

INVER GROVE HEIGHTS CITY COUNCIL AGENDA

Monday, May 9, 2016

8150 BARBARA AVENUE

7:00 P.M.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PRESENTATIONS**
4. **CONSENT AGENDA** – All items on the Consent Agenda are considered routine and have been made available to the City Council at least two days prior to the meeting; the items will be enacted in one motion. There will be no separate discussion of these items unless a Council member or citizen so requests, in which event the item will be removed from this Agenda and considered in normal sequence.
 - A. Resolution Approving Disbursements for Period Ending May 4, 2016
 - B. Personnel Actions
 - C. Approve Custom Grading Agreement and Stormwater Facilities Maintenance Agreement for 9480 Old Concord Blvd
 - D. Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement and Encroachment Agreement for 1643 86th Ct. (Lot 2, Block 2, Orchard Trail)
 - E. Consider Resolution Accepting a Proposal from Stantec Consulting Service, Inc. (Stantec) for Updating and Evaluating the City's Northwest Area Water System Hydraulic Model
 - F. Approve Proposal for Professional Services for a Grant Application to the Metropolitan Council Stormwater Grant Program and Authorize Submittal of Applications
5. **PUBLIC COMMENT**: Public comment provides an opportunity for the public to address the Council on items that are not on the Agenda. Comments will be limited to three (3) minutes per person
6. **PUBLIC HEARINGS**:
 - A. Assessment Hearing for City Project No. 2016-09D-60th Street Area Reconstruction
7. **REGULAR AGENDA**:
 - I. **COMMUNITY DEVELOPMENT**:
 - A. **GLG PROPERTIES (GERTENS)**; Consider the following actions for property located at 2910 54th Street:
 - a) A Resolution relating to a Comprehensive Plan Amendment to change the future land use designation from LDR, Low Density Residential to RC, Regional Commercial.
 - b) A Resolution relating to a Planned Unit Development Amendment to all for the growing field expansion.
 - c) An Amendment to Ordinance #1230 by rezoning Parcel G to Commercial Planned Unit Development and to change the site plan and allowed uses for the addition of the added growing field.

B. MIHM CUSTOM HOMES; Consider the following actions for property located on the west side of Hwy 3 between future 65th and 67th Streets:

- a) Rezoning of the property from A, Agricultural to R-1C/PUD, Single Family Planned Unit Development.
- b) Resolution relating to a Preliminary Plat and Preliminary PUD Development Plan for the plat of Windwood Addition, a 44 lot single family development.

C. RIVER HEIGHTS LAWN & LANDSCAPE; Consider a Resolution relating to a Conditional Use Permit and related agreements to allow a contractor's yard with outdoor storage and for the outdoor storage of boats, trailers and RV's for the property located at 9601 Jefferson Trail.

D. CITY OF INVER GROVE HEIGHTS; Consider the Second Reading of an Ordinance relating to parking of recreational vehicles in the front yard in single family zoning districts.

II. PUBLIC WORKS:

- E.** Consider Resolution Approving Special Assessment Agreement Relating to Payment of Special Assessments for City Project No. 2016-09D – 60th Street Area Reconstruction
- F.** Consider Resolution Awarding Contract for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction and for the 2016 Improvement Program, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop
- G.** Consider Change Order No. 1 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop
- H.** Consider a Resolution approving a Wetland Replacement Plan and Authorizing Payment for Wetland Bank Credits to mitigate a total of 1,316 square feet of wetland through wetland banking as part of City Project 2016-09D.
- I.** Resolution Approving Temporary Construction, Slope and Grading Easement Agreements relating to 1695 63rd Street E., 1696 63rd Street E., 1715 63rd Street E., 1716 63rd Street E. for City Project No. 2016-09D – 60th Street Area Reconstruction
- J.** Approve Agreement with Xcel Energy for Topsoil and Seeding on City Project No. 2016-09D – 60th Street Area Reconstruction
- K.** Resolution Receiving and Accepting Proposals from American Engineering Testing, Inc. (AET) for Construction Phase Geotechnical Services and from Kimley-Horn and Associates (IPO No. 26B) for Construction Phase Engineering and Survey Services for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) - NWA Trunk Watermain Improvements, 65th Street Loop

- L. Resolution approving the negotiated settlement agreement between GlenLin Properties, LLC and the City concerning damages relating to the GlenLin Property relative to City Project 2015-13.
- M. Joint Powers Agreement between the City and Dakota County for Right of Way Acquisition for County Project No. 63-27 and City Project No. 2016-05.
- N. Consider the following actions for purchase of Outlot A, Blackstone Ridge:
 - a) A Resolution Approving an Agreement of Sale and Purchase between the City of Inver Grove Heights and Scenic Oaks, LLC and Jeffers Pond Development, LLC relating to the purchase of Outlot A, Blackstone Ridge;
 - b) An Agreement of Sale and Purchase between the City of Inver Grove Heights and Scenic Oaks, LLC and Jeffers Pond Development, LLC relating to the purchase of Outlot A, Blackstone Ridge.

III. ADMINISTRATION:

- O. Consider Athlos Preparatory School to not require PILOT payment fee for future school.

8. MAYOR & COUNCIL COMMENTS:

9. EXECUTIVE SESSION:

10. ADJOURN:

This document is available upon 3 business day request in alternate formats such as Braille, large print, audio recording, etc. Please contact Michelle Tesser at 651.450.2513 or mtesser@invergroveheights.org

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Meeting Date: May 9, 2016
 Item Type: Consent
 Contact: Kristi Smith 651-450-2521
 Prepared by: Bill Schroepfer, Accountant
 Reviewed by: N/A

Fiscal/FTE Impact:

- None
- Amount included in current budget
- Budget amendment requested
- FTE included in current complement
- New FTE requested – N/A
- Other

PURPOSE/ACTION REQUESTED

Approve the attached resolution approving disbursements for the period of April 21, 2016 to May 4, 2016.

SUMMARY

Shown below is a listing of the disbursements for the various funds for the period ending May 4, 2016. The detail of these disbursements is attached to this memo.

General & Special Revenue	\$129,951.71
Debt Service & Capital Projects	250,727.09
Enterprise & Internal Service	292,283.86
Escrows	31,149.75

Grand Total for All Funds	\$704,112.41

If you have any questions about any of the disbursements on the list, please call Kristi Smith, Finance Director at 651-450-2521.

Attached to this summary for your action is a resolution approving the disbursements for the period April 21, 2016 to May 4, 2016 and the listing of disbursements requested for approval.

DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

**RESOLUTION APPROVING DISBURSEMENTS FOR THE
PERIOD ENDING May 4, 2016**

WHEREAS, a list of disbursements for the period ending May 4, 2016 was presented to the City Council for approval;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS: that payment of the list of disbursements of the following funds is approved:

General & Special Revenue	\$129,951.71
Debt Service & Capital Projects	250,727.09
Enterprise & Internal Service	292,283.86
Escrows	31,149.75
Grand Total for All Funds	<u><u>\$704,112.41</u></u>

Adopted by the City Council of Inver Grove Heights this 9th day of May, 2016.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



Expense Approval Report

By Fund

Payment Dates 4/21/2016 - 5/4/2016

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
ADVANCED GRAPHIX, INC.	194355	05/04/2016	4/12/16	101.42.4200.423.50030	90.45
ADWEAR SPECIALTIES	20160225AA	05/04/2016	4/11/16	101.42.4000.421.60006	1,135.75
AGASSIZ SEED & SUPPLY	INV093310	04/27/2016	CITYO55077	101.43.5200.443.60016	300.00
ARAMARK	8/6/15	05/04/2016	FLINT HILLS 60TH ANNIVERSARY	101.41.1000.413.50080	17.00
BLACKTOP PROS, LLC	16-25	04/27/2016	4/27/16	101.43.5200.443.40046	15,937.50
BLACKTOP PROS, LLC	16-23	04/27/2016	4/8/16	101.43.5200.443.40046	11,625.00
CENTURY LINK	4/19/16 651 455 9072 782	05/04/2016	651 455 9072 782	101.42.4200.423.50020	43.43
COMCAST	4/5/16 8772 10 591 035952	05/04/2016	8772 10 591 0359526	101.42.4200.423.30700	10.53
DAKOTA CTY PROP TAXATION & RECORDS	4/13/16	04/27/2016	4/13/16	101.45.0000.3413000	414.00
DAKOTA ELECTRIC ASSN	246837-9 4/16	04/20/2016	Electric	101.44.6000.451.40020	331.60
DAKOTA ELECTRIC ASSN	250165-8 4/16	04/20/2016	Electric	101.44.6000.451.40020	57.04
DAKOTA ELECTRIC ASSN	393563-2 4/16	04/20/2016	Electric	101.44.6000.451.40020	168.91
DAKOTA ELECTRIC ASSN	426713-4 4/16	04/20/2016	Electric	101.43.5400.445.40020	46.20
DAKOTA ELECTRIC ASSN	443054-2 4/16	04/20/2016	Electric	101.44.6000.451.40020	15.38
DAKOTA ELECTRIC ASSN	109394-7 4/16	04/20/2016	Electric	101.43.5400.445.40020	1,198.24
ESS BROTHERS & SONS INC	VV1090	05/04/2016	3/14/16	101.43.5200.443.60016	1,664.00
FIRST IMPRESSION GROUP, THE	67943-P	04/27/2016	67943	101.41.1100.413.50035	2,535.00
FIRST IMPRESSION GROUP, THE	67030	05/04/2016	4/6/16	101.41.1000.413.50030	115.00
FIRSTSCRIBE	2469196	04/27/2016	4/1/16	101.43.5100.442.40044	250.00
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.41.1100.413.30550	31.75
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.41.2000.415.30550	72.14
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.42.4000.421.30550	221.20
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.42.4200.423.30550	21.50
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.43.5000.441.30550	15.01
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.43.5100.442.30550	35.85
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.43.5200.443.30550	32.00
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.44.6000.451.30550	40.46
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.45.3000.419.30550	18.92
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.45.3200.419.30550	16.15
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	101.45.3300.419.30550	22.00
GENESIS EMPLOYEE BENEFITS, INC	IN778029	05/04/2016	3/1/16-3/31/16	101.42.4000.421.30550	34.00
GENESIS EMPLOYEE BENEFITS, INC	IN778029	05/04/2016	3/1/16-3/31/16	101.45.3000.419.30550	6.00
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.41.1100.413.30550	6.96
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.41.2000.415.30550	4.42
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.42.4000.421.30550	22.43
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.43.5000.441.30550	2.32
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.43.5100.442.30550	8.51
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.43.5200.443.30550	2.32
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.44.6000.451.30550	3.10
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.45.3000.419.30550	2.10
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	101.45.3300.419.30550	4.64
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.41.1100.413.30550	22.77
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.41.2000.415.30550	14.40
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.42.4000.421.30550	65.77
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.42.4200.423.30550	7.59
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.43.5000.441.30550	7.59
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.43.5100.442.30550	22.77
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.43.5200.443.30550	7.58
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.44.6000.451.30550	10.16
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.45.3000.419.30550	6.82
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	101.45.3300.419.30550	15.18
GERTENS	384633/1	04/27/2016	103566	101.44.6000.451.60016	3,384.70
GERTENS	385294/1	04/27/2016	103566	101.44.6000.451.60016	418.95
HILLYARD INC	602045048	05/04/2016	274086	101.42.4200.423.60065	250.76
IAFC MEMBERSHIP	81485	04/27/2016	1602	101.42.4200.423.50070	234.00
ICC	3088895	04/27/2016	5310235	101.42.4200.423.50070	135.00
IMAGE TREND INC	101313	04/27/2016	0295	101.42.4200.423.30700	3,110.00
INFINITY WIRELESS	38686	04/27/2016	4/14/16	101.42.4200.423.40042	129.00
INFINITY WIRELESS	38687	04/27/2016	4/14/16	101.42.4200.423.60040	100.00
ING DIRECT	INV0050131	02/19/2016	MSRS-HCSP	101.203.2032200	23,289.02
ING DIRECT	INV0051803	04/15/2016	MSRS-HCSP	101.203.2032200	22,744.91
INVER GROVE FORD	4/25/16	05/04/2016	94917	101.42.4000.421.70300	267.81
INVER GROVE HEIGHTS ANIMAL HOSPITAL	4/19/16	04/27/2016	RABIES CLINIC 2016	101.00.0000.3650000	495.00
J.D. NELSON CONSTRUCTION LLC.	1005	04/27/2016	3/16/16	101.45.3300.419.30700	2,535.00
J.D. NELSON CONSTRUCTION LLC.	1006	04/27/2016	4/21/16	101.45.3000.419.30700	350.00
J.D. NELSON CONSTRUCTION LLC.	1007	05/04/2016	4/25/16	101.45.3000.419.30700	250.00
KRECH, VALERIE	5/2/16	05/04/2016	CHICKEN COOP LICENSE REFUND	101.41.0000.3223500	25.00
LEICA GEOSYSTEMS INC	900726043	05/04/2016	494910368	101.43.5100.442.60040	576.00
LIFE SAFETY SYSTEMS, INC.	66687	04/27/2016	51746	101.42.4200.423.30700	325.00
LILLIE SUBURBAN NEWSPAPERS	2/29/16 001363	04/27/2016	001363	101.41.1100.413.50025	16.60
LILLIE SUBURBAN NEWSPAPERS	2/29/16 001363	04/27/2016	001363	101.45.3200.419.50025	83.00

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	101.41.1100.413.50025	452.35
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	101.45.3000.419.50025	298.80
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	101.45.3200.419.50025	29.05
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	101.45.3200.419.50025	29.05
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	101.45.3200.419.50025	29.05
MAINSTREET DESIGNS, INC.	24306	05/04/2016	4/18/16	101.42.4200.423.60065	202.00
MID STATE PLUMBING & HEATING, INC.	89598	04/27/2016	4/7/16	101.42.4200.423.40040	165.00
MN LIFE INSURANCE CO	MAY 2016	05/04/2016	MAY 2016	101.203.2030900	3,022.24
MN LIFE INSURANCE CO	MAY 2016	05/04/2016	MAY 2016	101.43.5100.442.20620	(17.72)
MN NCPERS LIFE INSURANCE	MAY 2016	05/04/2016	MAY 2016	101.203.2031600	336.00
MN SOCIETY OF PROF. ENGINEERS	200001180	05/04/2016	4/27/16	101.43.5100.442.50080	550.00
MTI DISTRIBUTING CO	1057789-00	04/27/2016	91180	101.44.6000.451.40040	230.00
MUNICIPAL EMERGENCY SERVICES, INC.	00702051_SNV B	05/04/2016	43426	101.42.4200.423.60065	5,216.45
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	101.41.1100.413.50080	60.00
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	101.41.2000.415.50080	60.00
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	101.41.2000.415.50080	60.00
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	101.43.5000.441.10100	15.00
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	101.43.5100.442.10100	45.00
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	101.45.3200.419.50080	60.00
NATURE CALLS, INC.	24581	04/27/2016	MARCH 2016	101.44.6000.451.40065	183.30
OLYMPUS LOCKERS & STORAGE PRODUCTS IN	79	04/27/2016	348	101.42.4200.423.60065	413.00
PINE BEND PAVING, INC.	16-145	04/27/2016	4/2/16	101.43.5200.443.60016	480.10
PRECISE MRM	IN200-1008406	05/04/2016	000208	101.43.5200.443.30700	11.87
RIVER HEIGHTS CHAMBER OF COMMERCE	6885	05/04/2016	4/6/16	101.41.1000.413.50075	35.00
ROBOTRONICS INC	51358	05/04/2016	550770	101.42.4200.423.60065	122.00
SHORT ELLIOTT HENDRICKSON, INC.	313667	04/27/2016	4340	101.43.5100.442.30300	184.64
ST PAUL STAMP WORKS INC	358593	04/27/2016	INVER002	101.41.1100.413.50030	293.13
STRAIGHT RIVER MEDIA	1305	04/27/2016	MAY-JUNE	101.41.1100.413.50032	900.00
TYLER TECHNOLOGIES, INC	025-154063	05/04/2016	41443	101.41.2000.415.40044	438.00
UNIFIRST CORPORATION	090 0300929	05/04/2016	1051948	101.43.5200.443.60045	31.39
UNIFIRST CORPORATION	090 0300929	05/04/2016	1051948	101.44.6000.451.60045	30.88
UNIFIRST CORPORATION	090 0301981	05/04/2016	1051948	101.43.5200.443.60045	31.39
UNIFIRST CORPORATION	090 0301981	05/04/2016	1051948	101.44.6000.451.60045	29.52
UNIFORMS UNLIMITED	25811-1	05/04/2016	491-1	101.42.4000.421.60065	507.99
UNIFORMS UNLIMITED	26025-1	05/04/2016	491-1	101.42.4000.421.60065	4.99
UNIFORMS UNLIMITED	24841-1	04/27/2016	491-1	101.42.4000.421.60045	62.94
UNIFORMS UNLIMITED	24973-1	04/27/2016	491-1	101.42.4000.421.60045	61.93
UNIFORMS UNLIMITED	25090-1	04/27/2016	491-1	101.42.4000.421.60045	86.97
UNITED STATES POSTAL SERVICE	4/20/16	05/04/2016	PERMIT 4331	101.41.1100.413.50035	215.00
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.42.4000.421.50020	1,155.33
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.42.4200.423.50020	794.38
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.43.5000.441.50020	52.74
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.43.5100.442.50020	343.47
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.43.5200.443.50020	470.88
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.44.6000.451.50020	810.96
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.45.3000.419.50020	51.41
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	101.45.3300.419.50020	263.25

Fund: 101 - GENERAL FUND

114,387.92

ENDORSE COMMUNICATIONS LLC	586	05/04/2016	3/22/16	201.44.1600.465.50025	750.00
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Fund: 201 - C.V.B. FUND

750.00

GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	204.44.6100.452.30550	13.98
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	204.44.6100.452.30550	0.77
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	204.44.6100.452.30550	2.50
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	204.44.6100.452.50080	42.00
RICH, AMY	4/15/16	04/27/2016	CANCELLED SHELTER RENTAL	204.207.2070300	3.66
RICH, AMY	4/15/16	04/27/2016	CANCELLED SHELTER RENTAL	204.44.0000.3471000	51.34
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	204.44.6100.452.50020	75.62

Fund: 204 - RECREATION FUND

189.87

COMMON SENSE BUILDING SERVICES, INC.	38344	04/27/2016	APRIL 2016	205.44.6200.453.40040	7,288.05
ENTERTAINMENT DESIGN GROUP, LLC	715	04/27/2016	4/1/16	205.44.6200.453.40040	2,212.50
ENTERTAINMENT DESIGN GROUP, LLC	715	04/27/2016	4/1/16	205.44.6200.453.40040	712.50
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	205.44.6200.453.30550	12.50
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	205.44.6200.453.30550	26.64
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	205.44.6200.453.30550	12.50
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	205.44.6200.453.30550	3.50
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	205.44.6200.453.30550	11.00
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	205.44.6200.453.30550	2.32
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	205.44.6200.453.30550	5.41
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	205.44.6200.453.30550	1.17
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	205.44.6200.453.30550	1.16
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	205.44.6200.453.30550	3.79
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	205.44.6200.453.30550	17.66
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	205.44.6200.453.30550	3.79
KEY LOG ROLLING	1350	04/27/2016	2/4/16	205.44.6200.453.60040	2,150.00
MN DEPT OF HEALTH	FBL-13264-10565	04/27/2016	2016 LICENSE RENEWAL APPLICATION	205.44.6200.453.50070	485.00
MN SAFETY SERVICES LLC	31416	04/27/2016	CANCELLED RENTAL	205.44.6200.453.30700	1,110.00
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	205.44.6200.453.50080	60.00
MUNICI-PALS	2016 SPRING WORKSHOI	04/27/2016	2016 SPRING WORKSHOP	205.44.6200.453.50080	60.00

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
MUNICI-PALS	2016 SPRING WORKSHO	04/27/2016	2016 SPRING WORKSHOP	205.44.6200.453.50080	18.00
MUNICI-PALS	2016 SPRING WORKSHO	04/27/2016	2016 SPRING WORKSHOP	205.44.6200.453.50080	60.00
MUNICI-PALS	2016 SPRING WORKSHO	04/27/2016	2016 SPRING WORKSHOP	205.44.6200.453.50080	60.00
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	205.44.6200.453.50020	24.21
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	205.44.6200.453.50020	86.11
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	205.44.6200.453.50020	86.11
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	205.44.6200.453.50020	83.43
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	205.44.6200.453.50020	24.25
Fund: 205 - COMMUNITY CENTER					14,621.60
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	290.45.3000.419.30550	1.33
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	290.45.3000.419.30550	0.23
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	290.45.3000.419.30550	0.76
Fund: 290 - EDA					2.32
DAKOTA CTY FINANCIAL SVCS	00019850	04/27/2016	P0001753	435.73.5900.735.30700	10,745.24
Fund: 435 - 2015 IMPROVEMENT FUND					10,745.24
BARR ENGINEERING COMPANY	23190328.15-13	05/04/2016	4/19/16	436.73.5900.736.30300	277.00
LILLIE SUBURBAN NEWSPAPERS	2/29/16 001363	04/27/2016	001363	436.44.5900.736.50025	221.85
Fund: 436 - 2016 IMPROVEMENT FUND					498.85
AMERICAN ENGINEERING TESTING, INC.	90748	04/27/2016	INV001	440.74.5900.740.30340	2,557.95
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	440.74.5900.740.50025	132.80
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	440.74.5900.740.50025	99.60
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	440.74.5900.740.50025	95.45
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	440.74.5900.740.50025	229.50
Fund: 440 - PAVEMENT MANAGEMENT PROJ					3,115.30
AMERICAN ENGINEERING TESTING, INC.	91261	04/27/2016	INV001	446.74.5900.746.30340	12,000.00
BOLTON & MENK, INC.	0188234	04/27/2016	T18.108658	446.74.5900.746.30300	11,341.00
BOLTON & MENK, INC.	0188234	04/27/2016	T18.108658	446.74.5900.746.30300	8,182.00
BOLTON & MENK, INC.	0188234	04/27/2016	T18.108658	446.74.5900.746.30300	27,052.00
BOLTON & MENK, INC.	0188237	05/04/2016	T18.111066	446.74.5900.746.30300	9,074.00
BOLTON & MENK, INC.	0189014	05/04/2016	T18.108658	446.74.5900.746.30300	17,358.50
BOLTON & MENK, INC.	0189014	05/04/2016	T18.108658	446.74.5900.746.30300	20,706.50
BOLTON & MENK, INC.	0189017	04/27/2016	T18.111066	446.74.5900.746.30300	1,596.00
BRKW APPRAISALS, INC.	7672	05/04/2016	2015-12	446.74.5900.746.30700	1,800.00
BRKW APPRAISALS, INC.	7671	04/27/2016	2015-12	446.74.5900.746.30700	1,800.00
DAKOTA CTY FINANCIAL SVCS	00019861	04/27/2016	P0001753	446.74.5900.746.30700	52,601.43
EMMONS & OLIVIER RESOURCES	00095-0053-2	05/04/2016	00095-0053	446.74.5900.746.30300	94.50
EMMONS & OLIVIER RESOURCES	00095-0053-3	04/27/2016	00095-0053	446.74.5900.746.30700	669.75
EVERGREEN LAND SERVICES	00-11581	05/04/2016	4/19/16	446.74.5900.746.30700	320.00
EVERGREEN LAND SERVICES	00-11541	05/04/2016	4/4/16	446.74.5900.746.30700	320.00
EVERGREEN LAND SERVICES	00-11547	05/04/2016	00095-0053	446.74.5900.746.30700	80.00
EVERGREEN LAND SERVICES	00-11560	05/04/2016	4/4/16	446.74.5900.746.30700	160.00
FINANCE & COMMERCE, INC.	742678988	04/27/2016	10062309	446.74.5900.746.50025	182.28
FINANCE & COMMERCE, INC.	742678988	04/27/2016	10062309	446.74.5900.746.50025	182.29
KIMLEY-HORN & ASSOCIATES, INC.	7715622	05/04/2016	160509026.3	446.74.5900.746.30300	55,852.95
Fund: 446 - NW AREA					221,373.20
EMMONS & OLIVIER RESOURCES	00095-0051-2	05/04/2016	00095-0051	448.74.5900.748.30300	4,742.00
Fund: 448 - NWA - STORM WATER					4,742.00
BARR ENGINEERING COMPANY	23190218.00-241	05/04/2016	3/31/16	451.75.5900.751.30700	10,252.50
Fund: 451 - HOST COMMUNITY FUND					10,252.50
AUTOMATIC SYSTEMS CO.	30059	04/27/2016	INVE01	501.50.7100.512.40043	798.55
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	501.50.7100.512.30550	42.03
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	501.50.7100.512.30550	8.37
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	501.50.7100.512.30550	32.61
GRAYBAR	984447241	04/27/2016	0000101705	501.50.7100.512.40040	77.44
GRAYBAR	984472185	04/27/2016	0000101705	501.50.7100.512.40040	24.48
HD SUPPLY WATERWORKS LTD	F335477	04/27/2016	099872	501.50.7100.512.40043	3,685.16
JAMES STEELE CONSTRUCTION	5/4/16	05/04/2016	HYDRANT REFUND	501.207.2070300	(17.49)
JAMES STEELE CONSTRUCTION	5/4/16	05/04/2016	HYDRANT REFUND	501.50.0000.3813000	(245.42)
METROPOLITAN COUNCIL	0001054088	04/27/2016	W030	501.50.7100.512.40040	425.00
MID AMERICA METER, INC.	016-2087	05/04/2016	4/15/16	501.50.7100.512.40043	1,614.60
MID STATE PLUMBING & HEATING, INC.	89373	03/25/2015	Invoice	501.50.7100.512.40040	3,500.00
MN DEPT OF HEALTH	4/12/16	05/04/2016	WATERWORKS EXAM	501.50.7100.512.50070	23.00
MN PIPE & EQUIPMENT	0353304	04/27/2016	2195	501.50.7100.512.40043	750.82
MN PIPE & EQUIPMENT	0353512	04/27/2016	2195	501.50.7100.512.40043	24.20
MN PIPE & EQUIPMENT	0353547	05/04/2016	2195	501.50.7100.512.40040	117.78
MN PIPE & EQUIPMENT	0353863	05/04/2016	2195	501.50.7100.512.40040	24.20
SEXTON COMPANY, THE	59167	05/04/2016	4115	501.50.7100.512.60045	68.75
STANTEC CONSULTING SERVICES INC.	1032122	04/27/2016	92607	501.50.7100.512.30300	245.52
TKDA	002016001099	04/27/2016	0015781.001	501.50.7100.512.30700	1,506.82
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	501.50.7100.512.50020	1,073.35
Fund: 501 - WATER UTILITY FUND					13,779.77

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	502.51.7200.514.30550	23.23
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	502.51.7200.514.30550	5.59
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	502.51.7200.514.30550	20.45
INSITUFORM TECHNOLOGIES USA, INC.	372068	03/23/2016	102144	502.51.7200.514.40043	35,033.62

Fund: 502 - SEWER UTILITY FUND

35,082.89

ANTIGUA GROUP, INC.	004396589	05/04/2016	15529	503.52.8200.523.76200	241.49
ARAMARK REFRESHMENT SERVICES	1221856	05/04/2016	48128	503.52.8300.524.76100	124.98
ARAMARK REFRESHMENT SERVICES	1200352	04/27/2016	48128	503.52.8300.524.76100	228.96
ARAMARK UNIFORM SERVICES	001718390749	04/27/2016	792502342	503.52.8600.527.60045	60.94
ARAMARK UNIFORM SERVICES	001718408980	04/27/2016	792502342	503.52.8600.527.60045	90.96
ARAMARK UNIFORM SERVICES	1718408980	05/04/2016	792502342	503.52.8600.527.60045	90.96
ARAMARK UNIFORM SERVICES	1718454869	05/04/2016	792502342	503.52.8600.527.60045	55.36
BREAKTHRU BEVERAGE MINNESOTA WINE & SF	1080457420	04/27/2016	102294	503.52.8300.524.76150	31.57
BREAKTHRU BEVERAGE MINNESOTA WINE & SF	1090550286	05/02/2016	102294	503.52.8300.524.76150	407.05
BREAKTHRU BEVERAGE MINNESOTA WINE & SF	1080462070	05/04/2016	102294	503.52.8300.524.76150	91.45
BREAKTHRU BEVERAGE MINNESOTA WINE & SF	1090553043	05/04/2016	102294	503.52.8300.524.76150	631.00
CHECKVIEW CORPORATION	300272537	05/04/2016	4/15/16	503.52.8600.527.40040	412.73
COCA COLA BOTTLING COMPANY	0178454905	05/04/2016	4/20/16	503.52.8300.524.76100	1,282.08
COCA COLA BOTTLING COMPANY	0118440713	05/04/2016	4/27/16	503.52.8300.524.76100	318.96
COLLEGE CITY BEVERAGE	370740	05/04/2016	3592	503.52.8300.524.76150	358.70
COPY RIGHT	69991	05/04/2016	1/29/16	503.52.8000.521.50030	2,034.94
DAKOTA ELECTRIC ASSN	201360-5 4/16	04/20/2016	Electric	503.52.8600.527.40020	218.06
DENNY'S 5TH AVENUE BAKERY	604865	05/04/2016	IW185	503.52.8300.524.76050	51.36
DENNY'S 5TH AVENUE BAKERY	605247	05/04/2016	IW185	503.52.8300.524.76050	52.58
DENNY'S 5TH AVENUE BAKERY	606387	05/04/2016	IW185	503.52.8300.524.76050	42.39
DENNY'S 5TH AVENUE BAKERY	607205	05/04/2016	IW185	503.52.8300.524.76050	43.30
DRAFT TECHNOLOGIES	04251605	05/04/2016	4/25/16	503.52.8300.524.40042	50.00
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	503.52.8000.521.30550	3.50
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	503.52.8500.526.30550	12.66
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	503.52.8600.527.30550	18.00
HEGGIES PIZZA	1191660	05/04/2016	1708	503.52.8300.524.76050	94.80
JJ TAYLOR DIST. COMPANY OF MN	2518892	05/04/2016	00834	503.52.8300.524.76150	203.00
M. AMUNDSON LLP	215156	05/04/2016	902858	503.52.8300.524.76050	573.21
MANSFIELD OIL COMPANY	346701	04/27/2016	24129-03-346701	503.52.8400.525.60021	2,105.11
MANSFIELD OIL COMPANY	346730	04/27/2016	24129-01-346730	503.52.8600.527.60021	1,607.90
MANSFIELD OIL COMPANY	369237	05/04/2016	24129-04-369237	503.52.8400.525.60021	1,068.06
MTI DISTRIBUTING CO	1049575-04	05/04/2016	402307	503.52.8600.527.40042	567.05
MTI DISTRIBUTING CO	1055905-00	05/04/2016	402307	503.52.8600.527.40042	100.61
MTI DISTRIBUTING CO	1055905-01	05/04/2016	402307	503.52.8600.527.40042	107.79
MTI DISTRIBUTING CO	1058421-00	05/04/2016	402307	503.52.8600.527.60008	1,559.75
MTI DISTRIBUTING CO	1058726-00	05/04/2016	402307	503.52.8600.527.60008	1,149.06
NAPA OF INVER GROVE HEIGHTS	456103	05/04/2016	4165	503.52.8600.527.60012	51.16
NAPA OF INVER GROVE HEIGHTS	456765	05/04/2016	4165	503.52.8600.527.40042	59.79
P&W GOLF SUPPLY LLC	INV7845	04/27/2016	123575	503.52.8100.522.60015	710.56
SHAMROCK GROUP	1993868	04/27/2016	07176	503.52.8300.524.76100	80.34
SHAMROCK GROUP	1994902	05/04/2016	07176	503.52.8300.524.76100	212.00
SHAMROCK GROUP	1996796	05/04/2016	07176	503.52.8300.524.76100	96.50
SIGNAL SYSTEMS INC	13076663	05/04/2016	4/18/16	503.52.8500.526.50030	47.93
SUMMIT FACILITY & KITCHEN SERVICE	108682	05/04/2016	827	503.52.8300.524.40042	212.00
TIM LOCKLER'S	4/15/16	04/27/2016	4/15/16	503.52.8500.526.40040	416.00
US FOODSERVICE	3677594	05/04/2016	03805983	503.52.8300.524.76050	1,316.54
US FOODSERVICE	3761480	05/04/2016	03805983	503.52.8300.524.60065	664.16
US FOODSERVICE	3804333	05/04/2016	03805983	503.52.8300.524.76050	775.27
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	503.52.8500.526.50020	217.96
WINFIELD SOLUTIONS, LLC	0000060730599	05/04/2016	156650	503.52.8600.527.60030	8,085.09

Fund: 503 - INVER WOOD GOLF COURSE

29,035.62

AMERICAN TEST CENTER	2160875	05/04/2016	4/8/16	602.00.2100.415.70200	250.00
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	602.00.2100.415.30550	1.66
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	602.00.2100.415.30550	0.12
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	602.00.2100.415.30550	0.76
LEAGUE OF MN CITIES INS TRUST	52873	05/04/2016	CMC 38263	602.00.2100.415.50010	34,189.25
LEAGUE OF MN CITIES INS TRUST	52873	05/04/2016	CMC 38263	602.00.2100.415.50010	4,154.50
LEAGUE OF MN CITIES INS TRUST	52873	05/04/2016	cmc 38263	602.00.2100.415.50011	34,094.00
LEAGUE OF MN CITIES INS TRUST	52873	05/04/2016	CMC 38263	602.00.2100.415.50012	9,190.75
LEAGUE OF MN CITIES INS TRUST	52873	05/04/2016	CMC 38263	602.00.2100.415.50015	410.75
LEAGUE OF MN CITIES INS TRUST	52873	05/04/2016	CMC 38263	602.00.2100.415.50016	2,910.00
LEAGUE OF MN CITIES INS TRUST	52873	05/04/2016	CMC 38263	602.00.2100.415.50018	197.00

Fund: 602 - RISK MANAGEMENT

85,398.79

COMMON SENSE BUILDING SERVICES, INC.	38344	04/27/2016	APRIL 2016	603.00.5300.444.40040	298.00
DIESEL COMPONENTS, INC.	S 139811	05/04/2016	4/21/16	603.00.5300.444.40041	25.69
EMERGENCY APPARATUS MAINTENANCE	86377	05/04/2016	4/19/16	603.00.5300.444.40041	494.69
EMERGENCY APPARATUS MAINTENANCE	86381	05/04/2016	4/19/16	603.00.5300.444.40041	129.50
EMERGENCY AUTOMOTIVE TECHNOLOGIES	AW041216-4	05/04/2016	4/12/16	603.00.5300.444.40041	937.50
EMERGENCY AUTOMOTIVE TECHNOLOGIES	AW042116-6	05/04/2016	4/21/16	603.00.5300.444.40041	69.30
EMERGENCY RESPONSE SOLUTIONS	6213	04/27/2016	4/12/16	603.00.5300.444.80700	2,040.00
FORCE AMERICA, INC.	IN001-1041164	04/22/2016	366100	603.00.5300.444.40041	247.85
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	603.00.5300.444.30550	9.24
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	603.00.5300.444.30550	2.33

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	603.00.5300.444.30550	7.58
INVER GROVE FORD	6199329/1	05/04/2016	4/19/16	603.00.5300.444.40041	89.99
I-STATE TRUCK CENTER	C242398127:01	04/27/2016	13468	603.00.5300.444.40041	32.66
KIMBALL MIDWEST	4834047	04/27/2016	222006	603.00.5300.444.60012	280.16
MANSFIELD OIL COMPANY	MBINV/00075108	05/04/2016	4/8/16	603.140.1450060	(87.50)
MANSFIELD OIL COMPANY	MBINV/00075154	05/04/2016	4/8/16	603.140.1450060	(125.25)
MID CITY SERIVCES, INC.	39106	04/27/2016	4/13/16	603.00.5300.444.40065	42.75
MIDWAY FORD	107473	04/27/2016	4/13/16	603.00.5300.444.80700	26,985.72
MIDWAY FORD	107474	04/27/2016	4/13/16	603.00.5300.444.80700	26,985.72
MN DEPT OF REVENUE	4/25/16	04/25/2016	MARCH 2016 PETRO TAX	603.00.5300.444.60021	302.96
MN SUPPLY CO	C95906	03/02/2016	39242	603.00.5300.444.40041	(399.18)
MN SUPPLY CO	C95557	04/27/2016	39242	603.00.5300.444.40041	44.43
MN SUPPLY CO	C95558	04/27/2016	39242	603.00.5300.444.40041	594.70
MTI DISTRIBUTING CO	1055820-00	04/27/2016	91180	603.00.5300.444.40041	131.46
MTI DISTRIBUTING CO	1056277-00	04/27/2016	91180	603.00.5300.444.40041	24.03
MTI DISTRIBUTING CO	1056277-01	04/27/2016	91180	603.00.5300.444.40041	14.55
NORTHLAND CHEMICAL CORP	5060910	04/27/2016	1057318	603.00.5300.444.60012	113.94
O' REILLY AUTO PARTS	1767-201320	05/04/2016	1578028	603.00.5300.444.40041	8.49
O' REILLY AUTO PARTS	1767-201402	05/04/2016	1578028	603.00.5300.444.40041	48.57
O' REILLY AUTO PARTS	1767-201528	05/04/2016	1578028	603.00.5300.444.40041	91.99
O' REILLY AUTO PARTS	1767-201684	05/04/2016	1578028	603.140.1450050	41.64
O' REILLY AUTO PARTS	1767-201687	05/04/2016	1578028	603.00.5300.444.40041	64.29
O' REILLY AUTO PARTS	1767-201707	05/04/2016	1578028	603.00.5300.444.40041	8.63
POMP'S TIRE SERVICE, INC.	980027515	05/04/2016	4502557	603.00.5300.444.40041	143.54
POMP'S TIRE SERVICE, INC.	980027032	04/27/2016	4502557	603.00.5300.444.60014	734.80
SNAP-ON INDUSTRIAL	ARV/28625446	04/27/2016	200100474	603.00.5300.444.60040	111.45
SOUTH ST PAUL STEEL SUPPLY CO	01139499	04/27/2016	0100202	603.00.5300.444.40041	25.32
TOWMASTER TRAILERS INC	378514	04/27/2016	2946	603.00.5300.444.40041	2,860.00
TRUCK UTILITIES, INC.	0297109	05/04/2016	0309151	603.00.5300.444.40041	621.20
TRUCK UTILITIES, INC.	0297227	05/04/2016	0309308	603.00.5300.444.40041	182.56
TRUCK UTILITIES, INC.	0297229	05/04/2016	0309309	603.00.5300.444.40041	91.28
TRUCK UTILITIES, INC.	0297230	05/04/2016	000154	603.00.5300.444.40041	108.84
UNIFIRST CORPORATION	090 0300929	05/04/2016	1051948	603.00.5300.444.40065	136.78
UNIFIRST CORPORATION	090 0300929	05/04/2016	1051948	603.00.5300.444.60045	31.49
UNIFIRST CORPORATION	090 0301981	05/04/2016	1051948	603.00.5300.444.40065	136.78
UNIFIRST CORPORATION	090 0301981	05/04/2016	1051948	603.00.5300.444.60045	31.49
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	603.00.5300.444.50020	162.00
WESTERN PETROLEUM COMPANY	97393329-41801	05/04/2016	112741	603.140.1450050	725.57
WESTERN PETROLEUM COMPANY	97393423-41801	05/04/2016	112741	603.00.5300.444.60022	46.39
WESTERN PETROLEUM COMPANY	97386988-41801	04/27/2016	112741	603.00.5300.444.40041	13.86
WESTERN PETROLEUM COMPANY	97387453-41801	04/27/2016	112741	603.140.1450050	617.14
ZIEGLER INC	PC001766061	05/04/2016	4069900	603.00.5300.444.40041	76.88
Fund: 603 - CENTRAL EQUIPMENT					66,413.80
COORDINATED BUSINESS SYSTEMS	CNIN206694	04/27/2016	4502512	604.00.2200.416.40050	2,510.39
COORDINATED BUSINESS SYSTEMS	ARCM009870	04/27/2016	4502512	604.00.2200.416.40050	(601.55)
NEOPOST USA INC	GPAS00655	05/04/2016	52240662-356244	604.00.2200.416.60010	287.50
US BANCORP EQUIPMENT FINANCE, INC.	301454997	04/27/2016	4/1/16	604.00.2200.416.40050	2,576.94
WORKS COMPUTING, INC.	25586	04/27/2016	INVER	604.00.2200.416.30700	10,536.56
Fund: 604 - CENTRAL STORES					15,309.84
COMMON SENSE BUILDING SERVICES, INC.	38344	04/27/2016	APRIL 2016	605.00.7500.460.40040	3,746.11
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	605.00.7500.460.30550	3.50
HILLYARD INC	602041900	04/27/2016	274069	605.00.7500.460.60016	337.86
HUEBSCH SERVICES	3646372	04/27/2016	100075	605.00.7500.460.40065	113.54
Fund: 605 - CITY FACILITIES					4,201.01
CARTE GRAPH SYSTEMS	SIN001463	04/27/2016	3/31/16	606.00.1400.413.30700	1,431.76
CDW GOVERNMENT INC	CKG7971	04/27/2016	2394832	606.00.1400.413.80610	275.40
CDW GOVERNMENT INC	CKM8536	04/27/2016	2394832	606.00.1400.413.80610	192.57
CIVICPLUS	158016	04/27/2016	2/29/136	606.00.1400.413.30700	1,200.00
CIVICPLUS	158175	04/27/2016	4/1/16	606.00.1400.413.30700	2,612.99
DELL MARKETING	XJX53F846	04/27/2016	19368783	606.00.1400.413.80610	504.11
ENTERTAINMENT DESIGN GROUP, LLC	715	04/27/2016	4/1/16	606.00.1400.413.40044	1,025.00
GENESIS EMPLOYEE BENEFITS, INC	IN770924	05/04/2016	Payroll	606.00.1400.413.30550	16.75
GENESIS EMPLOYEE BENEFITS, INC	IN781982	05/04/2016	Payroll	606.00.1400.413.30550	2.32
GENESIS EMPLOYEE BENEFITS, INC	IN771687	05/04/2016	Payroll	606.00.1400.413.30550	15.18
GOLDCOM, INC.	187328	04/27/2016	2497	606.00.1400.413.60065	329.17
INTEGRA TELECOM	120375286	04/27/2016	002129	606.00.1400.413.50020	150.00
INTEGRA TELECOM	13750551	04/27/2016	887115	606.00.1400.413.50020	1,225.51
TDS METROCOM	4/13/16 651 451 1944	04/27/2016	651 451 1944	606.00.1400.413.50020	248.75
US INTERNET	110-080034-0030	04/27/2016	110-080034	606.00.1400.413.30700	220.00
VERIZON WIRELESS	9764315954	05/04/2016	Telephone	606.00.1400.413.50020	51.41
WORKS COMPUTING, INC.	25574	04/27/2016	INVER	606.00.1400.413.30700	15,671.18
WORKS COMPUTING, INC.	25575	04/27/2016	INVER	606.00.1400.413.80610	13,602.21
WORKS COMPUTING, INC.	25625	04/27/2016	INVER	606.00.1400.413.30700	4,287.83
Fund: 606 - TECHNOLOGY FUND					43,062.14

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
ANOKA COUNTY SHERIFF'S DEPT	155338	05/04/2016	CHRISTINA KENNEDY	702.229.2291000	400.00
BARR ENGINEERING COMPANY	23190218.00-241	05/04/2016	3/31/16	702.229.2293002	8,236.00
BARR ENGINEERING COMPANY	23190328.15-13	05/04/2016	4/19/16	702.229.2285002	1,595.00
BARR ENGINEERING COMPANY	23190328.15-13	05/04/2016	4/19/16	702.229.2289102	580.00
BOLTON & MENK, INC.	0188235	04/27/2016	T18.110347	702.229.2289802	2,368.00
BOLTON & MENK, INC.	0188236	04/27/2016	T18.110793	702.229.2288802	1,480.00
BOLTON & MENK, INC.	0189015	04/27/2016	T18.110793	702.229.2288802	1,332.00
BOLTON & MENK, INC.	0189016	05/04/2016	T18.110347	702.229.2289802	2,991.50
DAKOTA CTY ATTORNEY	12-3801	05/04/2016	12-3801	702.229.2291000	45.00
EMMONS & OLIVIER RESOURCES	00095-0052-2	04/27/2016	00095-0052	702.229.2282002	177.00
EMMONS & OLIVIER RESOURCES	00095-0052-2	04/27/2016	00095-0052	702.229.2287302	4,960.70
EMMONS & OLIVIER RESOURCES	00095-0052-2	04/27/2016	00095-0052	702.229.2293602	158.31
EMMONS & OLIVIER RESOURCES	00095-0053-2	05/04/2016	00095-0053	702.229.2295902	54.06
EMMONS & OLIVIER RESOURCES	00095-0052-3	05/04/2016	00095-0052	702.229.2282002	228.31
EMMONS & OLIVIER RESOURCES	00095-0052-3	05/04/2016	00095-0052	702.229.2287302	1,657.56
EMMONS & OLIVIER RESOURCES	00095-0052-3	05/04/2016	00095-0052	702.229.2293602	451.06
EMMONS & OLIVIER RESOURCES	00095-0053-3	04/27/2016	00095-0053	702.229.2286602	1,697.20
EMMONS & OLIVIER RESOURCES	00095-0053-3	04/27/2016	00095-0053	702.229.2295902	123.81
JAMES STEELE CONSTRUCTION	5/4/16	05/04/2016	HYDRANT REFUND	702.229.2294300	1,000.00
LILLIE SUBURBAN NEWSPAPERS	2/29/16 001363	04/27/2016	001363	702.229.2282201	29.05
LILLIE SUBURBAN NEWSPAPERS	3/31/16 001363	05/04/2016	001363	702.229.2285002	33.20
NORTHERN SERVICE CENTER	19WSVB168331	05/04/2016	OSCAR DIAZ RODRIGUEZ	702.229.2291000	300.00
SAINT PAUL, CITY OF	IN00015179	04/27/2016	MARCH 2016	702.229.2291000	40.22
SHORT ELLIOTT HENDRICKSON, INC.	313668	04/27/2016	4340	702.229.2293301	1,211.77
Fund: 702 - ESCROW FUND					31,149.75
Grand Total					704,112.41

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

PERSONNEL ACTIONS

Meeting Date: May 9, 2016
Item Type: Consent
Contact: Joe Lynch, City Administrator
Prepared by: Carrie Isaacson, Admin Svc Cord
Reviewed by: Janet Shefchik, HR Manager

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED Staff requests that the Council approve the personnel actions listed below:

Please confirm the Part-Time/Temporary/Seasonal Employment of: Maya Feldsien (Skating Instructor/VMCC); Conner Perry (Ranger/Golf); James Reed (Ranger/Golf); Dale Runkle (Laborer/Golf); Sandy Scheuble (AB Board/Elections); Meghan Garin (Aquatics/VMCC); Tyler Nieson (Recreation Instructor/Rec); Joseph Skora (Utilities Helper/Utilities)

Please confirm the Termination of: Nicole Wilson, Patrol Officer and Larry Martin, Temporary Combination Inspector

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Custom Grading Agreement and Stormwater Facilities Maintenance Agreement for 9480 Old Concord Blvd.

Meeting Date: May 9, 2016
 Item Type: Consent
 Contact: Thomas J. Kaldunski, City Engineer
 Prepared by: Thomas J. Kaldunski, 651.450.2572
 Reviewed by: Scott D. Thureen, Public Works Director

TJK
 SDT

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Approve Custom Grading Agreement and Stormwater Facilities Maintenance Agreement for 9480 Old Concord Blvd.

SUMMARY

The owners of 9480 Old Concord Blvd. are affected by the City Ordinance Title 9, Chapter 5, Section 9-5-5. This Ordinance requires lots of record which do not have recorded contracts or agreements with the City to provide information to ensure the Development meets current City standards for grading, erosion control and storm water management.

The owners, Josh and Amy Tenney, have provided the required grading and erosion control plans. They have also signed the Custom Grading Agreement (attached). An engineering escrow of \$1,500 has been provided to cover any costs incurred by the City for review and inspection of the site grading. The owners have applied for a building permit and have provided a \$10,000 LOC or cash surety prior to permit issuance.

The owners have also agreed to execute a SWFMA for an infiltration basin to be constructed on the lot.

It is recommended that the City Council approve the Custom Grading Agreement and Stormwater Facilities Maintenance Agreement for 9480 Old Concord Blvd.

TJK/mw
 Attachments: Custom Grading Agreement
 Storm Water Facilities Maintenance Agreement

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT
9480 OLD CONCORD BOULEVARD
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT
9480 OLD CONCORD BOULEVARD
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS CUSTOM GRADING AGREEMENT is made and entered into on the 9th day of May, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (City), and the Owner identified herein.

RECITALS:

WHEREAS, the Owner has applied to the City for approval of the Development Plans and a building permit for the Property;

WHEREAS, in conjunction with the granting of these approvals, the City requires that the Lot be improved with grading, drainage and erosion control facilities, storm water management improvements and associated landscaping;

WHEREAS, the Council has agreed to approve the Development Plans on the following conditions:

1. That the Owner enter into this Custom Grading Agreement, which contract defines the work which the Owner undertakes to complete; and
2. The Owner shall provide an irrevocable letter of credit in the amount and with conditions satisfactory to the City, providing for the actual construction and installation of such Improvements within the period specified by the City.

WHEREAS, the Owner has filed four (4) complete sets of the Development Plans with the City;

WHEREAS, the Development Plans have been prepared by a registered professional engineer and have been approved by the Director of PWD.

NOW, THEREFORE, subject to the terms and conditions of this Custom Grading Agreement and in reliance upon the representations, warranties and covenants of the parties herein contained, the City and Owner agree as follows:

ARTICLE 1
DEFINITIONS

1.1 TERMS. The following terms, unless elsewhere defined specifically in the Custom Grading Agreement, shall have the following meanings as set forth below.

1.2 **CITY.** "City" means the City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 **OWNER.** "Owner" means Joshua J. Tenney and Amy Tenney, husband and wife, and their successors and assigns.

1.4 **DEVELOPMENT PLANS.** "Development Plans" means all those plans, drawings, specifications and surveys identified on the attached Appendix 1.

1.5 **CUSTOM GRADING AGREEMENT.** "Custom Grading Agreement" means this instant contract by and between the City and Owner.

1.6 **COUNCIL.** "Council" means the Council of the City of Inver Grove Heights.

1.7 **PWD.** "PWD" means the Public Works Department of the City of Inver Grove Heights.

1.8 **DIRECTOR OF PWD.** "Director of PWD" means the Director of the Public Works Department of the City of Inver Grove Heights and his delegates.

1.9 **COUNTY.** "County" means Dakota County, Minnesota.

1.10 **OTHER REGULATORY AGENCIES.** "Other Regulatory Agencies" means and includes the following:

- a.) Minnesota Department of Transportation
- b.) Dakota County
- c.) Water Management Organization
- d.) State of Minnesota
- e.) Minnesota Department of Natural Resources
- f.) any other regulatory or governmental agency or entity affected by, or having jurisdiction over the Improvements.

1.11 **UTILITY COMPANIES.** "Utility Companies" means and includes the following:

- a.) utility companies, including electric, gas and cable
- b.) pipeline companies.

1.12 **PRIOR EASEMENT HOLDERS.** "Prior Easement Holders" means and includes all holders of any easements or other property interests which existed prior to the grant or dedication

of any public easements transferred by the Plat or transferred pursuant to this Custom Grading Agreement.

1.13 IMPROVEMENTS. "Improvements" means and includes, individually and collectively, all the improvements identified in Article 3 and on the attached Appendix 2.

1.14 OWNER DEFAULT. "Owner Default" means and includes any of the following or any combination thereof:

- a.) failure by the Owner to timely pay the City any money required to be paid under this Custom Grading Agreement;
- b.) failure by the Owner to timely construct the Improvements according to the Development Plans and the City standards and specifications;
- c.) failure by the Owner to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Custom Grading Agreement;
- d.) breach of the Owner Warranties.

1.15 FORCE MAJEURE. "Force Majeure" means acts of God, including, but not limited to floods, ice storms, blizzards, tornadoes, landslides, lightning and earthquakes (but not including reasonably anticipated weather conditions for the geographic area), riots, insurrections, war or civil disorder affecting the performance of work, blockades, power or other utility failures, and fires or explosions.

1.16 OWNER WARRANTIES. "Owner Warranties" means that the Owner hereby warrants and represents the following:

- A. **AUTHORITY.** Owner has the right, power, legal capacity and authority to enter into and perform its obligations under this Custom Grading Agreement; no approvals or consents of any persons are necessary in connection with the authority of Owner to enter into and perform its obligations under this Custom Grading Agreement.
- B. **FULL DISCLOSURE.** None of the representatives and warranties made by Owner or made in any exhibit hereto or memorandum or writing furnished or to be furnished by Owner or on its behalf contains or will contain any untrue statement of material fact or omit any material fact the omission of which would be misleading.
- C. **PLAN COMPLIANCE.** The Development Plans comply with all City, County, metropolitan, state and federal laws and regulations, including but not limited to subdivision ordinances, zoning ordinances and environmental regulations.
- D. **FEE TITLE.** The Owner owns fee title to the Property.

E. **WARRANTY ON PROPER WORK AND MATERIALS.** The Owner warrants all work required to be performed by it under this Custom Grading Agreement against defective material and faulty workmanship for a period of two (2) years after its completion. During the warranty period the Owner shall be solely responsible for all costs of performing repair work required by the City within thirty (30) days of notification. All trees, grass, and sod shall be warranted to be alive, of good quality, and disease free for one year after planting. Any replacements shall be similarly warranted for one year from the time of planting. In addition, the warranty period for drainage and erosion control improvements shall be for two (2) years after completion; the warranty for the drainage and erosion control improvements shall also include the obligation of the Owner to repair and correct and damage to or deficiency with respect to such improvements.

1.17 **CITY WARRANTIES.** "City Warranties" means that the City hereby warrants and represents as follows:

- A. **ORGANIZATION.** City is a municipal corporation duly incorporated and validly existing in good standing under the laws of the State of Minnesota.
- B. **AUTHORITY.** City has the right, power, legal capacity and authority to enter into and perform its obligations under this Custom Grading Agreement.

1.18 **FORMAL NOTICE.** "Formal Notice" means notices given by one party to the other if in writing and if and when delivered or tendered either in person or by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage and postal charges prepaid, addressed as follows:

If to CITY:
City of Inver Grove Heights
Attention: City Administrator
Inver Grove Heights City Hall
8150 Barbara Avenue
Inver Grove Heights, MN 55077

If to Owner:
Joshua Tenney and Amy Tenney
9480 Old Concord Boulevard
Inver Grove Heights, MN 55076

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

1.19 **PROPERTY.** Property means the real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described on **Exhibit A** attached hereto.

ARTICLE 2
APPROVAL OF DEVELOPMENT PLANS

2.1. APPROVAL OF DEVELOPMENT PLANS. Subject to the terms and conditions of this Custom Grading Agreement, the recitals above, and all other applicable City Code provisions the City hereby approves the Development Plans.

2.2 RECORDING. This Custom Grading Agreement shall be recorded with the County Recorder within thirty (30) days from the date of this Custom Grading Agreement. No building permits shall be issued unless the Owner shows evidence to the City that this Custom Grading Agreement has been recorded with the County Recorder.

ARTICLE 3
IMPROVEMENTS

3.1 IMPROVEMENTS. The Owner shall install, at its own cost, the Improvements in accord with the Development Plans. The Owner Improvements shall be completed by the dates shown on Appendix 2, except as completion dates are extended by subsequent written action of the Director of PWD. Failure of the City to promptly take action to enforce this Custom Grading Agreement after expiration of time by which the Improvements are to be completed shall not waive or release any rights of the City; the City may take action at any time thereafter, and the terms of this contract shall be deemed to be automatically extended until such time as the Improvements are completed to the City's satisfaction.

3.2 GROUND MATERIAL. The Owner shall insure that adequate and suitable ground material shall exist in the areas of private driveways and utility improvements and shall guarantee the removal, replacement or repair of substandard or unstable material. The cost of removal, replacement or repair is the responsibility of the Owner.

3.3 GRADING/DRAINAGE PLAN. The Owner shall construct drainage facilities in accord with the Development Plans. The grading and drainage plan shall include lot and building elevations, drainage swales to be sodded, storm sewer, catch basins, erosion control structures and ponding areas necessary to conform with the overall City storm sewer plan. The grading of the site shall be completed in conformance with the Development Plans.

3.4 BOULEVARD AND AREA RESTORATION. The Owner shall seed or lay cultured sod in all boulevards within 30 days of the completion of street related improvements and restore all other areas disturbed by the development grading operation in accordance with the approved erosion control plan. Upon request of the PWD, the Owner shall remove the silt fences after grading and construction have occurred.

3.5 STREET MAINTENANCE, ACCESS AND REPAIR. The Owner shall clear, on a daily basis, any soil, earth or debris from the streets and wetlands within or adjacent to the Plat resulting from the grading or building on the land within the Plat by the Owner or its agents, and shall repair to the City's specifications any damage to bituminous surfacing resulting from the use of construction equipment.

3.6 LANDSCAPING. Site landscaping shall be in accordance with the Development Plans.

3.7 EROSION CONTROL. The Owner shall provide and follow a plan for erosion control and pond maintenance in accord with the Best Management Practices (BMP) as delineated in the Minnesota Pollution Control Agency handbook titled Water Quality in Urban Areas. Such plan shall be detailed on the Development Plans and shall be subject to approval of the Director of PWD. The Owner shall install and maintain such erosion control structures as appear necessary under the Development Plans or become necessary subsequent thereto. The Owner shall be responsible for all damage caused as the result of grading and excavation within the Plat including, but not limited to, restoration of existing control structures and clean-up of public right-of-way, until the Lot is final graded and Improvements are completed. As a portion of the erosion control plan, the Owner shall re-seed or sod any disturbed areas in accordance with the Development Plans. The City reserves the right to perform any necessary erosion control or restoration as required, if these requirements are not complied with after Formal Notice by the City as stated in Article 9. The Owner shall be financially responsible for payment for this extra work.

3.8 GRADING/DRAINAGE PLAN AND EASEMENTS. The Developer shall construct drainage facilities adequate to serve the Plat in accord with the Development Plans. The Owner and Developer agree to grant to the City all necessary easements for the preservation of the drainage system, for drainage basins, and for utility service. All such easements required by the City shall be on the Plat or in writing, in recordable form, and on the standard easement form of the City, and on such other terms and conditions as the City shall determine; such easements shall be delivered to the City contemporaneously with execution of this Development Contract. The grading and drainage plan shall include lot and building elevations, drainage swales to be sodded, storm sewer, catch basins, erosion control structures and ponding areas necessary to conform with the overall City storm sewer plan. The grading of the site shall be completed in conformance with the Development Plans. In the event that the Developer fails to complete the grading of the site in conformance with the Development Plans by the stipulated date, the City may declare the Developer in default pursuant to Article 9.

3.9 AS BUILT INFORMATION. One (1) copy, on paper, of the detailed record plan "as built" drawings of the Improvements shall be provided by the Owner in accord with City standards no later than 90 days after completion of the Improvements, unless otherwise approved in writing by the PWD. As-built information shall also be submitted in an electronic Adobe PDF file format. Note: All corrected links, grades, and elevations shall have a line drawn through the original text and new information placed nearby; the original information or text shall not be erased.

ARTICLE 4 **OTHER PERMITS**

4.1 PERMITS. The Owner shall obtain all necessary approvals, permits and licenses from the City, the Other Regulatory Agencies, the Utility Companies, and the Prior Easement Holders. Major design requirements of any such entities shall be determined prior to completion and incorporated into the Development Plans. All costs incurred to obtain the approvals, permits

and licenses, and also all fines or penalties levied by any agency due to the failure of the Owner to obtain or comply with conditions of such approvals, permits and licenses, shall be paid by the Owner. The Owner shall defend and hold the City harmless from any action initiated by the Other Regulatory Agencies, the Utility Companies and the Prior Easement Holders resulting from such failures of the Owner.

ARTICLE 5
RESPONSIBILITY FOR COSTS

5.1 IMPROVEMENT COSTS. The Owner shall pay for the Improvements; that is, all costs of persons doing work or furnishing skills, tools, machinery or materials, or insurance premiums or equipment or supplies and all just claims for the same; and the City shall be under no obligation to pay the contractor or any subcontractor any sum whatsoever on account thereof, whether or not the City shall have approved the contract or subcontract.

5.2 CITY MISCELLANEOUS EXPENSES. The Owner shall reimburse the City for all engineering, administrative, legal and other expenses incurred or to be incurred by the City in connection with this Custom Grading Agreement. Bills not paid within thirty (30) days shall accrue interest at the rate of eight percent per year.

5.3 ENFORCEMENT COSTS. The Owner shall pay the City for costs incurred in the enforcement of this Custom Grading Agreement, including engineering and attorneys' fees.

5.4 TIME OF PAYMENT. The Owner shall pay all bills from the City within thirty (30) days after billing. Bills not paid within thirty (30) days shall bear interest at the rate of 8% per year.

ARTICLE 6
OWNER WARRANTIES

6.1 STATEMENT OF OWNER WARRANTIES. The Owner hereby makes and states the Owner Warranties.

ARTICLE 7
CITY WARRANTIES

7.1 STATEMENT OF CITY WARRANTIES. The City hereby makes and states the City Warranties.

ARTICLE 8
INDEMNIFICATION OF CITY

8.1 INDEMNIFICATION OF CITY. Owner shall indemnify, defend and hold the City, its Council, agents, employees, attorneys and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties and attorneys' fees,

that the City incurs or suffers, which arise out of, result from or relate to:

- a.) breach by the Owner of the Owner Warranties;
- b.) failure of the Owner to timely construct the Improvements according to the Development Plans and the City ordinances, standards and specifications;
- c.) failure by the Owner to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Custom Grading Agreement;
- d.) failure by the Owner to pay contractors, subcontractors, laborers, or material;
- e.) failure by the Owner to pay for materials;
- f.) approval by the City of the Development Plans;
- g.) failure to obtain the necessary permits and authorizations to construct the Improvements;
- h.) construction of the Improvements;
- i.) delays in construction of the Improvements;
- j.) all costs and liabilities arising because building permits were issued prior to the completion and acceptance of the Improvements.

ARTICLE 9
CITY REMEDIES UPON OWNER DEFAULT

9.1 CITY REMEDIES. If an Owner Default occurs, that is not caused by Force Majeure, the City shall give the Owner Formal Notice of the Owner Default and the Owner shall have ten (10) business days to cure the Owner Default. If the Owner, after Formal Notice to it by the City, does not cure the Owner Default within ten (10) business days, then the City may avail itself of any remedy afforded by law and any of the following remedies:

- a.) the City may specifically enforce this Custom Grading Agreement;
- b.) the City may collect on the irrevocable letter of credit or cash deposit pursuant to Article 13 hereof;
- c.) the City may suspend or deny building and occupancy permits for buildings within the Lot;
- d.) the City may, at its sole option, perform the work or improvements to be performed by the Owner, in which case the Owner shall within thirty (30) days after written

billing by the City reimburse the City for any costs and expenses incurred by the City.

9.2 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained in this Custom Grading Agreement is breached by the Owner and thereafter waived in writing by the City, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder. All waivers by the City must be in writing.

9.3 NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Custom Grading Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than the Formal Notice.

9.4 EMERGENCY. Notwithstanding the requirement contained in Section 9.1 hereof relating to Formal Notice to the Owner in case of a Owner Default and notwithstanding the requirement contained in Section 9.1 hereof relating to giving the Owner a ten (10) business day period to cure the Owner Default, in the event of an emergency as determined by the Director of PWD, resulting from the Owner Default, the City may perform the work or improvement to be performed by the Owner without giving any notice or Formal Notice to the Owner and without giving the Owner the ten (10) day period to cure the Owner Default. In such case, the Owner shall within thirty (30) days after written billing by the City reimburse the City for any and all costs incurred by the City.

ARTICLE 10 **ESCROW DEPOSIT**

10.1 ESCROW REQUIREMENT. Contemporaneously herewith, the Owner shall deposit with the City an irrevocable letter of credit, or cash deposit for the amount of \$10,000.

The bank and form of the irrevocable letter of credit, or cash deposit shall be subject to approval by the City Finance Director and City Attorney and shall continue to be in full force and effect until released by the CITY. The irrevocable letter of credit shall be for a term ending December 31, 2017. In the alternative, the letter of credit may be for a one year term provided it is automatically renewable for successive one year periods from the present or any future expiration dates with a final expiration date of December 31, 2017, and further provided that the irrevocable letter of credit states that at least sixty (60) days prior to the expiration date the bank will notify the City that if the bank elects not to renew for an additional period. The irrevocable letter of credit shall secure compliance by the Owner with the terms of this Custom Grading Agreement. The City may draw down on the irrevocable letter of credit or cash deposit, without any further notice than that provided in Section 9.1 relating to a Owner Default, for any of the following reasons:

- a.) a Owner Default; or
- b.) upon the City receiving notice that the irrevocable letter of credit will be allowed to lapse before December 31, 2017.

The City shall use the escrow proceeds to reimburse the City for its costs and to cause the Improvements to be constructed to the extent practicable; after the Director of PWD determines that such Improvements have been constructed and after retaining 10% of the proceeds for later distribution pursuant to Section 10.2, the remaining proceeds shall be distributed to Owner.

With City approval, the irrevocable letter of credit or cash deposit may be reduced pursuant to Section 10.2 from time to time as financial obligations are paid.

10.2 ESCROW RELEASE AND ESCROW INCREASE.

Periodically, upon the Owner's written request and upon completion by the Owner and acceptance by the City of any specific Improvements, ninety percent (90%) of that portion of the irrevocable letter of credit, or cash deposit covering those specific completed improvements only shall be released. The final ten percent (10%) of that portion of the irrevocable letter of credit, or cash deposit, for those specific completed improvements shall be held until acceptance by the City and expiration of the warranty period under Section 1.17 hereof; in the alternative, the Owner may post a bond satisfactory to the City with respect to the final ten percent (10%).

10.3 ENGINEERING ESCROW AMOUNT. In addition to the Escrow Amount, the Owner shall also deposit \$1,500.00 in cash with the City (hereafter "Engineering Escrow Amount") contemporaneously with execution of this Agreement.

The Engineering Escrow Amount shall be used to pay the City for engineering review and inspection expenses, attorney's fees, consultant fees, erosion and sediment control expenses, staff review time associated with coordination, review, design, preparation and inspection of the Development Plans, the Improvements, and this Agreement and other associated City costs. Fees will be calculated at the City's standard rates charged for such tasks.

The Engineering Escrow Amount shall also be available to the City to pay for deficiencies and problems related to grading, drainage and erosion control and landscaping on the Owner Property in the event such problems and deficiencies arise. The City may also use the Engineering Escrow Amount to correct any such deficiencies or problems or to protect against further deficiencies or problems.

The City shall return to the Owner any remaining Engineering Escrow Amount when all the following events have occurred:

- a.) all of the landscaping and vegetation has been established to the sole satisfaction of the City.

To the extent the engineering inspection charges or the amount needed to correct the

deficiencies and problems relating to grading, drainage, erosion control, or landscaping exceed the initially deposited \$1,500.00 Engineering Escrow Amount, the Owner is responsible for payment of such excess within thirty (30) days after billing by the City.

ARTICLE 11
MISCELLANEOUS

11.1 CITY'S DUTIES. The terms of this Custom Grading Agreement shall not be considered an affirmative duty upon the City to complete any Improvements.

11.2 NO THIRD PARTY RECOURSE. Third parties shall have no recourse against the City under this Custom Grading Agreement.

11.3 VALIDITY. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Custom Grading Agreement is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Custom Grading Agreement.

11.4 RECORDING. Within 30 days from the date of this Custom Grading Agreement, the Custom Grading Agreement shall be recorded by the Owner with the County Recorder and the Owner shall provide and execute any and all documents necessary to implement the recording.

11.5 BINDING AGREEMENT. The parties mutually recognize and agree that all terms and conditions of this recordable Custom Grading Agreement shall run with the land and shall be binding upon the heirs, successors, administrators and assigns of the Owner.

11.6 ASSIGNMENT. The Owner may not assign this Custom Grading Agreement without the written permission of the Council. The Owner's obligations hereunder shall continue in full force and effect, even if the Owner sells the Lot.

11.7 AMENDMENT AND WAIVER. The parties hereto may by mutual written agreement amend this Custom Grading Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Custom Grading Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Custom Grading Agreement, waive compliance by another with any of the covenants contained in this Custom Grading Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Custom Grading Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Custom Grading Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

11.8 GOVERNING LAW. This Custom Grading Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

11.9 COUNTERPARTS. This Custom Grading Agreement may be executed in any

number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

11.10 HEADINGS. The subject headings of the paragraphs and subparagraphs of this Custom Grading Agreement are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.

11.11 INCONSISTENCY. If the Development Plans are inconsistent with the words of this Custom Grading Agreement or if the obligation imposed hereunder upon the Owner are inconsistent, then that provision or term which imposes a greater and more demanding obligation on the Owner shall prevail.

11.12 ACCESS. The Owner hereby grants to the City, its agents, employees, officers, and contractors a license to enter the Lot to perform all work and inspections deemed appropriate by the City during the installation of Improvements.

[the remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Custom Grading Agreement.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

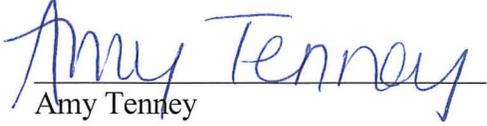
STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 9th day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed in behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

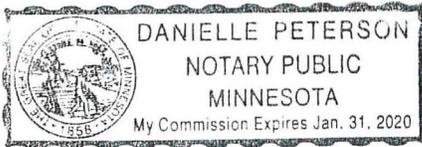
OWNER:


Joshua J. Tenney


Amy Tenney

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 3rd day of May, 2016, by Joshua J. Tenney and Amy Tenney, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.





Notary Public

THIS INSTRUMENT DRAFTED BY:
Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING, PLEASE
RETURN DOCUMENT TO:**
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Real property in the City of Inver Grove Heights, County of Dakota, State of Minnesota legally described as follows:

Commencing at the intersection of the East and West center line of Section Twenty-two (22), Township Twenty seven (27) N, Range Twenty two (22) W, with the east line of State Trunk Highway No. 56, as now located; thence easterly along said East-West center line 285.2 feet; thence northeasterly and parallel with said East line of said State Trunk Highway No. 56 a distance of 200 feet; thence Westerly and parallel with said East-West center line to the East line of said State Trunk Highway No. 56; thence Southerly along the east line of said State Trunk Highway No. 56 to the place of beginning; together with all that part of the Easterly one half of said Trunk Highway No. 56 lying between the North and South lines of the aforescribed tract of land projected to the center line of said highway, all according to the Government Survey thereof.

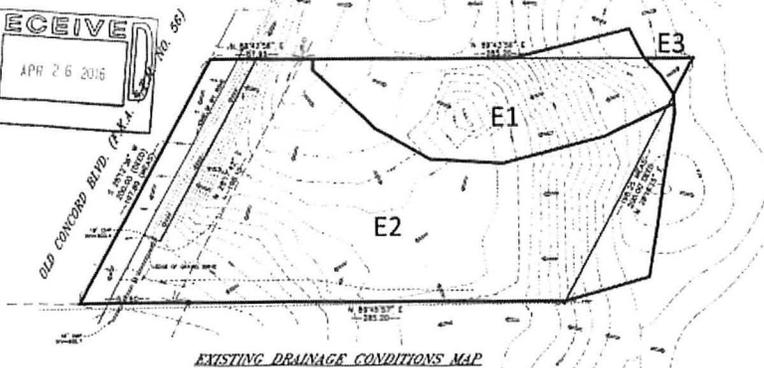
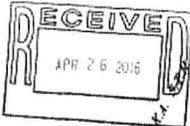
Dakota County, Minnesota.

APPENDIX 1
LIST OF DEVELOPMENT PLANS

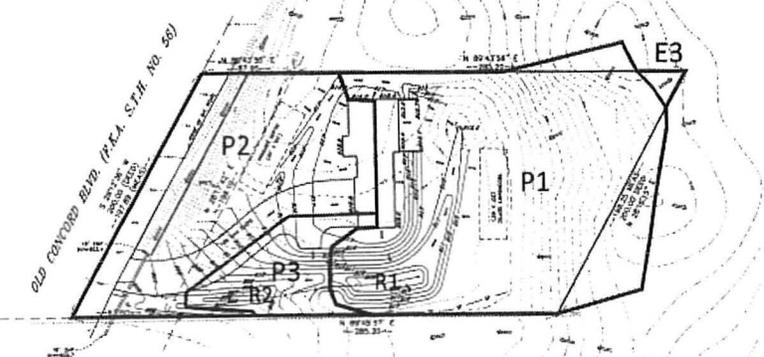
<u>PLAN</u>	<u>DATE OF PLAN PREPARATION</u>	<u>PREPARED BY</u>
Survey (Sheet 1 of 2)	3-3-16 *	Advance Surveying & Engineering Co.
Drainage Plan (Sheet 2 of 2)	3-3-16 *	Advance Surveying & Engineering Co.

*Final revisions on April 7, 2016.

Approved by the City Engineer on April 29, 2016.



EXISTING DRAINAGE CONDITIONS MAP



PROPOSED DRAINAGE CONDITIONS MAP

STORM WATER REQUIREMENTS

Orate Retention Requirement:
 1 inch rainfall over proposed impervious surfaces
 Required storage for 1-inch = 725 cubic feet

Orate Retention Provided:
 Infiltration will provide orate retention = 1,450 cubic feet
 (using rate of 0.30 inch)

EXISTING DRAINAGE	DATE
PROPOSED DRAINAGE	DATE

EXISTING DRAINAGE CONDITIONS

DRAINAGE AREA ID	DRAINAGE AREA (SQ. FT.)	IMPERVIOUS AREA (SQ. FT.)	DESCRIPTION
E1	15,000	0.0%	UNCONTROLLED RUNOFF (GRAVE)
E2	40,000	0.0%	UNCONTROLLED RUNOFF (GRAVE)
E3	400	0.0%	UNCONTROLLED RUNOFF (GRAVE)

STORM EVENT	EXISTING CFS DISCHARGE PER AREA			TOTAL
	E1	E2	E3	
2-YEAR	0.00	1.00	0.00	1.00
10-YEAR	0.00	3.00	0.00	3.00
100-YEAR	1.00	6.00	0.00	7.00

PROPOSED DRAINAGE CONDITIONS

DRAINAGE AREA ID	DRAINAGE AREA (SQ. FT.)	IMPERVIOUS AREA (SQ. FT.)	DESCRIPTION
P1	30,000	1.0%	CONTROLLED RUNOFF (GRAVE)
P2	25,000	1.0%	CONTROLLED RUNOFF (GRAVE)
P3	4,000	1.0%	CONTROLLED RUNOFF (GRAVE)
R1	400	0.0%	UNCONTROLLED RUNOFF (GRAVE)
R2	400	0.0%	UNCONTROLLED RUNOFF (GRAVE)

STORM EVENT	PROPOSED CFS DISCHARGE PER AREA			TOTAL
	P1	P2	P3	
2-YEAR	0.00	0.00	0.00	0.00
10-YEAR	0.00	0.00	0.00	0.00
100-YEAR	0.00	0.00	0.00	0.00

SITE RUNOFF SUMMARY

STORM EVENT	EXISTING CFS DISCHARGE		PROPOSED CFS DISCHARGE	
	EXISTING	TOTAL	EXISTING	TOTAL
2-YEAR	0.00	1.00	0.00	0.00
10-YEAR	0.00	3.00	0.00	0.00
100-YEAR	1.00	7.00	0.00	0.00

NOTE: CONTROL REQUIREMENTS ARE MET



APPENDIX 2
IMPROVEMENTS

The items checked with an "X" below are the Improvements.

<u>CHECKED</u>	<u>COMPLETION DATE</u>	<u>IMPROVEMENT</u>
<u> X </u>	Prior to obtaining building permit or September 1, 2016, whichever occurs first	grading, drainage, and sediment & erosion control
<u> X </u>	Prior to Certificate of Occupancy	As-built
<u> X </u>	Within 6 months after Certificate of Occupancy	landscaping

STORM WATER FACILITIES MAINTENANCE AGREEMENT
FOR PROPERTY LOCATED AT
9480 OLD CONCORD BOULEVARD, INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS STORM WATER FACILITIES MAINTENANCE AGREEMENT (Agreement) is made, entered into and effective this 9th day of May, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as City) and Joshua J. Tenney and Amy Tenney, husband and wife (hereafter referred to as Landowner and Responsible Owner). Subject to the terms and conditions hereafter stated and based on the representations, warranties, covenants, agreements and recitals of the parties herein contained, the parties do hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Terms. The following terms, unless elsewhere specifically defined herein, shall have the following meanings as set forth below.

1.2 City. “City” means the City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 Landowner. “Landowner” means Joshua J. Tenney and Amy Tenney, husband and wife, and their successors and assigns.

1.4 Storm Water Facilities. “Storm Water Facilities” means each and all of the following, individually and collectively, to the extent located within the Landowner Property:

Any existing and future retention basins, infiltration basins, stormwater ponds, drainage areas, culverts and related stormwater appurtenances lying within the Landowner Property.

1.5 Storm Water Facility Plan. “Storm Water Facility Plan” means that certain Survey (Sheet 1 of 2) and Drainage Plan (Sheet 2 of 2) prepared by Advance Surveying & Engineering Co. dated March 3, 2016 with final revisions on April 7, 2016 and approved by the

City Engineer on April 29, 2016. The Storm Water Facility Plan is on file with the City and attached hereto as **Exhibit D**.

1.6 Landowner Property. “Landowner Property” means that certain real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described on **Exhibit A**.

1.7 Responsible Owner. “Responsible Owner” means, jointly and severally, all of the following:

The fee title owner of the property legally described on Exhibit A attached hereto, and the successors and assigns of such fee title owner.

1.8 NWA Stormwater Manual. “NWA Stormwater Manual” means the Inver Grove Heights Northwest Area Storm Water Manual prepared by Emmons & Olivier Resources dated July 2006, and as adopted by the City of Inver Grove Heights and codified in Section 10-13J-5 (H) of the Inver Grove Heights City Code, as amended from time to time by amendment of general applicability.

ARTICLE 2 **RECITALS**

Recital No. 1. Landowner owns the Landowner Property.

Recital No. 2. Landowner has requested that the City approve the Development Plans identified in the Custom Grading Agreement between the City and the Landowner for the Landowner Property.

Recital No. 3. The City is willing to approve the Development Plans for the Landowner Property if Landowner executes this Storm Water Facilities Maintenance Agreement.

Recital No. 4. By this Agreement the parties seek to:

- a.) impose upon the Responsible Owner the responsibility of maintaining the Storm Water Facilities, notwithstanding the fact that the Storm Water Facilities may exist within easements dedicated or granted to the City and the public.
- b.) provide a mechanism where the City may charge-back to the Responsible Owner any maintenance work that the City performs with respect to the Storm Water Facilities in the event the Responsible Owner fails to perform its obligations to maintain the Storm Water Facilities.
- c.) provide the City with right of access over the Landowner Property to access the Stormwater Facilities, when needed.

ARTICLE 3 **RESPONSIBILITY FOR MAINTENANCE**

3.1 Construction of Storm Water Facilities. Prior to September 1, 2016, Responsible Owner agrees that the Storm Water Facilities shall be constructed and installed in accordance with the Storm Water Facility Plan at the sole expense of Responsible Owner at a location and in a configuration as approved by the City.

3.2 Maintenance of Storm Water Facilities. The Responsible Owner is obligated at its expense to perpetually maintain the Storm Water Facilities in accordance with the Standard of Maintenance set forth in Section 3.3 hereof. The Responsible Owner shall not modify, alter, remove, eliminate or obstruct the Storm Water Facilities for as long as the Storm Water Facilities exist. The Responsible Owner shall also insure that the Storm Water Facilities always remain in compliance with the Storm Water Facility Plan. All entities that fall within the definition of Responsible Owner have the joint and several obligations of the defined Responsible Owner. The responsibility of the Responsible Owner for maintaining the Storm Water Facilities on the Lot exists even though the event or omission which caused the need for maintenance of the Storm Water Facilities may arise on property outside of the Landowner Property.

3.3 Standard of Maintenance. The Responsible Owner must meet the Standard of Maintenance set forth in this Section 3.3.

The Standard of Maintenance shall comply with all of the following:

- a. The Standard of Maintenance shall comply with the standards contained in Title 9, Chapter 5 of the Inver Grove Heights City Code (as amended from time to time, by amendment of general applicability); and
- b. The Standard of Maintenance shall comply with the stormwater maintenance standards and bio-retention standards and requirements as set forth in the **NWA Stormwater Manual** (as amended from time to time, by amendment of general applicability). The NWA Stormwater Manual is on file with the City's Director of Public Works. The NWA Stormwater Manual shall apply to the Storm Water Facilities notwithstanding the fact that the Landowner's Property is located outside of the Northwest Area Overlay District; and
- c. The Standard of Maintenance shall comply with the City approved Operations & Maintenance Plan hereafter referenced;
- d. The Standard of Maintenance shall comply with the 2011 Watershed Management Plan for the Lower Mississippi Watershed Management Organization (LMRWMO) dated August 2011;
- e. The Standard of Maintenance shall include but not be limited to each of the following:
 - i.) The Responsible Owner shall monitor the Storm Water Facilities and shall as soon as possible correct any malfunction or deficiency in the operation of such structure so as to ensure that the structure operates in conformance with the design parameters.

- ii.) Responsible Owner must comply with Section IV of the NWA Stormwater Manual which outlines the requirements for the operations and maintenance of Long Term Best Management Practices (BMP's) for storm water facilities. The City has prepared an Operations & Maintenance Plan attached hereto as **Exhibit B**. The Operations & Maintenance Plan has been approved by the City and shows how the Responsible Owner plans to operate and maintain Long Term Best Management Practices for the Storm Water Facilities being constructed on the Landowner Property. The Responsible Owner and the successors and assigns thereof shall be responsible for following the Operations & Maintenance Plan as prepared by the City. The Operations & Maintenance Plan shall be on file with the City's Director of Public Works.

- iii.) The Operations & Maintenance Plan shall contain the following information:
 - a. Detailed inspection requirements;
 - b. Inspection and maintenance schedules;
 - c. Contact information for the Responsible Owner;
 - d. As built plans of the Storm Water Facilities;
 - e. The requirement for an annual report to the City to demonstrate that post construction maintenance is being accomplished per the Operations & Maintenance Plan;
 - f. The GPS coordinates for the Storm Water Facilities shall be provided to the City after construction is completed. Storm Water Facilities smaller than 200 square feet can be located with one GPS coordinate. Storm Water Facilities larger than 200 square feet shall have outlet coordinates and the corners of the Storm Water Facilities located by GPS. The GPS readings shall be provided to the City before the Storm Water Facilities are covered.

If the Storm Water Facility Plan is inconsistent with the Standard of Maintenance or if components within the Standard of Maintenance are inconsistent with other components within the Standard of Maintenance, then that provision, term or component which imposes a greater and more demanding obligation shall prevail.

In January of each year, the Responsible Owner shall submit to the City an annual report that identifies all of the tests, inspections, corrective measures and other activities conducted by the Responsible Owner under the Operations & Maintenance Plan for the preceding year. The annual report shall also identify any conditions of non-compliance with the Standard of Maintenance during the preceding year and the annual report shall address how the conditions of non-compliance were cured. The annual report shall also include the information shown on the form attached hereto as **Exhibit C**.

3.4 Notice of Non-Compliance with Section 3.3 and 3.4; Cure Period. If the City's Director of Public Works ("DPW") determines, at his reasonable discretion, that the Responsible Owner has not complied with the Standard of Maintenance, the DPW shall provide written notice to the Responsible Owner of such failure to comply with the Standard of Maintenance. This notice shall specify that the Responsible Owner will have thirty (30) days to comply with the Standard of Maintenance, unless thirty (30) days is not practicable for the Responsible Owner to cure the default, in which case the Responsible Owner shall be given a reasonable time, as determined by the DPW, to cure the default provided the Responsible Owner has commenced a suitable cure within the initial thirty (30) days. Notwithstanding the requirement contained in this Section relating to written notice and opportunity of the Responsible Owner to comply with the Standard of Maintenance, in the event of an emergency as determined by the DPW, the City may perform the work to be performed by the Responsible Owner without giving any notice to the Responsible Owner and without giving the Responsible Owner thirty (30) days to comply with the Standard of Maintenance. If the City performs emergency service work, the Responsible Owner shall be obligated to repay the City the costs incurred to perform the emergency service work, and the City shall follow those procedures set forth in Sections 3.5 and 3.6 with respect to the billing, collection and/or tax certification of such costs.

3.5 Payment of Costs Incurred by City. If the Responsible Owner fails to comply with the Standard of Maintenance within thirty (30) days after delivery of the written notice, or in the case of an emergency situation as determined by the DPW, the City may perform those tasks necessary for compliance and the City shall have the right of access to the areas where the Storm Water Facilities are located to perform such work. The City shall charge all costs incurred by the City to perform the tasks necessary for compliance to the Responsible Owner.

The amount of costs charged by the City to the Responsible Owner shall be the usual and customary amounts charged by the City given the task, work, or improvement performed by the City to ensure compliance with the Standard of Maintenance. The Responsible Owner shall make payment directly to the City within twenty (20) days after invoicing ("Due Date") by the City. Bills not paid by the Due Date shall incur the standard penalty and interest established by the City for utility billings within the City.

3.6 Certification of Costs Payable With Taxes; Special Assessments. If payment is not made under Section 3.5 by the Responsible Owner with respect to the Landowner Property, the City may certify to Dakota County the amounts due as payable with the real estate taxes for the Landowner Property in the next calendar year; such certifications may be made under Minnesota Statutes, Chapter 444 in a manner similar to certifications for unpaid utility bills. The Responsible Owner waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Landowner Property.

Further, as an alternate means of collection, if the written billing is not paid by the Responsible Owner, the City, without notice and without hearing, may specially assess the Landowner Property for the costs and expenses incurred by the City. The Responsible Owner hereby waives any and all procedural and substantive objections to special assessments for the maintenance costs including, but not limited to, notice and hearing requirements and any claims that the charges or special assessments exceed the benefit to the Landowner Property. The Responsible Owner waives any appeal rights otherwise available pursuant to Minnesota Statute §

429.081. The Responsible Owner acknowledges that the benefit from the performance of maintenance tasks by the City to ensure compliance with the Standard of Maintenance equals or exceeds the amount of the charges and assessments for the maintenance costs that are being imposed hereunder upon the Landowner Property. Nothing in this paragraph shall be deemed to impair Responsible Owner's right to dispute the amount assessed as exceeding the usual and customary amounts charged by the City given the task, work, construction or improvement performed by the City to ensure compliance with Section 3.3.

3.7 Obligation For Maintenance Notwithstanding Public Easement. The Responsible Owner agrees that its obligations relating to maintenance of the Storm Water Facilities exist notwithstanding the fact that the Storm Water Facilities may be located in whole or in part within public easements.

The City hereby grants to the Responsible Owner a temporary right and license to enter public easements and public road rights-of-way for the purpose of performing the maintenance obligations relating to the Storm Water Facilities for the duration of the performance of the maintenance. The Landowner hereby grants to the City a right and license to access and enter the Landowner Property for the purpose of performing maintenance of the Storm Water Facilities for the duration of the performance of the maintenance.

3.8 Indemnification of City. Responsible Owner shall indemnify, defend and hold the City, its council, agents, employees, attorneys and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties and attorneys' fees, that the City incurs or suffers, which arise out of, result from or relate to:

- a.) failure by the Responsible Owner to observe or perform any covenant, conditions, obligation or agreement on their part to be observed or performed under this Agreement;
- b.) failure by the Responsible Owner to pay contractors, subcontractors, laborers, or materialmen;
- c.) failure by the Responsible Owner to pay for any materials that may be used by the Responsible Owner to maintain the Storm Water Facilities; and
- d.) construction of the Storm Water Facilities.

3.9 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than the notice, if any, required by this Agreement.

ARTICLE 4
ESCROW DEPOSIT

4.1 Engineering Escrow Amount. The Landowner shall deposit \$1,500.00 in cash with the City (hereafter “Engineering Escrow Amount”) contemporaneously with execution of this Agreement.

The Engineering Escrow Amount shall be used to pay the City for engineering review and inspection expenses, attorney’s fees, consultant fees, erosion and sediment control expenses, staff review time associated with coordination, review, design, preparation and inspection of the Storm Water Facility Plan and this Agreement and other associated City costs. Fees will be calculated at the City’s standard rates charged for such tasks.

Upon satisfactory completion of the Storm Water Facilities, the City shall return to the Landowner any remaining portion of the Engineering Escrow Amount not otherwise previously charged the Landowner.

ARTICLE 5
CITY’S COVENANTS

5.1 Approval of Development Plans. The City agrees that if Landowner executes this Storm Water Facilities Maintenance Agreement and if the other conditions set forth in the Custom Grading Agreement for the Landowner Property are met, the Council will approve the Development Plans for the Landowner Property.

ARTICLE 6
MISCELLANEOUS

6.1 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Agreement shall run with the Landowner Property and shall be binding upon the parties and the successors and assigns of the parties. This Agreement shall also be binding on and apply to any title, right and interest of the Landowner in the Landowner Property acquired by Landowner after the execution date of this Agreement or after the recording date of this Agreement.

6.2 Amendment and Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

6.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

6.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

6.5 Consent. Landowner consents to the recording of this Agreement.

6.6 Notice. Notice shall mean notices given by one party to the other if in writing and if and when delivered or tendered either in person or by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage and postal charges prepaid, addressed as follows:

If to City: City of Inver Grove Heights
Attention: City Administrator
8150 Barbara Avenue
Inver Grove Heights, MN 55077

If to Landowner: Joshua Tenney and Amy Tenney
9480 Old Concord Boulevard
Inver Grove Heights, MN 55076

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF Landowner and the City have entered into this Agreement on the day and year first stated above.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its: Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 9th day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

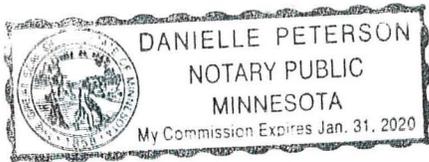
LANDOWNER:

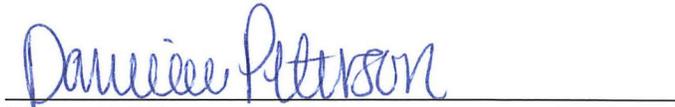

Joshua J. Tenney


Amy Tenney

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 3rd day of May, 2016, by Joshua J. Tenney and Amy Tenney, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.





Notary Public

THIS INSTRUMENT DRAFTED BY:

Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING PLEASE
RETURN TO:**

Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Commencing at the intersection of the East and West center line of Section Twenty-two (22), Township Twenty seven (27) N, Range Twenty two (22) W, with the east line of State Trunk Highway No. 56, as now located; thence easterly along said East-West center line 285.2 feet; thence northeasterly and parallel with said East line of said State Trunk Highway No. 56 a distance of 200 feet; thence Westerly and parallel with said East-West center line to the East line of said State Trunk Highway No. 56; thence Southerly along the east line of said State Trunk Highway No. 56 to the place of beginning; together with all that part of the Easterly one half of said Trunk Highway No. 56 lying between the North and South lines of the aforescribed tract of land projected to the center line of said highway, all according to the Government Survey thereof.

Dakota County, Minnesota.

EXHIBIT B
OPERATIONS & MAINTENANCE PLAN

MAINTENANCE PLAN

Maintenance of the storm water facilities shall be performed as outlined in Table 1.1 below to ensure a healthy and functioning storm water facility conforming to the intend of the original design parameters. Maintenance shall be completed annually by September 10th. An annual inspection report shall be submitted to the City Engineering Division by January 1st of each year to demonstrate that post-construction maintenance is being accomplished per this Operations and Maintenance plan.

TABLE 1.1 – MAINTENANCE ACTIVITIES

Maintenance Activity	Frequency	Procedure	Maintenance Done By
1. Sediment, trash and debris removal from inlet, outlets, pipes and structures.	Annually in spring and fall as needed.	Remove trash and/or debris. Pruning and weeding, mow filter strip	Property owner unless designated
2. Sediment, trash and debris removal from bio-filtration basin and swale	Annually in spring and fall as needed.	Remove sediment and restore bio-filtration basin and swale to capacity	Property owner unless designated
3. Erosion repair and vegetation replacement.	Annually in spring and fall as needed.	Repair eroded areas and re-seed, re-sod, re-plant and mulch as necessary and remove dry, dead or severely diseased vegetation	Property owner unless designated
4. Mulch replacement	Every 2 to 3 years or as needed to maintain 3" to 4" depth	If applicable, add shredded hardwood mulch	Property owner
5. Watering	As needed	Provide 1 inch of water when plants show signs of stress	Property owner
6. Vegetation replacement and weeding	Annually in spring and fall	Replace dead vegetation and remove evasive or unwanted plants	Property owner
7. Clean/fix structural components	As needed per inspection	Dependent on the type of damage; repair components per manufacturer's recommendations	Property owner unless designated
8. Replacement of the bio-retention device.	Bio-retention device failure.	The owner shall notify the City and make repairs within 60 days, unless otherwise approved by the City Engineer.	Property owner unless designated

EXHIBIT C
ANNUAL INSPECTION FORM

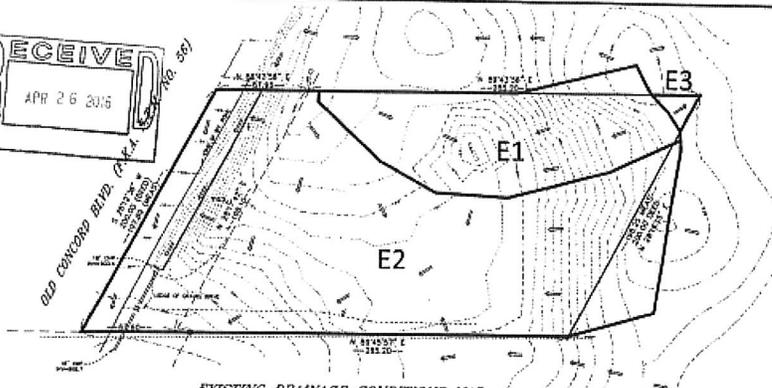
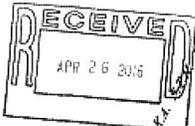
CITY OF INVER GROVE HEIGHTS NPDES INSPECTION PROGRAM

INLET / OUTLET

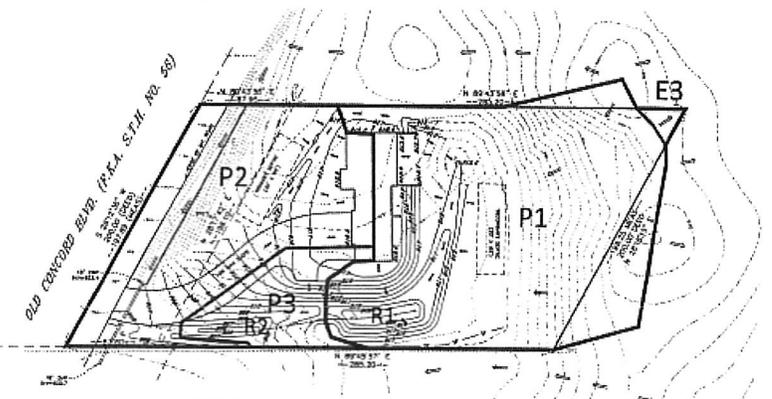
STRUCTURE ID		INSPECTION DATE		INSPECTOR(S)	
LOCATION					
EASEMENT					
ACCESSIBLE	Y	N			
STRUCTURES IN ESMT.	Y	N	DESCRIPTION		
TREES IN ESMT.	Y	N	LARGEST DIAMETER (INCHES)		
STRUCTURE	FES	PIPE	CB	OTHER	
ATTRIBUTES	TRASH GUARD	WEIR	SURGE BASIN	OTHER	NONE
CONDITION*	OK	MINOR MAINTENANCE	MAJOR MAINTENANCE	INACCESSIBLE	
END SECTION EROSION	Y	N			
FLOW CONDITION	FLOW PRESENT	NO FLOW	SUBMERGED		
COMMENTS					
VEGETATION/DEBRIS	WEEDS, ETC.	BRUSH, TREES, ETC.	GARBAGE/DEBRIS	NONE	
RESTRICTING FLOW	Y	N			
COMMENTS					
SEDIMENT					
CONDITION**	NONE	MINOR MAINTENANCE	MAJOR MAINTENANCE		
COMMENTS					
RIP RAP					
PRESENT	Y	N			
CONDITION***	OK	MINOR MAINTENANCE	MAJOR MAINTENANCE		
COMMENTS					
ILLICIT DISCHARGE	Y	N			
COMMENTS					

MAINTENANCE PERFORMED:			
SIGNED:		DATE:	

* Minor Maintenance: i.e. regROUT joint, repair trash guard; Major Maintenance: structure separating(ed) from pipe
 ** Minor Maintenance: repair can be done by City crews, Major Maintenance: heavy equip. is needed
 *** Minor Maintenance: repair can be done by City crews, Major Maintenance: heavy equip. is needed



EXISTING DRAINAGE CONDITIONS MAP



PROPOSED DRAINAGE CONDITIONS MAP

STORM WATER REQUIREMENTS

Create Retention Requirement:
 1 inch rainfall over proposed impervious surfaces
 Required storage for 1-inch = 725 cubic feet

Create Retention Provided:
 Infiltration will provide a total retention = 1,450 cubic feet
 (runoff rate of 0.33 inches)

EXISTING CURB	---
EXISTING SWP DRAINAGE	---
PROPOSED CURB	---
PROPOSED EXISTING SWP DRAINAGE	---
EXISTING DRIVE - ROAD	---

EXISTING DRAINAGE CONDITIONS

DRAINAGE AREA ID	DRAINAGE AREA (SQ. FT.)	IMPERVIOUS AREA (SQ. FT.)	DESCRIPTION
E1	18,000	3,318	PAVEMENT EXISTING DRIVE
E2	38,310	0	UNCONTROLLED RUNOFF OFFSITE
E3	428	0	UNCONTROLLED RUNOFF OFFSITE

STORM EVENT	EXISTING CFS DISCHARGE PER AREA			TOTAL
	E1	E2	E3	
2 YEAR	0.08	1.39	0.02	1.48
10 YEAR	0.18	1.39	0.02	1.58
100 YEAR	1.39	4.22	0.02	5.62

PROPOSED DRAINAGE CONDITIONS

DRAINAGE AREA ID	DRAINAGE AREA (SQ. FT.)	IMPERVIOUS AREA (SQ. FT.)	DESCRIPTION
P1	38,128	1,228	ROOFED DRIVE (RETENTION/PALM/CONCRETE)
P2	21,128	6,040	ROOFED OFFSITE
P3	2,840	1,408	ROOFED INTO RETENTION/PAVEMENT AREA UNCONTROLLED RUNOFF OFFSITE
E3	428	0	

STORM EVENT	PROPOSED CFS DISCHARGE PER AREA			TOTAL
	P1	P2	E3	
2 YEAR	0.09	2.28	0.02	2.37
10 YEAR	1.64	2.32	0.02	3.98
100 YEAR	3.28	5.28	0.02	8.58

SITE RUNOFF SUMMARY

STORM EVENT	EXISTING CFS DISCHARGE		PROPOSED CFS DISCHARGE	
	E1	E2	P1	P2
2 YEAR	0.08	1.39	0.09	2.28
10 YEAR	0.18	1.39	1.64	2.32
100 YEAR	1.39	4.22	3.28	5.28

*NOTE: CONTROL REQUIREMENTS PER SET



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement and Encroachment Agreement for 1643 86th Ct (Lot 1, Block 2, Orchard Trail).

