

PUBLIC WORKS & UTILITIES COMMITTEE

13-0356R

RESOLUTION AUTHORIZING CONSTRUCTION AND ASSESSMENT AGREEMENT WITH BLUESTONE COMMONS, LLC FOR THE INSTALLATION AND ASSESSMENT OF THE COST OF INTERSECTION IMPROVEMENTS AT WOODLAND AVENUE AND SUMMIT STREET.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. _____ with Bluestone Commons, LLC pursuant to which the city will reimburse Bluestone Commons, LLC for the cost of intersection and signalization improvements to be constructed by them at the intersection of Woodland Avenue and Summit Street in an amount of not to exceed \$400,000, payable from Fund 0410, Department 038, Object 5530 (Special Assessment Fund, Special Assessment Contracts, Improvements Other than Buildings) and assess the cost thereof against the benefitted property as defined therein.

Approved:



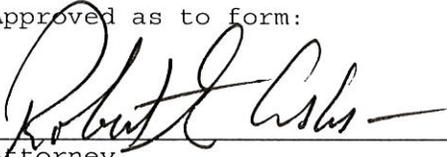
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

PWU/PRCH/ATTY REA:db 06/20/2013

STATEMENT OF PURPOSE: This resolution authorizes an agreement with Bluestone Commons, LLC pursuant to which Bluestone will construct intersection improvements, including installation of a new traffic signal at the intersection

of Summit Street, the new street being constructed as the main entrance to the Bluestone Commons development across Woodland Avenue from the University of Minnesota Duluth. The improvements will be in conformance with plans approved by the City Engineer. Pursuant to the agreement, the City will reimburse Bluestone Commons for the cost of these public improvements and will then assess the cost against the benefitted properties which will be owned by Bluestone Commons at the time of the reimbursement and the confirmation of the assessment roll.

The cost of the improvements is expected to be less than the \$400,000 authorized; this amount is intended to ensure that all costs will be eligible for assessment.

As a requirement of the agreement, all parties having an interest in the property to be assessed will consent to the assessments to be levied against it.

CONSTRUCTION & ASSESSMENT AGREEMENT

BLUESTONE COMMONS DEVELOPMENT

CITY OF DULUTH

BLUESTONE COMMONS, L.L.C.

This instrument was drafted by:

Robert E. Asleson
Attorney for the City of Duluth
Room 410 City Hall
Duluth, MN 55802
(218) 730-5490

**CONSTRUCTION & ASSESSMENT AGREEMENT
CITY OF DULUTH
BLUESTONE COMMONS PROJECT
BLUESTONE COMMONS, L.L.C.**

THIS AGREEMENT entered into as of the date of attestation set forth below, by and between the CITY OF DULUTH, a municipal corporation created and existing under laws of the State of Minnesota, hereinafter referred to as "City", and BLUESTONE COMMONS, L.L.C., a limited liability company created and existing under the laws of the State of Minnesota, hereinafter referred to as "Developer".

WHEREAS, Developer either owns or is under contract to become the owner of the hereinafter described Property lying generally easterly of Woodland Avenue between 22nd Avenue East and St. Marie Street in Duluth, MN; and

WHEREAS, Developer is desirous of constructing and operating on said Property a combined commercial and residential development directed primarily toward meeting the needs of students at the City's post-secondary educational institutions; and

WHEREAS, in order to make said development feasible, Developer has requested that the City assist it in funding the construction or reconstruction of various street and intersection improvements as hereinafter described for the benefit of said development by assessing the costs thereof against benefitted property as hereinafter described; and

WHEREAS, City is willing to provide such assistance to Developer and to the development under the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

ARTICLE I

Definitions

For the purposes of this Agreement, the following terms shall have the meanings hereinafter ascribed to them unless a different meaning clearly appears from the context:

- A. Assess or Assessment Procedure: shall mean the act or process of collecting all or a portion of the cost of certain public improvements, including water and sanitary sewer services utility improvements and street improvements by collecting the same from the owners of benefitted properties as provided for in Chapter IX of the Duluth City Charter.
- B. City: shall mean the City of Duluth, Minnesota.
- C. Development: shall mean the proposed development, construction and operation of approximately 350,000 square feet rental residential development and approximately 41,000 square feet of commercial development along with streets, utilities and parking to serve the Development.
- D. Engineer: shall mean the City Engineer or his or her designee.
- E. Property: shall mean that property located in St. Louis County, Minnesota, described on Exhibit A, attached hereto and made a part hereof.
- F. Plans: shall mean the construction plans, elevations and specifications prepared by Wenck Associates for City Project No. 1065 on file in the office of the Engineer.
- G. Signalization Improvements Project: shall mean the acquisition and installation of a traffic semaphore, with signal interconnect to the existing signals at Clover Street and St. Marie Street, meeting Minnesota State Aid Street standards for new traffic signals and approved by the Engineer at the intersection of Woodland Avenue and Summit Street and related improvements, all as shown on the Plans and within the Woodland Avenue right-of-way.
- H. Summit Street: shall mean the main entry road to be constructed into the Development and, at the discretion of the Engineer, the corresponding and opposite entry into the UMD campus.

ARTICLE II

Plans

A. Plans

Developer hereby acknowledges that it has caused the Plans as herein defined to be prepared by Wenck Associates, its consultant, and hereby approves the Plans and agrees to be assessed, as hereinafter provided, for Developer's share of the costs of constructing the Signalization Project in substantial conformance therewith, subject to Paragraph B below.

B. Changes After Initial Approval

At any time he or she shall determine it reasonably necessary or advantageous to the City to do so, the Engineer may change or cause to have changed the Plans without the prior consent or approval of the Developer as long as such changes do not have a material deleterious affect on the ability of the Signalization Project to serve the needs of the Development.

ARTICLE III

Dedications

No later than completion of the construction of the Signalization Project in conformance with the Plans, Developer agrees to dedicate easements to the public or secure the conveyance of the dedication of such easements to City as determined necessary by the Engineer lying either side of the Signalization Improvements Project, to the extent that said easement areas do not lie within an otherwise-dedicated public right-of-way, in a form acceptable to the City's Attorney.

ARTICLE IV

Developer Construction Obligations

Developer hereby agrees that, upon the signing of this Agreement, it will construct or cause to be constructed the Signalization Project in accordance with the Plans. Upon completion of construction of the of the Signalization Project, Developer will notify the

Engineer of such completion. Thereafter the Engineer will inspect the Signalization Project and if constructed in conformance with the Plans will issue written approval and acceptance of the Signalization Project.

ARTICLE V

Costs of Project

A. Benefits of and Payment for the Signalization Project

Developer agrees that the construction of the Signalization Project constitute public improvements which confer a special benefit on each Parcel of the Property which equals or exceeds the estimated amount of the Assessment set forth with regard thereto in Exhibit B, attached hereto and made a part hereof. It is hereby stipulated and agreed that value of the benefits conferred upon each Parcel of the Property are equal to or exceed the estimated amounts to be assessed against each such Parcel as set forth in Exhibit B and that benefits to the entire Property by the construction of the Project equals or exceeds the sum of Four Hundred Thousand and No/100s (\$400,000) Dollars, without reference to any benefits conferred upon other benefitted properties.

B. Developer Agrees to Assessment

Because the Developer agrees that the value of the benefits to the Property and to each Parcel of the Property arising out of the construction of Signalization Project equals or exceeds the anticipated costs thereof, Developer agrees to accept and to pay an Assessment in the estimated amount of Four Hundred Thousand and No/100s (\$400,000) Dollars levied against it by City to defray the costs of said improvements. Said Assessment shall run for a term of fifteen (15) years at the City's standardized rate for special assessments then in effect which rate is currently estimated to be six and one-half (6 ½) percent per annum.

C. Waiver of Defenses

Developer, for itself and its successors and assigns and for any other affected party, specifically waives, without limitation, all defenses of any kind whatsoever, including, but not limited to, procedural defenses to the Assessments to be levied pursuant to this Article and agrees that Developer and its successors and assigns, if any, shall be bound thereby.

D. Assessment Credits

In the event that City collects by assessment or otherwise any portion of the cost of constructing the Signalization Project from any other party other than Developer, City agrees that, upon collection of any such amount, City shall credit said amount first to any Assessment amount still owed by Developer to City under this Agreement, such amounts being applied to the last payments first, and then, if any amount remains, said remainder shall be paid directly to Developer.

