



Hermantown City Council Meeting - Monday, August 19, 2024

Hermantown's upcoming City Council meeting will include both remote access and in-person access to Council Chambers. The remote access will be available through the platform, "Zoom," which allows the public to view and participate in the meeting via phone or computer. Interested parties can also choose to attend the City Council meetings in person at City Hall.

Remote access to the 6:30 p.m. City Council Meeting via Zoom:

<https://us02web.zoom.us/j/84409952143?pwd=cGdaNzZmU2NYdGxsUDIQVDVxeU9LQT09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 844 0995 2143 and the passcode of 0260647091.

Public comment may also be submitted in advance of the meeting. Comments, questions, or concerns can be e-mailed to Community Engagement Director, Joe Wicklund, at jwicklund@hermantownmn.com up to 3:30 p.m. the day of the meeting with the e-mail title "City Council Meeting." It is important to note that all comments regarding this meeting are public data.

A few important tips regarding the Zoom platform:

- If your computer does not support audio, you can still watch the meeting on your computer and call in on your phone to hear the meeting
- Everyone has varying levels of comfort regarding remote technology, so grace and understanding are appreciated

The 4:30 p.m. Pre-Agenda Meeting will be available in-person only at City Hall. Public comment is not a factor in the pre-agenda meeting, but the meeting is open and members of the public are invited and welcome to attend to this meeting.



AGENDA

Pre-Agenda Meeting Monday, August 19, 2024 at 4:30 p.m. Council Chambers, City Hall - Hermantown Governmental Services Building

Pre-agenda: The Pre-agenda meeting is a work session between the City Council and City staff to review the upcoming City Council meeting and future meetings. The agenda is the same document as the upcoming City Council meeting, but does not follow the same format as the City Council meeting. It is a time for the City Council and City staff to have discussions about the agenda items, and asking and answering questions. Traditionally it is not a time for public comment on the agenda items, as the public can listen to the conversation and ask questions or provide input at the upcoming City Council meeting.

City Council Meeting Monday, August 19, 2024 at 6:30 p.m. Council Chambers, City Hall - Hermantown Governmental Services Building

Invitation to participate:

The Hermantown City Council welcomes your thoughts, input and opinions to this meeting. The agenda for this meeting contains a brief description of each item to be considered, and the City Council encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Council when a motion is on the floor. If you wish to speak on a matter that does not appear on the agenda, you may do so during the public comment period regularly scheduled and set for the beginning of the meeting.

When addressing the City Council, please state your name and address for the record. Please address the City Council as a whole through the Mayor. Comments to individual Council Members or staff are not permitted. Speakers will be limited to three (3) minutes.

Order of discussion

1. Reading of the resolution title by Mayor
2. Motion/Second
3. Staff Explanation
4. Initial Discussion by City Council
5. Mayor invites public to speak to the motion (3-minute rule)
6. Follow up staff explanation and/or discussion by City Council
7. Call of the vote

**CITY OF HERMANTOWN
AGENDA**

**Pre-Agenda Meeting Monday, August 19, 2024 at 4:30 p.m.
Council Chambers, City Hall - Hermantown Governmental Services Building**

**City Council Meeting Monday, August 19, 2024 at 6:30 p.m.
Council Chambers, City Hall - Hermantown Governmental Services Building**

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **ANNOUNCEMENTS**

Council Members may make announcements as needed.

5. **PUBLIC HEARING**

Only when necessary. The rule adopted three minutes per person if necessary. Any action required after the public hearing will be taken immediately following the closing of the public hearing.

6. **COMMUNICATIONS**

A. Correspondence 24-94 through 24-95 placed on file

7

7. **PRESENTATIONS**

A. **2nd Quarter Financials**

8

Kevin Orme, Director of Finance and Administration
(Pre-Agenda Only)

B. **2025 Budget Update**

John Mulder, City Administrator
(Pre-Agenda Only)

C. **Fichtner Park Funding**

Joe Wicklund, Assistant City Administrator
(Pre-Agenda Only)

D. **Public Safety Update**

Zach Graves, Fire Chief
(Pre-Agenda Only)

8. **PUBLIC DISCUSSION**

This is the time for individuals to address the Council about any item not on the agenda. The time limit is three minutes per person.

9. **MOTIONS**

- A. Motion to approve the following Tobacco License Applications effective August 20, 2024 through December 31, 2024, contingent upon complete applications being received, successful background checks, and license fees being paid in full:

Atlantic Gas, LLC 5691 Highway 2

(motion, roll call)

- B. Motion to approve the following THC Applications effective August 20, 2024 through December 31, 2024, contingent upon complete applications being received, successful background checks, and license fees being paid in full:

Kwik Trip #572 4145 Haines Road
 Kwik Trip #220 4978 Miller Trunk Hwy
 Kwik Trip #216 4805 Miller Trunk Hwy

(motion, roll call)

- C. Motion to appoint the following Councilors as representatives to negotiate with the following Unions:

IUOE Local #49 Councilors _____
 LELS Local #47 Councilors _____
 AFSCME Local #66 Councilors _____
 LELS Supervisory

(motion, roll call)

10. **CONSENT AGENDA**

All items on the Consent Agenda are items which are considered routine by the City Council and will be approved by one motion via voice vote. There will be no discussion of these items unless a Council Member or citizen requests, in which event the item will be removed from the Consent Agenda and considered at the end of the Consent Agenda.

- A. **Minutes** - Approval or correction of August 5, 2024 City Council Continuation Minutes **10**
- B. **Accounts Payable** - Approve general city warrants from August 1, 2024 through August 15, 2024 in the amount of \$1,714,614.04 **22**

11. **ORDINANCES**

- A. **2024-08 An Ordinance Amending Title 2 Of The Hermantown City Code By Amending The Official Zoning Map** **28**

(first reading)

12. **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. **2024-161 Resolution Authorizing The Issuance, Sale And Delivery Of** **36**

\$17,040,000 General Obligation Bonds, Series 2024B

(motion, roll call)

- B. **2024-162 Resolution Approving A Revised Letter Authorizing Kraus Anderson To Proceed With Construction Of Ice Arena** **61**
(motion, roll call)
- C. **2024-163 Resolution Approving Change Order Number 19 For Road Improvement Project 534 (Ugstad & Arrowhead Roads)** **73**
(motion, roll call)
- D. **2024-164 Resolution Approving Pay Request Number 9 For Road Improvement District 534 To Ulland Brothers, Inc In the Amount Of \$147,473.79** **77**
(motion, roll call)
- E. **2024-165 Resolution Approving Pay Request Number 3 For Fichtner Park Improvements to Kaski, Inc. In The Amount Of \$970,064.00** **84**
(motion, roll call)
- F. **2024-166 Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Utility Service Agreement With Jesse Stokke** **89**
(motion, roll call)
- G. **2024-167 Resolution Approving An Amendment To The City Handbook Regarding Construction Contract Bidding Procedures** **105**
(motion, roll call)
- H. **2024-168 Resolution Receiving Preliminary Engineering Report And Calling For A Public Hearing For Bill & Irv's Properties, Inc.** **130**
(motion, roll call)
- I. **2024-169 Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A Development Contract Amongst Bill & Irv's Properties, Inc., The City Of Hermantown And The Hermantown Economic Development Authority** **135**
(motion, roll call)
- J. **2024-170 Resolution Receiving Preliminary Engineering Report And Calling For A Public Hearing For Hawklane Business Park** **153**

(motion, roll call)

- K. **2024-171 Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A Development Contract Amongst Hawkline Development LLC, The City Of Hermantown And The Hermantown Economic Development Authority** **156**

(motion, roll call)

- L. **2024-172 Resolution Authorizing And Directing The City Administrator And The Assistant City Administrator To Execute And Deliver A Business Development Infrastructure Application** **178**

(motion, roll call)















13. **CLOSED SESSION**

14. **RECESS**

2024 CORRESPONDENCE

<u>DATE</u>	<u>LOG #</u>	<u>FROM</u>	<u>TO</u>	<u>REGARDING</u>	<u>FILED</u>
8/12/2024	24-94	Eric Johnson, Comm. Dev. Dir.	North Shore Title	Cannabis Zoning	8/12/2024
8/13/2024	42-95	Shelly Carlson, Mayor, City of Moorhead, President, Coalition of Greater Minnesota Cities	City of Hermantown	CGMC Membership	8/9/2024

City of Hermantown
Select Departmental and Funds Expenditure Actual to Budget Report (Unaudited)

		TARGET (Q2 2024)	ACTUAL (Q2 2024)	PERCENT UNDER (OVER)
Administration & Finance		335,862	319,321	5%
Community Development		179,543	120,571	33%
Police Administration		1,724,213	1,714,299	1%
Fire Administration		399,263	358,657	10%
Street Dept. (Incl. Gen Eng)		437,442	373,295	15%
Parks		74,994	55,199	26%
Capital Equipment Transfer		267,500	267,500	0%
Facilities		206,684	188,517	9%
Other		479,781	271,675	43%
General Fund Expenditure Total		4,105,280	3,669,034	11%
Water		1,083,007	666,078	38%
Sewer		1,029,992	519,612	50%
Stormwater		462,894	188,060	59%
City Sales Tax Revenue *		825,000	874,353	6%
Community Recreation Initiative Sales Tax Revenue *		412,500	437,176	6%

* Sales tax revenue - Tax revenues earned in month 1 are remitted to the State in month 2. In Month 3 the State disburses to Municipalities. Due to this lag, as of 06/30/2024, Sales tax revenues for January, February, and March have been received by the City of Hermantown

City of Hermantown

As of 6/30/2024

Cash/Investments per Fund

City Sales Tax Fund	9,873,786
Water Fund	6,266,581
Sewer Fund	7,272,945
General Fund	4,206,993
Other Funds	8,515,339
Total	<u>36,135,643</u>

Who holds our money

4M	2,462,486
RBC	26,813,398
NBC	6,859,759
Pershing/Ehler's	0
Total	<u>36,135,643</u>

How our money is invested

	<u>6/30/2024</u>	<u>3/31/2024</u>	<u>12/31/2023</u>	<u>9/30/2023</u>
Cash	2,712,544	2,066,848	6,565,265	4,268,444
Short Term Inv (Money Market)	2,462,486	3,389,305	3,643,033	4,588,204
Short Term Inv (CD)	4,147,215	4,094,685	4,042,513	4,000,000
Inv - Bonds (Richard Lindgren)	0	0	0	792,746
Long Term Investment	26,813,398	27,555,519	26,960,761	25,361,461
Total	<u>36,135,643</u>	<u>37,106,357</u>	<u>41,211,572</u>	<u>39,010,855</u>

Year(s) our Investments mature

2024	8,334,659
2025	7,524,185
2026	4,855,684
2027	4,605,309
2028 & Later	5,640,776
Total	<u>30,960,613</u>

CITY OF HERMANTOWN

City Council Meeting

Monday, August 5, 2024

6:30 PM Central

MEETING CONDUCTED IN PERSON & VIA ZOOM

Mayor Wayne Boucher: Present

Councilor John Geissler: Present

Councilor Andy Hjelle: Present

Councilor Ellie Jones: Present

Councilor Brian LeBlanc: Present

CITY STAFF:

John Mulder, City Administrator; Alissa Wentzlaff, City Clerk; Eric Johnson; Community Development Director; Joe Wicklund, Assistant City Administrator; Brandon Holmes, Building Official; Trish Crego, Utility & Infrastructure Director; David Bolf, City Engineer; Gunnar Johnson, City Attorney

VISITORS: 4

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **ANNOUNCEMENTS**

5. **PUBLIC HEARING**

A. Public Hearing on a proposed property tax abatement by the City of Hermantown, Minnesota and the intent to issue General Obligation Bonds

B. **2024-125 Resolution Approving Property Tax Abatement For Certain Property Located In The City Of Hermantown**

Mike Sweeny of 4934 Red Oak Circle appeared to speak to seek clarification on the Tax Abatement. Mr. Sweeney noted his concerns that the hockey arena project is more expensive than was voted on by the public. Mr. Mulder answered a few of the concerns by outlining how state bonding and private fundraising have covered any expenses beyond the original sales tax that was approved by the voters.

(motion, roll call)

Motion to approve 2024-125 Resolution Approving Property Tax Abatement For Certain Property Located In The City Of Hermantown. This motion, made by Councilor John Geissler and seconded by Councilor Ellie Jones, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

6. **COMMUNICATIONS**

- A. Correspondence 24-86 through 24-93 placed on file

7. **PRESENTATIONS**

- A. **City Maintenance - 2024 and Beyond**

Brandon Holmes, Building Official
(Pre-Agenda Only)

- B. **2025 Budget Preview**

John Mulder, City Administrator
(Pre-Agenda Only)

8. **PUBLIC DISCUSSION**

9. **MOTIONS**

10. **CONSENT AGENDA**

- A. **2024-136 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Final Cleaning - Scope 1-J)**

(motion, roll call)

- B. **2024-137 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Carpentry - Scope 6-A)**

(motion, roll call)

- C. **2024-138 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Blown Sprayed Insulation – Scope 7-B)**

(motion, roll call)

- D. **2024-139 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Weather Barrier - Scope 7-D)**

(motion, roll call)

- E. **2024-140 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Applied Fireproofing - Scope 7-J)**

(motion, roll call)

- F. **2024-141 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Door Frames & Hardware (Materials Only) - Scope 8-A)**

(motion, roll call)

- G. **2024-142 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Specialty Doors - Scope 8-D)**

(motion, roll call)

- H. **2024-143 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Aluminum Frames & Glazing - Scope 8-F)**

(motion, roll call)

- I. **2024-144 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Epoxy Flooring - Scope 9-H)**

(motion, roll call)

- J. **2024-145 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Drywall - Scope 9-A)**

(motion, roll call)

- K. **2024-146 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Tile - Scope 9-B)**

(motion, roll call)

- L. **2024-147 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Ceilings & Acoustical Treatment - Scope 9-C)**

(motion, roll call)

- M. **2024-148 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Resilient and Carpet Flooring- Scope 9-D)**

(motion, roll call)

- N. **2024-149 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Athletic Flooring- Scope 9-E)**

(motion, roll call)

- O. **2024-150 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Painting- Scope 9-K)**

(motion, roll call)

- P. **2024-151 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Specialties Scope 10-A)**

(motion, roll call)

- Q. **2024-152 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Signage Scope 10-B)**

(motion, roll call)

- R. **2024-153 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Athletic Equipment Scope 11-K)**

(motion, roll call)

- S. **2024-154 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Casework & Countertops Scope 12-C)**

(motion, roll call)

- T. **2024-155 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Ice Rink Scope 13-D)**

(motion, roll call)

- U. **2024-156 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Fire Suppression - Scope 21-A)**

(motion, roll call)

- V. **2024-157 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Combined Mechanical – Scope 23-B)**

(motion, roll call)

- W. **2024-158 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Controls - Scope 25-A)**

(motion, roll call)

- X. **2024-159 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Electrical - Scope 26-B)**

(motion, roll call)

Y. **2024-160 Resolution Receiving Bids And Approving Award Of Contracts For The Northstar Arena And Authoring Document Preparation And Execution (Window Treatments - Scope 12-B)**

(motion, roll call)

Z. **Minutes** - Approval or correction of July 15, 2024 City Council Continuation Minutes

AA. **Accounts Payable** - Approve general city warrants from July 16, 2024 through July 31, 2024 in the amount of \$1,009,402.97

Motion to the approve the Consent Agenda. This motion, made by Councilor Ellie Jones and seconded by Councilor Brian LeBlanc, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

11. **ORDINANCES**

12. **RESOLUTIONS**

A. **2024-126 Resolution Approving The Employment Of Chad Ronchetti As The Economic Development Director**

Chad Ronchetti spoke before the Council to state his excitement to serve Hermantown as its Economic Development Director.

(motion, roll call)

Motion to approve 2024-126 Resolution Approving The Employment Of Chad Ronchetti As The Economic Development Director. This motion, made by Councilor Ellie Jones and seconded by Councilor John Geissler, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea
Councilor John Geissler: Yea
Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

B. 2024-127 Resolution Approving A Special Use Permit For The Construction Of A Two-Family Home (Twinhome) In A R-3 Residential Zoning District

(motion, roll call)

Motion to approve 2024-127 Resolution Approving A Special Use Permit For The Construction Of A Two-Family Home (Twinhome) In A R-3 Residential Zoning District. This motion, made by Councilor Andy Hjelle and seconded by Councilor Ellie Jones, Carried.

Councilor Andy Hjelle: Yea
Councilor Brian LeBlanc: Nay
Councilor Ellie Jones: Yea
Councilor John Geissler: Yea
Mayor Wayne Boucher: Yea

Yea: 4, Nay: 1

C. 2024-128 Resolution Requesting Advance Funding For The City Of Hermantown From Municipal State Aid Funds For S.A. P. 202-101-014 And S.A.P. 202-104-012 In The Amount Of \$1,250,000.00

(motion, roll call)

Motion to approve 2024-128 Resolution Requesting Advance Funding For The City Of Hermantown From Municipal State Aid Funds For S.A. P. 202-101-014 And S.A.P. 202-104-012 In The Amount Of \$1,250,000.00. This motion, made by Councilor John Geissler and seconded by Councilor Ellie Jones, Carried.

Councilor Andy Hjelle: Yea
Councilor Brian LeBlanc: Yea
Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

D. **2024-129 Resolution Approving Pay Request Number 3 For Road Improvement District 541 And 542 To Northland Constructors In The Amount Of \$383,516.19**

(motion, roll call)

Motion to approve 2024-129 Resolution Approving Pay Request Number 3 For Road Improvement District 541 And 542 To Northland Constructors In The Amount Of \$383,516.19. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Ellie Jones, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

E. **2024-130 Resolution Approving Pay Request Number 8 For Road Improvement District 538 To Ulland Brothers, Inc. In the Amount Of \$30,948.50**

(motion, roll call)

Motion to approve 2024-130 Resolution Approving Pay Request Number 8 For Road Improvement District 538 To Ulland Brothers, Inc. In the Amount Of \$30,948.50. This motion, made by Councilor John Geissler and seconded by Councilor Ellie Jones, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

F. **2024-131 Resolution Approving Change Orders Numbers 4 & 5 for Fichtner Park Improvements to Kaski Inc in the Amount of \$56,044.00**

(motion, roll call)

Motion to approve 2024-131 Resolution Approving Change Orders Numbers 4 & 5 for Fichtner Park Improvements to Kaski Inc in the Amount of \$56,044.00. This motion, made by Councilor Andy Hjelle and seconded by Councilor Ellie Jones, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

G. **2024-132 Resolution Receiving Bids And Awarding Contract To JMF Construction, Inc For Benson Road Improvement Project In The Amount Of \$86,961.80**

(motion, roll call)

Motion to approve 2024-132 Resolution Receiving Bids And Awarding Contract To JMF Construction, Inc For Benson Road Improvement Project In The Amount Of \$86,961.80. This motion, made by Councilor Brian LeBlanc and seconded by Councilor John Geissler, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

H. **2024-133 Resolution Approving Pay Request Number 1 For The Northstar Arena To Kraus Anderson Construction Company In The Amount Of \$138,657.29**

(motion, roll call)

Motion to approve 2024-133 Resolution Approving Pay Request Number 1 For The Northstar Arena To Kraus Anderson Construction Company In The Amount Of \$138,657.29. This motion, made by Councilor Ellie Jones and seconded by Councilor John Geissler, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

I. **2024-134 Resolution Approving Pay Request Number 2 For The NorthStar Arena To Kraus-Anderson Construction Company In The Amount Of \$90,815.31**

(motion, roll call)

Motion to approve 2024-134 Resolution Approving Pay Request Number 2 For The NorthStar Arena To Kraus-Anderson Construction Company In The Amount Of \$90,815.31. This motion, made by Councilor Ellie Jones and seconded by Councilor Andy Hjelle, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

J. **2024-135 Resolution Authorizing and Directing Mayor and City Clerk to Execute and Deliver an Agreement for Materials Testing Services for Hermantown Ice Arena**

(motion, roll call)

Motion to approve 2024-135 Resolution Authorizing and Directing Mayor and City Clerk to Execute and Deliver an Agreement for Materials Testing Services for Hermantown Ice Arena. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Ellie Jones, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

13. **CLOSED SESSION**

14. **RECESS**

Motion to recess at 7:08 p.m. This motion, made by Councilor Ellie Jones and seconded by Councilor Andy Hjelle, Carried.

Councilor Andy Hjelle: Yea

Councilor Brian LeBlanc: Yea

Councilor Ellie Jones: Yea

Councilor John Geissler: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

ATTEST:

Mayor

City Clerk

CITY OF HERMANTOWN

CHECKS #71194-71222
08/01/2024 - 08/15/2024

PAYROLL CHECKS

Electronic Checks - #-65864-65911 \$102,007.66

LIABILITY CHECKS

Electronic Checks - #-65855-65862 \$162,992.04

Checks - #71222 \$1,343.82

PAYROLL EXPENSE TOTAL \$266,343.52

ACCOUNTS PAYABLE

Checks - #71194-71221 \$532,688.31

Electronic Payments #-98638-98669 \$915,582.21

ACCOUNTS PAYABLE TOTAL \$1,448,270.52

TOTAL \$1,714,614.04

8/13/2024

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Fun d	Account	Department	Vendor Name	Description	Amount	Check #
605	431160	Street Lighting	MN POWER	Traffic Lights	834.39	-98669
605	431160	Street Lighting	MN POWER	Street Lights	433.20	-98669
101	452100	Parks	MN POWER	Parks	269.63	-98669
101	422903	Firehall #3 Midway Road	MN POWER	FH #3 Midway/Rose	69.72	-98669
602	494900	Sewer Administration and General	MN POWER	Sewer	789.86	-98669
101	431901	City Garage	MN POWER	4971 Lightning Dr	299.93	-98669
101	431901	City Garage	MN POWER	5255 Maple Grove Rd Garage	25.91	-98669
605	431160	Street Lighting	MN POWER	Overhead St Lights (33 @ \$10.2	510.98	-98669
605	431160	Street Lighting	MN POWER	Street Lights	506.37	-98669
275	452200	Community Building	MN POWER	4289 Ugstad Rd/EWC	15,340.81	-98669
101	419901	City Hall & Police Building Maintenance	MN POWER	City Hall/Police/Fire	2,915.42	-98669
101	452200	Community Building	MN POWER	Community Bldg	680.49	-98669
602	494900	Sewer Administration and General	MN POWER	4971 Lightning Dr	119.96	-98669
601	494400	Water Administration and General	MN POWER	Water	337.89	-98669
275	452200	Community Building	MN POWER	EWC Garage	27.76	-98669
605	431160	Street Lighting	MN POWER	Street Lights (Roundabout)	24.96	-98669
605	431160	Street Lighting	MN POWER	Street Lights	273.08	-98669
101	422901	Firehall #1 Maple Grove Road	MN POWER	City Hall/Police/Fire	1,863.95	-98669
605	431160	Street Lighting	MN POWER	Street Lights	796.41	-98669
101	422902	Firehall #2 Morris Thomas Road	MN POWER	FH #2 MorrisThomas & Stebner	100.84	-98669
601	494400	Water Administration and General	MN POWER	4971 Lightning Dr	179.96	-98669
101	415300	Administration & Finance	DELUXE	Deposit Tickets	221.77	-98668
101	415300	Administration & Finance	GREATAMERICA FINANCIAL SERVICES	Copier Lease/Konica C458 Jul24	117.87	-98667
101	421100	Police Administration	GREATAMERICA FINANCIAL SERVICES	Copier Lease/Konica C300&C3320	119.58	-98667
275	452200	Community Building	MEDIACOM	EWC - Dedicated Internet	490.00	-98666
275	452200	Community Building	MN ENERGY RESOURCES CORP	Natural Gas EWC - July	2,178.95	-98665
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas Comm Building - Ju	26.29	-98665
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas Old CH	0.10	-98665
101	422901	Firehall #1 Maple Grove Road	MN ENERGY RESOURCES CORP	Natural Gas - FH #1	157.59	-98665
101	452200	Community Building	MN ENERGY RESOURCES CORP	Natural Gas Old CH	0.94	-98665
101	419901	City Hall & Police Building Maintenance	MN ENERGY RESOURCES CORP	Natural Gas - CH/PD	128.94	-98665
101	431100	Street Department	B & F FASTENER SUPPLY CO.	Hose Claps/Nuts/Fuses	53.73	-98664
601	494300	Water Distribution	BORDER STATES INDUSTRIES INC.	Locking Cable Tie	63.61	-98663
602	494500	Sewer Maintenance	BRAUN INTERTEC CORPORATION	Sanitary Sewer System Inspecti	1,767.50	-98662
402	431150	Street Improvements	BRAUN INTERTEC CORPORATION	Ugstad Road Project	1,140.00	-98662
101	422100	Fire Administration	DOORCO, INC.	Repair FH 1 Door	350.00	-98661
101	419901	City Hall & Police Building Maintenance	DOORCO, INC.	Door 5 PD - Programmed Remote	175.00	-98661
101	422100	Fire Administration	DOORCO, INC.	FH 1 - Bolt Replacement	181.00	-98661

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
415	465200	Community Development	EIP CREDIT CO., LLC	Wetland Credits - Hermantown I	17,784.00	-98660
101	421100	Police Administration	EMERGENCY AUTOMOTIVE TECHNOLOGIES INC	Equipment Install - 2023 GMC Y	2,650.07	-98659
416	452100	Parks	EPC ENGINEERING & TESTING LLC	Fichtner Field	2,118.00	-98658
602	494500	Sewer Maintenance	GREAT LAKES PIPE SERVICE INC	Sewer Cleaning	3,650.00	-98657
602	494500	Sewer Maintenance	GREAT LAKES PIPE SERVICE INC	Sanitary Cleaning	3,650.00	-98657
101	431901	City Garage	HARTEL'S/DBJ DISPOSAL CO LLC	Yard Trash Disposal July 2024	209.70	-98656
101	419901	City Hall & Police Building Maintenance	HARTEL'S/DBJ DISPOSAL CO LLC	Garbage Recycling July 2024 -1	561.32	-98656
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Paper/Marks	53.73	-98655
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Mouse	24.64	-98655
603	441100	Storm Water	LHB INC	Hermantown Rocky Run Creek Bri	16,424.12	-98654
101	452100	Parks	MENARD INC	Bags/ElecTape	16.96	-98653
101	452100	Parks	MENARD INC	Sprinkler Parts	57.44	-98653
601	494300	Water Distribution	MENARD INC	Marker	1.84	-98653
101	452100	Parks	MENARD INC	2 Cycle oil	42.95	-98653
101	452100	Parks	MENARD INC	Sprinkler Parts - Steber Park	36.65	-98653
601	494300	Water Distribution	MENARD INC	Magnet	6.98	-98653
101	421100	Police Administration	MENARD INC	Supplies - PD	76.97	-98653
401	452100	Parks	MIDWEST MACHINERY CO, INC.	JD 1600 Wide Area Mower	61,500.00	-98652
101	422100	Fire Administration	MN OXYGEN COMPANY	Oxygen Cylinders	187.76	-98651
602	494500	Sewer Maintenance	MN PUMP WORKS	EOne Outdoor Station	8,474.00	-98650
402	431150	Street Improvements	MSA PROFESSIONAL SERVICES, INC.	Ugstad Road Reconditioning - C	1,816.44	-98649
101	415300	Administration & Finance	NORTHEAST SERVICE COOPERATIVE	Dues Jul 2024-Jun 2025	100.00	-98648
602	494900	Sewer Administration and General	NORTHEAST SERVICE COOPERATIVE	Dues Jul 2024-Jun 2025	50.00	-98648
601	494400	Water Administration and General	NORTHEAST SERVICE COOPERATIVE	Dues Jul 2024-Jun 2025	50.00	-98648
101	422100	Fire Administration	PRO PRINT INC	EMS Reports	150.20	-98647
603	441100	Storm Water	REDROCK PRECAST	Culvert/Band- Westberg Rd	401.50	-98646
603	441100	Storm Water	REDROCK PRECAST	Culvert/Band/Apron- Ugstad Rd	4,600.50	-98646
416	452100	Parks	RICK'S TREE & STUMP REMOVAL	Fichtner Park Proj	1,112.00	-98645
101	419100	Community Development	VC3	Quarterly Billing Jul-Sep 2024	1,217.58	-98644
101	415300	Administration & Finance	VC3	Quarterly Billing Jul-Sep 2024	2,435.16	-98644
101	419901	City Hall & Police Building Maintenance	VC3	HVAC - Hard Drive	650.00	-98644
601	494400	Water Administration and General	VC3	Quarterly Billing Jul-Sep 2024	1,623.45	-98644
101	419901	City Hall & Police Building Maintenance	VC3	HVAC - Configure & Installatio	3,041.00	-98644
101	411100	Council	VC3	Quarterly Billing Jul-Sep 2024	234.18	-98644
101	431100	Street Department	VC3	Quarterly Billing Jul-Sep 2024	1,623.45	-98644
602	494900	Sewer Administration and General	VC3	Quarterly Billing Jul-Sep 2024	1,217.58	-98644
101	421100	Police Administration	VC3	Quarterly Billing Jul-Sep 2024	7,886.12	-98644
101	424100	Building Inspection	VC3	Quarterly Billing Jul-Sep 2024	405.86	-98644

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	413100	Mayor	VC3	Quarterly Billing Jul-Sep 2024	405.86	-98644
101	422100	Fire Administration	VC3	Quarterly Billing Jul-Sep 2024	2,435.16	-98644
602	494500	Sewer Maintenance	WLSSD	Wastewater Charges	48,473.00	-98643
415	465200	Community Development	KRAUS-ANDERSON CONSTRUCTION COMPANY	Hermantown Hockey Arena	89,039.13	-98642
415	465200	Community Development	KRAUS-ANDERSON CONSTRUCTION COMPANY	Hermantown Hockey Arena	104,526.78	-98642
415	465200	Community Development	KRAUS-ANDERSON CONSTRUCTION COMPANY	Hermantown Hockey Arena	1,776.18	-98642
415	465200	Community Development	KRAUS-ANDERSON CONSTRUCTION COMPANY	Hermantown Hockey Arena	34,130.51	-98642
475	431150	Street Improvements	ULLAND BROTHERS INC	Richard Lindgren Street Improv	30,948.50	-98641
101	421100	Police Administration	NORTHEAST SERVICE COOPERATIVE	Health Ins Aug - Kristi Hansen	775.78	-98640
101	421100	Police Administration	NORTHEAST SERVICE COOPERATIVE	Health Ins Aug - Clinton Jones	721.96	-98640
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Health Ins Aug - Kristi Hansen	86.20	-98640
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Health Ins Aug - Clinton Jones	80.22	-98640
323	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2018A	25,387.50	-98639
325	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2019A	475.00	-98639
327	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2020B	36,700.00	-98639
320	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2012A	4,290.00	-98639
326	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2020A	25,025.00	-98639
327	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2020B	475.00	-98639
324	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2018B	475.00	-98639
325	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2019A	124,640.63	-98639
322	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2014A	7,425.00	-98639
324	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2018B	106,837.50	-98639
322	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2014A	475.00	-98639
315	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2016B	18,075.00	-98639
329	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2023A	33,000.00	-98639
328	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2021A	27,326.25	-98639
318	471000	Debt Service	BOND TRUST SERVICES CORPORATION	2016A	10,300.00	-98639
101	217450	Employee Flexplan	WEX HEALTH INC	Claim Reimbursement	36.30	-98638
101	217450	Employee Flexplan	WEX HEALTH INC	Claim Reimbursement	1,500.00	-98638
101	217450	Employee Flexplan	WEX HEALTH INC	Claim Reimbursement	23.21	-98638
412	419100	Community Development	ARROWHEAD ABSTRACT & TITLE CO.	O&E Report O-310086	75.00	71194
101	422100	Fire Administration	ASPEN MILLS	FD Uniforms	68.00	71195
101	452100	Parks	BOBCAT OF DULUTH INC	Kubota Parts	90.48	71196
101	422903	Firehall #3 Midway Road	CENTURYLINK	Internet FH #3 7/22/24-8/21/24	79.98	71197
101	431100	Street Department	CINTAS CORPORATION	Uniforms	7.92	71198
101	431100	Street Department	CINTAS CORPORATION	Uniforms	7.92	71198
101	431100	Street Department	CINTAS CORPORATION	Uniforms	25.94	71198
101	431901	City Garage	CINTAS CORPORATION	1st Aid Cabinets	144.09	71198

