



**HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY
AGENDA**

**Thursday, June 29, 2023 at 5:00 PM Central
Council Chambers, City Hall - Hermantown Governmental Services Building
5105 Maple Grove Rd
Hermantown, MN 55811**

1. CALL TO ORDER

2. ROLL CALL

3. MINUTES

3.A. Approve May 25, 2023 HEDA Minutes **3**

4. MOTIONS

5. RESOLUTIONS

Roll call will be taken only on items required by law and items requiring 4/5's votes, all others can be done by voice vote.

5.A. 2023-04H **Resolution Regarding The Creation Of A Redevelopment Tax Increment Financing District In Support Of A Proposed 260-Unit Apartment Complex At The 15-Acre Engwall's Greenhouse Site North Of Hermantown Road** **6**

5.B. 2023-05H **Resolution Requesting A Public Hearing On The Establishment Of Tax Increment Financing District No. 1-2: The Greenhouse** **16**

5.C. 2023-06H **Resolution Authorizing The Preparation Of The Draft Alternative Urban Areawide Review (AUAR) Document For The Hermantown Business Park** **20**

5.D. 2023-07H **Resolution Approving An Agreement For Consulting Services To With LHB, Inc. In An Amount Not To Exceed \$1,000** **28**

CITY OF HERMANTOWN
HERMANTOWN ECONOMIC DEVELOPMENT AUTHORITY
Thursday, May 25, 2023 at 5:00 PM Central
Council Chambers, City Hall - Hermantown Governmental Services Building

Mayor Wayne Boucher: Present
Councilor John Geissler: Absent
Dwayne Haapanen: Absent
Councilor Andy Hjelle: Present
Councilor Ellie Jones: Present
Councilor Brian LeBlanc: Present
Chad Ronchetti: Absent

CITY STAFF: John Mulder, City Administrator; Eric Johnson, Community Development Director; Steve Overom, Attorney

VISITORS: 1

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **MINUTES**

A. Approve April 27, 2023 HEDA Minutes

Motion to approve minutes as presented. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Ellie Jones, Carried.

Chad Ronchetti: Absent
Councilor Andy Hjelle: Yea
Councilor Brian LeBlanc: Yea
Councilor Ellie Jones: Yea
Councilor John Geissler: Absent
Dwayne Haapanen: Absent
Mayor Wayne Boucher: Yea
Yea: 4, Nay: 0, Absent: 3

4. **PUBLIC HEARING**

Public Hearing On Business Subsidy And Property Conveyance Hermantown Economic Development Authority St. Louis County State Of Minnesota

5. **MOTIONS**

6. **RESOLUTIONS**

Roll call will be taken only on items required by law and items requiring 4/5's votes, all others can be done by voice vote.

A. 2023-02H Resolution Approving The Business Subsidy Agreement Between The Hermantown Economic Development Authority And Brett Kolquist Trucking, LLC

Motion to approve 2023-02H Resolution Approving The Business Subsidy Agreement Between The Hermantown Economic Development Authority And Brett Kolquist Trucking, LLC. This motion, made by Councilor Andy Hjelle and seconded by Councilor Brian LeBlanc, Carried.

Chad Ronchetti: Absent
Councilor Andy Hjelle: Yea
Councilor Brian LeBlanc: Yea
Councilor Ellie Jones: Yea
Councilor John Geissler: Absent
Dwayne Haapanen: Absent
Mayor Wayne Boucher: Yea
Yea: 4, Nay: 0, Absent: 3

B. 2023-03H Resolution Approving A Development Agreement Between The Hermantown Economic Development Authority And Brett Kolquist Trucking, LLC

Motion to approve 2023-03H Resolution Approving A Development Agreement Between The Hermantown Economic Development Authority And Brett Kolquist Trucking, LLC. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Andy Hjelle, Carried.

Chad Ronchetti: Absent
Councilor Andy Hjelle: Yea
Councilor Brian LeBlanc: Yea
Councilor Ellie Jones: Yea
Councilor John Geissler: Absent
Dwayne Haapanen: Absent
Mayor Wayne Boucher: Yea
Yea: 4, Nay: 0, Absent: 3

C. 2023-04H Resolution Regarding The Creation Of A Redevelopment Tax Increment Financing District In Support Of A Proposed 260-Unit Apartment Complex At The 15-Acre Engwall's Greenhouse Site North Of Hermantown Road

Motion to table 2023-04H Resolution Regarding The Creation Of A Redevelopment Tax Increment Financing District In Support Of A Proposed 260-Unit Apartment Complex At The 15-Acre Engwall's Greenhouse Site North Of Hermantown Road. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Ellie Jones, Tabled.

Chad Ronchetti: Absent
Councilor Andy Hjelle: Yea
Councilor Brian LeBlanc: Yea
Councilor Ellie Jones: Yea
Councilor John Geissler: Absent

Dwayne Haapanen: Absent

Mayor Wayne Boucher: Yea

Yea: 4, Nay: 0, Absent: 3

7. **WORK SESSION (Project Updates)**

A. Update on Hermantown Marketplace: John Mulder update the Commission on various discussion about housing on the property adjacent to the soccer fields and near Maple Grove Road and some discussion about possible development of a recreational facility on the back soccer fields. No action was required at this time.

8. **RECESS**

Motion to recess at 5:42 p.m. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Ellie Jones, Carried.

Chad Ronchetti: Absent

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Absent

Dwayne Haapanen: Absent

Mayor Wayne Boucher: Yea

Yea: 4, Nay: 0, Absent: 3

Recorded by:

John Mulder, City Administrator

ATTACHMENTS

Letter dated 5/17/2023 with all attachments
Resolution
Preliminary Development Agreement
TIF Timeline

Hermantown Economic Development Authority
Resolution No. 2023-04H

HEDA Commissioner _____ introduced the following resolution and moved its adoption:

RESOLUTION REGARDING THE CREATION OF A REDEVELOPMENT TAX INCREMENT FINANCING DISTRICT IN SUPPORT OF A PROPOSED 260-UNIT APARTMENT COMPLEX AT THE 15-ACRE ENGWALL'S GREENHOUSE SITE NORTH OF HERMANTOWN ROAD

BE IT RESOLVED by the Hermantown Economic Development Authority, Minnesota (the "HEDA"), as follows:

WHEREAS, the City of Hermantown (the "City") is a municipal corporation and a political subdivision duly organized and existing under the Constitution and laws of the State of Minnesota; and

WHEREAS, pursuant to the Constitution and laws of the State of Minnesota, particularly Minnesota Statutes, Sections 469.174 through 469.1799, as amended, the City is authorized to use tax increment financing to carry out the public purposes described therein and contemplated thereby; and

WHEREAS, a proposal has been made by P&R Development, LLC (the "Developer") to construct an approximately 260-unit two-phase/two-building apartment complex with parking and amenity spaces at 4747 Hermantown Road in the City, which project is to be known as The Greenhouse Development (the "Project"); and

WHEREAS, it is estimated that the tax increment generated from the proposed project could support approximately \$5,828,027 of eligible project costs plus interest at 4.50% for a total assistance of \$8,707,683 over 15 years; and

WHEREAS, the Project would be located on land that is currently owned by Saline Properties; and

WHEREAS, the Developer has submitted its development proposal to the City and HEDA is supportive of continuing further consideration of the Project; and

WHEREAS, HEDA wishes to support the Project and directs staff to work with the Developer to take the steps necessary to create a tax increment financing district for the Project.

WHEREAS, HEDA has caused the June 2023 Preliminary Development Agreement (“2023 PDA”) attached hereto as Exhibit A to be prepared by legal counsel and reviewed by the City Administrator and City staff and recommended that it be approved by HEDA.

NOW THEREFORE, BE IT RESOLVED, by the Commissioners of HEDA as follows:

1. HEDA supports the Project, and pending final determination of project eligibility, required reviews, public input, notices and hearings, and without surrendering its legislative discretion, hereby authorizes staff to proceed with the steps required to establish a tax increment financing district for the Project and approves the 2023 PDA.

2. That the HEDA Executive Director is authorized and directed to execute the 2023 PDA on behalf of HEDA.

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this ____ day of _____, 2023.

