

## GRADING PERMIT

PERMIT dated May 24, 2021, issued by the **CITY OF CHANHASSEN**, a Minnesota political subdivision ("City"), to **LEVEL 7 DEVELOPMENT LLC**, a Minnesota limited liability company (the "Developer").

1. Request for Grading Permit. The Developer has asked the City to approve a grading permit in conjunction with the proposed plat for Avienda (referred to in this permit as the "site"). The land is legally described as follows:

THE SOUTH HALF OF THE SOUTHWEST QUARTER (S 1/2 OF SW 1/4), SECTION 23, TOWNSHIP 116, RANGE 23, CARVER COUNTY, MINNESOTA, EXCEPT THE FOLLOWING 2 DESCRIBED TRACTS:

LINE 1. COMMENCING AT THE SOUTHWEST CORNER OF SECTION 23, TOWNSHIP 116, RANGE 23; THENCE RUNNING NORTHON SECTION LINE 30 FEET; THENCE IN A STRAIGHT LINE TO A POINT ON THE SOUTH SECTION LINE OF SAID SECTION, 30FEET EAST OF THE SOUTHWEST CORNER OF SAID SECTION; THENCE WEST 30 FEET TO SAID SOUTHWEST CORNER OFSAID SECTION AND PLACE OF BEGINNING, BEING A THREE CORNERED PIECE IN SOUTHWEST CORNER OF SAID SECTION23, TOWNSHIP 116 RANGE 23; AND 2. THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THEEAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, BOTH IN SECTION 23, TOWNSHIP 116 NORTH, RANGE 23 WEST, CARVER COUNTY, MINNESOTA WHICH LIES EASTERLY OF LINE 2 DESCRIBED BELOW:

LINE 2. BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 23; THENCE RUN WEST ON AN AZIMUTH OF 271DEGREES 56 MINUTES 13 SECONDS ALONG THE SOUTH LINE OF SAID SECTION 23 FOR 1634.23 FEET TO A POINT; THENCEON AN AZIMUTH OF 00 DEGREES 43 MINUTES 24 SECONDS FOR 500.11 FEET TO A POINT; THENCE ON AN AZIMUTH OF 91DEGREES 56 MINUTES 13 SECONDS FOR 1173.46 FEET TO A POINT; THENCE ON AN AZIMUTH OF 29 DEGREES 19 MINUTES18 SECONDS FOR 152.11 FEET TO A POINT; THENCE ON AN AZIMUTH OF 352 DEGREES 57 MINUTES 23 SECONDS FOR709.36 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE ONAN AZIMUTH OF 91 DEGREES 23 MINUTES 02 SECONDS ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER FOR 475.37 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THERE TERMINATING.

### ABSTRACT.

TOGETHER WITH  
PARCEL 1

THE NORTH 420.00 FEET OF THE EAST 414.86 FEET OF THE NW 1/4 OF THE SW 1/4 OF SECTION 23, TOWNSHIP 116, RANGE 23, CARVER COUNTY, MINNESOTA.

### PARCEL 2

THE NW 1/4 OF THE SW 1/4 OF SECTION 23, TOWNSHIP 116, RANGE 23, CARVER COUNTY, MINNESOTA EXCEPT FOR THE SOUTH 658.24 FEET THEREOF; AND ALSO EXCEPT THE NORTH 420.00 FEET OF THE EAST 414.86 FEET THEREOF.

### PARCEL 3

THE SOUTH 658.24 FEET OF THE NW 1/4 OF THE SW 1/4 OF SECTION 23, TOWNSHIP 116, RANGE 23, CARVER COUNTY, MINNESOTA.

### TOGETHER WITH

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER (NE 1/4 OF SW 1/4) OF SECTION TWENTY-THREE (23), TOWNSHIP ONE HUNDRED SIXTEEN (116) NORTH OF RANGE TWENTY-THREE (23) WEST, CARVER COUNTY, MINNESOTA, EXCEPT THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER {NE 1/4 OF SW 1/4) OF SECTION TWENTY-THREE (23), TOWNSHIP ONE HUNDRED SIXTEEN (116) NORTH, RANGE TWENTY-THREE (23) WEST, SHOWN AS PARCEL 64 ON MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 10-19, FILED 10-19-2004 AS DOCUMENT NO. 39930

2. Conditions of Approval. The City hereby approves the permit on condition that the Developer abide by its terms and furnish the security required by this permit.

3. Plans. The extent of grading operations, and all applicable related work including Stormwater Pollution Prevention Plan (SWPPP), shall be performed in accordance with Plans dated May 27, 2020, prepared by Landform on behalf of the Developer. If the Plans vary from the written terms of this permit, the written terms shall control. The intent of this Grading permit is for earthmoving related work only. Utilities, paving, landscaping and all other non-grading related work is not covered by this permit.

4. Time of Performance. The Developer shall complete grading and all permanent stabilization of disturbed areas by September 30, 2021. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and the extended completion date.

