



NORTH BRANCH

—Minnesota—

Kevin Schieber
Mayor

Robert Canada
Councilmember/Acting Mayor

Travis Miles
Councilmember

Kelly Neider
Councilmember

Peter Schaps
Councilmember

**CITY COUNCIL
REGULAR AGENDA
TUESDAY, MARCH 26, 2024 @ 7:00 PM
CITY HALL, 6408 ELM STREET, NORTH
BRANCH, MN 55056**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. AGENDA APPROVAL
 - a. Approve Agenda ACTION
5. PRESENTATION & PROCLAMATION
 - a. Spongy Moth Presentation INFO
6. PUBLIC COMMENT

Provides an opportunity for the public to address the Council on items that are not on the Agenda. Please raise your hand to be recognized. Please state your name and address for the record. This section is for the express purpose of addressing concerns of City services and operations. It shall not be used to clarify individual's views for political purposes.
7. CONSENT AGENDA

All matters listed under Consent Agenda are considered routine and/or non-controversial and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

 - a. Claims ACTION
 - b. Approve Development Agreement for Schoolside Village 4th Addition ACTION
 - c. Approve Master PUD Agreement and Subdivision Development Agreement for Fox Run Subdivision ACTION
 - d. Approve Resolution No. R-25-2024, Setting a Public Hearing Date and Time for a Cartway Petition ACTION

- e. Approve Resolution No. R-26-2024 Requiring the Cartway Petitioner to Post a Bond or Security ACTION
- f. Approve Gambling LG220 Permit - Sons of the American Legion Post 85 ACTION
- g. Approve Meadows North Park Improvements - Seeding & Tree Planting ACTION
- h. Approve Resolution No. R-27-2024, Accepting the Offers of Dedication and Reducing Security for Grand Point and Grand Point 2nd Addition ACTION
- i. Approve a Tenant Use Waiver Associated with the North Branch Liquors Store Lease at 5466 St. Croix Trail. ACTION
- j. Approve Temporary Liquor License - Chisago County Board on Aging ACTION
- k. Approve 2024 Mobile Food Unit - Medina's Tacos ACTION

8. PUBLIC HEARINGS

9. STAFF REPORTS

- a. Business Park AUAR 2024 Update ACTION
- b. Consider Ordinance No. 369-24 Regarding the Re-Establishment of Local Municipal Primary Elections ACTION

10. MAYOR/CITY COUNCIL

11. ADJOURNMENT

Since we do not have time to discuss every point presented, it may seem that decisions are preconceived. However, background information is provided to the City Council on each Agenda item in advance from Staff and appointed Commissions; and decisions are based on this information and past experiences. In addition some items may also have been discussed preliminarily at Council Work Sessions. If you are aware of information that has not been discussed, please raise your hand to be recognized. Comments that are pertinent are appreciated. Items requiring excessive time may be continued to another meeting.



Prepared By:
Ragini Varma, City Clerk / IT Director
Presenter: Ragini Varma, City Clerk / IT Director
Date: 01/12/2024

Board & Commission: City Council

Subject: Approve Agenda

Council to approve the agenda with a motion and second before moving forward in the meeting.

Voting Requirements:

Voting Options Simple Majority



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 02/28/2024

Board & Commission: City Council

Subject: Spongy Moth Presentation

Danielle DeVito will present the Spongy Moth presentation to the Council.

Voting Requirements:

INFO

3/XX/2024

42 Areas in Minnesota Targeted for Spongy Moth Treatments in 2024

Invasive insect continues its push into the state

St. Paul, MN: The Minnesota Department of Agriculture (MDA) and partner organizations are proposing to treat spongy moth (*Lymantria dispar*) infestations this summer in seven counties across eastern Minnesota.

Spongy moths are ranked among America’s most destructive tree pests. The insect has caused millions of dollars in damage to forests as it has spread from New England westward in recent decades. Spongy moth caterpillars can defoliate large sections of forest. This pest is found in most of Wisconsin and is now establishing itself in northeastern Minnesota.

The MDA monitors for spongy moth each year, surveying for start-up infestations. When an infestation is found, the department conducts aerial treatments and targets the infestation before it can spread. The number of spongy moths detected in Minnesota in recent years has increased, and populations continue to push westward. The increase in moths created the need for more treatment areas in 2024.

Forty-two treatment areas totaling approximately 160,000 acres are proposed in Carlton, Chisago, Fillmore, Houston, Isanti, Pine, and St. Louis counties. The areas will be treated with either *Bacillus thuringiensis* var. *kurstaki* (Btk), a biological insecticide that is organically certified for use on food crops, or mating disruption, an organic substance containing pheromones specific to spongy moths that confuses the male moths. Residents can view an [interactive map on the MDA website](#) to determine if they’re located within any of the proposed treatment areas.

The treatments will be conducted from June through July, depending on insect development and weather.

Residents in proposed treatment areas and the public are invited to attend an informational meeting to learn more about the insect and the treatment methods.

Date/Time	Location	Address
April 1, 2024 4-6pm	Hinckley City Hall Community Room	106 1 st Street SE Hinckley, MN 55037
April 2, 2024 4-6pm	Cloquet Library	320 14 th Street Cloquet, MN 55720

April 3, 2024 4-6pm	Caledonia City Hall Auditorium	231 E. Main Steet Caledonia, MN 55291
April 4, 2024 10am	Virtual	All mating disruption treatments
April 4, 2024 12pm	Virtual	BtK treatment in Carlton and St. Louis counties
April 4, 2024 6pm	Virtual	All mating disruption treatments
April 8, 2024 4-6pm	Iron Trail Motors Event Center	919 6 th Street South Virginia, MN 55792
April 9, 2024 4-6pm	North Branch Area Library	6355 379 th Street North Branch, MN 55056

To register for virtual meetings, go to www.mda.state.mn.us/smtreatments.

Residents in all proposed treatment areas will also be receiving a postcard with more information. Citizens can also find info on spongy moth treatments, sign-up for text or email notifications, and proposed treatment area maps at www.mda.state.mn.us/smtreatments.

Comments on any of the proposed treatments are being accepted through April 15, 2024. Comments should be submitted in writing via mail or email to:

Kimberly Thielen Cremers
Minnesota Department of Agriculture
625 Robert Street North
St. Paul, MN 55155
kimberly.tcremers@state.mn.us

The MDA has successfully treated dozens of spongy moth infestations across eastern Minnesota from Grand Portage to the Twin Cities to Houston County. These successful treatments help postpone the full-scale invasion of spongy moth. They also save local communities and homeowners money and protect the health of the state's urban and natural forests.

###

Contact

Brittany Raveill, MDA Communications

651-201-6131

brittany.raveill@state.mn.us



Minnesota Department of Agriculture (MDA), in collaboration with federal, state, and local partners, is proposing management of isolated spongy moth populations in Carlton and St. Louis counties in the spring of 2024. Spongy moths are an invasive insect, and a state monitoring program has found a high number of moths in the area. Because of these finds, and evidence of a reproducing population, the MDA is proposing management of approximately 2,961 acres. Visit www.mda.state.mn.us/smtreatments for more information.

What is a spongy moth and why manage it?

The European spongy moth (*Lymantria dispar*) is not native to the United States. However, it is now established in northeastern Minnesota and much of Wisconsin. The caterpillars can strip trees of their leaves, and high numbers of caterpillars can annoy homeowners and communities and possibly cause human health issues.

The proposed management for 2024 will delay the moth's expansion in Minnesota and beyond. This delay can hold off a costly, full-scale infestation and protect natural and urban forest health, local property values, and the quality of outdoor recreation activities.

How does the MDA manage spongy moth?

The MDA uses a water-based, organic biological insecticide called Foray® 48B. The product contains *Bacillus thuringiensis* var. *kurstaki* (Btk), which are naturally occurring soil bacteria that disrupt the spongy moth caterpillar's digestive system.

Airplanes contracted by the MDA will fly near or over your area. The planes fly low and back and forth shortly after sunrise when the winds are low for application to the treetops. Depending on the development of spongy moth, this would occur in mid-June. Two applications would occur 5-14 days apart.

What are the environmental and human health effects of Foray®?

The MDA works with the Minnesota Department of Natural Resources and the U.S. Fish and Wildlife Service to identify and evaluate impacts to any threatened or endangered species, and ensure that no sites of sensitive, threatened, or endangered species of moths and butterflies overlap with this year's proposed Foray® management.

Foray® is cultured by fermentation and contains water, Btk, leftover growth medium, carbohydrates, and other ingredients approved as food additives. The product **breaks down quickly in sunlight but is extremely potent to spongy moths and can kill nearly 100% under proper conditions.**

Btk is a common active ingredient that is approved for use in organic farming and is an alternative to chemical pesticides. Unlike a broad-spectrum pesticide, Foray® has a very narrow target of caterpillars so it will not disrupt the balance of nature.

How will I know when management will happen?

- **Check your mail.** The MDA will send a postcard in early June that will identify a timeframe for applications.
- **Go to www.mda.state.mn.us/smtreatments** to sign up for text or email messages.
- **Text** "MNMDA TREATMENTS" to 66468 to receive text updates.
- **Or text** "MNMDA TREATMENTS [your email address here]" to 66468 to receive email updates.

Informational Meetings

- **In Person:** April 2 4-6 p.m. at the Cloquet Library
320 14th Street, Cloquet, MN
- **Online:** April 4 at 12 noon

Register at

www.mda.state.mn.us/smtreatments



625 Robert Street North
Saint Paul, MN 55155-2538



SPONGY MOTH MANAGEMENT PROPOSED FOR YOUR AREA

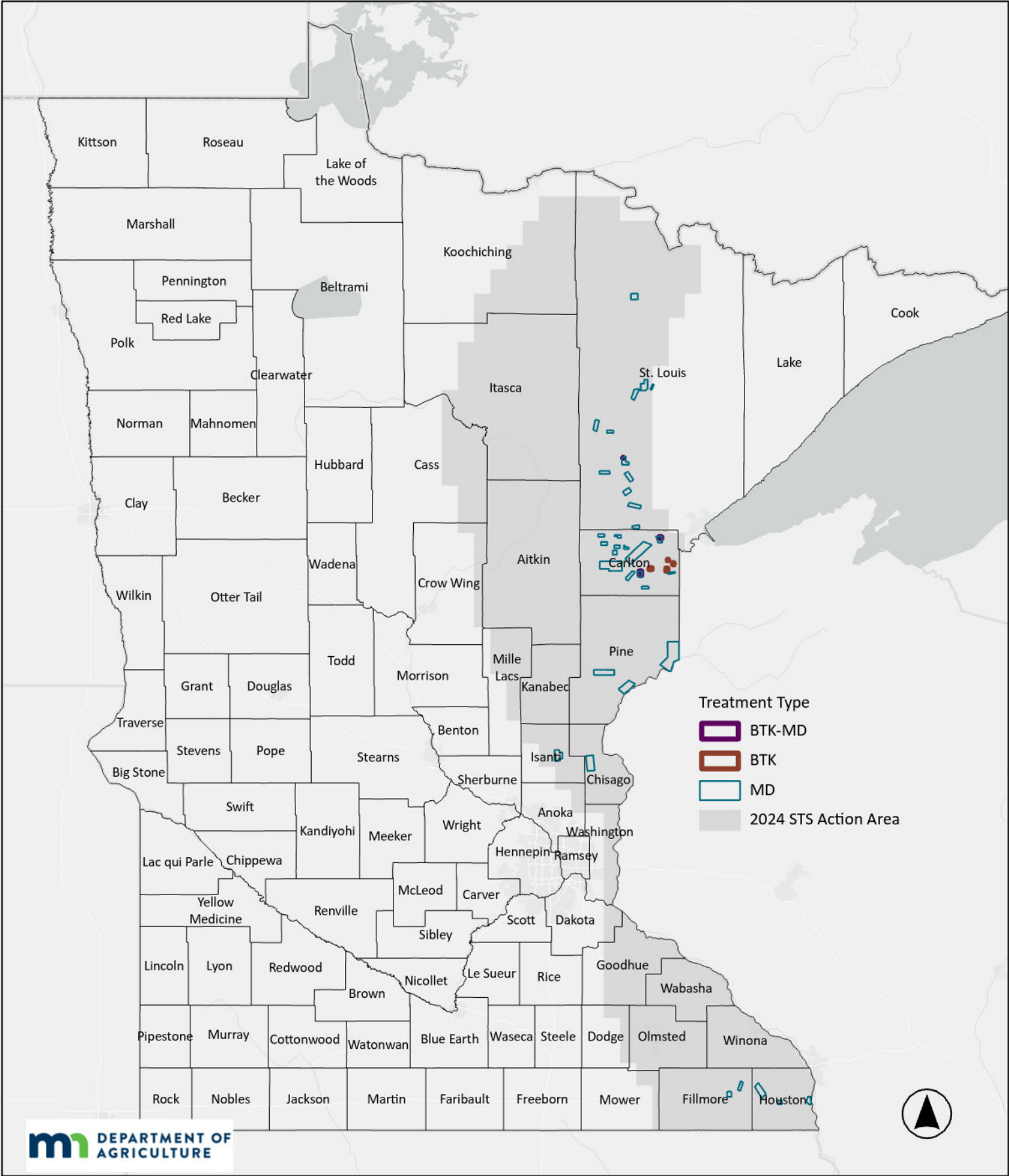
Public Meetings

See details on reverse side

www.mda.state.mn.us/smtreatments



2024 Proposed Spongy Moth Treatments



Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, NPS, USFWS



Prepared By:
Ragini Varma, City Clerk / IT Director
Presenter: Ragini Varma, City Clerk / IT Director
Date: 01/12/2024

Board & Commission: City Council

Subject: Claims

Council will approve the monthly claims.

Voting Requirements:

Voting Options Simple Majority

City of North Branch

ACH Checks

5379 to 5392 - \$103,289.71

Checks

89053 to 89117 - \$534,502.71

Payroll

March 15, 2024 - \$102,079.89

Accounts Payable

Checks by Date - Summary by Check Number

User: TiffaniFolstad
Printed: 3/25/2024 1:24 PM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
5379	1044	Bank Charges, Miscellaneous	02/02/2024	22.35
5380	1044	Bank Charges, Miscellaneous	02/01/2024	1,158.30
5381	1044	Bank Charges, Miscellaneous	02/21/2024	152.10
5382	1044	Bank Charges, Miscellaneous	02/08/2024	133.96
5383	1941	WEX, Inc.	02/05/2024	702.46
5384	1941	WEX, Inc.	02/29/2024	267.50
5385	1941	WEX, Inc.	02/05/2024	5,413.55
5386	1941	WEX, Inc.	02/05/2024	212.92
5387	1941	WEX, Inc.	02/20/2024	5,363.55
5388	1941	WEX, Inc.	02/29/2024	212.92
5389	1941	WEX, Inc.	02/26/2024	111.25
5390	1362	Minnesota Dept of Revenue	02/20/2024	24,090.00
5391	1033	Associated Bank	02/14/2024	33.70
5392	1397	MN PFA	02/16/2024	65,415.15
Report Total (14 checks):				103,289.71

Accounts Payable

Checks by Date - Summary by Check Number

User: TiffaniFolstad
Printed: 3/25/2024 1:21 PM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
89053	1646	Ameritas	03/25/2024	180.00
89054	2081	Anderson Landscaping Services LLC	03/25/2024	54,720.00
89055	1944	Arthouse	03/25/2024	40.00
89056	1029	Artisan Beer Company	03/25/2024	164.65
89057	1031	Aspen Mills	03/25/2024	1,387.95
89058	1036	AT & T Mobility	03/25/2024	3,755.30
89059	1038	Automatic Systems Co.	03/25/2024	156,213.00
89060	1049	Bellboy Corporation	03/25/2024	2,651.63
89061	1052	Bernicks	03/25/2024	9,416.88
89062	1066	Breakthru Beverage MN	03/25/2024	18,355.38
89063	1114	Coffee Mill Inc	03/25/2024	198.00
89064	1917	Cool Air Mechanical, Inc.	03/25/2024	2,679.10
89065	1129	Dahlheimer Distributing	03/25/2024	24,915.19
89066	1133	Dell Marketing, L.P.	03/25/2024	232.49
89067	1152	Ehlers	03/25/2024	1,772.50
89068	1180	Ferguson US Holdings, Inc	03/25/2024	1,045.40
89069	1706	Flaherty & Hood, P.A.	03/25/2024	11,685.00
89070	2079	Great River Energy	03/25/2024	654.50
89071	1749	GRJ PRO/MOTE Inc.	03/25/2024	150.00
89072	1908	GTG Properties, LLC	03/25/2024	100.00
89073	1234	Hach Company	03/25/2024	885.16
89074	1243	Hildi Inc	03/25/2024	1,325.00
89075	1246	Hohensteins, Inc.	03/25/2024	220.50
89076	1265	Isanti-Chisago County Star	03/25/2024	61.96
89077	1279	Johnson Brothers Liquor Co.	03/25/2024	23,703.51
89078	1281	Jones Contruction Services Inc	03/25/2024	1,200.00
89079	1320	Lynette Koalska	03/25/2024	430.80
89080	1663	Kwik Trip	03/25/2024	588.10
89081	1304	League Of Minnesota Cities	03/25/2024	275.00
89082	1321	Locators & Supplies, Inc.	03/25/2024	362.68
89083	1176	M Health Fairview	03/25/2024	70.00
89084	1329	Main Street Church	03/25/2024	200.00
89085	1643	McDonald Distributing	03/25/2024	19,934.31
89086	1365	Minnesota Energy Resources	03/25/2024	1,058.14
89087	2078	Minnesota Sex Crimes Investigators Associ	03/25/2024	80.00
89088	1396	MN Peip - C/O MMB Fiscal Srvs	03/25/2024	39,387.27
89089	1411	Moose Lake Brewing Co. LLC	03/25/2024	429.00
89090	1421	N.B. Area Chamber Of Commerce	03/25/2024	445.00
89091	1429	Napa Auto Parts	03/25/2024	121.92
89092	1432	NCPERS Group Life Ins.	03/25/2024	64.00
89093	2083	Cory Nelson	03/25/2024	269.06
89094	2047	NEONLINK LLC	03/25/2024	689.40
89095	1660	North Valley, Inc.	03/25/2024	61,273.62
89096	1763	Office of MNIT Services-Accounts Receive	03/25/2024	1,150.00
89097	1459	OReilly Automotive, Inc.	03/25/2024	6.59
89098	1465	Paustis Wine Company	03/25/2024	551.50
89099	1474	Phillips Wine & Spirits, Inc.	03/25/2024	7,438.65

Check No	Vendor No	Vendor Name	Check Date	Check Amount
89100	1884	SUSO 4 North Branch, LP Pine Tree Comm	03/25/2024	8,721.11
89101	2082	Plan It Software LLC	03/25/2024	800.00
89102	1482	Post Haste Business Solutions	03/25/2024	250.00
89103	2080	Project One Construction, Inc.	03/25/2024	1,173.00
89104	2066	RMB Environmental Laboratories, Inc.	03/25/2024	590.80
89105	1534	Southern Glazers Wine & Spirits of Minnes	03/25/2024	11,525.50
89106	1677	Springbrook Holding Company, LLC	03/25/2024	720.00
89107	1550	Streichers	03/25/2024	1,628.61
89108	1552	Sun Life Assurance Company	03/25/2024	2,275.74
89109	1584	U.S. Bank Equipment Finance	03/25/2024	1,143.08
89110	1598	Viking Coca-Cola Bottling Co.	03/25/2024	496.00
89111	1601	Vinocopia, Inc.	03/25/2024	3,277.25
89112	1611	Watson Company	03/25/2024	687.92
89113	1622	Wine Merchants	03/25/2024	655.74
89114	1623	Winebow, Inc.	03/25/2024	1,433.00
89115	1628	WSB & Associates, Inc.	03/25/2024	11,956.25
89116	1630	XCEL Energy	03/25/2024	1,365.99
89117	1637	Ziegler Cat	03/25/2024	33,264.58

Report Total (65 checks):

534,502.71



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 03/06/2024

Board & Commission: City Council

Subject: Approve Development Agreement for Schoolside Village 4th Addition

Overview / Background

The Casselberry Development, LLC (Developer) received previous City Council approvals for the Final Plat for Schoolside Village 4th Addition (Development) on July 26, 2022; an extension to that approval was granted by the City Council on July 25, 2023. This phase of the Development features 43 single-family homes. The original approvals and subsequent initial development agreement, required the Developer to pay for its share – one-third – of the cost for the Hemingway Avenue roadway extension project. That amount totaled \$385,000; the Developer has paid \$193,028 of the total balance due according to the terms of that agreement. Per that 2018 agreement, any outstanding balance due as of May 2023 is required to be paid in full. Thus, the balance due to the City is \$191,972, and is required for payment with this agreement for Schoolside Village 4th Addition.

Staff Recommendation

City staff recommend approval of the agreement.

Recommended Planning Commission Action

Motion to approve the Schoolside Village 4th Addition Development Agreement.

Voting Requirements:

Voting Options Simple Majority

DEVELOPMENT AGREEMENT
SCHOOLSIDE VILLAGE 4TH ADDITION

THIS AGREEMENT (the “Agreement”) is entered into on this the 26th day of March, 2024 by and between Casselberry Development, LLC, a Minnesota limited liability company, with its principal office located at 920 West Broadway, Forest Lake, MN 55025 (“Developer”), and the City of North Branch, a Minnesota municipal corporation, located at 6408 Elm Street, North Branch, Minnesota 55056 (“City”), and collectively referred to herein after as the “Parties.”

RECITALS

- A. Developer is the fee owner of real property located in the City of North Branch, Minnesota, identified with the Parcel Identification (PID) Nos. 11.00422.45 and 11.00422.77, as legally described on the attached Exhibit A (“Subject Property”), and which Subject Property shall be referred to hereafter as Schoolside Village 4th Addition (“Development”).
- B. This Agreement applies to the Development, which consists of 20.3 gross acres, according to the recorded plat thereof and as legally described in Exhibit A.
- C. The proposed Development of the Subject Property shall consist of 43 residential lots and one (1) Outlot, and associated public improvements, including but not limited to: street improvements, sanitary sewer, water main, stormwater management facilities, sidewalk and trails, grading and erosion control facilities, as required for the proposed Development pursuant to the Approved Plans, as attached hereto and incorporated herein by reference as set forth in Exhibit C, and pursuant to the terms and conditions contained this Agreement and the City of North Branch City Code (“City Code”), as applicable.
- D. The Preliminary Plat for the Schoolside Village master development plan was approved by the City Council on April 10, 2018, pursuant to Resolution No. 24-18-CC. The Final Plat for the Development was approved by the City Council on July 26, 2022, pursuant to Resolution No. 49-22-CC; an extension to the Final Plat approval until July 26, 2024 was

granted by the City Council on July 25, 2023, pursuant to Resolution No. 46-23-CC, collectively referred to hereafter as “City Approvals.”

- E. The terms and conditions of the City Approvals are incorporated into this Agreement by reference. The proposed Development of the Subject Property shall be in conformance with the City Code, City Approvals, and this Agreement. Developer agrees to comply with the requirements as set forth by this Agreement and City Approvals, and shall be obligated to complete all development-related improvements, as further described and secured herein below.
- F. The City and the Developer now desire to enter into this Agreement setting forth certain requirements and obligations relating to the Development of the Subject Property, including but not limited to, the execution and recording of certain instruments. This Agreement shall replace and supersede all previous oral agreements and understandings, previous development and early start agreements and related amendments thereto, and previous negotiations between the parties in relation to the Subject Property.
- G. The City requires the Developer perform work and install certain on and off-site improvements within the Subject Property, as stated in the Approved Plans and this Agreement, as described in Section 1.01, and which work and improvements typically consist of the following: grading and erosion control; streets and street lighting; sidewalks and trails; public utilities, including but not limited to water mains and sanitary sewer mains; and storm water management facilities. Said improvements to the Subject Property shall be referred to herein as the “Improvements.”

AGREEMENT

NOW. THEREFORE, in consideration of each party’s promises as set forth in this Agreement, each party does mutually agree as follows:

ARTICLE ONE CONSTRUCTION OF IMPROVEMENTS; EASEMENTS AND RIGHTS OF ENTRY

1.01 Right to Proceed. Unless separate written approval has been given by the City for the Development, the Developer may not grade or otherwise disturb the earth, remove trees or structures, construct public or private utilities, streets, buildings and/or any other public or private improvements until all of the following conditions have been satisfied:

- a. This Agreement has been fully executed by the City and Developer and recorded with Chisago County;
- b. The Plat has been recorded with Chisago County;
- c. The City has received the required Escrow and Security for the Development and Improvements as provided in Exhibit B, which is attached hereto and incorporated herein by reference;
- d. The site plan and construction plans for the Development on the Subject Property have been

- reviewed for compliance with City standards and are approved by the City Engineer;
- e. A certificate of liability and property damage has been provided to the City; and
- f. The City Engineer has issued a letter that all conditions have been satisfied and that the Developer may proceed.
- g. If required, Developer has provided all documents as required for the Development and/or as stated herein, including but not limited to: general warranty deed for park land dedication, easement agreements, declarations of restrictive covenants, etc.

1.02 Developer Responsibility. Before commencing construction of the Improvements, the Developer shall submit all required plans and specifications to the City for review and approval, with such approval being provided in writing to the Developer. Developer agrees to construct and fully pay for the Improvements required for Development of the Subject Property, as described in plans and specifications approved by of the City Engineer (the “Approved Plans”). For the purpose of this Agreement, the Approved Plans shall include: Grading, Erosion Control, Storm Water/SWPPP, and Street and Utility dated [REDACTED], with a final revision date of [REDACTED], and approved by the City Engineer on [REDACTED], all as attached hereto and incorporated herein by reference as Exhibit C. The Improvements shall be constructed in accordance with City specifications, including all relevant City Code regulations, the zoning ordinance, subdivisions regulations, utility and street construction standards, this Agreement, and the Approved Plans.

- a. Prior to beginning construction, the Developer or the Developer’s engineer shall submit a copy of the Approved Plans to the City Engineer and shall schedule a preconstruction meeting with all concerned parties, including City staff and engineers to review the program for construction work. The foregoing plans and specifications shall be prepared by a competent registered professional engineer engaged by the Developer and shall be subject to the City’s review and approval. No work shall commence on the Development of the Subject Property or the required Improvements until the Developer obtains a building permit(s) for the Development and the Improvements and pays all costs and fees required in connection with the procurement of the building permit(s) or such other permits as are required by City Code.
- b. All labor and work will be in strict conformance with the Approved Plans, must comply with the policies, rules, regulations, standards, and ordinances of the City, and performed in the best and most worker-like manner. Any deviation from the Approved Plans must be pre-approved in writing by the City Engineer, which shall not be unreasonably withheld, conditioned or delayed.
- c. Developer shall be solely responsible for all costs of constructing the required Improvements, and all costs incurred by it and City in conjunction with this Agreement, which costs are estimated and listed for the required Security in the attached Exhibit B. The costs of constructing the Improvements shall include the actual construction costs, the actual engineering, administration and any legal costs related thereto, and all other costs and fees relating to the construction of the Improvements and the Development as required by City Code, including but not limited to sanitary sewer availability charges, water availability charges, instillation of street and traffic control signs, etc. The engineering, administration and legal costs shall include the actual outside construction engineering assistance costs and the legal costs.

1.03 Staking, Surveying and Inspections. Developer must provide all required staking and surveying for the Improvements in order to ensure that the completed Improvements conform to the Approved Plans. The City will provide for construction inspection and material testing for the Improvements. Developer must notify the City Engineer at least 48 hours in advance, not including weekend days or holidays, for inspection service or scheduling of tests to be performed. Costs incurred by the City for the inspection activities will be recovered through the escrow described in Article Two.

1.04 Unsatisfactory Labor or Material. The City Engineer shall not reject as defective and/or unsuitable any material or labor delivered consistent with the Approved Plans. In the event that the City Engineer reasonably rejects as defective or unsuitable any material, then such material must be removed and replaced with approved material at the sole cost and expense of the Developer. In the event that the City Engineer reasonably rejects as defective or unsuitable any labor supplied by the Developer, then the labor must be completed again to the specifications and with the approval of the City Engineer at the sole cost and expense of the Developer.

1.05 Records and Data. Upon request by the City Engineer, Developer will provide requested copies of bids, change orders, suppliers, subcontractors, or related matters, relating to the Improvements and to the work to be performed by the Developer. The parties acknowledge that this Agreement and related documents are subject to the Requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

1.06 Final Inspection/Acceptance. Upon completion of the Improvements and all work required following inspections by the City Engineer, the City Engineer and representatives of the Developer's contractor and/or engineer will promptly make a final inspection of the Improvements to determine that the Improvements were installed pursuant to the Approved Plans. The Developer, its contractors and subcontractors, shall follow all instructions received from the City's inspectors and City Engineer, to the extent applicable, to comply with the Approved Plans, or applicable City Code or statutes for which the City inspectors have jurisdiction. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor(s). Before final payment is made to the contractor by the Developer, the City Engineer shall be satisfied that all work is satisfactorily completed in accordance with the Approved Plans, and the Developer's engineer shall submit a written statement attesting to the same. Final approval and acceptance of the development and Improvements shall be in writing from the City (the "Final Approvals"). The City will not unreasonably delay action on such resolution. The written approval and acceptance will also accept any Improvements, which are to be transferred to the City upon proper completion.

1.07 As-Built Plans. Upon completion of the Improvements, the Developer shall provide the City with: (i) a full set of as-built plans in a digital PDF format, and (ii) an as-built survey in a CADD format, for City records. As-Built Plans shall be provided according to City Code and Engineering Design Standards.

1.08 Warranty/Maintenance Bond. The Developer warrants all Improvements required to be constructed by it pursuant to this Agreement against poor material and faulty workmanship. The

Developer and/or its contractor shall be required to furnish the City a two (2) year maintenance bond guaranteeing all Improvements that are transferred to the City. The maintenance bond shall be provided to the City upon final inspection and acceptance of said Improvements. The Developer shall post a security in the form of either a) a warranty/maintenance bond for 100% of the cost of the Improvements, or b) a letter of credit or cash escrow for 25% of the amount of the original cost of the Improvements as warranty for the Improvements. The retainage from the Security identified in this Agreement may also be used to pay for warranty work.

1.09 Warranty of Landscaping. The Developer warrants all Landscaping as required for this Development and is required to furnish to the City security, guaranteeing the landscaping work in the amount of the landscaping improvements associated with the Development. The Developer security for the Landscaping shall be for 25% of the amount of the original landscaping costs. Security for the Landscaping work may be included with the Offer of Dedication, with funds held as part of the retainage from the original Security identified in this Agreement, or may be provided as a separate letter of credit or cash deposit. Security for landscaping may only be released after one (1) full growing season and upon establishment of the all required landscaping items.

1.10 Maintenance of Public Property. Developer agrees to assume full financial responsibility for any damage which may occur to public property with the Development of Subject Property, including, but not limited to: streets, street sub-base, base, bituminous surface, curb, utility system including, but not limited to water main, sanitary sewer or storm sewer when said damage occurs as a result of the activity which takes place during the Development of the Subject Property by the Developer, its contractors or subcontractors, employees, or assigns. The Developer further agrees to pay all costs required to repair the streets or utility systems, or both, damaged or cluttered with debris when occurring as a direct or indirect result of the construction that takes place by said Developer, its contractors or subcontractors, employees, or assigns. In the event the Developer fails to timely maintain or repair the damaged public property referred to aforesaid, after first receiving 72 hours written notice of the nature of the default or damage, the City may undertake making or causing it to be repaired or maintained. The City may in such event(s) draw down on the security, escrow, Letter of Credit, or any other cash deposits or security made by Developer to pay such costs, if the Developer fails to timely complete the repairs or does not complete the repairs to the City's satisfaction.

1.11 Maintenance of Improvements. Developer shall be responsible for all maintenance, upkeep and repair, at Developer's expense, including, but not limited to snow plowing, mowing, weed control, and grading of the Improvements until such Improvements are completed and accepted by the City, and issuance of the Final Approvals by the City. Developer, at Developer's expense, shall remain responsible for all maintenance and upkeep of Improvements that are not transferred to the City. Developer hereby agrees to indemnify and hold the City harmless from any and all claims for damages of any nature whatsoever arising out of Developer's acts or omissions in performing the obligations imposed upon Developer by this paragraph.

1.12 Demolition. If required of the Development, the Developer shall obtain all required permits and approvals and thereafter remove any existing structures on the Subject Property identified for removal/demolition prior to commencement of the Improvements.

1.13 License to Developer. The City hereby grants to the Developer a temporary license (the

“License”) over, under and across the rights-of-way dedicated to the public in the Schoolside Village 4th Addition Final Plat for purpose of construction of the Improvements. The License will commence with the filing of the Schoolside Village 4th Addition Final Plat with Chisago County, and shall terminate upon acceptance of the Improvements and issuance of Final Approvals.

1.14 Access License to the City. The Developer grants to the City, its agents, representatives, employees, officers, and contractors, a right of entry to access all areas of the Subject Property to perform any and all work and inspections necessary or deemed appropriate by the City or to take any corrective actions deemed necessary by the City in conjunction with this Agreement. The right of entry conveyed by the Developer to the City shall continue until the City accepts the Improvements and issues the Final Approvals. The City will provide the Developer with reasonable notice prior to exercising its rights hereunder, except in the case of an emergency. The City shall, following expiration of the license, have the right to enter the Subject Property to perform inspections as authorized by City Code.

1.15 Time of Performance. Except as otherwise provided in this Agreement, the Developer shall install all required Improvements and other work required by this Agreement by May 31, 2025, with the exception of the final wear course of asphalt on streets. The final wear course on streets shall be installed between May 15th and October 1st the first summer after the base layer of asphalt has been in place one freeze thaw cycle. Any deficiencies in the base, asphalt, curb or other improvements in the judgment of the City Engineer must be repaired by the Developer at its own cost prior to final paving. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and the extended completion date. Final wear course placement outside of this time frame must have the written approval of the City Engineer.

1.16 Grading Plan. The Development Property shall be graded in accordance with the approved grading development and erosion control plan. The plan shall conform to the Approved Plans, City Code and applicable law. Within thirty (30) days after completion of the grading, the Developer shall provide the City with a certificate of survey/"record" grading plan certified by a registered land surveyor or engineer that all ponds, swales, and ditches have been constructed on public easements or land owned by the City. The certificate of survey/"record" plan shall include field verified elevations of the following: a) cross sections of ponds; b) location and elevations along all swales, wetlands, wetland mitigation areas if any, ditches, locations and dimensions of borrow areas/stockpiles; c) lot corner elevations and building/house pads, d) top and bottom of retaining walls, and e) all lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications. The Developer shall furnish the City Engineer satisfactory proof of payment for the site grading work and shall submit a certificate of survey (as constructed survey) of the Development Property after site grading is complete. Final lot grades shall be shown on the as constructed survey. Final grading shall substantially comply with the approved grading plan.

