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Deputy 120

Pkg ID 1734310C

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<b>Document Total</b>	<b>\$48.00</b>
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*(reserved for recording information)*

**DEVELOPMENT CONTRACT**  
*(Developer Installed Improvements)*

***TOPSIDE***  
***ZONING FILE NOS. LA18-000022 & LA18-000054***

This **DEVELOPMENT CONTRACT** (“Contract”) dated August 13, 2018, is by and between the **CITY OF ORONO**, a Minnesota municipal corporation (“City”); and **JUDSON M. DAYTON AND SHELLEY MYDRA-DAYTON**, as trustees under the Judson M. Dayton Revocable Trust Agreement, dated October 31, 1988, as to an undivided 2/3 interest, and **SHELLEY MHYDRA-DAYTON AND JUDSON M. DAYTON**, wife and husband, personally, as to an undivided 1/3 interest ( together, “Developer”).

1. **REQUEST FOR PLAT APPROVAL.** The Developer has asked the City to approve a plat for “**TOPSIDE**” (referred to in this Contract as the “Plat”). The land to be subdivided by the Plat (“Land”) is situated in the City of Orono, County of Hennepin, State of Minnesota, and is legally described on the attached **Exhibit A**.

2. **CONDITIONS OF PLAT APPROVAL.** The City hereby approves the Plat on

condition that the Developer enter into this Contract and furnish the security required by it. The City will cause the Plat to be duly recorded in the office of the County Recorder in and for Hennepin County, Minnesota, promptly after compliance by the Developer with all conditions precedent to such recording pursuant to this Contract, which conditions precedent the Developer shall cause to be satisfied within 180 days after the City Council approves the final Plat.

**3. RIGHT TO PROCEED.** Within the Land, the Developer may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings until all the following conditions have been satisfied: 1) this Contract has been fully executed by both parties and filed with the City Clerk, 2) the necessary “security” (defined below) has been received by the City, and 3) the Plat has been duly recorded in the office of said County Recorder.

**4. PHASED DEVELOPMENT.** N/A

**5. PRELIMINARY PLAT STATUS.** N/A

**6. CHANGES IN OFFICIAL CONTROLS.** For two (2) years from the date of this Contract, no amendment to the City's Comprehensive Plan, or official controls shall apply to or affect the use, development density, lot size, lot layout or dedications of the Land unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Contract to the contrary, to the full extent permitted by state law, the City may require compliance with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Contract with respect to property which did not receive final plat approval prior to any such amendment.

**7. DEVELOPMENT PLANS.** The Land shall be developed in accordance with the following plans (collectively, the “Plans”). The Plans shall not be attached to this Contract. The

erosion control plan may also be approved by the Minnehaha Creek Watershed District. If the Plans vary from the terms of this Contract, the terms of this Contract shall control. The Plans are:

Plan A – Plat of Topside

Plan B – Grading, Drainage, and Erosion Control Plan

Plan C –Landscape Plan

Plan D – SWPPP Plan

Plan E – Conservation Design Report and Master Plan

Plan F – Tree Preservation Plan

Plan G – Stormwater Maintenance Plan

**8. IMPROVEMENTS.** The Developer shall install and pay for the following as required to be built in accordance with the approved Plans (the “Improvements”):

- A. Site Grading, Ponding, and Erosion Control
- B. Driveway within Outlot A
- C. Setting of Iron Monuments
- D. Surveying and Staking
- E. Stormwater Management Facilities

The Improvements shall be installed in accordance with the City subdivision ordinance; City standard specifications for utilities construction; and any other ordinances including those concerning erosion and drainage and any prohibiting grading, construction activity, and the use of power equipment. The Developer shall submit plans and specifications which have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. The Developer shall instruct its engineer to provide adequate field inspection personnel to assure an acceptable level of quality control. In addition, the City may, at the City’s discretion and at the



Developer's expense, have one or more City inspectors and a soil engineer inspect the work as the City may reasonably determine. The Developer, its contractors and subcontractors, shall follow all instructions received from the City's inspectors. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor. The Developer or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at the City Council chambers with all parties concerned, including the City staff, to review the program for the construction work. Within thirty (30) days after the completion of the Improvements and before the "security" is released, the Developer shall supply the City with a complete set of reproducible "as constructed" Plans, and an electronic file of the "as constructed" Plans in an auto CAD file based upon the Hennepin County coordinate system, all prepared in accordance with City standards.