HEDA Administrator

EXHIBIT A
2023 PDA

JUNE 2023

PRELIMINARY DEVELOPMENT AGREEMENT

THIS PRELIMINARY DEVELOPMENT AGREEMENT dated as of ____ day of _____, 2023, by and between the **Hermantown Economic Development Authority**, an economic development authority created under Chapter 469 of the Minnesota Statutes, (“HEDA”) and **P & R Properties Twin Ports, LLC**, a Minnesota limited liability company (“Developer) in response to the following situation:

A. Developer submitted to HEDA on September 22, 2022 an incomplete Application for Business Subsidy (“Application”) and a seven (7) page document entitled “The Greenhouse Development Proposal” for a project (“Greenhouse Project”) on certain real estate located at 4747 Hermantown Road within the City of Hermantown (“City”).

B. Developer has informed HEDA and the City that without financial assistance in the form of tax increment financing, as permitted under Minnesota law, the construction and operation of the Greenhouse Project set forth in the Proposal would not be economically feasible.

C. HEDA and the City desire to work with the Developer in an effort to refine the nature and scope of the Greenhouse Project and to determine the level of tax increment financing assistance, if any, that might be provided to the Developer in connection with the Greenhouse Project.

D. HEDA and the City have determined that in order to provide tax increment financing assistance in connection with the Greenhouse Project, it will be necessary for the City to create a tax increment district under Minnesota Statutes, §§ 469.170-469.178

E. Developer provided City and HEDA with a signed Inducement Agreement dated August 11, 2022 (“Inducement Agreement”) and provided City with a Five Thousand and No/100 Dollars (\$5,000.00) deposit pursuant to the Inducement Agreement.

F. HEDA, by Resolution No. 2022-10H, approved a Preliminary Development Agreement (“October 2022 PDA”) for the Greenhouse Project.

G. The October 2022 PDA was never signed.

H. City and HEDA took necessary actions and spent considerable amounts to review and analyze the Greenhouse Project.

I. Developer has requested that City and/or HEDA provide a preliminary approval of the Greenhouse Project.

J. Developer, HEDA and the City desire to set forth their understandings concerning the basis upon which each will proceed to formalize their participation in the Greenhouse Project, which participation is contingent upon further study and approval.

NOW, THEREFORE, Developer and the City do hereby agree as follows:

1. The terms and provisions of the Inducement Agreement continue and are incorporated into the terms of this Agreement.

2. HEDA shall proceed to review and analyze the Greenhouse Project to determine if tax increment financing is necessary and appropriate for the Greenhouse Project.

3. After review HEDA staff shall submit its recommendation to and City and request preliminary approval or disapproval of the Greenhouse Project.

4. If preliminary approval is recommended by HEDA and the City, HEDA and City will enter into negotiations with Developer to produce a definitive development agreement. Such development agreement will be submitted to HEDA and the City for final approval and shall contain the respective rights and duties of the parties subsequent to such approval. If a definitive development agreement is not agreed to between the parties by _____, 2023, neither Developer, HEDA nor the City shall have any further obligations under this Agreement, except as provided in Section 5.

5. Simultaneously with the execution of this Agreement, Developer agrees to pay the costs incurred by HEDA and City to review the Greenhouse Project to-date is as shown on Exhibit A attached hereto. The Five Thousand and No/100 Dollars (\$5,000.00) that was deposited with the City pursuant to the Inducement Agreement is included with the amount shown on Exhibit A attached hereto. Simultaneously with execution of this Preliminary Agreement, Developer has submitted an application fee of Seventeen Thousand Five Hundred and No/100 Dollars (\$17,500.00). The deposit will cover the following expected costs:

5.1. Five Thousand and No/100 Dollars (\$5,000.00) to compensate HEDA and City for staff time spent and to be spent reviewing the Greenhouse Project. This amount is non-refundable.

5.2. Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) for bond counsel services from Fryberger, Buchanan, Smith & Frederick, P.A.

5.3. Five Thousand and No/100 Dollars (\$5,000.00) for fiscal consultant services from Ehlers and Associates, Inc.

5.4. City and HEDA will also incur attorneys' fees in connection with the consideration of the Greenhouse Project and document drafting by Overom Law, PLLC in an estimated amount of Five Thousand and No/100 Dollars (\$5,000.00).

The items described in section 5.1 through 5.4 are hereby referred to as “Consultant Costs”. The Consultant Costs specified in this Section are estimates only. Developer agrees that the actual amounts of the Consultant Costs incurred by HEDA and City in connection with the consideration of this Greenhouse Project will be paid from the amount deposited by the Developer, or if the amount of the deposit is not sufficient to pay the Consultant Costs in full by the Developer within fifteen (15) days of receiving an invoice for unpaid Consultant Costs from HEDA. If the amounts invoiced are not paid when due, then City and HEDA may discontinue further consideration of the Greenhouse Project.

In the event that the Developer or HEDA or the City determines that the Greenhouse Project is not feasible, the City shall refund any deposit remaining. No refund shall be made until all unpaid Consultant Costs are paid in full from the deposit. Any Consultant Costs not paid from the deposit will be required to be paid by Developer in accordance with Section 2 of the Inducement Agreement.

If the tax increment financing district is approved, and it is permitted by law, and there are sufficient TIF revenues to pay such costs in addition to Greenhouse Project development costs and costs to perform the items set forth in Section 6.1 below, HEDA and City shall allow the Developer to consider amounts paid to HEDA and City to review the application as eligible expenses that could be reimbursed by increment generated in the Greenhouse Project.

6. HEDA, City and Developer agree that the subsequent execution and implementation of a development agreement shall be subject to the following:

6.1. HEDA’s and City’s determination, in its sole discretion, that its undertakings under the Development Agreement are feasible based upon estimated tax increment revenues from the Greenhouse Project, are consistent with the purposes and objectives of HEDA and City and are in the best interests of HEDA and City. Developer’s undertaking under the Development Agreement will provide a trailhead building, trailhead parking, access drive through the property to Anderson Road, payment for costs of the sewer and water main extensions to Anderson Road, contributions needed for road improvements to Hermantown Road and future developments and amounts to cover City’s and HEDA’s ongoing costs to administer any TIF plan created for the Greenhouse Project.

6.2. The Developer’s determination, in its sole discretion, that the undertaking of the Greenhouse Project is economically feasible, and is in its best interest.

7. Nothing in this Agreement constitutes a commitment or agreement that the City or HEDA will enter into a development agreement to provide financial assistance to the Greenhouse Project. Neither City nor HEDA is legally permitted to incur any such obligations without the contractual arrangements being approved by the affirmative action of the City Council of the City of Hermantown and the affirmative vote of the Board of Commissioners of the Hermantown Economic Development Authority.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the Hermantown Economic Development Authority has caused this Agreement to be duly executed in its name and behalf on or as of the date first above written.

Hermantown Economic Development Authority

By _____
Its President

And By _____
Its Secretary

[SIGNATURES CONTINUE ON NEXT PAGE]

IN WITNESS WHEREOF, Developer has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

P & R Properties Twin Ports, LLC

By _____
Its _____

[END OF SIGNATURES]

Hermantown Economic Development Authority
Resolution No. 2023-05H

HEDA Commissioner _____ introduced the following resolution and moved its adoption:

RESOLUTION REQUESTING A PUBLIC HEARING ON THE ESTABLISHMENT OF TAX INCREMENT FINANCING DISTRICT NO. 1-2: THE GREENHOUSE

BE IT RESOLVED, by the Board of Commissioners (the “Board”) of the Hermantown Economic Development Authority (the “Authority”) as follows:

WHEREAS, the City Council (the “Council”) of the City of Hermantown, Minnesota (the “City”) previously established its Development District No. 1 (the “Development District”) and has previously created tax increment financing districts within the Development District, pursuant to Minnesota Statutes, Sections 469.174 to 469.1794, as amended (the “TIF Act”), in an effort to encourage the redevelopment and development of certain designated areas within the City; and

WHEREAS, the City has transferred the administration and control of its tax increment financing districts to the Authority; and

WHEREAS, the Authority recognizes an ongoing need to encourage economic development opportunities within the Development District and the City; and

WHEREAS, the Authority is proposing a modification to the existing boundaries of the Development District to be conterminous with the boundaries of the City and the creation of Tax Increment Financing District No. 1-2: The Greenhouse (the “TIF District”), a redevelopment district, within the Development District, and the approval of a Tax Increment Financing Plan (“TIF Plan”) for the TIF District, pursuant to and in accordance with Section 469.175 of the TIF Act, for the purpose of developing multifamily housing within the City; and

WHEREAS, the creation of tax increment financing districts must be approved by the City Council of the City after a duly noticed public hearing.

