STAFF REPORT

DATE: February 4, 2025
Consent Agenda

AGENDA ITEM: Site Access Agreement with the Washington County CDA – Old Fire Station

SUBMITTED BY: Jason Stopa, Community Development Director

REVIEWED BY: Ashley Monterusso, City Planner

OBJECTIVE:
To provide access to both the Old Fire Station and the Parks Building for the purposes of an environmental assessment (EA).

BACKGROUND:
The City of Lake Elmo has received an EPA grant through the Washington County CDA for a Phase I EA of both the Old Fire Station and the Parks Building in the Old Village. Stantec is the environmental consultant, selected by the County's program, that needs to be provided access to the site.

PROPOSAL DETAILS/ANALYSIS:
Both Community Development staff and the EDA agree that an EA Phase I is an important first step before issuing an RFP for site redevelopment.

FISCAL IMPACT:
None

ISSUE BEFORE COMMITTEE:
Would the City Council support providing access to the Washington County CDA to conduct a Phase I EA of both the Old Fire Station and the Parks Building.

RECOMMENDATION:
Staff recommends that City Council support providing access to both the Old Fire Station and the Parks Building for the purposes of an environmental assessment (EA).

Suggested motion:

"Motion to approve signing the site access agreements with the Washington County CDA for the purposes of an environmental assessment at 3510 Laverne Ave and 11120 Upper 33rd Street."

ATTACHMENT:
- Site Access Agreements

Site Access Agreement

This Site Access Agreement ("Agreement") is made by and between the City of Lake Elmo ("Owner"), and the Washington County Community Development Agency (“Agency”) regarding the Owner's property located at 3510 Laverne Avenue North, Lake Elmo, Minnesota ("Site"). The Agency requests permission to enter the Site for the exclusive purposes of conducting environmental investigation activities.

1. Owner hereby gives permission to the Agency, or the Agency’s agents or assigns (including, but not limited to, Agency employees, authorized environmental consultants and/or contractors, including Stantec Consulting Services Inc.(Stantec), Environmental Protection Agency ("EPA") employees or contractors, Minnesota Pollution Control Agency ("MPCA") employees or contractors, or other designees authorized by the Agency (collectively, "Authorized Parties") to enter upon the Site to perform investigation activities at the Site. This permission is effective immediately upon the execution of this Agreement by Owner and the Agency.

2. The permission granted by Owner under this Agreement is contemplated to be used for the following activities that may be performed by Authorized Parties (detailed in Exhibit A):

    a. Investigation of soil and groundwater, including, but not limited to, the installation of soil borings, test pits and/or groundwater monitoring wells, the use of geophysical equipment, the use of drilling equipment for collection of soil and sediment samples, the logging, gauging and sampling of existing wells, videotaping, preparation of site sketches, taking photographs, any testing or sampling of groundwater, soil, surface water, sediments, air, soil vapor or other material deemed appropriate by the EPA's Brownfield Assessment Program ("Program") and the like.

    b. Survey of asbestos-containing material and lead-based paint conditions.

    c. On-Site observation and oversight of environmental investigation activities.

    d. Disclosure of environmental information as required by law.

3. Upon completion of the investigation, Authorized Parties will restore the property as near as practicable to its condition immediately prior to the commencement of such activities.

4. The granting of this permission by the Owner is not intended, nor should it be construed, as an admission of liability on the part of the Owner or the Owner's successors and assigns for any contamination discovered on the Site.

5. Authorized Parties may enter the Site during normal business hours and may also make special arrangements to enter the Site at other times after agreement from the Owner.

6. Authorized Parties shall enter upon the Site at their own risk, and Owner shall not be held responsible or liable for injury, damage, or loss incurred by any Authorized Party arising out of or in connection with activities under this Agreement, except to the extent that any injury is caused due to the acts or omissions of Owner, any lessee of the Site, or any employee or agent of the Owner.

7. The Program will supply to Owner all information derived from the environmental investigation conducted at the Site. The Owner and the Agency may use such information for any purpose at the Agency's sole discretion. Information will be held in confidence except as instructed by the Owner, the Agency, the Program, or as required by law.

