement, if still on deposit with the City, may be utilized for a claim.

16. Payment By Developer. Developer shall pay, upon demand by City, the amount of any Liability paid by City. Developer shall satisfy and discharge any judgment recovered against City or the Dedications by reason of such Liability promptly after the entry thereof, unless an appeal is taken and any bonds required to stay the collection thereof are procured and filed by Developer. If a final judgment is entered against City or the Dedications after appeal, Developer shall satisfy and discharge such judgment. City may, in its reasonable discretion, make any payment as required herein, and Developer shall promptly repay to City the amount of such payment, with interest.

17. Written Amendment. This Contract may be modified, changed or amended only by subsequent writing by and between the same parties hereto.

18. Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties, their legal representatives, and their heirs, successors and assigns.

C. VARIANCE GRANTED.

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The lands which are subject to this Development Contract are hereby granted a variance from strict compliance with the subdivision regulations of the City Code, which variance is described as follows:

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CITY OF COLUMBUS
ANOKA COUNTY, MINNESOTA
CITY COUNCIL

Dated: _____ By _____

Mayor

ATTEST:

City Clerk

Dated: _____

Dated: _____

Dated: _____

Dated: _____

Dated: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, _____ Mayor of the City of Columbus, and by _____, City Clerk, on behalf of the City of Columbus a municipal corporation, under the laws of the State of Minnesota.

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STATE OF MINNESOTA)
)ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by

_____.

Notary Public

STATE OF MINNESOTA)
)ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by

_____.

Notary Public

STATE OF MINNESOTA)
)ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by

_____.

Notary Public

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THIS INSTRUMENT DRAFTED BY:

The City of Columbus
16319 Kettle River Blvd.
Forest Lake, MN 55025
(612) 464-3120

[\\COL\CODE\CH8APPD1.COD] [The full sized version of this document is at .]

216199.2

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EXHIBIT "A"

TO DEVELOPMENT CONTRACT FOR LANDS TO BE PLATTED AS
[Type exact plat name here]

Legal description of lands subject to this Contract:

[This description can usually be block copied from the Title Opinion]

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EXHIBIT "B"

TO DEVELOPMENT CONTRACT FOR LANDS TO BE PLATTED AS
[Type exact plat name here]

Easements required in the development of _____, the City of Columbus, Anoka County, Minnesota: A perpetual easement for road, right-of-way, drainage and utility purposes over the following described property: _____, Anoka County, Minnesota.

(This quit claim deed is necessary to complete the right-of-way acquisition for the construction of the plat.)

AND [Optional: Use only when future right-of-way is needed in addition to roads being dedicated (fee title) on the plat.]

A perpetual easement for road, right-of-way, drainage and utility purposes over the following described real property:

A 66-foot wide perpetual easement for public road, drainage, and utilities purposes over that part of the _____ Quarter of the _____ Quarter of Section ____, Township ____, Range ____, Anoka County, Minnesota, the centerline of which is described as follows:

Commencing at _____, and there terminating.

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(FORM B / All Work Performed Before Final Plat Approval and Recording)

DEVELOPMENT CONTRACT

(Optional) [AND VARIANCE FOR]
[name of plat]

THIS AGREEMENT, made this ____ day of _____, 20__, is by and between the City of Columbus, Anoka County, Minnesota, hereinafter referred to as the “City,” and _____, hereinafter [collectively] referred to as “Developer.”

A. DEVELOPMENT CONTRACT / GENERAL AGREEMENT.

[Recitals for Part A., are the same as in Development Contract, Form A, above, and are not reprinted here.]

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO:

1. Plat Approval. The City Council shall approve the proposed final plat of [name of plat] [and approve by metes-and-bounds description of those parts of Developer’s lands which are not included within the proposed plat] and release the plat and other recordable instruments to Developer for recording when:

- a. all of the subdivision and title requirements of the Columbus City Code have been met by the Developer;
- b. all fees, deposits, and bonds have been properly paid or delivered to and accepted by the appropriate City officials;
- c. all public improvements, drainage facilities, stormwater management facilities, wetlands facilities, and Buildable Areas have been constructed or installed and inspected and accepted by the City.

Since the timing of final plat approval depends upon the Developer’s performance of this agreement, Developer waives all plat approval deadlines which may accrue by law or by the City Code.

This Development Contract affects, encumbers, and otherwise concerns the lands described on the attached Exhibit[s] “A” [and “B”?].

[Paragraphs 2., and 3., are the same as in Development Contract, Form A, above, and are not reprinted here.]

