

(RESERVED FOR RECORDING INFORMATION)

**CITY OF ST. FRANCIS
COUNTY OF ANOKA
STATE OF MINNESOTA**

**AGREEMENT AND WAIVER REGARDING PRE-APPROVAL GRADING OF
THAT PUD KNOWN AS RUM RIVER PRESERVE OF ST. FRANCIS**

THIS GRADING DEVELOPMENT AGREEMENT (“Grading Agreement”) is made and entered into this 4th day of November, 2024, by and between the **CITY OF ST. FRANCIS**, a Minnesota municipal corporation (“**City**”) and **THE WEAVER BROTHERS COMPANY**, a Minnesota Business Corporation (Domestic) (hereinafter referred to as the “**Developer**”).

WHEREAS, the applicant, The Weaver Brothers Company, developer of the real property legally described in *Exhibit A* to this Agreement has applied for approval from the City for a Planned Unit Development (PUD) and is seeking final plan approval for the property designated as RUM RIVER PRESERVE OF ST. FRANCIS (hereinafter the “**Plat**” or “**Site**” or “**Property**”); and

WHEREAS, the applicant has requested early grading of the Site prior to executing the Development Agreement, in order to allow possible construction within the PUD this year and the Council has determined that they would allow limited dirt work on site subject to Developer executing this Agreement and providing security as established by the City Engineer; and

WHEREAS, the City is willing to allow the Developer to move forward with early grading of the Site at its sole risk and responsibility, subject to the terms and conditions as set forth below.

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

1. The above recitals listed above are expressly incorporated and made part of this Agreement.

2. Conditions: Developer may commence limited grading of the site for Rum River Preserve of St. Francis Phase 1 only to the extent approved by the City Engineer subject to the following conditions:

- 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. The Developer shall receive all necessary approvals from the Anoka County Highway Department prior to commencing any work.
- c. Developer shall submit grading and erosion control plans which meet the requirements of the City of St. Francis City Code for review and approval by the City Engineer prior to grading being authorized.
- d. Developer shall implement erosion control measures as detailed on the Preliminary 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.
- e. Developer recognizes that time is of the essence in controlling erosion. If the Developer does not comply with the Preliminary 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 4 of this agreement.
- f. Transport of equipment to the development site shall adhere to all applicable road restrictions.
- g. Developer shall submit proof of coverage under the state required NPDES Construction Permit prior to commencing grading on the property.

3. Acceptance of Risk. All work undertaken prior to full compliance with City ordinances including, but not limited to, execution of the Development Agreement and posting of all required security, is solely at the risk of Developer. The Developer acknowledges that the Preliminary Plans have not been approved by the City and expressly agrees that all work performed pursuant to the terms of this Agreement shall be at the Developer's sole risk and expense. The Developer acknowledges, understands, and agrees that the City's granting or preliminary grading under this Agreement does not constitute any type of final agreement or guarantee of final grading. Furthermore, the City expressly

reserves the right to require or condition additional grading of the Site as part of any approval of the Preliminary Plans.

4. Indemnification. This Agreement imposes no liability of any kind whatsoever on the City. 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.

5. 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 \$3,000.00 per acre of the approximately two (2) acres Property (or the amount determined by the City Engineer to ensure all work is completed) in favor of the City (the "**Grading Security**") for a total of \$6,000. The City may draw on the Security 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 Security shall remain in place until: 1) all work set forth in this Agreement and attached *Exhibit B* (Preliminary Grading and Erosion control Plans) has been completed and approved by the City Engineer, 2) the Development Agreement has been approved by the St. Francis City Council and signed by the Developer, and 3) the Construction Work described in the Development Agreement has been sufficiently completed and approved to the satisfaction of the City Engineer, and released by the approval of the City Council.

6. Work Outside Property. In the event the Developer does any work outside the Property owned by Developer, Developer shall obtain permission from the adjacent or abutting property owner(s) where Developer is conducting the work. Any necessary right of entry and right to construct on the property must be received from individual property owners. Obtaining any said right of entry and/or right to construct is the sole responsibility of the Developer.

7. Wetlands. Developer shall not conduct work in any wetland areas for which Developer has not obtained necessary permits and approvals from appropriate governmental entities.

Dated: _____

CITY OF ST. FRANCIS

Joseph Muehlbauer, Mayor

Kate Thunstrom, City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of ____, 2024, by Joseph Muehlbauer and Kate Thunstrom, respectively Mayor and City Administrator of the City of St. Francis, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

Notary Public

Dated: _____

DEVELOPER

**THE WEAVER BROTHERS
COMPANY**

By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of
November 2024, by _____, the _____, of The Weaver
Brothers Company, a Minnesota domestic corporation, on behalf of the company.

Notary Public

THIS INSTRUMENT DRAFTED BY:

BARNA, GUZY & STEFFEN, LTD.
400 Northtown Financial Plaza
200 Coon Rapids Boulevard
Coon Rapids, Minnesota 55433
Telephone (763) 780-8500 (DRS)

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B

PRELIMINARY GRADING, DRAINAGE AND EROSION CONTROL PLANS