



## **Hermantown City Council Meeting – July 18, 2022**

Because of attendance considerations at the regular meeting location due to the health pandemic, Hermantown’s upcoming, 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/89427926114?pwd=VERySW5HSWNpeGtGcG43NWZtcnVBQT09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 894-2792-6114 and the passcode of 614195.

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 “City Council Meeting.” It is important to note that all comments regarding this meeting are public data.

A few important tips regarding the Zoom platform:

- If your computer does not support audio, you can still watch the meeting on your computer and call in on your phone to hear the meeting
- It is a challenging situation for all, 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, July 18, 2022 at 4:30 p.m. Council Chambers City Hall - Hermantown Governmental Services Building**

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

---

### **City Council Meeting July 18, 2022 at 6:30 p.m. Council Chambers City Hall - Hermantown Governmental Services Building**

#### **Invitation to participate:**

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

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

#### **Order of discussion**

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

**CITY OF HERMANTOWN  
AGENDA**

**Pre-Agenda Meeting Monday, July 18, 2022 at 4:30 p.m.  
Council Chambers  
Hermantown Governmental Services Building**

**City Council Meeting July 18, 2022 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. **Correspondence** 22-75 placed on file
7. **PRESENTATIONS** *(Department Heads may give reports if necessary.)*
  - A. Joe Wicklund, Communications Director  
RE: EWC Annual Report *(Pre-Agenda Only)*
  - B. Joe Wicklund, Communications Director  
RE: Community Recreation Initiative Trail Educational Information *(Pre-Agenda Only)*
  - C. Kevin Orme, Director of Finance and Administration  
RE: [2<sup>nd</sup> Quarter Financial Report](#) *(Pre-Agenda Only)*
  - D. John Mulder, City Administrator  
RE: Preliminary 2023 Budget Discussion *(Pre-Agenda Only)*
  - E. John Mulder, City Administrator  
RE: Broadband Expansion *(Pre-Agenda Only)*
8. **PUBLIC DISCUSSION** *(This is the time for individuals to address the Council about any item not on the agenda. The time limit is three minutes per person.)*

9. **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 July 5, 2022 City Council Continuation Minutes

B. **Accounts Payable** – Approve general city warrants from July 1, 2022 through July 15, 2022 in the amount of \$1,046,895.61

10. **MOTIONS**

11. **ORDINANCES**

A. **2022-08** An Ordinance Amending Title 2 Of The Hermantown City Code By Amending The Official Zoning Map (Parcel 395-0158-00080)

Second 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. **2022-93** Resolution Approving Pay Request Number 3 For Reconditioning Of Highway 53 Water Tower (Water Improvement District No. 318) To Osseo Construction Co. LLC In The Amount Of \$144,580.50

(motion, roll call)

B. **2022-94** Resolution Approving Preliminary And Final Plat Of Peyton Acres Phase 1c And Imposing Conditions On The Final Plat

(motion, roll call)

C. **2022-95** 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 1c

(motion, roll call)

D. **2022-96** Resolution Approving St. Louis County's Sap No. 069-69-033 Cp No. 0091-401108 County State-Aid Highway No. 91 (Haines) Within The City Of Hermantown Corporate Limits

(motion, roll call)

E. **2022-97** Resolution Receiving Proposal And Awarding Consultant Contract For An Organizational Management Review To Baker Tilly U.S. LLP

(motion, roll call)

- F.       **2022-98**       Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver The License Agreement With South St. Louis Soil And Water Conservation District

(motion, roll call)

**13.    CLOSED SESSION**

Motion to close the meeting of the Hermantown City Council pursuant to Minnesota Statutes §§ 13D.05, subd. 3(c)(1) and 13D.05, subd. 3(c)(3) to evaluate the asking price of naming rights associated with a proposed hockey arena located in the City of Hermantown and develop offers and counteroffers and pursuant to Minnesota Statute § 13D.05, Subd. 3(b), per the attorney-client privilege for discussions regarding potential or threatened litigation and a leak in the pool at the Essentia Wellness Center. Following the closed session, the council will re-convene in open session.

**14.    RECESS**

**Date:** July 13, 2022  
**To:** City Council  
**From:** John Mulder, City Administrator  
**RE:** Correspondence

---

In your agenda 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.

I have included in the agenda packet only the correspondence that we believe to be of special interest.

## 2022 CORRESPONDENCE

<u>DATE</u>	<u>LOG #</u>	<u>FROM</u>	<u>TO</u>	<u>REGARDING</u>	<u>FILED</u>
6/30/2022	22-75	Jesse Stokke	Eric Johnson, Comm. Dev. Dir.	Park Board Resignation	6/20/2022

## CH-Jackie Dolentz

---

**From:** CH-Eric Johnson  
**Sent:** Monday, June 20, 2022 8:29 AM  
**To:** CH-Jackie Dolentz  
**Cc:** CH-John Mulder  
**Subject:** FW: Park Board Resignation

**Categories:** Ask John, To Do

Jackie – FYI.

Thanks  
Eric

**From:** Jesse Stokke <jss11\_8@hotmail.com>  
**Sent:** Sunday, June 19, 2022 1:52 PM  
**To:** CH-Eric Johnson <eric.johnson@hermantownmn.com>  
**Subject:** Park Board Resignation

---

**Caution:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

---

Eric-

I am writing to you to let you know that I will be resigning from the Hermantown Park Board. I am resigning in order to devote more time to the Hermantown Community Recreation Initiative that is getting voted on in November. It has been an honor to work with you and the fellow board members for the past couple of years and I look forward to working with you guys as we continue to strive to make Hermantown a wonderful community to raise a family in. I appreciate all the help you have given me and will keep in touch!

Sincerely  
Jesse Stokke



# City of Hermantown

As of 06/30/2022

## Cash/Investments per Fund

City Sales Tax Fund	9,760,760
Water Fund	5,414,204
Sewer Fund	5,772,823
General Fund	2,348,046
Other	6,762,882
Total	<u>30,058,716</u>

## Who holds our money

4M	5,225,508
RBC	21,186,305
Wells Fargo	5,822
NBC	3,641,081
Total	<u>30,058,716</u>

## How our money is invested




	<u>6/30/2022</u>	<u>3/31/2022</u>	<u>12/31/2021</u>
Cash	3,641,081	5,889,150	8,920,960
Short Term Inv (Money Market)	5,228,839	3,985,533	5,387,120
Inv - Bonds (Section 24 & Road Plan)	0	240,793	632,478
Long Term Investment	21,188,795	20,361,189	19,335,638
Total	<u>30,058,716</u>	<u>30,476,665</u>	<u>34,276,197</u>

## Year our Investments mature

2022	2,973,996
2023	8,949,018
2024	5,971,408
2025 and later	3,294,374
Total	<u>21,188,795</u>

## City of Hermantown

### Select Departmental and Funds Expenditure Actual to Budget Report (unaudited)

		TARGET (Q2 2022 )	ACTUAL (Q2 2022)	PERCENT UNDER (OVER)
Administration & Finance		355,610	345,172	3%
Community Development		144,082	103,527	28%
Police Administration		1,538,175	1,430,840	7%
Fire Administration		268,398	268,398	0%
Street Dept. (Incl. Gen Eng)		389,334	399,142	(3%)
Parks		69,586	74,751	(7%)
Capital Equipment Transfer		237,500	-	100%
Facilities		147,603	185,884	(26%)
Other		216,207	166,887	23%
<b>General Fund Expenditure Total</b>		<b>3,366,493</b>	<b>2,974,600</b>	<b>12%</b>
Water		888,996	533,522	40%
Sewer		1,007,807	478,444	53%
Stormwater		233,313	76,406	67%
<b>Sales Tax Revenue</b>		1,250,000	1,315,114	5%

Parks - Red due to Reimb. Snowmobile grant and purchased broom for trails

Facilities - Red due to City Hall heating gas and increased equipment maintenance

Street - Red due to increased payroll (regular, OT, part time), street signs, fuel

CITY OF HERMANTOWN  
CITY COUNCIL MEETING  
July 5, 2022  
6:30 p.m.

## **MEETING CONDUCTED IN PERSON & VIA ZOOM**

### **PLEDGE OF ALLEGIANCE**

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

**CITY STAFF:** John Mulder, City Administrator; Jackie Dolentz, City Clerk; Joe Wicklund, Communications Manager; Steve Overom, City Attorney

**ABSENT:** Councilor Peterson

**VISITORS:** 1

### **ANNOUNCEMENTS**

### **PUBLIC HEARING**

### **COMMUNICATIONS**

Communication 22-62 through 22-74 was read and placed on file.

### **PRESENTATIONS**

Kevin Orme, Director of Finance & Administration presented on the Preliminary 2023-27 Capital Improvement Plan.

### **PUBLIC DISCUSSION**

### **CONSENT AGENDA**

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

- A. Approve June 20, 2022 City Council Continuation Minutes
- B. Approve general city warrants from June 16, 2022 through June 30, 2022 in the amount of \$546,122.66

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

### **MOTIONS**

## ORDINANCES

**2022-08**      An Ordinance Amending Title 2 Of The Hermantown City Code By Amending The Official Zoning Map (Parcel 395-0158-00080)

First Reading

## RESOLUTIONS

**2022-88**      Resolution Approving Question To Be Posed To Voters Regarding A Proposed Hermantown Sales Tax For The Hermantown Community Recreation Initiative

Motion made by Councilor Geissler, seconded by Councilor Hauschild, to adopt Resolution 2022-88 Resolution Approving Question To Be Posed To Voters Regarding A Proposed Hermantown Sales Tax For The Hermantown Community Recreation Initiative with changes discussed. Roll Call: Councilors Geissler, Hauschild, Nelson, Mayor Boucher, aye. Councilor Peterson, absent. Motion carried.

**2022-89**      Resolution Approving Special Use Permit For Construction Of An Accessory Structure In Excess Of 1,200 Square Feet In The R-3 Zoning District At 5243 Hermantown Road And Imposing Conditions Thereon

Motion made by Councilor Nelson, seconded by Councilor Geissler, to adopt Resolution 2022-89 Resolution Approving Special Use Permit For Construction Of An Accessory Structure In Excess Of 1,200 Square Feet In The R-3 Zoning District At 5243 Hermantown Road And Imposing Conditions Thereon. Roll Call: Councilors Geissler, Hauschild, Nelson, Mayor Boucher, aye. Councilor Peterson, absent. Motion carried.

**2022-90**      Resolution Appointing Election Judges For The Primary Election Of August 9, 2022

Motion made by Councilor Hauschild, seconded by Councilor Nelson, to adopt Resolution 2022-90 Resolution Appointing Election Judges For The Primary Election Of August 9, 2022. Roll Call: Councilors Geissler, Hauschild, Nelson, Mayor Boucher, aye. Councilor Peterson, absent. Motion carried.

**2022-91**      Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Amended Lease Agreement With State Of Minnesota Bureau Of Criminal Apprehension

Motion made by Councilor Geissler, seconded by Councilor Nelson, to adopt Resolution 2022-91 Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Amended Lease Agreement With State Of Minnesota Bureau Of Criminal Apprehension. Roll Call: Councilors Geissler, Hauschild, Nelson, Mayor Boucher, aye. Councilor Peterson, absent. Motion carried.

**2022-92**      Resolution Approving A Grant Agreement Between St. Louis County And The City Of Hermantown And Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Such Grant Agreement On Behalf Of The City Of Hermantown

Motion made by Councilor Nelson, seconded by Councilor Hauschild, to adopt Resolution 2022-92 Resolution Approving A Grant Agreement Between St. Louis County And The City Of Hermantown And Authorizing And Directing The Mayor And City Clerk To Execute And Deliver Such Grant Agreement

City Council Continuation Meeting  
July 5, 2022  
Page | 3

On Behalf Of The City Of Hermantown. Roll Call: Councilors Geissler, Hauschild, Nelson, Mayor Boucher, aye. Councilor Peterson, absent. Motion carried.

Motion made by Councilor Geissler, seconded by Nelson, to recess the meeting at 6:40 p.m. Motion carried.

ATTEST:

---

Mayor

---

City Clerk

**CITY OF HERMANTOWN**

CHECKS #68919-68979  
07/01/2022-07/15/2022

PAYROLL CHECKS

Electronic Checks - #-69178-69212 \$96,423.99

Electronic Checks - #-69119-69170 \$88,343.93

LIABILITY CHECKS

Electronic Checks - #-69171-69177 \$147,326.31

Electronic Checks - #-69114-69118 \$64,066.30

Check - #68977-68978 \$2,301.75

**PAYROLL EXPENSE TOTAL \$398,462.28**

ACCOUNTS PAYABLE

Check - #68919-68976 \$587,306.45

Check - #68979 \$5.31

Electronic Payments #-99724-99735 \$61,121.57

**ACCOUNTS PAYABLE TOTAL \$648,433.33**

**TOTAL \$1,046,895.61**

7/12/2022

Page 1

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	414100	Elections	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	25.50	-99735
101	415300	Administration & Finance	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	4,367.75	-99735
101	419100	Community Development	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	1,250.00	-99735
101	419901	City Hall & Police Building Maintenance	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	812.50	-99735
101	421100	Police Administration	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	20,000.00	-99735
101	422901	Firehall #1 Maple Grove Road	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	250.00	-99735
101	424100	Building Inspection	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	1,854.17	-99735
101	431100	Street Department	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	3,787.50	-99735
101	431901	City Garage	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	250.00	-99735
101	452100	Parks	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	250.00	-99735
260	456101	Cable	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	37.50	-99735
230	465100	HEDA	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	200.50	-99735
101	490100	Cemetery	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	25.00	-99735
601	494300	Water Distribution	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	2,666.67	-99735
601	494400	Water Administration and General	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	1,250.00	-99735
602	494500	Sewer Maintenance	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	1,562.50	-99735
602	494900	Sewer Administration and General	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	837.50	-99735
101	452200	Community Building	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	125.00	-99735
603	441100	Storm Water	FURTHER ELECTRONIC PAYMENTS	3rd Qtr VEBA 2022	1,922.92	-99735
101	217450	Employee Flexplan	FURTHER ELECTRONIC PAYMENTS	Claim Reimbursement - Electron	180.00	-99734
101	415300	Administration & Finance	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	148.81	-99733
101	419901	City Hall & Police Building Maintenance	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	44.70	-99733
101	421100	Police Administration	AT&T MOBILITY	Cell Phones PD	1,365.71	-99733
101	431100	Street Department	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	156.45	-99733
601	494400	Water Administration and General	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	1,213.92	-99733
602	494900	Sewer Administration and General	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	1,209.08	-99733
101	217450	Employee Flexplan	FURTHER ELECTRONIC PAYMENTS	Claim Reimbursement - Electron	274.82	-99732
101	419901	City Hall & Police Building Maintenance	MN ENERGY RESOURCES CORP	Natural Gas CH/PD	302.23	-99731
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas Lightning Dr	109.78	-99731
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas old CH	28.71	-99731
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas Comm Building	92.51	-99731
601	494400	Water Administration and General	MN ENERGY RESOURCES CORP	Natural Gas Lightning Dr	125.47	-99731
602	494900	Sewer Administration and General	MN ENERGY RESOURCES CORP	Natural Gas Lightning Dr	78.42	-99731
101	452200	Community Building	MN ENERGY RESOURCES CORP	Natural Gas old CH	258.39	-99731
101	452100	Parks	DULUTH LAWN CARE INC	Fert/Weed/Insect Treatment FH	7,560.00	-99730
601	494400	Water Administration and General	GOPHER STATE ONE-CALL INC	June 22 Locates	189.54	-99729
602	494900	Sewer Administration and General	GOPHER STATE ONE-CALL INC	June 22 Locates	126.36	-99729
101	419901	City Hall & Police Building Maintenance	HARTEL'S/DBJ DISPOSAL CO LLC	Garbage Recycling June	792.48	-99728

7/12/2022

Page 2

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	431901	City Garage	HARTEL'S/DBJ DISPOSAL CO LLC	Yard Trash Disposal June	170.52	-99728
101	431100	Street Department	NORTHERN STATES SUPPLY INC	Cable Ties	121.79	-99727
101	431100	Street Department	NORTHERN STATES SUPPLY INC	Safety Glasses	31.42	-99727
101	431901	City Garage	NORTHERN STATES SUPPLY INC	Easy Out & Cutting Lube	47.00	-99727
601	494300	Water Distribution	NORTHERN STATES SUPPLY INC	Cordless Impact	429.99	-99727
602	494500	Sewer Maintenance	SJE-RHOMBUS, INC.	Surge Protector/Field Service	1,910.00	-99726
101	421100	Police Administration	VC3	Recycle Network Equip-PD	15.00	-99725
101	421100	Police Administration	VC3	Switch Setup - PD	393.75	-99725
101	421100	Police Administration	NORTHEAST SERVICE COOPERATIVE	Health Ins July-Inactives	1,396.06	-99724
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Health Ins July-Inactives	873.65	-99724
101	427100	Poundmaster	ANIMAL ALLIES HUMANE SOCIETY	February Boarding	150.00	68919
101	421100	Police Administration	APPLIED CONCEPTS INC	Radar	6,500.00	68920
101	421100	Police Administration	AXON ENTERPRISE INC	Body Worn Cameras "BWCs"	32,000.00	68921
245	421100	Police Administration	AXON ENTERPRISE INC	Body Worn Cameras "BWCs"	129,446.50	68921
101	421100	Police Administration	AXON ENTERPRISE INC	Body Worn Cameras "BWCs"	10,000.00	68921
230	465100	HEDA	BRAUN INTERTEC CORPORATION	HWY 53 Business Park Developme	6,459.75	68922
602	494500	Sewer Maintenance	BRAUN INTERTEC CORPORATION	Sanitary Sewer Inspections	1,690.00	68922
275	452200	Community Building	BRAUN INTERTEC CORPORATION	EWC Pool Investigation	2,441.50	68922
101	452100	Parks	BRENT'S SEPTIC SERVICE LLC	Holding Tank-Rose Rd Ball Fiel	250.00	68923
101	452100	Parks	BRENT'S SEPTIC SERVICE LLC	Portable Toilets	1,395.00	68923
101	431100	Street Department	CENTRAL PENSION FUND	Training Per Contract	45.46	68924
601	494300	Water Distribution	CENTRAL PENSION FUND	Training Per Contract	45.47	68924
602	494500	Sewer Maintenance	CENTRAL PENSION FUND	Training Per Contract	45.47	68924
101	422903	Firehall #3 Midway Road	CENTURYLINK	Internet FH3 06/22/22-07/21/22	79.98	68925
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at FD/PD	30.72	68926
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at CH	8.88	68926
101	431100	Street Department	CINTAS CORPORATION	Uniforms	9.00	68926
101	431100	Street Department	CINTAS CORPORATION	Uniforms	23.74	68926
101	431100	Street Department	CINTAS CORPORATION	Uniforms	9.00	68926
101	431100	Street Department	CINTAS CORPORATION	Uniforms	23.74	68926
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	29.56	68926
101	431901	City Garage	CINTAS CORPORATION	1st Aid Cabinets	239.09	68926
101	431901	City Garage	CINTAS CORPORATION	Supplies	22.50	68926
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	10.35	68926
101	431901	City Garage	CINTAS CORPORATION	Supplies	37.50	68926
101	415300	Administration & Finance	CITIES DIGITAL INC	Laserfiche AnnSub 8/13-8/12/23	1,600.00	68927
601	494400	Water Administration and General	CITIES DIGITAL INC	Laserfiche AnnSub 8/13-8/12/23	800.00	68927
602	494900	Sewer Administration and General	CITIES DIGITAL INC	Laserfiche AnnSub 8/13-8/12/23	800.00	68927