Meeting Date: May 9, 2016
Item Type: Consent
Contact: Thomas J. Kaldunski, City Engineer *TJK*
Prepared by: Thomas J. Kaldunski, 651.450.2572
Reviewed by: Scott D. Thureen, Public Works Director *SDT*

	Fiscal/FTE Impact:
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement and Encroachment Agreement for 1643 86th Ct (Lot 1, Block2, Orchard Trail).

SUMMARY

The owners of 1643 86th Ct are affected by the City Ordinance Title 9, Chapter 5, Section 9-5-5. This Ordinance requires lots of record which do not have recorded contracts or agreements with the City to provide information to ensure the Development meets current City standards for grading, erosion control and storm water management.

The owners, Lane and Jennifer Larson, have provided the required grading and erosion control plans. They have also signed the Custom Grading Agreement (attached). An engineering escrow of \$1,500 has been provided to cover any costs incurred by the City for review and inspection of the site grading. The owners have applied for a building permit and have provided a \$10,000 LOC or cash surety prior to permit issuance.

The owners have also agreed to execute a SWFMA for an infiltration basin to be constructed on the lot. In addition, they will be providing an Encroachment Agreement for the placement of their septic field.

It is recommended that the City Council approve the Custom Grading Agreement, Stormwater Facilities Maintenance Agreement and Encroachment Agreement for 1643 86th Ct (Lot 1, Block 2, Orchard Trail).

TJK/mw
Attachments: Custom Grading Agreement
Storm Water Facilities Maintenance Agreement
Encroachment Agreement

1643 86th
Ct.

CUSTOM GRADING AGREEMENT
FOR
LOT 1, BLOCK 2, ORCHARD TRAIL
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

CUSTOM GRADING AGREEMENT
FOR
LOT 1, BLOCK 2, ORCHARD TRAIL
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS CUSTOM GRADING AGREEMENT is made and entered into on the 9th day of May, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (City), and the Owner identified herein.

RECITALS:

WHEREAS, the Owner has applied to the City for approval of the Development Plans and a building permit for the Property;

WHEREAS, in conjunction with the granting of these approvals, the City requires that the Lot be improved with grading, drainage and erosion control facilities, storm water management improvements and associated landscaping;

WHEREAS, the Council has agreed to approve the Development Plans on the following conditions:

1. That the Owner enter into this Custom Grading Agreement, which contract defines the work which the Owner undertakes to complete; and
2. The Owner shall provide an irrevocable letter of credit in the amount and with conditions satisfactory to the City, providing for the actual construction and installation of such Improvements within the period specified by the City.

WHEREAS, the Owner has filed four (4) complete sets of the Development Plans with the City;

WHEREAS, the Development Plans have been prepared by a registered professional engineer and have been approved by the Director of PWD.

NOW, THEREFORE, subject to the terms and conditions of this Custom Grading Agreement and in reliance upon the representations, warranties and covenants of the parties herein contained, the City and Owner agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **TERMS.** The following terms, unless elsewhere defined specifically in the Custom Grading Agreement, shall have the following meanings as set forth below.

1.2 **CITY.** "City" means the City of Inver Grove Heights, a Minnesota municipal

corporation.

1.3 OWNER. "Owner" means Lane C. Larson and Jennifer Larson, husband and wife, and their successors and assigns.

1.4 DEVELOPMENT PLANS. "Development Plans" means all those plans, drawings, specifications and surveys identified on the attached Appendix 1.

1.5 CUSTOM GRADING AGREEMENT. "Custom Grading Agreement" means this instant contract by and between the City and Owner.

1.6 COUNCIL. "Council" means the Council of the City of Inver Grove Heights.

1.7 PWD. "PWD" means the Public Works Department of the City of Inver Grove Heights.

1.8 DIRECTOR OF PWD. "Director of PWD" means the Director of the Public Works Department of the City of Inver Grove Heights and his delegates.

1.9 COUNTY. "County" means Dakota County, Minnesota.

1.10 OTHER REGULATORY AGENCIES. "Other Regulatory Agencies" means and includes the following:

- a.) Minnesota Department of Transportation
- b.) Dakota County
- c.) Water Management Organization
- d.) State of Minnesota
- e.) Minnesota Department of Natural Resources
- f.) any other regulatory or governmental agency or entity affected by, or having jurisdiction over the Improvements.

1.11 UTILITY COMPANIES. "Utility Companies" means and includes the following:

- a.) utility companies, including electric, gas and cable
- b.) pipeline companies.

1.12 PRIOR EASEMENT HOLDERS. "Prior Easement Holders" means and includes all holders of any easements or other property interests which existed prior to the grant or dedication of any public easements transferred by the Plat or transferred pursuant to this Custom Grading

Agreement.

1.13 IMPROVEMENTS. "Improvements" means and includes, individually and collectively, all the improvements identified in Article 3 and on the attached Appendix 2.

1.14 OWNER DEFAULT. "Owner Default" means and includes any of the following or any combination thereof:

- a.) failure by the Owner to timely pay the City any money required to be paid under this Custom Grading Agreement;
- b.) failure by the Owner to timely construct the Improvements according to the Development Plans and the City standards and specifications;
- c.) failure by the Owner to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Custom Grading Agreement;
- d.) breach of the Owner Warranties.

1.15 FORCE MAJEURE. "Force Majeure" means acts of God, including, but not limited to floods, ice storms, blizzards, tornadoes, landslides, lightning and earthquakes (but not including reasonably anticipated weather conditions for the geographic area), riots, insurrections, war or civil disorder affecting the performance of work, blockades, power or other utility failures, and fires or explosions.

1.16 OWNER WARRANTIES. "Owner Warranties" means that the Owner hereby warrants and represents the following:

- A. **AUTHORITY.** Owner has the right, power, legal capacity and authority to enter into and perform its obligations under this Custom Grading Agreement; no approvals or consents of any persons are necessary in connection with the authority of Owner to enter into and perform its obligations under this Custom Grading Agreement.
- B. **FULL DISCLOSURE.** None of the representatives and warranties made by Owner or made in any exhibit hereto or memorandum or writing furnished or to be furnished by Owner or on its behalf contains or will contain any untrue statement of material fact or omit any material fact the omission of which would be misleading.
- C. **PLAN COMPLIANCE.** The Development Plans comply with all City, County, metropolitan, state and federal laws and regulations, including but not limited to subdivision ordinances, zoning ordinances and environmental regulations.
- D. **FEE TITLE.** The Owner owns fee title to the Property.

E. WARRANTY ON PROPER WORK AND MATERIALS. The Owner warrants all work required to be performed by it under this Custom Grading Agreement against defective material and faulty workmanship for a period of two (2) years after its completion. During the warranty period the Owner shall be solely responsible for all costs of performing repair work required by the City within thirty (30) days of notification. All trees, grass, and sod shall be warranted to be alive, of good quality, and disease free for one year after planting. Any replacements shall be similarly warranted for one year from the time of planting. In addition, the warranty period for drainage and erosion control improvements shall be for two (2) years after completion; the warranty for the drainage and erosion control improvements shall also include the obligation of the Owner to repair and correct and damage to or deficiency with respect to such improvements.

1.17 CITY WARRANTIES. "City Warranties" means that the City hereby warrants and represents as follows:

A. ORGANIZATION. City is a municipal corporation duly incorporated and validly existing in good standing under the laws of the State of Minnesota.

B. AUTHORITY. City has the right, power, legal capacity and authority to enter into and perform its obligations under this Custom Grading Agreement.

1.18 FORMAL NOTICE. "Formal Notice" means notices given by one party to the other if in writing and if and when delivered or tendered either in person or by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage and postal charges prepaid, addressed as follows:

If to CITY: City of Inver Grove Heights
Attention: City Administrator
Inver Grove Heights City Hall
8150 Barbara Avenue
Inver Grove Heights, MN 55077

If to Owner: Lane Larson and Jennifer Larson
1643 – 86th Court E.
Inver Grove Heights, MN 55077

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

1.19 PROPERTY. Property means the real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described on **Exhibit A** attached hereto.

ARTICLE 2
APPROVAL OF DEVELOPMENT PLANS

2.1. APPROVAL OF DEVELOPMENT PLANS. Subject to the terms and conditions of this Custom Grading Agreement, the recitals above, and all other applicable City Code provisions the City hereby approves the Development Plans.

2.2 RECORDING. This Custom Grading Agreement shall be recorded with the County Recorder within thirty (30) days from the date of this Custom Grading Agreement. No building permits shall be issued unless the Owner shows evidence to the City that this Custom Grading Agreement has been recorded with the County Recorder.

ARTICLE 3
IMPROVEMENTS

3.1 IMPROVEMENTS. The Owner shall install, at its own cost, the Improvements in accord with the Development Plans. The Owner Improvements shall be completed by the dates shown on Appendix 2, except as completion dates are extended by subsequent written action of the Director of PWD. Failure of the City to promptly take action to enforce this Custom Grading Agreement after expiration of time by which the Improvements are to be completed shall not waive or release any rights of the City; the City may take action at any time thereafter, and the terms of this contract shall be deemed to be automatically extended until such time as the Improvements are completed to the City's satisfaction.

3.2 GROUND MATERIAL. The Owner shall insure that adequate and suitable ground material shall exist in the areas of private driveways and utility improvements and shall guarantee the removal, replacement or repair of substandard or unstable material. The cost of removal, replacement or repair is the responsibility of the Owner.

3.3 GRADING/DRAINAGE PLAN. The Owner shall construct drainage facilities in accord with the Development Plans. The grading and drainage plan shall include lot and building elevations, drainage swales to be sodded, storm sewer, catch basins, erosion control structures and ponding areas necessary to conform with the overall City storm sewer plan. The grading of the site shall be completed in conformance with the Development Plans.

3.4 BOULEVARD AND AREA RESTORATION. The Owner shall seed or lay cultured sod in all boulevards within 30 days of the completion of street related improvements and restore all other areas disturbed by the development grading operation in accordance with the approved erosion control plan. Upon request of the PWD, the Owner shall remove the silt fences after grading and construction have occurred.

3.5 STREET MAINTENANCE, ACCESS AND REPAIR. The Owner shall clear, on a daily basis, any soil, earth or debris from the streets and wetlands within or adjacent to the Plat resulting from the grading or building on the land within the Plat by the Owner or its agents, and shall repair to the City's specifications any damage to bituminous surfacing resulting from the use of construction equipment.

3.6 **LANDSCAPING.** Site landscaping shall be in accordance with the Development Plans.

3.7 **EROSION CONTROL.** The Owner shall provide and follow a plan for erosion control and pond maintenance in accord with the Best Management Practices (BMP) as delineated in the Minnesota Pollution Control Agency handbook titled Water Quality in Urban Areas. Such plan shall be detailed on the Development Plans and shall be subject to approval of the Director of PWD. The Owner shall install and maintain such erosion control structures as appear necessary under the Development Plans or become necessary subsequent thereto. The Owner shall be responsible for all damage caused as the result of grading and excavation within the Plat including, but not limited to, restoration of existing control structures and clean-up of public right-of-way, until the Lot is final graded and Improvements are completed. As a portion of the erosion control plan, the Owner shall re-seed or sod any disturbed areas in accordance with the Development Plans. The City reserves the right to perform any necessary erosion control or restoration as required, if these requirements are not complied with after Formal Notice by the City as stated in Article 9. The Owner shall be financially responsible for payment for this extra work.

3.8 **GRADING/DRAINAGE PLAN AND EASEMENTS.** The Developer shall construct drainage facilities adequate to serve the Plat in accord with the Development Plans. The Owner and Developer agree to grant to the City all necessary easements for the preservation of the drainage system, for drainage basins, and for utility service. All such easements required by the City shall be on the Plat or in writing, in recordable form, and on the standard easement form of the City, and on such other terms and conditions as the City shall determine; such easements shall be delivered to the City contemporaneously with execution of this Development Contract. The grading and drainage plan shall include lot and building elevations, drainage swales to be sodded, storm sewer, catch basins, erosion control structures and ponding areas necessary to conform with the overall City storm sewer plan. The grading of the site shall be completed in conformance with the Development Plans. In the event that the Developer fails to complete the grading of the site in conformance with the Development Plans by the stipulated date, the City may declare the Developer in default pursuant to Article 9.

3.9 **AS BUILT INFORMATION.** One (1) copy, on paper, of the detailed record plan "as built" drawings of the Improvements shall be provided by the Owner in accord with City standards no later than 90 days after completion of the Improvements, unless otherwise approved in writing by the PWD. As-built information shall also be submitted in an electronic Adobe PDF file format. Note: All corrected links, grades, and elevations shall have a line drawn through the original text and new information placed nearby; the original information or text shall not be erased.

ARTICLE 4 **OTHER PERMITS**

4.1 **PERMITS.** The Owner shall obtain all necessary approvals, permits and licenses from the City, the Other Regulatory Agencies, the Utility Companies, and the Prior Easement Holders. Major design requirements of any such entities shall be determined prior to completion and incorporated into the Development Plans. All costs incurred to obtain the approvals, permits

and licenses, and also all fines or penalties levied by any agency due to the failure of the Owner to obtain or comply with conditions of such approvals, permits and licenses, shall be paid by the Owner. The Owner shall defend and hold the City harmless from any action initiated by the Other Regulatory Agencies, the Utility Companies and the Prior Easement Holders resulting from such failures of the Owner.

ARTICLE 5
RESPONSIBILITY FOR COSTS

5.1 IMPROVEMENT COSTS. The Owner shall pay for the Improvements; that is, all costs of persons doing work or furnishing skills, tools, machinery or materials, or insurance premiums or equipment or supplies and all just claims for the same; and the City shall be under no obligation to pay the contractor or any subcontractor any sum whatsoever on account thereof, whether or not the City shall have approved the contract or subcontract.

5.2 CITY MISCELLANEOUS EXPENSES. The Owner shall reimburse the City for all engineering, administrative, legal and other expenses incurred or to be incurred by the City in connection with this Custom Grading Agreement. Bills not paid within thirty (30) days shall accrue interest at the rate of eight percent per year.

5.3 ENFORCEMENT COSTS. The Owner shall pay the City for costs incurred in the enforcement of this Custom Grading Agreement, including engineering and attorneys' fees.

5.4 TIME OF PAYMENT. The Owner shall pay all bills from the City within thirty (30) days after billing. Bills not paid within thirty (30) days shall bear interest at the rate of 8% per year.

ARTICLE 6
OWNER WARRANTIES

6.1 STATEMENT OF OWNER WARRANTIES. The Owner hereby makes and states the Owner Warranties.

ARTICLE 7
CITY WARRANTIES

7.1 STATEMENT OF CITY WARRANTIES. The City hereby makes and states the City Warranties.

ARTICLE 8
INDEMNIFICATION OF CITY

8.1 INDEMNIFICATION OF CITY. Owner shall indemnify, defend and hold the City, its Council, agents, employees, attorneys and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties and attorneys' fees,

that the City incurs or suffers, which arise out of, result from or relate to:

- a.) breach by the Owner of the Owner Warranties;
- b.) failure of the Owner to timely construct the Improvements according to the Development Plans and the City ordinances, standards and specifications;
- c.) failure by the Owner to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Custom Grading Agreement;
- d.) failure by the Owner to pay contractors, subcontractors, laborers, or material;
- e.) failure by the Owner to pay for materials;
- f.) approval by the City of the Development Plans;
- g.) failure to obtain the necessary permits and authorizations to construct the Improvements;
- h.) construction of the Improvements;
- i.) delays in construction of the Improvements;
- j.) all costs and liabilities arising because building permits were issued prior to the completion and acceptance of the Improvements.

ARTICLE 9
CITY REMEDIES UPON OWNER DEFAULT

9.1 CITY REMEDIES. If a Owner Default occurs, that is not caused by Force Majeure, the City shall give the Owner Formal Notice of the Owner Default and the Owner shall have ten (10) business days to cure the Owner Default. If the Owner, after Formal Notice to it by the City, does not cure the Owner Default within ten (10) business days, then the City may avail itself of any remedy afforded by law and any of the following remedies:

- a.) the City may specifically enforce this Custom Grading Agreement;
- b.) the City may collect on the irrevocable letter of credit or cash deposit pursuant to Article 13 hereof;
- c.) the City may suspend or deny building and occupancy permits for buildings within the Lot;
- d.) the City may, at its sole option, perform the work or improvements to be performed by the Owner, in which case the Owner shall within thirty (30) days after written

billing by the City reimburse the City for any costs and expenses incurred by the City.

9.2 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained in this Custom Grading Agreement is breached by the Owner and thereafter waived in writing by the City, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder. All waivers by the City must be in writing.

9.3 NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Custom Grading Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than the Formal Notice.

9.4 EMERGENCY. Notwithstanding the requirement contained in Section 9.1 hereof relating to Formal Notice to the Owner in case of a Owner Default and notwithstanding the requirement contained in Section 9.1 hereof relating to giving the Owner a ten (10) business day period to cure the Owner Default, in the event of an emergency as determined by the Director of PWD, resulting from the Owner Default, the City may perform the work or improvement to be performed by the Owner without giving any notice or Formal Notice to the Owner and without giving the Owner the ten (10) day period to cure the Owner Default. In such case, the Owner shall within thirty (30) days after written billing by the City reimburse the City for any and all costs incurred by the City.

ARTICLE 10 **ESCROW DEPOSIT**

10.1 ESCROW REQUIREMENT. Contemporaneously herewith, the Owner shall deposit with the City an irrevocable letter of credit, or cash deposit for the amount of \$10,000.

The bank and form of the irrevocable letter of credit, or cash deposit shall be subject to approval by the City Finance Director and City Attorney and shall continue to be in full force and effect until released by the CITY. The irrevocable letter of credit shall be for a term ending December 31, 2017. In the alternative, the letter of credit may be for a one year term provided it is automatically renewable for successive one year periods from the present or any future expiration dates with a final expiration date of December 31, 2017, and further provided that the irrevocable letter of credit states that at least sixty (60) days prior to the expiration date the bank will notify the City that if the bank elects not to renew for an additional period. The irrevocable letter of credit shall secure compliance by the Owner with the terms of this Custom Grading Agreement. The City may draw down on the irrevocable letter of credit or cash deposit, without any further notice than that provided in Section 9.1 relating to an Owner Default, for any of the following reasons:

- a.) a Owner Default; or
- b.) upon the City receiving notice that the irrevocable letter of credit will be allowed to lapse before December 31, 2017.

The City shall use the escrow proceeds to reimburse the City for its costs and to cause the Improvements to be constructed to the extent practicable; after the Director of PWD determines that such Improvements have been constructed and after retaining 10% of the proceeds for later distribution pursuant to Section 10.2, the remaining proceeds shall be distributed to Owner.

With City approval, the irrevocable letter of credit or cash deposit may be reduced pursuant to Section 10.2 from time to time as financial obligations are paid.

10.2 ESCROW RELEASE AND ESCROW INCREASE.

Periodically, upon the Owner's written request and upon completion by the Owner and acceptance by the City of any specific Improvements, ninety percent (90%) of that portion of the irrevocable letter of credit, or cash deposit covering those specific completed improvements only shall be released. The final ten percent (10%) of that portion of the irrevocable letter of credit, or cash deposit, for those specific completed improvements shall be held until acceptance by the City and expiration of the warranty period under Section 1.17 hereof; in the alternative, the Owner may post a bond satisfactory to the City with respect to the final ten percent (10%).

10.3 ENGINEERING ESCROW AMOUNT. In addition to the Escrow Amount, the Owner shall also deposit \$1,500.00 in cash with the City (hereafter "Engineering Escrow Amount") contemporaneously with execution of this Agreement.

The Engineering Escrow Amount shall be used to pay the City for engineering review and inspection expenses, attorney's fees, consultant fees, erosion and sediment control expenses, staff review time associated with coordination, review, design, preparation and inspection of the Development Plans, the Improvements, and this Agreement and other associated City costs. Fees will be calculated at the City's standard rates charged for such tasks.

The Engineering Escrow Amount shall also be available to the City to pay for deficiencies and problems related to grading, drainage and erosion control and landscaping on the Owner Property in the event such problems and deficiencies arise. The City may also use the Engineering Escrow Amount to correct any such deficiencies or problems or to protect against further deficiencies or problems.

The City shall return to the Owner any remaining Engineering Escrow Amount when all the following events have occurred:

- a.) all of the landscaping and vegetation has been established to the sole satisfaction of the City.

To the extent the engineering inspection charges or the amount needed to correct the

deficiencies and problems relating to grading, drainage, erosion control, or landscaping exceed the initially deposited \$1,500.00 Engineering Escrow Amount, the Owner is responsible for payment of such excess within thirty (30) days after billing by the City.

ARTICLE 11
MISCELLANEOUS

11.1 CITY'S DUTIES. The terms of this Custom Grading Agreement shall not be considered an affirmative duty upon the City to complete any Improvements.

11.2 NO THIRD PARTY RECOURSE. Third parties shall have no recourse against the City under this Custom Grading Agreement.

11.3 VALIDITY. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Custom Grading Agreement is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Custom Grading Agreement.

11.4 RECORDING. Within 30 days from the date of this Custom Grading Agreement, the Custom Grading Agreement shall be recorded by the Owner with the County Recorder and the Owner shall provide and execute any and all documents necessary to implement the recording.

11.5 BINDING AGREEMENT. The parties mutually recognize and agree that all terms and conditions of this recordable Custom Grading Agreement shall run with the land and shall be binding upon the heirs, successors, administrators and assigns of the Owner.

11.6 ASSIGNMENT. The Owner may not assign this Custom Grading Agreement without the written permission of the Council. The Owner's obligations hereunder shall continue in full force and effect, even if the Owner sells the Lot.

11.7 AMENDMENT AND WAIVER. The parties hereto may by mutual written agreement amend this Custom Grading Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Custom Grading Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Custom Grading Agreement, waive compliance by another with any of the covenants contained in this Custom Grading Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Custom Grading Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Custom Grading Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

11.8 GOVERNING LAW. This Custom Grading Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

11.9 COUNTERPARTS. This Custom Grading Agreement may be executed in any

number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

11.10 HEADINGS. The subject headings of the paragraphs and subparagraphs of this Custom Grading Agreement are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.

11.11 INCONSISTENCY. If the Development Plans are inconsistent with the words of this Custom Grading Agreement or if the obligation imposed hereunder upon the Owner are inconsistent, then that provision or term which imposes a greater and more demanding obligation on the Owner shall prevail.

11.12 ACCESS. The Owner hereby grants to the City, its agents, employees, officers, and contractors a license to enter the Lot to perform all work and inspections deemed appropriate by the City during the installation of Improvements.

[the remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Custom Grading Agreement.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 9th day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed in behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

OWNER:



Lane C. Larson



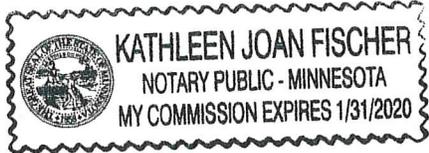
Jennifer Larson

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 2ND day of May, 2016, by Lane C. Larson and Jennifer Larson, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.



Kathleen Joan Fischer
Notary Public



THIS INSTRUMENT DRAFTED BY:
Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING, PLEASE
RETURN DOCUMENT TO:**
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Real property in the City of Inver Grove Heights, County of Dakota, State of Minnesota legally described as follows:

Lot 1, Block 2, Orchard Trail, Dakota County, Minnesota.

APPENDIX 1
LIST OF DEVELOPMENT PLANS

<u>PLAN</u>	<u>DATE OF PLAN PREPARATION</u>	<u>PREPARED BY</u>
Certificate of Survey	12-10-15 *	Pioneer Engineering, P.A.

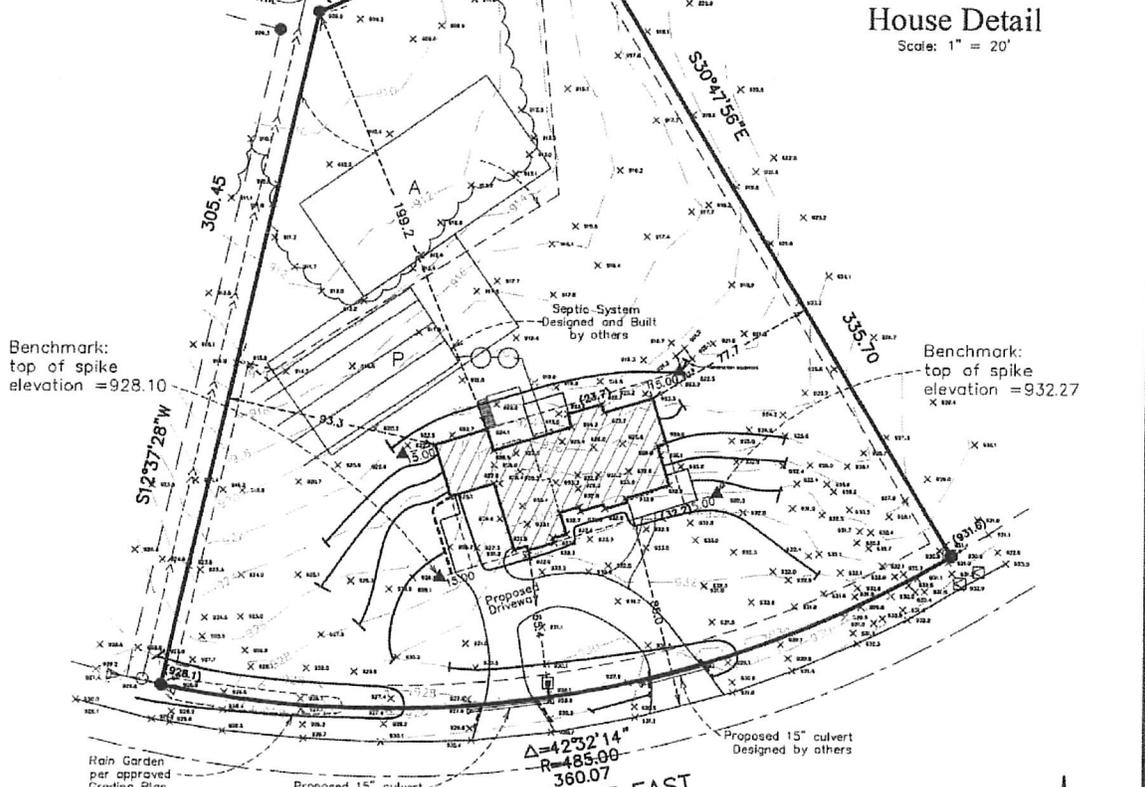
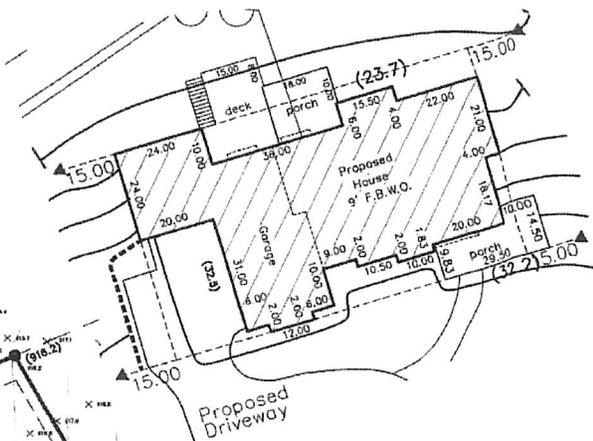
*Final revisions on April 26, 2016.

Approved by the City Engineer on April 27, 2016.

APPROVED
 APPROVED AS NOTED
 DISAPPROVED
 REVISED AND RESUBMIT

Date: 4/27/2016 By: [Signature]

City of Inver Grove Heights
 8150 Bedford Avenue
 Inver Grove Heights, MN 55077-3412



Lot area = 77368 SF
 House area = 3674 SF
 Porch areas = 622 SF
 Sidewalk area = 222 SF
 Driveway area = 3292 SF
 Total Impervious Area = 7810 SF
 Impervious Coverage = 10.1%

- Construction Notes:**
1. Install rock construction entrance.
 2. Install silt fence as needed for erosion control.
 3. Sidewalks shall drain away from house a minimum of 1.0%.
 4. Contractor must verify driveway design.
 5. Contractor must verify service elevation prior to construction.
 6. Add or remove foundation ledge as required.

- General Notes:**
1. Grading plan by Pioneer last dated 9-14-04 was used to determine proposed elevations shown herein.
 2. This survey does not purport to show improvements or encroachments, except as shown, as surveyed by me or under my direct supervision.
 3. Proposed building dimensions shown are for horizontal location of structures on the lot only. Contact builder prior to construction for approved construction plans.
 4. No specific soils investigation has been performed on this lot by the surveyor. The suitability of soils to support the specific house proposed is not the responsibility of the surveyor.
 5. This certificate does not purport to show easements other than those shown on the recorded plat.
 6. Bearings shown are based on an assumed datum.

- ⊕ Denotes service
- ⊞ Denotes television box
- ⊞ Denotes electric box
- ⊞ Denotes telephone box
- X 000.00 Denotes existing elevation
- (000.00 Denotes proposed elevation
- Denotes drainage flow direction
- ▲ Denotes spike

House elevations	(Proposed)	As-built
Lowest Floor Elevation	:(924.2)	/
Top Of Foundation Elev.	:(932.9)	/
Garage Slab Elev. @ Door	:(932.5)	/

We hereby certify to Gonyea Homes that this survey, plan or report was prepared by me or under my direct supervision, and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota, dated 12/10/15.

Signed: [Signature] Pioneer Engineering, P.A.
 Peter J. Hawkison, Professional Land Surveyor
 Minnesota License No. 42299 email-phawkison@pioneereng.com

Benchmark: Top Nut Hydrant L1-2 B2 Elevation = 932.96

Revisions:
 1) 12-04-15 Topo for
 2) 3-9-16 Stage House
 3) 4-26-14 City Revisions

PIONEER engineering, P.A.
 CIVIL ENGINEERS LAND SURVEYORS LAND DEVELOPERS LANDSCAPE ARCHITECTS
 2422 Enterprise Drive Mendota Heights, MN 55120
 Ph: (651) 681-1914 Fax: (651) 681-9488 www.pioneereng.com

Lot 1, Block 2, ORCHARD TRAIL
 according to the recorded plat thereof Dakota County, Minnesota
 Address: xxxx 86th Court East, Inver Grove Heights, Minnesota
 House Model: Elevation:

Certificate of Survey for:
Gonyea Homes, Inc.
 6102 Olson Memorial Highway Golden Valley, MN 55422
 Phone: (763) 432-4500 / Fax: (763) 432-4501

APPENDIX 2
IMPROVEMENTS

The items checked with an "X" below are the Improvements.

<u>CHECKED</u>	<u>COMPLETION DATE</u>	<u>IMPROVEMENT</u>
<u>X</u>	Prior to obtaining building permit or September 1, 2016, whichever occurs first	grading, drainage, and sediment & erosion control
<u>X</u>	Prior to Certificate of Occupancy	As-built
<u>X</u>	Within 6 months after Certificate of Occupancy	landscaping

STORM WATER FACILITIES MAINTENANCE AGREEMENT
FOR LOT 1, BLOCK 2, ORCHARD TRAIL
DAKOTA COUNTY, MINNESOTA

THIS STORM WATER FACILITIES MAINTENANCE AGREEMENT (Agreement) is made, entered into and effective this 9th day of May, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as City) and Lane C. Larson and Jennifer Larson, husband and wife (hereafter referred to as Landowner and Responsible Owner). Subject to the terms and conditions hereafter stated and based on the representations, warranties, covenants, agreements and recitals of the parties herein contained, the parties do hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Terms. The following terms, unless elsewhere specifically defined herein, shall have the following meanings as set forth below.

1.2 City. “City” means the City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 Landowner. “Landowner” means Lane C. Larson and Jennifer Larson, husband and wife, and their successors and assigns.

1.4 Storm Water Facilities. “Storm Water Facilities” means each and all of the following, individually and collectively, to the extent located within the Landowner Property:

Any existing or future raingardens lying within the southwest corner of the Landowner Property.

1.5 Storm Water Facility Plan. “Storm Water Facility Plan” means that certain Certificate of Survey prepared by Pioneer Engineering, P. A. dated December 10, 2015, with final revisions on April 26, 2016 and approved by the City Engineer on April 27, 2016. The Storm Water Facility Plan is on file with the City and attached hereto as **Exhibit D**.

1.6 Landowner Property. “Landowner Property” means that certain real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described on **Exhibit A.**

1.7 Responsible Owner. “Responsible Owner” means, jointly and severally, all of the following:

The fee title owner of the property legally described on Exhibit A attached hereto, and the successors and assigns of such fee title owner.

1.8 NWA Stormwater Manual. “NWA Stormwater Manual” means the Inver Grove Heights Northwest Area Storm Water Manual prepared by Emmons & Olivier Resources dated July 2006, and as adopted by the City of Inver Grove Heights and codified in Section 10-13J-5 (H) of the Inver Grove Heights City Code, as amended from time to time by amendment of general applicability.

ARTICLE 2 **RECITALS**

Recital No. 1. Landowner owns the Landowner Property.

Recital No. 2. Landowner has requested that the City approve the Development Plans identified in the Custom Grading Agreement between the City and the Landowner for the Landowner Property.

Recital No. 3. The City is willing to approve the Development Plans for the Landowner Property if Landowner executes this Storm Water Facilities Maintenance Agreement.

Recital No. 4. By this Agreement the parties seek to:

- a.) impose upon the Responsible Owner the responsibility of maintaining the Storm Water Facilities, notwithstanding the fact that the Storm Water Facilities may exist within easements dedicated or granted to the City and the public.
- b.) provide a mechanism where the City may charge-back to the Responsible Owner any maintenance work that the City performs with respect to the Storm Water Facilities in the event the Responsible Owner fails to perform its obligations to maintain the Storm Water Facilities.
- c.) provide the City with right of access over the Landowner Property to access the Stormwater Facilities, when needed.

ARTICLE 3 **RESPONSIBILITY FOR MAINTENANCE**

3.1 Construction of Storm Water Facilities. Prior to September 1, 2016, Responsible Owner agrees that the Storm Water Facilities shall be constructed and installed in accordance with the Storm Water Facility Plan at the sole expense of Responsible Owner at a location and in a configuration as approved by the City.

3.2 Maintenance of Storm Water Facilities. The Responsible Owner is obligated at its expense to perpetually maintain the Storm Water Facilities in accordance with the Standard of Maintenance set forth in Section 3.3 hereof. The Responsible Owner shall not modify, alter, remove, eliminate or obstruct the Storm Water Facilities for as long as the Storm Water Facilities exist. The Responsible Owner shall also insure that the Storm Water Facilities always remain in compliance with the Storm Water Facility Plan. All entities that fall within the definition of Responsible Owner have the joint and several obligations of the defined Responsible Owner. The responsibility of the Responsible Owner for maintaining the Storm Water Facilities on the Lot exists even though the event or omission which caused the need for maintenance of the Storm Water Facilities may arise on property outside of the Landowner Property.

3.3 Standard of Maintenance. The Responsible Owner must meet the Standard of Maintenance set forth in this Section 3.3.

The Standard of Maintenance shall comply with all of the following:

- a. The Standard of Maintenance shall comply with the standards contained in Title 9, Chapter 5 of the Inver Grove Heights City Code (as amended from time to time, by amendment of general applicability); and
- b. The Standard of Maintenance shall comply with the stormwater maintenance standards and bio-retention standards and requirements as set forth in the **NWA Stormwater Manual** (as amended from time to time, by amendment of general applicability). The NWA Stormwater Manual is on file with the City's Director of Public Works. The NWA Stormwater Manual shall apply to the Storm Water Facilities notwithstanding the fact that the Landowner's Property is located outside of the Northwest Area Overlay District; and
- c. The Standard of Maintenance shall comply with the City approved Operations & Maintenance Plan hereafter referenced;
- d. The Standard of Maintenance shall comply with the 2011 Watershed Management Plan for the Lower Mississippi Watershed Management Organization (LMRWMO) dated August 2011;
- e. The Standard of Maintenance shall include but not be limited to each of the following:
 - i.) The Responsible Owner shall monitor the Storm Water Facilities and shall as soon as possible correct any malfunction or deficiency in the operation of such structure so as to ensure that the structure operates in conformance with the design parameters.

- ii.) Responsible Owner must comply with Section IV of the NWA Stormwater Manual which outlines the requirements for the operations and maintenance of Long Term Best Management Practices (BMP's) for storm water facilities. The City has prepared an Operations & Maintenance Plan attached hereto as **Exhibit B**. The Operations & Maintenance Plan shows how the Responsible Owner plans to operate and maintain Long Term Best Management Practices for the Storm Water Facilities being constructed on the Landowner Property. The Responsible Owner and the successors and assigns thereof shall be responsible for following the Operations & Maintenance Plan as prepared by the City. The Operations & Maintenance Plan shall be on file with the City's Director of Public Works.
- iii.) The Operations & Maintenance Plan shall contain the following information:
 - a. Detailed inspection requirements;
 - b. Inspection and maintenance schedules;
 - c. Contact information for the Responsible Owner;
 - d. As built plans of the Storm Water Facilities;
 - e. The requirement for an annual report to the City to demonstrate that post construction maintenance is being accomplished per the Operations & Maintenance Plan;
 - f. The GPS coordinates for the Storm Water Facilities shall be provided to the City after construction is completed. Storm Water Facilities smaller than 200 square feet can be located with one GPS coordinate. Storm Water Facilities larger than 200 square feet shall have outlet coordinates and the corners of the Storm Water Facilities located by GPS. The GPS readings shall be provided to the City before the Storm Water Facilities are covered.

If the Storm Water Facility Plan is inconsistent with the Standard of Maintenance or if components within the Standard of Maintenance are inconsistent with other components within the Standard of Maintenance, then that provision, term or component which imposes a greater and more demanding obligation shall prevail.

In January of each year, the Responsible Owner shall submit to the City an annual report that identifies all of the tests, inspections, corrective measures and other activities conducted by the Responsible Owner under the Operations & Maintenance Plan for the preceding year. The annual report shall also identify any conditions of non-compliance with the Standard of Maintenance during the preceding year and the annual report shall address how the conditions of non-compliance were cured. The annual report shall also include the information shown on the form attached hereto as **Exhibit C**.

3.4 Notice of Non-Compliance with Section 3.3 and 3.4; Cure Period. If the City's Director of Public Works ("DPW") determines, at his reasonable discretion, that the Responsible Owner has not complied with the Standard of Maintenance, the DPW shall provide

written notice to the Responsible Owner of such failure to comply with the Standard of Maintenance. This notice shall specify that the Responsible Owner will have thirty (30) days to comply with the Standard of Maintenance, unless thirty (30) days is not practicable for the Responsible Owner to cure the default, in which case the Responsible Owner shall be given a reasonable time, as determined by the DPW, to cure the default provided the Responsible Owner has commenced a suitable cure within the initial thirty (30) days. Notwithstanding the requirement contained in this Section relating to written notice and opportunity of the Responsible Owner to comply with the Standard of Maintenance, in the event of an emergency as determined by the DPW, the City may perform the work to be performed by the Responsible Owner without giving any notice to the Responsible Owner and without giving the Responsible Owner thirty (30) days to comply with the Standard of Maintenance. If the City performs emergency service work, the Responsible Owner shall be obligated to repay the City the costs incurred to perform the emergency service work, and the City shall follow those procedures set forth in Sections 3.5 and 3.6 with respect to the billing, collection and/or tax certification of such costs.

3.5 Payment of Costs Incurred by City. If the Responsible Owner fails to comply with the Standard of Maintenance within thirty (30) days after delivery of the written notice, or in the case of an emergency situation as determined by the DPW, the City may perform those tasks necessary for compliance and the City shall have the right of access to the areas where the Storm Water Facilities are located to perform such work. The City shall charge all costs incurred by the City to perform the tasks necessary for compliance to the Responsible Owner.

The amount of costs charged by the City to the Responsible Owner shall be the usual and customary amounts charged by the City given the task, work, or improvement performed by the City to ensure compliance with the Standard of Maintenance. The Responsible Owner shall make payment directly to the City within twenty (20) days after invoicing (“Due Date”) by the City. Bills not paid by the Due Date shall incur the standard penalty and interest established by the City for utility billings within the City.

3.6 Certification of Costs Payable With Taxes; Special Assessments. If payment is not made under Section 3.5 by the Responsible Owner with respect to the Landowner Property, the City may certify to Dakota County the amounts due as payable with the real estate taxes for the Landowner Property in the next calendar year; such certifications may be made under Minnesota Statutes, Chapter 444 in a manner similar to certifications for unpaid utility bills. The Responsible Owner waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Landowner Property.

Further, as an alternate means of collection, if the written billing is not paid by the Responsible Owner, the City, without notice and without hearing, may specially assess the Landowner Property for the costs and expenses incurred by the City. The Responsible Owner hereby waives any and all procedural and substantive objections to special assessments for the maintenance costs including, but not limited to, notice and hearing requirements and any claims that the charges or special assessments exceed the benefit to the Landowner Property. The Responsible Owner waives any appeal rights otherwise available pursuant to Minnesota Statute § 429.081. The Responsible Owner acknowledges that the benefit from the performance of maintenance tasks by the City to ensure compliance with the Standard of Maintenance equals or exceeds the amount of the charges and assessments for the maintenance costs that are being

imposed hereunder upon the Landowner Property. Nothing in this paragraph shall be deemed to impair Responsible Owner's right to dispute the amount assessed as exceeding the usual and customary amounts charged by the City given the task, work, construction or improvement performed by the City to ensure compliance with Section 3.3.

3.7 Obligation For Maintenance Notwithstanding Public Easement. The Responsible Owner agrees that its obligations relating to maintenance of the Storm Water Facilities exist notwithstanding the fact that the Storm Water Facilities may be located in whole or in part within public easements.

The City hereby grants to the Responsible Owner a temporary right and license to enter public easements and public road rights-of-way for the purpose of performing the maintenance obligations relating to the Storm Water Facilities for the duration of the performance of the maintenance. The Landowner hereby grants to the City a right and license to access and enter the Landowner Property for the purpose of performing maintenance of the Storm Water Facilities for the duration of the performance of the maintenance.

3.8 Indemnification of City. Responsible Owner shall indemnify, defend and hold the City, its council, agents, employees, attorneys and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties and attorneys' fees, that the City incurs or suffers, which arise out of, result from or relate to:

- a.) failure by the Responsible Owner to observe or perform any covenant, conditions, obligation or agreement on their part to be observed or performed under this Agreement;
- b.) failure by the Responsible Owner to pay contractors, subcontractors, laborers, or materialmen;
- c.) failure by the Responsible Owner to pay for any materials that may be used by the Responsible Owner to maintain the Storm Water Facilities; and
- d.) construction of the Storm Water Facilities.

3.9 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than the notice, if any, required by this Agreement.

ARTICLE 4
ESCROW DEPOSIT

4.1 Engineering Escrow Amount. The Landowner shall deposit \$1,500 in cash with the City (hereafter “Engineering Escrow Amount”) contemporaneously with execution of this Agreement.

The Engineering Escrow Amount shall be used to pay the City for engineering review and inspection expenses, attorney’s fees, consultant fees, erosion and sediment control expenses, staff review time associated with coordination, review, design, preparation and inspection of the Storm Water Facility Plan and this Agreement and other associated City costs. Fees will be calculated at the City’s standard rates charged for such tasks.

Upon satisfactory completion of the Storm Water Facilities, the City shall return to the Landowner any remaining portion of the Engineering Escrow Amount not otherwise previously charged the Landowner.

ARTICLE 5 **CITY’S COVENANTS**

5.1 Approval of Development Plans. The City agrees that if Landowner executes this Storm Water Facilities Maintenance Agreement and if the other conditions set forth in the Custom Grading Agreement for the Landowner Property are met, the Council will approve the Development Plans for the Landowner Property.

ARTICLE 6 **MISCELLANEOUS**

6.1 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Agreement shall run with the Landowner Property and shall be binding upon the parties and the successors and assigns of the parties. This Agreement shall also be binding on and apply to any title, right and interest of the Landowner in the Landowner Property acquired by Landowner after the execution date of this Agreement or after the recording date of this Agreement.

6.2 Amendment and Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

6.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

6.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

6.5 Consent. Landowner consents to the recording of this Agreement.

6.6 Notice. Notice shall means notices given by one party to the other if in writing and if and when delivered or tendered either in person or by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage and postal charges prepaid, addressed as follows:

If to City: City of Inver Grove Heights
Attention: City Administrator
8150 Barbara Avenue
Inver Grove Heights, MN 55077

If to Landowner: Lane Larson and Jennifer Larson
1643 – 86th Court E.
Inver Grove Heights, MN 55077

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF Landowner and the City have entered into this Agreement on the day and year first stated above.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its: Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

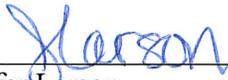
On this 9th day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER:



Lane C. Larson



Jennifer Larson

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 2ND day of May, 2016, by Lane C. Larson and Jennifer Larson, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.



Notary Public

THIS INSTRUMENT DRAFTED BY:

Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

AFTER RECORDING PLEASE

RETURN TO:

Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Lot 1, Block 2, Orchard Trail, Dakota County, Minnesota.

Abstract Property

EXHIBIT B
OPERATIONS & MAINTENANCE PLAN

MAINTENANCE PLAN

Maintenance of the storm water facilities shall be performed as outlined in Table 1.1 below to ensure a healthy and functioning storm water facility conforming to the intend of the original design parameters. Maintenance shall be completed annually by September 10th. An annual inspection report shall be submitted to the City Engineering Division by January 1st of each year to demonstrate that post-construction maintenance is being accomplished per this Operations and Maintenance plan.

TABLE 1.1 – MAINTENANCE ACTIVITIES

Maintenance Activity	Frequency	Procedure	Maintenance Done By
1. Sediment, trash and debris removal from inlet, outlets, pipes and structures.	Annually in spring and fall as needed.	Remove trash and/or debris. Pruning and weeding, mow filter strip	Property owner unless designated
2. Sediment, trash and debris removal from bio-filtration basin and swale	Annually in spring and fall as needed.	Remove sediment and restore bio-filtration basin and swale to capacity	Property owner unless designated
3. Erosion repair and vegetation replacement.	Annually in spring and fall as needed.	Repair eroded areas and re-seed, re-sod, re-plant and mulch as necessary and remove dry, dead or severely diseased vegetation	Property owner unless designated
4. Mulch replacement	Every 2 to 3 years or as needed to maintain 3" to 4" depth	If applicable, add shredded hardwood mulch	Property owner
5. Watering	As needed	Provide 1 inch of water when plants show signs of stress	Property owner
6. Vegetation replacement and weeding	Annually in spring and fall	Replace dead vegetation and remove evasive or unwanted plants	Property owner
7. Clean/fix structural components	As needed per inspection	Dependent on the type of damage; repair components per manufacturer's recommendations	Property owner unless designated
8. Replacement of the bio-retention device.	Bio-retention device failure.	The owner shall notify the City and make repairs within 60 days, unless otherwise approved by the City Engineer.	Property owner unless designated

EXHIBIT C
ANNUAL INSPECTION FORM

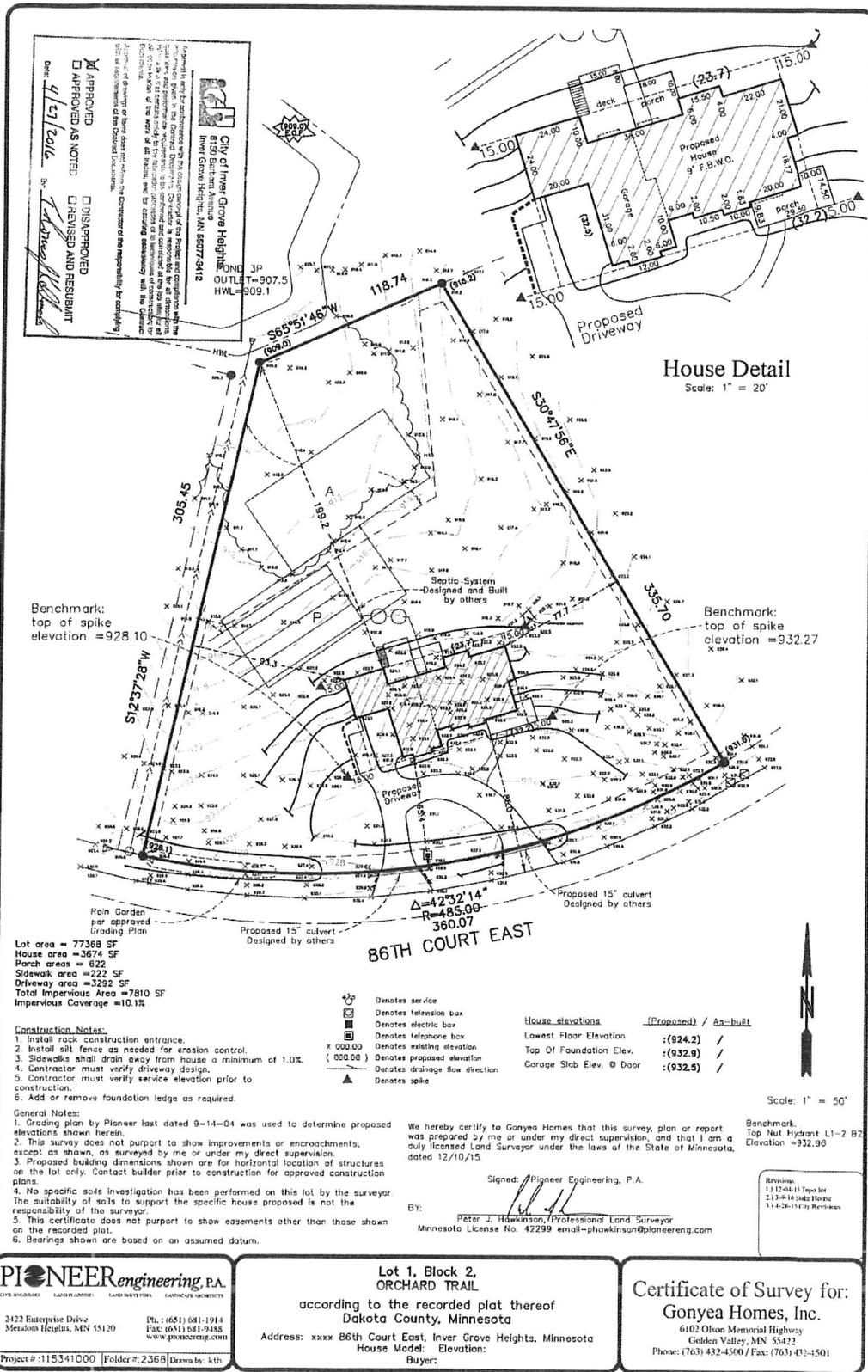
CITY OF INVER GROVE HEIGHTS NPDES INSPECTION PROGRAM

INLET / OUTLET					
STRUCTURE ID		INSPECTION DATE		INSPECTOR(S)	
LOCATION					
EASEMENT					
ACCESSIBLE	Y	N			
STRUCTURES IN ESMT.	Y	N	DESCRIPTION		
TREES IN ESMT.	Y	N	LARGEST DIAMETER (INCHES)		
STRUCTURE					
	FES	PIPE	CB	OTHER	
ATTRIBUTES	TRASH GUARD		WEIR	SURGE BASIN	OTHER NONE
CONDITION*	OK		MINOR MAINTENANCE	MAJOR MAINTENANCE	INACCESSIBLE
END SECTION EROSION	Y	N			
FLOW CONDITION	FLOW PRESENT		NO FLOW	SUBMERGED	
COMMENTS					
VEGETATION/DEBRIS					
	WEEDS, ETC.		BRUSH, TREES, ETC.	GARBAGE/DEBRIS	NONE
RESTRICTING FLOW	Y	N			
COMMENTS					
SEDIMENT					
CONDITION**	NONE		MINOR MAINTENANCE	MAJOR MAINTENANCE	
COMMENTS					
RIP RAP					
PRESENT	Y	N			
CONDITION***	OK		MINOR MAINTENANCE	MAJOR MAINTENANCE	
COMMENTS					
ILLCIT DISCHARGE					
	Y	N			
COMMENTS					

MAINTENANCE PERFORMED:			
SIGNED:		DATE:	

* Minor Maintenance: i.e. regROUT joint, repair trash guard; Major Maintenance: structure separating(ed) from pipe
 ** Minor Maintenance: repair can be done by City crews, Major Maintenance: heavy equip. is needed
 *** Minor Maintenance: repair can be done by City crews, Major Maintenance: heavy equip. is needed

EXHIBIT D STORM WATER FACILITY PLAN



APPROVED
 APPROVED AS NOTED
 DISAPPROVED
 REVISED AND RESUBMIT

Date: 4/27/2016
 By: *Pioneer Engineering*

Approved by the City of Inver Grove Heights
 8150 Barkham Avenue
 Inver Grove Heights, MN 55077-2412

Lot area = 77368 SF
 House area = 3674 SF
 Porch area = 622 SF
 Sidewalk area = 222 SF
 Driveway area = 3292 SF
 Total Impervious Area = 7810 SF
 Impervious Coverage = 10.1%

Construction Notes:
 1. Install rock construction entrance.
 2. Install silt fence as needed for erosion control.
 3. Sidewalks shall drain away from house a minimum of 1.0%.
 4. Contractor must verify driveway design.
 5. Contractor must verify service elevation prior to construction.
 6. Add or remove foundation ledge as required.

General Notes:
 1. Grading plan by Pioneer last dated 9-14-04 was used to determine proposed elevations shown herein.
 2. This survey does not purport to show improvements or encroachments, except as shown, as surveyed by me or under my direct supervision.
 3. Proposed building dimensions shown are for horizontal location of structures on the lot only. Contact builder prior to construction for approved construction plans.
 4. No specific soils investigation has been performed on this lot by the surveyor. The suitability of soils to support the specific house proposed is not the responsibility of the surveyor.
 5. This certificate does not purport to show easements other than those shown on the recorded plat.
 6. Bearings shown are based on an assumed datum.

I hereby certify to Gonyea Homes that this survey, plan or report was prepared by me or under my direct supervision, and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota, dated 12/10/15.

Signed: Pioneer Engineering, P.A.
 BY: *Peter J. Hawkinson*
 Peter J. Hawkinson, Professional Land Surveyor
 Minnesota License No. 42299 email-phawkinson@pioneereng.com

Benchmark:
 Top Nut Hydrant L1-2 B2
 Elevation = 932.96

Reviewer:
 1) 12-04-15 Topo lot
 2) 3-10-16 Utility House
 3) 4-26-16 City Reviewer

PIONEER engineering P.A.
 CIVIL ENGINEERING LAND SURVEYING LAND DEVELOPMENT LANDSCAPE ARCHITECTURE

2423 Enterprise Drive
 Mendota Heights, MN 55120
 Ph: (651) 681-1914
 Fax: (651) 681-1948
 www.pioneereng.com

Project # 115341000 Folder #: 2368 Drawn by: kty

Lot 1, Block 2,
 ORCHARD TRAIL
 according to the recorded plat thereof
 Dakota County, Minnesota
 Address: xxxx 86th Court East, Inver Grove Heights, Minnesota
 House Model: Elevation:
 Buyer:

Certificate of Survey for:
Gonyea Homes, Inc.
 6102 Olson Memorial Highway
 Golden Valley, MN 55422
 Phone: (763) 432-4500 / Fax: (763) 432-4501

**AGREEMENT RELATING TO LANDOWNER
IMPROVEMENTS WITHIN CITY EASEMENT ON
LOT 1, BLOCK 2, ORCHARD TRAIL
DAKOTA COUNTY, MINNESOTA**

THIS AGREEMENT RELATING TO LANDOWNER IMPROVEMENTS WITHIN CITY EASEMENT ON LOT 1, BLOCK 2, ORCHARD TRAIL (Agreement) is made this 9th day of May, 2016, by and between the City of Inver Grove Heights (hereafter referred to as “City”), a Minnesota municipal corporation, and Lane C. Larson and Jennifer Larson, husband and wife (hereafter collectively referred to as “Landowner”). Based on the covenants, agreements, representations and recitals herein contained, the parties agree as follows:

ARTICLE 1
TERMS

1.1 Terms. Unless specifically defined elsewhere in this Agreement, the following terms shall have the following meanings.

1.2 City. “City” means the City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 Subject Land. “Subject Land” means that certain real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described as follows:

Lot 1, Block 2, Orchard Trail, Dakota County, Minnesota

1.4 City Easement. “City Easement” means the following easement located on the Subject Land:

The permanent drainage and utility easements located along the northerly side of the Subject Land dedicated on the recorded plat of Orchard Trail, Dakota County, Minnesota.

1.5 Landowner. “Landowner” means Lane C. Larson and Jennifer Larson, husband and wife, and their assigns and successors in interest with respect to the Subject Land.

1.6 Formal Notice. “Formal Notice” means notice given by one party to the other if in writing and if and when delivered or tendered either in person or by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage prepaid, addressed as follows:

IF TO CITY: City of City of Inver Grove Heights
Attention: Director of Public Works
8150 Barbara Avenue
Inver Grove Heights, MN 55077

IF TO LANDOWNER: Lane Larson and Jennifer Larson
1643 – 86th Court E.
Inver Grove Heights, MN 55077

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

1.7 Landowner Improvements. “Landowner Improvements” means the septic drain field to be constructed on the Subject Land in the City Easement as shown on Exhibit A.

1.8 City Easement Improvements. “City Easement Improvements” means all existing and future sanitary sewer, municipal water and storm water pipes, conduits, culverts, ditches, ponds, catch basins, water collection mechanisms, drainage facilities, maintenance access routes and other utility appurtenances lying within the City Easement now or in the future.

1.9 Construction Plan. “Construction Plan” means the sketch prepared by the City attached as **Exhibit A** which identifies the location of the Landowner Improvements. The Construction Plan is on file with the City.

1.10 City Utility Costs. “City Utility Costs” means all costs incurred by the City, (whether performed by the City or its agents or contractors), for the inspection of and access to and repair, maintenance and replacement of the City’s Easement Improvements located in the City Easement and the placement of additional City Easement Improvements in the City Easement. City Utility Costs, include, without limitation: excavation costs, labor costs, costs of removing fill, costs of re-burying the City Easement Improvements, re-compacting the soils over the City Easement Improvements, restoring the City Easement area, and all engineering and attorneys’ fees incurred in connection therewith. City Utility Costs also include the costs of temporarily removing the Landowner Improvements and subsequently replacing the Landowner Improvements in the City Easement, if such costs have not already been paid by the Landowners.

1.11 Pre-Encroachment Costs. “Pre-Encroachment Costs” means a reasonable estimate by the City of the costs the City would have incurred for City Utility Costs if the Landowner Improvements did not exist.

1.12 Cost Differential. “Cost Differential” means the difference between the Pre-Encroachment Costs and the City Utility Costs caused by the existence of the Landowner Improvements. The City’s reasonable determination of the amount of the Cost Differential shall be binding on the Landowners. The City’s reasonable determination shall be appropriately supported by cost estimates obtained from independent contractors or engineers.

ARTICLE 2
RECITALS

Recital No. 1. The undersigned Landowner is the fee title owner of the Subject Land located in Inver Grove Heights, Dakota County, Minnesota.

Recital No. 2 The City Easement is on the Subject Land. The City owns the City Easement. The City Easement Improvements are within the City Easement and future City Easement Improvements may be located within the City Easement.

Recital No. 3. Landowner has requested permission from the City to construct the Landowner Improvements within the City Easement for the benefit of the Subject Land.

Recital No. 4. Subject to the terms of this Agreement, the City is willing to allow the Landowner Improvements to be placed within the City Easement if the following conditions are met:

- a.) The Landowner maintains the Landowner Improvements;
- b.) The Landowner agrees to pay the City any Cost Differential relating to inspections, access, repair, maintenance and replacement of the City Easement Improvements and the placement of any future City Easement Improvements in the City Easement.
- c.) The Landowner agrees to temporarily remove the Landowner Improvements in the event the City has need to access the area where the Landowner Improvements exist in order for the City to inspect, repair, maintain, and replace the existing City Easement Improvements or construct future City Easement Improvements in the Easement Area.
- d.) The Landowner agrees to modify the Landowner Improvements if the Landowner Improvements interfere with the City Easement Improvements.

NOW, THEREFORE, THE CITY OF INVER GROVE HEIGHTS AND THE UNDERSIGNED LANDOWNERS, FOR THEMSELVES, AND THEIR SUCCESSORS AND ASSIGNS DO HEREBY AGREE:

ARTICLE 3
AGREEMENTS

3.1 Construction And Maintenance Of Landowner Improvements. Under the terms and conditions stated herein, the Landowner, at Landowner's own cost, is hereby authorized by the City to construct the Landowner Improvements within the City Easement. The Landowner Improvements shall only be placed at the location specified in the Construction Plan. The Landowner Improvements must be constructed according to the Construction Plan.

The Landowner shall not place any other structures, walls, irrigation systems or buildings within the City Easement except for the Landowner Improvements. The Landowner, at Landowner's expense, shall maintain and repair the Landowner Improvements.

The Landowner shall comply with all required City setbacks.

3.2 City Not Responsible For Landowner Improvements. Nothing contained herein shall be deemed an assumption by the City of any responsibility for construction, maintenance, replacement or repair of the Landowner Improvements.

3.3 Continuing Right To City Easement. Nothing contained herein shall be deemed a waiver or abandonment or transfer of the right, title and interest that the City holds to the City Easement.

3.4 Subordinate Position of Landowner Improvements. The Landowner Improvements are subordinate to the rights of the City in the City Easement and in the City Easement Improvements.

3.5 Risk of Loss. The Landowner understands and agrees that the Landowner Improvements within the City Easement may be adversely affected by use of the City Easement. The parties agree that the City is not responsible for such events; the City shall have no liability to the Landowner for such events. The Landowner assumes the risk of installing the Landowner Improvements in the City Easement area.

3.6 Landowner To Bear Cost of Relocating Landowner Improvements. The City is responsible for the repair and maintenance of the City Easement Improvements in the City Easement.

The City may require the Landowner to temporarily remove and subsequently replace the Landowner Improvements in the City Easement in order for the City to gain access to the City Easement Improvements for the purpose of inspecting, repairing, maintaining, or replacing the City Easement Improvements or adding future City Easement Improvements.

If the Landowner does not perform such tasks, the City may perform such tasks and in such case the Landowner shall reimburse the City for the City's costs and expenses. Prior to commencing such tasks, the City shall send Formal Notice to the Landowner and allow the

Landowner twenty (20) days from the date of the Formal Notice to perform the tasks. If the Landowner has not completed the work within the twenty (20) days, then the City may proceed to perform the tasks. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work. Bills not paid shall incur the standard penalty and interest established by the City for utility billings within the City.

3.7 Emergency. Notwithstanding the requirements contained in Sections 3.6 relating to a twenty (20) day Formal Notice to the Landowner to perform its obligations under Sections 3.6, the City shall not be required to give such Formal Notice if the City's engineer determines that an emergency exists. In such instance, the City, without giving Formal Notice to the Landowner may perform the work and in such case the Landowner shall reimburse the City for the costs and expenses relating to the work. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work. Bills not paid shall incur the standard penalty and interest established by the City for utility bills within the City.

3.8 Cost Differential. If a Cost Differential occurs relating to the access to or inspection, maintenance, repair or replacement of the City Easement Improvements or relating to construction of new City Easement Improvements in the future, then the Landowner shall pay the Cost Differential to the City. The Landowner must make payment for the Cost Differential within 30 days after the City has sent a written invoice for the Cost Differential to the Landowner.

3.9 Modifications To Landowner Improvements. If in the future the City reasonably determines that the Landowner Improvements interfere with access for inspection or with repair, maintenance, reconstruction, or replacement of City Easement Improvements, then the Landowner, at Landowner's own expense, shall make such modifications to the Landowner Improvements as directed by the City. Such modifications may include, but are not limited to, reconfiguration, removal and relocation of the Landowner Improvements.

If Landowner does not make the modifications, the City may make the modifications and in such case the Landowner shall reimburse the City for the City's costs and expenses. Prior to commencing such modifications, the City shall send Formal Notice to the Landowner and allow the Landowner twenty (20) days from the date of the Formal Notice to make the modifications. If Landowner does not completely make the modifications, the City may proceed to make the modifications. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work relating to the modifications.

3.10 Remedies. If the Landowner fails to perform their obligations under this Agreement, then the City may avail itself of any remedy afforded by law or in equity and any of the following non-exclusive remedies:

- a.) The City may specifically enforce this Agreement.
- b.) If the Landowner fails to make payments under Section 3.6, 3.7, 3.8 or 3.9, then the City may certify to Dakota County the amounts due as payable with the real estate taxes for the Subject Land in the next calendar year; such certifications may be made under Minnesota Statutes, Chapter 444 in a manner similar to certifications for unpaid utility bills. The Landowner waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Subject Land.

Further, as an alternate means of collection, if the written billing is not paid by the Landowner, the City, without notice and without hearing, may specially assess the Subject Land for the costs and expenses incurred by the City. The Landowner hereby waives any and all procedural and substantive objections to special assessments for the costs including, but not limited to, notice and hearing requirements and any claims that the charges or special assessments exceed the benefit to the Subject Land. The Landowner waives any appeal rights otherwise available pursuant to Minnesota Statute § 429.081. The Landowner acknowledges that the benefit from the performance of tasks by the City equals or exceeds the amount of the charges and assessments for the costs that are being imposed hereunder upon the Subject Land.

No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

3.11 Indemnification. The Landowner shall indemnify, defend and hold the City, its council, agents, consultants, attorneys, employees and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies including interest, penalties and attorneys' fees, that the City incurs or suffers, which arise out of, result from or relate to any of the following:

- a.) The Landowner Improvements;
- b.) Installation and maintenance of the Landowners Improvements;

- c.) Failure by the Landowner to observe or perform any covenant, condition, obligation or agreement on their part to be observed or performed under this Agreement; and
- d.) Use of the City Easement for Landowner Improvements.

3.12 City Duties. Nothing contained in this Agreement shall be considered an affirmative duty upon the City to perform the Landowner's obligations contained in Article 3 if the Landowner does not perform such obligations.

3.13 No Third Party Recourse. Third parties shall have no recourse against the City under this Agreement.

3.14 Recording. The City may record this Agreement with the Dakota County Recorder.

3.15 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Agreement shall run with the Subject Land and shall be binding upon the heirs, successors, administrators and assigns of the parties.

This Agreement shall also be binding upon all after-acquired rights, interests and title of the parties that may be acquired from and after the date of this Agreement.

3.16 Amendment And Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement and performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

3.17 Governing Law. This Agreement shall be governed by and construed in accord with the laws of the State of Minnesota.

3.18 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

3.19 Headings. The subject headings of the sections in this Agreement are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.

[the remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement the year and day first set forth above.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

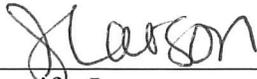
On this 9th day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER



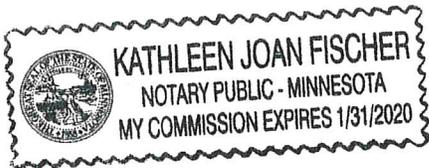
Lane C. Larson



Jennifer Larson

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 2ND day of May, 2016, before me a Notary Public within and for said County, personally appeared Lane C. Larson and Jennifer Larson, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and they acknowledged that they executed the same as their free act and deed.



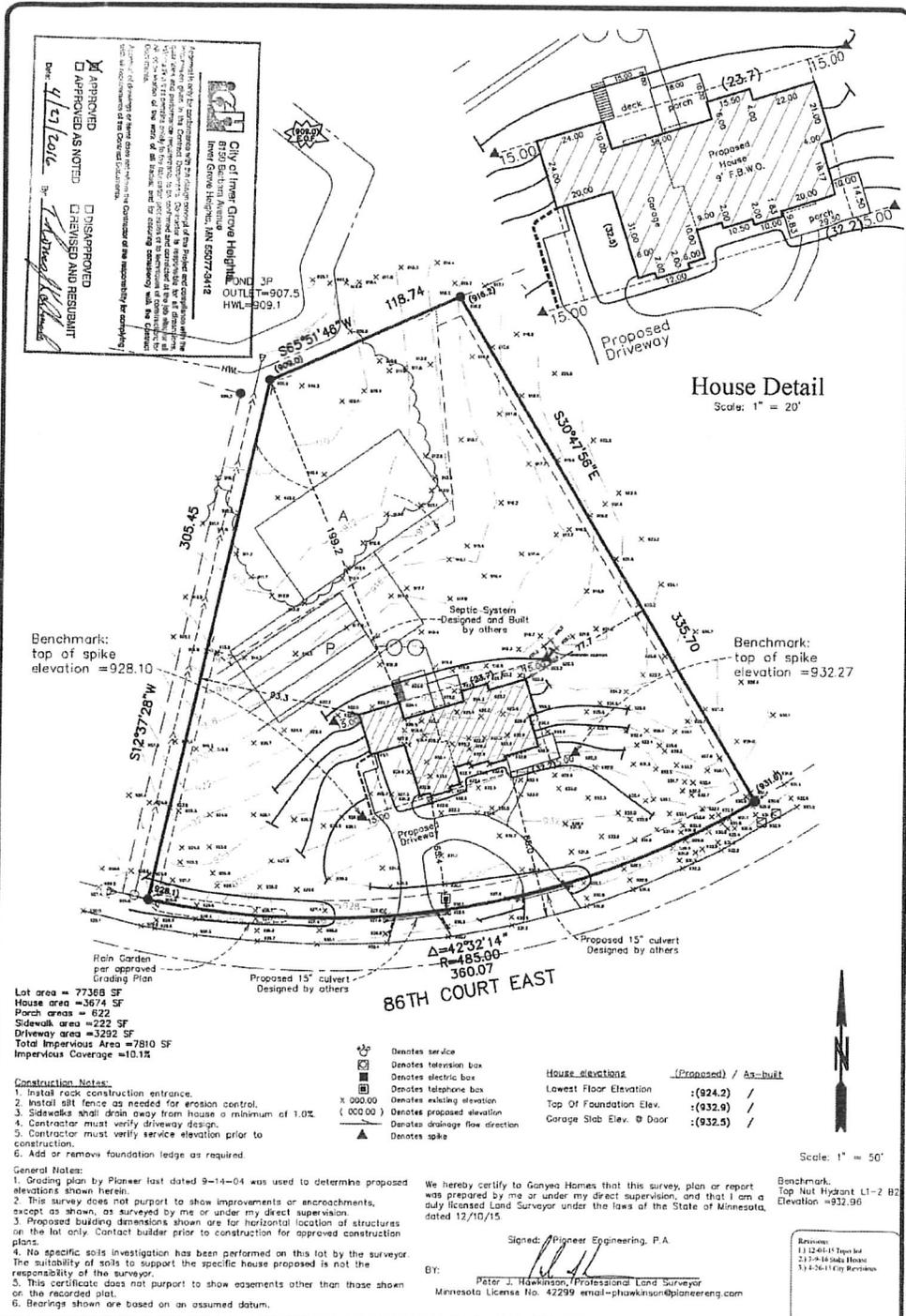


Notary Public

This instrument was drafted by:
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

After recording, please return to:
Timothy J. Kuntz
LeVander, Gillen & Miller
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

EXHIBIT A CONSTRUCTION PLAN



PIONEER Engineering, P.A.
2422 Enterprise Drive
Mendota Heights, MN 55120
Ph: (651) 681-1914
Fax: (651) 681-9488
www.pioneereng.com

Project #: 115341000 | Folder #: 2368 | Drawn by: kth

© Pioneer Engineering

**Lot 1, Block 2,
ORCHARD TRAIL**

according to the recorded plat thereof
Dakota County, Minnesota

Address: xxxx 86th Court East, Inver Grove Heights, Minnesota
House Model: Elevation:
Buyer:

Certificate of Survey for:
Gonyea Homes, Inc.

6102 Olson Memorial Highway
Golden Valley, MN 55422
Phone: (763) 432-4500 / Fax: (763) 432-4501

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Resolution Accepting a Proposal from Stantec Consulting Services, Inc. (Stantec) for Updating and Evaluating the City’s Northwest Area Water System Hydraulic Model

Meeting Date: May 9, 2016
 Item Type: Consent
 Contact: Thomas J. Kaldunski, 651-450-2572
 Prepared by: Thomas J. Kaldunski, City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

Fiscal/FTE Impact:
 None
 Amount included in current budget
 Budget amendment requested
 FTE included in current complement
 New FTE requested – N/A
 Other: NWA Water Fund (511)

PURPOSE/ACTION REQUESTED

Consider resolution accepting a proposal from Stantec Consulting Services, Inc. for updating and evaluating the City’s Northwest Area Water System hydraulic model.

The City has been involved in a series of projects and planned development in the Northwest Area. This has resulted in a need to update the City’s water model to ensure an adequate trunk system where looped mains are installed. Stantec was selected as the consultant for this project in conjunction with the engineering consultant pool which was brought before Council. Stantec has done modeling on several recent development projects.

This proposal will provide an updated plan to adequately supply water to the area. Included in this proposal are: water system modeling, trunk watermain plans, analysis of proposed land uses, projections of water demand, modeling a reduced pressure zone, creating water system figures to assist in development review, and development of a report outlining the study’s findings.

I recommend that the Council adopt the resolution accepting this proposal from Stantec for a not to exceed budget of \$12,450 to be funded by the NWA Water Fund (511).

TJK/kf
 Attachment: Stantec Proposal

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION ACCEPTING PROFESSIONAL SERVICES PROPOSAL FROM STANTEC
CONSULTING SERVICES, INC. FOR UPDATING AND EVALUATING THE CITY'S
NORTHWEST AREA WATER SYSTEM HYDRAULIC MODEL**

WHEREAS, as recent development in the City's Northwest Area (NWA) has expanded the municipal water supply; and

WHEREAS, the City is undertaking a series of improvement projects and reviewing new developments which will expand the water system; and

WHEREAS, in order to construct an adequate water supply system with properly sized water mains and sufficient looping of the mains, the assistance of a consulting engineering firm is required for updating and evaluating the NWA water system model; and

WHEREAS, City staff requested, and received, a proposal from Stantec Consulting Services Inc.; and

WHEREAS, based on the experience of the firm, the scope and associated fee for the proposed services, it was decided that Stantec Consulting Services Inc. be selected as the consulting firm for this water system evaluation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA THAT:

1. The proposal of Stantec Consulting Services Inc. is accepted and staff is authorized to enter into a contract with Stantec Consulting Services Inc. in the amount not to exceed \$12,450 for professional services and evaluation of the City's NWA water supply system.
2. The preparation of the NWA water system update and evaluation is authorized.
3. Project funding is provided through the NWA Water Fund (511).

Adopted by the City Council of Inver Grove Heights, Minnesota this 9th day of May 2016

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



Stantec Consulting Services Inc.
2335 Highway 36 West
St. Paul MN 55113
Tel: (651) 636-4600
Fax: (651) 636-1311

February 12, 2016
File: 19380TBD

Attention: Mr. Steve Dodge
Assistant City Engineer
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Dear Steve,

Reference: City of Inver Grove Heights Northwest Water System Study

Thank you for the opportunity to serve the City of Inver Grove Heights by evaluating the water system expansion in the Northwest Study Area. This letter presents Stantec's proposal for engineering services based on the task list as detailed below. The Northwest Study Area is roughly bounded by I494 on the north, TH55 on the south, Babcock Trail on the east, and The City of Eagan on the west. The attached figure illustrates the study area.

The project will focus on developing and evaluating the proposed water system for the Northwest Study Area. Stantec will update the City's hydraulic model with the most recent construction projects and include the final proposed water system improvements.

PROJECT TASKS

1. Update existing water system model with water system improvements from 2014 and 2015 City projects. Updates will be completed based on current GIS data and record plans.
2. Review and analyze proposed land use data for the study area based on electronic data provided by the City.
3. Calculate future water demands for the NW Study Area and review demand projections with City Staff. After review with City, finalize demand projections for the study area evaluation.
4. Complete water system supply and storage evaluation for the study area. Including delineation of the future pressure zone boundaries.
5. Provide proposed, future water system improvements for the NW study area.
6. Conduct a hydraulic model evaluation of the proposed, future water system including water system pressure, available fire flow, pipe velocity, and head loss. Create figures to present water system evaluation results.
7. Develop draft report detailing NW study area project including project data details, projected water system demands, supply and storage evaluation, proposed future water system improvements, and summary of evaluations.
8. Review draft report and evaluation results with City staff and incorporate comments into Final Northwest Water System Study report.



February 12, 2016
Mr. Steve Dodge
Page 2 of 2

Reference: City of Inver Grove Heights Northwest Water System Study

DATA NEEDS

To complete the Northwest Water System Study evaluation, the following items from the City will be needed. Electronic data is requested as available and required for land use data.

1. Records plan drawings for 2014 and 2015 water system projects to update the hydraulic model. Record plans needed for Blackstone Ponds, Blackstone Vista, 2015-10 trunk water main, 76th St./Addisen Path/Alverno Ave. projects, utility improvements in the vicinity of 47th St. and Boyd Ave, Upper 55th St. improvements and any other 2014 or 2015 water main improvements.
2. Current GIS water data; which may exclude the need for some record plans listed above.
3. 2014 and 2015 average day and maximum day water use data, including total water pumped and water sold.
4. Most recent, electronic existing and proposed land use planning for the study area.
5. Population projects for the study area or City population densities standards (people per unit, units per acre for various land use types).
6. Non-buildable land (steep slopes, flood plain, etc.).
7. Existing City residents with residential wells and septic system in the study area.

COMPENSATION AND SCHEDULE

Stantec proposes to provide the City of Inver Grove Heights with professional engineering services required to provide the tasks described herein. Stantec will provide services on an hourly basis and estimates the level of effort required to not exceed \$12,450. Reimbursable expenses are included in this proposed figure. Stantec will bill our time in accordance with the rate schedule utilized in the master agreement with the City of Inver Grove Heights. Stantec will not exceed the hourly amount without further authorization from you.

We are truly grateful for this opportunity to be of service to you and the City. Please contact us if you have any specific questions; either Ryan Capelle at 651.604.4857 or Jason Bordewyk at 651.967.4568. If this agreement is acceptable, please sign below and return a copy to us.

Regards,

A handwritten signature in black ink that reads "Mark R. Rolfs".

Mark R. Rolfs
Senior Associate, Stantec

City of Inver Grove Heights

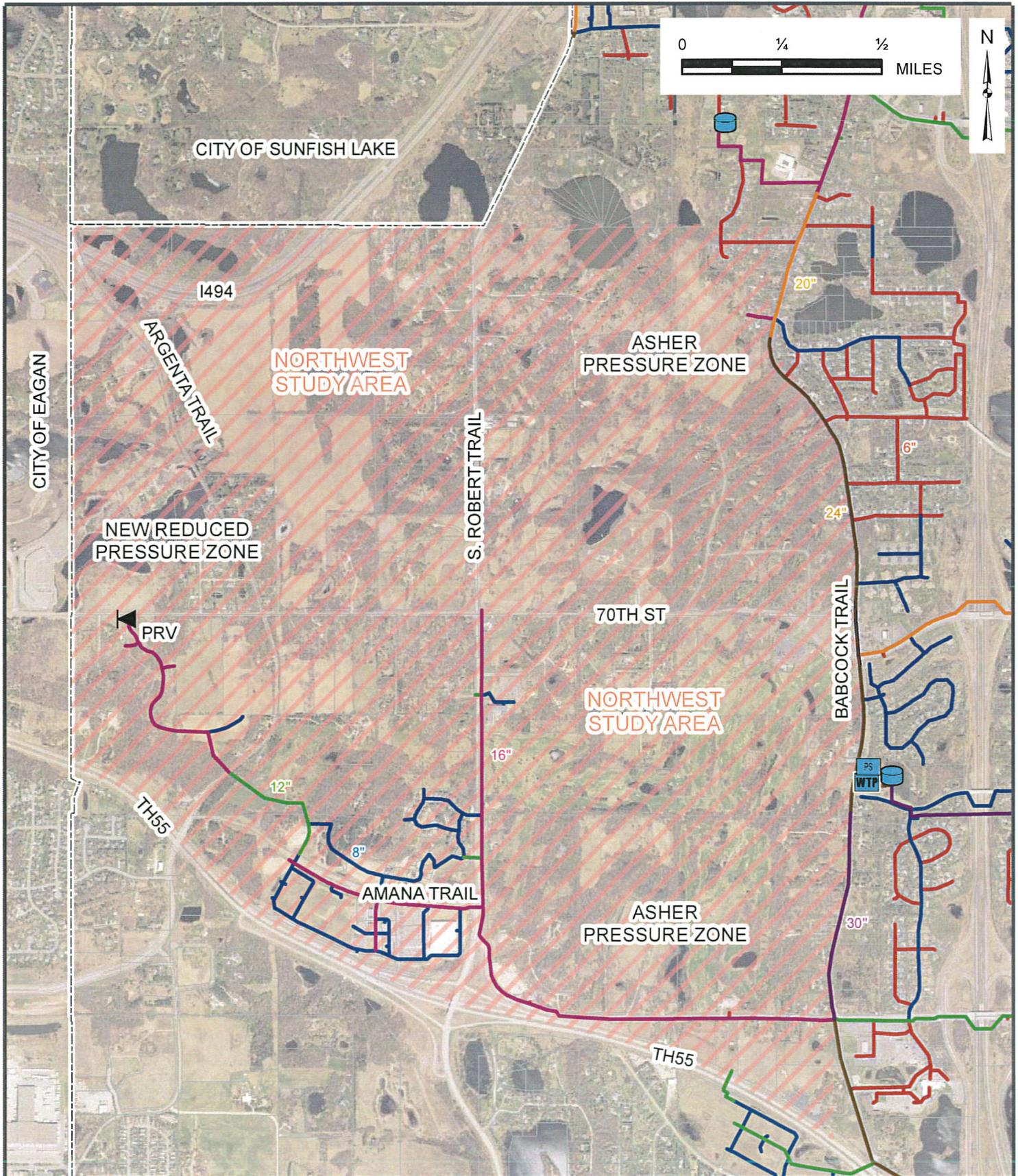


FIGURE 1 - NORTHWEST WATER STUDY AREA

INVER GROVE HEIGHTS



Inver Grove Heights NW Water System Evaluation

PROJECT TASK	PROJECT ENGINEER HOURS	PM QA/QC HOURS
<u>Update Existing Water System Hydraulic Model</u>		
Update hydraulic model with record plans of 2014 & 2015 water projects	<u>8</u>	<u>2</u>
<i>Subtotal Hours</i>	8	2
<u>NW Study Arrea Future Demands</u>		
Review future land use planning provided by the City	4	-
Calculate future water demands for development in NW Study Area	6	-
Meet with City to review water demand projections before proceeding	4	4
Finalize water demand projections for development in NW Study Area	<u>4</u>	2
<i>Subtotal Hours</i>	18	6
<u>NW Study Area Evaluation</u>		
Water system supply & storage evaluation	4	2
Proposed future water system improvements	4	2
Detailed hydraulic model evaluation of proposed water system	<u>12</u>	<u>2</u>
<i>Subtotal Hours</i>	20	6
<u>Water System Hydraulic Model Update Documentation</u>		
Report detailing work completed with appropriate figures	12	8
Meeting with City to review evaluation results and report	<u>4</u>	<u>4</u>
<i>Subtotal Hours</i>	<u>16</u>	<u>12</u>
Total Project Hours	62	26
Total Estimated Labor Cost		\$12,300
Reimbursable expense (meeting mileage , deliverable report costs, etc.)		<u>\$150</u>
Total Project Cost (hourly + expenses estimated)		\$12,450

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Proposal for Professional Services for a Grant Application to the Metropolitan Council Stormwater Grant Program and Authorize Submittal of Applications

Meeting Date: May 9, 2016
 Item Type: Consent
 Contact: Thomas J. Kaldunski, City Engineer
 Prepared by: Thomas J. Kaldunski, 651.450.2572
 Reviewed by: Scott D. Thureen, Public Works Director

SST

	Fiscal/FTE Impact:
	None
X	Amount included in current budget
	Budget amendment requested
	FTE included in current complement
	New FTE requested – N/A
	Other

PURPOSE/ACTION REQUESTED

Approve proposal for professional services for a grant application to the Metropolitan Council Stormwater Grant Program and authorize submittal of applications.

SUMMARY

The Metropolitan Council established a new stormwater grant program on March 14, 2016. The details of the program are outlined in the attachment. The grants will be awarded to local watershed management organizations. The Lower Mississippi River Watershed Management Organization (LMRWMO) adopted a motion to assist member cities in this grant program at its April 13, 2016 meeting. The City of Inver Grove Heights is working cooperatively with LMRWMO on these applications.

The grant program can provide 75 percent funding with a 25 percent local match. Grants can range from \$2,000 to \$200,000. The City is working with its water resources consultant, Barr Engineering, to complete the grant applications. The projects being proposed are currently included on the Minnesota Pollution Control Agency's Project Priority List Grant Program applied for previously or are a part of City Project No. 2016-09D, this year's 60th Street Area Reconstruction project. The following summarizes the grant requests:

- | | |
|---|-------------------|
| 1. Water quality basin on Dickman Trail (industrial parcel) | Seeking \$ 86,250 |
| 2. Water quality basin at 78th Street and Concord Blvd. | Seeking \$200,000 |
| 3. Sedimentation basin and raingardens on City Project No. 2016-09D | Seeking \$ 50,850 |

The LMRWMO will execute the grant applications before the May 11, 2016 deadline, provided the City Council supports the applications.

The Engineering Division has started work on the grant applications because of the quick deadline and the available funding for consultants in its 2016 budget. We requested, and received, a proposal from Barr Engineering, Inc. to prepare a grant application for stormwater facilities to be partially funded by the 2016 Metropolitan Council's Storm Water Grant Program. The City is not obligated to participate unless an application is selected and the City executes a grant agreement.

I recommend that the City Council approve the proposal in the amount of \$3200 to Barr Engineering, Inc. Funding for the proposal would come from the Engineering Division Consulting Services Account, 101.43.5100.442.30300.

TJK/kf

Attachment: Proposal from Barr Engineering, Inc.
 2016 Metropolitan Council Program
 Grant applications (3)
 LMRWMO minutes

**Work Order For:
Grant Writing for 2016 Metropolitan Council Stormwater Grant Application**

Applicable to Addendum No. 1 and Master Service Agreement Dated June 27, 2012

between

**Barr Engineering Co. (Barr)
4300 MarketPointe Drive, Suite 200
Minneapolis, MN 55435**

**City of Inver Grove Heights (City)
8150 Barbara Avenue
Inver Grove Heights, MN 55077**

Designated Representative:

Jim Herbert

Designated Representative:

I. Scope Language

Our understanding is that this project will consist of writing three (3) grant applications to the 2016 Metropolitan Council Stormwater Grant program. Each grant application will include a proposal for a single stormwater project to be constructed by the City. The applicant will be the Lower Mississippi River Watershed Management Organization (LMRWMO). The deadline for the applications to be submitted to the Metropolitan Council (Council) is May 11, 2016.

The scope of work includes the following:

1. Barr will write one (1) draft grant application for each project and provide them to the City for City staff comments.
2. Barr will incorporate City staff comments and provide revised applications to the City for signature by the LMRWMO.

II. Deliverables

Barr will provide the City with the following deliverables:

1. Draft grant applications for City staff review
2. Final grant applications for signature by LMRWMO

III. Maximum Compensation and Assumptions ("Service Assumptions") Upon Which Maximum is Based

For the services referenced above, you will pay us for time and expense not to exceed \$3,200 without prior approval, in accordance to the referenced Master Service Agreement. The scope of services assumes the following:

1. Barr will prepare one (1) draft document and one (1) revised document for each of the three (3) grant applications. Additional revisions are not included in this scope.

2. City staff will coordinate signing of the applications by the LMRWMO and submission of the signed applications to the Council.

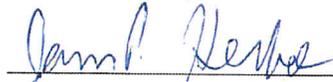
IV. Schedule and Assumptions Upon Which Schedule is Based

3. Barr will provide the draft grant applications by 4:00 PM on April 29, 2016.
4. City staff will review the draft grant applications and provide comments by May 6, 2016.

ACCEPTED AND AGREED TO:

BARR ENGINEERING CO.

City of Inver Grove Heights

By: 

By: _____

Title: Vice President

Title: _____

Date: April 19, 2016

Date: _____

2016 METROPOLITAN COUNCIL STORMWATER GRANT APPLICATION

The Metropolitan Council (Council) will implement a stormwater grant program effective March 14, 2016. Grants will be awarded on a competitive basis to metropolitan area watershed management organizations (WMOs) or watershed districts (WDs). The Council will provide 75% of the program cost; the grantee must provide the remaining 25%. Grants will be made available in amounts with a minimum of \$2,000 and a maximum of \$200,000. Grantees will be required to provide promotional/educational signage regarding the project for the benefit of cities and the public.

Due to the relatively small amount of available funding, only watershed management organizations (WMOs) or watershed districts (WDs) in the seven-county metropolitan area are eligible to apply for these grants.

The Council encourages all metro area WMOs/WDs to work with cities and other local units of government within their watersheds and to submit all appropriate project proposals for consideration.

THE COUNCIL WILL ENCOURAGE ALL SUCCESSFUL APPLICANTS TO SOLICIT AND INCLUDE METROPOLITAN COUNCIL UNDERUTILIZED BUSINESSES (MCUB) FIRMS IN GRANT FUNDED ACTIVITIES THAT MCUB FIRMS CAN PERFORM. THE COUNCIL WILL REQUIRE ALL GRANTEEES TO REPORT ON THE RESULTS OF THESE EFFORTS. A LIST OF MCUB FIRMS IS AVAILABLE ON THE COUNCIL'S WEBSITE.

APPLICATIONS MUST BE RECEIVED NO LATER THAN MAY 11, 2016.

Application Process

- Applicants must be watershed management organizations (WMOs) or watershed districts (WDs) located in the seven county metropolitan area.
- Organizations will have eight weeks to submit grant applications.
- Metropolitan Council will notify applicants of grant awards by June 15, 2016.
- Successful applicants will be required to submit detailed project work plans and budgets which will be included as exhibits in the standard grant agreements.
- The Council will encourage all successful applicants to solicit and include Metropolitan Council Underutilized Businesses (MCUB) firms in grant funded activities that MCUB firms can perform. The Council will require grantees to report on the results of these efforts. A list of MCUB firms is available on the Council's website.
- No project expenses incurred before agreement execution will be eligible for reimbursement by the Metropolitan Council.
- No payments will be made that would cause total compensation to exceed the total grant amount.

Primary Proposal Selection Criteria

Preference will be given to projects that are:

- Innovative and use novel methods or practices to treat or manage stormwater
- Can serve as visible demonstration projects
- Are easily replicated in other parts of the metro area
- Have a strong educational component
- Focus on multiple benefits such as
 - Volume reduction
 - Stormwater reuse
 - Address difficult pollutants such as chloride, nitrate, or bacteria
 - Address difficult sites: small sites, redevelopment, contaminated, or compacted areas
 - Provide greater than required treatment, i.e. "treatment train" practice sequencing
 - Address items generally not eligible for cost share like practice maintenance, research, and outreach

Secondary Selection Criteria

Additional credit will be given to projects that:

- Support Council authority to partner with local units of government to implement total watershed management
- Benefit impaired waters and are identified as needed in local water management plans
- Have multiple partners
- Leverage other funds
- Include provisions for long-term maintenance
- Provide benefit to other regional water issues, i.e. groundwater and drinking water supply, wastewater capacity limitations
- Support equity and sustainability principles of Thrive MSP 2040 and the Water Resources Policy Plan

If you have any questions, please contact Joe Mulcahy at joe.mulcahy@metc.state.mn.us or 651-602-1104.
Thanks.

Legal Name of Project Sponsor: Lower Mississippi River Watershed Management Organization

Designated Project Representative: Bob Bullard, Chair, LMRWMO Board of Directors

Mailing Address, E-Mail Address, & Telephone Number of Project Sponsor:

1775 Lexington Avenue South, #25 Lilydale MN, 55118

651-905-1150

rbullard@comcast.net

Project Title:

City of Inver Grove Heights Dickman Industrial Park Project

Total Project Cost: \$115,000

Grant Request Amount: \$86,250

**Project Summary including information on water resource benefiting
(Provide a short description of the project, goals, objectives, budget, and project timeline.)**

See page two for project summary

(Continue on back, if necessary-please do not exceed three pages)

Project Description -The proposed project is located in an industrial area between Concord Boulevard and Dickman Trail within the City of Inver Grove Heights (City). The City has begun to acquire property in the area for redevelopment into an industrial park. The proposed project would construct a wet extended detention basin that would treat runoff from approximately 12 acres within the southern portion of the site. Untreated runoff from this area is currently collected by an existing storm sewer system and discharged directly to the Mississippi River as shown in the attached figure.

Benefits to Water Resources- The proposed wet extended detention basin would trap sand and other particles that currently are discharged to the Mississippi River. The existing untreated runoff from this site creates a visible plume in the Mississippi River during runoff events. The project would remove an average of approximately 8 pounds per year of total phosphorus (TP) and 4,100 pounds per year of total suspended solids (TSS), based on a P8 water quality model.