ARTICLE TWO DEVELOPMENT STANDARDS AND REQUIREMENTS

2.01 Construction Phasing. The Development is proposed as one (1) phase. However, the Developer plans to construct the residential homes within the Development in four (4) phases; the

Improvements shall be completed as part of the initial construction phase. This Agreement shall remain in full effect for the duration of construction of the Development of the Subject Property hereby approved.

2.02 Development Standards. The Approved Plans reflect the City Approvals of the proposed Development under the applicable City Code and planning requirements. Development standards, including, but not limited to, setbacks, lot dimensions, architecture guidelines when necessary, must be satisfied by the Developer and/or assigned to a qualified subcontractor, and must be completed in a satisfaction according to the applicable Zoning District or Planned Unit Development regulations of the City Code, as applicable. The Developer and/or assigned may build no more or less than the number of units as shown on the Approved Plans, unless the Approved Plans are amended following review and approval by the City.

2.03 Changes in Official Controls. For two (2) years from the date of this Agreement, no amendments to the City's Comprehensive Plan or official controls shall apply to or affect the use, development density, lot size, lot layout or dedications of the approved final plat and Approved Plans, unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Agreement to the contrary, to the full extent permitted by state law, the City may require that any future development of the Subject Property comply with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Agreement.

2.04 Public Sidewalks, Trails & Trail Connections. The Developer shall be responsible for constructing all public and private sidewalks and trails along new and existing public and private streets, as shown on the Approved Plans, and connecting those sidewalks and trails to the existing adjacent system of public trails and sidewalks where applicable. All constructed sidewalks and trails must comply with the requirements of the City Code.

2.05 Park/Public Land Dedication. To meet the Park / Public Land Dedication requirements, the City may require and/or agree to a land dedication, cash payment in lieu of land dedication, and/or combination of both. For this Development, the Developer shall make a cash payment in lieu of land dedication. The amount of the cash contribution shall be as stated in Exhibit B; payment shall be made in lieu of land dedication in satisfaction of the City's Park/Public Land Dedication requirements and shall be paid to the City upon execution of this Agreement and prior to the release of the Final Plat for recording with Chisago County.

2.06 Hemingway Avenue Extension Cost Share. As required by the Schoolside Village Development Agreement, dated May 16, 2018, and executed by the City and Developer, the Developer agreed to pay one-third ($\frac{1}{3}$) of the cost to design, finance and construct the Hemingway Avenue Extension ("Hemingway Project") to a maximum Developer share of \$385,000.000. As of the date of this Agreement, the Developer has made payments, as noted in Exhibit B, toward the maximum cost share of the Hemingway Project. According to that initial Development Agreement, any balance owing shall be due on or before May 15, 2023, regardless of whether the entire plat has been developed at that time. As a result, the Developer shall owe the remaining balance due, as stated in Exhibit B, upon execution of this Agreement and prior to the release of the Final Plat for recording with Chisago County.

2.07 Development Signage. The Developer shall submit detailed sign plans to City staff for all signage proposed for the Development, including the development entrance monument signs prior to making application for a building permit.

2.08 Required Permits. The Developer shall obtain or require its contractors and subcontractors to obtain all necessary and required permits for the Development, including but not limited to the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Health (MDOH), and all other agencies and governmental authorities with jurisdiction over the Development and the Improvements before proceeding with construction of the Development and the Improvements. Copies of these permits shall be provided to the City Engineer, and may include but are not limited to the following: Minnesota Department of Health for Watermains, MN/DOT for State Highway Access, County Road Access and Work in County Road Right-of-Way, NPDES Permit for Stormwater Management, MPCA for Sanitary Sewer Extensions/Connections and Hazardous Material Removal and Disposal, Wetlands permits as applicable, DNR for Dewatering, and City of North Branch Building Permits, as applicable.

2.09 City Requirements – Homeowners Association. There shall be no Homeowners Association with this Development.

ARTICLE THREE FINANCIAL GUARANTY AND REQUIRED PAYMENTS

3.01 Development Fees. All fees as further set out in Exhibit B must be paid in full to the City prior to the City execution and delivery of the Final Plat to Developer for recording.

3.02 Financial Guaranty, Improvements. Prior to commencement of construction of the Improvements, the Developer will furnish the City an irrevocable Letter of Credit, cash escrow agreement, or combination thereof (the “Security”), approved by the City and in the form as provided by the City, and from a bank in the amount of 125% of the estimated project costs for the Improvements as set forth in Exhibit B. If by Letter of Credit, the Security must contain a provision that prohibits the issuer or surety from terminating the Security without first giving 30 days’ written notice to the City of the proposed termination or expiration of the Security. Failure of the Developer to post a substitute Security within five (5) days after notice by the City shall constitute a default that shall be grounds for drawing on the letter of credit. The City Administrator may grant a reduction in the Security upon written request by the Developer based upon the value of the completed work at the time of the requested reduction. The Security may not be reduced to less than 10% of the original amount until all work required of the Developer by this Agreement has been completed and accepted by the City. The Security shall be released upon the City’s issuance of the Final Approvals. Upon failure of the Developer to complete the Improvements in accordance with this Agreement or otherwise perform under this Agreement, the City may, after providing five (5) days written notice to the Developer, declare the Developer to be in default and the amount of the Security shall be paid over to the City. From the proceeds of the Security, the City shall be reimbursed for any attorneys’ fees, engineering fees or other technical or professional assistance, including the work of the City staff and employees, and the remainder thereof shall be used by the City to complete the Improvements. The Developer shall be liable to the City to the extent that the Security is inadequate

to reimburse the City its costs and pay for the completion of the work.

3.03 Escrow. In addition to the required Security, the Developer shall also submit a cash escrow (“Escrow”) to the City in an amount as required by Exhibit B. This Escrow is to be used by the City staff to charge costs of services or materials incurred by the City in connection activities required under this Agreement as set forth on the attached Exhibit B, including but not limited to engineering fees, administration, construction observation, consultant fees, and attorney’s fees. The City will bill costs incurred related to the Development against and reimburse itself from the deposited escrow no more often than monthly. The City shall provide notice of the funds drawn down from the deposited escrow to Developer containing the itemized costs incurred by the City. The City will provide written notice to the Developer if the Escrow is insufficient to cover ongoing and projected City expenses associated with the Development. Developer shall pay additional escrow as determined by the City within ten (10) days of written notice. Failure to make payment of the additional escrow amount will permit the City to supplement those amounts from the Security, pursuant to this Article or to issue the Developer a stop work order. The City shall return any unused Escrow balance to the Developer no sooner than six (6) months after the acceptance of the Improvements and issuance of the Final Approvals by the City. If the City requires an escrow agreement for this purpose, Developer shall enter into and execute such an escrow agreement with the City in the form required by the City. The Developer shall deposit the full escrow with the City prior to the final plat being recorded or building permit issuance. No construction of Improvements will be authorized until the Escrow has been paid to the City.

ARTICLE FOUR OTHER REQUIREMENTS

4.01 Indemnification. Notwithstanding anything to the contrary in this Agreement, the City, its officials, agents and employees shall not be personally liable or responsible in any manner to the Developer, the Developer’s contractor or subcontractor, material suppliers, laborers or to any other person or persons for any claim, demand, damages, actions or causes of action of any kind or character arising out of or by reason of the execution of this Agreement or the performance and completion of the work required by this Agreement to be performed by the Developer. The Developer will hold the City, its officials, agents and employees harmless from all such claims, demands, damages, or causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys’ fees, consulting engineering services, and other technical or professional assistance arising from or related to this Agreement, Developer’s performance or non-performance under this Agreement, or the completion of or failure to complete the work required by this Agreement, including the work of City staff and employees. The Developer further agrees that it will indemnify, defend, and hold harmless the City and its governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants on the Subject Property and/or Development. Nothing in this section will be construed to limit or affect any limitations on liability of the City under State or federal law, including without limitation Minnesota Statutes, Sections § 466.04 and § 604.02. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.

4.02 Insurance. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the Final Approvals and the City has accepted the Improvements, liability

and property damage insurance covering bodily injury, including death, and claims for property damage which may arise out of Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. The Developer must keep the insurance in force at all times that construction on the Development is in progress. The insurance must name the City as an additional insured. The Developer shall furnish proof of insurance acceptable to the City, covering any public liability or property damage by reason of the operation of the Developer's equipment, laborers, and hazard caused by the Improvements, and include at least the following:

- a. Commercial general liability insurance, including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance, together with an Owner's Contractor's Policy with limits against bodily injury, including death, and property damage to include, but not be limited to damages caused by erosion or flooding, which may arise out of Developer's work or the work of any of its subcontractors. The exclusion for underground collapse shall be removed.
- b. Limits for bodily injury or death shall not be less than \$500,000.00 for one person and \$1,500,000.00 for each occurrence; limits for property damage shall not be less than \$2,000,000.00 for each occurrence.
- c. Worker's compensation insurance, with statutory coverage, if applicable.
- d. Developer shall file a Certificate of Insurance with the City Clerk prior to commencing site grading. Developer shall be responsible for insuring that the Certificate bear the following wording:

"Should any of the above policies be canceled or terminated before the expiration date thereof, the issuing company shall give thirty (30) days written notice of cancellation or termination to the Certificate Holder."

4.03 Building Permits and Occupancy. Except as otherwise provided for in this Agreement, building permits shall only be issued upon execution of this Agreement by the City and Developer and all amounts due and the Security and Escrow required under this Agreement are timely paid to the City, and the Final Plat is recorded and a receipt of said recording is provided to the City Clerk. Prior to recording of the Final Plat, permits for grading and erosion control may be issued in conjunction with an approved Early Grading Agreement and grading permit, and payment of the required Security and Escrow by Developer to the City as identified in Exhibit B. The City's approval of the final plat or this Agreement does not include approval of building permits for any structures to be constructed within the Subject Property. The Developer must submit and the City approve building plans prior to the issuance of building permits for structures within the Subject Property

4.04 Model Home. If a residential development, the Developer may apply for building permit(s) to construct three (3) model single-family home prior to the completion of the public roads serving the development. Model home sites must be approved by the Community Development Director and may be no greater 350 feet from a paved bituminous road. Developer shall maintain access for vehicle traffic and parking during construction of the model homes and access for emergency personnel and equipment, as determined by the City. No occupancy of any model home or newly constructed

building shall occur until the base course of bituminous is in place and a Certificate of Occupancy has been issued by the City Building Official. The Developer shall use the model home only for real estate sales purposes and no other purposes. The Developer or Developer's owner's representative shall maintain reasonable access to any occupied building within said Development, including necessary street maintenance such as grading and graveling and snow removal prior to permanent street surfacing and acceptance of the streets by the City.

4.05 Private Easements. Developer shall provide to the City evidence of all executed private easements between the Developer and adjacent property owner(s). Private easements shall be recorded with Chisago County; a copy of said recording shall be provided to the City Clerk with a copy of the private easement.

4.06 Underground Utilities. The Developer shall contact the electric, telephone, gas and cable companies that are authorized to provide service to the Subject Property for the purpose of ascertaining whether any of those utility providers intend to install underground lines within the Development. The placement of private underground utilities shall be designed and constructed according to City Code, City standards and specifications, and coordinated with the placement of public underground utilities. Underground utility plans shall be reviewed and approved by the City Engineer. Any costs associated with the installation of underground utilities required by the utility companies shall be completed at the sole expense of the Developer. Private utilities shall not be installed until the curb and gutter are completed and backfilled, as applicable. All utilities shall be installed underground or as otherwise approved in writing by the City Engineer. The City Engineer must approve of the final location for all private utilities. Joint trenching of the utilities is strongly encouraged. All utilities must be located in public rights-of-way or within drainage and utility easements. The Developer agrees to comply with applicable requirements of franchise ordinances in effect in the City, copies of which are available from the City Clerk. If any conditions set forth in this Agreement conflict with the City's utility franchise agreements, the franchise agreements shall in all cases prevail.

4.07 Construction Management of Project Area. During construction of the Improvements and the Development, the Developer and its contractors and subcontractors shall minimize the impacts from construction on the surrounding public and private properties. Developer shall provide a map of the Construction Area, defining the limits of the project area and shall erect any construction fencing as necessary to demarcate the project area limits. All parking of the Developer and its contractors and subcontractors, and storage of construction materials, shall occur wholly within the project area, unless otherwise approved by the City. No fill, excavated material or construction materials shall be stored in any public rights-of-way

4.08 Construction Hours; Noise; Dust. Developer will comply with all requirements of the City pertaining to the hours and days during which construction activities may take place, unless otherwise approved by the City Administrator. Construction hours shall be limited to Mondays through Fridays from 7 a.m. to 9 p.m. and Saturdays from 7 a.m. to 9 p.m.; no construction activities are permitted on Sundays and/or holidays. The Developer shall provide dust control to the satisfaction of the City Engineer.

4.09 Street Cleaning. The Developer shall clean dirt and debris from streets that has resulted from

construction work by the Developer, its contractors, subcontractors, agents or assigns. The City will inspect the Subject Property not less than on a weekly basis to determine whether it is necessary to take additional measures to clean dirt and debris from the streets. After 72-hours verbal notice to the Developer or Developer's owner's representative, the City may complete or contract to complete the clean-up at the Developer's expense. The City may draw down on the Escrow, Security and/or any other cash deposit to pay such costs.

4.10 Street Signs, Lighting, and Mailboxes. The Developer shall be financially responsible for the cost of street identification signs and street lighting for the Development. The City shall provide and install street identification signs, and has the sole discretion to determine the number and location of said signs and street lights. The street lighting plan shall be designed and constructed according to City standards and specifications. The Developer shall submit a final lighting plan for review and approval to the City Engineer prior to commencing construction. The Developer is required to supply and install cluster mailboxes as approved by the City and for which such placement must be approved by the USPS Postmaster.

4.11 Erosion Control. Prior to initiating site grading, the erosion control plan shall be implemented by the Developer and inspected and approved by the City Engineer. The Erosion Control Plan and Storm Water Pollution Prevention Plan (the "SWPPP") shall be implemented by the Developer and inspected and approved by the City Engineer. Erosion and sediment control practices must comply with the Minnesota Pollution Control Agency's (the "MPCA") Best Management Practices and applicable MPCA NPDES permit requirements for construction activities and the Developer's SWPPP. The Developer shall be responsible for compliance with the erosion control plan, pursuant to the Approved Plans. The Developer will be given a telephone notice when an unsatisfactory condition exists that is determined to be a Developer's responsibility. Work to correct said unsatisfactory condition shall commence within 72 hours from the time of the telephone notice to the Developer or Developer's owner's representative. If work is not commenced within 72 hours of said telephone notice, City will proceed to do the required work at the expense of the Developer. If it is determined that the unsatisfactory condition could result in degradation of downstream water quality, Developer shall, upon telephone notice, immediately proceed to correct said unsatisfactory condition. If Developer does not, within the stated time period, respond to said unsatisfactory condition, City has the right to enter upon the Subject Property and correct said condition. City shall be entitled to reimbursement of all of its costs and expenses including, but not limited to legal, fiscal and engineering, and may draw on Developer's Escrow and Security. No development, utility or street construction will be allowed and no building permits will be issued unless the final plat and Approved Plans for the Development, as applicable, are in full compliance with the approved erosion control plan.

4.12 Covenants and Agreement for Maintenance of Stormwater Facilities. In order to provide stormwater management and control to meet the City's stormwater permitting requirements, City Code and law and regulations of the State of Minnesota, as applicable, and to promote water quality and volume control to the City's stormwater systems and water bodies, the Developer and City agree that it is reasonable for the City to require the Developer and all subsequent owners of the Development and Subject Property to construct, inspect, operate, repair, maintain and replace, City required stormwater facilities, at the sole cost and expense of the Developer. The Developer and City shall enter into a Stormwater Maintenance Agreement that shall contain the terms and

conditions, as required by the City, and covenants and declarations specific to the Development for the installation of and ongoing operation, repair, maintenance and replacement of such stormwater facilities at the sole cost and expense of the Developer and the Developer's successors and assigns.

4.13 Ownership of Improvements. Upon completion of the work and construction of the Improvements as required by this Agreement, and acceptance of Improvements by the City, the Improvements lying within public easements and public rights-of-way shall become the property of the City of North Branch without further notice or action upon City acceptance thereof. Upon receipt of affidavits of completion by the Developer and Developer's owner's representative(s), the City Engineer shall accept the completed Improvements and the City shall issue a Certificate of Acceptance/Certificate of Completion.

4.14 Other Approvals. In addition to the City Approvals, other governmental agencies have reviewed and approved components of the Development plans, if required. It is the responsibility of the Developer to ensure that all permits from appropriate governmental agencies are received prior to beginning construction of any Improvements.

4.15 Final Plat. The Developer shall record the Final Plat for Schoolside Village 4th Addition in the land records for Chisago County, Minnesota within 30 days of its release by the City to the Developer. Developer shall provide a copy of said recorded Final Plat to the City Clerk.

4.16 Further Subdivision. If the plat is a phase of a multi-phased preliminary plat, the City may refuse to approve final plats of subsequent phases if the Developer has breached this Agreement and the breach has not been remedied to the City's reasonable satisfaction. Development of subsequent phases may not proceed until Development Agreements for such phases are approved by the City and executed by the parties. Sanitary sewer and water area charges referred to in this Agreement are not being imposed on outlots, if any, in the plat that are designated in an approved preliminary plat for future subdivision into lots and blocks. Such charges will be calculated and imposed when the outlots are final platted into lots and blocks.

4.17 Wetland Mitigation. Wetland mitigation is the replacement, restoration, creation, or enhancement of wetlands caused by the unavoidable impacts to wetland areas as a result of development. If impacts are identified with this Development, the Developer shall submit and the City shall approve a Wetland Replacement Plan addressing these impacts. Before the City releases the Final Plat for recording, the Developer shall post security for wetland mitigation or provide proof of purchase of wetland credits, if approved and authorized by the Wetland Replacement Plan. Security may be in the form of a Letter of Credit or in the form of a cash deposit in a non-interest bearing cash escrow with the City. The security amount provided for wetland mitigation shall be for the amount as stated in Exhibit B, but shall be provided separate from the primary development security as is required by this Agreement. If the mitigation area is found to be unsuccessful after the mandatory five (5) year warranty period, the City may elect to keep the security to be used for this mitigation project or for wetland mitigation/restoration elsewhere within the City. In addition, the City may draw down the security at any time during the warranty period if the Developer fails to take corrective measures as directed by the City to perform the work recommended. If no wetland impact and resulting wetland mitigation is planned or required for the Development, the Developer

shall remain responsible for any undisclosed mitigation on the land, and will be required to submit any necessary security should subsequent wetlands be identified.

4.18 Additional Work or Materials Costs. All Improvements that Developer is required to complete pursuant to this Agreement shall be designed and constructed according to City Code, City standards and specifications, and completed at no expense to the City, including, without limitation, any reimbursement by the City for work paid for by the Developer. The Developer agrees that it will make no claim for compensation for work or materials so done or furnished.

4.19 Development Costs. Except as otherwise specified herein, the Developer shall pay all costs incurred by it and the City in conjunction with this Agreement, the approval of the Plat, the grading and development of the Subject Property, and the construction of the Improvements required by this Agreement, including but not limited to, all costs of persons and entities doing work or furnishing skills, tools, machinery, equipment and materials; insurance premiums; legal, planning and engineering fees; the preparation and recording of this Agreement and all easements and other documents relating to the Final Plat and the Subject Property, as applicable; all Response Action Plans, traffic studies, environmental assessments and/or engineering and other studies and reports; all permits and approvals; and all City's costs incurred pertaining to the inspection and monitoring of the work performed in connection with approval and acceptance of the final plat, the Development, the Approved Plans, the City Approvals, the Final Plans, and the construction of the Improvements and the other work done and improvements constructed on the Subject Property or otherwise related to the Development. The City shall not be obligated to pay Developer or any of its agents or contractors or subcontractors for any costs incurred in connection with the construction of the Improvements or the development of the Subject Property. Developer agrees to defend, indemnify, and hold the City and its mayor, council members, employees, agents and contractors harmless from any and all claims of whatever kind or nature and for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including reasonable attorneys' fees, which may arise as a result of final plat approval, the Development, this Agreement, the construction of the Improvements (except for the negligence or intentional misconduct of the City with respect to the construction of the Improvements), the development of the Subject Property or the acts of Developer, and its employees, agents, contractors or subcontractors, in relationship thereto. The Developer hereby covenants and agrees that Developer will not permit or allow any mechanic's or materialman's liens to be placed on the City's interest in any property that is the subject of the Development or this Agreement during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on the City's interest, the Developer shall take all steps necessary to see that it is removed within thirty (30) business days of its being filed; provided, however, that the Developer may contest any such lien provided the Developer first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien.

4.20 Taxes, Assessments and Other Charges. The Developer shall pay, or cause to be paid when due, and in any event before any penalty is attached, all property taxes and special assessments for the Subject Property and any others referred to in this Agreement. This is a personal obligation of the Developer and shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of the Subject Property. In addition to the charges and special assessments referred to herein, other charges and special assessments may be imposed such as but not limited to sewer availability charges ("SAC"), City water connection ("WAC") charges, City sewer connection

charges, City storm water connection charges, building permit fees and plat review fees, which shall be paid by Developer.

ARTICLE FIVE DEFAULT AND REMEDIES

5.01 Default by Developer. In the event of default by the Developer as to any of the work to be performed hereunder by the Developer, its successors or assigns, the City may, at its option, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer is first given notice of the work in default, not less than 72 hours in advance, and does not, within that 72-hour period, diligently proceed to remedy such default to the City's reasonable satisfaction. The City is granted the right to declare any sums provided by this Agreement due and payable in full, and the City may immediately bring legal action against the Developer to collect the sums covered by this Agreement and/or draw upon the financial guaranty posted in conformance with Article Three of this Agreement. In the event the City draws from the financial guaranty sums that exceed the costs or damage to the City, the City will return such excess amounts. In addition to its other remedies provided herein, the City may levy the cost in whole or in part as a special assessment against the Subject Property. Developer waives its rights to notice of hearing and hearing on such assessments and its right to appeal such assessments pursuant to Minnesota Statutes, Section § 429.081. Notwithstanding any provision contained in this Article, the City may exercise any remedies which may be available to it at law or in equity in the event of a default by Developer under this Agreement.

5.02 Complete Improvements – Right of Entry. In addition to the City's other remedies under this Agreement, if the Developer's breach involves failure to complete the Improvements, the City is hereby authorized, at its option, to enter on to all portions of the Subject Property it deems necessary to complete the installation of any or all of the Improvements to which the default relates and draw upon the Security as provided in Article Three to reimburse itself for such costs incurred to remedy such default and invoice the Developer for any costs incurred in excess of the Security, with payment of such invoiced amounts required by the Developer within 30 days of the date of the City's invoice.

5.03 Denial of Permits. Breach of any term of this Agreement by the Developer and/or failure to comply with City Code shall be grounds for denial of any permits, including but not limited to: grading permits, building permits, occupancy permits, etc., within the Development until such breach is corrected by the Developer to the City's reasonable satisfaction.

5.04 Rights Cumulative. No remedy conferred in this Agreement is intended to be exclusive and each shall be cumulative and shall be in addition to every other remedy. The election of any one or more remedies shall not constitute a waiver of any other remedy.

5.05 Attorney Fees. The Developer will pay the City's costs and expenses, including but not limited to engineering and attorneys' fees, in the event a suit or action is brought to enforce the terms of this Agreement or in the event an action is brought upon a bond or Letter of Credit or other Security furnished by the Developer as provided herein.

5.06 Termination. If Developer fails to: a) acquire fee simple title to all of the subject Property,

and b) record this Agreement and the final plat in the office of the Chisago County Recorder, as applicable and as provided herein, within one (1) year after approval of the final plat or this Agreement, as applicable, by the City Council, this Agreement shall terminate and the approval of the final plat shall be null and void, subject to the following: i) All costs, fees and other amounts previously paid to the City in connection with the final plat, the Improvements, this Agreement and the Development shall belong to and be retained by the City; ii) the obligations of the Developer for costs incurred shall survive such termination and continue with respect to unpaid costs, fees and expenses incurred prior to such termination; iii) the indemnifications of Developer shall survive and continue after such termination; and iv) the parties shall be released from all other obligations and liabilities under this Agreement not specified above. In the event of the termination of this Agreement, the parties agree, if requested by the other party, to execute and deliver to the other party a written termination acknowledgment in a form reasonably satisfactory to both parties.

5.07 No City Obligation to Construct Improvement. The City shall have no obligation to construct the Improvements and Developer shall have no right to construct the Improvements or construct the Development on the Subject Property unless the Developer acquires fee simple title to the Development Property and records this Agreement and the final plat in the office of the Chisago County Recorder as required herein within one (1) year after approval of the final plat by the City Council.

ARTICLE SIX MISCELLANEOUS PROVISIONS

6.01 Amendment. Any modification or amendment to this Agreement must be in writing and signed by both parties.

6.02 Assignment. The Developer may not transfer or assign any of its obligations under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

6.03 Agreement to Run with Land. The Developer agrees to record this Agreement among the land records of Chisago County, Minnesota contemporaneously with recording the Final Plat of Schoolside Village 4th Addition and corresponding Final Plat Resolution Nos. 49-22-CC and 46-23-CC, as approved by the City Council on July 26, 2022 and July 25, 2023, respectively. The provisions of this Agreement shall run with the land and be binding upon the Developer and its successors in interest. Notwithstanding the foregoing, no conveyance of the Subject Property or any part thereof shall relieve the Developer of its personal liability for full performance of this Agreement unless the City expressly so releases the Developer in writing.

6.04 Release. Upon completion of the Improvements, the City's issuance of the Final Approval, and satisfaction of the Developer's obligations under this Agreement, which shall be evidenced by the expiration of the maintenance bond as required by Section 1.07 of this Agreement, the City agrees to execute a Certificate of Completion or other recordable instrument releasing the Development from the terms of this Agreement.

6.05 Severability. The provisions of this Agreement are severable, and in the event that any

provision of this Agreement is found invalid, the remaining provisions shall remain in full force and effect.

6.06 Notices. All notices, certificates or other communications required to be given to City or Developer hereunder shall be sufficiently given: i) on the same day of personally delivered, ii) one (1) day after being deposited with a nationally recognized overnight courier service, or iii) two (2) business days after mailing by First Class or Certified or Registered mail, return receipt requested, with postage fully prepaid and addressed as follows:

CITY:

City of North Branch
6408 Elm Street
North Branch, MN 55374
Telephone: (651) 674-8113
Attn: Jason Ziemer, Community Development Director

DEVELOPER:

Casselberry Development, LLC
920 West Broadway
Forest Lake, MN 55025
Telephone: [#]
Attn: [Name/Title]

The City and Developer, by notice given hereunder, may designate different addresses to which subsequent notice, certificate or other communications should be sent.

6.07 No Third Party Beneficiary. This Agreement and any financial guarantees required pursuant to its terms are not intended for the benefit of any third party.

6.08 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. The Developer agrees to comply with all laws, ordinances, and regulations of Minnesota and the City that are applicable to the Subject Property.

6.09 Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be an original and shall constitute one and the same Agreement.

6.10 Non-waiver. Each right, power or remedy conferred upon the City or the Developer by this Agreement is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, or available to the City or the Developer at law or in equity, or under any other agreement. Each and every right, power and remedy set forth in this Agreement or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City or the Developer and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. If either party waives in writing any default or nonperformance by the other party, such waiver shall be deemed to apply only to such event and shall not waive any other

prior or subsequent default.

6.11 Supersedes and Replaces. The parties understand and agreed that this Agreement supersedes and replaces all oral agreements, previous development agreements, and negotiations between the parties in relation thereto.

6.12 Title Representation and Consents. The Developer represents, covenants and warrants with the City, its successors and assigns, that the Developer is well seized in fee title of the Subject Property and/or has obtained, as applicable, the required consents as listed and attached in Exhibit D, to this Agreement, in the form attached hereto, from all parties who have an interest in the Subject Property; that there are no unrecorded interests in the Subject Property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

6.13 Compliance with Laws. The Developer agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the Development of the Subject Property and Improvements.

6.14 Recitals and Exhibits. The recitals and exhibits hereto are made a part hereof and incorporated herein by reference.

6.15 City Code Adopted by Reference. The provisions of the City Code, Chapters 54, 58, and 66 are hereby adopted by reference in their entirety, unless specifically excepted, modified, or varied by the terms of this Agreement, or by the final plat as approved by the City, as applicable. In the event that a provision of this Agreement is inconsistent with or in conflict with the City Code, the City Code shall govern.

6.16 Expiration of Agreement. This Agreement shall remain in effect until such time as the Developer shall have fully performed all of its duties and obligations under this Agreement. Upon issuance of the Certificate of Completion by the City, this Agreement shall terminate.

[Balance of this page intentionally left blank]

CITY OF NORTH BRANCH

By: _____
Kevin Schieber
Its Mayor

By: _____
Jason Ziemer
Its Interim City Administrator

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Kevin Schieber and Jason Ziemer, the Mayor and Interim City Administrator, respectively, of the City of North Branch, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
City of North Branch
6408 Elm Street
North Branch MN 55056
(651) 674-8113

EXHIBIT A
SCHOOLSIDE VILLAGE 4TH ADDITION
LEGAL DESCRIPTION

Current Legal Description

Outlot A of Schoolside Village 2nd Addition, Chisago County, Minnesota.

and

Outlot B of Schoolside Village 3rd Addition, Chisago County, Minnesota.

PIDs: 11.00422.45 and 11.00422.77

Proposed Legal Description

Lots 1 through 30, inclusive, Block 1 and Lots 1 through 13, inclusive, Block 2 of Schoolside Village 4th Addition, Chisago County, Minnesota.

EXHIBIT B

**SCHOOLSIDE VILLAGE 4TH ADDITION
FINANCIAL SECURITY & ESCROW**

2024 EXHIBIT B

SCHOOLSIDE VILLAGE 4TH ADDITION

DEVELOPMENT INFORMATION		
Property - Acres	20.3	<i>Acres for 2 Outlots</i>
Property - Square Feet	885,574.8	<i>SF for 2 Outlots</i>
Units	43.0	<i>Used for SAC/WAC</i>
Lots	44.0	<i>Lots/Blocks + Outlots</i>

SECTION 1: DEVELOPMENT FEES	COST	PER	DUE	NOTES
Water Trunk	3,500.00	Per Unit	150,500.00	
Sanitary Sewer Trunk	1,656.00	Per Unit	71,208.00	
Storm Sewer Trunk	-	Per Acre	-	
Park Dedication	450.00	Per Unit	19,350.00	
Subdivision GIS Data Entry Fee	-	Per Acre	-	
Lot Origination Fee	40.00	Per Lot	1,760.00	<i>43 Residential Lots + 1 Outlot</i>
Subtotal Platting Fees			242,818.00	
Pre-Paid Lot Fee			(1,760.00)	<i>Paid w/Application</i>
Total Platting Fees			241,058.00	

SECTION 2: ADMINISTRATIVE AND DEVELOPMENT RELATED COSTS	DUE	NOTES
Administrative	-	<i>Construction Improvements (3%)</i>
Hemingway Avenue Extension Share	385,000.00	<i>Road Project Cost-Share</i>
Subtotal Administrative and Development Related Costs	385,000.00	
Hemingway Avenue Extension - Previously Paid	(193,028.00)	<i>Paid by Developer</i>
	-	
Total Administrative and Development Related Costs	191,972.00	

SECTION 3: IMPROVEMENT COSTS	SECURITY	DUE	NOTES
Development Escrow			
Engineering - Onsite Field Inspection	-	20,000.00	<i>City Engineer - Contract</i>
Engineering - Plan Review	-	-	<i>City Engineer - Contract</i>
Environmental	-	-	<i>Wetland Engineer - Contract</i>
Legal	-	1,000.00	<i>City Attorney - Contract</i>
Planning	-	2,000.00	<i>Planning Staff</i>
Non-Public Improvements			
Landscaping	-	-	
Construction - Site (Grading)	88,215.00	-	<i>Grading + Erosion Control+Removals</i>
Construction - Storm Ponding	-	-	
Wetland Mitigation			
Wetland Mitigation	-	-	
Public Improvements Dedicated to the City			
Landscaping	-	-	
Construction - Streets	346,255.00	-	<i>Streets+Mobilization (per Eng Est)</i>
Construction - Utility Improvements (Storm Sewer)	182,126.00	-	<i>Storm Sewer (per Eng Est)</i>
Construction - Utility Improvements (Water Main)	218,798.00	-	<i>Water (per Eng Est)</i>
Construction - Utility Improvements (Sanitary Sewer)	255,971.00	-	<i>Sanitary Sewer (per Eng Est)</i>
Subtotal Improvement Costs	1,091,365.00	23,000.00	
[List Credits, if Applicable]	-	-	
Total Improvement Costs	1,091,365.00	23,000.00	

SECTION 4: LOC / ESCROW / FEES REQUIRED	SECURITY	DUE	NOTES
Cash & Escrow			
Section 1: Platting Fees	-	241,058.00	<i>Cash</i>
Section 2: Administrative Fees	-	-	<i>Cash</i>
Section 2: Development Related Costs	-	191,972.00	<i>Development Related Items</i>
Section 3: Cash Escrow	-	25,300.00	<i>Cash (110%)</i>
Security			
Section 3: Letter of Credit - Improvements	1,364,206.25	-	<i>Public / Non-Public Improvements (125%)</i>
Section 3: Letter of Credit - Wetland Mitigation	-	-	<i>Public / Non-Public Improvements (125%)</i>
Total Letter of Credit and Cash Required	1,364,206.25	458,330.00	

EXHIBIT C
SCHOOLSIDE VILLAGE 4TH ADDITION
APPROVED PLANS

SCHOOLSIDE VILLAGE 4TH ADDITION MORTGAGEE CONSENT

The Property is subject to the foregoing Developer's Agreement and, accordingly, Bank hereby consents to the Developer's Agreement; provided, that in doing so, Bank shall not be liable to the City or any other person for the performance or non-performance of the Agreement by the Developer; provided further, that in the event that Bank acquires fee title to the Property by foreclosure or sale in lieu of foreclosure, Bank shall not be required to perform any of the obligations required of the Developer in said Agreement during the Bank's term of ownership so long as Bank is actively marketing the Property for sale and maintaining the Property in compliance with applicable ordinances.

