

*(Reserved for recording information)*

**DEVELOPMENT AGREEMENT**

***NORTHFIELD SENIOR HOUSING PROJECT***

**AGREEMENT** dated \_\_\_\_\_, 2018, by and between the **CITY OF NORTHFIELD**, a Minnesota municipal corporation (the “City”); and **CHESTER J. YANIK & ASSOCIATES, INC.**, doing business as **YANIK COMPANIES**, a corporation under the laws of the State of Minnesota, 4245 Enchanted Ln, Shorewood, MN 55364 (the “Developer”).

**RECITALS**

WHEREAS, the Developer will be entering into a ground lease with St. Olaf College for certain real property located in the City of Northfield, Dakota County, a portion of which, Parcel 1, is legally described in Exhibit A, which is attached hereto and incorporated herein by reference, (the “Development Property”); and

WHEREAS, the Developer proposes a 95-unit senior housing project on the Development Property consisting of independent living, assisted living, and memory care senior housing units and associated improvements including road/driveway improvements, sanitary sewer, water, stormsewer, stormwater management facilities, sidewalk and trails, grading and erosion control facilities and other private improvements (the “Project”); and

WHEREAS, the Developer and the City, desire to enter into this Agreement in satisfaction of applicable City requirements and to set out the undertakings and obligations of each party hereto from this point forward with respect

to the Project and with respect to the City approval process, all as required by the City's Code of Ordinances (the "Code") and applicable law.

**NOW, THEREFORE,** in consideration of the promises and the mutual obligations of the parties hereto, each does hereby covenant and agree with the other as follows:

1. **RIGHT TO PROCEED/CONDITIONS PRECEDENT.** The Developer may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, stormsewer, roads/driveway, utilities, public or private improvements, (collectively the "Improvements"), or any buildings within the Development Property related to the Project and Improvements until all of the following conditions precedent have been satisfied:

- a. This Agreement has been fully executed by both parties, and a copy of the same filed with the City Clerk. This Agreement shall be recorded by the Developer within 60 days following the completion of all of the conditions precedent contained in this paragraph;
- b. The First Amendment of Ground Lease - Declaration of Restrictions and Release of Parcels by and between St. Olaf College and the City (the "First Amendment of Ground Lease") to release of Parcel 1 and Parcel 2 of Outlot A has been fully executed and recorded;
- c. Upon satisfaction of the conditions precedent contained in the above-referenced First Amendment of Ground Lease, the Second Amendment of Ground Lease by and between St. Olaf College and the City, evidencing the satisfaction or waiver of the conditions precedent and releasing Parcel 1 and Parcel 2 of Outlot A from the Ground Lease as defined in said above-referenced First Amendment of Ground Lease, has been fully executed and recorded;
- d. The ground lease by and between St. Olaf College and Developer as provided in the above-referenced First Amendment of Ground Lease for the Project on the Development Property has been reviewed and approved by the City and been fully executed by St. Olaf College and the Developer and recorded, and a copy of the same filed with the City Clerk;

- e. Within 60 days following execution of the above-mentioned ground lease between St. Olaf College and Developer, the Developer shall obtain written consent to this Development Agreement from St. Olaf College on a form similar to the consent form attached to this Agreement, record the same with this Agreement, and file a copy with the City Clerk;
- f. The Site Plan for the Project on the Development Property and the plans and specifications for the Improvements related thereto have been approved by the City with such conditions as required by the City Code;
- g. The Declaration of Covenants and Agreement for Maintenance of Stormwater Facilities by and between the City and Developer for operation and maintenance of stormwater facilities on the Development Property, in a form required by the City, has been fully executed by the parties and recorded;
- h. The shared road use and maintenance agreement by and between Northfield Hospital and Clinics, and the Developer for the ongoing use, operation, maintenance, repair and replacement of Hospital Drive has been fully executed by the parties, and a copy of the same filed with the City Clerk;
- i. The shared use and maintenance agreement by and between the City, Northfield Hospital and Clinics, and the Developer, in a form required by and approved the City, for the ongoing use, operation, maintenance, repair and replacement of sanitary sewer and storm sewer utilities has been fully executed by the parties, and a copy of the same filed with the City Clerk;
- j. A building permit for the Project on the Development Property and Improvements has been filed with and approved by the City in compliance with City Code and applicable law, and all costs and fees required in connection with the procurement of the building permit have been paid by the Developer;
- k. The construction plans and other such plans and specifications as required by the City Engineer and the City Code for utilities and otherwise have been approved and signed by the City Engineer;