E. Reimbursement of Developer

Upon the completion of the following preconditions, City agrees to reimburse Developer for said costs up to the amount of \$400,000, said sum to be payable from Fund 0410, Department 038, Object 5530 (Special Assessment Fund, Special Assessment Contracts, Improvements Other than Buildings):

1. Completion of the process of replatting all property which is part of Developer's Bluestone Commons development, including the Property, in conformance with City and State of Minnesota requirements.
2. Adoption of the Assessment Roll related to the Signalization Project becoming final as provided for in Section 67 (a) of the Duluth City Charter.
3. Provision of title documentation in the form of a title commitment from a company authorized to do business in the State of

- Minnesota identifying all parties having an interest in the Property.
4. Legally binding and recordable agreements in a form satisfactory to the City Attorney from all lenders identified in Sub-subparagraph 3 above agreeing to the levy of the Assessment against the Property and agreeing to subordinate any interest they may have in the Property to that assessment.
 5. the presentation to the City's Finance Director of documentation of Developer's costs of constructing the Signalization Project satisfactory to said Finance Director.

ARTICLE VII

Environmental Indemnification

Developer hereby agrees that for itself, its successors and assigns that it will indemnify and save the City and its officers, agents, servants and employees and any person who controls the City within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorneys' fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property with respect to any fact, event or circumstance existing at any time which constitutes a violation of any environmental law or laws with regard to pollutants or hazardous or dangerous substances promulgated by the government of the United States or of the State of Minnesota or of any such duly promulgated rules and regulations of the United States Environmental Protection Agency or the Minnesota Pollution Control Agency or the presence on the Property of any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to persons or damage to property and that indemnification granted hereby shall include all costs of clean-up, remediation, together with the reasonable costs incurred in proceedings before a court of law or administrative

agency including reasonable attorneys' fees, reasonable expenses, the reasonable fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, the costs of preparing and securing approval of Response Action Plans as may be necessary to meet the requirements of the aforesaid agencies and any other costs and expenses of any kind whatsoever arising out of such conditions existing on the Property. The obligation to indemnify and save harmless hereunder shall not apply to any matters arising out of or connected to the act or omission of the City, or its officers, agents, servants, contractors or employees, including but not limited to, by reason of the construction of the Project. Promptly after receipt by City of notice of the commencement of any action with respect to which Developer is required to indemnify a person under this Article, such indemnitee shall notify the Developer in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, the indemnitor shall assume the defense of such action, including the employment of counsel reasonably satisfactory to the indemnitee and the payment of expenses. In so far as such action shall relate to any alleged liability of the indemnitee with respect to which indemnity may be sought against the Developer, the indemnitee shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the reasonable fees and expenses of such separate counsel shall be at the expense of the Developer.

ARTICLE VIII

Defaults and Remedies Therefore

A. General Defaults by Developer and Remedies Therefore

1. General Events of Default

The following shall be deemed to be general events of default by Developer under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable as otherwise set forth in this Agreement.

- a. Developer shall fail to make any payment on any Assessment levied against the Property pursuant to Article VIII above, or any installment thereof in a timely manner and in full; provided, however, that to the extent only an installment or a portion of said Assessment(s) is due, then "in full" shall only mean such installment or portion then due.
- b. Developer shall fail to observe or perform any of the other terms, conditions, covenants or agreements required to be observed or performed by it or any successor or assign of Developer pursuant to this Agreement and such failure shall continue for a period of thirty (30) calendar days after City has, pursuant to the provisions of this Agreement, given written notice to Developer of such default or, in the event that such default shall be incapable of cure during said thirty (30) day period, shall have failed to commence to cure said default within thirty (30) days of the date of said notice and to diligently pursue the same to completion.

2. General Remedies

Except as otherwise set forth in this Agreement, City shall have the following remedies in the event of a default by Developer:

- a. Seek and be entitled to monetary damages, including consequential damages from Developer for any damages, including consequential damages incurred by City as a result of Developer's default.
- b. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Developer's violation of the terms and conditions of this Agreement or to compel Developer's performance of its obligations hereunder.
- c. Enforce the assessment against the benefitted property and

collect any sums due and owing thereunder.

- d. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to City.

B. General Defaults by City and Remedies Therefore

1. General Events of Default

The following shall be deemed to be general events of default by City under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable as otherwise set forth in this Agreement.