**9. IRON MONUMENTS.** In accordance with Minnesota Statutes Section 505.021 and the Orono City Code, the final placement of iron monuments for all lot corners must be completed before the "security" is released. The Developer's surveyor shall submit a written notice to the City certifying that the monuments have been installed.

**10. PERMITS.** The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, including but not limited to the following to the extent required:

- Hennepin County for County Road Access and Work in County Rights-of-Way
- DNR for Dewatering
- City of Orono for Building and Septic System Permits
- Minnehaha Creek Watershed District for erosion control permit and storm water management permit
- NPDES Permits (National Pollutant Discharge Elimination Systems) issued by MPCA
- LMCD and City of Orono for dock installation

**11. DEWATERING.** Due to the variable nature of groundwater levels and stormwater flows, it will be the Developer's and the Developer's contractors' and subcontractors' responsibility to satisfy themselves with regard to the elevation of groundwater in the area and the level of effort needed to perform dewatering and storm flow routing operations. All dewatering shall be in accordance with all applicable county, state, and federal rules and regulations. DNR regulations regarding appropriations permits shall also be strictly followed.

**12. TIME OF PERFORMANCE.** The Developer shall install all Improvements as contemplated by Section 8 and the approved Plans by December 31, 2019.

**13. LICENSE.** The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the Land to perform all work and inspections deemed appropriate by the City in conjunction with the installation of the Improvements.

**14. EROSION CONTROL.** Prior to initiating site grading, the storm water pollution prevention plan, and the erosion control plan shall be implemented by the Developer and inspected and approved by the City. The City may impose additional erosion control requirements if reasonably required. All areas disturbed by excavation and backfilling operations shall be reseeded within fifteen (15) days after the completion of the work, weather permitting, or in an area that is inactive for more than ten (10) days unless authorized and approved by the City Engineer. Except as otherwise provided in the erosion control plan, seed shall be in accordance with the City's current seeding specification which may include certified oat seed to provide a temporary ground cover as rapidly as possible. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control

erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within ten (10) days, the City may draw down the "security" to pay any costs. No development, utility or street construction will be allowed, and no building permits will be issued unless the Land is in material compliance with the approved erosion control plan.

**15. GRADING PLAN.** The Land shall be graded in accordance with the approved grading, drainage, and erosion control plan, Plan "B". The plan shall conform to City of Orono specifications. Within thirty (30) days after completion of the grading and before the City approves individual building permits, the Developer shall provide the City with an "as constructed" grading plan certified by a registered land surveyor or engineer that all ponds, swales, and ditches for public drainage have been constructed on public easements or land owned by the City. Notwithstanding the foregoing, the City may issue building permits to the Developer, prior to completion of all grading, provided the City Engineer has determined that adequate erosion control measures are in place. The "as constructed" plan shall include field verified elevations of the following: a) cross sections of ponds; b) location and elevations along all swales, wetlands, wetland mitigation areas if any, and ditches, locations and dimensions of borrow areas/stockpiles, and installed "conservation area" posts; and c) lot corner elevations, and house pads. The City will withhold issuance of building permits until the approved certified grading plan is on file with the City and all erosion control measures are in place as determined by the City Engineer. The Developer certifies to the City that all lots with house footings placed on fill will have been monitored and constructed to meet or exceed FHA/HUD 79G specifications.

