DEVELOPMENT CONTRACT

(Developer Installed Improvements)

PERL GARDENS (2020-058)

AGREEMENT dated _____, 2020, by and between the **CITY OF PLYMOUTH**, a Minnesota municipal corporation ("City"), and **RACHEL DEVELOPMENT, INC.**, a Minnesota corporation (the "Developer").

1. **REQUEST FOR PLAT APPROVAL.** The Developer has asked the City to approve a plat for Perl Gardens (referred to in this contract as the "plat"). The land is situated in the County of Hennepin, State of Minnesota, and is presently legally described as follows:

PARCEL 1:

The East 290 feet of the South 402 feet of the North 632 feet of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 18, Township 118 North, Range 22 West of the 5th Principal Meridian.

Also: The East 480 feet of the North 230 feet of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 18, Township 118, Range 22.

Also: That part of the West 420 feet of the East 710 feet of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 18, Township 118, Range 22, lying South of the North 230 feet thereof, and North of the following described line: Commencing at the Southeast corner of the Southwest 1/4 of said Southeast 1/4; thence North along the East line thereof 704 feet; thence deflecting left 55 degrees 50 minutes to the Southerly extension of the East line of said West 420 feet; thence North along said Southerly extension and said East line a distance of 553.2 feet to the point of beginning of the line being described; thence deflecting left 88 degrees 06 minutes to the West line of said East 710 feet, and there ending, according to the U.S. Government Survey thereof, subject to an easement over the easterly 33 feet thereof for State Highway 101, also subject to and together with an easement for driveway purposes over the South 30 feet of the North 245 feet of the East 500 feet of said South 1/2 of the Northwest 1/4 of the Southeast 1/4.

Hennepin County, Minnesota.

PARCEL 2:

That part of the East 290 feet of the Southwest 1/4 of the Southeast 1/4 and of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 18, Township 118, Range 22, lying Northerly of the centerline of Medina Road, formerly known as County Road No. 48, and South of the North 632 feet of said South 1/2, EXCEPT that part of the Southwest 1/4 of the Southeast 1/4 of Section 18, Township 118, Range 22 described as follows: Beginning at the intersection of the center line of County Road No. 48 and the center line of State Highway No. 101; thence North along the said center line of State Highway No. 101 a distance of 283 feet; thence West at right angles a distance of 200 feet; thence South at right angles a distance of 153 feet to the center line of said County Road No. 48; thence Southeasterly along the center line of said County Road No. 48 a distance of 240 feet to the point of beginning.

And

That part of the Southwest 1/4 of the Southeast 1/4 of Section 18, Township 118, Range 22 described as follows: Beginning at the intersection of the center line of County Road No. 48 and the center line of Minnesota State Highway No. 101; thence North along said center line of said State Highway No. 101 a distance of 283 feet; thence West at right angles a distance of 200 feet; thence South at right angles a distance of 153 feet to the center line of said County Road No. 48; thence Southeasterly along the center line of said County Road No. 48 a distance of 240 feet to the point of beginning.

Hennepin County, Minnesota.

2. CONDITIONS OF PLAT APPROVAL. The City hereby approves the plat on condition that the Developer enter into this contract, furnish the security required by it, and record the plat with the county recorder or registrar of titles within 180 days after the City Council approves the final plat.

3. RIGHT TO PROCEED. Unless separate written approval has been given by the City, within the plat or land to be platted, 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 agreement has been fully executed by both parties and filed with the city clerk, 2) the necessary security has been received by the City, and 3) the plat has been recorded with the Hennepin County Recorder's Office.

4. CHANGES IN OFFICIAL CONTROLS. For two years from the date of this contract, no amendments 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 approved final plat 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.

