



**NOTICE OF MEETING**  
**City Council Meeting**  
**Tuesday, June 9, 2015 7:00 P.M.**  
**City of Lake Elmo | 3800 Laverne Avenue North**  
**Agenda**

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call / Order of Business
- D. Approval of Agenda
- E. Council Reports
- F. Presentations/Public Comments/Inquiries
  - Sunfish Lake Park Nature Center – Tony Manzara
- G. Proclamation
  - 1. Huff 'n Puff Days
- H. Finance Consent Agenda
  - 2. Approve Payment of Disbursements
  - 3. Accept Assessors Report dated April 30, 2015
  - 4. Approve Tax Abatement Payment for Valley Cartage
  - 5. Approval of Fund Transfers for 2014; **Resolution No. 2015-48**
- I. Other Consent Agenda
  - 6. 39th Street N: Street & Sanitary Sewer Improvements – Pay Request No. 5.
  - 7. Pumphouse No. 4 Improvements – Pay Request No. 8 (FINAL).
  - 8. Section 34 Pressure Reduction Valve Station Pay Request No. 2
  - 9. Encroachment Agreement – 12409 Marquess Way N
  - 10. Approve Temporary Liquor License for Jaycees – Huff 'n Puff Days
- J. Regular Agenda
  - 11. 2015 Capital Improvement Financing Plan; Approval of the Issuance of G.O. Bonds Series 2015A; **Resolution No. 2015-49**
  - 12. Cooperative Agreement with Washington County for Downtown Street and Utility Project
  - 13. Downtown Street, Drainage and Utility Improvements – Improvement Hearing; Order Improvements; Consent to Award Contract; **Resolution No. 2015-50**
  - 14. MN-DEED Grant Program – Resolution Accepting the DEED Inwood Water System Grant; **Resolution No. 2015-51**
  - 15. Water Tower # 4 -Approve Land Purchase Agreement
  - 16. East Village Trunk Sewer Agreement; **Resolution No. 2015-52**
  - 17. Amendment of Easton Village Development Agreement
  - 18. Zoning Text Amendment – Freeway Signs Findings for Denial; **Resolution No. 2015-53**
  - 19. Discussion of the Sale of the City's Properties in the Downtown Area – *no memo (Bloyer request)*
  - 20. Placement of City Council Reports – *no memo (Lundgren request)*
  - 21. Authorize Independent Counsel to Investigate Claims of Hostile Work Place – *no memo (Bloyer request)*
  - 22. Council Meeting Decorum – *no memo (Fliflet request)*
  - 23. Discussion of City Clerk Replacement Position – *no memo (Lundgren request)*
  - 24. Discuss Separation Agreement for City Administrator – *no memo (Bloyer request)* \* **May Include Closed Session Under MN Statute 13D.05(3)(a)**
- K. Staff Reports and Announcements
- L. Adjourn

**CITY OF LAKE ELMO**

**HUFF 'N PUFF DAYS PROCLAMATION**

WHEREAS: The Lake Elmo Jaycees have been a vital part of the development of young leaders of our community the past 43 years, and

WHEREAS: This organization of young people will again be sponsors of Huff n' Puff Days, August 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup> 2015.

NOW, THEREFORE, I, Mike Pearson, Mayor of Lake Elmo, do hereby proclaim the second week in August 2015 to be

**HUFF 'N PUFF DAYS**

in Lake Elmo, and urge all citizens of our community to give full regard to past and continuing services of the Lake Elmo Jaycees.

Signed this June 9, 2015.

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Mike Pearson  
Mayor

**DATE:** June 9, 2015  
**CONSENT**  
**ITEM #2**  
**MOTION**

**AGENDA ITEM:** Approve Disbursements in the amount of \$733,858.16

**SUBMITTED BY:** Cathy Bendel, Finance Director

**THROUGH:** Cathy Bendel, Finance Director

**REVIEWED BY:** Dean Zuleger, City Administrator

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECOMMENDER:** Finance

**FISCAL IMPACT:** \$733,858.16

**SUMMARY AND ACTION REQUESTED:** As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$733,858.16. No specific motion is needed as this is recommended to be part of the *Consent Agenda*.

**LEGISLATIVE HISTORY:** NA

**BACKGROUND INFORMATION/STAFF REPORT:** The City of Lake Elmo has the fiduciary responsibility to conduct normal business operations. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

<b>Claim #</b>	<b>Amount</b>	<b>Description</b>
42879-42926	\$ 733,678.16	Accounts Payable 6/09/2015
2731-2733	180.00	Library Card Reimbursement 6/09/2015
<b>TOTAL</b>	<b>\$ 733,858.16</b>	

**RECOMMENDATION:** Based on the aforementioned, the staff recommends the City Council approve as part of the Consent Agenda the aforementioned disbursements in the amount of \$733,858.16.

**ATTACHMENTS:**

1. Accounts Payable – check registers

# Accounts Payable To Be Paid Proof List

User: PattyB

Printed: 06/03/2015 - 10:38 AM

Batch: 003-06-2015

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
BAKERPAT Baker Patricia										
2015-05	06/02/2015	600.00	0.00	06/09/2015	May Services		-	No		0000
101-410-1520-43150	Contract Services									
2015-05	06/02/2015	1,200.00	0.00	06/09/2015	May Services		-	No		0000
601-494-9400-43150	Contract Services									
2015-05	06/02/2015	240.00	0.00	06/09/2015	May Services		-	No		0000
602-495-9450-43150	Contract Services									
2015-05	06/02/2015	360.00	0.00	06/09/2015	May Services		-	No		0000
603-496-9500-43150	Contract Services									
2015-05 Total:										
		2,400.00								
BAKERPAT Total:		2,400.00								
CENTFEN Century Fence Company										
8032C00	05/28/2015	21,289.00	0.00	06/09/2015	Ball Field Fencing		-	No		0000
404-480-8000-44030	Repairs/Maint Imp Not Bldgs									
8032C00 Total:										
		21,289.00								
CENTFEN Total:		21,289.00								
FOCUS Focus Engineering, Inc.										
1931-1935	05/30/2015	745.75	0.00	06/09/2015	Building		-	No		0000
101-420-2400-43030	Engineering									
1931-1935	05/30/2015	254.50	0.00	06/09/2015	PW		-	No		0000
101-430-3100-43030	Engineering Services									
1931-1935	05/30/2015	2,627.95	0.00	06/09/2015	General		-	No		0000
101-410-1930-43030	Engineering Services									
1931-1935	05/30/2015	649.00	0.00	06/09/2015	Planning		-	No		0000
101-410-1910-43030	Engineering Services									
1931-1935	05/30/2015	255.00	0.00	06/09/2015	ROW		-	No		0000
101-430-3100-43030	Engineering Services									
1931-1935 Total:										
		4,532.20								
1936	05/30/2015	971.00	0.00	06/09/2015	Water		-	No		0000
601-494-9400-43030	Engineering Services									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
1936	05/30/2015	559.00	0.00	06/09/2015	Sewer		-		No	0000
602-495-9450-43030	Engineering Services									
1936	05/30/2015	2,749.50	0.00	06/09/2015	Surface Water		-		No	0000
603-496-9500-43030	Engineering Services									
	1936 Total:	4,279.50								
1937	05/30/2015	488.05	0.00	06/09/2015	2015.133 Traffic & Transp		-		No	0000
409-480-8000-43030	Engineering Services									
1937	05/30/2015	1,337.41	0.00	06/09/2015	2015.115 Street Maintenance		-		No	0000
409-480-8000-43030	Engineering Services									
1937	05/30/2015	59.00	0.00	06/09/2015	2015.114 Municipal Aid		-		No	0000
409-480-8000-43030	Engineering Services									
	1937 Total:	1,884.46								
1938	05/30/2015	376.25	0.00	06/09/2015	2013.125 Production Well 4		-		No	0000
601-494-9400-43030	Engineering Services									
	1938 Total:	376.25								
1939	05/30/2015	156.00	0.00	06/09/2015	2013.126 Section 34 Water		-		No	0000
601-494-9400-43030	Engineering Services									
1939	05/30/2015	234.00	0.00	06/09/2015	2013.126 Section 34 Sewer		-		No	0000
602-495-9450-43030	Engineering Services									
	1939 Total:	390.00								
1940	05/30/2015	360.00	0.00	06/09/2015	2013.132 Pumphouse 4		-		No	0000
601-494-9400-43030	Engineering Services									
	1940 Total:	360.00								
1941	05/30/2015	2,273.06	0.00	06/09/2015	2013.133 LE Ave Trunk Watermain		-		No	0000
601-494-9400-43030	Engineering Services									
	1941 Total:	2,273.06								
1942	05/30/2015	12,354.45	0.00	06/09/2015	2013.134 LE Ave Corridor		-		No	0000
409-480-8000-43030	Engineering Services									
	1942 Total:	12,354.45								
1943	05/30/2015	389.50	0.00	06/09/2015	2013.135 2014 Street Impr		-		No	0000
409-480-8000-43030	Engineering Services									
	1943 Total:	389.50								
1944	05/30/2015	240.25	0.00	06/09/2015	2014.121 State Hirway 5		-		No	0000
409-480-8000-43030	Engineering Services									
	1944 Total:	240.25								
1945	05/30/2015	765.10	0.00	06/09/2015	2014.129 Inwood Booster Station		-		No	0000
601-494-9400-43030	Engineering Services									
	1945 Total:	765.10								
1946	05/30/2015	2,280.00	0.00	06/09/2015	2014.131 39th Street		-		No	0000
409-480-8000-43030	Engineering Services									
	1946 Total:	2,280.00								
1947	05/30/2015	1,097.75	0.00	06/09/2015	2015.117 2015 Seal Coat		-		No	0000
409-480-8000-43030	Engineering Services									
	1947 Total:	1,097.75								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
1948	05/30/2015	2,093.95	0.00	06/09/2015	2015.118 2015 Crack Coat		-		No	0000
409-480-8000-43030	Engineering Services									
	1948 Total:	2,093.95								
1949	05/30/2015	4,756.50	0.00	06/09/2015	2015.120 Eagle Point Blvd Street		-		No	0000
409-480-8000-43030	Engineering Services									
	1949 Total:	4,756.50								
1950	05/30/2015	442.50	0.00	06/09/2015	2015.125 CSAH 13		-		No	0000
409-480-8000-43030	Engineering Services									
	1950 Total:	442.50								
1951	05/30/2015	4,290.29	0.00	06/09/2015	2012.130 Lennar I94		-		No	0000
803-000-0000-22910	Developer Payments									
	1951 Total:	4,290.29								
1952	05/30/2015	5,149.77	0.00	06/09/2015	2013.128 Boulder Ponds		-		No	0000
803-000-0000-22910	Developer Payments									
	1952 Total:	5,149.77								
1953	05/30/2015	432.28	0.00	06/09/2015	Hunters Crossing		-		No	0000
803-000-0000-22910	Developer Payments									
	1953 Total:	432.28								
1954	05/30/2015	3,096.51	0.00	06/09/2015	Wildflower		-		No	0000
803-000-0000-22910	Developer Payments									
	1954 Total:	3,096.51								
1955	05/30/2015	2,346.75	0.00	06/09/2015	Village Preserve		-		No	0000
803-000-0000-22910	Developer Payments									
	1955 Total:	2,346.75								
1956	05/30/2015	2,362.50	0.00	06/09/2015	Easton Village		-		No	0000
803-000-0000-22910	Developer Payments									
	1956 Total:	2,362.50								
1957	05/30/2015	235.38	0.00	06/09/2015	Kwik Trip		-		No	0000
803-000-0000-22910	Developer Payments									
	1957 Total:	235.38								
1958	05/30/2015	10,652.07	0.00	06/09/2015	Savonna II		-		No	0000
803-000-0000-22910	Developer Payments									
	1958 Total:	10,652.07								
1959	05/30/2015	7,586.56	0.00	06/09/2015	Inwood - Hans Hagen		-		No	0000
803-000-0000-22910	Developer Payments									
	1959 Total:	7,586.56								
1960	05/30/2015	1,148.60	0.00	06/09/2015	Deider-Rieder/Lennar		-		No	0000
803-000-0000-22910	Developer Payments									
	1960 Total:	1,148.60								
1961	05/30/2015	1,173.75	0.00	06/09/2015	Hunter's Crossing II		-		No	0000
803-000-0000-22910	Developer Payments									
	1961 Total:	1,173.75								
1962	05/30/2015	1,096.75	0.00	06/09/2015	Lennar III		-		No	0000
803-000-0000-22910	Developer Payments									
	1962 Total:	1,096.75								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
FOCUS Total:		78,086.68								
LANG RON Ron's Inspection Services, LLC										
13	05/28/2015	2,262.00	0.00	06/09/2015	Building Inspector Services		-		No	0000
101-420-2400-43150	Inspector Contract Services									
13	05/28/2015	324.87	0.00	06/09/2015	Building Inspector Mileage		-		No	0000
101-420-2400-43310	Mileage									
13 Total:		2,586.87								
LANG RON Total:		2,586.87								
METSAC Metropolitan Council										
May 2015	06/03/2015	37,275.00	0.00	06/09/2015	SAC Charges - May 2015		-		No	0000
602-000-0000-20802	SAC due Met Council									
May 2015	06/03/2015	-372.75	0.00	06/09/2015	SAC Charges - May 2015		-		No	0000
602-000-0000-37220	SAC Early Pay discount/revenue									
May 2015 Total:		36,902.25								
METSAC Total:		36,902.25								
MNPCA Pollution Control Agency Minnesota										
06/03/2015	06/03/2015	310.00	0.00	06/09/2015	2015.120 MCPA Sanitary Ext. Permit		-		No	0000
602-495-9450-43030	Engineering Services									
Total:		310.00								
MNPCA Total:		310.00								
WHEATON Wheaton Joseph										
20150531	06/01/2015	1,338.45	0.00	06/09/2015	Electrical Inspection Services - May		-		No	0000
101-000-0000-20802	Electrical Permit Fees Payable									
20150531 Total:		1,338.45								
WHEATON Total:		1,338.45								
Report Total:		142,913.25								



# Accounts Payable To Be Paid Proof List

User: PattyB

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Batch: 002-06-2015

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ANCOM ANCOM Communications, Inc.										
53176	05/29/2015	3,093.00	0.00	06/09/2015	6 pagers and software		-	No		0000
101-420-2220-43230	Radio									
	53176 Total:	3,093.00								
	ANCOM Total:	3,093.00								
BIFFS Biff's Inc.										
w561140-561149	05/27/2015	886.00	0.00	06/09/2015	Portable restrooms - Parks		-	No		0000
101-450-5200-44120	Rentals - Buildings									
	w561140-561149 Total:	886.00								
	BIFFS Total:	886.00								
BLOYERJU Bloyer Justin										
2013-419	06/01/2015	2,000.00	0.00	06/09/2015	Escrow Release - 8881 Jane Road		-	No		0000
803-000-0000-22900	Deposits Payable									
	2013-419 Total:	2,000.00								
	BLOYERJU Total:	2,000.00								
BOLTONME Bolton & Menk, Inc										
177839	05/14/2015	2,352.00	0.00	06/09/2015	2014.131 39th St N Sewer		-	No		0000
602-495-9450-43030	Engineering Services									
	177839 Total:	2,352.00								
	BOLTONME Total:	2,352.00								
BRAUN Braun Intertec Corporation										
B028513	05/22/2015	3,144.25	0.00	06/09/2015	39th St N		-	No		0000
409-480-8000-43030	Engineering Services									
	B028513 Total:	3,144.25								
	BRAUN Total:	3,144.25								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
BRINDLEE Brindell Mountain Fire, LLC										
V05709	05/26/2015	1,250.00	0.00	06/09/2015	Commission for sale of ladder truck		-	No		0000
410-480-8000-45500	Vehicles									
	V05709 Total:	1,250.00								
	BRINDLEE Total:	1,250.00								
CARDMEMB Cardmember Service										
05/21/2015		339.78	0.00	06/09/2015	Arbor Day, Nature Event		-	No		0000
404-480-8000-45300	Improvements Other Than Bldgs									
05/21/2015		187.35	0.00	06/09/2015	Boom kit		-	No		0000
101-450-5200-42400	Small Tools & Minor Equipment									
05/21/2015		117.72	0.00	06/09/2015	Tractor Seat		-	No		0000
101-430-3120-42210	Equipment Parts									
05/21/2015		37.25	0.00	06/09/2015	Tools		-	No		0000
101-430-3100-42400	Small Tools & Minor Equipment									
05/21/2015		11.20	0.00	06/09/2015	Parts		-	No		0000
101-430-3100-42150	Shop Materials									
05/21/2015		143.47	0.00	06/09/2015	Tether ball - Sanctuary		-	No		0000
404-480-8000-45200	Buildings & Structures									
05/21/2015		349.57	0.00	06/09/2015	Mike B - CC		-	No		0000
101-000-0000-11500	Accounts Receivable									
05/21/2015		34.24	0.00	06/09/2015	Nature Event		-	No		0000
404-480-8000-45300	Improvements Other Than Bldgs									
05/21/2015		53.51	0.00	06/09/2015	Holiday		-	No		0000
101-420-2220-44300	Miscellaneous									
05/21/2015		809.94	0.00	06/09/2015	Ring for Winkels		-	No		0000
101-420-2220-44300	Miscellaneous									
05/21/2015		77.53	0.00	06/09/2015	LE Oil		-	No		0000
101-420-2400-42120	Fuel, Oil and Fluids									
05/21/2015		973.90	0.00	06/09/2015	Books		-	No		0000
101-420-2400-44350	Books									
05/21/2015		254.13	0.00	06/09/2015	Parking, Hotel		-	No		0000
101-410-1320-44300	Miscellaneous									
05/21/2015		500.00	0.00	06/09/2015	Manager Conference		-	No		0000
101-410-1320-44370	Conferences & Training									
05/21/2015		58.00	0.00	06/09/2015	Finance & Commerce		-	No		0000
101-410-1320-44330	Dues & Subscriptions									
05/21/2015		16.02	0.00	06/09/2015	Audible		-	No		0000
101-410-1320-43210	Telephone									
05/21/2015		291.03	0.00	06/09/2015	Special Election Supplies		-	No		0000
101-410-1410-44300	Miscellaneous									
05/21/2015		42.13	0.00	06/09/2015	Council - board of appeals		-	No		0000
101-410-1110-44300	Miscellaneous									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
101-410-1320-42000	05/21/2015 Office Supplies	16.06	0.00	06/09/2015	Office Supplies		-		No	0000
101-410-1520-44300	05/21/2015 Miscellaneous	60.42	0.00	06/09/2015	late fee/interest		-		No	0000
101-410-1940-44300	05/21/2015 Miscellaneous	21.00	0.00	06/09/2015	Water		-		No	0000
	Total:	4,394.25								
	CARDMEMB Total:	4,394.25								
CENTURYL CenturyLink										
206-450-5300-43210	05/19/2015 Telephone	128.20	0.00	06/09/2015	Phone Service - Library		-		No	0000
206-450-5300-43250	05/19/2015 Internet	44.93	0.00	06/09/2015	Internet Service - Library		-		No	0000
	Total:	173.13								
	CENTURYL Total:	173.13								
CTYROSEV City of Roseville										
220269	05/27/2015 Information Technology/Web	2,951.42	0.00	06/09/2015	IT Services - June		-		No	0000
	220269 Total:	2,951.42								
220293	05/27/2015 Telephone	107.64	0.00	06/09/2015	Phone - June		-		No	0000
220293	05/27/2015 Telephone	17.00	0.00	06/09/2015	Phone - June		-		No	0000
220293	05/27/2015 Telephone	17.00	0.00	06/09/2015	Phone - June		-		No	0000
220293	05/27/2015 Telephone	17.00	0.00	06/09/2015	Phone - June		-		No	0000
220293	05/27/2015 Telephone	34.00	0.00	06/09/2015	Phone - June		-		No	0000
220293	05/27/2015 Telephone	47.15	0.00	06/09/2015	Phone - June		-		No	0000
220293	05/27/2015 Telephone	224.65	0.00	06/09/2015	Phone - June		-		No	0000
	220293 Total:	464.44								
	CTYROSEV Total:	3,415.86								
DUCE Duce Melissa										
101-000-0000-32210	05/27/2015 Building Permits	575.00	0.00	06/09/2015	Dup. Payment - Minor Subdivision		-		No	0000
	Total:	575.00			Applic.					

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
DUCE Total:		575.00								
Enright Enright Robert										
Cable	05/27/2015	55.00	0.00	06/09/2015	PC Meeting 5/27/15		-		No	0000
101-410-1450-43620	Cable Operations									
Cable Total:		55.00								
Enright Total:		55.00								
FERGUSON Ferguson Waterworks, Inc #2516										
1384010	05/20/2015	6,002.16	0.00	06/09/2015	Water meters		-		No	0000
601-494-9400-42300	Water Meters & Supplies									
1384010	05/20/2015	119.63	0.00	06/09/2015	Maintenance materials		-		No	0000
601-494-9400-42270	Utility System Maintenance									
1384010 Total:		6,121.79								
FERGUSON Total:		6,121.79								
GEISLING Geislinger & Sons, INC										
Pay Req 2	06/02/2015	2,596.35	0.00	06/09/2015	2013.126 Section 34 PRV Station		-		No	0000
601-494-9400-43030	Engineering Services									
Pay Req 2 Total:		2,596.35								
Pay Req 5	06/02/2015	45,793.68	0.00	06/09/2015	2014.131 39th Street		-		No	0000
409-480-8000-43030	Engineering Services									
Pay Req 5 Total:		45,793.68								
GEISLING Total:		48,390.03								
GKSERVIC G&K Services										
1182120621	05/27/2015	36.84	0.00	06/09/2015	Uniforms		-		No	0000
101-430-3100-44170	Uniforms									
1182120621 Total:		36.84								
GKSERVIC Total:		36.84								
HAGBERGS Hagbergs Country Market										
840250	06/01/2015	3.10	0.00	06/09/2015	Arbor Day supplies		-		No	0000
404-480-8000-45300	Improvements Other Than Bldgs									
840250 Total:		3.10								
HAGBERGS Total:		3.10								
HOLIDAYC Holiday Credit Office										
101-420-2220-42120	05/15/2015	272.70	0.00	06/09/2015	Fuel		-		No	0000
	Fuel, Oil and Fluids									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
Total:		272.70								
HOLIDAYC Total:		272.70								
HYDRO Hydromethods										
201505503	05/08/2015	405.00	0.00	06/09/2015	Savonna 3rd addition		-		No	0000
803-000-0000-22910 Developer Payments										
201505503	05/08/2015	765.00	0.00	06/09/2015	Boulder Ponds Stormwater		-		No	0000
803-000-0000-22910 Developer Payments										
201505503 Total:		1,170.00								
HYDRO Total:		1,170.00								
INNOVAT Innovative Office Solutions										
01QZ1934	05/22/2015	112.39	0.00	06/09/2015	Office Supplies		-		No	0000
101-410-1320-42000 Office Supplies										
01QZ1934	05/22/2015	17.69	0.00	06/09/2015	Office Supplies		-		No	0000
101-410-1910-42000 Office Supplies										
01QZ1934	05/22/2015	13.70	0.00	06/09/2015	Office Supplies		-		No	0000
101-420-2400-42000 Office Supplies										
01QZ1934 Total:		143.78								
INNOVAT Total:		143.78								
kathfuel Kath Fuel Oil Service Co										
512696	06/02/2015	35.00	0.00	06/09/2015	Oil		-		No	0000
101-430-3100-42120 Fuel, Oil and Fluids										
512696 Total:		35.00								
kathfuel Total:		35.00								
Lillie Newspapers Inc. Lillie Suburban										
Acct 7148	05/29/2015	71.42	0.00	06/09/2015	Hunter's Crossing Notice 5/27/15		-		No	0000
101-410-1320-43510 Legal Publishing										
Acct 7148 Total:		71.42								
Lillie Total:		71.42								
MEDALIST Medalist Homes										
2013-57	06/03/2015	5,000.00	0.00	06/09/2015	Escrow Release 11830 58th St		-		No	0000
803-000-0000-22900 Deposits Payable										
2013-57 Total:		5,000.00								
MEDALIST Total:		5,000.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MENARDSO Menards - Oakdale										
77010	05/21/2015	54.86	0.00	06/09/2015	Landscape clean up materials		-		No	0000
101-450-5200-42250	Landscaping Materials									
	77010 Total:	54.86								
77076	05/22/2015	40.95	0.00	06/09/2015	Equipment parts		-		No	0000
101-430-3120-42210	Equipment Parts									
	77076 Total:	40.95								
77412	05/25/2015	30.75	0.00	06/09/2015	Landscape materials		-		No	0000
101-450-5200-42250	Landscaping Materials									
	77412 Total:	30.75								
	MENARDSO Total:	126.56								
MENARDST Menards - Stillwater										
66117	06/01/2015	67.56	0.00	06/09/2015	Replace faucet - Station 1		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	66117 Total:	67.56								
	MENARDST Total:	67.56								
MILLERT Miller Terry										
2014-540	06/02/2015	5,000.00	0.00	06/09/2015	Escrow Release 5819 LE Ave		-		No	0000
803-000-0000-22900	Deposits Payable									
	2014-540 Total:	5,000.00								
	MILLERT Total:	5,000.00								
MNHEALTH MN Department of Health										
601-494-9400-43030	05/29/2015	150.00	0.00	06/09/2015	2015.120 MDH Watermain Permit Fee		-		No	0000
	Engineering Services									
	Total:	150.00								
	MNHEALTH Total:	150.00								
MNPCA Pollution Control Agency Minnesota										
409-480-8000-43030	05/29/2015	400.00	0.00	06/09/2015	2015.120 MPCA General Storm Permit Fee		-		No	0000
	Engineering Services									
	Total:	400.00								
	MNPCA Total:	400.00								
NCPERS 566200-NCPERS Minnesota										
5662415	05/21/2015	160.00	0.00	06/09/2015	June Premium		-		No	0000
101-000-0000-21708	Other Benefits									
	5662415 Total:	160.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	NCPERS Total:	160.00								
NIEBUR Niebur Tractor & Equipment										
01-43626	05/29/2015	69.68	0.00	06/09/2015	Parts		-		No	0000
101-450-5200-42210	Equipment Parts									
	01-43626 Total:	69.68								
	NIEBUR Total:	69.68								
ONECALL Gopher State One Call										
136010	05/31/2015	323.65	0.00	06/09/2015	Tickets		-		No	0000
101-430-3100-43150	Contract Services									
	136010 Total:	323.65								
	ONECALL Total:	323.65								
OP4 OP4 Boulder Ponds, LLC										
	06/03/2015	116,600.00	0.00	06/09/2015	Release Grading Security		-		No	0000
803-000-0000-22910	Developer Payments									
	Total:	116,600.00								
	OP4 Total:	116,600.00								
ROSENBAU Rosenbauer - General Division										
66130	05/29/2015	309,141.00	0.00	06/09/2015	Final payment - fire truck		-		No	0000
410-480-8000-45500	Vehicles									
	66130 Total:	309,141.00								
	ROSENBAU Total:	309,141.00								
SAMSCLUB Sam's Club										
	06/01/2015	45.32	0.00	06/09/2015	Rehab supplies		-		No	0000
101-420-2220-44300	Miscellaneous									
	Total:	45.32								
	SAMSCLUB Total:	45.32								
SCIENCE Science Museum of Minnesota										
15-0421	05/20/2015	200.00	0.00	06/09/2015	Sunfish Lake Park Program		-		No	0000
101-450-5200-44300	Miscellaneous									
	15-0421 Total:	200.00								
	SCIENCE Total:	200.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
SMITHSCH Smith Schafer & Associates,LTD 28996 101-410-1520-43010	05/28/2015 Audit Services 28996 Total: SMITHSCH Total:	9,075.00 9,075.00 9,075.00	0.00	06/09/2015	Final Billing - 2014 CAFR		-	No		0000
SW/WC SW/WC Service Cooperatives C1210-207 101-000-0000-21706	05/27/2015 Medical Insurance C1210-207 Total: SW/WC Total:	19,930.00 19,930.00 19,930.00	0.00	06/09/2015	July Premium		-	No		0000
TESSMAN Tessman Company Corp S215397-IN 101-450-5200-42250	05/29/2015 Landscaping Materials S215397-IN Total: TESSMAN Total:	266.00 266.00 266.00	0.00	06/09/2015	Landscape Supplies		-	No		0000
TKDA TKDA, Inc. 002015001133 602-495-9450-43030	05/05/2015 Engineering Services 002015001133 Total: TKDA Total:	6,022.66 6,022.66 6,022.66	0.00	06/09/2015	2015-120 Eagle Point Blvd		-	No		0000
TOOLGUY The Tool Guy, LLC 5005 101-430-3100-42400	06/02/2015 Small Tools & Minor Equipment 5005 Total: TOOLGUY Total:	115.13 115.13 115.13	0.00	06/09/2015	Tools		-	No		0000
TOTALMEC Total Mechanical Services, Inc Pay 8 - Final 601-494-9400-43030	05/28/2015 Engineering Services Pay 8 - Final Total: TOTALMEC Total:	38,252.06 38,252.06 38,252.06	0.00	06/09/2015	2013.132 Pumphouse 4		-	No		0000
TOWNCTRY Town & Country Cleaning Co 615473 206-450-5300-44010	06/01/2015 Repairs/Maint Bldg 615473 Total:	215.00 215.00	0.00	06/09/2015	June Janitorial Service - Library		-	No		0000



Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
TOWNCTRY Total:		215.00								
XCEL Xcel Energy	05/29/2015	27.15	0.00	06/09/2015	Utility Services		-	No		0000
101-430-3160-43810	Street Lighting									
	05/29/2015	313.06	0.00	06/09/2015	Utility Services		-	No		0000
101-420-2220-43810	Electric Utility									
	05/29/2015	240.68	0.00	06/09/2015	Utility Services		-	No		0000
101-410-1940-43810	Electric Utility									
	05/29/2015	30.77	0.00	06/09/2015	Utility Services		-	No		0000
101-430-3160-43810	Street Lighting									
	05/29/2015	11.80	0.00	06/09/2015	Utility Services		-	No		0000
101-450-5200-43810	Electric Utility									
	05/29/2015	48.22	0.00	06/09/2015	Utility Services		-	No		0000
101-450-5200-43810	Electric Utility									
	05/29/2015	32.15	0.00	06/09/2015	Utility Services		-	No		0000
101-450-5200-43810	Electric Utility									
	05/29/2015	276.12	0.00	06/09/2015	Utility Services		-	No		0000
101-420-2220-43810	Electric Utility									
	05/29/2015	40.33	0.00	06/09/2015	Utility Services		-	No		0000
101-430-3160-43810	Street Lighting									
	05/29/2015	67.68	0.00	06/09/2015	Utility Services		-	No		0000
101-450-5200-43810	Electric Utility									
	05/29/2015	39.48	0.00	06/09/2015	Utility Services		-	No		0000
101-450-5200-43810	Electric Utility									
	05/29/2015	28.08	0.00	06/09/2015	Utility Services		-	No		0000
101-430-3160-43810	Street Lighting									
	05/29/2015	25.25	0.00	06/09/2015	Utility Services		-	No		0000
601-494-9400-43810	Electric Utility									
	05/29/2015	12.75	0.00	06/09/2015	Utility Services		-	No		0000
101-430-3160-43810	Street Lighting									
	05/29/2015	340.19	0.00	06/09/2015	Utility Services		-	No		0000
206-450-5300-43810	Electric Utility									
	05/29/2015	143.59	0.00	06/09/2015	Utility Services		-	No		0000
602-495-9450-43810	Electric Utility									
	05/29/2015	116.21	0.00	06/09/2015	Utility Services		-	No		0000
601-494-9400-43810	Electric Utility									
	05/29/2015	13.78	0.00	06/09/2015	Utility Services		-	No		0000
101-450-5200-43810	Electric Utility									
	05/29/2015	214.85	0.00	06/09/2015	Utility Services		-	No		0000
601-494-9400-43810	Electric Utility									
Total:		2,022.14								
XCEL Total:		2,022.14								

Invoice #      Inv Date      Amount      Quantity      Pmt Date      Description      Reference      Task      Type      PO #      Close POLine #

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Report Total:                      590,764.91

**DATE:** June 9, 2015  
**CONSENT**  
**ITEM#** 3

**AGENDA ITEM:** Monthly Assessor Report  
**SUBMITTED BY:** Dan Raboin, City Assessor  
**THROUGH:** Cathy Bendel, Finance Director  
**REVIEWED BY:** Cathy Bendel, Finance Director

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item..... City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff.....Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion.....Mayor Facilitates

**SUMMARY AND ACTION REQUESTED:** As part of its Consent Agenda, the City Council is asked to accept the monthly assessor report for through May 2015 outlining work performed on behalf of the City of Lake Elmo. No specific motion is needed as this is recommended as part of the *Consent Agenda*.

