

This Instrument Drafted By:
Hoff Barry, P.A. (SBL)
100 Prairie Center Drive, Suite 200
Eden Prairie, MN 55344

**DEVELOPER'S AGREEMENT
PROJECT BLACK BEAR**

THIS DEVELOPER'S AGREEMENT PROJECT BLACK BEAR (hereinafter referred to as this "**Agreement**") entered into this _____ day of August, 2023 (hereinafter referred to as the "**Effective Date**") by and among RYAN COMPANIES US, INC., a Minnesota corporation (hereinafter referred to as "**Developer**"), BLACK BEAR MN, LLC, a Delaware limited liability company ("**Project Land Owner**") (i) C. S. MCCROSSAN, INC., a Minnesota corporation having an address of 7865 Jefferson Hwy North, Maple Grove, MN 55369 ("**McCrossan Seller**"), (ii) CHALEN, LP, a Minnesota limited partnership having an address at 7865 Jefferson Hwy North, Maple Grove, MN 55369 ("**Chalen Seller**"), (iii) BLAKELEY PROPERTIES, LLC, a Minnesota limited liability company having an address at 7865 Jefferson Hwy North, Maple Grove, MN 55369 ("**Blakeley Seller**"), and (iv) WHITEHORSE, LLC, a Minnesota limited liability company having an address at 7865 Jefferson Hwy North, Maple Grove, MN 55369 ("**Whitehorse**", and, together with McCrossan Seller, Chalen Seller, and Blakeley Seller, hereinafter collectively referred to as "**Owner**"; hereinafter Developer and Owner collectively referred to as "**Sponsors**"), and the CITY OF MAPLE GROVE, a Minnesota municipal corporation (hereinafter referred to as "**City**"; Sponsors and City sometimes individually referred to as a "**Party**" and collectively "**Parties**").

RECITALS

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

WHEREAS, Developer and Owner are parties to a Purchase and Sale Agreement dated May 1, 2023, as amended that provides Developer with the right to purchase the Project Land (as defined below) and the option to purchase all or any portion of the balance of the Property; and

WHEREAS, as of the Effective Date, Developer intends to acquire that portion of the Property legally described on attached Exhibit 1B (hereinafter referred to as "**Project Land**"). Upon the conveyance of Project Land from Owner to Developer, Owner will continue to retain fee ownership of that portion of the Property that does not include Project Land (hereinafter referred to as the "**Retained Property**"), which Retained Property is legally described on attached Exhibit 1C; and

WHEREAS, prior to the conveyance of Project Land to Developer intends to assign its right to acquire the Project Land to its affiliate, Project Land Owner; and

WHEREAS, on June 26, 2023, the City Council passed Resolution No. 23-094 conditionally approving Planned Unit Development (hereinafter referred to as "**PUD**") – Concept Stage Plan

approval to develop the Property with a 400,000 square foot, three-story, office/lab building with the potential of a 150,000 square foot addition; and

WHEREAS, on August 21, 2023, the City Council passed Resolution No. 23-127 (hereinafter City Resolution No. 23-094 and City Resolution No. 23-094 collectively referred to as the “**City Resolutions**”) conditionally approving preliminary plat and final plat of the Property and PUD – Development Stage Plan for the Project Land, which conditional approval consists of: (i) PUD – Development Stage Plan plans for the Property, drafted by Ryan A+E. Inc., with a resubmittal date of August 1, 2023 (hereinafter referred to as the “**Plans**”), which Plans Cover Sheet (Sheet C001) is attached to Resolution No. 23-127 as Exhibit B; (ii) the Plans include the elevations, drafted by Perkins & Will, dated June 20, 2023 (Sheets A300, A301, A302, A303, A304, A305, A306, and A307); (iii) the Plans include the Site Lighting Plan (Sheet E1.1) and Electrical Details (Sheet E1.2), drafted by Emanuelson-Podas, Inc., with a resubmittal date of August 1, 2023; (iv) the Plans include the landscape plans, drafted by Ryan A+E, Inc., with a resubmittal date of August 1, 2023 (Sheets L001, L200, L400, and L500); (v) preliminary plat of the Property, drafted by Westwood Professional Services, Inc., dated August 11, 2023 (hereinafter referred to as “**Preliminary Plat**”); and (vi) the final plat of the Property entitled *Minnesota Science and Technology Center*, drafted by Westwood Professional Services, Inc. (herein referred to as the “**Final Plat**”), which Final Plat subdivides the Property into Project Land and three outlots; 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; PLANS.** The above Recitals, the City Resolutions, the Plans, the Preliminary Plat, the Final Plat, and all exhibits attached to this Agreement are a material part of this Agreement and are incorporated herein. The Plans may be amended after the Effective Date by request of the Developer and as approved in writing by the City Engineer and/or the City Director of Community and Economic Development. Any such approved amendments to the Plans shall be incorporated into and be part of this Agreement.
2. **EXISTING DEFERRED SPECIAL ASSESSMENTS; CANCELLATION.** The Property is subject to a current deferred assessment (Levy No. 15180) in the amount of \$850,402.47 (hereinafter referred to as the “**Existing Deferred Assessment**”), which Existing Deferred Assessment amount is valid until November 1, 2024. It is the intent of the Parties that the Existing Deferred Assessment amount will be incorporated into the Special Assessment (defined below). Upon the Effective Date, the City shall cancel the Existing Deferred Assessment and all obligations thereunder, and file any and all releases necessary to remove said Existing Deferred Assessment as a lien against the Property from the tax and land records for Hennepin County.

