

(reserved for recording information)

DEVELOPMENT AGREEMENT

(Developer Installed Improvements)

SPRING CREEK TOWNHOMES 2ND ADDITION

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 Spring Creek II Townhomes LP, a limited partnership under the laws of the State of Minnesota, 1414 N Star Drive, Zumbrota, MN 55992, (the “Developer”); (collectively the “parties”).

RECITALS

WHEREAS, the Developer is, commensurate with the execution hereof, the fee owner of a parcel of real property located in the City of Northfield, Rice County, Minnesota, which is legally described in Exhibit A, which is attached hereto and incorporated herein by reference, (the “Development Property”); and

WHEREAS, the Developer has requested and received approval by the City of a Final Plat for Spring Creek Townhomes 2nd Addition (referred to herein as the “plat”); and

WHEREAS, the Developer proposes a project consisting of two enumerated lots consisting of a 32-unit rental housing facility to be occupied or available for occupancy by persons meeting certain income limitations, and associated public improvements on the Development Property including but not limited to street improvements,

sanitary sewer, water main, stormwater management facilities, a trail along Spring Creek consistent with the City's Walking and Biking Plan, other sidewalk and trails, grading and erosion control facilities and other improvements (the "Project"); and

WHEREAS, the City and the Developer have entered into a Tax Increment Financing (TIF) Assistance Agreement, dated _____, 20____, providing certain tax increment financing assistance for the Project; and

WHEREAS, the Housing and Redevelopment Authority in and for the City of Northfield (the "HRA") and the Developer have entered into a Purchase Agreement, dated _____, 20____, providing for sale of the Development Property from the HRA to Developer; 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. REQUEST FOR PLAT APPROVAL. The Developer has sought and received Final Plat approval for Spring Creek Townhomes 2nd Addition (referred to in this Agreement as the "plat"). The platted land is situated in the County of Rice, State of Minnesota. The Developer is seeking to develop the plat, the Development Property, for the purpose stated above.

2. CONDITIONS OF PLAT APPROVAL. The City has approved the plat on the condition that the Developer enter into this Agreement, furnishes the security required by it, records the plat with the County Recorder or Registrar of Titles within six months after the City Council approves the Final Plat, and submits evidence of recording the plat to the City within 60 days after the date of recording.

3. 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; b) the necessary security has been received by the City; c) the plat has been recorded with the Rice County Recorder's Office; d) the Plans (defined below) for the Project attached hereto as Exhibit D have been approved and signed by the City Engineer; e) a certificate of public liability and property damage insurance as described in this Agreement has been filed with the City; f) 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; and g) the site plan for the project on the Development Property has been approved and signed by the City Engineer with such conditions as required by the City Code.

4. FURTHER SUBDIVISION. The City may refuse to approve further subdivision within the plat if the Developer has breached this Agreement and the breach has not been remedied. If the plat is a phase of a multi-phased preliminary plat, the City may refuse to approve final plats of subsequent phases if the Developer has breached this Agreement and the breach has not been remedied. Development of subsequent phases may not proceed until Development Agreements for such phases are approved by the City and executed by the parties. Sanitary sewer and water area charges referred to in this Agreement are not being imposed on outlots, if any, in the plat that are designated in an approved preliminary plat for future subdivision into lots and blocks. Such charges will be calculated and imposed when the outlots are final platted into lots and blocks.

5. PRELIMINARY PLAT STATUS. If the plat is a phase of a multi-phased preliminary plat, the preliminary plat approval for all phases not final platted shall lapse and be void unless final platted into lots and blocks, not outlots, within five (5) years after preliminary plat approval.

6. 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 final plat unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this 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.

7. DEVELOPMENT PLANS. The Project shall be developed in accordance with the final approved plans and specifications attached hereto as Exhibit D (the "Plans"). If the Plans vary from the written terms of this Agreement, the Plans shall control. The Plans are:

Plan A - Plat

Plan B - Final Grading, Drainage and Erosion Control Plan

Plan C - Final Construction Plans and Specifications for Public Improvements

Plan D - Stormwater Pollution Prevention Plan

Plan E - Landscape Plan

Plan F - Utility Plan

The Plans have been reviewed and approved by the City, and the City has confirmed that they comply with the policies, rules, regulations, standards and ordinances of the City. The required Improvements shall be installed in accordance with the Plans for such improvements. 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.