**16. CLEAN UP.** The Developer shall clean dirt and debris from streets that have resulted from construction work by the Developer, builders, subcontractors, their agents or assigns. Prior to any construction on the Land, the Developer shall comply with all recommendations of the City staff and City Engineer regarding site cleanup and restoration, including but not limited to contaminated soil removal, junk and debris removal and the like. Also, prior to any construction on the Land, the Developer shall identify in writing a responsible party and schedule for erosion control, street cleaning, and street sweeping.

**17. OWNERSHIP OF IMPROVEMENTS.** Upon completion of the work and construction required by this Contract and final acceptance by the City, the Improvements lying within public easements shall become City property without further notice or action.

**18. CITY ENGINEERING ADMINISTRATION AND CONSTRUCTION OBSERVATION.** The Developer shall pay a fee for engineering administration. City engineering administration will include monitoring of construction observation, consultation with Developer and its engineer on status or problems regarding the project, coordination for final inspection and acceptance, project monitoring during the warranty period, and processing of requests for reduction in the "security." Fees for this service shall be at standard hourly rates. These fees shall be billed monthly.

Contemporaneously with the execution of this Contract, the Developer shall deposit **\$7500.00** cash or cash equivalent with the City ("Escrow"). All accrued interest, if any, shall be paid to the City to reimburse the City for its cost in administering the escrow account. The purpose of the Escrow is to guarantee reimbursement to the City for all out-of-pocket costs (including, but not limited to, planning, engineering oversight, or legal consultant review) the City has incurred or will incur related to the Development and for all out-of-pocket costs the City has incurred or

will incur to assure that the work is completed in accordance with the Stormwater Pollution Prevention Plan and the provisions of Orono City Code Chapter 79. The Escrow may also be used by the City to eliminate any hazardous conditions associated with the work and to repair any damage to public property or infrastructure that is caused by the work associated with this Contract, if compliance with the terms of this Contract are not accomplished. As the City receives consultant bills for incurred costs, the City will in turn send a bill to the Developer. The Developer shall be responsible for payment to the City within 30 days of the Developer's receipt of bill. In the event that the Developer does not make payment to the City within the timeframe outlined in this Section, the City may immediately draw from the escrow account without further approval of the Developer to reimburse the City for eligible expenses the City has incurred. If the balance of the escrow account is insufficient to reimburse the City its costs under this Section, the Developer will promptly reimburse the City any additional costs. If the eligible expenses incurred by the City exceed the amount in escrow and are not promptly reimbursed by the Developer, the City shall have the right to certify the unpaid balance to the subject property pursuant to Minn. Stat. §§ 415.01 and 366.012. The balance on deposit in the escrow, if any, shall be returned to the Developer when the Development has been completed and written notification is received from the Developer requesting the funds.

**19      STORM WATER AND DRAINAGE TRUNK FEE.** The Land is subject to the standard Storm Water and Drainage Trunk Fee for new two-acre lots at \$4,030.00 per acre. For the 2-acre zoning districts, any lot exceeding two gross acres shall be charged a maximum trunk fee equal to the trunk fee for a two-acre parcel.

$$\text{\$4,030.00 per acre} \times 4 \text{ acres} [2 \text{ lots} \times 2 \text{ acres}] = \text{\$16,120.00}$$

**20. PARK DEDICATION FEE.** The Land is subject to the standard Park Dedication Fee requirement for the City of Orono. Because the value of each newly created lot in the Plat will be in excess of the threshold value of \$69,375.00, the eight percent (8%) park fee cap of \$5,550.00 per lot will apply; therefore, the Park Dedication Fee is calculated as follows:

$$1 \text{ lot} \times \$5,550.00 \text{ per lot} = \textbf{\$5,550.00}$$

**21. LANDSCAPING.** All landscaping shall be installed in accordance with the approved landscape plan. Developer shall post a landscaping security at the time of final Plat approval to ensure that the landscaping is installed in accordance with the approved Plan.