3. PETITION ITEMS.

- A. *Petition for Improvements.* Sponsors herein petition the City to construct as a part of the City's Improvement Project No. 23-18, and previously constructed City Project No. 17-19 (hereinafter collectively referred to as the “**City Project**”). Sponsors acknowledge and agree that part of the City Project is already constructed and the remaining portion of the City Project will be constructed by the City as part of the City Project improvements herein referred to as “**Petition Items**” and described in Exhibit 2, attached hereto and incorporated .
- B. *Waiver.* Sponsors hereby acknowledge and agree that the City Project and 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 \$9,594,538.00, as detailed on attached Exhibit 2, and is proposed to be specially assessed against the Property (hereinafter referred to as “**Special Assessment**”), which Special Assessment shall be allocated among the lots of the Final Plat as follows:

<i>Project Land</i> (hereinafter referred to as “ Project Land Assessment ”)	\$2,108,379.00
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<i>Retained Property</i> (hereinafter referred to as “ Retained Property Assessment ”)	
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Outlot B	\$1,848,403.00
Outlot C	\$5,637,756.00

Sponsors expressly waive (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 in the amount of the Special Assessment (hereinafter referred to as the “**Waiver**”).

- C. *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 the following must be met to the reasonable satisfaction of the City:
- (1) 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;

- (2) The City will be bidding the City Project by sealed bid as required by Minn. Stat. §471.345. In the event that the sealed bid of the lowest responsible bidder that is awarded the City Project contract amount (hereinafter referred to as “**Bid Costs**”) is greater than the Special Assessment amount, then an amendment to this Agreement, executed between the Parties to increase the Waiver amount and amend Exhibit 2 to incorporate the actual Bid Costs and reasonable change orders, shall be required.

D. *Acceptance of Special Assessment.* Sponsors agree that the Special Assessment for such Petition Items may be levied by City, without Sponsors’ objection, after construction is commenced, in accordance with Minn. Stat. Ch. 429 and that the Special Assessment includes sufficient funds to permit the City to recover its actual costs and expenses, including, but not limited to, legal, fiscal, and engineering.

E. *Payment of Special Assessments.*

- (1) Retained Property. \$3,771,559.00 of the Retained Property Assessment (\$1,512,260.00 for Outlot B and \$2,259,299.00 for Outlot C), if not sooner paid, shall be payable in equal installments together with interest thereon at 5.25% per annum over a period of 20 years with the first installment due in 2025. Owner shall pay all installments of the Retained Property Assessment when due. In the event Owner fails to timely pay any installment of the Retained Property Assessment, the City may draw upon the Retained Property Surety (defined below) in an amount equal to the installment due and any fee and reasonable cost incurred by the City in conjunction with the said delinquent Retained Property Assessment. Any such draw may be used by the City to pay for any fee and reasonable cost incurred by the City in conjunction with the said delinquent Retained Special Assessment and with the remainder to be held by the City to pay any yearly debt services payments related to the Retained Property Assessment. Any Retained Property Surety funds referred to herein that are withdrawn that will be used by City for payment of its herein-referred uses will constitute a credit against the obligations for the Owner to pay such Retained Property Assessment. Upon payment of the delinquent Retained Property Assessment, City will repay to the Retained Property Surety, to the extent that the delinquent Retained Property Assessment have been paid, the Retained Property Surety monies withdrawn, less any reasonable costs incurred by City in conjunction with the said delinquent Retained Property Assessment.

