

**TOWN OF BALDWIN  
SHERBURNE COUNTY, MINNESOTA  
RURAL SECTION DEVELOPER'S AGREEMENT**

Revisions approved by the Township Board 03/18/19

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Town of Baldwin, a municipal Township organized under the laws of the State of Minnesota (the "Town") and \_\_\_\_\_ (the "Developer").

WHEREAS, the Developer has made application to the Town Board for approval of a plat of a parcel of land (hereinafter called the "Subdivision") within the corporate limits of the Town to be known as \_\_\_\_\_.

WHEREAS, the Developer hereby warrants and represents to the town as inducement to the Town entering into this agreement, that the Developer's interest in the Subdivision is that of fee owner.

WHEREAS, the Town Board, by resolution dated \_\_\_\_\_, 20\_\_, has granted Final approval of the Subdivision on the condition that Developer enter into this agreement.

WHEREAS, the Town Board has adopted the Sherburne County Subdivision Ordinance and the Sherburne County Zoning Ordinance;

and

Whereas the Developer has made the following representations and warranties

1. The Developer is the fee owner of the Property comprising the Subdivision;
2. The Developer has the right, power and authority to execute, deliver and perform its obligations under this Agreement;
3. The Developer is not aware of any violation, default, breach, suit, action, or proceeding which may interfere with its ability to fully perform its obligations under this Agreement;
4. None of the representations and warranties made by the Developer, or made in any exhibit hereto or memorandum or writing furnished or to be furnished by the Developer or on its behalf, contains or will contain any untrue statement of material fact or admits any material fact, the omission of which would be misleading; and
5. The Developer has sufficient funds or has obtained a commitment for financing in an amount adequate to finance construction of the improvements.

NOW THEREFORE, in consideration of the mutual promises and conditions hereinafter contained, the Town and Developer hereby agree as follows:

- A. **Right to Proceed.** The Subdivision consists of \_\_\_ lots for single-family dwellings. Development within the Subdivision shall be regulated by the terms and conditions of the Town's official controls, including its zoning ordinances and subdivision regulations, and such other laws or ordinances as may apply. This Agreement is intended to regulate the development of the Subdivision and the construction of certain improvements identified herein. The Developer may not grade or otherwise disturb the earth, remove trees, construct the required improvements, or construct any buildings within the Subdivision until all of the following conditions have been satisfied: (a) this Agreement has been fully executed by both parties and filed with the Town Clerk-Treasurer; (b) the required security has been received by the Town; (c) final engineering and construction plans have been submitted by the Developer and approved by the Town and County; (d) the preconstruction conference has occurred; and (e) the Town has issued notice that all conditions required to commence the improvements have been satisfied and that the Developer may proceed.
- B. Notwithstanding the foregoing, upon the written request of the Developer the Town Board may grant written consent for the Developer to conduct preliminary site preparation work on the Property subject to such conditions and restrictions as the Town Board may establish in the written consent.

**1. Fees.** The Developer agrees to pay the Town the following non-refundable fees.

- a. An administrative fee of \$100 per lot.
- b. A cul-de-sac maintenance fee to provide for the additional costs of maintaining cul-de-sacs. This fee will be calculated by multiplying the number of permanent cul-de-sacs to be created for all phases of the development in excess of one cul-de-sac by \$6000 per cul-de-sac. The fee will be charged at the time of development of each individual cul-de-sac. The very first cul-de-sac in the first phase of the entire addition shall be the cul-de-sac not charged for.

**2. Improvements.** In accordance with the policies and ordinances of the Town, the following described improvements (hereinafter collectively called the "Improvements") shall be constructed and installed upon terms and conditions hereinafter contained:

- a. Street grading, stabilizing, including construction of berms, ditches and boulevards (hereinafter called "Street Improvements"); and
- b. Drainage system improvements determined to be necessary by the Town Board, including all necessary ditches, ponds, catch basins, inlets, culverts, and other appurtenances (hereinafter called "Storm Sewer Improvements"); and
- c. Permanent Street surfacing and base. (hereinafter called "Permanent Street Improvements"); and
- d. Standard street name signs at all newly opened intersections, and traffic control signs,

within the Subdivision determined to be necessary by the Town Board (hereinafter called "Traffic Signing Improvements");