8/13/2024

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Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	431901	City Garage	CINTAS CORPORATION	Mats/Supplies	38.86	71198
101	431901	City Garage	CINTAS CORPORATION	Mats/Supplies	58.54	71198
101	431100	Street Department	CINTAS CORPORATION	Uniforms	7.92	71198
101	431901	City Garage	CINTAS CORPORATION	Mats/Supplies	38.86	71198
101	431100	Street Department	CINTAS CORPORATION	Uniforms	25.94	71198
101	431100	Street Department	CINTAS CORPORATION	Uniforms	25.94	71198
601	494300	Water Distribution	CORE & MAIN LP	Stock Water Meters	3,275.53	71199
601	494400	Water Administration and General	CREGO, PATRICIA	Mileage/Luncheon	19.38	71200
601	494400	Water Administration and General	CREGO, PATRICIA	Landscape Licensure	61.25	71200
602	494900	Sewer Administration and General	CREGO, PATRICIA	Landscape Licensure	61.25	71200
101	419100	Community Development	CREGO, PATRICIA	Mileage/Luncheon	27.13	71200
602	494900	Sewer Administration and General	CREGO, PATRICIA	Mileage/Luncheon	19.38	71200
603	441100	Storm Water	CREGO, PATRICIA	Mileage/Luncheon	11.63	71200
601	494400	Water Administration and General	CUSTOMER ELATION INC	07/02 - 07/29/24 Answering	33.55	71201
602	494900	Sewer Administration and General	CUSTOMER ELATION INC	07/02 - 07/29/24 Answering	22.36	71201
603	441100	Storm Water	DAN'S FEED BIN	Erosion Grass Seed	403.70	71202
101	422100	Fire Administration	DSC COMMUNICATIONS	FD Pagers	965.00	71203
460	431150	Street Improvements	EXPRESS INVESTORS OF DULUTH, LLC	1st half TIF payment 2024	3,900.99	71204
460	431150	Street Improvements	EXPRESS INVESTORS OF DULUTH, LLC	1st half TIF payment 2024	41,800.65	71204
101	452100	Parks	FERGUSON WATERWORKS #2516	Sprinkler Parts	25.01	71205
101	419100	Community Development	HERMANTOWN STAR LLC	Public Hearing Planning & Zoni	41.25	71206
603	441100	Storm Water	HERMANTOWN STAR LLC	Benson Road Culvert Bids - Ad	297.00	71206
601	494300	Water Distribution	HY-VIZ INCORPORATED	Hydrant Markers	8,474.00	71207
461	431150	Street Improvements	MILLS PROPERTIES, INC.	1st Half City Tax Abatement 24	53,852.96	71208
461	431150	Street Improvements	MILLS PROPERTIES, INC.	1st Half City Tax Abatement 24	14,174.51	71208
415	465200	Community Development	MN BOARD OF WATER & SOIL RESOURCES	Wetland Credits-Hermantown Ice	267.70	71209
101	422100	Fire Administration	MN FIRE SERVICE CERTIFICATION BOARD	State Fire Certifications	657.50	71210
601	494300	Water Distribution	MN POWER	Power Pole Repair	3,541.03	71211
101	431100	Street Department	NAPA AUTO PARTS	Brake Pads	67.97	71212
101	431100	Street Department	NAPA AUTO PARTS	Filters	8.91	71212
101	431100	Street Department	NAPA AUTO PARTS	Oil Filter	48.85	71212
101	150000	Prepaid Items	NORTH RISK PARTNERS	Cyber Liability	13,524.00	71213
475	431150	Street Improvements	NORTHLAND CONSTRUCTORS OF DULUTH, INC.	Hermantown Road and Old Midway	383,516.19	71214
101	421100	Police Administration	O'REILLY AUTO PARTS	Capsule - SQD 17	34.99	71215
101	415300	Administration & Finance	OFFICE OF THE SECRETARY OF STATE	Notary Fee - Mary Melde	120.00	71216
101	421100	Police Administration	SHRED-N-GO INC	Shredding Contract through 07/	148.93	71217
603	441100	Storm Water	STAPLE WASP, LLC	Erosion Mat Staples	281.20	71218
101	421100	Police Administration	TROY'S BP AMOCO INC	Oil & Filter - SQD 14	109.90	71219

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
603	441100	Storm Water	UNITED RENTALS (NORTH AMERICA) INC	Rental Plate Compactor	1,506.00	71220
101	417200	Communications	WICKLUND, JOE	Mileage/Meals	423.82	71221
101	417200	Communications	WICKLUND, JOE	Canva	119.40	71221
101	417200	Communications	WICKLUND, JOE	Cell Phone	150.00	71221
Totals:					1,448,270.52	



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: Eric Johnson, Community Development Director

SUBJECT: Rezone parcels 395-0140-00065 and 395-395-0140-00070 from P, Public to R-3, Residential

RESOLUTION: **ORDINANCE:** 2024-08 **OTHER:**

REQUESTED ACTION

Staff recommends that the City Council hold a first reading for the zoning of parcels 395-0140-00065 and 395-0140-00070 from P, Public to R-3, Residential.

DESCRIPTION OF REQUEST:

City staff has received a request from the current property owner/applicant (Peter Walkowiak) to rezone two parcels along Sunnyview Road from P, Public to R-3, Residential. The applicant inherited the property in 2021 from Jowan Brand, the previous owner, who had maintained a pet cemetery on the parcels since the 1960’s through the early 2000’s.

SITE INFORMATION:

Address:	53xx Sunnyview Road (Parcels 395-0140-00065 and 395-0140-00070)
Comprehensive Plan:	Concept Area 1: Maintain Suburban Character, Preserve Critical Natural Features, Phase Residential Development, Develop Existing and New Park Areas
Zoning:	P, Public
Lot Size:	2.3 acres total
Wetlands:	None per the National Wetland Inventory
Shoreland Overlay:	No
Airport Zoning:	None

BACKGROUND

In 2015, the City undertook the rezoning of multiple parcels throughout the City in an effort to ‘clean-up’ the zoning map. The following is information from the staff report at that time:

Applicant has owned the property on the north side of Sunnyview Road for many decades. Staff was recently made aware of the existing pet cemetery, which has not been maintained in many years. Brand Pet Cemetery appears to have operated from the 1960s through the early 2000s. There are several hundred pets buried on the site. The pet cemetery plots are irregularly marked. Some of the cemetery plots have stone grave markers, while others are more informal.



Ms. Brand was reached at her home in Solway Township. She stated that she maintains a map of the cemetery and regretted that it has not been maintained recently. She is supportive of a rezoning of the property as she intends for it to remain as a pet cemetery indefinitely.

The two parcels were rezoned from R-3, Residential to P, Public by the Hermantown City Council in 2016. The current owner/applicant has contacted the City in the past couple of years inquiring about the ability to rezone the property. The City did order an ownership and encumbrances report to see if there was any formal registration of the property as a cemetery, which there was not.

City staff has discussed this request with the City Attorney to gauge a route moving forward. Per the City Attorney's comments, City staff placed a notice in the Hermantown Star referencing the rezoning as well as providing staff contact information for people to contact should they want to remove any markers or memorials associated with the pet grave sites or even disinter the animals.

Staff contacted the owner/applicant to verify his concurrence with this and he responded that he supports this approach.

During the first two weeks of the notice in the Hermantown Star, there were no responses from the public. During the third week, the notice was picked up by an online social media page which triggered multiple inquiries/comments and questions from the public as well as media outlets. Staff has generally responded to the majority of these messages and provided information on how a person could access the site, should they wish.

At the July 16, 2024 Planning and Zoning Commission meeting there were three members of the public who spoke to the rezoning request. The Planning and Zoning Commission unanimously voted to recommend the rezoning to the City Council for their approval.

Utilities

The Sunnyview development utilizes private well and septic systems. Any future development on these lots would require permits for these items from St. Louis County and will be required prior to the issuance of any building permits by the City.

Wetlands

The National Wetland Inventory does not show any potential wetlands on the two subject parcels.

Zoning

Applicant is requesting a rezoning from P, Public to R-3, Residential.



Dimensional standards would change as follows:

Dimensional Standards	P	R-3
Height	50 feet	35 feet
Setbacks		
<i>Front</i>	35 feet	50 feet
<i>Side (abutting street)</i>	35 feet	10 feet minimum, 25 feet aggregate
<i>Side</i>	15 feet	10 feet minimum, 25 feet aggregate
<i>Rear</i>	25 feet	40 feet
Minimum lot area	None	½ acre with City utilities, 1 acre without
Minimum lot width	None	100 feet
Maximum lot coverage	35%	35%

Comprehensive Plan

The site is in Area 1 on the Hermantown Comprehensive Plan Concepts Map. The goal for Area 1 is to maintain suburban character, preserve critical natural features, phase residential development, and develop existing and new park areas.

SUMMARY & JUSTIFICATION:

The proposed rezoning meets the criteria of the Comprehensive Plan and the overall goals and policies of the Zoning Ordinance. The two 1.15 acre parcels meet the minimum requirements associated with the R-3, Residential zoning district.

1. The property is included in the suburban development concept area (Area 1) of the Comprehensive Plan within which residential development is currently allowed.

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

- Ordinance
- Location Map
- November 17, 2015 Staff report
- December 1, 2015 Letter to property owner

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING TITLE 2 OF THE HERMANTOWN CITY CODE
BY AMENDING THE OFFICIAL ZONING MAP
(E ½ LOT 6, BLOCK 1 AND W ½ LOT 7, BLOCK 1 SUNNYVIEW ACRES)**

Section 1. Amendment to Official Zoning Map. The Official Zoning Map of the City of Hermantown is hereby amended so that the entire parcels legally described in Section 2 are zoned P, Public.

Section 2. Purpose and Intent. The purpose of this amendment is to rezone the property so that the entire parcels legally described as the Easterly Half of Lot 6 of Block 1 and the Westerly Half of Lot 7 of Block 1 of Sunnyview Acres in the City of Hermantown, St. Louis County, Minnesota with the Property Identification Numbers 395-0140-00065 and 395-0140-00070 are zoned P, Public.

Section 3. Effective Date. This amendment to Title 2 of the Hermantown Code that amends the Official Zoning Map shall be effective after adoption immediately upon (1) the publication of this Amendment to Title 2 of the Hermantown City Code once in the legal newspaper of the City of Hermantown and (2) the filing of this Amendment to Title 2 with the County Recorder of St. Louis County.

Wayne Boucher, Mayor

Attest:

Alissa Wentzlaff, City Clerk

Adopted: _____

Published: _____

Effective Date: _____

Location Map



7A. Brand Pet Cemetery – Sunnyview Road

<u>Applicant:</u>	City of Hermantown
<u>Location:</u>	Sunnyview Road; PINs #395-0140-00065 and 395-0140-00070
<u>Case No.:</u>	Unassigned
<u>Staff Contact:</u>	Adam Fulton, Community Development Director
<u>Request:</u>	Rezone property from R-3, Single Family Residential, to P, Public

RECOMMENDED ACTION:

Planning Commission to recommend whether to bring forward subject properties for rezoning.

DESCRIPTION OF REQUEST:

Discussion and recommendation from Planning Commission on the prospective rezoning of Brand Pet Cemetery to P, Public.

SITE INFORMATION:

Parcel Size:	2 parcels, each 1.15 acres in size
Legal Access:	Sunnyview Road
Wetlands:	NA
Existing Zoning:	R-3, Single Family Residential
Comprehensive Plan:	Residential

BACKGROUND:

Applicant has owned the property on the north side of Sunnyview Road for many decades. Staff was recently made aware of the existing pet cemetery, which has not been maintained in many years. Brand Pet Cemetery appears to have operated from the 1960s through the early 2000s.

There are several hundred pets buried on the site. The pet cemetery plots are irregularly marked. Some of the cemetery plots have stone grave markers, while others are more informal.

Ms. Brand was reached at her home in Solway Township. She stated that she maintains a map of the cemetery and regretted that it has not been maintained recently. She is supportive of a rezoning of the property as she intends for it to remain as a pet cemetery indefinitely.

If recommended by the Planning Commission, a public hearing on the matter could be held at the December 15th, 2015 meeting.

ATTACHMENTS:

- Rezoning Map

Brand Pet Cemetery - Prospective Rezoning Sunnyview Road

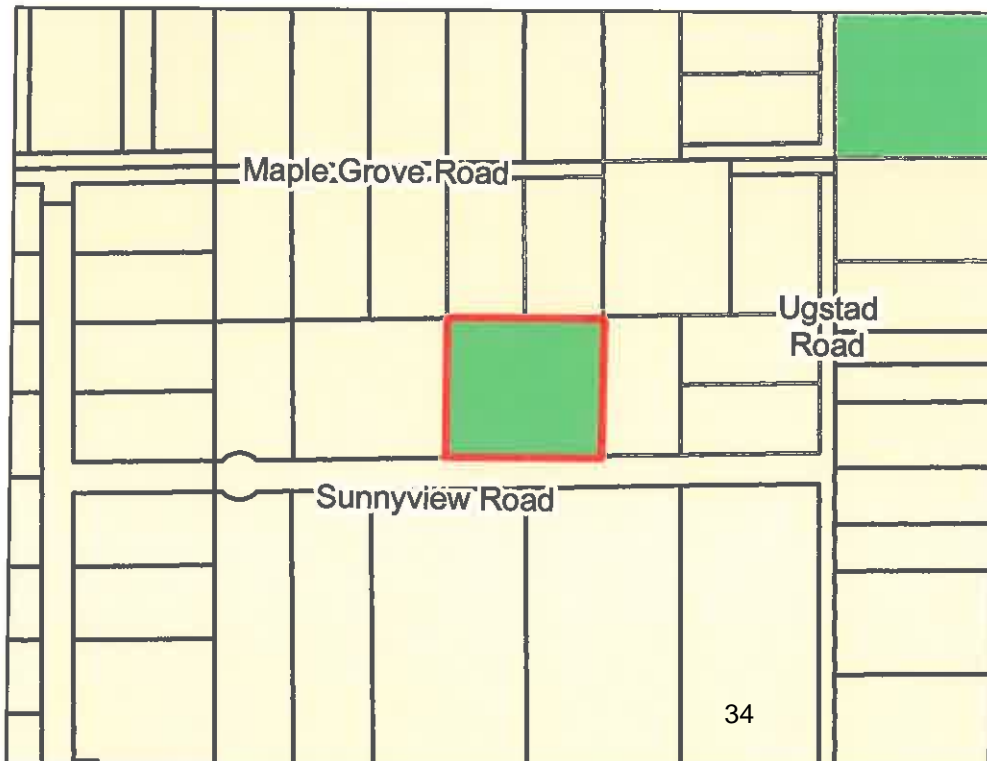
Existing Zoning



Legend

- S1 - Rural
- R1 - Single Family Residential
- R3 - Single Family Residential
- R3a - Multiple Family Residential
- O - Conservation / Open Space
- P - Public Facilities
- HM - Hermantown Marketplace
- C - General Commercial
- C1 - Office/Light Industrial
- C1A - Sexually Oriented Uses
- BLM - Business and Light Manufacturing
- M2 - Heavy Industrial

Proposed Zoning





Community Development Department

5105 Maple Grove Road
Hermantown, Minnesota 55811
(218) 729 – 3600 / (218) 729 – 3620 (fax)
www.hermantownmn.com

December 1, 2015

Ms. Jowan Brand
6742 Seville Rd.
Saginaw, MN 55779

Re: Your Sunnyview Road parcels # 395-0140-00065 & 395-0140-00070

Dear Ms. Brand,

We are in the process of updating our City's Official Zoning Map. As the map was reviewed for accuracy, it was noted that your two parcels referenced above were zoned "R-3, Single Family Residential" rather than for public uses. This zoning designation is not of great importance, given that your property has historically been used as a pet cemetery. However, it could be important in the future.

To address this, Staff has proposed rezoning your property to "P-Public". This will allow the designation for a pet cemetery to be better identified on public maps in the City. It will also memorialize the public nature of the land use that has been created at the cemetery.

The proposed rezoning is unrelated to your County tax classification, and should have no relation to your property tax statement.

To effectuate the rezoning, the Planning Commission will hold a public hearing on the matter at its December 15, 2015 meeting. That meeting will be held at City Hall, 5105 Maple Grove Road, Hermantown, MN, at 7:00 PM.

Please feel free to contact me if you have any questions. We are happy to work with you to clear up any confusion regarding this issue.

Thank you,

Adam Fulton, Community Development Director
City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811
afulton@hermantownmn.com
office: 218-729-3618



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: Kevin Orme, Director of Finance & Administration

SUBJECT: Sale of Bonds, Series 2024B

RESOLUTION: 2024-161 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

Adopt resolution authorizing the issuance, sale and delivery of \$17,040,000 General Obligation Bonds, series 2024B.

BACKGROUND

The City plans to issue new bonds, Series 2024B for a new sheet of ice. A portion of these bonds will be tax abatement bonds and equipment bonds. The tax abatement bonds provide the legal authority to issue the debt beyond the amount covered by the sales tax. The abatement on the properties covers the proposed debt service, but will be cancelled and the bonds will be paid for with fundraising and other sources as determined by the City Council. The remainder of the bonds will be paid back with the Community Recreation Sales Tax.

Ehler’s manages the bidding and on the day of sale will provide an update of the number of bids received as well as the lowest bidder. At that point a final resolution will be prepared for the sale of the bonds.

Before each bond issue a process is followed by the City. That process includes gathering lots of data, reviewing a pre-sale report, preparing questionnaires, preparing and going through a bond rating call, reviewing the public offering, and answering questions. At the end of that process Standard & Poor’s provides a rating of the City. The City again received an AA rating on this bond issue by Stand & Poor’s.

SOURCE OF FUNDS (if applicable)

CRI Sales tax, Fundraising

ATTACHMENTS

Resolution

Resolution No. 2024-161

**Resolution Authorizing The Issuance, Sale And Delivery Of \$17,040,000
General Obligation Bonds, Series 2024B**

BE IT RESOLVED, by the City Council (the “City Council”) of the City of Hermantown, St. Louis County, Minnesota (the “Issuer”), as follows:

Section 1. Bond Purpose, Authorization and Award.

1.01 Authority. A. Under and pursuant to the provisions of Laws of Minnesota 2021, 1st Special Session, Chapter 14, Article 8, Section 8 and Minnesota Statutes, Chapters 410/412, 469 and 475 (collectively, the “Act”), the Issuer is authorized to issue and sell its general obligation bonds to finance; (i) a portion of the expansion and improvements to the Hermantown Arena in the Issuer under the Abatement Act, as defined below (the “Tax Abatement Project”); (iii) a portion of the expansion and improvements to the Hermantown Arena under the Sale Tax Revenue Act, as defined below (the “Sales Tax Revenue Project”); (iii) a portion of the acquisition of equipment (the “Equipment Project” and together with the Tax Abatement Project and Sales Tax Revenue Projects, the “Projects”); (iv) the issuance costs of the Bonds; and (v) a part of the interest cost of the Bonds. Work on the Projects shall proceed with due diligence to completion. The Projects consist of adding a second sheet of indoor ice, locker rooms, Zamboni room, and mezzanine, and renovating and reconfiguring existing space located at 4309 Ugstad Road in the Issuer. The Hermantown Amateur Hockey Association, a Minnesota nonprofit corporation and organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, also known as Hermantown Hockey Association, will be a principal user of the Projects. The Issuer covenants that it shall do all things and perform all acts required of it to assure that work on the Projects proceed with due diligence to completion and that any and all permits and studies required under law for the Projects are obtained.

B. Pursuant to authority contained in Minnesota Statutes, Chapter 410/412, the Issuer is authorized to issue its general obligation bonds for the purpose of financing the Equipment Project (the “Equipment Portion”).

C. Pursuant to authority contained in Minnesota Statutes, Sections 469.1812 through 469.1815 (the “Abatement Act”), the Issuer is authorized to issue its general obligation bonds for the purpose of financing the abatement portion of the Tax Abatement Project (the “Abatement Portion”).

D. Pursuant to authority contained in Laws of Minnesota 2021, 1st Special Session, Chapter 14, Article 8, Section 8 (the “Sales Tax Revenue Act”), the Issuer is authorized to issue its general obligation bonds for the purpose of financing a portion of the Sales Tax Revenue Project (the “Sales Tax Revenue Portion”).

1.02 Abatement Recitals.

A. The Issuer has previously granted a property tax abatement (the “Abatement”) in order to help finance the Tax Abatement Project pursuant to the Abatement Act.

B. The Issuer has identified 8 properties as described on Attachment A hereto (the “Abatement Properties”) from which the Issuer proposes to abate a portion of the Issuer’s share of taxes to help finance the Tax Abatement Project, subject to the terms and conditions of this resolution.

C. The Abatement Properties are not within a tax increment financing district.

D. On June 3, 2024, the City Council held a public hearing on the Abatement, at which all those wishing to speak were heard.

E. The Abatement has been approved.

1.03 Equipment Recital.

A. The Equipment will have a useful life of more than ten years. The Equipment Portion does not exceed 0.25 percent of the estimated market value of the Issuer (\$1,500,310,800, which is an amount equal to \$3,750,777).

1.04 Findings.

A. The City Council determines that it is necessary, expedient and in the best interest of the Issuer’s residents in order to reduce debt service costs to the Issuer, that the Issuer issue, sell and deliver its \$17,040,000 General Obligation Bonds, Series 2024B (the “Bonds”), to finance the Projects.

B. The principal of and interest on the Equipment Portion of the Bonds shall be paid primarily from ad valorem taxes hereinafter levied (the “Taxes”). The principal of and interest on the Tax Abatement Portion of the Bonds shall be paid primarily from the Abatement (the “Tax Abatement”). The principal of and interest on the Sales Tax Revenue Portion of the Bonds shall be paid primarily from sales tax revenues pursuant to the Sales Tax Revenue Act (the “Sales Tax Revenues” and along with the Taxes and Tax Abatement, the “Pledged Revenues.”).

1.05 Municipal Advisor. The Issuer has retained the services of Ehlers & Associates, Inc., as its municipal advisor.

1.06 Award of Sale. The Issuer has received an offer from _____ of _____, _____ (the “Purchaser”), to purchase the Bonds at a cash price of \$9,581,503.06, upon the terms and conditions hereafter specified in this Resolution. The City Council, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the Issuer a contract for the sale of the Bonds in accordance with the Purchaser’s proposal, and to acknowledge receipt of the security given for the proposal, if any.

Section 2. Terms of the Bonds.

2.01 Date, Maturities and Interest Rates.

A. The Bonds to be issued hereunder shall be issued as fully-registered bonds designated “\$17,040,000 General Obligation Bonds, Series 2024B,” dated the date of closing and delivery, as the date of original issue, issued in the denominations of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward.

B. The Bonds shall mature on February 1 in the years and amounts stated below and shall bear interest from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for, or, if no interest has been paid or provided for, from the date of original issue until paid at the rates per annum set forth below opposite such years and amounts:

Year	Equipment Portion	Sales Tax Revenue Portion	Tax Abatement Portion	Total Amount	Interest Rate

2.02 Interest Payment Dates; Record Date.

A. The Bonds shall bear interest at the annual rates stated therefor in Section 2.01. The interest shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an “Interest Payment Date”) commencing on August 1, 2025. Interest will be computed upon the basis of a 360-day year of twelve, 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board.

B. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the person in whose name each Bond is registered (the

“Holder”) and in each case at the address shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not on a business day) of the calendar month next preceding the Interest Payment Date (the “Regular Record Date”). Any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the Holder thereof as of the Regular Record Date, and shall be payable to the person who is the Holder thereof at the close of business on a date fixed for the payment of such defaulted interest (the “Special Record Date”). The Special Record Date shall be fixed by the Bond Registrar whenever money becomes available for payment of the defaulted interest and notice of the Special Record Date shall be given by the Bond Registrar to the Holders not less than 10 days prior thereto. The term “Holder” shall also include those lawfully entitled to take actions on behalf of the beneficial owners of the Bonds for purposes of any consent or approvals given by Holders.

C. If the date for payment of the principal of, premium, if any, or interest on the Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of New York, New York, or the city where the principal office of the Bond Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

2.03 Redemption.

A. The Bonds maturing in the years 2026 through 2034 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2035 and in subsequent years shall each be subject to redemption and prepayment at the option of the Issuer on February 1, 2034, and on any day thereafter, in whole or in part, and if in part, at the option of the Issuer and in such manner as the Issuer shall determine, at a price of par plus accrued interest.

B. The Bond maturing on February 1 in the years ____, ____ and ____ shall be subject to mandatory redemption prior to maturity at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The Bond Registrar shall notify DTC of the Bonds to be redeemed on February 1 in each of the following years, the following stated principal amounts:

For Bonds maturing on February 1, 20__:

Year	Equipment Portion	Sales Tax Revenue Portion	Tax Abatement Portion	Total Amount

For Bonds maturing on February 1, 20__:

Year	Equipment Portion	Sales Tax Revenue Portion	Tax Abatement Portion	Total Amount

For Bonds maturing on February 1, 20__:

Year	Equipment Portion	Sales Tax Revenue Portion	Tax Abatement Portion	Total Amount

C. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, Jersey City, New Jersey (“DTC”), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

D. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided, however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

E. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the Issuer or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will

then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

Section 3. Registration; Global Book-Entry System.

3.01 Designation of Bond Registrar. The City Council appoints Bond Trust Services Corporation, as registrar, authenticating agent and transfer agent for the Bonds (such entity or its successors is herein referred to as the “Bond Registrar”), and shall do so until a successor Bond Registrar is duly appointed, all pursuant to a contract which the Issuer and the Bond Registrar shall execute which is consistent herewith and which the Mayor and City Clerk, are authorized to execute and deliver. A successor Bond Registrar shall be a bank or trust company eligible for designation as bond registrar pursuant to the Act. The terms of the appointment of the successor Bond Registrar and its duties shall be specified in a contract between the Issuer and such successor Bond Registrar that is consistent herewith and that the Mayor and City Clerk are authorized to execute and deliver. The Bond Registrar, which may act through an agent, shall also serve as paying agent until and unless a successor paying agent is duly appointed. The Bond Registrar shall pay principal and interest on the Bonds to the registered Holders (or record Holders) of the Bonds in the manner set forth herein. The Issuer agrees to pay the reasonable and customary charges for the services of such Bond Registrar.

3.02 Designation of Depository. DTC, a Securities and Exchange Commission designated depository, a limited purpose New York trust company, a member of the Federal Reserve System, and a “clearing corporation” within the meaning of the New York Uniform Commercial Code, is designated as the depository (the “Depository”) with respect to the Bonds.

3.03 Authentication of Bonds. No Bond shall be valid or obligatory for any purpose unless or until either (i) the Bond Registrar’s authentication certificate on such Bond, substantially set forth in Section 4.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar or (ii) the Bonds have been manually executed by at least one officer of the City. Authentication certificates on different Bonds need not be signed by the same representative. The Bond Registrar shall authenticate each Bond by execution of the Certificate of Authentication on the Bond and shall date each Bond in the space provided as of the date on which the Bond is registered. For purposes of delivering the original Bonds, the Bond Registrar shall insert as the date of registration the date of original issue. The executed Authentication Certificate or the manual signature of at least one officer of the City on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

3.04 Bond Register; Transfer; Exchange.

A. The Issuer shall cause to be kept by the Bond Registrar at its principal office, a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the Issuer shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records

shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council.

B. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the Issuer shall execute, if required by law or this Resolution, and the Bond Registrar shall authenticate, if required by law or this Resolution, date (in the space designated Date of Registration) and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount having the same stated maturity and interest rate, as requested by the transferor; provided, however, that no Bond may be registered in blank or in the name of “bearer” or similar designation. Transfer of a Bond may be made on the Issuer’s books by the registered owner in person or by the registered owner’s attorney duly authorized in writing. Transfers shall be subject to reasonable regulations of the Issuer contained in any agreement with, or notice to, the Bond Registrar, including regulations which permit the Bond Registrar to close its transfer books between record dates and payment dates. The Issuer and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of notice of redemption in the case of a proposed redemption of the Bonds.

C. Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the Bond Registrar, duly executed by the registered owner thereof, with signature guaranteed, or by the registered Holder’s attorney duly authorized in writing, and shall include written instructions as to the details of the transfer of the Bond. When any Bond is presented to the Bond Registrar for transfer, the Bond Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Bond Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

D. At the option of the Holder, replacement Bonds may be exchanged for Bonds of any authorized denomination or denominations of a like aggregate principal amount and stated maturity, upon surrender of the Bonds to be exchanged at the principal office of the Bond Registrar. Whenever any Bonds are so surrendered for exchange, the Issuer shall execute (if required by law or this Resolution), and the Bond Registrar shall authenticate (if required by law or this Resolution), date (in the space designated Date of Registration) and deliver the replacement Bonds which the Holder making the exchange is entitled to receive. Bonds registered in the name of Cede & Co. may not be exchanged for Bonds of smaller denominations.

E. All Bonds surrendered upon any exchange or transfer provided for in this Resolution shall be promptly canceled by the Bond Registrar and thereafter disposed of as directed by the Issuer.

F. Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. All Bonds delivered in exchange for or upon transfer of Bonds shall be valid general obligations of the Issuer evidencing the same debt, shall be entitled to the same benefits

under this Resolution as the Bonds surrendered for such exchange or transfer, and shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bonds.

G. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of any Bond and any legal or unusual costs regarding transfers and lost bonds.

H. Bonds registered in the name of Cede & Co. may not after their original delivery, be transferred or exchanged except in accordance with the terms and conditions of the Representation Letter and:

(i) upon exchange of a Bond after a partial redemption, if provided in Section 2.03 of this Resolution;

(ii) to any successor of the Depository (or its nominee) or any substitute depository (a "Substitute Depository") designated pursuant to clause (iii) below; provided that any successor of the Depository or any Substitute Depository must be both a "clearing corporation" as defined in the Minnesota Uniform Commercial Code, Minnesota Statutes, Section 336.8-102, and a qualified and registered "clearing agency" as provided in Section 17A of the Securities Exchange Act of 1934, as amended;

(iii) to a Substitute Depository designated by and acceptable to the Issuer upon (a) the determination by the Depository that the Bonds shall no longer be eligible for its depository services or (b) a determination by the Issuer that the Depository is no longer able to carry out its functions; provided that any Substitute Depository must be qualified to act as such, as provided in subclause (ii) above; or

(iv) in the event that (a) the Depository shall resign or discontinue its services for the Bonds or be declared no longer able to carry out its functions and the Issuer is unable to locate a Substitute Depository within two months following the resignation or discontinuance or determination of noneligibility, or (b) the Issuer determines in its sole discretion that (1) the continuation of the book-entry system described herein might adversely affect the interests of the beneficial owners of the Bonds, or (2) it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, then the Issuer shall notify the Holders of its determination and of the availability of replacement Bonds to Holders. The Issuer, the Bond Registrar and the Depository shall cooperate in providing Replacement Bonds to Holders requesting the same and the registration, transfer and exchange of such Bonds shall thereafter be conducted as provided in Section 3 of this Resolution.