The remaining \$3,714,600.00 of the Retained Property Assessment (\$336,143.00 for Outlot B and \$3,378,457.00 for Outlot C) shall be deferred from certification (hereinafter referred to as the “**Remaining Property Deferment**”) and interest on the outstanding balance shall accrue at 5.25% per annum until the earlier of (x) the Retained Property being platted as buildable lots, or (y) ten (10) years after the Effective Date; provided, however, if (x) above is met the Remaining Property Deferment principal and interest shall only be activated on that specific outlot of the Retained Property this is platted as a buildable lot and if (y) occurs then the City may execute a declaration and then any remaining deferred Retained Property assessment principal and interest shall be activated. Any Remaining Property Deferment activated as provided for above shall be payable in equal installments together with interest thereon at 5.25% per annum over a period of twenty (20) years. An amendment to this Agreement is required for subsequent phases of the Preliminary Plat that, among other things, addresses the activation and allocation of the Remaining Property Deferment.

(2) Project Land. The Project Land Assessment shall be deferred (hereinafter referred to as the “**Project Land Deferment**”) and interest on the outstanding balance shall accrue with a 5.25% annual rate of interest until the earlier of (x) the sale and conveyance of Project Land to an unaffiliated third-party purchaser; or (y) Ten (10) years after the date hereof. Upon the occurrence of (x) or (y) above, the Project Land Deferment, principal and interest, shall become immediately due and payable in full. In the event Project Land Owner fails to timely pay the Project Land Deferment, the City may, among other remedies available, draw upon the Project Land Surety (defined below) in an amount equal to the amount due and any actual out of pockets costs actually incurred by the City in conjunction with the collection of said delinquent Project Land Deferment. Any Project Land Surety funds referred to herein that are withdrawn that will be used by City for payment of its herein-referred uses will constitute a credit against the obligations for the Developer to pay such Project Land Deferment. Project Land Owner shall continue to be responsible for all activated Project Land Deferment not paid from the Project Land Surety.

4. ON AND OFF-SITE IMPROVEMENTS/ESCROW ITEMS. The City requires that the on and off-site improvements set forth on Exhibit 2 attached hereto be installed by Developer within and adjacent to the Property (hereinafter referred to as “**Escrow Items**”). The Surety (defined below) shall, among other things, 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 August 21, 2025, as may be extended in the reasonable discretion of the City. The boulevard improvements 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, 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.

5. PROJECT LAND SURETY.

A. *Establishment.* Project Land Owner shall provide City, as a condition of release of the Final Plat, with cash or letter of credit, with the form and provider of the letter of credit that is satisfactory to City, in the amount of \$843,400.00 (herein referred to as the “**Project Land Surety**”), calculated as follows:

Amount of Project Land Assessment		\$2,108,379.00
	X	<u>40%</u>
Surety Requirement:		\$843,351.60
USE:		\$843,400.00

The Project Land Surety may be utilized by the City in the manner stated herein.

B. *Release.* The Project Land Surety shall be maintained continuously by Project Land Owner, except as provided below. Project Land Owner may make application to City to reduce or release all or a portion of the Project Land Surety upon the occurrence of any of the following:

- (1) When another surety reasonably acceptable to the City is furnished to the City by Project Land Owner to replace a prior surety; or
- (2) When the proposed building to be constructed on Project Land has received a certificate of occupancy; or
- (3) There is no remaining Project Land Assessment principal and interest; or
- (4) The Project Land Surety may be reduced to an amount equal to 40% of the outstanding Project Land Assessment principal balance for Project Land if the application clearly establishes:
 - (i) More than one (1) year has passed after the Project Land Assessment has been certified to the County for collection; or

- (ii) That 40% or more of the principal of the Project Land Assessment has been paid.

If, however, the Project Land Assessment is paid in full, then the Project Land Surety shall be maintained continuously by Project Land Owner in an amount of at least \$20,000.00 until the Escrow Items are completed to the City's reasonable satisfaction. The Project Land Surety shall be released upon (i) no remaining Project Land Assessment principal and interest and (ii) certification of the City Engineer that the Escrow Items are satisfactorily completed pursuant to this Agreement.

- C. *Surety Deficiency.* In the event that, pursuant to the terms of this Agreement, the City has the right to draw against the Project Land Surety, and in the event that the funds available thereunder are deficient in amount to pay or reimburse City the amounts due from Project Land Owner as required herein, Project Land Owner agrees that upon being billed by City, Project Land Owner will within thirty (30) days of said billing to Project Land Owner (i) pay said deficient amount to the City or (ii) provide a replacement surety. 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 Project Land Owner any monies which City has in its possession which are in excess of the Project Land Surety needed by City. All Project Land Surety money deposited with City shall be used by City only for the purposes set forth in this Agreement for which the Project Land Surety was given.
- D. *Draw on Expiring Letter of Credit.* If the Project Land 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 Project Land Owner is paid or completed, it is agreed that Project Land Owner shall provide City with a new letter of credit, 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 of the Project Land Surety.

