

#### **NOTICE OF MEETING**

# City Council Meeting Tuesday, September 5, 2017 7:00 P.M. City of Lake Elmo | 3800 Laverne Avenue North

#### **AGENDA**

- A. Call to Order/Pledge of Allegiance
- B. Approval of Agenda
- C. Approval of Minutes
  - 1. August 18, 2017
- D. Public Comments/Inquires
- E. Presentations
- F. Consent Agenda
  - 2. Approve Payment of Disbursements and Payroll
  - 3. Approve Hire of Assistant City Administrator
  - 4. Approve Draintile and Additional Mulch Costs for Easton Village Park
  - 5. Approve Parks Commission Membership Change
  - 6. Approve Private Development Security Reductions Various Developments.
  - 7. Old Village Phase 3 Change Order No. 2.
  - 8. CSAH 13 (Ideal Avenue/Olson Lake Trail) Approve Cooperative Agreement Payment No. 3.
  - 9. CSAH15 / 50th Street Traffic Signal Approve Cooperative Agreement Payment No. 2.
  - 10. Approve Right of Way Ordinance Update Ordinance No 08-186, Resolution 2017-090
  - 11. Approve Hammes Park Amenities
  - 12. Approve Conditional Job Offer to Part Time Firefighter Applicants Nate Wagner and Kyle Jacket

#### G. Regular Agenda

- 13. Old Village Ph4 Street & Utility Improvements Accept Petition and Authorize Preliminary Engineering Services *Resolution 2017-092*
- 14. Royal Golf PUD Final Plat *Resolution 2017-093*
- 15. Village Park Preserve Final Plat *Resolution 2017-089*
- 16. Hidden Meadows Final Plat Extension Resolution 2017-091
- **H.** Council Reports
- I. Staff Reports and Announcements
- J. Adjourn

# CITY OF LAKE ELMO CITY COUNCIL MINUTES AUGUST 15, 2017

### **CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Mayor Pearson called the meeting to order at 7:00 pm.

**PRESENT:** Mayor Mike Pearson and Councilmembers Justin Bloyer, Julie Fliflet, Jill Lundgren and Christine Nelson

Staff present: Administrator Handt, City Attorney Sonsalla, City Engineer Griffin, City Planner Becker, Public Works Director Weldon, and City Clerk Johnson.

### **APPROVAL OF AGENDA**

Item 10, "Approve the Addition of Columbus Day as an Observed Holiday" was moved to the Regular Agenda. Item 14, "Approve 'A Guide to the Development and Usage of Sunfish Lake Park" was moved to the Regular Agenda.

Councilmember Fliflet, seconded by Councilmember Lundgren, moved TO APPROVE THE AGENDA AS AMENDED. Motion passed 5-0.

# **ACCEPT MINUTES**

Minutes of the August 1, 2017 Regular Meeting were accepted as presented.

# **PUBLIC COMMENTS/INQUIRIES**

Virginia Pleban, 8249 59<sup>th</sup> Street North, spoke about volunteering and the possibility of an "Adopt a Garden" program in Lake Elmo.

### **PRESENTATIONS**

None

# **CONSENT AGENDA**

- 2. Approve Payment of Disbursements
- 3. Accept July 2017 Assessor's Report
- 4. Accept July 2017 Building Department Report
- 5. Accept July 2017 Fire Department Report
- 6. Accept July 2017 Public Works Department Report
- 7. Accept Resignation of Planning Director, Approve Promotion and New Job Descriptions and Authorize Advertising for City Planner
- 8. Old Village Ph3 Street & Utility Improvements Approve Pay Request No. 2.
- 9. 2017 Street Improvements Approve Pay Request No. 2.

# LAKE ELMO CITY COUNCIL MINUTES AUGUST 15, 2017

- 10. Approve the Addition of Columbus Day as an Observed Holiday
- 11. Approve Sally Manzara Nature Center Proposed Final Architectural Plans
- 12. Approve Renaming Irving Circle North of Inwood 5<sup>th</sup> Addition to Irving Court North
- 13. Approve Restricting Parking Along Certain Streets
- 14. Approve "A Guide to the Development and Usage of Sunfish Lake Park"

Councilmember Bloyer, seconded by Mayor Pearson, moved TO APPROVE THE CONSENT AGENDA AS PRESENTED. Motion passed 5 - 0.

#### **ITEM 15: 2018 Street Improvements**

City Engineer Griffin presented the programmed street improvements planned for 2018 as part of the City's Annual Street Maintenance Program in the 5 year Capital Improvement Plan.

Councilmember Bloyer, seconded by Councilmember Lundgren, moved TO APPROVE RESOLUTION NO. 2017-088, ORDERING PREPARATION OF A FEASIBILITY REPORT FOR THE 2018 STREET IMPROVEMENTS TO BE COMPLETED BY FOCUS ENGINEERING, INC. IN THE NOT TO EXCEED AMOUNT OF \$9,200. Motion passed 5 – 0.

# ITEM 16: 2017 Mill and Overlay – Approve Change Order No. 1

City Engineer Griffin provided a project overview and reported on the staff request to expand the scope of the project to include additional areas, noting that due to favorable bids, the additional area can be done within the amount budgeted for the project.

Councilmember Fliflet, seconded by Councilmember Bloyer, moved TO APPROVE CHANGE ORDER NO. 1 FOR THE 2017 MILL & OVERLAY PROJECT, THEREBY INCREASING THE CONTRACT AMOUNT BY \$95,741.19 AND REMAINING WITHIN THE BUDGETED AMOUNT. Motion passed 5 – 0.

# ITEM 14: Approve "A Guide to the Development and Usage of Sunfish Lake Park"

City Administrator Handt provided a brief background on the development of the proposed guide.

Councilmember Bloyer, seconded by Councilmember Nelson, moved TO POSTPONE THE CURRENT ITEM TO A FUTURE COUNCIL WORKSHOP. Motion passed 5 – 0.

#### ITEM 10: Approve the Addition of Columbus Day as an Observed Holiday

Brief discussion held. It was noted that the represented employees have Columbus Day as an observed holiday as part of their contract.

# LAKE ELMO CITY COUNCIL MINUTES AUGUST 15, 2017

Councilmember Fliflet, seconded by Councilmember Lundgren, moved TO ADOPT RESOLUTION 2017-086 ESTABLISHING THE ADDITION OF COLUMBUS DAY AS AN OFFICIALLY OBSERVED HOLIDAY BY THE CITY OF LAKE ELMO. Motion passed 5 – 0.

# **COUNCIL REPORTS**

Mayor Pearson: Commented on the Library Board vote on the library parking lot project.

Councilmember Nelson: Thanked the Jaycees for their efforts on Huff n' Puff Days.

Councilmember Lundgren: Volunteered at Huff n' Puff Days, attended Lake Elmo Fire

Department pancake breakfast and attended a Fire Relief meeting.

Councilmember Bloyer: Congratulated City Planner Emily Becker on her promotion.

**Councilmember Fliflet:** No report.

# STAFF REPORTS AND ANNOUNCEMENTS

**Administrator Handt:** Reported on the upcoming budget workshop and Roll out to Business event.

**City Clerk Johnson:** Noted that the City has a form on its website for reporting issues or making inquiries.

**City Attorney Sonsalla:** Working on updates to the Right of Way ordinance.

**City Engineer Griffin:** Working on Village Park Preserve and Royal Golf developments and focusing on capital improvement projects for next year.

Meeting adjourned at 7:31 pm.

	LAKE ELMO CITY COUNCIL
ATTEST:	
	Mike Pearson, Mayor
Julie Johnson, City Clerk	



# **STAFF REPORT**

DATE: September 5, 2017

**CONSENT** 

**TO:** Mayor and City Council

**FROM:** Brian Swanson, Finance Director

**AGENDA ITEM**: Approve Disbursements in the amount of \$804,651.60

**REVIEWED BY:** Kristina Handt, City Administrator

#### 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.

**FISCAL IMPACT:** \$ 804,651.60

Claim #	Amount	Description
ACH	\$ 39,038.71	Payroll Taxes to IRS & MN Dept. of Revenue 08/17 & 08/31
ACH	\$ 17,634.47	Payroll Retirement to PERA 08/17 & 08/31
АСН	\$ 2,000.00	Payroll Retirement to MDCP 08/17 & 08/31
n/a	\$ 0.00	Payroll Checks (none)
Direct Deposits	\$ 88,753.25	Payroll Deposits 08/17 & 08/31
46332-46407	\$ 654,609.02	Accounts Payable 09/05/17
2861-2863	\$ 2,616.15	Accounts Payable 09/05/17 (Library Checks)
TOTAL	\$ 804,651.60	

### **RECOMMENDATION**:

If removed from the consent agenda, the recommended motion is as follows:

"Motion to approve the aforementioned disbursements in the amount of \$804,651.60."

### **ATTACHMENTS:**

1. Accounts Payable – check register



# Accounts Payable To Be Paid Proof List

User: Amy

Printed: 08/31/2017 - 2:53 PM

Batch: 005-09-2017

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close P	OLine #
Amazon Inc										**	
AMAZONIN											
20170710	07/10/2017	1,382.19	0.00	09/05/2017	Adult, teen & kid'	s books & DVDs	=			No	0000
206-450-5300-425											
20170710	07/10/2017	198.86	0.00	09/05/2017	Operating Supplie	es	o <del>≡</del> 0			No	0000
206-450-5300-4250 20170710	00 Library Collection Maintenand 07/10/2017		0.00	0010710017	E 12 II						
206-450-5300-425		248.80	0.00	09/05/2017	Program Supplies		-			No	0000
200-430-3300-423	20170710 Total:	1,829.85									
20180810	08/10/2017	211.00	0.00	09/05/2017	Adult toom P. IVid	1- 11- 0 DVD					12121212121
206-450-5300-425			0.00	09/03/2017	Adult, teen & Kid	's books & DVDs	-			No	0000
20180810	08/10/2017	7.93	0.00	09/05/2017	Opperating Suppli	100				N	0000
206-450-5300-420		7.55	0.00	07/03/2017	Opperating Suppli	163	-			No	0000
20180810	08/10/2017	-21.70	0.00	09/05/2017	Credit					No	0000
206-450-5300-420	00 Office Supplies									NO	0000
	20180810 Total:	197.23									
	AMAZONIN Total:	2,027.08									
	Amazon Inc Total:	2,027.08									
	<del>Fallon</del>										
Aspen Mills, Inc. ASPENMI											
201704 101-420-2220-441	08/02/2017 70 Uniforms	109.90	0.00	09/05/2017	Boots - NW		-			No	0000
	201704 Total:	109.90									
201705	08/02/2017	1,405.20	0.00	09/05/2017	Medic Pants - Der	ot	_			No	0000
101-420-2220-441	70 Uniforms									110	0000
	201705 Total:	1,405.20									
	ASPENMI Total:	1,515.10									
	·										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	PO #	Close PC	OLine #
	Aspen Mills, Inc. Total:	1,515.10								
BDI BDI 20170821 101-430-3100-4303	08/21/2017 30 Engineering Services 20170821 Total: BDI Total:	3,500.00 3,500.00 3,500.00	0.00	09/05/2017	Eng Svs/Discovery Crossing Bridge plan	-			No	0000
	BDI Total:	3,500.00								
20170828	08/28/2017 20 Comprehensive Planning 08/28/2017 20 Comprehensive Planning 20170828 Total: BECKEREM Total:	50.00 33.40 83.40 83.40	0.00	09/05/2017 09/05/2017	Reimb - Comp Plan Open House Fac Fee Reimb - Comp Plan Open House water/coffe	-			No No	0000
	Becker Emily Total:	83.40								
	3 08/16/2017 20 Rentals - Buildings W647374-W647383 Total: BIFFS Total:	962.00 962.00 962.00	0.00	09/05/2017	Portable Restrooms	-			No	0000
	Biff's Inc. Total:	962.00								
Blue Tarp Financia NORTHTOO 38392528 101-450-5200-4240	07/30/2017 00 Small Tools & Minor Equ 38392528 Total: NORTHTOO Total:	399.99 ipment 399.99 399.99	0.00	09/05/2017	55 gal Sprayer	-			No	0000

					- 17 M	eference	Task	Type	PO#	Close F	OLine #
	Blue Tarp Financial Total:	399.99									
Bolton & Menk, BOLTONME	Inc										
0206729	08/10/2017 8150 Contract Services	4,800.83	0.00	09/05/2017	I-94 Lift Station Proje	ect 2016.134	-			No	0000
0206730	0206729 Total: 08/10/2017 3030 Engineering Services	4,800.83 1,365.00	0.00	09/05/2017	Royal Golf Club Proje	ect 2016.125	•			No	0000
803-470-7070-43	0206730 Total: BOLTONME Total:	1,365.00 6,165.83									
	Bolton & Menk, Inc Total:	6,165.83									
Braun Intertee Co	orporation										
BRAUN B100306 409-480-8000-43	08/08/2017 3150 Contract Services	2,847.75	0.00	09/05/2017	2017 Street Project 20	016.135	-			No	0000
B100307	B100306 Total: 08/08/2017 3150 Contract Services	2,847.75 1,183.47	0.00	09/05/2017	OV Phase 3 Project 20	016.133				No	0000
B100307	08/08/2017 8150 Contract Services	490.61	0.00	09/05/2017	OV Phase 3 Project 20	016.133	in.			No	0000
B100307 602-495-9450-43	08/08/2017 3150 Contract Services B100307 Total:	634.67	0.00	09/05/2017	OV Phase 3 Project 20	016.133	-			No	0000
	BRAUN Total:	2,308.75 5,156.50									
Brau	n Intertee Corporation Total:	5,156.50									
Buberl Black Dir BUBERL	t, Inc										
20111	08/02/2017 2250 Landscaping Materials	160.00	0.00	09/05/2017	Mulc for 27th St. N cu	ul-de-sac	=			No	0000
	20111 Total: BUBERL Total:	160.00 160.00									
7	Buberl Black Dirt, Inc Total:	160.00									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close P	OLine #
Cal Atlantic Group	o Inc										
CALATLAN											
20170815	08/15/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2	016-1212 11083 3rd	-			No	0000
	900 Deposits Payable				St						0000
20170815	08/15/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2	016-1346 11102 3rd				No	0000
	900 Deposits Payable				St					5-5-55	0000
20170815	08/15/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2	016-693 11127 3rd St	re-			No	0000
	900 Deposits Payable										0000
20170815	08/15/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2	016-1002 11149 3rd	12 <u>-</u>			No	0000
	900 Deposits Payable				St						0000
20170815	08/15/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2	016-738 11170 3rd St	-			No	0000
803-000-0000-229	DOO Deposits Payable									7.0	0000
20170815	08/15/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2	016-964 315 Laverne	y <del>-</del> .			No	0000
803-000-0000-229	900 Deposits Payable				Ave						0000
20170815	08/15/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2	016-1124 377	-			No	0000
803-000-0000-229	1				Laverne Ave					110	0000
	20170815 Total:	29,000.00									
20170822	08/22/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2	016-088 11171 4th St	-			No	0000
803-000-0000-229	900 Deposits Payable				N					110	0000
20170822	08/22/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2	015-1388 11188 4th	14			No	0000
803-000-0000-229	900 Deposits Payable				St N					110	0000
20170822	08/22/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2	016-1371 357 Langly				No	0000
803-000-0000-229	O00 Deposits Payable				Ave N					110	0000
20170822	08/22/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2	017-112 11119 3rd St				No	0000
803-000-0000-229					N					110	0000
	20170822 Total:	14,000.00									
	CALATLAN Total:	43,000.00									
C	al Atlantia Community Tatal	42,000,00									
C.	al Atlantic Group Inc Total:	43,000.00									
Capstone Homes											
CAPSTONE											
20170811	08/11/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2	017-015 11975 32nd	_			No	0000
803-000-0000-229	900 Deposits Payable	150 17			Street	017 010 11770 52Hd				INO	0000
	20170811 Total:	2,000.00									
20170815	08/15/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2	017-049 11725 32nd	100			No	0000
803-000-0000-229	900 Deposits Payable				St	017 017 11723 32nd				INO	0000
	20170815 Total:	2,000.00									
	CAPSTONE Total:	4,000.00									
	-										
	Capstone Homes Total:	4,000.00									
	capatone fromes Total.	+,000.00									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PC	OLine#
Cardmember Service	2						// <del></del>				
CARDMEMB 20170822	09/22/2017	(10)	0.00	00/05/2015							
101-420-2220-4430	08/22/2017 0. Missellaneous	64.26	0.00	09/05/2017	Holiday - Car Wa	ash	-			No	0000
20170822	08/22/2017	600.00	0.00	09/05/2017	AMEM Conf						
	0 Conferences & Training	000.00	0.00	09/03/2017	AMENI CONT		-			No	0000
20170822	08/22/2017	75.15	0.00	09/05/2017	Target - Paper To	nwels	_			No	0000
206-450-5300-4200	0 Office Supplies	700	0.00	03/03/2017	raiget - raper re	JWC13	: <del></del>			No	0000
20170822	08/22/2017	15.00	0.00	09/05/2017	Indianhead Libra	ırv	-			No	0000
	0 Library Collection Maintenance					,				140	0000
20170822	08/22/2017	61.86	0.00	09/05/2017	Office 365 MSF	Γ Subscription	_			No	0000
206-450-5300-4218						St. Sp. Cord of the first factors and the state of the st					
20170822	08/22/2017	16.06	0.00	09/05/2017	Target - Movie		-			No	0000
	0 Library Collection Maintenance										
20170822	08/22/2017	95.62	0.00	09/05/2017	Michaels - Dye, I	Paint, Glue	2. <del>**</del>			No	0000
206-450-5300-4430 20170822	0 Miscellaneous 08/22/2017	22.22	0.00	00/05/00:5							
101-410-1910-4322		23.22	0.00	09/05/2017	Amazon - Activi	ty Book	-			No	0000
20170822	08/22/2017	50.00	0.00	09/05/2017	Canatant Cantan	2 2222240123222012411 92				21	2200
	0 Information Technology/Web	30.00	0.00	09/03/2017	Constant Contact	t - weekly email letter	-			No	0000
20170822	08/22/2017	129.64	0.00	09/05/2017	HIVIS Vests & F	Dorko				NI	0000
101-420-2400-4417		127.01	0.00	07/05/2017	THY IS VESTS & I	arka	7			No	0000
20170822	08/22/2017	554.49	0.00	09/05/2017	Hooodies, Shirts	Jackest	_			No	0000
101-420-2400-4417	0 Uniforms				, , , , , , , , , , , , , , , , , , , ,	, outlier				110	0000
20170822	08/22/2017	565.00	0.00	09/05/2017	Conf Fee - Asbes	stos Insp 081717	-			No	0000
101-420-2400-4437	0 Conferences & Training					Designed (4-15-15-15-15-15-15-15-15-15-15-15-15-15-					0000
20170822	08/22/2017	76.79	0.00	09/05/2017	Lawn Pesticide		=			No	0000
101-450-5200-4216											
20170822	08/22/2017	26.14	0.00	09/05/2017	Label Tape		<b>□</b>			No	0000
101-430-3100-4200 20170822		10.00	0.00	00/05/00/5		D 2000 120					
	08/22/2017 0 Dues & Subscriptions	10.99	0.00	09/05/2017	Amazon Prime m	nembership fee	-			No	0000
20170822	08/22/2017	202.47	0.00	00/05/2017	Managla Farm	. C J. E'll					
	0 Street Maintenance Materials	202.47	0.00	09/05/2017	Menards - Epoxy	Crack Filler	-			No	0000
20170822	08/22/2017	13.70	0.00	09/05/2017	Postage - Water	Samples				NI	0000
601-494-9400-4322		15.70	0.00	07/03/2017	rostage - water	Samples	•			No	0000
20170822	08/22/2017	347.85	0.00	09/05/2017	Floor Mats		L			No	0000
101-430-3100-4221	0 Equipment Parts									110	0000
20170822	08/22/2017	150.00	0.00	09/05/2017	Asset mgmt softv	ware subscription	<del></del>			No	0000
101-430-3100-4315	0 Contract Services				2						5000
	20170822 Total:	3,078.24									
	CARDMEMB Total:	3,078.24									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Refe	erence Task	Type	PO #	Close Po	OLine#
	Cardmember Service Total:	3,078.24			_					
CenturyLink CENTURYL										
20170819 206-450-5300-43	08/19/2017 3210 Telephone	188.43	0.00	09/05/2017	Phone Service - Library (	0819-0918 -			No	0000
20170819	08/19/2017 3210 Telephone	50.64	0.00	09/05/2017	Internet Service - Library	0819-0918 -			No	0000
	20170819 Total: CENTURYL Total:	239.07 239.07								
	CenturyLink Total:	239.07								
Chris Amdahl Lo	57 🐞 5000									
14133 101-450-5200-44	08/02/2017 4010 Repairs/Maint Bldg	105.00	0.00	09/05/2017	Parks Bldg lock repair				No	0000
	14133 Total:	105.00								
	AMDAHL Total:	105.00								
Chris A	Amdahl Locksmith, Inc Total:	105.00								
Cintas Corporation	on #754									
754759087 101-430-3100-44	08/09/2017 4170 Uniforms	112.97	0.00	09/05/2017	Uniforms				No	0000
5000019898198089808088898089808	754759087 Total:	112.97								
754761188	08/15/2017 4010 Repairs/Maint Contractua	106.68	0.00	09/05/2017	Cleaning & Maint Suppli	ies -			No	0000
101-410-1940-4	754761188 Total:	106.68								
754761598	08/23/2017	106.16	0.00	09/05/2017	Uniforms	79			No	0000
101-430-3100-4					C.III.O.III.O				NO	0000
	754761598 Total:	106.16								
754764103	08/23/2017	115.46	0.00	09/05/2017	Uniforms	14			No	0000
101-430-3100-44		115.46								
754766216	754764103 Total: 08/15/2017	115.46 124.99	0.00	00/05/2017	Classics C. M. 1 . C 1	• 2023			020	(36,38,92,5,965
	4010 Repairs/Maint Contractua 754766216 Total:		0.00	09/03/2017	Cleaning & Maint Suppli	ies -			No	0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	PO #	Close PC	OLine #
	CINTAS Total:	566.26								
Cin	as Corporation #754 Total:	566,26								
City of Oakdale CTYOAKDA										
201708085758	08/09/2017	161.82	0.00	09/05/2017	L1 coolant leak	-			No	0000
101-420-2220-440		161.00								
	201708085758 Total:	161.82								
	CTYOAKDA Total:	161.82								
	City of Oakdale Total:	161.82								
City of Roseville										
CTYROSEV										
223042	06/07/2017	4,166.25	0.00	09/05/2017	Monthly IT Services - June 2017	-			No	0000
101-410-1450-431	80 Information Technology/V									
222150	223042 Total:	4,166.25	***************************************							
223150	07/27/2017	396.00	0.00	09/05/2017	2017 Adobe Subscription				No	0000
101-410-1320-431	90 Software Programs 223150 Total:	396.00								
223180	08/02/2017	5,228.33	0.00	00/05/2017	Mandal ITC					
	80 Information Technology/V	3,446.33 Wah	0.00	09/05/2017	Monthly IT Services - July 2017	-			No	0000
101-410-1430-431	223180 Total:	5,228.33								
223211	08/02/2017	112.47	0.00	09/05/2017	Monthly Telephone - Admin July	2017			N	0000
101-410-1320-432		112.47	0.00	09/03/2017	Wonting Telephone - Admin July	2017 -			No	0000
223211	08/02/2017	23.66	0.00	09/05/2017	Monthly Telephone - Build Insp J	ulv -			Ma	0000
101-420-2400-432		_2.00	0.00	03/05/2017	2017	ury -			No	0000
223211	08/02/2017	234.87	0.00	09/05/2017	Monthly Telephone - PW July 201	17 -			No	0000
101-430-3100-432	210 Telephone				trianing receptions I'm sury 20.				140	0000
223211	08/02/2017	17.77	0.00	09/05/2017	Monthly Telephone - Eng July 20	17 -			No	0000
101-410-1930-432	210 Telephone								110	0000
223211	08/02/2017	35.55	0.00	09/05/2017	Monthly Telephone - Finance July	-			No	0000
101-410-1520-432					2017				050570	
223211	08/02/2017	49.30	0.00	09/05/2017	Monthly Telephone - Planning Jul	ly -			No	0000
101-410-1910-432		9000300000 - 000000			2017					
	223211 Total:	473.62								
	CTYROSEV Total:	10,264.20								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	<b>PO</b> #	Close Po	OLine #
	City of Roseville Total:	10,264.20								
City of St. Paul										
CTYSTPAU 22837	07/03/2017	1 254 02	0.00	00/05/2017	A - 1 - 1-					
	0 Street Maintenance Materials	1,256.03	0.00	09/05/2017	Asphault	-			No	0000
	22837 Total:	1,256.03								
23211	07/03/2017	1,720.22	0.00	09/05/2017	Asphault	-			No	0000
101-430-3120-4224	0 Street Maintenance Materials	10. <b>-</b> 000 x 0.000 x 0							NO	0000
	23211 Total:	1,720.22								
23811	08/03/2017	2,976.25	0.00	09/05/2017	Asphault				No	0000
101-430-3120-4224									6565476	0000
	23811 Total:	2,976.25								
	CTYSTPAU Total:	5,952.50								
	City of St. Paul Total:	5,952.50								
Clifton, Larson, Alle	en LLP									
CLIFTON										
1578654	07/06/2017	20,496.00	0.00	09/05/2017	CLA May 30-June 28 Services	-			No	0000
	0 Contract Services								110	0000
1578654	07/06/2017	2,562.00	0.00	09/05/2017	CLA May 30-June 28 Services	-			No	0000
	0 Contract Services				*					
1578654	07/06/2017	1,281.00	0.00	09/05/2017	CLA May 30-June 28 Services	-			No	0000
	0 Contract Services									
1578654	07/06/2017 0 Contract Services	1,281.00	0.00	09/05/2017	CLA May 30-June 28 Services	-			No	0000
003-490-9300-4313		25 (20 00								
	1578654 Total: CLIFTON Total:	25,620.00 25,620.00								
	CENTON Total.	23,020.00								
Clifton,	Larson, Allen LLP Total:	25,620.00								
Creative Home Con	struction	***								
CREATHOM										
20170811	08/11/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2016-1326 9012 Jade				No	0000
803-000-0000-2290	0 Deposits Payable		- 1 2 2	07.00.201,	Circle	: 1 <del>=</del> :			NO	0000
	20170811 Total:	2,000.00			76600-02200-0400					
20170815	08/15/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2017-156 11241 40th	<u> </u>			No	0000
803-000-0000-2290					St					0000
20170815	08/15/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2017-081 11256 32nd	-			No	0000
X03-000-0000-2290	0 Deposits Payable				St					VV/304/04/07/07/07

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	<b>PO</b> #	Close P	OLine #
20170815 803-000-0000-22900		2,000.00	0.00	09/05/2017	Refund Escrow 2017-144 4092 Lavender Ave	-			No	0000
20170822 803-000-0000-22900	20170815 Total: 08/22/2017 Deposits Payable	6,000.00 2,000.00	0.00	09/05/2017	Refund Escrow 2017-217 11123 41st St Cir	<b>州</b> 皇			No	0000
20170822 803-000-0000-22900	08/22/2017 Deposits Payable	5,000.00	0.00	09/05/2017	Refund Escrow 2016-1142 4104 Lady Slippe	-			No	0000
	20170822 Total: CREATHOM Total:	7,000.00 15,000.00								
Creative F	Home Construction Total:	15,000.00								
Dadashev Dennis DADASHEV										
20170713 101-410-1910-43310	07/13/2017 0 Mileage	23.00	0.00	09/05/2017	Reimbursement - Mileage	_			No	0000
	20170713 Total:	23.00								
	DADASHEV Total:	23.00								
	Dadashev Dennis Total:	23.00								
Delta Dental Of Min	nesota									
DELTA 39530213	08/15/2017	1,874.40	0.00	09/05/2017	September 2017 Premium	-			No	0000
101-000-0000-21700	Medical Insurance								NO	0000
	39530213 Total: DELTA Total:	1,874.40 1,874.40								
Delta De	ental Of Minnesota Total:	1,874.40								
Fleetpride										
CATCO	00/01/00/5									
87100072 101-420-2220-44040	08/24/2017 D Repairs/Maint Eqpt	72.10	0.00	09/05/2017	Repair lights on E1	87			No	0000
	87100072 Total:	72.10								
	CATCO Total:	72.10								
	Fleetpride Total:	72.10								
	recipitue rotai.									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Refere	ence Task	Type	PO #	Close PC	OLine #
Francotyp-Postalia, FRANCOTY R1103354306 101-410-1320-4322	08/23/2017	242.23 242.23 242.23	0.00	09/05/2017	Postbase ink cartridge	-			No	0000
Fran		242.23								
Franz Reprographic FRANZ 167682 101-420-2400-4200	08/23/2017	235.00 235.00 235.00 235.00	0.00	09/05/2017	Plotter Repair	-			No	0000
Friends of LE Sunfi FROFSUNF 20170821	-	296.25 296.25 296.25	0.00	09/05/2017	Refund - Raptor Ed progra	m canceled -			No	0000
Gierke Consulting I GIERKECO 4806 404-480-8000-4305	E Sunfish Lake Prk Total:  nc.  08/29/2017 0 Other Park Ded Prof Servi 4806 Total: GIERKECO Total:	296.25 625.00 ces 625.00 625.00	0.00	09/05/2017	Asbestos Insp - Lions Park	Project -			No	0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	<b>PO</b> #	Close Po	OLine #
Great America Fina	ancial									
GREATAM 21155305 101-410-1940-440	08/16/2017 040 Repairs/Maint Contractual Eqp	407.89	0.00	09/05/2017		-			No	0000
101 110 1710 110	21155305 Total:	407.89			2017					
	GREATAM Total:	407.89								
Grea	at America Financial Total:	407.89								
HD Supply Waterv HDSUPPLY	works, Ltd.									
H596630	08/07/2017 270 Utility System Maintenance	200.12	0.00	09/05/2017	Tri-View Markers	-			No	0000
	H596630 Total:	200.12								
	HDSUPPLY Total:	200.12								
HD Supp	ply Waterworks, Ltd. Total:	200.12								
Holiday Credit Off	fice	311								
HOLIDAYC 20170815	08/15/2017	140.31	0.00	09/05/2017	Fuel	-			No	0000
101-420-2220-421	20 Fuel, Oil and Fluids 20170815 Total:	140.21								
	HOLIDAYC Total:	140.31 140.31								
ŀ	Holiday Credit Office Total:	140.31								
HotsyMinnesota.co										
HOTSY										
56356 101-430-3100-440	08/03/2017 030 Repairs/Maint Imp Not Bldgs	159.90	0.00	09/05/2017	Shop Pressure Washer Parts	124			No	0000
56204	56356 Total:	159.90	0.00							
56394 101-430-3100-440	08/07/2017 030 Repairs/Maint Imp Not Bldgs	31.80	0.00	09/05/2017	Shop Pressure Washer Parts	-			No	0000
	56394 Total: HOTSY Total:	31.80								
	110151 Total	191.70								
	HotsyMinnesota.com Total:	191.70								