I. In the event of the designation of a Substitute Depository as authorized by clause H., the Bond Registrar, upon presentation of a Bond, shall register their transfer to the Substitute Depository, and the Substitute Depository shall be treated as the Depository for all purposes and functions under this Resolution. The Representation Letter shall not apply to the Substitute Depository unless the Issuer and the Substitute Depository so agree, and the execution of a similar agreement is authorized.

3.05 Persons Deemed Owners; Payment.

A. The Issuer and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and premium, if any, and interest (subject to the payment provisions in Section 2.02 above), on such Bond and for all other purposes whatsoever, whether or not such Bond shall be overdue, and neither the Issuer nor the Bond Registrar shall be affected by notice to the contrary.

B. For the purposes of all actions, consents and other matters affecting Holders of Bonds issued under this Resolution as from time to time supplemented, other than payments, redemptions, and purchases, the Issuer may (but shall not be obligated to) treat as the Holder of a Bond the beneficial owner of the Bond instead of the person in whose name the Bond is registered. For that purpose, the Issuer may ascertain the identity of the beneficial owner of the Bond by such means as the Bond Registrar in its sole discretion deems appropriate, including but not limited to a certificate from the Depository or other person in whose name the Bond is registered identifying such beneficial owner.

C. The principal of and interest on the Bonds shall be payable by the Bond Registrar in such funds as are legal tender for the payment of debts due the United States of America. The Issuer shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

3.06 Use of Global Book-Entry System.

A. There has been previously submitted to this City Council a form of Blanket Issuer Letter of Representations (the "Representation Letter") by the Issuer setting forth various matters relating to the Depository and its role with respect to the Bonds. The terms and conditions of the Representation Letter are ratified.

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the Issuer on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. So long as DTC is the Depository or it or its nominee is the Holder of any Bonds, the Issuer shall comply with the provisions of the Representation Letter, as it may be amended or supplemented from time to time.

D. Additional matters with respect to, among other things, notices, consents and approvals by Holders and payments on the Bonds are set forth in the Representation Letter.

E. The provisions in the Representation Letter are incorporated herein by reference and made a part of this resolution, and if and to the extent any such provisions are inconsistent with the other provisions of this resolution, the provisions in the Representation Letter shall control.

3.07 Mutilated, Stolen or Destroyed Bonds. If a Bond becomes mutilated or is destroyed, stolen or lost, the Bond Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Bond Registrar and the Issuer in connection therewith, including the cost of printing new Bonds; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Bond Registrar and the Issuer of evidence satisfactory to it and the Issuer that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Bond Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it and the Issuer and as provided by law, in which both the Issuer and the Bond Registrar must be named as obligees. Bonds so surrendered to the Bond Registrar will be canceled by the Bond Registrar and evidence of such cancellation must be given to the Issuer. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms, it is not necessary to issue a new Bond prior to payment.

Section 4. Form of the Bonds.

4.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF HERMANTOWN
GENERAL OBLIGATION BOND, SERIES 2024B

R-__ \$ _____

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____%	February 1, 20__	September 5, 2024	427500 _____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Hermantown, St. Louis County, Minnesota (the “Issuer”), certifies that it is indebted and for value received, promises to pay to the registered owner specified above or on the Registration Certificate attached hereto, or registered assigns, in the manner hereinafter set forth, the principal amount specified above, on the maturity date specified above, and to pay interest thereon from the date of original issue set forth above, or from the most recent Interest Payment Date (defined below) to which interest has been paid or duly provided for, until the principal amount is paid, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an “Interest Payment Date”) commencing on August 1, 2025, at the rate per annum specified above, calculated on the basis of a 360 day

year of twelve, 30-day months, until the principal amount is paid or has been provided for. This Bond will bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or provided for, from the date of original issue hereof set forth above.

Payment. The principal of and premium, if any, on this Bond are payable by wire transfer (or other agreed means of payment) on each payment date no later than 12:00 noon (New York, New York time) upon presentation and surrender hereof at the office of Bond Trust Services Corporation, as registrar, paying agent, authenticating agent and transfer agent (the “Bond Registrar”), or at the office of such successor bond registrar as may be designated by the Issuer. Interest on this Bond will be paid on each Interest Payment Date (by 12:00 noon, New York, New York time) by wire transfer (or other agreed means of payment) to the person in whose name this Bond is registered (the “Holder” or “Bondholder”) on the registration books of the Issuer maintained by the Bond Registrar and at the address appearing thereon at the close of business on the 15th day of the calendar month next preceding such Interest Payment Date (the “Regular Record Date”). Any interest not so timely paid or duly provided for shall cease to be payable to the person who is the Holder hereof as of the Regular Record Date, and shall be payable to the person who is the Holder thereof at the close of business on a date fixed for the payment of the defaulted interest, and notice of the special record date shall be given by the Bond Registrar to the Holders not less than 10 days prior thereto. The Bond Registrar shall make all payments with respect to this Bond without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the Issuer to the extent of the payments so made. The principal of, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the Issuer are irrevocably pledged.

Date of Payment Not Business Day. If the date for payment of the principal of, premium, if any, or interest on this Bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of New York, New York, or the city where the principal office of the Bond Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

Redemption. The Bonds of this series maturing in the years 2025 through 2034 are not subject to optional redemption before maturity, but those maturing in the year 2035 and in subsequent years are each subject to redemption and prepayment at the option of the Issuer on February 1, 2034, and on any day thereafter, in whole or in part, and if in part at the option of the Issuer and in such manner as the Issuer shall determine and by lot as to Bonds maturing in the same year, at a price of par plus accrued interest.

Mandatory Redemption. The Bond maturing on February 1 in the years _____, _____ and _____ shall be subject to mandatory redemption prior to maturity pursuant to the requirements of the Resolution at a redemption price equal to the stated principal amount thereof plus interest accrued thereon to the redemption date, without premium.

Notice of and Selection of Bonds for Redemption. Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; provided, however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, Jersey City, New Jersey (“DTC”), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations which has been executed by the Issuer (the “Representation Letter”).

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the Issuer or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the Issuer shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

Issuance; Purpose. This Bond is one of a series issued by the Issuer in the total aggregate amount of \$17,040,000, all of like original issue date and tenor, except as to number, maturity date, redemption privilege, denomination and interest rate, pursuant to: (i) the authority contained in Laws of Minnesota 2021, 1st Special Session, Chapter 14, Article 8, Section 8 and Minnesota Statutes, Chapters 410/412, 469 and 475; (ii) the Constitution of the State of Minnesota and all other laws thereunto enabling; and (iii) an authorizing resolution adopted by the governing body of the Issuer on August 19, 2024 (the “Resolution”), and is issued for the purpose of financing (a) the costs of acquisition of equipment, as described in Minnesota Statutes, Chapters 410/412 (the “Equipment Project”); (b) a portion of the expansion and improvements to the Hermantown Arena payable by tax abatement described below (the “Tax Abatement Project”); (c) a portion of the improvements to Fichtner Park payable by sales tax revenues described below (the “Sales Tax Revenue Project” and together with the Equipment Project and the Tax Abatement Project, the “Projects”); (d) the issuance costs of the Bonds; and (e) a part of the interest cost of the Bonds. The Projects consist of adding a second sheet of indoor ice, locker rooms, Zamboni room, and mezzanine, and renovating and

reconfiguring existing space located at 4309 Ugstad Road in the Issuer. The Bonds are payable primarily from (i) ad valorem taxes hereinafter levied, as set forth in the Resolution (the “Taxes”) with respect to the Equipment Project and Tax Abatement Project; (ii) from an abatement of taxes, pursuant to Minnesota Statutes, Sections 469.1812 to 469.1815, imposed by the Issuer on certain property as set forth in the Resolution with respect to the Tax Abatement Project (the “Tax Abatement”); and (iii) sales tax revenues pursuant to Laws of Minnesota 2021, 1st Special Session, Chapter 14, Article 8, Section 8 with respect to the Sales Tax Revenue Project (“Sales Tax Revenues”), which Taxes, Tax Abatement and Sales Tax Revenues are sufficient to pay the interest on and principal of the Bonds as the same become due and payable. Reference is made to the Resolutions for a full statement of rights and powers thereby conferred.

General Obligation. This Bond constitutes a general obligation of the Issuer, and to provide moneys for the prompt and full payment of the principal and interest when the same become due, the full faith and credit and taxing powers of the Issuer have been and are irrevocably pledged.

Denominations; Exchange. The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. The Issuer will, at the request of the registered owner, issue one or more new fully registered Bonds in the name of the registered owner in the aggregate principal amount equal to the unpaid principal balance of this Bond, and of like tenor except as to number and principal amount at the principal office of the Bond Registrar, but only in the manner and subject to the limitations provided in the Resolution and the Representation Letter. Reference is made to the Resolution for a description of the rights and duties of the Bond Registrar. Copies of the Resolution are on file in the principal office of the Bond Registrar.

Registration; Transfer. This Bond shall be registered in the name of the payee on the books of the Issuer by presenting this Bond for registration to the Bond Registrar, whose representative will endorse his or her name and note the date of registration opposite the name of the payee in the Registration Certificate attached hereto. Thereafter this Bond may be transferred by delivery with an assignment duly executed by the Holder or the Holder’s legal representative, and the Issuer and Bond Registrar may treat the Holder as the person exclusively entitled to exercise all the rights and powers of an owner until this Bond is presented with such assignment for registration of transfer, accompanied by assurance of the nature provided by law that the assignment is genuine and effective, and until such transfer is registered on said books and noted hereon by the Bond Registrar, all subject to the terms and conditions provided in the Resolution and the Representation Letter and to reasonable regulations of the Issuer contained in any agreement with, or notice to, the Bond Registrar. Thereupon the Issuer shall execute (if required by law or the Resolution) and the Bond Registrar shall authenticate (if required by law or the Resolution) and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in

an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

Fees Upon Transfer or Loss. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of this Bond and any legal or unusual costs regarding transfers and lost Bonds. No service charge shall be made by the Issuer for any transfer or exchange hereinbefore referred to, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Treatment of Registered Owner. The Issuer and Bond Registrar may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes whatsoever, whether or not this Bond shall be overdue, and neither the Issuer nor the Bond Registrar shall be affected by notice to the contrary.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until either (i) the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives or (ii) the Bond has been manually executed by at least one officer of the governing body of the Issuer.

IT IS CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to happen and to be performed precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the Issuer enforceable in accordance with its terms, have been done, have happened and have been performed in regular and due form, time and manner as so required; that, if necessary for payment of principal of and interest on the Bonds of this issue, ad valorem taxes may be levied upon all taxable property in the Issuer without limitation as to rate or amount; and that the issuance of this Bond on the date of original issue hereof and the date of its actual original issuance and delivery, does not exceed any charter, constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Hermantown, St. Louis County, Minnesota, by its governing body, has caused this Bond to be executed in its name by the facsimile or manual signature of the Mayor and attested by the facsimile or manual signature of the City Clerk, the Issuer having no seal or said seal having been intentionally omitted as permitted by law.

ATTEST:

(form-no signature needed) _____
City Clerk

(form-no signature needed) _____
Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

BOND TRUST SERVICES CORPORATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Bond Trust Services Corporation of Roseville, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the Bond Registrar, in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
9/5/2024	Cede & Co. c/o The Depository Trust Company 570 Washington Blvd. Jersey City, NJ 07310 Federal Taxpayer I.D. No. 13- 2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

the within Bond and all rights thereunder and does irrevocably constitute and appoint _____ attorney to

transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Issuer or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

4.02 Preparation and Execution. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. The legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. shall be appended to each Bond. The corporate seal of the Issuer may be omitted from the Bonds as permitted by law. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery.

4.03 Delivery of the Bonds. Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the Issuer and the Purchaser. Printed or typewritten, and executed Bonds shall be furnished by the Issuer without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the Clerk to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 5. Covenants, Accounts and Tax Levies.

5.01 Covenants. The Issuer covenants with the holders from time to time of the Bonds as follows:

A. Notwithstanding anything in this resolution to the contrary, the Issuer warrants, represents and covenants that the Abatement will be spent only in accordance with this resolution. The Issuer further warrants, represents and covenants that unless otherwise provided in this resolution, the Abatement shall be deposited, as received, in the Debt Service Account and shall only be spent for payment of the principal of and interest on the Bond.

B. It is recognized, however, that the Issuer's liability on the Bond is not limited to the Abatement and Taxes so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the Issuer, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

5.02 2024B General Obligation Bonds Fund. There is created a special fund to be designated the "2024B General Obligation Bonds Fund" (the "Fund") to be administered and maintained by the Finance Director as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the Issuer. The Fund shall be maintained in the manner herein specified until all of the Bonds and the interest thereon have been fully paid. There shall be maintained in the three separate accounts, to be designated the "Project Account," the "Costs of Issuance Account," and the "Debt Service Account" respectively (together, the "Accounts"):

A. *Project Account.* On receipt of the purchase price of the Bonds, the Issuer shall credit proceeds from the sale of the Bonds less amounts allocated as capitalized interest funded from bond proceeds, if any (the "Capitalized Interest"); less amounts used to pay part of the interest cost of the issue as allowed by Section 475.56 of the Act (the "Additional Interest"); and less amounts allocated to accrued interest paid by the Purchaser upon closing and delivery of the Bonds (the "Accrued Interest"), less the amounts to be deposited in the Costs of Issuance Account and Debt Service Account, to the Project Account. Proceeds of the Bonds on deposit in the Project Account shall be used to pay construction costs of the Projects.

B. *Costs of Issuance Account.* On receipt of the purchase price of the Bonds, the Issuer shall credit to the Costs of Issuance Account the proceeds from the sale of the Bonds in an amount necessary to pay the costs of issuance of the Bonds. In the event the proceeds of the Bonds, after meeting the requirements for deposits to the other Accounts, are insufficient for payment of costs of issuance of the Bonds, the Issuer will appropriate available funds to meet any deficiency. Any balance remaining in the Costs of Issuance Account after payment in full of the costs of issuance of the Bonds shall be transferred to the Debt Service Account.

C. *Debt Service Account.* The Debt Service Account shall be maintained in the manner herein specified until all of the Bonds and the interest thereon have been fully paid:

(i) There is pledged and appropriated and there shall be credited to the Debt Service Account: (A) the Accrued Interest; (B) the Additional Interest; (C) the Capitalized Interest (if any); (D) the ad valorem taxes; (E) the Sales Tax Revenues; (F) all funds remaining in the Project Account after completion of the Projects and payment of the costs thereof; (G) all funds remaining in the Costs of Issuance Account after payment of the costs of issuance of the Bonds; (H) any and all other monies which are properly available and are appropriated by the governing body of the Issuer to the Debt Service Account; and (I) investment earnings on the monies identified in the foregoing clauses (A) through (H). The proceeds of the Bonds described in clauses (A) through (C) of the preceding sentence shall be used for payment of interest on the Bonds.

(ii) The money in such account shall be used for no purpose other than the payment of principal and interest and redemption premium, if any; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Account, the Finance Director shall pay the same from any other fund of the Issuer, which fund shall be reimbursed from the Debt Service Account when the balance therein is sufficient.

5.03 Tax Levy.

A. For the prompt and full payment of the principal and interest on the Bonds there is levied a direct annual ad valorem tax upon all taxable property in the Issuer which shall be spread upon the tax rolls and collected with and as part of other general property taxes in the Issuer. Said levies are for the years and in the amounts set forth in Attachment B hereto, which is incorporated by reference as though fully set forth herein.

B. The tax levies are such that if collected in full, they together with estimated collections of Pledged Revenues and investment earnings herein pledged for payment of the Bonds, will produce at least five percent in excess of the amount needed to meet when due the principal and interest payments on the Bonds.

C. The tax levies shall be irrevocable so long as any amount of the Bonds is outstanding and unpaid; provided, however, that on November 30 of each year, while Bonds remain outstanding, the City Council shall reduce or cancel the above levies to the extent of funds available in the Debt Service Account to pay principal and interest due during the ensuing year on the Bonds, and shall direct the County Auditor to reduce the levy for such calendar year by that amount.

5.04 General Obligations. It is recognized that the Issuer's liability on the Bonds is not limited to the Pledged Revenues and investments so pledged, and the City Council covenants and agrees that in the event of any current or anticipated deficiency in the Pledged Revenues, it will levy upon all taxable property within the Issuer and cause to be extended, assessed, and collected, any additional taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

5.05 Investments. Monies on deposit in the Debt Service Account may, at the discretion of the City Clerk, be invested in securities permitted by Minnesota Statutes, Chapter 118A, that any such investments shall mature at such times and in such amounts as will permit for payment of project costs and/or payment of the principal and interest on the Bonds when due.

Section 6. Reserved.

Section 7. Certificate of Proceedings.

7.01 Filing of Resolution; County Auditor Certificate. The City Clerk or the designee thereof is directed to file a certified copy of this Resolution in the office of the County Auditor of St. Louis County, along with such other information as the County Auditor may require, and to obtain from the County Auditor a certificate stating that the Bonds herein authorized have been duly entered on the Auditor's register and that the tax required by law for the payment of said Bonds has been levied.

7.02 Authentication of Transcript. The officers of the Issuer are authorized and directed to prepare and furnish to the Purchaser and to Bond Counsel certified copies of all proceedings and records of the Issuer relating to the authorization and issuance of the Bonds and to the financial condition and affairs of the Issuer and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the Issuer as to the correctness of facts recited therein and the actions stated therein to have been taken.

7.03 Offering Materials. The Mayor and the Finance Director are authorized and directed to certify that they have examined the offering materials prepared and circulated in connection with the reoffering of the Bonds by the Purchaser and that to the best of their knowledge and belief the offering materials are a complete and accurate representation of the facts and representations made therein as of the date of the offering materials.

7.04 Absent or Disabled Officers. In the event of the absence or disability of the Mayor, the City Clerk or the Finance Director, such officers or members of the City Council as in the opinion of the Issuer's attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Bonds, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

7.05 Defeasance. When all Bonds have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution to the registered holders of the Bonds shall, to the extent permitted by law, cease. The Issuer may discharge its obligations with respect to any Bonds which are due on any date by irrevocably depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full; or if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The Issuer may also discharge its obligations with respect to any prepayable Bonds called for redemption on any date when they are prepayable according to their terms, by depositing with the

Bond Registrar on or before that date a sum sufficient for the payment thereof in full, provided that notice of redemption thereof has been duly given. The Issuer may also at any time discharge its obligations with respect to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a suitable banking institution qualified by law as an escrow agent for this purpose, cash or securities described in Minnesota Statutes, Chapter 118A bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without regard to sale and/or reinvestment, to pay all amounts to become due thereon to maturity or, if notice of redemption as herein required has been duly provided for, to such earlier redemption date.

Section 8. Tax Covenants.

8.01 General.

A. The Issuer covenants and agrees with the Holders of the Bonds that the Issuer will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

B. The Issuer covenants with the Holders from time to time of the Bonds that it will not take, or permit to be taken by any of its officers, employees or agents, any action which would cause the interest payable on the Bonds to become subject to taxation under the Internal Revenue Code; and that it will take, or it will cause its officers, employees or agents to take, all affirmative actions within its powers which may be necessary to insure that such interest will not become subject to taxation under the Code. The term “Internal Revenue Code” or “Code” as used herein includes the Internal Revenue Code of 1986, as amended, and all regulations, amended regulations and proposed regulations issued thereunder, as now existing, or as hereafter amended or proposed.

C. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued and (ii) in addition to the above in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect any proceeds of the Bonds and any sums from time to time held in the Debt Service Account (or any other Issuer account which will be used to pay principal or interest to become due on the Bonds payable therefrom) in excess of amounts which under then applicable federal arbitrage restrictions may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments after taking into account any applicable “temporary periods” or “minor portion” made available under the federal arbitrage regulations. Money in those funds shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or

instrumentality thereof if and to the extent that such investment would cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

8.02 Arbitrage Certification. The Mayor and City Clerk, being the officers of the Issuer charged with the responsibility for issuing the Bonds pursuant to this Resolution, are authorized and directed to execute and deliver to the Purchaser an arbitrage certification in order to satisfy the provisions of the Code and the regulations promulgated thereunder.

8.03 Opinion of Counsel. Notwithstanding any other provision of this Section 8, any requirement imposed hereunder or under Section 6 hereof may be deemed inapplicable and of no force or effect if an opinion of counsel is rendered to the Issuer by nationally recognized Bond Counsel to the effect that the failure to impose such requirement will not adversely effect the tax exempt status of interest on the Bonds.

Section 9. Continuing Disclosure. The City Council acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the “Rule”). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the Holders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the Mayor and the City Clerk are authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the Issuer.

Section 10. Post-Issuance Tax Compliance. The Issuer has previously approved a Pre- and Post-Issuance Compliance Policy and Procedures which applies to qualifying obligations to provide for compliance with all applicable federal regulations for tax-exempt obligations or tax-advantaged obligations (collectively, the “Policy and Procedures”). The Issuer hereby ratifies the Policy and Procedures for the Bonds. The Finance Director continues to be designated to be responsible for post-issuance compliance in accordance with the Policy and Procedures.

Adopted: August 19, 2024.

Mayor

Attest:

City Clerk

09115\000074\1D46058.DOCX

ATTACHMENT A
Abatement Properties

395-0010-02815

395-0010-00848

395-0010-00844

395-0010-00845

395-0010-00842

ATTACHMENT B

**General Obligation Bonds, Series 2024B
City of Hermantown, Minnesota**

Levy Year	Collection Year	Tax Levy
2024	2025	
2025	2026	
2026	2027	
2027	2028	
2028	2029	
2029	2030	
2030	2031	
2031	2032	
2032	2033	
2033	2034	
2034	2035	
2035	2036	
2036	2037	
2037	2038	
2038	2039	
2039	2040	
2040	2041	
2041	2042	
2042	2043	



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: John Mulder, City Administrator

SUBJECT: Revised Authorization to Proceed – Ice Arena

RESOLUTION: 2024-162 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

Provide a revised authorization to Kraus Anderson to proceed with the construction of the Ice Arena based on Bid Package 2.

BACKGROUND

Earlier this year (June 3, 2024 Resolution 2024-78), the City Council provided an authorization for KA to proceed on the NorthStar Ford Arena based on Bid Package 1. The Council has now awarded contracts for Bid Package 2. The bids came under the design development construction estimate for these scopes of work. A number of work scopes are being re-bid so we do not have the final cost or expected Guaranteed Maximum Price (GMP) at this time.

It is recommended that the Council provides a revised authorization to proceed based on the awarded contracts for the work scopes in Bid Package 1 and 2.

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

Resolution

Resolution No. 2024-162

Resolution Approving A Revised Letter Authorizing Kraus Anderson To Proceed With Construction Of Ice Arena

WHEREAS, the City of Hermantown wish to construct an addition to the existing ice arena (Project); and

WHEREAS, the City of Hermantown has hired Kraus Anderson as the Construction Manager for the Project, and

WHEREAS, the City of Hermantown has received bids and awarded contracts for various different work scopes as part of Bid Package 1 for the Project;

WHEREAS, the City of Hermantown has received bids and awarded contracts for various different work scopes as part of Bid Package 2 for the Project; and

WHEREAS, the City of Hermantown and Kraus Andersson are not ready to execute the Guaranteed Maximum Price Amendment as additional Bid Packages must be prepared for the project,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown hereby approves a revised authorization to proceed with the Project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized and directed to execute the letter authorizing Kraus Anderson to proceed pursuant A133-2019 Material Contract and A133-2019-Labor Contract.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted August 19, 2024.

August 6th, 2024

John Mulder
City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811

Re: Hermantown Hockey Arena Addition (the "Project")
A133-2019 Labor Contract dated September 25, 2023 between City of Hermantown
("Owner") and Kraus-Anderson Construction Company ("Construction Manager") (the
"Labor Agreement")

Dear Mr. Mulder:

As you know, the Parties are not yet ready for the Construction Manager to present the Construction Manager's GMP Proposal pursuant to the above-referenced Labor Agreement. Notwithstanding that the parties are not yet ready to execute the Guaranteed Maximum Price Amendment to set the GMP for the Project, the Owner desires Construction Manager to commence certain work on the Project.

Pursuant to Section 3.2.7 of the Labor Agreement, Owner hereby (i) authorizes Kraus-Anderson to perform the work on the Project described in Attachment A – Revision 1 to this letter agreement, (the "Preliminary Work") pursuant to contracts awarded by the Owner and assigned to the Construction Manager per the Bidding Process for Bid Package No. 1 and No. 2; and (ii) agrees to pay Kraus-Anderson for the Preliminary Work pursuant to the terms of the Labor Agreement. Kraus-Anderson agrees to perform the Preliminary Work in accordance with the Labor Agreement and the Contract Documents.

The Preliminary Work shall be included in the final GMP, and once the Guaranteed Maximum Price Amendment is executed, the parties shall reconcile amounts invoiced by Construction Manager and paid by Owner for all Preliminary Work performed.

Sincerely,

KRAUS-ANDERSON CONSTRUCTION COMPANY

By: 

Nicholas Leimer, Regional Vice President

Enclosure – Attachment A – Revision 1

Accepted and agreed to this 10 day of August, 2024.

CITY OF HERMANTOWN

By: DocuSigned by:
Wayne Boucher

Wayne Boucher

Its: Mayor

By: DocuSigned by:
Alissa Wentzlauff

Alissa Wentzlauff

Its: City Clerk

ATTACHMENT A – Revision 1

Hermantown Hockey Arena Addition (NorthStar Ford Arena) Preliminary Work Costs:

The following is a list of Preliminary Work costs prior to the establishment of the final GMP Amendment between Owner and Construction Manager.

TOTAL PRELIMINARY WORK COSTS: \$9,748,316.02

WS	Description	Total	Subcontractor	Notes
02-A	Selective Demolition	\$ 221,900.00	Maertens-Brenny	
03-A	Concrete	\$ 595,347.00	TNT Construction	
03-B	Structural Precast	\$ 179,594.00	Molin Concrete Products	
03-C	Architectural Precast	\$ 128,790.00	Molin Concrete Products	
04-A	Masonry	\$ 522,615.00	Harbor City Masonry	
05-B	Structural Steel Erection	\$ 385,000.00	Red Cedar Steel Erectors	
07-A	Foundation Waterproofing & Insulation	\$ 17,755.00	ATK Enterprises	
13-D	Ice Rink	\$ 2,125,869.25	St. Cloud Refrigeration	
23-B	Combined Mechanical	\$ 1,355,202.00	AG Obrien	
26-B	Electrical	\$ 559,752.00	Hunt Electric	
31-A	Site Clearing & Earthwork	\$ 1,010,056.00	Northern Interstate Construction	
	Changes to BP1 Contractors included in BP2 Documents	\$ 128,173.70	Maertens-Brenny, TNT, HCM, JRK, Red Cedar, ATK, NIC	
	KA General Conditions	\$ 1,554,000.00		
	Subtotal:	\$ 8,784,053.95		
	Building Permit	\$ 166,310.00		Calculated per State of MN rates based upon estimated total construction costs.
	Performance & Payment Bond	\$ 52,704.32		Prorated for LAP costs only.
	Builders Risk Insurance	\$ 18,166.89		Calculated based upon estimated total construction costs.
	Liability Insurance	\$ 83,448.51		Prorated for LAP costs only at .95% per the stipulated value in the contract
	Standard Warranties	\$ 13,176.08		Prorated for LAP Labor costs only at .15% per the stipulated value in the contract
	KA Construction Contingency	\$ 444,000.00		
	Subtotal:	\$ 9,561,859.76		
	CM Fee	\$ 186,456.27		Prorated for LAP costs only only at 1.95% per the stipulated value in the contract.
	Total Cost:	\$ 9,748,316.02		

ATTACHMENT A – Revision 1

Hermantown Hockey Arena Addition (NorthStar Ford Arena) Preliminary Work Assumptions & Clarifications:

A. Clarifications:

1. The Work described in Attachment A – Revision 1 cannot be fully completed without the execution of the Guaranteed Maximum Price Amendment. If the GMP Amendment is not executed by September 13th, 2024, Kraus-Anderson will receive an equitable cost adjustment reflecting any impacts related to the inability of Kraus-Anderson to seamlessly complete the work described herein, including costs related to any shutdown, demobilization or protection of in-place work.
2. Costs described are based upon:
 - Bid Package #01 drawings and specifications provided by DSGW Architects dated 4/26/24
 - Bid Package #01 KA Special Requirements dated 05/07/24
 - BP#01 Addendum #01 dated 05/14/24
 - BP #01 Addendum #02 dated 05/20/24
 - Bid Package #02 drawings and specifications provided by DSGW Architects dated 06/19/24
 - Bid Package #02 KA Special Requirements dated 06/19/24
 - BP#02 Addendum #01 dated 06/28/24
 - BP #02 Addendum #02 dated 07/09/24
 - BP #02 Addendum #03 dated 07/17/24

B. Inclusions:

1. Work indicated on the BP#01 Civil Drawings & Specifications is INCLUDED.
2. Work indicated on the BP#01 Structural Drawings & Specifications is INCLUDED.
3. Work indicated on the BP#01 Demo Drawings & Specifications is INCLUDED.
4. Select work as described in the KA Work Scopes indicated on the BP#02 Architectural Drawings & Specifications is INCLUDED.
5. Changes to Bid Package #01 Work Scopes due to drawing revisions included in Bid Package #02 are INCLUDED.
6. Work indicated on the BP#02 Mechanical Drawings & Specifications is INCLUDED.
7. Work indicated on the BP#02 Electrical Drawings & Specifications is INCLUDED.
8. Work indicated on the BP#02 Ice Rink Drawings & Specifications is INCLUDED.
9. Alternate #03 for providing a new DHU#2 to service the existing ice rink is INCLUDED.
10. General Conditions have been INCLUDED (Example: Dumpsters, Perimeter Fence, Sanitation, etc...) for work described in the Limited Authorization to Proceed only.
11. Site Services have been INCLUDED (Example: Jobsite Superintendent, Project Management, Project Administration, etc...) for work described in the Limited Authorization to Proceed only.
12. Building Permit & Plan Review costs based upon the estimated total construction hard costs of \$21,609,046.00, adjusted to the rates for the State of MN, are INCLUDED.
13. Performance & Payment Bonding of Kraus-Anderson Construction Company for work described in the Limited Authorization to Proceed and for Subcontractors listed in the Limited Authorization to Proceed are INCLUDED.
14. Builder's Risk Insurance costs based upon the estimated total construction hard costs of \$21,609,046.00 are INCLUDED.
15. General Liability Insurance is INCLUDED.

16. A Construction Contingency for Contractor use is INCLUDED.
17. A Construction Manager Fee for Construction Phase Services associated with **work described in the Limited Authorization to Proceed** only is INCLUDED.