6. RETAINED PROPERTY SURETY.

- A. *Establishment.* Owner shall provide City, as a condition of release of the Final Plat, with cash or letter of credit, with the form and provider of the letter of credit that is satisfactory to City, in the amount of \$1,500,000.00 (herein referred to as the "**Retained Property Surety**"), calculated as follows:

Amount of Retained Property Assessment		\$3,771,559.00
	X	<u>40%</u>
Surety Requirement:		\$1,508,623.60
USE:		\$1,500,000.00

The Retained Property Surety may be utilized by the City in the manner stated herein.

B. *Release.* The Retained Property Surety shall be maintained continuously by Owner, except as provided below. Owner may make application to City to reduce or release all or a portion of the Retained Property Surety as follows:

- (1) When another surety reasonably acceptable to the City is furnished to the City by Owner to replace a prior surety; or
- (2) There is no remaining Retained Property Assessment principal and interest; or
- (3) The Retained Property Surety may be reduced to an amount equal to 40% of the outstanding Retained Property Assessment principal balance for the Retained Property if the application clearly establishes:
 - (i) More than one (1) year has passed after the Retained Property Assessment has been certified to the County for collection; or
 - (ii) That 40% or more of the principal of the Retained Property Assessment has been paid.

C. *Surety Deficiency.* In the event that, pursuant to the terms of this Agreement, the City has the right to draw against the Retained Property Surety, and in the event that the funds available thereunder are deficient in amount to pay or reimburse City the amounts due from Owner as required herein, Owner agrees that upon being billed by City, Owner will within thirty (30) days of said billing to Owner (i) pay said deficient amount to the City or (ii) provide a replacement surety. 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 Owner any monies which City has in its possession which are in excess of the Retained Property Surety needed by City. All Retained Property Surety money deposited with City shall be used by City only for the purposes set forth in this Agreement for which the Retained Property Surety was given.

- D. *Draw on Expiring Letter of Credit.* If the Retained Property 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 Owner is paid or completed, it is agreed that Owner shall provide City with a new letter of credit, 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 of the Retained Property Surety.
7. PROJECT LAND OWNER TO PAY ALL COSTS. The Project Land Owner shall pay upon demand all actual reasonable expenses incurred by the City in relation to the development of the Project Land, which currently anticipated expenses have been included in the Project Land Assessment. Said expenses shall include, but are not limited to, actual staff time, including, but not limited to, hourly wage, overhead and benefits, engineering, legal and other consulting fees reasonably incurred in relation to development of the Property.
8. 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 the Petition Items 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; provided all of said expenses have been included in the Project Land Assessment. 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.

9. 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 or Project Land Owner 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, if the Grading Security is less than the Project Land Surety: (i) the Grading Security amount shall be deducted from the amount required for the Project Land Surety; or (ii) the Project Land Owner or Developer may replace the Grading Security with the full amount of the Project Land Surety. The Grading Security and Project Land 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 is 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 Project Land Owner, and Project Land Owner shall cure such default within thirty (30) days thereafter. Project Land Owner agrees that, if Project Land Owner 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 Project Land 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. Project Land Owner further agrees that should the Grading Security and/or Project Land Surety be insufficient to defray all of City’s actual costs related to such action, Project Land Owner will promptly pay City any additional and reasonable actual 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.* Project Land Owner shall be responsible for compliance with the approved erosion control plan, which is part of the Plans. Project Land Owner will be given written or e-mail notice when an unsatisfactory condition with respect to such erosion control exists that is determined to be a Project Land Owner 's responsibility pursuant to the erosion control plan. Work to correct said unsatisfactory condition with respect to such erosion control 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 e-mail notice, Project Land Owner 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 reasonably determined by the City that the unsatisfactory condition could result in degradation of downstream water quality, Project Land Owner shall, upon written notice, promptly proceed to correct said unsatisfactory condition. If Project Land Owner does not timely respond to said unsatisfactory condition, Project Land Owner hereby grants City the right to enter upon the Property or the sole purpose of correcting said condition at Project Land Owner's expense. City shall be entitled to all of its reasonable actual 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 Project Land Owner for direct payment from the Grading Security or the Project Land Surety.

