

# Attachment B

This Instrument Drafted By:

Hoff Barry, P.A. (SBL)  
100 Flagship Corporate Center, Ste. 200  
Eden Prairie, MN 55344

## DEVELOPER'S AGREEMENT FOR EDGEWATER ON COOK LAKE

**THIS DEVELOPER'S AGREEMENT FOR EDGEWATER ON COOK LAKE** (hereinafter referred to as "**Agreement**") entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 (hereinafter referred to as the "**Effective Date**") by and between EDGEWATER SFR OWNER LLC, a Delaware limited liability company (hereinafter referred to as "**Developer**"), and the CITY OF MAPLE GROVE, a Minnesota municipal corporation (hereinafter referred to as "**City**"; Developer and City sometimes individually referred to as "**Party**" and collectively "**Parties**").

### RECITALS

**WHEREAS**, Developer is the fee owner of that land located in Hennepin County, Minnesota, legally described on attached Exhibit 1 (hereinafter referred to as "**Property**"); and

**WHEREAS**, on September 8, 2020, the City Council passed Resolution No. 20-121 conditionally approving Planned Unit Development (hereinafter referred to as "**PUD**") – Concept Stage Plan for the Property and terminating all previous approvals under Resolution No. 18-108; and

**WHEREAS**, on March 15, 2021, the City Council passed Resolution No. 21-019 conditionally approving the PUD –Development Stage Plan and final plat for the Property, which approvals consist of: (i) the plans for the Property, drafted by Civil Site Group, dated January 12, 2021, with the latest City Resubmittal of January 29, 2021 (hereinafter referred to as the "**Plans**"), which Plans Title Sheet is attached as Exhibit B to Resolution No. 21-019; (ii) the Plans include the architectural model plans, drafted by KGA Studio Architects; and (iii) and the final plat for Edgewater on Cook Lake drafted by Civil Site Group (hereinafter referred to as the "**2021 Final Plat**"); and

**WHEREAS**, on March 14, 2022, the City Council passed Resolution No. 22-\_\_\_\_ conditionally approving a revision to the 2021 Final Plat, which approval consists of the revised final plat of Edgewater on Cook Lake, drafted by Civil Site Group (hereinafter referred to as the "**Final Plat**"). The Final Plat replaces the 2021 Final Plat in its entirety; and

**WHEREAS**, City requires that certain public improvements, including, but not limited to, sanitary sewer, water, storm drainage systems, storm sewer, grading, streets and street lighting, be installed to serve the Property and other properties affected by the development of the Property, all at the expense of Developer (hereinafter referred to as "**Petition Items**"); and

**WHEREAS**, the City requires that certain on and off-site improvements be installed by Developer within the Property, which improvements typically include, but are not limited to,

boulevard sod, drainage swales, erosion control, monumentation, street cleaning and front yard trees (hereinafter referred to as “**Escrow Items**”); and

**WHEREAS**, this Agreement is entered into for the purpose of setting forth and memorializing for the Parties and subsequent owners the understandings and agreements of the Parties concerning the development of the Property.

**NOW, THEREFORE**, it is hereby and herein mutually agreed, in consideration of each Party's promises and considerations herein set forth, as follows:

