**CHISAGO LAKE TOWNSHIP**

**CHISAGO COUNTY, MINNESOTA**

**DEVELOPMENT AGREEMENT**

**FOR FINAL PLAT**

[[ name of developer]]

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_ is by and between the Town of Chisago Lake, Chisago County, Minnesota, hereinafter referred to as the “Township,” and [[ name of developer]], hereinafter referred to as “Developer.”

WHEREAS Developer is seeking approval for a new subdivision plat \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_containing dedications of roads to Chisago Lake Township over the property described on the attached “\_\_\_\_\_\_\_\_\_\_\_\_\_,” which is by reference incorporated herein:

WHEREAS Developer desires to obtain final plat approval from the Chisago Lake Town Board and warrants that all improvements as required by Chisago Lake Township have been installed and constructed in said Plat in compliance with Chisago Lake Township Subdivision Ordinances and/or Chisago Lake Township regulations in effect.

WHEREAS the Township desires that all development fees payable to Chisago County and Chisago Lake Township by the Developer be paid and that all paper and mylar copies of the recorded plat be delivered to the Township and Chisago County.

WHEREAS the Township and County Ordinances require that the Development Agreement be executed in writing 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 serviced by this agreement:

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO:

1. Plat Approval. The Town Board shall approve the prepared final plat when all the subdivision and title requirements of Chisago County Ordinances and Chisago Lake Township regulations have been met by the Developer, and all fees, deposits, escrows, and bonds have been properly paid or delivered to the appropriate officials. This Development Agreement affects, encumbers, and otherwise concerns the lands described in the attached.

1. The Developer will be required to provide a cashier’s check, certified check, or letter of credit in the amount of 125% of the estimated cost for the public improvements to secure the completion and the warranty for the roadwork for one year after the Town has accepted the Development Agreement. Said deposit shall be hereinafter referred to as the “Financial Guaranty”.
2. Additionally, Developer shall deposit with the Township the sum of $10,000 which is the estimate of escrow funds that will be required for engineering fees, legal fees, planning fees and other incidental expenses incurred by the Township in the processing of this Agreement and approving of the road.
3. If additional costs set forth in the preceding sentence exceed the amount estimated, the Developer shall, within five (5) days of the Developer’s knowledge of such overruns, increase the amount of the Financial Guaranty and escrow, in the same form as the initial guaranty, so that always the warranty cost plus the sum required for payment of development costs does not fall below the 125%.   At the end of the one-year warranty upon final acceptance authorization by Township, all remaining warranty funds and unused escrow funds shall be returned to Developer.

2. Copies of Plat the Developer has provided the Township Clerk with paper copies of the recorded plat and one transparency print of the recorded plat.

3. License. The Developer hereby grants the Township, its agents, employees, officers and contractors, a license to enter the plat to perform all work and inspections, provided for in the Township ordinances or by this Agreement, deemed appropriate by the Township in conjunction with plat development.

4. One Year Warranty. The Developer warrants all work performed by it against poor material and faulty workmanship for a period of one (1) year from its completion and acceptance by the Township.

5. Developer’s Default. In the event of default by the Developer as to any of the work to be performed by it hereunder, the Township may, at its option, perform the work and the Developer shall promptly reimburse the Township for any expense incurred by the Township, provided the Developer, except in an emergency as determined by the Township, is first given notice of the work in default, not less than 48 hours in advance. This Agreement is a license for the Township to act, and it shall not be necessary for the Township to seek a Court order for permission to enter the land. When the Township does any such work, the Township may, in addition to its other remedies, assess the cost in whole or in part, or draw such amounts from the Financial Guaranty without further notice to the Developer.

6. Ownership of Improvements. Upon completion of the work and construction detailed in this Agreement and acceptance by the Township the improvements lying within public easements becomes Township property without further notice or action.

7. Restrictive Covenants. All roads, rights-of-way, in fee title or in easement title, and all easements for drainage or utility purpose, hereinafter donated, dedicated, or expressly granted to “the public,” to Chisago Lake Township or Chisago County by deed, by plat or by any other recorded instrument, are hereby declared by Developer to be subject to the following covenants:

A. Chisago Lake Township, Chisago County, or the public is deemed to be owner of all trees and shrubs and all other natural or artificial impediments or structures laying within any road, right-of-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 the Developer for all lands which are subject to this Development Agreement, whether said lands are later described by metes-and-bounds or by reference to a plat.

