

LAUDERDALE CITY COUNCIL MEETING AGENDA
7:30 P.M. TUESDAY, JUNE 11, 2013
LAUDERDALE CITY HALL, 1891 WALNUT STREET

The City Council is meeting as a legislative body to conduct the business of the City according to Robert's Rules of Order and the Standing Rules of Order and Business of the City Council. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

1. **CALL THE MEETING TO ORDER**
2. **ROLL CALL**
3. **APPROVALS**
 - a. Agenda
 - b. Minutes of the May 28, 2013 City Council Meeting
 - c. Claims Totaling \$82,064.90
4. **CONSENT**
 - a. Agreement with Tennis Sanitation for Bulky Waste Collection
5. **SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS**
6. **INFORMATIONAL PRESENTATIONS / REPORTS**
 - a. Music Under the Trees (Monday, June 24 and July 15 at 7:30 p.m.)
7. **PUBLIC HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings all affected residents will be given an opportunity to speak pursuant to the Robert's Rules of Order and the standing rules of order and business of the City Council.

 - a. Front-Yard Variance Request for 1728 Malvern Street
8. **DISCUSSION / ACTION ITEMS**
 - a. Front-Yard Variance Request for 1728 Malvern Street
 - b. Skyview Park Fence
 - c. 2014 Police Contract with the City of St. Anthony
 - d. Railroad Agreement
9. **ITEMS REMOVED FROM THE CONSENT AGENDA**
10. **ADDITIONAL ITEMS**
11. **SET AGENDA FOR NEXT MEETING**
 - a. Animal Control Ordinance
 - b. 2014 Police Contract
12. **WORK SESSION**

a. Opportunity for the Public to Address the City Council

Any member of the public may speak at this time on any item not on the agenda. In consideration for the public attending the meeting for specific items on the agenda, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue shall be continued at the end of the agenda. Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address, and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter any discussion without permission of the presiding officer.

Your participation, as prescribed by the Robert's Rules of Order and the standing rules of order and business of the City Council, is welcomed and your cooperation is greatly appreciated.

13. CLOSED SESSION

- a. Larpenteur Avenue Property Acquisition

14. ADJOURNMENT

LAUDERDALE CITY COUNCIL
MEETING MINUTES
Lauderdale City Hall
1891 Walnut Street
Lauderdale, MN 55113

Page 1 of 3

May 28, 2013

Mayor Pro Tem Gaasch called the City Council meeting to order at 7:34 p.m.

Councilors present: Lara Mac Lean, Denise Hawkinson, Roxanne Grove and Mayor Pro Tem Gaasch.

Councilors absent: Mayor Jeff Dains.

Staff present: Heather Butkowski, City Administrator; Jim Bownik, Assistant to the City Administrator; and Kevin Kelly, Deputy City Clerk.

Mayor Pro Tem Gaasch asked for changes to the meeting agenda. Butkowski added a park use application and city tree inventory.

Councilor Hawkinson moved to approve the May 14, 2013 City Council meeting minutes. Councilor Mac Lean seconded the motion and it passed unanimously.

Councilor Grove moved approval of the claims totaling \$34,412.88. Councilor Mac Lean seconded the motion and it passed unanimously.

Councilor Hawkinson moved adoption of the Consent Agenda approving the April Finances. Councilor Mac Lean seconded the motion and it passed unanimously.

Discussion/ Action Items:

Presentation of Concept Plans by Croix Oil Company

Two representatives of Croix Oil (Mark Ogren and Paul Muilenberg) presented plans for Council review. The plans are to tear down the existing building but leave the canopy and tanks in place. The new BP station would upgrade the convenience offerings in the store. Croix Oil will attempt to keep the gas pumps available for use during the construction of the store. Croix Oil presented landscape and signage plans to the Council. The current alley at the north of the BP site would be repurposed into a walkable area with the potential for outdoor seating. Croix Oil hopes to have the new building completed by late fall of 2013.

2014 Police Contract with the City of St. Anthony

The liability section of the agreement was revised and the changes are noted in the draft contract agreement. Butkowski asked for comments or questions from the City Council. There being none, the final version of the contract will be brought forward for approval at the next council meeting.

LAUDERDALE CITY COUNCIL
MEETING MINUTES
Lauderdale City Hall
1891 Walnut Street
Lauderdale, MN 55113

Page 2 of 3

May 28, 2013

Grant Agreement for Bulkies Recycling Pilot Program

The grant agreement is ready for Council approval. Falcon Heights will handle the financial piece of the grant. Tennis Sanitation has been selected as the contractor.

Councilor Mac Lean moved to approve the terms of the grant agreement with Ramsey County with the understanding there will be some minor technical changes. Councilor Grove seconded the motion and it passed unanimously.

Participation with the University of Minnesota Sustainability Class

Staff from Falcon Heights, St. Anthony, and Lauderdale met with the professor of the class. They would like to continue working together on aspects of sustainability within the communities. This year may include a sustainability fair. Butkowski asked whether the Council would like staff to continue working with the other entities. They affirmed that they did.

Fire Call Charge Back Ordinance

The Council had previously discussed how to handle non-fire related calls that required a fire department response. The concern was that there may be a gas line break or spill that incurs significant expense to the City. To manage the costs in such an event, the City would look to the parties involved to share in the cost of the response. The city attorney suggested the City consider paying for the initial cost of the call (one truck for two hours) and then bill the remaining costs to the parties involved. The Council thought this seemed reasonable. Staff will draft an ordinance to that effect and bring to a future meeting.

On-Street Residential Handicap Parking Policy

A resident expressed interest in having a handicap parking sign near their home. One of the members of the family can only access the house through the front door. The Council reviewed the policy and agreed upon a fee of \$40.00 a year to cover the cost of signage.

Councilor Grove moved to approve the On-Street Residential Disabled Parking Zone Policy. Councilor Hawkinson seconded the motion and it passed unanimously.

Additional Items:

A park use application came in after the Council packet was sent. The application is for a group of 75 people on June 8 and requires Council approval.

LAUDERDALE CITY COUNCIL
MEETING MINUTES
Lauderdale City Hall
1891 Walnut Street
Lauderdale, MN 55113

Page 3 of 3

May 28, 2013

Councilor Hawkinson moved to approve the park use application. Councilor Mac Lean seconded the motion and it passed unanimously.

Butkowski mentioned that the Mississippi Watershed Management Organization (MWMO) would cover the cost of a student to create an inventory of public trees within the City. The inventory will help the City plan for future needs. Butkowski said she would pursue the opportunity unless the Council expressed reservations. An agreement with the MWMO for the study will be brought to a future meeting for council approval.

Agenda items for the June 11 Council Meeting include a discussion of the Animal Control Ordinance, the Skyview Park fence and the 2014 Police Contract.

Mayor Pro Tem Gaasch explained that the Council was moving into the work session. Work sessions are a continuation of the meeting but not aired on community television.

Work Session:

Larpenteur Avenue Pedestrian Improvement Project Concept Plans

Paul Bilotta and Geoff Martin of Stantec presented concept plans for the Larpenteur Avenue pedestrian improvements and some additional streetscaping. The Council, staff, and the Stantec team discussed improvements including plantings, lighting, bus shelters, sidewalk changes and extensions, and stormwater improvements that would make the area more walkable. The Council also discussed the plans and design ideas from the Croix Oil presentation. The Council was interested in the alleyway behind Croix Oil being a year-round walkable area and limiting the product signage on the Croix Oil site. The Council felt the planning work by Stantec should be limited to the north side of Larpenteur Avenue except at the Eustis Street intersection due to cost constraints.

Councilor Mac Lean moved to authorize Stantec to continue working on the Larpenteur Avenue concepts. Councilor Hawkinson seconded the motion and it passed unanimously.

There being no further business on the council agenda, Councilor Hawkinson moved to adjourn the meeting. Councilor Mac Lean seconded the motion and it carried. The meeting adjourned at 10:40 p.m.

Respectfully submitted,



Kevin Kelly
Deputy City Clerk

CITY OF LAUDERDALE

CLAIMS FOR APPROVAL

June 11, 2013 City Council Meeting

Payroll

06/06/13 Payroll: Direct Deposit # 501595-501599	\$7,563.39
06/06/13 Payroll: Payroll Liabilities, e-payments #782E-784E	\$6,160.74

Vendor Claims

06/11/13 Claims: Check #'s 21754-21771	\$68,340.77
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SUBTOTAL \$82,064.90

Total Claims for Approval

\$82,064.90

CITY OF LAUDERDALE

06/06/13 8:27 AM

Page 1

***Claim Register©**

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JUNE 2013

Claim Type	Direct					
Claim#	3338	NORTH STAR BANK, CHECKING S	Ck# 000782E	6/6/2013		
Cash Payment	G 101-21703	FICA WITHHOLDING.		06/06/2013	Payroll	\$1,939.64
		Invoice				
Cash Payment	G 101-21701	FEDERAL TAXES		06/06/2013	Payroll	\$1,182.87
		Invoice				
Transaction Date	6/6/2013	Due 0	NORTH STAR CHE	10100	Total	\$3,122.51
Claim#	3339	ICMA RETIREMENT TRUST - 457	Ck# 000783E	6/6/2013		
Cash Payment	G 101-21705	ICMA RETIREMENT		06/06/2013	Payroll	\$1,413.92
		Invoice				
Transaction Date	6/6/2013	Due 0	NORTH STAR CHE	10100	Total	\$1,413.92
Claim#	3340	PERA	Ck# 000784E	6/6/2013		
Cash Payment	G 101-21704	PERA		06/06/2013	Payroll	\$1,624.31
		Invoice				
Transaction Date	6/6/2013	Due 0	NORTH STAR CHE	10100	Total	\$1,624.31
	Claim Type	Direct			Tota	\$6,160.74

Pre-Written Check	\$6,160.74
Checks to be Generated by the Compute	\$0.00
Total	\$6,160.74

CITY OF LAUDERDALE

06/06/13 3:59 PM

Page 1

***Check Detail Register©**

JUNE 2013

			Check Amt	Invoice	Comment
10100 NORTH STAR CHECKING					
Paid Chk#	021754	6/11/2013	BLUE CHIP TREE CO., INC.		
E	101-43000-317	TREE SERVICE	\$3,749.38		Removal and Trimming of Trees and Stump Grinding
		Total BLUE CHIP TREE CO., INC.	\$3,749.38		
Paid Chk#	021755	6/11/2013	CITY OF FALCON HEIGHTS		
E	101-42100-321	FIRE CALLS	\$915.36		5/13 Fire Calls
		Total CITY OF FALCON HEIGHTS	\$915.36		
Paid Chk#	021756	6/11/2013	CITY OF ROSEVILLE		
E	101-41200-391	TELEPHONE/PAGERS	\$95.40		6/13 Phone and IT Services
E	101-41200-306	CONSULTING FEES	\$787.00		6/13 Phone and IT Services
		Total CITY OF ROSEVILLE	\$882.40		
Paid Chk#	021757	6/11/2013	CITY OF ST ANTHONY		
E	101-42100-319	POLICE CONTRACT	\$50,169.17		6/13 Police Contract
		Total CITY OF ST ANTHONY	\$50,169.17		
Paid Chk#	021758	6/11/2013	DOWNING, NATE		
E	201-45600-376	GARAGE SALE	\$160.84		Garage Sale Signs
		Total DOWNING, NATE	\$160.84		
Paid Chk#	021759	6/11/2013	GOPHER STATE ONE-CALL		
E	101-43400-386	GOPHER STATE ONE CALL	\$71.15		5/13 Locates
		Total GOPHER STATE ONE-CALL	\$71.15		
Paid Chk#	021760	6/11/2013	GORDON MEYER		
E	201-45600-369	MUSIC UNDER THE TREES	\$200.00		MUTT - Blue Stratum
		Total GORDON MEYER	\$200.00		
Paid Chk#	021761	6/11/2013	HARMON AUTOGLASS		
E	101-45200-228	MISC REPAIRS MAINT SUPPLIE	\$138.94		Tempered Glass for warming house
		Total HARMON AUTOGLASS	\$138.94		
Paid Chk#	021762	6/11/2013	KENNEDY & GRAVEN		
E	101-41500-305	LEGAL FEES - CIVIL	\$584.00		4/13 Legal Services - PUD ord. & TC Die agreement
		Total KENNEDY & GRAVEN	\$584.00		
Paid Chk#	021763	6/11/2013	KONICA MINOLTA		
E	101-41200-401	COPIER CONTRACT	\$232.34		6/13 Copier Contract
		Total KONICA MINOLTA	\$232.34		
Paid Chk#	021764	6/11/2013	MET-COUNCIL ENVIRONMENTAL SER.		
E	601-49000-387	WATER TREATMENT SERVICE	\$9,859.25		7/13 waste water treatment
		otal MET-COUNCIL ENVIRONMENTAL SER.	\$9,859.25		
Paid Chk#	021765	6/11/2013	ON SITE SANITATION		
E	101-45200-427	PORTA POTTY RENTAL	\$122.91		5/13 Portable Restroom

