



## **Hermantown City Council Meeting – September 7, 2021**

Because of attendance considerations at the regular meeting location due to the health pandemic, Hermantown's September 7, 2021, City Council Meeting will be conducted both remotely and with in-person access to Council Chambers.

The City Council meeting will utilize the platform "Zoom," which allows the public to view and/or hear the meeting from their phone or computer. Interested parties can also choose to attend the City Council Meeting in person at City Hall. Current Minnesota Department of Health guidelines regarding the health pandemic will be observed during this meeting.

The 6:30 p.m. City Council Meeting will be available at:

<https://us02web.zoom.us/j/8381611121?pwd=d0NyVmhXMHRFVmRIYVI5S25zeThOUT09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 838-1611-1121 and the passcode of 223673.

Public comment may be possible, but difficult, during the meeting, but any public comments, questions, or concerns can be e-mailed to Community Engagement Manager, Joe Wicklund, at [jwicklund@hermantownmn.com](mailto:jwicklund@hermantownmn.com) up to 3:30 p.m. the day of the meeting with the e-mail title "September 7, 2021, Meeting." It is important to note that all comments regarding the September 7, 2021, 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
- It is a challenging situation for all of us, 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. Attendees of the Pre-Agenda Meeting should expect to follow the current social distancing and mask guidelines.



## **AGENDA**

### **Pre-Agenda Meeting Tuesday, September 7, 2021 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.

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### **City Council Meeting September 7, 2021 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 Tuesday, September 7, 2021 at 4:30 p.m.  
Council Chambers  
Hermantown Governmental Services Building**

**City Council Meeting September 7, 2021 at 6:30 p.m.  
Council Chambers  
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. **21-143** Jim Crace, Chief of Police  
TO: City Council & City Administrator  
RE: Alcohol Compliance Checks – Final Report
  - B. **21-144** Jim Crace, Chief of Police  
TO: City Council & City Administrator  
RE: Alcohol Compliance Checks – Finding of Fact/Disposition Report – Stokke’s  
Liquor Store
  - C. **21-145** Jim Crace, Chief of Police  
TO: City Council & City Administrator  
RE: Alcohol Compliance Checks – Finding of Fact/Disposition Report – Sam’s Club
  - D. **21-146** Jim Crace, Chief of Police  
TO: City Council & City Administrator  
RE: Alcohol Compliance Checks – Finding of Fact/Disposition Report – Maya Family  
Mexican Restaurant
  - E. **21-147** Jim Crace, Chief of Police  
TO: City Council & City Administrator  
RE: Tobacco Compliance Checks – Final Report
  - F. **21-148** Jim Crace, Chief of Police  
TO: City Council & City Administrator  
RE: Tobacco Compliance Checks – Finding of Fact/Disposition Report – Korner Store

G. **21-149** Jim Crace, Chief of Police  
TO: City Council & City Administrator  
RE: Tobacco Compliance Checks – Finding of Fact/Disposition Report – Speedway

H. **21-156** MN Employment & Economic Development  
TO: Mayor Wayne Boucher  
RE: Monitoring of Grantee Performance - EWC

7. **PRESENTATIONS** (*Department Heads may give reports if necessary.*)

A. Eric Johnson, Community Development Director  
RE: [JAZB Update](#)

B. John Mulder, City Administrator  
RE: [Health Insurance Renewal](#)

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. **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 so 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 16, 2021 City Council Continuation Minutes](#)

B. **Accounts Payable** – Approve general city warrants from August 16, 2021 through August 31, 2021 in the amount of \$442,211.65

(motion, roll call)

10. **MOTIONS**

11. **ORDINANCES**

A. **2021-07** [An Ordinance Amending Section 820 Of The Hermantown City Code By Amending The City Of Hermantown Snowmobile And ATV Map](#)

Second Reading

(motion, roll call)

B. **2021-08** [An Ordinance Amending Hermantown Zoning Code By Amending Chapter 11, Planned Unit Development](#)

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. **2021-101**      Resolution Awarding Contract For A Power Broom Attachment To Minnesota Equipment, Inc. In The Amount Of \$12,550.00 Plus Applicable Taxes And Fees  
  
(motion, roll call)
- B. **2021-102**      Resolution Authorizing And Directing The Mayor And City Clerk To Execute A Termination Of Special Use Permit Between The City And David Kolquist  
  
(motion, roll call)
- C. **2021-103**      Resolution Approving A Special Use Permit For The Construction Of A Two Family Home In A R-3 Residential Zoning District  
  
(motion, roll call)
- D. **2021-104**      Resolution Declaring Cost To Be Assessed And Ordering Preparation Of 2021 Assessment Roll For The Construction Of 2021 Road Improvement District No. 536 (Sundby Road & Swan Lake Road)  
  
(motion, roll call)
- E. **2021-105**      Resolution Receiving Proposed Assessment Roll For The Construction Of 2021 Road Improvement District No. 536 (Sundby Road & Swan Lake Road) And Ordering Hearing Thereon  
  
(motion, roll call)
- F. **2021-106**      Resolution Declaring Cost To Be Assessed And Ordering Preparation Of Assessment Roll For The Construction Of Road Improvement District No. 537 (Lavaque Junction Road)  
  
(motion, roll call)
- G. **2021-107**      Resolution Receiving Proposed Assessment Roll For The Construction Of Road Improvement District No. 537 (Lavaque Junction Road) And Ordering Hearing Thereon  
  
(motion, roll call)
- H. **2021-108**      Resolution Approving The Environmental Covenant And Easement  
  
(motion, roll call)
- I. **2021-109**      Resolution Authorizing And Directing Mayor To Sign Capacity Allocation Permit Reissuance Between The City Of Hermantown And Western Lake Superior Sanitary District (“WLSSD”)  
  
(motion, roll call)
- J. **2021-110**      Resolution Approving Pay Request Number 13 For Sewer Improvement District No. 448 To Utility Systems Of America, Inc. In The Amount Of \$36,235.38  
  
(motion, roll call)

- K. 2021-111**      Resolution Authorizing And Directing Mayor And City Clerk To Execute Addendum #2 To Engineering Contract For Road Improvement District No. 534 (Ugstad Road)

(motion, roll call)

- L. 2021-112**      Resolution Approving Pay Request Number 5 For Road Improvement District No. 537 (Lavaque Junction Road) To Ulland Brothers, Inc. In The Amount Of \$353,661.35

(motion, roll call)

- M. 2021-113**      Resolution Accepting Quote From Northwoods Sodding, Inc. For Repairs On Rose Road Field 3 In The Amount Of \$30,650.00 Plus Water

(motion, roll call)

**13. CLOSED SESSION**

The City Council of the City of Hermantown will meet in closed session pursuant to the following statute and stated reason:

MN Statutes Section 13D.05 Subdivision 3(b), per the attorney-client privilege for discussions with the City Attorney.

Following this closed session, the council will re-convene in open session pursuant to the posted agenda for that date and time and during such open session summarize its conclusions.

**14. RECESS**

**DATE: 2021**

**TO: City Council Members**

**FROM: John Mulder, City Administrator**

**RE: Correspondence**

In your packet is a correspondence summary log. This briefly summarizes and assigns a log number for written correspondence received at City Hall. You are provided with the summary so that you may request a full copy of any correspondence article of interest to you. Bonnie & I have copied only the correspondence that we believe to be of special interest.


JM

8/17/2021	21-142	Laura Kleffman, Girls Softball	Wayne Boucher, Mayor, John Mulder, City Administrator, and City Council	Rose Road Field	8/15/2021
8/18/2021	21-143	Jim Crace, Chief of Police	City Council & John Mulder, City Administrator	Alcohol Compliance Checks - Final Report	8/14/2021
8/18/2021	21-144	Jim Crace, Chief of Police	City Council & John Mulder, City Administrator	Alcohol Compliance Checks - Findings of Fact/Disposition Report - Stokke's Liquor Store	8/14/2021
8/18/2021	21-145	Jim Crace, Chief of Police	City Council & John Mulder, City Administrator	Alcohol Compliance Checks - Findings of Fact/Disposition Report - Sam's Club	8/14/2021
8/18/2021	21-146	Jim Crace, Chief of Police	City Council & John Mulder, City Administrator	Alcohol Compliance Checks - Findings of Fact/Disposition Report - Maya Family Mexican Restaurant	8/14/2021
8/18/2021	21-147	Jim Crace, Chief of Police	City Council & John Mulder, City Administrator	Tobacco Compliance Checks - Final Report	8/14/2021
8/18/2021	21-148	Jim Crace, Chief of Police	City Council & John Mulder, City Administrator	Tobacco Compliance Checks - Findings of Fact/Disposition Report - Korner Store	8/14/2021
8/18/2021	21-149	Jim Crace, Chief of Police	City Council & John Mulder, City Administrator	Tobacco Compliance Checks - Findings of Fact/Disposition Report - Speedway	8/14/2021
8/18/2021	21-150	Eric Johnson, Comm. Dev. Dir.	Planning & Zoning Commission	SUP - Russ Bradley, 5106 Hermantown Rd.	8/17/2021
8/18/2021	21-151	Eric Johnson, Comm. Dev. Dir.	Planning & Zoning Commission	Variance Russ Bradley, 5106 Hermantown Rd.	8/17/2021

8/18/2021	21-152	Eric Johnson, Comm. Dev. Dir.	Planning & Zoning Commission	JAZB Airport Zoning	8/17/2021
8/18/2021	21-153	Eric Johnson, Comm. Dev. Dir.	Planning & Zoning Commission	PUD zoning ordinance text amendments	8/17/2021
8/20/2021	21-154	Wayne Boucher, Mayor	Sheena Shoemaker, 4065 Sangstrom Rd.	Tree Removal on Sangstrom Rd.	8/20/2021
8/23/2021	21-155	Coalition of Greater MN Cities	John Mulder, City Administrator	Membership	8/20/2021
8/30/2021	21-156	MN Employment & Economic Development	Wayne Boucher, Mayor	Monitoring of Grantee Performance - EWC	8/26/2021

HERMANTOWN POLICE DEPARTMENT

# Memo

**To:** City of Hermantown, City Council & City Administrator John Mulder  
**From:** Jim Grace, Chief of Police   
**Date:** August 14, 2021  
**Re:** Alcohol Compliance Checks – Final Report

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On 08/11/2021, the Hermantown Police Department completed alcohol compliance checks of current liquor license holders in the City of Hermantown. Two businesses had not been checked prior to this date as one business does not sell or furnish alcohol on a daily basis and the other was not open during the time of checks using the volunteer.

All compliance checks are performed by the Hermantown Police Department using volunteers. These volunteers attempt to purchase alcoholic beverages as part of our efforts to measure compliance. The goal of these checks is to assess the sales of alcoholic beverages to those under 21 years of age in our community.

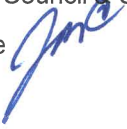
The City of Hermantown currently has 23 businesses that were issued a liquor license for 2021. I am pleased to inform you that 20 of 23 businesses successfully passed the alcohol compliance checks by not serving or selling alcohol to our underage volunteer.

Three businesses failed the alcohol compliance checks by selling alcohol products to our 19 year old volunteer. On 8/11/2021 the Hermantown Police Department used a 19 year old male volunteer to conduct compliance checks. Stokke's Liquor Store, Maya Family Mexican Restaurant, and Sam's Club Liquor all sold alcohol products to our volunteer. The clerks did not ask for an ID and still sold the products to him. The clerks each received a citation for the sale of alcohol to a person under the age of 21.

Each incident of underage sale will be forwarded to the Hermantown City Attorney for review of charges against the license holder.

HERMANTOWN POLICE DEPARTMENT

# Memo

**To:** City of Hermantown, City Council & City Administrator John Mulder  
**From:** Jim Crace, Chief of Police   
**Date:** August 14, 2021  
**Re:** Alcohol Compliance Checks – Finding of Fact/Disposition Report – Stokke's Liquor Store,  
3706 Midway Rd. **(Case Number: 2111660)**

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On 08/11/21, the Hermantown Police Department completed alcohol compliance checks of current alcohol license holders in the City of Hermantown.

Per ordinance 530.17.2.1, this memo will serve as my Finding of Fact/Disposition Report to the City Council and Alcohol Licensee.

All compliance checks are performed by the Hermantown Police Department using volunteers. These volunteers attempt to purchase alcohol products as part of our efforts to measure compliance. The goal of these checks is to assess the sales of alcohol to underage persons in our community.

The Hermantown Police Department used a 19 year old male volunteer to conduct a compliance check at Stokke's Liquor store. The volunteer was instructed to enter the licensed premises and attempt to purchase an alcoholic beverage.

Our 19 year old volunteer successfully purchased a 6-pack of Smirnoff Ice Pink Lemonade Stokke's Liquor store in Hermantown. The clerk did not ask for an ID from the volunteer and still sold the alcohol to him. The clerk received a citation for sale of alcohol to a person under 21.

The case will be forwarded to the Hermantown City Attorney's office for review of charges.

HERMANTOWN POLICE DEPARTMENT

# Memo

**To:** City of Hermantown, City Council & City Administrator John Mulder  
**From:** Jim Crace, Chief of Police *JMC*  
**Date:** August 14, 2021  
**Re:** Alcohol Compliance Checks – Finding of Fact/Disposition Report – Sam's Club, 4743 Maple Grove Rd. **(Case Number: 21111717)**

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On 08/11/21, the Hermantown Police Department completed alcohol compliance checks of current alcohol license holders in the City of Hermantown.

Per ordinance 530.17.2.1, this memo will serve as my Finding of Fact/Disposition Report to the City Council and Alcohol Licensee.

All compliance checks are performed by the Hermantown Police Department using volunteers. These volunteers attempt to purchase alcohol products as part of our efforts to measure compliance. The goal of these checks is to assess the sales of alcohol to underage persons in our community.


The Hermantown Police Department used a 19 year old male volunteer to conduct a compliance check at Sam's Club. The volunteer was instructed to enter the licensed premises and attempt to purchase an alcoholic beverage.

Our 19 year old volunteer successfully purchased a 12-pack of White Claw from Sam's Club in Hermantown. The clerk did not ask for an ID from the volunteer and still sold the alcohol to him. The clerk received a citation for sale of alcohol to a person under 21.

The case will be forwarded to the Hermantown City Attorney's office for review of charges.



# Memo

**To:** City of Hermantown, City Council & City Administrator John Mulder  
**From:** Jim Crace, Chief of Police   
**Date:** August 14, 2021  
**Re:** Alcohol Compliance Checks – Finding of Fact/Disposition Report – Maya Family Mexican Restaurant, 4702 Miller Trunk Hwy. **(Case Number: 21111742)**

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On 08/11/21, the Hermantown Police Department completed alcohol compliance checks of current alcohol license holders in the City of Hermantown.

Per ordinance 530.17.2.1, this memo will serve as my Finding of Fact/Disposition Report to the City Council and Alcohol Licensee.

All compliance checks are performed by the Hermantown Police Department using volunteers. These volunteers attempt to purchase alcohol products as part of our efforts to measure compliance. The goal of these checks is to assess the sales of alcohol to underage persons in our community.

The Hermantown Police Department used a 19 year old male volunteer to conduct a compliance check at Maya Family Mexican Restaurant. The volunteer was instructed to enter the licensed premises and attempt to purchase an alcoholic beverage from the bar.

Our 19 year old volunteer successfully ordered a Colorado Bulldog while sitting at the bar at Maya Family Mexican Restaurant in Hermantown. The clerk did not ask for an ID from the volunteer and still prepared the drink for him. The clerk received a citation for sale of alcohol to a person under 21.

The case will be forwarded to the Hermantown City Attorney's office for review of charges.

HERMANTOWN POLICE DEPARTMENT

# Memo

**To:** City of Hermantown, City Council & City Administrator John Mulder  
**From:** Jim Crace, Chief of Police *JMC*  
**Date:** August 14, 2021  
**Re:** Tobacco Compliance Checks – Final Report

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On 08/11/2021, the Hermantown Police Department completed tobacco compliance checks of current tobacco license holders in the City of Hermantown.

All compliance checks are performed by the Hermantown Police Department using volunteers. These volunteers attempt to purchase tobacco or tobacco related products as part of our efforts to measure compliance. The goal of these checks is to assess the sales of tobacco to those under 21 years of age in our community.

The City of Hermantown currently has 17 businesses that were issued a tobacco license for 2021. I am pleased to inform you that 15 of 17 businesses successfully passed the tobacco compliance checks by not selling tobacco to our underage volunteer.

Two businesses failed the tobacco compliance check by selling nicotine pouches to our 19 year old volunteer. On 8/11/2021 the Hermantown Police Department used a 19 year old male volunteer to conduct compliance checks at the Korner Store, located at 4704 Hermantown Road and the Speedway, located at 5601 Miller Trunk Hwy. The clerks did not ask for an ID from the volunteer and still sold the nicotine pouches to him. The clerks each received a citation for the sale of tobacco to a person under the age of 21.

The case will be forwarded to the Attorney's office for review of charges against the business owners.

HERMANTOWN POLICE DEPARTMENT

# Memo

**To:** City of Hermantown, City Council & City Administrator John Mulder  
**From:** Jim Crace, Chief of Police *JMC*  
**Date:** August 14, 2021  
**Re:** Tobacco Compliance Checks – Finding of Fact/Disposition Report – Korner Store 4704  
Hermantown Road (Case #21111696)

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On 08/11/2021, the Hermantown Police Department completed tobacco compliance checks of current tobacco license holders in the City of Hermantown.

Per ordinance 400.12.5.2, this memo will serve as my Finding of Fact/Disposition Report to the City Council and Tobacco Licensee.

All compliance checks are performed by the Hermantown Police Department using volunteers. These volunteers attempt to purchase tobacco products as part of our efforts to measure compliance. The goal of these checks is to assess the sales of tobacco to those under 21 years of age in our community.


The Hermantown Police Department used a 19 year old male volunteer to conduct a compliance check at the Korner Store. The volunteer was instructed to enter the licensed premises and attempt to purchase tobacco or tobacco related product.

Our 19 year old volunteer successfully purchased a package of On! nicotine pouches from the Korner Store in Hermantown. The clerk did not ask for an ID from the volunteer and still sold the product to him. The clerk received a citation for sale of tobacco to a person under the age of 21.

The case will be forwarded to the Hermantown City Attorney for review.

HERMANTOWN POLICE DEPARTMENT

# Memo

**To:** City of Hermantown, City Council & City Administrator John Mulder  
**From:** Jim Crace, Chief of Police   
**Date:** August 14, 2021  
**Re:** Tobacco Compliance Checks – Finding of Fact/Disposition Report – Speedway 5601 Miller Trunk Hwy (Case #21111846)

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On 08/11/2021, the Hermantown Police Department completed tobacco compliance checks of current tobacco license holders in the City of Hermantown.

Per ordinance 400.12.5.2, this memo will serve as my Finding of Fact/Disposition Report to the City Council and Tobacco Licensee.

All compliance checks are performed by the Hermantown Police Department using volunteers. These volunteers attempt to purchase tobacco products as part of our efforts to measure compliance. The goal of these checks is to assess the sales of tobacco to those under 21 years of age in our community.

The Hermantown Police Department used a 19 year old male volunteer to conduct a compliance check at the Speedway. The volunteer was instructed to enter the licensed premises and attempt to purchase tobacco or tobacco related product.

Our 19 year old volunteer successfully purchased On! nicotine pouches from the Speedway in Hermantown. The clerk did not ask for an ID from the volunteer and still sold the product to him. The clerk received a citation for sale of tobacco to a person under the age of 21.

The case will be forwarded to the Hermantown City Attorney for review.

 **EMPLOYMENT AND  
ECONOMIC DEVELOPMENT**

August 26, 2021

The Honorable Wayne Boucher  
Mayor, City of Hermantown  
5105 Maple Grove Road  
Hermantown, MN 55811

**RE: Monitoring of Grantee Performance**  
**Grant #: SPAP-17-0016-P-FY17**  
**Project Title: Arrowhead Regional Health and Wellness Center**  
**n/k/a Essentia Wellness Center**

Dear Mayor Boucher:

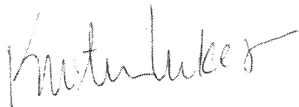
Department of Employment and Economic Development (DEED) staff, Ryan Bloomberg, led a Microsoft Teams meeting on August 20, 2021 for the purpose of monitoring the referenced special appropriations grant. He met with John Mulder to examine the grant management and financial management of the project. Our primary purpose was to help the city meet the objectives set forth in this program, and to ensure compliance with all applicable regulations so that the city derives full benefit from the special appropriations grant.

I am pleased to inform you that we have no negative findings to report. On the basis of our review of the project's documentation, we have changed the status of the grant from "Closed, Pending Monitoring" to "Closed."

I have enclosed a copy of the Grant Adjustment Notice implementing this change.

If we can be of further assistance, please contact me at 651-259-7451.

Sincerely,



Kristin Lukes, Director  
Brownfields and Redevelopment Unit

Enclosure

CC: John Mulder



# EMPLOYMENT AND ECONOMIC DEVELOPMENT

## Brownfields and Redevelopment Unit

### Grant Adjustment Notice

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Grant Number: SPAP-17-0016-P-FY17

Grantee: City of Hermantown

Grant Name: Arrowhead Regional Health and Wellness Center n/k/a Essentia Wellness Center

Adjustment Number: 2

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#### THE FOLLOWING ADJUSTMENT IN THE ABOVE GRANT IS NOW APPROVED:

A. The status of the grant is now: Closed  
The former status was: Closed, Pending Monitoring

B. The budget amounts for this grant are changed as follows:

C. Other (Narrative):

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Prepared by: 

Date: 8/26/2021

Approved by: 

Date: 8/26/21

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**TO:** Mayor & City Council  
**FROM:** Eric Johnson, Community  
Development Director



**DATE:** August 23, 2021                      **Meeting Date:** 9/7/21  
**SUBJECT:** Update on JAZB Draft Airport      **Agenda Item: 7-A**      **Presentation**  
Zoning

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**REQUESTED ACTION**

**No action is required, informational only.**

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**BACKGROUND**

City staff has been working with the Planning and Zoning Commission (P&Z) members, City Council and the Joint Airport Zoning Board (JAZB) on possible changes to the Airport Zoning Districts in Hermantown based on MN DOT's comments on proposed custom airport zoning for the Duluth Airport that were provided to us May 22, 2021 and emails from Steve Hanke, JAZB Attorney, dated May 21 and May 25.

City staff reviewed the emails, formulated a response and advised the City Council of the May 21 MnDOT comments and solicited comments at their meeting on June 7, 2021.

The Joint Airport Zoning Board (JAZB) held a public hearing on June 21, 2021 to present the proposed draft amendment for public comment. There was one public comment received asking if nursing homes would be prohibited within the Zone 2.5.

There was continued discussion between the City and JAZB regarding the prohibition of nursing homes within Safety Zone 2.5. City staff informed JAZB that any changes other than what had been previously discussed with the P&Z and City Council would need to be brought to each group in order to solicit comments and direction. The meeting dates are August 17, 2021 for P&Z and September 7, 2021 for City Council.

JAZB subsequently informed the City that they would revise the prohibited issues within Zone 2.5 to the following:

- 1.1.1. Childcare or daycare centers;
- 1.1.2. State licensed residential care facilities and housing with service establishments serving 6 or **more** persons;
- 1.1.3. State licensed adult daycare facility serving 12 or **more** persons;
- 1.1.4. State licensed group family daycare facility serving 12 or **more** children;
- 1.1.5. Public or private hospital;
- 1.1.6. Public or private school;

It was JAZB's opinion that by changing prohibited groups from a less than scenario to a more than scenario that it would prohibit nursing homes. Hermantown responded that by utilizing this language, that the prior users which were previously prohibited are now allowed. Furthermore, the City suggested that a definition of nursing home be established and agreed upon by JAZB in order to prohibit the use rather than utilizing modified language as the means to prohibit.

At the August 5, 2021 meeting, JAZB voted to utilize their language identifying prohibited uses for the draft zoning ordinance, with the understanding that each member community could enact more prohibitive language should they desire. JAZB then voted to submit the draft zoning ordinance with the prohibited language to MnDOT for their review.

This information was presented to the Planning and Zoning Commission on August 17. There were no questions with the board members being appreciative of the work being done.

Based on this decision by the JAZB it is the recommendation of City staff that we take no further action regarding this matter and await the decision by MnDOT regarding the draft submitted to it. Once MnDOT's response is provided then we will analyze the response and make recommendations to the Planning and Zoning Commission.



**TO:** John Mulder  
**FROM:** Kevin Orme, Director of  
Finance & Administration  
**DATE:** August 19, 2021  
**SUBJECT:** 2022 Levy and general fund  
budget



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### **REQUESTED ACTION**

**Leave the 2022 General Fund Budget and 2022 Levy increase to what was proposed to the City Council on August 16, 2021**

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### **BACKGROUND**

Our initial 2022 general fund budget estimated our health insurance increase to be 10%. Based on our meeting with our provider yesterday it appears that increase will be 3%. This gives us the option of either keeping our payroll budget as is or reducing the budget and levy due to the reduced health insurance increase. The estimated dollar amount this could impact the general fund is \$40,000. Historically since I have been here we have not reduced the budget and levy when the health insurance increase is less than budgeted. I think this is wise as there are many factors when budgeting payroll that we simply do not know when budgeting so many months in advance. Therefore, having a payroll buffer is prudent and wise to keep us from being short with fixed costs that cannot be easily adjusted. Following are some of the factors that could negatively impact our current 2022 payroll budget:

- Union and Management contract negotiations – There is a fair chance there will be increased unbudgeted City costs when these contracts are settled
- Single to Family health insurance – If only two people switch from single to family coverage in 2022 this would use up most of the potential savings
- Worker’s Compensation – Our plan year is over July 2022. If there is a large workers comp increase we will be short on that portion of the payroll budget for the last half of 2022.
- Employee Retirements – If an employee retires in 2022 that we currently do not anticipate this could have a major negative impact on the payroll budget

Even if none of the possible factors happen our current 2022 general fund budget shows a zero surplus. As mentioned many times, in order for the City to maintain our current fund balance to expenditure ratio goal the City needs to make a surplus each year. Therefore, we need to do better than our current budget of a zero surplus. To maintain our ratio in 2022 we will need to make a \$311,000 surplus. This health insurance buffer (if it isn’t used up in other ways) could be a small step towards that needed surplus.

CITY OF HERMANTOWN  
CITY COUNCIL CONTINUATION MEETING  
August 16, 2021  
6:30 p.m.

## MEETING CONDUCTED IN PERSON & VIA ZOOM

### Pledge of Allegiance

**ROLL CALL:** Councilors Geissler, Hauschild, Peterson, Mayor Boucher

**CITY STAFF:** John Mulder, City Administrator; Bonnie Engseth, City Clerk; Eric Johnson, Community Development Director; Joe Wicklund, Communications Director; Jim Crace, Chief of Police; Steve Overom, City Attorney

**ABSENT:** Councilor Nelson

**VISITORS:** 14

### ANNOUNCEMENTS

### PUBLIC HEARING

### COMMUNICATIONS

Communications 21-135 through and including 21-141 were read and placed on file.

Communication 21-141 from Jake Perry, 3779 Johnson Rd. to John Mulder, City Admin; Bonnie Engseth, City Clerk; Joe Wicklund, Comm. Dir. regarding Petition for Alternate Secondary Egress – Carlson Road Expansion

**PRESENTATIONS** – Mayor Boucher acknowledged the passing of Clarence Black who was an instrumental member of the community due to his service on the police dept., fire dept. & city council.

### PUBLIC DISCUSSION

### CONSENT AGENDA

Motion made by Councilor Peterson, seconded by Councilor Geissler to approve the Consent Agenda which includes the following items:

- A. Approve August 2, 2021 City Council Minutes
- B. Approve general city warrants from August 1, 2021 through August 15, 2021 in the amount of \$859,360.90

Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

### MOTIONS

### ORDINANCES

**2021-05**      An Ordinance Amending Chapter 9, Utilities And Services, Of The Hermantown City Code

Second Reading

Motion made by Councilor Geissler, seconded by Councilor Peterson to adopt Ordinance 2021-05, An Ordinance Amending Chapter 9, Utilities And Services, Of The Hermantown City Code. Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

**2021-06**      An Ordinance Amending Section 230.03, Utility Commission, Of The Hermantown City Code

Second Reading

Motion made by Councilor Peterson, seconded by Councilor Hauschild to adopt Ordinance 2021-06, An Ordinance Amending Section 230.03, Utility Commission, Of The Hermantown City Code. Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

**2021-07**      An Ordinance Amending Section 820 Of The Hermantown City Code By Amending The City Of Hermantown Snowmobile And ATV Map

First Reading

**RESOLUTIONS**

**2021-95**      Resolution To Establish A No Parking Zone Along A Section Of Hermantown Road In The City Of Hermantown

Motion made by Councilor Peterson, seconded by Councilor Geissler to adopt Resolution 2021-95, Resolution To Establish A No Parking Zone Along A Section Of Hermantown Road In The City Of Hermantown. Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

**2021-96**      Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Development Agreement With JLG Enterprises Of Hermantown, LLP For Peyton Acres Phase 1B

Motion made by Councilor Peterson, seconded by Councilor Hauschild to adopt Resolution 2021-96, Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Development Agreement With JLG Enterprises Of Hermantown, LLP For Peyton Acres Phase 1B. Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

**2021-97**      Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A First Amendment To Development Agreement With Shaine Stokke

Motion made by Councilor Geissler, seconded by Councilor Peterson to adopt Resolution 2021-97, Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver A First Amendment To Development Agreement With Shaine Stokke. Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

**2021-98**      Resolution Authorizing A Summary Of An Ordinance Amending Chapter 9, Utilities And Services, Of The Hermantown City Code

Motion made by Councilor Geissler, seconded by Councilor Hauschild to adopt Resolution 2021-98, Resolution Authorizing A Summary Of An Ordinance Amending Chapter 9, Utilities And Services, Of The Hermantown City Code. Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

**2021-99**      Resolution Authorizing And Directing The Mayor And City Clerk To Consent To The Appraisal Services Agreement For Appraisal Services For The Ugstad Road Improvement Project Between F.I. Salter Company, Inc. And Overom Law, PLLC With A Maximum Contract Amount Of \$9,500.00

Motion made by Councilor Geissler, seconded by Councilor Peterson to adopt Resolution 2021-99, Resolution Authorizing And Directing The Mayor And City Clerk To Consent To The Appraisal Services Agreement For Appraisal Services For The Ugstad Road Improvement Project Between F.I. Salter Company, Inc. And Overom Law, PLLC With A Maximum Contract Amount Of \$9,500.00. Roll Call: Councilors Geissler, Hauschild, Peterson, Mayor Boucher, aye. Councilor Nelson, absent. Motion carried.

**2021-100**      Resolution Declaring A Permanent 25 Foot Setback Area

Motion made by Councilor Peterson, seconded by Councilor Hauschild to adopt Resolution 2021-100, Resolution Declaring A Permanent 25 Foot Setback Area. Roll Call: Councilors Hauschild, Peterson, Mayor Boucher, aye. Councilor Geissler, abstain. Councilor Nelson, absent. Motion carried.

Motion made by Councilor Geissler, seconded by Councilor Peterson to recess the meeting at 6:52 p.m. Motion carried.

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Mayor

ATTEST:

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Clerk

**CITY OF HERMANTOWN**

CHECKS #67778-67833  
08/16/2021-08/31/2021

PAYROLL CHECKS

Electronic Checks - #70359-70412 79,554.32

LIABILITY CHECKS

Electronic Checks - #70352-70358 \$60,109.52

Check - #67825-67832 \$72,701.66

Check - #67783 \$75.00

**PAYROLL EXPENSE TOTAL \$212,440.50**

ACCOUNTS PAYABLE

Check - #67778-67782 \$912.79

Check - #67784 \$15,700.25

Check - #67785-67824 \$207,128.92

Checks -#67833 \$2,239.00

Electronic Payments -#-99851-99852 \$3,790.19

**ACCOUNTS PAYABLE TOTAL \$229,771.15**

**TOTAL \$442,211.65**

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Fund	Account	Department	Vendor Name	Description	Amount	Check #
101	217450	Employee Flexplan	FURTHER ELECTRONIC PAYMENTS	Claim Reimbursement - Electron	1,111.39	-99852
101	362430	Refund & Reimbursement	FIRST BANKCARD	July First Bankcard Mulder	520.00	-99851
101	362430	Refund & Reimbursement	FIRST BANKCARD	July First Bankcard Vatne	-25.00	-99851
101	415300	Administration & Finance	FIRST BANKCARD	July First Bankcard Orme	465.00	-99851
101	415300	Administration & Finance	FIRST BANKCARD	July First Bankcard Orme	9.74	-99851
101	419901	City Hall & Police Building Maintenance	FIRST BANKCARD	July First Bankcard Heinbuch	44.76	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Gottschald	10.38	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Leibel	93.61	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Ross	88.62	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Ross	473.86	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Ross	145.99	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Sorensen	29.97	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Knapp	57.26	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Enright	10.70	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Ross	39.98	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Crace	8.00	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Johnson	59.43	-99851
101	421100	Police Administration	FIRST BANKCARD	July First Bankcard Ross	640.00	-99851
601	494400	Water Administration and General	FIRST BANKCARD	July First Bankcard Orme	3.25	-99851
602	494900	Sewer Administration and General	FIRST BANKCARD	July First Bankcard Orme	3.25	-99851
101	322900	Handgun/Bow Permits	JOHNSTON, BRADLEY	Archery Permit Refund	15.00	67778
101	322900	Handgun/Bow Permits	SALO, BRADLEY	Archery Permit Refund	15.00	67779
601	220100	Refund Payable	SMITH, JAMES	Refund overpayment final bill	5.79	67780
101	214000	Security Deposits Payable	POTTER, STEVE	Driveway 4848 Adrian Lane	250.00	67781
101	411300	Ordinance, Public Notice and Proceedings	HERMANTOWN STAR LLC	Financial Report	577.50	67782
101	419100	Community Development	HERMANTOWN STAR LLC	PH PZ ran 6/3/21	49.50	67782
475	431150	Street Improvements	SINNOTT CONTRACTING	Old Hwy 2 Reclamation	15,700.25	67784
101	419901	City Hall & Police Building Maintenance	A G O'BRIEN PLUMBING & HEATING INC	RP2 Test (Req'd)	137.00	67785
601	494400	Water Administration and General	BLACK MOUNTAIN SOFTWARE INC	SAMSID Custom Development Work	6,121.88	67786
602	494900	Sewer Administration and General	BLACK MOUNTAIN SOFTWARE INC	SAMSID Custom Development Work	6,121.87	67786
101	452100	Parks	BRENT'S SEPTIC SERVICE LLC	Portable Toilets	975.00	67787
101	422902	Firehall #2 Morris Thomas Road	CENTURYLINK	Internet FH #2 Jul-28 thru 08-	69.98	67788
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at CH	8.88	67789
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at FD/PD	30.72	67789
101	431100	Street Department	CINTAS CORPORATION	Uniforms	27.13	67789
101	431100	Street Department	CINTAS CORPORATION	Uniforms	10.80	67789
101	431100	Street Department	CINTAS CORPORATION	Uniforms	10.80	67789
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	25.48	67789

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Fund	Account	Department	Vendor Name	Description	Amount	Check #
101	431901	City Garage	CINTAS CORPORATION	Supplies	30.00	67789
101	431901	City Garage	CINTAS CORPORATION	Supplies	15.00	67789
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	7.00	67789
601	494300	Water Distribution	CITY OF DULUTH COMFORT SYSTEMS	July Water Charges	97,701.03	67790
601	494300	Water Distribution	CORE & MAIN LP	H2O Valve on Morris Thomas Rd	2,287.75	67791
601	494300	Water Distribution	CORE & MAIN LP	Meters	1,561.71	67791
101	452100	Parks	DAN'S FEED BIN	Grass Seed & Weed Killer	320.85	67792
101	415300	Administration & Finance	DULUTH NEWS-TRIBUNE	Subscription Renewal/ 6 mos	90.88	67793
350	415300	Administration & Finance	EHLERS & ASSOCIATES INC	Debt Study	1,275.00	67794
461	465100	HEDA	EHLERS & ASSOCIATES INC	Fleet Farm Abatement	337.50	67794
460	465100	HEDA	EHLERS & ASSOCIATES INC	TIF Reporting - 2020 Reports	765.00	67794
318	471000	Debt Service	EHLERS & ASSOCIATES INC	Arbitrage Report-Go Rfnd 2016A	2,000.00	67794
601	494400	Water Administration and General	ENVIRONMENTAL SYSTEMS RESEARCH INST. INC	ArcGIS License	2,044.08	67795
602	494900	Sewer Administration and General	ENVIRONMENTAL SYSTEMS RESEARCH INST. INC	ArcGIS License	1,983.96	67795
603	441100	Storm Water	ENVIRONMENTAL SYSTEMS RESEARCH INST. INC	ArcGIS License	1,983.96	67795
601	494300	Water Distribution	FERGUSON WATERWORKS #2516	Curb Stop tops for Lvq. Jct.	310.32	67796
101	415300	Administration & Finance	FURTHER	Monthly Participant Fee Aug	10.30	67797
101	419100	Community Development	FURTHER	Monthly Participant Fee Aug	0.80	67797
101	419901	City Hall & Police Building Maintenance	FURTHER	Monthly Participant Fee Aug	0.80	67797
101	421100	Police Administration	FURTHER	Monthly Participant Fee Aug	33.90	67797
101	431100	Street Department	FURTHER	Monthly Participant Fee Aug	4.00	67797
601	494400	Water Administration and General	FURTHER	Monthly Participant Fee Aug	3.62	67797
602	494900	Sewer Administration and General	FURTHER	Monthly Participant Fee Aug	5.43	67797
101	421100	Police Administration	GREAT LAKES MOBIL LUBE EXPRESS	Oil Change Squad 21	85.38	67798
101	415300	Administration & Finance	GREATAMERICA FINANCIAL SERVICES	Copier Lease/Konica Aug	96.00	67799
101	421100	Police Administration	HERMANTOWN RADIATOR REPAIR	Battery Removal SQD 16	220.49	67800
101	431100	Street Department	HERMANTOWN RADIATOR REPAIR	Canister SOL 07 Chvy	242.27	67800
101	431100	Street Department	HERMANTOWN RADIATOR REPAIR	Oil Pressure SW/Sensor Filter	287.41	67800
101	419100	Community Development	HERMANTOWN STAR LLC	Public Hearing P&Z ran 8/5/21	41.25	67801
101	424100	Building Inspection	HERMANTOWN STAR LLC	Ordinance 2021-04 - Bldg Code	74.25	67801
460	465100	HEDA	HERMANTOWN STAR LLC	Annual Disclosure Tax Incremen	123.75	67801
101	419901	City Hall & Police Building Maintenance	KWIK TRIP EXTENDED NETWORK	Gas Building	51.62	67802
101	421100	Police Administration	KWIK TRIP EXTENDED NETWORK	Car Wash PD	179.00	67802
101	421100	Police Administration	KWIK TRIP EXTENDED NETWORK	Gas PD	3,718.78	67802
101	431100	Street Department	KWIK TRIP EXTENDED NETWORK	Gas Street	688.86	67802

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Fund	Account	Department	Vendor Name	Description	Amount	Check #
601	494300	Water Distribution	KWIK TRIP EXTENDED NETWORK	Gas Utility	565.17	67802
602	494500	Sewer Maintenance	KWIK TRIP EXTENDED NETWORK	Gas Utility	376.78	67802
101	431100	Street Department	MCCOY CONSTRUCTION & FORESTRY, INC	Exhaust Gasket for 6130	41.56	67803
101	419901	City Hall & Police Building Maintenance	MENARD INC	Lawn Care Tool	5.98	67804
101	419901	City Hall & Police Building Maintenance	MENARD INC	Lawn Care Tool	15.49	67804
101	419901	City Hall & Police Building Maintenance	MENARD INC	Lawn Care Tool	3.97	67804
101	431100	Street Department	MENARD INC	PVC Parts Cleanout repair Arro	78.11	67804
101	431100	Street Department	MENARD INC	Raid Wasp & Hornet Spray	29.82	67804
601	494300	Water Distribution	MILLER, ROBERT	Cables to VXU Machine	38.07	67805
601	220110	Water Test Fee Payable	MN DEPARTMENT OF HEALTH	Water Supply Serv Connect fee	5,722.65	67806
101	419901	City Hall & Police Building Maintenance	MN DEPT OF LABOR & INDUSTRY	Boilers - 51111 Maple Grove	40.00	67807
101	422901	Firehall #1 Maple Grove Road	MN DEPT OF LABOR & INDUSTRY	Pressure Vessel - FH1	10.00	67807
101	431100	Street Department	MN DEPT OF LABOR & INDUSTRY	PW Boiler Permit	10.00	67807
601	494300	Water Distribution	MN DEPT OF LABOR & INDUSTRY	PW Boiler Permit	5.00	67807
602	494500	Sewer Maintenance	MN DEPT OF LABOR & INDUSTRY	PW Boiler Permit	5.00	67807
101	419901	City Hall & Police Building Maintenance	MN ENERGY RESOURCES CORP	Natural Gas CH/PD	47.00	67808
101	419901	City Hall & Police Building Maintenance	MN ENERGY RESOURCES CORP	Natural Gas -CH/PD	147.68	67808
101	422901	Firehall #1 Maple Grove Road	MN ENERGY RESOURCES CORP	Natural Gas -FH#1	180.49	67808
275	452200	Community Building	MN ENERGY RESOURCES CORP	Natural Gas EWC	2,266.74	67808
240	432510	Trunk Sewer Construction	MN POLLUTION CONTROL AGENCY	Admin Penalty Assessment	10,530.00	67809
101	419901	City Hall & Police Building Maintenance	MN POWER	4995600000 City Hall/Police/Fi	2,459.73	67810
101	422901	Firehall #1 Maple Grove Road	MN POWER	4995600000 City Hall/Police/Fi	1,572.62	67810
101	422902	Firehall #2 Morris Thomas Road	MN POWER	4995600000 FH #2 MorrisThomas	92.75	67810
101	422903	Firehall #3 Midway Road	MN POWER	4995600000 FH #3 Midway/Rose	78.68	67810
101	431901	City Garage	MN POWER	4995600000 4971 Lightning Dr	230.24	67810
101	431901	City Garage	MN POWER	4995600000 5255 Maple Grove Rd	14.90	67810
101	452100	Parks	MN POWER	7463700000 Little Leagues	18.33	67810
101	452100	Parks	MN POWER	0606881181 Parks	594.62	67810
601	494400	Water Administration and General	MN POWER	4995600000 4971 Lightning Dr	138.14	67810
601	494400	Water Administration and General	MN POWER	3623400000 Water	529.27	67810
602	494900	Sewer Administration and General	MN POWER	0973881171 Sewer	433.33	67810
602	494900	Sewer Administration and General	MN POWER	4995600000 4971 Lightning Dr	92.09	67810
275	452200	Community Building	MN POWER	5498955531 4289 Ugstad Rd/EWC	12,830.67	67810
101	452200	Community Building	MN POWER	0606881181 Community Bldg	642.75	67810
275	452200	Community Building	MN POWER	3481871314 EWC Garage	24.70	67810
605	431160	Street Lighting	MN POWER	1424100000 Street Lights	208.59	67810
605	431160	Street Lighting	MN POWER	0247020000 Street Lights	337.87	67810
605	431160	Street Lighting	MN POWER	0733871171 Traffic Lights	675.57	67810



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Fund	Account	Department	Vendor Name	Description	Amount	Check #
605	431160	Street Lighting	MN POWER	3060281959 Street Lights (Roun	16.33	67810
605	431160	Street Lighting	MN POWER	6175310000 Street Lights	620.74	67810
605	431160	Street Lighting	MN POWER	0234310000 Overhead St Lights	414.60	67810
605	431160	Street Lighting	MN POWER	0041881181 Street Lights	410.88	67810
101	419901	City Hall & Police Building Maintenance	MN TELECOMMUNICATIONS	August Internet	112.50	67811
101	422901	Firehall #1 Maple Grove Road	MN TELECOMMUNICATIONS	August Internet	112.50	67811
601	494400	Water Administration and General	MN TELECOMMUNICATIONS	August Internet	112.50	67811
602	494900	Sewer Administration and General	MN TELECOMMUNICATIONS	August Internet	112.50	67811
101	431100	Street Department	NAPA AUTO PARTS	Spark Plug/Leaf Blower	9.18	67812
101	431100	Street Department	NAPA AUTO PARTS	Oil for F550	86.79	67812
101	416100	City Attorney	OVEROM LAW, PLLC	Data Practices Procedures	214.52	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Open Meeting Law Issues & Rese	56.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Blasting Claim	7.50	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Nuisance Ordinance	98.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	General Matters/Retainer	1,250.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Data Practices Requests	566.50	67813
101	416100	City Attorney	OVEROM LAW, PLLC	COVID-19 Issues	118.50	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Bill Wilson Development/Arrowh	425.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	2021 Recreation Facility	1,277.50	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Anderson Rd Nuisance Matters	57.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Broadband Expansion	56.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Hermantown Helpers	85.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	JAZB Board of Appeals and Adju	1,639.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Snowmobile Ordinance	150.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	Naming Rights Policies	28.00	67813
101	416100	City Attorney	OVEROM LAW, PLLC	2021-2022 CIP	5.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	Zierden Okerstrom Road Develop	60.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	Jenny Farms/Jenny Acres Develo	790.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	Keene Creek Plat Matters	555.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	Meg Johnson Greenhouse Special	35.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	Kolquist Assisted Living Proje	745.90	67813
101	419100	Community Development	OVEROM LAW, PLLC	Oppidan Development	180.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	Planning & Zoning Commission	161.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	PUD Ordinance Amendment	91.00	67813
101	419100	Community Development	OVEROM LAW, PLLC	Peyton Acres Development Matte	110.00	67813
101	421100	Police Administration	OVEROM LAW, PLLC	2021 Alcoholic Beverage Code C	55.00	67813
101	424100	Building Inspection	OVEROM LAW, PLLC	Building Code Update	25.00	67813
230	465100	HEDA	OVEROM LAW, PLLC	HEDA Agenda Matters	203.00	67813

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Fund	Account	Department	Vendor Name	Description	Amount	Check #
230	465100	HEDA	OVEROM LAW, PLLC	HEDA Sale to Glen Hansen	650.00	67813
230	465100	HEDA	OVEROM LAW, PLLC	Marketplace Anchor Project	320.00	67813
601	494400	Water Administration and General	OVEROM LAW, PLLC	Water and Sewer Applications	363.75	67813
602	494900	Sewer Administration and General	OVEROM LAW, PLLC	Sewer Availability Charge	75.00	67813
602	494900	Sewer Administration and General	OVEROM LAW, PLLC	Long Range Sewer Plan	117.00	67813
602	494900	Sewer Administration and General	OVEROM LAW, PLLC	Water and Sewer Applications	363.75	67813
402	431150	Street Improvements	OVEROM LAW, PLLC	Ugstad Road Easement Acquisiti	404.50	67813
475	431150	Street Improvements	OVEROM LAW, PLLC	Richard Avenue and Lindgren RD	70.00	67813
475	431150	Street Improvements	OVEROM LAW, PLLC	Lavaque Junction St Improv	304.50	67813
275	452200	Community Building	OVEROM LAW, PLLC	EWC	210.00	67813
603	441100	Storm Water	OVEROM LAW, PLLC	Long Range Sewer Plan	54.00	67813
603	441100	Storm Water	OVEROM LAW, PLLC	Stormwater Utility Matters	35.00	67813
240	432510	Trunk Sewer Construction	OVEROM LAW, PLLC	Northwoods Properties Inc Ease	480.50	67813
240	432510	Trunk Sewer Construction	OVEROM LAW, PLLC	Stauber Properties Partnership	42.00	67813
240	432510	Trunk Sewer Construction	OVEROM LAW, PLLC	2017 Sewer Trunkline-Sec 24	364.00	67813
101	421100	Police Administration	PETTY CASH	PD - Compliance Check	106.15	67814
101	431100	Street Department	POMP'S TIRE SERVICE INC	Tires for H4	3,879.92	67815
101	424100	Building Inspection	RICH, JAMES	MN Dept. Labor & Industry Regi	50.00	67816
101	431100	Street Department	SATHERS, LLC	Class 5 - Crushed Material	5,103.00	67817
240	433200	Water Tower	SHORT ELLIOTT HENDRICKSON INC	Water Tower Reconditioning - H	2,200.00	67818
240	432510	Trunk Sewer Construction	STAUBER PROPERTIES PARTNERSHIP	Easement - Sec 24 Sewer Trnk L	6,000.00	67819
101	421100	Police Administration	STREICHER'S	Non Lethal Ammo	268.45	67820
101	431100	Street Department	TERHAAR, JERRIE	Reimburse Safety Boots	140.35	67821
601	494300	Water Distribution	TERHAAR, JERRIE	Reimburse Safety Boots	70.18	67821
602	494500	Sewer Maintenance	TERHAAR, JERRIE	Reimburse Safety Boots	70.18	67821
101	421100	Police Administration	USA TOWING & RECOVERY	Tow StIn Vhcl to HPD 21089791	130.00	67822
101	421100	Police Administration	USA TOWING & RECOVERY	Towing - Accident #21102552	130.00	67822
101	421100	Police Administration	USA TOWING & RECOVERY	Towing - ImpRec Case 21089710	130.00	67822
602	494500	Sewer Maintenance	USABUEBOOK	Manhole Debris Catcher	627.90	67823
601	494400	Water Administration and General	VALLI INFORMATION SYSTEMS, INC	July Monthly Maintenance	33.34	67824
602	494900	Sewer Administration and General	VALLI INFORMATION SYSTEMS, INC	July Monthly Maintenance	33.33	67824
603	441100	Storm Water	VALLI INFORMATION SYSTEMS, INC	July Monthly Maintenance	33.33	67824
101	421100	Police Administration	NORTHEAST SERVICE COOPERATIVE	Inactives (Health Ins Sept)	1,388.70	67833
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Inactives (Health Ins Sept)	850.30	67833

Totals: 183 records printed

229,771.15

**TO:** Mayor & City Council

**FROM:** Jim Crace, Chief of Police



**DATE:** August 31, 2021

**Meeting Date:** 9/7/21

**SUBJECT:** Ordinance – Amend ATV Map    Agenda Item: 11-A    Ordinance 2021-07

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**REQUESTED ACTION**

**Second Reading of an ordinance amending Section 820 – ATV Map**

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**BACKGROUND**

Several years ago, the City of Hermantown opened up our city streets to ATV and snowmobile traffic. Shortly after that, St. Louis County also opened up county roads to Class 2 ATVs. At the time of those changes, staff was concerned about the area on the far east side of our city, specifically the area East of Stebner Road. At that time, we decided that restricting Stebner Road and most all roads to the East of that, was the best approach. After several years of not experiencing any issues associated with allowing this traffic, a request came in from Councilor Geissler to re-evaluate the area of Stebner Road and a couple other roads within that restricted area. I have evaluated that request and have come to the opinion that expanding ATV and snowmobile traffic will not have adverse effects. Please see the attached map for the proposed revisions.