**22. SPECIAL PROVISIONS.** The following special provisions shall apply to development of the Land:

A. Implementation of and adherence to the findings and conditions listed in (1) Resolution No. 6857 approving the Preliminary Plat for Topside File No. LA18-000022, adopted by the Orono City Council on April 9, 2018; and (2) Resolution No. 6889 approving the Final Plat for Topside, adopted by the Orono City Council on August 13, 2018.

B. Final Plat approval is subject to Minnehaha Creek Watershed District (“MCWD”) approval and permits as required. The City will not approve the Plat until the MCWD has approved the stormwater management plans and the Developer has provided evidence that all required MCWD permits have been obtained.

C. The Plat shall adhere to the purpose and intent of the Orono Community Management Plan, as amended.

D. All of the proposed lots must contain suitable area meeting all established setback requirements to allow the construction of single family residences.

E. Prior to City Council approval of the final Plat, the Developer shall furnish a boundary survey of the Land with all property corner monumentation of the Land in place and marked with lath and a flag. Any encroachments on or adjacent to the Land shall be noted on the survey. In addition, the certificate of survey must also include a certification that all irons for a specific lot have either been found or set prior to the issuance of a building permit for that lot.

F. The Developer shall pay to the city engineer the amounts incurred for the preparation of record construction drawings and City base map upgrading.

G. The Developer shall submit the final Plat in electronic format. The electronic format shall be Auto CAD file. The Developer shall also submit two complete sets of the Plat on Mylar (one copy for the City's records and one copy for recording with Hennepin County). The Developer shall also provide one copy reduced to 1" = 200'.

**23. SUMMARY OF SECURITY REQUIREMENTS.** To guarantee compliance with the terms of this Contract, payment of the costs of all Improvements and construction of all Improvements, the Developer shall furnish the City with a letter of credit, in the form attached hereto (the "security"), from a bank for 150% of the cost of the Improvements, including any required landscaping. The following is a summary of the security requirements due under this Contract, which must be in place at the time of final plat approval:

Landscaping & Improvements	<u>\$255,633.53</u>
Total Security (Improvements x 150%)	<b>\$338,450.30</b>

The bank shall be subject to the approval of the City Administrator. The City may draw down the security, upon five (5) business days' prior written notice to Developer, for any violation of the terms of this Contract. Amounts drawn shall not exceed the amounts necessary to cure the default. If the Improvements are not completed at least thirty (30) days prior to the expiration of the security,

the City may also draw it down. If the security is drawn down, the proceeds shall be used to cure the default. Upon receipt of proof satisfactory to the City that work has been completed and financial obligations to the City have been satisfied, with City approval the security may be reduced from time to time by ninety percent (90%) of the financial obligations that have been satisfied. Ten percent (10%) of the amounts certified by the Developer's engineer, and approved by City's Engineer, shall be retained as security until all Improvements have been completed, all financial obligations to the City satisfied, the required "as constructed" Plans have been received by the City, a warranty security is provided, and the public Improvements are accepted by the City Council. The City standard specifications for utilities and street construction outline procedures for security reductions.

**24. SUMMARY OF CASH REQUIREMENTS AND FEES.** The following is a summary of the cash requirements and fees due under this Contract, which must be paid in cash or cash equivalent at the time of final plat approval and execution of this Contract by the City:

Engineering, City Administration (escrow)	\$7,500.00
Park Dedication Fee	5,550.00
Storm Water and Drainage Trunk Fee	16,120.00
Final Plat Fee	<u>500.00</u>
Total Cash Requirements & Fees	<u>\$29,670.00</u>

**25. WARRANTY.** The Developer warrants all Improvements against poor material and faulty workmanship. The warranty period for streets is one year. The warranty period for underground utilities is two years and shall commence following completion and acceptance by the City Council. The one year warranty period on streets shall commence after the final wear course has been installed and accepted by the City Council as documented in official City minutes. The Developer shall post a maintenance bond, letter of credit or cash deposit (the "Maintenance Security") in an amount reasonably determined by the City Engineer. The City Engineer shall



examine the condition of the Improvements when determining the amount of the Maintenance Security. The City shall retain ten percent (10%) of the security until the Maintenance Security is furnished the City or until the warranty period expires, whichever first occurs. The retainage may be used to pay for warranty work. The City standard specifications for utilities and street construction identify the procedures for final acceptance of streets and utilities.

