



INVER GROVE HEIGHTS CITY COUNCIL AGENDA

Monday, August 8, 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 July , 2016
 - B. Liquor License Extension Drkula's 32 Bowl on September 8th – 10th, 2016
 - C. Appointment of Auditors for the Years Ending December 31, 2016 and 2017
 - D. Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1193 90th Street
 - E. Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1843 120th Street
 - F. Approve Custom Grading Agreement and Permanent Drainage and Stormwater Ponding Easement for 11400 Albavar Path
 - G. Consider Inver Grove Heights CVB Bylaws and 2016 Budget Revisions
 - H. Consider Approval of the Rental and Code Compliance Coordinator Job Description
 - I. Consider Approval of Dakota County Ship Grant Agreement
 - J. Consider Approval of Recreation Coordinator (Active Adults) Job Description and Hiring Timeline
 - K. Consider Replacement of One (1) Meter Diving Board and Stand for Veterans Memorial Community Center
 - L. Consider Acceptance of the Donation of 10 sets of Self-Contained Breathing Apparatus (SCBA) from the City of Maple Grove
 - M. Approve Amendment to Custom Grading Agreement for 2143 94th Court
 - N. Personnel Actions
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**:
7. **REGULAR AGENDA**:
 - I. **PUBLIC WORKS**:
 - A. Request for Change in Work Hours by EJM Pipe Services, Inc. (5:00 a.m. to 10:00 p.m., M-F) on City Project No. 2015-13 and 2015-16

II. COMMUNITY DEVELOPMENT:

- B. CLASSIC CONSTRUCTION;** Consider a Resolution relating to a Conditional Use Permit to exceed the maximum height allowance for a flag pole for the property located at 11015 Clark Road
- C. LORI BARR;** Consider a Resolution relating to a Final Plat and related agreements for a two lot subdivision to be known as Hayden Heights for property located along Courthouse Blvd, near 96th Street
- D. CITY OF INVER GROVE HEIGHTS;** Consider the Second Reading of an Ordinance to opt-out of the requirements of Minn. Statute 462.3593, subd. 9, which defines and regulates Temporary Family Health Care Dwellings

III. ADMINISTRATION

- E. CITY OF INVER GROVE HEIGHTS;** Consider the Second and Third Reading of an Ordinance Amendment to Ordinance 5-6-1 to amend the language
- F. CITY OF INVER GROVE HEIGHTS;** Consider Amending Ordinance 8-6-2 Relating to Rubbish (Trash) Haulers Licenses

8. MAYOR & COUNCIL COMMENTS:

9. 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: August 8, 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 July 21, 2016 to August 3, 2016.

SUMMARY

Shown below is a listing of the disbursements for the various funds for the period ending August 3, 2016. The detail of these disbursements is attached to this memo.

General & Special Revenue	\$416,699.11
Debt Service & Capital Projects	1,251,912.16
Enterprise & Internal Service	235,116.06
Escrows	13,873.28
	<hr/>
Grand Total for All Funds	<u><u>\$1,917,600.61</u></u>

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 July 21, 2016 to August 3, 2016 and the listing of disbursements requested for approval.

DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

**RESOLUTION APPROVING DISBURSEMENTS FOR THE
PERIOD ENDING August 3, 2016**

WHEREAS, a list of disbursements for the period ending August 3, 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	\$416,699.11
Debt Service & Capital Projects	1,251,912.16
Enterprise & Internal Service	235,116.06
Escrows	13,873.28
Grand Total for All Funds	<u><u>\$1,917,600.61</u></u>

Adopted by the City Council of Inver Grove Heights this 8th day of August, 2016.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



Expense Approval Report

By Fund

Payment Dates 07/21/2016 - 08/03/2016

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
AFSCME COUNCIL 5	INV0054257	07/22/2016	UNION DUES (AFSCME FAIR SI	101.203.2031000	31.70
AFSCME COUNCIL 5	INV0054258	07/22/2016	UNION DUES (AFSCME FULL S	101.203.2031000	843.84
AFSCME COUNCIL 5	INV0054259	07/22/2016	UNION DUES (AFSCME FULL S	101.203.2031000	87.90
BITUMINOUS ROADWAYS, INC.	25694	08/03/2016	35265	101.43.5200.443.60016	16,572.28
CA DEPT OF CHILD SUPPORT SERVICES	INV0054260	07/22/2016	MIGUEL GUADALAJARA FEIN/T	101.203.2032100	440.76
CANADA GOOSE MANAGEMENT	201609	08/03/2016	201609	101.44.6000.451.30700	3,850.00
CARGILL, INC.	2902903541	08/03/2016	7/8/16	101.43.5200.443.60016	1,733.53
CARGILL, INC.	2902905478	08/03/2016	7/11/16	101.43.5200.443.60016	8,548.49
CENTURY LINK	7/19/16 651 455 9072	08/03/2016	651 455 9072 782	101.42.4200.423.50020	44.12
CITY OF SAINT PAUL	IN00016920	08/03/2016	7/21/16	101.42.4000.421.50080	229.00
DAKOTA COUNTY TECHNICAL COLLEGE	00136303	07/27/2016	13326135	101.41.1100.413.30700	2,500.00
DAKOTA ELECTRIC ASSN	246837-9 7/16	07/27/2016	Electric	101.44.6000.451.40020	3,561.85
DAKOTA ELECTRIC ASSN	250165-8 7/16	07/27/2016	Electric	101.44.6000.451.40020	687.87
DAKOTA ELECTRIC ASSN	393563-2 7/16	07/27/2016	Electric	101.44.6000.451.40020	431.88
DAKOTA ELECTRIC ASSN	426713-4 7/16	07/27/2016	Electric	101.43.5400.445.40020	47.49
DAKOTA ELECTRIC ASSN	443054-2 7/16	07/27/2016	Electric	101.44.6000.451.40020	14.00
DAKOTA ELECTRIC ASSN	109394-7 7/16	07/27/2016	Electric	101.43.5400.445.40020	1,198.24
EDGE MARKETING	16269	08/03/2016	35101	101.43.5200.443.60045	236.85
EDGE MARKETING	16269	08/03/2016	35101	101.45.3300.419.60045	100.50
EFTPS	INV0054278	07/22/2016	FEDERAL WITHHOLDING	101.203.2030200	49,107.28
EFTPS	INV0054280	07/22/2016	MEDICARE WITHHOLDING	101.203.2030500	13,705.00
EFTPS	INV0054281	07/22/2016	SOCIAL SECURITY WITHHOLDI	101.203.2030400	44,302.56
EFTPS	INV0054364	07/26/2016	MEDICARE WITHHOLDING	101.203.2030500	2.20
EFTPS	INV0054365	07/26/2016	SOCIAL SECURITY WITHHOLDI	101.203.2030400	9.42
EMC	48649	08/03/2016	INVERG	101.42.4200.423.30700	1,040.00
GENESIS EMPLOYEE BENEFITS ACH ONLY	INV0054263	07/22/2016	HSA ELECTION-FAMILY	101.203.2032500	2,654.74
GENESIS EMPLOYEE BENEFITS ACH ONLY	INV0054264	07/22/2016	HSA ELECTION-SINGLE	101.203.2032500	2,674.37
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.41.1100.413.30550	31.75
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.41.2000.415.30550	72.15
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.42.4000.421.30550	221.22
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.42.4200.423.30550	21.50
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.43.5000.441.30550	15.00
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.43.5100.442.30550	37.00
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.43.5200.443.30550	39.00
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.44.6000.451.30550	41.03
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.45.3000.419.30550	18.92
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.45.3200.419.30550	16.16
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	101.45.3300.419.30550	29.50
GENESIS EMPLOYEE BENEFITS, INC	IN832069	07/27/2016	4/1/16-4/30/16	101.42.4000.421.30550	140.00
GENESIS EMPLOYEE BENEFITS, INC	IN832070	07/27/2016	5/1/16-5/31/16	101.42.4000.421.30550	40.00
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.41.1100.413.30550	9.45
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.41.2000.415.30550	12.28
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.42.4000.421.30550	37.92
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.42.4200.423.30550	3.16
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.43.5000.441.30550	3.16
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.43.5100.442.30550	9.48
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.43.5200.443.30550	3.16
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.44.6000.451.30550	7.38
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.45.3000.419.30550	2.85
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	101.45.3300.419.30550	9.48
GERTENS	402464/1	07/27/2016	103566	101.44.6000.451.60016	373.75
GERTENS	402858/1	07/27/2016	103566	101.44.6000.451.60016	119.85
GERTENS	402927/1	07/27/2016	103566	101.44.6000.451.60016	14.95
GERTENS	403657/1	08/03/2016	103566	101.44.6000.451.60016	142.22
GERTENS	403781/1	08/03/2016	103566	101.44.6000.451.60016	79.25
GERTENS	403816/1	08/03/2016	103566	101.44.6000.451.60016	113.27
GERTENS	403841/1	08/03/2016	103566	101.44.6000.451.60016	135.75
GERTENS	403658/1	08/03/2016	103566	101.44.6000.451.60016	(27.60)
HEIGHTS DEVELOPMENT CORP	397852	08/03/2016	6/28/16	101.43.5200.443.60016	2,696.00
HEIGHTS DEVELOPMENT CORP	397852	08/03/2016	6/28/16	101.44.6000.451.60016	2,695.00
ICMA RETIREMENT TRUST - 457	INV0053984	07/08/2016	ICMA-AGE <49 %	101.203.2031400	4,766.61
ICMA RETIREMENT TRUST - 457	INV0053985	07/08/2016	ICMA-AGE <49	101.203.2031400	4,752.30
ICMA RETIREMENT TRUST - 457	INV0053986	07/08/2016	ICMA-AGE 50+ %	101.203.2031400	1,525.95
ICMA RETIREMENT TRUST - 457	INV0053987	07/08/2016	ICMA-AGE 50+	101.203.2031400	4,744.36
ICMA RETIREMENT TRUST - 457	INV0053988	07/08/2016	ICMA (EMPLOYER SHARE ADM	101.203.2031400	78.92

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
ICMA RETIREMENT TRUST - 457	INV0053997	07/08/2016	ROTH IRA (AGE 49 & UNDER)	101.203.2032400	1,074.24
ICMA RETIREMENT TRUST - 457	INV0053998	07/08/2016	ROTH IRA (AGE 50 & OVER)	101.203.2032400	200.00
ICMA RETIREMENT TRUST - 457	INV0054265	07/22/2016	ICMA-AGE <49 %	101.203.2031400	4,625.40
ICMA RETIREMENT TRUST - 457	INV0054266	07/22/2016	ICMA-AGE <49	101.203.2031400	4,752.30
ICMA RETIREMENT TRUST - 457	INV0054267	07/22/2016	ICMA-AGE 50+ %	101.203.2031400	1,436.27
ICMA RETIREMENT TRUST - 457	INV0054268	07/22/2016	ICMA-AGE 50+	101.203.2031400	4,744.36
ICMA RETIREMENT TRUST - 457	INV0054269	07/22/2016	ICMA (EMPLOYER SHARE ADM	101.203.2031400	78.92
ICMA RETIREMENT TRUST - 457	INV0054276	07/22/2016	ROTH IRA (AGE 49 & UNDER)	101.203.2032400	1,074.24
ICMA RETIREMENT TRUST - 457	INV0054277	07/22/2016	ROTH IRA (AGE 50 & OVER)	101.203.2032400	200.00
INVER GROVE FORD	7/25/16 94917	08/03/2016	94917	101.42.4000.421.70300	535.62
J.D. NELSON CONSTRUCTION LLC.	1016	07/27/2016	7/19/16	101.45.3000.419.30700	1,210.00
LEVANDER, GILLEN & MILLER P.A.	6/30/16 92000E	07/27/2016	92000E	101.42.4000.421.30410	15,294.12
LOCAL GOVERNMENT INFORMATION SYSTEM (I 42001		07/27/2016	111541	101.42.4200.423.30700	27.50
LOCAL GOVERNMENT INFORMATION SYSTEM (I 42056		07/27/2016	106325	101.42.4000.421.70501	1,844.00
LOCAL GOVERNMENT INFORMATION SYSTEM (I 42066		07/27/2016	111541	101.42.4200.423.30700	124.00
M & J SERVICES, LLC	1476	08/03/2016	7/6/16	101.43.5200.443.40046	1,438.00
M & J SERVICES, LLC	1476	08/03/2016	7/6/16	101.44.6000.451.60016	1,437.00
M & J SERVICES, LLC	1479	08/03/2016	7/11/16	101.43.5200.443.40046	1,025.00
M & J SERVICES, LLC	1484	08/03/2016	7/18/16	101.43.5200.443.40046	310.00
MADISON NATIONAL LIFE INSURANCE COMPAN	1219287	08/03/2016	GROUP# 012439	101.203.2031700	2,616.74
MIDWEST FENCE & MFG CO	FN2016-1483	07/27/2016	PERMIT CANCELLED	101.45.0000.3226000	50.00
MINNESOTA DEPARTMENT OF HUMAN SERVICE	INV0054261	07/22/2016	JOEL JACKSON FEIN/TAXPAYE	101.203.2032100	428.80
MINNESOTA DEPARTMENT OF HUMAN SERVICE	INV0054262	07/22/2016	JUSTIN PARRANTO FEIN/TAXP	101.203.2032100	226.58
MN DEPT OF REVENUE	INV0054279	07/22/2016	STATE WITHHOLDING	101.203.2030300	20,058.00
MN LIFE INSURANCE CO	AUGUST 2016	08/03/2016	POLICY# 0027324	101.203.2030900	3,035.34
MN NCPERS LIFE INSURANCE	AUGUST 2016	08/03/2016	AUGUST 2016	101.203.2031600	320.00
MTI DISTRIBUTING CO	1075108-00	07/27/2016	91180	101.44.6000.451.40047	1,243.22
MTI DISTRIBUTING CO	1076670-00	07/27/2016	91180	101.44.6000.451.40047	220.15
MUNICIPAL EMERGENCY SERVICES, INC.	IN1047074	07/27/2016	C43426	101.42.4200.423.60065	114.00
OXYGEN SERVICE COMPANY, INC	03345281	07/27/2016	04394	101.42.4000.421.60065	26.40
PERA	INV0054270	07/22/2016	PERA COORDINATED PLAN	101.203.2030600	33,656.22
PERA	INV0054271	07/22/2016	EMPLOYER SHARE (EXTRA PE	101.203.2030600	2,588.83
PERA	INV0054272	07/22/2016	PERA DEFINED PLAN	101.203.2030600	69.23
PERA	INV0054273	07/22/2016	EMPLOYER SHARE (PERA DEF	101.203.2030600	69.23
PERA	INV0054274	07/22/2016	PERA POLICE & FIRE PLAN	101.203.2030600	12,536.20
PERA	INV0054275	07/22/2016	EMPLOYER SHARE (POLICE &	101.203.2030600	18,804.35
PINE BEND PAVING, INC.	16-392	08/03/2016	7/1/16	101.43.5200.443.60016	584.68
SCHERFF INC	7/11/16	08/03/2016	7/11/16	101.43.5200.443.40046	2,488.00
SCHERFF INC	7/11/16	08/03/2016	7/11/16	101.44.6000.451.40046	2,487.00
SHERWIN-WILLIAMS	9767-4	12/23/2015	6682-5453-5	101.43.5200.443.60016	(20.09)
SPRINT	842483314-176	07/27/2016	Telephone	101.41.1000.413.50020	69.98
SPRINT	842483314-176	07/27/2016	Telephone	101.41.1100.413.50020	70.18
SPRINT	842483314-176	07/27/2016	Telephone	101.41.2000.415.50020	34.99
SPRINT	842483314-176	07/27/2016	Telephone	101.42.4000.421.50020	34.99
SPRINT	842483314-176	07/27/2016	Telephone	101.42.4200.423.50020	34.99
SPRINT	842483314-176	07/27/2016	Telephone	101.43.5000.441.50020	34.99
SPRINT	842483314-176	07/27/2016	Telephone	101.44.6000.451.50020	34.99
SPRINT	842483314-176	07/27/2016	Telephone	101.45.3000.419.50020	34.99
TAB PRODUCTS CO. LLC	2337331	07/27/2016	2903609	101.42.4000.421.60065	201.11
TEAM LABORATORY CHEMICAL CORP	INV0001936	08/03/2016	231940	101.43.5200.443.60016	188.00
TWIN CITIES OCCUPATIONAL HEALTH PC	T1244I2387	07/27/2016	7/5/16	101.41.1100.413.30500	3,004.00
TYLER TECHNOLOGIES, INC	025-162857	07/27/2016	41443	101.41.2000.415.40044	438.00
UNIFIRST CORPORATION	090 0312144	08/03/2016	1051948	101.43.5200.443.60045	33.42
UNIFIRST CORPORATION	090 0312144	08/03/2016	1051948	101.44.6000.451.60045	29.52
UNIFIRST CORPORATION	090 0313178	08/03/2016	1051948	101.43.5200.443.60045	33.42
UNIFIRST CORPORATION	090 0313178	08/03/2016	1051948	101.44.6000.451.60045	29.52
UNIFORMS UNLIMITED	34932-1	07/27/2016	491-1	101.42.4000.421.60045	202.97
UNIFORMS UNLIMITED	35742-1	07/27/2016	491-1	101.42.4000.421.60045	1,147.76
UNIFORMS UNLIMITED	35744-1	07/27/2016	491-1	101.42.4000.421.60045	1,077.78
UNIFORMS UNLIMITED	35799-1	07/27/2016	491-1	101.42.4000.421.60045	1,108.79
UNIFORMS UNLIMITED	35800-1	07/27/2016	491-1	101.42.4000.421.60065	1,111.80
UNIFORMS UNLIMITED	35803-1	07/27/2016	491-1	101.42.4000.421.60065	1,016.76
UNIFORMS UNLIMITED	35807-1	07/27/2016	491-1	101.42.4000.421.60065	139.99
UNIFORMS UNLIMITED	36966-1	08/03/2016	9158-1	101.42.4000.421.60045	1,154.79
VERIFIED CREDENTIALS, INC.	254872	08/03/2016	7/31/16	101.41.1100.413.30500	47.50

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
XCEL ENERGY	507517350	07/27/2016	Gas & Electric	101.43.5200.443.40020	1,684.66
XCEL ENERGY	507517350	07/27/2016	Gas & Electric	101.43.5400.445.40020	9,582.46
XCEL ENERGY	507734622	07/27/2016	Gas & Electric	101.42.4200.423.40010	151.55
XCEL ENERGY	507734622	07/27/2016	Gas & Electric	101.42.4200.423.40020	1,516.56
XCEL ENERGY	507736308	07/27/2016	Gas & Electric	101.43.5400.445.40020	680.72
XCEL ENERGY	508100726	07/27/2016	Gas & Electric	101.44.6000.451.40010	127.55
XCEL ENERGY	508100726	07/27/2016	Gas & Electric	101.44.6000.451.40020	1,309.55
XCEL ENERGY	508285561	07/27/2016	Gas & Electric	101.42.4000.421.40042	44.05
Fund: 101 - GENERAL FUND					347,134.18
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	204.44.6100.452.30550	13.98
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	204.44.6100.452.30550	1.05
GL SPORTS CAMPS, LLC	17501	07/27/2016	AT175	204.44.6100.452.30700	1,314.95
HHH RANCH	15-331	07/27/2016	HORSE CAMP 6/20/16	204.44.6100.452.30700	2,975.00
HOBOT, AMANDA	7/27/16	08/03/2016	FAIRYTALE DANCE CAMP - SC	204.44.0000.3470000	119.00
MAXIMUM SOLUTIONS	19022	07/27/2016	7/1/16	204.44.6100.452.40044	5,640.00
MN YOUTH ATHLETIC SERVICES	7/8/16	07/27/2016	GOPHER STATE TOURNAMEN	204.44.0000.3471000	2,256.00
POLAKOSKI, VALERIE	7/25/16	08/03/2016	SENIOR TRIP REFUND	204.227.2271000	54.00
SAVE A LIFE	4142	07/27/2016	7/18/16	204.44.6100.452.30700	668.75
Fund: 204 - RECREATION FUND					13,042.73
COCA COLA BOTTLING COMPANY	0158025916	07/27/2016	6/29/16	205.44.6200.453.76100	134.79
COMMON SENSE BUILDING SERVICES, INC.	39032	07/27/2016	JULY 2016	205.44.6200.453.40040	7,288.05
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	205.44.6200.453.30550	12.50
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	205.44.6200.453.30550	3.50
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	205.44.6200.453.30550	12.50
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	205.44.6200.453.30550	11.00
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	205.44.6200.453.30550	26.64
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	205.44.6200.453.30550	3.16
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	205.44.6200.453.30550	7.37
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	205.44.6200.453.30550	1.58
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	205.44.6200.453.30550	1.58
HUEBSCH SERVICES	3700421	07/27/2016	92965	205.44.6200.453.40040	56.47
HUEBSCH SERVICES	3700421	07/27/2016	92965	205.44.6200.453.40040	204.79
JTECH	1785681	08/01/2016	38492J	205.44.6200.453.60040	48.00
MAXIMUM SOLUTIONS	19022	07/27/2016	7/1/16	205.44.6200.453.40044	8,460.00
PETTY CASH - ATM	APR-JUNE 2016	07/27/2016	APR-JUNE 2016	205.44.6200.453.70440	16.38
XCEL ENERGY	508100726	07/27/2016	Gas & Electric	205.44.6200.453.40010	717.30
XCEL ENERGY	508100726	07/27/2016	Gas & Electric	205.44.6200.453.40010	2,759.53
XCEL ENERGY	508100726	07/27/2016	Gas & Electric	205.44.6200.453.40020	17,274.03
XCEL ENERGY	508100726	07/27/2016	Gas & Electric	205.44.6200.453.40020	10,064.45
ZIMMER, ERIC	6/28/16	07/27/2016	REIMBURSE-SILVER SNEAKER	205.44.6200.453.60065	16.93
Fund: 205 - COMMUNITY CENTER					47,120.55
BRKW APPRAISALS, INC.	7699	08/03/2016	6/27/16	290.45.3000.419.30700	2,200.00
BRKW APPRAISALS, INC.	7699	08/03/2016	6/27/16	290.45.3000.419.30700	2,200.00
BRKW APPRAISALS, INC.	7699	08/03/2016	6/27/16	290.45.3000.419.30700	2,200.00
BRKW APPRAISALS, INC.	7707	08/03/2016	7/20/16	290.45.3000.419.30700	2,800.00
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	290.45.3000.419.30550	1.34
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	290.45.3000.419.30550	0.31
Fund: 290 - EDA					9,401.65
WELLS FARGO BANK	1334989	07/27/2016	PAYING AGENT FEE	391.57.9000.570.90300	750.00
Fund: 391 - GO TAX INCR REF, 2014A (05B)					750.00
APEX ARENA SOLUTIONS, INC.	4	07/27/2016	10315004	436.44.5900.736.40040	135,307.25
PARK CONSTRUCTION COMPANY	PAY VO. NO. 1	07/27/2016	CITY PROJECT NO. 2015-12	436.73.5900.736.80300	98,561.07
SRF CONSULTING GROUP, INC	09301.00-1	07/27/2016	2016 REGIONAL SOLICITATION	436.73.5900.736.30300	4,800.00
Fund: 436 - 2016 IMPROVEMENT FUND					238,668.32
PARK CONSTRUCTION COMPANY	PAY VO. NO. 1	07/27/2016	CITY PROJECT NO. 2015-12	440.74.5900.740.80300	194,581.55
Fund: 440 - PAVEMENT MANAGEMENT PROJ					194,581.55
EAGAN, CITY OF	APRIL-JUNE 2016	08/03/2016	APRIL-JUNE 2016	441.74.5900.741.40030	4,343.14
Fund: 441 - STORM WATER MANAGEMENT					4,343.14
TOTAL CONSTRUCTION & EQUIP.	68070	07/27/2016	CIT001	444.74.5900.744.80300	269.68
TOTAL CONSTRUCTION & EQUIP.	68072	07/27/2016	CIT001	444.74.5900.744.80300	810.63
Fund: 444 - PARK CAPITAL REPLACEMENT					1,080.31

