



STAFF REPORT

DATE: October 17, 2023
REGULAR

AGENDA ITEM: Approve MPCA Grant Agreement Amendment #1 and Repeal the Final Assessments for the Torre Pines Street and Utility Improvements

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney
Clarissa Hadler, Finance Director
Marty Powers, Public Works Director
Chad Isakson, Project Engineer

ISSUE BEFORE COUNCIL: Should the City Council approve the Grant Agreement Amendment #1 with the MPCA, and Adopt a Resolution Repealing the Final Assessments for the Torre Pines Street and Utility Improvements?

BACKGROUND: On September 19, 2023 the City Council adopted Resolution No. 2023-094, a Resolution Adopting the Final Assessment Roll for the Torre Pines Street and Utility Improvements. The City had chosen to impose special assessments on properties that did not connect to City water and seal their wells in order to ensure that the City remained in compliance with the Minnesota Pollution Control Agency (“MPCA”) Grant Agreement that required “all associated wells” to be sealed in order for the City to be reimbursed with grant funds for its project costs.

PROPOSAL DETAILS/ANALYSIS: Throughout the course of the project, City staff was working with the MPCA to seek an amendment to the Grant Agreement that would allow a property to be eligible for the public improvement portion of the Grant regardless of whether the property connected to City water or sealed the private well on the property. Following the latest meeting on October 10, 2023, the MPCA agreed to issue an amendment to the Grant Agreement that provides this flexibility.

Under Grant Agreement Amendment #1, attached to this agenda report, properties within the project service area that do not seal their private well will remain eligible for the public improvement portion of the project. This provides the City Council the opportunity to not levy assessments for the public improvements as originally recommended (street and drainage improvements; and public watermain improvements). However, the provision will remain that properties that do not choose to seal their private well within the timeframe of the agreement, will not be eligible for reimbursement for the private service connection costs.

The Grant Agreement Amendment also extends the grant expiration date from December 31, 2023 to December 31, 2024 to cover the project warranty period.

OPTIONS:

- 1) Approve the Grant Agreement Amendment #1 with the MPCA, and Approve a Resolution Repealing the Final Assessment Roll that was adopted on September 19, 2023 for the Torre Pines Street and Utility Improvements, thereby cancelling all project assessments.

- 2) Do not approve the Grant Agreement Amendment #1 for the Torre Pines Street and Utility Improvements.

FISCAL IMPACT: No additional fiscal impact on the Project. All repealed assessment costs will be submitted to the MPCA for reimbursement under the Amended Grant Agreement.

RECOMMENDATION: Staff is recommending that the City Council Approve the Grant Agreement Amendment #1 with the MPCA, and Adopt a Resolution Repealing the Final Assessments for the Torre Pines Street and Utility Improvements. The recommended motion for this action is as follows:

“Move to approve Grant Agreement Amendment #1 with the MPCA, and Move to Approve Resolution No. 2023-103, Repealing the Adoption of Resolution 2023-094, a Resolution Adopting the Final Assessment Roll for the Torre Pines Street and Utility Improvements.”

ATTACHMENTS:

1. MPCA Grant Agreement Amendment #1.
2. Resolution Repealing the Adoption of Resolution 2023-094.
3. Final Assessment Roll adopted September 19, 2023.

Grant Agreement Amendment #1

State of Minnesota

Doc Type: Contract

SWIFT Contract Number: 188423

Agency Interest ID: 224243

Activity ID: PRO20210002

Contract Start Date:	<u>April 2, 2021</u>	Total Contract Amount:	<u>\$2,219,000.00</u>
Original Contract Expiration Date:	<u>December 31, 2023</u>	Original Contract:	<u>\$2,219,000.00</u>
Current Contract Expiration Date:	<u>December 31, 2023</u>	Previous Amendment(s) Total:	<u>\$N/A</u>
Requested Contract Expiration Date:	<u>December 31, 2024</u>	This Amendment:	<u>\$0.00</u>

This amendment is by and between the State of Minnesota, acting through its Commissioner of the **Minnesota Pollution Control Agency**, 520 Lafayette Road North, St. Paul, MN 55155-4194 ("MPCA" or "State") and **City of Lake Elmo**, ~~3800~~ 3880 Laverne Avenue North, Lake Elmo, MN 55042 ("Grantee" or "Contractor").