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**SOURCE OF FUNDS (if applicable)**

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**ATTACHMENTS**

Map

**Ordinance No. 2021-07**

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING SECTION 820 OF  
THE HERMANTOWN CITY CODE BY AMENDING THE  
CITY OF HERMANTOWN SNOWMOBILE AND ATV MAP**

**Section 1. Purpose and Intent.** The purpose and intent of this amendment to the City of Hermantown Snowmobile and ATV Map is to modify the routes established by the City Council available to the public for the snowmobile and ATV use.

**Section 2. Amendment to City of Hermantown Snowmobile and ATV Map.** The official City of Hermantown Snowmobile and ATV Map of the City of Hermantown is hereby amended as indicated on the map attached hereto as Exhibit A and available for public inspection at the Hermantown Police Department.

**Section 3. Effective Date.** The provisions of this Ordinance shall be effective after adoption and immediately upon publication once in the official newspaper of the City of Hermantown.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_



# Hermantown Snowmobile & ATV Designated Routes

## RULE REMINDERS

### All-Terrain Vehicles (ATVs)

**Class 1 ATVs** are motorized flotation-tired vehicles with at least three but no more than six low pressure tires that have an engine displacement of less than 1000 cubic centimeters and totally dry weight of less than 1200 pounds.\*

**Class 2 ATVs** are motorized flotation-tired vehicles with at least three but no more than six, low pressure tires that have an engine displacement of less than 1000 cubic centimeters and total dry weight of 1200 to 1800 pounds.\*

### Public road right-of-way

- ◆ Class 1 & 2 ATVs may be operated in the extreme right side of designated city streets.
- ◆ Class 2 ATVs may be operated in the extreme right side of designated city streets and county roadways.
- ◆ Class 1 & 2 ATVs may NOT be operated on the shoulder of a state trunk highway

### ATV General Operations

- ◆ A valid driver's license is required to operate an ATV on road right-of-way.
- ◆ If your ATV is equipped with a headlight and taillight they must be on at all times.
- ◆ ATVs must be operated on far right-hand side of authorized roadway
- ◆ Speed limit in Hermantown is 30 mph and travel must be on the right side of authorized roadways.
- ◆ Class 2 ATV may operate in road right-of-way of a trunk, county state-aid, or county highway - but only to access businesses or make trail connections. A left turn may be made safe if it is safe to do so.
- ◆ All state laws regarding operation and equipment requirements apply
- ◆ Proof of insurance in compliance with provisions of Minnesota Statutes Section 65B.48, subd. 5

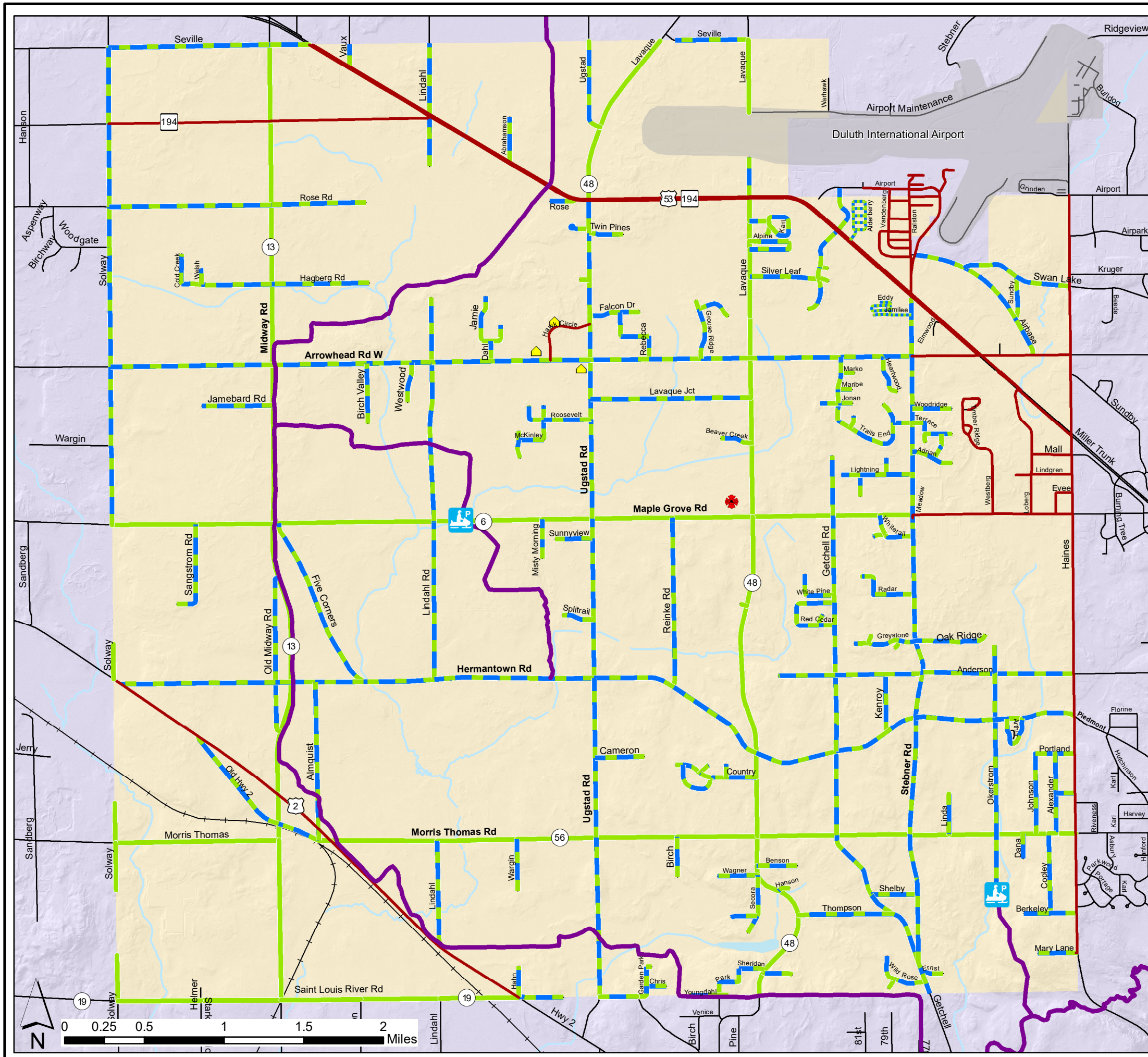
### Snowmobiles

- ◆ Snowmobiles may operate on far right-hand side of city streets only.
- ◆ For County roadways, snowmobile operators must travel in the outside slope of the ditch, whenever passable.
- ◆ Speed limit in Hermantown is 30 mph and travel must be on the right side of authorized roadways.

## LEGEND

- Snowmobile Club Parking Lot
- Hermantown Schools
- Hermantown Volunteer Fire Department
- State Snowmobile Trail
- Roads **NOT** permitted for on road use
- Class 1 & 2 and Snowmobiles permitted for on-road use
- Class 2 ATV ONLY permitted for on road use

\*\*Snowmobiles and Class I ATVs are allowed in all ditches  
 \*\*Class 2 ATVs are **NOT** allowed in any ditches





**TO:** Mayor & City Council  
**FROM:** Eric Johnson, Community  
Development Director



**DATE:** August 23, 2021      **Meeting Date:** 9/7/21  
**SUBJECT:** Chapter 11 PUD Ordinance      **Agenda Item: 11-B**      **Ordinance 2021-08**

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**REQUESTED ACTION**

**First reading on the amended Chapter 11 Planned Unit Development Ordinance**

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**BACKGROUND**

Staff is recommending amendments to the City Code that will improve the PUD process from a submittal, review and approval standpoint. These new procedures will work to define the purpose of PUD's; better define the application process and what is required for a preliminary PUD submission and final PUD submission; redefine the review procedure; define density bonus; and identify potential design amenities associated with the proposed PUD's.

At the July 20, 2021 meeting, the P&Z recommended the ordinance to the City Council and directed staff to work with the City Attorney as necessary on any revisions. The revisions were presented to P&Z on August 17, 2021 as well in order to solicit any final comments before the ordinance was presented to the City Council. Proposed revisions and clarifications include:

1. The Preliminary PUD and Final PUD can be combined in one review process for some PUD applications.
2. The review and consideration of plats and PUD's are combined.
3. Plats are not required for every PUD.
4. The determination of density bonus at the pre-application conference is only binding on the developer, not the P&Z or City Council.
5. Public hearings are required for the Preliminary PUD, combined Preliminary and Final PUD and Final PUD.
6. The review procedures are set out for the Preliminary PUD and combined Preliminary PUD and Final PUD and a separate review procedure set out for the Final PUD.

Changes to the Zoning text amendments include:

- Overall renumbering of sections;
- Section 1100 – Purpose; New definition of PUD
- Section 1105 – Public Benefit; Eliminated
- Section 1115 – Application Procedure; Add language regarding neighborhood meeting, Amend Preliminary and Final PUD Plans and Process, Amend Review Procedure; Adds density bonus language
- New Section 1120 – Design
- New Section 1125 – Project Amenities
- New Section 1130 – Adequate Public Facilities

**SOURCE OF FUNDS (if applicable)**

N/A

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**ATTACHMENTS**

- Chapter 11 Planned Unit Development – Mark-up version
- Summary of Ordinance Changes

**Ordinance No. 2021-08**

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING HERMANTOWN ZONING CODE BY AMENDING CHAPTER 11, PLANNED UNIT DEVELOPMENT**

**Section 1. Purpose and Intent.** The purpose and intent of this Ordinance to update the requirements in Chapter 11 to provide parameters under which planned unit developments can be proposed and developed within the City of Hermantown.

**Section 2. Amendment to Chapter 11.** Chapter 11. Planned Unit Development is hereby amended and restated in its entirety to read as shown on Exhibit A attached hereto.

**Section 3. Amended and Inserted in the Code.** After the amendment made by this ordinance becomes effective, it shall be inserted in the appropriate place in the Hermantown Zoning Code.

**Section 4. Effective Date.** The provisions of this Ordinance shall be effective after adoption and immediately upon publication once in the official newspaper of the City of Hermantown.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_



# CHAPTER 11. PLANNED UNIT DEVELOPMENT

## Contents

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### Section 1100 - Purpose

**1100. Purpose.** The Planned Unit Development (PUD) process provides ~~for~~ a mechanism for City officials to consider development proposals that do not meet the minimum requirements provided by the Zoning Code. Benefits resulting from this process include an opportunity for site based design, conservation of natural features and resources, efficient design and use of transportation systems and utilities, improved housing and neighborhood options, and housing affordability and provide for the modification of certain regulations when it can be demonstrated that such modification would result in development which would not have been provided if no regulations were modified; which remains compatible with surrounding development; and, which conforms to the goals and policies of the Comprehensive Plan.

### Section 1105 – Public Benefit

**1105. Public Benefit.** A PUD must provide public benefits to the City above and beyond what can be reasonably achieved by application of the zoning provisions applicable to the underlying zoning district. The nature and scale of public benefit shall be determined by the City and include, but not be limited to:

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- 1105.01 Preservation and enhancement of natural systems and resources, topography, vegetation, and other natural features.
- 1105.02 Provision of a variety of housing and community types.
- 1105.03 Provision of recreational amenities including trails and parks.
- 1105.04 ~~Provisions~~Provision of pedestrian and non-motorized travel facilities.
- 1105.05 Use of design, landscape, or architectural features to create pleasing environment or other special development features.
- 1105.06 Elimination of blighted structures or incompatible uses through redevelopment or rehabilitation.
- 1105.07 Improved business and commercial development to enhance the local economy and strengthen the tax base.
- 1105.08 Enhanced efficiency in the provision of utility services, public infrastructure, or public services.
- 1105.09 Provision of green infrastructure or enhancement of energy efficiency and environmental design, operation, and maintenance of buildings and properties.
- 1105.10 Preservation and enhancement of historical or cultural resources that contribute significantly to the character of the City.
- 1105.11 Provision of mixed-use development.

## Section 1110– General Requirements

- 1110.01 Consistency with Comprehensive Plan. The PUD shall be consistent with the Hermantown Comprehensive Plan.
- 1110.02 Applicable Zoning Districts. A PUD may be allowed in any zoning district in the City of Hermantown.
- 1110.03 **Uses Allowed.** All permitted and conditional uses listed in the underlying ~~specific~~zoning district are allowed in a PUD.
  - 1110.03.1 **Residential Units.** Where residential units are provided as part of the PUD, regardless of ~~the~~ underlying zoning district, they may be single-family, two-family, multi-family dwellings, or any other type and arrangement of dwelling permitted in the ~~City~~Zoning Code. The development of multiple types of residential ~~development~~units is strongly encouraged.

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**1110.03.2 Neighborhood non-residential.** Where the underlying zoning district is a residential zoning district, a PUD may integrate commercial, institutional, and services uses designed and intended to serve the residents of the PUD and surrounding neighborhood.

**1110.04 Ownership.** The tract of land to be developed as a PUD must be under single ownership or control. The property included in the PUD shall be planned and developed as a single ~~unit~~tract.

**1105.05 Minimum Area.** There is no minimum land size requirement for a PUD, except in the S-1 and R-1 zoning districts where the minimum shall be 5 acres of contiguous land. Applicants must demonstrate that the PUD is of sufficient size and scope for the size ~~of~~ the property to achieve the public benefits described in section 1105.

**1110.06 Multiple Uses.** The inclusion of mixed uses and multiple uses within a PUD is strongly encouraged.

**1110.07 Site Layout.** A PUD must achieve ~~a~~-greater site design creativity and ~~public benefit~~flexibility. A PUD may not be simply used as a method to avoid zoning regulations or subdivision regulations such as required setbacks, minimum lot size or public frontage requirements.

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**1110.08 Authority to Modify Regulations.** The City Council shall have the authority in approving any PUD to alter, improve, or create anew any provisions of the Hermantown Zoning Regulations or Subdivision Regulations as they apply to the proposed PUD.

**1110.9 Site and Building Design.**

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**1110.9.1** The PUD shall be designed to create a unified environment within the PUD boundaries by ensuring compatibility of all structures, efficient vehicular and pedestrian circulations, aesthetically pleasing landscape and site features, and ~~design and~~ efficient use of utilities.

**1110.9.2** More than one building may be placed on one lot or parcel in a PUD.

**1110.9.3** Common open space must be used for amenity or recreational purposes. Parking areas and traffic corridors shall not be considered an approved use of common open space. The uses authorized for common open space must be appropriately scaled to the size and use of the PUD.

**Section 1115– Application Procedure**

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**1115.01 Pre-Application Conference.** Prior to submitting an application for a PUD, the applicant shall participate in a pre-application conference with City staff. The purpose of the pre-application conference is to allow City staff to review and provide comments on

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the suitability of the development concept as a PUD, as well as to provide guidance to applicant on the procedures and standards for PUD approval. Density bonus targets and amenities will be discussed pursuant to Section 1115.02 during the pre-application conference. A determination of whether a plat will be required as part of the PUD will be made at the pre-application conference. If a plat is required, the application for the plat and the PUD shall be considered at the same time.

**1115.02 Density Bonus.** All density bonuses listed below are maximums allowed. The City may award a lower density bonus or no density bonus. An applicant desiring higher densities than allowed in the underlying zoning district shall demonstrate that the higher number will not have an undue or adverse impact upon existing public facilities and is appropriate for that site. In determining the reasonableness of the authorized units per acre, the site-based design, conservation of natural features and resources, efficient design and use of transportation systems and utilities, improved housing and neighborhood options, and housing affordability and amenities beyond Zoning Code requirements may be considered. Maximum density provided for in this Section and required amenity targets identified in Section 1125 will be discussed at the pre-application conference. Once identified, the site -specific bonus density shall not increase, but may be decreased or otherwise modified by the Planning Commission or City Council.

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**1115.02.01** S-1 and R-2 zoning district – Double density bonus (2 units per 5 acres) and (4 units per five acres)

**1115.02.02** R3 – PUDs in an R3 (or residential) zone shall not exceed a moderate suburban density

**1115.02.03** Hermantown Marketplace – 50 units per acre for multi-family housing (35 units is ~~max~~maximum density in the Zoning Code)

**1115.02.04** Commercial and Industrial Zones – Not applicable

**1115.03 Neighborhood Meeting.** At an appropriate point during development of a preliminary PUD plan, combined PUD, or major PUD amendment application process, the applicant is encouraged to hold a neighborhood meeting. All property owners within 1000 feet of the PUD shall be given notice of the meeting. The purpose of the meeting is to inform the neighborhood of the proposal, discuss the concepts and basis for the plan being developed, and to obtain information and suggestions from the neighborhood.

**1115.04 Preliminary PUD ~~Plan~~ or Combined Preliminary and Final PUD.** An application for a Preliminary PUD or Combined Preliminary and Final PUD shall be filed with the City on forms provided by the City. All applications for a Preliminary PUD or Combined Preliminary and Final PUD shall include at least the following information:

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**1115.04.01** Site plan showing applicant's land and uses in adjoining property and physical features.

**1115.04.02** A description of the proposed density, types of uses, and general location of uses.

**1115.04.03** Concept utility plan.

**1115.04.04** Concept grading and stormwater plan.

**1115.04.05** Concept building elevations.

**1115.04.06** Concept landscape/screening plan (if over 4 units/acre).

**1115.04.07** Narrative stating how the proposed development complies with the goals and policies of the Comprehensive Plan and ~~PUD ordinance~~[this Chapter 11](#).

**1115.04.08** General description of provided amenities.

**1115.04.09** Other criteria as requested by Community Development Director.

**1115.04.10** Wetland impacts.

**1115.04.11** Shoreland impacts.

**1115.04.12** Identification of proposed density bonus discussed at the preapplication meeting and factors justifying the requested bonus density.

**1115.05 Final PUD-Plan.** An application for a Final PUD shall be filed with the City on forms provided by the City. All applications for a Final PUD shall include at least the following information:

**1115.05.1** The Final ~~Development Plan~~[PUD](#) must include all of the information provided in the Preliminary Plan except it must include any changes required by the City in its approval of the Preliminary ~~Development Plan~~[PUD](#).

**1115.05.2** A detailed Site plan prepared by a qualified and licensed civil engineer illustrating the proposed use(s) of land; proposed densities; buildings, including square footage, height and other dimensions, distances between buildings and the front, side and rear lot lines, and other buildings located on the property and on property adjacent to the property; wetland areas; shoreland areas; street and walkway locations; curb cuts and driveways; parking areas and loading areas; open spaces; the locations of easements and utilities (existing and proposed); landscaping (showing size, types and locations); lighting; grading; drainage; project phasing; anticipated variances from setbacks or other regulations of the underlying zone; tabulation of density, land use intensity, lot coverage and acreage; percentages of

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land devoted to buildings, parking, and open space; and any other information which may be helpful to understanding and evaluating the proposal.

**1115.05.3** Drainage plan indicating catch basins and underground improvements and all other stormwater improvements.

**1115.05.4** Detailed description and calculation of areas devoted to amenities and open space.

**1115.05.5** Designation of ownership of stormwater improvements upon completion of construction.

**1115.06 Review Procedure.** At the discretion of the Community Development Director, residential PUDs of 4 units/acre or less and/or less than five acres in size may combine the Preliminary and Final PUD requirements and process into one. PUDs over 4 units/acre and/or 5 acres in size are required to make separate Preliminary and Final PUD submissions.

**1115.06.1** Preliminary PUD plan or combined Preliminary and Final PUD.

**1115.06.1.1** Upon receipt of a complete application for a preliminary PUD, or a combined Preliminary and Final PUD the application shall be reviewed by City staff and a report concerning the application shall be submitted to the planning commission for its consideration.

**1115.06.1.2** The Planning Commission shall hold a public hearing and make a recommendation to the City Council after a complete application is received by the City. If the Planning Commission fails to deliver a timely recommendation to the City Council, the City Council may then consider the ~~preliminary~~**Preliminary PUD or Combined Preliminary and Final** PUD without the Planning Commission's- recommendation.

**1115.06.1.2.1** Notice of the time, date, and ~~Notice~~**notice** of the time, place and purpose of the public hearing shall be published in the official newspaper at least ten days prior to the day of the hearing. Notice shall also be mailed at least ten days before the day of the hearing to each owner of affected property and the owners of property situated wholly or partly within 1000 feet of the property affected by the Preliminary PUD plan or combined Preliminary and Final PUD~~-~~. For purposes of giving mailed notice, owners shall be those as show to be such on the records of the St. Louis County Auditor. The failure to give mailed notice to individual property owners or defects in notice shall not invalidate the proceedings, provided a bona fide

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attempt to comply with this notice provision has been made. Notice of a hearing for any Preliminary PUD plan or combined Preliminary and Final PUD- affecting any property in a Shoreland or Floodplain District shall be mailed to the Commission of Natural Resources of the State of Minnesota at least 15 days prior to any such hearing.

**1115.06.1.2.2 Sign Notice.** Sign notice means a sign with minimum dimensions of 24 in. by 30 in. posted as close as reasonable possible to each street frontage on the applicant's property with the text between 3 ft. and 5 ft. above grade level, with a title line reading 'Planning and Zoning Commission Notice' in letters at least 3 in. tall and with the remainder of the text in letters at least ½ in. tall. Each sign must be posted at least two weeks before the date of the public hearing and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way.

**1115.06.1.2.3 Plat.** If a Plat is required with respect to the proposed PUD, any public hearing required for any Plat may be combined with ~~a~~the public hearing on the Preliminary ~~Plat~~PUD or combined Preliminary and Final PUD. A combined action on the Plat and PUD may be taken following the public hearing.

**1115.06.1.2.4 Required Applications.** Sign notice postings shall be required for all applications for Preliminary PUD Plan or combined Preliminary and Final PUD plan. The creation and posting of the signs shall be the responsibility of the applicant.

**1115.06.1.2.5 Content of Notice.** Each required notice shall include the following information:

**1115.06.1.2.5.1** The name of the applicant;

**1115.06.1.2.5.2** The address of the property;

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- 1115.06.1.2.5.3** A narrative description of the Preliminary PUD plan or combined Preliminary and Final PUD Plan including the proposed land uses, size (in square feet) and height (in feet and stories) of any proposed buildings or building expansions;
- 1115.06.1.2.5.4** The type of permit or approval being sought;
- 1115.06.1.2.5.5** Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address of other electronic site or method);
- 1115.06.1.2.5.6** Police, Fire Department and school information;
- 1115.06.1.2.5.7** Contact information for the assigned City staff member;
- 1115.06.1.2.5.8** The date, time and place of the public hearing;
- 1115.06.1.2.5.9** Information on the size, type, location, expected population, and other relevant factors as determined by the Community Development Director shall be provided to the Hermantown Police, Fire Departments and Hermantown school during the Preliminary PUD or combined Preliminary and Final PUD Plan planning process and be given a chance to submit written or oral comments or to meet with the City and Applicant.

**1115.06.2 Final PUD ~~Order~~**

- 1115.06.2.1** Upon receipt of a complete application for a Final PUD, the application shall be reviewed by city staff and a report concerning the application shall be submitted to the planning commission for its consideration.
- 1115.06.2.2** The Planning Commission shall hold a public hearing and make a recommendation to the City Council after a complete application for a Final PUD is received by the City. If the Planning Commission fails to deliver a timely recommendation to the City Council, the City Council may then consider the Final PUD without the Planning Commission's recommendation.



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**1115.06.2.2.1** Notice of the time, date, and Notice of the time, place and purpose of the public hearing shall be published in the official newspaper at least ten days prior to the day of the hearing. Notice shall also be mailed at least ten days before the day of the hearing to each owner of affected property and the owners of property situated wholly or partly within 1000 feet of the property affected by the PUD. For purposes of giving mailed notice, owners shall be those as show to be such on the records of the St. Louis County Auditor. The failure to give mailed notice to individual property owners or defects in notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this notice provision has been made. Notice of a hearing for any special use permit affecting any property in a Shoreland or Floodplain District shall be mailed to the Commission of Natural Resources of the State of Minnesota at least 15 days prior to any such hearing.

**1115.06.2.2.2 Sign Notice.** Sign notice means a sign with minimum dimensions of 24 in. by 30 in. posted as close as reasonable possible to each street frontage on the property affected by the Final PUD Plan with the text between 3 ft. and 5 ft. above grade level, with a title line reading 'Planning and Zoning Commission Notice' in letters at least 3 in. tall and with the remainder of the text in letters at least ½ in. tall. Each sign must be posted at least two weeks before the date of the public hearing and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way.

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**1115.06.2.2.3 Plat.** If a Plat is required with respect to the proposed PUD, any public hearing required for any Plat may be combined with a the public hearing on the ~~Preliminary Plat or combined Preliminary and Final Plat.~~ Final PUD. A combined action on the Plat and Final PUD ~~shall~~may be taken ~~in the action following public hearing.~~

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**1115.06.2.2.4 Required Applications.** Sign notice postings shall be required for all Final PUD applications. The creation and posting of the signs shall be the responsibility of the applicant.

**1115.06.2.2.5 Content of Notice.** Each required notice shall include the following information:

**1115.06.2.2.5.1** The name of the applicant;

**1115.06.2.2.5.2** The address of the property;

**1115.06.2.2.5.3** A narrative description of the project including the proposed land uses, size (in square feet) and height (in feet and stories) of any proposed buildings or building expansions;

**1115.06.2.2.5.4** The type of permit or approval being sought;

**1115.06.2.2.5.5** Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address of other electronic site or method);

**1115.06.2.2.5.6** ~~Contact~~ Police, Fire Department and school information ~~for the assigned city staff member;~~

**1115.06.2.2.5.7** Contact information for the assigned city staff member;

**1115.06.2.2.5.8** The date, time and place of the public hearing;

**1115.06.2.2.5.9** Information on the size, type, location, expected population, and other relevant factors as determined by the Community Development Director shall be provided to the Hermantown

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Police, Fire Departments and Hermantown school during the Final PUD planning process and be given a chance to submit written or oral comments or to meet with the City and Applicant.

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**1115.06.3** The City Council, by resolution, may approve the Preliminary PUD plan or combined Preliminary and Final PUD plan or Final PUD in whole or in part, may approve the Preliminary PUD plan or combined Preliminary and Final PUD plan or Final PUD in whole or in part, may approve subject to conditions, may deny, or may defer consideration of the Preliminary PUD plan or combined Preliminary and Final PUD plan or Final PUD plan for further study to a later date.

**1115.06.4** When a Preliminary PUD plan or combined Preliminary and Final PUD plan or Final PUD plan has been denied by the City Council, the owner or applicant may not reapply for the same or similar development on the same property for the six-month period following the date of denial.


**1115.06.5** The Final PUD ~~plan~~ may be submitted for approval within 365 days after the City Council approval of the Preliminary PUD plan unless a written request for a time extension is submitted by the applicant and approved by the City Council.

**1115.07 Development Agreement.**

**1115.07.1** The City may, at its sole discretion, require the owner and developer of a proposed PUD to execute a development agreement which may include, but not be limited to, all requirements of the final PUD plan, agreements on utilities, roads, stormwater impacts and other infrastructure as a condition to approval of a final PUD.

**1115.07.2** The development agreement will specify who will own and maintain any project amenities, including stormwater infrastructure.

**1115.07.3** The development agreement may require the developers to provide an irrevocable letter of credit or performance bond in favor of the City to insure completion of the required infrastructure improvements and stormwater facility.

 **Section 1120 – Design**

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**1120.** The City Council shall have the authority in approving any PUD to alter, improve, or create anew any provisions of the Zoning Code.

**1120.1** The City may allow adjustments in setbacks. Requiring greater or allowing lesser setbacks may be based on uses on and off the site, natural site features, amenities and preservation, topography, density, building heights and other plan features. The rationale and justification for these setbacks shall be described in a narrative.

**1120.2** Maximum building height of underlying zoning district shall be applied to all PUD's. An additional 25% of height may be allowed if providing additional setbacks and study of relationship to adjacent structures. No principal building shall be closer than its height to the rear or side lot line when such line abuts on a Residential Zoning District.

## **Section 1125 – Project Amenities**

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**1125.1** All applications for new PUDs over 4 units/acre shall provide additional amenities that correlate with the size, density, land use type, and help integrate the PUD into the community. Amenities options include but are not limited to:

<b>PUD Amenity Options</b>	
<b>Amenity</b>	<b>Standards</b>
Public open space	Contiguous ground level outdoor open space that is provided beyond the amount of open space required in the underlying zoning district requirements. The space shall preserve the natural landscape while providing the opportunity for members of the public to interact with the natural habitat using walkways, benches, or other mechanisms.
Community garden	Permanent and viable growing space and/or facilities such as a greenhouse or a garden, which provides fencing, watering systems, soil, secured storage spaces for tools, solar access, and pedestrian access as applicable. The facility shall be designed to be architecturally compatible with the development to minimize the visibility of mechanical equipment.
Public recreation area	An active, safe, and secure outdoor recreation area open and visible to the public that includes equipment or natural features suitable for recreational use.
Public plaza	Plazas shall be open to the public during daylight hours and provide opportunities for the public to interact with the space using outdoor furniture, art, or other mechanisms.

Enhanced bicycle and pedestrian facilities	Amenities and facilities that increase the convenience and encourage the use of public walkways and bikeways beyond what is otherwise required in the underlying zoning district.
Innovative stormwater management	The design must provide capacity for infiltrating stormwater beyond what is required by the City and the design must serve as a visual amenity to the property and be reflective of innovative techniques.
Enhanced landscaping	A landscaping plan prepared by a licensed landscape architect that provides exceptional design with a variety of pollinators and native trees, shrubs, and plant types that provide seasonal interest.
Preservation of natural systems	Preservation or restoration and protection of natural systems like wetlands, shorelands, waterways, wooded areas, and agricultural lands that beyond what is required by the City and other relevant agencies.

**1125.1** The Final PUD plan shall identify the party who will own and maintain the PUD amenities.

## **Section 1130 – Adequate Public Facilities**

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**1130.** An Applicant shall demonstrate that the PUD will not have an undue or adverse impact upon existing public facilities including streets and roads, City water and sanitary sewer utilities, stormwater utility, police and fire services, parks and recreation facilities, and the Hermantown School District.

**1130.1** Using a standard and format acceptable to the City Engineer and Community Development Director the Applicant shall provide a report on the estimated impact on City water, sanitary sewer, and stormwater utilities.

**1130.2** PUD's greater than 4 units per acre and/or five acres or more in size shall provide a traffic study. The scope of the analysis shall be determined by the Community Development Director and City Engineer.

**1130.3** The City Engineer, in consultation with County or State Engineers if applicable, shall review the submitted materials and make a positive, negative, or conditional determination on the adequacy of public facilities. The City Engineer shall consider:

**1130.3.1** The estimated impact to the water, sewer, stormwater, streets or roads.

**1130.3.2** The design capacity of existing water, sewer, stormwater, streets or roads.

**1130.3.4** Planned (or Programmed) improvements to public facilities.

**1130.3.5** The cumulative impact of other approved development in the City.

**1130.4** In making an adequacy determination the City Engineer and Community Development Director may direct the Applicant to alter the PUD allow for a positive determination through reduction of the density or intensity of the development, phasing of the development and/or through Applicant's provision of facilities or design changes to address the reason for a negative determination as allowed by Minnesota State law.

**1130.5** The Applicant shall provide information on the impact to the City's parks and recreation system using a standard acceptable to the Community Development Director. The Community Development Direct shall review the submitted materials and make a positive, negative, or conditional determination on the adequacy of the City's parks and recreation system to accommodate the PUD. The amount and quantities of recreational amenities provided by the PUD and Park Dedication fees shall be considered in the determination.

**1130.6** In making an adequacy determination the Community Development Director may direct the Applicant to alter the PUD allow for a positive determination through reduction of the density or intensity of the development, phasing of the development and/or through Applicant's provision of facilities or design changes to address the reason for a negative determination as allowed by Minnesota State law.

## **Section 1135 – Changes and Amendments**

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**1135.01** Minor changes that do not substantively alter the approved Final PUD in terms of density, land usage, height, parking and loading, provision of open space, or the physical relationship of the elements of the development may be authorized by the Planning Commission. Minor changes include minor changes in the following:

**1135.01.1** Location of buildings

**1135.01.2** Open space

**1135.01.3** Parking

**1135.01.4** Reconfiguration of the footprint or massing of buildings

**1135.01.5** Realignment of minor streets

**1135.02** Major changes that do substantively change individual elements of the Final PUD, such as the exact use, square footage or height of individual buildings, the location and size of parking and loading facilities, the location, size and configuration of open spaces, and

design or roadways, of the phasing elements of the project. Major changes shall require a public hearing before the Planning Commission and approval by the City Council.

**1135.03** Substantial deviations from the Final PUD are such changes that considerably alter the character of the PUD as a whole, including but not limited to significant changes to the land included within the PUD, the total amount of development within the PUD, the balance of residential and non-residential uses, the amount of open space provided, or the conceptual layout of buildings, public spaces, and circulation systems, and phasing. Substantial deviations shall require a new PUD application.

## **Section 1140 – Time Limit on Approved Planned Unit Development**

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**1140. Time Limit on Approval Planned Unit Development.** No PUD approval shall be valid for a period longer than 365 days unless a ~~Building Permit~~building permit is issued for construction within the PUD. However, upon written request of the applicant, the 365 day period may be extended by the City Council for such time as it shall be determined and for good cause shown, without further hearing.

## **Section 1145 – Effect of Approval of a Planned Unit Development**

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**1150. Effect of Approval of a Planned Unit Development.** The approval of a final PUD by the City Council shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for such permits or approvals as may be required by the regulation of the City, including, but not limited to a building permit and a Certificate of Occupancy.

**SUMMARY OF ORDINANCE NO. 2021-08, AN ORDINANCE AMENDING  
HERMANTOWN ZONING CODE BY AMENDING CHAPTER 11, PLANNED UNIT  
DEVELOPMENT**

The following is the official summary of Ordinance No. 2021-08, An Ordinance Amending Hermantown Zoning Code Chapter 11, Planned Unit Development, approved by the City Council of the City of Hermantown on September 7, 2021.

Zoning text amendments include:

- Overall renumbering of sections;
- Section 1100 – Purpose; New definition of PUD
- Section 1105 – Public Benefit; Add language pertaining to Public Benefit by way of project amenities
- Section 1110 – General Requirements; Add language pertaining to residential units and relationship to the zoning code
- Section 1115 – Application Procedure to Site Density; Add language regarding determination of project density based upon site specific factors
- Section 1120 – Amended from Changes and Amendments to Design; Add language regarding adjustments to setbacks and maximum building height of a project as it relates to adjacent properties
- Section 1125 – Amended from Time Limit on Approved Planned Unit Development to Project Amenities; Add language requiring new Planned Unit Developments over 4 units/acre to include project amenities to help integrate the PUD into the surrounding community
- Section 1130 – Amended from Effect of Approval of a Planned Unit Development to Adequate Public Facilities: Add language regarding the determination of how a proposed PUD will impact the existing public facilities including streets and roads, city water and sanitary sewer utilities, stormwater utility, police and fire services, parks and recreation facilities, and the Hermantown School District
- New Section 1135 – Amended from Zoning Map Designation to Changes and Amendments. Zoning Map Designation section removed
- New Section 1140 – Time Limit on Approved Planned Unit Development
- New Section 1145 – Effect of Approval of a Planned Unit Development

The purpose of this Ordinance is to provide updated parameters under which planned unit developments can be proposed and developed within the City of Hermantown.

The foregoing is a summary of a lengthy and detailed Ordinance. The full text of the Ordinance is on file in the office of the City Clerk of the City of Hermantown, 5105 Maple Grove Road, Hermantown, MN 55811, during regular business hours.

If there are any inconsistencies between this summary and the full text of the Ordinance, the terms of the full Ordinance shall govern.

The Ordinance is effective upon publication of this summary.



**TO:** Mayor & City Council  
**FROM:** Paul Senst, Public Works Director  
**DATE:** August 31, 2021  
**SUBJECT:** Purchase of Broom for Trails



**Meeting Date:** 9/7/21  
**Agenda Item:** 12-A  
**Resolution:** 2021-101

---

**REQUESTED ACTION**

**Approve Purchase of Power Broom for JD 6130 Tractor for Trail snow removal operations**

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**BACKGROUND**

The Hermantown PW/Trails Dept. has asked to purchase a Power Broom for the John Deere 6130 ROW mower. This purchase will include a Power Broom from Minnesota Equipment, Inc.

The purchase of this Power Broom is to be \$12,550.00 from Minnesota Equipment, Inc.

This equipment is purchased through the State of Minnesota State Bid process

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**SOURCE OF FUNDS (if applicable)**

General Fund – Parks - Other Operating Equipment 101-452100-219

Please note this an unbudgeted item so the Parks expenses will exceed the budget and will require a budget amendment later this year

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**ATTACHMENTS**

Quote from Minnesota Equipment, Inc.

**Resolution No. 2021-101**

**RESOLUTION AWARDING CONTRACT FOR A POWER BROOM ATTACHMENT TO MINNESOTA EQUIPMENT, INC. IN THE AMOUNT OF \$12,550.00 PLUS APPLICABLE TAXES AND FEES**

WHEREAS, the City of Hermantown has a desire to maintain the trails during the winter months;  
and

WHEREAS, the Power Broom will be purchased from Minnesota Equipment, Inc.; and

WHEREAS, after fully considering this matter, the City Council of the City of Hermantown believes that it is in the best interest of the City of Hermantown to award the contract for the Power Broom to Minnesota Equipment, Inc.

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

1. Minnesota Equipment, Inc. is hereby determined to be able to provide the Power Broom to the City.
2. The price of \$12,550.00 plus applicable taxes and fees for the Power Broom is hereby accepted.
3. The funds for the payment of the Power Broom will be paid from Fund No. 101-452100-219.

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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.

Quote Id: 23228629

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Prepared For:  
**CITY OF HERMANTOWN**



Prepared By: **John Braunshausen**

Minnesota Equipment, Inc.  
13725 Main Street  
Rogers, MN 55374

Tel: 763-428-4107

Fax: 763-428-2700

Email: [johnbraunshausen@mnequip.com](mailto:johnbraunshausen@mnequip.com)

**Quote Summary**

**Prepared For:**  
 CITY OF HERMANTOWN  
 4971 LIGHTNING DR  
 HERMANTOWN, MN 55811  
 Business: 218-729-3600

**Prepared By:**  
 John Braunshausen  
 Minnesota Equipment, Inc.  
 13725 Main Street  
 Rogers, MN 55374  
 Phone: 763-428-4107  
 johnbraunshausen@mnequip.com

**Quote Id:** 23228629  
**Created On:** 30 November 2020  
**Last Modified On:** 20 July 2021  
**Expiration Date:** 31 January 2021

<b>Equipment Summary</b>	<b>Selling Price</b>	<b>Qty</b>	<b>Extended</b>
Sweepster 8 FT Dual Motor 3 Point Broom Driven Off Tractor Hydraulics	\$ 12,550.00 X	1 =	\$ 12,550.00

**Equipment Total** **\$ 12,550.00**

**Quote Summary**

Equipment Total	\$ 12,550.00
DOT	\$ 0.00
Delivery	\$ 0.00
License	\$ 0.00
SubTotal	\$ 12,550.00
Est. Service Agreement Tax	\$ 0.00
Total	\$ 12,550.00
Down Payment	(0.00)
Rental Applied	(0.00)
<b>Balance Due</b>	<b>\$ 12,550.00</b>

Salesperson : X \_\_\_\_\_

Accepted By : X \_\_\_\_\_



# Selling Equipment

Quote Id: 23228629

Customer: CITY OF HERMANTOWN

## Sweepster 8 FT Dual Motor 3 Point Broom Driven Off Tractor Hydraulics

Hours: 0

Stock Number:

Code	Description	Qty	Unit	Selling Price
				\$ 12,550.00
1		1	\$ 11,975.00	\$ 11,975.00
<b>Customer Discounts</b>				
<b>Customer Discounts Total</b>			<b>\$ 575.00</b>	<b>\$ 575.00</b>
<b>Total Selling Price</b>				<b>\$ 12,550.00</b>

**TO:** Mayor & City Council  
**FROM:** Eric Johnson, Community  
Development Director



**DATE:** August 24, 2021      **Meeting Date:** 9/7/21  
**SUBJECT:** Golden Oaks – Termination of      **Agenda Item: 12-B**      **Resolution 2021-102**  
SUP

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**REQUESTED ACTION**

**Approve the termination of the 2005 Special Use Permit (SUP) for Golden Oaks as well as the amended 2021 SUP.**

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**DESCRIPTION OF REQUEST**

At the July 6, 2021 City Council meeting, the Council approved the partial release of a Special Use Permit as well as an amendment to the 2005-95 resolution for the Golden Oaks facility. Upon further review by the new property owner’s attorney, they are requesting that the SUP be terminated as the St. Louis County Title Examiner rejected the Consent to Assignment of the Special Use Permit.

Per the Title Examiner, the Special Use Permit affects property owned of record by Golden Oaks Senior Living of Hermantown, LLC. The SUP runs in favor of David Kolquist, who was not the owner at the time the permit was recorded as it was owned by KOL-BRAM Properties LLC at the time and it is the opinion of the Examiner that the SUP should not have been recorded since the parties had no record interest.

Given this information, in an effort to address these comments and permit the use, staff and the City Attorney recommend that the SUP be terminated and a Zoning Certificate be used in lieu of the SUP to permit the use of the property.

The Zoning Certificate allows for the new owner to continue operation of the assisted living facility with a cap on the number of beds as it was originally permitted under the SUP. Language restricting the use of the facility to uses allowed in the R-3 zoning district is contained within the Zoning Certificate document.

