

**4. Consideration of Authorizing a Right of Entry with Deephaven Development for EDA owned properties and buildings in Block 52 for the purpose of structure demolition activities specifically for 103 Pine Street and 112 West River Street (JT)**

**A. REFERENCE AND BACKGROUND:**

The EDA is being asked to authorize a Right of Entry with Deephaven Development for EDA owned properties and buildings in Block 52 for the purpose of structure demolition activities specifically for 103 Pine Street and 112 West River Street. The Right of Entry is being requested by Deephaven Development to complete work tasks that are viewed as critical to keeping the project on an efficient development schedule. The two key work components that the developer would like to accomplish prior to the onset of winter conditions are related to site excavation and installing the underground parking structure. Deephaven Development has informed City staff that if the structure demolition activities are delayed until mid-September, it may jeopardize the completion of the underground parking structure this fall and may delay the start date until the spring of 2023. This delay would also add costs to the project as the basements of the demolished buildings would need to be backfilled for the winter and then re-excavated again in the spring (April-May 2023).

At the July 27, 2022, meeting, the EDA approved a Right of Entry with Deephaven Development authorizing access to the Block 52 properties to complete the Phase II Environmental Study and the pre-demolition Asbestos-Regulated Materials (ARM) abatement work tasks. The Phase II Study is expected to be finalized by August 22, 2022, while the ARM work tasks may be completed by August 23, 2022. Deephaven Development would like to begin demolition of the former church building located at the 103 Pine Street (MN TH#25) and 112 West River Street buildings on or about August 23 or 24, 2022.

As you will recall, the goal is to have the developer be responsible for the structure demolition work activities. The Redevelopment Grant awarded to the EDA by MN-DEED (Department of Employment and Economic Development) is intended to be the source of funding to pay for completion of the structure demolition activities as well as the ARM abatement work tasks.

If the EDA authorizes a Right of Entry, Deephaven Development and/or its agents, contractors and sub-contractors would enter the property-buildings to perform the structure demolition activities after receiving a demolition permit from the City Building

Official. Deephaven Development must also submit an acceptable demolition plan for the buildings for approval by the City Building Official, with support from WSB and Associates prior to permit issuance. The developer will also provide appropriate liability insurance coverage with the EDA and City as named insureds.

**A1. STAFF IMPACT:** There is a low staff impact in presenting a Right of Entry with Deephaven Development for structure demolition activities to the EDA for consideration.

**A2. BUDGET IMPACT:** There is a minimal budget impact related to EDA consideration of authorizing a Right of Entry with Deephaven Development for the EDA owned properties and buildings in Block 52 to undertake structure demolition activities specifically for buildings located at 103 Pine Street and 112 West River Street. The MN-DEED Grant awarded to the EDA is intended to pay for this work activity to be performed by the developer.

**B. ALTERNATIVE ACTIONS:**

1. Motion to authorize a Right of Entry with Deephaven Development for the EDA owned properties and buildings in Block 52 for the purpose of structure demolition activities specifically for buildings located at 103 Pine Street and 112 West River Street.

2. Motion to table authorization of a Right of Entry for Deephaven Development for the EDA owned properties and buildings in Block 52 for further research and/or discussion.

3. Motion of other as determined by the EDA.

**C. STAFF RECOMMENDATION:**

Staff defers to the EDA regarding the Right or Entry with Deephaven Development for the EDA owned properties and buildings in Block 52 specifically for the purposed of completed structure demolition activities of buildings located at 103 Pine Street and 112 West River Street. The developer has indicated that it would be very helpful to start demolition activities in late August versus mid-September to positively impact the entire project schedule keeping it as a fall 2022 construction start versus pushing it to the

spring of 2023.

**D. SUPPORTING DATA:**

A. Right of Entry (format)

## RIGHT OF ENTRY

The City of Monticello Economic Development Authority, hereinafter called "EDA"; does hereby consent and grant to \_\_\_\_\_, hereinafter called the "Licensee", and its agents a license to enter only, for the purpose of \_\_\_\_\_, across the following described lands situated in the County of Wright, State of Minnesota, to-wit:

- Block 52 EDA Owned Properties, including buildings noted below
- 103 Pine Street
- 112 West River Street

This right to enter shall commence on \_\_\_\_\_, 2022 and terminate on \_\_\_\_\_, 2022.

Licensee shall accept the Premises in "as is" condition and upon the termination of this agreement shall surrender the Premises in substantially the same condition in which it was at the beginning of the occupancy.

Licensee or its agents shall perform all activities on the Premises authorized under this license in a safe and professional manner.

Licensee shall indemnify, defend, save, and hold harmless the City and the EDA, its officers and employees from all claims, expenses, losses or liabilities in connection with Licensee's use of the Premises or because of any claims or liability arising from any violation of any law or regulation made in accordance with the law, whether by Licensee or any of its agents or employees.

This Agreement is binding upon the parties, their successors in title or interest, assignees, and heirs. Licensee shall not assign any of its rights or responsibilities hereunder without first obtaining the written consent of the Owner.

The license granted by this Agreement is a mere license to use the Premises for the specified purposes as set forth herein and does not create any estate or interest in the Premises.

**(LICENSEE NAME)**

By \_\_\_\_\_

Its \_\_\_\_\_

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF WRIGHT)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a Minnesota limited liability corporation, on its behalf.

\_\_\_\_\_  
Notary Public

**CITY OF MONTICELLO**

By \_\_\_\_\_

Jim Thares  
Economic Dev. Manager/Executive Director, EDA

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF WRIGHT    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Jim Thares, the **City of Monticello**, Economic Development Manager and Executive Director of the EDA, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council and Economic Development Authority.

\_\_\_\_\_  
Notary Public

This instrument was drafted by:  
City of Monticello  
505 Walnut Street, Suite 1  
Monticello, MN 55362