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
EJM PIPE SERVICES	PAY VO. NO. 2	07/01/2016	CITY PROJECT NO. 2015-13 20	446.74.5900.746.80300	298,587.66
EJM PIPE SERVICES	PAY VO. NO. 2	07/01/2016	CITY PROJECT NO. 2015-13 20	446.74.5900.746.80300	348,646.90
NORTH AMERICAN TITLE COMPANY	40852-16-20705-2	07/27/2016	7/11/16	446.74.5900.746.80100	55.29
PARK CONSTRUCTION COMPANY	PAY VO. NO. 1	07/27/2016	CITY PROJECT NO. 2015-12	446.74.5900.746.80300	117,924.88
S. M. HENTGES & SONS, INC.	PAY VO. NO. 9	07/27/2016	CITY PROJECT NO. 2015-11	446.74.5900.746.80300	41,311.45
S. M. HENTGES & SONS, INC.	PAY VO. NO. 9	07/27/2016	CITY PROJECT NO. 2015-11	446.74.5900.746.80300	2,698.91
Fund: 446 - NW AREA					809,225.09
CITY OF WEST ST. PAUL	2016-0173	07/27/2016	7/22/16	451.75.5900.751.30700	2,263.75
JOEL CARLSON	7/15/16	07/27/2016	AUGUST 2016	451.75.5900.751.30700	1,000.00
Fund: 451 - HOST COMMUNITY FUND					3,263.75
CITY OF BLOOMINGTON	7/1/16-7/29/16	08/03/2016	7/1/16-7/29/16	501.50.7100.512.30700	420.00
EAGAN, CITY OF	APRIL-JUNE 2016	08/03/2016	APRIL-JUNE 2016	501.50.7100.512.40005	12,397.52
EAGAN, CITY OF	APRIL-JUNE 2016	08/03/2016	APRIL-JUNE 2016	501.50.7100.512.40005	17.36
EAGAN, CITY OF	APRIL-JUNE 2016	08/03/2016	APRIL-JUNE 2016	501.50.7100.512.40005	20,354.38
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	501.50.7100.512.30550	43.78
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	501.50.7100.512.30550	13.58
HAWKINS, INC.	3920391	08/03/2016	108816	501.50.7100.512.60019	618.80
HD SUPPLY WATERWORKS LTD	F744539B	07/27/2016	099872	501.50.7100.512.40043	7.50
HD SUPPLY WATERWORKS LTD	F757434	08/03/2016	099872	501.50.7100.512.40043	2,730.60
MICHAELS CONSTRUCTION	7/22/16	07/27/2016	REFUND HYDRANT PERMIT #1	501.207.2070300	(17.36)
MICHAELS CONSTRUCTION	7/22/16	07/27/2016	REFUND HYDRANT PERMIT #1	501.50.0000.3813000	(243.60)
MN PIPE & EQUIPMENT	0360075	08/03/2016	2195	501.50.7100.512.40046	2,733.93
MN POLLUTION CONTROL AGENCY	7/5/16	07/27/2016	CLASS SD TEST	501.50.7100.512.50070	45.00
NORTHWESTERN POWER EQUIPMENT CO.	160263DJ	08/03/2016	7/6/16	501.50.7100.512.40040	661.66
O' REILLY AUTO PARTS	1767-219744	08/03/2016	1578028	501.50.7100.512.60040	11.99
O' REILLY AUTO PARTS	1767-220011	08/03/2016	1578028	501.50.7100.512.60040	11.99
SHAPCO PRINTING	325112	08/03/2016	0585	501.50.7100.512.50030	440.00
SHERWIN-WILLIAMS	8564-6	08/03/2016	6682-5453-5	501.50.7100.512.40040	284.37
SHERWIN-WILLIAMS	8882-2	08/03/2016	6682-5453-5	501.50.7100.512.40040	89.84
SHORT ELLIOTT HENDRICKSON, INC.	318180	08/03/2016	4340	501.50.7100.512.30300	1,416.25
SPRINT	842483314-176	07/27/2016	Telephone	501.50.7100.512.50020	70.18
TKDA	002016002325	08/03/2016	0015781.001	501.50.7100.512.30700	1,567.36
WATER CONSERVATION SERVICES INC	6919	08/03/2016	7/22/16	501.50.7100.512.30700	8,274.00
XCEL ENERGY	507729893	07/27/2016	Gas & Electric	501.50.7100.512.40010	669.81
XCEL ENERGY	507729893	07/27/2016	Gas & Electric	501.50.7100.512.40020	20,211.20
ZACK'S, INC.	31382B	08/03/2016	Z159	501.50.7100.512.60040	217.42
Fund: 501 - WATER UTILITY FUND					73,047.56
EAGAN, CITY OF	APRIL-JUNE 2016	08/03/2016	APRIL-JUNE 2016	502.51.7200.514.40015	18,422.88
EAGAN, CITY OF	APRIL-JUNE 2016	08/03/2016	APRIL-JUNE 2016	502.51.7200.514.40015	40,260.15
EAGAN, CITY OF	APRIL-JUNE 2016	08/03/2016	APRIL-JUNE 2016	502.51.7200.514.40015	23.09
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	502.51.7200.514.30550	23.23
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	502.51.7200.514.30550	8.54
TEAM LABORATORY CHEMICAL CORP	INV0001936	08/03/2016	231940	502.51.7200.514.60016	133.25
XCEL ENERGY	507729893	07/27/2016	Gas & Electric	502.51.7200.514.40010	27.58
XCEL ENERGY	507729893	07/27/2016	Gas & Electric	502.51.7200.514.40020	1,361.79
Fund: 502 - SEWER UTILITY FUND					60,260.51
BREAKTHRU BEVERAGE MINNESOTA	1080495860	07/27/2016	102294	503.52.8300.524.76150	210.40
BREAKTHRU BEVERAGE MINNESOTA	1080495860B	08/03/2016	102294	503.52.8300.524.76150	2.90
BREAKTHRU BEVERAGE MINNESOTA	1090584630	07/27/2016	102294	503.52.8300.524.76150	335.80
BREAKTHRU BEVERAGE MINNESOTA	1080502498	07/27/2016	102294	503.52.8300.524.76150	189.72
BREAKTHRU BEVERAGE MINNESOTA	1090590672	07/27/2016	102294	503.52.8300.524.76150	324.00
BREAKTHRU BEVERAGE MINNESOTA	1090593930	08/03/2016	102294	503.52.8300.524.76150	373.20
COCA COLA BOTTLING COMPANY	0118243601	07/27/2016	7/19/16	503.52.8300.524.76100	723.12
COCA COLA BOTTLING COMPANY	0118444721	08/03/2016	7/27/16	503.52.8300.524.76100	336.00
COLLEGE CITY BEVERAGE	371732	07/27/2016	3592	503.52.8300.524.76150	569.60
COLLEGE CITY BEVERAGE	371793	08/03/2016	3592	503.52.8300.524.76150	479.95
DAKOTA ELECTRIC ASSN	201360-5 7/16	07/27/2016	Electric	503.52.8600.527.40020	224.51
DENNY'S 5TH AVENUE BAKERY	617214	07/27/2016	IW185	503.52.8300.524.76050	72.48
DENNY'S 5TH AVENUE BAKERY	617390	07/27/2016	IW185	503.52.8300.524.76050	69.83
DENNY'S 5TH AVENUE BAKERY	618422	07/27/2016	IW185	503.52.8300.524.76050	84.66
DENNY'S 5TH AVENUE BAKERY	619217	07/27/2016	IW185	503.52.8300.524.76050	84.66
DENNY'S 5TH AVENUE BAKERY	619361	08/03/2016	IW185	503.52.8300.524.76050	84.66
DENNY'S 5TH AVENUE BAKERY	620103	08/03/2016	IW185	503.52.8300.524.76050	84.66
DEX MEDIA	7/20/16	08/03/2016	110360619	503.52.8500.526.50025	102.74
DRAFT TECHNOLOGIES	07181604	07/27/2016	7/18/16	503.52.8300.524.40042	50.00
EXCEL TURF AND ORNAMENTAL LLC	00960	07/27/2016	7/20/16	503.52.8600.527.60035	673.31
GARY'S PEST CONTROL	50287	07/27/2016	7/25/16	503.52.8500.526.40040	71.77
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	503.52.8000.521.30550	11.00
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	503.52.8500.526.30550	12.65
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	503.52.8600.527.30550	21.50

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	503.52.8000.521.30550	3.16
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	503.52.8600.527.30550	3.16
GERLACH OUTDOOR POWER EQUIP	114332	07/27/2016	109606	503.52.8100.522.40042	671.31
GERLACH OUTDOOR POWER EQUIP	115037	07/27/2016	109606	503.52.8100.522.40042	352.52
HEGGIES PIZZA	2239345	07/27/2016	1708	503.52.8300.524.76050	189.60
JJ TAYLOR DIST. COMPANY OF MN	2557990	08/03/2016	00834	503.52.8300.524.76150	315.80
KEN GORG GOLF SHOP LLC	INV-0032	08/03/2016	6/28/16	503.52.8200.523.76350	530.00
M. AMUNDSON LLP	220549	07/25/2016	220549	503.52.8300.524.76050	257.73
MANSFIELD OIL COMPANY	576747	07/27/2016	24129-04-576747	503.52.8400.525.60021	1,134.51
METRO CASH REGISTER SYSTEMS	79804	07/27/2016	0069	503.52.8000.521.60010	186.81
MTI DISTRIBUTING CO	1077311-00	07/27/2016	402307	503.52.8600.527.40042	435.53
MTI DISTRIBUTING CO	1077379-00	07/27/2016	402307	503.52.8600.527.40042	33.66
MTI DISTRIBUTING CO	1077659-00	07/27/2016	402307	503.52.8600.527.40042	38.24
MTI DISTRIBUTING CO	1078416-00	07/27/2016	402307	503.52.8600.527.40042	143.55
NATURE CALLS, INC.	24737	08/03/2016	6/30/16	503.52.8600.527.40065	124.27
PUFFY CREAM DONUTS	00004599	07/27/2016	7/1/16	503.52.8300.524.76050	187.50
SCHAEFFER MFG CO	HV3019-INV1	07/27/2016	2237881	503.52.8600.527.60022	1,265.41
SHAMROCK GROUP	2025766	07/27/2016	07176	503.52.8300.524.76100	80.34
SHAMROCK GROUP	2023063	07/27/2016	07176	503.52.8300.524.76100	280.00
SHAMROCK GROUP	2026567	07/27/2016	07176	503.52.8300.524.76100	96.50
SHAMROCK GROUP	2027290	07/27/2016	07176	503.52.8300.524.76100	182.00
SHAMROCK GROUP	2028971	08/03/2016	7/29/16	503.52.8300.524.76100	107.00
UNIFIRST CORPORATION	090 0313286	07/27/2016	1258268	503.52.8600.527.60045	51.07
UNIFIRST CORPORATION	090 0314355	07/27/2016	1258268	503.52.8600.527.60045	51.23
UNIFIRST CORPORATION	090 0315379	08/03/2016	1258268	503.52.8600.527.60045	51.16
US FOODSERVICE	4567149	07/27/2016	03805983	503.52.8300.524.76050	885.30
US FOODSERVICE	4942504	07/27/2016	03805983	503.52.8300.524.76050	783.59
US FOODSERVICE	5329590	07/27/2016	03805983	503.52.8300.524.76050	1,007.17
US FOODSERVICE	5455267	08/03/2016	03805983	503.52.8300.524.76050	762.22
US FOODSERVICE	5471587	08/03/2016	03805983	503.52.8300.524.76050	26.04
XCEL ENERGY	507025498	07/27/2016	Gas & Electric	503.52.8500.526.40010	34.93
XCEL ENERGY	507025498	07/27/2016	Gas & Electric	503.52.8500.526.40020	1,594.53
XCEL ENERGY	507025498	07/27/2016	Gas & Electric	503.52.8600.527.40010	26.72
XCEL ENERGY	507025498	07/27/2016	Gas & Electric	503.52.8600.527.40020	2,574.41
YAMAHA GOLF & UTILITY, INC.	01-175318	08/03/2016	INVERWOOD	503.52.8400.525.40041	37.19

Fund: 503 - INVER WOOD GOLF COURSE

19,697.28

GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	602.00.2100.415.30550	1.66
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	602.00.2100.415.30550	0.32
LKQ CORPORATION INC.	76810946	08/03/2016	2234162	602.00.2100.415.40048	505.00

Fund: 602 - RISK MANAGEMENT

506.98

ACME TOOLS	4269704	07/27/2016	13903	603.00.5300.444.80700	389.00
ADVANCED GRAPHIX, INC.	195041	07/27/2016	7/19/16	603.00.5300.444.40041	38.00
BANNERMAN	16741	08/03/2016	IGH001	603.00.5300.444.40041	475.97
BOUND TREE MEDICAL LLC	82217222	08/03/2016	WEB024283	603.00.5300.444.80700	183.22
C.J. SPRAY, INC.	3083225	08/03/2016	1062051	603.00.5300.444.40041	238.20
COMMON SENSE BUILDING SERVICES, INC.	39032	07/27/2016	JULY 2016	603.00.5300.444.40040	298.00
FACTORY MOTOR PARTS COMPANY	1-5009707	08/03/2016	10799	603.00.5300.444.40041	75.80
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	603.00.5300.444.30550	9.24
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	603.00.5300.444.30550	3.16
GRAINGER	9158653916	08/03/2016	806460150	603.00.5300.444.40041	26.05
INTERSTATE POWERSYSTEMS	R001115578:01	08/03/2016	13468	603.00.5300.444.40041	1,477.96
INVER GROVE FORD	5211782	08/03/2016	7/11/16	603.00.5300.444.40041	1.96
INVER GROVE FORD	5211882	08/03/2016	7/12/16	603.00.5300.444.40041	18.25
INVER GROVE FORD	5212301	08/03/2016	7/19/16	603.00.5300.444.40041	362.66
INVER GROVE FORD	5212438	08/03/2016	7/20/16	603.00.5300.444.40041	3.40
I-STATE TRUCK CENTER	R242080159:01	08/03/2016	13468	603.00.5300.444.40041	496.35
KIMBALL MIDWEST	5015161	08/03/2016	222006	603.00.5300.444.60012	272.91
LARSON COMPANIES	B-262000012	08/03/2016	14649	603.140.1450050	115.58
MACQUEEN EQUIPMENT INC	2163104	08/03/2016	5/4/16	603.00.5300.444.40041	271.26
MACQUEEN EQUIPMENT INC	P00310	08/03/2016	INVER002	603.00.5300.444.40041	37.21
METRO JANITORIAL SUPPLY INC	11014068	08/03/2016	7/13/16	603.00.5300.444.60012	193.16
MID CITY SERIVCES, INC.	44256	08/03/2016	7/8/16	603.00.5300.444.40065	42.75
MIDWAY FORD	108475	08/03/2016	6/28	603.00.5300.444.80700	34,122.95
MTI DISTRIBUTING CO	1073961-00	08/03/2016	91180	603.00.5300.444.40041	1,197.26
NORTH AMERICAN TRAILER SALES	0304111732	08/03/2016	10095	603.00.5300.444.40041	616.90
O' REILLY AUTO PARTS	9158653916	08/03/2016	806460150	603.00.5300.444.40041	9.99
O' REILLY AUTO PARTS	1767-216073	08/03/2016	1767-216073	603.00.5300.444.40041	71.18
O' REILLY AUTO PARTS	1767-216237	08/03/2016	1578028	603.00.5300.444.40041	38.33
O' REILLY AUTO PARTS	1767-216240	08/03/2016	1578028	603.00.5300.444.40041	38.36
O' REILLY AUTO PARTS	1767-216333	08/03/2016	1578028	603.140.1450050	42.72
O' REILLY AUTO PARTS	1767-216968	08/03/2016	1578028	603.00.5300.444.40041	91.16
O' REILLY AUTO PARTS	1767-217146	08/03/2016	1578028	603.00.5300.444.40041	79.44

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
O' REILLY AUTO PARTS	1767-217362	08/03/2016	1578028	603.00.5300.444.40041	53.99
O' REILLY AUTO PARTS	1767-217390	08/03/2016	1578028	603.00.5300.444.40041	41.92
O' REILLY AUTO PARTS	1767-217427	08/03/2016	1578028	603.140.1450050	5.81
O' REILLY AUTO PARTS	1767-217531	08/03/2016	1578028	603.00.5300.444.40041	40.30
O' REILLY AUTO PARTS	1767-217568	08/03/2016	1578028	603.00.5300.444.60012	162.99
O' REILLY AUTO PARTS	1767-217646	08/03/2016	1578028	603.00.5300.444.40041	26.96
O' REILLY AUTO PARTS	1767-218103	08/03/2016	1578028	603.00.5300.444.40041	63.99
O' REILLY AUTO PARTS	1767-218107	08/03/2016	1578028	603.00.5300.444.40041	27.45
O' REILLY AUTO PARTS	1767-218108	08/03/2016	1578028	603.00.5300.444.40041	(19.73)
O' REILLY AUTO PARTS	1767-218296	08/03/2016	1578028	603.00.5300.444.60012	40.43
O' REILLY AUTO PARTS	1767-218330	08/03/2016	1578028	603.00.5300.444.40041	53.96
O' REILLY AUTO PARTS	1767-218340	08/03/2016	1578028	603.00.5300.444.40041	7.49
O' REILLY AUTO PARTS	1767-218355	08/03/2016	1578028	603.00.5300.444.60012	34.95
O' REILLY AUTO PARTS	1767-218672	08/03/2016	1578028	603.00.5300.444.40041	4.04
O' REILLY AUTO PARTS	1767-218679	08/03/2016	1578028	603.00.5300.444.60012	5.49
O' REILLY AUTO PARTS	1767-218696	08/03/2016	1578028	603.00.5300.444.60012	33.98
O' REILLY AUTO PARTS	1767-218721	08/03/2016	1578028	603.00.5300.444.40041	14.56
O' REILLY AUTO PARTS	1767-218920	08/03/2016	1578028	603.140.1450050	62.94
O' REILLY AUTO PARTS	1767-218358	08/03/2016	1578028	603.00.5300.444.60012	(26.45)
O' REILLY AUTO PARTS	1767-218919	08/03/2016	1578028	603.00.5300.444.60012	(10.99)
POMP'S TIRE SERVICE, INC.	980029686	08/03/2016	4502557	603.00.5300.444.60014	124.66
POMP'S TIRE SERVICE, INC.	980029687	08/03/2016	4502557	603.140.1450050	759.00
POMP'S TIRE SERVICE, INC.	980029957	08/03/2016	4502557	603.00.5300.444.40041	498.64
POMP'S TIRE SERVICE, INC.	980030016	08/03/2016	4502557	603.00.5300.444.40041	33.50
POMP'S TIRE SERVICE, INC.	980030245	08/03/2016	4502557	603.140.1450050	632.50
PUMP AND METER SERVICE INC	25449-26950SO	08/03/2016	494500	603.00.5300.444.40040	204.85
PUMP AND METER SERVICE INC	25449-27178SO	08/03/2016	494500	603.00.5300.444.40040	(194.42)
RED POWER DIESEL SERVICE, INC.	10135MN	08/03/2016	5086M	603.00.5300.444.40041	123.92
SCHLOMKA SERVICES LLC	18659	08/03/2016	6/15/16	603.00.5300.444.40040	260.00
SHARROW LIFTING PRODUCTS	100699	08/03/2016	18300	603.00.5300.444.40041	30.43
TRENCHERS PLUS, INC.	IT88170	08/03/2016	R03634	603.00.5300.444.40041	524.74
TRUCK UTILITIES, INC.	0300011	08/03/2016	0312065	603.00.5300.444.80700	10,773.00
TRUCK UTILITIES, INC.	0300012	08/03/2016	000154	603.00.5300.444.40042	1,085.00
UNIFIRST CORPORATION	090 0312144	08/03/2016	1051948	603.00.5300.444.40065	137.30
UNIFIRST CORPORATION	090 0312144	08/03/2016	1051948	603.00.5300.444.60045	31.49
UNIFIRST CORPORATION	090 0313178	08/03/2016	1051948	603.00.5300.444.40065	137.30
UNIFIRST CORPORATION	090 0313178	08/03/2016	1051948	603.00.5300.444.60045	31.49
WESTERN PETROLEUM COMPANY	97413942-41801	08/03/2016	112741	603.140.1450050	1,781.53
XCEL ENERGY	507517350	07/27/2016	Gas & Electric	603.00.5300.444.40010	65.77
XCEL ENERGY	507517350	07/27/2016	Gas & Electric	603.00.5300.444.40020	1,584.83

Fund: 603 - CENTRAL EQUIPMENT

60,587.99

COMMON SENSE BUILDING SERVICES, INC.	39032	07/27/2016	JULY 2016	605.00.7500.460.40040	3,746.11
GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	605.00.7500.460.30550	3.50
HUEBSCH SERVICES	3700420	07/27/2016	100075	605.00.7500.460.40065	113.54
LONE OAK COMPANIES	72060	08/03/2016	UTILITY BILLINGS	605.00.7500.460.50035	430.71
NEOPOST USA INC	7/28/16	07/28/2016	POSTAGE	605.00.7500.460.50035	6,019.50
TOTAL CONSTRUCTION & EQUIP.	68071	08/03/2016	CIT001	605.00.7500.460.40047	2,714.54
XCEL ENERGY	507517350	07/27/2016	Gas & Electric	605.00.7500.460.40020	7,967.94

Fund: 605 - CITY FACILITIES

20,995.84

GENESIS EMPLOYEE BENEFITS, INC	IN826268	07/27/2016	Payroll	606.00.1400.413.30550	16.75
GENESIS EMPLOYEE BENEFITS, INC	IN832733	07/27/2016	Payroll	606.00.1400.413.30550	3.15

Fund: 606 - TECHNOLOGY FUND

19.90

ANDERSON, TIFFANY	7/18/16	07/27/2016	ESCROW RELEASE 9063 ALTM	702.229.2295002	1,000.00
EMMONS & OLIVIER RESOURCES	00095-0052-6	07/27/2016	00095-0052	702.229.2282002	346.06
EMMONS & OLIVIER RESOURCES	00095-0052-6	07/27/2016	00095-0052	702.229.2287302	6,128.98
HOFFMAN, BARBARA & KEITH	6/1/16	08/03/2016	7102 BESTER AVE	702.229.2289702	1,000.00
ISD #199	7/21/16	08/03/2016	ESCROW REFUND BALANCE	702.229.2297301	1,129.99
MICHAELS CONSTRUCTION	7/22/16	07/27/2016	REFUND HYDRANT PERMIT #1	702.229.2294300	1,000.00
NONNEMACHER, VINCENT & PATRICIA	8/1/16	08/03/2016	7929 ARGENTA TRAIL	702.229.2305601	1,000.00
NORTON HOMES LLC	7/18/16	07/27/2016	ESCROW RELEASE 8858 AVIAF	702.229.2293401	1,000.00
STANTEC CONSULTING SERVICES INC.	1073706	07/27/2016	92607	702.229.2296102	1,268.25

Fund: 702 - ESCROW FUND

13,873.28

Grand Total

1,917,600.61

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider request of Drklua's Bowl to extend the premise of the existing liquor license sales area to a designated outdoor area September 8 through September 10th.

Meeting Date: August 8, 2016
 Item Type: Consent
 Prepared by: Michelle Tesser, City Clerk

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 Request of Drkula's Bowl or a Temporary Liquor License Premise Extension to a Designated Outdoor Area on September 8th for Joe Atkin's Community Event and September 9th-10th in conjunction with IGH Days.

SUMMARY:

Tim Drkula has made a request to extend the liquor sales area to the Drkula's Bowl parking lot during September 8-10th 2016 consisting of a community event and IGH Days. On September 9th there will be a musical band. On Saturday, there will be a professional wrestling event under the tent. The event will include the sale of food, intoxicating liquor and malt liquor. No alcoholic beverages will be consumed outside of the enclosed area, and colored wristbands will be utilized for age verification purposes. Security personnel will be on-hand throughout the events.

The applicant has provided insurance certification that shows their parking lot is covered in their insurance policy.

Tim Drkula will work with the Police Chief and the Fire Marshall as the event date nears to receive input regarding the proposed outdoor sales and other safety issues related to the event.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Appointment of Auditors for the Years Ending December 31, 2016 and 2017

Meeting Date: August 8, 2016
 Item Type: Consent
 Contact: Kristi Smith 651-450-2521
 Prepared by: Kristi Smith, Finance Director
 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

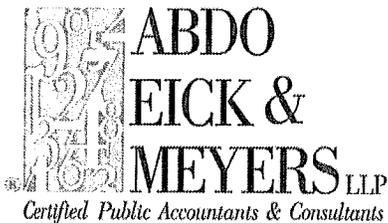
To approve the appointment of Abdo, Eick & Meyers, LLP as auditors for the City of Inver Grove Heights for the years ending December 31, 2016 and 2017.

SUMMARY

In 2013, an RFP was issued for professional audit services for the three years ending December 31, 2013, 2014, and 2015 with the option to continue for an additional two years. As a result of this process Abdo, Eick & Meyers, LLP was selected to provide audit services to the City.

Staff has been pleased with the work of Abdo, Eick & Meyers, LLP and wishes to continue to use their services. The scope of the services to be provided is the same as it has been and is included in the attached agreement. We expect to have interim work done during the month of January 2017 and fieldwork done during March 2017. We would anticipate having the Comprehensive Annual Financial Report completed and ready to present to the City Council in May 2017. The fee will not exceed \$39,808 for 2016 and \$41,002 for 2017. If a Single Audit is necessary it will be at their hourly rates included in the proposal. At this time a Single Audit may be required due to the federal funding of City Project No. 2014-11 (Argenta Trail Trunk Highway 55 Improvements).

I recommend that Abdo, Eick & Meyers, LLP be appointed as the City's auditors for the years ending December 31, 2016 and 2017 and that execution of the attached agreement for auditing services be authorized.



July 14, 2016

Management, Honorable Mayor, and City Council
City of Inver Grove Heights
Inver Grove Heights, Minnesota

We appreciate the opportunity to work with you and the staff at the City of Inver Grove Heights (the City) over the past years to conduct your annual financial audits. This has been a successful working relationship because we have spent a great deal of time understanding how your City operates, and you getting to know how we conduct our audits. As a result, we have been able to achieve a process that is mutually beneficial to both parties through good working relationships, resulting in efficiencies in the process.

We also understand that because of the very challenging economic conditions, cities are expected to do more with less. Our firm understands your specific challenges and situation. As a result, we limited our increase to 3 percent. This will allow us to continue a relationship that through the past years has been shaped and polished to provide both parties with outstanding results.

