

**CITY OF RAMSEY
GRADING AGREEMENT FOR TROTT BROOK CROSSING**

This Agreement (hereinafter the “Agreement”) is dated as of this ____ day of _____, 2022, and is by and between the **CITY OF RAMSEY**, a Minnesota municipal corporation (the “**CITY**”), and **TCLD FUND 1 TROTT BROOK, LLC**, a Minnesota limited liability company (the “**PERMITTEE**”).

Recitals

A. The **PERMITTEE** is the owner of land legally described on the attached **Exhibit A** (the “**Subject Property**”).

B. The **PERMITTEE** desires to complete preliminary mass grading in advance of formal final plat plan review.

C. The **PERMITTEE** acknowledges that corrections and/or revisions to the grading plans may still be identified and required as part of the final plat plan review, which could impact preliminary mass grading that is conducted under this Agreement.

Agreement

1. Recitals Incorporated. The recitals stated above are hereby incorporated into this Agreement and are made part of this Agreement by reference.
2. Conditions of Approval. The **CITY** has approved the Trott Brook Crossing Preliminary Plat (the “Plat”) subject to satisfaction of the following conditions subsequent:
 - a. The **PERMITTEE’S** Execution of this Agreement. That the **PERMITTEE** enters into this Agreement.
 - b. Lower Rum River Watershed Management Organization Stormwater Permit Approval. The **PERMITTEE** shall conduct grading activities according to the approved Stormwater Permit from the Lower Rum River Watershed Management Organization (LRRWMO).
3. The Plans. Final grading plans must be approved by the City Engineer prior to commencing grading activities on the Subject Property.

4. Improvements. The improvements the **PERMITTEE** will construct or install are as follows:

Preliminary Grading (the “**Improvements**”).

5. Improvement Financial Guaranty. The **PERMITTEE** shall provide a financial guaranty to the **CITY** guarantying the construction of the Improvements and their timely completion in the form of a cash escrow or a letter of credit reasonably acceptable to the **CITY**. The **CITY** shall require a financial guaranty in the amount of thirty percent of the grading estimate. The **PERMITTEE** shall be responsible for a financial guaranty in the amount of **\$245,655.00** which is 30 percent of the \$818,850.00 grading estimate provided by the **PERMITTEE**. Such financial guaranty shall be released by the **CITY** upon completion of the Improvements in accordance with the requirements of this Agreement.
6. Inspection Escrow for the Improvements. The **PERMITTEE** shall provide an inspection escrow to the **CITY** to inspect the Improvements. The **PERMITTEE** shall be responsible for an inspection fee in the amount of **\$40,942.50** which is 5 percent of the \$818,850.00 grading estimate provided by the **PERMITTEE**.
7. Installation of the Improvements. The **PERMITTEE** shall obtain all necessary permits from all governmental agencies before commencing construction of the Improvements. The **PERMITTEE** must provide the **CITY** with copies of the National Pollutant Discharge Elimination System (NPDES) and Lower Rum River Watershed Management Organization (LRRMWO) permits prior to or when the **PERMITTEE** applies for a grading permit to construct improvements on a lot within the Plat. Within thirty (30) days after the completion of the Improvements, the **PERMITTEE** shall provide the **CITY** with a complete set of reproducible “As Built” plans for the Improvements.
8. Time of Performance for the Improvements. The **PERMITTEE** must substantially complete the Improvements within one (1) year after issuance of this Agreement.
9. Street Cleaning and Clean Up. The **PERMITTEE** shall periodically clear any accumulations of soil, earth, or debris from the streets resulting from the construction of the Improvements. If the **PERMITTEE** fails to keep streets clean the **CITY** shall notify the **PERMITTEE** of the issue and **PERMITTEE** shall clear soil, earth, or debris from the streets resulting from the construction of the Improvements within 48 hours of notification. If the **PERMITTEE** fails to clean streets after said 48-hour period the **CITY** may remove accumulations of soil, earth, and debris from the streets resulting from the construction of the Improvements. It shall be the **PERMITTEE’S** responsibility to pay the costs associated with this necessary street cleaning. Invoices from the **CITY** to the **PERMITTEE** for such costs shall be paid within thirty (30) days of the date of the invoice or deducted from the financial guaranty balance.
10. Payment of Development Fees. Since the Subject Property is not being platted at this time, the **PERMITTEE** acknowledges that the development fees will be required at time of final plat.
11. **PERMITTEE Defaults.** If the **PERMITTEE** defaults in the performance of one or more of the **PERMITTEE’S** obligations under this Agreement (most notably temporary and permanent erosion control measures), i) the **CITY** shall give the **PERMITTEE** thirty (30) days written notice of the default and ii) if the **PERMITTEE** fails to cure the default within thirty (30) days of receipt of notice of default, then the **CITY** may pursue any and all remedies available at law or in equity including, but not limited to, the following:

- a. The **CITY** may, at its option, perform or engage one or more third parties to perform the **PERMITTEE'S** obligations. If, in the reasonable judgment of the **CITY'S** staff, the **PERMITTEE'S** default creates an immediate risk to public health or safety, the **CITY** may perform or engage one or more third parties to perform the work before the **CITY** provides the notice described in the initial paragraph of this Section, but the **CITY** must use commercially reasonable efforts to notify the **PERMITTEE** as promptly as possible that the **CITY** is undertaking to perform the **PERMITTEE'S** obligation or obligations. If the **CITY** performs one or more obligations of the **PERMITTEE**, the **PERMITTEE** must reimburse the **CITY** for any costs or expenses the **CITY** reasonably incurs, including costs and expenses for **CITY** staff time to perform the work, within thirty (30) days after the **CITY** notifies the **PERMITTEE**, in writing, of the costs and expenses the **CITY** incurred to perform the work. If the **PERMITTEE** does not reimburse the **CITY** within said thirty (30) day period, the **CITY** may pursue any remedies available to the **CITY** either at law or in equity or, in the alternative, the **CITY** may draw on the financial guaranty the **PERMITTEE** has provided to the **CITY** pursuant to this Agreement to reimburse itself for the expenses the **CITY** incurs to perform the work. This Agreement is a license for the **CITY** to act, and it shall not be necessary for the **CITY** to seek a Court Order for permission to enter the **PERMITTEE** Property. As an alternative to seeking recovery from the **PERMITTEE** or the financial guaranty, the **CITY** may levy special assessments against the Subject Property in accordance with Minnesota Statutes Section 429, and the **PERMITTEE**, for itself and its successors in title, hereby expressly waives any and all substantive and procedural objections or defenses the **PERMITTEE** may have to such special assessments;
 - b. The **CITY** may commence an action in Anoka County District Court to pursue any remedy available to the **CITY** at law or in equity including, but not limited to, injunctive relief;
 - c. The **CITY** may refuse to grant building permits for improvements to be constructed on any lots within the Plat until the **PERMITTEE** has cured all of its defaults hereunder; and
 - d. The **CITY** may draw upon all or any portion of the financial guaranty the **PERMITTEE** has provided to the **CITY** pursuant to Section 5 and (i) use all or any portion of the proceeds from the financial guaranty to reimburse the **CITY** pursuant to subsection (a) above; or (ii) use all or any portion of the proceeds from the financial guaranty to satisfy any judgment the **CITY** obtains against the **PERMITTEE** pursuant to subsection (b) above.
12. Haul Route. Truck traffic hauling routes must be reasonably approved by the City Engineer.
 13. Limits of Construction. The City Engineer shall reasonably approve the limits of construction of the Improvements.
 14. Miscellaneous.

- a. Invalidity of Any Section. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason invalid, such decision shall not affect the validity of the remaining portion of this Agreement.
- b. Written Amendments Only. The action or inaction of the **CITY** or the **PERMITTEE** shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties, and approved by a resolution of the City Council. The **CITY'S** or the **PERMITTEE'S** failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.
- c. Compliance with Laws and Regulations. The **PERMITTEE** represents to the **CITY** that the Improvements will comply with all **CITY**, County, State, and Federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances and environmental regulations. If the **CITY** reasonably determines that the Improvements do not comply, the **CITY** may, at its option, refuse to allow any construction or development work in the Plat until the **PERMITTEE** does comply. Upon the **CITY'S** demand **PERMITTEE** shall cease work until there is compliance.
- d. Construction Site Maintenance. The **PERMITTEE** shall adhere to all of the **CITY** ordinances relating to, but not limited to, dumping of garbage, site development, construction debris, open burning, etc. on the Subject Property. The **CITY** reserves the right to withhold permits, inspections, or certificates of occupancy to correct violations relating to construction site maintenance.
- e. Estimated Cost. It is understood and agreed that cost amounts set forth in this Agreement as to Improvements, unless qualified as fixed amounts, are estimated. The **PERMITTEE** agrees to pay the entire cost of said Improvements including interest, engineering and legal fees related thereto.
- f. Reimbursement to the CITY. The **PERMITTEE** agrees to reimburse the **CITY** for all costs reasonably incurred by the **CITY** in defense or enforcement of this Agreement, or any portion thereof, including court costs and reasonable engineering and attorney's fees.
- g. Notices. Required notices shall be in writing, and shall be either hand delivered to the Parties, its employees or agents, or mailed to them by certified or registered mail at the following address:

TO PERMITTEE:

TCLD Fund 1 Trott Brook, LLC
 Attn.: Tracey Rust
 4800 Olson Memorial Highway, Suite 100
 Golden Valley, MN 55422

TO THE CITY:

City of Ramsey
 Attn: Brian Hagen, City Administrator
 7550 Sunwood Drive NW
 Ramsey, MN 55303

EXHIBIT A

Legal Description of the Subject Property

Parcel A:

That part of the West Half of the Northwest $\frac{1}{4}$ of Section 10, Township 32, Range 25, Anoka County, Minnesota described as follows: Commencing at the Northwest corner of Section 10, Township 32, Range 25; thence Easterly on said Section line 80 rods; thence Southerly parallel with the West line of said Section to Trott Brook; thence Westerly along the channel of said Brook to where the West line of said Section crosses the same; thence Northerly along said line to the place of beginning. EXCEPTING THEREFROM the following described parcel:

That portion of the West Half of the Northwest Quarter of Section 10, Township 32, Range 25, Anoka County, Minnesota described as follows: Commencing at the Northwest corner of said Section 10; thence North 89 degrees 23 minutes 47 seconds East along the North line of said Section 10, a distance of 481.77 feet to the point of beginning; thence continue North 89 degrees 23 minutes 47 seconds East along said North line of Section 10, a distance of 480.09 feet; thence South 00 degrees 34 minutes 09 seconds East parallel with the West line of said Section 10, a distance of 707.31 feet; thence North 83 degrees 29 minutes 51 seconds West, a distance of 483.67 feet; thence North 00 degrees 34 minutes 09 seconds West parallel with said West line, a distance of 657.59 feet to the point of beginning.

Parcel B:

That part of the Northeast Quarter of the Northwest Quarter of Section 10, Township 32, Range 25, Anoka County, Minnesota, described as follows: Commencing at the Northwest corner of the Northeast Quarter of the Northwest Quarter; thence running South 32 rods; thence running Easterly on a line which intersects the North boundary line of said Section 10 at the Quarter Section Corner; thence West on said North boundary line 80 rods to the point of commencement.

Parcel C:

The South Half of the Northeast Quarter of Section 9, Township 32, Range 25, Anoka County, Minnesota, excepting therefrom the following: The South 467 feet of the West 467 feet of the Southwest Quarter of the Northeast Quarter of said Section 9, Township 32, Range 25, Anoka County, Minnesota, as measured along the South and West lines thereof.

Parcel D:

The Northwest Quarter of the Southeast Quarter of Section 9, Township 32, Range 25, Anoka County, Minnesota, excepting therefrom the following: That part of the Northwest Quarter of the Southeast Quarter of Section 9, Township 32, Range 25, Anoka County, Minnesota, which lies South of the following described line: Commencing at the Southwest corner of said Northwest Quarter of the Southeast Quarter; thence on an assumed bearing of North 01 degrees 04 minutes 00 seconds East a distance of 218.43 feet to the point of beginning of the line to be described; thence North 71 degrees 20 minutes 50 seconds East, a distance of 809.12 feet; thence North 63 degrees 21 minutes 30 seconds East, a distance of 602.88 feet to the East line of said Northwest Quarter of the Southeast Quarter and there terminating.

Parcel E:

That portion of the West Half of the Northwest Quarter of Section 10, Township 32, Range 25, Anoka County, Minnesota described as follows: Commencing at the Northwest corner of said Section 10; thence North 89 degrees 23 minutes 47 seconds East along the North line of said Section 10, a distance of 481.77 feet to the point of beginning; thence continue North 89 degrees 23 minutes 47 seconds East along said North line of Section 10, a distance of 480.09 feet; thence South 00 degrees 34 minutes 09 seconds East parallel with the West line of said Section 10, a distance of 707.31 feet; thence North 83 degrees 29 minutes

51 seconds West, a distance of 483.67 feet; thence North 00 degrees 34 minutes 09 seconds West parallel with said West line, a distance of 657.59 feet to the point of beginning.

Parcel F:

The Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4) of Section 9, Township 32, Range 25, Anoka County, Minnesota.

Together with an easement for driveway purposes over the South 33 feet of the Southeast Quarter of the Southeast Quarter of Section 4, Township 32, Range 25, Anoka County, Minnesota.

Together with an easement for driveway purposes over the South 66 feet of the West 330 feet of the Southwest Quarter of the Southwest Quarter of Section 3, Township 32, Range 25, Anoka County, Minnesota.

Together with an easement for driveway purposes over the East 66 feet of the West 396 feet of the Southwest Quarter of the Southwest Quarter of Section 3, Township 32, Range 25, Anoka County, Minnesota.

Abstract property.