101-420-2220-42000	08/16/2017 Office Supplies 58815967 Total: HP Total:	151.00 151.00 151.00	0.00	09/05/2017					
58815967 ( 101-420-2220-42000	Office Supplies 58815967 Total:	151.00	0.00	09/05/2017					
	58815967 Total:				Computer Monitor	-		No	0000
ŀ									
	HP Inc. Total:	151.00							
Independent Testing T	ech Inc.								
INDEPTES	00/15/2017	0.40.00			- W				
	08/15/2017 Repairs/Maint Imp Not Bldgs	940.00	0.00	09/05/2017	Lions Park Infiltration Basin	-		No	0000
	34188 Total:	940.00							
I	NDEPTES Total:	940.00							
Independent 7	Testing Tech Inc. Total:	940.00							
Innovative Office Solu INNOVAT	utions								
IN1704832	08/08/2017	51.63	0.00	09/05/2017	Flashlight, VM Book	-		No	0000
101-420-2400-42000					3 ,			110	0000
INIT 205547	IN1704832 Total:	51.63							
IN1705547 (601-494-9400-42000	08/09/2017	96.75	0.00	09/05/2017	Ink, Trimmer, Office Supplies	100		No	0000
001-474-7400-42000	IN1705547 Total:	96.75							
IN1713519 (	08/15/2017	27.05	0.00	09/05/2017	Letter Holder			No	0000
101-420-2400-42000	Office Supplies			37.30.2017	Detter Morder			NO	0000
	08/15/2017	63.98	0.00	09/05/2017	Paper			No	0000
101-410-1320-42000									
IN1714999 (	IN1713519 Total: 08/16/2017	91.03	0.00	00/05/0015	<b>5</b>				
101-420-2400-42000		19.75	0.00	09/05/2017	Business Cards - TL	1.0		No	0000
101 120 2100-12000	IN1714999 Total:	19.75							
IN1722789 (	08/23/2017	34.78	0.00	09/05/2017	DVDs			NI.	0000
101-410-1320-42000	Office Supplies	= 20000	3,33	03.00.2017	D 1 D 0	-		No	0000
	08/23/2017	54.39	0.00	09/05/2017	Foam Board	-		No	0000
101-420-2400-42000									5000
D11700005	IN1722789 Total:	89.17							
IN1722895 (101-410-1910-42000	08/23/2017 Office Supplies	19.75	0.00	09/05/2017	Business Cards - EB			No	0000
101-710-1910-42000	IN1722895 Total:	19.75							

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close Po	OLine #
	INNOVAT Total:	368.08									
Innov	rative Office Solutions Total:	368.08									
Interstate All Bat	tery Ctr										
INTERSTA 1902702003821 101-420-2220-43	08/07/2017 230 Radio	259.90	0.00	09/05/2017	Rplcmnt Batteried f	or Portable Radios	<u>s</u>			No	0000
	1902702003821 Total: INTERSTA Total:	259.90 259.90									
Int	erstate All Battery Ctr Total:	259.90									
Kath Fuel Oil Se	vice Co										
kathfuel 598760 101-430-3100-42	08/10/2017 2120 Fuel, Oil and Fluids	1,048.30	0.00	09/05/2017	Fuel Unleaded		·			No	0000
598761 101-430-3100-42	598760 Total: 08/10/2017 120 Fuel, Oil and Fluids	1,048.30 878.21	0.00	09/05/2017	Diesel					No	0000
598762	598761 Total: 08/10/2017 2120 Fuel, Oil and Fluids	878.21 441.65	0.00	09/05/2017	Diesel		ı <del>-</del>			No	0000
	598762 Total: kathfuel Total:	441.65 2,368.16									
Ka	h Fuel Oil Service Co Total:	2,368.16									
Kaufman Roofin	5										
KAUFMANR 20170823 101-000-0000-32	08/23/2017 210 Building Permits	298.65	0.00	09/05/2017	Refund Cancelled P	ermit 2017-00678	-			No	0000
20170823 101-000-0000-20	08/23/2017	7.15	0.00	09/05/2017	Refund Cancelled S 00678	urcharge 2017-	£ <del>77</del>			No	0000
	20170823 Total: KAUFMANR Total:	305.80 305.80			00078						
	Kaufman Roofing Total:	305.80									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	<b>PO</b> #	Close P	OLine #
Kennedy & Graver	n, Chartered									-
KENGRAVE 138706	08/15/2017	7,204.26	0.00	09/05/2017	General Matters	-			No	0000
101-410-1320-430 138706	40 Legal Services 08/15/2017	15,092.80	0.00	09/05/2017	3M Litigation	_			No	0000
101-410-1320-430 138706	040 Legal Services 08/15/2017	2,585.65	0.00	09/05/2017	Haz Bldg - 9240 31st Street					
101-410-1320-430 138706	040 Legal Services 08/15/2017	124.00	0.00		75°0 \$600000000000000000000000000000000000	-			No	0000
	08/15/2017 08/15/2017			09/05/2017	Nature Center	•			No	0000
101-410-1320-430	40 Legal Services	77.50	0.00	09/05/2017	Union Contract Negotiations	-			No	0000
138706 803-000-0000-229	08/15/2017 10 Developer Payments	53.75	0.00	09/05/2017	Village Preserve 2nd	=			No	0000
138706 101-410-1320-430	08/15/2017	1,773.29	0.00	09/05/2017	Danielson Property Condemnation	-			No	0000
138706	08/15/2017 P10 Developer Payments	591.25	0.00	09/05/2017	The Royal Golf	% <u>~</u>			No	0000
138706	08/15/2017	62.00	0.00	09/05/2017	Personnel Matters	2 <del>5</del> 3			No	0000
101-410-1320-430 138706	08/15/2017	161.25	0.00	09/05/2017	Inwood 5th	2 <del>≠</del>			No	0000
138706	10 Developer Payments 08/15/2017	53.75	0.00	09/05/2017	Hidden Meadows 2nd				No	0000
803-000-0000-229 138706	10 Developer Payments 08/15/2017	107.50	0.00	09/05/2017	Hammes 2nd					
803-000-0000-229 138706	Developer Payments 08/15/2017	107.50	0.00			_			No	0000
803-000-0000-229 138706	10 Developer Payments			09/05/2017	Lakewood Crossing 2nd	, <del>,</del> 1			No	0000
803-000-0000-229	08/15/2017 10 Developer Payments	623.75	0.00	09/05/2017	Southwind of Lake Elmo	-			No	0000
138706 803-000-0000-229	08/15/2017 10 Developer Payments	930.46	0.00	09/05/2017	Easton Village 3rd	9 <b>2</b> 9			No	0000
138706 803-000-0000-229	08/15/2017 10 Developer Payments	1,021.25	0.00	09/05/2017	Wasatch Storage Partners-CUP	-			No	0000
	138706 Total:	30,569.96								
	KENGRAVE Total:	30,569.96								
Kennedy a	& Graven, Chartered Total:	30,569.96								
King Kassidy										
KINGK 20170814	08/14/2017	55.00	0.00	09/05/2017	Cable Oper - 081417 Planning Comm				No	0000
101-410-1450-436	20 Cable Operations 20170814 Total:	55.00							haddenstraded.	,,,, <b>, , , , , , , , , , , , , , , , ,</b>

Invoice #	Inv Date	Amount	Quantity	Pmt Date	<b>Description</b> Reference	Task	Type	PO #	Close Po	OLine#
	KINGK Total:	55.00								
	King Kassidy Total:	55.00								
Kwik Trip Inc KWIK										
20170802	08/02/2017 120 Fuel, Oil and Fluids	115.38	0.00	09/05/2017	Fuel	-			No	0000
101-420-2220-42	20170802 Total: KWIK Total:	115.38 115.38								
	Kwik Trip Inc Total:	115.38								
Landmark, Inc. LANDMARK 20170822	08/22/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2016-1332 4082					
	900 Deposits Payable 20170822 Total: LANDMARK Total:	2,000.00 2,000.00	0.00	07/03/2017	Monarch Ln	-			No	0000
	Landmark, Inc. Total:	2,000.00								
Landscape Archite	ecture, Inc									
20170828 803-000-0000-229	08/28/2017 010 Developer Payments	200.00	0.00	09/05/2017	Southwind of Lake Elmo 082717 TO#37	7 -			No	0000
20170828 803-000-0000-229	08/28/2017 910 Developer Payments	343.20	0.00	09/05/2017	Kwik Trip 102416 TO#31	-			No	0000
20170828	08/28/2017 Developer Payments	100.00	0.00	09/05/2017	Kwik Trip 082716 TO#31	8.5			No	0000
20170828	08/28/2017 010 Developer Payments	912.50	0.00	09/05/2017	Savona 082717 TO#28	1-			No	0000
20170828	08/28/2017 Developer Payments	621.60	0.00	09/05/2017	Hunter's & 5th Street 082717 TC	)#29 -			No	0000
20170828	08/28/2017 910 Developer Payments	420.00	0.00	09/05/2017	Royal Golf 082717 TO#38	-			No	0000
	20170828 Total: Landscap Total:	2,597.30 2,597.30								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	<b>PO</b> #	Close P	OLine#
Landsc	ape Architecture, Inc Total:	2,597.30									
Lennar Family of	Builders										
LENNAR	00/14/0017				Anne agricultura de la composición del composición de la composici						
20170814 803-000-0000-229	08/14/2017	2,500.00	0.00	09/05/2017	2015-438 8808 5tl	ı St Ln	-			No	0000
20170814	00 Deposits Payable 08/14/2017	2,500.00	0.00	09/05/2017	2015-1468 9910 5	d Crt-				rg rigr	varevara:
	00 Deposits Payable	2,500.00	0.00	09/03/2017	2013-1408 9910 3	tn St Ln	-			No	0000
20170814	08/14/2017	2,500.00	0.00	09/05/2017	2015-1469 9912 5	th St I.n	27			No	0000
803-000-0000-229	00 Deposits Payable	5				ar or an				NO	0000
20170814	08/14/2017	2,500.00	0.00	09/05/2017	2015-1470 9914 5	th St Ln	<i>≅</i> 3			No	0000
	00 Deposits Payable										
20170814 803-000-0000-229	08/14/2017	2,500.00	0.00	09/05/2017	2015-1471 9916 5	th St Ln	2 <del>-</del> 9			No	0000
20170814	00 Deposits Payable 08/14/2017	2,500.00	0.00	00/05/2017	2015 1472 0010 5	1.0.1					
803-000-0000-229		2,300.00	0.00	09/05/2017	2015-1472 9918 5	th St Ln	-			No	0000
20170814	08/14/2017	2,500.00	0.00	09/05/2017	2015-1473 9920 5	th St I n				NI.	0000
803-000-0000-229	00 Deposits Payable	_,0 0 0 10 0	0.00	07/05/2017	2015-1475 7720 5	til St Ell	-			No	0000
20170814	08/14/2017	2,500.00	0.00	09/05/2017	2015-1474 9922 5	th St Ln	-			No	0000
	00 Deposits Payable									110	0000
20170814	08/14/2017	2,500.00	0.00	09/05/2017	2016-829 9972 5tl	n St Ln	.=:			No	0000
803-000-0000-229 20170814	00 Deposits Payable 08/14/2017	2 500 00	0.00	0010717017	22.7						
	00 Deposits Payable	2,500.00	0.00	09/05/2017	2016-832 9974 5tl	n St Ln	<b>(4)</b>			No	0000
20170814	08/14/2017	2,500.00	0.00	09/05/2017	2016-833 9976 5tl	. C. I					
803-000-0000-229		2,500.00	0.00	09/03/2017	2010-833 9970 311	i St Lii	-			No	0000
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1023 9892 5	th St Ln	<b>-</b> 0			No	0000
	00 Deposits Payable									140	0000
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1022 9894 5	th St Ln	~			No	0000
803-000-0000-229			2.22								
20170814	08/14/2017 000 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1021 9896 5	th St Ln	-			No	0000
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1017 9898 5	th Ct I					0000
803-000-0000-229		5,000.00	0.00	09/03/2017	2010-1017 9090 3	ui St Lii	-			No	0000
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1017 9900 5	th St Ln	_			No	0000
	000 Deposits Payable					5. 2				NO	0000
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1018 9902 5	th St Ln	-			No	0000
803-000-0000-229											
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1019 9904 5	th St Ln	9)			No	0000
	00 Deposits Payable	5 000 00	0.00	00/05/00/5							
20170814 803-000-0000-229	08/14/2017 00 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1024 9906 5	th St Ln	-			No	0000
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1025 9924 5	th St In				NT.	000=
	000 Deposits Payable	5,000.00	0.00	09/03/2017	2010-1023 9924 3	ııı ət Lii	<b>:</b> ■2			No	0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	PO #	Close P	OLine#
20170814	08/14/2017	5,000.00	0.00	09/05/2017	2016-1026 9926 5th St Ln	-			No	0000
20170814 803-000-0000-2290	0 Deposits Payable 08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1027 9928 5th St Ln	-			No	0000
20170814 803-000-0000-2290	08/14/2017	5,000.00	0.00	09/05/2017	2016-1028 9930 5th St Ln	-			No	0000
20170814 803-000-0000-2290	08/14/2017	5,000.00	0.00	09/05/2017	2016-1029 9932 5th St Ln	-			No	0000
20170814	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1030 9934 5th St Ln	-			No	0000
20170814 803-000-0000-2290	08/14/2017	5,000.00	0.00	09/05/2017	2016-1031 9936 5th St Ln	<u> </u>			No	0000
20170814 803-000-0000-2290	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1032 9938 5th St Ln	<del>-</del>			No	0000
20170814 803-000-0000-2290	08/14/2017	5,000.00	0.00	09/05/2017	2016-958 9751 5th St Ln	-			No	0000
20170814 803-000-0000-2290	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-992 9753 5th St Ln	-			No	0000
20170814 803-000-0000-2290	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-993 9755 5th St Ln	<del>g</del>			No	0000
20170814 803-000-0000-2290		5,000.00	0.00	09/05/2017	2016-959 9757 5th St Ln	=			No	0000
20170814 803-000-0000-2290		5,000.00	0.00	09/05/2017	2016-989 9759 5th St Ln	-			No	0000
	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-990 9761 5th St Ln	-			No	0000
20170814 803-000-0000-2290	1 2	5,000.00	0.00	09/05/2017	2016-1095 9773 5th St Ln	¥			No	0000
20170814 803-000-0000-2290		5,000.00	0.00	09/05/2017	2016-1096 9775 5th St Ln	-			No	0000
20170814 803-000-0000-2290	1 3	5,000.00	0.00	09/05/2017	2016-1097 9777 5th St Ln	-			No	0000
	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1098 9779 5th St Ln	-			No	0000
20170814 803-000-0000-2290	•	5,000.00	0.00	09/05/2017	2016-1058 9793 5th St Ln	3			No	0000
	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1059 9795 5th St Ln	17			No	0000
	08/14/2017 0 Deposits Payable	5,000.00	0.00	09/05/2017	2016-1060 9797 5th St Ln				No	0000
20170814 803-000-0000-2290		5,000.00	0.00	09/05/2017	2016-1061 9799 5th St Ln	14			No	0000
20170821 803-000-0000-2290	20170814 Total: 08/21/2017 0 Deposits Payable	177,500.00 2,000.00	0.00	09/05/2017	Refund Escrow 2016-1338 632 Ja Ave	imes -			No	0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	<b>PO</b> #	Close P	OLine#
20170821 803-000-0000-2290	08/21/2017	2,000.00	0.00	09/05/2017	Refund Escrow 2017-084 674 James	_			No	0000
20170821 803-000-0000-2290	08/21/2017	5,000.00	0.00	09/05/2017	Ave Refund Escrow 2016-1158 9550 Junco				No	0000
20170821 803-000-0000-2290	08/21/2017	5,000.00	0.00	09/05/2017	Rd Refund Escrow 2016-1125 9585 Juneo Rd	-			No	0000
20170821	08/21/2017 Deposits Payable	2,500.00	0.00	09/05/2017	Refund Escrow 2016-1177 9634 7th St	f -			No	0000
20170821 803-000-0000-2290	08/21/2017	5,000.00	0.00	09/05/2017	Refund Escrow 2015-075 9768 7th St	·			No	0000
	20170821 Total: LENNAR Total:	21,500.00 199,000.00								
Lennar	Family of Builders Total:	199,000.00								
Maroney's Sanitation	ı, Inc									
690437 101-410-1940-4384	08/09/2017 0 Refuse	121.72	0.00	09/05/2017	Trash Service - City Hall 0701-0731				No	0000
690437 101-420-2220-4384	08/09/2017	50.77	0.00	09/05/2017	Trash Service - Fire Station 2 0701-0731	i E			No	0000
690437 101-450-5200-4384	08/09/2017 0 Refuse	221.17	0.00	09/05/2017	Trash Service - Parks/Storage 0701- 0731	-			No	0000
690437 101-420-2220-4384		231.04	0.00	09/05/2017	Trash Service - Public Works 0701-0731	i=			No	0000
690437 206-450-5300-4384		50.88	0.00	09/05/2017	Trash Service - Library 0701-0731	1=			No	0000
	690437 Total: MARONEYS Total:	675.58 675.58								
Maron	ey's Sanitation, Inc Total:	675.58								
Menards - Oakdale MENARDSO										
36058	08/02/2017 0 Repairs/Maint Bldg	24.99	0.00	09/05/2017	Garage Door Key Pad	1-			No	0000
36058 101-430-3100-4240	08/02/2017	48.95 uipment	0.00	09/05/2017	Misc. Tools	1.			No	0000
36139 601-494-9400-4240	36058 Total: 08/02/2017	73.94 238.77	0.00	09/05/2017	Misc. Tools & Equip	ಚ			No	0000
	36139 Total:	238.77								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	<b>PO</b> #	Close P	OLine #
36848	08/14/2017	133.87	0.00	09/05/2017	Misc tools & equ	ıip	_			No	0000
101-450-5200-4240	00 Small Tools & Minor Eq 36848 Total:										
36887	08/14/2017	133.87 59.97	0.00	00/05/2017	M* . 1 0						
	00 Small Tools & Minor Ec	39.97 Winment	0.00	09/05/2017	Misc tools & equ	ııp	-			No	0000
101 100 0200 1210	36887 Total:	59.97									
	MENARDSO Total:	506.55									
	Menards - Oakdale Total:	506.55									
Metal Doctor Inc. METALDOC											
283 404-480-8000-4550	08/15/2017 00 Vehicles	7,070.00	0.00	09/05/2017	Boss Plow & Sno	owflaps x 2				No	0000
283 410-480-8000-4550	08/15/2017	7,070.00	0.00	09/05/2017	Boss Plow & Sno	owflaps x 2	-			No	0000
100 0000 1000	283 Total:	14,140.00									
	METALDOC Total:	14,140.00									
	Metal Doctor Inc. Total:	14,140.00									
Michael Lee Inc.											
MICHAEL											
20170815	08/15/2017	5,000.00	0.00	09/05/2017		2016-700 11525 32nd	l -			No	0000
803-000-0000-2290 20170815		2 200 20	0.00	00/05/00/5	St						
803-000-0000-2290	08/15/2017 00 Deposits Payable	2,000.00	0.00	09/05/2017	Refund Escrow 2	2016-1249 11761 32n	ıd -			No	0000
003-000-0000-2290	20170815 Total:	7,000.00			St						
20170822	08/22/2017	2,000.00	0.00	09/05/2017	Refund Fearous	2016-1283 11801 32r	nd -			NT.	0000
803-000-0000-2290		2,000.00	0,00	07/03/2017	Stree	2010-1203 11001 321	iu -			No	0000
	20170822 Total:	2,000.00			5.1.00						
20170823	08/23/2017	5,000.00	0.00	09/05/2017	Escrow Refund 2	2016-661 11776 32nd	i -			No	0000
803-000-0000-2290					St						3000
20170823	08/23/2017	-3,000.00	0.00	09/05/2017	Correct Refund 2	2016-1197 3204 Lilad	3 -			No	0000
803-000-0000-2290		• • • • • • • • • • • • • • • • • • • •			Ave						
	20170823 Total:	2,000.00									
	MICHAEL Total:	11,000.00									
	Michael Lee Inc. Total:	11,000.00									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	<b>PO</b> #	Close Po	OLine #
Miller Excavating, 1	nc.									
MILLEREX 23135 603-496 9500 4401	06/26/2017 0 Street Sweeping	2,691.50	0.00	09/05/2017	Haul Out Spring Street Sweepings	æ			No	0000
23135	06/26/2017 0 Street Maintenance Materials	880.84	0.00	09/05/2017	1" Minus Lime Rock	s=:			No	0000
	23135 Total: MILLEREX Total:	3,572.34 3,572.34								
Mil	ler Excavating, Inc. Total:	2 572 24								
14111	er Excavating, inc. Total.	3,572.34								
Minnesota Pipe & E MNPIPE										
384469 602-495-9450-4227		212.30	0.00	09/05/2017	Curb Box Repair Tops	3 <b>5</b> 3			No	0000
384548 602-495-9450-4227	384469 Total: 08/10/2017 0 Utility System Maint Supplies	212.30 75.00	0.00	09/05/2017	Pipe Burst Connectors	-			No	0000
, , , , , , , , , , , , , , , , , , ,	384548 Total: MNPIPE Total:	75.00 287.30								
Minnesota	Pipe & Equipment Total:	287.30								
MN Department of	Health									
MNDOH 20170816 601-494-9400-4382	08/16/2017 0 Water Utility	1,661.00	0.00	09/05/2017	2017 2nd Q Water Connection Fees	-			No	0000
001 171 7100 4302	20170816 Total: MNDOH Total:	1,661.00 1,661.00								
MN De	epartment of Health Total:	1,661.00								
MN Dept of Labor	P. Industry									
MNLABOR 1687301	08/02/2017	10.00	0.00	09/05/2017	Pressure Vessle Registration	, <u>-</u>			No	0000
601-494-9400-4430	1687301 Total:	10.00			Ç				110	0000
1690351 101-430-3100-4430		10.00	0.00	09/05/2017	Pressure Vessle Registration	<del></del>			No	0000
	1690351 Total:	10.00								

Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	PO #	Close PC	OLine#
08/02/2017 00 Miscellaneous 1691551 Total: MNLABOR Total:	10.00 10.00 30.00	0.00	09/05/2017	Pressure Vessle Registration	=			No	0000
of Labor & Industry Total:	30.00								
ce 08/15/2017	600.00	0.00	09/05/2017	Tree ramoval Dabble Dayl, DOW					
50 Contract Services					-			No	0000
	600.00	0.00	09/05/2017	Tree removal - Pebble Park ROW	-			No	0000
2244 Total: MONSTERT Total:	1,200.00 1,200.00								
onster Tree Service Total:	1,200.00								
08/23/2017 08 Other Benefits 5662917 Total: NCPERS Total:	48.00 48.00 48.00	0.00	09/05/2017	September 2017 Preimum	-			No	0000
NCPERS Minnesota Total:	48.00								
08/08/2017 00 Accounts Receivable 20170808 Total: NICOLLET Total:	10,000.00 10,000.00 10,000.00	0.00	09/05/2017	Market Value Appraisal - Royal Golf Resi	-			No	0000
	08/02/2017 00 Miscellaneous 1691551 Total: MNLABOR Total: of Labor & Industry Total: of Labor & Industry Total: of Contract Services 08/15/2017 of Contracted Services 2244 Total: MONSTERT Total: onster Tree Service Total: a 08/23/2017 08 Other Benefits 5662917 Total: NCPERS Minnesota Total: onster Total: onster Total: NCPERS Minnesota Total: onster Total:	08/02/2017 10.00  Miscellaneous 1691551 Total: 10.00  MNLABOR Total: 30.00  of Labor & Industry Total: 30.00  ce  08/15/2017 600.00  ce 08/15/2017 600.00  MONSTERT Total: 1,200.00  MONSTERT Total: 1,200.00  onster Tree Service Total: 1,200.00  a  08/23/2017 48.00  onster Tree Service Total: 48.00  NCPERS Total: 48.00  NCPERS Minnesota Total: 48.00  onc. 08/08/2017 10,000.00  onc. 08/08/2017 10,000.00  onc. 08/08/2017 10,000.00  NICOLLET Total: 10,000.00  NICOLLET Total: 10,000.00	08/02/2017 10.00 0.00  Miscellaneous 1691551 Total: 10.00 MNLABOR Total: 30.00  of Labor & Industry Total: 30.00  of Labor & Industry Total: 30.00  of Contract Services 08/15/2017 600.00 0.00  of Contracted Services 2244 Total: 1,200.00  MONSTERT Total: 1,200.00  onster Tree Service Total: 1,200.00  onster Tree Service Total: 48.00  NCPERS Total: 48.00  NCPERS Minnesota Total: 48.00  oc.  08/08/2017 10,000.00 0.00  oc.  08/08/2017 10,000.00 0.00  oc.  08/08/2017 10,000.00 0.00  NICOLLET Total: 10,000.00  NICOLLET Total: 10,000.00  NICOLLET Total: 10,000.00	08/02/2017 10.00 0.00 09/05/2017 00 Miscellaneous 1691551 Total: 10.00 MNLABOR Total: 30.00  of Labor & Industry Total: 30.00  of Contract Services 08/15/2017 600.00 0.00 09/05/2017 00 Contract Services 2244 Total: 1,200.00 MONSTERT Total: 1,200.00 onster Tree Service Total: 1,200.00  onster Tree Service Total: 1,200.00  onster Tree Service Total: 48.00 0.00 09/05/2017 08 Other Benefits 5662917 Total: 48.00 NCPERS Total: 48.00  orc.  OS/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017 09/08/2017 10,000.00 0.00 09/05/2017	08/02/2017	08/02/2017	08/02/2017 10 Miscellaneous 1691551 Total: 10 MNLABOR Total: 10 00 MS	08/02/2017	08/02/2017

ıvoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close Po	OLine #
orthland Securiti ORTHSEC	And the second s										
)47 )1-494-9400-431	08/11/2017 150 Contract Services	293.34	0.00	09/05/2017	2017 Utility Fund	ds pro forma	-			No	0000
)47	08/11/2017 150 Contract Services	293.33	0.00	09/05/2017	2017 Utility Fund	ds pro forma	-			No	0000
)47 )3-496-9500-431	08/11/2017 150 Contract Services	293.33	0.00	09/05/2017	2017 Utility Fund	ds pro forma				No	0000
	5047 Total: NORTHSEC Total:	880.00 880.00									
North	hland Securities, Inc. Total:	880.00									
erformance Pools ERFORPO											
)170818 )3-000-0000-229	08/18/2017 900 Deposits Payable	500.00	0.00	09/05/2017	Refund Escrow 2 Street	017-13 11162 4th	1 <del>-</del>			No	0000
	20170818 Total: PERFORPO Total:	500.00 500.00									
Performa	nce Pools & Spa, Inc Total:	500.00									
unkett's Pest Cor LUNKETT	ntrol Inc										
742483 01-430-3100-440	08/14/2017	128.55	0.00	09/05/2017	Pest Control PW	Qtr 3 2017	-			No	0000
1 130 3100 440	5742483 Total: PLUNKETT Total:	128.55 128.55									
Plunk	cett's Pest Control Inc Total:	128.55									
iver Country Cod	operative										
)170731 )1-420-2220-421	07/31/2017 120 Fuel Oil and Fluids	125.00	0.00	09/05/2017	Fuel		Œ			No	0000
	20170731 Total: RIVRCOOP Total:	125.00									
unkett's Pest Cor LUNKETT 742483 01-430-3100-440 Plunk iver Country Coo IVRCOOP 0170731	ntrol Inc  08/14/2017 010 Repairs/Maint Bldg 5742483 Total: PLUNKETT Total:  tett's Pest Control Inc Total:  operative  07/31/2017 120 Fuel, Oil and Fluids 20170731 Total:	128.55 128.55 128.55 128.55	0.00			Qtr 3 2017	-				