- a. City shall have failed to complete construction of the Project as set forth in Article V above.
- b. City shall fail to observe or perform any of the other terms, conditions, covenants or agreements required to be observed or performed by it or any successor or assign of City pursuant to this Agreement and such failure shall continue for a period of thirty (30) calendar days after Developer has, pursuant to the provisions of this Agreement, given written notice to City of such default or, in the event that such default shall be incapable of cure during said thirty (30) day period, shall have failed to commence to cure said default within thirty (30) days of the date of said notice and to diligently pursue the same to completion.

2. General Remedies

Upon default by the City, Developer shall be entitled to any and all remedies available in law or in equity.

C. Non-Waiver

The waiver by either party of any default on the part of the other party or the failure of such non-defaulting party to declare default on the part of the defaulting party of any of its obligations pursuant to this Agreement shall

not be deemed to be a waiver of any subsequent event of default on the part of the defaulting party of the same or of any other obligation of the defaulting party hereunder. And, to be effective, any waiver of any default by the defaulting party hereunder shall be in writing by the non-defaulting party.

D. Remedies Cumulative

Except as specifically set forth herein, the remedies provided under this Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be the waiver of any other remedy with regard to any occasion of default hereunder.

E. Attorneys' Fees

In the event that either party is in default of any of the terms and conditions of this Agreement and the other party shall successfully take legal action to enforce said rights herein, in addition to the foregoing, such non-defaulting party shall be entitled to reimbursement for its reasonable attorneys' fees and costs and otherwise for its costs and disbursements occasioned in enforcing its rights hereunder.

ARTICLE IX

Force Majeure

Under the terms of this Agreement, neither the City nor Developer shall be considered in default or in breach of any of the terms with respect to the performance to their respective obligations under this Agreement in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, acts of the federal government, acts of another party, fire, floods, epidemics, strikes or embargoes, or for delays of subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Agreement shall be extended for the period of any such delay upon written notice from the party seeking

the extension to the other party.

ARTICLE X

Representations by City

City represents and warrants that as of the date hereof:

- A. It is a lawfully constituted municipal corporation under the laws of the State of Minnesota, is not in material violation of any provisions of State law and that it has full power and authority to enter into this Agreement and perform its obligations hereunder.
- B. There are no actions, suits or proceedings pending, or to the knowledge of City, threatened against City or any property of City in any court or before any Federal, State, municipal or governmental agency which, if decided adversely to City, would have a material adverse effect upon City or any business or property of City, and City is not in default with respect to any order of any court or government agency.
- C. City has investigated and has no knowledge that a City Councilor or other member, official, or employee of City is directly or indirectly financially interested in this Agreement or in any transactions concluded in connection with this Agreement.
- D. City shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Agreement or otherwise delivered to any third parties under this Agreement to be true, correct and complete in all material respects.

ARTICLE XI

Developer's Representations and Warranties

Developer represents and warrants that as of the date hereof:

- A. Developer is a lawfully constituted limited liability company under the laws of the State of Minnesota and is not, to the best of its knowledge, in material violation of any provisions of State law, it has full power and authority to enter into this Agreement and to construct and equip the

Project thereon under all laws, rulings, regulations and ordinances of any governmental authority having jurisdiction, and it agrees to comply with all applicable State, Federal acquisition and relocation laws, wages and hours laws, including Davis-Bacon and local versions thereof or similar laws at its own expense.

- B. There are no actions, suits or proceedings pending or, to the knowledge of Developer, threatened against Developer or any property of Developer in any court or before any Federal, State or municipal or other governmental agency which, if decided adversely to Developer could have a material adverse affect upon Developer or Property and Project, and that Developer is not in default of any order of any court or governmental agency.
- C. Developer has investigated and has no knowledge that any officer, director, agent or employee of Developer is directly or indirectly financially interested in this Agreement or in any transactions concluded in connection with this Agreement.
- D. Developer shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Agreement delivered to any third party by or on behalf of Developer under this Agreement to be true, correct and complete in all material and respects.
- E. If necessary Developer agrees to perform any survey work prior to construction and all descriptions and exhibits hereto and definitions herein shall be subject to such revisions as are necessary after completion of any survey.

