

**CITY OF HANOVER  
COUNTIES OF WRIGHT AND HENNEPIN  
STATE OF MINNESOTA**

**RESOLUTION NO 03-09-20-31**

**APPROVING AN INTERIM USE PERMIT FOR MAHLER AGGREGATE MINE**

**WHEREAS**, the City of Hanover is a Minnesota Municipal Corporation, duly organized and authorized to conduct its affairs under the laws of the State of Minnesota; and

**WHEREAS**, Ruha, LLP (the "Owner") is the owner of certain real property located in the City of Hanover, State of Minnesota, legally described as follows:

PID # 108-500-254-200 (NORTHWEST PARCEL)

The North Half of the Southeast Quarter of Section 25, Township 120, Range 24, Wright County, Minnesota. Excepting therefrom the following 4 parcels:

**EXCEPTION 1**

That part of the Northwest Quarter of the Southeast Quarter of Section 25, Township 120, Range 24, Wright County, Minnesota, described as follows: Commencing at the northwest corner of said Northwest Quarter of the Southeast Quarter; thence southerly along the west line of said Northwest Quarter of the Southeast Quarter, a distance of 66.03 feet to the southwest corner of the north 66.00 feet of said Northwest Quarter of the Southeast Quarter, as measured at a right angle thereto; thence easterly, along the south line of said north 66.00 feet of the Northwest Quarter of the Southeast Quarter, a distance of 793.12 feet; thence southerly, parallel with the west line of said Northwest Quarter of the Southeast Quarter, a distance of 263.97 feet; thence westerly, parallel with the north line of said Northwest Quarter of the Southeast Quarter, a distance of 346.12 feet; thence northerly, parallel with the west line of said Northwest Quarter of the Southeast Quarter, a distance of 130.00 feet; thence westerly, parallel with the north line of said Northwest Quarter of the Southeast Quarter, a distance of 447.00 feet to the west line of said Northwest Quarter of the Southeast Quarter; thence northerly along said west line, a distance of 133.97 feet to the point of beginning.

**EXCEPTION 2**

That part of the Northwest Quarter of the Southeast Quarter of Section 25, Township 120, Range 24, Wright County, Minnesota, described as follows: Beginning at the southwest corner of said Northwest Quarter of the Southeast Quarter; thence on an assumed bearing of North 89 degrees 00 minutes 21 seconds East along the south line of said Northwest Quarter of the Southeast Quarter, a distance of 900.00 feet; thence North 00 degrees 46 minutes 16 seconds East, a distance of 275.00 feet; thence South 89 degrees 00 minutes 21

seconds West, a distance of 600.00 feet; thence South 00 degrees 46 minutes 16 seconds West, a distance of 75.00 feet; thence South 89 degrees 00 minutes 21 seconds West, a distance of 300.00 feet to the west line of said Northwest Quarter of the Southeast Quarter; thence South 00 degrees 46 minutes 16 seconds West, along said west line, a distance of 200.00 feet to the point of beginning.

#### EXCEPTION 3

That part of the Northwest Quarter of the Southeast Quarter of Section 25, Township 120, Range 24, Wright County, Minnesota, described as follows: Beginning at the southwest corner of said Northwest Quarter of the Southeast Quarter; thence on an assumed bearing of North 89 degrees 00 minutes 21 seconds East along the south line of said Northwest Quarter of the Southeast Quarter; a distance of 900.00 feet; thence North 00 degrees 46 minutes 16 seconds East, a distance of 275.00 feet to the point of beginning; thence South 89 degrees 00 minutes 21 seconds West, a distance of 600.00 feet; thence South 00 degrees 46 minutes 16 seconds West, a distance of 75 feet; thence South 89 degrees 00 minutes 21 seconds West a distance of 300.00 feet to the west line of said Northwest Quarter of the Southeast Quarter, thence North 00 degrees 46 minutes 16 seconds East, along said west line, a distance of 200.00 feet; thence North 89 degrees 00 minutes 21 seconds East, a distance of 150.00 feet; thence North 00 degrees 46 minutes 16 seconds East, a distance of 75.00 feet; thence North 89 degrees 00 minutes 21 seconds East, a distance of 750.00 feet, to a line that bears North 00 degrees 46 minutes 16 seconds East from the point of beginning; thence South 00 degrees 46 minutes 16 seconds West a distance of 200.00 feet to the point of beginning.

