

(reserved for recording information)

DEVELOPMENT AGREEMENT
THE ARCHER REDEVELOPMENT

AGREEMENT (the “Agreement”) dated _____, 20___, by and between the **CITY OF NORTHFIELD**, a municipal corporation under the laws of the State of Minnesota, with its principal office located at 801 Washington Street, Northfield, MN 55057-2565 (the “City”); and **MANAWA, L.L.C.**, a limited liability company under the laws of the State of Minnesota, with its principal office located at 527 Professional Drive, Northfield, MN 55057 (the “Developer”); (collectively the “parties”).

RECITALS

WHEREAS, the Developer is the fee owner of a parcel of real property located in the City of Northfield, Rice County, Minnesota, with Parcel Identification (PID) No. 22.31.3.50.025, which is legally described in Exhibit A, which is attached hereto and incorporated herein by reference, (the “Development Property”); and

WHEREAS, the Developer proposes a four-story mixed-use development project consisting of approximately 23 multifamily residential units, 19 short-term and extended stay hotel units, 8,554 square feet of ground floor commercial/retail space, 32 stalls of underground parking, a public plaza, publicly accessible restrooms and green building design in compliance with the City’s Sustainable Building Policy,

to be constructed, owned, and operated by the Developer within the TIF District at 212 Division Street in the City (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 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”).

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.** Unless separate written approval has been given by the City, within the Development Property, 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 within the Development Property until all of the following conditions have been satisfied:
 - a. This Agreement has been fully executed by both parties and filed with the City Clerk. This Agreement shall be recorded by the Developer within 60 days following execution hereof;
 - b. The Easement Agreement in the form attached hereto and incorporated by reference as Exhibit B has been fully executed by both parties;
 - c. The Declaration of Covenants, Easement and Agreement for Maintenance of Stormwater Facilities on the City’s standard form has been fully executed by both parties;
 - d. The TIF Assistance Agreement on a form acceptable to the City has been fully executed by both parties;
 - e. The necessary security, if any, has been received by the City;
 - f. A certificate of appropriateness has been approved pursuant to City Code;

- g. The site plan for the project on the Development Property and the plans and specifications for the Improvements related thereto have been approved and signed by the City Engineer with such conditions as required by the City Code;
 - h. The construction plans and other such plans as required by the City have been approved and signed by the City Engineer;
 - i. A certificate of public liability and property damage insurance as described in this Agreement has been filed with the City Clerk; and
 - j. The City Engineer has issued a letter that all conditions have been satisfied and that the Developer may proceed.
2. **CHANGES IN OFFICIAL CONTROLS.** For two (2) years from the date of this Agreement, 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 Project unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Agreement to the contrary, to the full extent permitted by state law, the City may require that any future development of the Development Property comply with any amendments to the City's Comprehensive Plan, official controls, platting, or dedication requirements enacted after the date of this Agreement.
3. **DEVELOPMENT PLANS.** The Project shall be developed in accordance with the following plans where applicable. The plans shall not be attached to this Agreement. If the plans vary from the written terms of this Agreement, the written terms shall control. The plans are:
- a. Plan A – Site Plan
 - b. Plan B - Final Grading, Drainage and Erosion Control Plan
 - c. Plan C - Final Construction Plans and Specifications for Public Improvements
 - d. Plan D - Traffic Signing and Control Plan (for construction and final development)
 - e. Plan E - Stormwater Pollution Prevention Plan
 - f. Plan G - Landscape Plan

- g. Plan H - Utility Plan
- h. Plan I - Riverfront Plaza Enhancements Plan
- i. Plan J - Restrooms Plan

The foregoing plans and specifications shall be prepared by a competent registered professional engineer engaged by the Developer and shall be subject to the City's review and approval. The required Improvements below shall be installed in accordance with the City approved plans for such improvements and the policies, rules, regulations, standards and ordinances of the City. No work shall commence on the Project or the required Improvements until the Developer obtains a building permit for the Project and the Improvements and pays all costs and fees required in connection with the procurement of the building permit.

4. IMPROVEMENTS.

- a. The Developer shall construct and install, at its sole cost and expense and subject to the terms and conditions contained herein, the following public or private improvements (the "Improvements") in compliance with City approved plans and specifications prepared in accordance with all policies, rules, regulations, standards, specifications and ordinances of the City and as shown on the final construction plans and summarized below:
 - i. Surface Water Facilities (pipe, ponds, rain gardens, and similar improvements);
 - ii. Grading, Drainage and Erosion Control;
 - iii. Sidewalks/-Division Street Streetscaping and Public Walkway along southside of property;
 - iv. Riverfront Plaza Enhancements;
 - v. Restrooms Accessible to the General Public;
 - vi. Street Lighting;
 - vii. Utilities (gas, electric, cable, telephone, etc.);
 - viii. Street Signs and Traffic Control Signs;

- ix. Landscaping Required by the Zoning Ordinance (Street trees and tree preservation);
 - x. Surveying and Monuments Required by Minnesota Statutes;
 - xi. Miscellaneous Facilities or other elements defined by the guiding documents;
 - xii. Conditions as approved by City Council in Resolution 2023-098 for a conditional use permit for off-street parking, bike infrastructure and electric vehicle charging infrastructure.
- b. The Improvements shall be constructed and installed in accordance with the latest versions in place at the time of this Agreement of the City Code, zoning ordinance and subdivision regulations, City standard specifications for utilities and street construction, and the City's engineering guidelines and standard detail plates, as applicable. The Developer shall submit plans and specifications that have been prepared by a competent registered professional engineer to the City for approval by the City Engineer
- c. The Developer shall replace or repair any damage or destruction to any property or improvements located on County or City land or in County or City streets, boulevards and rights-of-way, or adjacent private property not owned by Developer, caused by Developer, or its contractors and subcontractors, during the construction of the required Improvements and the Project. Any contaminated soils encountered during the construction of the Improvements and development 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 applicable agency having jurisdiction.
- d. The Developer shall be solely responsible for the costs of constructing the required Improvements. The costs of constructing the Improvements shall include the actual construction costs, the actual engineering, administration and any legal costs related thereto, and all other costs relating to the construction of the Improvements. The

engineering, administration and legal costs shall include the actual outside construction engineering assistance costs and the legal costs.