**3. Designation of Improvements.** Improvements to be installed by Developer at the expense of Developer are hereinafter referred to as "Schedule A Improvements\*." (See \* bottom of Schedule A)

**a. Construction Schedule and Approval Thereof.** The Developer shall engage at Developer's expense a Civil Engineer registered in the State of Minnesota to prepare detailed plans and specifications for the complete installation of all Schedule A Improvements in accordance with Town of Baldwin "Engineering Standards. These plans and specifications shall include preparation of estimated cost, special contract provisions, proposal forms, the designation and description of all necessary temporary and permanent easements, and all elevations, including permanent road elevations. All such plans and specifications shall be based upon engineering surveys, including soil borings and material tests determined to be necessary by the Developer's Engineer. Soil borings and material tests shall be submitted to and be approved, in writing, by the township engineer prior to the commencement of construction of any Schedule A Improvements.

The plans and specifications shall conform to the following standards:

1. "Engineering Standards", Township of Baldwin
2. "Sherburne County Zoning Ordinance" and the Sherburne County Subdivision ordinance
3. Regulations covering drainage, grading, and erosion control as set forth by Sherburne County and Baldwin Township.

**b. Construction Services by The Developer's Engineer.** The Developer's Engineer shall perform the following services:

1. Provide survey stakes for construction,
2. Certify to remaining construction costs for reductions in securities,
3. Recommend construction methods,
4. Specify and inspect materials,
5. Submit copies of test reports to the Town Engineer,
6. Conduct final job inspections with the Town Engineer,

7. Certify that all construction was done in accordance with approved plans and specifications, and

8. Furnish permanent reproducible mylar "as built" of the construction plans, and

**c. Service to Be Performed by The Town.** The Town will perform the following services with respect to Plan A Improvements:

1. Assist, review and approve the work of the Developer, Developer's Engineer and the Contractors. The Town has the right to have an experienced inspector to monitor construction. The inspector may be present on the job at any time during construction and must be present when the Developer conducts final job inspections. The fees of the Town Engineer shall be paid by the Town from the Developer's escrow deposit.

2. The Town will perform or cause to be performed the construction of the traffic signage, pavement markings and the roadway maintenance from the cash deposits paid by Developer pursuant to this agreement.

3. The Town Board will arrange for a preconstruction conference. Those present shall include a Town Board representative, the Town Engineer, the Developer (not Developer's representative), Developer's Engineer and any other parties the Town Board may deem necessary.

**d. Responsibility for costs.** Upon execution of this agreement the developer shall pay all fees and securities as listed on Schedule A. All costs incurred by the Township connected with this development, including, but not limited to administrative, legal, planning, engineering, and inspection expenses, shall be reimbursed to the Township by the Developer. If costs incurred by the Township exceed those listed in Schedule A, the Developer shall pay for any additional reimbursable costs listed in Schedule A within thirty days when billed by the Township. The developer agrees also to reimburse the Township for all its costs that it may incur in the enforcement of this Agreement.

**e. Hold Harmless.** The Developer shall hold the Township, its board members, officers, employees, and consultants, harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from subdivision plat approval and development. The developer shall indemnify the Township, its board members, officers, employees, and consultants, for all costs, damages, or expenses which the Township may pay or incur in consequence of such claims, including reasonable attorney's fees, provided that nothing herein shall require the Developer to indemnify the Township, its board members, officers, employees, and consultants from any violation of law or from the consequences of their own negligence.

**f. Construction of Schedule A Improvements.** The construction, installation, materials and equipment shall be in accordance with the plans and specifications approved by the Town Board and as set forth in the Town of Baldwin "Engineering Standards" which are

incorporated herein by reference. The Developer's Contractor shall furnish the Town Engineer with a schedule of proposed operations at least three (3) days prior to commencement of any construction work. No construction on any improvement shall begin until the schedule is approved by the Town Engineer.

No building permits shall be issued in said development until road rough grade, ditches, swales and drainage systems are in and approved by the town. Building permits may be issued earlier, with Town Board approval, for lots that are not dependent upon construction of subdivision roads. For early building permit approval, the Engineer must deem the lots/homes are not dependent upon planned improvements for protection from flooding.

**g. Supervision.** All of the work shall be under and subject to supervision of the Town Board, Town Engineer and Developer's Engineer where appropriate and any other governmental agency having jurisdiction over the work.

