



City Council Memorandum

To: Mayor Fasbender and City Council
From: John Hinzman, Community Development Director
Date: October 17, 2022
Item: Authorize Signature: Stormwater Facilities Maintenance Agreement - United Heroes League - 2800 Ravenna Trail

Council Action Requested:

Authorize Signature of the attached Stormwater Facilities Maintenance Agreement between the City of Hastings and United Heroes League establishing stormwater maintenance obligations and responsibilities for the future development of the United Heroes League Property located at 2800 Ravenna Trail. Approval would be subject to minor changes prior to final signature. A simple majority is necessary for action

Background Information:

On August 15, 2022, the City Council approved an Interim Use Permit (IUP) to allow for construction of a temporary gravel parking lot and outdoor hockey rink. Grading activities related to IUP uses will also commence leading to the need for the Stormwater Agreement.

Financial Impact:

Site development may increase tourism travel to Hastings from the region.

Advisory Commission Discussion:

N\A

Council Committee Discussion:

N\A

Attachments:

- Stormwater Facilities Maintenance Agreement

(Reserved for Recording Data)

STORMWATER MANAGEMENT FACILITIES AGREEMENT

This Stormwater Management Facilities Agreement (“Agreement”) is made, entered into and effective this ____ day of _____, 2022, by and between the City of Hastings, a Minnesota municipal corporation (“City”), and United Heroes League, a Minnesota nonprofit corporation, f/k/a Defending the Blue Line, a Minnesota nonprofit corporation (“Developer”).

WHEREAS, that certain real property situated in the City of Hastings, County of Dakota, State of Minnesota, legally described on the attached **Exhibit A** (the “Property”), was conveyed to Defending the Blue Line, a Minnesota nonprofit corporation (“Defending the Blue Line”), by that certain Warranty Deed dated April 3, 2020, recorded as Document No. 3363341 in the Office of the County Recorder, Dakota County, Minnesota; and

WHEREAS, Defending the Blue Line changed its name to United Heroes League, a Minnesota nonprofit corporation, by an amendment filed with the Minnesota Secretary of State on July 14, 2021; and

WHEREAS, Developer has obtained the approval of the City for the development of the Property for a Stormwater Management Facilities; and

WHEREAS, as used herein, the term “Stormwater Management Facilities” may refer to water quality and/or water quantity facilities (i.e. detention basins, retention basins, swales, pipes, oil/water separators, sand filtering devices, infiltration facilities, sump structures, etc.) which are located outside the public road right-of-way; and

WHEREAS, the City has required that the Developer make provision for the construction, maintenance and repair of the Stormwater Management Facilities located within the boundaries of the Property as shown on the Stormwater Facilities Location Map on **Exhibit B** attached hereto; and

WHEREAS, the City and Developer desire to set forth their understanding with respect to the construction, repair and maintenance of the Stormwater Management Facilities and the

responsibility relating to the costs of the repair and maintenance of the Stormwater Management Facilities.

NOW THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Construction and Maintenance of Stormwater Management Facilities. The Developer agrees to construct the Stormwater Management Facilities according to the construction plans drawn by Rani Engineering dated September 22, 2022 (“Plans”) and repair and maintain the Stormwater Management Facilities at its sole cost and expense. Maintenance of the Stormwater Management Facilities shall include but is not limited to compliance with the Stormwater BMP Inspection and Maintenance Plan (“Inspection Plan”) attached as **Exhibit C**. Developer shall submit an annual inspection report that complies with the Inspection Plan by September 30th of each year. If the required annual inspection report is not submitted to the City by September 30th, the City shall have the right to enter onto the property to conduct the annual inspection. If it is determined that the Stormwater Management Facilities (1) have not been maintained; or (2) are not functioning as originally designed and intended; or (3) are in need of repair, the Developer agrees to restore the Stormwater Management Facilities so that it functions as it was designed and intended. Failure to comply with the restoration ordered by the City shall be an event of default. The Developer further agrees that it will not use the Stormwater Management Facilities for snow storage and will inform its snow removal contractors of this provision of the Agreement.

2. Developer’s Default. In the event of default by the Developer as to any of the work to be performed by it hereunder, following at least thirty (30) days prior written notice and Developer’s failure to cure such default within such time-frame, except in an emergency as determined by the City, the City may, at its option, perform the work and the Developer shall promptly, following receipt of an invoice and reasonable substantiation of such costs, reimburse the City for any reasonable out-of-pocket expense incurred by the City.

3. License, Easement, and Assessment. This Agreement is a license for the City to act when so authorized under this Agreement, and it shall not be necessary for the City to seek a Court order for permission to enter the Property. When the City does any such work, the City may, in addition to its other remedies, assess the reasonable out-of-pocket cost in whole or in part. The Developer has conveyed to the City and the public a permanent drainage and utility easement, described and depicted in more detail on the easement document, which is dedicated to the public for the purpose of providing perpetual access to the City, or its successors responsible hereunder, for purposes of inspecting and performing any necessary maintenance to the Stormwater Management Facilities.