Our fee for these services will be as follows:

<u>Service</u>	<u>2016</u>	<u>2017</u>
Audit	\$39,808	\$41,002

The above fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Other factors that may affect the above fees would be if a Single Audit were required.

We appreciate the opportunity to be of continued service to the City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If you have any questions, please contact me at 952-715-3003.

Very truly yours,

ABDO, EICK & MEYERS, LLP
Certified Public Accountants & Consultants

Steven R. McDonald, CPA
Managing Partner

RESPONSE:

This letter correctly sets forth the understanding of the City of Inver Grove Heights.

By:

Title:

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1193 90th Street.

Meeting Date: August 8, 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
SXT

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, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1193 90th Street.

SUMMARY

The owners have provided the required grading and erosion control plans. An engineering escrow of \$2,500 has been provided to cover any costs incurred by the City for review and inspection of the site grading. The owner has applied for a building permit and will provide a \$10,000 LOC or cash surety prior to permit issuance.

The owners have agreed to execute a SWFMA for an infiltration basin to be constructed on the lot. The owners will be providing a utility and drainage easement on the perimeter of the lot and a utility, drainage and storm water ponding easement to protect a storm basin.

It is recommended that the City Council approve the Custom Grading Agreement, Stormwater Facilities Maintenance Agreement, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1193 90th Street.

TJK/mw

- Attachments: Custom Grading Agreement
 Storm Water Facilities Maintenance Agreement
 Permanent Utility and Drainage Easement
 Permanent Utility, Drainage and Stormwater Ponding Easement
 Restrictive Use Easement and Fire Truck Turnaround Agreement-Brown
 Restrictive Use Easement and Fire Truck Turnaround Agreement-Nash

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT 1193 – 90TH STREET
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT 1193 – 90TH STREET
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS CUSTOM GRADING AGREEMENT (Agreement) is made and entered into on the 8th day of August, 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 Kurt T. Nash and LaRae A. Nash, 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 Property 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.** Kurt T. Nash and LaRae A. Nash, husband and wife, own 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: Kurt Nash and LaRae Nash
1413 Aspen Court
West St. Paul, MN 55118

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 their 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 Property resulting from the grading or building on the land within the Property 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 Property 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 Property 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 Property 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 polyester film, 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.

Final as-built information shall be submitted in an electronic format compatible with the CITY'S Geographic Information System (GIS). All information must be on the Dakota County coordinates system. Compatible formats are AUTOCAD .DWG or .DXF files on compact disk. As-built drawings shall also be scanned and stored as images in .TIFF or .PDF files on compact disk. Note: All corrected links, grades and elevations shall have a line drawn through the original text and the new information placed nearby; the original information or text shall not be erased.

3.10 RETAINING WALL. If a retaining wall will be constructed on the Property as

part of the Improvements, then prior to the City issuing a building permit for the Property, a retaining wall permit must be issued by the City. If the Property is to have a retaining wall constructed as part of the Improvements, then prior to the City granting a temporary certificate of occupancy or a final certificate of occupancy for the Property, the retaining wall permit must be complete, wall certification must be received and accepted by the Chief Building Official, grading associated with the retaining wall must be accepted by the City Engineer and the retaining wall record drawing must be received and accepted by the City.

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, 2018. 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, 2018, 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, 2018.

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 \$2,500.00 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 \$2,500.00 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. This Agreement shall run with the Property and shall inure to the benefit of the Owner and the City and shall bind Owner and the successors and assigns of Owner and shall be binding upon the City and the successor's and assigns of the City. This Agreement shall also be binding upon any right title or interest of the parties to the Property acquired after the date of this Agreement or acquired after the date of recording of this Agreement.

11.6 ASSIGNMENT. The Owner may not assign this 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

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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:

Kurt T. Nash

LaRae A. Nash

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Kurt T. Nash and LaRae A. Nash, 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:

The South 240.4 feet of the North 1308.4 feet of the West 351.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of Section 20, Township 27, Range 22, subject to a road easement over the East 30 feet and South 30 feet, together with an easement for ingress and egress on the West 60 feet of the East 384 feet of the Northwest Quarter of the Northwest Quarter except the North 66 feet thereof and on the South 33 feet of the North 66 feet of that part of the Northwest Quarter of the Northwest Quarter lying East of Highway 218, all in Section 20, Township 27, Range 22, according to the United States 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>
Certificate of Survey	7-14-16	Loucks
Grading & Erosion Control Plan (C3-1)	7-14-16	Loucks

The Development Plans were approved by the City Engineer on July 20, 2016.



AUSTIN
 LOUCKS
 ENGINEERS
 10000 N. MICHIGAN AVE.
 SUITE 100
 DALLAS, TEXAS 75243
 (214) 343-1234
 www.loucks.com

GRADING & EROSION CONTROL PLAN
 C3-1

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 November 15, 2016, whichever occurs first	grading, drainage, and sediment & erosion control
<u>X</u>	Prior to Certificate of Occupancy	Stormwater Facilities (infiltration basin and berm and outlet for infiltration basin, raingarden and ditching)
<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 1193 – 90TH STREET, INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS STORM WATER FACILITIES MAINTENANCE AGREEMENT (Agreement) is made, entered into and effective this 8th day of August, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as City) and Kurt T. Nash and LaRae A. Nash, 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 Kurt T. Nash and LaRae A. Nash, 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:

The raingarden, infiltration basin, berm and outlet for the infiltration basin and ditching located along the access road on the adjoining property to the north and located on the Landowner Property together with all related stormwater appurtenances lying within the Landowner Property.

1.5 Storm Water Facility Plan. “Storm Water Facility Plan” means the Certificate of Survey and Grading, Drainage and Erosion Control Plan prepared by Loucks dated July 14,

2016, approved by the City Engineer on July 20, 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 the City issuing a certificate of occupancy for the Landowner Property, 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 \$2,500.00 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 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: Kurt T. Nash and LaRae A. Nash
928 Jefferson Lane
Eagan, MN 55123

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

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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:

Kurt T. Nash

LaRae A. Nash

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Kurt T. Nash and LaRae A. Nash, 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:

The South 240.4 feet of the North 1308.4 feet of the West 351.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of Section 20, Township 27, Range 22, subject to a road easement over the East 30 feet and South 30 feet, together with an easement for ingress and egress on the West 60 feet of the East 384 feet of the Northwest Quarter of the Northwest Quarter except the North 66 feet thereof and on the South 33 feet of the North 66 feet of that part of the Northwest Quarter of the Northwest Quarter lying East of Highway 218, all in Section 20, Township 27, Range 22, according to the United States 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

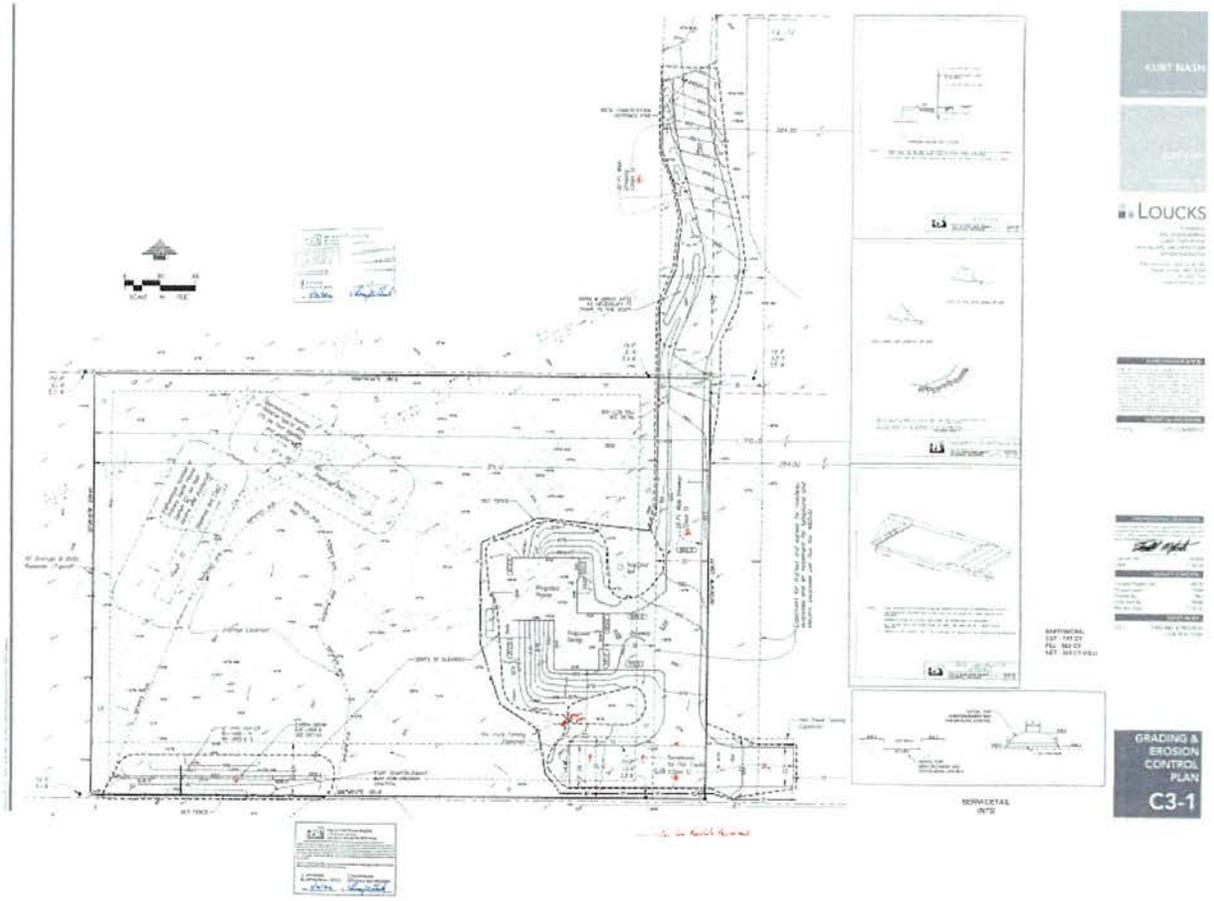
EXHIBIT C
ANNUAL INSPECTION FORM

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



PERMANENT UTILITY AND DRAINAGE EASEMENT

THIS PERMANENT UTILITY AND DRAINAGE EASEMENT (Easement) is made, granted and conveyed this 8th day of April, 2016, between Kurt T. Nash and LaRae A. Nash, husband and wife (hereinafter individually and collectively referred to as “Landowner”) and 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, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, the following:

A **permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto** (hereinafter “**Permanent Easement**”) under, over, across, through and upon that real property legally described on **Exhibit B** (hereinafter 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 sanitary sewer, water mains, storm water facilities, drainage facilities and any utilities, 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 sanitary sewer, water mains, storm water facilities, drainage facilities any utilities, 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, themselves or their 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 themselves and their successors and assigns, do hereby warrant to and covenant with the City, its successors and assigns, that they are well seized in fee of the Landowner's Property described on Exhibit A and the Permanent Easement Area described on Exhibit B and that they have good right to grant and convey the Permanent Easement herein to the City.

This Easement shall run with the Landowner's Property and shall inure to the benefit of the Landowner and the City and shall bind Landowner and the successors and assigns of Landowner and shall be binding upon the City and the successor's and assigns of the City. This Easement shall also be binding upon any right title or interest of the parties to the Landowner's Property acquired after the date of this Easement or acquired after the date of recording of this Easement.

[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

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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:

Kurt T. Nash

LaRae A. Nash

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Kurt T. Nash and LaRae A. Nash, 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 LANDOWNER'S PROPERTY

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

The South 240.4 feet of the North 1308.4 feet of the West 351.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of Section 20, Township 27, Range 22, subject to a road easement over the East 30 feet and South 30 feet, together with an easement for ingress and egress on the West 60 feet of the East 384 feet of the Northwest Quarter of the Northwest Quarter except the North 66 feet thereof and on the South 33 feet of the North 66 feet of that part of the Northwest Quarter of the Northwest Quarter lying East of Highway 218, all in Section 20, Township 27, Range 22, according to the United States Government Survey thereof, Dakota County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION OF PERMANENT EASEMENT AREA

A permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto, over, under, across, through and upon the following described property:

The South 10.00 feet of the North 1078.00 feet of the West 321.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of Section 20, T.27N., R.22W., Dakota County, Minnesota,

AND

The West 10.00 feet of the East 705.12 feet of that part of the Northwest Quarter of the Northwest Quarter of said Section 20, lying South of the North 1068.00 feet thereof, Dakota County, Minnesota,

AND

The South 10.00 feet of the West 321.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of said Section 20, Dakota County, Minnesota,

AND

The West 10.00 feet of the East 394.00 feet of that part of the Northwest Quarter of the Northwest Quarter of said Section 20, lying South of the North 1068.00 feet thereof, Dakota County, Minnesota.

PERMANENT UTILITY, DRAINAGE AND STORMWATER PONDING EASEMENT

THIS PERMANENT UTILITY, DRAINAGE AND STORMWATER PONDING EASEMENT (Easement) is made, granted and conveyed this 8th day of August, 2016, by and between the City of Inver Grove Heights, a municipality of the State of Minnesota, (hereinafter referred to as City) and Kurt T. Nash and LaRae A. Nash, husband and wife (hereinafter referred to as Landowner).

The Landowner owns the real property situated within Dakota County, Minnesota as described on the attached **Exhibit A (hereinafter “Landowner’s Property”)**.

The Landowner, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, forever, a **permanent easement for utilities, drainage, sanitary sewer, water, stormwater ponding, stormwater collection, stormwater control improvements and for purposes and uses incident and related thereto, including, without limitation, the construction, maintenance, repair and replacement of utilities and stormwater ponding, drainage, collection and control facilities**, under, over, across, through and upon the following described premises (the Easement Area) situated within Dakota County, Minnesota, to-wit:

See the attached **Exhibit B**, incorporated herein by reference,

EXEMPT FROM STATE DEED TAX

The rights of the City include the right of the City, its contractors, agents and servants, at the sole cost of the City:

- a.) to enter upon the Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, grading, sloping, and restoration relating to the purposes of this Easement; and
- b.) to maintain the 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 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 Easement Area; and

d.) to remove or otherwise dispose of all earth or other material excavated from the 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 Easement Area or 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, themselves or their 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 themselves and their successors and assigns, do hereby warrant to and covenant with the City, its successors and assigns, that they are well seized in fee of the Landowner's Property described on Exhibit A and the Easement Area described on Exhibit B and have good right to grant and convey the permanent Easement herein to the City.

This Easement shall run with the Landowner's Property and shall inure to the benefit of the Landowner and the City and shall bind Landowner and the successors and assigns of Landowner and shall be binding upon the City and the successor's and assigns of the City. This Easement shall also be binding upon any right title or interest of the parties to the Landowner's Property acquired after the date of this Easement or acquired after the date of recording of this Easement.

[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

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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:

Kurt T. Nash

LaRae A. Nash

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Kurt T. Nash and LaRae A. Nash, 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'S PROPERTY

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

The South 240.4 feet of the North 1308.4 feet of the West 351.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of Section 20, Township 27, Range 22, subject to a road easement over the East 30 feet and South 30 feet, together with an easement for ingress and egress on the West 60 feet of the East 384 feet of the Northwest Quarter of the Northwest Quarter except the North 66 feet thereof and on the South 33 feet of the North 66 feet of that part of the Northwest Quarter of the Northwest Quarter lying East of Highway 218, all in Section 20, Township 27, Range 22, according to the United States Government Survey thereof, Dakota County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION OF EASEMENT AREA

A permanent easement for utilities, drainage, sanitary sewer, water, stormwater ponding, stormwater collection, stormwater control improvements and for purposes and uses incident and related thereto, under, over, across, through and upon the following described real property in Dakota County, Minnesota:

That part of the West 351.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of Section 20, T.27N., R.22W., Dakota County, Minnesota, lying South of the North 1068.00 feet thereof described as follows:

Commencing at the southwest corner of said West 351.12 feet; thence South 89 degrees 48 minutes 17 seconds East, assumed bearing, along the south line of said Northwest Quarter of the Northwest Quarter a distance of 6.50 feet to the point of beginning of the parcel to be described; thence North 23 degrees 40 minutes 16 seconds East a distance of 118.00 feet; thence North 35 degrees 09 minutes 59 seconds East a distance of 52.00 feet; thence North 54 degrees 05 minutes 55 seconds East a distance of 32.00 feet; thence South 50 degrees 51 minutes 02 seconds East a distance of 28.00 feet; thence South 12 degrees 15 minutes 24 seconds East a distance of 30.00 feet; thence South 21 degrees 00 minutes 55 seconds West a distance of 29.00 feet; thence South 26 degrees 39 minutes 42 seconds East a distance of 44.00 feet; thence South 08 degrees 14 minutes 39 seconds West a distance of 57.00 feet to the intersection with said south line of the Northwest Quarter of the Northwest Quarter; thence North 89 degrees 48 minutes 17 seconds West, along said south line, to the point of beginning and there terminating.

RESTRICTIVE USE EASEMENT AND FIRE TRUCK TURNAROUND AGREEMENT

THIS RESTRICTIVE USE EASEMENT AND FIRE TRUCK TURNAROUND AGREEMENT (Easement Agreement) is made this 8th day of August, 2016, by and between Kurt T. Nash and LaRae A. Nash, husband and wife, (hereinafter referred to as “Grantor”) and the City of Inver Grove Heights, a Minnesota municipal corporation (hereinafter referred to as “City”).

WHEREAS, Grantor is the fee owner of land located in Dakota County, Minnesota, more fully described in **Exhibit A**, attached hereto and made a part hereof, (hereinafter referred to as “the Property”).

WHEREAS, a portion of the Property must remain free of any buildings, objects, trees, shrubs or structures (more specifically identified below) to allow City Fire Department vehicles, public safety vehicles and emergency vehicles adequate space for a turnaround area which will allow the vehicles to enter and exit the Property. The City desires that nothing be placed on this portion of the Property.

WHEREAS, Grantor and City wish to enter into an agreement which will grant to City a restrictive use easement that prohibits the placement of any trees, shrubs, or other vegetation without the prior written consent of the City, and further prohibits the construction of any buildings or other man-made structures thereon (except for impervious pavement) over that portion of the Property described and depicted on **Exhibit B**, attached hereto (hereinafter referred to as the “Restricted Easement Area”), without the prior written consent of the City.

WHEREAS, Grantor and City further wish to enter into an agreement which will grant to City an easement to allow City Fire Department vehicles, public safety vehicles and emergency vehicles adequate space for a turnaround area which will allow the vehicles to enter and exit the Property. The turnaround area shall be located in the Restrictive Easement Area described on Exhibit B. The easement will allow City Fire Department vehicles, public safety vehicles and emergency vehicles use of the Restricted Easement Area.

NOW, THEREFORE, in consideration of the premises, it is hereby agreed by the parties as follows:

1. **Grant of Easement.** Grantor hereby forever grants to City and its successors and assigns, a restrictive use easement, with those restrictions, terms, provisions, duties, and obligations herein contained in, under, on, over and through the Restricted Easement Area.

Grantor hereby forever grants to City and its successors and assigns an easement to allow City Fire Department vehicles, public safety vehicles and emergency vehicles adequate space for a turnaround area which will allow the vehicles to enter and exit the Property. The easement for the turnaround area will be located in the Restricted Easement Area.

2. **Restrictions Relating to Vegetation.** Without the prior written consent of the City, no trees, shrubs, or other vegetation may be planted or placed upon the Restricted Easement Area.

3. **Restrictions Relating to Structures.** No buildings, gates and no other man-made structures (including, but not limited to: fences, sheds, retaining walls, play equipment, gazebo's, rock gardens and landscape boulders) shall be placed in the Restricted Easement Area without the prior written consent of the City; provided, however, nothing contained in this Easement Agreement prohibits Grantor from placing impervious surface material (asphalt or concrete) within the Restricted Easement Area and nothing contained in this Easement Agreement prohibits Grantor or City from placing public utilities in the Restricted Easement Area.

Grantor further agrees not to place any fence or gate on the Property which would prohibit access to the Restricted Easement Area by the City.

4. **Restrictions Relating to Grade.** No change in the general topography of the Restricted Easement Area landscape, (including, but not limited to, excavation, movement, or removal of soil), shall be allowed without the prior written consent of the City.

5. **Requirement for Surface of Restricted Easement Area.** The Restricted Easement Area must be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced with class 5 base course so as to provide all-weather driving capabilities. The Restricted Easement Area may be covered with impervious surface material (asphalt or concrete).

6. **Duration of Easement.** The duration of this Easement Agreement is perpetual, unless terminated by any of the following means:
 - a. The Easement Agreement may be terminated by recordable written instrument signed by the parties.
 - b. The Easement Agreement may be terminated if the City executes a written recordable release of the Easement Agreement.

- c. The Easement Agreement shall be terminated if the City acquires a street easement over the Easement Agreement or otherwise acquires fee title to the Restricted Easement Area.
7. **No Impairment of City Rights.** Nothing contained herein shall impair any right of the City now held or hereafter acquired to construct, repair, replace, or maintain any existing or future public utilities or streets which are, or come to be placed in, on, or under the Restricted Easement Area.
8. **City Remedies.** If the Grantor fails to perform any of its covenants or obligations under this Easement Agreement, the City may avail itself of any remedy afforded by law and any of the following non-exclusive remedies:
- a) **Specific Performance.** The City may specifically enforce this Easement Agreement.
- b) **Notice of Non-Compliance; Cure Period.** If the City's Director of Public Works ("DPW") determines, at his sole discretion, that the Grantor has not complied with the terms and provisions set forth in this Easement Agreement, the DPW shall provide written notice to the Grantor of such failure to comply with the terms and provisions of this Easement Agreement. This notice shall specify that the Grantor will have thirty (30) days to comply with the terms and provisions of this Easement Agreement, unless thirty (30) days is not practicable for the Grantor to so comply, in which case the Grantor shall be given a reasonable time, as determined by the DPW, to comply with the terms and provisions of this Easement Agreement provided the Grantor 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 Grantor to comply with the terms and provisions of this Easement Agreement, in the event of an emergency as determined by the DPW, the City may perform the work necessary for compliance with the terms and provisions of this Easement Agreement without giving any notice to the Grantor and without giving the Grantor thirty (30) days to comply with the terms and provisions of this Easement Agreement. If the City performs emergency service work, the Grantor 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 7 (c) and 7 (d) with respect to the billing, collection and/or tax certification of such costs.
- c) **Payment of Costs Incurred by City.** If the Grantor fails to comply with the terms and provisions of this Easement Agreement 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 Property to perform such work. The City shall charge all costs incurred by

the City to perform the tasks necessary for compliance to the Grantor. The amount of costs charged by the City to the Grantor 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 terms and provisions of this Easement Agreement. The Grantor shall make payment directly to the City within thirty (30) 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.

- d) **Certification of Costs Payable With Taxes.** If payment is not made by the Grantor as provided in Section 7 (c), the City may certify to Dakota County the amounts due as payable with the real estate taxes for Property owned by the Grantor 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 Grantor waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Property owned by the Grantor. The Grantor hereby further waive 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 Property owned by the Grantor. The Grantor waives any appeal rights otherwise available pursuant to Minnesota Statute § 429.081. The Grantor acknowledges that the benefit to the Property owned by the Grantor from the performance of tasks by the City to ensure compliance with the terms and provisions of this Easement Agreement equal or exceeds the amount of the charges and assessments for the costs that are being imposed hereunder upon the Property owned by the Grantor.

9. **Binding Effect.** This Easement Agreement shall run with the Property and shall inure to the benefit of the Grantor and the City and shall bind the Grantor and the successors and assigns of the Grantor and shall be binding upon the City and the successor’s and assigns of the City. This Easement Agreement shall also be binding upon any right title or interest of the parties to the Property acquired after the date of this Easement Agreement or acquired after the date of recording of this Easement Agreement.

10. **No Assumption of Duty.** Nothing contained in this Easement Agreement shall be considered an affirmative duty upon the City to perform the Grantor’s obligations.

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

12. **Amendment And Waiver.** The parties hereto may by mutual written agreement amend this Easement 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 Easement Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Easement Agreement, waive compliance by another with any of the covenants contained in this Easement 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 Easement 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 Easement 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.

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

14. **Counterparts.** This Easement 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.

15. **Headings.** The subject headings of the sections in this Easement 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 caused this Easement Agreement to be executed as of the day and year aforesaid by its duly authorized representatives.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its: Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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

GRANTOR:

Kurt T. Nash

LaRae A. Nash

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Kurt T. Nash and LaRae A. Nash, 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 PROPERTY

The real property located in Inver Grove Heights, Dakota County, Minnesota, described as follows:

The South 240.4 feet of the North 1308.4 feet of the West 351.12 feet of the East 705.12 feet of the Northwest Quarter of the Northwest Quarter of Section 20, Township 27, Range 22, subject to a road easement over the East 30 feet and South 30 feet, together with an easement for ingress and egress on the West 60 feet of the East 384 feet of the Northwest Quarter of the Northwest Quarter except the North 66 feet thereof and on the South 33 feet of the North 66 feet of that part of the Northwest Quarter of the Northwest Quarter lying East of Highway 218, all in Section 20, Township 27, Range 22, according to the United States Government Survey thereof, Dakota County, Minnesota.

EXHIBIT B
RESTRICTED EASEMENT AREA

An easement over, under, and across that part of the Property described as follows:

The West 50.00 feet of the East 434.00 feet of the South 35.00 feet of the Northwest Quarter of the Northwest Quarter of Section 20, T.27N., R.22W., Dakota County, Minnesota.