CITY OF LAUDERDALE

06/06/13 3:59 PM

Page 2

***Check Detail Register©**

JUNE 2013

			Check Amt	Invoice	Comment
Total ON SITE SANITATION			\$122.91		
Paid Chk#	021766	6/11/2013 PRISCILLA THOMAS			
E	201-45600-369	MUSIC UNDER THE TREES	\$200.00		MUTT - Sweet Rhubarb
Total PRISCILLA THOMAS			\$200.00		
Paid Chk#	021767	6/11/2013 RAMSEY COUNTY, PROP REC & REV			
G	101-21706	HEALTH INSURANCE	\$453.31		6/13 Employee Insurance
E	101-41200-355	MISC PRINTING/PROCESS SER	\$25.00		6/13 Employee Insurance
Total RAMSEY COUNTY, PROP REC & REV			\$478.31		
Paid Chk#	021768	6/11/2013 SENSIBLE OFFICE SOLUTIONS			
E	101-45200-202	PERMENANT SUPPLIES	\$128.51		Cork Board for Warming House
Total SENSIBLE OFFICE SOLUTIONS			\$128.51		
Paid Chk#	021769	6/11/2013 WASTE MANAGEMENT			
E	101-43000-384	REFUSE DISPOSAL	\$202.30		6/13 PW Waste Refuse
Total WASTE MANAGEMENT			\$202.30		
Paid Chk#	021770	6/11/2013 XCEL ENERGY, CITY HALL			
E	101-43000-383	GAS UTILITIES	\$47.33		5/13 City Utilities
E	101-43000-381	ELECTRIC	\$155.12		5/13 City Utilities
Total XCEL ENERGY, CITY HALL			\$202.45		
Paid Chk#	021771	6/11/2013 XCEL ENERGY, STREET LIGHTING			
E	101-43000-380	STREET LIGHT UTILITY	\$43.46		5/13 Bridge Lights
Total XCEL ENERGY, STREET LIGHTING			\$43.46		
10100 NORTH STAR CHECKING			\$68,340.77		

Fund Summary

10100 NORTH STAR CHECKING		
101 GENERAL		\$57,920.68
201 COMMUNITY EVENTS		\$560.84
601 SEWER UTILITIES		\$9,859.25
		\$68,340.77

ACTION REQUESTED	LAUDERDALE COUNCIL
Consent <u> X </u>	MEETING DATE <u> June 11, 2013 </u>
Special <u> </u>	
Public Hearing <u> </u>	ITEM NUMBER <u> Tennis Agreement </u>
Report <u> </u>	<u> for Bulky Waste Collection </u>
Discussion/Action <u> </u>	
Resolution <u> </u>	STAFF INITIAL <u> Jim </u>
Work session <u> </u>	

BACKGROUND:

A grant agreement was approved between the Cities and the County at the last council meeting. Since then, we have been working on agreements with the consultant (Foth Environment & Infrastructure) and the contractor (Tennis Sanitation). Since Falcon Heights will be the financial agent and sole custodian of grant funds, Falcon Heights is entering into an agreement with Foth acknowledging Lauderdale as a partner. The Lauderdale City Council does not need to take action on that agreement.

Both Cities will be asking their City Councils to approve the attached agreement with Tennis. The agreement has been reviewed by attorneys from both cities. Once approved and signed by both cities, the agreement will be sent to Tennis for signatures. We do not anticipate any changes to the agreement, but both cities are again asking for approval with the understanding there may be minor technical changes.

After approval of this agreement with Tennis, here are the anticipated next steps:

- Marketing phase.
- Implementation phase.

The anticipated start date for the program is July.

OPTIONS:

- 1) Approve the Tennis Agreement as part of the consent agenda with the understanding there may be some minor technical changes.
- 2) Remove the Tennis Agreement from the consent agenda for discussion.

STAFF RECOMMENDATION:

- 1) Approve the Tennis Agreement as part of the consent agenda with the understanding there may be some minor technical changes.

COUNCIL ACTION:

**BULKY WASTE COLLECTION, RECYCLING
AND DISPOSAL AGREEMENT**

AGREEMENT dated _____, 2013, by and between the **CITY OF FALCON HEIGHTS**, a Minnesota municipal corporation, the **CITY OF LAUDERDALE**, a Minnesota municipal corporation (jointly “Cities”) and **TENNIS SANITATION, L.L.C.**, a Minnesota limited liability company (“Contractor”).

RECITALS

A. The Cities desire to provide collection and recycling or disposal of bulky waste for the health, safety and welfare of their residents.

B. The Contractor desires to provide bulky waste services to residents of the City of Falcon Heights and the City of Lauderdale.

C. Ramsey County, through a Grant for Innovative Waste Management Practices, has provided funds for a pilot program for the collection and recycling or disposal of bulky waste.

**NOW THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS,
THE PARTIES AGREE AS FOLLOWS:**

1. **CONTRACT DOCUMENTS.** The following documents shall be referred to as the “Contract Documents,” all of which shall be taken together as a whole as the contract between the parties as if they were set forth verbatim and in full herein:
 - A. This Agreement.
 - B. Request for Proposals (RFP) for Bulky Waste Collection and Recycling or Disposal Services, April 12, 2013, and Addendum, April 18, 2013
 - C. Contractor’s response to RFP dated May 1, 2013

In the event of a conflict among the provisions of the Contract Documents, the order in which they are listed above shall control in resolving any such conflicts with Contract

Document "A" having the first priority and Contract Document "C" having the last priority.

2. **OBLIGATIONS OF THE CONTRACTOR.** The Contractor shall provide the goods, services, and perform the work in accordance with the Contract Documents.

3. **DEFINITIONS.**

A. Bulky Waste: Means large items including all items that are too large, too valuable, or contain hazardous components such that they can not be collected with the normal refuse service. Bulky items include such materials as mattresses, bed box springs, sofas, couches, large appliances or "white goods" (e.g., refrigerator, freezer, washers, dryers), and other appliances (e.g., dehumidifiers, air conditioner). Bulky items shall not include, non-containerized garbage, loose and scattered trash. Other bulky item materials may be mutually agreed upon between the Cities and Contractor.

B. Missed Collection: Means the failure of the Contractor to provide collection service to an assigned address on the scheduled collection day.

4. **CONTRACTOR'S COLLECTION REQUIREMENTS.**

A. Bulky Waste Collection Program. The Contractor shall collect bulky waste as required by the Cities.

(1) Bulky Waste collection shall occur one day per week.

(2) On or before 12:00 p.m. the day before collection the contractor will be notified of the addresses, bulky waste, and number of items to be collected.

(3) The contractor shall collect all bulky waste from assigned addresses on the designated collection day.

B. Bulky Waste Recycling Program. The Cities' intent in this contract is to maximize the amount of recycling of bulky items.

(1) Every reasonable attempt shall be made to recycle all or part of the bulky items collected.

(2) Pursuant to Minnesota State Statutes and County ordinance and policies, the Contractor must arrange for delivery of all refuse or non-recyclable items collected under this Contract to be delivered to a mixed MSW resource recovery facility.

C. Collection Hours and Days.

- (1) Collections must begin no sooner than 7:00 a.m. and shall be complete by 7:00 p.m. on scheduled collection day each week. The Contractor may request Cities authorization of exceptions to these time restrictions. The Contractor must request such exception from the Cities' Designated Contact Person via telephone or email, prior to the requested Collection event and specify the date, time and reason for the exception.
 - (2) The Cities may, in their sole discretion, cancel pickup for a given week by notification to the Contractor by 12:00 noon on the day before scheduled collection. If collection is cancelled by the Cities in any given week, pickups requested of the Cities by residents are anticipated to be scheduled in the following week.
- D. Holidays. Collection of bulky waste is prohibited on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and any other holidays mutually agreed to by the Cities and Contractor. There may not be more than one holiday during a Collection week. When the scheduled collection day falls on a holiday, collection for that day shall be collected one day later.
- E. Weighing of Loads and Reporting Requirements.
- (1) The Contractor shall keep accurate records consisting of an approved weight slip with the date, time, collection route, driver's identification, vehicle number, rate and gross weight, net weight and number of route stops for each loaded vehicle.
 - (2) The Contractor shall complete each week and provide to the Cities, on a Cities provided form listing the pickup addresses, the bulky items picked up, where each item was recycled and/or where each item, or partial item, was disposed of.
- F. Point of Collection. Most residential bulky waste collection will occur at the same location from where the regular refuse is collected, generally the alleys where they exist and street curbside in other areas. The Cities in their sole discretion, may however recognize special circumstances of residents, and require collections at a location other than the regular refuse collection place.
- G. Ownership of Bulky Waste. All bulky waste set out for collection shall remain the responsibility and in the ownership of the person who set it out for collection until handled for collection by the Contractor. At the point of collection the bulky waste becomes the property of the Contractor. The Contractor shall report to the Cities any suspected scavenging or unauthorized removal of bulky waste.

- H. Route Management and Customer Service. The Contractor shall, at all times, provide the Cities with a lead route/driver supervisor who is accessible to the Contractor dispatch department via two way communications to handle route and collection issues in a timely fashion. The Route Supervisor and all collection vehicles must be equipped with 2-way communication devices.
- I. Procedure for Unacceptable Materials, Hazardous Materials: If the Contractor determines that a resident has set out materials that do not constitute Bulky Waste, or which are not on the list of collection items provided to the Contractor by the Cities:
- (1) The driver shall record the address and report the addresses to the Contractor dispatcher, who must notify the City's Recycling Coordinator in the effected City of the addresses that same day.
 - (2) If the materials are deemed by the driver to be hazardous or a threat to safety, the driver shall report the address to the Contractor dispatcher, who shall notify the City's' Recycling Coordinator in the effected City of the addresses and the nature of the hazard immediately.
- J. Procedure for Complaints, Questions, Missed Collections. A complaint of service or missed collection is a complaint received by the Contractor from either the customer or Cities staff. If the report is for a missed stop and is received by the Contractor before 11:00 a.m. on a scheduled working day, the Contractor shall return to the complaint address and complete the collection. If the report is registered after 11:00 a.m. on a scheduled working day, the Contractor shall return to the complaint address by 12:00 noon the following working day.
- K. Clean up Responsibilities. The Contractor shall clean up any waste or material spilled or blown during the course of collection or hauling operations. All collection vehicles must be equipped with at least one broom and one shovel for use in cleaning up material spillage.
- L. Non-Completion of Collection and Extension of Collection Hours. The Contractor shall inform the effected City or Cities of the areas not completed, the reason for non-completion, and the expected time of completion.
- M. Vehicle Requirements.
- (1) The Contractor must obtain all pertinent licenses from the Federal, State and County and City governments. An annual report/update on licensing shall be submitted. The Contractor shall provide proof of current licensing and current MnDOT vehicle inspection reports upon request by the Cities, and on an annual basis.

- (2) All vehicles must be maintained in proper working condition and available for inspection by the Cities or County. The Contractor shall supply the Cities with copies of annual inspections on all vehicles per MnDOT requirements.
- (3) Vehicles should be equipped with a two-way radio or phone, warning flashers and signs, backup alarms, a first aid kit and a broom and shovel for spills, and the contractor's name and phone number prominently displayed on both sides of the vehicle.
- (4) Vehicles must be kept in good operating condition, comply with all State inspection requirements, and be kept neat in appearance. Generally this shall mean washed and painted regularly.
- (5) In the event that a vehicle other than the type specified in the proposal is to be used, the contractor is required to notify the Cities as soon as possible prior to collection.