8. Financial Guaranty Retention.

A. in the event of a cost overrun; the posted amount must be increased to equal 125% of the public improvements by the termination date. If the Financial Guaranty is in the form of a cash deposit, the portion of the cash deposit to be retained, shall be a dollar amount equal to the Township Engineer’s estimate of the amount needed to guarantee the One Year Warranty set forth in section 4 of this Agreement.

B. Within thirty (30) days after the completion of the improvements and before any portion of the Financial Guaranty is released, the Developer shall supply the Township Engineer with an electronic copy of “as constructed” plans for review and approval, all prepared in accordance with Township standards. The “as constructed” plan shall include field verified elevations of the following: a) cross sections of ponds, b) location and elevations of swales, pipes, structures, and ditches, c) lot corners and d) installation of iron monuments installed in accordance with Minn. Stat. 505.02. One blue line set of “as constructed” plans and a final electronic copy shall be delivered to the Township after any corrections have been made following the Township Engineer review. The Developer’s surveyor shall submit a written notice to the Township certifying that the monuments have been installed.

9. Insurance – Prior to the Commencement date and continuously until and through the Acceptance Date, Developer shall obtain and keep in full force and affect all the following insurance policies, written by insurance companies authorized to do business in Minnesota.

1. Commercial general liability insurance including public liability insurance to be carried by the Developer and all contractors performing work on the Development Property, each policy naming the Township as co-insured, with limits for bodily injury or death of not less than $1,000,000.00 for each occurrence and with an aggregate limit of not less than $2,000,000.00; and
2. Workers’ Compensation insurance, with statutory coverage as required by Minnesota law, including employer’s liability coverage of not less than $500,000.00 with respect to the Developer and not less than $100,000.00 each with respect to any contractor working on the Development Property.
3. Prior to the Commencement Date and thereafter not less than Fifteen (15) days prior to expiration dates, the Developer shall file with the Township Clerk certificates of insurance, along with written evidence of payment of premiums therefore, setting forth that all coverage required herein is in full force and effect, and providing that the Township will be given Ten (10) days written notice prior to termination or cancellation of such coverage. It shall be the Developer’s responsibility to provide certificates of insurance and evidence of payment of premiums are filed with the Township for each contractor.

10. Township Remedies.

A. The parties agree that the Developer’s failure to provide corrective work when called upon to honor a guarantee or obligation under this Agreement shall entitle the Township to use the Financial Guaranty, in the form spending cash deposits 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 Township Clerk an original sworn construction statement attesting to the full payment of all contractors, subcontractors and material suppliers who provided labor and material for construction of the required improvements; and provided that the sworn construction statement is in a form approved by the Township Attorney and accompanied by such additional waivers, affidavits or releases from contractors and suppliers as may be required by the Township Attorney.

B. In the event that the Township receives claims from labor, materialmen, or others that work required by this Agreement has been performed, the sums due them have not been paid, and the laborers, materialmen, or others are seeking payment from the Township, the Developer hereby authorizes the Township to commence an Interpleader action pursuant to Rule 22, Minnesota Rules of Civil Procedure for the District Court, to draw upon the Financial Guaranty in an amount up to 125% of the claim(s) and deposit the funds in compliance with the Rule, and upon such deposit, the Developer shall release, discharge, and dismiss the Township from any further proceedings as it pertains to the funds deposited with the District Court, except that the Court shall retain jurisdiction to determine attorneys’ fees pursuant to this Agreement.

C. Notwithstanding Developer’s guarantee, Developer shall hold the Township harmless from 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 the Developer’s work described in this Agreement.

11. Legal Actions. In the event legal action is taken against the Township or the Dedications regarding a Claim or commenced by Developer to challenge a Claim or related to this Agreement or development of the plat, Developer shall defend such action at its own expense, and Township shall cooperate with Developer in the defense thereof, or, at Township’s election, assume the defense, at the expense of the Developer. The township 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 or an order making it a party defendant.