#### EXCEPTION 4

That part of the North Half of the Southeast Quarter of Section 25, Township 120, Range 24, Wright County, Minnesota, described as commencing at the southwest corner of said North Half of the Southeast Quarter of Section 25; thence North 01 degree 03 minutes 31 seconds East on an assumed bearing along the West line of said North Half of the Southeast Quarter a distance of 400.00 feet to the point of beginning; thence continuing North 01 degree 03 minutes 31 seconds East along said West line a distance of 257.38 feet; thence North 89 degrees 31 minutes 43 seconds East a distance of 564.90 feet; thence South 01 degree 03 minutes 35 seconds West a distance of 180.07 feet; thence South 89 degrees 17 minutes 43 seconds West a distance of 414.95 feet; thence South 57 degrees 09 minutes 11 seconds West a distance of 140.90 feet; thence South 89 degrees 17 minutes 43 seconds West a distance of 33.02 feet to the point of beginning.

AND

PID # 108-500-254-400 (SOUTHWEST PARCEL)

The Southeast Quarter of the Southeast Quarter of Section 25, Township 120, Range 24, Wright County, Minnesota

AND

PID # 108-500-303-300 (SOUTHEAST PARCEL)

The Southwest Quarter of the Southwest Quarter of Section 30, Township 120, Range 23, Wright County, Minnesota, EXCEPT the East 662.66 feet of the Southwest Quarter of the Southwest Quarter of Section 30, Township 120, Range 23, Wright County, Minnesota.

AND

PID # 108-500-303-200 (NORTHEAST PARCEL)

The Northwest Quarter of the Southwest Quarter, and that part of the East Half of the Southwest Quarter, lying west of the Crow River, all in Section 30, Township 120, Range 23, Wright County, Minnesota.

AND

PID # 114-800-302-400 (ANNEXED NORTHEAST PARCEL)

That part of the Southeast Quarter of the Northwest Quarter of Section 30, Township 120, Range 23, Wright County, Minnesota, lying west of the Crow River.

(the "Subject Property"); and

**WHEREAS**, Fehn Companies, Inc. (the "Operator") has on the Owner's behalf applied for an interim use permit; and

**WHEREAS**, the Operator has requested an interim use permit so as to allow the Operator to mine the Subject Property for aggregate as shown on the plans entitled Mahler Aggregate Mine, the most recent revision of said preliminary plat and plans prepared by Civil Engineering Site Design and last updated February 19, 2020 (unless noted differently below) and containing the following sheets:

- |              |                                       |
|--------------|---------------------------------------|
| a. C0        | PROJECT LOCATION PLAN                 |
| b. C1.0-C1.8 | EXISTING CONDITIONS & CROSS SECTION   |
| c. C2.0-C2.4 | PROPOSED OPERATIONS                   |
| d. C3.0-C3.4 | END USE PLAN                          |
| e. C4.1-C4.2 | STORM WATER POLLUTION PREVENTION PLAN |
| f. C5.1-C5.2 | STORM SEWER PLAN STORM SEWER PLAN     |
| g. C6.0      | LANDSCAPE PLAN                        |

(the "Site Plans"); and

**WHEREAS**, the Planning Commission of the City did on October 28, 2019 conduct a public hearing in relation to the Developer's request for an interim use permit; and

**WHEREAS**, the Planning Commission of the City did on December 19, 2019 recommend approval of the interim use permit to the City Council, subject to certain conditions; and

**WHEREAS**, the City Council has considered the proposed application for an interim use permit and it makes the following ***findings of fact***:

***Application***

1. The Operator submitted an application (“Application”) for an interim use permit for an aggregate mine for the Subject Property.
2. The Subject Property consists of approximately 155 acres.
3. The Subject Property is bordered on the north by the City of St. Michael, on the east by the Crow River, on the south by agricultural land, and on the west by a single-family residential neighborhood and River Road.

***Review Process***

1. The City determined the Application of the Operator was complete for purposes of MINN. STAT § 15.99 as of September 27, 2019.
2. Following appropriate published and mailed notice, a public hearing was held by the Planning Commission on October 28, 2019.
3. The Planning Commission, following receipt of public comments and deliberation on the proposed Application, recommended approval of the interim use at their December 19, 2019 meeting, subject to certain conditions.
4. These findings and resolution are based upon the Council Memo dated March 5, 2020 and the Staff Reports/Memos (“Staff Memos”) prepared by WSB dated March 4, 2020, and all documents referenced in the memo and the staff report, the favorable recommendation of the City Planning Commission, and such additional information and documentation which is presented to the City Council on March 9, 2020 which will be the subject of a separate list prepared by the City Planner following the March 9, 2020 meeting.

***Comprehensive Plan***

1. The City’s current Comprehensive Plan (“Comp Plan”) was adopted in 2018 pursuant to Minnesota Statutes Section 473.85.
2. The Comp Plan guides the Subject Property for Neighborhood Residential uses.