- e. If this Agreement is terminated for any reason the City shall have no obligation to construct the Project or Improvements.

5. **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 this Agreement.

6. **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), 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:

- NPDES Permit for Stormwater Management
- City of Northfield for Building Permits

7. **TIME OF PERFORMANCE.** Except as otherwise provided in this Agreement, the Developer shall install all required improvements and other work required by this Agreement by December 31, 2026. Any deficiencies in the sidewalk, curb or other improvements in the judgment of the City Engineer must be repaired by the Developer at its own cost. The Developer may, however, request an extension of time from the City.

8. **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 Improvements, as applicable. The license shall expire upon the completion of the Project and acceptance by the City of any public

improvements, as applicable. The City shall thereafter have the right to enter the Property to perform inspections as authorized by City Code.

9. **CONSTRUCTION ACCESS.** Construction traffic access and egress for grading, public utility construction, and street construction is restricted to access the Development Property via a loop system entering on 2nd Street West and south on Division Street South, and exit of 5th Street. No construction traffic is permitted on the adjacent local streets other than identified herein.
10. **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, 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 that all ponds, swales, and ditches have been constructed on public easements or land owned by the City.
11. **EROSION AND SEDIMENT CONTROL.** Prior to initiating site grading, the erosion and sediment control plan shall be implemented by the Developer and 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 Engineer. 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 specifications, if any, 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 Engineer, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work, the City may draw down the letter of credit or any other security required herein to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the Project plans for the Development Property, as applicable, are in full compliance with the approved erosion control plan.

12. 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, as applicable, and to promote the water quality and volume control to the City's stormwater system and water bodies, 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 Declaration of Covenants, Easement and Agreement for Maintenance of Stormwater Facilities on the City's standard form 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.

13. STREET MAINTENANCE DURING CONSTRUCTION AND SIDEWALKS. 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 directing 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. The Developer shall be responsible for keeping streets within and without the subdivision swept clean of dirt and debris that may spill or wash onto the street from 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. The City shall not be responsible for repairing the streets 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 as necessary to sweep within and immediately adjacent to the development. The streets shall include 2nd Street West and Division Street South, along with any adjacent streets, and pedestrian access between the buildings, as determined by the City Engineer. A copy of this contract shall be approved by the City before grading is started, and shall remain in full force and effect until all construction within the Project is completed. When directed to do so by the City, the Developer shall have all streets cleaned of accumulated debris, dirt, and mud. Concrete sidewalks shall be constructed along Division St. S. immediately in front of the Development Property after the concrete curb and gutter and concrete pavement have been placed. The Developer shall close the sidewalk along Division St. S. (in front of the Development Property) in its entirety during construction of the Project. Any sidewalk damaged (severely cracked, broken or spalled) shall be replaced by the Developer at no cost to the City. City staff shall identify those sections of sidewalk to be replaced.

14. **OWNERSHIP OF IMPROVEMENTS.** Upon completion of the work and construction required by this Agreement and acceptance of the public improvements, which for purposes of this agreement are the sidewalk on Division Street in front of the Development Property, by the City, the public

improvements lying within public easements and public rights-of-way shall become City property without further notice or action upon completion and City acceptance thereof.

15. **PARK DEDICATION.** The Developer shall pay a cash contribution of \$25,910.00 in satisfaction of the City's park dedication requirements. The park dedication fee calculation is based on the Estimated Fair Market Value (EFMV) of the Development Property as indicated in the records of the County Assessor's Office that is equivalent to 100 Percent of the gross area of the Development Property subdivided (EFMV x 10%). At the time of Project completion, the Developer shall be reimbursed the above Park Dedication Fee paid by Developer within 30 days following completion of the Riverfront Plaza Enhancements pursuant to the City approved plans and specifications (Exhibit C) and acceptance thereof by the City of the Public Improvements.

16. **SANITARY SEWER AND WATER TRUNK UTILITY CHARGES.** The Developer is subject to sanitary sewer and water access/availability area charges for the Development Property. The sanitary sewer and water access/availability area charges are as follows:

- a. Sanitary Sewer Availability Charge: The developer shall pay a sanitary sewer availability charge of \$13,254.00. The area charge is based on the number of units in the Project, which exceeds the number of units that were in the hotel previously located on the Development Property, and is calculated as follows: 6 units x \$2,209.00/unit = \$13,254.00.
- b. Water Availability Charge: The Developer shall pay a watermain availability charge of \$5,790.00. The access charge is based on the number of units in the Project, which exceeds the number of units that were in the hotel previously located on the Development Property, and is calculated as follows: 6 units x \$965.00/unit = \$5,790.00.

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.

17. **WETLAND MITIGATION.** No wetland mitigation is planned for the Project 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.

18. **BUILDING PERMITS/CERTIFICATES OF OCCUPANCY.**

- a. Sidewalk and all other public improvements shall be installed prior to issuance of any building permits. No Certificate of Occupancy will be issued until the grading, curbing, sidewalk and all other improvements listed in Section 4 a. is installed in accordance with approved plans. If improvements related to Riverfront Plaza and landscaping cannot be completed in accordance with the approved plans prior to the time for issuance of a Certificate of Occupancy, the Developer shall deposit cash escrow with the City in the amount of 125% of the estimated cost of the remaining improvements prior to issuance of a Certificate of Occupancy, as security for the City to complete the improvements in the event that the Developer does not timely complete the improvements. In such case, the estimated cost of the remaining improvements shall be determined in the reasonable discretion of the Developer's general contractor subject to approval thereof by the City Engineer. The City has no obligation to complete any improvements in the event the Developer fails to perform and the City may choose which improvements, if any, to complete using the escrowed funds in the City's discretion. Breach 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, not issuing Certificates of Occupancy, and the halting of all work on the Development Property.