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description R	Reference	Task	Type	<b>PO</b> #	Close Po	OLine #
River	Country Cooperative Total:	125.00									
River Valley Prin RIVERPRT	ting										
5944	08/15/2017 000 Office Supplies	42.00	0.00	09/05/2017	Carbonless paper		-			No	0000
	5944 Total: RIVERPRT Total:	42.00 42.00									
	River Valley Printing Total:	42.00									
Sam's Club SAMSCLUB											
20170807	08/07/2017 300 Miscellaneous	94.33	0.00	09/05/2017	Rehab Supplies		-			No	0000
20170807	08/07/2017 010 Repairs/Maint Bldg	6.18	0.00	09/05/2017	Cleaning Supplies		-			No	0000
20170807	08/07/2017 300 Miscellaneous	37.13	0.00	09/05/2017	Fees & Interest					No	0000
101-420-2220-44	20170807 Total: SAMSCLUB Total:	137.64 137.64									
	Sam's Club Total:	137.64									
SelectAccount											
SELECTAC 1195945 101-410-1520-43	08/04/2017 150 Contract Services	12.66	0.00	09/05/2017	Participant Fee 0701	17-073117	-			No	0000
	1195945 Total:	12.66	0.100								
1199691 101-410-1520-43	08/04/2017 150 Contract Services	12.66	0.00	09/05/2017	Participant Fee 0801	17-083117	-			No	0000
	1199691 Total: SELECTAC Total:	12.66									
	SELECTAC TOTAL	25.32									
	SelectAccount Total:	25.32									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close P	OLine#
Short Elliott Hendr	rickson, Inc							-			
336702	08/09/2017 30 Engineering Services	1,769.00	0.00	09/05/2017	Inwood Water Tov	ver Project 2015.130	-			No	0000
001 171 7100 430	336702 Total: SEH Total:	1,769.00 1,769.00									
Short Elli	ott Hendrickson, Inc Total:	1,769.00									
Smith Schafer & A SMITHSCH	associates,LTD										
51235	08/24/2017 10 Audit Services	575.00	0.00	09/05/2017	Final Billing Year	ended 12/31/16	##			No	0000
	51235 Total: SMITHSCH Total:	575.00 575.00									
Smith Schafe	er & Associates,LTD Total:	575.00									
Sprint SPRINT											
761950227-173 101-410-1910-432	08/18/2017 10 Telephone	37.99	0.00	09/05/2017	Cell Phone Service	e - Planning Dept	i.e.			No	0000
761950227-173 101-410-1940-432	08/18/2017	62.45	0.00	09/05/2017	Cell Phone Service	e - Administration				No	0000
761950227-173 101-420-2220-432	08/18/2017 10 Telephone	147.72	0.00	09/05/2017	Cell Phone Service	e - Fire Dept	-			No	0000
761950227-173 101-420-2400-432		246.12	0.00	09/05/2017	Cell Phone Service	e - Building Dept	1. <del>5</del> )			No	0000
761950227-173 101-430-3100-432		164.23	0.00	09/05/2017	Cell Phone Service Dept	e - Public Works	-			No	0000
761950227-173 101-450-5200-432		98.05	0.00	09/05/2017		e - Parks Dept	:-			No	0000
	761950227-173 Total: SPRINT Total:	756.56 756.56									
	Sprint Total:	756.56									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	e Task	Type	PO #	Close P	OLine#
Stillwater Medical	Group									
STILLMED 0817-90000412	08/11/2017	1,386.00			Annual Physicals-RG, GM, MG	C, PJ, -			No	0000
101-420-2220-430	050 Physicals 0817-90000412 Total: STILLMED Total:	1,386.00 1,386.00			CK, BJ					
Still	water Medical Group Total:	1,386.00								
Stonegate Builder STONEGAT	s									
20170822 803-000-0000-229	08/22/2017 900 Deposits Payable	2,000.00	0.00	09/05/2017	Refund Escrow 2016-1262 404 Slippe	8 Lady -			No	0000
	20170822 Total: STONEGAT Total:	2,000.00 2,000.00			эпрре					
	Stonegate Builders Total:	2,000.00								
Swanson Haskamp SHC	p Consulting									
516	08/14/2017 020 Comprehensive Planning	6,705.00	0.00	09/05/2017	2040 Comprehensive Plan Proj	ect -			No	0000
517	516 Total: 08/14/2017	6,705.00 900.00	0.00	09/05/2017	Comprehensive Plan - Living F	Logishu				
	O20 Comprehensive Planning 517 Total:	900.00	0.00	07/03/2017	Comprehensive Hall - Living F	lealthy -			No	0000
	SHC Total:	7,605.00								
Swanson	Haskamp Consulting Total:	7,605.00								
TDS Metrocom - I	LLC									
TDS 20170813 101-420-2220-432	08/13/2017	103.70	0.00	09/05/2017	Analog Lines - Fire	<u>u</u>			No	0000
20170813 101-430-3100-432	08/13/2017	190.91	0.00	09/05/2017	Analog Lines - Public Works	÷			No	0000
20170813 602-495-9450-432	08/13/2017	94.52	0.00	09/05/2017	Analog Lines - Lift Station Ala	rms -			No	0000
20170813 601-494-9400-432	08/13/2017	49.26	0.00	09/05/2017	Analog Lines - Alarm Well Ho	use # 2 -			No	0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PC	OLine #
	20170813 Total: TDS Total:	438.39 438.39									
	TDS Metrocom - LLC Total:	438.39									
Telemetry & Pro TELEMETR 106207	08/23/2017	270.00	0.00	00/05/0015							
	3150 Contract Services	279.00	0.00	09/05/2017	Contract Services	- SCADA	-			No	0000
106207	08/23/2017 3150 Contract Services	279.00	0.00	09/05/2017	Contract Services	- SCADA	1-			No	0000
16208 602-495-9450-4	106207 Total: 08/23/2017 4030 Repairs\Maint Imp Not Bldgs 16208 Total: TELEMETR Total:	558.00 117.86 117.86 675.86	0.00	09/05/2017	Lisbon Lift Station	n radio repair	-			No	0000
Teleme	etry & Process Controls Total:	675.86									
TJB Homes Cor TJBHOMCO	struction										
20170822 803-000-0000-2		5,000.00	0.00	09/05/2017	Refund Escrow 20 Wildflower	15-1393 11347	-			No	0000
	20170822 Total: TJBHOMCO Total:	5,000.00 5,000.00									
TJ	B Homes Construction Total:	5,000.00									
Town & Country	y Cleaning Co										
817 478	08/17/2017 4010 Repairs/Maint Bldg	350.00	0.00	09/05/2017	Library - Wash wi	ndows 081517	~			No	0000
200 130 3300 4	817 478 Total:	350.00									
	TOWNCTRY Total:	350.00									
Town &	& Country Cleaning Co Total:	350.00									
		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description Reference	Task	Type	PO#	Close Po	OLine#
Truck Utilities Inc										
314234 101-430-3120-422	08/14/2017 210 Equipment Parts	196.69	0.00	09/05/2017	Hoses and Couplings for Sander	rs -			No	0000
314363 101-430-3120-422	314234 Total: 08/16/2017 210 Equipment Parts	196.69 18.84	0.00	09/05/2017	Hoses and couplings for sanders	÷ ÷			No	0000
	314363 Total: TRKUTI Total:	18.84 215.53								
	Truck Utilities Inc. Total:	215.53								
Van Zandt Distrib VANZANDT	uting Inc									
7830 101-420-2220-440	08/15/2017 010 Repairs/Maint Bldg	69.90	0.00	09/05/2017	Sanitizer	-			No	0000
	7830 Total: VANZANDT Total:	69.90 69.90								
Van Z	andt Distributing Inc Total:	69.90								
Verizon Wireless VERIZON										
9790836582 101-420-2220-432		35.01	0.00	09/05/2017	Air Card for Tablet 0711-0810	•			No	0000
	9790836582 Total: VERIZON Total:	35.01 35.01								
	Verizon Wireless Total:	35.01								
Volunteer Firefigh VOLFIRE	ter's Assn									
20170717	07/17/2017 30 Dues & Subscriptions	254.00	0.00	09/05/2017	Renewals	-			No	0000
20170717	07/17/2017 30 Dues & Subscriptions	11.00	0.00	09/05/2017	1 new member	1.00			No	0000
	20170717 Total: VOLFIRE Total:	265.00 265.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	<b>PO</b> #	Close P	OLine#
Volun	teer Firefighter's Assn Total:	265.00									
WASHINGTON	COUNTY										
WACO-PW 126547	08/09/2017	135,609.54	0.00	09/05/2017	CSAH 13 Project	2015.125 # 10904				NI-	0000
409-480-8000-43 126547	3150 Contract Services	Secretary Secretary (Secretary)					a <del>.</del>			No	0000
	08/09/2017 3150 Contract Services	60,869.08	0.00	09/05/2017	CSAH 13 Project	2015.125 # 10904	-			No	0000
12(550	126547 Total:	196,478.62		National Control of the Control of t							
126550 409-480-8000-43	08/14/2017 3150 Contract Services	18,939.35	0.00	09/05/2017	CSAH 15/50TH 1 10856	Proj 2017.145 #	-			No	0000
	126550 Total:	18,939.35			10050						
	WACO-PW Total:	215,417.97									
WAS	HINGTON COUNTY Total:	215,417.97									
White Anita											
Whiteani 20170828	08/28/2017	55.00	0.00	09/05/2017	Cable Oper - 071	317 Finance Comm				NI-	0000
	3620 Cable Operations						3. <del>11</del> .			No	0000
20170828 101-410-1450-43	08/28/2017 3620 Cable Operations	55.00	0.00	09/05/2017	Cable Oper - 071	817 CC Meeting	=			No	0000
20170828	08/28/2017	55.00	0.00	09/05/2017	Cable Oper - 081	017 Finance Comm	14			No	0000
101-410-1450-4 <i>3</i> 20170828	3620 Cable Operations 08/28/2017	55.00	0.00	09/05/2017	Cable Oper - 081	517 CC Mastina					
	3620 Cable Operations	22.00	0.00	07/05/2017	Cable Oper - 001	317 CC Weeting	-			No	0000
20170828 101-410-1450-43	08/28/2017 6620 Cable Operations	55.00	0.00	09/05/2017	Cable Oper - 082	817 Planning Comm	-			No	0000
20170828	08/28/2017	55.00	0.00	09/05/2017	Cable Oper - 080	817 CC Wkshp	-			No	0000
101-410-1450-43 20170828	3620 Cable Operations 08/28/2017	55.00	0.00	00/05/2017		(SA) 98. 44 96. ¥00\$00094496.35.■#					
	3620 Cable Operations	33.00	0.00	09/05/2017	Cable Oper - 082	217 CC Wkshp Safety	~			No	0000
20170828	08/28/2017 3620 Cable Operations	55.00	0.00	09/05/2017	Cable Oper - 081	717 Finance Comm	12			No	0000
20170828	08/28/2017	55.00	0.00	09/05/2017	Cable Oper - 082	417 Parks Comm	-			No	0000
	6620 Cable Operations				-		96/30			NU	0000
20170828 101-410-1450-43	08/28/2017 6620 Cable Operations	25.00	0.00	09/05/2017	Cable Oper - 082	417 After 10pm bonus	-			No	0000
	20170828 Total:	520.00									
	Whiteani Total:	520.00									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description R	eference	Task	Type	PO #	Close Po	OLine #
	White Anita Total:	520.00									
Xcel Energy											
XCEL											
558494186	08/18/2017	282.47	0.00	09/05/2017	New Lift Station		-			No	0000
602-495-9450-43	810 Electric Utility									110	0000
550545054	558494186 Total:	282.47									
558545834	08/18/2017	12.05	0.00	09/05/2017	Tennis Court		<del></del> 8			No	0000
101-450-5200-43	810 Electric Utility									,=0.11 <del>=</del> 00	0000
558555077	558545834 Total:	12.05									
558555077	08/18/2017	23.71	0.00	09/05/2017	Pebble Park		-			No	0000
101-450-5200-43	810 Electric Utility										
EE0EE(207	558555077 Total:	23.71	100 1000								
558556287	08/18/2017	42.25	0.00	09/05/2017	Parks Bldg		_			No	0000
101-450-5200-43	810 Electric Utility										
558561456	558556287 Total: 08/18/2017	42.25	2.00								
	810 Street Lighting	45.40	0.00	09/05/2017	Traffic Lights		<u> </u>			No	0000
101-430-3100-43	558561456 Total:	45.40									
558564905	08/18/2017	45.40	0.00	00/05/0015							
	810 Electric Utility	16.11	0.00	09/05/2017	Lift Station		<b>4</b> 6			No	0000
002-493-9430-43	558564905 Total:	17.11									
558566277	08/18/2017	16.11	0.00	00/05/0015							
	810 Electric Utility	85.07	0.00	09/05/2017	Arts Center		<u>~</u> 2			No	0000
101-430-3200-43	558566277 Total:	85.07									
558571057	08/18/2017	17.89	0.00	00/05/2017	T 'C C						
	810 Electric Utility	17.09	0.00	09/05/2017	Lift Station		-			No	0000
002 175 7150 45	558571057 Total:	17.89									
558573726	08/18/2017	371.39	0.00	00/05/2017	D' - C 1						
	810 Electric Utility	371.39	0.00	09/03/2017	Fire Station 1		-			No	0000
.01 120 2220 15	558573726 Total:	371.39									
558575367	08/18/2017	80.65	0.00	00/05/2017	Legion park						
	810 Electric Utility	00.03	0.00	09/03/2017	Legion park		-			No	0000
	558575367 Total:	80.65									
558576744	08/18/2017	32.53	0.00	09/05/2017	Traffic-Manning & Sti	Illurator Dlaud					
101-430-3160-43	810 Street Lighting	32.33	0.00	07/03/2017	Traffic-Walling & St	iliwater Bivd	-			No	0000
	558576744 Total:	32.53									
558586726	08/18/2017	27.52	0.00	09/05/2017	Water Tower 2						0000
601-494-9400-43	810 Electric Utility		0.00	07/05/2017	water rower z		3			No	0000
	558586726 Total:	27.52									
558592022	08/18/2017	13.20	0.00	09/05/2017	Speed Sign Hwy 5					NT.	0000
101-430-3160-43	310 Street Lighting				Spood Organitary D		-			No	0000
	558592022 Total:	13.20									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close I	OLine #
558609196 601-494-9400-4381	08/18/2017	1,956.77	0.00	09/05/2017	Pumphouse		<u> </u>			No	0000
001-494-9400-4561	558609196 Total:	1,956.77									
558609451 601-494-9400-4381	08/18/2017	121.44	0.00	09/05/2017	Pumphouse		-			No	0000
001-474-7400-4381	558609451 Total:	121.44									
558617632 101-450-5200-4381	08/18/2017	14.26	0.00	09/05/2017	Gates at Sunfish	Park	-			No	0000
101 430-3200-4301	558617632 Total:	14.26									
558622486	08/18/2017	39.78	0.00	09/05/2017	Traffic Lights					N	0000
101-430-3160-4381		57.70	0.00	07/05/2017	Traine Lights		=			No	0000
	558622486 Total:	39.78									
558623454	08/18/2017	47.57	0.00	09/05/2017	Traffic Lights		~			No	0000
101-430-3160-4381	0 Street Lighting				8					110	0000
	558623454 Total:	47.57									
558637838	08/18/2017	31.52	0.00	09/05/2017	Traffic Lights		-			No	0000
101-430-3160-4381		2017-01 - 00-miles									
550(5(070	558637838 Total:	31.52									
558656870 206-450-5300-4381	08/21/2017	553.62	0.00	09/05/2017	Libraray		**			No	0000
200-430-3300-4361	558656870 Total:	553.63									
558701047	08/21/2017	553.62 305.98	0.00	00/05/2017	E. C o						
101-420-2220-4381		303.96	0.00	09/05/2017	Fire Station 2		-			No	0000
101 120 2220 1301	558701047 Total:	305.98									
558865012	08/22/2017	54.72	0.00	09/05/2017	Street Lights						0000
101-430-3160-4381	0 Street Lighting	511.72	0.00	07/05/2017	Street Lights		-			No	0000
	558865012 Total;	54.72									
559497466	08/25/2017	15.20	0.00	09/05/2017	Warning Sirens					No	0000
101-420-2220-4381										140	0000
	559497466 Total:	15.20									
	XCEL Total:	4,191.10									
	Xcel Energy Total:	4,191.10									
		*									
	Report Total:	657,225.17									



# STAFF REPORT

DATE:

September 5, 2017

**CONSENT** 

**AGENDA ITEM**: Hire Assistant City Administrator

**SUBMITTED BY**: Kristina Handt, City Administrator

#### **BACKGROUND:**

The City advertised for applications for the Assistant City Administrator position from July 5-20. The week of August 7<sup>th</sup>, staff interviewed applicants.

#### **ISSUE BEFORE COUNCIL:**

Should Jacob Foster be hired as the Assistant City Administrator at the terms described below?

#### **PROPOSAL DETAILS/ANALYSIS:**

Staff is recommending the Council hire Jake Foster as the Assistant City Administrator. Staff is further recommending a starting bi-weekly salary of \$2,116.80.

Mr. Foster has a few years of experience in the private sector working in various communications roles and recently worked at the City of Fridley as a Management Analyst.

#### **FISCAL IMPACT:**

Cost of the position including taxes and benefits for the rest of 2017 is \$22,250.

#### **OPTIONS:**

- 1) Hire Jacob Foster as the Assistant City Administrator at the terms described above.
- 2) Offer the job to Mr. Foster under different terms
- 3) Offer position to another candidate
- 4) Re-advertise the position

#### **RECOMMENDATION:**

If removed from the consent agenda:

Motion to hire Jacob Foster as the Assistant City Administrator with a starting bi-weekly salary of \$2,116.80.

#### **ATTACHMENTS:**

None



DATE: 9/5/2017 CONSENT MOTION

TO: City Council

FROM: Rob Weldon, Public Works Director

**AGENDA ITEM**: Drain Tile Installation / Mulch Purchase at Easton Village Park

**REVIEWED BY:** Emily Becker, Planning Director

Kristina Handt, City Administrator

**BACKGROUND:** With construction of the Easton Village Development parkland was dedicated to the city for construction of a playground to be funded and installed by the city. Through the park construction process, the developer and city worked in conjunction to grade the site and install park amenities. The park and playground where planned be completed in July 2016, but due to unforeseen circumstances the park has not yet been fully completed.

**ISSUE BEFORE COUNCIL:** Should the City Council authorize installation of drain tile in the playground and purchase additional mulch to bring the park into compliance for fall/compaction standards and allow for proper drainage?

**PROPOSAL DETAILS/ANALYSIS:** In July 2016, city staff met with the developer of Easton Village to address drainage issues within the Easton Village Playground area. The play area has heavily compacted soil and does not provide adequate drainage of rainwater. At that time, staff instructed the developer to obtain quotes for drain tile installation and provide those quotes to the city for consideration of drain tile installation to be funded by the city. The developer proceeded with drain tile installation without providing quotes or authorization from the city and was later denied payment for said installation.

Since that time, the drain tile has not performed as it should and as a result there is an accumulation of water that is present in the play area of the park for several days after a rainfall. Staff feels that the developer installed drain tile has failed and is therefore seeking council approval to install new drain tile, properly bedded in washed rock and wrapped in fabric. Bids received for the drain tile installation ranged from; \$7,045 (Capras Utilities), \$4,490 (Miller Excavating), and \$3,475 (Friedges Inc.).

In addition to the installation of drain tile, staff is requesting authorization to purchase additional rubber mulch to cover the playground area and provide the needed fall impact protection required by ASTM for playground safety standards. The initial order of mulch that was placed and shipped with the playground equipment in 2016 does not provide adequate ground coverage and fall protection. Cost for the rubber additional rubber mulch is \$17,957 from Northland Recreation, whom initially supplied mulch for the park. Staff is recommending purchasing mulch from this same vendor to stay consistent with matching mulch colors.

**FISCAL IMPACT:** Park Dedication Funds will be the source of funding for both items listed above in an amount not to exceed \$22,000

OPTIONS: Approve installation of drain tile and purchase of mulch
Deny installation of drain tile and purchase of mulch
Table installation of drain tile and purchase of mulch

# **RECOMMENDATION**:

If removed from consent agenda; "Motion to recommend the installation of drain tile to Friedges Inc. and purchase of additional mulch from Northland Recreation for Easton Village Park in an amount not to exceed \$22,000"

# **ATTACHMENTS:**

- Miller Excavation Drain Tile
- Capras Utilities Drain Tile
- Friedges Inc. –Drain Tile
- Northland Rec. Rubber Mulch

From: Steve St. Claire [mailto:steve.st.claire@millerexc.com]

**Sent:** Tuesday, August 15, 2017 6:39 PM **To:** Rob Weldon <a href="mailto:RWeldon@lakeelmo.org">RWeldon@lakeelmo.org</a>

Subject: RE: Quotes

## **Easton Village Playground Drain tile**

Remove Sidewalk Panel
Strip Topsoil
Connect to Existing Catch Basin
4" PVC
4" Cleanout
4" Draintile
Bedding Rock
Backfill with Material Onsite
Regrade Topsoil

#### TOTAL \$3990.00

## **Easton Village**

Prep & Hydroseed Disturbed Area \$500.00

#### **Steve St. Claire**

President | Miller Excavating, Inc. 3741 Stagecoach Trail North | Stillwater, MN 55082 651.439.1637 Office | 651.269.8176 Mobile | 651.351.7210 Fax steve.st.claire@millerexc.com | Email



The content of this email is the confidential property of Miller Excavating, Inc. and should not be copied, modified, retransmitted, or used for any purpose except with Miller Excavating, Inc's written authorization. If you are not the intended recipient, please delete all copies and notify us immediately.

## Capra's Utilities Inc.

2340 Leibel Street White Bear Lake, MN 55110 (651)762-2500 mike@capras.com www.capras.com



# **PROPOSAL**

#### **ADDRESS**

Lake Elmo c/o Rob Weldon 3803 Laverne Ave Lake Elmo, MN 55042 PROPOSAL # 5143

DATE 08/16/2017

EXPIRATION DATE 08/16/2018

DESCRIPTION AMOUNT

We will provide and install a drain tile system for the playground at Linden Ave & Linden Ln in Lake Elmo.

Services 3,450.00

We will provide and install two 4" drain tile loops around the swing sets. the drain tile loops will be spaced 6' apart and will be covered with 3/4" washed rock and filter fabric.

Services 3,000.00

We will provide and install a 4" schedule 40 PVC sewer line from the playground to the storm sewer catch basin located North of the playground.

Services 595.00

We will provide and install seed and cover straw upon completion.

All mulch to be provided and installed by others.

1 1/2% per month charge on accounts over 30 days. All agreements contingent upon strike, accident or delays beyond our control. Any frost, ground water or rock excavation will be an extra charge. All private underground utilities are the responsibility of the Owner.

Per Minnesota Statute 514.011: A lien will be filed if contract amount is not paid in full within 60 days of Invoice date.

**TOTAL** 

\$7,045.00

Accepted By Accepted Date

# **PROPOSAL**

FRIEDGES, INC.
Landscaping · Excavating Contractors 9380 202nd Street West, Lakeville, MN 55044 (952) 469-2996 · Fax: (952) 469-1755

		T	1					
Job: Lake Elmo Playground			<b>Date</b> 8/19/16					
STREET								
CITY, STATE and ZIP CODE  Lake Elmo, MN		JOB LOCATION						
ARCHITECT	DATE OF PLANS		JOB PHONE					
We Propose hereby to furnish material a	nd labor – complete in accor	I dance with specifications below, for	the sum of:					
All material is guaranteed to be as specified. All w workmanlike manner according to standard practic from specifications below involving extra costs will orders, and will become an extra charge over and agreements contingent upon strikes, accidents or o Owner to carry fire, tornado, and other necessary i fully covered by Workman's Compensation Insurar	ces. Any alteration or deviation be executed only upon written above the estimate. All delays beyond our control. nsurance. Our workers are	Authorized Signature  Note: This proposal may be withdrawn by us if not accepted within days.						
Work for Playground We hereby submit the following:  • 350LF of Playground Curb Furnished and Installed @ \$20.69/LF Total: 7,241.50 Includes base work  • Core Drill Drain Tile into existing Structure and 316LF of 4" Drain Tile, Fabric and Rock running from structure to city's specified location @ \$3,475.00  Grand Total: \$10,716.50								
Excludes: *Site Survey/ Staking *Soil Conditioning/ Testing *Bonds *Permits *Turf Restoration								
PLEASE CALL IF YOU HAVE A		factory and are harshy accounted. Y	ro putborized to de the week a					
Acceptance of Proposal – The above prices; speci specified. Payment will be made as outlined above By signing you have read and are familiar with the	e.		re authorized to do the work as					
		Signature	Date					



## 10085 Bridgewater Bay Woodbury, MN 55129 Phone 651.815.4097

Toll Free 888.371.4958 Fax 414.395.8538 Email info@northlandrec.com

# **QUOTATION**

Го:	City of Lake Elmo	Date:	August 11, 2017

3800 Laverne Ave. North

Lake Elmo, MN 55042 Contact: Rob Weldon Phone: 651-747-3941

Cell:

Fax: Project: Eaton Lake

**Rubber Surfacing** Email: rweldon@lakeelmo.org

We are pleased to provide the following quotation on items supplied by See Below

Qty.	<u>ltem</u>	<u>Description</u>	<b>Unit Price</b>	<b>Extension</b>
32.50	Tons	PlaySafer Rubber Mulch Green/Black Color		\$17,957.00

Delivered in 2000 lbs. supersacs

\* Prices supply only - Installation not included \$17,957.00 Sub Total Freight included Tax 6.875%

Total

\$17,957.00

## **IMPORTANT INFORMATION:**

- Quotation is valid for: 30 Days
- Freight based on shipment to Lake Elmo, MN
- ♦ Shipment can currently be made in to be determined
- Terms: Based on credit approval -down payment may be reg.
- ♦ Pricing based on above quantities any changes may require a revised quotation.
- Orders will be placed upon receipt of a Purchase Order or your signed acceptance of this quotation. Make Purchase Orders to: Northland Recreation LLC 10085 Bridgewater Bay Woodbury, MN 55129

ortinaria Recreation, 220	Mike Dorsey
	Representative  DATE:
	orthland Recreation, LLC



Northland Recreation, LLC. greatly appreciates your consideration of our proposal. If it is your desire to purchase any or all of the items listed in this proposal, we kindly ask that you sign your acceptance on both pages of this quotation and complete the following information to insure timely and accurate order entry.

Bill to address: (if dif	Terent from quote)	Snip to address: (ii	different from quote)
Delivery Contact: Phone Number(s):			
	te: lany factors are involved in ake every attempt to accor		
Purchase Order # (if * Please Note: Purchase	applicable): e orders to be made out to	Northland Recreation LL	<u>-</u> c
Is this project exemp	ot from sales tax?e a completed <i>Certificate</i>	of Exemption	
Color Selections (if a	applicable):		
Additional Comment	s:		
invoice, and if not paid or each month to past due i Unless notified in writing Northland Recreation Credit approval may be r Additional charges may a cancellation of delivery w The Terms and Condition	nvoices. Terms are Net 30 days to the contrary, all charges are con LLC 10085 Bridgewater Bay Vequired to complete this order. apply for applicable sales tax, exitinut 24 hours prior notice.	elinquent. I / We agree to pay upon delivery with approved due and payable in full at: Voodbury, MN 55129 tra unloading time, incorrect orevail over any inconsistent	y any and all service charges added credit.
ACCEPTED BY:		DATE:_	



DATE:

September 5, 2017

**CONSENT** 

**AGENDA ITEM**: Parks Commission Membership Changes

SUBMITTED BY: Kristina Handt, City Administrator

## **BACKGROUND:**

At the August 1, 207 Council meeting, Jean Olinger was moved from 1<sup>st</sup> alternate to voting member with the resignation of Shane Weis. Tucker Pearce was moved from 2<sup>nd</sup> to 1<sup>st</sup> alternate and John Mayek was appointed 2<sup>nd</sup> alternate.

# **ISSUE BEFORE COUNCIL:**

Should Council approve Tucker Pearce as a voting member of the Parks Commission and Jean Olinger remains as 1<sup>st</sup> Alternate?

## **PROPOSAL:**

At the August Parks Commission meeting, they requested that Tucker Pearce be made a voting member and Jean Olinger remain as 1<sup>st</sup> Alternate.

# **OPTIONS:**

- 1) Confirm Tucker Pearce as Voting Member of Parks Commission
- 2) Make no changes to previous appointment

#### **RECOMMENDATION:**

"Motion to confirm Tucker Pearce as voting member of Parks Commission"



DATE: September 5, 2017

**CONSENT** 

**AGENDA ITEM**: Private Development Projects – Approve Security Reductions for the

Boulder Ponds 2nd Addition; Boulder Ponds 5th Street North

Improvements; Hammes Estates 1st Addition; and Inwood 4th Addition

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

**REVIEWED BY:** Kristina Handt, City Administrator

Emily Becker, Planning Director

Chad Isakson, Assistance City Engineer

**ISSUE BEFORE COUNCIL:** Should the City Council approve the security reductions for the Boulder Ponds 2nd Addition; Boulder Ponds 5th Street North Improvements; Hammes Estates 1st Addition; and Inwood 4th Addition?

**PROPOSAL DETAILS/ANALYSIS:** Staff has received and processed a request to reduce the development security for various development projects. These requests have been reviewed and the following reductions are being recommended as follows:

		<u>Current Security Amount</u>	Proposed Security Amount
1.	Boulder Ponds 2nd Addition:	\$ 533,844	\$ 286,648
2.	Boulder Ponds 5th Street Imp.:	\$ 745,004	\$ 384,066
3.	Hammes Estates 1st Addition:	\$3,169,912	\$1,636,912
4.	Inwood 4th Addition:	\$ 905,116	\$ 288,267

Each development is at a various stage of completion and each reduction amount has been reviewed according to the extent of completion for each infrastructure component as detailed in the attached Security Reduction Worksheets.

**FISCAL IMPACT:** It is the City's goal to retain at all times during the subdivision improvements a security amount that is adequate to ensure completion of all elements of the improvements as protection to the City tax payers against the potential of developer default. With these reductions, the remaining security amounts held by the City remains sufficient to complete the remaining improvements.

**RECOMMENDATION**: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, the security reductions for the Boulder Ponds 2nd Addition; Boulder Ponds 5th Street North Improvements; Hammes Estates 1st Addition; and Inwood 4th Addition as detailed in this report and supporting documentation. If removed from the consent agenda, the recommended motion for the action is as follows:

"Move to approve security reductions for the Boulder Ponds 2nd Addition; Boulder Ponds 5th Street North Improvements; Hammes Estates 1st Addition; and Inwood 4th Addition as detailed in their respective Security Reduction Worksheet."

	CHMENTS:
1.	Security Reduction Worksheet – Boulder Ponds 2nd Addition.
2.	Security Reduction Worksheet – Boulder Ponds 5th Street North.
3.	Security Reduction Worksheet – Hammes Estates 1st Addition. Security Reduction Worksheet – Inwood 4th Addition.
4.	Security Reduction Worksheet – Inwood 4th Addition.

#### **BOULDER PONDS 2ND ADDITION**

Time of Performance: October 31, 2016

DEVELOPMENT AGREEMENT AMOUNTS		Γ	REDUCTIONS						
CATEGORY	CONSTRUCTION	125% REMA	RKS	#1	#2	#3	#4	#5	#6
Grading	NA	NA Include	d in Boulder Ponds 1st Addition	1					
Sanitary Sewer	\$73,000	\$91,250		\$68,438					
Watermain	\$67,000	\$83,750		\$62,813					
Storm Sewer (w/pond structures)	\$39,500	\$49,375		\$37,031					
Streets	\$84,175	\$105,219		\$78,914					
Sidewalks/Trails	\$19,850	\$24,813							
Surface Water Facilities	\$13,000	\$16,250							
Street Lighting	\$12,000	\$15,000							
Street Signs and Traffic Control Signs	\$1,600	\$2,000							
Private Utilities (electricity, natural gas, teleph	one, and cable)								
Landscaping	\$75,000	\$93,750							
Tree Preservation and Restoration	NA	NA							
Wetland Mitigation and Buffers	\$1,000	\$1,250							
Monuments	\$1,800	\$2,250							
Erosion Control	\$36,650	\$45,813							
Miscellaneous Facilities	NA	NA							
Record Drawings	\$2,500	\$3,125							
TOTALS	\$427,075	<b>\$533,844</b>	RELEASED AMOUNTS:	\$247,195 \$247.195	\$0	\$0	\$0	0 \$	\$0 \$

CUMMULATIVE AMOUNTS: \$247,195
SECURITY AMOUNT REMAINING: \$286,648

DATE: 9/5/2017

#### **BOULDER PONDS 5TH STREET NORTH**

#### Time of Performance: October 31, 2017

DEVELOPMENT AGREEMENT AMOUNTS			REDUCTIONS						
CATEGORY	CONSTRUCTION	125% REN	1ARKS	#1	#2	#3	#4	#5	#6
Grading	NA	NA Inclu	ded in Boulder Ponds 1st Addition	ı					,
Sanitary Sewer	\$46,600	\$58,250		\$43,688					
Watermain	\$64,000	\$80,000		\$60,000					
Storm Sewer (w/pond structures)	\$97,300	\$121,625			\$91,219				
Streets	\$287,700	\$359,625			\$269,719				
Sidewalks/Trails	\$71,000	\$88,750							
Surface Water Facilities	NA	NA							
Street Lighting	NA	NA							
Street Signs and Traffic Control Signs	\$11,600	\$14,500							
Private Utilities (electricity, natural gas, teleph	one, and cable)	NA							
Landscaping	\$100,753	\$125,941							
Tree Preservation and Restoration	NA	NA							
Wetland Mitigation and Buffers	NA	NA							
Monuments	NA	NA							
Erosion Control	NA	NA							
Miscellaneous Facilities	NA	NA							
Record Drawings	NA	NA							
TOTALS	\$678,953	\$848,691	RELEASED AMOUNTS:	\$103,688	\$360,938	\$0	\$0	\$0	\$
			CUMMULATIVE AMOUNTS:	\$103,688	\$464,625				
		SEC	JRITY AMOUNT REMAINING:	\$745,004	\$384,066				

DATE: 2/21/2017 9/5/2017

#### HAMMES 1ST ADDITION

#### Time of Performance: October 31, 2017

DEVELOPMENT AGREEMENT AMOUNTS				REDUCTIONS					
CATEGORY	CONSTRUCTION	125% REMARK	S	#1	#2	#3	#4	#5	#6
Grading	\$156,000	\$195,000							
Sanitary Sewer	\$413,076	\$516,345		\$387,259					
Watermain	\$298,624	\$373,280		\$279,960					
Storm Sewer (w/pond structures)	\$492,748	\$615,935		\$461,951					
Streets	\$430,598	\$538,247		\$403,685					
Sidewalks/Trails	\$111,360	\$139,200							
Surface Water Facilities	NA	NA							
Street Lighting	\$54,000	\$67,500							
Street Signs and Traffic Control Signs	\$6,300	\$7,875							
Private Utilities (electricity, natural gas, teleph	none, and cable)								
Landscaping	\$244,922	\$306,153							
Tree Preservation and Restoration	NA	NA							
Wetland Mitigation and Buffers	\$50,000	\$62,500							
Monuments	\$5,700	\$7,125							
Erosion Control	\$195,986	\$244,982							
Boardwalk	\$66,500	\$83,125							
Record Drawings	\$10,000	\$12,500							
TOTALS	\$2,535,813	\$3,169,767	RELEASED AMOUNTS:	\$1,532,855	\$0	\$0	\$0	\$0	\$0

CUMMULATIVE AMOUNTS: \$1,532,855

SECURITY AMOUNT REMAINING: \$1,636,912

DATE: 9/5/2017

INWOOD 4TH ADDITION Time of Performance: October 31, 2017

DEVELOPMENT AGREEMENT AMOUNTS			REDUCTIONS						
CATEGORY	CONSTRUCTION	125%	S REMARKS	#1	#2	#3	#4	#5	#6
Grading	NA	NA	Included in Overall Grading Agreemen	nt					
Sanitary Sewer	\$86,227	\$107,783.50	)	\$80,838					
Watermain	\$173,821	\$217,276.25	i	\$162,957					
Storm Sewer	\$112,613	\$140,766.25	i	\$105,575					
Streets and Sidewalks	\$285,312	\$356,640.00	)	\$267,480					
Trails	NA	NA							
Surface Water Facilities	NA	NA	included in Grading Agreement						
Street Lighting	\$24,000	\$30,000.00	By Xcel Energy						
Street Signs and Traffic Control Signs	\$1,320	\$1,650.00	)						
Private Utilities (electricity, natural gas, telephone, and cable)									
Landscaping	\$32,000	\$40,000.00	)						
Tree Preservation and Restoration	NA	NA	included in Grading Agreement						
Wetland Mitigation and Buffers	NA	NA	LOC Through VBWD						
Monuments	\$3,800	\$4,750.00	)						
Erosion Control	NA	NA	included in Grading Agreement						
Miscellaneous Facilities	NA	NA	None						
Record Drawings	\$5,000	\$6,250.00	)						
TOTALS	\$724,093	\$905,116.00	RELEASED AMOUNTS:	\$616,850	\$0	\$0	\$(	0 \$	0
			CLINANALII ATIVE ANAOLINITS:	\$616 QEA					

CUMMULATIVE AMOUNTS: \$616,850
SECURITY AMOUNT REMAINING: \$288,267

DATE: 9/5/2017



DATE: September 5, 2017

**CONSENT** 

**AGENDA ITEM:** Old Village Phase 3 Street, Drainage, and Utility Improvements - Change

Order No. 2

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

**REVIEWED BY:** Kristina Handt, City Administrator

Rob Weldon, Public Works Director Chad Isakson, Project Engineer

**ISSUE BEFORE COUNCIL:** Should the City Council approve Change Order No. 2 for the Old Village Phase 3 Street, Drainage, and Utility Improvements?