C. Exclusions:

1. Tax exempt materials are EXCLUDED.
2. Construction Testing & Special Inspection costs are EXCLUDED.
3. Site Layout & Surveying costs are EXCLUDED.
4. Geotechnical Investigation & Report preparation costs are EXCLUDED.
5. Foundation drain tile is EXCLUDED.
6. Property Survey & Legal Land Description preparation costs are EXCLUDED.
7. Wetland Delineation Report & Wetland Disturbance Credit costs are EXCLUDED.
8. Hazardous Materials Survey & Physical Abatement is EXCLUDED.
9. Subcontractor Default Insurance is EXCLUDED.
10. A Design Contingency is EXCLUDED.
11. An Owner Contingency is EXCLUDED.
12. Cost Escalation (inflation) has been EXCLUDED.
13. Design & Engineering Fees are EXCLUDED.
14. All items in the "Soft Costs" portion of the Master Budget provided with the Kraus-Anderson DD Estimate are EXCLUDED.
15. **Any Alternates not listed in the "Inclusions" section of this document.**

August 6th, 2024

John Mulder
City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811

Re: Hermantown Hockey Arena Addition (the "Project")
A133-2019 Materials Contract dated September 25, 2023 between City of Hermantown
("Owner") and Kraus-Anderson Construction Company ("Construction Manager") (the
"Materials Agreement")

Dear Mr. Mulder:

As you know, the Parties are not yet ready for the Construction Manager to present the Construction Manager's GMP Proposal pursuant to the above-referenced Materials Agreement. Notwithstanding that the parties are not yet ready to execute the Guaranteed Maximum Price Amendment to set the GMP for the Project, the Owner desires Construction Manager to commence certain work on the Project.

Pursuant to Section 3.2.7 of the Materials Agreement, Owner hereby (i) authorizes Kraus-Anderson to perform the work on the Project described in Attachment A – Revision 1 to this letter agreement, (the "Preliminary Work") pursuant to contracts awarded by the Owner and assigned to the Construction Manager per the Bidding Process for Bid Package No. 1 and No. 2; and (ii) agrees to pay Kraus-Anderson for the Preliminary Work pursuant to the terms of the Materials Agreement. Kraus-Anderson agrees to perform the Preliminary Work in accordance with the Materials Agreement and the Contract Documents.

The Preliminary Work shall be included in the final GMP, and once the Guaranteed Maximum Price Amendment is executed, the parties shall reconcile amounts invoiced by Construction Manager and paid by Owner for all Preliminary Work performed.

Sincerely,

KRAUS-ANDERSON CONSTRUCTION COMPANY

By: 
E7E0CDB22A10437...
Nicholas Leimer, Regional Vice President

Enclosure – Attachment A – Revision 1

Accepted and agreed to this 10 day of August, 2024.

CITY OF HERMANTOWN

By: DocuSigned by:
Wayne Boucher
Wayne Boucher

Its: Mayor

By: DocuSigned by:
Alissa Wentzlauff
Alissa Wentzlauff

Its: City Clerk

ATTACHMENT A – Revision 1

Hermantown Hockey Arena Addition (NorthStar Ford Arena) Preliminary Work Costs:

The following is a list of Preliminary Work costs prior to the establishment of the final GMP Amendment between Owner and Construction Manager.

TOTAL PRELIMINARY WORK COSTS: \$5,778,888.88

WS	Description	Total	Subcontractor	Notes
03-A	Concrete	\$ 240,603.00	TNT Construction	
03-B	Structural Precast	\$ 351,876.00	Molin Concrete Products	
03-C	Architectural Precast	\$ 777,427.00	Molin Concrete Products	
04-A	Masonry	\$ 275,510.00	Harbor City Masonry	
05-A	Structural Steel Material	\$ 1,004,883.00	JRK Steel	
07-A	Foundation Waterproofing & Insulation	\$ 10,683.00	ATK Enterprises	
13-D	Ice Rink	\$ 85,248.25	St. Cloud Refrigeration	
23-A	Mechanical Equipment - Material Only	\$ 597,618.00	SVL	
23-A	Mech. Equip. - Material Only - Change Order #1 for Alternate #3	\$ 100,027.00	SVL	
23-B	Combined Mechanical	\$ 1,274,740.00	AG Obrien	
26-A	Electrical Equipment - Material Only	\$ 165,000.00	Benson Electric	
26-B	Electrical	\$ 420,479.00	Hunt Electric	
31-A	Site Clearing & Earthwork	\$ 227,944.00	Northern Interstate Construction	
	Changes to BP1 Contractors included in BP2 Documents	\$ 35,435.74	Maertens-Brenny, TNT, HCM, JRK, Red Cedar, ATK, NIC	
	Subtotal:	\$ 5,567,473.99		
	Performance & Payment Bond	\$ 33,404.84		Prorated for LAP costs only.
	Builders Risk Insurance	\$ 14,586.11		Calculated based upon estimated total construction costs.
	Liability Insurance	\$ 52,891.00		Prorated for LAP costs only at .95% per the stipulated value in the contract.
	Subtotal:	\$ 5,668,355.94		
	CM Fee	\$ 110,532.94		Prorated for LAP costs only only at 1.95% per the stipulated value in the contract.
	Total Cost:	\$ 5,778,888.88		

ATTACHMENT A – Revision 1

Hermantown Hockey Arena Addition (NorthStar Ford Arena) Preliminary Work Assumptions & Clarifications:

A. Clarifications:

1. The Work described in Attachment A – Revision 1 cannot be fully completed without the execution of the Guaranteed Maximum Price Amendment. If the GMP Amendment is not executed by September 13th, 2024, Kraus-Anderson will receive an equitable cost adjustment reflecting any impacts related to the inability of Kraus-Anderson to seamlessly complete the work described herein, including costs related to any shutdown, demobilization or protection of in-place work.
2. Costs described are based upon:
 - Bid Package #01 drawings and specifications provided by DSGW Architects dated 4/26/24
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 - BP#01 Addendum #01 dated 05/14/24
 - BP #01 Addendum #02 dated 05/20/24
 - Bid Package #02 drawings and specifications provided by DSGW Architects dated 06/19/24
 - Bid Package #02 KA Special Requirements dated 06/19/24
 - BP#02 Addendum #01 dated 06/28/24
 - BP #02 Addendum #02 dated 07/09/24
 - BP #02 Addendum #03 dated 07/17/24

B. Inclusions:

1. Work indicated on the BP#01 Civil Drawings & Specifications is INCLUDED.
2. Work indicated on the BP#01 Structural Drawings & Specifications is INCLUDED.
3. Work indicated on the BP#01 Demo Drawings & Specifications is INCLUDED.
4. Select work as described in the KA Work Scopes indicated on the BP#02 Architectural Drawings & Specifications is INCLUDED.
5. Changes to Bid Package #01 Work Scopes due to drawing revisions included in Bid Package #02 are INCLUDED.
6. Work indicated on the BP#02 Mechanical Drawings & Specifications is INCLUDED.
7. Work indicated on the BP#02 Electrical Drawings & Specifications is INCLUDED.
8. Work indicated on the BP#02 Ice Rink Drawings & Specifications is INCLUDED.
9. Alternate #03 for providing a new DHU#2 to service the existing ice rink is INCLUDED.
10. Performance & Payment Bonding of Kraus-Anderson Construction Company for work described in the Limited Authorization to Proceed and for Subcontractors listed in the Limited Authorization to Proceed are INCLUDED.
11. Builder's Risk Insurance costs based upon the estimated total construction hard costs of \$21,609,046.00 are INCLUDED.
12. General Liability Insurance is INCLUDED.
13. A Construction Manager Fee for Construction Phase Services associated with work described in the Limited Authorization to Proceed only is INCLUDED.

C. Exclusions:

1. Labor, Supplies, Equipment, and Taxable Materials are EXCLUDED.
2. General Conditions are EXCLUDED (Example: Dumpsters, Perimeter Fence, Sanitation, etc...).

3. Site Services are EXCLUDED (Example: Jobsite Superintendent, Project Management, Project Administration, etc...).
4. A Construction Contingency for Contractor use is EXCLUDED.
5. State of Minnesota Sale's Tax, locally modified to Hermantown, MN (8.875%) is EXCLUDED – project has Tax Exempt status.
6. Construction Testing & Special Inspection costs are EXCLUDED.
7. Site Layout & Surveying costs are EXCLUDED.
8. Geotechnical Investigation & Report preparation costs are EXCLUDED.
9. Foundation drain tile is EXCLUDED.
10. Property Survey & Legal Land Description preparation costs are EXCLUDED.
11. Wetland Delineation Report & Wetland Disturbance Credit costs are EXCLUDED.
12. Hazardous Materials Survey & Physical Abatement is EXCLUDED.
13. Subcontractor Default Insurance is EXCLUDED.
14. A Design Contingency is EXCLUDED.
15. An Owner Contingency is EXCLUDED.
16. Cost Escalation (inflation) has been EXCLUDED.
17. Design & Engineering Fees are EXCLUDED.
18. All items in the “Soft Costs” portion of the Master Budget provided with the Kraus-Anderson DD Estimate are EXCLUDED.
19. Any Alternates not listed in the “Inclusions” section of this document.



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: Trish Crego, Utility and Infrastructure Director

SUBJECT: Change Order #19 for Ugstad Road Improvements

RESOLUTION: 2024-163 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

Approve change orders numbers 19 provided by Ulland Brother Inc. for work related to Ugstad Road Improvements Project for \$43,386.10.

Change Order #	Descriptions	Cost
19	Additional stop bars and crosswalks, Yard grading and sodding Reconstruct a section of entrance to Hermantown Administrative Building	\$43,386.10
	TOTAL	\$ 43,386.10

BACKGROUND

Change Order number 19 is for work after the final walk through held on April 24, 2024, the Extra Work was requested by the Owner. Several stop bars and crosswalks, Yard grading and sodding at 4255 Ugstad Rd., Reconstruct a section of entrance to Hermantown Administrative Building for a Lump Sum Price of \$23,325.0. Work included the following from STA 510+50 to 512+50. It is recommended that the City approve the change order for the Hermantown Road and Old Midway Road Improvements Project to Northland Constructors of Duluth in the amount of 48,109.37.

SOURCE OF FUNDS (if applicable)

Funding Code - 416-452100-530

ATTACHMENTS

- Resolution
- Change Order Application

Resolution No. 2024-163

**Resolution Approving Change Order Number 19 For Road Improvement Project 534
(Ugstad & Arrowhead Roads)**

WHEREAS, the City of Hermantown has contracted with Ulland Brothers Inc, for Road Improvement Project 534 (Ugstad & Arrowhead Roads) (“Project:”); and

WHEREAS, Ulland Brothers, Inc, have submitted Change Order No. 19 for \$43,386.10;

WHEREAS, Ulland Brothers Inc, has recommended such Change Order No. 19, and;

WHEREAS, the project engineer, (MSA Professional Services, Inc.), and the City Engineer, (Northland Consulting Engineers LLP) have approved such Change Order No. 19, and;

WHEREAS, the City Administrator has reviewed the change order and recommends its approval.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota as follows:

1. Change Order No. 19 is hereby approved.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____, upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution has been duly passed and adopted August 19, 2024.



SP	202-101-014, 202-104-012	MN Project No.:	6922(198)	Change Order No.	19
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Project Location	UGSTAD RD FROM MAPLE GROVE RD TO MILLER TRUNK HIGHWAY 194 (US 53) AND ARROWHEAD RD FROM 1300 FT WEST OF UGSTAD RD TO 800 FT EAST OF UGSTAD RD.		
Local Agency	CITY OF HERMANTOWN	Local Project No.	NA
Contractor	ULLAND BROTHERS, INC.	Contract No.	NA
Address/City/State/Zip	1634 Hwy. 210 Carlton, MN 55718		
Total Change Order Amount \$	\$43,386.10		

After the final walk through held on April 24, 2024, the following Extra Work was requested by the Owner.

- Additional stop bars and crosswalks at the following areas
 - Intersection of Ugstad Rd & Maple Grove Rd. – STA 457+60
 - Entrances to Essentia Wellness Center off Ugstad Rd
 - STA 505+00 to 505+40 – South Entrance
 - STA 507+35 to 507+60 – North entrance
 - Entrances to Hermantown Middle School off Arrowhead Rd
 - STA 85+65 to 86+15 – West Entrance
 - STA 89+20 to 89+50 – East Entrance
- Yard grading and sodding at 4255 Ugstad Rd.
- Reconstruct a section of entrance to Hermantown Administrative Building for a Lump Sum Price of \$23,325.0. Work included the following from STA 510+50 to 512+50
 - Mobilization
 - Bituminous Pavement Removal
 - Excavation – Common
 - Aggregate Base (CV) Class 5
 - Concrete Curb & Gutter B618
 - Bituminous Pavement
 - Turf Restoration

Unit pricing provided by Contractor and approved by Owner will remain in the Engineer's file.

Estimate Of Cost: <i>(Include any increases or decreases in contract items, any negotiated or force account items.)</i>						
**Group/funding Category	Item No.	Description	Unit	Unit Price	+ or – Quantity	+ or – Amount \$
SP 202-101-014	2101.601	MOBILIZATION – PAVEMENT MARKING	LS	\$2,100.00	1	\$2,100.00
SP 202-101-014	2101.601	MOBILIZATION – TURF ESTABLISHMENT	LS	\$1,050.00	1	\$1,050.00
SP 202-101-014	2582.503	24" SOLID LINE MULTI-COMP GROUND IN	LF	\$15.80	50	\$790.00
SP 202-101-014	2582.518	CROSSWALK MULTI-COMP GROUND IN	SF	\$14.70	588	\$8,643.60
SP 202-101-014	2574.507	COMMON TOPSOIL BORROW	CY	\$39.50	15	\$592.50
SP 202-101-014	2575.504	SODDING TYPE LAWN	SY	\$9.84	135	\$1,328.40
SP 202-104-012	2582.518	CROSSWALK MULTI-COMP GROUND IN	SF	\$14.70	378	\$5,556.60
Non-participating	2106.601	RECONSTRUCT ENTRANCE	LS	\$23,325.00	1	\$23,325.00
Net Change this Change Order						\$43,386.10
Due to this change, the contract time: <i>(check one)</i>						
<input checked="" type="checkbox"/> Is NOT changed			<input type="checkbox"/> May be revised as provided in MnDOT Specification 1806			




STATE AID FOR LOCAL TRANSPORTATION
CHANGE ORDER

Rev. February 2018

SP	202-101-014, 202-104-012	MN Project No.:	6922(198)	Change Order No.	19
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<input type="checkbox"/> Is Increased by _____ Working Days	<input type="checkbox"/> Is Increased by _____ Calendar Days
<input type="checkbox"/> Is Decreased by _____ Working Days	<input type="checkbox"/> Is Decreased by _____ Calendar Days

Approved by Project Engineer:  Date: 8/6/24
 Print Name: James Watters, PE Phone: 612-548-3152

Approved by City Engineer:  Date: 8/12/24
 Print Name: David Bolf, PE – Hermantown City Engineer Phone: 218-727-5995

Approved by Contractor:  Date: 8/7/2024
 Print Name: Ryan Swanson, PE – Ulland Brothers, Inc Phone: 218-966-9822

DSAE Portion: The State of Minnesota is not a participant in this contract. Signature by the District State Aid Engineer is for FUNDING PURPOSES ONLY and for compliance with State and Federal Aid Rules/Policy. Eligibility does not guarantee funds will be available.

This work is eligible for: ___ Federal Funding ___ State Aid Funding ___ Local funds

District State Aid Engineer: _____ Date: _____



332 West Superior Street
Suite 600
Duluth, MN 55803

P (218) 722-3915
T (866) 452-9454
F (218) 722-4548

www.msa-ps.com

August 12, 2024

John Mulder – City Administrator
City of Hermantown
5105 Maple Grove Rd
Hermantown, MN 55811

Re: Change Order #19 & Pay Application #9
SP 202-101-014, SP 202-104-012
Ugstad Rd & Arrowhead Rd Improvements

Dear Mr. Mulder,

Enclosed is the following document recommended for approval at the next council meeting.

1. Change Order #19 detailing the Extra Work requested by the City relating to turf establishment, pavement markings and Hermantown Administrative Building entrance improvements.
2. Pay Application #9 in the amount of \$147,473.79 to Ulland Brothers, Inc, the project prime contractor. This amount is for:
 - a. Additional work detailed in Change Order #19
 - b. Release of retainage.
3. This is the semifinal payment. The project punchlist items have been completed by the contractor. MSA will work with project subconsultant Braun Intertec and MnDOT partners to begin closing procedures for the project. Remainder of retainage will be released as part of final payment to contractor.

Sincerely,

MSA Professional Services, Inc.

A handwritten signature in black ink, appearing to read "James A. Watters". The signature is fluid and cursive, with a large, sweeping flourish at the end.

James Watters, PE
Project Manager

Resolution No. 2024-164

Resolution Approving Pay Request Number 9 For Road Improvement District 534 To Ulland Brothers, Inc In the Amount Of \$147,473.79

WHEREAS, the City of Hermantown has contracted with Ulland Brothers, Inc for Road Improvement District 534 (“Project”); and

WHEREAS, Ulland Brothers Inc. has performed a portion of the agreed upon work in said Project; and

WHEREAS, Ulland Brothers Inc has submitted Pay Request No. 9 in the amount of \$147,473.79 and

WHEREAS, the City will maintain an accumulated retainage as shown on the pay requests until the final work and documentation is completed; and

WHEREAS, Northland Consulting Engineers LLP has approved such Pay Request No. 9 and determined the project is substantially complete with a few remaining punch list items to be completed this spring. Value of retainage withheld still exceeds value of work left to complete.

WHEREAS, the necessary documentation for the pay request is on file and available for inspection.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota as follows:

1. Pay Request No. 9 is hereby approved.
2. The City is hereby authorized and directed to pay to Ulland Brothers Inc the sum of \$147,473.79 which is the amount represented on Pay Request No. 9.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution has been duly passed and adopted August 19, 2024.



Contractor's Application for Payment No. 9

Table with contract details: To (Owner): City of Hermantown, From (Contractor): Ulland Brothers Inc., Application Date: 8/6/2024, Project: UGSTAD RD & W ARROWHEAD RD IMPROVEMENTS, Contract: SP 202-101-014, 202-104-012, Owner's Contract No., Contractor's Project No., Engineer's Project No.: 7994015

Application For Payment Change Order Summary

Table with columns: Number, Additions, Deductions. Rows 1-19 showing change order details and totals.

Summary table with 9 rows: 1. ORIGINAL CONTRACT PRICE \$4,198,170.00, 2. Net change by Change Orders \$308,781.58, 3. Current Contract Price (Line 1 + 2) \$4,506,951.58, 4. TOTAL COMPLETED AND STORED TO DATE \$4,611,081.26, 5. RETAINAGE: a. 0.25% X \$4,611,081.26 Work Completed \$11,527.70, b. 0% X \$0.00 Stored Material \$0.00, c. Total Retainage (Line 5.a + Line 5.b) \$11,527.70, 6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c) \$4,599,553.55, 7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application) \$4,452,079.76, 8. AMOUNT DUE THIS APPLICATION \$147,473.79, 9. BALANCE TO FINISH, PLUS RETAINAGE (Column [G for LS] or [J for UP] total on Progress Estimates + Line 5.c above) -\$92,601.97

Contractor's Certification section with text: The undersigned Contractor certifies, to the best of its knowledge, the following: (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations... (2) Title to all Work, materials and equipment incorporated in said Work... (3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective. Includes signature and date 8/7/2024.

Payment and approval section: Payment of: \$147,473.79 (Line 8 or other - attach explanation of the other amount). is recommended by: James Walters, PE (Engineer) (Date). Payment of: \$147,473.79 (Line 8 or other - attach explanation of the other amount). is approved by: [Signature] 8/12/24 David Bolf, PE (City Engineer) (Date). Approved by: Funding or Financing Entity (if applicable) (Date).

Progress Estimate - Unit Price Work

Contractor's Application

For (Contract) SP 202-101-014, 202-104-012													Application Number: 9																
Application Period: 3/21/2024 to 8/2/2024													Application Date: 8/6/2024																
A			B			C			D			E			F			G			H			I			J		
Item													Work Completed to Date																
Bid Item No.	Spec. Item No.	Description	Contract Information			Total Value of Item (\$)	Quantities from Previous Pay Applications	Estimated Quantities Installed this Pay Period	Value of Work Installed this Pay Period	Total Estimated Quantity Installed	Value of Work Installed to Date	Materials Presently Stored (not in F)	Total Completed and Stored to Date (G + H)	% (I / B)	Balance to Finish (B - I)														
			Item Quantity	Units	Unit Price																								
50		CONNECT TO EXISTING WATER MAIN	2	EACH	\$6,000.00			\$0.00	1	\$6,000.00	\$0.00	\$6,000.00	50.0%	\$6,000.00															
51		HYDRANT	5	EACH	\$11,000.00			\$0.00	5	\$55,000.00	\$0.00	\$55,000.00	100.0%	\$0.00															
52		CASTING ASSEMBLY	51	EACH	\$830.00			\$0.00	50	\$41,500.00	\$0.00	\$41,500.00	98.0%	\$830.00															
53		CONSTRUCT DRAINAGE STRUCTURE DESIGN 48-40-20	8	EACH	\$5,300.00			\$0.00	8	\$42,400.00	\$0.00	\$42,400.00	100.0%	\$0.00															
54		CONSTRUCT DRAINAGE STRUCTURE DESIGN 60-40-20	11	EACH	\$7,100.00			\$0.00	10	\$71,000.00	\$0.00	\$71,000.00	90.9%	\$7,100.00															
55		CONSTRUCT DRAINAGE STRUCTURE DESIGN 72-40-20	4	EACH	\$9,100.00			\$0.00	3	\$27,300.00	\$0.00	\$27,300.00	75.0%	\$9,100.00															
56		CONSTRUCT DRAINAGE STRUCTURE DESIGN 84-40-20	2	EACH	\$11,900.00			\$0.00	2	\$23,800.00	\$0.00	\$23,800.00	200.0%	-\$11,900.00															
57		CONSTRUCT DRAINAGE STRUCTURE DESIGN G	20	EACH	\$4,000.00			\$0.00	20	\$80,000.00	\$0.00	\$80,000.00	100.0%	\$0.00															
58		CONSTRUCT DRAINAGE STRUCTURE DESIGN H	1	EACH	\$3,400.00			\$0.00	1	\$3,400.00	\$0.00	\$3,400.00	100.0%	\$0.00															
59		RANDOM RRAP CLASS II	61	CU YD	\$69.00			\$0.00	39	\$2,656.50	\$0.00	\$2,656.50	63.1%	\$1,552.50															
60		4" CONCRETE WALK	57,662	SQ FT	\$4.90	\$282,543.80	60732	\$0.00	60732	\$297,586.80	\$0.00	\$297,586.80	105.3%	-\$15,043.00															
61		6" CONCRETE WALK	7,742	SQ FT	\$9.50	\$73,549.00	5554	\$0.00	5554	\$52,763.00	\$0.00	\$52,763.00	71.7%	\$20,786.00															
62		DRILL AND GROUT REINFB BAR (EPOXY COATED)	556	EACH	\$8.50	\$4,726.00	592	\$0.00	592	\$5,032.00	\$0.00	\$5,032.00	106.5%	-\$306.00															
63		CONCRETE CURB AND GUTTER DESIGN 5524	16,169	LN FT	\$20.90	\$337,921.10	16594	\$0.00	16594	\$346,604.15	\$0.00	\$346,604.15	102.6%	-\$8,723.05															
64		6" CONCRETE DRIVEWAY PAVEMENT	747	SQ YD	\$95.00	\$70,965.00	836	\$0.00	836	\$79,420.00	\$0.00	\$79,420.00	111.9%	-\$8,455.00															
65		8" CONCRETE DRIVEWAY PAVEMENT	120	SQ YD	\$109.00	\$13,080.00	130	\$0.00	130	\$14,170.00	\$0.00	\$14,170.00	108.3%	-\$1,090.00															
66		TRUNCATED DOMES	379	SQ FT	\$50.00	\$18,950.00	426	\$0.00	426	\$21,300.00	\$0.00	\$21,300.00	112.4%	-\$2,350.00															
67		CONSTRUCT SURVEY MONUMENT	3	EACH	\$860.00	\$2,580.00	0	\$0.00	0	\$0.00	\$0.00	\$0.00	0.0%	\$2,580.00															
68		MAIL BOX SUPPORT	58	EACH	\$265.00	\$15,370.00	67	\$0.00	67	\$17,735.00	\$0.00	\$17,735.00	115.3%	-\$1,845.00															
69		TRAFFIC CONTROL	1	LUMP SUM	\$28,900.00	\$28,900.00	1.00	\$0.00	1.00	\$28,900.00	\$0.00	\$28,900.00	100.0%	\$0.00															
70		INSTALL SIGN TYPE C	16	EACH	\$250.00	\$4,000.00	16	\$0.00	16	\$4,000.00	\$0.00	\$4,000.00	100.0%	\$0.00															
71		SIGN PANELS TYPE C	260	SQ FT	\$96.00	\$24,960.00	279	\$0.00	279	\$26,736.00	\$0.00	\$26,736.00	107.1%	-\$1,776.00															
72		FLASHING BEACON SYSTEM	4	SYS	\$8,750.00	\$35,000.00	4	\$0.00	4	\$35,000.00	\$0.00	\$35,000.00	100.0%	\$0.00															
73		PEDESTRIAN CROSSWALK FLASHER SYSTEM	4	SYS	\$9,100.00	\$36,400.00	6	\$0.00	6	\$54,600.00	\$0.00	\$54,600.00	150.0%	-\$18,200.00															
74		STABILIZED CONSTRUCTION EXIT	1	LUMP SUM	\$7,000.00	\$7,000.00	0	\$0.00	0	\$0.00	\$0.00	\$0.00	0.0%	\$7,000.00															
75		STORM DRAIN INLET PROTECTION	68	EACH	\$180.00	\$12,240.00	73	\$0.00	73	\$13,170.00	\$0.00	\$13,170.00	107.4%	-\$950.00															
76		SILT FENCE, TYPE MS	8,305	LN FT	\$2.50	\$20,762.50	6993	\$0.00	6993	\$32,482.50	\$0.00	\$32,482.50	108.3%	-\$1,720.00															
77		COMMON TOPSOIL BORROW	1,214	CU YD	\$39.00	\$47,346.00	1346	25	4975.00	\$34,469.00	\$0.00	\$34,469.00	112.9%	-\$6,123.00															
78		FERTILIZER TYPE J	802	LBS	\$1.00	\$802.00	509	18	\$13.50	\$536.50	\$0.00	\$536.50	66.8%	\$275.50															
79		SODDING TYPE LAWN	1,915	SQ YD	\$12.20	\$23,363.00	2445	\$0.00	2445	\$29,829.00	\$0.00	\$29,829.00	137.7%	-\$6,466.00															
80		ROLLED EROSION PREVENTION CATEGORY 25	10,610	SQ YD	\$2.05	\$21,750.50	12375	200	\$410.00	\$25,570.50	\$0.00	\$25,570.50	117.6%	-\$3,823.25															
81		SEEDING	2.4	ACRE	\$550.00	\$1,320.00	2.54	0.05	\$27.50	\$1,454.50	\$0.00	\$1,454.50	107.9%	-\$104.50															
82		SEED MIXTURE 25-141	173	LBS	\$10.00	\$1,730.00	151	3	\$29.50	\$1,534.50	\$0.00	\$1,534.50	88.7%	\$195.50															
83		INTERM PAVEMENT MARKING	27,210	LN FT	\$0.30	\$8,163.00	14403	\$0.00	14403	\$4,320.90	\$0.00	\$4,320.90	52.9%	\$3,842.10															
84		4" DOUBLE SOLID LINE MULTI-COMPONENT GROUND IN	13,005	LN FT	\$1.05	\$13,655.25	12265	\$0.00	12265	\$12,878.25	\$0.00	\$12,878.25	94.3%	\$777.00															
85		4" SOLID LNE MULTI-COMPONENT GROUND IN	26,159	LN FT	\$0.55	\$14,387.45	24420	\$0.00	24420	\$13,430.73	\$0.00	\$13,430.73	93.4%	\$956.73															
86		12" SOLID LINE MULTI-COMPONENT GROUND IN	210	LN FT	\$12.30	\$2,583.00	251	\$0.00	251	\$3,087.30	\$0.00	\$3,087.30	119.5%	-\$504.30															
87		24" SOLID LINE MULTI-COMPONENT GROUND IN	110	LN FT	\$13.20	\$1,452.00	148	\$0.00	148	\$1,953.60	\$0.00	\$1,953.60	134.5%	-\$501.60															
88		4" BROKEN LINE MULTI-COMPONENT GROUND IN	160	LN FT	\$0.55	\$88.00	834	\$0.00	834	\$458.70	\$0.00	\$458.70	521.3%	-\$370.70															
89		CROSSWALK MULTI-COMPONENT GROUND IN	462	SQ FT	\$12.30	\$5,682.60	630	\$0.00	630	\$7,749.00	\$0.00	\$7,749.00	136.4%	-\$2,066.40															
90		PAVEMENT MESSAGE MULTI-COMPONENT GROUND IN	656	SQ FT	\$12.30	\$8,068.80	656	\$0.00	656	\$8,068.80	\$0.00	\$8,068.80	100.0%	\$0.00															
Contract Totals						\$4,198,170.00			\$1,459.50	\$4,302,637.73	\$0.00	\$4,302,637.73	102.3%	-\$104,467.72															

CHANGE ORDERS

1	2	3												
	SEDIMENT CONTROL LOG TYPE WOOD FIBER				\$	-		\$0.00						\$0.00
	SAWING BIT PAVEMENT	5,300	LN FT	\$1.25	\$	6,625.00	6114	\$0.00	6114	\$7,642.50	\$0.00	\$7,642.50	115.4%	-\$1,017.50
	ENTRANCE & UTILITIES FOR SCHOOL DISTRICT BUILDING				\$	-		\$0.00						\$0.00
	REMOVE CURB & GUTTER	60	LN FT	\$2.70	\$	162.00	60	\$0.00	60	\$162.00	\$0.00	\$162.00	100.0%	\$0.00
	REMOVE BITUMINOUS PAVEMENT	22	SQ YD	\$13.10	\$	288.20	22	\$0.00	22	\$288.20	\$0.00	\$288.20	100.0%	\$0.00

