
**FINANCING AGREEMENT
(Service Line Repairs)**

THIS FINANCING AGREEMENT (Service Line Repairs) (“**Agreement**”) is made and entered into by and among Aaron Kalstad and Jessica Kalstad (formerly Jessica Prebeck), husband and wife (jointly, “**Owner**”), the City of Grand Rapids, a Minnesota municipal corporation (“**City**”), and Grand Rapids Public Utilities Commission, a public utilities commission created under Minnesota Statutes, sections 412.321 to 412.391 (“**GRPUC**”). This Agreement is effective as of the signature date of the party who is last to execute this Agreement (“**Effective Date**”).

RECITALS

A. Owner owns that certain real estate located at 204 SE 3rd Ave, Grand Rapids, MN 55744, legally described on **Exhibit A** (“**Property**”).

B. The sewer service line (“**Service Line**”) connecting the main sewer line to Owner’s house on the Property has failed and is need of immediate repair.

C. Repairing or replacing the Service Line, and all costs related thereto, is the sole responsibility of Owner.

D. Owner does not have the expertise to manage the repair of the Service Line.

E. Owner does not have the financial ability to pay for the cost to repair the Service Line. Owner has met with local banks and they have been unwilling to finance the cost to repair the Service Line. Owner has also confirmed that Owner’s homeowner’s insurance does not provide coverage for the Service Line repair.

F. By Proposal dated June 24, 2022, TNT Construction Group, LLC, estimated that the cost to repair the Service Line would be \$16,900.

G. The failure of the Service Line is a health and safety issue, and GRPUC and the City deem its repair to be necessary for the proper and efficient operation of the Grand Rapids sewer system and related infrastructure. As a result of this, GRPUC and the City are willing to assist Owner with managing and financing the repair of the Service Line according to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, undertakings, representations and warranties contained herein, the adequacy and receipt of which are hereby acknowledged by the parties, and subject to the conditions hereinafter set forth, the parties agree as follows:

AGREEMENT

1. **Recitals Incorporated.** The Recitals set forth above are incorporated into and are made a part of this Agreement.

2. **Responsibilities of GRPUC.** In conformance with its Procurement Policy and applicable law, and after the City has complied with any special assessment procedures required to occur prior to letting a contract, GRPUC will enter into a contract (“**Repair Contract**”) with a contractor (“**Contractor**”) to repair the Service Line (the “**Project**”) and will work with the Contractor to manage the Project. Subject to the requirements of its Procurement Policy and applicable law, GRPUC may hire the Contractor it deems appropriate for this Project, provided that the Contractor is duly qualified and licensed to complete the Project in a good and workmanlike manner in conformance with applicable law. The terms of the Repair Contract will be at GRPUC’s reasonable discretion, and will likely be in the form of GRPUC’s standard form procurement contract. GRPUC will pay the Contractor pursuant to the Repair Contract. The Owner will at all times be ultimately responsible to pay the Repair Cost pursuant to Section 4, below.

“**Repair Cost**” means the entire amount owed to the Contractor under the Repair Contract, plus all ancillary costs incurred by GRPUC in relation to the Project, specifically including, without limitation, legal fees and other transaction expenses.

3. **Responsibilities of City.** The City will follow the procedures set forth in Minnesota Statutes, chapter 429, the Grand Rapids City Code, and other applicable law to impose a special assessment (“**Project Special Assessment**”) on the Property in the amount of the Repair Costs. It is anticipated that the Project Special Assessment (in the amount of the Repair Costs) will be payable by Owner to the City over a term of ten (10) years, with interest accruing at a rate of three percent (3.0%) per annum. The City will pay GRPUC the amount of any Project Special Assessment payment it receives from Owner or Owner’s successors within thirty (30) days of the City’s receipt of same.

4. **Responsibilities of Owner.** Owner agrees to do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as GRPUC and/or the City may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby, including, without limitation:

- a. Cooperating with GRPUC and the Contractor to complete the Project, and
- b. Cooperating with the City to impose the Repair Costs as a special assessment on the Property. Owner agrees to take whatever actions are necessary to expedite the special assessment process.