5. DEVELOPMENT PLANS. The plat shall be developed in accordance with the following plans. The plans shall not be attached to this contract. If the plans vary from the written terms of this contract, the written terms shall control. The plans are:

Plan A - Plat
Plan B - Final Grading, Drainage and Erosion Control Plan
Plan C - Tree Preservation and Reforestation Plan
Plan D - Plans and Specifications for Public Improvements
Plan E - Street Lighting Plan
Plan F - Landscape Plan
Plan G - Permanent Traffic Control Plan

6. IMPROVEMENTS. The Developer shall install and pay for the following:

A. Streets
B. Turn Lanes for the development
C. Sanitary Sewer
D. Watermain
E. Surface Water Facilities (filtration basin, pipe, etc.)
F. Retaining Walls
G. Grading and Erosion Control
H. Sidewalks/Trails
I. Street Lighting
J. Underground Utilities
K. Street Signs and Traffic Control Signs
L. Landscaping Required by Section 21130.03 of the Zoning Ordinance
M. Tree Preservation and Reforestation
N. Monuments Required by Minnesota Statutes
O. Miscellaneous Facilities

The improvements shall be installed in accordance with the City's subdivision regulations and the City's engineering guidelines/standard detail specifications. 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 or designee. The Developer shall instruct its engineer to provide full-time field inspection personnel in order for the Developer's engineer to be able to certify that the construction work meets the approved City standards as a condition of City acceptance. 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 on a full or part-time basis. The Developer, its contractors and subcontractors, shall follow all instructions received from the City's inspectors. The Developer and/or 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 his or her engineer shall schedule a pre-construction meeting at a mutually agreeable time at City Hall with all parties concerned, including the City staff, to review the program for the construction work.

All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications. No deviations from the approved plans and specifications will be permitted unless approved in writing by the city engineer or designee. The Developer agrees to furnish to the City a list of contractors being considered for retention by the Developer for the performance of the work required by the contract. The Developer shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of this contract, for which reimbursement is expected from the City, unless such work is first approved in writing by the city engineer or designee.

7. **ADMINISTRATION OF DEVELOPMENT CONTRACT.** The Developer shall provide to the City a cash escrow to pay for the costs of administering the development contract. Administrative costs include but are not limited to preparation of the contract, City recording fees for documents required as part of the development, monitoring of construction observation, consultation with the Developer and his/her engineer on status or problems regarding the project, plan review, coordination for testing, periodic and final inspections and acceptance, project monitoring and inspections during warranty periods, and processing requests for reduction or release of security, for all public improvements covered by the development contract. The cash escrow deposit shall be **$33,876** (calculated at 3% of the estimated cost of proposed public improvements, as shown in the Summary of Security Requirements). If, at any time prior to completion of the development contract administration process, the balance in the cash escrow account is depleted to less than 10% of the originally required cash escrow amount, the Developer shall deposit additional funds in the cash escrow account as determined by the City. Any balance remaining in the cash escrow account upon completion of the development contract administration process shall be returned to the Developer after all claims and charges thereto have been deducted.

8. **CONTRACTORS/SUBCONTRACTORS.** City Council members, City employees, and City Planning Commission members, and corporations, partnerships, and other entities in which such individuals have greater than a 25% ownership interest or in which they are an officer or director may not act as contractors or subcontractors for the public improvements identified in **Paragraph 6** above.

9. **PERMITS.** The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, including but not limited to:

- ***Hennepin County for county road access and work in county rights-of-way, and for sewage system abandonment***
- ***Minnesota Department of Health for watermains and well abandonment***
- ***National Pollutant Discharge Elimination System permits***
- ***Minnesota Pollution Control Agency for sanitary sewer and hazardous material removal and disposal***
- ***Metropolitan Council Environmental Services for sanitary sewer connections***
- ***Watershed permits***
- ***City of Plymouth building demolition permits and building permits***

10. **TIME OF PERFORMANCE.** The Developer shall install all required public improvements by October 31, 2021, with the exception of the final wear course of asphalt on streets. Final wear course placement will be allowed in a new housing development only after one freeze – thaw cycle and after a certificate of occupancy has been issued for 75% of the dwelling units. An inspection of the roadway will be performed by the city engineer or designee prior to wear course placement. From this inspection, any deficiencies or damage to the street, sidewalk and curb will be noted and will need to be corrected prior to the placement of the wear course.