1. INCORPORATION. The above Recitals, the Resolution No. 20-121, Resolution No. 21-019, Resolution No. 22-\_\_\_\_ (hereinafter Resolution No. 20-121, Resolution No. 21-019, and Resolution No. 22-\_\_\_ are collectively referred to as the “**City Resolutions**”), the Plans, the Final Plat, and all exhibits attached to this Agreement are a material part of this Agreement and are incorporated herein.
2. PETITION FOR IMPROVEMENTS (PETITION ITEMS). Developer herein petitions the City to construct as a part of City's Improvement Project No. 18-23 (herein referred to as “**Project No. 18-23**” or “**City’s Improvement Project No. 18-23**”), the improvements referred to as “Petition Items” in Exhibit 2, attached hereto and incorporated herein (hereinafter collectively referred to as the “**City Project**”).
3. WAIVER. Developer hereby acknowledges and agrees that said Petition Items will add value to the Property and that the Property will benefit by said improvements in an amount at least equal to the amount of **\$3,397,495.19**, as shown on Exhibit 2, is proposed to be specially assessed against said Property (hereinafter referred to as “**Special Assessments**”). Developer expressly waives (i) all rights to hearings before the City afforded under Minnesota Statutes, Chapter 429, specifically including hearings under Minn. Stat. §§429.031 and 429.061 and (ii) all rights to appeal in the Courts any objection to any irregularity or noncompliance with statutory procedure, and any claim that the assessment being levied against the Property is excessive, as the said rights therein granted relate to the City Project.
4. PETITION ITEMS - PROJECT. City shall construct as part of its City Project, the Petition Items, pursuant to its regular methods of making public improvements. As prerequisite to the City commencing said construction, Developer shall prepare the Property to allow for the construction of the Petition Items, which preparation shall include, but is not limited to, mass grading and sub-grade elevations as set forth in the development plans approved by the City Council. Developer agrees that Special Assessments for such Petition Items may be levied by City, without Developer's objection, after construction is commenced, in accordance with Minn. Stat. Ch. 429 and that City may recover its actual costs and expenses, including, but not limited to, legal, fiscal, and engineering, incurred in connection with the City Project. If not sooner paid, said Special Assessments shall be payable in equal installments together with interest thereon at 5.25% per annum over a period of twenty (20) years.
5. PETITION ITEMS - SURETY. Developer herein agrees that said Developer shall

pay all installments of said Special Assessments when due. In the event Developer fails to timely pay any installment of said Special Assessments, the City may draw upon the Petition Items Surety (defined below) in an amount equal to the installment due and any fee and cost incurred by the City in conjunction with the said delinquent Special Assessments. Any such draw may be used by the City to pay for any fee and cost incurred by the City in conjunction with the said delinquent Special Assessment and, if the City project is bonded, to pay the required yearly debt services payments, with the remainder to be held by the City. Said amount held by the City shall be liquated damages and become the property of City in the event the Developer continually fails to timely pay installments of Special Assessment and the Property or any portion of the Property is tax forfeited as a result thereof. Any Petition Items Surety funds referred to herein that are withdrawn that will be used by City for payment of its herein-referred debt service payment when due will constitute a credit against the obligations for the Developer to pay such Special Assessments. Upon payment of the delinquent Special Assessments, City will repay to the surety, to the extent that the delinquent Special Assessments have been paid, the surety monies withdrawn, less any costs incurred by City in conjunction with the said delinquent Special Assessments.

Developer shall provide City with cash or letter of credit, with the form and provider of the letter of credit to be reasonably satisfactory to City, in the amount of 60% of the estimated cost of City Project No. 18-23 prorated on a per lot basis (herein referred to as the “**Petition Items Surety**”). The Petition Items Surety shall thus be in the amount of \$2,039,000.00 calculated as follows:

Total Estimated Share of Cost of Project No. 18-23		\$3,397,495.19
	X	<u>60%</u>
Surety Requirement:		\$2,038,497.11
USE:		\$2,039,000.00

The Petition Item Surety may be utilized by the City in the manner stated above.

6. SURETY RELEASE - PETITION ITEMS. Developer may make application to City to reduce or release all or a portion of the Petition Items Surety as follows:
- (1) When another surety reasonably acceptable to the City is furnished to the City by Developer to replace a prior surety; or
  - (2) The Petition Items Surety may be reduced to an amount equal to sixty percent (60%) of the outstanding Special Assessments principal balance for all property within the Property if the application clearly establishes:

- (i) More than one (1) year has passed after the Special Assessments against the Property have been certified to the County for collection; or
  - (ii) That sixty percent (60%) or more of the principal on the certified Special Assessments, as levied on the Property, has been paid; or
- (3) The Petition Items Surety may be reduced on a per unit basis for units that receive a certificate of occupancy. The reduction shall be, at a minimum, increments of not less than 10 such units.

No reduction shall be made which would result in the Petition Items Surety held being less than sixty percent (60%) of the original surety amount for the Petition Items until the final costs are known and assessed. The Petition Items Surety shall be released in full at such time as the outstanding Special Assessments principal balance for all the Property is paid in full.