<u>BACKGROUND</u>: Douglas-Kerr Underground, LLC was awarded a construction contract to complete the Old Village Phase 3 Street, Drainage, and Utility Improvements on May 16, 2017. The project is in construction with an anticipated substantial completion date of October 27, 2017.

**PROPOSAL DETAILS/ANALYSIS:** Douglas-Kerr Underground, LLC has submitted a change order to address two changes requested by the City as follows:

- 1. Apply a bonded fiber matrix mulch for purposes of restoring the area disturbed by utility construction on Lake Elmo Elementary School property. This product will provide a better final product based on the soil conditions and ultimate use of the property as a play area for children.
- 2. Removal of an existing shed, installation of new black vinyl fencing, and placement of new mulch that were needed to restore the playground located at 3825 Lake Elmo Avenue that was disturbed for purposes of installing utilities.

**FISCAL IMPACT:** This change order will increase the contract in the amount of \$10,085.50 bringing the revised construction contract to \$1,569,537.95. With this change order the project remains within the authorized project budget and contingencies.

**RECOMMENDATION**: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, Change Order No. 2 for the Old Village Phase 3 Street, Drainage, and Utility Improvements. If removed from the consent agenda, the recommended motion for the action is as follows:

"Move to approve Change Order No. 2 for the Old Village Phase 3 Street, Drainage, and Utility Improvements, thereby increasing the contract amount by \$10,085.50".

## **ATTACHMENTS:**

1. Change Order No. 2.

# **CONTRACT CHANGE ORDER FORM**

#### FOCUS ENGINEERING, inc. CITY OF LAKE ELMO, MINNESOTA **OLD VILLAGE PHASE 3 IMPROVEMENTS** PROJECT NO. 2016.133 CHANGE ORDER NO. 2 DATE: August 29, 2017 TO: Douglas-Kerr Underground, LLC, 2142 330th Ave, Mora, MN 55051 This Document will become a supplement to the Contract and all provisions will apply hereto. The Contract Documents are modified as follows upon execution of this Change Order. CHANGE ORDER DESCRIPTION / JUSTIFICATION: This change order addresses two changes requested by the City. 1) Apply a bonded fiber matrix mulch for purposes of restoring the area disturbed by utility construction on Lake Elmo Elementary School property. 2) Removal of an existing shed, installation of new black vinyl fencing, and placement of new mulch were needed to restore the playground located at 3825 Lake Elmo Avenue that was disturbed for purposes of installing utilities. Attachments (list documents supporting change): Itemization ITEM **DESCRIPTION OF PAY ITEM** UNIT QTY **UNITE PRICE** INCREASE/(DECREASE) CO2-1 Bonded Fiber Matrix Mulch AC 2 \$3,450.00 \$6,900.00 CO2-2 Remove Shed LS 1 \$650.00 \$650.00 CO2-3 Mulch CY 20 \$88.00 \$1,760.00 CO2-4 Black Vinyl Coated Fence LF 15 \$51.70 \$775.50 **NET CONTRACT CHANGE** \$10,085.50 Amount of Original Contract 1,576,039.15 Sum of Additions/Deductions approved to date (CO Nos. 1) (16,586.70)Contract Amount to date \$ 1,559,452.45 Amount of this Change Order (ADD) (DEDUCT) (NO CHANGE) 10,085.50 **Revised Contract Amount** 1,569,537.95 The Contract Period for Completion will be (UNCHANGED) (HICREASED) (DECREASED) days APPROVED BY ENGINEER: FOCUS ENGINEERING APPROVED BY CONTRACTOR ENGINEER 8/29/2017 DATE APPROVED BY OWNER: CITY OF LAKE ELMO, MINNESOTA

BY

DATE

BY

DATE



DATE: September 5, 2017

**CONSENT** 

**AGENDA ITEM:** CSAH 13 (Ideal Avenue) Improvements – Approve Cooperative Agreement

Payment No. 3

**SUBMITTED BY:** Chad Isakson, Project Engineer **REVIEWED BY:** Krintina Handt, City Administrator

Jack Griffin, City Engineer

**ISSUE BEFORE COUNCIL:** Should the City Council approve Payment No. 3 for the CSAH 13 (Ideal Avenue) Improvements?

**BACKGROUND, PROPOSAL DETAILS/ANALYSIS:** In May 2017, the City of Lake Elmo entered into Cooperative Agreement No. 10904 with Washington County for the cost sharing of the CSAH 13 (Ideal Avenue) Improvements. In accordance with the agreement payment schedule, Washington County has submitted Invoice #126547 in the amount of \$196,478.62. The amount requested reflects the City's share of the construction costs expended through partial pay estimate #2 to the general contractor and right-of-way costs to date. The invoice has been reviewed and payment is recommended in the amount requested.

**FISCAL IMPACT:** No additional fiscal impact. Payment is proposed in accordance with Cooperative Agreement No. 10904 with Washington County.

**RECOMMENDATION**: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, payment to Washington County in the amount of \$196,478.62 for the CSAH 13 (Ideal Avenue) Improvements. If removed from the consent agenda, the recommended motion for the action is as follows:

"Move to approve payment to Washington County in the amount of \$196,478.62 for CSAH 13 (Ideal Avenue) Improvements in accordance with Invoice #126547 attached and per Section G of Cooperative Agreement No. 10904."

## **ATTACHMENTS:**

1. Washington County Invoice No. 126547 and supporting detail.



# WACO PUBLIC WORKS DEPT 11660 MYERON RD N STILLWATER MN 55082

To: LAKE ELMO CITY 3800 LAVERNE AVE N LAKE ELMO MN 55042-9629

Invoice						
Invoice Number:	126547					
Account Number:	20498					
Due Date	9/1/17					
Amount Enclosed: \$						
Federal Tax Id:	41-6005919					

# Please return top portion with payment. Thank You.

Invoice									
Date	Number	Туре	Due Date	Due Date Remark		Amount			
8/9/17	126547	Invoice	9/1/17	CSAH 13 - TH 5 to CSA	H 35				
			9/1/17 Construction costs through						
			9/1/17	estimate #2					
			9/1/17	******	*****				
			9/1/17	Right of Way		\$168,300.66			
			9/1/17	*******	*****				
			9/1/17	City/County Cooperative					
			9/1/17	Agreement No. 10904					
I declare under the penalties of law that this account claim or demand, is just and correct and no part of it has been paid.  Please make check payable to Washington County and mail to the address above.  Sales Tax						\$196,478.62			
	1 ,	<b>.</b>	,			\$106 A79 62			
					Balance Due	\$196,478.62			

CSAH 13 - TH 5 to CSAH 35 - Billing Summary City of Lake Elmo County/City Cooperative Agreement #10904 Through Cost Split #2 8/15/2017

	(fro	stimated Cost om Cooperative Agreement)	Current Cost based on Bid)	Pre	viously Billed	Cui	rent Amount Due
Construction	\$	328,120.80	\$ 57,686.50	\$	29,508.54	\$	28,177.96
Design Engineering	\$	38,999.17	\$ 38,999.17	\$	38,999.17	\$	-
Construction Engineering/Contract Administration	\$	16,419.42	\$ -	\$	-	\$	-
Right of Way							
Road Improvements (36.1%)	\$	96,855.00	\$ 100,000.66	\$	-	\$	100,000.66
Storm Pond (20%)	\$	68,000.00	\$ 68,300.00	\$	-	\$	68,300.00
TOTAL	\$	548,394.39	\$ 264,986.33	\$	68,507.71	\$	196,478.62



DATE: September 5, 2017

**CONSENT** 

**AGENDA ITEM:** CSAH 15 (Manning Avenue) / 50th Street Traffic Signal Improvements –

Approve Washington County Cooperative Agreement Payment No. 2

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

**REVIEWED BY:** Krintina Handt, City Administrator

Chad Isakson, Assistant City Engineer

**ISSUE BEFORE COUNCIL:** Should the City Council approve Payment No. 2 for the CSAH 15 (Manning Avenue) / 50th Street Traffic Signal Improvements?

**BACKGROUND, PROPOSAL DETAILS/ANALYSIS:** In March 2017, the City of Lake Elmo entered into Cooperative Agreement No. 10856 with Washington County for the City cost participation of the CSAH 15 (Manning Avenue) / 50th Street Traffic Signal Improvements. In accordance with the agreement Washington County has submitted Invoice #126550 in the amount of \$18,939.35 bringing the total amount invoiced to date to \$38,765.43. The amount requested reflects partial payments for construction costs made to the contractor. The invoice has been reviewed and payment is recommended in the amount requested.

**FISCAL IMPACT:** No additional fiscal impact. Payment is proposed in accordance with Cooperative Agreement No. 10856 with Washington County.

**RECOMMENDATION**: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, payment to Washington County in the amount of \$18,939.35 for the CSAH 15 (Manning Avenue) / 50th Street Traffic Signal Improvements. If removed from the consent agenda, the recommended motion for the action is as follows:

"Move to approve payment to Washington County in the amount of \$18,939.35 for CSAH 15 (Manning Avenue) / 50th Street Traffic Signal Improvements in accordance with Invoice #126550 and Cooperative Agreement No. 10856."

## **ATTACHMENTS:**

1. Washington County Invoice No. 126550 and supporting detail.



# WACO PUBLIC WORKS DEPT 11660 MYERON RD N STILLWATER MN 55082

To: LAKE ELMO CITY 3800 LAVERNE AVE N LAKE ELMO MN 55042-9629

Invoice									
Invoice Number:	126550								
Account Number:	20498								
Due Date	9/1/17								
Amount Enclosed:	\$								
Federal Tax Id:	Federal Tax Id:41-6005919								

# Please return top portion with payment. Thank You.

Invoice										
Amoun	rk	Туре	Number	Date						
	ıl	CSAH 15 at 50th St Signa	9/1/17	Invoice	126550	8/9/17 126				
	*****	*********								
\$18,7	cost	9/1/17 Invoice for Construction cost 9/1/17 through estimate #1								
	****	********	9/1/17							
\$2		Design Engineering	9/1/17							
	*****	********	9/1/17							
		City/County Cooperative	9/1/17							
		Agreement No. 10856	9/1/17							
\$18,9	Invoice Total	I declare under the penalties of law that this account claim or demand, is just and correct and no part of it has been paid.								
:	Sales Tax	Please make check payable to <b>Washington County</b> and mail to the address above.								
\$18,9	Balance Due									

CSAH 15 at 50th St Signal - Billing Summary City of Lake Elmo County/City Cooperative Agreement #10856 Through Estimate #1 8/8/2017

	Estimated Cost (from Cooperative Agreement)		Current Cost (based on Bid)		Previously Paid		Current Amount Due	
Construction	\$	40,000.00		\$ 22,310.38		3,599.05	\$	18,711.33
County Furnished Materials	\$_	10,000.00	\$	9,928.75	\$	9,928.75	\$	0.00
Design Engineering	\$	5,333.00	\$	6,526.30	\$	6,298.28	\$	228.02
Construction Engineering/Contract Administration	\$	4,800.00	\$	-	\$	-	\$	
TOTAL	\$	60,133.00	\$	38,765.43	\$	19,826.08	\$	18,939.35



DATE: 9/5/17 CONSENT MOTION

**TO:** Planning Commission

**FROM:** Emily Becker, Planning Director

**AGENDA ITEM**: Amendments to Chapter 94: Right-of-Way Management Permits to

Address Small Wireless Facilities

**REVIEWED BY:** Stephen Wensman, Former Planning Director

Jack Griffin, City Engineer Sarah Sonsalla, City Attorney Rob Weldon, Public Works

#### **BACKGROUND:**

Minnesota Statutes, Sections 237.162 and 237.163 were expanded in the 2017 Legislative Session to allow the deployment of "small wireless facilities" in the right-of-way (ROW). This state law gives telecommunications right-of-way users the right to install facilities in the ROW and use the ROW for the delivery of their services, subject to local governmental authority to manage the ROW by permitting. Under such ROW ordinances, use of the ROW may be conditioned or denied if necessary to protect public health, safety, or welfare, and that broad protection remains applicable to small wireless facilities.

#### **ISSUE BEFORE COUNCIL:**

The City Council is being asked to adopt Ord. 08-185 which amends Chapter 94: Right-of-Way Management Permits to include language from Minnesota Statutes, Sections 237.162 and 237.163 as expanded in the 2017 Legislative Session to allow the deployment of "small wireless facilities" in the ROW.

## **REVIEW/ANALYSIS:**

A summary of the proposed changes is as follows:

- *Definitions Added*. The term "telecommunications right-of-way user" was amended to include persons deploying facilities to provide "wireless service"
- Small Wireless Communication Facilities Allowed in ROW. Allows wireless providers to deploy a "small wireless facility" or "wireless support structure" in the ROW.
  - o "Small" is defined.
- *Findings for Denial*. Small cell facilities permits may be denied based on reasonable health, welfare and safety concerns.

- o The City may determine if a particular pole or other structure in the ROW is designed to support proposed wireless equipment or is capable of doing so and may deny access based on this determination.
- o Additionally, the City may deny a wireless support structure at a location where the City intends to extend future watermain and/or sanitary sewer. Staff would need to propose a detailed explanation for denial.
- *Appeals*. The applicant may resubmit an application within 30 days of receipt of the notice of denial, and no additional application fee shall be imposed.
- Conditions on Permits. Permits may be conditioned on health, welfare, and safety concerns, as well as reasonable accommodations for decorative wireless support structures or signs.
- Regulations on Distance Between Facilities. Distance minimums between new poles or other wireless support structures may be imposed.
- Other minor amendments as demonstrated in the model ordinance are proposed.
- *Permit Required*. Requires a permit for placement of new wireless structure or collocation of small wireless facilities in the ROW and provides timelines by which the City must approve or deny the permit; how many applications may be filed at one time; and the permit denial process.
- *Rent.* May be up to \$150 per year, with a \$25 yearly maintenance fee. If electricity is provided, additional fees may apply.

**Zoning**. A change to the Zoning Code is needed in order to make small wireless a permitted use in all ROW. The City may made small cell wireless facilities a conditional use in single-family residential zoning districts.

Agreement with Wireless Providers Governing Attachments to Public Facilities. The City is allowed to set forth terms and conditions of collocation in a standard small wireless facility collocation agreement. The League of Minnesota Cities is working on a template agreement that will be made available on their website.

**Fee Schedule Updated to Include Franchise Fee.** The ordinance amendment now references franchise fees, so the fee schedule will need to be updated to include a franchise fee.

**Fee Schedule Updated to Include Small Wireless Facility Permit.** Staff has proposed adoption of Ord. 08-186 which amends the City's fee schedule to include a Small Wireless Facility Permit Fee. Currently, as the right-of-way ordinance did not previously mention such a permit, there was no fee, and there needs to be one as the other permit fees do not apply to this permit. This fee will include inspections by the City as to whether the pole on which the small wireless facility is installed is City-owned, utility-owned or installed by the wireless provider.

None.

## **OPTIONS:**

The City Council is being asked to adopt as part of tonight's Consent Agenda Ord. 08-185 and Ord. 08-186:

- 1) Adopt Ords. 08-185 and 08-186 as presented.
- 2) Amend Ords. 08-185 and 08-186 and adopt as amended.
- 3) Do not adopt Ord. 08-185 and 08-186

## **RECOMMENDATION**:

Staff recommends the City Council adopt Ord. 08-185 amending Chapters 72 and 73 of the City Code as part of tonight's Consent Agenda. If removed from the Consent Agenda, Staff recommends the following motion:

"Move to adopt Ord. 08-185 amending Chapter 94: Right-of-Way Management Permits to include provisions and standards for small wireless facilities."

Staff recommends the City Council adopt Ord. 08-186 amending the City's Fee Schedule to include a Small Wireless Facility permit fee. If removed from the Consent Agenda, Staff recommends the following motion:

"Move to adopt Ord. 08-186 amending the City's Fee Schedule to include a Small Wireless Facility permit fee."

Staff also recommends that Council approve, as part of tonight's Consent Agenda, adoption of Resolution 2017-090, approving summary publication of Ord. 08-185 and Ord. 08-186. If removed from the Consent Agenda, Staff recommends the following motion:

"Move to adopt Resolution 2017-090, approving summary publication of Ord. 08-185 and Ord. 08-186."

# ATTACHMENTS:

- Right-of-Way Memorandum
- Ord. 08-185 and 08-186
- Resolution 2017-090
- Amended Fee Schedule



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## MEMORANDUM

TO:

Clients

FROM:

Bob Vose, Jim Strommen, and Andrew Biggerstaff

DATE:

July 19, 2017

RE:

Right-of-Way ("ROW") Ordinance Amendments: Small Wireless Facilities

Attached to this memorandum are the proposed amendments to the League of Cities Model ("ROW") Ordinance that is likely to be substantially similar to your city's ROW ordinance - but not identical. Therefore, each city must conform the changes we provide to its ROW ordinance.

The ROW Ordinance amendments incorporate verbatim or slightly modified language from Minnesota Statutes, Sections 237.162 and 237.163 ("Act") as expanded in the 2017 Legislative Session to allow the deployment of "small wireless facilities" in the ROW. We have also included the Session law changes to the Act, and reference the statutory cite in the ROW Ordinance amendments.

As you know, state law gives "telecommunications right of way users" the right to install facilities in the ROW and use the ROW for the delivery of their services. This right is subject to local governmental authority to manage the ROW by permitting. Local governments must affirmatively elect to manage the ROW by adopting a ROW ordinance, and we assume that your city has previously opted to utilize the Act, as required under Section 237.163, subd. 2 (b). Under such ROW ordinances, use of the ROW may be conditioned or denied if necessary to protect public health, safety, or welfare, and that broad protection remains applicable to small wireless facilities. Moreover, many of the Minnesota Rules governing utility ROW use found in Minn. R. ch. 7819 will apply to small wireless facilities.

It is important to note that the 2017 Session Law amendments were the product of negotiations between wireless and cable industry representatives, representatives of municipalities and organizations including the League - much of it at the end of the Session. So while our recommended changes attempt to "track" the resulting statutory amendments closely to avoid future disputes, in some cases, the statutory amendments are ambiguous or unclear. Thus, some of our recommended changes reflect our interpretation regarding the scope of municipal authority the legislature has granted visà-vis "small wireless facilities." For questions, please contact Bob Vose (612-337-9275), Jim Strommen (612-337-9233) or Andrew Biggerstaff (612-337-9276).

# Summary of Statutory Amendments Re: Small Wireless Facility Deployment in the Right-of-Way

# 1. Governed by Minnesota ROW Law

The term "telecommunications right-of-way user" has now been amended to include persons deploying facilities to provide "wireless service," a newly defined term. This and other changes generally entitle wireless providers to use ROW.

- Wireless providers may deploy a "small wireless facility" or a "wireless support structure" in the ROW. These are both newly defined terms.
  - In order to be "small," the proposed deployment must meet statutorily-limited size requirements- each antenna must be no more than six cubic feet, and all associated equipment, excluding certain types of equipment (back-up generator, for example), must either be concealed or less than 28 cubic feet.
  - In order to be an authorized support structure, any proposed new pole cannot exceed the littlest of 50 feet or 10 feet above an existing pole that is being replaced unless the LGU allows a greater height.
- LGUs may deny permits for new small cell facilities or wireless support structures based on reasonable health, welfare and safety concerns.
- One of the wireless industry's primary goals was to require that poles or similar structures owned by the LGU in the ROW (light poles, for example) be made available for the attachment of small wireless facilities. The new amendments, however, do not make all LGU-improvements in the ROW a part of the ROW available for private use. The law instead expressly allows an LGU to determine whether a particular pole or other structure in the ROW was designed to support proposed wireless equipment or is capable of doing so. The LGU may deny a wireless provider access to a particular facility based on this determination or other public health, safety or welfare concerns.
- An LGU may also condition a permit on health, welfare and safety concerns, on "reasonable accommodations for decorative wireless support structures or signs," or upon "any reasonable restocking, replacement, or relocation requirements" for a new wireless support structure in the ROW.
- LGUs may also impose separation requirements (distance minimums) between new poles or other wireless support structures.
- Municipal electric utility poles and facilities are exempt from the bill. About 125 cities have municipal utilities.

# 2. Zoning

- Another primary industry goal was to require that small wireless facilities be made a
  Permitted use in all ROWs regardless of the underlying zoning district in which the
  ROW is located. The statutory amendments make small wireless facilities and
  associated wireless support structures a permitted use in all ROWs, but LGUs may
  make such facilities or structures a special or conditional use in ROW located "in a
  district or area zoned for single-family residential use or within a historic district."
- LGUs are prohibited from adopting a moratorium on the processing and issuance of small wireless facility permits. This provision is effective immediately except that it becomes effective on January 1, 2018 for any LGU that had not enacted a ROW ordinance as of May 18, 2017.

# 3. Application Process

- LGUs may require permits for placement of new wireless structures or collocation of small wireless facilities in the ROW.
- An LGU has 90 days to issue or deny a permit. The failure to timely act results in the permit being "deemed approved" and "the permit is automatically issued." The deadline can be extended for 30 days if:
  - o the LGU receives applications for 30 or more sites within a 7 day period, or:
  - The application is incomplete and the LGU delineates the missing information within 30 days of receipt.

Written notice of any extension must be provided to the applicant.

- Applicants may file up to 15 permit applications simultaneously as long as the requested sites are within a 2 mile radius, consist of substantially similar equipment, and are to be placed on similar structures. LGUs may approve or deny applications individually or collectively.
- A denial must be in writing and state the basis for denial. The LGU must notify the
  applicant in writing within 3 business days of the decision. The applicant may cure
  the deficiencies noted and reapply. If such re-application is made within 30 days of
  denial no additional fee may be imposed and a further decision must be made within
  30 days of receipt.
- LGUs may not require wireless providers to supply information provided in an earlier application for a small wireless facility if such info is specifically referenced in the current application. LGUs also may not require information "not reasonably necessary to review a permit application for compliance with generally applicable and reasonable health, safety, and welfare regulations" or demonstrate compliance

with applicable FCC regulations "governing radio frequency exposure," or otherwise demonstrate compliance with the new law.

# 4. Rent and Fees

- The wireless industry's most important goal was to obtain the right to use LGU-owned facilities in the ROW for little or no rent. The legislature did not agree, however, and the new amendments allow the imposition of rent of up to \$150 annually, plus \$25 for maintenance, for each site. Additional fees may be imposed if the wireless provider uses LGU-purchased electricity rather than separately metering. This payment arrangement would presumably be reflected in an attachment agreement governing the provider's attachments to the LGU's facilities.
- LGUs remain entitled to recover ROW management costs, a defined term, from wireless providers using the ROW via permit fees. However, "unreasonable fees of a third-party contractor" cannot be recovered. Such fees barred as unreasonable include "any third-party contractor fee tied to or based upon customer counts, access lines, revenue generated by the telecommunications right-of-way user, or revenue generated for a local government unit."

# 5. NO PUC Rules or Dispute Resolution

• The PUC has promulgated rules governing underground installation of telecommunications and other utility infrastructure in the ROW. The PUC is authorized to administratively adjudicate disputes arising out of an LGU's interpretation or application of these rules.

The new amendments do not explicitly authorize the PUC to promulgate new rules regarding installation of wireless facilities in the ROW including, particularly, how attachments to LGU facilities must be made. Thus, we do not believe that the PUC will have any adjudicative role regarding wireless installations in ROW, as it does involving the ROW users established in the original Act.

• LGUs are authorized to require separate agreements with wireless providers governing attachments to the LGU's poles or other facilities. The new law provides:

No later than six months after the effective date of this act or three months after receiving a small wireless facility permit application from a wireless service provider, a local government unit that has elected to set forth terms and conditions of collocation in a standard small wireless facility collocation agreement shall develop and make available an agreement that complies with the requirements of this section and section 237.162. A standard small wireless facility collocation agreement shall be substantially complete....

We understand that the League is working on a template agreement which will be made readily available on the League's website.

# **Steps Required to Implement New Law**

The work our clients will need to do to accommodate the new small cell wireless law depends, in part, on the terms of the local ROW ordinance, zoning provisions, ROW application process, and standard practices. But it is apparent that a number of steps will need to be taken. These likely include:

- 1. Amendment of the ROW ordinance to include provisions specific to the installation of wireless facilities on existing poles or similar facilities, and addressing the potential installation of new "wireless support structures;" i.e. poles. (Amendments included with this document)
- 2. Amendment of the zoning ordinance or code to make small wireless a permitted use in all ROW but, potentially, a conditional use in ROW located in residential zones. (Such amendments are not included with this document)
- 3. Preparation of a template agreement governing attachment of wireless facilities to municipal poles or other infrastructure in the ROW. The rent and the maintenance fee requirements will be addressed in this template agreement. (The League is preparing a model template agreement)

# CITY OF LAKE ELMO COUNTY OF WASHINGTON STATE OF MINNESOTA

## **ORDINANCE NO. 08-185**

# AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY ADDRESSING SMALL CELL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title IX: General Regulations; Chapter 94: Right-of-Way Management Permits by amending the following:

## **GENERAL PROVISIONS**

# **№ 94.01 FINDINGS AND PURPOSE.**

- (A) To provide for the health, safety, and well-being of its citizens, and to ensure the structural integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the rights-of-way, a primary cause for the early and excessive deterioration of its rights-of-way is frequent excavation.
- (B) Right-of-way obstruction is a source of frustration for merchants, business owners, and the general population which must avoid these obstructions or change travel or shopping plans because of them and has a detrimental effect on commerce. Persons whose equipment is within the right-of-way are the primary cause of these frequent obstructions.
- (C) The city holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The city and other public entities have invested millions of dollars in public funds to build and maintain the rights-of-way. It The city also recognizes that some persons, by placing their equipment in the right-of-way and charging the citizens of the city for goods and services delivered thereby, are using this property held for the public good. Although the services are often necessary or convenient for the citizens, the persons receive revenue and/or profit through their use of public property.
- (D) The Minnesota Legislature has recognized that it is in the public's interest that the use and regulation of rights-of-way be carried on in a fair, efficient, competitively neutral, and substantially uniform manner while recognizing the regulation must reflect distinct engineering, construction, operation, maintenance, and public and worker safety requirements and standards applicable to various users of rights of way. Further, the <code>HL</code>egislature has determined that because increasing numbers of persons may seek usage of rights-of-way, municipalities such as the city must be and have been authorized to regulate use of rights-of-way. Consistent with this mandate, the city has endeavored to model its right-of-way regulations consistent with those of models enacted or under consideration by municipalities throughout the state. Further, the city has endeavored to create competitively neutral rights-of-way standards and regulations of general applicability.
- (E) In response to the foregoing facts, the city hereby enacts this chapter relating to right-of-way management. This chapter imposes reasonable regulations on the placement and maintenance of equipment facilities currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal

agencies. Under this chapter, persons disturbing and obstructing the rights-of-way will bear a fair share of the financial responsibility for the integrity of the city's rights-of-way. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

(F) By enactment of this chapter, the City Council hereby exercises its lawful police power and common law authority, and all statutory authority which is available to it, including, but not limited to, the powers conferred on it under M.S. §§ 237.16, 237.162, and 237.163, 237.79, 237.81, and 238.086 (the "Act) and 2017 Session Laws, Chapter 94 amending the Act as they may be amended from time to time, while preserving all power and authority to further require franchises from rights-of-way users under M.S. §§ 216B.36, 222.37, 300.03, and 412.11, as they may be amended from time to time, Minnesota Rules Parts 7819.0050 – 7819.9950 and Minnesota Rules Chapter 7560 where possible, and other provisions of law. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

(Ord. 9756, passed 6-20-2000)

# § 94.02 ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY.

Pursuant to the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects, pursuant to M.S. § 237.163, subd. 2 (b), to manage rights-of-way within its jurisdiction.

# **№ § 94.02 94.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED FACILITY.** A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

**ADMINISTRATOR.** The City Administrator of the City of Lake Elmo, or the Administrator's designee.

**APPLICANT.** Any person requesting permission to excavate or obstruct a right-of-way.

*CITY*. The City of Lake Elmo, Minnesota. For purposes of § 94.66 94.65, *CITY* means its elected officials, officers, employees, and agents.