Progress Estimate - Unit Price Work

Contractor's Application

For (Contract) SP 202-101-014, 202-104-012											Application Number: 9															
Application Period 3/21/2024 to 8/2/2024											Application Date: 8/6/2024															
		A Contract Information				B					C		D		E		F		G		H		I		J	
Bid Item No.	Spec. Item No.	Description	Item Quantity	Units	Unit Price	Total Value of Item (\$)	Quantities from Previous Pay Applications	Estimated Quantities Installed this Pay Period	Value of Work Installed this Pay Period	Total Estimated Quantity Installed	Value of Work Installed to Date	Materials Presently Stored (not in F)	Total Completed and Stored to Date (G + H)	% (I / B)	Balance to Finish (B - I)											
		EXCAVATION - COMMON (P)	94	CU YD	\$19.80	\$ 1,861.20		94	\$0.00	94	\$1,861.20	\$0.00	\$1,861.20	100.0%	\$0.00											
		AGGREGATE BASE (CV) CLASS 3	48	CU YD	\$58.10	\$ 2,788.80	48	\$0.00	\$2,788.80	48	\$2,788.80	\$0.00	\$2,788.80	100.0%	\$0.00											
		TYPE SP 9.5 BITUMINOUS MIXTURE FOR PATCHING	6	TON	\$360.00	\$ 2,160.00	6	\$0.00	\$2,160.00	6	\$2,160.00	\$0.00	\$2,160.00	100.0%	\$0.00											
		WET TAP WITH 6" VALVE	1	EACH	\$8,300.00	\$ 8,300.00	1	\$0.00	\$4,482.00	0.54	\$4,482.00	\$0.00	\$4,482.00	54.0%	\$3,818.00											
		WET TAP WITH HYDRANT	1	EACH	\$16,100.00	\$ 16,100.00	1	\$0.00	\$16,100.00	1	\$16,100.00	\$0.00	\$16,100.00	100.0%	\$0.00											
		6" CONCRETE WALL	1,040	SQ FT	\$5.20	\$ 5,408.00	708	\$0.00	\$3,681.60	708	\$3,681.60	\$0.00	\$3,681.60	69.1%	\$1,726.40											
		CONCRETE CURB & GUTTER DESIGN S324	60	LN FT	\$22.00	\$ 1,320.00	60	\$0.00	\$1,320.00	60	\$1,320.00	\$0.00	\$1,320.00	100.0%	\$0.00											
		6" CONCRETE DRIVEWAY PAVEMENT	55	SQ YD	\$102.00	\$ 5,610.00	37	\$0.00	\$3,753.60	37	\$3,753.60	\$0.00	\$3,753.60	66.9%	\$1,856.40											
		SODDING TYPE LAWN	90	SQ YD	\$12.50	\$ 1,125.00		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	0.0%	\$1,125.00											
4		COMPACTION METHOD			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
5		EXCAVATION - COMMON (P) FOR UGSTAD RD SIDEWALK	559	CU YD	\$19.80	\$ 11,068.20		559	\$0.00	559	\$11,068.20	\$0.00	\$11,068.20	100.0%	\$0.00											
6		SPECIAL PROVISION FOR TRIBAL EMPLOYMENT			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
7		DRIVEWAY CULVERTS			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		REMOVE PIPE APRON	1	CU YD	\$420.00	\$ 420.00	1	\$0.00	\$420.00	1	\$420.00	\$0.00	\$420.00	100.0%	\$0.00											
		REMOVE PIPE CULVERT	108	CU YD	\$19.40	\$ 2,095.20	108	\$0.00	\$2,095.20	108	\$2,095.20	\$0.00	\$2,095.20	100.0%	\$0.00											
		12" CP PIPE APRON	1	CU YD	\$875.00	\$ 875.00	1	\$0.00	\$875.00	1	\$875.00	\$0.00	\$875.00	100.0%	\$0.00											
		12" CP PIPE CULVERT	108	CU YD	\$54.80	\$ 5,918.40	108	\$0.00	\$5,918.40	108	\$5,918.40	\$0.00	\$5,918.40	100.0%	\$0.00											
8		UGSTAD RD PATCHING			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		MILL BITUMINOUS SURFACE (2.0")	5,200	SQ YD	\$2.65	\$ 13,780.00	5185	\$0.00	\$13,740.25	5185	\$13,740.25	\$0.00	\$13,740.25	99.7%	\$39.75											
		TYPE SP 12.5 WEARING COURSE MIXTURE (2.0)	590	TON	\$103.00	\$ 60,770.00	660	\$0.00	\$67,980.00	660	\$67,980.00	\$0.00	\$67,980.00	111.9%	-\$7,210.00											
9		CALCIUM CHLORIDE	2,300	GAL	\$1.44	\$ 3,312.00	2300	\$0.00	\$3,312.00	2300	\$3,312.00	\$0.00	\$3,312.00	100.0%	\$0.00											
10		UGSTAD RD ADDITIONAL MILLING & PATCHING			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		MILL BITUMINOUS SURFACE (2.0")	4,010	SY	\$2.52	\$ 10,105.20	4010	\$0.00	\$10,105.20	4010	\$10,105.20	\$0.00	\$10,105.20	100.0%	\$0.00											
		TYPE SP 12.5 WEARING COURSE MIXTURE (2.0)	510	TON	\$98.00	\$ 49,980.00	510	\$0.00	\$49,980.00	510	\$49,980.00	\$0.00	\$49,980.00	100.0%	\$0.00											
11		HYDRANT REMOVALS			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		REMOVE HYDRANT (IN LOCATION OF NEW HYDRANT)	4	EACH	\$420.00	\$ 1,680.00	4	\$0.00	\$1,680.00	4	\$1,680.00	\$0.00	\$1,680.00	100.0%	\$0.00											
		REMOVE HYDRANT (IN LOCATION WITH NO PROPOSED HYDRANT)	1	EACH	\$2,970.00	\$ 2,970.00	1	\$0.00	\$2,970.00	1	\$2,970.00	\$0.00	\$2,970.00	100.0%	\$0.00											
12		ARROWHEAD RD RESIDENTIAL SERVICES & DRIVEWAY			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		SANITARY SEWER SERVICE	1	EACH	\$10,360.00	\$ 10,360.00	1	\$0.00	\$10,360.00	1	\$10,360.00	\$0.00	\$10,360.00	100.0%	\$0.00											
		WATER SERVICE SYSTEM	1	EACH	\$6,420.00	\$ 6,420.00	1	\$0.00	\$6,420.00	1	\$6,420.00	\$0.00	\$6,420.00	100.0%	\$0.00											
		6" CONCRETE DRIVEWAY PAVEMENT	11	SY	\$117.28	\$ 1,290.08	11	\$0.00	\$1,290.08	11	\$1,290.08	\$0.00	\$1,290.08	100.0%	\$0.00											
13		30" RC PIPE CULVERT EXTENSION			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		TRACTOR MOUNTED BACKHOE(345)	5	HOOR	\$187.00	\$ 935.00	5	\$0.00	\$935.00	5	\$935.00	\$0.00	\$935.00	100.0%	\$0.00											
		COMMON LABORERS	8	HOOR	\$93.00	\$ 744.00	8	\$0.00	\$744.00	8	\$744.00	\$0.00	\$744.00	100.0%	\$0.00											
		MACHINE TIME (DELIVERY OF PIPE)	2	HOOR	\$234.00	\$ 468.00	2	\$0.00	\$468.00	2	\$468.00	\$0.00	\$468.00	100.0%	\$0.00											
		TRACTOR MOUNTED BACKHOE(345)	3	HOOR	\$226.00	\$ 678.00	3	\$0.00	\$678.00	3	\$678.00	\$0.00	\$678.00	100.0%	\$0.00											
		30 CU YD FRONT END LOADER	1	HOOR	\$151.00	\$ 151.00	1	\$0.00	\$151.00	1	\$151.00	\$0.00	\$151.00	100.0%	\$0.00											
		30" RC PIPE CULVERT	8	LN FT	\$93.40	\$ 747.20	8	\$0.00	\$747.20	8	\$747.20	\$0.00	\$747.20	100.0%	\$0.00											
14		UGSTAD RD - ICE ARENA WATER SERVICE HYDRANT PAVEMENT			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		REMOVE BITUMINOUS PAVEMENT	90	SQ YD	\$7.00	\$ 630.00	90	\$0.00	\$630.00	90	\$630.00	\$0.00	\$630.00	100.0%	\$0.00											
		REMOVE CURB & GUTTER	50	LN FT	\$2.70	\$ 135.00	50	\$0.00	\$135.00	50	\$135.00	\$0.00	\$135.00	100.0%	\$0.00											
		WET TAP	1	EACH	\$3,790.00	\$ 3,790.00	1	\$0.00	\$3,790.00	1	\$3,790.00	\$0.00	\$3,790.00	100.0%	\$0.00											
		6" WATERMAIN DUCTILE IRON (SERVICE)	40	LN FT	\$118.00	\$ 4,720.00	40	\$0.00	\$4,720.00	40	\$4,720.00	\$0.00	\$4,720.00	100.0%	\$0.00											
		INSTALL HYDRANT	1	EACH	\$1,830.00	\$ 1,830.00	1	\$0.00	\$1,830.00	1	\$1,830.00	\$0.00	\$1,830.00	100.0%	\$0.00											
		GEOTEXTILE FABRIC TYPE 5	90	SQ YD	\$3.10	\$ 279.00	90	\$0.00	\$279.00	90	\$279.00	\$0.00	\$279.00	100.0%	\$0.00											
		SELECT GRANULAR EMBANKMENT MOD 7 $\frac{1}{2}$ (CV)	30	CU YD	\$43.50	\$ 1,305.00	30	\$0.00	\$1,305.00	30	\$1,305.00	\$0.00	\$1,305.00	100.0%	\$0.00											
		AGGREGATE BASE (CV) CLASS 3	25	CU YD	\$59.00	\$ 1,475.00	25	\$0.00	\$1,475.00	25	\$1,475.00	\$0.00	\$1,475.00	100.0%	\$0.00											
		TYPE SP 12.5 WEARING COURSE MIXTURE	10	TON	\$108.00	\$ 1,080.00	10	\$0.00	\$1,080.00	10	\$1,080.00	\$0.00	\$1,080.00	100.0%	\$0.00											
		ICE ARENA FRONTAGE ROAD	1	LUMP SUM	\$6,240.00	\$ 6,240.00	1	\$0.00	\$6,240.00	1	\$6,240.00	\$0.00	\$6,240.00	100.0%	\$0.00											
15		WATER MAIN AND HYDRANT VALVE BOX REPAIRS			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		COMMON LABORERS	22	HOOR	\$87.00	\$ 1,914.00	22	\$0.00	\$1,914.00	22	\$1,914.00	\$0.00	\$1,914.00	100.0%	\$0.00											
		TRACTOR MOUNTED BACKHOE	4	HOOR	\$165.00	\$ 660.00	4	\$0.00	\$660.00	4	\$660.00	\$0.00	\$660.00	100.0%	\$0.00											
16		CENTURYLINK LUMEN UTILITY RELOCATION			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		TRACTOR MOUNTED BACKHOE	8.5	HOOR	\$148.00	\$ 1,258.00	9	\$0.00	\$1,258.00	9	\$1,258.00	\$0.00	\$1,258.00	100.0%	\$0.00											
17		BITUMINOUS PAVEMENT DENSITY INCENTIVES			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		SP 202-101-014 - UGSTAD RD	1	LUMP SUM	\$13,101.74	\$ 13,101.74	1	\$0.00	\$13,101.74	1	\$13,101.74	\$0.00	\$13,101.74	100.0%	\$0.00											
		SP 202-104-012 - ARROWHEAD RD	1	LUMP SUM	\$3,314.26	\$ 3,314.26	1	\$0.00	\$3,314.26	1	\$3,314.26	\$0.00	\$3,314.26	100.0%	\$0.00											
18		SELECT GRANULAR EMBANKMENT MOD 7 $\frac{1}{2}$ (CV) DEDUCT			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		SP 202-101-014 - UGSTAD RD	-538.5	CU YD	\$24.00	\$ (12,924.00)	-538.5	\$0.00	-\$12,924.00	-538.5	-\$12,924.00	\$0.00	-\$12,924.00		-\$12,924.00											
19		PAVEMENT MARKINGS, TURF ESTABLISHMENT, ENT. RECONSTRUCTION			\$	\$		\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00											
		MOBILIZATION - PAVEMENT MARKING	1	LUMP SUM	\$2,100.00	\$ 2,100.00		1	\$2,100.00	1.0	\$2,100.00	\$0.00	\$2,100.00		\$2,100.00											

Progress Estimate - Unit Price Work

Contractor's Application

For (Contract) SP 202-101-014, 202-104-012										Application Number: 9					
Application Period: 3/21/2024 to 8/2/2024										Application Date: 8/6/2024					
A				B		C	D	E	F	G	H	I	J		
Item				Contract Information		Work Completed to Date				Materials Presently Stored (not in F)	Total Completed and Stored to Date (G + H)	% (I / B)	Balance to Finish (B - I)		
Bid Item No.	Spec. Item No.	Description	Item Quantity	Units	Unit Price	Total Value of Item (\$)	Quantities from Previous Pay Applications	Estimated Quantities Installed this Pay Period	Value of Work Installed this Pay Period					Total Estimated Quantity Installed	Value of Work Installed to Date
		MOBILIZATION - TURF ESTABLISHMENT	1	LUMP SUM	\$1,050.00	\$ 1,050.00	1	1	\$1,050.00	1.0	\$1,050.00		\$1,050.00		
		24" SOLID LINE MULTI-COMP GROUND EN	50	LN FT	\$15.80	\$ 790.00		50	\$790.00	50.0	\$790.00		\$790.00		
		CROSSWALK MULTI-COMP GROUND EN	966	SQ FT	\$14.70	\$ 14,200.20		966	\$14,200.20	966.0	\$14,200.20		\$14,200.20		
		COMMON TOPSOIL BORROW	15	CU YD	\$39.50	\$ 592.50		15	\$592.50	15.0	\$592.50		\$592.50		
		SODDING TYPE LAWN	135	SQ YD	\$9.84	\$ 1,328.40		135	\$1,328.40	135.0	\$1,328.40		\$1,328.40		
		RECONSTRUCT ENTRANCE	1	LUMP SUM	\$23,325.00	\$ 23,325.00		1	\$23,325.00	1.0	\$23,325.00		\$23,325.00		
Change Order Totals						\$208,781.58			\$43,386.10		\$208,443.53	\$0.00	\$208,443.53	99.9%	\$338.05
TOTALS						\$4,506,951.58			\$44,845.60		\$4,611,081.26	\$0.00	\$4,611,081.26	102.3%	-\$104,129.67



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: Trish Crego, Utility and Infrastructure Director

SUBJECT: Pay Application #3 for Fichtner Park Improvements

RESOLUTION: 2024-165 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

Approve pay application No. 3 provided by Kaski, Inc. for work related to the Fichtner Park Improvement Project for \$970,064.00

BACKGROUND

Kaski, Inc has submitted a pay application for civil work, landscape work, electrical work, and building construction for the Fichtner Park Improvements Project It is recommended that the City approve pay application No. 3 for the Fichtner Park Improvement Project to Kaski, Inc. in the amount of \$970,064.00.

SOURCE OF FUNDS (if applicable)

2020 Community Recreation Initiative - 416-452100-530

ATTACHMENTS

Resolution
Pay Application

Resolution No. 2024-165

Resolution Approving Pay Request Number 3 For Fichtner Park Improvements to Kaski, Inc. In The Amount Of \$970,064.00

WHEREAS, the City of Hermantown has contracted with Kaski, Inc. for Fichtner Park Improvements (“Project”); and

WHEREAS, Kaski, Inc. has performed a portion of the agreed upon work in said Project; and

WHEREAS, Kaski, Inc. has submitted Pay Request No. 3 in the amount of \$970,064.00 for the (“Project”); and

WHEREAS, the City will maintain an accumulated retainage as shown on the pay requests until the final work and documentation is completed; and

WHEREAS, Northland Consulting Engineers LLP has approved such Pay Request No. 3 provided that (“Project”) for \$93,228.40 as retainage of 5% be withheld pending final acceptance of the Project by the City of Hermantown.

WHEREAS, the necessary documentation for the pay request is on file and available for inspection.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota as follows:

1. Pay Request No. 3 is hereby approved.
2. The City is hereby authorized and directed to pay to Kaski, Inc. the sum of \$970,064.00 which is the amount represented on Pay Request No. 3.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution has been duly passed and adopted August 19, 2024.



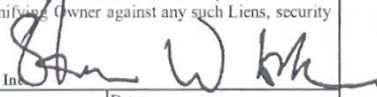
Contractor's Application for Payment			No. 3
Application Period:	July 5th, 2024 through August 9th, 2024	Application Date:	8/13/2024
To (Owner):	City of Hermantown	From (Contractor):	Kaski Inc.
Owner's Contract Number:	Contractor's Project Number:	Engineer Project Number:	23-8002
		Via (Engineer):	Northland Consulting Engineers, LLP

Application For Payment Change Order Summary		
Approved Change Orders		
Number	Additions	Deductions
1	\$48,659.00	
2	\$82,174.30	
3	\$172,464.00	
4	\$17,989.40	
5	\$43,265.00	
TOTAL	\$364,551.70	
NET CHANGE BY CHANGE ORDER:		\$364,551.70


Application For Payment Previous Pay Application Summary		
Approved Pay Applications		
Number	Date	Amount
1	6/11/2024	\$371,438.60
2	7/9/2024	\$429,837.00
3		
4		
5		
6		
8. TOTALS		\$801,275.60

1. ORIGINAL CONTRACT PRICE.....	\$	3,947,553.00
2. Net change by Change Orders.....	\$	364,551.70
3. Current Contract Price (Line 1 ± 2).....	\$	4,312,104.70
4. TOTAL COMPLETED AND STORED TO DATE		
See attached Pay Application Summary.....	\$	1,864,568.00
5. RETAINAGE:		
a. 5% X \$1,864,568.00 Work Completed.....	\$	93,228.40
b. 0% X Stored Material.....	\$	
c. Total Retainage (Line 5.a + Line 5.b).....	\$	93,228.40
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c).....	\$	1,771,339.60
7. LESS PREVIOUS PAYMENTS (Line 8).....	\$	801,275.60
9. AMOUNT DUE THIS APPLICATION.....	\$	970,064.00
10. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 - 4 + Line 5.c above).....	\$	2,540,765.10

Payment of: \$ 970,064.00
(Line 9 or other - attach explanation of the other amount)

Contractor's Certification	
The undersigned Contractor certifies, to the best of its knowledge, the following: (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment; (2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security	
Contractor Signature - Kaski Inc. 	Date: <u>8/13/24</u>
By:	Date:

Recommended by:

 8/13/2024
David Bolf, P.E. - City Engineer (Date)

Approved by:

John Mulder, City Administrator (Date)

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

TO OWNER:
 City of Hermantown
 5105 Maple Grove Road
 Hermantown, MN 55811

PROJECT:
 Fichtner Park Field Improvements
 4118 Ugstad Road
 Hermantown, MN 55811

APPLICATION NO: 3
PERIOD TO: 8/9/2024
APPLICATION DATE: 8/7/2024

<input type="checkbox"/>	OWNER
<input type="checkbox"/>	ARCHITECT
<input checked="" type="checkbox"/>	CONTRACTOR
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

FROM CONTRACTOR:
 Kaski Inc.
 2321 W 1st St
 Duluth, MN 55806

VIA ARCHITECT:
 Northland Consulting Engineers
 102 S 21st Ave W #1
 Duluth, MN 55806

CONTRACT NO:
CONTRACT DATE: 4/22/2024



CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

1. ORIGINAL CONTRACT SUM	\$	3,947,553.00
2. Net change by Change Orders	\$	221,123.00
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$	4,168,676.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	1,864,568.00
5. RETAINAGE:		
a. 5 % of Completed Work (Column D + E on G703)	\$	93,228.40
b. % of Stored Material (Column F on G703)	\$	0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	93,228.40
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	1,771,339.60
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	801,275.60
8. CURRENT PAYMENT DUE	\$	970,064.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	2,397,336.40

CONTRACTOR:

By: [Signature] Date: 8-7-2024

State of Minnesota County of: St Louis
 Subscribed and sworn to before me this 7th day of August, 2024

Notary Public:
 My Commission expires: [Signature]

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)
 ARCHITECT:

By _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month	221,123.00	
TOTALS	\$221,123.00	\$0.00
NET CHANGES by Change Order	\$221,123.00	

Continuation Sheet

AIA DOCUMENT G703

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification is attached. In tabulations below, amounts are stated to the nearest dollar. Use column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER: 3
 APPLICATION DATE: 8/7/2024
 PERIOD TO: 8/9/2024

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORE TO DATE (D+E+F)	H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)	
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
1	Civil Site Work	\$2,264,710.00	\$715,345.00	\$498,560.00		1,213,905.00	54%	1,050,805.00	60,695.25
2	Landscape Site Work	\$369,673.00	\$8,705.00	\$10,764.00		19,469.00	5%	350,204.00	973.45
3	Electrical Site Work	\$212,980.00	\$22,575.00	\$55,575.00		78,150.00	37%	134,830.00	3,907.50
4	Construction of the Building	\$1,100,190.00	\$96,823.00	\$407,562.00		504,385.00	46%	595,805.00	25,219.25
5									
6	CO 1 - Sewer Line & Plumbing Changes	\$48,659.00		\$48,659.00		48,659.00	100%	0.00	2,432.95
7	CO 2 - Northwest Parking Lot	\$172,464.00				0.00	0%	172,464.00	0.00
8									
9									
10									
TOTAL		4,168,676.00	843,448.00	1,021,120.00	0.00	1,864,568.00	45%	2,304,108.00	93,228.40



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: Trish Crego, Utility and Infrastructure Director

SUBJECT: Utility Extension Agreement with Jesse Stokke

RESOLUTION: 2024-166 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

Approval of the utility extension agreement with Jesse Stokke in order to install water main at the end of Misty Morning Road

BACKGROUND

Staff recommends approval of the utility extension agreement with Jesse Stokke in order to install water mains along Misty Morning Road in association with the Misty Morning Acres plat

DESCRIPTION OF REQUEST:

Jesse Stokke (applicant) twin home was approved by the City Council in June 3, 2024 for a Special Use Permit for construction of a two-family residential structure in a R-3, Residential zoning district. The lots will take access from the Misty Morning Road frontage.

There are existing water and sanitary sewer services in the Misty Morning right of way. The Applicant is required to stub the new utilities to the new lot in order to provide service to the two-family home. The Applicant is required to obtain the necessary permits and pay any/all connection/availability fees for to the City for these utilities.

The applicant has provided engineered plans for utility extensions/connections for the proposed work. Detailed plans for the utility extensions/connections have been preliminarily reviewed by the City Engineer. The utility work will be designed and built to City standards/specifications and turned over to the City upon recommendation of acceptance by the City Engineer.

The applicant will be required to either present a Letter of Credit for 125% of the construction value of these utilities or install these utilities prior to the City signing and releasing the Misty Morning plat document.

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

Resolution
Agreement

Resolution No. 2022-166

Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Utility Service Agreement With Jesse Stokke

WHEREAS, Jesse Stokke (“Owner”) desires to extend sanitary sewer from the City of Hermantown, a municipal corporation (hereinafter called “City”); and

WHEREAS, Owner is the owner of real estate (“Owners Property”) situated in St. Louis County, Minnesota legally described on **Exhibit A** attached hereto; and

WHEREAS, Owner desires to extend water service from City for Owner’s Property from the City watermain (“Watermain”) on Getchell Road; and

WHEREAS, the location of the Sanitary Sewermain and Watermain and the proposed service lines to provide service to the Owner’s Property is shown on **Exhibit B** attached hereto; and

WHEREAS, City has agreed to allow Owner to extend sanitary sewer service and water service to Owner’s Property under the terms and conditions specified in the Utility Service Agreement **Exhibit C**.

NOW THEREFORE, BE IT RESOLVED, By the City Council of the City of Hermantown, Minnesota, that the Mayor and City Clerk are hereby authorized and directed to execute and deliver the Utility Agreement substantially in the form of the one attached hereto as **Exhibit C**.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted August 19, 2024.

UTILITY SERVICE AGREEMENT

THIS UTILITY SERVICE AGREEMENT, made and entered into this ____ day of _____, 2024, between the City of Hermantown, a municipal corporation (hereinafter called “City”), and Jesse Stokke (“Owner”), is made in response to the following situation:

A. Owner is the owner of real estate (“Property”) situated in St. Louis County, Minnesota, legally described on Exhibit A attached hereto.

B. Owner desires to construct privately a public water lines by way of the existing water lines in the right of way and private property along Misty Morning Drive.

C. Owner will dedicate and City will accept the public water lines under the terms provide herein.

D. Upon the issuance of a Certificate of Final Completion by the City Engineer for the public water lines the City shall become the owner of the public water lines covered by such Certificate of Final Completion.

E. The location of the extended utility and the proposed service lines to provide service to the proposed single family lots on the Property is shown on Exhibit B attached hereto.

F. City has approved a plat to create two single family residential lots on the Property, and agreed to allow Owner to obtain the water service to the Property under the terms and conditions specified herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the sufficiency of which are hereby acknowledged, the parties agree as follows:

1. As proposed on Exhibit B, Owner will extend the utility lines from the existing connection into its site along the Misty Morning Drive public right of way.

2. Owner will obtain all necessary permits for the utility extensions, including a Minnesota Department of Health permit for the water main.

3. Owner will be responsible for any road repairs associated with the utility work described herein.

4. Owner will provide engineering plans for the water main extensions and for the utility connections to the twin homes prior to beginning such utility work. The City Engineer shall review and must approved Owner’s utility plans prior to utility construction.

5. Owner will construct public utilities within the Misty Morning Road right-of-way. All utility work shall meet the City of Hermantown construction standards.

6. Owner shall pay to the City's utility department the water hook up fee per the City's Fee Schedule, as well as a water availability charge of \$7.50 per front foot of road frontage for each connection. The amount required to be paid under this Agreement shall be paid in full upon execution of this Agreement by the Owner.

7. Owner shall provide a security deposit equal to 125% of cost of construction of the utility improvements at time of Agreement execution. The security is to be in effect until all of the utility improvements have been constructed and the City Engineer and City Public Works Director executes a Certificate of Completion with respect to the utility improvements attesting that they have been properly constructed. No building permits shall be granted for the Property until the Certificate of Completion is issued.

8. Upon City issuing the Certificate of Completion, Owner dedicates the public water lines depicted on Exhibit B to City. Owner warrants that the dedicated water lines were constructed in accordance with the engineering plans, fit for the purpose for which they were constructed, and free from defects for a one-year period, which shall run from the time of acceptance by the City.

9. In consideration of the payment of such sums and the performance of all of the other obligations of Owner to City hereunder, City hereby grants to Owner the right to extend the water main to connect to the Property.

10. Owner covenants and agrees to execute a petition in substantially the form attached hereto as Exhibit C for the extension of the City water main adjacent to the Property along Hermantown Road and that confirms Owner's obligation to pay for the cost of the extension of the water main.

11. Owner shall be responsible for, indemnify and hold harmless the City from paying for all costs and expenses in connection with the installation, construction of the water main extension.

12. Prior to acceptance of the water main, the City shall be entitled to repair the water main at the expense of Owner if Owner fails to repair the or water main. Any costs and expenses incurred by the City in connection with any such repair of the water main shall be paid by Owner to the City immediately upon receipt by Owner of an itemized statement for the cost and expense incurred by the City in repairing the water main. If Owner fails to pay such amount to the City within thirty (30) days of the mailing of such itemized statement by the City to Owner, then the City may proceed to collect such amount from Owner in whatever manner it deems appropriate, including, without limitation, assessing the amount of such statement against the Property in the manner provided by law. In this regard, Owner agrees that any charge made by the City for the repair of the water main shall be a charge for water service. Nothing in this section shall be deemed to require the City to repair the water main. Owner acknowledges that if Owner fails to repair the water main, that City may discontinue allowing Owner to have access to the water main..

13. Upon the issuance of a Certificate of Final Completion by the City Engineer for the and public water lines the City shall become the owner of the public water lines covered by such Certificate of Final Completion.

14. Owner shall pay all legal fees and other expenses and any engineering fees and expenses incurred by the City of Hermantown in connection with the preparation of the Agreement and the documents related to this Agreement. A failure by Owner to pay such fees and expenses shall entitle City to discontinue providing water service to Owner until such fees and expenses are paid. Such fees and expenses shall also be deemed to be a charge for water service.

15. Owner shall complete a standard form of the City's Water Service Application prior to making any connection to the water main.

16. Owner agrees to notify the City at least three (3) working days before Owner commences the construction of the water main extension and does further agree that no connection shall be made by Owner to the water main until such connection, including the location of such connection, is approved and, if applicable, made by the City Public Works Director.

17. Owner agrees that the water main extension shall be built and installed in accordance with all applicable building, plumbing and other codes and regulations and in accordance with the policies, requirements and procedures of the Utility Commission of the City including the installation of required clean-outs, if applicable. The City shall be entitled to inspect the Utility Service at any time during the construction and installation of it. A drawing showing the location of the Utility Service, which must show that it is within the City Right of Way, a design for installation of the Utility Service shall be prepared by a Minnesota registered engineer and submitted to the City Public Works Director and City Engineer for their review and written approval which shall be noted on the design and drawing. No changes in the design of the water main shall be made without the prior written approval of the City Public Works Director and City Engineer. An "as built" record drawing showing the location and depth of the water main and a collateral assignment of any warranties related to the construction and installation of the water main, including any covering the pipe utilized in such installation, of the shall be provided to the City within ten (10) days after the completion of the installation of the water main. If such "as built" record drawing is not provided within such time then, in that event, the City shall be entitled to discontinue water service to the Property until such drawing is provided.

[SIGNATURES APPEAR ON NEXT PAGE]

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

City of Hermantown

By _____
Its Mayor

And By _____
Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____ and _____, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown.

Notary Public

[SIGNATURES CONTINUE ON NEXT PAGE]

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

Jesse Stokke

By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, the _____, of Jesse Stokke on behalf of Owner.

Notary Public

[END OF SIGNATURES]

EXHIBIT A

PARENT LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 221704

Lot 3 Block 2 MISTY MORNING ACRES

PARENT LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO 266389

Lot 4 EXCEPT the W'ly 50.00 feet of the S'ly 60.00 feet thereof, Block 2 MISTY
MORNING ACRES

LEGAL DESCRIPTION OF PARCEL A

Lot 3, Block 2 MISTY MORNING ACRES, according to the recorded plat thereof, St.
Louis County, Minnesota, EXCEPT the Southerly 16.75 feet thereof. Said
parcel contains 41,786 square feet or 0.96 acres.