10. 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 shall be by a cash dedication based on the commercial rate, which is currently \$11,000.00 per acre. Project Land consists of 40.01 acres of the 105.85-acre Property. The development of Project Land is a proposed 400,000 square foot facility with a combination of office space and research and development labs. Assuming the Final Plat is released prior to the City Council adjusting the park dedication rate, the park dedication amount to be paid for the Final Plat shall be \$440,110.00 (40.01 acres times \$11,000.00). 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 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. The park dedication for future phases of the Preliminary Plat will be reviewed when application is made on a future phase final plat.
11. CONVEYANCE. That portion of Interstate Service Drive within the Final Plat and legally described and depicted on attached Exhibit 3, which legal description shall be modified and confirmed by the Parties prior to release of the Final Plat, shall be

conveyed from the City to Owner by Quit Claim Deed at the time of Final Plat release.

12. MAINTAIN PUBLIC PROPERTY DAMAGED OR CLUTTERED DURING CONSTRUCTION. Project Land Owner 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 Project Land, 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. Project Land Owner further agrees to pay all costs required to repair the streets and/or utility systems damaged or unreasonably cluttered with debris when occurring as a direct or indirect result of the construction that takes place in Project Land by Project Land Owner, its agents, employees, and contractors. In the event Project Land Owner fails to maintain or repair the damaged public property referred to aforesaid, the City shall provide written notice of such failure to Project Land Owner and Owner and, if such failure is not cured within thirty (30) days thereafter, Project Land Owner hereby agrees that City may undertake making or causing said damage or clutter to be repaired or cleaned. When City undertakes such repair, Project Land Owner shall reimburse City for all of its reasonable actual expenses within thirty (30) days of its billing to Project Land Owner. If Project Land Owner fails to pay said bill within thirty (30) days of being billed, City may draw funds from the Project Land Surety.
13. STREET CLEANING. During development of the Project Land, Project Land Owner shall keep, at its sole cost, the streets adjoining its development reasonably free of dirt and debris caused by its development. Project Land Owner shall provide the City with a copy of a contract with a street cleaning firm to provide street cleaning services prior to the issuance of a grading permit, which contract is subject to the review and reasonable approval of the City Engineer. This contract shall name City as an authorized agent to order street cleaning services as City deems reasonably necessary as provided below. In the event unreasonable amounts of dirt and/or debris have accumulated on streets within or adjacent to the Property, City shall deliver written notice thereof to Developer, which notice may be sent by email. City is hereby authorized to commence street cleaning operations if the streets are not cleaned by the Project Land Owner by 3:30 PM the business day following said notice 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 Project Land Owner 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 Project Land Surety.
14. VIOLATION OF AGREEMENT. In the event that Developer, Project Land Owner or Owner, or their respective successors or assigns violates any of their respective

covenants and agreements herein contained as they relate to their specific retained portions of the Property and the obligations connected therewith, City shall give written notice thereof to the Developer, Project Land Owner or Owner, as applicable. Unless otherwise expressly provided for herein, if Developer, Project Land Owner or Owner, or their successors or assigns, as applicable, 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 may draw on the Project Land Surety with respect only to violations by Developer or Project Land Owner and the Retained Property Surety with respect to violations by Owner.

15. 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 a Notice may be sent by e-mail where expressly permitted by this Agreement. A Notice 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
Attn: City Clerk
12800 Arbor Lakes Parkway
Maple Grove, Minnesota 55369
Email: Adietl@maplegrovmn.gov
Telephone: (763) 494-6000

With Copy to:
Hoff Barry, P.A.
Attn: City Attorney
100 Prairie Center Drive, Ste. 200
Eden Prairie, MN 55344
Email: slandsman@hoffbarry.com
Telephone: (952) 746-2700

IF TO OWNER:

C. S. McCrossan, Inc., Chalen, LP,
Blakeley Properties, LLC and
Whitehorse, LLC

**IF TO DEVELOPER or
PROJECT LAND OWNER:**

c/o Ryan Companies US, Inc.
533 South Third Street, Suite 100
Minneapolis, MN 55415
Attn: Dan Mueller, VP of Development
Email: Dan.mueller@ryancompanies.com
Telephone: 612-492-4000

With Copy to:
Ryan Companies US, Inc.
533 South Third Street, Suite 100
Minneapolis, MN 55415
Attn: Debra E. Altschuler, Esq.
Email: debra.altshuler@ryancompanies.com
Telephone: 612-492-4000