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

Property splits/plats – 0  
Sales collected and viewed – 6  
Taxpayer inquiries – 8  
Miscellaneous inquiries - 5  
Inspections – Residential – 41; Commercial – 27  
Building permit reviews – 33  
Pictures taken – 56

Other work performed included:

- Monthly meeting with County residential and commercial supervisors

- Input of all inspection and permit work
- Perform sales verifications and land value analysis using MLS and other resources
- Field telephone inquiries

**RECOMMENDATION:** Based on the aforementioned, the staff recommends the City Council accept the May 2015 monthly assessor report.



MAYOR & COUNCIL COMMUNICATION

DATE: June 9, 2015  
CONSENT  
ITEM # 4

AGENDA ITEM: Approval for Tax Abatement Payment for Valley Cartage

SUBMITTED BY: Cathy Bendel, Finance Director

THROUGH: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator  
Kevin Corbid, Washington County

**SUGGESTED ORDER OF BUSINESS:**

- Questions from Council to Staff..... Mayor Facilitates
- Report/Presentations.....City Staff, Smith Schafer
- 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:** Finance

**FISCAL IMPACT:** \$3,628.68

On April 26, 2013, the City Council approved a limited property tax abatement for the 8665 Hudson Boulevard (Parcel ID #33.029.21.44.0037) for the tax years 2014, 2015, 2016 and 2017.

**SUMMARY AND ACTION REQUESTED:**

On an annual basis, by July 30<sup>th</sup> each year, the tax abatement for 8665 Hudson Boulevard needs to be remitted to the owner. Staff is seeking City Council approval to refund the City of Lake Elmo portion which needs to be refunded for 2015 which is \$3,628.68.

**STAFF REPORT:**

In the winter of 2012 the City of Lake Elmo was approached by a company from Wisconsin with interest in purchasing a corporate office building at 8665 Hudson Boulevard for the purpose of establishing a headquarters and creating 50 new jobs. They requested a limited tax abatement for the years of 2014-2017.

This location was not in a TIF district so those incentives were not available. The City staff took the lead on a project to put together an economic development package that consisted of tax abatement, a sizable forgivable loan (\$500k), job training funds, and energy credits to bring new good paying jobs to the region. The results of this public-private partnership resulted in the building being purchased and all of the stipulations of the partnership and state funding having been exceeded.

The following were the benefits as a result of this transaction:

- Valley Cartage moved their Corporate Headquarters to Lake Elmo and created in excess of 50 new jobs.
- Improvements were made to the building at 8665 Hudson Boulevard increasing the taxable market value by over \$1 million.
- Retention of a large tenant a key commercial building on the I-94 corridor where the City planned for key growth.
- Participation by Washington County in the abatement process for their share of the tax increment for 2014-2017.

It should be noted that there was no tax abatement due for 2014 as a result of the delay in the improvements to the building hitting the tax roll.

**RECOMMENDATION:**

It is recommended that the City Council approve a payment to Norman James in the amount of \$3,628.68 which represents the City share of tax abatement due for 2015.

**ATTACHMENTS:**

1. Resolution #2013-27
2. Washington County worksheet on Lake Elmo component of 2015 tax abatement

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

**RESOLUTION NO. 2013-27**

**A RESOLUTION AUTHORIZING LIMITED PROPERTY TAX ABATEMENT FOR  
8665 HUDSON BOULEVARD FOR YEARS 2014, 2015, 2016, 2017**

**WHEREAS**, the City of Lake Elmo, Minnesota, under Minnesota State Statutes Chapter 272, 273 and Chapter 489, has the authority to value and assess all real property within its jurisdictional boundaries and,

**WHEREAS**, Minnesota law authorizes political subdivisions to grant property tax abatements for economic development to encourage businesses to locate or expand to an area (Minn. Stat. §§ 469.1819-459.1816) and,

**WHEREAS**, abatements are available for up to 15-20 years and the total abatement cannot exceed the larger of ten percent (10%) of the net tax capacity or \$200,000.00 and,

**WHEREAS**, Norman James LLC of Woodbury, MN wishes to purchase and relocate to 8665 Hudson Boulevard in the City of Lake Elmo, Minnesota creating approximately fifty (50) or more jobs providing significant compensation in the area of logistics transportation that will stimulate the local economy and,

**WHEREAS**, the fifty (50) or more jobs include positions in the transportation logistics industry that pay between \$35,000-\$90,000 per year created by 2015 and that are subject to Minnesota state income tax and,

**WHEREAS**, the current assessed market value of 8665 Hudson Boulevard has been placed at \$2,125,500 for the last two years and the building is currently built out at approximately the 80% level and,

**WHEREAS**, the purchase price will include non-real property assets and thus will not solely reflect the value of the improvements and land and,

**WHEREAS**, Norman James LLC has requested a limited property tax abatement for the years 2014-2017 as well as consideration of limited property tax abatement for 2018, and

**WHEREAS**, the City Council finds that the public benefits involved would include, but will not be limited to, general economic development, ultimately increasing the tax base, increasing the number of jobs in the area, and spurring economic activity along the I-94 corridor and these benefits would exceed the cost of abating the City portion of property taxes for the years 2014-2017 arising from any increase in the property value above the current assessed valuation (\$2,125,200.00).

**NOW, THEREFORE, IT IS HEREBY RESOLVED,**

That the City Council of the City of Lake Elmo, Minnesota, agrees to abate the increase in the city portion of property taxes paid, excluding fiscal disparities, on parcel 33.029.21.44.0037 as follows:


1. For the purpose of this agreement, "increase in the city portion of property taxes paid, excluding fiscal disparities" specifically excludes any portion of the tax attributable to the area-wide tax under M.S. § 473F from abatement. The amount of tax abatement is calculated as follows for each parcel with an increase in taxable market value for a given year:
2.
  - a. Calculate the base year city tax for the parcel
    - i. Multiply current year class rates by the taxable market value for taxes payable in 2012 (\$2,125,200) to determine the total tax capacity.
    - ii. Multiply the total tax capacity by the fiscal disparity percentage for the current year to determine the fiscal disparity portion of the tax capacity.
    - iii. Subtract the fiscal disparity portion of the tax capacity from the total tax capacity to determine the local tax capacity.
    - iv. Multiply the local tax capacity by the city tax rate for the current year to determine the base year city tax.
  - b. Calculate the current year city tax for the parcel
    - i. Multiply current year class rates by the taxable market value for the current year to determine the total tax capacity.
    - ii. Multiply the total tax capacity by the fiscal disparity percentage for the current year to determine the fiscal disparity portion of the tax capacity.
    - iii. Subtract the fiscal disparity portion of the tax capacity from the total tax capacity to determine the local tax capacity.
    - iv. Multiply the local tax capacity by the city tax rate for the current year to determine the current year city tax.
  - c. Subtract the base year city tax from the current year city tax to determine the change in city tax.
  - d. The change in city tax greater than \$0 is the amount of tax abatement for the year.
3. Notwithstanding any provision to the contrary, no city abatement will be granted if the total taxes due on the parcel is less than the total tax amount due for taxes payable in 2012 of \$70,256.
4. The maximum duration of the abatement shall be for four years, beginning for taxes payable in 2014, except that the City Council will consider an abatement for the year 2018 if requested by the property owner.
5. The maximum annual tax abatement amount shall not exceed \$10,000.00 in any year and maximum total abatement for all years for all abating parties shall not exceed \$40,000.00.



6. The City of Lake Elmo will make payment of the abatement to the property owner on or before July 30 of each year. No payment will be made after July 30, 2017 or after the total abatement for the four abatement years has been paid.


ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE SIXTEENTH DAY OF APRIL 2013.

CITY OF LAKE ELMO

By:   
Mike Pearson  
Mayor

(Seal)

ATTEST:

  
Adam Bell  
City Clerk

**City of Lake Elmo - Valley Cartage Economic Development Tax Abatement**  
 City Resolution 2013-27

PID: 33.029.21.44.0037 TAG 3701

Duration: 4 years Pay 2014-Pay 2017 (Pay 2018 will be considered if requested by owner)

Terms: Market Value in year of abatement must be greater than Pay 2012 Market Value of 2,125,000

Total tax in year of abatement must be greater than Pay 2012 total tax of \$70,256.

Maximum of \$10,000 per year/\$40,000 total

No payment will be made if the first half taxes for the year are unpaid or if delinquent taxes exist for prior years.

Payment to be made on or before July 30 of each year.

Tax Year	Item	Total Tax	Taxable Market Value	Class Rate	Total Tax Capacity	FD%	FD Tax Capacity	Local Tax Capacity	Current City Rate	City NTC Tax	Change in City Tax	Amount of Abatement (\$10000 max)	Tax Payment Status Y / N (not part of city agreement)
Pay 2014:	Base Year		150,000	1.50%	2,250								<input checked="" type="checkbox"/> First half 2014 taxes paid?
		\$70,256	1,975,000	2.00%	39,500	40.1589%	16,766	24,984	27.761%	\$6,935.74			<input checked="" type="checkbox"/> No delinquent taxes?
	Current Year	\$77,675	2,125,000	2.00%	41,750	40.1589%	16,766	24,984	27.761%	\$6,935.74	\$0.00	\$0.00	
**No Value Increase over 2012**													
Pay 2015:	Base Year	\$70,256	1,975,000	2.00%	41,750	34.3461%	14,339	27,411	23.798%	\$6,523.19			<input type="checkbox"/> First half 2015 taxes paid?
	Current Year	\$113,299	3,286,300	2.00%	64,976	34.3461%	22,317	42,659	23.798%	\$10,151.87	\$3,628.68	\$3,628.68	<input checked="" type="checkbox"/> No delinquent taxes?
													payable July 30, 2015



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**CONSENT**  
**ITEM #** 5

**AGENDA ITEM:** Approval for Fund Transfers 2014  
**SUBMITTED BY:** Cathy Bendel, Finance Director  
**THROUGH:** Cathy Bendel, Finance Director  
**REVIEWED BY:** Dean Zuleger, City Administrator  
Jason Miller, Smith Schafer & Associates

**SUGGESTED ORDER OF BUSINESS:**

- Questions from Council to Staff..... Mayor Facilitates
- Report/Presentations.....City Staff, Smith Schafer
- 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:** Finance/Auditors

**FISCAL IMPACT:** \$360,000; budgeted

To finalize the December 31, 2014 general ledger and close it down for the year some final transactions/transfers are necessary and were incorporated into the final audit report presented and approved by the City Council on May 19, 2015.

**SUMMARY AND ACTION REQUESTED:**

During 2014, it was budgeted that an installment of \$200k would be made toward the internal loan and that \$160k would be spent on the annual seal coating and crack filling of the streets. To properly account for these items, approval is being requested to book these two fund transfers.

**STAFF REPORT:**

The following fund transfers need to be approved to be made:

- \$200,000 from the General Fund (101) to the Village Fund (413) so that funds are available to make the annual budgeted loan repayment.
- \$160,000 from the General Fund (101) to the Infrastructure Fund (409) to fund the annual seal coating and cracking filling for 2014.

**RECOMMENDATION:**

It is recommended that the City Council approve Resolution No. 2015-48 authorizing the balance transfers between funds as proposed and budgeted for 2014.

**ATTACHMENTS:**

1. Resolution No. 2015-48

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

**RESOLUTION NO. 2015-48**

**A RESOLUTION RELATED TO 2014 YEAR END CLOSURE/AUDIT TO  
WASHINGTON COUNTY**

WHEREAS, the City of Lake Elmo desires to close the accounting records as of December 31, 2014,

BE IT RESOLVED, by the City Council of the City of Lake Elmo, Minnesota, that the following transfers may be made effective December 31, 2014:

- \$200,000 from the General Fund (101) to the Village fund (413) so that funds are available to make the annual budgeted loan repayment.
- \$160,000 from the General Fund (101) to the Infrastructure Reserve Fund (409) to fund the annual seal coating and crack filling project for 2014.

APPROVED by the Lake Elmo City Council on this 9<sup>th</sup> day of June, 2015.

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

ATTEST:

\_\_\_\_\_  
Adam Bell  
City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: June 9, 2015  
CONSENT  
ITEM # 6

AGENDA ITEM: 39<sup>th</sup> Street North: Street and Sanitary Sewer Improvements – Pay Request No. 5

SUBMITTED BY: Chad Isakson, Project Engineer

THROUGH: Dean A. Zuleger, 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:**

None. Partial payment is proposed in accordance with the approved Contract and change orders for the project.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to consider approving Pay Request No. 5 for the 39<sup>th</sup> Street North: Street and Sanitary Sewer Improvements project. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve Pay Request No. 5 to Geislinger & Sons Inc. in the amount of \$45,793.68 for the 39<sup>th</sup> Street North: Street and Sanitary Sewer Improvements”.***

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

Geislinger & Sons Inc., the Contractor for the project, has submitted Partial Pay Estimate No.5 in the amount of \$45,793.68. The request has been reviewed and payment is recommended in the amount requested. In accordance with the contract documents, the City has retained 5% of the total work completed. The amount retained is \$89,594.88.

**RECOMMENDATION:**

Staff is recommending that the City Council consider approving, *as part of the Consent Agenda*, Pay Request No. 5 for the 39<sup>th</sup> Street North: Street and Sanitary Sewer Improvements project. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve Pay Request No. 5 to Geislinger & Sons Inc. in the amount of \$45,793.68, for the 39<sup>th</sup> Street North: Street and Sanitary Sewer Improvements”.***

**ATTACHMENT(S):**

1. Partial Pay Estimate No. 5

**PROJECT PAY FORM**

PARTIAL PAY ESTIMATE NO. <u>5</u>		<b>FOCUS</b> ENGINEERING, inc.	
39TH ST N: STREET AND SANITARY SEWER IMPROVEMENTS PROJECT NO. 2014.131		PERIOD OF ESTIMATE FROM <u>5/9/2015</u> TO <u>5/29/2015</u>	
PROJECT OWNER: <b>CITY OF LAKE ELMO</b> 3800 LAVERNE AVENUE NORTH LAKE ELMO, MN 55042 ATTN: JACK GRIFFIN, CITY ENGINEER		CONTRACTOR: <b>GEISLINGER &amp; SONS, INC.</b> 511 CENTRAL AVE S, PO BOX 437 WATKINS, MINNESOTA 55389 ATTN: GARY LUEBBEN, PROJECT MANAGER	
<b>CONTRACT CHANGE ORDER SUMMARY</b>		<b>PAY ESTIMATE SUMMARY</b>	
No.	Approval Date	Amount	
		Additions	Deductions
1	9/16/2014	\$118,975.00	
2	2/3/2015	\$22,214.00	
3	2/24/2015	\$19,435.00	
4	4/7/2015	\$154,440.00	
TOTALS		\$315,064.00	\$0.00
NET CHANGE		\$315,064.00	*Detailed Breakdown Attached
<b>CONTRACT TIME</b>			
START DATE:	<u>9/2/2014</u>	ORIGINAL DAYS	<u>347</u>
SUBSTANTIAL COMPLETION:	<u>6/30/2015</u>	REVISED DAYS	<u>0</u>
FINAL COMPLETION:	<u>8/15/2015</u>	REMAINING	<u>78</u>
		ON SCHEDULE	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<b>ENGINEER'S CERTIFICATION:</b>		FOCUS Engineering, inc.	
The undersigned certifies that the work has been reviewed and to the best of their knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.		 _____ ENGINEER <u>6/2/2015</u> DATE	
<b>CONTRACTOR'S CERTIFICATION:</b>		CONTRACTOR	
The undersigned Contractor certifies that to the best of their knowledge, information and belief the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the contractor for work for which previous payment estimates was issued and payments received from the owner, and that current payment shown herein is now due.		 BY <u>6/2/2015</u> DATE	
<b>APPROVED BY OWNER: CITY OF LAKE ELMO, MINNESOTA</b>			
_____ BY		_____ BY	
_____ DATE		_____ DATE	



PARTIAL PAY ESTIMATE NO. 5

39TH ST N: STREET AND SANITARY SEWER IMPROVEMENTS  
 CITY OF LAKE ELMO, MINNESOTA  
 PROJECT NO. 2014.131

**FOCUS ENGINEERING, inc.**

ITEM	DESCRIPTION OF PAY ITEM	UNIT	CONTRACT			THIS PERIOD		TOTAL TO DATE	
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
<b>PART 1 - SANITARY SEWER</b>									
1	8" PVC SANITARY SEWER, SDR 26, 20' - 25' DEEP	LF	62	\$125.00	\$7,750.00	0	\$0.00	153.00	\$19,125.00
2	10" PVC SANITARY SEWER, SDR 26, 15' - 20' DEEP	LF	1,025	\$87.00	\$89,175.00	0	\$0.00	1,054.00	\$91,698.00
3	10" PVC SANITARY SEWER, SDR 26, 20' - 25' DEEP	LF	315	\$89.00	\$28,035.00	0	\$0.00	284	\$25,276.00
4	12" PVC SANITARY SEWER, SDR 26, 15' - 20' DEEP	LF	500	\$92.00	\$46,000.00	0	\$0.00	495	\$45,540.00
5	12" PVC SANITARY SEWER, SDR 26, 20' - 25' DEEP	LF	630	\$94.00	\$59,220.00	0	\$0.00	632	\$59,408.00
6	10" PVC SANITARY SEWER, SDR 26, IN CASING	LF	100	\$40.00	\$4,000.00	0	\$0.00	100	\$4,000.00
7	12" PVC SANITARY SEWER, SDR 26, IN CASING	LF	120	\$45.00	\$5,400.00	0	\$0.00	120	\$5,400.00
8	20" STEEL CASING PIPE (JACK/AUGERED)	LF	100	\$525.00	\$52,500.00	0	\$0.00	100	\$52,500.00
9	24" STEEL CASING PIPE (JACK/AUGERED)	LF	120	\$535.00	\$64,200.00	0	\$0.00	120	\$64,200.00
10	PIPE FOUNDATION ROCK	LF	1,400	\$0.10	\$140.00	0	\$0.00	118	\$11.80
11	TELEVISION	EA	2,850	\$2.00	\$5,700.00	0	\$0.00	0	\$0.00
12	4' DIAMETER SANITARY SEWER MH	EA	12	\$3,000.00	\$36,000.00	0	\$0.00	12	\$36,000.00
13	4' DIAMETER EXCESS MANHOLE DEPTH	LF	140	\$125.00	\$17,500.00	0	\$0.00	117.7	\$14,712.50
14	10"x6" PVC WYE, SDR 26	EA	6	\$400.00	\$2,400.00	0	\$0.00	6	\$2,400.00
15	12"x6" PVC WYE, SDR 26	EA	4	\$460.00	\$1,840.00	0	\$0.00	6	\$2,760.00
16	6" PVC SCH 40 SANITARY SEWER RISER	LF	85	\$35.00	\$2,975.00	0	\$0.00	118	\$4,130.00
17	6" PVC SCH 40 SANITARY SEWER SERVICE	LF	400	\$32.00	\$12,800.00	0	\$0.00	389	\$12,448.00
18	PRECAST CONCRETE JERSEY BARRIERS AT HIGHWAY 5 JACKING PITS	LS	1	\$4,500.00	\$4,500.00	0	\$0.00	1	\$4,500.00
19	PRECAST CONCRETE JERSEY BARRIERS AT HIGHWAY 17 JACKING PITS	LS	1	\$4,500.00	\$4,500.00	0	\$0.00	1	\$4,500.00
20	CROSS EXISTING WATER SERVICE	EA	7	\$450.00	\$3,150.00	0	\$0.00	7	\$3,150.00
21	EXPLORATORY DIGGING	HR	5	\$500.00	\$2,500.00	0	\$0.00	0	\$0.00
SUBTOTAL - PART 1					\$450,285.00		\$0.00		\$451,759.30
<b>PART 2 - WATERMAIN</b>									
1	TEMPORARY WATER SYSTEM	LS	1	\$1,500.00	\$1,500.00	0	\$0.00	1	\$1,500.00
2	CONNECT TO EXISTING 6" WATER MAIN	EA	3	\$900.00	\$2,700.00	0	\$0.00	1	\$900.00
3	CONNECT TO EXISTING 8" WATER MAIN	EA	1	\$950.00	\$950.00	0	\$0.00	1	\$950.00
4	CUT IN 8" X 8" TEE	EA	1	\$2,600.00	\$2,600.00	0	\$0.00	0	\$0.00
5	REMOVE AND DISPOSE OF EXISTING GATE VALVE & BOX	EA	3	\$1,500.00	\$4,500.00	0	\$0.00	0	\$0.00
6	REMOVE AND REPLACE 6" GATE VALVE & BOX	EA	4	\$3,400.00	\$13,600.00	0	\$0.00	4	\$13,600.00
7	REMOVE AND REPLACE 8" GATE VALVE & BOX	EA	11	\$3,900.00	\$42,900.00	0	\$0.00	10	\$39,000.00
8	REMOVE AND DISPOSE OF EXISTING HYDRANT	EA	5	\$760.00	\$3,800.00	0	\$0.00	3	\$2,280.00
9	6" DIP CL. 52 WATER MAIN	LF	70	\$46.00	\$3,220.00	0	\$0.00	30.5	\$1,403.00
10	8" DIP CL. 52 WATER MAIN	LF	30	\$53.00	\$1,590.00	0	\$0.00	88	\$4,664.00
11	6" GATE VALVE AND BOX	EA	4	\$1,450.00	\$5,800.00	0	\$0.00	1	\$1,450.00
12	HYDRANT	EA	5	\$4,000.00	\$20,000.00	0	\$0.00	3	\$12,000.00
13	VALVE BOX EXTENSION	LF	2	\$260.00	\$520.00	0	\$0.00	0	\$0.00
14	HYDRANT EXTENSION	LF	1	\$600.00	\$600.00	0	\$0.00	0	\$0.00
15	DUCTILE IRON FITTINGS	LB	100	\$10.00	\$1,000.00	0	\$0.00	94	\$940.00
SUBTOTAL - PART 2					\$105,280.00		\$0.00		\$78,687.00
<b>PART 3 - STORM SEWER</b>									
1	REMOVE AND DISPOSE OF EXISTING STORM SEWER	LF	910	\$10.00	\$9,100.00	0	\$0.00	902	\$9,020.00
2	REMOVE AND DISPOSE OF EXISTING STORM SEWER MANHOLE	EA	8	\$400.00	\$3,200.00	0	\$0.00	8	\$3,200.00
3	POTHOLE EXISTING WATER MAIN	EA	7	\$450.00	\$3,150.00	0	\$0.00	7	\$3,150.00
4	12" RCP STORM SEWER, CLASS 5	LF	70	\$40.00	\$2,800.00	0	\$0.00	70	\$2,800.00
5	15" RCP STORM SEWER, CLASS 5	LF	891	\$42.00	\$37,422.00	0	\$0.00	891	\$37,422.00
6	18" RCP STORM SEWER, CLASS 5	LF	236	\$45.00	\$10,620.00	0	\$0.00	236	\$10,620.00
7	24" RCP STORM SEWER, CLASS 4	LF	369	\$62.00	\$22,878.00	0	\$0.00	369	\$22,878.00
8	12" RCP FLARED END SECTION INCL TRASH GUARD	EA	2	\$900.00	\$1,800.00	0	\$0.00	2	\$1,800.00
9	18" RCP FLARED END SECTION INCL TRASH GUARD	EA	2	\$1,050.00	\$2,100.00	0	\$0.00	2	\$2,100.00
10	24" RCP FLARED END SECTION INCL TRASH GUARD	EA	1	\$1,400.00	\$1,400.00	0	\$0.00	1	\$1,400.00
11	RIP RAP, CLASS 3	CY	8	\$115.00	\$920.00	12	\$1,380.00	12	\$1,380.00
12	2'X3' CATCH BASIN	EA	3	\$2,100.00	\$6,300.00	0	\$0.00	3	\$6,300.00
13	4' DIA CATCH BASIN/MANHOLE	EA	5	\$2,500.00	\$12,500.00	0	\$0.00	5	\$12,500.00
14	5' DIA CATCH BASIN/MANHOLE	EA	2	\$3,600.00	\$7,200.00	0	\$0.00	2	\$7,200.00
15	5' DIA CATCH BASIN/MANHOLE W/ SUMP	EA	1	\$4,350.00	\$4,350.00	0	\$0.00	1	\$4,350.00
16	BULKHEAD 15" RCP STORM SEWER	EA	1	\$125.00	\$125.00	0	\$0.00	1	\$125.00
17	BULKHEAD 18" RCP STORM SEWER	EA	1	\$150.00	\$150.00	0	\$0.00	1	\$150.00
18	BULKHEAD 36" RCP STORM SEWER	EA	1	\$225.00	\$225.00	0	\$0.00	1	\$225.00
19	INLET PROTECTION	EA	12	\$175.00	\$2,100.00	0	\$0.00	3	\$525.00
20	INSULATION	SY	30	\$30.00	\$900.00	0	\$0.00	24	\$720.00
21	POND EXCAVATION (P)	CY	420	\$10.00	\$4,200.00	0	\$0.00	420	\$4,200.00
22	INFILTRATION SWALE EXCAVATION (P)	CY	675	\$10.00	\$6,750.00	0	\$0.00	0	\$0.00
23	SEED MIX 330 AND HYDROMULCH	SY	1600	\$2.75	\$4,400.00	0	\$0.00	0	\$0.00
SUBTOTAL - PART 3					\$144,590.00		\$1,380.00		\$132,065.00
<b>PART 4 - STREET IMPROVEMENTS</b>									
1	MOBILIZATION	LS	1	\$90,000.00	\$90,000.00	0.00	\$0.00	0.75	\$67,500.00
2	TRAFFIC CONTROL	LS	1	\$9,000.00	\$9,000.00	0.00	\$0.00	0.75	\$6,750.00

ITEM	DESCRIPTION OF PAY ITEM	UNIT	CONTRACT			THIS PERIOD		TOTAL TO DATE	
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
3	TEMPORARY ROCK CONSTRUCTION ENTRANCE	EA	3	\$1,200.00	\$3,600.00	0.00	\$0.00	1	\$600.00
4	CLEAR AND GRUB TREES AND BRUSH	LS	1	\$4,500.00	\$4,500.00	0.00	\$0.00	1	\$4,500.00
5	TEMPORARY ACCESS GRADING	LS	1	\$2,000.00	\$2,000.00	0.00	\$0.00	1	\$2,000.00
6	TEMPORARY ACCESS AGGREGATE BASE CLASS 5	TN	60	\$30.00	\$1,800.00	0.00	\$0.00	60	\$1,800.00
7	TEMPORARY ACCESS MAINTENANCE	HR	10	\$125.00	\$1,250.00	0.00	\$0.00	10	\$1,250.00
8	REMOVE TEMPORARY ACCESS	LS	1	\$1,500.00	\$1,500.00	0.00	\$0.00	0	\$0.00
9	REMOVE AND DISPOSE OF EXISTING CONCRETE CURB AND GUTTER	LF	290	\$6.00	\$1,740.00	0.00	\$0.00	290	\$1,740.00
10	REMOVE AND DISPOSE OF EXISTING BITUMINOUS PAVEMENT	SY	9160	\$2.00	\$18,320.00	0.00	\$0.00	9,487	\$18,974.00
11	REMOVE AND DISPOSE OF EXISTING BITUMINOUS PAVEMENT (DRIVEWAY)	SY	335	\$4.00	\$1,340.00	0.00	\$0.00	300	\$1,200.00
12	REMOVE AND DISPOSE OF EXISTING LIGHT BASE	EA	4	\$300.00	\$1,200.00	0.00	\$0.00	0	\$0.00
13	SALVAGE AND REINSTALL SIGN	EA	8	\$200.00	\$1,600.00	0.00	\$0.00	0	\$0.00
14	SALVAGE AND REINSTALL MAIL DROPBOX	EA	1	\$250.00	\$250.00	0.00	\$0.00	0	\$0.00
15	SALVAGE AND REINSTALL RETAINING WALL	LS	1	\$7,500.00	\$7,500.00	0.00	\$0.00	0	\$0.00
16	SAWCUT BITUMINOUS PAVEMENT	LF	200	\$3.00	\$600.00	0.00	\$0.00	200	\$600.00
17	COMMON EXCAVATION (P)	CY	7750	\$9.00	\$69,750.00	0.00	\$0.00	7,750	\$69,750.00
18	SUBGRADE CORRECTION (EV)	CY	340	\$12.00	\$4,080.00	0.00	\$0.00	216	\$2,592.00
19	SUBGRADE PREPARATION	RS	24.34	\$465.00	\$11,318.10	0.00	\$0.00	24.34	\$11,318.10
20	4" PERFORATED PVC DRAIN TILE WITH AGGREGATE AND WRAP	LF	1000	\$12.00	\$12,000.00	0.00	\$0.00	980	\$11,760.00
21	AGGREGATE BASE CLASS 5	TN	6380	\$10.50	\$66,990.00	0.00	\$0.00	6,380	\$66,989.79
22	SELECT GRANULAR BORROW (P)	CY	4090	\$10.00	\$40,900.00	0.00	\$0.00	4,090	\$40,900.00
23	TYPE SP 9.5 BITUMINOUS WEARING COURSE MIXTURE (2,B) [SPWEA230B]	TN	800	\$66.50	\$53,200.00	0.00	\$0.00	0	\$0.00
24	TYPE SP 12.5 BITUMINOUS NON WEARING COURSE MIXTURE (2,B) [SPNW]	TN	1335	\$57.75	\$77,096.25	780.50	\$45,073.88	1,290.5	\$74,526.38
25	BITUMINOUS MATERIAL FOR TACK COAT	GAL	565	\$2.00	\$1,130.00	0.00	\$0.00	25	\$50.00
26	ADJUST MH CASTING - STEEL RING (2015)	EA	12	\$450.00	\$5,400.00	0.00	\$0.00	0	\$0.00
27	ADJUST VALVE BOX (2015)	EA	20	\$250.00	\$5,000.00	0.00	\$0.00	0	\$0.00
28	B624 CONCRETE CURB AND GUTTER	LF	4310	\$10.77	\$46,418.70	0.00	\$0.00	4,465	\$48,088.05
29	B612 CONCRETE CURB AND GUTTER	LF	105	\$14.80	\$1,554.00	0.00	\$0.00	43	\$636.40
30	CONCRETE PEDESTRIAN RAMP	EA	12	\$420.00	\$5,040.00	0.00	\$0.00	2	\$840.00
31	5" CONCRETE SIDEWALK	SF	13110	\$3.50	\$45,885.00	0.00	\$0.00	12,468	\$43,638.00
32	8" COMMERCIAL CONCRETE DRIVEWAY PAVEMENT (HIGH EARLY)	SY	340	\$70.00	\$23,800.00	0.00	\$0.00	331	\$23,170.00
33	6" CONCRETE FLUME	SY	35	\$50.00	\$1,750.00	0.00	\$0.00	0	\$0.00
34	TRUNCATED DOME PANELS	SF	168	\$42.00	\$7,056.00	0.00	\$0.00	28	\$1,176.00
35	BITUMINOUS DRIVEWAY PAVEMENT	SY	105	\$50.00	\$5,250.00	35.00	\$1,750.00	35	\$1,750.00
36	TYPE SP 9.5 BITUMINOUS WEARING COURSE MIXTURE - TRAIL (2,B) [SPW]	TN	270	\$65.00	\$17,550.00	0.00	\$0.00	0	\$0.00
37	SODDING	SY	5000	\$4.25	\$21,250.00	0.00	\$0.00	0	\$0.00
38	IMPORT AND PLACE TOPSOIL BORROW (CV)	CY	500	\$35.00	\$17,500.00	0.00	\$0.00	0	\$0.00
39	SEED & EROSION CONTROL BLANKET	SY	2000	\$3.25	\$6,500.00	0.00	\$0.00	0	\$0.00
40	SEED & HYDROMULCH	SY	5500	\$2.15	\$11,825.00	0.00	\$0.00	0	\$0.00
41	SILT FENCE, TYPE MACHINE SLICED	LF	1000	\$1.95	\$1,950.00	0.00	\$0.00	0	\$0.00
42	SILT FENCE, TYPE FLOATING	LF	30	\$22.50	\$675.00	0.00	\$0.00	0	\$0.00
43	DITCH CHECK - BIDROLL	LF	200	\$5.75	\$1,150.00	0.00	\$0.00	30	\$172.50
44	STREET SLEEPING	HR	15	\$125.00	\$1,875.00	0.00	\$0.00	0	\$0.00
45	SIGN PANELS, TYPE C	SF	6	\$45.00	\$281.25	0.00	\$0.00	0	\$0.00
46	4" DOUBLE SOLID YELLOW LINE, EPOXY	LF	2270	\$1.50	\$3,405.00	0.00	\$0.00	0	\$0.00
47	4" SOLID WHITE LINE, EPOXY	LF	110	\$0.75	\$82.50	0.00	\$0.00	0	\$0.00
48	RIGHT TURN ARROW, TAPE	EA	1	\$845.00	\$845.00	0.00	\$0.00	0	\$0.00
SUBTOTAL PART 4					\$714,706.80		\$46,823.88		\$504,271.22
ALTERNATE NO. 1 - SANITARY SEWER SOUTH OF TH 5									
1	CLEAR AND GRUB TREES AND BRUSH	LS	1	\$4,000.00	\$4,000.00	0	\$0.00	1	\$4,000.00
2	REMOVE AND DISPOSE OF EXISTING STORM SEWER	LF	20	\$10.00	\$200.00	0	\$0.00	0	\$0.00
3	PATCH GRAVEL DRIVEWAY	TN	200	\$20.00	\$4,000.00	0	\$0.00	0	\$0.00
4	18" CMP DRIVEWAY CULVERT	LF	20	\$45.00	\$900.00	0	\$0.00	0	\$0.00
5	18" CMP FLARED END SECTION	EA	2	\$480.00	\$960.00	0	\$0.00	0	\$0.00
6	15" PVC SANITARY SEWER, SDR 26, 15' - 20' DEEP	LF	625	\$94.00	\$58,750.00	0	\$0.00	625	\$58,750.00
7	15" PVC SANITARY SEWER, SDR 26, 20' - 25' DEEP	LF	1255	\$96.00	\$120,480.00	0	\$0.00	1,255	\$120,480.00
8	14" PVC SANITARY SEWER, C905 DR 25, IN CASING	LF	164	\$40.00	\$6,560.00	0	\$0.00	164	\$6,560.00
9	14" PVC SANITARY SEWER, C905 DR 25, 20' - 25' DEEP	LF	20	\$76.00	\$1,520.00	0	\$0.00	20	\$1,520.00
10	28" STEEL CASING PIPE (JACK/AUGERED)	LF	164	\$565.00	\$92,660.00	0	\$0.00	60	\$33,900.00
11	PIPE FOUNDATION ROCK	LF	1000	\$10.00	\$10,000.00	0	\$0.00	0	\$0.00
12	TELEVISION	LF	2061	\$2.00	\$4,122.00	0	\$0.00	0	\$0.00
13	4' DIAMETER SANITARY SEWER MH	EA	8	\$3,200.00	\$25,600.00	0	\$0.00	8	\$25,600.00
14	4' DIAMETER EXCESS MANHOLE DEPTH	LF	115	\$125.00	\$14,375.00	0	\$0.00	109.2	\$13,650.00
15	SOIL DECOMPACTION	AC	5	\$1,200.00	\$6,000.00	0	\$0.00	0	\$0.00
16	SILT FENCE, TYPE MACHINE SLICED	LF	300	\$1.95	\$585.00	0	\$0.00	0	\$0.00
17	SEED AND BLANKET	SY	1500	\$3.25	\$4,875.00	0	\$0.00	0	\$0.00
SUBTOTAL ALTERNATE NO. 1					\$345,597.00		\$0.00		\$264,460.00