NOW, THEREFORE BE IT RESOLVED by the Board as follows:

1. The Authority hereby requests that the Council call for a public hearing to be held on August 21, 2023 or a later date to be determined by the Community Development Director in accordance with the TIF Act, to consider the proposed establishment of the TIF District and the adoption of a TIF Plan for the TIF District, and to cause notice of said public hearing to be given as required by law.

2. The Authority directs the Community Development Director to transmit copies of the TIF Plan to the Planning Commission of the City and requests the Planning Commission's written opinion indicating whether the proposed TIF Plan is in accordance with the Comprehensive Plan of the City, prior to the date of the public hearing.

3. The Community Development Director of the Authority is hereby directed to submit a copy of the TIF Plan to the Council for its approval.

4. The Authority directs the Community Development Director to transmit the TIF Plan to St. Louis County and Independent School District No. 700 (Hermantown Public Schools) in accordance with the TIF Act.

5. Staff and consultants are authorized and directed to take all other steps necessary to prepare the TIF Plan and related documents and to undertake other actions necessary to bring the TIF Plan before the Council.

Adopted by the Board of Commissioners of the Hermantown Economic Development Authority this 29th day of June, 2023.

President

Attest:

Community Development Director

Schedule of Events

Hermantown Economic Development Authority St. Louis County, Minnesota

For the proposed Modification to the Redevelopment Plan for Development District No. 1 and the proposed establishment of Tax Increment Financing District No. 2: The Greenhouse (a redevelopment district)

Draft as of June 21, 2023

June 29, 2023	HEDA meets at 5:00 PM to recommend the City Council move forward with a resolution calling for public hearing.
June 30, 2023	Project information, property identification numbers, fiscal impacts and maps sent to Ehlers for drafting documentation. Ehlers confirms whether building permits have been issued on the property to be included in the TIF District.
July 5, 2023	City Council meets at 6:30 PM to call for a public hearing related to the TIF District.
July 10, 2023	Letter received by County Commissioner giving notice of potential redevelopment TIF district (at least 30 days prior to publication of public hearing notice). [Ehlers will distribute.]
By July 18, 2023	Ehlers conducts internal review of Plans.
July 18, 2023	Planning Commission meets at 7:00 PM to review Plans and consider a resolution affirming the Plans conform to the general plans for development and redevelopment of the City as a whole. [Attorney provides resolution information by July 11, 2023.]
July 21, 2023	Fiscal/economic implications received by School Board Clerk and County Auditor (at least 30 days prior to public hearing) and County receives information for review of county road impacts. [Ehlers will distribute.]

*The County Board, by law, has 45 days to review the TIF Plan to determine if any county roads will be impacted by the development. Because City staff believes that the proposed TIF district will not require unplanned county road improvements, the TIF Plan was not forwarded to the County Board 45 days prior to the public hearing. Please be aware the County Board could claim that tax increment should be used for county roads, even after the public hearing.

July 27, 2023	HEDA meets at 5:00 PM to consider the Plans, resolution adopting the Plans in connection with the TIF District. [Attorney provides resolution by July 11, 2023.]
August 10, 2023	Publication of hearing notice and map in the Hermantown Star (at least 10 days but not more than 30 days prior to hearing). [Ehlers will submit notice, map and instructions. Publication deadline: August 3, 2023.]
August 21, 2023	City Council holds public hearing at 6:30 PM on the modification to the Redevelopment Plan for Development District No. 1 and the proposed Establishment of Tax Increment Financing District No. 2: The Greenhouse and considers a resolution approving the Plans. [Ehlers and attorney provide packet information August 14, 2023.] City considers an Interfund Loan resolution in connection with the TIF District.
August 22, 2023	City may issue building permits.
Before June 30, 2024	Ehlers files the Plans with the MN Department of Revenue, Office of the State Auditor, and requests certification of the TIF District with the County.

An action under subdivision 1, paragraph (a), contesting the validity of a determination by an authority under section 469.175, subdivision 3, must be commenced within the later of:

(1) 180 days after the municipality's approval under section 469.175, subdivision 3; or

(2) 90 days after the request for certification of the district is filed with the county auditor under section 469.177, subdivision 1.

Hermantown Economic Development Authority
Resolution No. 2023-06H

HEDA Commissioner _____ introduced the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING THE PREPARATION OF THE DRAFT
ALTERNATIVE URBAN AREAWIDE REVIEW (AUAR) DOCUMENT FOR THE
HERMANTOWN BUSINESS PARK**

WHEREAS, the Hermantown Economic Development Authority (“HEDA”) desires to consider the construction of the Hermantown Business Park (Development”) within the City of Hermantown and as shown on Exhibit A attached hereto; and

WHEREAS, HEDA and the City Council has received the AUAR Large Specific Project Scoping document for the Hermantown Business Park (Project); and

WHEREAS, the City, as the Responsible Governmental Unit (hereinafter referred as the “RGU”), had ordered that an Alternative Urban Areawide Review (hereinafter referred to as the “AUAR”) is required for the Project per Minnesota Rules 4410.3610 (described below); and

WHEREAS, the Project is approximately 119.8 areas (Study Area); and

WHEREAS, Project proposes to construct one through street and up to 22 new buildings of variable sizes from 7,800 to 299,000 square feet, totaling up to 942,000 square feet of new and existing buildings. The proposed uses of the newly constructed buildings would be light industrial, warehousing, and commercial uses including offices and retail; and

WHEREAS, there are no specific end users or specific projects planned within the Study Area and the AUAR will be used as a planning and environmental review document for future project specific individual plans and uses within the Study Area; and

WHEREAS, the AUAR Large Specific Project Scoping document, was submitted to the Minnesota Environmental Quality Board’s EQB Monitor on May 9, 2023 for public review and comment as part of the AUAR process as described in Minnesota Rules 4410.3610, Subp. 5.A.; and

WHEREAS, at the conclusion of the 30 day public comment period on June 15, 2023 the RGU had not received any public or government agency comments, and

WHEREAS, pursuant to Minnesota Rules 4410.3610, subpart 5.a (D), the RGU must adopt a Final Order for Review for the preparation of a draft AUAR and mitigation plan (based on the development scenario presented in the AUAR Large Specific Project Scoping document) to analyze the individual and cumulative potential effects from the largest building footprints possible and lot configurations with consideration given to existing natural resources, planning and zoning requirements, market trends, and infrastructure needs, and

THEREFORE BE IT RESOLVED, HEDA directs City staff to proceed with the preparation of the draft AUAR and mitigation plan for the development scenario.