11. LICENSE. The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the plat to perform all work and inspections deemed appropriate by the City in conjunction with plat development.

12. CONSTRUCTION ACCESS. Construction traffic access and egress for grading, public utility construction, and street construction is restricted to access to the subdivision via County Road 101 and Medina Road. No construction traffic is permitted on the adjacent local streets.

13. CONSTRUCTION PARKING/STAGING. Construction parking and staging shall occur on the site of the plat.

14. GRADING PLAN. The plat shall be graded in accordance with the approved Grading, Drainage and Erosion Control Plan (Plan B). The plan shall conform to City of Plymouth standards.

The Developer shall have the responsibility for site grading through completion of the project including installation of sod, trees and required landscaping, as addressed under the Warranty section of this agreement.

Within 30 days after completion of the grading, the Developer shall provide the City with a "record" grading plan certified by a registered land surveyor or engineer indicating that all filtration basins, swales, and ditches have been constructed on public easements or land owned by the City. The "record" plan shall contain site grades and field verified elevations of the following: a) cross sections of basins; b) location and elevations along all swales, emergency overflows, ditches, locations and dimensions of borrow areas/stockpiles; c) lot corner elevations and house pads; and d) top and bottom of retaining walls.

All lots with house footings placed on fill must be monitored and constructed to meet or exceed FHA/HUD 79G specifications. The Developer must certify that this has been done correctly.

Prior to City acceptance of the grading improvements and a full release of financial sureties, the Developer shall provide the City with final “record” plans, in accordance with the City’s most recent Engineering Guidelines and the Developer shall verify that all final grades, after house construction and final lot grading, meet the approved grading plan.

15. EROSION CONTROL. Prior to initiating site grading, the Erosion Control Plan (Plan B) shall be implemented by the Developer and inspected and approved by the City. Erosion control practices must comply with the Minnesota Pollution Control Agency’s best management practices. The City may impose additional erosion control requirements if they would be beneficial. All areas disturbed by the excavation and backfilling operations shall be reseeded within 14 days after the completion of the work or in an area that is inactive for up to 14 days unless authorized and approved by the city engineer in writing. Except as otherwise provided in the erosion control plan, seed shall be in accordance with the City's current seeding standards. 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 at the Developer's expense. 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 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 plat is in full compliance with the approved erosion control plan.

16. STREET MAINTENANCE DURING CONSTRUCTION. The Developer shall be responsible for all street maintenance until the streets are accepted by the City. Warning signs shall be placed when hazards develop in streets to prevent the public from traveling on same and to direct attention to detours. If and when streets become impassable, such streets shall be barricaded and closed. In the event residences are occupied prior to completing streets, the Developer shall maintain a smooth surface and provide proper surface drainage to ensure that the streets are passable to traffic and emergency vehicles. The Developer shall be responsible for keeping streets within and without the subdivision swept clean of dirt and debris that may spill, track, or wash onto the street from the Developer's operation. The Developer may request, in writing, that the City keep the streets open during the winter months by plowing snow from the streets prior to final acceptance of said streets if all of the following conditions are meet and verified by the City by October 1st.

- The street has concrete curb and is paved with first lift of asphalt.
- At least one house on the street is occupied.
- All the manholes and valve boxes (iron) is set below the paved surface so not to cause damage to the snow removal equipment.

If any one of these conditions is not met by October 1st snow removal for the entire season will be the responsibility of the developer. If the conditions are not met, the developer shall be responsible for plowing all streets within the development in accordance with the City's Snow Removal Policy and shall be completed within 12 hours after snowfall has ended. If the Developer does not comply with the policy or if the streets are not plowed within the specified time, the City will plow the streets and bill the Developer plus a penalty of $500 each time the City plows the streets. If the Developer does not reimburse the City for any cost the City incurred for such work within ten days, the City may draw down the security to pay any costs.

The City shall not be responsible for repairing damage in the development because of snow plowing operations. Providing snow plowing service does not constitute final acceptance of the streets by the City. The Developer shall contract for street cleaning within and immediately adjacent to the development. At a minimum, scraping and sweeping shall take place on a weekly basis. A copy of this contract shall be approved by the City before grading is started. The contract shall provide that the City may direct the contractor to clean the streets and bill the Developer.