**TOTALS - BASE CONTRACT** \$1,760,458.80 \$48,203.88 \$1,431,242.52

**CHANGE ORDER NO. 1**

CO1-1	CONNECT TO EXISTING 6" WATER MAIN	EA	-2.0	\$900.00	\$1,800.00	0	\$0.00	0	\$0.00
CO1-2	CONNECT TO EXISTING 8" WATER MAIN	EA	2.0	\$950.00	\$1,900.00	0	\$0.00	2	\$1,900.00
CO1-3	CONNECT TO EXISTING 16" WATER MAIN	EA	1.0	\$1,600.00	\$1,600.00	0	\$0.00	1	\$1,600.00
CO1-4	CUT IN 8" X 8" TEE	EA	-1.0	\$2,600.00	\$2,600.00	0	\$0.00	0	\$0.00
CO1-5	REMOVE AND DISPOSE OF EXISTING 8" WATER MAIN	LF	875.0	\$6.00	\$5,250.00	0	\$0.00	884	\$5,304.00

ITEM	DESCRIPTION OF PAY ITEM	UNIT	CONTRACT			THIS PERIOD		TOTAL TO DATE	
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
CO1-6	REMOVE AND DISPOSE OF EXISTING GATE VALVE & BOX	EA	1.0	\$1,500.00	\$1,500.00	0	\$0.00	1	\$1,500.00
CO1-7	16" DIP CL 51 WATER MAIN	LF	875.0	\$69.00	\$60,375.00	0	\$0.00	875	\$60,375.00
CO1-8	8" GATE VALVE AND BOX	EA	2.0	\$1,700.00	\$3,400.00	0	\$0.00	2	\$3,400.00
CO1-9	16" BUTTERFLY VALVE AND BOX	EA	2.0	\$3,000.00	\$6,000.00	0	\$0.00	2	\$6,000.00
CO1-10	DUCTILE IRON FITTINGS	LB	2,680.0	\$10.00	\$26,800.00	0	\$0.00	2,525	\$25,250.00
CO1-11	8" DIP CL 52 WATER MAIN	LF	10.0	\$53.00	\$530.00	0	\$0.00	9	\$477.00
CO1-12	10" HDPE DR 11 WATERMAIN INSTALLED BY DIRECTIONAL DRILL	LF	90.0	\$178.00	\$16,020.00	0	\$0.00	0	\$0.00
<b>TOTALS - CHANGE ORDER NO. 1</b>					<b>\$118,975.00</b>	<b>\$0.00</b>	<b>\$105,806.00</b>		
<b>CHANGE ORDER NO. 2</b>									
CO2-1	MANHOLE CORE DRILL	LS	1.0	\$3,825.00	\$3,825.00	0	\$0.00	1	\$3,825.00
CO2-2	GEOTEXTILE FABRIC	SY	9,940.0	\$1.85	\$18,389.00	0	\$0.00	9,940	\$18,389.00
<b>TOTALS - CHANGE ORDER NO. 2</b>					<b>\$22,214.00</b>	<b>\$0.00</b>	<b>\$22,214.00</b>		
<b>CHANGE ORDER NO. 3</b>									
CO3-1	30-INCH CASING PIPE - PIPE HAMMER	LS	1.0	\$19,435.00	\$19,435.00	0	\$0.00	1	\$19,435.00
<b>TOTALS - CHANGE ORDER NO. 3</b>					<b>\$19,435.00</b>	<b>\$0.00</b>	<b>\$19,435.00</b>		
<b>CHANGE ORDER NO. 4</b>									
CO4-1	48-INCH CASING PIPE	LF	164.0	\$1,300.00	\$213,200.00	0	\$0.00	164	\$213,200.00
CO4-2	DEDUCT 2.3-INCH CASING PIPE (NOT INSTALLED)	LF	-104.0	\$565.00	-\$58,760.00	0	\$0.00	0	\$0.00
<b>TOTALS - CHANGE ORDER NO. 4</b>					<b>\$154,440.00</b>	<b>\$0.00</b>	<b>\$213,200.00</b>		
<b>TOTALS - REVISED CONTRACT</b>					<b>\$2,075,522.80</b>	<b>\$48,203.88</b>	<b>\$1,791,897.52</b>		



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**CONSENT**  
**ITEM #** 7

**AGENDA ITEM:** Pumphouse No. 4 – Pay Request No. 8 (Final)

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

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

None. Final payment is proposed in accordance with the Contract for the project. Payment remains within authorized contract amount and approved change orders for the project.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to consider, *as part of the Consent Agenda*, accepting the improvements and approving Pay Request No. 8 (Final) for the Pumphouse No. 4 Improvements. The work has been reviewed by the Engineer and is fully completed in accordance with the Contract, Plans and Specifications and Change Orders. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to accept the improvements for the Pumphouse No. 4 Improvements and approve Pay Request No. 8 (Final) to Total Mechanical Services, Inc. in the amount of \$38,252.06.”***

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

Total Mechanical Services, Inc., the Contractor for the project, has completed the Pumphouse No. 4 Improvements in accordance with the construction contract awarded by the council on February 18, 2014. The Project Engineer has prepared a Certification of Completion indicating that all work is completed including all punchlist items and is recommending the acceptance of the improvements and release of the final retainage. Project acceptance will initiate the one-year warranty period for the improvements. The one-year warranty will begin on June 9, 2015 and will extend through June 8, 2016.

The final total construction costs for the project is \$765,041.25 which is 2.2% over the original contract amount of \$748,640.00. Added project costs were primarily due to the increased amount topsoil borrow and select granular borrow material used onsite. A greater amount of topsoil was imported to the site than was originally planned due to the lack of existing topsoil which could be salvaged on site. Extra select granular borrow material was imported to make soil corrections under the footing of the building. Soil corrections were needed to replace unforeseen poor soil conditions. The project is being partially funded through the MN-DEED water system grant. A breakdown of the project costs compared with the previously approved budget is shown below.

	<b>Post Construction Costs</b>	<b>Authorized Project Budget Costs</b>
<b>Total Project Costs:</b>	\$977,400	\$977,400
<b>Funding Source:</b>		
<i>DEED Water Agreement Funds:</i>	\$263,516	\$260,000
<i>Water Enterprise Funds:</i>	\$713,884	\$717,400

Release of final payment is contingent upon the Contractor submitting final lien waivers.

**RECOMMENDATION:**

Staff is recommending that the City Council consider, *as part of the Consent Agenda*, accepting the improvements for the Pumphouse No. 4 Improvements and approving Pay Request No. 8 (Final) in the amount of \$38,252.06. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to accept the improvements for the Pumphouse No. 4 Improvements and approve Pay Request No. 8 (Final) to Total Mechanical Services, Inc. in the amount of \$38,252.06.”***

**ATTACHMENT(S):**

1. Certificate of Completion.
2. Partial Pay Estimate No. 8 (Final).

**CERTIFICATE OF COMPLETION**

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DATE OF ISSUANCE: **JUNE 9, 2015**

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OWNER: CITY OF LAKE ELMO, MN  
CONTRACTOR: TOTAL MECHANICAL SERVICES, INC.  
PROJECT NAME: PUMPHOUSE NO. 4 IMPROVEMENTS  
PROJECT NO.: 2013.132

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- This Certification of Completion applies to all work under the Contract Documents
- This Certification of Completion applies to the following specified parts of the Contract Documents

I do hereby certify that the work to which this Certificate applies has been constructed in accordance with the Contract dated **FEBRUARY 18, 2014**. The above-mentioned improvement is hereby declared to be complete and acceptance of this work is recommended.

DATE OF COMPLETION: **JUNE 9, 2015**

Chad Isakson Reg. No. 49028





FOCUS Engineering, Inc.

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THE WARRANTY PERIOD BEGINS JUNE 9, 2015 AND ENDS JUNE 9, 2016

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**PROJECT PAY FORM**

PARTIAL PAY ESTIMATE NO. <u>8 (Final)</u>		<b>FOCUS</b> ENGINEERING, inc.	
PUMPHOUSE NO. 4 PROJECT NO. 2013.132		PERIOD OF ESTIMATE FROM <u>1/23/2015</u> TO <u>5/27/2015</u>	
PROJECT OWNER: CITY OF LAKE ELMO 3800 LAVERNE AVENUE NORTH LAKE ELMO, MN 55042 ATTN: JACK GRIFFIN, P.E., CITY ENGINEER		CONTRACTOR: TOTAL MECHANICAL SERVICES, INC. 420 BROADWAY AVE ST. PAUL PARK, MN 55071 ATTN: MARK DIESSNER	
CONTRACT CHANGE ORDER SUMMARY		PAY ESTIMATE SUMMARY	
No.	Approval Date	Amount	
		Additions	Deductions
1	11/18/2014	\$9,604.75	
2	2/3/2015	\$6,796.50	
TOTALS		\$16,401.25	\$0.00
NET CHANGE		\$16,401.25	
		*Detailed Breakdown Attached	
CONTRACT TIME			
START DATE:	<u>5/19/2014</u>	ORIGINAL DAYS	<u>214</u>
SUBSTANTIAL COMPLETION:	<u>11/28/2014</u>	REVISED DAYS	<u>0</u>
FINAL COMPLETION:	<u>12/19/2014</u>	REMAINING	<u>-159</u>
		ON SCHEDULE	YES <input type="checkbox"/>
			NO <input checked="" type="checkbox"/>
ENGINEER'S CERTIFICATION: The undersigned certifies that the work has been reviewed and to the best of their knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.		FOCUS Engineering, inc.  ENGINEER <u>5/28/2015</u> DATE	
CONTRACTOR'S CERTIFICATION: The undersigned Contractor certifies that to the best of their knowledge, information and belief the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the contractor for work for which previous payment estimates was issued and payments received from the owner, and that current payment shown herein is now due.		CONTRACTOR  BY <u>6/1/15</u> DATE	
APPROVED BY OWNER: <b>CITY OF LAKE ELMO, MINNESOTA</b>			
BY _____		BY _____	
DATE _____		DATE _____	

PARTIAL PAY ESTIMATE NO. 8 (FINAL)

PUMPHOUSE NO. 4  
 CITY OF LAKE ELMO, MINNESOTA  
 PROJECT NO. 2013.132

**FOCUS** ENGINEERING, inc.

ITEM	DESCRIPTION OF PAY ITEM	UNIT	CONTRACT			THIS PERIOD		TOTAL TO DATE	
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
1	DIV 1 - GENERAL CONDITIONS	LS	1	\$60,000.00	\$60,000.00	-	\$0.00	1.00	\$60,000.00
2	DIV 1 - MOBILIZATION	LS	1	\$10,000.00	\$10,000.00	-	\$0.00	1.00	\$10,000.00
3	DIV 2 - SITE WORK	LS	1	\$45,000.00	\$45,000.00	-	\$0.00	1.00	\$45,000.00
4	DIV 3 - CONCRETE	LS	1	\$30,000.00	\$30,000.00	-	\$0.00	1.00	\$30,000.00
5	DIV 4 - MASONRY	LS	1	\$59,000.00	\$59,000.00	-	\$0.00	1.00	\$59,000.00
6	DIV 5 - METALS	LS	1	\$3,000.00	\$3,000.00	-	\$0.00	1.00	\$3,000.00
7	DIV 6 - CARPENTRY	LS	1	\$19,000.00	\$19,000.00	-	\$0.00	1.00	\$19,000.00
8	DIV 7 - THERMAL PROTECTION	LS	1	\$13,000.00	\$13,000.00	-	\$0.00	1.00	\$13,000.00
9	DIV 8 - DOORS AND WINDOWS	LS	1	\$12,000.00	\$12,000.00	-	\$0.00	1.00	\$12,000.00
10	DIV 9 - FINISHES	LS	1	\$10,000.00	\$10,000.00	-	\$0.00	1.00	\$10,000.00
11	DIV 10 - SAFETY AND SIGNS	LS	1	\$5,000.00	\$5,000.00	-	\$0.00	1.00	\$5,000.00
12	DIV 11 - PROCESS EQUIPMENT	LS	1	\$60,000.00	\$60,000.00	-	\$0.00	1.00	\$60,000.00
13	DIV 15 - MECHANICAL	LS	1	\$137,900.00	\$137,900.00	-	\$0.00	1.00	\$137,900.00
14	DIV 16 - ELECTRICAL	LS	1	\$243,000.00	\$243,000.00	-	\$0.00	1.00	\$243,000.00
15	COMMON EXCAVATION (P)	CY	350	\$11.00	\$3,850.00	-	\$0.00	350.00	\$3,850.00
16	TYPE SP. 12.5 BITUMINOUS WEARING COURSE MIXTURE (2,B)	TN	130	\$108.00	\$14,040.00	-	\$0.00	114.0	\$12,312.00
17	BITUMINOUS MATERIAL FOR TACK COAT	GAL	35	\$6.00	\$210.00	-	\$0.00	35.0	\$210.00
18	AGGREGATE BASE CLASS 5, 100% CRUSHED	TN	190	\$20.00	\$3,800.00	-	\$0.00	237.0	\$4,740.00
19	SELECT GRANULAR BORROW (MODIFIED)	TN	380	\$13.50	\$5,130.00	-	\$0.00	637.0	\$8,599.50
20	5" CONCRETE SIDEWALK	SF	235	\$5.00	\$1,175.00	-	\$0.00	235.0	\$1,175.00
21	TRUNCATED DOME PANELS	SF	8	\$40.00	\$320.00	-	\$0.00	8.0	\$320.00
22	TOPSOIL BORROW (C1)	CY	15	\$65.00	\$975.00	-	\$0.00	226.0	\$14,690.00
23	TEMPORARY ROCK CONSTRUCTION ENTRANCE	EA	1	\$1,000.00	\$1,000.00	-	\$0.00	1.0	\$1,000.00
24	SILT FENCE, MACHINE SLICED	LF	400	\$3.00	\$1,200.00	-	\$0.00	400.0	\$1,200.00
25	STREET SWEEPER	HR	4	\$110.00	\$440.00	-	\$0.00	4.0	\$440.00
26	SOD	SY	2,400	\$4.00	\$9,600.00	-	\$0.00	-	\$0.00

**TOTALS - BASE CONTRACT** \$748,640.00 \$0.00 \$755,436.50

**CHANGE ORDER NO. 1**

CO1-1	HYDROSEEDING	SY	2,945	\$1.90	\$5,595.50	-	\$0.00	2945.00	\$5,595.50
CO1-2	GRADING FOR SOIL CORRECTION	HR	14.5	\$276.50	\$4,009.25	-	\$0.00	14.50	\$4,009.25

**TOTALS-CHANGE ORDER NO. 1** \$9,604.75 \$0.00 \$9,604.75

**COMPENSATING CHANGE ORDER NO. 2**

CO2-1	COMPENSATING CHANGE ORDER	LS	1	\$6,796.50	\$6,796.50	-	\$0.00	-	\$0.00
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**TOTALS-COMPENSATING CHANGE ORDER NO. 2** \$6,796.50 \$0.00 \$0.00

**TOTALS-REVISED CONTRACT** \$765,041.25 \$0.00 \$765,041.25





# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015

**CONSENT**

**ITEM #** 8

**AGENDA ITEM:** Section 34 Pressure Reducing Valve Stations – Pay Request No. 2

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

**THROUGH:** Dean A. Zuleger, 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:** None.

Partial payment is proposed in accordance with the Contract for the project. Payment remains within the authorized scope and budget.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to consider approving Pay Request No. 2 for the Section 34 Pressure Reducing Valve Stations project. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve Pay Request No. 2 to Geislinger & Sons Inc. in the amount of \$2,596.35 for the Section 34 Pressure Reducing Valve Stations”.***

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

Geislinger & Sons Inc., the Contractor for the project, has submitted Partial Pay Estimate No. 2 in the amount of \$2,596.35. The request has been reviewed and payment is recommended in the amount requested. In accordance with the contract documents, the City has retained 5% of the total work completed. The amount retained is \$4,555.00.

The improvements include two precast concrete water pressure reducing valve stations and associated utility and site work with one PRV station to be installed along the Hudson Boulevard trunk watermain near the new Kwik Trip service station and one within the Savona 2<sup>nd</sup> Addition. The pressure reduction stations are required to reduce the operating pressures for properties located in the low pressure zone areas of Section 34. The high pressure zone is located in the southwest part of the City including most of Section 33 and 34 with the east end of Section 34 transitioning down to the Low Pressure Zone. The project is being completed as a public improvement project with the costs fully assessed against the Section 34 properties. The project was awarded for construction by the City Council on October 21, 2014.

**RECOMMENDATION:**



Staff is recommending that the City Council consider approving, *as part of the Consent Agenda*, Pay Request No. 2 for the Section 34 Pressure Reducing Valve Stations project. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve Pay Request No. 2 to Geislinger & Sons Inc. in the amount of \$2,596.35, for the Section 34 Pressure Reducing Valve Stations”.***

**ATTACHMENT(S):**

1. Partial Pay Estimate No. 2

**PROJECT PAY FORM**

PARTIAL PAY ESTIMATE NO. <u>2</u>		<b>FOCUS</b> ENGINEERING, inc.	
<b>SECTION 34 PRESSURE REDUCING VALVE STATIONS</b> PROJECT NO. 2013.126		PERIOD OF ESTIMATE FROM <u>12/24/2014</u> TO <u>5/29/2015</u>	
PROJECT OWNER: <b>CITY OF LAKE ELMO</b> 3800 LAVERNE AVENUE NORTH LAKE ELMO, MN 55042 ATTN: JACK GRIFFIN, P.E., CITY ENGINEER		CONTRACTOR: <b>GEISLINGER AND SONS, INC.</b> 511 CENTRAL AVE S P.O. BOX 437 WATKINS, MN 55389 ATTN: JEFF GEISLINGER, PRESIDENT	
<b>CONTRACT CHANGE ORDER SUMMARY</b>		<b>PAY ESTIMATE SUMMARY</b>	
No.	Approval Date	Amount Additions      Deductions	1. Original Contract Amount <u>\$93,600.00</u>
			2. Net Change Order Sum <u>\$0.00</u>
			3. Revised Contract (1+2) <u>\$93,600.00</u>
			4. *Work Completed <u>\$91,100.00</u>
			5. *Stored Materials <u>\$0.00</u>
			6. Subtotal (4+5) <u>\$91,100.00</u>
			7. Retainage* <u>5.0%</u> <u>\$4,555.00</u>
			8. Previous Payments <u>\$83,948.65</u>
<b>TOTALS</b>		<u>\$0.00</u> <u>\$0.00</u>	9. Amount Due (6-7-8) <u>\$2,596.35</u>
<b>NET CHANGE</b>		<u>\$0.00</u>	*Detailed Breakdown Attached
<b>CONTRACT TIME</b>			
START DATE: <u>11/24/2014</u>	ORIGINAL DAYS <u>179</u>	ON SCHEDULE	
SUBSTANTIAL COMPLETION: <u>12/19/2014</u>	REVISED DAYS <u>0</u>	YES <input checked="" type="checkbox"/>	
FINAL COMPLETION: <u>5/22/2015</u>	REMAINING <u>-7</u>	NO <input type="checkbox"/>	
ENGINEER'S CERTIFICATION: The undersigned certifies that the work has been reviewed and to the best of their knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.		FOCUS Engineering, inc.  ENGINEER <u>06/02/2015</u> DATE	
CONTRACTOR'S CERTIFICATION: The undersigned Contractor certifies that to the best of their knowledge, information and belief the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the contractor for work for which previous payment estimates was issued and payments received from the owner, and that current payment shown herein is now due.		CONTRACTOR  BY <u>6-2-15</u> DATE	
APPROVED BY OWNER: <b>CITY OF LAKE ELMO, MINNESOTA</b>			
BY _____	BY _____		
DATE _____	DATE _____		

PARTIAL PAY ESTIMATE NO. 2

SECTION 34 PRESSURE REDUCING VALVE STATIONS  
 CITY OF LAKE ELMO, MINNESOTA  
 PROJECT NO. 2013.126

**FOCUS** ENGINEERING, inc.

ITEM	DESCRIPTION OF PAY ITEM	UNIT	CONTRACT			THIS PERIOD		TOTAL TO DATE	
			QUANTITY	UNIT PRICE	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
<b>BASE BID - HUDSON BOULEVARD PRV STATION</b>									
1	HUDSON BLVD PRV STATION	LS	1	\$91,100.00	\$91,100.00	0.03	\$2,733.00	1.00	\$91,100.00
2	WATERMAIN BYPASS - HUDSON BLVD PRV STATION	LS	1	\$2,500.00	\$2,500.00	0.00	\$0.00	0.00	\$0.00
SUBTOTAL - BASE BID					\$93,600.00		\$2,733.00		\$91,100.00
<b>TOTALS - BASE CONTRACT</b>					<b>\$93,600.00</b>		<b>\$2,733.00</b>		<b>\$91,100.00</b>



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015

**CONSENT**

**ITEM #** 9

**AGENDA ITEM:** Easement Encroachment Agreement – 12409 Marquess Way N

**SUBMITTED BY:** Joan Ziertman, Planning Program Assistant

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Rick Chase, Building Official  
Adam Bell, City Clerk

**SUGGESTED ORDER OF BUSINESS (if removed from consent agenda):**

- Introduction of Item .....Staff
- Report/Presentation.....Staff
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** Staff recommends that the City Council approve the encroachment agreement for Dylan & Lyndsey Thomas at 12409 Marquess Way N as part of tonight’s consent agenda.

**FISCAL IMPACT:** None

**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to authorize as part of tonight’s consent agenda, the execution of an easement encroachment agreement. The City has received a request to install a fence within a drainage and utility easement area at 12409 Marquess Way N from Dylan and Lyndsey Thomas. Approval of the requested improvement within the City’s drainage and utility easements would allow the property owners to construct the requested improvement within the City’s drainage and utility easements located on their private property.

*Staff is recommending that the City Council approve the easement encroachment agreement as part of the Consent Agenda. If the City Council removes the item from the Consent Agenda, the recommended action can be completed through the following motion:*

***“Move to approve the easement encroachment agreement for Dylan & Lyndsey Thomas, 12409 Marquess Way N to install a fence within the City’s drainage and utility easement.”***

**LEGISLATIVE HISTORY:** The City holds easements of different sizes and for different purposes on many residential and commercial properties throughout the City. When a resident is interested in putting a structure within an easement, the city has requested the property owner provide a site plan showing where the improvement is proposed to be located, a detail of what the improvement will look like and how it will function. After that information is received, staff reviews the proposed improvement and the use of the easement to determine if the proposed improvement will impede the functionality of the easement. If staff determines that the improvement will not negatively impact the functionality of the easement, an approved building permit showing the requested work and an Easement Encroachment Agreement is needed before the work may commence.

The Easement Encroachment Agreement that has been submitted for Council consideration is for a fence and has been reviewed by planning staff. The proposed fence meets all city code requirements and Staff would have otherwise authorized construction of the fence if it did not encroach into a drainage and utility easement.

**BACKGROUND INFORMATION (SWOT):**

**Strengths:** The easement encroachment agreement is a legal document that has been signed by all property owners seeking to install improvements within an easement. The document, among other things, indemnifies the city from responsibility if damage occurs to the improvement or if it needs to be removed at some point in the future.

**Weaknesses:** None

**Opportunities:** None

**Threats:** None

**RECOMMENDATION:**

*Based on the aforementioned, Staff is recommending that the City Council approve the easement encroachment agreement as part of the Consent Agenda. If the City Council removes the item from the Consent Agenda, the recommended action can be completed through the following motion:*

***“Move to approve the easement encroachment agreement for Dylan & Lyndsey Thomas to install a fence within the City’s drainage and utility easement.”***



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**CONSENT**  
**ITEM #** 10

**AGENDA ITEM:** Temporary Liquor License for Lake Elmo Jaycees

**SUBMITTED BY:** Beckie Gumatz, Deputy Clerk

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Adam Bell, City Clerk/Assistant City Administrator

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECOMMENDER:** Lake Elmo Jaycees, Staff

**FISCAL IMPACT:**

**SUMMARY AND ACTION REQUESTED:**

As part of the Consent Agenda, City Council is respectfully requested to consider approval of a temporary on-sale liquor license issued to the Lake Elmo Jaycees for their annual Huff n’ Puff Days event held August 6 through 9, 2015, subject to approval of the Director of Alcohol and Gambling Enforcement. In addition, the City Council is requested to waive the \$25 liquor license fee and the fee for the Lion’s Park ball field lighting. As part of the Consent Agenda, no formal motion is required. If removed from the Consent Agenda, the recommended motion is as follows:

***“Move to approve a temporary on-sale liquor license issued to the Lake Elmo Jaycees for their Huff n’ Puff Days event held August 6 through 9, 2015, subject to approval of the Director of MN Alcohol and Gambling Enforcement Division, and waive both the \$25 liquor license fee and the fee for Lion’s Park ball field lighting.”***

**LEGISLATIVE HISTORY:**

Pursuant to Lake Elmo City Code Chapter 111.17 Section (B)(3), temporary on-sale licenses shall be issued only to clubs, charitable, religious, or other non-profit organizations in existence for at least three years and shall authorize the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee and subject to the restrictions imposed by MN Statute 340A.

Lake Elmo Jaycees will hold their annual Huff n' Puff Days event August 6 through 9, 2015 and have requested an on-sale temporary special event liquor license to allow for the safe sale of alcoholic beverages at the event.

**RECOMMENDATION:**

If removed from the Consent Agenda, Staff recommends the following motion:

***“Move to approve a temporary on-sale liquor license issued to the Lake Elmo Jaycees for their Huff n’ Puff Days event held August 6 through 9, 2015, subject to approval of the Director of MN Alcohol and Gambling Enforcement Division, and waive both the \$25 liquor license fee and the fee for Lion’s Park ball field lighting.”***





# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**REGULAR \$\$**  
**ITEM #** 11

**AGENDA ITEM:** 2015 Capital Improvement Financing Plan; Presentation of Financing Plan of G.O. Bonds, Series 2015A; Approval of the issuance of G.O. Bonds, Series 2015A

**SUBMITTED BY:** Cathy Bendel, Finance Director

**THROUGH:** Tammy Omdal, Senior Vice President, Northland Securities

**REVIEWED BY:** Dean Zuleger, City Administrator  
Finance Committee

**SUGGESTED ORDER OF BUSINESS:**

- Questions from Council to Staff..... Mayor Facilitates
- Report/Presentations.....City Staff, Northland Securities
- 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:** Finance Committee

**FISCAL IMPACT:**

City responsibility for the debt service on the issuance of \$2,815,000 of new debt as presented in the Financing Plan.

**SUMMARY AND ACTION REQUESTED:**

Throughout 2015, various projects have been brought to City Council and have been approved to move forward. The updated 2015 CIP listing was reviewed in detail by the Finance Committee on May 13, 2015. This Financing Plan represents the financing needs based on those approved projects.

**STAFF REPORT:** Tammy Omdal, Senior Vice President with Northland Securities will present the report and respond to inquiries.

