



## **MAYOR & COUNCIL COMMUNICATION**

**DATE:** September 1, 2015  
**CONSENT**  
**ITEM #** 5

**AGENDA ITEM:** 39<sup>th</sup> Street Improvements – Approve Proposal for Tree Replacement

**SUBMITTED BY:** Chad Isakson, Project Engineer

**THROUGH:** Clark Schroeder, Interim City Administrator

**REVIEWED BY:** Jack Griffin, City Engineer  
Cathy Bendel, Finance Director

**SUGGESTED ORDER OF BUSINESS *if removed from the Consent Agenda*:**

- Questions from Council to Staff ..... Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECOMMENDER:** Engineering.

**FISCAL IMPACT:** \$2,739.65.

The amount of \$2,739.65 would be paid to Abrahamson Nurseries for the replacement of 5 trees at 10390 39<sup>th</sup> Street North. The amount would be charged against the 39<sup>th</sup> Street: Street and Sanitary Sewer Improvement project fund since the replacement is related to the removal of 5 existing trees to implement the project.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to consider approving, *as part of the Consent Agenda*, the proposal from Abrahamson Nurseries in the amount of \$2,739.65 to complete the installation of five (5) 2.5-inch maple trees at 10390 39<sup>th</sup> Street North. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve the Proposal from Abrahamson Nurseries in the not to exceed amount of \$2,739.65 for the Installation of five (5) 2.5-inch maple trees at 10390 39<sup>th</sup> Street North.”***

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

To facilitate the construction of the 39<sup>th</sup> Street North: Street and Sanitary Sewer Improvements Project, it was required to remove five (5) existing boulevard trees located in front of the property at 10390 39<sup>th</sup> Street North. As a matter of obtaining waiver of assessment agreements from the property owners the City agreed to pay for replacement trees in kind for the boulevard trees that were taken down. The attached proposal from Abrahamson Nurseries dated July 27, 2015 was obtained by the property owner and is consistent with a standard size and type of tree the City would plant in a boulevard area for a collector roadway.

**RECOMMENDATION:**

Staff is recommending that the City Council approve, *as part of the Consent Agenda*, the proposal from Abrahamson Nurseries in the amount of \$2,739.65 to complete the installation of five (5) 2.5-inch maple trees at 10390 39<sup>th</sup> Street North. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve the Proposal from Abrahamson Nurseries in the not to exceed amount of \$2,739.65 for the Installation of five (5) 2.5-inch maple trees at 10390 39<sup>th</sup> Street North.”***

**ATTACHMENT(S):**

1. Abrahamson Nurseries Proposal dated July 27, 2015.
2. Attorney Letter dated August 5, 2014.
3. Lawson Petition Waiver Amendment dated August 5, 2014.

## ABRAHAMSON NURSERIES

1257 State Road 35  
St. Croix Falls, WI 54024  
**715-483-3040**

Mike Lynskey	439-1412
John Mead	777-7603
Email Address:	<a href="mailto:mike@lynkeyclark.com">mike@lynkeyclark.com</a>

*Payment to be made as follows:* In full upon completion.

<i>AUTHORIZED</i>	Note: This proposal may be withdrawn
<i>SIGNATURE:</i>	by us if not accepted within 30 days.

- We are pleased to submit the following estimate for:

[illegible]

**\$2,739.65**

Acceptance Date: \_\_\_\_\_ Signature: \_\_\_\_\_



## LAWSON

PROVIDING LEGAL SERVICES FOR OVER 100 YEARS

d/b/a

### ST. CROIX TITLE

August 5, 2014

Mr. Dean Zuleger  
City Administrator  
City of Lake Elmo  
3800 Laverne Avenue North

Mr. Jack Griffin  
FOCUS ENGINEERING, INC.  
jack.griffin@focusengineeringinc.com

Ms. David Snyder  
Attorney at Law  
56 East Broadway Avenue  
#206  
Forest Lake, MN 55025

**Re: Amendment to 39<sup>th</sup> Street Improvement Petition and Waiver Agreements**

Gentlemen:

Attached hereto please find a fully executed Amendment to Petition and Waiver Agreements that have been signed by Lake Elmo Professional Center, LLP.