N. Collection Vehicle Equipment Requirements. Each collection vehicle shall be equipped with the following:

- (1) A two way communication system.
- (2) A first aid kit.
- (3) An approved 2A10BC dry chemical fire extinguisher.
- (4) Warning flashers.
- (5) Overhead strobe light.
- (6) "Reverse" audio warning alarm to indicate movement in reverse.
- (7) Signs on the rear of the vehicle which state "This Vehicle Makes Frequent Stops."
- (8) A rear mounted video camera and cab monitor/screen to view operations occurring at the rear of the vehicle.
- (9) Hazard flares and cones.
- (10) A broom and a shovel for cleaning up spills.
- (11) "Absorb" pillows or dry product adequate to absorb/contain any oil/liquid spill from collection vehicle.

All required equipment must be in proper working order at all times. All vehicles must be maintained in proper working order and be clean and free from odor as much as possible. All collection vehicles shall be uniformly painted and the paint shall be in good condition. The Contractor's name shall be clearly visible from all sides of the vehicle, along with the Contractor's phone number, and the vehicle ID number.

O. Driver Duties and Responsibilities. The Contractor shall be responsible for ensuring that there is sufficient personnel and equipment to fulfill the requirements and specifications of this contract, and that all personnel are trained both in program operations and in customer service and insure that all personnel maintain a positive attitude with the public and in the work place and shall:

- (1) Conduct themselves at all times in a courteous manner and use no abusive or foul language.
- (2) Be clean and presentable in appearance, as so far as possible.
- (3) Wear a uniform and employee identification badge or name tag.
- (4) Drive in a safe and considerate manner.
- (5) Perform their work in a neat and quiet manner, monitor for any spillage and be responsible for cleaning up any litter or breakage spilled in collection and hauling operations.
- (6) Record all addresses that could not be collected and reasons, turn list into dispatch at end of each collection day with copies sent to Cities.
- (7) Collect and transport bulky waste according to all existing laws and ordinances, and future amendments thereto, of the State of Minnesota and local governing bodies.
- (8) Report all damage to property.

5. **TERM AND TERMINATION.** The term of this agreement shall be from _____, 2013 through February 28, 2014.

A. Extension. The Cities in their sole discretion may extend this agreement for up to two additional years, one or two years at a time. This action must be approved by the City Council of each City.

B. Termination. If in the Cities' sole discretion, the Contractor fails to perform this agreement diligently and on schedule or fails to reach mutual agreement where the terms of this agreement so specify, the Cities shall have the right to terminate this agreement. Prior to termination, the Cities shall give thirty (30) days written

notice identifying the basis of the intent to terminate. After the notice of intent to terminate has been served, both parties will attempt to reconcile their differences during the 30-day notice period. If after the 30-day notice period the basis of the intent to terminate has not been cured to the satisfaction of the Cities, the Cities may terminate this Agreement upon five (5) business days written notice serviced by certified mail, return receipt requested upon the Contractor, at the Contractor's last known address.

- C. Cure of Failure. Upon failure of the Contractor to fulfill any of its obligations under the agreement, the Cities may hire such persons, or assign City employees and equipment, as are necessary to cure or mitigate Contractor's failure; the costs of such action may be charged and deducted from monies due the Contractor, collected from the Contractor, or collected by other legal recourse.
6. **RATE.** The Cities will pay the Contractor and the Contractor shall accept as payment for all services and goods rendered under the Contract Documents. The rate is not subject to annual adjustments.
 7. **PAYMENT.** Each City shall be invoiced separately by the Contractor. The Cities shall pay the contractor within thirty five (35) days of receipt of a properly itemized invoice.
 8. **PROMPT PAYMENT TO SUBCONTRACTORS.** Pursuant to Minn. Stat. § 471.425, Subd. 4a, the Contractor must pay any subcontractor within ten (10) days of the Contractor's receipt of payment from the Cities for undisputed services provided by the subcontractor. The Contractor must pay interest of 1 ½ percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Contractor shall pay the actual penalty due to the subcontractor.
 9. **PENALTY CLAUSE.** The Cities shall impose a \$100.00 per day penalty for violations in the terms of the agreement. The Cities shall inform the Contractor of the violation and allow the Contractor one working day to correct the violation. If the violation is not resolved to the satisfaction of the Cities, the penalty shall be subtracted from the Cities's monthly payment.
 10. **TAXES.** Contractor shall pay any taxes, of any nature, due, owing or levied in association with its services pursuant to this Agreement.
 11. **INSURANCE.** Insurance secured by the Contractor shall be issued by insurance companies acceptable to the Cities and authorized to do business in Minnesota. The Contractor shall maintain insurance in the amounts shown below during the entire term of the Agreement. The Cities shall be named as an additional insured on the comprehensive general liability policy on a primary and non-contributory basis. Certificates of insurance acceptable to the Cities shall be provided to the Cities before any work under this Agreement may commence. The Contractor shall not allow any subcontractor to

commence work until all insurance has been obtained and copies have been filed and accepted by the Cities.

None of the insurance policies shall contain any provisions for exclusions from liability other than those provisions for exclusion from liability which form part of the standard basic unamended and unendorsed form of a policy, except that no exclusion shall be permitted if it conflicts with a coverage expressly required in this Agreement, and in addition, no policy shall contain any exclusion from bodily injury to, or sickness, disease, or death of any coverage under the contractual liability endorsement of the liability of the Contractor under this Agreement.

The Contractor and its sub-contractors shall secure and maintain the following insurance:

Workers Compensation Insurance:

Workers Compensation insurance shall meet the statutory obligations as specified by the Minnesota Department of Occupational Health and Safety and federal law.

Commercial General Liability Insurance:

Bodily Injury: \$2,000,000 each occurrence
 \$2,000,000 aggregate products and
 completed operations

Property Damage: \$2,000,000 each occurrence
 \$2,000,000 aggregate

Contractual Liability (identifying the contract):

Bodily Injury: \$2,000,000 each occurrence

Property Damage: \$2,000,000 each occurrence
 \$2,000,000 aggregate

Personal Injury, with Employment Exclusion deleted:

\$2,000,000 aggregate

Comprehensive Automobile Liability (owned, non-owned, hired):

Bodily Injury: \$2,000,000 each occurrence
 \$2,000,000 each accident

Property Damage: \$2,000,000 each occurrence

Environmental Liability Insurance:

The Contractor shall obtain and maintain environmental liability insurance of \$2,000,000 each occurrence in compliance with local, state and federal regulations for all matters related to in this Agreement. Contractor shall add the Cities as an additional insured under said insurance policy(s). The policy coverage shall include Environmental Impairment Liability. Contractor shall provide the Cities with appropriate documentation of the environmental liability insurance for verification upon written request from the Cities. The Contractor further indemnifies the Cities, its employees, agents and licensees from all liability related to hazardous contamination/pollution resulting from the acts of the Contractor, its employees or agents.

12. **INDEMNIFICATION.** Contractor agrees to defend, indemnify and hold harmless Cities and its elected officials, officers, employees, agents, and representatives, from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorneys' fees and other costs and expenses of litigation, which may be asserted against or incurred by Cities or for which Cities may be liable in the performance of this Agreement, except those which arise solely from the negligence, willful misconduct, or other fault of Cities. Contractor shall defend the Cities against all claims arising out of the performance of this Agreement.
13. **CITIES' LIABILITY.** Each City shall be liable for its own acts or omissions and those of its own employees and the results thereof to the extent authorized by law, and shall not be responsible for the acts of the other City, its agents or employees. It is understood and agreed that liability and damages arising from the Cities' acts and omissions are governed by the provisions of the municipal Tort Claims Act, Minn. Stat. Ch. 466, and other applicable laws. This Agreement shall not be construed as and does not constitute a waiver by either City of any conditions, exclusions or limitations on the City's liability provided by Minnesota Statutes, Chapter 466 or other applicable law. To the full extent permitted by law, this Agreement is intended to be and shall be construed as a "cooperative activity" and it is the intent of the Cities that they shall be deemed a "single governmental unit" for the purposes of liability, all as set forth in Minnesota Statutes, Section 471.59, subd. 1a(a); provided further that for purposes of that statute, each City expressly declines responsibility for the acts or omissions of the other City. In addition to the foregoing, nothing herein shall be construed to waive or limit any immunity from, or limitation on, liability available to either City, whether set forth in Minnesota Statutes, Chapter 466 or otherwise.
14. **NOTICES.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Cities, to: City of Falcon Heights
2077 W. Larpentour Avenue
Falcon Heights, MN 55113
(651) 792-7600

City of Lauderdale
1891 Walnut Street
Lauderdale, MN 55113
(651)-792-7650

If to Contractor, to: Tennis Sanitation, L.L.C.
720 4th Street
St. Paul Park, MN 55071
651-459-1887

15. **SUCCESSORS AND ASSIGNS.** This agreement is assignable only by agreement of the parties. If the Contractor is sold in whole or in part, the Cities reserve the right to negotiate a new agreement with any purchasers of the Contractor or its assets. The Cities reserve the right to declare this agreement null and void within thirty (30) days of such a sale and to negotiate a new agreement for bulky waste services with the new owner of the Contractor or its assets or through a request for proposals.
16. **MISCELLANEOUS.**
- A. If the Cities are the prevailing party in any litigation arising hereunder the Cities shall be entitled to its reasonable attorneys' fees and court costs, including appeals, if any.
 - B. This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by both parties.
 - C. This Agreement shall be construed in accordance with the laws of the State of Minnesota. Venue of any action shall be in Ramsey County.
 - D. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall remain in full force and effect.
 - E. Nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting the Contractor as the agent, representative or employee of the Cities for any purpose or in any manner whatsoever. The Contractor is to be and shall remain an independent contractor with respect to all services performed under this contract. Any and all personnel of the Contractor or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Contractor, its officers, agents, contractors or employees shall in no way be the responsibility of the Cities; and the Contractor shall defend, indemnify and hold the Cities, their officers, agents and employees harmless from any and all such claims regardless of any determination of any pertinent tribunal, agency, board, commission or court. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the Cities, including, without

limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Compensation, disability, severance pay and PERA.

- F. No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the Cities. This includes but is not limited to the cost to transfer materials collected to a disposal site.

- G. Data Practices. Contractor their officers, agents, owners, partners, employees, volunteers and subcontractors shall abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 (MGDPA), and all other applicable state and federal laws, rules, regulations and orders relating to data privacy or confidentiality, and as any of the same may be amended. If Contractor creates, collects, receives, stores, use, maintains or disseminates data because it performs functions of the Cities pursuant to this Agreement, then Contractor must comply with the requirements of the MGDPA as if it was a government entity, and may be held liable under the MGDPA for noncompliance. Contractor agrees to defend, indemnify and hold harmless the Cities, their officials, officers, agents, employees, and volunteers from any claims resulting from Contractor's officers', agents', owners', partners', employees', volunteers', assignees' or subcontractors' unlawful disclosure and/or use of such protected data, or other noncompliance with the requirements of this section. Contractor agrees to promptly notify the Cities if it becomes aware of any potential claims, or facts giving rise to such, under the MGDPA. The terms of this section shall survive the cancellation or termination of this Agreement.

CITY OF FALCON HEIGHTS

TENNIS SANITATION, L.L.C.

BY: _____
Peter Lindstrom, Mayor

BY: _____
Its _____

AND _____
Bart Fischer, City Administrator/City Clerk

CITY OF LAUDERDALE

BY: _____
Jeffrey E. Dains, Mayor

AND _____
Heather Butkowski, City Administrator/City Clerk

ACTION REQUESTED	LAUDERDALE COUNCIL
Consent _____	MEETING DATE <u>June 11, 2013</u>
Special _____	
Public Hearing <u> X </u>	ITEM NUMBER <u>Zoning Variance Application</u>
Report _____	<u>1728 Malvern St.</u>
Discussion/Action <u> X </u>	
Resolution _____	STAFF INITIAL <u>Jim</u>
Work session _____	APPROVED BY ADMINISTRATOR _____

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

See attached memo.

OPTIONS:

STAFF RECOMMENDATION:

COUNCIL ACTION:

MEMO

DATE: JUNE 11, 2013
TO: MAYOR AND COUNCIL
FROM: JIM BOWNIK
RE: VARIANCE APPLICATION FOR 1728 MALVERN STREET

APPLICANT, PROPERTY OWNER, AND LOCATION

Jeremy & Jessica Newhouse
1728 Malvern Street
Lauderdale, MN 55113

PROPOSAL & VARIANCE REQUEST

The applicant is proposing to construct a single-family home to replace a single-family home which was recently demolished. The previous home was located 30 feet from the front property line. The new home can be located 24.5 feet from the front property line without needing zoning approvals. The applicant is requesting a 3.5-foot variance to the front-yard setback requirements in order to position the home 21 feet from the front property line.