**BACKGROUND INFORMATION (SWOT):**

<b>Strengths</b>	Provides funding for infrastructure projects at a low rate. Projects included are the 39 <sup>th</sup> Street Project costs (additional funding needs due to approved project scope changes after 2014 bonding cycle), the Inwood Booster Station Project, the Eagle Point Street Reconstruction Project (100% assessment project) and some equipment purchases.
<b>Weaknesses</b>	None identified.
<b>Opportunities</b>	Ability to complete the Inwood Line of the water “loop” in 2015 and provide water and sewer to new development areas of the City.
<b>Threats</b>	If developments are delayed or do not materialize, the enterprise fund may not be able to independently fund the debt service payments on the infrastructure bonding.

**RECOMMENDATION:**

It is recommended that the City Council approve Resolution No. 2015-49 authorizing the issuance and sale of \$2,815,000 in General Obligation Bonds, Series 2015A.

*“Move to approve Resolution No. 2015-49 authorizing the issuance and sale of General Obligation Bonds, Series 2015A in the amount of \$2,815,000”*

**ATTACHMENT(S):**

1. Northland Securities Finance Plan Summary for G.O. Bonds, Series 2015A
2. Certificate of Minutes and Resolution No. 2015-49 Authorizing the Issuance and Sale of G.O. Bonds, Series 2015A

# FINANCE PLAN SUMMARY

FOR

**CITY OF LAKE ELMO, MINNESOTA**

**\$2,815,000**

**GENERAL OBLIGATION BONDS,  
SERIES 2015A**

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NORTHLAND  SECURITIES

45 South 7<sup>th</sup> Street  
Suite 2000  
Minneapolis, MN 55402  
612-851-5900 800-851-2920

**June 9, 2015**

**City of Lake Elmo, Minnesota**  
**\$2,815,000**  
**General Obligation Bonds, Series 2015A**

**FINANCING OVERVIEW**

This Finance Plan Summary describes the recommended terms and process for the public issuance of \$2,815,000 of General Obligation Bonds, Series 2015A through a competitive public sale process.

**PURPOSE**

Proceeds from the Bonds will be used to fund a portion of the City's 2015 infrastructure projects and purchase of equipment including:

- 39<sup>th</sup> Street Project
- Inwood Booster Station Project
- Eagle Point Reconstruction Project
- Equipment Purchases

The estimated financing required for project costs is \$2,739,211 allocated to include \$1,164,561 of utility system costs, \$1,447,100 of improvement project costs, and \$127,550 of equipment costs. The total borrowing required including financing costs is \$2,815,000 and is detailed in Figure 1.

FIGURE 1

	Improvement Portion	Utility Portion	Equipment	Issue Summary
<b>Sources Of Funds</b>				
Par Amount of Bonds	\$1,490,000.00	\$1,195,000.00	\$130,000.00	\$2,815,000.00
<b>Total Sources</b>	<b>\$1,490,000.00</b>	<b>\$1,195,000.00</b>	<b>\$130,000.00</b>	<b>\$2,815,000.00</b>
<b>Uses Of Funds</b>				
Total Underwriter's Discount (1.250%)	18,625.00	14,937.50	1,625.00	35,187.50
Costs of Issuance	20,881.17	16,746.98	1,821.85	39,450.00
Deposit to Project Construction Fund	1,447,100.00	1,164,561.00	127,550.00	2,739,211.00
Rounding Amount	3,393.83	(1,245.48)	(996.85)	1,151.50
<b>Total Uses</b>	<b>\$1,490,000.00</b>	<b>\$1,195,000.00</b>	<b>\$130,000.00</b>	<b>\$2,815,000.00</b>

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## STATUTORY AUTHORITY

The Bonds will be issued pursuant to the authority of Minnesota Statutes Chapter 475, 429, 444, and 412.301. The City's bond attorney from Dorsey & Whitney is assuring compliance with Minnesota and Federal laws.

## DEBT SERVICE STRUCTURE

The total repayment generally reflects a level annual requirement over a term of ten years for the Improvement portion, and a term of fifteen years on the Utility portion and not to exceed seven years on the Equipment portion with an assumed average interest rate of 2.30% and an all inclusive cost of 2.69%. Individual repayment schedules for the improvement portion, utility portion, and equipment portion have been reviewed with City staff regarding projected revenues to repay the debt service and compliance with the City's Debt Management Policies. The total estimated debt service is illustrated in Figure 2.

FIGURE 2

### Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
07/15/2015	-	-	-	-	-
07/15/2016	-	-	56,262.50	56,262.50	-
01/15/2017	200,000.00	1.050%	28,131.25	228,131.25	284,393.75
07/15/2017	-	-	27,081.25	27,081.25	-
01/15/2018	225,000.00	1.200%	27,081.25	252,081.25	279,162.50
07/15/2018	-	-	25,731.25	25,731.25	-
01/15/2019	240,000.00	1.400%	25,731.25	265,731.25	291,462.50
07/15/2019	-	-	24,051.25	24,051.25	-
01/15/2020	240,000.00	1.550%	24,051.25	264,051.25	288,102.50
07/15/2020	-	-	22,191.25	22,191.25	-
01/15/2021	245,000.00	1.750%	22,191.25	267,191.25	289,382.50
07/15/2021	-	-	20,047.50	20,047.50	-
01/15/2022	245,000.00	1.900%	20,047.50	265,047.50	285,095.00
07/15/2022	-	-	17,720.00	17,720.00	-
01/15/2023	250,000.00	2.050%	17,720.00	267,720.00	285,440.00
07/15/2023	-	-	15,157.50	15,157.50	-
01/15/2024	235,000.00	2.200%	15,157.50	250,157.50	265,315.00
07/15/2024	-	-	12,572.50	12,572.50	-
01/15/2025	240,000.00	2.350%	12,572.50	252,572.50	265,145.00
07/15/2025	-	-	9,752.50	9,752.50	-
01/15/2026	250,000.00	2.500%	9,752.50	259,752.50	269,505.00
07/15/2026	-	-	6,627.50	6,627.50	-
01/15/2027	85,000.00	2.650%	6,627.50	91,627.50	98,255.00
07/15/2027	-	-	5,501.25	5,501.25	-
01/15/2028	85,000.00	2.800%	5,501.25	90,501.25	96,002.50
07/15/2028	-	-	4,311.25	4,311.25	-
01/15/2029	90,000.00	3.000%	4,311.25	94,311.25	98,622.50
07/15/2029	-	-	2,961.25	2,961.25	-
01/15/2030	90,000.00	3.150%	2,961.25	92,964.40	95,922.50
07/15/2030	-	-	1,543.75	1,543.75	-
01/15/2031	95,000.00	3.250%	1,543.75	96,543.75	98,087.50
<b>Total</b>	<b>\$2,815,000.00</b>	<b>-</b>	<b>\$474,893.75</b>	<b>\$3,289,893.75</b>	<b>-</b>

## SECURITY & SOURCE OF REPAYMENT

The Bonds will be a general obligation of the City of Lake Elmo. In addition, the City will pledge special assessments of approximately \$1,460,120 on the Improvement portion, \$1,471,163 to the Utility portion for the repayment of the debt service on the Bonds. The assessment revenue assumes first collection in 2015 over a term of 10 years for the Improvement portion and an interest rate of 4.05% (2% over the average coupon on the Bonds). We have assumed the remaining Utility debt service portions of the bond issue will be supported from the enterprise funds and have therefore pledged those sources accordingly. The Equipment portion of the financing is 100% tax levy. An illustration of the projected debt service fund cash flow for the Improvement portion is shown in Figure 3, Figure 4 shows the 105% Levy required for the Equipment portion, and Figure 5 shows the Utility Portion.

FIGURE 3

### Revenue vs D/S - Improvement Portion

Date	Scheduled P+I	105% Levy	Less: Assessment Revenues	Equals: City Net Levy	Levy Year	Collection Year
01/15/2016	-	-	-	-		
01/15/2017	165,826.25	174,117.56	181,365.98	(7,248.42)	2015	2016
01/15/2018	165,905.00	174,200.25	181,365.52	(7,165.27)	2016	2017
01/15/2019	169,225.00	177,686.25	181,365.09	(3,678.83)	2017	2018
01/15/2020	167,195.00	175,554.75	181,365.56	(5,810.81)	2018	2019
01/15/2021	169,947.50	178,444.88	181,365.48	(2,920.60)	2019	2020
01/15/2022	167,322.50	175,688.63	181,365.10	(5,676.47)	2020	2021
01/15/2023	169,472.50	177,946.13	181,365.30	(3,419.18)	2021	2022
01/15/2024	166,295.00	174,609.75	181,365.57	(6,755.82)	2022	2023
01/15/2025	167,885.00	176,279.25	181,366.03	(5,086.78)	2023	2024
01/15/2026	169,125.00	177,581.25	181,365.39	(3,784.14)	2024	2025
<b>Total</b>	<b>\$1,678,198.75</b>	<b>\$1,762,108.69</b>	<b>\$1,813,655.03</b>	<b>-</b>		

Note: Negative amounts shown for City net levy above will result in no levy to be certified.

FIGURE 4

### 105% Levy - Equipment Portion

Date	Scheduled P+I	105% Levy	Levy Year	Collection Year
01/15/2017	18,101.25	19,006.31	2015	2016
01/15/2018	16,910.00	17,755.50	2016	2017
01/15/2019	21,730.00	22,816.50	2017	2018
01/15/2020	21,450.00	22,522.50	2018	2019
01/15/2021	21,140.00	22,197.00	2019	2020
01/15/2022	20,790.00	21,829.50	2020	2021
01/15/2023	20,410.00	21,430.50	2021	2022
<b>Total</b>	<b>\$140,531.25</b>	<b>\$147,557.81</b>		

FIGURE 5

**Debt Service Schedule - Utility Portion**

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
07/15/2015	-	-	-	-	-
07/15/2016	-	-	26,977.50	26,977.50	-
01/15/2017	60,000.00	1.050%	13,488.75	73,488.75	100,466.25
07/15/2017	-	-	13,173.75	13,173.75	-
01/15/2018	70,000.00	1.200%	13,173.75	83,173.75	96,347.50
07/15/2018	-	-	12,753.75	12,753.75	-
01/15/2019	75,000.00	1.400%	12,753.75	87,753.75	100,507.50
07/15/2019	-	-	12,228.75	12,228.75	-
01/15/2020	75,000.00	1.550%	12,228.75	87,228.75	99,457.50
07/15/2020	-	-	11,647.50	11,647.50	-
01/15/2021	75,000.00	1.750%	11,647.50	86,647.50	98,295.00
07/15/2021	-	-	10,991.25	10,991.25	-
01/15/2022	75,000.00	1.900%	10,991.25	85,991.25	96,982.50
07/15/2022	-	-	10,278.75	10,278.75	-
01/15/2023	75,000.00	2.050%	10,278.75	85,278.75	95,557.50
07/15/2023	-	-	9,510.00	9,510.00	-
01/15/2024	80,000.00	2.200%	9,510.00	89,510.00	99,020.00
07/15/2024	-	-	8,630.00	8,630.00	-
01/15/2025	80,000.00	2.350%	8,630.00	88,630.00	97,260.00
07/15/2025	-	-	7,690.00	7,690.00	-
01/15/2026	85,000.00	2.500%	7,690.00	92,690.00	100,380.00
07/15/2026	-	-	6,627.50	6,627.50	-
01/15/2027	85,000.00	2.650%	6,627.50	91,627.50	98,255.00
07/15/2027	-	-	5,501.25	5,501.25	-
01/15/2028	85,000.00	2.800%	5,501.25	90,501.25	96,002.50
07/15/2028	-	-	4,311.25	4,311.25	-
01/15/2029	90,000.00	3.000%	4,311.25	94,311.25	98,622.50
07/15/2029	-	-	2,961.25	2,961.25	-
01/15/2030	90,000.00	3.150%	2,961.25	92,961.25	95,922.50
07/15/2030	-	-	1,543.75	1,543.75	-
01/15/2031	95,000.00	3.250%	1,543.75	96,543.75	98,087.50
<b>Total</b>	<b>\$1,195,000.00</b>	<b>-</b>	<b>\$276,163.75</b>	<b>\$1,471,163.75</b>	<b>-</b>



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## RELATED CONSIDERATIONS

- Bank Qualification - We understand the City (in combination with any subordinate taxing jurisdictions or debt issued in the City's name by 501c3 corporations) anticipates issuing \$10.0M or less in tax-exempt debt during this calendar year. Therefore the bonds will be designated as "bank qualified" obligations pursuant to Federal Tax Law.
- Arbitrage and Rebate - All tax exempt issues are subject to federal rebate requirements which require all arbitrage earned to be rebated to the U.S. Treasury. However, bond proceeds may be exempt from rebate if certain expenditure requirements are met. Since the City will issue less than \$5 million in tax exempt bonds in 2015, we recommend the City elect the Small Issuer Exemption for this issue.
- Continuing Disclosure - Because this issue is greater than \$1,000,000, and the City's outstanding debt exceeds \$10.0M, it is subject to the Securities and Exchange Commission's continuing disclosure requirements. Northland Securities is prepared to assist the City in this capacity.

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## SUMMARY OF RECOMMENDED TERMS

- |                          |   |
|--------------------------|---|
| 1. Type of Bond Sale     | Public Offering – Sealed Bids   |
| 2. Proposals Received    | Tuesday, July 7, 2015 @ 10:30 A.M.  |
| 3. Council Consideration | Tuesday, July 7, 2015 @ 7:00 P.M.   |
| 4. Statutory Authority   | The Bonds are being issued pursuant to Minnesota Statutes 475, 429, 444 and 412.301.  |
| 5. Repayment Term        | The Bonds will mature annually each January 15, 2016 – 2031. Interest on the Bonds will be payable on July 15, 2016 and semiannually thereafter on each January 15 and July 15. |
| 6. Security              | General Obligation of the City. In addition, the City will pledge special assessment revenues collected from benefitted properties, utility revenues and tax levies.            |
| 7. Prepayment Option     | The Bonds maturing January 15, 2024– 2031 will be subject to prepayment on January 15, 2023 at a price of par plus accrued interest.  |
| 8. Tax Status            | Dorsey and Whitney, LLP Minneapolis, Minnesota,   |
| 9. Credit Enhancement    | We believe a credit rating will be cost beneficial. The City’s general obligation debt is currently rated Aa2 by Moody’s Investors Service.                                     |

CERTIFICATION OF MINUTES RELATING TO  
\$2,815,000 GENERAL OBLIGATION BONDS, SERIES 2015A

Issuer: City of Lake Elmo, Minnesota

Governing Body: City Council

Kind, date, time and place of meeting: A regular meeting held on June 9, 2015 at 7:00 p.m. at the Issuer offices.

Members present:

Members absent:

Documents Attached:

Minutes of said meeting (pages):

RESOLUTION NO. 2015-49

RESOLUTION AUTHORIZING ISSUANCE AND SALE OF  
\$2,815,000 GENERAL OBLIGATION BONDS, SERIES 2015A

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the bonds referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, so far as they relate to said bonds; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer on the \_\_\_\_ day of June, 2015.

\_\_\_\_\_  
City Clerk

Councilmember \_\_\_\_\_ introduced the following resolution and moved its adoption, which motion was seconded by Councilmember \_\_\_\_\_:

RESOLUTION NO. 2015-49

RESOLUTION AUTHORIZING ISSUANCE AND SALE OF  
\$2,815,000 GENERAL OBLIGATION BONDS, SERIES 2015A

BE IT RESOLVED by the City Council of the City of Lake Elmo, Minnesota (the "City"), as follows:

Section 1. Authorization; Purpose. It is hereby determined to be in the best interests of the City to issue its General Obligation Bonds, Series 2015A, in the approximate principal amount of \$2,815,000 (the "Bonds"), as authorized pursuant to Minnesota Statutes, Chapters 475, 444, 429 and 412.301, for the purpose of (a) financing various street improvements in the City, (b) financing various water and sewer improvement in the City, (c) financing various items of capital equipment and (d) funding costs of issuance of the Bonds.

Section 2. Notice of Sale. Northland Securities, Inc., municipal advisor to the City, has presented to this Council a form of Notice of Sale for the Bonds which is attached hereto and hereby approved and which shall be placed on file by the City Administrator. Each and all of the provisions of the Notice of Sale are hereby adopted as the terms and conditions of the Bonds and of the sale thereof. Northland Securities, Inc. is hereby authorized to solicit bids for the Bonds on behalf of the City on a competitive basis.

Section 3. Award and Sale. The City Council shall meet at the times and places shown in the Notice of Sale for the purpose of considering sealed bids for the purchase of the Bonds and of taking such action thereon as may be in the best interest of the City.

Upon vote being taken thereon, the following members voted in favor thereof:

and the following members voted against the same:

whereupon the resolution was declared duly passed and adopted.

## **NOTICE OF SALE**

\$2,815,000\*  
GENERAL OBLIGATION BONDS, SERIES 2015A

CITY OF LAKE ELMO, MINNESOTA  
(Book-Entry Only)

NOTICE IS HEREBY GIVEN that these Bonds will be offered for sale according to the following terms:

### **TIME AND PLACE:**

Proposals will be opened by the City Finance Director, or designee, on Tuesday, July 7, 2015, at 10:30 A.M., CT, at the offices of Northland Securities, Inc., 45 South 7th Street, Suite 2000, Minneapolis, Minnesota 55402. Consideration of the Proposals for award of the sale will be by the City Council at its meeting at the City Offices beginning Tuesday, July 7, 2015 at 7:00 P.M., CT.

### **SUBMISSION OF PROPOSALS**

Proposals may be:

- a) submitted to the office of Northland Securities, Inc.,
- b) faxed to Northland Securities, Inc. at 612-851-5918,
- c) for proposals submitted prior to the sale, the final price and coupon rates may be submitted to Northland Securities, Inc. by telephone at 612-851-5900 or 612-851-5915, or
- d) submitted electronically.

Notice is hereby given that electronic proposals will be received via PARITY™, or its successor, in the manner described below, until 10:30 A.M., CT, on Tuesday, July 7, 2015. Proposals may be submitted electronically via PARITY™ or its successor, pursuant to this Notice until 10:30 A.M., CT, but no Proposal will be received after the time for receiving Proposals specified above. To the extent any instructions or directions set forth in PARITY™, or its successor, conflict with this Notice, the terms of this Notice shall control. For further information about PARITY™, or its successor, potential bidders may contact Northland Securities, Inc. or i-Deal® at 1359 Broadway, 2<sup>nd</sup> floor, New York, NY 10018, telephone 212-849-5021.

Neither the City nor Northland Securities, Inc. assumes any liability if there is a malfunction of PARITY™ or its successor. All bidders are advised that each Proposal shall be deemed to constitute a contract between the bidder and the City to purchase the Bonds regardless of the manner in which the Proposal is submitted.

### **BOOK-ENTRY SYSTEM**

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. The Bonds will be issued in fully registered form and one bond certificate, representing the aggregate principal amount of the Bonds maturing in each year, will be registered in the name of Cede & Co. as nominee of Depository Trust Company ("DTC"), New York, New York, which will act as securities depository of the Bonds.

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\* The City reserves the right to increase or decrease the principal amount of the Bonds. Any such increase or decrease will be made in multiples of \$5,000 and may be made in any maturity. If any maturity is adjusted, the purchase price will also be adjusted to maintain the same gross spread.

Individual purchases of the Bonds may be made in the principal amount of \$5,000 or any multiple thereof of a single maturity through book entries made on the books and records of DTC and its participants. Principal and interest are payable by the City through Northland Trust Services, Inc., Minneapolis, Minnesota (the “Paying Agent/Registrar”), to DTC, or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants will be the responsibility of such participants and other nominees of beneficial owners. The successful bidder, as a condition of delivery of the Bonds, will be required to deposit the bond certificates with DTC. The City will pay reasonable and customary charges for the services of the Paying Agent/Registrar.

**DATE OF ORIGINAL ISSUE OF BONDS**

July 15, 2015

**AUTHORITY/PURPOSE/SECURITY**

The Bonds are being issued pursuant to Minnesota Statutes, Chapters 412.301, 429, 444, and 475, as amended. Proceeds from issuance of the Bonds will be used to finance street, sewer, and water improvement projects; purchase equipment; and to pay costs associated with issuance of the Bonds. The Bonds are payable from special assessments on benefitted properties, net revenues of the water and sewer utility systems, and general ad valorem taxes on all taxable property within the City. The full faith and credit of the City is pledged to their payment and the City has validly obligated itself to levy ad valorem taxes in the event of any deficiency in the debt service account established for this issue.

**INTEREST PAYMENTS**

Interest is due semiannually on each January 15 and July 15, commencing July 15, 2016, to registered owners of the Bonds appearing of record in the Bond Register as of the close of business on the first day (whether or not a business day) of the calendar month of such interest payment date.

**MATURITIES**

Principal is due annually on January 15, inclusive, in each of the years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2017	\$200,000	2022	\$245,000	2027	\$85,000
2018	225,000	2023	250,000	2028	85,000
2019	240,000	2024	235,000	2029	90,000
2020	240,000	2025	240,000	2030	90,000
2021	245,000	2026	250,000	2031	95,000

Proposals for the Bonds may contain a maturity schedule providing for any combination of serial bonds and term bonds, subject to mandatory redemption, so long as the amount of principal maturing or subject to mandatory redemption in each year conforms to the maturity schedule set forth above.

**INTEREST RATES**

All rates must be in integral multiples of 1/20th or 1/8th of 1%. *Rates must be in level or ascending order.* All Bonds of the same maturity must bear a single uniform rate from date of issue to maturity.

## **ADJUSTMENTS TO PRINCIPAL AMOUNT AFTER PROPOSALS**

The City reserves the right to increase or decrease the principal amount of the Bonds. Any such increase or decrease will be made in multiples of \$5,000 and may be made in any maturity. If any maturity is adjusted, the purchase price will also be adjusted to maintain the same gross spread. Such adjustments shall be made promptly after the sale and prior to the award of Proposals by the City and shall be at the sole discretion of the City. The successful bidder may not withdraw or modify its Proposal once submitted to the City for any reason, including post-sale adjustment. Any adjustment shall be conclusive and shall be binding upon the successful bidder.

## **OPTIONAL REDEMPTION**

The Bonds maturing on January 15, 2024 and thereafter are subject to redemption, in whole or in part, on January 15, 2023 and on any date thereafter at a price of par plus accrued interest.

## **CUSIP NUMBERS**

If the Bonds qualify for assignment of CUSIP numbers such numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the successful bidder thereof to accept delivery of and pay for the Bonds in accordance with terms of the purchase contract. The CUSIP Service Bureau charge for the assignment of CUSIP identification numbers shall be paid by the successful bidder.

## **DELIVERY**

Delivery of the Bonds will be within forty days after award, subject to an approving legal opinion by Dorsey & Whitney, LLP. The legal opinion will be paid by the City and delivery will be anywhere in the continental United States without cost to the successful bidder at DTC.

## **TYPE OF PROPOSAL**

Proposals of not less than \$2,779,813 (98.75%) and accrued interest on the principal sum of \$2,815,000 must be filed with the undersigned prior to the time of sale. Proposals must be unconditional except as to legality. Proposals for the Bonds should be delivered to Northland Securities, Inc. and addressed to:

Cathy Bendel, City Finance Director  
3800 Laverne Ave N.  
Lake Elmo, Minnesota 55042

A good faith deposit (the "Deposit") in the amount of \$56,300 in the form of a federal wire transfer (payable to the order of the City) is only required from the apparent winning bidder, and must be received within two hours after the time stated for the receipt of Proposals. The apparent winning bidder will receive notification of the wire instructions from the Municipal Advisor promptly after the sale. If the Deposit is not received from the apparent winning bidder in the time allotted, the City may choose to reject their Proposal and then proceed to offer the Bonds to the next lowest bidder based on the terms of their original proposal, so long as said bidder wires funds for the Deposit amount within two hours of said offer.

The City will retain the Deposit of the successful bidder, the amount of which will be deducted at settlement and no interest will accrue to the successful bidder. In the event the successful bidder fails to comply with the accepted Proposal, said amount will be retained by the City. No Proposal can be withdrawn after the time set for receiving Proposals unless the meeting of the City scheduled for award of the Bonds is adjourned, recessed, or continued to another date without award of the Bonds having been made.

## **AWARD**

The Bonds will be awarded on the basis of the lowest interest rate to be determined on a true interest cost (TIC) basis. The City's computation of the interest rate of each Proposal, in accordance with customary practice, will be controlling. In the event of a tie, the sale of the Bonds will be awarded by lot. The City will reserve the right to: (i) waive non-substantive informalities of any Proposal or of matters relating to the receipt of Proposals and award of the Bonds, (ii) reject all Proposals without cause, and (iii) reject any Proposal which the City determines to have failed to comply with the terms herein.

## **INFORMATION FROM SUCCESSFUL BIDDER**

The successful bidder will be required to provide, in a timely manner, certain information relating to the initial offering price of the Bonds necessary to compute the yield on the Bonds pursuant to the provisions of the Internal Revenue Code of 1986, as amended.

## **OFFICIAL STATEMENT**

By awarding the Bonds to any underwriter or underwriting syndicate submitting a Proposal therefor, the City agrees that, no more than seven business days after the date of such award, it shall provide to the senior managing underwriter of the syndicate to which the Bonds are awarded, the Final Official Statement in an electronic format as prescribed by the Municipal Securities Rulemaking Board (MSRB).

## **FULL CONTINUING DISCLOSURE UNDERTAKING**

The City will covenant in the resolution awarding the sale of the Bonds and in a Continuing Disclosure Undertaking to provide, or cause to be provided, annual financial information, including audited financial statements of the City, and notices of certain material events, as required by SEC Rule 15c2-12.

## **BANK QUALIFICATION**

The City will designate the Bonds as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

## **BOND INSURANCE AT UNDERWRITER'S OPTION**

If the Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the successful bidder, the purchase of any such insurance policy or the issuance of any such commitment shall be at the sole option and expense of the successful bidder of the Bonds. Any increase in the costs of issuance of the Bonds resulting from such purchase of insurance shall be paid by the successful bidder, except that, if the City has requested and received a rating on the Bonds from a rating agency, the City will pay that rating fee. Any other rating agency fees shall be the responsibility of the successful bidder. Failure of the municipal bond insurer to issue the policy after the Bonds have been awarded to the successful bidder shall not constitute cause for failure or refusal by the successful bidder to accept delivery on the Bonds.



The City reserves the right to reject any and all Proposals, to waive informalities and to adjourn the sale.

Dated: June 9, 2015

BY ORDER OF THE CITY COUNCIL

/s/ Cathy Bendel  
City Finance Director

Additional information may be obtained from:

Northland Securities, Inc.

45 South 7<sup>th</sup> Street, Suite 2000

Minneapolis, Minnesota 55402

Telephone No.: 612-851-5900



**MAYOR & COUNCIL COMMUNICATION**

**DATE: June 9, 2015**

**REGULAR**

**ITEM #12**

**AGENDA ITEM:** Cooperative Agreement with Washington County for Downtown Street and Utility Project

**SUBMITTED BY:** Nick M. Johnson, City Planner

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Dean Zuleger, City Administrator

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** Staff

**FISCAL IMPACT:** TBD – Staff is negotiating a financing plan with Washington County to pay for the public improvements associated with the Downtown Street and Utility Project.

**SUMMARY AND ACTION REQUESTED:** City Staff will provide an update regarding the ongoing negotiations of the Cooperative Agreement with Washington County. The Cooperative Agreement is intended to solidify a financing plan for the Downtown Street and Utility Project, as well as clarify cost splits between the City and the County on various public improvements associated with the project. Negotiations on this agreement are ongoing between the City Administrator and Washington County. No specific action is requested at the time of publication of this report.

**LEGISLATIVE HISTORY/STAFF REPORT:** The City of Lake Elmo and Washington County have been working collaboratively on a downtown street and utility project since January of 2014. The proposed project is intended to install sanitary sewer, storm sewer, regional storm water improvements, replace old watermain, and reconstruct streets in the Downtown Village

Area. The proposed project has been broken up into two phases. The Preliminary Design Process has recently been completed for both phases, with the City approving Municipal Consent for Preliminary Design on both phases. The street segments included in the project are the following: Phase I - Laverne Avenue, 36<sup>th</sup> Street and Upper 33<sup>rd</sup> Street, and Phase II – Lake Elmo Avenue and 30<sup>th</sup> Street. This project will construct the trunk sewer infrastructure needed to serve the Village Area. Construction for Phase I is anticipated to begin in July of 2015, while Phase II is anticipated to be constructed in 2016.

As the project is a joint project between the City of Lake Elmo and Washington County, an agreement is needed to formally adopt a financing plan and cost-share for the proposed improvements. Washington County is willing to manage and finance the construction project, and the City would be expected to pay for its share of the improvements incrementally. The City Administrator is currently negotiating the terms of the agreement. An update will be provided to outline the important components of the agreement at the City Council meeting.

**RECOMMENDATION:**

No formal action is requested at the time of publication of this staff report. Staff will present a status update regarding the cooperative agreement at the City Council meeting.

**ATTACHMENTS:** *None*



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**REGULAR**  
**ITEM** 13

**AGENDA ITEM:** Old Village Phase 1 Street and Utility Improvements – Public Improvement Hearing; Resolution Ordering the Improvement; and providing Municipal Concurrence to Washington County to Award a Contract

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

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

**REVIEWED BY:** Adam Bell, City Clerk  
Cathy Bendel, Finance Director  
Chad J. Isakson, Project Engineer  
Dave Snyder, City Attorney

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Engineer
- Report/Presentation..... City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Open Public Improvement Hearing; Public Input ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECOMMENDER:** Engineering.

**FISCAL IMPACT:** \$5,802,486.

The Old Village Phase 1 Street and Utility Improvements is a \$5.8 million street, sanitary sewer, drainage and storm water management improvement project. The project will be funded through the issuance of general obligation bonds with bond payments made from special assessments, the water enterprise fund, the storm water fund, County cost participation, Municipal State Aid Funds, and general tax levy.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to open the Public Improvement Hearing for the Old Village Phase 1 Street and Utility Improvements; and following the Hearing, consider adopting Resolution No. 2015-50, ordering the improvement for the Old Village Phase 1 Street and Utility Improvements and providing Municipal Concurrence for Washington County to Award a Contract. The recommended motion for this action is as follows:

***“Move to adopt Resolution No. 2015-50, ordering the improvement for the Old Village Phase 1 Street and Utility Improvements and providing Municipal Concurrence for Washington County to Award a Contract.”***

**LEGISLATIVE HISTORY:**

Pursuant to Minnesota Statutes, Section 429.011 to 429.111, a Public Improvement Hearing was noticed for June 9, 2015, to consider making the following improvements:

- Reconstruction of streets along Upper 33rd Street from Lake Elmo Avenue to Laverne Avenue, Laverne Avenue from Upper 33rd Street to Trunk Highway 5, 36th Street from Lake Elmo Avenue to Laverne Avenue, and the Alley between Laverne Avenue and Lake Elmo Avenue from Upper 33rd Street to 36th Street, with the addition of sidewalks all as approved by Council as a part of Municipal Consent on February 5, 2015.
- Construction of the initial regional drainage system improvements including a large infiltration pond and oversized storm sewer to begin addressing flooding issues in the Old Village Area.
- Extension of sanitary sewer to provide service to benefitting properties within the Old Village, including Upper 33rd Street from where it crosses the Union Pacific Railroad Tracks to Lake Elmo Avenue, along Laverne Avenue from Upper 33rd Street to Trunk Highway 5, 36th Street from Lake Elmo Avenue to Laverne Avenue, and the Alley between Laverne Avenue and Lake Elmo Avenue from Upper 33rd Street to 200-feet south of 36th Street. Improvements will include a service stub to the property line for each benefitting property.
- Replacement of an aged watermain system.
- Street lights and landscaping amenities including boulevard trees.