Notwithstanding anything else to the contrary, Owner agrees that Owner is ultimately responsible for the Repair Costs. As such, unless and until the Repair Costs are imposed as a special assessment on the Property, Owner will be directly liable to the City and/or GRPUC for the Repair Costs. If, for any reason, the Repair Costs are not successfully imposed on the Property as a special assessment, Owner will reimburse GRPUC and/or the City for the Repair Costs within thirty (30) days of a written demand for same. Once the Repair Costs are successfully imposed on the Property as a special assessment, Owner will pay the assessments under the terms set by the City Council.

5. **Representations and Warranties of Owner.** Owner represents and warrants to the City and GRPUC that:

- a. Owner is the owner of the Property, Owner has full legal power and authority to encumber the Property as herein provided, Owner has fee simple absolute title in the Property, and Owner does not need the consent of any third party to enter into this Agreement.
- b. Except as specifically stated in this Agreement, Owner is solely responsible for repairing and replacing the Service Line.
- c. Owner is unable to finance the Repair Costs and is unable to obtain third-party financing for the Repair Costs.
- d. The Project will directly benefit the Property and Owners and therefore, it is fair and reasonable for the Repair Costs to be assessed one hundred percent (100%) against the Property.

6. **Governmental Approvals.** The obligations of GRPUC and the City under this Agreement are subject at all times to receiving all necessary internal approvals.

7. **Insurance.** During the term of the Project, Owner, at its sole cost and expense, shall carry and maintain adequate liability, property and casualty insurance on the Property. Owner shall provide GRPUC with a Certificate of Insurance stating that the insurance policy is in force and effect and cannot be cancelled without at least sixty (60) days prior notification by the insurer. Neither GRPUC's failure to require or insist upon certificates changes Owner's responsibility to comply with the insurance specifications.

8. **Term.** This Agreement shall commence on the Effective Date and terminate upon the completion of the Project and the imposition of the special assessments against the Property.

However, the agreements, covenants, representations, warranties, and indemnity obligations of Owner under this Agreement shall survive the termination of this Agreement.

9. **Indemnification**. Owner shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless GRPUC and the City, and their respective commissioners, council members, officers, employees and agents, and save them harmless from and against any and all claims, damages, losses, liabilities, suits, judgments, actions, and all expenses (including attorneys' fees and disbursements) arising out of or relating in any way to the Project (unless arising from the gross negligence or intentional misconduct of GRPUC or the City), including, without limitation, any negligent or wrongful act, error or omission, or breach of contract by Owner or Owner's guests, invitees, heirs, successors, or assigns.

10. **Waiver of Consequential Damages**. In no event shall any party be liable under this Agreement to any other party or any third party for consequential, indirect, incidental, special, exemplary, punitive or enhanced damages, lost profits or revenues, or diminution in value, arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise.

11. **No Representations or Warranties by GRPUC or the City**. Owner acknowledges and agrees that neither GRPUC nor City has made any representation or warranty of any kind, oral or written, express or implied, or arising by operation of law, with respect to the Project or Contractor's performance thereof.

12. **Other Obligations**. Nothing in this Agreement shall affect the obligation of Owner or Owner's successors in interest to pay all usage and consumption fees charged by GRPUC or other governmental entities.

13. **General / Miscellaneous**.

a. **Notices**. Any notice or other communication to any party in connection with this Agreement shall be in writing and shall be sent by hand-delivery, email, fax, overnight courier, or United States mail (postage prepaid) addressed to the address set forth below. All periods of notice shall be measured from the date of delivery thereof if hand-delivered, from the date of sending thereof if sent by email or fax (effective upon confirmation of receipt), from the first day after the date of sending if sent by overnight courier, or from three (3) business days after the date of mailing if mailed. Any party may change such party's address for notices by notice given not less than ten (10) calendar days prior to the effective date of the change.

GRPUC
500 SE 4th Street
Grand Rapids, MN 55744
Attn: Julie A. Kennedy, GM
Email: jakennedy@grpuc.org

Aaron Kalstad
204 SE 3rd Avenue
Grand Rapids, MN 55744

City of Grand Rapids
420 N Pokegama Avenue
Grand Rapids, MN 55744
Attn: Tom Pagel
Email: tpagel@ci.grand-rapids.mn.us

b. Entire Agreement. This Agreement represents the only agreement between the parties concerning the subject matter hereof and supersedes all other prior agreements whether written or oral, relating thereto.