4. Changes to Site Configuration or Stormwater Management Facilities. If site configurations or Stormwater Management Facilities change, causing decreased effectiveness of Stormwater Management Facilities, new or improved Stormwater Management Facilities must be implemented to ensure the conditions for post-construction stormwater management continue to be met.

5. Terms and Conditions. This Agreement shall run with the land and shall be binding upon Developer’s successors and assigns with respect to the Property. The terms and conditions

of this Agreement shall be binding upon and shall insure to the benefit of the parties hereto and their respective successors and assigns.

6. Developer Warranty. Developer warrants and represents the following to the City and acknowledges that this Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of Developer enforceable in accordance with its terms. The party signing on behalf of the Developer has been duly authorized by the entity to sign the Agreement and bind the entity. Developer has been duly formed under the laws of the State of Minnesota and is in good standing under the laws of the jurisdiction in which the Property is located, is duly qualified to transact business in the jurisdiction in which the Property is located, and has the requisite power and authority to enter into and perform this Agreement and the documents and instruments required to be executed and delivered by Developer pursuant hereto. This Agreement and the documents and instruments required to be executed and delivered by Developer pursuant hereto have each been duly authorized by all necessary action on the part of Developer and such execution, delivery and performance does and will not conflict with or result in a violation of Developer's organizational agreement or any judgment or order. The execution, delivery and performance by Developer of this Agreement will not (a) violate any provision of any law, statute, rule or regulation or any order, writ, judgment, injunction, decree, determination or award of any court, governmental agency or arbitrator presently in effect having applicability to Developer, or (b) result in a breach of or constitute a default under any indenture, loan or credit agreement or any other agreement, lease or instrument to which Developer is a party or by which it or any of its properties may be bound.

7. Amendment and Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

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

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

10. Consent. Developer consents to the recording of this Agreement.

11. Limitation of Liability. Notwithstanding any other provision of this Agreement, in no event shall either party or any of their affiliates, by reason of any of their respective acts or omissions be liable whether in contract, tort, misrepresentation, warranty, negligence, strict

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Parcel 1:

All that part of the West Half (W 1/2) of the Northeast Quarter (NE 1/4), Section Thirty-five (35), Township One Hundred Fifteen (115), Range Seventeen (17) lying East of Dakota County Road No. 91 as now established; and lying South of County State Aid Highway No. 54 except the South 1072 feet thereof.

And

The East 275.35 feet of the South 1072 feet of the West Half (W 1/2) of the Northeast Quarter (NE 1/4), Section Thirty-five (35), Township One Hundred Fifteen (115), Range Seventeen (17) except the South 200 feet thereof

Except

That part of the West Half of the Northeast Quarter of Section 35, Township 115, Range 17 West Dakota County, Minnesota, described as follows:

Commencing at the northwest corner of the West Half of the Northeast Quarter of said Section 35; thence South 00 degrees 16 minutes 13 seconds East, assumed bearing, along the west line of said West Half, a distance of 1565.10 feet to the north line of the south 1072.00 feet of said West Half; thence North 89 degrees 48 minutes 53 seconds East, along said north line, a distance of 588.06 feet to the point of beginning of the land to be described; thence North 10 degrees 57 minutes 52 seconds East, a distance of 225.32 feet; thence South 79 degrees 02 minutes 08 seconds East, a distance of 145.11 feet; thence North 10 degrees 57 minutes 52 seconds East a distance of 501.37 feet to the centerline of the County State Aid Highway Number 54; thence North 79 degrees 02 minutes 08 seconds West, along said centerline, a distance of 846 feet, more or less, to the centerline of Dakota County Road Number 91, being the westerly line of Parcel Number 3 of Dakota County Document Number 844980; thence Southerly, along said centerline, being the westerly line of said Parcel Number 3, a distance of 877 feet, more or less, to the north line of the south 1072.00 feet of said West Half; thence North 89 degrees 48 minutes 53 seconds East, along said north line a distance of 360 feet, more or less, to the point of beginning.

Parcel 2:

That part of the East Half (E 1/2) of the Northeast Quarter (NE 1/4), Section Thirty-five (35), Township One Hundred Fifteen (115), Range Seventeen (17), lying South of County State Aid Highway No. 54 and lying North of the following described line:

Commencing at the Southwest corner of said Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4); thence North 0 degrees 10 minutes 23 seconds East (assumed bearing) along the West line of said Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) a distance of 76.30 feet to the point of beginning of the line to be described; thence North 71 degrees 07 minutes 58 seconds

East a distance of 1393.20 feet to the East line of said Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) and said line there terminating.

