



STAFF REPORT

DATE: June 20, 2023

CONSENT

AGENDA ITEM: Approve the Gateway Trail Cooperative Agreement with the State of Minnesota for the Demontreville Park Trail Connection

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Marty Powers, Public Works Director
Sarah Sonsalla, City Attorney
Chad Isakson, Assistance City Engineer

ISSUE BEFORE COUNCIL: Should the City Council approve the Gateway Trail Cooperative Agreement with the State of Minnesota for the Demontreville Park Trail Connection?

BACKGROUND: The City of Lake Elmo has awarded a construction contract for the 2023 Trail Improvements, including approximately 7,076 feet of new trail segments, paving existing gravel trail segments, and reconstruction of existing paved trails. Included in the project is the reconstruction of an existing paved trail connecting Demontreville Park to the DNR's Gateway Trail.

PROPOSAL DETAILS/ANALYSIS: In order to complete the improvements to the portion of Demontreville Park trail connecting to and residing within the jurisdiction of the DNR's Gateway Trail, the City is required to enter into the Gateway State Trail Cooperative Agreement as prepared by the State of Minnesota.

Key elements of the agreements are as follows:

- The State shall manage and administer the Gateway State Trail as established, and will provide and install all trail related informational signs for the State Trail as determined by Department of Natural Resources policy.
- The State shall permit the City to develop, operate and maintain the Demontreville Park Trail connection to the Gateway State Trail.
- The City shall develop, manage, administer, and maintain the Trail Connection consistent with all local, state, and federal laws and rules that may apply to the management, operation, and maintenance of the Trail. The City will provide and install the appropriate signage for the Trail Connection which shall be approved by the State.
- The City shall permit the State to review and approve the final plans and specifications for the proposed Trail Connection prior to construction. The design for the trail connection shall meet the requirements of the ADA.
- The State shall permit the City to enter within the boundaries of the State Property with machinery and equipment required for the construction of the Trail Connection.
- The State and City shall each be permitted to review and approve any alterations or improvements to the State Trail corridor or the Trail Connection located within the boundaries of the State Property proposed by the City during the term of this Agreement.
- The State reserves the right to inspect the Trail Connection to ensure that the City is in compliance with this agreement.
- The City shall apply the guidelines of the State's requirement to prevent or limit the introduction, establishment and spread of invasive species within the Gateway State Trail corridor.

- Upon early termination of the Agreement the City shall restore the State Trail Corridor to a condition consistent with its preconstruction condition and as approved by the State.
- The Agreement has an expiration date of June 27, 2043 unless otherwise agreed to in writing by both parties. However, the agreement shall continue to automatically renew at the end of the term and at the end of each one (1) year period unless a party gives three (3) months written notice to the other party to terminate the agreement.

FISCAL IMPACT: There are no additional costs to Lake Elmo for entering into the Cooperative Agreement. The Demontreville Park trail connection is an existing trail that will be reconstructed with the 2023 Trail Improvements project.

RECOMMENDATION: Staff is recommending that the City Council approve, *as part of the consent agenda*, a Resolution approving the Gateway Trail Cooperative Agreement with the State of Minnesota for the Demontreville Park Trail Connection. If removed from the *consent agenda*, the recommended motion for the action is as follows:

“Move to approve Resolution No. 2023-065 Approving the Gateway Trail Cooperative Agreement with the State of Minnesota for the Demontreville Park Trail Connection.”

ATTACHMENTS:

1. Resolution Approving the Gateway Trail Cooperative Agreement with the State of Minnesota.
2. Gateway Trail Cooperative Agreement for the Demontreville Park Trail Connection.