POLICIES AND PROCEDURES FOR VARIANCE APPROVAL

In reviewing this variance request, the Council should consider the Zoning Ordinance requirements as well as relevant State Statutes. These requirements are outlined on the attached Variance Checklist.

Here is the general order of procedure.

- 1) Staff presentation.
 - Apply the Practical Difficulties Test
- 3) Public Hearing.
- 4) Approve or deny the variance.

PRACTICAL DIFFICULTY TEST

The municipal variance standard requires the City to apply a three-factor test for "practical difficulties" consisting of (1) reasonableness, (2) uniqueness, and (3) essential character.

A variance should be granted if strict enforcement of the municipal variance standard as applied to a particular piece of property would cause the landowner a "practical difficulty." The landowner is generally entitled to the variance if and only if the applicant meets the statutory three-factor test for practical difficulty. If the applicant does not meet all three factors of the statutory test, then a variance should not be granted.

- 1) **The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls:**

- In general, one can conclude that “reasonable use” can be achieved without a variance. The previous home was located 30 feet from the front setback. Because of the “average of the adjacent structures rule” the new home can be located 24.5 feet from the front property line without needing zoning approvals. The question then becomes, is an additional 3.5 feet necessary to provide a reasonable use of the property?

2) The plight of the landowner is due to circumstances unique to the property not created by the landowner:

- A 9-foot variance approved at 1732 Malvern for a front porch in 2011, created a more lenient front setback requirement for 1728 Malvern, going from 30 feet to 24.5 feet. The landowner is asking to situate the house an additional 3.5 feet closer to the front property line to create a larger back yard. The size of the back yard has been compromised by the size of the garage, which was constructed by a previous owner of the property.

3) The variance, if granted, will not alter the essential character of the locality:

- Granting this variance request does not appear to impact the essential character of the neighborhood.

ESTABLISHING THE FINDINGS OF FACT (Based on Answers to Questions on the Variance Checklist)

The applicant has provided the following answers to the questions below:

Describe your proposed project and why you are requesting a variance:

“I am requesting a 3.5ft variance in the front yard setback to match the 21ft setback of my immediate neighbor on the north property line. Due to the existing size of my garage, I have very little back yard for my child to play. I don’t want to request a variance to put a front yard fence as that would not match the neighborhood aesthetics and would not contribute to community.”

A) How does the proposal put your property to use in a reasonable manner?

“In talking with my neighbors, I would really like to see our block of Malvern become more family friendly. Part of this means having yards where children can play safely. At present, all the families on our block with young children (with the exception of one corner lot) live on the west side of Malvern St. As a new parent, one reason for this that is now clear to me is that all the houses on the west side of Malvern have a shorter setback from the road and therefore bigger back yards where children can play safely. I believe a 3.5ft variance will provide a safer and larger back yard for my children, and in the bigger picture, this will help our block be more family friendly.”

B) What are the unique circumstances to the property not created by the landowner?

“My house burned down, and this has forced us to decide where we want to raise our family. With another child on the way and with my wife and I wanting more kids, we would like to live where we have a yard where children can play safely.”

C) How will a variance, if granted, not alter the essential character of the locality?

"We were careful to ensure that the house we build matches the look of the neighborhood. We brought our architect to the site and explained what we wanted and also asked that she look at our neighbors' homes to make sure it fits with the neighborhood feel. The 3.5ft variance will match our neighbor's variance, and 2ft of the variance is used for the pillars of a small front porch-so the actual foundation wall of the house will be 2ft behind the variance."

D) How is granting of a variance in harmony with the purposes and intent of the Zoning Ordinance?

"Lauderdale zoning section 10-1-2 states that the purpose and intent of the zoning ordinances is to "establish standards and procedures regulating such uses to help promote the public health, safety and general welfare of the City." As stated above, I believe the requested variance will promote the safety and public health of Malvern St by enhancing the 1700 block as a place where families can raise children, and not have to move when they have more children, and thereby develop deep community ties to the neighborhood. A larger back yard is a meaningful factor when families are choosing where to raise their kids."

E) How are the terms of a variance consistent with the Comprehensive Plan?

"This variance fits the look and feel of the houses across the street and matches the variance of my neighbors. This variance contributes to the building of community so I don't have to put in a front yard fence where my children can play. I believe this house and this lot design will increase the property values of my neighborhood and the general welfare of Lauderdale. For these reasons, I believe this 3.5ft variance is reasonable, it is uniquely requested due to the fire, and it enhances the essential character by matching the unique construction character of the Malvern homes, and of and helping making the east side of Malvern St more family friendly. For these reasons, I respectfully request the city approves this variance."

ENCLOSURES

A) Original variance application, site plan and variance checklist.

PUBLIC HEARING

Adjacent property owners received notice of tonight's public hearing.

CITY COUNCIL ACTION OPTIONS

1) Motion to approve the variance and direct staff to prepare a resolution of approval with findings of fact for the next meeting.

- Conditions may be imposed on granting of variances if those conditions are directly related to and bear a rough proportionality to the impact created by the variance.

2) Motion to deny the variance and direct staff to prepare a resolution of denial with findings of fact for the next meeting.

- If the variance is denied, state the rationale for the denial in the motion.

CITY OF LAUDERDALE VARIANCE CHECKLIST

The following requirements must be met in order for your variance application to be considered complete:

1) Have a pre-application meeting with city staff before submitting a variance application. Please bring the completed application and all required documents to this meeting.

2) Submit the following:

A) Variance application and fee.

B) Site Plan:

- Drawn to scale.
- Delineating your property lines (by locating property stakes, submitting a Certificate of Survey, or other means).
- Showing lot lines, street names, locations and dimensions of all existing or proposed buildings, setback distances, parking areas, lot coverage percentage (as defined by structures covered by a roof) and any other pertinent site information.

3) Describe your proposed project and why you are requesting a variance.

4) Answer the following questions:

A) How does the proposal put your property to use in a reasonable manner?

B) What are the unique circumstances to the property not created by the landowner?

C) How will a variance, if granted, not alter the essential character of the locality?

D) How is granting of a variance in harmony with the purposes and intent of the Zoning Ordinance (Lauderdale's Zoning Ordinance can be found online at www.ci.lauderdale.mn.us)?

E) How are the terms of a variance consistent with the Comprehensive Plan (Lauderdale's Comprehensive Plan can be found online at www.ci.lauderdale.mn.us)?

Information You Should Know

- The municipal variance standard requires the city to apply a three-factor test for "practical difficulties" consisting of (1) reasonableness, (2) uniqueness, and (3) essential character.
- Thus, the city is required to adopt findings based on the questions above.
- Conditions may be imposed on granting of variances if those conditions are directly related to and bear a rough proportionality to the impact created by the variance.

Jim Bownik

From: Jeremy Newhouse [jerxp@comcast.net]
Sent: Wednesday, May 29, 2013 11:33 AM
To: Jim Bownik
Subject: RE: Variance

Thanks Jim!

I didn't have your email so I emailed my variance checklist last night to Heather. See below:

Heather,

Please see the variance checklist items below that I went over with Jim today. Let me know if there is anything else you would require. If possible, I would appreciate it greatly if this variance request can be brought to a vote on the Tuesday June 11th meeting so we can move forward with our building schedule.

Thank you for your consideration,

Jeremy

Questions from variance checklist...

3) Describe your proposed project and why you are requesting a variance:

I am requesting a 3.5ft variance in the front yard setback to match the 21ft setback of my immediate neighbor on the north property line. Due to the existing size of my garage, I have very little back yard for my child to play. I don't want to request a variance to put a front yard fence as that would not match the neighborhood aesthetics and would not contribute to community.

4) Answers:

A) In talking with my neighbors, I would really like to see our block of Malvern become more family friendly. Part of this means having yards where children can play safely. At present, all the families on our block with young children (with the exception of one corner lot) live on the west side of Malvern St. As a new parent, one reason for this that is now clear to me

is that all the houses on the west side of Malvern have a shorter setback from the road and therefore bigger back yards where children can play safely. I believe a 3.5ft variance will provide a safer and larger back yard for my children, and in the bigger picture, this will help our block be more family friendly.

B) My house burned down, and this has forced us to decide where we want to raise our family. With another child on the way and with my wife and I wanting more kids, we would like to live where we have a yard where children can play safely.

C) We were careful to ensure that the house we build matches the look of the neighborhood. We brought our architect to the site and explained what we wanted and also asked that she look at our neighbors' homes to make sure it fits with the neighborhood feel. The 3.5ft variance will match our neighbor's variance, and 2ft of the variance is used for the pillars of a small front porch-so the actual foundation wall of the house will be 2ft behind the variance.

D) Lauderdale zoning section 10-1-2 states that the purpose and intent of the zoning ordinances is to "establish standards and procedures regulating such uses to help promote the public health, safety and general welfare of the City." As stated above, I believe the requested variance will promote the safety and public health of Malvern St by enhancing the 1700 block as a place where families can raise children, and not have to move when they have more children, and thereby develop deep community ties to the neighborhood. A larger back yard is a meaningful factor when families are choosing where to raise their kids.

E) This variance fits the look and feel of the houses across the street and matches the variance of my neighbors. This variance contributes to the building of community so I don't have to put in a front yard fence where my children can play. I believe this house and this lot design will increase the property values of my neighborhood and the general welfare of Lauderdale. For these reasons, I believe this 3.5ft variance is reasonable, it is uniquely requested due to the fire, and it enhances the essential character by matching the unique construction character of the Malvern homes, and of and helping making the east side of Malvern St more family friendly.

For these reasons, I respectfully request the city approves this variance.

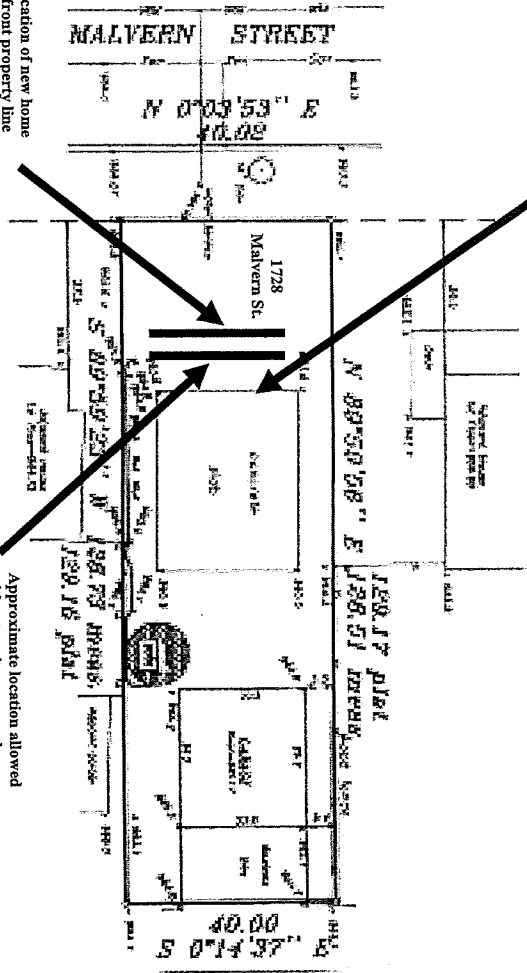
Thank you,

Jeremy Newhouse

From: Jim Bownik [<mailto:Jim.Bownik@ci.lauderdale.mn.us>]

Location of previous home
30 feet from front property line

Requested location of new home
21 feet from front property line
(in alignment with deck on house
to the north at 1732 Malvern St.