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**SOURCE OF FUNDS (if applicable)**

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**ATTACHMENTS**

Termination of SUP  
Zoning Certificate

**Resolution No. 2021-102**

**RESOLUTION AUTHORIZING AND DIRECTING  
THE MAYOR AND CITY TO EXECUTE A TERMINATION OF SPECIAL USE PERMIT  
BETWEEN THE CITY AND DAVID KOLQUIST**

WHEREAS, the City of Hermantown (“City”), Resolution No. 2005-95, granted a Special Use Permit (“SUP”) to David Kolquist (“Developer”) for the development of a 30-bed assisted living facility now known as the Golden Oaks Assisted Living facility (“Project”) in Hermantown, Minnesota; and

WHEREAS, the SUP is dated August 16, 2005 and was recorded on October 17, 2005 as Document No. 806718.0 with the Registrar of Titles of St. Louis County, Minnesota; and

WHEREAS, the SUP was amended by that certain Amendment to Special Use Permit dated July 12, 2021 and recorded on July 14, 2021 as Document No. 1043725.0 with the Registrar of Titles of St. Louis County, Minnesota; and

WHEREAS, the property covered by the SUP is legally described on Exhibit A attached hereto; and

WHEREAS, Reinke Road Property LLC (“Reinke”) has purchased the property covered by the SUP; and

WHEREAS, Reinke has requested that the City terminate the SUP; and

WHEREAS, a proposed Termination of Special Use Permit is attached hereto as Exhibit B; and

WHEREAS, City is willing to terminate the SUP subject to Reinke consenting to the Zoning Certificate attached hereto as Exhibit C; and

WHEREAS, the City Council has considered this matter and believes it is in the best interest of the City to terminate the SUP.

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

1. The Termination of Special Use Permit attached hereto as Exhibit B is hereby approved.
2. The Mayor and City Clerk are authorized and directed to execute whatever documents are needed to effectuate the Termination of Special Use Permit subject to Reinke Road Property LLC executing the Zoning Certificate 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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.



**EXHIBIT A**

That part of the North 30 acres of the East 3/4 of the E1/2 of the NW1/4, Section 22, Township 50 North of Range 15 West of the Fourth Principal Meridian described as follows:

Commencing at the NE corner of said NW1/4, Section 22, thence South 00 degrees 27 minutes 33 seconds East (assumed bearing), along the East line of said NW1/4, a distance of 675.01 feet to the point of beginning of the parcel of land to be described: thence South 89 degrees 47 minutes 34 seconds West, along a line 675.00 feet distant and parallel with the North line of said NW1/4, a distance of 498.40 feet to the East line of the W1/2 of W1/2 of E1/2 of E1/2 of NW1/4; thence South 00 degrees 25 minutes 31 seconds East, along said East line, a distance of 636.03 feet to the South line of said North 30 acres of the East 3/4 of the E1/2 of the NW1/4, thence North 89 degrees 47 minutes 34 seconds East, along said South line, a distance of 498.78 feet to the East line of said NW1/4; thence North 00 degrees 27 minutes 33 seconds West, along said East line, a distance of 636.03 feet to the point of beginning EXCEPT the North 170.00 feet thereof.

**Certificate of Title No. 356972.0**

**EXHIBIT B**

**Termination of Special Use Permit**

**EXHIBIT C**  
**Zoning Certificate**

(Top 3 inches reserved for recording data)

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**TERMINATION OF SPECIAL USE PERMIT**

DATE: \_\_\_\_\_, 2021

The City of Hermantown hereby terminates that certain Special Use Permit dated August 16, 2005 and recorded on October 17, 2005 as Document No. 806718.0 with the Registrar of Titles of St. Louis County, Minnesota and as amended by that certain Amendment to Special Use Permit dated July 12, 2021 and recorded on July 14, 2021 as Document No. 1043725.0 with the Registrar of Titles of St. Louis County, Minnesota against the property described on Exhibit A attached hereto.

*Check here if all or part of the described real property is Registered (Torrens)*

**GRANTOR:**

**City of Hermantown**

By: \_\_\_\_\_  
Its: Mayor

And By: \_\_\_\_\_  
Its: City Clerk

State of Minnesota, County of St. Louis

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_ and \_\_\_\_\_, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown.

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
Steven C. Overom  
Overom Law  
11 E. Superior Street  
Suite 543  
Duluth, MN 55802

**EXHIBIT A**  
**Legal Description**

That part of the North 30 acres of the East 3/4 of the E1/2 of the NW1/4, Section 22, Township 50 North of Range 15 West of the Fourth Principal Meridian described as follows:

Commencing at the NE corner of said NW1/4, Section 22, thence South 00 degrees 27 minutes 33 seconds East (assumed bearing), along the East line of said NW1/4, a distance of 675.01 feet to the point of beginning of the parcel of land to be described: thence South 89 degrees 47 minutes 34 seconds West, along a line 675.00 feet distant and parallel with the North line of said NW1/4, a distance of 498.40 feet to the East line of the W1/2 of W1/2 of E1/2 of E1/2 of NW1/4; thence South 00 degrees 25 minutes 31 seconds East, along said East line, a distance of 636.03 feet to the South line of said North 30 acres of the East 3/4 of the E1/2 of the NW1/4, thence North 89 degrees 47 minutes 34 seconds East, along said South line, a distance of 498.78 feet to the East line of said NW1/4; thence North 00 degrees 27 minutes 33 seconds West, along said East line, a distance of 636.03 feet to the point of beginning EXCEPT the North 170.00 feet thereof.

**Certificate of Title No. 356972.0**

**CITY OF HERMANTOWN  
ZONING CERTIFICATE**

Name:	<u>REINKE ROAD PROPERTY LLC</u>	Permit Number	<u>21-62</u>
Address:	<u>P.O. Box 16510</u>	Date of Issuance	<u>8-12-2021</u>
	<u>Duluth, MN 55816</u>		
Telephone #:	<u>(218) 728-1189</u>		

**PART A  
FINDINGS**

- (1) The present use described on Exhibit A (“2021 Use”) of the property legally described on Exhibit B (“Property”) is permitted under the general provisions of the Zoning Ordinance of the City of Hermantown.
- (2) The 2021 Use is consistent with the spirit and intent of the Comprehensive Plan of the City of Hermantown and the provisions of the Zoning Ordinance of the City of Hermantown.
- (3) The continued maintenance and operation of the 2021 Use will not be detrimental to or endanger the public health, safety, morals or general welfare.
- (4) The continuation of the 2021 Use will not be injurious to the present use and enjoyment of other property in the vicinity for the purposes already permitted, nor will it substantially diminish or impair the existing property values within the vicinity.
- (5) The continuation of the 2021 Use will not impede normal and orderly development and improvement of the surrounding property for uses permitted within the zone district within which the Property is located.

**PART B  
CONDITIONS**

The approval of this Zoning Certificate Application is conditioned upon the following:

1. This Zoning Certificate may be terminated by the City of Hermantown at any time it deems necessary for the conservation of water resources, or in the interest

of the public health and welfare or for violation of any of the provisions of this Zoning Certificate.

2. Owner is initially and continually in compliance with all of the ordinances of the City of Hermantown, including, in particular, without limitation, the Hermantown Building Code and the Hermantown Fire Code.
3. The 2021 Use must comply with all licensing requirements for a facility of this kind.
4. The 2021 Use cannot be converted to any use not presently allowed in the R-3, Residential zoning district.
5. The 2021 Use must have adequate on site parking for employees, visitors and an off-street loading area for deliveries.
6. The 2021 Use is limited to one 30-bedroom assisted living facility.
7. The structure is limited to one story in height.

Any failure to comply with the above-described conditions shall entitle the City of Hermantown and/or its duly authorized agents to take whatever steps it deems appropriate to obtain compliance with the above-described conditions including, without limitation, the right to declare this Zoning Certificate null and void, and the right to proceed in a civil or criminal court action.

PART C  
APPROVAL

This Zoning Certificate is hereby approved and issued on this 12th day of August, 2021, subject to the terms and conditions contained herein.

PART D  
OFFICIAL ACTION

The attached and foregoing Zoning Certificate was considered, approved, and issued on this 10th day of August, 2021

CITY OF HERMANTOWN  
Community Development Director

By: \_\_\_\_\_  
Eric Johnson

ATTEST:



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**PART E**  
**ACCEPTANCE**

The terms and conditions contained in this Zoning Certificate are hereby acknowledged and accepted by the undersigned. In particular, the undersigned expressly agrees to be bound by the conditions prescribed in Part B of the Zoning Certificate, and to be subject to the rights of the City of Hermantown described therein upon any failure to comply with such conditions. The undersigned additionally accepts and acknowledges receipt of this Zoning Certificate on this \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_.

ATTEST:

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EXHIBIT A  
2021 Use

The present use of the Property is as follows:

1. Use is limited to one 30-bedroom assisted living facility.
2. The structure is limited to one story in height.
3. Use cannot be converted to any use not presently allowed in the R-3, Residential zoning district.
4. Use must have adequate on site parking for employees, visitors and an off-street loading area for deliveries.

**EXHIBIT B**  
**Legal Description**

That part of the North 30 acres of the East 3/4 of the E1/2 of the NW1/4, Section 22, Township 50 North of Range 15 West of the Fourth Principal Meridian described as follows:

Commencing at the NE corner of said NW1/4, Section 22, thence South 00 degrees 27 minutes 33 seconds East (assumed bearing), along the East line of said NW1/4, a distance of 675.01 feet to the point of beginning of the parcel of land to be described: thence South 89 degrees 47 minutes 34 seconds West, along a line 675.00 feet distant and parallel with the North line of said NW1/4, a distance of 498.40 feet to the East line of the W1/2 of W1/2 of E1/2 of E1/2 of NW1/4; thence South 00 degrees 25 minutes 31 seconds East, along said East line, a distance of 636.03 feet to the South line of said North 30 acres of the East 3/4 of the E1/2 of the NW1/4, thence North 89 degrees 47 minutes 34 seconds East, along said South line, a distance of 498.78 feet to the East line of said NW1/4; thence North 00 degrees 27 minutes 33 seconds West, along said East line, a distance of 636.03 feet to the point of beginning EXCEPT the North 170.00 feet thereof.

**Certificate of Title No. 356972.0**

**TO:** Mayor & City Council  
**FROM:** Eric Johnson, Community  
Development Director



**DATE:** August 23, 2021                      **Meeting Date:** 9/7/21  
**SUBJECT:** Special Use Permit –                      **Agenda Item: 12-C**      **Resolution 2021-103**  
Construction of a two-family  
structure in a R-3 zoning district

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**REQUESTED ACTION**

**Approval of a Special Use Permit for construction of a two-family residential structure in a R-3, Residential zoning district.**

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**SITE INFORMATION:**

Parcel Size: 5.62 acres total  
Legal Access: 5106 Hermantown Road  
Wetlands: Yes, however not in developed area  
Existing Zoning: R-3, Residential  
Airport Overlay: None  
Shoreland Overlay: No  
Comprehensive Plan: Residential

**BACKGROUND**

RB Holdings, LLC (Applicant) has the option to purchase the property located at 5106 Hermantown Road which is zoned R-3, Residential. This property was previously proposed to have a 5 lot subdivision of it back in 2019, however the property owner chose not to move forward with that project.

The property currently has an existing house and two outbuildings located on it. The applicant is proposing to subdivide the property into 3 total lots and purchase two of the lots; one with the existing house and the other for the purpose of constructing a two-family home. The existing property owner will retain the lot with the existing outbuildings respectively, with this lot being slated to be developed in the future. The parcels have access onto Hermantown Road and the lot sizes range from 0.5 acres to 4.12 acres in size. Public hearings are required for the Preliminary PUD, combined Preliminary and Final PUD and Final PUD.

**ZONING ANALYSIS**

Two-family dwellings are allowed by Special Use Permit (SUP) in the R-3 – Residential Zoning District. There are specific conditions which apply to two-family dwellings in addition to the standard regulations in the zoning district. The existing property meets the minimum lot dimensions associated with the construction of a two-family dwelling.

Table 1. Twin Home Requirements	Requirement	Provided
Minimum lot area	1.0 acre	1.0 acre
Minimum lot width	150 feet	200 feet
Minimum depth of front yard	50 feet	50 feet minimum
Minimum rear yard	40 feet	34 feet (43 feet average – variance approved by P&Z)
Minimum side yard	40 feet	40 feet minimum
Minimum distance from nearest condominiums, town homes, two-family dwellings	200 feet	Greater than 200 feet.
Minimum living area per unit	792 sq. ft.	2,400 sq. ft.

**Utilities**

The existing home on the property has utility connections going through the proposed twinhome building envelope. The applicant is required to construct public sanitary sewer and public water lines by way of the existing sanitary sewer and water lines within the Hermantown Road right of way. The new sewer and water lines will be a City main and will be constructed by the applicant at his expense, based on the City standards. The applicant is proposing to extend the utility lines from the existing connections into his site on private property. The applicant will be required to provide a 30’ wide public easement for these utilities. This easement will be included in the overall 50’ minimum building setback associated with the front yard of each lot. The existing home will take utility access from these new utility mains.

The applicant will provide engineered plans for utility connections prior to beginning such work on the site. Preliminary plans have been prepared for this work in the past three years as part of an earlier project. The City Engineer will review these plans and provide comment to the applicant. Detailed plans for new public utilities will be reviewed and approved by the City Engineer prior to issuance of the building permits for the development. No new public utilities will be accepted by the City until reviewed by the City Engineer and accepted by resolution of the City Council. All new public utilities must be placed in a public utility easement or road right of way. The water main extension will need a MDH permit and the sanitary sewer will require both a WLSSD and MPCA sanitary sewer extension permit. The City and the applicant will enter into a Utility Extension Agreement to address this work and any potential road repairs associated with the work.

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 obtaining a certificate of occupancy.

**Wetlands**

A wetland delineation was done by way of the National Wetland Inventory (NWI) map. The NWI shows a wetland near the Lavaque Road/Hermantown Road intersection on the proposed twinhome lot as well as a small wetland on the future development lot. Both of these wetlands are located within the building setback areas and will not be affected by construction. These wetlands will be required to be flagged prior to the start of construction and issuance of any

building permits. In addition, permanent wetland markers along with GPS points will be required.

### **Lot Split**

The applicant has proposed to divide the property into 2 lots comprising 5.62 acres. The property currently has an existing house and two outbuildings located on it. The applicant is proposing to purchase the entire 5.62 acres and subdivide a 1.0 acre lot from it for the purpose of building the twinhome. This lot split can be conducted by way of an administrative lot split with the existing single family home and two outbuildings being on their own separate lot.

### **Park Dedication Fees**

The applicant will be required to pay park dedication fees consistent with the requirements of the City Zoning Ordinance. A park dedication fee of \$1,100/lot per additional lot (two) in lieu of dedicated park land. This fee will be paid at the time of administrative parcel split approval.

### **Special Use Permit**

The Special Use Permit is for construction of a two-family residential structure in a R-3, Residential zoning district. Staff finds the following in regard to the criteria for Special Use Permits in the Zoning Ordinance:

No special use permit shall be approved unless positive findings are made with respect to each and every one of the following criteria:

- 1. The proposed development is likely to be compatible with development permitted under the general provisions of this chapter on substantially all land in the vicinity of the proposed development;**

The development of a two family residential home is allowed with a special use permit under the R-3, Residential zoning district. The proposed use is compatible with development within the vicinity which is characterized by low and medium density residential and residential compatible uses.

- 2. The proposed use will not be injurious to the use and enjoyment of the environment, or detrimental to the rightful use and enjoyment of other property in the immediate vicinity of the proposed development;**

The proposed use will not interfere with the use and enjoyment of surrounding properties which consists of low density residential. The property and setbacks are of sufficient size to not interfere with neighboring properties.

- 3. The proposed use is consistent with the overall Hermantown Comprehensive Plan and with the spirit and intent of the provisions of this chapter;**

The property is in an area marked for residential development in the Comprehensive Plan. A twin home is consistent with the density and purpose of the R-3 – Residential zoning district.

- 4. The proposed use will not result in a random pattern of development with little contiguity to existing programmed development and will not cause negative fiscal and environmental effects upon the community.**

The proposed use is similar to uses of nearby properties in density and style.

- 5. Other criteria required to be considered under the provisions of this code for any special use permit.**

The project will meet requirements for minimum distance from other two-family dwellings and minimum living area per unit. Refer to Table 1 for specifics of the zoning analysis.

### **Findings of Fact and Recommendations**

Staff recommends approval of the special use application to construct a two-family dwelling, subject to the following:

1. The applicant shall construct private sewer and water mains at their own cost. Water and sewer plans to be prepared by a professional engineer and designed to City standards. Upon acceptance of water and sewer mains, the mains are to be turned over to the City for their ownership and maintenance.
2. The applicant is to enter into a Utility Extension Agreement with the City for the purposes of extending City water and sewer mains on the north side of the property along Hermantown Road.
3. The applicant is to install permanent wetland markers and provide the City with GPS points for their location at the two family home parcel.
4. Prior to issuance of a building permit, the applicant will submit a site plan showing the lot dimensions and location of the two-family residence relative to the side lot lines.
5. Erosion control measures shall be utilized and remain in place throughout the construction period, and shall not be removed until vegetation is established on the site.
6. Prior to issuance of a building permit, all necessary permits shall be obtained.
7. The applicant shall sign a consent form assenting to all conditions of this approval.
8. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

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### **SOURCE OF FUNDS (if applicable)**

N/A

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### **ATTACHMENTS**

- Location Map
- Overall Lot Plan
- Proposed Site Plan
- Proposed Building Elevation

**Resolution No. 2021-103**

**RESOLUTION APPROVING A SPECIAL USE PERMIT FOR THE CONSTRUCTION OF A TWO FAMILY HOME IN A R-3 RESIDENTIAL ZONING DISTRICT**

WHEREAS, RB Holdings, LLC (“Applicant”), with the concurrence of Clear Vision Builders LLC (Owner) owner of the property at 5106 Hermantown Road, submitted an application for a Special Use Permit for the construction of a two-family home in a R-3 Residential District (the “Project”), with a legal description as follows:

**Property ID: 395-0010-08205**

**That part of SE1/4 of NE1/4, described as follows: Beginning at the Southeast corner of said SE1/4 of NE1/4; thence on an assumed bearing of S89deg49'05"W, along the south line of said SE1/4 of NE1/4, a distance of 971.69 feet; thence N43deg59'47"E, a distance of 697.29 feet to the centerline of Hermantown Road; thence Southeasterly, along last described centerline, a distance of 545.83 feet to the east line of said SE1/4 of NE1/4; thence Southerly, along last described east line, a distance of 108.62 feet to said point of beginning, St. Louis County, Minnesota**

WHEREAS, The Hermantown Planning and Zoning Commission held a public hearing on the Special Use Permit application at its meeting on August 17, 2021 and recommended approval of the Special Use Permit at such meeting; and

WHEREAS, after due consideration of the entire City file, the testimony at the public hearing and all other relevant matters the City Council hereby makes the following findings related to the Special Use Permit.

**FINDINGS OF FACT**

- 1. The proposed development is likely to be compatible with development permitted under the general provisions of this chapter on substantially all land in the vicinity of the proposed development;**

The development of a two family residential home is allowed with a special use permit under the R-3, Residential zoning district. The proposed use is compatible with development within the vicinity which is characterized by low and medium density residential and residential compatible uses.

- 2. The proposed use will not be injurious to the use and enjoyment of the environment, or detrimental to the rightful use and enjoyment of other property in the immediate vicinity of the proposed development;**

The proposed use will not interfere with the use and enjoyment of surrounding properties which include low density residential. The property and setbacks are of sufficient size to not interfere with neighboring properties.

- 3. The proposed use is consistent with the overall Hermantown Comprehensive Plan and with the spirit and intent of the provisions of this chapter;**

The property is in an area marked for residential development in the Comprehensive Plan. A twin home is consistent with the density and purpose of the R-3 – Residential zoning district.



- 4. The proposed use will not result in a random pattern of development with little contiguity to existing programmed development and will not cause negative fiscal and environmental effects upon the community.**

The proposed use is similar to uses of nearby properties in density and style.

- 5. Other criteria required to be considered under the provisions of this code for any special use permit.**

The project will meet requirements for minimum distance from other two-family dwellings and minimum living area per unit.

### **CONCLUSION**

On the basis of the foregoing Findings of Fact, the City Council of the City of Hermantown is hereby resolved as follows:

1. The applicant shall construct private sewer and water mains at their own cost. Water and sewer plans to be prepared by a professional engineer and designed to City standards. Upon acceptance of water and sewer mains, the mains are to be turned over to the City for their ownership and maintenance.
2. The applicant is to enter into a Utility Extension Agreement with the City for the purposes of extending City water and sewer mains on the north side of the property along Hermantown Road.
3. The applicant is to install permanent wetland markers and provide the City with GPS points for their location at the two family home parcel.
4. Prior to issuance of a building permit, the applicant will submit a site plan showing the lot dimensions and location of the two-family residence relative to the side lot lines.
5. Erosion control measures shall be utilized and remain in place throughout the construction period, and shall not be removed until vegetation is established on the site.
6. Prior to issuance of a building permit, all necessary permits shall be obtained.
7. The applicant shall sign a consent form assenting to all conditions of this approval.
8. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.

(TOP THREE INCHES RESERVED FOR RECORDING DATA)

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## **SPECIAL USE PERMIT**

**Permission is hereby granted to RB Holdings, LLC, (“Applicant”), and Clear Vision Builders LLC (Owner) owner of the property located at 5106 Hermantown Road, submitted an application for construction of a two family home at 5106 Hermantown Road (“Project”), and legally described in Attachment A.**

The permission hereby granted is expressly conditioned as follows:

- a. That the Project will be constructed as described in the plans accompanying the application and the conditions contained herein.
- b. The Zoning Officer of the City of Hermantown shall be notified at least five (5) days in advance of the commencement of the work authorized hereunder and shall be notified of its completion within (5) days thereafter.
- c. No change shall be made in the Project without written permission being previously obtained from the City of Hermantown.
- d. Applicant shall grant access to the site at all reasonable times during and after construction to authorized representatives of the City of Hermantown for inspection of the Project to see the terms of this permit are met.
- e. The permit is permissive only. No liability shall be imposed upon or incurred by the City of Hermantown or any of its officers, agents or employees, officially or personally, on account of the granting hereof or on account of any damage to any person or property resulting from any act or omission of Applicant or any of Applicant’s agents, employees or contractors relating to any matter hereunder. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person against Applicant,

its agents, employees of contractors, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the City of Hermantown against Developer, its agents, employees or contractors for violation of or failure to comply with the permit or applicable provisions of law.

- f. This permit may be terminated by the City of Hermantown at any time it deems necessary for the conservation of water resources, or in the interest of public health and welfare, or for violation of any of the provisions of this permit.
- g. Applicant is initially and continually in compliance with all of the ordinances and regulations of the City of Hermantown Building Code and the Hermantown Fire Code.
- h. All state licenses and other permits required for the Project have been obtained by the Applicant and copies are provided to the City of Hermantown.
- i. That Applicant pay all direct costs incurred by the City of Hermantown in connection with the enforcement and administration of this permit within fifteen (15) days of Applicant being invoiced by the City for such costs.
- j. The approval is for a Special Use Permit for construction of a two family home at the applicants property located at 5106 Hermantown Road.
- k. The applicant shall sign a consent form assenting to all conditions of this approval.
- l. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.





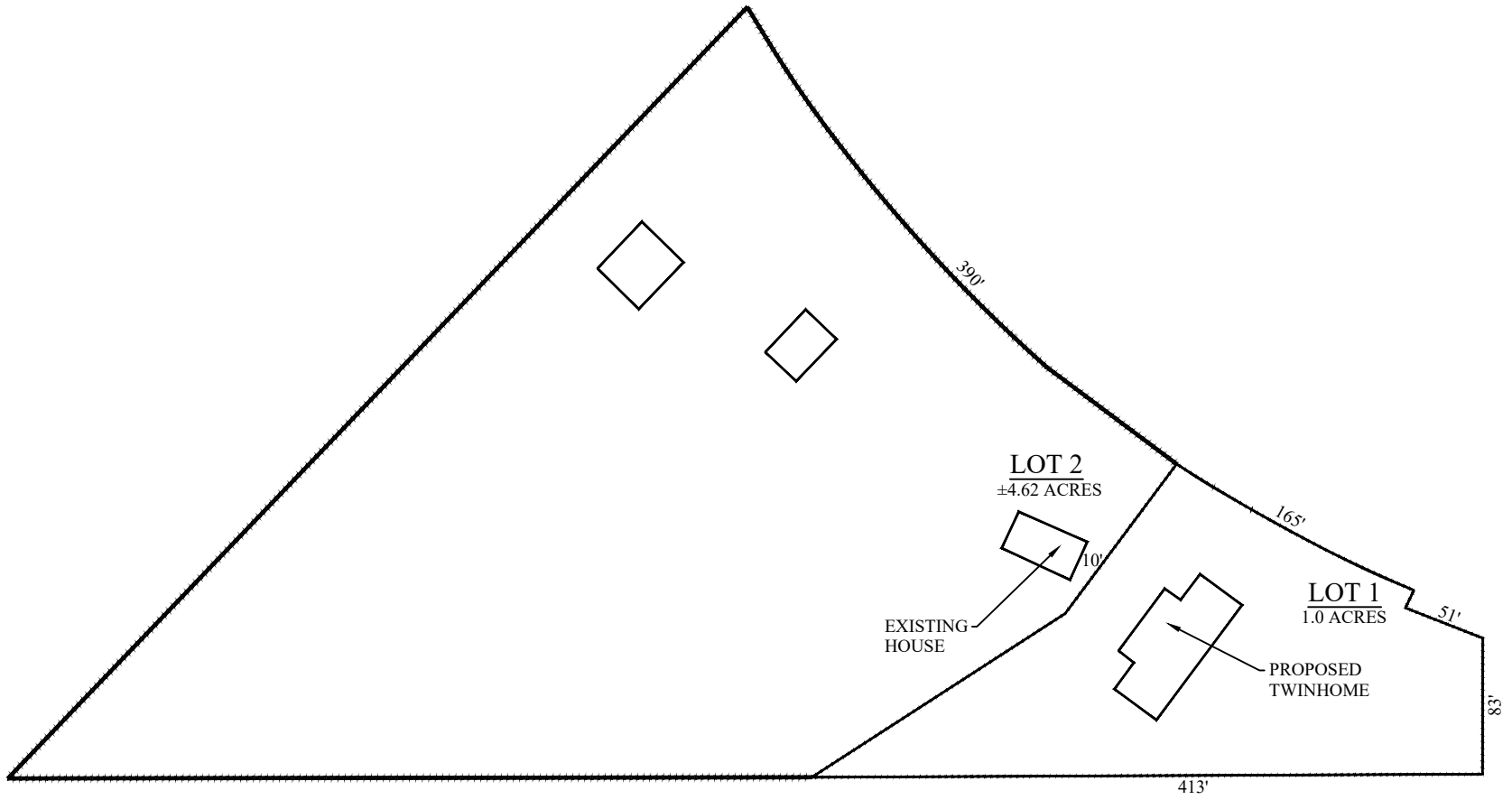
**ATTACHMENT A**

**That part of SE1/4 of NE1/4, described as follows: Beginning at the Southeast corner of said SE1/4 of NE1/4; thence on an assumed bearing of S89deg49'05"W, along the south line of said SE1/4 of NE1/4, a distance of 971.69 feet; thence N43deg59'47"E, a distance of 697.29 feet to the centerline of Hermantown Road; thence Southeasterly, along last described centerline, a distance of 545.83 feet to the east line of said SE1/4 of NE1/4; thence Southerly, along last described east line, a distance of 108.62 feet to said point of beginning, St. Louis County, Minnesota**

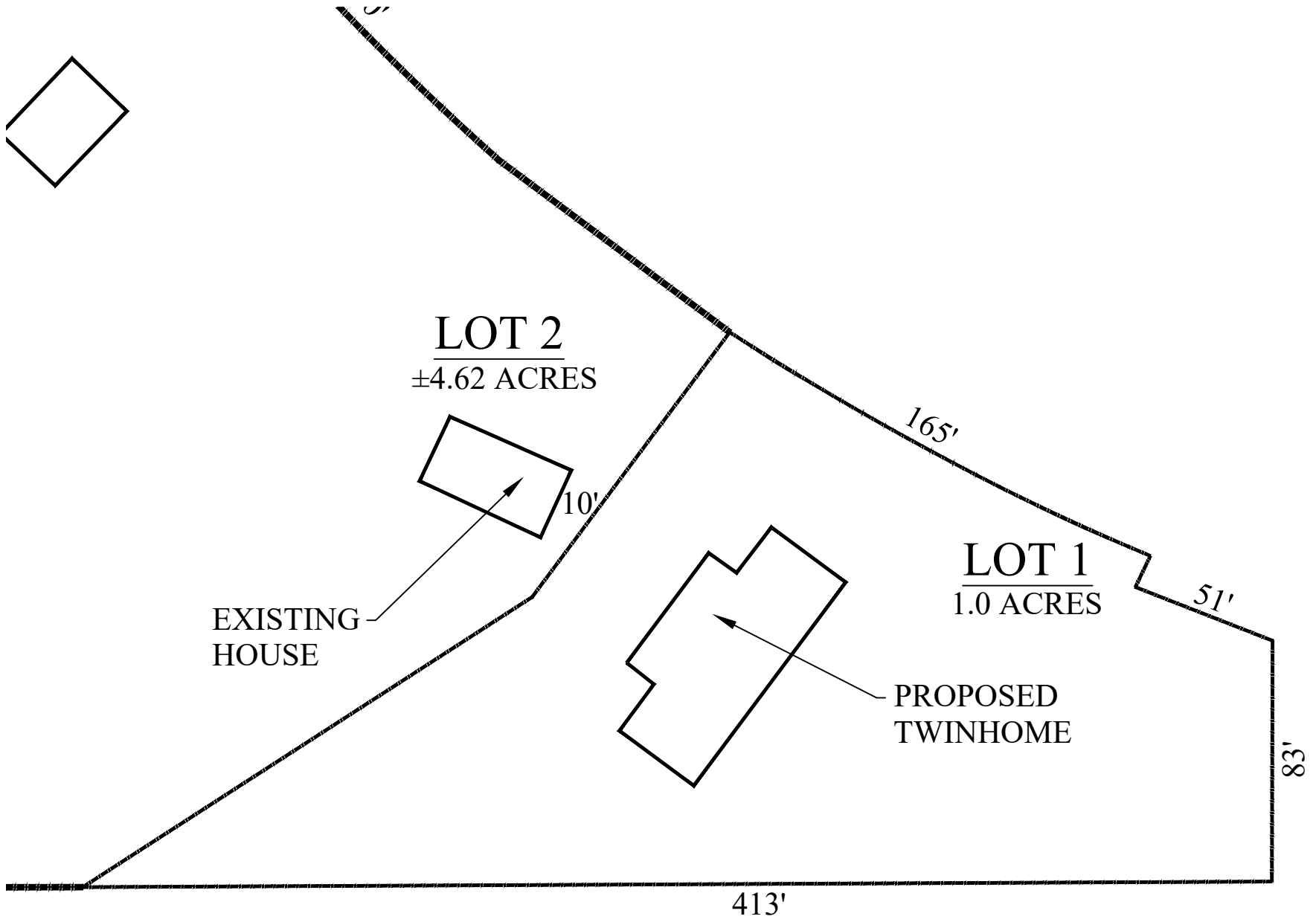
Property ID: 395-0010-08205

**Location Map**









LOT 2  
±4.62 ACRES

LOT 1  
1.0 ACRES

EXISTING  
HOUSE

PROPOSED  
TWINHOME

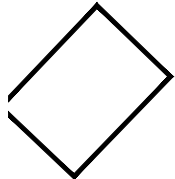
413'

83'

165'

51'

10'









**Resolution No. 2021-104**

**RESOLUTION DECLARING COST TO BE ASSESSED AND ORDERING PREPARATION OF ASSESSMENT ROLL FOR THE CONSTRUCTION OF 2021 ROAD IMPROVEMENT DISTRICT NO. 536 (SUNDBY ROAD & SWAN LAKE ROAD)**

WHEREAS, the City of Hermantown has caused expenses to be incurred in connection with the construction of 2021 Road Improvement District No. 536 (Sundby Road & Swan Lake Rd) (“Project”); and

WHEREAS, the City Council desires to have an assessment roll prepared for this Project.

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

1. The City will pay the entire cost of the Project that is not assessed pursuant to Section 2,
2. The total amount that will be specially assessed is the amount set forth in the assessment roll of the Project.
3. The City Clerk shall prepare a proposed assessment roll in accordance with the feasibility report and shall file a copy of such proposed assessment with the office of the City Clerk where it shall be open for public inspection.
4. The City Clerk shall, upon completion of such proposed assessment, provide the proposed assessment roll to the City Council thereof.

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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.

**Resolution No. 2021-105**

**RESOLUTION RECEIVING PROPOSED ASSESSMENT ROLL  
FOR THE CONSTRUCTION OF 2021 ROAD IMPROVEMENT  
DISTRICT NO. 536 (SUNDBY ROAD & SWAN LAKE ROAD)  
AND ORDERING HEARING THEREON**

WHEREAS, the City Engineer prepared a preliminary engineering report and feasibility study on 2021 Road Improvement District No. 536 (Sundby Road & Swan Lake Road); and

WHEREAS, the report concluded that the improvements are beneficial to the City of Hermantown and will benefit the abutting land owners; and

WHEREAS, the City Clerk has prepared a proposed assessment roll for such Project; and

WHEREAS, said proposed assessment roll is on file with the City Clerk and open to public inspection and a copy is attached hereto as Exhibit A; and

WHEREAS, a public hearing is required to be held on such proposed assessment roll prior to the City Council approving such assessment roll; and

WHEREAS, the City Council desires that such public hearing be held following notice as required by law.

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

1. The preliminary engineering report and feasibility study is hereby received.
2. The proposed assessment roll prepared by the City Clerk is hereby received and ordered to be maintained on file and open to public inspection in the Administration Services Building during regular office hours.
3. A hearing on such proposed assessment roll shall be held on the **18th day October**, at **6:30 o'clock p.m.** in the City Council Chambers of the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota, and at such time and place all persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
4. The City Clerk shall mail notice of such hearing to the owner of each parcel described in the assessment roll no later than **September 15, 2021**, and shall publish notice of such hearing in the official newspaper on **September 30, 2021** and on **October 7, 2021**.
5. The notice of the hearing to be published shall be in substantially the form of the notice attached hereto as Exhibit B.
6. The notice of the hearing to be mailed to each property owner shall be in substantially the form of the notice attached hereto as Exhibit C.
7. For the purpose of giving mailed notice; owners shall be those shown on the records of the St. Louis County Auditor.
8. The owner of any property so assessed may, at any time prior to December 31, 2020 pay the whole of the assessment on such property, without interest. The owner of any property so assessed may, at any time thereafter, pay to the City Clerk the entire amount of the 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. Partial prepayments of the assessment have not been authorized by ordinance 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:

Councilors

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.

**EXHIBIT A**

<b><u>Parcel #</u></b>	<b><u>Taxpayer</u></b>	<b><u>Proposed Assessment</u></b>	<b><u>Mailing Address</u></b>
395-0020-00220	BELLAGRACE PROPERTIES LLC	\$9,750.00	PO BOX 16510 DULUTH MN 55816
395-0010-03500	HEDENBERG A WILLIAM	\$9,750.00	1030 BERWICK CT DULUTH MN 55811
395-0020-00180	DELLA ROSSA DANE M & MEGAN F	\$9,750.00	4383 SUNDBY RD HERMANTOWN MN 55811
395-0020-00165	EDSA STORAGE LLC	\$9,750.00	4757 W ARROWHEAD RD HERMANTOWN MN 55811
395-0020-00190	GBURZYNSKI JOHN J	\$9,750.00	4400 121ST AVE CLEAR LAKE MN 55319
395-0020-00250	RUHNKE INC	\$9,750.00	4295 HAINES RD DULUTH MN 55811
395-0020-00265	RUHNKE INC	\$9,750.00	4295 HAINES RD DULUTH MN 55811
395-0020-00240	RUHNKE KEVIN	\$9,750.00	4295 HAINES RD HERMANTOWN MN 55811
395-0020-00200	BJORK BRADLEY S/PRINCE MYKAHLA R	\$9,750.00	4395 SUNDBY RD HERMANTOWN MN 55811
395-0020-00210	THOMAS BENJAMIN BRIAN & JENNIFER	\$9,750.00	4757 SWAN LAKE ROAD HERMANTOWN MN 55811
395-0010-03501	WEDEL LIVING TRUST	\$9,750.00	4725 SWAN LAKE RD HERMANTOWN MN 55811
		<hr/> <b>\$107,250.00</b>	

EXHIBIT B  
(To Be Published in the Hermantown Star)

NOTICE OF HEARING ON ASSESSMENTS FOR THE  
CONSTRUCTION OF 2021 ROAD IMPROVEMENT DISTRICT NO. 536  
(SUNDBY ROAD & SWAN LAKE ROAD)

NOTICE IS HEREBY GIVEN that the City Council will meet at 6:30 p.m. on Monday, October 18, 2021 at the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota to consider the proposed assessment for the construction of 2021 Road Improvement District No. 536 (Sundby Road & Swan Lake Road) (“Project”).

The area proposed to be assessed for such improvements are the parcels of land determined by the City to be benefited by said improvements based on benefits received.

The proposed assessment roll is on file for public inspection at the office of the City Clerk in the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota. The amount of the proposed assessment for the entire Project is \$107,250.00.

Written or oral objections by any property owner to the proposed assessment will be considered at the hearing. If a property owner at or prior to the hearing files a written objection to the assessment, the City Council shall consider such objection at an adjourned meeting upon such further notice to such objecting property owner as it deems advisable.

An owner may appeal an assessment to the District Court of St. Louis County pursuant to Minnesota Statutes, Section 429.081 by serving notice of the appeal upon the Mayor or Clerk of the City within thirty (30) days after the adoption of the assessment roll and filing such notice with the District Court within ten (10) days after service upon the Mayor or Clerk. No such appeal may be taken as to the amount of any assessment unless a written objection signed by the affected property owner is filed with the City Clerk prior to the assessment hearing or presented to the presiding officer at the assessment hearing.

Under Sections 435.193 to 435.195 of the Minnesota Statutes, the City Council may, in its discretion, defer the payment of a special assessment for any homestead property owned by a person sixty-five (65) years of age or older or a person who is retired due to permanent disability or a person in the military ordered into active military service for whom it would be a hardship to make the payments.

When deferment of the special assessment has been granted and is terminated for any reason provided in that law, all amounts accumulated plus applicable interest become due.

Any assessed property owner meeting the requirements of such law and City of Hermantown Resolution No. 2010-99 may, on a form obtained from the City Clerk, apply for such deferral of payment of a special assessment.

Authorized by the City Council.

Bonnie Engseth, Clerk  
City of Hermantown

EXHIBIT C  
(To Be Mailed To Property Owners)

NOTICE OF HEARING ON ASSESSMENT FOR THE  
CONSTRUCTION OF 2021 ROAD IMPROVEMENT DISTRICT NO. 536  
(SUNDBY ROAD & SWAN LAKE ROAD)

NOTICE IS HEREBY GIVEN that the City Council will meet at 6:30 o'clock p.m. on October 18, 2021 at the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota, consider the proposed assessment for the construction of 2021 Road Improvement District No. 536(Sundby Road & Swan Lake Road) ("Project").

The area proposed to be assessed for such improvements are the parcels of land determined by the City to be benefited by said improvements based on benefits received.

The proposed assessment roll is on file for public inspection at the office of the City Clerk in the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota. The amount of the proposed assessment for the entire Project is \$107,250.00.

Written or oral objections by any property owner to the proposed assessment will be considered at the hearing. If a property owner at or prior to the hearing files a written objection to the assessment, the City Council shall consider such objection at an adjourned meeting upon such further notice to such objecting property owner as it deems advisable.

An owner may appeal an assessment to the District Court of St. Louis County pursuant to Minnesota Statutes, Section 429.081 by serving notice of the appeal upon the Mayor or Clerk of the City within thirty (30) days after the adoption of the assessment roll and filing such notice with the District Court within ten (10) days after service upon the Mayor or Clerk.

No such appeal may be taken as to the amount of any assessment unless a written objection signed by the affected property owner is filed with the City Clerk prior to the assessment hearing or presented to the presiding officer at the assessment hearing.

Under Minnesota Statutes, Sections 435.193 to 435.195, the Council may, in its discretion, defer the payment of a special assessment for any homestead property owned by a person sixty-five (65) years of age or older or a person who is retired due to permanent disability or a person in the military ordered into active military service for whom it would be a hardship to make the payments. When deferment of the special assessment has been granted and is terminated for any reason provided in that law, all amounts accumulated plus applicable interest become due. Any assessed property owner meeting the requirements of such law and City of Hermantown Resolution No. 2010-99 may, on a form obtained from the City Clerk, apply for such deferral of payment of a special assessment.

The amount to be specially assessed against your particular lot, piece or parcel of land, is **\$9,750.00**. You may at any time prior to December 31, 2021, pay the entire assessment on such property without interest, to the Hermantown City Clerk. No interest shall be charged if the entire assessment is paid by December 31, 2021. You may at any time thereafter pay to the Hermantown City Clerk the entire amount of the 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 30 or interest will be charged through December 31 of the succeeding year. If you decide not to prepay the assessment before December 31, 2021, the rate of interest that will apply is 4% percent over fifteen years. Partial prepayments of the assessments have not been authorized by ordinance of the City of Hermantown.

The proposed assessment roll may be adopted by the City Council at the hearing or at a regular meeting following the hearing.



**Resolution No. 2021-106**

**RESOLUTION DECLARING COST TO BE ASSESSED AND ORDERING PREPARATION OF  
ASSESSMENT ROLL FOR THE CONSTRUCTION OF ROAD IMPROVEMENT  
DISTRICT NO. 537 (LAVAQUE JUNCTION ROAD)**

WHEREAS, the City of Hermantown has caused expenses to be incurred in connection with the construction of Road Improvement District No. 537 (Lavaque Junction Road) ("Project"); and

WHEREAS, the City Council desires to have an assessment roll prepared for this Project.

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

1. The City will pay the entire cost of the Project that is not assessed pursuant to Section 2,
2. The total amount that will be specially assessed is the amount set forth in the assessment roll of the Project.
3. The City Clerk shall prepare a proposed assessment roll in accordance with the feasibility report and shall file a copy of such proposed assessment with the office of the City Clerk where it shall be open for public inspection.
4. The City Clerk shall, upon completion of such proposed assessment, provide the proposed assessment roll to the City Council thereof.

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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.

**Resolution No. 2021-107**

**RESOLUTION RECEIVING PROPOSED ASSESSMENT ROLL  
FOR THE CONSTRUCTION OF ROAD IMPROVEMENT  
DISTRICT NO. 537 (LAVAQUE JUNCTION ROAD) AND ORDERING HEARING THEREON**

WHEREAS, the City Engineer prepared a preliminary engineering report and feasibility study on Road Improvement District No. 537 (Lavaque Junction Road); and

WHEREAS, the report concluded that the improvements are beneficial to the City of Hermantown and will benefit the abutting land owners; and

WHEREAS, the City Clerk has prepared a proposed assessment roll for such Project; and

WHEREAS, said proposed assessment roll is on file with the City Clerk and open to public inspection and a copy is attached hereto as Exhibit A; and

WHEREAS, a public hearing is required to be held on such proposed assessment roll prior to the City Council approving such assessment roll; and

WHEREAS, the City Council desires that such public hearing be held following notice as required by law.

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

1. The preliminary engineering report and feasibility study is hereby received.
2. The proposed assessment roll prepared by the City Clerk is hereby received and ordered to be maintained on file and open to public inspection in the Administration Services Building during regular office hours.
3. A hearing on such proposed assessment roll shall be held on the **18th day October**, at **6:30 o'clock p.m.** in the City Council Chambers of the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota, and at such time and place all persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
4. The City Clerk shall mail notice of such hearing to the owner of each parcel described in the assessment roll no later than **September 15, 2021**, and shall publish notice of such hearing in the official newspaper on **September 30, 2021** and on **October 7, 2021**.
5. The notice of the hearing to be published shall be in substantially the form of the notice attached hereto as Exhibit B.
6. The notice of the hearing to be mailed to each property owner shall be in substantially the form of the notice attached hereto as Exhibit C.
7. For the purpose of giving mailed notice; owners shall be those shown on the records of the St. Louis County Auditor.
8. The owner of any property so assessed may, at any time prior to December 31, 2020 pay the whole of the assessment on such property, without interest. The owner of any property so assessed may, at any time thereafter, pay to the City Clerk the entire amount of the 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. Partial prepayments of the assessment have not been authorized by ordinance 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:

Councilors

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.