17. OWNERSHIP OF IMPROVEMENTS. Upon completion of the work and construction required by this contract, the improvements lying within public easements or right-of-way shall become City property. The City shall accept responsibility for operation and maintenance of stormwater facilities lying within the public easements. Prior to acceptance of the improvements by the City, the Developer must furnish the following affidavits:

- Contractor's certificate
- Engineer's certificate
- Land surveyor's certificate
- Developer's certificate

The above affidavits shall certify that all construction has been completed in accordance with the terms of this contract.

Prior to City acceptance of public improvements and a full release of financial sureties, the Developer shall provide the City with final "record" plans, in accordance with the City's most recent Engineering Guidelines.

Upon City receipt and verification of the affidavits, and upon receipt of "record" plans acceptable to the City, the city engineer will accept the completed public improvements.

No more than six months prior to turnover of improvements to a Homeowners Association (HOA), the developer shall request a final inspection of such improvements. Final approval of such improvements shall occur prior to HOA turnover. A portion of the security, as determined by the City Engineer, shall not be released until final approval and proof of transfer from Developer to HOA.

18. PARK DEDICATION. The Developer shall pay a cash contribution of **$274,211.75** in satisfaction of the City's park dedication requirements. The charge was calculated in accordance with Section 528 of the City's subdivision regulations. The cash fee shall be payable prior to the City's release of the signed final plat mylars.

19. WATERMAIN. This plat is subject to a trunk watermain special assessment under Minnesota Statutes Chapter 429. The assessment rate is adjusted annually. The 2020 rate is $4,838 per acre. If the development contract is signed by the Developer and City in 2020, the assessment amount is calculated as follows: 7.06 acres x $4,838 per acre = **$34,156.28**. If the development contract is signed in another year, that year's per acre rate will be used in the calculation.

The assessment will be divided evenly among the lots and blocks in the final plat. The assessment will be spread over five years at 2.67% interest on the unpaid balance. The assessment shall be deemed adopted on the date this contract is signed by the City. The Developer waives any and all procedural and substantive objections to the special assessment, including but not limited to, hearing requirements and any claim that the assessment exceeds the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to M.S.A. 429.081.

20. SANITARY SEWER. This plat is subject to a lateral sanitary sewer special assessment under Minnesota Statutes Chapter 429. The assessment rate is adjusted annually.

The 2020 rate is $1,303 per acre. If the development contract is signed by the Developer and City in 2020, the assessment amount is calculated as follows: 7.06 acres x $1,303 per acre = **$9,199.18**. If the development contract is signed in another year, that year's per acre rate will be used in the calculation.

The assessment will be divided evenly among the lots and blocks in the final plat. The charge will be spread over five years at 2.67% interest on the unpaid balance. The assessment shall be deemed adopted on the date this contract is signed by the City. The Developer waives any and all procedural and substantive objections to the special assessment, including but not limited to, hearing requirements and any claim that the assessment exceeds the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to M.S.A. 429.081.

21. MEDINA ROAD. Medina Road, west bound lane, is being widened by County Road 101. The developer shall be reimbursed for the widening (not the turn lane addition). The estimated reimbursement is **$8,220**.

22. BUILDING PERMITS/CERTIFICATES OF OCCUPANCY.

A. No building permits shall be issued until the final plat is recorded, the streets (including curb and gutter installation) needed for access to lots where permits are requested are paved with the first lift of asphalt, and the sewer and water service utilities are tested and approved by the city engineer/designee.

B. Prior to issuance of building permits, written certification of the grading for the block where the building is to be located must be provided to the City.

C. Breach of the terms of this contract by the Developer, including nonpayment of billings from the City, shall be grounds for denial of building permits, including lots sold to third parties, and the halting of all work in the plat.

D. If building permits are issued prior to the acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the City, Developer, their contractors, subcontractors, materialmen, employees, agents, or third parties. No sewer and water connection permits may be issued until the streets needed for access have been paved with a bituminous surface and the utilities are tested and approved by the city engineer or designee.