The motion for the adoption of the foregoing resolution was duly seconded by HEDA Commissioner _____ and, after full discussion thereof and upon a vote being taken thereon, the following HEDA Members voted in favor thereof:

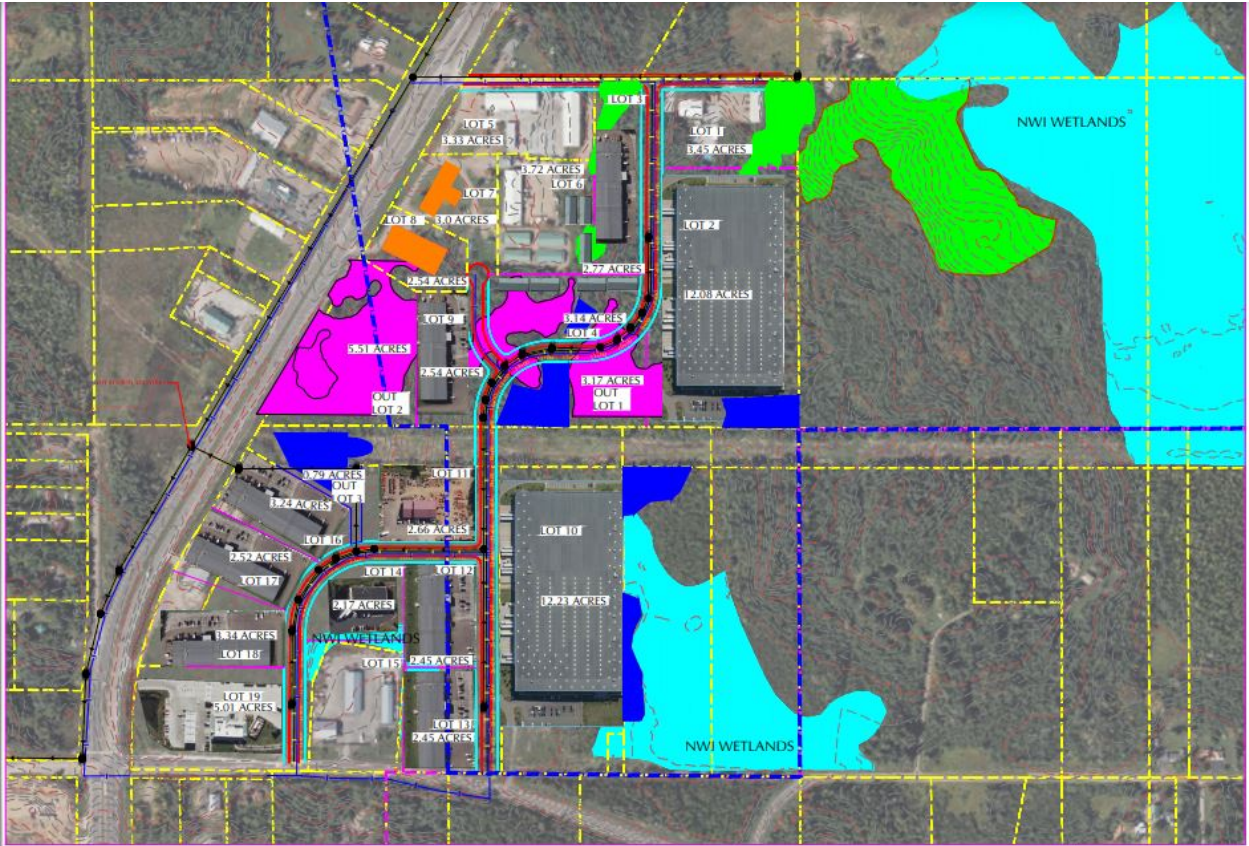
and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this ____ day of _____, 2023.

HEDA Administrator

EXHIBIT A



Hermantown
 AUAR Lavaque
 ByPass Rd
 Business Park

Hermantown Economic
 Development Authority

LOUCKS
 SUBMITTED
 CIVIL ENGINEERING
 LAND SURVEYING
 LANDSCAPE ARCHITECTURE
 ENVIRONMENTAL

1000 Herndon Lane, Suite 200
 Maple Grove, MN 55127
 TEL: 763.429.2200
 www.loucks.com

USED QUALIFICATION
 (This section contains a list of qualifications for the project, including the name of the project, the location, and the date of completion.)


QUALITY CONTROL
 (This section contains a list of quality control measures for the project, including the name of the project, the location, and the date of completion.)

PROFESSIONAL SIGNATURE

QUALITY CONTROL

**LARGE LOTS
 - WITH LOT
 SIZES**



HEDA MEETING DATE:		June 29, 2023	
TO:	HEDA Members		
FROM:	Eric Johnson, Community Development Director		
SUBJECT:	Hermantown Business Park – AUAR Final Order for Review		

RESOLUTION: 2023-06H **WORK SESSION** **OTHER:** Add Name

REQUESTED ACTION

Authorize Braun Intertec Corporation (Braun) to proceed with the Final Order for Review of the Draft Alternative Urban Areawide Review (AUAR) document associated with the Hermantown Business Park project.

BACKGROUND

HEDA is working with Bruan Intertec to prepare an Alternate Urban Areawide Review of the properties in a proposed Hermantown Business Park at the corner of Ugstad Road and Hwy 53. There are several steps in this process, with the public comment period for the Scoping AUAR Scoping document being completed on June 15. There were no public or agency comments received.

The next step is to authorize Braun to proceed with the completion of the Draft AUAR document and mitigation plan. A portion of this work has already been completed with the Scoping Document as well as the completion of the traffic study. Per the attached schedule a draft of this draft document will be available to the City and stakeholders on July 24, 2023.

The anticipated completion and City adoption of the Final AUAR document is October 2023.

SOURCE OF FUNDS (if applicable)

HEDA 230-465100-319

ATTACHMENTS

Resolution
 AUAR Schedule – Hermantown Business Park

Hermantown Economic Development Authority

HEDA’s mission is to intentionally lead economic growth, creating a vibrant and prosperous community.

AUAR Schedule - Hermantown Business Park

Revised June 22, 2023

Braun Project No. B2207985

Variable Timeframes (can be shortened or lengthened at city's discretion)

AUAR Stage	EQB Rule/Statute Requirements	Timeline Start	Timeline End	Status
AUAR Data Collection and Data Requests		September	March	Complete
AUAR Scoping Draft #1 Available for RGU Review		March 17	March 24	March 30 (Comments Received)
AUAR Scoping Draft #1 Resolution of RGU Comments		March 30	April 12	April 12 (RGU Meeting)
AUAR Scoping Draft #1 Available for Stakeholder Review		April 19	5pm, April 27	Complete
HEDA Meeting	HEDA review of Draft #1	5pm, April 27	NA	Complete
AUAR Scoping Draft #2: Resolution of Draft #1 comments, Available for RGU and Stakeholder Review	Draft #2 (if needed)	April 28	May 1	Complete
City Council Meeting	Acceptance of Scoping AUAR, proceed with public notice	May 1	N/A	May 1
RGU Distributes Draft Order for Review/ Public Notice in EQB Monitor (<i>EQB Submission Deadline, 4:00pm Tuesdays</i>)	4410.3610 Subp. 5a B (Large Specific Projects - Scoping)	May 9	N/A	May 9
30 Day Public Notice Period (<i>Begins Noon, Tuesdays after EQB Submission Deadline</i>)	4410.3610 Subp. 5a C	May 16	June 15	May 16 – June 15
Compile Public Comments (Factual/Substantiative vs. Fictional/Emotional)		June 16	June 20	N/A (No Comments Received)
Draft Response to Public Comments		June 21	June 23	N/A (No Comments Received)
RGU Consideration of Comments Received/Comment Resolution/AUAR Revisions (if needed)	Within 15 days of end of public comment period (4410.3610 Subp. 5a D & E)	June 26	On/before July 1	N/A (No Comments Received)
RGU Adopts Final Order for Review	Within 15 days of end of public comment period (4410.3610 Subp. 5a E)	June 26	On/before July 1	June 29 (HEDA Meeting), July 5 (City Council)
RGU Distributes Final Order of Review and Record of Decision to EQB and Commentors	Within 10 days of RGU Decision (4410.3610 Subp. 5a E)	July 6	On/before July 11	
Develop Draft AUAR and Mitigation Plan		July 5	July 21	In Progress

AUAR Schedule - Hermantown Business Park

Revised June 22, 2023

Braun Project No. B2207985

Variable Timeframes (can be shortened or lengthened at city's discretion)