Approximate location allowed
without zoning approvals
24.5 feet from front property line

- 1. 100001 100 - 20000000
- 2. 100002 100 - 20000000
- 3. 100003 100 - 20000000
- 4. 100004 100 - 20000000
- 5. 100005 100 - 20000000
- 6. 100006 100 - 20000000
- 7. 100007 100 - 20000000
- 8. 100008 100 - 20000000
- 9. 100009 100 - 20000000
- 10. 100010 100 - 20000000

Proposed use of 100001000 100 - 20000000

2000 10000000
1000 10000000
1000 10000000

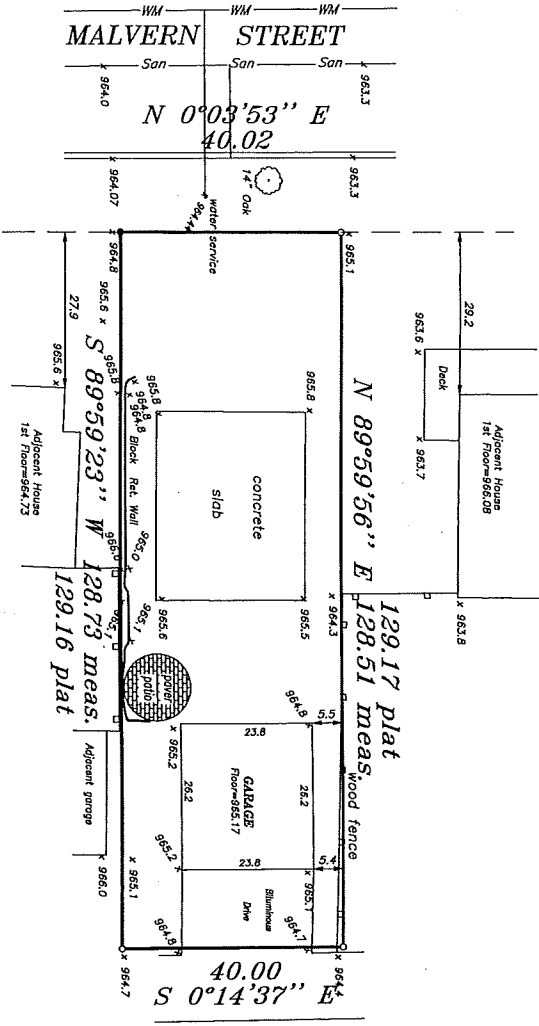
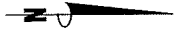
OSWALD-GARRIN
LAND SURVEYING, INC.
6035 WILSONWAY AVE. SE
SUITE 200
LEWIS AND CLARK
RICHMOND, VA 23228
Tel: (804) 267-0447
Fax: (804) 267-0447

1. 100001 100 - 20000000
2. 100002 100 - 20000000
3. 100003 100 - 20000000
4. 100004 100 - 20000000
5. 100005 100 - 20000000
6. 100006 100 - 20000000
7. 100007 100 - 20000000
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9. 100009 100 - 20000000
10. 100010 100 - 20000000

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CEMETERY ST SURVY PLAN
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URBAN RENOVATIONS, LLC
OF
LOT 25 MANHATTAN ADDITION



- Denotes iron monument
- Denotes found monument
- x 000.0 Denotes existing elev.
- (000.0) Denotes proposed elev.
- ↘ Denotes surface drainage

Elevations are assumed
Proposed top of foundation elev. =

**DEMARS-GABRIEL
LAND SURVEYORS, INC.**
6875 Washington Ave, So.
Suite 209
Edina, MN 55439
Phone: (952) 767-0487
Fax: (952) 767-0490

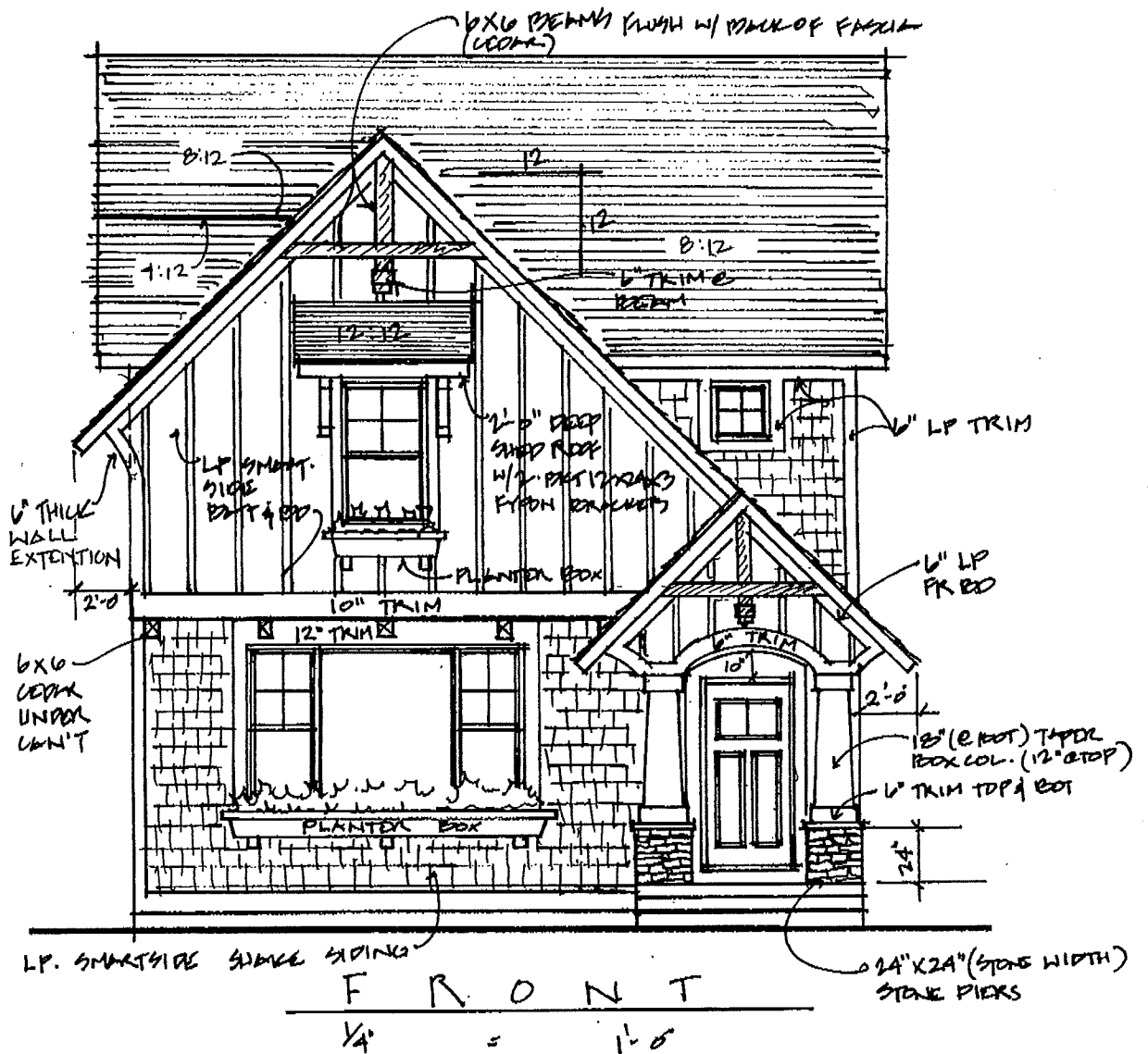
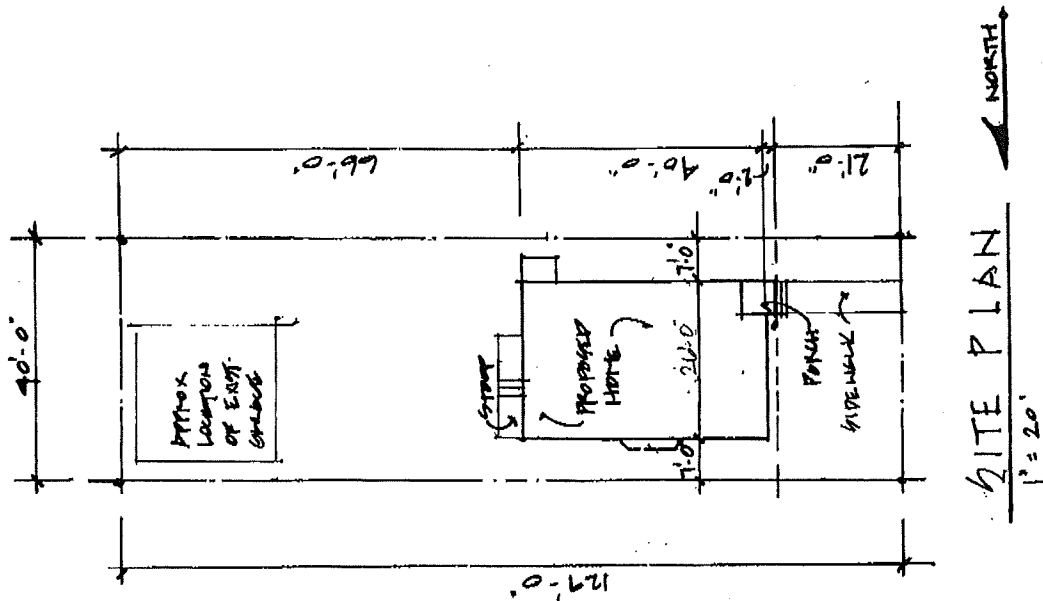
I hereby certify that this survey, plan or report was prepared by me or that I am a duly registered Land Surveyor under the Laws of the State of Minnesota.
Date: May 20, 2013

David E. Croak
Minn. Reg. No. 22414

File No. 14099 B
Book-Page
Scale 1"=20'

CERTIFICATE OF SURVEY FOR:
URBAN RENOVATIONS, LLC
OF
Lot 25 MANUELS ADDITION

SITE ADDRESS:
1728 Malvern Street
Lauderdale, MN



ACTION REQUESTED	LAUDERDALE COUNCIL
Consent _____	MEETING DATE June 11, 2013 _____
Special _____	ITEM NUMBER Skyview Park Fence _____
Public Hearing _____	STAFF INITIAL Jim _____
Report _____	APPROVED BY ADMINISTRATOR _____
Discussion/Action <u> X </u>	
Resolution _____	
Work session _____	

BACKGROUND:

A fence at Skyview Park, 1730 Walnut Street, has been planned for this year to delineate public property from private property. I have contacted the adjacent property owner, Earl Peterson (1738 Walnut), to let him know about the proposed project and this meeting. As of the writing of this memo, I have not heard from him with any questions or feedback. He talked to Dave last fall, saying he would favor buying 10 feet of the park property instead of a fence being installed. However, if a fence was installed he expressed a preference for a privacy fence to mitigate sound from the Park. Since the idea of selling part of the park property was not supported, the plan is to install a fence on the property line between his property and the Park.

I received quotes from 3 companies, based on a Request for Quotes (RFQ). Here are the lowest quotes for 3 options- chain link (non-privacy), wood cedar (privacy), and PVC (privacy):

- Chain Link: \$2,198 Town & Country Fence
- Wood Cedar: \$3,529 Midwest Fence (does not include painting or staining)
- PVC: \$4,562 Midwest Fence

The PCIC recommended a wood cedar privacy fence.