RESTRICTIVE USE EASEMENT AND FIRE TRUCK TURNAROUND AGREEMENT

THIS RESTRICTIVE USE EASEMENT AND FIRE TRUCK TURNAROUND AGREEMENT (Easement Agreement) is made this 8th day of August, 2016, by and between James E. Brown, a single person, (hereinafter referred to as “Grantor”) and the City of Inver Grove Heights, a Minnesota municipal corporation (hereinafter referred to as “City”).

WHEREAS, Grantor is the fee owner of land located in Dakota County, Minnesota, more fully described in **Exhibit A**, attached hereto and made a part hereof, (hereinafter referred to as “the Property”).

WHEREAS, a portion of the Property must remain free of any buildings, objects, trees, shrubs or structures (more specifically identified below) to allow City Fire Department vehicles, public safety vehicles and emergency vehicles adequate space for a turnaround area which will allow the vehicles to enter and exit the parcel located to the west of the Property owned by Kurt T. Nash and LaRae Nash. The City desires that nothing be placed on this portion of the Property.

WHEREAS, Grantor and City wish to enter into an agreement which will grant to City a restrictive use easement that prohibits the placement of any trees, shrubs, or other vegetation without the prior written consent of the City, and further prohibits the construction of any buildings or other man-made structures thereon (except for impervious pavement) over that portion of the Property described and depicted on **Exhibit B**, attached hereto (hereinafter referred to as the “Restricted Easement Area”), without the prior written consent of the City.

WHEREAS, Grantor and City further wish to enter into an agreement which will grant to City an easement to allow City Fire Department vehicles, public safety vehicles and emergency vehicles adequate space for a turnaround area which will allow the vehicles to use the Restricted Easement Area. The turnaround area shall be located in the Restrictive Easement Area described on Exhibit B. The easement will allow City Fire Department vehicles, public safety vehicles and emergency vehicles use of the Restricted Easement Area.

NOW, THEREFORE, in consideration of the premises, it is hereby agreed by the parties as follows:

1. **Grant of Easement.** Grantor hereby forever grants to City and its successors and assigns, a restrictive use easement, with those restrictions, terms, provisions, duties, and obligations herein contained in, under, on, over and through the Restricted Easement Area.

Grantor hereby forever grants to City and its successors and assigns an easement to allow City Fire Department vehicles, public safety vehicles and emergency vehicles adequate space for a turnaround area which will allow the vehicles to use the Restricted Easement Area. The easement for the turnaround area will be located in the Restricted Easement Area.

2. **Restrictions Relating to Vegetation.** Without the prior written consent of the City, no trees, shrubs, or other vegetation may be planted or placed upon the Restricted Easement Area.
3. **Restrictions Relating to Structures.** No buildings, gates and no other man-made structures (including, but not limited to: fences, sheds, retaining walls, play equipment, gazebo's, rock gardens and landscape boulders) shall be placed in the Restricted Easement Area without the prior written consent of the City; provided, however, nothing contained in this Easement Agreement prohibits Grantor from placing impervious surface material within the Restricted Easement Area and nothing contained in this Easement Agreement prohibits Grantor or City from placing public utilities in the Restricted Easement Area.
4. **Restrictions Relating to Grade.** No change in the general topography of the Restricted Easement Area landscape, (including, but not limited to, excavation, movement, or removal of soil), shall be allowed without the prior written consent of the City.
5. **Requirement for Surface of Restricted Easement Area.** The Restricted Easement Area must be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced with class 5 base course so as to provide all-weather driving capabilities. The Restricted Easement Area may be covered with impervious surface materials (asphalt or concrete).
6. **Duration of Easement.** The duration of this Easement Agreement is perpetual, unless terminated by any of the following means:
 - a. The Easement Agreement may be terminated by recordable written instrument signed by the parties.
 - b. The Easement Agreement may be terminated if the City executes a written recordable release of the Easement Agreement.
 - c. The Easement Agreement shall be terminated if the City acquires a street easement over the Easement Agreement or otherwise acquires fee title to the Restricted Easement Area.

7. **No Impairment of City Rights.** Nothing contained herein shall impair any right of the City now held or hereafter acquired to construct, repair, replace, or maintain any existing or future public utilities or streets which are, or come to be placed in, on, or under the Restricted Easement Area.

8. **City Remedies.** If the Grantor fails to perform any of its covenants or obligations under this Easement Agreement, the City may avail itself of any remedy afforded by law and any of the following non-exclusive remedies:
 - a) **Specific Performance.** The City may specifically enforce this Easement Agreement.

 - b) **Notice of Non-Compliance; Cure Period.** If the City's Director of Public Works ("DPW") determines, at his sole discretion, that the Grantor has not complied with the terms and provisions set forth in this Easement Agreement, the DPW shall provide written notice to the Grantor of such failure to comply with the terms and provisions of this Easement Agreement. This notice shall specify that the Grantor will have thirty (30) days to comply with the terms and provisions of this Easement Agreement, unless thirty (30) days is not practicable for the Grantor to so comply, in which case the Grantor shall be given a reasonable time, as determined by the DPW, to comply with the terms and provisions of this Easement Agreement provided the Grantor 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 Grantor to comply with the terms and provisions of this Easement Agreement, in the event of an emergency as determined by the DPW, the City may perform the work necessary for compliance with the terms and provisions of this Easement Agreement without giving any notice to the Grantor and without giving the Grantor thirty (30) days to comply with the terms and provisions of this Easement Agreement. If the City performs emergency service work, the Grantor 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 7 (c) and 7 (d) with respect to the billing, collection and/or tax certification of such costs.

 - c) **Payment of Costs Incurred by City.** If the Grantor fails to comply with the terms and provisions of this Easement Agreement 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 Property to perform such work. The City shall charge all costs incurred by the City to perform the tasks necessary for compliance to the Grantor. The amount of costs charged by the City to the Grantor 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 terms

and provisions of this Easement Agreement. The Grantor shall make payment directly to the City within thirty (30) 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.

- d) **Certification of Costs Payable With Taxes.** If payment is not made by the Grantor as provided in Section 7 (c), the City may certify to Dakota County the amounts due as payable with the real estate taxes for Property owned by the Grantor 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 Grantor waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Property owned by the Grantor. The Grantor hereby further waive 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 Property owned by the Grantor. The Grantor waives any appeal rights otherwise available pursuant to Minnesota Statute § 429.081. The Grantor acknowledges that the benefit to the Property owned by the Grantor from the performance of tasks by the City to ensure compliance with the terms and provisions of this Easement Agreement equal or exceeds the amount of the charges and assessments for the costs that are being imposed hereunder upon the Property owned by the Grantor.

9. **Binding Effect.** This Easement Agreement shall run with the Property and shall inure to the benefit of the Grantor and the City and shall bind the Grantor and the successors and assigns of the Grantor and shall be binding upon the City and the successor’s and assigns of the City. This Easement Agreement shall also be binding upon any right title or interest of the parties to the Property acquired after the date of this Easement Agreement or acquired after the date of recording of this Easement Agreement.

10. **No Assumption of Duty.** Nothing contained in this Easement Agreement shall be considered an affirmative duty upon the City to perform the Grantor’s obligations.

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

12. **Amendment And Waiver.** The parties hereto may by mutual written agreement amend this Easement 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 Easement Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Easement Agreement, waive compliance by another with any of the covenants contained in this Easement 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 Easement 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 Easement 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.

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

14. **Counterparts.** This Easement 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.

15. **Headings.** The subject headings of the sections in this Easement 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 caused this Easement Agreement to be executed as of the day and year aforesaid by its duly authorized representatives.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its: Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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

GRANTOR:

James E. Brown

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this ____ day of August, 2016, by James E. Brown, a single person, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his 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 PROPERTY

The real property located in Inver Grove Heights, Dakota County, Minnesota, described as follows:

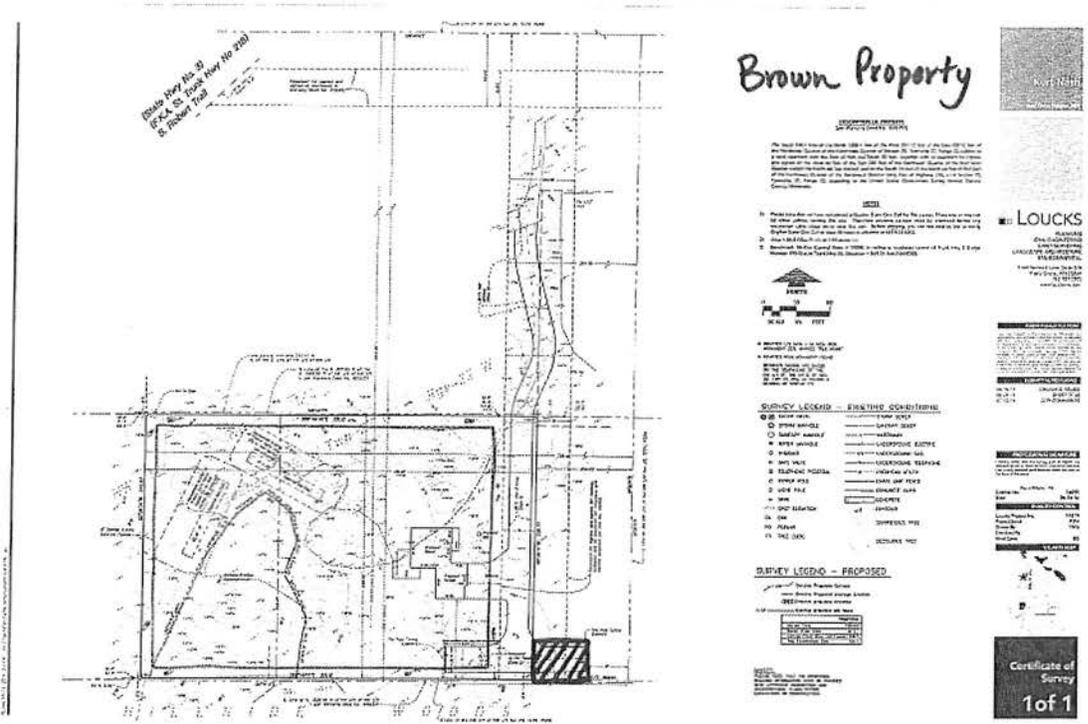
The East 354 feet of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW ¼) of Section twenty (20), Township Twenty-Seven (27), Range Twenty-Two (22) except the North 861 feet thereof, according to the plat thereof on file and of record in the office of the County Recorder in and for Dakota County, Minnesota.

EXHIBIT B
RESTRICTED EASEMENT AREA

An easement over, under, and across that part of the Property described as follows:

The West 50.00 feet of the East 354.00 feet of the South 35.00 feet of the Northwest Quarter of the Northwest Quarter of Section 20, T.27N., R.22W., Dakota County, Minnesota.

Depiction of Easement Area
(Part of Exhibit B)



 = Restricted Easement Area

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1843 120th Street

Meeting Date: August 8, 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

SSA

	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, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1843 120th Street.

SUMMARY

The owners have provided the required grading and erosion control plans. An engineering escrow of \$1,500 has been provided to cover any costs incurred by the City for review, inspection of the site grading and costs of preparing agreement documents. The owner has applied for a building permit and will provide a \$10,000 LOC or cash surety prior to permit issuance.

The owners have agreed to execute a SWFMA for an infiltration basin to be constructed on the lot. The owners will be providing a utility and drainage easement on the perimeter of the lot and a utility, drainage and storm water ponding easement to protect a wetland and regional basin.

It is recommended that the City Council approve the Custom Grading Agreement, Stormwater Facilities Maintenance Agreement, Permanent Utility and Drainage Easement, and Permanent Utility, Drainage and Stormwater Ponding Easement for 1843 120th Street.

TJK/mw

- Attachments: Custom Grading Agreement
 Storm Water Facilities Maintenance Agreement
 Permanent Utility and Drainage Easement
 Permanent Utility, Drainage and Stormwater Ponding Easement

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT
1843 – 120th STREET
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT
1843 – 120TH STREET
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS CUSTOM GRADING AGREEMENT (Agreement) is made and entered into on the 8th day of August, 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 Property 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 Dean R. Wenzel and Lisa J. Wenzel, husband and wife, and their successors and assigns.

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

The Development Plans also include modifications of the above referenced Development Plans as approved from time to time by the City Engineer.

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 Property 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:
Dean R. Wenzel and Lisa J. Wenzel
13086 Dodd Boulevard
Rosemount, MN 55068

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 Property resulting from the grading or building on the land within the Property 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 PAVING OF DRIVEWAY. The Owner must pave the driveway per City requirements.

3.8 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 Property including, but not limited to, restoration of existing control structures and clean-up of public right-of-way, until the Property 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.

3.9 GRADING/DRAINAGE PLAN AND EASEMENTS. The Developer shall construct drainage facilities adequate to serve the Property 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 Property 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.

3.10 AS BUILT INFORMATION. The record plan "as built" drawings of the Improvements shall be provided by the Owner in accordance with City standards no later than 90 days after completion and acceptance of the Improvements by the City, unless otherwise approved in writing by the Director of Public Works. If the record plans are not provided to the City within the 90 days, the City may have this work done and pay for it with the developer's sureties.

Final as-built information shall be submitted in an electronic format compatible with the

City's Geographic Information System (GIS). All information must be on the Dakota County coordinates system. Compatible formats are emailed AUTOCAD .DWG or .DXF. As-built drawings shall also be scanned, stored and emailed as images in .TIFF or .PDF. All as-built drawings must be the approved plans modified to reflect as-built conditions Note: All corrected lines, grades and elevations shall have a line drawn through the original text and the new information placed nearby; the original information or text shall not be erased.

3.11 RETAINING WALL. If a retaining wall will be constructed on the Property as part of the Improvements, then prior to the City issuing a building permit for the Property, a retaining wall permit must be issued by the City. If the Property is to have a retaining wall constructed as part of the Improvements, then prior to the City granting a temporary certificate of occupancy or a final certificate of occupancy for the Property, the retaining wall permit must be complete, wall certification must be received and accepted by the Chief Building Official, grading associated with the retaining wall must be accepted by the City Engineer and the retaining wall record drawing must be received and accepted by the City.

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 Property;
- 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, 2018. 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, 2018, 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, 2018.

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. This Agreement shall run with the Property and shall inure to the benefit of the Owner and the City and shall bind Owner and the successors and

assigns of Owner and shall be binding upon the City and the successor's and assigns of the City. This Agreement shall also be binding upon any right title or interest of the parties to the Property acquired after the date of this Agreement or acquired after the date of recording of this Agreement.

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 Property.

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 Property 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

(CITY SEAL)

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this 8th day of August, 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:

Dean R. Wenzel

Lisa J. Wenzel

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Dean R. Wenzel and Lisa J. Wenzel, 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:

The West One-Half ($W \frac{1}{2}$) of the Northeast one-quarter ($NE \frac{1}{4}$) of the Southwest quarter ($SW \frac{1}{4}$) of the Southwest quarter ($SW \frac{1}{4}$) of Section thirty-one (31), Township twenty-seven (27), Range twenty-two (22), together with and subject to easements of record, 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 (Sheet 1 of 4)	7-27-16	SISU Land Surveying
House Details, Grading and Erosion Control (Sheet 2 of 4)	7-27-16	SISU Land Surveying
Details (Sheet 3 of 4)	7-27-16	SISU Land Surveying

The Development Plans were approved by the City Engineer on July 27, 2016.

CERTIFICATE OF SURVEY for: Cuddigan Custom Builders

NOTE: SEE SHEET 2 FOR PROPOSED HOUSE, GRADING, & EROSION CONTROL

PROPERTY DESCRIPTION

The West One-Half (W1/2) of the Northeast One-Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Thirty-One (31), Township Twenty-Seven (27), Range Twenty-Two (22), together with and subject to easements of record, Dakota County, Minnesota.

ADDRESS
xxxx 120th St., Rosemount, MN

BENCHMARK
Top of spike as shown

WETLANDS

Wetlands as shown were delineated by Jacobson Environmental. There are no proposed wetland impacts.

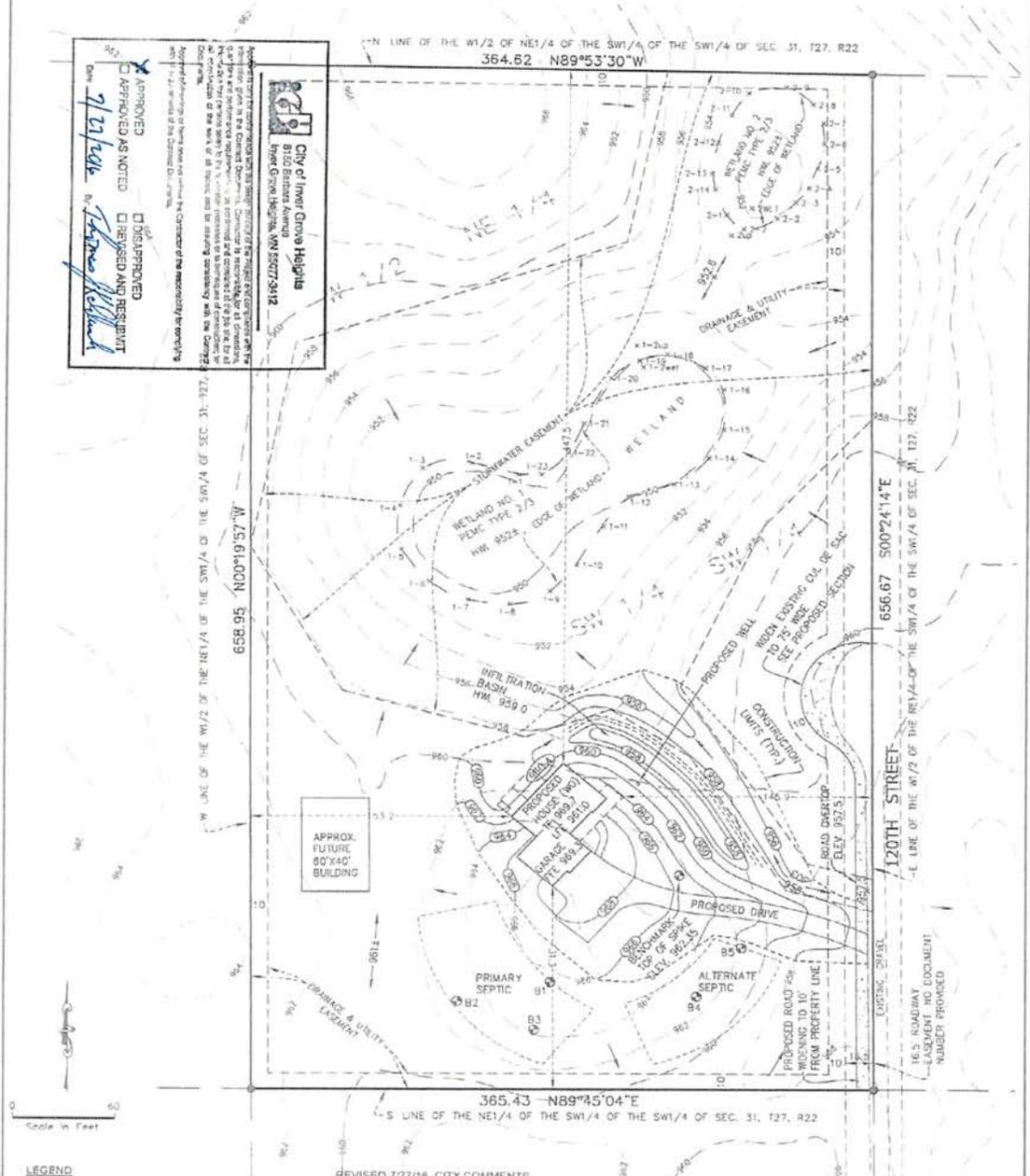
PROPOSED ELEVATIONS

Garage Floor of drive = 909.3
Top of Foundation = 959.7
Lowest Floor = 961.0

City of Inner Grove Heights
City Engineer
Inner Grove Heights, MN 55077-3412

Approved for the City of Inner Grove Heights by the City Engineer on 7/27/16.

APPROVED APPROVED AS NOTED DISAPPROVED
 Date: 7/27/16 By: *[Signature]*



- LEGEND**
- XXX Denotes Proposed Elevation
 - XXX Denotes Existing Elevation
 - Denotes Surface Drainage
 - Denotes Drain and Utility Easement
 - Denotes Monument Found
 - Denotes Monument Set
 - Denotes Existing Contour
 - Denotes Proposed Contour

REVISED 7/27/16 CITY COMMENTS
REVISED 7/27/16 CITY COMMENTS

CERTIFICATION
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 Land Surveyor under the laws of the State of Minnesota.

Curtis J. Kallio 7/27/16
Curtis J. Kallio, Lic. No. 26009 Date



SISU LAND SURVEYING
10775 Pappitz Lane
Chaska, MN 55318
612-418-6828

JOB NO: 1626
SHEET 1 OF 4

HOUSE DETAILS, GRADING, AND EROSION CONTROL

PROPOSED ELEVATIONS

Garage Floor at drive = 969.3
 Top of Foundation = 969.7
 Lowest Floor = 961.0

BENCHMARK

Top of spike as shown

AREAS & HARDCOVER

Lot Area = 5.51 acres
 Proposed Impervious Area
 House = 1334 sq ft
 Garage = 934 sq ft
 Front porch = 324 sq ft
 Drive = 3436 sq ft
 Walk = 100 sq ft
 Total = 6428 sq ft = 2.7%

INFILTRATION BASIN

Place blended 50% MnDOT Grade 2 Compost and 70% washed sand in upper 12" of infiltration basin. Seed with MnDOT seed mixture 33-261 and stabilize with Erosion Control Blanket Cot. 3.

LEGEND

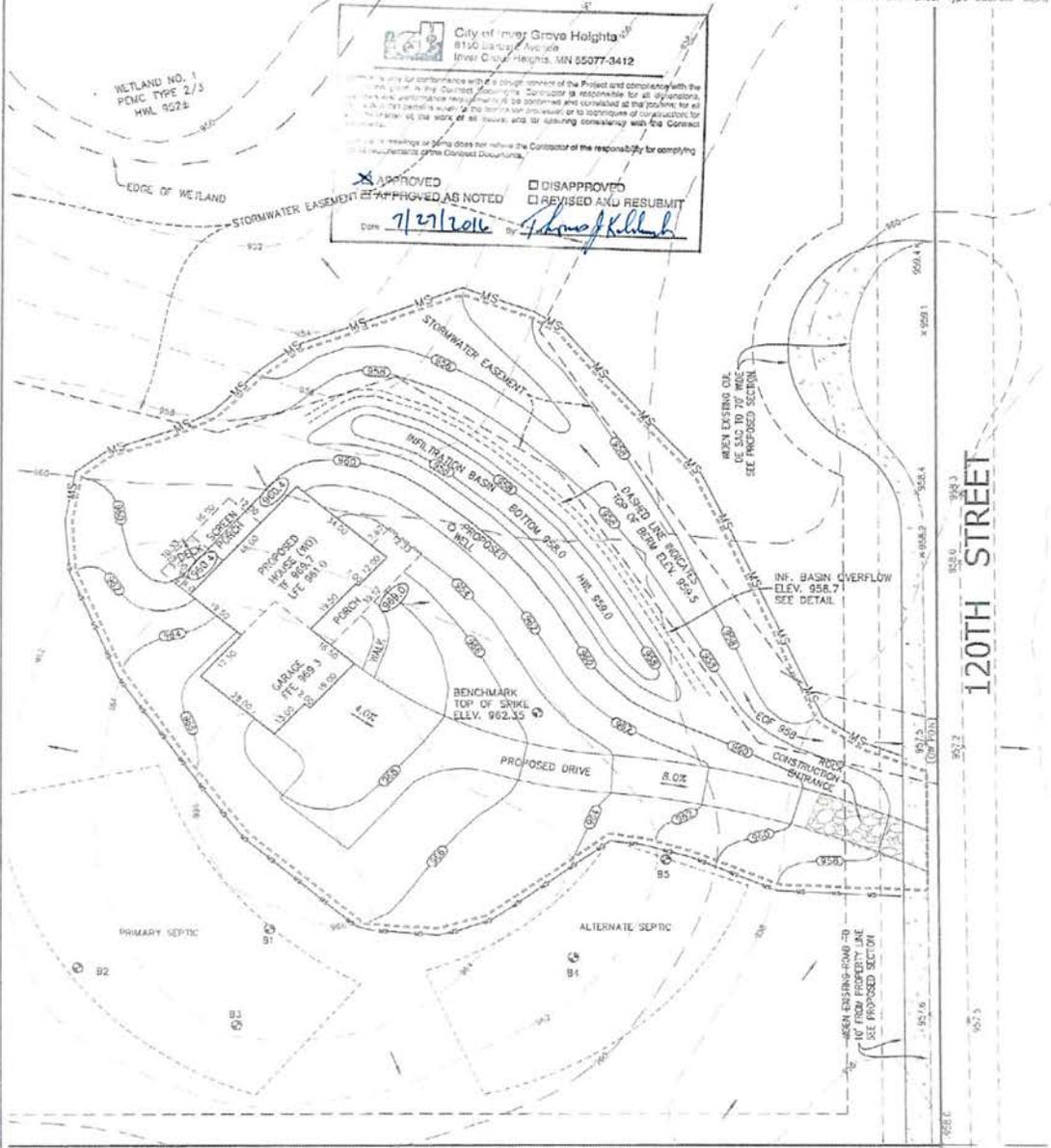
- (with elevation) Denotes Proposed Elevation
- (with elevation) Denotes Existing Elevation
- Denotes Surface Drainage
- Denotes Offset Hub or Spike
- - - Denotes Drain, and Utility Easement
- (with elevation) Denotes Monument Found
- (with elevation) Denotes Monument Set
- - - 980 Denotes Existing Contour
- - - 981 Denotes Proposed Contour
- MS Denotes Silt Fence, Type Machine Ground

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

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 Land Surveyor under the laws of the State of Minnesota.