AUAR Stage	EQB Rule/Statute Requirements	Timeline Start	Timeline End	Status
AUAR Draft #1 Available for RGU and Stakeholder Review		July 24	July 21	
AUAR Draft #1 Resolution of RGU Comments		July 24	July 28	
RGU Acceptance of Draft AUAR		July 31	Aug. 4	
RGU Distributes Draft AUAR/Public Notice in EQB Monitor <i>(EQB Submission Deadline, 4:00pm Tuesdays)</i>	4410.3610 Subp. 5 A	Aug. 8		
30 Day Public Notice Period – EQB Monitor <i>(Begins Noon, Tuesdays after EQB Submission Deadline)</i>	4410.3610 Subp. 5 B	Aug. 15	Sept. 14	
Optional Public Meeting		TBD		
Compile Public Comments <i>(Factual/Substantiative vs. Fictional/Emotional)</i>		Sept. 14	Sept. 22	
Draft Response to Public Comments		Sept. 14	Sept. 22	
RGU Consideration of Comments Received/Comment Resolution/AUAR Revisions (if needed)	4410.3610 Subp. 5 C	Sept. 25	Sept. 27	
RGU Acceptance of Final AUAR		Sept. 27	Sept. 29	
RGU Distributes Final AUAR to State Agencies	4410.3610 Subp. 5 D	Oct. 2	Oct. 6	
State Agencies Objection Period	Within 10 days from receipt of final AUAR (4410.3610 Subp. 5 D)	Oct. 16		
RGU Adopts Final AUAR	4410.3610 Subp. 5 E	Oct. 16 City Council Meeting		
Notice in EQB Monitor <i>(EQB Submission Deadline, 4:00pm Tuesdays)</i>	4410.3610 Subp. 5 E	Oct. 17 or 24	Oct. 24 or 31	

TO: Interested Parties (Including Minnesota Environmental Quality Board Distribution List)

FROM: Eric Johnson
Community Development Director
City of Hermantown

DATE: July XX, 2023

SUBJECT: Notice of Final Order for Review of Draft AUAR for the proposed Hermantown Business Park

As the Responsible Governmental Unit (RGU), the City of Hermantown has determined that an Alternative Urban Areawide Review (AUAR) is required for the proposed Hermantown Business Park. The AUAR study area encompasses 119.8 acres on 10 existing tax parcels, located along the northside of U.S Highway 53, west of Lavaque Bypass Road (County Road 48), and east of Abrahamson Road in Hermantown, St. Louis County, Minnesota (see attached Figure 1 and Figure 2). The project is proposed by the City of Hermantown.

The notice of availability of the Draft AUAR Order and Scoping Document was published in the Minnesota Environmental Quality Board's *EQB Monitor* on May 16, 2023. The Scoping Document, located on the Hermantown Business Park website (hermantownmn.com/bizpark), was available for review and comment as part of the AUAR process as described in Minnesota Rules, part 4410.3610, subpart 5a.

Pursuant to Minnesota Rules, part 4410.3610, subpart 5a(C), the purpose of the comments on a Scoping Document for an AUAR is to suggest additional development scenarios and relevant issues to be analyzed in the review. Comments may suggest alternatives to the specific large project or projects proposed to be included in the review, including development at sites outside of the proposed geographic boundary. The comments must provide reasons why a suggested development scenario or alternative to a specific project is potentially environmentally superior to those identified in the RGU's draft order.

The 30-day comment period began on May 16, 2023 and closed on June 15, 2023. During the public comment period, no public or agency comments were received.

Development Scenario

The Final Master Plan (Hereinafter referred to as "The Development Scenario") represents the full build out scenario and therefore is the "worst case scenario" for potential environmental impacts and further environmental analysis. The development scenario proposes to construct one through street and up to 22 new buildings of variable sizes from 7,800 to 299,000 square feet totaling up to 942,000 square feet. The proposed uses of the newly constructed buildings would be light industrial, warehousing, and commercial uses including offices and retail. There are no specific end users or specific projects planned within the Study Area, however the pending final AUAR will be used as a planning document for future project specific individual plans and uses within the Study Area.

Final Order for Review of Draft AUAR

This document constitutes a final order for review pursuant to Minnesota Rules, part 4410.3610, subpart 5a(D). Although the exact configuration of each building will not be determined until construction on each parcel is designed, a Draft AUAR will be prepared (based on the Development

Scenario) to analyze the individual and cumulative potential effects from the largest building footprints possible and lot configurations with consideration given to existing natural resources, planning and zoning requirements, market trends, and infrastructure needs. **The Final Order for Review (resolution #) was adopted by the Hermantown City Council on July 5, 2023 (attached).**

The Draft AUAR, when complete, will be available for a required 30-day public comment period (anticipated late summer/early fall 2023).

Please address comments or questions to:

Eric Johnson
Community Development Director
City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811
218.729.3618
eric.johnson@hermantownmn.com

HEDA

230-465100-319

ATTACHMENTS

Resolution
Proposal

Hermantown Economic Development Authority

HEDA's mission is to intentionally lead economic growth, creating a vibrant and prosperous community.

Hermantown Economic Development Authority
Resolution No. 2023-07H

HEDA Commissioner _____ introduced the following resolution and moved its adoption:

RESOLUTION APPROVING AN AGREEMENT FOR CONSULTING SERVICES TO WITH LHB, INC. IN AN AMOUNT NOT TO EXCEED \$1,000

WHEREAS, the Hermantown Economic Development Authority (“HEDA”) desires to obtain assistance with the evaluation of existing building conditions of the property shown on Exhibit A (“Hwy 53 Business Park”) attached hereto for the purposes of determining if all or a portion of the Hwy 53 Business Park qualifies for the creation of a Redevelopment TIF District (“Services”); and

WHEREAS, LHB, Inc. (“LHB”) submitted a proposal as shown on Exhibit B attached hereto to HEDA on June 19, 2023 to provide Services; and

WHEREAS, HEDA and LHB desire to enter into an Agreement for Consulting Services (“Agreement”) as shown on Exhibit C attached hereto in which LHB provides the Services pursuant to these terms of the Agreement; and

WHEREAS, the Commissioners of HEDA have duly considered this request and desire to enter into this Agreement with LHB.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of HEDA:

1. HEDA hereby agrees to enter into the Agreement for Consulting Services with the LHB for the Services substantially in the form of the one attached hereto as Exhibit A.

2. The President and Secretary of HEDA are hereby authorized and directed to execute and deliver the Agreement for Consulting Services.

The motion for the adoption of the foregoing resolution was duly seconded by HEDA Commissioner _____ and, after full discussion thereof and upon a vote being taken thereon, the following HEDA Members voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this _____ day of _____, 2023.

HEDA Administrator

EXHIBIT B



June 19, 2023

Eric Johnson
Community Development Director
City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811

AGREEMENT FOR INVESTIGATIVE SERVICES HERMANTOWN MILLER TRUNK HIGHWAY TIF PROBABILITY ANALYSIS

Thank you for the opportunity to submit our proposal to provide a TIF probability analysis for ten parcels near the intersection of Trunk Highway 53 and Ugstad Road in Hermantown, MN.

LHB is a full-service architecture, planning, and engineering firm with a total of 260 staff located in our Minneapolis, Duluth, and Cambridge, Minnesota, and Superior, Wisconsin offices.

Our Government Studio has extensive experience working with local governments on their planning, design, architectural and engineering needs. Having been personally involved on various city councils and planning commissions, I understand how cities function and the importance of maintaining the support of appointed and elected officials and community throughout the process.

Below outlines our previous experience, team credentials, and scope of services. This proposal, if approved, will service as the Agreement between LHB and Client.

I. PREVIOUS EXPERIENCE

LHB has significant experience with a variety of inspection and facility assessment projects, including the analysis of over 380 TIF Districts. Some examples include:

- City of Columbia Heights TIF Inspection Services
- City of St. Paul TIF Inspection Services
- City of St. Anthony Village, NW Quadrant TIF Inspection Services
- City of St. Louis Park TIF Inspection Services
- City of Mount TIF District "1-2" Inspection Services
- City of Osseo TIF Inspection Services
- City of New Richmond (Wisconsin) TIF Inspection Services
- Minnesota State System Facility Assessments
- State of Minnesota Facility Assessments
- Property Condition Assessments for the St. Paul Department of Planning and Economic Development (Franklin/Emerald Neighborhood)
- Condition Surveys for every DNR Facility in the State of Minnesota, 2014

II. TEAM CREDENTIALS

Michael A. Fischer, AIA, LEED AP – Project Principal/TIF Analyst

With over 34-years of experience serving as a Project Principal, Project Manager, Project Designer and Project Architect on planning urban design, educational, commercial, and governmental projects, he has become an expert on Tax Increment Finance District (TIF) analysis assisting over 100 cities with strategic planning for TIF Districts. Michael is an LHB Principal and Leader of the Integrative Design Team and leads the Minneapolis office.