8. IMPROVEMENTS. 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 "public improvements" or "Improvements") in compliance with the City approved Plans and summarized below:

A. Streets:

a. Millstream Lane

b. Brookside Drive

c. Southbridge Drive

B. Sanitary Sewer

C. Watermain

D. Surface Water Facilities (pipe, ponds, rain gardens, and similar improvements)

E. Grading, Drainage and Erosion Control

F. Sidewalks/Trails

G. Street Lighting

- H. Utilities (gas, electric, cable, telephone, etc.)
- I. Street Signs and Traffic Control Signs
- J. Landscaping Required by the Zoning Ordinance (street trees and tree preservation)
- K. Buffers
- L. Surveying and Monuments Required by Minnesota Statutes
- M. Miscellaneous Facilities or other elements defined by the guiding documents.

The Improvements shall be constructed and installed in accordance with the Plans. The City will provide field inspection and soil testing personnel, to assure an acceptable level of quality control for the construction of all public improvements and certify that the construction work meets the City's requirements, specifications, standards and approved plans. In addition, the Developer's engineer will be required to certify that the construction work meets the approved City requirements, specifications, and standards as a condition of City acceptance and provide record drawings for all Improvements. The Developer, its contractors and subcontractors, shall follow all reasonable instructions received from the City's inspectors and City Engineer to the extent applicable to comply with the approved plans and specifications, or applicable City Code or statutes for which the City inspectors have jurisdiction. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor. As required by the City, the Developer or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at City Hall, or another location acceptable to the City, with all parties concerned, including the City staff, to review the program for the construction work.

All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications. No material 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 has hired Kraus-Anderson as its general contractor to construct the Project. The City has approved Kraus-Anderson to construct the public improvements. The Developer shall not do any work or furnish any materials not covered by the Plans, 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 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.

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.

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

9. CITY ENGINEERING ADMINISTRATION AND CONSTRUCTION OBSERVATION. The Developer shall pay the following fee for in-house engineering administration. City engineering administration will include monitoring of construction observation, consultation with Developer and the Developer's engineer on status or problems regarding the Project, coordination for final inspection and acceptance, Project monitoring during the warranty period, and processing of requests for reduction in security. Fees for this service shall be:

| ESTIMATED COST OF PROPOSED IMPROVEMENTS | CITY ADMINISTRATIVE COST |
|------------------------------------------------|---------------------------------|
| Up to \$150,000 | 3.0 percent (Minimum \$500.00) |
| \$150,000 to \$300,000 | 2.5 percent |
| Over \$300,000 | 2.0 percent |

The Developer shall also deposit seven percent (7%) of the estimated construction cost to pay for construction observation and geotechnical testing performed by the City's in house engineering staff or consulting engineer. This deposit is estimated to be, and the City's costs shall not exceed, the sum of \$55,720. Should the costs be less than the amount of the deposit, upon completion of the Improvement's, the amount of the remaining deposit shall be returned to the Developer. The Developer shall deposit the estimated construction observation fees with the City prior to the issuance

of the building permit. No construction of public improvements will be authorized until the estimated construction observation fee has been paid to the City.

10. 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.

11. 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
- Hazardous Material Removal and Disposal as applicable
- Wetlands permits as applicable
- DNR for Dewatering
- City of Northfield for Building Permits
- City of Northfield Grading and Erosion Control Permit

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

12. 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 October 31, 2022, with the exception of the final wear course of asphalt on streets. The final wear course on streets shall be installed between May 15th and October 1st the first summer after the base layer of asphalt has been in place one freeze thaw cycle. Any deficiencies in the base, asphalt, curb or other improvements in the judgment of the City Engineer must be repaired by the Developer at its own cost prior to final paving. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases

and the extended completion date. Final wear course placement outside of this time frame must have the written approval of the City Engineer.