Recitals

1. The State has a grant contract with the Grantee identified as SWIFT Contract Number 188423 ("Original Grant Agreement") to provide the **Torres Pines Extension of Municipal Water Supply Project**.
2. The Original Agreement is being amended to correct the grantee address, extend the end date, revise Grantee's Duties and Well Sealing language and the workplan, and update authorized representatives.
3. The State and the Grantee are willing to amend the Original Grant Agreement as stated below.

Grant Agreement Amendment

In this Amendment, changes to pre-existing Agreement language will use ~~strike through~~ for deletions and underlining for insertions.

REVISION 1. Clause 1. "**Term of Grant Agreement**" is amended as follows:

1. Term of Grant Agreement

- 1.1 Effective date:** April 2, 2021, Per [Minn. Stat. §16B.98](#), Subd. 5, the Grantee must not begin work until this grant contract is fully executed and the State's Authorized Representative has notified the Grantee that work may commence. Per [Minn. Stat. §16B.98](#) Subd. 7, no payments will be made to the Grantee until this grant contract is fully executed.
- 1.2 Expiration date:** December 31, 2023 ~~2024~~, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

- 1.3 Survival of terms.** The following clauses survive the expiration or cancellation of this grant agreement: Indemnification; State Audits; Government Data Practices and Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure.

REVISION 2. Clause 2. "**Grantee's Duties and Well Sealing**" is amended as follows:

2. Grantee's Duties and Well Sealing

- 2.1 Grantee's duties.** The Grantee, who is not a state employee, will perform the duties specified in Revised Attachment A, which is attached and incorporated into this grant agreement.

- 2.2 Well Sealing.** All associated wells with properties getting individual/residential water service connections are required to be properly sealed and abandoned as part of the project within the timeframe of the grant agreement in order to get reimbursement for private connections. All well sealing will follow Minnesota Department of Health (MDH) regulations and will only be done by licensed well contractors.

Reimbursement for individual/residential water service connections and well sealing will not occur until proof of well sealing has been provided to MPCA.

MPCA may identify certain wells as potential monitoring wells. If agreed upon by MPCA, the City and the well owner, MPCA will assume responsibility of converting those wells to monitoring wells. In these instances, proof of well sealing is not required for reimbursement of individual/residential water service connection costs.

REVISION 3. Clause 6. "**Authorized Representative**" is amended as follows:

6. Authorized Representative

The State's Authorized Representative is ~~Gary Krueger~~, 520 Lafayette Road, St. Paul, MN 55155, 651-757-2509, gary.krueger@state.mn.us, ~~Elizabeth Kaufenberg~~, 520 Lafayette Road, St. Paul, MN 55155, 651-757-2481, elizabeth.kaufenberg@state.mn.us, or their successor, and has the authority to monitor the Grantee's performance and to accept the services provided under this agreement. If the services are satisfactory, the MPCA's Project Manager will certify acceptance of each invoice submitted for payment.

The State's Project Manager is ~~Tim Lockrem~~ **Megan Holthaus**, 520 Lafayette Road North, St. Paul, MN 55155, 651-757-2686 2843, timothy.lockrem@state.mn.us megan.holthaus@state.mn.us, or their successor, and has the authority to monitor the Grantee's performance and receive invoices from the Grantee.

The Grantee's Authorized Representative is **Kristina Handt**, ~~3800~~ **3880** Laverne Avenue North, Lake Elmo, MN 55042, 651-747-3905, khandt@lakeelmo.org, or their successor. If the Grantee's Authorized Representative changes at any time during this grant agreement, the Grantee must immediately notify the State.