<u>COLLOCATE</u> or <u>COLLOCATION</u>. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit. <u>See M.S. § 237.162</u>, subd. 10.

**CONSTRUCTION PERFORMANCE BOND.** Any of the following forms of security provided at permittee's option:

- Individual project bond;
- Cash deposit;
- Security of a form listed or approved under M.S. § 15.73, subd. 3;
- Letter of credit, in a form acceptable to the city;
- Self-insurance, in a form acceptable to the city:

• A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

**DEGRADATION.** The accelerated depreciation of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct the right-of-way earlier than would be required if the excavation did not occur.

**DEGRADATION COST.** Money paid to the city to cover the cost associated with a decrease in the useful life of a public right-of-way caused by excavation. The cost to achieve a level of restoration, subject to Minnesota Rules Part 7819.1100, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules Parts 7819.9900 to 7819.9950.

<u>DEGRADATION FEE.</u> The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

**DELAY PENALTY.** The penalty imposed as a result of unreasonable delays in right-of-way construction excavation, obstruction, patching, or restoration as established by permit.

**DEPARTMENT.** The Department of Public Works of the city.

**DEPARTMENT INSPECTOR.** Any person authorized by the Administrator to carry out inspections related to the provisions of this chapter.

**DISRUPTIVE FEE.** The penalty imposed as a result of the adverse impact on the residents of the city and others who are required to alter travel routes and times resulting from right of way obstructions.

## **EMERGENCY.** A condition that:

- (1) Poses a <del>clear and immediate</del> danger to life or health, or of a significant loss of property; or
- (2) Requires immediate repair or replacement <u>of facilities</u> in order to restore service to a customer.

**EQUIPMENT.** Any tangible thing asset in any right-of-way used to install, repair, or maintain facilities in any right-of-way; but shall not include boulevard plantings or gardens planted or maintained in the right-of-way between a person's property and the street curb.

**EXCAVATE.** To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way, except horticultural practices of penetrating the boulevard area to a depth of less than 12 inches.

**EXCAVATION PERMIT.** The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in the permit.

**EXCAVATION PERMIT FEE.** Money paid to the city by an applicant to cover the costs as provided in § 94.38 94.39.

**FACILITY** or **FACILITIES.** Any tangible asset in the right-of-way required to provide utility service.

<u>FIVE-YEAR PROJECT PLAN.</u> Shows projects adopted by the city for construction within the next five years.

<u>HIGH DENSITY CORRIDOR</u>. A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

*IN.* When used in conjunction with "right-of-way," means over, above, in, within, on, or under a right-of-way.

**LOCAL REPRESENTATIVE.** A local person or persons, or designee of the person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

MANAGEMENT COST. The actual cost incurred by the city for public rights-of-way management; including but not limited to costs associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits and performing all other tasks required by this chapter, including other costs the city may incur in managing the provisions of this chapter. MANAGEMENT COST does not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and costs of litigation relating to the interpretation of Minnesota Session Laws 1997, § Chapter 123; M.S. §§ 237.162 or 237.163; as they may be amended from time to time; or any ordinance enacted under those sections, or the city's fees and costs related to appeals taken pursuant to § 94.68 of this chapter.

**OBSTRUCT.** To place any <u>tangible</u> object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

**OBSTRUCTION PERMIT.** The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

**OBSTRUCTION PERMIT FEE.** Money paid to the city by a registrant permittee to cover the costs as provided in § 94.38 94.40.

## PATCH or PATCHING.

- (1) A method of pavement replacement that is temporary in nature.
- (2) A patch consists of:
  - (a) The compaction of the sub-base and aggregate base; and
- (b) The replacement, in kind, of the existing pavement for a minimum of 2 feet beyond the edges of the excavation in all directions.
- (3) A patch is considered full restoration only when the pavement is included in the city's 5 five-year project plan.

**PAVEMENT.** Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

**PERFORMANCE SECURITY.** A performance bond, a restoration bond, a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation and obstruction work is completed in both a timely and quality manner.

**PERMIT.** Has the meaning given "right-of-way permit" in M.S. § 237.162.

**PERMITTEE.** Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

**PERSON.** Any natural or corporate person, business association, or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, an utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have equipment in any right-of-way. An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

**PROBATION.** The status of a person that has not complied with the conditions of this chapter.

**PROBATIONARY PERIOD.** One year from the date that a person has been notified in writing that they have been put on probation.

# **REGISTRANT.** Any person who:

- (1) Has or seeks to have its equipment or facilities located in any right-of-way; or
- (2) In any way occupies or uses, or seeks to occupy or use, the right-of-way or any place its facilities or equipment in the right-of-way.

**REPAIR.** The temporary construction work necessary to make the right-of-way usable for travel.

**RESTORE** or **RESTORATION.** The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation the commencement of the work.

**RESTORATION COST.** An amount of money paid to the city by a permittee to cover the cost achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

**RIGHT-OF-WAY** or **PUBLIC RIGHT-OF-WAY**. The surface and space on, above and below a public roadway, highway, street, cartway, bicycle lane, and or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

**RIGHT-OF-WAY PERMIT.** Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

**RIGHT-OF-WAY USER**. (1) A telecommunications right-of-way user as defined by M.S. § 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

**SERVICE** or **UTILITY SERVICE**. Includes but is not limited to:

- (1) Those services provided by a public utility as defined in M.S. § 216B.02, <u>Ss</u>ubds. 4 and 6, as it may be amended from time to time;
- (2) Telecommunications, pipeline, community antenna television, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services Services of a telecommunications right-of-way user, including transporting of voice or data information;
- (3) The services provided by a corporation organized for the purposes set forth in M.S. § 30, as it may be amended from time to time Services of a cable communications system as defined in M.S. Ch. 238;
- (4) The services provided by a district heating or cooling system Natural gas or electric energy or telecommunications services provided by the city;
- (5) Cable communications systems as defined in M.S. Ch. 238 Services provided by a cooperative electric association organized under M.S. Ch. 308A; and
- (6) A telecommunication right-of-way user <u>Water, and sewer, including service laterals, steam, cooling, or heating services</u>.

**SERVICE LATERAL.** An underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

**SMALL WIRELESS FACILITY.** A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or could fit within such an enclosure; and
- (2) All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Note: M. S. § 237.162, subd. 11.

**SUPPLEMENTARY APPLICATION.** An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TELECOMMUNICATION RIGHTS-OF-WAY USER. A person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under M.S. Ch. 238, as it may be amended from time to time, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in M. S. § 216B.02, a municipality, a municipal gas or power agency organized under M. S. Chaps. 453 and 453A, or a cooperative electric association organized under M. S. Chap. 308A, are not telecommunications right-of-way users for the purpose of this chapter except to the extent such entity is offering wireless service.

**UNUSABLE EQUIPMENT.** Equipment in the right-of-way which has remained unused for 1 year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next 12 months or a potential purchaser or user of the equipment.

<u>UTILITY POLE.</u> A pole that is used in whole or in part to facilitate telecommunications or electric service.

Note: M. S. §237.162, subd. 12.

WIRELESS FACILITY. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

Note: M. S. § 237.162, subd. 13.

**WIRELESS SERVICE**. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

**WIRELESS SUPPORT STRUCTURE**. A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

Note: M. S. § 237.162, subd. 16

(Ord. 9756, passed 6-20-2000)

# **№ § 94.03** <u>94.04</u> ADMINISTRATION.

The Administrator is the principal city official responsible for the administration of the right-of-way permits, and the regulations related thereto. The Administrator may delegate any or all of the duties hereunder.

(Ord. 9756, passed 6-20-2000)

# **№ § 94.04 94.05** FRANCHISE; FRANCHISE SUPREMACY.

The city may, in addition, to the requirements of this chapter, require that any person, which has or seeks to have equipment located in any right-of-way, obtain a franchise for the full extent permitted by law, now or hereinafter enacted. The terms of any franchise which are in direct conflict with any provision of this chapter, whether granted prior or subsequent to enactment of this chapter, shall control and supersede the conflicting terms of this chapter, provided, however, that requirements relating to insurance, bonds, penalties, security funds, letters of credit, indemnification, or any other security in favor of the city may be cumulative in the sole determination of the city or unless otherwise negotiated by the city and the franchise grantee. All other terms of this chapter shall be fully applicable to all persons, whether franchised or not.

(Ord. 9756, passed 6-20-2000)

**№ § 94.05 94.06 RESERVATION OF REGULATORY AND POLICE POWERS.** 

A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

(Ord. 9756, passed 6-20-2000)

# **№ § 94.06 94.07** SEVERABILITY; REVOCABLE PERMITS.

If any subchapter, section, division, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, the portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right, or registration issued under this chapter or any portions of this chapter is illegal or unenforceable, then the permit, right, or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving 60-days written notice to the other. The requirements and conditions of the revocable permit shall be the same requirements and conditions as set forth in the permit, right, or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a permit, right, or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the City Council to issue the revocable permit and the power to revoke it. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

(Ord. 9756, passed 6-20-2000)

# **REGISTRATION №** § 94.20 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

- (A) Registration. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, or who has, or seeks to have, equipment in any right of way must register with the Administrator city. Registration will consist of providing application information and paying a registration fee.
- (B) Registration prior to work. No person may construct, install, repair, remove, relocate, or perform any other work on or use any equipment facilities or any part thereof in any right-of-way without first being registered with the Administrator city.
- (C) *Exceptions*. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Except as hereinafter provided, persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining the boulevard plantings or gardens under this chapter. However, excavations deeper than 12 inches are subject to the permit requirements of § 94.35. Nothing herein relieves a person from complying with the provisions of M.S. § 216D, as it may be amended from time to time, the "1-call Gopher One Call" 1Law."

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

**■§ 94.21 REGISTRATION INFORMATION.** 

- (A) *Information required*. The information provided to the Administrator city at the time of registration shall include, but not be limited to:
- (1) Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers;
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;
  - (3) A certificate of insurance shall be on a form approved by the city:
- (a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or that registrant is covered by self-insurance which the Administrator determines to provide the city with protections equivalent to that of a Minnesota licensed insurance company, legally independent from the registrant;
- (b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, and that registrant's insurance coverage includes, but is not limited to, protection against liability arising from completed operations, damage of underground equipment facilities, and collapse of property;
- (c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all the coverages;
- (d) Requiring that the Administrator city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and
- (e) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the Administrator city in amounts sufficient to protect the city and carry out the purposes and policies of this chapter.
  - (4) The city may require a copy of the actual insurance policies;
- (5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06 as recorded and certified to by the Secretary of State;
- (6) A copy of the person's certificate of authority from the Minnesota Public Utilities Commission or other <u>authorization or approval from the</u> applicable state or federal agency to <u>lawfully operate</u>, where the person is lawfully required to have <u>such authorization or approval</u> from said commission the certificate from the Commission or other state or federal agency; and
  - (7) The other information as the city may require.
- (B) *Notice of changes*. The registrant shall keep all of the information listed above current at all times by providing to the Administrator city information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

**№ § 94.22 REPORTING OBLIGATIONS.** 

- (A) *Operations*. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan <u>for underground facilities</u> with the <u>Administrator city</u>.
- (1) The plan shall be submitted by using a format designated by the <u>Administrator city</u> and shall contain the information determined by the <u>Administrator city</u> to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.
  - (2) The plan shall include, but not be limited to, the following information:
- (a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (a "next-year project"); and
- (b) To the extent known, The tentative locations and estimated beginning and ending dates for all projects contemplated for the 5 five years following the next calendar year (a "5 five-year project").
- (3) The term "project" in this chapter shall include both next-year projects and 5-year projects.
- (4) By January 1 of each year, the Administrator city will have available for inspection in the Administrator's office a composite list of all projects of which the Administrator city has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.
- (5) Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the Administrator city and all other registrants of all the changes in the list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.
- (B) Additional next-year projects. Notwithstanding the foregoing, the Administrator city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

#### **PERMITS**

# **№ 94.35 RIGHT-OF-WAY PERMIT REQUIREMENT.**

- (A) Right-of-way permit required. Except as otherwise provided in the city's regulations, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the City Administrator city and posting of the appropriate construction performance security bond with the City Administrator city.
- (1) Excavation permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the durations specified therein.
- (2) Obstruction permit. An obstruction permit is required by registrant to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein on the right-of-way, to the extent and for the durations specified therein. An obstruction

permit is not required if a person already possesses a valid excavation permit for the same project.

(3) Small Wireless Facility Permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

#### Note: M. S. §237.163, subd. 13.

- (B) *Right-of-way permit extensions*. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new right-of-way permit, or right-of-way permit extension, is granted.
- (C) *Delay penalty*. In accordance with Minnesota Rule Part 7819.1000, subpart 3 and Nnotwithstanding the provisions of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.
- (D) Right-of-way permit display. Right-of-way permits issued under this chapter shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the Administrator city.
- (E) Performance security Construction performance bond. The construction Pperformance security bond shall be in an amount determined in the city's sole discretion, sufficient to serve as security for the full and complete performance of permittee's obligation under this chapter, including any costs, expenses, damages, or loss the city pays or incurs because of any failure to comply with this chapter or any other applicable law, regulation, or standard. During the period of construction, repair, or restoration of rights-of-way or equipment facilities within the rights-of-way, the construction performance bond security shall be in an amount sufficient to cover 125% of the estimated cost of the work, as documented by the person proposing to perform the work, or in a lesser amount as may be determined by the Administrator city, taking into account the amount of equipment facilities in the right-of-way, the location and method of installation of the equipment facilities, the conflict or interference of the equipment facilities with the equipment facilities of other persons, and the purposes and policies of this chapter. Sixty days after completion of the work, the construction performance bond security may be reduced in the sole determination of the city.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **■§ 94.36 APPLICATION FOR A RIGHT-OF-WAY PERMIT.**

- (A) Applications for a right-of-way permit is made to the <u>city through the</u> Administrator.
- (B) Right-of-way permit applications shall contain and will be considered complete only upon compliance with the requirements of the following provisions:
  - (1) Registration with the Administrator city pursuant to this chapter;
- (2) Submissions of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed equipment facilities;
  - (3) Payment of all money due to the city for:

- (a) Permit fees, estimated restoration costs, and other management costs;
- (b) Prior obstructions or excavations;
- (c) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and/or
  - (d) Franchise fees or other charges, if applicable.
- (4) Payment of disputed amounts due the city by posting performance security or depositing in a city-approved escrow account an amount equal to at least 110125% of the amount owing; and
- (5) When an excavation permit is requested for purposes of installing additional equipment facilities, and the posting of a restoration construction performance bond for the additional equipment facilities is insufficient, the posting of an additional or larger restoration construction performance bond for the additional equipment facilities may be required.
- (6) A Storm Water Management Plan and/or an Erosion and Sediment Control Plan if applicable as specified in § 150.283.

(Ord. 9756, passed 6-20-2000; Am. Ord. 08-024, passed 4-20-2010)

### **№ 94.37 ISSUANCE OF PERMIT; CONDITIONS.**

- (A) *Permit issuance*. If the Administrator determines that the applicant has satisfied the requirements of this chapter, the Administrator city may shall issue a permit.
- (B) Conditions. The Administrator city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety, and welfare to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to M. S. §§216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560.
- (1) Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:
  - (a) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
  - (b) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety, and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
    - (c) No wireless facility may extend more than 10 feet above its wireless support

#### structure.

- (d) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
- (e) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- (f) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Note: M. S.§ 237.163, subd. 3b.

- (C) Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:
  - (1) Up to \$150 per year for rent to collocate on the city structure;
  - (2) \$25 per year for maintenance associated with the collocation;
  - (3) A monthly fee for electrical service as follows:
    - (a) \$73 per radio node less than or equal to 100 maximum watts;
    - (b) \$182 per radio node over 100 maximum watts; or
    - (c) The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

Note: M. S.§ 237.163. Subd. 6(g).

# № § 94.39 ACTION ON SMALL WIRELESS FACILITY PERMIT APPLICATIONS.

- (A) *Deadline for Action*. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
- (B) Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the city, provided that all small wireless facilities in the application:

- (1) are located within a two-mile radius;
- (2) consist of substantially similar equipment; and
- (3) are to be placed on similar types of wireless support structures

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

- (C) *Tolling of Deadline*. The 90-day deadline for action on a small wireless facility permit application may be tolled if:
- (1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
- (2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt of the application. Upon submission of additional documents or information, the city shall have 10 days to notify the applicant in writing of any still-missing information.
- (3) The city and a small wireless facility applicant agree in writing to toll the review period.

Note: M. S.§ 237.163. subd. 3c

(Ord. 9756, passed 6-20-2000)

# **№ § 94.38 94.40** RIGHT-OF-WAY PERMIT FEES.

- (A) *Excavation permit fee*. The excavation permit fee shall be established by the Administrator city in an amount sufficient to recover the following costs:
  - (1) The city management costs; and
  - (2) Degradation cost, if applicable.
- (B) *Obstruction permit fee.* The obstruction permit fee shall be established by the Administrator city and shall be in an amount sufficient to recover the city management costs.
- (C) Small wireless facility permit fee. The city shall impose a small wireless facility permit fee in an amount sufficient to recover:
  - (1) management costs, and;
- (2) city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
- (C) (D) Payment of permit fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay the fees within 30 days of billing.

- (D) (E) *Non-refundable*. Permit fees that were paid for a permit that the Administrator city has revoked for a breach as stated in § 94.59 are not refundable.
- (F) Application to franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(Ord. 9756, passed 6-20-2000)

# **№ 8 94.39 94.41** RIGHT-OF-WAY PATCHING AND RESTORATION.

#### (A) Timing.

- (1) The work to be done under the excavation permit, and the patching and/or restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 94.42 94.44.
- (2) In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for 36 months thereafter.
- (B) *Patch and restoration*. Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or the city shall restore the right-of-way itself.
- (1) City restoration. If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, during the 36 months following the restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, the cost of repairing the pavement.
- (2) Permittee restoration. If the permittee restores the right-of-way, it shall at the time of application for an excavation permit, post a construction performance bond security in accordance with the provisions of Minnesota Rule Part 7819.3000 in an amount determined by the Administrator to be sufficient to cover the cost of restoring the right-of-way to its pre-excavation condition and reasonable, directly related costs that the city estimates will be incurred if the right-of-way user fails to perform under the bond. Litigation costs and attorney fees are not direct costs to be included in calculating the amount of the bond. If, 36 24 months after completion of the restoration of the right-of-way, the Administrator city determines that the right-of-way has been properly restored, the surety on the construction performance bond security shall be released.
- (C) Standards. The permittee shall perform repairs excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the Administrator city and shall comply with Minnesota Rule Part 7819.1100. The Administrator city shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The Administrator city in exercising this authority shall be guided by the following standards and considerations:
- (1) The number, size, depth, and duration of the excavations, disruptions, or damage to the right-of-way;
- (2) The traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way;

- (3) The pre-excavation condition of the right-of-way; the remaining life-expectancy of the right-of-way affected by the excavation;
- (4) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance, or damage to the right-of-way; and
- (5) The likelihood that the particular method or restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.
- (D) *Guarantees*. By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for 36 months following its completion. During this 36-month period, it shall, upon notification from the Administrator city, correct all restoration work to the extent necessary, using the method required by the Administrator city. The work shall be completed within 5 five calendar days of the receipt of the notice from the Administrator city, not including days during which work cannot be done because of the circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 94.42 94.44.
- (E) Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Administrator city, or fails to satisfactorily and timely complete all restoration required by the Administrator city, the Administrator city at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the restoration construction performance bond.
- (F) Degradation fee in lieu of restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the costs to accomplish these responsibilities.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

### **№ § 94.40 94.42** JOINT APPLICATIONS.

- (A) *Joint application*. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same time and place.
- (B) With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by 2 two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee, but a permit would still be required.
- (C) *Shared fees.* Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. <u>In order to obtain a joint permit,</u> <u>Rregistrants must agree among themselves as to the portion each will pay and indicate the same on their applications.</u>

(Ord. 9756, passed 6-20-2000)

# **№ § 94.41 94.43** SUPPLEMENTARY APPLICATIONS.

(A) Limitation on area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area

make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end date.

(Ord. 9756, passed 6-20-2000)

# **№ 94.42 94.44 OTHER OBLIGATIONS.**

- (A) Compliance with other laws. Obtaining a right-of-way permit does not relieve the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other the city, or other applicable county, state, or federal rules, laws, or regulations. A permittee shall comply with all requirements of local, state, and federal laws, including M.S. § 216D.01-09, as it may be amended from time to time ("4 Gopher One Call Excavation Notice System") and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- (B) *Prohibited work*. Except in an emergency, and with the approval of the Administrator city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for the work.
  - (C) *Interference with right-of-way*.
- (1) A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with.
- (2) Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations.
- (3) The loading or unloading of trucks next to a permit area is prohibited unless specifically authorized by the permit.
- (D) Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in M.S. Chapter 216D and Minnesota Rules Chapter 7560 and shall requiring potholing or open cutting over existing underground utilities before excavating, as determined by the Administrator.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.43 94.45 DENIAL OR REVOCATION OF PERMIT.**

- (A) <u>Reasons for denial</u>. The <u>Administrator city</u> may deny a permit for failure to meet the requirements and conditions of this chapter, or if the <u>Administrator city</u> determines that the denial is necessary to protect the health, safety, and welfare of the public, or if necessary to protect the right-of-way and its current use.
- (B) <u>Procedural requirements.</u> The denial or revocation of a permit must be made in writing and must document the basis for denial. The city must notify the applicant or right-of-way

user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after resubmission.

Note: M. S.§ 237.163. subds. 4(c) and 5(f).

(Ord. 9756, passed 6-20-2000)

#### **REGULATIONS AND PROCEDURES**

# **№ 94.55 INSTALLATION REQUIREMENTS.**

The excavation, backfilling, patching, and restoration, and all other work performed in the right-of-way, shall be done in conformance with engineering standards adopted by the P.U.C. Minnesota Rules Parts 7819.1100 and 7819.5000 and or other applicable local requirements, insofar as they are not inconsistent with P.U.C. rules M.S. §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and this Chapter. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits or agreements referenced in § 94.60, subdivision (B) of this Chapter.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

### **№ 94.56 INSPECTION.**

- (A) *Notice of completion*. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with P.U.C. rules Minnesota Rule Part 7819.1300.
- (B) *Site inspection*. Permittee shall make the work-site available to the <u>Administrator city</u> and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
  - (C) Authority of Administrator.
- (1) At the time of inspection, the Administrator may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.
- (2) The Administrator may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The Oorder shall state that failure to correct the violation will be cause for revocation of the permit. Within 10 days after issuance of the order, the permittee shall present proof to the Director Administrator that the violation has been corrected. If the proof has not been presented within the required time, the Director Administrator may revoke the permit pursuant to § 94.59.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.57 WORK DONE WITHOUT A PERMIT.**

- (A) Emergency situations.
- (1) Each registrant shall immediately notify the Administrator of any event regarding its equipment facilities which it considers to be an emergency. The registrant may proceed to take

whatever actions are necessary to respond to the emergency. <u>Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement.</u> Within 2 two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

- (2) (a) If the Administrator city becomes aware of an emergency regarding a registrant's equipment facilities, the Administrator city may will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency.
- (b) In any event, the Administrator <u>city</u> may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose <u>equipment</u> <u>facilities</u> occasioned the emergency.
- (B) *Non-emergency situations*. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for the permit, pay double all the other fees required by the Legislative City Code, deposit with the Administrator city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

### **№ 94.58 SUPPLEMENTARY NOTIFICATION.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Administrator city of the accurate information as soon as this information is known.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

#### **№ 94.59 REVOCATION OF RIGHT-OF-WAY PERMITS.**

- (A) Substantial breach. The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule, or regulation, or any <u>material</u> condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
  - (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
  - (3) Any material misrepresentation of fact in the application for a right-of-way permit;
  - (4) The failure to maintain the required bonds and/or insurance;
- (5) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete the work is due to reasons beyond the permittee's control; or
- (6) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 94.56.
- (B) Written notice of breach. If the Administrator city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the Administrator city shall make a written demand upon the permittee to remedy the violation. The demand shall state that continued violations may be

cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the Administrator city, at his or her its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

- (C) Response to notice of breach.
- (1) Within 24 hours of receiving notification of the breach, permittee shall eontact provide the Administrator city with a plan, acceptable to the Administrator city, for its correction that will cure the breach.
- (2) Permittee's failure to so contact the Administrator city, or the permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
- (3) Further, permittee's failure to <u>so contact the city</u>, <u>or permittee's failure to submit an acceptable plan</u>, <u>or permittee's failure to</u> reasonably implement the approved plan, shall automatically place the permittee on probation for <u>1</u> one full year.
- (D) *Cause for probation*. From time to time, the <u>Administrator city</u> may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for <u>1 one</u> full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit <u>authorization</u>.
- (E) *Automatic revocation*. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for **1** one full year, except for emergency repairs.
- (F) Reimbursement of city costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with the revocation.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **■§ 94.60 MAPPING DATA.**

- (A) Information required. Each year, registrant and permittee shall provide mapping information required by the Administrator city in accordance with P.U.C. rules Minnesota Rules Parts 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the Administrator with accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the Administrator. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.
- (B) Service laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules Part 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the Administrator reasonably requires it. Permittees or their subcontractors shall submit to the Administrator evidence satisfactory to the Administrator of the installed service lateral locations. Compliance with this subdivision and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005 shall be a condition of any city approval necessary for:

- (1) payments to contractors working on a public improvement project including those under M. S. Chapter 429
- (2) city approval under development agreements or other subdivision or site plan approval under M. S. Chapter 462. The Administrator shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.
- (B) Trade secret information. At the request of any registrant, any information requested by the Administrator, which qualifies as a "trade secret" under M.S. § 13.37(b), as it may be amended from time to time, shall be treated as trade secret information as detailed therein.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.61 LOCATION OF FACILITIES.**

<u>Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules Parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.</u>

(A) *Undergrounding*. Unless otherwise permitted by an existing franchise, or other agreement, or M.S. § 216B.34, as it may be amended from time to time, or unless existing above-ground facilities are repaired or replaced, new construction and the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.

#### (B) Corridors.

- (1) The Administrator city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the Administrator city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the Administrator city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.
- (2) Any registrant whose facility is in the right-of-way in a position at variance with the corridors established by the Administrator city shall, no later than at the time of the next reconstruction or excavation of the area where the facility is located, move that facility to its assigned position within the right-of-way, unless this requirement is waived by the Administrator city for good cause shown, upon consideration of the such factors as the remaining economic life of the facilities facility, public safety, customer service needs, and hardship to the registrant.

#### (C) Nuisance.

- (1) One year after the passage of this chapter, any facility found in a right-of-way that has not been registered shall be deemed to be a nuisance.
- (2) The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facility and restoring the right-of-way to a useable condition.
- (D) Limitation of space. To protect health, and safety, and welfare, or when necessary to protect the right-of-way and its current use, the Administrator city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way if there is

the right-of-way. In making the decisions, the Administrator city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(Ord. 9756, passed 6-20-2000)

### **№ 94.62 RELOCATION OF FACILITIES.**

- (A) (1) A registrant right-of-way user must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its equipment and facilities in the right-of-way whenever the Administrator requests the removal and relocation it is necessary to prevent interference, and not merely for convenience of the city, and shall restore the right-of-way to the same condition it was in prior to the removal or relocation.
- (2) The Administrator city may make the request to a right-of-way user to remove and relocate its facilities to prevent interference by the company's equipment or facilities with when in connection with:
  - (a) A present or future city use of the right-of-way for a public project;
  - (b) A public improvement undertaken by the city;
  - (c) An economic development project in which the city has an interest or investment;
  - (d) (b) When the public health, and safety, and welfare require it; or
- (e) (c) When necessary to prevent interference with  $t\underline{T}$  he safety and convenience of ordinary travel over the right-of-way.
- (B) Notwithstanding the foregoing, a person right-of-way user shall not be required to remove or relocate its equipment facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor right-of-way user.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **■§ 94.63 PRE-EXCAVATION FACILITY AND FACILITIES LOCATION.**

In addition to complying with the requirements of M.S. § 216D.01-09 ("4One-Call Excavation Notice System"), as it may be amended from time to time, before the start date of any right-of-way excavation, each registrant who has <u>facilities or</u> equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all the equipment <u>and facilities</u>. Any registrant whose equipment <u>or facilities</u> is <u>are</u> less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its equipment <u>and facilities</u> and the best procedure for excavation.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.64 DAMAGE TO OTHER FACILITIES.**

(A) When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's equipment facilities to protect it, the city shall notify the local

representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing.

- (B) (1) Each registrant shall be responsible for the cost of repairing any equipment <u>facilities</u> in the right-of-way which it or its <u>equipment facilities</u> damages.
- (2) Each registrant shall be responsible for the cost of repairing any damage to the equipment facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's equipment facilities.

(Ord. 9756, passed 6-20-2000)

### **№ 94.65 RIGHT-OF-WAY VACATION.**

- (A) Reservation of right. If the city vacates a right-of-way which contains the equipment facilities of a registrant, and if the vacation does not require the relocation of a registrant or permittee's equipment facilities, the city shall, except when it would not be in the public interest, reserve, to and for itself and all registrants right-of-way users having equipment facilities in the vacated right-of-way, the right to install, maintain, and operate any equipment facilities in the vacated right-of-way and to enter upon the right-of-way at any time for the purpose of reconstructing, inspecting, maintaining, or repairing the same.
- (B) Relocation of facilities. If the vacation requires the relocation of registrant or permittee facilities; payment of the relocation costs must be determined as follows: and (1) if the vacation proceedings are initiated by the registrant or permittee right-of-way user, the registrant or permittee right-of-way user must pay the relocation costs; or (2) if the vacation proceedings are initiated by the city for a public project, the registrant or permittee right-of-way user must pay the relocation costs unless otherwise agreed to by the city and the registrant or permittee right-of-way user; or (3) if the vacation proceedings are initiated for the purposes of benefiting by a person or persons other than the registrant or permittee right-of-way user, the other benefited person or persons must pay the relocation costs.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **■§ 94.66 INDEMNIFICATION AND LIABILITY.**

- (A) By registering with the <u>Administrator city</u>, or by accepting a permit under this chapter, a registrant or permittee agree<u>s</u> as follows to defend and indemnify the city in accordance with the provisions of Minnesota Rule Part 7819.
- (B) (1) Limitation of liability. By accepting a registration or granting a right of way permit, the city does not assume any liability for injuries to persons, damage to property, or loss of service claims by parties other than the registrant, or for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of equipment by registrants or activities of registrants.

#### (2) Indemnification.

- (a) A registrant or permittee shall indemnify, keep, and hold the city free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the issuance of permits or by the construction, maintenance, repair, inspection, or operation of registrant's or permittee's facilities located in the right-of-way.
- (b) 1. The city shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the city's negligence as to the issuance of permits or inspections to ensure permit compliance.

2. The city shall not be indemnified if the injury or damage results from the performance of a proper manner of acts which the registrant or permittee reasonably believes will cause injury or damage, and the performance is nevertheless ordered or directed by the city after receiving notice of the registrant's or permittee's determination.