4. Remaining Requirements. As of the date of this Contract, it appears from an examination of City records that some platting requirements have been met by the Developer and that the following platting and development requirements remain unperformed by the Developer:

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[Paragraph 4., subparagraphs a., through f., are the same as in Development Contract, Form A, above, and are not reprinted here.]

g. None of the required public improvements, drainage facilities, stormwater management facilities, wetlands facilities, and Buildable Areas have been constructed or installed by Developer.

5. Developer's Performance Guarantee and Payment Guarantee. At any time after this agreement has been signed by both parties and the Developer wants to have the plat signed by the City and to have the plat and other recordable instruments released by the City for recording, then the Developer must provide performance security and payment security pursuant to the City Code. The amounts of such securities shall be determined by the City Council after reviewing the extent to which Developer has completed the work required by this agreement and by the City Code.

a. Performance Guarantee. To guarantee to the City that the Developer will comply with the Columbus City Code and that Developer will fully perform this Contract, Developer shall, before the signed plat and other recordable instruments are released by the City for recording, deposit with the Columbus Treasurer a performance security in the amount of \$ _____. The \$ _____ represents 125% of the amount of the contracted public work, as estimated by the City Engineer, and this is the amount which the City Engineer recommends as an amount sufficient to guarantee the Developer's performance, as an amount which should be sufficient for the City to provide substitute performance of the contract in the event of a default by Developer, and as an amount sufficient to guarantee the durability of the improvements installed by the Developer, including inspections and reimbursement for professional services [and including delivery to the Town of the easements described on the attached Exhibit "B"]. This deposit of a performance security further guarantees that the Developer will produce the copies of the plat, as stated above. The performance security shall also serve to guarantee that the Developer: timely provides environmental testing; timely submits reports to the City Engineer according to the City Code; performs all work required by a wetlands mitigation or replacement plan; performs all work required by a stormwater management plan; and performs all other elements of this agreement and all work required by the City Code. In the event that the Developer later submits a request to withdraw part or all of the performance security and to substitute a performance security in a smaller amount pursuant to an amendment to this agreement, the effective dates of the substituted performance security (commencement and termination) shall be determined by the City Council at the time that the substituted performance security is submitted. The performance security will need to be effective through _____, 20___. The City is under no obligation to accept a later substitution of the performance security, but if the City considers the request, the Developer shall reimburse the City for all of its administrative and legal costs incurred in effecting such substitution. The Developer's obligations, covenants and liabilities under this agreement are not limited by the value of the performance security required by the City Council.

b. Payment Guarantee. To guarantee to the City that the Developer will pay all persons who may furnish labor and material to the public work which is the subject of this agreement, the Developer shall, before the signed plat and other recordable instruments are released by the City for recording,

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deposit with the City Treasurer a payment security in the amount of \$ _____. The payment security of \$ _____ represents 100% of the City Engineer's estimate of the amount of the contracted public work remaining to be performed and represents an amount which should be sufficient to pay all claims for labor and material. Before releasing the plat for recording, the City shall receive from the Developer the Developer's Sworn Construction Statement (Interim or Final) and supporting Waivers of Bond Claims, as required by the City Code. The payment security shall be reduced or released unless the City Council has received the Developer's Sworn Construction Statement (Interim or Final) and supporting Waivers of Bond Claims, as required by the City Code. If the Developer submits a request to withdraw part or all of the payment security and to substitute a payment security in a smaller amount pursuant to an amendment to this agreement, the effective dates of the substituted payment security (commencement and termination) shall be determined by the City Council at the time that the substituted payment security is submitted. The payment security will need to be effective through _____, 20___. The City is under no obligation to accept a later substitution of the payment security, but if the City considers the request, the Developer shall reimburse the City for all of its administrative and legal costs incurred in effecting such substitution. The Developer shall be liable for all of the City's costs in administering, defending, or enforcing any claim by any party who has provided labor and material to the public work under this contract. The Developer's obligations, covenants and liabilities under this agreement are not limited by the value of the payment security required by the City Council.

[Paragraph 5., subparagraphs c., and d., are the same as in Development Contract, Form A, above, and are not reprinted here.]

[Paragraph 6., is the same as in Development Contract, Form A, above, and is not reprinted here.]

7. Construction Deadline. All of the physical improvements required to be constructed by the Developer shall be accomplished by _____, 20___. If the Developer has not performed all of its work by that date, the City Council may, at its option, declare this agreement void and declare the preliminary plat void. No building permits for the construction of new homes in the plat will be issued until the improvements and other work contemplated by this agreement have been constructed and give a favorable "Completed Inspection" by the City Engineer. (City Code Section 8-903) and until the plat and other recordable instruments have been recorded with the County Recorder.