**EXHIBIT A**

<b><u>Parcel #</u></b>	<b><u>Taxpayer</u></b>	<b><u>Proposed Assessment</u></b>	<b><u>Mailing Address</u></b>
395-0070-00790	FISH PHILIP JOHN	\$9,750.00	4245 LAVAQUE RD DULUTH MN 55811
395-0070-00630	SUNDSTROM JAMES D	\$9,750.00	3067 COUNTY ROAD 61 BARNUM MN 55707
395-0070-00780	BLOOM BRADFORD C & BECKY A	\$9,750.00	5144 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00575	KUCZA WALLACE & BEVERLY O	\$9,750.00	5147 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00770	FORO SCOTT J & DEBRA	\$9,750.00	5150 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00565	CARLSON DELAINE A	\$9,750.00	5153 LAVAQUE JUNCTION RD DULUTH MN 55811-3632
395-0070-00775	LUCARELLI RYAN M & HEATHER A	\$9,750.00	5158 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00566	CARLSON DONALD H	\$9,750.00	5159 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00555	BLOOM CONSTANCE C	\$9,750.00	5167 LAVAQUE JUNCTION ROAD DULUTH MN 55811
395-0070-00760	KUCZA KEVIN J	\$9,750.00	5170 LAVAQUE JUNCTION RD HERMANTOWN MN 55811
395-0070-00545	MURPHY DELORES M	\$9,750.00	5177 LAVAQUE JUNCTION RD DULUTH MN 55811
395-0070-00750	VANLOON KATY	\$9,750.00	974 LYDIA AVE ROSEVILLE MN 55113
395-0070-00755	VANLOON MARLENE	\$9,750.00	5182 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00535	ROBERTSON ANGELA & MICHAEL /PETERSON MOLLY	\$9,750.00	5189 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00743	PIERCE CANDICE C	\$9,750.00	5192 LAVAQUE JUNCTION RD HERMANTOWN MN 55811
395-0070-00740	RUTKA RONALD L & KATHRYN A	\$9,750.00	5194 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00534	HUMMEL MARK J & JOHNEJACK GAIL M	\$9,750.00	5195 LAVAQUE JUNCTION RD HERMANTOWN MN 55811
395-0070-00745	VITTORIO ANTHONY A & DEBORA J	\$9,750.00	5196 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00533	RISH ANDREA K	\$9,750.00	5197 LAVAQUE JUNCTION ROAD HERMANTOWN MN 55811
395-0070-00730	TATAROWICZ KAZIMIERZ E	\$9,750.00	5204 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00527	KIMPLING TIMOTHY M & KRISTEN	\$9,750.00	5211 LAVAQUE JUNCTION ROAD HERMANTOWN MN 55811
395-0070-00725	WAGNER CAROL	\$9,750.00	5216 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00515	CALLAHAN PATRICIA	\$9,750.00	5217 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00720	WILLIAMS BRIAN D	\$9,750.00	5222 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00514	WILLIAMS JAKE S & MARISA J	\$9,750.00	5223 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00505	LINDQUIST KATHLEEN L	\$9,750.00	5227 LAVAQUE JUNCTION RD HERMANTOWN MN 55811
395-0070-00715	LETCHWORTH SHARLENE T	\$9,750.00	5228 LAVAQUE JUNCTION HERMANTOWN MN 55811
395-0070-00506	GRIMM DAVID M	\$9,750.00	5233 LAVAQUE JUNCTION RD DULUTH MN 55811
395-0070-00710	MACDONELL CASEY E	\$9,750.00	5236 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00700	SULIIN KEVIN J	\$9,750.00	5242 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00495	DAWE ERIC E & NATALIE A	\$9,750.00	5247 LAVAQUE JUNCTION RD HERMANTOWN MN 55811
395-0070-00705	BILLINGS MATTHEW R & KATIE L	\$9,750.00	5248 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00690	ILOLA JOYCE E	\$9,750.00	5252 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00484	PREWIT PARKER N & HANNAH D	\$9,750.00	5253 LAVAQUE JCT RD HERMANTOWN MN 55811
395-0070-00482	BAKER JUSTIN J AND KANTONEN ELLI M	\$9,750.00	5259 LAVAQUE JUNCTION ROAD HERMANTOWN MN 55811
395-0070-00645	EKLUND DOUGLAS J & VERONICA L	\$9,750.00	5264 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00470	QUESENBERRY JANE E	\$9,750.00	5271 LAVAQUE JCT RD DULUTH MN 55811
395-0070-00460	MUENCH RANDALL & ROBIN	\$9,750.00	5275 LAVAQUE JUNCTION RD HERMANTOWN MN 55811

**EXHIBIT A**

395-0070-00462 VAN DYKE ROGER A	\$9,750.00	5281 LAVAQUE JCT RD	HERMANTOWN MN 55811
395-0070-00641 COSTLEY LAURA LEE	\$9,750.00	5290 LAVAQUE JCT RD	HERMANTOWN MN 55811
395-0070-00525 KOEPP DENNIS & SHEILA	\$9,750.00	6159 HWY 194	SAGINAW MN 55779
395-0070-00772 JOHNSTON LORI A	\$9,750.00	5154 LAVAQUE JCT	DULUTH MN 55811
395-0070-00465 VAN DYKE ROGER A	\$9,750.00	5281 LAVAQUE JCT RD	HERMANTOWN MN 55811
395-0070-00526 KOEPP DENNIS & SHEILA	\$9,750.00	6159 HWY 194	SAGINAW MN 55779
	<b>\$429,000.00</b>		

EXHIBIT B  
(To Be Published in the Hermantown Star)

NOTICE OF HEARING ON ASSESSMENTS FOR THE  
CONSTRUCTION OF ROAD IMPROVEMENT DISTRICT NO. 537 (LAVAQUE JUNCTION ROAD)

NOTICE IS HEREBY GIVEN that the City Council will meet at 6:30 p.m. on Monday, October 18, 2021 at the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota to consider the proposed assessment for the construction of Road Improvement District No. 537 (Lavaque Junction Road) (“Project”).

The area proposed to be assessed for such improvements are the parcels of land determined by the City to be benefited by said improvements based on benefits received.

The proposed assessment roll is on file for public inspection at the office of the City Clerk in the Governmental Services Building, 5105 Maple Grove Road, Hermantown, Minnesota. The amount of the proposed assessment for the entire Project is \$429,000.00.

Written or oral objections by any property owner to the proposed assessment will be considered at the hearing. If a property owner at or prior to the hearing files a written objection to the assessment, the City Council shall consider such objection at an adjourned meeting upon such further notice to such objecting property owner as it deems advisable.

An owner may appeal an assessment to the District Court of St. Louis County pursuant to Minnesota Statutes, Section 429.081 by serving notice of the appeal upon the Mayor or Clerk of the City within thirty (30) days after the adoption of the assessment roll and filing such notice with the District Court within ten (10) days after service upon the Mayor or Clerk. No such appeal may be taken as to the amount of any assessment unless a written objection signed by the affected property owner is filed with the City Clerk prior to the assessment hearing or presented to the presiding officer at the assessment hearing.

Under Sections 435.193 to 435.195 of the Minnesota Statutes, the City Council may, in its discretion, defer the payment of a special assessment for any homestead property owned by a person sixty-five (65) years of age or older or a person who is retired due to permanent disability or a person in the military ordered into active military service for whom it would be a hardship to make the payments.

When deferment of the special assessment has been granted and is terminated for any reason provided in that law, all amounts accumulated plus applicable interest become due.

Any assessed property owner meeting the requirements of such law and City of Hermantown Resolution No. 2010-99 may, on a form obtained from the City Clerk, apply for such deferral of payment of a special assessment.

Authorized by the City Council.

Bonnie Engseth, Clerk  
City of Hermantown

## EXHIBIT C

(To Be Mailed To Property Owners)

### NOTICE OF HEARING ON ASSESSMENT FOR THE CONSTRUCTION OF ROAD IMPROVEMENT DISTRICT NO. 537 (LAVAQUE JUNCTION ROAD)

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The amount to be specially assessed against your particular lot, piece or parcel of land, is **\$9,750.00**. You may at any time prior to December 31, 2021, pay the entire assessment on such property without interest, to the Hermantown City Clerk. No interest shall be charged if the entire assessment is paid by December 31, 2021. You may at any time thereafter pay to the Hermantown City Clerk the entire amount of the 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 30 or interest will be charged through December 31 of the succeeding year. If you decide not to prepay the assessment before December 31, 2021, the rate of interest that will apply is 4% percent over fifteen years. Partial prepayments of the assessments have not been authorized by ordinance of the City of Hermantown.

The proposed assessment roll may be adopted by the City Council at the hearing or at a regular meeting following the hearing.

**TO:** Mayor & City Council  
**FROM:** John Mulder, City Administrator  
**DATE:** August 31, 2021  
**SUBJECT:** Environmental Covenant –  
EWC Vapor Mitigation



**Meeting Date:** 9/7/21

**Agenda Item: 12-H**      **Resolution 2021-108**

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**REQUESTED ACTION**

**Approve an Environmental covenant for the vapor mitigation system at the Essentia Wellness Center**

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**BACKGROUND**

During construction of the Essentia Wellness Center, the City had a vapor mitigation system installed under parts of the building. This system must be maintained and monitored. The MN Pollution Control Agency is requiring the City to file an environmental covenant and easement on the property for the system. This covenant will be recorded on the title of the property to inform any future buyer of the property and to allow MPCA to enter the property to inspect if necessary.

The City Council previously approved the environmental covenant on April 5, 2021, but the MPCA made a number of changes and so we are requesting the Council approve the amended covenant.

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**SOURCE OF FUNDS (if applicable)**

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**ATTACHMENTS**

Easement & Attachments



**Resolution No. 2021-108**

**RESOLUTION APPROVING THE  
ENVIRONMENTAL COVENANT AND EASEMENT**

WHEREAS, the City of Hermantown (“City”) has a fee simple interest in the real property located within the City of Hermantown consisting of 15.48 acres and is also known as St. Louis Count parcel identification number’s 395-0010-04421 and 395-0070-00861 (“Property”); and

WHEREAS, the Property was formerly utilized as the Hermantown middle school and is now utilized in connection with the Essentia Wellness Center; and

WHEREAS, in 2017 an environmental investigation was completed on the Property and determined that ethylbenzene and naphthalene were detected in sub-slab soil vapor exceeded the MPCA’s action level of 33-times ISVs for residential use; and

WHEREAS, a sub-slab depressurization system (“SSDS”) was installed during the construction of the Essentia Wellness Center; and

WHEREAS, the components of the SSDS must be maintained and inspected periodically; and

WHEREAS, the Minnesota Pollution Control Agency (“MPCA”) has requested that the City enter into the proposed Environmental Covenant and Easement attached hereto as Exhibit A to limit activities and outline use limitations on the Property to prevent infiltration of vapors and/or prevent human exposure to residual soil contamination; and

WHEREAS, the City Council has duly considered this matter and believes it to be in the best interests of the City of Hermantown to approve the Environmental Covenant and Easement in substantially the form as shown on Exhibit A and authorize the Mayor and City Clerk to execute and record the Environmental Covenant and Easement.

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

1. The Environmental Covenant and Easement in substantially the form as attached as Exhibit A is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to execute, record and deliver the Declaration

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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.

**EXHIBIT A**

## ENVIRONMENTAL COVENANT AND EASEMENT

*Preferred ID BF0000660*

This Environmental Covenant and Easement (“Environmental Covenant”) is executed pursuant to the Uniform Environmental Covenants Act, Minn. Stat. ch. 114E (“UECA”) in connection with an environmental response project approved by the Minnesota Pollution Control Agency (“MPCA”).

### **1. Grantor and Property Description.**

#### **A. Owner and Legal Description of Property.**

City of Hermantown is the fee owner of certain real property located at 4289 Ugstad Road, in Hermantown, St. Louis County, Minnesota (hereinafter the “Property”), shown on Attachment 1 and legally described in Attachment 2. The property consists of 15.48 acres and is also known as St. Louis County parcel identification numbers 395-0010-04421 and 395-0070-00861.

#### **B. Grantor.**

The City of Hermantown is the Grantor of this Environmental Covenant.

### **2. Grant of Covenant; Covenant Runs With The Land.**

Grantor does hereby Covenant and Declare that the Property shall be subject to the Activity and Use Limitations and associated terms and conditions set forth in this Environmental Covenant including the Easement in Paragraph 9, and that these Activity and Use Limitations and associated terms and conditions constitute covenants which run with the Property and which shall be binding on Grantor, its heirs, successors and assigns, and on all present and future Owners of the Property and all persons who now or hereafter hold any right, title or interest in the Property. An Owner is bound by this Environmental Covenant during the time when the Owner holds fee title to the Property. Any other person that holds any right, title or interest in or to the Property is bound by this Environmental Covenant during the time the person holds the right, title or interest. An Owner ceases to be bound by this Environmental Covenant when the Owner conveys fee title to another person, and any other person that holds any right, title or interest in or to the Property ceases to be bound when the person conveys the right, title or interest to another person.

### **3. Environmental Agency; Grantee and Holder of Environmental Covenant; Acceptance of Interest in Real Property.**

#### **A. Environmental Agency.**

The MPCA is the environmental agency with authority to approve this Environmental Covenant under UECA.

#### **B. Grantee and Holder; Acceptance of Interest in Property.**

The MPCA is the Grantee and Holder of the interest in real property conveyed by this Environmental Covenant. MPCA has authority to acquire an interest in real property, including an Environmental Covenant, for response actions under Minn. Stat § 115C.08, subd. 4(11) for

petroleum, as the MPCA determines necessary for a corrective action related to petroleum. MPCA's signature on this Environmental Covenant constitutes approval of this Environmental Covenant under UECA and acceptance of the interest in real property granted herein for purposes of Minn. Stat. § 115C.08, subd. 4(11).

#### **4. Environmental Response Project.**

The Property is the location of releases of petroleum compounds that are addressed by an environmental response project under the MPCA Petroleum Brownfields Program pursuant to Minn. Stat. § 115C program. MPCA has determined that an Environmental Covenant is needed for the Property because of the presence of petroleum related volatile organic compounds ("VOCs") including ethylbenzene and naphthalene in soil vapor beneath the Wellness Center Building on the Property which is being addressed through continuous operation of an active sub-slab vapor mitigation system.

#### **5. Statement of Facts.**

The Property is approximately 15.48 acres and is developed with a two-story, approximately 80,000 square foot (approximately 50,000 square foot footprint) wellness center. The Property previously existed as the former Hermantown middle school (Former Middle School) The Former Middle School was constructed in 1940 and had undergone several renovations and the development of two building additions. The Former Middle School Building was vacated in 2016, after completion of a new Hermantown middle school building, not located on the Property.

In October 2017, environmental investigation activities were completed at the Property associated with the proposed development of the Wellness Center Building. The investigation included collection of five sub-slab soil vapor samples. Ethylbenzene and naphthalene were detected in sub-slab soil vapor beneath the Former Middle School Building at concentrations exceeding the MPCA's action level of 33-times ISVs for residential use.

A sub-slab depressurization system ("SSDS") was installed in the Wellness Center Building during construction, and which was completed in October 2019. The SSDS consists of five sub-systems throughout the building. The components of the SSDS system must be maintained and inspected periodically. Periodic inspections shall include checking the vacuum monitor alarm panels to confirm they are in normal operating condition and checking the fan and roof-top seal. Any components of the SSDS that are damaged or not in normal operating condition shall be repaired or replaced within 30 days. If any portion of the floor is damaged or removed within the Restricted Area, the vapor barrier shall be repaired in accordance with manufacturer's directions and concrete replaced in a timely manner. A log of monitoring observations, inspections, and repair actions shall be maintained by the Wellness Center Building Owner or its designee. The SSDS shall run continuously for the life of the building. Details regarding the investigation and response actions can be found in the MPCA's file for Essentia Health Regional Wellness Center, BF0000660.

#### **6. Definitions.**

The terms used in this Environmental Covenant shall have the meanings given in UECA, and in the Minnesota Environmental Response and Liability Act (MERLA), Minn. Stat. §115B.02. In addition, the definitions in this Paragraph 6 apply to the terms used in this Environmental Covenant.

**A.** “Commissioner” means the Commissioner of the Minnesota Pollution Control Agency, the Commissioner’s successor, or other person delegated by the Commissioner to act on behalf of the Commissioner.

**B.** “MPCA” means the Minnesota Pollution Control Agency, an agency of the State of Minnesota, or its successor or assign under any governmental reorganization.

**C.** “Owner” means a person that holds fee title to the Property and is bound by this Environmental Covenant as provided in Paragraph 2. When the Property is subject to a contract for deed, both the contract for deed vendor and vendee are collectively considered the Owner.

**D.** “Political Subdivision” means the county, and the statutory or home rule charter city or township, in which the Property is located.

**E.** “Property” means the real property described in Paragraph 1 of this Environmental Covenant.

**7. Activity and Use Limitations.**

The following Activity and Use Limitations shall apply to the Property:

**A. Use Limitations.**

There are no use limitations on the Property.

**B. Activity Limitations.**

The following activities on the Property are prohibited except as provided in Paragraph 8:

There shall be no disturbance, removal, or interference with the operation of the SSDS within the Property building, as shown in Attachment 3

**C. Affirmative Obligations of Owner.**

The Activity Limitations imposed under this Environmental Covenant include the following affirmative covenants and obligations:

Owner shall maintain the integrity of pavement, building floors in the property building to prevent infiltration of vapors and/or prevent human exposure to residual soil contamination.

And

Owner shall maintain, operate, and monitor the SSDS in the building located on the Property as shown in Attachment 3, in accordance with the Vapor Intrusion Mitigation System Operation, Maintenance and Monitoring Plan set forth in Attachment 4.

**8. Prior MPCA Approval Required For Activities Limited Under Environmental Covenant.**

**A. Approval Procedure.**

Any activity subject to limitation under Paragraph 7.B. shall not occur without the prior written approval of the Commissioner. The Commissioner's approval may include conditions which the Commissioner deems reasonable and necessary to protect public health or welfare or the environment, including submission to and approval of a contingency plan for the activity. Within 60 days after receipt of a written request for approval to engage in any activities subject to a limitation under Paragraph 7.B., the MPCA shall respond, in writing, by approving such request, disapproving such request, or requiring that additional information be provided. A lack of response from the Commissioner shall not constitute approval by default or authorization to proceed with the proposed activity.

**B. Emergency Procedures.**

Owner shall follow the procedures set forth in this Paragraph 8.B. when an emergency requires immediate excavation affecting contaminated soil or other media at the Property to repair utility lines or other infrastructure on the Property, or to respond to other types of emergencies (e.g., fires, floods):

i. Notify the Minnesota Duty Officer, or successor officer, immediately of obtaining knowledge of such emergency conditions; the current phone numbers for the Duty Officer are 1-800-422-0798 (Greater Minnesota only); (651) 649-5451 (Twin Cities Metro Area and outside Minnesota); fax (any location) (651) 296-2300 and TDD (651) 297-5353 or 800-627-3529.

ii. Assure that the persons carrying out the excavation limit the disturbance of contaminated media to the minimum reasonably necessary to adequately respond to the emergency;

iii. Assure that the persons carrying out the excavation prepare and implement a site-specific health and safety plan for excavation and undertake precautions to minimize exposure to workers, occupants, and neighbors of the Property to contaminated media (e.g., provide appropriate types of protective clothing for workers conducting the excavation, and establish procedures for minimizing the dispersal of contaminated dust); and

iv. Assure preparation and implementation of a plan to restore the Property to a level that protects public health and welfare and the environment. The plan must be submitted to and approved by the MPCA prior to implementation of the plan, and a follow-up report must be submitted to the MPCA after implementation so that the MPCA can determine whether protection of the public health and welfare and the environment has been restored.]

**9. Easement; Right of Access to the Property.**

Owner grants to the MPCA, the City of Hermantown, and St. Louis County an easement to enter the Property from time to time, to inspect the property building and to evaluate compliance with the Activity and Use Limitations set forth in Paragraph 7. In addition, for the purpose of evaluating compliance, Owner grants to the MPCA the right to take samples of environmental media such as soil, ground water, surface water, and air, and to install, maintain and close borings, probes, wells, or other structures necessary to carry out the sampling.

MPCA, the City of Hermantown, and St. Louis County, and their employees, agents, contractors, and subcontractors, may exercise the rights granted under this Paragraph 9 at reasonable times and with reasonable notice to the then-current owner, conditioned only upon showing identification or credentials by the persons seeking to exercise those rights.

**10. Duration; Amendment or Termination of Environmental Covenant.**

**A. Duration of Environmental Covenant.**

This environmental covenant is perpetual as provided in Minn. Stat. § 114E.40(a).

**B. Amendment or Termination by Consent.**

i. This Environmental Covenant may be amended or terminated in writing by the Owner and the MPCA. If an interest in real property is subject to this Environmental Covenant, the interest is not affected by an amendment of the Environmental Covenant unless the current owner of the interest consents to the amendment or has waived in the Environmental Covenant or other signed record the right to consent to the amendment.

ii. The Grantor of this Environmental Covenant agrees that, upon conveying fee title to the Property to any other person, the Grantor waives the right to consent to amendment or termination of this Environmental Covenant.

**C. Termination, Reduction of Burden, or Modification By MPCA.**

The MPCA may terminate, reduce the burden of, or modify this Environmental Covenant as provided in Minn. Stat. § 114E.40.

**11. Disclosure in Property Conveyance Instruments.**

Notice of this Environmental Covenant, and the Activity and Use Limitations set forth in Paragraph 7 and Compliance Reporting Requirements set forth in Paragraph 18 of this Environmental Covenant, shall be incorporated in full or by reference into all instruments conveying an interest in and/or a right to use the Property. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT UNDER MINN. STAT. CH. 114E, DATED \_\_\_\_\_, RECORDED IN THE OFFICIAL PROPERTY RECORDS OF \_\_\_\_\_ COUNTY, MINNESOTA AS DOCUMENT NO. \_\_\_\_\_. THE ENVIRONMENTAL COVENANT INCLUDES THE FOLLOWING ACTIVITY AND USE LIMITATIONS AND AFFIRMATIVE OBLIGATIONS:

There shall be no disturbance, removal, or interference with the operation of the SSDS within the Property building, as shown in Attachment 3.

Owner shall maintain the integrity of pavement, building floors at the Property to prevent infiltration of vapors and/or prevent human exposure to residual soil contamination.

And



Owner shall maintain, operate, and monitor the SSDS in the Property building located on the Property as shown in Attachment 3, in accordance with the Vapor Intrusion Mitigation System Operation, Maintenance and Monitoring Plan set forth in Attachment 4.

**12. Recording and Notice of Environmental Covenant, Amendments and Termination.**

**A. The Original Environmental Covenant.**

Within 30 days after the MPCA executes and delivers to Grantor this Environmental Covenant, the Grantor shall record this Environmental Covenant in the office of the County Recorder and/or Registrar of Titles of St. Louis County.

**B. Termination, Amendment or Modification.**

Within 30 days after MPCA executes and delivers to Owner any termination, amendment or modification of this Environmental Covenant, the Owner shall record the amendment, modification, or notice of termination of this Environmental Covenant in the office of the County Recorder and/or Registrar of Titles of St. Louis County.

**C. Providing Notice of Covenant, Termination, Amendment or Modification.**

Within 30 days after recording this Environmental Covenant, the Grantor shall transmit a copy of the Environmental Covenant in recorded form to:

- i. each person that signed the covenant or their successor or assign;
- ii. each person holding a recorded interest in the Property;
- iii. each person in possession of the Property;
- iv. the environmental officer of each political subdivision in which the Property is located; and
- v. any other person the environmental agency requires.

Within 30 days after recording a termination, amendment, or modification of this Environmental Covenant, the Owner shall transmit a copy of the document in recorded form to the persons listed in items i to iv above.

**13. Notices To Grantor and Environmental Agency.**

**A. Manner Of Giving Notice.**

Any notice required or permitted to be given under this Environmental Covenant is given in accordance with this Environmental Covenant if it is placed in United States first class mail postage prepaid; or deposited cost paid for delivery by a nationally recognized overnight delivery service; or transmitted by electronic mail to [instcontrols.pca@state.mn.us](mailto:instcontrols.pca@state.mn.us).

**B. Notices to the Grantor.**

Notices to the Grantor shall be directed to:

City of Hermantown  
Attn: John Mulder  
City Administrator  
5105 Maple Grove Road  
Hermantown, MN 55811-3605  
218.729.3600  
Email: jmulder@hermantownmn.com

**C. Notices to MPCA.**

All notices, including reports or other documents, required to be submitted to the MPCA shall reference the MPCA Preferred ID. **Email submittal is preferred.**

Minnesota Pollution Control Agency  
Remediation Division- Institutional Controls Coordinator  
MPCA Preferred ID: BF0000660  
520 Lafayette Road North  
St. Paul, MN 55155-4194  
Email: instcontrols.pca@state.mn.us

**14. Enforcement and Compliance.**

**A. Civil Action for Injunction or Equitable Relief.**

This Environmental Covenant may be enforced through a civil action for injunctive or other equitable relief for any violation of any term or condition of this Environmental Covenant, including violation of the Activity and Use Limitations under Paragraph 7 and denial of Right of Access under Paragraph 9. Such an action may be brought by:

- i. the MPCA;
- ii. a political subdivision in which the Property is located;
- iii. a person whose interest in the Property or whose collateral or liability may be affected by the alleged violation of the covenant;
- iv. a party to the covenant, including all holders; or
- v. any person to whom the covenant expressly grants power to enforce.

**B. Additional Rights of Enforcement By MPCA.**

In addition to its authority under subparagraph A of this Paragraph 14, the MPCA may enforce this Environmental Covenant using any remedy or enforcement measure authorized under UECA or other applicable law, including remedies pursuant to Minn. Stat. §§ 115.071, subs. 3 to 5, or 116.072.

**C. No Waiver of Enforcement.**

Failure or delay in the enforcement of this Environmental Covenant shall not be considered a waiver of the right to enforce, nor shall it bar any subsequent action to enforce, this Environmental Covenant.

**D. Former Owners And Interest Holders Subject to Enforcement.**

Subject to any applicable statute of limitations, an Owner, or other person holding any right, title, or interest in or to the Property that violates this Environmental Covenant during the time when the Owner or other person is bound by this Environmental Covenant remains subject to enforcement with respect to that violation regardless of whether the Owner or other person has subsequently conveyed the fee title, or other right, title or interest, to another person.

**E. Other Authorities of MPCA Not Affected.**

Nothing in this Environmental Covenant affects MPCA's authority to take or require performance of response actions to address releases or threatened releases of hazardous substances or pollutants or contaminants at or from the Property, or to enforce a consent order, consent decree or other settlement agreement entered into by MPCA, or to rescind or modify a liability assurance issued by MPCA, that addresses such response actions.

**15. Administrative Record.**

Subject to the document retention policy of the MPCA, reports, correspondence and other documents which support and explain the environmental response project for the Property are maintained by the MPCA Brownfield Program at the MPCA's office at 520 Lafayette Road North in St. Paul, Minnesota in the file maintained for Essentia Health Regional Wellness Center, MPCA Preferred ID BF0000660.

**16. Representations and Warranties.**

Grantor hereby represents and warrants to the MPCA and any other signatories to this Environmental Covenant that, at the time of execution of this Environmental Covenant:

**A.** Every fee owner of the Property has been identified;

**B.** Grantor holds fee simple title to the Property which is free and clear of any encumbrances.

**C.** Grantor has authority to grant the rights and interests and carry out the obligations provided in this Environmental Covenant;

**D.** Nothing in this Environmental Covenant materially violates, contravenes, or constitutes a default under any agreement, document or instrument that is binding upon the Grantor.

**17. Governing Law.**

This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Minnesota.

**18. Compliance Reporting.**

The Owner shall submit to MPCA on an annual basis a written report confirming compliance with the Activity and Use Limitations and Affirmative Obligations provided in Paragraph 7.C. and summarizing any actions taken pursuant to Paragraph 8 of this Environmental Covenant. Reports shall be submitted on the first, July 1 that occurs at least six months after the effective date of this Environmental Covenant, and on each succeeding July 1 thereafter.

Owner shall notify the MPCA as soon as possible of any actions or conditions that would constitute a breach of the Activity and Use Limitations in Paragraph 7.

**19. Notice of Conveyance of Interest in Property.**

Owner shall provide written notice to MPCA within 30 days after any conveyance of fee title to the Property or any portion of the Property. The notice shall identify the name and contact information of the new Owner, and the portion of the Property conveyed to that Owner.

**20. Severability.**

In the event that any provision of this Environmental Covenant is held by a court to be unenforceable, the other provisions of this Environmental Covenant shall remain valid and enforceable.

**21. Effective Date.**

This Environmental Covenant is effective on the date of acknowledgement of the signature of the MPCA.

THE UNDERSIGNED REPRESENTATIVE OF THE GRANTOR REPRESENTS AND CERTIFIES THAT HE/SHE IS AUTHORIZED TO EXECUTE THIS ENVIRONMENTAL COVENANT.

IN WITNESS WHEREOF, THIS INSTRUMENT HAS BEEN EXECUTED ON THE DATES INDICATED BELOW:

**FOR THE GRANTOR:**

City of Hermantown

By \_\_\_\_\_  
Its Mayor

And By \_\_\_\_\_  
Its City Clerk

State of Minnesota     )  
                                  ) SS.

County of St. Louis)

On \_\_\_\_\_, 2021, this instrument was acknowledged before me by, Wayne Boucher and Bonnie Engseth, the Mayor and City Clerk, respectively, of the City of Hermantown and on behalf of the City of Hermantown, a Minnesota statutory city.

\_\_\_\_\_ (signature)  
Notary Public  
My Commission Expires \_\_\_\_\_

**FOR THE ENVIRONMENTAL AGENCY AND HOLDER:**

**MINNESOTA POLLUTION CONTROL AGENCY**

By \_\_\_\_\_ (signature)

Thomas Higgins Manager  
Site Remediation and Redevelopment Section  
Remediation Division  
Delegate of the Commissioner of the  
Minnesota Pollution Control Agency

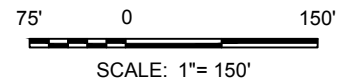
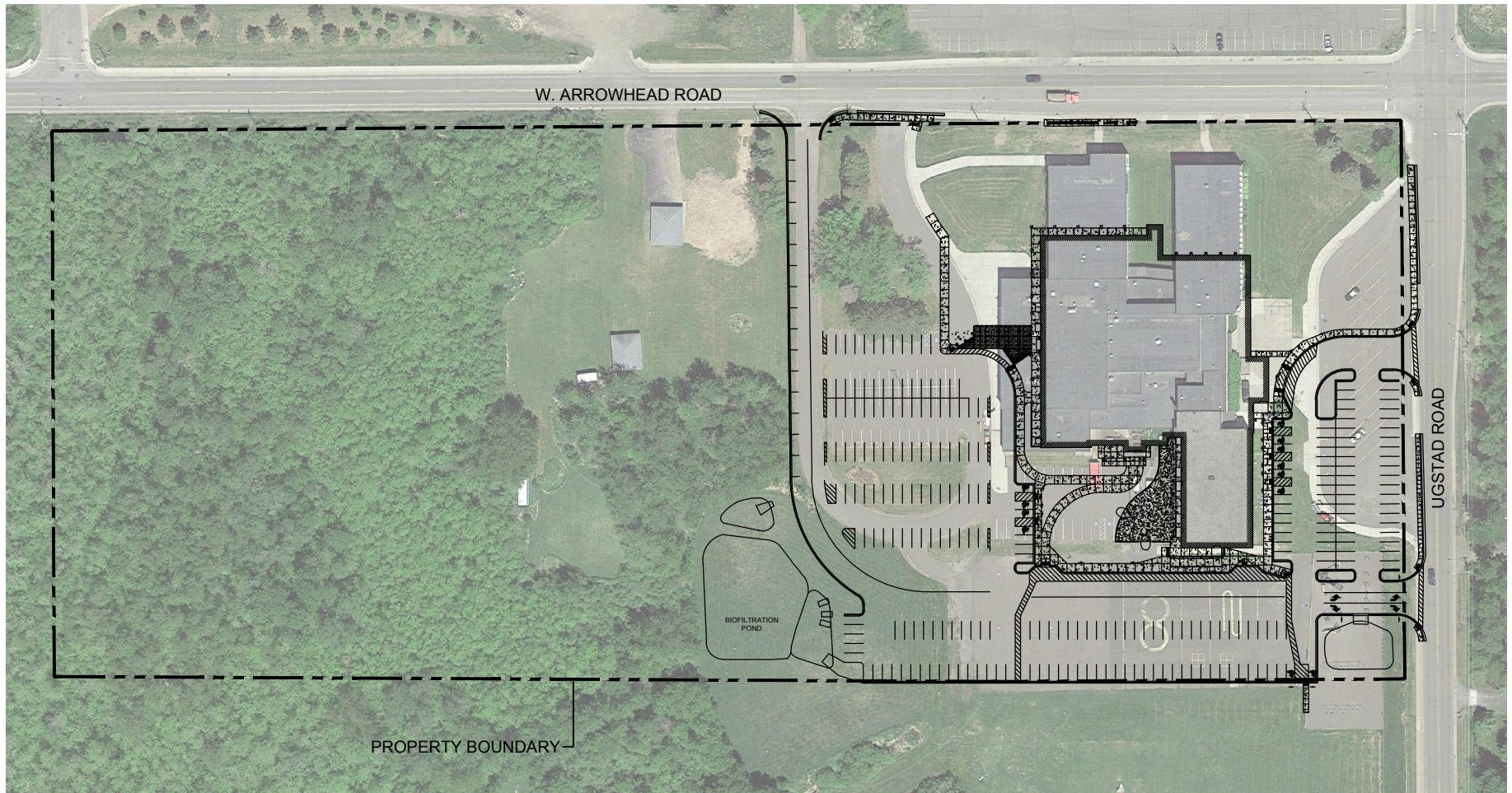
State of Minnesota     )  
  )SS.  
County of St. Louis     )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by Thomas Higgins, Manager of the Site Remediation and Redevelopment Section of the Remediation Division, and a delegate of the Commissioner of the Minnesota Pollution Control Agency, a state agency, on behalf of the State of Minnesota.

\_\_\_\_\_ (signature)  
Notary Public  
My Commission Expires \_\_\_\_\_

THIS INSTRUMENT WAS DRAFTED BY  
AND WHEN RECORDED RETURN TO:

Braun Intertec Corporation  
Samantha J. Schmidt  
4511 West 1st Street, Suite 4  
Duluth, MN 55807



11001 Hampshire Avenue S  
 Minneapolis, MN 55438  
 952.995.2000  
 braunintertec.com

Project No:  
 B1806884

Drawing No:  
 B1806884

Drawn By: JAG  
 Date Drawn: 1/12/21  
 Checked By: SAS  
 Last Modified: 1/12/21

Essentia Health Regional Wellness Center

4289 Ugstad Road

Hermantown, Minnesota

**Property  
 Boundary**

Attachment 1



Parcel 1:

All that part of Lot 1, Block 16, Duluth Homestead's Subdivision Plat, St. Louis County, Minnesota, described as follows:

Commencing at the northwest corner of said Lot 1, Block 16, Duluth Homestead's Subdivision Plat; thence South 89 degrees 38 minutes East, along the north line of said Lot 1, a distance of 673.91 feet, to the point of beginning; thence South 0 degrees 27 minutes West a distance of 250 feet; thence South 89 degrees 38 minutes East, along the south line of said Lot 1, a distance of 200 feet, more or less, to the east line of said Lot 1; thence North 0 degrees 27 minutes, along the east line of said Lot 1, a distance of 250 feet, more or less to the north line of said Lot 1; thence westerly along the north line of said Lot 1 to the point of beginning.

Parcel 2:

That part of Lot 2, Block 16, Duluth Homestead's Subdivision Plat, St. Louis County, Minnesota, described as follows:

Commencing at the northeast corner of Section 16, Township 50 North, Range 15 West, St. Louis County, Minnesota; thence along the east line of said Section 16, which has a bearing of South 00 degrees 26 minutes 22 seconds West (South 00 degrees 27 minutes West per Duluth Homestead's Subdivision Plat) a distance of 33.00 feet, to the easterly extension of the north line of said Lot 2, Block 16; thence North 89 degrees 38 minutes 00 seconds West, along said easterly extension, 33.00 feet to the northeast corner of said Lot 2, Block 16, said point being the point of beginning of the parcel herein described; thence South 00 degrees 26 minutes 22 seconds West, along the east line of said Lot 2, a distance of 250.00 feet; thence North 89 degrees 38 minutes 00 seconds West, parallel with said north line of Lot 2, Block 16, a distance of 236.00 feet; thence South 00 degrees 26 minutes 22 seconds West, parallel with said east line of Lot 2, Block 16, a distance of 30.00 feet; thence North 89 degrees 38 minutes 00 seconds West, parallel with said north line of Lot 2, Block 16, a distance of 151.00 feet; thence South 00 degrees 26 minutes 22 seconds West, parallel with said east line of Lot 2, Block 16, a distance of 250.00 feet, to the easterly extension of the south line of Lot 1, Block 16, Duluth Homestead's Subdivision Plat; thence North 89 degrees 38 minutes 00 seconds West, along said easterly extension, 343.00 feet, to the east line of said Lot 1, Block 16; thence North 00 degrees 26 minutes 22 seconds East, along said east line, 280.00 feet to a south line of Lot 1, Block 16; thence South 89 degrees 38 minutes 00 minutes East, along said south line, 325.00 feet, to the east line of said Lot 1, Block 16; thence North 00 degrees 26 minutes 22 seconds East, along said east line, 250.00 feet to the north line of said Lot 2, Block 16; thence South 89 degrees 38 minutes 00 seconds East, along said north line, 405.00 feet, to the point of beginning.

Parcel 3:

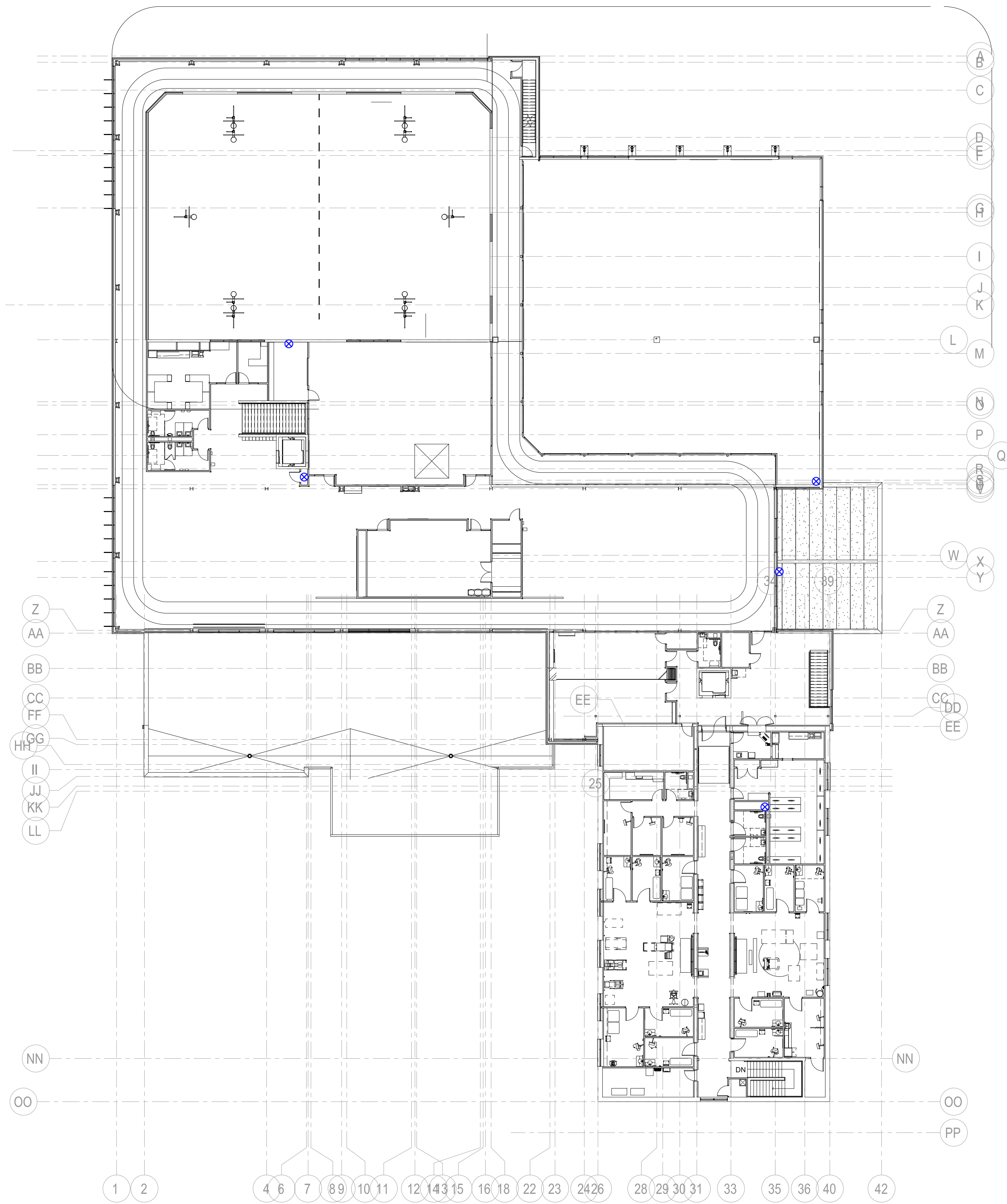
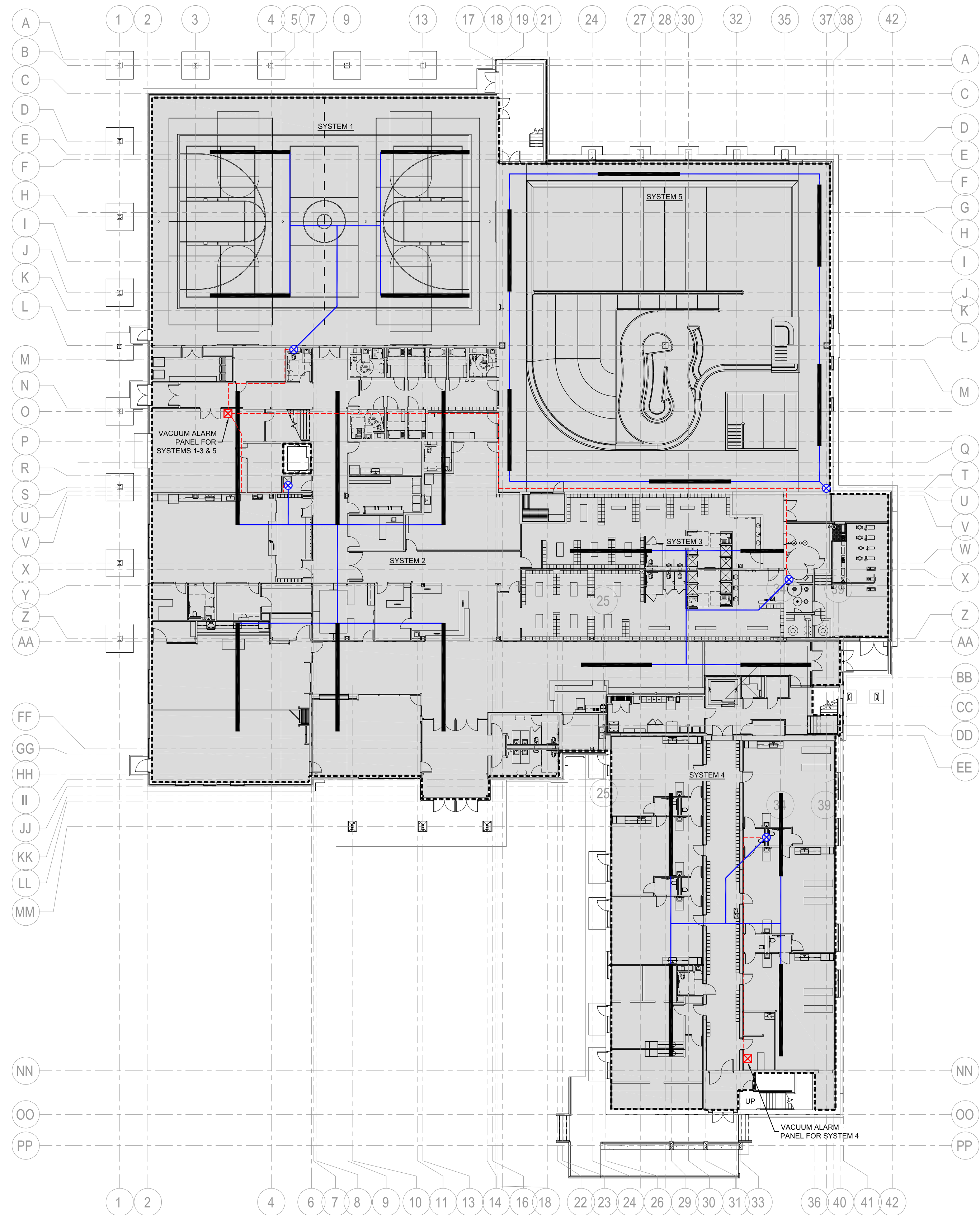
That part of Lot 2, Block 16, Duluth Homestead's Subdivision Plat, St. Louis County, Minnesota, described as follows:

Commencing at the northeast corner of Section 16, Township 50 North, Range 15 West, St. Louis County, Minnesota; thence along the east line of said Section 16, which has a bearing of South 00 degrees 26 minutes 22 seconds West (South 00 degrees 27 minutes West per Duluth Homestead's Subdivision Plat) a distance of 33.00 feet, to the easterly extension of the north line of said Lot 2, Block 16; thence North 89 degrees 38 minutes 00 seconds West, along said easterly extension, 33.00 feet to the northeast corner of said Lot 2, Block 16; thence South 00 degrees 26 minutes 22 seconds West, along the east line of said Lot 2 a distance of 250.00 feet to the point of beginning of the parcel herein described; thence North 89 degrees 38 minutes 00 seconds West, parallel with said north line of Lot 2, Block 16, a distance of 236.00 feet; thence South 00 degrees 26 minutes 22 seconds West, parallel with said east line of Lot 2, Block 16, a distance of 30.00 feet; thence North 89 degrees 38 minutes 00 seconds West, parallel with said north line of Lot 2, Block 16, a distance of 151.00 feet; thence South 00 degrees 26 minutes 22 seconds West, parallel with said east line of Lot 2, Block 16, a distance of 250.00 feet, to the easterly extension of the south line of Lot 1, Block 16, Duluth Homestead's Subdivision Plat;



thence South 89 degrees 38 minutes 00 seconds East, parallel with said north line of Lot 2, Block 16, a distance of 387.00 feet, to said east line of Lot 2, Block 16; thence North 00 degrees 26 minutes 22 seconds East, along said east line of Lot 2, Block 16, a distance of 280.00 feet to the point of beginning.

APN: 395.0010-04420 and 395.0070-00860 and 395.0070.00850

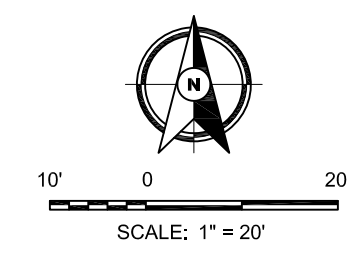
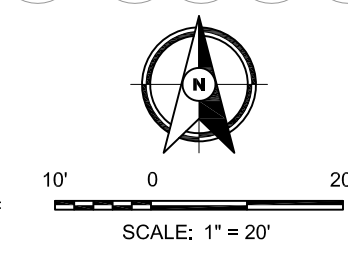


**VAPOR INTRUSION MITIGATION SYSTEM - SUB-FLOOR COMPONENT LAYOUT - LEVEL 01**

**VAPOR INTRUSION MITIGATION SYSTEM - VENT PIPE LAYOUT - LEVEL 02**

- 1 VIM-1
- EXTENT OF VAPOR BARRIER AND AGGREGATE
- SUB-FLOOR VENT PIPE
- ⊠ VACUUM ALARM PANEL
- SUB-FLOOR PIPE (4" PVC)
- ⊠ 4" PVC PIPE UP TO ROOF
- LOW-VOLTAGE WIRE

- 2 VIM-1
- ⊠ 4" OR 6" PVC PIPE UP TO ROOF



Drawing Information

Project No: B1711218-00

Drawing No: B1711218-00

Drawn By: BJB

Date Drawn: 2/6/18

Checked By: BPS

Last Modified: 4/19/18

Project Information

Essentia Health  
Regional Wellness  
Center

West Arrowhead Road  
and Ugstad Road

Hermantown,  
Minnesota

**Vapor Intrusion Mitigation Component Layout**

# Vapor Intrusion Mitigation System Operation and Monitoring Plan

Essentia Health Regional Wellness Center  
4289 Ugstad Road  
Hermantown Minnesota  
MPCA Site ID: BF0000660

*Prepared for*

**City of Hermantown**

January 11, 2021  
Project B1806884

Braun Intertec Corporation

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Figure VIM-1 Vapor Mitigation System Component Layout

Figure VIM-2 Vapor Intrusion Mitigation Specifications

### Appendices

Appendix A Product Information Sheets

Appendix B System Component Photographs

Appendix C Troubleshooting Guide

Appendix D Vapor Intrusion Mitigation System - Operation Log

## **A. Introduction**

Braun Intertec has prepared this Vapor Intrusion Mitigation System Operation and Monitoring Plan (O&M Plan) on behalf of the property owner of the building located at 4289 Ugstad Road, Hermantown, Minnesota. As of this writing the property owner is the City of Hermantown and the building is commonly known as the Essentia Health Regional Wellness Center.