Fun d	Account	Department	Vendor Name	Description	Amount	Check #
601	494300	Water Distribution	CORE & MAIN LP	Check Valves/Setters	704.00	68928
230	465100	HEDA	CREATIVE ARCADE	Website Monthly Maintenance	250.03	68929
251	421801	DARE & Police Liaison Fund	CREATIVE PRODUCT SOURCING INC - DARE	Dare T-Shirts	2,045.17	68930
601	494400	Water Administration and General	CUSTOMER ELATION INC	6/07 - 07/04 Answering	29.25	68931
602	494900	Sewer Administration and General	CUSTOMER ELATION INC	6/07 - 07/04 Answering	19.50	68931
101	431100	Street Department	DIAMOND MOWERS LLC	Belts for ROW mower	228.34	68932
101	452200	Community Building	DISASTER RESTORATION SERVICES, LLC	Carpet & Tile Cleaning - OldCH	979.79	68933
460	431150	Street Improvements	EXPRESS INVESTORS OF DULUTH, LLC	1st half TIF payment 2022	31,667.51	68934
460	431150	Street Improvements	EXPRESS INVESTORS OF DULUTH, LLC	1st half TIF payment 2022	7,057.76	68934
101	419901	City Hall & Police Building Maintenance	GOODIN COMPANY INC	Boiler Repair - PD/CH	2,725.81	68935
101	419901	City Hall & Police Building Maintenance	GOODIN COMPANY INC	Boiler Repair - PD/CH	389.33	68935
602	494500	Sewer Maintenance	GREAT LAKES PIPE SERVICE INC	Clean & Televiser Sanitary	5,295.00	68936
101	431100	Street Department	H & L MESABI	Motor Grader Bits	1,650.00	68937
101	411300	Ordinance, Public Notice and Proceedings	HERMANTOWN STAR LLC	Financial Report	808.50	68938
101	422100	Fire Administration	HERMANTOWN VOLUNTEER FIRE DEPT	3rd QTR Fire Protection	134,198.75	68939
101	421100	Police Administration	HOLIDAY COMPANIES	June Car Washes	15.00	68940
230	465100	HEDA	HTB PROJECT NAVIGATION, LLC	Proposed Hermantown Business P	1,125.00	68941
230	465100	HEDA	IGNITE	Digital Campaign-Youth Sports	3,000.00	68942
101	421100	Police Administration	INFOBUREAU SERVICES, INC.	Credit Check	30.00	68943
101	414100	Elections	INNOVATIVE OFFICE SOLUTIONS, LLC	Name Badges-Elections	49.23	68944
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Bus Cards/Organizer	36.55	68944
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Returned Paper, FLLR 11x8	-48.05	68944
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Folders	35.11	68944
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Custom Date Stamper	55.40	68944
101	431100	Street Department	INTER CITY OIL CO INC	Fuel	1,499.44	68945
101	431100	Street Department	INTER CITY OIL CO INC	Fuel	2,695.23	68945
101	431100	Street Department	INTER CITY OIL CO INC	Fuel	2,295.60	68945
101	419901	City Hall & Police Building Maintenance	JOHNSTONE SUPPLY	Boiler Repair - CH	91.43	68946
251	421500	Drug/Alcohol Fund	KIESLER'S POLICE SUPPLY, INC.	Rifle Replacements	10,230.00	68947
101	421500	Drug/Alcohol Fund	KIESLER'S POLICE SUPPLY, INC.	Rifle Replacements	8,000.00	68947
101	419901	City Hall & Police Building Maintenance	KWIK TRIP EXTENDED NETWORK	Gas Building	402.62	68948
101	421100	Police Administration	KWIK TRIP EXTENDED NETWORK	Gas PD	5,688.71	68948
101	421100	Police Administration	KWIK TRIP EXTENDED NETWORK	Car Wash PD	255.98	68948
101	431100	Street Department	KWIK TRIP EXTENDED NETWORK	Car Wash PW	10.00	68948
101	431100	Street Department	KWIK TRIP EXTENDED NETWORK	Gas Street	772.52	68948
601	494300	Water Distribution	KWIK TRIP EXTENDED NETWORK	Gas Utility	768.54	68948
602	494500	Sewer Maintenance	KWIK TRIP EXTENDED NETWORK	Gas Utility	512.36	68948
101	431100	Street Department	LINDE GAS & EQUIPMENT INC.	CylRent/SafeEnvFee5/20-6/20/22	49.66	68949

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
603	431100	Street Department	MACQUEEN EQUIPMENT, LLC	Sweeper Rental intake inspecti	1,317.61	68950
603	441100	Storm Water	MACQUEEN EQUIPMENT, LLC	Sweeper Rental 4/13/22-4/19/22	4,625.00	68950
603	441100	Storm Water	MACQUEEN EQUIPMENT, LLC	Sweeper Rental 4/20/22-4/26/22	3,625.00	68950
603	441100	Storm Water	MACQUEEN EQUIPMENT, LLC	Sweeper Rental 4/27/22-5/03/22	3,625.00	68950
603	441100	Storm Water	MACQUEEN EQUIPMENT, LLC	Replace Brooms	1,323.95	68950
101	421100	Police Administration	MELLIN PROMOTIONAL ADVERTISING	Temp Tattoo - PD Bike Rodeo	186.97	68951
101	421100	Police Administration	MELLIN PROMOTIONAL ADVERTISING	Plastic Bags - PD Bike Rodeo	194.95	68951
101	421100	Police Administration	MENARD INC	Supplies for Gun Range	203.53	68952
101	431100	Street Department	MENARD INC	Safety Vest	19.98	68952
101	431100	Street Department	MENARD INC	Reach Tool	51.96	68952
101	431901	City Garage	MENARD INC	Air Filters - Shop	164.18	68952
101	421100	Police Administration	METRO SALES INC	Copier Lease	292.74	68953
461	431150	Street Improvements	MILLS PROPERTIES, INC.	1st Half City Tax Abatement	17,456.74	68954
461	431150	Street Improvements	MILLS PROPERTIES, INC.	1st Half City Tax Abatement	54,898.27	68954
101	419901	City Hall & Police Building Maintenance	MN TELECOMMUNICATIONS	July 2022 Internet	360.00	68955
101	422901	Firehall #1 Maple Grove Road	MN TELECOMMUNICATIONS	July 2022 Internet	90.00	68955
101	431100	Street Department	NAPA AUTO PARTS	Grease & Mirror	145.68	68956
101	421100	Police Administration	NEXTEC SYSTEMS	Troubleshoot Network PD Camera	510.00	68957
235	452100	Parks	NORTHLAND CONSULTING ENGINEERS L.L.P.	Fitchner Park Master Plan	9,984.50	68958
601	494400	Water Administration and General	NORTHLAND CONSULTING ENGINEERS L.L.P.	Water System Modeling	560.00	68958
475	431150	Street Improvements	NORTHLAND CONSULTING ENGINEERS L.L.P.	Hermantown Road Feasibility St	160.00	68958
101	431130	City Engineer	NORTHLAND CONSULTING ENGINEERS L.L.P.	PO 2313 - MSA	640.00	68958
101	431130	City Engineer	NORTHLAND CONSULTING ENGINEERS L.L.P.	Pre-Agenda, Four Square	480.00	68958
101	421100	Police Administration	O'REILLY FIRST CALL	High Beam Headlight	4.48	68959
101	415300	Administration & Finance	PITNEY BOWES GLOBAL FINANCIAL SVCS	QTR Meter Lease Apr 30-Jul 29	269.13	68960
101	431100	Street Department	PRO TIRE	Tire-Big Mower	20.00	68961
101	415300	Administration & Finance	SAM'S CLUB DIRECT	Membership Dues - Orme	45.00	68962
101	419901	City Hall & Police Building Maintenance	SAM'S CLUB DIRECT	Membership Dues - Heinbuch	40.00	68962
101	431100	Street Department	SATHERS, LLC	Class 5 - Crushed Material	490.00	68963
101	421100	Police Administration	SHEL/DON GROUP INC	Police Letterhead	238.51	68964
101	421100	Police Administration	ST LOUIS COUNTY AUDITOR	2022 Everbridge	3,146.00	68965
101	421100	Police Administration	ST LUKES CLINICS	Blood Draws - June 22	58.20	68966
101	419901	City Hall & Police Building Maintenance	STACK BROS MECHANICAL, INC.	EXH Damper Motor-Repair	1,432.84	68967
101	415300	Administration & Finance	STRATEGIC INSIGHTS INC	AnI License Renewal CIP Softwa	387.50	68968
601	494400	Water Administration and General	STRATEGIC INSIGHTS INC	AnI License Renewal CIP Softwa	193.75	68968
602	494900	Sewer Administration and General	STRATEGIC INSIGHTS INC	AnI License Renewal CIP Softwa	193.75	68968
101	452100	Parks	TARS & STRIPES	Striping-Stebner Field, Arrowh	1,300.00	68969
101	419901	City Hall & Police Building Maintenance	TELCOLOGIX	July 2022 Maintenance	237.85	68970

7/12/2022

Page 5

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	422901	Firehall #1 Maple Grove Road	TELCOLOGIX	July 2022 Maintenance	70.35	68970
101	431100	Street Department	TELCOLOGIX	July 2022 Maintenance	16.75	68970
101	452200	Community Building	TELCOLOGIX	July 2022 Maintenance	10.05	68970
101	431100	Street Department	TENET	Safety Glasses	519.80	68971
101	415300	Administration & Finance	TOSHIBA FINANCIAL SERVICES	Copier Lease Toshiba	145.57	68972
101	421100	Police Administration	TROY'S BP AMOCO INC	Condenser/AC Hookup-SQD 20	943.79	68973
101	421100	Police Administration	TROY'S BP AMOCO INC	Oil & Filter - SQD 17	89.86	68973
101	421100	Police Administration	TROY'S BP AMOCO INC	Oil & Filter - SQD 15	61.89	68973
101	431100	Street Department	WARNING LITES OF MINNESOTA	Sign Rental Stebner Rd	75.00	68974
602	494500	Sewer Maintenance	WLSSD	Wastewater Charges	47,632.00	68975
101	431100	Street Department	ZIEGLER INC	Repair 928G	8,956.04	68976
101	134000	Retiree Insurance/Telephone Reimb.	MN LIFE	Vatne Life Ins - Inactive	5.31	68979

Totals: 164 records printed

648,433.33



The proposed Phase 1C of the Peyton Acres development is split between the HM, Hermantown Marketplace and R-3, Residential district. The Applicant has requested for a rezoning of the HM zoned property to R-3 in order to keep with the ability to construct single family homes.

A public hearing for this application was held on Tuesday, June 21, 2022. There were no members of the public who spoke regarding the application. The Planning and Zoning Commission unanimously recommended the application to the City Council for approval.

### **Utilities**

The project will connect to City water lines located within the right-of-way of Peyton Drive. New sewer and water lines will be via City mains constructed to City standards. The Applicant will provide engineered plans to the City Engineer for utility connections prior to beginning such work on this phase. Preliminary engineering plans are in the process of being developed by the Applicants engineer.

### **Wetlands**

There are 13.5 acres of wetlands on the overall property. The preliminary and final plat for this phase does not propose any permanent wetland impacts. The TEP and City Staff are supporting a project de minimis exemption up to 10,000 square feet of wetland impacts over the whole 65 acres of the property for a 1.7% permanent wetland impact.

### **Zoning**

Applicant is requesting a rezoning from HM, Hermantown Marketplace to R-3, Residential. Applicant has stated that they intend to continue the single family residential development associated with the Peyton Acres project.

Should the Applicant wish to construct another housing product at a future date, other than single family housing, they would then be required to pursue a Planned Unit Development for the work.

Dimensional standards would change as follows:

Dimensional Standards	HM	R-3
Height	45 feet	35 feet
Setbacks		
<i>Front</i>	5 feet	50 feet
<i>Side (abutting street)</i>	35 feet	10 feet
<i>Side</i>	5 feet	10 foot minimum, 25 foot aggregate
<i>Rear</i>	5 feet	40 feet
Minimum lot area	None	½ acre
Minimum lot width	None	100 feet
Maximum lot coverage	50%	35%

### **Comprehensive Plan**

The site is in Area 1 on the Hermantown Comprehensive Plan Concepts Map. The goal for Area 1 is to maintain suburban character, preserve critical natural features, phase residential

development, and develop existing and new park areas. Suburban character includes residential development and is compatible with the uses of the adjacent properties.

**SUMMARY & JUSTIFICATION:**

The proposed rezoning meets the criteria of the Comprehensive Plan and the overall goals and policies of the Zoning Ordinance. The 2-acre site is located in an area that has an existing commercial character and development of the site could be complementary to the area. Staff recommends approval of the rezoning based on the following findings:

1. The property is included in the suburban development concept area (Area 1) of the Comprehensive Plan within which residential development is currently allowed.
2. R-3, Residential is compatible with the surrounding uses as it mirrors the existing development patterns of the surrounding/abutting parcels.

---

**SOURCE OF FUNDS (if applicable)**

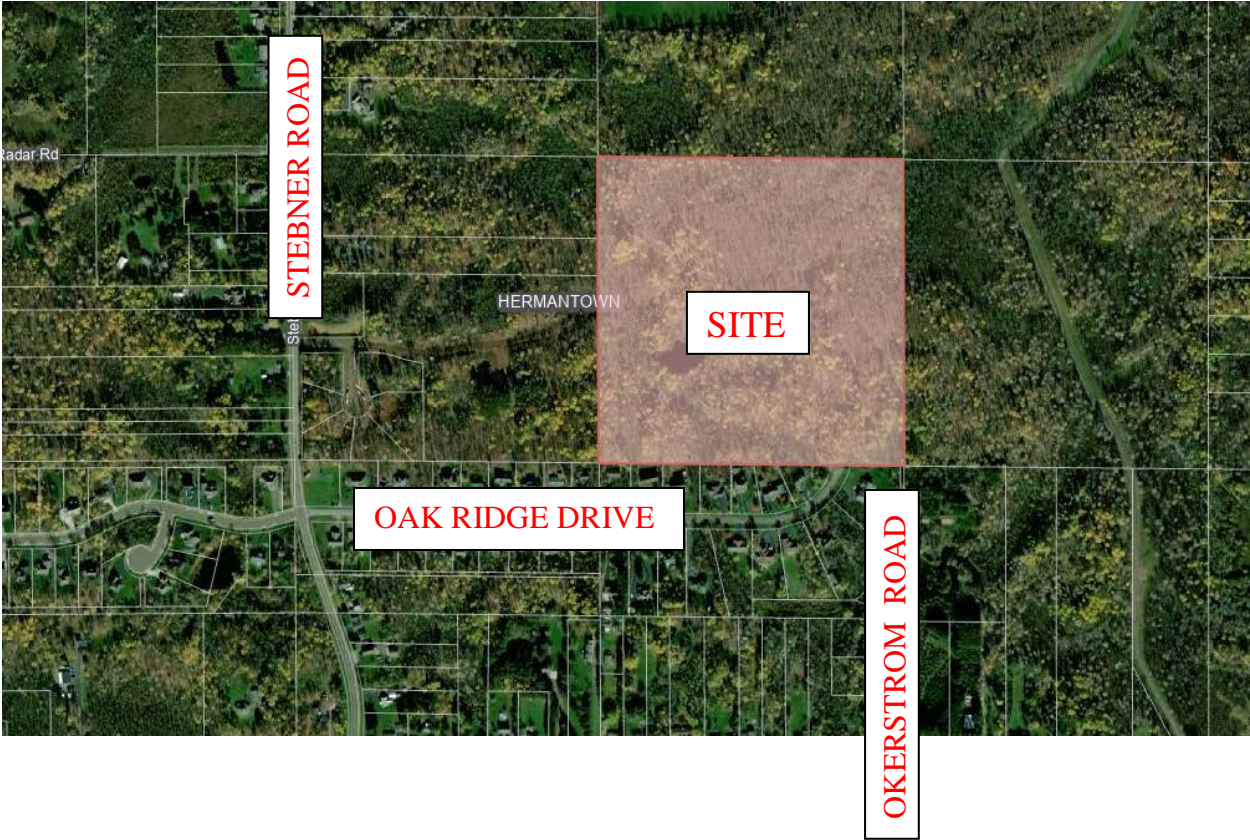
N/A

---

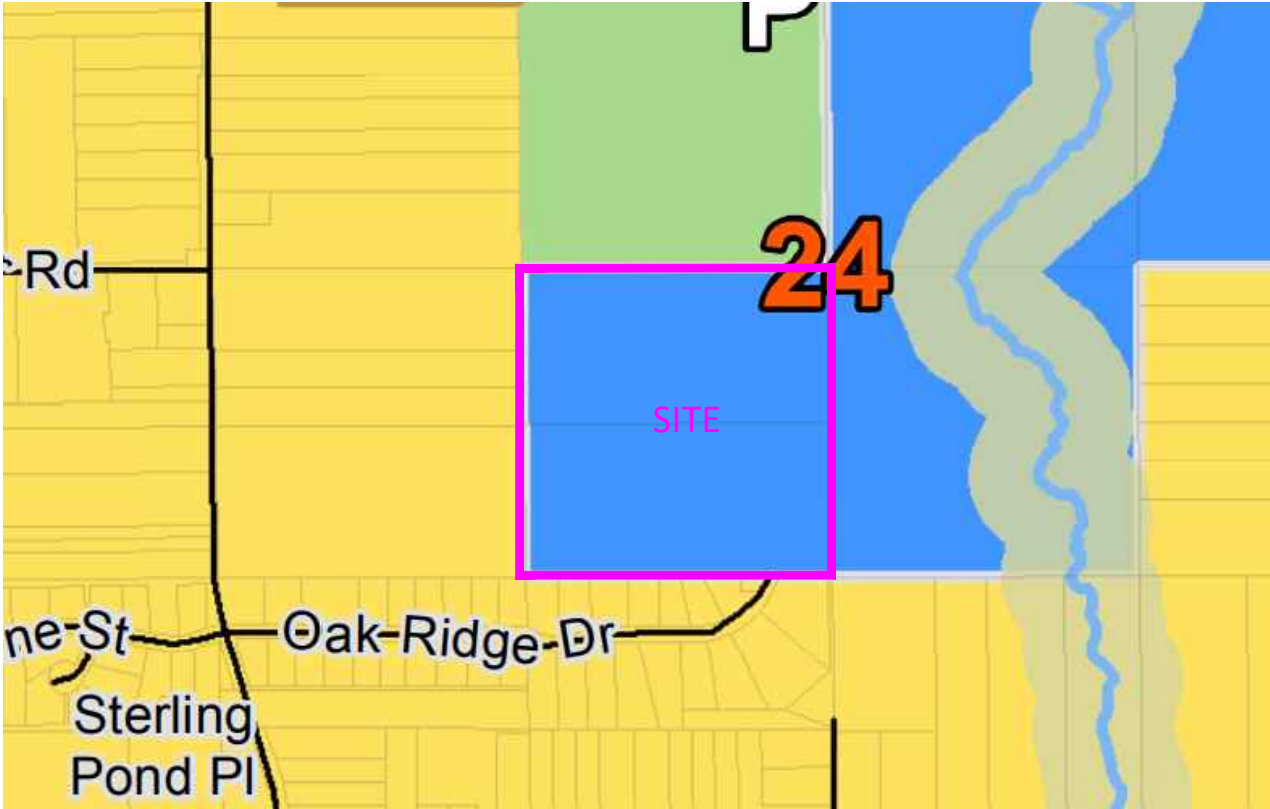
**ATTACHMENTS**

- Location Map
- Current Zoning Map
- Proposed Zoning Map
- Ordinance

**Location Map**



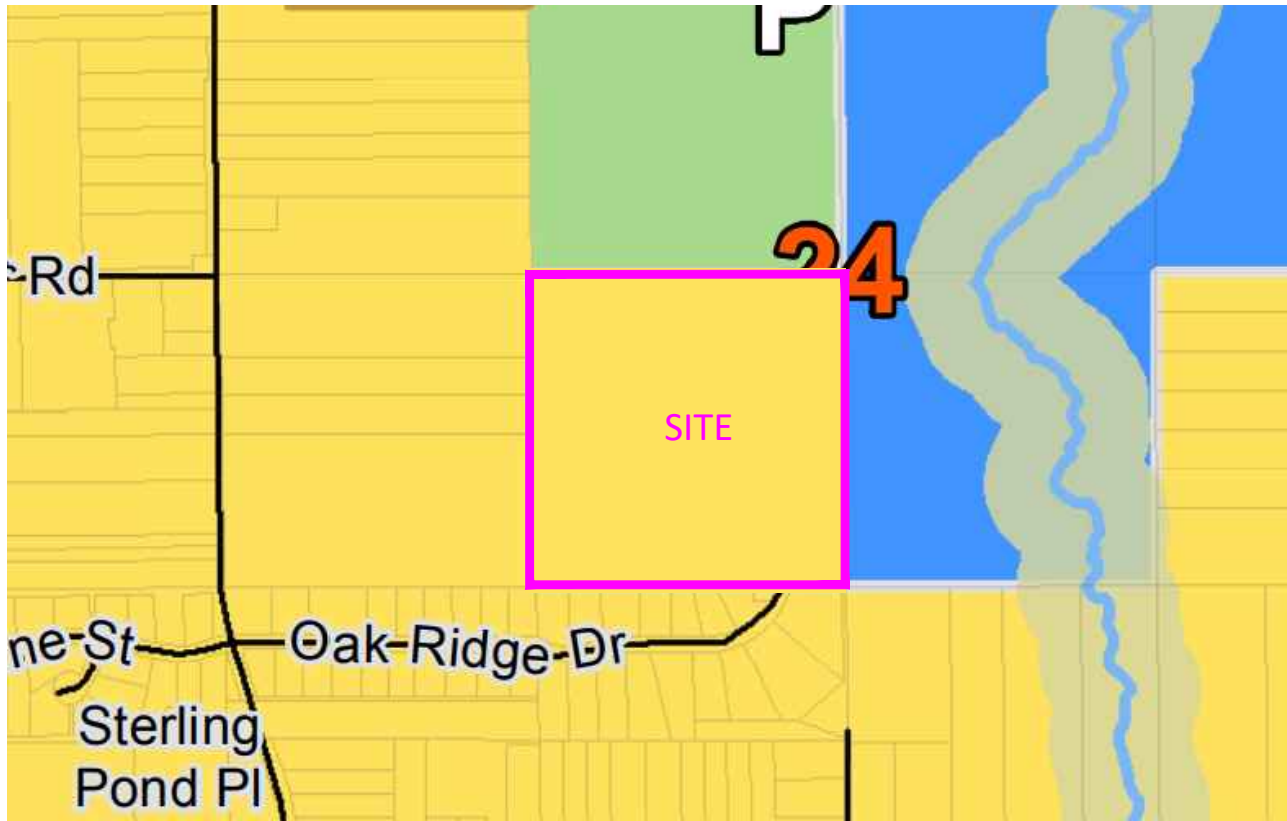
# EXISTING ZONING



- Hermantown Zoning Districts**
- HM-Hermantown Marketplace
  - BLM-Business/Light Manufacturing
  - C-General Commercial
  - C1-Office/Light Industrial
  - C1A-Sexually Oriented Uses
  - M2-Heavy Industrial
  - O-Conservation/Open Space
  - P-Public Facilities
  - PUD-Planned Unit Development
  - R1-Residential
  - R3-Residential
  - R3a-Multiple Family Dwellings
  - S1-Rural/Suburban



# PROPOSED ZONING



## Hermantown Zoning Districts

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

**Ordinance No. 2022-08**

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING TITLE 2 OF THE HERMANTOWN CITY CODE  
BY AMENDING THE OFFICIAL ZONING MAP  
(PARCEL 395-0158-00080)**

Section 1. Amendment to Official Zoning Map. The Official Zoning Map of the City of Hermantown is hereby amended so that an area measuring 40 acres and associated with parcel 395-0158-00080 is zoned R-3, Residential.