1. A certificate of public liability and property damage insurance as described in this Agreement has been filed with the City Clerk; and
  - m. The City Engineer has issued a letter that all conditions have been satisfied and that the Developer may proceed.
2. **DEVELOPMENT PLANS.** The construction plans and specifications for the Project, including utilities, and other such plans as required by the City Engineer shall be prepared by a competent registered professional engineer engaged by the Developer and shall be subject to the City Engineer's review and approval. The required Improvements shall be installed in accordance with the City Engineer approved plans and specifications for such Improvements, applicable law, and the policies, rules, regulations, standards and ordinances of the City. The Developer shall construct and install the Project and all Improvements at its sole cost and expense and subject to the terms and conditions contained herein. 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, which approval shall not be unreasonably withheld. The Developer shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of this Agreement, for which reimbursement is expected from the City, unless such work is first ordered in writing by the City Engineer as provided in the plans and specifications. The Developer shall replace or repair any damage or destruction to any property or improvements located on County, Northfield Hospital or City land, or in County or Hospital Drive or City streets, boulevards and rights-of-way caused by Developer, or its contractors and subcontractors, during construction of the Project and Improvements. Any contaminated soils encountered during the construction of the Improvements and Project on the Development Property shall be addressed as set forth in a Response Action Plan to be approved by the Minnesota Pollution Control Agency (MPCA) or other agency having jurisdiction, as applicable. If this Agreement is terminated for any reason the City shall have no obligation to construct the Project or Improvements.

3. **PERMITS.** The Developer shall obtain or require its contractors and subcontractors to obtain all necessary and required permits for the project from the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Health (MDOH), and all other agencies and governmental authorities with jurisdiction over the Project and the Improvements before proceeding with construction of the Project and the Improvements. Copies of these permits shall be provided to the City Engineer, and may include but are not limited to the following:

- Minnesota Department of Health for Watermains
- NPDES Permit for Stormwater Management
- MPCA for Sanitary Sewer Extensions/Connections and Hazardous Material Removal and Disposal
- Wetlands permits as applicable
- DNR for Dewatering
- City of Northfield for Building Permits

Developer or its engineer shall schedule a pre-construction meeting for the Project and required Improvements with all the parties concerned, including City staff, to review the program for the construction work.

4. **LICENSE.** The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the Development Property to perform all work and inspections deemed appropriate by the City in conjunction with this Agreement, the Project and the Improvements. The license shall expire upon completion of the Project and Improvements. The City shall thereafter have the right to enter the Development Property to perform inspections as authorized by City Code.

5. **CONSTRUCTION ACCESS.** Construction traffic access and egress for the Project, including grading and, utility construction is restricted to access via North Avenue and Hospital Drive. No construction traffic is permitted on the adjacent residential streets other than identified herein.

6. **GRADING PLAN.** The Development Property shall be graded in accordance with the approved grading development and erosion control plan. The plan shall conform to City of Northfield requirements and specifications and City Code and applicable law. Within thirty (30) days after completion of the grading, the Developer shall provide the City with a certificate of survey/"record" grading plan certified by a registered land

surveyor or engineer. The certificate of survey/"record" 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, ditches, locations and dimensions of borrow areas/stockpiles; c) lot corner elevations and building/house pads, d) top and bottom of retaining walls, and e) all lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications.