19. **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 or 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 or as otherwise approved in writing by the City Engineer.
- c. The City Engineer 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 rights-of-way or within drainage and utility easements.
- d. If any conditions set forth in this Agreement conflict with the City's utility franchise agreements, the franchise agreements shall in all cases prevail.

20. 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, the grading and development of the Development Property and the construction of the Improvements required by 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 Development Property, as applicable; all Response Action Plans, traffic studies, environmental assessments and/or engineering and other studies and reports; all permits and approvals; and all City's costs incurred pertaining to the inspection and monitoring of the work performed in connection with approval and acceptance of the Project and the construction of the Improvements and the other work done and improvements constructed on the Development Property or otherwise related to the Project.
- 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 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 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. The Developer shall reimburse the City for reasonable costs incurred in the enforcement of this Agreement, including engineering and attorneys' fees.
- e. 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 Agreement. 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 Development Property, or any part of it.
- f. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Agreement within 30 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, the City may draw on the Security or alternatively

declare the same an event of default, and the City may thereafter assess and 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. Bills not paid within sixty (60) days shall accrue interest at the rate of eight percent (8%) per year.

- g. 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, which shall be paid by Developer.

21. SPECIAL PROVISIONS. The following special provisions shall apply:

- a. The Developer shall have all required MPCA stormwater permits approved prior to beginning any installation of public improvements.
- b. The Developer shall complete the Riverfront Plaza Enhancements in accordance with the City approved plans in Exhibit C.
- c. The Developer shall provide for Restrooms accessible to the general public on the Development Property as part of the Project in accordance with and consistent with this paragraph (the "Restrooms"). The Restrooms shall include the following: (a) at all times maintained in a good and sanitary condition; (b) provide clear signage noting availability of public restrooms for both Division Street and riverfront entrances as approved by the City Planner. Public Restrooms off Division Street shall include the following: a) be open daily from 8:00 am until 10:00 pm; (b) construct a men's, women's, and family/gender neutral Restroom units. The family/gender neutral Restroom shall have an adult changing table, and the Restroom with the adult changing table must adhere to the design standards passed into state law on May 24, 2023. The men's Restroom unit must include one (1) stall, one urinal, and an infant/toddler changing table. The women's Restroom unit must have three (3) stalls and include an infant/toddler changing table. Public Restrooms off the riverfront entrance

shall be open daily at a minimum from 7:00 am until 11:00 pm. Restrooms off the riverfront entrance shall include the following: (a) contain at least two (2) all gender individual single Restrooms, one of which is ADA compliant. The ADA compliant Restroom off the riverfront entrance, shall include an adult changing table. The Restroom with the adult changing table must adhere to the design standards passed into state law on May 24, 2023. All liability, costs and expenses of any kind or nature related to the Restrooms or use thereof by the general public or otherwise shall be the Developer's and its successors and assigns, and this provision shall run with the Development Property. The Developer shall defend, indemnify, insure and hold harmless the City and its elected officials, employees, and agents from any and all claims related thereto, except those resulting from the negligence or willful misconduct of the City.

- d. The Developer shall comply with all conditions as approved by City Council in Resolution 2023-098 for a conditional use permit for off-street parking, bike infrastructure and electric vehicle charging infrastructure.
- e. The Developer must obtain approval of a Site Plan as provided by current City Code and complete the required plan review and approval thereof, as applicable.

22. MISCELLANEOUS.

- a. The Developer may not assign this Agreement 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 any part of the Development Property.
- b. As applicable, in compliance with the Response Action Plan approved by the MPCA for the Development Property, the Developer shall remove and properly dispose of any environmental contamination within the Development Property.
- c. Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design engineer shall be filed with the City Engineer evidencing that the retaining wall was constructed in

accordance with the approved plans and specifications. All retaining walls identified on the development plans or by special conditions referred to in this Agreement shall be constructed before any other building permit is issued for a lot on which a retaining wall is required to be built.

- d. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the Project is completed and the City has accepted the public improvements, liability and property damage insurance covering bodily 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 \$1,000,000 for each occurrence. 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 authorizing the commencement of work on the public and private improvements specified in this Agreement. The certificate shall provide that the City must be given thirty (30) days advance written notice of the cancellation of the insurance.
- e. Third parties shall have no recourse against the City or Developer under this Agreement.
- f. 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.
- g. 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. The City's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.
- h. This Agreement shall run with the land and shall be binding upon Developer and its successors and assigns.

- i. This Agreement will be recorded against the title to the Development Property within 60 days following execution hereof.
- j. The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the Development Property and/or has obtained consents to this Agreement, in the form attached hereto, from all parties who have an interest in the Development Property; that there are no unrecorded interests in the Development Property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.
- k. 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.
- l. The Developer agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the development of the Development Property and Improvements.
- m. The City's approval of this Agreement does not include approval of building permits for any structures to be constructed within the Development Property. The Developer must submit and the City approve building plans prior to the issuance of building permits for structures within the Development Property.

23. **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. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part for collection with the property taxes on the Development Property;

- 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 improvements until such time as the event of default is cured;
- e. Withhold the issuance of a building permit or permits or certificates 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;
- f. Draw upon and utilize the Security to cover the City's costs to correct the default, the costs to complete any unfinished Project Improvements and/or the costs to enforce this Agreement; or
- g. 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 attorney's fees, incurred by the City as a result of the event of default, whether or not a lawsuit or other action is formally taken.

24. SUMMARY OF CASH REQUIREMENTS. The following is a summary of the cash requirements under this Agreement which must be furnished at the time of approval of this Agreement, as applicable. The Developer shall not proceed with any Improvements until these cash requirements have been paid to the City:

Park Dedication	\$25,910.00
Sanitary Sewer Availability Charge	\$13,254.00
Water Availability Charge	\$5,790.00

TOTAL CASH REQUIREMENTS

\$44,954.00

25. **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: 527 Professional Drive, Northfield, MN 55057. 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 55057-2565.
26. **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, as follows:
- a. **Definition of Construction Area.** The limits of the Project Area 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.
 - 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 between 7 a.m. and 7 p.m. on weekdays; 8 a.m. and 5 p.m. on Saturdays and Sundays; and additional work outside of these hours can be determined at the discretion of the City's Building Official.
 - 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.