Except as amended herein, the terms and conditions of the Original Grant Agreement and all previous amendments and change orders remain in full force and effect. The Original Grant Agreement and any previous amendments and change orders are incorporated into this amendment by reference.

Signatures

Title

Name

Signature

Date

Project Workplan

Doc Type: Contract

Swift #:	188423
AI #:	224243
Activity ID #:	PRO20210002

Project Title: Torres Pines Extension of Municipal Water Supply Project

1. Project Summary:

Organization: City of Lake Elmo (the City)
Contact name: Kristina Handt
Address: ~~3800~~ 3880 Laverne Ave North
Lake Elmo, MN 55042
Phone: 651-747-3905
E-mail: khandt@lakeelmo.org

Minnesota Pollution Control Agency (MPCA) contact:

MPCA project manager: ~~Tim Lockrem~~ Megan Holthaus
Address: 520 Lafayette Road North
St. Paul, MN 55155
Phone: 651-757-~~2686~~ 2843
E-mail: ~~Timothy.lockrem@state.mn.us~~ megan.holthaus@state.mn.us

Project information

Start date: 4/2/2021 **End date:** ~~12/31/2023~~ 12/31/2024

Total estimated costs: **\$2,219,000**

2. Statement of Problems, Opportunities, and Existing Conditions

This project will extend clean drinking water to 23 homes located in the Torres Pines subdivision in the City of Lake Elmo by extending the municipal water system into the neighborhood prior to reconstructing the neighborhood streets as scheduled for improvement in 2022 in the City's Capital Improvement Plan.

The project extends an 8-inch public watermain from Inwood Avenue into and throughout the Torres Pines neighborhood along 21st Street, 22nd Street, and 22nd Street Court. Individual water service stubs will be installed to the edge of right-of-way at each of the 23 residential properties and one vacant property. Following the installation of the public watermain improvements, the public streets will be improved.

The properties reside in an area where per- and polyfluoroalkyl substances (PFAS) contamination exceeds Health Based Values (HBVs) and well advisories have been issued. The project is consistent with the long-term drinking water supply plan to address PFAS contamination to drinking water supplies in the East Metro area.

Individual water services will be stubbed from the main line for each of the 62 residential properties. The project will include grant funding and administrative processes for ensuring each property completes the private service connection from the service stub to each home, including water meter installation, sealing of the private well, removal of any existing granular activated carbon (GAC) filters, and all permitting and connection fees. The City intends to directly implement the public improvement portion of the project for the water main components that will remain owned and operated by the City and will require property owners to contract directly for the work to be completed on their individual properties. The private property work will be funded on a reimbursement basis. The City will distribute materials, provided by the MPCA, regarding individual/residential water service connections and well sealing to all residents impacted by this project. All associated wells with properties getting individual/residential water service connections are required to be properly sealed and abandoned as part of the project within the timeframe of the grant agreement in order to get reimbursement for **private** connections. All well sealing will follow Minnesota Department of Health (MDH) regulations and will only be done by licensed well contractors. Reimbursement for individual/residential water service connections and well sealing will not occur until proof of well sealing has been provided to MPCA.

In accordance with the City's standard Capital Improvement Program process a feasibility study and project design will be completed to ready the project for 2022 construction. Bids will be received in early 2022 with construction to commence in May 2022. The water main will be tested, operational and ready for connection to the individual properties in late 2022.

No environmental review is required to implement this project. The project will require the following permits:*

- Minnesota Department of Health Watermain Extension Permit
- Washington County Right-of-Way Permit
- Valley Branch Watershed District Permit
- MPCA National Pollutant Discharge Elimination System Construction Permit

* The City will need to demonstrate expenses related to these items are attributable to actions necessary to address PFAS impacts.