7. ON AND OFF-SITE IMPROVEMENTS/ESCROW ITEMS; SURETY. Developer shall also perform all on and off-site improvements set forth on Exhibit 2 as Escrow Items. Developer will provide City with cash or letter of credit, with the form and provider of the letter of credit to be reasonably satisfactory to City, in the sum of \$141,000.00, which figures represents 110% of the estimated cost of said Escrow Items (hereinafter referred to as the “**Escrow Items Surety**”; hereinafter the Petition Items Surety and Escrow Items Surety collectively referred to as “**Surety**”). The Escrow Items Surety shall be a guaranty to City that, except for boulevard improvements (sod and trees), the construction and completion of the Escrow Items by Developer, to City's satisfaction, will be completed on or before March 14, 2024, as may be reasonably extended by the City for delays beyond the reasonable control of Developer. The boulevard improvements for each lot or parcel shall be completed to City’s satisfaction within sixty (60) days of the date that a Certificate of Occupancy (temporary or permanent) is issued by City for a building located on the lot, unless the Certificate of Occupancy is issued after October 1st or before April 30th in any given year, in which case the boulevard improvements shall be so completed by the following July 1st. The Escrow Items Surety shall be maintained continuously by Developer until Escrow Items are completed to the City’s reasonable satisfaction. The City will not accept replacement cash or letters of credit from an individual lot owner who has purchased lots within the Final Plat. The Escrow Items Surety shall be released upon certification of the Engineer of City that such items are satisfactorily completed pursuant to this Agreement. Periodically, as payments are made by Developer for the completion of improvements described under Escrow Items and when it is reasonably prudent, Developer may request of City that the Escrow Items Surety be reduced for that portion thereof which has been fully completed and payment made therefor.
8. SURETY DEFICIENCY. In the event that, pursuant to the terms of this Agreement, the City has the right to draw against any Surety, and in the event that the funds

available thereunder are deficient in amount to pay or reimburse City the amounts due from Developer as required herein, Developer agrees that upon being billed by City, Developer will pay said deficient amount to the City within thirty (30) days of said billing to Developer. If there should be an overage in the amount of utilized security City will, upon making said determination, within a reasonable time period refund to Developer any monies which City has in its possession which are in excess of the Surety needed by City. All Surety money deposited with City shall be used by City for the purposes for which the Surety was given.

9. DRAW ON EXPIRING LETTER OF CREDIT. If a Surety is in the form of an irrevocable letter of credit, which by its terms will become null and void prior to the time at which all money or obligation of Developer is paid or completed, it is agreed that Developer shall provide City with a new letter of credit, reasonably acceptable to City as to provider and form, or a cash deposit, at least thirty (30) days prior to the expiration of the said expiring letter of credit. If a new letter of credit is not received as required above, City may declare a default in the terms of this Agreement and thence draw in part or in total, at City's discretion, upon the expiring letter of credit solely to avoid the loss of surety for the continued obligation, with such withdrawal considered thereafter as a cash escrow surety.
  
10. ABANDONMENT OF PROJECT - COSTS AND EXPENSES. City's costs and expenses for the preparation of the feasibility report, plans and specifications and all other costs expended by City and required to be reimbursed by Developer to the City hereunder, which are associated with improvements referred to in Exhibit 2 and/or Developer's plat proposal, shall be paid by Developer even if the proposed development of the Property should be Abandoned by the Developer. For the purposes of this Agreement, "**Abandonment**" or "**Abandoned**" of the development of the Property shall mean the failure of Developer to pay any invoice received by Developer from the City, in the time stated in this Agreement, or pursuant to such other payment schedule as approved in writing by the City, after any required notice and expiration of any applicable cure period.

Developer has provided sureties, in the form of a cash escrow, to City as follows:

<u>PURPOSE</u>	<u>AMOUNT</u>
Costs associated with preparation of plans and specifications	\$ 60,000

If the development is Abandoned, the City may withdraw funds from the above-referenced deposit or surety for the purpose of paying City's costs referred to in this section. The above-referenced surety will be released by City to Developer upon Developer providing, and the City accepting, the Petition Items Surety.

11. DEVELOPER TO PAY ALL COSTS. It is understood and agreed that amounts set forth in this Agreement as costs, unless specified as fixed amounts, are estimated.

The Developer shall pay, within thirty (30) days of demand, all actual expenses reasonably incurred by the City in relation to the development of the Property. Said expenses shall include, but are not limited to, staff time, including, but not limited to, hourly wage, engineering, legal and other consulting fees reasonably incurred in relation to development of the Property.