**26. RESPONSIBILITY FOR COSTS.**

A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development of the Land, including but not limited to Hennepin County Environmental Services and Minnehaha Creek Watershed District charges, legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the Plat, the preparation of this Contract, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting development of the Land.

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

C. The Developer shall reimburse the City for reasonable costs incurred in the enforcement of this Contract, including reasonable engineering and attorneys' fees.

D. The Developer shall pay, or cause to be paid when due, and in any event before any penalty is attached, all special assessments referred to in this Contract. This is an

obligation of the Developer and shall continue in full force and effect even if the Developer sells one or more lots, the Land, or any part of it.

E. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. If the bills are not paid on time, the City may halt development and construction of the Land until the bills are paid in full. Bills not paid within thirty (30) days shall accrue interest at the rate of eight percent (8%) per year.

F. In addition to the charges and special assessments referred to herein, other charges as required by City ordinance or via other agencies for which City acts as agent may be imposed such as, but not limited to, sewer access charges ("SAC"), City water access charges and building permit fees.

**27. DEVELOPER'S DEFAULT.** In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option, perform the work, and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer, except in an emergency as determined by the City, is first given notice of the work in default, not less than forty-eight (48) hours in advance. This Contract is a license for the City to act, and it shall not be necessary for the City to seek a Court order for permission to enter the Land. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part against any portion of the Land owned by the Developer or any successor in interest to the Developer.

**28. MISCELLANEOUS.**

A. The Developer represents to the City that the Plat complies with all city, county, state, and federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the Plat does not

comply, the City may, at its option, refuse to allow construction or development work on the Land until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.

B. Third parties shall have no recourse against the City or Developer under this Contract.

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

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

E. Grading and one lift of asphalt shall be installed on all streets prior to issuance of any building permits.

F. If building permits are issued prior to the completion of all Improvements, the Developer assumes all liability and costs resulting in delays in completion of Improvements and damage to Improvements caused by the City, Developer, its contractors, subcontractors, material men, employees, agents, or third parties. No sewer and water connection permits may be issued and no one may occupy a building for which a building permit is issued on either a temporary or permanent basis until the streets needed for access have been paved with at least one lift of bituminous surface and the utilities are accepted by the City Engineer in writing.

G. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, 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 Contract shall not be a waiver or release.

H. This Contract shall run with the Land and may be recorded against the Land. The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the Land and/or has obtained consents to this Contract, in the form attached hereto, from all parties who have an interest in the Land; that there are no unrecorded interests in the Land; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

I. 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 hereafter 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 shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

J. The Developer may not assign this Contract without the written permission of the City Council. The Developer's obligations hereunder shall continue in full force and effect even if the Developer sells one or more lots in the Plat, the Land, or any part of it. Upon request, the City shall provide, in recordable form, a release of any lot in the Plat from this Development Contract if the City determines that the terms and conditions of this Contract have been satisfied.

K. Developer shall be responsible for all snow removal from vacant lots to the extent that City Ordinance requires snow removal. Developer shall be responsible for ensuring that all vacant lots comply with the City's Code regarding nuisances.

L. Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design

engineer shall be filed with the City Engineer evidencing that the retaining wall was constructed in accordance with the approved plans and specifications. All retaining walls required to be constructed by the Plans, or special conditions referred to in this Contract, shall be constructed before any Certificate of Occupancy is issued for a lot on which a retaining wall is required to be built.

M. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, commercial general liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall be not less than \$500,000 for one person and \$1,000,000 for each occurrence; limits for property damage shall be not less than \$200,000 for each occurrence; or a combination single limit policy of \$1,000,000 or more. The City shall be named as an additional insured on the policy on a primary and noncontributory basis, and the Developer shall file with the City a certificate evidencing coverage prior to the City signing the Plat. The certificate shall provide that the City must be given ten (10) days advance written notice of the cancellation of the insurance.