c. Recording. Either GRPUC or City may record this Agreement among the land records of Itasca County, Minnesota. The parties agree to make any changes in this Agreement which may be necessary to effect the recording and filing of this Agreement against the title of the Property.

d. Modification and Waiver. No purported amendment, modification, or waiver of any provision hereof shall be binding unless set forth in a written document signed by all parties (in the case of amendments or modifications) or by a party to be charged thereby (in the case of waivers). Any waiver shall be limited to the circumstance or event specifically referenced in the written waiver document and shall not be deemed a waiver of any other term hereof or of the same circumstance or event upon any recurrence thereof.

e. Governing Law. This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the internal laws of the State of Minnesota.

f. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never constituted a part hereof, and the remaining provisions shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance therefrom. Furthermore, in lieu of such illegal, invalid or unenforceable provision there shall be added automatically as part of this Agreement a legal, valid, and enforceable provision as similar in terms to the illegal, invalid, or unenforceable provision as may be possible.

g. Binding Effect. All terms of this Agreement are binding upon all heirs, successors, assigns, mortgagees, lien holders, trustees, receivers, or any other person or entity which shall succeed to any rights of Owner in the Property.

h. Counterparts; Electronic Signatures. This Agreement may be executed in separate counterparts with the same effect as if all signatures were on the same Agreement. For purposes of this Agreement, a telecopy, electronic, or facsimile Agreement and signature shall be deemed as, and shall serve as, an original Agreement and signature.

i. Attorneys' Fees. In the event of any litigation between the parties hereto with respect to this Agreement, the prevailing party (the party entitled to recover the costs of suit, at such time as all appeals have been exhausted or the time for taking such appeals has expired) shall be entitled to recover reasonable attorneys' fees in addition to such other relief as the court may award.

[Signature Pages Follow]

THIS DOCUMENT WAS DRAFTED BY:

Jacob K. Stonesifer

Johnson, Killen & Seiler, P.A.

230 West Superior Street, Suite 800

Duluth, MN 55802

Phone: 218.722.6331 | Fax: 218.722.3031

Email: jstonesifer@duluthlaw.com

IN WITNESS WHEREOF, the undersigned has executed this Agreement on the date set forth in the notary block.

Aaron Kalstad

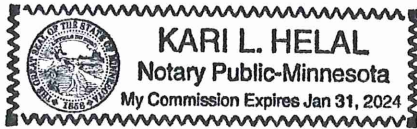
Aaron Kalstad

Jessica Kalstad (formerly Jessica Prebeck)

State of Minnesota, County of Itasca

This instrument was acknowledged before me on the 9th day of Sept, 2022, by Aaron Kalstad and Jessica Kalstad (formerly Jessica Prebeck), husband and wife.

(Stamp)



Kari L. Helal
(signature of notarial officer)

Title (and Rank): _____

My commission expires: 1/31/2024
(month/day/year)

[Signature Page of Aaron Kalstad and Jessica Kalstad (formerly Jessica Prebeck)
to
Financing Agreement]

IN WITNESS WHEREOF, the undersigned has executed this Agreement on the date set forth in the notary block.

City of Grand Rapids

By: _____

Its: _____

State of _____, County of _____

This instrument was acknowledged before me on the _____ day of _____, 2022, by _____, as _____ of the City of Grand Rapids, on behalf of the City of Grand Rapids.

(Stamp)

(signature of notarial officer)

Title (and Rank): _____

My commission expires: _____
(month/day/year)

**[Signature Page of City of Grand Rapids to
Financing Agreement]**

IN WITNESS WHEREOF, the undersigned has executed this Agreement on the date set forth in the notary block.

Grand Rapids Public Utilities Commission

By: _____

Its: _____

State of _____, County of _____

This instrument was acknowledged before me on the _____ day of _____, 2022, by _____, as _____ Grand Rapids Public Utilities Commission, on behalf of Grand Rapids Public Utilities Commission s.

(Stamp)

(signature of notarial officer)

Title (and Rank): _____

My commission expires: _____
(month/day/year)

**[Signature Page of Grand Rapids Public Utilities Commission
to
Financing Agreement]**

Exhibit A

Legal Description of Property

Real property in Itasca County, Minnesota legally described as follows:

Lots 1 and 2, Block 56, and the South 30 feet of vacated Second Street Southeast lying adjacent to said Lot 1, Town of Grand Rapids, Itasca County, Minnesota.