**h. Insurance.** The Developer shall cause each person with whom the Developer contracts for the construction and installation of any Schedule A Improvements to furnish the Town with evidence of insurance coverage. Insurance Requirements: Insurers must have an A.M. Best (insurance industry financial rating guide) rating of B+ or better. A Certificate of Insurance must be provided to the Town of Baldwin, prior to project commencement, evidencing the following limits of liability. Equal to or greater than stated herein: Commercial General Liability Limits of; \$1,000,000 per Occurrence, \$2,000,000 General Aggregate, Minnesota Statutory Workers' Compensation coverage and Employers' Liability Limits of; \$100,000/\$500,000/\$100,000, Automobile Liability Limit of; \$1,000,000. Written notification must be given to the Town of Baldwin thirty (30) days prior to cancellation of coverage by the Insurer and/or Insured. All certificates must be submitted with current effective dates. Renewal certificates are due thirty (30) days prior to expiration of coverage.

**i. Faithful Performance of Construction Contract & Security.** The Developer will fully and faithfully comply with all terms of any and all contracts entered into by the Developer for the installation and construction of all Schedule A Improvements and hereby guarantees the workmanship and materials for the specified periods following the Town's final acceptance of each of the Schedule A Improvements. To secure performance hereunder and prior to the commencement of construction, the Developer shall provide the following securities as indicated in Schedule A to the Town:

1. Furnish a cash deposit to the Town, for "Estimated costs refundable to the developer" (Line 12, "Schedule A")
2. Security amounts are subject to review and adjustment by the Town Board in order to maintain 1.5 times the estimated cost of construction and shall consider variables such as weather, inflation and other unforeseen changes in original estimates of cost. This review and adjustment shall include any additional Administrative and Engineering Costs which have

been incurred.

All escrow amounts will be placed in escrow accounts under the control of the Township. Any interest generated by these accounts the Owner agrees to forgo to the benefit of the Township. Such interest shall be used by the Township to offset administrative costs relative to the maintenance of the accounts.

**j. Default.** In the event that the Developer has not completed any or all aforementioned work and requirements on the completion dates as set forth herein or violates any agreements or requirements as set forth herein, the Town will notify the Developer in writing of said violations or breaches and shall upon written demand by the Developer received within 10 days of receipt of said demand, conduct a hearing before the Town Board to inquire into such defaults or breaches. Said hearing may be canceled upon compliance by Developer with all items specified in the Town's notice. If the Town Board determines there is a breach or noncompliance with the terms of this agreement, it may, by resolution, authorize its officers, its employees or its authorized agents to enter upon the Developer's property and to complete any or all such uncompleted or improperly performed work in conformity with this agreement. The Developer's security escrow shall be used for all costs incurred by the Town in completing or correcting the work, including administrative expenses, contractor costs and all engineering and attorney's fees necessitated by Developer's breach of this agreement.

**k. Road Status.** The Developer agrees to maintain all roads within the Plat in a safe and passable condition on and after the date of the approval of said plat until the date of final inspection by Developer's Engineer and acceptance by the Town Board of all said work included within the Schedule A Improvements. It is further agreed between the Developer and the Town that, in the event that such roads are not maintained in a safe and passable condition, as determined by the Town Board, that the Town shall have the right to perform such work, and in that event the Developer shall reimburse the Town for all costs incurred in the maintenance thereof from the security escrow deposit.

**l. Release of Security.** After completion by the Developer and acceptance by the Town of part of the Schedule A Improvements and upon request by the Developer, escrow security amounts proportional to the amount of work completed and accepted may be released to the Developer.

The Developer shall fully and faithfully discharge the Developer's obligations with respect to the Schedule A Improvements and all contractors and suppliers doing work or furnishing skills, tools, machinery, materials, insurance premiums, equipment or supplies in connection with the construction and installation of Schedule A Improvements.

The security amount released shall be determined by the Township Engineer after determining the cost of the Schedule A Improvements remaining to be constructed. Fifteen (15) percent of the Schedule A Improvement escrow deposit amount shall be retained by the Town for the specified warranty period to assure the prompt and complete repair, by the Developer, of all defects in materials and workmanship and deterioration

that exceeds normal wear and tear. Upon the completion of any such repairs or the expiration of the warranty period, whichever occurs last, all remaining escrow funds held by the Town with any unpaid accrued interest thereon shall be returned to the Developer. The Developer agrees to maintain any Letter of Credit, or remaining Letter of Credit not yet released by the Township, given as security until such time as the township releases the remaining escrowed funds.