**29. NOTICES.** Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: 825 Old Crystal Bay Road S, Wayzata, Minnesota, 55391. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: Orono City Hall, 2750 Kelley Parkway, Orono, Minnesota 55356. Either party may change the

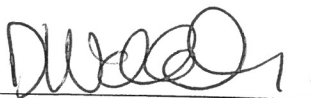
address to which notices to such party thereafter shall be given, by providing to the other party notice of such change.

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(SEAL)


**CITY OF ORONO**

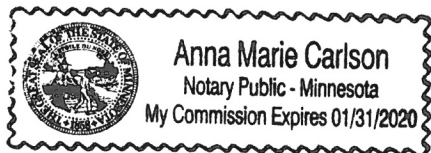
By:   
Dennis Walsh, Mayor

By:   
Dustin Rief, City Administrator

STATE OF MINNESOTA   )  
  ) ss.  
COUNTY OF HENNEPIN   )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of August, 2018 by **Dennis Walsh** and by **Dustin Rief**, respectively the Mayor and City Administrator of the **City of Orono**, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

  
Notary Public



**DEVELOPER:**

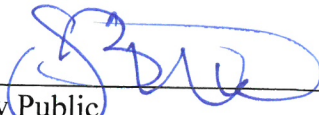
By Judson M. Dayton  
Judson M. Dayton, as Trustee under the  
Judson M. Dayton Revocable Trust  
Agreement, dated October 31, 1988, and as  
the husband of Shelley Mydra-Dayton

By Shelley Mydra-Dayton  
Shelley Mydra-Dayton, for herself  
personally, and as Trustee under the Judson  
M. Dayton Revocable Trust Agreement,  
dated October 31, 1988, and as the wife of  
Judson M. Dayton

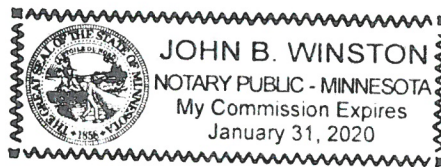


STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me on July 31, 2018,  
by Judson M. Dayton, as the husband of Shelley Mydra-Dayton and as Trustee under the Judson  
M. Dayton Revocable Trust Agreement, dated October 31, 1988, and by Shelley Mydra-Dayton,  
for herself personally, as the wife of Judson M. Dayton and as Trustee under the Judson M.  
Dayton Revocable Trust Agreement, dated October 31, 1988, Grantor.

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

DRAFTED BY:  
CAMPBELL KNUTSON  
*Professional Association*  
Grand Oak Office Center I  
860 Blue Gentian Road, Suite 290  
Eagan, MN 55121  
Telephone: (651) 452-5000  
ABS