The attached notice was published in the official newspaper and individual notifications were sent to each address that will be assessed for the improvements. The area proposed to be assessed for the street improvements include the properties directly abutting Upper 33<sup>rd</sup> Street, 36<sup>th</sup> Street, and Laverne Avenue as detailed above.

The estimated total project cost is \$5,802,500. The estimated total cost of the street and landscape improvements are \$1,507,100; sanitary sewer improvements are \$699,800; streetscape improvements are \$49,000; regional drainage improvements are \$3,013,100; and water system improvements are \$533,600. The watermain replacement and regional storm sewer system will not be assessed. A reasonable estimate of the impact of the assessment will be available at the

hearing. Such persons as desiring to be heard with reference to the proposed improvements will be heard at this meeting.

The street and landscape improvements and extension of sanitary sewer are proposed to be assessed against the benefitting properties consistent with the City's Special Assessment Policy. Street improvement assessments are proposed at a rate of 30% for residential properties using an average residential front footage, and 100% for commercial properties based upon the actual front footage. Extension of sanitary sewer is 100% paid for by the benefitting property owners using a per residential equivalent method. The remainder of the proposed project costs are proposed to be paid through a combination of municipal state aid funds, water enterprise funds, and general funds.

Assessments for street improvements are levied over 10 years while the sanitary sewer improvements would be levied over a 20 year period. Additional cost breakdown, assessment information, and financial detail is present in the Feasibility Report.

#### **BACKGROUND INFORMATION:**

A feasibility report was authorized by the City Council on July 1, 2014 in order to ready these improvements for 2015 construction. The feasibility report is needed to meet state statutory requirements if any portion of the project is to be assessed to benefitting properties. The report identifies the necessary improvements, the estimated project costs, the assessment methodology and preliminary assessment amounts to be levied against properties adjacent to and benefitting from the street and sanitary sewer improvements.

#### **RECOMMENDATION:**

Staff is recommending that the City Council adopt Resolution No. 2015-50, ordering the improvement for the Old Village Phase 1 Street and Utility Improvements and providing Municipal Concurrence for Washington County to Award a Contract. The recommended motion for this action is as follows:

***“Move to adopt Resolution No. 2015-50, ordering the improvement for the Old Village Phase 1 Street and Utility Improvements and providing Municipal Concurrence for Washington County to Award a Contract.”***

#### **ATTACHMENT(S):**

1. Resolution No. 2015-50 Ordering the Improvement and providing Municipal Concurrence for Washington County to Award a Contract.
2. Notice of Hearing on Improvement.
3. Updated Post-Bid Preliminary Assessment Rolls (*will be made available at the meeting*).
4. Location Map.
5. Project Schedule.

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

**RESOLUTION NO. 2015-50**

**A RESOLUTION ORDERING THE IMPROVEMENT FOR THE  
OLD VILLAGE PHASE 1 STREET AND UTILITY IMPROVEMENTS AND  
PROVIDING MUNICIPAL CONCURRENCE FOR WASHINGTON COUNTY TO  
AWARD A CONTRACT**

**WHEREAS**, pursuant a resolution of the city council adopted on May 19, 2015, the council ordered a hearing on Improvement for the Old Village Phase 1 Street and Utility Improvements; and

**WHEREAS**, ten days' mailed notice and two weeks published notice of the hearing was given, and the hearing was held thereon on the 9<sup>th</sup> day of June, 2015, at which all persons desiring to be heard were given the opportunity to be heard thereon; and

**WHEREAS**, the amended feasibility report prepared by FOCUS Engineering, Inc., and dated May 2015 states that the project is necessary, cost-effective, and feasible; and

**WHEREAS**, the City has directed Washington County, and its consultants, to oversee the preparation of the Plans and Specifications, and to accept bids for the improvements; and

**WHEREAS**, pursuant to an advertisement for bids, bids were received by Washington County on June 2, 2015, opened, and tabulated according to the law, and reviewed to verify that all requirements of the submittals were met.

**NOW, THEREFORE, BE IT RESOLVED,**

1. Such improvement is deemed necessary, cost-effective, and feasible as detailed in the Amended Feasibility Report dated May 2015.
2. Assessments shall be levied to the benefiting properties as outlined in the preliminary assessment rolls and as amended by the city council.
3. Such improvement is hereby ordered as proposed in the council resolution adopted this 9th day of June, 2015.
4. The city council declares its official intent to reimburse itself for the costs of the improvement from the proceeds of tax exempt bonds.
5. That the city concurs with the bids and Washington County's recommendation to award a contract.
6. The city will enter into a cooperative agreement with Washington County and the county shall oversee the preparation of the Plans and Specifications and construction for the making of such improvement.

**ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE NINETH DAY OF JUNE, 2015.**

**CITY OF LAKE ELMO**

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

(Seal)  
ATTEST:

\_\_\_\_\_  
Adam Bell  
City Clerk

CITY OF LAKE ELMO  
NOTICE OF HEARING ON IMPROVEMENT  
OLD VILLAGE PHASE 1 STREET AND UTILITY IMPROVEMENTS

Notice is hereby given that the City Council of Lake Elmo will meet in the council chambers of the city hall at or approximately after 7:00 P.M. on Tuesday, June 9, 2015, to consider the making of the following improvements, pursuant to Minnesota Statutes, Sections 429.011 to 429.111;

The street, landscape and streetscape improvements are proposed along Upper 33<sup>rd</sup> Street from Lake Elmo Avenue to Laverne Avenue, Laverne Avenue from Upper 33<sup>rd</sup> Street to Trunk Highway 5, 36<sup>th</sup> Street from Lake Elmo Avenue to Laverne Avenue, and the Alley between Laverne Avenue and Lake Elmo Avenue from Upper 33<sup>rd</sup> Street to 36<sup>th</sup> Street. The improvements consist of reconstruction of the existing streets with concrete curb and gutter, installation of a storm sewer system, replacement of aged watermain, boulevard trees, ornamental street lights, and minor paver block details at intersections.

The sanitary sewer improvements include the extension of existing sanitary sewer along Upper 33<sup>rd</sup> Street from where it crosses the Union Pacific Railroad Tracks to Lake Elmo Avenue, along Laverne Avenue from Upper 33<sup>rd</sup> Street to Trunk Highway 5, 36<sup>th</sup> Street from Lake Elmo Avenue to Laverne Avenue, and the Alley between Laverne Avenue and Lake Elmo Avenue from Upper 33<sup>rd</sup> Street to 200-foot south of 36<sup>th</sup> Street. Improvements will include a service stub to each benefitting property to the property line.

The area proposed to be assessed for the street improvements include the properties directly abutting Upper 33<sup>rd</sup> Street, 36<sup>th</sup> Street, and Laverne Avenue as detailed above.

The estimated total project cost is \$5,568,100. The estimated total cost of the street and landscape improvements are \$1,405,900; sanitary sewer improvements are \$906,300; streetscape improvements are \$73,400; regional drainage improvements are \$2,709,100; and water system improvements are \$473,400. The watermain replacement and regional storm sewer system will not be assessed. A reasonable estimate of the impact of the assessment will be available at the hearing. Such persons as desiring to be heard with reference to the proposed improvements will be heard at this meeting.

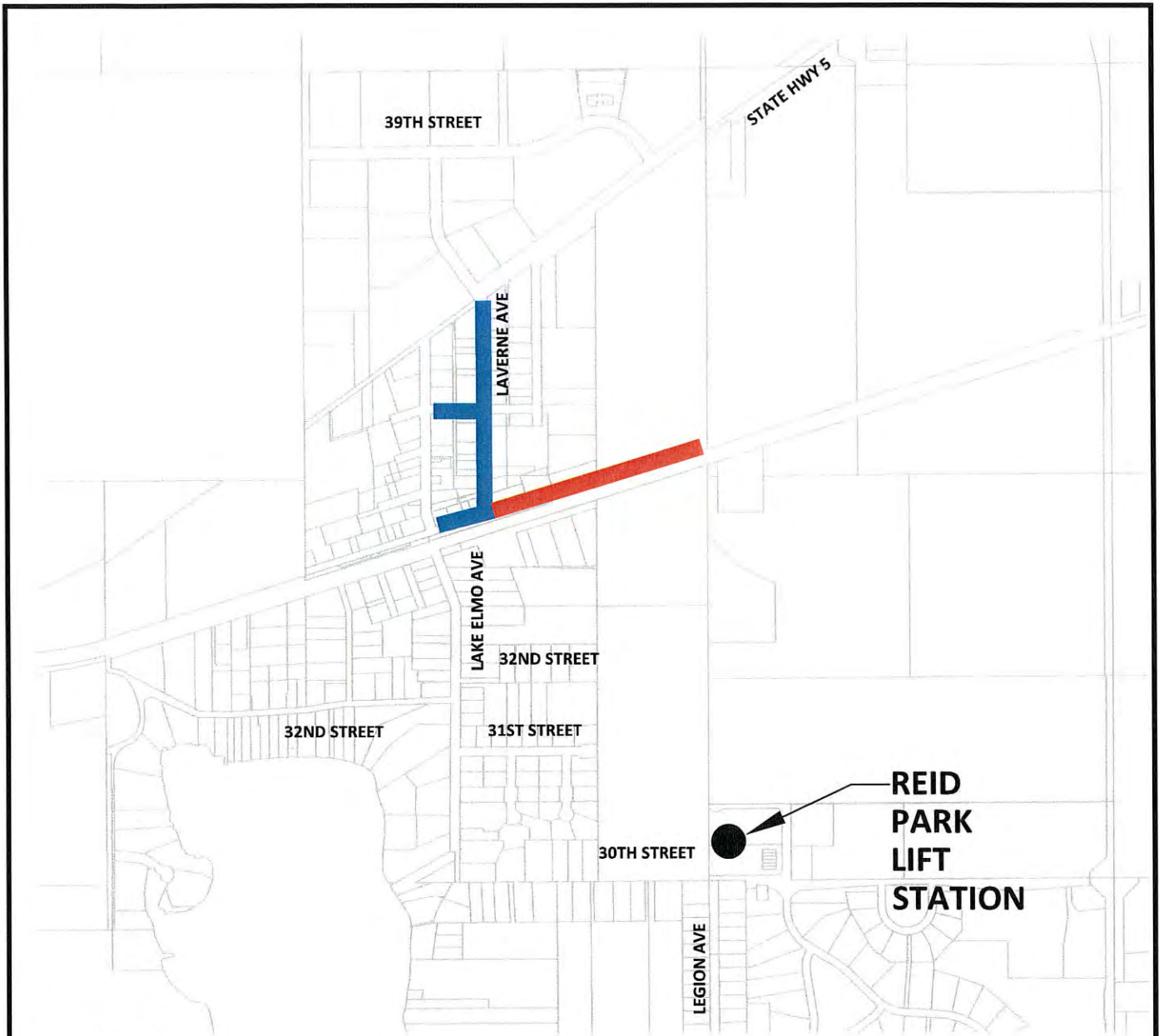
**DATED:** May 19, 2015

**BY ORDER OF THE LAKE ELMO CITY COUNCIL**

**Mike Pearson, Mayor**

*(Published in the Oakdale-Lake Elmo Review on May 27, 2015 and June 3, 2015)*





**LEGEND**

- OLD VILLAGE PHASE 1 STREET AND UTILITY IMPROVEMENTS
- OLD VILLAGE PHASE 1 STREET AND UTILITY IMPROVEMENTS  
(SANITARY SEWER AND REGIONAL STORM SEWER ONLY)



**FOCUS**  
ENGINEERING

OLD VILLAGE STREET AND  
UTILITY IMPROVEMENTS  
PROJECT NO. 2014.137  
APRIL, 2015

EXHIBIT NO. 1

**LOCATION MAP**

OLD VILLAGE PHASE 1 STREET  
AND UTILITY IMPROVEMENTS

# PROJECT SCHEDULE

OLD VILLAGE PHASE 1: STREET  
AND UTILITY IMPROVEMENTS

MAY, 2015

**FOCUS** ENGINEERING, inc.

Cara Geheren, P.E. 651.300.4261  
Jack Griffin, P.E. 651.300.4264  
Ryan Stempski, P.E. 651.300.4267  
Chad Isakson, P.E. 651.300.4283

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FEBRUARY 5, 2015	Council approves Municipal Consent. County proceeds with Final Design.
FEBRUARY 24, 2015	Council authorizes the preparation of a Feasibility Report.
MAY 1, 2015	County posts advertisement for bid.
MAY 19, 2015	Council accepts Report; and adopts project assessment policy. Calls Public Improvement Hearing. Submit Notice of Public Hearing for Publication.
MAY 27, 2015	Notice of Public Hearing Published (2 <sup>nd</sup> Notice on June 3 <sup>rd</sup> ).
JUNE 2, 2015	Accept Contractor Bids. Finalize Cooperative Agreement.
JUNE 9, 2015	Public Improvement Hearing. Council approves "Concurrence" to award contract. Council <u>Orders the Improvement</u> for the 2015 IMPROVEMENTS (Requires 4/5 <sup>th</sup> vote).
JUNE 23, 2015	County Board Meeting. County accepts bids and awards Contract.
OCTOBER 15, 2015	Substantial Completion.
JUNE 15, 2016	Final Completion.



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**REGULAR**  
**ITEM #** 14

**AGENDA ITEM:** State of Minnesota Redevelopment Grant Program – A Resolution Accepting the DEED Water System Infrastructure Grant

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

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

**REVIEWED BY:** Chad Isakson, Project Engineer  
Cathy Bendel, Finance Director

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....City Administrator
- Report/Presentation.....City Engineer
- 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:** Administrator/Engineering

**FISCAL IMPACT:** \$3.5 million grant for water system improvements.

Approving this resolution authorizes the City to formally submit the MN-DEED grant application package, enter into a contract with MN-DEED, and utilize the \$3.5 million water system infrastructure grant awarded by the legislature to the City of Lake Elmo to complete water system improvements along the Inwood Avenue corridor.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to consider approving Resolution No. 2015-51 accepting the Inwood Avenue Water System Infrastructure Grant from the State of Minnesota Capital Investment Appropriations. The recommended motion for the action is as follows:

***“Move to approve Resolution No. 2015-51 accepting the Inwood Avenue Water System Infrastructure Grant from the State of Minnesota Capital Investment Appropriations.”***

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

On May 21, 2014, the legislature signed into law the Capital Investment Bill. Included in the bill was a special appropriation under the Employment and Economic Development section for the City of Lake Elmo in the amount of \$3,500,000 to be used towards the extension of municipal water service along the Inwood Avenue corridor. There is no financial match required to receive the special appropriation.

City Staff is currently working with the State of Minnesota, Department of Employment and Economic Development to complete the Inwood Avenue Water System Grant Agreement necessary to secure the funds for the City of Lake Elmo as appropriated by the State Legislature. As a requirement of the Grant Agreement, the City of Lake Elmo must submit a resolution accepting the grant and committing the resources required to execute the improvements.

**RECOMMENDATION:**

Staff is recommending that the City Council approve Resolution No. 2015-51 accepting the Inwood Avenue Water System Infrastructure Grant from the State of Minnesota Capital Investment Appropriations. The recommended motion for the action is as follows:

***“Move to approve Resolution No. 2015-51 accepting the Inwood Avenue Water System Infrastructure Grant from the State of Minnesota Capital Investment Appropriations.”***

**ATTACHMENT(S):**

1. Resolution 2015-51.
2. Location Map.

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

**RESOLUTION NO. 2015-51**

**A RESOLUTION ACCEPTING THE  
WATER SYSTEM INFRASTRUCTURE GRANT FROM THE  
STATE OF MINNESOTA CAPITAL IMPROVEMENT APPROPRIATIONS**

BE IT RESOLVED that the City of Lake Elmo act as the legal sponsor for projects contained in the (insert *law appropriating money to the project*) entitled LAKE ELMO – WATER SUPPLY.

BE IT FURTHER RESOLVED that the City of Lake Elmo has the legal authority to receive financial assistance, and the institutional, managerial, and financial capability to ensure adequate project administration; and

BE IT FURTHER RESOLVED that the City of Lake Elmo has not violated any Federal, State or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice; and

BE IT FURTHER RESOLVED that upon approval of its development proposal by the state, the City of Lake Elmo may enter into an agreement with the State of Minnesota for the above-referenced projects, and that the City of Lake Elmo certifies that it will comply with all applicable laws and regulation as stated in all contract agreements.

NOW, THEREFORE BE IT RESOLVED that the Mayor and the Clerk, are hereby authorized to execute such agreements as are necessary to implement the projects on behalf of the City of Lake Elmo.

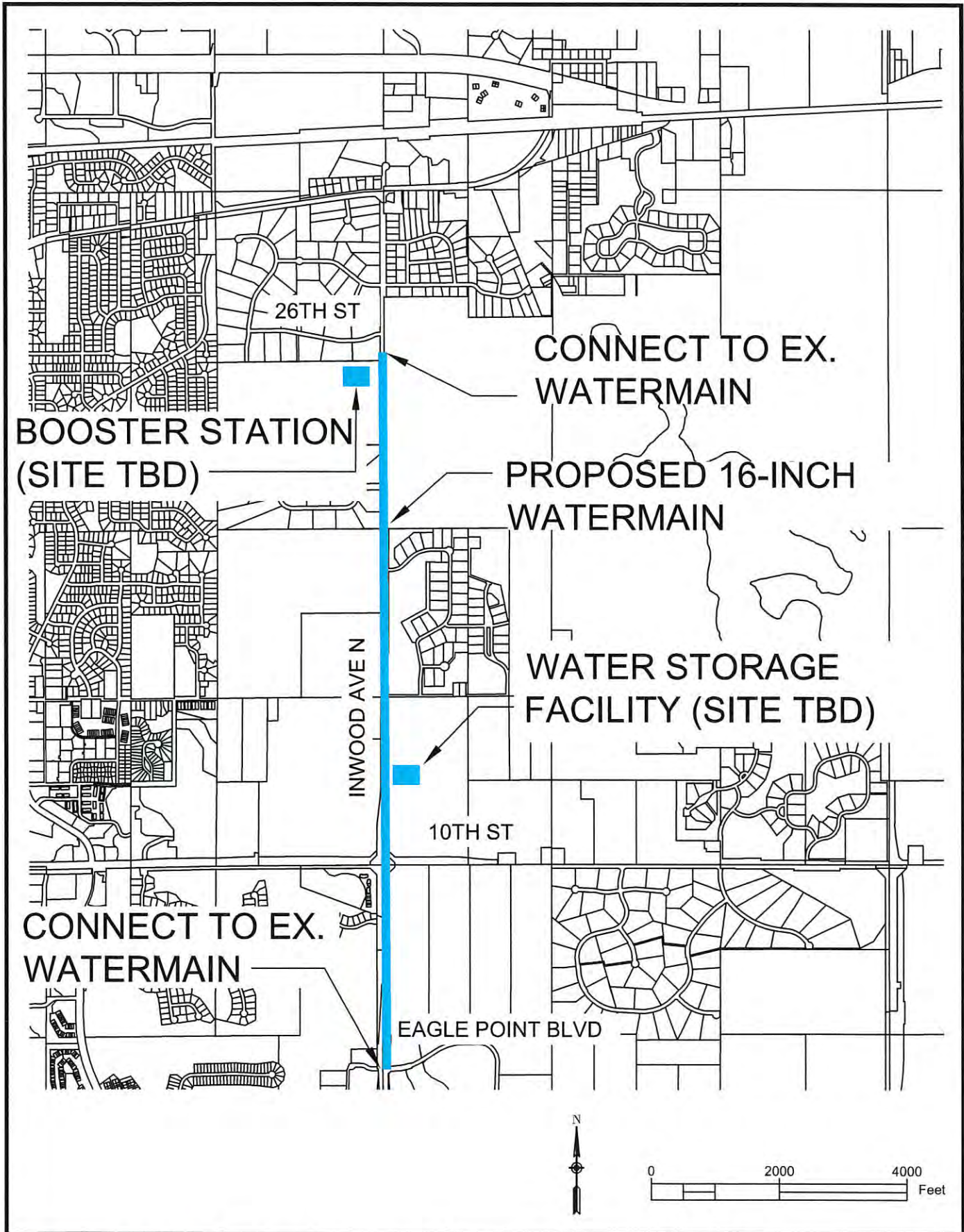
**ADOPTED BY THE LAKE ELMO CITY COUNCIL ON NINTH DAY OF JUNE 2015**

**CITY OF LAKE ELMO**

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

(Seal)  
ATTEST:

\_\_\_\_\_  
Adam Bell  
City Clerk





# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**REGULAR**  
**ITEM #** 15

**AGENDA ITEM:** Water Tower No. 4 – Approve Land Purchase Agreement  
**SUBMITTED BY:** Jack Griffin, City Engineer  
**THROUGH:** Dean A. Zuleger, City Administrator  
**REVIEWED BY:** Dave Snyder, City Attorney  
Adam Bell, City Clerk  
Cathy Bendel, Finance Director

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item.....City Administrator
- Report/Presentation.....City Engineer
- 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:** Administrator/Legal/Engineering.

**FISCAL IMPACT:** \$165,000.

The purchase price is \$165,000 to acquire fee title to a parcel of land for locating elevated Water Tower No. 4 along Inwood Avenue. In addition, the agreement outlines additional obligations for each party relating to the Inwood Avenue Water System Improvements and future public street improvements. The land acquisition costs will be funded through the \$3.5 million MN-DEED Grant, if determined to be an eligible grant cost. Otherwise the land acquisitions costs would be funded by the Water Enterprise Fund.

**SUMMARY AND ACTION REQUESTED:**

The City Council is respectfully requested to consider approving the Water Tower No. 4 Land Purchase Agreement. The recommended motion for this action is as follows:

*“Move to approve the Water Tower No. 4 Land Purchase Agreement with 711 Land Holdings, LLC.”*

**LEGISLATIVE HISTORY/BACKGROUND INFORMATION:**

The Water Tower No. 4 project is a \$2.1 million water system infrastructure project that is needed to deliver city water service to support the growth and development in the I94 corridor, residing in the high water pressure zone. More specifically this project will provide necessary water supply and fire protection to the corridor area between Inwood Avenue and Keats Avenue (Sections 33 and 34) that will include the Savona development, Boulder Ponds, Hammes Estates, Dale properties, Azur properties, MFC & CM properties, and the existing properties within the Eagle Point Business Park.

This project is programmed for design/construction in the 2015-2016 Capital Improvement Plan. The proposed improvements include the construction of a new 1.0 million gallon elevated water tower to be located along Inwood Avenue as depicted in the location map attached. A geotechnical investigation was performed in 2014 to verify that the site will accommodate the proposed improvements.

Staff has been working with the property owner to negotiate the purchase of the water tower site and has drafted an agreement to acquire a property suitable for the project, subject to council approval. The acquisition agreement is needed to satisfy a condition of approval for the Inwood Creek Preliminary Plat to ensure that suitable land is reserved for the water tower.

The general terms of the agreement are summarized as follows:

1. The City will pay the landowner \$165,000 to acquire a site 250 ft. by 250 ft. (approx. 1.5 acres).
2. The landowner will dedicate an 80 foot wide R/W directly to the south of the water tower site. The City will establish a public street connection to CSAH 13 with Washington County.
3. The City and landowner agree to share equally in any future costs for the first 100 feet of street when it is constructed and any improvements required by Washington County when such street is constructed, including but not limited to turn lanes.
4. The landowner will provide a temporary construction easement for the water tower construction, as needed by the City.
5. The City will install the Inwood Booster Station and Trunk Watermain Improvements by December 1, 2016 and will not assess the landowner for these improvements or for the water tower improvements.
6. The landowner shall receive an exemption for up to 5 units of water lateral benefit charges (currently at \$5,800 per REC, or \$29,000) for any new commercial buildings developed within the Inwood Creek development and which connect a private service directly to the Inwood Trunk Watermain.

**RECOMMENDATION:**

Staff is recommending that the City Council approve the Water Tower No. 4 Land Purchase Agreement with 711 Land Holdings, LLC. The recommended motion for this action is as follows:

*“Move to approve the Water Tower No. 4 Land Purchase Agreement with 711 Land Holdings, LLC.”*

**ATTACHMENT(S):**

1. Water Tower No. 4 Land Purchase Agreement.
2. Site Location Map.



## VACANT LAND PURCHASE AGREEMENT

THIS AGREEMENT is made as of \_\_\_\_\_, 2015, between 711 Land Holdings, LLC, a Minnesota limited liability company ("Seller"), and The City of Lake Elmo, a Minnesota municipal corporation ("Buyer").

In consideration of this Agreement, Seller and Buyer agree as follows:

1. Sale of Property. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the following property ("Property"):
  - 1.1 Real Property. The real property located on Inwood Avenue a/k/a County State Aid Highway 13, City of Lake Elmo, Washington County, Minnesota, as further shown on the map attached hereto as **Exhibit A** and as further legally described on the attached **Exhibit B**, together with all easements and rights benefiting or appurtenant to said real property.
  - 1.2 City of Lake Elmo, which has condemnation authority, as a condition of approval of the Inwood PUD, has required Inwood 10, LLC/711 Land Holdings, LLC to sell the City of Lake Elmo approximately 1.5 acres of property for the purpose of building a municipal water tower.
2. Purchase Price and Manner of Payment. The total purchase price ("Purchase Price") to be paid for the Property is \$165,000.00. The Purchase Price shall be payable as follows:
  - 2.1 \$5,000.00 as earnest money ("Earnest Money"); and
  - 2.2 \$160,000.00 by certified check or wire transfer of funds on the Closing Date.
3. Contingencies. The obligations of Buyer under this Agreement are contingent upon each of the following:
  - 3.1 Representations and Warranties. The representations and warranties of Seller contained in this Agreement must be true now and on the Closing Date as if made on the Closing Date.
  - 3.2 Title. Title shall have been found acceptable, or been made acceptable, in accordance with the requirements and terms of the Title Examination Section below.
  - 3.3 Access and Inspection. Seller shall allow Buyer, and Buyer's agents, access to the Property without charge and at all reasonable times for the purpose of Buyer's investigation and testing the same, including, without limitation,

soil tests to determine the adequacy of the soil for Buyer's intended use of the Property. Within ten (10) days of the acceptance of this Agreement, Seller shall provide Buyer with copies of all blueprints, plans, specifications, soil tests and surveys of the Property which are presently in Seller's possession. Seller shall make available to Buyer and Buyer's agents, without charge, all plans and specifications, records, inventories, permits and correspondence.

- 3.4 Public Access. The Buyer shall establish future public street connection to CSAH 13 with Washington County.

Seller shall have the right to use the public street access as depicted on the attached Exhibit B (Road Parcel Description) and may connect a future public street or private driveway to this access for the current agricultural use of the property or for future subdivision of the property. Any use or connection to said street must be a permitted use by city ordinance and must be consistent with city zoning, subdivision regulations and city engineering design standards.

- 3.5 Improvements. The Buyer and Sellers shall equally share costs, not paid by Washington County, associated with any improvements to Inwood Avenue/CSAH 13 as may be required for the public street access established per Section 3.4, including, but not limited to turn lanes. The Buyer shall also pay one-half of the cost of the first 100 feet of roadway East of Inwood Avenue/CSAH 13 at the time said street is constructed. This obligation shall continue as long as the Buyer owns or maintains the water tower on the property.

- 3.6 Easements. The Seller shall grant the Buyer a temporary construction site easement to enable the construction of the water tower. Easement shall be acceptable to buyers.

- 3.7 Trunk Water Main. The Buyer shall install a trunk water main along Inwood Avenue/CSAH 13 no later than December 1, 2016. However, failure to meet this deadline shall not invalidate this Agreement.

The trunk water main depicted on the attached Exhibit C is part of a planned city project. For additional consideration, as set forth and as limited herein, the Buyer shall not levy special assessments against Seller for the construction of the water tower or Inwood Trunk Water main, and Seller shall receive an exemption for up to 5 units of water lateral benefit charges, which is currently \$5,800 per REC unit or \$29,000. Said exemption shall apply to new commercial buildings developed within the Inwood Creek development, that are adjacent to Inwood Avenue, and connect its private

water service directly to the Inwood Trunk Water main. All properties, including the exemptions stated above, remain subject to all city standard water availability charges and water connection charges.

If any contingency has not been satisfied on or before the date set forth above for satisfaction of that contingency, then this Agreement may be terminated by written notice from Buyer to Seller, which notice must be given no later than five (5) days after the applicable satisfaction date. If no such notice is given with respect to any contingency, such contingency shall be deemed waived. Closing shall be deemed a waiver of all of the above contingencies. Upon termination, the Earnest Money, and any interest accrued thereon, shall be released to Buyer, the parties shall sign a cancellation of this Agreement, and neither party will have any further rights or obligations to the other regarding this Agreement or the Property. All the contingencies are specifically for the benefit of the Buyer, and the Buyer shall have the right to waive any contingency by written notice to Seller.

4. Closing. The closing of the purchase and sale contemplated by this Agreement (the "Closing") shall occur on or before \_\_\_\_\_, 2015 ("Closing Date at the office of Johnson/Turner Legal). Seller agrees to deliver possession of the Property to Buyer immediately after Closing.

4.1 Seller's Closing Documents. On the Closing Date, Seller shall execute and deliver to Buyer the following (collectively, "Seller's Closing Documents"), all in form and content reasonably satisfactory to Buyer:

4.1.1 Deed. A Warranty Deed conveying the Property to Buyer, free and clear of all encumbrances, except the Permitted Encumbrances hereafter defined.

4.1.2 FIRPTA Affidavit. A non-foreign affidavit, properly executed, containing such information as is required by IRC Section 1445(b)(2) and its regulations.

4.1.3 IRS Forms. A Designation Agreement designating the "reporting person" for purposes of completing Internal Revenue Form 1099 and, if applicable, Internal Revenue Form 8594.

4.1.4 Well Certificate. A completed Minnesota Well Disclosure Certificate or a statement on the Warranty Deed that "The Seller certifies that the Seller does not know of any wells on the described real property."

4.1.5 Storage Tanks. If the Property contains or contained a storage tank, an affidavit with respect thereto, as required by Minn. Stat. § 116.48.

- 4.1.6 Individual Sewage Treatment Systems. If the Property contains an individual septic system, a disclosure statement as required by Minn. Stat. § 115.55.
- 4.1.7 Seller's Affidavit. An affidavit in the form required by Title evidencing the absence of bankruptcies, judgments or tax liens involving Seller or parties with the same or similar names as Seller, and evidencing the absence of mechanic's lien rights affecting the Property, unrecorded interests affecting the Property, persons in possession of the Property, and known encroachments or boundary line questions affecting the Property.
- 4.1.8 Other Documents. All other documents reasonably determined by Buyer or Title to be necessary to transfer the Property to Buyer free and clear of all encumbrances.
- 4.2 Buyer's Closing Documents. On the Closing Date, Buyer will execute and deliver to Seller the following (collectively, "Buyer's Closing Documents"):
  - 4.2.1 Purchase Price. Funds representing the Purchase Price and execution and delivery of any required financing documents.
  - 4.2.2 IRS Form. A Designation Agreement designating the "reporting person" for purposes of completing Internal Revenue Form 1099 and, if applicable, Internal Revenue Form 8594.
- 5. Prorations. Seller and Buyer agree to the following prorations and allocation of costs regarding this Agreement:
  - 5.1 Title Insurance and Closing Fee. Seller will pay all costs of the Title Evidence, the cost of having a commitment for an ALTA Owner's Policy of Title Insurance for the Property (the "Title Policy") (in the amount of the Purchase Price) and the fees charged by the Title Company for any escrow required regarding Buyer's Objections. Buyer will pay the premium required for the issuance of the Title Policy. Seller and Buyer will each pay one-half of the fee charged by Title (as defined below) to conduct the Closing.
  - 5.2 Deed Tax. Seller shall pay all State Deed Tax payable in connection with this transaction. Buyer shall pay all Mortgage Registry Tax payable in connection with Buyer's financing, if any.
  - 5.3 Real Estate Taxes and Special Assessments. Real Estate Taxes payable in the year in which Closing occurs shall be pro-rated based upon a calendar year with Seller paying through the Date of Closing. Seller shall pay any

installments of special assessments payable with said real estate taxes. Seller shall pay all other levied special assessments in full as of the Date of Closing, and shall pay all special assessments which are pending as of the Date of Closing. Seller's provision for payment of a pending assessment shall be made by payment into escrow with Title of one and one-half times the estimated amount of the assessment, with the right to a refund of any excess of the escrow.

