MEMORANDUM OF UNDERSTANDING

CITY OF DULUTH

HALLETT DOCK NO 7 LLC.

This Memorandum of Understanding ("MOU"), is entered into on April   , 2024 between David Montgomery ("Montgomery"), as Chief Administrative Officer of the City of Duluth (the "City"), and Hallett Dock 7, LLC, a limited liability company under the laws of the State of Minnesota ("Hallett").

WHEREAS, Hallett owns and operates the property and facility known as "Hallett Dock No. 7," as generally shown on attached Exhibit A (the "Dock"), which is generally used as a commercial interface facility between marine, rail, and road commerce in the Duluth Harbor; and

WHEREAS, the Dock walls have deteriorated and need substantial renovation; and

WHEREAS, the U.S. Army Corps of Engineers seeks dredge spoils depository facilities from dredging operations in the Duluth Harbor; and

WHEREAS, in Resolution No. 24-0299R, dated April 22, 2024, the City agreed to apply as sponsor for a Maritime Administration, Port Infrastructure Development Program Grant in the amount of up to $16,817,000 (the "Grant") to refurbish the Dock and provide dredge spoils depository facilities (the "Project"); and

WHEREAS, if the Grant is awarded and accepted by the City Council, the City and Hallett intend to enter into an agreement with the following minimum terms and conditions; such agreement must be submitted to and approved by the City Council to become effective.

NOW THEREFORE, Montgomery and Hallett agree that:

1.   <u>City sponsors and administers Grant</u>. The City shall apply as sponsor of the Grant and serve as sponsor of the Grant if awarded. Sponsorship shall include: serving as fiscal agent for the Grant; overseeing Project design and construction administration; bidding and awarding the bid for Project construction; administering Grant funds, matching funds, and administrative fee; and disbursing Grant funds as provided for in Project-related contracts.

2.   <u>Hallett provides matching funds and excess funds</u>. Hallett will provide the local matching share required by the Grant and pay the matching share funds to the City for administration and disbursement. In addition, Hallett will reimburse the City for all other Project costs incurred or owed by the City that exceed the total of Grant funds, matching funds, and administrative fees.

3.   Hallett provides certain services. Hallett agrees to contract for and directly pay all costs of all Project engineering services, including but not limited to: design fees; environmental and soils testing; materials testing; and construction supervision.

4.   Hallett pays administrative fee. Hallett will pay the City an administrative fee to cover the City's Project-related costs, both out-of-pocket and internal costs. These costs include but are not limited to, staff time, and the costs of using City equipment and services. Such costs are currently estimated at three percent (3%) of the entire Project cost, however, the final amount of such costs will be determined in a manner detailed in the subsequent agreement described in Paragraph 5 below. If allowed under the Grant, the City may retain a proportionate share of the Grant proceeds to reimburse itself for such costs and Hallett agrees to reimburse the City for the local matching proportion of such costs; if not allowed under the Grant, Hallett agrees to pay the entire administrative fee to the City.

5.   Subsequent agreement required. This MOU sets forth minimum terms to be incorporated into a subsequent agreement negotiated between the City and Hallett after a Grant award is made and accepted by the City. The subsequent agreement is dependent on approval by the City Council.

6.   Authorized signatory. The party executing this MOU on behalf of Hallett represents they are authorized to sign on behalf of Hallett.

        IN WITNESS WHEREOF, the parties have set their hand the day and date first above shown.

David Montgomery   HALLET DOCK 7 LLC., a Minnesota
Chief Administrative Officer   Limited Liability Company
City of Duluth

_____   By: _____

                                    Printed name: _____

                                    Its: _____