8. In exercising its access privileges, Authorized Parties will take reasonable steps not to interfere with the Owner's operations on the Site.

9. Authorized Parties will give notice to the Owner at least one (1) week in advance of the start of field activities on the Site.

10. Owner ensures that Owner and any/all Site operators will give Authorized Parties access to the entire Site for the purposes set forth in this Agreement.

11. Any party to this Agreement may terminate this Agreement by giving two (2) months advanced written notice, or all parties may terminate the Agreement at any time by written agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

Washington County Community Development Agency

By_____
Melissa Taphorn, Executive Director
Date of Signature_____

OWNER

_____
City of Lake Elmo
Date of Signature_____

Attest _____
City of Lake Elmo
Date of Signature _____

EXHIBIT A

Phase I Environmental Site Assessment

To provide access to personnel from Agency and/or personnel from Stantec Consulting Services Inc. (Stantec) (the environmental consulting firm hired by the Agency) to conduct an inspection of the property in accordance with the Phase I environmental site assessment (ESA) inspection criteria outlined in American Society for Testing and Materials (ASTM) Standard No. E-1527-05. It is anticipated that the property inspection will require 2 to 3 hours of time to complete. Access is required to both indoor and outdoor areas of the property. Photographs of site features will be taken as part of the inspection and included in the Phase I ESA report.

To provide a person meeting the definition of either an owner or operator of the facility, and having knowledge of current and/or past operations at the facility, and to make that person available for an interview to be conducted by Agency and/or Stantec personnel as part of the Phase I ESA. The interview is a required standard component of Phase I ESAs and will include general questions regarding past and/or current operations, with an emphasis of practices related to storage and/or use of hazardous materials and/or petroleum products.

To review a draft copy of the Phase I ESA report and to provide comments as appropriate to correct or clarify any portions of the report.

As the Phase I ESA is being paid for using a Federal Grant, copies of the report may be provided to the U.S. EPA and/or the Minnesota Pollution Control Agency (MPCA) as part of required submittals by the CDA and become public records. One complete electronic copy of the final report will be provided to you for your use upon completion of the final Phase I ESA Report.

The Phase I ESA report will be prepared for use by Agency. The Owner may also rely on the report to the extent defined in the Phase I ESA report. Letters of reliance for other parties will not be provided unless specifically agreed to in writing by the Agency and Stantec prior to completion of the Phase I ESA report.

Phase II ESA and/or Environmental Site Investigations

To provide access to personnel from the Agency and/or personnel from Stantec (the environmental consulting firm hired by the Agency) to conduct environmental assessment sampling activities on the property in accordance with the Phase II ESA criteria outlined in ASTM Standard No. E-1903-97, and/or environmental site investigation activities needed to further define the nature and extent of contamination documented during the Phase II ESA or during investigations conducted previously by others at the property. The specific scope of work for the Phase II ESA or environmental site investigation will be detailed in a Site-Specific Sampling and Analysis Plan (SSSAP) to be prepared by Stantec and submitted to and approved by the U.S. EPA to prior to commencement of on-site sampling activities. An electronic copy of the SSSAP will be provided to Owner concurrently with submittal to U.S. EPA, and generally 5 to 10 workdays before the scheduled start of on-site sampling activities. It is anticipated that the assessment activities will require 2 to 3 days of time to complete. Access is required to both indoor and outdoor areas of the property. Photographs of site features will be taken as part of the inspection and included in the Phase II ESA report.

Possible assessment activities could include but are not limited to:

Soil Borings – *Soil borings will in most instances be performed using a hydraulic probe sampling system or a hollow stem auger drill rig and will be used to collect soil samples from the ground surface to a typical depth of 10 or 20 feet below ground surface. In paved areas, soil borings will typically result in the creation of a 4-inch to 12-inch diameter opening in the concrete or asphalt pavement in order to provide access to the underlying soil. Soil removed from the borings will need to be managed until a determination is made as to whether the soil is contaminated. Borings not completed as monitoring wells will be properly abandoned.*