***Subject Property Zoning***

1. The property is currently zoned R-1.

2. Mining may be permitted as in interim use in the R-1 zoning district.
3. The Zoning Ordinance prescribes numerous standards to be applied to mining operations, which have been reviewed by the City Engineer and City Planner and for which conditions in an Interim Use Permit can ensure compliance.

#### ***Environmental Assessment Worksheet***

1. An Environmental Assessment Worksheet was prepared for the Subject Property, with the City Council adopting Resolution No. 09-17-19-77 making a negative declaration on the need for an Environmental Impact Statement on September 17, 2019. The Environmental Assessment Worksheet is incorporated herein by reference.

#### ***Traffic and Street Improvements***

1. The Subject Property currently receives access via a private easement across another property to the intersection of River Road and 15<sup>th</sup> Street.
2. The Zoning Ordinance requires that “Haul routes on city collector roads shall be identified and shall be located in a manner that provides the closest proximity from a haul road to the nearest county or state road. The city collector road designated as the haul route must be constructed as 10-ton roads. In the event that a collector road does not meet these requirements, the project proposer shall upgrade the roads at their sole expense”.
3. 15<sup>th</sup> Street from the intersection of River Road to the intersection of CSAH 19 is the shortest distance from the Subject Property to a county or state road. This section of 15<sup>th</sup> Street does not meet 10-ton standards. The July 2019 Pavement Management Report prepared by WSB identified a pavement rating of “poor” for this road. Maintenance recommendations in the Pavement Management Report for a road with a “poor” rating would be for a full reconstruct.
4. This collector road is currently a rural section with no pedestrian facilities, causing residents who live in the neighborhoods adjacent to 15<sup>th</sup> Street to walk on the road or shoulder.
5. There is an expired Interim Use Permit for a portion of the Subject Property consisting of approximately 37 acres. Under that Interim Use Permit, it was assumed that mining operations would be completed by the current time allowing for 15<sup>th</sup> Street to receive a full road reconstruction as an urban section with stormwater and pedestrian facilities.
6. To support the proposed application for expansion of mining operations, a less extensive “reclaim and repave” project is proposed by the Operator rather than the full road reconstruction in order to reduce costs. The City Engineer has reviewed

this concept and has indicated that a “reclaim and repave” project could bring the road to a 10-ton standard subject to a preparation of plans and specifications and testing of existing sub-grade conditions.

7. The City of Hanover identifies a proposed trail on 15<sup>th</sup> Street in its Comprehensive Plan as a future need, but does not have a 15<sup>th</sup> Street reconstruction project in its Capital Improvement Program at this time. Full reconstruction of 15<sup>th</sup> Street was intended to be planned for following the completion of mining operations as the mining use results in large numbers of heavy trucks that result in more rapid degradation of the road condition than typical wear and tear.
8. The interim “reclaim and repave” project may address driving lane improvements, but does not address safety and multi-modal use concerns of 15<sup>th</sup> Street. Increasing home development in the area has resulted in increased pedestrians and bicyclists utilizing 15<sup>th</sup> Street. The Comprehensive Plan also plans for additional residential development in Hanover over the next 20 years.
9. Significant public comment has been received related to the safety of pedestrians and bicyclists sharing the road with commercial/industrial traffic. The installation of a trail on the south side of 15<sup>th</sup> Street between CSAH 19 and River Road would mitigate the safety concern.
10. A traffic impact analysis was prepared by the Operator as part of the Environmental Assessment Worksheet. The traffic impact analysis made recommended that a westbound right-turn lane at the CSAH 19 and 15<sup>th</sup> Street NE intersection be constructed.

#### ***Surface Water Management***

1. Various surface water management improvements are required to be constructed to support the mining operations of the Subject Property.
2. A surface water management maintenance agreement must be entered into between the Operator and the City to ensure the improvements are constructed and maintained in accordance with applicable regulations. The Operator will be solely responsible for the construction and maintenance of the surface water infrastructure.

**THEREFORE, BE IT RESOLVED**, the interim use permit is approved subject to the following conditions:

1. The Findings set forth above are incorporated into this Resolution as though set out in full.

#### **I. GENERAL CONDITIONS**

**A. Legal Compliance:**

2. Prior to the start of any activities and initial work at the Subject Property and prior to the start of each year's operations, Fehn Companies, Inc. and Hanover Aggregates, LLC hereinafter "Operator," "Permittee," or "Permit Holder" shall obtain any required Federal, State, County, City and other local permits for each operation and/or construction activity, including, but not limited to, from the Minnesota Pollution Control Agency ("MPCA"), Minnesota Department of Natural Resources ("DNR"), Minnesota Department of Health ("MDH"), City, and any other applicable government agency, as applicable to each operation and/or construction activity. Operator shall submit evidence of having obtained all required permits to the City for its review and approval, prior to any Mining Operations (as hereinafter defined).