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

14. CONSTRUCTION ACCESS. Construction traffic access and egress for grading, public utility construction, and street construction is restricted to access the subdivision via Southbridge Drive via Maple Street. No construction traffic is permitted on the adjacent local streets other than identified herein.

15. GRADING PLAN. The Project shall be graded in accordance with the approved grading development and erosion control plan included in the Plans. 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. 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; e) all lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications; and f) Emergency Overflow Elevations.

Developer shall furnish the City Engineer satisfactory proof of payment for the site grading work and shall submit a certificate of survey (as constructed survey) of the Development Property after site grading is complete. Final lot grades shall be shown on the as constructed survey. Final grading shall substantially comply with the approved grading plan.

16. 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 reasonable 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 Security to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the plat and Project plans for the Development Property, as applicable, are in full compliance with the approved erosion control plan.

17. 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. 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.

In accordance with the Plans, the Developer shall construct: concrete sidewalks along the north and south side of Southbridge Drive, east and west side of Millstream Lane and the north and south side of Brookside Drive after the concrete curb and gutter and bituminous base course have been placed; an 8-foot bituminous trail from the east side of PID 2207303002 (460 Southbridge Dr.) around the south side of that parcel to the west, that then curves south along Building A of the Project; and, an 8-foot bituminous trail will connect from the southeast corner of Millstream Ln. and Brookside Dr. to the aforementioned trail to east of Building A, with a short connection south to the edge of the southern most property line to properly adjoin to the trail that will be extended through the Bluff View Subdivision at the time of platting. 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.

18. OWNERSHIP OF IMPROVEMENTS. Upon completion of the work and construction required by this Agreement and acceptance of Improvements by the City, the 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. Prior to acceptance of the Improvements by the City, the Developer must furnish the following affidavits:

- Contractor's Certificate;
- Engineer's Certificate;
- Land Surveyor's Certificate; and
- Developer's Certificate;

certifying that all construction has been completed in accordance with the terms of this Agreement. The requisite forms will be furnished by the City of Northfield and are attached hereto as Exhibit B. Upon receipt the required affidavits, the City Engineer will accept the completed public improvements. Within thirty (30) days after the completion of the Improvements, the Developer shall supply the City with a complete set of reproducible "record" plans, an electronic file

of the "record" plans in a format acceptable to the City Engineer (e.g., AutoCAD format, DWG or a .DXF file), and two complete sets of hard copy "record" plans, all prepared in accordance with City standards. Upon receipt of these documents, and the warranty documents specified in this Agreement, the City Engineer will certify acceptance of the completed public improvements.

19. PARK DEDICATION. This Development Property was originally part of the Southbridge Development. On October 6, 2003, the City entered into a Development Contract with Arcon Development, Inc. ("Development Contract"). Arcon Development dedicated park land exceeding the amount required in City Code in 2003 by dedicating 9.98 acres to the City, however, only a portion of the Park Fee's required in the Development Contract at that time were actually collected. The City Council has reviewed this matter and pursuant to City Council Resolution No. 2020-099, the City Council terminated and released the Development Contract filed for record in the office of the County Recorder in and for said County of Rice, State of Minnesota, on May 26, 2004, as Document No. 539174, such that the same is of no further force and any outstanding fees required in the Development Contract have been released. The City Council further determined that park dedication for future final plats with respect to any land or portions thereof legally described in the prior Development Contract will be reviewed based on current City Code requirements for park dedication applied with respect to said land(s) at the time of respective final plat approval(s) consistent with the applicable City Code required process and approvals for such future respective final plat(s) along with corresponding new development agreements approved commensurate with such final plat(s).