Its: _____

[illegible]

Notary Public

**FEE OWNER CONSENT
TO
DEVELOPMENT AGREEMENT
SCHOOLSIDE VILLAGE 4TH ADDITION**

_____, fee owners of all or part of the subject Development Property, the development of which is governed by the foregoing Development Agreement, affirm and consent to the provisions thereof and agree to be bound by the provisions as the same may apply to that portion of the subject Development Property owned by them.

Dated: _____, 20__

By: _____

Its: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, the _____ of _____, a _____ under the laws of _____, on behalf of the _____.

Notary Public



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 03/06/2024

Board & Commission: City Council

Subject: Approve Master PUD Agreement and Subdivision Development Agreement for Fox Run Subdivision

Overview / Background

The Graphic Homes, Inc. (Developer) received previous City Council approvals for the Master Development Plan and Preliminary Plat for Fox Run, an 84-unit residential subdivision (Development), on May 23, 2023; those approvals also included a rezoning of the Subject Property from R1 – Single-Family Residential to Planned Unit Development (PUD). On July 11, 2023, the City Council approved the Final Plat for Phase 1 of the Development; Phase 1 includes 34 home sites. With Preliminary Plat approval, the Developer is to pay to the City \$60,000 in lieu of the City’s agreement to waive the Open Space and construction of additional public trails throughout the Development; the Developer is still construction public sidewalks according to the plans. The \$60,000 payment was the estimated cost if the Developer was required to construction those additional trails.

As the Development is a multi-phase development and a Planned Unit Development (PUD), the Master PUD Agreement is necessary to establish the terms and conditions for the entire development, as well as reiterate the PUD zoning requirements, as authorized by Ordinance No. 353-23. The subsequent Subdivision Agreements, reiterate the terms and conditions for the development and include specific requirements and well as financial obligations for each phase (i.e. securities, escrow and development fees due to the City).

Staff Recommendation

City staff recommend approval of the agreements.

Recommended Planning Commission Action

Motion to approve the Fox Run Master Planned Unit Development Agreement and Subdivision Agreement for Phase 1 of Fox Run, a single-family residential development.

Voting Requirements:

Voting Options Simple Majority

MASTER PLANNED UNIT DEVELOPMENT AGREEMENT

FOX RUN

THIS MASTER PLANNED UNIT DEVELOPMENT AGREEMENT (“Master Agreement”) is made this 26th day of March, 2024 by and between Graphic Homes, Inc., a corporation, under the laws of the State of Minnesota, with its principal office located at 38814 3rd Avenue, North Branch, MN 55056 (“Developer”), and the City of North Branch, a Minnesota municipal corporation, located at 6408 Elm Street, North Branch, Minnesota 55056 (“City”); (collectively the “parties”).

FINDINGS & RECITALS

- A. Developer is the fee owner of real property located in the City of North Branch, Minnesota, identified with the Parcel Identification (PID) No. 11.00567.00, as legally described on the attached Exhibit A (“Subject Property”), and which Subject Property shall be referred to hereafter as Fox Run.
- B. The City Council approved the Preliminary Plat for Fox Run, an 84-unit residential development, on 44.988 acres (“Development”), by Resolution No. 036-23-CC on May 23, 2023, and rezoning of the Subject Property to Planned Unit Development (“PUD”), by Ordinance No. 353-23 on May 23, 2023, collectively referred to hereinafter as “City Approvals”. The terms and conditions of the City Approvals are hereby incorporated into this Master Agreement by reference. Development of the Subject Property shall be in conformance with the City Code, the City Approvals and the Approved Plans, as hereinafter defined and enumerated on the attached Exhibit D except as may be specifically authorized in this Master Agreement.
- C. Given the size and scope of the Development, it is in the best interest of the City and Developer to allow the Development to proceed in multiple phases based on a Final Plat for each phase, and to enter into this Master Agreement in order to establish certain terms and conditions of approval prior to the Final Plat of any phase of the Development in subsequent years. The Developer’s Master Development Plan and Phasing Plan are attached as Exhibit B (“Master Plan”) and Exhibit C (“Phasing Plan”).

Based on the mutual covenants and obligations contained herein, the parties agree to the following:

AGREEMENT

ARTICLE ONE AGENCY APPROVALS & RIGHT TO PROCEED

1.01 Master Agreement. This Master Agreement confirms the terms and conditions of the City Approvals and Approved Plans for the Development, the required public and private improvements as part of the first and subsequent phases of the Development, and the standards for the timing and financing of required improvements and terms of payment of development fees. Final Plats for each phase of the Development shall be consistent with the City Code, PUD Ordinance, Approved Plans and the City Approvals. The Final Plat for each phase shall also be accompanied by a Subdivision Agreement that confirms the required public and private improvements, responsibilities of the City and the Developer, and development fees for each phase.

The approved Preliminary Plat for the Development is valid through May 23, 2026, which is three (3) years from the date of this Master Agreement (“Commencement Date”), provided that final plats for phases of the Development are approved and recorded as provided in this paragraph and in the Phasing Plan, as attached in Exhibit C. Final Plats must be approved and recorded such that at least one (1) of the three (3) planned phases for the Development are platted every year beginning on the Commencement Date, and provided that the Final Plat for the first phase of the Development is filed within the initial one (1) year period, all as provided in the Phasing Plan, as attached in Exhibit C. After May 23, 2026, or in the event final plats are not timely approved and recorded as required herein, the City may give notice to the Developer that the Preliminary Plat is null and void and that submission of a new proposed Preliminary Plat for any remaining, unplatted portion of the Property is required. Any such new proposed Preliminary Plat shall be subject to and prepared in conformance with the City’s comprehensive plan and subdivision and zoning regulations in effect at that time. Upon notice by the City, the Developer may request an extension to the Preliminary Plat in writing no later than 60 days prior May 23, 2026.

1.02 Agency Approvals. In addition to the City Approvals, other governmental agencies have reviewed and approved components of the Approved Plans. It is the responsibility of the Developer to obtain all permits from appropriate governmental agencies prior to commencing construction of any improvements for the phase for which such other approvals are required.

1.03 Right to Proceed. Except with regard to grading permits, if any, approved by the City, the Developer may not construct public or private improvements or any buildings within any phase of the Development until the following conditions have been satisfied:

- a. This Master Agreement has been executed by the Developer and the City.
- b. The Developer and the City have executed a Subdivision Agreement for that phase.
- c. The required Financial Guarantee for any required subdivision improvements for that phase has been received by the City.
- d. Final engineering and construction plans for the applicable subdivision improvements for that phase have been submitted by the Developer in digital form and approved by the City engineer.

- e. The Developer will pay for all legal, planning, engineering and administrative expenses reasonably as incurred by the City relating to this Master Agreement, City Approvals and Approved Plans. Such payment will be secured by an escrow deposit with the City.
- f. The Developer has received all required permits for that phase from all governmental agencies having jurisdiction over the Development.
- g. The Developer or the Developer's engineer has initiated and attended a pre-construction meeting with the City engineer and staff.

ARTICLE TWO DEFINITIONS

The following terms used in this Master Development have the meanings given to them below unless a different meaning is clear from the context:

“Approved Plans” or “Plans” means those documents listed in Exhibit D attached hereto.

“AUAR” means the Alternative Urban Areawide Review regarding the Development, as more fully described in section 11.1 of this Master Agreement.

“City” means the City of North Branch, a municipal corporation under the laws of Minnesota.

“City Approvals” means, individually and collectively, the actions taken by the City Council pursuant to Resolution Nos. 036-23-CC and Ordinance No. 353-23.

“City Code” means the City code of ordinances in effect on the date of this Master Agreement, as amended hereafter, except as such code or the application of such amendments may be limited or modified by this Master Agreement.

“City Council” means the North Branch City Council.

“Comprehensive Plan” means the 2018 Comprehensive Plan adopted by the City to guide development of the community pursuant to Minnesota Statutes, Section 462.355, as amended.

“Developer” means Graphic Homes, Inc., a Minnesota Corporation.

“Development” means the subdivision, improvement and development of the Subject Property in accordance with this Master Agreement.

“Financial Guarantee” has the meaning given to it in Section 6.8 of this Master Agreement.

“Chisago County” means the County of Chisago, Minnesota, a body politic and corporate under the laws of Minnesota.

“Landscape Plan” has the meaning given to it in Section 6.6 of this Master Agreement.

“Master Agreement” means this Master Agreement by and between the City and the Developer governing development and phasing of the Development.

“MnDOT” means the Minnesota Department of Transportation.

“NPDES” means the National Pollutant Discharge Elimination System.

“Open Space” means the open space, restoration, wetland and buffer and stormwater treatment areas depicted on Exhibit E attached hereto and as more fully described in Section 8.3 of this Master Agreement.

“Subject Property” means the real property owned by the Developer and legally described in Exhibit A attached hereto.

“Proposed Change” means a deviation from the Approved Plans regarding lot size, lot types or type of product for any particular lot in the Development, as more fully described in Section 4.4 of this Master Agreement.

“Public Improvements” means the improvements made by Developer, at Developer’s sole expense, that will ultimately be dedicated to the public.

“Tree Preservation Plan” has the meaning given to it in Section 11.3 of this Master Agreement.

“Wetland Mitigation Plan” means the plan attached hereto as Exhibit F.

ARTICLE THREE REPRESENTATIONS & WARRANTIES

3.01 Representations by City. The City makes the following representations as the basis for the undertakings on its part contained herein:

- a. The City is a municipal corporation organized under the laws of Minnesota.
- b. The City has the authority to execute, deliver and perform its obligations under this Master Agreement.

3.02 Representations by Developer. The Developer makes the following representations as the basis for the undertakings on its part contained herein:

- a. The Developer – Graphic Homes, Inc. a Minnesota corporation – is the fee owner of the separate parcels which constitute the Subject Property. The Developer is duly organized under the laws of Minnesota and, to the best of the Developer’s knowledge, is not in violation of any of their organizational documents. The Developer has the authority to execute this Master Agreement.
- b. The Developer has the authority to execute, deliver and perform its obligations under this Master Agreement.
- c. The Developer is not in default under any lease, contract, or agreement to which it is a party or by which it is bound which would affect its performance under this Master Agreement. The Developer is not a party to or bound by any mortgage, lien, lease, agreement, instrument, order, judgment, or decree which would prohibit the execution or

performance of this Master Agreement by the Developer or prohibit any of the transactions provided for herein, except that the terms of this Master Agreement are subject to the approval of the Developer's mortgagees.

- d. To the best of its knowledge, the Developer is in compliance with all applicable federal, state and local statutes, laws, ordinances and regulations including, without limitation, any permits, licenses, and applicable zoning, environmental, or other laws, ordinances, or regulations affecting the Property or the Development.
- e. The Developer has the ability to fulfill its financial obligations under this Master Agreement.

ARTICLE FOUR LAND USE CONTROLS; PHASED DEVELOPMENT

4.01 Phased Development; Final Plats. The Developer plans to develop the Subject Property in phases, subject to and consistent with the City Approvals, the Approved Plans, and City Code and PUD Ordinance. The Developer and the City will enter into a Subdivision Agreement requiring the Developer to construct all necessary Public Improvements and other subdivision improvements for each phase in accordance with this Master Agreement. The Developer will be responsible to pay for all on-site roads; sidewalks and trails; water, sanitary sewer and storm water utility improvements required to service each phase of the Development; and off-site road improvements including sidewalk extension to 377th Street and construction of west side of intersection at Grand Avenue. If approved with this Development, oversizing credits for trunk expenditures relating to the sanitary sewer system and trails will be given to the Developer, and described in Article Five of this Agreement, and applied to each applicable phase of the Development. All other Public Improvements are the Developer's responsibility.

4.02 Plans and Lot Standards. The Approved Plans reflects the City Approvals of the Development. Additional terms may be specified in each Subdivision Agreement to be executed in connection with each phase of the Development; provided, however, that such terms are consistent with this Master Agreement. Lot size, bulk standards, and engineering standard flexibilities for the Development shall be confirmed with the Final Plat of each phase based on the following lot standards, as approved by City Council per Ordinance No. 353-23 on May 23, 2023.

- a. Permitted Uses: Single-Family Residential
- b. Lot Performance Standards (Minimums):

Lot				Setbacks			Structure
Width/ft	Depth/ft	Area/sf	Front/fs	Side/ft	Street/ft	Rear/ft	Height/ft
60	115	6,900	30	6	30	30	35

- c. Attached Garages (Minimum): 400 square feet
- d. Impervious Surfaces (Maximum): 50%
- e. Accessory Structures: Satisfaction of standards specific to R1 – Single-Family Residential zoning and/or Protective Covenants established for the Development.

4.03 Amendment of Official Controls. As long the Preliminary Plat remains in full force and effect as provided in Section 1.01, no amendment to the City's Comprehensive Plan or official

controls shall apply to or affect the Preliminary Plat or the uses, development density, lot sizes, lot layout, or dedications reflected therein except as provided in any subsequent amendment mutually agreed to by the parties.

4.04 Development Flexibility. The City and the Developer agree that a Proposed Change may be made to the Approved Plans as part of the Final Plat submission for each phase of the Development at the discretion of the Developer, subject to the following:

- a. If the Proposed Change changes a portion of or area on the Preliminary Plat, the Developer must submit a proposed amended Preliminary Plat for such development phase or area and demonstrate how future phases will be configured to accommodate the change so that at all times the total number of lots in the Development does not exceed 84 units.
- b. The Proposed Change must be consistent with this Master Agreement.
- c. If a Proposed Change would add or expand areas containing row homes or townhomes the Developer must demonstrate that there is no net increase in the number of units in the Development and demonstrate how future phases will be configured so that at all times the total number of lots planned for the Development does not exceed 84 units.

4.05 Architectural Guidelines. There are no Architectural Guidelines, Standards or Requirements with this Development.

4.06 Assignment to Others. The Developer may not assign this Master Agreement without the prior written agreement of the City, which agreement shall not be unreasonably withheld; provided, however, the Developer may assign this Master Agreement to any affiliate, subsidiary, parent or successor entity without the City's consent but will notify the City in writing within 10 days of such assignment. An assignment is reasonable if the proposed assignee (for all or less than all of the Property); (i) possesses the demonstrated financial capacity to fulfill the obligations under this Master Agreement; (ii) agrees in writing to be bound by all the terms and conditions of this Master Agreement and any relevant subdivision agreements, including any Financial Guarantees; and (iii) if the assignment is for less than the entire Property, that there is a clear demarcation of responsibilities between those being assumed by the proposed assignee and the Developer or other assignees of other portions of the Property. Upon approval of an assignment to a third party by the City, the Developer's obligations under this Master Agreement for the affected phase or phases of the Development shall be terminated.

ARTICLE FIVE PUBLIC IMPROVEMENTS

5.01 Roadway Improvements. The Developer shall construct all streets for the Development as per the Approved Plans. The Developer shall construct the west side of the intersection with Grand Avenue for the purpose of constructing a permanent entrance for the Development.

5.02 Sidewalk & Trail Improvements. The Developer shall complete the following sidewalk and trail improvements as part of the project, in addition to all other sidewalks and trails as identified by the Approved Plans. Final design and construction of all sidewalks and trails shall be subject to City standards and reviewed and approved by the City Engineer.

- a. As noted on the Approved Plans, the Developer shall be responsible for construction a sidewalk

from the Development Area north to 377th Street.

5.03 Utility Improvements. The Developer shall all utilities for the Development as per the Approved Plans.

5.04 Parks, Open Space Areas & Park Dedication. See Article 8.

5.05 Monument Sign. Developer shall be entitled to construct a monument entrance sign for the development at a location to be determined and approved by the City. The Developer shall enhance the landscaping surrounding the monument sign as depicted on the Landscaping Plan.

ARTICLE SIX SUBDIVISION IMPROVEMENTS

6.01 Grading and Erosion Control. Grading is permitted on the Subject Property prior to Final Plat approval, upon submission and approval of a grading permit, approval by the City Engineer, and receipt by the Developer of permits for wetland and floodplain impacts. If applicable, Developer may obtain and shall provide an executed Early Grading Agreement with receipt of an appropriate financial guarantees in accordance with City requirements. Developer shall pay any applicable City or agency permits related to any grading of the Subject Property.

6.02 Adherence to Plans. Public and private improvements will be required for each phase of the Development, subject to the City's reasonable approval of the applicable subdivision agreement that incorporates the Approved Plans and specifications for such phase.

6.03 Streets. Streets within the Development shall be constructed according to the Approved Plans, City Approvals and the requirements as stated herein. The final wear course of all public streets shall be completed following a freeze/thaw cycle after completion of the base course, but no sooner than when 80 percent of the lots are constructed on any particular street. Upon Offer of Dedication, the Developer shall provide security in the form of a Letter of Credit for a one (1) year period, commencing on the Offer date, prior to formal acceptance of the Public Improvements by the City, as described in Article Five.

6.04 Sanitary Sewer Main. Sanitary sewer main shall be installed within the Development according to the Approved Plans, City Approvals, and the requirements as stated herein. Upon Offer of Dedication, the Developer shall provide security in the form of a Letter of Credit for a one (1) year period, commencing on the Offer date, prior to formal acceptance of the Public Improvements by the City, as described in Article Five.

6.05 Water Main. Water main shall be installed within the Development according to the Approved Plans, City Approvals, and the requirements as stated herein. Upon Offer of Dedication, the Developer shall provide security in the form of a Letter of Credit for a one (1) year period, commencing on the Offer date, prior to formal acceptance of the Public Improvements by the City, as described in Article Five.

6.06 Landscaping. If required, the final landscaping plans will be submitted with the Final Plat for each phase of the Development. The Landscaping Plan shall be consistent with the general Landscaping Plan submitted as part of the Approved Plans, including: species, location, size, and

type of tree to be planted in such phase. As such, the Developer shall plant a minimum of one (1) tree per dwelling unit and not less than a total of 137 total trees; excluding ornamental trees. The Developer shall install street trees, as shown on the Landscape Plans, which may be located within three (3) feet of the back of curb. The Developer shall provide security for Landscaping Improvements, guaranteeing landscaping work as may be required for the Development. The Developer security for the Landscaping Improvements shall be provided for each phase of this Development and according to each Subdivision Agreement. Planting in the right-of-way will be restricted to allow for proper sight lines and must not restrict traffic control devices or public or private utility maintenance. The Developer shall submit verification of landscape installation once landscaping has been installed.

6.07 Street Lighting, Signs, Mailboxes and Small Utilities. The Developer shall coordinate the design and construction of Street Lighting system in conjunction with the installation of underground electric utilities. The location and number of lighting placements shall be approved by the City's energy provider and reviewed by the Public Works Director, and paid for entirely by the Developer. Developer may be required to submit a Photometrics Plan for each phase of the development. If required, the City shall review and approve each Photometrics Plan to ensure adequate lighting levels throughout the development. Final placement and design of the street lighting system shall be approved through the City's Right-of Way Permit process and executed by the Developer's installing contractor or the approved utility company. In addition, the developer is required to show the final placement of Street Lights on the Approved Plans. Upon completion of the Street Light facilities provided by the Developer, all power and maintenance costs will be provided by the City. In the event the Developer chooses to supply an enhanced "Decorative Lighting System" at some or all locations within the Development, a separate agreement addressing the type, power supply and maintenance agreement will be required between the Developer and the City.

The Developer will coordinate and supply all signs and non-electrical traffic control devices at street intersections within or abutting the subdivision as approved on the final subdivision plans. All costs associated with these improvements will be the responsibility of the Developer. A street sign plan will be provided with the Final Plat of each phase of the Development. Custom street signs will only be allowed upon request at the time of Final Plat. The final approved naming of streets will be approved in writing prior to the ordering and installation by the Developer's contractor. Such approval will be provided by the Community Development Director with coordination from the City's Public Safety Departments. All traffic control devices shall be of a type approved to match City Detail Plates and approved by the City, and shall be placed as directed by the City.

If required for the Development, the Developer shall provide Cluster Mailboxes (CMBU) not exceeding 16 boxes at any one location in the single-family portions of the development. The Developer may provide larger CMBU installations in the non-single-family portion of the Development. If CMBUs are required and provided by the Developer, the Developer shall ensure for their maintenance, repair and replacement. In addition, the proposed CMBUs need to be approved by the City and the local postmaster with regard to placement and design. The final location of all CMBU locations shall be represented on the Approved Plans. All costs associated with the placement of CMBU will be by the Developer.

The Developer shall accommodate the installation of small utilities in an underground

capacity. The small utilities shall include electric, natural gas, communications including cable TV, telephone service and fiber optic cables, with each phase of the Development. The placement of private underground utilities shall be designed and constructed according to City standards and specifications, and coordinated with the placement of public underground utilities. Underground utility plans shall be reviewed and approved by the Public Works Director. All coordination of the small utilities shall be by joint trench installations to the extent possible. The final placement and design will be approved through the City's Right-of Way Permit process and executed by the Developers installing contractors or the approved utility companies. All costs associated with the placement of underground small utilities will be by the Developer.

6.08 Security for Completion of Subdivision or Other Public Improvements. Fees for each phase of the Development will be set out in the applicable Subdivision Agreement, and such fees must be paid in full to the City prior to the delivery of the final plat to Developer for recording.

- a. Financial Guaranty; Public Improvements. Prior to commencement of construction of the Public Improvements, the Developer must furnish the City with an irrevocable letter of credit or other financial guaranty ("Security"), approved by the Finance Director, in the amount of 125 percent of the estimated project costs for all Improvements to be dedicated to the City, as set forth in the applicable Subdivision Agreement for each phase of the Development. The Security must contain a provision that prohibits the issuer or surety from terminating the Security without first giving 45 days' written notice to the City of the proposed termination or expiration of the Security.
- b. Escrow. A cash escrow has been submitted to the City as evidenced by an Escrow Receipt Form. The Developer shall submit an additional escrow amount to be deposited as required by each future phase of the Development. The escrow is to be used by the City staff to charge costs of services or materials in connection with activities required under this Agreement or under the Subdivision Agreement for each phase of the Development. The amount of the escrow will be set forth in the Subdivision Agreement for each phase of the Development. The City will notify the Developer in writing when additional escrow cash must be placed in the escrow account. The Developer shall pay additional escrow as determined by the City within 10 days of written demand. Failure to make payment of the additional escrow amount will permit the City to supplement those amounts from the Security letter of credit pursuant to paragraph (b) above or to issue the Developer a stop work order. The City shall return the unused escrow balance to the Developer no sooner than six (6) months after the acceptance of the Public Improvements by the City.

6.09 Building Permits for Model Units. The Developer may request building permits for the construction of model units per phase. For purposes of calculating the number of building permits that can be issued for each phase, twin home and attached townhome structures shall be considered one (1) building. The request for a model permit must be included in each Subdivision Agreement; the specific model home location(s) shall be subject to each Subdivision Agreement and City staff approval. The model units must be located in an area with access for vehicle traffic and parking during construction and access for emergency personnel and equipment, as determined by the City. Before occupancy, the model units must front on paved streets.

**ARTICLE SEVEN
EASEMENTS, DECLARATIONS & PROTECTIONS**

7.01 Drainage and Utility Easements. Standard drainage and utility easements in accordance with City requirements will be established on all lots and dedicated to the public on the Final Plat of each phase of the Development.

**ARTICLE EIGHT
PARKS, OPEN SPACE AREAS & PARK DEDICATION**

8.01 Open Space Areas and Improvements. As a Planned Unit Development, the Developer is required to provide a minimum of 15 percent of the project area for Open Space. For this Development, the Open Space requirement is 6.748 acres. Given physical impediments within the Development Area and proximity to a nearby neighborhood park, the City and Developer have agreed to cash payment for trail improvements in lieu of the Open Space requirement, as described in Section 8.03.

8.02 Sidewalk Improvements. The Developer shall construct all sidewalks for the Development in accordance with Approved Plans, including the construction of a sidewalk from the Development Area north to 377th Street.

8.03 Cash Payment In-Lieu of Open Space. Per Resolution No. 036-23-CC, the Developer shall pay to the City a total sum of \$60,000 in lieu of the Open Space requirement and the requirement to construction additional public trails throughout the Development. In exchange, the City shall waive the public benefit and open space requirement, as required for Planned Unit Developments, as established by City Code Section §66-790. The Owner shall pay the amount due with the Development Agreement for Phase 1 of the Development.

**ARTICLE TEN
HOMEOWNER'S ASSOCIATION**

10.01 Homeowners' Association Covenants and Restrictions. The Developer does not propose to create a Homeowner's Association for this Development.

**ARTICLE ELEVEN
ENVIRONMENTAL MATTERS**

11.01 Alternative Urban Areawide Review (AUAR). There was no AUAR with this Development.

11.02 Wetlands Mitigation, Buffering and Monitoring. The Development proposes no permanent impacts to wetlands within the Development.

11.03 Tree Preservation. No Tree Preservation Plan was provided or required with this Development. Tree replacement shall be completed according to the approved Landscape Plan, as referenced in Section 6.06.

ARTICLE TWELVE MISCELLANEOUS

12.01 Notices. Any notice or correspondence to be given under this Master Agreement shall be deemed to be given if delivered personally or sent by United States mail, postage prepaid, certified mail, return receipt requested:

CITY:

City of North Branch
6408 Elm Street
North Branch, MN 55056
Attn: Jason Ziemer, Interim City Administrator

DEVELOPER:

Graphic Homes, Inc.
38814 3rd Avenue
North Branch, MN 55056
Telephone: (651) 674-0410
Attn: Steve Rindahl, President

or at such other address as any party may from time to time notify the others in writing in accordance with this Section 12.01. The Developer shall notify the City if there is any change in its or their names or legal status.

12.02 Agreement Runs with the Land. This Master Agreement shall run with the Subject Property and shall be recorded against the title thereto. The Developer covenants with the City, its successors and assigns, that the Developer has fee title to all of the Subject Property, that there are no unrecorded encumbrances or interests relating to the Property and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

12.03 Representatives Not Individually Liable; Indemnification. The City and its officers, agents, servants and employees shall not be liable for any damage or injury to the Developer, or its successors, transferees, or assigns, or its officers, agents, servants or employees, or the Subject Property, due to any act of negligence by any person other than the officers, agents, servants and employees of the City. Except for any willful or wanton misconduct or unlawful or fraudulent acts, the Developer agrees to defend the City and its officers, agents, servants and employees, and indemnify and to hold the same harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Master Agreement, or the transactions contemplated hereby or the construction, installation, ownership, and operation of any public or private improvements authorized hereunder. No officer, agent or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City on any obligation or term of this Master Agreement.

The Developer and its successors, transferees or assigns, or its officers, agents, servants and employees shall not be liable for any injury to the City, its officers, agents, servants or employees, due to any act of negligence by any person other than the Developer, its successors, transferees or assigns or its officers, agents, servants and employees. Except for any willful or wanton misconduct or unlawful or fraudulent acts, the City agrees to defend the Developer and its

successors, transferees or assigns or its officers, agents, servants and employees, and to indemnify and to hold the same harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Master Agreement, or the transactions contemplated hereby or the construction, installation, ownership and operation of any public or private improvements authorized hereunder. No officer, agent, servant or employee of the Developer shall be personally liable to the City or its officers, agents, servants or employees in the event of any default or breach by the Developer of any obligation or term of this Master Agreement.

12.04 Insurance. The Developer must keep insurance in force at all times that construction on the Development is in progress. The insurance must name the City as an additional insured, and shall be provided by the Developer to the City with each phase of the Development. The Developer shall furnish proof of insurance acceptable to the City, covering any public liability or property damage by reason of the operation of the Developer's equipment, laborers, and hazards caused by the Improvements, and include at least the following:

- a. Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) together with an Owner's Contractor's Policy with limits against bodily injury, including death and property damage (to include, but not be limited to, damages caused by erosion or flooding) which may arise out of the Developer's work or the work of any of its subcontractors. The exclusion for underground collapse shall be removed.
- b. Limits for bodily injury or death shall not be less than \$500,000 for one person and \$1,500,000 for each occurrence; limits for property damage shall not be less than \$2,000,000 for each occurrence.
- c. The Developer shall file a Certificate of Insurance with the City Clerk prior to commencing site grading. The Developer shall be responsible for ensuring that the Certificate bears the following wording: "Should any of the above policies be canceled or terminated before the expiration date thereof, the issuing company shall give 30 days' written notice of cancellation or termination to the Certificate Holder."
- d. Worker's compensation insurance, with statutory coverage is applicable.

12.05 Reimbursement of Costs. The Developer agrees to pay to pay the City for its actual costs and expenses in reviewing the Approved Plans and in granting the City Approvals, including the drafting and negotiation of this Master Agreement and related documents and agreements. The Developer agrees to pay the City for the actual cost incurred in the enforcement of any provision of this Master Agreement, including, but not limited, to reasonable engineering and attorneys' fees, but only in the event the Developer is found to be in default of its obligations beyond a 30-day cure period. The City agrees to reimburse the Developer for the actual cost incurred in the enforcement of this Master Agreement against the City, including but not limited to reasonable engineering and attorney's fees, but only in the event the City is found to be in default of its obligations, beyond a 30-day cure period.

12.06 Severability. In the event that any provision of this Master Agreement shall be held invalid, illegal or unenforceable by any court of competent jurisdiction, such holding shall pertain only to such section and shall not invalidate or render unenforceable any other provision of this Master Agreement.

12.07 Counterparts. This Master Agreement may be executed simultaneously in any number of counterparts, each of which shall be an original and shall constitute one and the same Master Agreement.

12.08 Governing Law. This Master Agreement shall be governed by and construed in accordance with the laws of Minnesota.

12.09 Non-Waiver. Each right, power or remedy conferred by this Master Agreement is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, or available at law or in equity, or under any other agreement. Each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. If either party waives in writing any default or nonperformance by the other party, such waiver shall be deemed to apply only to such event and shall not waive any other prior or subsequent default.

12.10 Headings. The subject headings of the sections of this Master Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

12.11 City's Remedies Upon Default. If the Developer fails to perform one or more of its obligations under this Master Agreement or fails to abide by one or more restrictions this Master Agreement imposes on the Developer, the City shall give the Developer notice of the default and the Developer shall have 30 days to cure the default or such additional time as reasonably needed to cure the default provided work commences within 30 days of actual notice from the City. If the Developer does not cure the default within the required period or such longer period as may be necessary if the default may not reasonably be cured within such period, provided the Developer pursues the cure with reasonable diligence, then the City may avail itself of any remedy afforded by law and any of the following non-exclusive remedies.

- a. The City may specifically enforce this Master Agreement, including without limitation, the use of temporary restraining orders, temporary injunctions and permanent injunctions.
- b. The City may suspend any work, improvement or obligation to be performed by the City until the City receives assurances from the Developer, deemed adequate by the City, that the Developer will cure its default and continue its performance under the Master Agreement.
- c. The City may collect on any Security or Financial Guarantees provided by the Developer pursuant to this Master Agreement or any Subdivision Agreement, to the extent necessary to cure the default and, if the Security is a Letter of Credit, the City may draw on the Letter of Credit for any amount up to the full amount of the Letter of Credit. If the City elects to perform obligations of the Developer, the City may withdraw from said account and retain an amount equal to the total amount of the costs and expenses which the City incurs in connection with the performance of such obligations. If the City elects to perform obligations of the Developer under this Master Agreement or any Subdivision Agreement, Developer is entitled to recover from the City any balance of the proceeds of the Letter of Credit or other financial guaranty remaining after the City has reimbursed itself for all costs and expenses which the City incurs in connection with the full performance of the Developer's obligations, and Developer is liable to the City for the amount by which the

costs and expenses which the City incurs in connection with the performance of the Developer's obligations under this Master Agreement or any Subdivision Agreement exceed the proceeds of the Letter of Credit or other financial guaranty.

- d. The City may deny building permits for buildings and may withhold approval of any new phase proposed by the Developer, until the default is cured.
- e. The City may, at its sole option, perform the work or improvements to be performed by the Developer, in which case the Developer shall within 30 days after written billing by the City reimburse the City for any costs and expenses incurred by the City. The City may, in whole or in part, specially assess any of the costs and expenses incurred by the City against any or all of the Development then-owned by the Developer in an amount not to exceed the Security provided pursuant to the Subdivision Agreement applicable to such work and improvements, and pursuant to Minnesota Statutes, Section §429.081 the Developer hereby waives any and all procedural and substantive objections to the installation and construction of the work and improvements and the special assessments resulting therefrom, including but not limited to notice and hearing requirements and any claim that the special assessments exceed benefit.
- f. If the Developer's default is the failure to perform one or more of its monetary obligations under this Master Agreement, the City may commence an action against the Developer for monetary damages.

12.12 Developer's Remedies Upon Default. If the City defaults in the performance of any of its obligations under this Master Agreement, the Developer shall give the City notice of such default and the City shall have 30 days to cure the default. If the City, after the notice to it by the Developer, does not cure the default within such 30-day period, or such longer period as may be necessary if the default may not reasonably be cured within such 30-day period, provided the City pursues the cure with reasonable diligence, the Developer may avail itself of any remedies afforded by law.

12.13 Amendments. Any amendment to this Master Agreement shall be in writing and signed by all parties.

12.14 Disclaimer of Relationship. Nothing in this Master Agreement nor any act by the City or the Developer shall be deemed or construed by the Developer or by any third party as creating any relationship of third-party beneficiary, principal/agent, limited or general partner or joint venture between the Developer and the City.

12.15 Joint Participation. The parties acknowledge that they have participated equally in the negotiation and drafting of this Master Agreement, including the preparation of the exhibits thereto, and that, accordingly, no court shall construe this Master Agreement more stringently against one party than the other.

[Remainder of this page was intentionally left blank.]

IN WITNESS OF THE ABOVE, the duly authorized representatives of the parties have caused this Agreement to be executed in duplicate on the date and year written above.

DEVELOPER
GRAPHIC HOMES, INC.

Steve Rindahl
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____ 2024, by Steve Rindahl, the President of Graphic Homes, Inc. a Minnesota corporation on behalf of said corporation.