LEGAL DESCRIPTION OF PARCEL B

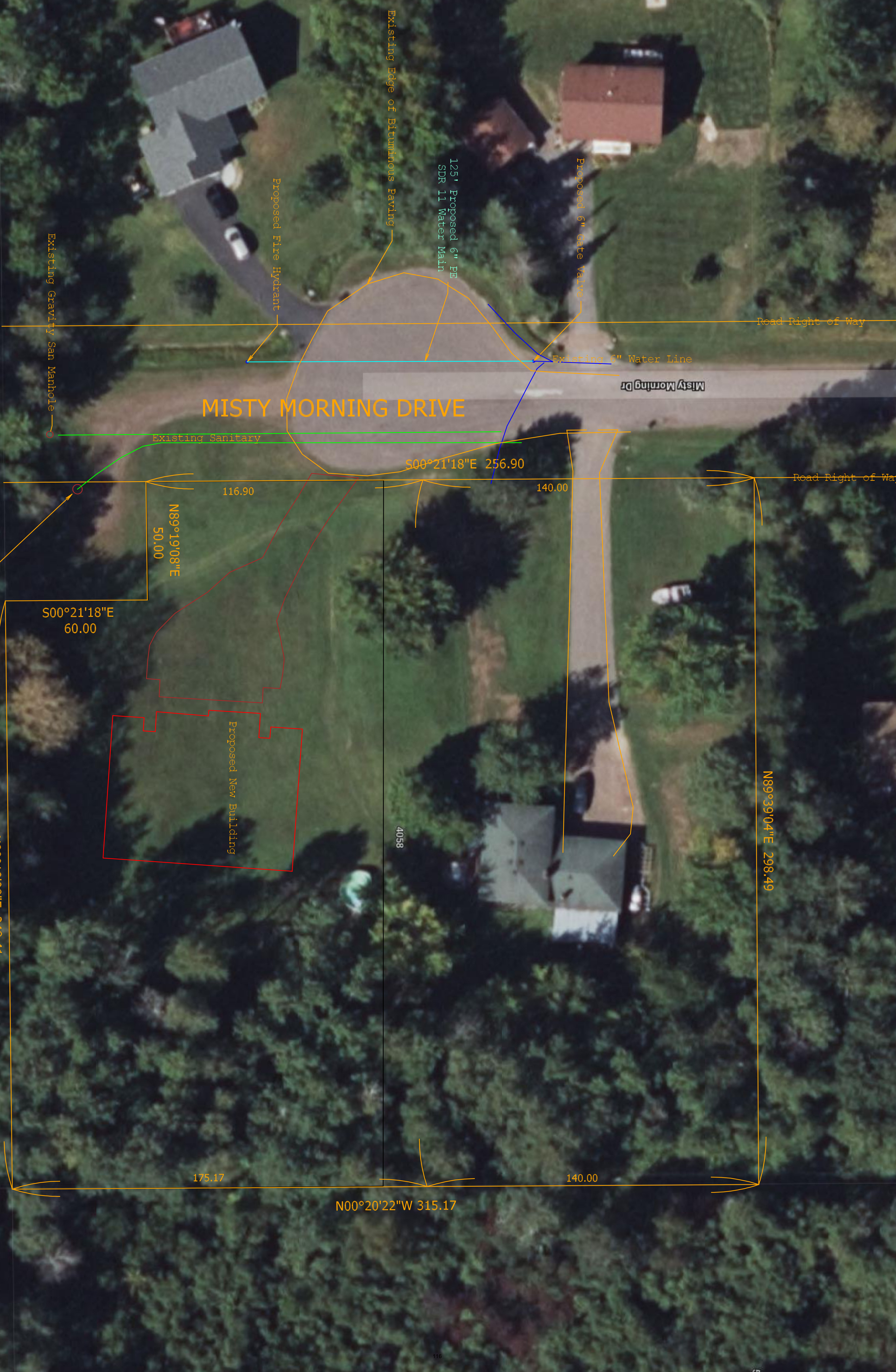
Lot 4 EXCEPT the W'ly 50.00 feet of the S'ly 60.00 feet thereof, Block 2 MISTY
MORNING ACRES

AND

The Southerly 16.75 feet of Lot 3, Block 2 MISTY MORNING ACRES, according to the
recorded plat thereof, St. Louis County, Minnesota. Said parcel contains
49,534 square feet or 1.14 acres.

Parcel ID: 395-0102-00070 and 395-0010-06290

EXHIBIT B



Road Right of Way

Road Right of Way

MISTY MORNING DRIVE

Misty Morning Dr

Existing Edge of Bituminous Paving

125' Proposed 6" PE
SDR 11 Water Main

Proposed 6" Gate Valve

Proposed Fire Hydrant

Existing 6" Water Line

Existing Gravity San Manhole

Existing Sanitary

S00°21'18"E 256.90

116.90

140.00

N89°19'08"E
50.00

S00°21'18"E
60.00

Proposed New Building

4058

N89°39'04"E 298.49

N89°19'08"E 248.41

175.17

140.00

N00°20'22"W 315.17

50 ft

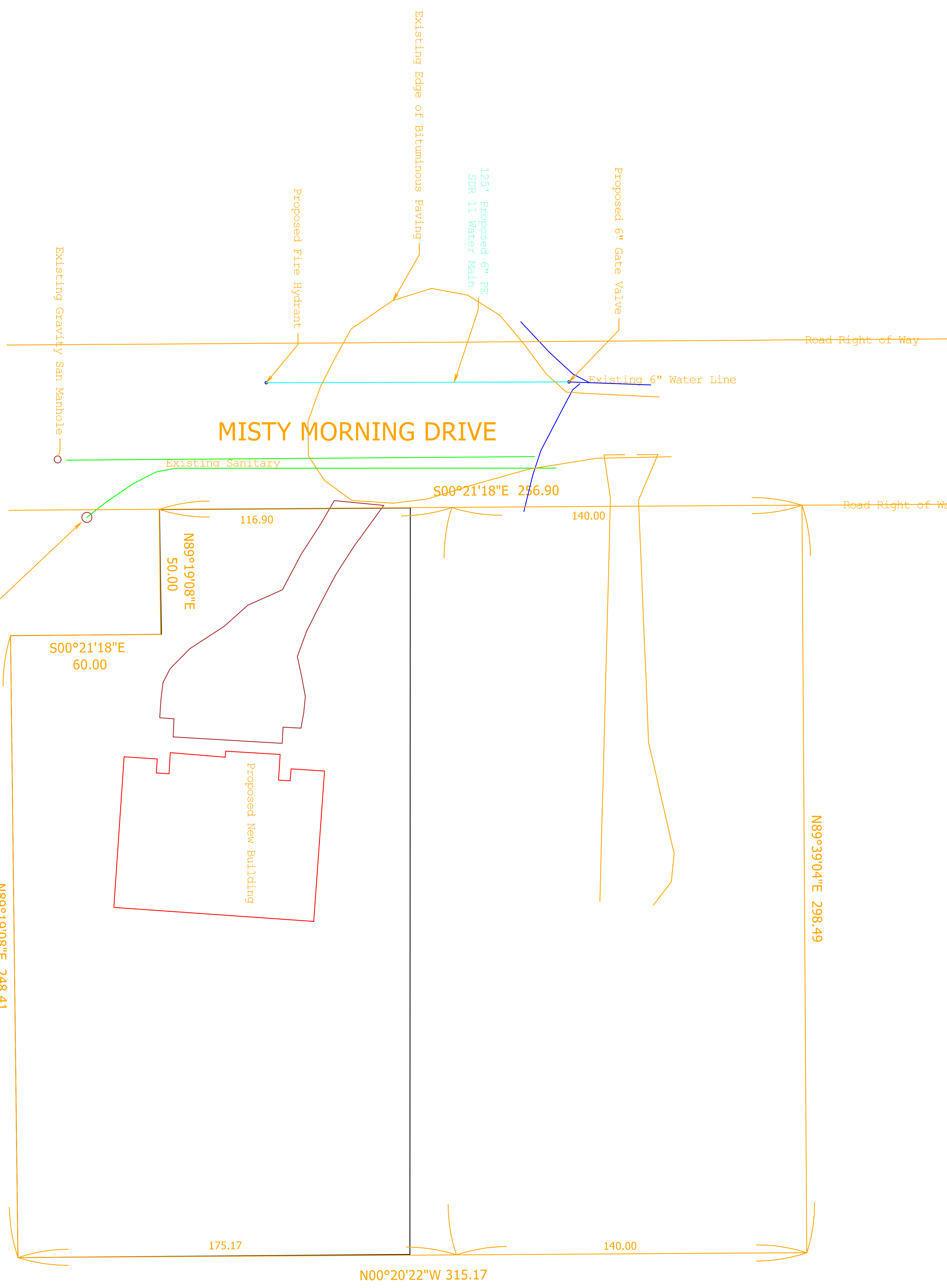


EXHIBIT C
PETITION

TO: The City Council of the City of Hermantown

_____ ("Owner"), being the fee owner of real estate in the City of Hermantown, County of St. Louis, State of Minnesota, does hereby petition your honorable body to cause the following improvements to be made within said City, to-wit:

Extension of the City's Sanitary Watermain along Getchell Road along and abutting on the property located in said City, County and State, legally described on **Exhibit A** attached hereto.

and does for himself and his successors and assigns, irrevocably appoint the Chairman of the Utility Commission of the City of Hermantown as his agent for the presentation of this Petition and such further petitions as are required to accomplish the improvements hereinbefore requested, to the City Council of the City of Hermantown, and finally represent that in consideration of the making of the improvements as described by the City of Hermantown, that he hereby binds himself, his successors and assigns to pay all assessments arising by reason of the ordering in or making of such improvements that are levied in accordance with then applicable law and then applicable City of Hermantown policies and procedures, including those applicable to delineate wetland areas.

Owner by this Petition agrees that Owner will not and may not challenge the amount of the assessment based on the argument that the Owner's Property will not be benefitted by the extension of the Watermain.

IN WITNESS WHEREOF, _____ has caused this Petition to be executed
this ____ day of _____, 2024.

EXHIBIT D
Certificate of Final Completion

Date of Issuance: _____, 2024

This Certificate of Final Completion is made with reference to the following facts:

Jesse Stokke (hereinafter the “Developer”) entered into a Utility Extension Agreement (hereinafter referred to as “Agreement”) with the City of Hermantown, a statutory city under the laws of the State of Minnesota, (hereinafter the “City”), with respect to a development to be constructed by Developer in the City.

The undersigned parties hereby certify that the following facts and representations are true and correct:

1. The construction of the Infrastructure Improvements defined in the Utility Extension Agreement has been completed strictly in accordance with the Infrastructure Plans and Specifications and the terms of the Utility Extension Agreement. The date of final completion is hereby established as of _____.

2. All capitalized terms when used herein shall have the meaning given them in the Utility Extension Agreement.

3. That the following have been satisfied:

3.1. Construction of the Infrastructure Improvements have been fully completed in accordance with the Infrastructure Plans and Specifications.

3.2. The provisions of Section 14 of this Agreement with respect to the payment of fees have been satisfied.

3.3. Developer is not in default under this Agreement.

3.4. Developer has provided the City with a map/plan on paper and electronically in auto cad format showing the location of water and Stormwater service lines.

3.5. Developer has installed a locating wire or equally effective means of marking the location of each non-conductive water lines.

3.6. Developer has provided record drawings for the Infrastructure Improvements constructed by it pursuant to this Agreement on paper and electronically in auto-cad format and PDF format before November 15, 2024. Developer has also provided City with an electronic copy of the recorded Plat.

3.7. Developer has provided the GPS data points for the wetland boundaries on all lots within the Plat and for the permanent wetland markers required to be installed by Developer pursuant to Section 8.3 hereof.

Jesse Stokke, Owner

By _____
Its _____

Developer's Engineer:

By _____
Its _____

The undersigned, the City Engineer, based on the foregoing Certificate and such other testing and inspections as it deemed necessary hereby certifies that the construction of the Infrastructure and Stormwater Improvements defined in the Development Agreement have been completed strictly in accordance with the Plans and Specification.

Dated: _____

Northland Consulting Engineers, LLP

By _____
Its _____



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: Trish Crego, Utility and Infrastructure Director

SUBJECT: Electronic Bidding Policy

RESOLUTION: 2023-167 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

Approve a policy related to construction contract electronic bidding

BACKGROUND

Recently we implemented the ability for contractors to bid on our projects using the online bidding platform Bid Express. In order to use this software we needed to update our current bidding policy to allow for this procedure. We have drafted the proposed change order policy for consideration and approval by the City Council

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

Proposed Change Order Policy

Resolution No. 2024-167

Resolution Approving An Amendment To The City Handbook Regarding Construction Contract Bidding Procedures

WHEREAS, the City of Hermantown regularly releases project for public bidding, and

WHEREAS, the city has implemented new online bidding software, and

WHEREAS, it is necessary to modify the formal bidding process in Section 9 Purchasing Electronic Bidding of the City polies, and

WHEREAS, the attached policy will clarify and communicate how online bidding will be handled and approved, and

WHEREAS, the City Council has considered this matter and believes that it is in the best interests of the City of Hermantown to approve the attached Purchasing Electronic Bidding policy and authorize the use by Hermantown Administrative staff.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota, as follows:

1. The City Council approves the “Purchasing Electronic Bidding Policy” as shown on Exhibit A.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____, and upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted August 19, 2024.

Handbook for the City of Hermantown		
Policy –		X Procedure
Date Adopted	Title: Purchasing Procedures	Section: Financial Operations
Revision Dates:		Page: 1 of 23

Purpose:

Contents

Continuum of Purchases	1
Local Store Purchases	1
Informal Quotes	21
Northeast Service Coop	43
State Contracts:	4
Capital Purchases	4
Requests for Proposals (RFP) for Services	21
Formal Bids:	22

Continuum of Purchases

Local Store Purchases	Informal Quotes – Specific Purposes	Purchase of utilities-ongoing services	NESC	State Bid	RFP for Services	Formal Bids – Construction Projects
Supplies at Menards or Sam’s Club	Garbage	Telephone, Gas & Electric				

Local Store Purchases

Handbook for the City of Hermantown		
Policy –		X Procedure
Date Adopted	Title: Purchasing Procedures	Section: Financial Operations
Revision Dates:		Page: 2 of 23

Informal Quotes

Purpose: The purpose of this section is to identify services provided to the City and a schedule to review the pricing of those services.

Contracts

Standard proposals should be for 3 years with option to renew for 2 additional years

Letter Requesting Bids

July 1, 2013 sent via e-mail

Como Oil & Propane
Joel Berg
4330 W/ 1st St.
Duluth MN 55807

RE: REQUEST FOR PROPOSALS

Dear Mr. Berg:

The City of Hermantown is requesting Proposals for propane delivery to serve two City owned fire hall buildings.

The Proposals should indicate an annual fixed gallon rate from September 1, 2013 to August 31, 2014. The successful bidder will be responsible for providing all components needed to provide LP gas storage and service to the buildings, this should include, but not limited to such items as setting blocks, tanks, necessary fuel lines, regulators, etc. No pre-payments or pre-purchases will be made.

The Proposals shall be mailed or delivered to the City Clerk, securely sealed and endorsed upon the outside wrapper by **10:00 a.m. August 1, 2013.**

The City Council reserves the right to reject all proposals. All proposals and the award of proposal shall be subject to the Competitive Bidding Rules of the City of Hermantown.

Handbook for the City of Hermantown			
Policy –		X Procedure	
Date Adopted	Title: Purchasing Procedures	Section: Financial Operations	
Revision Dates:		Page: 3 of 23	

The proposals will be opened and compiled by the City Clerk and Building Official at **10:00 a.m. on Thursday, August 1, 2013 at the City Administrative Services Building, located at 5105 Maple Grove Road.**

Sincerely,

Deborah Lund, CMC
City Clerk

Bid Forms

REQUEST FOR PROPOSALS FOR PROPANE

NAME & ADDRESS	FIXED PRICING	FUEL SURCHARGE & HAZ MAT	DATE PRICE FIXED
Como Oil & Propane 4330 W. 1 st St., Suite A Duluth MN 55807	\$1.199 + taxes per gallon	None	09/01/13 to 08/31/14
Superior Fuel Company 128 N 21 st St. Superior WI 54880	\$1.249 + taxes	None	09/01/13 to 08/31/14

Services

Garbage Collection

Propane

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Northeast Service Coop

State Contracts:

<http://www.mmd.admin.state.mn.us/>

Password: 772832

Capital Purchases

Capital Purchases – Budget Appropriations: Money is budgeted for the entire costs of the capital purchase in one budget. Example: Police Squads

Capital Purchases - Financing: MN Statutes allow the City to issue Certification of Indebtedness for certain equipment.

B. Certificates of indebtedness

Minn. Stat. §
412.301.
Minn. Stat. §
410.32.

Statutory and charter cities may issue debt in the form of capital notes or certificates of indebtedness to purchase:

- Public safety equipment.
- Ambulance and other medical equipment.
- Road construction and maintenance equipment, and other capital equipment.
- Computer hardware and software, whether bundled with machinery or equipment or unbundled.

The purchased equipment or machinery must have an expected useful life at least as long as the certificates or notes.

In statutory cities, certificates or notes must also be paid in 10 years or less. But if the amount of the certificates or notes to be issued to finance any qualifying purchase exceeds 0.25 percent of

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the estimated market value of taxable property in the city, then publication and reverse referenda provisions in state law may apply.

MINNESOTA STATUTES 2013 412.301

412.301 FINANCING PURCHASE OF CERTAIN EQUIPMENT.

(a) The council may issue certificates of indebtedness or capital notes subject to the city debt limits to purchase capital equipment.

(b) For purposes of this section, "capital equipment" means:

(1) public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment; and

(2) computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware or software.

(c) The equipment or software must have an expected useful life at least as long as the terms of the certificates or notes.

(d) Such certificates or notes shall be payable in not more than ten years and shall be issued on such terms and in such manner as the council may determine.

(e) If the amount of the certificates or notes to be issued to finance any such purchase exceeds 0.25 percent of the estimated market value of taxable property in the city, they shall not be issued for at least ten days after publication in the official newspaper of a council resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular municipal election is filed with the clerk, such certificates or notes shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election.

(f) A tax levy shall be made for the payment of the principal and interest on such certificates or notes, in accordance with section 475.61, as in the case of bonds.

LETTERS REQUESTING PROPOSALS FOR CERTIFICATES OF DEBT

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RESOLUTION ACCEPTING PROPOSAL AND AUTHORIZING THE DEBT.

Resolution No. 2014-129

**RESOLUTION ACCEPTING PROPOSAL FROM NORTH SHORE BANK OF
COMMERCE AND AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION
CERTIFICATE OF INDEBTEDNESS, SERIES 2014, IN CONNECTION
WITH THE PURCHASE OF CAPITAL EQUIPMENT (MOTOR GRADER)**

WHEREAS, the City of Hermantown, Minnesota (the “City”) desires to issue its General Obligation Certificate of Indebtedness, Series 2014, in the amount of \$167,000.00 (the “Certificate”) for the purpose of providing funds to purchase the capital equipment described on **Exhibit A** attached hereto having an expected useful life at least as long as the term of the Certificate herein authorized (the “Equipment”), pursuant to the authority granted by Minnesota Statutes, Section 412.301; and

WHEREAS, the amount of the Certificate to be issued does not exceed 0.25 percent of the market value of taxable property in the City; and

WHEREAS, the issuance of such Certificate will not cause the City to exceed its debt limits; and

WHEREAS, North Shore Bank of Commerce has indicated it will purchase such Certificate under terms providing for interest at the rate of 2.07% percent per annum with semi-annual payments of principal and interest for 3 years beginning February 1, 2015; and

WHEREAS, it is in the best interest of the City to issue the Certificate under the foregoing terms to finance the purchase of the Equipment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota, as follows:

1. Acceptance of Offer. The offer of North Shore Bank of Commerce to purchase the Certificate bearing interest at the rate hereinabove set forth, and to pay therefore the sum of \$167,000.00 is hereby accepted, and the issuance of such Certificate to North Shore Bank of Commerce is hereby authorized. Such Certificate shall be payable as to principal and interest at North Shore Bank of Commerce.

2. Terms of Certificate. The \$167,000.00 Certificate of the City shall be dated the date of delivery thereof. The Certificate shall in the principal amount of \$167,000.00, shall bear

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interest on the unpaid principal amount at the rate of 2.07 percent per annum, shall be prepayable at any time without notice or penalty and shall be payable semi-annually in installments, which include both principal and interest in the amounts as follow:

<i>Date</i>	<i>Payment</i>
February 1, 2015	\$24,773.37
August 1, 2015	\$24,773.37
February 1, 2016	\$24,773.37
August 1, 2016	\$24,773.37
February 1, 2017	\$24,773.37
August 1, 2017	\$24,773.37
February 1, 2018	\$24,773.37

The final amounts of each payment of principal and interest shall be set forth in the form of Certificate described below.

3. Form of Certificate. The Certificate to be issued hereunder shall be a form approved by the City Attorney. The Certificate shall be fully registered in the name of North Shore Bank of Commerce. The City Finance Director is hereby designated as the registrar, paying agent, transfer agent and authenticating agent for the Certificate.

4. Execution of Certificate. The Certificate shall be executed on behalf of the City by the signature of the Mayor and Clerk. The seal of the City may be omitted as provided by law.

5. Funds and Accounts: Tax Levy; Covenant

5.1. *Acquisition Fund.* On receipt of the purchase price of the Certificate, the City shall credit the proceeds from the sale of the Certificate to a separate fund, which is hereby created and designated as the “2014 Capital Equipment Acquisition Fund” (the “Capital Acquisition Fund”). Proceeds from the Certificate on deposit in the Capital Acquisition Fund shall be used from time to time to pay the capital costs of the Equipment, including but not limited to, costs of acquiring the Equipment, professional services, printing and publication costs, and costs of issuance of the Certificate, as such become due.

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5.2 A separate debt service fund is hereby created and is designated as the “2014 Certificate Debt Service Fund” (the “Debt Service Fund – Fund 301”).

5.3. To provide monies for the payment of the installments of principal and interest to become due on the Certificate there is hereby levied upon all of the taxable property in the City a direct annual ad valorem tax which shall be spread upon the tax rolls and collected with and as part of other general property taxes and in the amounts as follows:

<i>Year of Tax Levy</i>	<i>Year of Tax Collection</i>	<i>Amount</i>
2014	2015	\$52,024.08
2015	2016	\$52,024.08
2016	2017	\$52,024.08

Said tax levies are such that if collected in full they will produce at least five percent in excess of the amount needed to meet when due the installments of principal and interest due on such Certificate. Such tax levies shall be irrevocable so long as any of the installments of principal and interest of said Certificate are outstanding and unpaid, provided that the City reserves the right and power to reduce the levies in such manner and to the extent permitted by Minnesota Statutes. The taxes so levied are irrevocably appropriated to the Debt Service Fund for payment of the Certificate.

5.4. *General Obligation.* The City Council covenants and agrees that it will levy upon all taxable property within the City and cause to be extended, assessed, and collected, any additional taxes found necessary for full payment of the principal and interest on the Certificate, without limitation as to rate or amount.

6. Tax Matters.

6.1. *Bank Qualification.* The Certificate is hereby described as a “qualified tax-exempt obligation” pursuant to the provisions of Section 265 (b) (3) of the Internal Revenue Code of 1986. The reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501 (c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities whose obligations will be aggregated with those of the City) during calendar year 2014 will not exceed **\$10,000,000**. Not more than \$10,000,000 of obligations issued by the City during calendar year 2014 have been designated for purposes of Section 265 (b)(3) of the Code.

6.2. *Six-Month Spending Exemption to Rebate.* The City expects all proceeds of the Certificate will be spent within six months of the date of closing and delivery of

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the Certificate and no rebate or arbitrage profits will be acquired. In the event proceeds of the Certificate are not so spent, the City will compute and cause the payment to the United States of all amounts required under the rebate requirements of Section 148(f) of the Code and the Regulations issued thereunder.

6.3 The City elects to apply the exception to the public sale requirement contained in Minnesota Statutes §475.60, Subd. 2(2) and will not sell obligations pursuant to this exception in an amount exceeding \$1,200,000.00 during the 12-month period ending November 1, 2015.

7. Registered Owner. The Note shall be registered in the name of the Purchaser.

8. Note Register. The City shall cause to be kept by the Note Registrar a Note register in which, subject to reasonable regulations as the Note Registrar may prescribe, the City shall provide for the registration of the Note and registration of transfers of the Note entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Note Registrar or its incapability of acting as such, the Note registration records shall be maintained at the office of the successor Note Registrar as may be appointed by the City.

9. Investments. Monies on deposit in the 2014 Capital Equipment Acquisition Fund and in Debt Service Fund may, at the discretion of the Administrator, be invested in securities permitted by Minnesota Statutes, Chapter 118A, that any such investments shall mature at such times and in such amounts as will permit for payment of the project costs and/or payment of the principal and interest on the Note when due.

10. Tax Covenants.

10.1 The City covenants and agrees with the holder of the Note that the City will (i) take all action on its part necessary to cause the interest on the Note to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Note and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Note to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Note and investment earnings thereon on certain specified purposes.

10.2 For the purposes of qualifying for the small issuer exception to the federal arbitrage rebate requirements, the City finds, determines and declares:

10.2.1 the City is a governmental unit with general taxing powers;

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10.2.2 the Note is not a “private activity bond” as defined in Section 141 of the Internal Revenue Code of 1986, as amending (the “Code”);

10.2.3 95% or more of the net proceeds of the Note are to be used for local governmental activities of the City; and

10.2.4 the aggregate face amount of the tax exempt obligations (other than private activity bonds) issued by the City during the calendar year in which the Note is issued is not reasonably expected to exceed \$5,000,000.00, all within the meaning of Section 148(f)(4(D) of the Code.

10.3 In order to qualify the Note as a “qualified tax exempt obligation” within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

10.3.1 the Note is not a “private activity bond” as defined in Section 141 of the Code;

10.3.2 the City designates the Note as a “qualified tax exempt obligation” for the purposes of Section 265(b)(3) of the Code;

10.3.3 the reasonably anticipated amount of tax exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities whose obligations will be aggregated with those of the City) during the calendar year in which the Note is being issued will not exceed \$10,000,000.00; and

10.3.4 not more than \$10,000,000.00 of obligations issued by the City during the calendar year in which the Note is being issued have been designated for purposes of Section 265(b)(3) of the Code.

11. Filing with County Auditor. The Clerk shall file, or cause to be filed, a certified copy of this resolution with the County Auditor of St. Louis County and shall obtain, or cause to be obtained, a Certificate from the County Auditor with respect to this resolution and Certificate.

12. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

13. Authorization of Further Action. The Mayor, Clerk, Administrator and Finance Director are authorized and directed to perform such acts as are necessary to effectuate the terms

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of this resolution, including, without limitation of the generality of the foregoing, executing the Note.

Mayor

Attest:

Clerk

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Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted on the ____ day of _____ of 2014.

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

I, the undersigned, the duly qualified and acting Clerk of the City of Hermantown, Minnesota (the “Issuer”), do hereby certify that I am the official custodian of the records of the Issuer, and that I have compared the attached copy with the original records of the Issuer, and that it is a true and correct transcript taken from the records of a meeting of the City Council, held at the City of Hermantown in said State, on _____, 2014.

IN WITNESS WHEREOF I have hereunto set my hand as Clerk of the Issuer on _____, 2014.

Clerk

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EXHIBIT A
Equipment

Caterpillar Motor Grader

Model # 12M2AWD

PIN# CAT0012MJF9B00159

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**2014 CERTIFICATE OF INDEBTEDNESS
OF THE
CITY OF HERMANTOWN**

OCTOBER 9, 2014

\$167,000.00

The City of Hermantown, a statutory city under the laws of the State of Minnesota, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby irrevocably bind itself, its successors and assigns to pay the sum of One Hundred Sixty-seven and No/100 Dollars (\$167,000.00) together with interest thereon the rate of 2.07% per annum on the unpaid principal amount to North Shore Bank of Commerce, a Minnesota banking corporation (“Lender”).

Unless sooner paid or due such principal and interest shall be payable to Lender at 131 West Superior Street, Duluth, Minnesota 55802 in installments as follows:

<i>Date</i>	<i>Payment</i>
February 1, 2015	\$24,773.37
August 1, 2015	\$24,773.37
February 1, 2016	\$24,773.37
August 1, 2016	\$24,773.37
February 1, 2017	\$24,773.37
August 1, 2017	\$24,773.37
February 1, 2018	\$24,773.37

All or any part of any such installments may be prepaid without penalty at any time at the option of the City of Hermantown. Any prepayment shall be applied to the installments required to be paid hereunder in reverse order of maturity, provided that the City of Hermantown shall be given an appropriate credit for any interest savings that result from any prepayment made by it.

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All payments made under this Certificate of Indebtedness shall be applied first to interest and then to the reduction of the principal.

In the event of any default by the City of Hermantown in the payment of any of the installments required to be paid hereunder, North Shore Bank of Commerce may, at its option, declare the entire principal amount and accrued interest due and payable immediately.

This Certificate of Indebtedness is issued by the City of Hermantown pursuant to Resolution No. 2014-129 of the Hermantown City Council duly adopted on the 6th day of October, 2014.

For the prompt and full payment of the installments of principal and interest on this Certificate of Indebtedness, as the same respectively become due, the full faith, credit and taxing powers of the City shall be and are hereby irrevocably pledged.

CITY OF HERMANTOWN

By _____
Its Mayor

And By _____
Its Clerk

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NOTE REGISTRATION

This Note must be registered as to both principal and interest in the name of the owner on the books to be kept by the Finance Director of the City of Hermantown, as Note Registrar. No transfer of this Note shall be valid unless made on said books by the registered owner or the owner’s attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Note and the interest accruing thereon is registered on the books of the Administrator in the name of the registered owner last noted below.

<i>Date</i>	<i>Registered Owner</i>	<i>Signature of Finance Director</i>
October 9, 2014	North Shore Bank of Commerce 131 West Superior Street Duluth, MN 55802	_____ Arlene Tucker, Finance Director, City of Hermantown

ASSIGNMENT

FOR VALUE RECEIVED, the unsigned sells, assigns and transfers unto

[Name and Address of Assignee]

_____ Social Security or Other

_____ Identifying Number of Assignee

the within Note and all rights thereunder and irrevocably constitutes and appoints _____ attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name

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of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatsoever.

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Signature Guarantee:

*(Bank, Trust Company, member of
National Securities Exchange)*

THIS INSTRUMENT HAS NOT BEEN REGISTERED UNDER THE FEDERAL SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD OR OTHERWISE DISPOSED OF FOR VALUE, OR TRANSFERRED, WITHOUT (i) AN OPINION OF COUNSEL THAT SUCH SALE, DISPOSITION OR TRANSFER MAY LAWFULLY BE MADE WITHOUT REGISTRATION UNDER THE FEDERAL SECURITIES ACT OF 1933, AS AMENDED AND UNDER APPLICABLE STATE SECURITIES LAWS, OR (ii) SUCH REGISTRATION. THE TRANSFERABILITY OF THIS INSTRUMENT IS SUBJECT TO RESTRICTIONS REQUIRED BY (1) FEDERAL AND STATE SECURITIES LAWS GOVERNING UNREGISTERED SECURITIES; AND (2) THE RULES, REGULATIONS, AND INTERPRETATIONS OF THE GOVERNMENTAL AGENCIES ADMINISTERING SUCH LAWS. THIS INSTRUMENT HAS NOT BEEN REGISTERED UNDER CHAPTER 80A OF MINNESOTA STATUTES OR OTHER APPLICABLE STATE BLUE SKY LAWS AND MAY NOT BE SOLD, TRANSFERRED, OR OTHERWISE DISPOSED OF FOR VALUE EXCEPT PURSUANT TO REGISTRATION OR OPERATION OF LAW.

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**COUNTY AUDITOR'S CERTIFICATE AS
TO REGISTRATION OF
CERTIFICATE OF INDEBTEDNESS
CITY OF HERMANTOWN, MINNESOTA**

STATE OF MINNESOTA)
)ss.
COUNTY OF ST. LOUIS)

I, the undersigned, being the duly qualified and acting County Auditor of St. Louis County, Minnesota, hereby certify that there has been filed in my office a certified copy of City of Hermantown Resolution No. 2014-129 which contains information setting forth the details of the \$167,000.00 Certificate of Indebtedness dated as of October 9, 2014, to be issued by the City of Hermantown, Minnesota.

I further certify that the obligation evidenced by such Certificate of Indebtedness has been entered upon the register as required by Minnesota Statutes Sections 475.51 to 475.74 and that the tax levy required by Minnesota Statutes Sections 475.51 to 475.74 has been made.

WITNESS my hand officially as such officer this _____ day of _____, 2014.

St. Louis County Auditor

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Capital leases: MN Statues allow Cities to purchase equipment using a capital lease to finance the purchase of the equipment.

465.71 INSTALLMENT, LEASE PURCHASE; CITY, COUNTY, TOWN, SCHOOL.

A home rule charter city, statutory city, county, town, or school district may purchase personal property under an installment contract, or lease real or personal property with an option to purchase under a lease-purchase agreement, by which contract or agreement title is retained by the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any, but such purchases are subject to statutory and charter provisions applicable to the purchase of real or personal property. For purposes of the bid requirements contained in section 471.345, "the amount of the contract" shall include the total of all lease payments for the entire term of the lease under a lease-purchase agreement. The obligation created by a lease-purchase agreement for personal property or a lease-purchase agreement for real property if the amount of the contract for purchase of the real property is less than \$1,000,000 shall not be included in the calculation of net debt for purposes of section 475.53, and shall not constitute debt under any other statutory provision. No election shall be required in connection with the execution of a lease-purchase agreement authorized by this section. The city, county, town, or school district must have the right to terminate a lease-purchase agreement at the end of any fiscal year during its term.