Based on the foregoing and since the Development Contract required dedicated parkland in the amount of 6.05 acres for the entire 69.9 acre preliminary plat and the Developer in fact dedicated 9.98 Acres of property to the City as shown in the table below, Arcon Development, Inc. previously fulfilled the terms and conditions for park land dedication:

| | |
|-----------------------------------|------|
| Parcels Dedicated to City (Acres) | |
| Southbridge 1st Outlot B | 6.25 |
| Southbridge 1st Outlot C | 0.72 |
| Southbridge 1st Outlot D | 2.21 |
| Southbridge 1st Outlot E | 0.75 |
| Spring Creek Townhome (Outlot C) | 0.05 |
| Total Land Dedicated (Acres) | 9.98 |

Northfield City Code, Chapter 34, Section 5.2.6 (D) provides as follows for land dedication required:

| Park Dedication City Code | Percent of Net Land Dedicated |
|----------------------------|-------------------------------|
| Dwelling Unit Per Net Acre | |
| 0 to 3.9 | 12 |
| 4 to 7.9 | 9 |
| 8 or more | 6 |

| | | |
|---------------------------------------------|-------------|-----------------------|
| Spring Creek Townhome II Density (32 Units) | 11 | Units/Net Acre |
| Net Developed Acres | 2.79 | |
| | | |
| Park Land Dedication 6% x 2.79 Acres | 0.17 | Acres Parkland |

This development would require 0.17 Acres of Parkland Dedication, however due to the 9.98 Acres that was dedicated, no parkland dedication is required.

20. 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 Developer will be charged 75% of the unit equivalent for public housing units and housing units subsidized under any governmental program for low and moderate income housing pursuant to City Code, section 82-32 (b) (3). The Developer is providing thirty-two units that qualify for the above-referenced credit. Based on the application of the above-referenced credit, the sanitary sewer and water access/availability area charges are as follows:

Sanitary Sewer Availability Charge:

The Developer shall pay a sanitary sewer availability charge of 75% of \$2,008/unit = \$1,509/Unit.

The area charge is based on the number of units in the final plat and is calculated as follows:

32 townhome units x \$1.509/unit = \$48,288.00

Water Availability Charge:

The Developer shall pay a watermain availability charge of 75% of \$879/unit. The access charge is based on the number of units in the final plat and is calculated as follows:

$$32 \text{ townhome units} \times \$659.25/\text{unit} = \$21,096$$

The Developer shall pay the above sanitary sewer and water availability charges in cash 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.

21. SANITARY SEWER, STORM SEWER AND WATERMAIN. The Developer shall install or contract for the installation of all public improvements in the Project related to sanitary sewer, storm sewer and watermain, as required by the City in accordance with the Plans.

22. TRAFFIC CONTROL AND STREET NAME SIGNS. Any street name signs, stop signs, or other directional and safety signs required by the City shall be purchased and installed by the Developer pursuant to City standards at the Developer's expense.

23. 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.

24. BUILDING PERMITS/CERTIFICATES OF OCCUPANCY.

A. No Certificate of Occupancy will be issued for any buildings until the grading, curbing, sidewalk and one lift of asphalt is installed in accordance with approved plans on all public streets and private drives. In addition, no Certificates of Occupancy shall be issued for any buildings until the sewer and water has been installed and tested to the satisfaction of the City Engineer, which shall not constitute final acceptance of the sewer and water utilities.

In lieu of the foregoing provision, if the proposed public improvements are under construction but not yet completed and accepted by the City, the Developer shall provide a cross section depicting the entire right-of-way of Southbridge Drive, Millstream Lane and Brookside Drive and Private Drive extending through the first floor elevation of the building for which a building permit is requested. This first floor elevation shall be considered official for building construction purposes. Any deviation from this elevation shall first be reviewed and approved by the Building Official

and the City Engineer prior to commencing construction of applied building permit. In addition, the provisions of Clause C provided below, shall apply.

B. 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, including lots sold to third parties, and the halting of all work in the plat or on the Development Property.

C. If building permits are issued prior to the acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the City, Developer, their contractors, subcontractors, materialmen, employees, agents, or third parties. No certificates of occupancy and no sewer and water connection permits may be issued and no one may occupy a building for which a building permit is issued on either a temporary or permanent basis until the streets and sidewalks needed for access have been paved with a bituminous surface and the utilities are accepted by the City Engineer.

25. 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 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 not solely serving the Development Property 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.

26. RESPONSIBILITY FOR COSTS.

A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it and those fees listed in this Agreement that may be charged by the City in conjunction with this Agreement, including specifically the approval of the Plat, 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 Plat and 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 plat, 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 Plat approval, 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 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.