- 5.4 Other Costs. All other operating costs of the Property shall be allocated between Seller and Buyer as of the Closing Date, so that Seller pays that part of operating costs payable through the Closing Date, and Buyer pays that part of operating costs payable after the Closing Date.
  - 5.5 Attorney's Fees. Each of the parties will pay its own attorney's fees, except that a party defaulting under this Agreement or any Closing Documents will pay the reasonable attorneys' fees and court costs incurred by the non-defaulting party in enforcing its rights hereunder.
6. Title Examination. Title Examination will be conducted as follows:
- 6.1 Seller's Title Evidence. Seller shall, within twenty (20) days after the date of this Agreement, furnish the following (collectively, "Title Evidence") to Buyer: (a) a commitment ("Title Commitment") for an ALTA Owner's Policy of Title Insurance insuring title to the Property, deleting standard exceptions and including affirmative assurance regarding zoning, contiguity, appurtenant easements and such other matters as may be identified by Buyer, in the amount of the Purchase Price, issued by Johnson/Turner Legal, ("Title"); (b) a survey, paid for by Buyer, certified by a registered land surveyor and certified to Buyer, Title and such other parties as Buyer may designate, and showing the Property and location of all improvements and easements thereon and otherwise complying with the requirements set forth in the "Minimum Standard Requirements for ALTA/ACSM Land Title Surveys" jointly established by ALTA and ACSM in 1992, and containing such other information as Buyer or Buyer's lender shall reasonably request.
  - 6.2 Buyer's Objections. Within twenty (20) days after receiving the last of the Title Evidence, Buyer will make written objections ("Objections") to the form and/or contents of the Title Evidence. Buyer's failure to make Objections within such time period will constitute waiver of Objections. Any matter shown on such Title Evidence and not objected to by Buyer shall be a "Permitted Encumbrance" hereunder. Seller will have thirty (30) days after receipt of the Objections to cure the Objections, during which period the Closing will be postponed, if necessary. Seller shall use its best efforts to cure any Objections. To the extent an Objection can be satisfied by the

payment of money, Buyer shall have the right to apply a portion of the cash payable to Seller at the Closing to satisfaction of such Objection, and the amount so applied shall reduce the amount of cash payable to Seller at the Closing. If the Objections are not cured within such 30-day period, Buyer will have the option to do any of the following:

6.2.1 Extend the time period for Seller to cure the Objections by up to sixty (60) days, at the end of which time Buyer may exercise any of the remaining options set forth below.

6.2.2 Terminate this Agreement and receive a refund of the Earnest Money and the interest accrued thereon, if any.

6.2.3 Withhold from the Purchase Price an amount which, in the reasonable judgment of Title, is sufficient to assure cure of the Objections. Any amount so withheld will be placed in escrow with Title, pending such cure. If Seller does not cure such Objections within sixty (60) days after such escrow is established, Buyer may then cure such Objections and charge the costs of cure against the escrowed amount. The parties agree to execute and deliver such documents as may be reasonably required by Title, and Seller agrees to pay the charges of Title, to create and administer the escrow.

6.2.4 Waive the Objections and proceed to close.

7. Subordination. This Purchase Agreement, and the rights of the Buyer in and to the real property which is the subject hereof, is specifically made subject and subordinate to the lien of any mortgage(s) or other encumbrance(s) ("Liens") made or given by Seller, whether prior to or after the date of this Purchase Agreement, and shall, prior to Closing and payment by Buyer of the Purchase Price, remain subordinate and junior to all such Liens as if the same had been duly executed and acknowledged by the Seller, and recorded, prior to the date of this Purchase Agreement. At Closing, Seller will be responsible, at its sole expense, for obtaining any release necessary to convey fee title to the Property to Buyer free and clear of any such Liens.

8. Operation Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the Closing Date (the "Executory Period"), Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent, reasonable business standards, including the maintenance of adequate liability insurance and insurance against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief. Seller shall execute no contracts, leases or other agreements regarding the Property during the Executory Period that are not terminable on or before the Closing Date,

without the prior written consent of Buyer, which consent may be withheld by Buyer at its sole discretion.

9. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

9.1 Existence; Authority. If Seller is a corporation, limited liability company or partnership, Seller is duly organized, qualified and in good standing, and has the requisite power and authority to enter into and perform this Agreement and the Seller's Closing Documents; such documents have been duly authorized by all necessary action; such documents are valid and binding obligations of Seller, and are enforceable in accordance with their terms.

9.2 Environmental Laws. No toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in any state, local or federal law, regulation, rule, policy or order relating to the protection of the environment) (collectively, "Hazardous Substance") have been generated, treated, stored, transferred from, released or disposed of, or otherwise placed, deposited in or located on the Property, nor has any activity been undertaken on the Property that would cause or contribute to the Property becoming a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, any state, local or federal law, regulation, rule, policy or order relating to the protection of the environment. There has been no discharge, release or threatened release of Hazardous Substances from the Property. There are no Hazardous Substances or conditions in or on the Property that may support a claim or cause of action under any state, local or federal law, regulation, rule, policy or order relating to the protection of the environment. The Property is not now, and to the best knowledge of Seller never has been, listed on any list of sites contaminated with Hazardous Substances, nor used as landfill, dump, disposal or storage site for Hazardous Substances.

9.3 FIRPTA. Seller is not a "foreign person," "foreign partnership," "foreign trust" or "foreign estate" as those terms are defined in Section 1445 of the Internal Revenue Code.

9.4 Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or threatened against Seller or any portion of the Property.





- 9.5 Wells and Individual Sewage Treatment Systems. Seller does not know of any "Wells" on the Property within the meaning of Minn. Stat. § 1031 or "Individual Sewage Treatment Systems" on the Property within the meaning of Minn. Stat. § 115.55. This representation is intended to satisfy the requirements of those statutes.
- 9.6 Storage Tanks. No above ground or underground tanks are located on or about the Property, or have been located on or about the Property and have subsequently been removed or filled.
- 9.7 Reports. Seller has no environmental reports or studies relating to the Property, except those which have been or will be delivered to Buyer as required under this Agreement.

Seller will indemnify Buyer, its successors and assigns, against, and will hold Buyer, its successors and assigns, harmless from, any expenses or damages, including reasonable attorneys' fees, which Buyer incurs because of the breach of any of the above representations or warranties, whether such breach is discovered before or after Closing. Consummation of this Agreement by Buyer with knowledge of any such breach by Seller will not constitute a waiver or release by Buyer of any claims due to such breach.

10. Assignment. Either party may assign its rights under this Agreement with the prior written consent of the other party, before or after the Closing. Any such assignment will not relieve such assigning party of its obligations under this Agreement.
11. Survival. All of the terms of this Agreement and warranties and representations herein contained shall survive and be enforceable after the Closing.
12. Notice. Any notice to be given by a party hereto shall be personally delivered, sent by certified mail, or sent via a nationally recognized courier service that issues a receipt, to the other party at the address set forth for that party below (or to such other address as may be designated by notice to the other party), and shall be deemed given upon the earlier of personal delivery, two days after the date postmarked, two (2) days after depositing with such courier for delivery or upon the refusal to accept such service.

Address for Notice to Seller:

95 South Owasso Boulevard West  
Little Canada, MN 55117

With a Copy to:

Warren Peterson  
55 East 5<sup>th</sup> Street

St. Paul, MN 55101

Address for Notice to Buyer:

City of Lake Elmo  
Attn: Dean Zuleger  
City Administrator  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

With a Copy to:

David K. Snyder  
Michele R. Loughrey  
Johnson/Turner Legal  
56 E. Broadway Avenue, Suite 206  
Forest Lake, MN 55025

15. Miscellaneous. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement. This Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement, and no waiver of any of its terms will be effective unless in a writing executed by the parties. This Agreement binds and benefits the parties and their successors and assigns, and has been made under the laws of the State of Minnesota and such laws will control its interpretation.
16. Remedies. The following shall be the exclusive remedies available to the parties under this agreement:
  - 16.1 If Buyer defaults under this Agreement due to no fault of Seller, then Seller may terminate this Agreement by providing at least thirty days' prior written notice to Buyer. If Buyer fails to cure Buyer's default within such thirty-day period, then at Seller's election (i) this Agreement shall thereupon be terminated, and Seller shall retain the Earnest Money as liquidated damages; or (ii) Seller may seek specific performance of this Agreement by Buyer.
  - 16.2 If Seller defaults under this Agreement due to no fault of Buyer, then Buyer may terminate this Agreement by providing at least thirty (30) days' prior written notice to Seller. If Seller fails to cure Seller's default within such thirty-day period, then at Buyer's election (i) this Agreement shall thereupon be terminated, and Buyer shall be entitled to a refund of all Earnest Money, together with accrued interest thereon, if any; or (ii) Buyer may pursue such other actions or remedies as are available to it, including its right to damages against Seller for its failure to perform, or for misrepresentation or for specific performance of this Agreement by Seller.

- 16.3 Any suit by a party hereto which is described above and is based upon the other party's default must be commenced no later than one hundred twenty (120) days after the date of the occurrence of the default. The said 120-day limitation shall not apply to claims for indemnification otherwise provided for in this agreement.
17. Severability. In case any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, such holding shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
18. Business Days. In the event any deadline or performance date set forth in this Agreement falls on a Saturday, Sunday or legal holiday in the State of Minnesota, such deadline or performance date shall be deemed to be postponed to the next business day thereafter.

Seller and Buyer have executed this Agreement as of the date first written above.

SELLER:

BUYER:

711 LAND HOLDINGS, LLC

THE CITY OF LAKE ELMO

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

**Map of Property**

## **EXHIBIT B**

### **Legal Description**

#### Proposed Water Tower Description:

The north 250.00 feet of the south 290.00 feet of the west 310.00 feet of the Northwest Quarter of the Southeast Quarter of Section 28, Township 29 North, Range 21 West, Washington County, Minnesota, which lies easterly of the east right of way of County State Aid Highway No. 13 per WASHINGTON COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 43.

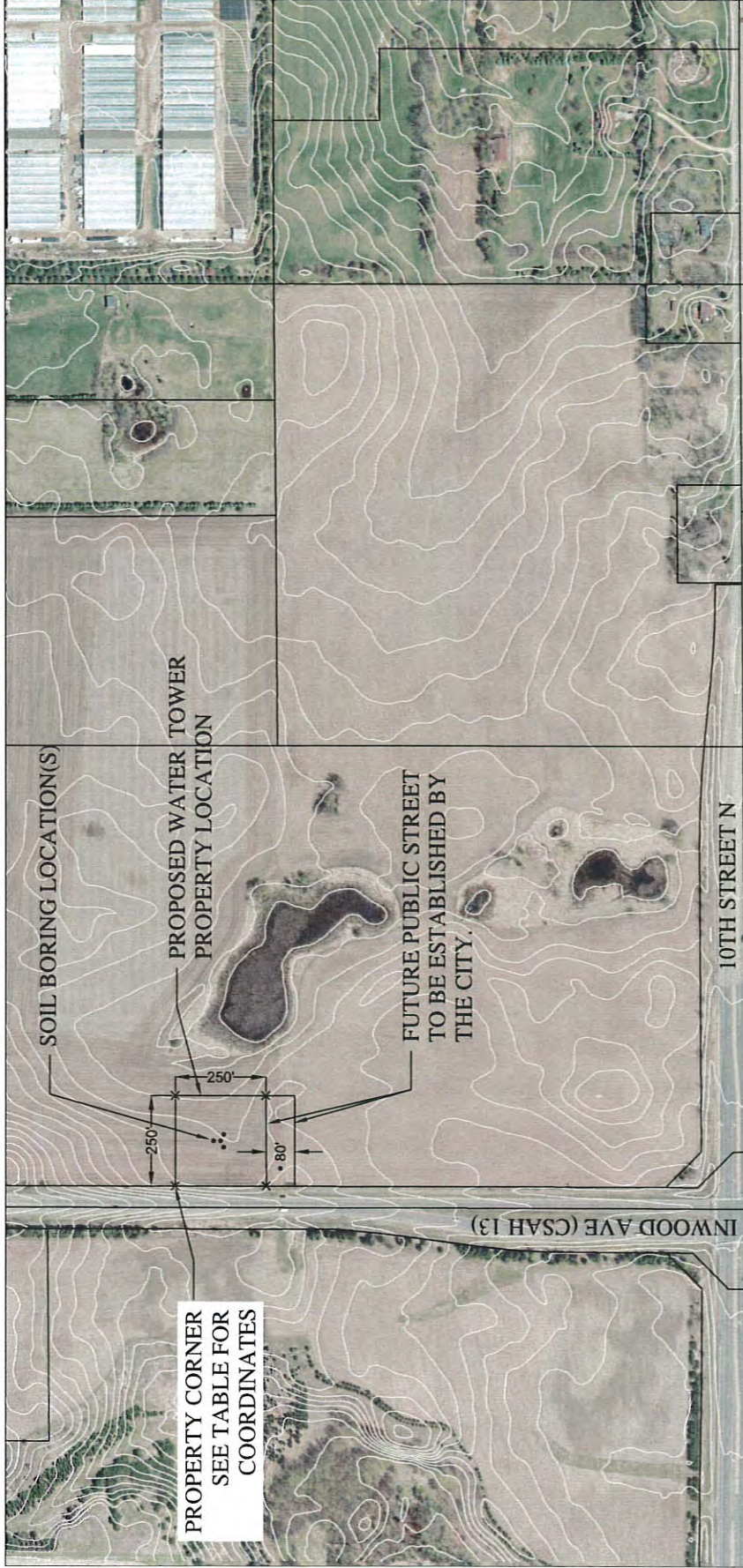
AND

#### Proposed Road Description:

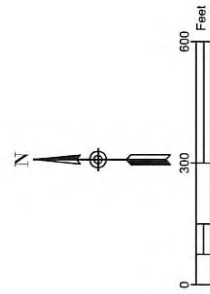
The south 40.00 feet of the west 310.00 feet of the Northwest Quarter of the Southeast Quarter and the north 40.00 feet of the west 310.00 feet of the Southwest Quarter of the Southeast Quarter, all in Section 28, Township 29 North, Range 21 West, Washington County, Minnesota, which lies easterly of the east right of way line of County State Aid Highway No. 13 per WASHINGTON COUNTY HIGHWAY RIGHT OF WAY PLAT NO. 43.

**EXHIBIT C**

**Trunk Water Main Map**



PROPERTY CORNER  
SEE TABLE FOR  
COORDINATES



PROPERTY CORNER	NORTHING	EASTING
SW	180712.6973	474050.8177
SE	180714.4643	474305.4729
NE	180969.4643	474305.4729
NW	180969.4510	474051.2261

- WASHINGTON COUNTY COORDINATE SYSTEM



**FOCUS** ENGINEERING, inc.



WATER TOWER 4  
MARCH, 2015

EXHIBIT A  
LOCATION PLAN FOR WATER TOWER NO. 4



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**REGULAR**  
**ITEM #** 16

**AGENDA ITEM:** Eastern Village Trunk Sewer and Watermain Developer’s Agreement

**SUBMITTED BY:** Kyle Klatt, Community Development Director

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Jack Griffin, City Engineer  
Dave Synder, City Attorney  
Nick Johnson, City Planner

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** Staff is recommending that the City Council approve a developer’s agreement associated with the Eastern Village Trunk Sewer and Watermain project. This project was originally planned to be completed as part of the Easton Village phase one improvements; however, the developers that will be benefitting from this project have asked that the City enter into a separate agreement for just the trunk infrastructure portion of that project. The Council will also be asked to amend the Easton Village developers agreement accordingly.

**FISCAL IMPACT:** Direct Payments to Developer – None. The proposed infrastructure is needed to serve the three approved residential developments within the Village. This project will also allow connections to be made to the 30<sup>th</sup> Street lift station from the 39<sup>th</sup> Street sewer main and a large number of planned connections as part of the Lake Elmo Avenue project.

**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to authorize execution of a developer’s agreement for a project to install trunk sewer and watermain facilities from the 30<sup>th</sup> Street lift station to the southern edge of the railroad right-of-way line within the southern portion of the Village Planning Area. This trunk infrastructure will connect to the line previously constructed by the City within the 39<sup>th</sup> Street right-of-way and that was extended to the



railroad right-of-way in the northern part of the Village. The developer of Easton Village was originally planning to complete this specific work as part of his project, but has now requested that this work be separated out from the other infrastructure within Easton Village. This separation will allow the three developers that need the sewer connection to be completed to serve their projects (Easton Village, Village Preserve, and Wildflower at Lake Elmo) to coordinate work on the trunk infrastructure project. A separate agreement will also allow this work to commence in advance of the three projects receiving final plan approval from the City.

The recommended motion to take action on the request is as follows:

***“Move to adopt Resolution No. 2015-52 approving the developer’s agreement for the Eastern Village Trunk Sewer Project”***

**LEGISLATIVE HISTORY/STAFF REPORT:** The attached developers agreement has been drafted by Staff by using the Easton Village agreement as a model and taking out any language for improvements other than sewer and water lines. Because this agreement is not tied to a specific development project, any references to building or homes, platting of lots, or other similar provisions have also been removed. Please note that Tom Wolter of Easton Village, LLC has requested that the developer for the trunk sewer line project be named as Chase Development, Inc., and will also be asking that Chase be listed as the developer for the Easton Village project as well. Although the Council previously agreed to assign the Easton Village project to the Excelsior Group, the two private parties were not able to come to a final agreement to execute a sale of this development.

The key components of the attached agreement include the following components:

- That all improvements to be completed by September 15, 2015. Staff is recommending a completion date that will give the City time to step in case the developer is unable to finish work by this date. The proposed project is a critical component of the Village sewer infrastructure, and failure to complete this line will lead to delays in hooking up residents and business owners in the Stage 1 Lake Elmo Avenue project area and the 39<sup>th</sup> Street project area.
- That the developer provide a letter of credit in the amount of \$784,280 related to the cost of the proposed improvements.
- That the developer provide a cash deposit of \$20,000 for engineering review and administration of the project.

The proposed project does not include any specific City payments for utility oversizing or other reasons. The City Engineer has approved the final construction plans for the project, the executed agreement will allow work to commence on the southern sewer line.

**BACKGROUND INFORMATION (SWOT):**

**Strengths:** Splitting the trunk sewer project from the larger Easton Village project will allow this work to commence sooner.

The completion of the trunk sewer line is a critical component of the overall infrastructure needed to serve the Village.

**Weaknesses:** The developer must complete work on the project by a certain date, and if this work does not commence soon there could be delays in connecting individual homes and businesses to the sewer line.

**Opportunities:** The three residential developers within the Village have agreed to cooperate to build the trunk sewer line. Chase Development, Inc. will be the entity responsible for coordinating the involvement of all other parties.

**Threats:** Failure to execute the agreement in a timely manner could lead to delays in connecting individuals to the trunk sewer line.

**RECOMMENDATION:** Based on the above Staff report, Staff is recommending that the City Council approve the Developer's Agreement for the Easton Village Trunk Sewer and Watermain Project and that the Council direct the Mayor and Staff to execute this document. The suggested motion to adopt the Staff recommendation is as follows:

*“Move to adopt Resolution No. 2015-52 approving the developer's agreement for the Eastern Village Trunk Sewer Project”*

**ATTACHMENTS:**

1. Resolution No. 2015-52
2. Eastern Village Trunk Sewer and Watermain Developers Agreement – Final Draft

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

**RESOLUTION NO. 2015-52**

*A RESOLUTION APPROVING THE DEVELOPER'S AGREEMENT FOR THE EASTERN  
VILLAGE TRUNK SEWER AND WATERMAIN PROJECT*

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Chase Development, Inc., 2140 West County Road 42 Burnsville, MN ("Applicant") has agreed to coordinate the construction of trunk sewer and water infrastructure necessary to serve three residential development projects within the Village Planning Area, including the Wildflower at Lake Elmo, Village Preserve, and Easton Village subdivisions, all of which have received final plat approval or have submitted applications for a final plat with the City; and

**WHEREAS**, the Lake Elmo City Council has previously considered and approved the Preliminary Plat requests for Wildflower at Lake Elmo, Village Preserve, and Easton Village; and

**WHEREAS**, the Lake Elmo City Council adopted resolutions approving the final plats for Village Preserve and Easton Village and is in receipt of an application for final plat approval for Wildflower at Lake Elmo; and

**WHEREAS**, a condition of approval for each of these developments establishes that, prior to the execution of a Final Plat by City officials, the Applicant is to enter into a Developer's Agreement with the City; and

**WHEREAS**, the Applicant and City have agreed to enter into such a contract to install trunk infrastructure outside of the aforementioned plats that is necessary to serve these plats, and a copy of the Developer's Agreement was submitted to the City Council for consideration at its June 9, 2015 meeting.

**NOW, THEREFORE**, based on the information received, the City Council of the City of Lake Elmo does hereby approve the Developer's Agreement for the Eastern Village Trunk Sewer and Watermain and authorizes the Mayor and City Clerk to execute the document.

Passed and duly adopted this 9<sup>th</sup> day of June 2015 by the City Council of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Mike Pearson, Mayor

ATTEST:

\_\_\_\_\_  
Adam Bell, City Clerk

Resolution No. 2015-52

(reserved for recording information)

## **DEVELOPMENT CONTRACT**

*(Trunk Sewer)*

### ***Eastern Village Trunk Sewer and Watermain Line***

**AGREEMENT** dated \_\_\_\_\_, 2015, by and between the **CITY OF LAKE ELMO** a Minnesota municipal corporation ("City"), and Chase Development, Inc (the "Developer").

**1. REQUEST FOR PUBLIC IMPROVEMENT PROJECT APPROVAL.** The Developer has asked the City to approve the final plans for the Eastern Village Trunk Sewer and Watermain Line (referred to in this Contract as the "project"). The land is on which the project is situated in the County of Washington, State of Minnesota, and is legally described in the attached Exhibit "A":

**2. CONDITIONS OF PROJECT APPROVAL.** The City hereby approves the project on condition that the Developer enter into this Contract and furnishes the security required by it.

**3. RIGHT TO PROCEED.** Unless separate written approval has been given by the City the Developer may not grade or otherwise disturb the earth, remove trees, and construct utilities, until all the following conditions have been satisfied: 1) this agreement has been fully executed by both

parties and filed with the City Clerk, 2) the necessary security has been received by the City, 3) all required easements have been recorded with the Washington County Recorder's Office, and 4) the City's Community Development Director has issued a letter that all conditions have been satisfied, a preconstruction conference has been held, and that the Developer may proceed.

**4. DEVELOPMENT PLANS.** The project shall be constructed in accordance with the following plans and at the Developer's sole expense. The plans shall not be attached to this Contract. If the plans vary from the written terms of this Contract, the written terms shall control. The plans are:

Plan A – Eastern Village Trunk Sewer and Watermain Line

**5. IMPROVEMENTS.** The Developer shall install and pay for the following:

- A. Sanitary Sewer - Eastern Village Trunk Sewer and Watermain Line.
- B. Watermain - Eastern Village Trunk Sewer and Watermain Line.

The improvements shall be installed in accordance with the City subdivision ordinance and the City's Engineering Design and Construction Standards Manual and pursuant to the direction of the City Engineer. The Developer shall submit plans and specifications which have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. The Developer shall instruct its engineer to provide adequate field inspection personnel to assure an acceptable level of quality control to the extent that the Developer's engineer will be able to certify that the construction work meets the approved City standards as a condition of City acceptance. In addition, the City may, at the City's discretion and at the Developer's expense, have one or more City inspectors and a soil engineer inspect the work on a full or part-time basis. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer

and the Developer's contractor. The Developer or his engineer shall schedule a pre-construction meeting at a mutually agreeable time at the Lake Elmo Public Works Facility with all parties concerned, including the City staff, to review the program for the construction work.

All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications. No deviations from the approved plans and specifications will be permitted unless approved in writing by the City Engineer. The Developer agrees to furnish to the City a list of contractors being considered for retention by the Developer for the performance of the work required by the Contract. The Developer shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of this Contract, for which reimbursement is expected from the City, unless such work is first ordered in writing by the City Engineer as provided in the specifications.

**6. CITY ENGINEERING ADMINISTRATION AND CONSTRUCTION**

**OBSERVATION.** Prior to the commencement of any construction activity authorized under this agreement, the Developer shall submit an escrow for City Engineering Administration and Construction Observation in an amount provided under paragraph 29, Summary of Cash Requirements (City Engineering Administration Escrow). The escrow account will be used to reimburse the City for all engineering administration and construction observation performed during the construction of the improvements until the escrow has been reduced to half of its original amount. Thereafter, the Developer shall reimburse the City each month, within 30 days of receiving an invoice, for all engineering administration and construction observation performed during the construction of the improvements (at normal City rates for such services) and will maintain the account at half of the original balance. If Developer fails to pay the invoiced amount within such 30-day period, and such failure continues for an additional five (5) business days after written notice from the City of such failure, the City may draw upon the escrow and stop the work on site until said escrow has been replenished in accordance with this Section. City engineering administration will include monitoring of construction progress and construction observation, consultation with Developer and his engineer on status or problems regarding the project, coordination for testing, final inspection and

acceptance, project monitoring during the warranty period, and processing of requests for reduction in security. Construction observation may be performed by the City's in-house staff or consulting engineer. Construction observation shall include, at the discretion of the City, part or full time inspection of proposed public utilities and street construction. Services will be billed on an hourly basis at normal City rates therefor.

The direction and review provided through the inspection of the improvements should not be considered a substitute for the Developer required management of the development. Developer will cause the contractor(s) to furnish the City with a schedule of proposed operations at least five (5) days prior to the commencement of construction of each type of Improvement. City shall inspect all Developer Installed Improvements during and after construction for compliance with approved plans and specifications. Developer will notify the City Engineer at such times during construction as the City Engineer requires for inspection purposes. Such inspection is pursuant to the City's governmental authority, and no agency or joint venture relationship between the City and Developer is thereby created.

**7. CONTRACTORS/SUBCONTRACTORS.** City Council members, City employees, and City Planning Commission members, and corporations, partnerships, and other entities in which such individuals have greater than a 25% ownership interest or in which they are an officer or director may not act as contractors or subcontractors for the public improvements identified in Paragraph 5 above.

**8. PERMITS.** The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, including but not limited to:

- A. Right-of-Way Excavations and Obstructions:
  - City of Lake Elmo, Right-of-Way Utility Installation(s)
  - City of Lake Elmo, Right-of-Way Obstruction(s)
  - Washington County, Utility Installations(s)
  - Washington County, Street or Driveway Access(s)
  - Minnesota Department of Transportation, Utility Installation
  - Minnesota Department of Transportation, Right-of-Way Permit
  
- B. Watermain Extensions:
  - Minnesota Department of Health
  
- C. Sanitary Sewer Extensions:
  - Minnesota Pollution Control Agency
  - Metropolitan Council Environmental Services
  
- D. Stormwater Management:

- Valley Branch, Brown's Creek or South Washington Watershed District Permit
- E. Erosion, Sedimentation Control:
- Minnesota Pollution Control Agency, General NPDES Stormwater Permit
  - SWPPP (Stormwater Pollution Prevention Plan)
- F. Wetland Mitigation:
- Board of Water and Soil Resources, WCA
- G. Construction Dewatering:
- Minnesota Department of Natural Resources

**9. TIME OF PERFORMANCE.** The Developer shall install all public improvements by September 15, 2015. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and amending this agreement to reflect the extended completion date.

**10. LICENSE.** The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the project area to perform all work and inspections deemed appropriate by the City in conjunction with project construction.

**11. CONSTRUCTION ACCESS.** Construction traffic access and egress for public utility construction is restricted to access the subdivision via the planned construction access off of Lisbon Avenue. No construction traffic is permitted on other adjacent local streets.

**12. CONSTRUCTION SEQUENCE AND COMPLIANCE.** The City will require the developer to construct the improvements in a sequence which will allow progress and compliance points to be measured and evaluated. The Developer and/or their representatives are required to supervise and coordinate all construction activities for all improvements and must notify the City in writing stating when the work is ready for the inspection at each of the measurable points defined in the following paragraphs 13., 14. and 15. For the purpose of this paragraph, Electronic message (email) shall be deemed an acceptable method of notification provided it is captioned "Notice pursuant to Development Agreement".

**13. EROSION CONTROL.** Prior to initiating construction activity, all erosion control measures shall be implemented by the Developer and inspected and approved by the City. Erosion control practices



must comply with the approved plans and specifications for the project, with all watershed district permits and with Minnesota Pollution Control Agency's Best Management Practices. The City may impose additional erosion control requirements as deemed necessary. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within ten (10) days, the City may draw down the security to pay any costs. No construction activity will be allowed unless the project is in full compliance with the approved erosion control plan.

**14. GRADING PLAN.** The project shall be graded in accordance with the approved plans. The plans shall conform to Engineering Design and Construction Standards Manual. All grading shall be completed within the project area prior to the acceptance of the public improvements.

**15. UTILITY IMPROVEMENTS.** All sanitary sewers and watermain shall be installed in accordance with the approved Plans and Specifications for Public Improvements, Plan "A" and Plan "B". The plan shall conform to the City's Engineering Design and Construction Standards Manual. All restoration work on the site shall be completed in accordance with the approved plans. Once the work is completed, the developer or its representative shall submit a written request to the City asking for an inspection of the improvements. The City will then schedule a walk-through to create a punch list of outstanding items to be completed. Upon receipt of the written punch list provided by the City, the punch list items must be completed by the Developer and the City notified to re-inspect the improvements.

**16. STREET MAINTENANCE DURING CONSTRUCTION.** The developer shall be responsible for keeping public streets within and adjacent to the project area clean of dirt and debris that may spill, track, or wash onto the street from Developer's operation. A copy of this contract shall be approved by the City before construction activity is started. The contract shall provide that the City may direct the contractor to clean the streets and the contractor will bill the Developer.

**17. OWNERSHIP OF IMPROVEMENTS.** Upon completion of the work and construction required by this Contract, the improvements lying within public easements shall become City property. Prior to acceptance of the improvements by the City, the Developer must furnish the City with a complete set of reproducible "record" plans, an electronic file of the "record" plans in accordance with the City's Engineering Design and Construction Standards Manual together with the following affidavits:

- a. Developer/Developer Engineer's Certificate
- b. Land Surveyor's Certificate

certifying that all construction has been completed in accordance with the terms of this Contract. All necessary forms will be furnished by the City. Upon receipt of "record plans" and affidavits, and upon review and verification by the City Engineer, the City Engineer will accept the completed public improvements.

**18. WETLAND MITIGATION.** The Developer shall complete any required wetland mitigation/restoration in accordance with the approved Plans and Specifications and in accordance with any applicable Watershed or agency Permits. If any required mitigation work is found to be incomplete or restoration is unsuccessful, and if Developer fails to remedy such default within fifteen (15) days after written notice from the City (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances), the City may draw down the security at any time during the warranty period if the Developer fails to take corrective measures to be used by the City to perform the work.