Curt Kallala
 Curt Kallala, L.S. No. 26209

APPROVED AS NOTED
 Date: 7/27/16



REVISED 7/22/16, CITY COMMENTS

CERTIFICATION

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 Land Surveyor under the laws of the State of Minnesota.

Curt Kallala
 Curt Kallala, L.S. No. 26209

7/27/16
 Date

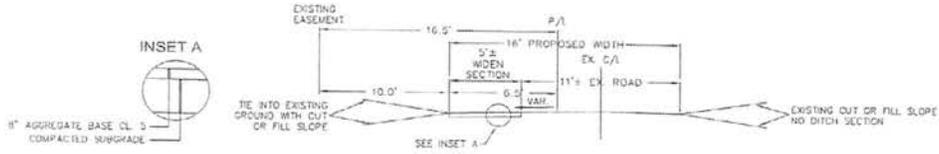


SISU LAND SURVEYING
 10775 Popnitz Lane
 Chaska, MN 55318
 612-418-8820

JOB NO. 1626

SHEET 2 OF 4

DETAILS



TYPICAL ROAD SECTION
120TH STREET FROM S. PROPERTY LINE TO CUL DE SAC

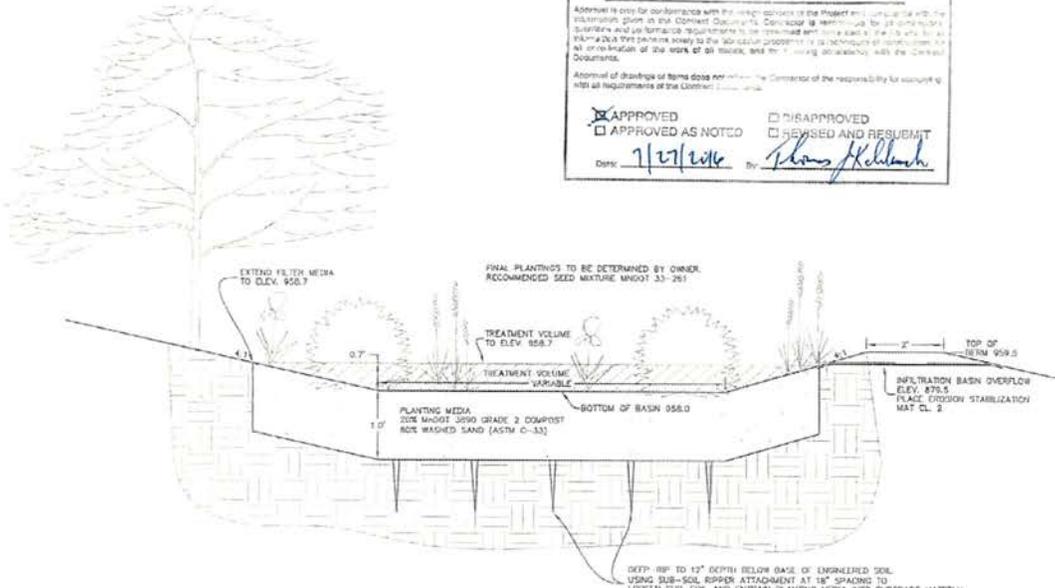
City of Inver Grove Heights
8150 Barkdale Avenue
Inver Grove Heights, MN 56077-3412

Approval is only for conformance with the design aspects of the Project and is not to be construed as a warranty of performance or a guarantee of results. The Contractor is responsible for all construction quality and performance. Approval is not to be construed as a guarantee of results or a warranty of performance. The City of Inver Grove Heights is not responsible for any errors or omissions in the work of its staff, and the Contractor shall be held responsible for the design documents.

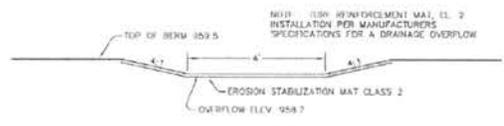
Approval of drawings of items does not release the Contractor of the responsibility for compliance with all requirements of the Contract documents.

APPROVED DISAPPROVED
 APPROVED AS NOTED REVISED AND RESUBMIT

Date: 7/27/2016 By: [Signature]



INFILTRATION BASIN SECTION



OVERFLOW DETAIL

CERTIFICATION
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 Engineer under the laws of the State of Minnesota.

[Signature] 7/27/16
Curtis J. Kolko, Lic. No. 26909 Date

SISU LAND SURVEYING
10775 Poppitz Lane
Chaska, MN 55318
612-418-6828

JOB NO.: 16226

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 November 30, 2016, whichever occurs first	grading, drainage, and sediment & erosion control
<u>X</u>	Prior to Certificate of Occupancy	Driveway
<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
1843 – 120TH STREET, INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS STORM WATER FACILITIES MAINTENANCE AGREEMENT (Agreement) is made, entered into and effective this 8th day of August, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as City) and Dean R. Wenzel and Lisa J. Wenzel, 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 Dean R. Wenzel and Lisa J. Wenzel, 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 House Details, Grading and Erosion Control Plan (Sheet 2 of 4) prepared by SISU Land Surveying dated July 27, 2016 and that certain Details Plan (Sheet 3 of 4) prepared by SISU

Land Surveying dated July 27, 2016, both approved by the City Engineer on July 27, 2016. The Storm Water Facility Plan is on file with the City and attached hereto as **Exhibit D**.

The Storm Water Facility Plan also includes modifications of the above referenced Stormwater Facility Plan as approved from time to time by the City Engineer.

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 December 31, 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: Dean R. Wenzel and Lisa J. Wenzel
1843 – 120th Street
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

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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:

Dean R. Wenzel

Lisa J. Wenzel

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Dean R. Wenzel and Lisa J. Wenzel, 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:

The West One-Half (W ½) of the Northeast one-quarter (NE ¼) of the Southwest quarter (SW ¼) of the Southwest quarter (SW ¼) of Section thirty-one (31), Township twenty-seven (27), Range twenty-two (22), together with and subject to easements of record, 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

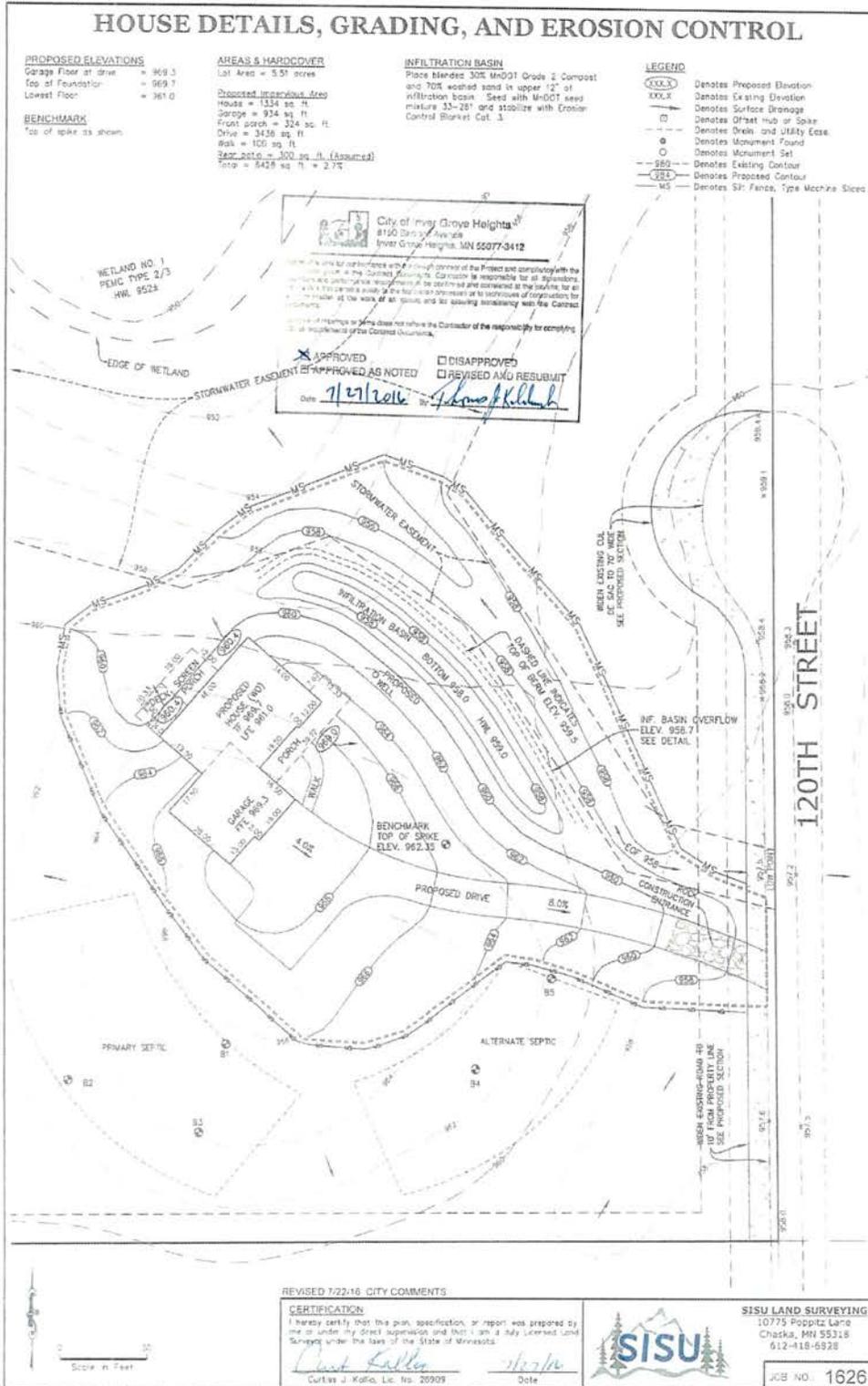
Maintenance Activity	Frequency	Procedure	Maintenance Done By
1. Sediment, trash and debris removal from inlet, outlets, pipes and structures.	Annually in spring and fall as needed.	Remove trash and/or debris. Pruning and weeding, mow filter strip	Property owner unless designated
2. Sediment, trash and 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

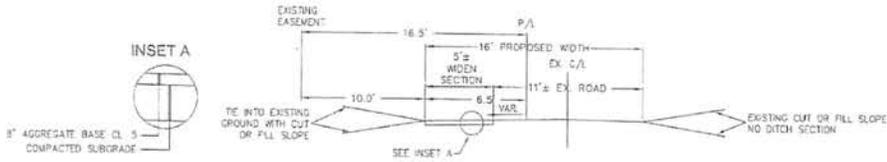
CITY OF INVER GROVE HEIGHTS NPDES INSPECTION PROGRAM					
INLET / OUTLET					
STRUCTURE ID		INSPECTION DATE		INSPECTOR(S)	
LOCATION					
EASEMENT					
ACCESSIBLE	Y	N			
STRUCTURES IN ESMT.	Y	N	DESCRIPTION		
TREES IN ESMT.	Y	N	LARGEST DIAMETER (INCHES)		
STRUCTURE					
	FES	PIPE	CB	OTHER	
ATTRIBUTES	TRASH 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					
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



DETAILS



TYPICAL ROAD SECTION
120TH STREET FROM S. PROPERTY LINE TO CUL DE SAC

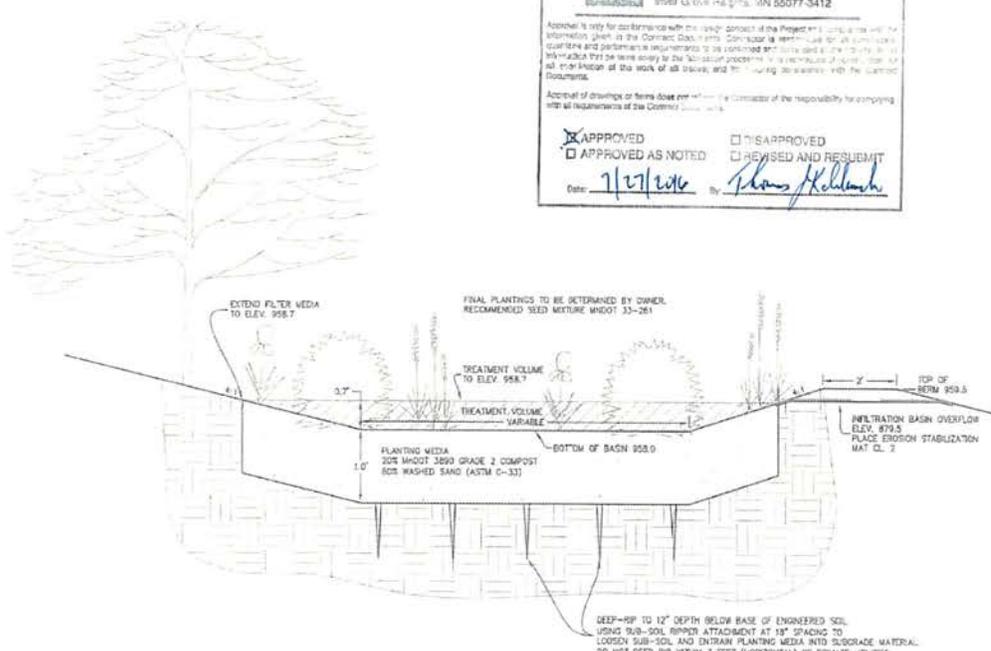
City of Inver Grove Heights
8150 S. Main Street
Inver Grove Heights, MN 55077-3412

Approval is only for conformance with the scope, content of the Project and shall not be taken as a warranty or performance requirement. Contractor is responsible for all compliance with applicable codes and regulations. The contractor shall be responsible for all work shown on this drawing and for obtaining all necessary permits and approvals. The contractor shall be responsible for all work shown on this drawing and for obtaining all necessary permits and approvals.

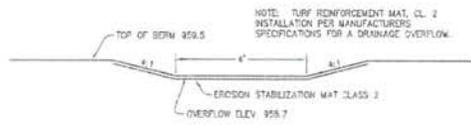
Approval of drawings or forms does not constitute a contractor's responsibility for complying with all requirements of the Contract Documents.

APPROVED
 DISAPPROVED
 APPROVED AS NOTED
 REVISED AND RESUBMIT

Date: 7/27/2016 By: Thomas Kellman



INFILTRATION BASIN SECTION



OVERFLOW DETAIL

CERTIFICATION
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 Engineer under the laws of the State of Minnesota.

Curtis J. Kollie
Curtis J. Kollie, Lic. No. 26509

7/27/16
Date



SISU LAND SURVEYING
10775 Popple Lane
Chaska, MN 55318
612-418-6828

JOB NO.: 1626

PERMANENT UTILITY AND DRAINAGE EASEMENT

THIS PERMANENT UTILITY AND DRAINAGE EASEMENT (Easement) is made, granted and conveyed this 8th day of August, 2016, between Dean R. Wenzel and Lisa J. Wenzel, husband and wife (hereinafter individually and collectively referred to as “Landowner”) and 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, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, the following:

A **permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto** (hereinafter “**Permanent Easement**”) under, over, across, through and upon that real property legally described on **Exhibit B** (hereinafter 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 sanitary sewer, water mains, storm water facilities, drainage facilities and any utilities, 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 sanitary sewer, water mains, storm water facilities, drainage facilities any utilities, 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, themselves or their 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 themselves and their successors and assigns, do hereby warrant to and covenant with the City, its successors and assigns, that they are well seized in fee of the Landowner's Property described on Exhibit A and the Permanent Easement Area described on Exhibit B and that they have good right to grant and convey the Permanent Easement herein to the City.

This Easement shall run with the Landowner's Property and shall inure to the benefit of the Landowner and the City and shall bind Landowner and the successors and assigns of Landowner and shall be binding upon the City and the successor's and assigns of the City. This Easement shall also be binding upon any right title or interest of the parties to the Landowner's Property acquired after the date of this Easement or acquired after the date of recording of this Easement.

[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

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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:

Dean R. Wenzel

Lisa J. Wenzel

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Dean R. Wenzel and Lisa J. Wenzel, 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 LANDOWNER'S PROPERTY

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

The West One-Half (W $\frac{1}{2}$) of the Northeast one-quarter (NE $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$) of Section thirty-one (31), Township twenty-seven (27), Range twenty-two (22), together with and subject to easements of record, Dakota County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION OF PERMANENT EASEMENT AREA

A permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto, over, under, across, through and upon the following described property:

That part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, described as follows:

The northerly 10 feet, and the southerly 10 feet, and the westerly 10 feet, and the westerly 10 feet of the easterly 26.5 feet.

And that part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota lying westerly of the easterly 16.5 feet within the circumference of a circle having a radius of 45 feet. The center of said circle is described as follows:

Commencing at the southeast corner of said West Half; thence North 0 degrees 24 minutes 14 seconds West, assumed bearing, along the east line of said West Half a distance of 254.72 feet; thence South 89 degrees 35 minutes 46 seconds West a distance of 7.08 feet to the center of said circle.

EASEMENT EXHIBIT

EXISTING PROPERTY DESCRIPTION

The West One-Half (W1/2) of the Northeast One-Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Thirty-One (31), Township Twenty-Seven (27), Range Twenty-Two (22), together with and subject to easements of record, Dakota County, Minnesota.

PROPOSED DRAINAGE AND UTILITY EASEMENT

That part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, described as follows:

The northerly 10 feet, and the southerly 10 feet, and the westerly 10 feet, and the westerly 10 feet of the easterly 20.5 feet.

And that part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, lying westerly of the easterly 10.5 feet within the circumference of a circle having a radius of 45 feet. The center of said circle is described as follows:

Commencing at the southwest corner of said West Half; thence North 0 degrees 24 minutes 14 seconds West, assumed bearing, along the east line of said West Half a distance of 7.09 feet to the center of said circle.

PROPOSED STORMWATER (DRAINAGE) EASEMENT

That part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, described as follows:

Commencing at the southwest corner of said West Half; thence North 0 degrees 18 minutes 07 seconds West, assumed bearing, along the west line of said West Half a distance of 342.55 feet to the point of beginning; thence South 30 degrees 43 minutes 40 seconds East a distance of 107.20 feet; thence South 74 degrees 37 minutes 24 seconds East a distance of 111.24 feet; thence North 70 degrees 06 minutes 21 seconds East a distance of 53.08 feet; thence South 57 degrees 04 minutes 37 seconds East a distance of 25.29 feet; thence South 33 degrees 22 minutes 21 seconds East a distance of 103.07 feet; thence South 75 degrees 47 minutes 34 seconds East a distance of 52.63 feet to the east line of said West Half; thence North 0 degrees 24 minutes 14 seconds West along the west line of said West Half a distance of 20.07 feet; thence North 75 degrees 47 minutes 24 seconds West a distance of 111.24 feet; thence North 33 degrees 22 minutes 21 seconds West a distance of 136.22 feet; thence North 24 degrees 57 minutes 09 seconds East a distance of 115.66 feet; thence North 42 degrees 08 minutes 08 seconds East a distance of 83.12 feet to the east line of said West Half; thence North 0 degrees 24 minutes 14 seconds West along the east line of said West Half a distance of 222.94 feet to the northeast corner of said West Half; thence North 89 degrees 53 minutes 20 seconds West along the north line of said West Half a distance of 120.10 feet; thence South 11 degrees 42 minutes 50 seconds West a distance of 112.88 feet; thence South 70 degrees 50 minutes 59 seconds West a distance of 205.38 feet; thence South 11 degrees 08 minutes 47 seconds West a distance of 133.84 feet to the west line of said West Half and point of beginning.

N LINE OF THE W1/2 OF NE1/4 OF THE SW1/4 OF SEC. 31, T27, R22
364.32 N89°53'30"W



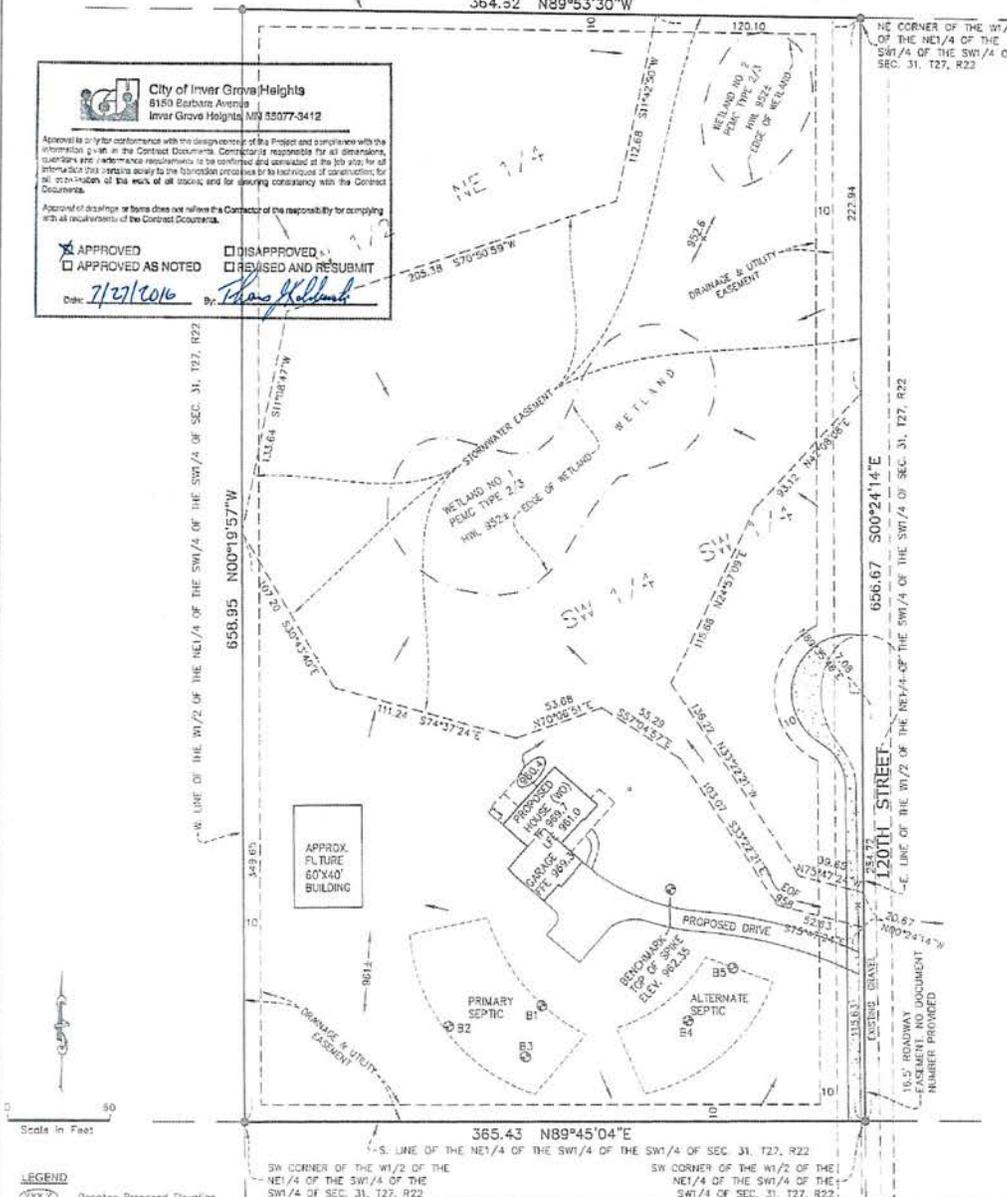
City of Inver Grove Heights
8150 Eastboro Avenue
Inver Grove Heights, MN 55077-3412

Approval is given for compliance with the design of this Project and compliance with the information given in the Contract Documents. Contractor is responsible for all dimensions, quantities and performance requirements to be confirmed and measured at the job site for all information that remains away from the fabrication process by its techniques of construction, for the construction of this work of all trades and for clearing consistency with the Contract Documents.

Approval of drawings or items does not relieve the Contractor of the responsibility for complying with all requirements of the Contract Documents.

<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
<input type="checkbox"/> APPROVED AS NOTED	<input type="checkbox"/> REVISED AND RESUBMIT

Date: 7/27/2016 By: *Chris Kallio*



- Scale in Feet
- 0 50
- LEGEND**
- XXXX Denotes Proposed Elevation
 - XXXX Denotes Existing Elevation
 - Denotes Surface Drainage
 - Denotes Ditch and Utility Easement
 - Denotes Monument Found
 - Denotes Monument Set
 - Denotes Existing Contour
 - Denotes Proposed Contour

CERTIFICATION

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 Land Surveyor under the laws of the State of Minnesota.