Section 2. Purpose and Intent. The purpose of this amendment is to rezone an area measuring 40 acres and described as That part of Outlot B, of the recorded plat of Peyton Acres that lies within the Northeast Quarter of the Southwest Quarter of Section 24, Township 50, Range 15 St. Louis County, Minnesota from HM – Hermantown Marketplace to R-3, Residential.

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

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

\_\_\_\_\_  
Mayor

Attest:

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

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

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

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

**TO:** City Council Members  
**FROM:** Paul Senst, Public Works Director



**DATE:** July 11, 2022      **Meeting Date:** 7/18/2022  
**SUBJECT:** 2002 Water Tower Recoating Pay      **Agenda Item:** 12A      **2022-93-App. #3**

---

**REQUESTED ACTION**

**Approve Public Application #3 to Osseo Construction Co. LLC for the work related to the tower reconditioning project.**

---

**BACKGROUND**

Attached is Pay Application #1 for the work associated with the Hwy. 53 water tower reconditioning project. This is for work completed from June 10, 2022 thru July 7, 2022. Bolton & Menk and NCE have reviewed the project progress thus far and agreed upon the quantities of work completed. The amount of Pay Application #3 is **\$144,580.50**. The City will hold 5% retainage of the completed construction through the duration of the project. This retainage amount for pay application #3 is **\$ 7,609.50**

NCE has reviewed the quantities through construction inspection and discussions with Bolton & Menk, representatives. I recommend payment in the amount of **\$144,580.50** be authorized at the July 18<sup>th</sup>, 2022 City Council Meeting.

---

**SOURCE OF FUNDS (if applicable)**

240-433200-530 Project 318

---

**ATTACHMENTS**

**Bolton & Menk attachments.**

**Resolution No. 2022-93**

**RESOLUTION APPROVING PAY REQUEST NUMBER 3 FOR RECONDITIONING OF HIGHWAY 53 WATER TOWER (WATER IMPROVEMENT DISTRICT NO. 318) TO OSSEO CONSTRUCTION CO. LLC IN THE AMOUNT OF \$144,580.50**

WHEREAS, the City of Hermantown has contracted with Osseo Construction Co. LLC for reconditioning of the Highway 53 Water Tower (Water Improvement District NO. 318) (“Project”); and

WHEREAS, Osseo Construction Co. LLC has performed a portion of the agreed upon work in said Project; and

WHEREAS, Osseo Construction Co. LLC has submitted Pay Request No. 3 in the amount of \$144,580.50; 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, Bolton & Menk has approved such Pay Request No. 3 provided that \$7,609.50 accumulated as retainage of 5% be withheld pending final acceptance of the Project by the City of Hermantown; and

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

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

1. Pay Request No. 3 is hereby approved.
2. The City is hereby authorized and directed to pay to Osseo Construction Co. LLC The Sum Of \$144,580.50 which is the amount represented on pay request No. 3.

Councilor \_\_\_\_\_ introduced the foregoing resolution and moved its adoption.

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

Councilors \_\_\_\_\_, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution has been duly passed and adopted July 18, 2022.



**BOLTON  
& MENK**

Real People. Real Solutions.

4960 Miller Trunk Highway  
Suite 350  
Duluth, MN 55811

Ph: (218) 729-5939  
Bolton-Menk.com

VIA EMAIL

July 11, 2022

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

RE: HWY 53 Tower Reconditioning  
Pay Request No. 3  
BMI Project Number: 0M2.125206

Dear John,

Enclosed is a copy of Pay Request No. 3 from Osseo Construction Co. LLC for \$144,580.50. Work covered by this pay request primarily consists of sandblasting and coating of the tower exterior and interior as well as the addition of a tank mixer and safety climb system. The total completed work reflected on this request represents 83% of the work to be completed under this contract. I have reviewed this request and recommend payment to the contractor. Please process this request for payment.

Please contact me if you have any questions.

Sincerely,

**Bolton & Menk, Inc.**

**Brian J. Guldan, P.E.**  
Principal Environmental Engineer

Enclosures

cc: Paul Senst, City of Hermantown Public Works Director  
David Bolf, City Engineer  
Jamie Connor, Bolton & Menk, Inc.  
File

# APPLICATION FOR PAYMENT

Owner: PROJECT: HWY 53 Tower Reconditioning  
 City of Hermantown APPLICATION NO: 3  
 5105 Maple Grove Road  
 Hermantown, MN 55811  
 CONTRACTOR: VIA ARCHITECT: PERIOD TO: 7/7/2022  
 Osseo Construction Co. LLC Bolton & Menk Inc  
 PO Box 143, 14248 10th Street  
 Osseo, WI 54758

Distribution to:

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

PROJECT #: 0M2. 125206  
 CONTRACT #:  
 CONTRACT DATE:

## CONTRACTOR'S APPLICATION FOR PAYMENT

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

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

1. ORIGINAL CONTRACT SUM	\$	<u>455,500.00</u>
2. Net change by Change Orders	\$	<u>0.00</u>
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$	<u>455,500.00</u>
4. TOTAL COMPLETED & STORED TO DATE (Column G)	\$	<u>379,350.00</u>
5. RETAINAGE:		
a. <u>5%</u> of Completed Work (Column D + E)	\$	<u>18,967.50</u>
b. <u>      </u> % of Stored Material (Column F)	\$	<u>n/a</u>
Total Retainage (Lines 5a + 5b or Total in Column I)	\$	<u>18,967.50</u>
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	<u>360,382.50</u>
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	<u>215,802.00</u>
8. CURRENT PAYMENT DUE	\$	<u>144,580.50</u>
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less 6)	\$	<u>95,117.50</u>

  
 Contractor's Signature

7/7/22  
 Date

  
 Engineers Signature

07/08/2022  
 Date

\_\_\_\_\_  
 Owners Signature

\_\_\_\_\_  
 Date

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Contractor		
Total approved this Month		
TOTALS		
NET CHANGES by Change Order		

# CONTINUATION SHEET

APPLICATION NO: 3  
 APPLICATION DATE: 7/7/2022

In tabulations below, amounts are stated to the nearest dollar.

PERIOD TO: 7/7/2022

Use Column I on Contracts where variable retainage for line items may apply.

CONTRACTOR'S PROJECT NO:

A	B	C	D		E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED			MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G ÷ C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD						
1	Mobilization and Site Maintenance	\$50,000.00	\$25,000.00	\$0.00		N/A	\$25,000.00	50.00%	\$25,000.00	\$1,250.00
2	Grinding (misc) 10 hrs, \$100.00/hour	\$1,000.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$1,000.00	\$0.00
3	Welding (misc) 10 L.F., \$150.00/L.F.	\$1,500.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$1,500.00	\$0.00
4	Pit Filler (misc) 1 hr, \$150.00/hour	\$150.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$150.00	\$0.00
5	Caulking (misc) 100 L.F., \$10.00/hour	\$1,000.00	\$0.00	\$1,000.00		N/A	\$1,000.00	100.00%	\$0.00	\$50.00
6	Complete Sandblasting and Reconditioning of Tower (Interior Wet)	\$110,000.00	\$66,000.00	\$44,000.00		N/A	\$110,000.00	100.00%	\$0.00	\$5,500.00
7	Complete Sandblasting and Reconditioning of Tower (Exterior)	\$137,350.00	\$82,410.00	\$54,940.00		N/A	\$137,350.00	100.00%	\$0.00	\$6,867.50
8	Partial removal and spot repair sandblasting and reconditioning of tower < 10% spot repair (interior dry)	\$30,000.00	\$18,000.00	\$12,000.00		N/A	\$30,000.00	100.00%	\$0.00	\$1,500.00
9	Full curtain containment	\$25,000.00	\$25,000.00	\$0.00		N/A	\$25,000.00	100.00%	\$0.00	\$1,250.00
10	Replace failed material covering the exterior roof to dry riser opening	\$3,000.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$3,000.00	\$0.00
11	Provide and install new safety climb systems to all ladders	\$8,000.00	\$0.00	\$8,000.00		N/A	\$8,000.00	100.00%	\$0.00	\$400.00
12	Provide and install new overflow pipe screen	\$250.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$250.00	\$0.00
13	Replace pressure manway gasket	\$250.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$250.00	\$0.00
14	Remove and salvage existing inlet/outlet pipe insulation. Reinstall salvaged existing insulation with new metal jacket with new metal banding.	\$6,500.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$6,500.00	\$0.00
15	New tank logos/lettering	\$10,000.00	\$0.00	\$0.00		N/A	\$0.00	0.00%	\$10,000.00	\$0.00
16	Provide and install tower (tank) mixer	\$25,000.00	\$0.00	\$25,000.00		N/A	\$25,000.00	100.00%	\$0.00	\$1,250.00
17	Remove and replace damaged grout and mortar between cone base ring and foundation and repair foundation. Apply caulk to grout/base ring seam.	\$5,000.00	\$0.00	\$5,000.00		N/A	\$5,000.00	100.00%	\$0.00	\$250.00
18	Provide and install new dual LED aviation obstruction lighting on pivoting post	\$4,500.00	\$2,250.00	\$2,250.00		N/A	\$4,500.00	100.00%	\$0.00	\$225.00

19	Modify tower access doors	\$4,500.00	\$4,500.00	\$0.00	N/A	\$4,500.00	100.00%	\$0.00	\$225.00
20	Remove and reinstall all telecommunications equipment (if necessary)	\$2,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$2,000.00	\$0.00
21	Provide and install 30-inch roof to interior wet access manway	\$4,000.00	\$4,000.00	\$0.00	N/A	\$4,000.00	100.00%	\$0.00	\$200.00
22	Provide new recirculation pump flex hose/fittings and inlet/outlet pipe valves and fittings	\$1,500.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$1,500.00	\$0.00
23	Disinfection	\$2,500.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$2,500.00	\$0.00
24	Site restoration/grading	\$2,500.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$2,500.00	\$0.00
25	Construction Allowance	\$20,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$20,000.00	\$0.00
	<b>GRAND TOTALS</b>	\$455,500.00	\$227,160.00	\$152,190.00	\$0.00	\$379,350.00	83.28%	\$76,150.00	\$18,967.50



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



**DATE:** June 29, 2022                      **Meeting Date:** 7/18/2022  
**SUBJECT:** Peyton Acres Phase 1C Final    **Agenda Item: 12-B**                      **Resolution 2022-94**  
Plat of 8 lots and 2 outlots in  
an R-3 zoning district

---

**REQUESTED ACTION**

**Council approval of a preliminary and final plat with conditions for Peyton Acres Phase 1C, a 8 lot, 2 outlots single family phased residential subdivision in an R-3 zoning district.**

---

**DESCRIPTION OF REQUEST**

Applicant is requesting approval of a Preliminary and Final Plat for Phase 1C for construction of a 8 lot, 2 outlots residential development formerly addressed as 3956 Stebner Road. The property is located in an R-3, Residential zoning district.

**SITE INFORMATION:**

**Parcel Size:** +/-50 acres  
**Legal Access:** Formerly addressed as 3956 Stebner Road  
**Wetlands:** Yes, delineation approved in 2019; Impacts approved in 2020  
**Existing Zoning:** R-3, Residential (1/2 acre minimum)  
**Airport Overlay:** None  
**Shoreland Overlay:** None  
**Comprehensive Plan:** Suburban

**Development Details**

JLG Enterprises (Applicant) is proposing to construct the third phase of the Peyton Acres development. In 2020, JLG proposed a preliminary plat of phase 1A and 1B for a total of 19 lots and 2 outlots. In June 2020, JLG submitted for a final plat for phase 1A which included six residential lots and 2 outlots over five existing parcels totaling 65.0 acres. The initial preliminary plat and final plat were both recommended for approval by the Planning Commission and were ultimately approved by the City Council.

Phase 1B consisted of 10 single family residential lots and one outlot which contained the remainder of the overall property. Phase 1B was consistent with the previously approved preliminary plat and met the requirements associated with the R-3, Residential zoning district. Phase 1B was approved in August 2, 2021 with an amendment to the plat occurring in May 16, 2022.

The Applicant is now proposing Phase 1C, comprised of 8 lots and 2 outlots. Outlot A will contain the stormwater pond for this phase and Outlot B will contain the remaining +/- 35 acres of the overall property.

A public hearing for this application was held on Tuesday, June 21, 2022. There were no members of the public who spoke regarding the application. The Planning and Zoning Commission unanimously recommended the application to the City Council for approval.

### **Peyton Acres Master Plan**

The Applicant has proposed a multi-phase residential development of approximately 65 acres. To date, the Applicant has constructed the infrastructure (road base, watermain and sewermain for Phase 1A and has received approval for Phase 1B infrastructure. Future additions to the subdivision will require an additional road connection on the eastern portion of the property connecting to Oak Ridge Drive for public safety, road maintenance, and traffic improvements. In addition, the City will be requiring a right of way access to the adjoining +/- 100 acres to the east.

### **Zoning Analysis**

The three western parcels are zoned R-3, Residential. The two eastern Parcels are zoned HM, Hermantown Marketplace. The proposed Phase 1C is split between the HM, Hermantown Marketplace and R-3, Residential district. The Applicant has requested for a rezoning of the HM zoned property to R-3 in order to keep with the ability to construct single family homes.

Should the Applicant wish to construct another housing product, other than single family housing, within the development, they would be required to pursue a Planned Unit Development for the work.

### **Lot Size**

The proposed preliminary and final plat meets the R-3, Residential dimensional standards for single-family homes connected to City water and sanitary sewer of ½ acre in area with 100 feet wide frontage at lot line and at the 50' building setback line of lots on cul-de-sacs.

### **Setbacks**

The proposed site plan shows the building setbacks associated with the R-3, Residential dimensional standards for single-family homes.

### **Utilities**

The project will connect to City water lines located within the right-of-way of Peyton Drive. New sewer and water lines will be via City mains constructed to City standards. The Applicant will provide engineered plans to the City Engineer for utility connections prior to beginning such work on this phase. Preliminary engineering plans are in the process of being developed by the Applicants engineer.

### **Stormwater**

The applicant is proposing to treat stormwater in a separate retention treatment pond on Outlot A. Final location, sizing, and design of permanent stormwater control will be subject to approval of final stormwater plans and MS4 Letter of Compliance by the City Engineer.

**Roadway**

The applicant will construct a +/-600', 28' wide curb face to curb face bituminous roadway with curb and gutter with a sidewalk on one side with a cul-de-sac in accordance with the City of Hermantown Urban Section design standards and City design speed standards as approved by the City Engineer. In addition, there will be a cul-de-sac with a platted diameter of 130'

**Wetlands**

There are 13.5 acres of wetlands on the overall property. The preliminary and final plat for this phase does not propose any permanent wetland impacts. The TEP and City Staff are supporting a project de minimis exemption up to 10,000 square feet of wetland impacts over the whole 65 acres of the property for a 1.7% permanent wetland impact.

**Park Dedication Fees**

The Applicant will be required to pay park dedication fees consistent with the requirements of the City Zoning Ordinance. Park dedication fees will be paid according to the Hermantown Fee Schedule. Those fees currently are:

Development Type	Recommended
Single Family, Two Family, Three Family Residential Parcel/CIC Unit	\$1,100/lot
Per bedroom fee	\$150

**Summary:**

Staff recommends approval of the Preliminary and Final Plat based on the following findings and conditions:

1. The proposed final plat meets the intent of the R-3, Residential Zoning District and the overall goals and policies of the Zoning Ordinance.
2. The final plat is in accordance with and conformity to the Hermantown Comprehensive Plan and Hermantown Zoning Ordinance.
3. The following conditions are imposed upon the final plat:
  - a. Final plat approval will be void if: (1) a final plat is not recorded with St. Louis County within one calendar year of preliminary plat approval; and (2) the City has not received and approved a written request for a time extension within one calendar year of final plat approval.
  - b. The title of the land underlying the plat shall be approved by the City Attorney.
  - c. Applicant shall enter into a development agreement with the City that outlines development responsibilities and provide financial securities for site improvements and utility installation which includes:

- i. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the road and infrastructure improvements to be made at the time of approval of the Final Plat, or
    - ii. Installation of road and infrastructure facilities prior to obtaining the Final Plat for the development.
    - iii. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the stormwater facilities to be made at the time of approval of the Final Plat.
  - d. Applicant agrees to construct, at their own expense, a connection between the proposed road and Oak Ridge Drive in a manner and time to be determined via development agreement with City in the event of further subdivision of Outlot B as generally shown on Exhibit B.
  - e. Regardless of the impact on the number of approved lots, all lots will meet the minimum standards for lot area (1/2 acre) and width (100'), all other design standards of the Hermantown Zoning Ordinance, including but not limited to:
    - i. Section 1020.02.2. Frontage. The entire required frontage of each lot must abut on a street that has been officially accepted by the City of Hermantown or other governmental body with jurisdiction over such street, except as provided for flag lots and cul-de-sacs; and
    - ii. 1020.04.3. When a lot completely abuts a cul-de-sac, the required frontage may be measured at the building setback line provided that the frontage at the street line is at least 75% of the required frontage.
  - f. The applicant shall provide a plan to impact 10,000 square feet or less of wetland impacts or an application for wetland replacement plan.
  - g. The applicant shall submit and receive approval from the City Engineer of a permanent stormwater treatment plan that meets the City standards codified in Sections 1080 and 1060 of the City Code.
  - h. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with a 28' wide curb face to curb face bituminous paved road with a sidewalk on at least one side and all other Hermantown road design standards including 30 mph speed design.
  - i. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with cul-de-sacs designed to R/W width of 130' with a paved surface of 100' paved surface.
  - j. The applicant shall sign a consent form assenting to all conditions of this approval.
  - k. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.
4. The lots will be served by public water and sewer which will be constructed by the applicant. The new water and sewer main will be constructed by the applicant, reviewed and approved by the City Engineer then turned over to the City.
5. A 5 foot wide sidewalk on one side of the roadway providing connection to Stebner Road and continuing along the proposed cul-de-sac.

6. Prior to starting any site work, the Applicant shall hold a preconstruction meeting with the appropriate development, construction, and City representatives.
7. Prior to issuance of a building permit:
  - a. All necessary permits shall be obtained.
8. 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.
9. Not conduct any on-site burning or burial of brush or other site debris on the Property.
10. Prior to issuance of a building permit, all necessary permits shall be obtained, including, without limitation, any stormwater permits required by the Minnesota Pollution Control Agency.
11. The Applicant shall comply with the following conditions during construction:
  - a. Development activity shall comply with all City noise ordinances. There shall be no construction activity between the hours of 10 p.m. and 7 a.m.
  - b. Loud equipment shall be kept as far as possible from adjacent residences.
  - c. The site shall be kept free of dust and debris that could blow onto neighboring properties.
  - d. Public streets shall be maintained free of dirt and shall be cleaned as necessary.
  - e. The City shall be contacted a minimum of 72 hours prior to any work in a public street or right-of-way. Work in a public street shall take place only upon the determination by the Public Works Director that appropriate safety measures have been taken to ensure motorist and pedestrian safety.
  - f. The Zoning Administrator may impose additional conditions if it becomes necessary in order to mitigate the impact of construction on surrounding properties.
12. Prior to the issuance of any temporary or permanent occupancy permit the following shall be completed:
  - a. All exterior building improvements shall be completed.
  - b. All disturbed areas on the site shall be seeded or sodded.
13. The Applicant shall pay a park dedication fee of \$8,800 (\$1,100/lot for 8 lots). This fee will be paid at the time of plat approval. The applicant/builder will be responsible for the \$150/bedroom park dedication at the time of building permit.
14. The Applicant shall sign a consent form assenting to all conditions of this approval.
15. The Applicant shall pay an administrative fine of \$750 per violation of any condition of this approval

---

**SOURCE OF FUNDS (if applicable)**

N/A

---

**ATTACHMENTS:**

- Location Map
- Preliminary Plat
- Master Site Plan

**Resolution No. 2022-94**

**RESOLUTION APPROVING PRELIMINARY AND FINAL PLAT OF PEYTON ACRES PHASE 1C AND IMPOSING CONDITIONS ON THE FINAL PLAT**

WHEREAS, JLG Enterprises of Hermantown LLP (Applicant) has requested a final plat for Peyton Acres comprised of 8 single family lots and 2 outlots on the overall property described in Exhibit A, in an R-3 zoning district; and

WHEREAS, the Hermantown Planning and Zoning Commission recommended the approval of the preliminary and final plat following a public hearing on June 21, 2022; and

WHEREAS, upon the satisfaction of the conditions set forth herein, the final plat will satisfy the requirements of the Hermantown Zoning Code; and

WHEREAS, the City Council has duly considered this matter and believes that it is in the best interests of the City of Hermantown that the preliminary and final plat be approved, subject to certain conditions being met.