Michael completed a two-year Bush Fellowship, studying at MIT and Harvard in 1999, earning master's degrees in City Planning and Real Estate Development from MIT. He has served on more than 50 committees, boards, and community task forces, including City Council President in Superior, Wisconsin, Chair of the Duluth/Superior Metropolitan Planning Organization, and Chair of the Edina, Minnesota Planning Commission. Most recently, he served as a member of the Edina city council and Secretary of the Edina HRA. Michael has also managed and designed several award-winning architectural projects and was one of four architects in the Country to receive the AIA Young Architects Citation in 1997.

III. SCOPE OF SERVICES

- 1. Survey the proposed parcels to determine probability of substandard buildings.**
 - a. We will drive by the proposed TIF parcels to evaluate the probability of each building meeting the MN State Statute requirements based on exterior observation only.
 - b. Each building will be given one of three rankings.
- 2. Deliver Findings in a virtual meeting with Client.**
 - a. A formal report will not be part of this probability analysis. The intent with this visit is to help strategize an appropriate future TIF District for this area.

IV. ASSUMPTIONS

1. LHB assumes the review area to include approximately 10 parcels with 15-20 buildings.
2. This review will be conducted while Michael Fischer is in Duluth during the days between June 21-23, 2023, eliminating the need for a special trip from Minneapolis.

V. STANDARD OF CARE

LHB shall perform its services consistent with the professional skill and care ordinarily provided by other professionals practicing in the same or similar locality under the same or similar circumstances. LHB shall perform its services in a timely manner consistent with the professional skill and care required for the orderly progress of the engagement.

Any report prepared by LHB represents a professional opinion based upon information available and arrived at in accordance with generally accepted professional standards. Other than as contained in the report, LHB makes no express or implied warranty.

Any report prepared for the purpose described in this Agreement is for the exclusive use by those to whom the report is addressed. LHB will not and cannot be held liable for the unauthorized reliance upon this report by any third party.

VI. COMPENSATION

We propose to provide services on an hourly basis with the following key staff:

- Project Principal, Michael Fischer \$290/hour

Compensation shall be on an hourly basis, not to exceed One Thousand Dollars (\$1,000), including reimbursable expenses, for the exterior observation of the properties and a follow up meeting with the client.

VII. PAYMENT TERMS

Payments are due and payable upon receipt of our invoice. Unpaid balances 60-days after invoice date shall bear interest at the rate of 8% per annum or 0.67% per month on the unpaid balance.

Failure to make timely payment to LHB is a material breach of this Agreement and may, at LHB's sole discretion, result in a suspension or termination of services, and may, at LHB's sole discretion, result in the termination of the Client's limited license authorization to use LHB's copyrighted Instruments of Service.

VIII. ADDITIONAL SERVICES

If there is a material change in the circumstances or conditions that affect the scope of work, schedule, allocation of risks or other material terms, LHB shall notify Client. Client and LHB shall promptly and in good faith enter into negotiation to address the changed conditions including equitable adjustment to compensation. The fees and costs for any additional services will be based upon LHB's 2023 Standard Hourly Rate Schedule and 2023 Reimbursable Expenses Schedule.

IX. SCHEDULE

LHB will conduct this work between June 21-23, 2023.

X. CONSEQUENTIAL DAMAGES

LHB and Client waive consequential damages for claims, disputes or other matters in question arising out of, or relating to, this Agreement.

XI. LIMITATION OF LIABILITY

To the maximum extent permitted by law, Client agrees to limit LHB's liability for Client's damages to the sum of Ten Thousand Dollars (\$10,000) or LHB's fee, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

XII. USE OF LHB'S DOCUMENTS

The documents prepared by LHB, including Documents in electronic format, are solely for use with respect to this Project. All Documents prepared or furnished by LHB pursuant to this Agreement are the Instruments of Service to the Project and LHB shall retain all common law, statutory and other reserved rights, including copyright. LHB grants to Client a nonexclusive limited license solely for the purposes of evaluating and executing the Project. Client shall not assign, delegate, sublicense, or otherwise transfer any license granted herein to another party.

To the extent the documents are transferred or are modified, supplemented or otherwise altered by Client, subsequent design professional, or any other party, Client agrees to indemnify, defend and hold LHB harmless for

any claims, demands, damages or causes of action arising out of such transfer or modification, supplementation or alteration.

XIII. OTHER CONDITIONS

The laws of the State of Minnesota shall govern this Agreement. Any provision of this agreement later held to violate a law or regulation shall be deemed void. All remaining provisions shall continue in force.

Client recognizes that materials prepared by others may be subject to copyright protection and warrants to LHB that any documents provided by Client do not infringe upon the copyright held by another.

Unless the parties mutually agree otherwise, the parties shall endeavor to settle disputes by mediation. A demand for mediation shall be filed, in writing, within a reasonable period of time after a claim, dispute or other matter in question has arisen.

LHB and the Client, acting through the Client's legal representative, will, to the fullest reasonable extent, cooperate and coordinate efforts in preparing necessary responses to any third-party challenges to the inspections. The Client agrees to pay LHB its regular hourly rates spent as a result of a third-party legal challenge

If the terms and conditions of this Agreement are acceptable, please sign and return a copy to LHB.

LHB, INC.



Signature

Michael Fischer

Printed Name

Its: Vice President

Title

CITY OF HERMANTOWN

Signature

Printed Name

Its:

Title

c:\users\mfisch\documents\mike documents\lhb\tif\tif agreements\2023 agreements\hermantown highway 53 tif probability analysis 06-19-23.docx

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (“Agreement”) is made effective as of the ____ day of _____, 2023 by and between the **Hermantown Economic Development Authority** (“Owner”) and **LHB, Inc.** (“Consultant”) in response to the following situation:

A. Owner desires to obtain consulting services for the purposes of evaluating existing building conditions to determine if all or a portion of the property shown on Exhibit A attached hereto (“Hwy 53 Business Park”) qualifies for the creation of a Redevelopment TIF District.

B. Consultant is willing to provide consulting services to Owner pursuant to the terms of this Agreement. This Agreement shall supersede any inconsistent provisions within the Consultants proposal (Proposal).

NOW, THEREFORE, Owner and the Consultant do mutually agree as follows:

1. **Services to be Performed.**

1.1. Michael Fischer shall be the party responsible for the services to be performed by Consultant.

1.2. The scope of services to be provided to Owner by Consultant is as set forth on Exhibit B attached hereto.

2. **Personnel.** Consultant will secure, at her own expense, all personnel required to perform the services under this Agreement, and such personnel shall not be the employee(s) of, nor have a contractual relationship with, Owner.

3. **Assignability.** Consultant shall not assign any interest in this Agreement, shall not contract with others to perform Consultant’s services and shall not transfer any interest in this Agreement without the prior written approval of Owner.

4. **Agreement Period.** This Agreement shall be effective as of the date hereof and shall continue until terminated as provided in Section 5 hereof.

5. **Termination of Agreement.** Either Consultant or Owner may, by giving written notice specifying the effective date which shall not be less than thirty (30) days from the date such notice is given, terminate this Agreement in whole or in part. In the event of termination, all property and finished or unfinished documents and other writings prepared by the Consultant under this Agreement shall be delivered to Owner and Consultant shall be entitled to compensation for time expended and expenses incurred to the date of termination.

6. **Independent Contractor.** The relationship between the Consultant and Owner shall be that of an independent contractor. Nothing herein shall in any way make or create any employer employee relationship between Owner and Consultant.

7. **Standard of Performance and Insurance; Indemnity.** All services to be performed by Consultant hereunder shall be performed in a skilled, professional and non-negligent manner. Consultant shall obtain and maintain at his/her/its cost and expense:

7.1. Commercial general liability insurance that covers the consultant services performed by Consultant for Owner with a per occurrence limit/general aggregate limit of liability of at least Two Million Dollars (\$2,000,000.00).