12. EROSION AND SILTATION CONTROL.

- A. FINANCIAL GUARANTEE. Before any grading is started on any site, all erosion control measures as shown on the approved erosion control plan, which is part of the Plans, shall be installed pursuant thereto. If the Developer has provided a financial security pursuant to City Code, Chapter 14, Article IV, for a grading permit for the Property prior to the execution of this Agreement (hereinafter referred to as the “**Grading Security**”), then, either: (i) the Grading Security amount shall be deducted from the amount required for the Escrow Items Surety; or (ii) the Developer may replace the Grading Security with the full amount of the Escrow Items Surety. The Grading Security and Escrow Items Surety shall be held to insure, among other things, compliance with this Agreement and City Code and policies during construction. The Grading Security shall not be returned to Developer until all disturbed areas have permanent surfacing, buildings or permanent vegetation re-established.

In the event permanent surfacing, buildings or vegetation are not placed or re-established upon any disturbed area within the time established therefor by the City, City shall provide written notice of such failure to Developer, and Developer shall cure such default within thirty (30) days thereafter. Developer agrees that, if Developer fails to cure such default within such 30-day period, City is hereby granted permission to enter the Property and use the Grading Security and/or the Escrow Items Surety to place vegetation on said disturbed area in the manner prescribed by the approved landscaping plans, or in any other manner the City reasonably deems appropriate. Developer further agrees that should the Grading Security and/or Escrow Item Surety be insufficient to defray all of City’s costs related to such action, Developer will promptly pay City any additional and reasonable costs related thereto. City shall promptly return any portion of the Grading Security remaining after City has reimbursed itself for all reasonable costs related to City’s placement of vegetation pursuant to this Section.

- B. EROSION CONTROL. Developer shall be responsible for compliance with the approved erosion control plan, which is part of the Plans. Developer will be given telephone or e-mail notice when an unsatisfactory condition exists that is determined to be a Developer's responsibility. Work to correct said unsatisfactory condition shall commence within 48 hours from the time of the telephone or e-mail notice. If said corrective work is not commenced within 48 hours of said telephone or e-mail notice, Developer hereby grants City permission to proceed with said corrective work and agrees to pay all

reasonable expenses incurred by City in relation thereto. If it is determined, by the City that the unsatisfactory condition could result in degradation of downstream water quality, Developer shall, upon telephone notice, immediately proceed to correct said unsatisfactory condition. If Developer does not immediately respond to said unsatisfactory condition, Developer hereby grants City the right to enter upon the Property and correct said condition at Developer's expense. City shall be entitled to all of its costs and expenses including, but not limited to actual legal, fiscal, administrative and engineering. For reimbursement for said costs and expenses, City may, at its option and in addition to other remedies available, invoice Developer for direct payment from the Grading Security or the Escrow Items Surety.

13. PARK DEDICATION. Pursuant to Statue Statute and City Code, the Final Plat requires park dedication via a land dedication and/or a cash equivalent based on the rate approved by the City Council when the Final Plat is released for recording. The Park Dedication obligation for the Final Plat is a combination of land dedication and cash dedication based on the 2021 Single Family rate of \$4,332.00 per unit as follows:
  - A. The Developer shall, at the time the Final Plat is recorded, convey marketable title to Outlot A of the Final Plat via warranty deed to the City. No permits for the development of the Property shall be issued until the City is provided with recording information.
  - B. A public trail within Outlot A connecting both the east and west ends of the development is planned. Trail corridor widths are 30 feet wide except at two pinch points. The trail connection to 73<sup>rd</sup> Avenue on the west side, near the Met Council property is 15 feet wide and the east side connection, between the proposed amenities lot and neighboring rental unit, is 20 feet wide. Full park dedication credit for the dedicated 1.21 acres shall be provided. At the time the Developer mass grades the Property, the Developer shall grade the trail corridor and construct retaining walls as provided for in the Plans and as directed by the City to allow construction of a trail per City specifications.
  - C. The balance of Outlot A that is not part of the trail corridor, 10.82 acres, contains wooded wetlands and stormwater ponds. The City will be responsible for preservation and maintenance of Outlot A. The balance of Outlot A is considered a land donation to the City that will not result in a park dedication credit.
  - D. The maximum land dedication is up to 10% of the net acreage (1.87 acres in the Final Plat). The 1.21-acre parcel satisfies 65% of the obligation, the remaining obligation would be satisfied with a cash dedication based on the adjusted single-family rate of \$1,516.00. Park dedication fees are calculated as follows:

Site Data

59 units  
Total Area = 27.30 acres  
Wetlands = 5.5 acres  
ROW County Road 10 = 0.6 acres  
Existing Residential = 2.50 acres

Net area for park dedication  $(27.30 - (5.50 + 0.60 + 2.50)) = 18.70$  acres

Outlot A = 10.82 acres  
Trail Corridor = 1.21 acres

Land Dedication

18.70 acres x 10% = 1.87 acres (max land dedication)  
1.21 acres / 1.87 acres = 65%  
\$4,332 minus 65% credit = \$1,516.00 per unit

Cash Dedication

59 units x \$1,516 = \$89,444.00

**Total Park Dedication - Land and Cash**

Land Dedication: 1.21-acre trail corridor  
Cash Dedication: \$89,444.00  
Land Donation: 10.82-acre Outlot A

If the Final Plat is not released prior to the City Council adjusting the park dedication rate, the above-referenced payment shall be adjusted based upon the formula approved by City for the year in which the Final Plat is actually released for filing. The park dedication fee, as set forth above, shall be paid prior to the Final Plat being released for filing at the Hennepin County Government Center.

14. LAND DEDICATION; CONVEYANCE.

- A. The right-of-way on the Final Plat labeled “Walnut Grove Lane N” is not full 60 feet of right-of-way. The Final Plat does ghost plat the full 60 feet. At the time of platting property that includes Outlot D (hereinafter referred to as the “**Future Final Plat**”), the Future Final Plat shall include a dedication of the full 60 feet of Walnut Grove Lane N. right-of-way as ghost platted on the Final Plat (hereinafter referred to as “**Dedication Property**”). The City agrees to pay Developer \$149,738.40 (hereinafter referred to as the “**Payment**”), at the time the Future Final Plat is recorded, for the Dedication Property, or at such times before the recording and in partial payments not to exceed the Payment, all as determined by the City Engineer.
  
- B. The Final Plat includes *Outlot C, Southwest Crossroads Seventh Addition, according to the recorded plat thereof, Hennepin County, Minnesota* (hereinafter referred to as “**Outlot C Southwest Crossroads**”), which the



City is fee owner. As further consideration for the dedication of right-of-way in the Final Plat, the City will, prior to the recording of the Final Plat, convey, via quit claim deed, Outlot C Southwest Crossroads to the Developer.

- C. The Developer shall convey marketable title, acceptable to the City, to Outlot C of the Final Plat, at the time the Final Plat is recorded, via warranty deed.
- D. The Developer shall convey Outlot A of the Final Plat to the City as set forth in Section 13.A. of this Agreement.

- 15. PAYMENT OF SPECIAL ASSESSMENTS UPON SALE. The Parties hereto further agree that all Special Assessments levied or pending on City Project No. 18-23 or any other City project previously levied, or to be levied as a part of activating previously deferred assessments against the Property, or portion thereof, if not paid prior thereto, shall be paid by the Developer on the sale or transfer of fee ownership interest in any portion of the Property, with the exception of Outlots A through D, to a third party other than a subsidiary or other affiliate of Developer. If only a portion of the Property is transferred Developer shall pay the said special assessments attributable only to that portion which is being sold or transferred.
- 16. MAINTAIN PUBLIC PROPERTY DAMAGED OR CLUTTERED DURING CONSTRUCTION. Developer agrees to assume full financial responsibility for any damage which may occur to public property including, but not limited to, streets, street subbase, base, bituminous surface, curb, utility system including, but not limited to, watermain, sanitary sewer or storm sewer when said damage occurs as a result of the activity which takes place during the development of the Property, except for damage caused by the City, its employees, agents or contractors in connection with City's construction of the Petition Items or its willful misconduct or gross negligence. Developer further agrees to pay all costs required to repair the streets and/or utility systems damaged or cluttered with debris when occurring as a direct or indirect result of the construction that takes place in the Property by Developer, its agents, employees and contractors. In the event Developer fails to maintain or repair the damaged public property referred to aforesaid, the City shall provide written notice of such failure to Developer and, if such failure is not cured within thirty (30) days thereafter, Developer hereby agrees that City may undertake making or causing said damage or clutter to be repaired or cleaned. When City undertakes such repair, Developer shall reimburse City for all of its expenses within thirty (30) days of its billing to Developer. If Developer fails to pay said bill within thirty (30) days of being billed, the City may, among other remedies available, draw from the Escrow Items Surety.