Notary Public

CITY OF NORTH BRANCH

Kevin Schieber
Its Mayor

Jason Ziemer
Its Interim City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Kevin Schieber and Jason Ziemer, the Mayor and Interim City Administrator, respectively, of the City of North Branch, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
City of North Branch
6408 Elm Street
North Branch MN 55056
(651) 674-8113

EXHIBIT A

FOX RUN LEGAL DESCRIPTION OF THE PROPERTY

Existing Legal Description

The East Half of the Northwest Quarter except part platted and except the following described parcel: that part of the Southeast Quarter of the Northwest Quarter described as follows: beginning at the Southwest corner of Lot 6, Block 2, of Stone Meadow; thence Southerly along the same course as the Westerly line of said Lot 6, a distance of 33 feet; thence Easterly and parallel with the South line of said Lot 6, a distance of 460.04 feet; thence North a distance of 33 feet to the Southeast corner of said Lot 6; thence Westerly along the South line of said Lot 6, a distance of 460.04 feet to the point of beginning of Section 28, Township 35, Range 21, Chisago County, Minnesota.

Subject to easements, restrictions, or reservations of record, if any.

PID(s): 11.00567.00

EXHIBIT B

FOX RUN

MASTER DEVELOPMENT PLAN

EXHIBIT C

FOX RUN
PHASING PLAN

EXHIBIT D

FOX RUN

APPROVED PRELIMINARY PLAT & PLANS

EXHIBIT E

FOX RUN

OPEN SPACE, WETLANDS & STORMWATER TREATMENT AREAS

EXHIBIT F

FOX RUN

WETLAND MITIGATION PLAN

DEVELOPMENT AGREEMENT

SUBDIVISION AGREEMENT FOX RUN

THIS AGREEMENT (the “Agreement”) is entered into on this the 26th day of March, 2024 by and between Graphic Homes, Inc., a Minnesota corporation, with its principal office located at 38814 3rd Avenue, North Branch, MN 55056 (“Developer”), and the City of North Branch, a Minnesota municipal corporation, located at 6408 Elm Street, North Branch, Minnesota 55056 (“City”), and collectively referred to herein after as the “Parties.”

RECITALS

- A. Developer is the fee owner of real property located in the City of North Branch, Minnesota, identified with the Parcel Identification (PID) No. 11.00567.00, as legally described on the attached Exhibit A (“Subject Property”), and which Subject Property shall be referred to hereafter as Fox Run.
- B. This Agreement applies to Phase 1 of the Development, which consists of 15.9 gross acres, according to the recorded plat thereof and as legally described in Exhibit A.
- C. The proposed Development of the Subject Property shall consist of 34 residential lots and four (4) Outlots, and associated public improvements, including but not limited to: street improvements, sanitary sewer, water main, stormwater management facilities, sidewalk and trails, grading and erosion control facilities, as required for the proposed Development pursuant to the Approved Plans, as attached hereto and incorporated herein by reference as set forth in Exhibit C, and pursuant to the terms and conditions contained this Agreement and the City of North Branch City Code (“City Code”), as applicable.
- D. The Preliminary Plat for the Fox Run master development plan was approved by the City Council on May 23, 2023, pursuant to Resolution No. 036-23-CC, and rezoning of the Subject Property to Planned Unit Development (“PUD”), by Ordinance No. 353-23 on May

23, 2023. The Master Planned Unit Development (PUD) Development Agreement was approved by City Council on March 26, 2024. And, the Final Plat for Phase 1 of the Development was approved by the City Council on July 11, 2023, pursuant to Resolution No. 42-23-CC. All approvals hereinafter referred to as “City Approvals.”

- E. The terms and conditions of the City Approvals are incorporated into this Agreement by reference. The proposed Development of the Subject Property shall be in conformance with the City Code, City Approvals, and this Agreement. Developer agrees to comply with the requirements as set forth by this Agreement and City Approvals, and shall be obligated to complete all development-related improvements, as further described and secured herein below.
- F. The City and the Developer now desire to enter into this Agreement setting forth certain requirements and obligations relating to the Development of the Subject Property, including but not limited to, the execution and recording of certain instruments. This Agreement shall replace and supersede all previous oral agreements and understandings, previous development and early start agreements and related amendments thereto, and previous negotiations between the parties in relation to the Subject Property.
- G. The City requires the Developer perform work and install certain on and off-site improvements within the Subject Property, as stated in the Approved Plans and this Agreement, as described in Section 1.01, and which work and improvements typically consist of the following: grading and erosion control; streets and street lighting; sidewalks and trails; public utilities, including but not limited to water mains and sanitary sewer mains; and storm water management facilities. Said improvements to the Subject Property shall be referred to herein as the “Improvements.”

AGREEMENT

NOW. THEREFORE, in consideration of each party’s promises as set forth in this Agreement, each party does mutually agree as follows:

ARTICLE ONE CONSTRUCTION OF IMPROVEMENTS; EASEMENTS AND RIGHTS OF ENTRY

1.01 Right to Proceed. Unless separate written approval has been given by the City for the Development, the Developer may not grade or otherwise disturb the earth, remove trees or structures, construct public or private utilities, streets, buildings and/or any other public or private improvements until all of the following conditions have been satisfied:

- a. This Agreement has been fully executed by the City and Developer and recorded with Chisago County;
- b. The Plat has been recorded with Chisago County;
- c. The City has received the required Escrow and Security for the Development and Improvements as provided in Exhibit B, which is attached hereto and incorporated herein by

reference;

- d. The site plan and construction plans for the Development on the Subject Property have been reviewed for compliance with City standards and are approved by the City Engineer;
- e. A certificate of liability and property damage has been provided to the City; and
- f. The City Engineer has issued a letter that all conditions have been satisfied and that the Developer may proceed.
- g. If required, Developer has provided all documents as required for the Development and/or as stated herein, including but not limited to: general warranty deed for park land dedication, easement agreements, declarations of restrictive covenants, etc.

1.02 Developer Responsibility. Before commencing construction of the Improvements, the Developer shall submit all required plans and specifications to the City for review and approval, with such approval being provided in writing to the Developer. Developer agrees to construct and fully pay for the Improvements required for Development of the Subject Property, as described in plans and specifications approved by of the City Engineer (the "Approved Plans"). For the purpose of this Agreement, the Approved Plans shall include: Grading, Erosion Control, Storm Water/SWPPP, and Street and Utility dated [REDACTED], with a final revision date of [REDACTED], and approved by the City Engineer on [REDACTED], all as attached hereto and incorporated herein by reference as Exhibit C. The Improvements shall be constructed in accordance with City specifications, including all relevant City Code regulations, the zoning ordinance, subdivisions regulations, utility and street construction standards, this Agreement, and the Approved Plans.

- a. Prior to beginning construction, the Developer or the Developer's engineer shall submit a copy of the Approved Plans to the City Engineer and shall schedule a preconstruction meeting with all concerned parties, including City staff and engineers to review the program for construction work. The foregoing plans and specifications shall be prepared by a competent registered professional engineer engaged by the Developer and shall be subject to the City's review and approval. No work shall commence on the Development of the Subject Property or the required Improvements until the Developer obtains a building permit(s) for the Development and the Improvements and pays all costs and fees required in connection with the procurement of the building permit(s) or such other permits as are required by City Code.
- b. All labor and work will be in strict conformance with the Approved Plans, must comply with the policies, rules, regulations, standards, and ordinances of the City, and performed in the best and most worker-like manner. Any deviation from the Approved Plans must be pre-approved in writing by the City Engineer, which shall not be unreasonably withheld, conditioned or delayed.
- c. Developer shall be solely responsible for all costs of constructing the required Improvements, and all costs incurred by it and City in conjunction with this Agreement, which costs are estimated and listed for the required Security in the attached Exhibit B. The costs of constructing the Improvements shall include the actual construction costs, the actual engineering, administration and any legal costs related thereto, and all other costs and fees relating to the construction of the Improvements and the Development as required by City Code, including but not limited to sanitary sewer availability charges, water availability charges, instillation of street and traffic control signs, etc. The engineering, administration and

legal costs shall include the actual outside construction engineering assistance costs and the legal costs.

1.03 Staking, Surveying and Inspections. Developer must provide all required staking and surveying for the Improvements in order to ensure that the completed Improvements conform to the Approved Plans. The City will provide for construction inspection and material testing for the Improvements. Developer must notify the City Engineer at least 48 hours in advance, not including weekend days or holidays, for inspection service or scheduling of tests to be performed. Costs incurred by the City for the inspection activities will be recovered through the escrow described in Article Two.

1.04 Unsatisfactory Labor or Material. The City Engineer shall not reject as defective and/or unsuitable any material or labor delivered consistent with the Approved Plans. In the event that the City Engineer reasonably rejects as defective or unsuitable any material, then such material must be removed and replaced with approved material at the sole cost and expense of the Developer. In the event that the City Engineer reasonably rejects as defective or unsuitable any labor supplied by the Developer, then the labor must be completed again to the specifications and with the approval of the City Engineer at the sole cost and expense of the Developer.

1.05 Records and Data. Upon request by the City Engineer, Developer will provide requested copies of bids, change orders, suppliers, subcontractors, or related matters, relating to the Improvements and to the work to be performed by the Developer. The parties acknowledge that this Agreement and related documents are subject to the Requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

1.06 Final Inspection/Acceptance. Upon completion of the Improvements and all work required following inspections by the City Engineer, the City Engineer and representatives of the Developer's contractor and/or engineer will promptly make a final inspection of the Improvements to determine that the Improvements were installed pursuant to the Approved Plans. The Developer, its contractors and subcontractors, shall follow all instructions received from the City's inspectors and City Engineer, to the extent applicable, to comply with the Approved Plans, or applicable City Code or statutes for which the City inspectors have jurisdiction. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor(s). Before final payment is made to the contractor by the Developer, the City Engineer shall be satisfied that all work is satisfactorily completed in accordance with the Approved Plans, and the Developer's engineer shall submit a written statement attesting to the same. Final approval and acceptance of the development and Improvements shall be in writing from the City (the "Final Approvals"). The City will not unreasonably delay action on such resolution. The written approval and acceptance will also accept any Improvements, which are to be transferred to the City upon proper completion.

1.07 As-Built Plans. Upon completion of the Improvements, the Developer shall provide the City with: (i) a full set of as-built plans in a digital PDF format, and (ii) an as-built survey in a CADD format, for City records. As-Built Plans shall be provided according to City Code and Engineering Design Standards.

1.08 Warranty of Improvements. The Developer warrants all Improvements required to be constructed by it pursuant to this Agreement against poor material and faulty workmanship. The Developer and/or its contractor shall be required to furnish the City security guaranteeing all Improvements that are transferred to the City. Upon Offer of Dedication (“Offer Date”), the Developer shall provide security in the form of a Letter of Credit or cash deposit for a one (1) year period, commencing on the Offer Date, prior to formal acceptance of the Public Improvements by the City. The Developer security for the Improvements shall be for 25% of the amount of the original cost of the Improvements. The retainage from the Security identified in this Agreement may also be used to provide the warranty.

1.09 Warranty of Landscaping. The Developer warrants all Landscaping as required for this Development and is required to furnish to the City security, guaranteeing the landscaping work in the amount of the landscaping improvements associated with the Development. The Developer security for the Landscaping shall be for 25% of the amount of the original landscaping costs. Security for the Landscaping work may be included with the Offer of Dedication, with funds held as part of the retainage from the original Security identified in this Agreement, or may be provided as a separate letter of credit or cash deposit. Security for landscaping may only be released after one (1) full growing season and upon establishment of the all required landscaping items.

1.10 Maintenance of Public Property. Developer agrees to assume full financial responsibility for any damage which may occur to public property with the Development of Subject Property, including, but not limited to: streets, street sub-base, base, bituminous surface, curb, utility system including, but not limited to water main, sanitary sewer or storm sewer when said damage occurs as a result of the activity which takes place during the Development of the Subject Property by the Developer, its contractors or subcontractors, employees, or assigns. The Developer further agrees to pay all costs required to repair the streets or utility systems, or both, damaged or cluttered with debris when occurring as a direct or indirect result of the construction that takes place by said Developer, its contractors or subcontractors, employees, or assigns. In the event the Developer fails to timely maintain or repair the damaged public property referred to aforesaid, after first receiving 72 hours written notice of the nature of the default or damage, the City may undertake making or causing it to be repaired or maintained. The City may in such event(s) draw down on the security, escrow, Letter of Credit, or any other cash deposits or security made by Developer to pay such costs, if the Developer fails to timely complete the repairs or does not complete the repairs to the City’s satisfaction.

1.11 Maintenance of Improvements. Developer shall be responsible for all maintenance, upkeep and repair, at Developer’s expense, including, but not limited to snow plowing, mowing, weed control, and grading of the Improvements until such Improvements are completed and accepted by the City, and issuance of the Final Approvals by the City. Developer, at Developer’s expense, shall remain responsible for all maintenance and upkeep of Improvements that are not transferred to the City. Developer hereby agrees to indemnify and hold the City harmless from any and all claims for damages of any nature whatsoever arising out of Developer’s acts or omissions in performing the obligations imposed upon Developer by this paragraph.

1.12 Demolition. If required of the Development, the Developer shall obtain all required permits and approvals and thereafter remove any existing structures on the Subject Property identified for removal/demolition prior to commencement of the Improvements.

1.13 License to Developer. The City hereby grants to the Developer a temporary license (the "License") over, under and across the rights-of-way dedicated to the public in the Fox Run Final Plat for purpose of construction of the Improvements. The License will commence with the filing of the Fox Run Final Plat with Chisago County, and shall terminate upon acceptance of the Improvements and issuance of Final Approvals.

1.14 Access License to the City. The Developer grants to the City, its agents, representatives, employees, officers, and contractors, a right of entry to access all areas of the Subject Property to perform any and all work and inspections necessary or deemed appropriate by the City or to take any corrective actions deemed necessary by the City in conjunction with this Agreement. The right of entry conveyed by the Developer to the City shall continue until the City accepts the Improvements and issues the Final Approvals. The City will provide the Developer with reasonable notice prior to exercising its rights hereunder, except in the case of an emergency. The City shall, following expiration of the license, have the right to enter the Subject Property to perform inspections as authorized by City Code.

1.15 Time of Performance. Except as otherwise provided in this Agreement, the Developer shall install all required Improvements and other work required by this Agreement by May 31, 2025, with the exception of the final wear course of asphalt on streets. The final wear course on streets shall be installed between May 15th and October 1st the first summer after the base layer of asphalt has been in place one freeze thaw cycle. Any deficiencies in the base, asphalt, curb or other improvements in the judgment of the City Engineer must be repaired by the Developer at its own cost prior to final paving. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and the extended completion date. Final wear course placement outside of this time frame must have the written approval of the City Engineer.

1.16 Grading Plan. The Development Property shall be graded in accordance with the approved grading development and erosion control plan. The plan shall conform to the Approved Plans, City Code and applicable law. Within thirty (30) days after completion of the grading, the Developer shall provide the City with a certificate of survey/"record" grading plan certified by a registered land surveyor or engineer that all ponds, swales, and ditches have been constructed on public easements or land owned by the City. The certificate of survey/"record" plan shall include field verified elevations of the following: a) cross sections of ponds; b) location and elevations along all swales, wetlands, wetland mitigation areas if any, ditches, locations and dimensions of borrow areas/stockpiles; c) lot corner elevations and building/house pads, d) top and bottom of retaining walls, and e) all lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications. The Developer shall furnish the City Engineer satisfactory proof of payment for the site grading work and shall submit a certificate of survey (as constructed survey) of the Development Property after site grading is complete. Final lot grades shall be shown on the as constructed survey. Final grading shall substantially comply with the approved grading plan.

ARTICLE TWO DEVELOPMENT STANDARDS AND REQUIREMENTS

2.01 Construction Phasing. The Development is proposed to be constructed in three (3) phases. This Agreement shall remain in full effect for the duration of construction of the Development of the Subject Property hereby approved.

2.02 Development Standards. The Approved Plans reflect the City Approvals of the proposed Development under the applicable City Code and planning requirements. Development standards, including, but not limited to, setbacks, lot dimensions, architecture guidelines when necessary, must be satisfied by the Developer and/or assigned to a qualified subcontractor, and must be completed in a satisfaction according to the applicable Zoning District or Planned Unit Development regulations of the City Code, as applicable. The Developer and/or assigned may build no more or less than the number of units as shown on the Approved Plans, unless the Approved Plans are amended following review and approval by the City.

2.03 Changes in Official Controls. For two (2) years from the date of this Agreement, no amendments to the City's Comprehensive Plan or official controls shall apply to or affect the use, development density, lot size, lot layout or dedications of the approved final plat and Approved Plans, unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Agreement to the contrary, to the full extent permitted by state law, the City may require that any future development of the Subject Property comply with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Agreement.

2.04 Public Sidewalks, Trails & Trail Connections. The Developer shall be responsible for constructing all public and private sidewalks and trails along new and existing public and private streets, as shown on the Approved Plans, and connecting those sidewalks and trails to the existing adjacent system of public trails and sidewalks where applicable. All constructed sidewalks and trails must comply with the requirements of the City Code.

2.05 Park/Public Land Dedication. To meet the Park / Public Land Dedication requirements, the City may require and/or agree to a land dedication, cash payment in lieu of land dedication, and/or combination of both. For this Development, the Developer shall make a cash payment in lieu of land dedication. The amount of the cash contribution shall be as stated in Exhibit B; payment shall be made in lieu of land dedication in satisfaction of the City's Park/Public Land Dedication requirements and shall be paid to the City upon execution of this Agreement and prior to the release of the Final Plat for recording with Chisago County.

Per Master PUD Agreement and Resolution No. 036-23-CC, the Developer shall pay to the City a total sum of \$60,000 in lieu of the Open Space requirement and the requirement to construction additional public trails throughout the Development. The Developer shall pay this amount due with this Agreement at the amount due with the Development Agreement, as noted in Exhibit B.

2.06 Development Signage. If requested, the Developer may submit detailed sign plans to City staff for all signage proposed for the Development, including the development entrance monument signs prior to making application for a building permit.

2.07 Required Permits. The Developer shall obtain or require its contractors and subcontractors to

obtain all necessary and required permits for the Development, including but not limited to the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Health (MDOH), and all other agencies and governmental authorities with jurisdiction over the Development and the Improvements before proceeding with construction of the Development and the Improvements. Copies of these permits shall be provided to the City Engineer, and may include but are not limited to the following: Minnesota Department of Health for Watermains, MN/DOT for State Highway Access, County Road Access and Work in County Road Right-of-Way, NPDES Permit for Stormwater Management, MPCA for Sanitary Sewer Extensions/Connections and Hazardous Material Removal and Disposal, Wetlands permits as applicable, DNR for Dewatering, and City of North Branch Building Permits, as applicable.

2.08 City Requirements – Homeowners Association. There shall be no Homeowners Association with this Development.

ARTICLE THREE FINANCIAL GUARANTY AND REQUIRED PAYMENTS

3.01 Development Fees. All fees as further set out in Exhibit B must be paid in full to the City prior to the City execution and delivery of the Final Plat to Developer for recording.

3.02 Financial Guaranty, Improvements. Prior to commencement of construction of the Improvements, the Developer will furnish the City an irrevocable Letter of Credit, cash escrow agreement, or combination thereof (the “Security”), approved by the City and in the form as provided by the City, and from a bank in the amount of 125% of the estimated project costs for the Improvements as set forth in Exhibit B. If by Letter of Credit, the Security must contain a provision that prohibits the issuer or surety from terminating the Security without first giving 30 days’ written notice to the City of the proposed termination or expiration of the Security. Failure of the Developer to post a substitute Security within five (5) days after notice by the City shall constitute a default that shall be grounds for drawing on the letter of credit. The City Administrator may grant a reduction in the Security upon written request by the Developer based upon the value of the completed work at the time of the requested reduction. The Security may not be reduced to less than 10% of the original amount until all work required of the Developer by this Agreement has been completed and accepted by the City. The Security shall be released upon the City’s issuance of the Final Approvals. Upon failure of the Developer to complete the Improvements in accordance with this Agreement or otherwise perform under this Agreement, the City may, after providing five (5) days written notice to the Developer, declare the Developer to be in default and the amount of the Security shall be paid over to the City. From the proceeds of the Security, the City shall be reimbursed for any attorneys’ fees, engineering fees or other technical or professional assistance, including the work of the City staff and employees, and the remainder thereof shall be used by the City to complete the Improvements. The Developer shall be liable to the City to the extent that the Security is inadequate to reimburse the City its costs and pay for the completion of the work.

3.03 Escrow. In addition to the required Security, the Developer shall also submit a cash escrow (“Escrow”) to the City in an amount as required by Exhibit B. This Escrow is to be used by the City staff to charge costs of services or materials incurred by the City in connection activities required under this Agreement as set forth on the attached Exhibit B, including but not limited to engineering

fees, administration, construction observation, consultant fees, and attorney's fees. The City will bill costs incurred related to the Development against and reimburse itself from the deposited escrow no more often than monthly. The City shall provide notice of the funds drawn down from the deposited escrow to Developer containing the itemized costs incurred by the City. The City will provide written notice to the Developer if the Escrow is insufficient to cover ongoing and projected City expenses associated with the Development. Developer shall pay additional escrow as determined by the City within ten (10) days of written notice. Failure to make payment of the additional escrow amount will permit the City to supplement those amounts from the Security, pursuant to this Article or to issue the Developer a stop work order. The City shall return any unused Escrow balance to the Developer no sooner than six (6) months after the acceptance of the Improvements and issuance of the Final Approvals by the City. If the City requires an escrow agreement for this purpose, Developer shall enter into and execute such an escrow agreement with the City in the form required by the City. The Developer shall deposit the full escrow with the City prior to the final plat being recorded or building permit issuance. No construction of Improvements will be authorized until the Escrow has been paid to the City.

ARTICLE FOUR OTHER REQUIREMENTS

4.01 Indemnification. Notwithstanding anything to the contrary in this Agreement, the City, its officials, agents and employees shall not be personally liable or responsible in any manner to the Developer, the Developer's contractor or subcontractor, material suppliers, laborers or to any other person or persons for any claim, demand, damages, actions or causes of action of any kind or character arising out of or by reason of the execution of this Agreement or the performance and completion of the work required by this Agreement to be performed by the Developer. The Developer will hold the City, its officials, agents and employees harmless from all such claims, demands, damages, or causes of action and the costs, disbursements, and expenses of defending the same, including but not limited to, attorneys' fees, consulting engineering services, and other technical or professional assistance arising from or related to this Agreement, Developer's performance or non-performance under this Agreement, or the completion of or failure to complete the work required by this Agreement, including the work of City staff and employees. The Developer further agrees that it will indemnify, defend, and hold harmless the City and its governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants on the Subject Property and/or Development. Nothing in this section will be construed to limit or affect any limitations on liability of the City under State or federal law, including without limitation Minnesota Statutes, Sections § 466.04 and § 604.02. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.

4.02 Insurance. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the Final Approvals and the City has accepted the Improvements, liability and property damage insurance covering bodily injury, including death, and claims for property damage which may arise out of Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. The Developer must keep the insurance in force at all times that construction on the Development is in progress. The insurance must name the City as an additional insured. The Developer shall furnish proof of insurance acceptable to the City, covering any public liability or property damage by reason of the operation of the Developer's equipment,

laborers, and hazard caused by the Improvements, and include at least the following:

- a. Commercial general liability insurance, including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance, together with an Owner's Contractor's Policy with limits against bodily injury, including death, and property damage to include, but not be limited to damages caused by erosion or flooding, which may arise out of Developer's work or the work of any of its subcontractors. The exclusion for underground collapse shall be removed.
- b. Limits for bodily injury or death shall not be less than \$500,000.00 for one person and \$1,500,000.00 for each occurrence; limits for property damage shall not be less than \$2,000,000.00 for each occurrence.
- c. Worker's compensation insurance, with statutory coverage, if applicable.
- d. Developer shall file a Certificate of Insurance with the City Clerk prior to commencing site grading. Developer shall be responsible for insuring that the Certificate bear the following wording:

"Should any of the above policies be canceled or terminated before the expiration date thereof, the issuing company shall give thirty (30) days written notice of cancellation or termination to the Certificate Holder."

4.03 Building Permits and Occupancy. Except as otherwise provided for in this Agreement, building permits shall only be issued upon execution of this Agreement by the City and Developer and all amounts due and the Security and Escrow required under this Agreement are timely paid to the City, and the Final Plat is recorded and a receipt of said recording is provided to the City Clerk. Prior to recording of the Final Plat, permits for grading and erosion control may be issued in conjunction with an approved Early Grading Agreement and grading permit, and payment of the required Security and Escrow by Developer to the City as identified in Exhibit B. The City's approval of the final plat or this Agreement does not include approval of building permits for any structures to be constructed within the Subject Property. The Developer must submit and the City approve building plans prior to the issuance of building permits for structures within the Subject Property

4.04 Model Home. If a residential development, the Developer may apply for building permit(s) to construct three (3) model single-family home prior to the completion of the public roads serving the development. Model home sites must be approved by the Community Development Director and may be no greater 350 feet from a paved bituminous road. Developer shall maintain access for vehicle traffic and parking during construction of the model homes and access for emergency personnel and equipment, as determined by the City. No occupancy of any model home or newly constructed building shall occur until the base course of bituminous is in place and a Certificate of Occupancy has been issued by the City Building Official. The Developer shall use the model home only for real estate sales purposes and no other purposes. The Developer or Developer's owner's representative shall maintain reasonable access to any occupied building within said Development, including necessary street maintenance such as grading and graveling and snow removal prior to permanent street surfacing and acceptance of the streets by the City.

4.05 Private Easements. Developer shall provide to the City evidence of all executed private easements between the Developer and adjacent property owner(s). Private easements shall be recorded with Chisago County; a copy of said recording shall be provided to the City Clerk with a copy of the private easement.

4.06 Underground Utilities. The Developer shall contact the electric, telephone, gas and cable companies that are authorized to provide service to the Subject Property for the purpose of ascertaining whether any of those utility providers intend to install underground lines within the Development. The placement of private underground utilities shall be designed and constructed according to City Code, City standards and specifications, and coordinated with the placement of public underground utilities. Underground utility plans shall be reviewed and approved by the City Engineer. Any costs associated with the installation of underground utilities required by the utility companies shall be completed at the sole expense of the Developer. Private utilities shall not be installed until the curb and gutter are completed and backfilled, as applicable. All utilities shall be installed underground or as otherwise approved in writing by the City Engineer. The City Engineer must approve of the final location for all private utilities. Joint trenching of the utilities is strongly encouraged. All utilities must be located in public rights-of-way or within drainage and utility easements. The Developer agrees to comply with applicable requirements of franchise ordinances in effect in the City, copies of which are available from the City Clerk. If any conditions set forth in this Agreement conflict with the City's utility franchise agreements, the franchise agreements shall in all cases prevail.

4.07 Construction Management of Project Area. During construction of the Improvements and the Development, the Developer and its contractors and subcontractors shall minimize the impacts from construction on the surrounding public and private properties. Developer shall provide a map of the Construction Area, defining the limits of the project area and shall erect any construction fencing as necessary to demarcate the project area limits. All parking of the Developer and its contractors and subcontractors, and storage of construction materials, shall occur wholly within the project area, unless otherwise approved by the City. No fill, excavated material or construction materials shall be stored in any public rights-of-way

4.08 Construction Hours; Noise; Dust. Developer will comply with all requirements of the City pertaining to the hours and days during which construction activities may take place, unless otherwise approved by the City Administrator. Construction hours shall be limited to Mondays through Fridays from 7 a.m. to 9 p.m. and Saturdays from 7 a.m. to 9 p.m.; no construction activities are permitted on Sundays and/or holidays. The Developer shall provide dust control to the satisfaction of the City Engineer.

4.09 Street Cleaning. The Developer shall clean dirt and debris from streets that has resulted from construction work by the Developer, its contractors, subcontractors, agents or assigns. The City will inspect the Subject Property not less than on a weekly basis to determine whether it is necessary to take additional measures to clean dirt and debris from the streets. After 72-hours verbal notice to the Developer or Developer's owner's representative, the City may complete or contract to complete the clean-up at the Developer's expense. The City may draw down on the Escrow, Security and/or any other cash deposit to pay such costs.

4.10 Street Signs, Lighting, and Mailboxes. The Developer shall be financially responsible for the cost of street identification signs and street lighting for the Development. The City shall provide and install street identification signs, and has the sole discretion to determine the number and location of said signs and street lights. The street lighting plan shall be designed and constructed according to City standards and specifications. The Developer shall submit a final lighting plan for review and approval to the City Engineer prior to commencing construction. The Developer is required to supply and install cluster mailboxes as approved by the City and for which such placement must be approved by the USPS Postmaster.

4.11 Erosion Control. Prior to initiating site grading, the erosion control plan shall be implemented by the Developer and inspected and approved by the City Engineer. The Erosion Control Plan and Storm Water Pollution Prevention Plan (the "SWPPP") shall be implemented by the Developer and inspected and approved by the City Engineer. Erosion and sediment control practices must comply with the Minnesota Pollution Control Agency's (the "MPCA") Best Management Practices and applicable MPCA NPDES permit requirements for construction activities and the Developer's SWPPP. The Developer shall be responsible for compliance with the erosion control plan, pursuant to the Approved Plans. The Developer will be given a telephone notice when an unsatisfactory condition exists that is determined to be a Developer's responsibility. Work to correct said unsatisfactory condition shall commence within 72 hours from the time of the telephone notice to the Developer or Developer's owner's representative. If work is not commenced within 72 hours of said telephone notice, City will proceed to do the required work at the expense of the Developer. If it is determined that the unsatisfactory condition could result in degradation of downstream water quality, Developer shall, upon telephone notice, immediately proceed to correct said unsatisfactory condition. If Developer does not, within the stated time period, respond to said unsatisfactory condition, City has the right to enter upon the Subject Property and correct said condition. City shall be entitled to reimbursement of all of its costs and expenses including, but not limited to legal, fiscal and engineering, and may draw on Developer's Escrow and Security. No development, utility or street construction will be allowed and no building permits will be issued unless the final plat and Approved Plans for the Development, as applicable, are in full compliance with the approved erosion control plan.

4.12 Covenants and Agreement for Maintenance of Stormwater Facilities. In order to provide stormwater management and control to meet the City's stormwater permitting requirements, City Code and law and regulations of the State of Minnesota, as applicable, and to promote water quality and volume control to the City's stormwater systems and water bodies, the Developer and City agree that it is reasonable for the City to require the Developer and all subsequent owners of the Development and Subject Property to construct, inspect, operate, repair, maintain and replace, City required stormwater facilities, at the sole cost and expense of the Developer. The Developer and City shall enter into a Stormwater Maintenance Agreement that shall contain the terms and conditions, as required by the City, and covenants and declarations specific to the Development for the installation of and ongoing operation, repair, maintenance and replacement of such stormwater facilities at the sole cost and expense of the Developer and the Developer's successors and assigns.

4.13 Ownership of Improvements. Upon completion of the work and construction of the

Improvements as required by this Agreement, and acceptance of Improvements by the City, the Improvements lying within public easements and public rights-of-way shall become the property of the City of North Branch without further notice or action upon City acceptance thereof. Upon receipt of affidavits of completion by the Developer and Developer's owner's representative(s), the City Engineer shall accept the completed Improvements and the City shall issue a Certificate of Acceptance/Certificate of Completion.

4.14 Other Approvals. In addition to the City Approvals, other governmental agencies have reviewed and approved components of the Development plans, if required. It is the responsibility of the Developer to ensure that all permits from appropriate governmental agencies are received prior to beginning construction of any Improvements.

4.15 Final Plat. The Developer shall record the Final Plat for Fox run in the land records for Chisago County, Minnesota within 30 days of its release by the City to the Developer. Developer shall provide a copy of said recorded Final Plat to the City Clerk.

4.16 Further Subdivision. If the plat is a phase of a multi-phased preliminary plat, the City may refuse to approve final plats of subsequent phases if the Developer has breached this Agreement and the breach has not been remedied to the City's reasonable satisfaction. Development of subsequent phases may not proceed until Development Agreements for such phases are approved by the City and executed by the parties. Sanitary sewer and water area charges referred to in this Agreement are not being imposed on outlots, if any, in the plat that are designated in an approved preliminary plat for future subdivision into lots and blocks. Such charges will be calculated and imposed when the outlots are final platted into lots and blocks.

4.17 Wetland Mitigation. Wetland mitigation is the replacement, restoration, creation, or enhancement of wetlands caused by the unavoidable impacts to wetland areas as a result of development. If impacts are identified with this Development, the Developer shall submit and the City shall approve a Wetland Replacement Plan addressing these impacts. Before the City releases the Final Plat for recording, the Developer shall post security for wetland mitigation or provide proof of purchase of wetland credits, if approved and authorized by the Wetland Replacement Plan. Security may be in the form of a Letter of Credit or in the form of a cash deposit in a non-interest bearing cash escrow with the City. The security amount provided for wetland mitigation shall be for the amount as stated in Exhibit B, but shall be provided separate from the primary development security as is required by this Agreement. If the mitigation area is found to be unsuccessful after the mandatory five (5) year warranty period, the City may elect to keep the security to be used for this mitigation project or for wetland mitigation/restoration elsewhere within the City. In addition, the City may draw down the security at any time during the warranty period if the Developer fails to take corrective measures as directed by the City to perform the work recommended. If no wetland impact and resulting wetland mitigation is planned or required for the Development, the Developer shall remain responsible for any undisclosed mitigation on the land, and will be required to submit any necessary security should subsequent wetlands be identified.

4.18 Additional Work or Materials Costs. All Improvements that Developer is required to complete pursuant to this Agreement shall be designed and constructed according to City Code, City standards and specifications, and completed at no expense to the City, including, without limitation, any

reimbursement by the City for work paid for by the Developer. The Developer agrees that it will make no claim for compensation for work or materials so done or furnished.

4.19 Development Costs. Except as otherwise specified herein, the Developer shall pay all costs incurred by it and the City in conjunction with this Agreement, the approval of the Plat, the grading and development of the Subject Property, and the construction of the Improvements required by this Agreement, including but not limited to, all costs of persons and entities doing work or furnishing skills, tools, machinery, equipment and materials; insurance premiums; legal, planning and engineering fees; the preparation and recording of this Agreement and all easements and other documents relating to the Final Plat and the Subject Property, as applicable; all Response Action Plans, traffic studies, environmental assessments and/or engineering and other studies and reports; all permits and approvals; and all City's costs incurred pertaining to the inspection and monitoring of the work performed in connection with approval and acceptance of the final plat, the Development, the Approved Plans, the City Approvals, the Final Plans, and the construction of the Improvements and the other work done and improvements constructed on the Subject Property or otherwise related to the Development. The City shall not be obligated to pay Developer or any of its agents or contractors or subcontractors for any costs incurred in connection with the construction of the Improvements or the development of the Subject Property. Developer agrees to defend, indemnify, and hold the City and its mayor, council members, employees, agents and contractors harmless from any and all claims of whatever kind or nature and for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including reasonable attorneys' fees, which may arise as a result of final plat approval, the Development, this Agreement, the construction of the Improvements (except for the negligence or intentional misconduct of the City with respect to the construction of the Improvements), the development of the Subject Property or the acts of Developer, and its employees, agents, contractors or subcontractors, in relationship thereto. The Developer hereby covenants and agrees that Developer will not permit or allow any mechanic's or materialman's liens to be placed on the City's interest in any property that is the subject of the Development or this Agreement during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on the City's interest, the Developer shall take all steps necessary to see that it is removed within thirty (30) business days of its being filed; provided, however, that the Developer may contest any such lien provided the Developer first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien.