7.2. Errors and omissions or equivalent insurance that covers the consultant services performed by Consultant for Owner with a per occurrence limit/general aggregate limit of liability of at least Two Million Dollars (\$2,000,000.00).

7.3. Worker's compensation insurance covering Consultant (if an individual) all of Consultant's employees with coverages and limits of coverage required by law.

Consultant certifies that Consultant is in compliance with all applicable worker's compensation laws, rules and regulations. Neither Consultant (if an individual) nor Consultant's employees and agents will be considered Owner employees. Any claims that may arise under any worker's compensation laws on behalf of any employee of Consultant and any claims made by any third party as a consequence of any act or omission on the part of Consultant or any employee of Consultant are in no way Owner's obligation or responsibility. By signing this Agreement, Consultant certifies that Consultant is in compliance with these laws and regulations.

Consultant shall deliver to Owner, concurrent with the execution of this Agreement, one or more certificate(s) of insurance evidencing that Consultant has the insurance required by this Agreement in full force and effect. Owner shall be named as additional insured under such Consultant's commercial general liability policy. The insurer will provide at least thirty (30) days prior written notice to Owner, without fail, of any cancellation, non-renewal, or modification of any the policy(ies) or coverage evidenced by said certificate(s) for any cause, except for nonpayment of premium. The insurer will provide at least ten (10) days prior written notice to Owner, without fail, of any cancellation of any of the policy(ies) or coverage evidenced by said certificate(s) for nonpayment of premium. Consultant shall provide Owner with appropriate endorsements to its policy(ies) reflecting the status of Owner as an additional insured and requiring that the foregoing required notice of cancellation, material alteration or non-renewal be provided Owner by the insurance company providing such insurance policy to Consultant.

The Consultant shall require any subcontractor permitted by Owner under Section 3 hereof to perform work for Consultant on the Project to have in full force and effect the insurance coverage required of the Consultant under this Agreement before any subcontractor(s) begin(s) work on the Project. Consultant shall require any such subcontractor to provide to Consultant a Certificate of Insurance evidencing that such subcontractor has the insurance required by this Agreement in full force and effect. The Consultant and Owner shall be named as

additional insureds under such policies. The insurer will provide thirty (30) day written notice to Owner and Consultant, without fail, of any cancellation, non-renewal, or modification of the policy(ies) or coverage evidenced by said certificate(s) for any cause, except for nonpayment of premium. The insurer will provide at least ten (10) days prior written notice to Owner, without fail, of any cancellation of any of the policy(ies) or coverage evidenced by said certificate(s) for nonpayment of premium. Owner shall also be provided with appropriate endorsements to its policy(ies) reflecting the status of Owner as an additional insured and requiring that the foregoing required notice of cancellation, material alteration or non-renewal be provided Owner by the insurance company providing such insurance policy(ies).

8. **Compensation.** Consultant shall be compensated for the services to be performed hereunder as set forth in Exhibit C. Consultant shall submit to Owner itemized statements of services rendered during each month setting forth the date such services were rendered, a description of the services rendered, the person performing such services and the amount of time expended in performing such services.

9. **Recordkeeping.** Consultant hereby agrees:

9.1. To maintain all books, documents, papers, accounting records and other evidence pertaining to the fees and expenses for which it seeks payment or reimbursement hereunder and appropriate records with respect to the services performed by it under this Agreement.

9.2. To make such materials available at its office at all reasonable times during the Agreement Term and for three (3) years from the date of final payment under this Agreement for inspection by Owner and copies thereof shall be furnished to Owner upon request by Owner.

10. **No Prohibited Interest.** Consultant represents and warrants to Owner that no employee, officer or agent of Owner, any member of the family of any such person, any partner of any such person or any organization which employs or is about to employ any of the above has a financial or other interest in the business of Consultant.

11. **Confidentiality.** Consultant agrees that, at all times, both during the term of this Agreement and after the termination of this Agreement, it will be faithful to Owner by not divulging, disclosing or communicating to any person, firm or corporation, in any manner whatsoever, except in furtherance of the business of Owner or as required by any applicable law, rule, regulation or ordinance of Owner or any other governmental authority, any information of any kind, nature or description concerning any matters affecting or relating to the business, employees, agents, customers of Owner, or parties contracting with Owner.

12. **Intellectual Property Rights.** For the purposes of this Agreement, Project Materials means copyrights and all works developed in the performance of this Agreement, including, but not limited to, the finished product and any deliverables, including any software or data. Project Materials do not include any materials that Consultant developed, acquired or otherwise owned or had a license to use prior to the date of this Agreement. All Project Materials

are agreed by Consultant to be “works made for hire” as defined under 17 U.S.C. §101, for which Owner has the sole and exclusive right, title and interest, including all rights to ownership and copyright and/or patent. In addition, Consultant hereby assigns all right, title and interest, including rights of ownership and copyright in the Project Materials to Owner no matter what their status might be under federal law. Consultant shall provide Owner with copies of all Project Materials. Upon request by Consultant, Owner may authorize Consultant to use specified Project Materials to evidence Consultant’s progress and capability. In all such uses of Project Materials by Consultant, reference shall be made to Owner and the Project and that the Project Materials are owned by Owner. Consultant also acknowledges and agrees that all names and logos provided to Consultant by Owner for use in connection with the Project are and shall remain the sole and exclusive property of Owner. Project Materials prepared by Consultant under are not intended or represented to be suitable for reuse by Owner or others on extensions or modifications of the services or on any other project. Any such reuse without written verification or adaptation by Consultant for the specific purpose intended will be at the Owner’s sole risk, and Owner agrees to hold Consultant harmless for all costs and liability arising out of such unauthorized use.

13. **Notices.** Any notice required to be given under this Agreement shall be deemed sufficient if in writing, sent by mail to the last known office address of Consultant, or to Owner at 5105 Maple Grove Road, Hermantown, MN 55811.

14. **Miscellaneous.** This Agreement constitutes the sole and complete agreement relating to the subject matter of this Agreement between the parties, superseding any and all other agreements between the parties and no verbal or other statements, inducements or representations have been made or relied upon by either party. No modifications hereof shall be binding upon either party unless in writing and properly executed.

15. **No Contractual Authority.** Consultant shall have no authority to enter into any contracts or agreements binding upon Owner or to create any obligations on the part of Owner.

16. **Data Practices Act.** Consultant acknowledges that Owner is subject to the provisions of the Minnesota Government Data Practices Act. Consultant must comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, as it applies to all data provided by Owner in accordance with this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Consultant in accordance with this Agreement. The civil remedies of Minnesota Statutes § 13.08, apply to Consultant and Owner. Minnesota Statutes, Chapter 13, provides that all government data is public unless otherwise classified. If Consultant receives a request to release the data referred to in this Section, Consultant must immediately notify Owner and consult with Owner as to how Consultant should respond to the request. Consultant’s response shall comply with applicable law, including that the response is timely and, if Consultant denies access to the data, that Consultant’s response references the statutory basis upon which Consultant relied. Consultant does not have a duty to provide public data to the public if the public data is available from Owner.

17. **Choice of Law and Venue.** All matters relating to the validity, construction, performance, or enforcement of this Agreement shall be determined in accordance with the laws of the State of Minnesota. All legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued in the State of Minnesota District Court located in the City of Duluth, County of St. Louis, State of Minnesota.

18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, Owner and Consultant have executed this Agreement for Consulting Services as of the date first above written.