27. **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 adoption of a resolution by the City Council finding that the Developer has fully complied with all the terms of this Agreement and finding that the Developer has completed performance of all Developer's duties mandated by this Agreement, the City shall issue to the Developer on behalf of the City an appropriate Certificate of Compliance/Completion. Upon issuance of the Certificate of Compliance/Completion by the City, this Agreement shall terminate.

28. **TERMINATION; CONDITIONS PRECEDENT.**

a. If Developer fails to record this Agreement in the office of the Rice County Recorder, as applicable and as provided herein, within one (1) year after approval of this Agreement, as applicable, by the City Council, this Agreement shall terminate, subject to the following:

- i. All costs, fees and other amounts previously paid to the City in connection with the Project Improvements, this Agreement and the Project 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;
and
- iv. The parties shall be released from all other obligations and liabilities under this Agreement not specified above.

- b. The City shall have no obligation to construct the Improvements and Developer shall have no right to construct the Improvements or construct the Project on the Development Property unless the Developer records this Agreement in the office of the Rice County Recorder as required herein within one (1) year after approval by the City Council.
- c. 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.
- d. Developer's right to construct the Improvements is contingent upon Developer obtaining a building permit from the City following submission of a complete and valid application for the same. Nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, for Developer to commence the development of the Development Property as set forth herein.

29. **ADOPTED BY REFERENCE.** The provisions of the City's Code, Chapter 34 are hereby adopted by reference in their entirety, unless specifically excepted, modified, or varied by the terms of this Agreement, as applicable. In the event that a provision of this Agreement is inconsistent with or in conflict with the City's Code, the City Code shall govern.

[Remainder of page left intentionally blank.]

CITY OF NORTHFIELD

BY: _____
Rhonda Pownell, Its Mayor

(SEAL)

AND _____
Lynette Peterson, Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RICE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Rhonda Pownell and by Lynette Peterson, 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

THIS INSTRUMENT WAS DRAFTED BY:

City of Northfield
Community Development Department
Northfield City Hall
801 Washington Street
Northfield, MN 55057
507-645-8833

**MORTGAGEE CONSENT
TO
DEVELOPMENT AGREEMENT**

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

Dated this ____ day of _____, 20____.

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2____, by _____.

NOTARY PUBLIC

THIS INSTRUMENT WAS DRAFTED BY:

City of Northfield
Community Development Department
Northfield City Hall
801 Washington Street
Northfield, MN 55057
507-645-8833

**EXHIBIT A
TO
DEVELOPMENT AGREEMENT**

Legal Description of Development Property

That part of River Lots 10 and 11 and the Northeast 35.5 feet of River Lot 9, (the Southwesterly boundary of said Northeast 35.5 feet is measured at right angles to and parallel with the common boundary line between River Lots 9 and 10); and the Southwest 2.5 feet of River Lot 12 (the Northeasterly boundary of which is measured at right angles to and parallel with the common boundary line between River Lots 11 and 12), all in the ORIGINAL TOWN (NOW CITY) OF NORTHFIELD, Rice County, Minnesota, lying Southeasterly of the following described lines: Commencing at the Southeasterly corner of said Northeast 35.5 feet of River Lot 9; thence North 67 degrees 37 minutes 00 seconds West; along the Southwesterly line of said Northeast 35.5 feet of River Lot 9, a distance of 133.99 feet to the point of beginning of the lines to be described; thence North 20 degrees 27 minutes 36 seconds East a distance of 167.60 feet; thence North 21 degrees 06 minutes 05 seconds East a distance of 2.50 feet to a point on the Northeasterly line of said Southwest 2.5 feet of River Lot 12, distant 139.45 feet Northwesterly from the Northeasterly corner of said Southwest 2.5 feet and there terminating.

**EXHIBIT B
TO
DEVELOPMENT AGREEMENT

EASEMENT AGREEMENT**

(Do not write in the space above. Reserved for recording/transfer data)

PERMANENT PUBLIC USE EASEMENT

This Agreement is made as of the ____ day of _____, 20__ by and between Manawa, L.L.C., a limited liability company organized under the laws of the State of Minnesota, with its principal office located at 527 Professional Drive, Northfield, MN, referred to hereinafter as “Grantor”, and the City of Northfield, a municipal corporation under the laws of the State of Minnesota, 801 Washington Street, Northfield, MN 55057-2565, referred to hereinafter as “Grantee” or “City”; (collectively referred to herein as the “parties”).

RECITALS

WHEREAS, Grantor is the owner of a of a parcel of real property located in the City of Northfield, Rice County, Minnesota, with Parcel Identification (PID) No. 22.31.3.50.025, legally described in Exhibit A, which is attached hereto and incorporated herein by reference (the “Grantor Property”); and

WHEREAS, Grantee is the owner of certain public right-of way adjacent to the Grantor Property and located southerly of the Cannon River and northerly of the Grantor Property (the “City Riverwalk ROW”); and

WHEREAS, Grantor intends to construct, own and operate on the Grantor Property a four-story mixed-use development project consisting of approximately 23 multifamily residential units, 19 short-term and extended stay hotel units, 8,554 square feet of ground floor commercial/retail space, 32 stalls of underground parking, a public plaza, publicly accessible restrooms and green building design in compliance with the City’s Sustainable Building Policy (the “Project”); and

WHEREAS, Grantor and Grantee have entered into a Development Agreement dated _____, 20__ providing certain terms and conditions for Grantor’s construction and operation of the Project (the “Development Agreement”); and