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Requests for Proposals (RFP) for Services

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Formal Bids:

Contracting Bid Laws

When the City of Hermantown enters into an agreement for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property must abide by the statutes relating to contracting and bidding.

A municipality, for the purpose of this section, is a city authorized by law to enter into contracts. Each contract must be approved by the appropriate authority, as authorized by charter, within the city.

Minn. Stat. § 471.345, the Uniform Municipal Contracting Law, was established to provide dollar limits for all municipalities upon contracts, which shall or may be entered into on the basis of competitive bids, quotations, or purchase or sale in the open market. The City uses competitive bidding to promote fair, open, and accessible purchasing with qualified contractors, vendors, and suppliers. The City Vendors may use electronic bidding to receive, open, tabulate, and store now submit bids, quotations, and proposals electronically in a form and manner required by the municipality as provided by. –Minn. Stat. § 471.345, subd. 18-(2004). The City finds that electronic bidding is a viable bidding option because it reduces the costs for the City and the bidders, eliminates avoidable errors, saves time by not handling paper documents, saves paper, and is more efficient overall. The City currently uses Bid Express® but may use other vendors for electronic bidding process.

The City reserves the right to split the bid award where there are savings to the City, to waive informalities or irregularities, and to reject any and all bids. Price may not be the only consideration in the bid award.

Contracts over \$100,000.

If the amount of the contract is estimated to exceed \$100,000, sealed bids shall be solicited by public notice in the manner and subject to the requirements of the law governing contracts by the particular municipality or class thereof. With regard to repairs and maintenance of ditches, the provisions of section [103E.705, subdivisions 5, 6, and 7](#), apply.

Contracts exceeding \$25,000 but not \$100,000.

If the amount of the contract is estimated to exceed \$25,000 but not to exceed \$100,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and

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without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Contracts \$25,000 or less.

If the amount of the contract is estimated to be \$25,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in section [16C.28, subdivision 1](#), paragraph (a), clause (2), and paragraph (c).



CITY COUNCIL MEETING DATE: August 19, 2024

TO: Mayor & City Council

FROM: John Mulder, City Administrator

SUBJECT: Hawklane Business Park

RESOLUTION: 2024-168 - **ORDINANCE:** **OTHER:**
172

REQUESTED ACTION

Approve several resolutions to fund infrastructure improvements at the corner of Hwy 53 and Lavaque Bypass.

BACKGROUND

Attached are a series of Resolutions related to the property at Hwy 53 and Lavaque Bypass, The City has been in discussion with the owners of this land for over 2 years to develop it in the highest and best use. The owners have several business who have expressed interest in locating at this site, but all of them require infrastructure (i.e. roads & utilities.) Because this site is considered a brownfield and was previously listed as an EPA Superfund site there is a desire and opportunity to develop this site.

City staff have prepared a MN Dept of Employment and Economic Development (DEED) Grant. The grant is a Business Development Public Infrastructure (BDPI) grant with a maximum amount of \$2 million. Some of the companies interested in this site would be ineligible expenses. Therefore, we have worked with the landowners to identify land that would be exclude from the business park where the ineligible businesses would be located. This splitting of the land then requires separate feasibility studies and public hearings, and separate development agreements.

The total cost of all of the infrastructure is approximately \$5 million. Of that amount \$2 million would be provided by the State Grant, \$2 million by the land owners through assessments, and \$1 million from the City for water improvements using sales tax revenue.

Resolutions:

Bill & Irv’s parcel: The area to be excluded from the business park is called the Bill & Irv’s property and would be excluded from the park and ineligible for grant reimbursement. Business that would be included in this area would include a retail store related to agriculture, and some wholesale building supply distributors with potential for showrooms.

Resolution 2024-168 accepts the feasibility report for the property identified as the Bill and Irv’s property and is not included in the Hawklane Business Park and the cost that would not be eligible for reimbursement under the grant. The Council is asked to accept the report and call for a public hearing as part of the statutory assessment process. The Feasibility Report is being finalized and will be presented to the City Council at the meeting on August 19th.

Resolution 2024-169 is a development agreement with the owners in which they agree to cover cost of the infrastructure and be assessed over 15 years.

Hawklane Business Park

Resolution 2024-170 accepts the feasibility report for the property identified as the Hawklane Business Park and the cost identified in the feasibility report would be eligible for reimbursement under the grant. Again, the Council is asked to accept the report and call for a public hearing as part of the statutory assessment process. The Feasibility Report is being finalized and will be presented to the City Council at the meeting on August 19th.

Resolution 2024-171 is a development agreement with the owners in which they agree to cover a portion of the cost of the infrastructure and be assess over 15 years. Their payment of the assessment would serve as the match for the grant.

Resolution 2024-172 authorizes the City Administrator and Assistant City Administrator to complete and submit a grant application to MN DEED for a Business Development Public Infrastructure Grant. We are applying for the maximum of \$2 million. The State requires the City to demonstrate that the City has the necessary match. Therefore, we will reserve \$ _____ in the water fund to show the match. The actual money will come from the owner through the assessment process and the City’s use of sales tax.

If all of these are approved and the City receives the grant, the Council will be asked to approve the development of final plans and specifications with the intent to construct the infrastructure in 2025.

SOURCE OF FUNDS (if applicable)

MN DEED State BDPI Grant
Assessments via a development agreements
Sales Tas for water improvements.

ATTACHMENTS

Resolutions
Development Agreement for Hawklane Business Park
Development Agreement for Bill & Irv’s Properties

Resolution No. 2024-168

Resolution Receiving Preliminary Engineering Report And Calling For A Public Hearing For Bill & Irv's Properties, Inc.

WHEREAS, pursuant to Resolution 2024-114, a preliminary engineering report ("Report") has been prepared by Northland Consulting Engineering, Inc. with reference to the infrastructure improvements in the Bill & Irv's Properties, Inc.; and

WHEREAS, the City Council has been advised by Northland Consulting Engineering, Inc. the consulting engineer for such project in the Report that the proposed improvements are feasible and should best be made as proposed; and

WHEREAS, the City Council believes that it is in the best interests of the City of Hermantown that further consideration be given to infrastructure improvements in the Bill & Irv's Properties, Inc. in the City of Hermantown; and

WHEREAS, Chapter 429 of the Minnesota Statutes provides that no such improvement shall be made until the City Council shall have a public hearing on such improvements following mailed notice and two publications thereof in the official newspaper stating the time and place of the hearing, the general nature of the improvement, the estimated costs thereof and the area proposed to be assessed in accordance with law.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota, as follows:

1. The City Council receives the preliminary engineering report for infrastructure improvements in the Bill & Irv's Properties, Inc.
2. The Council will consider the improvement of such road improvements in accordance with the Report and the assessment abutting property for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$x,xxx.xxx.
3. A public hearing on the proposed improvements will be held **Monday, September 16, 2024 at 6:30 p.m.** in the Administrative Services Building, 5105 Maple Grove Road, Hermantown, Minnesota.
4. The notice of hearing attached hereto is approved and the City Clerk is hereby authorized and directed to cause such notice to be published twice in the official newspaper, once on **September 5, 2024** and once on **September 12, 2024**.
4. The City Clerk is further authorized and directed to mail such notice to the owner of each parcel of land within the area proposed to be assessed as described in such notice no later than **August 30, 2024**. For purpose of giving such mailed notice, owners shall be those shown to be such on the records of the St. Louis county Auditor. As to properties not listed on the records

of the St. Louis County Auditor, the City Clerk shall ascertain such ownership by any practicable means and give mailed notice to such owners.

Councilor introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such motion was seconded by Councilor and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors aye.

and the following voted in opposition thereto:

None

WHEREUPON, such resolution was declared duly passed and adopted August 19, 2024.

**NOTICE OF PUBLIC HEARING ON infrastructure improvements in
the Bill & Irv's Properties, Inc.**

NOTICE IS HEREBY GIVEN, that the City Council of the City of Hermantown will meet in the council chambers of Administrative Services Building, 5105 Maple Grove Road, Hermantown, Minnesota, at 6:30 p.m. on Monday, September 19, 2024 to consider the feasibility report of infrastructure improvements in the Bill & Irv's Properties, Inc.

The City Council proposes to proceed in accordance with the provisions of Minnesota Statutes Chapter 429.011 to 429.111 of the Minnesota Statutes.

The area proposed to be assessed for such improvement is every piece and parcel of property benefited by such improvement, whether abutting thereon or not, based upon the benefits received by each piece and parcel.

The estimated cost of such improvement is \$x,xxx,xxx

A reasonable estimate of the impact of the assessment will be available at the hearing.

Such persons as desire to be heard with reference to the proposed improvements will be heard at this meeting. Written or oral comments are encouraged and will be considered at this hearing.

Authorized by the City Council.

Alissa Wentzlaff, Clerk
City of Hermantown

Resolution No. 2024-169

Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A Development Contract Amongst Bill & Irv's Properties, Inc., The City Of Hermantown And The Hermantown Economic Development Authority

WHEREAS, Bill & Irv's Properties, Inc. ("Developer") is the owner of certain property on the north side of Trunk Highway 53 ("Property") in the City of Hermantown ("City"); and

WHEREAS, Developer desires to create lots for the development of various businesses on the Property ("Project"); and

WHEREAS, in order to develop the Project, a road, waterline extension, sewer main extension and stormwater improvements ("Infrastructure Improvements") need to be constructed on the Property; and

Whereas, City is willing to construct the Infrastructure Improvements on the Property and pay for the waterline extension if Developer agrees to pay the costs of the remaining Infrastructure Improvements through a special assessment levied against the Property; and

WHEREAS, the City staff and its attorney's office has prepared a Development Contract ("Development Contract") with respect to the matters set forth above; and

WHEREAS, the City Council has reviewed the Development Contract and believes that it is in the best interests of the City of Hermantown to approve the Development Contract and authorize and direct the Mayor and City Clerk to execute and deliver it on behalf of the City of Hermantown.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota as follows:

1. The Development Contract substantially in the form of the one attached hereto as Exhibit A is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to execute and deliver the Development Contract on behalf of the City.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

And the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted on August 19, 2024

EXHIBIT A

**CITY OF HERMANTOWN
DEVELOPMENT CONTRACT**

BY AND AMONG

BILL & IRV'S PROPERTIES, INC.

AND

CITY OF HERMANTOWN

AND

**HERMANTOWN ECONOMIC
DEVELOPMENT AUTHORITY**

Dated as of the _____ day of _____, 2024

This document was drafted by:

Steven C. Overom
Overom Law, PLLC
802 Garfield Avenue, Suite 101
Duluth, Minnesota 55802
(218) 625-8460

DEVELOPMENT CONTRACT

THIS DEVELOPMENT CONTRACT (“Agreement”), made on or as of the ____ day of _____, 2024, by and among the **City of Hermantown**, a statutory city organized under the laws of the State of Minnesota, (“City”) the **Hermantown Economic Development Authority**, an economic development authority under the laws of the State of Minnesota, (“HEDA”) and **Bill & Irv’s Properties, Inc.**, a corporation organized under the laws of the State of Minnesota, (“Owner”) is in response to the following situation:

- A. Owner owns the property located in the City and legally described on Exhibit A attached hereto (“Owner’s Property”).
- B. City, HEDA and Owner desire that development occur on Owner’s Property.
- C. A road, waterline extension, sewer main extension and stormwater improvements (collectively “Infrastructure Improvements”) need to be constructed in order for development to occur on Owner’s Property.
- D. City is willing to construct the Infrastructure Improvements and pay the portion of the cost of the Infrastructure Improvements related to the waterline extension if Owner agrees to pay for the costs of the Infrastructure Improvements not paid for by the City through a special assessment levied on Owner’s Property.
- E. This Agreement is intended to cover the items set forth in paragraph D above.

NOW, THEREFORE, in consideration of the foregoing and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I **DEFINITIONS**

Unless the context requires otherwise, when used in this Agreement the terms and phrases listed in this Article shall have the following meanings:

- 1.1 “Approval” or “Endorsed” shall, if by City, mean the appropriate approval at the appropriate level of government which shall not be unreasonably withheld or, if by Owner, the approval by a representative of Owner, which shall not be unreasonably withheld.
- 1.2 “Approved City Plans and Specifications” means the plans and specifications for the Infrastructure Improvements that have been approved in writing by the City Engineer.
- 1.3 “Business Subsidy Agreement” means that certain Business Subsidy Agreement between City and Owner in the form of the one attached hereto as Exhibit 1.3.

1.4 “City Engineer” shall mean the person or firm from time to time designated by the City as its City Engineer. At this time, the City Engineer is David Bolf of Northland Consulting Engineers L.L.P.

1.5 “Infrastructure Improvements” means the Water Improvements, Sewer Improvements, Road Improvements and Stormwater Improvements constructed within Owner’s Property.

1.6 “Owner’s Assessment” means the assessment more fully described in Section 2.1 hereof payable by Owner against Owner’s Property with regard to the Infrastructure Improvements.

1.7 “Owner’s Property” means the real property legally described on Exhibit A attached hereto.

1.8 “Road Improvements” means the road improvement shown on Exhibit 1.8 attached hereto.

1.9 “Sewer Improvements” means the sanitary sewer improvements shown on Exhibit 1.9 attached hereto.

1.10 “State” means the State of Minnesota.

1.11 “Stormwater Certificate” means the Stormwater Certificate to be issued to Owner by the Community Development Director.

1.12 “Stormwater Improvements” means the entire stormwater control and disposal system for Owner’s Property as described on Exhibit 1.12 attached hereto.

1.13 “Water Improvements” means the extensions to the City water system as shown on Exhibit 1.13 attached hereto.

1.14 “Water Improvements Payment” means the payment required to be made by City pursuant to Section 3.2 hereof.

ARTICLE II
REPRESENTATIONS AND WARRANTIES
AND COVENANTS BY OWNER

Owner represents and warrants, covenants and agrees as follows:

2.1 Owner agrees to pay an assessment (“Owner’s Assessment”) against Owner’s Property for the costs (hard costs and soft costs) incurred by City in connection with the construction of the Sewer Improvements, Stormwater Improvements and Road Improvements. City agrees that the amount assessed against Owner’s Property shall be payable in equal annual installments, including principal and interest, extending over a period of fifteen (15) years, with

interest at the rate of four percent (4%) per annum, from and after December 31 of the year in which the construction of the Infrastructure Improvements is completed in an amount annually required to pay the principal over such period at such interest rate. The first of such installments is to be paid with the general taxes for the year in which the construction of the Infrastructure Improvements is completed, collectible with such taxes during the subsequent year. Owner may at any time prior to December 31 of the year in which the construction of the Infrastructure Improvements is completed, pay the entire Owner's Assessment without interest, to the Hermantown City Clerk. No interest shall be charged if the entire assessment is paid by December 31 of the year following the year in which the construction of the Infrastructure Improvements is complete. Owner may at any time thereafter pay to the Hermantown City Clerk the entire amount of Owner's Assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Any such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.

2.2 Pursuant to Minnesota Statutes §§429.081 and 462.3531, Owner hereby waives any objection to any irregularity with regard to assessment for the Infrastructure Improvements, any claim that the amount levied against Owner's Property is excessive and all rights to appeal the assessment levied granted Owner by Minnesota Statute §429.081. Owner acknowledges that the appeal rights granted by Minnesota Statutes §429.081 are Owner's exclusive method of appeal of the special assessment that will be levied against Owner's Property for the Infrastructure Improvements and by executing this Agreement, Owner will be forever and irrevocably waiving Owner's right to appeal.

2.3 Owner hereby further waives the requirement of hearings and notices of any hearings and objections to the assessment proceedings, the bidding and letting of contracts for the Infrastructure Improvements and the calculation and assessment of the Infrastructure Improvements' costs.

2.4 This Agreement will be filed for record with the appropriate St. Louis County land title recording office to reflect the fact that this Agreement is binding upon Owner and the heirs, successors and assigns of Owner and "runs with the land."

2.5 Owner understands and agrees not to apply for deferral of the assessment payable with respect to the Infrastructure Improvements and that the City will not grant or approve any deferrals of any assessments payable with respect to the Infrastructure Improvements.

2.6 Owner shall pay to City's utility department all applicable water and sewer hook-up charges prior to obtaining a building permit for any development on Owner's Property.

2.7 Owner and its successors and assigns must at its cost and expense, maintain and repair the Stormwater System so that it continues to perform its designed storm water functions. Owner and its successors and assigns shall keep records for up to six years, or as required under applicable law, of inspection, maintenance and monitoring of the Stormwater System and provide such records to the City within thirty (30) days after receipt of written notice. In the event that Owner or its successors and assigns fails to repair and/or maintain the Stormwater System in accordance with applicable codes, regulations, laws, and statutes, then in that event, the City may,

following sixty (60) days prior written notice to all of the then owners of Owner's Property, perform the required repairs or maintenance work on the Stormwater System and charge the reasonable costs of such work to Owner's Property in accordance with the provisions of Minnesota Statutes Section 429.021, subd. 1(2) and the special assessment procedures of Chapter 429 of Minnesota Statutes. In the event of an uncured default for which the City elects to perform the required repairs and maintenance work on the Stormwater System, the City shall do so strictly in accordance with all laws, rules and regulations applicable to Owner, the Stormwater Improvements, and Owner's Property, including without limitation, all applicable stormwater regulations.

2.8 Owner shall retain the ownership of the entire Stormwater System and shall be responsible for the repair and maintenance of the entire Stormwater System. City shall not be responsible for the maintenance and repair of any part of the Stormwater System, including without limitation any ponds or outlet structures located on Owner's Property. Owner hereby grants a permanent license to City for access to any portion of Stormwater System for the purposes of City performing testing and monitoring of the Stormwater System and performing maintenance and repairs permitted to be made by City under this Section.

2.9 The agreement by the parties set forth under this Article II shall constitute a Development Agreement as that term is used in Minnesota Statutes § 462.3531.

2.10 Owner agrees and binds itself to provide free of cost to City all necessary rights-of-way and/or easements required to construct all Infrastructure Improvements described in this Agreement, which may include, but are not limited to, (a) water; (b) sewer; (c) streets; (d) sidewalks and (e) storm drainage.

ARTICLE III **CONSTRUCTION OF** **INFRASTRUCTURE IMPROVEMENTS**

3.1. City shall prepare plans and specifications for the Infrastructure Improvements and shall submit them to Owner for approval, which approval shall not be unreasonably withheld and shall be deemed granted if the Owner fails to respond in writing with specific revisions within ten (10) days after receipt of the plans and specifications. After approval of the plans and specifications for the Infrastructure Improvements, City shall cause the Infrastructure Improvements to be constructed.

3.2. Upon completion of the construction of the Infrastructure Improvements, City shall pay the cost of the Water Improvements and then create an assessment against Owner's Property for the balance of the cost of the Infrastructure Improvements.

ARTICLE IV
LIMITATIONS ON AGREEMENT

The provisions of this Agreement shall only be applicable to the construction and funding of the Infrastructure Improvements. The construction of any building on Owner's Property is subject to compliance with all other requirements, including zoning, business permitting and environmental matters.

ARTICLE V
ASSIGNMENT AND TRANSFER

5.1. **Representation as to Development.** Owner represents and agrees that its undertakings pursuant to the Agreement, are, and will be, for the purpose of redevelopment of Owner's Property and not for speculation in land holding. Owner further recognizes that, in view of (i) the importance of the development of the Infrastructure Improvements to the general welfare of the community; and (ii) the fact that any act or transaction involving or resulting in a change in the identity of the parties in control of Owner is of particular concern to the community and City (iii) that City is entering into the Agreement with Owner, and, in so doing, is willing to accept and rely on Owner for the faithful performance of all undertakings and covenants hereby by Owner to be performed, that the provisions of this Article V are being included in this Agreement.

5.2. **Prohibition Against Transfer of Property and Assignment of Agreement.** For the foregoing reasons, Owner represents and agrees that, prior to the completion of the construction of the Infrastructure Improvements:

5.2.1. Except for the granting of easements necessary for the Infrastructure Improvements and except as permitted by Sections 5.2.1 and 5.3, and except only by way of security for, and only for, the purpose of obtaining financing necessary to enable Owner, to perform its obligations under this Agreement or any other purpose authorized by the Agreement, Owner (except as so authorized) has not made or created, and that it will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance or lease, or any trust or power, or transfer in any other mode or form of, or with respect to, the Agreement or Owner's Property or any part thereof or any interest therein, or any contract or agreement to do any of the same without the prior written approval of City, which approval will not be unreasonably withheld. Notwithstanding anything to the contrary set forth in this Agreement, a transfer to (a) a related entity under control of Owner or an affiliate of Owner or (b) an entity that acquires all or substantially all of the assets of Owner, shall not be in violation hereof or require the consent of the City or compliance with Section 5.2.2, but such a transfer shall be noticed to City in advance of its occurrence.

5.2.2. City shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any approval for a transfer that requires the City's consent, the following:

5.2.2.1. Any proposed transferee shall have the qualifications and financial capability, as reasonably determined by City, necessary and adequate to fulfill the obligations undertaken in the Agreement by Owner (or, in the event the transfer is of or relates to part of Owner's Property, such obligations to the extent that they relate to such part).

5.2.2.2. Any proposed transferee, by instrument in writing reasonably satisfactory to City and in form recordable in the land records, shall, for itself and its successors and assigns, and expressly for the benefit of City expressly assume all of the obligations of Owner under the Agreement and agree to be subject to all the conditions and restrictions to which Owner is subject (or, in the event the transfer is of or relates to part of Owner's Property, such obligations, conditions and restrictions to the extent that they relate to such part).

ARTICLE VI **NO CLAIMS**

Owner represents and warrants to City that neither Owner nor any agent, subcontractor or any other party affiliated with Owner has any existing claims or causes of action against City in connection with this Agreement or the construction of the Infrastructure Improvements.

ARTICLE VII **FEEES**

Owner acknowledges that the following fees will be applicable to any development on Owner's Property and Owner shall, prior to the delivery of a building permit for any such development, pay the following fees to the City:

7.1. Park dedication fees in the amount of One Thousand One Hundred and No/100 Dollars (\$1,100.00) per acre.

7.2. Wetland mitigation fees are required in the amount of \$0.10 per square foot of wetland impact.

7.3. WLSSD Capacity Availability fees ("CAF"). The CAF is determined by and payable to the Western Lake Superior Sanitary District but the check is delivered to City.

7.4. Building Permit fees.

7.5. No water availability fee or sewer availability fee will be charged.

7.6. Water Connection Commercial Building fees, plus a Fifty and No/100 Dollars (\$50.00) permit fee.

If to HEDA: Hermantown Economic Development Authority
Attn: John Mulder
5105 Maple Grove Road
Hermantown, MN 55811

Email: *jmulder@hermantownmn.com*

With a copy to: Steven C. Overom
Overom Law, PLLC
802 Garfield Avenue
Suite 101
Duluth, MN 55802

Email: *soverom@overomlaw.com*

If to Owner: Bill & Irv's Properties, Inc.
Attn: William Wilson and Michael Koski
5792 N Tischer Road
Duluth, MN 55804

Email: *bill@5west.org*
mike@mkoski.com

If requested by recipient, any notice delivered by email shall be followed by personal or mail delivery of such correspondence and any attachments. Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

ARTICLE XI **BINDING EFFECT**

This Agreement shall inure to the benefit of and shall be binding upon City and Owner and their respective successors and assigns. It is intended and agreed that such agreements and covenants shall be covenants running with Owner's Property and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement itself, be, to the fullest extent permitted by law and equity, binding for the benefit of City and enforceable by City against Owner and successors and assigns. City will record this Agreement with the appropriate land title recording office.

ARTICLE XII **AMENDMENTS, CHANGES AND MODIFICATIONS**

Neither this Agreement nor any other document to which Owner is a party, or which is made for the benefit of City, relating to the transactions contemplated hereunder may be effectively

amended, changed, modified, altered or terminated, nor may any provision be waived hereunder, except upon the written approval of City or except as otherwise expressly set forth herein.

ARTICLE XIII
SEVERABILITY

In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

ARTICLE XIV
LIMITATION ON CITY LIABILITY

No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by City contained in any document executed by City in connection with this Agreement and the transactions contemplated herein or therein, shall give rise to any charge against its general credit or taxing powers.

ARTICLE XV
LAWS GOVERNING

This Agreement shall be interpreted in accordance with and governed by the laws of the State.

ARTICLE XVI
HEADINGS

The titles of articles and sections herein are for convenience only and are not a part of this Agreement.

ARTICLE XVII
DEFAULT

If Owner fails to perform its obligations hereunder and such failure continues after sixty (60) days written notice of such default is given to Owner by City, then, in that event, City may take any one or more of the following actions:

17.1 Suspend its performance under this Agreement until it receives adequate assurances from Owner that Owner will cure the default and continue its performance under this Agreement.

17.2 Take whatever action, at law or in equity, which may appear necessary or desirable to City to collect any payments due it hereunder including reasonable attorney's fees incurred in

connection with such actions or under this Agreement, or to enforce performance and observance of any obligation, agreement or covenant of Owner under this Agreement.

Notwithstanding the foregoing, if Owner's failure to perform its obligations hereunder reasonably requires more than sixty (60) days to cure, such failure shall not constitute a default provided that the curing of such failure is promptly commenced upon receipt by Owner of the notice of the failure, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided that Owner keeps City informed of its progress in curing the failure.

ARTICLE XVIII **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

ARTICLE XIX **FORCE MAJEURE**

All obligations of Owner hereunder shall be extended by events of "Force Majeure." The term "Force Majeure" means any delays that are the direct result of strikes, other labor troubles, war, terrorist acts, natural disasters, adverse weather conditions, fire or other casualty, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit that results in delays and delays described in any force majeure provision that is contained in Owner's construction contract for any such work, the effect of such provision which is to extend the time allowed the contractor under such construction contract to complete the work, or any other event not within the reasonable control of Owner.

[SIGNATURES APPEAR ON NEXT PAGE]

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

CITY:

City of Hermantown

By _____
Its _____

And By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by Wayne Boucher and Alissa Wentzlaff, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown, a statutory city organized under the laws of the State of Minnesota.

(Stamp)

(signature of notarial officer)

Title (and Rank): _____ Notary Public

My commission expires: _____
(month/day/year)

[SIGNATURES CONTINUE ON NEXT PAGE]

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

OWNER:

Bill & Irv's Properties, Inc.

By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, the _____, of Bill & Irv's Properties, Inc. on behalf of Bill & Irv's Properties, Inc., a Minnesota corporation.

(Stamp)

(signature of notarial officer)

Title (and Rank): _____ Notary Public

My commission expires: _____
(month/day/year)

[END OF SIGNATURES]

EXHIBIT LIST

Exhibit A	Owner's Property Legal Description
Exhibit 1.3	Business Subsidy Agreement
Exhibit 1.8	Road Improvements
Exhibit 1.9	Sewer Improvements
Exhibit 1.12	Stormwater Improvements
Exhibit 1.13	Water Improvements

EXHIBIT A
Owner's Property

This is Abstract property.

Property Address:

Tax Identification Nos.:

Resolution No. 2024-170

**Resolution Receiving Preliminary Engineering Report And Calling For A Public Hearing
For Hawkline Business Park**

WHEREAS, pursuant to Resolution 2024-114, a preliminary engineering report (“Report”) has been prepared by Northland Consulting Engineering, Inc. with reference to the infrastructure improvements in the Hawkline Business Park; and

WHEREAS, the City Council has been advised by Northland Consulting Engineering, Inc. the consulting engineer for such project in the Report that the proposed improvements are feasible and should best be made as proposed; and

WHEREAS, the City Council believes that it is in the best interests of the City of Hermantown that further consideration be given to infrastructure improvements in the Hawkline Business Park in the City of Hermantown; and

WHEREAS, Chapter 429 of the Minnesota Statutes provides that no such improvement shall be made until the City Council shall have a public hearing on such improvements following mailed notice and two publications thereof in the official newspaper stating the time and place of the hearing, the general nature of the improvement, the estimated costs thereof and the area proposed to be assessed in accordance with law.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota, as follows:

1. The City Council receives the preliminary engineering report for infrastructure improvements in the Hawkline Business Park
2. The Council will consider the improvement of such road improvements in accordance with the Report and the assessment abutting property for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$x,xxx.xxx.
3. A public hearing on the proposed improvements will be held **Monday, September 16, 2024 at 6:30 p.m.** in the Administrative Services Building, 5105 Maple Grove Road, Hermantown, Minnesota.
4. The notice of hearing attached hereto is approved and the City Clerk is hereby authorized and directed to cause such notice to be published twice in the official newspaper, once on **September 5, 2024** and once on **September 12, 2024**.
4. The City Clerk is further authorized and directed to mail such notice to the owner of each parcel of land within the area proposed to be assessed as described in such notice no later than **August 30, 2024**. For purpose of giving such mailed notice, owners shall be those shown to be such on the records of the St. Louis county Auditor. As to properties not listed on the records

of the St. Louis County Auditor, the City Clerk shall ascertain such ownership by any practicable means and give mailed notice to such owners.

Councilor introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such motion was seconded by Councilor and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted August 19, 2024.

**NOTICE OF PUBLIC HEARING ON infrastructure improvements in
the Hawklane Business Park**

NOTICE IS HEREBY GIVEN, that the City Council of the City of Hermantown will meet in the council chambers of Administrative Services Building, 5105 Maple Grove Road, Hermantown, Minnesota, at 6:30 p.m. on Monday, September 19, 2024 to consider the feasibility report of infrastructure improvements in the Hawklane Business Park

The City Council proposes to proceed in accordance with the provisions of Minnesota Statutes Chapter 429.011 to 429.111 of the Minnesota Statutes.

The area proposed to be assessed for such improvement is every piece and parcel of property benefited by such improvement, whether abutting thereon or not, based upon the benefits received by each piece and parcel.

The estimated cost of such improvement is \$x,xxx,xxx

A reasonable estimate of the impact of the assessment will be available at the hearing.

Such persons as desire to be heard with reference to the proposed improvements will be heard at this meeting. Written or oral comments are encouraged and will be considered at this hearing.

Authorized by the City Council.

Alissa Wentzlaff, Clerk
City of Hermantown

Resolution No. 2024-171

Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A Development Contract Amongst Hawkline Development LLC, The City Of Hermantown And The Hermantown Economic Development Authority

WHEREAS, Hawkline Development LLC (“Developer”) is the owner of certain property on the north side of Trunk Highway 53 (“Property”) in the City of Hermantown (“City”); and

WHEREAS, Developer has proposed to develop a business park on the Property (“Project”); and

WHEREAS, in order to develop the Project, water improvements, sewer improvements, road improvements and stormwater improvements (“Infrastructure Improvements”) need to be constructed on the Property; and

WHEREAS, Developer has requested City construct the Infrastructure Improvements; and

WHEREAS, City believes that the Project is in the best interests of the City and its residents and has applied for a grant (“BDPI Grant”) from the State of Minnesota to assist with costs incurred by City in connection with the construction of the Infrastructure Improvements; and

WHEREAS, City is willing to construct the Infrastructure Improvements subject to approval of the BDPI Grant and Developer agreeing to an assessment on the Property for a portion of the costs incurred by City less the BDPI Grant funds; and

WHEREAS, the City Attorney has prepared a BDPI Grant Fund Development Contract (“Development Contract”) with respect to the matters set forth above; and

WHEREAS, the City Council has reviewed the Development Contract and believes that it is in the best interests of the City of Hermantown to approve the Development Contract and authorize and direct the Mayor and City Clerk to execute and deliver it on behalf of the City of Hermantown.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota as follows:

1. The Development Contract substantially in the form of the one attached hereto as Exhibit A is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to execute and deliver the Development Contract on behalf of the City.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors _____, and Mayor Boucher, aye.