Further, prior to the start of each year's operations, the City shall review Mining Operations to determine continued compliance with specific IUP requirements. Except where life safety issues exist, in which case no written notice is required, if the City determines that work on the Subject Property does not comply with specific IUP requirements, the City shall provide written notice to the Permit Holder specifying any asserted non-compliance and the Permit Holder shall have twenty-one days from the date of such notice to cure any asserted non-compliance. In the event the City determines that Permit Holder has not remedied the specified non-compliance upon expiration of such cure period, then the City may, at its option, refuse to allow continued Mining Operations under this IUP until the Permit Holder so complies and/or take any other action allowed by law. Upon the City's demand, the Permit Holder shall cease all work until there is compliance as reasonably determined by the City. All costs of the City associated with any permit review and submission of monitoring reports to the City shall be the sole responsibility of the Permit Holder.

3. Permit Holder shall comply with all applicable Federal, State, and City ordinances, statutes, rules, regulations and permits including, but not limited to, those of the U.S. Army Corps of Engineers ("Corps"), Environmental Protection Agency ("EPA"), MPCA, MDH, DNR, and other regulations and standards applicable to the mining operation ("Regulatory Authorities").
4. The IUP for aggregate mining and processing operations shall comply with the plans and mining narrative collectively referred to as the "Approved Plans" which are all incorporated herein by reference. The Operator may request modifications, as appropriate, to the Approved Plans so long as such modifications continue to substantially comply with the Approved Plans. All modification requests must be made to the City in writing. City staff shall have the sole authority and discretion to determine whether changes requested by the Operator substantially comply with the Approved Plans. If the Approved Plans vary from the written terms of this IUP, the terms that are the most conservative and restrictive shall control unless otherwise agreed to in writing by City staff. The Approved Plans are as follows (revision date of February 19, 2020):

a. C0

PROJECT LOCATION PLAN

- |              |                                       |
|--------------|---------------------------------------|
| b. C1.0-C1.8 | EXISTING CONDITIONS & CROSS SECTION   |
| c. C2.0-C2.4 | ROPOSED OPERATIONS                    |
| d. C3.0-C3.4 | END USE PLAN                          |
| e. C4.1-C4.2 | STORM WATER POLLUTION PREVENTION PLAN |
| f. C5.1-C5.2 | STORM SEWER PLAN STORM SEWER PLAN     |
| g. C6.0      | LANDSCAPE PLAN                        |

**B. Permit Review:**

1. This IUP shall be reviewed periodically, as provided by the City Zoning Ordinance and may be amended at any time as allowed by applicable laws, ordinances, and regulations in the event that the City Council, through the proper public hearing process as provided for in the Zoning Ordinance, reasonably determines that the actual operations of the mine on the Subject Property present a material adverse impact to health and/or human safety that relates specifically to the Mining Operations on the Subject Property and is not able to be addressed or mitigated through the Approved Plans identified above or the provisions of this IUP.
2. Prior to February 1 each year, Operator shall prepare an Annual Certificate of Permit Compliance for the mine on the Subject Property for submission to the City.
3. Any Operator proposed modifications to Approved Plans required in this IUP shall be included in the Annual Certificate of Permit Compliance and shall not take effect until such proposed modifications to the Approved Plans are approved in writing by the City

**C. Incorporation of Environmental Assessment Worksheet & Environmental Impact Statement:**

1. The Environmental Assessment Worksheet (“EAW”) and comments related to the use of the Subject Property for Mining Operations and impacts on the Subject Property and surrounding areas received were reviewed by the City Council on September 17, 2019. The City Council considered the comments and staff response to comments and the proposed Findings of Fact and Conclusions and determined that the EAW was adequate and approved a negative declaration on the need for an Environmental Impact Statement. The EAW, comments, staff responses to comments, and Finding of Fact and Conclusions presented to and adopted by the Board on September 17, 2019 are hereby incorporated by reference to be used as an evidentiary document that outlines potential traffic and environmental issues. The Operator will use these documents as a resource when working with the appropriate agencies in permit applications and in the event that any findings outlined in the documents become realized.

**D. Costs:**

All costs associated with permit review and testing and preparation for and submission of monitoring reports to the City and any other Regulatory Authority requesting monitoring reports shall be the sole responsibility of the Operator. All costs associated with



remediation activities and development and operation of the site in compliance with the Approved Plans shall also be the sole responsibility of the Operator.

Operator shall reimburse the City for all administrative, legal, planning, engineering and other professional costs incurred in the creation, administration, execution and approval of this IUP prior to any Mining Activities commencing on the Subject Property. Further, Operator shall reimburse all reasonable engineering expenses incurred by the City in designing, approving, constructing, installing, and inspecting the road rights-of-way and other infrastructure improvements described in the Approved Plans.