WHEREAS, Grantor shall construct, operate, maintain, repair, and replace as needed or as required by the Grantee, a riverfront public plaza as part of the Project (the “Riverfront Plaza”) on the Grantor Property for use by Project residents, patrons and guests, as well as the general public, all in accordance with City approved plans and specifications, and all in accordance with applicable provisions of the City Code, this Agreement, the Development Agreement, and applicable law and regulations; and

WHEREAS, Grantor desires to construct, operate, maintain, repair, and replace as needed or as required by the Grantee, the Riverfront Plaza within a portion of the Grantor Property at Grantor's sole cost and expense as Grantor improvements; and

WHEREAS, Grantee desires an easement for public access and use purposes of the Riverfront Plaza over, under and across that portion of the Grantor Property legally described in Exhibit B and depicted in Exhibit C, which are attached hereto and incorporated by reference (the "Permanent Easement Area"); and

WHEREAS, Grantee has requested Grantor to grant a permanent easement over, under and across the Permanent Easement Area for the above-stated purposes in exchange for Grantee's approval of the Project to be constructed by the Grantor on the Grantor Property; and

WHEREAS, Grantor is willing to grant such a permanent easement over, under and across the Permanent Easement Area for the above-stated purposes subject to, the terms and provisions hereinafter set forth.

AGREEMENT

That for and in consideration of the mutual benefits to be derived therefrom and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. The undersigned Grantor hereby grants and conveys to the Grantee a Permanent Easement, free and clear of all encumbrances, for public use and access purposes (the "Permanent Easement"), over, under and across the Permanent Easement Area legally described in Exhibit B. Subject to applicable law, City Code, and Grantee's easement rights set forth in this Agreement, notwithstanding any other terms of this Agreement to the contrary, the Grantor and/or its tenant(s) shall retain the following rights over, under and across the Permanent Easement Area: (a) the right to erect and place structures on the Permanent Easement Area so long as those structures are not inconsistent with the Grantee's easement rights set forth in this Agreement; (b) the right to conduct commerce and locate businesses within the Permanent Easement Area, including but not necessarily limited to dining establishments, patios with tables and chairs and other furniture, food trucks, coffee shops, and other commercial vendors; (c) the right to host occasional private gatherings, including but not necessarily limited to weddings and catered events, on all or a portion of the Permanent Easement Area in which case the Grantor and/or its tenant(s) shall be authorized to restrict the necessary area within the Permanent Easement Area for private use for such event; and (d) the right to make any other use and take any other action over, under and across the Permanent Easement Area, which is not inconsistent with the Grantee's easement rights set forth in this Agreement.
2. The Permanent Easement Area is depicted on the schematic attached hereto as Exhibit C.
3. The Grantor states and hereby covenants that the Grantor is the lawful owner of the above-described Grantor Property, is lawfully seized and possessed of said Grantor Property, and that the Grantor has good and lawful right to grant the Permanent Easement described herein.

4. The Grantor shall, at its sole cost and expense, construct, excavate, grade, inspect, install, remove, demolish, operate, maintain, place, replace, reconstruct, improve, enlarge and/or repair (collectively, the “work”), as it may find reasonably necessary, or as directed by the Grantee, and pursuant to City approved plans and specifications, the Riverfront Plaza improvements in the designated Permanent Easement Area and Grantor Property, subject to the following:
 - a. Grantor shall commence no work authorized by this Agreement until it has obtained all approvals and permits as required by Grantee.
 - b. Grantor shall submit all relevant plans and specifications for the Riverfront Plaza improvements and all future material repairs, alterations, improvements, and replacement work to the City Engineer for approval, which approval shall not be unreasonably withheld, conditioned or delayed. For purposes of this Agreement “material repairs, alterations, improvements, and replacement work” shall include such work having an estimated cost of \$25,000 or more.
 - c. Any Grantor work authorized by this Agreement and performed by Grantor or Grantor’s agents or employees and all improvements related thereto shall be performed in a good and workmanlike manner pursuant to sound engineering practices and shall comply with all applicable governmental requirements, City Code, the approved specifications for the Riverfront Plaza improvements, the Development Agreement, this Agreement, and applicable law and regulations.
 - d. Grantor shall take all necessary and reasonable precautions to avoid creating unsafe or unsanitary conditions within the Permanent Easement Area and shall not unreasonably hinder the free access and use thereof by the general public.
 - e. Grantor shall conduct any work authorized by the Grantee in a manner so as to ensure the least obstruction to and interference with present and continued use of the Permanent Easement Area by the Grantee and general public for public purposes stated herein and Grantor shall return the Permanent Easement Area, except for the changes authorized hereby, to substantially the same condition and public access and uses thereof following completion of such authorized work at Grantor’s sole cost and expense.
 - f. Grantor shall receive no compensation or reimbursement from the City for either: i) City’s or general public uses of the Riverfront Plaza and Permanent Easement Area authorized herein; or ii) Grantor’s performing any work of, to, under or upon the Riverfront Plaza and Permanent Easement Area, or any other costs incurred by Grantor related to this Agreement of any kind or nature whatsoever, unless otherwise agreed to in a separate writing or amendment to this Agreement signed by the parties hereto.
 - g. Grantor shall notify Gopher State One Call prior to conducting any excavation within the Permanent Easement Area and comply with the requirements thereof.
 - h. Grantee may order the immediate cessation of any work that exceeds the scope of the work described herein or otherwise poses a threat to the life, health, safety or welfare of the public. Grantee may also order Grantor to correct any work or condition of the Riverfront

Plaza within the Permanent Easement Area to comply with this Agreement, the Development Agreement, the approved plans and specifications for the Riverfront Plaza, City Code, or other applicable standards, conditions, ordinances, laws or regulations.