27. SPECIAL PROVISIONS. The following special provisions shall apply to the Project, but only to the extent included in the Plans:

A. Implementation of any other recommendations listed by the City Council or City Engineer as follows:

- a. The Developer shall have all required MPCA stormwater permits approved prior to beginning and installation of public improvements.
- b. The Developer shall construct an 8-foot bituminous trail from the east side of PID 2207303002 (460 Southbridge Dr.) around the south side of that parcel to the west, that then curves south along Building A of the Project. An 8-foot bituminous trail will connect from the southeast corner of Millstream Ln. and Brookside Dr. to the aforementioned trail to east of Building A, with a short connection south to the edge of the southernmost property line to properly adjoin to the trail that will be extended through the Bluff View Subdivision at the time of platting.

B. The Developer shall post a \$1000.00 security for the final placement of interior subdivision iron monuments at property corners. The security was calculated as follows: 5 lots at \$200.00 per lot. The security will be held by the City until the Developer's land surveyor certifies that all

irons have been set following site grading and utility and street construction. In addition, the certificate of survey must also include a certification that all irons for a specific lot have either been found or set prior to the issuance of a building permit for that lot.

C. The Developer shall be responsible for the cost of street light installation consistent with a street lighting plan approved by the City Engineer.

D. The Developer must obtain a sign permit from the City Planner prior to installation of any subdivision identification signs.

E. Individual homes must comply with the overall grading plan for the site. Each individual building permit will be reviewed for compliance with the overall grading plan and is subject to review and approval of the City Engineer.

F. Utility hook-ups are subject to review and approval by the City Engineer.

G. 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.

28. 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 one or more lots, the entire plat, or 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 plat.

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, Commercial General 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 \$1,000,000 for one person and \$2,000,000 for each occurrence; limits for property damage shall be not less than \$1,000,000 for each occurrence. Products Comp/Op Aggregate of \$3,000,000. 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 ten (10) days advance written notice of the cancellation of the insurance.

F. Third parties shall have no recourse against the City or Developer under this Agreement.

G. 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.

H. 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.

I. This Agreement shall run with the land and shall be binding upon Developer and its successors and assigns until it expires pursuant to Section 35. This Agreement will be recorded against the title to the Development Property. 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

being final platted; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

J. 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.

K. The Developer agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the Development Property and Improvements.

L. The City's approval of the final plat or 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.

29. 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 when no notice is required, is first given notice of the work in default, not less than thirty (30) days 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.

30. 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 and final written acceptance of all Improvements by the City Engineer. The required warranty period for sod, trees, and landscaping is two growing seasons following installation. The Developer shall post a security in the form of either a) a warranty/maintenance bond for 100% of the cost of the improvements, or b) a letter of credit or cash escrow for 25% of the amount of the original cost of the Improvements as warranty for the Improvements prior to the City authorizing the commencement of work on the public and private improvements specified in this Agreement. The retainage from the Project securities identified in this Agreement may also be used to pay for warranty work. The City standard specifications for utilities and street construction identify the procedures for final acceptance of streets and utilities.

31. SUMMARY OF SECURITY REQUIREMENTS. To guarantee compliance with the terms of this Agreement, payment of special assessments, payment of the costs of all public improvements, and construction of all public improvements, the Developer shall furnish the City, prior to the issuance of the building permit, a letter of credit for 125% of the estimated project costs, in the form attached hereto as Exhibit C or a City approved alternate form, from a bank (the "Security") in the amount of \$1,024,850. The amount of the Security was calculated as follows:

CONSTRUCTION COSTS:

| | |
|----------------------------------------------------|--------------------|
| Streets, Sidewalks Signs & Sod | \$229,000 |
| Sanitary Sewer | \$75,500 |
| Watermain | \$130,500 |
| Storm Sewer | \$211,500 |
| Grading, Wetland Construction, and Erosion Control | \$109,500 |
| Street Lighting | \$25,000 |
| Landscaping – sod & 47 boulevard trees | \$15,000 |
| TOTAL ESTIMATED CONSTRUCTION COST | \$796,000 |
| Developer's Construction Survey (2.5%) | \$19,900 |
| Developer's Record Drawings (0.5%) | \$3,980 |
| SECURITY ADD-ON | x 125% |
| TOTAL PROJECT SECURITIES REQUIRED: | \$1,024,850 |