17. STREET CLEANING.

- A. Developer shall contract with a street cleaning firm to provide street cleaning services within and immediately adjacent to the Property. A copy of said contract shall be submitted to and approved by City prior to the issuance of a grading permit. This contract shall name City as an authorized agent to order street cleaning services as City deems necessary. City agrees to direct its contractor for the City Project to keep the streets clean from any debris caused by or arising in connection with the City Project. The cost of the street cleaning under the contract shall be paid for by Developer.
- B. During development of the Property, Developer shall keep the streets adjoining its development free of dirt and debris caused by its development. In the event dirt and/or debris has accumulated on streets within or adjacent to the Property, City is hereby authorized to immediately commence street cleaning operations if the streets are not cleaned by the Developer by 3:30 PM the day of the violation. If conditions are such that street cleaning operations are immediately necessary, City may perform the necessary street cleaning. City will then bill the delinquent party for all associated street cleaning costs. Failure to reimburse City for street cleaning costs within thirty (30) days of such billing will result in City drawing funds from the Escrow Item Surety.

18. CLUSTER BOX UNIT REQUIREMENTS. The Developer shall install cluster box units as required by the United States Postal Service (hereinafter the cluster box units and the area near and adjacent to allow its reasonable use referred to as the “**CBU**”). The City approved development plans for the Property shall be modified prior to issuance of any certificate of occupancies for the Property, subject to the review and approval of the City Engineer, to comply with the requirements of the United States Postal Service for the CBU. Prior to release of the Final Plat, the Developer shall submit a maintenance declaration or contain such maintenance responsibility in homeowner association documents, subject to the review and approval of the City Engineer, to apportion to all lots of the Property the responsibility and cost to maintain the CBU.

19. VIOLATION OF AGREEMENT. In the event that Developer, its successors or assigns violates any of the covenants and agreements herein contained, City shall give written notice thereof to the Developer. Unless otherwise expressly provided for herein, if Developer fails to cure such violation within thirty (30) days after such notice, City, in addition to all other remedies available by law or under this Agreement, is hereby granted the right and privilege to declare all of the Special Assessments levied as taxes or otherwise and any deficiencies governed by this Agreement due and payable immediately to the City in full and may exercise any other right in this Agreement. Developer hereby grants City and City’s employees, representatives or agents the right to enter the Property to perform any act deemed necessary by City to complete Developer’s obligations created herein.

20. NOTIFICATION INFORMATION. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (hereinafter each referred to as a “**Notice**”) shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); or (b) when received or rejected by the addressee if sent by a nationally recognized overnight courier (receipt requested); or (c) when received or rejected by the addressee if sent by United States Postal Service via certified or registered mail (receipt requested); provided, that notices may be sent by e-mail or telephone where expressly permitted by this Agreement. Notices must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a Notice given in accordance with this Section):

If to City:

City of Maple Grove  
c/o City Clerk  
12800 Arbor Lakes Parkway  
Maple Grove, Minnesota 55369  
Adietl@maplegrovern.gov  
(763) 494-6000

With copy to:

Hoff Barry, P.A.  
Attn: Scott B. Landsman  
100 Prairie Center Drive, Ste. 200  
Eden Prairie, MN 55344  
slandsman@hoffbarry.com  
(952) 746-2700

If to Developer:

Edgewater SFR Owner LLC  
Attn: Ben Schmidt

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

With copy to:

Felhaber Larson  
Attn: Mark S. Radke  
220 South Sixth Street, Suite 2200  
Minneapolis, MN 55402  
mradke@felhaber.com  
(612) 373-8409