7. **EROSION AND SEDIMENT CONTROL.** Prior to initiating site grading, the erosion and sediment control plan shall be implemented by the Developer, inspected, and approved by the City Engineer. The Erosion Control Plan and Storm Water Pollution Prevention Plan (SWPPP) shall be implemented by the Developer and inspected and approved by the City. Erosion and sediment control practices must comply with the Minnesota Pollution Control Agency's (MPCA) Best Management Practices and applicable MPCA NPDES permit requirements for construction activities and the Developer's SWPPP. The City may impose additional erosion and sediment control requirements if they would be beneficial in the City's judgment. All areas disturbed by the excavation and backfilling operations shall be reseeded within 48 hours after the completion of the work or in an area that is inactive for more than fourteen (14) days unless authorized and approved by the City Engineer. Except as otherwise provided in the erosion and sediment 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, and watered 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. The Developer shall reimburse the City for any cost the City incurs for such work within 30 days of receipt of billing from the City. No development, utility or street construction will be allowed and no building permits will be issued unless the Project plans for the Development Property are in full compliance with the City approved erosion control plan.

8. **DECLARATION OF COVENANTS AND AGREEMENT FOR MAINTENANCE OF STORMWATER FACILITIES.**

In order to provide stormwater management and control, to meet the City's stormwater permitting requirements, City Code and state law and regulations, and to promote the water quality and volume control to the City's stormwater system and water bodies, including but not limited to the Cannon River, the Developer and the City agree that it is reasonable for the City to require the Developer and all subsequent owners of the Development Property to construct, inspect, operate, repair, maintain and replace, at the Developer's cost and expense, City required stormwater facilities. Prior to commencement of construction of the Project and pursuant to City Code, the City and Developer shall enter into an agreement on a form acceptable to the City and containing terms and conditions as required by the City setting forth, in a recordable instrument, an agreement to establish covenants and declarations upon the Development Property for the installation of and ongoing operation, repair, maintenance and replacement of such stormwater facilities as required by applicable City Code and law at the Developer's and the Developer's successors' and assigns' cost and expense.

9. **HOSPITAL DRIVE SHARED USE AND MAINTENANCE AGREEMENT**

The Developer shall enter into a shared use and maintenance agreement by and between the Northfield Hospital and Clinics and Developer for the ongoing use, operation, maintenance, repair and replacement of Hospital Drive. The shared road use agreement shall outline responsibilities of the Hospital and Developer for use, operations, long-term maintenance, repair and replacement of the shared Hospital Drive.

Development and construction work on the Project and Improvements, including initial construction and any subsequent repairs, renovations or additions, shall be performed in a manner that will not interfere with access to or use of the Hospital Property, including the public roads and Hospital Drive providing access to the Northfield Hospital. Subject to Northfield City Code and any agreements required by the City with Developer regarding the same, such access roads, including Hospital Drive, shall be maintained in good condition and repair during construction by Developer and shall be restored to pre-construction condition or better by Developer at Developer's cost to the satisfaction of the Northfield Hospital, when construction is

complete. Developer shall not have the right to use the existing private access drive within the Northfield Hospital & Clinics parcel for construction or permanent access without the written consent of the City and Hospital.

Developer shall be solely responsible for repair and replacement of any damages caused by Developer to Hospital Drive or any access to shared utilities caused by Developer during construction of the Project or Improvements and shall save, indemnify and hold harmless the Northfield Hospital and Clinics for the same.

10. **PARK DEDICATION.** The Developer shall pay a cash contribution of \$2,115.00 in satisfaction of the City's park dedication requirements. The fee calculation is based on the Estimated Market Value (EMV) of the Development Property as indicated in the records of the County Assessor's Office that is equivalent to Five Percent of the gross area of the Development Property subdivided and leased from St. Olaf College for Commercial Development of the Project (EMV Commercial Leased Area x 5%). This cash contribution is specific to the Development Property subdivided and leased by the Developer from St. Olaf College (the ground lease), located on Outlot A of St. Olaf College North Avenue Development Plat and legally described on Exhibit A. Park dedication for the remainder of Outlot A St. Olaf College North Avenue Development Plat shall be due when that land develops.