4.20 Taxes, Assessments and Other Charges. The Developer shall pay, or cause to be paid when due, and in any event before any penalty is attached, all property taxes and special assessments for the Subject Property and any others referred to in this Agreement. This is a personal obligation of the Developer and shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of the Subject Property. In addition to the charges and special assessments referred to herein, other charges and special assessments may be imposed such as but not limited to sewer availability charges ("SAC"), City water connection ("WAC") charges, City sewer connection charges, City storm water connection charges, building permit fees and plat review fees, which shall be paid by Developer.

ARTICLE FIVE DEFAULT AND REMEDIES

5.01 Default by Developer. In the event of default by the Developer as to any of the work to be performed hereunder by the Developer, its successors or assigns, the City may, at its option, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer is first given notice of the work in default, not less than 72 hours in advance, and does not, within that 72-hour period, diligently proceed to remedy such default to the City's reasonable satisfaction. The City is granted the right to declare any sums provided by this Agreement due and payable in full, and the City may immediately bring legal action against the Developer to collect the sums covered by this Agreement and/or draw upon the financial guaranty posted in conformance with Article Three of this Agreement. In the event the City draws from the financial guaranty sums that exceed the costs or damage to the City, the City will return such excess amounts. In addition to its other remedies provided herein, the City may levy the cost in whole or in part as a special assessment against the Subject Property. Developer waives its rights to notice of hearing and hearing on such assessments and its right to appeal such assessments pursuant to Minnesota Statutes, Section § 429.081. Notwithstanding any provision contained in this Article, the City may exercise any remedies which may be available to it at law or in equity in the event of a default by Developer under this Agreement.

5.02 Complete Improvements – Right of Entry. In addition to the City's other remedies under this Agreement, if the Developer's breach involves failure to complete the Improvements, the City is hereby authorized, at its option, to enter on to all portions of the Subject Property it deems necessary to complete the installation of any or all of the Improvements to which the default relates and draw upon the Security as provided in Article Three to reimburse itself for such costs incurred to remedy such default and invoice the Developer for any costs incurred in excess of the Security, with payment of such invoiced amounts required by the Developer within 30 days of the date of the City's invoice.

5.03 Denial of Permits. Breach of any term of this Agreement by the Developer and/or failure to comply with City Code shall be grounds for denial of any permits, including but not limited to: grading permits, building permits, occupancy permits, etc., within the Development until such breach is corrected by the Developer to the City's reasonable satisfaction.

5.04 Rights Cumulative. No remedy conferred in this Agreement is intended to be exclusive and each shall be cumulative and shall be in addition to every other remedy. The election of any one or more remedies shall not constitute a waiver of any other remedy.

5.05 Attorney Fees. The Developer will pay the City's costs and expenses, including but not limited to engineering and attorneys' fees, in the event a suit or action is brought to enforce the terms of this Agreement or in the event an action is brought upon a bond or Letter of Credit or other Security furnished by the Developer as provided herein.

5.06 Termination. If Developer fails to: a) acquire fee simple title to all of the subject Property, and b) record this Agreement and the final plat in the office of the Chisago County Recorder, as applicable and as provided herein, within one (1) year after approval of the final plat or this Agreement, as applicable, by the City Council, this Agreement shall terminate and the approval of the final plat shall be null and void, subject to the following: i) All costs, fees and other amounts previously paid to the City in connection with the final plat, the Improvements, this Agreement and the Development shall belong to and be retained by the City; ii) the obligations of the Developer for

costs incurred shall survive such termination and continue with respect to unpaid costs, fees and expenses incurred prior to such termination; iii) the indemnifications of Developer shall survive and continue after such termination; and iv) the parties shall be released from all other obligations and liabilities under this Agreement not specified above. In the event of the termination of this Agreement, the parties agree, if requested by the other party, to execute and deliver to the other party a written termination acknowledgment in a form reasonably satisfactory to both parties.

5.07 No City Obligation to Construct Improvement. The City shall have no obligation to construct the Improvements and Developer shall have no right to construct the Improvements or construct the Development on the Subject Property unless the Developer acquires fee simple title to the Development Property and records this Agreement and the final plat in the office of the Chisago County Recorder as required herein within one (1) year after approval of the final plat by the City Council.

ARTICLE SIX MISCELLANEOUS PROVISIONS

6.01 Amendment. Any modification or amendment to this Agreement must be in writing and signed by both parties.

6.02 Assignment. The Developer may not transfer or assign any of its obligations under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

6.03 Agreement to Run with Land. The Developer agrees to record this Agreement among the land records of Chisago County, Minnesota contemporaneously with recording the Final Plat of Fox Run and corresponding Final Plat Resolution No. 42-23-CC, as approved by the City Council on July 11, 2023. The provisions of this Agreement shall run with the land and be binding upon the Developer and its successors in interest. Notwithstanding the foregoing, no conveyance of the Subject Property or any part thereof shall relieve the Developer of its personal liability for full performance of this Agreement unless the City expressly so releases the Developer in writing.

6.04 Release. Upon completion of the Improvements, the City's issuance of the Final Approval, and satisfaction of the Developer's obligations under this Agreement, which shall be evidenced by the expiration of the maintenance bond as required by Section 1.07 of this Agreement, the City agrees to execute a Certificate of Completion or other recordable instrument releasing the Development from the terms of this Agreement.

6.05 Severability. The provisions of this Agreement are severable, and in the event that any provision of this Agreement is found invalid, the remaining provisions shall remain in full force and effect.

6.06 Notices. All notices, certificates or other communications required to be given to City or Developer hereunder shall be sufficiently given: i) on the same day of personally delivered, ii) one (1) day after being deposited with a nationally recognized overnight courier service, or iii) two (2) business days after mailing by First Class or Certified or Registered mail, return receipt requested,

with postage fully prepaid and addressed as follows:

CITY:

City of North Branch
6408 Elm Street
North Branch, MN 55374
Telephone: (651) 674-8113
Attn: Jason Ziemer, Community Development Director

DEVELOPER:

Graphic Homes, Inc.
38814 3rd Avenue
North Branch, MN 55056
Telephone: (651) 674-0410
Attn: Steve Rindahl, President

The City and Developer, by notice given hereunder, may designate different addresses to which subsequent notice, certificate or other communications should be sent.

6.07 No Third Party Beneficiary. This Agreement and any financial guarantees required pursuant to its terms are not intended for the benefit of any third party.

6.08 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. The Developer agrees to comply with all laws, ordinances, and regulations of Minnesota and the City that are applicable to the Subject Property.

6.09 Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be an original and shall constitute one and the same Agreement.

6.10 Non-waiver. Each right, power or remedy conferred upon the City or the Developer by this Agreement is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, or available to the City or the Developer at law or in equity, or under any other agreement. Each and every right, power and remedy set forth in this Agreement or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City or the Developer and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. If either party waives in writing any default or nonperformance by the other party, such waiver shall be deemed to apply only to such event and shall not waive any other prior or subsequent default.

6.11 Supersedes and Replaces. The parties understand and agreed that this Agreement supersedes and replaces all oral agreements, previous development agreements, and negotiations between the parties in relation thereto.

6.12 Title Representation and Consents. The Developer represents, covenants and warrants with

the City, its successors and assigns, that the Developer is well seized in fee title of the Subject Property and/or has obtained, as applicable, the required consents as listed and attached in Exhibit D, to this Agreement, in the form attached hereto, from all parties who have an interest in the Subject Property; that there are no unrecorded interests in the Subject Property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

6.13 Compliance with Laws. The Developer agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the Development of the Subject Property and Improvements.

6.14 Recitals and Exhibits. The recitals and exhibits hereto are made a part hereof and incorporated herein by reference.

6.15 City Code Adopted by Reference. The provisions of the City Code, Chapters 54, 58, and 66 are hereby adopted by reference in their entirety, unless specifically excepted, modified, or varied by the terms of this Agreement, or by the final plat as approved by the City, as applicable. In the event that a provision of this Agreement is inconsistent with or in conflict with the City Code, the City Code shall govern.

6.16 Expiration of Agreement. This Agreement shall remain in effect until such time as the Developer shall have fully performed all of its duties and obligations under this Agreement. Upon issuance of the Certificate of Completion by the City, this Agreement shall terminate.

[Balance of this page intentionally left blank]

IN WITNESS WHEREOF, the duly authorized representatives of the parties have caused this Agreement to be executed on the date and year first written above.

DEVELOPER
GRAPHIC HOMES, INC.

Steve Rindahl
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____ 2024, by Steve Rindahl, the President of Graphic Homes, Inc. a Minnesota corporation on behalf of said corporation.

Notary Public

CITY OF NORTH BRANCH

By: _____
Kevin Schieber
Its Mayor

By: _____
Jason Ziemer
Its Interim City Administrator

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Kevin Schieber and Jason Ziemer, the Mayor and Interim City Administrator, respectively, of the City of North Branch, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
City of North Branch
6408 Elm Street
North Branch MN 55056
(651) 674-8113

EXHIBIT A
FOX RUN
SUBJECT PROPERTY & DEVELOPMENT AREA
LEGAL DESCRIPTION

Current Legal Description

The East Half of the Northwest Quarter except part platted and except the following described parcel: that part of the Southeast Quarter of the Northwest Quarter described as follows: beginning at the Southwest corner of Lot 6, Block 2, of Stone Meadow; thence Southerly along the same course as the Westerly line of said Lot 6, a distance of 33 feet; thence Easterly and parallel with the South line of said Lot 6, a distance of 460. 04 feet; thence North a distance of 33 feet to the Southeast corner of said Lot 6; thence Westerly along the South line of said Lot 6, a distance of 460.04 feet to the point of beginning of Section 28, Township 35, Range 21, Chisago County, Minnesota.

Subject to easements, restrictions, or reservations of record, if any.

PID(s): 11.00567.00

Proposed Legal Description

Lots 1 through 2, inclusive, Block 1; Lots 1 through 7, inclusive, Block 2; Lots 1 through 9, inclusive, Block 3; Lots 1 through 3, inclusive, Block 4; and Lots 1 through 13, Block 5; and Outlots A, B, C, D, E and F of Fox Run, Chisago County, Minnesota.

EXHIBIT B

**FOX RUN
FINANCIAL SECURITY & ESCROW**

2024 EXHIBIT B

FOX RUN 1ST ADDITION

DEVELOPMENT INFORMATION		
Property - Acres	15.9	<i>Total Acres Lots+Outlots+New ROW</i>
Property - Square Feet	692,604.0	<i>SF Lots+Outlots+ROW</i>
Units - Phase 1	34.0	<i>Residential Units/Lots</i>
Lots - Phase 1	38.0	<i>Lots (34) + Outlots (4)</i>

SECTION 1: DEVELOPMENT FEES	COST	PER	DUE	NOTES
Water Trunk	3,500.00	Per Unit	119,000.00	
Sanitary Sewer Trunk	1,656.00	Per Unit	56,304.00	
Storm Sewer Trunk	-	Per Acre	-	
Park Dedication	450.00	Per Unit	15,300.00	
Subdivision GIS Data Entry Fee	-	Per Acre	-	
Lot Origination Fee	40.00	Per Lot	1,520.00	<i>34 Residential Lots + 4 Outlots</i>
Subtotal Platting Fees			192,124.00	
Pre-Paid Lot Fee			(1,360.00)	<i>Pre Paid 34 Lots; Owe 4 Outlots</i>
Total Platting Fees			190,764.00	

SECTION 2: ADMINISTRATIVE AND DEVELOPMENT RELATED COSTS	DUE	NOTES
Administrative	-	<i>Construction Improvements (3%)</i>
Payment in Lieu / Public Trail Construction	60,000.00	<i>Per Resolution No. 36-23-CC</i>
Subtotal Administrative and Development Related Costs	60,000.00	
[List Credits, if Applicable]	-	
Total Administrative and Development Related Costs	60,000.00	

SECTION 3: IMPROVEMENT COSTS	SECURITY	DUE	NOTES
Development Escrow			
Engineering - Onsite Field Inspection	-	15,000.00	<i>City Engineer - Contract</i>
Engineering - Plan Review	-	-	<i>City Engineer - Contract</i>
Environmental	-	-	<i>Wetland Engineer - Contract</i>
Legal	-	1,000.00	<i>City Attorney - Contract</i>
Planning	-	2,000.00	<i>Planning Staff</i>
Non-Public Improvements			
Landscaping	-	-	
Construction - Site (Grading)	15,103.00	-	<i>Grading + Erosion Control+Removals</i>
Construction - Storm Ponding	-	-	
Wetland Mitigation			
Wetland Mitigation	-	-	<i>5 Year Warranty Period</i>
Public Improvements Dedicated to the City			
	-	-	
Construction - Streets	393,235.00	-	<i>Streets+Mobilization (per Eng Est)</i>
Construction - Utility Improvements (Storm Sewer)	274,750.00	-	<i>Storm Sewer (per Eng Est)</i>
Construction - Utility Improvements (Water Main)	169,165.00	-	<i>Water (per Eng Est)</i>
Construction - Utility Improvements (Sanitary Sewer)	148,622.00	-	<i>Sanitary Sewer (per Eng Est)</i>
Subtotal Improvement Costs	1,000,875.00	18,000.00	
[List Credits, if Applicable]	-	-	
Total Improvement Costs	1,000,875.00	18,000.00	

SECTION 4: LOC / ESCROW / FEES REQUIRED	SECURITY	DUE	NOTES
Cash & Escrow			
Section 1: Platting Fees	-	190,764.00	<i>Cash</i>
Section 2: Administrative Fees	-	-	<i>Cash</i>
Section 2: Development Related Costs	-	60,000.00	<i>Development Related Items</i>
Section 3: Cash Escrow	-	19,800.00	<i>Cash (110%)</i>
Security			
Section 3: Letter of Credit - Improvements	1,251,093.75	-	<i>Public / Non-Public Improvements (125%)</i>
Section 3: Letter of Credit - Wetland Mitigation	-	-	<i>Wetland Mitigation (125%)</i>
Total Letter of Credit and Cash Required	1,251,093.75	270,564.00	

EXHIBIT C

FOX RUN
APPROVED PLANS

EXHIBIT D

**FOX RUN
CONSENT FORMS**

MORTGAGEE CONSENT

_____ (“Bank”) holds a mortgage encumbering the Property.

The Property is subject to the foregoing Developer’s Agreement and, accordingly, Bank hereby consents to the Developer’s Agreement; provided, that in doing so, Bank shall not be liable to the City or any other person for the performance or non-performance of the Agreement by the Developer; provided further, that in the event that Bank acquires fee title to the Property by foreclosure or sale in lieu of foreclosure, Bank shall not be required to perform any of the obligations required of the Developer in said Agreement during the Bank’s term of ownership so long as Bank is actively marketing the Property for sale and maintaining the Property in compliance with applicable ordinances.

Dated: _____, 20__

By: _____

Its: _____

ACKNOWLEDGEMENT FOR BANK

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
20__, by _____, the _____ of _____, a
_____ under the laws of _____, on behalf of the _____.

Notary Public

**FEE OWNER CONSENT
TO
DEVELOPMENT AGREEMENT**

_____, fee owners of all or part of the subject Development Property, the development of which is governed by the foregoing Development Agreement, affirm and consent to the provisions thereof and agree to be bound by the provisions as the same may apply to that portion of the subject Development Property owned by them.

Dated: _____, 20__

By: _____

Its: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, the _____ of _____, a _____ under the laws of _____, on behalf of the _____.

Notary Public



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 03/14/2024

Board & Commission: City Council

Subject: Approve Resolution No. R-25-2024, Setting a Public Hearing Date and Time for a Cartway Petition

Overview / Background

Richard Keller (Applicant), owner of a 45-acre parcel near Hemingway Avenue (PID: 11.00693.00), has made petition to the City Council for a public cartway, providing public access to his property. The Applicant is requesting the City Council approve a public cartway across the adjacent property, owned by Jason Nelson (Owner), a 40-acre parcel abutting to Hemingway Avenue (PID: 11.00696.00). The Applicant is requesting a two (2) rod cartway access across the Owner's property, providing public access to Hemingway Avenue. The ability to request a public cartway is established by Minnesota State Statute.

There are two items before the City Council: 1) Establish the date and time for the public hearing to consider the cartway request; the proposed date is June 11, 2024; and 2) Require the petitioner to post a bond or security specific to the request, as is required by State Statute.

Staff Recommendation

City staff recommend approval of the two resolutions.

Recommended Planning Commission Action

Approve Resolution No. R-25-2024 setting the time and place for a public hearing to act upon a cartway petition.

Voting Requirements:

Voting Options Simple Majority

STATE OF MINNESOTA

COUNTY OF CHISAGO

CITY OF NORTH BRANCH

CITY COUNCIL RESOLUTION NO. R-25-2024

**A RESOLUTION SETTING THE TIME AND PLACE FOR A PUBLIC HEARING TO
ACT UPON CARTWAY PETITION**

WHEREAS, on March 7, 2024, landowner Richard Keller (the “Petitioner”), on behalf of JMRK LLC, a Minnesota Limited Liability Company, petitioned the City of North Branch (the “City”) to establish a cartway connecting Petitioner's land with a public road, pursuant to Minn. Stat. § 435.37, attached hereto as Exhibit A (the “Petition”); and

WHEREAS, pursuant to Minn. Stat. § 435.37, a landowner may petition the City Council to establish a cartway for a tract of land containing at least five acres, with no access thereto except over a navigable waterway or over the lands of others, or if the access is less than two rods in width connecting the Petitioner's land with a public road; and

WHEREAS, Petitioner’s landlocked parcel is identified as PID No. 11.00693.00, Section 34, Township 35, Range 21, Chisago County, Minnesota, and Petitioner’s proposal(s) for the proposed cartway location to access to Hemingway Avenue, a public road across the land of an adjacent private property, is attached hereto as Exhibit B; and

WHEREAS, Petitioner’s property meets the above-mentioned statutory requirements for the establishment of a mandatory cartway; and

WHEREAS, pursuant to Minn. Stat. § 164.07, the City must issue an order within thirty (30) days of receipt of the Petition describing as nearly as practicable the cartway proposed to be established and the tracts of land through which it passes, and fixing a time and place when and where it will meet and act upon the Petition; and

WHEREAS, the City has identified at least one (1) parcel of land that will be affected by the proposed cartway, which Petitioner must provide notice to, and service of this order a minimum of ten (10) days before the meeting date set forth herein. A template Notice to be served by the Petitioner upon the affected landowner(s) is attached hereto as Exhibit C; and

WHEREAS, pursuant to Minn. Stat. § 435.37, subd. 1 (c), the City intends to pass a separate resolution ordering Petitioner to post a bond/security, based on the estimate of costs and damages Petitioner is required to pay. Damages includes: compensation to the affected landowner upon which the cartway is established, all professional and other service costs, hearing costs, administrative costs, recording costs, and

all other costs and expenses the City may incur in connection with the proceedings for the establishment of the cartway, including the City's attorney's fees; and

WHEREAS, pursuant to Minn. Stat. § 435.37, subd. 1 (d), all costs of construction, operation, repair, maintenance and replacement of the cartway shall be the responsibility and liability of the Petitioner and the cartway shall be a private driveway, unless the City Council, by resolution, finds that the expenditure of funds on the cartway is on the public interest.

NOW THEREFORE, BE IT RESOLVED BY THE NORTH BRANCH City Council OF NORTH BRANCH, MINNESOTA

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH BRANCH, MN:

1. The City Council of the City of North Branch will hold a Public Hearing to act on the Petition on **June 11, 2024 at 6:30 PM in the City Council Chambers located at North Branch City Hall, 6408 Elm Street, North Branch, MN, 55056.**
2. The Council will conduct a Public Hearing to hear all interested parties. All persons who wish to be heard on any of the issues identified above, or any issue relating to the Petition, should appear at the hearing and be prepared to present any testimony, evidence, or opinion before the City Council. Upon hearing all of the evidence, the Council will make a determination on the underlying cartway petition and will establish damages/compensation to affected landowners.
3. The Petitioner or his representatives shall cause personal service of this Resolution and the Petition to the Commissioner of the Minnesota Department of Natural Resources at least sixty (60) days prior to the Public Hearing.
4. The Petitioner, Richard Keller, or his representative(s), shall cause personal service and/or service by U.S. Certified mail of this Resolution and the Petition at least ten (10) days prior to the Public Hearing to be made upon each owner and occupant of land over which or adjacent to which the proposed cartway could pass, and upon each person whose land would be reasonably expected to be affected by the establishment of the proposed cartway, including but not limited to the following:

Jason Nelson
38962 4th Avenue
North Branch, MN 55056

5. Petitioner shall provide an affidavit to the City demonstrating that Items 3 and 4 above mentioned are timely completed prior to the Public Hearing. Failure to provide such affidavit establishing proof of service shall result in administrative denial of the Petition and the return thereof to the Petitioner without action of the City Council.

PLEASE TAKE NOTICE THAT all affected landowners are hereby notified, pursuant to Minn. Stat. § 164.07, subd. 2, that they are entitled to judicial review if the cartway is established, but that to do so that they must follow all of the procedures set forth in Minn. Stat. § 164.07, subds. 7 through 9, including but not limited to filing a notice of appeal within forty (40) days after the filing of the award of damages, and within ten (10) days after the filing of the award of damages if they wish to delay the opening or construction of the cartway, together with a bond of not less than \$250, with sufficient surety approved by the judge or the county auditor conditioned to pay all costs arising from the appeal in case the award is sustained. A copy of the notice shall be mailed by registered or certified mail to the City Clerk or any member of the City Council. The notice of appeal shall specify the award or failure to award appealed from, the land to which it relates, the nature and amount of the claim of appellant, and the grounds of the appeal, which may include a challenge to the public purpose or necessity of the proposed road or condemnation. The prevailing party shall recover costs and disbursements as in other civil cases and judgment shall be entered upon the verdict.

PASSED by the City Council of the City of North Branch on this 26th day of March, 2024.

EXHIBIT A
CARTWAY PETITION

Butts, Schneider and Butts, LLP
Attorneys at Law
4525 Allendale Drive
White Bear Lake, MN 55127
651-464-6162 / 651-426-9980
Stevebutts@lakesidelawyers.com

Steve L. Butts*
Spencer C. Butts

March 5, 2024

City of North Branch
6408 Elm Street
North Branch, MN 55056

Re: Petition For a Cartway

TO: CITY OF NORTH BRANCH

Ladies and Gentlemen:

I represent Richard Keller, sole member and chief manager of JMRK LLC, a Minnesota Limited Liability Company. Attached please JMRK's Petition For A Cartway to access landlocked property, signed by Richard as Chief Manager.

Richard has supported the LLC's Petition with a number of attachments as well. Please accept and consider his request.

Thank you.

Sincerely,



Steve L. Butts
Enc.

City of North Branch
6408 Elm St, North Branch,
MN 55056

Richard Keller Owner; JMRK LLC, Minnesota Liability Company
7399 341 ST
Stacy MN 55079

Dear City Council:

Please consider my application for two-rod cartway ingress egress easement, with utilities through the Jason Nelson property. See attached request.

I Richard Keller owner of JMRK 45 acres of land in the city of North Branch MN PID: 11.00693.00. I am petitioning the city for a two-rod ingress egress cartway easement with utilities, through Jason Nelson property. **The affected property is effectively drained wetland according to Jeff Fertig Chisago County wetland enforcer and Ken Meek Soil Scientist.** If granted the cartway two rods or 33 feet by 1320 feet long would be about .97 acres. I have spoken to three different real-estate companies they say the value of that kind of land is \$2,500.00 to \$4,500.00 per acre.

His property is PID: 11.00696.00 Warranty deed doc. No 658578, 40 acres. The exhibit #1 shows the cartway and includes the legal description.

I tried for a period of two years to gain access through the DNR land. In November Renae Fry and Attorney Chris Hood asked me to find out in case law if I can petition the DNR for access.

(STATE OF MINNESOTA IN COURT OF APPEALS A22-0450 In re the Matter of Michael Wartman, et al., Appellants,) Exhibit #2 states that neither cities nor townships can petition cartways through Wild Life Management Areas. Therefore, my only access is through the Jason Nelson property, because I am surrounded on all other sides by DNR Janet Johnson Wildlife Management Area.

Minnesota statute, 435.37 Easement for Cartway allows cities to grant easements for access, exhibit #3

I have data from engineer Joe Pelewa exhibit #4 and soils engineer Ken Meek exhibit #5 both agreeing with the surveyor Kelly Jordan that the best placement of the cartway is where it is shown in exhibit #1. The soils get worse for a driveway the farther south one goes on the property.

Thank you for considering this request. Let me know if you need any other documentation.

Have a great day Richard Keller



02/21/2024

PETITION FOR A CARTWAY TO ACCESS LANDLOCKED PROPERTY

To the city of North Branch Minnesota, Chisago County, Minnesota:

The undersigned are owners of a tract of land in The City of North Branch Chisago County, more particularly described as follows: PID 11.00693.00 Acres 45.00 Section 34 Township 035 Range 021 W1/2 OF SW1/4 OF NE1/4 NE1/4 OF SE1/4 OF NW1/4 AND S 5 A OF W 1/2 OF SE1/4 OF NW1/4 OF SE1/4 OF SE1/4 OF NW1/4

Owner: JMRK LLC, A Minnesota Limited Liability Company.

Said tract of land either: (check one)

X[] contains at least five acres of land and has no established access to it except over a navigable waterway, over the lands of others, or whose only access is less than two rods wide; or

[] contains between two and five acres, was a separate parcel of record as of January 1, 1998, and has no established access to it except over the lands of others.

As the owners of the above described landlocked tract of land we hereby petition said town board to establish a cartway pursuant to Minn. Stat. § 435.37, at a width of 2 rods (at least two- rods with utilities) across the following described properties:

<u>Owners Jason Nelson</u>	<u>Property Description PID 11.00696.00</u>
----------------------------	---

Section 34 Township 035 Range 21 SW1/4 OF NW 1/4

At the following described location: See attached exhibit #1 North 33 feet of the

south 313 feet of the Southwest 1/4 of the Northwest 1/4 of said Section 34, Township 35north, Range 21 West Chisago County Minnesota.

The purpose and necessity for this petition is to seek the establishment of a legal access, ingress egress, that is at least 33 feet wide to a tract of property that is landlocked. Other attempts to secure a permanent access to the property have been unsuccessful. In order to make use of the

property and increase its value, we ask the town to establish a cartway connecting the tract of land to a public road.

We understand and agree that as the petitioners we are responsible for: (1) paying all costs associated with the establishment of the cartway which may include, but is not limited to, the town board's attorney fees, hearing costs, surveying fees, appraiser fees, compensation to the owners of the property over which the cartway is established for the taking of their property, administrative costs, court and defense costs if an appeal is brought, and any other costs legitimately associated with the cartway establishment; (2) constructing the cartway; and (3) maintaining the cartway.

Dated this day of 03/07, 2024.

Petitioner Signature
Chief manager

Petitioner Printed Name

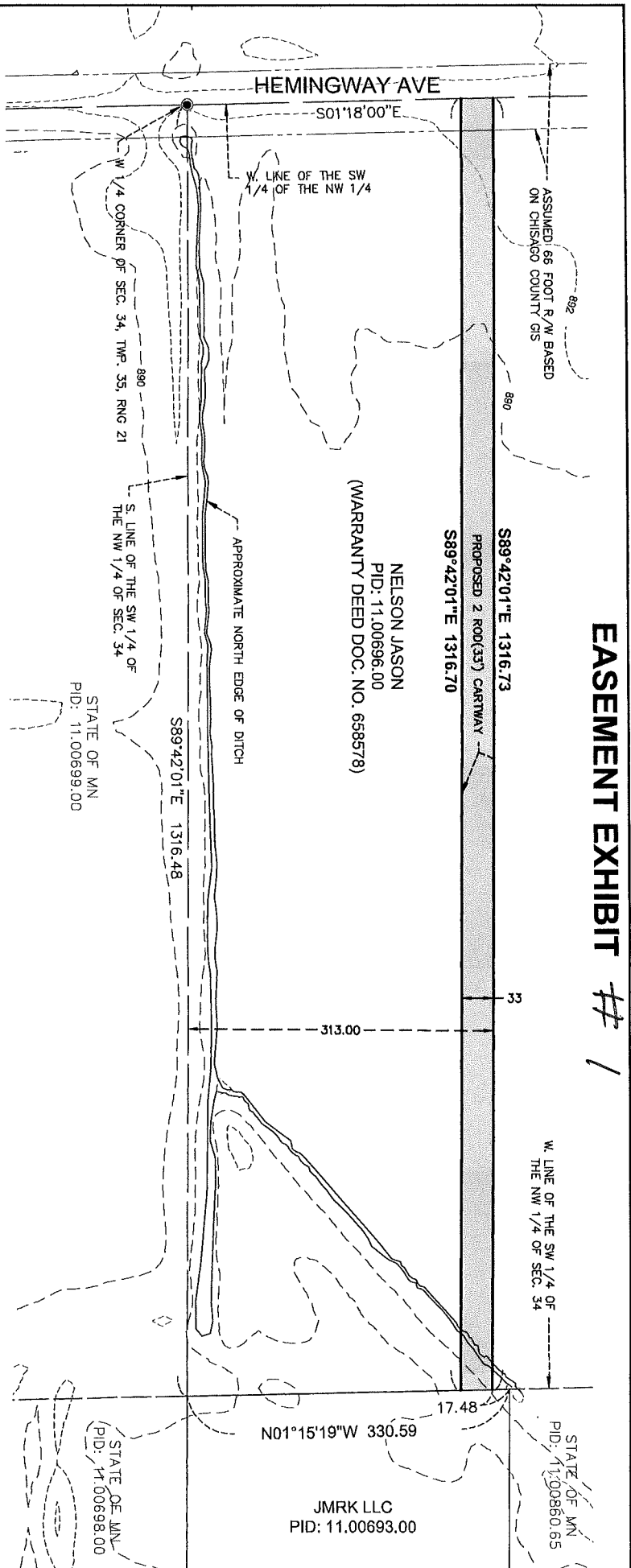
Mailing Address: 7399 341 st
Stacy MN 55079

Petitioner Signature

Petitioner Printed Name

Mailing Address:

EASEMENT EXHIBIT # 1



PROPOSED EASEMENT DESCRIPTION:

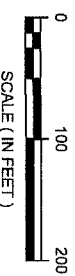
The North 33 feet of the South 313 feet of the Southwest 1/4 of the Northwest 1/4 of said Section 34, Township 35 North, Range 21 West, Chisago County, Minnesota.

SURVEY NOTES:

1. Orientation of this bearing system is based on the Chisago County Coordinate System NAD83 (1996 adf)
2. Contours shown are LIDAR contours from MN DNR on NAVD88.
3. Cartway area is 43,452 Sq. Ft. or 1.0 Acres

DATE	January 2024	DATE		AMENDMENTS	BY	PREPARED FOR: ROCK KELLER
SCALE	AS SHOWN					THIRTY-SEVEN CENTY THAT THE SURVEY PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA
DRAWN BY:	JWS					DATE OF SURVEY: 1/11/24
CHECKED BY:	KJL					DATE OF CHECK: 1/11/24
FILE NUMBER:	2023-10945					UIC NO. 4248

WIDSETH
ARCHITECTS • ENGINEERS • SCIENTISTS • SURVEYORS



*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0450**

In re the Matter of
Michael Wartman, et al.,
Appellants,

and

the Commissioner of Crystal Bay Township,
Respondent,

Janet Rothbart,
Respondent.

**Filed October 10, 2022
Affirmed
Bratvold, Judge**

Lake County District Court
File No. 38-CV-21-47

Patrick Dinneen, Silver Bay, Minnesota (for appellants)

Tyson Smith, Richard T. Furlong III, Smith Law, PLLC, Grand Marais, Minnesota (for
respondent commissioner)

Kelly M. Klun, Klun Law Firm, P.A., Ely, Minnesota (for respondent Rothbart)

Considered and decided by Bratvold, Presiding Judge; Cochran, Judge; and
Wheelock, Judge.

435.37 EASEMENT FOR CARTWAY.

Subdivision 1. **Mandatory establishment; conditions.** (a) Upon petition presented to the city council by the owner of a tract of land containing at least five acres, who has no access thereto except over a navigable waterway or over the lands of others, or whose access thereto is less than two rods in width, the city council by resolution shall establish a cartway at least two rods wide connecting the petitioner's land with a public road.

(b) The city council may select an alternative route other than that petitioned for if the alternative is deemed by the city council to be less disruptive and damaging to the affected landowners and in the public's best interest.

(c) The amount of damages must be paid by the petitioner to the city before the cartway is opened. For the purposes of this subdivision, damages means the compensation, if any, awarded to the owner of the land upon which the cartway is established together with the cost of professional and other services, hearing costs, administrative costs, recording costs, and other costs and expenses that the city may incur in connection with the proceedings for the establishment of the cartway. The city council may by resolution require the petitioner to post a bond or other security acceptable to the city council for the total estimated damages before the city council takes action on the petition.

(d) The city may not expend street or bridge funds on the cartway unless the city council, by resolution, determines that an expenditure is in the public interest. If no resolution is adopted to that effect, the grading or other construction work and the maintenance of the cartway is the responsibility of the petitioner.

(e) After the cartway has been constructed, the city council may by resolution designate the cartway as a private driveway with the written consent of the affected landowner, in which case from the effective date of the resolution no town road and bridge funds may be expended for maintenance of the driveway.

Subd. 2. **Maintenance costs.** When a cartway is not maintained by the city, one or more of the private property owners who own land adjacent to a cartway, or one or more of the private property owners who has no access to the owner's land except by way of the cartway, may maintain the cartway. The cost of maintenance must be equitably divided among all of the private property owners who own land adjacent to the cartway and all of the private property owners who have no access to their land except by way of the cartway. The following factors may be taken into consideration when determining an equitable share of maintenance expenses: the frequency of use, the type and weight of the vehicles or equipment, and the distance traveled on the cartway to the individual's property. The city council may determine the maintenance costs to be apportioned to each private property owner if the private property owners cannot agree on the division of the costs. The city council's decision may be appealed within 30 days to the district court of the county in which the cartway is located. Private property owners who pay the cost of maintenance have a civil cause of action against any of the private property owners who refuse to pay their share of the maintenance cost.