23. STREET REGULATORY SIGNS/TRAFFIC CONTROL SIGNS. Street name signs shall be installed by the Developer. The signs shall be placed at all intersections or at such other locations as determined by the city engineer or designee. All street name signs must be installed prior to final building inspection approval.

The Developer shall install traffic control signs in accordance with the plan approved by the city engineer and Minnesota Manual of Uniform Traffic Control Devices (MMUTCD). All signs must be installed prior to final building inspection approval or earlier if necessary as determined by the city engineer.

24. 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 plat, including but not limited to 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 plat.

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. 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 attorneys' fees.

C. The Developer shall reimburse the City for costs incurred in the enforcement of this contract, including 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 a personal obligation of the Developer and shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, 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 30 days after receipt. Bills not paid within 30 days shall accrue interest at the rate of 8% per year.

F. In addition to the charges and special assessments referred to herein, other charges and special assessments may be imposed such as but not limited to sewer availability charges ("SAC"), City water connection charges, City sewer connection charges, and building permit fees.

25. SPECIAL PROVISIONS. The following special provisions shall apply to plat development:

A. The Developer shall post a security for the final placement of all subdivision iron monuments. The security was calculated as shown in the Summary of Security Requirements at $100.00 per iron. The security will be held by the City until the Developer's land surveyor certifies that all irons have been set following site grading and utility and street construction. 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.

B. The Developer must obtain a sign permit from the City building official prior to installation of any subdivision identification signs.

C. The Developer shall supply a complete set of the approved construction plans in an AutoCAD.DWG electronic file format before the preconstruction conference.

D. The Developer shall include the “City of Plymouth’s Standard Detail Specifications” (all applicable sections) in the contract documents of their improvement project.

E. Other requirements:

1. Allowable uses in the PUD are two-family and detached homes, and their related accessory uses and uses by administrative permit as listed in the RMF-1 district.

2. Minimum building setbacks shall be as follows:
   a) Front yard to internal right-of-way: 20 feet
   b) Side yard to internal right-of-way: 12 feet
   c) Side yard (internal to development): 6 feet (12 feet between buildings)
   d) Side yard to perimeter lot lines: 19.6 feet
   e) From County Road 101 right-of-way: 40 feet
   f) Rear yard to northernmost lot line: 50 feet
   g) Rear yard to other perimeter lot lines: 25 feet

3. **Prior to recording the final plat**, the Developer shall:
   a) Receive City approval of final construction plans, including those related to drainage and treatment of runoff.
   b) Provide all required easements and agreements, including but not limited to an encroachment agreement where developer-installed retaining walls would lie within drainage and utility easements.
   c) Provide documentation of the approved access permit from Hennepin County.
   d) Execute the development contract and provide the related financial guarantees and fees.
   e) Pay the required park dedication fee.
   f) Pay the outstanding deferred assessments.
   g) Obtain all applicable permits, including watershed approvals.
   h) The homeowner's association documents shall address responsibilities for: 1) maintenance, snowplowing, repair, and replacement of all sidewalks including the sidewalk along Medina Road; 2) maintenance / replacement (includes trimming/pruning) of trees and other landscaping located between the storm water basin on Lot 2 of Block 3 and the abutting public streets; 3) maintenance (mowing and weed control) of the public boulevard areas adjacent to County Road 101 and Medina Road; and 4) maintenance, repair, and replacement of subdivision signage, back yard drain tiles (to be private facilities), common open-space lots, developer-installed retaining walls, developer-installing fencing, and other similar or common features.

4. Standard Conditions:
   a) Compliance with all fire codes, including those for hydrant location.
   b) Compliance with the city's tree preservation regulations.
   c) Removal of all hazardous trees from the property at the owner's expense.
   d) If the required sidewalks are not installed when the streets are installed, no building permits shall be issued for lots abutting the future sidewalk unless a separate sidewalk agreement is provided for each affected lot.