- i. If, as a result of inspection by the City, the Riverfront Plaza improvements, or any portion thereof, are determined by the City Engineer not to be in Compliance with the City approved plans and specifications for the Riverfront Plaza, this Agreement, the Development Agreement, or applicable law, regulations and/or the City Code, as amended, Grantor shall undertake and complete such work, as necessary, or as required by the City Engineer, in the time specified by the City Engineer in the Grantee's written notice thereof to Grantor, to the Riverfront Plaza improvements, or any portion thereof, to make repairs and/or replacements thereof at Grantor's sole cost and expense. If Grantor fails to timely take the corrective actions/work required by the City and complete the same to the City Engineer's reasonable satisfaction, the Grantee may undertake and perform the corrective actions/work within the Permanent Easement Area and invoice Grantor for the same. Grantor shall reimburse the Grantee within thirty (30) days after receipt of an invoice from the Grantee for any and all costs incurred by the Grantee in connection with all work completed by the Grantee to bring the Riverfront Plaza improvements into compliance herewith. If Grantor does not timely reimburse the Grantee, the Grantee may recover its costs by levying a special assessment against the Grantor Property and certifying the same to the Rice County Auditor for collection in the same manner as property taxes. The Grantee or its contracted agent has the right to undertake and perform such corrective work, but does not have a duty or obligation to undertake or perform such work.
 - j. Grantee shall take all necessary and reasonable precautions to protect and preserve the Permanent Easement during any Grantee activities/work within or use of the Permanent Easement Area as contemplated in this Agreement.
5. Grantee and its employees, agents, permittees and licensees shall have the right of ingress and egress to and from the Permanent Easement Area at all times and without notice to Grantor by such route, in the judgment of the Grantee, as shall occasion the least practical damage and inconvenience to the Grantor, together with the right, but not the duty or obligation, to undertake and complete work on the Riverfront Plaza and related improvements in the event that Grantor fails to timely perform such work on the Riverfront Plaza and related improvements in compliance with applicable City Code, the approved specifications for the Riverfront Plaza improvements, the Development Agreement, this Agreement, or law, as authorized and directed by the Grantee.
6. The Grantee shall have the right, but not the obligation or duty, to trim, remove and keep the Permanent Easement Area clear of all buildings, structures, roots, shrubbery, trees, bushes, undergrowth and all other obstructions that may interfere with or endanger the Grantee's exercise of any of the rights pursuant to this Agreement.
7. The Grantor shall not erect, construct or locate in the Permanent Easement Area any new structure or object which would prevent the Grantee's reasonable access to the Permanent Easement Area or prevent the public's full enjoyment of the rights granted hereunder, without the written consent of the Grantee.

8. The Grantor shall pay all costs incurred by the Grantee in connection with the Grantee's exercise of any of the Grantee's rights related to work performed by Grantee within the Permanent Easement Area pursuant to this Agreement. The Grantor shall pay all such costs within thirty (30) days of invoicing from the Grantee. If Grantor fails to timely pay such costs, the Grantee may assess the costs and certify the same to the County Auditor for collection in like manner as property taxes on the Grantor Property.
9. The Grantor shall restore any and all disturbed areas within the Permanent Easement Area back to as close to original condition of the approved specifications for the Riverfront Plaza improvements or such alterations as later approved by the City, in Grantee's judgment, is reasonably practicable given the rights granted hereunder.
10. Grantor shall defend, indemnify and hold harmless Grantee, its officials, employees and agents, from and against any and all claims and demands for, or litigation with respect to, all damages, which may arise out of this Agreement or use of the Riverfront Plaza caused by the Grantor, including but not limited to any act or work authorized by this Agreement and performed by Grantor. This indemnification and hold harmless obligation shall include expenses, reasonable attorneys' fees, and costs of alternative dispute resolution. The indemnification provision of this Paragraph shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the Grantee. All indemnification obligations shall survive termination, expiration or cancellation of this Permanent Easement Agreement.
11. Grantor knows, understands and acknowledges the risks and hazards associated with the use of the Riverfront Plaza improvements within the Permanent Easement Area for the purposes permitted herein and the work and improvements thereon and hereby assumes any and all risks and hazards associated therewith. Grantor understands and acknowledges that the primary purposes of the Permanent Easement, notwithstanding this Agreement, are to allow the general public to access and use the Riverfront Plaza improvements, which may require regular maintenance, repairs or other work for the benefit of the public. Grantor hereby irrevocably waives any and all claims against Grantee or any of Grantee's officials, employees or agents for any bodily injury (including death), loss or property damage incurred by Grantor as a result of the use of the Permanent Easement Area authorized in this Agreement, or any of Grantor's activities, work, or improvements, and hereby irrevocably releases and discharges the Grantee and any of Grantee's officials, employees or agents from any and all such claims of liability related to the Riverfront Plaza improvements and use, or the work conducted within the Permanent Easement Area by Grantor or Grantee or any other third party, except those resulting from the negligence or intentional misconduct of the Grantee.
12. Grantor shall at its expense obtain and maintain in effect during the term hereof a commercial general liability policy or policies, with coverage on a primary and non-contributory basis, covering Grantor's indemnification obligations herein in an amount not less than the greater of: a) the maximum amount for municipal liability as provided in Minnesota Statutes, section 466.04, as amended; or 2) \$2,000,000.00 per occurrence and \$4,000,000 annual aggregate, covering bodily injury to one or more persons and property damage within the Permanent Easement Area. Such policy or policies shall be issued by an insurer licensed and qualified to do business in the State of Minnesota. The policy or policies shall name the City, as well Grantor in the event work is contracted, as an additional insured. Upon request, Grantor shall provide to the City Clerk a certificate of insurance evidencing the existence and amounts of such insurance.