Subd. 3. **City defined.** For purposes of this section, "city" includes statutory and home rule charter cities.

Subd. 4. **Procedure.** For the purposes of this section, the proceedings of the city council shall be in accordance with the procedures set forth in section 164.07, except that references in section 164.07 to "town," "town clerk," "town board," or "town costs" shall be construed to mean references to "city," "city clerk," "city council," or "city costs," respectively, or equivalent terms, as required by the context.

History: 2006 c 236 art 1 s 3; 2009 c 30 art 3 s 3

February 26, 2024

Rick Keller
7399 341st St.
Stacy, MN 55079

Duluth
126 East Superior Street
Duluth MN 55802
218.727.8481
Widseth.com

Re: JMRK Property Access Evaluation for PIN 11.00693.00

Rick,

Evaluating your access into the 45-acre property in Section 34 located ¼ mile east of Hemingway Avenue in the City of North Branch, MN. I understand that an access cartway to connect your property to Hemingway Ave. would cross the adjacent property owned by Jason Nelson (PIN 11.00696.00) to the west.

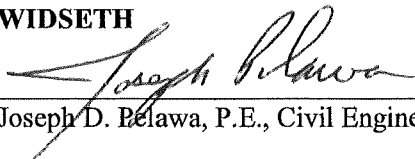
Evaluation of Site Conditions

- 1 rod (16.5 foot) access
 - 16.5 foot does not provide sufficient cartway clearance to safely provide access to a property for vehicles.
 - Typically, a minimum drive access of sufficient width (20 foot) to allow public safety and emergency vehicles within an easement of 33-foot width is typically required to construct an adequate access and provide adjacent shoulder slopes for safety measures and access stability.
- Construction along an existing drainage ditch
 - Undesirable soils (peat) along the ditches over time tend to sluff back into the drainage ditch causing drainage blockages and slump depressions of surface adjacent to the ditch.
 - Due to the ditch depth and undesirable soils (peat) along the ditch, a setback of access for long term stability of the access and the ditch banks.
- Underlying soils
 - The farther south the drive access is placed the depth of unsuitable soils increases.

Recommendation:

- For this property the recommended location for access drive placement is approximately 300 feet north of Jason Nelson and JMRK Property south line.
- This provides the least potential impacts to existing drainage ditch and depth of excavation due to unsuitable soils.

WIDSETH



Joseph D. Pelawa, P.E., Civil Engineer

Enclosure: GIS clipping of property identifying recommended access location

EARTH SCIENCE ASSOCIATES, INC.

Environmental Consulting Specialists earthsciencemn.com

612-718-0413 esa332@gmail.com

37445 Grand Avenue, North Branch MN 55056

Rick Keller
7399 341st Street
Stacy, MN 55079

November 11, 2023

esa #111-23

RE: Driveway Route to 45 acre parcel in North Branch, MN (Chisago Co. PID# 11.00693.00)
Certification of no wetland impact

Dear Mr. Keller:

The existing driveway access to the above referenced parcel, as illustrated on the attached Exhibit 1, is found to avoid wetland, based on current site conditions and current state/federal criteria for defining wetland.

It is our understanding that this driveway has been in continuous use to access the subject parcel since the early 1990s and prior to that it had served to access a home site on a nearby property.

Respectfully,

Earth Science Associates, Inc.



Kenneth E. Meek, PG, CPG
Principal

Attachment: Exhibit 1 Existing Driveway Route

Registered Professional Geologist (MN) #30221
AIPG Certified Professional Geologist (USA) #08600
Certified Wetland Delineator #1199
OSHA 40 hour HAZWOPER Certified 1992
MDH Licensed Monitoring Well Contractor #788, #1685
Certified Landfill Operator #52087428



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 03/22/2024

Board & Commission: City Council

Subject: Approve Resolution No. R-26-2024 Requiring the Cartway Petitioner to Post a Bond or Security

Overview / Background

See previous staff report regarding cartway petition item.

Staff Recommendation

City staff recommend approval of the resolution requiring posting of a bond or security.

Recommended Planning Commission Action

Approve Resolution No. R-26-2024 requiring the petitioner of the cartway to post a bond or security specific to the cartway petition.

Voting Requirements:

Voting Options Simple Majority

STATE OF MINNESOTA

COUNTY OF CHISAGO

CITY OF NORTH BRANCH

CITY COUNCIL RESOLUTION NO. R-26-2024

A RESOLUTION REQUIRING THE CARTWAY PETITIONER TO POST A BOND OR SECURITY

WHEREAS, the City of North Branch (the “City”) City Council received a cartway petition from landowner Richard Keller (“the Petitioner”), requesting the establishment of a cartway pursuant to Minnesota Statutes, section 164.08, subdivision 2 to provide access to property owned by the Petitioner, located in Section 34, Township 35, Range 21, Chisago County, Minnesota (the “Property”); and

WHEREAS, the Petitioner is required by Minnesota Statutes, section 164.08 to pay all costs associated with the establishment of a cartway including, but not limited to, compensation paid to the owners of the properties made subject to the cartway, the City's attorney fees, appraiser fees, administrative costs, surveying costs, and such other costs the City incurs as it deems necessary to process, consider, and act on the cartway petition; and

WHEREAS, pursuant to Minnesota Statutes, section 164.08, subdivision 2, the City Council is authorized to pass a resolution requiring the Petitioner to post a bond or other security acceptable to the City for the total estimated damages before the City Council takes action on the petition including, but not limited to, adopting an order to set a hearing on the petition; and

WHEREAS, the City Council determines it is in the best interests of the City and its taxpayers to require the Petitioner to post security with the City in an amount sufficient to ensure the City is fully reimbursed for all of its costs and expenses related to processing and considering the Petitioner's cartway petition.

NOW THEREFORE, BE IT RESOLVED BY THE NORTH BRANCH City Council OF NORTH BRANCH, MINNESOTA

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH BRANCH, MN that the petitioner of the cartway is hereby required to provide to the City security in the amount, and subject to the provisions, as set out below:

1. The Petitioner must provide the City cash security in the amount of \$38,200 in the form of a cashier's check or certified check ("Security") before the City Council will take any further action to process or consider the Petitioner's cartway request. The purpose of the Security is to give the City a source of funds from which it will reimburse itself for the professional, administrative, and other costs it incurs to process, consider, and act on the petition. It is impossible for the City Council to determine in advance the exact amount of the costs it will incur related to this matter. The Security established herein is neither a minimum nor maximum on the amount of costs the Petitioner will actually be required to reimburse or pay related to the cartway proceeding. The City Council will take no further action to process the petition until the full amount of Security is provided to the City as required herein.
2. The City will deposit the Security in its account and will withdraw funds as needed to reimburse itself for all costs it incurs. If the City determines the amount of the Security, after deducting all costs it has incurred, will be reduced to less than \$2,500, the City may provide the Petitioner notice of the need to provide additional Security in the amount indicated in the notice. The cartway process will be suspended until the required additional Security is provided. Failure by the City to provide the notice will not relieve the Petitioner of its obligation to fully reimburse the City for its costs.
3. The Petitioner is required to pay all actual costs incurred by the City related to processing the cartway petition regardless of whether the cartway is actually established. If the Security is not adequate to fully reimburse the City, the Petitioner shall remain responsible for reimbursing the City for all of its costs. If the Security is depleted before all of the costs are reimbursed, the City will provide the Petitioner an invoice for the remaining amount to be reimbursed, which shall be due and payable within thirty (30) days for the date of the invoice. If the invoice is not paid, or if the City is not otherwise fully reimbursed, it may certify the unpaid amounts to the County Auditor pursuant to Minnesota Statutes, section 366.012 for collection as an unpaid service charge on the taxes of the Property or on any other property the Petitioner owns in the state. The City's collection costs shall be added to the amount certified to the county auditor for collection. By providing the Security as required herein, the Petitioner is expressly agreeing that the costs the City incurs related to this process constitute a service charge collectable by the City pursuant to Minnesota Statutes, section 366.012.
4. The City Council may, after ten (10) days' written notice to the Petitioner, terminate the cartway process if the Petitioner fails to promptly and fully reimburse the City. If the City Council terminates the process, it will take no further action on the petition. The Petitioner would be required to file a new petition and new security before the City Council takes any further action on the matter of establishing a cartway to the Property.
5. Upon the conclusion or termination of the cartway process, the City shall release or return any unused portion of the Security, without interest, to the Petitioner within sixty (60) days with an accounting of any amounts withdrawn by the City.
6. By adopting this Resolution, the City Council is not commenting on the eligibility of the Petitioner to actually receive the requested cartway. The City Council will not act to consider whether the Petitioner is eligible for a cartway until the required Security

is provided, and then only as part of the hearing held regarding the petition.

BE IT FINALLY RESOLVED, the City Clerk is hereby authorized and directed to provide the Petitioner a copy of this Resolution.



Prepared By:
Ragini Varma, City Clerk / IT Director
Presenter: Ragini Varma, City Clerk / IT Director
Date: 03/14/2024

Board & Commission: City Council

Subject: Approve Gambling LG220 Permit - Sons of the American Legion Post 85

Background Information:

Sons of the American Legion Post 85, has held gambling events including bingo, raffle, pull tabs and others at different premises in the past within the city limits of North Branch. They will be holding a raffle event at American Legion Post 85 at 6439 Elm Street from June 20, 2024, through June 23, 2024. The clerk's office usually signs off on the application before they can send it to the Minnesota Alcohol & Gambling Enforcement office so that they can be issued a permit to carry out such an event as requested after council approval. Most of these applications need to be submitted to the Minnesota Gambling Control Board a few months in advance for the state to process it.

Deadline:

ASAP

Staff Recommendation & Requested City Council Action:

Staff recommends council to approve the application for submission to the Minnesota Gambling Control Board by Sons of the American Legion.

Voting Requirements:

Voting Options Simple Majority



Prepared By:
Nathan Sondrol, GIS Specialist/Parks Director
Presenter: Nathan Sondrol, GIS Specialist/Parks Director
Date: 03/14/2024

Board & Commission: City Council

Subject: Approve Meadows North Park Improvements - Seeding & Tree Planting

Background Information:

The City entered into a development agreement with Paxmar MN2, LLC for the **Meadows North** development located at the southwest corner of 400th Street and Flink Ave. The agreement outlines the roles and responsibilities of the development, including the park dedication requirements of 5 acres of land and a dollar amount to develop the park not to exceed \$340,000. The City Council approved a 5% contingency (\$17,000) to complete the seeding, landscaping (trees) and signage at the park to complete the project for a total project cost of \$357,000 (\$55,000 below the estimated project cost). The overall project budget to date is approximately \$332,107.22 with approximately \$24,000 of funds remaining.

The following quotes were obtained for the seeding and trees (*Maples, Lindens, Crabapples*):

Seeding	
Anderson Landscaping Services	\$13,315
Peterson Companies	\$33,685

Trees

Anderson Landscaping Services	\$403/Tree avg (\$375-\$425/tree)
Branch Landscape Nursery	\$500/Tree

Funding Source
Park Dedication Fund

The PTOS Commission recommended approval of the low quotes for the seeding and tree planting within the budgeted amounts at the March 4, 2024, meeting.

Requested Action

To recommend approval of the low quote of \$13,315 (*11,705 +1,610*) to Anderson Landscaping Services, LLC for the seeding and to Anderson Landscaping Services, LLC and to Anderson Landscaping Services, LLC for tree installation (maples/lindens/crabapples) not to exceed \$8,500.

Voting Requirements:

Voting Options **Simple Majority**



Anderson Landscaping Services, LLC

39155 Mica Ave
North Branch MN 55056

Estimate

Date	Estimate #
3/4/2024	729

Name / Address
City of North Branch 6408 Elm St. North Branch MN 55056

			project
			Meadows North Park
Description	Qty	Rate	Total
Delivery and installation of 16- B&B Maple trees, and 12- B&B Crabapple trees		11,300.00	11,300.00
Seeding of 4.5 acres at park location using 365 brand seed, applying 18-24-12 starter fertilizer to all newly seeded areas		11,705.00	11,705.00
Prior to any seeding being done at the park, the entire 4.5 acre areas to be treated with round up to kill off existing weeds and unwanted grasses. Upon establishment of newly seeded areas an application of speedzone selective herbicide will be applied to grass areas to control any new weed growth in seeded areas after establishment		1,610.00	1,610.00
Sales Tax		6.875%	0.00
		Total	\$24,615.00

Phone #
651-775-7193

E-mail
mail@andersonlandscapingmn.com



PETERSON COMPANIES, INC.

8326 WYOMING TRAIL
CHISAGO CITY, MN 55013

651.257.6864

petersoncompanies.net

To:	City of North Branch	Contact:	
Address:	P.O. Box 910	Phone:	
	North Branch, MN 55056	Fax:	
Project Name:	Meadows North Park - North Branch	Bid Number:	
Project Location:	5333 399th St., North Branch, MN	Bid Date:	3/15/2024

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
	SEEDING - NO COVER	1.00	LS	\$33,685.00	\$33,685.00
	ALT 1 - HYDROMULCH	1.00	LS	\$18,610.00	\$18,610.00
	ALT 2 - STRAW MULCH	1.00	LS	\$6,060.00	\$6,060.00

Total Bid Price: \$58,355.00

Notes:

• Base Bid Includes:

- Mobilization and management to complete the project
- Delivery of all materials to the site
- Application of herbicide 1-2 weeks prior to seeding
- Stripping site of existing weeds and removal from project site
- Soil preparation and fertilization of all areas to receive seed
- Installation of "Tuff Turf" fescue seed mix in all disturbed areas within project boundary
- No seed cover to be applied within base bid, two options provided as alternates
- Maintenance of seed for 60 days to include two additional fertilizer applications and mowing as necessary
- Assumes irrigation system is functioning at time of seed installation

Exclusions:

- Any import or placement of topsoil or planting soil
- Any soil removals
- Any irrigation work, assumes irrigation system is fully functional
- Any seed cover unless an alternate is chosen
- Permits
- Testing
- All proposals exclude subcontractor bonds, bond fees, specialty insurance, workforce goals or business inclusion goals unless so indicated.
- Please feel free to contact me with any questions you may have. We appreciate the opportunity to provide you with this proposal and look forward to workign with you on this project.

ACCEPTED:

The above prices, specifications and conditions are satisfactory and hereby accepted.

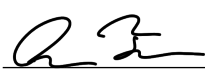
Buyer: _____

Signature: _____

Date of Acceptance: _____

CONFIRMED:

Peterson Companies, Inc.

Authorized Signature: 

Estimator: Josh Flem
(651) 257-0318 jflem@petersoncompanies.net



Nathan Sondrol <nathans@ci.north-branch.mn.us>

Trees for Meadows North Park

Eric Gustafson <egustafson002@luthersem.edu>

Sat, Feb 17, 2024 at 7:24 PM

To: nathans@ci.north-branch.mn.us

Cc: Mike <gustafson_ma@yahoo.com>, eric@branchland.com

Hi Nate, it looks we have plenty of larger B&B trees (2" to 4" caliper) available for planting at Meadows North. Price per tree planted would be \$500 each and include mulching.

You said you would like some color up there, so we can go heavy on maple, but it would be good to diversify a little. Other species available include Kentucky Coffeetree, Elm, Linden, Hackberry and Corktree.

Some trees will be of "park-grade" quality, meaning they may not have perfect branching or may have some healing trunk scars.

I look forward to hearing back from you!

Thanks,

Eric Gustafson
Branch Nursery
651-208-1473



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 03/18/2024

Board & Commission: City Council

Subject: Approve Resolution No. R-27-2024, Accepting the Offers of Dedication and Reducing Security for Grand Point and Grand Point 2nd Addition

Overview / Background

Alliant Capital (Developer) has submitted an Offer of Dedication for the Public Improvements as required with Grand Point and Grand Point 2nd Addition subdivisions. City staff have reviewed the required improvements and have found them satisfactorily complete and is accepting of the offer to dedication. By this action, the City shall reduce the financial security to 25% of the total amount obligated with the developments and approves the Developer to enter the one (1) year warranty period for the improvements. Upon completion of the warranty period, and if no issues are identified with the public improvement items, the City can take action to accept the improvements, making them an official public asset. At that time the remaining security would be released.

Staff Recommendation

City staff recommend approval of the resolution accepting the offer of dedication and reducing the letter of credit as stated.

Recommended Planning Commission Action

Approve Resolution No. R-27-2024 accepting the offer of dedication for public improvements for Grand Point and Grand Point 2nd Addition and reduce the letter of credit.

Voting Requirements:

Voting Options Simple Majority

STATE OF MINNESOTA

COUNTY OF CHISAGO

CITY OF NORTH BRANCH

CITY COUNCIL RESOLUTION NO. R-27-2024

**A RESOLUTION ACCEPTING AN OFFER OF DEDICATION FOR PUBLIC
IMPROVEMENTS & AUTHORIZING A FINANCIAL SECURITY REDUCTION FOR
GRAND POINT & GRAND POINT 2ND ADDITION**

WHEREAS, in accordance with Development Agreements (“Agreements”) for Grand Point and Grand Point 2nd Addition (“Developments”), dated March 29, 2022 and May 3, 2022, respectively, Alliant Capital, LLC (“Developer”), agreed to install certain public improvements (“Improvements”) for said Developments, and provide Financial Guarantee (“Security”) covering the installation and construction of those “Improvements;” and,

WHEREAS, the Developer has completed the Improvements as required by the Agreements for the Developments, and hereby has made an Offer of Dedication for those Improvements; and,

WHEREAS, as allowed by those Agreements, the Developer has also requested a reduction in Security to reflect the work completed.

NOW THEREFORE, BE IT RESOLVED BY THE NORTH BRANCH City Council OF NORTH BRANCH, MINNESOTA

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH BRANCH, MINNESOTA, as stated in the attached Exhibit A, the Offer of Dedication for Grand Point and Grand Point 2nd Addition are hereby accepted and the Financial Guarantee for Grand Point and Grand Point 2nd Addition are hereby reduced.

BE IT FURTHER RESOLVED, the City agrees the Developer may submit a single Letter of Credit in an amount covering the combined totals for the Letter of Credit requirements for both Grand Point and Grand Point 2nd Addition as stated in the Offers of Dedication, as attached in Exhibit A.

Whereupon said resolution was declared duly passed and adopted, and was signed by the Mayor and attested by the City Clerk dated this 26th day of March, 2024.

EXHIBIT A

OFFERS OF DEDICATION

GRAND POINT & GRAND POINT 2ND ADDITION

OFFER OF DEDICATION

GRAND POINT

THE UNDERSIGNED, Alliant Capital, LLC, a Minnesota limited liability company ("Developer") has executed this Offer of Dedication ("Offer") effective as of the 26th day of March, 2024.

RECITALS

A. The Developer and the City of North Branch, a Minnesota municipal corporation ("City") are parties to a Planned Unit Development and Subdivision Agreement dated March 29, 2022 ("Agreement") according to the terms of which the Developer agreed to construct certain Improvements to the Property owned by the Developer including certain Public Improvements to be dedicated to the City.

B. Pursuant to the Agreement, the Developer has furnished the City with a Letter of Credit in the original amount of \$1,298,387.50 on March 29, 2022, which has previously reduced from the original amount to \$1,096,934.00 on May 3, 2022; and from \$1,096,934.00 to \$422,306.40 on October 31, 2022. The current Letter of Credit amount for Grand Point remains \$422,306.40, as issued by American National Bank.

C. The Developer has completed all of the Public Improvements and now desires to offer to dedicate such improvements (the "Dedicated Improvements") to the City and, upon the City's acceptance of such offer to keep the Letter of Credit in the reduced amount as allowed by the Agreement for the duration of the warranty period.

OFFER OF DEDICATION

The following provisions are hereby submitted to the City by the Developer in connection with the Agreement regarding the development of the Grand Point Development within the City limits:

1. Offer of Dedication. The Developer hereby offers to dedicate to the City all of the Public Improvements completed by the Developer pursuant to the Agreement.

2. Developer's Acknowledgment. Developer hereby acknowledges that, the Improvements will not be formally dedicated to the City until the City's final acceptance of the Public Improvements required by the Development Agreement as evidenced by a Certificate of Completion issued by the City and therefore the City's acceptance of the Offer of the Dedicated Improvements hereunder is expressly made contingent upon and subject to such formal statutory dedication requirements, the City's final acceptance of the Public Improvements and in all other respects is contingent upon the Developer's continued compliance with the terms and conditions of the Agreement. The Developer further acknowledges that as to all Public Improvements, including the Dedicated Improvements, the Warranty Period defined in the Agreement, shall not commence until the City's final acceptance of the Public Improvements.

3. Letter of Credit. The City approves a reduction in the Letter of Credit and the Developer may submit a replacement Letter of Credit in the amount of \$324,597 to remain on file for the duration of the Warranty Period and for so long thereafter as is necessary to complete the remaining Developer's obligations under the terms of the Agreement, which includes, but is not limited to preparation and approval of as-built drawings of the Development.

4. Definitions. Capitalized terms not otherwise defined herein shall have the meanings given them on the Agreement.

DEVELOPER
ALLIANT CAPITAL, LLC

A handwritten signature in black ink, appearing to read "R. J. Machacek", written over a horizontal line.

Robert J. Machacek
President

OFFER OF DEDICATION

GRAND POINT 2ND ADDITION

THE UNDERSIGNED, Alliant Capital, LLC, a Minnesota limited liability company ("Developer") has executed this Offer of Dedication ("Offer") effective as of the 26th day of March, 2024.

RECITALS

A. The Developer and the City of North Branch, a Minnesota municipal corporation ("City") are parties to a Planned Unit Development and Subdivision Agreement dated May 3, 2022 (the "Agreement") according to the terms of which the Developer agreed to construct certain Improvements to the Property owned by the Developer including certain Public Improvements to be dedicated to the City.

B. Pursuant to the Agreement, the Developer has furnished the City with a Letter of Credit in the original amount of \$387,142.00, which has previously reduced from the original amount to \$236,052.20 on October 31, 2022. The current Letter of Credit amount for Grand Point 2nd Addition remains \$236,052.20, as issued by American National Bank.

C. The Developer has completed all of the Public Improvements and now desires to offer to dedicate such improvements (the "Dedicated Improvements") to the City and, upon the City's acceptance of such offer to keep the Letter of Credit in the reduced amount as allowed by the Agreement for the duration of the warranty period.

OFFER OF DEDICATION

The following provisions are hereby submitted to the City by the Developer in connection with the Agreement regarding the development of the Grand Point 2nd Addition Development within the City limits:

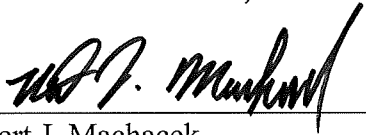
1. Offer of Dedication. The Developer hereby offers to dedicate to the City all of the Public Improvements completed by the Developer pursuant to the Agreement.

2. Developer's Acknowledgment. Developer hereby acknowledges that, the Improvements will not be formally dedicated to the City until the City's final acceptance of the Public Improvements required by the Development Agreement as evidenced by a Certificate of Completion issued by the City and therefore the City's acceptance of the Offer of the Dedicated Improvements hereunder is expressly made contingent upon and subject to such formal statutory dedication requirements, the City's final acceptance of the Public Improvements and in all other respects is contingent upon the Developer's continued compliance with the terms and conditions of the Agreement. The Developer further acknowledges that as to all Public Improvements, including the Dedicated Improvements, the Warranty Period defined in the Agreement, shall not commence until the City's final acceptance of the Public Improvements.

3. Letter of Credit. The City approves a reduction in the Letter of Credit and the Developer may submit a replacement Letter of Credit in the amount of \$96,785.50 to remain on file for the duration of the Warranty Period and for so long thereafter as is necessary to complete the remaining Developer's obligations under the terms of the Agreement, which includes, but is not limited to preparation and approval of as-built drawings of the Development.

4. Definitions. Capitalized terms not otherwise defined herein shall have the meanings given them on the Agreement.

DEVELOPER
ALLIANT CAPITAL, LLC

A handwritten signature in black ink, appearing to read "R.J. Machacek", is written over a horizontal line.

Robert J. Machacek
President



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 03/21/2024

Board & Commission: City Council

Subject: Approve a Tenant Use Waiver Associated with the North Branch Liquors Store Lease at 5466 St. Croix Trail.

Overview / Background

Pine Tree, Owner of the multi-tenant commercial property, located at 5466 St. Croix Trail and the location of County Market, North Branch Liquors and other commercial tenants, has requested a tenant use waiver regarding liquor sales in the space currently occupied by Dickey's Barbeque. Per the lease agreement between the Owner and City of North Branch, the Owners has agreed to no liquor licenses / sales in any of the commercial spaces. The City also has a right of first refusal over the tenant space, currently the location of Dickey's Barbeque. The new owner of Dickey's is planning to re-open the restaurant and is interested in serving alcoholic beverages to its tenants. The Owner of the property has requested the City grant a waiver (attached), allowing the new owner to serve alcohol via an on-sale license for on-site consumption. Interim City Administrator Jason Ziemer and Liquor Operations Director Carla Golden reviewed the request and have no objection to the waiver, provided that the waiver only extends to on-sale and on-site consumption. The City Attorney's office has also reviewed the waiver and find no reason for the City Council not to approve.

Staff Recommendation

City staff recommendation of the proposed Tenant Use Waiver.

Recommended City Council Action

Motion to a Tenant Use Waiver, allowing Dickey's Barbeque, to sell alcohol for on-site consumption.

Voting Requirements:

Voting Options Simple Majority

TENANT'S USE WAIVER

NORTH BRANCH MARKETPLACE

THIS TENANT'S USE WAIVER (the "**Tenant's Use Waiver**"), executed as of the date below in favor of **SUSO 4 NORTH BRANCH LP**, a Delaware limited partnership, as landlord ("**Landlord**"), by the undersigned, **CITY OF NORTH BRANCH**, a Minnesota Municipal Corporation as tenant ("**Tenant**"), of that certain Leased Premises located as referenced above within the Shopping Center commonly known as North Branch Marketplace located in North Branch, Minnesota as the same are more fully described in that certain Lease Agreement dated August 4, 2017, (as from time to time amended, restated or otherwise modified or replaced, the "**Lease**") by and between Landlord and Tenant. Tenant hereby agrees as follows:

Reference is hereby made to the above-captioned Lease, specifically Section 65 of the Lease, which includes a prohibition against leasing "other space in the Shopping Center to another tenant for the sale of alcohol above 3.2 percent alcohol-by-volume" (the "**Restriction**"). Capitalized terms not otherwise defined herein shall have the meaning as ascribed to them in the Lease.

Notwithstanding anything set forth in the Lease to the contrary, including, but not limited to, Section 65 Tenant hereby (i) grants its consent and permission to Landlord to lease a portion of the Shopping Center consisting of approximately 1,920 square feet of space designated as Unit 100 as depicted on the site plan attached hereto as Exhibit "A" and made part hereof (the "**Permitted Space**") to North Branch Barbecue LLC, its successors and assigns (the "**Permitted Tenant**"), for the following use: operation of a first class, franchised Dickey's Barbecue Pit restaurant specializing in barbecue meats, sandwiches, and other items sold by Dickey's Barbecue Pit restaurants, subject to the rights and restrictions of other tenants, their leases, and other agreements affecting the Shopping Center, under the Trade Name and no other purpose whatsoever, unless otherwise approved by Landlord in writing. Incidental to Tenant's Permitted Use Tenant may sell alcoholic beverages for on-premises consumption only, in connection with Tenant's meal service, in an annual amount not to exceed forty percent (40%) of Tenant's gross annual sales from all operations at the Leased Premises ("**Permitted Use**") and (ii) waives the Restriction with respect to the Permitted Space subject to the terms hereof. Landlord acknowledges and agrees that (i) the Permitted Tenant operating at the Permitted Space shall be bound by all other use restrictions in Tenant's Lease except as permitted herein, and (ii) the Permitted Use shall apply only to the Permitted Space for the duration of the Permitted Tenant's lease of such Permitted Space.

If there is any inconsistency between the provisions of this Tenant's Use Waiver and those contained in the Lease, the provisions of this Tenant's Use Waiver shall govern and be binding.

The agreements contained in this Tenant's Use Waiver may not be modified or terminated orally and shall be binding upon the successors, assigns and personal representatives of Tenant.

This Tenant's Use Waiver may be executed and delivered by facsimile or email, and such signature shall have the same force and effect as an original.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Executed and delivered this 27th day of March, 2024.

TENANT:

CITY OF NORTH BRANCH, a Minnesota Municipal Corporation

Jason Ziemer
Interim City Adminsitrator

Exhibit “A”

Site Plan Depicting the Permitted Space



Prepared By:
Ragini Varma, City Clerk / IT Director
Presenter: Ragini Varma, City Clerk / IT Director
Date: 03/22/2024

Board & Commission: City Council

Subject: Approve Temporary Liquor License - Chisago County Board on Aging

Background Information:

Chisago County Board on Aging, will be holding an event on May 4th, 2024 in the dining area of the Chisago County Community / Senior Center and will be serving alcoholic beverages at the event. The clerk's office usually signs off on the application before they can send it to the Minnesota Alcohol & Gambling Enforcement office so that they can be issued a temporary liquor license to carry out such an event as requested after council approval. Most of these applications need to be submitted to the Minnesota Gambling Control Board a few months in advance for the state to process it.

Deadline:

ASAP

Staff Recommendation & Requested City Council Action:

Staff recommends council approval of these applications for submission to the Minnesota Gambling Control Board by Chisago County Board on Aging.

Voting Requirements:

Voting Options Simple Majority



Prepared By:
Ragini Varma, City Clerk / IT Director
Presenter: Ragini Varma, City Clerk / IT Director
Date: 03/22/2024

Board & Commission: City Council

Subject: Approve 2024 Mobile Food Unit - Medina's Tacos

Background Information:

Medina's Tacos has applied for a Vendor License for a Mobile Food Unit to serve food such as tacos and similar products from their food truck for three month upon approval from parking lot located 6241 Main Street, North Branch.

The organization has submitted the completed application along with appropriate fees and accompanying documents. All the documents are in order.

Requested City Council Action:

Approve the 2024 Vendor License for Mobile Food Unit for Medina's Tacos/Kali Jo Medina.

Voting Requirements:

Voting Options Simple Majority



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 03/06/2024

Board & Commission: City Council

Subject: Business Park AUAR 2024 Update

Overview / Background

The City completed an Alternative Urban Areawide Review (AUAR) for the North Branch Interstate Business Park in 2004. The AUAR is required to be updated every five (5) years; those updates occurred in 2009, 2014, 2019 and 2024. The update was completed and submitted for review to and comment from local and state agencies; see attached letter. All comments were responded to or noted as received. The initial study and subsequent updates were completed by the City's engineering firm, WSB.

In summary, an AUAR studies areas planned for development, examining potential and likely "environmental" impacts from such development on the area and community, including, but not limited to: land use, environment and natural resources, transportation, utilities, pollution, etc. Unlike site specific studies, such as an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS), an AUAR completes an analysis of the cumulative impacts of development planned to occur in a study area over several years. Thus, an EAW and/or EIS are specific to a specific project; an AUAR is not. An AUAR explores a more conceptual series of development scenarios. As that land has developed over the years the AUAR is reviewed and updated to ensure assumptions remain the same or if they require change. For the 2024 update it was determined the previous assumptions and likely impacts remain unchanged. Those assumptions can be revisited as development happens, notably for larger developments that may impact the issues and outcomes of the current, updated AUAR.

Alison Harwood, WSB, will provide a general overview of the AUAR at its April meeting. In the meantime, the City Council needs to authorize the update so that it can be submitted.

Staff Recommendation

City staff recommend approval of the update.

Recommended Economic Development Authority Action

Approve Resolution No. R-28-2024, Approving the 2024 AUAR Update Regarding the Business Park.

Voting Requirements:

Voting Options Simple Majority

STATE OF MINNESOTA

COUNTY OF CHISAGO

CITY OF NORTH BRANCH

CITY COUNCIL RESOLUTION NO. R-28-2024

**A RESOLUTION AUTHORIZING THE ADOPTION OF THE
INTERSTATE BUSINESS PARK
ALTERNATIVE URBAN AREAWIDE REVIEW (AUAR) UPDATE 2024**

WHEREAS, an AUAR Update has been completed for the project pursuant to Minnesota Rules 4410 which identifies and assesses the environmental impacts and mitigation measures associated with the Interstate Business Park Study Area; and,

WHEREAS, the AUAR was updated pursuant to Minnesota Rule 4410.3610; and,

WHEREAS, the AUAR Update was distributed for the required 10-day comment period; and,

WHEREAS, comments received on the AUAR Update have generated information adequate to determine mitigation measures associated with the potential development in this area; and,

WHEREAS, the comments received and the City's responses to these comments are included in the public record for the AUAR.

**NOW THEREFORE, BE IT RESOLVED BY THE NORTH BRANCH City Council OF
NORTH BRANCH, MINNESOTA**

**NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF
NORTH BRANCH, MN**, that the Interstate Business Park AUAR Update dated February 2024 is hereby adopted.

ADOPTED this 13th day of February 2024, by the City Council of the City of North Branch.