26. MISCELLANEOUS.

A. The Developer may not assign this contract without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it.

B. A building permit is required for any retaining wall that would be 48 inches in height or higher, and a fence/wall permit is required for any retaining wall that would be less than 48 inches in height. Additionally, a fence with a minimum height of 3.5 feet shall be installed at the top of any retaining wall that exceeds four feet in height, and at the top of any tiered retaining wall that requires a building permit. 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, as approved by the building permit. Following construction of any retaining wall that requires a building permit and prior to issuance of a certificate of occupancy for a lot where the retaining wall is located, a certification signed by the design engineer shall be filed with the Building Official evidencing that the retaining wall was constructed in accordance with the approved plans and specifications.

C. The Developer shall submit appropriate legal documents regarding homeowner association documents, covenants and restrictions, as reviewed by the city attorney for consistency with the City's official controls and conditions of approval shall be filed with the final plat. If the documents are not consistent with the City's official controls and conditions of approval, the documents shall be amended to make them consistent prior to recording the final plat and homeowner association documents.

D. The Developer shall take out and maintain or cause to be taken out and maintained until 6 months after the City has accepted the public improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of the 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, 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 written notice of the cancellation of the insurance per the terms of the policy.

E. Third parties shall have no recourse against the City under this contract.

F. 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 portion of this contract.

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 title to the property. The Developer covenants with the City, its successors and assigns, that the Developer has fee title to the property being final platted and/or has obtained consents to this contract, in the form attached hereto, from all parties who have an interest in the property; that there are no unrecorded interests in the property being final platted; 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 represents to the City that the plat complies with all city, county, metropolitan, state, and federal laws and regulations, including but not limited to: subdivision regulations, 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 in the plat until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.

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 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.

28. WARRANTY. The Developer warrants all improvements required to be constructed by it pursuant to this contract against poor material and faulty workmanship. The Developer shall submit or maintain a letter of credit for 25% of the amount of the original cost of the following improvements:

A. The required warranty period for materials and workmanship for utilities including public sanitary sewer, storm sewer, and water mains shall be 2 years from the date of final written City acceptance of the work.

B. The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, materials and equipment shall be 1 year from the date of final written City acceptance.

C. The required warranty period for grading, sod, trees, and landscaping is one growing season following installation.

29. SUMMARY OF SECURITY REQUIREMENTS. To guarantee compliance with the terms of this contract, payment of special assessments, payment of the costs of all public and private improvements, and construction of all public and private improvements, the Developer shall furnish the City with a letter of credit, in a format acceptable to the City, from a bank, cash escrow or a combination cash escrow and letter of credit ("security") for **$1,968,948**. The amount of the security was calculated as follows:

ESTIMATED COSTS			
ITEM	**Developer Installed (1)**	**Private (2)**	**Total**
Street Construction	$369,400	-	$369,400
Turn Lane Construction	$75,200	-	$75,200
Sanitary Sewer System	$241,600	-	$241,600
Watermain System	$196,600	-	$196,600
Storm Sewer System	$166,300	$85,200	$251,500
Boulevard and Drainage Swale Sod	-	$7,800	$7,800
Filtration Basin	$58,500	-	$58,500
Retaining Walls	-	$297,000	$297,000
Street and Traffic Control Signs	$8,200		$8,200
Sidewalk Improvements		$19,200	$19,200
Trail Improvements	$13,400	-	$13,400
Landscaping	-	$54,200	$54,200
Street Lighting	-	$10,000	$10,000
Erosion control (3)	-	$8,400	$8,400
Site Grading & Drainage Improvements	-	$194,000	$194,000
Setting Iron Monuments ($100 per iron)	-	$15,500	$15,500
Tree preservation (3)	-	$2,600	$2,600
Sub-Total	**$1,129,200**	**$693,900**	**$1,823,100**
Design, Admin. Insp, As-builts (8%)	$90,336	$55,512	$145,848
TOTAL ESTIMATED COST	**$1,219,536**	**$749,412**	**$1,968,948**
(1) Developer installed public improvements. City to own and maintain after development completed.			
(2) Private. Property owner and/or property owner's association to maintain after development completed.			
(3) Developer may provide a separate letter of Credit forErosion Control and Tree Preservation.			