This breakdown is for historical reference; it is not a restriction on the use of the Security. The bank shall be subject to the approval of the City Administrator. The City may draw down the Security, with at least thirty (30) days prior written notice, for any violation of the terms of this Agreement or if the Security is allowed to lapse prior to the end of the required term by presenting the bank/escrow agent with a written demand or an affidavit signed by the City Administrator or the City Administrator's designee attesting to the City's right to draw down and receive funds under the Security. If the required Improvements are not completed at least thirty (30) days prior to the expiration of the Security, the City may also draw the Security down. If the security is drawn down, the proceeds shall be used to cure the default. Upon receipt of proof satisfactory to the City Engineer that work has been completed and financial obligations to the City have been satisfied, with City Engineer approval the security may be reduced from time to time by ninety percent (90%) of the financial obligations that have been satisfied. Ten percent (10%) of the amounts certified by the Developer's engineer shall be retained as Security until: a) all Improvements have been completed, b) iron monuments for lot corners have been installed, c) all financial obligations to the City have been satisfied, d) the required "record" plans have been received by the City, e) a warranty security is provided as specified herein above, f) the public improvements are accepted

by the City Engineer, and g) if required by the City Administrator or Code, a title insurance policy indicating that the improvements are free and clear of any and all liens and encumbrances. The City standard specifications for utilities and street construction outline procedures for Security reductions, and reductions in the security shall be considered only after underground utilities are tested and found to be satisfactory and again after the base bituminous layer has been placed.

32. SUMMARY OF CASH REQUIREMENTS. The following is a summary of the cash requirements under this Agreement which must be furnished prior to the issuance of the building permit. The Developer shall not proceed with any Improvements until these cash requirements have been paid to the City:

| | |
|--------------------------------------|------------------|
| Park Dedication | \$0 |
| Street Light Operating Fee | \$1,743 |
| City Construction Observation (7%) | \$55,720 |
| City Engineering Administration (2%) | \$15,920 |
| City Legal Expenses (0.5%) | \$3,980 |
| Sanitary Sewer Availability Charge | \$48,288 |
| Water Availability Charge | \$21,096 |
| Any Special Assessment Due | \$0 |
| TOTAL CASH REQUIREMENTS | \$146,747 |

33. 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: 1414 North Star Drive, Zumbrota MN 55992. 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.

34. 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 9 p.m. on weekdays and 9 a.m. and 9 p.m. on weekends or as otherwise 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.

35. 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.

36. TERMINATION; CONDITIONS PRECEDENT.

A. If Developer fails to: a) acquire fee simple title to all of the Development Property, and b) record this Agreement and the Plat in the office of the Rice County Recorder, as applicable, and as provided herein, within one (1) year after approval of the Final Plat or this Agreement, as applicable, by the City Council, this Agreement shall terminate and the approval of the Plat shall be null and void, subject to the following:

(a) All costs, fees and other amounts previously paid to the City in connection with the Plat, the Project Improvements, this Agreement and the Project shall belong to and be retained by the City;

(b) 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;

(c) The indemnifications of Developer shall survive and continue after such termination; and

(d) 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 Developer acquires fee simple title to the Development Property and records this Agreement and the Plat in the office of the Rice County Recorder as required herein within one (1) year after approval of the final Plat by the City Council.

E. 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.

F. Developer's right to construct the Improvements is contingent upon its obtaining a building permit from the City following submission of a complete and valid application for same. Nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, for Developer to close on its purchase of the Development Property, commence the development of the Development Property as set forth herein, sell or lease homes or townhomes, as applicable, constructed and located on the Development Property.

