

PETITION AND WAIVER AGREEMENT

This Agreement made this 21st day of April, 2015, by and between the City of Lake Elmo, a Minnesota municipal corporation (“City”), and Inwood 10 LLC, a Minnesota limited liability company (“Owner”).

WITNESSETH:

WHEREAS, the Owner is the fee owner of certain real property (the “Subject Properties”) located in the City, the legal description of which is shown on **Exhibit A**, attached hereto and hereby made a part hereof, and further identified by the following PID numbers:

330-29-21-11-0001

330-29-21-11-0002

330-29-21-12-0003

330-29-21-12-0001

The legal description encompasses all four of the PIDs.

WHEREAS, the Owner desires to have certain public improvements constructed to serve the Subject Properties generally described as the construction and extension of sanitary sewer and watermain stubs as more specifically described in **Exhibit B**, attached hereto and hereby made a part hereof (hereinafter referred to as the “Improvement Project”); and

WHEREAS, the Owner wishes for the City to construct the Improvement Project without notice of hearing or hearing on the Improvement Project, and without notice of hearing or hearing on the special assessments levied to finance the Improvement Project, and to levy **the total project costs** related to sanitary sewer and watermain stubs construction and extension of the Improvement Project, estimated at \$108,200.00, against the Subject Properties as outlined in **Exhibit C**, attached hereto and hereby made a part hereof. The Owner understands and hereby acknowledges that the \$108,200.00 cost of the Improvement Project is an estimate, and the total project costs may be higher, but have yet to be determined and will be determined after completion of the Improvement Project, estimated to be November of 2015; and

WHEREAS, the City is willing to construct the Improvement Project in accordance with the request of the Owner and without such notices or hearings, provided the assurances and covenants hereinafter stated are made by the Owner to ensure that the City will have valid and collectable special assessments as they relate to the Subject Properties to finance the costs of the Improvement Project; and

WHEREAS, were it not for the assurances and covenants hereinafter provided, the City would not construct the Improvement Project without such notices and hearings and is doing so solely at the behest, and for the benefit, of the Owner.

NOW, THEREFORE, ON THE BASIS OF THE MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER PROVIDED, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. The Owner hereby petitions the City for construction of the Improvement Project.
2. The Owner represents and warrants that it is the owner of 100 percent of the Subject Properties, that it has full legal power and authority to encumber the Subject Properties as herein provided, and that as of the date hereof, it has fee simple absolute title in the Subject Properties,

which are not subject to any liens, interests or encumbrances.

3. The Owner requests that the total project costs related to sanitary sewer and watermain construction and extension of the Improvement Project be assessed against the Subject Properties. Owner understands that the total project costs are estimated at \$108,200.00, but will be determined after completion of the Improvement Project and may be higher than the estimate, and that Owner will be assessed the total project costs, regardless of the estimate.

4. The Owner waives notice of hearing and hearing pursuant to Minn. Stat. Section 429.031, on the Improvement Project and notice of hearing and hearing on the special assessments levied to finance the Improvement Project pursuant to Minn. Stat. Section 429.061, and specifically requests that the Improvement Project be constructed and special assessments levied against the Subject Properties therefor without hearings.

5. The Owner waives the right to appeal the levy of the special assessments in accordance with this Agreement pursuant to Minn. Stat. Section 429.081, or reapportionment thereof upon land division pursuant to Minn. Stat. Section 429.071, subd. 3, or otherwise, and further specifically agrees with respect to such special assessments against the Subject Properties or reapportionment that:

a. Any requirements of Minn. Stat., Chapter 429 or any other Statute or Constitution with which the City does not comply are hereby waived by the Owner;

b. Owner represents and warrants that the increase in fair market value of the Subject Properties resulting from construction of the Improvement Project will be at least equal to the amount specified in paragraph 3, and that such increase in fair market value is a special benefit to the Subject Properties and that it does not contest; and

c. Assessment of the amount specified in paragraph 3 against the Subject Properties is reasonable, fair and equitable.

6. Special assessments for the Improvement Project will be levied to the Subject Properties, with payment in full of such levy required on or before December 31, 2015, bearing interest at a rate of two points over the bond rate if bonds are issued by the City for the Improvement Project, or two points over a current bond rate as determined by the City's financial consultant. Special assessments, along with all accrued interest, must otherwise be paid upon sale, subdivision or development of the Subject Properties.

