



STAFF REPORT

DATE: June 6, 2017

CONSENT

ITEM #: 7

AGENDA ITEM: Old Village Phase 3 Street, Drainage, and Utility Improvements – Approve Declaration of Easement on City Hall Property

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney
Rob Weldon, Public Works Director
Chad Isakson, Project Engineer

ISSUE BEFORE COUNCIL: Should the City Council approve the declaration of easement on City Hall property for the Old Village Phase 3 Street, Drainage, and Utility Improvements?

BACKGROUND: On May 16, 2017 the City council awarded a contract to complete improvements for the Old Village Phase 3 Street, Drainage, and Utility Improvements. The improvements include the extension of sanitary sewer to the Lake Elmo Elementary School, City Hall and the Brookman II Building (3825 Lake Elmo Avenue) as well as extending sanitary sewer along Laverne Avenue, from 39th Street North to CSAH 14; 31st Street North, from CSAH 17 to the east end; Laverne Court North, from 31st Street North to south cul-de-sac; and Layton Court North, from 31st Street North to south cul-de-sac.

PROPOSAL DETAILS/ANALYSIS: As a means to extend sanitary sewer to the Lake Elmo Elementary School, City Hall, and Brookman II Building (3825 Lake Elmo Avenue), public utilities will be routed on City Hall property (3800 Laverne Avenue North). The attached declaration of easement agreement defines the easement area and terms of the declaration. The City Attorney recommends Council approve this agreement and record it with Washington County.

FISCAL IMPACT: None.

RECOMMENDATION: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, the declaration of easement on City Hall property for the Old Village Phase 3 Street, Drainage, and Utility Improvements. If removed from the consent agenda, the recommended motion is as follows:

“Move to approve the declaration of easement on City Hall property for the Old Village Phase 3 Street, Drainage, and Utility Improvements.”

ATTACHMENTS:

1. Declaration of Easement.
2. Easement Exhibit.

DECLARATION OF PUBLIC EASEMENT

THIS DECLARATION OF PUBLIC EASEMENT (the “Declaration”) is made this _____ day of _____, 2017, by the City of Lake Elmo, a municipal corporation under the laws of the State of Minnesota (the “Declarant”).

Recitals

- A. Declarant is the fee owner of the property located in Washington County Minnesota (the “Property”) and legally described on Exhibit A attached hereto.
- B. Declarant wishes to establish a perpetual, non-exclusive public easement for utility purposes, including the construction, installation, operation, and maintenance of sanitary sewer and water facilities, across, over, and under the portions of the Property legally described on the attached Exhibit B and depicted on the attached Exhibit C (the “Easement Area”).

Declaration

Now, therefore, the Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the following easement, which shall inure to the benefit of the City of Lake Elmo (the “City”):

1. Public Easement. The Property shall be subject to a perpetual, non-exclusive public easement for utility purposes, including the construction, installation, operation, and maintenance of sanitary sewer and water facilities.
2. Scope of Easement Rights. The perpetual, non-exclusive utility easement granted herein includes the right of the City, its contractors, agents, and employees to enter the premises at all reasonable times for the purpose of locating, constructing, reconstructing, operating, maintaining, inspecting, altering and repairing the sanitary sewer and water facilities in the

Easement Area.

The easement granted herein also includes the right to cut, trim, or remove from the Easement Area such improvements, trees, shrubs, or other vegetation, and to prohibit obstructions and grading alterations as in the City's judgment unreasonably interfere with the easements or the function of the facilities located therein.

3. Easement to Run with Land; No Merger. The easement created herein shall run with the land and be binding on all parties having any right, title, or interest in the Property, their heirs, successors, and assigns. The Declarant intends that the easement created herein shall not merge into Declarant's title to the Property and that any future conveyance of the Property by the Declarant shall be subject to this Declaration of Easement unless the instrument of conveyance expressly states an intention to terminate this Declaration of Easement.

4. Amendment; Modification; Termination. This Declaration may not be amended, modified, or terminated without the consent of the City.

CITY OF LAKE ELMO

By: _____
Mike Pearson
Its: Mayor

By: _____
Julie Johnson
Its: City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Mike Pearson and Julie Johnson, the Mayor and the City Clerk of the City of Lake Elmo, a municipal corporation under the laws of Minnesota, on behalf of the municipal corporation, Declarant.

Notary Public

NOTARY STAMP OR SEAL

THIS INSTRUMENT DRAFTED BY:

Kennedy & Graven, Chartered (SJS)
470 US Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

**EXHIBIT A TO
UTILITY EASEMENT**

Legal Description of the Property

That part of Lot One (1), Block Two (2), BROOKMAN ADDITION, according to the plat of record in the Office of the County Recorder, Washington County, Minnesota, lying South of the North 350.18 feet thereof, subject to a road easement on the North 16 feet thereof, containing 65,340 square feet, more or less.