13. Grantor shall retain all rights arising out of ownership of the Grantor Property, provided the exercise of such rights does not interfere with or impede the rights granted hereunder, without the written consent of the City.
14. Grantor expressly acknowledges and agrees that Grantee makes no representations or warranties regarding the Riverfront Plaza improvements and shall not be liable for Grantor's compliance with applicable laws in relation to this Agreement or the Riverfront Plaza. The Grantee does not warrant that the Permanent Easement Area is suitable for the purposes for which it is permitted to be used under this Agreement. Grantee shall have no responsibility with regard to any failure of or damage to Grantor's Riverfront Plaza improvements or otherwise by virtue of this Agreement.
15. If any action at law or in equity shall be brought by Grantee on account of any breach of this Agreement by Grantor, Grantee shall be entitled to recover from Grantor reasonable attorney's fees, the amount of which shall be fixed by the Court and shall be made a part of any judgment or decree rendered.
16. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.
17. This Permanent Easement shall be recorded by the Grantor as soon as practicable following its full execution by the parties.
18. Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representative of the parties.
19. Nothing contained in this Agreement shall be interpreted as creating a partnership, joint venture, or relationship of principal and agent between the parties.
20. Except as otherwise expressly stated herein, no right or remedy herein conferred on or reserved to the parties is intended to be exclusive of any other right or remedy hereby provided by law, but each shall be cumulative in, and in addition to, every other right or remedy given herein or hereafter existing at law, in equity, or by statute.
21. Grantor shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement, the Riverfront Plaza, or the facilities, improvements, personal property, programs and staff for which Grantor is responsible.
22. This Agreement shall be deemed to have been made and accepted in Rice County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Agreement without regard to its choice of law or conflict of laws principles.
23. The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01, et. seq.

24. Any party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving party.
25. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
26. These terms and conditions constitute the entire agreement between the parties regarding the subject matter hereof, except that if there is a conflict between the terms of this Agreement and the Development Agreement, the Development Agreement shall prevail. All discussions and negotiations are deemed merged in this Agreement.
27. Grantor and Grantee agree to correct any legal descriptions contained herein if there is a mistake discovered, including any mistakes or discrepancies revealed by an accurate survey of the property identified herein, and to accordingly replace the corresponding corrected exhibit herein, as applicable.
28. The recitals hereto are made a part hereof and incorporated herein by reference.

[Remainder of page intentionally left blank.]

GRANTEE:

CITY OF NORTHFIELD, MINNESOTA

By: _____
_____, Its Mayor

ATTEST:

By: _____
Lynette Peterson, Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RICE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as Mayor and Lynette Peterson as City Clerk on behalf of the City of Northfield, a municipal corporation under the laws of the State of Minnesota, Grantee.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

FLAHERTY & HOOD, P.A,
525 Park Street, Suite 470
St. Paul, MN 55103
(651) 225-8840

EXHIBIT A TO EASEMENT AGREEMENT

LEGAL DESCRIPTION OF GRANTOR PROPERTY

The Grantor Property referenced in this Permanent Easement is legally described as follows:

LEGAL DESCRIPTION:

That part of River Lots 10 and 11 and the Northeast 35.5 feet of River Lot 9, (the Southwesterly boundary of said Northeast 35.5 feet is measured at right angles to and parallel with the common boundary line between River Lots 9 and 10); and the Southwest 2.5 feet of River Lot 12 (the Northeasterly boundary of which is measured at right angles to and parallel with the common boundary line between River Lots 11 and 12), all in the ORIGINAL TOWN (NOW CITY) OF NORTHFIELD, Rice County, Minnesota, lying Southeasterly of the following described lines: Commencing at the Southeasterly corner of said Northeast 35.5 feet of River Lot 9; thence North 67 degrees 37 minutes 00 seconds West; along the Southwesterly line of said Northeast 35.5 feet of River Lot 9, a distance of 133.99 feet to the point of beginning of the lines to be described; thence North 20 degrees 27 minutes 36 seconds East a distance of 167.60 feet; thence North 21 degrees 06 minutes 05 seconds East a distance of 2.50 feet to a point on the Northeasterly line of said Southwest 2.5 feet of River Lot 12, distant 139.45 feet Northwesterly from the Northeasterly corner of said Southwest 2.5 feet and there terminating.