The developer may request The Town to release Schedule A security amounts at the regular monthly meeting by:

1) Furnishing the Town with evidence that the Contractors and suppliers doing the work have been paid prior to release of securities.

And,

2) Furnishing evidence of partial completion of the project. The developer's engineer will certify to the dollar amount complete of the entire project, and to that amount yet remaining. The Township engineer will confirm the developer's engineer's assessment of the amount of construction yet remaining. The developer and the township will then authorize the release of securities jointly to the Contractor and suppliers submitting the bill.

**4. Warranty period.** The developer shall guarantee the construction of all Schedule A improvements for a period of two (2) years following final acceptance of the Township of all improvements.

**5. Property Irons and Survey Monuments.** All property irons and survey monuments shall be in place at the time of final acceptance of the above Schedule A Improvements by the Town.

**6. Easements.** The Developer shall make available to the Town, at no cost to the Town, all permanent or temporary easements necessary for the installation of the Schedule A Improvements, as determined by the Town Board. All easements requested by the Town shall be in writing in recordable form. All easements, including utility and drainage easements, shall be noted in the final "as built" plans and permanent drainage and utility easements shall be shown on the final plat.

**7. Construction Activity Schedule.** The Developer must receive Town Board approval and must deposit the required escrow deposit, including any administrative fees prior to any construction activity to the Town. Grading will be permitted after preliminary plan approval by the County, providing the Developer acquires a grading permit from the Town. The following items need to be completed prior to any additional construction activity:

- A final plat approval from the county board
- A execution and delivery of this agreement

A deposit of all contract securities, escrows, and letters of credit

Inspections by the Township Engineer will be required for the following stages of construction for the Township to accept the constructed roadways. The Developer should give the Township Engineer notice of the need for inspection 24 hours in advance. Stages of construction which need inspection are:

- 1) After clearing and grubbing and stripping of topsoil.
- 2) After completion of rough grading.
- 3) Roll test of completed subgrade with culverts installed.
- 4) During installation of class 5 aggregate material.
- 5) During installation of each lift of bituminous material.
- 6) Punch list inspection after initial completion of project.
- 7) Final inspection immediately before the Towns acceptance of the roadways.
- 8) Warranty inspection at the end of the warranty period.

**8. Final Plat Approval.** The Town agrees to give final approval of the subdivision plat upon the preliminary approval by the County Board and after the grading and street plans have adequately addressed any review comments to the board's satisfaction. The final plat mylars will be signed by the appropriate township officers any time after the Developer and Township have signed this agreement and the County Board gives final plat approval.

**9. Final Inspection and Acceptance of the Constructed Road.** Upon successful completion of the Schedule A Improvements, the Developer shall notify the Township by certified letter of its desire to have the constructed roadways accepted by the Township. The Township Engineer will schedule a final inspection. Upon completion of the final inspection a punch list will be developed by the Township for all work yet to be completed for final acceptance. The Developer shall notify the Township Engineer of the completion of the items listed on the punch list. The Township Engineer upon review of the completed items, if satisfied that the punch list items have been satisfactorily completed, shall recommend acceptance of the improvements to the Township Board. The Township Board upon review of the project if satisfied the Schedule A Improvements have been satisfactorily completed, will accept the roadways and release the security per article 3j.

**10. Ownership and Maintenance of Constructed Improvements.** The Township upon acceptance of the constructed Schedule A improvements shall accept ownership and maintenance of such improvements subject to the Developers warranty period.

Until the Town Board has accepted the roadways, the Developer agrees to be responsible for all maintenance of the roadway, including snowplowing.



IN WITNESS WHEREOF, the Town and Developer have caused this Agreement to be duly executed on the day and year first above written.

TOWN OF Baldwin

BY:  
Its Chairperson of the Board

BY:  
Its Town Clerk

DEVELOPER

\_\_\_\_\_ EIN or SSN  
\_\_\_\_\_ Title of Signer

STATE OF MINNESOTA

ss

COUNTY OF SHERBURNE

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ , before me, a Notary Public, within and for

said County, personally appeared \_\_\_\_\_ and ,

\_\_\_\_\_ to me personally known, being each by me duly sworn, did say that they are respectively the Chairperson of the Board and Town Clerk, of the Town of Baldwin, the municipal Township named in the foregoing instrument, was signed and sealed on behalf of said Township by Authority of its Town Board and they acknowledged said instrument to be the free act and deed of said municipal Township.