ARTICLE XII

Term

Except as provided for below, the term of this Agreement shall run from the date first above shown until December 31, 2013 or the completion of the Project including the

assessment process, whichever occurs later unless this Agreement is otherwise terminated as hereinbefore provided for. Nothing to the contrary in the foregoing withstanding the terms and conditions of Articles VI, VII AND VIII shall survive the term or termination or both of this Agreement for so long as is necessary to give effect to their provisions.

Article XIII

Runs With the Land

This Agreement shall be deemed to run with the land and shall inure to the benefit of the parties hereto and to their successors and assigns.

ARTICLE XIV

Notices

Any notice, demand or other communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid or deposited with a nationally recognized overnight courier service for next business day delivery to:

In the case of City:

City of Duluth
Office of the City Clerk
Room 300, City Hall
Duluth, MN 55802

In the case of Developer:

Bluestone Commons LLC
C/O Summit Management LLC
122 South Water Street
Stillwater, MN 55082
Attn: Mark Lambert

The date such notice, demand or other communication (the "Notice") is deemed delivered is either two (2) business days following deposit in the U.S. mail in the manner described above or on the next business day following deposit with a nationally recognized overnight courier service in the manner described above. An address for Notice purposes may be changed by a Notice in writing sent to the other parties named

above at the most recent address designated for that party.

ARTICLE XV

Applicable Law

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

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and date first above shown.

CITY OF DULUTH, a Minnesota
Municipal Corporation

Bluestone Commons L.L.C., a
Minnesota Limited Liability
Company

Don Ness
Its Mayor

Its _____

Attest:

Its _____

Jeffrey J. Cox
Its City Clerk

Approved:

Countersigned:

Asst. City Attorney

City Auditor

STATE OF MINNESOTA)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of July, 2013, by _____ and _____, the _____ and _____ of Bluestone Commons, L.L.C., a Minnesota Limited Liability Company on behalf of the Company.

Notary Public

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of July, 2013, by Don Ness and Jeffery J. Cox, the Mayor and City Clerk respectively of the City of Duluth a municipal corporation created and existing under the Laws of the State of Minnesota, on behalf of the City.

Notary Public

This instrument was drafted by:

Robert E. Asleson
Attorney for the City of Duluth
Room 410 City Hall
Duluth, MN 55802
(218) 730-5490

Torrens parcels with Certificate Numbers
BlueStone Commons abstract
BlueStone Lofts abstract
Jackson abstract
Woodland Commons abstract
ISD-709 abstract

Boundary Survey

Prepared For: VILLAGE CENTER DEVELOPMENT, LLC & BLUESTONE COMMONS, LLC

part of
MOTOR LINE DIVISION, MOUNT ROYAL DIVISION, CLOVER HILL DIVISION AND WILLARD'S DIVISION
Section 14, T50N, R14W of the 4th P.M.
City of Duluth, St. Louis County, Minnesota

DESCRIPTION:

Lots One (1) thru Eleven (11), Block Five (5), CLOVER HILL DIVISION OF DULUTH, TOGETHER WITH that part of VACATED ALLEY, Summit Place and Alley appurtenant to said Lot One (1) thru Eleven (11) as approved by City of Duluth Council Action dated 4/20/2016.

AND
Lots One (1) thru Five (5), Block Two (2), CLOVER HILL DIVISION OF DULUTH.

47738

AND
Lots Six (6) thru Twenty-Six (26), Block Two (2), CLOVER HILL DIVISION OF DULUTH.

That part of VACATED Summit Street abutting Lots Three (3) and Four (4), Block Three (3), CLOVER HILL DIVISION OF DULUTH.

47738

AND
Lots Five (5) thru Fourteen (14), Block Three (3), CLOVER HILL DIVISION OF DULUTH, TOGETHER WITH that part of the VACATED ALLEY appurtenant to said Lots Five (5) thru Fourteen (14) as approved by City of Duluth Council Action dated 4/20/2016 and recorded in the Register of Titles Office in St. Louis County, Minnesota as Document No. 247922.

47738

AND
Lots Five (5) thru Sixteen (16), Block Four (4), CLOVER HILL DIVISION OF DULUTH, TOGETHER WITH that part of the VACATED ALLEY appurtenant to said Lots Five (5) thru Sixteen (16) as approved by City of Duluth Council Action dated 4/20/2016.