All unpaid EAW or IUP escrows owed to the City, if any exist, shall be paid prior to any Mining Activities commencing on the Subject Property. The Operator shall maintain a \$5,000 escrow to cover City staff and consultant time reviewing and responding to all monitoring reports and testing throughout the duration of this IUP.

Any invoice from the City shall be paid by the Operator within 30 days of invoice date.

**E. General Conditions:**

1. Operator shall identify in writing an officer within the company, together with his or her title and 24-hour contact information, for the City or for any Regulatory Authorities to contact regarding concerns regarding the operations of the mine, or this IUP. The assigned person shall respond to all non-emergency inquiries during normal business hours, within 48 hours of being notified of the inquiry. Inquiries deemed to be an emergency by the City shall be responded to immediately.
2. This IUP is issued specifically to Fehn Companies, Inc and Hanover Aggregates, LLC.
3. Mining, as allowed by this IUP, shall be limited to dirt moving, berm construction, pond construction, overburden removal, drilling, stripping, filling, digging, dredging, crushing, screening, processing of mined aggregate as defined in MS § 298.75, subd. (a) , processing and stockpiling of recycled concrete and asphalt, crushing and washing aggregate, loading and on-site movement of materials, clearing, sodding, mobilization of equipment; import material and stockpile; and sale and removal of sand, aggregate, recycle material and topsoil (collectively the "Mining Operations"). Any activity not included in the prior sentence shall require an amendment to the IUP. Mining Operations does not include the initial starting of equipment to warm it up. Temporary buildings may be permitted in accordance with the Zoning Ordinance.
4. All signage on the Subject Property shall conform to the City Zoning Ordinance.
5. The Subject Property shall be maintained in a neat and orderly manner.
6. All mobile equipment, vehicles and miscellaneous storage associated with the Mining Operations on the Subject Property shall be screened from view of surrounding properties . Only equipment used in the Mining Operations shall be allowed to be stored on the Subject Property.

7. Stockpiled topsoil shall remain on the property in an amount sufficient to re-spread not less than six (6) inches across the entire property.
8. The Operator shall provide to Wright County the appropriate quarterly reports and payments due for aggregate production tax “gravel tax” in accordance with MS §298.75. Any report and payment not received by Wright County within fourteen days following the end of each quarter shall be subject to penalties pursuant to MS § 298.75, subd. 5.
9. The Operator shall pay a Road Use Fee of \$.05 per cubic yard of material directly to the City. This fee shall be paid for all material exported from the site, and shall also be paid for trips that bring recyclable materials to or from the site for recycling, processing and crushing.
10. A hazardous waste license shall be obtained if required by Wright County. Best Management Practices shall be implemented limiting onsite maintenance of equipment.
11. Truck traffic shall be limited to an average of 97 trucks [round trip hauls] per operational day (Monday through Friday not including holidays or as per City Zoning Ordinance requirements) and as averaged over each quarter (Jan – March, April – June, etc.). The Operator shall provide quarterly reports to the City of Hanover showing the daily number of trucks entering and leaving the Subject Property. Quarterly reports shall be provided within fourteen days following the end of each quarter. The City may request copies of logs, load tickets or other materials at its discretion to verify compliance with this section which information shall be provided by the Operator to the City within five (5) business days.
12. Truck traffic shall comply with the haul route approved, which shall be 15<sup>th</sup> Street to CSAH 19. Truck traffic and hauling activities are not permitted on 15<sup>th</sup> Street until 15<sup>th</sup> Street has been reconstructed to a 10-ton standard and the westbound right-turn lane has been installed, and may commence when the reconstructed road is substantially complete in the sole determination of the City Engineer. A temporary haul route is approved which shall be River Road and 5<sup>th</sup> Street and use of the temporary haul route shall cease when either 15<sup>th</sup> Street has been completed or October 15, 2020, whichever is earlier.
13. 15<sup>th</sup> Street shall be improved to meet a 10-ton standard, with an 8-foot trail on the south side of 15<sup>th</sup> street between CSAH 19 and River Rd NE and a westbound right-turn lane at the intersection of 15<sup>th</sup> Street and CSAH 19 (collectively the “15<sup>th</sup> Street Improvements”). The 15<sup>th</sup> Street Improvements shall be constructed at the sole expense of the Operator except that the City shall reimburse the Operator \$100,000 from the Mahler Pit 15<sup>th</sup> Street Improvement Fund following final inspection and City acceptance of the 15<sup>th</sup> Street reconstruction to a 10-ton standard and the westbound right-turn lane. . The Operator shall submit plans for all of the 15<sup>th</sup> Street Improvements for the review and approval by the Cities of Hanover and St. Michael, and no work shall proceed on any of the 15<sup>th</sup> Street Improvements until authorized by the City Engineer to proceed following approval of plans and receipt by the City of the letter of credit. The drive-lane improvements to 15<sup>th</sup> Street including the turn lanes shall be completed, including turf establishment, no later than October 15, 2020. The trail improvements

