

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

AGREEMENT TO AMEND DEVELOPER'S AGREEMENT, TERMINATE EASEMENT, AND DONATION OF CERTAIN PARK ITEMS

THIS AGREEMENT TO AMEND DEVELOPER'S AGREEMENT, TERMINATE EASEMENT, AND DONATION OF CERTAIN PARK ITEMS ("**Agreement**"), dated as of this _____ day of _____, 2021 ("**Effective Date**"), by and between the CITY OF MAPLE GROVE, a Minnesota municipal corporation ("**City**"), and THE BRIDGES AT ARBOR LAKES I ASSOCIATION, a Minnesota nonprofit corporation ("**Association**"; City and Association sometime collectively "**Parties**" and individually "**Party**").

RECITALS

WHEREAS, City is the fee owner of Outlots A and B, THE BRIDGES AT ARBOR LAKES, according to the record plat thereof, Hennepin County, Minnesota (the "**Park Areas**"); and

WHEREAS, City and Opus Northwest, L.L.C. ("**Opus**") entered into that Developer's Agreement, dated October 9, 2003, filed October 31, 2003, as Document No. 3866956 (the "**Developer's Agreement**"), which provides, *inter alia*, at Section 30 that Opus, as Developer, is responsible to repair, maintain, insure, operate, use, replace, and renew certain Park Items (defined in the Developer's Agreement) within the Park Areas; and

WHEREAS, as required by the Developer's Agreement, City and Opus entered into that Easement Agreement [Park Areas], dated May 3, 2004, filed April 21, 2006, as Document No. 4249768 and that Easement Agreement [Park Areas], dated December 13, 2005, filed January 12, 2006, as Document No. 4212085 (collectively, the "**Easements**") that provide rights and obligations on Opus for the repair, maintenance, insurance, operation, use, replacement, and renewal of the Park Items and Playground Equipment (as defined in the Easements) within the Park Areas; and

WHEREAS, Association is the Assignee and successor in interest to the rights and obligations of Opus under Section 30 of the Developer's Agreement and the Easements in accordance with that certain Assignment and Assumption Agreement dated June 30, 2004, filed April 13, 2007, as Document No. 4376555 ("**Assumption Agreement**"); and

WHEREAS, the Parties desire for the City to be solely responsible for the repair, maintenance, insurance, operation, use, replacement, and renewal of the Park Items and Playground Equipment within the Park Areas. In doing so, the Developer's Agreement requires amendment to remove the Association's responsibility to repair, maintain, insure, operate, use,

replace, and renew the Park Items and Playground Equipment within the Park Areas and the Easements will need to be terminated; and

WHEREAS, Association desires to donate and the City desires to accept the donation, pursuant to Minn. Stat. §465.03, of all Park Items and Playground Equipment within the Park Areas that Association may have ownership thereof; and

WHEREAS, on December 20, 2021, the City Council for the City of Maple Grove passed Resolution No. 21-185, approving this Agreement and accepting, pursuant to Minn. Stat. §465.03, the said donation.

NOW, THEREFORE, the Parties agree as follows:

1. The above Recitals are a material part of this Agreement and are incorporated herein.
2. The Developer's Agreement is amended as follows:
 - a. By removing and deleting Section 30 of the Developer's Agreement in its entirety and any and all other requirements therein of Association, as Assignee and successor in interest to Opus under the Assumption Agreement, to repair, maintain, insure, operate, use, replace, and renew the Park Items and Playground Equipment within the Park Areas.
 - b. The Park Areas are serviced by an independent irrigation system ("**Irrigation System**"). City intends to upgrade and replace all Irrigation System controls to current Maple Grove Park Board standards. Association agrees that it will be responsible for all actual costs incurred by the City to make said upgrade and replacement in an amount not to exceed \$5,000.00. Association agrees to make payment for the actual costs of the upgrade and replacement within 30 days of receiving an invoice from the City, which invoice may only be delivered to Association upon City's completion of said upgrade and replacement. Failure to make said payment shall be a default under the Developer's Agreement. In the event of such default, City may, in addition to any other remedy available, bring a legal action to recover any unpaid amount. If the City prevails in said action, Association shall be responsible for all enforcement costs of the City.
 - c. All other terms and conditions of the Developer's Agreement not expressly modified by this Agreement shall remain in full force and effect.
3. The Easements are hereby terminated and shall have no further force and effect and Association shall have no further rights or obligations under the Easements.
4. Association donates, with no restrictions, to the City, pursuant to Minn. Stat. §465.03, all Park Items and Playground Equipment within the Park Areas that it may have ownership thereof. The City accepts the said donation.

5. The intent of this Agreement is for Association to have no further obligation to repair, maintain, insure, operate, use, replace, and renew the Park Items and Playground Equipment within the Park Areas. The City shall continue to have ownership of the Park Areas.
6. Association warrants and guarantees that it is the assignee and successor in interest to the rights and obligations of Opus under Section 30 of the Developer's Agreement and the and that it has the authority to execute this Agreement.
7. This Agreement shall be in full force and effect from and after the Effective Date. 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 land.
8. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota.
9. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

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IN WITNESS WHEREOF, the Parties herein have executed this Agreement on the Effective Date.

CITY OF MAPLE GROVE,
a Minnesota municipal corporation

By: Mark Steffenson
Its: Mayor

By: Amy Dietl
Its: City Clerk

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

On this ____ day of _____, 2021, 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

THE BRIDGES AT ARBOR LAKES I ASSOCIATION,
a Minnesota nonprofit corporation

By: _____
Tim Fisher
Its: President

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

This instrument was acknowledged before me on this ____ day of _____, 2021,
by Tim Fisher, the President of The Bridges at Arbor Lakes I Association, a Minnesota nonprofit
corporation, on behalf of said nonprofit corporation.

Notary Public