47738

AND
Lots Twelve (12), Block Four (4), CLOVER HILL DIVISION OF DULUTH, WILLARD'S ADDITION TO DULUTH; said Lot Twelve (12) and Willard's Addition (18) Block Eighteen (18) WILLARD'S ADDITION TO DULUTH; together to describe all of that part of Block Eighteen (18) being West of a 3rd Avenue East, in the City of Duluth.

47367

AND
Lots One (1), Fourteen (14), Fifteen (15), Sixteen (16) and the East One-Half Lot Thirteen (13), all in Block Eighteen (18), WILLARD'S ADDITION TO DULUTH, TOGETHER WITH that part of the VACATED ALLEY appurtenant to said Lots One (1), Fifteen (15) and Sixteen (16) as approved by City of Duluth Council Action dated 4/20/2016 and recorded in the Register of Titles Office in St. Louis County, Minnesota as Document No. 247922.

326041

AND
Lot One (1), Block Six (6), MOUNT ROYAL DIVISION OF DULUTH and Lot Eight (8), Block Nineteen (19), WILLARD'S ADDITION TO DULUTH.

47376

AND
Lots Two (2) and Three (3), Block Six (6), MOUNT ROYAL DIVISION OF DULUTH.

324622

AND
Lots One (1) thru Ten (10), Block Eighteen (18), MOTOR LINE DIVISION OF DULUTH, TOGETHER WITH that part of Lots Eleven (11) and Thirty (30), and Block Eighteen (18), EXCEPT those parts described as follows: Commencing at the Northeast corner of said Lot Eleven (11), Block Eighteen (18) of said MOTOR LINE DIVISION OF DULUTH, thence North 89 degrees 52 minutes 08 seconds West, along the North line of said Block Eighteen (18), a distance of 83.20 feet to the point of beginning; thence South 00 degrees 00 minutes 28 seconds West, along a line parallel with the East line of said Lot Eleven (11) and its Southeasterly extension, a distance of 333.04 feet to the center line of the alley lying between said Block Eighteen (18) and Block Twenty (20); thence South 00 degrees 07 minutes 55 seconds West, along a line parallel with the East line of said Lot Eleven (11), Block Eighteen (18), and its Northwesterly extension, a distance of 82.00 feet; thence North 89 degrees 52 minutes 08 seconds West along a line parallel with the North line of said Block Eighteen (18), a distance of 451.64 feet to the Northwesterly line of said Block Eighteen (18); thence Northwesterly and Easterly, along said Northwesterly and Northerly lines of said Block Eighteen (18), a distance of 557.89 feet to the point of beginning. All in Block Eighteen (18), MOTOR LINE DIVISION OF DULUTH.

DULUTH, TOGETHER WITH that part of the VACATED ALLEY as approved by City of Duluth Council Action dated 10/24/2016, appurtenant to said Lots One (1) thru Ten (10) and those parts of Lots Eleven (11) and Thirty (30) described above, all in said MOTOR LINE DIVISION OF DULUTH.

AND
Lots One (1), Two (2), Three (3) and Four (4), Block Nineteen (19), MOTOR LINE DIVISION OF DULUTH, TOGETHER WITH that part of VACATED ALLEY as approved by City of Duluth Council Action dated 10/24/2016, appurtenant to said Lots One (1) thru Four (4), said Block Nineteen (19), MOTOR LINE DIVISION OF DULUTH.

AND
Lots Five (5) thru Ten (10), Block Nineteen (19), MOTOR LINE DIVISION OF DULUTH, TOGETHER WITH those parts of Lots Thirty-One (31) thru Thirty-Four (34), Block Eighteen (18) and Lots Eleven (11) thru Twenty-Two (22), Block Nineteen (19), MOTOR LINE DIVISION OF DULUTH, EXCEPT those parts described as follows: Commencing at the Northeast corner of Lot Eleven (11), Block Eighteen (18), of said MOTOR LINE DIVISION OF DULUTH, thence North 89 degrees 52 minutes 08 seconds West, along the North line of said Block Eighteen (18), a distance of 83.20 feet to the point of beginning; thence South 00 degrees 00 minutes 28 seconds West, along a line parallel with the East line of said Lot Eleven (11) and its Southeasterly extension, a distance of 333.04 feet to the center line of the alley lying between said Block Eighteen (18) and Block Twenty (20); thence South 00 degrees 07 minutes 55 seconds West, along a line parallel with the East line of said Lot Eleven (11), Block Eighteen (18), and its Northwesterly extension, a distance of 82 feet; thence North 89 degrees 52 minutes 08 seconds West, along a line parallel with the North line of said Block Eighteen (18), a distance of 451.64 feet to the Northwesterly line of said Block Eighteen (18); thence Northwesterly and Easterly, along said Northwesterly and Northerly lines of said Block Eighteen (18), a distance of 557.89 feet to the point of beginning. TOGETHER WITH that part of the VACATED ALLEY as approved by City of Duluth Council Action dated 10/24/2016, appurtenant to said Lots Five (5) thru Ten (10) and Lots Twenty-Two (22), said Block Nineteen (19) and those parts of said Lots Thirty-One (31) and Thirty-Two (32), said Block Eighteen (18) described above, all in said MOTOR LINE DIVISION OF DULUTH.