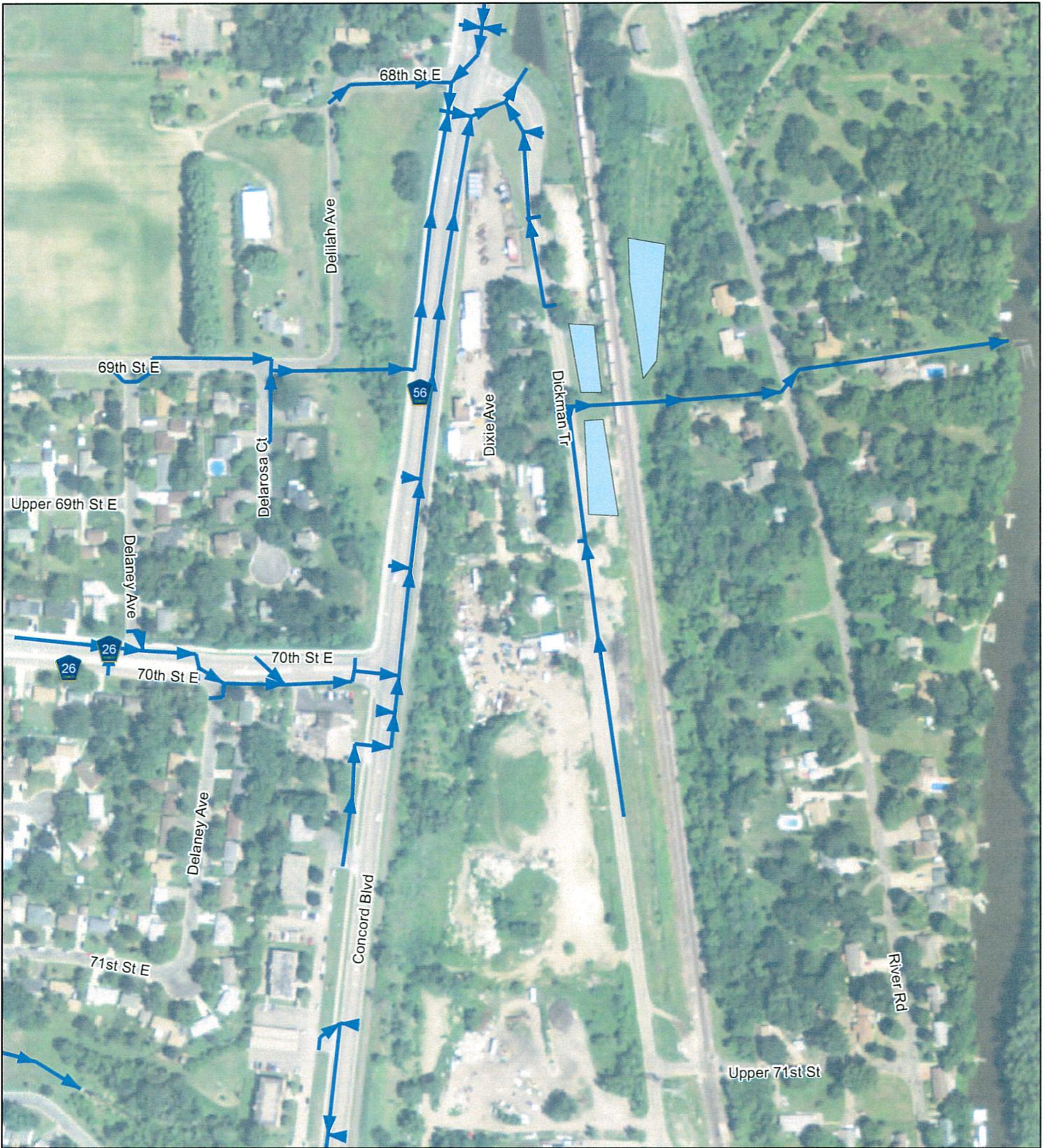
Goals and Objectives -The Lower Mississippi River Watershed Management Organization (LMRWMO) and the City will collaborate on this project to improve the water quality of stormwater discharged to the Mississippi River. As a joint powers organization, the Lower Mississippi WMO relies on cooperation and collaboration with its member cities to accomplish the goals laid out in its watershed management plan. The project would contribute to meeting the TSS reductions described in the South Metro Mississippi River TMDL. The project is considered a high priority project by the City, the LMRWMO, and the Friends of Pool Two organization. This project is included in the City of Inver Grove Heights Third Generation Water Resources Management Plan (Table 5-1).

In addition to improving downstream water quality, the goals of this project are to provide additional capacity for stormwater treatment in an industrial area, and to redevelop a site which may contain contaminated soils. The City of Inver Grove Heights has already completed a Phase I Environmental Site Assessment for the Dickman Industrial Park project, which has identified areas of known pollution upstream of the proposed wet extended detention basin. The city will also install educational signage at the site to inform area businesses and residents about how the basin is contributing to a cleaner Mississippi River.

Following construction, the wet extended detention basin would be maintained by the City. The City has an existing maintenance plan for stormwater infrastructure (City of Inver Grove Heights Third Generation Water Resources Management Plan, Table 5-1 and Section 4.3.4). The City will conduct inspections to ensure the outlet structure and pond embankments are properly maintained according to guidance laid out in the Minnesota Stormwater Manual. Other expected maintenance tasks include removal of accumulated trash and sediment and periodically maintaining vegetation.

Budget and Timeline -The estimated construction cost for the proposed wet extended detention basin is \$115,000. The City has applied to the Minnesota Pollution Control Agency to place this project on the Project Priority List (PPL). If the project is placed on the Project Priority List the City will be eligible for additional grants for design and construction.

The feasibility study for this basin is complete and design is currently underway. If awarded, grant dollars will be used for final design and construction. Construction of the project would be during summer 2018 and would be completed by fall 2018.



-  Potential Pond Locations
-  Existing Storm Sewer



1 inch = 300 feet



DICKMAN INDUSTRIAL PARK WET EXTENDED
DETENTION BASINS PROJECT LOCATION
Met Council Stormwater Grant
City of Inver Grove Heights
Dakota County, MN

Legal Name of Project Sponsor: Lower Mississippi River Watershed Management Organization

Designated Project Representative: Bob Bullard, Chair, LMRWMO Board of Directors

Mailing Address, E-Mail Address, & Telephone Number of Project Sponsor:

1775 Lexington Avenue South, #25 Lilydale MN, 55118

651-905-1150

rbullard@comcast.net

Project Title:

City of Inver Grove Heights 78th and Concord Wet Extended Detention Basin

Total Project Cost: \$400,000

Grant Request Amount: \$200,000

**Project Summary including information on water resource benefiting
(Provide a short description of the project, goals, objectives, budget, and project timeline.)**

See following page for project summary

Project Description- The 78th and Concord Wet Extended Detention Basin project consists of constructing a new wet extended detention basin with an iron-enhanced sand filter in the City of Inver Grove Heights (City). The project would be constructed on a City-owned parcel of undeveloped land northwest of 78th Street East and Concord Boulevard. The basin would be constructed to meet the National Urban Runoff Program (NURP) standards and would provide water quality treatment for 25 acres of upland drainage area.

Benefits to Water Resources -The *City of Inver Grove Heights Pollutant Load Analyses* conducted by the Dakota County Soil and Water Conservation District in 2011 estimated that constructing a new pond alone will reduce total suspended sediment (TSS) loading to the Mississippi River by 3,400 pounds per year and total phosphorus loading by 9.4 pounds per year.

Use of iron-enhanced filtration increases the effectiveness of phosphorus removal, especially during small, high-frequency storms where the basin will be designed to treat the “first flush” of runoff. This approach allows the project to achieve higher efficiency and a larger reduction in pollutant loading for the same project footprint, therefore the City expects to exceed the load reductions listed above.

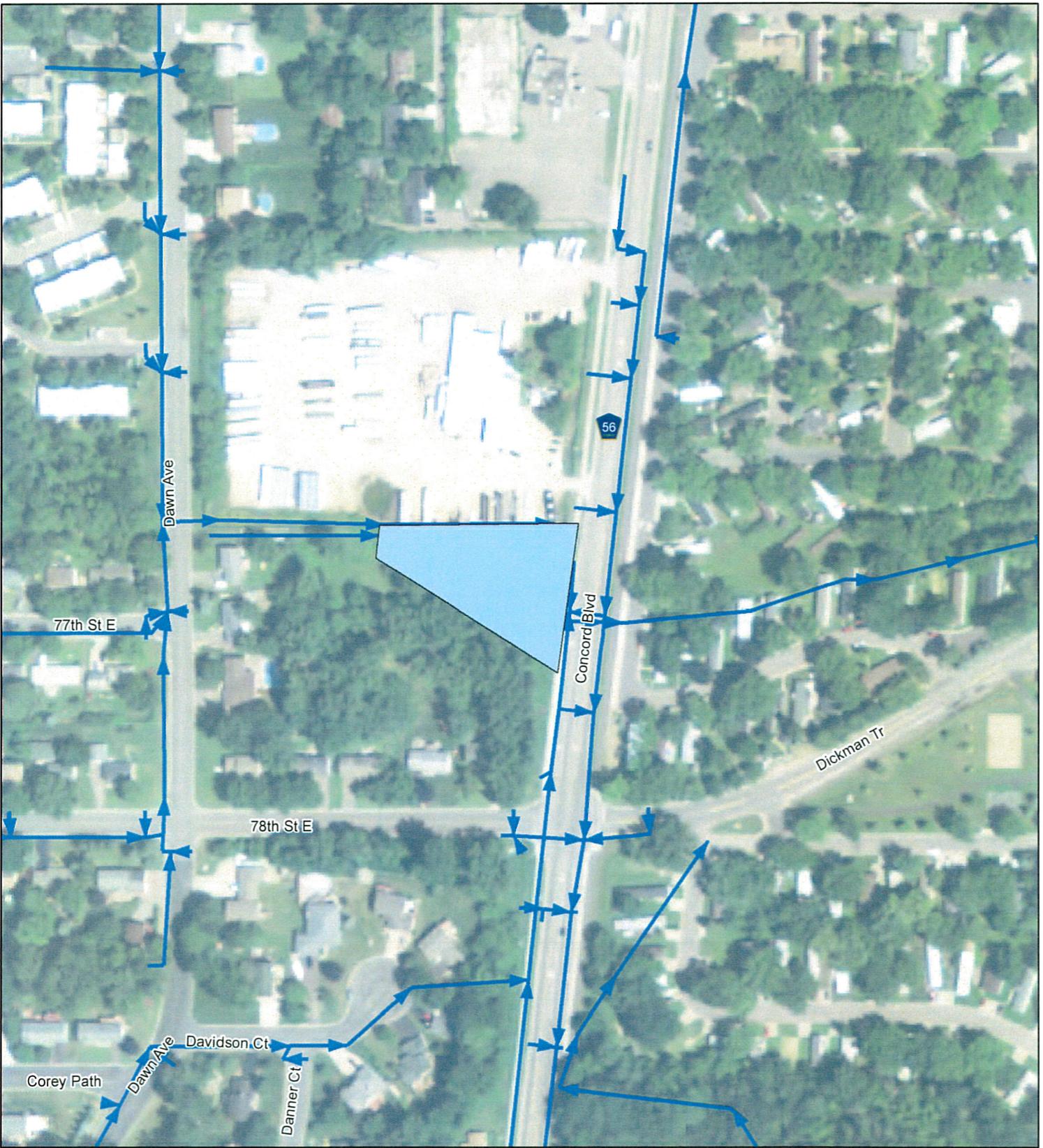
Goals and Objectives -The Lower Mississippi River Watershed Management Organization (LMRWMO) and the City will collaborate on this project to improve the water quality of stormwater discharged to the Mississippi River. As a joint powers organization, the Lower Mississippi WMO relies on cooperation and collaboration with its member cities to accomplish the goals laid out in its watershed management plan. The project would contribute to meeting the TSS reductions described in the South Metro Mississippi River TMDL. This project is part of the City of Inver Grove Heights Third Generation Water Resources Management Plan (Table 5-1). The proposed wet extended detention basin is considered a high priority project for the City, the Lower Mississippi WMO, and Friends of Pool Two (FPT) organization.

This project will be visible to the neighborhood residents and others who travel through the neighborhood; the city’s educational signage at the site will also increase the visibility of this project.

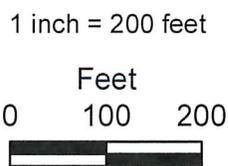
Following construction, the wet extended detention basin (and the iron-enhanced sand filter) will be maintained by the City. The City has an existing maintenance plan for stormwater infrastructure (City of Inver Grove Heights Third Generation Water Resources Management Plan, Table 5-1 and Section 4.3.4) and will conduct inspections to make sure the filter media and outlet structure are properly maintained according to guidance laid out in the Minnesota Stormwater Manual. Other expected maintenance tasks include removal of accumulated trash and sediment and periodically maintaining vegetation.

Budget and Timeline- The estimated total cost of the 78th and Concord wet extended detention basin is \$400,000. The City of Inver Grove Heights has applied to the Minnesota Pollution Control Agency to place this project on the Project Priority List. If the project is placed on the Project Priority List, the City will be eligible for additional grants and loans for design and construction.

The feasibility study for this basin is complete and more detailed design is currently underway. If awarded, grant dollars will be used for final design and construction. Construction of the project is scheduled for summer of 2018.



-  Proposed Pond
-  Existing Storm Sewer



78TH AND CONCORD WET EXTENDED
DETENTION BASIN LOCATION
Met Council Stormwater Grant
City of Inver Grove Heights
Dakota County, MN

Legal Name of Project Sponsor: Lower Mississippi River Watershed Management Organization _____

Designated Project Representative: Bob Bullard, Chair, LMRWMO Board of Directors _____

Mailing Address, E-Mail Address, & Telephone Number of Project Sponsor:

1775 Lexington Avenue South, #25 Lilydale MN, 55118

651-905-1150

rbullard@comcast.net

Project Title:

City of Inver Grove Heights 60th and Babcock Stormwater Improvements Project

Total Project Cost: \$67,301 _____

Grant Request Amount: \$50,850 _____

**Project Summary including information on water resource benefiting
(Provide a short description of the project, goals, objectives, budget, and project timeline.)**

See following page for project summary

Project Description -The 60th and Babcock Stormwater Improvements project is located in the City of Inver Grove Heights (City) and consists of construction of one new sedimentation basin within Salem Hills Park and three rain gardens in city street right-of-way. The sedimentation basin has been designed to meet the National Urban Runoff Program (NURP) standards and will provide stormwater treatment for an upstream area of 3.05 acres, including 2.01 acres of impervious surface.

Curb cuts would divert runoff to the rain gardens from the adjacent city streets. Runoff diverted to the rain gardens would be infiltrated. The rain gardens would be designed and constructed according to the guidelines in the Minnesota Stormwater Manual.

Benefits to Water Resources -The proposed sedimentation basin and rain gardens would ultimately discharge to two downstream high-quality wetlands which are shown in the attached figure. Current discharges to these wetlands are untreated and are contributing to excess sediment buildup and high nutrient loading.

The proposed sedimentation basin has been modeled using the MIDS calculator and it is expected to achieve 34% annual total phosphorus removal and 60% annual total suspended solids (TSS) removal. The rain gardens would remove 50% of the total nitrogen and 95% of the total phosphorus from the treated runoff volume. In addition, the rain gardens would reduce the stormwater runoff volume through infiltration.

The sedimentation basin and rain gardens will both be visible to the neighborhood residents and others who travel through the neighborhood; the city's educational signage at the sedimentation basin site will also increase the visibility of the project as a whole. As noted below, the rainwater gardens provide additional education opportunities through the city's partnerships with the neighboring homeowners.

Goals and Objectives -The Lower Mississippi River Watershed Management Organization (LMRWMO) and the City will collaborate on the 60th and Babcock Stormwater Improvement project to improve the water quality of stormwater discharges to local wetlands. As a joint powers organization, the LMRWMO relies on cooperation and collaboration with its member cities to accomplish the goals laid out in its watershed management plan.

Following construction, the city will maintain the sedimentation pond as laid out in the existing maintenance plan for stormwater infrastructure (*City of Inver Grove Heights Third Generation Water Resources Management Plan*, Table 5-1 and Section 4.3.4). Expected maintenance tasks include removal of accumulated trash and sediment and periodically maintaining vegetation.

The rain gardens will be maintained through existing partnerships between the City and neighboring homeowners. The City has over 50 of these partnerships currently established and uses them as an opportunity to educate residents about stormwater and its effect on neighborhood water quality. Homeowners would be responsible for removing minor sediment buildup and general plant maintenance. The City will conduct inspections to ensure the plantings and planting media are properly maintained according to guidance laid out in the Minnesota Stormwater Manual.

Budget and Timeline -The total budget for the project is \$67,301, based on project bids received by the City. The City is ready to award a contract for project construction in May 2016; however, the installation of the rain gardens is based on the City receiving external funding to support their construction. If the City does not receive a grant or other supplemental funding, they will not construct the rain gardens. For a relatively small additional cost, the city can add this important water quality treatment feature to the infrastructure project by leveraging the funds dedicated to the larger project.

Construction of the sedimentation basin is scheduled for summer of 2016 and will be complete by winter of 2016. If the City is able to secure grant funding for the rain gardens, construction would be in summer and fall of 2016, with project completion in winter of 2016. City inspection and maintenance of plantings would continue throughout 2017 as needed to ensure that the gardens are functioning as designed.



Approximate Location of Rain Water Gardens



Freshwater Emergent Wetland



Freshwater Forested/Shrub Wetland



Freshwater Pond



Lake



Riverine



1 inch = 250 feet

Feet
0 100 200



60TH AND BABCOCK STORMWATER
IMPROVEMENT PROJECT LOCATION
Met Council Stormwater Grant
City of Inver Grove Heights
Dakota County, MN



MEETING MINUTES
Board of Managers Regular Meeting
April 13, 2016 ~ 3:00 P.M.
Mendota Heights City Hall

Managers in Attendance:

Bob Bullard (Chair), Lilydale
Scott Deyo, West St. Paul
Hunter Blaeser, South St. Paul

Sharon Lencowski (Vice-Chair), Inver Grove Heights
Mary Jeanne Schneeman, Mendota Heights
Anne Weber, St. Paul

Alternate Managers or Others in Attendance:

Jill Smith, Mendota Heights
Richard Williams, Sunfish Lake
John Mazzitello, Mendota Heights
Ross Beckwith, West St. Paul
Greg Wilson, Barr Engineering
Joe Barten, Dakota County SWCD

Marilyn Lundberg, Lilydale
Tom Kaldunski, Inver Grove Heights
Chris Hartzell, South St. Paul
Greg Williams, Barr Engineering
Pat Murphy, St. Paul

I. Call Meeting to Order

The meeting was called to order by Chair Bullard 3:00 p.m. Bullard introduced and welcomed Hunter Blaeser, the newly appointed South St. Paul representative, to the LMRWMO Board.

II. Approval of the Agenda

Bullard asked for any changes to the agenda, there were none.

MOTION by R. Williams to approve the agenda, second by Lencowski; motion passed.

III. Approval of March 9th, 2016 Meeting Minutes

Bullard asked if there were any other additions or corrections to the March 9th, 2016 meeting minutes. Weber noted that she was incorrectly shown as in attendance. The minutes will reflect this change.

MOTION by Lencowski to approve the minutes from the March 9th, 2016 meeting with the recommended change, second by R. Williams; Bullard and Schneeman abstained due to not being in attendance at the March meeting, motion passed.

IV. Approval of Treasurer's Report

a) Approval of April 13th, 2016 Financial Summary, Invoices to be Paid, Budget Performance

Mazzitello summarized the information included in the packet, including the invoices and checks to be signed, and recommended approval of the financial report and invoices to be paid.

Bullard asked whether any of the grant funds have been expended. Barten replied that since the SWCD grant agreement has not been finalized, there has not been time billed to the grant yet.

MOTION by R. Williams to approve the treasurer's report, second by Schneeman; motion passed.

V. Review 2015 Annual Report for Submittal to BWSR

Barten explained the background of State and Board of Water and Soil Resources (BWSR) requirements for submitting annual reports. He noted that the annual report is due to BWSR by 120 days of the end of the calendar year. Barten explained that the draft annual report is in the packet, it follows a similar format to past years, and asked for any suggested changes or revisions.

Schneeman asked if the Board could receive a list of acronyms. Barten will send that out in an email to the Board.

Sachi noted that the Dawn Way storm sewer project can be changed to having a 2018 placeholder in the CIP. Lundberg noted that the Hwy 13 project in Lilydale was substantially completed in 2015.

Bullard asked for an update on the Cherokee Heights project. Weber noted that the City of St. Paul is waiting to hear from Ramsey County on the status of receiving grant funds for the project. There was additional discussion on some of the background of the Cherokee Heights/Lilydale Park erosion issues.

Barten noted that the financial summary and newsletter are included in the annual report as attachments. R. Williams clarified the requirements for completing an audit vs. a financial summary.

MOTION by Schneeman for the administrator to submit the 2015 LMRWMO Annual Report to BWSR, second by Lencowski; motion passed.

VI. Discuss Potential Submissions or Metropolitan Council Stormwater Grant

Barten provided background on the new Met. Council stormwater grant. He noted that the grant terms limit watershed management organizations as the only government entities which can apply for funds. He noted that the deadline is the same day as the next LMRWMO meeting. This means that the Board needs to discuss

Lundberg and Bullard mentioned the installation of St. Anthony Falls Laboratory (SAFL) Baffle devices in storm catch basins to stop sediment from going down the bluffs through the new drop structure along Hwy 13. The City would likely want to apply for funds for this project through the Metropolitan Council stormwater grant.

R. Williams noted the short timeline for grant application. Sachi noted that this grant may be geared towards projects which are somewhat ready for implementation. It is not very unusual to have short application windows. G. Williams noted that since this is a new grant program, it remains to be seen what the demand is for the funds and what type of grants will be funded. Kaldunski noted that Inver Grove Heights has a number of shovel ready projects which could be submitted.

Hartzell noted that for this grant in 2015, there were only two applicants and both were awarded. The LMRWMO may have the best chance to receive funds in 2016.

Barten explained that since the grant applications must be submitted prior to the next meeting, the Board could consider authorizing the Administrator to work with any interested Cities to submit project grant applications through the LMRWMO.

MOTION by R. Williams to authorize the Administrator to submit grant applications from the LMRWMO, in coordination with a member City, for the Metropolitan Council stormwater grant, second by Schneeman; motion passed.

VII. Review Amended SWCD/LMRWMO 2016 Work Plan and Grant Work Plan

Barten explained that the two work plans provided in the packet are follow-up items from the March meeting which included a discussion on monitoring and volunteer monitor coordination services provided by the SWCD as well as services related to the three year BWSR Clean Water Fund grants. Barten noted that if approved by the LMRWMO Board, the work plans would then go to the SWCD Board for approval and then the Joint Powers Agreement could be drafted and executed.

MOTION by Blaeser to approve the two SWCD/LMRWMO work plans as shown in the packet and authorize the Board Chair to sign the associated joint powers agreements with the SWCD on behalf of the LMRWMO Board, second by Schneeman; motion passed

VIII. Discuss Thompson Lake PAH Removal Letter of Support

Barten and Sachi gave a brief background on the issues of polycyclic aromatic hydrocarbons (PAHs) which have accumulated in sediment in Thompson Lake as well as the study done by the LMRWMO in 2014 regarding removal of PAH contaminated sediment.

Barten explained that Dakota County staff is seeking approval to use County funds to clean up the PAH contaminated sediment in Thompson Lake. He noted that the removal of this sediment could be done in coordination with and would compliment the stormwater improvement project planned by the LMRWMO and City of West St. Paul at Thompson Lake. Barten noted that County staff have requested a letter of support for the proposed use of County funds to remove the PAH contaminated sediment at Thompson Lake.

There was additional discussion by the Board on PAH removal, remediation options, a similar remediation project in White Bear Lake, and ordinances limiting coal tar sealants.

MOTION by R. Williams to show unanimous support for the submittal of a letter of support to Dakota County for the proposal to utilize County funds for removal of PAH contaminated sediment from Thompson Lake; second by Schneeman; motion passed.

IX. Alum Treatment Presentation

Greg Wilson of Barr Engineering presented on the use of an aluminum sulfate (alum) treatment on lakes and specifically on Lake Augusta and Sunfish Lake to provide water quality improvements. He explained in depth how this is done through chemical reactions to bind phosphorus particles with the alum and make that phosphorus un-usable for aquatic plants and algae. Wilson discussed the process by which alum treatments are planned, implemented, and the safety of the treatment. There is the possibility of split applications, or doses of alum, as well as potentially performing water monitoring between doses. Wilson explained that the process for alum treatments is progressing and becoming ever more exact.

There was discussion relating to the grant for alum treatments on Sunfish Lake and Lake Augusta. R. Williams noted that the shoreline survey and rainbarrel program may be important selling points for the homeowners.

Wilson explained the difference between alum treatments and treatments of copper sulfate. He noted that copper sulfate kills the weeds but doesn't remove any phosphorus. Removing the nutrients that the plants need, the phosphorus, is the best long term method to control algae in lakes such as Augusta and Sunfish. He added that given the watershed and size of the two lakes, it would be expected for the alum treatment to remain effective for 20 years.

R. Williams asked whether reducing additional phosphorus entering the lake would affect the alum treatment. Wilson replied that any reductions in phosphorus entering the lake over the effective life of the alum treatment, such as reducing fertilizer entering the lake from lawns, would only help increase the longevity of the alum treatment past the expected 20 years.

Wilson noted the high likelihood of success for an alum treatment in Lake Augusta and Sunfish Lake. The high likelihood of success is due to the high amount of internal phosphorus loading in these lakes, as opposed to phosphorus coming from external watershed sources.

Wilson provided examples of past successful alum treatment projects on lakes around the metropolitan area for reference.

X. Other Updates and Handouts

a) Grant Tracking Update

G. Williams noted that he has no updates aside from the discussion on Metropolitan Council grants.

b) BWSR CWF Grant Update

Barten noted that he met with Dakota County staff and St. Croix Lutheran School staff to discuss the PAH removal project and the LMRWMO Stormwater improvement project/grant. The school staff were very supportive and receptive to working in partnership with the County, LMRWMO, and West St. Paul on these upcoming projects. The next step for the Thompson Lake stormwater project is to see what effect the PAH removal may have on the stormwater portions of the project, since the two projects are in the same area of Thompson Lake. Barten added that a larger stakeholder meeting will be held to discuss moving the project forward in the next few months.

Barten explained that he will be meeting with Sunfish Lake residents and Janna Kieffer of Barr Engineering that evening to discuss the Sunfish Lake alum treatment project and matching funds required by the landowners for the grant.

Weber noted that she has taken a new position with the the City of St. Paul and will no longer be the St. Paul City representative to the LMRWMO. She added that the the City of St. Paul will be working to appoint a new member to the Board in the near future and that Pat Murphy will be the new City advisor for the LMRWMO.

VII. Agenda Items for Next Meeting - Scheduled for May 11th, 2016 at the Mendota Heights City Hall

VIII. Adjourn

Meeting adjourned by Chair Bullard at 4:55 p.m.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Assessment Hearing for 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction

Meeting Date: May 9, 2016
 Item Type: Assessment Hearing
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Steve W. Dodge, Asst. City Engineer
 Reviewed by: Scott Thureen, Public Works Director

SJD

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other: Pavement Management Funds, Special Assessments, Water Fund, Sewer Fund

PURPOSE/ACTION REQUESTED

Assessment hearing to consider a resolution adopting the final assessment roll for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction.

The streets to be improved are as follows:

Asher Avenue from 60th Street East to its terminus, Asher Court from 60th Street East to its terminus, 60th Street from Asher Avenue to Babcock Trail, 63rd Street East from Babcock Trail to its terminus, and 59th Court from Babcock Trail to its terminus.

SUMMARY

This project was ordered by the City Council on February 22, 2016, as part of the City's Pavement Management Program (PMP). Bids were received on April 1, 2016 and contract award is scheduled to be considered after the final assessment hearing. The project is scheduled for the summer of 2016 with final payment in spring of 2017. A benefit analysis report was prepared by the appraiser (Metzen Appraisals).

The project includes street reconstruction, storm sewer and drainage improvements, storm water quality improvements, appurtenances and restoration.

An informational meeting was held with affected property owners on April 28, 2016, with twenty-one (21) residents attending. Staff presented the project, costs, and assessment process details and then entertained questions. General questions and comments related to the project were typical with the following original items particular to this group:

- *Staff explained the summary of recommended quantity reductions that would provide cost savings to the project in order to reach a \$7,500 assessment cap and a total project cost meeting the MS 429 20% assessment minimum requirement.*

- Concern was expressed about the City's position on private obstructions (irrigation, invisible fence, and landscaping) in the right-of-way being the property owners' responsibility.
The residents were informed that two adjacent cities have the same policy, these cost savings must be identified up-front to meet the \$7,500 assessment and MS 429 requirements, and the right-of-way management ordinance 7.3-1-B makes obstructers bear the financial responsibility.
- Residents with obstructions, but specifically irrigation, wondered if this increase in costs to them could be re-evaluated at the end of the project and reimbursed if the total cost savings allowed while meeting the City's financial goals. It has been covered in past projects.
Staff's position is they are unauthorized obstructions in the right-of-way and should not be included in costs. Council would need to guide otherwise.
- One resident asked if they could get a wider curb opening to get up a steep driveway at an angle without jumping the curb.
We can provide up to a 30-foot-wide opening per Ordinance which will accommodate their concern. Any additional driveway apron width would be at the property owner's expense.
- There were questions as to how the decorative driveways would be handled.
A decorative driveway allowance was bid with the contract for known special conditions.
- Concern was voiced over how far we would be disturbing behind the curb, for driveways and boulevard.
Residents were advised the project disturbance will only be what is necessary. Disturbance is typically 6-12 feet behind the curb. Private utility work may disturb the entire boulevard and easements in preparation for the project.
- Residents wanted to know how tree disturbance was addressed?
Only trees that are necessary will be removed from the right-of-way for construction or safety reasons. Staff informed them that trees will be marked and letters will go out notifying the respective property owner that a tree in the right-of-way adjacent to their property is scheduled to be removed. An individual meeting with the project inspector is available to answer further questions concerning an individual tree.
- There were questions about mailbox disturbance and where they would be receiving mail.
It was explained that a temporary bank of mailboxes would be set up and coordinated by the contractor with the Postmaster.
- Multiple residents expressed concern over driveway access.
Construction occurs from 7:00 a.m. to 7:00 p.m. with limited driveway access when work is being done on their street. Access would be unhindered at night, except for when concrete driveway and curbs are curing. Access during the day would generally be available. Prior to construction, City staff will identify potential off-site parking areas. Two potential areas being reviewed are Salem Hills Elementary School and the water tower parking lot at Salem Hills Park. A shuttle option is being discussed, but it is not clear if this is administratively possible yet.

- Some residents inquired on the process of paying off the assessments. Specifically, residents requested the interest rate not accrue and payment in full not be required until after the project is constructed.
City staff is recommending the interest rate accrual date be January 1, 2017 and that the MS 429 process already allows payment in full by November 15, 2016 at the County; while they may pay at City Hall the initial 30-days after Council levies the assessments.
- One resident inquired about the possibility of updates on construction progress.
The City sets up a project website location where weekly updates are provided.
- Residents discussed amongst the group how the project is necessary and they would like to see it move forward. If the project was delayed indefinitely, they were concerned about the other pavement management program needs in the City taking precedence over their neighborhood and costs/assessments going up.
- Residents asked about project phasing and schedule.
Asher and 60th Street will be priority to complete construction prior to fall inclement weather. Substantial completion is September 10 and final completion is set for October 15, 2016.

The Residential Driveway Restoration Program will be implemented on the project subsequent to levying the assessments, during construction. With respect to those driveway agreements that occur after the assessments are paid, staff will bring a resolution to the Council at a later date.

The property owners of 1800 60th Street own an adjacent undeveloped single-family lot (PID No. 20-67600-01-020) proposed to be assessed \$7,500. A proposed special assessment agreement will be considered by Council following the assessment hearing deferring payment without interest until the lot is sold or developed.

The estimated final project cost is \$2,122,000.00 and the proposed final assessments are \$424,771.99. The proposed final assessments are 20.04 percent of the total project cost. The proposed final assessments are below the proposed special benefit caps as recommended by the appraiser. The assessment rate is proposed at 3.8 percent for a ten-year term.

I recommend approval of the resolution adopting the final assessment roll for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction.

SWD/kf

Attachments: Resolution
Final Assessment Map
Final Assessment Roll

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION ADOPTING FINAL ASSESSMENT ROLL FOR 2016 PAVEMENT MANAGEMENT PROGRAM
CITY PROJECT NO. 2016-09D – 60TH STREET AREA RECONSTRUCTION**

RESOLUTION NO. _____

WHEREAS, pursuant to proper notice duly given as required by law, the Council has met, heard and passed upon all objections to the proposed assessment for the improvements on City Project No. 2016-09D – 60th Street Area Reconstruction. The streets to be improved are as follows:

The streets to be reconstructed include: Asher Avenue from 60th Street East to its terminus, Asher Court from 60th Street East to its terminus, 60th Street from Asher Avenue to Babcock Trail, 63rd Street East from Babcock Trail to its terminus, and 59th Court from Babcock Trail to its terminus.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA THAT:

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, is hereby accepted and shall constitute the special assessment against the lands herein, and each tract of land therein included is hereby found to be benefited by the proposed assessment levied against it.
2. Such assessment shall be payable in equal installments extending over a period of ten (10) years. The first of the installments shall be payable on or before the first Monday in January 2017, and shall bear interest at the rate of 3.8 percent per annum from the date of adoption of this assessment resolution (or at such later date determined by the City Council). Interest will begin to accrue on January 1, 2017.
3. The owner of any property, so assessed, may at any time prior to certification of the assessment to the County Auditor, pay the whole of the assessment on such property with interest accrued to the date of payment, to the City Treasurer, except that no interest shall be charged if the entire assessment is paid within thirty days from the adoption of this resolution; and the owner may, at any time thereafter, pay to the County Treasurer the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15, or interest will be charged through December 31 of the next succeeding year (or such later date determined by the Council). No interest accrual will occur in 2016.
4. The Clerk, shall, forthwith, transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County, and such assessments shall be collected and paid over the same manner as other municipal taxes

Adopted by the City Council of Inver Grove Heights, Minnesota this 9th day of May 2016.

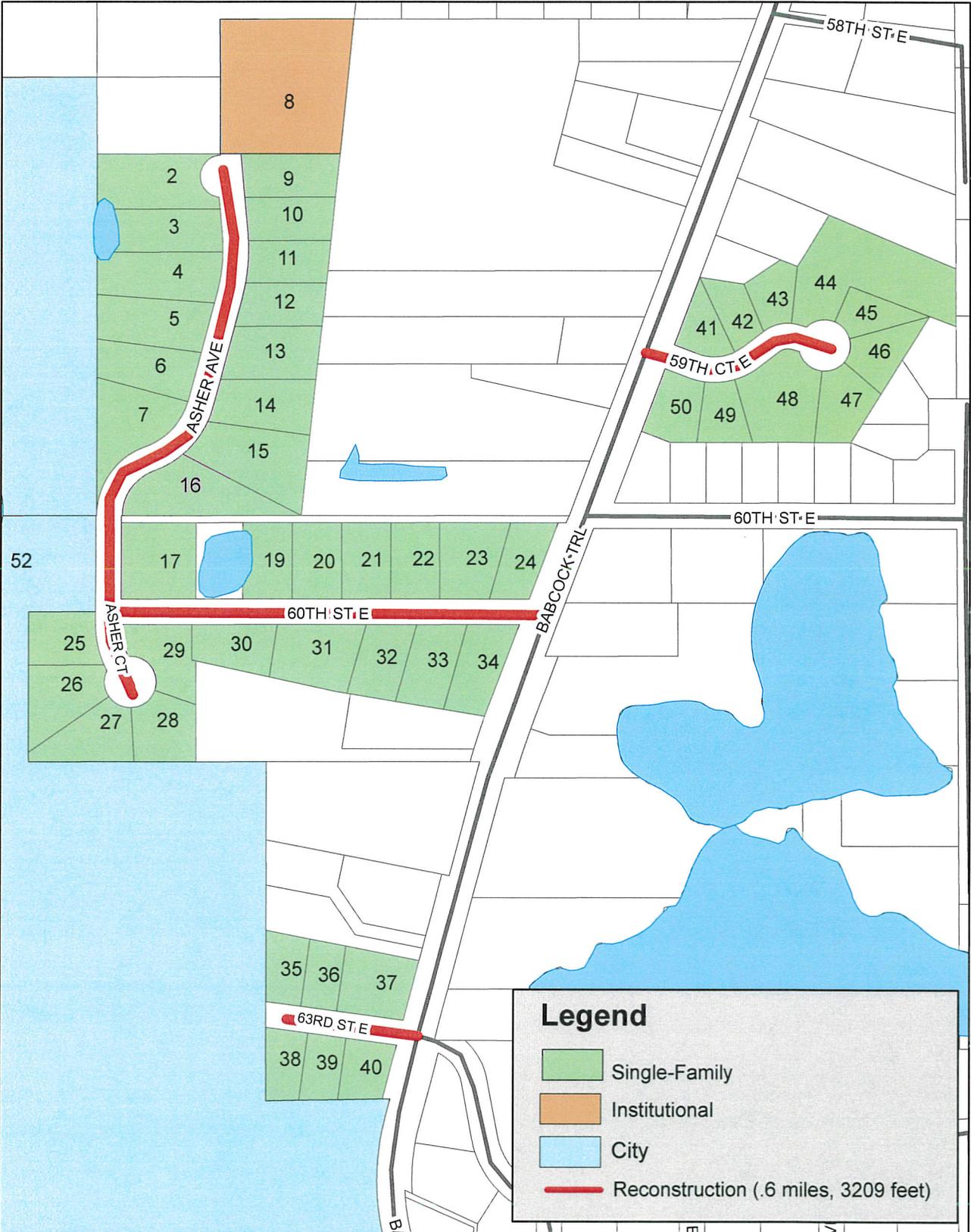
AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



City Project No. 2016-09D
60th Street Area Reconstruction
 Final Assessment Map



THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, INFORMATION AND DATA LOCATED IN VARIOUS CITY, COUNTY AND STATE OFFICES AND OTHER SOURCES AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE CITY OF INVER GROVE HEIGHTS IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.

**CITY PROJECT NO. 2016-09D - 60TH STREET AREA RECONSTRUCTION
FINAL ASSESSMENT ROLL**

Map No.	PID No.	Owner Name	House No.	Street	Final Assessment
2	204250001010	DANIEL & CONNIE FRISKNEY BURKE	5851	ASHER AVE	\$7,500.00
3	204250001020	MARK PEARSON & JILL PENNIE	5875	ASHER AVE	\$7,500.00
4	204250001030	DAVID W & GALINA A JOHNSON	5901	ASHER AVE	\$7,500.00
5	204250001040	PAUL H & JANICE ANDERSON	5917	ASHER AVE	\$7,500.00
6	204250001050	PATRICK O & LAURI C SCHNEIDER	5929	ASHER AVE	\$7,500.00
7	204250001060	THOMAS A & PRISCILLA GADOW	5975	ASHER AVE	\$7,500.00
8	200321081011	INDEPENDENT SCHOOL DIST 199			\$10,528.35
9	204250100010	GREEN TREE SERVICING LLC	5850	ASHER AVE	\$7,500.00
10	204250100020	JAMES C & MELANIE D STICKLER	5866	ASHER AVE	\$7,500.00
11	204250002010	KENNETH & CASSANDRA PREINER	5880	ASHER AVE	\$7,500.00
12	204250002020	CHARLEEN FENICK & BENNETT BENSON	5906	ASHER AVE	\$7,500.00
13	204250002030	TOMMY & MONICA GOSSETT	5924	ASHER AVE	\$7,500.00
14	204250002040	PATRICIA M STEWART	5938	ASHER AVE	\$7,500.00
15	204250002050	PAUL T PELTIER	5952	ASHER AVE	\$7,500.00
16	204250002060	MARY & JOHN ZENSEN	5970	ASHER AVE	\$7,500.00
17	200050005010	JENNIFER L DATKO	1645	60TH ST E	\$7,500.00
19	206820000020	LYNDA K ROGERS	1715	60TH ST E	\$7,500.00
20	206820000030	JORIN & KRISTEN TIX	1735	60TH ST E	\$7,500.00
21	206820000040	WILLIAM MILLINCZEK	1755	60TH ST E	\$7,500.00
22	206820000050	CHRISTIANA TRUST	1775	60TH ST E	\$7,500.00
23	206820000061	CHRISTOPHER PERRONE & AIMEE JILLSOM	5989	BABCOCK TRL	\$7,500.00
24	206820000072	BRIAN TODD GORE	1805	60TH ST E	\$7,500.00
25	206760101070	ROBERT K & CHRISTINE HUNTER	6015	ASHER CT	\$7,500.00
26	206760101060	DANIEL T & LAURA J LEMKE	6025	ASHER CT	\$7,500.00
27	206760101050	CECILIA R MARTINEZ	6035	ASHER CT	\$7,500.00
28	206760101040	JOHN L & CATHERINE M LASKEY	6040	ASHER CT	\$7,500.00
29	206760101030	EMIGRANT RESIDENTIAL LLC	6020	ASHER CT	\$7,500.00
30	206760101020	JOSE A & ALICIA M VILLEGAS	1710	60TH ST E	\$7,500.00
31	206760101010	ROGER W & MARY J SCHWEIGERT	1730	60TH ST E	\$7,500.00
32	206760001020	DONALD C & MARY A TS BRAU			\$7,500.00
33	206760001030	DONALD C & MARY A TS BRAU	1800	60TH ST E	\$7,500.00
34	206760001040	HARVEY R & HOLLY R CAIN	1810	60TH ST E	\$7,500.00
35	206760201010	JOHN & KELLY STADELMAN	1695	63RD ST E	\$7,500.00
36	206760201020	JEROME L & ROXANN A ELLER	1715	63RD ST E	\$7,500.00
37	206760201030	LAWRENCE & NANCY SCHINDELDECKER	6241	BABCOCK TRL	\$7,500.00
38	206760202010	KEVIN & TRICIA MCNAIR	1696	63RD ST E	\$7,500.00
39	206760202020	JOHN F & CHRISTINE K HUERTA	1716	63RD ST E	\$7,500.00
40	206760202030	LYNDA J BEERMANN	1736	63RD ST E	\$7,500.00
41	207245001010	MARC C & KATHERINE M PATTON	1887	59TH CT E	\$7,500.00
42	207245001020	NICOLE LINDSAY TAYLOR	1909	59TH CT E	\$7,500.00
43	207245001040	WALTER P & LYNN M TISCHLER	1921	59TH CT E	\$7,500.00
44	201450001030	MARK A & KATHLEEN R ANDREWS	1937	59TH CT E	\$7,500.00
45	207245001060	BRUCE H & KELLY C KAYSER	1953	59TH CT E	\$7,500.00
46	207245001070	MATTHEW J & BRINN N NITTI	1954	59TH CT E	\$7,500.00
47	207245001080	TERRY & SHERRI NELSON	1948	59TH CT E	\$7,500.00
48	207245001090	DENNIS E & PATTY E MCGRATH	1920	59TH CT E	\$7,500.00
49	207245001100	LUZ M & BRIAN J KANE	1896	59TH CT E	\$7,500.00
50	207245001110	EUGENE T & KAREN J TENNIS	1878	59TH CT E	\$7,500.00
52	200050006010	CITY OF INVER GROVE HEIGHTS			\$61,743.64

Total: \$424,771.99

GERTEN GREENHOUSES

REQUEST FOR COUNCIL ACTION

CITY OF INVER GROVE HEIGHTS

Meeting Date: May 9, 2016
 Item Type: Regular Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by:

Fiscal/FTE Impact:	
X	None
	Amount included in current budget
	Budget amendment requested
	FTE included in current complement
	New FTE requested – N/A
	Other

PURPOSE/ACTION REQUESTED

Consider the following actions for property located on the east side of Blaine Avenue at 2910 54th Street:

- a. A Resolution relating to a Comprehensive Plan Amendment to change the future land use designation from LDR, Low Density Residential to RC, Regional Commercial.
 - Requires 4/5th's vote.

- b. An **Ordinance** amending Ordinance #1230 to rezone additional land to Commercial Planned Unit Development District and to change the site Plan and allowed uses for a growing field expansion.
 - Requires 3/5th's vote.

- b. A **Resolution** approving a PUD Amendment to the Gerten Greenhouse PUD to allow for the growing field expansion.
 - Requires 3/5th's vote.
 - 60-day Deadline: June 27, 2016 (2nd 60 days)

Gertens is proposing to add an approximately 5.7 acre parcel to the PUD for a growing field expansion. There is an existing house on the property that would be used for housing of some employees. Storm water enhancements are being proposed to address the runoff from the growing fields. No other improvements are being proposed at this time.

ANALYSIS

The parcel is somewhat isolated and is surrounded by the commercial operation on almost three sides. Because the majority of the property in this vicinity is used as part of the Gerten operation, staff would support the amendment as it would be consistent with the surrounding uses.

The ordinance amendment would be to rezone Tract G. Tract G would then become part of the PUD would be zoned specifically to allow growing fields and to utilize the existing house for employees.

No full site plan review is necessary since there are no structures proposed for the site. Engineering has reviewed the storm water management plan and is working out the final details with the applicant.

At the Planning Commission meeting, staff raised the issue about the future of the dead end of Brent Avenue and if it should become a permanent cul-de-sac since the land would be used for growing fields and not residential. Originally, staff had recommended a condition be added that

would require some action on the cul-de-sac with this request. Staff has met with the applicant after the Planning Commission meeting and agrees that this should no longer be a condition of approval, but needs to be a discussion item for a future city roadway improvement project. Gertens and staff will continue to discuss this issue.

RECOMMENDATION

Planning Division: Recommends approval of the comp plan amendment, ordinance amendment and PUD Amendment subject to the conditions listed.

Planning Commission: Also recommends approval of the three requests with the conditions listed (8-0).

Attachment: Comp Plan Resolution
Ordinance Amendment
PUD Resolution
Planning Commission Recommendation
Planning Report

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A COMPREHENSIVE PLAN AMENDMENT TO CHANGE
THE LAND USE DESIGNATION FOR THE PROPERTY DESCRIBED BELOW FROM LDR,
LOW DENSITY RESIDENTIAL TO RC, REGIONAL COMMERCIAL**

CASE NO. 16-05PDP)

WHEREAS, an application has been submitted for property legally described as;

**Parts of Southeast Quarter of Northeast Quarter of Section 33, Township 28, Range 22,
which was formerly platted as Lots 1 through 8 inclusive, Block 6, Lots 1 through 8
inclusive, Block 7, Lots 23 through 30 inclusive, Block 7, Lots 1 through 8 inclusive, Block 8
of Edgewood Addition to South St. Paul, and as the streets and alleys abutting on said Lots
before the Vacation of Edgewood Addition to South St. Paul, Dakota County, Minnesota**

WHEREAS, an amendment to change boundaries of any district may be granted by the
City Council on an affirmative vote of 4/5ths of the Council as per City Code Title 10, Chapter
3, Section 10-3-5, A;

WHEREAS, the City of Inver Grove Heights Planning Commission reviewed the
request on April 19, 2016, in accordance with City Code Title 10, Chapter 3, Section 10-3-5, D;

WHEREAS, the change to the Comprehensive Plan was found by the City Council to be
consistent with the existing and proposed uses in the area;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER
GROVE HEIGHTS**, that the Comprehensive Plan Amendment to change the land use
designation to RC, Regional Commercial is hereby approved subject to the following
conditions:

1. The Metropolitan Council shall not require any significant modifications to the comprehensive plan amendment.
2. The Metropolitan Council shall not make a finding that the comprehensive plan amendment has a substantial impact or contain a substantial departure from any metropolitan systems plan.

Adopted by the City Council of Inver Grove Heights on this 9th day of May, 2016.

Ayes:

Nays:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. ____

**AN ORDINANCE AMENDING TITLE 10 OF THE CITY CODE
RELATED TO THE PLANNED UNIT DEVELOPMENT ZONING DISTRICT
IN THE SOUTHEAST QUADRANT OF HIGHWAYS 52 AND 494**

THE CITY OF INVER GROVE HEIGHTS ORDAINS THAT ORDINANCE NUMBERS 891, 912, 915, 928, 946, 968, 976, 977, 985, 1022, 1056, 1058, 1062, 1064, 1074, 1101, 1106, 1112, 1133, 1135, 1136, 1187, 1190 and 1230 ARE HEREBY RESTATED AND AMENDED TO READ AS FOLLOWS:

SECTION I. Rezoning Land to Planned Unit Development (PUD). Ordinance No. 1190 adopted July 27, 2009, entitled, "AN ORDINANCE ADOPTING THE RECODIFICATION OF THE INVER GROVE HEIGHTS CITY CODE INCLUDING THE CITY ZONING ORDINANCE, is hereby amended to rezone from MF PUD to Planned Unit Development Zoning District No. 2016-01 the following described property:

Parts of Southeast Quarter of Northeast Quarter of Section 33, Township 28, Range 22, which was formerly platted as Lots 1 through 8 inclusive, Block 6, Lots 1 through 8 inclusive, Block 7, Lots 23 through 30 inclusive, Block 7, Lots 1 through 8 inclusive, Block 8 of Edgewood Addition to South St. Paul, and as the streets and alleys abutting on said Lots before the Vacation of Edgewood Addition to South St. Paul, Dakota County, Minnesota

SECTION II. The Zoning Map of the City of Inver Grove Heights referred to and described in said Ordinance No. 1230 as that certain map entitled "Inver Grove Heights Zoning Map, June 24, 2002", together with all amendments thereto, hereinafter referred to as the "zoning map", shall not be republished to show the aforesaid rezoning, but the Clerk shall appropriately mark the said zoning map on file in the Clerk's Office for the purpose of indicating the rezoning hereinabove provided for in this ordinance and all of the notations, references and other information shown thereon are hereby incorporated by reference and made a part of this ordinance.

SECTION III. Purpose and Intent. The above referenced property is hereby rezoned to Commercial Planned Unit Development Zoning District No. 2016-01, for the purposes of:

- A. Providing the means for greater creativity and flexibility in environmental design than is provided for under the strict application of the existing zoning code while at the same time preserving the health, safety, order, convenience, prosperity and general welfare of the City and its inhabitants.
- B. Recognizing the economic and cultural advantages that will accrue to the residents of a planned community.
- C. Encouraging the preservation and enhancement of desirable site characteristics and open space.

- D. Encouraging a development pattern in harmony with land use density, transportation facilities and community objectives of the comprehensive plan.
- E. Limiting development of tax exempt uses.
- F. Providing incentives and encouraging development that will create a desirable tax base.
- G. Prohibiting uses and developments that could be detrimental to the overall development of the area.

SECTION IV. Findings. In rezoning the above referenced property to Commercial Planned Unit Development No. 2016-01, the City Council has found the following:

- A. That the proposed Commercial Planned Unit Development is consistent with the City's 2030 Comprehensive Plan.
- B. That the proposed development has been designed as a complete and unified development within its own boundaries in terms of relationship of structures, patterns of circulation, visual character, interrelationship of utilities and drainage infrastructure, and overall architectural theme.
- C. That the proposed layout of land use within the development will result in compatible land uses with present and planned uses in the surrounding area.
- D. That the development is sufficient unto itself on the basis of size, composition, arrangement and the provision of municipal utilities.
- E. That the impacts of the proposed development on municipal services and facilities have been reviewed and that mitigative measures have been identified where needed.
- F. That the impacts of the proposed development on environmental quality and the reasonable enjoyment of surrounding property have been identified, analyzed and mitigative measures identified where needed.
- G. That the existing and proposed layout and land use for Tracts A-D have been heretofore regulated in part by a succession of Conditional Use Permit Resolutions. Resolution No. 4573 was adopted by the City Council on 9/25/89. It was rescinded and replaced on 11/20/89 by Resolution No. 4615, which was rescinded on 8/27/90 and replaced with Resolution No. 4847, which was rescinded on 6/13/94 and replaced by Resolution No. 6055, which was rescinded on 4/10/95 and replaced by Resolution No. 6276, which was rescinded on 2/24/97 and replaced by Resolution No. 6789, which was rescinded on 2/23/98 and replaced by Resolution No. 98-30, which was rescinded on 2/28/11 and replaced by Resolution No. 11-28. This PUD Ordinance now replaces Resolution No. 11-28.

SECTION V. Land Use Regulations. For the above referenced property contained within the Commercial Planned Unit Development District No. 2011-01, the following land use regulations shall apply:

A. SITE PLAN

Prior to commencement of any development or issuance of grading or building permits, the City Council shall approve final development plans, including but not limited to: final plat, site plan, grading plan, utility plan, landscape plan, elevation plan, signage plan, lighting plan.

B. USES

All development shall be restricted to the following uses:

Parcel No.	Legal Description*	Specific Use
1	Lot 1, Block 1, Bishop Heights	65,000 square foot, 16-screen theater
2	Lot 2/3, Block 1, Bishop Heights	7,400 square foot sit down restaurant
3	Lot 2/3, Block 1, Bishop Heights	36,371 square foot, 89 room motel
4	Lot 4, Block 1, Bishop Heights	25,292 square foot, 63 room motel
5	Lot 5 and part of Lot 4, Bishop Heights	6,163 square foot sit down restaurant
6	Lot 2, Block 2, Bishop Heights	6,500 square foot bank and office building
7	Lot 3, Block 2, Bishop Heights	4,271 square foot gas station convenience store
8	Lot 1, Block 1, Krech's Addition	15,120 square foot drug store
9	Tracts A-D, F and G	42,000 square foot lawn, garden, floral & nursery retail center (two buildings: 29,400 sf in one, 12,400 sf in other); 605,000 square feet of greenhouses and nursery buildings; 2,150 sf accessory structures (2 barns) for storage of materials and equipment; nursery fields and nursery field caretaker's residence; outside storage/display of nursery and landscaping stock and materials; nursery and landscaping services, 5.7 acres of growing fields and one house for use by employees**
10	Lot 1, Block 1, Bishop Heights 2 nd Addition	1,710 sf quick service oil change store
11	Lot 1, Block 1, Bishop Heights 3 rd Addition	6,832 sf auto service center store
12	Lots 1-31, Block 1, Blackberry Town Office Park	65,415 net sf townoffice space, 31 units
13	Lot 1, Block 1, Blackberry Town Office Park Second Addition	4,950 gross sf veterinary clinic
14	Lot 1, Block 1, Inver Grove Market	14,009 square feet of general retail, 5,680 square feet of sit-down restaurant, and 1,516 square feet of fast food restaurant (without a drive through window)
15	Lots 6-10, Block 7, Warren and McDowell's Acre Lots No. 2	Rock and Block Yard for Gerten's Greenhouses
16	Lots 1-88, Brentwood Village	80 townhome units
17	Lot 1, Bk 2, Bishop Heights	7,200 sf sit down restaurant
18	Lots 1 & 2, Block 1, Outlot A Brentwood Village Apts.	219 apartment units
19	Outlot B, Bishop Heights	43,400 square foot medical/office building
20	Lot 2, Block 1, Inver Grove Market	5,200 square foot bank building
21	Lot 3, Block 1, Bishop Heights 4 th Addition	9,100 square feet of general retail

22***	Lot 1, Block 1, Bishop Heights 4 th Addition	10,400 square feet of general retail and 5,000 square foot sit-down restaurant
23	Lot 1, Block 1, Scenic Heights Addition	16,000 square foot office condominium
24	Outlot A, Brentwood Hills Apartments	24 multiple family townhome units
25	Lot 2, Block 1, Inver Grove Professional Addition	13,318 square foot office building

* More detailed legal descriptions available in Exhibit A

** Uses on Tracts A-D, F & G shall be governed not only by this ordinance, but also by the conditions found in Resolution No 98-210, Resolution 11-28 and Resolution ____.

***Parcel 22 shall be subject to the following conditions:

1. A Joint Parking Agreement affecting the restaurant in Lot 1, Block 1 Bishop Heights 4th Addition between Outlot B, Bishop Heights and Lot 3, Block 1, Bishop Heights 4th Addition. This document must be drafted by the City attorney's office, signed by the land owners, and recorded with the County.
2. If restaurant parking becomes a problem restaurant employees shall park off site at any of the locations listed in the Joint Parking Agreement.

C. PERFORMANCE STANDARDS

All development shall meet the following performance standards. Where a specific standard is not addressed herein, the appropriate land use regulations of the City Code shall apply.

1. Minimum lot width - 100'

2. Setbacks:

	Structures	Parking Lots	Driveways
Upper 55 th St., Blaine Ave. & Cahill Ave	50'	20'	10'
Other Public Streets	30'	20'	10'
Side Yard (adjacent to properties within PUD)	0'	0'	0'
Side Yard (adjacent to properties outside PUD)	30'	10'	10'

Internal private driveways (setbacks to be approved with final development plan).

3. Maximum Building Height:

- a. Principal Structures - 35'

- b. Accessory Structures - 30'

- c. Greater building height shall be allowed by conditional use permit subject to City Code Section 515.59, Subd 10.

4. Minimum Open Space shall be 25% of lot area, with the lot area to be determined by the City. Ponding or steep slopes (in excess of 18%) shall not exceed 10% of the total lot area for purposes of this computation.

5. Parking/Circulation Requirements:

- (a) All open off-street parking and loading areas shall have a perimeter continuous concrete curb barrier around the entire lot.

6. Landscaping, Signage and Architecture:

Development of all lots in Bishop Heights shall be in conformance with the design manual on file in the City Offices entitled Design Guidelines, Bishop Heights and Kerasotes Theaters, Inc., Planned Unit Development, Inver Grove Heights, dated June 23, 1997 and prepared by Damon Farber Associates and Abend Singleton Associates.

Development of all lots in Krech's Addition shall be in conformance with the Cahill Corridor Master Plan and those portions of the Design Guidelines, Bishop Heights and Kerasotes Theaters, Inc., Planned Unit Development, Inver Grove Heights which the City finds appropriate.

Development of Tracts A-D, as described in Exhibit A, shall be in conformance with those portions of the design manual on file in the City Offices entitled Design Guidelines, Bishop Heights and Kerasotes Theaters, Inc., Planned Unit Development, Inver Grove Heights which the City finds appropriate.

Development of all lots shall also be in conformance with the City landscape policy.

D. GENERAL PROVISIONS

All development, except Tracts A-D, shall meet the following general provisions. All development which occurs on Tracts A-D in accordance with Resolution No. 98-210, and which has occurred prior to the effective date of this Ordinance, shall not be required to meet General Provisions 1, 2, 3, 4, 5, 6 and 9. Where a specific provision is not addressed herein, the appropriate land use regulation of the City Code shall apply.

1. Loading Areas:

Loading and unloading areas shall be in compliance with the following:

- a. Any use which the City believes requires the provision of designated spaces for the loading, unloading or parking of trucks or semi-trailers shall provide such spaces and maneuvering area in the number and configuration which shall be deemed necessary by the City to prevent interference with the use of the public right-of-way and with vehicles entering onto or exiting from the public right-of-way.
- b. Screening shall be provided in accordance with provisions of Paragraph 2, below, of this Section.

2. Screens and Buffers:

- a. Definition and Purpose: Screens and buffers are designated yards or open areas where distance, planting, berming and fencing help minimize adverse impacts of public nuisances, such as: noise, glare, activity or dust; which are sometimes associated with parking, storage, signs or buildings.
- b. Screens and Buffer Requirements:
 - (i) All parking, loading, service, utility and outdoor storage areas shall be screened from all public streets and adjacent differing land use by a combination of any of the following: earth mounds, walls, fences, shrubs, deciduous overstory or coniferous trees or hedge materials. The height and depth of the screening shall be consistent with the height and size of the area to be screened. When natural materials, such as trees or hedges, are used to meet the screening requirements of this Paragraph, density and species of planting shall be such as to achieve seventy-five percent (75%) opacity year round at maturity.
 - c. All plant materials required within a specified buffer yard shall be planted to completion within six (6) months from the date of issuance of a building permit unless otherwise approved by the City due to the time of the year or construction for a large

project. In no case shall the period exceed six (6) months from issuance of the certificate of occupancy.

3. Building Design Requirements:

a. Design Supervision by Architect: An architect shall be required for the construction of all buildings. The building plan, including site plan for such a building, shall be certified by an architect, registered by the State of Minnesota, stating that the individual personally viewed the site and has designed the building to fit the site as planned and to be harmonious with the adjacent buildings, topography and natural surroundings and in accordance with the purposes and objectives of this Chapter. This requirement shall not prohibit the preparation of the site by a professional site designer, or the landscape plan by a professional landscape architect or certified nurseryman.

b. Exterior Vertical Surface Design for Commercial Structures: All exterior vertical surfaces of any principal or accessory structure shall have an equally attractive or the same fascia as the front. At least 50% of the exterior vertical surface shall consist of one or a combination of the following or similar materials: brick veneer; sculptured, textured or concrete block or panels; natural wood siding; steel, aluminum or vinyl lap siding; natural stone or glass.

4. Site Design and Development Requirements:

a. Landscaping shall be in accordance with the provisions of the "Performance Standards" Section of this Planned Unit Development.

b. Interior curbs shall be constructed within the property to separate driving and parking surfaces from landscaped areas. Interior curbs required by this Section shall be Portland cement concrete construction.

c. Surfaced walkways shall be provided from parking, loading and recreational areas to the entrances of buildings.

d. All interior driveways, parking areas, and loading areas, etc. shall be of blacktop or concrete construction.

e. No exterior trash or garbage disposal or incineration shall be permitted. Any exterior storage shall be enclosed within a container and such container shall be completely screened by a wall or equivalent visual screen and shall be attached to the principal structure and be constructed of the same building material.

f. On-site lighting shall be provided as is necessary for security, safety and traffic circulation. Lighting shall not be directed upon public rights-of-way or adjacent properties. Such illumination shall be indirect and diffused.

g. Prior to the issuance of building permits, fire lanes shall be provided and identified as required by the City Fire Marshal.

5. Mechanical Equipment Screening:

All mechanical equipment possessing one or more of the following characteristics shall be physically screened, to the extent feasible, from all public streets and adjacent land

uses with either natural or artificial materials in a manner architecturally compatible to the building(s) on the site. Said screening shall pertain to, but not be limited to, exposed and/or protruding fans, grills, tubes, wires, vents, unfinished metal covering, exposed rivets and exposed seams.

6. Sidewalks, Trails and Pedestrian Walkways:

a. Sidewalks, trails and pedestrian walkways shall be provided and maintained in accordance with the Comprehensive Plan.

b. As a minimum, a pedestrian sidewalk and/or minimum eight (8) foot wide bituminous trail shall be provided by the developer or land owner along the north side of Upper 55th Street and an eight (8) foot wide bituminous trail along the west side of Blaine Avenue.

c. The developer shall install six (6) foot wide concrete sidewalks along both sides of Bishop Avenue and along both sides of the public roadway connecting Bishop Avenue and Blaine Avenue.

d. An interior pedestrian circulation; plan shall be submitted with each development for approval by the City.

7. Site Plan and Building Permit Review:

To ensure uniform development throughout the planned unit development area and development that is consistent with the provisions herein, all site and building plans required for building permits, grading permits, excavation permits or other similar permits issued by the City must be found by the Director of Community Development or assigns to be consistent with the approved PUD Plans, the provisions of this Ordinance, the Development Contract and all other applicable sections of the City Code.

8. Traffic:

The forecasted p.m. peak hour traffic generated by the developments shall not exceed:

Lot	Parcel #	Trips
Lot 1, Block 1, Bishop Heights	1	177
Parcel A, Bishop Heights (Described in Exhibit A)	2	72
Parcel B, Bishop Heights (Described in Exhibit A)	3	83
That part of Lot 4, Block 1, Bishop Heights described in Exhibit A.	4	38
Lot 5, Block 1, Bishop Heights and that portion of Lot 4 described in Exhibit A.	5	78
Lot 2, Block 2, Bishop Heights	6	120
Lot 3, Block 2, Bishop Heights	7	180
Lot 1, Block 1, Krech's Addition	8	116
Tracts A-D, F and G as described in Exhibit A	9	208
Lot 1, Block 1, Bishop Heights 2 nd Addition	10	18
Lot 1, Block 1, Bishop Heights 3 rd Addition	11	28
Lots 1-31, Block 1, Blackberry Town Office Park	12	141
Lot 1, Block 1, Blackberry Town Office Park Second Addition	13	20
Lot 1, Inver Grove Market	14	148
Lots 6-10, Block 7, Warren and McDowell's Acre Lots No. 2	15	40
Lots 1-88, Brentwood Village	16	43
Lot 1, Bk 1, Bishop Heights	17	78
Lots 1 & 2, Bk 1, Brentwood Village Apartments	18	136
Outlot B, Bishop Heights	19	146
Lot 2, Inver Grove Market	20	205
Lot 3, Block 1, Bishop Heights 4 th Addition	21	34
Lot 1, Block 1, Bishop Heights 4 th Addition	22	126
Lot 1, Block 1, Scenic Heights Addition	23	23
Outlot A, Brentwood Hills Apartments	24	19
Lot 2, Block 1, Inver Grove Professional Addition	25	20

The trips have been determined by the City using national or state traffic generation studies or reports prepared by engineering professionals, including the Trip Generation Report, prepared by the Institute of Transportation Engineers. This determination is being made by the City at the time of final development plan approval. Any change which effects the site plan or uses, as approved in Section V, A and B, including an increase in building size, shall require a redetermination by the City of forecasted p.m. peak hour trips, and shall not exceed the number of trips, as hereby approved.

9. Maintenance Agreements:

Contemporaneous with recording the plat of Bishop Heights, the owners of Lots 1,2,3, Block 1; Lots 1,2,3, Block 2, Bishop Heights, shall execute a stormwater maintenance agreement, a landscape maintenance agreement, and a street light maintenance agreement, in a form to be approved by the Director of Public Works, the Director of Community Development, and the City Attorney.

SECTION VI. The effective date of the Planned Unit Development Zoning District No. 2010-01 as amended shall be from and after publication of this Ordinance pursuant to City Code Section 110.03 Subd. 5. The Planned Unit Development shall be designated on the official City Zoning Map as “Planned Unit Development No. 2011-01” upon approval of the rezoning by the City Council.

THIS ORDINANCE NO. 1230 RESTATES AND AMENDS ORDINANCE NOS. 891, 912, 915, 928, 946, 968, 976, 977, 985, 1022, 1056, 1058, 1062, 1064, 1074, 1101, 1106, 1112, 1133, 1135, 1136, 1187, 1190 and 1230.

The City Deputy Clerk is hereby authorized and directed to record a certified copy of this ordinance at the Dakota County Recorder’s Office.

This ordinance shall be in full force and effect from and after its publication according to law.

Enacted and ordained into an Ordinance this 9th day of May, 2016.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

EXHIBIT A

Parcel No.	Legal Description
1	Lot 1, Block 1, Bishop Heights, Dakota County, Minnesota
2	That part of Block 1, Lots 2 and 3, Bishop Heights, Dakota County, Minnesota which lies northerly and northeasterly of the following described line: Commencing at the northwest corner of said Lot 2; thence South 21 degrees 15 minutes 20 seconds East, bearing assumed, along the southwesterly line of said Lot 2 a distance of 24.16 feet to the point of beginning of the line to be described; thence South 89 degrees 25 minutes 07 seconds East 155.57 feet; thence South 0 degrees 34 minutes 53 seconds West 39.02 feet; thence South 20 degrees 40 minutes 09 seconds East 22.52 feet; thence South 89 degrees 25 minutes 07 seconds East 62.64 feet; thence South 0 degrees 34 minutes 53 seconds West 30.00 feet; thence South 89 degrees 25 minutes 07 seconds East 90.00 feet; thence South 0 degrees 34 minutes 53 seconds West 30.00 feet; thence South 89 degrees 25 minutes 07 seconds East 191.65 feet; thence South 76 degrees 45 minutes 56 seconds East 29.75 feet more or less to the westerly right of way line of Bishop Avenue, and there terminating.
3	That part of Block 1, Lots 2 and 3, Bishop Heights, Dakota County, Minnesota which lies southerly and southwesterly of the following described line: Commencing at the northwest corner of said Lot 2; thence South 21 degrees 15 minutes 20 seconds East, bearing assumed, along the southwesterly line of said Lot 2 a distance of 24.16 feet to the point of beginning of the line to be described; thence South 89 degrees 25 minutes 07 seconds East 155.57 feet; thence South 0 degrees 34 minutes 53 seconds West 39.02 feet; thence South 20 degrees 40 minutes 09 seconds East 22.52 feet; thence South 89 degrees 25 minutes 07 seconds East 62.64 feet; thence South 0 degrees 34 minutes 53 seconds West 30.00 feet; thence South 89 degrees 25 minutes 07 seconds East 90.00 feet; thence South 0 degrees 34 minutes 53 seconds West 30.00 feet; thence South 89 degrees 25 minutes 07 seconds East 191.65 feet; thence South 76 degrees 45 minutes 56 seconds East 29.75 feet more or less to the westerly right of way line of Bishop Avenue, and there terminating
4	Lot 4, Block 1, Bishop Heights, except that part lying south of the following described line: Commencing at the northwest corner of said Lot 4, thence southeasterly along the westerly line of said Lot 4 on an assumed bearing of South 21 degrees 15 minutes 20 seconds East 107.57 feet to the point of beginning of the line to be described; thence North 68 degrees 44 minutes 40 seconds East, a distance of 80.50 feet; thence South 21 degrees 15 minutes 20 seconds East, a distance of 17.04 feet; thence South 18 degrees 58 minutes 24 seconds East a distance of 65.59 feet; thence North 89 degrees 59 minutes 25 seconds East a distance of 216.22 feet; thence North 37 degrees 12 minutes 54 seconds East 28.52 feet; thence North 89 degrees 25 minutes 20 seconds East, a distance of 47.10 feet more or less to the Easterly line of Lot 4 and there terminating.
5	Lot 5, Block 1, Bishop Heights and that part of Lot 4, Lot 1, Bishop Heights lying south of the following described line: Commencing at the northwest corner of said Lot 4, thence southeasterly along the westerly line of said Lot 4 on an assumed bearing of South 21 degrees 15 minutes 20 seconds East 107.57 feet to the point of beginning of the line to be described; thence North 68 degrees 44 minutes 40 seconds East, a distance of 80.50 feet; thence South 21 degrees 15 minutes 20 seconds East, a distance of 17.04 feet; thence South 18 degrees 58 minutes 24 seconds East a distance of 65.59 feet; thence North 89 degrees 59 minutes 25 seconds East a distance of 216.22 feet; thence North 37 degrees 12 minutes 54 seconds East 28.52 feet; thence North 89 degrees 25 minutes 20 seconds East, a distance of 47.10 feet more or less to the Easterly line of Lot 4 and there terminating.
6	Lot 2, Block 2, Bishop Heights
7	Lot 3, Block 2, Bishop Heights
8	Lot 1, Block 1, Krech's Addition
9	Tract A, described as: The East Half of the Southwest Quarter of the Northeast Quarter; and the North 270 feet of the East Half of the Northwest Quarter of the Southeast Quarter, Section 33, Township 28, Range 22, according to the U.S. Government Survey thereof, Dakota County, Minnesota.

Tract B, described as:

Parcel 1: Lots 8 through 23, Block 3, Edgewood Addition to South St. Paul, Dakota County, Minnesota, the vacated alley in said Block 3, and that part of Boyd Avenue (formerly Hamilton Avenue) accruing thereto by reason of the vacation thereof, which lies South of the tract shown as parcel 240B on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and as said plat has been corrected by Certificate of Correction filed for record with said County Recorder on the 4th day of November 1982, at 9:00 a.m., as Document No. 610751;

Parcel 2: Block 4, Edgewood Addition to South St. Paul, Dakota County, Minnesota including the alley in said Block 4 and that part of Boyd Avenue (formerly Hamilton Avenue) accruing thereto by reason of the vacation thereof, Except that part of Lots 1 through 8 inclusive and Lots 23 through 30 inclusive, in said Block 4, and that part of the alley in said Block 4 and that part of vacated Boyd Avenue (formerly Hamilton Avenue) accruing thereto by reason of the vacation thereof, shown as Parcel 240A on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and or Dakota County, Minnesota, and as said plat has been corrected by Certificate of Correction filed for record with said County Recorder on the 4th day of November 1982, at 9:00 a.m., as Document No. 610751.

Tract C, described as:

Parcel 1: Lots 3, 6, 7 and the westerly 60 feet of Lot 2, Block 8, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of record in the office of the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 233B on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, except the existing Right of Way of Trunk Highway 110. Torrens Property, Torrens Certificate No. 32372

Parcel 2: Lot 1 and Lot 2 less the westerly 60 feet thereof, Block 8, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 233C on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and except the existing Right of Way of Trunk Highway 110. Torrens Property, Torrens Certificate No. 101901.

Parcel 3: Lots 4, 5, 8, 9 and 10, Block 8, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 233A on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and except the existing Right of Way of Trunk Highway 110. Torrens Property, Torrens Certificate No. 101902.

Tract D, described as:

Lots 3, 4, 5, 26 and 27, Block 3, Glenwood, Dakota County, Minnesota, according to the recorded plat hereof, in Dakota County, Minnesota.

Tract F, described as:

The East Half of the Northwest Quarter of the Southeast Quarter of Section 33, Township 28, range 22, except the North 270 feet thereof lying Northerly of the Southerly right-of-way of Dakota County Road No. 18.

	<p>Except that part described as follows: Commencing at the Southwest corner of the Northwest Quarter of the Southeast Quarter of Section 33, Township 28, Range 22 West; thence on an assumed bearing of North 89 degrees 50 minutes 28 seconds East along the South line of said Northwest Quarter of the Southeast Quarter a distance of 657.07 feet to the Southwest corner of the East Half of the Northwest Quarter of the Southeast Quarter and said point being the point of beginning; thence North 0 degrees 07 minutes 49 seconds West along the West line of said East Half of the Northwest Quarter of the Southeast Quarter a distance of 58.51 feet; thence North 83 degrees 29 minutes 34 seconds East 197.77 feet; thence South 6 degrees 30 minutes 26 seconds East a distance of 80.88 feet to the South line of said East Half of the Northwest Quarter of the Southeast Quarter; thence South 89 degrees 50 minutes 28 seconds West along said South line a distance of 205.52 feet to the point of beginning, except that part previously acquired for County Road No. 18 (a/k/a Upper 55th Street).</p> <p>Tract G, described as: Parts of Southeast Quarter of Northeast Quarter of Section 33, Township 28, Range 22, which was formerly platted as Lots 1 through 8 inclusive, Block 6, Lots 1 through 8 inclusive, Block 7, Lots 23 through 30 inclusive, Block 7, Lots 1 through 8 inclusive, Block 8 of Edgewood Addition to South St. Paul, and as the streets and alleys abutting on said Lots before the Vacation of Edgewood Addition to South St. Paul, Dakota County, Minnesota</p>
10	Lot 1, Block 1, Bishop Heights 2 nd Addition
11	Lot 1, Block 1, Bishop Heights 3 rd Addition
12	Lots 1-31, Block 1, Blackberry Townoffice Park
13	Lot 1, Block 1, Blackberry Town Office Park Second Addition
14	Lot 1, Inver Grove Market
15	Lots 6, 7, 8, 9 and 10, Block 7, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 333 on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota.
16	Lots 1-88, Brentwood Village
17	Lot 1, Block 2, Bishop Heights
18	Lots 1 & 2, Bk 1, Outlot A, Brentwood Village Apartments
19	Outlot B, Bishop Heights
20	Lot 2, Block 1, Inver Grove Market
21	Lot 3, Block 1, Bishop Heights 4 th Addition
22	Lot 1, Block 1, Bishop Heights 4 th Addition
23	Lot 1, Block 1, Scenic Heights Addition
24	Outlot A, Brentwood Hills Apartments
25	Lot 2, Block 1, Inver Grove Professional Addition

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION APPROVING AN AMENDMENT TO THE FINAL DEVELOPMENT
PLANS FOR THE GERTEN GREENHOUSES, INC. PROPERTY LOCATED EAST OF
BLAINE AVENUE TO ALLOW THE EXPANSION OF GROWING FIELDS AND TO
ALLOW USE OF THE EXISTING HOUSE AS HOUSING FOR EMPLOYEES**

CASE NO. 16-05PDP

Property located at 5500 Blaine Avenue and 2910 54th Street

WHEREAS, a Final PUD Development Plan Amendment application has been submitted to the City for property known as Tract G, but also includes all property legally described in Resolution No. 11-28 as;

SEE EXHIBIT A

WHEREAS, the subject property is located within the neighborhood known as the Southeast Quadrant, which is generally bounded on the south by Upper 55th Street, on the west by Hwy 52, on the north by Interstate 494, and on the east by South St. Paul;

WHEREAS, approval of all developments in this neighborhood since 1995 have been in conjunction with Planned Unit Developments and Final Development Plans;

WHEREAS, the City Council approved the latest Final Development Plan Amendment for property described in Resolution No. 11-28 on February 28, 2011;

WHEREAS, a public hearing concerning the Amendment to the Final Development Plan was held before the Inver Grove Heights Planning Commission on April 19, 2016;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, the Amendment to the Final PUD development plan for Gerten Greenhouses,

Inc. property located east of Blaine Avenue is hereby approved subject to the following conditions:

1. The site shall be developed in substantial conformance with the plans approved under Resolution #11-28 and all previously approved plans.
2. The Planned Unit Development for which these Final Development Plans are being approved is subject to Ordinance No. ___ together with any other applicable codes.
3. Any building additions, new buildings or changes to the use of the property beyond growing fields and utilizing the existing house as housing for employees will require an amendment to the PUD and approval by the City Council.
4. The City's Code Enforcement Officer shall be granted right of access to the property at all reasonable times to ensure compliance with the terms and conditions of approval.
5. Site lighting shall be installed and maintained in such a manner as to prevent any direct source of light from being visible from the public right-of-way or adjacent property.
6. All signage must be consistent with standards found in the City Code.
7. Accessory buildings identified as P and Q on the attached exhibits are not to be used for retail purposes nor are they to be accessible to the public.
8. Unless specifically stated herein, development plan approval does not imply approval of any variances, nor does it grant exceptions from any Building Code or Fire Code requirements that may apply to the construction of use of improvements on the site.
9. Outdoor sales of only plan and landscaping materials shall be permitted on the site. Outdoor display of agricultural implements and machinery for sale on or from the site is prohibited. Screening requirements for the property shall be waived.
10. Open storage, other than specifically permitted herein shall be prohibited on the site.
11. A minimum 20 foot wide, unobstructed, all-weather surfaced access roadway must be provided, in accordance with the Fire Code, to within 150 feet of the exteriors of all buildings on the site. Approval by the Fire Marshal of all fire access roads and on-site water supply shall be required prior to issuance of any building permits.

- 12. Should construct of any future public streets be done in the future, and the construction requires removal of any or all of these buildings identified as J, K, L, M, N, O, P, Q on the attached exhibit, the applicant agrees to remove them at no cost to the City.
- 13. When the land upon which the 10'x10' business sign is located ceases to be leased as a contiguous parcel with the remainder of the Gerten Greenhouse parcels, the sign shall be removed within 90 days.
- 14. Prior to City Council approval, the final grading, drainage and erosion control, and utility plans shall be approved by the City Engineer. The plans shall address comments in memo from Assistant City Engineer dated 4/6/16.
- 15. Resolution #11-28 shall become null and void and replaced with the conditions contained in this resolution.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL, that the Mayor and Deputy Clerk are hereby authorized to execute the Final Plat and Development Contract.

Passed this ____ day of _____, 2016.

AYES:
NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

EXHIBIT A

TRACT F

The East Half of the Northwest Quarter of the Southeast Quarter of Section 33, Township 28, Range 22, except the North 270 feet thereof lying Northerly of the Southerly right-of-way of Dakota County Road No. 18.

Except that part described as follows:

Commencing at the Southwest corner of the Northwest Quarter of the Southeast Quarter of Section 33, Township 28, Range 22 West; thence on an assumed bearing of North 89 degrees 50 minutes 28 seconds East along the South line of said Northwest Quarter of the Southeast Quarter a distance of 657.07 feet to the Southwest corner of the East Half of the Northwest Quarter of the Southeast Quarter and said point being the point of beginning; thence North 0 degrees 07 minutes 49 seconds West along the West line of said East Half of the Northwest Quarter of the Southeast Quarter a distance of 58.51 feet; thence North 83 degrees 29 minutes 34 seconds East, 197.77 feet; thence South 6 degrees 30 minutes 26 seconds East a distance of 80.88 feet to the South line of said East Half of the Northwest Quarter of the Southeast Quarter; thence South 89 degrees 50 minutes 28 seconds West along said South line a distance of 205.52 feet to the point of beginning, except that part previously acquired for County Road No. 18 (a/k/a Upper 55th Street).

Tract G

Parts of Southeast Quarter of Northeast Quarter of Section 33, Township 28, Range 22, which was formerly platted as Lots 1 through 8 inclusive, Block 6, Lots 1 through 8 inclusive, Block 7, Lots 23 through 30 inclusive, Block 7, Lots 1 through 8 inclusive, Block 8 of Edgewood Addition to South St. Paul, and as the streets and alleys abutting on said Lots before the Vacation of Edgewood Addition to South St. Paul, Dakota County, Minnesota

DP 23-28-22

Exhibit A

The East Half of the Southwest Quarter of the Northeast Quarter and the North 270 feet of the East Half of the Northwest Quarter of the Southeast Quarter, Section 33, Township 28, Range 22, according to the U.S. Government Survey thereof, Dakota County, Minnesota.

AND

Parcel 1: Lots 8 through 23, Block 3, EDGEWOOD ADDITION TO SOUTH ST. PAUL, Dakota county, Minnesota, the vacated alley in said Block 3, and that part of Boyd Avenue (formerly Hamilton Avenue) accruing thereto by reason of the vacation thereof, which lies South of the tract shown as parcel 240B on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and as said plat has been corrected by Certificate of Correction filed for record with said County Recorder of the 4th day of November, 1982, at 9:00 a.m., as Document No. 610751;

Parcel 2: Block 4, EDGEWOOD ADDITION TO SOUTH ST. PAUL, Dakota County, Minnesota including the alley in said Block 4 and that part of Boyd Avenue (formerly Hamilton Avenue) accruing thereto by reason of the vacation thereof. Except that part of Lots 1 through 8 inclusive and Lots 23 through 30 inclusive, in said Block 4, and that part of the alley in said Block 4 and that part of vacated Boyd Avenue (formerly Hamilton Avenue) accruing thereto by reason of the vacation thereof, shown as Parcel 240A on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and as said plat has been corrected by Certificate of Correction filed for record with said County Recorder of the 4th day of November, 1982, at 9:00 a.m., as Document No. 610751.

AND

Parcel 1: Lots 3, 6, 7 and the westerly 60 feet of Lot 2, Block 8, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of recording the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 233B on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and except the existing right-of-way of Trunk Highway 110, Torrens Property, Torrens Certificate No. 32732.

Parcel 2: Lot 1 and Lot 2 less the westerly 60 feet thereof, Block 8, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 233C on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and except the existing right-of-way of Trunk Highway 110, Torrens Property, Torrens Certificate No. 101901.

Parcel 3: Lots 4, 5, 8, 9 and 10, Block 8, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 233A on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota, and except the existing right-of-way of Trunk Highway 110, Torrens Property, Torrens Certificate No. 101902.

AND

Lots 3, 4, 5, 26 and 27, Block 3, GLENWOOD, Dakota County, Minnesota, according to the recorded plat thereof, in Dakota County, Minnesota.

(A) pt. SW/NE
pt. NW/SE
33-28-22

(A) Lot 8-23 blk 3
33-28-22

(A) blk 4
33-28-22

(T) Lot 3, 6, 7
pt. Lot 2
PAR 1 #135788
33-28-22

(T) Lot 1
pt. Lot 2
PAR 2 #135786
33-28-22

(T) Lot 4, 5, 8-10, blk 8
PAR 3 #135789
#135792
33-28-22

(T) Lot 3-5, 26-27, blk 3
33-28-22

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: April 19, 2016
SUBJECT: **GLG PROPERTIES (GERTENS) – CASE NO. 16-05IUP**

Reading of Notice

The notice was read at the April 5 Planning Commission meeting.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that Gertens Greenhouse is proposing to amend their existing PUD to allow the addition of a 5.7 acre parcel on the east side of the site. Gertens has owned this parcel for a few years and are proposing to use it as growing fields. There is an existing home on the property which would be used for housing employees. The property is currently zoned MF PUD in the Bishop Heights PUD and is guided for low density residential. All uses within the Bishop Heights PUD are approved individually and therefore a rezoning/ordinance amendment to commercial PUD and a comprehensive plan amendment to regional commercial would be required. The changes to the property would be primarily related to engineering and stormwater. Engineering staff is working with the applicant to finalize the proposed stormwater system plans. An issue was raised late Friday afternoon by the Public Works Director in regard to whether a permanent cul-de-sac should be built at the end of Brent Avenue since a northerly extension may no longer be necessary. The Public Works Director has raised this as a point to be addressed by City Council. Staff feels that Gertens should be part of the solution and therefore a general condition has been added in regard to this issue. Staff recommends approval of the request as presented with the 19 conditions listed in the report.

Chair Maggi asked staff to address the guiding for the abutting properties.

Mr. Hunting stated because the zoning is Agricultural, which is a permitted use, it has not triggered a change in the comprehensive plan.

Chair Maggi asked if Gertens owned the property north of the subject property.

Mr. Hunting replied they did not.

Commissioner Simon stated that building a cul-de-sac in the proposed location would be difficult because of the steep topography.

Mr. Hunting replied that the bubble may have to extend a bit further.

Commissioner Simon questioned why they would build a retention pond on the property south of the subject property rather than piping the stormwater to the existing low area that was currently holding the water.

Mr. Hunting stated that question could be better answered by the applicant or their engineer.

Commissioner Klein stated they were overdeveloping it and a cul-de-sac would only serve a few townhouses.

Commissioner Wippermann questioned why the property south of the subject property would not change as well.

Mr. Hunting replied that the subject property required a change, whereas the property referred to by Commissioner Wippermann did not.

Opening of Public Hearing

Lewis Gerten, 5910 S. Robert Trail, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Gerten replied in the affirmative. He felt that the cul-de-sac issue should be looked at as completely separate from his application as the two things were disconnected except as leverage. He noted that he did not see a picture of it until this meeting.

Chair Maggi asked for clarification of whether the Planning Commission's recommendation would include the details of the cul-de-sac.

Mr. Hunting replied that it was raised as an issue, staff feels it warrants further discussion, but the condition was written in very general terms. If the Planning Commission feels strongly that it should be removed they could include that in their recommendation.

Chair Maggi read Condition 18 aloud.

Commissioner Scales stated the way he reads the condition is that staff is not telling Mr. Gerten the cul-de-sac must be on his property but rather stating it needs to be discussed.

Mr. Hunting agreed with Commissioner Scales' statement.

Mr. Gerten questioned why the cul-de-sac was coming up now as the townhomes were built 12 years ago, it has never come up in previous conversations, and he has lived there his entire life and was not aware of any issues. He felt it was clumsy to have this discussion as the proposed cul-de-sac location was not even on the same parcel as the subject property.

Commissioner Simon asked how the fire department would access the buildings on the back side.

Mr. Link replied he did not recall the details; however, that likely was an issue that the Fire Marshal considered when that development was approved.

Jacob Steen, attorney with Larkin Hoffman, 8300 Norman Center Drive, Bloomington, agreed with staff's recommendation with the exception of Condition 18. He had several objections to the cul-de-sac, including that it was a dead end with an existing turnaround that has sufficed for

approximately 12 years when the apartments were built, he was not aware of any previous public safety issues, the townhomes could be accessed internally through the development drives, and he did not see any benefit that has not already been addressed through the existing turnaround. He stated the proposed cul-de-sac would require a significant dedication of land by Gertens for something totally unrelated to this application, was not feasible due to the significant grade change between Brent Avenue and the Gerten site, and would require a significant amount of earth moving and disruption to the Gerten site. He stated that although Condition 18 was written fairly broadly it appears that it is engineering staff's intent to try to use this as an opportunity to leverage Gertens to supply land for the City's right-of-way that they should have dedicated in 2004 when the development was initially created. For those reasons they are requesting approval of the application striking Condition 18.

Chair Maggi asked if it was realistic to think that Brent Avenue would ever have been extended northward given the topography.

Mr. Hunting replied that he was unsure but at the time the townhome development was proposed the layout would have been looked at by Public Works and Engineering.

Carson Dibble, 1156 – 9th Avenue South, South St. Paul, asked the applicant if he planned to bring in a significant amount of fill in order to use it as a growing field.

Mr. Gerten replied that would be an engineering question, but he believed they would be mostly shifting the soil from one spot to another to create the two holding ponds.

Mr. Dibble asked if machinery would be used to access the plants and trees in the growing fields.

Mr. Gerten replied there would be some tractor traffic during the day; however, he was not aware of any noise complaints regarding traffic on their other growing fields. He stated the majority of the tractors would come through 8 p.m.–5 p.m. on weekdays and very rarely on weekends. He added that there would be no lights or after hour activities either.

Mr. Dibble stated his only concern was that removal of the existing vegetation would increase the already high level of dust blowing off the growing fields.

Mr. Gerten stated this was the first dust complaint he had heard of. He advised that they have had a lot of construction activity for the last 4-5 years and he believed the dust was likely due to construction-related activity rather than the nursery fields. He noted that the issue would likely be resolved soon as they were nearing the end of their construction.

Janice Thury, 1148 – 9th Avenue South, South St. Paul, was concerned about the dust, the noise from the tractors and irrigators, and the potential for people to use this as a back way of getting into Gertens.

Mr. Gerten stated that employees living in the existing house would continue to use that road but there would be no tractor traffic.

Chair Maggi closed the public hearing.

Recommendation to City Council

April 19, 2016

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Planning Commission Recommendation

Motion by Commissioner Klein, second by Commissioner Wippermann, to approve the request for a comprehensive plan amendment to change the future land use designation from LDR, Low Density Residential to RC, Regional Commercial, a planned unit development amendment to allow for the growing field expansion, and an amendment to Ordinance #1230 by rezoning Parcel G to Commercial Planned Unit Development District and to change the site plan and allowed uses for the addition of the added growing field, with the conditions listed in the report striking Condition 18.

Motion carried (8/0). This item goes to the City Council on May 9, 2016.

P L A N N I N G R E P O R T
C I T Y O F I N V E R G R O V E H E I G H T S

REPORT DATE: April 12, 2016

CASE NO: 16-05PDP

APPLICANT: Gerten Greenhouses

PROPERTY OWNER: GLC Properties, LLC

REQUEST: Comprehensive Plan Amendment, Rezoning Ordinance Amendment and PUD Plan Amendment

HEARING DATE: April 19, 2016

LOCATION: 5500 Blaine Avenue

COMPREHENSIVE PLAN: LDR, Low Density Residential

ZONING: MF PUD, Multiple Family PUD

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

The applicant is proposing to amend their existing PUD approval to allow the addition of a 5.7 acre parcel on the east side of the site. The property has been owned by Gertens for a few years and the property would be used for growing landscape materials in growing beds. No other physical improvements are proposed at this time and no buildings are proposed. There is an existing home on the property which would be used has housing for employees. Additional storm water improvements are proposed to enhance storm water drainage. The remainder of the operation and site plan would be unchanged. No other changes to the operation are being requested at this time.

The property is currently zoned MF PUD in the Bishop Heights PUD and is guided for low density residential. All uses within the Bishop Heights PUD are approved individually and therefore a rezoning/ordinance amendment to commercial PUD and comp plan amendment to Regional Commercial would also be required.

The specific requests consist of the following:

- a) Comprehensive plan amendment to change the land use designation from LDR to RC.
- b) Amending Ordinance #1230 by rezoning Parcel G to Commercial Planned Unit Development District and to change the site plan and allowed uses for the addition of the added growing field.

- c) A Planned Unit Development Amendment to change Resolution No. 11-28 to allow for the growing field expansion.

EVALUATION OF THE REQUEST

The following land uses, zoning districts and comprehensive plan designations surround the subject property:

North Vacant land; zoned PUD and R-3A; guided LDR

East Residential in South St. Paul

West Commercial, growing fields; zoned PUD, A; guided RC

South growing fields; zoned A; guided O

COMPREHENSIVE PLAN CONSISTENCY

The property is currently guided LDR, Low Density Residential (1-3 units per acre). LDR development is traditional “urban” density on lots ranging from 1 to 3 units per acre. Housing types include single family detached homes, twin homes and lower density townhome style developments.

All of the property subject to the Bishop Heights ordinance and PUD for the east side of Blaine Avenue is guided RC, Regional Commercial. Regional commercial areas are lots or parcels containing large-scale retail sales and services along arterial roadways that serve the region. The City Council has approved all of the previous expansions and considered the Regional Commercial designation as consistent with the use of the property, whether it is the commercial retail building or the greenhouses and growing fields surrounding it.

Gertens Greenhouses is a regional draw and brings customers from the metro area. Having a regional retailer in the area brings in trade for some of the other retail users in the quadrant. Gertens has had a long standing relation and commitment with the City as they have expanded and improved their property over the years. Gertens is one of the largest employers in the City.

The parcel is somewhat isolated and is surrounded by commercial operation on almost three sides. If it were to develop with a residential use, access to the site would be via 54th Street from South St. Paul which is built to the city line. Because the majority of the property in this vicinity is used as part of the Gertens operation, staff would support the amendment as it would be consistent with the surrounding uses.

REZONING

Part of the change to Ordinance#1230 would be rezoning the land that will be known as Tract G from MF PUD to Commercial Planned Unit Development District #216-01. The MF PUD District was set up as the base zoning for properties in the Bishop Heights PUD where no approved PUD development plans exist. This designation provided a number of allowed uses, but all properties

would be required to rezone to be included in the Bishop Heights PUD. As currently zoned, agricultural growing fields are not a permitted use. With the proposed rezoning, all properties added to the overall PUD are approved with specific uses. In this case, Tract G would be rezoned and approved to allow for growing fields and a house for employees.

PROJECT REVIEW OF CONDITIONS OF ORDINANCE #1230 AND PUD RESOLUTION #11-28

Ordinance #1230. In 1998, the City adopted Ordinance #946 which governs the Gertens operation east of Blaine Avenue. The ordinance rezoned the property to a commercial PUD zoning district and created a set of performance standards for the district. The ordinance replaced all of the previous CUP's that were approved over the years. The ordinance actually governs all of the Bishop Heights PUD which extends roughly from Hwy 52 as the west boundary, Hwy 494 as the north boundary, both sides of Upper 55th Street to the south and extends to Cahill Avenue to the east. All development within the Bishop Heights PUD is governed under this ordinance. The ordinance has been amended as each new development is approved. A specific use, size of building and unique characteristics is approved for each lot in the PUD. In Ordinance #1230, Gertens is listed under Tracts A-F. A separate PUD Development Plan Resolution is also approved for each project and contains specific conditions that pertain to that use.

No site plan review is necessary since there are no changes being proposed to the property. Growing fields themselves have no specific performance standards. No change in vehicle trip generation is proposed.

Engineering. The plans are being reviewed by Engineering and Barr Engineering to review the whole storm water system proposed. Storm water treatment for the site would be through construction of a new pond in the southeast corner of the lot. This pond would ultimately drain into a wetland basin on the parcel to the south. Engineering is working with the applicant to finalize the plans.

An improvement agreement and storm water maintenance agreement will be necessary with this project.

Resolution 11-28. The Council adopted a resolution approving a PUD Development Plan relating to the Gertens property located on the east side of Blaine. This resolution addresses specific conditions of approval and also carried over all the conditions that were previously part of the old conditional use permits. This resolution would need to be amended to reflect the revised parcel map showing the new parcel. The resolution contains 21 conditions of approval. Some of the conditions have been satisfied and therefore would be removed from a revised resolution.

Impacts on Future City Road Connections. In 2003, the City approved the Brentwood Village townhouses south of the subject parcel (see map). Brent Avenue was constructed to the north boundary of that project with the intent of it continuing northward as land developed. Brent would have continued up to 54th Street and connected to 9th Avenue in South St. Paul. Gertens now owns all of the land through which Brent Avenue would have been constructed and the land is now all growing fields. If the Council approves the land use change, then it would seem that growing fields will be the end use and there may be no need for Brent Avenue to continue north.

The Public Works Department has commented on this issue and suggests the dead end or temporary turn around that exists today, be converted into a permanent cul-d-sac. The location of this cul-de-sac would occur on Gerten owned parcels. As part of the land use change consideration, an agreement should be reached on how to provide for the necessary road way area for a cul-de-sac and payment for construction of such. Staff hopes to have additional information at Planning Commission Meeting.

ALTERNATIVES

The Planning Commission has the following actions available on the following requests:

- A. **Approval.** If the Planning Commission finds the application to be acceptable, the following action should be taken:
- Approval of the **Comprehensive Plan Amendment** to change the land use designation from LDR to RC subject to the following conditions:
 1. The Metropolitan Council shall not require any significant modifications to the comprehensive plan amendment.
 2. The Metropolitan Council shall not make a finding that the comprehensive plan amendment has a substantial impact or contain a substantial departure from any metropolitan systems plan.
 - Approval of an Ordinance Amendment to PUD Ordinance #1230 adding Tract G to the PUD area and Rezoning to Commercial Planned Unit Development District No. 2016-01 allowing Tract G to be used as growing fields with the existing house being used for housing of Gertens employees.
 - Approval of a PUD Amendment to Resolution #11-28 adding Tract G to the PUD boundaries and allowing Tract G for growing fields and the existing house for Gertens employees subject to the following conditions:
 1. The site shall be developed in substantial conformance with the plans approved under Resolution #11-28 and all previously approved plans.
 2. The Planned Unit Development for which these Final Development Plans are being approved is subject to Ordinance No. ___ together with any other applicable codes.
 3. Any building additions, new buildings or changes to the use of the property beyond growing fields will require an amendment to the PUD and approval by the City Council.