## Exhibit A

That part of Lot 35, In Auditor's Subdivision No. 230, Hennepin County, Minnesota, and of Government Lot 7, in Section 9, Township 117 North, Range 23 West of the 5th Principal Meridian, described as follows: beginning at a point 302.81 feet South of the North line and 462.00 feet West of the East line of said Government Lot 7; thence East parallel with the North line of said Lot 7 a distance of 462.00 feet to the East line of said Lot 7; thence North along the East line of said Government Lot 7, a distance of 302.81 feet to the Northeast corner of said lot, thence continuing North along the North and South centerline of Section 4, Township 117, Range 23, a distance of 216.7 feet to an intersection with the Easterly extension of the South line of Lot 34 in the above mentioned Auditor's Subdivision No. 230, Hennepin County, Minnesota; thence Westerly along the Southerly boundary line of said Lot 34 and extension thereof to the Southwest corner of said Lot; thence Southerly along the extension of the West line of said Lot 34 to a point 1071.18 feet Southerly measured along the West line of said Lot 34 and the extension thereof, from the Northwest corner of said Lot 34; thence Westerly deflecting 81 degrees 06 minutes to the right from the last described course, 159.66 feet; thence continuing Westerly deflecting 2 degrees 30 minutes to the right from the last described course, a distance of 124.65 feet; thence Southwesterly on a tangential curve to the left with a radius of 388.66 feet, a distance of 193.75 feet to the point of compound curve; thence Southwesterly on a tangential curve to the left with a radius of 212.81 feet, a distance of 160.52 feet; thence Southwesterly in a straight line, tangent to said last described curve a distance of 2.89 feet to the Southerly line of aforesaid Section 4; thence West along the South line of said Section, 285.29 feet, said last described point being the Southeast corner of Government Lot 1 in said Section 4; thence Southwesterly deflecting 35 degrees 17 minutes to the left from said last described course, a distance of 110.3 feet; thence Southwesterly deflecting 45 degrees 28 minutes to the left from said last described course, a distance of 115.00 feet; thence Southwesterly deflecting 21 degrees 40 minutes to the right from said last described course, a distance of 174.00 feet, more or less to the shore of Maxwell's Bay, Lake Minnetonka; thence Southeasterly along the shore of said lake to its intersection with a line running Southerly parallel with the East line of above mentioned Government Lot 7 in said Section 9, from a point bearing South 12 degrees 54 minutes 40 seconds West and distant 766.76 feet from the point of beginning, said last described course being hereinafter referred to and designated as "Line X"; thence North parallel with the East line of said Government Lot 7 to said point bearing South 12 degrees 54 minutes 40 seconds West and distant 766.76 feet from said point of beginning; thence North 12 degrees 54 minutes 40 seconds East 766.76 feet to the point of beginning said last described course being hereinafter referred to and designated as "Line Y", EXCEPTING from above described premises, the following described tract (hereinafter sometimes referred to as the "EXCEPTED TRACT") to-wit: Beginning at the same point of beginning as above described; thence North 52 degrees 03 minutes 14 seconds West, 41.75 feet; thence South 81 degrees 57 minutes 55 seconds West, 316.24 feet; thence South 26 degrees 48 minutes 53 seconds West, 556 feet, more or less to the shore of Maxwell's Bay, Lake Minnetonka; thence Southeasterly along the shore of said lake to an intersection with said "Line X" hereinabove described; thence North along said "Line X" to its intersection with "Line Y" as hereinabove described; thence North 12 degrees 54 minutes 40 seconds East along said "Line Y", 766.76 feet to the point of beginning.

For the purpose of the foregoing descriptions, the East line of the aforesaid Government Lot 7 in said Section 9, Township 117, Range 23 West of the 5<sup>th</sup> Principal Meridian, is assumed to be a due North and South line, Hennepin County, Minnesota.

PID: 09-117-23-21-0001

**MORTGAGEE CONSENT  
TO  
DEVELOPMENT CONTRACT**

**Julia W. Dayton**, a single person, who holds a mortgage on the subject property, the development of which is governed by the foregoing Development Contract, which mortgage is dated October 14, 2011, and recorded as Document No. A9705964 on October 21, 2011, with the office of the County Recorder/Registrar for Hennepin County, Minnesota, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agrees that the Development Contract shall remain in full force and effect even if she forecloses on her mortgage.

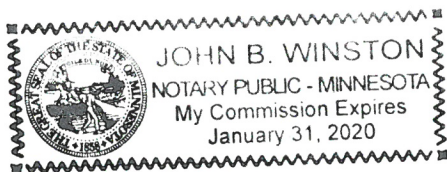
Dated July 30, 2018.

**Julia W. Dayton**

*Julia W. Dayton*

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this 30 day of July, 2018, by Julia W. Dayton, a single person.



*[Signature]*  
Notary Public

DRAFTED BY:  
**CAMPBELL KNUTSON**  
*Professional Association*  
Grand Oak Office Center I  
860 Blue Gentian Road, Suite 290  
Eagan, MN 55121  
Telephone: (651) 452-5000  
ABS