Excepting Therefrom that part of the Northeast Quarter (NE 1/4) of Section Thirty-five (35), Township One Hundred Fifteen (115), Range Seventeen (17), Dakota County, Minnesota, described as follows:

Commencing at the Northeast corner of said Northeast Quarter (NE 1/4); thence North 89 degrees 50 minutes 20 seconds West (assumed bearing) along the North line thereof a distance of 166.22 feet; thence South 0 degrees 09 minutes 40 seconds West a distance of 1138.84 feet to the centerline of County Road No. 54; thence North 82 degrees 01 minutes 55 seconds West along said centerline a distance of 371.29 feet to the point of beginning, thence continuing North 82 degrees 01 minutes 55 seconds West along said centerline thereof a distance of 309.71 feet thence South 7 degrees 58 minutes 05 seconds West a distance of 707.89 feet; thence South 82 degrees 01 minutes 55 seconds East a distance of 271.33 feet; thence North 15 degrees 36 minutes 03 seconds East a distance of 434.30 feet thence North 3 degrees 59 minutes 15 seconds East a distance of 278.11 feet to the point of beginning.

And Also Excepting Therefrom that part of the Northeast Quarter (NE 1/4) of Section Thirty-five (35), Township One Hundred Fifteen (115), Range Seventeen (17), Dakota County, Minnesota, described as follows:

Commencing at the Northeast corner of said Northeast Quarter (NE 1/4); thence North 89 degrees 50 minutes 20 seconds West (assumed bearing) along the North line thereof a distance of 166.22 feet; thence South 0 degrees 09 minutes 40 seconds West a distance of 1138.84 feet to the centerline of County Road No. 54 and the point of beginning of the land to be described; thence North 82 degrees 01 minutes 55 seconds West along said centerline a distance of 300.00 feet; thence South 13 degrees 19 minutes 49 seconds West a distance of 948.57 feet; thence North 71 degrees 19 minutes 27 seconds East a distance of 352.23 feet, thence North 13 degrees 19 minutes 49 seconds East a distance of 789.92 feet to the point of beginning, Dakota County, Minnesota.

Abstract Property

PIDs: 19-03500-14-020 and 19-03500-01-019

EXHIBIT C STORMWATER BMP INSPECTION AND MAINTENANCE PLAN

SMP MAINTENANCE SCHEDULE - SWALES AND DRY POND
SMP Label (on plans): _____

SITE ADDRESS: _____
TRACKING NUMBER: _____

Maintenance Activity	Frequency	Date of Maintenance					
Inspect trees and shrubs to evaluate health. Treat or replace diseased trees and shrubs.	Quarterly						
Inspect soil and repair eroded areas.	Monthly						
Remove litter and debris.	Monthly						
Clear leaves and debris from overflow.	Monthly						
Prune trees and shrubs.	Annually						
Inspect for sediment build-up, erosion, vegetative conditions, etc.	Annually						
Inspect outlet control devices after several storms to ensure that they are functioning properly and that there are no erosion problems developing.	Quarterly						
Notes:							

Party Responsible for Maintenance: _____

Phone Number: _____
Email Address: _____

SMP MAINTENANCE SCHEDULE - ENERGY DISSIPATERS
 SMP Label (on plans): _____

SITE ADDRESS: _____
 TRACKING NUMBER: _____

Maintenance Activity	Frequency	Date of Maintenance					
Inspect energy dissipaters after storms for displaced stones, slumping, and erosion at edges, particularly downstream or downslope. Repair or replace damaged riprap.	Monthly/Concurrent with Storm Events						
Inspect dissipater area for sediment and other debris accumulations. Remove sediment and other debris accumulations from dissipater area.	Quarterly						
Inspect for woody vegetation build-up. Remove woody vegetation from the riprap.	Quarterly						
Inspect stream for obstructions, such as debris, fallen trees, and sediment bars, if riprap is located on a channel bank. Remove obstructions.	Quarterly						
Inspect any underlying fabric for damage. Repair or replace damaged fabric.	Quarterly						
Notes:							

Party Responsible for Maintenance: _____

Phone Number: _____
 Email Address: _____

SMP MAINTENANCE SCHEDULE - CULVERT ENDS
 SMP Label (on plans): _____

SITE ADDRESS: _____
 TRACKING NUMBER: _____

Maintenance Activity	Frequency	Date of Maintenance					
Inspect culvert safety aprons after several storms to ensure that they are functioning properly and that there are no erosion problems developing.	Monthly						
Identify and control source of sediment contamination when in situ soil is exposed or erosion channels are present.	Monthly						
Inspect for sediment and debris build-up. Remove sediment build-up exceeding two inches in depth or if it begins to constrict the flow path.	Semiannually						
Inspect all pipe connections and parge ensuring a watertight seal.	Quarterly						
Clean out leaves, trash, and debris.	Semiannually						
Notes:							

Party Responsible for Maintenance: _____

Phone Number: _____
 Email Address: _____