EXHIBIT C

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

**RESOLUTION NO. 2023-065
A RESOLUTION APPROVING THE GATEWAY STATE TRAIL COOPERATIVE
AGREEMENT WITH THE STATE OF MINNESOTA**

WHEREAS, the Commissioner of Natural Resources has the authority, duty, and responsibility under Minnesota Statutes Section 86A.05 to provide state trails and associated facilities; and

WHEREAS, Minnesota Statutes Section 85.015 subd 14 establish, develop, maintain, and operate the Gateway State Trail; and

WHEREAS, the State and the City are authorized under Minnesota Statutes Section 471.59 to enter into agreements to jointly or cooperatively exercise common powers; and

WHEREAS, the State owns land described as: Sec.5, T29N, R21W, Washington County, as shown on a Map attached and incorporated into the Cooperative Agreement as Exhibit A and hereinafter referred to as the “State Property”; and

WHEREAS, the State and City have determined that providing for a municipal trail connection to the Gateway State Trail at the trail’s intersection with Demontreville Park within the City is of high priority; as shown on the Preliminary Plans which is attached and incorporated into the Cooperative Agreement as Exhibit B; and

WHEREAS, the State and City have determined that the municipal Demontreville Park Connection, which shall meet the requirements of the ADA, will provide a distinct and significant benefit to all trail users; and

WHEREAS, a resolution adopted by the Lake Elmo City Council authorizing the City to enter into the Cooperative Agreement will be attached and incorporated into the Cooperative Agreement as Exhibit C.

NOW, THEREFORE, BE IT RESOLVED,

1. That the Gateway State Trail Cooperative Agreement between the State of Minnesota and the City of Lake Elmo is hereby approved, and the Mayor and City Administrator are hereby authorized to execute the agreement on behalf of the City of Lake Elmo.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE TWENTIETH DAY OF JUNE, 2023.

CITY OF LAKE ELMO

(Seal)
ATTEST:

By: _____
Charles Cadenhead
Mayor

Julie Johnson, City Clerk



GATEWAY STATE TRAIL
COOPERATIVE AGREEMENT
BETWEEN
THE STATE OF MINNESOTA AND THE CITY OF LAKE ELMO

This agreement, between the State of Minnesota, acting by and through the Commissioner of the Department of Natural Resources, hereinafter referred to as the “State”, and the City of Lake Elmo, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the Commissioner of Natural Resources has the authority, duty, and responsibility under Minnesota Statutes Section 86A.05 to provide state trails and associated facilities; and

WHEREAS, Minnesota Statutes Section 85.015 subd 14 establish, develop, maintain, and operate the Gateway State Trail; and

WHEREAS, the State and the City are authorized under Minnesota Statutes Section 471.59 to enter into agreements to jointly or cooperatively exercise common powers; and

WHEREAS, the State owns land described as: Sec.5, T29N, R21W, Washington County, as shown on the Map attached and incorporated into this Agreement as **Exhibit A** and hereinafter referred to as the “State Property”; and

WHEREAS, the State and City have determined that providing for a municipal trail connection to the Gateway State Trail at the trail’s intersection with Demontreville Park within the City is of high priority; as shown on the Preliminary Plans which is attached and incorporated into this Agreement as **Exhibit B**; and

WHEREAS, the State and City have determined that the municipal Demontreville Park Connection, which shall meet the requirements of the ADA, will provide a distinct and significant benefit to all trail users; and

WHEREAS, a resolution or copy of the City Council meeting minutes authorizing the City to enter into this agreement which is attached and incorporated into this Agreement as **Exhibit C**; and

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the public bodies hereto and for the benefit of the general public, the parties agree as follows:

I. STATE’S DUTIES AND RESPONSIBILITIES

- a. The State shall manage and administer the Gateway State Trail as established.
- b. The State shall permit the City to develop, operate and maintain the new Demontreville Park Trail Connection to the Gateway State Trail, herein after referred to as the “Trail Connection” and as identified in **Exhibit B**.
- c. The State shall be permitted to review and approve the final plans and specifications for the proposed Trail Connection, as identified in **Exhibit B**, prior to construction. The design for the trail connection shall meet the requirements of the ADA.
- d. The State shall permit the City to enter within the boundaries of the State Property with machinery and equipment required for the construction of the Trail Connection. The City will provide written notice to the State two weeks prior to the initiation of construction.

- e. The State shall be permitted to review and approve any alterations or improvements to the State Trail corridor or the Trail Connection located within the boundaries of the State Property proposed by the City during the term of this Agreement. State approval and comment will be provided by the State's designated Contact.
- f. The State shall permit the City to review and approve any alterations or improvements to the Trail Connection located within the boundaries of the State Property proposed by the State during the term of this Agreement. All improvements developed within the State Trail corridor shall meet the requirements of the ADA.
- g. The State will provide and install all trail related informational signs for the State Trail as determined by Department of Natural Resources policy.
- h. The State reserves the right to inspect the Trail Connection to ensure that the City is in compliance with this agreement.

