

## **DEVELOPMENT AGREEMENT**

This **DEVELOPMENT AGREEMENT** (the “Agreement”), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, A.D., by and between the Village of Romeoville, an Illinois Home Rule Municipal Corporation (hereinafter sometimes referred to as “Village”) and Russell, Inc. (hereinafter sometimes collectively referred to as “Developer”). The Village and Developer may sometimes be referred to individually as a “Party” and collectively as the “Parties”.

### **WITNESSETH:**

**WHEREAS**, the Developer is the prospective developer and/or contract purchaser of certain property located in Romeoville, Illinois and legally described in Exhibit A hereto (the “Subject Property”); and

**WHEREAS**, in the course of determining whether or not to proceed with the prospective development of the Subject Property, the Developer has determined that it is necessary to retain the services of TR Mandigo & Company (“Consultant”) to provide consulting services to assist Developer in determining the feasibility of its prospective development; and

**WHEREAS**, the Village is receptive to Developer’s prospective development, and is willing to facilitate Developer’s determination of whether or not to proceed with the prospective development by assisting Developer in defraying a portion of the cost to retain Consultant to study the feasibility of the prospective development (“Feasibility Study”) on the terms and conditions hereinafter set forth in this Agreement; and

**WHEREAS**, Developer has shared with the Village a proposal from Consultant for the performance of the Feasibility Study dated as of September 21, 2018 (the “Proposal”), and intends to cause Consultant to perform and complete the Feasibility Study in a manner substantially consistent with the Proposal; and

**WHEREAS**, pursuant to Article VII, Section 10, of the Constitution of the State of Illinois, which permits Units of Local Government to contract with individuals, associations or corporations in any manner not prohibited by law or by ordinance, the Village and Developer desire to enter into this Agreement in order to regulate certain matters pertaining to the

development of the Subject Property in the manner and upon the terms and conditions contained in this Agreement; and

**WHEREAS**, the Village acknowledges that this executed Agreement will facilitate the further orderly growth, planning and development of the Village, will increase the tax base of the Village, and will promote and enhance the health, safety and welfare of the Village.

**NOW THEREFORE**, in consideration of the foregoing premises and in further consideration of the mutual covenants, conditions and agreements herein contained, Developer and Village hereby agree as follows:

**SECTION ONE:** **Incorporation of Preambles** - The recitals contained in the Preamble hereto are material and are hereby incorporated as a part of this Agreement. Developer and the Village shall fully cooperate with each other in carrying out the terms of this Agreement.

**SECTION TWO:** **Reimbursement of Portion of Feasibility Study Cost** - Provided that the Developer retains the services of Consultant to perform the Feasibility Study and causes Consultant to complete the Feasibility Study in a manner substantially consistent with the Proposal and fully pays Consultant's invoices for the completion of the same, the Village shall, within thirty (30) days of its receipt of copies of documentation evidencing Developer's payment in full of Consultant's invoices for the Feasibility Study and a copy of the completed Feasibility Study, reimburse the Developer for one-half of the cost of the Feasibility Study, provided, however, that Village's obligation under this Section 2 shall be limited to a maximum total reimbursement amount of \$4,000.00.

**SECTION THREE:** **Intentionally Omitted**

**SECTION FOUR:** **General Provisions**

A. Interest in Subject Property: Developer represents and warrants to the Village that Developer is the developer, owner or contract purchaser of the Subject Property, and that it holds or will hold sole legal and/or sole equitable title to the Subject Property, or that the holder(s) of such title to the Subject Property have legally authorized the Developer to develop the Subject Property as contemplated by this Agreement.

B. No Waiver or Relinquishment of Right to Enforce Agreement: The failure of any party to this Development Agreement to insist upon strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's rights, to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect. No waiver by the Village shall be valid or binding on the Village unless it is in writing signed by the Village and only to the extent therein set forth.