NOTARY PUBLIC

INDIVIDUAL ACKNOWLEDGMENT

STATE OF MINNESOTA

ss

COUNTY OF SHERBURNE

On this \_\_\_\_\_ day of \_\_\_\_\_ , 20\_\_ , before me, a Notary Public, within and for said

County personally appeared \_\_\_\_\_ to me known to be the person described herein and who executed the foregoing instrument and acknowledged that \_he

executed the same as h\_ free act and dee

NOTARY PUBLIC

CORPORATE ACKNOWLEDGMENT

STATE OF MINNESOTA

ss

COUNTY OF SHERBURNE

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ , before me, a Notary Public, within and for said

County, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me personally known, being each by me duly sworn, did say that they are respectively the

\_\_\_\_\_ and \_\_\_\_\_ of the corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and they acknowledged said instrument to be the free act and deed of said corporation.

NOTARY PUBLIC

**SCHEDULE A \***

**REQUIRED SECURITIES AND TOWNSHIP FEES (RURAL DEVELOPMENT)**

DESCRIPTION OF IMPROVEMENT	COMPLETION DATE FROM DATE OF THIS AGREEMENT	EST. COST
1. Grading & Erosion Control	2 Years	\$
2. Storm Sewers & Road Culverts	2 Years	\$
3. Permanent Street Surfacing**	2 Years	\$
4. Total cost of Schedule A Improvements		\$
5. Work completed prior to signing of the Developer's Agreement		\$
6. Schedule A Estimated Construction Cost (Line 4 - Line 5)		\$
7. Required Security		\$
<i>Line 7, Required Security shall be in the form of a Letter of Credit, Cash, or a combination of the two. Letter of Credit will be from a Local Bank with operating branches within Minnesota.</i>		

**Estimated Costs Refundable to the Developer**

Unused portions of these escrow amounts upon final acceptance of the Schedule A Improvements shall be returned to the Developer. Any interest generated in these accounts shall be retained by the Township to offset administrative maintenance of the escrow accounts. Of the estimated legal, administrative, and engineering costs \$250 shall be retained by the Township for final warranty inspection by the Township Engineer which occurs eighteen months after road acceptance by the Township. If these funds are insufficient for the costs incurred by the Township, the additional cost shall be passed on to the Developer. Final acceptance of the project shall occur after any additional fees assessed to the project by the Township are paid by the Developer.

9. Estimated Legal, and Engineering Costs (5% of Line 4)		\$
10. Traffic Signing ***	Est. No. of Road Signs _____	\$
<i>(\$150/ roadway sign, number of signs determined by the Township)</i>		
11. Snow Plowing Costs (if requested)		\$ 0
Total Linear Feet of Roadway to Plow _____ X \$.10		
12. Refundable Cash Escrows (Line 9 + line 10 + line 11)		\$
<i>Line 12, Refundable Cash Escrows, shall be paid in the form of cash only. Other terms may be agreed upon by the Baldwin Township Board if Line 12 exceeds \$50,000.</i>		

**Non-Refundable Cash Fees**

13. Administrative Fees	Number of Lots _____	\$
13 => \$100/Lot		
14. Cul-de-Sac Maintenance Fee	Number of Cul-de-Sacs _____	\$ 0
14 => Number of Cul-de-Sacs excluding 1 <sup>st</sup> permanent and all temporary cul-de-sacs x \$6000		
15. Total Non-Refundable Cash Fees		\$
15 => Line 13 + line 14)		
<i>Line 15, Total Non-Refundable Cash Fees, shall be paid in the form of cash only.</i>		

- \* Schedule A Improvements shall be described in detail within the plans, specifications, and contract documents for all site grading, storm sewer, drainage improvements, sidewalk, and road construction.
- \*\* The bituminous pavement will be considered for acceptance upon its completion over an approved subgrade. Acceptance may be postponed over one winter season if the subgrade has not been approved.
- \*\*\* For traffic signing, and the legal, administrative, and engineering fee, the Developer shall deposit refundable cash with the Town and said work shall be performed by the Town. These items shall not be included in the Plan A Escrow computations.