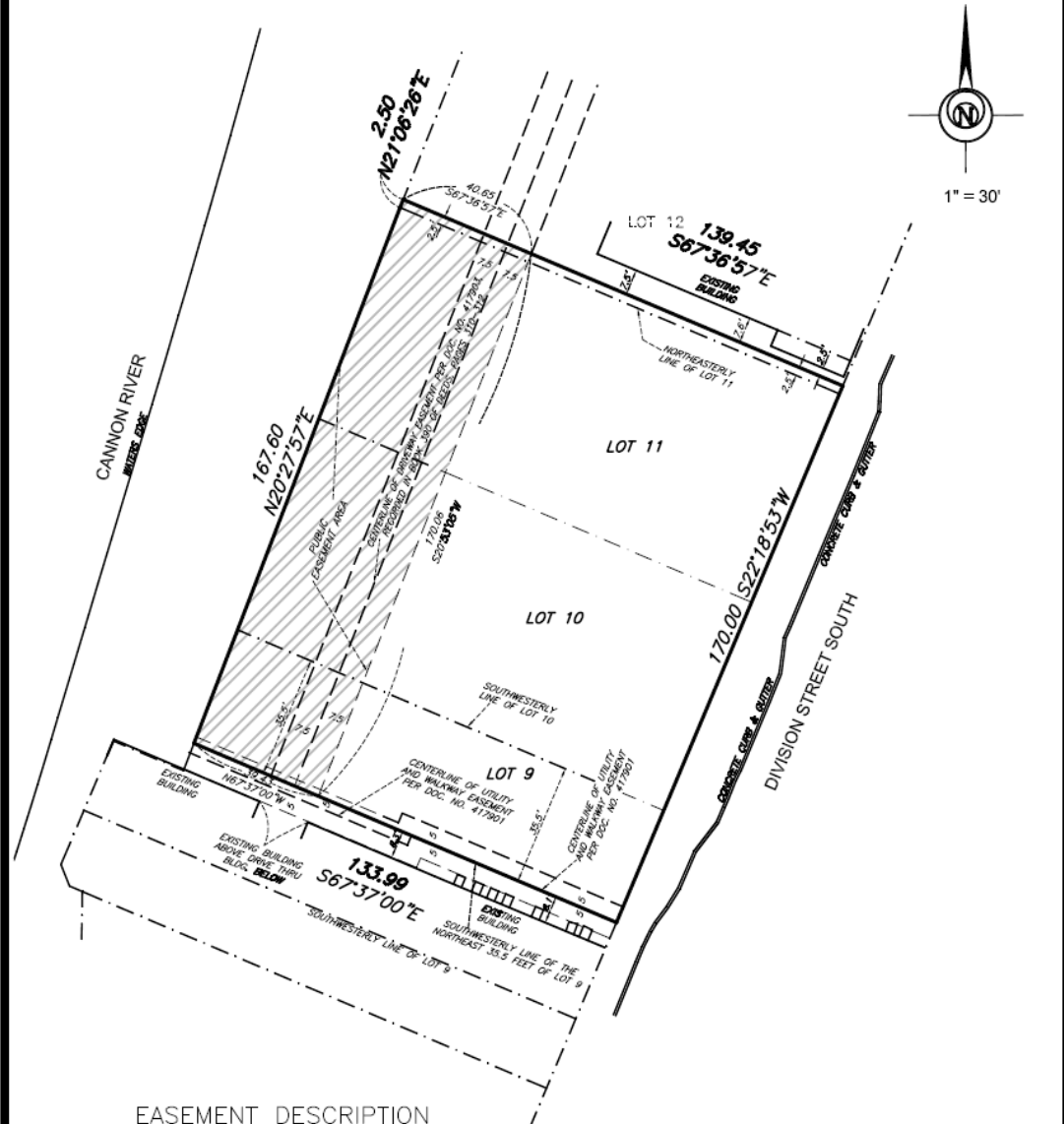
EXHIBIT B TO EASEMENT AGREEMENT

LEGAL DESCRIPTION OF PERMANENT EASEMENT AREA

LEGAL DESCRIPTION:

Commencing at the Southeasterly corner of said Northeast 35.5 feet of River Lot 9; thence North 67 degrees 37 minutes 00 seconds West, along the Southwesterly line of said Northeast 35.5 feet of River Lot 9, a distance of 133.99 feet to the point of beginning of the easement to be described; thence North 20 degrees 27 minutes 36 seconds East, a distance of 167.60 feet; thence North 21 degrees 06 minutes 05 seconds East, a distance of 2.50 feet to a point on the Northeasterly line of said Southwest 2.5 feet of River Lot 12, distant 139.45 feet Northwesterly from the Northeasterly corner of said Southwest 2.5 feet; thence South 67 degrees 36 minutes 57 seconds East, along said Northeasterly line a distance of 40.65 feet; thence South 20 degrees 53 minutes 05 seconds West, a distance of 170.06 feet to the Southwesterly line of the Northeast 35.50 feet of said Lot 9; thence North 67 degrees 37 minutes 00 seconds West, along said Southwesterly line, a distance of 39.43 feet to the point of beginning.

EXHIBIT C TO EASEMENT AGREEMENT
DEPICTION OF PERMANENT EASEMENT AREA



EASEMENT DESCRIPTION

An easement for public purposes over and across that part of the following described property:

That part of River Lots 10 and 11 and the Northeast 35.5 feet of River Lot 9, (the Southwesterly boundary of said Northeast 35.5 feet is measured at right angles to and parallel with the common boundary line between River Lots 9 and 10); and the Southwest 2.5 feet of River Lot 12 (the Northeastly boundary of which is measured at right angles to and parallel with the common boundary line between River Lots 11 and 12), all in the ORIGINAL TOWN (NOW CITY) OF NORTHFIELD, Rice County, Minnesota, lying Southeastly of the following described lines: Commencing at the Southeastly corner of said Northeast 35.5 feet of River Lot 9; thence North 67 degrees 37 minutes 00 seconds West, along the Southwesterly line of said Northeast 35.5 feet of River Lot 9, a distance of 133.99 feet to the point of beginning of the lines to be described; thence North 20 degrees 27 minutes 36 seconds East, a distance of 167.60 feet; thence North 21 degrees 06 minutes 05 seconds East, a distance of 2.50 feet to a point on the Northeastly line of said Southwest 2.5 feet of River Lot 12, distant 139.45 feet Northwestly from the Northeastly corner of said Southwest 2.5 feet and there terminating.

Said easement is described as follows:

Commencing at the Southeastly corner of said Northeast 35.5 feet of River Lot 9; thence North 67 degrees 37 minutes 00 seconds West, along the Southwesterly line of said Northeast 35.5 feet of River Lot 9, a distance of 133.99 feet to the point of beginning of the easement to be described; thence North 20 degrees 27 minutes 36 seconds East, a distance of 167.60 feet; thence North 21 degrees 06 minutes 05 seconds East, a distance of 2.50 feet to a point on the Northeastly line of said Southwest 2.5 feet of River Lot 12, distant 139.45 feet Northwestly from the Northeastly corner of said Southwest 2.5 feet; thence South 67 degrees 36 minutes 57 seconds East, along said Northeastly line a distance of 40.65 feet; thence South 20 degrees 53 minutes 05 seconds West, a distance of 170.06 feet to the Southwesterly line of the Northeast 35.50 feet of said Lot 9; thence North 67 degrees 37 minutes 00 seconds West, along said Southwesterly line, a distance of 39.43 feet to the point of beginning.

**Bohlen
Surveying & Associates**

31432 Foliage Avenue
Northfield, MN 55057
Phone: (507) 645-7768
tom@bohlsurveying.com

1682 Cliff Road E.
Burnsville, MN 55337
Phone: (952) 895-9212
Fax: (952) 895-8259

I HEREBY CERTIFY THAT THIS SURVEY 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.

DATE: 1-29-24

THOMAS J. O'MEARA, LAND SURVEYOR
MINNESOTA LICENSE NO. 46167

**EXHIBIT C
TO
DEVELOPMENT AGREEMENT
RIVERFRONT PLAZA ENHANCEMENTS PLAN**