

CITY OF ST. FRANCIS

COUNTY OF ANOKA

STATE OF MINNESOTA

AGREEMENT REGARDING GRADING ON PROPERTY OF MINNETONKA

GAME AND FISH CLUB AND LEGAL DESCRIPTION CORRECTION

THIS PREAUTHORIZATION TO BEGIN GRADING AGREEMENT (“Pre-Grading Agreement”) is made and entered into this ____ day of November, 2023, by and between the CITY OF ST. FRANCIS, a Minnesota municipal corporation (“City”) and Minnetonka Game and Fish Club of St. Francis (“Developer”).

WHEREAS, the applicant, Minnetonka Game and Fish Club of St. Francis is the owner of the real property legally described in Exhibit A to this Agreement (hereinafter the “Site” or “Property”); and

WHEREAS, on October 2, 2023, the St. Francis City Council approved the conditional use permit for the Property to redesign the general purpose range and increase the number of shooting bays to six, improve the existing access drive to address drainage, create a new parking area, and install two 8' x16' accessory structures near the general purpose range to be used for equipment storage subject to conditions; and

WHEREAS, the applicant will grade the Site per the plans submitted with the conditional use permit described in Exhibits to the full Grading Agreement and Stormwater Management Agreement and provide security as established by the City Engineer; and

WHEREAS, the Developer has acknowledged that a correction must be made to the Legal Description on the property and will complete this task prior to the release of any escrows held by the City under this Agreement; and

WHEREAS, the applicant has requested early grading of the Site and adjacent easement areas prior to recording of the Grading Agreement and Stormwater Maintenance Agreement, in order to allow possible construction within this year and the Council has determined that they would allow limited work on site subject to Developer executing this Agreement and providing security as established by the City Engineer.

NOW THEREFORE, IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. Conditions: Developer may commence limited grading of the site for the Property only to the extent approved by the City Engineer subject to conditions as determined by the City engineer. No work will be undertaken until Developer has, at a minimum, completed the following (which can be amended by the City Engineer):

All conditions as outlined in the full Grading Agreement and Stormwater Maintenance Agreement between the Parties, as stated in the November 11, 2023 City Council Meeting Agenda Packet documents, including, specifically:

- a. The Developer agrees to maintain existing drainage patterns and will construct temporary swales and other measures as necessary to maintain existing drainage patterns until such time that culverts and/or storm sewer is constructed.
- b. Developer shall implement erosion control measures as detailed on the Final Plans and as required by the City Engineer. Additionally, Developer shall implement additional erosion control measures as necessary to comply with the NPDES Construction Permit, City Code, and any other statutes or rules relevant to stormwater planning, wetlands, and grading. Developer shall promptly seed all areas disturbed by the grading and mulch with disc anchored straw mulch or acceptable alternatives.
- c. Developer recognizes that time is of the essence in controlling erosion. If the Developer does not comply with the Final Plans or the requirements of the City Engineer, the City may take such action as it deems appropriate to control erosion, and the Developer hereby grants the City permission to enter upon the land and take such necessary erosion control actions pursuant to Section 3 of this agreement.
- d. Transport of equipment to the development site shall adhere to all applicable road restrictions.

2. Acceptance of Risk. All work undertaken prior to full compliance with City ordinances including, but not limited to, execution of the full Grading Agreement and Stormwater Maintenance Agreement and posting of all required security, is solely at the risk of Developer.

3. Indemnification. Developer shall indemnify and hold harmless the City from any and all claims or causes of action of whatever nature related to the grading and preparation of the site as set forth in this Agreement. Further, Developer shall indemnify and hold harmless the City from any and all claims or causes of action of whatever nature related to grading and other work done off of the site upon existing utility and drainage easements. Said indemnity and agreement to hold the City harmless includes payment of any and all attorney's fees, engineering fees, witness fees or any other costs and disbursements related to this Agreement, including any City fees or costs expended to enforce the terms and conditions of this Agreement.

4. Security. In order to ensure compliance with this Agreement, or to assure completion or restoration of the site and any work performed or to be performed on easements outside of the site, Developer shall post an Irrevocable Standby Letter of Credit or other security acceptable to the City in the amount of \$2,000 per acre of the approximately six and four tenths (6.4) acres of Property (or the amount determined by the City Engineer to ensure all work is completed) in favor of the City (the "Grading LOC") for a total of \$12,800. The City may draw on the Letter of Credit after a written notice of default by Developer. The City may use such drawn upon funds to complete work not performed by Developer as required in this Agreement, to reimburse itself for costs incurred in the drafting, execution, administration, or enforcement of this Agreement. Said Grading Letter of Credit or other security shall remain in place until all work set forth in this Agreement described within the full Grading Agreement and Stormwater Maintenance Agreement (Final Grading and Erosion control Plans) has been completed and approved by the City Engineer.

As a condition of approving this Agreement, the Developer acknowledges and agrees that no reduction in the Letter of Credit shall be made until the Legal Description for the Property has been correctly described and recorded with the full Grading Agreement and Stormwater Maintenance Agreements at Anoka County, as required by the City.

5. Effective Date. This Agreement shall be binding and effective as of the date hereof.

In Witness Whereof:

APPLICANT

By: _____

Its: _____

STATE OF MINNESOTA)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023,
by _____, of _____.

Notary Public

CITY OF ST. FRANCIS

By: _____

Joseph Muehlbauer, Mayor

And by: _____

STATE OF MINNESOTA)

) ss.

COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Joseph Muehlbauer, the Mayor and _____, the _____ of the City of St. Francis, a Minnesota municipal corporation, on behalf of the municipal corporation.

Notary Public