[Part A., Paragraphs 8., through 11., are the same as in Development Contract, Form A, above, and are not reprinted here.]

[Parts B., and C., all Paragraphs and the Exhibits are the same as in Development Contract, Form A, above, and are not reprinted here.]

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STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

[EXHIBIT "C"]
DEVELOPER'S INTERIM
SWORN CONSTRUCTION STATEMENT

The undersigned, being first duly sworn, each for himself or herself, as owner and developer of _____, according to the map or plat thereof on file and of record in the office of the County Recorder in and for Anoka County, Minnesota, deposes and says that the following are the names of all parties having contracts or subcontracts for specific portions of the work on said property or material entering into the construction of the municipal improvements required to be constructed pursuant to that certain Development Contract for _____, dated _____, recorded _____, as Document No. _____, in the office of the County Recorder; as amended by all amendment documents on file with the Columbus City Clerk through the date hereon:

NAME	ADDRESS	LABOR OR MATERIAL PROVIDED	AMOUNT PAID TO THIS PARTY THROUGH THIS DATE
1.			
2.			
3.			
4.			
5.			

[Use reverse side if more space is needed.]

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The undersigned specifically agrees to pay any unpaid bills for construction or site improvements, to remove mechanics liens or bond claims should any be filed against lands dedicated to the public or to the City of Columbus in said plat, and to pay all bills, costs, expenses and legal fees; and indemnify the City of Columbus against any loss should it become necessary for the City to bring action to remove the liens or to pay the bills or pay claims against the Developer's bond or letter of credit given pursuant to said Development Contract. This sworn statement is given to induce the City of Columbus to reduce or release all or part of the Developer's Financial Guarantee described in said Development Contract.

Further your affiant sayeth not.

Subscribed and sworn to before me this

_____ day of _____, 20__.

My Commission expires _____

[EXHIBIT "C"]

[Temporary: \CODE8D1C.DOC] [Part of \CODE\CH8APPD1.COD] [Exhibit "C" to Development Contract in City Code, Chapter 8, Appendix D1.]

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The undersigned specifically agrees to pay any unpaid bills for construction or site improvements, to remove mechanics liens or bond claims should any be filed against lands dedicated to the public or to the City of Columbus in said plat, and to pay all bills, costs, expenses and legal fees; and indemnify the City of Columbus against any loss should it become necessary for the City to bring action to remove the liens or to pay the bills or pay claims against the Developer's bond or letter of credit given pursuant to said Development Contract. This sworn statement is given to induce the City of Columbus to reduce or release all or part of the Developer's Financial Guarantee described in said Development Contract.

Further your affiant sayeth not.

Subscribed and sworn to before me this

_____ day of _____, 20__.

My Commission expires _____

[EXHIBIT "D"]

[Temporary: \CODE8D1D.DOC] [Part of \CODE\CH8APPD1.COD] [Exhibit "D" to Development Contract in City Code, Chapter 8, Appendix D1.]

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[EXHIBIT "E"]

WAIVER OF BOND CLAIMS AND MECHANIC'S LIEN RIGHTS

Dated: _____, 20__.

The undersigned hereby acknowledges receipt of the sum of \$ _____ as [check one]

full and final payment partial payment for all labor, skill and material furnished or to be furnished to the following described real property:

Lands lying within the plat of _____, on file and of record in the office of the County Recorder in and for Anoka County, Minnesota,

and for value received hereby waives all rights acquired by the undersigned to file or record mechanic's liens against said real property for labor, skill or material furnished to said real property and waives all rights to file a claim against the City of Columbus for payment from the financial guarantee (cash, bond, or letter of credit) given pursuant to Development Contract for labor, skill or material furnished to said real property. The undersigned affirms that all material furnished by the undersigned has been paid for, and all subcontractors employed by the undersigned have been paid in full.

NOTE: If this instrument is executed by a corporation, it must be signed by an officer of the corporation, and if by a partnership, it must be signed by a partner.

[PRINT] NAME OF COMPANY

By _____
YOUR SIGNATURE

[PERSON SIGNING, PRINT YOUR NAME]

[PRINT YOUR TITLE, E.G. PRESIDENT]

[PRINT STREET ADDRESS]

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[CITY, STATE, ZIP CODE]

[OFFICE TELEPHONE NUMBER]

[Temporary: \CODE8D1E.DOC] [Part of \CODE\CH8APPD1.COD] [Exhibit "E" to Development Contract in City Code, Chapter 8, Appendix D1.]