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

1. The final plat is in accordance with and conformity to the Hermantown Comprehensive Plan and Hermantown Zoning Ordinance.
2. The final plat of Peyton Acres Phase 1C is hereby approved.
3. The following conditions are imposed upon the final plat:
  - a. Final plat approval will be void if: (1) a final plat is not recorded with St. Louis County within one calendar year of preliminary plat approval; and (2) the City has not received and approved a written request for a time extension within one calendar year of final plat approval.
  - b. The title of the land underlying the plat shall be approved by the City Attorney.
  - c. Applicant shall enter into a development agreement with the City that outlines development responsibilities and provide financial securities for site improvements and utility installation which includes:
    - i. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the road and infrastructure improvements to be made at the time of approval of the Final Plat, or
    - ii. Installation of road and infrastructure facilities prior to obtaining the Final Plat for the development.
    - iii. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the stormwater facilities to be made at the time of approval of the Final Plat.
  - d. Applicant agrees to construct, at their own expense, a connection between the proposed road and Oak Ridge Drive in a manner and time to be determined via development agreement with City in the event of further subdivision of the property as generally shown on Exhibit B.

- e. Regardless of the impact on the number of approved lots, all lots will meet the minimum standards for lot area (1/2 acre) and width (100'), all other design standards of the Hermantown Zoning Ordinance, including but not limited to:
    - i. Section 1020.02.2. Frontage. The entire required frontage of each lot must abut on a street that has been officially accepted by the City of Hermantown or other governmental body with jurisdiction over such street, except as provided for flag lots and cul-de-sacs; and
    - ii. 1020.04.3. When a lot completely abuts a cul-de-sac, the required frontage may be measured at the building setback line provided that the frontage at the street line is at least 75% of the required frontage.
  - f. The applicant shall provide a plan to impact 10,000 square feet or less of wetland impacts or an application for wetland replacement plan.
  - g. The applicant shall submit and receive approval from the City Engineer of a permanent stormwater treatment plan that meets the City standards codified in Sections 1080 and 1060 of the City Code.
  - h. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with a 28' wide curb face to curb face bituminous paved road with a sidewalk on at least one side and all other Hermantown road design standards including 30 mph speed design.
  - i. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with cul-de-sacs designed to R/W width of 130' with a paved surface of 100' paved surface.
  - j. The applicant shall sign a consent form assenting to all conditions of this approval.
  - k. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.
4. The lots will be served by public water and sewer which will be constructed by the applicant. The new water and sewer main will be constructed by the applicant, reviewed and approved by the City Engineer then turned over to the City.
  5. A 5 foot wide sidewalk on one side of the roadway providing connection to Stebner Road and continuing along the proposed roadway and cul-de-sac.
  6. Prior to starting any site work, the Applicant shall hold a preconstruction meeting with the appropriate development, construction, and City representatives.
  7. Prior to issuance of a building permit:
    - a. All necessary permits shall be obtained.
  8. 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.
  9. Not conduct any on-site burning or burial of brush or other site debris on the Property.
  10. Prior to issuance of a building permit, all necessary permits shall be obtained, including, without limitation, any stormwater permits required by the Minnesota Pollution Control Agency.
  11. The Applicant shall comply with the following conditions during construction:



- a. Development activity shall comply with all City noise ordinances. There shall be no construction activity between the hours of 10 p.m. and 7 a.m.
  - b. Loud equipment shall be kept as far as possible from adjacent residences.
  - c. The site shall be kept free of dust and debris that could blow onto neighboring properties.
  - d. Public streets shall be maintained free of dirt and shall be cleaned as necessary.
  - e. The City shall be contacted a minimum of 72 hours prior to any work in a public street or right-of-way. Work in a public street shall take place only upon the determination by the Public Works Director that appropriate safety measures have been taken to ensure motorist and pedestrian safety.
  - f. The Zoning Administrator may impose additional conditions if it becomes necessary in order to mitigate the impact of construction on surrounding properties.
12. Prior to the issuance of any temporary or permanent occupancy permit the following shall be completed:
- a. All exterior building improvements shall be completed.
  - b. All disturbed areas on the site shall be have erosion control measures in place.
13. The Applicant shall pay a park dedication fee of \$8,800 (\$1,100/lot for 8 lots) in lieu of dedicated park land. This fee will be paid at the time of plat approval. The applicant/builder will be responsible for the \$150/bedroom park dedication at the time of building permit.
14. The Applicant shall sign a consent form assenting to all conditions of this approval.
15. 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 resolutions was seconded by Councilor \_\_\_\_\_ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors \_\_\_\_\_, Mayor Boucher, aye.

And the following voted in opposition thereto:

None

WHEREUPON, such resolution was declared duly passed and adopted July 18, 2022.



**EXHIBIT A**

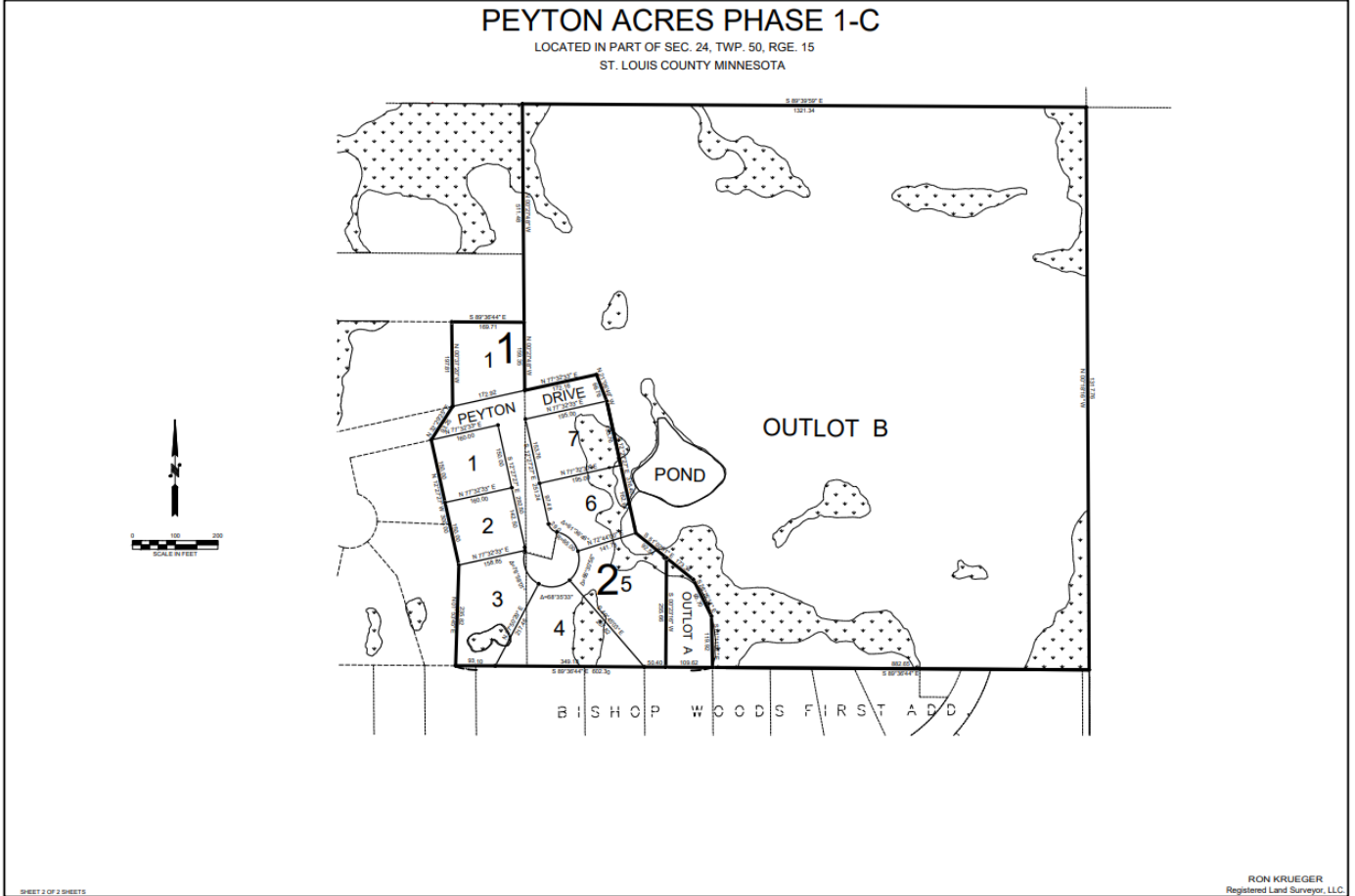
That part of Outlot B, of the recorded plat of Peyton Acres that lies within the Northeast Quarter of the Southwest Quarter of Section 24, Township 50, Range 15, St. Louis County, Minnesota.

Parcel ID: 395-0158-00080

**EXHIBIT B**

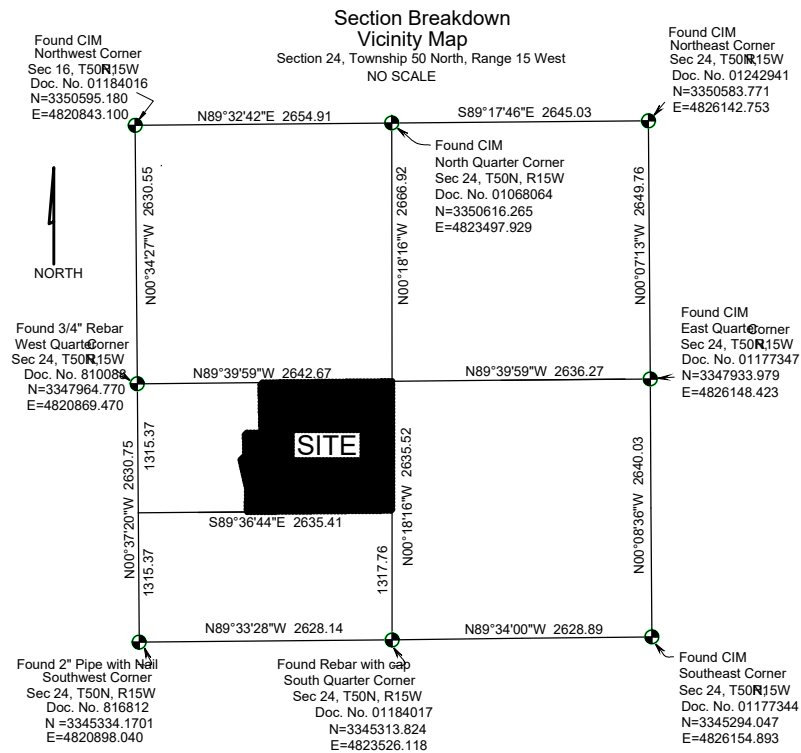
**PEYTON ACRES PHASE 1-C**

LOCATED IN PART OF SEC. 24, TWP. 50, RGE. 15  
ST. LOUIS COUNTY MINNESOTA



# PEYTON ACRES PHASE 1-C

LOCATED IN PART OF SEC. 24, TWP. 50, RGE. 15  
ST. LOUIS COUNTY MINNESOTA



**NOTE**

Bearings, Distances, and Coordinates are based on the SLCTM96 Coordinate System Assigned SLCTM96 NAD83 NSRS 2007 bearing for the West line of the SW 1/4 is N00°37'20"W

**LEGEND**

- PLAT BOUNDARY
- LOT BOUNDARY
- EXISTING PLAT LINE
- PLSS LINE
- WET LAND
- FOUND REBAR W/ CAP NO. 14374
- SET 1/2 INCH REBAR W/ CAP NO. 14374
- (MEAS) MEASURED DIMENSION
- (PLAT) PLAT DIMENSION

**KNOW ALL PERSONS BY THESE PRESENTS:**

That JLG Enterprises of Hermantown, LLP, a Minnesota Limited liability Partnership, is the owner of the following described property situated in the City of Hermantown, County of St. Louis, State of Minnesota to wit:

That part of Outlot B, Peyton Acres which lies Easterly of the following described line:

Beginning at a point on the South line of Said Outlot a distance of 592.16 feet Easterly of the Southeast corner of Lot 5, Block 1, Peyton Acres; thence North 01 degree 53 minutes 45 seconds East a distance of 235.82 feet; thence North 12 degrees 27 minutes 27 seconds West a distance of 300.00 feet; thence North 32 degrees 29 minutes 25 seconds East a distance of 93.25 feet; thence North 00 degrees 37 minutes 20 seconds West a distance of 197.81 feet to a point on the Easterly extension of the North line of Outlot A, Peyton Acres a distance of 846.54 East of the Northeast corner of said Outlot A.

Has caused the same to be surveyed and platted as PEYTON ACRES PHASE 1C and does hereby dedicate to the public for public use the public ways as created by this plat.

In witness whereof said JLG Enterprises of Hermantown, LLP, a Minnesota Limited Liability Partnership has caused these presents to be signed by its proper officers this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_

JLG Enterprises of Hermantown, LLP

By: \_\_\_\_\_  
Gary M. Gilbert, Partner

By: \_\_\_\_\_  
Jeffery L. Gilbert, Partner

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

The following instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Gary M. Gilbert, Partner of JLG Enterprises of Hermantown, LLP, a Minnesota Partnership, on behalf of the partnership.

\_\_\_\_\_  
Notary Public, St. Louis County, Minnesota  
My Commission Expires \_\_\_\_\_

The following instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Jeffery L. Gilbert, Partner of JLG Enterprises of Hermantown, LLP, a Minnesota Partnership, on behalf of the partnership

\_\_\_\_\_  
Notary Public, St. Louis County, Minnesota  
My Commission Expires \_\_\_\_\_

I Ronald L. Krueger do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data, dimensions, labels and symbols are correctly designated on this plat; that all monuments depicted on this plat have been or will be correctly set within one year; that all water boundaries and wetlands as defined in Minnesota Statutes, Section 505.021, as of the date of this certificate are shown and labeled on this plat; and that all public ways are shown and labeled on this plat.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Ronald L. Krueger, Licensed Land Surveyor  
Minnesota License No. 14374

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by Ronald L. Krueger, MN License No. 14374

\_\_\_\_\_  
Notary Public, St. Louis County, MN.  
My Commission Expires \_\_\_\_\_

CITY OF HERMANTOWN CITY COUNCIL

Approved by the City Council of the City of Hermantown, St. Louis County, Minnesota at a regular meeting thereof, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

ST. LOUIS COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, 505.021, Subd. 11, this plat has been reviewed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By Nick C. Stewart,  
County Surveyor

\_\_\_\_\_  
Deputy

ST. LOUIS COUNTY AUDITOR

Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, and to Minnesota Statutes, Section 272.12, taxes payable in the year 20\_\_ on the land hereinbefore described have been paid; there are no delinquent taxes and transfer entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Nancy Nilsen  
County Auditor

\_\_\_\_\_  
Deputy

ST. LOUIS COUNTY RECORDER

I hereby certify that this plat of PEYTON ACRES Phase 1C was filed in this office of the County Recorder for public record on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M. as Document No. \_\_\_\_\_

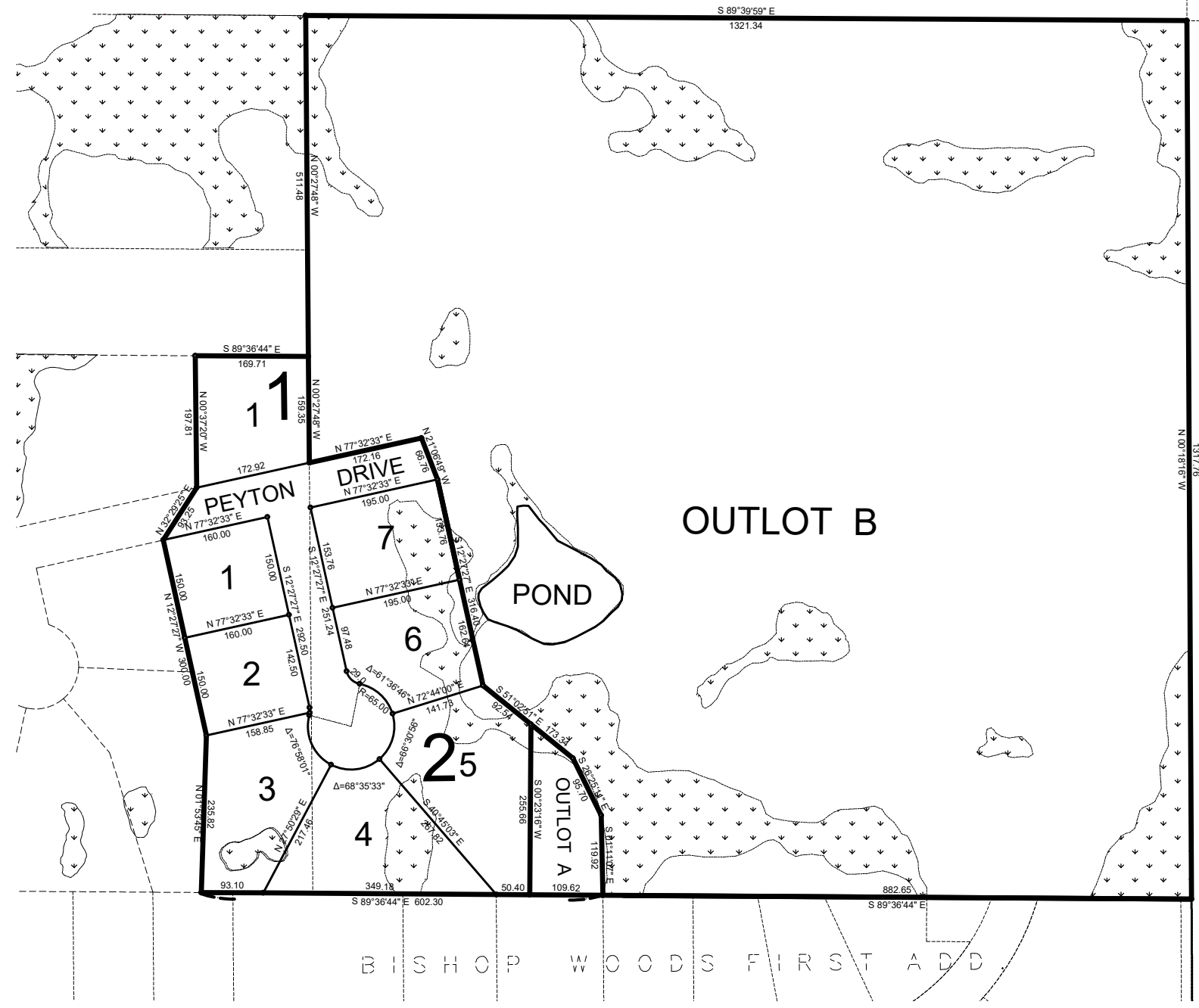
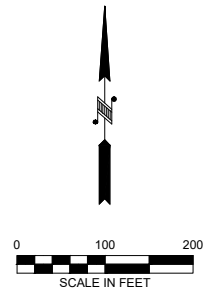
Wendy Levitt  
County Recorder

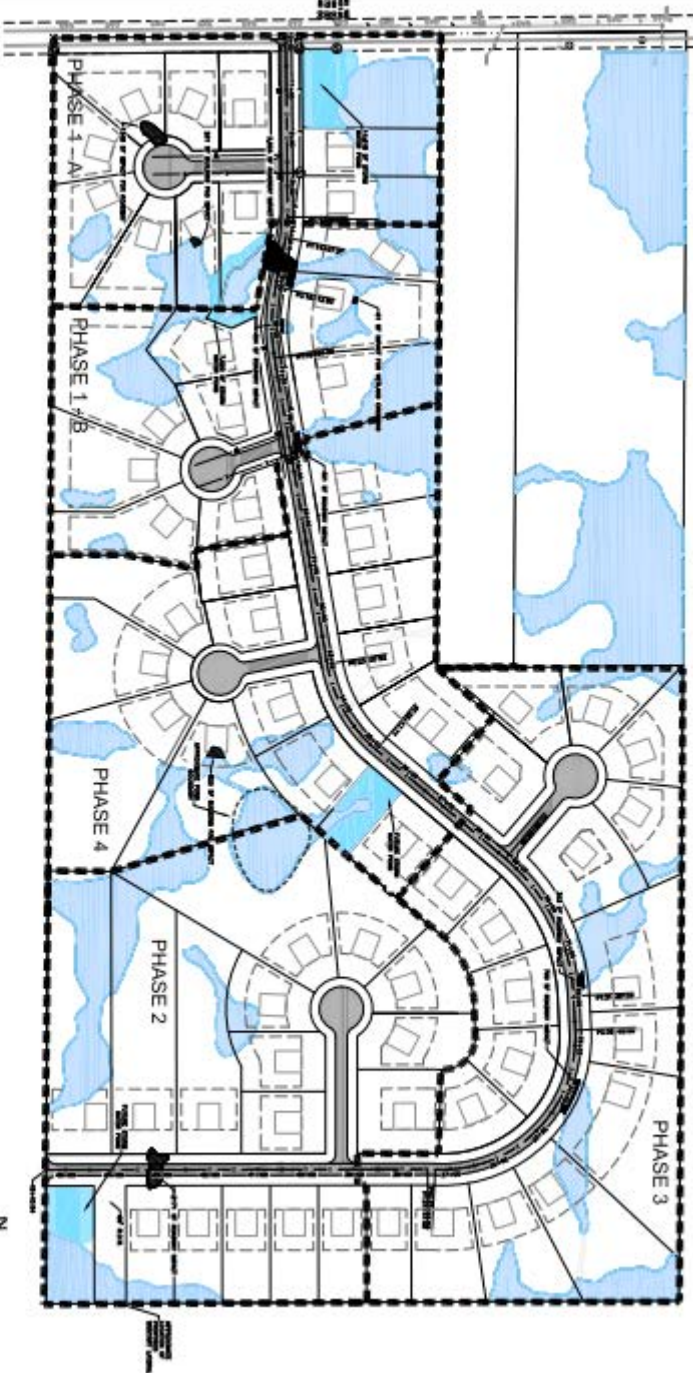
\_\_\_\_\_  
Deputy

PRELIMINARY  
SUBJECT TO REVISIONS

# PEYTON ACRES PHASE 1-C

LOCATED IN PART OF SEC. 24, TWP. 50, RGE. 15  
ST. LOUIS COUNTY MINNESOTA





**SITE LEGEND:**

PROPOSED BITUMINOUS

PROPOSED STORMWATER MANAGEMENT

PROPOSED HOUSE - 45' X 55'

EXISTING WETLANDS

WETLAND IMPACT

SETBACKS

**SITE SUMMARY:**

- APPROXIMATELY 66 BUILDABLE LOTS (HALF-ACRE LOT MINIMUM)
- 10 LOTS IN PHASE 1A
- 9,791 SF ESTIMATED WETLAND IMPACT





**Resolution No. 2022-95**

**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 1C**

WHEREAS, JLG Enterprises of Hermantown, LLP (“Developer”) owns property located within the City of Hermantown; and

WHEREAS, Developer has requested the City to approve the Final Plat Permit for the (“Project”); and

WHEREAS, the City of Hermantown desires to enter into a Development Agreement with Developer for the Project; and

WHEREAS, a Development Agreement, substantially in the form of, has been prepared and is attached hereto; and

WHEREAS, the City Council has considered this matter and believes it is in the best interest of the City to approve the Development Agreement and to authorize and direct the Mayor and City Clerk to enter into such Agreement on behalf of the City of Hermantown.