4. The City's Code Enforcement Officer shall be granted right of access to the property at all reasonable times to ensure compliance with the terms and conditions of approval.
5. Site lighting shall be installed and maintained in such a manner as to prevent any direct source of light from being visible from the public right-of-way or adjacent property.
6. All signage must be consistent with standards found in the City Code.
7. Accessory buildings identified as P and Q on the attached exhibits are not to be used for retail purposes nor are they to be accessible to the public.
8. Unless specifically stated herein, development plan approval does not imply approval of any variances, nor does it grant exceptions from any Building Code or Fire Code requirements that may apply to the construction of use of improvements on the site.
9. Outdoor sales of only plan and landscaping materials shall be permitted on the site. Outdoor display of agricultural implements and machinery for sale on or from the site is prohibited. Screening requirements for the property shall be waived.
10. Open storage, other than specifically permitted herein shall be prohibited on the site.
11. A minimum 20 foot wide, unobstructed, all-weather surfaced access roadway must be provided, in accordance with the Fire Code, to within 150 feet of the exteriors of all buildings on the site. Approval by the Fire Marshal of all fire access roads and on-site water supply shall be required prior to issuance of any building permits.
12. Turn-arounds or curb cuts shall be provided at the north and south ends of the parking lots. The design and construction of the turn-arounds or curb cuts shall be subject to the review and approval of the Fire Marshal and the Director of Public Works.
13. Should construct of any future public streets be done in the future, and the construction requires removal of any or all of these buildings identified as J, K, L, M, N, O, P, Q on the attached exhibit, the applicant agrees to remove them at no cost to the City.
14. When the land upon which the 10'x10' business sign is located ceases to be leased as a contiguous parcel with the remainder of the Gerten Greenhouse parcels, the sign shall be removed within 90 days.

15. Prior to City Council approval, the final grading, drainage and erosion control, and utility plans shall be approved by the City Engineer. The plans shall address comments in memo from Assistant City Engineer dated 4/6/16.
16. An improvement agreement shall be required for the storm water improvements and shall be approved by the City Council prior to any work commencing on the site.
17. Easements for drainage and utility may be required by the City Engineer.
18. The temporary turn around or dead end of Brent Avenue must be addressed to determine if a permanent cul-de-sac should be built since a northerly extension may no longer be necessary.
19. Resolution #11-28 shall become null and void and replaced with the conditions contained in this resolution.

B. Denial. If the Planning Commission does not favor the proposed application the above requests should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

Staff recommends approval of the 3 part request adding Parcel G as growing fields and utilizing the existing house for employee housing with the conditions listed.

Attachments: Comprehensive Plan Map
Zoning Map
Applicant Narrative
Tract Identification Map
Grading Plan
Site Plan

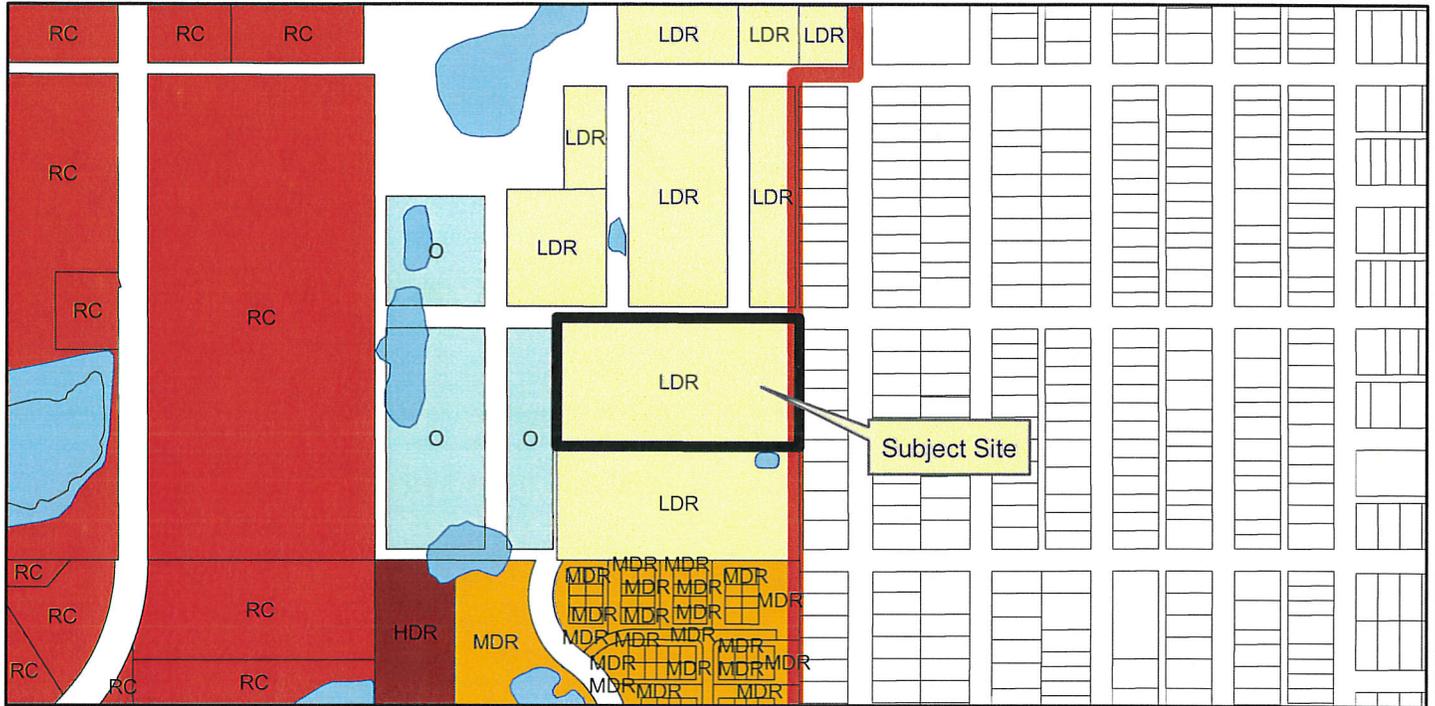


Comp Plan Map

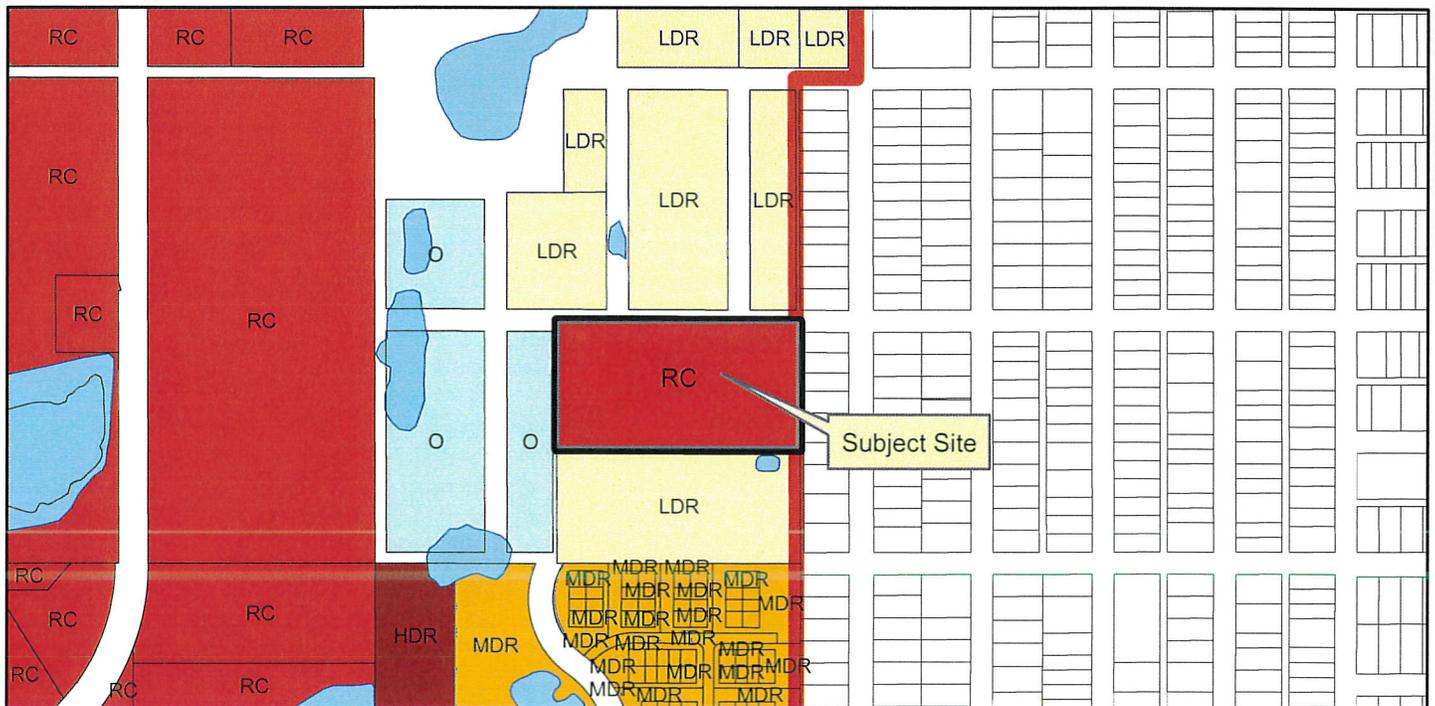
Case No. 16-05PDP



Existing Comp Plan



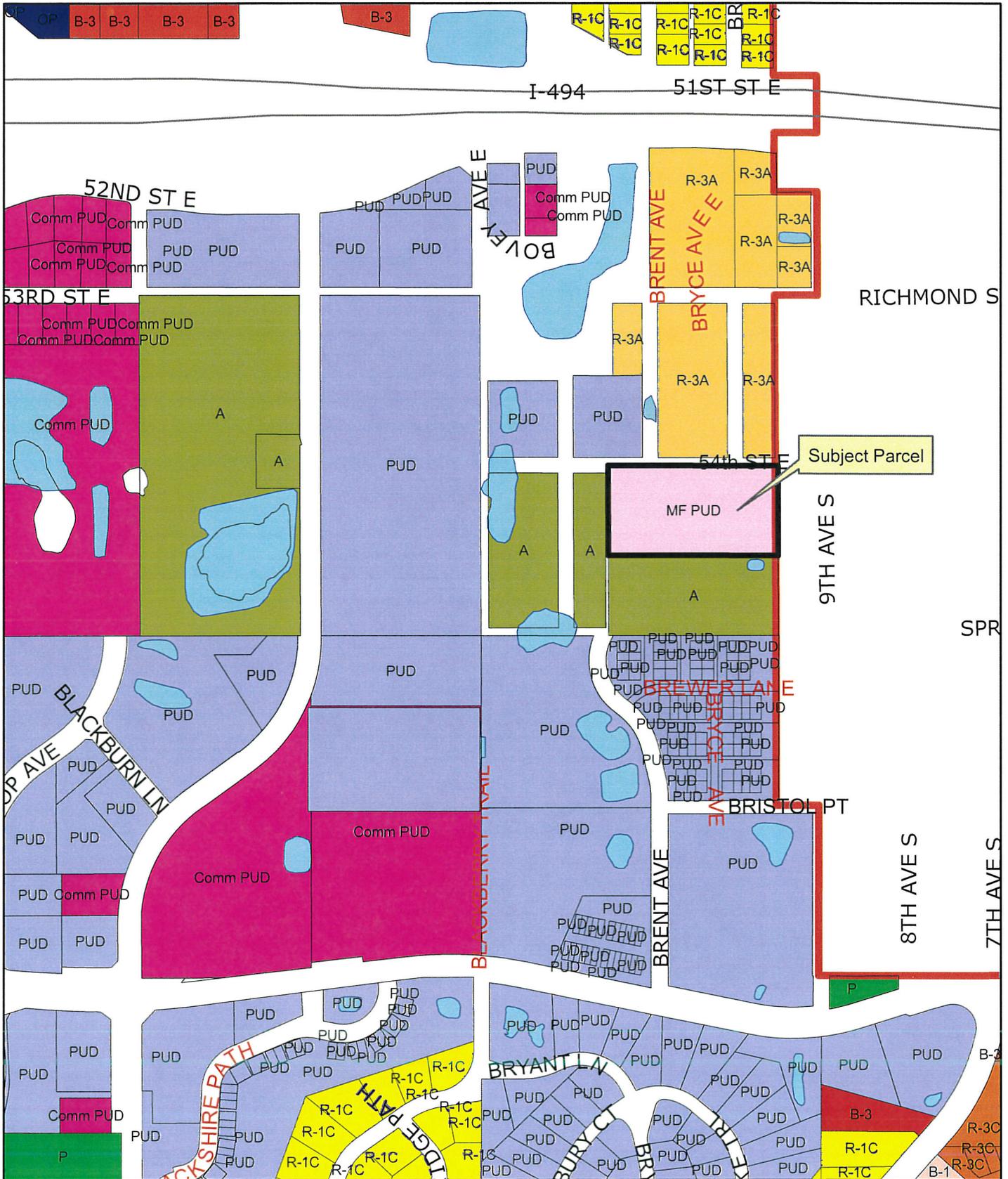
Proposed Comp Plan





Zoning Map

Case No. 16-05PDP





Larkin Hoffman

8300 Norman Center Drive
Suite 1000
Minneapolis, Minnesota 55437-1060

GENERAL: 952-835-3800
FAX: 952-896-3333
WEB: www.larkinhoffman.com

February 26, 2015

Allan Hunting
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Re: Gertens Greenhouse – Bishop Heights PUD

Dear Mr. Hunting:

This firm represents GLG Properties, a Minnesota Partnership and its related Gertens Greenhouse (“Gertens”) operations. Gertens is seeking to expand its existing nursery facilities located generally at 5500 Blaine Avenue (the “Gertens Property”) to include the 5.27 acre parcel located at 2910--54th Street East, PID # 20-03310-01-010 (the “Property”), in the City of Inver Grove Heights, Minnesota (the “City”).

Gertens has been in business in the City for approximately 50 years. It has always been a family-owned business. While Gertens has a substantial wholesale business directed to the residential and commercial construction and landscaping industries, its identification throughout the greater Twin Cities metro area is based largely on its renowned retailing operations. Thousands of Minnesota residents make the trip to the City and to Gertens for their landscaping and home-improvement supplies.

The Gerten family is continuously working to improve on its business operations in order to successfully compete with national retailing organizations. Adding the Property to the Gertens Property will enable Gertens to continue building on its operational successes in the face of increased competition. The proposal affecting the Property will not alter the commercial land-use designation previously established under the Bishops Heights PUD for that portion of the Gertens Property situated along Upper 55 Street, east of Blaine Avenue.

Gertens has enjoyed a very positive relationship with the City. Over the years, Gertens and the City have collaborated on a number of significant projects designed to address important stormwater drainage issues in the Bishop Heights planning area, both relating to and in the vicinity of the Gertens Property. Gertens has appreciated the City’s cooperation given the complex drainage issues that have required the assent of not only the City, but also MnDOT and the city of South St. Paul, Minnesota. The pending proposal will continue this relationship based on the expanded stormwater facilities to be constructed in relation to the Property.

Overview of Request

The Property will be integrated with the Gertens Property for use in conjunction with its seasonal growing operations; it will be used primarily for growing landscaping materials in growing beds created for that purpose. New stormwater facilities will manage run-off from the Property. The existing single-family dwelling will remain on the Property. The Gertens Property is subject to the City's Bishop Heights Planned Unit Development (PUD) Ordinance which has been amended from time-to-time to accommodate the orderly business expansion of Gertens, most recently in 2011. Gertens is requesting a Comprehensive Plan ("Comp Plan") amendment reclassifying the Property to Regional Commercial and incorporation of it into the Bishop Heights PUD.

1. Comprehensive Plan Amendment

Gertens is requesting that the City reclassify the Future Land Use Map designation of the Property from Low Density Residential to Regional Commercial, which is consistent with the Future Land Use designation of the Gertens Property.

This reclassification will allow the City to rezone the Property from the existing Multiple-Family Planned Unit Development (MF-PUD) to the proposed zoning of Bishop Heights PUD as summarized below.

2. PUD: Preliminary and Final Development Plan

In conjunction with the Comp Plan amendment, Gertens is requesting that the City rezone the Property to Bishop Height PUD based on the provided grading and drainage plans. The Bishop Heights PUD governs Gertens operations, including strictly regulating future land use and drainage issues. No changes are requested to that governing PUD beyond extending it to the Property.

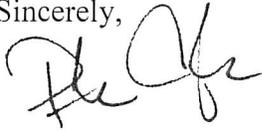
The requested amendment of the Bishop Heights PUD to include the Property conforms to the stated objectives of the PUD Article of the City Zoning Code. Allowing Gertens to grow its operations "in place" will enable Gertens to successfully compete for wholesale and retail customers, employ hundreds of permanent and seasonal workers, many of whom live in the City, and continue improvements to the stormwater drainage system serving the Bishop Heights PUD. As such, we believe approval of the requested land use changes are in the public interest.

The proposed use of the Property will have minimal impacts on the adjacent land uses or municipal utilities while assisting Gertens to grow its business as a regional draw and a strong economic contributor for the community. The environmental conditions of the Property and the adjacent Gertens Property will be enhanced through stormwater drainage improvements.

Allan Hunting
February 26, 2015
Page 3

Please contact me with any questions about this application on behalf of Gertens Greenhouse or the enclosed documents supporting this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Coyle". The signature is fluid and cursive, with the first name "Peter" and last name "Coyle" clearly distinguishable.

Peter J. Coyle, for
LARKIN HOFFMAN

Cc: Lew Gerten, Gertens Greenhouse

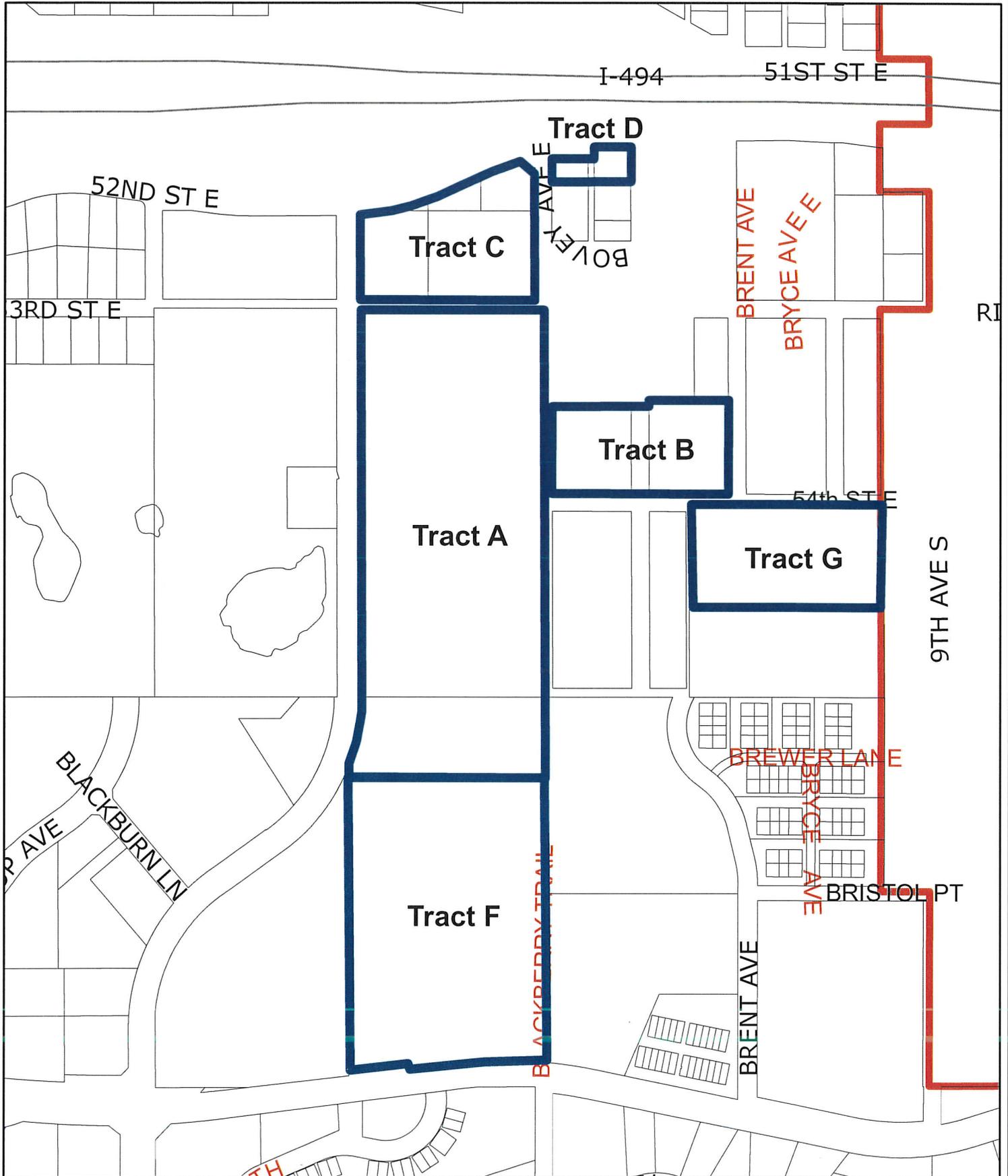
Enclosures



Gerten Greenhouse

Tract Identification Map

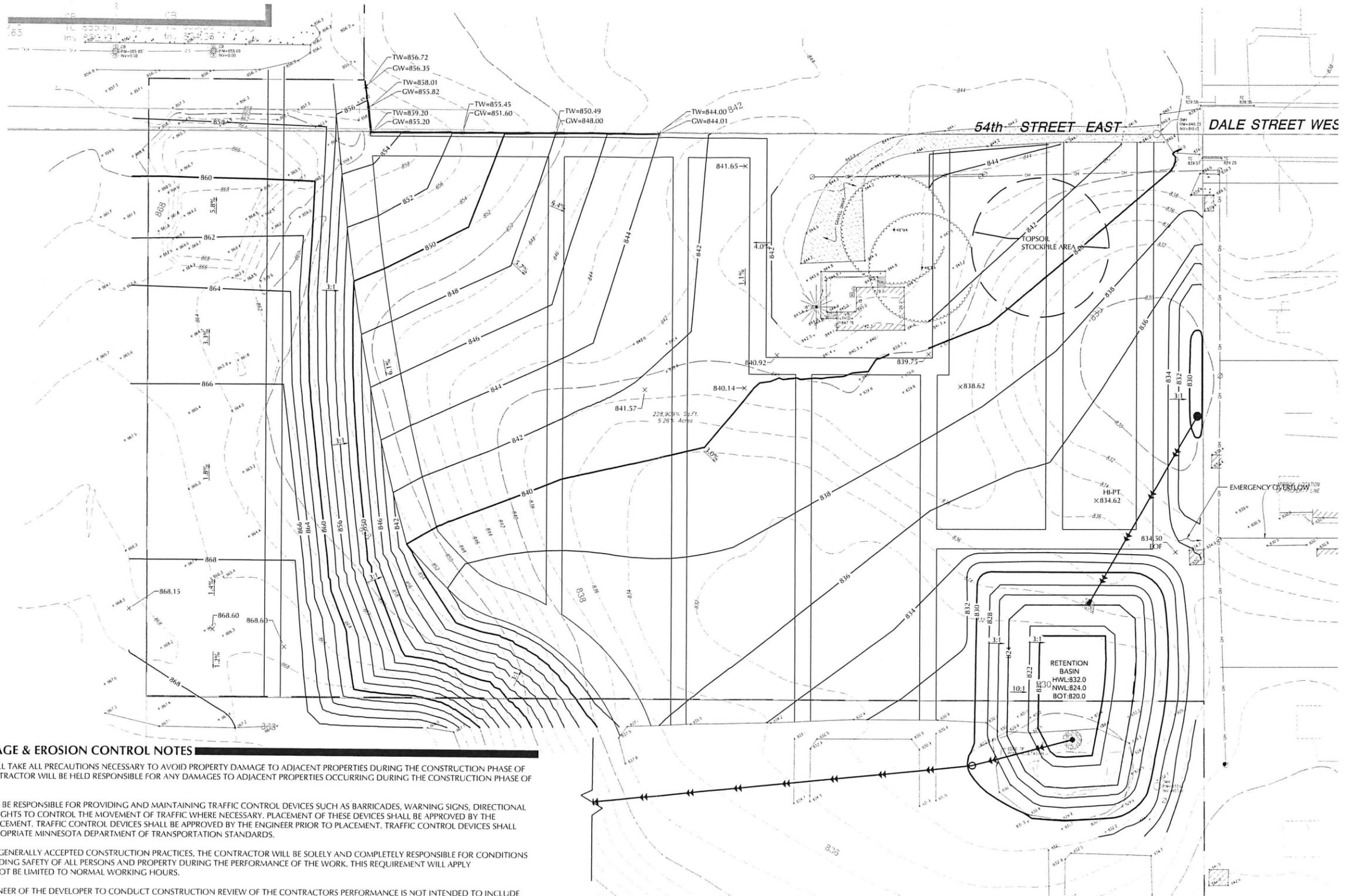
Properties East of Blaine Avenue





Gerten Greenhouse Tract Identification Map Properties East of Blaine Avenue





GRADING, DRAINAGE & EROSION CONTROL NOTES

1. THE CONTRACTOR SHALL TAKE ALL PRECAUTIONS NECESSARY TO AVOID PROPERTY DAMAGE TO ADJACENT PROPERTIES DURING THE CONSTRUCTION PHASE OF THIS PROJECT. THE CONTRACTOR WILL BE HELD RESPONSIBLE FOR ANY DAMAGES TO ADJACENT PROPERTIES OCCURRING DURING THE CONSTRUCTION PHASE OF THIS PROJECT.
2. THE CONTRACTOR WILL BE RESPONSIBLE FOR PROVIDING AND MAINTAINING TRAFFIC CONTROL DEVICES SUCH AS BARRICADES, WARNING SIGNS, DIRECTIONAL SIGNS, FLAGMEN AND LIGHTS TO CONTROL THE MOVEMENT OF TRAFFIC WHERE NECESSARY. PLACEMENT OF THESE DEVICES SHALL BE APPROVED BY THE ENGINEER PRIOR TO PLACEMENT. TRAFFIC CONTROL DEVICES SHALL BE APPROVED BY THE ENGINEER PRIOR TO PLACEMENT. TRAFFIC CONTROL DEVICES SHALL CONFORM TO THE APPROPRIATE MINNESOTA DEPARTMENT OF TRANSPORTATION STANDARDS.
3. IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS ON THE JOB SITE, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY DURING THE PERFORMANCE OF THE WORK. THIS REQUIREMENT WILL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS.
4. THE DUTY OF THE ENGINEER OF THE DEVELOPER TO CONDUCT CONSTRUCTION REVIEW OF THE CONTRACTORS PERFORMANCE IS NOT INTENDED TO INCLUDE REVIEW OF THE ADEQUACY OF THE CONTRACTORS SAFETY MEASURES IN, OR NEAR THE CONSTRUCTION SITE.
5. EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE ESTABLISHED AROUND THE ENTIRE SITE PERIMETER AND IN ACCORDANCE WITH NPDES PERMIT REQUIREMENTS, BEST MANAGEMENT PRACTICES, CITY REQUIREMENTS AND THE DETAILS SHOWN ON SHEET C3-3 OF THE PROJECT PLANS.
6. ALL ENTRANCES AND CONNECTIONS TO CITY STREET SHALL BE PERFORMED PER THE REQUIREMENTS OF THE CITY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL PERMITS AND NOTIFICATIONS AS REQUIRED BY THE CITY.
7. ADJACENT STREETS AND ALLEYS MUST BE SWEEPED TO KEEP THEM FREE OF SEDIMENT. CONTRACTOR MUST MONITOR CONDITIONS AND SWEEP AS NEEDED OR WITHIN 24 HOURS OF NOTICE BY THE CITY.
8. STREETS MUST BE CLEANED AND SWEEPED WHENEVER TRACKING OF SEDIMENTS OCCURS AND BEFORE SITES ARE LEFT IDLE FOR WEEKENDS AND HOLIDAYS. A REGULAR SWEEPING SCHEDULE MUST BE ESTABLISHED.
9. ADJUST ALL EXISTING STRUCTURES, BOTH PUBLIC AND PRIVATE TO THE PROPOSED GRADES WHERE DISTURBED AND COMPLY WITH ALL REQUIREMENTS OF THE UTILITY OWNERS. STRUCTURES BEING RESET TO PAVED AREAS MUST MEET OWNERS REQUIREMENTS FOR TRAFFIC.
10. DUST MUST BE ADEQUATELY CONTROLLED.
11. SEE UTILITY PLAN FOR STORM SEWER INFORMATION.
12. THE BOTTOM AND SIDE SLOPES OF THE BASIN MUST BE STABILIZED WITHIN SEVEN DAYS FOLLOWING CONSTRUCTION.
13. STOCKPILE TOPSOIL, PROVIDE SEEDING TO ESTABLISH EROSION CONTROL.

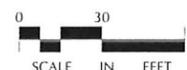


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Gopher State One Call
 TWIN CITY AREA: 651-454-0002
 TOLL FREE: 1-800-252-1166

WARNING:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND/OR RELOCATION OF LINES.

THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.



Gertens
 2016 Expansion
 INVER GROVE HEIGHTS

Gertens
 5300 Ethel Avenue
 Inver Grove Heights, MN 55127

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 Maple Grove, MN 55369
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CADD QUALIFICATION
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SUBMITTAL/REVISIONS
 09/30/15 DESIGN REVIEW
 2/18/16 PERMIT SET

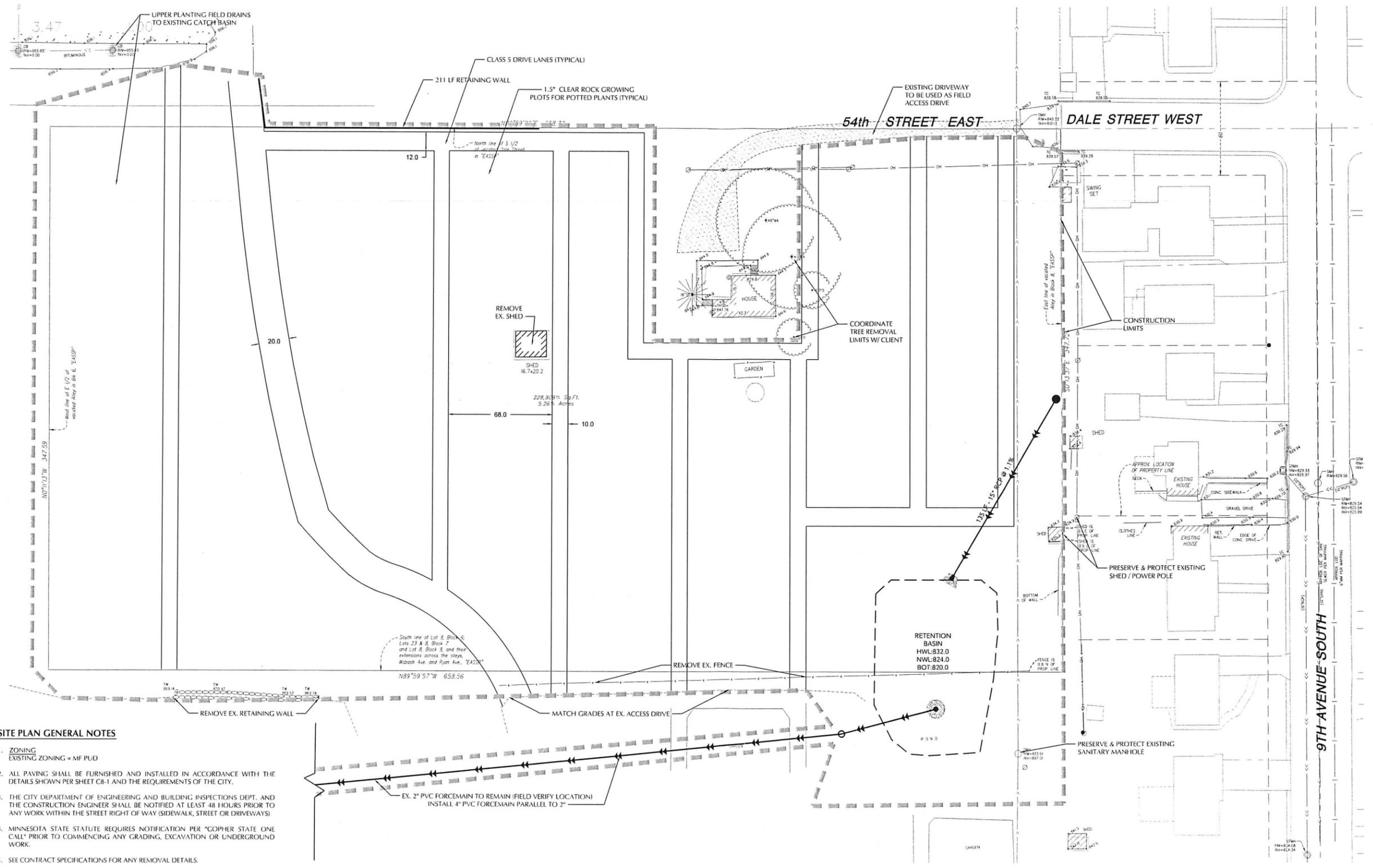
PROFESSIONAL SIGNATURE
 I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Michael J. St. Martin
 License No. 24440
 Date N/A

QUALITY CONTROL
 Loucks Project No. 98864.0H
 Project Lead MJS
 Drawn By CDL
 Checked By MJS
 Review Date 02/18/16

SHEET INDEX
 C0-1 Cover Sheet
 C2-1 Overall Site Plan
 C2-2 Site Plan
 C3-1 Grading Plan
 C3-2 SWPPP
 C3-3 SWPPP Notes
 C3-4 SWPPP Details
 C4-1 Utility Plan
 C4-2 T-22 Utility Plan
 1 of 1 Topo & Boundary Survey

GRADING PLAN
C3-1

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SITE PLAN GENERAL NOTES

- ZONING
EXISTING ZONING = MF PUD
- ALL PAVING SHALL BE FURNISHED AND INSTALLED IN ACCORDANCE WITH THE DETAILS SHOWN PER SHEET C8-1 AND THE REQUIREMENTS OF THE CITY.
- THE CITY DEPARTMENT OF ENGINEERING AND BUILDING INSPECTIONS DEPT. AND THE CONSTRUCTION ENGINEER SHALL BE NOTIFIED AT LEAST 48 HOURS PRIOR TO ANY WORK WITHIN THE STREET RIGHT OF WAY (SIDEWALK, STREET OR DRIVEWAYS)
- MINNESOTA STATE STATUTE REQUIRES NOTIFICATION PER "GOPHER STATE ONE CALL" PRIOR TO COMMENCING ANY GRADING, EXCAVATION OR UNDERGROUND WORK.
- SEE CONTRACT SPECIFICATIONS FOR ANY REMOVAL DETAILS.
- ANY SIGN OR FIXTURES REMOVED WITHIN THE RIGHT OF WAY OR AS PART OF THE SITE WORK SHALL BE REPLACED BY THE CONTRACTOR IN ACCORDANCE WITH THE CITY REQUIREMENTS. THE CONTRACTOR SHALL PRESERVE AND MAINTAIN ANY EXISTING STREET LIGHTS AND TRAFFIC SIGNS PER THE REQUIREMENTS OF THE CITY.
- CLEAR AND GRUB AND REMOVE ALL TREES, VEGETATION AND SITE DEBRIS PRIOR TO GRADING. ALL REMOVED MATERIAL SHALL BE HAULED FROM THE SITE DAILY. ALL CLEARING AND GRUBBING AND REMOVALS SHALL BE PERFORMED PER THE CONTRACT SPECIFICATIONS. EROSION CONTROL MEASURES SHALL BE IMMEDIATELY ESTABLISHED UPON REMOVAL. (SEE SHEET C3-1)
- THE CONTRACTOR SHALL BE REQUIRED TO OBTAIN ALL PERMITS FROM THE CITY AS REQUIRED FOR ALL WORK WITH THE STREET AND PUBLIC RIGHT OF WAY.
- SEE SHEETS C3-1 AND C4-1 FOR GRADING AND UTILITIES.
- THE INTENT OF THE PROPOSED CONSTRUCTION IS TO PRESERVE AS MUCH OF THE EXISTING STREET PAVEMENT AS POSSIBLE, AND TO MILL AND OVERLAY. REMOVED PAVEMENT AREAS AND PATCHING SHALL BE INSTALLED PER PAVEMENT SECTION PROVIDED PER DETAIL SHEET.



WARNING:

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SUBMITTAL/REVISIONS
 09/30/15 DESIGN REVIEW
 2/18/16 PERMIT SET

PROFESSIONAL SIGNATURE
 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.

 Michael J. St. Martin - PE
 License No. 24440
 Date N/A

QUALITY CONTROL
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C4-2	T-22 Utility Plan
1 of 1	Topo & Boundary Survey

SITE PLAN
C2-2

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CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

MIHM CUSTOM HOMES

Meeting Date: May 9, 2016
Item Type: Regular Agenda
Contact: Allan Hunting 651.450.2554
Prepared by: Allan Hunting, City Planner
Reviewed by:

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider the following requests for property located on land west of Hwy 3 between 65th and 67th Street;

- a) A Rezoning of the property from A, Agricultural to R-1C/PUD, Single Family Residential District.
- c) A Resolution relating to a Preliminary Plat and Preliminary PUD Development Plan for Windwood.
 - Requires 3/5th's vote.
 - 60-day deadline: June 28, 2016 (second 60 days)

SUMMARY

The applicant is proposing to develop an 18.2 acre parcel into a 44 lot single family development to be known as Windwood. Access to the development would be via the street system in Blackstone Ridge. Lot sizes would be similar to those in Blackstone Vista and Blackstone Ridge.

ANALYSIS

Rezoning:

- The requested rezoning would be consistent with the proposed comprehensive plan designation for the property. The project complies with minimum and maximum densities as regulated in the Northwest Area Overlay District.

Preliminary Plat:

- The preliminary plat consists of 44 single family lots and two outlots. Outlots A and B are for regional basin storm water purposes and would be owned by the City.

Preliminary PUD Development Plan:

- Applicant is requesting flexibility from code requirements for; a) separation between single family homes, b) setback flexibility from front yard setbacks along a collector street to 25 feet, c) corner lot setbacks from the collector road to 20 feet, and d) driveway width without the need for porous pavement and impervious surface to 30.18%. Staff supports the flexibility requests.
- Plans comply with tree preservation and landscape requirements.

- Preliminary plans comply with overall grading, drainage and stormwater requirements.

RECOMMENDATION

Planning Staff. Recommends approval of the rezoning and preliminary plat/preliminary PUD development plans with the conditions listed in the attached resolution.

Planning Commission. Planning Commission recommended approval of the requests (8-0).

Attachments: Rezoning Ordinance
Resolution Approving the Preliminary Plat and Preliminary PUD Development Plan
Planning Commission Recommendation
Planning Report

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 10, CHAPTER 4 (ZONING MAP) OF THE
INVER GROVE HEIGHTS CITY CODE**

**CASE NO. 16-06PUD
(Mihm Custom Homes)**

The City Council of Inver Grove Heights ordains as follows:

SECTION I. Ordinance No. 1190 adopted July 27, 2009, entitled, "AN ORDINANCE ADOPTING THE RECODIFICATION OF THE INVER GROVE HEIGHTS CITY CODE INCLUDING THE CITY ZONING ORDINANCE, is hereby amended to rezone the following described properties located within the City of Inver Grove Heights from A, Agricultural to R-1C/Planned Unit Development, to wit:

**Lots 2 and 3, Block 1, Windwood Addition, according to the recorded plat,
Dakota County, Minnesota**

SECTION II. The Zoning Map of the City of Inver Grove Heights referred to and described in said Ordinance No. 1190 as that certain map entitled "Inver Grove Heights Zoning Map, June 24, 2002", together with all amendments thereto, hereinafter referred to as the "zoning map", shall not be republished to show the aforesaid rezoning, but the Clerk shall appropriately mark the said zoning map on file in the Clerk's Office for the purpose of indicating the rezoning hereinabove provided for in this ordinance and all of the notations, references and other information shown thereon are hereby incorporated by reference and made a part of this ordinance.

SECTION III. This Ordinance shall be in full force and effect from and after its publication according to law.

Ordinance No. _____
Page 2

Enacted and ordained into an Ordinance this 9th day of May, 2016.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

A RESOLUTION APPROVING A PRELIMINARY PLAT AND PRELIMINARY PUD DEVELOPMENT PLAN CONSISTING OF 44 SINGLE FAMILY LOTS AND TWO (2) OUTLOTS FOR THE PLANNED DEVELOPMENT TO BE KNOWN AS WINDWOOD

CASE NO. 16-06PUD

WHEREAS, a preliminary plat and preliminary PUD development plan application has been submitted to the City for property legally described as;

Lots 2 and 3, Block 1, Windwood Addition, according the recorded plan, Dakota County, Minnesota.

WHEREAS, a public hearing concerning the preliminary plat and preliminary PUD development plan was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statutes, Section 462.357, Subdivision 3 on April 19th, 2016;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, the Preliminary Plat and Preliminary PUD development plan for the planned development of Windwood is hereby approved subject to the following conditions:

1. The final plat and accompanying site plans shall be in substantial conformance with the following plans on file with the Planning Department except as may be modified by the conditions below.

Preliminary Plat	2/29/16
Preliminary Open Space Plan	3/29/16
Preliminary Impervious Surface Exhibit	2/25/16
Preliminary Grading Plan	2/29/16
Preliminary Sanitary/Water/Site Plan	4/1/16
Preliminary Storm Sewer Plan	2/29/16
Preliminary Tree Preservation Plan	2/25/16
Preliminary Landscape Plan	2/25/16

2. Prior to final plat and plan approval, the final grading, drainage and erosion control, and utility plans shall be approved by the Director of Public Works.
3. Drainage and utility easements shall be provided on the final plat as required by the Director of Public Works.
4. The developer shall be responsible for installing marker posts at reasonable locations to define the boundary of the open space. This provides identification for future land owners to know boundaries of the open space areas. The final PUD plans must show the location of the marker posts.
5. Park dedication shall consist of a cash contribution in the amount of the rates in effect at the time the final plat is approved.
6. All plans shall be subject to the review and approval of the Fire Marshal.
7. Prior to execution of the plat by the City and prior to recording of the plat with the County, the Owner shall execute a Storm Water Facilities Maintenance Agreement with the City whereby the developer shall be responsible for the maintenance of storm water improvements on such lots.
8. Prior to execution of the plat by the City and prior to recording of the plat with the County, the Developer must pay the City utility plat connection fees consisting of a Water Utility Fee, Sanitary Sewer Utility fee and Storm Water Sewer Utility fee according to the formulas adopted by city ordinance.
9. At the time the plat is recorded, the landowner/developer by written agreement with the city must pay the city the difference between (a) the Northwest Area utility connections fees (including those usually payable at time of plat as well as building permit issuance) and the hook-up fees (including the water connection and sewer connection fee) that would have been payable for the densities shown for the subject property in the city's financial and connection fee information prepared by Ehlers & Associates (and amended from time to time) for the Northwest Area and (b) the Northwest Area utility connection fees and hook up fees that will be collected for the subject property per the actual density at which the subject property develops.
10. In the Development Contract, the Developer and Owner shall acknowledge that at the time the building permits are obtained additional connection fees for the water utility system and sanitary sewer utility system are due and owing. Final details of the amounts to be paid shall be part of the final PUD plan review.
11. In the Development Contract, the Developer and Owner shall agree that the following elements of the Planned Unit Development shall not be altered, changed or removed without first obtaining the following consents:

Site Plan Element	Consent Required By
-------------------	---------------------

Building Location	City Council
Driveways and Private Roads	Planning Department
Landscaping	Planning Department
Location of Utilities	Engineering Department
Location of Conservation Easement and Open Space	City Council

12. The Developer and Owner shall execute an Acknowledgement of Planned Unit Development Zoning. This Acknowledgement shall state that property within the plat is subject to the approved PUD plans and PUD zoning and that the development on the property must conform to the PUD plans and PUD zoning. This Acknowledgement shall be recorded when the plat is recorded.
13. The Developer and Owner shall enter into a Development Contract with the City. The form of Development Contract shall substantially comply with the model Development Contract which is part of the Administrative Code, taking into account the particular requirements of the Planned Unit Development plans.
14. The following documents shall be recorded when the plat is recorded:
 - Development Contract;
 - Storm Water Facilities Maintenance Agreement;
 - Acknowledgement of PUD Zoning.
15. Prior to City Council review of the final PUD development plans, the Developer must respond to all of the comments of the City Engineer memo dated 3/16/16, and comments from Barr Engineering.
16. Street lighting shall be required along all public streets. The street lighting plans shall be approved by the City prior to installation.

Passed this 9th day of May, 2016.

AYES:
NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights

FROM: Planning Commission

DATE: April 19, 2016

SUBJECT: **MIHM CUSTOM HOMES – CASE NO. 16-06PUD**

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a rezoning of the property from A, Agricultural to R-1C/PUD, Single-Family Residential, a preliminary plat for a 44 lot, two outlot subdivision, and a preliminary PUD Development Plan for a 44 unit single-family development, for property located on the west side of Highway 3 between future 65th and 67th Streets. 14 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is proposing a 44 lot, two outlot single-family development that would receive its sewer and road extensions from Blackstone Ridge. Lot sizes range from 8,000–15,000 square feet and average 65 feet in width. The street system consists of a north-south collector and two local street stubs leading west into Blackstone Ridge. Sidewalks are proposed on all the local streets. The site requires some reforestation and takes into account the manmade pine plantation. The applicant is requesting flexibility from the Northwest Area standards to allow a 15 foot separation between houses, a 25 foot front setback, a 20 foot corner lot setback, 30.18% impervious surface, and driveways be allowed to be full length and width with non-porous pavement. Staff recommends approval of the request.

Chair Maggi asked for clarification of the proposed side setbacks.

Mr. Hunting replied they would maintain a 15 foot separation but it would not necessarily be a strict 5 and 10.

Commissioner Simon noted an error on Page 8 of the report in regard to financial implications.

Mr. Hunting advised he would review and correct the statement regarding the financial implications of 44 lots versus 99 lots.

Commissioner Simon questioned why, in instances where pine plantations were removed, applicants would get credit for replacing trees with more pines.

Mr. Hunting replied that pine plantations are planted tight together with the intention of logging them, whereas the replacement pines would be planted in a different manner, function as landscaping, and would likely be a different species.

Commissioner Simon questioned whether the Northwest Area requirements should be changed since all the larger developments in the Northwest Area have requested the same flexibility.

Mr. Hunting replied that staff has been making note of the flexibilities that are repeatedly being requested and a discussion will likely take place to determine whether some of the requirements should be changed.

Commissioner Simon asked if they would also need to change the stormwater manual.

Mr. Hunting replied he would look into it but did not believe so.

Chair Maggi was concerned that they have been making adjustments development by development rather than someone looking at the entire area comprehensively to determine what the overall impact would be of changing the rules.

Commissioner Simon agreed, stating the Northwest Area has difficult topography, water is difficult to keep on site, and they keep making exceptions.

Mr. Hunting agreed that the difficult topography is making it hard for developers to get the density they need. Mr. Hunting stated that Engineering continually looks at the larger drainage areas and basins to make sure they are not shorting themselves, they have had a few updated studies done, and the stormwater is being looked at with every development.

Commissioner Scales stated his understanding was that it was still handling the same amount of water in the same amount of space; it is just that instead of having rain gardens between every house runoff goes to a big holding pond like the City has done for years. The same development is still handling the same amount of water.

Mr. Hunting stated they are all designed to the same standards in the Northwest Area; they just might be larger basins as opposed to individual rain gardens.

Commissioner Gooch stated this particular property was changed from Medium Density to Low Density, so in reality it would have been a worse situation than it is now.

Commissioner Niemioja asked for clarification of the reforestation issue since the people in this area may like more trees as there are no parks in this area.

Mr. Hunting advised that if the developer cannot physically fit all of the plantings on the property they have the option of requesting Council to allow them to pay a fee in lieu of planting. The applicant's reforestation and landscape plans, however, comply with City standards.

Opening of Public Hearing

Tom Mihm, 842 Ivy Lane, Eagan, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Mihm replied in the affirmative. He provided a color rendering showing the proposed tree plantings.

Chair Maggi closed the public hearing.

Recommendation to City Council

April 19, 2016

Page 3

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioner Scales, to approve the request for a rezoning of the property from A, Agricultural to R-1C/PUD, Single-Family Residential, a preliminary plat for a 44 lot, two outlot subdivision, and a preliminary PUD Development Plan for a 44 unit single-family development, for property located on the west side of Highway 3, between future 65th and 67th Streets, with the conditions listed in the report.

Motion carried (8/0). This item goes to the City Council on May 9, 2016.

P L A N N I N G R E P O R T
CITY OF INVER GROVE HEIGHTS

REPORT DATE : April 11, 2016 **CASE NO.:** 16-06PUD

APPLICANT: Mihm Custom Homes

PROPERTY OWNER: Mihm Custom Homes

REQUEST: Preliminary Plat and PUD, Rezoning

LOCATION: West side of Hwy 3 between future 65th and 67th Streets

HEARING DATE: April 19, 2016

COMPREHENSIVE PLAN: LDR, Low Density Residential

ZONING: A, Agricultural

REVIEWING DIVISIONS: Planning
Engineering **PREPARED BY:** Allan Hunting
City Planner

BACKGROUND

The applicant is proposing a 44 lot, two outlot single family development on an approximate 18.2 acre parcel to be named Windwood. The project is located just east of Blackstone Ridge and would receive sewer, water and street extensions from Blackstone Ridge. The project is located in the Northwest Area and the standard series of applications are being requested.

REQUESTS

The specific requests for the Windwood development project include the following:

1. Rezoning of the property from A, Agriculture to R-1C/PUD Single Family Residential District.
2. Preliminary Plat approval of Windwood consisting of 44 single family lots and two outlots.
3. Preliminary PUD approval of the Windwood PUD as required by the Northwest Overlay District.

EVALUATION OF THE REQUEST

SURROUNDING USES

The subject property is surrounded by:

- North: Existing single family residential; zoned A, Agricultural; guided Low Density Residential.
- East: Large lot residential; zoned A; guided MDR.
- West: Blackstone Ridge, single family residential; zoned R-1C/PUD; guided LDR.
- South: Vacant; zoned A; guided HDR and Mixed Use.

IDENTIFICATION OF NATURAL RESOURCES

In 2003, a Natural Resource Inventory and Management Plan were completed for the Northwest Area. The NRI inventoried and qualified natural resources systems within the area and established a management classification system to guide the preferred treatment of these features. The plan identifies 3 categories of natural features; conifer plantations, old fields and oak woodland-brushland. All features are in the Manage 3 and 4 categories which do not automatically require they be preserved. No specific preservation is required with this project.

NET DEVELOPABLE AREA

Note: the numbers that are referenced within this staff report are approximate based on preliminary plan submittals. They will likely change slightly between preliminary and final plat. The numbers provided are sufficient for preliminary plat review.

Net developable area is defined as the area of a property remaining after excluding those portions that are either: a) encumbered by right-of-way for arterials roads as defined in the IGH Comprehensive Plan; or b) lying below the ordinary high water level of public waters; or c) lying within the boundaries of delineated wetlands; or d) bluffs in shoreland areas; or e) land to be dedicated for public park needs. Based on this definition, the proposed project area contains approximately 18.20 net developable acres. This excludes the proposed right-of-way for 70th Street (Co Rd 26). There are no wetlands on the property.

General Project Data	Acres
Gross Project Area	18.3
Delineated Wetlands	0.10
Public Water Bodies (PWI)	0.00
Bluffs in Shoreland Area	0.00
Planned "Arterial" Road Right of Way	0.00
Total Net Developable Area	18.20

NATURAL AREA/OPEN SPACE

Section 10-13J-5. D. establishes requirements for open space preservation within the Northwest Area Overlay. Based on the net developable area the project contains the following:

	Required Acres	Proposed Acres
<i>Total Net Developable Area</i>	<i>18.2</i>	<i>NA</i>
Minimum Open Space Required = 20% of net area	3.70	5.20 (28.6%)
Required contiguous area = 75% of required open space with a minimum 100 foot corridor width	2.80	3.60 (69.0%)
Area to be undisturbed = 50% of required open space	1.85	2.80 (54%)

The site design has prioritized the open space areas around the two storm water ponds in Outlots A and B. The largest corridor is at least 100 feet wide. Outlots A and B are for storm water treatment and contain regional basins. These outlots will be owned by the City. The site design exceeds all open space requirements.

The developer shall be responsible for installing marker posts at reasonable locations to define the boundary of the open space. This provides identification for future land owners to know boundaries of the open space areas. The final PUD plans must show the location of the marker posts.

DEVELOPMENT CAPACITY PLAN

Section 10-13J-5. E. of the Northwest Area Overlay Ordinance outlines a process by which a site’s development capacity is determined as a means to allocate development across a site. This exercise only determines the number of units that would be permissible on the site and not the actual proposed development.

The development capacity plan was established for Windwood utilizing the base zoning district of R-1C. When applying the base district and factoring in the open space as part of the R-1C district, the development capacity plan yields a range of 36 to 66 possible units. This equates to a density range of 1.97 to 3.6 units per net acre.

Base Zoning District	Net Acres*	Min Density (units per acre)	Max Density (based on lot size per zoning code)	Min Units	Max Units
R-1C	18.2	2	12,000	36	66

The proposed net density for Blackstone Highlands would be 2.42 units/acre which is consistent with the comp plan designation and development capacity plan.

PROPOSED DEVELOPMENT MAGNITUDE, DENSITY AND BULK STANDARDS

Building setbacks and separation.

The Northwest Area Zoning Overlay establishes suggested guidelines for building separation and setbacks. The objectives for establishing such regulations are to ensure adequate area for certain uses on a site such as storm water management, parking, buffering of mechanical equipment and landscaping. The Northwest Area setbacks and structure separation standards consider compact development and reduced setbacks in order to minimize hard surface coverage and enable greater ability to leave larger areas of intact open space. This objective has to be carefully balanced with aesthetics also.

Units within the proposed development comply with the required setbacks, except for the following situations listed below:

- Building setbacks within the development are proposed with a separation of 15 feet.
- Side yard corner lot setback from Street A to be 20 feet, where 30 feet is required.
- Front yard setback from Street A to be 25 feet, where 30 feet is required.

Impervious surface coverage.

Impervious surface coverage standards are applied to give the city the authority to ensure sufficient areas for infiltration. Impervious surface areas include roads, sidewalks, parking areas, buildings, and other hard surface areas that do not allow infiltration.

The applicant has provided impervious surface calculations for the entire project. By ordinance, the maximum impervious surface coverage allowed is 25% for R-1C, single family. The applicant provided hardcover calculations for the entire project. After counting street and sidewalk hardcover, there is approximately 3,700 square feet of impervious surface left for each lot at 30.18% total impervious.

a) The applicant is requesting a total impervious surface coverage to 30.18% to allow for more coverage on the individual lots. These numbers are still preliminary and may change somewhat with the final PUD submittal.

b) The applicant is requesting flexibility from the maximum driveway width requirement.

PRELIMINARY PLAT

The applicant is proposing a preliminary plat which consists of 44 single family lots and 2 outlots. The outlots are for storm water purposes. All of the outlots would be owned and maintained by the City. The single family lot sizes range from approximately 8,125 square feet to 15,108 square feet. Average lot size is approximately 9,925 square feet. The majority of lot widths are approximately 60-65 feet wide, with 80-90 foot corner lots. Each lot is shown with a typical 50'x50' building pad.

The plat provides for the required 50 foot half right-of-way dedication for 65th Street and a 40 foot half right-of-way for 67th Street. Street A would be a collector street identified on the Collector Street Study. All other streets would be local streets and all provide 60 foot wide right-of-ways.

PARKS/TRAILS

No additional trail only segments are proposed in the project. The site plan identifies sidewalks along all the public streets as required by the Northwest Ordinance.

The Parks Director has reviewed the plat and notes the following. The adopted Comprehensive Park Plan and Development Guide does not identify a need for a park in this general area or any other open space trails; therefore, staff is not recommending the developer provide any park land dedication for this development.

It is recommended that the developer be required to provide cash in the amount of the rates in affect at the time the final plat is approved. The current 2016 rate is as follows:

Single Family Rate \$2,850 x 44 units = \$125,400

STREETS & CONNECTIVITY

The street system through the project contains a segment of a north-south collector, two local street stubs leading west into Blackstone Ridge. The collector street will eventually connect into future 67th and 65th Streets. 65th Street is being studied by the City currently and could be constructed in the next couple of years. No street stubs leading to the property to the east were recommended by staff as the topography between the properties is not conducive to street construction. The property to the east will have access to either 65th or 67th Streets when it is developed.

Street right-of-way widths meet standards as identified in the Northwest Area Overlay. ROW widths are adequate to accommodate travel lanes, storm water management systems, landscaping and sidewalks on major streets. The project is designed with sidewalks on one side of all streets in the development.

LANDSCAPING/TREE PRESERVATION

The developer has provided a tree inventory of the site. The Code allows a tree removal of 30% for single family. The code allows removal beyond the threshold and requires replacement for those trees over the limit. The reforestation plan identifies a removal rate of approximately 70%. In this case, a total of 1,747 caliper inches are required to be replanted. The reforestation takes into account the conifer plantations that exist on site and were noted in the Natural Resource Inventory. Since these are planted for commercial purposes and not naturally occurring, they have been taken out of the tree inventory and don not count towards removal. The applicant has also done research using historical aerial photography to confirm the trees were planted.

The proposed landscape plan provides for a total of 1,752 caliper inches consisting of trees ranging from 4 caliper inches for deciduous trees and 12 feet tall coniferous trees. The trees are

spread out over the site so that each lot will have at least two replacement trees. The reforestation and landscape plans comply with city standards.

The applicant has indicated they would still request some flexibility from the reforestation requirements as the amount of plantings required may be difficult to achieve on site. The Reforestation ordinance does have a provision to allow for a cash payment in lieu of planting or partial payment if replanting is difficult. The rate for a planted tree is estimated at \$300 per tree. Staff is open to any options but would recommend compliance with the reforestation requirements.

WETLANDS

There is a small portion of a wetland on the north side of the lot that is on this lot. A wetland delineation was performed indicating about 0.1 acres of wetland exist. The wetland will not be disturbed with this project.

GRADING, DRAINAGE, STORMWATER AND UTILITIES

The grading and storm water plan have been reviewed by the engineering staff and their consultants Barr Engineering. As proposed, preliminary engineering review finds the project will work as generally designed. Storm water is being treated through a series of basins and regional ponds.

Engineering staff and the consultants have drafted comment memos discussing the items that will need to be addressed as part of the final plans. These memos will be incorporated into the conditions of approval in the general engineering comment condition.

FLEXIBILITY REQUESTS

The applicant is requesting the following flexibility requests from Northwest Area Standards:

1. SETBACKS

- a) Building setbacks within the development are proposed with a separation of 15 feet.

The code requires a minimum 20 foot separation. The intent of the code requirement was to provide space between houses for infiltration basins or rain gardens. In order for this to work, houses would have to be built at the same time so an infiltration system could be installed between the houses on both lots. This typically will not occur because houses are not always built at the same time and the infiltration feature must be constructed all at the same time in order for it to function correctly. The applicant is not proposing any storm water features between houses, but in larger basin areas. The setback separation proposed is typical of the standard required in all other parts of the City. All residential developments approved so far have been with either a 10 foot or 15 foot separation. Staff supports this separation and flexibility request.

- b) Setback along collector street, including corner lots.

Standard setbacks for homes along collector streets is 30 feet. A collector street is designed and anticipated to carry a larger volume of traffic than a local street, thus the increased setback over the 20 foot standard in the Northwest Area. The developer is confined by narrow width of the property as well as two basins on the east and west boundaries which limit the buildable area of the parcel. The applicant is proposing a 25 foot front setbacks and a 20 foot corner lot setback for the four corner lots in the development. Council has approved corner lot setbacks in previous developments. Staff recognizes the physical constraints of the property and that this segment of the overall collector street system will be more important for a continuous north/south road as opposed to a large traffic volume street.

2. IMPERVIOUS SURFACE

- a) The applicant is requesting a total impervious surface coverage to 30.18% to allow for more coverage on the individual lots. These numbers are still preliminary and may change somewhat with the final PUD submittal.
- b) The applicant is requesting flexibility from the maximum driveway width requirement.

They are requesting that the driveways be allowed to be full length and width with non porous pavement The Northwest Area District requires any portion of a driveway greater than 20 feet in width shall be constructed of a porous pavement material. Function of the regulation is to minimize the amount of impervious surface. The applicant has designed the project to accommodate the additional runoff from the hard surface driveways in the storm water design. The amount of impervious surface maximum per lot would address the coverage issue. The Argenta Hills and Blackstone developments were granted this same flexibility and no known issues exist with this flexibility.

The amount of roadway and sidewalk in the plat consumes a large amount of the allowed 25% impervious surface. The applicant is requesting the impervious surface be allowed up to 30.18% in order to provide building coverage on each lot to approximately 3,700 square feet per lot. This is comparable to lot coverage approved in Blackstone Vista and Blackstone Ridge. A definite number would be established with the final plat and the storm water plans would be modified to address the additional impervious surface.

Engineering have indicated that they have no issues with the request because the storm water system shown on the plans assumed 30+% impervious surface coverage. Any additional storm water needs can be addressed in the final PUD plans.

DEVELOPMENT CONTRACT

The Developer and Owner shall enter into a Development Contract and other associated agreements with the City. The list of agreements and details of the contract will be discussed with the applicant, city attorney and staff as part of the final PUD review. All of the agreements will be approved by the City Council as part of the final PUD review.

FINANCIAL IMPLICATIONS

During the initial steps for studying development in the Northwest Area, the City conducted land use and financial studies to determine the densities and costs per unit in order to fund the installation of city utilities. Since no assessments were levied, fees are collected when a parcel of land is developed. Minimum densities have been established for each parcel to achieve these goals. Based on those assumptions, the subject parcel calculation assumed 99 units would be developed to cover city utility costs. The preliminary plans submitted show a total of 44 units. The project would be 45 units short and therefore would come up short in providing its fair share of the overall utility costs. A preliminary number based on plat and building permit fee collections for 44 lots would be approximately \$1,095,300. A preliminary number based on plat and building permit fee collection for the assumed 99 lots would be \$665,750.

The Council just recently approved a comp plan amendment reduction for the Mihm Custom Homes application with the obligation to pay any difference in proposed vs. assumed connection fees.

ALTERNATIVES

The Planning Commission has the following actions available on the proposed project:

- A. **Approval:** If the proposed request is found to be acceptable, approval of the applicable following actions should be taken:
 - o Approval of a **Rezoning** of the property from A, Agricultural to R-1C/PUD, Single Family Residential subject to the following conditions:
 1. The rezoning shall not become effective until the final plat is approved by the City and recorded with the County. In the event a final plat is not approved, the rezoning shall become null and void and the zoning of the property shall remain in its current classification.
 - o Approval of the **Preliminary Plat and Preliminary PUD** subject to the following conditions:
 1. The final plat and accompanying site plans shall be in substantial conformance with the following plans on file with the Planning Department except as may be modified by the conditions below.

Preliminary Plat	2/29/16
Preliminary Open Space Plan	3/29/16
Preliminary Impervious Surface Exhibit	2/25/16
Preliminary Grading Plan	2/29/16
Preliminary Sanitary/Water/Site Plan	4/1/16
Preliminary Storm Sewer Plan	2/29/16

Preliminary Tree Preservation Plan 2/25/16
 Preliminary Landscape Plan 2/25/16

2. Prior to final plat and plan approval, the final grading, drainage and erosion control, and utility plans shall be approved by the Director of Public Works.
3. Drainage and utility easements shall be provided on the final plat as required by the Director of Public Works.
4. The developer shall be responsible for installing marker posts at reasonable locations to define the boundary of the open space. This provides identification for future land owners to know boundaries of the open space areas. The final PUD plans must show the location of the marker posts.
5. Park dedication shall consist of a cash contribution in the amount of the rates in effect at the time the final plat is approved.
6. All plans shall be subject to the review and approval of the Fire Marshal.
7. Prior to execution of the plat by the City and prior to recording of the plat with the County, the Owner shall execute a Storm Water Facilities Maintenance Agreement with the City whereby the developer shall be responsible for the maintenance of storm water improvements on such lots.
8. Prior to execution of the plat by the City and prior to recording of the plat with the County, the Developer must pay the City utility plat connection fees consisting of a Water Utility Fee, Sanitary Sewer Utility fee and Storm Water Sewer Utility fee according to the formulas adopted by city ordinance.
9. In the Development Contract, the Developer and Owner shall acknowledge that at the time the building permits are obtained additional connection fees for the water utility system and sanitary sewer utility system are due and owing. Final details of the amounts to be paid shall be part of the final PUD plan review.
10. In the Development Contract, the Developer and Owner shall agree that the following elements of the Planned Unit Development shall not be altered, changed or removed without first obtaining the following consents:

Site Plan Element	Consent Required By
Building Location	City Council
Driveways and Private Roads	Planning Department
Landscaping	Planning Department
Location of Utilities	Engineering Department

Location of Conservation Easement and Open Space	City Council
---	--------------

11. The Developer and Owner shall execute an Acknowledgement of Planned Unit Development Zoning. This Acknowledgement shall state that property within the plat is subject to the approved PUD plans and PUD zoning and that the development on the property must conform to the PUD plans and PUD zoning. This Acknowledgement shall be recorded when the plat is recorded.
 12. The Developer and Owner shall enter into a Development Contract with the City. The form of Development Contract shall substantially comply with the model Development Contract which is part of the Administrative Code, taking into account the particular requirements of the Planned Unit Development plans.
 13. The following documents shall be recorded when the plat is recorded:
 - Development Contract;
 - Storm Water Facilities Maintenance Agreement;
 - Acknowledgement of PUD Zoning.
 14. Prior to City Council review of the final PUD development plans, the Developer must respond to all of the comments of the City Engineer memo dated 3/16/16, and comments from Barr Engineering.
 15. Street lighting shall be required along all public streets. The street lighting plans shall be approved by the City prior to installation.
- B. Denial:** Should the proposed request or portions thereof, not be found to be acceptable, the appropriate requests described above should be denied. The basis for denial must be stated in any such motion.

RECOMMENDATION

The project complies with nearly all performance standards of the Northwest Area. Flexibility requests have been made for building separation, driveway width and setback requirements. Staff supports these requests based on discussion in the planning report. Engineering is comfortable with the overall preliminary grading and storm water plans.

Staff recommends approval of the preliminary plat, preliminary PUD and rezoning requests with the conditions listed.

Attachments:

- Location Map
- Applicant Narrative
- Preliminary Plat

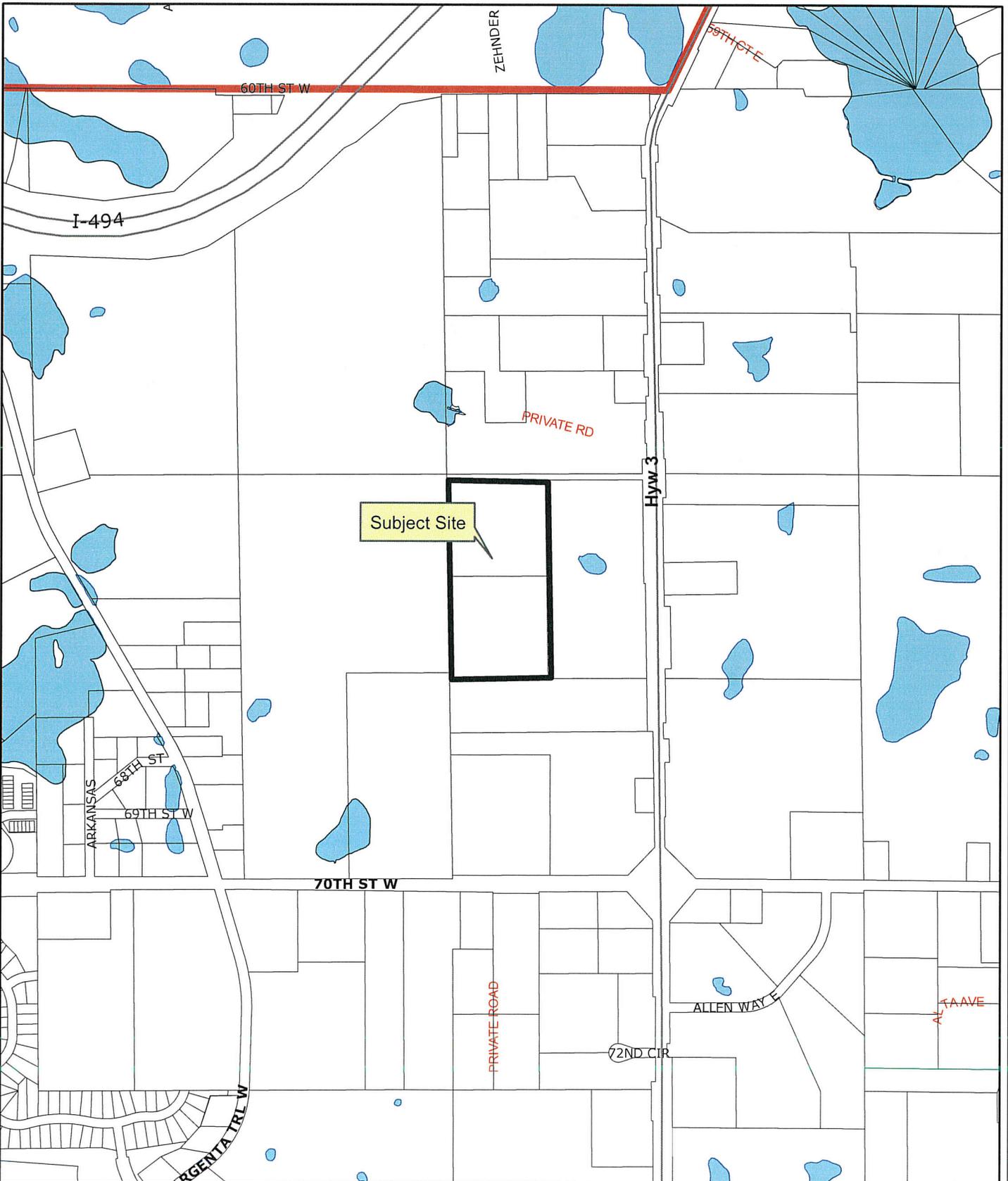
Planning Report – Case 16-06 PUD
April 19, 2016
Page 11

Preliminary Site Plan/Open Space Plan
Preliminary Grading Plan
Preliminary Impervious Surface Exhibit
Preliminary Sanitary/Water/Site Plan
Preliminary Tree Preservation Plan
Preliminary Landscape Plan



Location Map

Case No. 16-06PUD



Date: February 29, 2016

Revised: March 30, 2016

To: City of Inver Grove Heights

From: Tom Mihm for Mihm Custom Homes, applicant; Pioneer Engineering, consultant

Re: Application for Windwood PUD in the Northwest Area

Thank you for taking the time to review this application. We are confident that we will create an attractive new neighborhood for Inver Grove Heights in keeping with the Northwest Area Plan.

The Property

The property consists of 18.5 acres of rolling terrain with existing woodland. The land to the west is Blackstone Ridge, a single family development. To the east is an existing acreage lot abutting Highway 3. There will be collector streets to the north and south of the property.

Comprehensive Plan

Windwood was recently amended to Low Density Residential (LDR).

Zoning

The zoning requested is PUD within the Northwest Area. We are proposing lots that are 65' in width which corresponds with the approved development to the west and fits within the comprehensive plan designation of LDR. This lot size is small enough to provide a cluster type development in order to meet the open space and storm water requirements within the Northwest Area as well as provide a housing choice that is in demand in today's market.

We are requesting some flexibility on setbacks. Below is a summary of what would be required under standard zoning and what we are asking for as part of the PUD:

	Standard Zoning	PUD Request
Front Setback	20'	25'
Rear Setback	30'	30'
Side Setback Corner along Street A	30'	20'
Front Setback along Street A	30'	25'
Setback Between Buildings	20'	15'
Setback along 67th	30'	30'
Serback along 65th	40'	40' rear, 30' corner

We are being required to provide a neighborhood collector (Street A) through the property as well as dedicating ROW for future 67th Street at the south and have another collector along the north property line. We are asking for a reduced side yard setback along Street A to 20'. This

affects a total of four lots. Since this is a neighborhood collector and the entire length of the street will have lots fronting directly onto it, the 15' side yard setback will not be something that will change the integrity of the neighborhood collector status or the placement of all the other homes along Street A so we are asking the City to consider our request for some setback flexibility.

Open Space

We are required to provide a minimum of 20%, or 3.7 acres, of the site for open space. Of this 3.7 acres, 2.8 acres must be contiguous and 1.85 acres must be left in an undisturbed state. We have exceeded all of these numbers. We are proposing 5.2 acres of gross open space, 3.6 acres of contiguous open space, and 2.8 acres of undisturbed open space.

Infrastructure

The property can be served by sewer and water extension from the west. Development of the property concurrently with Blackstone Ridge to the west will allow construction of a trunk storm sewer segment necessary to conform to the Northwest Area Plan.

The City has designated 65th Street, a collector, to run along the north boundary of the property. On the south end of the property, land will be dedicated for the 67th Street collector. The City has also required us to provide a north-south neighborhood collector running through Windwood. Our application proposes continuing the roads stubbed on the east property line of Blackstone Ridge.

We are requesting flexibility with the driveway requirement that they be a maximum of 20' wide. We'd like to use impervious surface for the entire width of the garage. The stormwater plan will account for all impervious surface including these proposed driveways.

We are requesting 45% per lot impervious coverage for an overall site impervious of 31%. We are requesting flexibility from the 25% overall site impervious requirement. We are exceeding all of the open space requirements and are at about 2.4 units/acre density, well within the 1-3 units/acre required. Even with our lower density and greater than minimum open space requirement, we still need an overall site impervious of 31% to make this product work. The stormwater management plan has been designed for the 31% overall site impervious we are requesting.

Trees

This single family development is allowed 30% tree removal threshold which we are exceeding. The City uses caliper inch measurements which means that for one 30" tree being removed over the threshold, ten 3" trees would have to replace that one tree. Because of this, going over the threshold on a wooded site like this becomes a significant burden on development and, in our case, we cannot physically fit the number of new trees required for mitigation on site. Many sites in the northwest area have a mix of open space and woodlands so the inch for inch mitigation requirement will encourage clustering in open space and leaving the woodland in its current state. Our site is primarily wooded. Because of this, the mitigation requirement becomes almost crippling because of the inch for inch requirement above the threshold. According to historical aerial photography, sometime in the 1970's the site did have open pastureland. The trees on site,

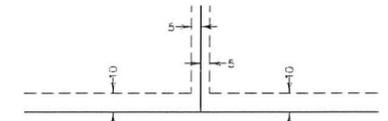
even those not exempted as conifer plantation, were actively planted and did not occur as natural woodland. We are asking flexibility in the tree mitigation requirements for these reasons.

We are proposing to mitigate with a mix of 4" deciduous and 12' evergreen trees providing for an attractive boulevard experience and ample screening from the north and south collector roads and the adjacent properties.

We look forward to working with the City as we move forward in the application process to create this newest neighborhood in Inver Grove Heights.



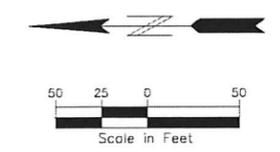
DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



being 5 feet in width, and adjoining lot lines unless otherwise indicated, and 10 feet in width and adjoining street lines and rear lot lines unless otherwise indicated on the plat.

TOTAL GROSS AREA	18.5175 ACRES
TOTAL LOT AREA	10.0120 ACRES
NUMBER OF LOTS	44
LARGEST LOT	15,108 SQ. FT.
SMALLEST LOT	8,125 SQ. FT.
AVERAGE LOT	9,925 SQ. FT.
NUMBER OF OUTLOTS	2
TOTAL OUTLOT AREA	5.2665 ACRES
TOTAL RIGHT OF WAY AREA	3.2389 ACRES
GROSS DENSITY (EXCLUDES OUTLOTS)	3.31 LOTS/ACRE
NET DENSITY (EXCLUDES OUTLOTS & R/W)	4.39 LOTS/ACRE
ZONING (PROPOSED)	

LEGAL DESCRIPTION PROPOSED BY CLIENT
 LOTS 2 AND 3, BLOCK 1, WINDWOOD ADDITION, ACCORDING TO THE RECORDED PLAT THEREOF, DAKOTA COUNTY, MINNESOTA.



SECTION 6, TWP. 27, RGE. 22
 LOCATION MAP
 NO SCALE

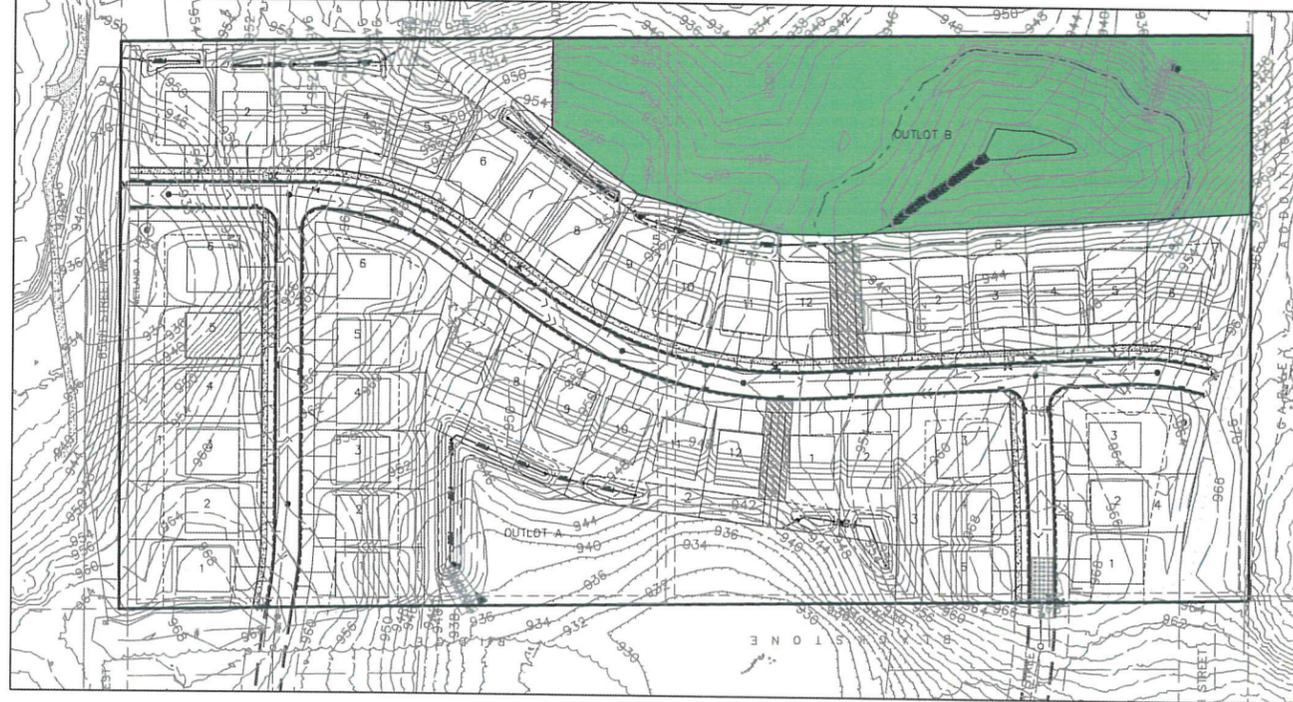
GROSS OPEN SPACE



UNDISTURBED OPEN SPACE



CONTIGUOUS OPEN SPACE



OPEN SPACE DATA:

GROSS DEVELOPMENT AREA: 18.3 ACRES

OPEN SPACE REQUIREMENT:

GROSS OPEN SPACE: 20% X 18.3 = 3.7 ACRES

CONTIGUOUS OPEN SPACE (MIN. 100' WIDE): 75% X 3.7 = 2.8 ACRES

UNDISTURBED OPEN SPACE: 50% X 3.7 = 1.85 ACRES

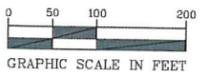
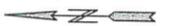
PROPOSED OPEN SPACE:

■ GROSS OPEN SPACE: 5.2 ACRES

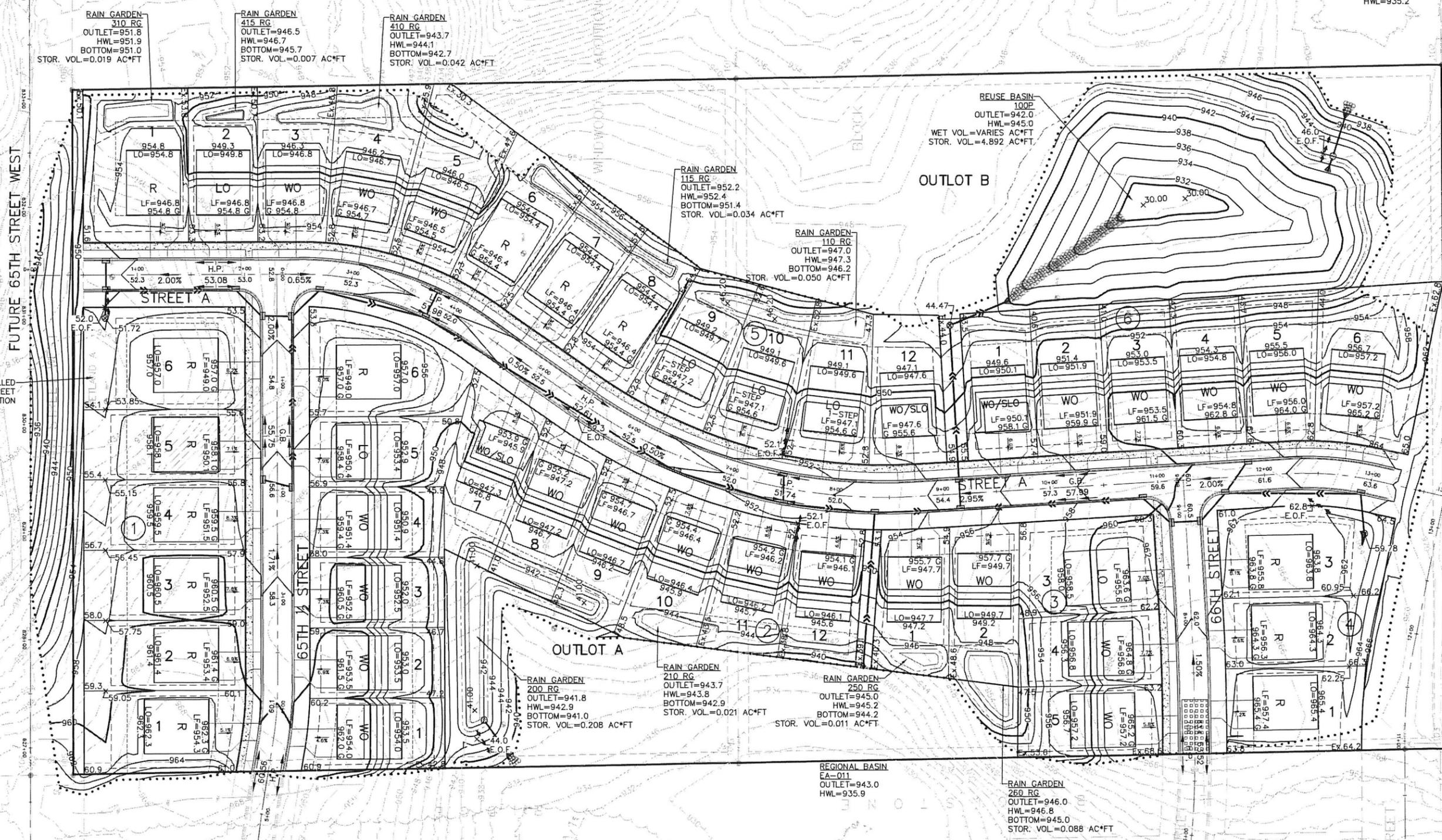
■ CONTIGUOUS OPEN SPACE: 3.6 ACRES

■ UNDISTURBED OPEN SPACE: 2.8 ACRES

■ DISTURBED OPEN SPACE



REGIONAL BASIN
 EP-025C
 OUTLET=935.2
 HWL=935.2



WETLAND TO BE FILLED
 WITH 65TH STREET
 CONSTRUCTION

SETBACKS - PUD NORTHWEST AREA

FRONT:
 GARAGE FOUNDATION TO R-O-W =25'
 HOUSE FOUNDATION TO R-O-W =25'

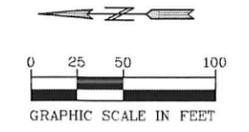
SIDE:
 GARAGE =7.5'
 HOUSE =7.5'

REAR:
 30' LOCAL STREET
 40' COLLECTOR STREET
 CORNER
 15' LOCAL STREET
 30' COLLECTOR STREET
 LOW FLOOR =HWL+2'
 LOWEST OPENING = EOF+1'

MIN AREA:
 LOT AREA =8125 SF

MIN LOT WIDTH:
 LOT WIDTH =65'

**IMPERVIOUS COVERAGE
 ORDINANCE**
 PER LOT=40% MAX
 TOTAL SITE=25% MAX
PROPOSED
 PER LOT=45% MAX
 TOTAL SITE=31% MAX



BENCH MARK
 MnDOT BENCH 1908 E
 NORTHEAST QUADRANT OF TRUNK HWY 3 &
 COUNTY ROAD 26. (NAVD88) ELEV=897.626

PIONEERengineering
 CIVIL ENGINEERS LAND PLANNERS LAND SURVEYORS LANDSCAPE ARCHITECTS
 2422 Enterprise Drive
 Mendota Heights, MN 55120
 (651) 681-1914
 Fax: 681-9488
 www.pioneereng.com

I hereby certify that this plan 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.
 Name: Paul J. Chene
 Reg. No. 19860 Date:

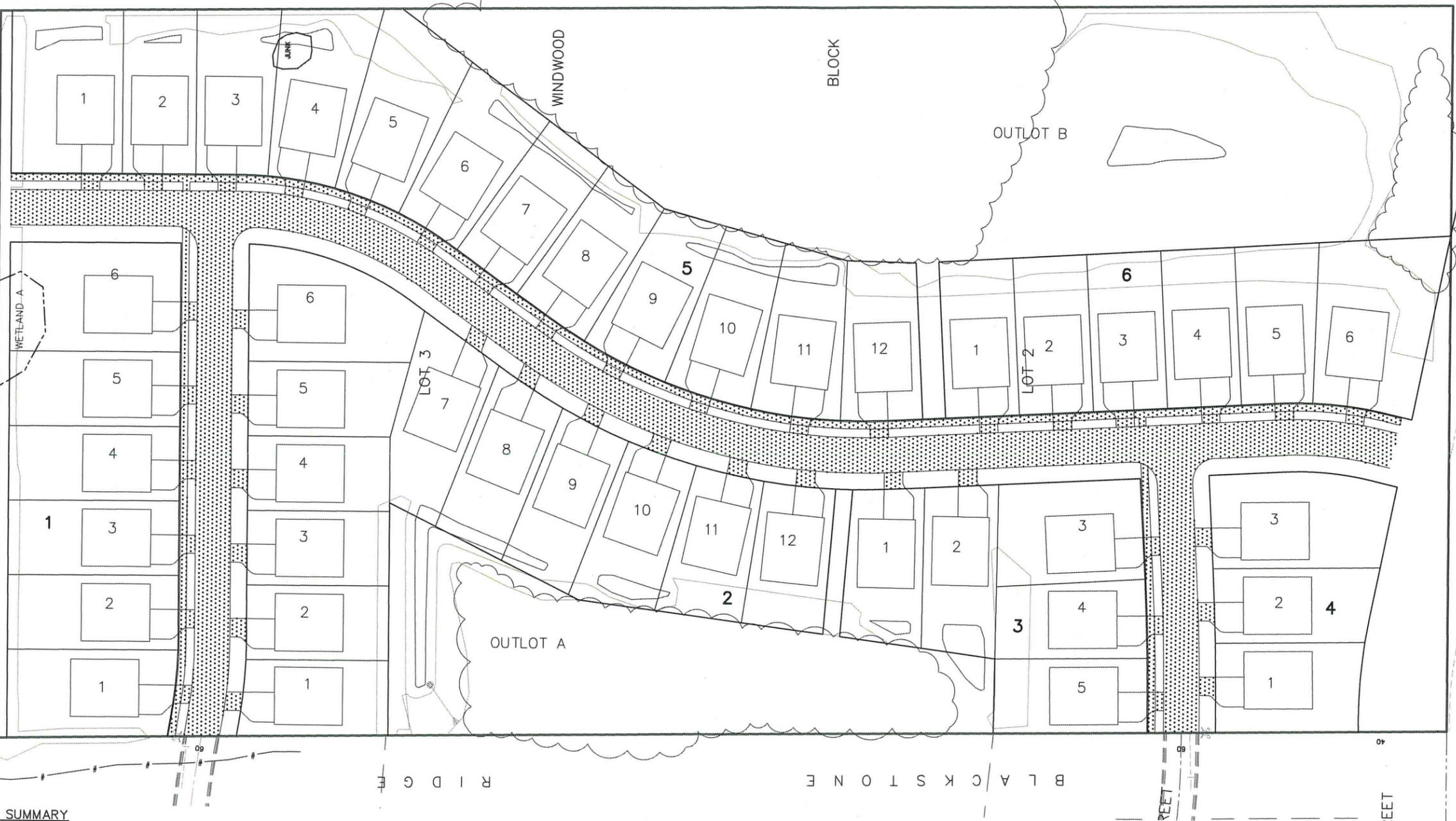
Revisions
 Date: 02-29-16
 Designed: PIC/BNM
 Drawn: BNM

PRELIMINARY GRADING PLAN

MIHM CUSTOM HOMES
 842 IVY LANE
 EAGAN, MN 55123

WINDWOOD
 INVER GROVE HEIGHTS, MINNESOTA

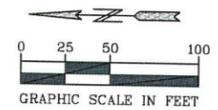
65TH STREET WEST



IMPERVIOUS AREA SUMMARY
 TOTAL AREA: 18.52 AC
 IMPERVIOUS AREA: 5.59 AC
 PERVIOUS AREA: 12.93 AC
 % IMPERVIOUS: 30.18%

LOT IMPERVIOUS AREA ASSUMPTIONS
 (INCLUDES DRIVEWAY)
 44 LOTS
 3,700 SF PER LOT (INCLUDES PORCH)

ROW IMPERVIOUS AREA
 = 80,759 SF OR 1.85 AC



PIONEERengineering
 CIVIL ENGINEERS LAND PLANNERS LAND SURVEYORS ENVIRONMENTAL SCIENTISTS
 2422 Enterprise Drive Mendota Heights, MN 55120
 (651) 681-1914 Fax: 681-9488
 www.pioneereng.com

I hereby certify that this plan was prepared by me or under my direct supervision, and that I am a duly Licensed Landscaper/Architect under the Laws of the State of Minnesota.
 Name: Janette L. Thompson
 Reg. No. 44761 Date: 2/25/16

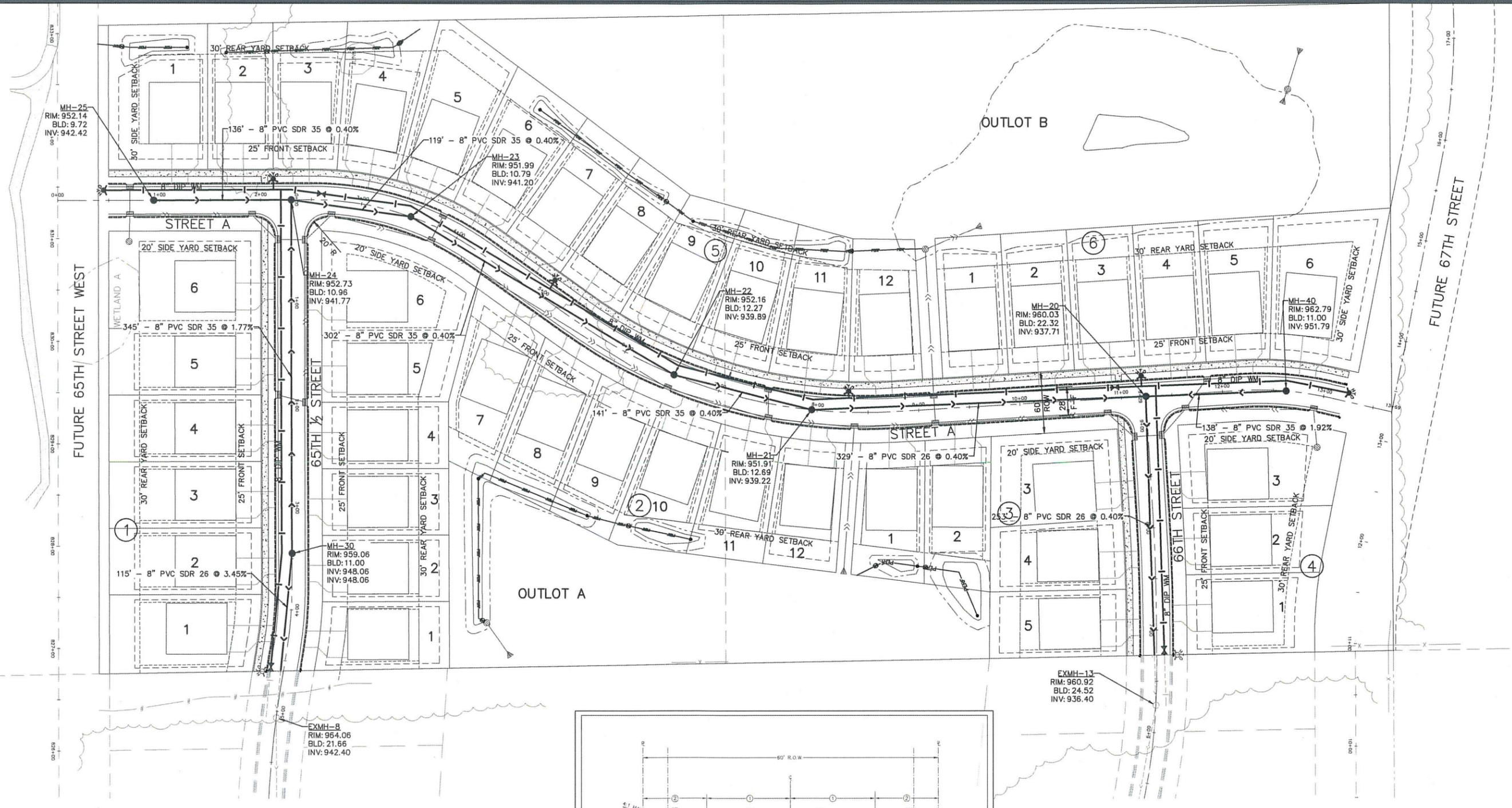
Revisions:
 Date: 2-25-16
 Designed: TML
 Drawn: TML

IMPERVIOUS EXHIBIT

MIHM CUSTOM HOMES
 842 IVY LANE
 EAGAN, MN 55123

WINDWOOD
 INVER GROVE HEIGHTS, MINNESOTA

LI OF 1



MH-25
RIM: 952.14
BLD: 9.72
INV: 942.42

MH-23
RIM: 951.99
BLD: 10.79
INV: 941.20

MH-24
RIM: 952.73
BLD: 10.96
INV: 941.77

MH-22
RIM: 952.16
BLD: 12.27
INV: 939.89

MH-20
RIM: 960.03
BLD: 22.32
INV: 937.71

MH-40
RIM: 962.79
BLD: 11.00
INV: 951.79

MH-21
RIM: 951.91
BLD: 12.69
INV: 939.22

MH-30
RIM: 959.06
BLD: 11.00
INV: 948.06

EXMH-13
RIM: 960.92
BLD: 24.52
INV: 936.40

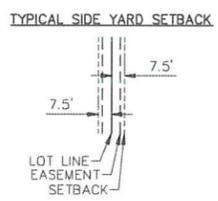
EXMH-8
RIM: 964.06
BLD: 21.66
INV: 942.40

FUTURE 65TH STREET WEST

65TH STREET

66TH STREET

FUTURE 67TH STREET



SETBACKS - PUD NORTHWEST AREA

FRONT:
GARAGE FOUNDATION TO R-O-W = 25'
HOUSE FOUNDATION TO R-O-W = 25'

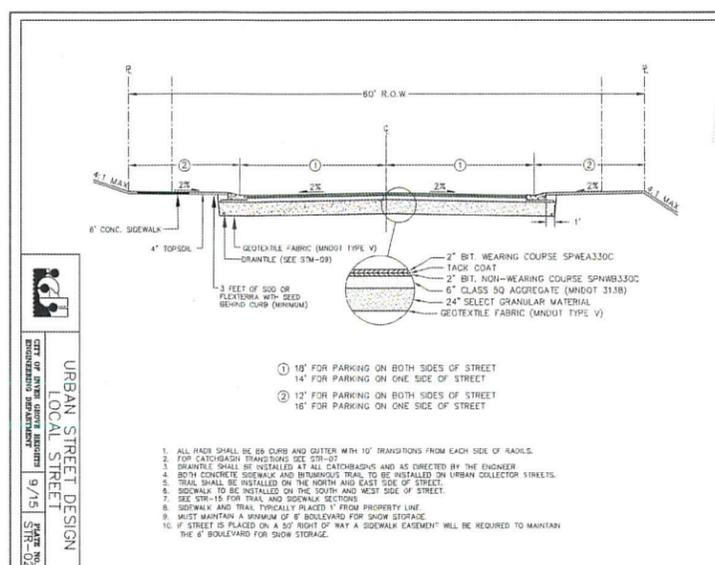
SIDE:
GARAGE = 7.5'
HOUSE = 7.5'

REAR:
30' LOCAL STREET
30' COLLECTOR STREET
CORNER
20' LOCAL STREET
30' COLLECTOR STREET
LOW FLOOR = HWL + 2'
LOWEST OPENING = EOF + 1'

MIN AREA:
LOT AREA = 8125 SF

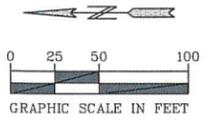
MIN LOT WIDTH:
LOT WIDTH = 65'

IMPERVIOUS COVERAGE ORDINANCE:
PER LOT = 40% MAX
TOTAL SITE = 25% MAX
PROPOSED:
PER LOT = 45% MAX
TOTAL SITE = 31% MAX



URBAN STREET DESIGN
LOCAL STREET

1. ALL PAVES SHALL BE 88 CURB AND GUTTER WITH 10' TRANSITIONS FROM EACH SIDE OF ROAD.
2. FOR CATCHBASIN TRANSVERSE SEE STR-07
3. DRAINAGE SHALL BE INSTALLED AT ALL CATCHBASINS AND AS DIRECTED BY THE ENGINEER
4. BOTH CONCRETE SIDEWALK AND BITUMINOUS TRAIL TO BE INSTALLED ON URBAN COLLECTOR STREETS.
5. TRAIL SHALL BE INSTALLED ON THE NORTH AND EAST SIDE OF STREET.
6. SIDEWALK TO BE INSTALLED ON THE SOUTH AND WEST SIDE OF STREET.
7. SEE STR-16 FOR TRAIL AND SIDEWALK SECTIONS
8. SIDEWALK AND TRAIL TYPICALLY PLACED 1' FROM PROPERTY LINE
9. MUST MAINTAIN A MINIMUM OF 6' BOULEVARD FOR SNOW STORAGE
10. IF STREET IS PLACED ON A 50' RIGHT OF WAY A SIDEWALK EASEMENT WILL BE REQUIRED TO MAINTAIN THE 6' BOULEVARD FOR SNOW STORAGE.