AND
Lots Twelve (12) thru Sixteen (16), Block Five (5), Clover Hill Division of Duluth, TOGETHER WITH that part of the VACATED Jackson Street, Summit Place and Alley appurtenant to said Lots Twelve (12) thru Sixteen (16) as approved by City of Duluth Council Action dated 4/20/2016.

47738

AND
Lots One (1) thru Four (4), Block Three (3), and Lots Seven (7) thru Twelve (12), Block Eighteen (18), Clover Hill Division of Duluth, TOGETHER WITH that part of VACATED Jackson Street and Alley appurtenant to said Lots One (1) thru Four (4) and Block Three (3), and said Lots Seven (7) thru Twelve (12), and Block Eighteen (18) as approved by City of Duluth Council Action dated 4/20/2016 and recorded in the Register of Titles Office in St. Louis County, Minnesota as document 247925.

47738

AND
Lots One (1), Two (2), Three (3) and Four (4), Block Four (4), Clover Hill Division of Duluth, TOGETHER WITH that part of VACATED Jackson Street and Alley appurtenant to said Lots One (1) thru Four (4) as approved by City of Duluth Council Action dated 4/20/2016 and recorded in the Register of Titles Office in St. Louis County, Minnesota as document 247925.

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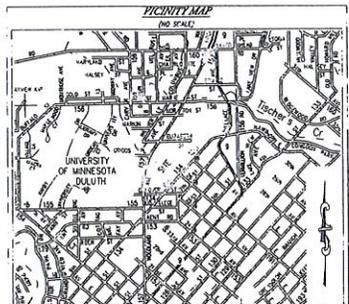
AND
Lots One (1), Two (2), Three (3), Ten (10), Eleven (11) and Twelve (12), Block Nineteen (19), Clover Hill Division of Duluth, TOGETHER WITH that part of VACATED Jackson Street and Alley appurtenant to said Lots One (1), Two (2), Three (3), Ten (10), Eleven (11) and Twelve (12) as approved by City of Duluth Council Action dated 4/20/2016.