OWNER:

**Hermantown Economic Development
Authority**

By _____
Its President

And By _____
Its Secretary

**CONSULTANT:
LHB, Inc.**

By _____
Its _____

Hermantown Economic Development Authority
Resolution No. 2023-08H

HEDA Commissioner _____ introduced the following resolution and moved its adoption:

**RESOLUTION DIRECTING PREPARATION OF PRELIMINARY ENGINEERING
FEASIBILITY REPORT FOR DEVELOPMENT OF ROADS AND UTILITIES FOR
THE HERMANTOWN BUSINESS PARK DEVELOPMENT**

WHEREAS, the Hermantown Economic Development Authority (“HEDA”) desires to consider the construction of roads and utilities at the northwest corner of the intersection of U.S. Hwy 53 and Lavaque Bypass to the Hermantown Business Park Development (“Hwy 53 Business Park”) within the City of Hermantown and as shown on Exhibit A attached hereto (“Infrastructure Project”); and

WHEREAS, HEDA may request that the City Council of the City of Hermantown assess the benefited property for all or a portion of the cost of the Infrastructure Project pursuant to Minnesota Statutes, Chapter 429; and

WHEREAS, Minnesota Statutes § 429.031 requires that the City Council obtain a preliminary report from the City’s consulting engineer before it establishes a date for a public hearing on the Infrastructure Project; and

WHEREAS, HEDA desires that the report it has prepared for the Hwy 53 Business Park will qualify as the preliminary engineering report required by law; and

WHEREAS, the HEDA Commissioners have reviewed the recommendation of the HEDA staff to direct the preparation of preliminary engineering report to determine the feasibility of the proposed Infrastructure Project.

NOW THEREFORE, BE IT RESOLVED by the Commissioners of HEDA as follows:

1. The Infrastructure Project is hereby referred to the City Engineer for the City of Hermantown for study and the City Engineer is instructed to report to HEDA with all convenient speed advising HEDA in a preliminary way as to whether the proposed Infrastructure Project is necessary, cost-effective and feasible and as to whether it should best be made as proposed or in connection with some other improvement and the estimated cost of the Infrastructure Project as recommended.
2. The report shall be prepared in form and substance so that it will qualify as a preliminary engineering report under Minnesota Statutes § 429.031.

The motion for the adoption of the foregoing resolution was duly seconded by HEDA Commissioner _____ and, after full discussion thereof and upon a vote being taken thereon, the following HEDA Members voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this _____ day of _____, 2023.

HEDA Administrator

Hermantown Economic Development Authority
Resolution No. 2023-09H

HEDA Commissioner _____ introduced the following resolution and moved its adoption:

**RESOLUTION DIRECTING PREPARATION OF PRELIMINARY ENGINEERING
FEASIBILITY REPORT FOR DEVELOPMENT OF ROADS AND
UTILITIES FOR THE STEBNER PARK DEVELOPMENT**

WHEREAS, the Hermantown Economic Development Authority (“HEDA”) desires to consider the construction of roads and utilities for the Stebner Park Development (“Stebner Park Development”) within the City of Hermantown and as shown on Exhibit A attached hereto (“Infrastructure Project”); and

WHEREAS, HEDA may request that the City Council of the City of Hermantown assess the benefited property for all or a portion of the cost of the Infrastructure Project pursuant to Minnesota Statutes, Chapter 429; and

WHEREAS, Minnesota Statutes § 429.031 requires that the City Council obtain a preliminary report from the City’s consulting engineer before it establishes a date for a public hearing on the Infrastructure Project; and

WHEREAS, HEDA desires that the report it has prepared for the Stebner Park Development will qualify as the preliminary engineering report required by law; and

WHEREAS, the HEDA Commissioners have reviewed the recommendation of the HEDA staff to direct the preparation of preliminary engineering report to determine the feasibility of the proposed Infrastructure Project.

NOW THEREFORE, BE IT RESOLVED by the Commissioners of HEDA as follows:

1. The Infrastructure Project is hereby referred to the City Engineer for the City of Hermantown for study and the City Engineer is instructed to report to HEDA with all convenient speed advising HEDA in a preliminary way as to whether the proposed Infrastructure Project is necessary, cost-effective and feasible and as to whether it should best be made as proposed or in connection with some other improvement and the estimated cost of the Infrastructure Project as recommended.

2. The report shall be prepared in form and substance so that it will qualify as a preliminary engineering report under Minnesota Statutes § 429.031.

The motion for the adoption of the foregoing resolution was duly seconded by HEDA Commissioner _____ and, after full discussion thereof and upon a vote being taken thereon, the following HEDA Members voted in favor thereof:

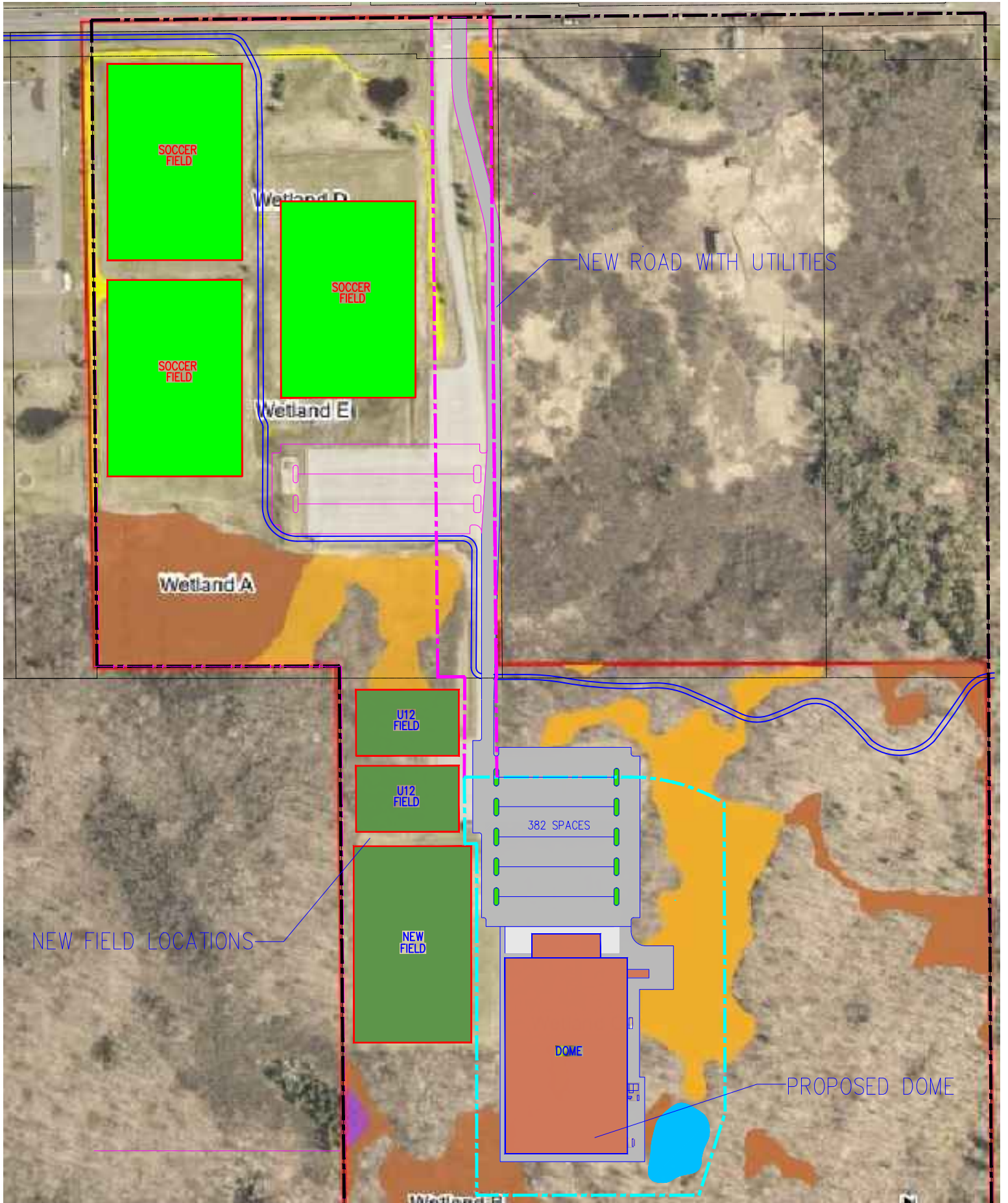
and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

Dated this _____ day of _____, 2023.

HEDA Administrator

EXHIBIT A



SOCCER FIELD

Wetland D

SOCCER FIELD

NEW ROAD WITH UTILITIES

SOCCER FIELD

Wetland E

Wetland A

U12 FIELD

U12 FIELD

382 SPACES

NEW FIELD LOCATIONS

NEW FIELD

DOME

PROPOSED DOME

Wetland E