And the following voted in opposition thereto:

None.

WHEREUPON, such resolution was declared duly passed and adopted.

EXHIBIT A

**CITY OF HERMANTOWN
BDPI GRANT FUND
DEVELOPMENT CONTRACT**

BY AND AMONG

HAWKLINE DEVELOPMENT LLC

AND

CITY OF HERMANTOWN

AND

**HERMANTOWN ECONOMIC
DEVELOPMENT AUTHORITY**

Dated as of the _____ day of _____, 2024

This document was drafted by:

Steven C. Overom
Overom Law, PLLC
802 Garfield Avenue, Suite 101
Duluth, Minnesota 55802
(218) 625-8460

BDPI GRANT FUND DEVELOPMENT CONTRACT

THIS BDPI GRANT FUND DEVELOPMENT CONTRACT (“Agreement”), made on or as of the ____ day of _____, 2024, by and among the **City of Hermantown**, a statutory city organized under the laws of the State of Minnesota, (“City”) the **Hermantown Economic Development Authority**, an economic development authority under the laws of the State of Minnesota, (“HEDA”) and **Hawklene Development LLC**, a limited liability company organized under the laws of the State of Minnesota, (“Owner”) is in response to the following situation:

- A. Owner owns the property located in the City and legally described on Exhibit A attached hereto (“BDPI Grant Area”).
- B. City, HEDA and Owner desire that development occur in the BDPI Grant Area.
- C. City has applied for a grant from the Great Minnesota Business Development Public Infrastructure Grant Program (“BDPI”) to provide funds to pay for a portion of the costs of providing infrastructure in the BDPI Grant Area (“BDPI Grant”).
- D. A BDPI Grant is subject to certain conditions and limitations (“BDPI Grant Conditions”).
- E. City, HEDA and Owner desire to identify the BDPI Grant Conditions and allocate responsibility for complying with the BDPI Grant Conditions in terms of actions and financial obligations.
- F. This Agreement is intended to cover the items set forth in paragraph E above.

NOW, THEREFORE, in consideration of the foregoing and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I **DEFINITIONS**

Unless the context requires otherwise, when used in this Agreement the terms and phrases listed in this Article shall have the following meanings:

1.1 “Approval” or “Endorsed” shall, if by City, mean the appropriate approval at the appropriate level of government which shall not be unreasonably withheld or, if by Owner, the approval by a representative of Owner, which shall not be unreasonably withheld.

1.2 “Approved City Plans and Specifications” means the plans and specifications for the BDPI Grant Area Improvements that have been approved in writing by the City Engineer.

1.3 “BDPI Grant Agreement” means the grant agreement between the City and State of Minnesota regarding the BDPI Grant.

1.4 “BDPI Grant Area” or “Owner’s Property” means the real property legally described on Exhibit A attached hereto and depicted on Exhibit B attached hereto.

1.5 “BDPI Grant Area Improvements” means the Water Improvements, Sewer Improvements, Road Improvements and Stormwater Improvements constructed within the BDPI Grant Area.

1.6 “Business Subsidy Agreement” means that certain Business Subsidy Agreement between City and Owner in the form of the one attached hereto as Exhibit 1.6.

1.7 “City Engineer” shall mean the person or firm from time to time designated by the City as its City Engineer. At this time, the City Engineer is David Bolf of Northland Consulting Engineers L.L.P.

1.8 “Owner’s Assessment” means the assessment more fully described in Section 2.1 hereof payable by Owner against Owner’s Property with regard to the BDPI Grant Area Improvements.

1.9 “Road Improvements” means the road improvement shown on Exhibit 1.9 attached hereto.

1.10 “Sewer Improvements” means the sanitary sewer improvements shown on Exhibit 1.10 attached hereto.

1.11 “State” means the State of Minnesota.

1.12 “Stormwater Certificate” means the Stormwater Certificate to be issued to Owner by the Community Development Director.

1.13 “Stormwater Improvements” means the entire stormwater control and disposal system for the BDPI Grant Area as described on Exhibit 1.13 attached hereto.

1.14 “Water Improvements” means the extensions to the City water system as shown on Exhibit 1.14 attached hereto.

1.15 “Water Improvements Payment” means the payment required to be made by City pursuant to Section 3.2 hereof.

ARTICLE II
REPRESENTATIONS AND WARRANTIES
AND COVENANTS BY OWNER

Owner represents and warrants, covenants and agrees that, if the BDPI Grant is awarded to the City:

2.1 Owner agrees to pay an assessment (“Owner’s Assessment”) against Owner’s Property for the costs (hard costs and soft costs) incurred by City in connection with the construction of the Sewer Improvements, Stormwater Improvements and Road Improvements less the amount of the BDPI Grant actually received by City to pay such costs. City agrees that the amount assessed against Owner’s Property shall be payable in equal annual installments, including principal and interest, extending over a period of fifteen (15) years, with interest at the rate of four percent (4%) per annum, from and after December 31 of the year in which the construction of the BDPI Grant Area Improvements is completed in an amount annually required to pay the principal over such period at such interest rate. The first of such installments is to be paid with the general taxes for the year in which the construction of the BDPI Grant Area Improvements is completed, collectible with such taxes during the subsequent year. Owner may at any time prior to December 31 of the year in which the construction of the BDPI Grant Area Improvements is completed, pay the entire Owner’s Assessment without interest, to the Hermantown City Clerk. No interest shall be charged if the entire assessment is paid by December 31 of the year following the year in which the construction of the BDPI Grant Area Improvements is complete. Owner may at any time thereafter pay to the Hermantown City Clerk the entire amount of Owner’s Assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Any such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.

2.2 Pursuant to Minnesota Statutes §§429.081 and 462.3531, Owner hereby waives any objection to any irregularity with regard to assessment for the BDPI Grant Area Improvements, any claim that the amount levied against Owner’s Property is excessive and all rights to appeal the assessment levied granted Owner by Minnesota Statute §429.081. Owner acknowledges that the appeal rights granted by Minnesota Statutes §429.081 are Owner’s exclusive method of appeal of the special assessment that will be levied against Owner’s Property for the BDPI Grant Area Improvements and by executing this Agreement, Owner will be forever and irrevocably waiving Owner’s right to appeal.

2.3 Owner hereby further waives the requirement of hearings and notices of any hearings and objections to the assessment proceedings, the bidding and letting of contracts for the BDPI Grant Area Improvements and the calculation and assessment of the BDPI Grant Area Improvements’ costs.

2.4 This Agreement will be filed for record with the appropriate St. Louis County land title recording office to reflect the fact that this Agreement is binding upon Owner and the heirs, successors and assigns of Owner and “runs with the land.”

2.5 Owner understands and agrees not to apply for deferral of the assessment payable with respect to the BDPI Grant Area Improvements and that the City will not grant or approve any deferrals of any assessments payable with respect to the BDPI Grant Area Improvements.

2.6 Owner shall pay to City's utility department all applicable water and sewer hook-up charges prior to obtaining a building permit for any development on Owner's Property.

2.7 Owner and its successors and assigns must at its cost and expense, maintain and repair the Stormwater System so that it continues to perform its designed storm water functions. Owner and its successors and assigns shall keep records for up to six years, or as required under applicable law, of inspection, maintenance and monitoring of the Stormwater System and provide such records to the City within thirty (30) days after receipt of written notice. In the event that Owner or its successors and assigns fails to repair and/or maintain the Stormwater System in accordance with applicable codes, regulations, laws, and statutes, then in that event, the City may, following sixty (60) days prior written notice to all of the then owners of the BDPI Grant Area, perform the required repairs or maintenance work on the Stormwater System and charge the reasonable costs of such work to the BDPI Grant Area in accordance with the provisions of Minnesota Statutes Section 429.021, subd. 1(2) and the special assessment procedures of Chapter 429 of Minnesota Statutes. In the event of an uncured default for which the City elects to perform the required repairs and maintenance work on the Stormwater System, the City shall do so strictly in accordance with all laws, rules and regulations applicable to Owner, the Stormwater Improvements, and the BDPI Grant Area, including without limitation, all applicable stormwater regulations.

2.8 Owner shall retain the ownership of the entire Stormwater System and shall be responsible for the repair and maintenance of the entire Stormwater System. City shall not be responsible for the maintenance and repair of any part of the Stormwater System, including without limitation any ponds or outlet structures located on the BDPI Grant Area. Owner hereby grants a permanent license to City for access to any portion of Stormwater System for the purposes of City performing testing and monitoring of the Stormwater System and performing maintenance and repairs permitted to be made by City under this Section.

2.9 The agreement by the parties set forth under this Article II shall constitute a Development Agreement as that term is used in Minnesota Statutes § 462.3531.

2.10 Owner agrees and binds itself to provide free of cost to City all necessary rights-of-way and/or easements required to construct all BDPI Grant Area Improvements described in this Agreement, which may include, but are not limited to, (a) water; (b) sewer; (c) streets; (d) sidewalks and (e) storm drainage.

ARTICLE III
CONSTRUCTION OF BDPI GRANT H
AREA IMPROVEMENTS

3.1. City shall prepare plans and specifications for the BDPI Grant Area Improvements and shall submit them to Owner for approval, which approval shall not be unreasonably withheld and shall be deemed granted if the Owner fails to respond in writing with specific revisions within ten (10) days after receipt of the plans and specifications. After approval of the plans and specifications for the BDPI Grant Area Improvements, City shall cause the BDPI Grant Area Improvements to be constructed.

3.2. Upon completion of the construction of the BDPI Grant Area Improvements, City shall pay the cost of the Water Improvements, utilize the BDPI Grant Proceeds to pay for costs of the BDPI Grant Area Improvements and then create an assessment against the BDPI Grant Area for the balance of the cost of the BDPI Grant Area Improvements not paid by the City or BDPI Grant Proceeds.

ARTICLE IV
COMPLIANCE WITH BDPI GRANT AGREEMENT

Owner hereby agrees that the BDPI Grant Area is subject to the terms of the BDPI Grant Agreement. Without limiting the generality of the foregoing, Owner hereby specifically agrees:

4.1. To list any vacant or new positions that Owner may have with a State workforce center as required by Minnesota Statutes § 116L.66.

4.2. To pay any costs of the Stormwater Improvements, Road Improvements or Sewer Improvements that are not covered by the BDPI Grant.

4.3. To comply with the provisions of Minnesota Statutes § 16C.075 regarding e-verification of employment.

4.4. To comply with the provisions of Minnesota Statutes § 116J.431, a copy of which is attached hereto as Exhibit 4.4 and all provisions of the BDPI Grant Agreement.

4.5. Owner agrees to not recruit or target a business currently located in another Minnesota community to relocate significant operations in the BDPI Grant Area. Furthermore, before any business that is within thirty (30) miles of the BDPI Grant Area decides to relocate significant operations to the BDPI Grant Area, evidence that the current, host community for that business agreed that the current community could not accommodate the businesses' needs shall be secured and provided to the State. This provision shall apply for twenty-four (24) months after the BDPI Grant Area Improvements is completed.

4.6. Owner must ensure that Owner and all contractors and subcontractors comply with applicable prevailing wage requirements including submitting all required certified payroll

records, as required by Minnesota Statutes § 116J.871, to the following email address: wagedata.deed@state.mn.us for all development within the BDPI Grant Area.

4.7. This Agreement will be recorded against the BDPI Grant Area.

ARTICLE V **LIMITATIONS ON AGREEMENT**

The provisions of this Agreement shall only be applicable to the construction and funding of the BDPI Grant Area Improvements. The construction of any building in the BDPI Grant Area is subject to compliance with all other requirements, including zoning, business permitting and environmental matters.

ARTICLE VI **ASSIGNMENT AND TRANSFER**

6.1. **Representation as to Development.** Owner represents and agrees that its undertakings pursuant to the Agreement, are, and will be, for the purpose of redevelopment of the BDPI Grant Area and not for speculation in land holding. Owner further recognizes that, in view of (i) the importance of the development of the BDPI Grant Area to the general welfare of the community; and (ii) the fact that any act or transaction involving or resulting in a change in the identity of the parties in control of Owner is of particular concern to the community and City (iii) that City is entering into the Agreement with Owner, and, in so doing, is willing to accept and rely on Owner for the faithful performance of all undertakings and covenants hereby by Owner to be performed, that the provisions of this Article VI are being included in this Agreement.

6.2. **Prohibition Against Transfer of Property and Assignment of Agreement.** For the foregoing reasons, Owner represents and agrees that, prior to the completion of the construction of the BDPI Grant Area Improvements:

6.2.1. Except for the granting of easements necessary for the BDPI Grant Area Improvements and except as permitted by Sections 6.2.1 and 6.3, and except only by way of security for, and only for, the purpose of obtaining financing necessary to enable Owner, to perform its obligations under this Agreement or any other purpose authorized by the Agreement, Owner (except as so authorized) has not made or created, and that it will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance or lease, or any trust or power, or transfer in any other mode or form of, or with respect to, the Agreement or the BDPI Grant Area or any part thereof or any interest therein, or any contract or agreement to do any of the same without the prior written approval of City, which approval will not be unreasonably withheld. Notwithstanding anything to the contrary set forth in this Agreement, a transfer to (a) a related entity under control of Owner or an affiliate of Owner or (b) an entity that acquires all or substantially all of the assets of Owner, shall not be in violation hereof or require the consent of the City or compliance with Section 6.2.2, but such a transfer shall be noticed to City in advance of its occurrence.

6.2.2. City shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any approval for a transfer that requires the City's consent, the following:

6.2.2.1. Any proposed transferee shall have the qualifications and financial capability, as reasonably determined by City, necessary and adequate to fulfill the obligations undertaken in the Agreement by Owner (or, in the event the transfer is of or relates to part of the BDPI Grant Area, such obligations to the extent that they relate to such part).

6.2.2.2. Any proposed transferee, by instrument in writing reasonably satisfactory to City and in form recordable in the land records, shall, for itself and its successors and assigns, and expressly for the benefit of City expressly assume all of the obligations of Owner under the Agreement and agree to be subject to all the conditions and restrictions to which Owner is subject (or, in the event the transfer is of or relates to part of the BDPI Grant Area such obligations, conditions and restrictions to the extent that they relate to such part).

ARTICLE VII **NO CLAIMS**

Owner represents and warrants to City that neither Owner nor any agent, subcontractor or any other party affiliated with Owner has any existing claims or causes of action against City in connection with this Agreement or the construction of the BDPI Grant Area Improvements.

ARTICLE VIII **FEES**

Owner acknowledges that the following fees will be applicable to any development in the BDPI Grant Area and Owner shall, prior to the delivery of a building permit for any such development, pay the following fees to the City:

8.1 Park dedication fees in the amount of One Thousand One Hundred and No/100 Dollars (\$1,100.00) per acre.

8.2 Wetland mitigation fees are required in the amount of \$0.10 per square foot of wetland impact.

8.3 WLSSD Capacity Availability fees ("CAF"). The CAF is determined by and payable to the Western Lake Superior Sanitary District, but the check is delivered to City.

8.4 Building Permit fees.

- 8.5 No water availability fee or sewer availability fee will be charged.
- 8.6 Water Connection Commercial Building fees, plus a Fifty and No/100 Dollars (\$50.00) permit fee.
- 8.7 Sanitary Sewer Connection Commercial Building fees, plus \$50.00 per toilet/urinal, plus \$50.00 permit fee.
- 8.8 Water Connection fee for additional meters (i.e. sprinkler system).
- 8.9 Storm Water Certificate Application fees
- 8.10 Sign Permit fees.

ARTICLE IX
NO APPROVAL OR ISSUANCE OF OTHER PERMITS

Except for the approvals provided herein, nothing herein shall be construed as a permit or approval by City or an agreement by City to issue or provide any permit or approval to Owner with respect to the construction of any development by Owner. Without limiting the generality of the foregoing, Owner acknowledges and agrees that even if it satisfies all of the requirements imposed on it under this Agreement that no development may be constructed unless and until all other required permits are obtained by Owner from all relevant governmental agencies.

ARTICLE X
LIMITATION OF PUBLIC UNDERTAKING

It is hereby understood and agreed that the public undertakings and the public expenditures are limited to those undertakings and expressly set forth in this Agreement.

ARTICLE XI
NOTICES

Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective

addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

If to City: City of Hermantown
Attn: Its City Administrator
5105 Maple Grove Road
Hermantown, MN 55811

Email: *jmulder@hermantownmn.com*

If to HEDA: Hermantown Economic Development Authority
Attn: John Mulder
5105 Maple Grove Road
Hermantown, MN 55811

Email: *jmulder@hermantownmn.com*

With a copy to: Steven C. Overom
Overom Law, PLLC
802 Garfield Avenue
Suite 101
Duluth, MN 55802

Email: *soverom@overomlaw.com*

If to Owner: Hawklane Development LLC
Attn: William Wilson and Michael Koski
5792 N Tischer Road
Duluth, MN 55804

Email: *bill@5west.org*
mike@mkoski.com

If requested by recipient, any notice delivered by email shall be followed by personal or mail delivery of such correspondence and any attachments. Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

ARTICLE XII
BINDING EFFECT

This Agreement shall inure to the benefit of and shall be binding upon City and Owner and their respective successors and assigns. It is intended and agreed that such agreements and covenants shall be covenants running with the BDPI Grant Area and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise

specifically provided in the Agreement itself, be, to the fullest extent permitted by law and equity, binding for the benefit of City and enforceable by City against Owner and successors and assigns. City will record this Agreement with the appropriate land title recording office.

ARTICLE XIII
AMENDMENTS, CHANGES AND MODIFICATIONS

Neither this Agreement nor any other document to which Owner is a party, or which is made for the benefit of City, relating to the transactions contemplated hereunder may be effectively amended, changed, modified, altered or terminated, nor may any provision be waived hereunder, except upon the written approval of City or except as otherwise expressly set forth herein.

ARTICLE XIV
SEVERABILITY

In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

ARTICLE XV
LIMITATION ON CITY LIABILITY

No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by City contained in any document executed by City in connection with this Agreement and the transactions contemplated herein or therein, shall give rise to any charge against its general credit or taxing powers.

ARTICLE XVI
LAWS GOVERNING

This Agreement shall be interpreted in accordance with and governed by the laws of the State.

ARTICLE XVII
HEADINGS

The titles of articles and sections herein are for convenience only and are not a part of this Agreement.

ARTICLE XVIII
DEFAULT

If Owner fails to perform its obligations hereunder and such failure continues after sixty (60) days written notice of such default is given to Owner by City, then, in that event, City may take any one or more of the following actions:

18.1 Suspend its performance under this Agreement until it receives adequate assurances from Owner that Owner will cure the default and continue its performance under this Agreement.

18.2 Take whatever action, at law or in equity, which may appear necessary or desirable to City to collect any payments due it hereunder including reasonable attorney's fees incurred in connection with such actions or under this Agreement, or to enforce performance and observance of any obligation, agreement or covenant of Owner under this Agreement.

Notwithstanding the foregoing, if Owner's failure to perform its obligations hereunder reasonably requires more than sixty (60) days to cure, such failure shall not constitute a default provided that the curing of such failure is promptly commenced upon receipt by Owner of the notice of the failure, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided that Owner keeps City informed of its progress in curing the failure.

ARTICLE XIX
COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

ARTICLE XX
FORCE MAJEURE

All obligations of Owner hereunder shall be extended by events of "Force Majeure." The term "Force Majeure" means any delays that are the direct result of strikes, other labor troubles, war, terrorist acts, natural disasters, adverse weather conditions, fire or other casualty, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit that results in delays and delays described in any force majeure provision that is contained in Owner's construction contract for any such work, the effect of such provision which is to extend the time allowed the contractor under such construction contract to complete the work, or any other event not within the reasonable control of Owner.

[SIGNATURES APPEAR ON NEXT PAGE]

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

OWNER:

Hawklime Development LLC

By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, the _____, of Hawklime Development LLC on behalf of Hawklime Development LLC, a Minnesota limited liability company.

(Stamp)

(signature of notarial officer)

Title (and Rank): _____ Notary Public _____

My commission expires: _____
(month/day/year)

[END OF SIGNATURES]

EXHIBIT LIST

Exhibit A	BDPI Grant Area Legal Description
Exhibit B	BDPI Grant Area Depiction
Exhibit 1.6	Business Subsidy Agreement
Exhibit 1.9	Road Improvements
Exhibit 1.10	Sewer Improvements
Exhibit 1.13	Stormwater Improvements
Exhibit 1.14	Water Improvements
Exhibit 4.4	Minnesota Statutes § 116J.431

EXHIBIT A
BDPI Grant Area

This is Abstract property.

Property Address:

Tax Identification Nos.:

EXHIBIT B BDPI Grant Area Depiction

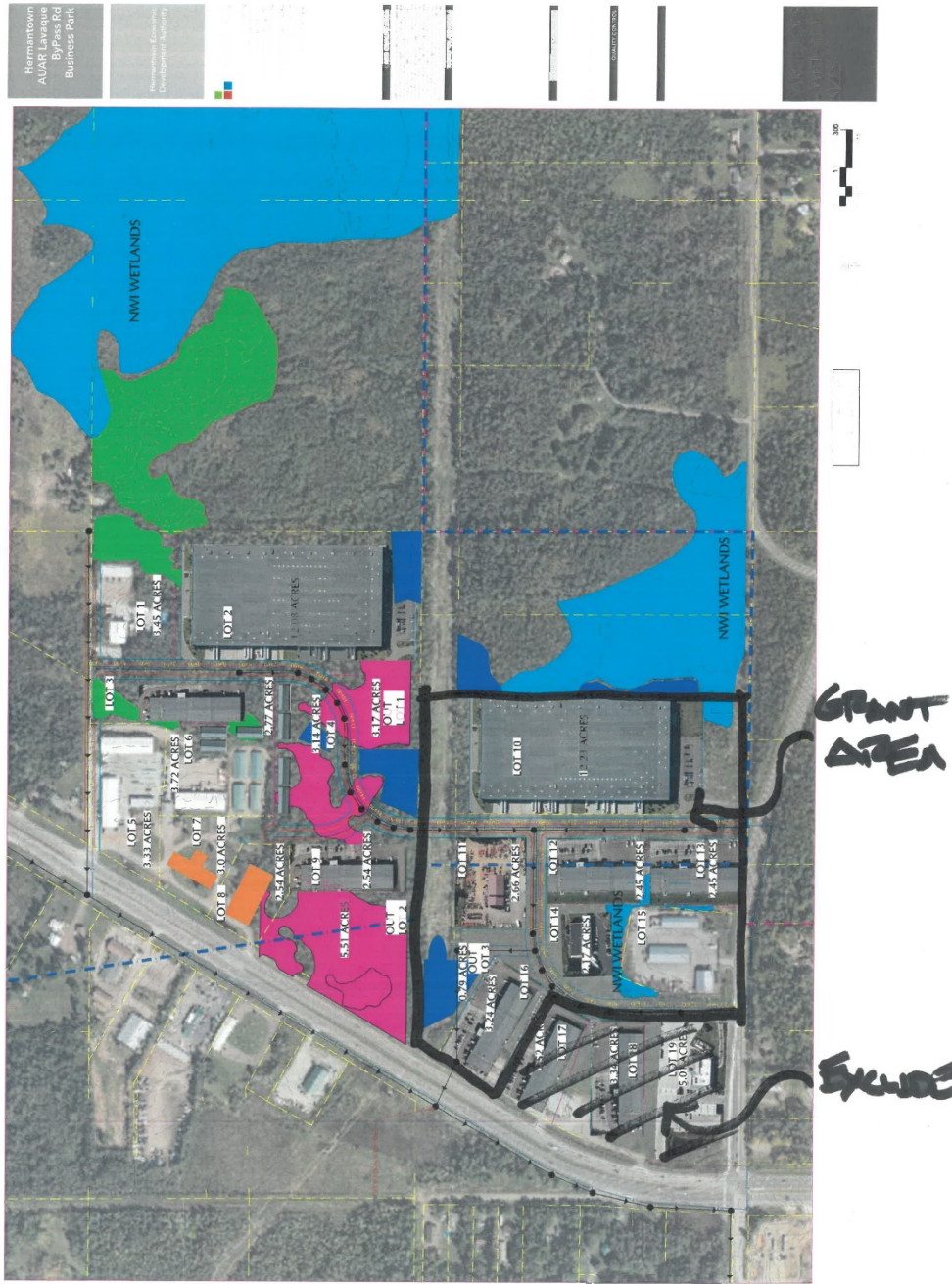


EXHIBIT 4.4
Minnesota Statutes § 116J.431

1

MINNESOTA STATUTES 2023

116J.431

116J.431 GREATER MINNESOTA BUSINESS DEVELOPMENT PUBLIC INFRASTRUCTURE GRANT PROGRAM.

Subdivision 1. **Grant program established; purpose.** (a) The commissioner shall make grants to counties or cities to provide up to 50 percent of the capital costs of public infrastructure necessary for an eligible economic development project. The county or city receiving a grant must provide for the remainder of the costs of the project, either in cash or in kind. In-kind contributions may include the value of site preparation other than the public infrastructure needed for the project.

(b) The purpose of the grants made under this section is to keep or enhance jobs in the area, increase the tax base, or to expand or create new economic development.

(c) In awarding grants under this section, the commissioner must adhere to the criteria under subdivision 4.

(d) If the commissioner awards a grant for less than 50 percent of the project, the commissioner shall provide the applicant and the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over economic development finance a written explanation of the reason less than 50 percent of the capital costs were awarded in the grant.

Subd. 1a. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "City" means a statutory or home rule charter city located outside the metropolitan area, as defined in section 473.121, subdivision 2.

(c) "County" means a county located outside the metropolitan area, as defined in section 473.121, subdivision 2.

(d) "Public infrastructure" means publicly owned physical infrastructure necessary to support economic development projects, including, but not limited to, sewers, water supply systems, utility extensions, streets, wastewater treatment systems, stormwater management systems, and facilities for pretreatment of wastewater to remove phosphorus.

Subd. 2. **Eligible projects.** (a) An economic development project for which a county or city may be eligible to receive a grant under this section includes:

(1) manufacturing;

(2) technology;

(3) warehousing and distribution;

(4) research and development;

(5) agricultural processing, defined as transforming, packaging, sorting, or grading livestock or livestock products into goods that are used for intermediate or final consumption, including goods for nonfood use; or

(6) industrial park development that would be used by any other business listed in this subdivision even if no business has committed to locate in the industrial park at the time the grant application is made.

(b) Up to 15 percent of the development of a project may be for a purpose that is not included under this subdivision as an eligible project. A city or county must provide notice to the commissioner for the commissioner's approval of the proposed project.

Subd. 3. **Ineligible projects.** Projects, including but not limited to the following types, are ineligible for a grant under this section:

- (1) retail development; or
- (2) office space development, except as incidental to an eligible purpose.

Subd. 3a. **Development restrictions expiration.** After ten years from the date of the grant award under this section, if an eligible project for which the public infrastructure was intended has not been developed, any other lawful project may be developed and supported by the public infrastructure. The city or county must notify the commissioner of the project.

Subd. 4. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section. At a minimum, a county or city must include in its application a resolution of the county or city council certifying that the required local match is available. The commissioner must evaluate complete applications for eligible projects using the following criteria:

- (1) the project is an eligible project as defined under subdivision 2;
 - (2) the project is expected to result in or will attract substantial public and private capital investment and provide substantial economic benefit to the county or city in which the project would be located;
 - (3) the project is not relocating substantially the same operation from another location in the state, unless the commissioner determines the project cannot be reasonably accommodated within the county or city in which the business is currently located, or the business would otherwise relocate to another state; and
 - (4) the project is expected to or will create or retain full-time jobs.
- (b) The determination of whether to make a grant for a site is within the discretion of the commissioner, subject to this section. The commissioner's decisions and application of the criteria are not subject to judicial review, except for abuse of discretion.

Subd. 5. [Repealed, 2009 c 78 art 2 s 44]

Subd. 6. **Maximum grant amount.** A county or city may receive no more than \$2,000,000 in two years for one or more projects.

Subd. 7. **Cancellation of grant; return of grant money.** If after five years, the commissioner determines that a project has not proceeded in a timely manner and is unlikely to be completed, the commissioner must cancel the grant and require the grantee to return all grant money awarded for that project. For industrial park development projects, if after five years the industrial park is not developed and available for business use, the commissioner must cancel the grant and require the grantee to return all grant money for that project. If the industrial park is developed and available for use within five years, but no businesses have located in the park, the grantee is not required to return any grant money.

Subd. 8. **Appropriation.** Grant money returned to the commissioner is appropriated to the commissioner to make additional grants under this section.

History: 2002 c 393 s 46; 2009 c 78 art 2 s 7-11; 2016 c 189 art 7 s 16-19; 1Sp2021 c 10 art 2 s 2-4

Resolution No. 2024-172

Resolution Authorizing And Directing The City Administrator And The Assistant City Administrator To Execute And Deliver A Business Development Infrastructure Application

BE IT RESOLVED that the City of Hermantown act as the legal sponsor for project(s) contained in the Business Development Infrastructure Application to be submitted on or by August 26, 2024 and that John Mulder, the City Administrator of the City of Hermantown, and Joe Wicklund, the Assistant City Administrator of the City of Hermantown, are hereby authorized to apply to the Department of Employment and Economic Development for funding of this project on behalf of the City of Hermantown.

BE IT FURTHER RESOLVED that the City of Hermantown has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure matching funds, adequate construction, operation, maintenance and replacement of the proposed project for its design life.

BE IT FURTHER RESOLVED that the City of Hermantown has not violated any Federal, State, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED that upon approval of its application by the state, the City of Hermantown may enter into an agreement with the State of Minnesota for the above-referenced project(s), and that it will comply with all applicable laws and regulations as stated in all contract agreements.

BE IT FURTHER RESOLVED that the non-BDPI source(s) of funds identified in the sources and uses outline in the application in the total amount of \$_____ are committed and adequate to fully fund the project identified in the application.

BE IT FURTHER RESOLVED that the sources of the the City of Hermantown's matching funds shall be the Water Utility fund which has adequate funding to cover the commitment.

BE IT FURTHER RESOLVED that per MN statute 116J.431 Subd 7, the City of Hermantown understands the grant may be cancelled if the project identified in the Application is not proceeding within 18 months of the execution of a grant agreement, or if not complete after five years of any grant award.

BE IT FURTHER RESOLVED that the City of Hermantown acknowledges that allowing an ineligible business to locate in the area directly served by the funded infrastructure may trigger a default of the grant and cause repayment by the City of Hermantown.

The City of Hermantown certifies that it will comply with all applicable laws, regulations, and rules of the Business Development Infrastructure Application.

NOW, THEREFORE BE IT RESOLVED that John Mulder, the City Administrator of the City of Hermantown, and Joe Wicklund, the Assistant City Administrator of the City of Hermantown, or their successors in office, are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project(s) on behalf of the City of Hermantown.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted on August 19, 2024.