11. **SANITARY SEWER AND WATER TRUNK UTILITY CHARGES.** The Developer is subject to sanitary sewer and water access area charges for the Development Property subdivided and leased from St. Olaf College as described in Exhibit A. Sanitary Sewer and Water Trunk Utility Charges for the remainder of Outlot A St. Olaf College North Avenue Development Plat shall be due when that land develops. The sanitary sewer and water access charges are as follows:

Sanitary Sewer Availability Charge:

The Developer shall pay a sanitary sewer availability charge of \$36,326. The availability charge is based on Development Property subdivided and leased from St. Olaf College, located on Outlot A of St. Olaf College North Avenue Development Plat and legally described on Exhibit A. The sanitary sewer availability charge is calculated as follows:



$$5.9 \text{ Acres} \times \$6,157/\text{Acre} = \$36,326.$$

Water Availability Charge:

The Developer shall pay a watermain availability charge of \$12,331. The availability charge is based on Development Property subdivided and leased from St. Olaf College, located on Outlot A of St. Olaf College North Avenue Development Plat and legally described on Exhibit A. The water availability charge is calculated as follows:

$$5.9 \text{ Acres} \times \$2,090/\text{Acre} = \$12,331.$$

The Developer shall pay the above sanitary sewer and water availability charges at the time of building permit application, and a building permit shall not be issued by the City until such charges are paid in full.

12. **WETLAND MITIGATION.** No wetland mitigation is planned for the site. The Developer is responsible for any undisclosed mitigation on the land, and will be required to submit any necessary security should subsequent wetlands be identified.
13. **DEFAULT - BUILDING PERMITS/CERTIFICATES OF OCCUPANCY.** Breach or default of the terms of this Agreement by the Developer, including nonpayment of billings from the City within 30 days of the date of an invoice from the City to the Developer, shall be grounds for denial of building permits or certificates of occupancy and/or the halting of all work in the Development Property or related to the Project.
14. **UNDERGROUND UTILITIES – PRIVATE.** This section covers those smaller private utilities such as gas, electric, phone, cable, etc.
  - a. The Developer is responsible for the cost of installing all private utilities of any nature of kind whatsoever.
  - b. The Developer shall contact the utility companies to coordinate the installation of the utilities. Private utilities shall not be installed until the curb and gutter are completed and backfilled, as applicable. All utilities shall be installed underground.

- c. The City must approve of the final location for all private utilities. Joint trenching of the utilities is strongly encouraged. All utilities must be located in public right of way or within drainage and utility easements.
- d. If any conditions set forth in this Development Agreement conflicts with the City's utility franchise agreements, the franchise agreements shall in all cases prevail.

15. **UNDERGROUND UTILITIES – SHARED.** This section covers those utilities such as sanitary sewer and stormsewer not located on the Development Property or in the public right-of-way, but instead are located on property leased by Northfield Hospital and Clinics.

- a. The Developer shall enter into an agreement to use sewer and stormsewer lines by and between the City, Northfield Hospital and Clinics and Developer for the ongoing use, operation, maintenance, repair and replacement of Sanitary Sewer and Stormsewer infrastructure serving the Project for such infrastructure from the point of interconnection with the private utilities located on the Development Property, across the property leased by the City for Northfield Hospital and Clinics, to the point of interconnection with said infrastructure located in the City public right-of-way or easements. The agreement shall allow for shared use and access to the Sanitary Sewer and Stormsewer for the remaining undeveloped portions of Outlot A St. Olaf College North Avenue Development Plat. The agreement shall be in a form required by the City and reviewed and approved by the City. The agreement shall outline responsibilities of the City, Hospital and Developer for use, operations, long-term maintenance, repair and replacement of the shared utilities.
- b. The Developer shall extend sanitary sewer and stormsewer at its cost to the North Boundary line of Parcel 1 of the Development Property for purposes of future development of the second Phase of the Project. The Second phase of the Project on Parcel 2 of Outlot A will be covered by a future development agreement.