#### (B) Defense.

- (a) If a suit is brought against the city under circumstances where the registrant or permittee is required to indemnify, the registrant or permittee, at its sole cost and expense, shall defend the city in the suit if written notice of the suit is properly given to the registrant or permittee within a period in which the registrant or permittee is not prejudiced by the lack or delay of notice.
- (b) If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the city. Consent will not be unreasonably withheld.
- (c) This part is not as to third-parties, a waiver of any defense, immunity, or damage limitation otherwise available to the city.
- (d) In defending an action on behalf of the city, the registrant or permittee is entitled to assert in an action every defense, immunity, or damage limitation that the city could assert in its own behalf.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

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- (A) *Discontinued operations*. A registrant who has determined to discontinue <u>all or a portion</u> of its operations in the city must either:
- (1) Provide information satisfactory to the Administrator city that the registrant's obligations for its equipment facilities in the right-of-way under this chapter have been lawfully assumed by another registrant; or
- (2) Submit to the Administrator city a proposal and instruments for transferring ownership of its equipment facilities to the city. If a registrant proceeds under this clause, the city may, at its option:
  - (a) Purchase the equipment;
  - (b) Require the registrant, at its own expense, to remove it; or
- (c) Require the registrant to post a bond in an amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the equipment.
- (B) Abandoned equipment. Equipment of a registrant who fails to comply with § 94.68, and which, for 2 years, remains unused shall be deemed to be abandoned. Abandoned equipment is deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance taking possession of the equipment and restoring it to a useable condition; or requiring removal of the equipment by the registrant, or the registrant's successor in interest.
- (C) (B) Removal. Any registrant who has unusable and abandoned equipment facilities in any right-of-way shall remove it from that right-of-way during the next scheduled if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Administrator city.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

### **№ § 94.68 APPEALS.**

- (A) A right-of-way user that:
  - (1) Has been denied registration;
  - (2) Has been denied a permit;
  - (3) Has had a permit revoked; or
- (4) Believes that the fees imposed are <u>not in conformity with M. S. §237.163</u>, <u>subd. 6</u> invalid, or
- (5) Disputes a determination of the Administrator regarding § 94.59, subd. (B) of this chapter

may have denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(B) Upon affirmation by the City Council of the denial, revocation, or fee imposition, the right-of-way user shall have the rights to have the matter resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the City Council and the right-of-way user. If the parties cannot agree on an arbitrator, the matter must be resolved by a 3-person arbitration panel made up of 1 arbitrator selected by the city, 1 arbitrator selected by the right of way user, and 1 selected by the other 2 arbitrators. The costs and fees of a single arbitrator shall be shared equally by the city and the right-of-way user. In the event there is a third arbitrator, each party shall pay the expense of its own arbitrator and shall jointly and equally share with the other party the expense of a third arbitrator and of the arbitration.

(Ord. 9756, passed 6-20-2000)

#### § 94.69 RESERVATION OF REGULATORY AND POLICE POWERS

A permittee's rights are subject to the regulatory and policy powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

### § 94.70 RESERVATION OF REGULATORY AND POLICE POWERS

If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

**SECTION 2. Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

<b>SECTION 3. Adoption Date.</b> This Ordinan 2017, by a vote of Ayes and Nays.	ce 08 was adopted on this day of
	LAKE ELMO CITY COUNCIL
	Mike Pearson, Mayor
ATTEST:	
Julie Johnson, City Clerk	
This Ordinance 08 was published on the	day of, 2017.

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

#### **ORDINANCE NO. 08-185**

# AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY ADDRESSING SMALL CELL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title IX: General Regulations; Chapter 94: Right-of-Way Management Permits by amending the following:

#### **GENERAL PROVISIONS**

### **№ 94.01 FINDINGS AND PURPOSE.**

- (A) To provide for the health, safety, and well-being of its citizens, and to ensure the structural integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the rights-of-way, a primary cause for the early and excessive deterioration of its rights-of-way is frequent excavation.
- (B) Right-of-way obstruction is a source of frustration for merchants, business owners, and the general population which must avoid these obstructions or change travel or shopping plans because of them and has a detrimental effect on commerce. Persons whose equipment is within the right-of-way are the primary cause of these frequent obstructions.
- (C) The city holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The city and other public entities have invested millions of dollars in public funds to build and maintain the rights-of-way. The city also recognizes that some persons, by placing their equipment in the right-of-way and charging the citizens of the city for goods and services delivered thereby, are using this property held for the public good. Although the services are often necessary or convenient for the citizens, the persons receive revenue and/or profit through their use of public property.
- (D) The Minnesota Legislature has recognized that it is in the public's interest that the use and regulation of rights-of-way be carried on in a fair, efficient, competitively neutral, and substantially uniform manner while recognizing the regulation must reflect distinct engineering, construction, operation, maintenance, and public and worker safety requirements and standards applicable to various users of rights of way. Further, the Legislature has determined that because increasing numbers of persons may seek usage of rights-of-way, municipalities such as the city must be and have been authorized to regulate use of rights-of-way. Consistent with this mandate, the city has endeavored to model its right-of-way regulations consistent with those of models enacted or under consideration by municipalities throughout the state. Further, the city has endeavored to create competitively neutral rights-of-way standards and regulations of general applicability.
- (E) In response to the foregoing facts, the city hereby enacts this chapter relating to right-ofway management. This chapter imposes reasonable regulations on the placement and maintenance of facilities currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this

chapter, persons disturbing and obstructing the rights-of-way will bear a fair share of the financial responsibility for the integrity of the city's rights-of-way. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

(F) By enactment of this chapter, the City Council hereby exercises its lawful police power and common law authority, and all statutory authority which is available to it, including, but not limited to, the powers conferred on it under M.S. §§ 237.16, 237.162 237.163, 237.79, 237.81, and 238.086 (the "Act) and 2017 Session Laws, Chapter 94 amending the Act as they may be amended from time to time, while preserving all power and authority to further require franchises from rights-of-way users under M.S. §§ 216B.36, 222.37, 300.03, and 412.11, as they may be amended from time to time, Minnesota Rules Parts 7819.0050 – 7819.9950 and Minnesota Rules Chapter 7560 where possible, and other provisions of law. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

(Ord. 9756, passed 6-20-2000)

#### § 94.02 ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY.

Pursuant to the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects, pursuant to M.S. § 237.163, subd. 2 (b), to manage rights-of-way within its jurisdiction.

# **№ 94.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED FACILITY.** A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

**ADMINISTRATOR.** The City Administrator of the City of Lake Elmo, or the Administrator's designee.

**APPLICANT.** Any person requesting permission to excavate or obstruct a right-of-way.

*CITY*. The City of Lake Elmo, Minnesota. For purposes of § 94.65, *CITY* means its elected officials, officers, employees, and agents.

**COLLOCATE** or **COLLOCATION**. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit. *See* M.S. § 237.162, subd. 10.

**CONSTRUCTION PERFORMANCE BOND.** Any of the following forms of security provided at permittee's option:

- Individual project bond;
- Cash deposit;
- Security of a form listed or approved under M.S. § 15.73, subd. 3;
- Letter of credit, in a form acceptable to the city;
- Self-insurance, in a form acceptable to the city;

 A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

**DEGRADATION.** The accelerated depreciation of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct the right-of-way earlier than would be required if the excavation did not occur.

**DEGRADATION COST.** Money paid to the city to cover the cost associated with a decrease in the useful life of a public right-of-way caused by excavation. The cost to achieve a level of restoration, subject to Minnesota Rules Part 7819.1100, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules Parts 7819.9900 to 7819.9950.

**DEGRADATION FEE.** The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

**DELAY PENALTY.** The penalty imposed as a result of unreasonable delays in right-of-way construction excavation, obstruction, patching, or restoration as established by permit.

**DEPARTMENT.** The Department of Public Works of the city.

**DEPARTMENT INSPECTOR.** Any person authorized by the Administrator to carry out inspections related to the provisions of this chapter.

#### **EMERGENCY.** A condition that:

- (1) Poses a danger to life or health, or of a significant loss of property; or
- (2) Requires immediate repair or replacement of facilities in order to restore service to a customer.

**EQUIPMENT.** Any tangible asset used to install, repair, or maintain facilities in any right-of-way; but shall not include boulevard plantings or gardens planted or maintained in the right-of-way between a person's property and the street curb.

**EXCAVATE.** To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way, except horticultural practices of penetrating the boulevard area to a depth of less than 12 inches.

**EXCAVATION PERMIT.** The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in the permit.

**EXCAVATION PERMIT FEE.** Money paid to the city by an applicant to cover the costs as provided in §

**FACILITY** or **FACILITIES.** Any tangible asset in the right-of-way required to provide utility service.

FIVE-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next five years.

**HIGH DENSITY CORRIDOR**. A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

*IN.* When used in conjunction with "right-of-way," means over, above, in, within, on, or under a right-of-way.

**LOCAL REPRESENTATIVE.** A local person or persons, or designee of the person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

MANAGEMENT COST. The actual cost incurred by the city for public rights-of-way management; including but not limited to costs associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits and performing all other tasks required by this chapter, including other costs the city may incur in managing the provisions of this chapter. MANAGEMENT COST does not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and costs of litigation relating to the interpretation of Minnesota Session Laws 1997, § Chapter 123; M.S. §§ 237.162 or 237.163; as they may be amended from time to time; or any ordinance enacted under those sections, or the city's fees and costs related to appeals taken pursuant to § 94.68 of this chapter.

**OBSTRUCT.** To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

**OBSTRUCTION PERMIT.** The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

**OBSTRUCTION PERMIT FEE.** Money paid to the city by a permittee to cover the costs as provided in § 94.40.

#### **PATCH** or **PATCHING**.

- (1) A method of pavement replacement that is temporary in nature.
- (2) A patch consists of:
  - (a) The compaction of the sub-base and aggregate base; and
- (b) The replacement, in kind, of the existing pavement for a minimum of 2 feet beyond the edges of the excavation in all directions.
- (3) A patch is considered full restoration only when the pavement is included in the city's five-year project plan.

**PAVEMENT.** Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

**PERFORMANCE SECURITY.** A performance bond, a restoration bond, a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation and obstruction work is completed in both a timely and quality manner.

**PERMIT.** Has the meaning given "right-of-way permit" in M.S. § 237.162.

**PERMITTEE.** Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

**PERSON.** An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

**PROBATION.** The status of a person that has not complied with the conditions of this chapter.

**PROBATIONARY PERIOD.** One year from the date that a person has been notified in writing that they have been put on probation.

#### **REGISTRANT.** Any person who:

- (1) Has or seeks to have its equipment or facilities located in any right-of-way; or
- (2) In any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

**REPAIR.** The temporary construction work necessary to make the right-of-way usable for travel.

**RESTORE** or **RESTORATION.** The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation

**RESTORATION COST.** An amount of money paid to the city by a permittee to cover the cost achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

**RIGHT-OF-WAY** or **PUBLIC RIGHT-OF-WAY**. The surface and space on, above and below a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

**RIGHT-OF-WAY PERMIT.** Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

**RIGHT-OF-WAY USER**. (1) A telecommunications right-of-way user as defined by M.S. § 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

#### **SERVICE** or **UTILITY SERVICE**. Includes but is not limited to:

- (1) Those services provided by a public utility as defined in M.S. § 216B.02, subds. 4 and 6, as it may be amended from time to time;
- (2) Services of a telecommunications right-of-way user, including transporting of voice or data information;
  - (3) Services of a cable communications system as defined in M.S. Ch. 238;
  - (4) Natural gas or electric energy or telecommunications services provided by the city;

- (5) Services provided by a cooperative electric association organized under M.S. Ch. 308A; and
- (6) A telecommunication right-of-way user Water, and sewer, including service laterals, steam, cooling, or heating services.

**SERVICE LATERAL.** An underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

**SMALL WIRELESS FACILITY.** A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or could fit within such an enclosure; and
- (2) All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Note: M. S. § 237.162, subd. 11.

**SUPPLEMENTARY APPLICATION.** An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TELECOMMUNICATION RIGHTS-OF-WAY USER. A person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under M.S. Ch. 238, as it may be amended from time to time, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in M. S. § 216B.02, a municipality, a municipal gas or power agency organized under M. S. Chaps. 453 and 453A, or a cooperative electric association organized under M. S. Chap. 308A, are not telecommunications right-of-way users for the purpose of this chapter except to the extent such entity is offering wireless service.

**UNUSABLE EQUIPMENT.** Equipment in the right-of-way which has remained unused for 1 year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next 12 months or a potential purchaser or user of the equipment.

**UTILITY POLE.** A pole that is used in whole or in part to facilitate telecommunications or electric service.

Note: M. S. §237.162, subd. 12.

WIRELESS FACILITY. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

Note: M. S. § 237.162, subd. 13.

**WIRELESS SERVICE**. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

**WIRELESS SUPPORT STRUCTURE**. A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

Note: M. S. § 237.162, subd. 16

(Ord. 9756, passed 6-20-2000)

### **■§ 94.04 ADMINISTRATION.**

The Administrator is the principal city official responsible for the administration of the right-of-way permits, and the regulations related thereto. The Administrator may delegate any or all of the duties hereunder.

(Ord. 9756, passed 6-20-2000)

### **№ 94.05 FRANCHISE; FRANCHISE SUPREMACY.**

The city may, in addition, to the requirements of this chapter, require that any person, which has or seeks to have equipment located in any right-of-way, obtain a franchise for the full extent permitted by law, now or hereinafter enacted. The terms of any franchise which are in direct conflict with any provision of this chapter, whether granted prior or subsequent to enactment of this chapter, shall control and supersede the conflicting terms of this chapter, provided, however, that requirements relating to insurance, bonds, penalties, security funds, letters of credit, indemnification, or any other security in favor of the city may be cumulative in the sole determination of the city or unless otherwise negotiated by the city and the franchise grantee. All other terms of this chapter shall be fully applicable to all persons, whether franchised or not.

(Ord. 9756, passed 6-20-2000)

# **■§ 94.06 RESERVATION OF REGULATORY AND POLICE POWERS.**

A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

(Ord. 9756, passed 6-20-2000)

# **№** § 94.07 SEVERABILITY; REVOCABLE PERMITS.

If any subchapter, section, division, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, the portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right, or registration issued under this chapter or any portions of this chapter is illegal or unenforceable, then the permit, right, or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving 60-days written notice to the other. The requirements and conditions of the

revocable permit shall be the same requirements and conditions as set forth in the permit, right, or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a permit, right, or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the City Council to issue the revocable permit and the power to revoke it. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

(Ord. 9756, passed 6-20-2000)

### **REGISTRATION**

# **№ 94.20 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.**

- (A) *Registration*. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, way must register with the city. Registration will consist of providing application information
- (B) Registration prior to work. No person may construct, install, repair, remove, relocate, or perform any other work on or use any facilities or any part thereof in any right-of-way without first being registered with the city.
- (C) Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Except as hereinafter provided, persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining the boulevard plantings or gardens under this chapter. However, excavations deeper than 12 inches are subject to the permit requirements of § 94.35. Nothing herein relieves a person from complying with the provisions of M.S. § 216D, as it may be amended from time to time, the "Gopher One Call" Law."

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

#### § 94.21 REGISTRATION INFORMATION.

- (A) *Information required*. The information provided to the Administrator city at the time of registration shall include, but not be limited to:
- (1) Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers;
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;
  - (3) A certificate of insurance shall be on a form approved by the city:
- (a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or that registrant is covered by self-insurance which the Administrator determines to provide the city with protections equivalent to that of a Minnesota licensed insurance company, legally independent from the registrant;
- (b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-

way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, and that registrant's insurance coverage includes, but is not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

- (c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all the coverages;
- (d) Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and
- (e) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and carry out the purposes and policies of this chapter.
  - (4) The city may require a copy of the actual insurance policies;
- (5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06 as recorded and certified to by the Secretary of State;
- (6) A copy of the person's certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency; and
  - (7) The other information as the city may require.
- (B) *Notice of changes*. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.22 REPORTING OBLIGATIONS.**

- (A) *Operations*. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city.
- (1) The plan shall be submitted by using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.
  - (2) The plan shall include, but not be limited to, the following information:
- (a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (a "next-year project"); and
- (b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (a "five-year project").
- (3) The term "project" in this chapter shall include both next-year projects and 5-year projects.
- (4) By January 1 of each year, the city will have available for inspection in the Administrator's office a composite list of all projects of which the city has been informed in the

annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

- (5) Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all the changes in the list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.
- (B) Additional next-year projects. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

#### **PERMITS**

### **№ 94.35 RIGHT-OF-WAY PERMIT REQUIREMENT.**

- (A) Right-of-way permit required. Except as otherwise provided in the city's regulations, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the city and posting of the appropriate construction performance bond with the city.
- (1) Excavation permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the durations specified therein.
- (2) Obstruction permit. An obstruction permit is required by registrant to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein on the right-of-way, to the extent and for the durations specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
- (3) Small Wireless Facility Permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

Note: M. S. §237.163, subd. 13.

- (B) Right-of-way permit extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new right-of-way permit, or right-of-way permit extension, is granted.
- (C) *Delay penalty*. In accordance with Minnesota Rule Part 7819.1000, subpart 3 and Nnotwithstanding the provisions of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

- (D) Right-of-way permit display. Right-of-way permits issued under this chapter shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the city.
- (E) Construction performance bond. The construction performance bond shall be in an amount determined in the city's sole discretion, sufficient to serve as security for the full and complete performance of permittee's obligation under this chapter, including any costs, expenses, damages, or loss the city pays or incurs because of any failure to comply with this chapter or any other applicable law, regulation, or standard. During the period of construction, repair, or restoration of rights-of-way or facilities within the rights-of-way, the construction performance bond security shall be in an amount sufficient to cover 125% of the estimated cost of the work, as documented by the person proposing to perform the work, or in a lesser amount as may be determined by the city, taking into account the amount of facilities in the right-of-way, the location and method of installation of the facilities, the conflict or interference of the facilities with the equipment facilities of other persons, and the purposes and policies of this chapter. Sixty days after completion of the work, the construction performance bond security may be reduced in the sole determination of the city.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.36 APPLICATION FOR A RIGHT-OF-WAY PERMIT.**

- (A) Applications for a right-of-way permit is made to the city through the Administrator.
- (B) Right-of-way permit applications shall contain and will be considered complete only upon compliance with the requirements of the following provisions:
  - (1) Registration with the city pursuant to this chapter;
- (2) Submissions of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities;
  - (3) Payment of all money due to the city for:
    - (a) Permit fees, estimated restoration costs, and other management costs;
    - (b) Prior obstructions or excavations:
- (c) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and/or
  - (d) Franchise fees or other charges, if applicable.
- (4) Payment of disputed amounts due the city by posting security or depositing in a city-approved escrow account an amount equal to at least 125% of the amount owing; and
- (5) When an excavation permit is requested for purposes of installing additional facilities, and the posting of a construction performance bond for the additional facilities is insufficient, the posting of an additional or larger construction performance bond for the additional facilities may be required.
- (6) A Storm Water Management Plan and/or an Erosion and Sediment Control Plan if applicable as specified in § 150.283.

(Ord. 9756, passed 6-20-2000; Am. Ord. 08-024, passed 4-20-2010)

# **№ § 94.37 ISSUANCE OF PERMIT; CONDITIONS.**

- (A) *Permit issuance*. If the Administrator determines that the applicant has satisfied the requirements of this chapter, the city shall issue a permit.
- (B) *Conditions*. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety, and welfare to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to M. S. §§216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560.
- (1) Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:
  - (a) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
  - (b) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety, and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
  - (c) No wireless facility may extend more than 10 feet above its wireless support structure.
  - (d) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
  - (e) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
  - (f) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Note: M. S.§ 237.163, subd. 3b.

(C) Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation

agreement with the city. The standard collocation agreement may require payment of the following:

- (1) Up to \$150 per year for rent to collocate on the city structure;
- (2) \$25 per year for maintenance associated with the collocation;
- (3) A monthly fee for electrical service as follows:
  - (a) \$73 per radio node less than or equal to 100 maximum watts;
  - (b) \$182 per radio node over 100 maximum watts; or
  - (c) The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

Note: M. S.§ 237.163. Subd. 6(g).

# **№ 94.39 ACTION ON SMALL WIRELESS FACILITY PERMIT APPLICATIONS.**

- (A) *Deadline for Action*. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
- (B) Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the city, provided that all small wireless facilities in the application:
  - (1) are located within a two-mile radius;
  - (2) consist of substantially similar equipment; and
  - (3) are to be placed on similar types of wireless support structures

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

- (C) *Tolling of Deadline*. The 90-day deadline for action on a small wireless facility permit application may be tolled if:
- (1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
- (2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt of the

application. Upon submission of additional documents or information, the city shall have 10 days to notify the applicant in writing of any still-missing information.

(3) The city and a small wireless facility applicant agree in writing to toll the review period.

Note: M. S.§ 237.163. subd. 3c

(Ord. 9756, passed 6-20-2000)

### **№ 94.40 RIGHT-OF-WAY PERMIT FEES.**

- (A) *Excavation permit fee*. The excavation permit fee shall be established by the city in an amount sufficient to recover the following costs:
  - (1) The city management costs; and
  - (2) Degradation cost, if applicable.
- (B) Obstruction permit fee. The obstruction permit fee shall be established by the city and shall be in an amount sufficient to recover the city management costs.
- (C) Small wireless facility permit fee. The city shall impose a small wireless facility permit fee in an amount sufficient to recover:
  - (1) management costs, and;
- (2) city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
- (D) Payment of permit fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay the fees within 30 days of billing.
- (E) *Non-refundable*. Permit fees that were paid for a permit that the city has revoked for a breach as stated in § 94.59 are not refundable.
- (F) Application to franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(Ord. 9756, passed 6-20-2000)

#### 

- (A) Timing.
- (1) The work to be done under the excavation permit, and the patching and/or restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 94.44.
- (2) In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for 36 months thereafter.

- (B) *Patch and restoration*. Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or the city shall restore the right-of-way itself.
- (1) City restoration. If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, during the 36 months following the restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, the cost of repairing the pavement.
- (2) Permittee restoration. If the permittee restores the right-of-way, it shall at the time of application for an excavation permit, post a construction performance bond security in accordance with the provisions of Minnesota Rule Part 7819.3000 in an amount determined by the Administrator to be sufficient to cover the cost of restoring the right-of-way to its pre-excavation condition and reasonable, directly related costs that the city estimates will be incurred if the right-of-way user fails to perform under the bond. Litigation costs and attorney fees are not direct costs to be included in calculating the amount of the bond. If, 36 24 months after completion of the restoration of the right-of-way, the Administrator city determines that the right-of-way has been properly restored, the surety on the construction performance bond security shall be released.
- (C) Standards. The permittee shall perform repairs excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the Administrator city and shall comply with Minnesota Rule Part 7819.1100. The city shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The city in exercising this authority shall be guided by the following standards and considerations:
- (1) The number, size, depth, and duration of the excavations, disruptions, or damage to the right-of-way;
- (2) The traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way;
- (3) The pre-excavation condition of the right-of-way; the remaining life-expectancy of the right-of-way affected by the excavation;
- (4) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance, or damage to the right-of-way; and
- (5) The likelihood that the particular method or restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.
- (D) *Guarantees*. By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for 36 months following its completion. During this 36-month period, it shall, upon notification from the city, correct all restoration work to the extent necessary, using the method required by the city. The work shall be completed within 5 five calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of the circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 94.44.
- (E) Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(F) Degradation fee in lieu of restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the costs to accomplish these responsibilities.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

### **№ 94.42 JOINT APPLICATIONS.**

- (A) *Joint application*. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same time and place.
- (B) With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee, but a permit would still be required.
- (C) Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(Ord. 9756, passed 6-20-2000)

### **№ 94.43 SUPPLEMENTARY APPLICATIONS.**

- (A) Limitation on area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.
- (B) Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end date.

(Ord. 9756, passed 6-20-2000)

# **№** § 94.44 OTHER OBLIGATIONS.

- (A) Compliance with other laws. Obtaining a right-of-way permit does not relieve the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city, or other applicable county, state, or federal rules, laws, or regulations. A permittee shall comply with all requirements of local, state, and federal laws, including M.S. § 216D.01-09, as it may be amended from time to time ("Gopher One Call Excavation Notice System") and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- (B) *Prohibited work*. Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for the work.

- (C) *Interference with right-of-way.*
- (1) A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with.
- (2) Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations.
- (3) The loading or unloading of trucks next to a permit area is prohibited unless specifically authorized by the permit.
- (D) *Trenchless excavation*. As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in M.S. Chapter 216D and Minnesota Rules Chapter 7560 and shall requiring potholing or open cutting over existing underground utilities before excavating, as determined by the Administrator.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.45 DENIAL OR REVOCATION OF PERMIT.**

- (A) *Reasons for denial*. The city may deny a permit for failure to meet the requirements and conditions of this chapter, or if the city determines that the denial is necessary to protect the health, safety, and welfare of the public, or if necessary to protect the right-of-way and its current use.
- (B) *Procedural requirements*. The denial or revocation of a permit must be made in writing and must document the basis for denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after resubmission.

Note: M. S.§ 237.163. subds. 4(c) and 5(f).

(Ord. 9756, passed 6-20-2000)

#### **REGULATIONS AND PROCEDURES**

# **№ § 94.55 INSTALLATION REQUIREMENTS.**

The excavation, backfilling, patching, and restoration, and all other work performed in the right-of-way, shall be done in conformance Minnesota Rules Parts 7819.1100 and 7819.5000 and of other applicable local requirements, insofar as they are not inconsistent with M.S. §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and this Chapter. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits or agreements referenced in § 94.60, subdivision (B) of this Chapter.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

**№ 94.56 INSPECTION.** 

- (A) *Notice of completion*. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with <del>P.U.C. rules</del> Minnesota Rule Part 7819.1300.
- (B) *Site inspection*. Permittee shall make the work-site available to the Administrator city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
  - (C) Authority of Administrator.
- (1) At the time of inspection, the Administrator may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.
- (2) The Administrator may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The Order shall state that failure to correct the violation will be cause for revocation of the permit. Within 10 days after issuance of the order, the permittee shall present proof to the Administrator that the violation has been corrected. If the proof has not been presented within the required time, the Administrator may revoke the permit pursuant to § 94.59.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

#### **№ 94.57 WORK DONE WITHOUT A PERMIT.**

#### (A) Emergency situations.

- (1) Each registrant shall immediately notify the Administrator of any event regarding its facilities which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.
- (2) (a) If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency.
- (b) In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.
- (B) *Non-emergency situations*. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for the permit, pay double all the other fees required by the City Code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.58 SUPPLEMENTARY NOTIFICATION.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.59 REVOCATION OF RIGHT-OF-WAY PERMITS.**

- (A) Substantial breach. The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule, or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
  - (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
  - (3) Any material misrepresentation of fact in the application for a right-of-way permit;
  - (4) The failure to maintain the required bonds and/or insurance;
- (5) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete the work is due to reasons beyond the permittee's control; or
- (6) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 94.56.
- (B) Written notice of breach. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy the violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
  - (C) Response to notice of breach.
- (1) Within 24 hours of receiving notification of the breach, permittee shall contact provide the city with a plan, acceptable to the city, that will cure the breach.
- (2) Permittee's failure to so contact the city, or the permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
- (3) Further, permittee's failure to so contact the city, or permitee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one full year.
- (D) Cause for probation. From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.
- (E) *Automatic revocation*. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.
- (F) Reimbursement of city costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with the revocation.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ § 94.60 MAPPING DATA.**

- (A) *Information required*. Each year, registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rules Parts 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the Administrator with accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the Administrator. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.
- (B) Service laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules Part 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the Administrator reasonably requires it. Permittees or their subcontractors shall submit to the Administrator evidence satisfactory to the Administrator of the installed service lateral locations. Compliance with this subdivision and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005 shall be a condition of any city approval necessary for:
  - (1) payments to contractors working on a public improvement project including those under M. S. Chapter 429
  - (2) city approval under development agreements or other subdivision or site plan approval under M. S. Chapter 462. The Administrator shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **■§ 94.61 LOCATION OF FACILITIES.**

Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules Parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

- (A) *Undergrounding*. Unless otherwise permitted by an existing franchise, or other agreement, or unless existing above-ground facilities are repaired or replaced, new construction and the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.
  - (B) Corridors.
- (1) The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(2) Any registrant whose facility is in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facility is located, move that facility to its assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facility, public safety, customer service needs, and hardship to the registrant.

#### (C) Nuisance.

- (1) One year after the passage of this chapter, any facility found in a right-of-way that has not been registered shall be deemed to be a nuisance.
- (2) The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facility and restoring the right-of-way to a useable condition.
- (D) Limitation of space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way In making the decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(Ord. 9756, passed 6-20-2000)

# **№ 94.62 RELOCATION OF FACILITIES.**

- (A) (1) A right-of-way user must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever it is necessary to prevent interference, and not merely for convenience of the city, and shall restore the right-of-way to the same condition it was in prior to the removal or relocation.
- (2) The city may make the request to a right-of-way user to remove and relocate its facilities when in connection with:
  - (a) A present or future city use of the right-of-way for a public project;
    - (b) When the public health, and safety, require it; or
  - (c) The safety and convenience of travel over the right-of-way.
- (B) Notwithstanding the foregoing, a right-of-way user shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the right-of-way user.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

## **№ 94.63 PRE-EXCAVATION FACILITY AND FACILITIES LOCATION.**

In addition to complying with the requirements of M.S. § 216D.01-09 ("One-Call Excavation Notice System"), as it may be amended from time to time, before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all the equipment and facilities. Any

registrant whose equipment or facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its equipment and facilities and the best procedure for excavation.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

## **№ 94.64 DAMAGE TO OTHER FACILITIES.**

- (A) When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing.
- (B) (1) Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages.
- (2) Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

(Ord. 9756, passed 6-20-2000)

## **№ 94.65 RIGHT-OF-WAY VACATION.**

- (A) Reservation of right. If the city vacates a right-of-way which contains the facilities of a registrant, and if the vacation does not require the relocation of a registrant or permittee's facilities, the city shall, except when it would not be in the public interest, reserve, to and for itself and all right-of-way users having facilities in the vacated right-of-way, the right to install, maintain, and operate facilities in the vacated right-of-way and to enter upon the right-of-way at any time for the purpose of reconstructing, inspecting, maintaining, or repairing the same.
- (B) *Relocation of facilities*. If the vacation requires the relocation of registrant or permittee facilities; payment of the relocation costs must be determined as follows: (1) if the vacation proceedings are initiated by the right-of-way user must pay the relocation costs; or (2) if the vacation proceedings are initiated by the city for a public project, the right-of-way user must pay the relocation costs unless otherwise agreed to by the city and the right-of-way user; or (3) if the vacation proceedings are initiated for the purposes of benefiting by a person or persons other than the right-of-way user, the benefited person or persons must pay the relocation costs.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.66 INDEMNIFICATION AND LIABILITY.**

- (A) By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule Part 7819.
  - (B) Defense.
- (a) If a suit is brought against the city under circumstances where the registrant or permittee is required to indemnify, the registrant or permittee, at its sole cost and expense, shall defend the city in the suit if written notice of the suit is properly given to the registrant or permittee within a period in which the registrant or permittee is not prejudiced by the lack or delay of notice.