7865 Jefferson Hwy
Maple Grove, MN 55369
Attn: Jane McCrossan
E-mail:
jane.mccrossan@mccrossan.com

With Copy to:
Moss & Barnett
150 South Fifth Street, Suite 1200
Minneapolis, MN 55402
Attn: Glen E. Schumann
E-mail:
glen.schumann@lawmoss.com

16. MISCELLANEOUS.

- A. *Several Obligations.* Each Parties' obligations hereunder are several and not joint. Each Party shall only be responsible for its own independent obligations.
- B. *Access.* City shall have access to the Property for the limited purpose as minimally necessary to construct the Petition Items, to conduct any reasonable inspections, and as otherwise allowed under this Agreement. Such access rights include, but are not limited to, the right to displace soil related to the said improvements. In exercising such access, City will use reasonable efforts not to interfere with Developer's construction activities at the Property.
- C. *Entire Agreement.* This Agreement and any other documents incorporated herein by reference constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties hereto, their respective successors and assigns and the benefits and burdens shall run with the Property. Sponsors shall record this Agreement against the title to the Property along with the recording of the Final Plat. Sponsors shall provide the City with evidence, which sufficiency shall be determined by the City, that this Agreement is recorded and all conditions herein have been satisfied prior to the City processing or approving any building permits or other permits applicable to the development of the Property.
- 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. Any legal suit, action, or proceeding arising out of this

Agreement shall be instituted in state court located in Hennepin County, Minnesota, and each Party irrevocably submits to the exclusive jurisdiction of such court in any such suit, action, or proceeding. The Parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

- 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. *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.
- K. *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.

- L. *Force Majeure.* No Party shall be liable or responsible to any other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; and (g) national or regional emergency (herein collectively referred to as "**Force Majeure Event**"). The Party suffering a Force Majeure Event shall give notice within ten (10) business days of the Force Majeure Event to the other Parties, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

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

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

CITY:

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 _____, 2023, 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

DEVELOPER:

RYAN COMPANIES US, INC.,
a Minnesota corporation

By: _____

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

On this ____ day of _____, 2023 before me, a notary public within and for _____ County, personally appeared _____ to me personally known who by me duly sworn, did say that he/she is the _____ of Ryan Companies US, Inc. a Minnesota corporation, and acknowledged the foregoing instrument on behalf of said corporation.

Notary Public

PROJECT LAND OWNER:

**BLACK BEAR MN, LLC,
a Delaware limited liability company**

By: _____

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

On this _____ day of _____, 2023 before me, a notary public within and for _____ County, personally appeared _____ to me personally known who by me duly sworn, did say that he/she is the _____ of Black Bear MN, LLC, a Delaware limited liability company, and acknowledged the foregoing instrument on behalf of said company.

Notary Public

OWNER:

C.S. MCCROSSAN, INC.,
a Minnesota corporation

By: _____
Its: _____

STATE OF _____)
) ss
COUNTY OF _____)

On this ____ day of _____, 2023 before me, a notary public within and for _____ County, personally appeared _____ to me personally known who by me duly sworn, did say that he/she is the _____ of C.S. McCrossan, a Minnesota corporation, and acknowledged the foregoing instrument on behalf of said corporation.

Notary Public

OWNER:

CHALEN, L.P.,

a Minnesota limited partnership

By: _____

Its: _____

STATE OF _____)

) ss

COUNTY OF _____)

On this ____ day of _____, 2023 before me, a notary public within and for _____ County, personally appeared _____ to me personally known who by me duly sworn, did say that he/she is the _____ of Chalen, L.P., a Minnesota limited partnership, and acknowledged the foregoing instrument on behalf of said limited partnership.

Notary Public

OWNER:

BLAKELEY PROPERTIES, LLC,
a Minnesota limited liability company

By: _____
Its: _____

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2023 before me, a notary public within and for _____ County, personally appeared _____ to me personally known who by me duly sworn, did say that he/she is the _____ of Blakeley Properties, LLC, a Minnesota limited liability company, and acknowledged the foregoing instrument on behalf of said company.

Notary Public

OWNER:

WHITEHORSE, LLC,
a Minnesota limited liability company

By: _____
 Its: _____

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2023 before me, a notary public within and for _____ County, personally appeared _____ to me personally known who by me duly sworn, did say that he/she is the _____ of Whitehorse, LLC, a Minnesota limited liability company, and acknowledged the foregoing instrument on behalf of said company.