47370

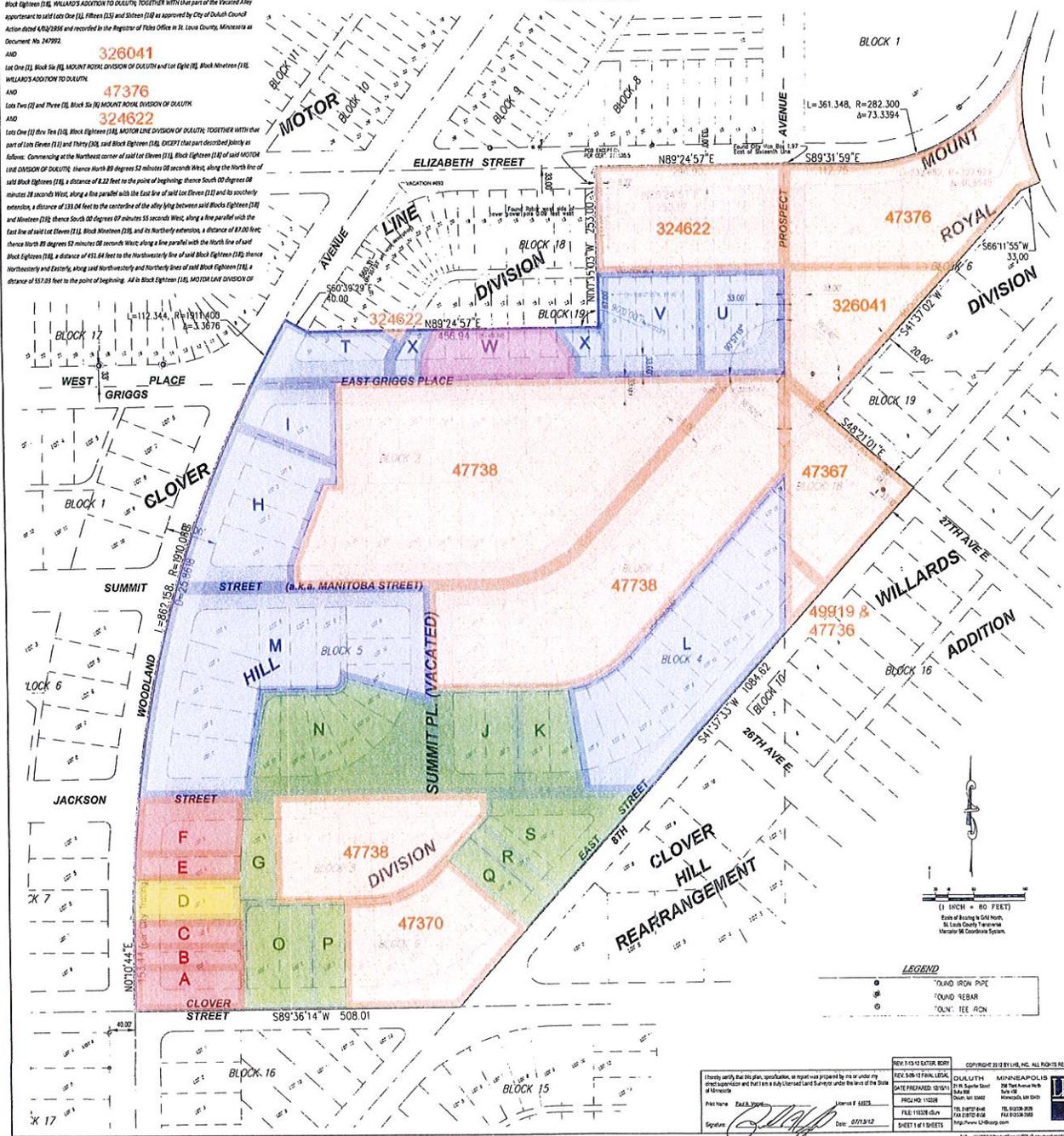
AND
Lots Four (4) thru Nine (9), Block Nine (9), Clover Hill Division of Duluth, TOGETHER WITH that part of the VACATED ALLEY appurtenant to said Lots Four (4) thru Nine (9) as approved by City of Duluth Council Action dated 4/20/2016 and recorded in the Register of Titles Office in St. Louis County, Minnesota as document 247926.

47370

VACATED Streets & Alley per document #1186.



- ### SURVEYOR NOTES:
- 1. Date of Field Survey: July, 2011 and March 2012.
 - 2. The exterior boundary shown herein represents the perimeter of lands described herein.
 - 3. Streets and alleys shaded in gray are vacated. Building line setbacks along Broadway Avenue and multiple utilities on site were vacated as well. See City Clerk and/or recorder office for further details.



East of Bearing is Old North, All Lines Shown are Surveyed by the Surveyor. Vicinity Map is Quasi-Universal System.

- ### LEGEND
- FOUND IRON PIPE
 - FOUND REBAR
 - FOUND IRON

Project Name: Village Center Development, LLC & BlueStone Commons, LLC	Date: 07/19/12	Sheet: 1 of 10
Surveyor: [Signature]	Scale: As Shown	North Arrow: [Symbol]
City of Duluth, St. Louis County, Minnesota	Recorded in: [Blank]	Recorded as: [Blank]

1 inch = 80 feet

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EXHIBIT B

<u>Plat No.</u>	<u>Parcel No.</u>	<u>Assessment Amount (will not exceed)</u>
0590	01210	\$129,300.00
0590	01160	\$ 20,700.00
0590	00210	\$250,000.00
Total Assessment for all parcels		\$400,000.00 *

* Property will be re-platted late in 2013, and assessment will be re-allocated based on the attached map.