This document has been amended pursuant to my conversation with Mr. Zuleger. Mr. Zuleger indicated that the City would be willing to amend the project documents to preserve the large trees along the boulevard in front of our building. While we hope nothing will happen to those trees during construction, we are aware that things can and do happen and, therefore, have added that in the event the trees do not survive the construction, that the trees will be replaced with comparable trees at the City's expense.

If there are any questions, concerns or other proposed changes to this Agreement, please let me know. I spoke with Mr. Zuleger about having an extended period of time in which to hook up to the sewer system, since our building has a somewhat newer septic system and is not in need of sewer at this time. I would appreciate the continued consideration in this matter. As you are aware, our Partnership does not have growth potential and so it's incentive may not be as aligned with the City and other landowners, but in the interest of the City and our neighbors, we have agreed to sign the Amendment with the noted change.

Mr. Dean Zuleger, Mr. David Snyder and  
Mr. Jack Griffin  
August 5, 2014  
Page Two. . . . .

If you have any further questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tracey A. Galowitz". The signature is fluid and stylized, with a large initial 'T' and a long, sweeping underline.

Tracey A. Galowitz

TAG:mas

Enclosures

## AMENDMENT TO PETITION AND WAIVER AGREEMENT

This Amendment to Petition and Waiver Agreement made this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between the City of Lake Elmo, a Minnesota municipal corporation ("City"), and Lake Elmo Professional Center, LLP, a Minnesota limited liability partnership ("Owner").

WITNESSETH:

WHEREAS, Owner is the fee owner of certain real property located in the City, the legal description of which is shown on **Exhibit A**, attached hereto and hereby made a part hereof; and

WHEREAS, the undersigned parties to the Petition and Waiver Agreement dated May 22, 2014 (the "Agreement") desire to amend the assessment amount stated in the Agreement.

NOW, THEREFORE, it is agreed as follows:

1. The undersigned parties amend the agreement to:

- a. Replace the assessment amount of \$7,762.18 listed in the Agreement with the amended amount of \$8,964.00.

All other terms and conditions shall remain the same.

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

above.

*Survive the construction they shall be replaced with comparable trees at City's expense.*

[SIGNATURES ON FOLLOWING PAGES]

**CITY OF LAKE ELMO**

By: \_\_\_\_\_  
Mike Pearson, Mayor

By: \_\_\_\_\_  
Dean Zuleger, City Administrator

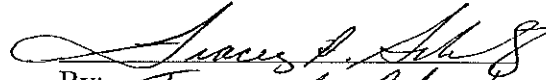
STATE OF MINNESOTA            )  
  ) ss.  
COUNTY OF WASHINGTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, 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

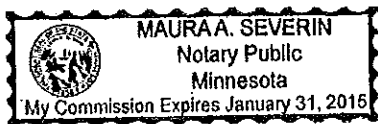
OWNER

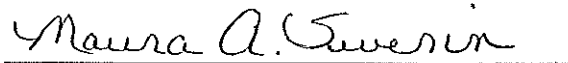
LAKE ELMO PROFESSIONAL  
CENTER, LLP

  
By: Tracey A. Galowitz  
Its: Partner

STATE OF MINNESOTA                    )  
  ) ss.  
COUNTY OF Washington            )

On this 5th day of August, 2014, the foregoing instrument was acknowledged before me, a Notary Public, within and for said County and State, personally appeared Tracey A. Galowitz the Partner of Lake Elmo Professional Center, LLP, a limited liability partnership, who signed the foregoing instrument and acknowledged said instrument to be the free act and deed of said limited liability partnership.



  
Notary Public



**EXHIBIT A**

(Legal Description)

PID: 13-029-21-21-0012

Unit 2, CIC No. 318, Lake Elmo Old Village Condominiums, Washington County, Minnesota.