BENCH MARK
MnDOT BENCH 1908 E
NORTHEAST QUADRANT OF TRUNK HWY 3 &
COUNTY ROAD 26. (NAV088) ELEV=897.626

PIONEER Engineering

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(651) 681-1914
Fax: 651-9488
www.pioneereng.com

I hereby certify that this plan 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.
Name: _____
Title: _____
Date: _____

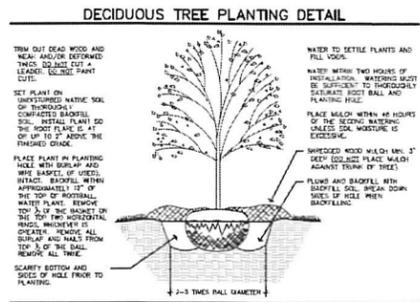
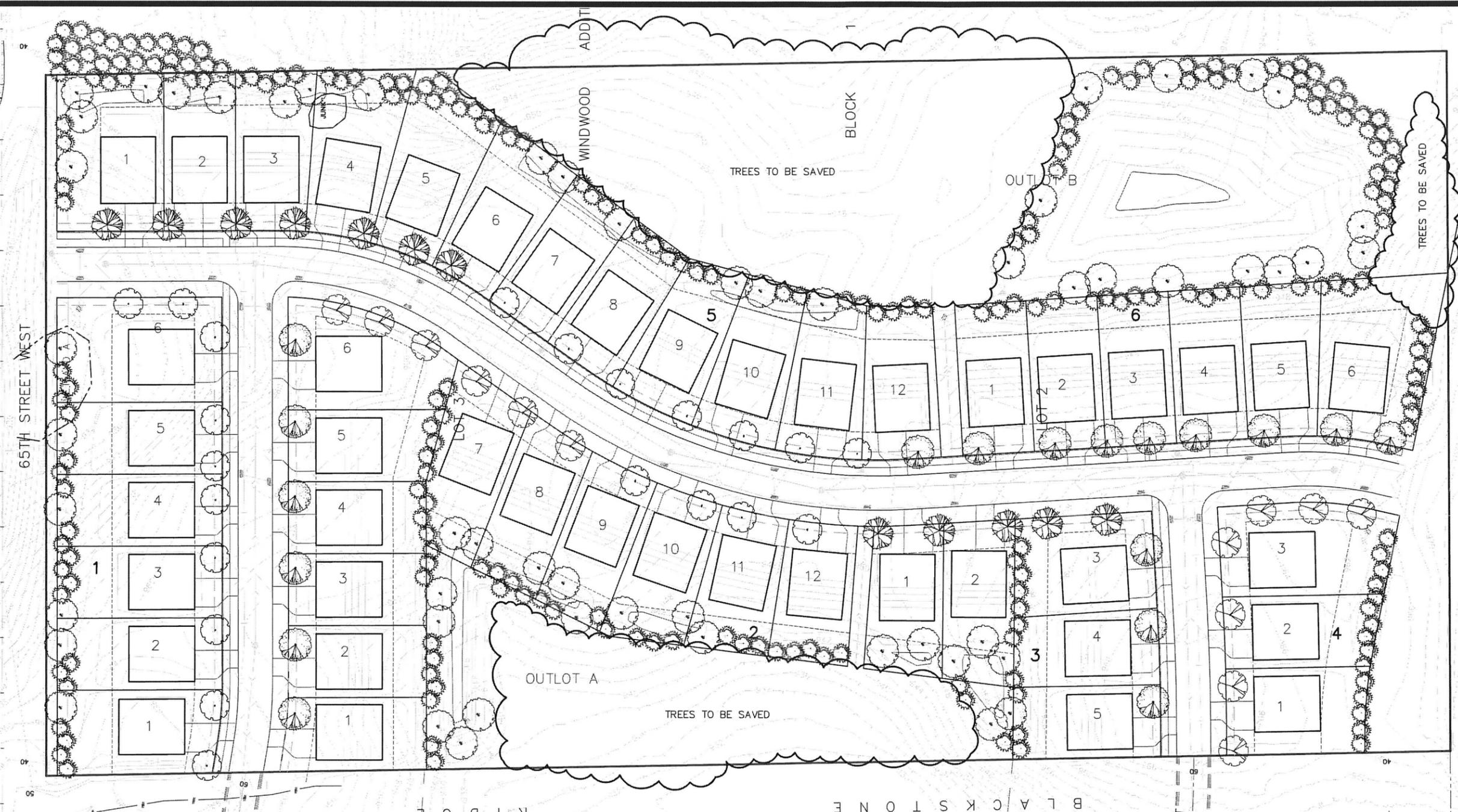
Revises: 1.04-01-2016: Revise Setbacks
Date: 02-29-16
Designed: PJC/BMM
Drawn: BNN

PRELIM. SANITARY & WATER PLAN /
SITE PLAN

MIHM CUSTOM HOMES
842 IVY LANE
EAGAN, MN 55123

WINDWOOD
INVER GROVE HEIGHTS, MINNESOTA

8 OF 11



- ### LANDSCAPE NOTES
- THE LANDSCAPE CONTRACTOR SHALL VISIT THE PROJECT SITE TO BECOME FAMILIAR WITH THE EXISTING CONDITIONS PRIOR TO SUBMITTING A BID.
 - THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT OF PROPOSED PHYSICAL START DATE AT LEAST 7 DAYS IN ADVANCE.
 - THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE FIELD VERIFICATION OF ALL EXISTING UTILITY LOCATIONS ON THE PROJECT SITE WITH CONVEY STATE AND CALL 800-368-5848 PRIOR TO COMMENCING WORK.
 - THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF EXISTING UTILITIES DAMAGED DURING CONSTRUCTION AT HIS COST TO THE OWNER. NOTIFY THE LANDSCAPE ARCHITECT OF ANY CONFLICTS TO FACILITATE PLANT RELOCATION.
 - GRADING TO BE PERFORMED BY OTHERS.
 - NO PLANT MATERIAL SHALL BE INSTALLED UNTIL GRADING AND CONSTRUCTION HAS BEEN COMPLETED IN THE IMMEDIATE AREA.
 - ALL PLANT MATERIAL SHALL MEET THE STANDARDS FOUND IN THE AMERICAN ASSOCIATION OF HEDERBERG-HANDREY STANDARDS FOR NURSERY STOCK.
 - ALL CONTAINER MATERIAL TO BE GROWN IN THE CONTAINER A MINIMUM OF SIX (6) MONTHS PRIOR TO PLANTING ON SITE.
 - DECIDUOUS AND CONIFEROUS TREES SHALL NOT BE STAGED, BUT THE LANDSCAPE CONTRACTOR MUST GUARANTEE STANDABILITY TO A WIND SPEED OF 80 MPH.
 - THE LANDSCAPE CONTRACTOR SHALL PROVIDE A MINIMUM GUARANTEE OF ONE YEAR ONE TIME REPLACEMENT ON NEW PLANT MATERIALS. GUARANTEE SHALL BE AGUED UPON BY OWNER/INSURER AND LANDSCAPE CONTRACTOR.
 - THE LANDSCAPE ARCHITECT RESERVES THE RIGHT TO REJECT ANY PLANTS WHICH ARE DEEMED UNSATISFACTORY BEFORE, DURING OR AFTER INSTALLATION.
 - IF THERE IS A DISCREPANCY BETWEEN THE NUMBER OF PLANTS SHOWN ON THE PLAN AND THE NUMBER SHOWN ON THE PLANT LIST, THE HIGHER SHOWN ON THE PLAN WILL TAKE PRECEDENCE.
 - THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL MULCHES AND PLANTING SOIL QUANTITIES TO COMPLETE WORK SHOWN ON THE PLAN. THE LANDSCAPE CONTRACTOR SHALL VERIFY ALL QUANTITIES SHOWN ON THE PLANT SCHEDULE.
 - COMMERCIAL GRADE POLY LAWN EDGING SHALL BE INSTALLED WHERE NOTED.
 - THE LANDSCAPE CONTRACTOR SHALL REPAIR ALL DAMAGE TO THE SITE CAUSED BY THE PLANTING OPERATION AT HIS COST TO THE OWNER.
 - THE LANDSCAPE CONTRACTOR SHALL KEEP PAVEMENTS CLEAN UNSTAINED, ALL PEDESTRIAN AND VEHICLES TO BE MAINTAINED THROUGHOUT CONSTRUCTION PERIOD. ALL WASTES SHALL BE PROMPTLY REMOVED FROM THE SITE. ANY DAMAGE TO EXISTING FACILITIES SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE CODES, REGULATIONS AND PERMITS GOVERNING THE WORK.
 - STORAGE OF MATERIALS ON-SITE WILL NOT BE ALLOWED.

PLANTING SCHEDULE

KEY	COMMON NAME/SCIENTIFIC NAME	ROOT	QUANTITY	SPECIAL INSTRUCTIONS
OVERSTORY TREES				
	AUTUMN BLAZE MAPLE/ACER X FREEMANII	4" B&B	18	
	HACKBERRY/CELTIS OCCIDENTALIS	4" B&B	21	
	SENTRY LINDEN/TILIA AMERICANA 'SENTRY'	4" B&B	13	
	RED OAK/QUERCUS RUBRA	4" B&B	12	
	RIVER BIRCH/BETULA NIGRA	12' B&B	55	COUNT AS A 4" TREE
EVERGREEN TREES				
	BLACK HILLS SPRUCE/PICEA GLAUCA DENSATA	12' B&B	232	COUNT AS A 5.5" TREE

MITIGATION REQUIREMENT

TOTAL TREES INCHES TO BE MITIGATED = 1,747"

PROPOSED MITIGATION = 1,752"

SEE TREE PRESERVATION PLAN



2422 Enterprise Drive
Mendota Heights, MN 55120
(651) 681-1914
Fax: 681-9488
www.pioneereng.com

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

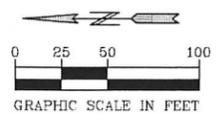
Name: Jennifer L. Thompson
Reg. No.: 44763

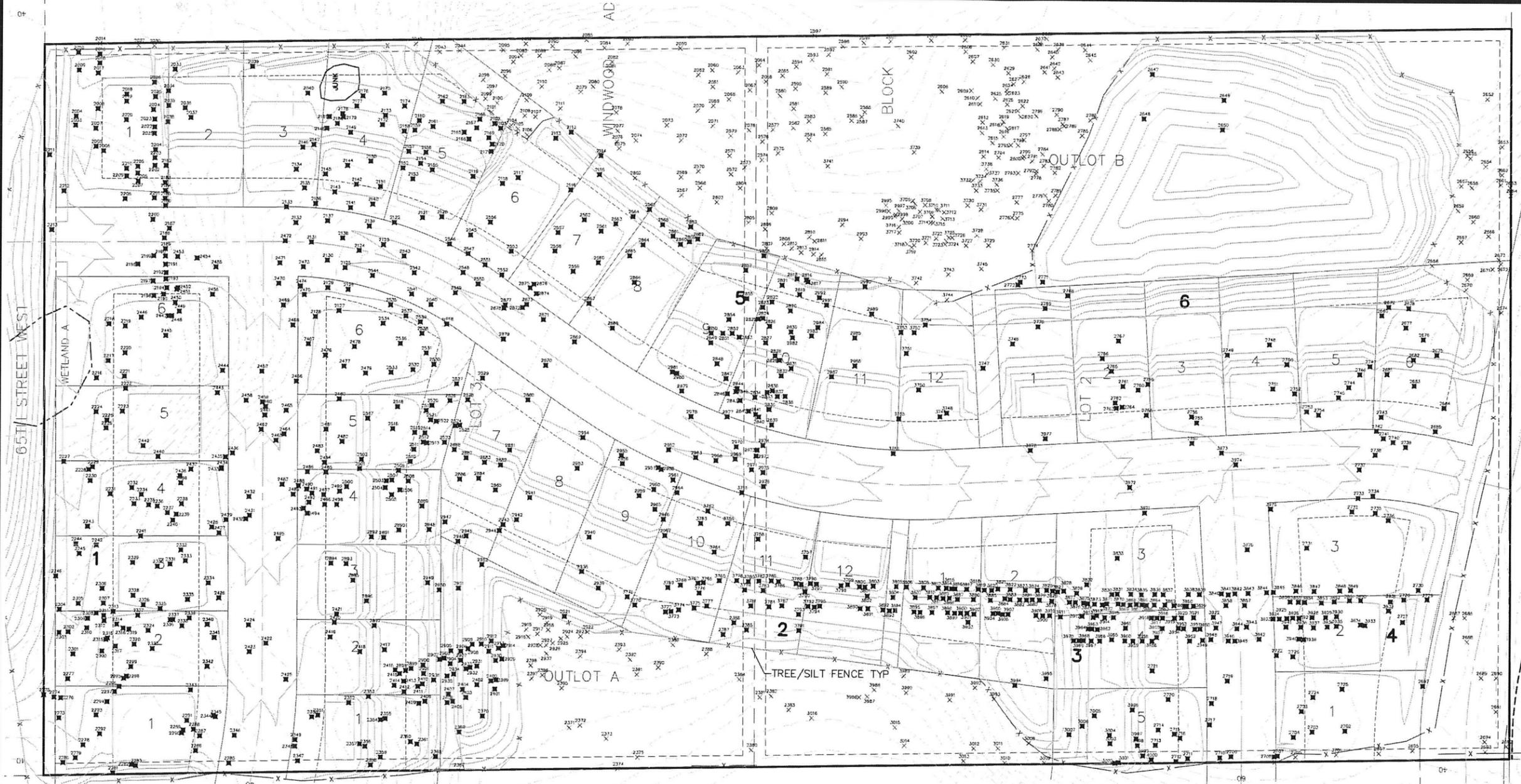
Date: 2-25-16
Designed: TMI
Drawn: TMI

LANDSCAPE PLAN

MIHM CUSTOM HOMES
842 IVY LANE
EAGAN, MN 55123

WINDWOOD
INVER GROVE HEIGHTS, MINNESOTA
L1 OF 1





Tree Preservation Data

Total Inches: 7,295"
 Removed Total: 5,119"
 "Class A" Tree Removal: 1,178"
 "Class B" Tree Removal: 3,856"
 "Class C" Tree Removal: 85"
 Allowed to Remove 30%: 2,188"
 Removal Over Threshold: 2,931"

Mitigation Required

Class B Mitigation: 2,846"
 Replace at a rate of 1/1: 2,846"

 Class C Removal: 85"
 Replace at a rate of 1/1: 85"

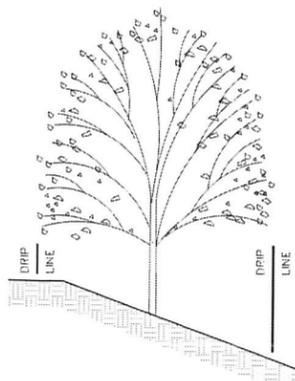
Credit for exemption trees to be saved: 1,130"
 Credit for 1 (27") heritage tree to be saved: 54"
 Total Inches left to be Mitigated: 1,747"

- "CLASS A" TREES
FAST GROWING DECIDUOUS SPECIES
- "CLASS B" TREES
CONIFER/MIXED HARDWOODS
- "CLASS C" TREES
HERITAGE TREE (27" OR GREATER DECIDUOUS OR 24" OR GREATER CONIFEROUS)

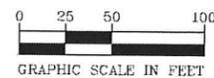
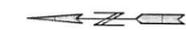
- X 3156 = TREE TO BE SAVED
- ⊗ 3156 = TREE TO BE REMOVED

SEE DOCUMENT ENTITLED "WINDWOOD TREE INVENTORY" FOR DETAIL TREE LIST

TREE PROTECTION DETAIL



NOTE: TREES TO BE SAVED SHALL BE FENCED OFF WITH BRIGHT ORANGE POLYETHYLENE SAFETY NETTING AND STEEL STAKES AT THE DRIPLINE, OR AS DIRECTED BY THE OWNER'S REP., TO INSURE AGAINST DAMAGE BY VEHICLES, COMPACTION OF SOILS AND/OR THE CHEMICAL ALTERATION OF SOILS DUE TO CONCRETE WASHOUT, PAINTS AND LEAKAGE OR SPILLAGE OF ANY TOXIC MATERIALS.



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

RIVER HEIGHTS LAWN AND LANDSCAPE. - Case No. 16-10C

Meeting Date: May 9, 2016
 Item Type: Regular
 Contact: Heather Botten 651.450.2569
 Prepared by: Heather Botten, Associate Planner
 Reviewed by: 

Fiscal/FTE Impact:

- None
- Amount included in current budget
- Budget amendment requested
- FTE included in current complement
- Other

PURPOSE/ACTION REQUESTED

Consider a Resolution relating to a Conditional Use Permit, an Encroachment Agreement, and Easement Agreement to allow a contractor's yard with outdoor storage and for the outdoor storage of boats, trailers and RV's for the property located at 9601 Jefferson Trail.

- Requires a 4/5th's vote.
- 60-day deadline: May 15, 2016 (first 60-days)

SUMMARY

The applicant has submitted a request for a conditional use permit (CUP) to operate a contractor's yard with outdoor storage and to allow the storage of boats, trailers, and RV's on the property. The property consists of two separate tax parcels. The applicant is proposing to use the existing building on the south parcel as an office and the existing impervious surface on both parcels for the parking and storage areas. No new additional impervious surface is proposed at this time. Access to the property is not changing.

The request meets the CUP criteria relating to the Comprehensive Plan and zoning consistency, compatibility with land uses, environmental impacts, and public health and safety impacts.

The applicant has been working with the City Engineering Department to finalize stormwater and grading plans. The applicant shall continue to work with the City to secure final approval of construction drawings. An easement agreement and encroachment agreement shall be executed between the applicant and the City. The City Attorney has prepared the documents including the easement for the existing Regional Basin RV-F-9 and emergency overflow of said pond. The City typically avoids encroachments of drainage, utility and pond easements; however, the owner has accepted the terms of the agreement which preserves the City use and rights to the easement. The owners' existing improvements and proposed use will not affect the flood storage volume of the basin.

Planning Staff: Based on the information provided and the conditions listed in the attached resolution, staff is recommending **approval** of the request.

Planning Commission: Recommended **approval** of the request at their April 19, 2016 meeting with the conditions listed in the attached resolution, including the added condition of no for sale signs or sale of vehicles outside of the fenced area (8-0).

- Attachments:
- Impervious Surface CUP Resolution
 - Easement Agreement
 - Encroachment Agreement
 - Approved Site Plan
 - Planning Commission Recommendation
 - Planning Staff Report

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT ALONG WITH RELATED
AGREEMENTS TO ALLOW A CONTRACTOR'S YARD WITH OUTDOOR STORAGE
AND FOR THE OUTDOOR STORAGE OF BOATS, TRAILERS, AND RV'S**

River Heights Lawn and Landscape
Case No. 16-10C

WHEREAS, an application for a Conditional Use Permit has been submitted for the property located at 9601 Jefferson Trail and legally described as:

See Attached

WHEREAS, an application for a conditional use permit has been submitted in order to utilize the existing improvements on the property for outdoor storage associated with a contractor's yard and for the outdoor storage of boats, trailers, and RV's;

WHEREAS, the aforescribed property is zoned I-1, Limited Industry;

WHEREAS, the request has been reviewed against Title 10, Chapter 3, Article A, Section 10-3A-5 regarding the criterion for a Conditional Use Permit and meets the minimum standards; the request is consistent with the Comprehensive Plan and it does not have a negative impact on public health, safety or welfare;

WHEREAS, a public hearing concerning the conditional use permit was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statute, Section 462.357, Subdivision 3 on April 19, 2016;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that a conditional use permit to allow a contractor's yard with outdoor storage and for the outdoor storage of boats, trailers, and RV's is hereby approved with the following conditions:

1. The site shall be developed in substantial conformance with the site and landscaping plan on file with the Planning Department dated May 3, 2016, except as may be modified herein.
2. The outside storage area shall be kept in a neat and orderly manner. All licensable equipment and vehicles must have a current license and be in operable condition.
3. The City Code Enforcement Officer, or other designee, shall be granted right of access to the property at all reasonable times to ensure compliance with the conditions of this permit.
4. All parking lot and building lighting shall be of a shoe-box style with all lighting being diffused or direct away from all property lines and public right-of-ways. The direct source of the light shall not be visible from any abutting property lines and public right-of-ways.
5. Final site, grading, storm water management, and erosion control plans shall be approved by the City Engineer.
6. The developer shall meet the conditions outlined in the City Engineers review letters and subsequent correspondence.
7. An easement and encroachment agreement shall be required to be entered into between the City and the developer addressing the improvements on the site.
8. "For sale" signs shall be allowed to be posted only in or on the vehicles, RV's, or boats. Vehicles that are for sale or signs advertising vehicles for sale shall not be allowed outside of the fenced area surrounding the property.

BE IT FURTHER RESOLVED that the Deputy Clerk is hereby authorized and directed to record a certified copy of this Resolution at the Dakota County Recorder's Office.

Adopted by the City Council of Inver Grove Heights this _____ day of _____, 2016.

AYES:

NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

That part of the West Half of the Southwest Quarter (W 1/2 of SW 1/4) of Section 19, Township 27, Range 22, Dakota County, Minnesota, lying Easterly of the Chicago, Milwaukee, St. Paul & Pacific Railroad right of way, said line of the right of way lying fifty (50) feet measured at right angles from the center line of the Railroad Company's main line as now established, and Westerly of State Trunk Highway No. 49, and Northerly of State Trunk Highway No. 3 excepting therefrom the North 417.42 feet, and excepting that part described as follows:

Beginning at the point of intersection of the Northerly line of the right of way of Highway No. 1, State of Minnesota, and the Easterly line of the right of way of the Chicago, Milwaukee, St. Paul & Pacific Railroad, which point is 1007 feet, more or less, South of the North line of the said Northwest Quarter of the Southwest Quarter (NW 1/4 of SW 1/4) and 530 feet, more or less West of the East line of the said Northwest Quarter of the Southwest Quarter (NW 1/4 of SW 1/4), from the said point of beginning, thence Northerly along the Easterly line of the right of way of said Railroad 244.5 feet; thence Southeasterly with an interior angle of 93 degrees 45 minutes a distance of 252.5 feet, more or less, to the Westerly line of the right of way of the said State Highway; thence Southwesterly and Westerly along the Northerly line of the right of way of the said State Highway to the point of beginning, according to the Government Survey thereof.

**PERMANENT DRAINAGE, UTILITY, STORMWATER POND
AND STORMWATER FACILITIES EASEMENT**

THIS PERMANENT DRAINAGE, UTILITY, STORMWATER POND AND STORMWATER FACILITIES EASEMENT (Easement) is made, granted and conveyed this 9th day of May, 2016, between Marsden Properties, LLC, a Minnesota limited liability company (hereinafter referred to as “Landowner”) and the City of Inver Grove Heights, a municipal corporation organized under the laws of the State of Minnesota (hereinafter referred to as the “City”).

The Landowner owns the real property situated within Dakota County, Minnesota as described on the attached **Exhibit A (hereinafter “Landowner’s Property”)**.

The Landowner in consideration of the sum of One Dollar and other good and valuable consideration to it in hand paid by the City, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, the following:

Permanent easements for the purpose of drainage, utilities, stormwater ponding, stormwater collection, stormwater control improvements and stormwater facilities and all such purposes ancillary, incident or related thereto (hereinafter collectively referred to as the “**Permanent Easement**”) under, over, across, through and upon that real property legally described and depicted on **Exhibit B** (hereinafter collectively referred to as the “**Permanent Easement Area**”) attached hereto and incorporated herein by reference.

The Permanent Easement rights granted herein are forever and shall include, but not be limited to, the construction, maintenance, repair and replacement of any utilities, drainage pipes, storm water pipes, storm water ponds, storm water collection, storm water control improvements, sanitary sewer mains, water mains and ground surface drainage ways and any underground pipes, culverts, conduits, other utilities and mains, and all facilities and improvements ancillary, incident or related thereto, under, over, across, through and upon the Permanent Easement Area.

The Permanent Easement rights further include, but are not limited to, the right of ingress and egress over the Permanent Easement Area to access the Permanent Easement for the purposes of construction, maintenance, repair and replacement of any utilities, drainage pipes, storm water pipes, storm water ponds, storm water collection, storm water control improvements, sanitary sewer mains, water mains, and ground surface drainage ways and any underground pipes, conduits, culverts, other utilities, mains and all facilities and improvements ancillary, incident or related thereto.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Easement; and
- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes, conduits, or mains, together with the right to excavate and refill ditches or trenches for the location of such pipes, conduits or mains; and
- c.) to remove from the Permanent Easement Area trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes, conduits, or mains and to deposit earthen material in and upon the Permanent Easement Area; and
- d.) to remove or otherwise dispose of all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to, the Permanent Easement Area or the Landowner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Landowner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that it is well seized in fee of the Landowner's Property described on Exhibit A and the Permanent Easement Area described and depicted on Exhibit B and that it has good right to grant and convey the Permanent Easement herein to the City.

IN TESTIMONY WHEREOF, the Landowner and the City have caused this Easement to be executed as of the day and year first above written.

CITY OF INVER GROVE HEIGHTS

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 9th day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

**LANDOWNER:
MARSDEN PROPERTIES, LLC**

By: _____
Nick Marsden
Its: Chief Manager

STATE OF MINNESOTA)
)
) ss.
COUNTY OF DAKOTA)

On this _____ day of May, 2016, before me a Notary Public within and for said County, personally appeared Nick Marsden to me personally known, who being by me duly sworn, did say that he is the Chief Manager of Marsden Properties, LLC, a Minnesota limited liability company, the entity named in the foregoing instrument, and that said instrument was signed on behalf of said limited liability company by authority of its Board of Governors and said Nick Marsden acknowledged said instrument to be the free act and deed of the limited liability company.

Notary Public

This instrument was drafted by:
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

After recording, please return to:
Timothy J. Kuntz
LeVander, Gillen & Miller
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

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Beginning at the point of intersection of the Northerly line of the right of way of Highway No. 1, State of Minnesota, and the Easterly line of the right of way of the Chicago, Milwaukee, St. Paul & Pacific Railroad, which point is 1007 feet, more or less, South of the North line of the said Northwest Quarter of the Southwest Quarter (NW 1/4 of SW 1/4) and 530 feet, more or less West of the East line of the said Northwest Quarter of the Southwest Quarter (NW 1/4 of SW 1/4), from the said point of beginning, thence Northerly along the Easterly line of the right of way of said Railroad 244.5 feet; thence Southeasterly with an interior angle of 93 degrees 45 minutes a distance of 252.5 feet, more or less, to the Westerly line of the right of way of the said State Highway; thence Southwesterly and Westerly along the Northerly line of the right of way of the said State Highway to the point of beginning, according to the Government Survey thereof.

EXHIBIT B
LEGAL DESCRIPTIONS AND DEPICTION OF PERMANENT EASEMENT AREA

A 20 foot easement for drainage purposes over and across the following described property:

That part of the West Half of the Southwest Quarter (W1/2 of SW1/4) of Section 19, Township 27, Range 22, Dakota County, Minnesota, lying Easterly of the Chicago, Milwaukee, St. Paul & Pacific Railroad right of way, said line of the right of way lying fifty (50) feet measured at right angles from the center line of the Railroad Company's main line as now established, and Westerly of State Trunk Highway No. 49, and Northerly of State Trunk Highway No. 3 excepting therefrom the North 417.42 feet, and excepting that part described as follows:

Beginning at the point of intersection of the Northerly line of the right of way of Highway No.1, State of Minnesota, and the Easterly line of the right of way of the Chicago, Milwaukee, St. Paul & Pacific Railroad, which point is 1007 feet, more or less, South of the North line of the said Northwest Quarter of the Southwest Quarter (NW1/4 of SW1/4) and 530 feet, more or less West of the East line of the said Northwest Quarter of the Southwest Quarter (NW1/4 of SW1/4), from the said point of beginning; thence Northerly along the Easterly line of the right of way of said Railroad 244.5 feet; thence Southeasterly with an interior angle of 93 degrees 45 minutes, a distance of 252.5 feet, more or less, to the Westerly line of the right of way of said State Highway; thence Southwesterly and Westerly along the Northerly line of the right of way of the said State Highway to the point of beginning, according to the Government Survey thereof.

the centerline of said easement is described as follows:

Commencing at the southeast corner of the North 417.42 of said Northwest Quarter of the Southwest Quarter; thence South 89 degrees 45 minutes 50 seconds West, along the south line of said North 417.42 feet, a distance of 119.25 feet to the beginning of the centerline to be described; thence South 0 degrees 42 minutes 13 seconds West a distance of 146.35 feet; thence South 46 degrees 00 minutes 13 seconds East a distance of 71.40 feet to the westerly right of way line of said State Trunk Highway No. 3 and there said line terminates.

the side lines of said easement are to be shortened or lengthened to terminate on the south line of said North 417.42 feet and on said westerly right of way line of State Trunk Highway No. 3.

AND

An easement for ponding purposes over and across that part of the following described property:

The East 417.42 feet of the North 417.42 feet of the Northwest Quarter of the Southwest Quarter of Section 19, Township 27, Range 22, Dakota County, Minnesota, Except that part lying west of a line parallel with and 50 feet westerly of the centerline of Chicago, Milwaukee, St. Paul And Pacific Railroad; Also Except The Chicago, Milwaukee, St. Paul And Pacific Railroad and Also Except State Trunk Highway No. 149.

which lies northerly and northeasterly of the following described line:

Commencing at the southeast corner of the North 417.42 of said Northwest Quarter of the Southwest Quarter; thence South 89 degrees 45 minutes 50 seconds West, along the south line of said North 417.42 feet, a distance of 152.23 feet to the beginning of the line to be described; thence North 32 degrees 05 minutes 38 seconds West a distance of 61.66 feet; thence North 19 degrees 25 minutes 16 seconds West a distance of 36.57 feet to the easterly right of way line of said Chicago, Milwaukee, St. Paul and Pacific Railroad and there said line terminates.

AND

An easement for ponding purposes over and across that part of the following described property:

That part of the West Half of the Southwest Quarter (W1/2 of SW1/4) of Section 19, Township 27, Range 22, Dakota County, Minnesota, lying Easterly of the Chicago, Milwaukee, St. Paul & Pacific Railroad right of way, said line of the right of way lying fifty (50) feet measured at right angles from the center line of the Railroad Company's main line as now established, and Westerly of State Trunk Highway No. 49, and Northerly of State Trunk Highway No. 3 excepting therefrom the North 417.42 feet, and excepting that part described as follows:

Beginning at the point of intersection of the Northerly line of the right of way of Highway No.1, State of Minnesota, and the Easterly line of the right of way of the Chicago, Milwaukee, St. Paul & Pacific Railroad, which point is 1007 feet, more or less, South of the North line of the said Northwest Quarter of the Southwest Quarter (NW1/4 of SW1/4) and 530 feet, more or less West of the East line of the said Northwest Quarter of the Southwest Quarter (NW1/4 of SW1/4), from the said point of beginning; thence Northerly along the Easterly line of the right of way of said Railroad 244.5 feet; thence Southeasterly with an interior angle of 93 degrees 45 minutes, a distance of 252.5 feet, more or less, to the Westerly line of the right of way of said State Highway; thence Southwesterly and Westerly along the Northerly line of the right of way of the said State Highway to the point of beginning, according to the Government Survey thereof.

which lies westerly of the westerly right of way line of State Trunk Highway No. 3 and northerly of the following described line:

Beginning at the southeast corner of the East 417.42 feet of the North 417.42 of said Northwest Quarter of the Southwest Quarter; thence South 89 degrees 45 minutes 50 seconds West, along the south line of said North 417.42 feet, a distance of 152.23 feet; thence South 18 degrees 49 minutes 35 seconds East a distance of 12.55 feet; thence South 80 degrees 53 minutes 36 seconds East a distance of 17.68 feet; thence North 81 degrees 34 minutes 39 seconds East a distance of 44.94 feet; thence South 42 degrees 48 minutes 06 seconds East a distance of 21.08 feet; thence South 18 degrees 21 minutes 08 seconds East to the westerly right of way line of said State Trunk Highway No. 3 and there said line terminates.

**AGREEMENT RELATING TO
LANDOWNER IMPROVEMENTS
WITHIN CITY EASEMENT ON
PROPERTY LOCATED AT 9601 JEFFERSON TRAIL,
IN THE CITY OF INVER GROVE HEIGHTS,
DAKOTA COUNTY, MINNESOTA**

**AGREEMENT RELATING TO LANDOWNER
IMPROVEMENTS WITHIN CITY EASEMENT ON
PROPERTY LOCATED AT 9601 JEFFERSON TRAIL,
IN THE CITY OF INVER GROVE HEIGHTS,
DAKOTA COUNTY, MINNESOTA**

THIS AGREEMENT, made this 9th day of May, 2016, by and between the City of Inver Grove Heights (hereafter referred to as “City”), a Minnesota municipal corporation, and Marsden Properties, LLC, a Minnesota limited liability company (hereafter referred to as “Landowner”). Based on the covenants, agreements, representations and recitals herein contained, the parties agree as follows:

ARTICLE 1
TERMS

1.1 Terms. Unless specifically defined elsewhere in this Agreement, the following terms shall have the following meanings.

1.2 City. “City” means the City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 Subject Lot. “Subject Lot” means that certain real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described on **Exhibit A** attached hereto.

1.4 City Easement. “City Easement” means the following easement on the Subject Lot:

The Permanent Utility, Drainage and Stormwater Ponding Easement on the Subject Lot dated May 9, 2016 and recorded as Dakota County Document No.

_____.

1.5 Landowner. “Landowner” means Marsden Properties, LLC, a Minnesota limited liability company and its assigns and successors in interest with respect to the Subject Lot.

1.6 Formal Notice. “Formal Notice” means notice given by one party to the other if in writing and if and when delivered or tendered either in person or by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage prepaid, addressed as follows:

IF TO CITY:

City of City of Inver Grove Heights
Attention: Director of Public Works
8150 Barbara Avenue
Inver Grove Heights, MN 55077

IF TO LANDOWNER

Marsden Properties, LLC
Attention: Nick Marsden
9601 Jefferson Trail W
Inver Grove Heights, MN 55077

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

1.7 Landowner Improvements. “Landowner Improvements” means the existing gravel impervious surface and paved driveway and the existing impervious area for vehicular parking and for storage of landscape materials located within the City Easement on the Subject Lot depicted on **Exhibit B**.

1.8 City Easement Improvements. “City Easement Improvements” means all existing and future sanitary sewer, municipal water and storm water pipes, conduits, culverts, ditches, ponds, catch basins, water collection mechanisms, drainage facilities, maintenance access routes and other utility appurtenances lying within the City Easement now or in the future.

1.9 Landowner Improvement Plan. “Landowner Improvement Plan” means the sketch attached hereto as **Exhibit B** prepared by the City depicting the location of the Landowners Improvements. The Landowner Improvement Plan is on file with the City.

1.10 City Utility Costs. “City Utility Costs” means all costs incurred by the City, (whether performed by the City or its agents or contractors), for the inspection of and access to and repair, maintenance and replacement of the City’s Easement Improvements located in the City Easement and the placement of additional City Easement Improvements in the City Easement. City Utility Costs, include, without limitation: excavation costs, labor costs, costs of removing fill, costs of re-burying the City Easement Improvements, re-compacting the soils over the City Easement Improvements, restoring the City Easement area, and all engineering and attorneys’ fees incurred in connection therewith. City Utility Costs also include the costs of temporarily removing the Landowner Improvements and subsequently replacing the Landowner Improvements in the City Easement, if such costs have not already been paid by the Landowners.

1.11 Pre-Encroachment Costs. “Pre-Encroachment Costs” means a reasonable estimate by the City of the costs the City would have incurred for City Utility Costs if the Landowner Improvements did not exist.

1.12 Cost Differential. “Cost Differential” means the difference between the Pre-Encroachment Costs and the City Utility Costs caused by the existence of the Landowner Improvements. The City’s reasonable determination of the amount of the Cost Differential shall be binding on the Landowners. The City’s reasonable determination shall be appropriately supported by cost estimates obtained from independent contractors or engineers.

ARTICLE 2
RECITALS

Recital No. 1. The undersigned Landowner is the fee title owner of the Subject Lot located in Inver Grove Heights, Dakota County, Minnesota.

Recital No. 2 The City Easement is on the Subject Lot. The City owns the City Easement. The City Easement Improvements are within the City Easement and future City Easement Improvements may be located within the City Easement.

Recital No. 3. Landowner has requested permission from the City to retain the Landowner Improvements within the City Easement.

Recital No. 4. Subject to the terms of this Agreement, the City is willing to allow the Landowner Improvements to remain within the City Easement if the following conditions are met:

- a.) The Landowner maintains the Landowner Improvements;
- b.) The Landowner agrees to pay the City any Cost Differential relating to inspections, access, repair, maintenance and replacement of the existing City Easement Improvements and the placement of any future City Easement Improvements in the City Easement.
- c.) The Landowner agrees to temporarily remove the Landowner Improvements in the event the City has need to access the area where the Landowner Improvements exist in order for the City to inspect, repair, maintain, and replace the existing City Easement Improvements or construct future City Easement Improvements in the Easement Area.
- d.) The Landowners agree to modify the Landowner Improvements if the Landowner Improvements interfere with the City Easement Improvements or reduce the capacity of the City Easement for storm water retention.

NOW, THEREFORE, THE CITY OF INVER GROVE HEIGHTS AND THE UNDERSIGNED LANDOWNER, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS DOES HEREBY AGREE:

ARTICLE 3
AGREEMENTS

3.1 Retainage And Maintenance Of Landowner Improvements. Under the terms and conditions stated herein, the Landowner is hereby authorized by the City to retain the Landowner Improvements within the City Easement. The Landowner Improvements shall remain at the existing location shown on the Landowner Improvement Plan.

The Landowner shall not place any other structures, irrigation systems, buildings, fences, landscaping, trees or shrubs within the City Easement, except for the existing Landowner Improvements. The Landowner, at its own expense, shall maintain and repair the Landowner Improvements.

3.2 City Not Responsible For Landowner Improvements. Nothing contained herein shall be deemed an assumption by the City of any responsibility for maintenance, replacement or repair of the Landowner Improvements.

3.3 Continuing Right To City Easement and City Property. Nothing contained herein shall be deemed a waiver or abandonment or transfer of the right, title and interest that the City holds to the City Easement.

3.4 Subordinate Position Of Landowner Improvements. The Landowner Improvements are subordinate to the rights of the City in the City Easement and the City Easement Improvements.

3.5 Risk Of Loss. The Landowner understands and agrees that the Landowner Improvements within the City Easement may be adversely affected by use of the City Easement. The parties agree that the City is not responsible for such events; the City shall have no liability to the Landowner for such events. The Landowner assumes the risk of retaining the Landowner Improvements in the City Easement.

3.6 Landowners To Bear Cost Of Relocating Landowner Improvements. The City is responsible for the repair and maintenance of the City Easement Improvements in the City Easement.

The City may require the Landowner to temporarily remove and subsequently replace the Landowner Improvements in the City Easement in order for the City to gain access to the City Easement Improvements for the purpose of inspecting, repairing, maintaining, or replacing, the City Improvements or adding future City Easement Improvements.

If the Landowner does not perform such tasks, the City may perform such tasks and in such case the Landowner shall reimburse the City for the City's costs and expenses. Prior to commencing such tasks, the City shall send Formal Notice to the Landowner and allow the Landowner twenty (20) days from the date of the Formal Notice to perform the tasks. If the Landowner have not completed the work within the twenty (20) days, then the City may proceed to perform the tasks. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work. Bills not paid shall incur the standard penalty and interest established by the City for utility billings within the City.

3.7 Emergency. Notwithstanding the requirements contained in Sections 3.6 relating to a twenty (20) day Formal Notice to Landowner to perform its obligations under Sections 3.6,

the City shall not be required to give such Formal Notice if the City's engineer determines that an emergency exists. In such instance, the City, without giving Formal Notice to the Landowner may perform the work and in such case the Landowner shall reimburse the City for the costs and expenses relating to the work. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work. Bills not paid shall incur the standard penalty and interest established by the City for utility bills within the City.

3.8 Cost Deferral. If a Cost Deferral occurs relating to the access to or inspection, maintenance, repair or replacement of the City Easement Improvements or relating to construction of new City Easement Improvements in the future, then the Landowner shall pay the Cost Deferral to the City. The Landowner must make payment for the Cost Deferral within 30 days after the City has sent a written invoice for the Cost Deferral to the Landowner.

3.9 Modifications To Landowner Improvements. If in the future the City reasonably determines that the Landowner Improvements interfere with access for inspection or with repair, maintenance, reconstruction, or replacement of City Easement Improvements or with ponding and drainage or if the City reasonably determines that the Landowner Improvements have lessened the capacity of the City Easement for storm water retention, then the Landowner, at its own expense, shall make such modifications to the Landowner Improvements as directed by the City. Such modifications may include, but are not limited to, reconfiguration, removal and relocation of the Landowner Improvements.

If Landowner does not make the modifications, the City may make the modifications and in such case the Landowner shall reimburse the City for the City's costs and expenses. Prior to commencing such modifications, the City shall send Formal Notice to the Landowner and allow the Landowner twenty (20) days from the date of the Formal Notice to make the modifications. If Landowner does not completely make the modifications, the City may proceed to make the modifications. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work relating to the modifications.

3.10 Remedies. If the Landowner fails to perform its obligations under this Agreement, then the City may avail itself of any remedy afforded by law or in equity and any of the following non-exclusive remedies:

- a.) The City may specifically enforce this Agreement.
- b.) If the Landowner fails to make payments under Sections 3.6, 3.7, 3.8 or 3.9, then the City may certify to Dakota County the amounts due as payable with the real

estate taxes for the Subject Lot in the next calendar year; such certifications may be made under Minnesota Statutes, Chapter 444 in a manner similar to certifications for unpaid utility bills. The Landowner waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Subject Lot.

Further, as an alternate means of collection, if the written billing is not paid by the Landowner, the City, without notice and without hearing, may specially assess the Subject Lot for the costs and expenses incurred by the City. The Landowner hereby waives any and all procedural and substantive objections to special assessments for the costs including, but not limited to, notice and hearing requirements and any claims that the charges or special assessments exceed the benefit to the Subject Lot. The Landowner waives any appeal rights otherwise available pursuant to Minnesota Statute § 429.081. The Landowner acknowledges that the benefit from the performance of tasks by the City equals or exceeds the amount of the charges and assessments for the costs that are being imposed hereunder upon the Subject Lot.

No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

3.11 Indemnification. The Landowner shall indemnify, defend and hold the City, its council, agents, consultants, attorneys, employees and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies including interest, penalties and attorneys' fees, that the City incurs or suffers, which arise out of, result from or relate to any of the following:

- a.) The Landowner Improvements;
- b.) Maintenance of the Landowners Improvements;
- c.) Failure by the Landowner to observe or perform any covenant, condition, obligation or agreement on their part to be observed or performed under this Agreement; and
- d.) Use of the City Easement for Landowner Improvements.

3.12 City Duties. Nothing contained in this Agreement shall be considered an affirmative duty upon the City to perform the Landowners obligations contained in Article 3 if the Landowner does not perform such obligations.

3.13 No Third Party Recourse. Third parties shall have no recourse against the City under this Agreement.

3.14 Recording. The Landowner shall record this Agreement with the Dakota County Recorder against the Subject Lot and within 30 days after the date of this Agreement, the Landowner shall present evidence to the City that this Agreement has been recorded.

3.15 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Agreement shall run with the Subject Lot and shall be binding upon the successors and assigns of the parties.

Upon request by the Landowner, the City will prepare for the Landowner, at standard City charges, a special assessment search indicating the extent to which, if any, there is a levied or pending special assessment under Section 3.7 hereof.

3.16 Amendment And Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement and performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

3.17 Governing Law. This Agreement shall be governed by and construed in accord with the laws of the State of Minnesota.

3.18 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

3.19 Headings. The subject headings of the sections this Agreement are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.

[the remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement the year and day first set forth above.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 9th day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

**LANDOWNER:
MARSDEN PROPERTIES, LLC**

By: _____
Nick Marsden
Its: Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this _____ day of May, 2016, before me a Notary Public within and for said County, personally appeared Nick Marsden to me personally known, who being by me duly sworn, did say that he is the Chief Manager of Marsden Properties, LLC, a Minnesota limited liability company, the entity named in the foregoing instrument, and that said instrument was signed on behalf of said limited liability company by authority of its Board of Governors and said Nick Marsden acknowledged said instrument to be the free act and deed of the limited liability company.

Notary Public

THIS INSTRUMENT DRAFTED
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING, PLEASE
BY RETURN THIS INSTRUMENT TO**
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

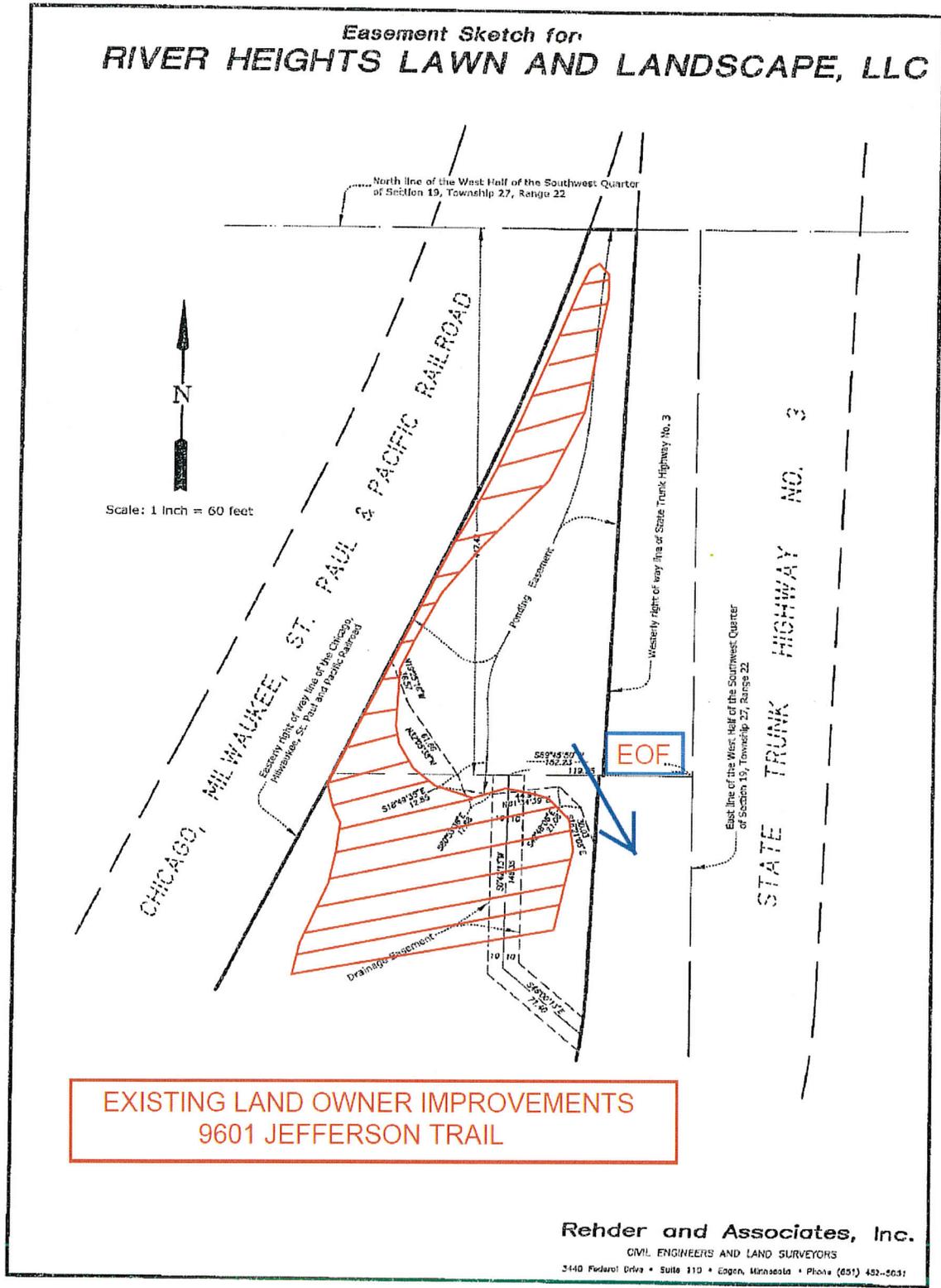
EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT LOT

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

That part of the West Half of the Southwest Quarter (W 1/2 of SW 1/4) of Section 19, Township 27, Range 22, Dakota County, Minnesota, lying Easterly of the Chicago, Milwaukee, St. Paul & Pacific Railroad right of way, said line of the right of way lying fifty (50) feet measured at right angles from the center line of the Railroad Company's main line as now established, and Westerly of State Trunk Highway No. 49, and Northerly of State Trunk Highway No. 3 excepting therefrom the North 417.42 feet, and excepting that part described as follows:

Beginning at the point of intersection of the Northerly line of the right of way of Highway No. 1, State of Minnesota, and the Easterly line of the right of way of the Chicago, Milwaukee, St. Paul & Pacific Railroad, which point is 1007 feet, more or less, South of the North line of the said Northwest Quarter of the Southwest Quarter (NW 1/4 of SW 1/4) and 530 feet, more or less West of the East line of the said Northwest Quarter of the Southwest Quarter (NW 1/4 of SW 1/4), from the said point of beginning, thence Northerly along the Easterly line of the right of way of said Railroad 244.5 feet; thence Southeasterly with an interior angle of 93 degrees 45 minutes a distance of 252.5 feet, more or less, to the Westerly line of the right of way of the said State Highway; thence Southwesterly and Westerly along the Northerly line of the right of way of the said State Highway to the point of beginning, according to the Government Survey thereof.

EXHIBIT B
DEPICTION OF LOCATION OF LANDOWNER IMPROVEMENTS





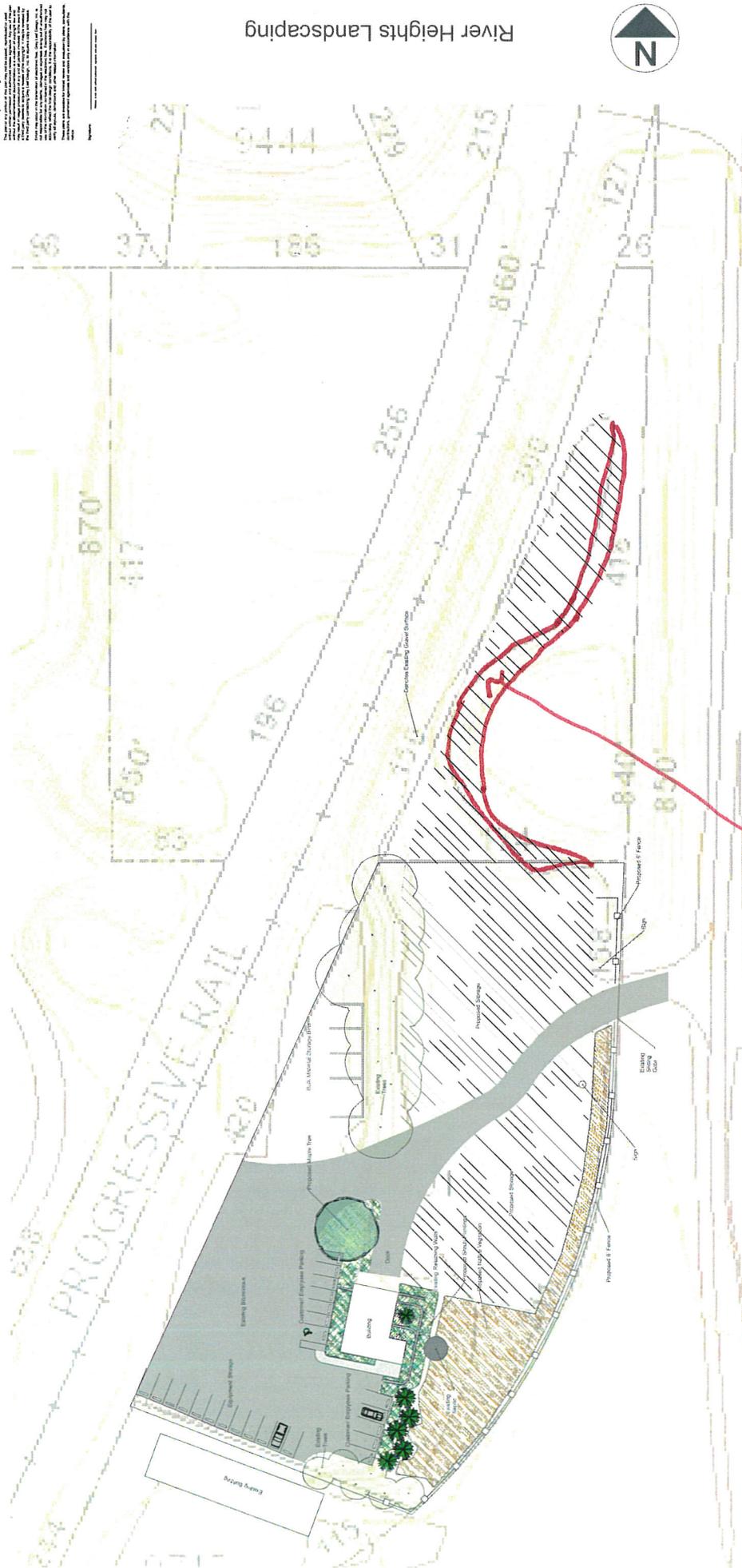
This Site Plan Produced By



GREY LEAF DESIGN INC.
Design + Analysis + Manage
Woodbury, MN 55125
C: 651.772.4448
www.GreyLeafDesign.com

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PROPOSED USAGE FOR 9601 JEFFERSON TR.



River Heights Landscaping



0 10 35 60 FT

Expansion of exist. Driving surface
Not Allowed 5/3/2016 TX

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: April 19, 2016
SUBJECT: **RIVER HEIGHTS LAWN AND LANDSCAPE – CASE NO. 16-10C**

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to allow a contractor's yard with outdoor storage on an I-1 zoned property, and a conditional use permit to allow the outdoor storage of boats, trailers, and RV's, for the property located at 9601 Jefferson Trail. 13 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that this request is zoned I-1, Light Industrial, and is the former Absolute Trailer property. The applicant has submitted a request for a conditional use permit (CUP) to operate a contractor's yard with outdoor storage and to allow the storage of boats, trailers, and RV's on the property. The property consists of two separate tax parcels. The applicant is proposing to use the existing building on the south parcel as an office and the existing impervious surface for the parking and storage area. No new additional impervious surface is proposed at this time. It is staff's understanding that the applicant would also like to use the northern parcel similar to what the previous owner did. If that is the case they shall submit a plan to staff to be included with the City Council review prior to them making a decision. The applicant is planning to remove and replace some of the landscaping around the building to improve the aesthetics of the property. A six-foot privacy fence is proposed along Jefferson Trail. Engineering has been working with the applicant regarding grading and stormwater requirements. Staff recommends approval of the request with the seven conditions listed in the report and an added condition that a revised plan be submitted prior to City Council review if the applicant would like to utilize the northern parcel at this time. Staff distributed an email to Commissioners from one neighbor who was not in support of the request as they are concerned about a negative impact on property values and feel it could be visually displeasing.

Commissioner Simon asked why the two tax parcels were not combined into one.

Ms. Botten replied the applicant was not required to combine the two parcels into one as there were no buildings crossing over the property line.

Commissioner Simon asked if there would be a septic inspection, stating it was likely the new business would have more employees than the former business.

Ms. Botten stated that the building would have to meet all building and fire code requirements in order to get a certificate of occupancy.

Commissioner Simon stated it was her understanding that the sale of a building required a septic inspection.

Commissioner Wippermann asked if the proposed fence would be a security fence or a privacy fence.

Ms. Botten replied it would be a solid privacy fence.

Commissioner Gooch stated he would like to see a semblance of order as to how the vehicles were being parked, stating the former owner had vehicles parked everywhere.

Ms. Botten stated at this time they do not have the boats, trailers and RV's laid out in parking stalls and drive aisles but she would think they would have to in order for customers to maneuver and utilize their vehicles.

Opening of Public Hearing

Nick Marsden, 10267 – 102nd Ct W, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Marsden replied in the affirmative. In regard to a previous question regarding the septic system, he believed the property was hooked up to City services. They plan to store the equipment on the northwest corner of the property. He advised they have already started cleaning up the site and he runs a neat, orderly company.

Commissioner Klein asked the applicant why he was requesting to store recreational vehicles when he was a landscaping company.

Mr. Marsden replied this was a larger parcel than he needed for the landscape business and he felt this was a creative way to utilize the excess land and gain additional income. He advised he did not plan to begin storage immediately as he may need some of the land for storage of trees, shrubs, etc.

Commissioner Gooch asked if the lean-to and other items next to the building had been removed from the property.

Mr. Marsden replied in the affirmative.

Scott Paulson, 9252 Albano Trail, was concerned about the proposed storage of boats, trailers, etc. and would like to see it tabled.

Commissioner Klein asked if it would be a permitted use for the owner and employees of the landscape business to store their personal recreational vehicles on the property.

Mr. Hunting replied typically contractor's yard would only be for business-related equipment; however, it likely occurs on many lots in the City.

Chair Maggi asked if in theory the applicant could charge his friends a nominal fee and then technically it is a business.

Mr. Hunting replied the applicant is applying for the outdoor storage so it would be allowed to occur under the conditional use permit.

Commissioner Lissarrague asked Mr. Paulson if there were trees between his home and the subject property.

Mr. Paulson replied that his home was on a hill looking down over Jefferson Trail and was not a wooded lot.

Commissioner Lissarrague asked Mr. Paulson if he overlooked the subject property.

Mr. Paulson replied that he could see much of the subject property from his home.

Rich Kruger, 9333 Albano Trail, stated he lived across the street from the subject property and was concerned about the vehicle storage portion of the request. He stated because his neighborhood sits up so high no fence would be able to screen the property from them. He stated that typically storage facilities have buildings in the front and outdoor parking in the back where it is concealed. In this case, however, the RV's and boats would be highly visible as they would be stored right off the road. He questioned if six feet was the standard height for fencing or were there other heights contemplated for different uses.

Commissioner Klein replied that six feet was the standard.

Mr. Kruger reiterated that a six foot fence would not hide anything, he was concerned that the owner may not be familiar with running a storage business, and he would like to see that portion of the business struck.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Scales stated he had no issue with the storage request and believed that from a business standpoint it would be in the owner's best interest to keep the site in good shape.

Commissioner Niemioja agreed with Commissioner Scales, asked how the City would enforce this should the property become disorderly, and stated since the City is contemplating restricting the parking of recreational vehicles in the front yard residents would likely need a place such as this to store their vehicles.

Ms. Botten stated Condition 2 requires that the storage area be kept in a neat and orderly manner and that all licensable vehicles have a current license and be in operable condition.

Commissioner Niemioja asked if it would be up to the neighbors to call if they felt there was a

problem.

Ms. Botten replied in the affirmative.

Commissioner Klein stated this would be an improvement from the former business and he hoped the owner would add some landscaping screening as well as the fence.

Commissioner Simon asked if it would be possible to add a condition prohibiting for sale signs, sale of items from the storage yard, containers, etc. which were conditions for other storage facilities in the City. She asked if there was a specific set of rules for storage that would be attached to the proposed conditions

Ms. Botten replied there was not, but the Planning Commission could add a condition.

Commissioner Simon advised she would like such a condition added.

Commissioner Klein agreed with Commissioner Simon's suggestion.

Planning Commission Recommendation

Motion by Commissioner Klein to approve the request for a conditional use permit to allow a contractor's yard with outdoor storage on an I-1 zoned property and a conditional use permit to allow the outdoor storage of boats, trailers, and RV's, for the property located at 9601 Jefferson Trail, with the seven conditions listed in the report, the additional condition from staff that if the applicant would also like to use the northern parcel they must submit a plan to staff prior to going to City Council, and an added condition prohibiting for sale signs and the sale of vehicles.

Mr. Kruger asked if there was a height restriction on how tall RV's could be.

Chair Maggi replied there was not.

Mr. Kruger asked if they would entertain such a restriction.

Commissioner Klein advised that RV's were only built to a certain height.

Commissioner Simon stated that to her knowledge no other storage facilities had that restriction.

Second by Commissioner Scales.

Motion carried (8/0). This item goes to the City Council on May 9, 2016.

**PLANNING REPORT
CITY OF INVER GROVE HEIGHTS**

REPORT DATE: April 12, 2016 **CASE NO.:** 16-10C

HEARING DATE: April 19, 2016

APPLICANT: River Heights Lawn and Landscape

PROPERTY OWNER: Mike Hallblade

REQUEST: Conditional use permit for a contractor's yard with outdoor storage and for the outdoor storage of boats, trailers, and RV's.

LOCATION: 9601 Jefferson Trail

COMPREHENSIVE PLAN: LI, Light Industrial

ZONING: I-1, Limited Industry

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Heather Botten
Associate Planner



BACKGROUND

The applicant has submitted a request for a Conditional Use Permit (CUP) to operate a contractor's yard with outdoor storage and to allow the storage of boats, trailers, and RV's on the property located at 9601 Jefferson Trail. The property consists of two separate tax parcels about 3.24 acres in size total. The applicant is proposing to use the existing building as an office and utilize the existing impervious surface on the property for the parking and storage area.

EVALUATION OF REQUEST

Surrounding Uses. The subject property is surrounded by:

North	Rail road and road right-of-way
East	Single family residential; Zoned PUD; Guided RDR, Rural Density Res.
West	Industrial; Zoned I-1, Limited Industry; Guided LI, Light Industrial
South	Commercial; Zoned B-3, General Business; Guided CC, Community Commercial

SITE PLAN REVIEW

Setbacks. No changes or additions are planned to the existing building at this time.

Parking Lot. Parking for the proposed use consists of twelve customer/employee parking stalls located on the property. The zoning code does not have any specific parking requirements for

contractor's yards or storage facilities. The landscape business is not open to the public and some of the employees drive company vehicles. The 12 spaces provided exceed the need of the applicant and if the demand for parking increases they can use the storage area for a parking expansion. Staff is comfortable with the parking provided.

Screening/Landscaping. Landscaping was installed with the 1999 CUP approval for trailers sales and storage. The applicant is replacing and adding landscaping around the building to improve the aesthetics of the property.

The applicants are proposing to install a six foot privacy along the easterly property line to screen the storage area, complying with code requirements.

Access. There is currently one access point onto Jefferson Trail, this is not changing.

Signage. No signs are proposed at this time. All signs for the site require a separate sign permit and shall conform to the sign requirements of the I-1 zoning district.

Engineering. The Engineering Department has conducted a review of the plans and has been working with the applicant in regards to stormwater, grading and erosion control. The final details on the plans would be reviewed and approved by the City Engineer prior to any work commencing on the site.

An easement and encroachment agreements are required to be executed between the City and the developer. The contracts will address the necessary site improvements and will require financial surety any other improvements that may be necessary.

GENERAL CONDITIONAL USE PERMIT REVIEW

This section reviews the plans against the CUP criteria in the Zoning Ordinance (Section 10-3A).

1. *The use is consistent with the goals, policies and plans of the City Comprehensive Plan, including future land uses, utilities, streets and parks.*

This criterion is met. The Comprehensive Plan recognizes the proposed area as Industrial. A contractor's yard and outdoor storage is consistent with uses already in place and with the long range plan for the area.

2. *The use is consistent with the City Code, especially the Zoning Ordinance and the intent of the specific Zoning District in which the use is located.*

The I-1 district is intended for the continued operation of light manufacturing, warehousing, and wholesaling businesses. The proposed use of a contractor's yard along with outdoor storage is a conditional use in the I-1 district. With approval of the CUP, the request would be consistent with the zoning requirements.

3. *The use would not be materially injurious to existing or planned properties or improvements in the vicinity.*

This criterion is satisfied, the closest neighboring home is over 400 feet away to the east; the proposed use would not affect any improvements to the vicinity.

4. *The use does not have an undue adverse impact on existing or planned City facilities and services, including streets, utilities, parks, police and fire, and the reasonable ability of the City to provide such services in an orderly, timely manner.*

This criterion is met; the proposed request does not appear to have any negative effects on City facilities or services. Overall a contractors yard and outdoor storage is a low intensity industrial use.

5. *The use is generally compatible with existing and future uses of surrounding properties, including:*

- i. *Aesthetics/exterior appearance*

No changes are being proposed to the existing building.

- ii. *Noise*

The noise from a contractors' yard is not out of the ordinary for the I-1 zoning district.

- iii. *Fencing, landscaping and buffering*

The applicant is meeting the City's landscaping and screening requirements.

6. *The property is appropriate for the use considering: size and shape; topography, vegetation, and other natural and physical features; access, traffic volumes and flows; utilities; parking; setbacks; lot coverage and other zoning requirements; emergency access, fire lanes, hydrants, and other fire and building code requirements.*

The lot is about 3.24 acres in size. Contractor's yards and outdoor storage are typically found in industrial areas; the proposed use is appropriate for the zoning, location, and the size of the lot.

Fire and building code requirements would be addressed with building permits to occupy the building.

7. *The use does not have an undue adverse impact on the public health, safety or welfare.*

The use does not appear to have any negative effects on the public health, safety or welfare of the community.

8. *The use does not have an undue adverse impact on the environment, including, but not limited to, surface water, groundwater and air quality.*

This criterion is satisfied. The applicant is working with the City Engineering department to comply with the City's surface water and groundwater regulations.

ALTERNATIVES

The Planning Commission has the following alternatives available for the proposed request:

A. Approval If the Planning Commission finds the application acceptable, the Commission should recommend approval of the Conditional Use Permit with the following conditions:

1. The site shall be developed in substantial conformance with the site and landscaping plans on file with the Planning Department except as may be modified herein.
2. The outside storage area shall be kept in a neat and orderly manner. All licensable equipment and vehicles must have a current license and be in operable condition.
3. The City Code Enforcement Officer, or other designee, shall be granted right of access to the property at all reasonable times to ensure compliance with the conditions of this permit.
4. All parking lot and building lighting shall be of a shoe-box style with all lighting being diffused or direct away from all property lines and public right-of-ways. The direct source of the light shall not be visible from any abutting property lines and public right-of-ways.
5. Final site, grading, storm water management, and erosion control plans shall be approved by the City Engineer.
6. The developer shall meet the conditions outlined in the City Engineers review letters and subsequent correspondence.
7. An easement and encroachment agreement and other agreements related thereto, shall required to be executed between the City and the developer. The contract will address specific site improvements and parties responsible for improvements and will require financial surety for the landscaping and any other public improvements that may be necessary.

B. Denial If the Planning Commission finds that the proposed request is not in the best interest of the physical development of the City, a recommendation of denial should be forwarded to the City Council. With a recommendation of denial, findings or the basis for the denial should be given.

RECOMMENDATION

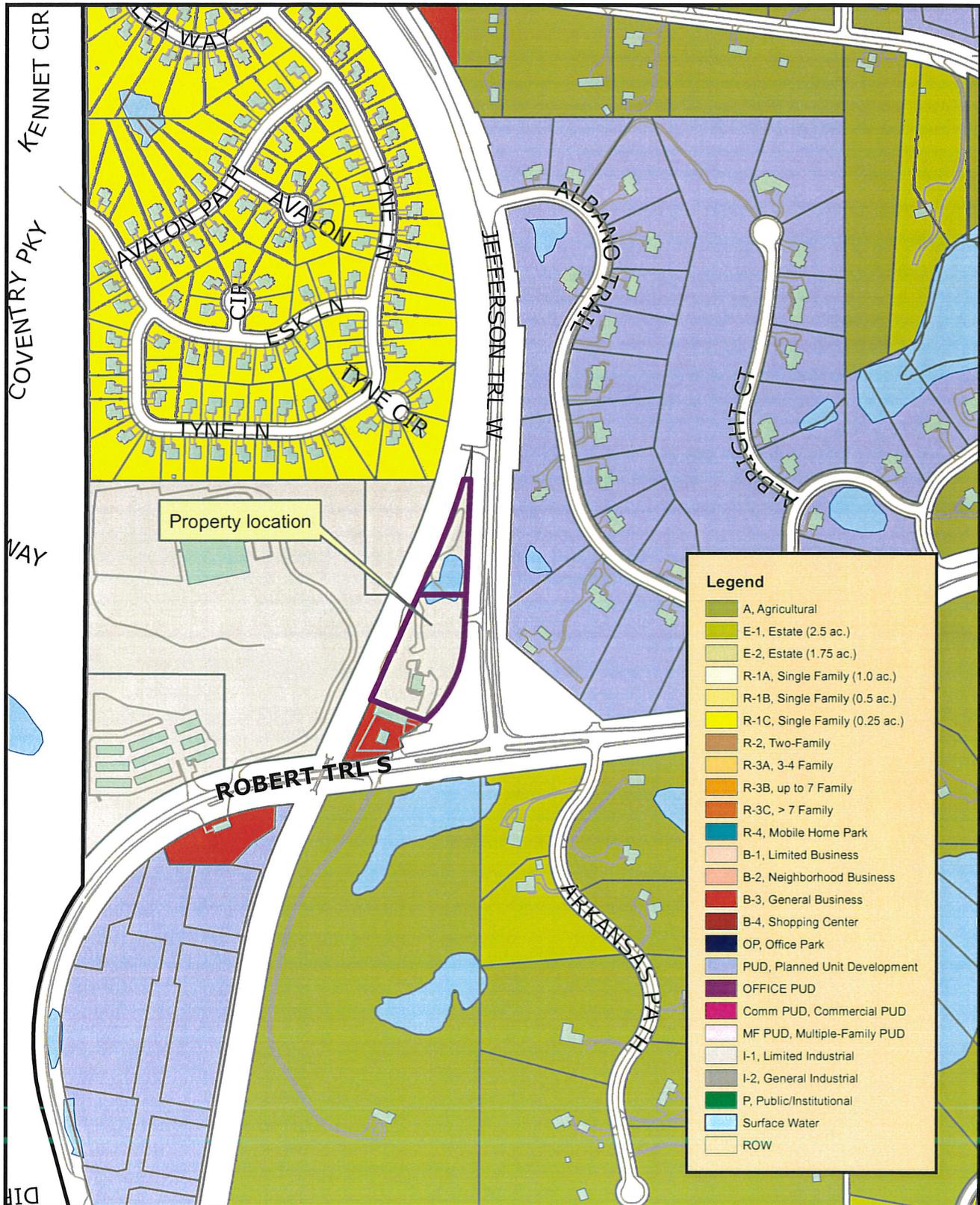
Based on the preceding report, Staff recommends **approval** of the request with the conditions listed in Alternative A.

Attachments: Exhibit A - Location and Zoning Map
 Exhibit B - Narrative
 Exhibit C - Site Plan
 Exhibit D - Landscaping

Map not to scale



River Heights Lawn & Landscape Case No. 16-10C



This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is to be used for reference purpose only. The City of IGH is not responsible for any inaccuracies herein contained.

Exhibit A
Zoning and Location Map



**RIVER HEIGHTS
LAWN & LANDSCAPE**
10267 102nd Ct. West
Inver Grove Heights, Mn. 55077
612.701.0648
www.riverheightslandscape.com

City of Inver Grove Heights,

Hello, my name is Nick Marsden and I own River Heights Lawn & Landscape. We specialize in custom landscape installation, commercial/residential landscape maintenance and snow removal. We are starting our 10th year in business and have 15 employees. We have grown out of our existing location and have been looking for land to purchase or rent over the last few months. We recently signed a purchase agreement with Mike Hallblade to purchase his property on 9601 Jefferson Trail West. We plan to use this land to operate our business from and for other business opportunities. This is more land than our business needs, so our long term goal is to use part of the land for outdoor storage of boats, rv's and trailers. We plan to use the existing building as is and are proposing no changes to the land. The only changes that we plan to make are installing new landscaping and trees throughout the property and potentially adding a security fence on the property line that borders Hwy 149. We are very excited for the opportunity that this land brings us. We look forward to operating our business in IGH for many years to come. Thank you for your time.

Regards,

A handwritten signature in blue ink, appearing to read 'Nick Marsden', is written over the 'Regards,' text.

Nick Marsden

INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

**PARKING OF BOATS AND OTHER NON-MOTORIZED VEHICLES IN THE FRONT YARD
SECOND READING**

Meeting Date: May 9, 2016
Item Type: Regular Session
Contact: Allan Hunting 651.450.2554
Prepared by: Allan Hunting, City Planner
Reviewed by:

PURPOSE/ACTION REQUESTED

Consider the Second reading of an ordinance relating to parking of recreational vehicles in the front yard in single family zoning districts.

- Requires 3/5th's vote.

The City Council approved the first reading of the ordinance on April 25, 2016 with some further clarifications. The Council considered the Planning Commission's recommendation regarding flexibility for those lots with single car garages and decided to allow parking on parking pads if the pad was on the opposite side of the garage from the house. The main objective is to prohibit parking of recreational vehicles in front of houses.

ANALYSIS

Staff and the City Attorney met to discuss the changes and are proposing the following:

1. Since there are many shapes and size of driveways in the city, defining a line by which parking is allowed on one side helps create a base line to use for all the different lot and building scenarios. A definition of a recreational vehicle parking line was created to help determine which side of the driveway parking was allowed. On the side opposite the front door, parking would be allowed on a driveway or parking pad. No parking of recreational vehicles is allowed on the side closest to the front door. This definition will also work with circular driveways.

A couple of illustrations are provided to visually show the recreational vehicle parking line and where parking would and would not be allowed

RECOMMENDATION

Planning Staff: Staff presents a revised ordinance that allows for parking of recreational vehicles on the driveway or parking pads that are on the opposite side of the garage from the front door of the house.

Attachment: Ordinance Amendment Second Reading
Lot Illustrations

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE,
TITLE 10, (ZONING ORDINANCE) CHAPTER 15 REGARDING PARKING
STANDARDS FOR VEHICLES AND RECREATIONAL VEHICLES IN SINGLE
FAMILY RESIDENTIAL ZONING DISTRICTS (E and R-1)**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

Section One. Amendment. Title 10, Chapter 15, Section 10-15A-3(B)(1&2) PERFORMANCE STANDARDS of the Inver Grove Heights City Code is hereby amended to read as follows:

10-15A-3: OFF STREET PARKING REGULATIONS:

B. Location: Required off street parking in the E and R districts shall be on the same lot as the principal building. Required off street parking in all districts shall meet the following setback requirements:

1. Within all E and R districts, all vehicles and recreational vehicles normally owned or kept by the occupants on the premises must have a garage stall or open parking space on the same lot as the principal use served. Subject to the restrictions and prohibitions contained in this section, open parking spaces accessory to one and two-family structures may be located anywhere on the lot containing the principal structure ~~except that such~~ provided however, parking may not be located in a rear yard ~~to~~ within five feet (5') of an interior side lot line ~~and to~~ or within eight feet (8') of rear lot line.

2. Within all R-1A, R-1B, R-1C and R-2 districts, parking of a vehicle and/or recreational vehicle on grass or unpaved areas in the front yard is prohibited.

a. For the purposes of this section only, front yard means the area located between;

1. the curb or edge of street pavement and

2. a line coincidental with the front line of the ~~principal structure~~ house or garage (which ever is furthest from the street) continued and extended to the side lot lines. ~~along any street frontage.~~

b. Within all R-1A, R-1B, R-1C and R-2 districts, parking of vehicles ~~and/or recreational vehicles~~ excluding recreational vehicles in the front yard is allowed only on

a driveway, or parking pad that is directly contiguous to the driveway. ~~Said areas~~ A parking pad shall be constructed of bitumen, concrete or paving blocks and shall conform to maximum impervious surface standards. All parking spaces shall maintain a minimum five (5) foot side yard setback.

c. Subject to the restrictions and prohibitions contained in this subsection, within all R-1A, R-1B, R-1C and R-2 districts, parking of recreational vehicles in the front yard is allowed only on a driveway, or parking pad that is directly contiguous to the driveway and that is on the side of the recreational vehicle parking line that is further from the front door of the house than the other side of the recreational vehicle parking line. No more than two (2) recreational vehicles shall be allowed in the front yard in the R-1C district. . A parking pad shall be constructed of bitumen, concrete or paving blocks and shall conform to maximum impervious surface standards. All parking spaces shall maintain a minimum five (5) foot side yard setback.

d. The following exception apply:

- 1) Parking of automobiles may be allowed on grass in the front yard only during the winter parking ban period from November 1 through March 30.

Section Two. Amendment. Title 10, Chapter 2-2, DEFINITIONS, of the Inver Grove Heights City Code is hereby amended to add the following:

RECREATIONAL VEHICLE: Any vehicle which meets the criteria for “recreation” class registration and license plate, DNR registration, or trailer registration used for conveyance of recreation vehicles as established by the Minnesota Department of Public Safety, Minnesota Department of Natural Resources, or this chapter, including, but not limited to: travel trailers, stock car trailers, livestock or horse trailers, campers, motor homes, tent trailers, vehicles converted to motor homes, snowmobiles, snowmobile trailers, boats, boat trailers, personal watercraft, watercraft as defined by MN Statute 86B.005, Subd. 18, as amended from time to time, all-terrain vehicles, and all-terrain vehicle trailers.

RECREATIONAL VEHICLE PARKING LINE: Means a line from the garage to the street that is coincidental with the line at the side wall of the garage closest to the front door of the house being continued and extended to the street.

VEHICLE: Means vehicle as defined by MN Statute 169.011, Subd. 92, as amended from time to time.

Section Three. Effective Date. This Ordinance shall be in full force and effect upon its publication as provided by law and from and after _____, 2016.

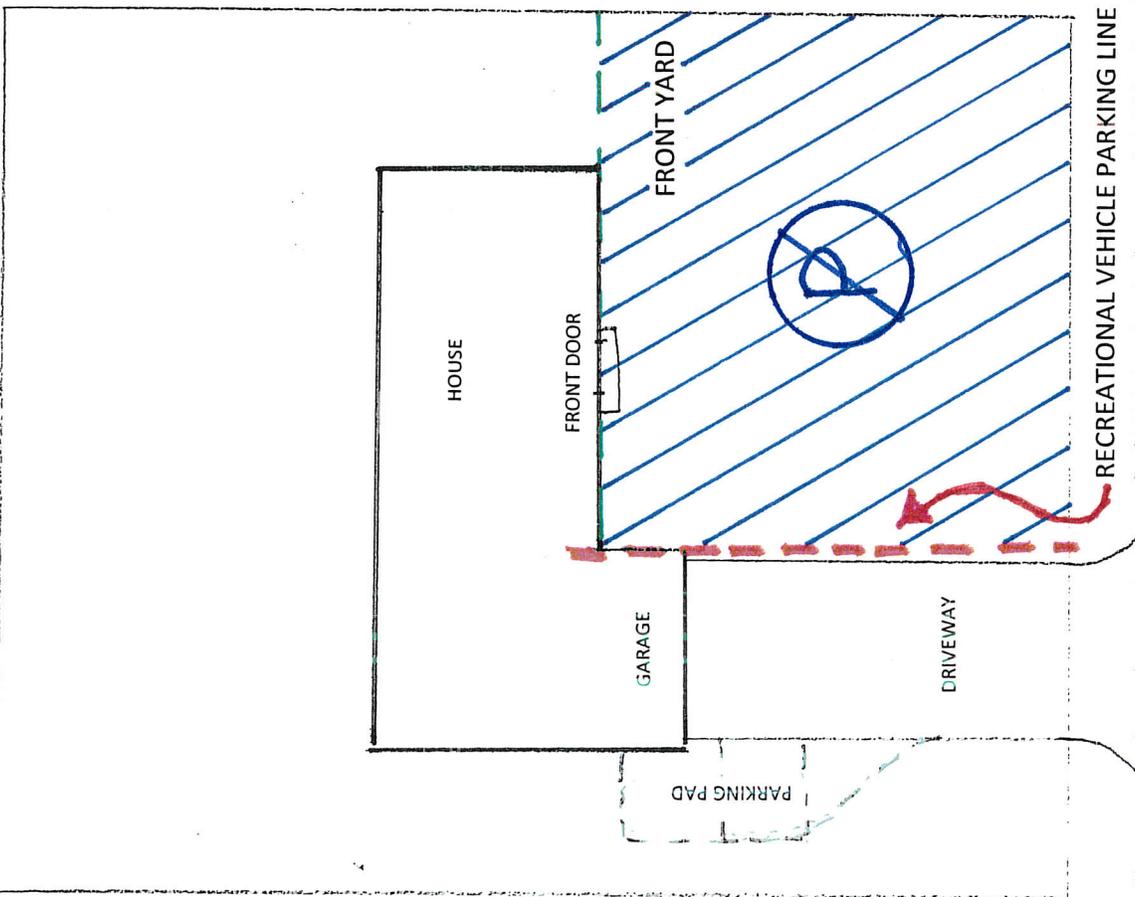
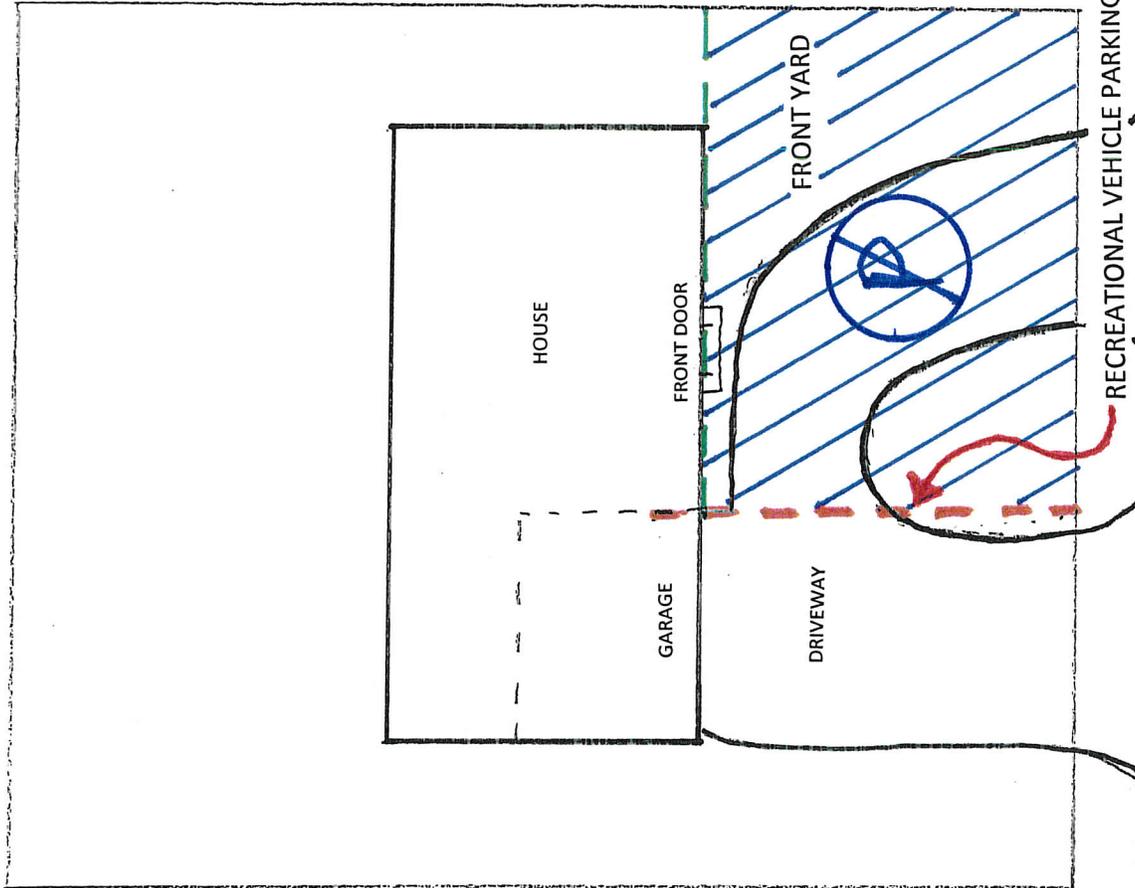
Passed in regular session of the City Council on the ____ day of _____, 2016.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

Michelle Tesser City Clerk



NO PARKING OF RECREATIONAL VEHICLES

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Resolution Approving Special Assessment Agreement and Resolution Memorializing Deferment Relating to Payment of Special Assessments for City Project No. 2016-09D – 60th Street Area Reconstruction, PID No. 20-67600-01-020

Meeting Date: May 9, 2016
 Item Type: Regular
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Steve W. Dodge, Asst. City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

ST

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other: Pavement Management Fund, Special Assessments

PURPOSE/ACTION REQUESTED

Consider resolution approving Special Assessment Agreement and resolution memorializing deferment relating to payment of special assessments for City Project No. 2016-09D – 60th Street Area Reconstruction, PID No. 20-67600-01-020.

SUMMARY

The City Council is asked to consider the attached resolution which would approve the above-referenced agreement. Donald and Mary Brau, 1800 60th Street, own two parcels on City Project No. 2016-09D. One parcel (PID No. 20-67600-01-030) has their home on it and the other parcel (PID No. 20-67600-01-020) is a vacant lot. In determining the special assessments to be levied against the properties for the project, the City has considered both properties in their highest and best use to be buildable lots. The owners have indicated that in the reasonably foreseeable future they have no intention of developing the vacant lot and will continue its use as open space.

The City will levy the special assessments against both properties for the project and staff is recommending deferring the special assessment of the vacant lot. By signing the agreement, the owners will have waived their special assessment right to appeal for the vacant lot.

The deferment shall cease upon occurrence of any of the following events: the property is improved with construction of a single-family structure or dwelling unit, the property is no longer classified as homestead for tax purposes, or the property is conveyed to another party (other than a family member or family trust). If the deferment ceases on or before the year 2041, the deferred amount becomes payable. The terms are outlined in the agreement (attached).

The Engineering Division recommends approval of the attached resolutions approving an assessment deferral and memorializing deferment per State Statute 429 for City Project No. 2016-09D, PID No. 20-67600-01-020, Lot 2, Block 1 Schindeldecker Addition as outlined in the Special Assessment Agreement. This action is needed after the assessment hearing is closed and the assessment roll is adopted by the City Council.

TJK/kf

- Attachments:
- Resolution Approving Special Assessment Agreement
 - Resolution Memorializing Deferment
 - Deferment request letter from Brau
 - Special Assessment Agreement

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A SPECIAL ASSESSMENT AGREEMENT BY AND
BETWEEN THE CITY OF INVER GROVE HEIGHTS AND
DONALD C. BRAU AND MARY A. BRAU, TRUSTEES UNDER THE
BRAU LIVING TRUST DATED MARCH 14, 2013
RELATING TO PAYMENT OF SPECIAL ASSESSMENTS FOR
CITY PROJECT NO. 2016-09D**

WHEREAS, Donald C. Brau and Mary A. Brau, Trustees Under the Brau Living Trust dated March 14, 2013 own certain real property situated in the City of Inver Grove Heights, County of Dakota, State of Minnesota identified as Dakota County Property Tax Parcel Number 20-67600-01-020 and legally described as Lot 2, Block 1, Schindeldecker Addition, Dakota County, Minnesota (the "Property").

WHEREAS, the City Council of Inver Grove Heights, acting pursuant to Minnesota Statutes Chapter 429, levied certain special assessments upon the Property.

WHEREAS, Donald C. Brau and Mary A. Brau, Trustees Under the Brau Living Trust dated March 14, 2013 have requested a deferment of the special assessments levied against the Property.

NOW THEREFORE, the City Council of Inver Grove Heights does hereby resolve, certify and memorialize for recording the following information:

1. The attached Special Assessment Agreement by and between the City of Inver Grove Heights and Donald C. Brau and Mary A. Brau, Trustees Under the Brau Living Trust dated March 14, 2013 Relating to Payment of Special Assessments for City Project No. 2012-09D is hereby approved.
2. This Resolution and the attached Special Assessment Agreement by and between the City of Inver Grove Heights and Donald C. Brau and Mary A. Brau, Trustees Under the Brau Living Trust dated March 14, 2013 Relating to Payment of Special Assessments for City Project No. 2012-09D shall be filed with the Dakota County Auditor/Treasurers Office and recorded with the Dakota County Recorder.

Adopted by the City Council of Inver Grove Heights this 9th day of May, 2016.

AYES:
NAYS:

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION AND CERTIFICATE PURSUANT TO
MINNESOTA STATUTES § 429.061, SUBD. 2,
MEMORIALIZING DEFERMENT OF SPECIAL ASSESSMENT
BY THE CITY OF INVER GROVE HEIGHTS FOR PROPERTY
OWNED BY DONALD C. BRAU AND MARY A. BRAU, TRUSTEES
UNDER THE BRAU LIVING TRUST DATED MARCH 14, 2013**

WHEREAS, Donald C. Brau and Mary A. Brau, Trustees Under the Brau Living Trust dated March 14, 2013 own certain real property situated in the City of Inver Grove Heights, County of Dakota, State of Minnesota identified as Dakota County Property Tax Parcel Number 20-67600-01-020 and legally described in Exhibit A (the “Property”).

WHEREAS, the City of Inver Grove Heights (hereinafter referred to as the “City”) levied a \$7,500 principal special assessment against the Property for the benefit received from City Project No. 2016-09D – 60th Street Reconstruction and Utility Improvements (the “Project”).

WHEREAS, under the current zoning regulations, the Property consists of one buildable lot.

WHEREAS, the City has determined to defer the total principal special assessment of \$7,500 pursuant to the terms of the deferral described below.

WHEREAS, Minnesota Statutes § 429.061, Subd. 2, provides a procedure whereby a city may levy special assessments against benefited property, but defer payment of certain amounts of special assessments because the property has not yet been improved.

WHEREAS, Minnesota Statutes § 429.061, Subd. 2 specifically provides that if special assessments have been deferred, then the City shall record with the county

recorder a certificate containing the legal description of the affected property and the amount of the deferred special assessment.

NOW THEREFORE, the City Council of Inver Grove Heights does hereby resolve, certify and memorialize for recording the following:

1. Upon due notice and after hearing on May 9, 2016, the City Council, acting pursuant to Minnesota Statutes Chapter 429, levied a special assessment for City Project No. 2016-09D – 60th Street Reconstruction and Utility Improvements, in the original principal amount of \$7,500 against benefited property identified as Dakota County Property Tax Parcel Number 20-67600-01-020 and legally described in Exhibit A, which is attached hereto and made a part hereof (herein referred to as the “Property”).
2. Contemporaneous with the special assessment levy of \$7,500, the City Council does hereby defer full payment of \$7,500 of the principal special assessment levy pursuant to the following terms and conditions:
 - a. The principal amount of \$7,500 is hereby deferred. This deferred amount shall not accrue interest during the deferral period.
 - b. The deferment shall cease upon the occurrence of any of the following events, whichever occurs first:
 - i. The Property is improved with construction of a single-family structure or a dwelling unit; or
 - ii. The Property is no longer classified as homestead for tax purposes; or
 - iii. The Property is conveyed by Owner to another party and is no longer owned in fee title by Owner; provided, however, the following future transfers of the Property by the Owner as of the date hereof shall not apply only if subparts (i) and (ii) above do not occur:
 - Transfers during the life of the Owner to any family members of the Owner;
 - Transfers during the life of the Owner to any trust created by the Owner or to any trust controlled by the Owner or to any trust for the benefit of any family members of the Owner;
 - Transfers upon death of the Owner to any family members of the Owner;
 - Transfers upon death of the Owner to any trust for the benefit of any family members of the Owner.

3. If the deferment ceases in or before the year 2041, the deferred amount shall become payable and shall be collected pursuant to the following terms and conditions:
- a. The principal amount previously deferred shall begin to accrue interest at the rate of 3.8% from the date the deferment ceased.
 - b. The principal amount previously deferred shall be payable in five (5) equal annual installments.
 - c. The principal installments, together with accrued interest on the unpaid principal balance, shall be due and payable with real estate taxes over five (5) calendar years. The first calendar year for payment shall be the calendar year that follows the year when the deferment ceased.

Provided, however, if the deferment ceases in the years 2042, 2043, 2044 or 2045, then the principal amount (together with accrued interest) shall be paid over the number of annual installments equal to the calendar years that remain between the year 2046 and the year that followed the cessation of the deferment.

If the deferment has not ceased before the year 2046, the deferred principal amount shall be deemed cancelled and shall no longer be a lien against the Property.

Pursuant to Minnesota Statutes § 429.061, Subd. 2, this Resolution and Certificate shall be recorded with the Dakota County Recorder.

Passed this 9th day of May, 2016.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

This instrument was drafted by:
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
651-451-1831

After recording, please return to:
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
651-451-1831

L:\CLIENTS\810\81000\09062 (2016-09D)\documents\Brau Deferred Assessment Resolution and Certificate (5-9-16 Meeting).doc

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Lot Two (2), Block One (1), Schindeldecker Addition according to the recorded plat thereof on file and of record in the office of the County Recorder within Dakota County, Minnesota.

Abstract Property

**SPECIAL ASSESSMENT AGREEMENT
BY AND BETWEEN
CITY OF INVER GROVE HEIGHTS AND
DONALD C. BRAU AND MARY A. BRAU, TRUSTEES UNDER THE
BRAU LIVING TRUST DATED MARCH 14, 2013
RELATING TO PAYMENT OF SPECIAL ASSESSMENTS FOR
CITY PROJECT NO. 2016-09D
(60TH STREET RECONSTRUCTION AND UTILITY IMPROVEMENTS)**

**SPECIAL ASSESSMENT AGREEMENT
BY AND BETWEEN
CITY OF INVER GROVE HEIGHTS AND
DONALD C. BRAU AND MAY A. BRAU, TRUSTEES UNDER THE
BRAU LIVING TRUST DATED MARCH 14, 2013
RELATING TO PAYMENT OF SPECIAL ASSESSMENTS FOR
CITY PROJECT NO. 2016-09D
(60TH STREET RECONSTRUCTION AND UTILITY IMPROVEMENTS)**

THIS SPECIAL ASSESSMENT AGREEMENT (hereafter “Agreement”) is made, entered into and effective this 9th day of May, 2016, by and between City of Inver Grove Heights, a Minnesota municipal corporation, (hereafter referred to as the “City”); and Donald C. Brau and Mary A. Brau, Trustees Under the Brau Living Trust dated March 14, 2013, and their heirs, assigns, and successors (hereafter individually and collectively referred to as “Owner”). Based on the covenants, agreements, warranties and representations hereafter contained, the parties do hereby agree as follows:

ARTICLE 1
RECITALS

Recital No. 1. City of Inver Grove Heights (the “City”) is a Minnesota municipal corporation.

Recital No. 2. Owner owns certain real property situated in the City of Inver Grove Heights, County of Dakota, State of Minnesota identified as Dakota County Property Tax Parcel Number 20-67600-01-020 and legally described on Exhibit A (the “Property”). The Property is vacant land and is not improved with a single-family structure or a dwelling unit. Under the current zoning regulations, the Property consists of one buildable lot.

Recital No. 3. Owner’s home is located at 1800 – 60th Street E. which is the adjoining tax parcel located to the east of the Property.

Recital No. 4. Owner represents and warrants that they have fee title ownership of the Property.

Recital No. 5. The City has ordered and intends to construct City Project No. 2016-09D – 60th Street Reconstruction and Utility Improvements (the “Project”).

Recital No. 6. In determining the special assessments to be levied against the Property for the Project, the City has considered the Property in its highest and best use to be one buildable lot. The Owner, on the other hand, indicates that in the reasonably foreseeable future the Property will remain vacant land and will not be improved with a single-family structure or a dwelling unit.