## **B. Purpose**

This O&M Plan describes the operation and maintenance of the vapor intrusion mitigation system installed at the site building.

1. According to current regulations, site conditions warrant mitigation to reduce the potential for soil vapor intrusion. To ensure the conditions are mitigated, the components of the mitigation system must be maintained, the active mitigation system must run continuously and may require periodic adjustments or repair.
2. Limited monitoring is needed to verify ongoing mitigation. In addition, risks to human health may increase if the system fails or if site conditions change.
3. The O&M Plan provides information to current and future building owners.
4. The O&M Plan may be a requirement of an institutional control (i.e., affidavit, environmental covenant) and may help maintain MPCA liability assurances.

## **C. History**

The Site previously existed as the former Hermantown Middle School. The former Hermantown Middle School was constructed in 1940 and has undergone several renovations and the development of two building additions. The building was vacated in 2016, after completion of the new Hermantown Middle School building.

According to a Phase I Environmental Site Assessment completed in 2017, a 35,000-gallon fuel oil underground storage tank (UST) was formerly located adjacent to the southwest side of the former

school building. The UST was reportedly installed in the 1960's and abandoned in place in September of 2004. Sampling associated with the tank abandonment identified a release which was assigned MPCA Leak site #15837.

Subsequent investigations completed at the Site identified various petroleum-related VOCs including ethylbenzene and naphthalene were detected within the footprint of the Site building. Concentrations of ethylbenzene and naphthalene exceeded the 33 times the Residential ISVs. The identified exceedances indicated the need to install an active vapor intrusion mitigation system.

The results of the previous environmental investigations were provided in the following reports:

- *Minnesota Pollution Control Agency Limited Site Investigation (LSI) Report Form (Guidance Document 4-06), Hermantown Middle School, 4289 Ugstad Road, MPCA Leak #15837, prepared by Environmental Troubleshooters, Inc., dated September 2, 2005 (2005 LSI Report).*
- *Supplemental Limited Site Investigation Report, Hermantown Middle School, 4289 Ugstad Road, MPCA Leak #15837, prepared by Environmental Troubleshooters, Inc., dated March 2008 (2008 Supplemental LSI Report).*
- *Minnesota Pollution Control Agency Investigation Report Form (Guidance Document 4-06), Hermantown Middle School, 4289 Ugstad Road, MPCA Leak #15837, prepared by Environmental Troubleshooters, Inc., dated June 2009 (2009 Investigation Report).*
- *Minnesota Pollution Control Agency Corrective Action Excavation Report Worksheet (Guidance Document 3-02a), Hermantown Middle School, 4289 Ugstad Road, Hermantown, Minnesota, MPCA Leak #15837, prepared by Environmental Troubleshooters, Inc., report dated January 4, 2012 (2012 Corrective Action Excavation Report).*
- *Minnesota Pollution Control Agency Petroleum Tank Release Site File Closure, Hermantown Middle Schools, 4289 Ugstad Road, Hermantown, Minnesota, MPCA Leak #15837, dated January 24, 2012 (MPCA Leak #15837 File Closure Letter)*
- *Phase I Environmental Site Assessment, Former Hermantown Middle School Sub-lots, Parcel numbers 395-0070-00850, 395-0070-00860 and 395-0010-04420, Hermantown, Minnesota, prepared by Environmental Troubleshooters, report dated May 22, 2017 (2017 Phase I ESA).*

- *Response Action Plan Additional Investigation Report, Essentia Health Regional Wellness Center, 4289 Ugstad Road, Hermantown, Minnesota, prepared by Braun Intertec, Project B1711218, dated February 13, 2018. (2018 Additional Investigation Report).*

## D. Vapor Intrusion Mitigation System

### D.1. Indoor Air Quality Goal

The concentration of ethylbenzene, naphthalene, tetrachloroethene, and xylenes in indoor air inside the building must be maintained below the Residential Intrusion Screening Value (ISV). As of this writing, the ISV for ethylbenzene, naphthalene, tetrachloroethene, and xylenes (total) are outlined in the table below.

Compound/Parameter	CAS No.	Residential ISV ( $\mu\text{g}/\text{m}^3$ )
Volatile Organic Compounds (VOCs) ( $\mu\text{g}/\text{m}^3$ )		
Ethylbenzene	100-41-4	4.1
Naphthalene	91-20-3	9.4
Tetrachloroethene (Perchloroethene, PCE)	127-18-4	3.4
Xylenes, m- & p-	179601-23-1	NE
Xylene, o-	95-47-6	NE
Xylenes, Total	1330-20-7	100 <sup>[d]</sup>

Notes:

- Minnesota Pollution Control Agency (MPCA) Intrusion Screening Values (ISVs) were updated 5/29/2019.
- $\mu\text{g}/\text{m}^3$  = Micrograms per cubic meter.
- [d] = The laboratory reports values for m- & p- xylenes and o-xylene, however the regulatory limit is for the combination of m-, p-, and o-xylenes.

### D.2. Mitigation Approach/System Components

Braun Intertec along with the building contractor, McGough Construction (McGough), and McGough's sub-contractors, Bougalis and Sons, Co. (Bougalis) and Home Menders Inc. (HMI), installed a vapor mitigation system, specifically a sub-slab depressurization system or SSDS for the building per the design prepared by Braun Intertec. The vapor mitigation system (System) consists of five sub-systems, and was designed to control potential vapor intrusion into the Site building by producing a relative vacuum beneath the floor slab and exhausting the soil vapor to the air above the building. The System design drawings are shown on **Figures VIM-1 and VIM-2**. Product information sheets and the fan operating

manual is provided in **Appendix A** and photographs of system components are provided in **Appendix B**. The vapor intrusion mitigation system consists of:

1. Vent layer – 6-inch-thick coarse filter aggregate placed below the entire floor slab.
2. Vapor Collection system and piping – perforated 4-inch diameter corrugated high density polyethylene (HDPE), solid 4-inch schedule 40 PVC with glued fittings set within the Vent layer and connected to Riser Piping.
3. Vapor barrier – 15-mil thick VaporBlock®.
4. Riser Piping – Riser piping transfers vapor from the collection system piping to discharge points on the roof.
5. Fan(s) – RadonAway model RP265.
6. Electric circuits utilized.
7. Vacuum Monitor Alarm Panels (2) –
  - a. One vacuum monitor installed on the pipe in Receiving Area (1052), connected to sub-systems one through three and five.
  - b. One vacuum monitor installed on the pipe in the Daycare Office (1280), connected to sub-system four
8. Placards/signage as provided in the original installation.

### **D.3. Operating Procedures**

The building owner is responsible for taking actions to ensure the mitigation system is working as designed:

- Operate the system continuously for the life of the building.
- Monitor the indicator lights at the alarm panels.



#### **D.4. Inspection and Maintenance Guidelines**

The building owner (or their designate) is responsible for performing periodic inspections to ensure the mitigation system is working as designed:

1. Check and record status of the vacuum monitor lights at least once per quarter. The vacuum monitor alarm panels are located in the Receiving Area (1052) and the Daycare Office (1280) as shown on **Figure VIM-1**.
  - a. Normal operating condition is Green. If one or more of the lights are Red, refer to the troubleshooting guide in **Appendix C**.
  - b. Repair or replace failed components of the active vent system within 30 days.
2. Check and record the observed condition of the fan and roof-top seal with the roof annually.
3. If any portion of the floor is damaged or removed, be sure the vapor barrier is repaired in accordance with manufacturer's directions and concrete is replaced in a timely manner.
4. Maintain a log of monitoring observations, annual inspections, and floor damage/repair actions completed when they are completed. (see **Appendix D**). The log will be maintained by the building owner or their designate.

#### **E. Contact Information**

##### **Building Owner**

City of Hermantown  
5105 Maple Grove Road  
Hermantown, MN 55811  
218.729.3600

**Braun Intertec**

Braun Intertec conducted pre-installation testing, designed the vapor intrusion mitigation system, and conducted post-installation testing.

Braun Intertec  
4511 West First Street, Suite 4  
Duluth, MN 55807  
218.624.4967  
Project: B1806884

**Contractor**

The general contractor responsible for the building and installation of the vapor intrusion mitigation system.

McGough Construction  
2737 Fairview Avenue North  
St. Paul, MN 55113  
651.633.5050

**MPCA**

The agency responsible for regulating actions related to identified contamination.

Minnesota Pollution Control Agency  
Voluntary Investigation and Cleanup Program  
520 Lafayette Road North  
St. Paul, MN 55155  
651-296-6300  
BF0000789

**MDH**

The state agency responsible for human health concerns or questions.

Minnesota Department of Health  
Site Assessment and Consultation Unit  
PO Box 64975  
St. Paul, MN 55164  
651-201-4897

## **F. Testing and Sampling Results and Requirements**

The system installation details, post-installation diagnostic results and the post-installation sub-slab and indoor air results are provided in the report:

*Response Action Plan and Construction Contingency Plan Implementation Report, Essentia Health Regional Wellness Center, 4289 Ugstad Road, Hermantown, Minnesota, prepared by Braun Intertec and dated January 11, 2021.*

Based on the results from the post-installation diagnostic and sampling results, no additional air sampling is required.

## **G. Future Building Changes**

If any of the following occur in the future, the vapor intrusion mitigation system should be re-evaluated by qualified personnel to ensure that the system remains effective:

1. Damage or modification of floor, piping, fan, or electric connection.
2. Additions or significant renovations of the building.
3. Installation of sump or drain tile.

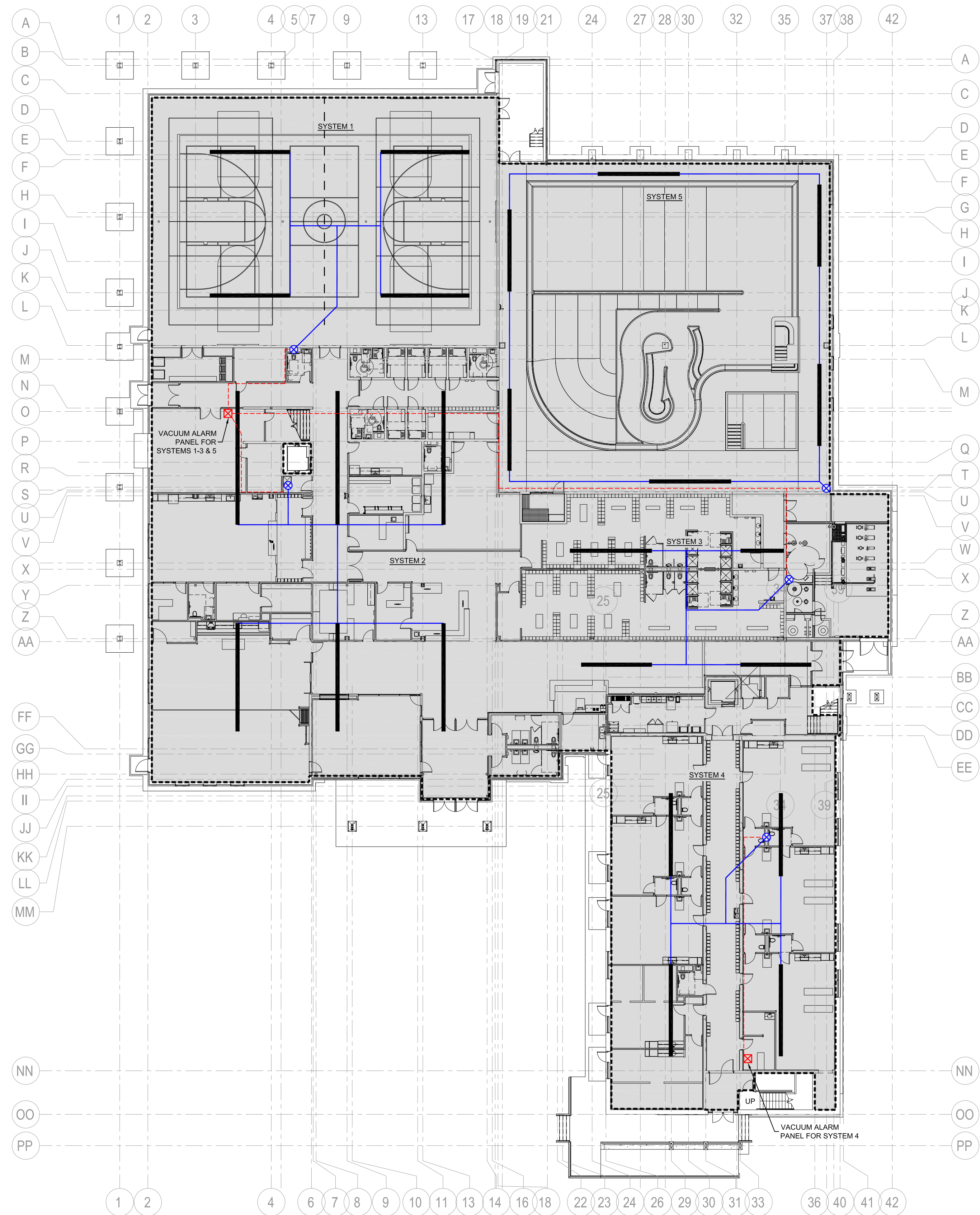
## **H. Annual Reporting**

Every year, the Building Owner must prepare and submit to the MPCA a written report confirming ongoing mitigation system operation, maintenance, and/or other actions taken during the past year which complies with the Activity and Use Limitations of the Environmental Covenant recorded to the Property. Submit the report before July 1<sup>st</sup> of each year by email to [instcontrols@state.mn.us](mailto:instcontrols@state.mn.us). Include "Annual Vapor Monitoring System Report – BF0000660" in the subject line.

## **I. Statement of Limitations**

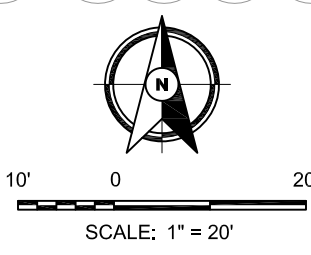
The obligations of Braun Intertec in regard to the installed vapor intrusion mitigation system are limited in accordance with the proposal and general conditions that form the contractual agreement between Braun Intertec and the Building Owner (City of Hermantown).

## Figures

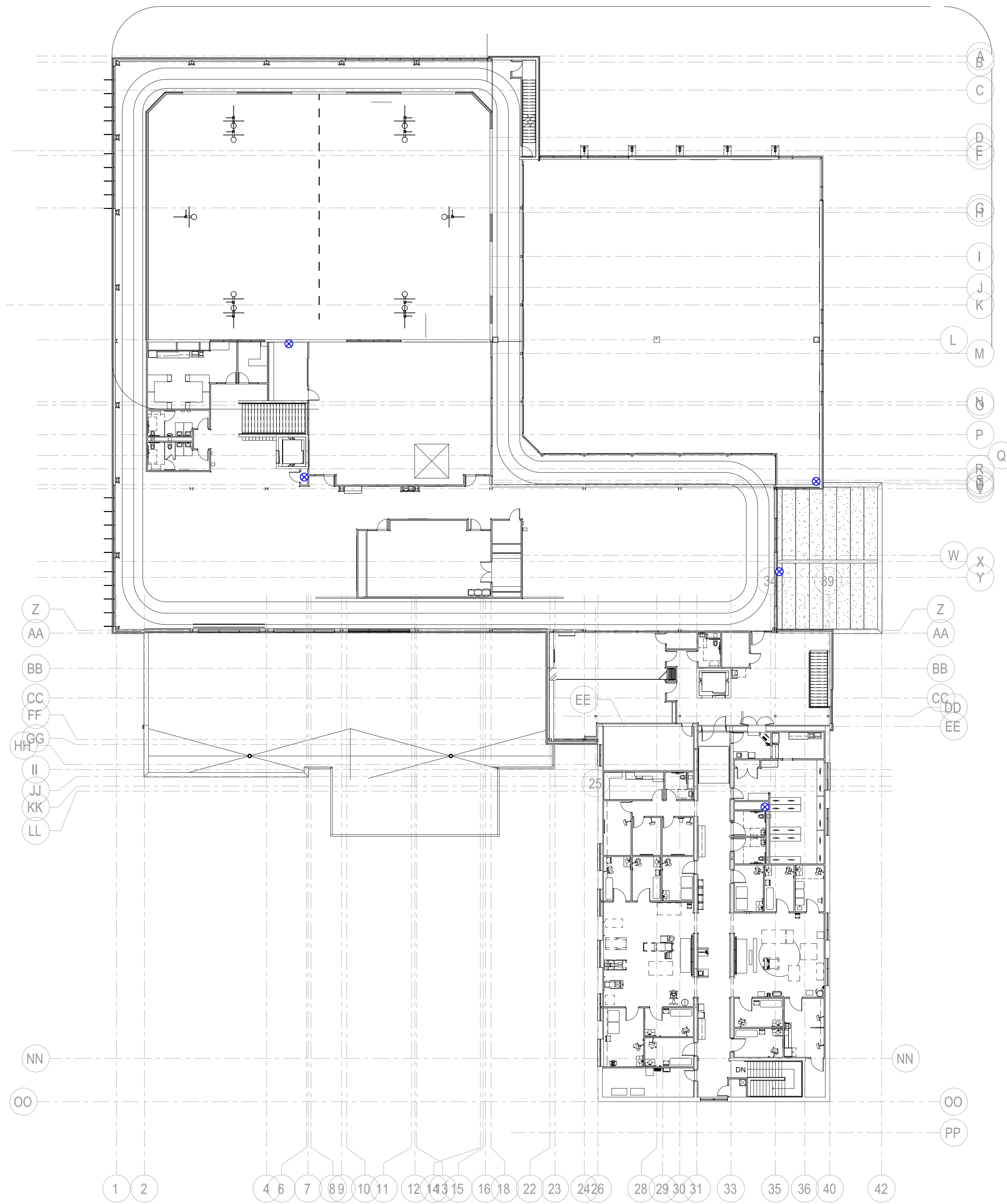


**VAPOR INTRUSION MITIGATION SYSTEM - SUB-FLOOR COMPONENT LAYOUT - LEVEL 01**

- 1 VIM-1
- EXTENT OF VAPOR BARRIER AND AGGREGATE
- SUB-FLOOR VENT PIPE
- ⊠ VACUUM ALARM PANEL
- SUB-FLOOR PIPE (4" PVC)
- ⊠ 4" PVC PIPE UP TO ROOF
- LOW-VOLTAGE WIRE

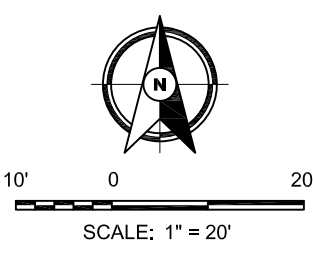


SCALE: 1" = 20'



**VAPOR INTRUSION MITIGATION SYSTEM - VENT PIPE LAYOUT - LEVEL 02**

- 2 VIM-1
- ⊠ 4" OR 6" PVC PIPE UP TO ROOF



SCALE: 1" = 20'

Drawing Information

Project No: B1711218-00

Drawing No: B1711218-00

Drawn By: BJB  
Date Drawn: 2/6/18

Checked By: BPS  
Last Modified: 4/19/18

Project Information

Essentia Health Regional Wellness Center

West Arrowhead Road and Ugstad Road

Hermantown, Minnesota

Vapor Intrusion Mitigation Component Layout



**SPECIFICATIONS - Vapor Intrusion Mitigation System**

- Aggregate - Minnesota Department of Transportation (MnDOT): 6-inch thick coarse filter aggregate, classification H, or ASTM C33 size 67, and satisfy the gradation guidelines below.
  - Ensure the surface of the aggregate is smooth, level, and compacted with no sharp projections.

Sieve Size	% Passing
1" (25.0 mm)	100
3/4" (19.0 mm)	90-100
3/8" (9.5 mm)	25-55
No. 4 (4.75 mm)	0-10
No. 8 (2.36 mm)	0-5

- Sub-Floor Vent Pipe
  - 4-inch diameter perforated HDPE conforming to AASHTO Standard M252 or perforated PVC pipe conforming to ASTM Standard D-2729
  - Bed vent piping in the aggregate

As shown on <sup>1</sup>/<sub>VIM-1</sub> and <sup>2</sup>/<sub>VIM-2</sub>

  - Connect to rigid pipe with glue or Fernco coupling at transitions

- Rigid Pipe
  - 4-inch Schedule 40 PVC pipe conforming to ASTM Standard D-1785
  - Bed rigid piping in the aggregate

As shown on <sup>1</sup>/<sub>VIM-1</sub> and <sup>1</sup>/<sub>VIM-2</sub>

- Vapor Barrier for Under Concrete Slab, Stego Wrap 15 mil, manufactured from prime virgin polyolefin resins, ASTM E 1745 Class A; exceeds, water vapor permeance, ASTM E 96 & ASTM F 1249: 0.012 perms, chemical resistance, ASTM E 154: unaffected, tensile strength, ASTM D 882: 76.6 lb/in, puncture resistance, ASTM D 1709: 2445 grams, life expectancy, ASTM E 154: indefinite or engineer-approved equivalent.
  - Examine areas to receive vapor barrier. Notify engineer if areas are not acceptable. Do not begin installation until unacceptable conditions have been corrected.
  - Install vapor barrier in accordance with ASTM E 1643 and manufacturer's installation instructions.
  - Install vapor barrier continuously at locations under slab. Ensure there are no discontinuities in vapor barrier at seams and penetrations.

As indicated on <sup>1</sup>/<sub>VIM-1</sub>

- Join sections of vapor barrier and seal penetrations in vapor barrier with compatible tape. Ensure vapor barrier surfaces to receive tape are clean and dry.
- Attach to exterior walls and columns with tape in accordance with manufacturer's instructions.
- Seal around pipes and other penetrations in vapor barrier with pipe boots in accordance with manufacturer's instructions.

As shown on <sup>3</sup>/<sub>VIM-2</sub>

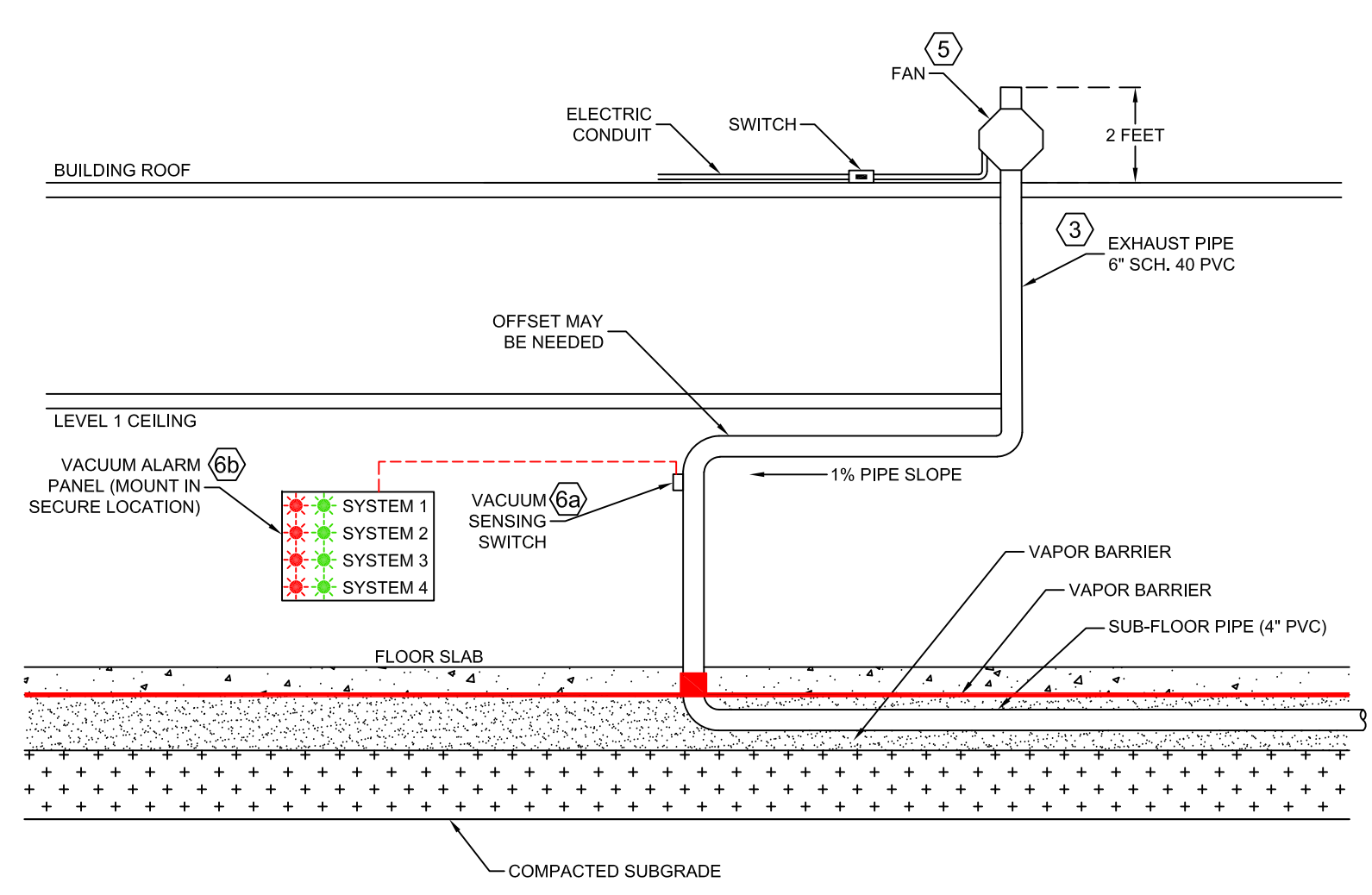
- Electric Fan
  - Exhaust should be a minimum of 10 feet from any air intake.
  - Provide and install a Radonaway Model RP265 fan or Engineer approved equivalent.

As shown on <sup>1</sup>/<sub>VIM-2</sub>

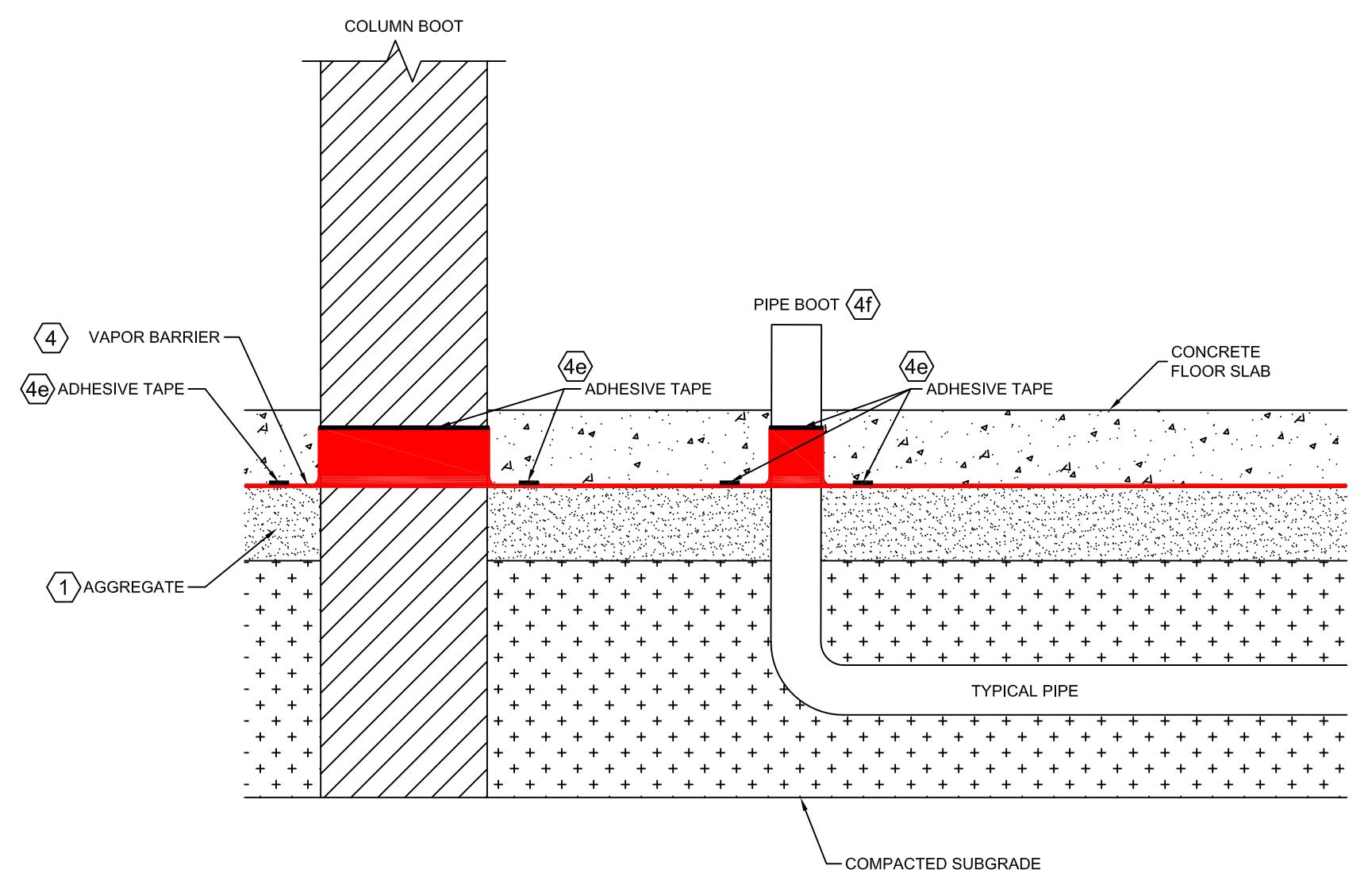
- Connect to exhaust pipe with Fernco 4" x 4" coupling, black.
- Electric connection per NEC must include a shut-off switch within 10 feet of the fan.

- Vacuum Indicator Alarm System
  - As shown on <sup>1</sup>/<sub>VIM-2</sub>

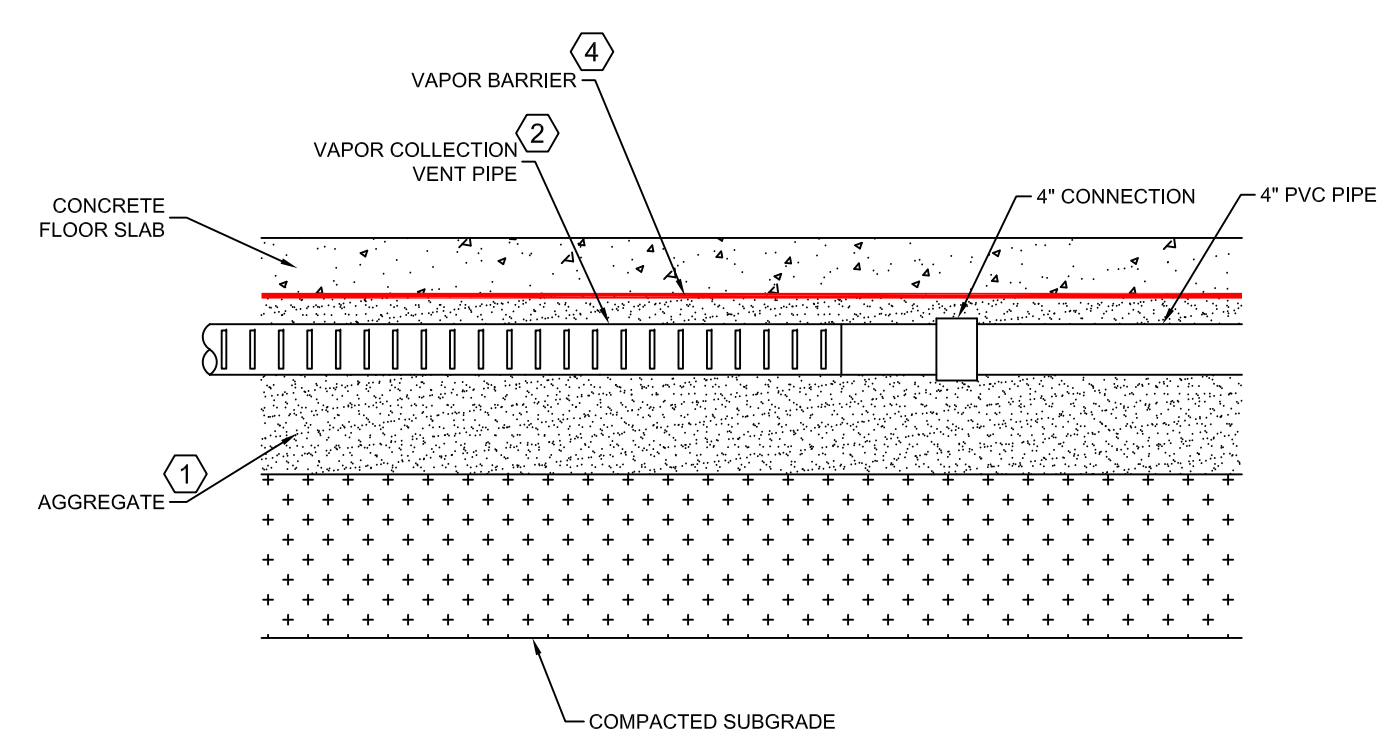
- Vacuum Sensing Switch
  - Install on 4" PVC Pipe
  - Vacuum range 0.05" w.c. to 12" w.c.
  - Set to close switch at 0.5" w.c. vacuum or less, i.e., normally closed
  - Cleveland Controls Model AFS 222 (Grainger 3ZM92) or Engineer-approved equivalent.
- Vacuum Alarm Panel
  - Provide and install custom-made alarm panel
    - Green Light - normal vacuum indicator
    - Red light - low vacuum indicator
    - 24 V. power supply
    - Circuit Breaker
    - Enclosure
    - Nameplates
      - "Soil Vapor Exhaust Alarm" - on box
      - "System N" where N is 1 to 4, beside lights
      - "Low Vacuum" - below red lights
      - "Normal Vacuum" - below green lights
  - Source: Control Center, Inc. of Golden Valley, Minnesota per Quote 15050 dated 9/12/2017 or Engineer-approved equivalent.
- Install in visible location on wall inside Mechanical Utilities Room as shown in <sup>1</sup>/<sub>VIM-1</sub> or other secure location approved by Owner.
- Connect panel to electric power per code.
- Connect panel to Vacuum Sensing Switches per code.



**1 TYPICAL SYSTEM SCHEMATIC**  
SCALE: NONE



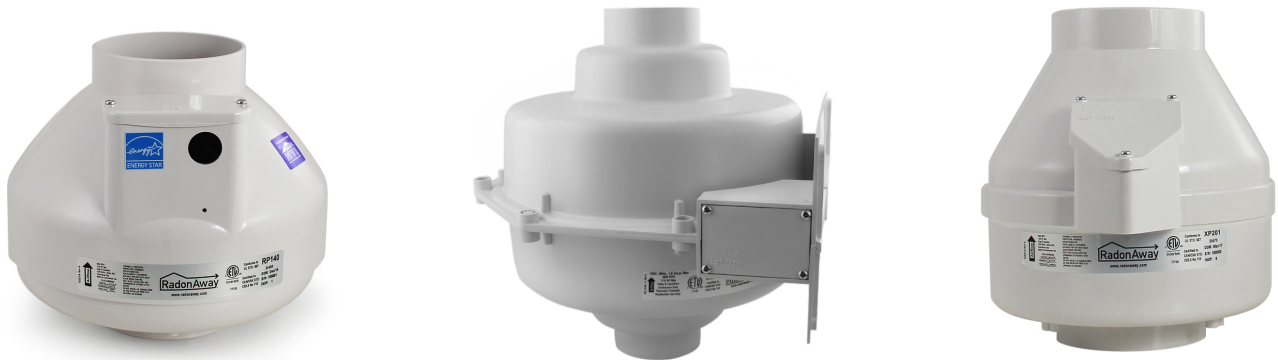
**3 TYPICAL COLUMN AND PLUMBING PENETRATION DETAILS**  
SCALE: NONE



**2 TYPICAL VENT PIPE CONNECTION TO SUB-FLOOR PIPE**  
SCALE: NONE

**Appendix A**  
**Product Information Sheets**





# RP, GP, XP Pro Series Installation Instructions



**Fan Installation & Operating Instructions**  
**RP, GP, XP Pro Series Fans**  
*Please Read and Save These Instructions.*

DO NOT CONNECT POWER SUPPLY UNTIL FAN IS COMPLETELY INSTALLED. MAKE SURE ELECTRICAL SERVICE TO FAN IS LOCKED IN “OFF” POSITION. DISCONNECT POWER BEFORE SERVICING FAN.

1. **WARNING!** For General Ventilating Use Only. Do Not Use to Exhaust Hazardous, Corrosive or Explosive Materials, Gases or Vapors. See Vapor Intrusion Application Note #AN001 for important information on VI Applications. RadonAway.com/vapor-intrusion
2. **NOTE:** Fan is suitable for use with solid state speed controls; however, use of speed controls is not generally recommended.
2. **WARNING!** Check voltage at the fan to insure it corresponds with nameplate.
3. **WARNING!** Normal operation of this device may affect the combustion airflow needed for safe operation of fuel burning equipment. Check for possible backdraft conditions on all combustion devices after installation.
4. **NOTICE!** There are no user serviceable parts located inside the fan unit.  
**Do NOT attempt to open.** Return unit to the factory. (See Warranty, p. 8, for details.)
5. **WARNING!** Do not leave fan unit installed on system piping without electrical power for more than 48 hours. Fan failure could result from this non-operational storage.
6. **WARNING!** TO REDUCE THE RISK OF FIRE, ELECTRIC SHOCK, OR INJURY TO PERSONS, OBSERVE THE FOLLOWING:
  - a) Use this unit only in the manner intended by the manufacturer. If you have questions, contact the manufacturer. (See p. 8.)
  - b) Before servicing or cleaning unit, switch power off at service panel and lock the service disconnecting means to prevent power from being switched on accidentally. When the service disconnecting means cannot be locked, securely fasten a prominent warning device, such as a tag, to the service panel.
  - c) Installation work and electrical wiring must be done by qualified person(s) in accordance with all applicable codes and standards, including fire rated construction.
  - d) Sufficient air is needed for proper combustion and exhausting of gases through the flue (chimney) of fuel burning equipment to prevent backdrafting. Follow the heating equipment manufacturers’ guidelines and safety standards such as those published by any National Fire Protection Association, and the American Society for Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), and the local code authorities.
  - e) When cutting or drilling into a wall or ceiling, do not damage electrical wiring and other hidden utilities.
  - f) Ducted fans must always be vented to outdoors.
  - g) If this unit is to be installed over a tub or shower, it must be marked as appropriate for the application and be connected to a GFCI (Ground Fault Circuit Interrupter) protected branch circuit.



**Fan Installation & Operating Instructions**

RP Pro Series		GP Pro Series		XP Pro Series	
RP140	P/N 28460	GP201	P/N 28465	XP151	P/N 28469
RP145	P/N 28461	GP301	P/N 28466	XP201	P/N 28470
RP260	P/N 28462	GP401	P/N 28467		
RP265	P/N 28463	GP501	P/N 28468		
RP380	P/N 28464				

## 1.0 SYSTEM DESIGN CONSIDERATIONS

### 1.1 INTRODUCTION

The RP, GP and XP Pro Series Radon Fans are intended for use by trained, professional, certified/licensed radon mitigators. The purpose of these instructions is to provide additional guidance for the most effective use of RP, GP and XP Series Fans. These instructions should be considered supplemental to EPA/radon industry standard practices, state and local building codes and regulations. In the event of a conflict, those codes, practices and regulations take precedence over these instructions.

### 1.2 FAN SEALING

The RP, GP and XP Pro Series Fans are factory sealed; no additional caulk or other materials are required to inhibit air leakage.

### 1.3 ENVIRONMENTALS

The RP, GP and XP Pro Series Fans are designed to perform year-round in all but the harshest climates without additional concern for temperature or weather. For installations in an area of severe cold weather, please contact RadonAway for assistance. When not in operation, the fan should be stored in an area where the temperature is never less than 32 degrees F or more than 100 degrees F.

### 1.4 ACOUSTICS

The RP, GP and XP Pro Series Fans, when installed properly, operate with little or no noticeable noise to the building occupants. The velocity of the outgoing air should be considered in the overall system design. In some cases the “rushing” sound of the outlet air may be disturbing. In these instances, the use of a RadonAway Exhaust Muffler is recommended.

(To ensure quiet operation of inline and remote fans, each fan shall be installed using sound attenuation techniques appropriate for the installation. For bathroom and general ventilation applications, at least 8 feet of insulated flexible duct shall be installed between the exhaust or supply grille(s) and the fan(s). RP, GP and XP Pro Series Fans are not suitable for kitchen range hood remote ventilation applications.)

### 1.5 GROUND WATER

In the event that a temporary high water table results in water at or above slab level, water may be drawn into the riser pipes, thus blocking air flow to the RP, GP and XP Pro Series Fan. The lack of cooling air may result in the fan cycling on and off as the internal temperature rises above the thermal cutoff. Should this condition arise, it is recommended that the fan be turned off until the water recedes, allowing for return to normal operation.

### 1.6 SLAB COVERAGE

The RP, GP and XP Pro Series Fans can provide coverage up to 2000+ sq. ft. per slab penetration. This will primarily depend on the sub-slab material in any particular installation. In general, the tighter the material, the smaller the area covered per penetration. Appropriate selection of the RP, GP and XP Pro Series Fan best suited for the sub-slab material can improve the slab coverage. The RP, GP and XP Pro Series have a wide range of models to choose from to cover a wide range of sub-slab materials. The RP140 and 145 are best suited for general purpose use. The RP 260 can be used where additional airflow is required, and the RP265 and RP 380 are best suited for large slab, high airflow applications. Additional suction points can be added as required. It is recommended that a small pit (5 to 10 gallons in size) be created below the slab at each suction hole.

## 1.7 CONDENSATION & DRAINAGE

Condensation is formed in the piping of a mitigation system when the air in the piping is chilled below its dew point. This can occur at points where the system piping goes through unheated space such as an attic, garage or outside. The system design must provide a means for water to drain back to a slab hole to remove the condensation. The RP, GP and XP Pro Series Fan **MUST** be mounted vertically plumb and level, with the outlet pointing up for proper drainage through the fan. Avoid mounting the fan in any orientation that will allow water to accumulate inside the fan housing. The RP, GP and XP Pro Series Fans are **NOT** suitable for underground burial.

For RP, GP and XP Pro Series Fan piping, the following table provides the minimum recommended pipe diameter and pitch under several system conditions.

Pipe Diameter	Minimum Rise per Ft of Run*		
	@25 CFM	@50 CFM	@100 CFM
4"	1/8"	1/4"	3/8"
3"	1/4"	3/8"	1 1/2"



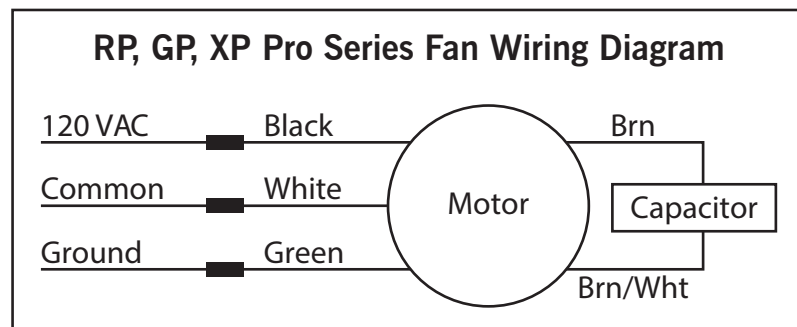
See p. 7 for detailed specifications.

## 1.8 SYSTEM MONITOR & LABEL

A System Monitor, such as a manometer (P/N 50017) or audible alarm (P/N 28001-2, 28001-4 or 28421), is required to notify the occupants of a fan system malfunction. A System Label (provided with Manometer P/N 50017) with instructions for contacting the installing contractor for service and identifying the necessity for regular radon tests to be conducted by the building occupants must be conspicuously placed in a location where the occupants frequent and can see the label.

## 1.9 ELECTRICAL WIRING

The RP, GP and XP Pro Series Fans operate on standard 120V, 60Hz AC. All wiring must be performed in accordance with National Fire Protection (NFPA) National Electrical Code, Standard #70, current edition, for all commercial and industrial work, and state and local building codes. All wiring must be performed by a qualified and licensed electrician. Outdoor installations require the use of a UL Listed watertight conduit. Ensure that all exterior electrical boxes are outdoor rated and properly sealed to prevent water penetration into the box. A means, such as a weep hole, is recommended to drain the box.



## 1.10 SPEED CONTROLS

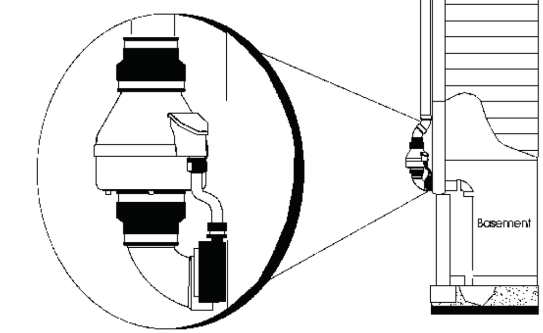
The RP, GP and XP Pro Series Fans are rated for use with electronic speed controls; however, speed controls are generally not recommended. If used, the recommended speed control is Pass & Seymour Solid State Speed Control (Cat. No. 94601-1).

## 2.0 INSTALLATION

The RP, GP and XP Pro Series Fans can be mounted indoors or outdoors. (It is suggested that EPA and radon mitigation standards recommendations be followed in choosing the fan location.) The GP fans have an integrated mounting bracket; RP and XP Pro Series Fans may be mounted directly on the system piping or fastened to a supporting structure by means of an optional mounting bracket.

The ducting from the fan to the outside of the building has a strong effect on noise and fan energy use. Use the shortest, straightest duct routing possible for best performance, and avoid installing the fan with smaller ducts than recommended. Insulation around the ducts can reduce energy loss and inhibit mold growth. Fans installed with existing ducts may not achieve their rated airflow.

TYPICAL OUTDOOR INSTALLATION



### 2.1 MOUNTING

Mount the RP, GP and XP Pro Series Fan vertically with outlet up. Insure the unit is plumb and level. When mounting directly on the system piping assure that the fan does not contact any building surface to avoid vibration noise.