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

1. The Development Agreement attached hereto is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such Agreement on behalf of the City of Hermantown.

Councilor \_\_\_\_\_ introduced the foregoing resolution and moved its adoption.

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

Councilors \_\_\_\_\_, Mayor Boucher, aye.

and the following voted in opposition thereto:

None

WHEREUPON, such resolution was declared duly passed and adopted July 18, 2022.



**DEVELOPMENT AGREEMENT**

**BY AND BETWEEN**

**JLG ENTERPRISES OF HERMANTOWN, LLP  
("DEVELOPER")**

**AND**

**CITY OF HERMANTOWN  
("CITY")**

**Dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022**

THIS DOCUMENT WAS DRAFTED BY:

Gunnar B. Johnson  
Overom Law  
802 Garfield Avenue, Suite 101  
Duluth, Minnesota 55802  
(218) 625-8463

## DEVELOPMENT AGREEMENT

THIS AGREEMENT, made on or as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between **City of Hermantown**, (hereinafter referred to as the “City”) and **JLG Enterprises of Hermantown, LLP**, a Minnesota limited liability partnership (hereinafter referred to as the “Developer”), is in response to the following situation:

A. The Developer has requested the City to approve the plat of Peyton Acres Phase 1C (“Plat”) which is platted over the property located in St. Louis County, Minnesota legally described as follows:

See **Exhibit A** attached hereto (“Property”)

B. The City will not approve the Plat until the Developer constructs Stormwater Improvements, a City Sewer Main, a City Water Main, a Public Roadway and Sidewalk (as such terms are defined in Section 8 and which are collectively referred to as “Infrastructure Improvements”).

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

1. To pay all costs incurred by the City in connection with the initial review and consideration of the Plat, prior to the execution of the Plat and thereafter in connection with the determination of whether the conditions to the approval of the Plat or the construction of the Infrastructure Improvements have been completed in accordance with the Plans and Specifications, including, without limitation, fees incurred by the City Engineer for inspecting the construction of Infrastructure Improvements, within ten (10) days of being invoiced by the City for such costs.

2. Developer acknowledges that it is a requirement of the City that the Developer bear all costs of construction of the Infrastructure Improvements and that the Infrastructure Improvements must be constructed in accordance with Plans and Specifications approved by the City Engineer and City Public Works Director.

3. Before the Plat will be executed by the City the Developer must:

3.1 Comply with the provisions of Section 8 hereof (Infrastructure Plans and Specifications approved).

3.2 Developer shall provide a security deposit equal to 125% of the cost of construction of the Infrastructure Improvements (Sewer Main, Water Main, Public Roadway and Sidewalk) as determined by the City Engineer **unless construction is completed before the Plat is executed**. No building permits shall be granted for any Property within the Plat until the Plat is approved and recorded. The security is to be in effect until all of the Infrastructure Improvements have been constructed and the City Engineer and City Public Works Director executes a Certificate of Completion with respect to the Infrastructure Improvements attesting that they have been constructed in accordance with the Plans and Specifications.

3.3 Developer shall provide a security deposit equal to 125% of cost of construction of the Stormwater Improvements prior to the commencement of construction of the Infrastructure Improvements. This security is in addition to any security required by Section 3.2 hereof. No building permits shall be granted for any portion of the Property until an MS4 Certificate of Compliance is issued. The Stormwater Improvements are defined as the entire system utilized to collect, convey and treat stormwater. The security is to be in effect until all of the Stormwater Improvements have been constructed and the City Engineer and City Public Works Director executes a Certificate of Completion with respect to the Stormwater Improvements attesting that they have been properly constructed.

3.4 Pay City a park dedication fee of \$1,100.00 per lot in the Plat (total of \$8,800.00).

3.5 Provide the City with title evidence in form and substance acceptable to the City and the City Attorney examines or causes the title of the land underlying the Plat to be examined and the Developer completes all actions required to be taken by the City Attorney and City Engineer.

3.6 Cause the Plat dedication on the final Plat to be in form and substance acceptable to the City Attorney and City Engineer.

3.7 Provide the City with the final Plat that has duly and properly executed by all parties with an interest in the Property, as determined by the City Attorney and the signatures of such parties are duly and properly notarized.

3.8 Provide the City with the copies of the final Plat as is required under the Hermantown subdivision platting regulations.

3.9 Provide the City with an easement covering the Property on which the Stormwater Improvements will be constructed or identify an easement covering the Property on which the Stormwater Improvements will be construction on the Final Plat and convey Outlot A to the City.

3.10 City to provide written approval of the final Plat by the Community Development Director, City Attorney and City Engineer as being in compliance with the Hermantown subdivision platting.

3.11 Provide City with evidence that corrections to any deficiency noted by the County Surveyor on the Preliminary Plat have been made on the Final Plat.

3.12 Pay the City's out-of-pocket costs and expenses, including attorneys' fees and engineering fees, incurred to the date the Plat is signed.

3.13 Comply with the provisions of Section 20 hereof (Declaration of Wetland Restrictions).

4. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed sent by U.S. Certified Mail to the following name and address:

If to Developer: JLG Enterprises of Hermantown, LLP  
3850 Old Midway Road  
Hermantown, MN 55810

If to City: City of Hermantown  
5105 Maple Grove Road  
Hermantown, MN 55811  
Attn: John Mulder

With a copy to: Gunnar B. Johnson  
Overom Law  
802 Garfield Avenue  
Suite 101  
Duluth, MN 55802

5. The City Engineer shall, after consulting with the designated representatives of Developer, be the final authority in the event of any questions, ambiguities or disagreements regarding the interpretation of the Plans and Specifications or whether the construction of the Infrastructure Improvements have been completed in accordance with the Plans and Specifications.

6. Developer acknowledges and agrees that pursuant to Section 350 of the Hermantown City Code, no road or street within the city becomes a City street until it is accepted and opened by the City Council by a resolution to that effect and that the City has not accepted or opened the roads within the Plat. Developer further acknowledges and agrees that the City has no obligation and will not assume responsibility to grade, construct, improve, repair, replace, snowplow or in any way maintain or construct any road until such road has been accepted and opened pursuant to Section 350 of the Hermantown City Code. Developer further acknowledges and agrees that the City Council will not consider any resolution accepting and opening any road until Developer makes a written request of the City to accept and open the road. Such request may not be made by Developer until (i) one year after the construction of the road is determined to be fully completed in accordance with the Plans and Specifications and (ii) only if Developer has maintained and repaired the road in good condition and repair unless Developer (x) provides a written one year warranty with respect to the construction of the road that is in form and substance acceptable to the City, City Engineer and the City Attorney and (y) Developer provides security for such warranty in an amount, form and substance acceptable to the City, City Engineer and City Attorney. In the event Developer proceeds as provided in subparts (x) and (y) of this paragraph the City Council will consider a resolution accepting and opening the road at its first regular meeting after Developer makes a written request of the City to accept and open the road and the items required by subparts (x) and (y) of this paragraph are provided to the City. Likewise, Developer acknowledges and agrees that the City has no obligation to repair or replace any other Infrastructure Improvements until such Infrastructure Improvements have been determined to be fully constructed in accordance with the Plans and Specifications by the City Engineer and City Public Works Director.

7. Developer agrees that it will not make any changes to the Plans and Specifications without the prior written approval of the City Engineer and City Public Works Director.

8. Developer shall present detailed plans and specifications for the Infrastructure Improvements to the City Engineer and City Public Works Director and obtain approval of such plans and specifications by the City Engineer, City Public Works Director. Whenever the words "Plans and

Specifications” are used herein it shall mean the plans and specifications that are approved by the City Engineer and City Public Works Director. All construction work shall be completed strictly in accordance with the approved Plans and Specifications. The Plans and Specifications shall include the requirement that the final road elevation be marked prior to any building permit being issued for any construction on any lot within the Plat. For the purposes of this Development Agreement, Infrastructure Improvements means the following:

8.1. The sewer main (“Sewer Main”) and water main (“Water Main”) within the Project.

8.2. The Stormwater Improvements within the Plat and servicing the Plat.

8.3. Permanent wetland markers marking the wetlands on all residential lots within the Plat.

8.4. A 28 foot wide asphalt roadway (“Public Roadway”) with curb and gutter per the requirements of the City of Hermantown. This Public Roadway will provide access for eight lots from Stebner Road. The Public Roadway in the Plat will provide future access to Outlot B.

8.5. A 5 foot wide sidewalk (“Sidewalk”) within the Public Roadway providing a connection to Stebner Road and continuing along the east side of the proposed cul-de-sac within the Plat.

9. Before the commencement of any work on any Infrastructure Improvements, Developer, Developer’s Contractor and Developer’s Engineer shall meet with the City Engineer and City Public Works Director to determine guidelines to insure that work is subject to appropriate testing and inspection before any portion of the work is covered or further work is done. Developer and Developer’s Contractor may be limited, as a result of this discussion, as to work that may be done outside of regular working hours unless prior arrangements are made for inspection and testing to be done at such times and appropriate payment arrangements are made.

10. Developer acknowledges that the City Engineer may require independent testing of the work done on the Infrastructure Improvements prior to its determining that the work has been completed in accordance with the Plans and Specifications. Developer further understands and acknowledges that Developer shall be responsible for paying the costs incurred in connection with any such testing.

11. The City Engineer will execute and deliver the Certificate of Substantial Completion (Sewer Main, Water Main, Public Roadway and Sidewalk) in the form attached hereto as Exhibit B to the City only upon the completion of the Infrastructure Improvements and the City Engineer will execute and deliver a Certificate of Final Completion in the form attached hereto as Exhibit C to the City only upon the final completion of the Infrastructure Improvements required to be constructed by Developer.

12. Developer acknowledges and agrees that no zoning permits and no building permits will be issued for any construction within the Plat until the City Engineer executes the Certificate of Substantial Completion (Sewer Main, Water Main, Public Roadway and Sidewalk) in form of the one attached hereto as Exhibit B and/or the security required by Section 3.2 and Section 3.3 has been provided to City for such items and an MS4 Certificate of Compliance has been issued for the

Stormwater Improvements and/or the security required by Section 3.3 has been provided to the City for the Stormwater Improvements.

13. Notwithstanding anything to the contrary contained herein Developer agrees that all of the Infrastructure Improvements will be fully completed in accordance with the Plans and Specifications no later than October 15, 2023.

14. Any security provided by Developer to City pursuant to Section 3.2 hereof shall be released upon final completion of the Infrastructure Improvements and a Certificate of Final Completion is issued by the City Engineer for such work and the record drawings for the Infrastructure Improvements on paper and electronically in auto-cad format and PDF format are provided to the City pursuant to Section 16 hereof. The City will not release any security provided to it hereunder until the required record drawings and copies of the Plat required by Section 16 and GPS data points required by Section 17 have been provided to the City. Any security provided by Developer to City pursuant to Section 3.3 hereof shall be released upon the issuance of a MS4 Certificate of Compliance and all work on the Stormwater Improvements is complete.

15. Developer agrees that the City may exercise its rights under any security provided to it hereunder if Developer shall fail to perform any obligation required to be performed by Developer hereunder and such failure shall continue for a period of ten (10) days after written notice of such failure has been given by City to the Developer.

16. Developer will provide record drawings for the Infrastructure Improvements constructed by it pursuant to this Agreement on paper and electronically in auto-cad format and PDF format before October 15, 2023. Developer will also provide City with an electronic copy of the recorded Plat.

17. Developer will provide the GPS data points for the wetland boundaries on all lots within the Plat and for the permanent wetland markers required to be installed by Developer pursuant to Section 8.3 hereof before a Certificate of Final Completion will be issued. Developer, on its behalf and on behalf of its successors and assigns, further grants City access to the Property and any lot on the Property for purposes of checking the wetland boundaries and permanent wetland markers.

18. Upon the issuance of a Certificate of Final Completion by the City Engineer for the Infrastructure Improvements the City shall become the owner of the Infrastructure Improvements covered by such Certificate of Final Completion. Upon the issuance of a Certificate of Final Completion by the City Engineer for the Public Roadway and Sidewalk and the satisfaction of the provisions of Section 6 of this agreement the City shall become the owner of the Public Roadway and Sidewalk covered by such Certificate of Final Completion. Upon the issuance of an MS4 Certificate of Compliance for the Stormwater Improvements pursuant to Section 3.3, the City shall become the owner of the Stormwater Improvements.

19. Developer will provide or cause to be provided separate water and sewer services to each dwelling unit in the Plat and:

19.1 Provide the plans and specifications for the construction of the water and sewer service lines within the Plan for the City's review and approval prior to commencing construction of such water and sewer service lines.



19.2 Provide the City with a map/plan on paper and electronically in auto cad format and PDF format showing the location of water and sewer service lines. Information is to be in a coordinate system so that it can be imported into the City's GIS system.

19.3 Install a locating wire or equally effective means of marking the location of each non-conductive water or sewer service lines.

19.4 All individual dwelling units within the Plat shall be connected directly to the Sewer Main and Water Main.

The City will not issue a Certificate of Occupancy for any dwelling until the requirements of this Section 19 have been satisfied with respect to such dwelling.

20. Developer will execute and deliver to City for recording with the real estate records the Declaration of Wetland Restrictions in the form of the one attached hereto as Exhibit 20. Neither Developer nor its successors or assigns shall modify or disturb the wetland areas or Stormwater Improvements within the Plat without the prior written approval of the City. The owner of each lot within the Plat shall be responsible for the preservation and maintenance of the wetland areas located on such owner's lot. Developer, for itself and its heirs and assigns, grants City access to the Property and every lot on the Plat for the purpose of determining compliance with this provision.

21. Developer acknowledges that City intends to provide a letter, substantially in the form of the one attached hereto as Exhibit 21 to each party who requests utility service from the City at any time with regard to lots within the Plat.

22. City is hereby granted access across the Property and all individual lots within the Plat at any time to repair, maintain and restore the Stormwater Improvements and wetland areas on any of the Property and to check the location of the wetland boundaries and permanent wetland markers on the Property and any lot on the Plat.

23. In the event that the City is required to repair, restore or modify the wetland areas, permanent wetland markers or Stormwater Improvements as a result of actions by the Developer or its successors or assigns, then the City may assess the costs of such repairs, restoration or modifications against the Property or any part of the Property pursuant to Chapter 429 of the Minnesota Statutes or the City may declare that the portion of the Property upon which such wetland or Stormwater Improvements are located to be a hazardous property within the meaning Minnesota Statutes §463.15, it being agreed to and acknowledged by Developer that a failure to adequately maintain or unremediated damage to a wetland or Stormwater Improvements constitutes a hazard to public safety or health.

24. The Developer further agrees that nothing in this Agreement constitutes any approval of any other licenses or permits or approvals required to be obtained under applicable law, rule, regulation or ordinance before any construction can take place on the Property. Examples of permits and approvals that are not approved by this Agreement are building permits, water and sewer connection approvals (which require payments for connection fees to the City and a CAF payment to WLSSD).

25. During construction, Developer agrees:

25.1 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; and

25.2 Not conduct any on-site burning or burial of brush or other site debris on the Property.

25.3 Construction activity shall comply with all City noise ordinances. There shall be no construction activity between the hours of 10:00 p.m. and 7:00 a.m.; and

25.4 The site shall be kept free of dust and debris that could blow onto neighboring properties; and

25.5 Public streets shall be maintained free of dirt and shall be cleaned as necessary; and

25.6 The City shall be contacted a minimum of 72 hours prior to any work in a public street. Any required construction or excavation permits for construction shall be obtained before work commences. Work in a public street shall take place only upon the determination by the Public Works Superintendent that appropriate safety measures have been taken to ensure motorist and pedestrian safety; and

25.7 The Community Development Director may impose additional conditions if it becomes necessary in order to mitigate the impact of construction on surrounding properties.

26. The provisions of Section 12 of Resolution No. 2022-XX, a Resolution Approving Final Plat of Peyton Acres Phase IC and Imposing Conditions on the Final Plat are hereby determined to be not applicable to this Plat.

**[SIGNATURES APPEAR ON NEXT PAGE]**





**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE LAND**

That part of Outlot B, of the recorded plat of Peyton Acres that lies within the Northeast Quarter of the Southwest Quarter of Section 24, Township 50, Range 15, St. Louis County, Minnesota.

Parcel ID: 395-0158-00080

**EXHIBIT B**  
**CERTIFICATE OF SUBSTANTIAL COMPLETION**  
**SEWER MAIN, WATER MAIN, PUBLIC ROADWAY AND SIDEWALK**

Date of Issuance: \_\_\_\_\_, 20\_\_

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

JLG Enterprises of Hermantown, LLP, (hereinafter the "Developer") entered into a Development Agreement (hereinafter referred to as "Development Agreement") with the City of Hermantown, a statutory city under the laws of the State of Minnesota, (hereinafter the "City"), with respect to a development to be constructed by Developer in the City.

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

1. The construction of the Sewer Main, Water Main, Roadway and Sidewalk as defined in the Development Agreement have been fully completed in accordance with the Plans and Specifications. The date of substantial completion is hereby established as of \_\_\_\_\_.
2. All capitalized terms when used herein shall have the meaning given them in the Development Agreement.

\_\_\_\_\_  
Name of Developer's Contractor

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

The undersigned, the City Engineer, based on the foregoing Certificate and such other testing and inspections as it deemed necessary hereby certifies that the construction of the Sewer Main, Water Main, Roadway and Sidewalk defined in the Development Agreement other than the items described on Addendum No. 1 attached hereto strictly in accordance with the Plans and Specifications and the Road as defined in the Development Agreement have been substantially completed in accordance with the Plans and Specification and the terms of the Development Agreement.

Dated \_\_\_\_\_

**Northland Consulting Engineers. L.L.P.**

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

**ADDENDUM NO. 1**

**COMPLETION ITEMS**

The following are items required to be completed for the Sewer Main, Water Main, Public Roadway and Sidewalk:

**EXHIBIT C**  
**CERTIFICATE OF FINAL COMPLETION**

Date of Issuance: \_\_\_\_\_, 2023

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

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

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

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

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

3. That the following have been satisfied:

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

3.2. The Stormwater Improvements have been completed in accordance with the MS4 Certificate of Compliance.

3.3. The provisions of Section 3.11 of this Agreement with respect to the payment of fees have been satisfied.

3.4. Developer is not in default under this Agreement.

3.5. All wetland work has been completed in accordance with any permits or approvals for such work.

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

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

3.8. Developer has provided record drawings for the Infrastructure Improvements constructed by it pursuant to this Agreement on paper and electronically in auto-cad format



and PDF format. Developer has also provided City with an electronic copy of the recorded Plat.

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

3.10. Developer has provided City with a Declaration of Wetland Restrictions required by Section 20 of the Development Agreement acceptable to the City in recordable form.

3.11. Developer has complied with the provisions of Section 3.9 of the Development Agreement with regard to the Stormwater Improvements.