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City Manager. The City may draw down the security, without notice, for any violation of the terms of this contract or if the security

is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least 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 engineer or designee that work has been completed and financial obligations to the City have been satisfied, with city engineer or designee approval the security may be reduced from time to time by 75% of the financial obligations that have been satisfied. Twenty-five percent (25%) of the amounts certified by the Developer's engineer shall be retained as security until: (1) all improvements have been completed; (2) iron monuments for lot corners have been installed; (3) all financial obligations to the City satisfied; (4) the required "record" plans have been received by the City; (5) a warranty security is provided; and (6) the public improvements are accepted by the City.

30. SUMMARY OF CASH REQUIREMENTS. The following is a summary of the cash requirements under this contract which must be furnished to the City at the time of final plat approval:

Park Dedication	$274,211.75
*Erosion Control (EC) Refundable Cash Deposit	$2,000.00
Administration of Development Contract Escrow	$33,876.00
TOTAL CASH REQUIREMENTS LEVIED:	**$310,087.75**

*EC deposit may be paid separately prior to tree clearing and/or grading operations.

31. 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:

David Stradtman
Rachel Development, Inc.
4180 Napier Court NE
St. Michael, MN 55376

The Developer shall notify the City within five days of a change of address.

Notices to the City shall be in writing and shall be either hand delivered to the City Manager, or mailed to the City by certified mail in care of the City Manager at the following address:

Plymouth City Hall
3400 Plymouth Boulevard
Plymouth, MN 55447

CITY OF PLYMOUTH:

BY: _____
Jeffry Wosje, Mayor

(SEAL)

AND _____
Dave Callister, City Manager

STATE OF MINNESOTA)
(ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Jeffry Wosje and by Dave Callister, the Mayor and City Manager of the City of Plymouth, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

_____
NOTARY PUBLIC

DEVELOPER:

By: _____

Its: _____

STATE OF MINNESOTA)
(ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____ the _____ of _____ on its behalf.

_____
NOTARY PUBLIC

DRAFTED BY: CITY OF PLYMOUTH
3400 Plymouth Boulevard
Plymouth, MN 55447

MORTGAGE CONSENT
TO
DEVELOPMENT CONTRACT

_____, which holds a mortgage on the subject property, the development of which is governed by the foregoing development contract, agrees that the development contract shall remain in full force and effect even if it forecloses on its mortgage.

Dated this _____ day of _____, 2020.

_____

By: _____

Its: _____

STATE OF MINNESOTA)
(ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____.

_____
NOTARY PUBLIC

DRAFTED BY:
CAMPBELL KNUTSON
CITY OF PLYMOUTH
3400 Plymouth Boulevard
Plymouth, MN 55447

(BANK LETTERHEAD)

IRREVOCABLE LETTER OF CREDIT

Letter of Credit No.: _____
Date: _____

TO: City of Plymouth
3400 Plymouth Boulevard
Plymouth, MN 55447

RE: (*Insert project name/address)

Dear Sir or Madam:

We hereby issue, for the account of (*insert Developer Name/Address) and in your favor, our Irrevocable Letter of Credit in the amount of $_____, available to you by your draft drawn on sight at the undersigned bank.

Any drafts drawn under this Letter of Credit must:

a) Bear the clause, "Drawn under Letter of Credit No. _____ of (insert Bank name), dated _____, 20___";
b) Name the City of Plymouth as beneficiary; and
c) Be presented for payment at (*insert Bank name & address), on or before 4:00 p.m. on November 30, 20___.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least sixty (60) days prior to the next annual renewal date, the Bank delivers written notice to the Plymouth Community Development Department that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least sixty (60) days prior to the next annual renewal date addressed as follows: Plymouth Community Development Department, Plymouth City Hall, 3400 Plymouth Boulevard, Plymouth, MN 55447, and is actually received by the Community Development Department at least sixty (60) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

BY:_____

Its_____