**EXHIBIT B TO
UTILITY EASEMENT**

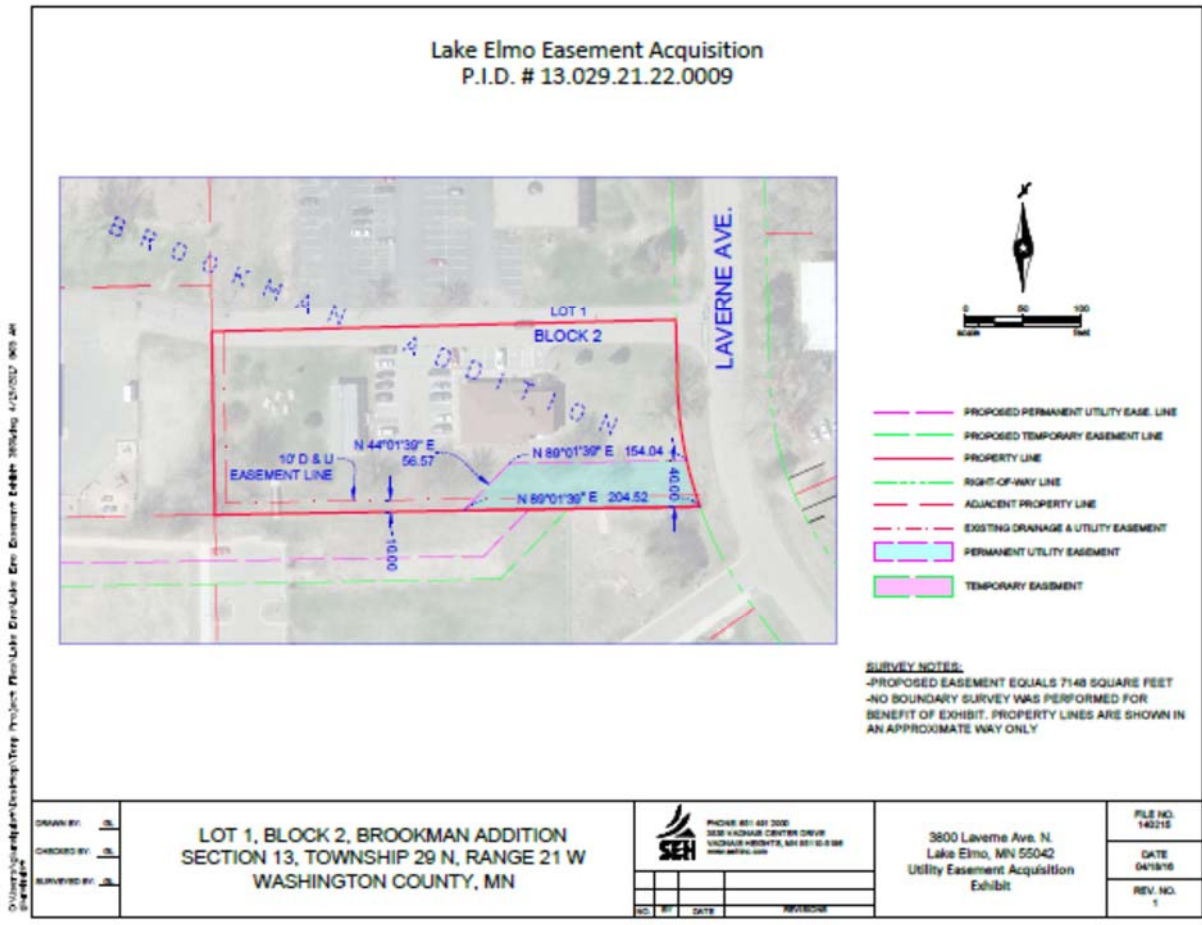
Permanent Utility Easement Legal Description

A permanent easement for utility purposes over, under and across the above defined property, said easement is described as follows:

Beginning at the southeast corner of said Lot 1, Block 2, BROOKMAN ADDITION; thence South 89 degrees 01 minute 39 seconds West (assumed bearing) along the south line of said Lot 1 a distance of 204.52 feet; thence North 44 degrees 01 minute 39 seconds East a distance of 56.57 feet; thence North 89 degrees 01 minute 39 seconds East along a line parallel with and 40.00 feet northerly of the south line of said Lot 1 a distance of 154.0 feet, more or less, to a point on the easterly line of said Lot 1; thence southerly along the easterly line of said Lot 1 to the point of beginning.