- (b) If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the city. Consent will not be unreasonably withheld.
- (c) This part is not as to third-parties, a waiver of any defense, immunity, or damage limitation otherwise available to the city.
- (d) In defending an action on behalf of the city, the registrant or permittee is entitled to assert in an action every defense, immunity, or damage limitation that the city could assert in its own behalf.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **■§ 94.67 ABANDONED AND UNUSABLE EQUIPMENT.**

- (A) *Discontinued operations*. A registrant who has determined to discontinue all or a portion of its operations in the city must either:
- (1) Provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant; or
- (2) Submit to the city a proposal and instruments for transferring ownership of its facilities to the city. If a registrant proceeds under this clause, the city may, at its option:
  - (a) Purchase the equipment;
  - (b) Require the registrant, at its own expense, to remove it; or
- (c) Require the registrant to post a bond in an amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the equipment.
- (B) *Removal*. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

(Ord. 9756, passed 6-20-2000) Penalty, see § 10.99

# **№ 94.68 APPEALS.**

- (A) A right-of-way user that:
  - (1) Has been denied registration;
  - (2) Has been denied a permit;
  - (3) Has had a permit revoked;
  - (4) Believes that the fees imposed are not in conformity with M. S. §237.163, subd. 6, or
- (5) Disputes a determination of the Administrator regarding § 94.59, subd. (B) of this chapter

may have denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial,

revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. 9756, passed 6-20-2000)

#### § 94.69 RESERVATION OF REGULATORY AND POLICE POWERS

A permittee's rights are subject to the regulatory and policy powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

#### § 94.70 RESERVATION OF REGULATORY AND POLICE POWERS

If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

**SECTION 2. Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

2017, by a vote of Ayes and Nays.	nce 08 was adopted on this	day of
	LAKE ELMO CITY COUNCIL	
	Mike Pearson, Mayor	
ATTEST:		
Julie Johnson, City Clerk		
This Ordinance 08- was published on the	day of	2017

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

#### **ORDINANCE NO. 08-186**

#### AN ORDINANCE ADOPTING A FEE SCHEDULE FOR THE CITY OF LAKE ELMO

The City Council of the City of Lake Elmo ordains:

**SECTION I. Schedule Adopted.** The attached fee schedule is hereby adopted.

**SECTION II. Not Codified.** This ordinance is transitory in nature and shall not be codified in the City Code. This ordinance and the fee schedule established hereby shall be placed on file and available for public inspection at City Hall.

**SECTION III.** Effect. The fees set out in the attached fee schedule apply notwithstanding any other fees the City has established which may be inconsistent. Any other fees imposed by the City which do not appear on the attached fee schedule remain in full force and effect.

**SECTION IV. Effective Date.** This ordinance shall become effective upon adoption and publication in the official newspaper of the City of Lake Elmo.

**SECTION V. Adoption Date.** This Ordinance No. 08-186 was adopted on this 5th day of September, 2017, by a vote of \_\_\_\_Ayes and \_\_\_\_Nays.

#### LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:		•	
Julie Johnson, City Clerk			
This Ordinance	was published on the	day of	
2017.	-	•	

#### CITY OF LAKE ELMO

#### **RESOLUTION NO. 2017-090**

# RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE NOs. 08-185 AND 08-186 BY TITLE AND SUMMARY

WHEREAS, the City Council of the city of Lake Elmo has adopted Ordinance Nos. 08-185, an ordinance amending the Lake Elmo City Code of Ordinances by amending Chapter 94:
Right-of-Way Management Permits to address small wireless facilities and 08-186, amending the City's Fee Schedule to include a Small Wireless Facility permit fee; and

WHEREAS, the ordinances are lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo, that the City Administrator shall cause the following summary of Ordinance Nos. 08-185 and 08-186 to be published in the official newspaper in lieu of the entire ordinance:

#### **Public Notice**

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-185, which amends the Lake Elmo City Code of Ordinances by amending Chapter 94: Right-of-Way Management Permits to address small wireless facilities.

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-186, which amends the Lake Elmo City Code of Ordinances by amending Appendix A: Fee Schedule by adding a Small Wireless Facility Permit fee of \$275.00.

**BE IT FURTHER RESOLVED** by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: September 5, 2017.	
	Mayor Mike Pearson
ATTEST:	
Julie Johnson, City Clerk	
(SEAL)	
The motion for the adoption of the foregoing re	esolution was duly seconded by member
and upon vote being	g taken thereon, the following voted in favor thereof:
and the following voted against same:	
Whereupon said resolution was declared duly p	passed and adopted.



# City of Lake Elmo Fee Schedule 2017

APPLICATION/FEE/PERMITTYPE	2017 FEE	ESCROW OR ADDITIONAL CHARGE	DEPARTMENT
Planned Unit Development			Planning
General Concept Plan	\$1,250.00	\$7,500.00 Fee Escrow (Waive Subdivision Escrow)	Planning
Development Stage Plan	\$1,850.00	\$10,000.00 Fee Escrow (Waive Subdivision Escrow)	Planning
Final Plan	\$1,250.00	\$8,000.00 Fee Escrow (Waive Subdivision Escrow)	Planning
		(City will retain escrows to reimburse review costs for each stage	Planning
Private Roads (Permitted only in AG zone)	\$150.00		Planning
Restrictive Soils and Wetland Restoration Protection and Preservation Permit	\$800.00	\$1,500.00 Fee Escrow	Planning
Returned Check (NSF)	\$25.00		Administration
Right-of-Way Permit			Engineering
Annual Registration	\$200.00	\$5,000.00 Security	Engineering
Excavation Permit	\$275.00 + \$.60/foot		Engineering
Joint Trench Permit (per lot per utility)	\$275.00 + \$.60/foot		Engineering
Obstruction Permit	\$275.00		Engineering
<u>Small Wireless Permit Fee</u>	<u>\$275.00</u>		Engineering
Permit Extension	\$100.00		Engineering
Delay Penalty (per calendar day)	\$25.00		Engineering
SAC Charge (City) (Sewer Availability Charge)	\$3,000.00	Per REC Unit: collected at time of plat for new lot. This fee may be deferred through special assessment for parcels with existing structures.	Engineering
SAC Charge (Met Council) (Sewer Availability Charge)	\$2,485.00	Per REC Unit: \$2,485.00 to Met Council at time of connection.	Engineering
Sewer Connection Charge	\$1,000.00	Per REC Unit collected at time of plat for new lot. This fee may	Engineering
Sewer Lateral Benefit Charge	\$11,000.00	Per REC Unit connecting to a Trunk Sewer Main and that has	Engineering
Sewer Rate	\$4.50/1,000 Gal		Administration
201 Off-Site Maintenance Fee	\$75.00/unit/quart		Administration
Real Estate Searches	\$15.00/Search	For special assessment or utility search	Administration







#### STAFF REPORT

DATE: 9/5/17 **CONSENT** 

**TO:** City Council

**FROM:** Emily Becker, City Planner

**AGENDA ITEM**: Hammes Park Amenities Review

**REVIEWED BY:** Rob Weldon, Public Works Director

#### **BACKGROUND:**

The Hammes Estates 1<sup>st</sup> Addition Development Agreement indicated that the developer shall deposit as escrow \$107,554 to be held for park dedication that was owed for remaining parkland dedication (the development required 7.8 acres of land, and 5.7 acres of parkland was provided), and that the developer will receive credit for installation of a 16' X 24' shelter, picnic table, bike rack, grill station, retaining wall, fishing pier, canoe rack, concrete hard surface, woodland seed mix restoration, landscaping and parking lot improvements. The agreement also indicates that the City shall approve all improvements and that the developer may use the remaining balance of escrow to install additional improvements in the park upon City approval.

#### ISSUE BEFORE THE COUNCIL:

The Council is being asked to review and approve the proposed improvements to the park within the Hammes Estates Development (Lakeridge Crossing).

#### PROPOSAL DETAILS/ANALYSIS:

**Proposed Improvements.** The improvements provided by the developer are attached to this report. The Parks Commission has in the past indicated that they would like to see a park shelter within the subject park similar to that of Pebble Park. The developer has proposed ordering the a 16' X 24' version of the Pebble Park shelter from the same supplier, which will have a 4" concrete slab that ties into the block retaining wall. Because the shelter has a 10 week lead time for ordering, Staff has administratively approved the shelter.

Public Works Director Comments. The Public Works Director has made the following comments:

- The Lake Elmo logo should be considered on the shelter.
- The boardwalk should be ADA compliant.
- Railing details must show treated lumber being used.
- Canoe rack should be black powder coated paint.
- Three trash cans should be provided that match tables, to be located off fishing pier, adjacent to shelter, and near parking lot.

#### **FISCAL IMPACT:**

As mentioned above, the developer will receive credit from the escrow provided for a fee in lieu of parkland dedication.

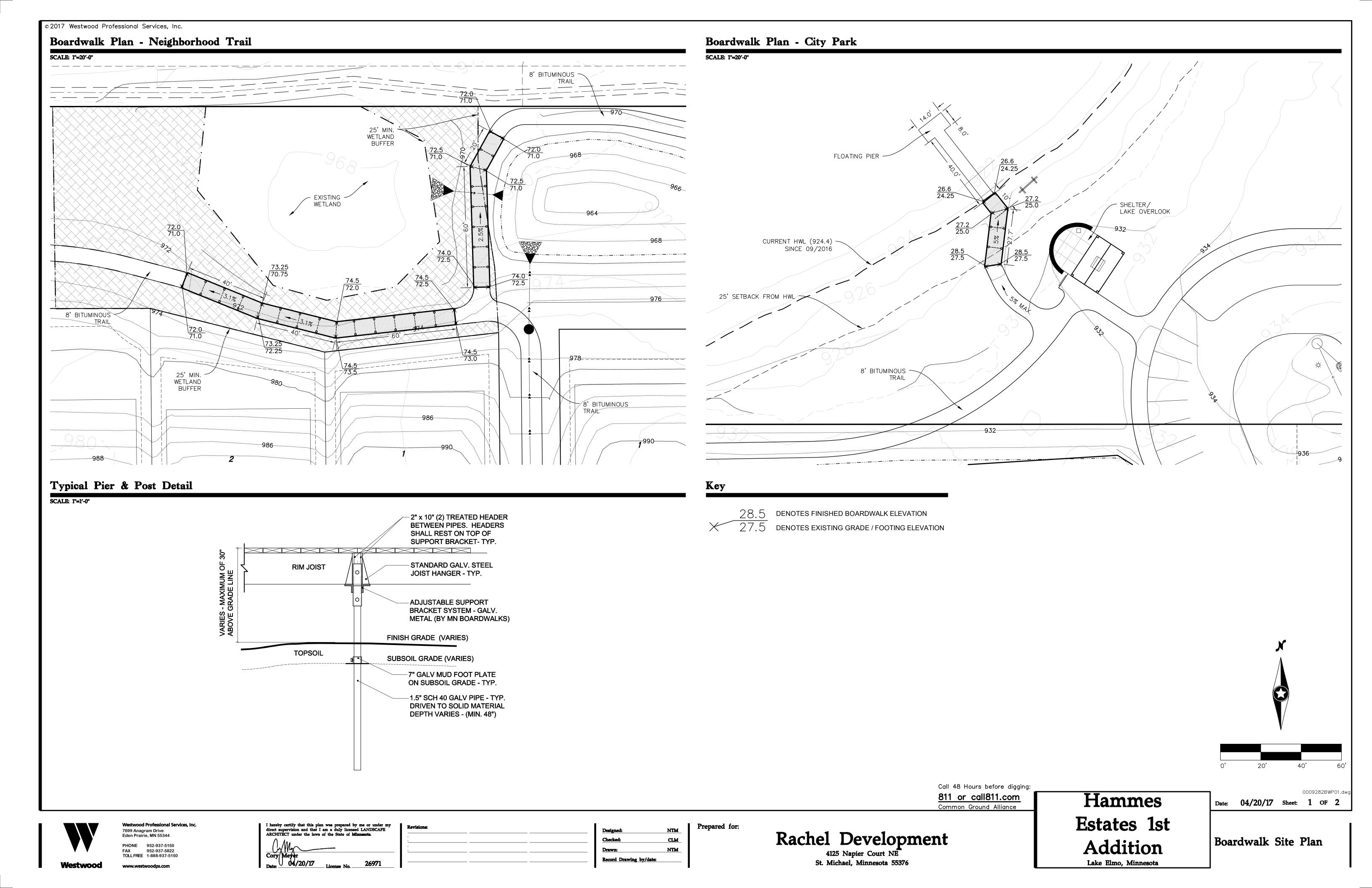
#### **RECOMMENDATION:**

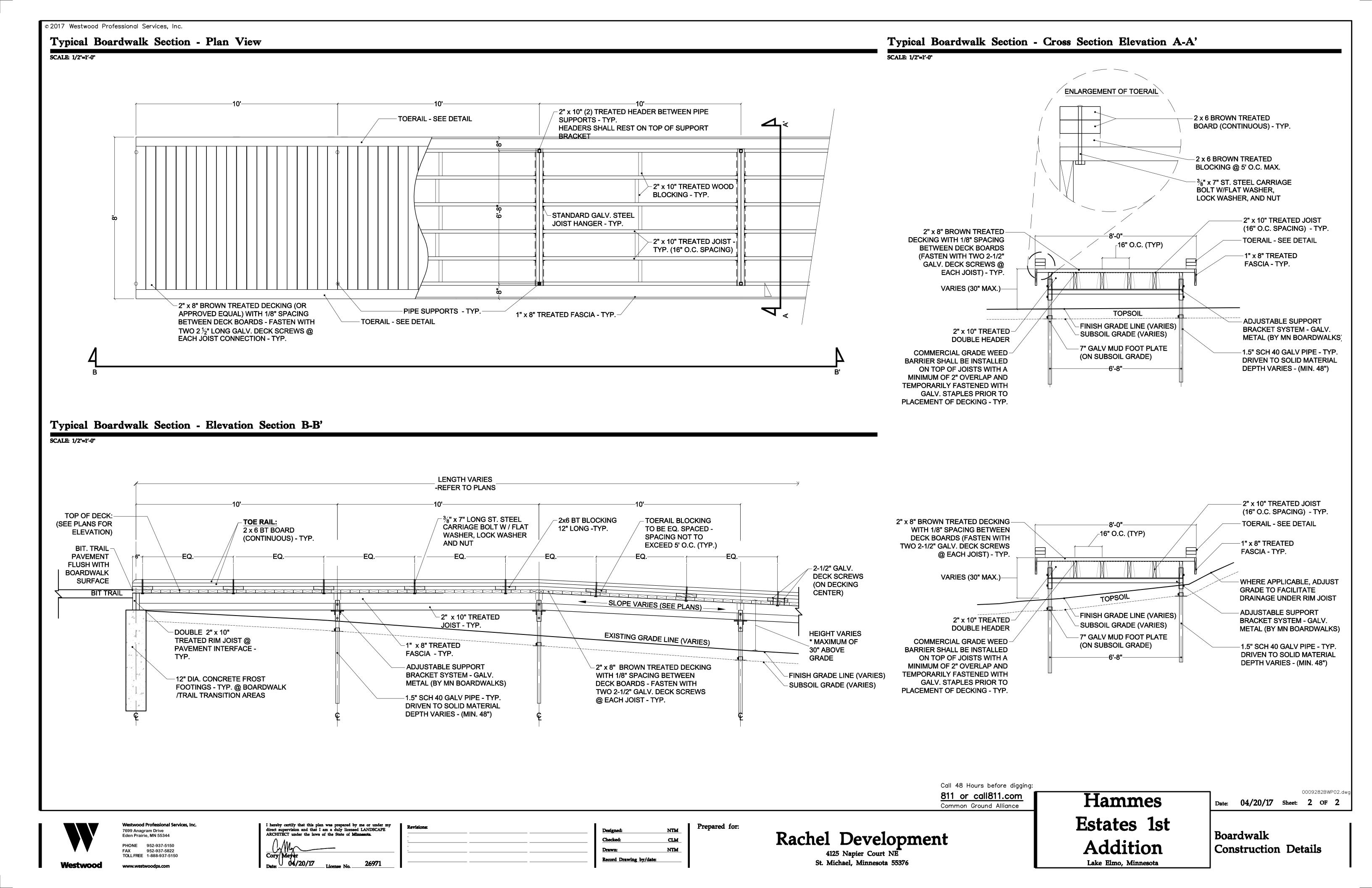
The Council is respectfully being asked as part of tonight's consent agenda to approve the proposed improvements to the park near Goose Lake in the Hammes Estates Development (Lakeridge Crossing). If removed from tonight's consent agenda, the Council may approve the improvements with the following motion:

"Move to approve proposed improvements to the park within Hammes Estates (Lakeridge Crossing)."

#### **ATTACHMENTS:**

- Boardwalk plans
- Canoe rack
- Fishing pier details and picture
- Grill, picnic table, and bike rack detail
- Picture of Pebble Park Shelter
- Retaining wall detail



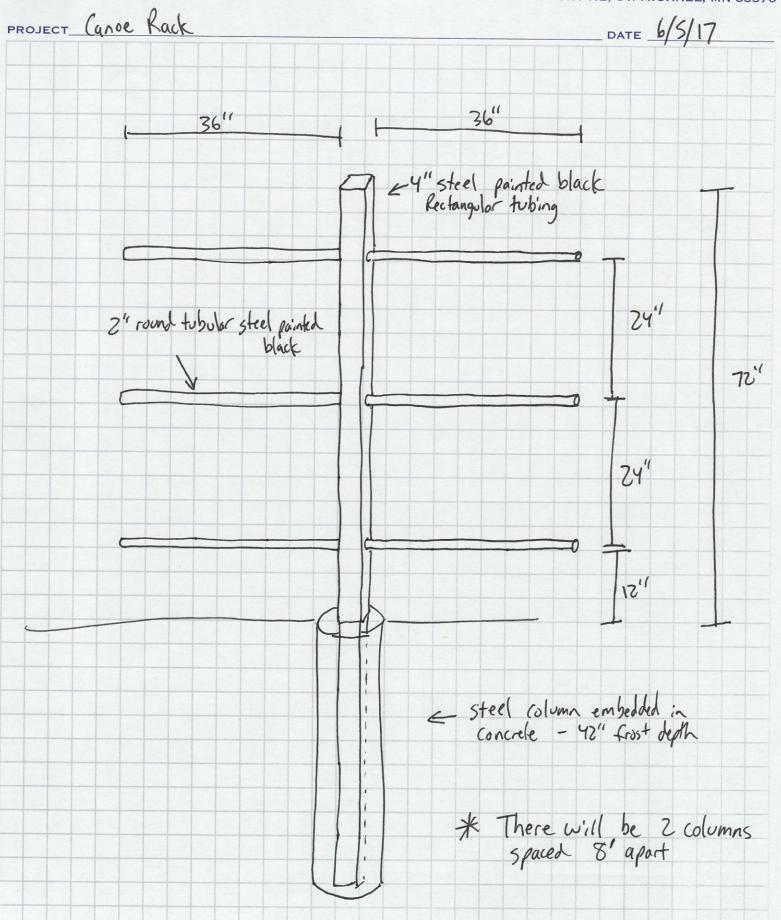




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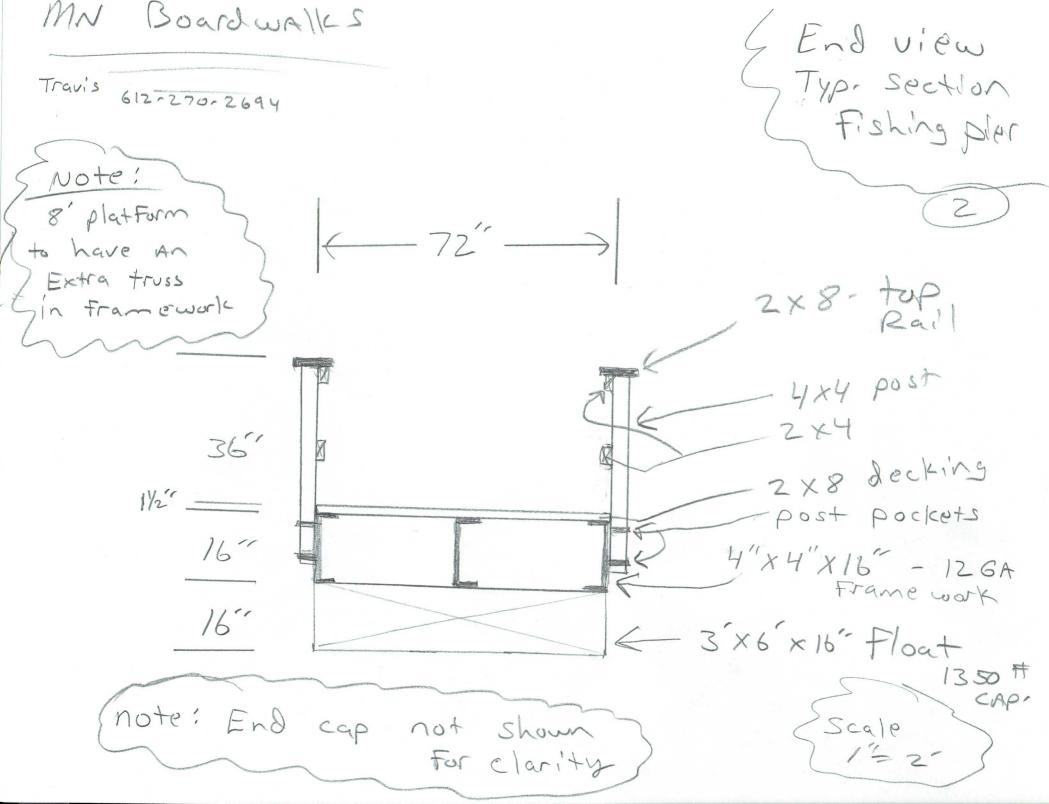


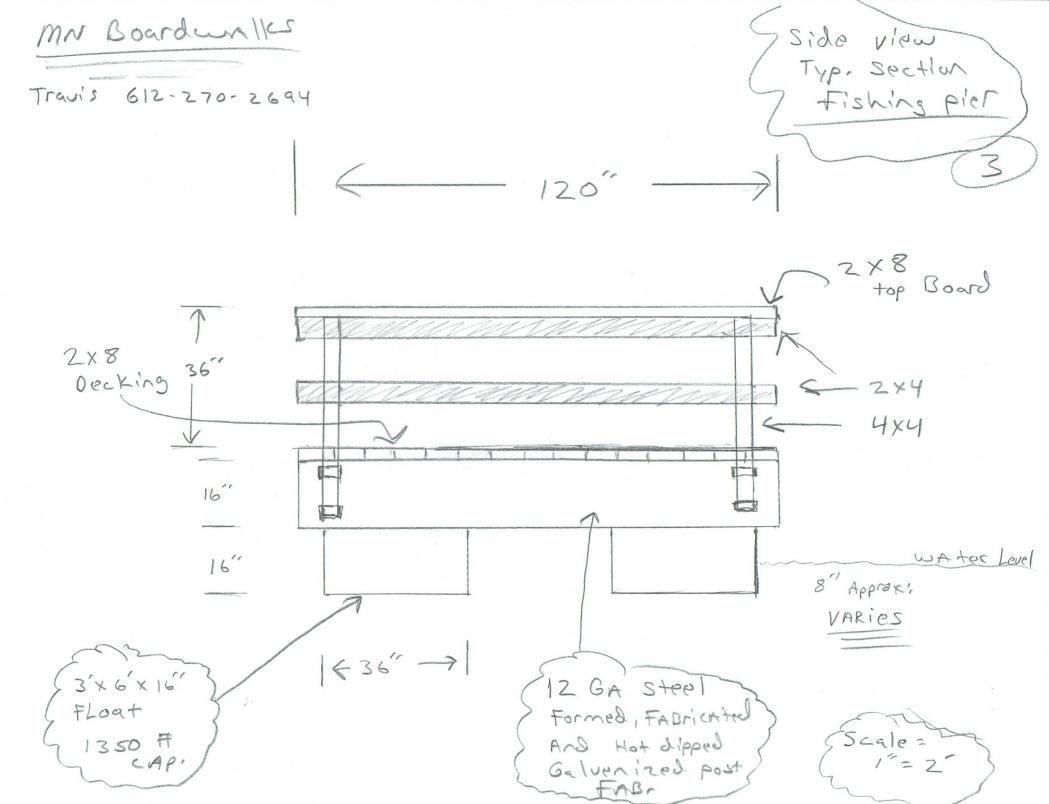




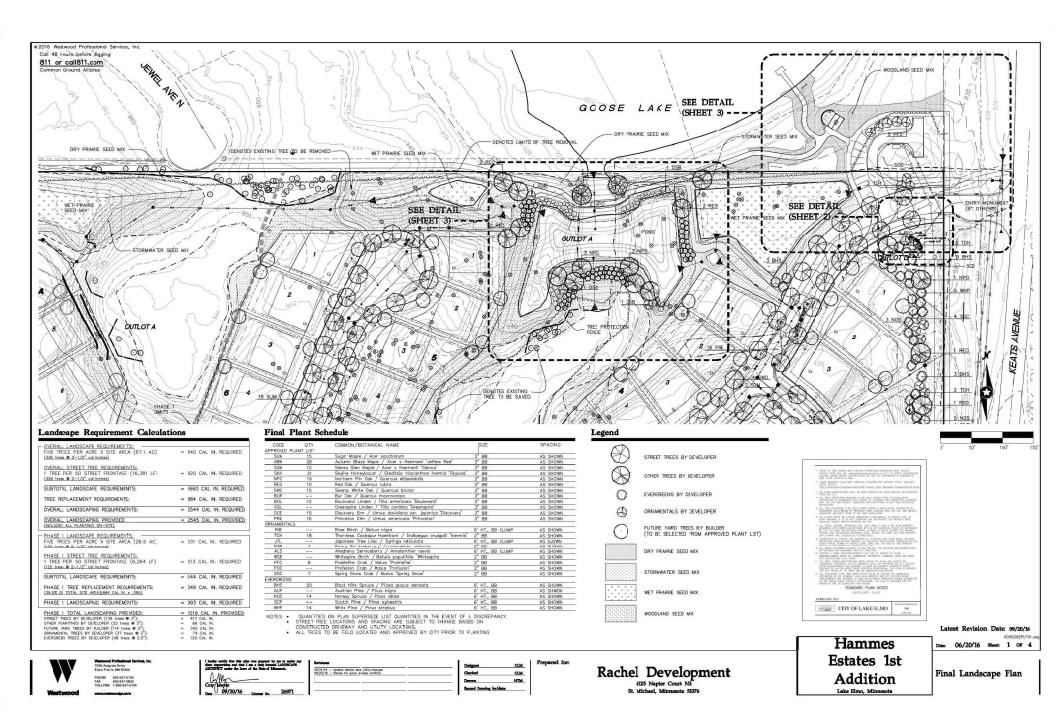
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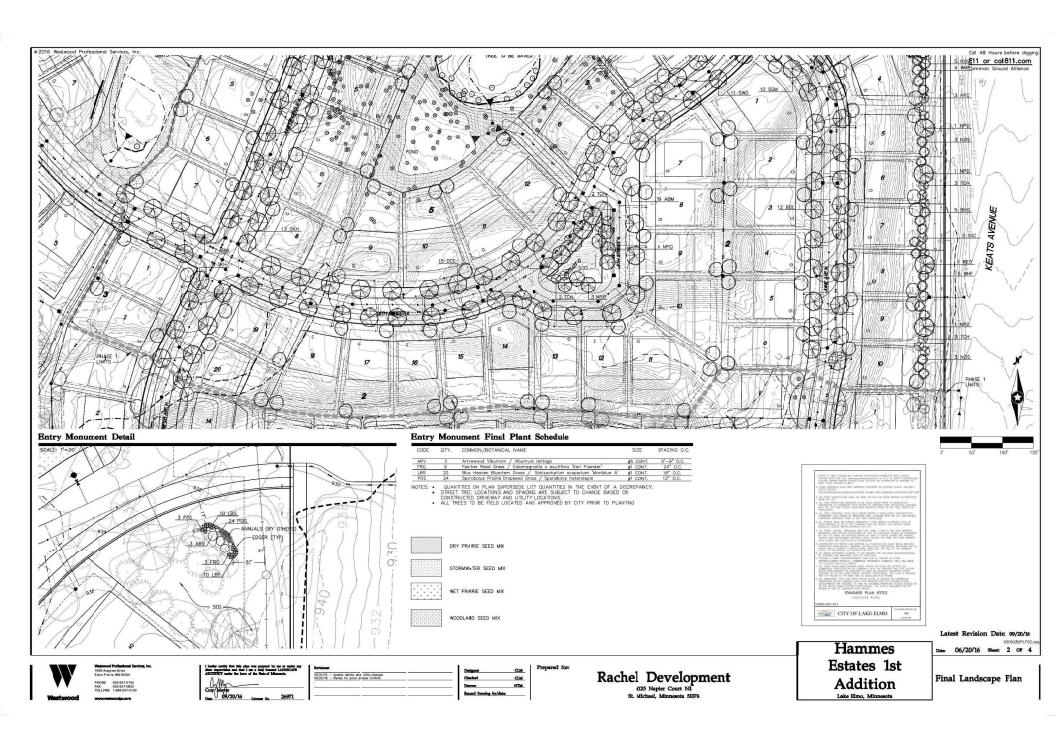
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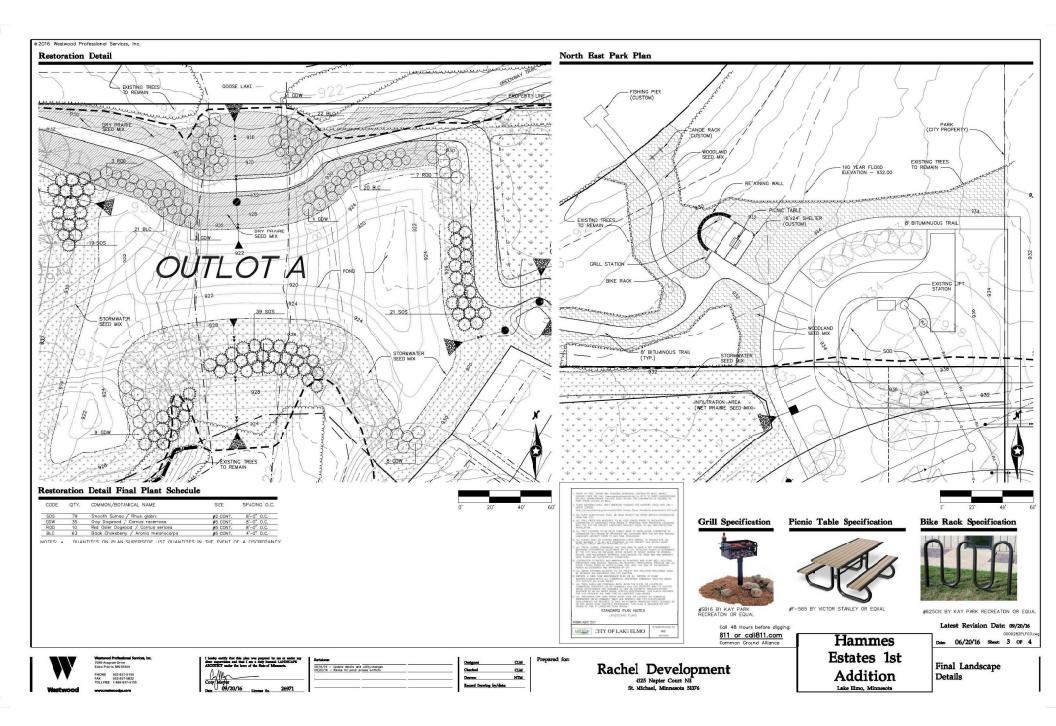