shall be completed, including turf establishment, no later than July 24, 2021. Related to the 15<sup>th</sup> Street Improvements, if inspection services are not provided by the City of St. Michael without charge, then the Operator shall be required to pay for the cost of inspection services as provided by either the City of St. Michael or the City of Hanover. The Operator shall enter into an Agreement with the City and provide a letter of credit acceptable to the City Attorney in an amount estimated by the City Engineer for the completion of the improvements. The letter of credit is to be provided by the Operator prior to commencement of construction of the 15<sup>th</sup> Street Improvements.

14. Prior to accepting fill material onto the Subject Property, the Operator will identify the source of imported material and assess the potential for contamination. This assessment will include, at a minimum, contacting the source site owner/operator to ascertain whether any known contamination exists and reviewing available environmental documents (Phase I ESA, etc.). If the assessment suggests that contamination may be present, the Operator shall promptly notify the City and the City may require sampling and laboratory analysis of the soil to demonstrate compliance with the Soil Reference Value (SRV) limits prior to the material being unloaded at the Subject Property. [SRVs are numerical values representing the amount of chemical in soil that is safe for people who use the site. These values are determined by the MPCA using calculations provided by the US EPA]. The reclamation fill cannot contain chemical constituents of concern that exceed the limits specified for the MPCA's Tier I SRV. Documentation of investigation and test results of imported fill that is subject to testing as noted above will be provided to the City within ten days of the Operator receiving the environmental review documents or test results.
15. Excavated soils and imported soils to be used for site reclamation must be stockpiled outside of the 100-year floodplain and protected from erosion to preclude sediment impacts on the Crow River.
16. All solid or hazardous waste generated on the Subject Property shall be properly disposed of per the requirements of Regulating Authorities. No dumping of solid or hazardous waste materials will be allowed at the Subject Property.
17. Prior to commencement of Mining Operations in Phases 2 through 5 or October 1, 2020, whichever comes first, Operator shall install screening, approved by the City, which includes vegetation and berms as shown on the Approved Plans to screen the Mining Operations from public view. Installation of screening shall be as set forth in the Approved Plans so as to screen Mining Operations from public view to the extent reasonably possible. The screening shall remain in place at all times until Mining Operations cease.
18. At such time as adjacent properties are being developed for residential purposes (if this occurs), the perimeter berms shall be installed within one year of the date the City of Hanover executes a development agreement for an adjacent property. Stockpiles shall not exceed 30 feet in height and shall be maintained in such locations that they are not visible from public roadways or adjacent residential properties.

19. This IUP does not authorize the production of asphalt or concrete on the Subject Property.
20. Issuance of this IUP does not preclude the City from, in the future, adopting ordinances, rules and standards which are more stringent than those in place as of the issuance of this IUP and enforcing such ordinances, rules and standards.
21. If any provision(s) of this IUP is determined to be unenforceable by a court of competent jurisdiction, the remaining provisions shall remain valid and enforceable.
22. Issuance of this IUP does not release the Operator, its successors and assigns, from any applicable obligation, duty, liability, or penalty imposed by law, statute, ordinance, rule, or regulation, except the obligation to obtain this IUP.
23. The issuance of this IUP does not create, and the City does not assume, any liability for damages to persons, property or the environment caused by the activities of the Operator, its successors and assigns, on the Subject Property, including any activities or operations undertaken pursuant to this IUP.

## **II. MINE OPERATIONS**

### **A. Setbacks:**

Mining Setbacks: For the Subject Property, Mining Operations, including removal of overburden, shall be setback a minimum distance as described below, except for where the City has approved a lesser distance on the northern border of the subject property to blend the Mining Operations into the existing Mining Operations in the City of St. Michael.

1. Material processing including recycled concrete and asphalt shall not be conducted within 250 feet from a property line nor within 500 feet to any residential structure.
2. Mining Operations shall not be conducted closer than two hundred (200) feet to any residence or residential zoning district boundary existing on the approval date of the Interim Use Permit.
3. Mining Operations shall not be conducted within one hundred (100) feet of any property line, or within one hundred (100) feet of the right-of-way line of any existing or proposed street. Side slopes of the Mining Operations shall be in conformance with the Approved Plans.
4. Crushing of recycle material shall only be permitted in the location shown on the Approved Plans as Phase I.

### **B. Hours of Operation:**

1. All Mining Operations on the Subject Property and entry and exit of trucks hauling materials shall be permitted on Monday through Friday from 7:00 A.M. to 7:00 P.M.