21. MISCELLANEOUS.

- A. ATTORNEY'S FEES. Developer will pay City reasonable attorney's fees to be fixed by the Court in the event a suit or action is brought to enforce the terms of this Agreement, or in the event an action is brought upon a letter of credit furnished by Developer as provided herein and, in either event, the City is the prevailing party in such action.
- B. ACCESS. City shall have access to the Property for the purpose to construct the Petition Items and to conduct any reasonable inspections. Such access rights include, but are not limited to, the right to displace soil and store items and machinery related to the said improvements.
- C. AGREEMENT EFFECT. The terms and conditions of this Agreement shall be binding on the Parties hereto, their respective successors and assigns and the benefits and burdens shall run with the Property. The Developer shall record this Agreement along with the Final Plat and before any mortgages being recorded. The Developer shall provide the City with recording information prior to any permits for the development of the Property being issued. Upon request by Developer, the City covenants to provide a recordable Certificate of Completion within a reasonable period of time following the request, upon the completion of the work and responsibilities required herein, payment of all costs and fees required and compliance with all terms of this Agreement.
- D. GOVERNING LAW. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota.
- E. NO THIRD-PARTY BENEFICIARIES. This Agreement is for the sole benefit of the Parties and their respective successors and assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.
- F. HEADINGS. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

- G. TIME IS OF THE ESSENCE. Time is of the essence in the performance of the terms and obligations of this Agreement.
- H. MODIFICATION. Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement shall be binding only if evidenced in writing signed by each Party or an authorized representative of each Party.
- I. WARRANT OF AUTHORITY. Developer warrants and guarantees that it has the authority to enter into this Agreement and to make it a covenant on and runs with the Property as a first and prior lien and that it is binding all current and future owners.
- J. DATA PRACTICES COMPLIANCE. Developer may have access to data collected or maintained by the City to the extent necessary to perform Developer's obligations under this Agreement. Developer agrees to maintain all data obtained from the City in the same manner as the City is required under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 or other applicable law (hereinafter referred to as the "**Act**"). Developer will not release or disclose the contents of data classified as not public to any person except at the written direction of the City. Upon receipt of a request to obtain and/or review data as defined in the Act, Developer will immediately notify the City. The City shall provide written direction to Developer regarding the request within a reasonable time, not to exceed ten (10) days. The City agrees to indemnify, hold harmless and defend Developer for any liability, expense, cost, damages, claim, and action, including attorneys' fees, arising out of or related to Developer's complying with the City's direction. Subject to the aforementioned, Developer agrees to defend and indemnify the City from any claim, liability, damage or loss asserted against the City as a result of Developer's failure to comply with the requirements of the Act. Upon termination and/or completion of this Agreement, Developer agrees to return all data to the City, as requested by the City.
- K. NON-WAIVER. The action or inaction of the City shall not constitute a waiver or amendment of the provisions of this Agreement. The waiver by or the failure of the City to enforce any particular section, portion or requirement of this Agreement at any particular time shall not in any way constitute a waiver of any other section, provision, requirement, time element, or the right to enforce such provision at a subsequent time. To be binding, any amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.

- L. CUMULATIVE RIGHTS. Each right, power, or remedy herein conferred upon the City is cumulative and in addition to every other right, power, or remedy, express or implied, now or hereinafter arising, available to the City, 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 City and will not be a waiver of the right to exercise at any time thereafter any other right, power, or remedy.

*The remainder of this page intentionally left blank; signature pages follow*

**IN WITNESS WHEREOF**, the Parties herein have executed this Agreement on the day and year first above written.

**CITY OF MAPLE GROVE,**  
a Minnesota municipal corporation

BY: \_\_\_\_\_  
Mayor

AND: \_\_\_\_\_  
City Clerk

STATE OF MINNESOTA    )  
COUNTY OF HENNEPIN   )ss.  
CITY OF MAPLE GROVE    )

On this \_\_\_ day of \_\_\_\_\_, 2022, before me personally appeared Mark Steffenson and Amy Dietl to me known to be the persons described in the foregoing instrument and who did say they are, respectively, the Mayor and City Clerk of the CITY OF MAPLE GROVE, Minnesota, a municipal corporation, and that the seal affixed to said instrument is the corporate seal of said municipal corporation, and that said instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council, and said Mark Steffenson and Amy Dietl acknowledged said instrument to be the free act and deed of said corporation.

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

**EDGEWATER SFR OWNER LLC**  
a Delaware limited liability company

By: \_\_\_\_\_  
Theodore G. Glasrud, Jr.  
Its: Chief Executive Officer

STATE OF MINNESOTA    )  
  ) SS.  
COUNTY OF HENNEPIN    )

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_\_, 2022, by Theodore G. Glasrud, Jr., the Chief Executive Officer of EDGEWATER SFR OWNER LLC, a Delaware limited liability company, on behalf of said company.