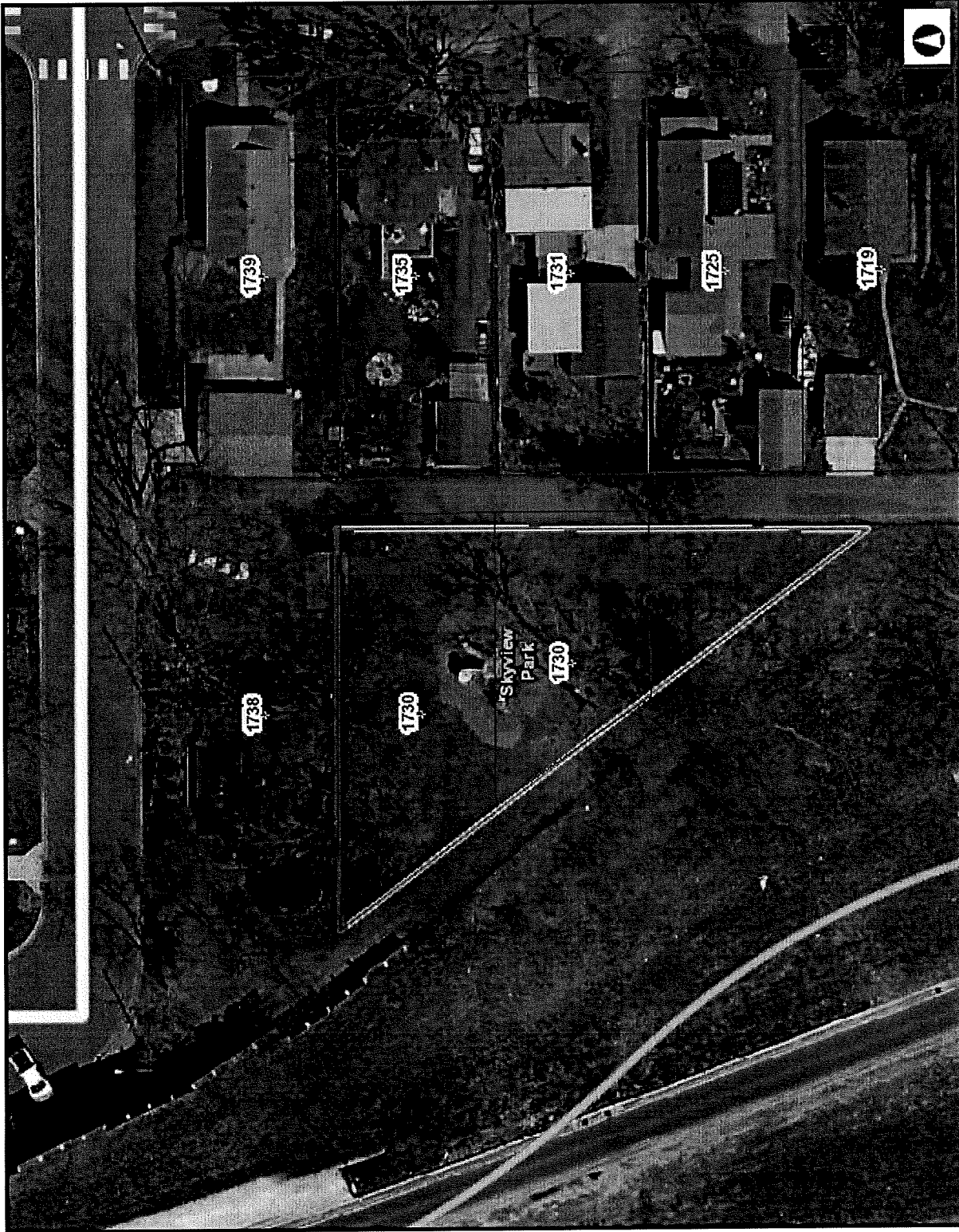
OPTIONS:

- 1) Motion to install one of the 3 fence options at Skyview Park.
- 2) Motion to not install any fence at Skyview Park.
- 3) Do nothing.

STAFF RECOMMENDATION:

- 1) Motion to install one of the 3 fence options at Skyview Park.

COUNCIL ACTION:



Legend

- County Offices
 - City Halls
 - Schools
 - Hospitals
 - Fire Stations
 - Police Stations
 - Recreational Centers
 - Parcel Points
 - Parcels
- GISRASTER:GISPUB.IMAGE_
High : 255
Low : 0

Notes

Enter Map Description

94.8 Feet

47.39

0

94.8 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



ESTIMATION WORKSHEET

8511 Xylon Avenue North • Brooklyn Park, MN 55445-1820
Office (763) 425-5050 Fax (763) 425-9006

www.tcfence.com



CUSTOMER INFORMATION

Name: City of Lauderdale
Address: 1891 Walnut Street
City: Lauderdale, MN. 55113
Attention: Jim Bownik
Skyview Park, 1730 Walnut Street, Lauderdale, MN.

Salesperson: JEFF BECKER
Date of Contact: 05-31-13
Date of Quote: 05-31-13
Date to Install: _____
Terms: _____

PRICES QUOTED ARE GUARANTEED FOR 15 DAYS

Furnish and Install

127 lf of 5' tall black coated chain link fence.
Fence will have 2" line posts driven 4' deep to set 10' o.c. 2 1/2" terminal posts will be concrete set. ?
Fence will have a top and bottom tension wire, with 2" 8 gauge finish fabric 5' tall.
Total = \$2,198.00

Optional PVC Fence
127 lf of 6' tall WHITE Bufftech Chesterfield pvc privacy fence.
5" x 5" posts 8' o.c. will be concrete set.
Total = \$5,678.00

127 lf of 6' tall cedar wood privacy fence.
4" x 4" cedar posts concrete set 8' o.c., 2" x 4" cedar stringers (2 per bay), and 1' x 6" x 6' cedar wood boards nailed to stringers. The style of fence will be "Shadow Box" or "Good Neighbor"
Note: Price does not include any staining or painting of fence
Total = \$3,600.00

Any questions concerning our bid, please give me a call. Thanks for the opportunity to provide you pricing on this fence project.
Sincerely yours,
Jeff Becker,
Sales Representative

Thanks!
Jeff Becker



ESTIMATE / ORDER



**525 E. Villaume Ave.
So. St. Paul, MN 55075**

Phone: 651-451-2222 Fax: 651-451-6939

Gopher state (1) Call ID #464 _____ Ticket # _____
 Nearest Intersecting Street _____
 Hudson Page # _____ Hudson Grid # _____
 Township _____ County _____

Company: City of Lauderdale Bill To: _____ Date: 5/8/2013
 Address: 1891 Walnut Street Address: _____ Job No: _____
 City: Lauderdale State: MN Zip: 55113 City: _____ State: _____ Zip: _____ Estimator: David Reiss
 Contact: Jim Bownik P.O. _____

Job Site Address: Skyview Park Work Phone 651-792-7656
1730 Walnut Street Fax #: _____
Lauderdale, MN Other Phone _____

Terms	<input type="checkbox"/> Down Payment
	<input type="checkbox"/> Progress Payment
	<input type="checkbox"/> Bal on Completion

Quantity	Description	Amount
127	linear feet of 5' high black vinyl chain link fence. Top rail 1-5/8" O.D. <i>bottom tension will?</i> Line posts 2" O.D. End posts 2-1/2" O.D. All posts driven 48" into the ground.	
	Material and Labor	\$ 2,284.00
127	linear feet of 6' high western red cedar solid board fence. Face boards 1" X 6" Top and bottom rails 2" X 4". Posts 4" X 4". All posts set in concrete foundations. Material and Labor \$3,529.00	
127	linear feet of 6' high white PVC privacy fence. All posts 5" X 5" and set in concrete foundations. Material and Labor \$4,562.00	
127	linear feet of 6' high TREX privacy fence. All posts 5" X 5" and set in concrete foundations. Material and Labor \$7,835.00	

A Service charge of 1.5% (18% annually) will be applied on all past due balances. The purchaser shall be responsible for any and all collection and legal costs incurred by Midwest Commercial Fence in the event of this bill becoming past due. Midwest Fence reserves the right to lien the improved property if payment in full as agreed to in this contract is not received.

MATERIALS AND INSTALLATION		\$ 2,284.00
THIS ESTIMATE VALID FOR 30 DAYS FROM ABOVE DATE	TAX	
	TOTAL	\$ 2,284.00

Owner responsible for establishing correct property and fence lines. Any permits required shall be the sole responsibility of the owner. Owner responsible for removal of obstructions of every nature which will interfere with the installation of the fence. This contract assumes normal ground conditions. Should rocky or excessive hard digging be encountered, owner agrees to pay additional costs of such work. Midwest Fence shall furnish only the materials and labor specified in this contract. Any changes made from the above specifications will be billed at Midwest Fence's current retail prices.

THIS CONTRACT SUBJECT TO ACCEPTANCE BY MIDWEST FENCE'S CREDIT MANAGER.

I accept this contract on behalf of Midwest Fence & Mfg. Co.

Customer Signature _____	Date _____
Credit Manager _____	Date _____
Salesperson Signature _____	Date _____



SINCE 1917 THE MARK OF PERMANENCE

Office (651)-464-7373
Toll Free (800)-328-9558
Fax (651)-464-7377
Cellular (612)-328-8806

ijorgensen@centuryfence.com

P.O. Box 277, Forest Lake, MN, 55025

5/8/2013

Phone: 651-792-7656 Fax: 651-631-2066

Proposal To:

City of Lauderdale
Attn: Jim Bownik
1891 Walnut St
Lauderdale, MN 55113

Ship To:

Skyview Park
1730 Walnut St
Lauderdale MN

Installed Material Only Prepaid Freight Freight Collect F.O.B. Job Site Delivery Schedule: As Required

Description

Furnish and install:

Option #1 - 130 l.f. of 5' high black vinyl coated chain link fence
(2) 2-1/2" end posts
All posts will be air driven
Total \$2,975.00

Option #2 - 130 l.f. of 6' high cedar wood privacy fence...Total \$4,867.00

Option #3 - 130 l.f. of 6' high PVC privacy fence white in color...Total \$5,675.00
ADD \$400.00 for tan color

Options 2 and 3 posts will be set in concrete footings
Painting or staining of wood fence to be by others
Locating of private utilities to be by others
Excludes excavation through rock, frost, or backfill
Proposal is valid for 30 days

Acceptance: This proposal when accepted in writing by purchaser and by Century Fence Company's Main Office becomes a contract between two parties. The conditions on the attached "Terms and Conditions" sheet are made a part of this contract.

Terms of Payment: Net Cash upon receipt of invoice.

Buyer's signature _____ Date _____ Submitted by _____
Ian Jorgensen

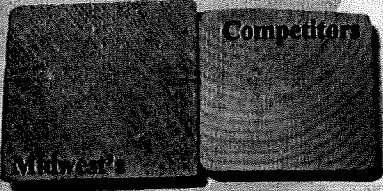
WHAT DIFFERENTIATES MIDWEST'S WOOD FENCE FROM OUR COMPETITION?

The old adage "you get what you pay for" applies to so many industries, and fencing is no exception. Our superior materials, experience, and workmanship is second to none. We offer all this at a fair price that can save you hundreds,

if not thousands of dollars in the long run. Our industry-leading 5 year workmanship warranty is backed by the stability of over 60 years of serving the metro area as the largest residential fence company.

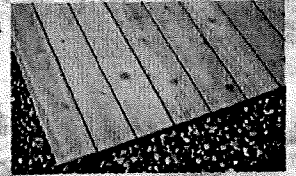
Canadian Cedar Posts

Midwest Fence buys wood posts directly from Canada. Our Canadian cedar posts measure on average 3 3/4" to 4" across. Many of our competitors use just 3 1/2" posts. Canadian Cedar also has a more dense growth ring pattern, adding to the hardness and durability of the post. These and other factors contribute to a superior product and greater longevity.

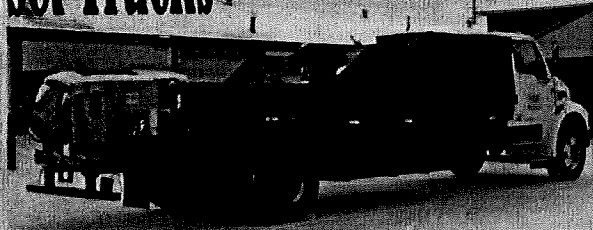


#1 Grade Coastal Red Cedar Boards

Midwest Fence buys exclusively #1 grade coastal red cedar boards. Not only are these boards the most naturally rot-resistant available, but are also the most warp and crack resistant. They're also known for their ability to absorb and retain oil-based stains. As of late, our market has been invaded by Western Red Cedar imitators, such as Chinese Cedar, Fir, Treated Pine and others. Some companies go as far as mixing cedar boards with pine or other type posts! Nothing stands the test of time as well as Coastal Red Cedar!



Set Trucks



Midwest fence is one of the very few companies that owns set trucks. These are dedicated concrete trucks with a built in cement mixer and gravel bed which enables us to mix our concrete onsite. Most companies use pre-mixed bags of concrete such as Quick Crete™ or Sakrete™. This inferior process results in footings that crack and break down prematurely allowing water to seep in and erode your posts. This, in turn, significantly reduces the longevity of your fence.

Crew specialization

Midwest Fence separates its post set crews from its finishing crews. Installation specialization results in concentrating experience and expertise in one area resulting in a better quality and more uniform installation. At most other companies, the installer that sets the posts, also finishes the installation.

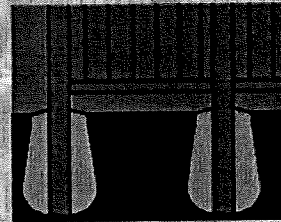
2-trip installation

Midwest Fence sets posts first and allows concrete to set up properly before returning approximately 1 week later to complete. This results in a stronger, longer lasting fence.