2. Mitigation measures necessary to control fugitive dust and other nuisances may be conducted at any time, including weekends and holidays and in accordance with the Approved Plans.

**C. Noise:**

1. The Operator shall obtain a noise analysis by a third-party qualified noise consultant approved by the City at the request of the City after Mining Operations begin and when processing equipment is less than five hundred (500) feet from a noise receptor to ensure that State noise standards are met. The City may require additional noise analysis at Operator's expense. The noise analysis will be submitted to the MPCA and the City.
2. Use of all production equipment in the Mining Operations at the Subject Property will be designed to meet the Federal and MPCA noise standards at the nearest receptor. The Operator will be notified in the event City staff receives a complaint regarding noise generated by Mining Operations. The Operator shall address all noise violations within 24 hours and report back to the City.
3. Operator shall exercise its best efforts to control noise to minimum practical levels. Backup horns, bells, strobe lights, and other warning devices shall be adjusted to the minimum level required by law. Further, Operator shall use broadband or white noise backup alarms on all of its mobile equipment.

**D. Air Emissions Permit:**

If required by the MPCA, a Total Facility Operating Permit for Mining Operations located on the Subject Property shall be secured before Mining Operations commence. Operator shall comply with all terms and conditions of such permit.

**E. Inspections:**

The Subject Property and Mining Operations shall be available for inspections by the City, within normal company working hours (7:00 A.M. to 7:00 P.M. Monday through Friday). Any inspectors must identify themselves to an employee of the Operator before entering onto the Subject Property and must be escorted by an employee of the Operator at all times to ensure the safety of the inspectors. Inspectors shall receive hardhats, safety glasses and reflective vests from the Operator upon arrival. Inspectors will be required to provide all other safety equipment they may desire or that may be required in compliance with the applicable State and Federal laws and regulations.

### **III. SURFACE WATER QUALITY AND QUANTITY**

#### **A. Surface Water Quality:**

1. The Operator shall enter into an Agreement for the Maintenance of On-Site Stormwater Treatment Facilities, the form of which shall be approved by the City Engineer and City Attorney.
2. Operator shall comply with all provisions of its National Pollutant Discharge Elimination System (NPDES) Permit (as amended, replaced or renewed by the MPCA) for the Subject Property and the Mining Operations thereon. A copy of the current construction storm water and/or industrial storm water/NPDES permit(s) shall be provided by Operator to the City to be kept on file for review by City officials or the public.
3. Storm water runoff from the Subject Property to surrounding properties shall not exceed predevelopment runoff rates based on 2, 10, and 100-year storm events. All areas used to convey storm water runoff shall be covered by permanent, dense vegetative cover or other permanent structural controls.
4. Operator shall implement, during all phases of the project, all applicable Storm Water Management Best Practices (BMPs), as may be necessary, to protect surface water quality. These BMPs include, but are not limited to, the following:
  - a. All berms shall be seeded with vegetation as defined in the Approved Plans & NPDES permit in a timely manner after completion of berm construction.
  - b. Reclamation shall proceed in accordance with the Approved Plans in a continuous manner consistent with the phasing of Mining Operations on the Subject Property.
  - c. Stormwater ponds and infiltration areas shall be constructed within the mining area as identified in the Approved Plans.

### **IV. WATER QUALITY AND QUANTITY**

1. Dewatering of the mine is not allowed.
2. Mining Operations shall not be closer than ten feet to the water table except for construction of stormwater ponding as shown on the Approved Plans.
3. Operator shall provide a copy of the Annual Report required in the Industrial Stormwater permit to the City by February 1 of each year.
4. Petroleum or chemical storage tanks and equipment.
  - a. No diesel or petrochemical powered dredging equipment shall be located in the flood plain to prevent contamination from diesel leaks, spills, and exhaust.

- b. No petroleum based or chemical products shall be stored in the 100-year flood plain including petroleum fuel tanks on mobile equipment.
  - c. Fueling stations, vehicle maintenance stations, petroleum and chemical storage shall be conducted in compliance with MPCA requirements. MPCA required liners and spill cleanup equipment shall be available onsite at all times. Petroleum products such as diesel fuel will be stored onsite in a double-walled 500-gallon above-ground fuel tank. Small amounts of other liquid lubricants (grease, lubricating oils, etc.) will be stored onsite in a closed, lockable container such as a semi-trailer. Fuel tank and storage container will move with aggregate processing equipment. If petroleum products are spilled onsite, the applicant will immediately respond to the spill with absorbent materials and other clean up equipment to contain the spill. Any spill contaminated aggregate materials will be removed from the site and deposited in an MPCA approved facility. All spills must be reported to the City, Wright County and the MPCA.
  - d. Below ground petroleum or chemical storage tanks shall be prohibited.
5. All waste oil products shall be properly recycled.
  6. All minimum setbacks, as prescribed by the MPCA and the MDH shall be observed between water wells and petroleum or chemical storage tanks or other potential contaminant sources.