II. CITY'S DUTIES AND RESPONSIBILITIES

- a. The City shall develop, manage, administer, and maintain the Trail Connection consistent with all local, state, and federal laws and rules that may apply to the management, operation, and maintenance of the Trail.
- b. The City shall permit the State to review and approve the final plans and specifications for the proposed Trail Connection, which shall meet the applicable requirements of the ADA, as identified in **Exhibit B**, prior to construction.
- c. The City will provide and install the appropriate signage for the Trail Connection which shall be approved by the State.
- d. The City shall permit the State to review and approve any alterations or improvements to the State Trail corridor or the Trail Connection, located within the boundaries of the State property proposed by the City during the term of this Agreement. All improvements developed within the State Trail corridor shall meet the requirements of the ADA.
- e. The City shall be permitted to review any alterations to the Trail Connection proposed by the State during the term of this Agreement.
- f. The City shall apply the guidelines of the State's requirement to prevent or limit the introduction, establishment and spread of invasive species within the Gateway State Trail corridor. The State's specific guidance regarding Invasives Species Prevention and Site Planning and Management can be found at http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf.
- g. Upon early termination of the Agreement the City shall restore the State Trail Corridor to a condition consistent with its preconstruction condition and as approved by the State.

III. FUNDING

The State shall provide funding for its responsibilities under Article I (a)(b)(c)(d)(e)(f)(g)(h) above through the standard internal purchasing process including, but not limited to, a separate requisition in which funds will be encumbered. The obligation of the State is also limited to the amount of funds legislatively appropriated and administratively allocated to this project.

IV. TERM

- a. *Effective Date: June 27, 2023* or the date that the State obtains all required signatures under Minnesota Statutes Section 16C.05, Subdivision 2. The City shall not begin work under this Agreement until it is fully executed and City has been notified by the State's authorized representative to begin the work.

- b. *Expiration Date: June 27, 2043* except as otherwise provided herein or agreed to in writing by both parties. This agreement shall renew at the end of the term for an additional one (1) year period unless a party gives three (3) months written notice to the other party to terminate the agreement. This agreement shall continue to automatically renew at the end of each one (1) year period unless the required given notice is given.

V. LIABILITY

Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. The State's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, and other applicable law. The City's liability shall be governed by Minnesota Statutes Sections 466.01 - 466.15, and other applicable law.

VI. AUDIT

Under Minnesota Statutes Section 16C.05, sub. 5, the books, records, documents and accounting procedures and practices of the City relevant to the agreement shall be subject to examination by the Commissioner of Natural Resources, the Legislative Auditor and the State Auditor for a minimum of six (6) years from the end of this agreement.

VII. ANTITRUST

The City hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this Agreement resulting from antitrust violations that arose under the antitrust laws of the United States and the antitrust laws of the State of Minnesota

VIII. FORCE MAJEURE

Neither party shall be responsible to the other or considered in default of its obligations within this Agreement to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision to excuse performance must provide the other party prompt written notice of inability to perform and take all necessary steps to bring about performance as soon as practicable.

IX. CANCELLATION

This Agreement may be cancelled by the State at any time with or without cause upon thirty (30) days written notice to the City.

This Agreement may also be cancelled by the State if it does not obtain funding from the Minnesota Legislature, or other funding sources, or if funding cannot be continued at a level sufficient to allow for the payment of services covered under this agreement. The State will notify the City by written or fax notice. The State will not be obligated to pay for services provided after the notice is given and the effective date of cancellation. However, the City shall be entitled to payment, determined on a pro-rated basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is cancelled because of a decision of the Minnesota Legislature, or other funding source, not to appropriate the necessary funds. The State shall provide the City notice of lack of funding within a reasonable time of the State's receiving that notice.

This Agreement may also be cancelled by the City at any time with or without cause upon thirty (30) days written notice to the State.