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



**EXHIBIT 1**

Legal Description for  
The Property

Lots 2 through 10, Block 1  
Lots 1 through 22, Block 2  
Lots 1 through 24, Block 3  
Outlots A, B, C and D

EDGEWATER ON COOK LAKE, according to the recorded plat thereof, Hennepin County,  
Minnesota.

## EXHIBIT 2

### I. PETITION ITEMS

#### *Lateral Utility and Street Improvements*

Item	Estimated Project Costs	# of Units	Cost per Unit
Lateral Sanitary Sewer <sup>(1)</sup>	\$253,250	59	\$4,292
Lateral Water Main <sup>(1)</sup>	\$333,500	59	\$5,653
Lateral Storm Sewer <sup>(1)</sup>	\$551,750	59	\$9,352
Lateral Streets <sup>(1)</sup>	\$1,001,250	59	\$16,970
Future Brockton Lane <sup>(2)</sup>	\$285,000	59	\$4,831
<b>Totals</b>	<b>\$2,424,750</b>	<b>59</b>	<b>\$41,097</b>

Notes: (1) Lateral improvement costs adjusted by 25% to reflect bid unit prices  
 (2) Brockton Lane to be constructed by City of Corcoran. Cost shown is as described in Cook Lake Development Draft Infrastructure Feasibility Study dated May 2020

#### *Trunk Benefit Assessments*

Trunk Area Charges per Unit - Edgewater on Cook Lake					
Item	Charge	Assessable Area	Total Trunk Charge	# of Units	Trunk Charge per Unit
Sanitary Sewer	\$7,916.57 / Acre	23.3 Acres	\$184,464.00	59	\$3,126.51
Water Main/Streets	\$25,725.86 / Acre	23.3 Acres	\$599,438.26	59	\$10,159.97
Storm Sewer	\$7,624.02 / Acre	23.3 Acres	\$177,647.29	59	\$3,010.97
Right of Way	\$13,719.66 / Acre	23.3 Acres	\$319,681.80	59	\$5,418.34
Right of Way Credits (1) (2)	\$3.36 / Sq Ft	3,949 Sq Ft	-\$13,268.64	59	-\$224.89
Future Bass Lake Road Grading Credit (1) (3)	\$115,000.00	N/A	-\$115,000.00	59	-\$1,949.15
Storm Pond Credits (1) (4)	\$3.36 / Sq Ft	43,897 Sq Ft	-\$147,493.92	59	-\$2,499.90
Wetland Mitigation Credit (5)	\$2.60 / Sq Ft	12,586 Sq Ft	-\$32,723.60	59	-\$554.64
<b>Totals</b>			<b>\$972,745.19</b>		<b>\$16,487.21</b>

*Assessment Summary*

<i>Lateral Benefit</i> .....	\$2,424,750.00
<i>Trunk Benefit</i> .....	\$972,745.19
<b><i>Total Proposed Assessment</i></b> .....	<b>\$3,397,495.19</b>
<i>Proposed Assessment per Unit</i> .....	\$57,584.66

## **II. ON AND OFFSITE IMPROVEMENTS/ESCROW ITEMS.**

The following and those items that are required improvements as part of State Statute, City Code and the resolutions approving the development of the Property:

### **A. Boulevard Improvements**

1. Installation of boulevard sod.
2. Planting of boulevard trees in compliance with the Plans, this Agreement and City Code. Said boulevard tree shall be of a variety as identified in the Maple Grove Arbor Committee Suggested Tree Variety listing, and shall not be planted within the street right-of-way or within a drainage and utility easement.

### **B. Grading/Erosion Control**

All site grading shall be graded in accordance with the approved grading and development plan. All erosion control shall be installed per the erosion control plan approved by the City Engineer.

### **C. Monumentation**

#### **Lot Corner Pins**

Install lot corner pins and/or monuments at locations shown on the final plat which will not have said pins and/or monuments installed at the time the final plat will be recorded at Hennepin County.

### **D. Boulevard Erosion Control**

All erosion controls shall be maintained in the boulevard area.

### **E. Street Cleaning**

All streets in the vicinity of this development shall be kept free of any dirt and debris during all phases of construction.

Escrow Items Surety Requirements: \$141,000.00