C. Remedies: Unless expressly provided otherwise herein, any rights and remedies of the parties to enforce this Agreement shall be cumulative and concurrent and shall include all rights and remedies available at law or in equity, which may be pursued singly, successively or together, at the sole and absolute discretion of either party and may be exercised at any time and as often as occasion therefor shall arise.

D. Other Ordinances, Codes, Rules, Regulations, Resolutions and Applicable Law: Nothing herein contained is intended to relieve Developer of its obligations under the ordinances, codes, rules, regulations, and/or resolutions of the Village of Romeoville, except as expressly set forth herein, and all such ordinances, codes, rules, regulations, and/or resolutions shall be deemed to apply to Developer and the Subject Property except as expressly modified by this Agreement. In addition, wherever this Agreement provides that a particular ordinance, code, rule, regulation or resolution is applicable, said provisions shall also automatically include any other applicable laws and any amendments thereto, except as expressly set forth in this Agreement.

E. Singular and Plural: Wherever appropriate in this Agreement, the singular shall include the plural, and the plural shall include the singular.

F. Section Headings and Subheadings: All section headings or other headings in this Agreement are for the general aid of the reader and shall not limit the plain meaning or applicability of any of the provisions thereunder whether covered by or relevant to such heading or not.

G. Recording: All ordinances, plats, and any other agreements and/or documents required or contemplated hereby shall be recorded by the Village.

H. Developer's Construction Activities/Indemnification: The Developer agrees to defend, indemnify and hold the Village harmless in accordance herewith from any and all claims which may arise out of its construction activities on the Subject Property, or any Village right of way or easement. The foregoing provision shall survive any expiration of termination of this Agreement or any provision thereof.

I. Public Improvements: Unless otherwise provided herein, the construction and installation of all public improvements shall conform to and be in compliance with the Village ordinances then in effect at the time of the construction and installation of the same.

J. Actions by Parties/Right to Cure: In the event of an alleged default on all or any part of this Development Agreement, prior to and as a condition of instituting legal proceedings, the non-defaulting party shall give the defaulting party specific written notice of such default, in the manner provided herein. The alleged defaulting party shall have thirty (30) days to cure said default. If the defaulting party does not cure said default during the thirty (30) day period, the non-defaulting party may take any and all steps necessary to address such default, including, but not limited to, instituting any necessary legal action. Developer shall not have a right to recover a judgment for monetary damages against any elected or appointed official of the Village for any breach of any of the terms of this Development Agreement. The Village reserves the right to maintain an action to recover damages or any sums which Developer has agreed to pay pursuant to this Agreement and which have become due and remain unpaid. In the event the Village maintains such an action and judgment is entered in favor of the Village or the Village accepts a settlement, then the Village is entitled to repayment of its reasonable attorneys fees for prosecuting said action.

K. No Personal Liability of Corporate Authorities: The parties acknowledge and agree that the individuals who are members of the group constituting the corporate authorities of the Village are entering into this Agreement in their corporate capacities as members of such group and shall have no personal liability in their individual capacities.

L. Notices: Notices or other writings which any party is required to or may wish to serve upon any other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

***If to the Village:***

Village of Romeoville  
1050 W. Romeo Road  
Romeoville, IL 60446  
Attention: Village Manager

***with a copy to:***

Richard E. Vogel  
2801 Black Road 2d Floor  
Joliet, IL 60435

***If to the Developer:***

Russell, Inc.  
4600 E. 53rd Street  
Davenport, IA 52807

***with a copy to:***

or to such other address as any party may from time to time designate in a written notice to the other party.

M. Amendments: This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between Developer and the Village relative to the subject matter hereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them. In the event such amendment applies only to a portion of the Subject Property, then only the owners of the portion of the Subject Property proposed to be affected by such amendment shall be required to consent to and execute such amendment.

N. Invalidity of any Provision: If any provision, clause, word or designation of this Agreement is held to be invalid by any court of competent jurisdiction, such provision, clause, word or designation shall be deemed to be excised from this Agreement and the invalidity thereof shall not affect any other provision, clause, word or designation contained herein.