Notary Public

LIST OF EXHIBITS

Exhibit 1A	Legal Description for the Property
Exhibit 1B	Legal Description of Project Land
Exhibit 1C	Legal Description of the Retained Property
Exhibit 2	Petition Items; Escrow Items

EXHIBIT 1A

Legal Description for the Property

Lot 1, Block 1, and Outlots A, B, and C, MINNESOTA SCIENCE AND TECHNOLOGY CENTER, according to the recorded plat thereof, Hennepin County, Minnesota.

EXHIBIT 1B

Legal Description for Project Land

Lot 1, Block 1, and Outlot A, MINNESOTA SCIENCE AND TECHNOLOGY CENTER,
according to the recorded plat thereof, Hennepin County, Minnesota.

EXHIBIT 1C

Legal Description for Remaining Property

Outlots B and C, MINNESOTA HEALTH VILLAGE, according to the recorded plat thereof, Hennepin County, Minnesota.

EXHIBIT 2

Petition Items; Escrow Items

I. PETITION ITEMS

A. Special Assessment and Cost Summary

<u>Item</u>	<u>Current And Deferred Assessments</u>	<u>Total</u>
LOT 1, BLOCK 1	\$2,108,379	\$2,108,379
OUTLOT B	\$1,848,403	\$1,848,403
OUTLOT C	\$5,637,756	\$5,637,756
TOTAL ASSESSMENTS		\$9,594,538

Plans and specifications for the Petition Items have not yet been developed. Developer and City will work cooperatively and in good faith to finalize the plans and specifications for the Petition Items to permit the bidding process for said Petition Items to be timely completed in order to allow the Project to commence at the beginning of the 2024 construction season. It is anticipated that Developer will commence mass grading of the Property in the fall of 2023 in compliance with the City Code and the Plans, as amended by any grading plans approved by the City Engineer at time of grading permit. Assuming the requirements of Section 3.C. of the Agreement have been satisfied, it is anticipated that the City will commence the Project at the beginning of the 2024 construction season with substantial completion by the end of 2024 and final completion in 2025.

B. Unit Cost Allocation Summary

Lot 1, Block 1	Amount
Streets	\$1,082,077
Sanitary Sewer	\$72,912
Water Main	\$245,035
Storm Sewer	\$627,909
Erosion Control	\$80,446
Proposed Unit Cost	\$2,108,379

Outlot B	Amount
Streets	\$776,133
Sanitary Sewer	\$52,297
Water Main	\$175,754
Storm Sewer	\$450,375
Erosion Control	\$57,701
Trunk Benefit Assessments	\$336,143
Proposed Unit Cost	\$1,848,403

Outlot C	Amount
Streets	\$1,159,533
Sanitary Sewer	\$78,131
Water Main	\$262,575
Storm Sewer	\$672,856
Erosion Control	\$86,204
Trunk Benefit Assessments	\$2,278,457
Previously Constructed Lateral Benefit	\$1,100,000
Proposed Unit Cost	\$5,637,756

Area A	Amount
Streets	\$202,725
Sanitary Sewer	\$13,660
Water Main	\$45,907
Storm Sewer	\$117,637
Erosion Control	\$15,071
Proposed Unit Cost	\$395,000