X. GOVERNMENT DATA PRACTICES

The City and the State must comply with the Minnesota Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this agreement, and as it applies to all data created,

collected, received, stored, used, maintained, or disseminated by the City under this agreement. The civil remedies of Minn. Stat. 13.08 apply to the release of the data referred to in this clause by either the City or the State.

XI. PUBLICITY AND ELECTRONIC ACCESSIBILITY

Any publicity regarding the subject matter of this agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the City individually or jointly with others, or any subcontractors, with respect to the program and services provided from this agreement.

All publicity shall be provided in an accessible format per Minnesota Statute 16E.03, sub. 9. State of Minnesota guidelines for creating accessible electronic documents can be found at the following URL: <https://mn.gov/mnit/programs/accessibility/>.

XII. COMPLETE AGREEMENT

This agreement contains all negotiations and agreements between the State and the City. No other understanding regarding this agreement, whether written or oral, may be used to bind either party. Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

XIII. AUTHORIZED REPRESENTATIVES

Any notice, demand, or communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, or by email to:

The State's Authorized Representative is Rachel Henzen, Parks and Trails Division Area (3B) Supervisor, Minnesota Department of Natural Resources, 1200 Warner Road, St. Paul MN 55106, Rachel.Henzen@state.mn.us, or her successor.

The city's Authorized Representative is Jake Foster, City Administrator, 309 Lewis Avenue S. Lake Elmo, MN 55388, jfoster@LakeElmomin.gov or his/her successor.

The City or the State shall provide notice to the other party as soon as practicable upon a change to its authorized representative.

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IN WITNESS WHEREOF, the parties have caused the Agreement to be duly executed intending to be bound thereby.

DEPARTMENT OF NATURAL RESOURCES

CITY OF LAKE ELMO

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

DEPARTMENT OF ADMINISTRATION
Delegated to Materials Management Division

CITY OF LAKE ELMO

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

(Effective Date)

STATE ENCUMBERANCE VERIFICATION

Individual certifies that funds have been encumbered as req. by Minn. Stat. 16A.15 and 16C.05.

Signed: _____

Date: _____

Contract: _____

EXHIBIT A
State Property



Minnesota Department of Natural Resources
Parks and Trails | Area 3B
1200 Warner Road
Saint Paul, MN 55106



Gateway State Trail Demontreville Trail Connection

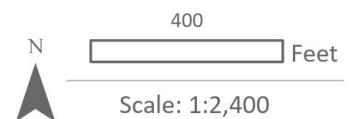
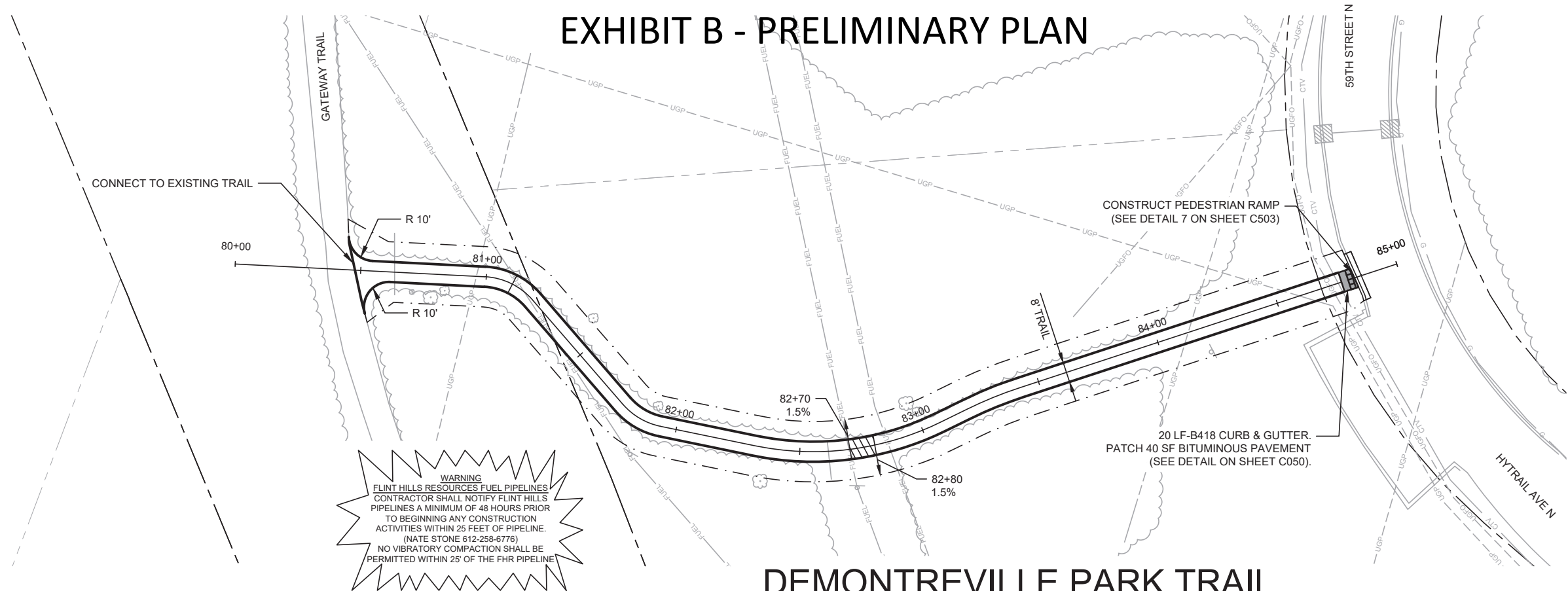