16. **TRUNK WATERMAIN.** This section covers the 12-inch public water main, which was looped through the Northfield Hospital and Clinics leased property site. Per City resolution 2001-191, Northfield Hospital and

Clinics, and St. Olaf College shall provide a written, recordable easement for such utilities. Developer shall be responsible for all costs and expenses of any kind or nature whatsoever for its construction and installation and ongoing operation, maintenance, repair and replacement of a private water line serving the Project from the building located on the Development Property to the point of interconnection of the same to the City owned, public water main located in Hospital Drive. No connection to the City water system shall be made until permitted and approved by the City Engineer. All plans and specifications for construction and installation of water service lines serving the Project on the Development Property or otherwise shall be reviewed and approved in writing by the City Engineer.

**17. RESPONSIBILITY FOR COSTS.**

- a. Except as otherwise specified herein, the Developer shall pay all costs incurred by it and the City in conjunction with this Agreement, including but not limited to, all costs of persons and entities doing work or furnishing skills, tools, machinery, equipment and materials; insurance premiums; legal, planning and engineering fees; the preparation and recording of this Agreement and all easements and other documents relating to the Property; all Response Action Plans, traffic studies, environmental assessments and/or engineering and other studies and reports; all permits and approvals; reasonable costs incurred in the enforcement of this Agreement, including engineering and attorneys' fees; and all City's costs incurred pertaining to the construction of the Project and Improvements and the other work done and improvements constructed on the Development Property or otherwise related to the Project. Additional costs are not anticipated outside of typical legal and site plan review fees.
- b. The City shall not be obligated to pay Developer or any of its agents or contractors for any costs incurred in connection with the construction of the Project or Improvements or the development of the Development Property. Developer agrees to defend, indemnify, and hold the City and its mayor, council members, employees, agents and contractors harmless from any and all claims of whatever kind or nature and for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including reasonable attorneys' fees, which may arise as a result of the Project, this Agreement, the construction of the Improvements (except for the negligence or intentional misconduct of the City with respect to the construction

of the Improvements), the development of the Development Property or the acts of Developer, and its employees, agents, contractors or subcontractors, in relationship thereto.

- c. The Developer hereby covenants and agrees that Developer will not permit or allow any mechanic's or materialman's liens to be placed on the City's interest in any property that is the subject of the Project or Improvements or this Agreement during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on the City's interest, the Developer shall take all steps necessary to see that it is removed within thirty (30) business days of its being filed; provided, however, that the Developer may contest any such lien provided the Developer first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien.
- d. Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Agreement within 60 days of the date of the City's invoice to Developer. If Developer fails to pay a required bill, then after providing the Developer with at least fifteen (15) days prior written notice. City and Developer agree that failure by Developer to pay City invoices as they become due is an event of default, and the City may assess certify such unpaid charges to the County Auditor for collection in like manner with property taxes on the Development Property or the City may take any other actions as may be available under this Agreement, at law, or in equity.
- e. 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 ("WAC") charges, City sewer connection charges, City storm water connection charges, building permit fees and development review fees, which shall be paid by Developer.

18. **SPECIAL PROVISIONS.** The following special provisions shall apply:

- a. The Developer shall be responsible for the cost of street light installation on the Development Property as well as in the area of the connection of the driveway located on the Development Property to Hospital Drive, consistent with a street lighting plan approved by the City Engineer.

- b. The Developer must obtain a sign permit from the City Planner prior to installation of any identification signs subject to current City Code.
- c. The Developer must obtain approval of a Site Plan via current City Code Chapter 34, Section 8.5.6 Site Plan Review. The Project design shall conform to the Building Primary Materials section and the Building Facades and Massing section of Table 3.2-8 Site and Building Design Guidelines for the C2 District as contained in Northfield City Code, Chapter 34.