II. ONSITE AND OFFSITE IMPROVEMENTS/ESCROW ITEMS.

A. Boulevard Improvements

1. Installation of boulevard sod.
2. Planting 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

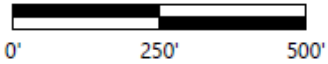
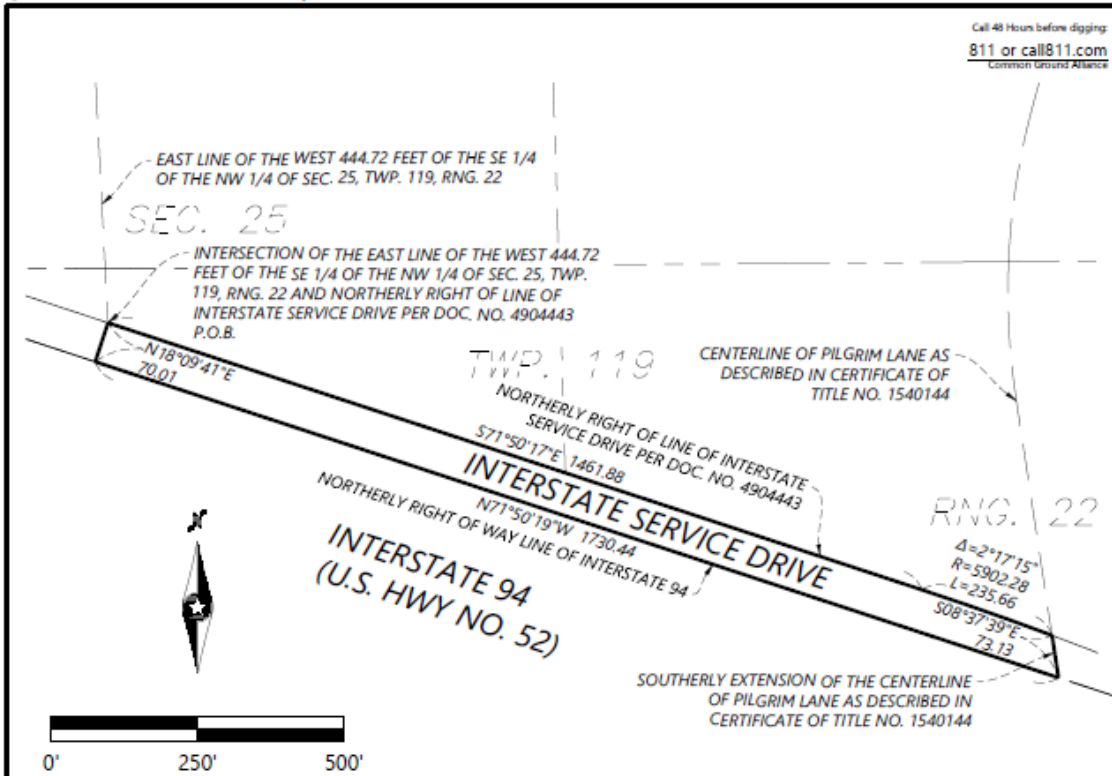
All erosion controls shall be maintained in the boulevard area.

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.

EXHIBIT 3

Interstate Service Drive



LEGAL DESCRIPTION

THAT PART OF INTERSTATE SERVICE DRIVE WITHIN SECTION 25, TOWNSHIP 119, RANGE 22, HENNEPIN COUNTY, MINNESOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 444.72 FEET OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 25 AND THE NORTHERLY RIGHT OF LINE OF INTERSTATE SERVICE DRIVE PER DOC. NO. 4904443; THENCE SOUTH 71 DEGREES 50 MINUTES 17 SECONDS EAST, ASSUMED BEARING ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 1461.88 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 235.66 FEET, CONTINUING ALONG SAID NORTHERLY RIGHT OF WAY AND A TANGENTIAL CURVE, CONCAVE TO THE THE SOUTHWEST, HAVING A RADIUS OF 5902.28 AND A CENTRAL ANGLE OF 02 DEGREES 17 MINUTES 15 SECONDS, TO THE CENTERLINE OF PILGRIM LANE AS DESCRIBED IN CERTIFICATE OF TITLE NO. 1540144; THENCE SOUTH 08 DEGREES 37 MINUTES 39 SECONDS EAST, ALONG THE SOUTHERLY EXTENSION OF SAID CENTERLINE, A DISTANCE OF 73.13 FEET TO THE NORTHERLY RIGHT OF WAY OF INTERSTATE 94; THENCE NORTH 71 DEGREES 50 MINUTES 19 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, PER MNDOT RIGHT OF WAY MAP FILE NUMBER 17-79, A DISTANCE OF 1730.44 FEET; THENCE NORTH 18 DEGREES 09 MINUTES 41 SECONDS EAST, A DISTANCE OF 70.01 FEET TO THE INTERSECTION OF EAST LINE OF THE WEST 444.72 FEET OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER SAID SECTION 25 AND NORTHERLY RIGHT OF LINE OF SAID INTERSTATE SERVICE DRIVE AND THE POINT OF BEGINNING.

DESIGNED:	
CHECKED:	MMW
DRAWN:	ACW
FIELD CREW:	
FIELD WORK DATE:	

**C.S. MCCROSSAN
SITE**
MAPLE GROVE, MN

Westwood
 Phone (320) 253-0465 1900 Medical Arts Ave S, Suite 100
 Fax (320) 396-2001 Sartell, MN 56377
 Toll Free (800) 270-0465 westwoodps.com
 Westwood Professional Services, Inc.

VACATION
SKETCH AND
DESCRIPTION

SHEET NUMBER:
1 OF 1
DATE: 07/14/2023

PROJECT NUMBER: 0043826.00

W:\WESTWOOD\PEL\LOCAL\GLOBAL PROJECTS\0043826.00\DWG\SURVEY\0043826.00_V_SKE12.DWG