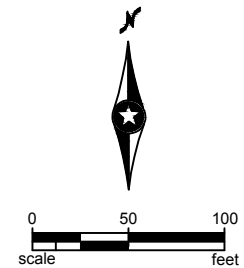
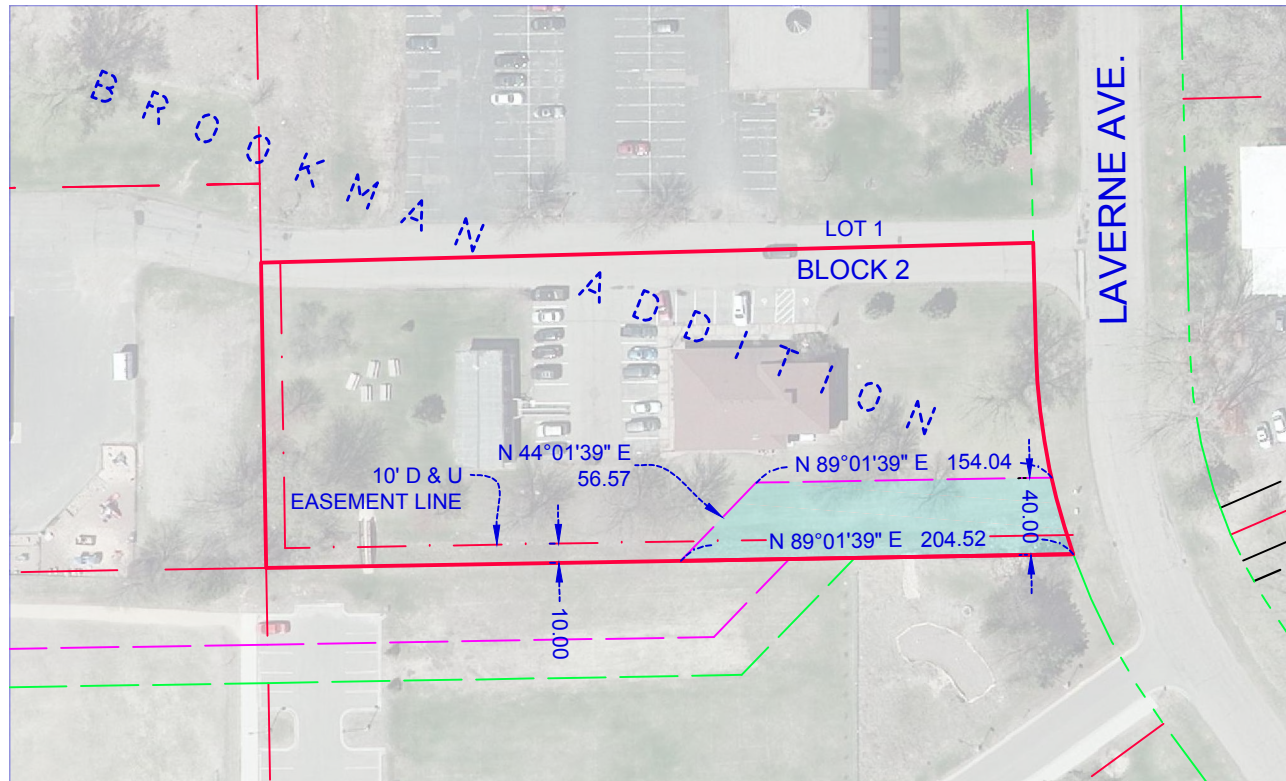
EXHIBIT C TO UTILITY EASEMENT

Depiction of the Easement Area



C:\Users\glundquist\Desktop\Temp Project Files\Lake Elmo\Easement Exhibit 3800.dwg 4/19/2017 8:05 AM
glundquist

Lake Elmo Easement Acquisition P.I.D. # 13.029.21.22.0009



- PROPOSED PERMANENT UTILITY EASE. LINE
- PROPOSED TEMPORARY EASEMENT LINE
- PROPERTY LINE
- RIGHT-OF-WAY LINE
- ADJACENT PROPERTY LINE
- EXISTING DRAINAGE & UTILITY EASEMENT
- PERMANENT UTILITY EASEMENT
- TEMPORARY EASEMENT

SURVEY NOTES:

- PROPOSED EASEMENT EQUALS 7148 SQUARE FEET
- NO BOUNDARY SURVEY WAS PERFORMED FOR BENEFIT OF EXHIBIT. PROPERTY LINES ARE SHOWN IN AN APPROXIMATE WAY ONLY

DRAWN BY: GL
CHECKED BY: GL
SURVEYED BY: GL

LOT 1, BLOCK 2, BROOKMAN ADDITION
SECTION 13, TOWNSHIP 29 N, RANGE 21 W
WASHINGTON COUNTY, MN



PHONE: 651 491 2000
3535 VADNAIS CENTER DRIVE
VADNAIS HEIGHTS, MN 55110-5196
www.sehinc.com

NO.	BY	DATE	REVISIONS

3800 Laverne Ave. N.
Lake Elmo, MN 55042
Utility Easement Acquisition
Exhibit

FILE NO.
140215

DATE
04/18/16

REV. NO.
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