

**CONDITION OF PRIMARY SUBDIVISION APPROVAL/ESCROW AGREEMENT**

**THIS CONDITION OF PRIMARY SUBDIVISION APPROVAL/ESCROW AGREEMENT** (the "Agreement") is made and entered into this 9<sup>th</sup> day of Sept., 2015, by RYAN COMPANIES US, INC., a Minnesota Corporation, or its nominees or assignees, authorized to do business in the State of Indiana (the "Petitioner") as a foreign entity, as a condition of Primary Subdivision Approval, pursuant to I.C. 36-7-4-702 made or issued by the TOWN OF SCHERERVILLE, LAKE COUNTY, INDIANA, a Municipal Corporation, duly organized and existing under the laws of the State of Indiana, located in Lake County, by and through its duly elected legislative body, the Town Council (hereinafter "The Town" and "Town Council", respectively) and any jurisdictional bodies of The Town.

**WITNESSETH:**

**WHEREAS**, The Town has adopted a Subdivision Control Ordinance (Ordinance No. 1095), as the same is and has been amended from time to time, establishing and setting forth therein certain standards of development for determining whether a plat qualifies for Primary Subdivision Approval; and

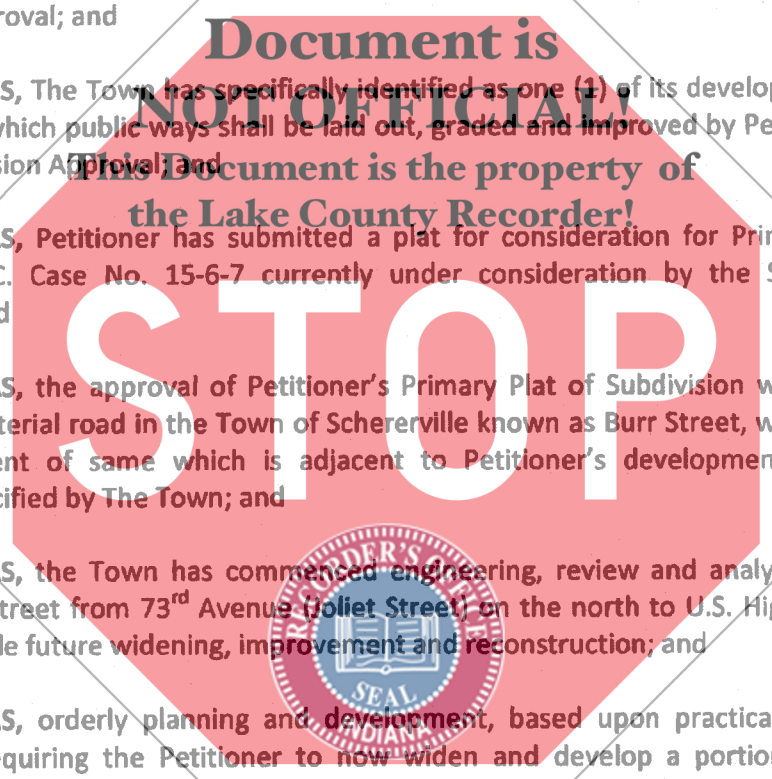
**WHEREAS**, The Town has specifically identified as one (1) of its development standards the manner in which public ways shall be laid out, graded and improved by Petitioner seeking Primary Subdivision Approval; and

**WHEREAS**, Petitioner has submitted a plat for consideration for Primary Subdivision Approval in P.C. Case No. 15-6-7 currently under consideration by the Schererville Planning Commission; and

**WHEREAS**, the approval of Petitioner's Primary Plat of Subdivision will have a direct impact on an arterial road in the Town of Schererville known as Burr Street, with the widening and improvement of same which is adjacent to Petitioner's development constituting a standard as specified by The Town; and

**WHEREAS**, the Town has commenced engineering, review and analysis of the entire length of Burr Street from 73<sup>rd</sup> Avenue (Joliet Street) on the north to U.S. Highway 30 on the south for possible future widening, improvement and reconstruction; and

**WHEREAS**, orderly planning and development, based upon practical considerations, indicate that requiring the Petitioner to now widen and develop a portion of Burr Street adjacent to the proposed development of Petitioner, only to be subject to reconstruction and/or removal in the near future, based upon the current plans of The Town, is inconsistent with said orderly development; and



2015 SEP 15 06:48:70

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2015 SEP 18 AM 10:21  
MICHELLE B. BROWN  
RECORDER

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**WHEREAS**, the Petitioner is willing to deposit into escrow with The Town a sum of money agreed upon by the Petitioner and The Town to be the cost of the improvements to Burr Street adjacent to Petitioner's property to be utilized in the future for the proposed Town project; and

**WHEREAS**, the Parties agree that it is in the best interests of Petitioner's current proposed Primary Plat of Subdivision and The Town's future orderly development and growth that such deposit of funds into escrow constitutes responsible planning and is consistent with the orderly growth and development of the Town of Schererville for public road infrastructure development.

**NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE FOLLOWING COMMITMENTS/CONDITIONS ARE MADE BY PETITIONER, CONSISTENT WITH THE APPROVAL ACTIONS OF THE TOWN COUNCIL, NAMELY:**

**COVENANTS:**

1. **Recitals Incorporated.** All parties agree that the Recitals set forth hereinabove in this Agreement are an inherent part of this instrument, and are incorporated herein. Further, the Recitals shall be used to interpret this Agreement.

2. **Deposit of Funds Into Escrow.** The Petitioner, as a condition of Primary Plat Approval, shall deposit with the Clerk-Treasurer of The Town the sum of Fifty-One Thousand Nine Hundred Eighty Nine Dollars (\$51,989.00), as its participating contribution for the planned improvement of Burr Street adjacent to Petitioner's development. Deposit of said funds shall be made no later than the date of issuance of the initial Building Permit.

3. **Escrow Account.** The Town, by and through its Clerk-Treasurer, shall place such funds into an appropriately designated and clearly identified segregated account, the purpose of which shall be for sole and exclusive use for the costs of Town planned improvements to Burr Street, between 73<sup>rd</sup> Avenue (Joliet Street) and U.S Highway 30, adjacent to the subject property.

4. **Accounting.** The Town shall provide, from time to time, during the term of this Agreement, an accounting to Petitioner of the expenditure of funds for the proposed stated herein.

5. **Period of Existence.** The established account/fund set forth in Section 3 hereinabove, shall be established for a period of five (5) years from date of this Agreement. In the event the Burr Street road improvement project is not commenced within that period of time, the Town shall be entitled to one (1) extension of an additional five (5) years. If the Burr Street road improvement project is not so commenced by the expiration date of said extension, then, and in that event, the monies so placed on deposit with The Town shall be paid back and returned to the Petitioner.

6. **Governing Law and Invalidity.** This Agreement shall be governed and enforced by the laws of the State of Indiana, and it is agreed that the Indiana Courts located in Lake County, Indiana, shall have exclusive jurisdiction of any dispute under this Agreement.

7. **Public Action.** It is expressly acknowledged and stated that this Agreement entered into by The Town after action at a Public Meeting of the Town Council on the 9 day of Sept., 2015, by a vote of 5 in favor and 0 against, and whereby the President of the Town Council and the Town Clerk-Treasurer, respectively, were directed to execute and attest the same, and deliver this Agreement.

8. **Zoning Commitment/Condition.** This Zoning Commitment/Condition or Agreement, upon execution and recordation, complies with the provisions of I.C. § 36-7-4-702 and I.C. § 36-7-4-1015, as amended from time to time. By execution and delivery of this Commitment/Condition, the Parties acknowledge such Code compliance.

IN WITNESS WHEREOF, The Town and the Petitioner have executed this Agreement as of the date first written above.

**PETITIONER:**

Ryan Companies US, Inc., A Minnesota Corporation

By:

Name:

Title:

**TOWN OF SCHERERVILLE  
LAKE COUNTY, INDIANA, a Municipal  
Corporation**

By:

Name:

Title:

**ATTEST:**

*Janice M. Malinowski*  
Janice M. Malinowski, Clerk-Treasurer, IAMC, <sup>m</sup>ZMC



STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

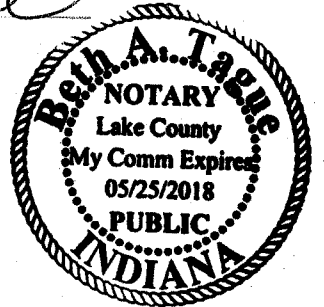
Before me, the undersigned, a Notary Public in and for said County and State, on this 11<sup>th</sup> day of September, 2015, PERSONALLY APPEARED David Erickson as duly authorized representative of RYAN COMPANIES US, INC., a Minnesota corporation duly organized and authorized to do business in the State of Indiana as a foreign entity, and acknowledges the execution of the foregoing **CONDITION OF PRIMARY SUBDIVISION APPROVAL/ESCROW AGREEMENT** as a voluntary act and deed for the uses and purposes expressed therein.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed my Official Seal.

*Beth A. Tagle*  
Notary Public

My Commission Expires: May 25, 2018

County of Residence: Lake



STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

Before me, the undersigned, a Notary Public in and for said County and State, on this 9 day of Sept, 2015, personally appeared Michael A. Troxell, not individually, but as duly authorized President of the Town Council of the TOWN OF SCHERERVILLE, Lake County, Indiana, a Municipal Corporation, and Janice M. Malinowski, not individually, but as duly elected Clerk-Treasurer of the Town of Schererville, Lake County, Indiana, and acknowledges the execution of the foregoing **CONDITION OF PRIMARY SUBDIVISION APPROVAL/ESCROW AGREEMENT** as a voluntary act and deed in the representative capacities, for the uses and purposes expressed therein.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed my Official Seal.

*Diane Horar*  
Notary Public

My Commission Expires: June 5, 2021

County of Residence: Lake



OFFICIAL SEAL  
DIANE HORAR - NOTARY PUBLIC  
STATE OF INDIANA - LAKE CO.  
MY COMM. EXP. JUNE 5, 2021