7. Owner represents and warrants that the Subject Properties are not and will not be so classified for tax purposes as to result in deferral of the obligation to pay special assessments; and Owner agrees that it will take no action to secure such tax status for the Subject Properties during the term of this Agreement.

8. The covenants, waivers and agreements contained in this Agreement shall bind the successors and assigns of the Owner and shall run with the Subject Properties and bind all successors in interest thereof. It is the intent of the parties hereto that this Agreement be in a form that is recordable among the land records of Washington County, Minnesota; and the parties agree to make any changes to this Agreement that may be necessary to effect the recording and filing of this Agreement against the title of the Subject Properties.

9. This Agreement shall terminate upon the final payment of all special assessments levied against the Subject Properties regarding the Improvement Project, and the City shall thereupon execute and deliver such documents, in recordable form, as are necessary to extinguish its rights hereunder.

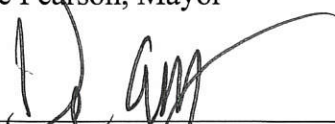
IN WITNESS WHEREOF, the parties have set their hands the day and year first written above.

[THIS SPACE INTENTIONALLY LEFT BLANK]

CITY OF LAKE ELMO

By:  _____

Mike Pearson, Mayor

By:  _____

Dean Zuleger, City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this 21st day of April, 2015, by Mike Pearson and Dean Zuleger, the Mayor and City Administrator, respectively, of the City of Lake Elmo, Minnesota, a municipal corporation under the laws of the State of Minnesota, on behalf of the City.

 _____
Notary Public

DRAFTED BY:
DAVID K. SNYDER
JOHNSON & TURNER, P.A.
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025
(651) 464-7292

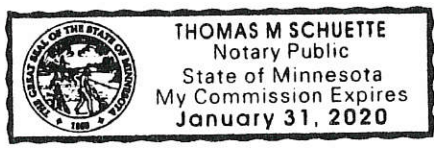
OWNER:

INWOOD 10 LLC

Richard J Schreier Jr.
By: RICHARD J SCHREIER JR
Its: ASSISTANT SECRETARY

STATE OF MINNESOTA)
) ss.
COUNTY OF Ramsey)

On this 9 day of April, 2015, the foregoing instrument was acknowledged before me, a Notary Public, within and for said County and State, personally appeared Inwood 10 LLC, a Minnesota limited liability company, who signed the foregoing instrument and acknowledged said instrument to be his free act and deed.



Thomas M Schuette

Notary Public

EXHIBIT A
(Legal Description)

The Northeast Quarter (NE ¼) of Section Thirty-three (33), Township Twenty-nine (29), Range Twenty-one (21), less and except: (a) Parcel No. 4 of Washington County Highway Right-of-Way Plat No. 41; and (b) Parcel No. 3 of Washington County Highway Right-of-Way Plat No. 42, Washington County, Minnesota.

EXHIBIT B

Eagle Point Boulevard Street and Sanitary Sewer Improvements: Inwood PUD Development

Sanitary Sewer and Watermain Extension Improvements

The following improvements, known as Eagle Point Boulevard Street and Sanitary Sewer Improvements: Inwood PUD Development Sanitary Sewer and Watermain Extension Improvements, shall be designed, inspected, surveyed and administered by the City, and installed in the Subject Properties by a Contractor selected by the City through the public bidding process.

The improvements shall be installed as described and recommended in the Eagle Point Boulevard Street and Sanitary Sewer Improvements Feasibility Report, dated March, 2015, said report as accepted by Resolution of the City Council. The improvements generally include the extension of sanitary sewer and watermain improvements. The improvements are intended to provide benefit and service to the properties identified in the Feasibility Reports, and planned as the Inwood PUD Development.

Contracts shall provide for construction in accordance with plans and specifications prepared by the City or its consultants.

The City will obtain any necessary permits before proceeding with construction.

EXHIBIT C

Item	Cost	Calculation
Sanitary Sewer and Watermain Assessment	Estimated at \$108,200.00, but total TBD	
Total	TBD	