Chris Kallio 7/27/16
Chris J. Kallio, Lic. No. 28509 Date

SISU LAND SURVEYING
10775 Popoitz Lane
Chaska, MN 55318
612-418-6828

SISU

JOB NO.: 1626

PERMANENT UTILITY, DRAINAGE AND STORMWATER PONDING EASEMENT

THIS PERMANENT UTILITY, DRAINAGE AND STORMWATER PONDING EASEMENT (Easement) is made, granted and conveyed this 8th day of August, 2016, by and between the City of Inver Grove Heights, a municipality of the State of Minnesota, (hereinafter referred to as City) and Dean R. Wenzel and Lisa J. Wenzel, husband and wife (hereinafter referred to as Landowner).

The Landowner owns the real property situated within Dakota County, Minnesota as described on the attached **Exhibit A (hereinafter “Landowner’s Property”)**.

The Landowner, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, forever, a **permanent easement for utilities, drainage, sanitary sewer, water, stormwater ponding, stormwater collection, stormwater control improvements and for purposes and uses incident and related thereto, including, without limitation, the construction, maintenance, repair and replacement of utilities and stormwater ponding, drainage, collection and control facilities**, under, over, across, through and upon the following described premises (the Easement Area) situated within Dakota County, Minnesota, to-wit:

See the attached **Exhibit B**, incorporated herein by reference,

EXEMPT FROM STATE DEED TAX

The rights of the City include the right of the City, its contractors, agents and servants, at the sole cost of the City:

- a.) to enter upon the Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, grading, sloping, and restoration relating to the purposes of this Easement; and
- b.) to maintain the 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 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 Easement Area; and

d.) to remove or otherwise dispose of all earth or other material excavated from the 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 Easement Area or 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, themselves or their 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 themselves and their successors and assigns, do hereby warrant to and covenant with the City, its successors and assigns, that they are well seized in fee of the Landowner's Property described on Exhibit A and the Easement Area described on Exhibit B and have good right to grant and convey the permanent Easement herein to the City.

This Easement shall run with the Landowner's Property and shall inure to the benefit of the Landowner and the City and shall bind Landowner and the successors and assigns of Landowner and shall be binding upon the City and the successor's and assigns of the City. This Easement shall also be binding upon any right title or interest of the parties to the Landowner's Property acquired after the date of this Easement or acquired after the date of recording of this Easement.

[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

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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:

Dean R. Wenzel

Lisa J. Wenzel

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this _____ day of August, 2016, by Dean R. Wenzel and Lisa J. Wenzel, 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'S PROPERTY

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

The West One-Half ($W \frac{1}{2}$) of the Northeast one-quarter ($NE \frac{1}{4}$) of the Southwest quarter ($SW \frac{1}{4}$) of the Southwest quarter ($SW \frac{1}{4}$) of Section thirty-one (31), Township twenty-seven (27), Range twenty-two (22), together with and subject to easements of record, Dakota County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION OF EASEMENT AREA

A permanent easement for utilities, drainage, sanitary sewer, water, stormwater ponding, stormwater collection, stormwater control improvements and for purposes and uses incident and related thereto, under, over, across, through and upon the following described real property in Dakota County, Minnesota:

That part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, described as follows:

Commencing at the southwest corner of said West Half; thence North 0 degrees 19 minutes 57 seconds West, assumed bearing, along the west line of said West Half a distance of 349.65 feet to the point of beginning; thence South 30 degrees 43 minutes 40 seconds East a distance of 107.20 feet; thence South 74 degrees 37 minutes 24 seconds East a distance of 111.24 feet; thence North 70 degrees 06 minutes 51 seconds East a distance of 53.68 feet; thence South 57 degrees 04 minutes 57 seconds East a distance of 55.29 feet; thence South 33 degrees 22 minutes 21 seconds East a distance of 103.07 feet; thence South 75 degrees 47 minutes 24 seconds East a distance of 52.63 feet to the east line of said West Half; thence North 0 degrees 24 minutes 14 seconds West along the east line of said West Half a distance of 20.67 feet; thence North 75 degrees 47 minutes 24 seconds West a distance of 39.65 feet; thence North 33 degrees 22 minutes 21 seconds West a distance of 136.22 feet; thence North 24 degrees 57 minutes 09 seconds East a distance of 115.63 feet; thence North 42 degrees 08 minutes 08 seconds East a distance of 93.12 feet to the east line of said West Half; thence North 0 degrees 24 minutes 14 seconds West along the east line of said West Half a distance of 222.94 feet to the northeast corner of said West Half; thence North 89 degrees 53 minutes 30 seconds West along the north line of said West Half a distance of 120.10 feet; thence South 11 degrees 42 minutes 50 seconds West a distance of 112.68 feet; thence South 70 degrees 50 minutes 59 seconds West a distance of 205.38 feet; thence South 11 degrees 08 minutes 47 seconds West a distance of 133.64 feet to the west line of said West Half and point of beginning.

EASEMENT EXHIBIT

EXISTING PROPERTY DESCRIPTION

The West One-Half (W1/2) of the Northeast One-Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Thirty-One (31), Township Twenty-Seven (27), Range Twenty-Two (22), together with and subject to easements of record, Dakota County, Minnesota.

PROPOSED DRAINAGE AND UTILITY EASEMENT

That part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, described as follows:

The northerly 10 feet, and the southerly 10 feet, and the westerly 10 feet, and the westerly 10 feet of the easterly 25.5 feet

And that part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, having a radius of 45 feet. The center of said circle is described as follows:

Commencing at the southeast corner of said West Half; thence North 0 degrees 24 minutes 14 seconds West, assumed bearing, along the east line of said West Half a distance of 254.72 feet; thence South 89 degrees 35 minutes 49 seconds West a distance of 7.08 feet to the center of said circle.

PROPOSED STORMWATER (DRAINAGE) EASEMENT

That part of the West Half of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 31, Township 27, Range 22, Dakota County, Minnesota, described as follows:

Commencing at the southwest corner of said West Half; thence North 0 degrees 19 minutes 37 seconds West, assumed bearing, along the west line of said West Half a distance of 343.65 feet to the point of beginning; thence South 30 degrees 43 minutes 40 seconds East a distance of 107.20 feet; thence South 74 degrees 37 minutes 24 seconds East a distance of 111.24 feet; thence North 70 degrees 06 minutes 51 seconds East a distance of 53.66 feet; thence South 57 degrees 04 minutes 57 seconds East a distance of 55.29 feet; thence South 33 degrees 22 minutes 21 seconds East a distance of 103.07 feet; thence South 75 degrees 47 minutes 24 seconds East a distance of 52.83 feet to the east line of said West Half; thence North 0 degrees 24 minutes 14 seconds West, assumed bearing, along the east line of said West Half a distance of 20.67 feet; thence North 75 degrees 47 minutes 24 seconds West a distance of 59.85 feet; thence North 33 degrees 22 minutes 21 seconds West a distance of 136.72 feet; thence North 24 degrees 57 minutes 09 seconds East a distance of 115.68 feet; thence North 42 degrees 08 minutes 08 seconds East a distance of 83.12 feet to the east line of said West Half; thence North 0 degrees 24 minutes 14 seconds West, assumed bearing, along the east line of said West Half a distance of 222.34 feet to the northeast corner of said West Half; thence North 89 degrees 35 minutes 49 seconds West a distance of 115.68 feet; thence North 42 degrees 08 minutes 08 seconds East a distance of 83.12 feet; thence South 11 degrees 42 minutes 55 seconds West a distance of 209.38 feet; thence South 11 degrees 42 minutes 55 seconds West a distance of 133.84 feet to the west line of said West Half and point of beginning.

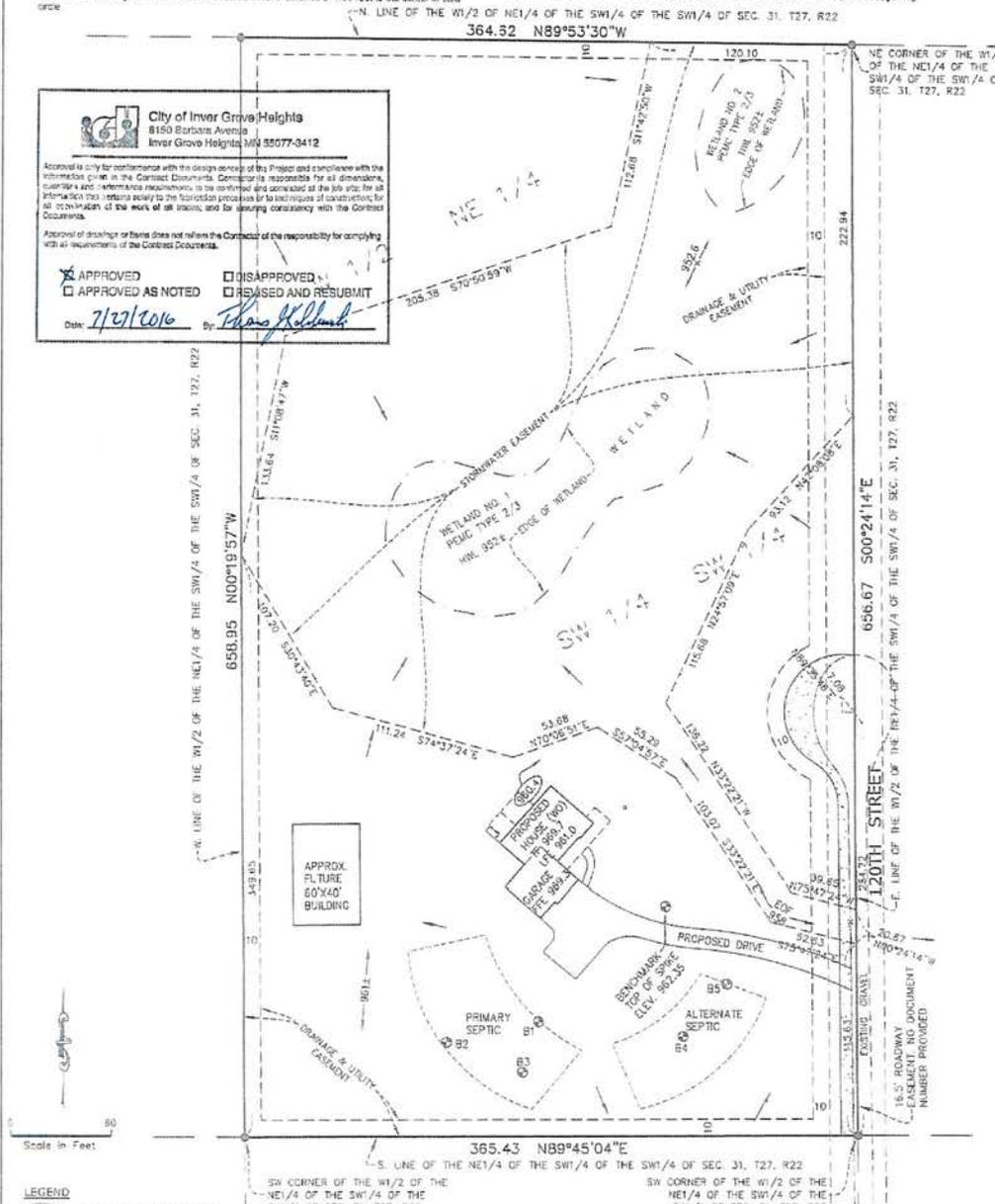
City of Inver Grove Heights
8150 Burbank Avenue
Inver Grove Heights, MN 55077-3412

Approved only for performance with the design services of this Project and compliance with the information given in the Contract Documents. Designer is responsible for all dimensions, quantities and performance requirements to be confirmed and completed at the job site; for all information that is referred to in the foundation process or for techniques of construction; for all coordination of the work at all times; and for ensuring consistency with the Contract Documents.

Approval of drawings or plans does not relieve the Contractor of the responsibility for complying with all requirements of the Contract Documents.

APPROVED
 APPROVED AS NOTED
 DISAPPROVED
 REVISED AND RESUBMIT

Date: 7/27/2016 By: Thomas Kallio



- Scale in Feet: 80
- LEGEND**
- XXXXX Denotes Proposed Elevation
 - XXXX Denotes Existing Elevation
 - Denotes Surface Drainage
 - - - - Denotes Drain, and Utility Easement
 - Denotes Monument Found
 - Denotes Monument Set
 - - - - 990 Denotes Existing Contour
 - - - - 984 Denotes Proposed Contour

CERTIFICATION

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 Land Surveyor under the laws of the State of Minnesota.

Curt Kallio
Curtis J. Kallio, Lic. No. 26509

Date: 7/27/16

SISU LAND SURVEYING
10775 Popoitz Lane
Chaska, MN 55218
612-418-6928

JOB NO.: 1626

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Custom Grading Agreement and Permanent Drainage and Stormwater Ponding Easement for 11400 Albavar Path.

Meeting Date: August 8, 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 Permanent Drainage and Stormwater Ponding Easement for 11400 Albavar Path.

SUMMARY

The owners have provided the required grading and erosion control plans. An engineering escrow of \$750 has been provided to cover any costs incurred by the City for review, inspection of the site grading and costs of property agreement documents. The owner has applied for a building permit and will provide a \$2,500 LOC or cash surety prior to permit issuance.

The owners will be providing a permanent drainage and storm water ponding easement to protect a wetland and regional basin.

It is recommended that the City Council approve the Custom Grading Agreement and Permanent Drainage and Stormwater Ponding Easement for 11400 Albavar Path.

TJK/mw

Attachments: Custom Grading Agreement
 Permanent Drainage and Stormwater Ponding Easement

PERMANENT DRAINAGE AND STORMWATER PONDING EASEMENT
FOR LOT 6, BLOCK 1, WHISTLEWOOD FARMS 2ND ADDITION
DAKOTA COUNTY, MINNESOTA

THIS PERMANENT DRAINAGE AND STORMWATER PONDING EASEMENT (Easement) is made, granted and conveyed this 8th day of August, 2016, between Francis A. Myers and Kelly J. Myers, husband and wife (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, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, the following:

A permanent easement for drainage and stormwater facilities and stormwater ponding purposes and all such purposes ancillary, incident or related thereto (hereinafter “**Permanent Easement**”) under, over, across, through and upon that real property legally described and depicted on **Exhibit B** (hereinafter 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 storm water facilities, storm water ponds, drainage facilities and underground pipes, culverts, conduits 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 storm water facilities, storm water ponds, drainage facilities, underground pipes, conduits, culverts 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 or conduits, together with the right to excavate and refill ditches or trenches for the location of such pipes or conduits; 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 or conduits 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, themselves or their 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 themselves and their successors and assigns, do hereby warrant to and covenant with the City, its successors and assigns, that they are well seized in fee of the Landowner's Property described on Exhibit A and the Permanent Easement Area described on Exhibit B and that they have 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

(CITY SEAL)

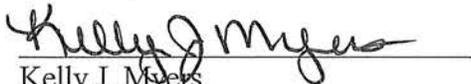
STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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

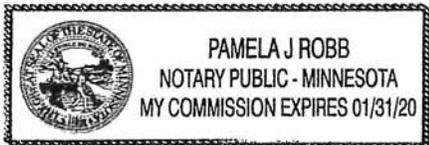
LANDOWNER


Francis A. Myers


Kelly J. Myers

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 3 day of August, 2016, by Francis A. Myers and Kelly J. Myers, 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 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:

Lot 6, Block 1, Whistlewood Farms 2nd Addition, Dakota County, Minnesota.

Torrens Property

EXHIBIT B
LEGAL DESCRIPTION AND DEPICTION OF PERMANENT EASEMENT AREA

[to be inserted]

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT
11400 ALBAVAR PATH,
LOT 6, BLOCK 1, WHISTLEWOOD FARMS 2ND
ADDITION, INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

CUSTOM GRADING AGREEMENT
FOR
PROPERTY LOCATED AT
11400 ALBAVAR PATH,
LOT 6, BLOCK 1, WHISTLEWOOD FARMS 2ND ADDITION,
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS CUSTOM GRADING AGREEMENT (Agreement) is made and entered into on the 8th day of August, 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 Property 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 Francis A. Myers and Kelly J. Myers, 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.

The Development Plans also include modifications of the above referenced Development Plans as approved from time to time by the City Engineer.

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 Property 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: Francis A. Myers and Kelly J. Myers
11400 Albavar Path
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 Property resulting from the grading or building on the land within the Property 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 PAVING OF DRIVEWAY. The Owner must pave the driveway per City requirements.

3.8 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 Property including, but not limited to, restoration of existing control structures and clean-up of public right-of-way, until the Property 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.

3.9 GRADING/DRAINAGE PLAN AND EASEMENTS. The Developer shall construct drainage facilities adequate to serve the Property 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 Property 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.

3.10 AS BUILT INFORMATION. The record plan "as built" drawings of the Improvements shall be provided by the Owner in accordance with City standards no later than 90 days after completion and acceptance of the Improvements by the City, unless otherwise approved in writing by the Director of Public Works. If the record plans are not provided to the City within the 90 days, the City may have this work done and pay for it with the developer's sureties.

Final as-built information shall be submitted in an electronic format compatible with the City's Geographic Information System (GIS). All information must be on the Dakota County coordinates system. Compatible formats are emailed AUTOCAD .DWG or .DXF. As-built drawings shall also be scanned, stored and emailed as images in .TIFF or .PDF. All as-built drawings must be the approved plans modified to reflect as-built conditions Note: All corrected lines, grades and elevations shall have a line drawn through the original text and the new information placed nearby; the original information or text shall not be erased.

3.11 RETAINING WALL. If a retaining wall will be constructed on the Property as part of the Improvements, then prior to the City issuing a building permit for the Property, a retaining wall permit must be issued by the City. If the Property is to have a retaining wall constructed as part of the Improvements, then prior to the City granting a temporary certificate of occupancy or a final certificate of occupancy for the Property, the retaining wall permit must be complete, wall certification must be received and accepted by the Chief Building Official, grading associated with the retaining wall must be accepted by the City Engineer and the retaining wall record drawing must be received and accepted by the City.

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 Property;
- 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 \$2,500.

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, 2018. 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, 2018, 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, 2018.

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 \$750.00 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 \$750.00 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. This Agreement shall run with the Property and shall

inure to the benefit of the Owner and the City and shall bind Owner and the successors and assigns of Owner and shall be binding upon the City and the successor's and assigns of the City. This Agreement shall also be binding upon any right title or interest of the parties to the Property acquired after the date of this Agreement or acquired after the date of recording of this Agreement.

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 Property.

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 Property 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

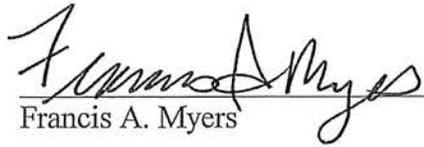
(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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

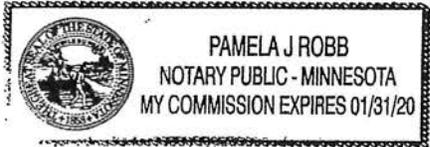
OWNER:


Francis A. Myers


Kelly J. Myers

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 3 day of August, 2016, by Francis A. Myers and Kelly J. Myers, 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:

Lot 6, Block 1, Whistlewood Farms 2nd Addition, Dakota County, Minnesota.

Torrens Property

APPENDIX 1
LIST OF DEVELOPMENT PLANS

<u>PLAN</u>	<u>DATE OF PLAN PREPARATION</u>	<u>PREPARED BY</u>
Certificate of Survey	7-6-16	E.G. Rud & Sons, Inc.

The Development Plans were approved by the City Engineer on August ____, 2016.

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 November 30, 2016, whichever occurs first	grading, drainage, and sediment & erosion control
<u> X </u>	Prior to Certificate of Occupancy	Driveway
<u> X </u>	Prior to Certificate of Occupancy	As-built
<u> X </u>	Within 6 months after Certificate of Occupancy	landscaping

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Inver Grove Heights CVB Bylaws and 2016 Budget Revisions

Meeting Date: August 8, 2016
 Item Type: Consent
 Contact: Tracy Shimek, CVB Director
 651-451-2266 x1033
 Prepared by: Tracy Shimek, CVB Director
 Reviewed by: Joe Lynch, City Administrator

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input checked="" 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 modifications to the City of Inver Grove Heights Convention and Visitor’s Bureau (CVB) Bylaws and request approval for an increase to the 2016 Budget.

SUMMARY:

On behalf of the Inver Grove Heights Convention & Visitors Bureau Board of Directors, I am requesting the following modification to the Resolution of the Inver Grove Heights CVB Bylaws. Additionally, we would like to request approval for an increase to our 2016 budget.

Since the inception of the IGH CVB in 2001, the organization has amassed a reserve fund balance in excess of 116% of its annual operating budget. The Board is proposing an amendment that acknowledges the necessity of maintaining a reserve fund balance, while making it possible to utilize excess funds for the purpose of marketing Inver Grove Heights to visitors in a manner that is both efficient and does not unduly burden the time of the Inver Grove Heights City Council.

It is therefore proposed the following modification is made to the Inver Grove Heights CVB Bylaws “Resolution No. 2001-136” under section 7a. Budget from “*During the calendar year, the Council may approve an increase to the Bureau’s budget*” to “*CVB shall maintain a reserve fund balance of no less than 40-50% of the current year’s estimated revenue to provide for cash flow requirements and contingency needs.*”

The above resolution is modeled after the General Reserve Fund Policy for the City of Inver Grove Heights.

In addition to the proposed bylaw changes, we request the Council’s approval of our revised budget. Based on the first five months of lodging tax revenue receipts, we are conservatively forecasting revenues that are 11% (over \$12,000) greater than our original projections. We would therefore request an approval of the increase in our budgeted expenditures to cover increased administrative costs due to staffing changes and additional marketing initiatives that align with our approved 2016 work-plan. Included is a spreadsheet which lays out the line items with proposed changes. We are asking for approval of an overall increase of \$9,962.83 to our budget expenditures.

We appreciate your consideration and approval of these matters to allow the Inver Grove Heights CVB Board of Director’s to better market the city as a tourist destination.

IGH CVB 2016 Budget						
	2016 Approved Budget	July 2016 YTD Actuals	Projected Remainder	Projected Budget Totals	+/- from original budget	Comments
Revenues						
Lodging Tax Revenue	99,000	46,473	65,062	111,535	12,535	(receipts through May, projection based on average of first 5 months)
Other Revenues				0		
Investment Earnings	0	88		88	88	(receipts through May)
EMT Grant	8,000	8,000		8,000	0	
Advertisement Revenue				0	0	
State Fair Ticket Sales Reimbursement	0	0		0	0	
TOTAL REVENUE	\$ 107,000.00	\$ 54,560.49	\$ 65,062.20	\$ 119,622.69	\$ 12,622.69	
Expenses						
Administration - Professional Services						
Salary & Related Expenses (Salary, Payroll Taxes, Benefits)	28,258	15,337	18,016	33,353	5,095	
Rental/Office Lease/Equipment	3,000	1,500	1,500	3,000	0	
City Service Fee (5%)	4,950	2,324	3,253	5,577	627	
Telephone	400	100	300	400	0	
Postage & Delivery	1,000	793	700	1,493	493	
Office Supplies/Programs/Photocopying/Other	200	58	100	158	-42	
Travel (Mileage & Parking)	600	729	500	1,229	629	
Meals and Lodging	700	479	221	700	0	
Professional Conferences & Seminars	800	489	311	800	0	
Total Administrative Expenses	\$ 39,908.00	\$ 21,808.21	\$ 24,901.12	\$ 46,709.33	\$ 6,801.33	
Professional Memberships-Dues, Licenses & Subscriptions						
MACVB	355	355	0	355	0	
Total Professional Membership Expenses	\$ 355.00	\$ 355.00	\$ 355.00	\$ 355.00	\$ -	
Marketing/Advertising						
Advertising & Marketing Projects	3,500		3500	3,500	0	Great Stay Packages: MOA Gift Cards & State Fair Tickets
Constant Contact Enewsletter	0	360	360	720	720	
ECM Publishers, Inc.	995	995	0	995	0	South Metro Living Guide
Ensemble Creative & Marketing (Design & Marketing Services)	22,680	11,340	11340	22,680	0	
Contest Marketing Services & Packages	2,000	174	1519	1,693	-307	
Ensemble - Lone Oak, list sort		263	0	263	263	
Explore Minnesota Tourism Website CVB/DMO Package	350		350	350	0	
Explore Minnesota Tourism Grant Advertising- 2016 Vendor O	16,000	16,000	0	16,000	0	
Metro Tourism Marketing/Advertising Campaign	4,500	4,500	0	4,500	0	
Minneapolis/St. Paul Official Visitors Guide Advertising	4,000	4,000	0	4,000	0	
Online/Co-op Advertising	1,000		1000	1,000	0	
Social Media	532	120	400	520	-12	
St. Paul Arena Company (Xcel Energy Center Website)	2,400	2,400	0	2,400	0	
Video	2,000		3838	3,838	1,838	
Web Development & Hosting	1,500	1,138	363	1,500	0	
Package gift cards & tickets			640	640	640	
Town Square Sponsorship			1800	1,800	1,800	
AdTaxi Geofencing & Email Campaign			3500	3,500	3,500	
Take 5 Digital Campaign			450	450	450	
				0	0	
Total Marketing Expenses	\$ 61,457.00	\$ 41,289.00	\$ 29,059.50	\$ 69,898.50	\$ 8,441.50	(undesignated advertising budget of \$5280 offsets a portion of this increase)
TOTAL EXPENSES	\$ 101,720.00	\$ 63,452.21	\$ 54,315.62	\$ 116,962.83	\$ 15,242.83	
Money savings to allocate to new marketing/adv. initiative	\$ 5,280.00					
Total expenses including undesignated funds	\$ 107,000.00	\$ 63,452.21	\$ 54,315.62	\$ 116,962.83	\$ 9,962.83	(overall increase to budgeted expenditures)
TOTAL Fund Balance as of July 2016		\$ 124,913.28				
NET = Revenues - Expenses	\$ -			\$ 2,659.86		

Proposed additional expenditures:		
Ad Taxi Geofencing/Email Campaign for Q4	\$3,000	
Take-5 Digital Campaign	\$450	
Video Production	\$1,838	(Total cost of \$3838, 2000 of which is accounted for in original budget)
Townsquare 12-month Sponsorship (ad cost)	\$1,800	
\$7,088		

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Meeting Date: August 8, 2016
 Item Type: Consent
 Contact: Tom Link, C.D. Director
 651-450-2546
 Prepared by: Janet Shefchik, H.R. Manager
 Reviewed by: Joe Lynch, City Administrator

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

PURPOSE/ACTION REQUESTED Consider Approval of the Rental and Code Compliance Coordinator Job Description.