**19. RESPONSIBILITY FOR COSTS.**

A. In the event that the City receives claims from labor, materialmen, or others that work required by this Contract has been performed, the sums due them have not been paid, and the laborers, materialmen, or others are seeking payment from the City, and in the further event that such claims have not been resolved by Developer within thirty (30) days after written notice from the City, the Developer hereby authorizes the City to commence an Interpleader action pursuant to Rule 22, Minnesota Rules of Civil Procedure for the District Courts, to draw upon the letters of credit in an amount

up to 125 percent of the claim(s) and deposit the funds in compliance with the Rule, and upon such deposit, the Developer shall release, discharge, and dismiss the City from any further proceedings as it pertains to the letters of credit deposited with the District Court, except that the Court shall retain jurisdiction to determine payment of attorneys' fees pursuant to this Contract.

B. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the project, including but not limited to legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the project, the preparation of this Contract, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting project, all at normal City rates therefor. All amounts incurred and due at the time, must be fully paid prior to acceptance of the improvements.

C. The Developer shall hold the City and its officers, employees, and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from project approval and development. The Developer shall indemnify the City and its officers, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees. Notwithstanding anything to the contrary, Developer's obligation to indemnify, hold harmless and defend the City shall not extend to any claim, liability, loss, costs, damages or expenses, including attorney's fees, which relate to, result from or are caused by the City's violation of applicable law, this Agreement or the negligence of the City and/or its officers, employees, consultants or agents.

D. The Developer shall reimburse the City for costs incurred in the enforcement of this Contract, including reasonable engineering and attorneys' fees.

E. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. Bills not paid within thirty (30) days shall be assessed a late fee per the City of Lake Elmo adopted Fee Schedule. Upon request, the City will provide copies of detailed invoices of the work performed.

**20. CITY PAYMENTS.** There are no City payments for oversizing.

**21. SPECIAL PROVISIONS.** The following special provisions shall apply to the project.

A. Implementation of recommendations and plan revisions as directed by the City Engineer.

**22. MISCELLANEOUS.**

A. The Developer may not assign this Contract without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer subdivides the property.

B. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall be not less than \$500,000 for one person and \$1,000,000 for each occurrence; limits for property damage shall be not less than \$200,000 for each occurrence; or a combination single limit policy of \$1,000,000 or more. The City shall be named as an additional insured on the policy, and the Developer shall file with the City a certificate evidencing coverage prior to the commencement of construction activity. The certificate shall provide that the City must be given thirty (30) days advance written notice of the cancellation of the insurance.

C. Third parties shall have no recourse against the City under this Contract.

D. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Contract is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Contract.

E. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Contract shall not be a waiver or release.

F. This Contract shall run with the land and may be recorded against the title to the

property. The Developer covenants with the City, its successors and assigns, that the Developer has fee title to the project property and/or has obtained consents to this Contract, in the form attached hereto, from all parties who have an interest in the property; that there are no unrecorded interests in the project property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

G. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

H. The Developer represents to the City that the project complies with all city, county, metropolitan, state, and federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the project does not comply, the City may, at its option, refuse to allow construction or development work in the project area until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.

**23. EVENTS OF DEFAULT.** The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events:

A. Subject to unavoidable delays, failure by Developers to commence and complete construction of the Public Improvements pursuant to the terms, conditions and limitations of this Agreement and the continuance of such failure for a period of thirty (30) days after written notice thereof (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances).

B. Failure by Developers to substantially observe or perform any material covenant, condition, obligation or agreement on their part to be observed or performed under this Agreement and the

continuance of such failure for a period of thirty (30) days after written notice thereof (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances).

**24. REMEDIES ON DEFAULT.** Whenever any Event of Default occurs, the City, subject to any rights of third parties agreed to by the City pursuant to this Agreement, or otherwise by written, executed instrument of the City, may take any one or more of the following:

A. The City may suspend its performance under the Agreement until it receives assurances from Developers, deemed adequate by the City, that Developers will cure their default and continue their performance under the Agreement. Suspension of performance includes the right of the City to withhold permits including, but not limited to, building permits.

B. The City may initiate such action, including legal or administrative action, as is necessary for the City to secure performance of any provision of this agreement or recover any amounts due under this Agreement from Developers, or immediately draw on the Letter of Credit, as set forth in this Agreement.

**25. ENFORCEMENT BY CITY; DAMAGES.** The Developers acknowledge the right of the City to enforce the terms of this Agreement against the Developers, by action for specific performance or damages, or both, or by any other legally authorized means. The Developers also acknowledge that their failure to perform any or all of their obligations under this Agreement may result in substantial damages to the City; that in the event of default by the Developers, the City may commence legal action to recover all damages, losses and expenses sustained by the City; and that such expenses may include, but are not limited to, the reasonable fees of legal counsel employed with respect to the enforcement of this Agreement.

**26. WARRANTY.** The Developer warrants all improvements required to be constructed by it pursuant to this Contract against poor material and faulty workmanship. The Developer shall submit either a cash deposit or letter of credit for twenty-five percent (25%) of the amount of the original cost of the improvements.

A. The required warranty period for materials and workmanship for the utility contractor

installing public sewer and water mains shall be two (2) years from the date of final written City acceptance of the work.

**27. SUMMARY OF SECURITY REQUIREMENTS.** To guarantee compliance with the terms of this agreement, payment of special assessments, payment of the costs of all public improvements, and construction of all public improvements, the Developer shall furnish the City with an irrevocable letter of credit, in the form attached hereto, from a bank, cash escrow or a combination cash escrow and Letter of Credit ("security") for **\$789,280**. The amount of the security was calculated as follows:

**CONSTRUCTION COSTS:**

Eastern Village Trunk Sewer and Watermain	\$624,924
Developer's Record Drawings	\$2,500
<b>Construction Sub-Total</b>	<b>\$ 627,424</b>
<b>Total Project Securities (at 125% Construction Costs)</b>	<b>\$784,280</b>

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City Administrator. The City may draw down the security, without notice, for any violation of the terms of this Contract or if the security is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least thirty (30) days prior to the expiration of the security, the City may also draw it down. If the security is drawn down, the proceeds shall be used to cure the default.

**28. REDUCTION OF SECURITY.** Upon written request by the Developer and upon receipt of proof satisfactory to the City Engineer that work has been completed and financial obligations to the City have been satisfied, with City Engineer approval the security may be reduced as follows:

A. Up to a 50%, or \$392,140 of the security provided in accordance with paragraph 27. above may be released when: (1) all utilities have been installed, all testing has been successfully completed, and the utilities are considered ready for use by the City Engineer; and (2) completion of the Improvements is done to the satisfaction of the City and evidence of such is provided by the City in writing and satisfactory evidence of payment, such as lien waivers are provided.

B. Up to an additional 25%, or \$ 196,070 of the security provided in accordance with paragraph 27. above may be released when: (1) all Improvements under this Agreement have been completed to the satisfaction of the City Engineer including all restoration and corrective work for any identified punch list items; and (2) Improvements are accepted by the City in writing and satisfactory evidence of payment, such as lien waivers, are provided.

C. Twenty-five percent (25%) of the security provided in accordance with paragraph 27. above shall be retained as security until: (1) all improvements have been completed, (2) all financial obligations to the City satisfied, (3) the required "record" plans have been received and approved by the City, (4) a warranty security is provided, and (5) the public improvements are accepted by the City.

**29. SUMMARY OF CASH REQUIREMENTS.** The following is a summary of the cash requirements under this Contract which must be furnished to the City at the time of project approval:

City Engineering Administration Escrow	\$20,000 (Based on two months of administration/observation)
<b>Total Cash Requirements</b>	<b>\$20,000</b>

**30. NOTICES.** Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: 10850 Old County Road 15, Suite #200, Plymouth, MN 55441. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: Lake Elmo City Hall, 3800 Laverne Avenue N. Lake Elmo, Minnesota 55042.

**31. EVIDENCE OF TITLE.** Developer shall furnish the City with evidence of its fee ownership of the property on which the project will be constructed by way of an attorney's title opinion or title insurance policy dated not earlier than thirty (30) days prior to the start of construction.



(SEAL)

BY: \_\_\_\_\_, Mayor

AND \_\_\_\_\_, City Clerk

**DEVELOPER:**

BY: \_\_\_\_\_  
Its

BY: \_\_\_\_\_  
Its

BY: \_\_\_\_\_  
Its

STATE OF MINNESOTA            )  
  ( ss.  
COUNTY OF WASHINGTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by \_\_\_\_\_ and by \_\_\_\_\_, the Mayor and City Clerk of the City of Lake Elmo, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF MINNESOTA        )  
  ( ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_, 2\_\_\_\_, \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

DRAFTED BY:  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042  
(651) 747-3901

**FEE OWNER CONSENT  
TO  
DEVELOPMENT CONTRACT**

\_\_\_\_\_, fee owners of all or part of the subject property, the development of which is governed by the foregoing Development Contract, affirm and consent to the provisions thereof and agree to be bound by the provisions as the same may apply to that portion of the subject property owned by them.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

STATE OF MINNESOTA     )  
  ( ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_,  
by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

DRAFTED BY:  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042  
(651) 747-3901

**MORTGAGE CONSENT  
TO  
DEVELOPMENT CONTRACT**

\_\_\_\_\_, which holds a mortgage on the subject property, the development of which is governed by the foregoing Development Contract, agrees that the Development Contract shall remain in full force and effect even if it forecloses on its mortgage.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

STATE OF MINNESOTA     )  
  ( ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2\_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

DRAFTED BY:  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042  
(651) 747-3901

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT "A" TO DEVELOPMENT CONTRACT

## Legal Description of Project Property

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### *Easton Village, LLC Property:*

All that part of the Northeast Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter and the Southwest Quarter of the Northeast Quarter all being in Section 13, Township 29 North, Range 21 West, Washington County, Minnesota, lying south of the southerly right-of-way line of the Union Pacific Railroad, and further described as follows:

Beginning at the East Quarter Corner of said Section 13; thence South 0 degrees 02 minutes 51 seconds East bearings based on the Washington County Coordinate System (NAO 83), along the east line of said Southeast Quarter of Section 13, a distance of 1321.17 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 89 degrees 32 minutes 18 seconds West along the south line of the North Half of said Southeast Quarter, a distance of 2637.64 feet to the southwest corner of said Northwest Quarter of the Southeast Quarter; thence North 0 degrees 00 minutes 58 seconds East along the North and South Quarter Section line of said Section 13, a distance of 1397.70 feet to the southerly right-of-way line of the Union Pacific Railroad; thence North 72 degrees 32 minutes 48 seconds East along said southerly right-of-way line, a distance of 69.19 feet to the point of intersection with a line being 66.00 feet east of, as measured at right angles to, and parallel with said North and South Quarter Section line of said Section 13; thence South 0 degrees 00 minutes 58 seconds West along said parallel line, a distance of 330.00 feet thence (at right angles) South 89 degrees 59 minutes 02 seconds East, a distance of 300.00 feet thence (at right angles) North 0 degrees 00 minutes 58 seconds East, 424.41 feet to said southerly right-of-way line of the Union Pacific Railroad; thence North 72 degrees 32 minutes 48 seconds East, along said southerly right-of-way line of the Union Pacific Railroad, a distance of 2378.80 feet to the east line of said Southeast Quarter of the Northeast Quarter; thence South 0 degrees 02 minutes 53 seconds East along said east line, a distance of 883.82 feet to the point of beginning.

Excepting therefrom that part of the Northwest Quarter of the Southeast Quarter of said Section 13, lying within the following described area: Commencing at the southwest corner of said Northwest Quarter of the Southeast Quarter; thence North along the west line of said Southeast Quarter of Section 13, a distance of 240.00 feet to the point of beginning; thence continuing North along said west line of the Southeast Quarter, a distance of 667.80 feet thence East at right angles a distance of 30.00 feet; thence southeasterly by a deflection angle to the right 46 degrees 28 minutes 00 seconds, a distance of 220.70 feet; thence southeasterly by a deflection angle to the left 20 degrees 35 minutes 00 seconds, a distance of 286.80 feet; thence south by a deflection angle to the right 64 degrees 07 minutes and parallel with said west line of the Southeast Quarter, a distance of 382.70 feet thence West at right angle, a distance of 440.00 feet to the point of beginning.

And Excepting from the first above described area, all that part lying Easterly of a line 60.00 feet West of, measured at right angle to and parallel with the center line of County State Aid Highway 15 described as follows: Commencing at the East Quarter corner of said Section 13; thence South 00 degrees 51 minutes 49 seconds East, bearing oriented to the Washington County Coordinate System, South Zone, along the East line of said Section 13 to the southeast corner of said Section 13 and the beginning of the center line to be described; thence North 00 degrees 45 minutes 51 seconds West a distance of 3571.19 feet thence North 00 degrees 54 minutes 55 seconds West a distance of 1000.00 feet and said center line there terminating, except the Chicago and Northwestern Railroad right-Of-way, Washington County, Minnesota.

### *Peter J. Schiltgen Property:*

That part of the West half of Section Thirteen (13), Township Twenty-nine (29) North of Range Twenty-one (21), lying within the following boundaries, to-wit: Beginning at the quarter post in the center of the South line of said Section; thence running North along the Center Line of said Section to a point in the center of the Saint Paul & Stillwater Road; thence Southwesterly along the center of said road to a point forty-four (44)

Rods West of the East Line of the Northwest Quarter of said Section; thence South on a line parallel with the West line of said Section to a point in the South line thereof Forty-four (44) Rods West of the center post in said line; thence East Forty-four (44) Rods to the place of beginning, excepting, however, a strip of land One Hundred (100) Feet in width, being Forty-four (44) feet on the north side and Fifty-six (56) feet on the South side of center line of St. P.S. & T. F. Ry. track as constructed over and across East Forty-four (44) Rods of West One-half (W 1/2), and also excepting therefrom the East 726 feet of the South 1800 feet of the Southwest Quarter (SW ¼) of Section 13 Township 29 North, Range 21 West, Washington County, Minnesota, according to the United States Government Survey thereof, subject to the right of way of Minnesota Trunk Highway No. 5 (also known as Stillwater Boulevard North), and is also subject to a 20 foot road use easement recorded by Document Number 328273 in the Office of the County Recorder, Washington County, Minnesota, and is also subject to a Northern States Power Easement recorded in Book 136 of Deeds, Page 297, in the Office of the County Recorder, Washington County, Minnesota.

**IRREVOCABLE LETTER OF CREDIT**

No. \_\_\_\_\_  
Date: \_\_\_\_\_

TO: City of Lake Elmo

Dear Sir or Madam:

We hereby issue, for the account of \_\_\_\_\_ (Name of Developer) and in your favor, our Irrevocable Letter of Credit in the amount of \$ \_\_\_\_\_, available to you by your draft drawn on sight on the undersigned bank at its offices in Minnesota.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, 2\_\_\_\_\_, of (Name of Bank) \_\_\_\_\_";
- b) Be signed by the Mayor or City Administrator of the City of Lake Elmo.
- c) Be presented for payment at \_\_\_\_\_ (Address of Bank) \_\_\_\_\_, on or before 4:00 p.m. on November 30, 2\_\_\_\_\_.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Lake Elmo City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: City Administrator, City Hall, 3800 Laverne Ave. N. Lake Elmo Minnesota 55042 and is actually received by the City Administrator at least thirty (30) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

BY: \_\_\_\_\_

Its \_\_\_\_\_



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**REGULAR**  
**ITEM #** 17

**AGENDA ITEM:** Easton Village Developer’s Agreement – Minor Amendments

**SUBMITTED BY:** Kyle Klatt, Community Development Director

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Jack Griffin, City Engineer  
Dave Synder, City Attorney  
Nick Johnson, City Planner

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** At the request of the developer, Staff is recommending minor revisions to the approved developers agreement for Easton Village to: 1) change the name of the developer from Easton Village, LLC to Chase Development, Inc., and 2) remove the financial security amounts associated with the Eastern Trunk Sewer and Watermain project that will now be covered under a separate development contract.

**FISCAL IMPACT:** None of the previous financial aspects of the agreement would be changed by the amendment; a portion of the security would be moved into the Eastern Village Trunk Sewer Agreement.

**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to approve minor amendments to the Easton Village Developer’s Agreement as described above. The Council recently confirmed the final language to be used in the document, and none of these previously negotiated provisions will be changed. Please note that the request to revise the name of the developer stems from the developers inability to complete a proposed transaction with the Excelsior Group. In order to move the development forward, Chase Development, Inc. will be listed as the developer for the project. The other revision to the document concerning the



removal of the trunk sewer securities is consistent with a related request by the same developer to enter into a separate agreement with the City for this work.

The recommended motion to take action on the request is as follows:

***“Move to amend the developer’s agreement for Easton Village as drafted and documented in the attached amended Development Agreement”***

**LEGISLATIVE HISTORY/STAFF REPORT:** The City Council approved a developers agreement for Easton Village on March 3<sup>rd</sup> of this year, and affirmed that the language used in the agreement was consistent with its approval on July 15, 2015. Since this approval, the developer, working in conjunction with the other two residential developers in the Village (Gonyea and Engstrom Companies) has decided to split the trunk sewer line work from the public improvements specific to the Easton Village development. This splitting of the project will help facilitate the coordination of the trunk project among the three benefiting parties while helping move this portion of the project along a faster timeline. The proposed action would remove \$784,280 of the required security that represents the cost to install the trunk line and moves this into the new agreement. Other than the change to the responsible developer, there are no other revisions proposed. All changes are tracked in the attached document.

**BACKGROUND INFORMATION (SWOT):**

**Strengths:** Splitting out the trunk sewer work will help ensure that the regional project will move forward without any direct City responsibility for its construction.

**Weaknesses:** None – the overall security to be provided has not changed.

**Opportunities:** The separation of trunk sewer and water elements from the existing agreement will help the three private developers better coordinate the installation of these improvements.

**Threats:** None.

**RECOMMENDATION:** Based on the above Staff report, Staff is recommending that the City Council approve minor amendments to the Easton Village Developers Agreement to: 1) change the name of the developer from Easton Village, LLC to Chase Development, Inc., and 2) remove the financial security amounts associated with the Eastern Trunk Sewer and Watermain project that will now be covered under a separate development contract. The suggested motion to adopt the Staff recommendation is as follows:

***“Move to amend the developer’s agreement for Easton Village as drafted and documented in the attached amended Development Agreement”***

**ATTACHMENTS:**

1. Easton Village Developer’s Agreement – Revised (with amendments tracked)

*(reserved for recording information)*

## **DEVELOPMENT CONTRACT**

*(Public sewer and water)*

### ***Easton Village***

**AGREEMENT** dated \_\_\_\_\_, 2015, by and between the **CITY OF LAKE**

**ELMO** a Minnesota municipal corporation ("City"), and Easton Village, LLC Chase Development, Inc (the "Developer").

**1. REQUEST FOR PLAT APPROVAL.** The Developer has asked the City to approve the plat for Easton Village (referred to in this Contract as the "plat"). The land is situated in the County of Washington, State of Minnesota, and is legally described as:

**2. CONDITIONS OF PLAT APPROVAL.** The City hereby approves the plat on condition that the Developer enter into this Contract, furnish the security required by it, and record the plat with the County Recorder or Registrar of Titles within (180) days after the City Council approves the final plat.

**3. RIGHT TO PROCEED.** Unless separate written approval has been given by the City, within the plat or land to be platted, the Developer may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings until all the following conditions have been satisfied: 1) this agreement has been fully executed by both

parties and filed with the City Clerk, 2) the necessary security has been received by the City, 3) the plat and required homeowner's association documents have been recorded with the Washington County Recorder's Office, and 4) the City's Community Development Director has issued a letter that all conditions have been satisfied, a preconstruction conference has been held, and that the Developer may proceed.

**4. PHASED DEVELOPMENT.** This plat is a phase of a multi-phased preliminary plat; the City may refuse to approve final plats of subsequent phases if the Developer has breached this Contract and the breach has not been remedied. Development of subsequent phases may not proceed until Development Contracts for such phases are approved by the City. Park charges and area charges for sewer and water referred to in this Contract are not being imposed on outlots, if any, in the plat that are designated in an approved preliminary plat for future subdivision into lots and blocks. Such charges will be calculated and imposed when the outlots are final platted into lots and blocks.

**5. PRELIMINARY PLAT STATUS.** The plat is a phase of a multi-phased preliminary plat, the preliminary plat approval for all phases not final platted shall lapse and be void unless final platted into lots and blocks, not outlots, within five (5) years after preliminary plat approval.

**6. CHANGES IN OFFICIAL CONTROLS.** For two (2) years from the date of this Contract, no amendments to the City's Comprehensive Plan or official controls shall apply to or affect the residential use, development density, lot size, lot layout or dedications of the approved final plat unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Contract to the contrary, to the full extent permitted by state law, the City may require compliance with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Contract.

**7. DEVELOPMENT PLANS.** The plat shall be developed in accordance with the following plans and at the Developer's sole expense. The plans shall not be attached to this Contract. If the plans vary from the written terms of this Contract, the written terms shall control. The plans are:

Plan A – Final Plat

- Plan B – Final Grading, Drainage, and Erosion Control Plans
- Plan C – Final Sanitary Sewer, Water Main, Storm Sewer, and Street Plans
- Plan D – Final Landscape and Tree Preservation Plan
- Plan E – Eastern Village Trunk Sewer Line

**8. IMPROVEMENTS.** The Developer shall install and pay for the following:

- A. Streets
- B. Sanitary Sewer
- C. ~~Sanitary Sewer~~ ~~Eastern Village Trunk Sewer Line~~
- D.C. Watermain
- E.D. Surface Water Facilities (pipe, ponds, rain gardens, etc.)
- F.E. Grading and Erosion Control
- G.F. Sidewalks/Trails
- H.G. Street Lighting
- I.H. Underground Utilities
- J.I. Street Signs and Traffic Control Signs
- K.J. Landscaping and Street Trees
- L.K. Tree Preservation and Reforestation
- M.L. Wetland Mitigation and Buffers
- N.M. Monuments Required by Minnesota Statutes

The improvements shall be installed in accordance with the City subdivision ordinance and the City's Engineering Design and Construction Standards Manual and pursuant to the direction of the City Engineer. The Developer shall submit plans and specifications which have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. The Developer shall instruct its engineer to provide adequate field inspection personnel to assure an acceptable level of quality control to the extent that the Developer's engineer will be able to certify that the construction work meets the approved City standards as a condition of City acceptance. In addition, the City may, at the City's discretion and at the Developer's expense, have one or more City inspectors and a soil engineer inspect the work on a full or part-time basis. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer

and the Developer's contractor. The Developer or his engineer shall schedule a pre-construction meeting at a mutually agreeable time at the City Hall with all parties concerned, including the City staff, to review the program for the construction work.

All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications. No deviations from the approved plans and specifications will be permitted unless approved in writing by the City Engineer. The Developer agrees to furnish to the City a list of contractors being considered for retention by the Developer for the performance of the work required by the Contract. The Developer shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of this Contract, for which reimbursement is expected from the City, unless such work is first ordered in writing by the City Engineer as provided in the specifications.

#### **9. CITY ENGINEERING ADMINISTRATION AND CONSTRUCTION**

**OBSERVATION.** Prior to the commencement of any construction activity authorized under this agreement, the Developer shall submit an escrow for City Engineering Administration and Construction Observation in an amount provided under paragraph 36, Summary of Cash Requirements (City Engineering Administration Escrow). The escrow account will be used to reimburse the City for all engineering administration and construction observation performed during the construction of the improvements until the escrow has been reduced to half of its original amount. Thereafter, the Developer shall reimburse the City each month, within 30 days of receiving an invoice, for all engineering administration and construction observation performed during the construction of the improvements (at normal City rates for such services) and will maintain the account at half of the original balance. If Developer fails to pay the invoiced amount within such 30-day period, and such failure continues for an additional five (5) business days after written notice from the City of such failure, the City may draw upon the escrow and stop the work on site until said escrow has been replenished in accordance with this Section. City engineering administration will include monitoring of construction progress and construction observation, consultation with Developer and his engineer on status or problems regarding the project, coordination for testing,

final inspection and acceptance, project monitoring during the warranty period, and processing of requests for reduction in security. Construction observation may be performed by the City's in-house staff or consulting engineer. Construction observation shall include, at the discretion of the City, part or full time inspection of proposed public utilities and street construction. Services will be billed on an hourly basis at normal City rates therefor.

The direction and review provided through the inspection of the improvements should not be considered a substitute for the Developer required management of the development. Developer will cause the contractor(s) to furnish the City with a schedule of proposed operations at least five (5) days prior to the commencement of construction of each type of Improvement. City shall inspect all Developer Installed Improvements during and after construction for compliance with approved plans and specifications. Developer will notify the City Engineer at such times during construction as the City Engineer requires for inspection purposes. Such inspection is pursuant to the City's governmental authority, and no agency or joint venture relationship between the City and Developer is thereby created.

**10. CONTRACTORS/SUBCONTRACTORS.** City Council members, City employees, and City Planning Commission members, and corporations, partnerships, and other entities in which such individuals have greater than a 25% ownership interest or in which they are an officer or director may not act as contractors or subcontractors for the public improvements identified in Paragraph 8 above.

**11. PERMITS.** The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, including but not limited to:

- A. Right-of-Way Excavations and Obstructions:
  - City of Lake Elmo, Right-of-Way Utility Installation(s)
  - City of Lake Elmo, Right-of-Way Obstruction(s)
  - Washington County, Utility Installations(s)
  - Washington County, Street or Driveway Access(s)
  - Minnesota Department of Transportation, Utility Installation
  - Minnesota Department of Transportation, Right-of-Way Permit
  
- B. Watermain Extensions:
  - Minnesota Department of Health
  
- C. Sanitary Sewer Extensions:
  - Minnesota Pollution Control Agency
  - Metropolitan Council Environmental Services

- D. Stormwater Management:
  - Valley Branch, Brown's Creek or South Washington Watershed District Permit
- E. Erosion, Sedimentation Control:
  - Minnesota Pollution Control Agency, General NPDES Stormwater Permit
  - SWPPP (Stormwater Pollution Prevention Plan)
- F. Wetland Mitigation:
  - Board of Water and Soil Resources, WCA
- G. Construction Dewatering:
  - Minnesota Department of Natural Resources

**12. TIME OF PERFORMANCE.** The Developer shall install all required public improvements by June 30, 2016, with the exception of the final wear course of asphalt on streets. The Developer shall have the option of installing the wearing course of streets within one (1) year following initial commencement of work on the required basic improvements or installing it after the first course has weathered a winter season, consistent with warranty requirements, however final acceptance of the improvements will not be granted until all work is completed including the final wear course. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and amending this agreement to reflect the extended completion date. Final wear course placement outside of this time frame must have the written approval of the City Engineer.

**13. LICENSE.** The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the plat to perform all work and inspections deemed appropriate by the City in conjunction with plat development.

**14. CONSTRUCTION ACCESS.** Construction traffic access and egress for grading, public utility construction, and street construction is restricted to access the subdivision via the planned construction access off of Manning Avenue. No construction traffic is permitted on other adjacent local streets.

**15. CONSTRUCTION SEQUENCE AND COMPLIANCE.** The City will require the developer to construct the improvements in a sequence which will allow progress and compliance points

to be measured and evaluated. The Developer and/or their representatives are required to supervise and coordinate all construction activities for all improvements and must notify the City in writing stating when the work is ready for the inspection at each of the measurable points defined in the following paragraphs 16., 17. and 18. For the purpose of this paragraph, Electronic message (email) shall be deemed an acceptable method of notification provided it is captioned "Notice pursuant to Development Agreement".

**16. EROSION CONTROL.** Prior to initiating site grading, the erosion control plan, Plan B, shall be implemented by the Developer and inspected and approved by the City. Erosion control practices must comply with the approved plans and specifications for the plat, with all watershed district permits and with Minnesota Pollution Control Agency's Best Management Practices. The City may impose additional erosion control requirements as deemed necessary. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within ten (10) days, the City may draw down the security to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the plat is in full compliance with the approved erosion control plan.

If building permits are issued prior to the acceptance of public improvements, the developer assumes all responsibility for erosion control compliance throughout the plat and the City may take such action as allowed by this agreement against the Developer for any noncompliant issue as stated above. Erosion control plans for individual lots will be required in accordance with the City's building permit requirements, or as required by the City or City Engineer.

**17. GRADING PLAN.** The plat shall be graded in accordance with the approved grading drainage and erosion control plan, Plan "B". The plan shall conform to Engineering Design and



Construction Standards Manual. All grading shall be completed within the Subdivision prior to the preparation and submittal of the as-constructed grading plan.

Within thirty (30) days after completion of the grading, the Developer shall provide the City with a "record" grading plan certified by a registered land surveyor or engineer that all trails, ponds, swales, and ditches have been constructed on public easements or land owned by the City. The "record" plan shall contain site grades and field verified elevations of the following: a) cross sections of ponds; b) location and elevations along all swales, emergency overflows, wetlands, wetland mitigation areas if any, ditches, locations and dimensions of borrow areas/stockpiles; c) lot corner elevations and house pads; and d) top and bottom of retaining walls. The City will not issue any building permits, with the exception of the model homes described in Section 26(A), until the approved certified record grading plan is on file with the City.

**18. STREET AND UTILITY IMPROVEMENTS.** All storm sewers, sanitary sewers, watermain, and streets shall be installed in accordance with the approved Plans and Specifications for Public Improvements, Plan "D". The plan shall conform to the City's Engineering Design and Construction Standards Manual. Curb and gutter and the first lift of the bituminous streets, sidewalks, the boulevards graded, street signs installed, and all restoration work on the site shall be completed in accordance with the approved plans. Once the work is completed, the developer or its representative shall submit a written request to the City asking for an inspection of the initial improvements. The City will then schedule a walk-through to create a punch list of outstanding items to be completed. Upon receipt of the written punch list provided by the City, the punch list items must be completed by the Developer and the City notified to re-inspect the improvements. The final bituminous wear course may be installed in accordance with paragraph 12. above.

**19. STREET MAINTENANCE DURING CONSTRUCTION.** The Developer shall be responsible for all street maintenance until the streets are accepted by the City in writing. Warning signs shall be placed when hazards develop in streets to prevent the public from traveling on same and to direct attention to detours. If and when streets become impassable, such streets shall be barricaded and closed. In the event residences are occupied prior to completing streets, the Developer

shall maintain a smooth surface and provide proper surface drainage to insure that the streets are passable to traffic and emergency vehicles. The Developer shall be responsible for keeping streets within and without the subdivision clean of dirt and debris that may spill, track, or wash onto the street from Developer's operation. The Developer may request, in writing, that the City keep the streets open during the winter months by plowing snow from the streets prior to final acceptance of said streets. The City shall not be responsible for repairing the streets because of snow plowing operations. Providing snow plowing service does not constitute final acceptance of the streets by the City. The Developer shall contract for street cleaning within and immediately adjacent to the development. At a minimum, scraping and sweeping shall take place on a weekly basis. A copy of this contract shall be approved by the City before grading is started. The contract shall provide that the City may direct the contractor to clean the streets and the contractor will bill the Developer.

**20. OWNERSHIP OF IMPROVEMENTS.** Upon completion of the work and construction required by this Contract, the improvements lying within public easements shall become City property. Prior to acceptance of the improvements by the City, the Developer must furnish the City with a complete set of reproducible "record" plans, an electronic file of the "record" plans in accordance with the City's Engineering Design and Construction Standards Manual together with the following affidavits:

- Developer/Developer Engineer's Certificate
- Land Surveyor's Certificate

certifying that all construction has been completed in accordance with the terms of this Contract. All necessary forms will be furnished by the City. Upon receipt of "record plans" and affidavits, and upon review and verification by the City Engineer, the City Engineer will accept the completed public improvements.

**21. PARK DEDICATION.** The Developer shall be required to dedicate 9.84 acres of land for public park purposes for the entire subdivision. The Easton Village Final Plat includes the dedication of 3.99 acres of land, which represents 40.5% of the overall total land dedication required. Future project phases shall either include dedication of the remaining 5.85 acres of park land or a cash payment in lieu

of land dedication consistent with the Lake Elmo Subdivision Ordinance.