Exhibit A

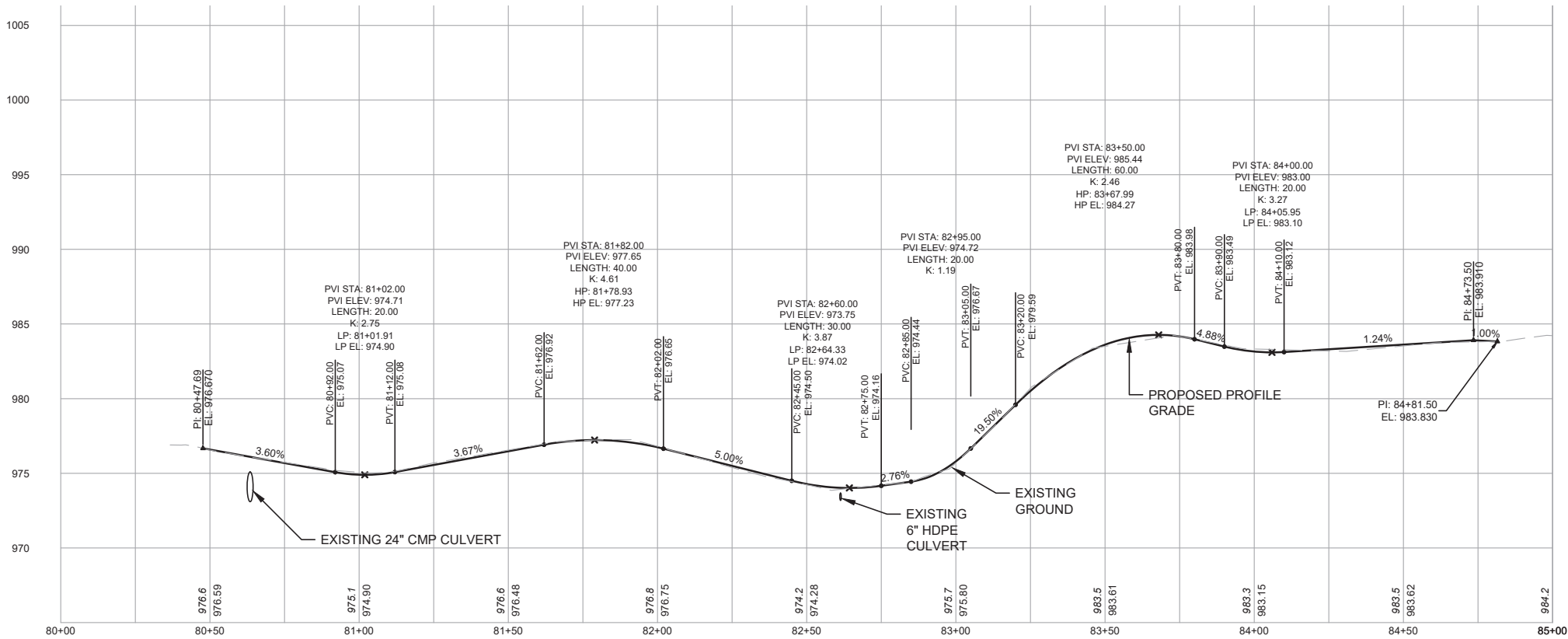
EXHIBIT B
Preliminary Plan

EXHIBIT B - PRELIMINARY PLAN



- NOTES:
1. LOCATIONS OF EXISTING PROPERTY LINES, UTILITIES, CENTERLINES, AND GRADING ARE BASED ON BEST AVAILABLE INFORMATION AND ARE APPROXIMATE. CONTRACTOR SHALL FIELD VERIFY LOCATION AND DIMENSIONS OF ALL PERTINENT EXISTING ITEMS PRIOR TO CONSTRUCTION. ALL INPLACE UTILITIES MAY NOT BE SHOWN ON THIS PLAN, AND THOSE THAT ARE SHOWN MAY NOT BE SHOWN IN THE EXACT LOCATIONS. CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING UTILITIES ADJACENT TO EXCAVATION AREAS BY MEANS OF HAND DIGGING OR POTHOLING, AND SHALL PROTECT UTILITIES FROM DAMAGE AND SETTLEMENT (INCIDENTAL).
 2. ALL WORK SHALL BE PERFORMED WITHIN THE RIGHT-OF-WAY AND CITY PARK LAND. WORK WITHIN DRAINAGE AND UTILITY EASEMENTS, AS INDICATED ON THE PLANS, IS PERMITTED WITH AUTHORIZATION OF THE ENGINEER.
 3. CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT LEAST 48 HOURS PRIOR TO START OF ANY EXCAVATION ACTIVITIES.
 4. CONTRACTOR SHALL PROTECT EXISTING UTILITIES.

- LEGEND:
- CROSS SLOPE TRANSITION
 - CONSTRUCTION LIMITS



PLOT DATE: May 04, 2023 - 6:25pm
FILENAME: K:\gm\LakeElmo\18551000\04_Production\01_CAD\02_Sheets\C404_TRAIL IMPROVEMENTS.dwg

NO.	DATE	BY	DESCRIPTION OF REVISIONS
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

DESIGNED	MOB	I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
DRAWN	IDR	SIGNATURE: <i>Mark O. Byers</i> DATE: 5/2/2023
CHECKED	MOB	NAME: MARK O. BYERS LIC. NO.: 56571



444 Cedar Street, Suite 1500