### 2.2 MOUNTING BRACKET (optional)

The RP and XP Pro Series Fans may be optionally secured with the RadonAway P/N 25007 mounting bracket. Foam or rubber grommets may also be used between the bracket and mounting surface for vibration isolation.

### 2.3 SYSTEM PIPING

Complete piping run, using flexible couplings as a means of disconnect for servicing the unit and for vibration isolation. As the fan is typically outside of the building thermal boundary and is venting to the outside, installation of insulation around the fan is not required.

### 2.4 ELECTRICAL CONNECTION

Connect wiring with wire nuts provided, observing proper connections (See Section 1.9). Note that the fan is not intended for connection to rigid metal conduit.

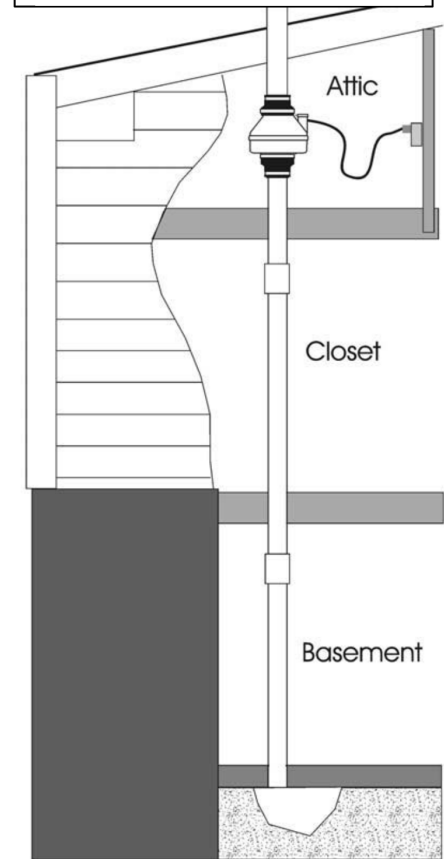
### 2.5 VENT MUFFLER (optional)

Install the muffler assembly in the selected location in the outlet ducting. Solvent weld all connections. The muffler is normally installed at the end of the vent pipe.

### 2.6 OPERATION CHECKS & ANNUAL SYSTEM MAINTENANCE

- \_\_\_\_\_ **Verify** all connections are tight and **leak-free**.
- \_\_\_\_\_ **Ensure** the RP, GP and XP Pro Series Fan and all ducting are **secure and vibration-free**.
- \_\_\_\_\_ **Verify system vacuum pressure** with manometer. **Insure** vacuum pressure is within normal operating range and **less than** the maximum recommended operating pressure.  
(Based on sea-level operation, at higher altitudes reduce by about 4% per 1000 feet)  
 (Further reduce Maximum Operating Pressure by 10% for High Temperature environments.)  
 See Product Specifications. If this is exceeded, increase the number of suction points.
- \_\_\_\_\_ **Verify Radon levels** by testing to EPA Protocol and applicable testing standards.

TYPICAL INDOOR INSTALLATION



THE FOLLOWING CHARTS SHOW THE PERFORMANCE OF THE RP, GP and XP PRO SERIES FANS

**RP Pro Series Product Specifications**

Typical CFM Vs. Static Pressure "WC									
Model	0"	.25"	.5"	.75"	1.0"	1.25"	1.5"	1.75"	2.0"
RP140	135	103	70	14	-	-	-	-	
RP145	166	146	126	104	82	61	41	21	3
RP260	251	209	157	117	70	26	-	-	-
RP265	375	330	282	238	204	170	140	108	70
RP380	531	490	415	340	268	200	139	84	41

Model	Power Consumption 120VAC, 60Hz, 1.5 Amp Maximum	Maximum Recommended Operation Pressure* (Sea Level Operation)**
RP140	15 - 21 watts	0.7" WC
RP145	41 - 72 watts	1.7" WC
RP260	47-65 watts	1.3" WC
RP265	95 - 139 watts	2.3" WC
RP380	96 - 138 watts	2.0" WC

\*Reduce by 10% for High Temperature Operation \*\*Reduce by 4% per 1000 ft. of altitude.

Model	Size	Weight	Inlet/Outlet	L.2
RP140	8.5"H x 9.7" Dia.	5.5 lbs	4.5"OD (4.0" PVC Sched 40 size compatible)	25
RP145	8.5"H x 9.7" Dia.	5.5 lbs	4.5" OD	15
RP260	8.6"H x 11.75" Dia.	5.5 lbs	6.0" OD	48
RP265	8.6"H x 11.75" Dia.	6.5 lbs	6.0" OD	30
RP380	10.53"H x 13.41" Dia.	11.5 lbs	8.0" OD	57

L.2 = Estimated Equivalent Length of Rigid Metal Ducting resulting in .2" WC pressure loss for Duct Size listed. Longer Equivalent Lengths can be accommodated at Flows Lower than that at .2" WC pressure loss (see CFM Vs Static Pressure "WC Table).

**XP Pro Series Product Specifications**

Typical CFM Vs. Static Pressure "WC						
	0"	.5"	1.0"	1.5"	1.75"	2.0"
XP151	167	127	77	-	-	-
XP201	126	98	66	26	-	-

Model	Power Consumption 120VAC, 60Hz, 1.5 Amp Maximum	Maximum Recommended Operation Pressure* (Sea Level Operation)**
XP151	53-70 watts	1.4" WC
XP201	38-74 watts	1.6" WC

\*Reduce by 10% for High Temperature Operation \*\*Reduce by 4% per 1000 ft. of altitude.

Model	Size	Weight	Inlet/Outlet
XP151	9.5"H x 8.5" Dia.	6 lbs	4.5"OD (4.0" PVC Sched 40 size compatible)
XP201	9.5"H x 8.5" Dia.	6 lbs	4.5" OD

**GP Pro Series Product Specifications**

Typical CFM Vs. Static Pressure "WC							
	1.0"	1.5"	2.0"	2.5"	3.0"	3.5"	4.0"
GP201	54	42	11	-	-	-	-
GP301	64	54	41	4	-	-	-
GP401	-	61	52	44	22	-	-
GP501	-	-	66	58	50	27	4

Model	Power Consumption 120VAC, 60Hz, 1.5 Amp Maximum	Maximum Recommended Operation Pressure* (Sea Level Operation)**
GP201	31-65 watts	1.8" WC
GP301	56-100 watts	2.3" WC
GP401	62-128 watts	3.0" WC
GP501	68 - 146 watts	3.8" WC

\*Reduce by 10% for High Temperature Operation \*\*Reduce by 4% per 1000 ft. of altitude.

Model	Size	Weight	Inlet/Outlet
GP201	13"H x 12.5" Dia.	12 lbs	3.5"OD (3.0" PVC Sched 40 size compatible)
GP301	13"H x 12.5" Dia.	12 lbs	3.5" OD
GP401	13"H x 12.5" Dia.	12 lbs	3.5" OD
GP501	13"H x 12.5" Dia.	12 lbs	3.5" OD

**RP, XP and GP Pro Series Additional Specifications**

Model	Recommended Duct	PVC Pipe Mounting	Thermal Cutout	Insulation Class
RP140	3" or 4" Schedule 20/40 PVC	Mount on the duct pipe or with optional mounting bracket. For Ventilation: 4", 6" or 8" Rigid or Flexible Ducting.	130°C/266°F	Class B Insulation
RP145			130°C/266°F	
RP260			150°C/302°F	Class F Insulation
RP265			150°C/302°F	
RP380	6" Schedule 20/40 PVC Pipe		150°C/302°F	
XP151	3" or 4" Schedule 20/40 PVC	Fan may be mounted on the duct pipe or with integral flanges.	120°C/248°F	Class B Insulation
XP201				
GP201	3" or 4" Schedule 20/40 PVC	Fan may be mounted on the duct pipe or with integral flanges.	120°C/248°F	Class B Insulation
GP301				
GP401				
GP501				

**Continuous Duty  
3000 RPM  
Thermally Protected  
RP, GP Residential and Commercial  
XP Residential Only  
Rated for Indoor or Outdoor Use**



LISTED Electric Fan



Conforms to UL STD. 507  
Certified to CAN/CSA STD. C22.2 No.113



## IMPORTANT INSTRUCTIONS TO INSTALLER

Inspect the RadonAway® RP, GP and XP Pro Series Fan for shipping damage within 15 days of receipt. **Notify RadonAway of any damages immediately.** RadonAway is not responsible for damages incurred during shipping. However, for your benefit, RadonAway does insure shipments.

There are no user serviceable parts inside the fan. **Do not attempt to open the housing.** Return unit to factory. (See Warranty below).

Install the RP, GP and XP Pro Series Fan in accordance with all EPA, ANSI/AARST standard practices, and state and local building codes and regulations.

**Provide a copy of this instruction or comparable radon system and testing information to the building occupants after completing system installation.**

### Warranty

RadonAway® warrants that the RP, GP (excluding GP500) and XP Pro Series Fan (the "Fan") will be free from defects in materials and workmanship for a period of 12 months from the date of purchase or 18 months from the date of manufacture, whichever is sooner (the "Warranty Term").

RadonAway® will replace any fan which fails due to defects in materials or workmanship during the Warranty Term. This Warranty is contingent on installation of the Fan in accordance with the instructions provided. This Warranty does not apply where any repairs or alterations have been made or attempted by others, or if the unit has been abused or misused. Warranty does not cover damage in shipment unless the damage is due to the negligence of RadonAway®.

The Fan must be returned (at Owner's cost) to the RadonAway® factory. Any Fan returned to the factory will be discarded unless the Owner provides specific instructions along with the Fan when it is returned regardless of whether or not the Fan is actually replaced under this warranty. Proof of purchase must be supplied upon request for service under this Warranty.

#### 5-YEAR EXTENDED WARRANTY WITH PROFESSIONAL INSTALLATION.

RadonAway® will extend the Warranty Term of the fan to 60 months (5 years) from date of purchase or 66 months from date of manufacture, whichever is sooner, provided that the fan is installed by a professional radon mitigation contractor. Proof of purchase and/or proof of professional installation may be required for service under this warranty. No extended warranty is offered outside the Continental United States and Canada beyond the standard 12 months from the date of purchase or 18 months from the date of manufacture, whichever is sooner.

RadonAway® is not responsible for installation, removal or delivery costs associated with this Warranty.

#### LIMITATION OF WARRANTY

**EXCEPT AS STATED ABOVE, THE RP, GP (excluding GP500) and XP PRO SERIES FANS ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**IN NO EVENT SHALL RADONAWAY BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR RELATING TO, THE FAN OR THE PERFORMANCE THEREOF. RADONAWAY'S AGGREGATE LIABILITY HEREUNDER SHALL NOT IN ANY EVENT EXCEED THE AMOUNT OF THE PURCHASE PRICE OF SAID PRODUCT. THE SOLE AND EXCLUSIVE REMEDY UNDER THIS WARRANTY SHALL BE THE REPAIR OR REPLACEMENT OF THE PRODUCT, TO THE EXTENT THE SAME DOES NOT MEET WITH RADONAWAY'S WARRANTY AS PROVIDED ABOVE.**

For service under this Warranty, contact RadonAway for a Return Material Authorization (RMA) number and shipping information. No returns can be accepted without an RMA. If factory return is required, the customer assumes all shipping costs, including insurance, to and from factory.

RadonAway® 3 Saber Way  
Ward Hill, MA 01835 USA TEL (978) 521-3703  
FAX (978) 521-3964  
Email to: Returns@RadonAway.com

Record the following information for your records:

Serial Number: \_\_\_\_\_

Purchase Date: \_\_\_\_\_

# VAPORBLOCK® VB10 & VB15

HIGH PERFORMANCE UNDERSLAB VAPOR BARRIER

## PRODUCT DESCRIPTION

VaporBlock® is a high performance underslab vapor barrier designed to retard moisture migration through concrete slabs and concrete walls to protect your structure from:

- **MOLD:** VaporBlock® reduces moisture condensation within a structure, impeding the growth of molds, mildews, and fungi.
- **MOISTURE:** VaporBlock® protects flooring materials by maintaining moisture levels well below the requirements of ASTM E-1745-11.
- **RADON:** VaporBlock® is used as a component of radon mitigation systems to protect indoor air quality and occupant health. Raven also offers VaporBlock® Plus™, a highly effective gas and moisture barrier.

VaporBlock® is one of the most effective underslab vapor barriers on the market today! Benefits include:

- Ultra-low moisture vapor permeability
- Superior puncture resistance
- High tensile tear strength
- Resistance to decay and degradation

VaporBlock® is manufactured to strict conformance specifications under our ISO 9001 Certified Management System to consistently exceed ASTM standards and project expectations. Raven's accredited lab ensures VaporBlock® meets the highest possible quality standards across multiple industries. VaporBlock® is supported with independent testing. Results are available upon request, as required under ASTM E-1745-11. VaporBlock® is readily available through nation-wide distribution:

- Available in 10 and 15 mil for optimal project flexibility
- Larger roll sizes equal lower installation costs

Raven Industries manufactures VaporBlock® and controls all aspects from start to finish assuring the final product meets our high performance standards. Raven is a publicly-traded company, with over 60 years of stability and service excellence to stand behind our products with a future of innovation and growth.



Vapor Barrier - Commercial

## PRODUCT

## PART #

VAPORBLOCK 10 ..... VB10

VAPORBLOCK 15 ..... VB15

## APPLICATIONS

- Underslab Vapor Retarder/Barrier
- Foundation Wall Vapor Retarder
- Radon Retarder

Note: All instructions on architectural or structural drawings should be reviewed and followed. Detailed installation instructions accompany each roll of VaporBlock and can also be located on our website.

ASTM E-1643 also provides general installation information for vapor retarders. All VaporBlock series materials can be installed with print or color facing up or down and will provide the same performance.

ASTM E-1745-11, "Plastic Water Vapor Retarders Used in Contact with Soil or Granular Fill Under Concrete Slabs".

# VAPORBLOCK® VB10 & VB15

HIGH PERFORMANCE UNDERSLAB VAPOR BARRIER

PRO-FORMA DATA SHEET  
FOR VAPORBLOCK® VB15\*\*

PROPERTIES	TEST METHOD	VAPORBLOCK VB10	VAPORBLOCK VB15**	ASTM E 1745-11 Class A, B & C <sup>1</sup>
		IMPERIAL	IMPERIAL	IMPERIAL
APPEARANCE		Blue	Blue	-
THICKNESS, NOMINAL		10 mil	15 mil	-
ROLL SIZE		15 ft x 200 ft	12 ft x 200 ft	-
WEIGHT		49 lbs/MSF	73 lbs/MSF	-
CLASSIFICATION	ASTM E1745-11	CLASS A, B, & C	CLASS A, B, & C	Class A, B, or C
TENSILE STRENGTH AVERAGE MD & TD (NEW MATERIAL) (AFTER EXPOSURE)	ASTM E154 Section 9, (D882)	52 lbs/in 53 lbs/in	60 lbs/in 61 lbs/in	Class A = 45 lbs/in Class B = 30 lbs/in Class C = 13.6 lbs/in Minimum
PUNCTURE RESISTANCE	ASTM D1709 Method B	2600 g	3000 g	Class A = 2200 g Class B = 1700 g Class C = 475 g Minimum
PERMEANCE (NEW MATERIAL)  (AFTER CONDITIONING)	ASTM E154 Section 7 ASTM E96 Procedure B  ASTM E154 Section 8, E96 Section 11, E96 Section 12, E96 Section 13, E96	0.0146 Perms grains/(ft <sup>2</sup> •hr•in Hg)  0.0153 0.0151 0.0160 0.0181	0.01 Perms grains/(ft <sup>2</sup> •hr•in Hg)  0.01 0.01 0.01 0.01	Class A, B, & C  0.1 Perms grains/(ft <sup>2</sup> •hr•in Hg) Maximum
WVTR	ASTM E96 Procedure B	0.0084 grain/hr-ft <sup>2</sup>	0.004 grain/hr-ft <sup>2</sup>	-
MAXIMUM STATIC USE TEMP		180° F	180° F	-
MINIMUM STATIC USE TEMP		-70° F	-70° F	-

<sup>1</sup> Referencing ASTM E1745-11, Standard Specification for Plastic Water Vapor Retarders Used in Contact with Soil or Granular Fill under Concrete Slabs

\*\*PROFORMA Contents: Data listed for VaporBlock® VB15, under ASTM E154, section 11, 12, and 13, is extrapolated from actual section 8 values and is subject to change at any time as additional test data becomes available.



VaporBlock® is a high performance underslab vapor barrier designed to retard moisture migration through concrete slabs and concrete walls.



Scan QR Code to download current technical data sheets via the Raven website.

Note: To the best of our knowledge, unless otherwise stated, these are typical property values and are intended as guides only, not as specification limits. Chemical resistance, odor transmission, longevity as well as other performance criteria is not implied or given and actual testing must be performed for applicability in specific applications and/or conditions. RAVEN INDUSTRIES MAKES NO WARRANTIES AS TO THE FITNESS FOR A SPECIFIC USE OR MERCHANTABILITY OF PRODUCTS REFERRED TO, no guarantee of satisfactory results from reliance upon contained information or recommendations and disclaims all liability for resulting loss or damage. Limited Warranty available at [www.RavenEFD.com](http://www.RavenEFD.com)

**RAVEN ENGINEERED FILMS**  
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**Appendix B**  
**System Component Photographs**





Photograph #1	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #2	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	





Photograph #3	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #4	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	

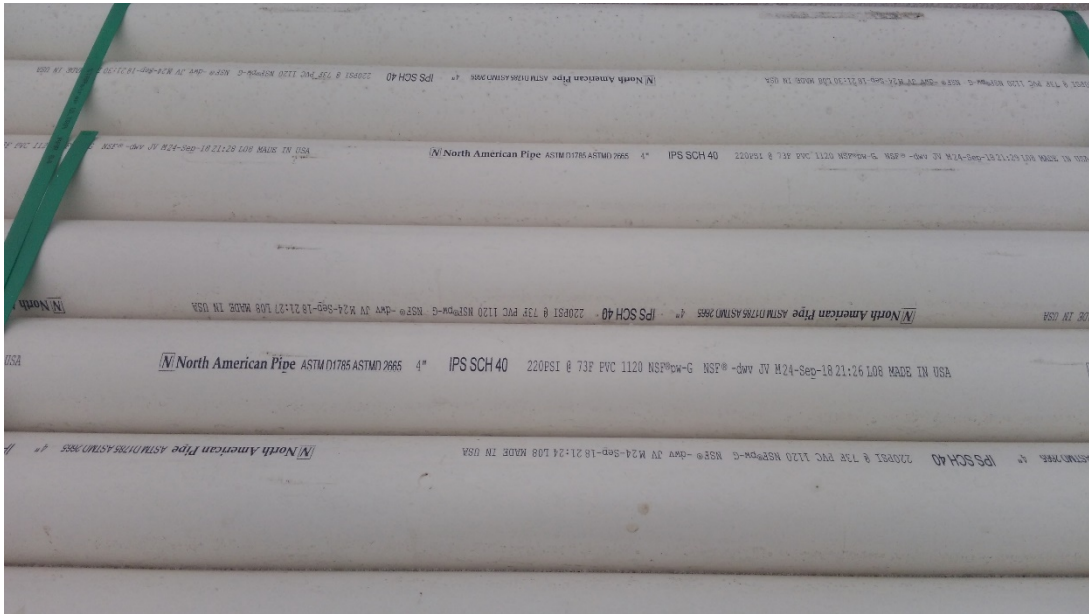


Photograph #5	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #6	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	





Photograph #7	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Supply area located on southern parking area	
Subject:	Rigid 4-inch piping	



Photograph #8	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Supply area located on southern parking area	
Subject:	Perforated 4-inch piping	



Photograph #9	Essentia Health Regional Wellness Center	B1806884
Date:	December 21, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Piping connections	

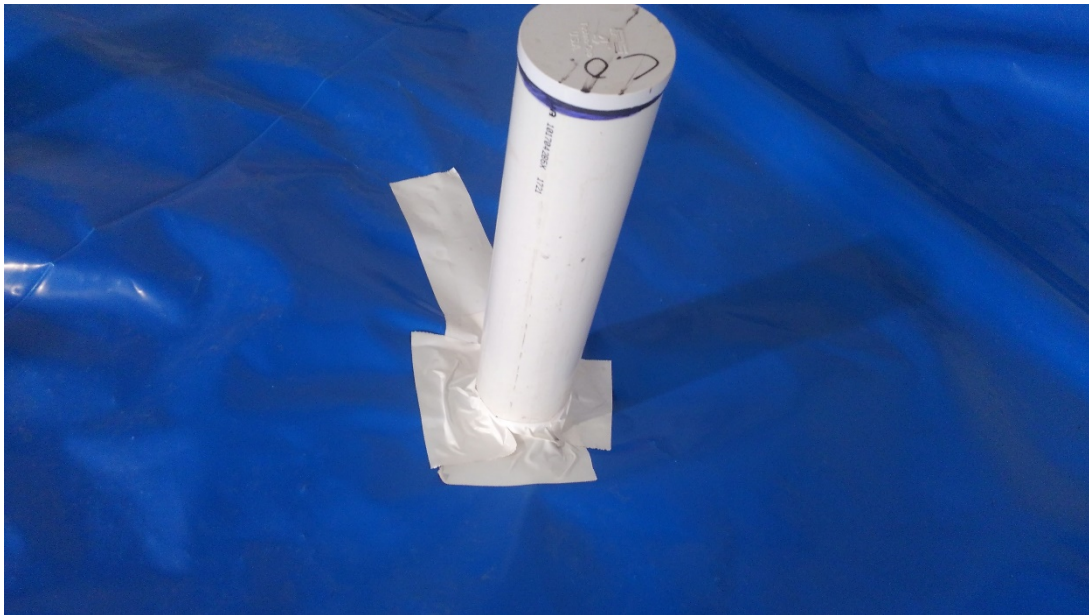


Photograph #10	Essentia Health Regional Wellness Center	B1806884
Date:	December 26, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	15-mil thick, multi-layer polyolefin barrier	





Photograph #11	Essentia Health Regional Wellness Center	B1806884
Date:	December 26, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #12	Essentia Health Regional Wellness Center	B1806884
Date:	December 26, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	

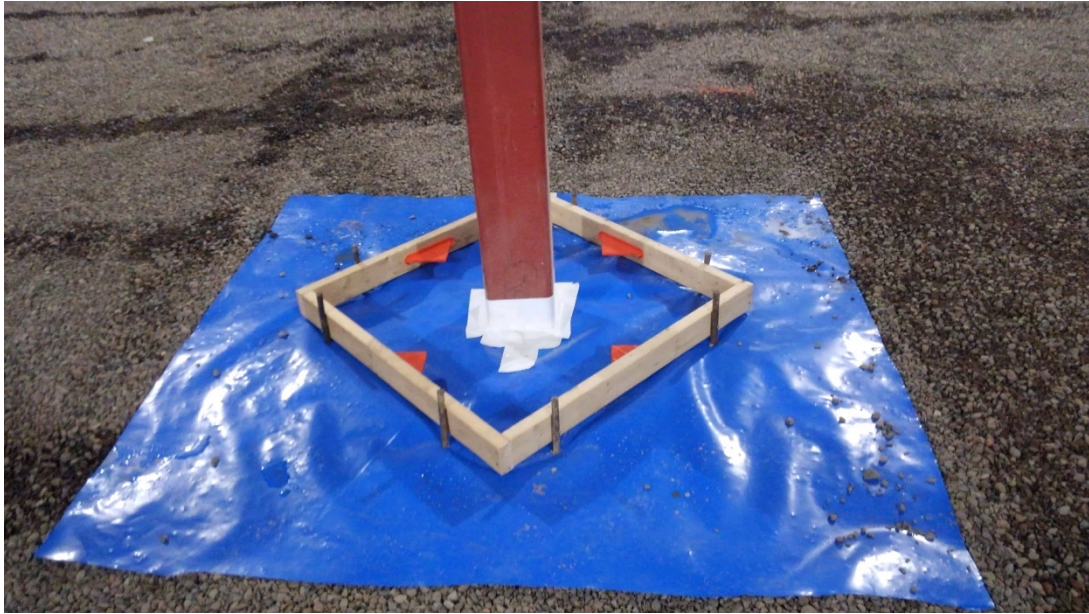


Photograph #13	Essentia Health Regional Wellness Center	B1806884
Date:	December 26, 2018	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Southeastern portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #14	Essentia Health Regional Wellness Center	B1806884
Date:	January 15, 2019	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Central portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	





Photograph #15	Essentia Health Regional Wellness Center	B1806884
Date:	January 15, 2019	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Central portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #16	Essentia Health Regional Wellness Center	B1806884
Date:	January 18, 2019	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Central portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	





Photograph #17	Essentia Health Regional Wellness Center	B1806884
Date:	January 31, 2019	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Central portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #18	Essentia Health Regional Wellness Center	B1806884
Date:	January 31, 2019	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Central portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	





Photograph #19	Essentia Health Regional Wellness Center	B1806884
Date:	January 31, 2019	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Central portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #20	Essentia Health Regional Wellness Center	B1806884
Date:	February 5, 2019	<b>BRAUN</b> <b>INTERTEC</b>
Location:	Central portion of Site building	
Subject:	Vapor Intrusion Mitigation System Oversight	



Photograph #21	Essentia Health Regional Wellness Center	B1806884
Date:	October 2, 2019	
Location:	Receiving Area (1052)	
Subject:	Vacuum Monitor Alarm Panel – Systems 1-3, and 5	



Photograph #22	Essentia Health Regional Wellness Center	B1806884
Date:	October 2, 2019	
Location:	Daycare Office (1280)	
Subject:	Vacuum Monitor Alarm Panel – System 4	

**Appendix C**  
**O&M Troubleshooting Guide**

**Appendix C**  
 Troubleshooting Guide  
 Vapor Intrusion Mitigation System  
 Essentia Health Wellness Center  
 4289 Ugstad Road, Hermantown, Minnesota  
 MPCA ID BF000660  
 Braun Intertec Project B1500941.02

<b>Problem</b>	<b>Possible Remedy</b>
Alarm Panel has a red light.	<ul style="list-style-type: none"> <li>- Check circuit breaker to see if breaker has been tripped, reset breaker.</li> <li>- Verify fan is operating on roof, if fan has power and is not operating call Braun Intertec.</li> <li>- Check for cracks or breaks in riser piping from floor to roof penetration, contact Braun Intertec if cracked piping is found.</li> <li>- Check for ice accumulation on discharge piping above fan on roof of building. If ice has built up, melt ice with small amounts of warm water or contact Braun Intertec.</li> </ul>
Excessive noise or audible "sucking" noise	<ul style="list-style-type: none"> <li>- Attempt to identify the source of the noise, this could be a crack in piping, broken fitting, etc. If unresolved Contact Braun Intertec.</li> </ul>
Vapor mitigation System riser piping has excessive vibration	<ul style="list-style-type: none"> <li>- Temporarily turn off system, and check fan on roof for obstructions. If obstructions are found, or excessive vibration persists, contact Braun Intertec.</li> </ul>

**Appendix D**  
**Vapor Intrusion Mitigation System - Operation Log**









**TO:** Mayor & City Council

**FROM:** Dept Head



**DATE:** August 30, 2021

**Meeting Date:** 9/7/21

**SUBJECT:** WLSSD Capacity Allocation Permit      **Agenda Item: 12-I**      **Resolution 2021-109**

**REQUESTED ACTION**

**Authorize Mayor to sign Capacity Allocation Permit with WLSSD**

**BACKGROUND**

The City has had a Capacity Allocation permit with Western Lake Superior Sanitary District (WLSSD) since 2006. The most recent one was for the period 2016-2020 but was extended through 2021. That permit expires this year. WLSSD began requiring a signature on the permit in 2015. The permit is required in order for the City to discharge sanitary sewer to the WLSSD. The new permit would be for the 5-year time period of 2022 through 2026. The average flow, the Biochemical Oxygen Demand (BOD), and the Total Suspended Solids (TSS) remain the same as the past 5 years. The Allotted Peak Flow increases.

<b>Parameter</b>	<b>2016-2021 Discharge Limit</b>	<b>2022-2026 Discharge Limit</b>
Allotted Average Flow (MGD)	0.760	0.760
Allotted Peak Flo (MGD)	3.530	3.800
Allotted Share of BOD (lbs/day)	1,600	1,600
Allotted Share of TSS (lbs/day)	1,600	1,600

(MGD – million gallons per day)

**SOURCE OF FUNDS (if applicable)**

Charges from WLSSD are covered by Sanitary Sewer revenue and part of the Budget for Fund 602.

**ATTACHMENTS**

WLSSD Permit

**Resolution No. 2021-109**

**RESOLUTION AUTHORIZING AND DIRECTING MAYOR TO SIGN  
CAPACITY ALLOCATION PERMIT REISSUANCE  
BETWEEN THE CITY OF HERMANTOWN AND WESTERN LAKE SUPERIOR SANITARY  
DISTRICT (“WLSSD”)**

WHEREAS, the City of Hermantown has held a Capacity Allocation Permit with Western Lake Superior Sanitary District “(WLSSD)” in accordance with the Wastewater Treatment Capacity Allocation Ordinance since 2006; and

WHEREAS, WLSSD has submitted a request for reissuance of the Permit for the years 2022-2026 attached hereto as Exhibit A; and

WHEREAS, the City must have a Capacity Allocation Permit in order to discharge waste water into WLSSD.

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

1. The Mayor is authorized and directed to sign the Capacity Allocation Permit Reissuance between the City of Hermantown and WLSSD, attached hereto as 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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.





2626 Courtland Street  
Duluth, MN 55806-1894  
phone 218.722.3336  
fax 218.727.7471  
www.wlssd.com

Exhibit A

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## Western Lake Superior Sanitary District

August 2, 2021

Re: Capacity Allocation Permit (2022-2026) Reissuance for Review and Signature

Dear Mr. John Mulder:

As you are aware, your Capacity Allocation Permit for 2016 – 2020 is set to expire. Your existing permit was extended to 12/31/21 due to the COVID-19 pandemic but has now been reevaluated for the next permit period of 2022-2026. District staff has reviewed the existing allocation permit limits against your actual flows and loads and have updated permit limits accordingly for 2022 – 2026. These permit limits represent the maximum discharge of flow, peak flow, biochemical oxygen demand (BOD) and total suspended solids (TSS) allocated to you based upon total WLSSD facility capacity. These allocations also form the basis for debt service payments.

The enclosed packet includes:

- 1) A copy of the WLSSD Capacity Allocation Ordinance.
- 2) Your historic allocations for the period of 2011-2015 and 2016-2021, your historic flow and loads for 2015-2020, and your proposed allocation limits for 2022 – 2026.
- 3) A Capacity Allocation Permit for 2022 – 2026 with proposed flows and loads for your review.
- 4) Special conditions related to your permit.

If you do not have changes to the proposed allocations, please sign the enclosed permit and return by mail no later than **August 31, 2021**. If you have changes to the proposed allocations, have questions upon review of the enclosed information or wish to meet individually with District staff in this regard, please contact Dan Belden at 218-740-4774 or Sam Lobby at 218-740-4787 prior to August 11, 2021.

Sincerely,

A handwritten signature in cursive script that reads "Marianne Bohren".

Marianne Bohren  
Executive Director

**WASTEWATER TREATMENT  
CAPACITY ALLOCATION ORDINANCE  
As Amended, August 28, 2017**

**SECTION 1  
Authority and General Provisions**

**Section 1.1. Authority.**

This Ordinance is adopted by the Western Lake Superior Sanitary District ("District") pursuant to Chapter 458D, and other provisions of Minnesota Law and is declared necessary for the efficient, economic and safe operation of the Treatment Works and for the protection of the health, safety, and general welfare of the public throughout the District.

**Section 1.2. Purpose.**

The Treatment Works have limited or finite capacity, both in a physical sense and from the standpoint of achieving acceptable wastewater treatment. The purpose of the rules and regulations established in this Ordinance is to recognize the finite capacity of the Treatment Works and to provide a system of allocating on a periodic basis that capacity among Users. This will allow the District to comply with provisions of its National Pollutant Discharge Elimination System permit and other provisions of applicable state and federal law.

**Section 1.3. Definitions.**

All terms in this Ordinance shall have the meaning hereinafter established, unless otherwise expressly provided or clearly indicated by the context:

Act - The Federal Water Pollution Control Act (PL92-500), also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

Actual Biochemical Oxygen Demand (BOD) - The total quantity of Biochemical Oxygen Demand (BOD) discharged by a User during a calendar day (24-hour period) in pounds based on measurement determined and recorded by WLSSD.

Actual Flow - The total quantity of Wastewater discharged by a User during a calendar day (24-hour period) in million gallons per day (MGD) based on measurement determined and recorded by WLSSD.

Actual Peak Flow - The highest one-hour wastewater flow rate measured in million gallons per day (MGD) actually discharged by a User within any

individual clock hour (60-minute average) of any calendar day (24-hour period) based on measurement determined and recorded by WLSSD.

Actual Total Suspended Solids (TSS) - The total quantity of Total Suspended Solids (TSS) discharged by a User during a calendar day (24-hour period) in pounds based on measurement determined and recorded by WLSSD.

Agreement, Capacity Allocation - The Capacity Allocation Agreement ("Agreement") is that Agreement (also known as a Participation Agreement) previously made between the District and a User to permit the User to discharge a Permitted Share of Flow or Load to the Treatment Works.

Average Dry Weather Flow - The flow in a sanitary sewer during periods of dry weather in which the sanitary sewer is under minimum influence of inflow and infiltration. The average daily flow in the month of January is typically used.

Board (or WLSSD Board) - The governing body of the WLSSD.

BOD - Five (5) day Biochemical Oxygen Demand of Wastewater, as determined under standard laboratory procedures as set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation. BOD is measured in milligrams per liter and is monitored as pounds discharged during a calendar day (twenty-four (24) hours).

Debt Service - The principal and interest necessary to pay bonded indebtedness and any other indebtedness of the District.

Debt Service Costs - All costs incurred by the District in paying Debt Service.

Design Capacity - Capacity of the Treatment Works to collect and treat Wastewater consistent with all requirements of the Act, the NPDES Permit and all other requirements established by the Board and otherwise without incurring unreasonable operating expense or causing damage to the Treatment Works. The listed specifications for Flow, TSS and BOD (plant design capacity) and Peak Flow (present hydraulic capacity as documented in the April 2001 Effluent Quality Plan) represent the maximum amount of capacity that can be permitted without compromising plant performance. Current plant capacity specifications are as follows:

- Flow – 48.4 Million gallons per day (MGD)
- Peak Flow – 100.0 Million gallons per day (MGD)
- TSS – 112,000 lbs/day
- BOD – 121,000 lbs/day

Plant capacity specifications can, and may, be modified should capital investment or aging infrastructure expand or reduce plant capacity.

Director - The person occupying the position of Executive Director of the District or the designee of the Executive Director.

Discontinued User - A User that goes out of business or otherwise discontinues discharging Wastewater to the District.

Flow - The total quantity of Wastewater discharged during a calendar day (24 hours) to the Treatment Works.

Influent - Wastewater entering the Treatment Works.

Load - Quantities of Wastewater components such as BOD and TSS, or other constituents that may be established from time to time for the Treatment Works.

NPDES Permit - A discharge permit issued to the District for operation of its wastewater treatment facilities pursuant to the National Pollutant Discharge Elimination System established under the Act.

Operation and Maintenance Costs - The cost of operation, maintenance and administration of the Treatment Works, together with, unless otherwise apportioned by the District, costs expended by the District for pollution prevention, the District's planning functions, and the District's regulatory programs, together with capital costs not funded with borrowed funds. Operation and Maintenance Costs do not include Debt Service and Debt Service Costs.

Operation and Maintenance Rate (or O & M Rate) - The separate rates established by the Board from time to time applicable to Flow, BOD, TSS or other constituents, respectively.

Permit - Means the permit issued by the District to the User for an Allotted Share of Peak Flow, Flow and components of Load to the User, and defining such other conditions for discharge to the Treatment Works as determined by the District, as described in Section 3 hereof.

Permitted Biochemical Oxygen Demand (BOD) - The total quantity of Biochemical Oxygen Demand (BOD) allowed to be discharged by a User during a calendar day (24-hour period) measured in pounds.

Permitted Flow - The total quantity of Wastewater allowed to be discharged by a User during a calendar day (24-hour period) under normal conditions measured in million gallons per day (MGD).

Permitted Peak Flow – The highest one-hour wastewater flow rate measured in million gallons per day (MGD) allowable per User within any individual clock hour (60-minute average) of any calendar day (24-hour period) as identified in the User's Capacity Allocation Permit. This value is determined by averaging on a five-year basis the Average Dry Weather Flow for each municipal customer and applying the wet weather Municipal Peak Flow Standards (attached) as included in the WLSSD Comprehensive Wastewater Services Plan. For industrial customers the Permitted Peak Flow rate is based upon the remaining hydraulic capacity of the WLSSD system.

Permitted Share - The quantity of Permitted Flow, Permitted Peak Flow, Permitted BOD and Permitted TSS that are allowed or allotted a User in the manner provided for in this Ordinance.

Permitted Total Suspended Solids (TSS) – The total quantity of Total Suspended Solids (TSS) allowed to be discharged by a User during a calendar day (24-hour period) measured in pounds.

Residuals Disposal - The disposal of solids and associated liquids removed from Wastewater.

TSS - Total Suspended Solids of Wastewater as determined under laboratory procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. TSS is measured in milligrams per liter and is monitored as pounds discharged for a calendar day (twenty-four (24) hours).

Treatment Works - The entire wastewater system operated by the District including, but not limited to, the interceptors, pumping stations, sampling and flow monitoring stations, the wastewater treatment plant, effluent discharge and Residuals Disposal facilities and any other equipment of the District in any way connected with or utilized in the treatment of Wastewater.

User - The cities of Duluth, Proctor, Hermantown, Cloquet, Carlton, Rice Lake, Scanlon and Wrenshall, the townships of Midway, Thomson and Twin Lakes, Jay Cooke State Park, the Pike Lake Area Wastewater Collection System, the Duluth North Shore Sanitary District, the Village of Oliver, Wisconsin, and the Knife River-Larsmont Sanitary District. Any other person, firm, corporation or other entity or organization of any kind or nature, whether a municipal or local governmental entity or a state or federal entity, agency or subdivision which discharges directly to the Treatment Works and is not a customer of another governmental entity.

Wastewater - The words "wastewater" and "sewage" are used interchangeably herein and have the following meaning: all liquid or water-carried waste products from whatever source derived, together with such

groundwater infiltration and surface water inflow as may be present, which enters or is intended to enter the Treatment Works.

Wastewater Collection System - The network of interceptor sewers owned and operated by the WLSSD.

WLSSD (or District) - The Western Lake Superior Sanitary District, a public corporation and political subdivision of the State of Minnesota, existing under the authority of Chapter 458D.

## **SECTION 2 Regulations**

### **Section 2.1. Establishment of Treatment Capacity Allocation System.**

No User shall discharge to the Treatment Works any quantity of Wastewater without first obtaining a Permit from the District pursuant to the requirements and provisions of this Ordinance.

### **Section 2.2. Board Allocates Treatment Capacity.**

A. Allocation. The Board, in its discretion, shall on a periodic basis in the manner and subject to the limitations set forth in this Ordinance, provide for the allocation of capacity of the Treatment Works among the Users. In allocating capacity, the Board may take into account the Permitted Share of all Users during the previous five years, projected or anticipated increases in Actual Flow, Actual Peak Flow, Actual TSS and Actual BOD of all Users, the anticipated requirements of potential new Users and such other factors as in the judgment of the Board will fairly allocate capacity among both current and potential Users. The Board may afford each User the opportunity to present information about the User's anticipated capacity needs during the period of the Permit. The District shall make a preliminary allocation of capacity to apply during the period of the Permit and advise each User of that preliminary allocation. The User may accept such allocation or request a higher or lower allocation. Thereafter the Board shall make a final allocation determination specifying the Permitted Share of each User, which shall be incorporated in the User's Permit.

B. Board Reallocation During Permit Period. If, during the period a Permit is in effect, the Board determines that during the balance of the Permit period the User will not utilize all of its Permitted Share and determines that another User or potential User has need for capacity, or the Board determines that the User is frequently exceeding its Permitted Share, the Board shall have the right but not the obligation to adjust the User's Permitted Share up or down consistent with the Board's new findings as to the User's Permitted Share for the balance of the period of the Permit. Prior to making a determination as allowed hereunder, the Board shall afford the existing User the opportunity to present



information about that User's capacity needs during the balance of the period of the Permit. The Board may, to the extent that the Design Capacity of the Treatment Works allows, assign the User an increased Permitted Share for the remainder of the Permit period or for a new Permit period.

C. User Requested Capacity Adjustment. During the period of the Permit, any User that projects a significant increase or decrease in Flow and Load from the User's Permitted Share may petition the Board for an increase or decrease in Permitted Share. The petition shall include sufficient factual information to enable the Board to determine the User's Permitted Share needs, the parameters thereof, and such other information as to the User's process as may be requested by the Board. The Board may, to the extent that the Design Capacity of the Treatment Works allows, modify the User's Permitted Share for the remainder of the Permit period or for a new Permit period.

D. Correction of Errors. If during the period of the Permit the District concludes that the User's Permitted Share was calculated in error, the Board may correct the error and adjust the User's Permitted Share. The maximum period of a retroactive adjustment is up to twelve months from the date of correction of the error. The period of retroactive adjustment shall be determined in the discretion of the Director.

E. New Users. Potential new Users may petition the Board for Permitted Share. The petition shall contain the information specified in Subsection 2.2.C. above. The Board, in acting on such petition, shall follow the procedure set forth in Subsection 2.2.C. above.

**Section 2.3. Discharge in Accordance with Allocation.** All Users shall be permitted to discharge Flow and Load to a maximum of the User's Permitted Share at the O & M Rates then in effect.

**Section 2.4. Cost Apportionment.** The Board will adopt a cost apportionment policy establishing a framework for apportioning Operation and Maintenance Costs and Debt Service Costs among the Users, which policy may be modified from time to time.

A. Allocation of Operation and Maintenance Costs. The Board will implement the cost apportionment policy by resolution, specifically prescribing the method of apportioning Operation and Maintenance Costs among all of the Users of the Treatment Works. The District will apportion Operation and Maintenance Costs among the Users based upon the operation and maintenance component of the District's cost apportionment policy. Such apportionment shall be based upon each User's Permitted Share, subject to the discretion of the Director.

B. Allocation of Debt Service and Debt Service Costs. The Board will adopt a resolution implementing the cost apportionment policy and specifically prescribing the method of apportioning Debt Service and Debt Service Costs among all of the Users of the Treatment Works. Each User shall, at a minimum, be responsible for that portion of District Debt Service incurred or for which the District became obligated during the period of each particular Capacity Allocation Agreement or Permit equal to the User's Permitted Share as assigned to the User for that period (whether or not such User actually discharges Flows and Loads to the maximum of the User's Permitted Share).

C. Continuing Debt Service Obligation of Discontinued User. A Discontinued User shall continue to pay its share of Debt Service until all Debt Service Costs for debt existing at the time of the start of such User's first Capacity Allocation Agreement or Permit and all debt incurred during the subsequent period during which such User discharged Wastewater to the Treatment Works has been paid. The Discontinued User shall have no ownership interest in or rights to the unused capacity upon which the Discontinued User pays Debt Service. If there is another User that requires capacity the Board may, but shall not be required to, reallocate all or a portion of the Permitted Share of the Discontinued User to such other User and to make adjustments in the Debt Service obligation of the Discontinued User to the extent deemed reasonable and appropriate by the Board.

#### **Section 2.5. User Operating Upsets.**

A. Any User that experiences an upset in operations that places the User in a temporary state of noncompliance with this Ordinance or its Permit shall inform the Director immediately upon first awareness of commencement of the upset.

B. Where such information is given orally, a written follow-up report may be requested by the Director and shall be filed by the User with the District within five (5) days, providing the following:

- (1) Description of the upset, the cause thereof and the upset's impact on a User's compliance status;
- (2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur; and
- (3) All steps taken or to be taken to reduce, eliminate, and prevent reoccurrence of such an upset or other conditions of noncompliance.

**SECTION 3**  
**Capacity Allocation Permit**

**Section 3.1. Permit Required.**

All Users now existing, together with any person, firm, corporation or other entity, whether municipal or otherwise, which hereafter becomes a User, are required to obtain a Permit from the District.

**Section 3.2. Permit Provisions.**

A. The Permit shall be subject to all provisions of this Ordinance and all other regulations and applicable fees established by the District. Permits shall be made for a specified time period, not to exceed five (5) years.

B. The Permit shall specifically include the following conditions as applicable:

- (1) The User's Permitted Share of Flow and Load.
- (2) Requirements for notification to the Director of any substantial change in the volume or characteristics of the Wastewater constituents being introduced to the District Treatment Works;
- (3) Other conditions as deemed appropriate by the District to insure compliance with this Ordinance.

**Section 3.3. Permit Modifications.**

The terms and conditions of a Permit may be subject to modification by the Board pursuant to Section 2.2.

**Section 3.4. Permit Transfer.**

A. Permits are made with a specific User for a specific operation and are not assignable to another User or transferrable to any other entity or to any other location without prior written approval of the Board.

B. In the event there is a pending change in the ownership of the property, operations or premises for which a Permit applies, the owner shall notify the District of the pending change in ownership, and shall notify the expected owner of the provisions of the Permit and the rules and regulations contained herein.

C. A new owner shall petition the Board for a Permitted Share pursuant to Subsection 2.2.E. The Board may continue in effect the existing

Permit until its expiration date, subject to such modification as the Board determines to be required, or issue a new Permit.

## **SECTION 4 Enforcement**

### **Section 4.1 Suspension of Service.**

A. The Director may suspend or limit wastewater treatment service and the quantity of Flow and Load which may be discharged by a particular User or Users when the Director determines that such suspension or limitation is necessary in order to stop an actual or threatened discharge by the User which may present an endangerment to the health or welfare of persons, an endangerment to the environment, interfere with the operation of the Treatment Works, or cause the District to violate any condition of its NPDES Permit.

B. Any User notified of the suspension or reduction in wastewater treatment service or a reduction in the Flow and Load which may be discharged shall, within a reasonable period of time as determined by the Director, cease or reduce discharges to the Treatment Works. If determined to be necessary by the Director, the District may sever the sewer connection of the User to prevent or minimize damage to the Treatment Works or endangerment to any individuals.

C. The Director shall reinstate the wastewater treatment service or Permit upon proof by the User of the elimination of the non-complying discharge.