**JLG ENTERPRISES OF HERMANTOWN, LLP**

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

\_\_\_\_\_  
**Developer's Engineer:**  
\_\_\_\_\_

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

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

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

**Northland Consulting Engineers, LLP**

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

**EXHIBIT 20**

**DECLARATION OF WETLAND RESTRICTIONS**

**JLG Enterprises of Hermantown, LLP**, a limited liability partnership organized under the laws of the State of Minnesota, (“Developer”) hereby certifies and declares that Lot \_\_\_\_\_, Block \_\_\_\_\_ Peyton Acres (“Property”) is subject to the restrictions contained within that certain Development Agreement between Developer and the City of Hermantown dated \_\_\_\_\_, 2022 and recorded the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ as Document No. \_\_\_\_\_ with the \_\_\_\_\_ of St. Louis County, Minnesota. Such restrictions include, but are not limited to, the following:

1. The permanent wetland markers installed on the Property may not be removed or disturbed in any manner. The wetland areas on the Property may not be disturbed in any manner.
2. The City may enter upon the Property to repair, maintain and correct any disturbances to the wetland areas on the Property.
3. If the owner of the Property fails to maintain the wetland areas or modifies or disturbs the wetland areas, then the City may assess the cost of repairing or restoring the wetland areas against the Property pursuant to the provisions of Chapter 429 of the Minnesota Statutes or it may declare such failure or such modification or disturbance to be a hazard to public safety or health and proceed to take actions which are permissible under Minnesota Statutes §463.15, et. seq., to enjoin or abate the hazard and collect the costs thereof as provided for in such statutes.
4. This Declaration shall run with the land and be binding on Developer and its successors and assigns.

**[SIGNATURE APPEARS ON NEXT PAGE]**



**EXHIBIT 21**

[TO BE PLACED ON CITY'S LETTERHEAD]

«Date»

«Name»

«AddressBlock»

«AddressBlock»

Dear \_\_\_\_\_:

Thank you for becoming a utility customer of the City of Hermantown.

We want to let you know that the City of Hermantown prides itself on being environmentally friendly. In furtherance of this, the City has required wetland areas on and adjacent to your property to be marked. These markers have to stay in place and the wetlands marked by the markers need to remain undisturbed.

Further detail regarding the wetlands are set for the in the Declaration of Wetland Restrictions that is enclosed and that has also been recorded with your property title.

Also, please feel free to call City Hall at any time if you have any questions.

Sincerely,

\_\_\_\_\_

Enclosure



**Resolution No. 2022-96**

**RESOLUTION APPROVING ST. LOUIS COUNTY'S SAP NO. 069-69-033 CP NO. 0091-401108  
COUNTY STATE-AID HIGHWAY NO. 91 (HAINES) WITHIN THE CITY OF HERMANTOWN  
CORPORATE LIMITS**

WHEREAS, St. Louis County's plans for S.A.P. NO. 069-656-020 CP NO. 0056-493050 showing proposed road improvement of County State-Aid Highway No. 91 (Haines Road) within the limits of the City of Hermantown as a State Aid Project have been prepared and presented to the City; and

WHEREAS, the project to be completed in 2023 will mill the bituminous surface, make ADA pedestrian improvements, repair curb and gutter in certain areas, and change the lane configurations on Haines Road.

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

1. St. Louis County's preliminary plans of SAP NO. 069-69-033 CP NO. 0091-401108 have been in all things approved by the City of Hermantown.

Councilor \_\_\_\_\_ introduced the foregoing resolution and moved its adoption.

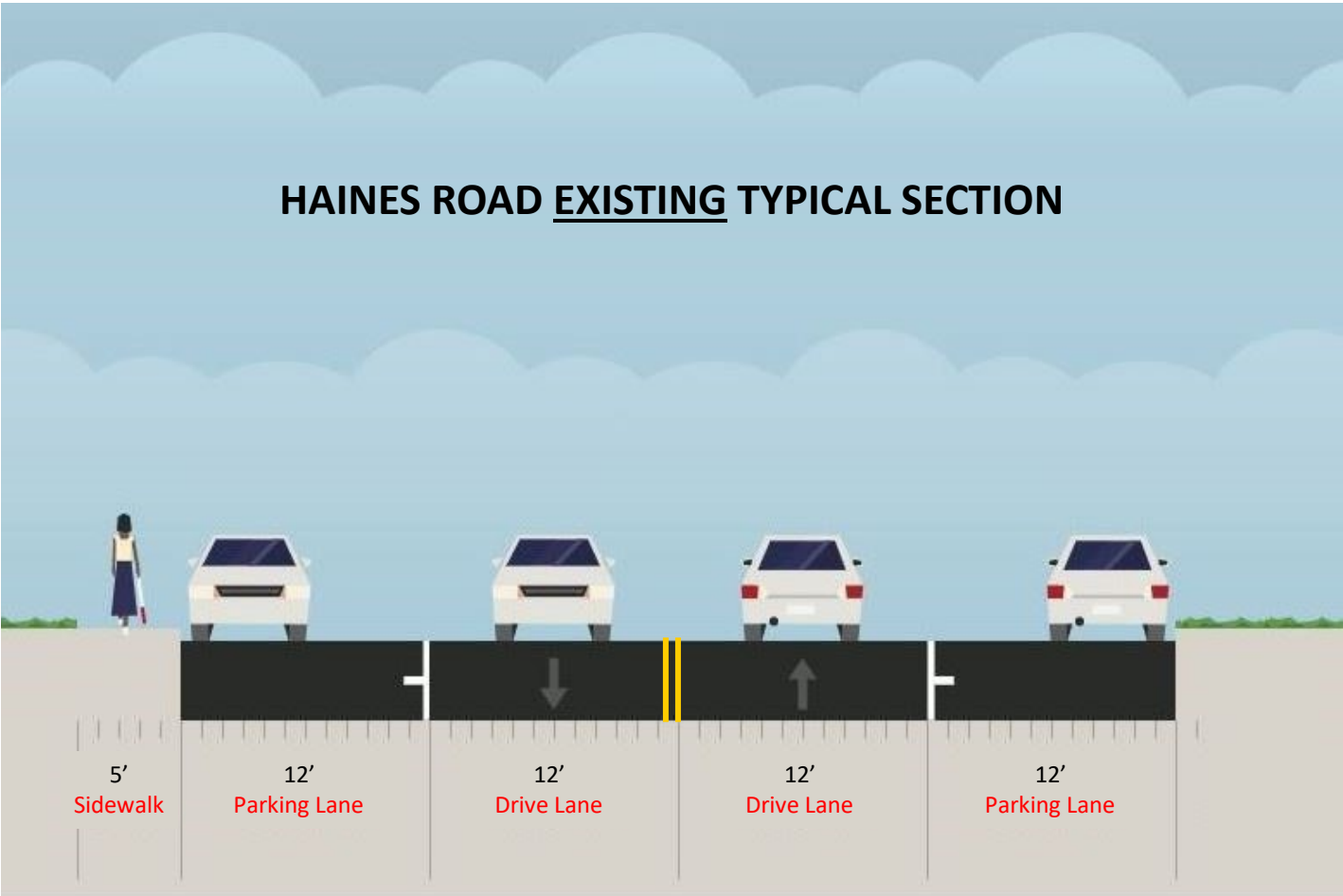
The motion for the adoption of such resolution was seconded by Councilor \_\_\_\_\_ and, upon a vote being taken thereon, the following voted in favor thereof:

Councilors, \_\_\_\_\_ aye.

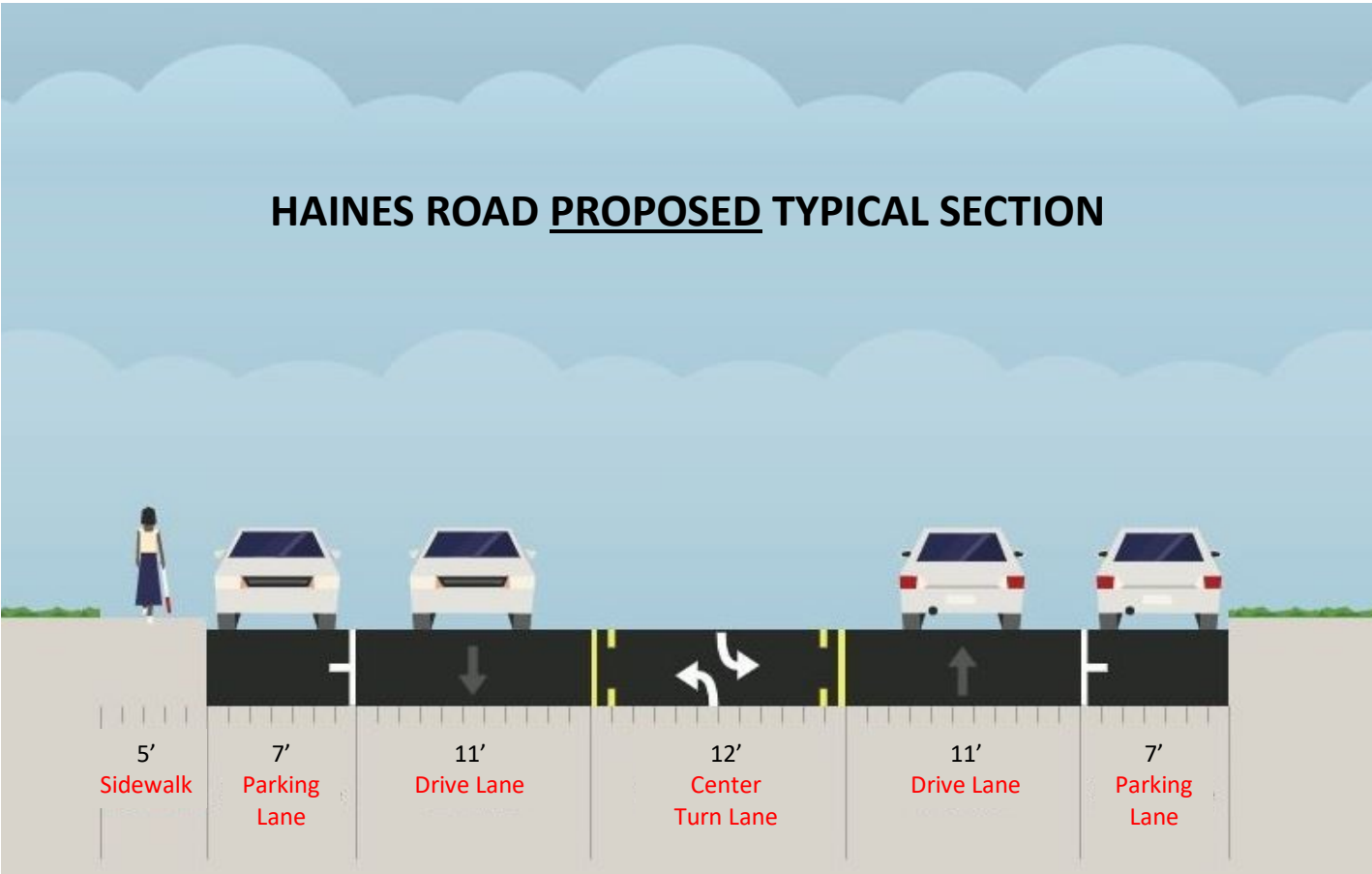
and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted July 18, 2022.

# HAINES ROAD EXISTING TYPICAL SECTION



# HAINES ROAD PROPOSED TYPICAL SECTION



**TO:** Mayor & City Council  
**FROM:** John Mulder, City Administrator  
**DATE:** July 13, 2022  
**SUBJECT:** Organizational Review



**Meeting Date:** 7/18/2022  
**Agenda Item:** 12-E  
**Resolution:** 2022-97

---

## REQUESTED ACTION

Approve proposal from Baker Tilly to complete an organizational review.

---

## BACKGROUND

Since at least 2018, the City Council has discussed staffing levels in City Hall portion of the building. We have discussed several different options including an Assistant City Administrator and a Utility and Infrastructure Manager. We have discussed the need for a pro-active economic development approach, the need for greater depth for those instances when staff is out or need to be away for vacation. We have taken on numerous big projects (Essentia Wellness Center, New Fire Halls, Broadband Taskforce, and now the Community Recreation Initiative, etc.) and new programs (Stormwater Utility, Road Improvement Program, long term financial planning, etc). Further, we have significant turnover and the loss of intuitional memory over the past three years. This has caused us to re-think and re-learn many of the basic work functions in City Hall. While this can be a good thing, it does require more time.

I have asked Baker Tilly, (they currently serve as our compensation consultant, so they have a basic understanding or our organization) for a proposal to review our current Administrative workload and organization with the hope of finding a model to deal with this increase demand and limited resources.

It is anticipated that this review will cost approximately \$21,000

---

## SOURCE OF FUNDS (if applicable)

601-494900-319 Water

602-494900-319 Sewer

Savings from not filling a current position will cover the cost of the review

Will require a budget amendment.

---

## ATTACHMENTS

Baker Tilly Proposal





Date: July 11, 2022

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

RE: Engagement Letter Agreement Related to Services for an Organizational Management Study

This letter agreement (the "Engagement Letter") is to confirm our understanding of the basis upon which Baker Tilly US, LLP ("Baker Tilly") and its affiliates are being engaged by the City of Hermantown, Minnesota (the "Client") to assist the Client with advisory services.

### **Scope, Objectives and Approach**

It is anticipated that projects undertaken in accordance with this Engagement Letter will be at the request of the Client. The scope of services, additional terms and associated fee for individual engagements will be contained in a Scope Appendix or Appendices to this Engagement Letter. Authorization to provide services will commence upon execution and return of this Engagement Letter and one or more Appendices.

### **Management's Responsibilities**

It is understood that Baker Tilly will serve in an advisory capacity with the Client. The Client is responsible for management decisions and functions, and for designating an individual with suitable skill, knowledge or experience to oversee the services we provide. The Client is responsible for evaluating the adequacy and results of the services performed and accepting responsibility for such services. The Client is responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

The procedures we perform in our engagement will be heavily influenced by the representations that we receive from Client personnel. Accordingly, false representations could cause material errors to go undetected. The Client, therefore, agrees that Baker Tilly will have no liability in connection with claims based upon our failure to detect material errors resulting from false representations made to us by any Client personnel and our failure to provide an acceptable level of service due to those false representations.

The ability to provide service according to timelines established and at fees indicated will rely in part on receiving timely responses from the Client. The Client will provide information and responses to deliverables within the timeframes established in a Scope Appendix unless subsequently agreed otherwise in writing.

The responsibility for auditing the records of the Client rests with the Client's separately retained auditor and the work performed by Baker Tilly shall not include an audit or review of the records or the expression of an opinion on financial data.

## **Ownership of Intellectual Property**

Unless otherwise stated in a specific Scope Appendix, subject to Baker Tilly's rights in Baker Tilly's Knowledge (as defined below), Client shall own all intellectual property rights in the deliverables developed under the applicable Scope Appendix or Appendices ("Deliverables"). Notwithstanding the foregoing, Baker Tilly will maintain all ownership right, title and interest to all Baker Tilly's Knowledge. For purposes of this Agreement "Baker Tilly's Knowledge" means Baker Tilly's proprietary programs, modules, products, inventions, designs, data, or other information, including all copyright, patent, trademark and other intellectual property rights related thereto, that are (1) owned or developed by Baker Tilly prior to the Effective Date of this Agreement or the applicable Scope Appendix or Appendices ("Baker Tilly's Preexisting Knowledge") (2) developed or obtained by Baker Tilly after the Effective Date, that are reusable from client to client and project to project, where Client has not paid for such development; and (3) extensions, enhancements, or modifications of Baker Tilly's Preexisting Knowledge which do not include or incorporate Client's confidential information. To the extent that any Baker Tilly Knowledge is incorporated into the Deliverables, Baker Tilly grants to Client a non-exclusive, paid up, perpetual royalty-free worldwide license to use such Baker Tilly Knowledge in connection with the Deliverables, and for no other purpose without the prior written consent of Baker Tilly. Additionally, Baker Tilly may maintain copies of its work papers for a period of time and for use in a manner sufficient to satisfy any applicable legal or regulatory requirements for records retention.

## **Timing and Fees**

Specific services will commence upon execution and return of a Scope Appendix to this Engagement Letter and our professional fees will be based on the rates outlined in such Scope Appendix.

Unless otherwise stated, in addition to the fees described in a Scope Appendix the Client will pay all of Baker Tilly's reasonable out-of-pocket expenses incurred in connection with the engagement. All out of pocket costs will be passed through at cost and will be in addition to the professional fee.

## **Dispute Resolution**

Except for disputes related to confidentiality or intellectual property rights, all disputes and controversies between the parties hereto of every kind and nature arising out of or in connection with this Engagement Letter or the applicable Scope Appendix or Appendices as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement, operation, breach, continuation, or termination of this Agreement or the applicable Scope Appendix or Appendices as shall be resolved as set forth in this section using the following procedure: In the unlikely event that differences concerning the services or fees provided by Baker Tilly should arise that are not resolved by mutual agreement, both parties agree to attempt in good faith to settle the dispute by engaging in mediation administered by the American Arbitration Association under its mediation rules for professional accounting and related services disputes before resorting to litigation or any other dispute resolution procedure. Each party shall bear their own expenses from mediation and the fees and expenses of the mediator shall be shared equally by the parties. If the dispute is not resolved by mediation, then the parties agree to expressly waive trial by jury in any judicial proceeding involving directly or indirectly, any matter (whether sounding in tort, contract, or otherwise) in any way arising out of, related to, or connected with this Agreement or the applicable Scope Appendix or Appendices as or the relationship of the parties established hereunder.

Because a breach of any the provisions of this Engagement Letter or the applicable Scope Appendix or Appendices as concerning confidentiality or intellectual property rights will irreparably harm the non-breaching party, Client and Baker Tilly agree that if a party breaches any of its obligations thereunder, the non-breaching party shall, without limiting its other rights or remedies, be entitled to seek equitable relief (including, but not limited to, injunctive relief) to enforce its rights thereunder, including without limitation protection of its proprietary rights. The parties agree that the parties need not invoke the mediation procedures set forth in this section in order to seek injunctive or declaratory relief.

## **Limitation on Damages**

To the extent allowed under applicable law, the aggregate liability (including attorney's fees and all other costs) of either party and its present or former partners, principals, agents or employees to the other party related to the services performed under an applicable Scope Appendix or Appendices shall not exceed the fees paid to Baker Tilly under the applicable Scope Appendix or Appendices to which the claim relates, except to the extent finally determined to have resulted from the gross negligence, willful misconduct or fraudulent behavior of the at-fault party. Additionally, in no event shall either party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary or punitive damages, delays or interruptions arising out of or related to this Engagement Letter or the applicable Scope Appendix or Appendices as even if the other party has been advised of the possibility of such damages.

Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Engagement Letter are material bargained for bases of this Engagement Letter and that they have been taken into account and reflected in determining the consideration to be given by each party under this Engagement Letter and in the decision by each party to enter into this Engagement Letter.

The terms of this section shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort or any form of negligence, whether of you, Baker Tilly or others), but these terms shall not apply to the extent finally determined to be contrary to the applicable law or regulation. These terms shall also continue to apply after any termination of this Engagement Letter.

You accept and acknowledge that any legal proceedings arising from or in conjunction with the services provided under this Engagement Letter must be commenced within twelve (12) months after the performance of the services for which the action is brought, without consideration as to the time of discovery of any claim.

## **Other Matters**

### E-Verify Program

Baker Tilly participates in the E-Verify program. For the purpose of this paragraph, the E-Verify program means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s.401(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603). Baker Tilly does not employ any "unauthorized aliens" as that term is defined in 8 U.S.C. 1324a(h)(3).

### Investments

Baker Tilly certifies that pursuant to Indiana Code 5-22-16.5 *et seq.* Baker Tilly is not now engaged in investment activities in Iran. Baker Tilly understands that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14.

### Non-Discrimination

Pursuant to Indiana Code §22-9-1-10, Baker Tilly and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Engagement Letter, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, religion, color, sex, disability, national origin, ancestry, or veteran status. Breach of this covenant may be regarded as a material breach of this Engagement Letter.

Baker Tilly certifies that, except for de minimis and non-systematic violations, it has not violated the terms of I.C. 24-4.7, I.C. 24-5-12, or I.C. 24-5-14 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and that Baker Tilly will not violate the terms of I.C. 24-4.7 for the duration of the Engagement Letter, even if I.C. 24-4.7 is preempted by federal law. Baker Tilly further certifies that any affiliate or principal of Baker Tilly and any agent acting on behalf of Baker Tilly or on behalf of any affiliate or principal of Baker Tilly, except for de minimis and non-systematic violations, has not violated the terms of I.C. 24-4.7 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and will not violate the terms of I.C. 24-4.7 for the duration of the Engagement Letter, even if I.C. 24-4.7 is preempted by federal law.

In the event Baker Tilly is requested by the Client; or required by government regulation, subpoena, or other legal process to produce our engagement working papers or its personnel as witnesses with respect to its Services rendered for the Client, so long as Baker Tilly is not a party to the proceeding in which the information is sought, Client will reimburse Baker Tilly for its professional time and expenses, as well as the fees and legal expenses incurred in responding to such a request.

Neither this Engagement Letter, any claim, nor any rights or licenses granted hereunder may be assigned, delegated, or subcontracted by either party without the 'written consent of the other party. Either party may assign and transfer this Engagement Letter to any successor that acquires all or substantially all of the business or assets of such party by way of merger, consolidation, other business reorganization, or the sale of interest or assets, provided that the party notifies the other party in writing of such assignment and the successor agrees in writing to be bound by the terms and conditions of this Engagement Letter.

In the event that any provision of this Engagement Letter or statement of work contained in a Scope Appendix hereto is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Engagement Letter or statement of work did not contain the particular provisions held to be unenforceable. The unenforceable provisions shall be replaced by mutually acceptable provisions which, being valid, legal and enforceable, come closest to the intention of the parties underlying the invalid or unenforceable provision. If the Services should become subject to the independence rules of the U.S. Securities and Exchange Commission with respect to Client, such that any provision of this Engagement Letter would impair Baker Tilly's independence under its rules, such provision(s) shall be of no effect.