Saint Paul, MN 55101
651.292.4400
tkda.com

2023 TRAIL IMPROVEMENTS
CITY OF LAKE ELMO

TRAIL PLAN AND PROFILE

PROJ. NO.	18551.000
CITY PROJ. NO.	2022.117
DRAWING NO.	C408

EXHIBIT C
City Resolution or Minutes

EXHIBIT C

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

**RESOLUTION NO. 2023-
A RESOLUTION APPROVING THE GATEWAY STATE TRAIL COOPERATIVE
AGREEMENT WITH THE STATE OF MINNESOTA**

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WHEREAS, Minnesota Statutes Section 85.015 subd 14 establish, develop, maintain, and operate the Gateway State Trail; and

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WHEREAS, the State and City have determined that the municipal Demontreville Park Connection, which shall meet the requirements of the ADA, will provide a distinct and significant benefit to all trail users; and

WHEREAS, a resolution adopted by the Lake Elmo City Council authorizing the City to enter into the Cooperative Agreement will be attached and incorporated into the Cooperative Agreement as Exhibit C.

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1. That the Gateway State Trail Cooperative Agreement between the State of Minnesota and the City of Lake Elmo is hereby approved, and the Mayor and City Administrator are hereby authorized to execute the agreement on behalf of the City of Lake Elmo.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE TWENTIETH DAY OF JUNE, 2023.

CITY OF LAKE ELMO

(Seal)
ATTEST:

By: _____
Charles Cadenhead
Mayor

Julie Johnson, City Clerk