O. Survival: The agreements contained herein shall survive the development of the Subject Property, and shall not be merged or expunged by the development of the Subject Property or any part thereof.

P. No Third-Party Beneficiaries: Nothing in this Agreement is intended to confer any rights, remedies or benefits whatsoever upon any person or entity that is not a party to this Agreement, and the existence of any such rights, remedies or benefits is hereby expressly disclaimed.

Q. Counterpart Execution: This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same instrument, binding on the parties. This signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

R. No Assignment: No right or obligation under this Agreement may be assigned or delegated by either party without the written consent of the other, which shall not be unreasonably withheld. Such consent shall not be necessary in the context of an acquisition of a Party, by asset sale, merger, change of control, or operation of law. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and each of

their respective successors and assigns, subject to the limitations on assignment and subcontracting set forth herein.

S. Indemnification: In the event that, as a result of Developer's failure to comply with its obligations under this Agreement, or actions taken as required hereunder, the Village is made a party defendant in any litigation, arbitration or other proceeding (other than litigation, arbitration or other proceeding between the Developer and the Village), Developer agrees to defend, indemnify and hold harmless the Village, its president, trustees, officers, and agents thereof, individually and collectively, from any suits and from any claims, demands, setoffs or other actions including, but not limited to judgments arising therefrom. The obligation of the Developer hereunder shall include and extend to payment of reasonably incurred attorneys' fees for the representation of the Village and its said officers and agents in such litigation and shall include expenses, court costs and fees, it being understood that the Village shall have the right to employ all such attorneys to represent the Village and its officers and agents in such litigation. The foregoing provisions shall survive any expiration or termination of this Agreement or any provision thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers duly authorized to execute same, the day and year first above written.

**Village:**

*Attest:*

**VILLAGE OF ROMEOVILLE,**  
An Illinois Municipal Corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: Village Clerk

Its: Village President

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**Developer: Russell, Inc.**

By:

Its:

Dated: \_\_\_\_\_



## EXHIBIT A—LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

THAT PRT OF THE NE1/4 OF SEC. 31, T37N-R10E, DAF: BEG AT AN ANGLE PT ON THE S'LY LN OF RELOCATED NORMANTOWN RD (PER CASE #89ED18) THAT IS 800.04 FT W OF (AS MEAS ALG SD LN AND SD LN EXT'D E'LY) THE E LN OF SD SEC. 31; THC N 88 DEG 16'39" E, ALG SD S'LY LN, 700.04 FT; THC S 46 DEG 20'58" E, 35.36 FT, TO THE W'LY LN OF WEBER RD; THC S 01 DEG 20'58" E, ALG SD W LN OF WEBER RD, 355.50 FT, TO AN ANGLE PT IN SD W'LY LN, SD LN HEREINAFTER REFERRED TO AS LINE "A"; THC S 05 DEG 16'23" E, ALG SD W'LY LN OF WEBER RD, 365.36 FT, TO AN ANGLE PT IN SD W'LY LN; THC S 01 DEG 19'08" E, ALG SD W'LY LN OF WEBER RD, 155.99 FT; THC N 51 DEG 40'15" W, 126.43 FT; THC S 83 DEG 12'23" W, 345.10 FT; THC S 11 DEG 45'54" W, 131.99 FT; THC S 74 DEG 55'49" W, 52.84 FT; THC N 58 DEG 32'43" W, 372.13 FT; THC N 01 DEG 20'58" W, ALG A LN 810 FT W OF AND PARL TO SD LN "A" (AS MEAS AT RIGHT ANGLES TO SD LN "A") 798.62 FT TO THE S'LY LN OF SD NORMANTOWN RD; THC S 84 DEG 10'41" E, ALG SD S'LY LN OF NORMANTOWN RD, 85.65 FT TO THE POB. (EX THAT PRT TAKEN FOR RD WIDENING PER R2016-086080).