2024 ALTERNATE URBAN AREAWIDE REVIEW UPDATE

INTERSTATE BUSINESS PARK
(Formerly North Branch Development
Area, ESSBY Area)

Original AUAR: June 2004
Update 1: March 2009
Update 2: February 2014
Update 3: January 2019

Prepared for:
City of North Branch
6408 Elm Street
North Branch, MN 55056

Table of Contents

I.	INTRODUCTION AND PURPOSE	1
II.	APPROVED DEVELOPMENT/CURRENT CONDITIONS	1
III.	AREAS REMAINING TO BE DEVELOPED	3
IV.	UPDATE TO THE ENVIRONMENTAL REVIEW	3
V.	MITIGATION SUMMARY AND UPDATE	4
1.	Fish, Wildlife, and Ecologically Sensitive Resources	4
2.	Water Use Mitigation Plan	5
3.	Erosion and Sedimentation Mitigation Plan	6
4.	Water Quantity and Quality Mitigation Plan	7
5.	Wastewater Mitigation Plan	8
6.	Geologic Hazards and Soil Conditions Mitigation Plan	8
7.	Transportation Mitigation Plan	9
8.	Noise Mitigation Plan	10
9.	Nearby Resources Mitigation Plan	10
10.	Visual Impact Mitigation Plan	10
11.	Compatibility with Land Use Regulations Mitigation Plan	11
12.	Sustainability (New 2024)	11
VI.	AUAR UPDATE REVIEW	12

Appendix A – Figures

Figure 1. USGS Topographic Map

Figure 2. Project Location (Aerial)

Figure 3. Planned Land Use (Scenario 5)

Figure 4. Approved Development

Figure 5. Water and Sewer Improvements

Figure 6. Stormwater Management Improvements

Figure 7. Transportation Improvements

Appendix B – MNDNR Natural Heritage Database Review

Appendix C – Responses to Comments

I. INTRODUCTION AND PURPOSE

The City of North Branch adopted the North Branch Development Final Alternative Urban Areawide Review (AUAR) in June 2004. The first update was completed in 2009 (renamed ESSBY), followed by a second update in 2014 and third update in 2019. The site was renamed to the Interstate Business Park in the 2019 update. Pursuant to Minnesota Rules 4410.3610 Subp. 7, for the AUAR to remain valid as the environmental review document for the area, the document needs to be updated every five (5) years until all development in the study area has received final approval. Since undeveloped areas remain in the study area and the AUAR will expire in February 2024, the purpose of this document is to update the AUAR pursuant to Minnesota Rules.

The original Interstate Business Park study area was approximately 393 acres; it is located south of 410th Street, east of Interstate 35 (I-35), west of CSAH 30, and north of Aztec Trail near the north central portion of the City (see **Figures 1 and 2**). The original AUAR included an analysis of the three (3) scenarios featuring different land use development potentials based on existing conditions in 2004. Since that original AUAR was completed, the Comprehensive Plan was updated, resulting in the previous Scenarios no longer being considered and were removed from further consideration. The City of North Branch updated its Comprehensive Plan to guide this area as industrial, business, high density residential, and residential. This latest scenario, Scenario 5 below, reflects the updated Comprehensive Plan and related related Land Use Plan

- Scenario 5 – 286 acres industrial; 40 acres business; 67 residential (4 acres single family; 49 acres medium density; 14 acres high density) (**Figure 3**).

The June 2004 Final AUAR is available for review on the City's website at www.ci.north-branch.mn.us. This AUAR Update is intended to serve as an update and includes a review of the areas that have developed, an update to the environmental analysis as needed, and a review of the mitigation measures.

II. APPROVED DEVELOPMENT/CURRENT CONDITIONS

Twenty-one developments have been approved within the study area, including 14 single family dwellings (**Figure 4**) (**Table 1**). Of the 393 acres in the study area, approximately 57.6 acres have been approved for development. Since the 2019 AUAR Update, developments within the Interstate Business Park area, as defined by the AUAR study area, included single-family homes, medium and high-density residential, and an assembly and distribution facility; all were built in the southern portion of the study area. The approved developments are listed in **Table 1**.

Table 1. Summary of developed parcels.

Development	Activity	Parcel Size (acres)	Building Size (square feet/residential units)	AUAR Update Year
Heritage Court Apartments	Multi-Family Residential	3.9	56,214 / 32 Units	2022
Single Family Homes	Multiple Single Family Residential Dwellings	5.4	14 units	2020 - 2021
Cherokee Place, LLC	Multi-Family Residential	6.9	72,014 / 48 units	2019 - 2021
Everlong Holdings, LLC	Assembly and Distribution Facility	2.5	15,120	2020
Viking Coca-Cola	Beverage Distributor	15.0	72,750	2014
St. Croix Stone	Decorative Stone Distributor/Manufacturer	15.0	34,000	2014
Lakes Region EMS	Office Facility Transportation	6.1	22,000	2014
Chisago County Health and Human Services	Office	2.8	11,300	2014

III. AREAS REMAINING TO BE DEVELOPED

Of the 393 total acres, there are approximately 335 acres remaining in the study area that have not been approved for development. Most of these areas have remained in agricultural production. It is anticipated that these areas will develop as analyzed in the AUAR. The timing of development is subject to market conditions. Recently, North Branch has experienced an increase in land development interest, proposals, and projects. Development of the study area is anticipated to occur over the next three (3) to 20 years.

IV. UPDATE TO THE ENVIRONMENTAL REVIEW

Threatened and Endangered Species: An updated MNDNR Natural Heritage Database information was requested for this AUAR Update. The State-listed threatened Blanding's turtle (*Emydoidea blandingii*) has been documented in the vicinity of the proposed project and has required avoidance measures which are noted in the mitigation section. Correspondence has been requested by the DNR and will be provided when available (**Appendix B**).

Historical and Cultural Resources: Updated data from the State Historic Preservation Office (SHPO) was requested. There are no listings within the project area. In 2019, SHPO reviewed the project area and concluded that there are no known or suspected archeological sites and no properties listed on the State or National Register.

Hazardous Waste and Contamination: A review of the Minnesota Pollution Control Agency (MPCA) What's in My Neighborhood Database was completed in December 2023 to identify sites with known, or suspected contamination within the study area. There were no additional sites of potential environmental concern beyond those identified in the 2019 AUAR Update. There are two closed and inactive sites along 400th Street associated with petroleum spills or leaks. These occurred in the mid-2000s.

Municipal Water and Sewer: Since the 2019 update, various sections of watermain have been constructed, including along Flink Avenue, 400th Street, and Golden Avenue to Forest Boulevard. No new sections of sanitary sewer have been added since 2019. **Figure 5** shows the sewer and water plan for the study area.

Stormwater Management: City stormwater management requirements remain unchanged from the 2019 AUAR update. There have been changes in state requirements since the 2019 AUAR update under the Small Municipal Separate Storm Sewer System General Permit (MS4 Permit) for required stormwater treatment off of new and reconstructed impervious. There have been no significant updates to stormwater routing or regional ponding proposed for the study area since the 2019 AUAR Update. **Figure 6** shows the stormwater management plan for the study area.

Transportation: Since the 2019 Update, the northbound and southbound left turn lanes at CSAH 30 and 410th St were constructed and 399th Street at the single-family

residential development on the south side of the study area was also constructed. Since the previous update, the proposed I-35 overpass at 400th Street has been revised to also consider an interchange ramp. The city continues to pursue funding for pre-design and right-of-way acquisition for this improvement. **Figure 7** shows the transportation plan for the study area.

Sustainability: North Branch became a GreenStep City in 2018 and has since completed Steps 1, 2, and 3. The GreenStep City program is intended to help cities achieve community-wide sustainability. The city's Comprehensive Plan also identifies policies that encourage sustainable development throughout the city, including within this AUAR study area.

V. MITIGATION SUMMARY AND UPDATE

Based on this AUAR Update, the area has developed as anticipated and planned for in the City's Comprehensive Plan and the AUAR. As such, the mitigation measures outlined in the AUAR and subsequent AUAR updates remain applicable. Some mitigation measures have been completed. The mitigation measures are provided below, including a progress update:

1. Fish, Wildlife, and Ecologically Sensitive Resources

- A. There is remnant prairie along the railroad right-of-way. As development occurs, developers will be encouraged to avoid impact to this area. If impact is needed, it will be minimized to the greatest extent practical. ~~The remnant prairie along the railroad right-of-way will remain intact.~~
Ongoing Revised (2019)
- B. Clear cutting will not be allowed as part of development. **Ongoing**
- C. Efforts to preserve the trees and wooded areas adjacent to and within the railroad right-of-way will be made to the greatest extent feasible. See also Mitigation Item 10.C. **Ongoing**
- D. Blanding's turtles have been reported near the study area. The City will provide the Blanding's turtle information sheets to the contractors working in the study area. If Blanding's turtles are encountered during construction activity, the contractor will be required to move turtles that are in harm's way. Turtles that are not in imminent danger shall be left undisturbed in conformance with DNR guidance. **Ongoing**
- E. Erosion control measures will be removed after a disturbed area is revegetated to minimize impacts to Blanding's turtle movements.
Ongoing

- F. Direct impact to the railroad right-of-way will be avoided, thereby preventing impact to the prairie remnants in this area. Erosion control will be installed on project construction sites to eliminate potential for sediment to enter these off-site areas. Any drainage or water management infrastructure needed within railroad right-of-way will consider protection of the prairie remnants that occur within ditch areas. **Ongoing**
- G. The City will encourage the developer(s) of the property to market removed trees as sawlogs, landscape materials, firewood, or bio-fuel. **Ongoing**
- H. In years when stormwater maintenance schedules for dredging sediment will be needed, the city will draw down the water levels prior to September 15th to allow blundings turtles to find overwinter habitat elsewhere. **Ongoing, NEW (2024)**
- I. Erosion control blankets utilized within the project area will be limited to 'bio-netting' or 'natural netting' types to minimize the potential for entanglement by small animals. **Ongoing, NEW (2024)**
- J. The City will encourage developers to use native, weed-free, seed mixes wherever lawn is not planned. **Ongoing, NEW (2024)**

2. Water Use Mitigation Plan

- A. Any wells found within the study area will be sealed and abandoned in accordance with Minnesota Department of Health guidelines. **Ongoing**
- B. Any new wells (supply, dewatering, monitoring, or other) shall be constructed in accordance with Minnesota Statutes Chapter 103I and Minnesota Rules Chapter 4725. **Ongoing**
- C. **Figure 5** shows the proposed mitigation plan for the water supply improvements needed to serve the site. The improvements shown are those that are specifically needed to accommodate the development area. **Partially Completed**
- D. Business Park land use water demands can be highly variable depending upon the business operation or manufacturing process employed at each property. At the time of the five (5) year AUAR evaluation, water demands from individual properties should be evaluated and water demand projections should be revised if necessary. **Ongoing**
- E. In accordance with the North Branch Wellhead Protection Plan (WHPP), continue protection of the existing Drinking Water Supply Management Area (DWSMA). **Ongoing**

3. Erosion and Sedimentation Mitigation Plan

- A. The project owner must apply to the MPCA for a National Pollutant Discharge Elimination System (NPDES) General Stormwater Construction Activity Permit. That application includes a series of statements, which must be affirmed by the permittee. These statements include assurances that sediment and erosion control plans have been or will be prepared, and that these plans will be adhered to by the proposer. The sediment and erosion control plan will provide more detail as to the specific measures to be implemented and will also address phased construction, vehicle tracking of sediment; inspection or erosion control measures implemented, and timeframes in which erosion control measures will be implemented. **Ongoing as needed.**
- B. The requirements of the NPDES General Permit referenced above provide that all exposed soil areas have temporary protection or permanent cover during and after construction. The requirement is dependent upon the slopes in the area. The NPDES General Permit is enforceable by the MPCA. **Ongoing as needed.**
- C. All grading will be subject to the MPCA NPDES requirements. Development will be required to be in conformance with the MPCA's Best Management Practices (BMPs) per the City's Comprehensive Plan policy. BMPs as outlined by MPCA include:
- Erosion control blankets along channels and slopes;
 - Temporary and permanent seeding and mulching of disturbed areas;
 - Phasing of construction activities within individual developments to minimize soil exposure;
 - Use of rock construction entrances to minimize tracking of soil off-site;
 - Conformance with NPDES permits and storm water pollution prevention plans (SWPPP);
 - Silt fence, where applicable, to reduce sedimentation from the site;
 - Riprap at outfalls to reduce stormwater velocity;
 - Vegetated swales where applicable;
 - Silt fence or rock checks;
 - Temporary and permanent ponding; and
 - Protection of storm sewer inlets;

The implementation of these BMPs are **Ongoing as needed.**

- D. Grading and erosion control plans will be reviewed and approved by the Chisago Soil and Water Conservation District. **To be obtained as needed**
- E. All development SWPPPs will be required to note avoidance measures for state-listed species. **Ongoing, NEW (2024)**

4. Water Quantity and Quality Mitigation Plan

- A. As the site is within the Anoka Sand Plain it contains soils that are conducive to infiltration. The regional ponding system will be designed to use infiltration of stormwater at an anticipated rate of approximately 1.0-inch/hour. Ponds will require regular maintenance to maintain the capacity of the system. This type of management strategy will be evaluated further as part of specific plan development and review. If it is determined that infiltration of stormwater will adversely impact ground water quality, alternatives to infiltration will be considered. **Complete**
- B. As additional areas are developed, stormwater management systems will be required and reviewed on a site-by-site basis. Stormwater management will be required to meet the allowable discharge rate from new development of 0.5cubic feet per second (cfs)/acre and must provide infiltration of 1.1 inches of runoff for newly constructed impervious surfaces. **Ongoing**
- C. An MNDNR permit will be obtained for the future outfall to the Sunrise River. **To be completed when needed**
- D. Stormwater outlets from the study area will be required to conform to State and City policies/requirements. **To be completed when needed**
- E. Stormwater will be treated to City standards. The City will provide rate control and treatment through the use of a regional system. The developers or the City will be required to implement the stormwater management plan outlined as part of the water quality and quantity management strategy defined in this AUAR. **Partially complete**
- F. A temporary dewatering permit may be needed for construction. The developers or the City will be responsible for obtaining all necessary permits for this work. **To be obtained as needed**
- G. The Sunrise River is listed as an impaired water. The stormwater management plan is required to take into account any Total Maximum Daily Loads (TMDLs) or implementation plans for impaired waters in the area. **Ongoing**
- H. The stormwater management plan shown on **Figure 6** will be implemented by the City and/or the developers. **Partially completed**
- I. Stormwater from the development will be treated to NURP guidelines. Treatment to NURP guidelines will be provided through regional or site-by-site stormwater ponding systems. **Partially completed**

- J. The City does not intend to discharge any untreated stormwater to downstream natural water courses or wetlands. **Partially completed**
- K. The City or developer will be responsible for grading the site appropriately to provide adequate stormwater management to the extent necessary and will be required to obtain the necessary permits for stormwater management and grading. **Ongoing**
- L. It will be required that post-development discharge rates will not exceed pre-development discharge rates in the 10-day snowmelt critical storm event. The proposed project design will meet these standards. **Partially completed**

5. Wastewater Mitigation Plan

- A. MPCA standards will be enforced for on-site sewage systems. Compliance with MPCA standards will be monitored as required. It is assumed that no new on-site sewage systems will be constructed in the area. It is expected that any reconstruction or rehabilitation of existing systems will be done in accordance with applicable standards. **Ongoing**
- B. It is anticipated that most if not all of the study area will be served by municipal sewer that flows to the trunk sewer system with eventual treatment at the City's wastewater treatment facility. Municipal sewer will be constructed as part of private development in the project area as shown on **Figure 5. Partially completed**
- C. The original AUAR indicated that a 15-inch sanitary sewer line would be constructed west of Fletcher Avenue. This was changed to a 21-inch sewer as part of the 2019 Flink Avenue Watermain and Sanitary Trunk Project. **Revised (2019)**

6. Geologic Hazards and Soil Conditions Mitigation Plan

- A. Grading and erosion control plans will be reviewed and approved by the Chisago Soil and Water Conservation District. **To be obtained as needed**
- B. Tanks and other potential pollutant sources will be removed in accordance with State standards if they are encountered as part of development. **Ongoing**
- C. Any fuel station type services will be required to conform to State regulations. **Ongoing**
- D. Mitigation includes the development of a spill response plan. For industrial and commercial areas, spills will be reported to the fire chief or



applicable City staff. The fire chief or applicable City staff will in turn notify any other appropriate officials depending on the nature of the spill.
Ongoing

- E. Individual waste hauler companies will make residential and commercial recycling programs available to the area. General municipal waste will be removed by these waste hauler companies. **Ongoing**
- F. ~~Covenants for outside storage of materials within the industrial and commercial land uses will be used. At a minimum, any material that could dissolve or degrade in outside conditions will be required to be covered and particular protection for those substances that would be soluble in water and cause a potential for contamination of the drinking water aquifers will be provided in these covenants.~~ Outside storage of materials within the industrial and commercial land use areas may require a Conditional Use Permit (CUP), if permitted and depending on the type of materials to be stored. **Revised (2024), Ongoing**

7. Transportation Mitigation Plan

- A. Several traffic mitigation measures have been developed to address unacceptable levels of service (LOS E or F) and delay that would occur if full build-out of the proposed development takes place. These measures are shown on **Figure 7**.
 - I. CSAH 30/400th Street Intersection Improvements (2004-2008): This mitigation project includes adding northbound, southbound, eastbound, and westbound turn lanes at this intersection. **Partially completed**
 - II. 400th Street Construction (2004-2008): As part of this project, 400th Street was upgraded to three lanes with a center turn lane between CSAH 30 and I-35. **Completed**
 - III. Install traffic signal at the CSAH 30/400th Street intersection. To be **completed as needed**
 - IV. Construct an interchange or overpass at 400th Street over I-35 (2008-2024+): This project includes ~~turn lanes and potential realignment~~ a roundabout at the intersection of 400th Street and Flink Avenue. **Revised (2024). To be completed**
 - V. CSAH 30 Street Improvements (2008-2024+): This project includes adding a center left turn lane at selected intersections between TH 95 and 410th Street. **Partially completed**
 - VI. Flink Avenue Improvements (2024+): This project includes upgrading Flink Avenue to a three-lane street with a center turn lane as well as



realigning CR 68 at TH95. The realignment will be phased with development. A roundabout is planned to be constructed at Flink Avenue and 392nd Street. ***Partially completed***

- B. If a Park-and-Ride is proposed in the study area, a traffic analysis will be completed to determine if additional traffic and noise mitigation measures are needed. ***To be completed as needed***

8. Noise Mitigation Plan

- A. The City will require noise mitigation through the City plan review process, if deemed necessary. ***To be completed, if needed***

9. Nearby Resources Mitigation Plan

- A. The City requires ~~40%~~ park dedication or cash in-lieu for residential development and commercial/industrial development. ***Ongoing***
- B. The City will provide municipal services to most of the study area. These services include storm sewer systems, sanitary and water service, and City streets. These services will be constructed in conjunction with various phases of development. ***Partially completed***
- C. The City will continue to implement its capital improvement plan (CIP) to locate and provide community facilities to its residents. ***Partially completed***
- D. The City shall provide the AUAR to the School District for review. ***Complete***

10. Visual Impact Mitigation Plan

- A. Through City plan review, the City shall require appropriate screening of developments adjacent to land use changes and natural resources as deemed necessary by the City. ***Ongoing***
- B. The City will encourage the installation of vegetated wind rows where practical. This practice should be integrated with the stormwater management requirements defined for the study area. ***Ongoing***
- C. At a minimum, a portion of the wooded area located at the south border of the study area is anticipated to remain or be augmented to buffer the existing residential area from development within the study area. If removal of this wooded area is necessary, trees will be replanted for buffering purposes. ***Ongoing***

- D. The DNR recommends that any project within the study area using LED luminaries follow the MnDOT Approved Products for luminaries, which limits the Uplight rating to 0 to avoid impacts to birds, insects, and fish. **NEW (2024)**

11. Compatibility with Land Use Regulations Mitigation Plan

- A. Developers or the City will be required to obtain permits and city zoning and land use approvals as needed for any development scenario. The permits and approvals are listed under Item #8 of the 2004 AUAR. The permitting process is anticipated to be one tool for the implementation of the mitigation outlined in this AUAR. It is the responsibility of the project proposer to obtain all necessary permits and approvals. **Ongoing**
- B. The City will comply with its own standards, ordinances, plans, and policies referred to in the AUAR in the review and approval of all development activities within the AUAR study area. **Ongoing**
- C. The City will update this AUAR based on Minnesota Rules 4410.3610 Subpart 7 if after five years all development in the study area has not been approved by the responsible government unit (RGU), or if certain conditions or assumptions change, including land use classifications or development densities. **Ongoing**
- D. The City will pursue a site design that will balance the land use types to minimize impacts to residents and landowners of the area. **Ongoing**
- E. The City will pursue a development strategy that optimizes the use by residents and minimizes environmental impacts in and around the study area by buffering between land uses. **Ongoing**
- F. Development in the study area is required to conform to State standards associated with dealing with hazardous materials or storage tanks that may be encountered during construction activity. **Ongoing**
- G. Development will be required to meet the City's landscaping ordinance. **Ongoing**
- H. The City will encourage development to minimize impervious surfaces where applicable and feasible. **Ongoing**

12. Sustainability (New 2024)

- A. Implement Policy 1.3.2 of the Comprehensive Plan to discourage patterns of development that would stress existing infrastructure and ecosystems.



VI. AUAR UPDATE REVIEW

Pursuant to Minnesota Rules 4410.3610 Subp. 7, this AUAR Update will be submitted for a 10-day comment period. Once the review period is complete and the Council adopts the AUAR Update, the AUAR will remain valid for an additional five years from the adoption date.

APPENDIX A – FIGURES



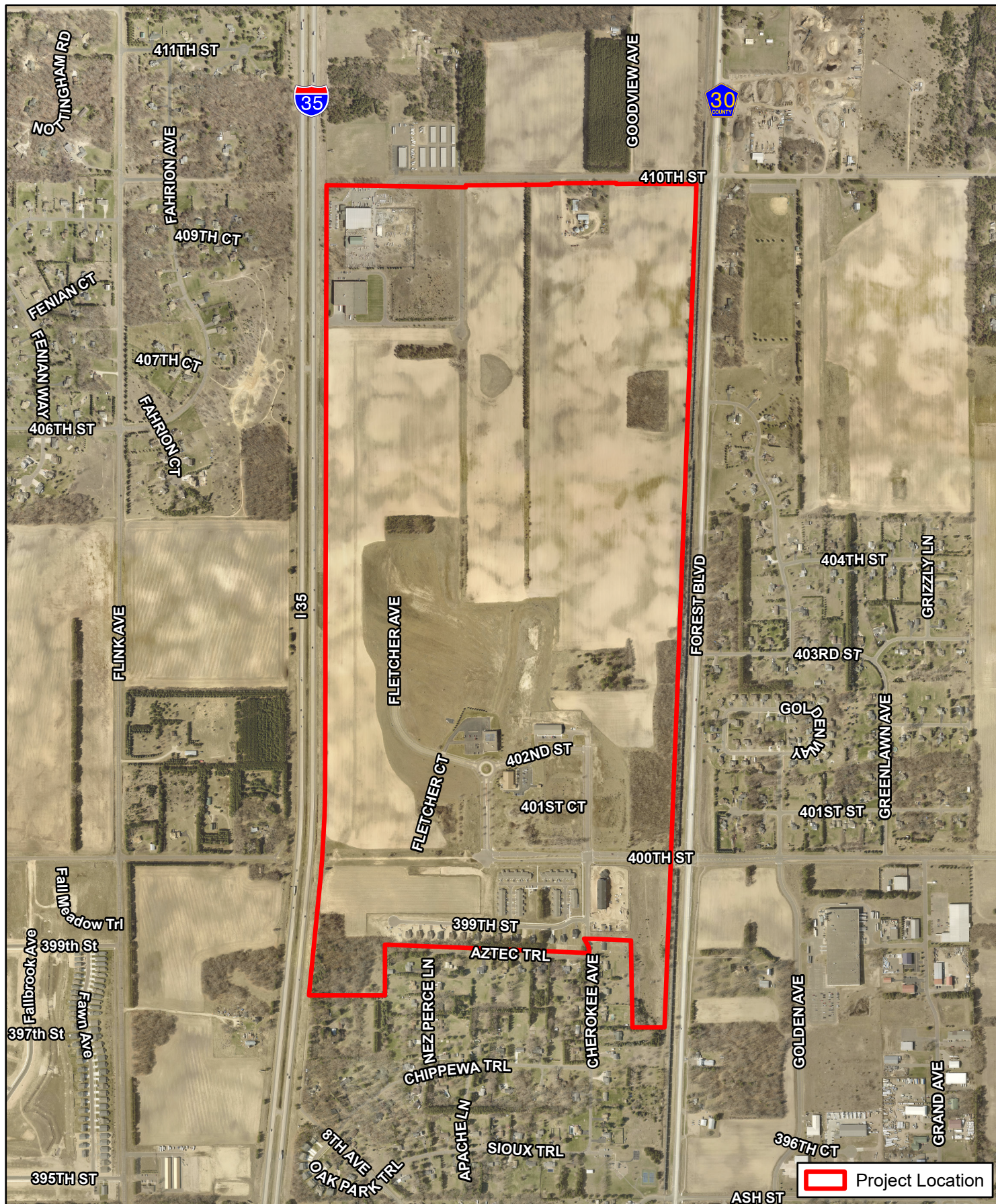


Figure 2 - Project Location (Aerial) Map

2024 AUAR Update
Interstate Business Park
North Branch, MN



0 1,000
Feet
1 inch = 1,000 feet



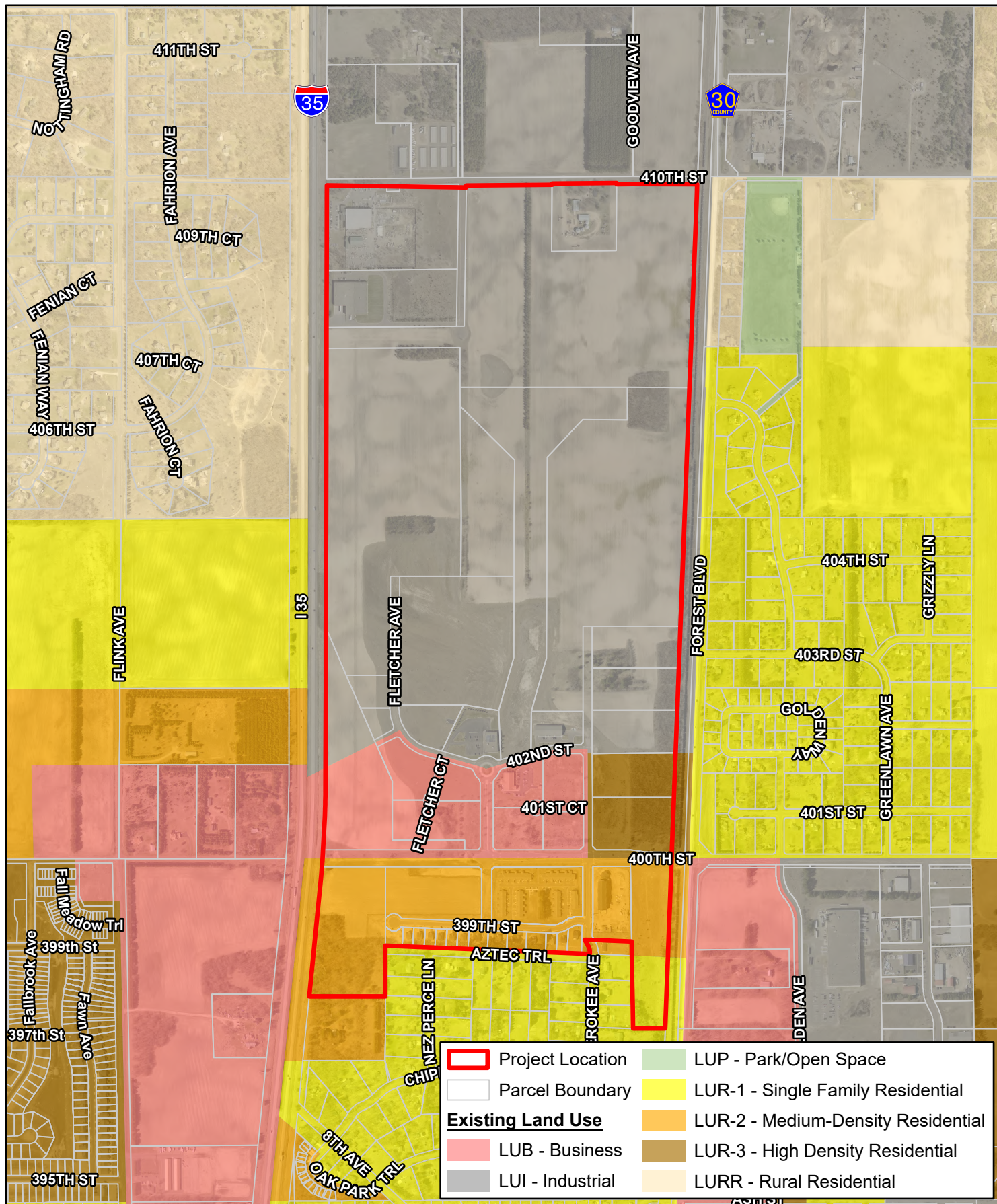
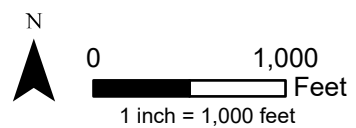


Figure 3 - Planned Land Use (Scenario 5)