## V. RECLAMATION

### A. Reclamation Plan:

1. Reclamation shall comply with the Approved Plans.
2. When mining is complete or Mining Operations have ceased for 180 consecutive days in any phase, a registered civil engineer, retained at Operator's expense, shall certify to the City that the Subject Property has been restored in accordance with the Reclamation Plan included within the Approved Plans.
3. Operator shall be ultimately responsible for all means and methods utilized in the implementation of all mining, processing and reclamation plans. Reclamation fill within areas designated as building pads and roadways will be compacted in lifts to at least 95 percent of Standard Proctor maximum dry density.
4. At the conclusion or interruption of the Mining Operations for more than 180 consecutive days, all processing facilities and equipment shall be removed from the Subject Property. Security for reclamation, as increased over time to reflect inflation or decreased over time to reflect completed reclamation activities, shall remain in place until all processing facilities and equipment are removed.

## **B. Reclamation Standards:**

1. Reclamation shall be conducted in the general sequence and manner as described in the Approved Plans
2. Reclamation shall be on-going with back filling of areas and establishment of vegetation proceeding as soon as practical after a mining area has been completed.
3. Operator shall report all reclamation activities in the Annual Certificate of Permit Compliance. Reclamation security will be reviewed annually and can be amended based on inflation or reclamation activities.
4. During reclamation, soil samples are to be taken and laboratory tested to confirm compliance with the Soil Reversion Value (SRV) limits established by the MPCA. The reclamation area shall be randomly sampled using a 300ft x 300ft grid system. At each grid location a soil sample is to be obtained for each 3 vertical feet of imported fill material. Copies of test locations and test results are to be submitted to the City. Fill material not in compliance with the SRV limits shall be removed from the site and replaced with acceptable material. Additional testing shall be completed as necessary to confirm complete removal of non-compliant material.
5. Operator shall, at its expense, engage a geotechnical engineer to design and periodically observe the reclamation backfilling and monitoring processes for future building sites. The geotechnical engineer shall provide reports on such activities to the Operator and City.
6. At the conclusion of the reclamation process the Operator's geotechnical engineer must perform a post reclamation evaluation and certify to the City that the reclaimed areas are suitable for the future end use, as defined in the Reclamation Plan included in the Approved Plans for the Subject Property. In the case of future building sites and roadways, the geotechnical engineer must provide certification to the Operator and City that settlements shall not exceed 95 percent of Standard Proctor maximum dry density.

## **VI. FINANCIAL SECURITIES**

The Operator shall provide security for site reclamation in an amount initially established as \$169,125. The City shall require this security as a Letter of Credit in a form and content reasonably acceptable to the City in its determination. The amount of the security shall be reviewed annually and can be amended based on inflation or reclamation activities as determined by the City.

The Operator shall also provide a letter of credit letter of credit acceptable to the City Attorney in an amount estimated by the City Engineer for the completion of the 15<sup>th</sup> Street Improvements. The City shall require this security as a Letter of Credit in a form and content reasonably acceptable to the City in its determination. The amount of the Letter of Credit may be periodically reduced by the City as recommended by the City Engineer, but shall not be reduced to an amount less than 25% of the estimated project costs until the project has been accepted by the City.



**VII. PERMIT EXPIRATION**

**A. IUP Expiration:**

This IUP shall expire at the earliest event listed below:


1. This IUP is issued to a specific operator/owner. If the operator/owner changes from Fehn Companies, Inc. and Hanover Aggregates, LLC this IUP shall become void.
2. This IUP shall expire one (1) year from the date of issuance if the permit is not utilized.
3. This IUP shall expire upon the termination of Mining Operations and all reclamation conditions listed in Section V. have been completed to the satisfaction of the City.
4. This IUP shall expire if the NPDES Permit expires, or is revoked or terminated for cause by the MPCA.
5. This IUP shall expire if the IUP is revoked by the City for violations of the IUP's terms and conditions.
6. This IUP shall expire at the conclusion or interruption of the Mining Operations for more than one year and all reclamation conditions listed in Condition Section have been completed to the satisfaction of the City.
7. **This IUP shall expire twenty (20) years from the date of issuance.**

Adopted by the City Council this 9<sup>th</sup> day of March, 2020.

APPROVED BY:

  
\_\_\_\_\_  
Chris Kauffman, Mayor

ATTEST:

  
\_\_\_\_\_  
Brian Hagen, City Administrator