5. Additional Permits. It is the responsibility of the Developer to apply for and obtain all applicable permits required for grading operations from other jurisdictions with regulatory authority over the site prior to commencement of earthwork activities, which may include permits from, but not limited to, Riley Purgatory Bluff Creek Watershed District, Carver County, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Minnesota Department of Transportation, Army Corps of Engineers. Submittal of approvals from all applicable jurisdictions must be provided to the City prior to commencement of earthwork activities.

6. As-Builts. The site shall be graded in accordance with the Plans. Within thirty (30) days after completion of the grading and before the City releases the security, the Developer shall provide the City with an "as constructed", i.e. as-built, grading plan and a certification by a registered land surveyor or engineer that all basins, swales, and ditches have been constructed per plan and functioning to meet approved permit requirements.

7. Clean up. The Developer shall promptly clean dirt and debris from streets that has resulted from construction work by the Developer, its agents or assigns.

8. Security. To guarantee compliance with the terms of this permit, the Developer shall furnish the City with a cash escrow or irrevocable letter of credit, in the form attached hereto as Exhibit A, from a bank ("security") for \$500,000. The bank and form of the letter of credit shall be subject to the approval of the City. The letter of credit shall be for a term which aligns with the Time of Performance.

9. Responsibility for Costs.

A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the grading, drainage and erosion control, including but not limited to legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the permit, the preparation of this permit, and all costs and expenses incurred by the City in monitoring and inspecting the grading, drainage and erosion control.

B. The Developer shall hold the City and its officers and employees harmless from claims

made by itself and third parties for damages sustained or costs incurred resulting from permit approval and work done in conjunction with it. The Developer shall indemnify the City and its officers and employees for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorney's fees.

C. The Developer shall reimburse the City for costs incurred in the enforcement of this permit, including engineering inspection and attorney's fees.

D. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this permit within thirty (30) days after receipt. If the bills are not paid on time, the City may halt all work and construction.

10. Developer's Default. In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer is first given notice of the work in default, not less than 48 hours in advance. This permit 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 land. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part.

11. Insurance. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall be not less than \$750,000 for one person and \$2,000,000 for each occurrence; limits for property damage shall be not less than \$1,000,000 for each occurrence. The City shall be named as an additional insured on the policy, and the Developer shall file with the City a certificate evidencing coverage prior to the City signing the plat.

12. Preconstruction Meeting. The developer and their contractor(s) shall host a preconstruction meeting prior to the commencement of grading operations.

13. Conservation Easement Protection. The conservation easement area, designated as Outlot A on the proposed plat for Avienda, shall be undisturbed and protected at all times. The conservation easement area shall be demarcated by tree protection fencing along with adequate signage indicating the conservation easement boundary prior to the commencement of earthwork activities.

13. Haul Routes. Submittal of travel routes to and from the site and the number and types of trucks that will be used, hours and months of operation, and estimated time required to complete the operation shall be submitted prior to the preconstruction meeting. Access is prohibited from Bluff Creek Boulevard to the west of the site.

14. Fees. The Developer shall pay the City a non-refundable fee of \$300,000.00 prior to the issuance of this permit.

**CITY OF CHANHASSEN**

(SEAL)

BY: \_\_\_\_\_  
Elise Ryan, Mayor

AND \_\_\_\_\_  
Laurie Hokkanen, City Manager

**LEVEL 7 DEVELOPMENT, LLC:**

BY: \_\_\_\_\_  
Its

COUNTY OF Carver )

NOTARY PUBLIC

COUNTY OF \_\_\_\_\_ )

NOTARY PUBLIC

**CAMPBELL KNUTSON**  
*Professional Association*  
317 Eagandale Office Center  
1380 Corporate Center Curve  
Eagan, Minnesota 55121  
(612) 452-5000  
**AMP**

**EXHIBIT "A"**  
**TO**  
**GRADING PERMIT**

**Irrevocable Letter of Credit**

No. \_\_\_\_\_  
Date: \_\_\_\_\_

TO: City of Chanhassen  
601 Main Street  
PO Box 99  
Chanhassen, Minnesota 55054

Dear Sir or Madam:

We hereby issue, for the account of Level 7 DEVELOPMENT LLC and in your favor, our Irrevocable Letter of Credit in the amount of \$500,000.00, available to you by your draft drawn on sight on the undersigned bank.

The draft must:

a) Bear the clause, "Drawn under Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_, of (Name of Bank)";

b) Be signed by the Mayor or City Clerk of the City of Chanhassen.

c) Be presented for payment at (Address of Bank), on or before 4:00 p.m. on November 30, 20\_\_\_\_.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be September 30 of each year), the Bank delivers written notice to the Chanhassen City Clerk that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: Chanhassen City Clerk, Chanhassen City Hall, 20195 Holyoke Avenue West, Chanhassen, MN 55044, and is actually received by the City Clerk at least thirty (30) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

BY: \_\_\_\_\_  
Its \_\_\_\_\_