

Developer Agreement

THIS AGREEMENT, entered into this 16th day of October, 2015, (the "Effective Date") by and between Jesse Soper, Connie Soper, Mark Friese, and Roxanne Friese, individually and jointly, whose contact address is 712 Soper Drive, Argusville, ND 58005 ("Developer"), and the City of Argusville, a political subdivision of the State of North Dakota, whose address is 602 Lynn Dawn Drive, Argusville, North Dakota 58005 (the "City").

WHEREAS, Developer is the owner of the following described property: A replat of Lot 1, Block 1, Leonard's Way Third Addition to the City of Argusville, which will be known as Leonard's Way Fifth Addition to the City of Argusville, Cass County, North Dakota (the "Property"); and

WHEREAS, Developer desires to develop the Property into a residential housing development (the "Development"); and

WHEREAS, Developer desires to construct residential water mains and sanitary sewer mains under, through and upon the Property and connect the same to the mains and streets belonging to the City; and

WHEREAS, Developer desires to construct the above described residential municipal improvements to become a part of the public infrastructure of the City; and

WHEREAS, the City finds it necessary and beneficial to have the above-described residential municipal improvements constructed, provided that certain requirements are met by Developer; and

WHEREAS, Developer desires to cooperate with the City, and agrees to construct the above-described residential municipal improvements, in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, it is agreed between the parties as follows:

I. Parties

1. The City is vested with the authority to control access to its municipal infrastructure. The City has authority to approve or disapprove all subdivision plats within its territorial jurisdiction. The City has the express authority to withhold building permit approval for any structure or residence on the Property for a failure by Developer to comply with the terms and conditions of this Agreement or City ordinances.

2. Developer is vested with the authority to own and develop land for residential purposes. Developer is the legal and equitable owner of the Property.

II. Jurisdiction

1. Developer agrees to submit to the authority of the City of Argusville. Developer agrees and acknowledges that it must receive approval from the City of Argusville for any proposed platting, zoning, building permits and any other permit required by the City.

2. Developer agrees and acknowledges that it must comply with all Federal, State and County statutes, rules and regulations regarding the Improvements and the Development.

3. Developer is the "responsible party" for compliance with all federal and state environmental statutes, rules and regulations, including storm water runoff regulations.

4. This Agreement only covers Leonard's Way Fifth Addition to the City of Argusville. In the event that Developer constructs future phases of its residential development it

must have a signed Developers Agreement with the City prior to commencing construction of future phases.

III. Plat and Zoning

1. Developer expressly agrees and acknowledges that it must properly plat the Property prior to development or construction of the Improvements. Any and all costs associated with platting the Property and recording the final plat will be the sole responsibility of Developer.

2. Developer expressly agrees and acknowledges that it will be responsible for applying for and obtaining any necessary zoning changes for the Property. Any and all costs associated with any proposed zoning change will be the sole responsibility of Developer.

IV. Improvements

1. The improvements will be known as Sewer and Water Improvement District No. 2015-1 of the City of Argusville, (the "Improvements") and must be designed by a professional engineer licensed in North Dakota. The Improvements must be approved by the Argusville City Council, constructed by Developer under the supervision of a professional engineer licensed in North Dakota, inspected by a professional engineer licensed in North Dakota, and upon its completion and inspection, expressly approved in writing by the City Engineer.

2. Developer agrees and acknowledges that the Improvements must be inspected and approved by the City Engineer. Said approval will be a condition precedent to the City accepting the Improvements.

3. Developer expressly agrees and acknowledges that it must obtain and provide to the City all permits, inspection reports and records regarding the Improvements prior to the City accepting the Improvements.

4. Developer will require the contractor or contractors installing/constructing the Improvements to have a contract bond which is payable to Developer and the City of Argusville and is enforceable by Developer and the City of Argusville. Such contract bond must contain all terms normally contained in the contract bonds entered into by the City of Argusville and contracts for improvement projects in the City of Argusville.

5. In the event that any portion or portions of the Improvements are constructed on private property, the owner of that private property must deliver to the City a recordable easement giving the City perpetual access to that portion or portions of the Improvements constructed on private property.

6. All water and sanitary sewer improvements must be constructed and properly platted as utility easements to allow the City of Argusville to service said infrastructure.

7. When Developer sells a lot on the Property, he must notify the buyer that he/she is required to pay hook-up charges for the water and sewer service directly to the City of Argusville.

8. Developer will pay all costs relating to construction of the Improvements including, but not limited to, constructions costs, permit fees, sales tax and any other fees associated with construction of the Improvements.

9. All plans and specifications and other information pertinent to the project must be furnished to the City. At the completion of construction of the Improvements, Developer must provide the City with lien waivers from all of the contractors, subcontractors and all suppliers who worked on or supplied material for the project and the Improvements.

10. Developer will be responsible for ensuring proper and adequate drainage on the Property.

11. Upon acceptable completion of the Improvements by Developer, the City will accept the Improvements as part of the water and sewer system of the City of Argusville. The City will inspect the Improvements before assuming ownership of the Improvements. In the event the Improvements have not been completed in accordance with the plans and specifications or in accordance with City ordinances or State law, Developer will correct the deficiencies, all at Developer's sole cost and expense. Developer will notify the City that the infrastructure is complete and request that the City assume responsibility for maintenance and operation of the infrastructure.