Recital No. 7. The City is willing to levy special assessments against the Property for the Project and contemporaneously defer the special assessment, if the Owner waives its rights to special assessment notices, hearings, and if the Owner waives its special assessment appeal rights as provided herein.

Recital No. 8. Under Chapter 429 of the Minnesota Statutes, and more specifically Minn. Stat. § 429.061, the City has the authority to specially assess the costs of the Project against Owner's Property.

ARTICLE 2 **DEFINITIONS**

The following terms, unless elsewhere defined specifically herein, shall have the following meanings as set forth below.

- 2.1** City. "City" means the City of Inver Grove Heights, a Minnesota municipal corporation.
- 2.2** City Council. "City Council" means the Inver Grove Heights City Council.
- 2.3** Owner. "Owner" means Donald C. Brau and Mary A. Brau, Trustees Under the Brau Living Trust dated March 14, 2013, and their heirs, assigns, and successors.
- 2.4** Property. "Property" means that certain real property situated in the City of Inver Grove Heights, County of Dakota, State of Minnesota identified as Dakota County Property Tax Parcel Number 20-67600-01-020, legally described on Exhibit A to this Agreement.
- 2.5** Project. "Project" means City Project No. 2016-09D – 60th Street Reconstruction and Utility Improvements.

ARTICLE 3 **INCORPORATION OF RECITALS**

3.1 Incorporation of Recitals. The parties acknowledge and agree that the Recitals contained in Article 1 are true and correct and are hereby made an integral part of this Agreement.

ARTICLE 4 **CITY COVENANTS, RIGHTS, AND DUTIES**

4.1 Special Assessment Levy. The City agrees that the City shall specially assess the Property for the Project the principal amount of \$7,500. Once payable, this assessment shall be spread over 10 years and the outstanding unpaid principal amount shall bear interest at the rate of 3.8%.

4.2 Special Assessment Deferral. The City also agrees that contemporaneous with the special assessment levy of \$7,500, the City Council shall defer the full payment of \$7,500 of the

principal special assessment levy for the Property pursuant to the following terms and conditions:

- a. The principal amount of \$7,500 is hereby deferred. This deferred amount shall not accrue interest during the deferral period.
- b. The deferment shall cease upon the occurrence of any of the following events, whichever occurs first:
 - i. The Property is improved with construction of a single-family structure or a dwelling unit; or
 - ii. The Property is no longer classified as homestead for tax purposes; or
 - iii. The Property is conveyed by Owner to another party and is no longer owned in fee title by Owner; provided, however, the following future transfers of the Property by the Owner as of the date hereof shall not apply only if subparts (i) and (ii) above do not occur:
 - Transfers during the life of the Owner to any family members of the Owner;
 - Transfers during the life of the Owner to any trust created by the Owner or to any trust controlled by the Owner or to any trust for the benefit of any family members of the Owner;
 - Transfers upon death of the Owner to any family members of the Owner;
 - Transfers upon death of the Owner to any trust for the benefit of any family members of the Owner.

If the deferment ceases in or before the year 2041, the deferred amount shall become payable and shall be collected pursuant to the following terms and conditions:

- a. The principal amount previously deferred shall begin to accrue interest at the rate of 3.8% from the date the deferment ceased.
- b. The principal amount previously deferred shall be payable in five (5) equal annual installments.
- c. The principal installments, together with accrued interest on the unpaid principal balance, shall be due and payable with real estate taxes over five (5) calendar years. The first calendar year for payment shall be the calendar year that follows the year when the deferment ceased.

Provided, however, if the deferment ceases in the years 2042, 2043, 2044 or 2045, then the principal amount (together with accrued interest) shall be paid over the number of annual installments equal to the calendar years that remain between the year 2046 and the year that followed the cessation of the deferment.

If the deferment has not ceased before the year 2046, the deferred principal amount shall be deemed cancelled and shall no longer be a lien against the Property.

ARTICLE 5
OWNER'S COVENANTS, RIGHTS, AND DUTIES

5.1 Waiver of Notice, Hearing and Appeal of Special Assessment Levy. Owner hereby irrevocably and unconditionally waives all procedural and substantive objections to the special assessments outlined in Section 4.1 for the Property. Without limiting the foregoing, Owner specifically waives any notice and hearing requirements relating to the special assessments outlined in Section 4.1 for the Property. Owner waives any claim that the special assessments levied under Section 4.1 exceed the benefit to the Property. Owner waives any appeal rights relative to the special assessments outlined in Section 4.1 for the Property and otherwise available under Minn. Stat. § 429.081.

5.2 Waiver of Notice, Hearing and Appeal of Special Assessment Deferral. Owner hereby irrevocably and unconditionally waives all procedural and substantive objections to the special assessment deferral outlined in Section 4.2 for the Property. Without limiting the foregoing, Owner specifically waives any notice and hearing requirements relating to the special assessments deferred as outlined in Section 4.2 for the Property. Owner waives any claim that the special assessments levied and deferred under Section 4.2 exceed the benefit to the Property. Owner waives any appeal rights relative to the special assessments deferred as outlined in Section 4.2 for the Property and otherwise available under Minn. Stat. § 429.081.

5.3 Authority. Owner represents to the City that Owner has the rights, power, legal capacity, and authority to enter into and perform their obligations under this Agreement, and no approvals or consents of any person or other entities are necessary in connection with the authority of Owner to enter into and perform his obligations under this Agreement. Owner warrants that they are the owners in fee title to the Property.

ARTICLE 6
GENERAL PROVISIONS

6.1 Counterparts. This Agreement may be executed in more than one (1) counterpart, each of which shall be deemed to be an original but all of which taken together shall be deemed a single instrument.

6.2 Alteration. Any alteration, variation, modification, or waiver of the provisions of the Agreement shall be valid only after it has been reduced to writing and duly signed by all parties.

6.3 Severability. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause or phrase of this Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.

6.4 Interpretation According to Minnesota Law. This Agreement shall be interpreted and construed according to the laws of the State of Minnesota.

6.5 Entire Agreement. This Agreement shall constitute the entire agreement between the parties and shall supercede all prior oral or written negotiations.

6.6 Headings. The headings to the various sections of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed, to modify, define, limit, or expand the intent of the parties as expressed in this Agreement.

6.7 Further Actions. The parties agree to execute such further documents and take such further actions as may reasonably be required or expedient to carry out the provisions and intentions of this Agreement, or any agreement or document relating hereto or entered into in connection herewith.

6.8 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their assigns and successors in interest. This Agreement shall run with the Property.

6.9 Recording. This Agreement may be recorded with the Dakota County Recorder.

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EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

That real property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Lot Two (2), Block One (1), Schindeldecker Addition according to the recorded plat thereof on file and of record in the office of the County Recorder within Dakota County, Minnesota.

Abstract Property

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Resolution Awarding Contract for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction and for the 2016 Improvement Program, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) - NWA Trunk Watermain Improvements, 65th Street Loop

Meeting Date: May 9, 2016
 Item Type: Regular
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Steve W. Dodge, Assistant City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director



Fiscal/FTE Impact:

- None
- Amount included in current budget
- Budget amendment requested
- FTE included in current complement
- New FTE requested – N/A
- Other: Special Assessments, Pavement Management Fund, Utility Funds, NWA Water Fund and Developer Escrow

PURPOSE/ACTION REQUESTED

Consider resolution awarding contract for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction and for the 2016 Improvement Program, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop.

SUMMARY

Bids were opened at 10:00 a.m. on April 1, 2016 for the subject projects. Five contractors submitted bids. Council accepted Max Steinger's withdrawal of bid on April 11, 2016 after bidder demonstrated a material and substantial mistake was made in their bid. Park Construction Company is the lowest responsible bidder with a total bid amount, base bid plus alternate 1, of \$2,027,467.80. Staff and Park Construction Company have identified quantity adjustments to the 2016-09D project resulting in a cost reduction of \$117,987.60 to address the funding constraints of the project. Change Order No. 1 (presented in the following agenda item) adjusts the contract to include these quantity reductions.

The bids were received as follows:

BIDDER	BASE BID	ALTERNATE 1	TOTAL BID
Max Steinger Inc.	\$1,725,515.99	\$8,594.21	\$1,734,110.20
Park Construction Company	\$2,013,759.00	\$13,708.80	\$2,027,467.80
S.M. Hentges & Sons Inc.	\$2,038,261.30	\$17,400.00	\$2,055,661.30
Ryan Contracting Company	\$2,055,867.00	\$18,840.00	\$2,074,707.00
Palda and Sons, Inc.	\$2,173,179.11	\$18,862.40	\$2,192,041.51

Alternate 1 is for 63rd Street Sanitary Sewer Extension for City Project No. 2015-12 (Phase 1).

I recommend that the City Council adopt the resolution accepting the bids and awarding the contract to Park Construction Company for a total contract amount of \$2,027,467.80 (including Alternate 1) for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction and for the 2016 Improvement Program, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop.

SWD/kf

Attachments: Resolution
 Summary of bids from Kimley-Horn

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACT FOR 2016 PAVEMENT MANAGEMENT PROGRAM,
CITY PROJECT NO. 2016-09D – 60TH STREET AREA RECONSTRUCTION AND FOR THE 2016 IMPROVEMENT
PROGRAM, CITY PROJECT NO. 2016-10 – 60TH STREET AREA UTILITY IMPROVEMENTS AND CITY PROJECT
NO. 2015-12 (PHASE 1) – NWA TRUNK WATERMAIN IMPROVEMENTS, 65TH STREET LOOP**

RESOLUTION NO. _____

WHEREAS, pursuant to an advertisement for bids for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction and for the 2016 Improvement Program, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) NWA Trunk Watermain Improvements, 65th Street Loop, bids were received, opened, read aloud, and tabulated according to law. The following bids were received complying with the advertisement, acknowledgement of receipt of addendum, and submitted a bid bond; and

BIDDER	BASE BID	ALTERNATE 1	TOTAL BID
Max Steinger Inc.	\$1,725,515.99	\$8,594.21	\$1,734,110.20
Park Construction Company	\$2,013,759.00	\$13,708.80	\$2,027,467.80
S.M. Hentges & Sons Inc.	\$2,038,261.30	\$17,400.00	\$2,055,661.30
Ryan Contracting Company	\$2,055,867.00	\$18,840.00	\$2,074,707.00
Palda and Sons, Inc.	\$2,173,179.11	\$18,862.40	\$2,192,041.51

WHEREAS, at the request of Max Steinger, Inc., on April 11, 2016, Council accepted withdrawal of Max Steinger's bid after bidder demonstrated a material and substantial mistake was made in their bid; and

WHEREAS, Park Construction Company is the lowest responsible bidder for the base bid of \$2,013,759.00 and Alternate No. 1 of \$13,708.80 for a total contract amount of \$2,207,467.80.

WHEREAS, staff and Park Construction Company have identified quantity adjustments to the 2016-09D project resulting in a cost reduction of \$117,987.60 and these quantity adjustments will be considered in Change Order No. 1 via a separate resolution.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA:

1. The Mayor and Clerk are hereby authorized and directed to enter into a contract with Park Construction Company in the name of the City of Inver Grove Heights, for the 2016 Pavement Management Program, City Project No. 2016-09D – 60th Street Area Reconstruction and for the 2016 Improvement Program, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop according to plans and specifications therefore approved by the Council and on file at the Office of the City Clerk.
2. The City Clerk is hereby authorized and directed to return, forthwith, to all bidders, the deposits made with their bids except for the deposit of the successful bidder and the next lowest bidder shall be retained until the contract has been signed.
3. City Project No. 2016-09D – 60th Street Area Reconstruction shall be funded through the Pavement Management Fund and special assessments. City Project No. 2016-10 – 60th Street Area Utility Improvements shall be funded through the Utility Funds. City Project No. 2015-12 will be funded through the Northwest Area Water Fund and Developer Escrow.

Adopted by the City Council of Inver Grove Heights this 9th day of May 2016

AYES:
NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



April 6, 2016

Mr. Tom Kaldunski, P.E.
City Engineer
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Re: Summary of Bids
60th Street Area Reconstruction
City Project 2016-09D
60th Street Area Utility Improvements
City Project 2016-10
NWA Trunk Watermain Improvements – 65th Street Loop (Argenta Trail to Babcock Trail) Phase 1
City Project 2015-12

Dear Mr. Kaldunski:

At 10:00 a.m. on Friday, April 1st bids were received and opened for the above-referenced project. The bidding documents included the based bid for the above referenced projects and one bid alternate for the extension of sanitary at 63rd Street East. Bids were received from five (5) contractors with the bid amounts as follows:

<u>Contractor</u>	<u>Total Base Bid</u>	<u>Total Base Bid Plus Bid Alternate</u>
Max Steininger Inc.	\$ 1,725,515.99	\$ 1,734,110.20
Park Construction Company	\$ 2,013,759.00	\$ 2,027,467.80
S.M. Hentges & Sons Inc.	\$ 2,038,261.30	\$ 2,055,661.30
Ryan Contracting Company	\$ 2,055,867.00	\$ 2,074,707.00
Palda and Sons, Inc.	\$ 2,173,179.11	\$ 2,192,041.51

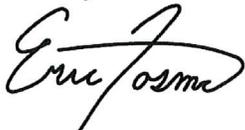
**All bid amounts shown on this letter and the attached bid tabulation are the corrected bid amounts. Minor errors were found in 3 of the 5 bids that did not affect the bidding order.*

All bids were submitted with proper guarantees in the amount of five percent (5%) of the total bid as required by the Project Manual. All bids acknowledged the two (2) addenda that were issued for the project.

After tabulation of bids, Max Steinger Inc. is the apparent low bidder with a total base bid and bid alternate amount of \$1,734,110.20. The apparent low bid of \$1,734,110.20 is 29% less than the engineer's estimate of \$2,242,363.00

Sincerely,

Kimley-Horn and Associates, Inc.



Eric Fosmo, P.E.
Project Manager

Enclosure: Bid Tabulation

cc: File 160509027

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Change Order No. 1 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail)

Meeting Date: May 9, 2016
 Item Type: Regular
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Steve W. Dodge, Asst. City Engineer *SWD*
 Reviewed by: Scott D. Thureen, Public Works Director *SST*

Fiscal/FTE Impact:

<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other: Pavement Management Fund, Special Assessments, Water Fund, Sewer Fund

PURPOSE/ACTION REQUESTED

Consider Change Order No. 1 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail).

SUMMARY

The improvements were ordered as part of the 2016 Pavement Management Program. The contract was awarded in the amount of \$2,027,467.80 to Park Construction Company, on May 9, 2016 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail).

Bids for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail) were opened on April 1, 2016. The bid of the lowest responsible bidder, Park Construction Company, was too high for City Project No. 2016-09D to meet the feasibility total cost amount of \$2,122,000 and the City's goal to cap the assessments at \$7,500 for single-family properties and assess a minimum of twenty percent (20%) of the total project costs per MS 429. At the April 11 regular meeting, Council authorized staff to identify potential cost saving measures through quantity adjustments for the project to meet the City's financing goals in preparation for the scheduled assessment hearing and bid award for the project on May 9, 2016.

On April 11, 2016, City staff met with Park Construction Company and presented quantity adjustments to the project. On April 15, 2016, Park Construction Company concurred in writing that they agree with the proposed quantity adjustments. The 2016-09D quantity reductions lower the bid for 2016-09D by \$117,987.60; from \$1,700,078.50 to \$1,582,090.90.

The proposed quantity adjustments to City Project No. 2016-09D are detailed below:

Item	Original Quantity	Proposed Quantity	Unit Price	Cost Savings	Comments
Field Office	1	0	\$8800.00	\$8800.00	Eliminate from project
Remove Curb & Gutter	8700	7200	\$3.15	\$4725.00	Quantity error clarification
Water Usage Allowance	1	0	\$3500.00	\$3500.00	Eliminate from project – City water provided at no expense
Aggregate Base Class V	4580	5320	\$14.60	(\$10,804.00)	Increase is due to substitution for driveway Aggregate Base
Aggregate Base Class V (100% Crushed Limestone)	760	0	\$20.90	\$15,884.00	Substitute with Aggregate Base Class V for driveways
Type SP 9.5 Wearing Course Mix (2,E) (Driveway Mix)	350	343	\$162.00	\$1134.00	Quantity reduction
High Early Strength Concrete	100	0	\$16.30	\$1630.00	Eliminate from project
Irrigation System Repair Allowance	1	0	\$15,000.00	\$15,000.00	Eliminate from project – property owner responsibility
6" Concrete Driveway Pavement	1005	985	\$46.40	\$928.00	Quantity reduction
Decorative Driveway Allowance	1	0.7	\$10,000.00	\$3000.00	Quantity reduction
Boulevard Landscaping Allowance	1	0	\$15,000.00	\$15,000.00	Eliminate from project – property owner responsibility
Traffic Control Allowance	1	0.33	\$15,000.00	\$10,050.00	Quantity reduction
Storm Water Management Allowance	1	0.5	\$10,000.00	\$5,000.00	Quantity reduction
Boulevard Topsoil Borrow	1500	1470	\$31.60	\$948.00	Quantity reduction
Hydraulic Soil Stabilizer Type Special	6850	6710	\$1.60	\$224.00	Quantity reduction
Joint Adhesive	7160	0	\$0.57	\$4081.20	Eliminate from project
Rain Garden Improvements (Bid Schedule C)	1	0	\$19,940.90	\$19,940.90	Eliminate from project
15" RC Pipe Sewer	779	518	\$36.50	\$9526.50	Storm sewer redesign (see attached sheets)
Const. Drainage Structure 2' x 3' CB	6	5	\$1710.00	\$1710.00	Storm sewer redesign (see attached sheets)
Const. Drainage Structure 48"	15	12	\$2570.00	\$7710.00	Storm sewer redesign (see attached sheets)
Total Cost Savings:				\$117,987.60	

I recommend approval of Change Order No. 1, in the amount of (\$117,987.60) (for a revised contract amount of \$1,909,480.20) for work on City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail).

SWD/nh

Attachments: Change Order No. 1

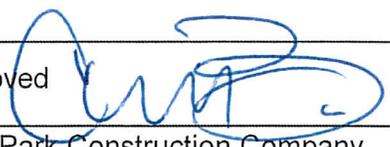
CHANGE ORDER NO. 1

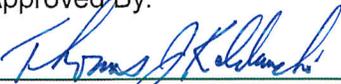
2016 PAVEMENT MANAGEMENT PROGRAM

CITY PROJECT NO. 2016-09D – 60TH STREET AREA RECONSTRUCTION, CITY PROJECT NO. 2016-10 – 60TH STREET AREA UTILITY IMPROVEMENTS, AND CITY PROJECT NO. 2015-12 (PHASE 1) – NWA TRUNK WATERMAIN IMPROVEMENTS, 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL)

Owner: City of Inver Grove Heights 8150 Barbara Avenue Inver Grove Heights, MN 55077	Date of Issuance: April 29, 2016
Contractor: Park Construction Company 1481 81 st Ave. NE Minneapolis, MN 55432	Engineer: Kimley-Horn and Associates

PURPOSE OF CHANGE ORDER: To reduce project costs sufficiently through contract quantity reductions to allow the City to cap the assessments at \$7,500 for single-family properties while assessing a minimum of twenty percent (20%) of the total project costs per MS 429. The 2016-09D quantity reductions lower the bid for 2016-09D by \$117,987.60; from \$1,700,078.50 to \$1,582,090.90.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Proposed Contract Price: \$2,027,467.80	Original Contract Time:
Previous Change Orders \$0.00	Net Change from Previous Change Orders
Contract Price Prior to this Change Order \$2,027,467.80	Contract Time Prior to this Change Order
Net Increase (Decrease) of this Change Order (\$117,987.60)	Net Increase (Decrease) of Change Order
Contract Price with all Approved Change Orders \$1,909,480.20	Contract Time with Approved Change
Recommended By:  Nick Hahn, Engineering Technician	Approved By:  Park Construction Company

Approved By: 
Thomas J. Kaldunski, City Engineer

Approved By: _____
George Tourville, Mayor

Date of Council Action:
May 9, 2016

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
 KHA Job No: 160539006

Item No.	Mn/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity Amount	Change Order No. 1 Quantity	Change Order No. 1 Amount
1	2021.501	MOBILIZATION	LUMP SUM \$	100,000.00	1	\$ 100,000.00	1	\$ 100,000.00
2	2031.501	FIELD OFFICE	LUMP SUM \$	8,800.00	1	\$ 8,800.00	0	\$ -
3	2101.501	CLEARING	ACRE	11,700.00	0.35	\$ 4,095.00	0.35	\$ 4,095.00
4	2101.502	CLEARING	TREE	264.00	15	\$ 3,960.00	15	\$ 3,960.00
5	2101.506	GRUBBING	ACRE	11,700.00	0.35	\$ 4,095.00	0.35	\$ 4,095.00
6	2101.507	GRUBBING	TREE	176.00	15	\$ 2,640.00	15	\$ 2,640.00
7	2104.501	REMOVE WIRE FENCE	LIN FT	16.50	53	\$ 874.50	53	\$ 874.50
8	2104.501	REMOVE CURB AND GUTTER	LIN FT	3.15	8700	\$ 27,405.00	7200	\$ 22,680.00
9	2104.505	REMOVE CONCRETE DRIVEWAY PAVEMENT	SQ YD	7.85	1005	\$ 7,889.25	1005	\$ 7,889.25
10	2104.505	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	SQ YD	7.00	1510	\$ 10,570.00	1510	\$ 10,570.00
11	2104.505	REMOVE BITUMINOUS PAVEMENT	SQ YD	2.75	14200	\$ 39,050.00	14200	\$ 39,050.00
12	2104.523	SALVAGE SIGN TYPE C	EACH	46.40	7	\$ 324.80	7	\$ 324.80
13	2105.501	COMMON EXCAVATION (P)	CU YD	13.40	15879	\$ 212,778.60	15879	\$ 212,778.60
14	2105.507	SUBGRADE EXCAVATION (EV)	CU YD	17.20	1000	\$ 17,200.00	1000	\$ 17,200.00
15	2105.522	SELECT GRANULAR BORROW (CV)	CU YD	22.70	12500	\$ 283,750.00	12500	\$ 283,750.00
16	2105.604	GEOTEXTILE FABRIC TYPE V	SQ YD	1.50	19000	\$ 28,500.00	19000	\$ 28,500.00
17	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	hour	129.00	75	\$ 9,675.00	75	\$ 9,675.00
18	2130.601	WATER USAGE ALLOWANCE	LUMP SUM \$	3,500.00	1	\$ 3,500.00	0	\$ -
19	2211.501	AGGREGATE BASE (CV) CLASS 5	TON	14.60	4580	\$ 66,868.00	5320	\$ 77,672.00
20	2211.501	AGGREGATE BASE (CV) CLASS 5 (100% CRUSHED LIMESTONE)	TON	20.90	760	\$ 15,884.00	0	\$ -
21	2211.609	STABILIZING AGGREGATE	TON	43.30	100	\$ 4,330.00	100	\$ 4,330.00

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPORVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
 160539006

KHA Job No:

22	2232.604	EDGE MILL BITUMINOUS SURFACE	SQ YD	\$	4.35	175	\$	761.25	175	\$	761.25
23	2360.501	TYPE SP 9.5 WEARING COURSE MIX (3.C)	TON	\$	63.70	1600	\$	101,920.00	1600	\$	101,920.00
24	2360.502	TYPE SP 12.5 NON WEAR COURSE MIX (3.C)	TON	\$	58.60	1600	\$	93,760.00	1600	\$	93,760.00
25	2360.604	TYPE SP 9.5 WEARING COURSE MIX (2.E) (DRIVEWAY MIX)	TON	\$	162.00	350	\$	56,700.00	343	\$	55,566.00
26	2411.607	HIGH EARLY STRENGTH CONCRETE	CU YD	\$	16.30	100	\$	1,630.00	0	\$	-
27	2501.602	EXCAVATION SPECIAL (POTHOLE EXISTING UTILITY)	EACH	\$	735.00	5	\$	3,675.00	5	\$	3,675.00
28	2502.501	4" PRECAST CONCRETE HEADWALL	EACH	\$	276.00	1	\$	276.00	1	\$	276.00
29	2502.541	4" PERF PVC PIPE DRAIN WITH CIRCULAR KNIT FILTER SOCK	LIN FT	\$	7.70	7000	\$	53,900.00	7000	\$	53,900.00
30	2504.601	IRRIGATION SYSTEM REPAIR ALLOWANCE	LUMP SUM	\$	15,000.00	1	\$	15,000.00	0.00	\$	-
31	2531.501	CONCRETE CURB & GUTTER DESIGN B618	LIN FT	\$	12.60	7000	\$	88,200.00	7000	\$	88,200.00
32	2531.507	6" CONCRETE DRIVEWAY PAVEMENT	SQ YD	\$	46.40	1005	\$	46,632.00	985	\$	45,704.00
33	2531.601	DECORATIVE DRIVEWAY ALLOWANCE	LUMP SUM	\$	10,000.00	1	\$	10,000.00	0.7	\$	7,000.00
34	2531.602	PEDESTRIAN CURB RAMP	EACH	\$	1,240.00	1	\$	1,240.00	1	\$	1,240.00
35	2531.603	CONCRETE CURB AND GUTTER DESIGN B618 (HAND FOUR)	LIN FT	\$	18.60	200	\$	3,720.00	200	\$	3,720.00
36	2531.603	CONCRETE RIBBON CURB	LIN FT	\$	16.50	160	\$	2,640.00	160	\$	2,640.00
37	2540.601	BOULEVARD LANDSCAPING ALLOWANCE	LUMP SUM	\$	15,000.00	1	\$	15,000.00	0.00	\$	-
38	2540.601	MAILBOX MAINTENANCE	LUMP SUM	\$	6,010.00	1	\$	6,010.00	1	\$	6,010.00
39	2563.601	TRAFFIC CONTROL ALLOWANCE	LUMP SUM	\$	15,000.00	1	\$	15,000.00	0.33	\$	4,950.00
40	2564.531	SIGN PANELS TYPE C	SQ FT	\$	87.70	66	\$	5,788.20	66	\$	5,788.20
41	2564.602	INSTALL SIGN TYPE SPECIAL	EACH	\$	155.00	2	\$	310.00	2	\$	310.00
42	2572.505	TREE PRUNING	HOURL	\$	235.00	5	\$	1,175.00	5	\$	1,175.00
43	2573.502	SILT FENCE, TYPE MS	LIN FT	\$	2.10	900	\$	1,890.00	900	\$	1,890.00
44	2573.530	STORM DRAIN INLET PROTECTION	EACH	\$	168.00	31	\$	5,208.00	31	\$	5,208.00
45	2573.533	SEDIMENT CONTROL LOG TYPE COMPOST	LIN FT	\$	3.15	750	\$	2,362.50	750	\$	2,362.50

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
 KHA Job No: 160539006

46	2573.535	STABILIZED CONSTRUCTION EXIT	LUMP SUM \$	1,960.00	1	\$	1,960.00	1	\$	1,960.00
47	2573.550	EROSION CONTROL SUPERVISOR	LUMP SUM \$	2,630.00	1	\$	2,630.00	1	\$	2,630.00
48	2573.601	DEWATERING (EXCAVATION)	LUMP SUM \$	9,120.00	1	\$	9,120.00	1	\$	9,120.00
49	2573.601	STORM WATER MANAGEMENT ALLOWANCE	LUMP SUM \$	10,000.00	1	\$	10,000.00	0.5	\$	5,000.00
50	2574.525	BOULEVARD TOPSOIL BORROW	CU YD \$	31.60	1500	\$	47,400.00	1470	\$	46,452.00
51	2575.511	MULCH MATERIAL TYPE 1	TON \$	342.00	4.5	\$	1,539.00	4.5	\$	1,539.00
52	2575.601	RESTORATION OF STAGING AREAS	LUMP SUM \$	990.00	1	\$	990.00	1	\$	990.00
53	2575.605	RAPID STABILIZATION METHOD TYPE 2 MOD	ACRE \$	842.00	0.25	\$	210.50	0.25	\$	210.50
54	2575.605	SEED MIXTURE 25-151	ACRE \$	316.00	1.9	\$	600.40	1.9	\$	600.40
55	2575.608	HYDRAULIC SOIL STABILIZER, TYPE SPECIAL	POUND \$	1.60	6850	\$	10,960.00	6710	\$	10,736.00
56	2331.603	JOINT ADHESIVE (MASTIC)	LIN FT \$	0.57	7160	\$	4,081.20	0	\$	-
57	2557.603	TEMPORARY ORANGE CONSTRUCTION FENCE	LIN FT \$	7.10	300	\$	2,130.00	300	\$	2,130.00
				Schedule A Subtotal:			\$1,476,608.20			\$1,397,508.00

Item No.	Mni/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity Amount	Contract Quantity with Cost Savings	Contract Quantity with Cost Savings Amount
1	2104.501	REMOVE SEWER PIPE (STORM)	LIN FT	\$ 16.20	425	\$ 6,885.00	425	\$ 6,885.00
2	2104.509	REMOVE MANHOLE OR CATCH BASIN	EACH	\$ 352.00	6	\$ 2,112.00	6	\$ 2,112.00
3	2105.501	COMMON EXCAVATION (P)	CU YD	\$ 30.70	987	\$ 30,300.90	987	\$ 30,300.90
4	2501.602	15" RC PIPE ARPON AND TRASH GUARD	EACH	\$ 844.00	1	\$ 844.00	1	\$ 844.00
5	2501.602	24" RC PIPE ARPON AND TRASH GUARD	EACH	\$ 1,300.00	1	\$ 1,300.00	1	\$ 1,300.00
6	2501.602	36" RC PIPE ARPON AND TRASH GUARD	EACH	\$ 2,020.00	1	\$ 2,020.00	1	\$ 2,020.00
7	2503.542	15" RC PIPE SEWER DES 3006 CL V	LIN FT	\$ 36.50	779	\$ 28,433.50	518	\$ 18,907.00

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
 KHA Job No: 160539006

8	2503.542	18" RC PIPE SEWER DES 3006 CL V	LIN FT	\$	38.50	166	\$	6,391.00	166	\$	6,391.00
9	2503.542	24" RC PIPE SEWER DES 3006 CL III	LIN FT	\$	42.00	314	\$	13,188.00	314	\$	13,188.00
10	2503.542	24" RC PIPE SEWER DES 3006 CL IV	LIN FT	\$	46.50	90	\$	4,185.00	90	\$	4,185.00
11	2503.542	36" RC PIPE SEWER DES 3006 CL IV	LIN FT	\$	76.70	83	\$	6,366.10	83	\$	6,366.10
12	2503.602	CONNECT TO EXISTING STORM SEWER	EACH	\$	882.00	4	\$	3,528.00	4	\$	3,528.00
13	2503.602	BULKHEAD EXISTING STORM SEWER	EACH	\$	309.00	3	\$	927.00	3	\$	927.00
14	2506.502	CONST DRAINAGE STRUCTURE DES 2' X 3' CB	EACH	\$	1,710.00	6	\$	10,260.00	5	\$	8,550.00
15	2506.502	CONST DRAINAGE STRUCTURE DES 48-4020	EACH	\$	2,570.00	15	\$	38,550.00	12	\$	30,840.00
16	2506.502	CONST DRAINAGE STRUCTURE DES 60-4020	EACH	\$	3,870.00	4	\$	15,480.00	4	\$	15,480.00
17	2506.602	OUTLET CONTROL STRUCTURE	EACH	\$	4,140.00	1	\$	4,140.00	1	\$	4,140.00
18	2511.501	RANDOM RIPRAP CLASS IV	CU YD	\$	90.60	39	\$	3,533.40	39	\$	3,533.40
19	2511.515	GEOTEXTILE FILTER TYPE IV	SQ YD	\$	2.10	104	\$	218.40	104	\$	218.40
20	2575.604	EROSION STABILIZATION MAT - ENKAMAT	SQ YD	\$	213.00	116	\$	24,708.00	116	\$	24,708.00
21	2575.605	SEED MIXTURE 33-261	ACRE	\$	426.00	0.1	\$	42.60	0.1	\$	42.60
22	2575.605	SEED MIXTURE 34-181	ACRE	\$	445.00	0.1	\$	44.50	0.1	\$	44.50
23	2575.605	SEED MIXTURE 36-211	ACRE	\$	480.00	0.15	\$	72.00	0.15	\$	72.00
Schedule B Subtotal:											
										\$	203,529.40

Schedule: C										
Description: CP 2016-09D RAIN GARDEN IMPROVEMENTS										
Item No.	Mn/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity Amount	Contract Quantity with Cost Savings	Contract Quantity with Cost Savings Amount	Contract Quantity	Contract Quantity with Cost Savings Amount
1	2411.602	LIMESTONE SPLASH BLOCK	EACH	\$ 158.00	3	\$ 474.00	0	\$ -	3	\$ 474.00
2	2502.541	4" PERF PVC PIPE DRAIN WITH CIRCULAR KNIT FILTER SOCK	LIN FT	\$ 4.20	90	\$ 378.00	0	\$ -	90	\$ 378.00
3	2502.602	INSTALL 4" PVC PIPE DRAIN CLEANOUT	EACH	\$ 22.10	6	\$ 132.60	0	\$ -	6	\$ 132.60

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
 KHA Job No: 160539006

4	2504.602	4" KNIFE VALVE & BOX	EACH	\$	82.10	3	\$	246.30	0	\$	-
5	2506.602	CONSTRUCT DRAINAGE STRUCTURE DESIGN SPECIAL	EACH	\$	3,230.00	3	\$	9,690.00	0	\$	-
6	2540.603	LANDSCAPE EDGER - PLASTIC	LIN FT	\$	9.50	120	\$	1,140.00	0	\$	-
7	2571.618	RAIN GARDEN PREPARATION, SAND AND BEDDING	SQ FT	\$	10.50	600	\$	6,300.00	0	\$	-
8	2571.618	RAIN GARDEN RETAINING WALL, BOULDER	SQ FT	\$	31.60	50	\$	1,580.00	0	\$	-
Schedule C Subtotal:							\$	19,940.90		\$	-

Item No.	Mn/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity Amount	Contract Quantity with Cost Savings	Contract Quantity with Cost Savings Amount
1	2103.507	DISCONNECT WATER SERVICE	EACH	\$ 294.00	8	\$ 2,352.00	8	\$ 2,352.00
2	2104.501	REMOVE WATER MAIN	LIN FT	\$ 29.40	30	\$ 882.00	30	\$ 882.00
3	2104.501	REMOVE WATER SERVICE	EACH	\$ 588.00	8	\$ 4,704.00	8	\$ 4,704.00
4	2104.523	SALVAGE HYDRANT AND VALVE	EACH	\$ 294.00	8	\$ 2,352.00	8	\$ 2,352.00
5	2211.609	CRUSHED ROCK PIPE BEDDING	TON	\$ 26.40	25	\$ 660.00	25	\$ 660.00
6	2504.602	CONNECT TO EXISTING WATER MAIN	EACH	\$ 1,050.00	4	\$ 4,200.00	4	\$ 4,200.00
7	2504.602	REMOVE AND REPLACE GATE VALVE BOLTS	EACH	\$ 1,590.00	4	\$ 6,360.00	4	\$ 6,360.00
8	2504.602	WATERMAIN OFFSET	EACH	\$ 2,840.00	1	\$ 2,840.00	1	\$ 2,840.00
9	2504.602	WATERMAIN SERVICE ADJUSTMENT	EACH	\$ 834.00	5	\$ 4,170.00	5	\$ 4,170.00
10	2504.602	CURB STOP AND BOX	EACH	\$ 453.00	8	\$ 3,624.00	8	\$ 3,624.00
11	2504.602	HYDRANT AND GATE VALVE	EACH	\$ 5,360.00	9	\$ 48,240.00	9	\$ 48,240.00
12	2504.602	RECONNECT WATER SERVICE	EACH	\$ 335.00	8	\$ 2,680.00	8	\$ 2,680.00
13	2504.602	ADJUST GATE VALVE	EACH	\$ 281.00	4	\$ 1,124.00	4	\$ 1,124.00
14	2504.602	1" CORPORATION STOP	EACH	\$ 394.00	8	\$ 3,152.00	8	\$ 3,152.00

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
Owner: CITY OF INVER GROVE HEIGHTS
Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPORVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
KHA Job No: 160539006

15	2504.602	CUT IN 6" GATE VALVE	EACH	\$	2,490.00	3	\$	7,470.00	3	\$	7,470.00
16	2504.602	ADJUST CURB STOP	EACH	\$	245.00	34	\$	8,330.00	34	\$	8,330.00
17	2504.603	6" WATERMAIN DUCTILE IRON CL 52	LIN FT	\$	77.80	30	\$	2,334.00	30	\$	2,334.00
18	2504.603	1" TYPE K COPPER PIPE	LIN FT	\$	27.70	350	\$	9,695.00	350	\$	9,695.00
19	2504.604	4" POLYSTYRENE INSULATION	SQ.YD	\$	39.80	50	\$	1,990.00	50	\$	1,990.00
20	2504.608	DUCTILE IRON FITTINGS	POUND	\$	3.95	1000	\$	3,950.00	1000	\$	3,950.00
Schedule D Subtotal:											
\$ 121,109.00											

Schedule: E
Description: CP 2016-10 SANITARY SEWER IMPROVEMENTS

Item No.	Mn/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity Amount	Contract Quantity with Cost Savings	Contract Quantity with Cost Savings Amount
1	2104.501	REMOVE SEWER PIPE (SANITARY)	LIN FT	\$ 14.70	84	\$ 1,234.80	84	\$ 1,234.80
2	2104.501	REMOVE SEWER SERVICE	EACH	\$ 883.00	1	\$ 883.00	1	\$ 883.00
3	2104.602	SALVAGE CASTING AND RINGS (SANITARY)	EACH	\$ 141.00	13	\$ 1,833.00	13	\$ 1,833.00
4	2211.609	CRUSHED ROCK PIPE BEDDING	TON	\$ 48.50	25	\$ 1,212.50	25	\$ 1,212.50
5	2503.511	8" DUCTILE IRON PIPE SEWER CL 52	LIN FT	\$ 70.20	84	\$ 5,896.80	84	\$ 5,896.80
6	2503.511	8" PVC PIPE SEWER SDR 35	LIN FT	\$ 40.50	50	\$ 2,025.00	50	\$ 2,025.00
7	2503.602	CONNECT TO EXISTING MANHOLE	EACH	\$ 882.00	4	\$ 3,528.00	4	\$ 3,528.00
8	2503.602	FURNISH AND INSTALL EXTERNAL MANHOLE CHIMNEY SEAL	EACH	\$ 261.00	15	\$ 3,915.00	15	\$ 3,915.00
9	2503.602	INSTALL NEW RINGS AND CASTING	EACH	\$ 567.00	4	\$ 2,268.00	4	\$ 2,268.00
10	2503.602	LOCATE SANITARY SEWER SERVICE	EACH	\$ 588.00	6	\$ 3,528.00	6	\$ 3,528.00
11	2503.602	RECONSTRUCT SANITARY MANHOLE	EACH	\$ 597.00	9	\$ 5,373.00	9	\$ 5,373.00
12	2503.602	SANITARY SEWER SERVICE REPLACEMENT	EACH	\$ 1,760.00	6	\$ 10,560.00	6	\$ 10,560.00
13	2503.602	SANITARY SEWER UMBRELLAS	EACH	\$ 379.00	15	\$ 5,685.00	15	\$ 5,685.00

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
 KHA Job No: 160639006

Item No.	Mm/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity Amount	Contract Quantity with Cost Savings	Contract Quantity with Cost Savings Amount
14	2506.602	SANITARY SEWER MANHOLE 48"	EACH	\$ 2,470.00	2	\$ 4,940.00	2	\$ 4,940.00
Schedule E Subtotal:						\$ 52,882.10		\$ 52,882.10
Schedule: F								
Description: CP 2015-12 NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1								
1	2101.501	CLEARING	ACRE	\$ 11,700.00	0.1	\$ 1,170.00	0.1	\$ 1,170.00
2	2101.502	CLEARING	TREE	\$ 264.00	2	\$ 528.00	2	\$ 528.00
3	2101.506	GRUBBING	ACRE	\$ 11,700.00	0.1	\$ 1,170.00	0.1	\$ 1,170.00
4	2101.507	GRUBBING	TREE	\$ 176.00	2	\$ 352.00	2	\$ 352.00
5	2118.501	AGGREGATE SURFACING CLASS 2	TON	\$ 30.50	200	\$ 6,100.00	200	\$ 6,100.00
6	2504.602	16" BUTTERFLY GATE VALVE	EACH	\$ 3,140.00	1	\$ 3,140.00	1	\$ 3,140.00
7	2504.602	HYDRANT AND GATE VALVE	EACH	\$ 5,350.00	1	\$ 5,350.00	1	\$ 5,350.00
8	2504.603	16" WATERMAIN DUCTILE IRON CL 52	LIN FT	\$ 64.30	1085	\$ 69,765.50	1085	\$ 69,765.50
9	2504.603	6" WATERMAIN DUCTILE IRON CL 52	LIN FT	\$ 87.30	10	\$ 873.00	10	\$ 873.00
10	2504.603	BUTTERFLY VALVE MANHOLE	LIN FT	\$ 917.00	8	\$ 7,336.00	8	\$ 7,336.00
11	2504.604	4" POLYSTYRENE INSULATION	SQ YD	\$ 39.80	90	\$ 3,582.00	90	\$ 3,582.00
12	2504.608	DUCTILE IRON FITTINGS	POUND	\$ 3.80	4000	\$ 15,200.00	4000	\$ 15,200.00
13	2550.602	MARKING POST	EACH	\$ 97.90	1	\$ 97.90	1	\$ 97.90
14	2573.502	SILT FENCE, TYPE MS	LIN FT	\$ 2.10	2280	\$ 4,788.00	2280	\$ 4,788.00
16	2575.523	EROSION CONTROL BLANKETS CATEGORY 3	SQ YD	\$ 3.15	150	\$ 472.50	150	\$ 472.50
17	2575.605	SEED MIXTURE 35-221	ACRE	\$ 445.00	2.2	\$ 979.00	2.2	\$ 979.00
18	2211.501	AGGREGATE BASE (CV) CLASS 5	TON	\$ 17.50	225	\$ 3,937.50	225	\$ 3,937.50
19	2574.525	BOULEVARD TOPSOIL BORROW	CU YD	\$ 31.60	80	\$ 2,528.00	80	\$ 2,528.00

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
Owner: CITY OF INVER GROVE HEIGHTS
Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPORVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
KHA Job No: 160539006

20	2575.560	HYDRAULIC BONDED FIBER MATRIX	POUND	\$	1.60	7700	\$	12,320.00	7700	\$	12,320.00																																								
Schedule F Subtotal:							\$	139,689.40		\$	139,689.40																																								
<p>Alternate: 1 Description: CP 2015-12 63RD STREET SANITARY SEWER EXTENSION</p> <table border="1"> <thead> <tr> <th>Item No.</th> <th>Mn/DOT No.</th> <th>Item Description</th> <th>Unit</th> <th>Unit Price</th> <th>Contract Quantity</th> <th>Contract Quantity with Cost Savings</th> <th>Contract Quantity with Cost Savings Amount</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>2503.511</td> <td>8" PVC PIPE SEWER SDR 26</td> <td>LIN FT</td> <td>\$ 41.70</td> <td>64</td> <td>64</td> <td>\$ 2,668.80</td> </tr> <tr> <td>2</td> <td>2503.602</td> <td>CONNECT TO EXISTING MANHOLE</td> <td>EACH</td> <td>\$ 1,460.00</td> <td>1</td> <td>1</td> <td>\$ 1,460.00</td> </tr> <tr> <td>3</td> <td>2506.602</td> <td>FORCEMAIN DISCHARGE MANHOLE</td> <td>EACH</td> <td>\$ 9,580.00</td> <td>1</td> <td>1</td> <td>\$ 9,580.00</td> </tr> <tr> <td colspan="5" style="text-align: right;">Alternate 1 Subtotal:</td> <td></td> <td></td> <td>\$ 13,708.80</td> </tr> </tbody> </table>												Item No.	Mn/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity with Cost Savings	Contract Quantity with Cost Savings Amount	1	2503.511	8" PVC PIPE SEWER SDR 26	LIN FT	\$ 41.70	64	64	\$ 2,668.80	2	2503.602	CONNECT TO EXISTING MANHOLE	EACH	\$ 1,460.00	1	1	\$ 1,460.00	3	2506.602	FORCEMAIN DISCHARGE MANHOLE	EACH	\$ 9,580.00	1	1	\$ 9,580.00	Alternate 1 Subtotal:							\$ 13,708.80
Item No.	Mn/DOT No.	Item Description	Unit	Unit Price	Contract Quantity	Contract Quantity with Cost Savings	Contract Quantity with Cost Savings Amount																																												
1	2503.511	8" PVC PIPE SEWER SDR 26	LIN FT	\$ 41.70	64	64	\$ 2,668.80																																												
2	2503.602	CONNECT TO EXISTING MANHOLE	EACH	\$ 1,460.00	1	1	\$ 1,460.00																																												
3	2506.602	FORCEMAIN DISCHARGE MANHOLE	EACH	\$ 9,580.00	1	1	\$ 9,580.00																																												
Alternate 1 Subtotal:							\$ 13,708.80																																												

BID TABULATION

Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPORVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1
 KHA Job No: 160539006

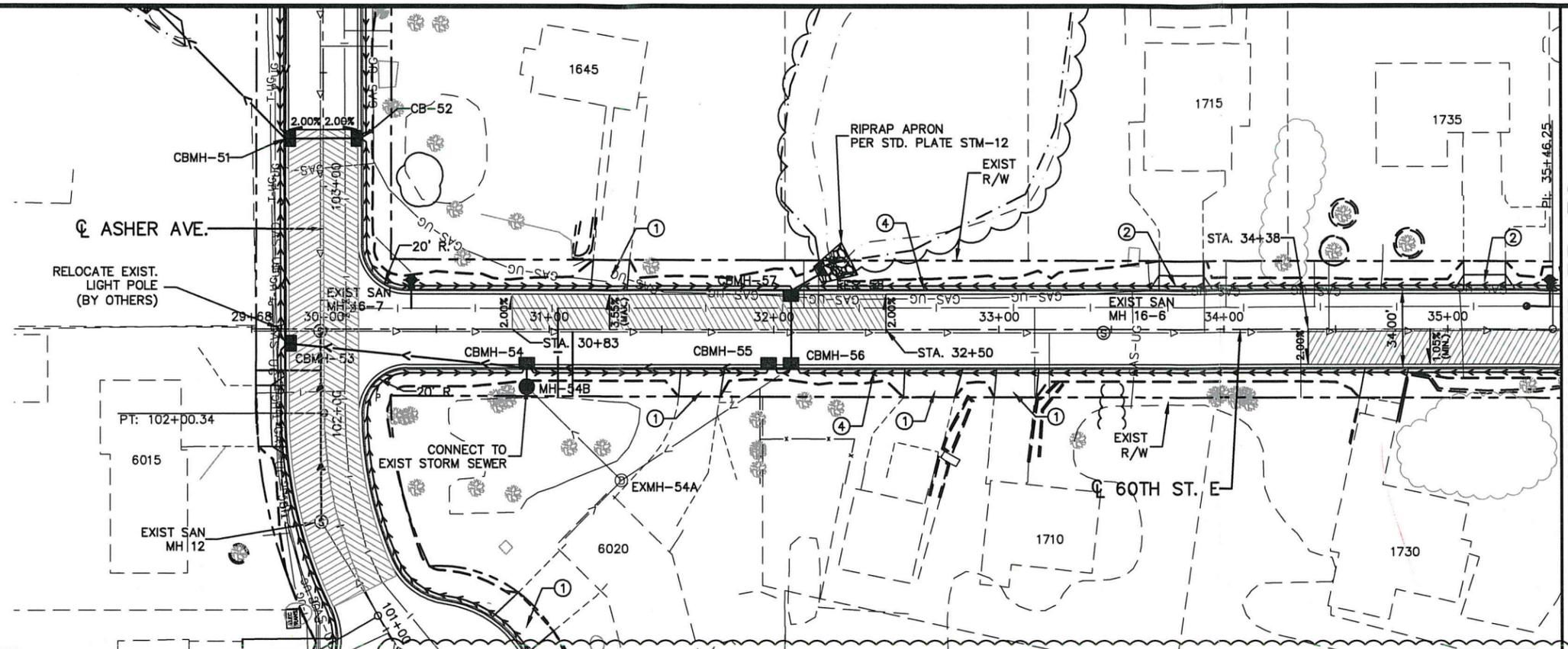
BID SUMMARY
 Contract: CP 2016-09D, CP 2016-10, CP 2015-12
 Owner: CITY OF INVER GROVE HEIGHTS
 Project: 60TH STREET AREA RECONSTRUCTION
 60TH STREET AREA UTILITY IMPROVEMENTS
 NWA TRUNK WATERMAIN IMPORVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1

Schedule	Description	Contract Quantity Amount	Contract Quantity with Cost Savings Amount
A	CP 2016-09D STREET IMPROVEMENTS	\$ 1,476,608.20	\$ 1,397,508.00
B	CP 2016-09D STORM SEWER IMPROVEMENTS	\$ 203,529.40	\$ 184,582.90
C	CP 2016-09D RAIN GARDEN IMPROVEMENTS	\$ 19,940.90	\$ -
Subtotal CP 2016-09D		\$ 1,700,078.50	\$ 1,582,090.90
D	CP 2016-10 WATERMAIN IMPROVEMENTS	\$ 121,109.00	\$ 121,109.00
E	CP 2016-10 SANITARY SEWER IMPROVEMENTS	\$ 52,882.10	\$ 52,882.10
F	CP 2015-12 NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP (ARGENTA TRAIL TO BABCOCK TRAIL) PHASE 1	\$ 139,689.40	\$ 139,689.40
Total Base Bid		\$ 2,013,759.00	\$ 1,895,771.40
Alternate	Description	Contract Quantity Amount	Contract Quantity with Cost Savings Amount
1	CP 2015-12 63RD STREET SANITARY SEWER EXTENSION	\$ 13,708.80	\$ 13,708.80
Total Bid Alternate		\$ 13,708.80	\$ 13,708.80
Total Base Bid + Alternate		\$ 2,027,467.80	\$ 1,909,480.20

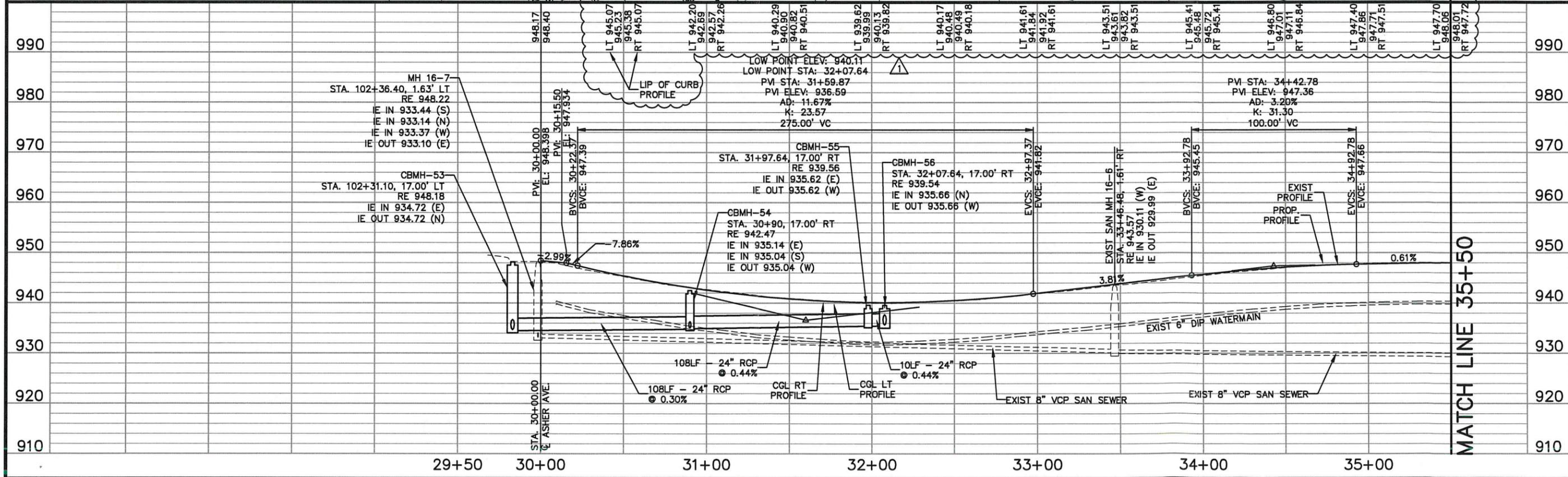
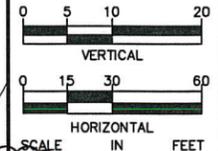
- NOTES:**
- DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
 - RADIUS DIMENSIONS ARE TO FACE OF CURB.
 - ALL DRIVEWAYS SHALL BE RESTORED TO MATCH THE EXISTING MATERIAL.
 - OFFSET EXISTING WATERMAIN AND ADJUST EXISTING WATER SERVICES AS NECESSARY AND AS DIRECTED BY THE ENGINEER TO AVOID CONFLICTS WITH PROPOSED STORM SEWER.
 - ADJUST EXISTING SANITARY SEWER SERVICES AS NECESSARY AND AS DIRECTED BY THE ENGINEER TO AVOID CONFLICTS WITH PROPOSED STORM SEWER.
 - ALL CURB AND GUTTER IS B618 CONCRETE CURB AND GUTTER UNLESS OTHERWISE NOTED.
 - SEE SHEETS 52-55 FOR SANITARY SEWER AND WATERMAIN SERVICE REPLACEMENT DETAILS.
 - DRAINTILE SHALL BE PLACED AT SAME GRADE AS CURB AND GUTTER UNLESS OTHERWISE NOTED.
 - SEE SHEETS 41-48 FOR INTERSECTION AND CUL-DE-SAC GRADING DETAILS.

LEGEND

- CROSS SLOPE TRANSITION AREA (SEE CROSS SECTION)
- STREET DRAINTILE (SEE STANDARD PLATE STM-09)
- ① BITUMINOUS RESIDENTIAL DRIVEWAY
- ② CONCRETE RESIDENTIAL DRIVEWAY
- ③ GRAVEL RESIDENTIAL DRIVEWAY
- ④ B618 CONCRETE CURB AND GUTTER (AND DRAINTILE SEE TYPICAL SECTION)
- ⑤ CONCRETE RIBBON CURB



MATCH LINE 35+50



MATCH LINE 35+50

No.	Date	Revisions	App.
1	4/26/16	PLAN REVISION #1	EJF

DRAWING NAME 160509027_PPF01.dwg	
DESIGNED BY:	RJG
DRAWN BY:	RJG
CHECKED BY:	EJF
DATE:	3/11/2016
PROJECT NO.	160509027

Kimley»Horn

2550 UNIVERSITY AVENUE WEST, SUITE 238N, ST. PAUL, MN 55114
PHONE: 651-645-4197
WWW.KIMLEY-HORN.COM

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.

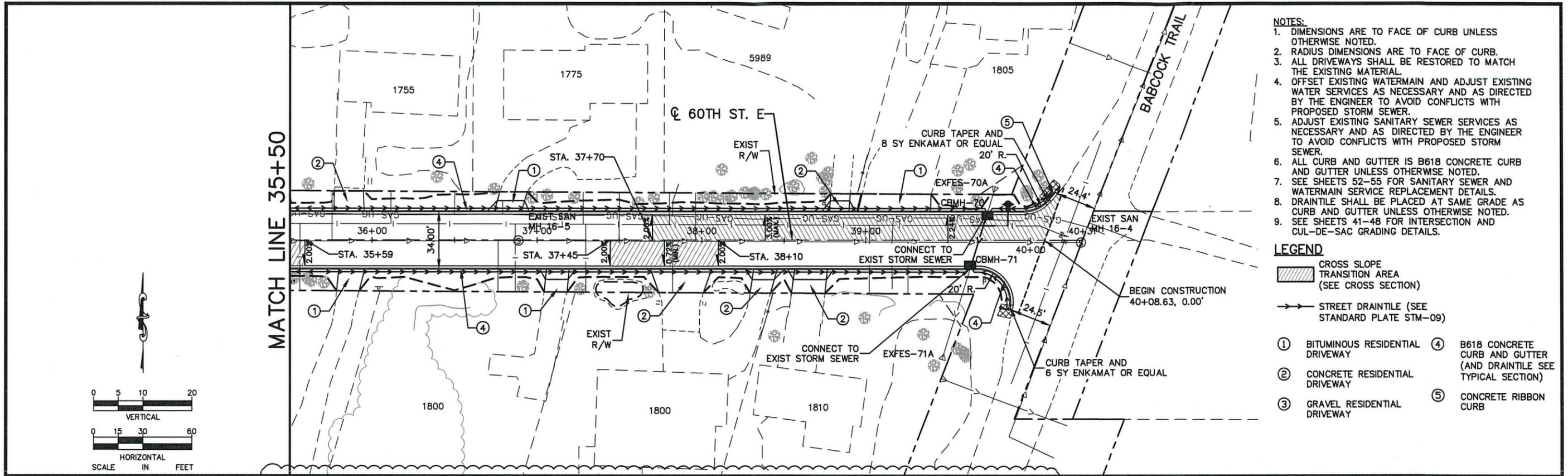
Eric Fosmo
ERIC FOSMO, PE
DATE: 3/11/2016 MN LIC. NO. 48761

CITY OF INVER GROVE HEIGHTS
60TH STREET AREA RECONSTRUCTION

Inver Grove Heights

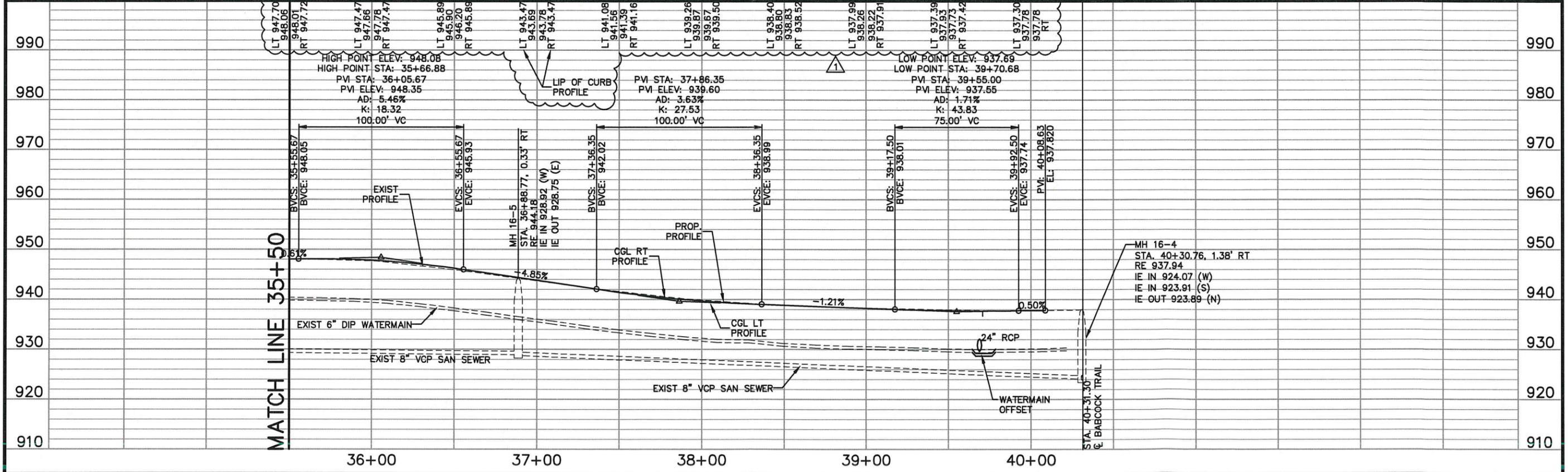
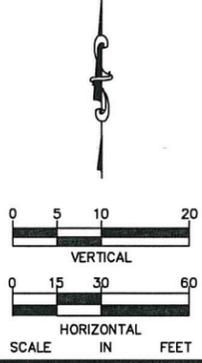
60TH ST. E
STREET AND STORM SEWER PLAN AND PROFILE
STA. 30+00 TO STA. 35+50

CITY PROJECT	2016-09D	SHEET NO. 31
CITY PROJECT	2016-10	
S.A.P.		80
S.P.		



- NOTES:**
1. DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
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 9. SEE SHEETS 41-48 FOR INTERSECTION AND CUL-DE-SAC GRADING DETAILS.

- LEGEND**
- CROSS SLOPE TRANSITION AREA (SEE CROSS SECTION)
 - STREET DRAINTILE (SEE STANDARD PLATE STM-09)
 - ① BITUMINOUS RESIDENTIAL DRIVEWAY
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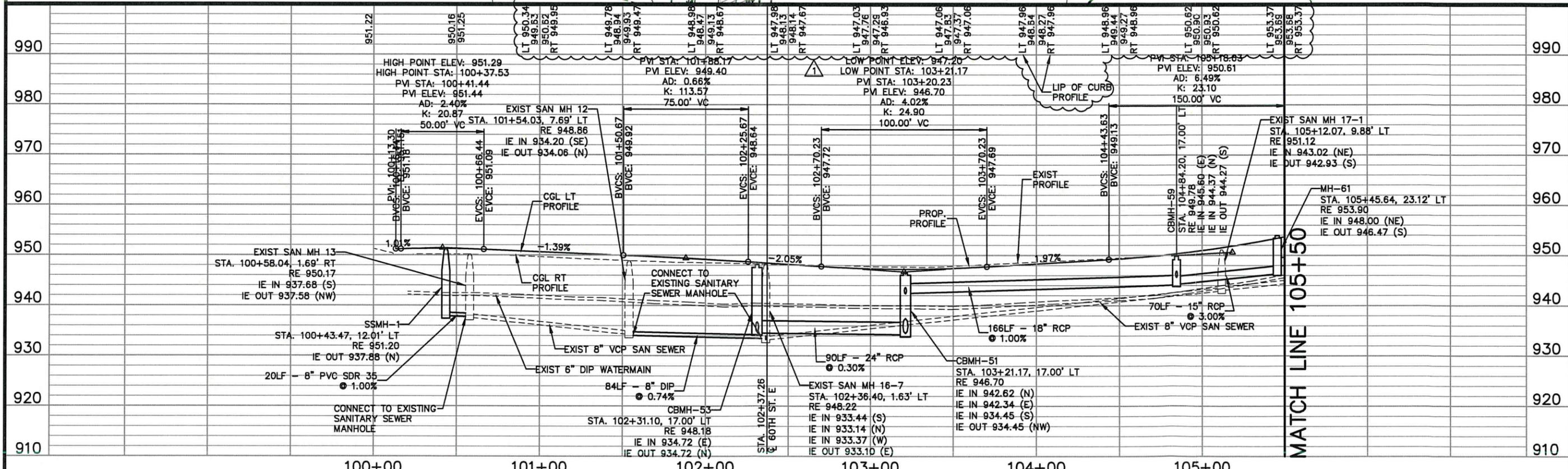
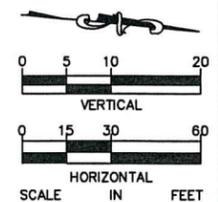
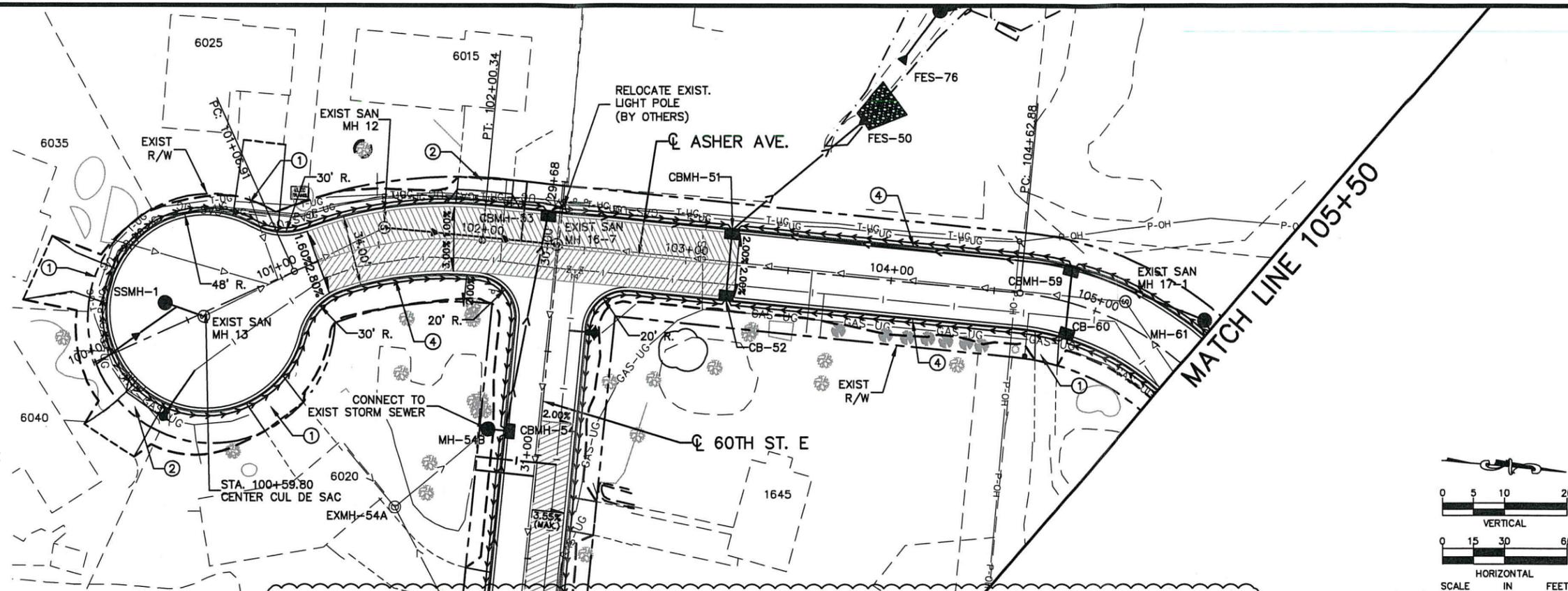


No.	Date	Revisions	App.	DRAWING NAME 160509027_PPF01.dwg	 2550 UNIVERSITY AVENUE WEST, SUITE 238N, ST. PAUL, MN 55114 PHONE: 651-645-4197 WWW.KIMLEY-HORN.COM	I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. ERIC FOSMO, PE DATE: 3/11/2016 MN UC. NO. 48761	 CITY OF INVER GROVE HEIGHTS 60TH STREET AREA RECONSTRUCTION 60TH ST. E STREET AND STORM SEWER PLAN AND PROFILE STA. 35+50 TO STA. 40+31.30	CITY PROJECT	2016-09D	SHEET NO. 32
1	4/26/16	PLAN REVISION #1	EJF	DESIGNED BY: RJG				CITY PROJECT	2016-10	
				DRAWN BY: RJG				S.A.P.		
				CHECKED BY: EJF				S.P.		80
				DATE: 3/11/2016						
				PROJECT NO. 160509027						

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-  STREET DRAINTILE (SEE STANDARD PLATE STM-09)
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Eric Fosmo
ERIC FOSMO, PE
DATE: 3/11/2016 MN LIC. NO. 48761

CITY OF INVER GROVE HEIGHTS
60TH STREET AREA RECONSTRUCTION

CITY PROJECT 2016-09D
CITY PROJECT 2016-10

S.A.P.
S.P.

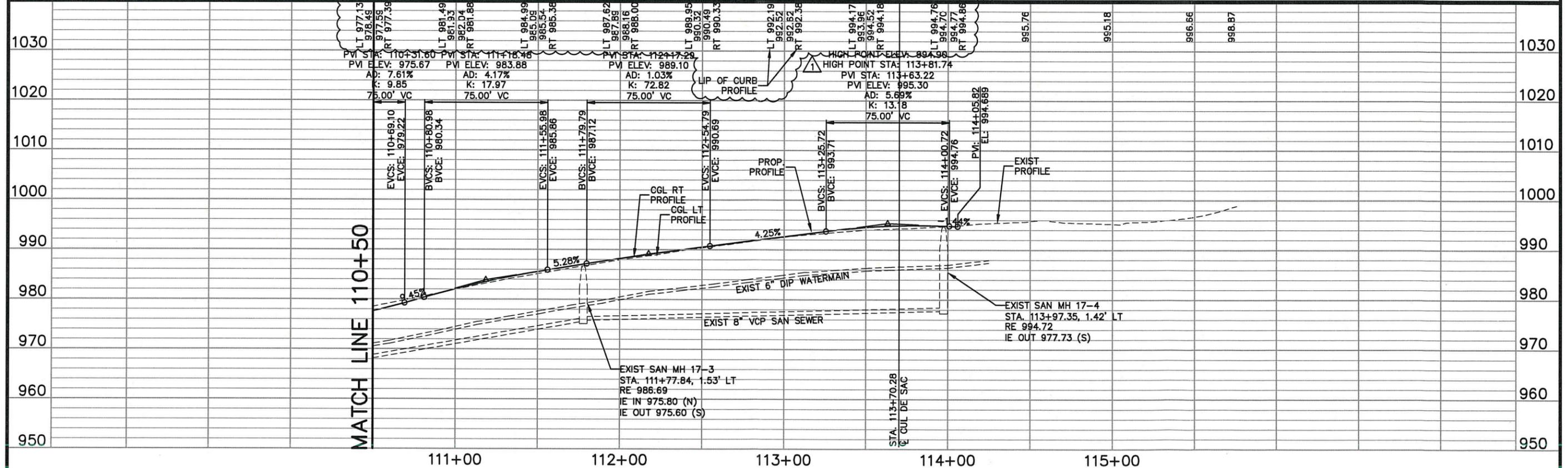
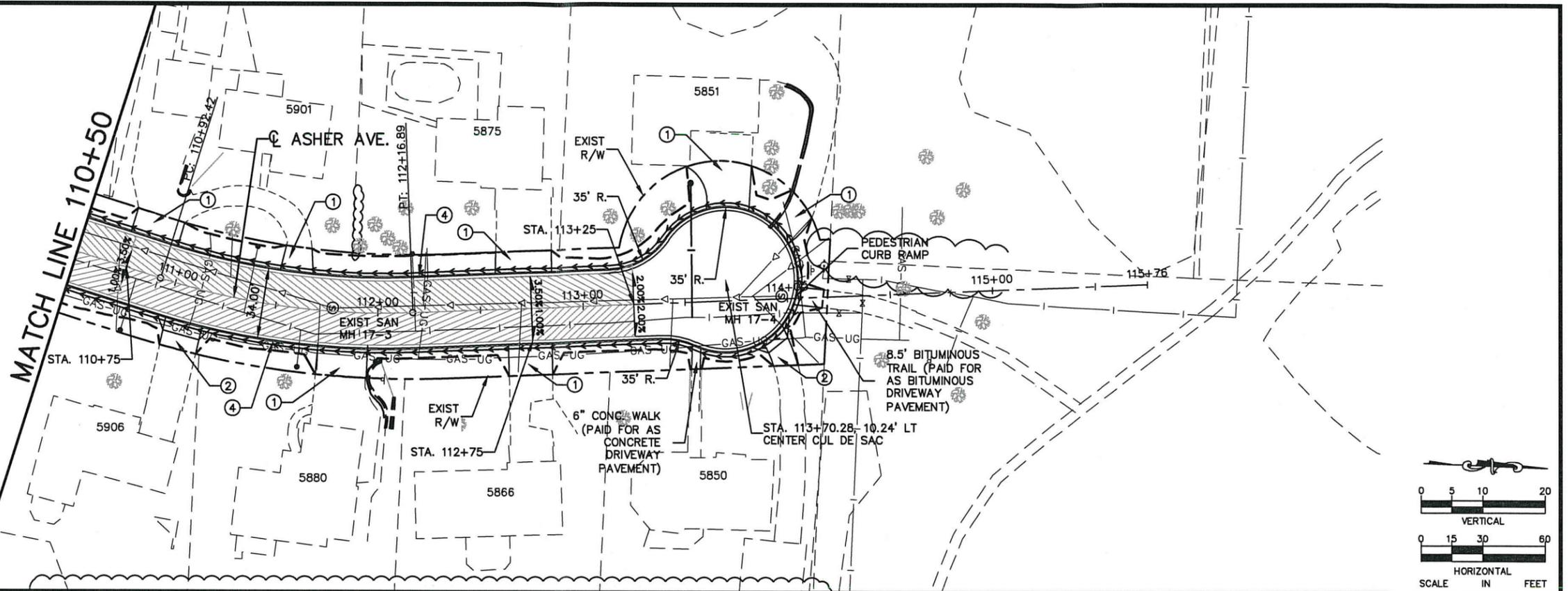
SHEET NO. 33

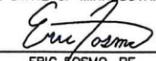
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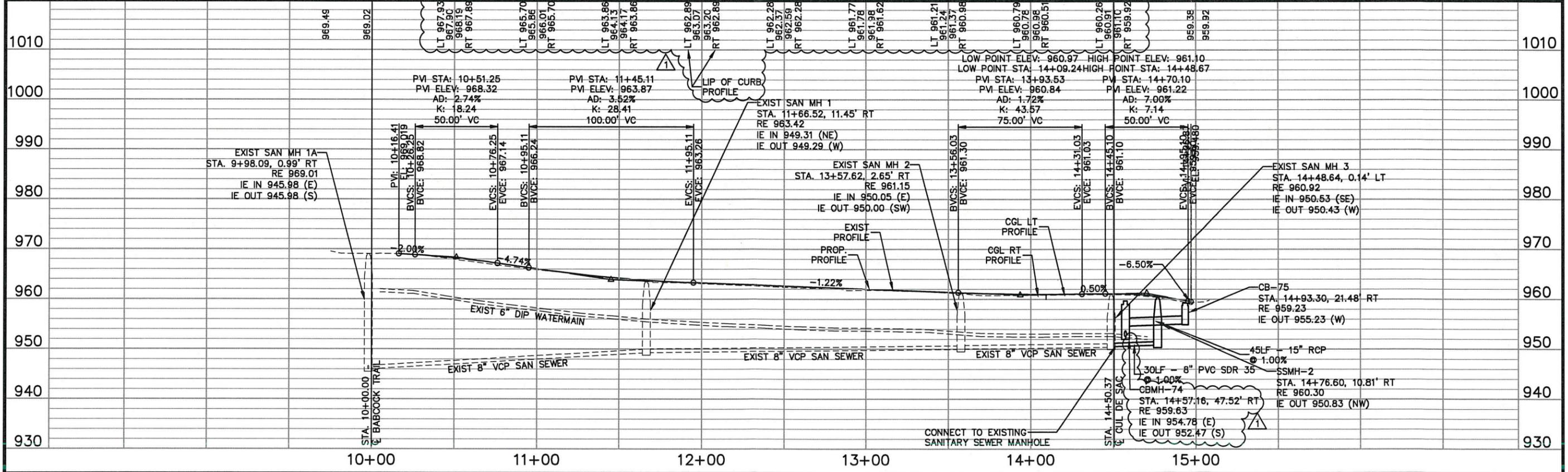
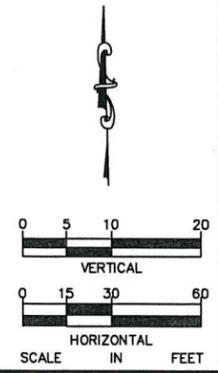
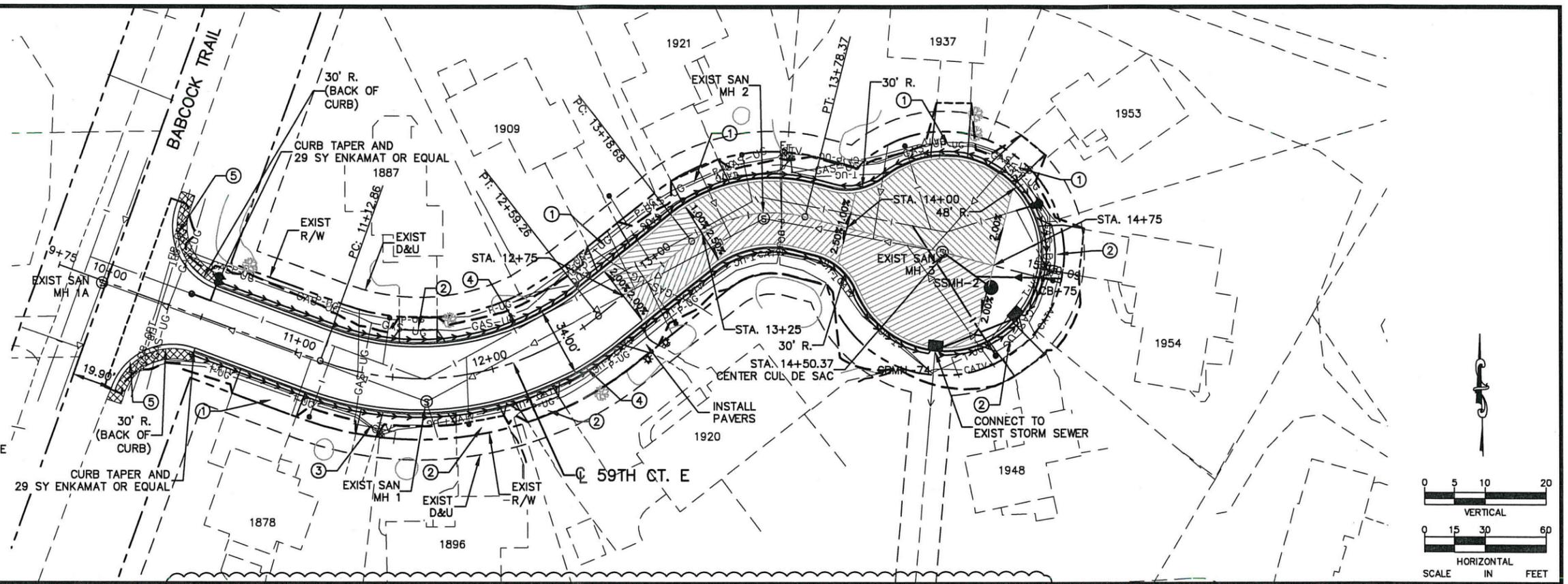
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1	4/26/16	PLAN REVISION #1	EJF	DESIGNED BY: RJJ				CITY PROJECT	2016-10	
				DRAWN BY: RJG				S.A.P.		
				CHECKED BY: EJJ				S.P.		
				DATE: 3/11/2016						
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DESIGNED BY:	RJG
DRAWN BY:	RJG
CHECKED BY:	EJF
DATE:	3/11/2016
PROJECT NO.	160509027

Kimley»Horn

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Eric Fosmo
 ERIC FOSMO, PE
 DATE: 3/11/2016 MN LIC. NO. 48761

CITY OF INVER GROVE HEIGHTS
 60TH STREET AREA RECONSTRUCTION

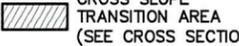
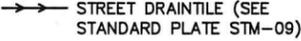
59TH CT. E
 STREET AND STORM SEWER PLAN AND PROFILE
 STA. 10+00 TO STA. 15+09.34

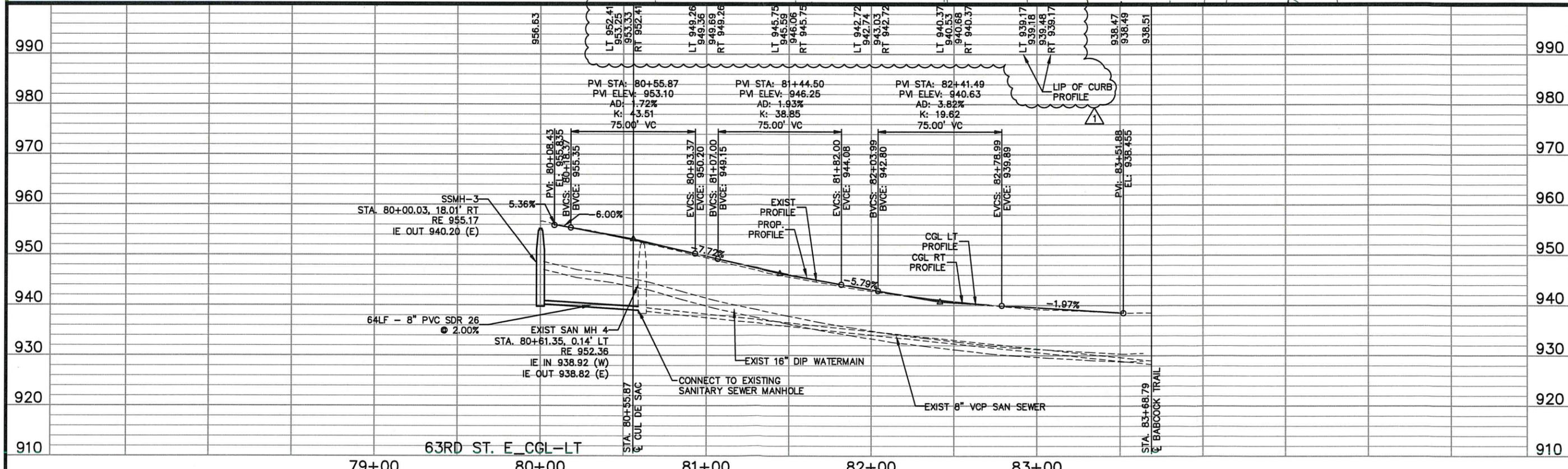
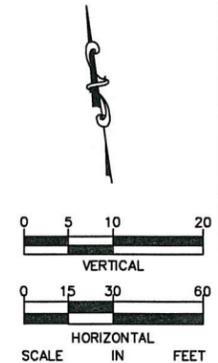
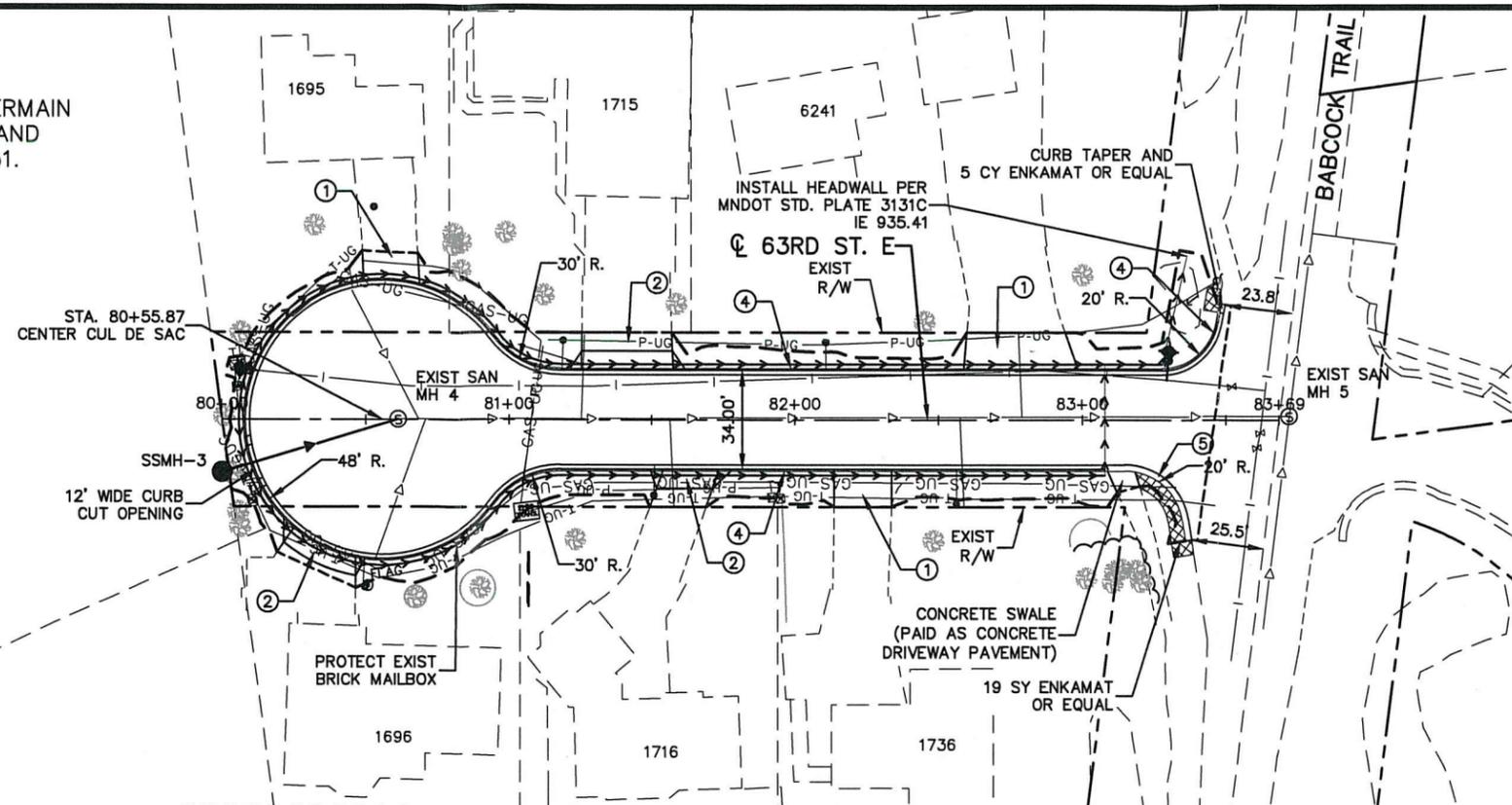
CITY PROJECT	2016-09D	SHEET NO. 36
CITY PROJECT	2016-10	
S.A.P.		80
S.P.		

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NOTE:
FOR 63RD ST. E WATERMAIN CONSTRUCTION PLAN AND PROFILE, SEE SHEET 51.

LEGEND

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No.	Date	Revisions	App.	DRAWING NAME
1	3/25/16	ADDENDUM NO. 1	EJF	160509027_PPF01.dwg
2	4/26/16	PLAN REVISION #1	EJF	

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Eric Fosmo
 ERIC FOSMO, PE
 DATE: 3/11/2016 MN LIC. NO. 48761

CITY OF INVER GROVE HEIGHTS
 60TH STREET AREA RECONSTRUCTION

Inver Grove Heights

63RD ST. E
 STREET AND STORM SEWER PLAN AND PROFILE
 STA. 80+00 TO STA. 83+68.79

CITY PROJECT	2016-09D	SHEET NO. 37
CITY PROJECT	2016-10	
S.A.P.		80
S.P.		

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

CITY OF INVER GROVE HEIGHTS

Meeting Date: May 9, 2016
 Item Type: Regular Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by:

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider a Resolution approving a Wetland Replacement Plan and Authorizing Payment for Wetland Bank Credits to mitigate a total of 1,316 square feet of wetland through wetland banking as part of City Project 2016-09D.

- Requires 3/5th's vote.
- 60-day Deadline: June 21, 2016

As part of City Project 2016-09D, the city plans to reconstruct 60th Street, Asher Avenue, 59th Court and 63rd Street (cul-de-sac). The proposed sediment pond west of Asher Avenue to treat the neighborhood developments impervious surface would impact two wetland areas as part of the reconstruction project. The proposed treatment pond will help protect a quality downstream protected wetland and DNR Water #19-239W (Loch Gregor Lake) by collecting sediment and contaminants. Mitigation of the wetland filling would occur through wetland bank credits to be purchased by the city.

ANALYSIS

The wetlands are governed under the Wetland Conservation Act and therefore any fill of the wetlands must be mitigated in a form consistent with WCA rules. A required evaluation of the request has been conducted by the Technical Evaluation Panel established by WCA. All parties find the wetland mitigation acceptable with approval by BWSR for the wetland bank purchase. The application was reviewed by the Environmental Commission on April 28th and they recommended approval of the plan as presented.

The attached invoice of \$1,620.50 will be paid for by pavement management funds and special assessments for City Project No. 2016-09D 60th Street Reconstruction.

RECOMMENDATION

Planning Division: Recommends approval of the wetland replacement plan resolution subject to the condition listed.

Environmental Commission: Recommends approval of the wetland replacement plan as presented.

Attachment: Wetland Replacement Plan Resolution
 Wetland Replacement Plan Planning Report to Environmental Commission
 Wetland Banking Credit Invoice

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION APPROVING A WETLAND REPLACEMENT PLAN AND AUTHORIZING
PAYMENT FOR WETLAND BANK CREDITS FOR THE IMPACT OF WETLANDS
AS PART OF CITY PROJECT 2016-09D**

WHEREAS, a complete Wetland Replacement Plan Application ("The Application") was submitted to the City for wetlands described as part of City Project 2016-09D;

WHEREAS, "The Application" requested City approval of a wetland impact and replacement plan that involved impacting 1,516 square feet of wetlands and replacement with 0.0634 acres of new wetland through a wetland banking credit;

WHEREAS, copies of "The Application" were distributed to the following agencies for review and comment: Dakota County Soil & Water Conservation District; Minnesota Board of Water & Soil Resources; Department of Natural Resources Regional Office, DNR Wetlands Coordinator; Department of the Army, Corps of Engineers, St. Paul District, and;

WHEREAS, written and oral comments were received at, before and after the public comment period concerning "The Application", record of the comments being found in the file for Case No. 16-14W;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, "The Application" is considered compliant with the Minnesota Wetland Conservation Act and is hereby approved with the following condition:

1. The City (LGU) shall receive written confirmation from BWSR that the wetland credits proposed for said use have been officially withdrawn from the wetland bank.

Resolution No. _____

Page 2

2. City Council authorizes payment in the amount of \$1,620.50 for wetland bank credits to be paid by Pavement Management Fund and Special Assessments for City Project No. 2016-09D 60th Street Area Reconstruction.

Passed this _____ day of _____, 2016.

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

P L A N N I N G R E P O R T
C I T Y O F I N V E R G R O V E H E I G H T S

REPORT DATE: April 21, 2016

CASE NO: 16-14W

APPLICANT: City of Inver Grove Heights

PROPERTY OWNER: City of Inver Grove Heights

REQUEST: Approval of a Wetland Replacement Plan (SWCD # 15-IGH-194)

MEETING DATE: April 28, 2016

LOCATION: 6000 Asher Avenue

COMPREHENSIVE PLAN: P, Public/Institutional

ZONING: P, Public/Institutional

REVIEWING DIVISIONS: Planning
WCA TEP

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

As part of the City's Pavement Management Program, the City plans to reconstruct 60th Street, Asher Avenue, 59th Court, and 63rd Street (cul-de-sac) as part of City Project 2016-09D. A map of the streets that are proposed to be reconstructed are attached to this report.

The proposed improvements include two activities that will require impacts to adjacent wetlands. The proposed sedimentation basin (NURP Pond) west of Asher Avenue proposes to permanently impact 1,316 square feet (0.03 acres) of a Type 1 seasonally flooded wetland (Wetland E). The proposed culvert replacement to the wetland north of 60th Street (Wetland D) will permanently impact 67 square feet (0.001 acres) and temporarily impact 133 square feet (0.003 acres) of a Type 3 Shallow Marsh wetland. The proposed method for mitigation of these impacts is through purchase of 0.0634 acres of wetland bank credits (Account #1541).

One of the tasks of the Environmental Commission is to review wetland replacement plans and make recommendation to the City Council.

EVALUATION OF THE REQUEST

A wetland delineation was completed in 2015 for City Project 2016-09D and 2016-09G areas. The 60th Street Reconstruction (2016-09D) is proposed to be constructed in 2016. The wetland

delineation identified seven wetlands within the subject area. Wetland's D and E are proposed to be impacted with this application (see attached wetland permit application).

A 2:1 replacement ratio is required. The applicant is proposing to purchase wetland credits equal to wetland replacement of 2,766 square feet (0.0634 ac) An application for wetland bank credits has been applied for by the applicant. Wetland banking is a process that is reviewed and approved by BSWR.

The following is a summary of the administrative process completed to date:

- | | |
|-------------------|---|
| February 29, 2016 | A complete Minnesota Wetland Conservation Act application requesting a wetland boundary and replacement plan decision was received. |
| March 16, 2016 | Application was noticed as required under Minnesota Rule 8420.0255. Comments were requested by April 14, 2016. |
| March 24, 2016 | Email received from Minnesota Department of Natural Resources (DNR) indicating their regulatory authority for the project subsequent to the DNR protected water permitting program is waived to the Dakota County Soil and Water Conservation District (the LGU). |
| April 13, 2016 | SWCD conducted field review of wetlands delineated. One minor change was noted on Wetland A and coordination with Kimley-Horn occurred to make the necessary adjustment. Adjustment involved moving the wetland boundary approximately 4 feet to the west. Wetland A does not involve any proposed wetland impact and is not located in the vicinity of the proposed project. |
| April 14, 2016 | Comment period closed. No comments, other than the DNR waiver, were received. |

The Dakota County Soil and Water Conservation District has no objection to the proposed wetland impacts and recommends approval of the wetland replacement plan.

ALTERNATIVES

The Environmental Commission has the following actions available on the following requests:

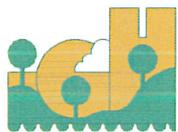
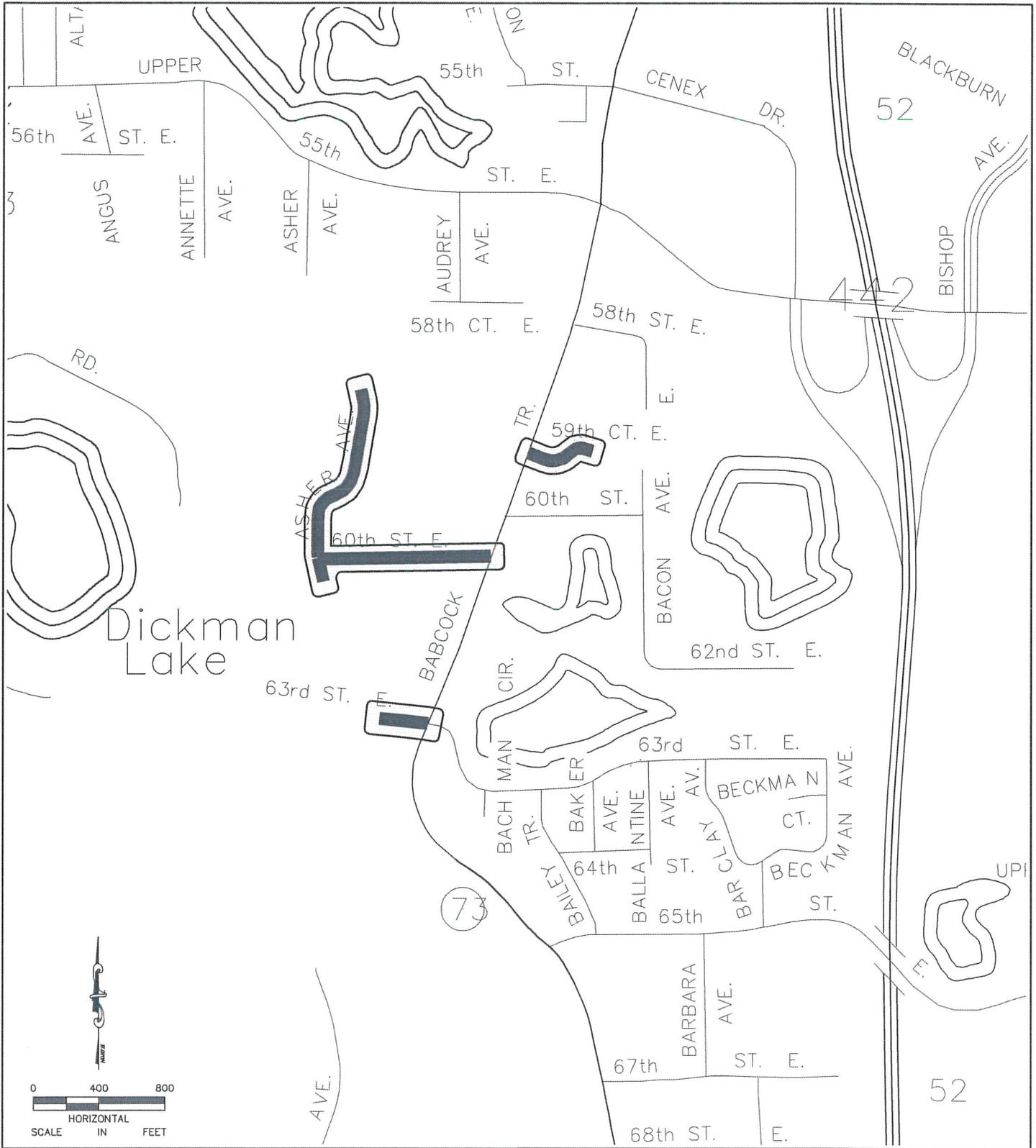
- A. **Approval.** If the Environmental Commission finds the application to be acceptable, the following action should be taken:
- Recommend Approval of the **Wetland Replacement Plan** as proposed.

- B. Denial. If the Environmental Commission does not favor the proposed application the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

City Staff, as part of the WCA Technical Evaluation Panel, recommends approval of the wetland replacement.