Monitoring Wells *- "Permanent" or "temporary" groundwater monitoring wells consisting of 1- or 2-inch ID, Schedule 40 polyvinyl chloride (PVC) casing and screen may be installed in select soil borings. "Permanent" monitoring wells will be completed with a lockable, flush-mount protective cover, and will be installed where: (a) unstable soil or other geologic conditions preclude installation of temporary wells, (b) wells constructed in accordance with MPCA standards are needed to confirm whether previously*

documented contaminants in groundwater exceed regulatory standards, or (c) it is anticipated that multiple rounds of groundwater sampling will be required to achieve assessment or investigation objectives. Temporary wells will be used in situations where the primary purpose at a sampling location is: (a) to confirm the presence/absence and/or general levels of contaminants in groundwater, (b) to document the depth to groundwater at locations where groundwater samples will not be collected, or (c) to provide the ability to collect groundwater samples at a later date at locations where only soil samples will be collected and analyzed as part of initial sampling activities.. Upon completion of investigation activities, the monitoring wells will be properly abandoned.

Groundwater Sampling *- Groundwater samples will be obtained from the permanent or temporary groundwater monitoring wells. Groundwater removed from the wells will need to be managed until a determination is made as to whether the groundwater is contaminated.*

Soil Vapor Sampling *- Soil vapor monitoring may be performed at locations based on the results of the soil and groundwater samples. Permanent or temporary vapor probes may be installed to a typical depth of 10 or 20 feet below ground surface.*

Test Pits *– Test pits may be excavated using a backhoe at locations where: (a) buried objects of potential environmental significance such as underground storage tanks are known or suspected to be present, or (b) historic fill materials are known or suspected to be present which can be more effectively evaluated through observation of a broader exposure of material than is possible through sampling conducted via soil borings. Test pits will be conducted only in unpaved areas unless specifically proposed in other locations in the SSSAP and specifically permitted by the Owner. In general, test pits will be 2 to 4-feet in width, 10 to 15-feet in length, and 4 to 12-feet deep. Materials excavated from the test pits will be returned to the test pit on the date of excavation. The surface will not be restored beyond returning the excavated materials to the test pit, roughly smoothing the surface with the backhoe, and compacting the materials by driving over the returned soil with the tires of the backhoe. Due to expansion of soil that occurs upon excavation, mounding of the ground surface may be present following restoration.*

Investigative wastes (i.e., soil and water) will be properly stored on the Property at a location to be identified by the Owner until such time as laboratory and other analyses are completed by which to determine disposal requirements, if any. The Owner is responsible for storage, management, and the proper disposal of that waste (if necessary). Funding may be available from the grant to pay for the proper disposal.

One complete electronic copy on CD of the final report will be provided to you for your use upon completion of the final Phase II ESA Report. As the Phase II ESA is being paid for using a Federal Grant, copies of the report may be provided to the U.S. EPA and/or the MPCA as part of required submittals by the County and become public records. The Owner should review the results contained in the final report and evaluate their reporting obligations to the U.S. EPA and/or MPCA resulting from the potential documentation of the presence of contaminants in soil, groundwater, soil vapor, or building materials at concentrations that exceed regulatory thresholds or standards.

Asbestos and Building Materials Inspection

The asbestos inspection will be completed by a Minnesota licensed asbestos inspector. The inspection will identify homogenous sampling areas of suspected asbestos containing materials (ACMs) in the structure. Collect and submit samples for analysis using polarized light microscopy by a NVLAP-certified lab. The asbestos inspection standard is a destructive inspection technique to determine the presence of suspected ACMs hidden within wall chases and under flooring. The samples obtained are small but do require holes to be put into walls and ceilings. Repairs will not be made unless agreed to prior to the inspection. The building materials inspection will be performed for those building materials listed in MN Rule 7035.0805. One complete electronic copy of the final report will be provided to you for your use upon completion of the inspection.

Although efforts will be made to identify ACM, due to the nature of buildings, restricted access, etc. it is not always possible to fully identify or access all hazardous building materials in advance of demolition; therefore, the owner should secure the services of a qualified asbestos inspector to be on-site if the structure(s) are to be demolished or renovated.

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