12. Developer intends to construct a private road for access to the Development. This road will be constructed and maintained by Developer or Developer's successors or assigns. The City will not be responsible for any construction or maintenance of the private road.

13. Developer will grant any necessary easements to the City as required for the City to utilize the private road for operation and maintenance of the Improvements.

V. Land donation

1. Within thirty (30) days of the effective date of this Agreement, Developer will donate fee simple and permanent easements for sanitary sewer and water main access.

2. If necessary, the City will prepare any deeds and easements for the utilities and provide them to Developer. Developer must execute the easements before a notary and return the signed easements to the City's attorney of record.

3. The City will pay the recording costs associated with any deeds and easements for the utilities.

4. Developer will be responsible for its own attorneys and survey fees associated with any utility easements.

VI. General Matters.

1. Developer agrees to release and hold the City harmless from any and all claims arising out of or related to the construction and installation of the Improvements or the sale of residential lots, Developer agrees to indemnify and defend the City from any and all actions brought against the City relating to or arising out of Developer, or Developer's employees or agents, construction and installation of the Improvements or the selling of residential lots. Said indemnification will include, inter alia, attorneys' fees, damages, whether punitive, economic or compensatory, and costs and disbursements. However, this paragraph will not apply to suits against the City arising out of the City's negligence or intentional acts, or those of the City's employees, agents or designees. Developer specifically agrees and acknowledges that this indemnification provision will survive until six (6) years after the sale of the final lot within the Development.

2. Upon the occurrence of any non-performance of Developer's obligations under this Agreement, which has not been cured within thirty (30) days after notice to Developer, the City may take any one or more of the following remedial steps: (a) terminate this Agreement; (b) suspend the City's performance under this Agreement until it receives assurances from Developer satisfactory to the City that Developer will cure such Event of Default and perform its obligations under this Agreement; (c) take any other action deemed necessary or desirable by the City, including any legal or administrative proceedings for the collection of any amounts due hereunder or the enforcement of any covenant, agreement or obligation on Developer including, inter alia, withholding approval of any plats or building permits for structures or buildings on the Property.

3. This Agreement terminates upon Developer fulfilling all terms of the Agreement as deemed by the City and the City's issuance of a written "Completion Certificate" for the Property and Improvements.

4. This Agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.

5. No amendment, modification, or waiver of any condition, provision or term will be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party will not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the parties thereto under and pursuant to this Agreement.

6. Whenever the singular number is used herein, the same will include the plural where appropriate, and the words of any gender will include any other genders where appropriate.

7. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Agreement.

8. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns.

9. This Agreement may be recorded.

10. This Agreement will be controlled by the laws of the State of North Dakota, and any action brought as a result of any claim, demand or cause of action arising under the terms of this Agreement must be brought in an appropriate venue in the State of North Dakota.

11. This Agreement may be executed in counterparts with both the City and Developer having a fully-executed counterpart.

CITY OF ARGUSVILLE

Tracy Lyson, Mayor

Mary Howatt, Auditor

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

On this ____ day of _____, 2015, before me personally appeared Tracy Lyson and Mary Howatt, known to me to be the Mayor and City Auditor, respectively, of the City of Argusville, a political subdivision of the State of North Dakota, that is described in, and who executed the within and foregoing instrument and acknowledged to me that they executed the same on behalf of said city.

Notary Public, Cass County, ND
My Commission Expires:

(SEAL)

DEVELOPER:

Jesse Soper

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

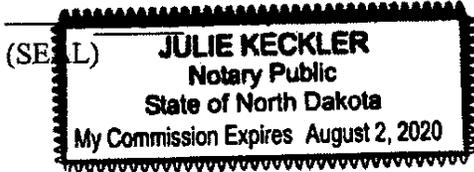
CITY OF ARGUSVILLE

Tracy J. Lyson
Tracy Lyson, Mayor
Mary Howatt
Mary Howatt, Auditor

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

On this 16th day of October, 2015, before me personally appeared Tracy Lyson and Mary Howatt, known to me to be the Mayor and City Auditor, respectively, of the City of Argusville, a political subdivision of the State of North Dakota, that is described in, and who executed the within and foregoing instrument and acknowledged to me that they executed the same on behalf of said city.

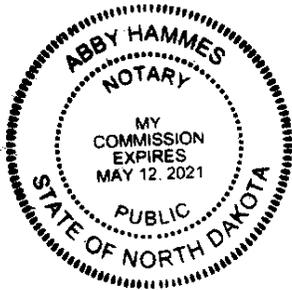
Julie Keckler
Notary Public, Cass County, ND
My Commission Expires: 8/2/2020



Subscribed and sworn before me on this 16th day of October, 2015 by Tracy J. Lyson

DEVELOPER:

Abby Hammes



Jesse Soper

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

On this 16 day of October, 2015, before me personally appeared Jesse Soper, who is described in, and who executed the within and foregoing instrument and acknowledged to me that he executed the same.