**19. MISCELLANEOUS.**

- a. The Developer may assign this Agreement with at least 30 days written notice thereof to the City. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells the Project or any part of it or terminates the ground lease for the Development Property with St. Olaf College.
- b. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the Project and Improvements are completed 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 \$1,500,000 for each occurrence; limits for property damage shall be not less than \$300,000 for each occurrence; or a combination single limit policy of \$1,500,000 or more. The City and Northfield Hospitals and Clinics 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 authorizing the commencement of work on the Project and Improvements specified in this Agreement. The certificate shall provide that the City must be given ten (10) days advance written notice of the cancellation of the insurance.
- c. Third parties shall have no recourse against the City, Northfield Hospital and Clinics or Developer under this Agreement.

- d. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Agreement is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Agreement.
- e. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council.
- f. Until the expiration of this Agreement, this Agreement shall run with the land and shall be binding upon Developer and its successors and assigns. This Agreement will be recorded against the title to the Development Property within 60 days following the Developer satisfying the conditions precedent in paragraph 1 hereof. The Developer covenants with the City, its successors and assigns, that the Developer, prior to proceeding with the Project, will be well seized in a leasehold interest of the Development Property through a recorded ground lease with St. Olaf College and will obtain consent to this Agreement, in the form similar to the form attached hereto, from St. Olaf College and all parties who have an interest in the Development Property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.
- g. 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 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.
- h. The Developer agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the Project or otherwise related to development of the Development Property and Improvements.

20. **DEVELOPER'S DEFAULT.** In the event of default by the Developer as to any of the work to be performed by it hereunder or the failure to comply with all terms and conditions of this Agreement, the City may, at its option, take one or more of the following actions:

- a. 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.;
- b. Obtain an order from a court of competent jurisdiction requiring Developer to perform its obligations pursuant to the terms and provisions of this Agreement;
- c. Obtain an order from a court of competent jurisdiction enjoining the continuation of an event of default;
- d. Halt all development work and construction of the Project or Improvements until such time as the event of default is cured;
- e. Withhold the issuance of a building permit or permits or the certificate of occupancy and/or prohibit the occupancy of any structure(s) for which permits have been issued until the event of default has been cured; or
- f. Exercise any other remedies which may be available to it at law or in equity.

In addition to the remedies and amounts payable set forth or permitted above, upon the occurrence of an event of default by Developer, the Developer shall pay to the City all fees and expenses, including reasonable attorneys fees, incurred by the City as a result of the event of default, whether or not a lawsuit or other action is formally taken.

21. **WARRANTY.** The Developer warrants all Improvements required to be constructed by it pursuant to this Agreement against poor material and faulty workmanship. The warranty period for streets and utilities is two (2) years and shall commence following completion of the Project. The required warranty period for sod, trees, and landscaping is two growing seasons following installation.

22. **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: Chester J. Yanik & Associates, Inc., doing business as Yanik Companies, 4400 Shoreline Drive, Spring Park, MN 55384 – Attention Chester J. Yanik. 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: Northfield City Hall, 801 Washington Street, Northfield, MN 55057.

23. **CONSTRUCTION MANAGEMENT.** During construction of the Improvements and the Project, the Developer and its contractors and subcontractors shall minimize impacts from construction on the surrounding neighborhood and Northfield Hospital and Clinics, as follows:

- a. **Definition of Construction Area.** The limits of the Project shall be as shown in the City approved Grading, Drainage and Erosion Control Plan and shall be demarcated with construction fencing approved by the City Engineer. Any grading, construction or other work outside this area requires approval by the City Engineer and the affected property owner or leaseholder.
- b. **Parking and Storage of Materials.** Adequate on-site parking for construction vehicles and workers must be provided or provisions must be made to have workers park off site and be shuttled to the Project Area. No fill, excavating material or construction materials shall be stored in the public right-of-way.
- c. **Hours of Construction.** Hours of construction, including moving of equipment shall be limited to the hours provided in City Code.
- d. **Site Maintenance.** Developer shall ensure that its contractor maintains a clean work site. Measures shall be taken to prevent debris, refuse or other materials from leaving the site. Construction debris and other refuse generated from the Project shall be removed from the site in a timely fashion and/or upon the request by the City Engineer. After Developer has received at least forty-eight (48) hour verbal notice, the City may complete or contract to complete the site maintenance work at Developer's expense.
- e. **Project Identification Signage.** Project identification signs shall comply with City Code.