SUMMARY

The City Council and staff have been working toward the establishment of a rental licensing program for a few years. The City Council has given preliminary indications that they will not initially approve the addition of staff for the program. Therefore, the work will need to be assigned to and accomplished by existing staff. To-date, the person most actively involved in assisting with program research and development has been the Code Compliance Specialist. So as to ensure that staff will be prepared to implement and administer the program by the time of its approval, the existing job description for the Code Compliance Specialist position has been significantly revised to include the new role.

In order to stay compliant with the City’s classification and compensation system and MN Pay Equity law, it is important for job descriptions to accurately reflect the work that is required of positions. The new duties that will be assigned to the Code Compliance Specialist represent a permanent and significant change that cannot simply be attributed to “other duties as assigned”. Therefore, staff is requesting Council approval of the attached Rental and Code Compliance Coordinator job description, to appropriately reflect and give credit for these additional duties and responsibilities. Once the job description has been approved, staff will finalize its review of the classification level and return to Council at a subsequent meeting with a recommendation regarding the position’s compensation.

City of Inver Grove Heights

POSITION DESCRIPTION

Position Title: *Rental and Code Compliance Coordinator*

Department/Location: *Community Development*

Immediate Supervisor: *Community Development Director*

Latest PD Revision: *8.16*

Position Summary: This position is responsible for the implementation and administration of Rental Licensing, Code Compliance, and related programs. Responsibilities consist of a full range of compliance activities including assisting with program research and development, conducting inspections, preparing associated reports and notifications, responding to citizens and others, preparing criminal complaints; processing, issuing and tracking of licenses, developing and refining processes and systems, and maintaining databases. Incumbent must maintain and apply knowledge of City and State Codes and coordinate with internal and external agencies to ensure compliance.

Essential Accountabilities and Expected Outcomes

Rental Licensing

Administers the rental licensing program which includes assisting with program research and development and performing program implementation, coordination, and development of processes and procedures

Assists with software and vendor research; works to install, implement, and maintain programs; maintains database and accurate records; creates reports, analyzes and tracks data; provides monthly and year-end reports to City Council

Develops and implements processes and procedures; conducts research on best practices, creates and updates document templates and processing protocols regarding program requirements such as FAQs, license applications, complaints, notifications, deadlines, extensions, repeat offenses, and citations

Processes and tracks licenses including intake, payment, follow-up, and issuance or denial

Performs inspections of rental units; examines the health, safety and welfare of the interior and exterior of unit(s) utilizing property maintenance codes and standards; keeps up-to-date on codes and implements procedural changes as necessary

Coordinates violation notifications, reporting and follow-up; maintains documentation related to inspection and enforcement activities; coordinates with Police, Fire, Planning, Engineering, and Building Inspections; coordinates with County Health and Social Services departments

Issues warning notices, compliance orders, citations, and prepares requests for criminal complaints to the City Council

Confers regularly with other departments to review problem properties; coordinates with the Police Department regarding conditional and provisional licensing, denials, and revocations; monitors problem properties and develops solutions to chronic problems

Provides prompt and courteous response to inquiries from owners, managers, renters and others regarding the City's housing code and related ordinances, policies, and procedures

Code Compliance

Develops, administers, and oversees program which includes research, coordination and implementation, refinement of processes and procedures

Performs activities such as investigating nuisance complaints, abandoned vehicles, zoning, trash and grass/weeds complaints; conducting code inspections

Hires and coordinates contractors for refuse removal and lawn care

Completes annual list of Special Assessments which includes tracking and intake of payments, notices, Council memorandums, and coordination with Finance Department

Responsible for monthly and year-end reports to City Council

Coordinates code violation notifications, reporting and follow-up as directed. Maintains documentation related to inspection and enforcement activities; coordinates code and rental license activities with Planning, Engineering, Inspections, Fire, and Police Department staff

Issues warning notices, compliance orders, citations, and prepares requests for criminal complaints to the City prosecutor; testifies in court as subpoenaed/requested

Obtains and tracks licenses for residential chickens; performs inspections, and notifies residents and neighbors when renewals are due; and provides memorandum to City Council if objection is received

Provides prompt and courteous response to inquiries from property owners, citizens and others regarding the City's codes, related ordinances, policies, and procedures

Maintains database of related information and accurate records

Monitors problem properties and develops solutions to chronic problems

Dangerous Dog Hearings

Conducts or coordinates dangerous dog hearings.

Maintains and applies knowledge of City and State Codes relating to Dangerous and Potentially Dangerous Dogs

Reviews Incident Report and Supplemental Reports from Police Department
Interviews all parties involved

Makes a determination based on findings from interviews and facts from reports

Issues notifications of findings

Maintains all documentation relating to case

Housing Demolition

Serves as Project Manager by establishing and following program and procedure for housing demolitions

Creates Requests for Proposal for hazardous materials removal

Creates Request for Proposal for demolition

Composes contracts and hires contractors for regulated material removal and demolition

Coordinates with other departments to coordinate meetings and site visits

Coordinates with other departments to schedule trainings prior to demolition

Maintains documentation relating to inspection and demolition

Other

Assumes additional accountabilities as assigned

Accountabilities Shared by all City Employees:

Developing and maintaining a thorough working knowledge of all department and City-wide policies, protocols and procedures that apply to the performance of this position.

Demonstrating by personal example the service excellence and integrity expected from all employees.

Developing respectful and cooperative working relationships with co-workers, including willing assistance to fellow employees so that their job responsibilities can be performed with confidence as quickly as possible.

Conferring regularly with and keeping one's immediate supervisor informed on all important matters pertaining to assigned job accountabilities.

Representing the City in a professional manner to all outside contacts when doing the City's business and also with the general public.

Typical Working Environment:

Demands of the position may require employee to work days/evenings/weekends.

Position is primarily administrative in nature, working in a typical office environment and conducting frequent field investigations and/or inspections outside of the office in the elements, year-round.

Typical Physical Requirements for this Position:

Must be able to sit, stand, speak, hear, and effectively communicate. Ability to lift and move up to 40 pounds.

Selection Criteria to Qualify for this Position:

Valid MN Class "D" Driver's License or ability to obtain.

2-year degree from an accredited college or university.

At least 4 years of related experience.

Ability to resolve issues in a diplomatic, positive, and mutually beneficial manner.

Knowledge of property inspection programs and practices.

General knowledge of related property (nuisance, blight, housing, etc.) codes.

Ability to communicate clearly and effectively, both orally and in writing.

Ability to work well with the public and with fellow staff and elected officials.

Preferred Qualifications:

Ability to obtain related certifications such as: Property Maintenance, Housing or Rental Inspector certifications via International Code Council (ICC) or American Home Inspectors Training Institute (AHIT).

Any combination of education and experience which substantially demonstrates the knowledge, skills, and abilities required to successfully perform this job will be considered.

Employee's Acknowledgement and Date: _____

Supervisor's Acknowledgement and Date: _____

Administrative Services Acknowledgement and Date: _____

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Approval of Dakota County Ship Grant Agreement

Meeting Date: August 8, 2016
 Item Type: Consent Agenda
 Contact: Eric Carlson – 651.450.2587
 Prepared by: Eric Carlson
 Reviewed by:

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

PURPOSE/ACTION REQUESTED

Consider approval of a Joint Powers Agreement (JPA) between the City of Inver Grove Heights and Dakota County. The purpose of the JPA is for the County to provide a \$20,000 grant to the City to hire an engineering firm to perform a feasibility study to improve pedestrian transportation (trails/sidewalks) along Babcock Ave (County Rd 73) between Upper 55th and Interstate 494. This by the Dakota County Public Health Department and the Statewide Health Improvement Program. The City’s contribution is \$2,000 and will come from the Park Acquisition and Development Fund (Fund 402).

SUMMARY

In 2011, the City completed a Trail Gap Study which identified a number of “gaps” in the city’s trail/sidewalk network. Since then, the City has pursued closing these “gaps” at opportune times in conjunction with street improvement projects and/or park improvement projects.

The City of Inver Grove Heights requested and has been granted \$20,000 in grant funds and proposes to use these funds to hire an engineering consultant and pay for a trail feasibility study for approximately 2,500 lineal feet of trail along County Road 73 between Upper 55th and Interstate 494.

This trail section is a critical connection based on the fact that there are approximately 1,200 units of multi-family moderate/low income housing to the west and one of the city’s largest employers (CHS Inc.) to the east employing over 1,000 people. Once a feasibility study is completed, the City plans to partner with the Dakota County Highway Department to construct the trail. CHS has expressed an interest in cooperating both from a land access and financial standpoint.

JOINT POWERS AGREEMENT

**JOINT POWERS AGREEMENT BETWEEN
THE COUNTY OF DAKOTA AND
THE CITY OF INVER GROVE HEIGHTS**

This Joint Powers Agreement (“Agreement”) is entered into by and between the County of Dakota, a political subdivision of the State of Minnesota, by and through its Physical Development Division, 1590 Highway 55, Hastings, Minnesota 55033 (“County”), and the City of Inver Grove Heights (“City”), by and through their respective governing bodies.

RECITALS

WHEREAS, Minn. Stat. § 471.59 authorizes local government units to jointly and cooperatively exercise any power common to the contracting parties; and

WHEREAS, City is a governmental unit and political subdivision of the State of Minnesota; and

WHEREAS, County is a governmental unit and political subdivision of the State of Minnesota; and;

WHEREAS, the County has received a grant of monies from the State of Minnesota acting through the Minnesota Department of Health Grant Project Agreement No. 100381, attached hereto as set forth in Exhibit A for implementation of the County’s Statewide Health Improvement Program (“SHIP”); and

WHEREAS, the County and the City are desirous of entering into this Agreement so that the County and the City may share the cost to conduct a feasibility study to analyze potential pedestrian and bicycle infrastructure improvement for County Road 73 between Upper 55th and Interstate 494 (“Project”).

NOW, THEREFORE, in consideration of the mutual promises and benefits that the City and the County shall derive from this Agreement, the City and County hereby enter into this Agreement for the purposes stated herein.

1. Effective Date and Term. This Agreement shall be effective as of the dates of signature by the parties. This Agreement shall remain in effect until October 31, 2017 or until completion by the parties of their respective obligations under this Agreement, whichever occurs first, unless earlier terminated by law or according to the provisions of this Agreement.
2. Grant of Monies. The County agrees to reimburse the City in an amount not to exceed \$20,000 for costs incurred to conduct a feasibility study to analyze potential pedestrian and bicycle infrastructure improvement for County Road 73 between Upper 55th and Interstate 494 in Inver Grove Heights during the period from the Effective Date through October 31, 2017.

3. Purpose.

The purpose of this Agreement is to provide cooperation and funding by the County to the City so that the City can conduct a feasibility study to develop and assess potential pedestrian and bicycle infrastructure improvement for County Road 73 between Upper 55th and Interstate 494 and to develop and assess potential connections to existing nonmotorized transportation infrastructure and transit in the corridor. All funds provided by the County are to be used by the City solely for this purpose. Funds obtained by the City pursuant to this Agreement shall only be used for the payment of actual professional services provided by the chosen engineering consultant.

4. Obligations of the City.

Develop and assess potential pedestrian and bicycle infrastructure improvements for County Road 73 between Upper 55th and Interstate 494 and identify preferred improvements. Develop and assess potential connections to existing nonmotorized transportation infrastructure and transit in the corridor. The City will lead the feasibility study, utilizing a contract with an engineering consultant and shall be responsible for awarding contracts for the feasibility and alignment study. The study shall be conducted as more fully described in Exhibit B, Inver Grove Heights Contract Deliverables for the County Road 73/Upper 55th Trail Feasibility Study Funded by the Statewide Health Improvement Program (SHIP) and Exhibit C, Statewide Health Improvement Program (SHIP) Application for Local Funding, attached hereto and incorporated by reference herein.

5. Reimbursement.

After this Agreement has been executed by both parties, the City may claim reimbursement for expenditures incurred in connection with the performance of activities that are eligible for reimbursement in accordance with the Agreement.

The County will reimburse the City within 45 calendar days of the City's submission of invoices to the County. Invoices must be submitted in the form acceptable to the County. All requests for reimbursement must be submitted by September 15, 2017. The City must certify that the requested reimbursements are accurate, appropriate and eligible in accordance with Master Grant Contract No. 12-700-0068 attached hereto as set forth in Exhibit D, that it has documentation of the actual expenditures for which reimbursement is sought, and that such expenditures have not been otherwise reimbursed.

6. Miscellaneous.

A. Authorized Representatives. The following named persons are designated as the Authorized Representatives of the parties for purposes of this Agreement. These persons have authority to bind the party they represent and to consent to modifications, except that the Authorized Representatives shall have only authority specifically granted by their respective governing boards. Notice required to be provided pursuant this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification to this Agreement.

The County's Authorized Representative is:

Steven C. Mielke, Director
Physical Development Division
14955 Galaxie Avenue
Apple Valley, MN 55124
Telephone: (952) 891-7007
Email: Steven.Mielke@co.dakota.mn.us

Steven Mielke, or his successor, has the responsibility to monitor the City's performance pursuant to this Agreement and the authority to approve invoices submitted for reimbursement.

The City's Authorized Representative is:

Eric Carlson
Park and Recreation Director
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077
Telephone: (651) 450-2587
Email: ecarlson@invergroveheights.org

In addition, notification to the City or to the County regarding termination of this Agreement by the other party shall be provided to the Office of the Dakota County Attorney, Civil Division, 1560 Highway 55, Hastings, MN 55033.

The parties shall provide written notification to each other of any change to the Authorized Representative. Such written notification shall be effective to change the Authorized Representative under this Agreement, without necessitating an amendment of this Agreement.

B. Assignment, Amendments, Waiver and Complete Agreement.

- i. Assignment. The City may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the County and a fully executed assignment agreement, executed by the County and the City.
- ii. Use of Contractors. The City may engage contractors to perform activities funded pursuant to this Agreement. However, the City retains primary responsibility to the County for performance of the activities and the use of such contractors does not relieve the City from any of its obligations under this Agreement.

If the City engages any contractors to perform any part of the activities, the City agrees that the contract for such services shall include the following provisions:

- (a) The contractor must maintain all records and provide all reporting as required by this Agreement.
 - (b) The contractor must defend, indemnify, and save harmless the County from all claims, suits, demands, damages, judgments, costs, interest, and expenses arising out of or by reason of the performance of the contracted work, caused in whole or in part by any negligent act or omission of the contractor, including negligent acts or omissions of its employees, subcontractors, or anyone for whose acts any of them may be liable.
 - (c) The contractor must provide and maintain insurance through the term of this Agreement in amounts and types of coverage as set forth in the Insurance Terms, which is attached and incorporated as Exhibit E, and provide to the County prior to commencement of the contracted work a certificate of insurance evidencing such insurance coverage.
 - (d) The contractor must be an independent contractor for the purposes of completing the contracted work.
 - (e) The contractor must acknowledge that the contract between the City and the contractor does not create any contractual relationship between County and the contractor.
 - (f) The contractor shall perform and complete the activities in full compliance with this Agreement and all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the activities.
- iii. Amendments. Any amendment to this Agreement must be in writing and executed by the County and the City.
 - iv. Waiver. If the County fails to enforce any provision of this Agreement, that failure shall not result in a waiver of the right to enforce the same or another provision of this Agreement.
 - v. Agreement Complete. This Agreement and exhibits contain all negotiations and agreements between the County and the City. No other understanding regarding this Agreement, whether written or oral may be used to bind either party.
- C. Indemnification. Each party to this Agreement shall be liable for the acts or omissions of its officers, directors, employees or agents and the results thereof to the fullest extent authorized by law and shall not be responsible for the acts of the other party, its officers, directors, employees or agents. It is understood and agreed that the provisions of the Municipal Tort Claims Act, Minn. Stat. Ch. 466, and other applicable laws govern liability arising from the parties' acts or omissions. In the

event of any claims or actions asserted or 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. In order to insure a unified defense against any third-party liability claims arising from work of the Project, City agrees to require all contractors or subcontractors hired to do any work on the feasibility study to maintain commercial general liability insurance in the amounts consistent with minimum limits of coverage established by Minn. Stat. § 466.04 during the terms of the Project. Each Party warrants that it is able to comply with the indemnity requirements of this Agreement through an insurance company, the League of Minnesota Cities Insurance Trust, or self-insurance program and that each has minimum coverage consistent with the liability limits contained in Minn. Stat. Ch. 466.

- D. Audit. The City shall maintain books, records, documents and other evidence pertaining to the costs or expenses associated with the work performed pursuant to this Agreement. Upon request the City shall allow the County, Legislative Auditor or the State Auditor to inspect, audit, copy or abstract all of the books, records, papers or other documents relevant to this Agreement. The City shall use generally accepted accounting principles in the maintenance of such books and records, and shall retain all of such books, records, documents and other evidence for a period of six (6) years from the date of the completion of the activities funded by this Agreement.
- E. Data Practices. The City agrees with respect to any data that it possesses regarding the Agreement to comply with all of the provisions of the Minnesota Government Data Practices Act contained in Minnesota Statutes Chapter 13, as the same may be amended from time to time.
- F. Relationship of the Parties. Nothing contained in this Agreement is intended or should be construed as creating or establishing the relationship of co-partners or joint ventures between the County and the City, nor shall the County be considered or deemed to be an agent, representative or employee of the City in the performance of this Agreement. Personnel of the City or other persons while engaging in the performance of this Agreement shall not be considered employees of the County and shall not be entitled to any compensation, rights or benefits of any kind whatsoever.
- G. Governing Law, Jurisdiction and Venue. Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be with the appropriate state court with competent jurisdiction in Dakota County.
- H. Nondiscrimination. The City agrees to comply with all applicable laws relating to nondiscrimination and affirmative action. In particular, the City agrees not to discriminate against any employee, applicant for employment, or participant in this Agreement because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation, or age; and further agrees to take action to ensure that applicants and employees are treated equally with respect to all aspects of employment, including selection for training, rates of pay, and other forms of compensation.

- I. Compliance with Law. The City agrees to conduct its work under this Agreement in compliance with all applicable provisions of federal, state, and local laws, ordinances, or regulations. The City is responsible for obtaining and complying with all federal, state, or local permits, licenses, and authorizations necessary for performing the work.
- J. Default and Remedies.
- i. Events of Default. The following shall, unless waived in writing by the County, constitute an event of default under this Agreement: If the City fails to fully comply with any material provision, term, or condition contained in this Agreement.
 - ii. Notice of Event of Default and Opportunity to Cure. Upon the County's giving the City written notice of an event of default, the City shall have thirty (30) calendar days in which to cure such event of default, or such longer period of time as may be reasonably necessary so long as the City is using its best efforts to cure and is making reasonable progress in curing such events of default (the "Cure Period"). In no event shall the Cure Period for any event of default exceed two (2) months. Within ten (10) calendar days after receipt of notice of an event of default, the City shall propose in writing the actions that the City proposes to take and the schedule required to cure the event of default.
 - iii. Remedies. Upon the City's failure to cure an event of default within the Cure Period, the County may enforce any or all of the following remedies, as applicable:
 - (a) The County may refrain from disbursing the grant monies; provided, however, the County may make such a disbursement after the occurrence of an event of default without thereby waiving its rights and remedies hereunder.
 - (b) The County may enforce any additional remedies it may have in law or equity.
 - (c) The County may terminate this Agreement and its obligation to provide funds under this Agreement for cause by providing thirty (30) days' written notice to the City. Such notice to terminate for cause shall specify the circumstances warranting termination of the Agreement. Cause shall be a material breach of this Agreement and any supplemental agreement or modification to this Agreement or an event of default. Notice of Termination shall be made by certified mail or personal delivery to the Authorized Representative of the other Party. For purposes of termination and default, all days are calendar days.
- L. Non-Appropriation. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated immediately by the County in the event

sufficient funds from the County, State, or Federal sources are not appropriated, obtained and continued at least the level relied on for the funding of this Agreement, and the non-appropriation of funds did not result from any act or bad faith on the part of the County.

M. Ownership of Materials and Intellectual Property Rights.

- i. The County agrees to, and hereby does, assign all rights, title and interest it may have in the materials conceived or created by the City, or its employees or subgrantees, and which arise out of the performance of this Agreement, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form (“Materials”).
- ii. The City represents and warrants that Materials produced or used under this Agreement do not and will not infringe upon any intellectual property rights of another. City shall indemnify and defend the County, at its expense, from any action or claim brought against the County to the extent that it is based on a claim that all or parts of the Materials infringe upon the intellectual property rights of another.

The rights and remedies herein specified are cumulative and not exclusive of any rights or remedies that the Authority would otherwise possess.

7. Special Condition. The City understands and agrees that it will perform the work contemplated by this Agreement in such a way as to comply with and enable the County to comply with all of the requirements imposed upon the County by Grant Agreement No. 100381, attached hereto as Exhibit A and incorporated herein, including but not limited to the following:
 - A. Any publicity given to the activities occurring as a result of this Agreement, including notices, informational pamphlets, press releases, research, reports, signs and similar public notices shall identify the State of Minnesota through the Minnesota State Department of Health (“Department”) as a sponsoring agency and shall not be released unless approved in writing by the Department’s authorized representative.
 - B. The City shall indemnify, save and hold the Department, its representatives and employees harmless from any and all claims or causes of action, including reasonable attorney fees incurred by the Department, arising from the performance of the activities funded by this Agreement by the City or its agents or employees.
 - C. The City, by executing this Agreement, grants to the Department a perpetual, irrevocable, no-fee right and license to make, have made, reproduce, modify, distribute, perform and otherwise use the Materials for any and all purposes, in all forms and manners that the Department, in its sole discretion, deems appropriate.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

Approved as to form:

COUNTY OF DAKOTA

/s/ Joseph Trojack 7/26/2106
Assistant County Attorney/Date

Dakota County BR 16-177
KS-16-213

By: _____
Steven C. Mielke
Title: Director, Physical Development Division
Date: _____

CITY OF INVER GROVE HEIGHTS

By: _____
Eric Carlson
Title: Parks and Recreation Director
Date: _____

By: _____
Title: Clerk
Date: _____

EXHIBIT A

Grant Project Agreement Number 100381
Between the Minnesota Department of Health and Dakota County Community Health Board

Minnesota Department of Health
Community Health Board Grant Project Agreement

This Grant Project Agreement, and amendments and supplements, is between the State of Minnesota, acting through its Commissioner of Health ("STATE") and Dakota County Community Health Board, an independent organization, not an employee of the State of Minnesota, address 1 Mendota Rd. W., Suite 410, West St. Paul, MN, 55118, ("GRANTEE").

1. Under Minnesota Statutes 144.0742, the STATE is empowered to enter into a contractual agreement for the provision of statutorily prescribed public health services;
2. The STATE and the GRANTEE have entered into Master Grant Contract number 12-700-00068 ("Master Grant Contract") effective January 1, 2015 or subsequent Master Grant Contracts and amendments and supplements thereto;
3. The STATE, pursuant to Minnesota Statutes 145.986 is empowered to award Statewide Health Improvement Program (hereinafter "SHIP") grants to convene, coordinate, and implement evidence-based strategies targeted at reducing the percentage of Minnesotans who are obese or overweight and at reducing the use of tobacco; and
4. The GRANTEE represents that it is duly qualified and willing to perform the duties described in this grant project agreement to the satisfaction of the STATE. Pursuant to Minnesota Statutes Section 16B.98, subdivision 1, the GRANTEE agrees to minimize administrative costs as a condition of this grant.

NOW, THEREFORE, it is agreed:

1. *Incorporation of Master Grant Contract.* All terms and conditions of the Master Grant Contract are hereby incorporated by reference into this grant project agreement.
2. *Term of Agreement.*

2.1 *Effective date.* This grant project agreement shall be effective on November 1, 2015, or the date the STATE obtains all required signatures under Minnesota Statutes 16B.98, Subd. 5(a), whichever is later. The GRANTEE must not begin work until this contract is fully executed and the State's Authorized Representative has notified the GRANTEE that work may commence.

2.2 *Expiration date.* October 31, 2020, or until all obligations have been fulfilled to the satisfaction of the STATE, whichever occurs first, except for the requirements specified in this grant project agreement with completion dates which extend beyond the termination date specified in this sentence.

3. *Grantee's Duties and Responsibilities.* The GRANTEE shall:

A. Comply with the following grant requirements:

General

1. Work with STATE to finalize GRANTEE's yearly work plan and budget. The annual budget and work plan must be approved by STATE by November 1, and is incorporated into this GRANT PROJECT AGREEMENT by reference.