D. The provisions of Sections 4.3, 4.4 and 4.5 do not apply to a suspension of service under Section 4.1.

### **Section 4.2. Violation.**

A violation of this Ordinance occurs if the User:

- A. Fails to factually report the User's Flow or Load;
- B. Fails to report significant changes in the User's Flow or Load;
- C. Violates any conditions of the Permit; or
- D. Fails to comply with any of the provisions of this Ordinance, or applicable District, state and federal regulations.

### **Section 4.3. Notice of Violation.**

Whenever the Director finds that any User has violated this Ordinance, the Director shall serve or cause to be served upon such User a written notice stating

the nature of the alleged violation, any penalty to be imposed as a result of the violation, and any other proposed enforcement action. Service may be made on any agent, officer, or authorized representative of a User or by mail to the address of the User. Within thirty (30) days of the date of the notice, the User shall respond to the allegations in writing to the Director.

**Section 4.4. Order.**

After receipt of User's written response, the Director shall issue an administrative order ("Order") which shall include:

- A. a concise statement of the facts constituting the violation;
- B. reference to the provision of the Permit, this Ordinance, or applicable District, state and federal regulation that was violated;
- C. a statement of the amount of the civil penalty as provided in Section 5.2, any civil liability to be imposed as provided in Section 5.3, and any other enforcement action imposed as a result of the violation; and
- D. actions that must be taken by the User to comply with the Order.

**Section 4.5. Show Cause Hearing.**

If the Director's Order or a suspension of service under Section 4.1 requires the User to take an action, and the User does not timely comply, the Director may order any User which causes or allows such prohibited conduct to show cause before the Board why further enforcement action should not be taken. A written notice shall be served on the User specifying the time and place of a hearing to be held by the Board regarding the violation, the reasons why the enforcement action is being taken, and the proposed enforcement action. Notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on any agent, officer, or authorized representative of a User or by mail to the address of the User. Proceedings of the hearing shall be considered by the Board which shall then issue a decision or order with respect to the alleged improper activities of the User. The decision or order of the Board shall be the final administrative determination.

**Section 4.6. Judicial Enforcement Proceedings.**

Following the entry of a decision or order by the Director under Sections 4.1 or 4.4, or the Board under Section 4.5, the attorney for the District may, following authorization of such action by the Board, commence an action for appropriate legal and/or equitable relief.

**Section 4.7. Appeals.**

Any person affected by any decision or order made by the Director in interpreting or administering the provisions of this Ordinance may file with the Director a written notice of appeal within ten (10) days after receipt of the decision or order of the Director. The appeal shall be heard and considered by the Board utilizing such procedure as the Board may establish. Notice of a scheduled hearing before the Board shall be mailed to the appealing User by the Director. The decision by the Board on such appeal shall be the final administrative determination.

**Section 4.8. Performance Bond.**

The Director may decline to reissue a Permit to any User which has failed to comply with the provisions of this Ordinance, any District orders, or a previous Capacity Allocation Agreement or Permit, unless such User first deposits a satisfactory bond, in a form acceptable by the District, payable to the District, in an amount determined by the Director to be necessary to achieve consistent compliance.

**SECTION 5  
Penalties**

**Section 5.1. Remedies Nonexclusive.**

The remedies provided for in this Ordinance are not exclusive. The Director may take any, all, or any combination of these actions against any User that is in violation of the Ordinance. However, the Director may take other action against any User when the circumstances warrant such action.

**Section 5.2. Civil Penalties.**

A. Any person who willfully or negligently violates any provision of this Ordinance or any provision of a Permit shall be subject to a civil penalty in an amount to be determined in the discretion of the Director but not more than \$1,000 for each violation.

B. Any person who continues any violation of any provision of this Ordinance or any provisions of a Permit beyond the time limit provided for in the Director's written notice of violation shall be subject to payment of a civil penalty in an amount to be determined in the discretion of the Director but not more than \$1,000 for each violation.

C. Each day in which a violation referred to in either Subsections 5.2 A. or B. continues shall be deemed a separate offense.



D. The civil penalty provided for hereunder may be recovered by the District in a civil proceeding in the State District Court.

**Section 5.3. Civil Liability.**

Any person discharging waste in violation of this Ordinance or of any provision or condition of a Permit shall be subject to civil liability to the District for any or all of the following:

- (1) The added costs to the District of handling the improper discharge;
- (2) The costs incurred by the District in correcting the violation, in repairing damage to the Treatment Works, and in cleanup of the unauthorized discharge; or
- (3) Any costs or penalties imposed upon the District by regulatory authorities by reason of the violating discharge.

The civil liability provided for hereunder may be recovered by the District in a civil proceeding in the State District Court.

**Section 5.4. Injunctions.**

Any violation of this Ordinance or any provision or condition of any Permit which causes, or threatens to cause, an imminent endangerment to the health or welfare of a person, an endangerment to the environment, or interference with the operation of the District's Treatment Works may be enjoined by the District as provided by law.

**Section 5.5. Interest.**

Interest at the rate established in Minn. Stat. § 549.09 begins to accrue on penalties under Section 5 of this Ordinance on the 31st day after the Order with the penalty was mailed or delivered to the User.

**SECTION 6  
Charges and Fees**

The District may adopt charges and fees to be imposed upon Users which may include:

- (1) Fees to recover costs incurred by the Board in establishing and maintaining the Capacity Allocation System and in issuing the Permits or renewals;

- (2) Fees for appeals; and
- (3) Other charges the District may deem necessary to carry out the requirements contained herein.

**SECTION 7**  
**Effective Date and Severability**

**Section 7.1. Severability.**

If any provision, paragraph, word, or section of this Ordinance is invalidated or held to be unconstitutional by a court of competent jurisdiction, the remaining provisions, paragraphs, words, or sections shall not be affected and shall continue in full force and effect.

**Section 7.2. Conflicts.**

All other ordinances and parts of other ordinances previously adopted by the District that are inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict, except that nothing herein is intended to repeal or in any way modify the requirements of the Industrial Pretreatment Ordinance originally adopted by the Board on June 17, 1985, and revised and amended from time to time thereafter.

**Section 7.3. Adoption and Effective Date.**

This Capacity Allocation Ordinance was originally approved and adopted by the Western Lake Superior Sanitary District on the 30th day of October, 1995 and revised and amended from time to time thereafter. This Amended Ordinance shall be effective upon publication in a newspaper of general circulation in the District.

**WESTERN LAKE SUPERIOR  
SANITARY DISTRICT**

By: Ruth Janke  
Ruth Janke

Its: Chair

By: Dave Manderfeld  
Dave Manderfeld

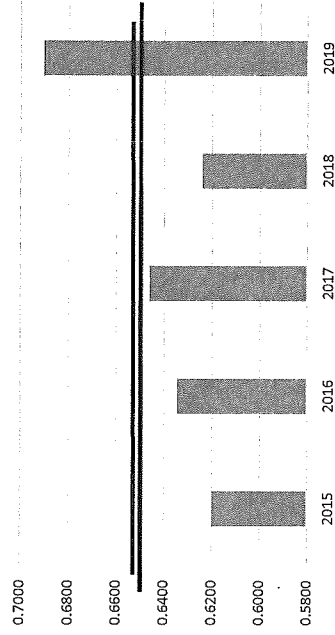
Its: Secretary

# City of Hermantown

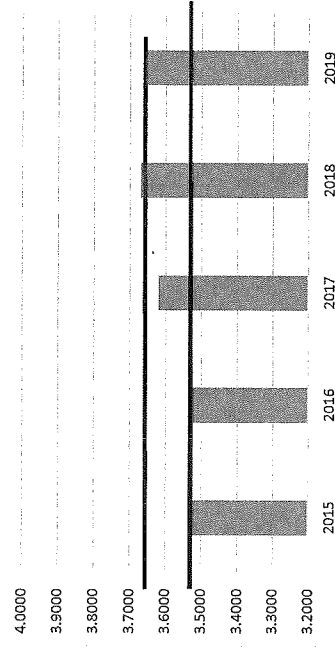
## Historical Data

Measure	2015	2016	2017	2018	2019	2020	2021 Budget	2017-19 Avg	2011-2015 Allocation	2016-2021 Allocation	Proposed 2022-2026 Allocation
Average Flow (MGD)	0.6199	0.6345	0.6459	0.6241	0.6905	0.3730	0.6500	0.6535	0.7600	0.7600	0.7600
Peak Flow (MGD)	3.5300	3.5300	3.6200	3.6700	3.6600	3.8000	3.5300	3.6500	1.2820	3.5300	3.8000
BOD (lbs)	1165	1180	1155	1172	1164	605	1150	1164	1617	1600	1600
TSS (lbs)	1120	1180	1064	1091	1150	646	1100	1102	2036	1600	1600
Actual Peak (MGD)	2.3772	2.5866	3.1471	3.1603	2.6226	1.0166		2.9767			

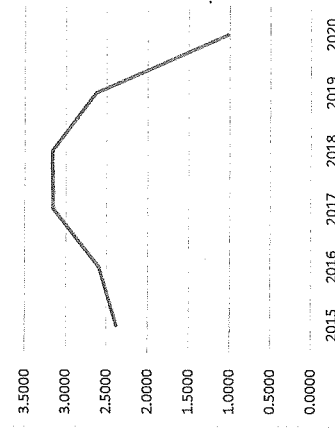
Average Flow (MGD)



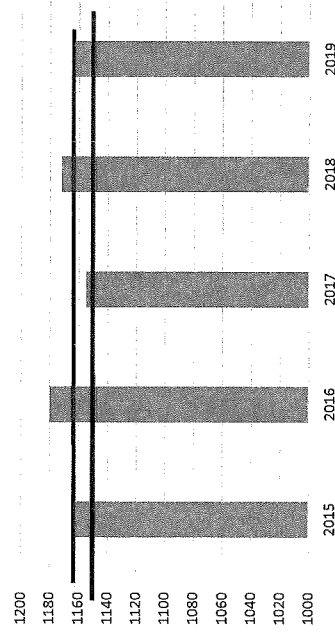
Peak Flow (MGD)



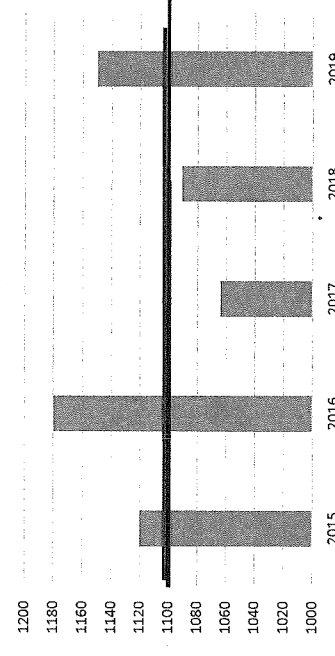
Actual Peak (MGD)



BOD (lbs)



TSS (lbs)



**WESTERN LAKE SUPERIOR SANITARY DISTRICT  
WASTEWATER TREATMENT CAPACITY ALLOCATION**

**PERMIT**

This Wastewater Treatment Capacity Allocation Permit is issued as of the 1st day of January, 2022, by the Sanitary Board of the Western Lake Superior Sanitary District (the "District") to the **City of Hermantown, Minnesota** (the "User").

**User is authorized to discharge wastewater to the District Treatment Works only in accordance with the limitations, monitoring requirements, and other provisions and conditions set forth herein.**

**RECITALS**

A. Pursuant to its Enabling Legislation, now codified as Minn. Stat. Chapter 458D, the District has adopted an amended Wastewater Treatment Capacity Allocation Ordinance on August 28, 2017, a copy of which is attached hereto as Exhibit A (the "Allocation Ordinance").

B. Section 2.1 of the Allocation Ordinance prohibits any User from discharging wastewater to the District's Treatment Works without first obtaining a Wastewater Treatment Capacity Allocation Permit.

**PERMIT CONDITIONS**

1. Permitted Share. The User's Permitted Share of the capacity of the District's Treatment Works is as follows:

<u>Parameter</u>	<u>Discharge Limit</u>
Permitted Flow (MGD)	0.760
Permitted Peak Flow (MGD)	3.800
Permitted Biochemical Oxygen Demand (BOD) (lb./day)	1,600
Permitted Total Suspended Solids (TSS) (lb./day)	1,600

User's permitted share may be reallocated by the District in accordance with the Allocation Ordinance.

2. Term. The term of this permit shall commence on January 1, 2022 and terminate on December 31, 2026. At least one hundred eighty (180) calendar days prior to the expiration of the term of this Permit, User will submit to the District an application for reissuance of its capacity allocation with information concerning the User's anticipated capacity needs during the succeeding five year period. In addition, the permit may be modified at any time in accordance with Section 2.2 of the Allocation Ordinance.

3. Payment of Charges/Cost Recovery. The User shall pay for its wastewater discharges to the Treatment Works in accordance with the District's Cost Apportionment Policy and District resolutions implementing such Cost Apportionment Policy and the Allocation Ordinance, as either may be amended from time to time. The Cost Apportionment Policy allocates operating and maintenance costs and Debt Service Costs (the principal and interest to pay long term District indebtedness for capital construction) to participating local units of government and large industrial customers directly connected to the Treatment Works, based on the User's share (Flow and Load) of the use of the Treatment Works. The Debt Service Costs are spread out over the period of the debt.

4. Monitoring and Reporting. User shall monitor its wastewater discharges to the Treatment Works and report the results of such monitoring to the District, all in accordance with Exhibit B.

5. Special Reports. User shall submit to the District such additional reports as the District may reasonably request from time to time.

6. Change in Wastewater Discharge. The User shall immediately notify the District's Director, or his or her designee, of any known substantial change in the volume or characteristics of wastewater discharged by User to the Treatment Works, other than a change in volume caused by a wet weather event.

7. Inspection. The District may enter User's premises during normal business hours for the purpose of inspecting User's monitoring and sampling equipment and procedures, conducting its own sampling and monitoring of User's wastewater discharge and inspecting and copying User's books, records, documents, memoranda, reports, correspondence and any summaries thereof relating to monitoring, sampling and chemical analysis of User's wastewater discharge made by or on behalf of User.

8. Compliance and Enforcement User will comply with all of the provisions of the Allocation Ordinance and this Permit.

9. Pretreatment Neither the Allocation Ordinance nor this Permit in any way abrogates the District's Industrial Pretreatment Ordinance or the User's Industrial Wastewater Discharge Permit, if any, both of which remain in full force and effect.

10. Nonassignability. The User may not assign or transfer any rights pursuant to this Permit, except as provided in Section 3.4 of the Allocation Ordinance.

11. User Signature. This permit is only valid if executed by an authorized representative of User.

12. Additional Conditions. Exhibit B, if attached, contains additional conditions that the User must meet when discharging wastewater pursuant to this Permit.

13. Miscellaneous. Nothing in this Permit shall be construed to abrogate, annul or modify the authority vested in the District by Minn. Stat., Chapter 458D, or the Allocation Ordinance, as the same may be amended from time to time. Capitalized terms used but not defined in this Permit shall have the definition given them in the Allocation Ordinance.

I am a duly authorized representative of User and verify that User will comply with the terms and conditions of the Permit and the District ordinances and regulations concerning wastewater discharges.

USER: \_\_\_\_\_

By: \_\_\_\_\_

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

**SANITARY BOARD OF THE  
WESTERN LAKE SUPERIOR  
SANITARY DISTRICT**

By \_\_\_\_\_

Print Name Marianne Bohren

Title Executive Director



## Exhibit B

### Special Conditions for Hermantown:

1. Sampling and Monitoring: The District will provide and maintain facilities and perform analyses for determination of flow and loads. BOD and TSS loads will be determined by averaging results of 24-hour composite samples collected by the District personnel.
2. For Bayview, BOD and TSS loads will be determined by applying standard domestic sewage concentrations to measured flows.

**TO:** Mayor & City Council  
**FROM:** John Mulder, City Administrator  
**DATE:** September 1, 2021  
**SUBJECT:** Trunk Sewer Spur & Munger Trail Spur – Sanitary Sewer Improvement District No. 448



**Meeting Date:** 9/7/21

**Agenda Item: 12-J**      **Resolution 2021-110**

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**REQUESTED ACTION**

**Approve Pay Application #13 to Utility Systems of America for the construction related to the Trunk Sewer Spur and Munger Trail Spur Project – Sanitary Sewer Improvement District No. 448.**

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**BACKGROUND**

Attached is Pay Application #13 for the work associated with the Hermantown Trunk Sewer Spur & Munger Trail Spur – Sanitary Sewer Improvement District No. 448 from Pay Application #12 through August 28, 2021. NCE and Utility Systems of America, Inc. (USA) have reviewed the project progress thus far and agreed upon quantities of work completed. The amount of Pay Application #13 is **\$36,235.38**. The City will hold a 5% retainage of the completed construction through the duration of the project. This retainage amount stands at **\$206,432.72** to date.

NCE has reviewed the quantities through construction inspection and discussions with Utility Systems of America, Inc. representatives. I recommend payment in the amount of **\$36,235.38** be authorized at the September 7, 2021 City Council Meeting.

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**SOURCE OF FUNDS (if applicable)**

Sales Tax

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**ATTACHMENTS**

Pay Application #13

**Resolution No. 2021-110**

**RESOLUTION APPROVING PAY REQUEST NUMBER 13 FOR SEWER IMPROVEMENT DISTRICT NO. 448 TO UTILITY SYSTEMS OF AMERICA, INC. IN THE AMOUNT OF \$36,235.38**

WHEREAS, the City of Hermantown has contracted with Utility Systems of America, Inc. for construction of Sewer Improvement District No. 448 (“Project”); and

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

WHEREAS, Utility Systems of America, Inc. has submitted Pay Request No. 13 in the amount of \$36,235.38; 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. 13 provided that \$206,432.72 accumulated 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. 13 is hereby approved.
2. The City is hereby authorized and directed to pay to Utility Systems of America, Inc. the sum of \$36,235.38 which is the amount represented on Pay Request No. 13.

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 the following voted in opposition thereto:

WHEREUPON, such resolution has been duly passed and adopted September 7, 2021.

September 1, 2021

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

Re: Hermantown Trunk Sewer Spur & Munger Trail Spur – Sanitary Sewer Improvement District No. 448

Dear John:

Attached is Pay Application #13 for the work associated with the Hermantown Trunk Sewer Spur & Munger Trail Spur – Sanitary Sewer Improvement District No. 448 from Pay Application #12 through August 28, 2021. NCE and Utility Systems of America, Inc. (USA) have reviewed the project progress thus far and agreed upon quantities of work completed. The amount of Pay Application #13 is **\$36,235.38**. The City will hold a 5% retainage of the completed construction through the duration of the project. This retainage amount stands at **\$206,432.72** to date.

NCE has reviewed the quantities through construction inspection and discussions with Utility Systems of America, Inc. representatives. I recommend payment in the amount of **\$36,235.38** be authorized at the September 7, 2021 City Council Meeting.

Please contact me with any questions you may have.

Thank you,



David Bolf, P.E. – City Engineer  
Northland Consulting Engineers  
218-727-5995  
[david@nce-duluth.com](mailto:david@nce-duluth.com)

CC: Bonnie Engseth  
Adam Zwak, P.E.  
Jim Pucel, P.E.

**Contractor's Application for Payment No.**

13

Application Period: June 28, 2021 - August 28th, 2021		Application Date: 8/31/2021
To (Owner): City of Hermantown	From (Contractor): Utility Systems of America, Inc.	Via (Engineer): Northland Consulting Engineers, LLP
Project: Trunk Sewer Spur & Munger Trail Spur - Sanitary Sewer Improvement District No. 448	Contract: Trunk Sewer Spur & Munger Trail Spur - Sanitary Sewer Improvement District No. 448	
Owner's Contract No.: Sanitary Sewer Improvement District No. 448	Contractor's Project No.:	Engineer's Project No.: 16-808

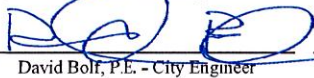
**Application For Payment  
Change Order Summary**

Approved Change Orders				
Number	Additions	Deductions		
1	\$15,100.00		1. ORIGINAL CONTRACT PRICE.....	\$ 54,209,784.30
2	\$28,900.00		2. Net change by Change Orders.....	\$ 181,383.57
3	\$93,908.57		3. Current Contract Price (Line 1 ± 2).....	\$ 54,391,167.87
4	Time Extension		4. TOTAL COMPLETED AND STORED TO DATE	
5	\$38,975.00		See attached Pay Application Summary (Line E).....	\$ 54,128,654.47
6	\$4,500.00		5. RETAINAGE:	
			a. 5% X \$4,128,654.47 Work Completed.....	\$ 206,432.72
			b. 5% X _____ Stored Material.....	\$ _____
			c. Total Retainage (Line 5.a + Line 5.b).....	\$ 206,432.72
TOTALS	\$181,383.57		6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c).....	\$ 3,922,221.75
NET CHANGE BY CHANGE ORDERS	\$181,383.57		7. LESS PREVIOUS PAYMENTS (Line 8 ).....	\$ 3,885,986.37
			9. AMOUNT DUE THIS APPLICATION.....	\$ 36,235.38
			10. BALANCE TO FINISH, PLUS RETAINAGE	
			(Line 3 - 4 + Line 5.c above).....	\$ 468,946.12

**Application For Payment  
Previous Pay Application Summary**

Approved Pay Applications		
Number	Date	Amount
1	4/6/2020	\$ 455,588.49
2	5/4/2020	\$ 30,045.81
3	6/3/2020	\$ 101,408.63
4	7/6/2020	\$ 654,831.60
5	8/3/2020	\$ 188,378.58
6	9/2/2020	\$ 573,269.10
7	10/5/2020	\$ 600,156.51
8	11/2/2020	\$ 322,822.04
9	12/6/2020	\$ 118,902.95
10	1/13/2021	\$ 432,032.60
11	6/7/2021	\$ 129,601.89
12	8/3/2021	\$ 278,948.17
13		
14		
8. TOTALS		\$3,885,986.37

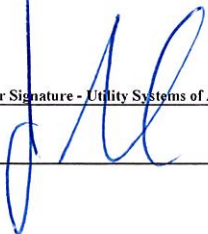
Payment of: \$ 36,235.38  
(Line 9 or other -attach explanation of the other amount)

is recommended by:  9/1/2021  
David Bolt, P.E. - City Engineer (Date)

**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 interest, or encumbrances); and  
 (3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor Signature - Utility Systems of America

By:  Date: 9-1-21



**Pay Application #13 - 08/31/21  
Trunk Sewer Spur & Munger Trail Spur  
Sanitary Sewer District Improvement District No. 448**

Item No.	Spec. Number	Item Description	Unit of Measure	Contract Total	Unit Price	Trunk Sewer Spur		Munger Trail Spur		Total Project	
						Contract Quantity	Completed Cost	Contract Quantity	Completed Cost	Completed Quantity	Completed Cost
<b>BASE BID</b>											
1	2021.501	MOBILIZATION	LS	1.00	\$ 414,000.00	0.80	0.80	\$ 347,200.00	0.20	0.20	\$ 66,800.00
2	2021.501	EAST MOUNTAIN SURVEY	LS	1.00	\$ 45,000.00	1.00	1.00	\$ 45,000.00	-	-	\$ -
3	2021.601	FIELD OFFICE	LS	1.00	\$ 7,500.00	0.80	0.80	\$ 6,000.00	0.20	0.20	\$ 1,500.00
4	2021.601	MAINTENANCE AND RESTORATION OF MAJOR ROADS	LS	1.00	\$ 1,000.00	0.80	0.80	\$ 800.00	0.20	0.20	\$ 200.00
5	2104.501	CLEARING	ACRE	18.00	\$ 12,000.00	14.50	14.50	\$ 174,000.00	3.50	3.50	\$ 42,000.00
6	2104.506	GRUBBING	ACRE	18.00	\$ 1,500.00	14.50	14.50	\$ 21,750.00	3.50	3.50	\$ 5,250.00
7	2104.502	REMOVE CASTINGS	EACH	1	\$ 250.00	1	1	\$ 250.00	-	-	\$ -
8	2104.502	SALVAGE ELECTRICAL PEDESTAL AND SIGN	EACH	6	\$ 350.00	6	6	\$ 2,100.00	-	-	\$ -
9	2104.503	REMOVE CONCRETE CURB AND GUTTER	LF	20	\$ 9.00	20	20	\$ 180.00	-	-	\$ -
10	2104.503	REMOVE SEWER PIPE (SANTARY)	LF	10	\$ 5.00	10	10	\$ 50.00	-	-	\$ -
11	2104.503	SAVING BITUMINOUS PAVEMENT (FULL DEPTH)	LF	150	\$ 4.00	150	150	\$ 612.00	-	-	\$ -
12	2104.503	SAVING CONCRETE PAVEMENT (FULL DEPTH)	LF	170	\$ 7.00	170	170	\$ 1,190.00	-	-	\$ -
13	2104.509	REMOVE CONCRETE PAVEMENT	SY	852	\$ 9.00	852	852	\$ 7,668.00	-	-	\$ -
14	2104.509	REMOVE BITUMINOUS PAVEMENT	SY	343	\$ 4.00	343	343	\$ 1,372.00	116	116	\$ 464.00
15	2104.518	REMOVE CONCRETE WALK	LF	100	\$ 1.00	100	100	\$ 100.00	-	-	\$ -
16	2104.601	REMOVE LIFT STATION	LS	1	\$ 20,000.00	1	1	\$ 20,000.00	-	-	\$ -
17	2104.602	REMOVE GREENHOUSE	BACH	8	\$ 1,000.00	8	8	\$ 8,000.00	-	-	\$ -
18	2106.504	GEOTEXTILE FABRIC TYPE 5 (NONWOVEN)	SY	28,750	\$ 1.43	17,000	10,816	\$ 17,846.40	11,750	7,375	\$ 12,188.75
19	2106.504	GEOTEXTILE FABRIC TYPE 5 (NONWOVEN) (PATCHING)	SY	750	\$ 4.00	250	352	\$ 1,408.00	-	-	\$ -
20	2106.507	ORCAUTION - COMMON	CY	20,683	\$ 11.00	18,180	16,670	\$ 183,390.00	3,003	3,273	\$ 43,153.00
21	2106.507	COMMON EMBANKMENT (CY)	CY	3,934	\$ 7.00	3,179	3,54	\$ 3,735.00	755	888	\$ 9,210.00
22	2106.507	SELECT GRANULAR EMBANKMENT MOD FN (CY)	CY	5,500	\$ 21.00	3,200	3,200	\$ 67,200.00	2,300	2,300	\$ 48,300.00
23	2106.607	SELECT GRANULAR EMBANKMENT MOD FN (CY) (PATCHING)	CY	100	\$ 1.00	100	100	\$ 100.00	-	-	\$ -
24	2106.601	DEWATERING	LS	1	\$ 50,000.00	0.80	0.80	\$ 40,000.00	0.20	0.20	\$ 10,000.00
25	2106.601	TURF & WEEDLAND RESTORATION	LS	1	\$ 30,000.00	0.80	0.80	\$ 24,000.00	0.20	0.20	\$ 6,000.00
26	2106.602	WEED CROSSING	BACH	4	\$ 4,000.00	3	3	\$ 12,000.00	1	1	\$ 4,000.00
27	2201.507	AGGREGATE BASE (CY) CLASS 5	CY	7,611	\$ 30.00	4,434	4,434	\$ 133,020.00	3,177	3,177	\$ 95,210.00
28	2201.507	AGGREGATE BASE (CY) CLASS 5 (PATCHING)	CY	50	\$ 49.50	50	78	\$ 3,932.50	-	-	\$ -
29	2201.509	CONCRETE PAVEMENT 7" MAPLE GROVE ESTATES	SY	852	\$ 88.00	852	852	\$ 74,976.00	-	-	\$ -
30	2260.509	TYPE SP 9.5 WEARING COURSE MIXTURE (D.B.)	TON	1,770	\$ 80.00	-	-	\$ -	1,770	1,770	\$ 141,600.00
31	2260.509	TYPE SP 9.5 WEARING COURSE MIXTURE (D.C.) (PATCHING)	TON	30	\$ 184.00	35	37	\$ 6,808.00	-	-	\$ -
32	2260.509	TYPE SP 12 WEARING COURSE MIXTURE (D.C.) (PATCHING)	TON	37	\$ 134.00	37	45	\$ 6,030.00	-	-	\$ -
33	2412.502	3X6 PRECAST CONCRETE BOX CULVERT	LF	64	\$ 630.00	34	34	\$ 21,420.00	30	30	\$ 19,500.00
34	2451.507	COARSE FILTER AGGREGATE (CY)	CY	1,045	\$ 24.00	1,045	837	\$ 15,288.00	-	-	\$ -
35	2451.507	COARSE SAND FILL (CY)	CY	8,275	\$ 14.00	6,275	288	\$ 4,026.00	-	-	\$ -
36	2451.507	STRUCTURE EXCAVATION, GLASS R	CY	4,825	\$ 52.00	4,825	4,170	\$ 219,840.00	-	-	\$ -
37	2501.503	12" CAS PIPE APRON	EACH	28	\$ 300.00	18	18	\$ 5,400.00	8	8	\$ 2,400.00
38	2501.503	15" CAS PIPE APRON	EACH	45	\$ 310.00	-	-	\$ -	45	45	\$ 14,025.00
39	2501.503	12" CAS PIPE CULVERT	LF	328	\$ 50.00	230	230	\$ 11,500.00	88	104	\$ 5,200.00
40	2501.503	15" CAS PIPE CULVERT	LF	850	\$ 83.00	-	-	\$ -	850	810	\$ 67,350.00
41	2603.503	8" PVC PIPE SEWER (SD30S)	LF	547	\$ 117.00	547	547	\$ 63,999.00	-	-	\$ -
42	2603.503	10" PVC PIPE SEWER (SD30S)	LF	6,453	\$ 110.00	6,453	6,453	\$ 709,830.00	-	-	\$ -
43	2603.503	12" PVC PIPE SEWER (SD30S)	LF	3,203	\$ 121.00	3,203	3,203	\$ 387,561.00	-	-	\$ -
44	2603.602	18" MONTONITE TRENCH DRAIN	EACH	74	\$ 1,600.00	74	74	\$ 118,400.00	-	-	\$ -
45	2603.602	CONCRETE 10' EXISTING SANITARY SEWER	LF	3	\$ 1,500.00	3	3	\$ 4,500.00	-	-	\$ -
46	2603.602	PLUG AND ABANDON PIPE SEWER	EACH	6	\$ 500.00	6	6	\$ 3,000.00	-	-	\$ -
47	2603.603	TELEVISION SANITARY SEWER	LF	8,401	\$ 2.50	8,401	8,318	\$ 20,797.50	-	-	\$ -
48	2604.604	3" POLYSTYRENE INSULATION	SY	135	\$ 50.00	135	135	\$ 6,750.00	-	-	\$ -
49	2606.502	CASTING ASSEMBLY	EACH	5	\$ 500.00	5	5	\$ 2,500.00	-	-	\$ -
50	2606.503	CONSTRUCT DRAINAGE STRUCTURE DESIGN #007	LF	528	\$ 519.00	508	508.00	\$ 265,700.00	-	-	\$ -
51	2606.503	CASTING ASSEMBLY SPECIAL	EACH	38	\$ 600.00	38	38	\$ 22,800.00	-	-	\$ -
52	2606.502	MANHOLE FRAME SEAL EXTERNAL	LF	38	\$ 1,500.00	38	38	\$ 57,000.00	-	-	\$ -
53	2606.503	CONSTRUCT B' INSIDE DROP	LF	6	\$ 200.00	6	6	\$ 1,200.00	-	-	\$ -
54	2621.518	8" CONCRETE WALK	SF	830	\$ 9.25	830	830	\$ 7,687.50	-	-	\$ -
55	2631.503	CONCRETE CURB AND GUTTER DESIGN B2H	LF	20	\$ 55.00	20	20	\$ 1,100.00	-	-	\$ -
56	2645.602	INSTALL ELECTRICAL PEDESTAL AND SIGN	EACH	6	\$ 750.00	6	6	\$ 4,500.00	-	-	\$ -
57	2683.601	TRAFFIC CONTROL	LS	1.00	\$ 27,000.00	0.80	0.80	\$ 21,600.00	0.20	0.20	\$ 5,400.00
58	2673.501	STABILIZED CONSTRUCTION EXIT	LS	1.00	\$ 1,000.00	0.80	0.80	\$ 800.00	0.20	0.20	\$ 200.00
59	2673.502	STORM DRAIN INLET PROTECTION	EACH	37	\$ 304.00	27	22	\$ 6,600.00	10	20	\$ 6,000.00
60	2673.503	FILTER BERM TYPE A	LF	18,895	\$ 2.70	13,648	13,648	\$ 37,890.00	5,247	5,047	\$ 13,695.00
61	2673.503	5' T FENCE TYPE B	LF	6,318	\$ 2.28	3,841	11,196	\$ 25,521.00	3,307	6,924	\$ 15,720.00
62	2673.503	SEWMENT CONTROL LOG TYPE WOOD FIBER	LF	18,895	\$ 2.70	13,648	2,220	\$ 6,105.00	5,247	700	\$ 1,905.00
63	2673.601	HERMANTOWN PUBLIC WORKS STORMWATER IMPROVEMENTS	LS	7.00	\$ 50,000.00	-	-	\$ -	1.00	1.00	\$ 50,000.00
64	2675.604	EROSION CONTROL BLANKETS CATEGORY 3H	SY	3,277	\$ 1.83	1,795	9,243	\$ 13,800.95	1,482	1,482	\$ 2,648.30
65	2675.605	SEEDING	ACRE	16.75	\$ 80.00	14.00	14.00	\$ 1,120.00	2.75	2.75	\$ 220.00
66	2675.606	SEED MIXTURE 50-311 (TURF/JO)	LB	775	\$ 39.00	560	560	\$ 21,840.00	215	215	\$ 8,415.00
67	2675.605	SEED MIXTURE 50-311 (WEI/LAND)	LB	875	\$ 75.00	450	450	\$ 33,750.00	125	125	\$ 9,375.00
68	2675.606	MULCH MATERIAL TYPE 1	ACRE	18.75	\$ 750.00	14.00	14.00	\$ 10,500.00	2.75	2.75	\$ 2,062.50
69	2675.607	2" DOUBLE SOLID LINE PAINT (YELLOW)	LF	71	\$ 12.00	71	71	\$ 852.00	-	-	\$ -
70	2682.503	4" SOLID LINE PAINT (WHITE)	LF	103	\$ 8.00	102	102	\$ 816.00	-	-	\$ -
71	2682.503	24" SOLID LINE PAINT (WHITE)	LF	50	\$ 14.00	50	50	\$ 700.00	-	-	\$ -
<b>NO ALTERNATE #1 - MAINTENANCE ROAD PAVING</b>											
72	2260.509	TYPE SP 9.5 WEARING COURSE MIXTURE (D.B.)	TON	425	\$ 80.00	-	-	\$ -	425	425.00	\$ 34,000.00
<b>NO ALTERNATE #2 - MAINTENANCE ROAD ALONG MAPLE GROVE</b>											
73	2104.502	SALVAGE 24" RC PIPE APRON	EACH	1	\$ 400.00	-	-	\$ -	1	1	\$ 400.00
74	2104.502	SALVAGE LIGHT POLE AND BASE	EACH	1	\$ 500.00	-	-	\$ -	1	1	\$ 500.00
75	2104.502	SALVAGE SIGN	EACH	1	\$ 50.00	-	-	\$ -	1	1	\$ 50.00
76	2106.504	GEOTEXTILE FABRIC TYPE 5 (NONWOVEN)	SY	700	\$ 3.00	-	-	\$ -	700	600.00	\$ 1,800.00
77	2106.507	EXCAVATION - COMMON	CY	280	\$ 28.00	-	-	\$ -	280	200.00	\$ 7,840.00
78	2106.507	SELECT GRANULAR EMBANKMENT MOD FN (CY)	CY	150	\$ 30.00	-	-	\$ -	150	150.00	\$ 4,500.00
79	2211.607	AGGREGATE BASE (CY) CLASS 5	CY	175	\$ 32.00	-	-	\$ -	175	175.00	\$ 5,600.00
80	2260.509	TYPE SP 9.5 WEARING COURSE MIXTURE (D.B.)	TON	68	\$ 83.00	-	-	\$ -	68	55.00	\$ 4,565.00
81	2601.503	24" RC PIPE SEWER DESIGN 3006	LF	10	\$ 150.00	-	-	\$ -	10	12.00	\$ 1,200.00
82	2601.502	INSTALL RC PIPE APRON	EACH	1	\$ 200.00	-	-	\$ -	1	1.00	\$ 200.00
83	2645.602	INSTALL LIGHT POLE	EACH	1	\$ 6,500.00	-	-	\$ -	1	-	\$ -
84	2684.602	INSTALL SIGN	EACH	1	\$ 200.00	-	-	\$ -	1	-	\$ -
<b>CHANGE ORDER</b>											
85	CO #1	CHANGE ORDER #1 - WATER MAIN STUB - ANDERSON ROAD	LS	1	\$ 15,100.00	1.00	1.00	\$ 15,100.00	-	-	\$ -
86	CO #2	CHANGE ORDER #2 - 3X6 BOX CULVERT	LF	34	\$ 850.00	34.00	34.00	\$ 28,900.00	-	-	\$ -
87	CO #3	CHANGE ORDER #3 - 15" RC BOX CULVERTS - DEBRIS	LS	1	\$ 38,975.00	1.00	1.00	\$ 38,975.00	-	-	\$ -
88	CO #4	CHANGE ORDER #4 - TRAIL GATES, 80X24 (S&P) PAV. PATCH BASIN	LS	1	\$ 30,975.00	1.00	0.85	\$ 33,128.75	-	-	\$ -
89	CO #5	CHANGE ORDER #5 - OAK RIDGE DRIVE STUB	LS	1	\$ 4,500.00	1.00	1.00	\$ 4,500.00	-	-	\$ -
90	CO #6	CHANGE ORDER #6 - SIGNS - GATES - CONCRETE	LS	1	\$ 1,500.00	1.00	1.00	\$ 1,500.00	-	-	\$ -

<b>TRUNK SEWER SPUR COST</b>	<b>MUNGER TRAIL SPUR COST</b>	<b>TOTAL AMOUNT EARNED</b>
\$3,277,438.43	\$751,218.63	\$4,128,657.0



**TO:** Mayor & City Council  
**FROM:** John Mulder, City Administrator  
**DATE:** September 1, 2021  
**SUBJECT:** Addendum to MSA Contract



**Meeting Date:** 9/7/21  
**Agenda Item:** 12-K  
**Resolution:** 2021-111

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**REQUESTED ACTION**

Approve amended Engineering Contract with MSA for Road Improvement District No. 534 (Ugstad Road)

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**BACKGROUND**

MSA and the City Engineer have determined that City needs to complete an environmental evaluation for potential petroleum contaminated soil as part of the 2022 Ugstad Road project.

MSA has provided the attached proposal for that additional work.

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**SOURCE OF FUNDS (if applicable)**

402-431150-305

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**ATTACHMENTS**

MSA Request

**Resolution No. 2021-111**

**RESOLUTION AUTHORIZING AND DIRECTING MAYOR AND CITY CLERK TO EXECUTE  
ADDENDUM #2 TO ENGINEERING CONTRACT FOR ROAD IMPROVEMENT DISTRICT  
NO. 534 (UGSTAD ROAD)**

WHEREAS, the City of Hermantown (“City” and “Owner”) entered into an Engineering Contract with MSA Professional Services, Inc. (“Contractor”) on the 16<sup>th</sup> day of February, 2021 for the engineering for Road Improvement District No. 534 (Ugstad Road) (“Project”); and

WHEREAS, the City of Hermantown and Contractor have identified the need for environmental evaluation with regard to the engineering of the “Project” and have developed what City and Contractor believes is a mutually acceptable solution to the issues which are set forth in the Addendum; and

WHEREAS, such changes to construction contract are described on Exhibit A, a copy of which is attached hereto; and

WHEREAS, the City Council has given due consideration to such Addendum to Engineering Contract.

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 on behalf of the City of Hermantown, Addendum to Engineering Contract for Road Improvement Project District No. 534 (Ugstad Road).

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 the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted on September 7, 2021.

**EXHIBIT A**



September 1, 2021

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

Re: Contract Amendment #2 – Ugstad Rd & Arrowhead Rd Improvements  
SP 202-101-014 & 202-104-012  
MSA Project # 07994009

Dear Mr. Mulder:

Enclosed is the contract amendment document per your request. This document outlines the additional services to be performed by MSA relating to the environmental investigation needs for the project. This proposal is a result of coordination meeting with MnDOT Office of Environmental Stewardship held on 8/24/21 regarding known contaminated sites within the project limits. Below is a brief overview of this amendment. See Attachment A for full proposal.

**Phase 400C – Environmental Evaluation for Contaminated Soils – \$8,204 (see Attachment A)**

- Soil characterization and sampling at three locations outline in Attachment A
- Summary report with results from soil field characterization activities and laboratory analytical results
- Sampling contingency for collection of waste characterization sample should contaminates soils require disposal.

**Total Amount for Amendment #2 = \$8,204**

If you have any questions regarding the information presented here do not hesitate to reach out via phone call or email.

Sincerely,  
MSA Professional Services, Inc.

A handwritten signature in black ink, appearing to read "James A. Watters", is written over a white background.

James A. Watters, P.E.  
Project Manager

Attachments:

Attachment A - SP-202-101-014- Environmental Evaluation Proposal

332 W. Superior Street  
Suite 600  
Duluth, MN 55802

**P** (218) 722-3915  
**TF** (800) 777-7380  
**F** (218) 722-4548

[www.msa-ps.com](http://www.msa-ps.com)

# **Attachment A:**

**SP-202-101-014 – Environmental Evaluation Proposal**



332 W. Superior Street  
Suite 600  
Duluth, MN 55802

**P** (218) 722-3915  
**TF** (800) 777-7380  
**F** (218) 722-4548

[www.msa-ps.com](http://www.msa-ps.com)

September 1, 2021

John Mulder, City Administrator  
City of Hermantown  
5105 Maple Grove Road  
Hermantown, Minnesota 55811

Re: SP 202-101-014 - Environmental Evaluation Proposal

Dear Mr. Mulder:

MSA Professional Services, Inc. (MSA) appreciates the opportunity to provide the City of Hermantown a quote for assessing the Ugstad Road corridor for potential areas of contaminated soil and/or groundwater near previously identified leak site locations. MSA's Duluth professional staff have extensive experience working in the Hermantown area, and work on a day-to-day basis with the Minnesota Pollution Control Agency (MPCA) evaluating and managing clean-ups of petroleum-contaminated sites. MSA will team with Range Environmental Drilling, who will provide push probe drilling services as part of the scope of services, under the direct oversight of and with sampling completed by MSA. Based on the initial desktop environmental evaluation of sites in the area of the work corridor, MSA understands that there are three areas identified for further soil boring evaluation:

#### **Hermantown Community Schools Leak Site (LS0009769) – 4307 Ugstad Road**

A release of gasoline was discovered from the former underground storage tank (UST) at this site in August 1996. The tank was located on the northwest corner of Ugstad Road and Arrowhead Road, relatively close to the roadway right-of-way. The site was investigated and closed in August 2006 with residual soil and groundwater contamination listed as present.

Based on the proximity of the former tank basin to the project corridor, along with residual soil and groundwater contamination listed as being present at the site, MSA determined that contamination is likely to be encountered while excavation activities are being performed in the area. Since reconstruction activities in this area of the project corridor are expected to extend to approximately 6 feet below ground surface (bgs), MSA recommends that three soil borings be advanced to approximately 10 feet bgs within the right-of-way adjacent to this leak site and three soil samples be collected and analyzed for diesel range organics (DRO), gasoline range organics (GRO) and petroleum volatile organic compounds (PVOCs) to help determine the approximate extent of soils which would need to be disposed of during excavation activities in this area. If dewatering is expected to be necessary, MSA also recommends the collection of at least one groundwater sample in this area to evaluate the water for possible soil management and disposal.

#### **Arrowhead Refinery #2 (SR0000067) – 5315 Highway 53**

This site is a State/Federal Superfund site dating back to September 1967. The site is a 10-acre former waste oil recycling facility located on the northwest corner of Highway 53 and Ugstad Road. A "No Further Action" decision was issued for the site in June 2013 and administrative close-out was reached in October 2016.

Based on records obtained for the site, contamination at the Arrowhead Refinery site appears to have been defined within the boundaries of the subject site and does not appear to have had significant impacts near the intersection of Ugstad Road and U.S. Highway 53. As a conservative measure, MSA will advance two shallow soil borings (to approximately 5 feet bgs) and collect up to two soil samples for DRO, VOCs and arsenic to evaluate any potential shallow soil contamination on the southwest portion of the intersection where soils could be disturbed up to one foot bgs as part of sidewalk construction.



John Mulder, City Administrator  
City of Hermantown  
September 1, 2021

### **Hermantown School Bus Garage (LS0009549) – 4289 Ugstad Road**

Two USTs (one 10,000-gallon gasoline and one 10,000-gallon diesel) were listed as having been removed from this site. The leak site number was issued to the site due to a release of gasoline/diesel fuel in August 1996 and the site was investigated and closed in December 1997. Groundwater contamination was indicated as present at the site, but additional documentation has not been obtained from the MPCA for further review of the tank basin location in relation to the work corridor.

Once the site file is obtained and if the former tank basin or area of contamination is found to be located near the work corridor, MSA recommends the advancement of three soil borings to 10 feet bgs and the collection of three soil samples to be analyzed for DRO, GRO and PVOCs to help determine the approximate extent of soils which would need to be disposed of during excavation activities in this area (expected to extend to approximately 6 feet bgs). If dewatering is expected to be necessary, MSA also recommends the collection of at least one groundwater sample in this area to evaluate the water for possible management and disposal options.

## **SCOPE OF WORK**

### **Soil Characterization and Sampling**

The following work will be completed as part of the soil characterization and sampling portion of this project:

- **Hermantown Community Schools**
  - Three soil borings advanced to 10 feet bgs with the collection of photoionization detector (PID) field screening readings and soil characterization
  - Three soil samples to be analyzed for DRO, GRO, PVOCs
- **Arrowhead Refinery #2**
  - Two soil borings to 5 feet bgs with PID field screening readings and soil characterization
  - Two soil samples to be analyzed for DRO, VOCs and arsenic
- **Hermantown School Bus Garage**
  - Three soil borings to 10 feet bgs with PID field screening readings and soil characterization
  - Three soil samples to be analyzed for DRO, GRO, PVOCs

### **Summary Report**

Once laboratory analytical results are received from the soil samples collected as part of this assessment, MSA will prepare a summary report with results from soil field characterization activities and laboratory analytical results. MSA will identify areas where soil contamination was encountered during the soil boring investigation and provide an estimate for the amount of soil which would potentially need to be removed as part of reconstruction activities and disposal options.