36. ADOPTED BY REFERENCE. The provisions of the City's Land Development Code, Chapter 34, is hereby adopted by reference in their entirety, unless specifically excepted, modified, or varied by the terms of this Agreement, or by the final plat as approved by the City 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.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

DEVELOPER:

SPRING CREEK II TOWNHOMES LP

By: Spring Creek II GP LLC
Its General Partner

By: _____
Jennifer Larson, Its Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Jennifer Larson, the Chief Manager of Spring Creek II GP LLC, the General Partner of Spring Creek II Townhomes LP, a limited partnership under the laws of the State of Minnesota, on behalf of the limited partnership and pursuant to the authority granted by its limited partners.

NOTARY PUBLIC

CITY OF NORTHFIELD

(SEAL)

BY: _____
Rhonda Pownell, Its Mayor

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 municipal 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

**FEE OWNER CONSENT
TO
DEVELOPMENT AGREEMENT**

Northfield Housing and Redevelopment Authority, a/k/a Housing and Redevelopment Authority of the City of Northfield, Minnesota, 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.

Dated this _____ day of _____, 20____.

**Northfield Housing and Redevelopment
Authority, a/k/a Housing and Redevelopment
Authority of the City of Northfield, Minnesota**

By:_____
Brent Nystrom, Its Chair

By:_____
Jayne Hager Dee, Its Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Brent Nystrom and Jayne Hager Dee, the Chair and Secretary of the Northfield Housing and Redevelopment Authority, a/k/a Housing and Redevelopment Authority of the City of Northfield, Minnesota, a body politic and corporate under the laws of the State of Minnesota, on behalf of the body politic and pursuant to the authority granted by its board of commissioners.

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 Property Being Final Platted as
SPRING CREEK TOWNHOMES 2ND ADDITION**

Blocks 1 and 2, Spring Creek Townhomes 2nd Addition, Rice County, Minnesota, according to the recorded plat thereof

**EXHIBIT B
TO
DEVELOPMENT AGREEMENT**

AFFIDAVITS

Pursuant to the Development Agreement, prior to acceptance of the improvements by the City, the Developer must complete and furnish the following affidavits:

- Contractor's Certificate;
- Engineer's Certificate;
- Land Surveyor's Certificate; and
- Developer's Certificate;

in substantially the form provided herein, certifying that all construction has been completed in accordance with the terms of the Development Agreement.

CONTRACTOR’S CERTIFICATE OF COMPLIANCE

Project: Spring Creek Townhomes 2nd Addition

I/we, the undersigned, certify that the construction of those certain improvements (the “Project”) required to be made by _____ (the “Developer”) pursuant to that certain Development Agreement (the “Agreement”) dated _____, 20____, by and between the City of Northfield (the “City”) and the Developer, are complete and have been completed all in accordance with the provisions of the Agreement, and that the Project improvement work substantially conforms to the approved plans for the required improvements for the above-referenced Project and in accordance with the City Code (Chapter _____), City standard specifications for utilities and street construction, and the City’s engineering standard specifications

I/we certify that the required improvements are free from all defects in material and workmanship from the date of acceptance thereof by the City, that the Contractor agrees to remedy all defects arising within the warranty period at the Developer’s expense, and that the Contractor is now and will remain in compliance with the Warranty/Maintenance Guarantee required by Northfield City Code, Chapter _____, section _____ for the required periods stated therein.

This affidavit is made for the purpose of inducing City of Northfield to accept the Project improvements made as part of the Project for public ownership thereof in accordance with the Agreement.

DEVELOPER’S CONTRACTOR:

BY: _____
 _____, Its _____

STATE OF _____)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ the _____ of _____, a Minnesota _____, on behalf of _____.

.

 Notary Public

ENGINEER'S CERTIFICATE OF COMPLIANCE

Project: Spring Creek Townhomes 2nd Addition

I/we, the undersigned, based upon site observation, certify that those certain improvements (the "Project") required to be made by _____ (the "Developer") pursuant to that certain Development Agreement (the "Agreement") dated _____, 20____, by and between the City of Northfield (the "City") and the Developer, appear to have been completed in accordance with the provisions of the Agreement and, to the best of our knowledge, the Project improvement work substantially conforms to the approved plans for the required improvements for the above-referenced Project and in accordance with the City Code (Chapter ____), City standard specifications for utilities and street construction, and the City's engineering standard specifications.