24. **EXPIRATION OF AGREEMENT.** This Agreement shall remain in effect until such time as the Developer shall have fully performed all of its duties and obligations under this Agreement. Upon the written request of the Developer and upon the City Engineer finding that the Developer has fully complied with all the terms of this Agreement, the City Engineer shall issue to the Developer on behalf of the City an appropriate certificate of compliance. Upon issuance of the Certificate of Compliance by the City, this Agreement shall terminate.

25. **TERMINATION.**

- a. If Developer fails to satisfy and complete the conditions precedent contained in paragraph 1 of this Agreement within 365 days of execution hereof, this Agreement shall terminate, subject to the following:
  - i. All costs, fees and other amounts previously paid to the City in connection with the stated conditions precedent, this Agreement and the Project and Improvements shall belong to and be retained by the City;
  - ii. The obligations of the Developer for costs incurred shall survive such termination and continue with respect to unpaid costs, fees and expenses incurred prior to such termination;
  - iii. The indemnifications of Developer shall survive and continue after such termination;
  - iv. The parties shall be released from all other obligations and liabilities under this Agreement not specified above.
- b. In the event of the termination of this Agreement, the parties agree, if requested by the other party, to execute and deliver to the other party a written termination acknowledgment in a form reasonably satisfactory to both parties.

*[Remainder of page left intentionally blank.]*

**CITY OF NORTHFIELD**

BY: \_\_\_\_\_  
Rhonda Pownell, Mayor

(SEAL)

AND \_\_\_\_\_  
Deb Little, City Clerk

**DEVELOPER: Chester J. Yanik & Associates, Inc.,  
doing business as Yanik Companies**

BY: \_\_\_\_\_  
Chester J. Yanik, Chairman

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF DAKOTA     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Rhonda Pownell and by Deb Little, the Mayor and City Clerk of the City of Northfield, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Chester J. Yanik, the Chairman of Chester J. Yanik & Associates, Inc., doing business as Yanik Companies, a Minnesota corporation, on behalf of the corporation and pursuant to the authority granted by its board of directors.