### **Sampling Contingency**

If dewatering is anticipated as part of site work, MSA recommends that groundwater samples be collected from the deeper soil borings in areas where deeper excavation could encounter groundwater. If groundwater sampling deemed necessary, MSA will collect groundwater samples for the additional sample and labor costs listed below in the “Contingency Items” section. A total of two groundwater samples would be anticipated.

In the event that contaminated soils requiring disposal are encountered during soil boring activities in any of the three identified areas (as determined by field observations or PID readings), MSA will collect a waste characterization sample (i.e. additional laboratory analyses to produce a landfill profile, including TCLP benzene and metals).

John Mulder, City Administrator  
 City of Hermantown  
 September 1, 2021

## PROJECT COST

PHASE DESCRIPTION	COST
Project Management and Scheduling	\$600.00
Site Work and Sampling	\$840.00
Drilling (one day @ \$2,450/day, Range Environmental Drilling)	\$2,450.00
Laboratory Analyses (Soil) <sup>1</sup>	\$681.00
Summary Report	\$2,300.00
COST PROPOSAL TOTAL	\$6,871.00

CONTINGENCY ITEMS	COST
Laboratory Analyses (Groundwater) <sup>2</sup>	\$242.00
Groundwater Sampling Labor Cost (MSA and Driller time)	\$410.00
Waste Characterization Sampling <sup>3</sup>	\$681.00
CONTINGENCY COSTS TOTAL	\$1,333.00

<sup>1</sup> Individual costs for the requested soil sample laboratory analyses are as follows:

- VOC - \$65 (x2)
- PVOC/GRO - \$40 (x6)
- DRO - \$30 (x8)
- Arsenic - \$16 (x2)

Plus an additional \$3 per sample disposal fee and \$15 per project environmental fee.

<sup>2</sup>If dewatering is expected at any of the locations, additional groundwater sample analysis fees will be as follows:

- VOC - \$65 (x2)
- GRO - \$23 (x2)
- DRO - \$30 (x2)

The \$3 per sample disposal fee also applies for the groundwater samples, if collected, for an additional cost of \$242 for groundwater sample analysis (if performed).

<sup>3</sup>If contaminated soils are encountered based on field observations or PID readings, MSA will collect additional waste characterization samples for the preparation of a landfill profile, to also include the following analyses:

- TCLP Benzene - \$120 (x3)
- TCLP RCRA Metals - \$105 (x3)

If contamination were to be encountered in all three areas, up to three waste characterization samples would be collected for analysis.

## OPPORTUNITY FOR REIMBURSEMENT

The MPCA and Minnesota Department of Commerce (Petrofund) have a program which allows for reimbursement of reasonable costs that may be incurred during projects similar to the Ugstad Road reconditioning project. Attached for reference is the MPCA Guidance Document for this program. The proposed soil borings and sampling are designed to provide a baseline sampling effort to address soil contamination during the Ugstad Road project. MSA will assist the City of Hermantown in applying for enrollment in this program and be prepared to address any areas identified as contaminated (as part of the proposed assessment). Being prepared and collecting adequate data will limit the potential for extended

Page 4

John Mulder, City Administrator  
City of Hermantown  
September 1, 2021

project delays and also provide a framework for funding a majority of any required cleanup costs for contaminated soils encountered.

We look forward to the opportunity to work with the City of Hermantown on this project. Please feel free to contact Erica Klingfus at (218) 499-3171 ([eklingfus@msa-ps.com](mailto:eklingfus@msa-ps.com)) or Jeff Anderson at (218) 499-3175 ([jkanderson@msa-ps.com](mailto:jkanderson@msa-ps.com)) with any questions regarding the proposed scope of work or recommended activities. Thank you again for the opportunity to provide this proposal.

Sincerely,  
MSA Professional Services, Inc.



Jeff Anderson, P.E.  
Senior Project Manager



Erica Klingfus  
Environmental Scientist

Attachments  
MPCA Guidance Document for Petrofund Reimbursement Program

# Managing petroleum-contaminated soil at public works projects

## Petroleum Remediation Program

This document provides guidance for managing petroleum-contaminated soil encountered during public works projects caused by petroleum tank releases. Potential risks associated with encountering petroleum-contaminated soil at public works projects include human exposure to contaminants, impacts to the environment, and in severe situations, fire and explosions.

### Definitions:

**Public works project** – For Petrofund purposes, a public works project involves new construction or maintenance of an existing public utility infrastructure that is staged within a utility easement, or in right-of-way owned and/or managed by the State, an agency of the State, or a local unit of government. Some common examples of public works projects are public water, sewer, telephone, electric, natural gas, and stormwater pipe upgrades or replacements, and stormwater drainage system projects.

Development projects are not covered or considered eligible for public works projects. Common examples of development projects would be trenching for building construction, site reworking, street re-paving, public facility construction, installation and/or upgrading of service connections from the main utility infrastructure to private homes or businesses, and other utility work by private entities as part of a development project. Road work independent of other public utility infrastructure is also not covered under this policy.

**Project sponsor** – A project sponsor can be a public works owner, the State, an agency of the State, or a local unit of government that holds the access permit for a utility or other public works project, or has a principal stake in scoping and completing such a project.

It is the responsibility of the project sponsor to complete the project safely through the areas of contamination, and to properly manage petroleum-contaminated soil that is excavated during the project. In most cases, a project sponsor will not be required to remove the contamination outside planned project excavation limits, or to define the extent of the contamination.

## 1. Pre-project startup and planning ahead

Plan ahead to avoid project delays in the event that petroleum contamination is encountered.

**a. Identify potential sources of contamination.** Prior to construction, try to determine if and where petroleum contamination may exist along the planned route. For instance:

- Take an inventory of active petroleum retail businesses located along the route. Interview people who are knowledgeable about the project area, and may have information on locations of former fueling stations or usage of petroleum storage tanks. Talk with property owners along the corridor who may have knowledge or have previously used petroleum storage tanks on their property as a part of a business or for heating.
- Complete a visual reconnaissance of properties adjacent to the project area. Check for evidence of petroleum storage tanks such as patched concrete, former pump islands, fill pipes, or vent pipes.
- Review Minnesota Pollution Control Agency's (MPCA) [What's in My Neighborhood](#) database, and MPCA's [Petroleum Remediation Program Maps Online](#) to identify potential petroleum tank release sites along the project route.

- b. **Hire an environmental consultant.** If petroleum contamination will likely be encountered during the project, hire an environmental consultant experienced in contaminated site work and arrange for them to be present or on-call during construction through the areas of suspected contamination. Consultants who perform Petrofund reimbursable work must be registered with the Petrofund. A list of Petrofund registered consultants is available at <https://mn.gov/commerce/industries/fuel/petrofund/>.
- c. **Work with the MPCA.** Prior to project startup, if petroleum contamination will likely be encountered during the project, contact the MPCA's public works coordinator at 651-296-6300 or 800-657-3864. Request that the MPCA's public works coordinator issue you a *Request to Take Corrective Action* letter. **An MPCA *Request to Take Corrective Action* letter is required in order to be eligible for Petrofund reimbursement.**

For a *Request to Take Corrective Action* letter to be issued, the following information must be submitted to the MPCA's public works coordinator:

- Project sponsor's contact information.
  - Project location plan sheets and description of public works project work.
  - Identification of the potential contamination sources on the project plan sheets. Include the MPCA Site ID if source is a known release site.
  - Estimated volume of petroleum-contaminated soil that may be excavated to complete the public works project. This may include trench dimensions, or some other estimate of excavation dimensions.
  - Estimated volume of petroleum-contaminated soil that cannot be reused on site and will require offsite disposal.
  - Water line material type.
- d. **Plan ahead.** Certain water line materials such as polyethylene, polybutylene, polyvinyl chloride, asbestos cement, and gasket materials such as non-metallic gaskets, are susceptible to physical degradation and/or permeation when exposed to petroleum contamination. Refer to state and local governance, such as the [10 States Standard](#), regarding piping material requirements at sites with petroleum contamination concerns.

Some projects may encounter petroleum-contaminated soil that could not have been foreseen. In those cases, to ensure Petrofund reimbursement, the project sponsor must be prepared to temporarily stop work in the contaminated areas. Contact the MPCA's public works coordinator to discuss the project, and provide the information necessary for the MPCA to issue the *Request to Take Corrective Action* letter. Be aware that the MPCA's public works coordinator will not be available at all times, and that the MPCA will not issue a *Request to Take Corrective Action* letter after the contaminated soil has been excavated.

## 2. Excavating petroleum-contaminated soil and request to take corrective action

- a. **Report contamination and assess vapor risks.** A project sponsor must immediately report contamination to the Minnesota duty officer at 651-649-5451 or 800-422-0798. Inform the duty officer of emergency situations such as free product or high or explosive levels of petroleum vapors. The duty officer notifies the appropriate units of government. During the call, indicate to the duty officer the release discovery is near a public works project. After reporting the discovery of petroleum contamination, call the MPCA's public works coordinator at 651-296-6300 or 800-657-3864.
- b. **Have an environmental consultant oversee the work performed in the areas of contamination.** Determine if the contamination encountered presents a potentially dangerous situation, such as high or explosive levels of vapors, or free product, and complete the work requested by the MPCA in accordance with applicable MPCA guidance documents. If a potentially dangerous situation is found, the project may be delayed because the MPCA may require an emergency response. Work must not be performed in areas of contamination without an environmental consultant present to ensure completion of the MPCA's requested work.

- c. Separate soil during excavation.** Field screen soil during excavation using soil headspace screening with a photoionization detector (PID) and the petroleum sheen test. Field screening procedures are described in [Soil sample collection and analysis procedures](#). Separate contaminated soil with headspace screening results at or above 10 parts per million by volume (ppmv) from soil below 10 ppmv and maintain separate stockpiles. Separate and stockpile petroleum-saturated soil from all other soil regardless of PID reading. Soil is considered petroleum-saturated when the sheen test result is positive. Excavate only the minimum volume of contaminated soil necessary to safely complete the public works project through contaminated areas. In order to minimize human-health risk and secondary environmental impacts, contaminated soil must be stockpiled on an impervious surface or on minimum 40-mil plastic and covered at the end of each day with minimum 6-mil reinforced plastic or 10-mil unreinforced plastic. Securely anchor the stockpile cover with clean soil or other suitable material. The stockpile should be surrounded by fencing if the project sponsor determines that additional security measures are necessary. The stockpile cover must be maintained until the soil can be re-used on the project or disposed of offsite, as described below.
- d. Re-use soil on the project.** Soil with PID readings below 10 ppmv can be re-used as backfill or otherwise re-used on the project with minimal vapor impact. Soil with PID readings at or above 10 ppmv and less than 200 ppmv can be re-used on the project as road base or in embankments, but must be at a minimum 200 feet away from surface waters. Soil re-used in embankments must be covered with two feet of clean cover soil. Soil can also be re-used as backfill if it can be effectively mixed to less than 10 ppmv. Soil with readings at or above 200 ppmv, or is petroleum saturated must be properly managed at an MPCA approved offsite disposal facility. Soil with readings at or above 10 ppmv and less than 200 ppmv that is not re-used on site as road base or in embankments also must be properly managed at an MPCA approved offsite disposal facility. Soil with readings at or above 10 ppmv can be used only in the specific ways stated within this paragraph.
- e. Sample and dispose of soil that cannot be re-used on the project.** Collect representative soil samples from the soil stockpile(s) and analyze for the required laboratory parameters based on the recommended disposal option. Offsite disposal options include: land treatment, composting, or landfilling. There are specific documents detailing the requirements for [land treatment](#) and [composting](#). Soil disposal at a landfill is regulated by the MPCA's [Solid Waste Program](#). Contact the landfill directly to obtain soil disposal requirements.
- f. Obtain all necessary permits and comply with permit conditions if dewatering is required.**
- g. Identify potential source(s) of petroleum contamination.**
- h. Submit a report to the MPCA's public works coordinator.** The report must include the following:
- Plan sheets of the public works project showing the areas where contamination was encountered, all soil headspace screening locations, and sources of the contamination.
  - Soil headspace screening data, including PID results, depth, and PID ID correlated to the screening locations on the plan sheets or figures.
  - Volume of soil excavated from each individual source area identified by MPCA Site ID and total volume of petroleum-contaminated soil excavated for the public works project.
  - Documentation of soil reuse on the project.
  - Stockpile analytical data, volume of soil disposed of offsite, and treatment method and location.
  - Documentation of pipe materials used in areas with petroleum contamination/permeation concerns.



### 3. Petrofund reimbursement

The project sponsor may apply for Petrofund reimbursement of reasonable costs incurred for the purpose of meeting the MPCA's Request to Take Corrective Action. The costs for performing work beyond the scope of the MPCA's Request to Take Corrective Action are not eligible for Petrofund reimbursement unless the MPCA provides written approval to exceed the original scope of work. Any costs for work that is performed without a written *Request to Take Corrective Action* letter are ineligible for reimbursement.

For questions about Petrofund reimbursement requirements, including getting competitive bids, contact the [Petrofund](#) at 651-539-1515 or 800-638-0418.

**TO:** Mayor & City Council  
**FROM:** John Mulder, City Administrator



**DATE:** August 31, 2021                      **Meeting Date:** 9/7/21  
**SUBJECT:** Road Improvement District      **Agenda Item: 12-L**      **Resolution 2021-112**  
                    **No. 537 (Lavaque Jct. Rd.)**

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**REQUESTED ACTION**

**Approve Pay Application #5 to Ulland Brothers for the construction related to the Lavaque Jct Rd. project – Road Improvement District No. 537.**

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**BACKGROUND**

Attached is Pay Application #5 for the work associated with the Lavaque Jct. Rd. Project – Road Improvement District No. 537 from July 25, 2021 through September 1, 2021. NCE and Ulland Brothers, Inc. have reviewed the project progress thus far and agreed upon quantities of work completed. The amount of Pay Application #5 is **\$353,661.35**. The City will hold a 5% retainage of the completed construction through the duration of the project. This retainage amount for pay application #5 is **\$66,077.29**.

NCE has reviewed the quantities through construction inspection and discussions with Ulland Brothers, Inc. representatives. I recommend payment in the amount of **\$353,661.35** be authorized at the September 7, 2021 City Council Meeting.

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**SOURCE OF FUNDS (if applicable)**

475-431150-530 Proj. 537

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**ATTACHMENTS**

Pay Application #5

**Resolution No. 2021-112**

**RESOLUTION APPROVING PAY REQUEST NUMBER 5 FOR ROAD IMPROVEMENT DISTRICT NO. 537 (LAVAQUE JUNCTION ROAD) TO ULLAND BROTHERS, INC. IN THE AMOUNT OF \$353,661.35**

WHEREAS, the City of Hermantown has contracted with Ulland Brothers, Inc. for construction of Road Improvement District No. 537 (Lavaque Junction Road) (“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. 5 in the amount of \$353,661.35; 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. 5 provided that \$66,077.29 accumulated 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. 5 is hereby approved.
2. The City is hereby authorized and directed to pay to Ulland Brothers, Inc. the sum of \$353,661.35 which is the amount represented on Pay Request No. 5.

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 the following voted in opposition thereto:

WHEREUPON, such resolution has been duly passed and adopted September 7, 2021.


<b>Contractor's Application for Payment</b>			No. 5
Application Period:	July 24, 2021 through September 1, 2021	Application Date:	9/1/2021
To (Owner):	City of Hermantown	Project:	Lavaque Junction Street Impr. District #537
Owner's Contract Number:	Street Improvement District #537	From (Contractor):	Ulland Brothers Inc.
		Engineer Project Number:	20-8014
		Via (Engineer):	Northland Consulting Engineers, LLP



Application For Payment Change Order Summary		
Approved Change Orders		
Number	Additions	Deductions
1	\$ 138,257.56	
2		
3		
4		
<b>TOTAL</b>	<b>\$138,257.56</b>	
NET CHANGE BY CHANGE ORDER:		<b>\$138,257.56</b>

Application For Payment Previous Pay Application Summary		
Approved Pay Applications		
Number	Date	Amount
1	4/27/2021	\$38,462.73
2	6/1/2021	\$200,380.27
3	7/6/2021	\$275,049.98
4	8/24/2021	\$387,914.09
<b>8. TOTALS</b>		<b>\$901,807.07</b>

1. ORIGINAL CONTRACT PRICE.....	\$ 1,353,290.00
2. Net change by Change Orders.....	\$ 138,257.56
3. Current Contract Price (Line 1 ± 2).....	\$ 1,491,547.56
4. TOTAL COMPLETED AND STORED TO DATE	
See attached Pay Application Summary.....	\$ 1,321,545.71
5. RETAINAGE:	
a. 5% X \$1,321,545.71 Work Completed.....	\$ 66,077.29
b. 5% X Stored Material.....	\$
c. Total Retainage (Line 5.a + Line 5.b).....	\$ 66,077.29
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c).....	\$ 1,255,468.42
7. LESS PREVIOUS PAYMENTS (Line 8).....	\$ 901,807.07
9. AMOUNT DUE THIS APPLICATION.....	\$ 353,661.35
10. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 - 4 + Line 5.c above).....	\$ 236,079.14

**Payment of: \$ 353,661.35**  
(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 interest, or	
Contractor Signature - Ulland Brothers Inc.	
By: 	Date: 9-1-2021

Recommended by:  
  9/1/2021  
 David Bolf, P.E. - City Engineer (Date)  
 Approved by:  
 \_\_\_\_\_  
 John Mulder, City Administrator (Date)



**Pay Application #5 - September 1, 2021**  
**City of Hermantown**  
**Lavaque Junction**  
**Street Improvement District #537**

Item No.	Spec. Number	Item Description	Unit of Measure	Contract Total Quantities	Ulland Unit Price	Total Project	
						Completed Quantities	Completed Cost
<b>BASE BID</b>							
1	2021.501	MOBILIZATION	LS	1	\$24,174.15	1	\$24,174.15
2	2101.501	CLEARING AND GRUBBING	LS	1	\$16,000.00	1	\$16,000.00
3	2101.524	CLEARING	TREE	35	\$400.00	35	\$14,000.00
4	2101.524	GRUBBING	TREE	35	\$170.00	35	\$5,950.00
5	2104.502	REMOVE SIGN TYPE C	EACH	38	\$40.00	38	\$1,520.00
6	2104.502	REMOVE MAIL BOX SUPPORT	EACH	35	\$35.00	35	\$1,225.00
7	2104.502	REMOVE HYDRANT	EACH	5	\$800.00	5	\$4,000.00
8	2104.502	SALVAGE HYDRANT	EACH	1	\$1,200.00	1	\$1,200.00
9	2104.502	SALVAGE PIPE APRON	EACH	1	\$200.00	1	\$200.00
10	2104.503	REMOVE PIPE CULVERTS	LF	896	\$11.00	948	\$10,428.00
11	2104.503	REMOVE WATER SERVICE PIPE	LF	46	\$9.00	46	\$414.00
12	2104.503	SAWING BITUMINOUS PAVEMENT (FULL DEPTH)	LF	370	\$2.00	370	\$740.00
13	2104.503	SAWING CONCRETE PAVEMENT (FULL DEPTH)	LF	12	\$3.00	12	\$36.00
14	2104.504	REMOVE BITUMINOUS PAVEMENT	SY	9,852	\$1.80	9852	\$17,733.60
15	2104.504	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	SY	800	\$6.00	800	\$4,800.00
16	2104.504	REMOVE CONCRETE DRIVEWAY PAVEMENT	SY	12	\$39.00	12	\$468.00
17	2104.618	SALVAGE BRICK PAVERS	SF	455	\$8.30	455	\$3,776.50
18	2105.601	WETLAND RESTORATION	LS	1	\$2,500.00	1	\$2,500.00
19	2105.507	SELECT GRANULAR BORROW MOD 7% (CV)	CY	8,143	\$12.00	8143	\$97,716.00
20	2106.504	GEOTEXTILE FABRIC TYPE 5	SY	22,429	\$2.50	19105	\$47,762.50
21	2106.507	COMMON EXCAVATION	CY	14,776	\$10.80	14776	\$159,580.80
22	2106.507	MUCK EXCAVATION	CY	5,500	\$10.70	5240	\$56,068.00
23	2106.507	GRANULAR BORROW (CV)	CY	5,500	\$16.00	5240	\$83,840.00
24	2130.523	WATER	MGAL	52	\$35.00	45	\$1,575.00
25	2211.507	AGGREGATE BASE (CV) CLASS 5	CY	3,910	\$30.00	3128	\$93,840.00
26	2211.507	AGGREGATE BASE (CV) CLASS 5 DRIVEWAY	CY	164	\$75.00	148	\$11,100.00
27	2221.507	SHOULDER BASE AGGREGATE (CV) CLASS 5	CY	395	\$45.00	0	\$0.00
28	2215.504	FULL DEPTH RECLAMATION	SY	2,462	\$4.20	2462	\$10,340.40
29	2360.509	TYPE SP 9.5 WEARING COURSE MIXTURE (3,B)	TON	1,616	\$60.00	1726	\$103,560.00
30	2360.509	TYPE SP 12.5 NON-WEARING COURSE MIXTURE (3,B)	TON	1,616	\$58.00	1656	\$96,048.00
31	2360.609	TYPE SP 9.5 BITUMINOUS MIXTURE FOR PATCHING	TON	127	\$185.00	176	\$32,560.00
32	2401.507	STRUCTURE EXCAVATION CLASS R	CY	70	\$300.00	49	\$14,700.00
33	2411.507	GRANULAR BACKFILL (CV)	CY	140	\$26.00	0	\$0.00
34	2451.507	COARSE FILTER AGGREGATE (CV)	CY	82	\$31.00	0	\$0.00
35	2501.502	24" RC PIPE APRON	EACH	4	\$800.00	4	\$3,200.00
36	2501.503	36" RC PIPE APRON	EACH	1	\$200.00	1	\$200.00
37	2501.503	24" RC PIPE CULVERT	LF	88	\$90.00	80	\$7,200.00
38	2501.503	36" RC PIPE CULVERT	LF	8	\$72.00	8	\$576.00
39	2501.503	12" CS PIPE CULVERT	LF	34	\$31.00	34	\$1,054.00
40	2501.503	15" CS PIPE CULVERT	LF	1,258	\$31.00	1272	\$39,432.00
41	2504.602	CONNECT TO EXISTING WATER MAIN	EACH	2	\$2,200.00	2	\$4,400.00
42	2504.602	RELOCATE HYDRANT	EACH	1	\$1,600.00	1	\$1,600.00
43	2504.602	HYDRANT	EACH	9	\$7,300.00	9	\$65,700.00
44	2504.602	8" GATE VALVE AND BOX	EACH	3	\$3,000.00	3	\$9,000.00
45	2504.602	1" CURB STOP AND BOX	EACH	1	\$400.00	1	\$400.00
46	2504.602	1" CORPORATION STOP	EACH	1	\$400.00	1	\$400.00
47	2504.603	1" TYPE K COPPER PIPE	LF	54	\$28.00	52	\$1,456.00
48	2504.603	HYDRANT RISER	LF	10	\$1,000.00	0	\$0.00
49	2504.603	6" WATERMAIN HDPE SDR-11	LF	30	\$71.00	30	\$2,130.00
50	2504.603	6" WATERMAIN DUCTILE IRON CL-53	LF	49	\$90.00	27	\$2,430.00
51	2504.603	8" WATERMAIN HDPE SDR-11	LF	1,289	\$47.00	1289	\$60,583.00
52	2504.604	4" POLYSTYRENE INSULATION	SY	67	\$60.00	80	\$4,800.00
53	2506.502	ADJUST FRAME AND RING CASTING	EACH	11	\$400.00	12	\$4,800.00
54	2506.502	MANHOLE FRAME SEAL (EXTERNAL)	EACH	11	\$450.00	12	\$5,400.00
55	2511.507	RANDOM RIPRAP CLASS II	CY	11	\$68.00	0	\$0.00



56	2531.504	6" CONCRETE DRIVEWAY PAVEMENT	SY	12	\$145.00	0	\$0.00
57	2540.602	MAIL BOX SUPPORT	EACH	39	\$125.00	0	\$0.00
58	2540.618	INSTALL BRICK PAVERS	SF	300	\$18.00	300	\$5,400.00
59	2563.601	TRAFFIC CONTROL	LS	1	\$2,000.00	1	\$2,000.00
60	2564.502	INSTALL SIGN PANEL TYPE C	EACH	45	\$125.00	0	\$0.00
61	2564.518	SIGN PANELS TYPE C	SF	54	\$36.00	0	\$0.00
62	2573.501	EROSION CONTROL SUPERVISOR	LS	1	\$2,000.00	1	\$2,000.00
63	2573.501	STABILIZED CONSTRUCTION EXIT	LS	2	\$1,200.00	0	\$0.00
64	2573.502	CULVERT END CONTROLS	EACH	45	\$235.00	0	\$0.00
65	2573.503	SILT FENCE, TYPE HI	LF	1,095	\$3.05	1792	\$5,465.60
66	2573.503	SEDIMENT CONTROL LOG TYPE WOOD FIBER	LF	410	\$2.90	0	\$0.00
67	2574.507	COMMON TOPSOIL BORROW	CY	1,400	\$26.00	1000	\$26,000.00
68	2574.508	FERTILIZER TYPE 1	POUND	254	\$1.00	0	\$0.00
69	2575.504	EROSION CONTROL BLANKET CATEGORY 3N	SY	6,121	\$1.60	4591	\$7,345.60
70	2575.504	SODDING TYPE LAWN	SY	12,366	\$4.80	0	\$0.00
71	2575.505	SEEDING	ACRE	1.27	\$90.00	0	\$0.00
72	2575.508	SEED MIXTURE 25-131 (UPLAND)	POUND	96	\$3.10	0	\$0.00
73	2575.508	SEED MIXTURE 34-371 (WETLAND)	POUND	57	\$82.00	30	\$2,460.00
74	2582.503	4" SOLID LINE PAINT (WR)	LF	10,496	\$0.25	0	\$0.00
75	2582.503	4" DOUBLE SOLID LINE PAINT (WR)	LF	5,248	\$0.50	0	\$0.00
76	2582.503	24" SOLID LINE PAINT (WR)	LF	30	\$5.00	0	\$0.00
77	C/O #1	ROCK REMOVAL AND FILL BORE HOLES	LUMP SUM	1	\$40,614.01	1	\$40,614.01
78	C/O #1	ROCK BORE	LUMP SUM	1	\$97,643.55	1	\$97,643.55

<b>TOTAL AMOUNT EARNED</b>	<b>\$1,321,545.71</b>



**TO:** Mayor & City Council  
**FROM:** Eric Johnson, Community  
Development Director



**DATE:** August 24, 2021                      **Meeting Date:** 9/7/21  
**SUBJECT:** Rose Road Field 3 Repairs                      **Agenda Item: 12-M**                      **Resolution 2021-113**

**REQUESTED ACTION**

**Approval of field repairs to the outfield at Rose Road Field 3 to Northwoods Sod for \$30,650.00 and a watering rate of \$125.00 per hour.**

**BACKGROUND**

City staff has been working to address issues with the seed germination at field 3 at Rose Road Park. To date approximately 75% of the field has grass coverage with numerous bare spots and clump like grass growth. Staff has met with A+ Landscaping numerous times to discuss this issue with discussions involving lack of water, maintenance and cinch bug infestation.

City staff discussed this with the City Attorney on how to move forward with A+. It was decided that the City should cease any further activities with A+ and instead contact local landscape/sod companies on how to resolve the issue.

The City contacted four local landscape companies to provide a proposal for the following work:

1. Installation of seed and topdressing (as needed) for Area 1 as indicated on the attached map in **RED**
2. Installation of seed and topdressing (as needed) for Area 2 as indicated on the attached map in **BLUE**
3. Cost of providing water to irrigate the seed on Area 1 on a PER OCCURRENCE BASIS
4. Cost of providing water to irrigate the seed on Area 2 on a PER OCCURRENCE BASIS
5. Anticipated cost of providing water through the 2021 growing season assuming the current drought conditions persist

Their proposal should describe how they propose to install the seed, the type of seed mix utilized and what, if any, proposed soil amendments. In addition, the City would also accept a quote for the removal of the existing grass, reinstallation of topsoil and sodding of the field surface.

The companies this was sent to are:  
Northwoods Sodding  
Miller Creek Lawn and Landscape  
Scott Pionk Sodding and Landscaping  
Kerrick Sod

Staff also sent a sample of the existing soil from field 3 to the University of MN for testing which came back as being high in potassium.

As staff was reviewing the field conditions with one of the companies it was discovered that field 3 as well as the adjacent side slope have cinch bugs, which are continuing to damage the existing grass. The City has engaged a company to spray for the bugs with the first application happening in early August and

a follow up spraying occurring by the end of August. The seeding/sodding operation will not take place until after the second application is completed.

The City has received proposals from Kerrick Sod, Scott Pionk and Northwoods Sodding. Each company provided a proposal for seeding as well as sodding. The proposals are briefly broken down as follows:

**Kerrick Sod: \$38,980.00 to sod outfield area only. Contractor to provide water truck and labor, City to provide water.**

- Sodding: Remove existing grass and topsoil from outfield, install select grade black dirt and fine grade, install sod and fertilize, restore access areas as needed: \$38,980.00
- Seeding: Install black dirt/topsoil mix to outfield, re-seed and fertilize, restore access areas as needed: \$13,695.00
- Watering: \$350.00/load with water being supplied by the City.
- Work to be conducted Fall 2021, depending on schedule.

**Scott Pionk Sod: \$21,000 - \$24,750.00 - City to provide all required watering**

- Sodding: Cut and remove existing grass, dispose of material on site, furnish and install topsoil as necessary. Regrade outfield as necessary and install cultivated bluegrass sod: \$21,000.00
- Provide and install additional topsoil if required to bring outfield to grade: \$3,750.00
- Estimated cost of installation of an irrigation system for field: \$5,000 - \$10,000.00
- Seeding: Seeding: Install black dirt/topsoil mix to outfield, utilize drill seeder to re-seed and fertilize: \$2,500

**Northwoods Sodding: \$30,650.00 for outfield only area – Contractor to provide water truck and labor, City to provide water**

- Field #3: Remove all sod and grass from area, install topsoil and prep for sod. Install HGT Pro Turf Sod: \$30,650.00
- Sideslope between fields: Remove all sod and grass from area, install topsoil and prep for sod. Install Sod Type Lawn: \$13,566.00
- Watering: \$125.00 per hour with water being provided by the City.
- Work to be conducted the 1<sup>st</sup> or 2<sup>nd</sup> week of May 2022 with an anticipated 3 weeks from installation to playability.
- No quote provided for seeding

At the time of the August 17, 2021 Park Board meeting, the City had a single proposal from Kerrick Sod. This proposal was shared and discussed with the Park Board as well as pros and cons of seeding vs. sodding discussed. It was the recommendation of the Park Board that the outfield at Rose Road Field 3 is the primary concern and that sod should be utilized to rectify the issue.

The Park Board was concerned with the lack of success for seeding to date and did not want to continue to have issues should new seed be installed. In addition, there was concern that the length of time needed for seed germination or new seeding may not rectify the issue by the start of the 2022 softball season. The association informed the Park Board that they need to have a firm idea of field availability in order to schedule games for the upcoming season.

Regardless of whether seed or sod is installed, a source of water is an issue. Staff has discussed the possibility of contracting with the chosen company to also provide a water truck and the labor required to provide water to the field, with the City providing the water at no cost to the contractor. It is anticipated that watering will be approximately \$250 per occurrence.

Based upon these proposals, multiple conversations with the contractors and discussion amongst staff, it is the recommendation to enter into an Agreement with Northwoods Sod as they can guarantee the watering of the sod and are proposing a higher level of sod more suitable to athletic fields.

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**SOURCE OF FUNDS (if applicable)**

Park Dedication

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**ATTACHMENTS**

Proposal Map  
University of Minnesota Soil Report  
Kerrick Sod Proposal  
Scott Pionk Proposal  
Northwoods Sodding Proposal

**Resolution No. 2021-113**

**RESOLUTION ACCEPTING QUOTE FROM NORTHWOODS SODDING, INC. FOR REPAIRS  
ON ROSE ROAD FIELD 3 IN THE AMOUNT OF \$30,650.00 PLUS WATER**

WHEREAS, Rose Road Field 3 is in need of repairs; and

WHEREAS, the repairs are necessary to improve the field; and

WHEREAS, the City had obtained three quotes; and

WHEREAS, Northwoods Sodding, Inc. provided the low quote of \$30,650.00 plus a watering rate of \$125.00 per hour, and

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

1. The City Council awards the contract for sod to Northwoods Sodding, Inc. in the amount of \$30,650.00 plus water.
2. Prior to any work being commenced, Northwoods Sodding, Inc. shall provide a certificate of insurance acceptable to the City Administrator.
3. The funds for the payment of work will be expensed 100% to 235-452100-224.
4. The work will be as described in the Proposal attached hereto.

Councilor \_\_\_\_ introduced the foregoing resolution and moved its adoption.

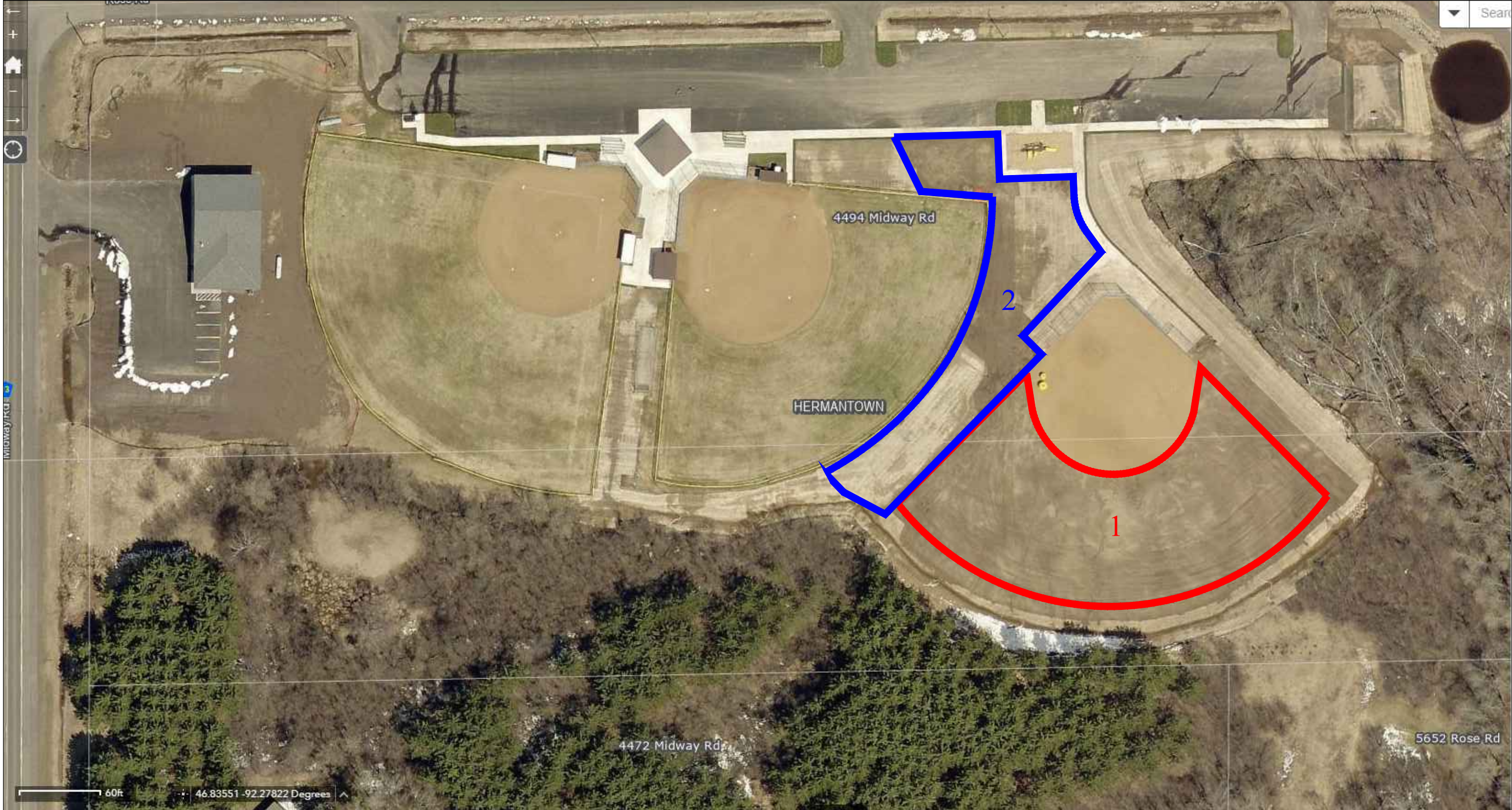
The motion for the adoption of such resolution was seconded by Councilor \_\_\_\_ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted September 7, 2021.





Search

4494 Midway Rd

HERMANTOWN

2

1

4472 Midway Rd

5652 Rose Rd

60ft

46.83551 -92.27822 Degrees

Midway Rd







# Explanation of Soil Test Report

Soil pH: This is a measurement of acidity, which is important because it affects:

- 1) the availability of several plant nutrients,
- 2) the activity of soil microorganisms,
- 3) the ability of soil to hold plant nutrients.

The optimum pH for most plants and soil microorganisms is between 6.0 and 7.0. Some plants, however, such as blueberries, azaleas and others prefer more acidic conditions (i.e., lower pH). Since grasses are quite tolerant to a wide pH range, lime is generally not recommended on established grasses.

Buffer Index: This test is used only to determine the lime requirements and should not be confused with soil pH.

Organic Matter: The Regular Series test includes an estimate of the percent organic matter. The classifications used for organic matter are: Low 0-3%, Medium 3.1-4.5%, High 4.6-19%, and Organic Soil 19.1% or greater.

Organic Matter has many important functions in soils, some of which are:

- 1) to improve soil structure, water infiltration, drainage, and soil aeration on clayey type soils.
- 2) to act as a reservoir of available plant nutrients
- 3) to increase the water holding capacity of sandy soils. When organic matter is low, large amounts of peat, compost, crop residues, manure or other organic amendments are required to change the organic matter content of the soil.

Soluble Salts: This test is used primarily to check for high amounts of salts in "black" dirt that is used in new landscaping or for top-dressing purposes and for possible salt damage to grass from salted streets and sidewalks. Excess salt must be leached by intense watering before the plants will grow normally.

Lead: Recommended for soils or sandbox sand to which young children may be repeatedly exposed.

Other Special Tests: Recommendations are not provided for these tests since the interpretations are limited to special situations. The tests are provided for professionals only.

Interpretation of Soil Tests: The relative levels of various nutrients are indicated by a series of symbols. A line of P or K letters ending in the lower areas of the block, represents a low level of the nutrient.

Recommendations and Calculation of Fertilizer Required: Lime and plant nutrient recommendations are given in pounds per area (1000 square feet for turf, or 100 square feet for gardens, trees or shrubs). Plant nutrients are expressed as nitrogen (N), phosphate (P2O5) and potash (K2O). The recommended plant nutrient requirements can be met by applying a given amount of fertilizer(s).

Commercial fertilizers are identified with a 3-numeral code that indicates the percentage of nitrogen, phosphate, and potash. A common garden fertilizer labeled 10-10-10 contains 10% of each of the three plant nutrients. Most garden centers sell fertilizer blends (10-10-10) rather than single nutrient fertilizers like 20-0-0 or 0-0-60 which are available from fertilizer dealers. Because there are a limited number of fertilizer blends on the market you may not find one that exactly meets the ratio recommended (reported on the front side). In this case, you should select a fertilizer blend with the closest ratio of N-P2O5-K2O to that recommended.

Since meeting the exact amount required for each nutrient will not be possible in all cases, it's most important to match the Nitrogen (N) required. The amount of fertilizer to apply that will give the recommended amount of nitrogen can be obtained from the following table:

**Table to Determine Total Amount of Fertilizer to Apply Based on Actual Nitrogen Recommended:**

Fertilizer Nitrogen % (First number of fertilizer grade on bag)	Nitrogen Recommended			
	0.1 lb. N/100 sq. ft	0.15 lb. N/100 sq ft	0.2 lb. N/100 sq. ft	1.0 lb. N/1000 sq. ft
	Total lbs. fertilizer to apply / 100 sq. ft			Total lbs. fertilizer to apply/1000 sq. ft
45	0.22	0.33	0.44	2.2
37	0.27	0.40	0.54	2.7
36	0.28	0.42	0.56	2.8
33	0.30	0.45	0.60	3.0
32	0.31	0.46	0.62	3.1
30	0.33	0.50	0.66	3.3
28	0.36	0.54	0.72	3.6
27	0.37	0.56	0.74	3.7
25	0.40	0.60	0.80	4.0
24	0.42	0.63	0.84	4.2
22	0.45	0.68	0.90	4.5
21	0.48	0.72	0.96	4.8
20	0.50	0.75	1.00	5.0
19	0.53	0.80	1.06	5.3
18	0.56	0.84	1.12	5.6
16	0.63	0.95	1.26	6.3
15	0.67	1.00	1.34	6.7
13	0.77	1.15	1.54	7.7
12	0.83	1.25	1.66	8.3
10	1.00	1.50	2.00	10.0
8	1.25	1.88	2.50	12.5
6	1.67	2.50	3.34	16.7
5	2.00	3.00	4.00	20.0

Example: If the N (nitrogen) recommendation is for 0.1 lb. N/100 ft. sq. and the fertilizer grade you selected has a ratio of 18-6-12 (column 1), you will have to apply 0.56 lbs of this fertilizer (from column 2) for each 0.1 lb. N recommended per 100 square feet.

Note: 2 cups (1 pint) of dry fertilizer weighs about 1 pound.

## General Information

### For Home Lawns: follow these rules when applying fertilizer:

- 1) use a formula designed for lawns (not trees, flower beds or farms).
- 2) apply fertilizer during the spring and late summer (do not fertilize frozen ground).
- 3) apply fertilizer uniformly in two directions with a mechanical spreader.
- 4) sweep up any fertilizer accidentally applied on sidewalks and driveways to prevent its movement to storm sewers, lakes and streams.
- 5) water the lawn thoroughly after fertilizing to dissolve the nutrients and force them down to the soil surface to combine with the soil.

### For Vegetable and Flower Gardens:

Manure, compost, or other forms of organic matter may be added. These amendments provide a good source of trace nutrients as well as improve soil granulation. Three to five bushels of manure or compost per 100 square feet are recommended.



# PROPOSAL

Page No. \_\_\_\_\_ of \_\_\_\_\_ Pages

## KERRICK SOD COMPANY

Landscape Contractors  
2923 Midway Road  
PROCTOR, MINNESOTA 55810  
(218) 624-1811

ATTN Eric

PROPOSAL SUBMITTED TO

City of Hermantown

PHONE

DATE

8-17-21

STREET

JOB NAME

Rose Road BallField

CITY, STATE and ZIP CODE

JOB LOCATION

ARCHITECT

DATE OF PLANS

JOB PHONE

We hereby submit specifications and estimates for:

Remove turf off of existing

Ball Field. Install select Black dirt/topsoil

mix. Fine grade, Install Kentucky Bluegrass

sod on ENTIRE outfield area.

(Includes Fertilizer)

Complete \$38,980<sup>00</sup>

Install Black dirt/topsoil mix on existing

Field, Re seed & Fertilize Complete 13,695<sup>00</sup>

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

(water) \$350<sup>00</sup> per load.

Payment to be made as follows:

dollars (\$ \_\_\_\_\_).

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature

Note: This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days.

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_

Signature \_\_\_\_\_



Scott Pionk  
 4182 Solway Rd  
 Hermantown, MN 55810

PROPOSAL NO.	DATE
BID NO.	ARCHITECT
WORK TO BE PERFORMED AT: <b>ROSE RD SB #3</b>	
ADDRESS	ADDRESS
CITY, STATE	CITY, STATE
PHONE NO. <b>391-9662-ERIC / 729-3600</b>	DATE OF PLANS

We hereby propose to furnish the materials and perform the labor necessary for the completion of \_\_\_\_\_

Area below for additional description and/or drawings:

**CUT & REMOVE EXISTING TURF ON ROSE  
 SB FIELD #3. DISPOSE OF SOD ON SITE  
 FURNISH & INSTALL TOPSOIL AS NECESSARY.  
 DOZE FIELD TO LEVEL SURFACE. FURNISH &  
 INSTALL CULTURED BLUEGRASS SOD. OWNER IS  
 RESPONSIBLE FOR WATERING. \$21,000  
 \* TOPSOIL INSTALLED AT \$625/TRUCKLOAD  
 EST. 6 TRUCKLOADS = \$3750 \$29,750-\$  
 \* IRRIGATION \$5000 - \$10000 WITH TOPSOIL IRRIGATION**

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted & completed in a substantial workmanlike manner for the sum of \_\_\_\_\_

Dollars (\$) \_\_\_\_\_ ) with payments to be made as follows.

Respectfully submitted \_\_\_\_\_  
 Per \_\_\_\_\_

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Note - This proposal may be withdrawn by us if not accepted.

**ACCEPTANCE OF PROPOSAL** The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to proceed with the work specified. Payments will be made as outlined above.

Date \_\_\_\_\_ Signature \_\_\_\_\_  
 Signature \_\_\_\_\_

**NORTHWOODS SODDING, INC.**  
**P.O. BOX 16622**  
**DULUTH MN 55816**



# Estimate

DATE	ESTIMATE #
8/25/2021	3859

NAME / ADDRESS
City of Hemantown 5105 Maple Grove Rd. Hermantown MN 55811



**DBE and TGB Certified Company**

Project
Rose Road Field 2021

DESCRIPTION	QTY	RATE	U/M	TOTAL
Area 1 Red				
Remove all sod and grass from area	1.00	6,000.00		6,000.00
Topsoil and prep for sod	1.00	8,500.00		8,500.00
Sod HGT Pro Turf Sod	1.00	16,150.00	sqyd	16,150.00
Area 2 Blue				
Remove all sod and grass from area	1.00	4,200.00		4,200.00
Topsoil and prep for sod	1.00	4,250.00		4,250.00
Sod Type Lawn	8,075.00	1.68	sqyd	13,566.00
( we would water for one week at no charge ) (any additional watering would be at a rate \$125.00 per hour ) (THE CITY WOULD HAVE TO PROVIDE A WATER SOURCE ) ( THIS WOULD BE NEXT YEAR WORK EARLY )				

Thank you for your business.	<b>TOTAL</b> \$52,666.00
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Phone #	Fax #	E-mail	Web Site
218-729-6969	218-628-0573	todd@northwoodssodding.com	www.northwoodssodding.com