Attachments: CP 2016-09D Project Location Map
Dakota SWCD Memorandum
Wetland Permit Application (including delineation report)



City of
 Inver Grove Heights
 8150 BARBARA AVENUE
 INVER GROVE HEIGHTS, MN 55077-3412

Kimley»Horn

2550 UNIVERSITY AVENUE WEST, SUITE 238N, ST. PAUL, MN 55114
 PHONE: 651-645-4197
 WWW.KIMLEY-HORN.COM

LOCATION MAP

60TH STREET AREA RECONSTRUCTION
 AND UTILITY IMPROVEMENTS
 CITY PROJECT 2016-09D
 CITY PROJECT 2016-10
 EXHIBIT 1



Legend

- Delineated Boundaries
- ⋯ Estimated Boundaries
- Sample Points

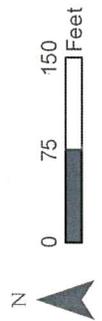


Figure 4c. Delineated Wetland Boundaries
 Wetland Delineation Report
 60th Street Reconstruction



MEMORANDUM

To: Allan Hunting, City of Inver Grove Heights

Cc: Tom Kaldunski, City of Inver Grove Heights
Aaron Stolte, Kimley-Horn and Associates
Beth Kunkel, Kimley-Horn and Associates

From: Brian Watson, Dakota SWCD
Certified Wetland Delineator #1163

Date: April 15, 2016

RE: **60th Street Reconstruction Project**
Application for a Wetland Boundary and Replacement Plan Decision

Under our new delegated authorities from the City of Inver Grove Heights pursuant to the Minnesota Wetland Conservation Act, the 60th Street Reconstruction Project has undergone the following administrative process to date:

- February 29, 2016 A complete Minnesota Wetland Conservation Act application requesting a wetland boundary and replacement plan decision was received.
- March 16, 2016 Application was noticed as required under Minnesota Rule 8420.0255. Comments were requested by April 14, 2016.
- March 24, 2016 Email received from Minnesota Department of Natural Resources (DNR) indicating their regulatory authority for the project subsequent to the DNR protected water permitting program is waived to the City of Inver Grove Heights.
- April 13, 2016 SWCD conducted field review of wetlands delineated. One minor change noted on Basin A and coordination with Kimley-Horn occurred to make necessary adjustment. Adjustment involved moving wetland boundary approximately 4 feet to the west. Basin A does not involve any proposed wetland impact.
- April 14, 2016 Comment period closed.

The application submitted by the City of Inver Grove Heights includes a request to approve both the wetland boundary for the project study area and wetland impact at two locations for the basic purpose of improving water quality during a road reconstruction project.

A wetland delineation report was completed and submitted with the application. Seven wetlands were identified within the project study area. Four of the wetlands are listed as DNR protected waters. The SWCD concurs with the wetland delineation report, with the noted change to Basin A mentioned above, and recommends approval of the wetland boundary.

The application also involves construction of a sediment basin and replacement of a culvert near Asher Avenue and 60th Street East. The proposed sediment basin will permanently impact 1,316 square feet (0.03 acre) of a Type 1 seasonally flooded wetland (Wetland E). The proposed culvert replacement will permanently impact 67 square feet (0.001 acre) and temporarily impact 133 sf (0.003 ac) of Type 3 Shallow Marsh wetland (Wetland D). The required mitigation will occur through purchase of 0.0634 acre of wetland bank credits under account #1541.

The SWCD has no objections to the proposed wetland impacts and recommends approval of the wetland replacement plan. Upon approval by City Council, the wetland bank transaction form will need to be executed and a notice of decision will need to be provided to those required to receive notice of the application. The notice of decision document provides a process to allow for any appeals to the City's decision within 30 days.

On a final note, under MN Rule 8420.0255 the City must make a decision on a complete application within 60 days, or in this case April 29. However, a 60 day extension can occur. The SWCD will exercise the extension to allow adequate time for the Environmental Committee and the City Council to process the application.



Invoice

Wetland Credit Agency, LLC
 c/o Eric Trelstad
 12940 Overlook Road
 Dayton, MN 55327
 (612) 360-4700

Bill To:
City of Inver Grove Heights Attn: Tom Kaldunski 8150 Barbara Avenue Inver Grove Heights, MN 55077

Date	Invoice No.
02/09/16	331

P.O. Number	Terms
	Due on receipt

Item	Description	Quantity	Rate	Amount
Wetland Credits	Acres of Wetland Mitigation Credits - BSA 8	0.0634	24,000.00	1,521.60
MN State Fee	State Withdrawal Fees	1	98.90	98.90
			0.00	0.00

	Total	\$1,620.50
	Payments	\$0.00
	Balance Due	\$1,620.50

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Resolution Approving Temporary Construction, Slope and Grading Easement Agreements relating to 1695 63rd Street E., 1696 63rd Street E., 1715 63rd Street E., 1716 63rd Street E. for City Project No. 2016-09D – 60th Street Area Reconstruction

Meeting Date: May 9, 2016
Item Type: Regular
Contact: Thomas J. Kaldunski, 651-450-2572
Prepared by: Steve W. Dodge, Assistant City Engineer
Reviewed by: Scott D. Thureen, Public Works Director

SDT

Fiscal/FTE Impact:
 None
 Amount included in current budget
 Budget amendment requested
 FTE included in current complement
 New FTE requested – N/A
 Other:

PURPOSE/ACTION REQUESTED

Resolution approving Temporary Construction, Slope and Grading Easement Agreements relating to 1695 63rd Street E., 1696 63rd Street E., 1715 63rd Street E., 1716 63rd Street E. for City Project No. 2016-09D – 60th Street Area Reconstruction

SUMMARY

As part of City Project No. 2016-09D, the City will be grading, sloping, excavating and reshaping the cul-de-sac at the end of 63rd Street E. Presently there is a 60-foot-wide right-of-way through the cul-de-sac up to Harmon Park and prescriptive rights over the existing ninety-six (96) foot diameter cul-de-sac. In order to design the cul-de-sac to City standards, the City needed to obtain temporary construction easements outside of the cul-de-sac and onto the properties to complete the work.

Homeowners on the respective properties have been notified and are in favor of the easement agreements allowing reconstructing the cul-de-sac to current City standards and restoring yard and driveway disturbances.

Staff recommends approval of the attached resolution approving Temporary Construction, Slope and Grading Easement Agreements relating to 1695 63rd Street E., 1696 63rd Street E., 1715 63rd Street E., 1716 63rd Street E. for City Project No. 2016-09D – 60th Street Area Reconstruction.

SWD/kf

Attachments: Resolution Agreements (4)

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION APPROVING TEMPORARY CONSTRUCTION, SLOPE AND GRADING
EASEMENT AGREEMENTS RELATING TO 1695 63RD STREET E., 1696 63RD STREET E.,
1715 63RD STREET E., 1716 63RD STREET E. FOR CITY PROJECT NO. 2016-09D – 60TH
STREET AREA RECONSTRUCTION**

WHEREAS, as part of City Project No. 2016-09D – 60th Street Area Reconstruction project, the 63rd Street E. cul-de-sac will be designed to City standards; and

WHEREAS, there is a 60-foot-wide right-of-way through the cul-de-sac up to Harmon Park and prescriptive rights over the existing ninety-six (96) foot diameter cul-de-sac; and

WHEREAS, in order to reconstruct the 63rd Street E. cul-de-sac and restore the yards and driveways, the City will need a temporary construction, slope and grading easement agreements on the following properties: 1695 63rd Street E., 1696 63rd Street E., 1715 63rd Street E., and 1716 63rd Street E.; and

WHEREAS, the properties owners of 1695 63rd Street E., 1696 63rd Street E., 1715 63rd Street E., and 1716 63rd Street E. are in the process of executing Temporary Construction, Slope and Grading Easement Agreements for work to be completed on City Project No. 2016-09D – 60th Street Area Reconstruction.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF INVER GROVE HEIGHTS, MN HEREBY RESOLVES AS FOLLOWS:

1. In conjunction with City Project No. 2016-09D – 60th Street Area Reconstruction, the property owners of 1695 63rd Street E.; 1696 63rd Street E.; 1715 63rd Street E.; and 1716 63rd Street E. have executed Temporary Construction, Slope and Grading Easement Agreements in relation to cul-de-sac reconstruction on 63rd Street E.
2. City Engineer and City Attorney are provided authorization to finalize agreements.

Adopted by the City Council of the City of Inver Grove Heights this 9th day of May 2016

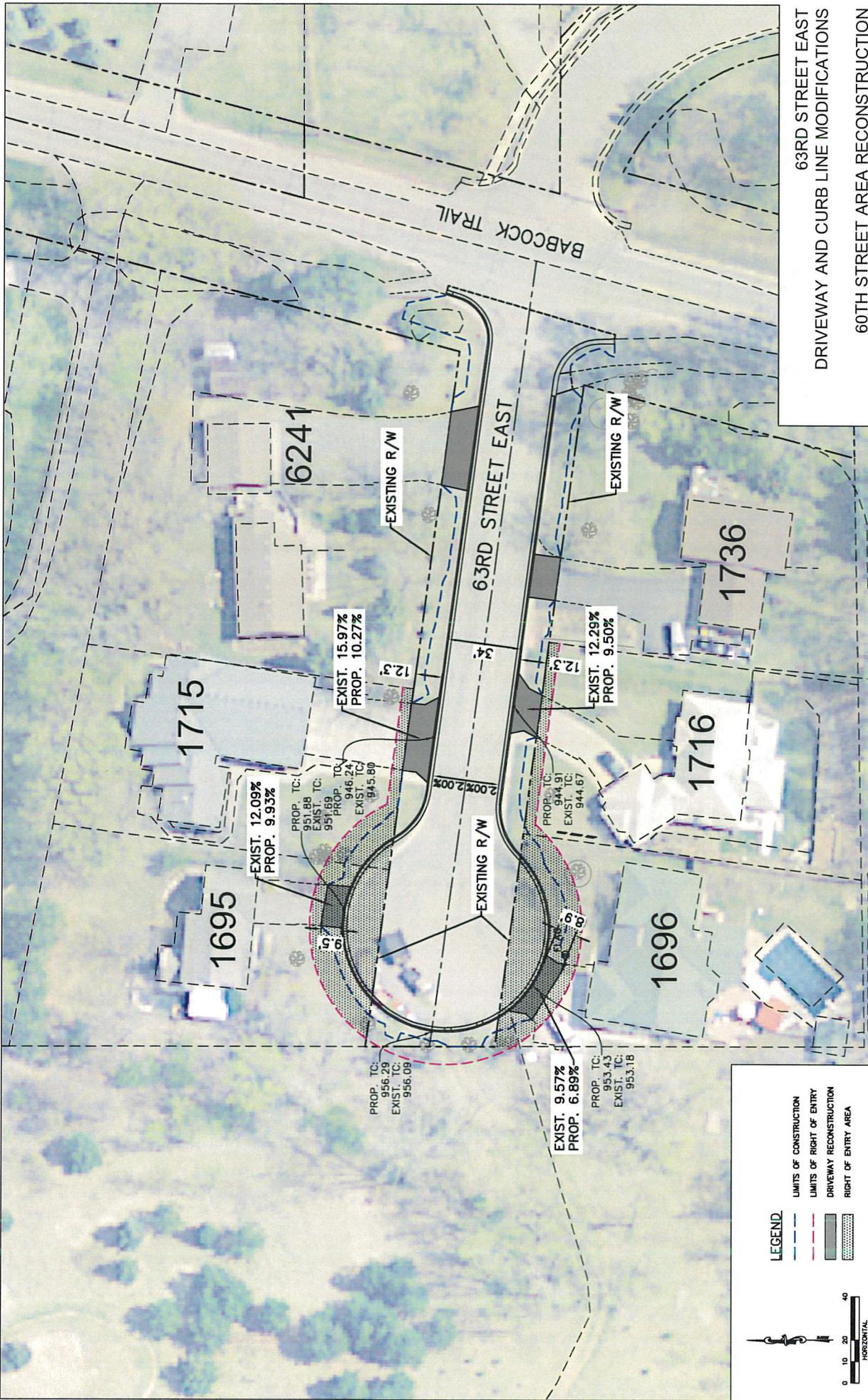
AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



63RD STREET EAST
 DRIVEWAY AND CURB LINE MODIFICATIONS
 60TH STREET AREA RECONSTRUCTION
 CITY PROJECT 2016-09D

LEGEND

- LIMITS OF CONSTRUCTION
- - - LIMITS OF RIGHT OF ENTRY
- ▨ DRIVEWAY RECONSTRUCTION
- ▨ RIGHT OF ENTRY AREA

0 10 20 40
 HORIZONTAL
 SCALE IN FEET

**TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT
RELATING TO LOT 1, BLOCK 1, SCHINDELDECKER THIRD ADDITION**

THIS TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT AGREEMENT RELATING TO LOT 1, BLOCK 1, SCHINDELDECKER THIRD ADDITION is made, entered into and effective this ____ day of _____, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation, hereinafter referred to as “City,” and John Stadelman and Kelly Stadelman, husband and wife, hereinafter individually and collectively referred to as “Landowner”.

WITNESSETH:

Landowner owns the property described on **Exhibit A**.

For and in good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landowner does hereby grant and convey to the City, its successors and assigns, a temporary easement for grading, sloping, re-contouring, filling, excavation, and construction purposes, over, across, and under certain land located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows, (hereinafter referred to as the Temporary Easement Area):

A temporary easement for grading, sloping, re-contouring, filling, excavation and construction purposes, over, across and under the Temporary Easement Area shown and depicted as the shaded area on the attached **Exhibit B**, which exhibit is hereby incorporated by reference.

EXEMPT FROM STATE DEED TAX

The rights of the City under this Temporary Easement include the right of the City, its contractors, agents and servants to enter upon the Temporary Easement Area at all reasonable times to grade, slope, recontour, fill and excavate the Temporary Easement Area for purposes related to the construction and to remove from the Temporary Easement Area trees, brush, herbage, undergrowth and other obstructions and to deposit earthen materials in and upon the Temporary Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, including penalties and reasonable attorneys' fees, or losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, pollutants, or contaminants which may have existed on, or which relate to, the Temporary Easement Area prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute Chapter 466.

The Landowner, for itself, its successors and assigns, does hereby covenant with the City, its successors and assigns, that Landowner is well seized in fee of the Temporary Easement Area and has good right to grant and convey this Temporary Easement to the City.

This Temporary Easement Agreement shall expire on December 31, 2017.

[the remainder of the page has been intentionally left blank]

IN TESTIMONY WHEREOF, the Landowner and City have executed this Temporary Easement as of the day and year first above written.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER

John Stadelman

Kelly Stadelman

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared John Stadelman and Kelly Stadelman, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and they acknowledged that they executed the same as their free act and deed.

Notary Public

This instrument was drafted by:
Timothy J. Kuntz, #58993
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

After recording, please return to:
Timothy J. Kuntz, #58993
LeVander, Gillen & Miller
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

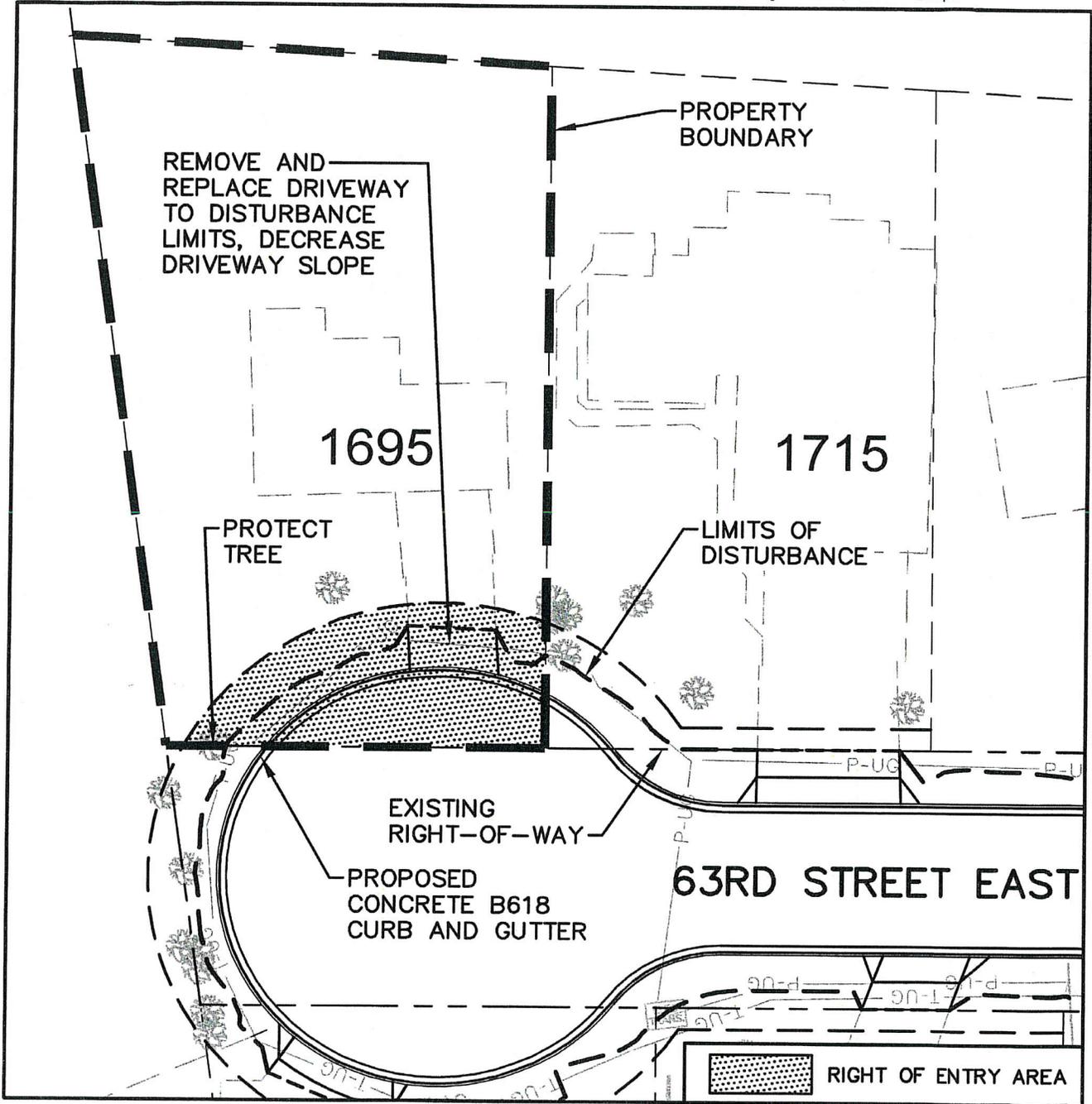
Lot 1, Block 1, Schindeldecker Third Addition, Dakota County, Minnesota.

Abstract Property.

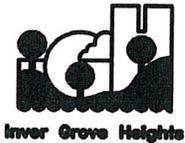
PID: 20-67602-01-010

EXHIBIT B
DEPICTION OF TEMPORARY EASEMENT AREA

K:\TWC_Civil\City\IGH\160509027-60TH STREET RECON\CAD\Plan Sheets\Exhibits\Parcel Exhibits\63rd ST ESMT.dwg March 04, 2016 - 2:57pm

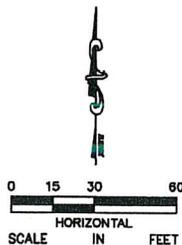


CP 2016-09D 60TH STREET AREA
 RECONSTRUCTION



Kimley»Horn

2550 UNIVERSITY AVENUE WEST, SUITE 238N, ST. PAUL, MN 55114
 PHONE: 651-645-4197
 WWW.KIMLEY-HORN.COM



1695 63RD STREET EAST
 RIGHT OF ENTRY
 AGREEMENT EXHIBIT

**TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT
RELATING TO LOT 1, BLOCK 2, SCHINDELDECKER THIRD ADDITION**

THIS TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT AGREEMENT RELATING TO LOT 1, BLOCK 2, SCHINDELDECKER THIRD ADDITION is made, entered into and effective this ____ day of _____, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation, hereinafter referred to as “City,” and Tricia McNair and Kevin McNair, husband and wife, hereinafter individually and collectively referred to as “Landowner”.

WITNESSETH:

Landowner owns the property described on **Exhibit A**.

For and in good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landowner does hereby grant and convey to the City, its successors and assigns, a temporary easement for grading, sloping, re-contouring, filling, excavation, and construction purposes, over, across, and under certain land located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows, (hereinafter referred to as the Temporary Easement Area):

A temporary easement for grading, sloping, re-contouring, filling, excavation and construction purposes, over, across and under the Temporary Easement Area shown and depicted as the shaded area on the attached **Exhibit B**, which exhibit is hereby incorporated by reference.

EXEMPT FROM STATE DEED TAX

The rights of the City under this Temporary Easement include the right of the City, its contractors, agents and servants to enter upon the Temporary Easement Area at all reasonable times to grade, slope, recontour, fill and excavate the Temporary Easement Area for purposes related to the construction and to remove from the Temporary Easement Area trees, brush, herbage, undergrowth and other obstructions and to deposit earthen materials in and upon the Temporary Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, including penalties and reasonable attorneys' fees, or losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, pollutants, or contaminants which may have existed on, or which relate to, the Temporary Easement Area prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute Chapter 466.

The Landowner, for itself, its successors and assigns, does hereby covenant with the City, its successors and assigns, that Landowner is well seized in fee of the Temporary Easement Area and has good right to grant and convey this Temporary Easement to the City.

This Temporary Easement Agreement shall expire on December 31, 2017.

[the remainder of the page has been intentionally left blank]

IN TESTIMONY WHEREOF, the Landowner and City have executed this Temporary Easement as of the day and year first above written.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER

Tricia McNair

Kevin McNair

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared Tricia McNair and Kevin McNair, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and they acknowledged that they executed the same as their free act and deed.

Notary Public

This instrument was drafted by:

Timothy J. Kuntz, #58993
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

After recording, please return to:

Timothy J. Kuntz, #58993
LeVander, Gillen & Miller
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

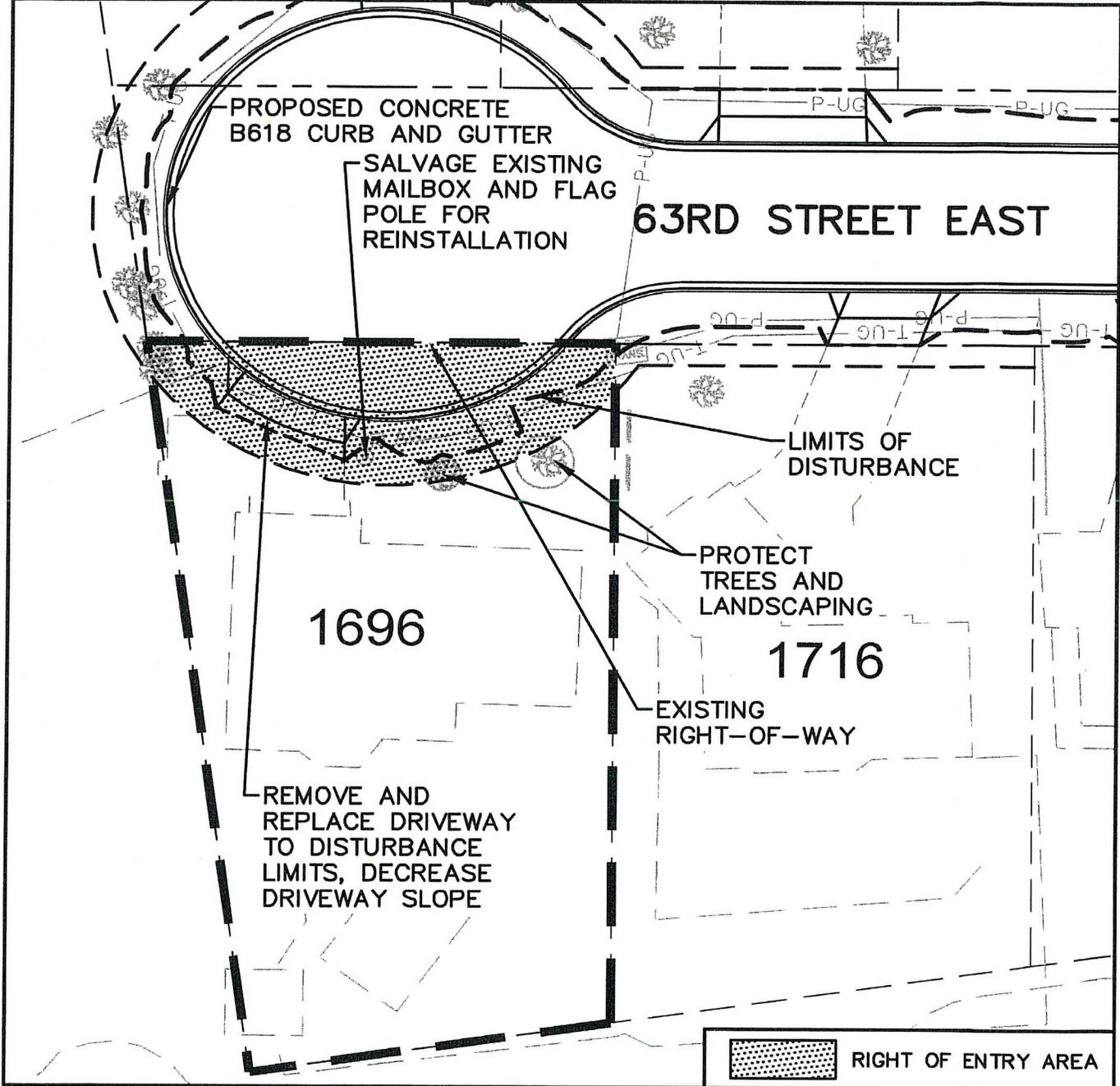
Lot 1, Block 2, Schindeldecker Third Addition, Dakota County, Minnesota.

Abstract Property.

PID: 20-67602-02-010

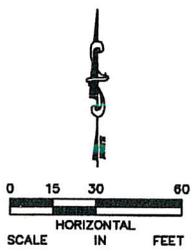
EXHIBIT B
DEPICTION OF TEMPORARY EASEMENT AREA

K:\TWC_Civil\City\IGH\160509027-60TH STREET RECON\CAD\Plan Sheets\Exhibits\Parcel Exhibits\63rd ST ESMT.dwg March 04, 2016 - 3:00pm



Kimley»Horn

2550 UNIVERSITY AVENUE WEST, SUITE 238N, ST. PAUL, MN 55114
 PHONE: 651-645-4197
 WWW.KIMLEY-HORN.COM



CP 2016-09D 60TH STREET AREA
 RECONSTRUCTION

1696 63RD STREET EAST
 RIGHT OF ENTRY
 AGREEMENT EXHIBIT

**TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT
RELATING TO LOT 2, BLOCK 1, SCHINDELDECKER THIRD ADDITION**

THIS TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT AGREEMENT RELATING TO LOT 2, BLOCK 1, SCHINDELDECKER THIRD ADDITION is made, entered into and effective this ____ day of _____, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation, hereinafter referred to as “City,” and Jerome L. Eller and Roxann A. Eller, husband and wife, hereinafter individually and collectively referred to as “Landowner”.

WITNESSETH:

Landowner owns the property described on **Exhibit A**.

For and in good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landowner does hereby grant and convey to the City, its successors and assigns, a temporary easement for grading, sloping, re-contouring, filling, excavation, and construction purposes, over, across, and under certain land located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows, (hereinafter referred to as the Temporary Easement Area):

A temporary easement for grading, sloping, re-contouring, filling, excavation and construction purposes, over, across and under the Temporary Easement Area shown and depicted as the shaded area on the attached **Exhibit B**, which exhibit is hereby incorporated by reference.

EXEMPT FROM STATE DEED TAX

The rights of the City under this Temporary Easement include the right of the City, its contractors, agents and servants to enter upon the Temporary Easement Area at all reasonable times to grade, slope, recontour, fill and excavate the Temporary Easement Area for purposes related to the construction and to remove from the Temporary Easement Area trees, brush, herbage, undergrowth and other obstructions and to deposit earthen materials in and upon the Temporary Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, including penalties and reasonable attorneys' fees, or losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, pollutants, or contaminants which may have existed on, or which relate to, the Temporary Easement Area prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute Chapter 466.

The Landowner, for itself, its successors and assigns, does hereby covenant with the City, its successors and assigns, that Landowner is well seized in fee of the Temporary Easement Area and has good right to grant and convey this Temporary Easement to the City.

This Temporary Easement Agreement shall expire on December 31, 2017.

[the remainder of the page has been intentionally left blank]

IN TESTIMONY WHEREOF, the Landowner and City have executed this Temporary Easement as of the day and year first above written.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER

Jerome L. Eller

Roxann A. Eller

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared Jerome L. Eller and Roxann A. Eller, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and they acknowledged that they executed the same as their free act and deed.

Notary Public

This instrument was drafted by:
Timothy J. Kuntz, #58993
LeVander, Gillen & Miller, P.A.

After recording, please return to:
Timothy J. Kuntz, #58993
LeVander, Gillen & Miller

633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

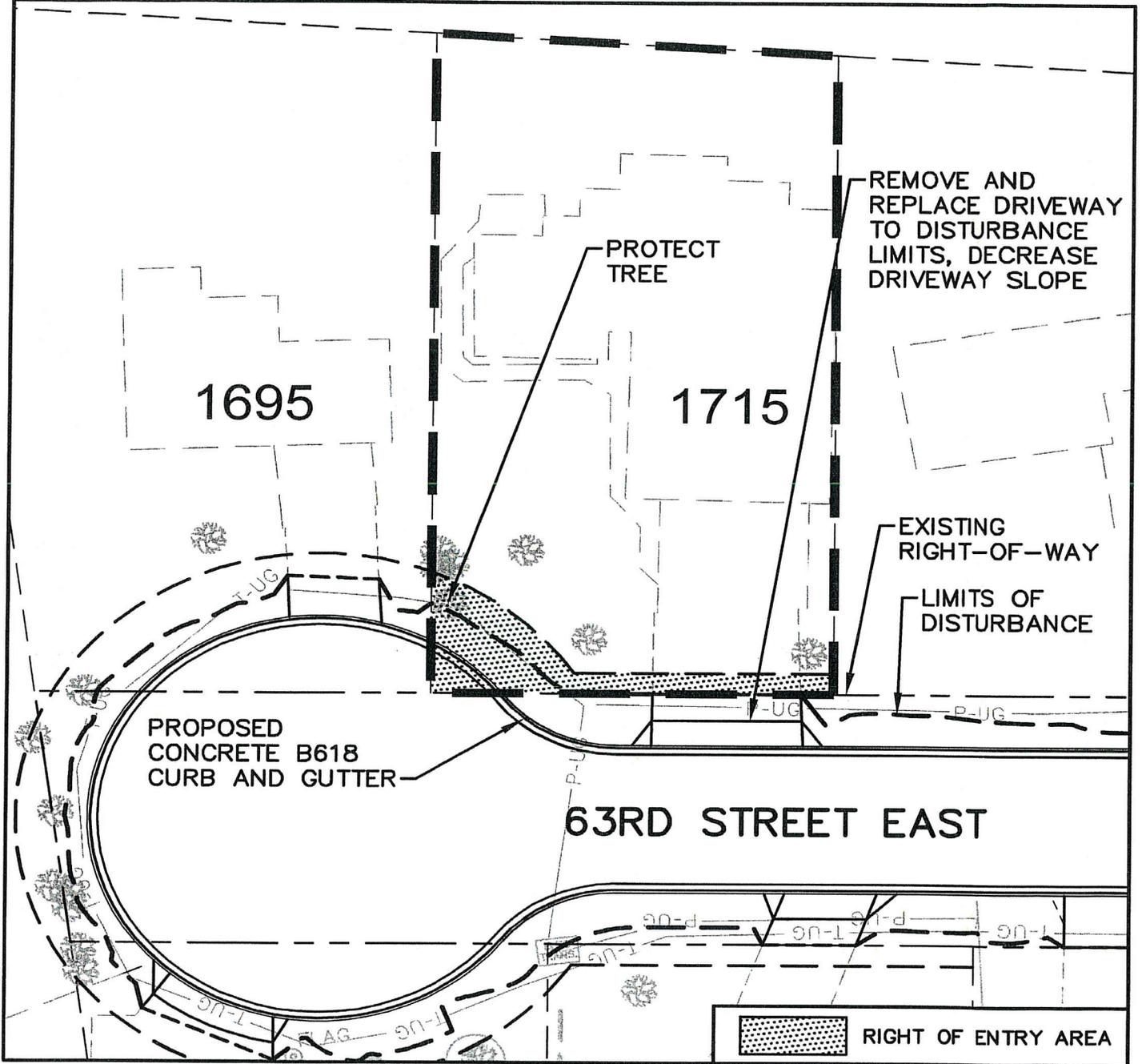
Lot 2, Block 1, Schindeldecker Third Addition, Dakota County, Minnesota.

Abstract Property.

PID: 20-67602-01-020

EXHIBIT B
DEPICTION OF TEMPORARY EASEMENT AREA

K:\TWC_Civil\City\IGH\160509027-60TH STREET RECON\CAD\Plan Sheets\Exhibits\Parcel Exhibits\63rd ST ESMT.dwg March 04, 2016 - 2:56pm



CP 2016-09D 60TH STREET AREA
 RECONSTRUCTION

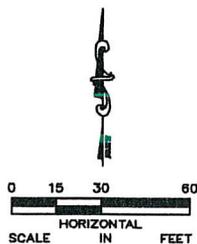
1715 63RD STREET EAST
 RIGHT OF ENTRY
 AGREEMENT EXHIBIT



Inver Grove Heights

Kimley»Horn

2550 UNIVERSITY AVENUE WEST, SUITE 238N, ST. PAUL, MN 55114
 PHONE: 651-645-4197
 WWW.KIMLEY-HORN.COM



**TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT
RELATING TO LOT 2, BLOCK 2, SCHINDELDECKER THIRD ADDITION**

THIS TEMPORARY CONSTRUCTION, SLOPE AND GRADING EASEMENT AGREEMENT RELATING TO LOT 2, BLOCK 2, SCHINDELDECKER THIRD ADDITION is made, entered into and effective this ____ day of _____, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation, hereinafter referred to as “City,” and John F. Huerta and Christine K. Huerta, husband and wife, hereinafter individually and collectively referred to as “Landowner”.

WITNESSETH:

Landowner owns the property described on **Exhibit A**.

For and in good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landowner does hereby grant and convey to the City, its successors and assigns, a temporary easement for grading, sloping, re-contouring, filling, excavation, and construction purposes, over, across, and under certain land located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows, (hereinafter referred to as the Temporary Easement Area):

A temporary easement for grading, sloping, re-contouring, filling, excavation and construction purposes, over, across and under the Temporary Easement Area shown and depicted as the shaded area on the attached **Exhibit B**, which exhibit is hereby incorporated by reference.

EXEMPT FROM STATE DEED TAX

The rights of the City under this Temporary Easement include the right of the City, its contractors, agents and servants to enter upon the Temporary Easement Area at all reasonable times to grade, slope, recontour, fill and excavate the Temporary Easement Area for purposes related to the construction and to remove from the Temporary Easement Area trees, brush, herbage, undergrowth and other obstructions and to deposit earthen materials in and upon the Temporary Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, including penalties and reasonable attorneys' fees, or losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, pollutants, or contaminants which may have existed on, or which relate to, the Temporary Easement Area prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute Chapter 466.

The Landowner, for itself, its successors and assigns, does hereby covenant with the City, its successors and assigns, that Landowner is well seized in fee of the Temporary Easement Area and has good right to grant and convey this Temporary Easement to the City.

This Temporary Easement Agreement shall expire on December 31, 2017.

[the remainder of the page has been intentionally left blank]

IN TESTIMONY WHEREOF, the Landowner and City have executed this Temporary Easement as of the day and year first above written.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER

John F. Huerta

Christine K. Huerta

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared John F. Huerta and Christine K. Huerta, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and they acknowledged that they executed the same as their free act and deed.

Notary Public

This instrument was drafted by:
Timothy J. Kuntz, #58993
LeVander, Gillen & Miller, P.A.

After recording, please return to:
Timothy J. Kuntz, #58993
LeVander, Gillen & Miller

633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

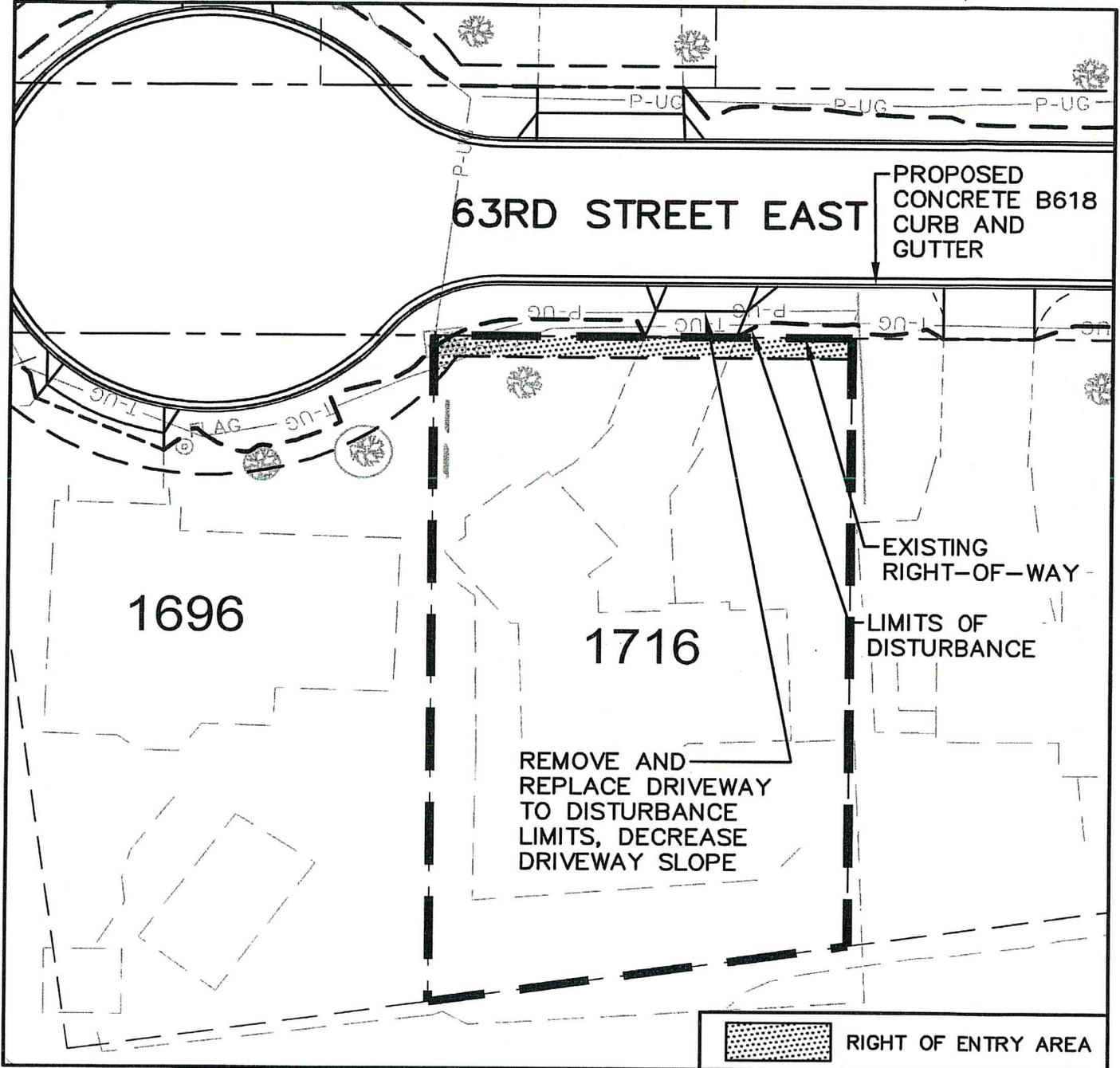
Lot 2, Block 2, Schindeldecker Third Addition, Dakota County, Minnesota.

Abstract Property.

PID: 20-67602-02-020

EXHIBIT B
DEPICTION OF TEMPORARY EASEMENT AREA

K:\TWC_Civil\City\IGH\160509027-60TH STREET RECON\CAD\Plan Sheets\Exhibits\Parcel Exhibits\63rd ST ESMT.dwg March 04, 2016 - 2:58pm



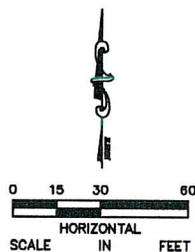
CP 2016-09D 60TH STREET AREA
 RECONSTRUCTION

1716 63RD STREET EAST
 RIGHT OF ENTRY
 AGREEMENT EXHIBIT



Kimley»Horn

2550 UNIVERSITY AVENUE WEST, SUITE 238N, ST. PAUL, MN 55114
 PHONE: 651-645-4197
 WWW.KIMLEY-HORN.COM



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Agreement with Xcel Energy for Topsoil and Seeding on City Project No. 2016-09D – 60th Street Area Reconstruction

Meeting Date: May 9, 2016
 Item Type: Regular
 Contact: Thomas J. Kaldunski, 651-450-2572
 Prepared by: Steve W. Dodge, Assistant City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

SAT

X	Fiscal/FTE Impact:
	None
	Amount included in current budget
	Budget amendment requested
	FTE included in current complement
	New FTE requested – N/A
	Other:

PURPOSE/ACTION REQUESTED

The City Council will consider an agreement with Xcel Energy to perform topsoil and seeding of areas disturbed by Xcel Energy on City Project No. 2016-09D – 60th Street Area Reconstruction.

SUMMARY

As part of City Project No. 2016-09D, the City will be restoring the boulevards on the streets affected by the project. The City’s contract requires the Contractor to place topsoil and seed by September 20, 2016 to allow for 30 days of growth before cool weather occurs in late October.

Xcel has been coordinating efforts to relocate and replace existing gas and electric systems and services within the project area. Xcel Energy is responsible to obtain permits and restore disturbed areas on City right-of-way and adjacent easements.

Beginning in 2009, City staff coordinated boulevard restoration with Xcel, and Xcel reimbursed the City. An agreement has been negotiated annually since 2010 which allows the City to complete all boulevard restoration adjacent to a City project. This coordinated effort results in uniform standards being used on the boulevard restoration. This greatly reduces the number of complaints the City and Xcel receive related to boulevard restoration. Residents receive sod or seed that is consistent, and installed and maintained by the City’s contractor. Xcel reimburses the City for the boulevard restoration work at the City’s contract prices.

Attached is the 2016 agreement between the City and Xcel to continue this boulevard restoration for City Project No. 2016-09D – 60th Street Area Reconstruction. This agreement will allow the City’s contractor to complete the boulevard restoration in conjunction with the project. Xcel and City staff will measure the areas disturbed by Xcel and they will be invoiced for the turf restoration costs per the agreement.

It is recommended that the City Council adopt the resolution approving the agreement for topsoil and seeding on City Project No. 2016-09D – 60th Street Area Reconstruction.

SWD/kf
 Attachments: Resolution
 Agreement

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION APPROVING TOPSOIL AND SEEDING AGREEMENT WITH XCEL ENERGY FOR
CITY PROJECT NO. 2016-09D – 60TH STREET AREA RECONSTRUCTION

RESOLUTION NO. _____

WHEREAS, during the 2016 construction season, the City will be constructing City Project No. 2016-09D – 60th Street Area Reconstruction. In order to construct the Project, street boulevards will be disturbed by the City's construction activities and by utility company relocations within the boulevard.

WHEREAS, the City and Xcel Energy desire to work together to restore the disturbed boulevards for City Project No. 2016-09D in an effort to provide uniform, cost-effective boulevard restoration; and

WHEREAS, the attached Topsoil and Seeding Agreement is a contractual mechanism for the City and Xcel Energy to coordinate their single project boulevard restoration efforts and equitably allocate topsoil and seeding costs between the parties.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Inver Grove Heights, Minnesota, as follows:

1. The City Council approves the attached Topsoil and Seeding Agreement for 2016-09D – 60th Street Area Reconstruction.
2. The Mayor and City Clerk are authorized to execute the attached Topsoil and Seeding Agreement for 2016-09D – 60th Street Area Reconstruction.

Adopted by the City Council of the City of Inver Grove Heights this 9th day of May 2016.

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

**TOPSOIL AND SEEDING AGREEMENT
BETWEEN CITY OF INVER GROVE HEIGHTS AND NORTHERN STATES POWER
COMPANY d/b/a XCEL ENERGY FOR CITY PROJECT 2016-09D – 60TH STREET
AREA RECONSTRUCTION**

THIS TOPSOIL AND SEEDING AGREEMENT (Agreement) is made, entered into and effective this 9th day of May, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (City) and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy (Xcel Energy). Subject to the terms and conditions hereafter stated and based on the representations, warranties, covenants, agreements, exhibits and recitals of the parties herein contained, the parties do hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Terms. The following terms, unless elsewhere specifically defined herein, shall have the following meanings as set forth below.

Section 1.2 Agreement. “Agreement” means this Topsoil and Seeding Agreement.

Section 1.3 City. “City” means the City of Inver Grove Heights, a Minnesota municipal corporation.

Section 1.4 Construction Contract. “Construction Contract” means the City of Inver Grove Heights contract with the City’s general contractor for the Project improvements including any Construction Contract amendments and/or Construction Contract change orders.

Section 1.5 Project. “Project” means City of Inver Grove Heights Project No. 2016-09D – 60th Street Area Reconstruction.

Section 1.6 Seeding. “Seeding” means the final grading of disturbed areas pursuant to the plans and specifications of the Construction Contract, to include but not limited to, common excavation, subgrade preparation, raking, scarifying, and the placement of topsoil, seed, Terraseed, Flexterra, Hydroseeding, broadcast seeding, slit seeding, fertilizer, mulch, stabilization blankets, soil tackifier, and/or hydraulic mix. The material specifications, construction means and methods, maintenance requirements, watering and warranty provisions are more specifically described in the Construction Contract.

Section 1.7 Utility Company. “Utility Company” means Xcel Energy.

ARTICLE 2
RECITALS

Recital No. 1. The purpose of this Agreement is to define the rights and obligations of the parties in connection with the City's agreement to include Seeding specifications within the City's Construction Contract that provides for Seeding over areas disturbed during the Utility Company's location or relocation of its utilities provided that the Utility Company reimburses the City for its proportionate share of Construction Contract costs for Seeding of areas disturbed during the Utility Company's location or relocation of its utilities.

Recital No. 2. The City customarily requires its construction contractor to perform final grading, replace top soil, and seed disturbed areas following construction of City public improvements.

Recital No. 3. Utility companies customarily require their utility location or relocation contractors to perform final grading, replace top soil and seed disturbed areas following the relocation of their utilities.

Recital No. 4. The City's seeding and utility companies seeding are often performed pursuant to different contract schedules and pursuant to different contract specifications even though the City's seeding and the utility companies' seeding may occur adjacent to each other at or near the boulevard of street right-of-way.

Recital No. 5. The City and the Utility Company intend to facilitate cost savings and a higher quality joint seeding effort with this Agreement.

ARTICLE 3
AGREEMENTS RELATING TO CITY SEEDING

Section 3.1 Seeding. The City agrees to include Seeding specifications in its Construction Contract to provide for the Seeding requirements generally shown on the Project plan sheets attached hereto as Exhibit A. The City agrees to process any Construction Contract amendments and/or change orders provided that the areas disturbed by either the City during the Project construction and/or by the Utility Company during the associated utility location or relocation exceeds or materially changes from the Seeding requirements generally shown on the Project plan sheets referenced on Exhibit A. The City agrees to pay its Project contractor pursuant to the Construction Contract unit prices for Seeding and/or pursuant to any Construction Contract amendments and/or change orders affecting the Construction Contract unit prices for Seeding.

Section 3.2 Seeding Cost Calculation. The City and Utility Company agree to meet on-site, measure and calculate:

- A. The areas disturbed by the City during the construction of the Project, and
- B. The areas disturbed by the Utility Company during utility location or relocation.

From time to time during construction and upon completion of construction, the parties agree to meet on-site to calculate and/or verify the calculation of their proportionate share of Seeding Construction Contract costs based on the areas disturbed by City and Utility Company respectively. The Construction Contract costs allocated to the City and allocated to the Utility Company shall use the same Construction Contract unit prices and/or shall be pursuant to Construction Contract amendments and/or Construction Contract change orders. The City may make any and all Construction Contract amendments and/or Construction Contract change orders pursuant to the City's sole discretion, but the City agrees that that the Utility Company shall not be charged higher unit prices than the City pays pursuant to the Construction Contract, pursuant to Construction Contract amendments and/or pursuant to Construction Contract change orders. In the event that the same area is disturbed by the City and by the Utility Company during their respective Project construction and utility location or relocation activities, the City and the Utility Company agree to allocate the Seeding Construction Contract costs evenly between the City and the Utility Company for said jointly disturbed area(s). If the Utility Company is unable or unavailable to meet on-site to calculate the Utility Company's proportionate share of the Seeding Construction Contract costs for a Project area or areas, the City agrees, upon request of the Utility Company, to provide the Utility Company with the City's and/or its Project contractor's calculations (and with available Project documents used in the City's and/or the Project contractor's calculations, including any video, photographs or other Project documents memorializing the seeding work performed) of Seeding Construction Contract costs for said Project area or areas.

Section 3.3 Seeding Billing of Utility Company by City. The City agrees to bill the Utility Company, on a pass through basis without any administrative markup, for its proportionate share of Seeding Construction Contract costs calculated pursuant to Article 3, Section 3.2 within 90 days of completion of work by Xcel Energy.

Section 3.4 Seeding Warranty. The City agrees that the City will contractually require its Project contractor to warranty the growth of Seeding pursuant to the terms and specification of the City's Construction Contract. The City agrees to use reasonable efforts to enforce the warranty terms and specifications of its Construction Contract. This Agreement, however, shall not impose or require the City to declare a default under the City's Construction Contract. Furthermore, the City shall not be obligated or required to expend pecuniary or other resources to legally pursue a Construction Contract default, nor will the City be obligated or required by this Agreement to pursue remedies under any contract bond or pursuant to other arbitration or litigation remedies. The City's decision to pursue or not to pursue Construction Contract enforcement remedies shall not negate the Utility Company's agreement to reimburse the City for billed Seeding Construction Contract costs, nor will the City's decision to pursue or not to pursue Construction Contract enforcement remedies entitle the Utility Company to a refund for any pending or paid Seeding Construction Contract costs. It is expressly understood by the parties that Utility Company has no responsibility for maintaining or warranting Seeding. Any refunds or damages paid by Project contractor for Seeding shall be divided between the parties pursuant to the same proportionate share allocation calculated by City and approved by Utility Company as provided in Section 3.2. City agrees to hold harmless and indemnify Utility Company for all claims arising out of any failure of City's Project contractor to meet the warranty terms and specifications for Seeding in City's Construction Contract.

Section 3.5 Right-of-Way and Utility Easement Limits. This Agreement shall not obligate or require the City and/or its Project contractor to perform Seeding within any areas disturbed by the Utility Company outside of public right-of-way, outside of public utility easement areas, and/or outside Utility Company's easement areas.

ARTICLE 4
AGREEMENTS RELATING TO UTILITY COMPANY'S PAYMENT

Section 4.1 Obligation of Utility Company to Reimburse City for Seeding. The Utility Company agrees to pay invoices sent pursuant to Article 3, Section 3.3 within 60 days of the date of the City's billing statement.

ARTICLE 5
TERMINATION AND SCOPE OF AGREEMENT

Section 5.1 Termination of this Agreement. Any party may terminate this Agreement without cause upon 60 days notice provided to the other parties pursuant to Article 6, Section 6.1. Utility company's contractual obligation to pay the City for Seeding already performed upon the utility company's behalf pursuant to this Agreement shall survive termination of this Agreement. The City agrees to direct its Project contractor to terminate Seeding performed on the Utility Company's behalf pursuant to this Agreement as soon as practical following the City's receipt of an Agreement termination notice from the Utility Company pursuant to this Section 5.1.

Section 5.2 Scope of Agreement. This Agreement is intended to provide a contractual mechanism whereby the City can perform Seeding on behalf of the Utility Company, and whereby the City can equitably bill and be paid by the Utility Company for Project Construction Contract costs that would have been performed and paid for by the Utility Company.

This Agreement is not intended to constitute a right-of-way permit or right-of-way use approval granted by the City pursuant to the City's right-of-way management ordinances.

This Agreement is not intended to alter, amend or change any rights or obligations of the parties pursuant to any franchise agreement(s), and/or pursuant to any applicable Minnesota Statutes, Minnesota Rules, or other local, State or Federal laws.

Furthermore, this Agreement is not intended to grant or convey any license, easement, or other property right between the parties hereto. In the event for the need for right-of-way or other property right acquisition for the City to perform its Project improvements, or in the event for the need for right-of-way or other property right acquisition for the Utility Company to perform its utility location or relocation activities, each party shall be remain obligated and responsible for its respective public activities as if this Agreement did not exist.

ARTICLE 6
MISCELLANEOUS

Section 6.1 Notices. All notices or communications required or permitted pursuant to this Agreement shall be either hand delivered, or mailed to the parties, certified mail, return-receipt requested, at the following addresses:

City: City of Inver Grove Heights
Attn: Director of Public Works
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Xcel Energy: Xcel Energy
Attn: General Counsel
414 Nicollet Mall
Minneapolis, MN 55401

Any party may change its address or authorized representative by written notice delivered to the other party pursuant to this Section 6.1.

Section 6.2 Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which taken together shall be deemed a single instrument.

Section 6.3 Non-Assignability. Neither of the parties shall assign any interest in this Agreement nor shall transfer any interest in the same, whether by subcontract, assignment, or novation, without the prior written consent of the other party. Such consent shall not be unreasonably withheld.

Section 6.4 Alteration. Any alteration, variation, modification, or waiver of the provisions of the Agreement shall be valid only after it has been reduced to writing and duly signed by all parties.

Section 6.5 Waiver. The waiver of any of the rights and/or remedies arising under the terms of this Agreement on any one occasion by any party hereto shall not constitute a waiver of any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

Section 6.6 Severability. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.

Section 6.7 Interpretation According to Minnesota Law. This Agreement shall be interpreted and construed according to the laws of the State of Minnesota.

Section 6.8 Entire Agreement. This Agreement shall constitute the entire agreement between the parties and shall supersede all prior oral or written negotiations.

Section 6.9 Headings. The headings to the various sections of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed, to modify, define, limit, or expand the intent of the parties as expressed in this Agreement.

Section 6.10 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature under or by reason of this Agreement.

The balance of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first stated above.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this _____ day of May, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Administrator / Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Administrator / Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

EXHIBIT A
PROJECT DOCUMENTS GENERALLY SHOWING PROJECT SEEDING
REQUIREMENTS

1. Specification Manual for 2016-09D – 60th Street Area Reconstruction (on file with the City).
2. Plans for 2016-09D – 60th Street Area Reconstruction (on file with the City).

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Resolution Receiving and Accepting Proposals from American Engineering Testing, Inc. (AET) for Construction Phase Geotechnical Services and from Kimley-Horn and Associates (IPO No. 26B) for Construction Phase Engineering and Survey Services for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) - NWA Trunk Watermain Improvements, 65th Street Loop

Meeting Date: May 9, 2016
 Item Type: Regular
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Steve W. Dodge, Asst. City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

[Signature]

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other: Pavement Management Fund, Special Assessments, Sewer Fund, Water Fund, NWA Water Funds, Developer Escrow

PURPOSE/ACTION REQUESTED

Resolution accepting proposals from American Engineering Testing, Inc. (AET) for construction phase geotechnical services and from Kimley-Horn and Associates (IPO No. 26B) for construction phase engineering and survey services for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) - NWA Trunk Watermain Improvements, 65th Street Loop.

SUMMARY

City staff has requested, and received, proposals for construction phase geotechnical services and construction phase engineering and survey services for this project. Attached is an AET proposal, dated April 11, 2016, for the construction phase geotechnical services in the amount of \$22,098 and a Kimley-Horn proposal (IPO 26B), dated May 3, 2016, for construction phase engineering and survey services in the amount of \$93,200. The proposals will be paid for with Pavement Management Fund, special assessments, Sewer Fund, Water Fund, NWA Water Funds, and developer escrow.

The proposals have been reviewed by staff and the Engineering Division recommends that the proposals from AET and Kimley-Horn be accepted based on their understanding and familiarity of the project, scope of work, the expertise of their project team, the proposed cost of their services and their knowledge of the City's standards. AET and Kimley-Horn have completed similar projects of this nature for Inver Grove Heights. AET and Kimley-Horn have been selected from our engineering consultant pool.

Staff recommends that the Council adopt the resolution accepting the AET proposal for construction phase geotechnical services and the Kimley-Horn proposal (IPO No. IPO 26B) for construction phase engineering and survey services for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) - NWA Trunk Watermain Improvements, 65th Street Loop

SWD/kf

Attachments: Resolution
 AET Proposal dated April 11, 2016
 Kimley-Horn Proposal dated May 3, 2016

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION RECEIVING AND ACCEPTING PROPOSALS FROM AMERICAN ENGINEERING TESTING, INC. (AET) FOR CONSTRUCTION PHASE GEOTECHNICAL SERVICES AND FROM KIMLEY-HORN AND ASSOCIATES (IPO NO. 26B) FOR CONSTRUCTION PHASE ENGINEERING AND SURVEY SERVICES FOR CITY PROJECT NO. 2016-09D – 60TH STREET AREA RECONSTRUCTION, CITY PROJECT NO. 2016-10 – 60TH STREET AREA UTILITY IMPROVEMENTS AND CITY PROJECT NO. 2015-12 (PHASE 1) - NWA TRUNK WATERMAIN IMPROVEMENTS, 65TH STREET LOOP

RESOLUTION NO. _____

WHEREAS, AET has provided a proposal for construction phase geotechnical services as outlined in their April 11, 2016 proposal for City Project Nos. 2016-09D, 2016-10 and 2015-12 (Phase 1); and

WHEREAS, Kimley-Horn and Associates, Inc. provided a proposal (IPO No. 26B) for construction phase engineering and survey services as outlined in their May 3, 2016 proposal for City Project Nos. 2016-09D, 2016-10 and 2015-12 (Phase 1).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA THAT:

1. AET's proposal dated April 11, 2016 is accepted and staff is authorized to enter into an agreement for construction phase geotechnical services for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) - NWA Trunk Watermain Improvements, 65th Street Loop in the amount of \$22,098.
2. Kimley-Horn and Associates, Inc. proposal (IPO No. 26B) dated May 3, 2016 is accepted and staff is authorized to enter into an agreement for construction phase engineering and survey services for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements and City Project No. 2015-12 (Phase 1) - NWA Trunk Watermain Improvements, 65th Street Loop in the amount of \$93,200.
3. The work shall be funded from the Pavement Management Fund, special assessments, utility funds, NWA Water Fund and developer escrows.

Adopted by the City Council of Inver Grove Heights, Minnesota this 9th day of May 2016.

AYES:
NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



PROPOSAL FOR PROJECT TESTING SERVICES

AET PROPOSAL No. 20-14186

APRIL 11, 2016

American Engineering Testing, Inc. (AET) has been requested to provide a proposal for Project Testing Services for the referenced project by Eric Fosmo from Kimley Horn on March 18, 2016.

Project: 60th Street Area Reconstruction
60th Street Area Utility Improvements
NWA Trunk Watermain Improvements – 65th Street Loop Phase 1
City Project No. 2016-09D, 2016-10, & 2015-12

Address: Inver Grove Heights, Minnesota

Our Client: City of Inver Grove Heights

Address: 8150 Barbara Avenue
Inver Grove Heights, Minnesota 55077

Contact: Steve Dodge

Telephone: (651) 450-2541

PROJECT INFORMATION

We understand the City of Inver Grove Heights will reconstruct and make water and sewer improvements to several city streets including portions of 60th Street East, Asher Avenue, Asher Court, 59th Court East, and 63rd Street East. The proposed construction will include full urban street reconstruction, including the installation of approximately 1,420 lineal feet of RCP storm sewer and 1,085 lineal feet of new ductile iron watermain. The reconstructed pavement section will typically include 4 inches of bituminous, 6 inches of class 5 aggregate base, 24 inches of select granular fill, and geotextile fabric over the pavement subgrade. New concrete curb and gutter and driveway will be placed.

SCOPE OF SERVICES

AET's anticipated scope of services for this project will be performed according to the project plans provided to us. The services provided by AET will be performed on a will-call basis, when notified by your field personnel. Our anticipated scope of services will include:

Soil Observations and Testing for Pavement Subgrades:

During excavation for reconstruction of the roadways and utility construction, we will perform intermittent trips to the site if requested by your site personnel. We can also provide test roll observations of the completed roadway subgrade before placement of geotextile fabric, select granular borrow, and Class 5 aggregate base.



During placement of fill, select granular borrow, and Class 5 aggregate base in the pavement areas, an Engineering Technician will visit the site on a will-call basis to test the fill, when requested by your field personnel. Our services will include the following:

- Soil compaction tests using a nuclear density gauge in pavement/utility excavations (by an Engineering Technician II).
- Aggregate base density tests using the Mn/DOT dynamic cone penetrometer.
- Standard Proctor tests of each different type of soil encountered at our test locations.
- Perform sieve tests of granular fill and Class 5 aggregate base.

Concrete Testing:

Personnel from AET will perform testing of concrete placed for curb and gutter and driveways, on a will-call basis, when requested by your field personnel. Our services will include:

- Field testing of concrete: including slump tests, air content tests, and temperature tests (by an Engineering Technician I or II).
- Casting concrete test cylinders for compressive strength testing (1 set of 4 cylinders for every 100 cubic yards or fraction thereof for each type of concrete placed each day).
- Pick up cylinders from the jobsite for delivery to AET laboratory.
- Compressive strength testing of concrete test cylinders (1 test at 7 days; 2 tests at 28 days; 1 HOLD cylinder).
- Evaluate conformance of above services to project plans and specifications.

Bituminous Testing:

Testing will be performed as required by the City of Inver Grove Heights. A split portion of each sample will be provided to our laboratory for testing. The number of tests required will depend primarily upon the number of days of bituminous placement. Coring of the bituminous pavement will be performed by the contractor at locations selected by the project engineer on a random basis. Half of the core samples will be delivered to our laboratory for testing and the other half are for testing by the contractor. The number of cores will depend on the daily amount of bituminous placement. During bituminous placement, we will perform the following testing if requested.

- Perform roll pattern testing of the bituminous as it is being placed, measuring in-place thickness and approximate density (by Engineering Technician II).
- Obtain samples of bituminous from the jobsite for lab testing (by Engineering Technician II).
- Perform MnDOT Gyration Properties tests of each bituminous mixture; including asphalt extraction and aggregate gradation tests, Rice specific gravity tests, and Gyration or Marshall density test.
- Measure the thickness of each layer of each of the cores.



- Determine the density of each layer of the cores to determine the “compaction” of the bituminous.
- Evaluate conformance of all tests to project plans and specifications.

Project Management and Coordination:

- Project management and supervision of AET personnel/activities by Principal Engineer (Registered Professional Engineer).
- Issuing periodic reports presenting the results of our observations and testing, as well as a final summary report.

FEES

All services will be invoiced on a unit cost basis according to the attached Fee Schedule. Our invoices will be determined by multiplying the number of tests, hours, or other units accumulated each billing period by their respective unit rates. We have also estimated a total cost which we anticipate will be required to complete the previously described observation and testing services, based on the material quantities provided on the project plans and our previous experience with similar projects in the City of Inver Grove Heights. Our estimated total cost will be \$22,098.

We caution that this proposal presents an estimated cost. Often, variations in the overall cost of the services occur due to reasons beyond our control, such as construction change orders, weather delays, changes in the contractor’s schedule, unforeseen conditions or retesting of services. These variations will affect the actual invoice totals, either increasing or decreasing our total costs for the project from those estimated in this proposal. If more time or tests are required, additional fees may be needed to complete the project testing services. If less time or tests are needed, a cost savings will be realized. We will not, however, exceed the estimated total cost for the project without first obtaining your authorization.

TERMS AND CONDITIONS

Our services will be performed per the Contract Agreement Between the City of Inver Grove Heights and American Engineering Testing, Inc. for Professional Services, dated February 10, 2011 and Addendum No. 1 to the Master Contract dated April 6, 2012.

ACCEPTANCE

Please indicate your acceptance of this proposal by signing below and returning a copy to us. When you accept this proposal, you represent that you are authorized to accept on behalf of the Client.

City of Inver Grove Heights
Proposal for Project Testing Services
AET Proposal No. 20-14186
April 11, 2016
Page 4 of 4



REMARKS

The estimated total cost and the terms of this document will be valid for 60 calendar days from the date of this proposal. After that time, if not authorized, we reserve the right to renegotiate any and all aspects of this proposal.

Thank you for this opportunity to submit our proposal. If you have any questions or need any additional information, please call me at (651) 789-4657 or email me at rschmidt@amengtest.com.

SIGNATURES

AET REPRESENTATIVE:

Ryan F. Schmidt, PE
Senior Engineer

April 11, 2016

Date

CLIENT ACCEPTANCE:

Date

**FEE SCHEDULE
PROJECT TESTING SERVICES
60TH STREET AREA RECONSTRUCTION
INVER GROVE HEIGHTS, MINNESOTA
AET PROPOSAL NO. 20-14168**



SERVICE DESCRIPTION	PROJECT BUDGET		
	ESTIMATED UNITS	UNIT RATE	BUDGET AMOUNT
<i>Excavation Observations and Compaction Testing</i>			
1. Staff Engineer I for observations of excavations and subgrade test rolls, consultation and reporting (services provided on a will-call basis - assumes 3 trips to the jobsite).	6 hours	\$115.00	\$690.00
2. Engineering Technician II for soil/aggregate base compaction testing and sampling services (services provided on a will-call basis - assumes 25 trips to the jobsite).	60 hours	\$80.00	\$4,800.00
3. Personal or Company vehicle mileage.	784 miles	\$0.75	\$588.00
4. Nuclear density gauge test.	50 tests	\$26.00	\$1,300.00
5. Dynamic cone penetrometer test.	8 tests	\$50.00	\$400.00
5. Standard Proctor tests (Methods A or B).	6 tests	\$125.00	\$750.00
6. Sieve tests of granular fill and Class 5 aggregate base.	12 tests	\$90.00	\$1,080.00
7. Oil content test on reclaimed bituminous sample.	4 tests	\$155.00	\$620.00
<i>Concrete Testing</i>			
1. Engineering Technician II for testing of concrete only - NO OBSERVATIONS OF REINFORCING STEEL (services provided on a will-call basis - assumes 10 trips to the jobsite).	25 hours	\$80.00	\$2,000.00
2. Personal or Company vehicle mileage.	280 miles	\$0.75	\$210.00
3. Curing, handling and compressive strength testing of 4" x 8" or 6" x 12" concrete test cylinders (includes handling of non-tested cylinders).	40 cyls.	\$25.00	\$1,000.00
4. Concrete cylinder pick-up service from jobsite.	10 trips	\$75.00	\$750.00

FEE SCHEDULE
 PROJECT TESTING SERVICES
 60TH STREET AREA RECONSTRUCTION
 INVER GROVE HEIGHTS, MINNESOTA
 AET PROPOSAL NO. 20-14168



SERVICE DESCRIPTION	PROJECT BUDGET		
	ESTIMATED UNITS	UNIT RATE	BUDGET AMOUNT
<i>Bituminous Testing</i>			
1. Engineering Technician II for observations of bituminous placement, establishing roll pattern, thickness and density testing, and obtaining samples for laboratory testing (services provided on a will-call basis-assumes 6 trips to the jobsite).	14 hours	\$80.00	\$1,120.00
2. Personal or Company vehicle mileage.	168 miles	\$0.75	\$126.00
3. Removal of cores from finished bituminous surface (includes all personnel, equipment rental and patching materials).	0 cores	\$120.00	\$0.00
4. Thickness and density tests of bituminous core samples.	24 tests	\$42.00	\$1,008.00
5. MnDOT Gyratory properties of bituminous; including Asphalt Extraction and Aggregate Gradation tests, Rice Specific Gravity test, and Gyratory Density test.	6 tests	\$500.00	\$3,000.00
<i>Project Management & Coordination</i>			
1. Project Manager for coordination of AET personnel and activities, attending meetings (if requested), consultation and report preparation.	20 hours	\$125.00	\$2,500.00
2. Principal Engineer for special consultation and report review.	1 hour	\$156.00	\$156.00
3. Personal or Company vehicle mileage.	0 miles	\$0.75	\$0.00
ESTIMATED BUDGET			\$22,098.00

INDIVIDUAL PROJECT ORDER NUMBER 26B

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the Consultant), and City of Inver Grove Heights (the Client) in accordance with the terms of the Master Agreement for Continuing Professional Services dated April 19, 2011, which is incorporated herein by reference.

Identification of Project: 60th Street Neighborhood Street Reconstruction and Utility Improvements
NWA Trunk Watermain Improvements – 65th Street Loop Phase 1
City Projects 2016-09D, 2016-10, 2015-12

General Category of Services: Construction Phase Services

Specific Scope of Basic Services: Construction staking and construction phase services. See attached Exhibit A for a more detailed summary of the scope of services.

Additional Services if Required: None identified at this time

Schedule: See attached Exhibit C

Deliverables: Construction Administration
Construction Staking

Method of Compensation: To be billed on an hourly (cost plus) basis as detailed in attached Exhibit B

Special Terms of Compensation: None

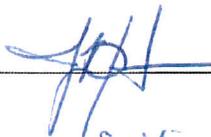
Other Special Terms of Individual Project Order: None

ACCEPTED:

CITY OF INVER GROVE HEIGHTS

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____

BY:  _____

TITLE: _____

TITLE: Sr. Vice President

DATE: _____

DATE: 5/3/16

EXHIBIT A
SCOPE OF SERVICES

INDIVIDUAL PROJECT ORDER (IPO) NO. 26B

60TH STREET RECONSTRUCTION AND UTILITY IMPROVEMENTS
CITY PROJECTS 2016-09D, 2016-10

NWA TRUNK WATERMAIN IMPROVEMENTS - 65TH STREET LOOP PHASE 1
CITY PROJECT 2015-12

This IPO includes construction staking and construction phase services for City Project 2016-09D, 60th Street Neighborhood Street Reconstruction; City Project 2016-10, 60th Street Neighborhood Utility Improvements; and City Project 2015-12, NWA Trunk Watermain Improvements – 65th Street Loop Phase 1.

1. CONSTRUCTION STAKING

A. Construction Staking

A Kimley-Horn subconsultant, Rani Engineering, will provide construction staking for the above referenced City projects. We have assumed the following will be required for staking the proposed improvements:

- i. All staking will be on a one-time basis
- ii. Minimum of three stakes for each run of sanitary and storm sewer
- iii. Offset and reference stakes for each MH or CB (Sanitary and Storm)
- iv. Two (2) reference stakes for each CB casting
- v. Curb stakes every 50' on tangent, 25' in curves, and all grade and alignment changes
- vi. Offset and reference stakes at all hydrants
- vii. Stake construction limits every 50' and all angle points
- viii. Stake sign locations
- ix. Watermain offset stakes every 50' and at all bends and connections
- x. Pond staking at two (2) contour lines
- xi. No staking for water and sanitary service adjustments

B. As-Built Survey

A Kimley-Horn subconsultant, Rani Engineering, will conduct an as-built survey for the above referenced City projects. We have assumed the following will be required for the survey:

- i. As-built survey information will be collected for the following:
 - o Storm (rims and inverts)
 - o Pond overflows
 - o Watermain (gate valves, curb stops, and hydrants)
 - o Sanitary (rim and inverts)
- ii. As-built plans to be prepared by City staff
- iii. Traffic control will not be required

- iv. Utilities will be accessible and not require entrance into confined space
- v. Survey will be conducted after construction is complete.

2. CONSTRUCTION PHASE SERVICES

A. Pre-Construction Meeting/Contract Documents

We will conduct a pre-construction meeting with the contractor, sub-contractors, City staff, and private utilities and produce meeting minutes. We will also prepare conformed contract documents and coordinate execution of the documents with the contractor and City staff.

B. Shop Drawing Review and Coordination

We will review shop drawings for the project submitted by the contractor. We will also coordinate any necessary shop drawing revisions with the contractor and the City.

C. Construction Coordination

We will provide construction coordination assistance to City staff. This task will include attendance at weekly construction meetings (up to 18), coordination with City staff, and coordination with the contractor as directed by City staff. We have assumed approximately 12 hours of effort per week for 18 weeks will be necessary to provide these services through final completion of the project.

D. Preparation of Change Orders, Budget Summaries, and Construction Closeout Documents

Upon request by City staff, Kimley-Horn will prepare necessary change orders for the project. We have assumed the preparation of up to three (3) change orders may be necessary. Kimley-Horn will also prepare updated budget summary tabulations for the project. This work will consist of tabulating the partial payments, change orders, and City project activity reports to track the project budget and contingencies. We have assumed preparation of up to three (3) iterations of the budget summaries will be necessary.

We will assist the City with construction closeout documentation and final negotiations with the Contractor following substantial completion of the project. We have assumed up to ten (10) hours for the construction closeout process.

EXHIBIT B
ESTIMATED COSTS

INDIVIDUAL PROJECT ORDER (IPO) NO. 26B

60TH STREET RECONSTRUCTION AND UTILITY IMPROVEMENTS
CITY PROJECTS 2016-09D, 2016-10

NWA TRUNK WATERMAIN IMPORVEMENTS - 65TH STREET LOOP PHASE 1
CITY PROJECT 2015-12

Kimley-Horn proposes to perform all services included within this IPO on an hourly (cost plus) basis using our current standard hourly rate schedule. The following is a summary of our estimated costs for the services included as a part of this IPO:

<u>Work Task</u>	<u>Estimated Fee</u>
1. Construction Staking	\$ 48,400
2. Construction Phase Services	\$ 42,300
Subtotal	\$ 90,700
Reimbursable Expenses	\$ 2,500
Total	\$ 93,200

Our total estimated not-to-exceed cost for the scope of services included as a part of this IPO is, therefore, \$93,200 including all labor and reimbursable expenses.

EXHIBIT C
SCHEDULE

INDIVIDUAL PROJECT ORDER (IPO) NO. 26B

60TH STREET RECONSTRUCTION AND UTILITY IMPROVEMENTS
CITY PROJECTS 2016-09D, 2016-10

NWA TRUNK WATERMAIN IMPORVEMENTS - 65TH STREET LOOP PHASE 1
CITY PROJECT 2015-12

The following is a summary of the proposed schedule for the project:

Pre-Construction Meeting	June 1, 2016
Begin Construction	June 6, 2016
Substantial Completion	September 10, 2016
Project Complete	October 15, 2016

**LE VANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
*KENNETH J. ROHLF
◊STEPHEN H. FOCHLER
◊JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
*KORNE L. LAND
◻*DONALD L. HOEFT
DARCY M. BRICKSON
DAVID S. KENDALL
BRIDGET McCAULEY NASON
TONA T. DOVE
BRADLEY R. HUTTER
•
HAROLD LEVANDER
1910-1992
•
ARTHUR GILLEN
1919-2005
•
• ROGER C. MILLER
1924-2009

MEMO

*ALSO ADMITTED IN WISCONSIN
◊ALSO ADMITTED IN NORTH DAKOTA
◻ALSO ADMITTED IN MASSACHUSETTS
◻ALSO ADMITTED IN OKLAHOMA

TO: Inver Grove Heights Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: May 9, 2015
RE: Acquisition of Easements from GlenLin Properties, LLC for City Project No. 2015-13

Section 1. Background.

The Council has ordered City Project No. 2015-13. Project No. 2015-13 extends utilities from the 70th Street Lift Station to the proposed Blackstone Ridge Development. The Project and the extension of the utilities cross properties owned by The Donald and Bernice Messerich Trust (now owned by Peterandrea Investments, LLC) ("Messerich"), Glenlin Properties, LLC ("GlenLin") and Lawrence J. Flannery and Linda L. Flannery ("Flannery") (hereafter collectively referred to as "Landowners"). To facilitate the Project, the City must acquire permanent utility easements and temporary construction easements (the "Easements") from the Landowners.

The City has obtained the necessary Easements from Messerich, leaving it with the need to obtain the requisite Easements from GlenLin and from Flannery. Due to Project timing, the City initiated condemnation proceedings to acquire the Easements from GlenLin and Flannery. The Court hearing to obtain the transfer of title to the GlenLin and Flannery Easements is scheduled for May 19, 2016. Although the City has been unable to negotiate a settlement with Flannery, the City has been able to reach a negotiated settlement with GlenLin.

The City has negotiated an Easement Purchase Agreement with GlenLin. The salient provisions are:

- The City will pay GlenLin \$130,750.00.
- GlenLin will deliver a Stipulation for Dismissal of the condemnation action and the Easements commensurate with the payment of the money by the City.
- The City will schedule a closing (delivery of money in return for the Stipulation and the Easements from GlenLin) within the next ten (10) days so the Project can stay on schedule.

A separate Confidential Memo covered by the attorney-client privilege has been sent to the Council concerning the negotiations with GlenLin.

Section 2. Action Requested. The Council is asked to approve the attached resolution agreeing to the Easement Purchase Agreement. The City Engineer, the City Attorney and the consultants on the acquisition team¹ recommend approval.

¹ The City's Property Acquisition Team is comprised of City Staff, the Office of the City Attorney, Evergreen Land Services and BKRW Real Estate Valuation Services and Metzen Appraisals.

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 16-_____

**A RESOLUTION APPROVING THE NEGOTIATED SETTLEMENT AGREEMENT
BETWEEN GLENLIN PROPERTIES, LLC AND THE CITY CONCERNING
DAMAGES RELATING TO THE GLENLIN PROPERTY
RELATIVE TO CITY PROJECT 2015-13**

WHEREAS, the City of Inver Grove Heights (the “City”) initiated Project No. 2015-13 as part of the City’s improvement planning and a development proposal in the Northwest Area of the City;

WHEREAS, the City authorized its engineering consultant, Bolten & Menk, Inc., to prepare plans and specifications for City Project No. 2015-13 – Northwest Area Trunk Utility Improvements - Argenta District (70th Street Lift Station to Blackstone Ridge Development);

WHEREAS, said engineering consultant prepared plans and specifications for City of Inver Grove Heights Project No. 2015-13 (the “Project”) which provides for the construction of trunk water main, trunk sanitary sewer construction, storm sewer culvert repair, restoration and appurtenances;

WHEREAS, the Project involves the installation of trunk water and sanitary sewer improvements to serve the Northwest Area including the Blackstone Ridge Planned Unit Development;

WHEREAS, the City received the final feasibility study for City Project No. 2015-10 at its February 23, 2015 Council meeting and ordered the Project at its April 13, 2015, Council meeting;

WHEREAS, to facilitate the Project, the City must acquire permanent watermain and sanitary sewer easements and temporary construction easements from Glenlin Properties, LLC (“GlenLin”) prior to the construction of the Project;

WHEREAS, on or about November 16, 2015, the City Attorney’s Office made the final written offers of just compensation pursuant to Minn. Stat. § 117.031 to GlenLin;

WHEREAS, as of January 11, 2016, the City was unable to reach a settlement GlenLin and as a result, the City authorized the use of eminent domain proceedings to acquire the necessary easements from GlenLin;

WHEREAS, the City has been able to negotiate the direct purchase of the necessary easements affecting property owned by GlenLin for the monetary sum of \$130,750.00

NOW, THEREFORE, BE IT RESOLVED BY THE INVER GROVE HEIGHTS CITY COUNCIL:

1. Provided the conditions as set forth paragraphs #2 and #3 below are met, the negotiated settlement in the sum of \$130,750.00 concerning damages associated with the City's acquisition of a permanent and a temporary easement over a portion of the GlenLin property relative to City Project 2015-13 is hereby approved.
2. Provided the following documents are received in substantially the same form as attached hereto and provided that any modifications to the documents attached hereto are approved by the City Engineer and the City Attorney after a determination that the modifications do not materially restrict the City's rights or materially add to the City's obligations, payment of the negotiated settlement amount of \$130,750.00 is hereby authorized upon receipt by the City of the attached:
 - a. Stipulation for Dismissal and Order Dismissing GlenLin Properties, LLC – Parcel 1;
 - b. Easement Purchase Agreement executed by GlenLin Properties, LLC; and
 - c. Permanent Drainage and Utility Easement and Temporary Construction Easement executed by GlenLin Properties, LLC.
3. Provided said documents are received in substantially the same form as attached hereto and provided that any modifications to the documents attached hereto are approved by the City Engineer and the City Attorney after a determination that the modifications do not materially restrict the City's rights or materially add to the City's obligations, the Mayor and City Clerk are authorized to execute the following documents:
 - a. Easement Purchase Agreement, and
 - b. Permanent Drainage and Utility Easement and Temporary Construction Easement.

Passed this 9th day of May, 2016.

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

COURT FILE No. 19HA-CV-16-235

City of Inver Grove Heights,
a Minnesota municipal corporation,

Petitioner,

v.

GlenLin Properties, LLC, a Minnesota corporation;
Lawrence J. Flannery and Linda L. Flannery,
Husband and wife,
Northern States Power Company, d/b/a
Xcel Energy, a Minnesota corporation;
Xcel Energy Inc., a Minnesota corporation;
Ideal Credit Union, f/k/a Postal Credit Union,
a Minnesota corporation; Thrivent Federal Credit
Union, f/k/a Thrivent Financial Bank,
organized and existing under the laws of the
United States of America; and County of Dakota;
and all other parties unknown having any
right, title or interest in the property described
in Petitioner's Petition, together with the
unknown heirs or devisees, if any, of the
parties that may be deceased, and including
unknown spouses, if any, and all others
claiming any interest in the property
described in Petitioner's Petition,

Respondents.

**STIPULATION FOR
DISMISSAL AND ORDER
DISMISSING GLENLIN
PROPERTIES, LLC – PARCEL 1**

Case Type: Condemnation

**IN THE MATTER OF CONDEMNATION OF REAL PROPERTY
EASEMENTS LOCATED IN THE CITY OF INVER GROVE HEIGHTS,
COUNTY OF DAKOTA, MINNESOTA, FOR TRUNK UTILITY IMPROVEMENTS,
INCLUDING THE CONSTRUCTION OF TRUNK WATER MAINS AND TRUNK
SANITARY SEWER WITHIN THE NORTHWEST AREA OF INVER GROVE
HEIGHTS, ARGENTA DISTRICT (70th STREET LIFT STATION TO BLACKSTONE
RIDGE DEVELOPMENT)
CITY PROJECT No. 2015-13**

WHEREAS, the City of Inver Grove Heights (“Petitioner”) has commenced the above-entitled action in eminent domain to acquire a permanent drainage and utility easement and temporary construction easement over real property owned by GlenLin Properties, LLC (“Respondent”) as more fully described in the attached Exhibit A (“Property”).

WHEREAS, Petitioner and GlenLin Properties, LLC, have negotiated a direct purchase settlement, subject to approval by Petitioner’s City Council, after Petitioner’s service and commencement of the above-entitled action to acquire a permanent drainage and utility easement and temporary construction easement over the Property pursuant to Minn. Stat. § 117.055, but prior to the hearing on Petitioner’s Petition in condemnation.

WHEREAS, Petitioner and GlenLin Properties, LLC have executed an Easement Purchase Agreement, attached hereto as Exhibit A, and Petitioner has executed a Permanent Utility and Drainage Easement and Temporary Construction Easement, attached hereto as Exhibit B, for the conveyance of the easement rights over the GlenLin Properties, LLC Property as described in the Petition upon the Petitioner’s payment of the agreed upon just compensation for said easement rights. The parties shall cause said Permanent Utility and Drainage Easement and Temporary Construction Easement to be recorded upon payment of the agreed upon just compensation.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that said action shall be dismissed as to the Property owned by GlenLin Properties, LLC, as described in the Petition, with prejudice and on the merits, but without an award of any litigation costs, expenses and/or attorneys’ fees to any party. This Stipulation does not constitute a waiver of the obligations of the parties as may be set forth in the Easement Purchase Agreement and Permanent Utility and Drainage Easement and Temporary Construction Easement.

IT IS FURTHER STIPULATED AND AGREED that Petitioner shall cause judgment of dismissal with prejudice and on the merits to be entered herein.

Dated: _____, 2016.

**LEONARD, O'BRIEN, SPENCER,
GALE & SAYRE, LTD.**

Grover C. Sayre, III, Lic. No. 0137108
100 South Fifth Street
Suite 2500
Minneapolis, MN 55402

Dated: _____, 2016.

LeVANDER, GILLEN & MILLER, P.A.

Timothy J. Kuntz, Lic. No. 58993
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831
Attorneys for Petitioner

ORDER

Pursuant to the foregoing Stipulation, the above-entitled action with respect to the GlenLin Properties, LLC Property, as described in the Petition, is hereby dismissed with prejudice and without an award of any litigation costs, expenses and/or attorneys' fees to any party.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: _____, 2016.

BY THE COURT

Judge of District Court

EASEMENT PURCHASE AGREEMENT

This **Easement Purchase Agreement** ("Agreement") is made this _____ day of _____, 2016, ("Effective Date") by and between **GlenLin Properties LLC**, a Minnesota limited liability company, hereinafter referred to as the "Seller" and the **City of Inver Grove Heights**, a municipal corporation organized under the laws of the State of Minnesota, hereinafter referred to as the (hereinafter referred to as the "Buyer").

WHEREAS, The Seller owns the real property situated within the City of Inver Grove Heights, Dakota County, Minnesota as described on the attached **Exhibit A** referred to as the "**Property**".

WHEREAS, Seller desires to sell and grant a permanent drainage and utility easement and temporary construction easement in the Property to the Buyer.

1. **Purchase and Sale.** On the Date of Closing, the Seller, in consideration of the sum of **One Hundred Thirty Thousand Seven Hundred Fifty and No/100 Dollars (\$130,750.00)** and other good and valuable consideration to them in hand paid by the Buyer, the receipt and sufficiency of which is hereby acknowledged, does hereby agree to grant and convey unto the Buyer, its successors and assigns, the following:
 - a.) A permanent easement for utility and drainage purposes and a temporary construction easement (hereinafter "**Easement**") in the form attached hereto as **Exhibit B**, over, across, through and upon that real property legally described and depicted in said **Exhibit B** ("**Easement Area**").
2. **Purchase Price.** At Closing, Buyer will pay Seller **One Hundred Thirty Thousand Seven Hundred Fifty and No/100 Dollars (\$130,750.00)** ("**Purchase Price**") for the Easement on the Property.
3. **Date and Location of Closing.** The Date of Closing shall be on **May ____, 2016**. The location of the Closing shall be at the offices of LeVander, Gillen & Miller, P.A., 633 South Concord Street, Suite 400, South St. Paul, MN 55075.
4. **Contingencies and Obligations.**
 - 4.1. **Buyer Contingencies.** Unless waived by Buyer, in Buyer's sole discretion, in writing, **Buyer's obligation to proceed to Closing shall be subject to:** (a) performance by Seller of its agreements and obligations hereunder, and (b) the continued accuracy of Seller's warranties and representations provided in Sections 7 and 8. Notwithstanding the foregoing sentence, Buyer, for any reason at any time prior to Closing, may unilaterally terminate this Easement Purchase Agreement.

4.2 **Buyer's Obligations.** The following obligations and responsibilities of Buyer shall survive Closing. As part of the acquisition of the Easement, the Buyer hereby agrees to do the following:

- a. Except for Unforeseen Circumstances as defined in Section 26 herein, Buyer agrees that, with the exception of the hours between 8:00 am and 5:00 pm and for not more than two (2) consecutive days (the "**Disruption Time Period**") while construction of the drainage and utility improvements to be constructed by Buyer in the Easement Area under and pursuant to the Easement (the "**GlenLin Project**") is in process, construction of the GlenLin Project shall not interfere with Seller's use of the access road (the "**Access Road**") to the Property as shown on **Exhibit C**, attached hereto and incorporated herein by reference. Buyer shall provide Seller with seven (7) calendar days prior written notice of the Disruption Time Period. Prior to expiration of the Disruption Time Period and barring any Unforeseen Circumstances, Buyer, at Buyer's expense, shall use its best efforts to restore the Access Road to substantially the same condition that existed prior to Closing.
- b. By December 31, 2017 and in a timely manner so that water service to the improvements located on the Property is not interrupted, Buyer, at its sole cost and expense, shall (i) tap a one inch corporation into the water main, (ii) install a one inch copper service stub from the water main to the easement line (iii) install a curb box at the easement line, (iv) and, provided Seller enters into a Right-of-Entry to permit the same, Buyer shall engage a contractor to install a water meter and establish water service (including piping and connection to the City's water system) from the curb box at the easement line into the Seller's house located on the Property as soon as reasonably practicable.
- c. Buyer shall be responsible for the payment of the water connection fee, water treatment fee, water meter fee, costs related to the establishment of the water service into the Seller's house and the well abandonment fee, if any.
- d. Provided the Seller grants Buyer the requisite Right-of-Entry, Buyer, at Buyer's expense, shall establish a standard municipal water irrigation service for farming purposes to that location on the Seller's Property shown on Exhibit E, attached hereto and incorporated herein by reference. Said Exhibit E also contains the standard plate diagram. The standard municipal water irrigation service shall not be used to service a future residence and will only be operational as directed by Seller between March 1st and October 31st of any given year. Once installed, Seller, at Seller's

cost and expense, shall be responsible for any maintenance, repair or replacement of the standard municipal water irrigation service for farming purposes should the service suffer damage, need maintenance, repair or replacement or it becomes inoperable. There will be no charge to Seller for the water used by Seller for farming operations for a period of five (5) years from the date the standard municipal water irrigation service becomes operational. Buyer shall be responsible for the payment of the water connection fee, water treatment fee, water meter fee and costs related to the establishment of the standard municipal water irrigation service.

- e. Provided the Seller grants Buyer the requisite Right-of-Entry (if necessary), Buyer, at Buyer's expense, shall cap and seal Seller's existing well pursuant to Minnesota Law, not before, but within sixty (60) calendar days from the date that (i) the water service line is established and working at the Seller's house on the Property and (ii) the standard municipal water irrigation service line is established and working on the Property as provided in 4.2(d)
- f. Buyer will use its best efforts to retain the so called "corn crib" located within the Easement Area.
- g. During the construction of the GlenLin Project, Buyer shall use reasonable efforts to separate and retain topsoil from the Easement Area and replace topsoil to the Easement Area as part of restoration.
- h. If, after the completion of the GlenLin Project, the Buyer must access the Easement Area to service, maintain, repair or replace the utilities that have been installed within the Easement Area, and as a result damage is caused to the gravel Access Road, then Buyer will, at Buyer's expense, repair any damaged caused to the gravel Access Road. If, after the completion of the GlenLin Project, the Seller places bituminous pavement within the Easement Area, then, prior thereto, the Seller must enter into a standard City of Inver Grove Heights Encroachment Agreement, and thereafter if Buyer must access the Easement Area to service, maintain, repair or replace the utilities that have been installed within the Easement Area, then Buyer will not be responsible for any damaged caused to the bituminous pavement within the Easement Area.
- i. The City does not intend to assess for City Projects 2015-10, 2015-11 or 2015-13. Any payments related to trunk utilities installed as part of these projects will be collected under the terms of a Development Agreement at the time of platting or as fees and charges collected with building permits.

- j. During the construction of the GlenLin Project, Buyer will be removing certain trees and other vegetation from within the Easement Area. To the extent that trees are removed from within the Easement Area and provided the Seller grants Buyer the requisite Right-of-Entry (if necessary) and instruction, Buyer, at Buyer's expense, shall place the removed trees at such location as designated by Seller. Seller, as Seller deems fit, may use the deposited trees as firewood.

4.3 **Seller's Contingencies.** Unless waived by Seller in writing, **Seller's obligation to proceed to Closing shall be subject to:** (a) Buyer shall have performed and satisfied all agreements, covenants and conditions required pursuant to this Agreement to be performed and satisfied by or prior to the Closing Date, and (b) All representations and warranties of Buyer contained in this Agreement shall be accurate as of the Closing Date.

4.4 **Seller's Obligations.** The following obligations and responsibilities of Seller shall survive Closing. As part of the acquisition of the Easement, the Seller hereby agrees to do the following:

- a. In the event Seller's septic system is damaged due to GlenLin Project construction and/or becomes non-functional as a result of GlenLin Project construction, within a reasonable time, Seller, at Seller's sole cost and expense, shall either (i) repair, if possible, the damage to the septic system or install a new septic system on the Property according to plans and at a location that complies with State law and City ordinances and does not interfere with the GlenLin Project or (ii) provide another suitable means to service the Seller's Property for sewer that complies with State law and City ordinances.
- b. As needed, Seller shall grant Buyer a Right-of-Entry to establish water service (including piping and connection to the City's water system) from the curb box at the easement line into the Seller's house located on the Property.

5. **Payment of Purchase Price.** Subject to (i) full and timely performance by Seller and (ii) the satisfaction of all contingencies herein contained, the Purchase Price shall be payable by Buyer to Seller on the Closing Date in the form of a certified check from the Buyer. Buyer shall deliver one check to Seller. The Buyer will list GlenLin Properties LLC, a Minnesota limited liability company, as 1099 payee for the required IRS disclosure.

6. **Easement.** Seller shall deliver the easement rights purchased by Buyer hereunder by way of the **Easement** on the Date of Closing. Buyer shall perform Buyer's Obligations after the date of Closing as provided in Section 4.2. Seller shall perform Seller's Obligations after the date of Closing as provided in Section 4.4. The Buyer's Obligations and the Seller's Obligations contained in this Agreement shall survive the conveyance of the Property and shall not be merged with the delivery of the **Easement** to Buyer.

7. **Authority to Perform Obligations and Warranty of Title.** The Seller, for itself and its successor and assigns, does hereby warrant to and covenant with the Buyer, its successors and assigns, that Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the state of Minnesota with authority to perform its obligations under this Agreement, that this Agreement is binding on Seller and that Seller is well seized in fee of the Property, subject to liens and encumbrances of record, and that it has good right to grant and convey the Easement to the Buyer.

8. **Environmental Warranties.** To the best of Seller's knowledge (i) no condition exists within the Easement Area on the Property that may support a claim or cause of action under any Environmental Law (as defined below) and there are no Hazardous Substances (as defined below) located within the Easement Area on the Property, (ii) there has been no release, spill, leak or other contamination or otherwise within the Easement Area on the Property, and (iii) there are no restrictions, clean ups or remediation plans regarding the Easement Area on the Property. "Environmental Law" shall mean (a) the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601-9657, as amended, or any similar state law or local ordinance, (b) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., (c) the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., (d) the Clean Air Act, 42 U.S.C. § 7401, et seq., (e) the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., (f) the Safe Drinking Water Act, 42 U.S.C. § 300(f) et seq., (g) any law or regulation governing aboveground or underground storage tanks, (h) any other federal, state, county, municipal, local or other statute, law, ordinance or regulation, including, without limitation, the Minnesota Environmental Response and Liability Act, Minn. Stat. § 115B.01, et seq., (i) all rules or regulations promulgated under any of the foregoing, and (j) any amendments of the foregoing. "Hazardous Substances" shall mean polychlorinated biphenyls, petroleum, including crude oil or any fraction thereof, petroleum products, heating oil, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel, and shall include, without limitation, substances defined as "hazardous substances", "toxic substances", "hazardous waste", "pollutants or contaminants" or similar substances under any Environmental Law.

Seller warrants and represents to Buyer that to the best of Seller's knowledge, no portion within the Easement Area on the Property is now used as a garbage or refuse dump site, landfill, waste disposal facility, waste transfer station or any

other type of facility for the storage, processing, treatment or temporary or permanent disposal of waste materials of any kind, and Seller has not used, generated, stored, released or disposed of any hazardous substances, wastes, or other materials identified as hazardous or toxic in any federal, state, local or other statute, ordinance, rule, regulation or governmental requirement within the Easement Area on the Property.

Seller warrants and represents to Buyer that to the best of Seller's knowledge, no portion within the Easement Area on the Property contains Construction Debris (building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads or as defined by Minn. Stat. § 115A.03), Demolition Debris (solid waste resulting from the demolition of buildings, roads, and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts), Industrial Solid Waste (all solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities such as service and commercial establishments or as defined by Minn. Stat. § 115A.03), Mixed Municipal Solid Waste (garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection or as defined by Minn. Stat. § 115A.03), or Solid Waste (garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, including but not limited to sewer sludge, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural, operations, and from community activities, but does not include animal waste used as fertilizer or as defined by Minn. Stat. § 115A.03).

Seller warrants and represents to Buyer that to the best of Seller's knowledge, the soils and grounds within the Easement Area on the Property are free from any release of petroleum and there has been no release of petroleum within the Easement Area on the Property.

9. **Indemnification.** From and after delivery to Buyer of the **Easement**, Seller agrees to indemnify, defend and hold Buyer harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties and reasonable attorneys' fees, that Buyer incurs or suffers, after the Date of Closing, which arise out of, result from or relate to (i) a material breach of any of Seller's warranties or representations made in Paragraph 7 or in Paragraph 8 or (ii) any claim made against Buyer arising out of, relating to, or resulting from ("CERCLA"), ("RCRA"), ("MERLA"), or any similar state law or local ordinance or any other Environmental Law or a violation of ("CERCLA"), ("RCRA"), ("MERLA"), or any similar state law or local ordinance or any other Environmental Law relating to the condition of the Property prior to the Date of Closing.

10. **Acknowledgment of Fair Market Value.** Buyer and Seller agree that the Purchase Price listed in this Agreement represents the fair market value of the easement rights to be sold hereunder which has been determined by a method of valuation acceptable to Buyer and Seller.