2024 AUAR Update
Interstate Business Park
North Branch, MN



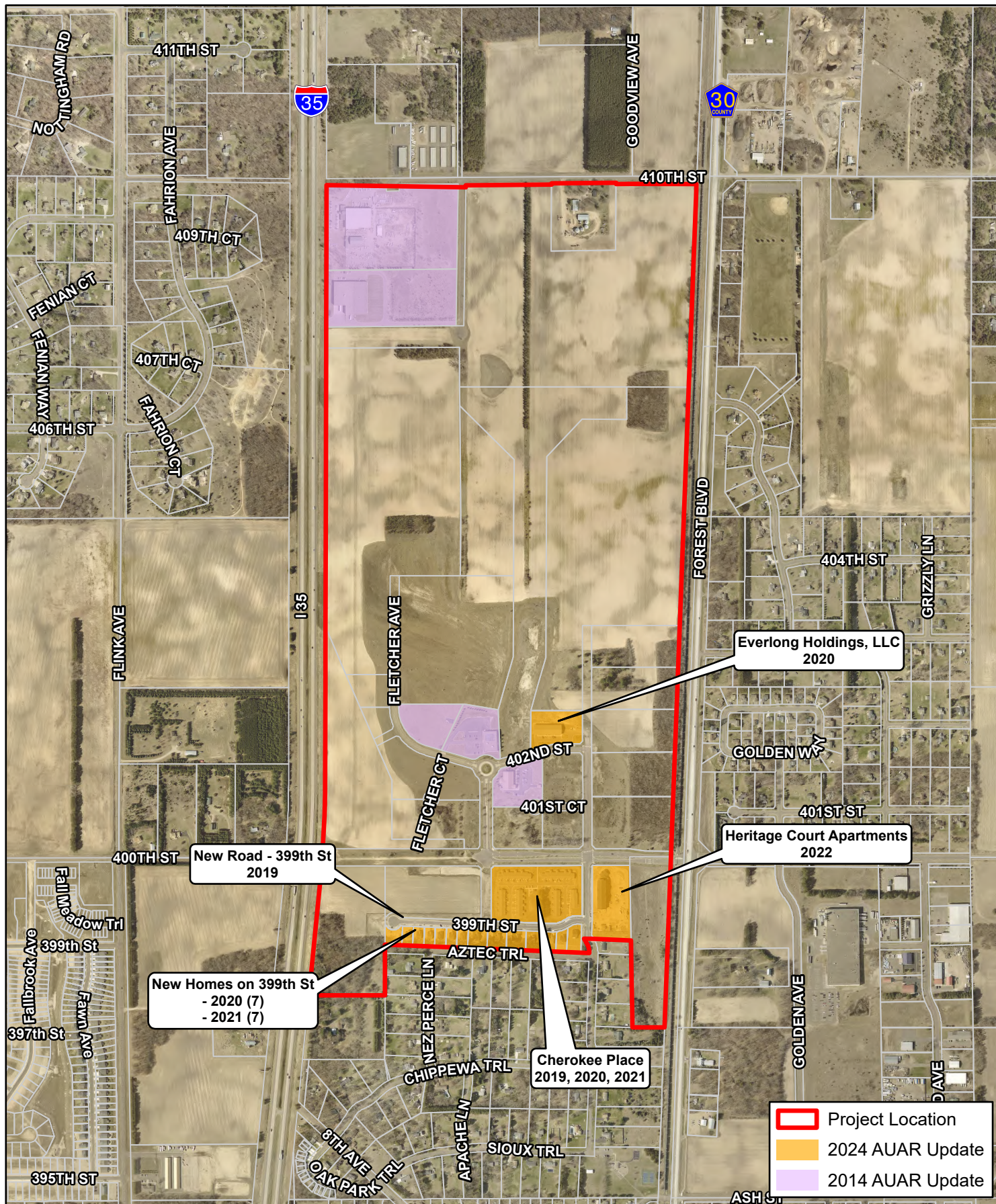


Figure 4 - Approved Development

2024 AUAR Update
Interstate Business Park
North Branch, MN



0 1,000
Feet
1 inch = 1,000 feet



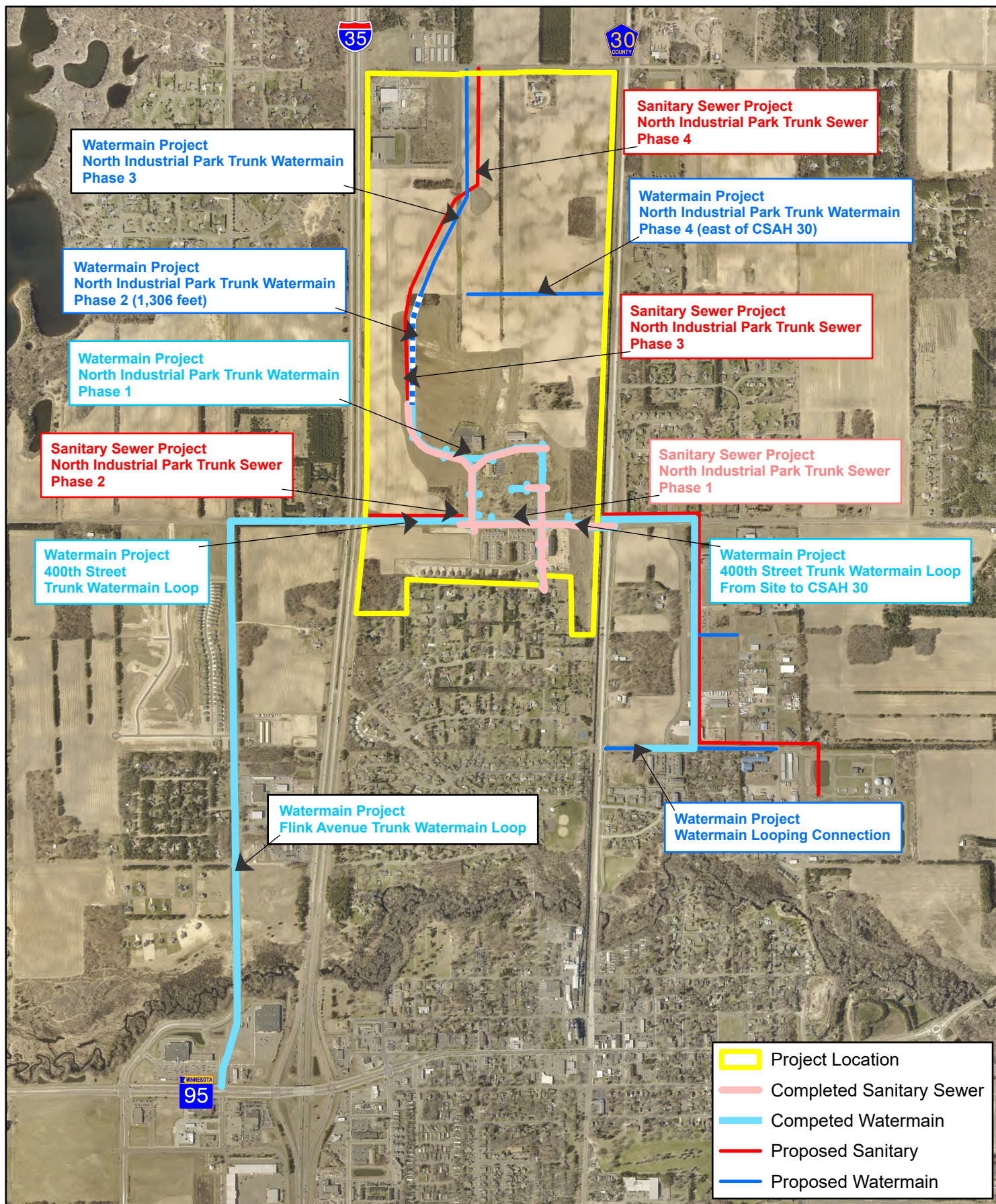


Figure 5 - Water and Sewer Improvements

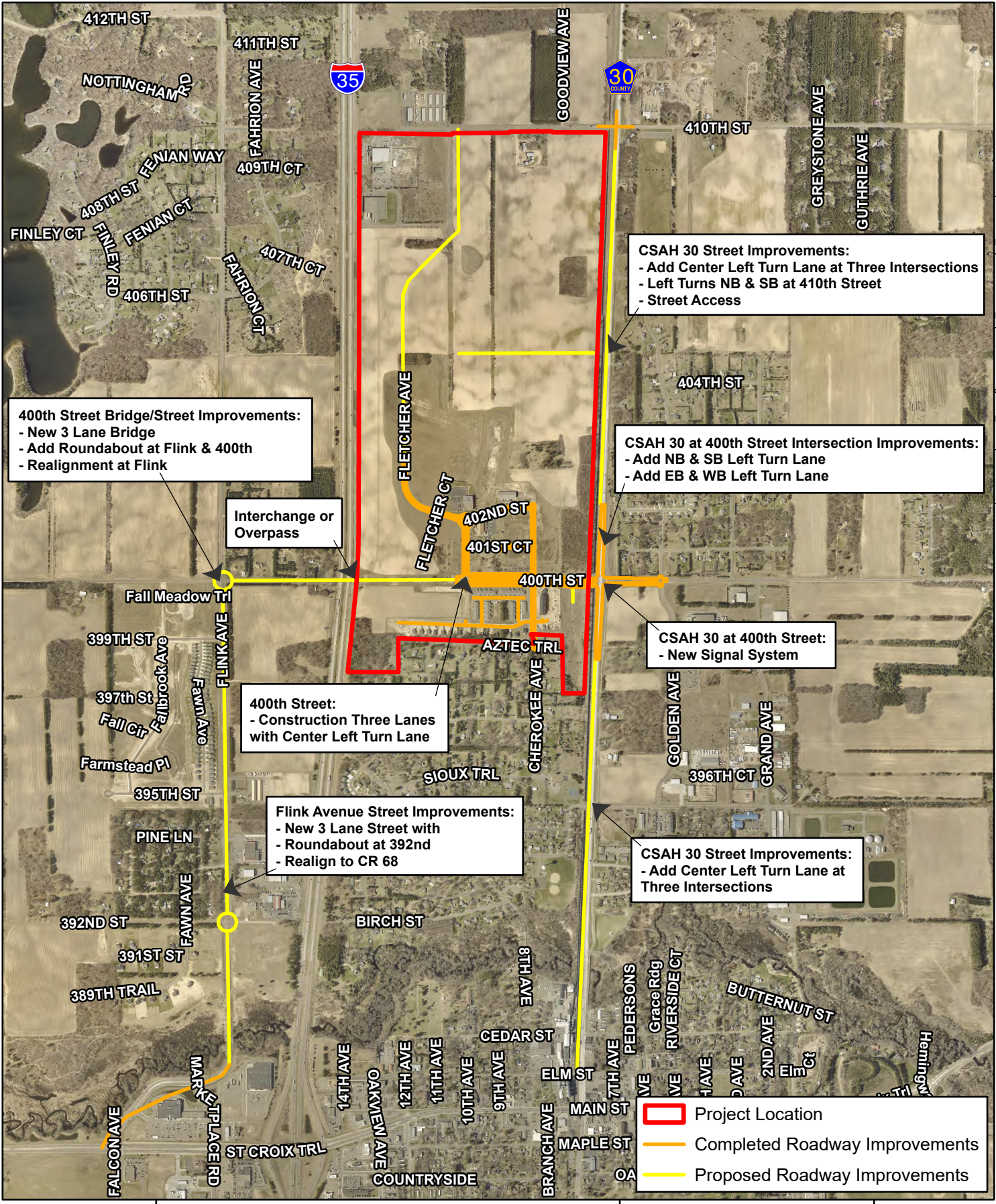
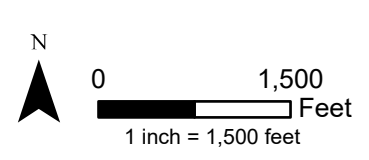


Figure 7 - Transportation Improvements
2024 AUAR Update
Interstate Business Park
North Branch, MN



APPENDIX B – DNR NHIS REVIEW



Formal Natural Heritage Review - Cover Page

See next page for results of review. A draft watermark means the project details have not been finalized and the results are not official.

Project Name: Interstate Business Park

Project Proposer: City of North Branch

Project Type: Development, Mixed Use

Project Type Activities: Tree Removal

TRS: T35 R21 S16, T35 R21 S17, T35 R21 S8, T35 R21 S9

County(s): Chisago

DNR Admin Region(s): Central

Reason Requested: Other

Project Description: Undeveloped parcels are available for commercial, industrial, or residential development.

Existing Land Uses: Most of the undeveloped project area is cultivated cropland interspersed with some woodlands.

Landcover / Habitat Impacted: Predominantly cultivated cropland, some tree removal may occur, but clearcutting is not permitted.

Waterbodies Affected: No impacts are expected at this time.

Groundwater Resources Affected: Project has and will continue to implement stormwater infiltration BMPs to minimize or avoid impacts to ground water.

Previous Natural Heritage Review: Yes, ERDB#: 20140137-0003

Previous Habitat Assessments / Surveys: No

SUMMARY OF AUTOMATED RESULTS

Category	Results	Response By Category
Project Details	Comments	Tree Removal - Recommendations
Ecologically Significant Area	Comments	MBS Sites - Recommendations
State-Listed Endangered or Threatened Species	Needs Further Review	State-protected Species in Vicinity
State-Listed Species of Special Concern	No Comments	No Further Review Required
Federally Listed Species	No Records	Visit IPaC For Federal Review



December 7, 2023

Project Name: Interstate Business Park
Project Proposer: City of North Branch
Project Type: Development, Mixed Use
Project ID: MCE #2023-00925

AUTOMATED RESULTS: FURTHER REVIEW IS NEEDED

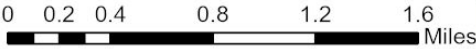
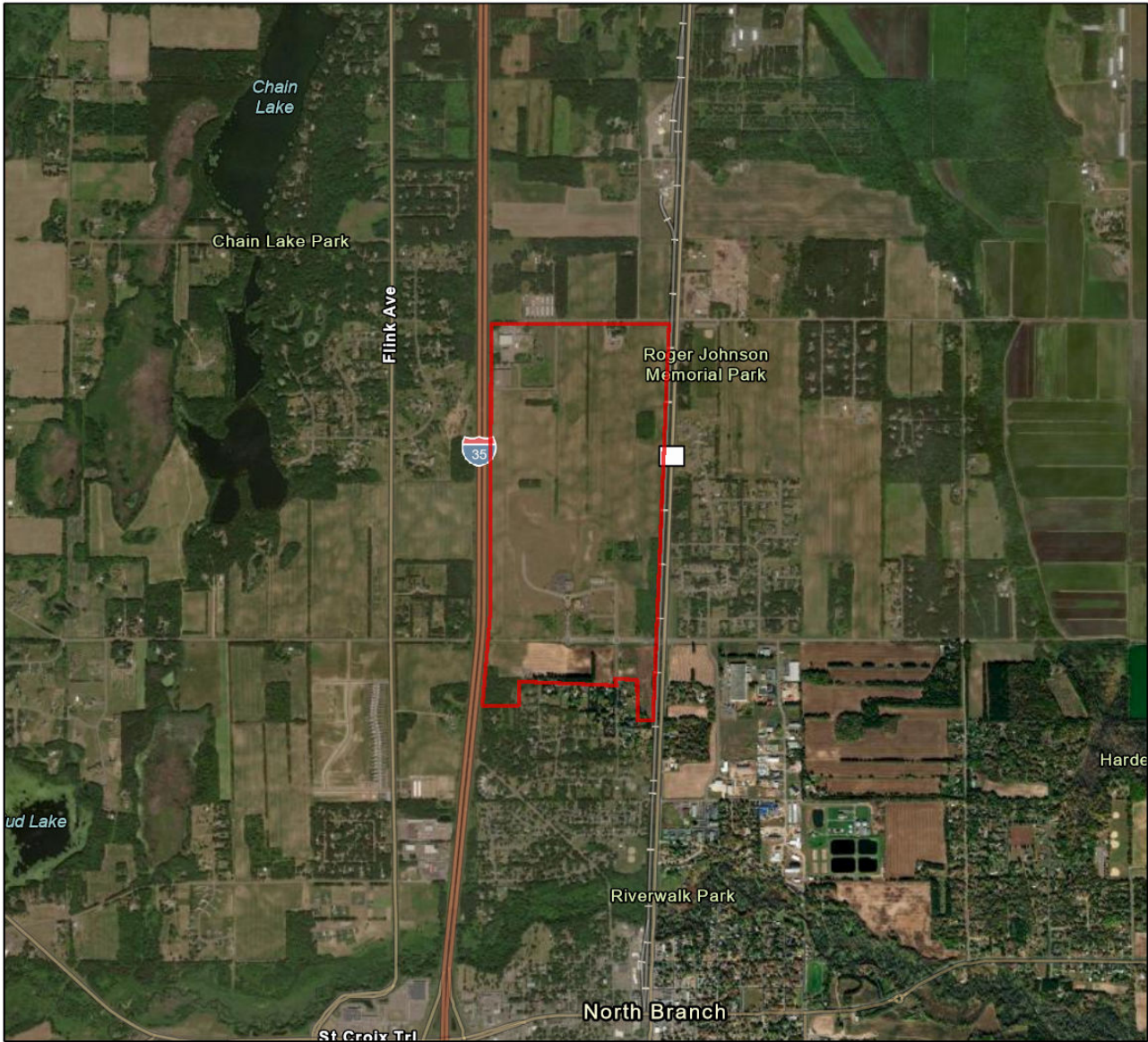
As requested, the above project has undergone an automated review for potential impacts to rare features. Based on this review, one or more rare features may be impacted by the proposed project and further review by the Natural Heritage Review Team is needed. You will receive a separate notification email when the review process is complete and the Natural Heritage Review letter has been posted.

Please refer to the table on the cover page of this report for a summary of potential impacts to rare features. For additional information or planning purposes, use the Explore Page in Minnesota Conservation Explorer to view the potentially impacted rare features or to create a Conservation Planning Report for the proposed project.

If you have additional information to help resolve the potential impacts listed in the summary results, please attach related project documentation in the Edit Details tab of the Project page. Relevant information includes, but is not limited to, additional project details, completed habitat assessments, or survey results. This additional information will be considered during the project review.

Interstate Business Park

Aerial Imagery With Locator Map



 Project Boundary

Project Type: Development, Mixed Use

Project Size (acres): 384.46

County(s): Chisago

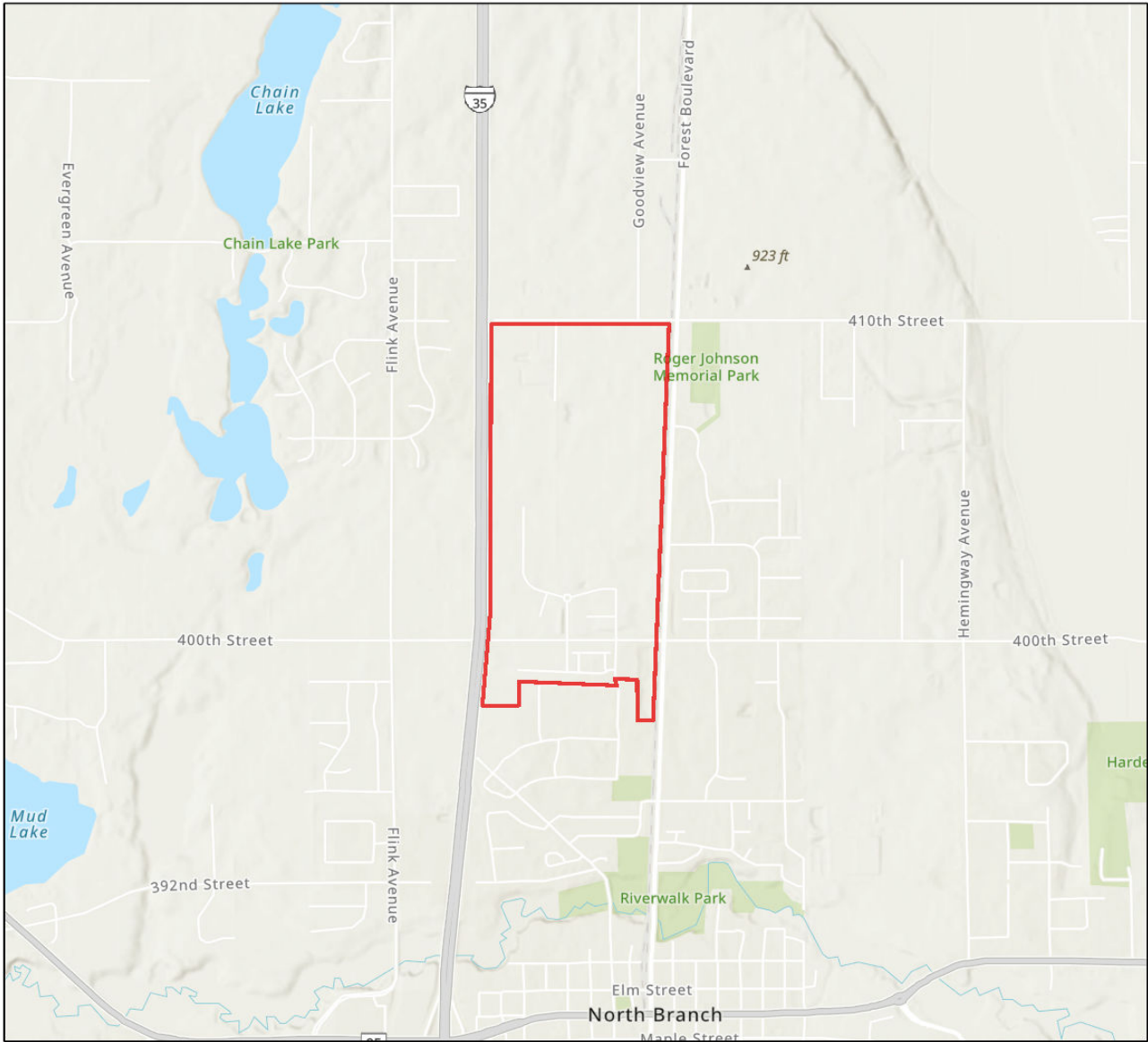
TRS: T35 R21 S16, T35 R21 S17, T35 R21 S8, T35 R21 S9

Earthstar Geographics
Metropolitan Council, MetroGIS, Esri, HERE, Garmin, SafeGraph,
GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA



Interstate Business Park

USA Topo Basemap With Locator Map



Project Boundary

Project Type: Development, Mixed Use
Project Size (acres): 384.46
County(s): Chisago
TRS: T35 R21 S16, T35 R21 S17, T35 R21 S8, T35 R21 S9

Esri, NASA, NGA, USGS, FEMA
Metropolitan Council, MetroGIS, Esri, HERE, Garmin, SafeGraph,
GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA



APPENDIX C – RESPONSES TO COMMENTS

Memorandum

To: EQB Agency Distribution List

Copy: Jason Ziemer, City of North Branch

From: Alison Harwood, WSB

Date: February 2, 2024

Re: Interstate Business Park AUAR Update – Responses to Comments
WSB Project No. 24131-000

The City of North Branch issued the Draft Interstate Business Park AUAR Update for review to the EQB's distribution list on January 9, 2024. The comment period ended on January 23, 2024 and the city received comments from the Department of Natural Resources and Department of Transportation. Each comment, and the city's responses are provided below. Agency comment letters are attached.

Department of Natural Resources

Comment 1: Page 4, Section 1.D. This project was submitted to Minnesota Conservation Explorer (MCE#2023-00925) on December 7, 2023, and is still being reviewed by Natural Heritage Review staff. Please be aware that there may be further requirements provided for the state-threatened Blanding's turtle once the Natural Heritage letter has been issued. Please review the Blanding's turtle fact sheet, and apply relevant recommendations to your project, such as wildlife-friendly curb design.

Response: Comment noted.

Comment 2: Page 4, Section 1.D; Section 4.A. Stormwater features may be colonized by Blanding's turtles in the area, therefore we recommend incorporating measures to avoid impacting this species into stormwater management. In years when the stormwater features will be dredged to remove excess sediment, please draw down water levels by September 15th in order to allow turtles to find overwintering habitat elsewhere.

Response: Comment noted. Mitigation Measure V.1.H has been added to reflect this comment.

Comment 3: Page 4, Section 1.E. Due to entanglement issues with small animals, the use of erosion control blankets should be limited to 'bio-netting' or 'natural netting' types, and specifically not products containing plastic mesh netting or other plastic components. Also be aware that hydro-mulch products may contain small synthetic (plastic) fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into wetlands and other waterbodies. As such, please review mulch products and do not allow any materials with synthetic (plastic) fiber additives in areas that drain to wetlands, lakes, or streams.

Response: Comment noted. Mitigation Measure V.1.I has been added to reflect this comment.

Comment 4: Page 5, Section 1.F. Developers should use weed-free, native seed mixes and plantings to the greatest degree possible in development landscaping and stormwater features as a way to reduce the spread of invasive species and provide wildlife habitat. Native species also require less irrigation and soil inputs.

Response: Comment Noted. Mitigation measure V.1.J has been added to the AUAR to reflect this comment.

Comment 5: Page 6, Section 3.C. Please be sure that any required avoidance measures for state-listed species are incorporated into construction plans and Stormwater Pollution Prevention Plans.

Response: Comment Noted Mitigation measure V.3.E has been added to the AUAR to reflect this comment.

Comment 6: Page 6, Section 3. The project area is located in an area with excessively drained soils and a shallow water table that could be more susceptible to chloride pollution and other contaminants. The planned increase in impervious surfaces will also increase the amount of road salt used in the project area. Chloride released into local lakes and streams does not break down, and instead accumulates in the environment, potentially reaching levels that are toxic to aquatic wildlife and plants. Consider promoting local business and city participation in the Smart Salting Training offered through the Minnesota Pollution Control Agency. There are a variety of classes available for road applicators, sidewalk applicators, and property managers. More information and resources can be found at this website. Many winter maintenance staff who have attended the Smart Salting training — both from cities and counties and from private companies — have used their knowledge to reduce salt use and save money for their organizations.

We encourage the City of North Branch to consider requiring that developments significantly increasing impervious surfaces develop a chloride management plan that outlines what BMP's and strategies will be used to reduce chloride use within the project area and include this plan within Operations and Maintenance Agreements. We also encourage cities and counties to consider how they may participate in the Statewide Chloride Management Plan and provide public outreach to reduce the overuse of chloride. Here are some educational resources for residents as well as a sample ordinance regarding chloride use.

Response: Comment Noted. The City will consider requiring Chloride Management Plans for developments increasing impervious, and will consider the Smart Salt Training through the MPCA.

Comment 7: Page 6, Section 4. It is unclear how the proposed regional ponds will fulfill the requirement to infiltrate the first 1.1 inches of stormwater runoff from new impervious surfaces. Is there an assumption that water will continuously be infiltrating out the sides and bottom of the ponds? What evidence is there that the ponds will function in that way, as opposed to a traditional infiltration basin that becomes dry between runoff events? Do the basins have enough freeboard bounce at their outlets to store that volume of water until it has a chance to infiltrate? Are their setline basins upstream of regional ponds intended to capture sediments? If not, the fine sediments may eventually settle to the bottom of regional ponds, clogging their bottoms and reducing infiltration capacity. This could also occur during site construction because the regional ponds have already been constructed. They must be protected from sedimentation during both the construction and post-construction phases if they are intended to function as infiltration basins.

Response: The regional basins within the study area are currently constructed and were reviewed and permitted by the local governments. These basins were constructed to infiltrate, and do not serve as retention ponds. Future developments will be responsible for construction of their own basins as outlined in Mitigation Item V.4.B.

Comment 8: Page 10, Section 10. This section should discuss potential impacts and mitigation related to development lighting. Animals depend on the daily cycle of light and dark for behaviors such as hunting, migrating, sleeping, and protection from predators. Light pollution can affect their sensitivity to the night environment and alter their activities. In addition to the undesirable effects of upward facing lighting, the hue of lights can also affect wildlife. LED lighting has become increasingly popular due to its efficiency and long lifespan. However, these bright lights tend to emit blue light, which can be harmful to birds, insects, and fish. The DNR recommends that any projects using LED luminaries follow the MnDOT Approved Products for luminaries, which limits the Uplight rating to 0. A nominal color temperature below 2700K is preferable for wildlife, and so we recommend choosing products that have the lowest number for backlight and glare (all approved products should already be 0 for Uplight).

Response: Comment Noted. Mitigation measure V.10.B was added to reflect this recommendation.

Comment 9: Page 11, Section 12. The DNR appreciates the new addition of the sustainability section. As energy needs and renewable energy goals put further pressure on agricultural lands, some states have started to tap into industrial facilities as a way to combine development with energy production through the use of rooftop solar. Installing solar panels on industrial facilities has the added benefit of producing energy right where it is needed without any additional facility footprint. We encourage the City as well as local energy providers to explore the feasibility of combining these land uses to help meet climate goals as the City plans for the future.

Response: Comment Noted.

Department of Transportation

Comment 1: The proposed improvements at 400th Street and I-35 will need to be closely coordinated with MnDOT and FHWA. A new interchange proposal will require evaluation through MnDOT/Metropolitan Council's Interchange Review Process. Additional information concerning this process can found at <https://www.dot.state.mn.us/project-development/subject-guidance/metro-district-interchange-planning-review/index.html>. The North Branch north bypass concept would provide further justification for a new interchange at this location.

Response: Comment noted. The City will coordinate with MnDOT and FHWA when this project is pursued.

Comment 2: If the city pursues any changes at the TH 95/CR68/Flink Ave intersection, the approaches should remain as close to 90 degrees as possible.

Response: Comment noted.

This concludes the responses to comments on the AUAR Update. If you have questions, please contact me at 612.360.1320 or aharwood@wsbeng.com.

Memorandum

To: Jason Ziemer, City of North Branch

From: Alison Harwood, WSB

Date: March 15, 2024

Re: Interstate Business Park AUAR Update
WSB Project No. 24131-000

The City of North Branch prepared an Alternative Urban Areawide Review (AUAR) for the Interstate Business Park (formerly North Branch Development and ESSBY) in 2004. The AUAR is a modified form of environmental review that aligns with MN Rule 4410. MN Rule 4410 requires state environmental review for certain types and densities of projects, before other governmental approvals can be provided. The purpose of an AUAR is to identify the potential for cumulative impacts of anticipated development within an area and mitigation measures for those impacts. It is also used as a planning tool to inform future permitting, planning, and zoning decisions.

The advantage of an AUAR is that it helps a community be “shovel ready” in terms of required state environmental reviews and identifies future studies or approvals that will be required of individual developments as they come in. This can help streamline future development reviews for city staff and for developers. The AUAR can be completed years in advance of development and reviews large areas that may contain multiple individual developments, but still includes a level of analysis that allows for planning and identifies mitigation. An AUAR is valid for 5 years and then must be updated to remain valid under MN Rule 4410.

The Interstate Business Park AUAR study area was initially studied in 2004 and the review has been updated 3 times (2009, 2014, and 2019). The most recent AUAR Update was adopted by City Council in January 2019. Because 5 years has passed, the coverage from the that update has now lapsed. If development that exceeds any thresholds outlined in MN Rule 4410 is proposed within the AUAR study area, either the City or individual developer would be responsible for completing a new review. The 2024 AUAR Update will allow for continued environmental review coverage within the study area, for all proposed land uses that align with the development scenario studied.

Memorandum

To: EQB Agency Distribution List

Copy: Jason Ziemer, City of North Branch

From: Alison Harwood, WSB

Date: February 2, 2024

Re: Interstate Business Park AUAR Update – Responses to Comments
WSB Project No. 24131-000

The City of North Branch issued the Draft Interstate Business Park AUAR Update for review to the EQB's distribution list on January 9, 2024. The comment period ended on January 23, 2024 and the city received comments from the Department of Natural Resources and Department of Transportation. Each comment, and the city's responses are provided below. Agency comment letters are attached.

Department of Natural Resources

Comment 1: Page 4, Section 1.D. This project was submitted to Minnesota Conservation Explorer (MCE#2023-00925) on December 7, 2023, and is still being reviewed by Natural Heritage Review staff. Please be aware that there may be further requirements provided for the state-threatened Blanding's turtle once the Natural Heritage letter has been issued. Please review the Blanding's turtle fact sheet, and apply relevant recommendations to your project, such as wildlife-friendly curb design.

Response: Comment noted.

Comment 2: Page 4, Section 1.D; Section 4.A. Stormwater features may be colonized by Blanding's turtles in the area, therefore we recommend incorporating measures to avoid impacting this species into stormwater management. In years when the stormwater features will be dredged to remove excess sediment, please draw down water levels by September 15th in order to allow turtles to find overwintering habitat elsewhere.

Response: Comment noted. Mitigation Measure V.1.H has been added to reflect this comment.

Comment 3: Page 4, Section 1.E. Due to entanglement issues with small animals, the use of erosion control blankets should be limited to 'bio-netting' or 'natural netting' types, and specifically not products containing plastic mesh netting or other plastic components. Also be aware that hydro-mulch products may contain small synthetic (plastic) fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into wetlands and other waterbodies. As such, please review mulch products and do not allow any materials with synthetic (plastic) fiber additives in areas that drain to wetlands, lakes, or streams.

Response: Comment noted. Mitigation Measure V.1.I has been added to reflect this comment.

Comment 4: Page 5, Section 1.F. Developers should use weed-free, native seed mixes and plantings to the greatest degree possible in development landscaping and stormwater features as a way to reduce the spread of invasive species and provide wildlife habitat. Native species also require less irrigation and soil inputs.

Response: Comment Noted. Mitigation measure V.1.J has been added to the AUAR to reflect this comment.

Comment 5: Page 6, Section 3.C. Please be sure that any required avoidance measures for state-listed species are incorporated into construction plans and Stormwater Pollution Prevention Plans.

Response: Comment Noted Mitigation measure V.3.E has been added to the AUAR to reflect this comment.

Comment 6: Page 6, Section 3. The project area is located in an area with excessively drained soils and a shallow water table that could be more susceptible to chloride pollution and other contaminants. The planned increase in impervious surfaces will also increase the amount of road salt used in the project area. Chloride released into local lakes and streams does not break down, and instead accumulates in the environment, potentially reaching levels that are toxic to aquatic wildlife and plants. Consider promoting local business and city participation in the Smart Salting Training offered through the Minnesota Pollution Control Agency. There are a variety of classes available for road applicators, sidewalk applicators, and property managers. More information and resources can be found at this website. Many winter maintenance staff who have attended the Smart Salting training — both from cities and counties and from private companies — have used their knowledge to reduce salt use and save money for their organizations.

We encourage the City of North Branch to consider requiring that developments significantly increasing impervious surfaces develop a chloride management plan that outlines what BMP's and strategies will be used to reduce chloride use within the project area and include this plan within Operations and Maintenance Agreements. We also encourage cities and counties to consider how they may participate in the Statewide Chloride Management Plan and provide public outreach to reduce the overuse of chloride. Here are some educational resources for residents as well as a sample ordinance regarding chloride use.

Response: Comment Noted. The City will consider requiring Chloride Management Plans for developments increasing impervious, and will consider the Smart Salt Training through the MPCA.

Comment 7: Page 6, Section 4. It is unclear how the proposed regional ponds will fulfill the requirement to infiltrate the first 1.1 inches of stormwater runoff from new impervious surfaces. Is there an assumption that water will continuously be infiltrating out the sides and bottom of the ponds? What evidence is there that the ponds will function in that way, as opposed to a traditional infiltration basin that becomes dry between runoff events? Do the basins have enough freeboard bounce at their outlets to store that volume of water until it has a chance to infiltrate? Are their setline basins upstream of regional ponds intended to capture sediments? If not, the fine sediments may eventually settle to the bottom of regional ponds, clogging their bottoms and reducing infiltration capacity. This could also occur during site construction because the regional ponds have already been constructed. They must be protected from sedimentation during both the construction and post-construction phases if they are intended to function as infiltration basins.

Response: The regional basins within the study area are currently constructed and were reviewed and permitted by the local governments. These basins were constructed to infiltrate, and do not serve as retention ponds. Future developments will be responsible for construction of their own basins as outlined in Mitigation Item V.4.B.

Comment 8: Page 10, Section 10. This section should discuss potential impacts and mitigation related to development lighting. Animals depend on the daily cycle of light and dark for behaviors such as hunting, migrating, sleeping, and protection from predators. Light pollution can affect their sensitivity to the night environment and alter their activities. In addition to the undesirable effects of upward facing lighting, the hue of lights can also affect wildlife. LED lighting has become increasingly popular due to its efficiency and long lifespan. However, these bright lights tend to emit blue light, which can be harmful to birds, insects, and fish. The DNR recommends that any projects using LED luminaries follow the MnDOT Approved Products for luminaries, which limits the Uplight rating to 0. A nominal color temperature below 2700K is preferable for wildlife, and so we recommend choosing products that have the lowest number for backlight and glare (all approved products should already be 0 for Uplight).

Response: Comment Noted. Mitigation measure V.10.B was added to reflect this recommendation.

Comment 9: Page 11, Section 12. The DNR appreciates the new addition of the sustainability section. As energy needs and renewable energy goals put further pressure on agricultural lands, some states have started to tap into industrial facilities as a way to combine development with energy production through the use of rooftop solar. Installing solar panels on industrial facilities has the added benefit of producing energy right where it is needed without any additional facility footprint. We encourage the City as well as local energy providers to explore the feasibility of combining these land uses to help meet climate goals as the City plans for the future.

Response: Comment Noted.

Department of Transportation

Comment 1: The proposed improvements at 400th Street and I-35 will need to be closely coordinated with MnDOT and FHWA. A new interchange proposal will require evaluation through MnDOT/Metropolitan Council's Interchange Review Process. Additional information concerning this process can found at <https://www.dot.state.mn.us/project-development/subject-guidance/metro-district-interchange-planning-review/index.html>. The North Branch north bypass concept would provide further justification for a new interchange at this location.

Response: Comment noted. The City will coordinate with MnDOT and FHWA when this project is pursued.

Comment 2: If the city pursues any changes at the TH 95/CR68/Flink Ave intersection, the approaches should remain as close to 90 degrees as possible.

Response: Comment noted.

This concludes the responses to comments on the AUAR Update. If you have questions, please contact me at 612.360.1320 or aharwood@wsbeng.com.



Prepared By:
Jason Ziemer, Community Development Director
Presenter: Jason Ziemer, Community Development Director
Date: 02/21/2024

Board & Commission: City Council

Subject: Consider Ordinance No. 369-24 Regarding the Re-Establishment of Local Municipal Primary Elections

Overview / Background

During the February 13, 2024 and March 12, 2024 City Council worksessions, Council members discussed the proposal to reinstate local municipal primary elections. As directed, City staff prepared a draft ordinance for City Council review. During the March 12, 2024 worksession it was requested the item be placed on the March 26, 2024 City Council meeting agenda for action.

The City previously held primary elections for mayor and city council. That ended in 2014 when the North Branch City Council passed an ordinance eliminating municipal primary elections.

Staff Recommendation

None as this is a City Council agenda item.

Recommended City Council Action

Motion to approve or not approve Ordinance No. 369-24 regarding local municipal election primaries.

Voting Requirements:

Voting Options Simple Majority

STATE OF MINNESOTA

COUNTY OF CHISAGO

CITY OF NORTH BRANCH

ORDINANCE NO. 369-24

AN ORDINANCE ESTABLISHING A LOCAL MUNICIPAL PRIMARY ELECTION

THE CITY COUNCIL OF THE CITY OF NORTH BRANCH DOES ORDAIN THAT

The North Branch City Council hereby ordains as follows:

Section 1. Establishing a Local Municipal Primary Election

City Code Section §2-105 is hereby amended by adding the following underlined language.

Sec 2-105 Election Dates

(a) *Primary election.* Pursuant to the authority contained in Minnesota Statute § 205.065, whenever there are candidates for election for municipal office in excess of two (2) for the office of mayor or in excess of two (2) for each office of council member, then a municipal primary election shall be held for such office or offices on the same date and the State Primary Election in each even-numbered year as set forth in Minnesota Statutes Chapter 205.

(b) *General election.* The city general municipal election shall be held on the first Tuesday after the first Monday in November in every even-numbered year, pursuant to Minnesota Statutes.

Section 2. Effective

The City Clerk is hereby directed to advise the Secretary of State and County Auditor of the establishment of a local municipal primary as established by this ordinance.

This ordinance shall have full force effect upon its passage and publication.

Passed by the City Council of the City of North Branch, Chisago County, Minnesota, this 26th day of March, 2024.