This affidavit is made for the purpose of inducing City of Northfield to accept the Project improvements made as part of the Project for public ownership thereof in accordance with the Agreement.

DEVELOPER'S ENGINEER:

BY: _____
_____, Its _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____. the _____ of _____, a Minnesota
_____, on behalf of _____.

.

Notary Public

SURVEYOR'S CERTIFICATE

THE UNDERSIGNED is a Registered Land Surveyor. The plat of Spring Creek Townhomes 2nd Addition was graded in accordance with the grading plan approved by the City for the plat prepared by _____ dated _____. The undersigned certifies that the “record” grading plan dated _____ is accurate and was prepared by the undersigned or under the undersigned’s direction. The record grading plan includes 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; and c) lot corner elevations and house pads. All lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications.

Dated: _____.

REGISTERED LAND SURVEYOR

Registration No. _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____.

Notary Public

DEVELOPER'S CERTIFICATE OF COMPLIANCE

Project: Spring Creek Townhomes 2nd Addition

I/we, the undersigned, certify that the construction of those certain improvements (the "Project") required to be made by _____ (the "Developer") pursuant to that certain Development Agreement (the "Agreement") dated _____, 20____, by and between the City of Northfield (the "City") and the Developer, are complete and have been completed all in accordance with the provisions of the Agreement, that the Developer has complied to date with all requirements set forth in the Agreement, and that the work under the above named Project including all appurtenances thereto has been completed in accordance with the City Code (Chapter ____), City standard specifications for utilities and street construction, and the City's engineering standard specifications.

I/we further certify that all charges or bills for labor or services performed or materials furnished, and other charges by the subcontractors for the required Project improvements have been paid in full and in accordance with the terms of that/those contract(s).

I/we further certify that the required Project improvements are free and clear of any and all liens and encumbrances; that no notice of intention to claim liens is outstanding, and that no suits are pending by reason of the Project.

I/we finally certify that the required improvements are free from all defects in material and workmanship from the date of acceptance thereof by the City, that the Developer agrees for a period of one (1) year after the date hereof to remedy all defects arising within such warranty period at the Developer's expense, and that the Developer is now and will remain in compliance with the Warranty/Maintenance Guarantee required by Northfield City Code, Chapter ____, section ____ for the required periods stated therein.

This affidavit is made for the purpose of inducing City of Northfield to accept the Project improvements made as part of the Project for public ownership thereof in accordance with the Agreement.

DEVELOPER:

BY: _____
_____, Its _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____ the _____ of _____, a Minnesota
_____, on behalf of _____.

Notary Public

**EXHIBIT C
TO
DEVELOPMENT AGREEMENT**

IRREVOCABLE LETTER OF CREDIT

No. _____
Date: _____

TO: City of Northfield
801 Washington Street
Northfield, MN 55057

Dear Sir or Madam:

We hereby issue, for the account of Spring Creek II Townhomes LP, a limited partnership under the laws of the State of Minnesota (the "Developer"), whose address is 1414 N Star Drive, Zumbrota, MN 55992, and in your favor, our Irrevocable Letter of Credit in the amount of \$1,024,850, available to you by your draft drawn on sight on the undersigned bank.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. _____, dated _____, 20_____, of _____ (Name of Bank) _____";
- b) Be signed by the Mayor or City Administrator of the City of Northfield.
- c) Be presented for payment at _____ (Address of Bank) _____, on or before 4:00 p.m. on November 30, 20_____.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Northfield City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: Northfield City Administrator, Northfield City Hall, 3400 Northfield Boulevard, Northfield, MN 55447, and is actually received by the City Administrator at least thirty (30) days prior to the renewal date.

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

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

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

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

BY: _____

_____ Its _____

**EXHIBIT D
TO
DEVELOPMENT AGREEMENT**

Plans

Plan A - Plat

Plan B - Final Grading, Drainage and Erosion Control Plan

Plan C - Final Construction Plans and Specifications for Public Improvements

Plan D - Stormwater Pollution Prevention Plan

Plan E - Landscape Plan

Plan F - Utility Plan