\_\_\_\_\_  
NOTARY PUBLIC

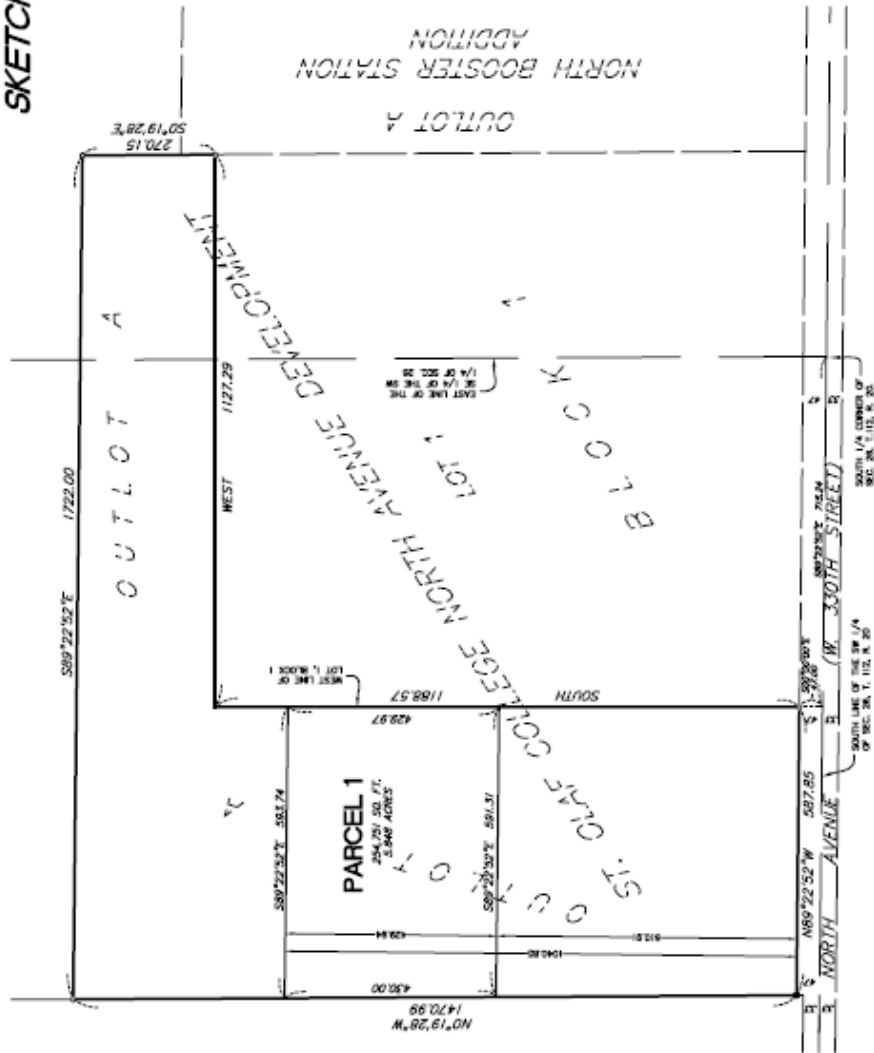
THIS INSTRUMENT WAS DRAFTED BY:  
City of Northfield  
Community Development Department  
801 Washington Street  
Northfield, MN 55057  
507-645-8833

**EXHIBIT A  
TO  
DEVELOPMENT AGREEMENT**

**Legal Description and Depiction of Development Property (Parcel 1) Leased by St. Olaf College to Developer**

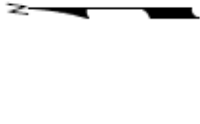
The north 429.94 feet of the south 1040.85 feet of Outlot A, ST. OLAF COLLEGE NORTH AVENUE DEVELOPMENT, according to the recorded plat thereof, Dakota County, Minnesota.

# SKETCH DESCRIPTION OF PARCEL 1



## DESCRIPTION OF PARCEL 1

The north 429.94 feet of the south 1040.85 feet of Outlot A, ST. OLAF COLLEGE NORTH AVENUE DEVELOPMENT, according to the recorded plat thereof, Dakota County, Minnesota.



I hereby certify that this sketch, plan, or report was prepared by me, or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 31st day of January, 2018

SUNDE LAND-SURVEYING, LLC.

By: *Ailee J. Carlson*  
Ailee J. Carlson, P.L.S. Minn. Lic. No. 44900

**SUNDE**  
LAND-SURVEYING

3011 East Burnington Freeway (210) & Suite 118  
Bloomington, Minnesota 55420-3435  
612-881-2655 (Fax) 612-881-8325  
www.sundeinc.com

**FEE OWNER CONSENT  
TO  
DEVELOPMENT AGREEMENT**

St. Olaf College, fee owners of all or part of the subject Development Property, the development of which is governed by the foregoing Development Agreement, affirm and consent to the provisions thereof and agree to be bound by the provisions as the same may apply to that portion of the subject Development Property owned by them.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
\_\_\_\_\_

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, the \_\_\_\_\_ of St. Olaf College.

\_\_\_\_\_  
NOTARY PUBLIC

THIS INSTRUMENT WAS DRAFTED BY:  
City of Northfield  
Community Development Department  
801 Washington Street  
Northfield, MN 55057  
507-645-8833