### **Termination**

Both the Client and Baker Tilly have the right to terminate this Engagement Letter or any work being done under an individual Scope Appendix at any time after reasonable advance written notice. On termination, all fees and charges incurred prior to termination shall be paid promptly. Unless otherwise agreed to by the Client and Baker Tilly, the scope of services provided in a Scope Appendix will terminate 60 days after completion of the services in such Appendix.

### **Important Disclosures**

Incorporated as Attachment A and part of this Engagement Letter are important disclosures. These include disclosures that apply generally and those that are applicable in the event Baker Tilly is engaged to provide municipal advisory services.

This Engagement Letter, including the attached Disclosures as updated from time to time, comprises the complete and exclusive statement of the agreement between the parties, superseding all proposals, oral or written, and all other communications between the parties. Both parties acknowledge that work performed pursuant to the Engagement Letter will be done through Scope Appendices executed and made a part of this document.

Any rights and duties of the parties that by their nature extend beyond the expiration or termination of this Engagement Letter shall survive the expiration or termination of this Engagement Letter or any statement of work contained in a Scope Appendix hereto.

If this Engagement Letter is acceptable, please sign below and return one copy to us for our files.

Sincerely,



Nicholas R. Dragisich  
Managing Director

**Signature Section:**

The terms as set forth in this Engagement Letter are agreed to on behalf of the Client by:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

## **Attachment A Important Disclosures**

### Non-Exclusive Services

Client acknowledges and agrees that Baker Tilly, including but not limited to Baker Tilly US, LLP, Baker Tilly Municipal Advisors, LLC, Baker Tilly Capital, LLC, and Baker Tilly Investment Services, LLC, is free to render municipal advisory and other services to the Client or others and that Baker Tilly does not make its services available exclusively to the Client.

### Affiliated Entities

Baker Tilly US, LLP is an independent member of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity and each describes itself as such. Baker Tilly US, LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly US, LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

Baker Tilly Investment Services, LLC ("BTIS"), a U.S. Securities and Exchange Commission ("SEC") registered investment adviser, may provide services to the Client in connection with the investment of proceeds from an issuance of securities. In such instances, services will be provided under a separate engagement, for an additional fee. Notwithstanding the foregoing, Baker Tilly may act as solicitor for and recommend the use of BTIS, but the Client shall be under no obligation to retain BTIS or to otherwise utilize BTIS relative to Client's investments. The fees paid with respect to investment services are typically based in part on the size of the issuance proceeds and Baker Tilly may have incentive to recommend larger financings than would be in the Client's best interest. Baker Tilly will manage and mitigate this potential conflict of interest by this disclosure of the affiliated entity's relationship, a Solicitation Disclosure Statement when Client retains BTIS's services and adherence to Baker Tilly's fiduciary duty and/or fair dealing obligations to the Client.

Baker Tilly Capital, LLC ("BTC") Baker Tilly Capital, LLC ("BTC") is a limited service broker-dealer specializing in merger and acquisition, capital sourcing, project finance and corporate finance advisory services. BTC does not participate in any municipal offerings advised on by its affiliate Baker Tilly Municipal Advisors. Any services provided to Client by BTC would be done so under a separate engagement for an additional fee.

Baker Tilly Municipal Advisors ("BTMA") is registered as a "municipal advisor" pursuant to Section 15B of the Securities Exchange Act and rules and regulations adopted by the SEC and the Municipal Securities Rulemaking Board ("MSRB"). As such, BTMA may provide certain specific municipal advisory services to the Client. BTMA is neither a placement agent to the Client nor a broker/dealer. The offer and sale of any Bonds is made by the Client, in the sole discretion of the Client, and under its control and supervision. The Client acknowledges that BTMA does not undertake to sell or attempt to sell bonds or other debt obligations and will not take part in the sale thereof.

Baker Tilly, may provide services to the Client in connection with human resources consulting, including, but not limited to, executive recruitment, talent management and community survey services. In such instances, services will be provided under a separate scope of work for an additional fee. Certain executives of the Client may have been hired after the services of Baker Tilly were utilized and may make decisions about whether to engage other services of Baker Tilly or its subsidiaries. Notwithstanding the foregoing, Baker Tilly may recommend the use of Baker Tilly or a subsidiary, but the Client shall be under no obligation to retain Baker Tilly or a subsidiary or to otherwise utilize either relative to the Client's activities.

## Conflict Disclosure Applicable to Municipal Advisory Services Provided by BTMA

*Legal or Disciplinary Disclosure.* BTMA is required to disclose to the SEC information regarding criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation involving BTMA. Pursuant to MSRB Rule G-42, BTMA is required to disclose any legal or disciplinary event that is material to the Client's evaluation of BTMA or the integrity of its management or advisory personnel.

There are no criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations or civil litigation involving BTMA. Copies of BTMA filings with the SEC can currently be found by accessing the SEC's EDGAR system Company Search Page which is currently available at <https://www.sec.gov/edgar/searchedgar/companysearch.html> and searching for either Baker Tilly Municipal Advisors, LLC or for our CIK number which is 0001616995. The MSRB has made available on its website ([www.msrb.org](http://www.msrb.org)) a municipal advisory client brochure that describes the protections that may be provided by MSRB rules and how to file a complaint with the appropriate regulatory authority.

*Contingent Fee.* The fees to be paid by the Client to BTMA are or may be based on the size of the transaction and partially contingent on the successful closing of the transaction. Although this form of compensation may be customary in the municipal securities market, it presents a conflict because BTMA may have an incentive to recommend unnecessary financings, larger financings or financings that are disadvantageous to the Client. For example, when facts or circumstances arise that could cause a financing or other transaction to be delayed or fail to close, BTMA may have an incentive to discourage a full consideration of such facts and circumstances, or to discourage consideration of alternatives that may result in the cancellation of the financing or other transaction.

*Hourly Fee Arrangements.* Under an hourly fee form of compensation, BTMA will be paid an amount equal to the number of hours worked multiplied by an agreed upon billing rate. This form of compensation presents a potential conflict of interest if BTMA and the Client do not agree on a maximum fee under the applicable Appendix to this Engagement Letter because BTMA will not have a financial incentive to recommend alternatives that would result in fewer hours worked. In addition, hourly fees are typically payable by the Client whether or not the financing transaction closes.

*Fixed Fee Arrangements.* The fees to be paid by the Client to BTMA may be in a fixed amount established at the outset of the service. The amount is usually based upon an analysis by Client and BTMA of, among other things, the expected duration and complexity of the transaction and the work documented in the Scope Appendix to be performed by Baker Tilly. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, Baker Tilly may suffer a loss. Thus, Baker Tilly may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives.

BTMA manages and mitigates conflicts related to fees and/or other services provided primarily through clarity in the fee to be charged and scope of work to be undertaken and by adherence to MSRB Rules including, but not limited to, the fiduciary duty which it owes to the Client requiring BTMA to put the interests of the Client ahead of its own and BTMA's duty to deal fairly with all persons in its municipal advisory activities.

To the extent any additional material conflicts of interest have been identified specific to a scope of work the conflict will be identified in the respective Scope Appendix. Material conflicts of interest that arise after the date of a Scope Appendix will be provide to the Client in writing at that time.



**RE: Organizational Management Study**

**DATE: July 11, 2022**

This Scope Appendix is attached by reference to the above-named agreement (the "Agreement") between the City of Hermantown, Minnesota (the "Client") and Baker Tilly US, LLP and relates to services to be provided by Baker Tilly US, LLP.

**Scope of Work**

The purpose of this study is to assist the City of Hermantown, Minnesota with an organizational management and staffing analysis of City departments excluding Public Safety (Police and Fire). The outcome of this study will provide a strategic direction for the future operation and staffing of the departments included in this study going forward.

**Study objectives and scope**

The City of Hermantown's objectives include:

- Conduct a business process and analysis of City Departments
- Review the organizational structure and staffing needs
- Provide recommendations for organizational structure, staffing levels, operational improvement, and increased efficiencies

**Suggested Process**

Baker Tilly team will assist the City of Hermantown in developing an analysis and recommendations to guide future decision-making for the City. Our approach is multi-faceted and best practices based, including the elements described in greater detail below.

*Task 1 – Confirm Scope, Objectives and Timing via Teams*

The following subtasks will be completed:

- Finalize Project Design – The first study activity will be to:
  - o Identify communication channels and reporting relationships and responsibilities of project staff
  - o Review and confirm study timelines
  - o Review and confirm products to be delivered including expectations regarding the form and scope

The meeting will also help establish the desired working relationship between the City and the consulting team. This will include day-to-day interactions with the staff responsible for managing services provided under the management contract.

- Review Work Plan – The work plan objectives, scope, and approach will be reviewed as well as consultant assignments and specific schedules for the project tasks. We will also prepare "Information Requests" listing key documents to be collected and will identify individuals for interviews.
- Arrange Logistics/Administrative Support – Matters to be addressed include schedules for interviews and data collection, workspace and support requirements, contact persons in the departments, any remaining contractual matters, etc.

*Task 2 – Data Collection*

The purpose of this Task is to collect all information needed for to evaluate the operations of the City departments. Information collection techniques will include interviews, document accumulation and consultant observations.

- Obtain and analyze the background information. This may include, but is not limited to, a review of the following:
  - o Organizational Strategic Plan and department strategic plans, if available
  - o Adopted mission, goals, objectives, performance standards, etc.
  - o Current organizational chart
  - o Staffing levels by position
  - o Position descriptions
  - o Current workload and workload trend information
  - o Services and service levels including detailed performance measures, if available
  - o Operating statistics (miles of streets maintained, acres of parks maintained, etc.) and other information systems reports
  - o Any prior in-house or independently prepared audits, or management studies related to the City departments included in this study
  - o Other relevant information

*Task 3 – Stakeholder Input*

- Meet with the City Administrator to gain an understanding of the current organizational structure, operations, any areas of concern, comparable cities for benchmarking, and other relevant information
- Introductory meeting with department heads - An introductory meeting with department heads will be held to explain the purpose of the study, the steps to be taken, their role in the study and to answer any questions they have in relationship to Baker Tilly and/or the study. Department heads include:
  - o City Administrator
  - o Communications Director
  - o Director of Finance and Administration
  - o City Clerk
  - o Public Works Director
  - o Community Development Director
  - o Building Official
- Individual interviews will be held with each department head listed above to discuss current operations and programs provided by their department.
  - o Organizational structure
  - o Staffing levels and turnover
  - o Duties and responsibilities of staff
  - o Principal business processes and practices
  - o Available resources
  - o Supporting technologies
  - o Operational strengths and weaknesses
  - o Issues, constraints, and opportunities to improve business performance
  - o Communications both internal and external

**SCOPE APPENDIX to  
Engagement Letter dated: July 11, 2022  
Between the City of Hermantown, Minnesota and  
Baker Tilly US, LLP**

- Two employee focus group meetings will be held to solicit input from City staff. One focus group should be comprised of City Hall staff including the Accountant, Account Clerk, Utility Billing Clerk, and the Receptionist/Administrative Assistant. The other focus group should be comprised of Public Works staff including at least two Street/Utility Maintenance Workers and one Building/Parks Maintenance Worker. Each focus group will meet for one hour.

*Task 4 – Document and Review City Operations*

With the information from prior tasks, the consultant team will analyze information collected and develop the factual profile that will include the following distinct but interactive steps:

- Review the information obtained through interviews, stakeholder input, document reviews, and observations and organize by issue
- Analyze the information to identify omissions or inconsistencies and collect additional information, as needed
- Evaluate existing operations, services, service levels, staffing levels, organizational structure, processes, practices and principle, programs, and service delivery against generally accepted best practices and principles of similar service providing operations. The analysis process will include "brainstorming" sessions among our team to take full advantage of the experience and perspective of each consultant. A profile will be developed containing the following:
  - o The organization, staffing and reporting relationships of staff
  - o The objectives, priorities, and programs of each department
  - o To the extent available, the current workload and workload trend information
  - o The services and service levels provided by each department
  - o Communications within each department and between departments
  - o Supporting technologies
  - o Potential comparative benchmarks to be used in comparisons
  - o The use of existing resources and resources needed
  - o Use of outside vendors
- The factual profile will be reviewed with the City Administrator and appropriate staff via Teams. Based on this review, the profile will be amended as appropriate, and will be included in the final report.

*Task 5 – Internal assessment and directions*

Concurrent with the previous task, the consultant team will develop initial observations and findings including:

- Is the organizational structure of the City overall and each department logical and organized to maximize efficiency and effectiveness?
- Is there an adequate mix of staff skill sets and capabilities to handle the work effectively?
- Are the roles and responsibilities of the staff clearly established and accepted?
- Are there efficiencies or improvements that can be achieved through the consolidation of processes, job duties, the elimination of redundancies, etc.?
- Are there functions that should be centralized and/or standardized?
- Are there opportunities for interdivisional cooperation and cooperation between other departments?

**SCOPE APPENDIX to  
Engagement Letter dated: July 11, 2022  
Between the City of Hermantown, Minnesota and  
Baker Tilly US, LLP**

- Is the current use of outside vendors to provide services more efficient and effective than providing these services internally?
- Is there any formalized back-up or cross-training in place?
- Are there areas where responsibility/accountability does not exist or where it is unclear where the responsibility/accountability lies?
- Is the organizational structure flexible and able to respond effectively to changes in service demand?
- Does staff perform any unnecessary work?
- Are there any duplication of effort and non-value-added activities present?
- Is there a structured process for objective-setting, priority-setting, and service delivery planning and, if so, is it effective?
- Is the scheduling of programs efficient?
- Are staffing levels and workload demands in balance?
- Is there a talent management program in place and is it effective?
- Is there a succession plan in place and is it up to date?
- How is technology used and are there areas where technology use can be improved?
- Are performance measures currently in use and are they applied to improve operations year-to-year?
- What other opportunities are identified through interviews, feedback or other research
- As with the factual profile, the initial assessment will be reviewed with the City Administrator, and other staff via Teams as appropriate and revised for inclusion in the final report.

**Task 6 – Conduct detailed organizational analysis**

The detailed analysis phase will form the key part of our review process and recommendations for improvement. Baker Tilly will complete a comprehensive evaluation of the City's organizational structure, staffing, operations, and management to identify opportunities for improvement. These will include specific recommendations for the following as appropriate:

- *Workload and staffing:*
  - o Service level standards
  - o General workloads and trends
  - o Resource and staff utilization
  - o Minimum staffing necessary for basic operations and services
  - o Impact of staffing on overtime costs and usage
  - o Talent management
  - o Succession planning
  - o Formalized back up and cross-training of staff
- Strategic alignment opportunities:
  - o Efficiencies that can be achieved through the strategic alignment of functions and/or through consolidation of services, processes, job duties, the elimination of redundancies, etc.
  - o New or re-aligned positions
  - o Opportunities for cooperation, standardization, centralization with other City departments

- Management practices and business processes:
  - o Strategic and operational planning
  - o Administrative policies including finance, personnel, contracting and purchasing
  - o Benchmarks and performance measures
  - o Application of technology in operations and customer service
  - o Adoption of best practices
  - o Process improvement opportunities
- Gap analysis:
  - o Identify opportunities for operational improvements and/or business process redesign to move from the current state to the desired future state
  - o Identify training needs
- Organization analysis:
  - o Organization structure
  - o Reporting relationships
  - o Working relationships
  - o Management/supervisory spans of control
  - o Communications both internal and external
  - o Decision making
  - o Operating policies and procedures
- Prepare a summary of initial observations, findings and preliminary recommendations and prioritized options in order of importance
- Review summary with the City Administrator, and appropriate staff

*Task 7 – Prepare and Present Final Report*

- Baker Tilly will prepare and present the Final Report which will include:
  - o Implementation action plans for both short-term and long-range components and identify responsible parties who can be tasked with integrating recommended changes
  - o Estimated savings or costs of implementation for each recommendation
  - o Position descriptions for any new positions recommended
  - o Recommended implementation timetable
  - o Benchmark comparison of staffing and operations
- We will present the findings and recommendations to the City in a meeting of the City's choice. We will provide the City with an electronic copy in PDF format

**Deliverables**

The deliverables for this project will be the Final Report

**Project Schedule**

Baker Tilly will complete the study as described in this proposal within eight to ten weeks of receiving the notice to proceed provided all necessary information is made available in a timely manner and City staff and officials are available, as needed, following the approved schedule.

**Remote work**



For Baker Tilly, the safety of our people is paramount. We are committed to playing our part in containing COVID-19 by practicing responsible social distancing. As of this writing, our firm allows all professionals work remotely. Because Hermantown expects and deserves tailored, personalized service, we recognize that this policy may cause concern. **Please understand that we are prepared to deliver an exceptional service experience remotely if necessary.**

The City’s engagement team has various tools enabling them to assist you from any location. Baker Tilly professionals each receive their own laptop and remote access credentials to connect to our internal network from outside the office. When Baker Tilly and the City are not able to meet in person, we utilize Microsoft Teams to quickly set up online meetings.

Additionally, we use Huddle, a secure cloud collaboration software, to work together anywhere, anytime and on any device. Huddle provides a platform for the City and Baker Tilly to come together, share files, assign tasks, and track activity in a secure environment.



Using Huddle as a central hub of activity means we all spend less time organizing documents, chasing approvals and searching through email – and more time achieving tangible results. The platform also enables real-time communication, meaning the status of your engagement will always be available.

**Project Team**

Your engagement team consists of dedicated professionals who are utility and public sector specialists as well as experienced business advisors, who understand your needs, are proactive in identifying issues and creative and flexible in providing solutions. Each member of this team is deeply committed to providing you with Exceptional Client Service. The following tables describe the roles and qualifications of your engagement team members.

**Project Manager**

**Nicholas Dragisich, P.E., Firm Director**



**Qualifications:** Nick is team leader for BTUS’s financial management practice. He has more than 30 years of management experience, including service as a city administrator, assistant city manager and city engineer. As the Assistant City Manager – Operations for Spokane, Washington, his departments included Capital Programs Planning/G.I.S., Engineering Services, Real Estate, Building Codes, Environmental Programs, General Services, Planning, Solid Waste Collection and Recycling, Transportation, Wastewater and Stormwater Management, and Water and Hydroelectricity. He joined Baker Tilly in 2000 and became the management consulting services practice group leader in 2003. Nick has been directly responsible for or involved in numerous user fee studies, organizational management studies, staffing analysis studies, utility rate studies and cost analyses, long-range financial planning models, and fiscal impact studies for clients in California, Iowa, Illinois, Indiana, Kansas, Maryland, Minnesota, Montana, Missouri, Nebraska, New York, North Carolina, North Dakota, Texas, Utah, Virginia, Washington, and Wisconsin. He holds a Master of Business Administration, a bachelor’s degree in civil engineering and is a licensed professional engineer in Minnesota and Washington. Nick is also MSRB Municipal Advisor Series 50 Qualified.

**SCOPE APPENDIX to  
Engagement Letter dated: July 11, 2022  
Between the City of Hermantown, Minnesota and  
Baker Tilly US, LLP**

**Project Support,**

**Patty Kettles, Director**



**Qualifications:** Patty has more than 24 years of experience working with BTUS clients on various projects, including performing user fee studies, utility rate analyses and financial feasibilities, financing options, capital improvement programming and debt management. Patty holds a Master of Business Administration from the University of St. Thomas and a Bachelor of Science degree in Finance from the University of Minnesota. She is also MSRB Municipal Advisor Series 50 Qualified.

**Project Support**

**Matt Stark, Manager**



**Qualifications:** Matt is a manager with Baker Tilly's financial management group. With the firm since 2002, he applies his analytical expertise to new challenges within the fields of operational finance, organizational management and human resources and economic development. He provides technical and analytical assistance on financial planning models, assists on employee classification and compensation systems, performs cost-benefit analyses on economic development projects. Matt holds a degree in physics. Matt earned a degree in Physics from Penn State University.

**Project Support**

**Anji Couillard, Analyst**



Anji joined Baker Tilly (formerly Springsted Incorporated) in 2015 as the executive assistant to the firm principals. In November 2019, she joined Baker Tilly's management consulting practice as a financial analyst.

Her responsibilities include conducting research, performing analytical work and supporting consultants. Anji has worked on several Minnesota Client projects supporting the Consultant gathering and analyzing initial information and helping to complete the final product. Anji has a Bachelor of Arts degree from Saint Mary's University of Minnesota and has more than 10 years of experience supporting various departments and personnel. She is a creative problem solver and an important asset to the team.

**Client Responsibilities**

In order to conduct this study, the City will need to designate a staff member to serve as a project manager. This person will be responsible for assisting Baker Tilly with gathering accurate and timely data needed to complete the project and to assist in arranging for required meetings.

**Compensation and Invoicing**

Baker Tilly proposes to complete this study as described for the lump sum fee of \$20,525 which includes all direct and indirect expenses to complete the work as described in this proposal. Baker Tilly would invoice for work completed on a monthly basis.