12. By this Agreement, the Developer specifically agrees that it will reimburse the Township for all engineering consulting fees, planning consulting fees, inspection fees, fees for legal services, and any other fees, whether service fees or fees for expenses, such as copying, mileage, filing fees etc. which are reasonably incurred by the Township in processing this subdivision application, or complying with and performing the Township’s rights and duties under this Agreement. The Developer agrees that the Township may refuse further action on the plat, refuse to issue building permits, issue stop work orders, enforceable through action in the District Court of Chisago County, and file liens based on the language of this Agreement, against the property in the plat if the terms of this paragraph are not complied with. The Developer’s fulfillment of these requirements shall be confirmed by the Township Treasurer.

13. Indemnity.

A. Developer shall always indemnify and save Township harmless from and against all liability which Township may for any cause and at any time sustain or incur by reason of a claim or suit or action or proceeding relating to this Agreement or development of the Plat. This indemnity shall survive all transactions and inspections between Township and Developer. This indemnity shall not be modified, except by subsequent written agreements between parties. The Developer’s obligations, covenants and liabilities under this Agreement are not limited by the value of the Financial Guaranty required by the Town Board.

B. The Developer shall hold the Township and its officers, employees, and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from plat approval and development. The Developer shall indemnity the Township and its officers, employees, and agents for all costs, damages, or expenses which the Township may pay or incur in consequence of such claims, including attorneys’ fees.

14. Payment by Developer. The developer shall pay, upon demand by Township, the amount of any liability under this Agreement or related to the Plat paid by Township. Developer shall satisfy and discharge any judgment recovered against Township 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 the Township or the Dedications after the appeal, Developer shall satisfy and discharge such judgment. Township may, in its reasonable discretion, make any payment as required herein, and Developer shall promptly repay to the Township the amount of such payment with interest.

15. Miscellaneous.

A. The Developer represents to the Township that the plat complies with all Township, county, metropolitan, state, and federal laws, and regulation, including but not limited to subdivision ordinances, zoning ordinances, and environmental regulations. If the Township determines that the plat does not comply, the Township may, at its option, refuse to allow construction or development work in the plat until the Developer does comply. Upon the Township’s demand, the Developer shall cease work until there is compliance.

B. Third parties shall have no recourse against the Township under this Agreement.

C. Breach of the terms of this Agreement by the Developer shall be grounds for denial of building permits, including lots sold to third parties.

D. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Agreement is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Agreement.

E. If building permits are issued prior to the completion and acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the Township, Developer, its contractors, subcontractors, materialmen, employees, agents, or third parties.

F. The action or inaction of the Township shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the Town Board. The Township’s failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.

G. This Agreement shall run with the land and may be recorded against the title to the property.

H. Each right, power of remedy herein conferred upon the Township is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Township, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Township and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

I. The Developer may not assign this Contract without the written permission of the Town Board, for which permission shall not be unreasonably withheld. The Developer’s obligation hereunder shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it.

16. Written Amendment. This Agreement may be modified, changed, or amended only by subsequent writings by and between the same parties hereto.

17. 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.

18. Notices.

A. Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees, or agents, or mailed to the Developer by registered mail at the following address:

B. Notice to the Township shall be in writing and shall be either hand delivered to the Township Clerk, or mailed to the Township by registered mail in care of the Township Clerk at the following address:

Chisago Lake Town Hall

12400 316th Street

PO Box 649

Lindstrom, Minnesota 55045

19. Severability. If any portion or clause of this Development Agreement shall be deemed unenforceable, unconstitutional, or in any other way stricken by any court of competent jurisdiction, then the parties agree that the remainder of this Agreement shall remain in full force and effect and the removal of the stricken portion shall not affect the enforceability or legally binding nature of the remainder of this Agreement.

TOWN OF CHISAGO LAKE

CHISAGO COUNTY, MINNESOTA

TOWN BOARD OF SUPERVISORS

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

Board Chair

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Township Clerk

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Developer/Name of Company

STATE OF MINNESOTA )

) ss.

COUNTY OF CHISAGO )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Board Chair of the Chisago Lake Township Board of Supervisors, and by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Chisago Lake Township Clerk, on behalf of the Township of Chisago Lake, a municipal corporation, under the laws of the State of Minnesota.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Exhibit A

Legal Description of Property to be Platted

The Southwest Quarter of the Southeast Quarter, Section 12, Township 34, Range 21, Chisago County, Minnesota.