**22. SANITARY SEWER AND WATER UTILITY AVAILABILITY CHARGES (SAC AND WAC).** The Developer shall be responsible for the payment of all sewer availability charges (SAC) and all water availability charges (WAC) with respect to the Improvements required by the City and any state or metropolitan government agency.

The sewer availability charge (SAC) in the amount of \$3,000.00 per REU shall be paid by the Developer prior to the City recording the final plat. The total amount to be paid by the Developer is \$213,000.00.

The water availability charge (WAC) in the amount of \$3,000.00 per REU shall be paid by the Developer prior to the City recording the final plat. The total amount to be paid by the Developer is \$213,000.00.

In addition, a sewer connection charge in the current amount of \$1,000.00 per REU, a Met Council sewer availability charge in the current amount of \$2,485.00 per REU, and a water connection charge in the current amount of \$1,000.00 per REU will be collected by the City at the time the building permit is issued for each lot. These amounts are charged at the time of building permit in accordance with the latest city fee schedule, which may be more or less than the amount specified herein.

**23. TRAFFIC CONTROL SIGNS.** Traffic control signs shall be included as part of the public street improvements, and the installation costs shall be included in the street construction calculations.

**24. STREET LIGHTS.** The Developer is responsible for the installation of street lights consistent with a street lighting plan approved by the City. The Developer shall coordinate the installation of street lights with Xcel Energy in conjunction with the other improvements, and agrees to pay Xcel Energy for all upfront costs associated with the street lighting system, including underground cables, posts, lamps, ballasts, starters, photocells, and glassware. All street lights will be leased by the City upon final acceptance of the system. The Developer shall also pay \$749.52 in payment for the first year operating costs for street lights.

**25. WETLAND MITIGATION.** The Developer shall complete any required wetland mitigation/restoration in accordance with the approved Plans and Specifications and in accordance with any applicable Watershed or agency Permits. If any required mitigation work is found to be incomplete or restoration is unsuccessful, and if Developer fails to remedy such default within fifteen (15) days after written notice from the City (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances), the City may draw down the security at any time during the warranty period if the Developer fails to take corrective measures to be used by the City to perform the work.

**26. BUILDING PERMITS/CERTIFICATES OF OCCUPANCY.**

A. Public sewer and water, curbing, and one lift of asphalt shall be installed on all public and private streets prior to issuance of any building permits, except five (5) model homes on lots acceptable to the Community Development Director.

B. Prior to issuance of building permits, wetland buffer monuments shall be placed in accordance with the City's zoning ordinance. The monument design shall be approved by the Community Development Department.

C. Written certification of the as-constructed grading must be on file at the City for the block where the building is to be located.

D. Breach of the terms of this Contract by the Developer, including nonpayment of billings from the City, shall be grounds for denial of building permits and/or withholding of other permits, inspection or actions, including lots sold to third parties, and the halting of all work in the plat.

E. If building permits are issued prior to the acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the City, Developer, their contractors, subcontractors, materialmen, employees, agents, or third parties.

F. No sewer and water connection permits may be issued until the streets needed for access have been paved with a bituminous surface and the utilities are tested and approved by the City

Engineer.

G. The City will not issue a certificate of occupancy for any building constructed on any lot or parcel in the Plat, including any model homes authorized under this agreement, until Public sewer and water, curbing, and one lift of asphalt is installed on all public and private streets; all utilities are tested and approved by the City Engineer; and the as-constructed grading must be on file at the City for the block where the building is to be located.

## **27. RESPONSIBILITY FOR COSTS.**

A. In the event that the City receives claims from labor, materialmen, or others that work required by this Contract has been performed, the sums due them have not been paid, and the laborers, materialmen, or others are seeking payment from the City, and in the further event that such claims have not been resolved by Developer within thirty (30) days after written notice from the City, the Developer hereby authorizes the City to commence an Interpleader action pursuant to Rule 22, Minnesota Rules of Civil Procedure for the District Courts, to draw upon the letters of credit in an amount up to 125 percent of the claim(s) and deposit the funds in compliance with the Rule, and upon such deposit, the Developer shall release, discharge, and dismiss the City from any further proceedings as it pertains to the letters of credit deposited with the District Court, except that the Court shall retain jurisdiction to determine payment of attorneys' fees pursuant to this Contract.

B. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development of the plat, including but not limited to legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the plat, the preparation of this Contract, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting development of the plat, all at normal City rates therefor. All amounts incurred and due at the time, must be fully paid prior to execution and release of the final plat for recording.

C. The Developer shall hold the City and its officers, employees, and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from plat

approval and development. The Developer shall indemnify the City and its officers, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees. Notwithstanding anything to the contrary, Developer's obligation to indemnify, hold harmless and defend the City shall not extend to any claim, liability, loss, costs, damages or expenses, including attorney's fees, which relate to, result from or are caused by the City's violation of applicable law, this Agreement or the negligence of the City and/or its officers, employees, consultants or agents.

D. The Developer shall reimburse the City for costs incurred in the enforcement of this Contract, including reasonable engineering and attorneys' fees.

E. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. Bills not paid within thirty (30) days shall be assessed a late fee per the City of Lake Elmo adopted Fee Schedule. Upon request, the City will provide copies of detailed invoices of the work performed.

**28. CITY PAYMENTS.** There are no City payments for oversizing due to previous agreements with the Developer concerning the 39<sup>th</sup> Street Trunk Sewer Line project.

**29. RAILROAD CROSSING IMPROVEMENTS:** The Developer shall be required to pay for a portion of the costs to secure, build and install a public rail crossing at the location shown in Exhibit B to specifications required by the City, the Minnesota Department of Transportation, the Union Pacific Rail Road and any other regulatory agency having jurisdiction over the crossing and the track in accordance with the specifications of the City of Lake Elmo. The Developer's portion of these costs shall be calculated based on the percentage of the overall number of Residential Equivalency Connection (REC) units planned for developments that will directly access the Village Parkway minor collector road between State Highway 5 and 30<sup>th</sup> Street divided by the estimated overall project costs. The City will request that all future development projects connecting directly to Village Parkway contribute towards said crossing improvement. The Developer shall provide all property in fee and/or easements as required by the City necessary to establish the railroad crossing. The Developer agrees to submit a cash payment of \$63,000 to the City for its share of the railroad crossing improvements.

A. The amount of the cash payment was calculated as follows: \$500,000 estimated project costs multiplied by 12.6% = \$63,000.

B. The calculation for future railroad crossing costs has been determined as follows:

Parcel ID(s)	Percentage	Total Costs
13.029.21.14.0002	38.6%	\$193,000
13.029.21.42.0001		
13.029.21.41.0001		
13.029.21.13.0001		
13.029.21.43.0004	17.8%	\$89,000
13.029.21.44.0002		
13.029.21.12.0001	30.2%	\$151,000
13.029.21.14.0002		
13.029.21.24.0001	13.4%	\$67,000
Totals	100%	\$500,000

C. If the construction amount of the railroad crossing installation exceeds \$500,000, the additional cost shall be allocated proportionally to the parcels listed above upon consent of all property owners and the City. The City may participate in the additional costs of construction of the railroad crossing if it is deemed to be necessary as a matter of public safety.

**30. SPECIAL PROVISIONS.** The following special provisions shall apply to plat development:

A. Implementation of the recommendations listed in the January 22, 2015, February 5, 2015, and February 10, 2015 Engineering review memorandums concerning the Easton Village Final Plat.

B. Before the City executes the final plat, the Developer shall convey Outlots A, B, D, G, Part of E, and F to the City by warranty deed, free and clear of any and all encumbrances.

C. Railroad Crossing Improvements. The Developer shall enter into an escrow agreement with the City satisfactory to the City Attorney concerning acquisition of and the payment of costs associated with a new railroad crossing and the construction of related public improvements

serving the property and providing financial guarantees concerning the construction of said improvements. Developer shall provide all property in fee and/or easements as required by the City necessary to establish the railroad crossing.

D. The Developer shall install temporary turnarounds on the northern end of Linden Avenue North and the termination point of 32<sup>nd</sup> Street North until these roads are extended to the north as part of a future development phase.

E. Temporary Manning Avenue Access Removal. Prior to the City's acceptance of the streets, the developer shall submit a letter of credit or cash escrow to the City in the amount of (\$27,870) to guarantee the removal of the temporary access road connecting to Manning Avenue. This letter of credit or escrow may be renewed for future project phases if the requirements for removal of the access road have not been met prior to the platting of future project phases.

F. Compliance with recommendations of the Metropolitan Airports Commission as documented in a letter dated December 8, 2014 from the Commission's Airport Planner.

G. Disclosure of Information: The declarations for the Homeowner's Association shall include a disclosure statement in form and substance as attached as Exhibit B hereto regarding the Lake Elmo Airport, Access to Manning Avenue, and Union Pacific Railroad rail line.

H. The Developer must obtain a sign permit from the City prior to installation of any permanent subdivision identification signs.

I. The Developer shall be responsible for the construction of all improvements within the Manning Avenue (CSAH 15) right-of-way as required by Washington County and further described in the review letter received from the County dated June 24, 2014.

I. The Developer shall observe all other County requirements as specified in the Washington County review letter dated June 24, 2014.

J. The Developer shall enter into a maintenance agreement with the City that clarifies the individuals or entities responsible for any landscaping installed in areas outside of land dedicated as public park and open space on the final plat.



K. Any land under which public trails are located will be accepted as park land provided the Developer constructs said trails within the dedicated areas as part of the public improvements for the subdivision and easements are provided where required by the City.

O. The City and Developer agree to prepare a plan for improvements to the Outlot D park area by December 15, 2015 with installation of said improvements to be completed by June 30, 2016.

### **31. MISCELLANEOUS.**

A. The Developer may not assign this Contract without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it.

B. Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design engineer shall be filed with the City Engineer evidencing that the retaining wall was constructed in accordance with the approved plans and specifications. All retaining walls identified on the development plans or by special conditions referred to in this Contract shall be constructed before any other building permit is issued for a lot on which a retaining wall is required to be built.

C. Appropriate legal documents regarding Homeowner Association documents, covenants and restrictions relating to the plat approval and outlots and conveyances, as approved by the City Attorney, shall be filed with the final plat. No third-party beneficiary status is hereby conferred. All outlots and common areas, including Outlots A, C, and E shall be maintained in good order and repair by a homeowner's association, and, if it does not do so, then the City may perform the work and assess the costs against the individual lots within the plat of Easton Village and without regard to the formalities or requirements of Minn. Stat. § 429.

D. Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of

Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall be not less than \$500,000 for one person and \$1,000,000 for each occurrence; limits for property damage shall be not less than \$200,000 for each occurrence; or a combination single limit policy of \$1,000,000 or more. The City shall be named as an additional insured on the policy, and the Developer shall file with the City a certificate evidencing coverage prior to the City signing the plat. The certificate shall provide that the City must be given thirty (30) days advance written notice of the cancellation of the insurance.

E. Third parties shall have no recourse against the City under this Contract.

F. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Contract is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Contract.

G. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Contract shall not be a waiver or release.

H. This Contract shall run with the land and may be recorded against the title to the property. The Developer covenants with the City, its successors and assigns, that the Developer has fee title to the property being final platted and/or has obtained consents to this Contract, in the form attached hereto, from all parties who have an interest in the property; that there are no unrecorded interests in the property being final platted; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

I. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

J. The Developer represents to the City that the plat complies with all city, county, metropolitan, state, and federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the plat does not comply, the City may, at its option, refuse to allow construction or development work in the plat until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.

**32. EVENTS OF DEFAULT.** The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events:

A. Subject to unavoidable delays, failure by Developers to commence and complete construction of the Public Improvements pursuant to the terms, conditions and limitations of this Agreement and the continuance of such failure for a period of thirty (30) days after written notice thereof (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances).

B. Failure by Developers to substantially observe or perform any material covenant, condition, obligation or agreement on their part to be observed or performed under this Agreement and the continuance of such failure for a period of thirty (30) days after written notice thereof (provided, however, that in the event of a bona fide emergency, the City shall only be required to give such notice as is practicable under the circumstances).

**33. REMEDIES ON DEFAULT.** Whenever any Event of Default occurs, the City, subject to any rights of third parties agreed to by the City pursuant to this Agreement, or otherwise by written, executed instrument of the City, may take any one or more of the following:

A. The City may suspend its performance under the Agreement until it receives assurances from Developers, deemed adequate by the City, that Developers will cure their default and continue their performance under the Agreement. Suspension of performance includes the right of the City to withhold permits including, but not limited to, building permits.

B. The City may initiate such action, including legal or administrative action, as is

necessary for the City to secure performance of any provision of this agreement or recover any amounts due under this Agreement from Developers, or immediately draw on the Letter of Credit, as set forth in this Agreement. In the event of any uncorrected failure to maintain any common area or landscape areas, the City may undertake to do the work and assess the costs to the individual lots within the plat without regard to the formalities or requirements of Minn. Stat. § 429..

**34. ENFORCEMENT BY CITY: DAMAGES.** The Developers acknowledge the right of the City to enforce the terms of this Agreement against the Developers, by action for specific performance or damages, or both, or by any other legally authorized means. The Developers also acknowledge that their failure to perform any or all of their obligations under this Agreement may result in substantial damages to the City; that in the event of default by the Developers, the City may commence legal action to recover all damages, losses and expenses sustained by the City; and that such expenses may include, but are not limited to, the reasonable fees of legal counsel employed with respect to the enforcement of this Agreement.

**35. WARRANTY.** The Developer warrants all improvements required to be constructed by it pursuant to this Contract against poor material and faulty workmanship. The Developer shall submit either a cash deposit or letter of credit for twenty-five percent (25%) of the amount of the original cost of the improvements.

A. The required warranty period for materials and workmanship for the utility contractor installing public sewer and water mains shall be two (2) years from the date of final written City acceptance of the work.

B. The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, materials and equipment shall be subject to one (1) year from the date of final written acceptance, unless the wearing course is placed during the same construction season as the bituminous base course. In those instances, the Developer shall guarantee all work, including street construction, concrete curb and gutter, sidewalks and trails, material and equipment for a period of two (2) years from the date of final written City acceptance of the work.

C. The required warranty period for sod, trees, and landscaping is two growing seasons

following installation.

D. The required warranty for landscaping within storm water infiltration areas (Portions of Outlot B and Outlot F) shall be three (3) years following installation. The developer shall also enter into a maintenance agreement with the City for a period of three (3) years prior to acceptance of the landscaping for within these storm water infiltration areas. Said maintenance agreement shall include requirements for the proper care of native plantings and the elimination of weeds and invasive species.

**36. SUMMARY OF SECURITY REQUIREMENTS.** To guarantee compliance with the terms of this agreement, payment of special assessments, payment of the costs of all public improvements, and construction of all public improvements, the Developer shall furnish the City with an irrevocable letter of credit, in the form attached hereto, from a bank, cash escrow or a combination cash escrow and Letter of Credit ("security") for ~~\$3,653,989~~**4,435,144**. The amount of the security was calculated as follows:

**CONSTRUCTION COSTS:**

Streets	\$526,489
Sanitary Sewer	\$293,960
<del>Eastern Village Trunk Sewer and Watermain</del>	<del>\$624,924</del>
Watermain	\$303,289
Surface Water Facilities (pipe, ponds, rain gardens, etc.)	\$585,943
Grading	\$728,739
Erosion Control	\$68,678
Sidewalks/Trails	\$98,777
Street Lighting	Xcel to Install, to be pre-paid directly by developer
Street Signs and Traffic Control Signs	\$5,600
Landscaping	\$110,781
Tree Preservation and Restoration	\$164,435
Wetland Mitigation and Buffers	Separate letter of credit through Watershed District

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Monuments	\$30,000
Miscellaneous Facilities	N/A
Developer's Record Drawings	\$6,500
<b>Construction Sub-Total</b>	<b>\$ <u>2,923,191</u> 3,548,115</b>
<b>Total Project Securities (at 125% Construction Costs)</b>	<b>\$ <u>3,653,989</u> 4,435,144</b>

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City Administrator. The City may draw down the security, without notice, for any violation of the terms of this Contract or if the security is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least thirty (30) days prior to the expiration of the security, the City may also draw it down. If the security is drawn down, the proceeds shall be used to cure the default.

**35.** **37. REDUCTION OF SECURITY.** Upon written request by the Developer and upon receipt of proof satisfactory to the City Engineer that work has been completed and financial obligations to the City have been satisfied, with City Engineer approval the security may be reduced as follows:

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A. Up to 50%, or \$ 1,826,995 ~~2,217,572~~ of the security provided in accordance with paragraph 3236. above may be released when: (1) Developer's obligations under this Agreement have been completed and the Public Improvements have been found to be complete to the satisfaction of the City including all corrective work for any identified punch list items, but not including the final wear course; and

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(2) completion of the Improvements is done to the satisfaction of the City and evidence of such is provided by the City in writing and satisfactory evidence of payment, such as lien waivers are provided.

B. Up to an additional 25%, or \$ 913,497 ~~1,108,786~~ of the security provided in accordance with paragraph 3236. above may be released when: (1) Developer's obligations under this Agreement have been completed and the Improvements have been found to be complete to the satisfaction of the City including all corrective work for any identified punch list items and including the final

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wear course; and (2) Improvements are accepted by the City in writing and satisfactory evidence of payment, such as lien waivers, are provided.

C. Twenty percent (25%) of the amounts certified by the Developer's engineer shall be retained as security until: (1) all improvements have been completed, (2) iron monuments for lot corners have been installed, (3) all financial obligations to the City satisfied, (4) the required "record" plans have been received and approved by the City, (5) a warranty security is provided, and (6) the public improvements are accepted by the City.

**36. 38. SUMMARY OF CASH REQUIREMENTS.** The following is a summary of the cash requirements under this Contract which must be furnished to the City at the time of final plat approval:

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Sewer Availability Charge (SAC)	\$213,000
Water Availability Charge (WAC)	\$213,000
Park Dedication	N/A
Railroad Crossing Improvement Contribution	\$63,000
Street Light Operating Fee	\$749.52
Village AUAR Fee	\$16,630
City Base Map Upgrading	\$1,100
City Engineering Administration Escrow	\$50,000 (Based on two months of administration/observation)
<b>Total Cash Requirements</b>	<b>\$ 557,479.52</b>

**37.39. NOTICES.** Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: 2140 West County Road 42, Burnsville, MN. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: Lake Elmo City Hall, 3800 Laverne Avenue N. Lake Elmo, Minnesota 55042.

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**38.40. EVIDENCE OF TITLE.** Developer shall furnish the City with evidence of its fee ownership of the property being platted by way of an attorney's title opinion or title insurance policy dated not earlier than thirty (30) days prior to the execution of the plat.

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(SEAL)

**CITY OF LAKE ELMO**

BY: \_\_\_\_\_, Mayor

AND \_\_\_\_\_, City Clerk

**DEVELOPER:**

BY: \_\_\_\_\_  
Its



STATE OF MINNESOTA        )  
  (ss.  
COUNTY OF WASHINGTON    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2\_\_\_\_\_, by \_\_\_\_\_ and by \_\_\_\_\_, the  
Mayor and City Clerk of the City of Lake Elmo, a Minnesota municipal corporation, on behalf of the  
corporation and pursuant to the authority granted by its City Council.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF MINNESOTA        )  
  (ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day \_\_\_\_\_ of  
\_\_\_\_\_, 2\_\_\_\_\_,  
by \_\_\_\_\_  
the \_\_\_\_\_  
of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

DRAFTED BY:  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042  
(651) 747-3901

**FEE OWNER CONSENT  
TO  
DEVELOPMENT CONTRACT**

\_\_\_\_\_, fee owners of all or part of the subject property, the development of which is governed by the foregoing Development Contract, affirm and consent to the provisions thereof and agree to be bound by the provisions as the same may apply to that portion of the subject property owned by them.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

STATE OF MINNESOTA    )  
                                  (ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_,  
by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

DRAFTED BY:  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042  
(651) 747-3901

**MORTGAGE CONSENT  
TO  
DEVELOPMENT CONTRACT**

\_\_\_\_\_, which holds a mortgage on the subject property, the development of which is governed by the foregoing Development Contract, agrees that the Development Contract shall remain in full force and effect even if it forecloses on its mortgage.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

STATE OF MINNESOTA     )  
                                      ( ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

DRAFTED BY:  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042  
(651) 747-3901

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT "A" TO DEVELOPMENT CONTRACT

### Legal Description of Property Being Final Platted as Easton Village

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All that part of the Northeast Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter and the Southwest Quarter of the Northeast Quarter all being in Section 13, Township 29 North, Range 21 West, Washington County, Minnesota, lying south of the southerly right-of-way line of the Union Pacific Railroad, and further described as follows:

Beginning at the East Quarter Corner of said Section 13; thence South 0 degrees 02 minutes 51 seconds East bearings based on the Washington County Coordinate System (NAO 83), along the east line of said Southeast Quarter of Section 13, a distance of 1321.17 feet to the southeast corner of said Northeast Quarter of the Southeast Quarter; thence South 89 degrees 32 minutes 18 seconds West along the south line of the North Half of said Southeast Quarter, a distance of 2637.64 feet to the southwest corner of said Northwest Quarter of the Southeast Quarter; thence North 0 degrees 00 minutes 58 seconds East along the North and South Quarter Section line of said Section 13, a distance of 1397.70 feet to the southerly right-of-way line of the Union Pacific Railroad; thence North 72 degrees 32 minutes 48 seconds East along said southerly right-of-way line, a distance of 69.19 feet to the point of intersection with a line being 66.00 feet east of, as measured at right angles to, and parallel with said North and South Quarter Section line of said Section 13; thence South 0 degrees 00 minutes 58 seconds West along said parallel line, a distance of 330.00 feet thence (at right angles) South 89 degrees 59 minutes 02 seconds East, a distance of 300.00 feet thence (at right angles) North 0 degrees 00 minutes 58 seconds East, 424.41 feet to said southerly right-of-way line of the Union Pacific Railroad; thence North 72 degrees 32 minutes 48 seconds East, along said southerly right-of-way line of the Union Pacific Railroad, a distance of 2378.80 feet to the east line of said Southeast Quarter of the Northeast Quarter; thence South 0 degrees 02 minutes 53 seconds East along said east line, a distance of 883.82 feet to the point of beginning.

Excepting therefrom that part of the Northwest Quarter of the Southeast Quarter of said Section 13, lying within the following described area: Commencing at the southwest corner of said Northwest Quarter of the Southeast Quarter; thence North along the west line of said Southeast Quarter of Section 13, a distance of 240.00 feet to the point of beginning; thence continuing North along said west line of the Southeast Quarter, a distance of 667.80 feet thence East at right angles a distance of 30.00 feet; thence southeasterly by a deflection angle to the right 46 degrees 28 minutes 00 seconds, a distance of 220.70 feet; thence southeasterly by a deflection angle to the left 20 degrees 35 minutes 00 seconds, a distance of 286.80 feet; thence south by a deflection angle to the right 64 degrees 07 minutes and parallel with said west line of the Southeast Quarter, a distance of 382.70 feet thence West at right angle, a distance of 440.00 feet to the point of beginning.

And Excepting from the first above described area, all that part lying Easterly of a line 60.00 feet West of, measured at right angle to and parallel with the center line of County State Aid Highway 15 described as follows: Commencing at the East Quarter corner of said Section 13; thence South 00 degrees 51 minutes 49 seconds East, bearing oriented to the Washington County Coordinate System, South Zone, along the East line of said Section 13 to the southeast corner of said Section 13 and the beginning of the center line to be described; thence North 00 degrees 45 minutes 51 seconds West a distance of 3571.19 feet thence North 00 degrees 54 minutes 55 seconds West a distance of 1000.00 feet and said center line there terminating, except the Chicago and Northwestern Railroad right-Of-way, Washington County, Minnesota.

## EXHIBIT "B" TO DEVELOPMENT CONTRACT

### Disclosure of Information – Easton Village

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Developer shall cause the following notice to be given as part of the declarations for the Easton Village Homeowners Association:

**Lake Elmo Airport.** The Property is located near the Lake Elmo Airport, a public use airport owned and operated by the Metropolitan Airports Commission. The Airport is open 24 hours a day, year round. The Airport operates with a primary runway on a northwest/southeast orientation and a perpendicular crosswind runway on a northeast/southwest configuration. The primary role of the Lake Elmo Airport is to accommodate personal, recreational, and some business aviation users within Washington County and the eastern portion of the Twin Cities Metropolitan Area. The Airport accommodates aircraft operations from single and multi-engine propeller-driven aircraft; occasional corporate jet aircraft; helicopters; and pilot training facilities; all of which may affect the Property with overflights and aircraft noise during the day and at night. The Airport operates lighting which may be visible from the Property.

The Long-Term Comprehensive Plan for the Lake Elmo Airport contemplates constructing a longer primary runway parallel to but shifted north and east of the existing northwest/southeast runway alignment and an extension to the crosswind runway. The proposed expansion is intended to improve the Airport's ability to fulfill its existing role and to compete more effectively for additional business-related flights that use propeller-driven aircraft.

Further information regarding the Lake Elmo Airport can be obtained from the Metropolitan Airports Commission's Airport Manager, Telephone No.: 651-224-4306.

**Union Pacific Railroad.** The property is located near an active Union Pacific Rail Line, which at present, carries 4-6 trains per day. The City of Lake Elmo intends to construct a new railroad crossing across the railroad right-of-way that will connect the northernmost extension of Village Parkway as platted within Easton Village to Minnesota State Highway 5.

**Manning Avenue/County Highway 15.** The access to Manning Avenue from 32<sup>nd</sup> Street North is temporary in nature and will be eliminated at such time that Village Park Way is connected to 30<sup>th</sup> Street or 5 years has passed from the date of final plat approval, whichever is longer.

**IRREVOCABLE LETTER OF CREDIT**

No. \_\_\_\_\_  
Date: \_\_\_\_\_

TO: City of Lake Elmo

Dear Sir or Madam:

We hereby issue, for the account of \_\_\_\_\_ (Name of Developer) and in your favor, our Irrevocable Letter of Credit in the amount of \$ \_\_\_\_\_, available to you by your draft drawn on sight on the undersigned bank at its offices in Minnesota.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, 2 \_\_\_\_\_, of (Name of Bank) \_\_\_\_\_";
- b) Be signed by the Mayor or City Administrator of the City of Lake Elmo.
- c) Be presented for payment at \_\_\_\_\_ (Address of Bank) \_\_\_\_\_, on or before 4:00 p.m. on November 30, 2 \_\_\_\_\_.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Lake Elmo City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: City Administrator, City Hall, 3800 Laverne Ave. N. Lake Elmo Minnesota 55042 and is actually received by the City Administrator at least thirty (30) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

BY: \_\_\_\_\_

Its \_\_\_\_\_



# MAYOR & COUNCIL COMMUNICATION

**DATE:** June 9, 2015  
**REGULAR**  
**ITEM #** 18

**AGENDA ITEM:** Zoning Text Amendment – Freeway Signs, Written Findings for Denial

**SUBMITTED BY:** Nick M. Johnson, City Planner

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Kyle Klatt, Community Development Director  
Dave Snyder, City Attorney

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** Staff

**FISCAL IMPACT:** N/A

**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to formally approve written findings of denial of a Zoning Text Amendment request submitted by Rhim Kenworth to amend the City’s Sign Ordinance to allow freeway signs. The recommended motion to take action on the request is as follows:

*“Move to adopt Resolution No. 2015-53, denying the request to amend the City’s Sign Ordinance to allow freeway signs on commercial properties within close proximity to I-94 Corridor.”*

**LEGISLATIVE HISTORY/STAFF REPORT:** The City Council reviewed the request to amend the Sign Ordinance at a meeting on May 5, 2015. At the meeting, a motion to approve the requested Zoning Text Amendment failed (Vote: 3-2). Once the motion failed, the Council was informed that written findings for denial would be required as the request was submitted by

an external applicant, as opposed to an internal City action. The attached resolution represents a synthesis of the Council's reported findings for denial and clarifies them as the written findings needed for the official record.

As part of the discussion by the Council on May 5<sup>th</sup>, two findings were highlighted that supported the decision to not approve the requested amendment to the Sign Ordinance.

- 1) The fact that the planning effort of the Gateway Corridor Bus Rapid Transit (BRT) Project remains incomplete at this time adds to the uncertainty surrounding the Hudson Blvd. area of the I-94 Corridor. The majority of the Council noted that decisions on commercial signage in the corridor should be postponed until there is greater certainty over the land use, design and character/aesthetics of the Gateway Corridor BRT. It was also stated that commercial signage along Hudson Blvd. could be reevaluated once the Gateway Corridor BRT planning process is complete.
- 2) While the Comprehensive Plan does support commercial growth in the I-94 Corridor, maintaining a rural community is also an identified goal of the City's Land Use Plan. Based on the discussion by the Council, the majority determined that increased allowance of commercial signage visible to I-94 is not consistent with the City's goal of maintaining a rural community.

It is based on these two findings discussed by the Council that staff has drafted written findings for denial of the Zoning Text Amendment for consideration by the City Council. The written findings are found in the attached resolution.

**RECOMMENDATION:**

Based on the above Staff Report, Staff is recommending that the City Council approve written findings of fact for the denial of the request to amend the City's Sign Ordinance. The suggested motion to adopt the Staff recommendation is as follows:

***“Move to adopt Resolution No. 2015-53, denying the request to amend the City's Sign Ordinance to allow freeway signs on commercial properties within close proximity to I-94 Corridor.”***

**ATTACHMENTS:**

1. Resolution No. 2015-53



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

**RESOLUTION NO. 2015-53**

*A RESOLUTION DENYING A ZONING TEXT AMENDMENT TO AMEND THE CITY'S SIGN ORDINANCE TO ALLOW FREESTANDING AND PYLON SIGNS ON PROPERTIES WITHIN CLOSE PROXIMITY TO INTERSTATE 94*

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Rihm Kenworth, 11530 Hudson Boulevard North, Lake Elmo, MN, (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a Zoning Text Amendment to amend the City's Sign Ordinance to allow freestanding and pylon signs on commercial properties within close proximity to Interstate 94; and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.109; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on April 13, 2014; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated May 5, 2015; and

**WHEREAS**, the City Council considered said matter at its May 5, 2015 meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the City Council makes the following:

**FINDINGS**

- 1) That the procedures for requesting a Zoning Text Amendment are found in the Lake Elmo Zoning Ordinance, Section 154.105.
- 2) That all the submission requirements of said Section 154.105 have been met by the Applicant.
- 3) That the proposed Zoning Text Amendment includes the following components:
  - a) The amendment to the Sign Ordinance would allow freestanding and pylon signs on commercial properties within close proximity to Interstate 94; and

- b) That freeway signs only be permitted within 150 feet of the right-of-way of Interstate Highway 94.
- c) That these signs are not to exceed 150 square feet in area and 25 feet in height.
- 4) That the planning effort of the Gateway Corridor Gold Line Bus Rapid Transit (BRT) Project along Hudson Boulevard in Lake Elmo is not yet complete.
- 5) That the land use, built environment and design of Lake Elmo's I-94 Corridor is likely to significantly change as a result of the Gateway Corridor BRT planning process.
- 6) That increasing the commercial signage allowance prior to the Gateway Corridor BRT planning process being completed is not prudent at this time.
- 7) That the City has the ability to reevaluate the appropriate amount and type of commercial signage along the I-94 Corridor once the Gateway Corridor BRT planning process is complete.
- 8) That amending the City's sign ordinance to allow larger commercial signage along I-94 at this time is not consistent with the City's goal of maintaining a rural community as guided by the Comprehensive Plan.

**CONCLUSIONS AND DECISION**

Based on the foregoing, the Applicant's application for a Zoning Text Amendment is denied.

Passed and duly adopted this 9<sup>th</sup> day of June 2015 by the City Council of the City of Lake Elmo, Minnesota.

\_\_\_\_\_  
Mike Pearson, Mayor

ATTEST:

\_\_\_\_\_  
Adam Bell, City Clerk