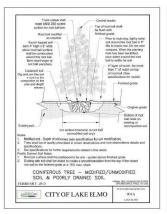


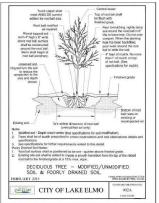


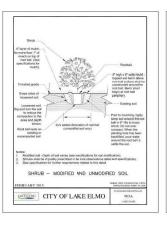




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#### Dry Prairie Native Seed Mix

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ceix palmate n condicte n supplieres plus historificiales electric capitales a suppliere	0.06 0.10 0.17 0.07 0.03 0.02	0.05 0.09 0.16 0.06 0.03	0.50% 0.78% 1.32% 0.51% 0.31%	0.00 0.60 0.60 0.11
a paraksa a kusawan pus hariandioides alaba captata a supera sourciota	0.10 0.17 0.07 0.03 0.02	0.09 0.16 0.06 0.03	0.78% 1.32% 0.51% 0.31%	0.60 0.60 0.11
a kirjakena pirk hariandroides elecar capitata escarcitata	0.17 0.07 0.03 0.02	0.16 0.06 0.03	1.32% 0.51% 0.31%	0.15 0.15
pis heliandroides eleza capitata expense exercista	0.07 0.03 0.02	0.06	D.51% D.31%	0.10
elica capitata espera espectata	0.03 0.02	0.03	D.31%	0.10
s supera	0.02			
s supera	0.02			
			D.17%	0.11
		0.02	0.22%	0.06
inte fiatolosia	0.03	0.03	D 30%	5.84
este cou octata	0.02	9.02	0.22%	0.80
curps neidure	8.07	87.6	D.50%	5.04
Accordage de la constantion de	0.04	0.04	0.36%	0.20
erikin Auda	0.10	0.09	D 86%	3.20
ag nemorafs.	0.01	0.01	D. 14%	1.65
eyeeyohum dyanamaa	0.01	0.01	0.06%	620
avotrichum sexiceum	0.02	0.02	0.19%	0.20
screening heartmake	0.01	0.01	D 12%	0.05
mhire	0.02			0.10
Total Forbs	5.90	0.80	7.49%	10.37
	3.36	3.00	27.23%	1.20
	7.00	2.00	er.es/>	1.91
	eccentia bractivala estina	occatio becinate 0.01 entire 0.02 Total Ports 5.50	Description	Description   Description

#### Stormwater Native Seed Mix

33-261	Storewater South & West	Date	Rate	% of Mix	Gandal
Conmon Name	Scientific Name	(kgha)	(Brac)	% by wt)	sqft
54g bluestern	Antropogor perenti	2.24	2.00	6.72%	7.30
fringed brone	Bronue ciliatue	2.24	2.00	5.73%	8.10
blueiont	Ceamegrosts canedensis	0.07	0.06	0.18%	0.4
siender inheitgrass	Elyman fractivossáva	1.12	1.00	2.85%	2.53
Virginia wild se	Elynus vingenicus	1.68	1.50	4.28%	2.3
entologisme	Cenary rigeans	0.43	0.34	1.0714	1.00
fowl bluegram	Pisi paluenis	1.19	1.06	3.02%	50.71
Indian grass	Soghashorn ristans	0.13	0.12	0.38%	0.55
prairie condigate	Spetina pectinate	0.43	0.36	1.07%	0.0
	Total Grasses	9.53	8.50	24.29%	80.71
swi-fruited seige	Coex atipata	0.28	0.25	0.71%	3.10
dor's green british	Scious atrovirens	0.21	0.19	0.54%	21.71
vociores	Soppa cypertrus	0.07	0.06	0.18%	39.00
	Total Sedges and Rushes	0.56	0.50	1.43%	73.8
Canada anerione	Asmone canadensis	0.08	0.07	0.19%	0.29
marsh reikwed	Aniepies incamate	0.12	0.11	0.32%	0.25
leefy begagetchs	Brans handsea	0.12	0.11	0.31%	(0.2)
fat-topped after	Dollingeria ombefeta	0.07	0.06	0.17%	1.50
spotled Joe pyr weed	Eurochust manufature	0.07	0.06	0.18%	2.1
asturn sceenwood	Person astument	0.15	0.13	0.36%	5.00
stedent plan	Physostegie vegenane	0.06	0.07	0.25%	9.30
tall coreflorer	Rubeckie (acmiete	0.08	0.07	0.21%	0.5
New Englandaster	Symphystrictum royae-englige	0.08	0.07	0.19%	15
title vervain	Vebera rustate	0.06	0.05	0.15%	1.80
golden stexasders	Zizz gurre	0.22	0.20	0.58%	0.71
1	Total Fons	1.12	1.00	2.55%	15.13
Dats or winte wheat (see note at beginning of all for recommended distent)		28 02	25.00	71.43%	11.10
recommenced cases)	100000000000000000000000000000000000000	28.02	25.00	71.43%	11.1
	Total Cover Crip	28.02	35.00	100 00%	180.00
Purpose:	Stormwater pond edges, tempou				
0.000,000	fooled ditch bottoms.				2770
Planting Area:	Talgrass Aspen Parklands, Pair Prolinces, Mn/LA/I Extends IN	e Parkland	uand Easte Nettro, 12, 1	an Broadleaf	Forest

#### Wet Prairie Native Seed Mix

Comnon Name	Scientific Name	Rate (kgfu)	Rate (Evac)	5 of Mix (5 by wt)	Seeds/ sq ft
big bluestern	Antihoogon generáli	1.12	1.00	5.89%	383
fringed brorse	Bronus citatus	1.66	150	10.38%	6.00
blueignt	Calanagrootis canadensis	0.04	0.54	0.27%	4.00
Virginia wild no	Diversi vészínicus	1.90	175	12.07%	2.70
tali menna grass	Giyona grandis	0.17	0.15	1.02%	3.80
Committee of the same	Underst outlies	0.19	9-11	97.5%	3.00
cwitchgrass	Planism virgatum	0.84	0.75	5.16%	3.85
fool bluegrase	Ploa paliciatris	0.22	0.20	1.30%	0.60
Indian grass	Sorgiastrum nutura	0.56	0.50	3.44%	2.25
proline configurate	Spavina perclicata	0.50	0.50	3.41%	1.20
	Total Grasses	7,29	6.50	44.78%	40.60
wooly sedge	Care petite	0.06	0.05	0.32%	0.43
tusnock sedge	Care strate	0.02	0.02	0.17%	0.4
fux sedge	Carer sofpmordee	0.11	0.10	0.66%	3.50
dark green bulson	Sorcia aboventa	0.11	0.10	0.72%	
woolgrass	Sorpa cyperner	0.03	0.03	0.18%	16.00
	Total Sedges and Rusher	0.34	0.30	2.05%	38.99
Canada premine	Ananone canadensis	0.03	0.03	0.21%	0.00
marsh relevant	Ascholas incarreta	0.09	0.08	0.55%	0.50
Canada tick telori	Desnodium canadense	9.56	0.50	3.41%	1.00
fut-fooped astr	Doelhossia umbellata	0.00	0.05	0.34%	1.20
common boneset	Fondorium perfoliatum	0.05	653	6.23%	2.00
grass-leaved piderrod	Euthenie graminfolie	0.02	0.02	0.11%	2.00
spotled Joe zin weed	Eutrohium megyletum	0.04	0.04	0.30%	1.50
auturan speszyweed	Helenium autumnale	0.00	0.05	0.35%	2.30
saydooth sunfleyer	Helpthus grosseseratus	0.06	0.05	0.38%	0.30
great blazing sar	Listry pychostachys	0.02	0.02	0.17%	0.30
great lobel a	Lebela siphitica	0.01	0.01	0.05%	1.40
blue monkey fewer	Mirrora ringens	0.01	0.01	0.05%	6.40
Virginia mountain ment	Promothernum promienum	0.09	0.09	0.55%	6.50
rest steromed after	Symhotischum pomonum	0.09	0.08	0.56%	2.40
blue verviers	Vierbese meadeta	0.17	0.15	1.00%	5.25
bunched conveed	Versonia fesciculata	0.03	0.03	0.23%	0.30
Colorede stood	Managinaria antiques companies an	0.03	0.01	0.55%	6.00
golden elexanoers	Zizenner	0.28	0.25	1.70%	1.00
	Total Forty	1.00	1.50	10.45%	40.00
Oats or winter sheaf (siee note at beginning of lid for recommendeddates)		6.95	6.20	4274%	27
Telescopies and the second sec	Total Cover Cros	6.95	6.20	42.76%	2.79
	Tetals	16.25	14.50	166,00%	121.6
Purpose:	Wet make reconstruction for will				
Planting Area	Taligass Aupon Parklands, Prans Parkland, and Eastern troadleaf Forest Provinces. Mr.OCT Districts 2(west), 38, 4, Metro, 5, 7 & 5.				

#### Woodland Native Seed Mix

Correon Name	Scientific Name	Rate (kg/ha)	Rate (Brac)	fi of Mix fi by wt)	Seeds:
big bluestoin	Ancopogosi perastii	1.12	1.00	2.90%	3.66
side-cats grane	Bodeloua curilipendulia	1.12	1.00	2.80%	2.21
kalmis brome	Bronug kalmy	1.68	1.50	434%	4.4
nodding wild we	Elvous carrediessis	1.40	1.25	3.61%	2.31
bottebrush gera	Elynus dystrix	0.36	0.32	0.91%	0.86
almake of rougeway	Elyste contiguestes	1:40	1,23	2.04%	3.16
svirigrass	Plantown virgatium	0.07	0.06	0.17%	0.30
little bisyestory	Schoochymium scopernum	0.60	0.62	3.79%	3.41
Indian grass	Sorghautrum mutang	1.12	1.00	2.89%	4.4
	Total Greases	8.97	8.00	23.14%	24.83
common variew	Actibio rollinStiam	0.03	0.03	0.09%	2.00
blue grant hymop	Ageleche Reniculare	0.11	0.10	0.28%	3.25
White projectors	Ageating alleasing	0.03	0.03	0.09%	5.71
white posicie down?	Date candida	0.19	0.17	0.50%	1.21
Canada tick tetol	Demodure canadeose	9.16	0.14	0.42%	0.29
OK-AVE	Heboxis heisethoides	0.15	0.13	0.36%	0.3
unit beroamn	Mounts folians	9.07	0.06	0.18%	1.60
stiff goldernos	Oligoneuron stastum	9.07	0.06	0.17%	0.90
Clayfon's sweet clocky	Outomize playford	0.07	0.06	0.17%	0.0
spends wild use	Rom blanda	0.07	0.06	0.17%	0.06
brieck-event suarn	Rupechia nitte	0.20	0.16	0.52%	5.11
Lance-leanedFigwart	Schohularia lanceolatia	3.06	0.05	0.445	3.50
ziszag gol demad	Soldago figuración	9.02	0.02	0.05%	
showy golderod	Softeen spectore	0.07	0.06	0.18%	18
precell pater	Synchrotichum leeve	9.07	0.06	0.16%	1.5
American yeth	Vice emericans	0.20	0.10	0.52%	0.14
Amendan vesn odden alexanters	709 auteocans	0.20	0.10	0.52%	0.14
gratien erowarteers	CON BURBO	1 68		4 18%	
Claffs or winte wheat rises works at	Total Forts	1.68	1.50	4.38%	24.8
beginning of let for		28.02	25.00	72 48%	11.14
	Total Cover Crap	28.02	25.00	72.48%	11.1
	Totak:	28.67	34.50	100.00%	60.71
Purpose:	Party shaded grassland planting	or native t	nadeloss, r	ecamotion, a	de.
Planting Arec	Lagrass Aspet Parsianos, Print Provinces: MicDOT Districts 24	PARSENT	and suste	OF HIGH PARTY OF	F-GRBSE

#### Supplemental Planting Notes

- 1. ACTUAL LOCATION OF PLANT MATERIAL IS SUBJECT TO FIELD AND SITE CONDITIONS.
- NO PLANTING WILL BE INSTALLED UNTIL ALL GRADING AND CONSTRUCTION HAS BEEN COMPLETED IN THE IMMEDIATE AREA.
- PRUNE PLANTS AS NECESSARY PER STANDAR) NURSERY PFACTICE AND TO CORRECT POOR BRANCHING OF EXISTING AND PROPOSED TREES.
- 4. CONTRACTOR SHALL PROVIDE TWO YEAR GUARANTEE OF ALL FLANT MATERIALS. THE GUARANTEE BEGINS ON THE DATE OF THE LANDSCAPE ARCHITECT'S OR OWNER'S WRITTEN ACCEPTANCE OF THE INITIAL PLANNING. REPLACEMENT PLANT MATERIAL SHALL HAVE A ONE YEAR GUARANTEE COMMENSION UFON PLANTING.
- 5. THE NEED FOR SOIL AMENDMENTS SHALL BE DETERMINED PRIOR TO ANY PLANTING OPERATORS AND SHALL BE BASD UPON EXAMINATION AND/OR TESTING OF THE EXISTING SOIL CONDITIONS. LANDSCAPE CONTRACTOR SHALL NOTEY THE LA FOR A FELD EXEMP OF SOL CONDITIONS PRIOR TO PLANTING. LA W.L. DETERMINE THE NEED FOR ANY SOIL AMENDMENTS.
- 6. BACKFILL SOIL AND TOPSOIL TO ADHERE TO MN/DOT STANDARD SPECIFICATION 3877 (FOR BACKRIL SOIL AND TOPSOIL TO ANHERE TO MINJOH STANDARD SPECHICATION 3977 (FOR SELECT TOPSOIL BORROW) AND SHALL BE NATIVE TOP SOIL FROM SITE FREE OF ROOTS, RICKS LARCRE THAN ONE NOH, SUBSOIL DEBRIS, AND ARGE WEEDS. MINIMUM OF 4" DEPTH OF TOPSOIL IS REQUIRED FOR ALL PESCHANLAS, LAWN GRASS, AND ANTEY SEEDING AREAS. MINIMUM OF 12" DEPTH BACKFILL TOPSOIL S REQUIRED FOR TREE AND SHRUB PLANTINGS.
- 7. MULCH TO BE AT ALL TREE, SHRIB, PERENNIAL, AND MAINTENANCE AREAS. SHREDDED HARDWOOD MILCH TO BE USED AROUND ALL PLANTS WITHIN TURF AREAS. "PERENNIAL AND ORNAMENTAL CRASS BEDS SHALL HAVE 2" DEPTH SHREDDED HARDWOOD MULCH. MULCH "O BE FREE OF DELETERIOUS MATERIAL.
- 8. EDGING TO BE SPACED EDGE, UNLESS OTHERWISE INDICATED. SPADED EDGE TO PROVIDE V-SHAPED DEPTH AND WIDTH TO CREATE SEPARATION BETWEEN MULICH AND GRASS. INDIVIDUAL TREE, SPRUB, OR RAIN-GARDEN BEDS TO BE SPACED EDGE, UNLESS NOTED OTHERWISE.
- 9. PROVDE IRRIGATION TO ALL STREET TIRE AND BUFFER LANDSCAPING ON SITE. REAR YARD AND GEN SPACE PLANTINGS WILL NOT BE IRRIGATED. RRIGATION SYSTEM TO BE DESIGN/BUILD BY LANGSCAPE CONTRACTION. LABOSCAPE CONVARCION TO PROVIDE SHOP REALWRIST TO SIT OF THE PROPERTY OF THE
- 10. REPAIR ALL DAMAGE TO PROPERTY FROM PLANTING OPERATIONS AT NO COST TO OWNER.
- 11. ALL DISTURBED AREAS WITHIN OUT.OTS TO BE SEEDED WITH NATIVE GRASS SEED MIK, AS INDICATED, UNLESS NOTDE OTHERWES. ALL ARRAS WITHIN INDIVIDUAL LOTS TO BE SOODEL. SOOD TO BE STANDARD MINISOTA GROWN AND ARROY BULLEPARS MR, FREE OF LAWN WEDS. ALL TIPPSOIL AREAS TO BE RANKED TO RENOVE LEBRIS AND ISSURE DRAWNARD. SEED AS SPECIALED FROM STATE SEED MS SPECIALED FROM STATE SEED MS SPECIALED FROM STATE SEED MS SPECIALED FROM STATE SEED AS

DRY PRAIRIE SEED MIX STORMWATER SEED MIX WET PRAIRIE SEED MIX WOODLAND SEED MIX

Hammes **Estates 1st** Addition

Final Landscape Notes

Latest Revision Date: 09/20/16

Date: 06/20/16 Sheet: 4 OF 4

Call 48 Hours before digging: 811 or call811.com







Rachel Development 4125 Napier Court NE St. Michael, Minnesota 55376

Lake Elmo, Minnesota

Prepared for:







#### STAFF REPORT

DATE: September 5, 2017 **CONSENT** 

TO: City Council

FROM: Greg Malmquist, Fire Chief

**AGENDA ITEM**: Conditional Job Offer to Part Time Firefighter Applicants, Nate Wagner and

Kyle Jacket

**REVIEWED BY:** Kristina Handt, City Administrator

#### **BACKGROUND:**

The City advertised for applications for Part Time Firefighter positions. On Tuesday August 29<sup>th</sup>. Applicants were interviewed by staff.

#### **ISSUE BEFORE COUNCIL:**

To make a conditional job offer to Nate Wagner and Kyle Jacket, to allow them to continue in the hiring process.

#### PROPOSAL DETAILS/ANALYSIS:

Staff is recommending the Council make the offer to both applicants to allow them to proceed in the process.

Both applicants have meet the minimum requirements of the hiring process as well as the interview process. Upon approval of this Conditional Job Offer applicants will move forward in the process. Pending successful completion of the following: 1) Background Check, 2) Ability Test, 3) Pre-Placement Physical and 4) Pshychological Evaluation, applicants will be placed on the department as Part Time Firefighters under a six month probationary period.

#### FISCAL IMPACT:

Psychological Exam = \$415.00 x 2, Preplacement Physical Exam = \$245.60 x 2 for a total of \$1321.20.

Wage of \$17.00/hour when shift coverage starts.

#### **OPTIONS:**

- 1) Make conditional job offer to continue with process.
- 2) Do not make a conditional job offer at this time

#### **RECOMMENDATION:**

If removed from consent agenda:

Motion of a conditional job offer to Nate Wagner and Kyle Jacket, to allow them to continue with and complete the additional requirements of the hiring process. 1) Background Check, 2) Ability Test, 3) Pre-Placement Physical and 4) Pshychological Evaluation.

#### **ATTACHMENTS:**

None



#### STAFF REPORT

DATE: September 5, 2017

**REGULAR** 

**AGENDA ITEM**: Old Village Phase 4 Street and Utility Improvements – Accept Petition

and Authorize Preliminary Design and Preparation of a Feasibility Report

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

**REVIEWED BY:** Kristina Handt, City Administrator

Chad Isakson, Assistance City Engineer

**ISSUE BEFORE COUNCIL:** Should the City Council accept a petition for municipal sanitary sewer service and authorize preliminary design and the preparation of a feasibility report for the Old Village Phase 4 Street and Utility Improvements?

**PROPOSAL DETAILS/ANALYSIS:** The City of Lake Elmo is extending sanitary sewer to serve the existing properties in the Old Village area to replace the use of private on-site sewage treatment systems. The projects also include drainage improvements to continue addressing historic flooding issues in the Downtown area, the replacement of aged watermain pipes and reconstructing the public streets that are disturbed during the work. The Improvements are being constructed in phases and through separate projects with the first three phases being constructed in 2015, 2016 and 2017. Additional project phases are necessary to extend lateral sanitary sewer mains along local street corridors from the main line located in Lake Elmo Avenue and Laverne Avenue.

At the September 6, 2016 council meeting, staff presented an Old Village Capital Improvement Plan (CIP) to address the future sewer extension phasing plan which identified local neighborhood areas to receive sewer over the next several years. As with all Capital Improvement Plans, the CIP program serves as a guide for staff for planning and budgeting purposes and for bringing improvements forward for council consideration for the program year, however the CIP phasing plan should not be considered a firm schedule or commitment by the City that the improvement will be completed.

On April 4, 2016, the City of Lake Elmo received a Petition, pursuant to Minnesota Statute 429, requesting sanitary sewer service along 32<sup>nd</sup> Street, east of Lake Elmo Avenue. The petition (see attached Petition for Local Improvements) was reviewed and certified by the City Clerk. Over the years, staff has communicated with property owners that the City will likely prioritize future project phases based on property owner request and need. Therefore the Old Village CIP was presented with the Phase 3 Improvements to be completed in 2017 to include the Lake Elmo Elementary School area and the 31<sup>st</sup> Street/Laverne Ct/Layton Ct neighborhood. The 32<sup>nd</sup> Street area was then scheduled to be completed in 2018 along with a sewer extension along 36th Street North and Layton Avenue North (see attached Location Map).

In order to initiate the Old Village Phase 4 Street and Utility Improvements and to maintain special assessments as a viable funding alternative, the City Council must direct the preparation of a feasibility report meeting the statutory process for public improvements that are specially assessed. The report will address the necessary lateral sanitary sewer extensions to replace individual on-site treatment systems for the project service area. The improvements will also include the replacement of existing watermain lines

and the reconstruction of streets disturbed during the work along with drainage improvements to address area flooding and as necessary to meet storm water permitting requirements. The proposed service areas for the Old Village Phase 4 Street and Utility Improvements are as follows:

- 32nd Street North, from CSAH 17 to the east end.
- 36 Street North, from Laverne Avenue North to Layton Avenue North.
- Layton Avenue North, from 36th Street North to CSAH 14 (Stillwater Blvd).

The report will advise on the scope of recommended improvements along each corridor, provide estimated project costs, identify easement and right-of-way, permits, and other requirements of other local agencies needed to implement the improvements, and recommend whether the improvements are necessary, cost effective, and feasible. The Report will also provide a proposed preliminary assessment roll for each of the benefitting properties based upon the City's Special Assessment Policy for Local Improvements.

In addition to the authorization of the feasibility report, it is necessary to concurrently authorize preliminary design services to conduct a more thorough investigation of the service area topography, building first floor and basement elevations, and to prepare the preliminary drainage design and lift station design to identify right-of-way/easement needs for the project. The City Engineer has met with SEH, Inc. to review the preliminary design scope of work and obtained a fee for those initial services.

#### **FISCAL IMPACT:** \$26,400.

If authorized, FOCUS Engineering Inc., will prepare a feasibility report in a not to exceed amount of \$7,500 for the Old Village Phase 4 Street and Utility Improvements and SEH, Inc. will initiate the preliminary design services in a not to exceed amount of \$18,900 to better inform the feasibility study recommendations and project scope. If the improvements are ordered, the report and preliminary design costs will be charged against the project fund and become assessable to the benefitting properties. Should the project not be constructed, these costs cannot be assessed.

**RECOMMENDATION**: Staff is recommending that the City Council authorize SEH, Inc. to complete preliminary design services in the not to exceed amount of \$18,900, and authorize FOCUS Engineering, Inc. to prepare a Feasibility Report for the Old Village Phase 4 Street and Utility Improvements in the not to exceed amount of \$7,500. The recommended motion for this action is as follows:

"Move to approve Resolution No. 2017-92, Declaring Adequacy of Petition and Ordering preliminary design and preparation of a Feasibility Report for the Old Village Phase 4 Street and Utility Improvements in the not to exceed amount of \$26,400."

#### **ATTACHMENTS:**

- 1. Resolution Ordering Preliminary Design and Preparation of a Feasibility Report.
- 2. Petition for Local Improvements from 32nd Street (East of Lake Elmo Avenue).
- 3. Old Village Phase 4 Preliminary Design Proposal from SEH, Inc.
- 4. Project Location Map.

# CITY OF LAKE ELMO WASHINGTON COUNTY STATE OF MINNESOTA

#### **RESOLUTION NO. 2017-92**

# A RESOLUTION DECLARING ADEQUACY OF PETITION AND ORDERING PRELIMINARY DESIGN AND THE PREPARATION OF A FEASIBILITY REPORT FOR THE OLD VILLAGE PHASE 4 STREET AND UTILITY IMPROVEMENTS

**WHEREAS,** in April, 2016 a petition was received from the owners of real property abutting 32nd Street North, from CSAH 17 to the east end requesting municipal sanitary sewer service; and

**WHEREAS,** in September 2016 the City Council directed staff to pursue the remaining lateral sanitary sewer projects in the Old Village area over the next several years and adopted the Old Village Capital Improvement Plan; and

**WHEREAS**, it is proposed to assess all or a portion of the cost of the improvements pursuant to the City's Special Assessment Policy and Minnesota Statutes, Chapter 429.

#### NOW, THEREFORE, IT IS HEREBY RESOLVED,

- 1. The Petition requesting the improvements is hereby declared to be signed by the required percentage of owners of property affected thereby. This declaration is made in conformity to Minnesota Statutes 429.035.
- 2. The Petition for the proposed improvements are hereby referred to the City Engineer, and other supporting engineering consultants as deemed necessary by the City Engineer, to complete Preliminary Design Services and a feasibility report in accordance with Minnesota Statues, Chapter 429 for the proposed improvements, and to report to the council with all convenient speed advising the council in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible; whether it should best be made as proposed or in connection with some other improvement; the estimated cost of the improvement as recommended; and a description of the methodology used to calculate individual assessments for affected parcels.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIFTH DAY OF SEPTEMBER, 2017.

#### CITY OF LAKE ELMO

	By:	
	Mike Pearson Mayor	
(Seal) ATTEST:	·	
Julie Johnson City Clerk	_	

# CITY OF Lake Elmo

PETITION FOR LOCAL IMPROVEMENT

We the undersigned, being the owners of real property in the City of Lake Elmo and representing at least 35% of the affected properties abutting or receiving benefit from the requested improvements, hereby petition the City to extend to our properties municipal sanitary sewer service pursuant to

TO THE CITY COUNCIL OF LAKE ELMO, MINNESOTA:

Minnesota Statutes, Chapter 429, and that the City assess the cost of the improvement against our property described below and hereby agree to pay the entire cost as apportioned by the City.
We understand that if the City Council orders the improvements, we may be assessed for these improvements in accordance with the City's Special Assessment Policy and State Statutes, we understand that the City Council has full authority to authorize improvements to be made, and assessments to be levied against my property, and that any decision to order the improvements is NOT subject to vote by the abutting properties.
(To allow for proper City notifications, each signature must be accompanied by a legibly printed name and address)
SIGNATURE OF PROPERTY OWNER(S) NAME (printed) ADDRESS (printed)
1. Jusan Protosch 1129332nd
2. John R. Andrews De Pel 11295
3. Donen Rubbert - 11279 32 of No
4. Proby Jule Rocky Reynolds 11247 32 nd st. No
5. Brief Ferguson Brigh FERGUSON 11258 32 nd St H
6. Fred ProKosch 1/24032ndstN
7. Rosemary L. Weier 11284 - 32 nt St. N.
8. My (Wendt 11306 32 nd st N.
9. Delar Carely 11267 32nd ST. N.
10.
11.
12.
13.



August 25, 2017

RE: City of Lake Elmo
Old Village Phase 4 Improvements
SEH No. P-143403

Jack Griffin City Engineer City of Lake Elmo 3800 Laverne Avenue N Lake Elmo, MN 55042

Dear Mr. Griffin:

Thank you for the opportunity to meet yesterday to review the City's proposed Old Village Phase 4 street, utility and drainage improvements planned for 2018. The project area consists of 32<sup>nd</sup> Street east of Lake Elmo Ave., 36<sup>th</sup> Street east of Laverne Ave., Layton Ave. from 36<sup>th</sup> Street to Stillwater Blvd., and potentially the easement area east of Layton Ave. and the alley west of Layton Ave.

We understand the City would like assistance in gathering project area information and reviewing some potential options for sanitary sewer, drainage, and other improvements. The attached spreadsheet shows proposed services to accomplish this.

If acceptable, we propose to furnish these services in accordance with the Master Agreement between SEH and the City of Lake Elmo on an hourly basis plus reimbursable expenses for a maximum fee of \$18,900. We have survey crew and other staff availability now to perform this work.

If this proposal is acceptable, please sign below and return a copy for our records. If you need any further information or wish to review this together, please contact me at 651.490.2017.

Sincerely,	
Tou M. Renh	
Todd M. Blank, PE	
Principal	
c. Chad Isakson, Focus Engineering	
Accepted this day of	, 2017
CITY OF LAKE ELMO, MINNESOTA	
By	

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# **Old Village Phase 4 Improvements**

SHORT ELLIOTT HENDRICKSON: PROJECT WORK PLAN
PROJECT NAME: Old Village Phase 4 Improvements
PROJECT NUMBER: LAKMO P-143403
CLIENT: CITY OF LAKE ELMO
CLIENT CONTACT: Jack Griffin, Chad Isakson
PROJECT MANAGER: Todd Blank

PROJECT MANAGER: Todd Blank													
	TOTAL HOURS	141			7.5	37.5	4	8	76	8			
	HOURLY BILLING RATE				\$149.00	\$133.00	\$107.00	\$107.00	\$107.00	\$126.00	0.575		
	TOTAL LABOR COST	\$16,500			\$1,117.50	\$4,987.50	\$428.00	\$856.00	\$8,132.00	\$1,008.00		\$190.00	\$2,200.00
	% OF TOTAL COST				6.8%	30.2%	2.6%	5.2%	49.2%	6.1%			<u> </u>
		Labor Task Total	Expenses Task Total	Task Total							EXPENSES		
Task	DESCRIPTION OF TASK				Todd Blank	Jeff Thene	Eric Miller	Adam Bona	Greg Tvedt	Rebecca Nestingen			Survey Equipment
					Project Mgr.	Lead Tech	Project Eng.	Sr. Tech	Surveyor	Water Quality	Unit	Total	
	32nd St., 36th St. & Layton Ave											1	i l
												-	
1	Survey & Preliminary Design	\$16,529.00	\$2,390.00	\$18,900								-	
	Topographic Survey	\$8,414.00	\$2,304.00	\$10,718.00	1	1			76		180	104.00	2,200.00
	Create exhibits with survey info	\$989.00	\$69.00	\$1,058.00		1		8			120	69.00	
	Meet with property owners, determine low floor and proposed service locations (21 properties)	\$3,724.00		\$3,724.00		28						-	
	Review potential gravity san sewer area,	\$415.00		\$415.00	1	2						-	
	Preliminary review of lift station options	\$710.00		\$710.00	1	1	4					-	
	Preliminary drainage area review, review options for storm sewer and treatment	\$1,572.00		\$1,572.00	2	2				8		-	
	Review project area and options with City Eng, determine next steps	\$705.00	\$17.00	\$722.00	2.5	2.5					30	17.00	
												-	
		_	Total:	\$18,900								_	



# OLD VILLAGE CIP - PHASING PLAN

Old Village Capital Improvement Plan Phasing Plan; Schedule and Assessment Methodology

**SEPTEMBER 6, 2016** 