**Additional Work**

Should the City of Hermantown request and authorize additional work outside the scope of services described in this proposal we would invoice the City at either our standard hourly fees or at an agreed upon fee based on the additional scope requested. Additional work includes work outside the scope of services as described in this work plan including, but not limited to:

- Work related to a special request
- Additional on-site meetings or presentations

**SCOPE APPENDIX to  
Engagement Letter dated: July 11, 2022  
Between the City of Hermantown, Minnesota and  
Baker Tilly US, LLP**

- Additional benchmark comparisons
- Project delays exceeding four weeks attributable to the City

**Standard Hourly Rates**

Title	2022 Hourly Rate
Principal, Managing Director	\$325
Director/Senior Manager	\$275
Manager	\$225
Staff	\$165
Associates	\$80

**Conflicts of Interest**

We are unaware of any additional conflicts of interest related to this Scope Appendix that exist at this time.

**Termination**

This Scope Appendix will terminate according to the terms of the Agreement.

If this Scope Appendix is acceptable, please sign below and return one copy to us for our files. We look forward to working with you on this important project.

Sincerely,



**Signature Section:**

The services and terms as set forth in this Scope Appendix are agreed to on behalf of the Client by:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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



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



**DATE:** July 13, 2022                      **Meeting Date:** 7/18/2022  
**SUBJECT:** License Agreement for              **Agenda Item: 12-F**              **Resolution 2022-98**  
Keene Creek Stream  
Restoration

---

**REQUESTED ACTION**

**Approve a License Agreement for Keene Creek Stream Restoration**

---

**BACKGROUND**

In June 2020, The City entered into a license agreement with the South St. Louis Soil and Water Conservation District (SWCD) for the purpose of restoring damage and scouring of the Keene Creek stream bank which was damaged in the 2012 flood event and have continued to worsen with time. This work on the south section of Keene Creek was done in the summer of 2021 with the work consisting of tree removal, stream meandering, landscape plantings and fish based habitat improvements.

The SWCD is now looking to conduct the second phase of the restoration work. The proposed area is north of the Keene Creek Park parking lot and progressing towards Morris Thomas Road. The work will be similar in nature to the previously completed project.

Two items which are different then the 2021 project are the removal of the existing culvert underneath Okerstrom Road just north of the parking lot entrance and work on the culvert area adjacent to Okerstrom Road just south of Morris Thomas Road.

The culvert underneath Okerstrom near the park will be replaced with a larger structure which will aid in fish habitat as well as overall water conveyance. This work will necessitate the closure of the road for a short period of time. Staff is discussing this timeline with the SWCD in order to minimize the closure time period.

The culvert work south of Morris Thomas will rectify erosion issues which are occurring adjacent to the Okerstrom Road, road bed. Both of these areas have been discussed with the City Engineer and Public Works Director.

This proposed project would commence in late July/early August and is anticipated to run throughout mid September 2022 period with any final project punch list items being completed in the spring of 2023.

---

**SOURCE OF FUNDS (if applicable)**

---

**ATTACHMENTS:**

- License Agreement
- Resolution

**Resolution No. 2022-98**

**RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR AND  
CITY CLERK TO EXECUTE AND DELIVER THE LICENSE AGREEMENT WITH SOUTH  
ST. LOUIS SOIL AND WATER CONSERVATION DISTRICT**

WHEREAS, the City of Hermantown (“City”) owns property in St. Louis County, Minnesota described as Keene Creek (“Premises”); and

WHEREAS, the South St. Louis Soil and Water Conservation District (SWCD) desire to access the Premises for a stream restoration project (Project); and

WHEREAS, a form of the proposed License Agreement to allow access is attached hereto as Exhibit A; and

WHEREAS, the City Council has considered this matter and believes that it is in the best interests of the City of Hermantown to approve the License Agreement as shown on the Exhibit A and require such License Agreement be entered into.

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

1. The License Agreement attached hereto as Exhibit A is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to execute and deliver the License Agreement on behalf of the City of Hermantown.

Councilor \_\_\_\_ introduced the foregoing resolution and moved its adoption.

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

Councilors

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted July 18, 2022.

**EXHIBIT A**

**KEENE CREEK  
LICENSE AGREEMENT  
BETWEEN CITY OF HERMANTOWN AND  
SOUTH ST. LOUIS SOIL AND WATER CONSERVATION DISTRICT**

THIS LICENSE AGREEMENT (this "Agreement") is entered into by and between SOUTH ST. LOUIS SOIL AND WATER CONSERVATION DISTRICT, a political subdivision of the state of Minnesota ("Conservation District"), and the CITY OF HERMANTOWN, a municipal corporation created and existing under the laws of the State of Minnesota ("City").

The parties acknowledge the following:

A. City is the apparent owner of certain real property in St. Louis County, Minnesota, legally described as follows (the "Property"):

Parcel Number: 395-0014-00700, 395-0060-00690, 395-0060-00700, 395-0060-00670, 395-0060-00680, 395-0060-00710, 395-0060-00720, 395-0060-00730, 395-0060-00800, 395-0060-00270, 395-0060-00280, Northeast Quarter of Southwest Quarter (NE ¼ of SW ¼) and Southeast Quarter of Northwest (SE ¼ of NW ¼), Section Thirty-Six (36), Township Fifty (50) North, Range Fifteen (15) West.

B. A portion of Keene Creek runs through the Property and sustained damage in the June 2012 flood event.

C. Conservation District wishes to undertake, at no cost to City, a flood recovery project for the portion of Keene Creek that crosses the Property in order to: (i) create a stable stream channel with the appropriate pattern, profile, and dimensions; (ii) reconnect the stream channel to the floodplain; (iii) establish trout habitat; and (iv) repair damage, including erosion, that occurred as a result of the 2012 flood for the designated section of Keene Creek shown on Page 3 and 4 of the attached Exhibit B (collectively, the "Project"). The design and scope of the Project includes moving the stream channel away from the valley walls; adding trout habitat; grade control structures, such as boulder riffles and J-hooks; and re-aligning the stream channel so that it is stable and can carry its sediment load efficiently without eroding or aggrading. The Project is intended to prevent Keene Creek from continuing to scour the eroding banks, which leads to increased sediment into the creek. An overview plan of the Project is shown/described on Page 3 and 4 of the attached Exhibit B.

D. Conservation District and City desire to enter into this Agreement to allow Conservation District to complete the Project.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **THE LICENSE.**

A. Subject to the terms and conditions set forth herein, City grants to Conservation District a non-exclusive license to enter and occupy the portion of the Property outlined in red on Exhibit A (the "Licensed Premises") for the purpose of completing the Project. Conservation District may only stage materials and equipment in the portion of the Licensed Premises indicated on Exhibit A.

B. Conservation District acknowledges and understands the following:

- the Property is public property, and the cooperation of all users and coordination of activities is required, including ingress and egress and use of amenities and related improvements.
- City's Community Development Director (the "Manager") shall ultimately determine the appropriate use of the Property and shall decide any disputes between Conservation District and any other users of the Property.

C. In the interest of public safety, the work zone south of the Keene Creek parking lot extending 1,700 feet to the south will be closed to the public from May 15<sup>th</sup> to July 2<sup>nd</sup> 2021. The work zone north of the Keene Creek parking lot extending 560 feet north along the stream channel and 130 feet adjacent to Okerstrom Road will be closed to the public from July 20<sup>th</sup>, 2022 to September 15<sup>th</sup>, 2022. The work zone will be secured with orange fencing and will include signage.

2. TERM OF THE AGREEMENT. Notwithstanding the date of execution of this Agreement, the term of this Agreement shall commence on May 6<sup>th</sup>, 2021, and shall continue through December 30, 2022, unless earlier terminated as permitted by this Agreement (the "Term").

3. LICENSE FEE. Conservation District shall have the use of the Licensed Premises at no cost. The parties agree that the benefit to the Property and the public benefit of the Project shall be considered adequate consideration. The Project shall be completed by Conservation District at no cost to City.

4. LIMITED USE. The Licensed Premises will only be used to work on the Project and for no other purpose. The work to be performed on the Licensed Premises is summarized as follows and is subject to the stated requirements:

- (a) Transportation, access, and staging for equipment, tools, and materials;
- (b) Conservation District shall use the existing trail and forest openings for access to Keene Creek;
- (b) In-stream excavation and grading, including moving and re-shaping the channel to create a stable pattern, profile, and dimension as shown on Exhibit B;
- (c) Installation of stream grade control structures made out of natural materials such as boulders or logs;
- (d) Seeding and re-vegetation of the riparian zone with native trees and grasses; and
- (e) Restoring all disturbed areas with erosion control blanket and seeding.

The exact plans for the Project are described on the attached Exhibit B. Any activities not approved by the Manager may be grounds for termination of this Agreement.

5. UTILITIES. Conservation District agrees to follow all notice requirements under Minn. Stat. § 216D.04, Subd. 1(a) regarding determination of underground utilities and notification of property owners. Failure to abide by the notice requirements under Minn. Stat. § 216D.04, Subd. 1(a) shall be grounds for immediate termination of this Agreement.

6. ADDITIONAL AUTHORIZATION. Conservation District acknowledges that this Agreement only provides a license to use the Licensed Premises to complete its Project. Conservation District also acknowledges that it is responsible to obtain written permission from all other owners claiming a right, title, or interest in the real property affected by the Project. Conservation District shall

obtain the proper permits, licenses, or other permissions needed from various local, state, and/or federal agencies and entities to execute the Project.

7. INTENTIONALLY OMITTED.

8. TERMINATION.

A. City may terminate this Agreement with or without cause by providing at least seven (7) calendar days' written notice to Conservation District.

B. City may terminate this Agreement immediately on notice to Conservation District if City believes in good faith that the health, welfare, or safety of occupants or neighbors of the Property would be placed in immediate jeopardy by the continuation of this Agreement.

9. CITY WARRANTY. City makes no representation that the Licensed Premises is suitable for any particular purpose or specific uses and Conservation District accepts the Licensed Premises in "as is" condition without representations or warranties of any kind. City makes no warranties that it actually owns or has an interest in the Property.

10. MAINTENANCE AND RESTORATION.

A. The Project utilizes Natural Channel Design methodology, which, by design, may result in some shifting and settling of the stream channel and in-stream structures. However, Conservation District agrees to exercise reasonable care and best practices in performance of the Project. By June 1<sup>st</sup>, 2022, for work completed in 2021 and by June 1<sup>st</sup>, 2023 for work completed in 2022 Conservation District shall provide a narrative report of the outcome of the Project and an as-built drawing to City showing the alignment and improvements to Keene Creek. Conservation District is not obligated to finance or undertake further improvements once the Project is completed, except that Conservation District shall inspect and maintain vegetation and trees within the Licensed Premises for three years after completion of the Project to monitor and ensure the re-establishment of said vegetation and trees.

B. Prior to expiration of the Term, Conservation District shall restore the Licensed Premises to the equivalent of its original condition at the time of execution of this Agreement or better, or, upon demand, pay to City the reasonable costs incurred by City to repair any damage done to the Licensed Premises by Conservation District, its employees, servants, agents, contractors, invitees, and licensees.

C. Conservation District shall not make any alterations or improvements to the Licensed Premises that are not herein described without the prior written consent of City and then only upon the terms and conditions which may be imposed by City. Conservation District agrees to pay to City upon demand the reasonable costs incurred by City to repair any damage done to the Licensed Premises by Conservation District, its employees, servants, agents, contractors, invitees, and licensees during the Term.

11. HOLD HARMLESS. Conservation District agrees to defend, indemnify, and save harmless City, and its officers, agents, servants, and employees from any and all liens, judgments, claims including those for contribution and indemnity, suits, demands, liability, costs, damages, and expenses asserted by any person or persons including agents or employees of City by reason of death or injury to person or persons or the loss or damage to any property of City's or any cause of action arising out of or in connection with or relating to Conservation District's use or occupancy of the Licensed Premises except those claims, causes of action, liabilities or damages relating to or arising from or based upon the negligence, willful acts or omission of City and its officers, agents, servants or employees. On ten days'

written notice from City, Conservation District will appear and defend all lawsuits against City growing out of such injuries or damages using counsel acceptable to City. Notwithstanding anything to the contrary contained herein, City and Conservation District shall each be responsible for their own respective acts and the results thereof and shall not be responsible for the acts of the other party. City's liability is governed by Minnesota Statutes Chapter 466 other applicable law.

12. INSURANCE. During the Term, Conservation District shall have such coverage as will protect Conservation District and City against risk of loss or damage to the Licensed Premises and any other property of City permanently located or exclusively used at the Property and against claims that may arise or result from the use of the Licensed Premises during the Term. Conservation District shall procure and maintain continuously in force Public Liability and Automobile Insurance written on an "occurrence" basis under a Commercial General Liability Form in limits of not less than \$1,500,000 aggregate per occurrence for personal bodily injury and death and limits of \$1,500,000 for property damage liability. Insurance required in this Agreement shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota. Insurance shall cover public liability including premises and operations coverage, independent contractors - protective contingent liability, personal injury, contractual liability covering the indemnity obligations set forth herein, and products – completed operations. Conservation District shall provide City with Certificate(s) of Insurance evidencing the required insurance coverage, with 30-day notice of cancellation, non-renewal, or material change provisions included. City does not represent or guarantee that the types or limits of coverage required by this Agreement are adequate to protect Conservation District's interests and liabilities. The required insurance policies must be in form and substance that is acceptable to the City Attorney and shall name City as an additional insured. City reserves the right to require Conservation District to increase the coverages set forth above and to provide evidence of such increased insurance to reflect the municipal liability limits set forth in Minn. Stat. § 466.04, as amended from time to time.

13. INDEPENDENT CONTRACTOR. Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties or as constituting Conservation District or Conservation District personnel as an agent, representative, or employee of City for any purpose or in any manner whatsoever. Conservation District and its employees shall not be considered employees of City and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of Conservation District's employees or agents while so engaged, shall in no way be the responsibility of City.

14. ASSIGNMENT. Conservation District shall not in any way assign or transfer its rights or interests under this Agreement. However, Conservation District may hire contractors to work on the Project. Any contractor hired by Conservation District shall procure the proper insurance coverages as described in Section 12 above and provide proof of coverage to City prior to conducting any work on the Licensed Premises. Conservation District shall remain primarily responsible for all work performed by any contractor or subcontractor.

15. LAWS, RULES AND REGULATIONS.

A. Conservation District agrees to conduct its activities related to the Licensed Premises in strict compliance with the United States Constitution and with the applicable laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, and City of Duluth, including, but not limited to, all laws, rules, and regulations relating to accessibility standards under the Americans with Disabilities Act. Conservation District shall not unlawfully discriminate and shall comply with all applicable federal and state laws regarding non-discrimination.

B. Conservation District agrees to procure, at Conservation District's expense, all licenses and permits necessary for carrying out its obligations under this Agreement and completing the Project, including but not limited to DNR public waters, fill, erosion control, and shoreland permits.

16. RECORDS RETENTION. Conservation District agrees to maintain all books, records, documents, and other evidence pertaining to this Agreement for six (6) years after termination or expiration of this Agreement for any reason.

17. GOVERNMENT DATA PRACTICES. All data collected, created, received, maintained or disseminated for any purpose by the parties because of this Agreement is governed by Minn. Stat. § 13.05, Subd. 11. Conservation District shall comply with Minn. Stat. § 13.05, Subd. 11. Conservation District agrees to hold City, its officers, and employees harmless from any claims resulting from Conservation District' failure to comply with this law.

18. WAIVER. The waiver by City or Conservation District of any breach of any term, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition in this Agreement.

19. SEVERABILITY. If any term or provision of this Agreement is declared by a court of competent-jurisdiction to be illegal or in conflict with any law, then the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

20. NO THIRD PARTY RIGHTS. This Agreement is to be construed and understood solely as an agreement between Conservation District and City regarding the subject matter herein and shall not be deemed to create any rights in any other person or on any other matter. No person shall have the right to make a claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which may be waived at any time by mutual agreement between the parties.

21. NOTICES. Notices provided pursuant to this Agreement shall be sufficient if sent by regular United States mail, postage prepaid, addressed to:

South St Louis Soil and Water Conservation District Attn: Ann Thompson 215 North 1st Ave. E., Room 301 Duluth, Minnesota, 55802	City of Hermantown Attn: Community Development Director 5105 Maple Grove Road Hermantown, Minnesota, 55811
---	---

or to such other persons or addresses as the parties may designate to each other in writing from time to time.

22. COMPLIANCE WITH AGREEMENT. The rights of Conservation District to use the Licensed Premises are subject to Conservation District's compliance with the undertakings, provisions, covenants, and conditions set forth in this Agreement.

23. APPLICABLE LAW. This Agreement, together with all of its paragraphs, terms, and provisions, is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

24. AMENDMENTS. Any amendments to this Agreement shall be in writing and shall be executed in the same manner as this Agreement.

25. AUTHORITY TO EXECUTE AGREEMENT. The parties represent to each other that the execution of this Agreement has been duly and fully authorized by their respective governing bodies or boards, that the individuals who executed this Agreement on their behalf are fully authorized to do so, and that this Agreement when thus executed by said individuals will constitute and be the binding obligation and agreement of the parties in accordance with the terms and conditions of this Agreement.

26. ENTIRE AGREEMENT. This Agreement, including exhibits, constitutes the entire agreement between the parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereof. This Agreement may be executed and delivered by a party by facsimile or PDF copy which shall be considered an original and shall be binding and enforceable against such party.

*[Remainder of this page is intentionally left blank.]*



IN WITNESS WHEREOF, the parties have set their hands the day and date as indicated below.

CITY OF HERMANTOWN, MINNESOTA

SOUTH ST LOUIS SOIL AND WATER  
CONSERVATION DISTRICT

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

By: \_\_\_\_\_

ATTEST:

Printed Name: \_\_\_\_\_

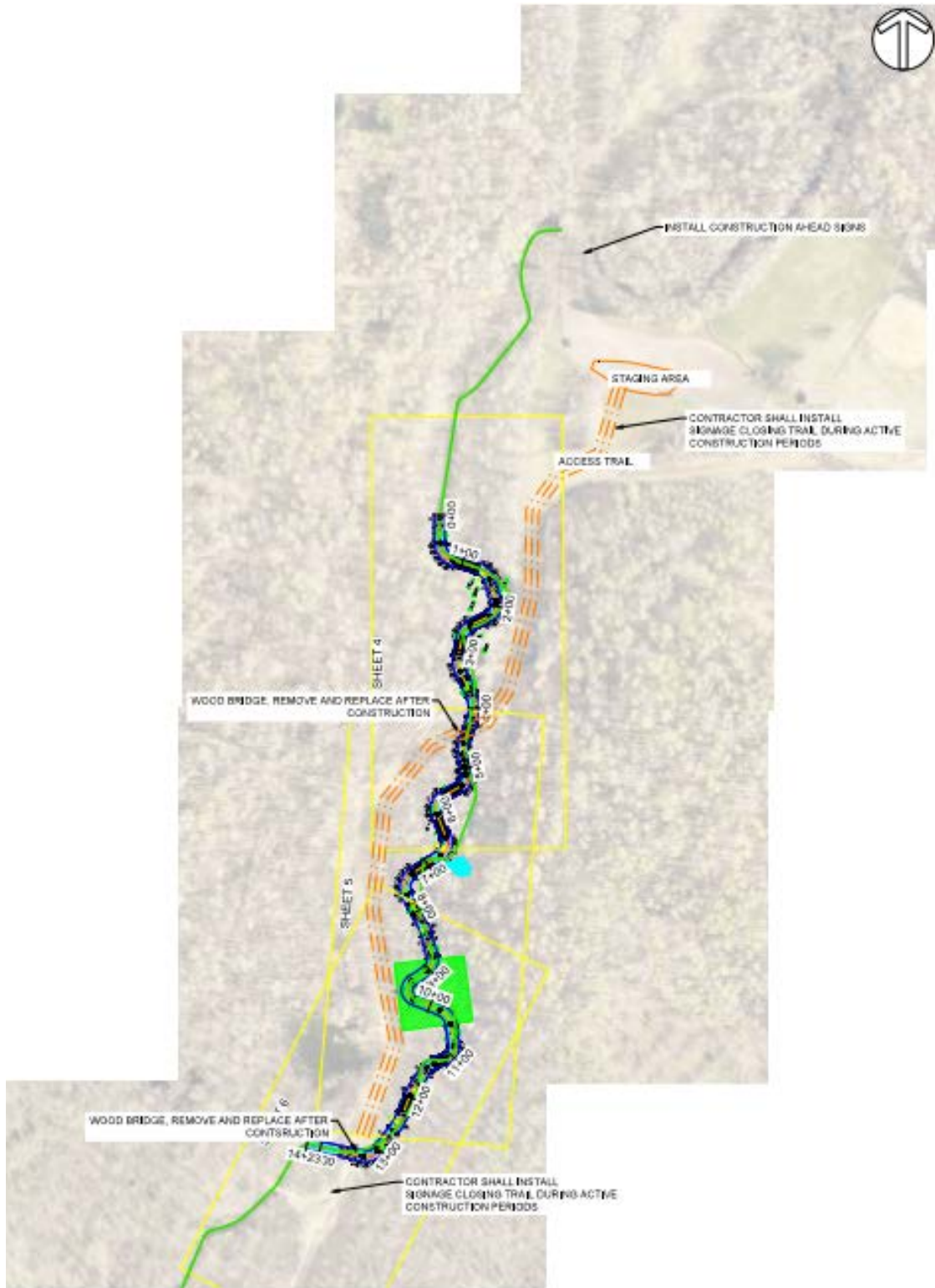
\_\_\_\_\_  
City Clerk

Title: \_\_\_\_\_

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

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

**EXHIBIT B – 2021 Work Zone**



**EXHIBIT B – 2022 Work Zone**