3. Measurable Outcomes

The City will report at least quarterly to the MPCA regarding progress of the project. The City will also report to the MPCA as part of the quarterly report the itemized costs incurred for that quarter for reimbursement by the MPCA. Monthly reimbursement requests can be provided as determined by the City.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2023-103

A RESOLUTION REPEALING THE ADOPTION OF RESOLUTION NO. 2023-094

WHEREAS, on September 19, 2023, the City Council adopted Resolution No. 2023-094, a Resolution Adopting the Final Assessment Roll for the Torre Pines Street and Utility Improvements; and

WHEREAS, the City had chosen to impose special assessments on properties that did not connect to City water and seal their wells in order to ensure that the City remained in compliance with the Minnesota Pollution Control Agency (“MPCA”) Grant Agreement that required “all associated wells” to be sealed in order for the City to be reimbursed with grant funds for its project costs; and

WHEREAS, the MPCA has agreed to change the Grant Agreement so that it no longer requires “all associated wells” to be sealed in order for the City to be reimbursed with grant funds for its project costs; and

WHEREAS, because of this change in circumstances, the City has decided that it is no longer necessary or beneficial to the City or the property owners to assess the property owners for the project costs if they do not connect to City water and seal their wells; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lake Elmo as follows:

1. Resolution No. 2023-094 is hereby repealed in its entirety.
2. City staff shall take all appropriate action in order to ensure that the properties that are set forth on the assessment roll in Resolution No. 2023-094 are not specially assessed for the project costs.

Passed and duly adopted this 17th day of October, 2023 by the City Council of the City of Lake Elmo, Minnesota.

Mayor Charles Cadenhead

ATTEST:

Julie Johnson, City Clerk

TORRE PINES STREET AND UTILITY IMPROVEMENTS
FINAL ASSESSMENT ROLL
UPDATED SEPTEMBER 12, 2023 BASED ON WATER CONNECTIONS MADE

NO.	NAME	ADDRESS			MAILING ADDRESS						PID	TOTAL ASSESSMENT	STREET & DRAINAGE ASSESSMENT	WATERMAIN ASSESSMENT
1	LISA LARAE SETTERSTROM TRS	8271	21ST	ST N	8271	21ST	ST N	LAKE ELMO	MN	55042	2102921340011	\$39,100	\$11,600	\$27,500
2	SELBY MEGAN A	8311	21ST	ST N	8311	21ST	ST N	LAKE ELMO	MN	55042	2102921340012	\$39,100	\$11,600	\$27,500
3	YOCUM RUTH A	8330	21ST	ST N	8330	21ST	ST N	LAKE ELMO	MN	55042	2102921340009	\$39,100	\$11,600	\$27,500
4	KATARE RAJESH & SHILPA SHUKLA	8125	22ND	ST N	8125	22ND	ST N	LAKE ELMO	MN	55042	2102921330013	\$39,100	\$11,600	\$27,500
5	MATTHEW D MOORE TRS & JANE B MOORE TRS	8134	22ND	ST N	8134	22ND	ST N	LAKE ELMO	MN	55042	2102921330004	\$39,100	\$11,600	\$27,500
6	COHEN ANNE N & DWAYNE L	8276	22ND	ST N	8276	22ND	ST N	LAKE ELMO	MN	55042	2102921340005	\$39,100	\$11,600	\$27,500
7	LARSON MICHAEL P & MELISSA D	8335	22ND	ST N	8335	22ND	ST N	LAKE ELMO	MN	55042	2102921340006	\$39,100	\$11,600	\$27,500
8	SCHARA JODELL L	8340	22ND	ST N	8340	22ND	ST N	LAKE ELMO	MN	55042	2102921340004	\$39,100	\$11,600	\$27,500
9	PETERSON BRUCE A & NORMA JEAN	8028	22ND	CT N	8028	22ND	CT N	LAKE ELMO	MN	55042	2102921330007	\$39,100	\$11,600	\$27,500
TOTALS												\$351,900	\$104,400	\$247,500