11. **Waiver, Release and Covenant not to Sue**
 - 11.1 **WAIVER.** For good and valuable consideration and subject to performance by Buyer of its obligations under this Agreement, the Seller, for itself, its successors and assigns, and for anyone claiming to be acting on its behalf, does hereby waive (i) any and all right to make a claim for appraisal reimbursement under Minn. Stat. Section 117.036, or arising under any other Minnesota Statute or otherwise, (ii) any and all right to make a claim for attorney's fees under Minn. Stat. Chapter 117, or arising under any other Minnesota Statute or otherwise, and (iii) all actions, causes of action, suits, rights, claims and demands whatsoever, including attorney's fees of any nature whatsoever, whether or not well-founded in fact or in law, known or unknown, contingent or non-contingent, and whether or not based upon statute or common law, against the Buyer, arising out of the Buyer's purchase of the Easement.

 - 11.2 **RELEASE.** For good and valuable consideration, the Seller, for itself, its successors and assigns, and for anyone claiming to be acting on its behalf, does hereby release and forever discharge the Buyer, from all actions, causes of action, liabilities, obligations, promises, agreements, controversies, damages, suits, rights, costs, losses, expenses, claims and demands whatsoever, including attorney's fees of any nature whatsoever, whether or not well-founded in fact or in law, known or unknown, contingent or non-contingent, and whether or not based upon statute or common law, arising out of the Buyer's purchase of the Easement.

 - 11.3 **COVENANT NOT TO SUE.** For good and valuable consideration, the Seller covenants with the Buyer that it, its successors and assigns, and for anyone claiming to be acting on its behalf, will not bring any legal or equitable suit, action, cause of action or claim, whether in a judicial or administrative forum, arising out of the Buyer's purchase of the Easement. Nothing in this provision shall prohibit or prevent Seller from bringing legal action to enforce Buyer's Obligations under this Agreement or to seek damages in the event of default by Buyer in the performance of the Buyer's Obligations under this Agreement.

12. **Survival.** The representations, indemnifications, warranties, waivers, releases and covenants of Buyer and Seller contained in this Agreement shall survive the conveyance of the Property and shall not be merged with the delivery of the **Easement** to Buyer. The Buyer's Obligations and the Seller's Obligations

contained in this Agreement shall survive the conveyance of the Property and shall not be merged with the delivery of the **Easement** to Buyer.

13. **Assignment of Agreement.** Nothing in this Agreement, express or implied, is intended to confer upon any person other than the parties hereto and the heirs, executors, personal representatives, successors and assigns, any rights or remedies under or by reason of the Agreement. No assignment of this Agreement or any rights or obligations hereunder shall be effective unless the written consent of the other party is first obtained.
14. **Amendment of Agreement.** This Agreement may be amended only by a written instrument executed by Buyer and Seller.
15. **Entire Agreement.** This Agreement embodies the entire agreement between the parties with relation to the transaction provided for herein, and there have been and are no covenants, agreements, representations, warranties, or restrictions between the parties with regard thereto other than those set forth herein.
16. **Date of Agreement.** All references in the Agreement to "the date of this Agreement" shall be deemed to refer to that date set forth in the introductory clause of this Agreement.
17. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
18. **Time of Essence.** Time is of the essence in the closing of this transaction.
19. **Severability.** In the event any one or more of the provisions of this Agreement, or any application thereof, shall be found to be invalid, illegal, or otherwise unenforceable, the validity, legality, and enforceability of the remaining provision or any application thereof shall not in any way be affected or impaired thereby.
20. **Counterparts.** This Agreement may be executed in any number of counterparts; each of which shall be an original, but such counterparts together shall constitute one and the same instrument.
21. **Closing Costs.**
 - 21.1 **Recording Costs.** Buyer will pay the cost of recording the **Easement**.
22. **Closing Documents.**
 - 22.1. **Seller's Documents At Closing.** At Closing, Seller shall execute and deliver to Buyer the following which documents shall be effective as of the Closing Date:

- a.) Seller shall execute and deliver the **Easement** to Buyer, conveying the easement rights to Buyer, free and clear of all encumbrances;
- b.) **FIRPTA Affidavit.** An affidavit of Seller certifying that Seller is not a "foreign person", "foreign partnership", foreign trust", "foreign estate" or "disregarded entity" as those terms are defined in Section 1445 of the Internal Revenue Code of 1986, as amended.
- c.) **Seller's Affidavit.** A standard owner's affidavit from Seller.
- d.) **Settlement Statement.** A settlement statement with respect to this transaction.
- e.) **Form 1099**
- f.) **Form W-9**
- g.) **General Deliveries.** Such other documents as the Buyer shall reasonably request.

22.2. **Buyer Documents At Closing.** At Closing, Buyer shall execute and deliver to Seller the following:

- a.) A check in the sum of **One Hundred Thirty Thousand Seven Hundred Fifty and No/100 Dollars (\$130,750.00)** for the **Easement.**
- b.) **Settlement Statement.** A settlement statement with respect to this transaction.
- c.) **General Deliveries.** Such other documents as the Seller shall reasonably request.

23. **Property Rights.** Seller warrants and represents that Seller is the sole fee title owner of the Property and that Seller has not granted any property rights, including but not limited to, leases, farm leases, whether written or oral, an option to purchase the Property, a right of first offer or right of first refusal to purchase the Property, or other similar property interests, to any other party with respect to the Property.

24. **Appraisal Reimbursement.** As part of the Purchase Price, Seller is being compensated \$3,000.00 as payment for the preparation of the Landowner's appraisal report; which amount is included in the Purchase Price defined in Section 2 hereof.

25. **Use of the Property and the Easement Area for Farming Purposes.** Seller, or Seller's Tenants, shall always be permitted to use that portion of the Property outside the Easement Area during the construction of the GlenLin Project. Moreover, except in the event of Unforeseen Circumstances, after August 1, 2016, Seller, or Seller's Tenants, shall be permitted to use those portions of the Easement Area shown on **Exhibit D**, attached hereto and incorporated herein, for farm purposes.

26. **Unforeseen Circumstances.** "Unforeseen Circumstances" means (i) acts of God, including, but not limited to floods, ice storms, blizzards, tornadoes, landslides, lightning and earthquakes (but not including reasonably anticipated weather conditions for the geographic area), riots, insurrections, war or civil disorder affecting the performance of work, blockades, power or other utility failures, and fires or explosions, or (ii) below ground unforeseen construction interference, as determined by Buyer in Buyer's reasonable discretion .

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

[Remainder of page intentionally left blank]

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Northeast 1/4 of the Northwest 1/4 of Section 7, Township 27 North, Range 22 West, except the West 620.16 feet thereof and the Northwest 1/4 of the Northeast 1/4 of Section 7, Township 27 North, Range 22 West except the East 313.73 feet thereof and **except** the North 500 feet of the West 435.16 feet of the East 994.89 feet thereof.

FURTHER EXCEPTING from the above described property:

That part of the NW 1/4 of the NE 1/4 and the NE 1/4 of the NW 1/4 of Section 7, Township 27, Range 22, Dakota County, Minnesota described as follows: Beginning at the northeast corner of said NE 1/4 of the NW 1/4; thence West (assumed bearing) along the north line thereof a distance of 167.51 feet to the centerline of S.A.H. No. 63; thence South 16°27'56" East along said centerline a distance of 557.51 feet; thence southeasterly along said centerline along a tangential curve concave to the west, radius of 549.30 feet and a central angle of 2°57'13" a distance of 28.32 feet; thence East, parallel with said north line, not tangent to last described curve a distance of 344.59 feet, more or less, to a point 994.89 feet west of the east line of said NW 1/4 of the NE 1/4; thence North 0°08'40" West, parallel with said east line a distance of 562.00 feet to the north line of said NW 1/4 of the NE 1/4; thence West along said north line a distance of 341.01 feet, more or less, to the point of beginning.

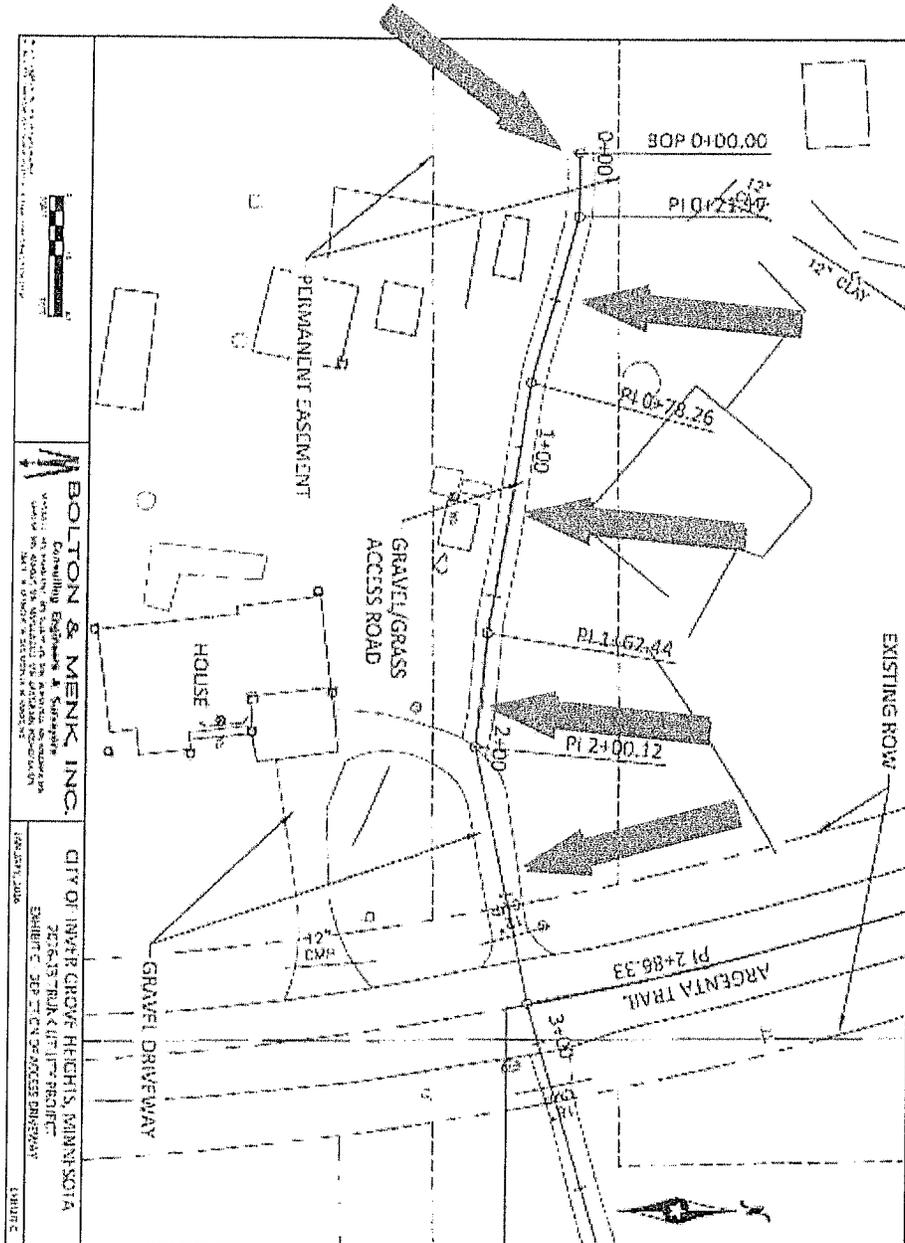
AND FURTHER EXCEPTING

The west 246.00 feet of the East 559.73 feet of the NW 1/4 of the NE 1/4 of Section 7, Township 27, Range 22.

Abstract Property

EXHIBIT B
EASEMENT

**EXHIBIT C
DEPICTION OF ACCESS ROAD**

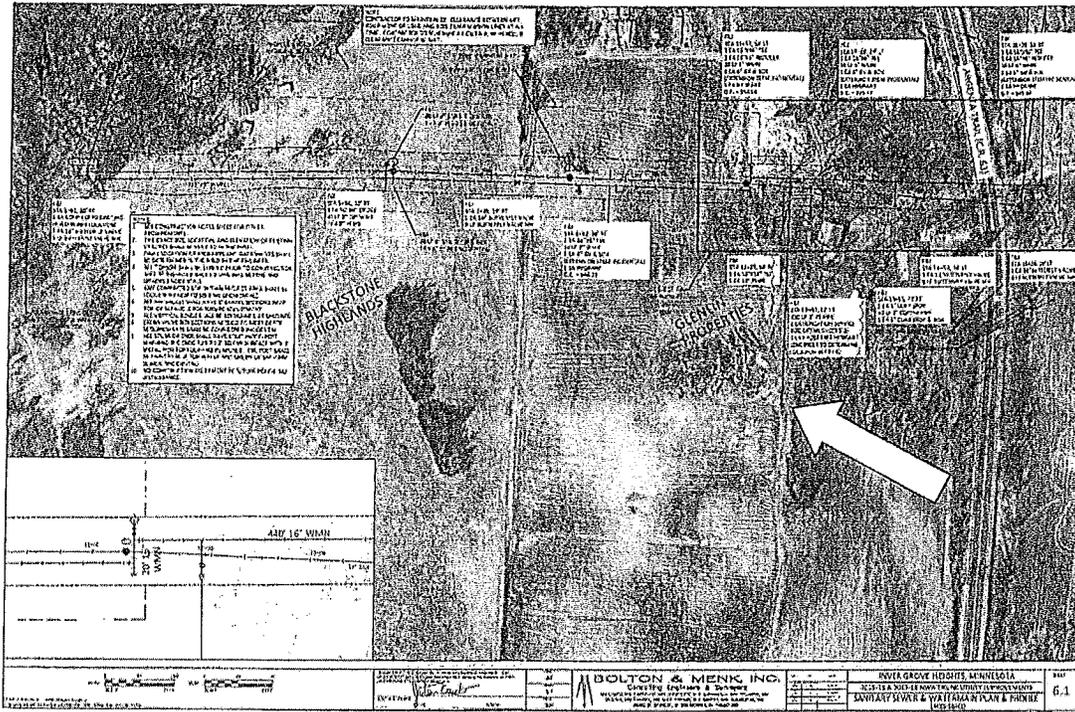


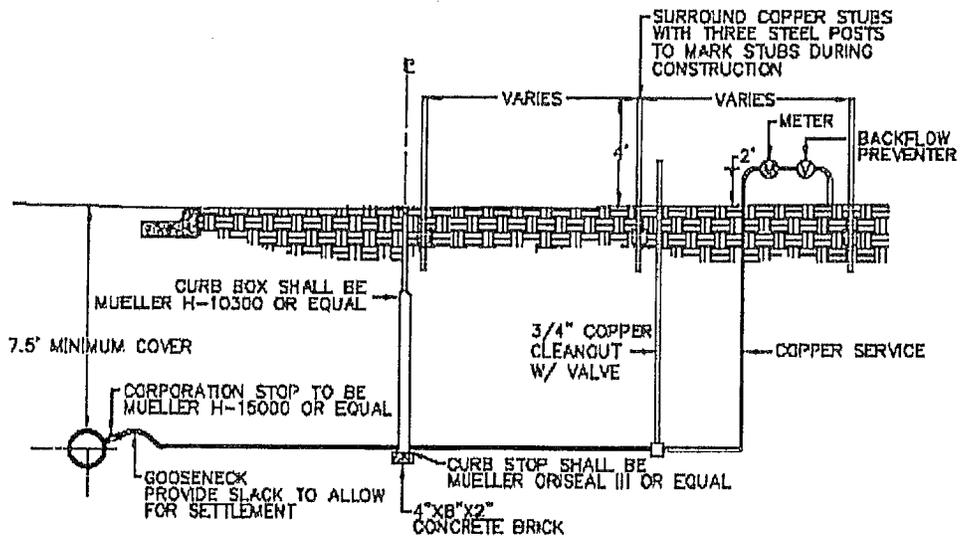
BOLTON & MENK, INC.
 Consulting Engineers & Surveyors
 2505-15TH AVE. S.W. SUITE 100
 BOZEMAN, MONTANA 59717
 (406) 552-2200

CITY OF INVER GROVE HEIGHTS, MINNESOTA
 2505-15TH AVE. S.W. SUITE 100
 EXHIBIT C - 3RD CITY ACCESS DRIVEWAY

1/20/2011

EXHIBIT E
LOCATION OF STANDARD MUNICIPAL WATER IRRIGATION SERVICE
FOR FARMING PURPOSES AND STANDARD PLATE DIAGRAM





- NOTES:
1. NO COPPER TO COPPER CONNECTIONS SHALL BE MADE IN THE PUBLIC RIGHT OF WAY.
 2. INSTALL CURB BOX WITH RISER KEY.
 3. CURB BOX TO BE PLACED AT HALF EXTENSION.
 4. FORD TYPE A-1 SINGLE LID COVER (4" BURY DEPTH) OR EQUAL FOR CURB BOXES IN DRIVEWAYS, SIDEWALKS, OR PARKING AREAS.
 5. INSTALL METAL TEE FENCE POST 6" TO 12" BEHIND CURB BOX LOCATION. FENCE POST SHALL BE GREEN WITH TOP PAINTED BLUE.



IRRIGATION SERVICE

CITY OF INVER GROVE HEIGHTS
ENGINEERING DEPARTMENT

3/11

PLATE NO.
WTR-04

PERMANENT UTILITY AND DRAINAGE EASEMENT

AND

TEMPORARY CONSTRUCTION EASEMENT

This **PERMANENT UTILITY AND DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT** (Easement) is made, granted and conveyed this _____ day of _____, 2016, between **GlenLin Properties LLC**, a Minnesota limited liability company, hereinafter referred to as the "Landowner" and the **City of Inver Grove Heights**, a municipal corporation organized under the laws of the State of Minnesota, hereinafter referred to as the "City."

The Landowner owns the real property situated within Dakota County, Minnesota as described on the attached **Exhibit A** (hereinafter "Landowner's Property").

The Landowner in consideration of the sum of One Dollar and other good and valuable consideration to it in hand paid by the City, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, the following:

- 1.) A permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto (hereinafter "**Permanent Easement**") under, over, across, through, upon and within that real property identified, legally described and depicted on **Exhibit B** (hereinafter the "**Permanent Easement Area**") attached hereto and incorporated herein by reference; and
- 2.) A temporary easement for grading, sloping and construction purposes, and all such purposes ancillary, incident or related thereto (hereinafter "**Temporary Easement**") under, over, across, through, upon and within that real property identified, legally described and depicted on **Exhibit B** (hereinafter the "**Temporary Easement Area**") attached hereto and incorporated herein by reference. The Temporary Easement shall expire on December 31, 2017. Parking

of construction workers' vehicles and construction equipment shall not be permitted outside of the Temporary Easement Area.

The Permanent Easement rights granted herein are forever and shall include, but not be limited to, the construction, inspection, reconstruction, maintenance, repair and replacement of any surface or subsurface drainage facilities, sanitary sewer, storm sewer, water mains, any utilities, underground pipes, conduits, other utilities and mains, and all facilities and improvements ancillary, incident, appurtenant or related thereto, including the right, but not the obligation, to remove, cap, seal or destroy the well and/or to remove, cap, seal or damage, only as may be necessary to construct water and sewer line improvements, the septic system under, over, across, through, upon and within the Permanent Easement Area.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Easement; and
- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes, conduits, or mains, together with the right to excavate and refill ditches or trenches for the location of such pipes, conduits or mains; and
- c.) to remove from the Permanent Easement Area trees, crops, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes, conduits, or mains and to deposit earthen material in and upon the Permanent Easement Area; and
- d.) to remove or otherwise dispose of all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate; and
- e.) to enter upon the Temporary Easement Area during the term of its existence for the purposes of construction, inspection, grading, sloping, and restoration relating to the purposes of this Easement; and
- f.) to maintain the Temporary Easement Area during the term of its existence, together with the right to excavate and refill ditches or trenches for the location of such pipes, conduits or mains; and
- g.) to remove from the Temporary Easement Area during the term of its existence trees, crops, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes, conduits, or mains and to deposit earthen material in and upon the Temporary Easement Area; and

h.) to remove or otherwise dispose of all earth or other material excavated from the Temporary Easement Area during the term of its existence as the City may deem appropriate.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to, the Permanent or Temporary Easement Areas or the Landowner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, his successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Landowner, for itself and its successors and assigns, does hereby reserve the right to farm, construct and install roadway improvements for vehicular traffic, and for pedestrian and vehicular passage and traffic in the Easement Area, provided that the City shall only be obligated to repair damage to gravel roadways in the Easement Area that may result from the need of the City to access the Easement Area to maintain, repair, restore or replace the utility line improvements constructed or installed by the City in the Easement Area.

The Landowner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that Landowner is a limited liability company duly organized, validly existing, and in good standing under the laws of the state of Minnesota with authority to perform its obligations under this Agreement, that this Agreement is binding on Landowner and that Landowner is well seized in fee of the Landowner's Property described on Exhibit A and the Permanent and Temporary Easement Areas described on Exhibit B and has good right to grant and convey the Permanent and Temporary Easements herein to the City.

This Easement shall run with and be appurtenant to the Easement Areas and bind and inure to the benefit of the parties and their respective assigns and successors.

[the remainder of this page has been intentionally left blank]

IN TESTIMONY WHEREOF, the Landowner and the City have caused this Easement to be executed as of the day and year first above written.

CITY OF INVER GROVE HEIGHTS

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared George Tourville and Michelle Tesser, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

[Signature page of GlenLin Properties LLC]

LANDOWNER

GLENLIN PROPERTIES LLC

By all of its members:

Glen J. Sachs

By:

Its: Member

Linda L. Flannery

By:

Its: Member

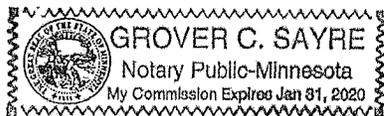
STATE OF MINNESOTA)

)

ss.

COUNTY OF DAKOTA)

On this 2nd day of May, 2016, before me a Notary Public within and for said County, personally appeared Glen Sachs and Linda L. Flannery to me personally known, who being by me duly sworn, did say that they are all of the Members of GlenLin Properties LLC, a Minnesota limited liability company, the company named in the foregoing instrument, and that said instrument was signed on behalf of said limited liability company by authority of its Members and said Glen Sachs and Linda L. Flannery acknowledged said instrument to be the free act and deed of the limited liability company.



[Signature]
Notary Public

This instrument was drafted by:
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

After recording, please return to:
Timothy J. Kuntz
LeVander, Gillen & Miller
633 South Concord Street, Suite 400
South St. Paul, Minnesota 55075
(651)451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Northeast 1/4 of the Northwest 1/4 of Section 7, Township 27 North, Range 22 West, except the West 620.16 feet thereof and the Northwest 1/4 of the Northeast 1/4 of Section 7, Township 27 North, Range 22 West except the East 313.73 feet thereof and except the North 500 feet of the West 435.16 feet of the East 994.89 feet thereof.

FURTHER EXCEPTING from the above described property:

That part of the NW 1/4 of the NE 1/4 and the NE 1/4 of the NW 1/4 of Section 7, Township 27, Range 22, Dakota County, Minnesota described as follows: Beginning at the northeast corner of said NE 1/4 of the NW 1/4; thence West (assumed bearing) along the north line thereof a distance of 167.51 feet to the centerline of S.A.H. No. 63; thence South 16°27'56" East along said centerline a distance of 557.51 feet; thence southeasterly along said centerline along a tangential curve concave to the west, radius of 549.30 feet and a central angle of 2°57'13" a distance of 28.32 feet; thence East, parallel with said north line, not tangent to last described curve a distance of 344.59 feet, more or less, to a point 994.89 feet west of the east line of said NW 1/4 of the NE 1/4; thence North 0°08'40" West, parallel with said east line a distance of 562.00 feet to the north line of said NW 1/4 of the NE 1/4; thence West along said north line a distance of 341.01 feet, more or less, to the point of beginning.

AND FURTHER EXCEPTING

The west 246.00 feet of the East 559.73 feet of the NW 1/4 of the NE 1/4 of Section 7, Township 27, Range 22.

Abstract Property

EXHIBIT B
LEGAL DESCRIPTION AND DEPICTION OF EASEMENT AREAS

A perpetual easement for drainage and utility purposes and all such purposes ancillary, incident or related thereto, being a strip of land 60.00 feet wide, over, under and across that part of the hereinafter described Parcel A, lying 30.00 feet to the right and 30.00 feet to the left of a line described as follows:

Commencing at the northwest corner of the Northwest Quarter of the Northeast Quarter of Section 7, Township 27 North, Range 22 West of the 4th Principal Meridian, Dakota County, Minnesota; thence on an assumed bearing of North 89 degrees 48 minutes 02 seconds East along the north line of said Northwest Quarter of the Northeast Quarter, a distance of 65.35 feet to the point of beginning of the line to be described; thence South 01 degree 10 minutes 02 seconds East, a distance of 556.53 feet; thence South 89 degrees 26 minutes 41 seconds West, a distance of 169.78 feet; thence South 89 degrees 24 minutes 04 seconds West to the most westerly line of said Parcel A, and said line there terminating.

EXCEPT that part thereof lying within the existing right-of-way of Argenta Trail (County State Aid Highway 63).

The sidelines of said perpetual easement shall be prolonged or shortened to terminate at the most westerly line of said Parcel A.

Together with a temporary easement for construction purposes, being 105.00 feet wide, over, under and across the hereinafter described Parcel A, lying 105.00 feet to the left of a line described as follows:

Commencing at the northwest corner of the Northwest Quarter of the Northeast Quarter of Section 7, Township 27 North, Range 22 West of the 4th Principal Meridian, Dakota County, Minnesota; thence on an assumed bearing of North 89 degrees 48 minutes 02 seconds East along the north line of said Northwest Quarter of the Northeast Quarter, a distance of 65.35 feet to the point of beginning of the line to be described; thence South 01 degree 10 minutes 02 seconds East, a distance of 617.65 feet, and said line there terminating.

Together with a temporary easement for construction purposes, being a strip of land 60.00 feet wide, over, under and across the hereinafter described Parcel A, lying 60.00 feet to the left of a line described as follows:

Commencing at the northwest corner of the Northwest Quarter of the Northeast Quarter of Section 7, Township 27 North, Range 22 West of the 4th Principal Meridian, Dakota County, Minnesota; thence on an assumed bearing of North 89 degrees 48 minutes 02 seconds East along the north line of said Northwest Quarter of the Northeast Quarter, a distance of 65.35 feet to the point of beginning of the line to be described; thence South 01 degree 10 minutes 02 seconds East, a

distance of 556.53 feet; thence South 89 degrees 26 minutes 41 seconds West to the center line of Argenta Trail (County State Aid Highway 63), and said line there terminating.

EXCEPT those parts lying within the above described perpetual and temporary easements and within the existing right-of-way of Argenta Trail (County State Aid Highway 63).

Together with a temporary easement for construction purposes, being a strip of land 165.00 feet wide, over, under and across the hereinafter described Parcel A, lying 105.00 feet to the right and 60.00 feet to the left of a line described as follows:

Commencing at the northwest corner of the Northwest Quarter of the Northeast Quarter of Section 7, Township 27 North, Range 22 West of the 4th Principal Meridian, Dakota County, Minnesota; thence on an assumed bearing of North 89 degrees 48 minutes 02 seconds East along the north line of said Northwest Quarter of the Northeast Quarter, a distance of 65.35 feet; thence South 01 degree 10 minutes 02 seconds East, a distance of 556.53 feet; thence South 89 degrees 26 minutes 41 seconds West, a distance of 169.78 feet; thence South 89 degrees 24 minutes 04 seconds West, a distance of 260.77 feet to the point of beginning of the line to be described; thence continuing South 89 degrees 24 minutes 04 seconds West to the most westerly line of said Parcel A, and said line there terminating.

EXCEPT that part lying within the above described perpetual easement.

The sidelines of said temporary easement shall be prolonged or shortened to terminate at the most westerly line of said Parcel A.

Said temporary construction easements shall expire on December 31, 2017.

Parcel A:

Northeast 1/4 of the Northwest 1/4 of Section 7, Township 27 North, Range 22 West, except the West 620.16 feet thereof and the Northwest 1/4 of the Northeast 1/4 of Section 7, Township 27 North, Range 22 West except the East 313.73 feet thereof and **except** the North 500 feet of the West 435.16 feet of the East 994.89 feet thereof.

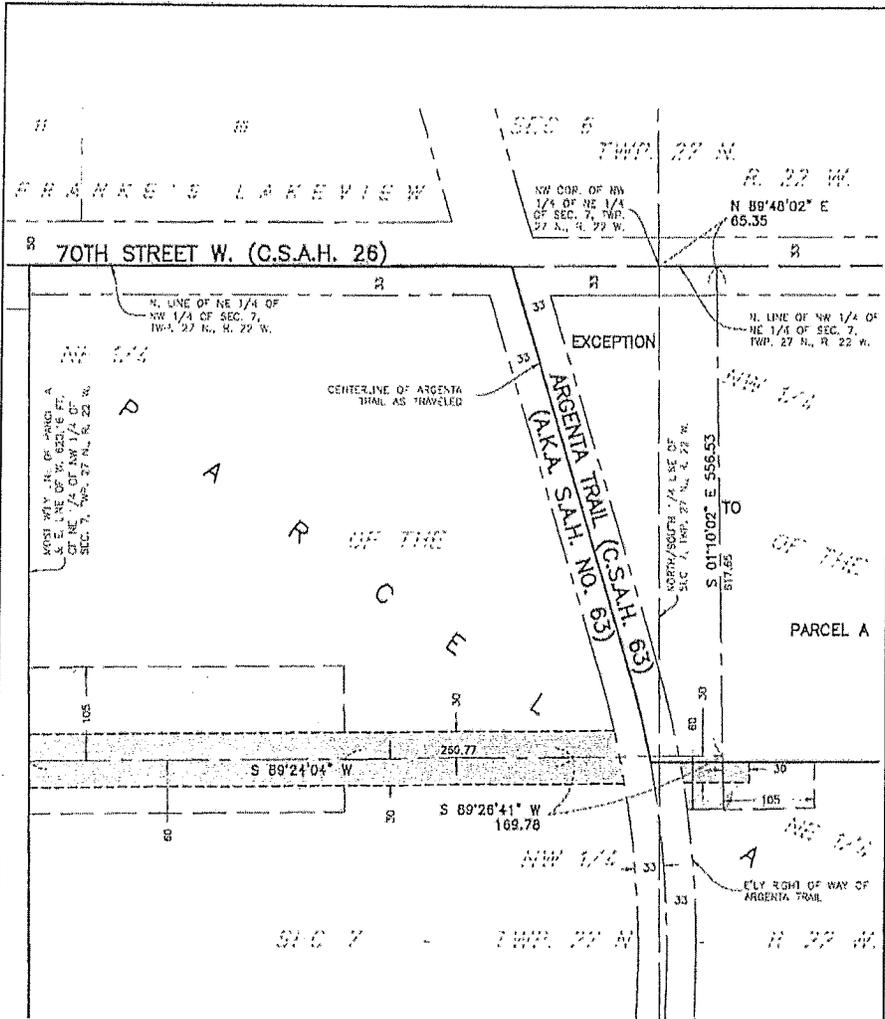
FURTHER EXCEPTING from the above described property:

That part of the NW 1/4 of the NE 1/4 and the NE 1/4 of the NW 1/4 of Section 7, Township 27, Range 22, Dakota County, Minnesota described as follows: Beginning at the northeast corner of said NE 1/4 of the NW 1/4; thence West (assumed bearing) along the north line thereof a distance of 167.51 feet to the centerline of S.A.H. No. 63; thence South $16^{\circ}27'56''$ East along said centerline a distance of 557.51 feet; thence southeasterly along said centerline along a tangential curve concave to the west, radius of 549.30 feet and a central angle of $2^{\circ}57'13''$ a distance of 28.32 feet; thence East, parallel with said north line, not tangent to last described curve a distance of 344.59 feet, more or less, to a point 994.89 feet west of the east line of said NW 1/4 of the NE 1/4; thence North $0^{\circ}08'40''$ West, parallel with said east line a distance of 562.00 feet to the north line of said NW 1/4 of the NE 1/4; thence West along said north line a distance of 341.01 feet, more or less, to the point of beginning.

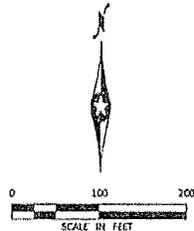
AND FURTHER EXCEPTING

The west 246.00 feet of the East 559.73 feet of the NW 1/4 of the NE 1/4 of Section 7, Township 27, Range 22.

Abstract Property



-  PROPOSED PERPETUAL DRAINAGE AND UTILITY EASEMENT (42,020 SQ. FT.)
-  PROPOSED TEMPORARY CONSTRUCTION EASEMENT (43,741 SQ. FT.)



SHEET 2 OF 2 SHEETS

<p>EASEMENT EXHIBIT 7101 ARGENTA TRAIL, INVER GROVE HEIGHTS, MN</p> <p>BOLTON & MENK, INC. Consulting Engineers & Surveyors</p> <p>12224 NICOLLET AVENUE BURNSVILLE, MINNESOTA 55337 (952) 893-0599</p>	<p>PART OF: NE 1/4 OF NW 1/4 & NW 1/4 OF NE 1/4 SEC. 7, TWP. 27 N., R. 22 W., DAKOTA COUNTY, MN</p> <p>FOR: CITY OF INVER GROVE HEIGHTS</p>
---	--

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TM

**LEVANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
*KENNETH J. ROHLF
◊STEPHEN H. FOCHLER
✦JAY P. KARLOVICH
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*KORINE L. LAND
◻*DONALD L. HOEFT
DARCY M. ERICKSON
DAVID S. KENDALL
BRIDGET McCAULEY NASON
TONA T. DOVE
BRADLEY R. HUTTER
•
HAROLD LEVANDER
1910-1992
•
ARTHUR GILLEN
1919-2005
•
• ROGER C. MILLER
1924-2009

MEMO

*ALSO ADMITTED IN WISCONSIN
✦ALSO ADMITTED IN NORTH DAKOTA
◊ALSO ADMITTED IN MASSACHUSETTS
◻ALSO ADMITTED IN OKLAHOMA

TO: Inver Grove Heights Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: May 4, 2016
RE: Joint Powers Agreement between Dakota County (Transportation Department) and City of Inver Grove Heights for Right of Way Acquisition for County Project No. 63-27 and Inver Grove Heights Project No. 2016-05; May 9, 2016 Council Meeting

Section 1. Background. This memo relates to the Joint Powers Agreement between the City and Dakota County for the acquisition of realigned Argenta Trail in the plat of Blackstone Ridge.

In March 2015, the Council approved the realignment of Argenta Trail. This resulted in the new alignment running along the western side of Blackstone Ridge. The new alignment necessitated that the City (and Dakota County) obtain a 265 foot wide strip of property together with ponding rights to an expanded drainage and utility easement in order to accommodate storm water runoff from the future Argenta Trail (C.S.A.H. 63).

In March 2015, the City approved a resolution that requested that Dakota County cooperate with the City to negotiate a joint powers agreement relating to the acquisition and dedication of the 265 foot wide strip. The City also approved a resolution that requested that the County cooperate with the City to reach an agreement with the Landowner for the portion that would be dedicated, the portion that would be acquired and the amount that would be paid.

An agreement has been reached with the County. An agreement has also been reached with the Landowner (as defined below).

Section 2. Salient Terms of Agreement with Landowner. The salient terms of the agreement with the Landowner are as follows:

- a. Landowner will cause the plat of Blackstone Ridge to be filed with the County Recorder as necessary to reflect and evidence (i) the dedication on the plat of the 100 foot of right-of-way for future County State Aid Highway No. 63; and (ii) the dedication of permanent drainage and utility easements over all of Outlot B, Blackstone Ridge.
- b. Landowner will cause Outlot B, Blackstone Ridge to be deeded to the City at closing by warranty deed, which the City acknowledges and agrees may be deeded by U.S. Home Corporation (the Developer) who is the developer for the plat of Blackstone Ridge and who is purchasing all of Landowner's property for platting and development of Blackstone Ridge.
- c. The purchase price for Outlot A, Blackstone Ridge (the Property) is \$2,311,000.00. Outlot A is a 165 foot wide strip of property on the west side of Blackstone Ridge. The Purchase Price is payable by the City to Landowner via cash, certified funds or wire transfer on or before the closing date of May 18, 2016. The purchase price will be allocated between Scenic Oaks, LLC and Jeffers Pond Development, LLC (Landowner) at closing based on each party's cotenancy percentage ownership interest in the Property.
- d. Landowner, at its expense, will furnish to the City (a) a current commitment for an ALTA Owner's Policy of Title Insurance committing to insure title to the Property in the amount not less than \$1,000,000. The commitment will include a commitment to insure Outlot A, Blackstone Ridge and all Outlots being deeded by the Developer to the City pursuant to the terms of the Development Contract for Plat of Blackstone Ridge being entered into between the Developer and the City. Landowner will be responsible to pay for the cost of the Owner's Title Policy issued to the City at closing insuring the City's fee interest in the Property, together with Outlots B, C, D and E being conveyed by the Developer to the City, in an amount not less than \$1,000,000.
- e. Landowner will cause all the real estate taxes due and payable in the year of closing (2016) together with all levied special assessments, if any, to be paid by Landowner (or prorated between Landowner and Developer) as necessary to record the plat of Blackstone Ridge. The City is responsible for all real estate taxes and special assessments against the Property from and after the closing date.
- f. The City will have the right, at City's sole cost, to enter upon and examine and inspect the Property.
- g. Landowner is obligated to pay:
 - (1) Cost of issuance of the commitment and Owner's Title Policy;
 - (2) Landowner's attorneys' fees;
 - (3) State Deed Tax;

- (4) Conservation fee payable for the Deed;
 - (5) One-half of the closing fee charged by the title company;
 - (6) All fees for recording all documents necessary to place record fee simple title in Landowner's name free and clear of all encumbrances.
- h. The City is obligated to pay:
- (1) The cost of recording or filing the Deed;
 - (2) The City's attorneys' fees;
 - (3) One-half of the closing fee charged by the title company;
 - (4) All fees for recording the Deed and related documents.
- i. Landowner will release the City from all claims for condemnation or taking damages relating to the Property.

Section 3. Salient Terms of Joint Powers Agreement with Dakota County. The salient terms of the Joint Powers Agreement with Dakota County are as follows:

- a. Once the City acquires Outlot A, Blackstone Ridge and Outlot B, Blackstone Ridge, and once the dedication of the 100 foot wide right-of-way is shown on the recorded final plat of Blackstone Ridge, the County will pay the City the following:
 - \$1,352,000; and
 - 65% of the actual typical costs associated with a property transaction such as closing costs, title search, title insurance, taxes due, assessments due, etc.
- b. The City will then convey Outlot A to the County. The City will keep Outlot B. The 100 foot wide right-of-way will be on the recorded final plat of Blackstone Ridge.
- c. With regard to the overall transaction the funding is:
 - County - \$1,352,000
 - City - \$959,000
 - Total - \$2,311,000
- d. The County's share of \$1,352,000 represents 65% of the County's appraisal of diminution.

Section 4. Council Action. The Council is asked to consider the attached *Resolution Approving a Joint Powers Agreement between Dakota County (Transportation Department) and City of Inver Grove Heights for Right of Way Acquisition for County Project No. 63-27 and Inver Grove Heights Project No. 2016-05* at the May 9, 2016 Council meeting.

Attachments:

- Resolution Approving a Joint Powers Agreement between Dakota County (Transportation Department) and City of Inver Grove Heights for Right of Way Acquisition for County Project No. 63-27 and Inver Grove Heights Project No. 2016-05
- Joint Powers Agreement between Dakota County (Transportation Department) and City of Inver Grove Heights for Right of Way Acquisition for County Project No. 63-27 and Inver Grove Heights Project No. 2016-05

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A JOINT POWERS AGREEMENT BETWEEN DAKOTA
COUNTY (TRANSPORTATION DEPARTMENT) AND CITY OF INVER GROVE
HEIGHTS FOR RIGHT OF WAY ACQUISITION FOR COUNTY PROJECT NO. 63-27
AND INVER GROVE HEIGHTS PROJECT NO. 2016-05**

WHEREAS, in March 2015, the Council approved the realignment of Argenta Trail. This resulted in the new alignment running along the western side of Blackstone Ridge. The new alignment necessitated that the City (and Dakota County) obtain a 265 foot wide strip of property together with ponding rights to an expanded drainage and utility easement in order to accommodate storm water runoff from the future Argenta Trail (C.S.A.H. 63).

WHEREAS, in March 2015, the City approved a resolution that requested that Dakota County cooperate with the City to negotiate a joint powers agreement relating to the acquisition and dedication of the 265 foot wide strip. The City also approved a resolution that requested that the County cooperate with the City to reach an agreement with the Landowner for the portion that would be dedicated, the portion that would be acquired and the amount that would be paid.

WHEREAS, the salient terms of the agreement with the Landowner are as follows:

- a. Landowner will cause the plat of Blackstone Ridge to be filed with the County Recorder as necessary to reflect and evidence (i) the dedication on the plat of the 100 foot of right-of-way for future County State Aid Highway No. 63; and (ii) the dedication of permanent drainage and utility easements over all of Outlot B, Blackstone Ridge.
- b. Landowner will cause Outlot B, Blackstone Ridge to be deeded to the City at closing by warranty deed, which the City acknowledges and agrees may be deeded by U.S. Home Corporation (the Developer) who is the developer for the plat of Blackstone Ridge and whom is purchasing all of Landowner's property for platting and development of Blackstone Ridge.
- c. The purchase price for Outlot A, Blackstone Ridge (the Property) is \$2,311,000.00. Outlot A is a 165 foot wide strip of property on the west side of Blackstone Ridge. The Purchase Price is payable by the City to Landowner via cash, certified funds or wire transfer on or before the closing date of May 18, 2016. The purchase price will be allocated between Scenic Oaks, LLC and Jeffers Pond Development, LLC (Landowner) at closing based on each party's co-tenancy percentage ownership interest in the Property.
- d. Landowner, at its expense, will furnish to the City (a) a current commitment for an ALTA Owner's Policy of Title Insurance committing to insure title to the

Property in the amount not less than \$1,000,000. The commitment will include a commitment to insure Outlot A, Blackstone Ridge and all Outlots being deeded by the Developer to the City pursuant to the terms of the Development Contract for Plat of Blackstone Ridge being entered into between the Developer and the City. Landowner will be responsible to pay for the cost of the Owner's Title Policy issued to the City at closing insuring the City's fee interest in the Property, together with Outlots B, C, D and E being conveyed by the Developer to the City, in an amount not less than \$1,000,000.

- e. Landowner will cause all the real estate taxes due and payable in the year of closing (2016) together with all levied special assessments, if any, to be paid by Landowner (or prorated between Landowner and Developer) as necessary to record the plat of Blackstone Ridge. The City is responsible for all real estate taxes and special assessments against the Property from and after the closing date.
- f. The City will have the right, at City's sole cost, to enter upon and examine and inspect the Property.
- g. Landowner is obligated to pay:
 - (1) Cost of issuance of the commitment and Owner's Title Policy;
 - (2) Landowner's attorneys' fees;
 - (3) State Deed Tax;
 - (4) Conservation fee payable for the Deed;
 - (5) One-half of the closing fee charged by the title company;
 - (6) All fees for recording all documents necessary to place record fee simple title in Landowner's name free and clear of all encumbrances.
- h. The City is obligated to pay:
 - (1) The cost of recording or filing the Deed;
 - (2) The City's attorneys' fees;
 - (3) One-half of the closing fee charged by the title company;
 - (4) All fees for recording the Deed and related documents.
- i. Landowner will release the City from all claims for condemnation or taking damages relating to the Property.

WHEREAS, the salient terms of the Joint Powers Agreement with Dakota County are as follows:

- a. Once the City acquires Outlot A, Blackstone Ridge and Outlot B, Blackstone Ridge, and once the dedication of the 100 foot wide right-of-way is shown on the recorded final plat of Blackstone Ridge, the County will pay the City the following:

- \$1,352,000; and
 - 65% of the actual typical costs associated with a property transaction such as closing costs, title search, title insurance, taxes due, assessments due, etc.
- b. The City will then convey Outlot A to the County. The City will keep Outlot B. The 100 foot wide right-of-way will be on the recorded final plat of Blackstone Ridge.
- c. With regard to the overall transaction the funding is:
- County - \$1,352,000
City - \$959,000
Total - \$2,311,000
- d. The County's share of \$1,352,000 represents 65% of the County's appraisal of diminution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Inver Grove Heights:

1. The City Council approves the Joint Powers Agreement between Dakota County (Transportation Department) and City of Inver Grove Heights for Right of Way Acquisition for County Project No. 63-27 and Inver Grove Heights Project No. 2016-05 attached hereto as Exhibit A.
2. The Mayor and City Clerk are authorized to sign the attached Joint Powers Agreement between Dakota County (Transportation Department) and City of Inver Grove Heights for Right of Way Acquisition for County Project No. 63-27 and Inver Grove Heights Project No. 2016-05.

Passed by the City Council of the City of Inver Grove Heights this 9th day of May, 2016.

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

EXHIBIT A
JOINT POWERS AGREEMENT WITH DAKOTA COUNTY

Contract No. C00xxxxx

JOINT POWERS AGREEMENT

**DAKOTA COUNTY
TRANSPORTATION DEPARTMENT**

**AGREEMENT FOR
RIGHT OF WAY ACQUISITION**

BETWEEN

THE COUNTY OF DAKOTA

AND

THE CITY OF INVER GROVE HEIGHTS

FOR

COUNTY PROJECT NO. 63-27

INVER GROVE HEIGHTS PROJECT NO. 2016-05

SYNOPSIS: Dakota County and the City of Inver Grove Heights agree to acquire Right-Of-Way from Scenic Oaks LLC and Jeffers Pond Development LLC in anticipation of the realignment of County State Aid Highway (CSAH) 63 (currently Argenta Trail) in the City of Inver Grove Heights, Dakota County.

THIS AGREEMENT, made and entered into by and between the County of Dakota, referred to in this Agreement as "the County"; and the City of Inver Grove Heights, referred to in this Agreement as "the City"; and witnesses the following:

WHEREAS, under Minnesota Statutes Sections 162.17, subd. 1 and 471.59, subd. 1, two or more governmental units may enter into an agreement to cooperatively exercise any power common to the contracting parties, and one of the participating governmental units may exercise its powers on behalf of the other governmental units; and

WHEREAS, it is considered mutually desirable to plan for the realignment of CSAH 63 from south of CSAH 26 (70th Street) to I-494 as a six lane divided roadway (CP 63-27, hereinafter referred to as "the project"); and

WHEREAS, both the City Council and the County Board have adopted resolutions supporting the future realignment of CSAH 63 in Inver Grove Heights; and

WHEREAS, funding has been programmed for the preservation of right of way for the realignment of CSAH 63 in the County Capital Improvement Program and the City has funding allocated for this purpose; and

WHEREAS, it is considered mutually desirable for the City or County to acquire right-of-way along the corridor as opportunities arise to support this future project; and

WHEREAS, a development has been proposed for the property owned by Scenic Oaks LLC and Jeffers Pond Development LLC, known as Blackstone Ridge.

NOW, THEREFORE, it is agreed that the City will acquire right-of-way for the project from Scenic Oaks LLC and Jeffers Pond Development LLC and that the County and City will jointly participate in right-of-way acquisition costs associated with such acquisition as described in the following sections:

1. Right-of-Way. The City will acquire permanent highway right-of-way for the project from Scenic Oaks LLC and Jeffers Pond Development LLC, including:

- Fee title ownership of the property currently encumbered by a transmission line easement for Xcel Energy, as indicated by Parcel 1 in Exhibit A.
- Fee title ownership of a strip of land 100 feet wide east of the transmission line easement, as indicated by Parcel 2 in Exhibit A.

The acquisition shall also occur simultaneously with the dedication of a 100 foot wide highway easement to the City for future CSAH 63, as shown in Exhibit A. The acquisition shall also include fee title ownership of Outlot B in the Blackstone Ridge development, identified as Parcel 3 in Exhibit A. Outlot B shall be owned by the City, shall be covered by a public drainage and utility easement, and a minimum of 0.95 acre-feet of this drainage area shall be available to accommodate storm water storage needs for future County State Aid Highway 63.

2. Conveyance of Easements. Within 45 days of the City's receipt of the County's share of the cost for the acquisition, the City shall convey to the County all necessary property in fee and permanent highway easements, on forms approved by the County Attorney's Office, for project purposes on the real estate acquired by the City pursuant to this Agreement.

3. Payment. For the opportunity acquisition of Parcels 1 and 2, the City will act as the paying agent for the costs of acquiring the required highway right of way. The City, in turn, will invoice the County for the County's share of the eligible acquisition costs. Consistent with cost share policies in the current County Transportation Plan, the County's share of the acquisition costs shall be 65% of the acquisition costs, but not to exceed \$1,352,000 for the land, which is 65% of the \$2,080,000 appraised value for the parcels stated in the appraisal prepared by Integra Realty Resources, plus 65% of the actual typical costs associated with the property transactions, such as closing costs, title search, title insurance, taxes due, assessments due,

etc. The County shall have no obligation to participate in the costs for acquisition of Parcels 1, 2 and 3 without the dedication of the 100' easement as depicted in Exhibit A. Upon presentation of an itemized claim by the City to the County, the County shall reimburse the City for its share of the costs incurred under this Agreement within 45 days from the presentation of the claim. If any portion of an itemized claim is questioned by the County, the remainder of the claim shall be promptly paid, and accompanied by a written explanation of the amounts in question. Payment of any amounts in dispute will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.

4. Maintenance. Once Parcels 1 and 2, and the dedicated 100-foot-wide easement are in County ownership, the County shall seed the portions of these areas that are currently exposed soil with an appropriate vegetative ground cover. Until such time that the County initiates a public road improvement over these areas, maintenance activities in these areas shall be at the County's discretion.

5. Authorized Representatives. The following named persons are designated the authorized representatives of the parties for purposes of this Agreement. These persons have authority to administer this Agreement, except that the authorized representative shall have only the authority specifically or generally granted by their respective governing board or council. Notice required to be provided pursuant to this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification of this Agreement:

TO THE COUNTY:

Dakota County
Mark Krebsbach
County Engineer
14955 Galaxie Avenue
Apple Valley, MN 55124

TO THE CITY:

City of Inver Grove Heights
Joseph Lynch
City Administrator
8150 Barbara Ave.
Inver Grove Heights, MN 55077

In addition, notification to the County regarding termination of this Agreement by the other party shall be provided to the Office of the Dakota County Attorney, 1560 Highway 55, Hastings, Minnesota 55033.

6. Termination. This Agreement shall be superseded and terminated by the joint powers agreement between the parties for the design, right of way acquisition and construction of the project. In addition, either party may terminate this Agreement by giving thirty (30) days' written notice of its intent to terminate to the other party. Notice of Termination shall be made by certified mail or personal delivery to the authorized representative of the other party. Termination of this Agreement shall not discharge any liability, responsibility or right of any party, which arises from the performance of or failure to adequately perform the terms of this Agreement prior to the effective date of termination, including the obligation to share costs agreed to prior to the effective date of termination.

7. Amendments. Any amendments to this Agreement will be effective only after approval by both governing bodies and execution of a written amendment document by duly authorized officials of each body.

8. Effective Date. This Agreement will be effective upon execution by duly authorized officials of each governing body.

9. Indemnification. The County agrees to defend, indemnify, and hold harmless the City against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of the County and/or those of County employees or agents. The City agrees to defend, indemnify, and hold harmless the County against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement for which the City is responsible and caused by or resulting from negligent acts or omissions of the City and/or those of City employees or agents, if applicable. All parties to this agreement recognize that liability for any claims arising under this agreement are subject to the provisions of the Minnesota Municipal Tort Claims Law; Minnesota Statutes, Chapter 466. In the event of any claims or actions filed against either party, nothing in this agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual parties.

10. Independent Contractor Status. Nothing in this agreement is intended to or should be construed as creating the relationship of a partnership, joint venture or employer-employee relationship between the parties. Officers, employees or agents of one party shall not be considered officers, employers or agents of the other party, in connection with activities performed pursuant to this agreement.

11. Audits. Pursuant to Minnesota Statutes Sec 16 C. 05, Subd. 5, any books, records, documents, and accounting procedures and practices of the City and the County relevant to the Agreement are subject to examination by the County or the City and either the Legislative Auditor or the State Auditor as appropriate. The City and County agree to maintain these records for a period of six years from the date of performance of all services covered under this agreement.

12. Integration and Continuing Effect. The entire and integrated agreement of the parties contained in this Agreement shall supersede all prior negotiations, representations or agreements between the City and the County regarding the project; whether written or oral.

N:\Highway\AGREEMENT\2014-9-38 Lakeville C0025343.doc

IN WITNESS THEREOF, the parties have caused this agreement to be executed by their duly authorized officials.

CITY OF INVER GROVE HEIGHTS

RECOMMENDED FOR APPROVAL:

City Public Works Director

By _____
Mayor

(SEAL)

By _____
City Clerk

Date _____

DAKOTA COUNTY

RECOMMENDED FOR APPROVAL:

County Engineer

APPROVED AS TO FORM:

Assistant County Attorney / Date
KS-2014-147

By: _____
County Administrator

COUNTY BOARD RESOLUTION:

No: 16-____ Date: _____

Date: _____

EXHIBIT A

FUTURE C.S.A.H. 63 (ARGENTA TRAIL) PROPERTY EXHIBIT INVER GROVE HEIGHTS, MN



PID# 200060078011
BLACKSTONE RIDGE
JEFFERS POND DEVELOPMENT LLC
INVER GROVE HEIGHTS

-  PARCEL 1 (UNDERLYING XCEL ENERGY EASEMENT)
-  PARCEL 2
-  PARCEL 3 (OUTLOT B-BLACKSTONE RIDGE)
-  DEDICATION FOR FUTURE CSAH 63 (BLACKSTONE RIDGE)

**LEVANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
*KENNETH J. ROHLF
◊STEPHEN H. FOCHLER
◊JAY P. KARLOVICH
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•
HAROLD LEVANDER
1910-1992
•
ARTHUR GILLEN
1919-2005
•
• ROGER C. MILLER
1924-2009

MEMO

*ALSO ADMITTED IN WISCONSIN
◊ALSO ADMITTED IN NORTH DAKOTA
◊ALSO ADMITTED IN MASSACHUSETTS
◻ALSO ADMITTED IN OKLAHOMA

TO: Inver Grove Heights Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: May 4, 2016
RE: Agreement of Sale and Purchase between the City of Inver Grove Heights and Scenic Oaks, LLC and Jeffers Pond Development, LLC (James Deanovic) for Outlot A, Blackstone Ridge; May 9, 2016 Council Meeting

Section 1. Background. Scenic Oaks, LLC and Jeffers Pond Development, LLC (Seller) jointly own property in the City of Inver Grove Heights that is in the process of being final platted as Blackstone Ridge. The property being final platted as Blackstone Ridge is being developed by U.S. Home Corporation [Lennar] (the Developer).

In March 2015, the Council approved the realignment of Argenta Trail. This resulted in the new alignment running along the western side of Blackstone Ridge. The new alignment necessitated that the City (and Dakota County) obtain a 265 foot wide strip of property together with ponding rights to an expanded drainage and utility easement in order to accommodate storm water runoff from the future Argenta Trail (C.S.A.H. 63).

In March 2015, the City approved a resolution that requested that Dakota County cooperate with the City to negotiate a joint powers agreement relating to the acquisition and dedication of the 265 foot wide strip. The City also approved a resolution that requested that the County cooperate with the City to reach an agreement with the Seller for the portion that would be dedicated, the portion that would be acquired and the amount that would be paid. Those resolutions direct that the two agreements address the following:

- a. A legal description of the land to be transferred to the County for the realigned Argenta Trail;
- b. The timing of the transfer;
- c. A dedication by the owner of a 100 foot wide strip within the 265 foot wide strip needed for the realignment;

- d. Payment to the owner of a 165 foot wide strip within the 265 foot wide strip needed for the realignment;
- e. Provisions that address storm water pond capacity for storm water runoff from the realigned Argenta Trail. Provisions that address easements within the proposed plat of Blackstone Ridge to accept storm water runoff from realigned Argenta Trail;
- f. Provisions that address construction of storm water ponds to serve the realigned Argenta Trail;
- g. Payment to the owner in an amount of \$2,311,000; and
- h. A schedule of actions that are required to effect the transfer.

In connection with the development of the Property, the City informed the Seller that in lieu of pursuing eminent domain proceedings to acquire right-of-way for future County State Aid Highway No. 63 (C.S.A.H. No. 63), the City, visa a via a joint powers agreement between the City and Dakota County, would purchase that portion of Seller's property being platted as Outlot A, Blackstone Ridge (the Property) from Seller; and the City would compensate the Seller for the additional acreage needed for storm water ponding due to future runoff from realigned Argenta Trail.

An agreement has now been reached with the Seller.

Section 2. Salient Terms of Agreement of Sale and Purchase. The salient terms of the attached Agreement of Sale and Purchase between the City and Scenic Oaks, LLC and Jeffers Pond Development, LLC are as follows:

- a. Seller will cause the plat of Blackstone Ridge to be filed with the County Recorder as necessary to reflect and evidence (i) the dedication on the plat of the 100 foot of right-of-way for future County State Aid Highway No. 63; and (ii) the dedication of permanent drainage and utility easements over all of Outlot B, Blackstone Ridge.
- b. Seller will cause Outlot B, Blackstone Ridge to be deeded to the City at closing by warranty deed, which the City acknowledges and agrees may be deeded by U.S. Home Corporation (the Developer) who is the developer for the plat of Blackstone Ridge and whom is purchasing all of Seller's property for platting and development of Blackstone Ridge.
- c. The purchase price for Outlot A, Blackstone Ridge (the Property) is \$2,311,000.00. Outlot A is a 165 foot wide strip of property on the west side of Blackstone Ridge. The Purchase Price is payable by the City to Seller via cash, certified funds or wire transfer on or before the closing date of May 18, 2016. The purchase price will be allocated between Scenic Oaks, LLC and Jeffers Pond Development, LLC at closing based on each party's co-tenancy percentage ownership interest in the Property.
- d. Seller, at its expense, will furnish to the City (a) a current commitment for an ALTA Owner's Policy of Title Insurance committing to insure title to the Property in the amount not less than \$1,000,000. The commitment will include a

commitment to insure Outlot A, Blackstone Ridge and all Outlots being deeded by the Developer to the City pursuant to the terms of the Development Contract for Plat of Blackstone Ridge being entered into between the Developer and the City. Seller will be responsible to pay for the cost of the Owner's Title Policy issued to the City at closing insuring the City's fee interest in the Property, together with Outlots B, C, D and E being conveyed by the Developer to the City, in an amount not less than \$1,000,000.

- e. Seller will cause all the real estate taxes due and payable in the year of closing (2016) together with all levied special assessments, if any, to be paid by Seller (or prorated between Seller and Developer) as necessary to record the plat of Blackstone Ridge. The City is responsible for all real estate taxes and special assessments against the Property from and after the closing date.
- f. The City will have the right, at City's sole cost, to enter upon and examine and inspect the Property.
- g. Seller is obligated to pay:
 - (1) Cost of issuance of the commitment and Owner's Title Policy;
 - (2) Seller's attorneys' fees;
 - (3) State Deed Tax;
 - (4) Conservation fee payable for the Deed;
 - (5) One-half of the closing fee charged by the title company;
 - (6) All fees for recording all documents necessary to place record fee simple title in Seller's name free and clear of all encumbrances.
- h. The City is obligated to pay:
 - (1) The cost of recording or filing the Deed;
 - (2) The City's attorneys' fees;
 - (3) One-half of the closing fee charged by the title company;
 - (4) All fees for recording the Deed and related documents.
- i. Seller will release the City from all claims for condemnation or taking damages relating to the Property.

Section 3. Council Action. The payment obligation to the Seller is \$2,311,000. This was the amount discussed in March 2015. Payment of this amount eliminates all claims against the City for any taking issues relating to the Property. By the Argenta Trail realignment, the Property yields approximately 40 fewer single-family lots than the iteration that was set forth in the

original preliminary plat. The County appraisal of diminution indicated \$2,080,000. By way of the Joint Powers Agreement with the County, the County will pay \$1,352,000, which is 65% of \$2,080,000. The County will also pay 65% of incidental closing costs such as title closing fees and recording fees.

The funding is as follows:

County - \$1,352,000

City - \$959,000

Total - \$2,311,000

The Council is asked to consider the attached *Resolution Approving An Agreement Of Sale And Purchase Between City Of Inver Grove Heights And Scenic Oaks, LLC And Jeffers Pond Development, LLC Relating To The Purchase Of Outlot A, Blackstone Ridge, Inver Grove Heights, Minnesota* at the May 9, 2016 Council meeting.

Attachments:

- Resolution Approving An Agreement Of Sale And Purchase Between City Of Inver Grove Heights And Scenic Oaks, LLC And Jeffers Pond Development, LLC Relating To The Purchase Of Outlot A, Blackstone Ridge, Inver Grove Heights, Minnesota
- Agreement of Sale and Purchase

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING AN AGREEMENT OF SALE AND PURCHASE
BETWEEN CITY OF INVER GROVE HEIGHTS AND SCENIC OAKS, LLC AND
JEFFERS POND DEVELOPMENT, LLC RELATING TO THE PURCHASE OF
OUTLOT A, BLACKSTONE RIDGE, INVER GROVE HEIGHTS, MINNESOTA**

WHEREAS, Scenic Oaks, LLC and Jeffers Pond Development, LLC (Seller) jointly own property in the City of Inver Grove Heights that is in the process of being final platted as Blackstone Ridge. The property being final platted as Blackstone Ridge is being developed by U.S. Home Corporation [Lennar] (the Developer).

WHEREAS, in March 2015, the Council approved the realignment of Argenta Trail. This resulted in the new alignment running along the western side of Blackstone Ridge. The new alignment necessitated that the City (and Dakota County) obtain a 265 foot wide strip of property together with ponding rights to an expanded drainage and utility easement in order to accommodate storm water runoff from the future Argenta Trail (C.S.A.H. 63).

WHEREAS, in March 2015, the City approved a resolution that requested that Dakota County cooperate with the City to negotiate a joint powers agreement relating to the acquisition and dedication of the 265 foot wide strip. The City also approved a resolution that requested that the County cooperate with the City to reach an agreement with the Seller for the portion that would be dedicated, the portion that would be acquired and the amount that would be paid. Those resolutions direct that the two agreements address the following:

- a. A legal description of the land to be transferred to the County for the realigned Argenta Trail;
- b. The timing of the transfer;
- c. A dedication by the owner of a 100 foot wide strip within the 265 foot wide strip needed for the realignment;
- d. Payment to the owner of a 165 foot wide strip within the 265 foot wide strip needed for the realignment;
- e. Provisions that address storm water pond capacity for storm water runoff from the realigned Argenta Trail. Provisions that address easements within the proposed plat of Blackstone Ridge to accept storm water runoff from realigned Argenta Trail;
- f. Provisions that address construction of storm water ponds to serve the realigned Argenta Trail;
- g. Payment to the owner in an amount of \$2,311,000; and
- h. A schedule of actions that are required to effect the transfer.

WHEREAS, in connection with the development of the Property, the City informed the Seller that in lieu of pursuing eminent domain proceedings to acquire right-of-way for future County State Aid Highway No. 63 (C.S.A.H. No. 63), the City, visa a via a joint powers

agreement between the City and Dakota County, would purchase that portion of Seller's property being platted as Outlot A, Blackstone Ridge (the Property) from Seller; and the City would compensate the Seller for the additional acreage needed for storm water ponding due to future runoff from realigned Argenta Trail.

WHEREAS, the salient terms of the attached Agreement of Sale and Purchase between the City and Scenic Oaks, LLC and Jeffers Pond Development, LLC are as follows:

- a. Seller will cause the plat of Blackstone Ridge to be filed with the County Recorder as necessary to reflect and evidence (i) the dedication on the plat of the 100 foot of right-of-way for future County State Aid Highway No. 63; and (ii) the dedication of permanent drainage and utility easements over all of Outlot B, Blackstone Ridge.
- b. Seller will cause Outlot B, Blackstone Ridge to be deeded to the City at closing by warranty deed, which the City acknowledges and agrees may be deeded by U.S. Home Corporation (the Developer) who is the developer for the plat of Blackstone Ridge and whom is purchasing all of Seller's property for platting and development of Blackstone Ridge.
- c. The purchase price for Outlot A, Blackstone Ridge (the Property) is \$2,311,000.00. Outlot A is a 165 foot wide strip of property on the west side of Blackstone Ridge. The Purchase Price is payable by the City to Seller via cash, certified funds or wire transfer on or before the closing date of May 18, 2016. The purchase price will be allocated between Scenic Oaks, LLC and Jeffers Pond Development, LLC at closing based on each party's co-tenancy percentage ownership interest in the Property.
- d. Seller, at its expense, will furnish to the City (a) a current commitment for an ALTA Owner's Policy of Title Insurance committing to insure title to the Property in the amount not less than \$1,000,000. The commitment will include a commitment to insure Outlot A, Blackstone Ridge and all Outlots being deeded by the Developer to the City pursuant to the terms of the Development Contract for Plat of Blackstone Ridge being entered into between the Developer and the City. Seller will be responsible to pay for the cost of the Owner's Title Policy issued to the City at closing insuring the City's fee interest in the Property, together with Outlots B, C, D and E being conveyed by the Developer to the City, in an amount not less than \$1,000,000.
- e. Seller will cause all the real estate taxes due and payable in the year of closing (2016) together with all levied special assessments, if any, to be paid by Seller (or prorated between Seller and Developer) as necessary to record the plat of Blackstone Ridge. The City is responsible for all real estate taxes and special assessments against the Property from and after the closing date.
- f. The City will have the right, at City's sole cost, to enter upon and examine and inspect the Property.
- g. Seller is obligated to pay:
 - (1) Cost of issuance of the commitment and Owner's Title Policy;
 - (2) Seller's attorneys' fees;

- (3) State Deed Tax;
 - (4) Conservation fee payable for the Deed;
 - (5) One-half of the closing fee charged by the title company;
 - (6) All fees for recording all documents necessary to place record fee simple title in Seller's name free and clear of all encumbrances.
- h. The City is obligated to pay:
- (1) The cost of recording or filing the Deed;
 - (2) The City's attorneys' fees;
 - (3) One-half of the closing fee charged by the title company;
 - (4) All fees for recording the Deed and related documents.
- i. Seller will release the City from all claims for condemnation or taking damages relating to the Property.

WHEREAS, the payment obligation to the Seller is \$2,311,000. This was the amount discussed in March 2015. Payment of this amount eliminates all claims against the City for any taking issues relating to the Property. By the Argenta Trail realignment, the Property yields approximately 40 fewer single-family lots than the iteration that was set forth in the original preliminary plat. The County appraisal of diminution indicated \$2,080,000. By way of the Joint Powers Agreement with the County, the County will pay \$1,352,000, which is 65% of \$2,080,000. The County will also pay 65% of incidental closing costs such as title closing fees and recording fees.

The funding is as follows:

County - \$1,352,000
City - \$959,000
Total - \$2,311,000

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Inver Grove Heights:

1. The City Council approves the Agreement of Sale and Purchase (attached hereto as Exhibit A) between the City and Scenic Oaks, LLC and Jeffers Pond Development, LLC for the Property at a purchase price of \$2,311,000.
2. The Mayor and City Clerk are authorized to sign the attached Agreement of Sale and Purchase between the City and Scenic Oaks, LLC and Jeffers Pond Development, LLC.
3. The Mayor and City Clerk are authorized to sign all other closing documents that are required of the City in connection with the purchase and closing of the transaction relating to the Property.

4. The payment to the Seller is \$2,311,000. By way of a Joint Powers Agreement between the City and Dakota County, the County will reimburse the City \$1,352,000 leaving a net City obligation of \$959,000. To fund this obligation of \$959,000, the Council hereby authorizes the transfer of \$959,000 from the Host Community Fund (451.57.9200.590.91100) to the Northwest Area Fund (1605-446.59.0000.3911000). Further, the Council authorizes that an additional \$10,000 be transferred from the Host Community Fund to the Northwest Area Fund to pay for closing costs such as title closing fees, recording fees and incidental costs to effect the transaction.

Passed by the City Council of the City of Inver Grove Heights this 9th day of May, 2016.

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

EXHIBIT A
AGREEMENT OF SALE AND PURCHASE

AGREEMENT OF SALE AND PURCHASE

THIS AGREEMENT OF SALE AND PURCHASE is made and entered into by and between Scenic Oaks, LLC, a Minnesota limited liability company (“**Scenic Oaks**”), and Jeffers Pond Development, LLC, a Minnesota limited liability company (“**Jeffers**”), (Scenic Oaks and Jeffers are collectively, “**Seller**”), and the City of Inver Grove Heights, a municipality of the State of Minnesota (“**Buyer**” or the “**City**”).

BACKGROUND

- A. Scenic Oaks and Jeffers own in co-tenancy as fee owners certain real property and improvements located thereon in the City of Inver Grove Heights, Dakota County , Minnesota legally described as follows:

The West Half of the Southeast Quarter of Section 6, Township 27, Range 22, except the South 1353.00 feet of the East 660 feet thereof, according to the United States Government Survey thereof, Dakota County, Minnesota (“**Seller’s Parcel**”).

- B. The Seller’s Parcel is being platted as Blackstone Ridge and, in connection with the development of the Property, the City informed the Seller that in lieu of pursuing eminent domain proceedings to acquire Right-of-Way for future County State Aid Highway No. 63 (also referred to as CSAH No. 63), the City, visa a via a joint powers agreement between the City and Dakota County (the “**County**”), will purchase that portion of Seller’s Parcel being platted as Outlot A Blackstone Ridge (the “**Property**”) from Seller on the terms set forth in this Agreement, and should Seller not voluntarily sell the Property to Buyer then the City will initiate eminent domain proceedings to acquire the Property.
- C. Based on the foregoing Recitals, and the terms set forth in this Agreement, Seller and Buyer desire to move forward with the sale and purchase of the Property in lieu of eminent domain proceedings being initiated by the City.

In consideration of One Dollar, the mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Sale and Purchase. Subject to the terms, conditions, representations and warranties set forth in this Agreement, Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase and accept from Seller, fee simple title to the Property. Additionally, in consideration for the Purchase Price to be paid by Buyer to Seller, Seller shall be responsible at Closing to cause the following to occur:
 - a. Plat Filed for Blackstone Ridge. Seller shall cause the Plat of Blackstone Ridge (the “**Plat**”) to be filed with the Office of the County Recorder as necessary to reflect and evidence (i) the dedication on the Plat of the 100 foot of Right-of-Way for future County State Aid Highway No. 63; and (ii) the dedication of permanent drainage and utility easements over all of Outlot B of the Plat; and

b. Conveyance of Outlot B. Seller shall cause Outlot B of the Plat to be deeded to the City at Closing by warranty deed, which the City acknowledges and agrees may be deeded by U.S. Home Corporation, a Delaware corporation (the “**Developer**”), whom is purchasing Seller’s Parcel for development.

2. Purchase Price. The purchase price for the Property shall be Two Million Three Hundred Eleven Thousand and No/100 Dollars (\$2,311,000.00) (the “**Purchase Price**”). The Purchase Price shall be payable by Buyer to Seller by cash, certified funds or wire transfer on or before the Closing Date (as hereinafter defined). The Purchase Price shall be allocated between Scenic Oaks and Jeffers at Closing based on each party’s cotenancy percentage ownership interest in the Property.

3. Seller’s Title Evidence. Within three (3) business days of the Effective Date, Seller shall furnish to Buyer (a) a current commitment (the “**Commitment**”) for an ALTA Owner’s Policy of Title Insurance (“**Title Policy**”) committing to insure title to the Property, in the amount not less than \$1,000,000, issued by North American Title Company as agent for North American Title Insurance Company (“**Title Company**”). The Commitment shall include a commitment to insure all Outlots being deeded by the Developer to the City pursuant to the terms of that certain Development Contract for Plat of Blackstone Ridge (the “**Development Contract**”) being entered into between the Developer and the City. Seller has provided the Buyer with the most recent survey of the Seller’s Parcel (that includes the Property) in its possession.

Buyer shall be allowed three (3) business days after receipt of the Commitment for examination, review and approval of the title to the Property. Seller shall be responsible to pay for the cost of the Owner’s Title Policy issued to the City at Closing insuring the City’s fee interest in the Property, together with Outlots B, C, D and E being conveyed by the Developer to the City, in an amount not less than \$1,000,000.

4. Real Estate Taxes and Special Assessments. Seller shall cause all the real estate taxes due and payable in the year of Closing together with all levied special assessments, if any, to be paid by Seller (or prorated between Seller and Developer) as necessary to record the Plat. Buyer shall be responsible for all real estate taxes and special assessments against the Property from and after the Closing Date.

5. Inspection Period. From the Effective Date to the Closing Date (said period being referred to in this Agreement as the “**Inspection Period**”) Buyer shall have the right, at Buyer’s sole cost, expense and risk, to enter upon and examine and inspect the Property. Buyer shall promptly restore the Property to substantially the same condition in which it existed immediately prior to any physical tests conducted by or on behalf of Buyer. Further, Buyer agrees to indemnify and hold Seller harmless from and against any liability, loss, claim or damage resulting to Seller from Buyer’s physical inspections of and/or due diligence on the Property. The indemnity and repair obligations of Buyer hereunder shall survive the Closing of this transaction or the termination of this Agreement, regardless of the cause of termination. **BUYER ACKNOWLEDGES THAT BUYER IS PURCHASING THE PROPERTY IN RELIANCE SOLELY ON THE REPRESENTATIONS OF SELLER SET FORTH IN SECTION 7, IN**

THE DEED AND BUYER'S INSPECTION OF THE PROPERTY PURSUANT TO THIS SECTION 5 AND ON BUYER'S JUDGMENT REGARDING THE SUFFICIENCY OF SUCH INSPECTIONS. BUYER IS NOT RELYING ON ANY WRITTEN OR ORAL REPRESENTATIONS, WARRANTIES OR STATEMENTS THAT SELLER OR SELLER'S AGENTS HAVE MADE EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 7 OF THIS AGREEMENT AND THE DEED. SUBJECT TO BUYER'S RIGHT TO TERMINATE THIS AGREEMENT, BUYER IS PURCHASING THE PROPERTY IN "AS IS" CONDITION. THE "AS IS" NATURE OF THIS TRANSACTION WAS CONSIDERED BY BOTH PARTIES IN ARRIVING AT THE AGREED PURCHASE PRICE.

6. Pre-Conditions to Performance.

a. Buyer's Pre-Conditions to Performance Performance. This Agreement and Buyer's obligations hereunder are conditioned, upon the following:

- (1) Seller's Performance. All representations and warranties of Seller hereunder shall be true as of the Closing Date and Seller shall have performed, in all material respects, all of its covenants, duties and obligations under this Agreement including the recording of the Plat and conveyance of Outlot B, as set forth in paragraph 1.a and b. of this Agreement.
- (2) Title. The Title Evidence shall have been found acceptable in accordance with the requirements of Section 3 above.
- (3) Inspection. Buyer shall have found acceptable the condition of the Property after its inspections are made in accordance with the requirements of Section 5 above.

b. Seller's Pre-Conditions to Performance. Seller's obligations under this Agreement are expressly subject to and conditioned upon the following:

- (1) the payment of the Purchase Price and the execution of customary Buyer closing documents required by the Title Company to close on the sale of the Property and to issue the Owner's Title Policy to Buyer; and
- (2) concurrent closing by Seller with the Developer for the sale of Seller's Parcel to Developer, but expressly excluding the Property which will be quitclaim deeded by the Developer back to the Seller at Closing and subsequently conveyed to the Buyer by Seller.

7. Representations, Warranties and Covenants of Seller. Seller makes the following representations and warranties to Buyer:

a. Existence; Authority. Each Seller entity is duly organized, qualified and in good standing, and has the requisite power and authority to enter into and perform this

Agreement and Seller's Closing Documents (as defined below); such documents have been duly authorized by all necessary action; and such documents are or will be valid and binding obligations of Seller, enforceable in accordance with their terms.

- b. Litigation. There is no litigation, proceeding, claim or investigation, pending or, to Seller's knowledge, threatened, against either Seller, or the Property, which might create or result in a lien on or otherwise adversely affect the Property.
- c. Other Documents. Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby will result in any breach or violation of, or default under, any judgment, decree, order, lease, agreement, indenture or other instrument or document to which Seller is a party or by which the Property or any part thereof is bound.
- d. Condemnation. Except for the threatened eminent domain proceeding by the Buyer, there are no condemnation proceedings which are pending or, to Seller's knowledge, threatened against all or any portion of the Property.
- e. Possession. Except for the rights of the Developer to purchase Seller's Parcel, which expressly excepts out the Property to be conveyed by this Agreement, no persons are in possession or entitled to possession of the Property.
- f. Violation of Law. To Seller's knowledge, Seller has received no notice from any governmental agencies or authorities of any violation by Seller of any federal, state, county or municipal law, ordinance, order regulation or requirement affecting any portion of the Property.
- g. Encumbrances. As of the date, hereof, Seller is not in default under any mortgage, land contract, trust deed, or other financing instrument encumbering the Property and during the period commencing from the date hereof and ending on the Closing Date, Seller shall make all payments required to be made under any such mortgage, land contract, trust deed, or other financing instrument, if any, in the manner and at the times provided thereunder and, during such period, Seller shall perform all of its other obligations thereunder as mortgagor or vendee, as the case may be. Any existing liens upon the Property which Seller is required to remove under this Agreement shall be paid and discharged prior to or on the Closing Date.
- h. Minnesota Required Statutory Disclosures. As required by statute, Seller represents as follows:
 - (A) Storage Tanks. To the best of Seller's actual knowledge, there are no underground or above ground storage tanks of any size or type located on the Property.
 - (B) Septic. Seller knows that there are no abandoned individual sewage treatment systems on the Property.

(C) Hazardous Substances. To the best knowledge and belief of Seller, that there is no basis for Seller to record with the County Recorder or Registrar of Titles an affidavit described in Minnesota Statutes, § 115B.16, Subd. 2 indicating that there is "extensive contamination" on the Property.

(D) Methamphetamine Production. To the best knowledge and belief of Seller, methamphetamine production has not occurred on the Property. A county or local health department or sheriff has not ordered that the Property or some portion of the Property prohibited from being occupied or used until it has been assessed and remediated as provided in the Department of Health's Clandestine Drug Labs General Clean-up Guidelines.

Each of the foregoing representations and warranties shall be deemed remade as of the Closing Date with respect to the Property and, as so remade, shall survive Closing for a period of one hundred eighty (180) calendar days, and any claim arising out of a breach of any representation or warranty set forth in this Agreement or in any closing document not asserted in an action filed and served on or before 180 days after the Closing Date shall be barred and deemed waived.

8. Commission. Seller and Buyer represent and warrant to each other that they have not engaged the services of any broker in connection with the sale and purchase contemplated by this Agreement. Each party agrees to indemnify and hold the other harmless from any claim, damage, cost or expense for such brokerage commission or finder's fee incurred as a result of any other brokerage agreement entered into by such party that is not disclosed in this Section 12, and to pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorneys' fees.

9. Closing Costs and Expenses. In addition to the other costs and expenses specifically provided for in this Agreement, closing costs and expenses shall be borne as follows:

a. Seller shall be obligated for and shall pay:

- (1) Cost of issuance of the Commitment and Owner's Title Policy;
- (2) Seller's attorneys' fees;
- (3) State Deed Tax;
- (4) Conservation Fee payable for the Deed;
- (5) One-half of the closing fee charged by the Title Company;
- (6) All fees for recording all documents necessary to place record fee simple title in Seller's name free and clear of all encumbrances; and

- (7) Any other costs expressly made the obligation of Seller under this Agreement.
- b. Buyer shall be obligated for and shall pay:
- (1) The cost of recording or filing the Deed;
 - (2) The Buyer's attorneys' fees;
 - (3) One-half of the closing fee charged by the Title Company;
 - (4) All fees for recording the Deed and related documents other than those specified in Section 9 (a) above;
 - (5) Any other costs expressly made the obligation of Buyer under this Agreement.

10. Closing.

- a. General; Possession. Subject to all the terms and conditions of this Agreement having been complied with, the closing of the transactions contemplated hereby shall occur on or before the date May 18, 2016 ("**Closing Date**"). Closing shall take place in the offices of the Title Company or at such other date, time and place as the parties shall agree in writing. Possession of the Property shall be transferred by Seller to Buyer on the Closing Date.
- b. Deliveries by Seller at Closing. At the closing, Seller shall deliver to Buyer the following (collectively, "**Seller's Closing Documents**"):
- (1) A Warranty Deed, in recordable form, duly executed by Seller, conveying good and marketable fee simple title to the Property to Buyer.
 - (2) A standard form Seller's Affidavit, duly executed by Seller.
 - (3) An affidavit of non-foreign status, duly executed by Seller, containing such information as is required by IRC Section 1445(b)(2) and its regulations.
 - (4) A Certificate signed by Seller stating that Seller knows of no wells on the Property within the meaning of M.S.A. § 103I, or if Seller knows of any wells, a Well Certificate in the form required by law.
 - (5) A Certificate dated as of the Closing Date certifying that the representations and warranties are true as of the Closing Date.
 - (6) The Owner's Title Policy as set forth in Paragraph 3 above.
- c. Deliveries by Buyer at Closing. At the Closing, Buyer shall deliver to Seller the following:

- (1) The funds required by Section 2.b. hereof by certified check or wire transfer.
- (2) All other agreements, instruments and documents necessary or incident to consummation of the transactions contemplated hereby.

The performance by Seller and Buyer at the closing shall be concurrent. The Title Company shall hold the funds delivered by Seller under Section 2.b. in escrow and release the funds directly to Buyer upon confirmation by the Title Company that both the Plat and the Deed for the Property have been filed of record with the Office of the County Recorder. It is the intention of Buyer and Seller that this Closing shall occur concurrently with the closing on the sale of Seller's Parcel to the Developer and the Title Company will walk through the Plat and all conveyance documents to be recorded pursuant to this Agreement and the Development Contract between the City and Developer on the Closing Date.

11. Remedies. If Buyer cancels this Agreement by reason of non-satisfaction of one or more conditions to Closing, by reason of Seller's default, or as otherwise provided in this Agreement, neither Party shall thereafter have any further liability, right or obligation hereunder except obligations that survive termination of this Agreement. Seller's and Buyer's remedy for a default shall be cancellation of this Agreement or equitable relief by way of specific performance to enforce performance of the terms of this Agreement, plus reimbursement for costs, including reasonable attorney's fees, incurred in securing such relief.

12. Notices. All notices, offers, requests, and other communications from any other parties hereto to the others shall be in writing and shall be considered to have been duly given or served if: delivered personally to the party served; or if sent by first class certified or registered mail, return receipt requested, postage prepaid; or if transmitted by facsimile, copy followed by mail as above required; or if deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows or to such other address as such party may hereafter designate by written notice to the other parties:

If to Seller, to:

Scenic Oaks, LLC.
Jeffers Pond Development, LLC
Attn: James P. Deanovic
5116 Mirror Lakes Drive
Edina, MN 55436

And to:

Beth G. Timm, Esq.
Gerstein-Timm, PLLC
100 Prairie Center Drive, Suite 210
Minnetonka, MN 55343-9132
Email: Beth@timmlegal.com
Facsimile: (952) 932-9787

a. If to Buyer, to:

City of Inver Grove Heights
Attn: City Administrator
8150 Barbara Avenue
Inver Grove Heights, MN 55077

And to:

Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
Facsimile: (651) 450-7384

Notices, objections and other communications shall be deemed effective upon delivery, if personally delivered, one (1) business day after being deposited with a nationally recognized overnight air courier, two (2) business days after mailing by certified or registered mail, or on the day of facsimile transmission if the sending party receives transmittal confirmation from the sending facsimile machine and deposits a copy of the notice or other communication in first class, certified or registered mail, return receipt requested, postage prepaid on the date of the transmission addressed to the addressee as set forth above, all without regard to the actual receipt by addressee.

13. Time of Essence. Seller and Buyer agree that time shall be of the essence of this Agreement.

14. Interpretation. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both Seller and Buyer have contributed substantially and materially to the preparation of this Agreement.

15. Construction. The headings of the sections and subsections of this Agreement are for convenience and reference only and do not form a part hereof, and in no way interpret or construe such sections and subsections. Wherever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

16. Parties in Interest. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, representatives, successors, and assigns. This Agreement is for the sole benefit of Seller and Buyer, and no third party (including any real estate broker) is intended to be a beneficiary of or have the right to enforce this Agreement.

17. Definitions. If any date herein set forth for the performance of any obligations by Seller or Buyer or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used in this Section, the term "legal holiday" means any state or federal holiday for which financial institutions or post offices are generally closed in the State of Minnesota. The term "including" shall mean including, as an example, without limiting the generality of the foregoing. The term "person" shall include any person, entity, corporation, association, organization, partnership, limited partnership, limited liability partnership, limited liability company, or trust.

18. Assignment. Neither Buyer nor Seller may assign its rights and obligations hereunder without the consent of the other party, not to be unreasonably withheld, conditioned or delayed, provided that any assignment shall not relieve the assigning party of its obligations under the terms of this Agreement.

19. Joint and Several. If the Seller consists of more than one person, said persons jointly and severally agree that all agreements, warranties and representations of Seller contained in this Agreement are made by them jointly and severally and that all conditions of this Agreement to be observed by Seller shall be observed by them jointly and severally.

20. Entire Agreement. This Agreement (including all exhibits hereto) contains the entire agreement of the parties. It may not be changed orally but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

21. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document. A signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

22. Severability. If any provision of this Agreement is held to be unenforceable or void, such provision shall be deemed to be severable and shall in no way affect the validity of the remaining terms of this Agreement.

23. Governing Law. This Agreement shall be construed as to both validity and performance and enforced in accordance with and governed by the laws of the State of Minnesota.

24. Release of City. Effective as of the Closing Date, Seller, for themselves and their successors and assigns, release and discharge forever the Buyer from all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies including interest, penalties and reasonable attorneys fees that result from, relate to or arise out of Chapter 117 of the Minnesota Statutes with respect to Seller's Parcel or any theories at law or in equity of condemnation, takings or inverse condemnation with respect to Seller's Parcel. This Section 24 shall survive the Closing Date and shall not merge with the Closing Documents.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

SELLER:

SCENIC OAKS, LLC

By: _____

James P. Deanovic

Its: Chief Manager

Dated*: _____

TIN: _____

SELLER:

JEFFERS POND DEVELOPMENT, LLC

By: _____

James P. Deanovic

Its: Chief Manager

Dated*: _____

TIN: _____

BUYER:

CITY OF INVER GROVE HEIGHTS

By: _____

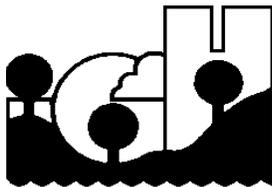
Name: George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

Dated*: _____

*The latest date that this Agreement is signed shall be the "Effective Date" of this Agreement" as it is referenced in this Agreement.



CITY OF INVER GROVE HEIGHTS

MEMORANDUM

TO: Mayor and City Council Members

FROM: Carrie Isaacson, Administrative Services Coordinator

SUBJECT: Athlos Preparatory School / Non-PILOT Payment for Jubilation/Discovery Charter School in Inver Grove Heights

DATE: May 5, 2016

SUMMARY:

Joe Lynch, City Administrator will either hand this information out at the meeting or send it under separate cover to the Council on Monday, May 9, 2016.

Carrie Isaacson

From: claud.allaire@comcast.net
Sent: Wednesday, May 04, 2016 7:22 AM
To: Carrie Isaacson
Subject: Fwd: Info for Council

Hi Carrie,

Joe had requested that I send him the information below to be included in the city council packet for next Monday's council meeting. He had requested that I send it by Wednesday. I just received an Out of Office reply from him so I am forwarding to you to make sure it gets in the packet. The information for the packet is the bolded and underlined title with the three short paragraphs that follow. Also, please make sure that we are added to the council meeting agenda for Monday.

Sincerely,
Claud Allaire
Athlos Prep
952-913-6502

From: "claud allaire" <claud.allaire@comcast.net>
To: "Joe Lynch" <jlynch@invergroveheights.org>
Cc: vgrannis@grannishauge.com
Sent: Wednesday, May 4, 2016 7:17:11 AM
Subject: Info for Council

Hello Joe,

Below is the information for the city council regarding our proposal to move forward without a PILOT payment. To be clear, we are still offering use of our facility. Please add us to Monday's council meeting agenda.

Please let me know if you have any questions.

Claud

Information on Athlos Preparatory School proposal for site east of S. Robert Trail at Diffley Rd.

Our goal for Monday's meeting is to have the council consider rezoning our new proposed site without a PILOT payment. The new proposed site is east of the intersection of S. Robert Trail and Diffley. The proposal for the school is almost identical to the previous proposal presented to the council for the site across the road. As with that proposal, this site falls in district 196 boundaries (Eagan-Apple Valley - Rosemount schools).

Unlike the previous proposal, we are not in a position to offer a PILOT payment. We are however happy to extend use of the sports facility on weekends as well as our fields throughout the summer.

We are unable to offer PILOT payment for two reasons. First, our national partner Athlos Academies is financing this project and they have informed us that they invested over \$300,000 in the Inver Grove Heights project this past Fall and there is no margin left to offer a PILOT payment. In addition, we have found alternative sites in southern Dakota county that are more affordable. Our preference remains with the IGH site, however, as a result, we are unable to overextend the project and justify taking money out of the classroom to pay a PILOT when there are other options available.

Sincerely,
Claud Allaire

From: "Joe Lynch" <jlynch@invergroveheights.org>
To: "claud allaire" <claud.allaire@comcast.net>
Cc: "Michelle Tesser" <mtesser@invergroveheights.org>
Sent: Thursday, September 24, 2015 1:26:32 PM
Subject: RE: Petition for Council

Claud,

I cannot include such a document in the Council packet. It is not a document that is directly tied to your application; either an agreement, contract or application. You are welcome to bring it to the meeting on Monday and ask the Council to accept it as a part of the public process, but you should know it should have no bearing on their decision on the land use change request.

The Metropolitan Council process can be cumbersome and time consuming. They typically look to the local unit of government for their opinion and decision. If it gets approved by the City it will more than likely be approved by them, but not for another 60 days.

From: claud.allaire@comcast.net [mailto:claud.allaire@comcast.net]
Sent: Thursday, September 24, 2015 9:58 AM
To: Joe Lynch
Subject: Petition for Council

Hi Joe,

Paul recommended that I send you the attached electronic petition from IGH residents. Please include in packet to the council. The petition will continue throughout the weekend so we anticipate 10-20 more signatures by Monday.

If we were to have the council accept our PILOT and re-zone, do you think there are concerns with the rezoning being approved for the Met Council comprehensive plan? I hear that can be challenging sometimes. Please let me know your thoughts on this so we can be prepared if there are concerns with this that might come up Monday.

Sincerely,

Claud Allaire

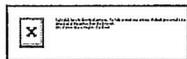
952-913-6502

Joe Lynch | City Administrator

Tel: 651-450-2511 | Fax: 651-259-8021

City of Inver Grove Heights | 8150 Barbara Ave | Inver Grove Heights | Minnesota | 55077

jlynch@invergroveheights.org | www.invergroveheights.org



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**LE VANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
*KENNETH J. ROHLF
◊STEPHEN H. FOCHLER
*JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
*KORINE L. LAND
◻*DONALD L. HOEFT
DARCY M. ERICKSON
DAVID S. KENDALL
BRIDGET McCAULEY NASON
TONA T. DOVE
BRADLEY R. HUTTER
*
HAROLD LEVANDER
1910-1992
*
ARTHUR GILLEN
1919-2005
*
• ROGER C. MILLER
1924-2009

MEMO

*ALSO ADMITTED IN WISCONSIN
*ALSO ADMITTED IN NORTH DAKOTA
*ALSO ADMITTED IN MASSACHUSETTS
*ALSO ADMITTED IN OKLAHOMA

TO: Tim Kuntz
FROM: Aaron Price
DATE: August 31, 2015
RE: Property Tax Exemption for Athlos Preparatory Academy

APPLICABLE STATUTES & LAWS

Minnesota Statutes 272.02(42)(b)

QUESTIONS & DISCUSSION

What is Athlos Academy?

Based in Boise, Idaho, School Model Support, LLC, operating under the assumed business name of Athlos Academies, is run by business partners Ryan Van Alfen and Jason Kotter. Athlos Academies are a Pre-K through 8th grade public charter school that provides high school preparatory education through academic scholarship, fitness and nutrition, character development and student leadership opportunities. Athlos currently has schools operating in Arizona, Texas, and Minnesota.

In Minnesota, Athlos has two nonprofit corporations operating charter schools. The first is the Athlos Leadership Academy (formerly New Visions Academy) in Brooklyn Park, which has been operating since 1994. The second is the Athlos Preparatory Academy in Inver Grove Heights, which is scheduled to open for the 2016-2017 school year.

Is the Athlos Preparatory Academy in Inver Grove Heights exempt from paying property taxes?

If the owner of the property is not the charter school operating the property, the owner must satisfy the requirements for exemption under Minnesota Statutes, section 272.02, subdivision 42, paragraph (b) to qualify for property tax exemption.

Under 272.02, subd. 42(b), property that is leased or rented to a charter school formed and operated under section 124D.10 is exempt from taxation if it meets all of the following requirements:

- 1) the lease is for a period of at least 12 consecutive months;
- 2) the property is owned by
 - i. a nonprofit corporation or association exempt from federal income tax under section 501(c)(2) or (3) of the Internal Revenue Code;
 - ii. a public school district, college, or university;
 - iii. a private academy, college, university, or seminary of learning;
 - iv. a church; or
 - v. the state or a political subdivision of the state;
- 3) the charter school must use the property to provide
 - i. direct instruction in any grade from kindergarten through grade 12;
 - ii. special education for disabled children; or
 - iii. administrative services directly related to the educational program at that site; and
- 4) except for lease provisions that allow for the shared use of the property by
 - i. the charter school and another public or private school;
 - ii. the charter school and a church; or
 - iii. the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period.

The property tax exemption under 272.02(42)(b) would only apply to a nonprofit company, public or private school, church, or the state leasing or renting the land and building to the charter school. A for-profit company that owns the land and buildings and leases the property to a non-profit charter school would not qualify for a property tax exemption under 272.02(42)(b). In that scenario, the owners of the property would be required to pay the property tax.

CONCLUSION

The Athlos Preparatory Academy in Inver Grove Heights would not qualify for a property tax exemption under 272.02(42)(b) if a for-profit company owns the property. If the Athlos Academy (School Model Support, LLC) based in Boise, Idaho, is the owner of the property, then the property would be subject to the corresponding property tax.

Subd. 42. **Property leased to schools.** (a) Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:

- (1) the lease must be for a period of at least 12 consecutive months;
- (2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;
- (3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12; special education for disabled children; adult basic education as described in section 124D.52; preschool and early childhood family education; or community education programs, including provision of administrative services directly related to the educational program at that site; and
- (4) the lease must provide that the school district has the exclusive use of the property during the lease period.

(b) Property that is leased or rented to a charter school formed and operated under section 124D.10 is exempt from taxation if it meets all of the following requirements:

- (1) the lease is for a period of at least 12 consecutive months;
- (2) the property is owned by (i) a nonprofit corporation or association exempt from federal income tax under section 501(c)(2) or (3) of the Internal Revenue Code; (ii) a public school district, college, or university; (iii) a private academy, college, university, or seminary of learning; (iv) a church; or (v) the state or a political subdivision of the state;
- (3) the charter school must use the property to provide (i) direct instruction in any grade from kindergarten through grade 12; (ii) special education for disabled children; or (iii) administrative services directly related to the educational program at that site; and
- (4) except for lease provisions that allow for the shared use of the property by (i) the charter school and another public or private school; (ii) the charter school and a church; or (iii) the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period.

ATHLOS ACADEMY 8/19/2015
9725 Robert Trail S
20-01900-51-011 Proposed Valuation Calculation

PAY 2015

1,935,700 Land
764,300 Building
2,700,000 Total Valuation

PROPOSED (USING PAY 2015)

1,935,700 Land
13,000,000 Building
14,935,700 Total Valuation

Total Tax Capacity (TTC)

2,250 First \$150,000 at 1.5%
295,714 Above \$150,000 at 2.0%
297,964

Fiscal Disparity Tax Capacity (FDTC)

297,964 TTC
38.3271% Pay 2015 IGH FD Rate
114,201

Local Tax Capacity (LTC)

297,964 TTC
(114,201) Less FDTC
183,763

City's Tax

183,763 LTC
48.131% Pay 2015 LTC Rate
88,447

City's Portion Fiscal Disparities

3,757,226 FD Contribution Tcap Value
\$ 2,570,303 FD Contribution \$
4,114,828 FD Distribution Tcap Value
\$ 1,919,824 FD Distribution \$
75% FD \$ %

114,201 FDTC
161.625% Pay 2015 Area-Wide FD Rate
184,577 Pay 2015 Fiscal Disparity
75% FD \$ %
137,865 Estimated City Portion Fiscal Disparities

PILOT

88,447 City's Tax
137,865 City's Portion Fiscal Disparities
226,312