DURA CEDAR pressure treated posts

Midwest Fence is the only fence company to offer customers an environmentally friendly, non-toxic, pressure treatment system that extends the life of your post without discoloration! This exclusive process using durazyme® can increase the life of cedar posts another 50% or more! Visit www.midwestfence.com for more information.

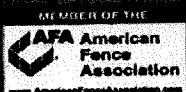
Belled and crowned footings



Belled footings make the fence stronger and less likely to heave and lift out of the ground during cold winter months. When moisture in the ground freezes, expanding ice in the soil creates side and bottom pressure on post footings that can easily push the post right out of the ground, like toothpaste out of a tube! A belled-bottom footing installation reduces the likelihood of this occurring significantly, increasing the life of your fence. Crowning the top of the footing, creating a troweled, angled top that rises up to meet the post, forces water to run away from the base of the post, extending their life.

MIDWEST FENCE
AND MANUFACTURING CO.

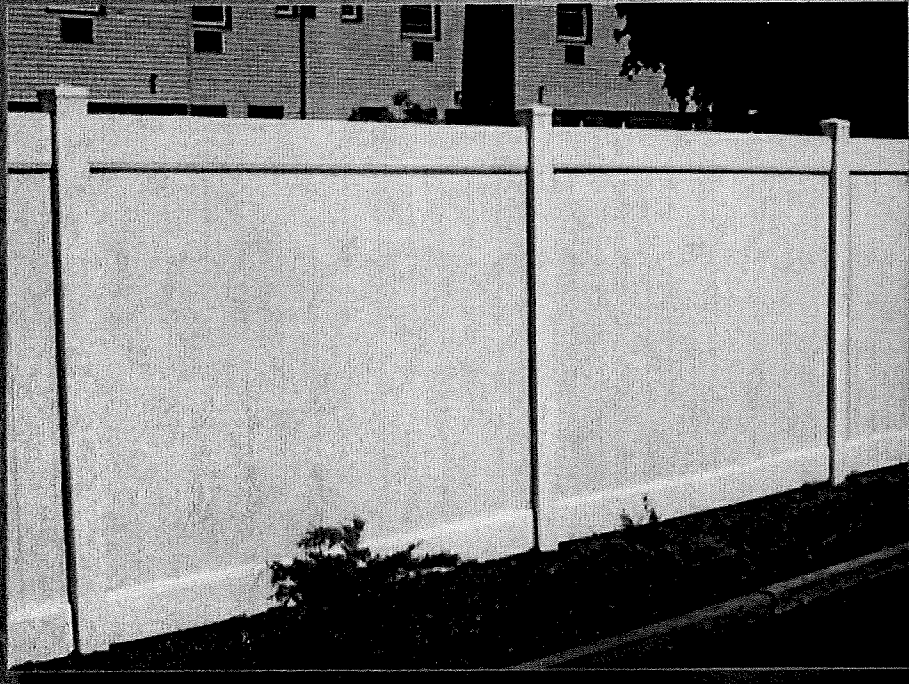
651-451-2222
525 E. Villaume Ave. So. St. Paul, MN 55075



www.midwestfence.com

HARTFORD

exclusively from Midwest Fence

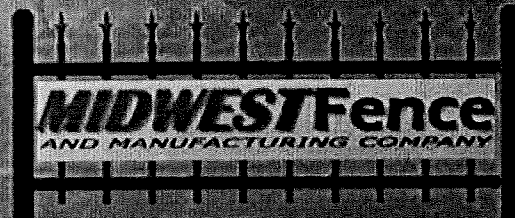


- Standard Height Options:
72"
- Post Spacing Options:
8' center-to-center
- Post Dimensions:
72" High Fence = 5" x 5" x 108"
- Standard Post Depth:
72" High Fence = 34" Depth
- Standard Cap Style:
5" x 5" Traditional
- Horizontal Dimensions:
2" Thick x 7" Wide (Top)
2" Thick x 7" Wide (Bottom)
- Picket Spacing/Picket Dem.
7/8" x 7" Wide
- Ground Clearance:
2"

The Hartford, exclusively from Midwest Fence, provides a solid privacy wall that features tongue and groove verticals for greater fence strength. Hartford has proven to be a solid choice among homeowners who want full privacy for their yard.

Call Midwest Fence today or visit www.midwestfence.com for a free, no obligation, consultation with one of our fence experts.

Midwest Fence and Mfg. Co.
525 E. Villaume Ave.
So. St. Paul, MN 55075
651-451-2222
sales@midwestfenceco.com
www.midwestfence.com



**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested

Consent _____
Public Hearing _____
Discussion X _____
Action X _____
Resolution _____
Work Session _____

Meeting Date June 11, 2013
ITEM NUMBER 2014 Police Contract
STAFF INITIAL AB
APPROVED BY ADMINISTRATOR _____

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

The Council didn't suggest any contact language changes at the last meeting, and to date, neither have the St. Anthony or Falcon Heights Councils. Approving the attached agreement would secure police services for 2014.

OPTIONS:

STAFF RECOMMENDATION:

Motion to approve the 2014 police contract as provided.

COUNCIL ACTION:

CONTRACT AGREEMENT
FOR POLICE SERVICES

This Agreement is made and entered into as of _____, 2013 between the CITY OF ST. ANTHONY, a municipal corporation under the laws of the State of Minnesota ("St. Anthony") and the CITY OF LAUDERDALE, a municipal corporation under the laws of the State of Minnesota ("Lauderdale"). The services to be performed under this Agreement will commence January 1, 2014.

I. PURPOSE

St. Anthony and Lauderdale have the power within their respective cities to provide for the prevention of crime and for police protection. Under Minnesota Statutes, Section 471.59, the cities may, by agreement, provide for the exercise of the police power by one city on behalf of the other city.

This Agreement sets forth the terms and conditions under which St. Anthony will provide police services for Lauderdale. St. Anthony will have full authority and responsibility to provide services in accordance with all enabling legislation under the laws of the State of Minnesota and the ordinances of Lauderdale. St. Anthony will provide feedback to the Lauderdale City Administrator and City Council on a regular and timely basis, and will actively support the creation of a Joint Advisory Committee pursuant to Section IX of this Agreement, whose members come from both cities, and whose purpose is to review, monitor, and ensure a successful relationship between the two cities under this Agreement.

II. INTERPRETATION

This Agreement is entered following the preparation by Lauderdale of a Request for Proposal for Police Services and the submission of a responsive Proposal by St. Anthony (the "Proposal"). To the extent that any of the provisions of this Agreement are inconsistent with the provisions of the Proposal, the provisions of this Agreement will control. If any provision of this Agreement is ambiguous, the parties agree that the Proposal may be looked to as evidence of the parties' intent.

III. SERVICES

St. Anthony will provide Lauderdale with 24 hour police service, and will physically place a certified officer within the boundaries of Lauderdale 24 hours each day, except in those instances when the officer makes an arrest and transports a prisoner, during mutual aid situations, when providing a backup for another officer, or when called away for a court appearance, booking or similar police matter. Subject to these exceptions and in normal circumstances, St. Anthony will provide 24 hours of police protection and police presence each day within the City of Lauderdale. In those instances stated above when an officer is not physically present in Lauderdale, St. Anthony will respond to emergency police calls with other officers.

IV. LEVEL OF SERVICES

During the term of this Agreement, St. Anthony will provide to Lauderdale the same police service extended to persons and property within St. Anthony, which will include, but not be limited to, the following:

- A. Patrol services, with random patrolling of all residential, business and public property areas during all shifts;
- B. Police presence within the boundaries of Lauderdale 24 hours each day, subject only to the exceptions noted above;
- C. Animal control services as provided within the City of St. Anthony by the animal control service employed by St. Anthony;

- D. Dispatching services are to be paid directly by the municipality served by Ramsey County Dispatch;
- E. Enforcement of all ordinances of Lauderdale which are intended to be enforced by police officers, with special attention being given to parking, winter and nuisance ordinances;
- F. Ticketing for traffic violations will be done routinely during normal shifts;
- G. Crime prevention programs that encourage community involvement and investment in the City of Lauderdale;
- H. Criminal investigations;
- I. Reports on police services and activities, including weekly, monthly and annual police reports;
- J. Responses to medical emergencies, fires and other emergencies; responses shall include, where appropriate, securing the scene for fire/rescue personnel, accompanying fire/rescue personnel to the hospital upon request of such personnel, and providing follow-up information to fire/rescue personnel upon request of such personnel;
- K. Officers will be available at Lauderdale City Hall to answer questions from, and provide information regarding police activities to, Lauderdale residents, business owners and staff on an as-needed basis;
- L. License inspections, background investigations and license enforcement services as called for under applicable state law or city ordinances;
- M. Review and comment, upon request, of proposed Lauderdale ordinances affecting police services or enforcement;
- N. Follow-up on reported crimes with the person(s) who reported the crime, including routine notification by telephone or mail as to the status of the investigation; and
- O. Special event traffic patrol services.

V. PAYMENT FOR SERVICES

This Agreement will be effective January 1, 2014, and will continue until December 31, 2014. In consideration of the services to be provided under this Agreement, Lauderdale will pay St. Anthony an annual fee of \$617,081 for the year 2014, for police service under this Agreement.

VI. METHOD OF PAYMENT

St. Anthony will bill Lauderdale monthly for 1/12 of the annual fee, and Lauderdale will promptly remit payments to St. Anthony within 30 days after receiving each billing from St. Anthony.

VII. LIABILITY

St. Anthony will be responsible for all liability incurred as a result of the actions of its employees, volunteers, and agents under this Agreement, and will hold Lauderdale, its officers and employees harmless for any

liability resulting from actions of a St. Anthony employee, volunteer or agent and shall defend Lauderdale, its officers and employees, against any claim for damages arising out of St. Anthony's performance or failure to perform its obligation under this Agreement. St. Anthony will bear the expense to defend itself and Lauderdale in the event of a claim, action, or liability including attorney's fees and any deductible amount if the matter is covered by St. Anthony's insurer.

VIII. ADMINISTRATIVE RESPONSIBILITY

The law enforcement and police services rendered to Lauderdale will be under the sole direction of St. Anthony. The standards of performance, the hiring and discipline of officers assigned, and other matters relating to regulations and policies related to police employment, services and activities, will be within the exclusive control of St. Anthony. The parties hereto expressly affirm the importance of work force diversity and St. Anthony agrees to use reasonable efforts, within applicable departmental budgetary limits, to recruit qualified female and minority police officers.

IX. JOINT ADVISORY COMMITTEE

Both cities will appoint members to a Joint Advisory Committee. The committee will meet at least once a year to ensure that this Agreement and the services performed pursuant to this Agreement are meeting the expectations of both cities. Any recommendations of the committee will be strictly advisory.

X. COMMUNICATIONS, EQUIPMENT AND SUPPLIES

St. Anthony will furnish all communication equipment and any necessary supplies required to perform the services, which are to be rendered under this Agreement.

XI. COOPERATION AND ASSISTANCE AGREEMENTS

Lauderdale will be included in all Cooperative Agreements entered into by the St. Anthony Police Department with other police services units.

XII. HEADQUARTERS

Headquarters for services rendered to Lauderdale under this Agreement will be located at offices owned or leased by St. Anthony. The citizens of Lauderdale may notify headquarters or Ramsey County radio dispatch for police services requested either in person or by some other means of communication. St. Anthony officers may take routine telephone calls and complete routine reports for Lauderdale at the Lauderdale City Hall, and Lauderdale will have facilities available to the officers at Lauderdale City Hall for this purpose. The facilities will include a desk, telephone, fax and copier.

XIII. EMPLOYEES OF ST. ANTHONY

Officers assigned to duty in Lauderdale will at all times be employees of St. Anthony. All obligations with regard to workers compensation, PERA, withholding tax, insurance and similar personnel and employment matters will be the obligation of St. Anthony. Lauderdale will not be required to furnish any fringe benefits or assume any other liability of employment to any officer assigned to duty within Lauderdale.

XIV. ENFORCEMENT POLICIES

Enforcement policies of St. Anthony will prevail as the enforcement policies within Lauderdale. A written statement of the current enforcement policies of St. Anthony will be provided in writing to Lauderdale.

