



MAYOR AND COUNCIL COMMUNICATION

DATE: 3/19/2013

**REGULAR**

ITEM #: 12

**RESOLUTION**

**AGENDA ITEM:** Section 34 (Lennar Area) Water and Sewer Utility Extension Improvements – Resolution No. 2013-22 Declaring Adequacy of Petition; Approving Preliminary Fee Agreement; Ordering Preparation of Feasibility Report and Preparation of Plans and Specifications; and Approving Engineering Services Agreement

**SUBMITTED BY:** Jack Griffin, City Engineer

**THROUGH:** Dean A. Zuleger, City Administrator

**REVIEWED BY:** Adam Bell, City Clerk  
Cathy Bendel, Finance Director  
Dave Snyder, City Attorney  
Kyle Klatt, Planning Director

**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to consider approving Resolution No. 2013-22 Declaring Adequacy of Petition; Approving Preliminary Fee Agreement; Ordering Preparation of Feasibility Report and Preparation of Plans and Specifications; and Approving Engineering Services Agreement for the Section 34 (Lennar Area) Water and Sewer Utility Extension Improvements.

**STAFF REPORT:** The City of Lake Elmo received a Petition, pursuant to Minnesota Statute 429, requesting the extension of trunk watermain and sanitary sewer facilities to serve the properties that will be a part of the Lennar development and the surrounding undeveloped properties located in the south half of Section 34, Township 29 North, Range 21 West.

The improvements would consist of trunk watermain, extending from the Eagle Point Business Park to the first Phase of the proposed Lennar development; a sanitary lift station located in the vicinity of Hudson Boulevard and Keats Avenue with a connecting Forcemain along Hudson Boulevard to the existing sewer line in the Eagle Point Business Park; and a trunk gravity sewer from the lift station site to the first Phase of the proposed Lennar development. For the sole purpose of establishing the order of magnitude of the proposed Project, a preliminary estimate of the total project cost is \$800,000 to \$1,500,000.

The Petition has been reviewed and certified by the City Clerk to represent at least 35%, but less than 100%, of the properties to be benefitted by the requested improvements (see attached Petition for Local Improvements and Petition Map). The Petition has also been signed by Lennar Corporation since portions of the subject property are under contract for purchase by Lennar for the purposes of platting a single-family and multi-family residential development.

Upon receipt of the request, staff worked with Lennar to better understand the scope of the improvements requested and the desired schedule to implement the Project (see attached Project Schedule). Staff also retained a work scope and fee proposal from Bolton and Menk, Inc. for engineering services related to the Feasibility Report and project design.

Should the Council choose to accept the petition and undertake the preliminary consideration of the Public Improvements, the City will incur costs prior to gaining certainty of being able to recover these costs. These costs include Professional Engineering and Legal Services to prepare a Feasibility Report, preparation of Plans and Specifications, and other related matters. To protect the City against this uncertainty, staff has prepared, and Lennar Corporation has agreed to execute a Preliminary Fee Escrow Agreement requiring Lennar to deposit a sufficient escrow amount to cover the estimated fees for Professional Services in connection with the project, and to replenish the escrow upon request of the City.

Upon completion of the Feasibility Report, which will include the proposed project assessment methodology and the preliminary assessment amounts for each subject parcel, the City will request from each parcel an Agreement of Assessment and Waiver of Irregularity and Appeal. Receipt of this agreement provides the City with certainty of recovering all costs apportioned to that property through the levy of the assessment.

**RECOMMENDATION:** Staff is recommending that the City Council consider approving Resolution No. 2013-22 Declaring Adequacy of Petition; Approving Preliminary Fee Agreement; Ordering Preparation of Feasibility Report and Preparation of Plans and Specifications; and Approving Engineering Services Agreement for the Section 34 (Lennar Area) Water and Sewer Utility Extension Improvements.

**ATTACHMENTS:**

1. Resolution No. 2013-22
2. Petition for Local Improvements
3. Petition Map
4. Preliminary Fee Escrow Agreement
5. Professional Services Agreement, Bolton and Menk, Task Order No. 1
6. Proposed Project Schedule