XV. ENFORCEMENT OF ORDINANCES OF THE CITY OF LAUDERDALE

St. Anthony officers assigned to duty within Lauderdale will enforce Lauderdale ordinances to the extent appropriate for enforcement by police officers.

XVI. OFFICERS OF LAUDERDALE

The officer's assigned duty within Lauderdale will be provided with authority to enforce the laws of the City of Lauderdale by proper action to be taken by the Lauderdale City Council, and while performing services under this Agreement will be considered police officers of Lauderdale. The Chief of Police of St. Anthony will furnish to the Lauderdale City Administrator the names of all St. Anthony police officers assigned to Lauderdale and all such officers will be appointed officers of the City of Lauderdale.

XVII. OFFENSES

All offenses within Lauderdale charged by police officers under this Agreement will be charged in accordance with Lauderdale ordinances when possible; otherwise, the charge will be made in accordance with the laws of the State of Minnesota or the laws of the United States of America.

XVIII. COMMUNICATIONS

St. Anthony agrees to provide the Lauderdale Administrator with weekly, monthly and annual police reports, in a format as is mutually agreed to by the St. Anthony Police Chief and the Lauderdale City Administrator.

The St. Anthony Police Chief will regularly communicate with the Lauderdale City Administrator in order to ensure that Lauderdale is knowledgeable about any police activity in the City, and at the request of the Administrator the Police Chief will make presentations to the Lauderdale City Council.

XIX. PROSECUTION AND REVENUES

Lauderdale will pay all costs of prosecution for all offenses charged within its boundaries or under its ordinances. LEAA funds and confiscated drug funds will be retained by St. Anthony. Fine revenues will be paid to Lauderdale. P.O.S.T. training funds will be used for officer training.

XX. CONTINUATION OF AGREEMENT

This Agreement will be effective January 1, 2014 and will continue until December 31, 2014 or until terminated as described in Paragraph XXI below. In consideration for services provided under this Agreement, St. Anthony and Lauderdale shall establish the fee for police services for the time period after December 31, 2014 by June 15, 2014.

XXI. TERMINATION OF AGREEMENT

Either St. Anthony or Lauderdale may terminate the Agreement by submitting a written notification to terminate to the City Administrator of Lauderdale and the City Manager of St. Anthony by June 15, 2013. Termination of this Agreement shall be effective on December 31st at 11:59 p.m. of the year that either Lauderdale or St. Anthony terminates the Agreement.

XXII. REVIEW OF AGREEMENT

From time to time the terms and conditions of this Agreement shall be reviewed and revised, as St. Anthony

and Lauderdale deem necessary.

XXIII. ASSIGNMENT

The rights and obligations of the parties under this Agreement will not be assigned, and St. Anthony will not subcontract for any services to be furnished to Lauderdale (except as otherwise provided in this Agreement), without the prior written consent of the other party.

The parties hereto have executed this Agreement as of the date first above stated.

CITY OF LAUDERDALE

CITY OF ST. ANTHONY

By: _____
Mayor

By: _____
Mayor

By: _____
City Administrator

By: _____
City Manager

Date: _____

Date: _____

**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested

Consent _____
Public Hearing _____
Discussion _____ X _____
Action _____ X _____
Resolution _____
Work Session _____

Meeting Date June 11, 2013

ITEM NUMBER Railroad Agreement

STAFF INITIAL _____

APPROVED BY ADMINISTRATOR

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

In order to move ahead with the sanitary sewer lining project, the City needs to get a permit from Minnesota Commercial Rail as the sanitary sewer line runs under their tracks. This is on the west side of TH280 near Twin City Die Casting. Railroads are notorious for being sticklers and asking for things that are often considered unreasonable. So far my experience with them has been positive. The attached agreement represents the best arrangement staff could reach with them. Both the city attorney and a League of Minnesota Cities attorney have reviewed the document.

Once this agreement is in place, the contract appears close to being ready to start the project.

OPTIONS:

STAFF RECOMMENDATION:

Motion to approve the agreement with Minnesota Commercial Railway as provided.

COUNCIL ACTION:

PERMIT

THIS AGREEMENT, made and entered into this _____ day of _____, 2013 by and among M T PROPERTIES, INC., 2380 Wycliff Street, Suite 100, St. Paul, MN 55114, a Minnesota corporation ("MT"), and the city of Lauderdale, 1891 Walnut Street, Lauderdale, MN 55113, a municipal corporation under the laws of Minnesota (the "City"), and _____, a _____ under the laws of Minnesota (the "Contractor") acting for the City. The City and the Contractor are hereinafter called, collectively, the "Permittees".

WITNESSETH:

1. In consideration of the terms and conditions hereinafter set forth, MT grants to Permittees permission to install, maintain, and repair certain sanitary sewer linings under, across, and along the railroad right-of-way of MT property along TH 280 in the City of Lauderdale, Minnesota (the "Property") and legally described in Exhibit A attached hereto. The general alignment for said installation is depicted on Exhibit "B" attached hereto and by reference made a part hereof.
2. MT grants to Permittees the right to enter upon the Property of MT, and its lessee, Minnesota Commercial Railway Company ("MC") in the vicinity of the location aforementioned at all times with its employees and equipment for the purpose of installing, maintaining and repairing the said sanitary sewer fixtures and appurtenances. All work permitted herein shall be done and at all times maintained, repaired or renewed and the permission herein granted shall be in such a manner as to cause no interference with the continuous and uninterrupted use of the tracks and Property of MT and MC and nothing shall be done or suffered to be done by Permittees that will in any manner impair the safety of the use of the Property by MT or MC. Permittees shall give to MC at least seven (7) days advance notice of any work to be done by Permittees or its agent on the Property.
3. This permission is granted subject to the needs and requirements of MT and MC in the operation and use of the tracks and right-of-way herein referred to. It shall not interfere with the right of MT and MC to make changes in existing tracks or affect the installation or operation of additional tracks or structures. This permit is further granted subject to any outstanding agreements made by MT and MC for the use of its tracks or property affected by the same and subject to the right of MT and MC to enter further and different agreements for the use of its tracks and Property affected, which further and different agreements shall not prevent the Permittees from carrying out the terms of this Agreement.
4. Permittees shall observe and comply with all laws or ordinances and the direction of any public authority respecting the installation of the sewer lining.
5. The entire cost and expense of the installation, maintenance, repair, or renewal of any

sewer linings or any expense incidental thereto or removal shall be borne solely by Permittees. All work done affecting the track and Property of MT and MC shall be done under the direction of the chief engineer of MT and the general manager of MC and all plans and methods of installation, or renewal or change thereof shall be approved by them before work proceeds.

6. After completion of the installation herein permitted, or any subsequent repair thereto or renewal thereof or changes therein, Permittees shall remove from the right-of-way of MT and MC to the satisfaction of the chief engineer of MT and the general manager of MC all debris and all false work and the like used in the installation or repair work.

7. Permittees agrees to indemnify and save harmless MT and MC, and any and all railroads using the Property and tracks of MT and MC in the vicinity of said Property, from any and all claims for loss, damage and injury of every kind and nature, and all costs, expenses and attorney's fees incident thereto, which MT and MC or any of said railroads may sustain or incur by reason of Permittees' negligence in use of the permission herein granted.

8. To effectuate the indemnification provisions of paragraph 7 hereof, Permittees shall procure and keep in force during the term of this Agreement or any extension thereof a public liability insurance policy written by a company duly authorized to carry on business in the state of Minnesota, terms of which policy shall protect MT and MC and/or said railroads from any and all claims; or, in the alternative, Permittees shall procure and keep in force during the terms hereof for the protection of MT and MC and said railroads an insurance policy rider to any liability insurance policy it may now have in force.

A certified copy of said insurance policy and/or rider shall be furnished to MT prior to use by Permittees of the permission herein granted and the same shall be subject to approval by MT as to the company writing the same, the form and the substance thereof.

Said insurance policy and/or rider shall provide for a minimum coverage of not less than \$1,500,000 for each person and \$1,500,000 for each occurrence and property damage limits of liability of not less than \$6,000,000 aggregate. The City may provide insurance coverage through the League of Minnesota Cities Insurance Trust, using standard coverage forms, in an amount equal to the maximum liability applicable to municipalities under Minnesota Statutes, section 466.04, subd. 1, as amended.

9. For the privileges herein granted, Permittees shall pay a one-time permit fee of \$1,500.00 payable in advance.

10. Permittees shall not transfer or assign this permit without the written consent of MT; and, subject thereto, it shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

11. This permit is effective as of the date hereof and shall remain in full force until cancelled in writing by either party on ninety-day (90) day notice or until such time as Permittees ceases to maintain and operate said sewer linings. If Permittees shall at any time cease to and/or fail to faithfully perform every provision of this Agreement, MT may forthwith terminate this permit.

12. On or before the effective date of termination and/or cancellation of this Agreement, Permittees shall and will, at its sole expense, restore the Property to its former condition, to the satisfaction of the chief engineer of MT and the general manager of MC.

13. Any notices given under the provisions of this Agreement shall be good if deposited postpaid in a U.S. post office addressed to Permittees at Permittees' post office address stated above or as otherwise directed by Permittees.

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be duly executed as of the day and year first above written.

MT PROPERTIES, INC.

By: _____
Lee I. Larson, Executive Vice President

CITY OF LAUDERDALE

By: _____
Jeffrey Dains, Mayor

By: _____
Heather Butkowski, City Clerk/Administrator

Contractor for City of Lauderdale

By: _____
Its: _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY
[Insert Legal Description]

EXHIBIT B

DEPICTION OF PROJECT ALIGNMENT

[Insert Depiction of Project Alignment]

**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested	
Consent	_____
Public Hearing	_____
Discussion	_____
Action	_____
Resolution	_____
Closed Session	<u> X </u>

Meeting Date	June 11, 2013
ITEM NUMBER	Larpenteur Avenue
STAFF INITIAL	<u> AB </u>
APPROVED BY ADMINISTRATOR	

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

At the last meeting, Councilors discussed whether to make offers on commercial properties on the south side of Larpenteur Avenue. The discussion was moved to this meeting and can be held in a closed session. Attached is the League memo explaining under what conditions the meeting can be closed and the process to do so.

OPTIONS:

STAFF RECOMMENDATION:

COUNCIL ACTION:

5. Attorney-client privilege

Minn. Stat. § 13D.05, subd. 3
(b).

Brainerd Daily Dispatch, LLC v. Dehen, 693 N.W.2d 435 (Minn. Ct. App. 2005); *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002); *Northwest Publications, Inc. v. City of St. Paul*, 435 N.W.2d 64 (Minn. Ct. App. 1989); *Minneapolis Star & Tribune v. Housing and Redevelopment Authority in and for the City of Minneapolis*, 251 N.W.2d 620 (Minn. 1976).

A meeting may be closed if permitted by the attorney-client privilege. Meetings between a government body and its attorney to discuss active or threatened litigation may only be closed, under the attorney-client privilege, when a balancing of the purposes served by the attorney-client privilege against those served by the open meeting law dictates the need for absolute confidentiality. The need for absolute confidentiality should relate to litigation strategy, and will usually arise only after the city has made a substantive decision on the underlying matter. This privilege may not be abused to suppress public observations of the decision-making process, and does not include situations where the council will be receiving general legal opinions and advice on the strengths and weaknesses of a proposed underlying action that may give rise to future litigation.

6. Purchase or sale of real or personal property

Minn. Stat. § 13D.05, subd. 3
(c).

A public body may close a meeting to:

- Determine the asking price for real or personal property to be sold by the public body.
- Review confidential or protected nonpublic appraisal data.
- Develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Minn. Stat. § 13.44, subd. 3.

Minn. Stat. § 13D.05, subd. 3
(c); *Vik v. Wild Rice Watershed Dist.*, No. A09-1841 (Minn. Ct. App. Aug. 10, 2010) (unpublished decision) (holding that this exception authorizes closing a meeting to discuss the development or consideration of a property transaction and is not limited to the discussion of specific terms of advanced negotiations). IPAD 08-001.

Before holding a closed meeting under this exception, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting. The closed meeting must be tape-recorded. The recording must be preserved for eight years, and must be made available to the public after all real or personal property discussed at the meeting has been purchased or sold, or after the public body has abandoned the purchase or sale. The real or personal property that is being discussed must be identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. The actual purchase or sale of the real or personal property must be approved at an open meeting, and the purchase or sale price is public data.