Grant Project Agreement Number _____
Between the Minnesota Department of Health and Dakota County Community Health Board

2. Perform the activities approved in the work plan. GRANTEE should contact the STATE if GRANTEE is no longer able to fulfill a work plan activity and GRANTEE should request approval before pursuing any additional activities not described in the original work plan. If grant deliverables are not completed satisfactorily, the STATE has the authority to withhold and/or recover funds.
3. Designate or hire a full-time SHIP project coordinator or equivalent. Grantee's budget must include a minimum of one FTE to coordinate the activities of the grant.
4. Designate a SHIP staff person to facilitate evaluation tasks and communicate with MDH evaluation staff and contractors.
5. Designate, hire, or contract project, fiscal, and administrative staff with the appropriate training and experience to implement all SHIP activities and to fulfill payroll, accounting, and administrative functions.
6. Participate in site visits and grant reconciliation processes with the STATE.
7. Participate in regularly scheduled calls and meetings with community specialists.
8. Participate in STATE-sponsored technical assistance calls, webinars and trainings.
9. Attend STATE-sponsored conferences, meetings and in-person trainings.
10. Comply with MDH product approval outlined in the Communications Guidance and Materials document on the SHIP website).
11. Allow MDH and others to use any products or materials produced with SHIP funds.

Reporting

1. Participate in all required evaluation activities as outlined in the SHIP Application.
2. Completed progress and evaluation reports will be due quarterly, a schedule for years 1 and 2 quarterly reporting is provided below. MDH will provide guidance regarding the required content of the reports.

Year 1

Reporting Period

November 1, 2015 – January 31, 2016
February 1, 2016 – April 30, 2016
May 1, 2016 – July 31, 2016
August 1, 2016 – October 31, 2016

Report Submission Date

February 29, 2016
May 31, 2016
August 30, 2016
November 30, 2016

Year 2

Reporting Period

November 1, 2016 – January 31, 2017
February 1, 2017 – April 30, 2017
May 1, 2017 – July 31, 2017
August 1, 2017 – October 31, 2017

Report Submission Date

February 28, 2017
May 31, 2017
August 30, 2017
November 30, 2017

Grant Project Agreement Number _____
Between the Minnesota Department of Health and Dakota County Community Health Board

Financial

1. Adhere to the request and approval process set forth by the STATE in the SHIP 4 Grantee Financial Reference Guide.
2. Obtain prior approval from MDH for all subcontracts or mini-grants over \$5,000, significant changes in grant activities, changes of more than 10 percent to any budget line item, surveys and out-of-state travel.
3. Act in a fiscally-responsible manner, including following standard accounting procedures, charging the SHIP grant only for the activities stated in the grant agreement, spending grant funds responsibly, properly accounting for how grant funds are spent, maintaining financial records to support expenditures billed to the grant, and meeting audit requirements.
4. Ensure that a local match equaling at least ten percent of the total funding award is provided and documented.
5. Ensure that administrative costs are explained and justifiable. The STATE will accept up to the grantee's current federally approved rate. If GRANTEE does not have a federally approved indirect cost rate, the STATE will accept an indirect rate of up to 10 percent of the total grant award.
6. Report to the STATE other funding sources, including grants from other sources, that are directed toward tobacco and obesity, and have accounting systems in place to track SHIP-funded activities separately from activities funded through other sources.
7. Comply with the Minnesota Government Data Practices Act as it applies to all data created, gathered, generated, or acquired under the grant agreement.
8. Ensure SHIP funding does not supplant work funded through other sources. Use SHIP funds to develop new activities, expand or modify current activities that work to reduce tobacco use and exposure and prevent obesity, and/or replace discontinued funds from the STATE, the federal government, or another third party previously used to reduce tobacco use and exposure and prevent obesity. GRANTEE may not use SHIP funds to replace federal, state, local, or tribal funding GRANTEE currently uses to reduce tobacco use and exposure or prevent obesity.

Lobbying

1. Ensure funds are not used for lobbying, which is defined as attempting to influence legislators or other public officials on behalf of or against proposed legislation. Providing education about the importance of policies as a public health strategy is allowed with SHIP funds. Education includes providing facts, assessment data, reports, program descriptions, and information about budget issues and population impacts, but stopping short of making a recommendation on a specific piece of legislation. Education may be provided to legislators, public policy makers, other decision makers, specific stakeholders, and the general community. Lobbying restrictions do not apply to internal or non-public policies.

4. *Consideration and Payment.*

4.1 Consideration. The STATE will pay for all services performed by the GRANTEE under this grant project agreement as follows:

(a) Compensation. The GRANTEE will be paid monthly, on a reimbursement basis for services performed and acceptance of such services by the STATE'S Authorized Representative, except the STATE reserves the right not to honor invoices that are submitted more than 30 days after the submission date specified.

Grant Project Agreement Number _____
Between the Minnesota Department of Health and Dakota County Community Health Board

Budget periods for the five years are as follows:

Year 1, November 1, 2015 through October 31, 2016	\$775,704.00
Year 2, November 1, 2016 through October 31, 2017	\$789,859.00
Year 3, November 1, 2017 through October 31, 2018	\$782,859.00
Year 4, November 1, 2018 through October 31, 2019	\$782,859.00
Year 5, November 1, 2019 through October 31, 2020	\$782,859.00

(b) *Total Obligation.* The total obligation of the STATE for all compensation and reimbursements to the GRANTEE under this grant project agreement will not exceed three million nine hundred fourteen thousand one hundred forty dollars (\$3,914,140.00).

(c) *Budget Modifications.* Modifications greater than 10 percent of any budget line item in the most recently approved budget (listed in 4.1(a) or incorporated in Exhibit B) requires prior approval from the STATE and must be indicated on submitted reports. Failure to obtain prior approval for modifications greater than 10 percent of any budget line item may result in denial of modification request and/or loss of funds. Modifications equal to or less than 10 percent of any budget line item are permitted without prior approval from the STATE provided that such modification is indicated on submitted reports and that the total obligation of the STATE for all compensation and reimbursements to the GRANTEE shall not exceed the total obligation listed in 4.1(b) or Exhibit B.

4.2 Terms of Payment.

(a) *Invoices.* The State will promptly pay the GRANTEE after the GRANTEE presents an itemized invoice for the services actually performed and the STATE's Authorized Representative accepts the invoiced services. Invoices must be submitted in a timely fashion and according to the following schedule. Invoices shall be completed on a form prescribed by the STATE for each month and submitted within 45 days after the end of the month.

(b) *Matching Requirements.* GRANTEE certifies that the following matching requirement, for the grant, will be met by GRANTEE: A local match of ten percent of the total funding allocation will be provided and documented.

5. *Conditions of Payment.* All services provided by GRANTEE pursuant to this grant project agreement must be performed to the satisfaction of the State, as determined in the sole discretion of its Authorized Representative. Further, all services provided by the GRANTEE must be in accord with all applicable federal, state, and local laws, ordinances, rules and regulations.

6. *Ownership of Equipment.* The STATE shall have the right to require transfer of all equipment purchased with grant funds (including title) to the STATE or to an eligible non-STATE party named by the STATE. This right will normally be exercised by the STATE only if the project or program for which the equipment was acquired is transferred from one grantee to another.

7. Authorized Representatives.

7.1 *STATE's Authorized Representative.* The STATE's Authorized Representative for purposes of administering this grant project agreement is Susan Michels, Supervisor, Community Initiatives, Office of Statewide Health Improvement Initiatives, 85 East Seventh Place, P.O. Box 64882, St. Paul, Minnesota, 55164-0882, Phone: 651-201-4564, Email: susan_michels@state.mn.us, or his/her successor, and has the responsibility to monitor the GRANTEE's performance and the final authority to accept the services provided under this grant project agreement. If the services are satisfactory, the STATE's Authorized Representative will certify acceptance on each invoice submitted for payment.

7.2 *GRANTEE's Authorized Representative.* The GRANTEE's Authorized Representative is Bonnie Brueshoff, CHS Administrator, 1 Mendota Rd., Suite 410, West St. Paul, MN, 55118.

Grant Project Agreement Number _____
Between the Minnesota Department of Health and Dakota County Community Health Board

bonnie.brueshoff@co.dakota.mn.us or his/her successor. The GRANTEE's Authorized Representative has full authority to represent the GRANTEE in fulfillment of the terms, conditions, and requirements of this agreement. If the GRANTEE selects a new Authorized Representative at any time during this grant project agreement, the GRANTEE must immediately notify the STATE.

8. *Termination.*

8.1 *Termination by the STATE or GRANTEE.* The STATE or GRANTEE may cancel this grant project agreement at any time, with or without cause, upon thirty (30) days written notice to the other party.

8.2 *Termination for Cause.* If the GRANTEE fails to comply with the provisions of this grant project agreement, the State may terminate this grant project agreement without prejudice to the right of the STATE to recover any money previously paid. The termination shall be effective five business days after the STATE mails, by certified mail, return receipt requested, written notice of termination to the GRANTEE at its last known address.

8.3 *Termination for Insufficient Funding.* The STATE may immediately terminate this grant project agreement if it does not obtain funding from the Minnesota legislature or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the work scope covered in this grant project agreement. Termination must be by written (e-mail, facsimile or letter) notice to the GRANTEE. The STATE is not obligated to pay for any work performed after notice and effective date of the termination. However, the GRANTEE will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The STATE will not be assessed any penalty if this grant project agreement is terminated because of the decision of the Minnesota legislature, or other funding source, not to appropriate funds. The STATE must provide the GRANTEE notice of the lack of funding within a reasonable time of the STATE receiving notice of the same.

9. *Publicity.* Any publicity given to the program, publications, or services provided from this grant project agreement, including, but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the GRANTEE or its employees individually or jointly with others, or any subgrantees shall identify the STATE as a sponsoring agency and shall not be released, unless such release is approved in advance in writing by the STATE'S Authorized Representative.

Grant Project Agreement Number _____
Between the Minnesota Department of Health and Dakota County Community Health Board

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

APPROVED:

1. GRANTEE

The Grantee certifies that the appropriate persons(s) have executed the project agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: [Signature]

Title: CS Director

Date: 10/25/2015

By: _____

Title: _____

Date: _____

2. STATE AGENCY

Project Agreement approval and certification that STATE funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05.

By: [Signature]

Title: Mary Edwards, Acting. Subv. Fin Mgr

Date: 10/30/15

Distribution:

- 1. MDH (Original fully executed Grant Project Agreement)
- 2. Grantee
- 3. State Authorized Representative

APPROVED AS TO FORM:

[Signature] 10-20-15
ASSISTANT DAKOTA COUNTY ATTORNEY/DATE

EXHIBIT B

Exhibit A

Inver Grove Heights Contract Deliverables for the County Road 73/Upper 55th Trail Feasibility Study funded by the Statewide Health Improvement Program (SHIP)

Scope of work to be conducted by Inver Grove Heights

- Develop and assess potential pedestrian and bicycle infrastructure improvements for County Road 73 between Upper 55th and Interstate 494
- Identify preferred improvements
- Develop cost estimates for evaluated improvements
- Develop and assess potential connections to existing nonmotorized transportation infrastructure and transit in the corridor
- Complete preliminary engineering (30% plan set) for the preferred improvement
- Evaluate benefits and impacts to SHIP priority populations (*people 60 or older, children, and people with low incomes or others experiencing a health disparity*)
- Direct and manage any consultant hired to work on the project

Public engagement

- City staff will work with the Dakota County Physical Development Division (DCPDD) and Public Health Department leads to prepare a public engagement plan. The project will include engagement of key stakeholders, including
 - Affected property owners
 - Residents
 - Representatives of SHIP priority populations (work with multi-family facility managers and local business owners)
 - Dakota County
- At least 1 meeting with the Inver Grove Heights City Council will be held on the topic
- The City will acknowledge funding and support from the Dakota County Public Health Department and the Statewide Health Improvement Program in the final documents, open houses, public materials, public meetings and news releases. This will be done by either including the SHIP and County Logos and/or the following language *“Supported by the Statewide Health Improvement Program, Minnesota Department of Health and the Dakota County Public Health Department”*.

Anticipated non-motorized transportation strategies to be evaluated

- Installation of shared use trail on one or both sides of County Road 73 the length of the project corridor
- Installation of on-street bicycle facilities on County Road 73 the length of the project corridor

- Installation of a sidewalk on one or both sides of County Road 73 the length of the project corridor
- Some combination of the above strategies

Report on strategy outcomes (ongoing throughout the contract period)

- The City's project lead will check in with Dakota County Physical Development Division (DCPDD) staff regularly (at least monthly) to communicate progress on the project
- The City's project lead (or other city representative) will provide a brief project update at the quarterly Active Living Dakota County meetings throughout the contract period
- City staff will contribute to nominal evaluation and reporting as required by the Minnesota Department of Health
- City staff will collect stories, quotes, photos, and comments of and about people who would be affected by improvements
- City staff will submit a summary of public engagement activities and comments at project completion
- City staff will submit an electronic (pdf) copy of the final report at project completion

Communication with DCPDD staff (ongoing throughout contract period)

- The City's project lead will communicate regularly with the DCPDD lead to discuss action items, next steps and the project in general
- The City's project lead will copy the DCPDD lead on important email communications
- City staff will keep a log of pertinent activity and hours spent on the project for reporting to the Minnesota Department of Health (MDH) to show in-kind contributions to the project
- DCPDD staff will share information with Public Health staff who will communicate with MDH

DCPDD Staff will provide the following project support

- Provide input and feedback regarding the project
- Provide necessary data and information to conduct the work as available

Timeline

- Project kickoff after November 1, 2016
- Meeting with City Council by June 1, 2017
- Completion by August 1, 2017
- Final billing by September 15, 2017
- Adoption, acceptance or other City Council action before October 1, 2017
- Delivery of final study report to DCPDD by October 1, 2017

EXHIBIT C

Active Living Dakota County

Statewide Health Improvement Program (SHIP)

Application for Local Funding

Deadline: 5 p.m. Friday January 29, 2016

Dakota County's Statewide Health Improvement Program (SHIP 4) is funded by a grant from the MN Department of Health to reduce chronic disease and improve health for all. Active Living Dakota County seeks proposals for projects meeting criteria to advance SHIP goals for Active Living and Healthy Eating strategies for years 2016-2017. Projects could include policies, systems, environmental (PSE) changes and plans to increase active living, access to healthy food, and health equity.

Active Living

Active living integrates physical activity into daily routines such as walking or bicycling for recreation, occupation, or transportation. The active living component of SHIP implements policies and practices that provide safe and convenient opportunities for physical activity. Active Living policies and practices in community design, land use, site planning, and facility access have proven effective to increase levels of physical activity.

The objective of this strategy is to increase walking and bicycling in the community. A comprehensive approach through policy, system, and environmental changes is known to lead to physical activity behavior changes when done together. Priority SHIP activities are:

- **Master plans, comprehensive plans, and feasibility studies** that provide a framework to increase access to safe walking and bicycling options
- **Land Use and zoning regulations** that support increased walking and bicycling
- **Increased access to facilities and opportunities** for SHIP target populations (people 60 or older, children, people with low incomes or others experiencing a health disparity)

Infrastructure is not eligible under state guidelines, but there is some room for interpretation as to what is infrastructure. If you have an idea, contact us and we'll check with the state whether it is eligible.

Healthy Eating

Healthy Eating is increasing the consumption of fruits and vegetables while reducing consumption of saturated fats, sodium, and added sugars. These dietary behavior changes together have the greatest impact towards improving the risk factors most related to the leading causes of death and disability (obesity, hypertension, and high cholesterol).

The objective of this strategy is to increase access to healthy, affordable, and safe foods for all Minnesotans. Priority SHIP activities are:

- **Comprehensive plans** that include healthy food access as an important component of local governments' overall infrastructure, land use, zoning, and transportation planning
- **Farmers markets** established in communities where chronic disease rates are high or access to fruits and vegetables is challenging
- **Community based agriculture**
- **Emergency food systems/programs** that help food shelf operators increase access to healthier food options
- **Food retail** programs and policies that increase healthier food options at corner stores, grocery stores, vending machines, and non-chain restaurants

Eligibility

Dakota County and cities in Dakota County are eligible to apply for local funding to enhance active living and healthy eating.

All projects must meet the following minimum criteria:

- Be scheduled for final delivery/completion by Oct. 1, 2017, or have additional funding secured to complete the project beyond this date. Projects may be partitioned to meet this criteria, i.e. SHIP funding pays for a particular component that will be completed by Oct. 1, 2017, while the larger project will continue beyond the deadline.
- Must provide a 10% match (cash or in-kind).
- Must be a city-county partnership. For example, a trail feasibility study must be connected to a county road or regional/county park, trail or greenway; a city-wide pedestrian and bicycle plan or healthy food plan will include county facilities.
- Must be consistent with SHIP goals, direction, and eligible expenses. More information in the *SHIP 4 Implementation Guide*:
<http://www.health.state.mn.us/healthreform/ship/docs/ship4/ActiveLiving.pdf>;
<http://www.health.state.mn.us/healthreform/ship/docs/ship4/Healthy-Eating.pdf>

Does the project meet minimum eligibility criteria as far as you know? Describe any unusual circumstances regarding schedule or eligibility below.

Respond here.

In 2011, the City completed a Trail Gap Study which identified a number of “gaps” in the city’s trail/sidewalk network. Since then, the City has pursued closing these “gaps” at opportune times in conjunction with street improvement projects and/or park improvement projects. The Gap Study identified a total of 12 priorities of which 5 have been accomplished (one partially).

The City of Inver Grove Heights requests \$20,000 in grant funds and proposes to use these funds to hire an engineering consultant and pay for a trail feasibility study for approximately 2,500 lineal feet of trail along County Road 73 between Upper 55th and Interstate 494. The City proposes to complete the feasibility study in 2016 and follow up with construction in 2017. This trail section is a critical connection based on the fact that there are approximately 1,200 units of multi-family moderate/low income housing to the west and one of the city’s largest employers (CHS Inc.) to the east employing over 1,000 people. Once a feasibility study is completed, the City plans to partner with the Dakota County Highway Department to construct the trail. CHS has expressed an interest in cooperating both from a land access and financial standpoint. The anticipated cost to complete the feasibility study is \$22,000 and the City is able to provide the \$2,000, 10% match for the study, so the grant request is for \$20,000.

Finally, the project will meet the goals of the Active Living Program by increasing the access to physical activity, regional trails, grocery stores, and our Farmers Market for walkers and bikers by connecting the neighborhood and a significant employment center to existing and future trail networks. The project will also be the first phase in providing a safer route to school for those residents attending Salem Hills Elementary School just south of Upper 55th on Babcock Trail (County Road 73).

Basic information

Organization or city: City of Inver Grove Heights

Contact person: Eric Carlson

Contact email: ecarlson@invergroveheights.org

Contact phone: 651-450-2587

Project name (one line or less): County Road 73/Upper 55th Trail Feasibility Study

Project narrative

Concisely describe the project in two pages or less. This should give reviewers a good idea of what you're proposing but not get too specific. Be sure to articulate the following:

1. How the project will encourage active living and/or healthy food access?
2. How the project will increase health equity in Dakota County?
3. Describe how the project is a city-county partnership.
4. Attach maps or figures to illustrate the project, if available (not counted against your page limit).

Note that this section is not directly scored but will form reviewers' general understanding of the project.

Respond here. Please try to keep it to two pages or less. If the response box gives you trouble going over one page, copy and paste a second box.

The City proposes to hire a consulting engineer to perform a feasibility study for approximately 1,200 lineal feet of bituminous trail along County Road 73. The City proposed to complete the study in 2016 and construct the project in cooperation with the Dakota County Highway Department and local businesses.

The City proposes to engage residents living in the area by hosting 2-3 neighborhood meetings designed to gather feedback from residents, business owners, and employees in the area. We know that there are approximately 1,200 units of low/moderate multi-family housing in the area with 3,000 – 4,000 people occupying these units. There are an additional 200 – 300 residents living in single family housing in the area. In addition, CHS Inc. employs approximately 1,000 people and there are an estimated 300 – 400 other employees in the local business and medical facilities (Health Partners) in the area.

When the project is completed in 2017, approximately 4,500 – 5,500 people will be provided with improved access to the City's trail system, park system, Mississippi River Regional Trail, and the future Mendota Lebanon Regional Greenway giving them a multitude of options to stay healthy and active.

The City's trail network will provide people in the area a safer route to gain access to the VMCC/Grove (via the Hwy 52 trail) which offers programs and classes that encourage healthy life styles through social and physical activity. Currently, the majority of the substantial food providers are located in the southern half of the City and the trail network can provide people in the area access to Target, Cub, WalMart, and the City's seasonal Farmers Market at the VMCC/Grove, all of which offer a variety of healthy fresh food options.

The City and County can partner on this project through the Dakota County Highway Department's trail program funding which requires the City to lead a trail project along a County Road and the County will provide up to 55% of the funding.

Scored criteria

Each eligible project will be evaluated on the following 10 criteria, weighted by the percent listed to arrive at a composite score.

Alignment with SHIP strategies and priority activities (15%)

Describe how this project addresses SHIP strategies and priority activities related to active living and/or healthy eating.

Respond here.

Active Living wants to increase physical activity – primarily walking and bicycling – in the community and school setting.

The proposed trail will provide safer access to the City's trail system and Regional trail network. Once safely on the trail system, users can access parks and trails for physical activity and the VMCC/Grove for physical activity and classes. Finally, the project is the start of building a safer connection to Salem Elementary School, the Middle School and Senior High School

Active Living wants to reach people in areas with a high concentration in lower income groups.

The proposed trail is located immediately adjacent to approximately 1,200 units of moderate/low income housing which has approximately 3,000 – 4,000 residents or 12% of the City's total population.

Active Living wants to increase access to healthy food options.

The proposed trail will provide safe access for walking and biking to the grocery stores and a seasonal Farmers Market for healthy food options.

Describe the project's community engagement approach, including how you will engage SHIP target populations (people 60 or older, children, people with low incomes or others experiencing a health disparity).

Respond here.

Building from the community engagement the City had during the development of the 2011 Trail and Sidewalk Gap Study during the feasibility stage, the City and our Consultant will hold a series of Neighborhood Open Houses where we will solicit feedback and input from residents living in the area. By working with the multi-family facility managers and local business owners we will work to gather feedback from people in the area. The City will use social media, the City Web Site, and a City Newsletter to engage future trail users to make sure we are able to address the issues they make us aware of.

We will also hold a separate meeting with CHS and other local businesses to gain their feedback related to pedestrian access in the area for both their customers and employees.

Benefit to target populations (10%)

Describe how the project will benefit and advance health equity for target populations (people 60 or older, children, people with low incomes or others experiencing a health disparity) by creating or enhancing opportunities for physical activity through active living and/or creating or enhancing opportunities for healthy eating.

Respond here.

With approximately 3,000 – 4,000 people living immediately to the west in low/moderate income housing, a safe pedestrian trail link for residents is a critical step in encouraging them to lead an active and healthy life. When the project is completed in 2017, approximately 4,500 – 5,500 people will be provided with improved access to the City's trail system, park system, Mississippi River Regional Trail, and the future Mendota Lebanon Regional Greenway thus giving them a multitude of options to stay healthy and active.

The City's trail network will also provide people in the area a safer route to gain access to the VMCC/Grove (via the Hwy 52 trail) which offers programs and classes that encourage healthy life styles through social and physical activity. Currently, the majority of the substantial food providers are located in the southern half of the City and the trail network can provide people in the area access to Target, Cub, WalMart, and the City's seasonal Farmers Market at the VMCC/Grove, all of which offer a variety of health fresh food options.

Location — Proximity to target population and ped/bike demand or low access to healthy food (15%)

Describe the project's proximity to target populations (people 60 or older, children, people with low incomes) and either

1. Identify high pedestrian/bicyclist demand (population density, near employment areas, shopping districts, community destinations) **or**
2. Show poor access to healthy food (food deserts/or far from grocery stores or other food providers).

Please attach a map of the project location or describe the project location below. If your project does not include a spatial element, state how many residents in the target population will benefit from the project and how.

Respond here.

Please see the attached diagram from the 2011 Trail Gap Study. The project is identified as "B" on the map. Please see the attached City map outlining the location of the project in relation to the parks, trails, VMCC/Grove, and grocery stores.

Number of overall residents who will benefit (10%)

Estimate the number of overall residents (target population and general population) who will benefit from this project and explain why. If your project does not include a spatial element, please state how many residents overall will benefit from the project and how.

Respond here.

It is anticipated that:

- 3,000 – 4,000 residents living in moderate and low income multi-family housing
- 200 – 300 resident living in single family housing
- 1,000 employees of CHS Inc.
- 300 – 400 additional employees from other local businesses

will benefit from the construction of this trail segment. Trail users will benefit by being provided a safe connection(s) to exiting trails in the area and keep them from using the shoulder on County Road 73 which has a 2006 average daily traffic volume (ADT) of 6,700 and a projected ADT of 16,000 by the year 2030 based on data from the City's 2030 Comprehensive Plan. (*more accurate data is not available*)

The trail connection will open the many trails, parks, regional greenways, and commercial areas around the City to people from the neighborhood to pursue active living and healthy lives.

Regional value (15%)

Is your project connected to an existing or future facility of regional significance? Examples include regional greenway corridors, county or state highways, regional parks, regional commercial districts and community centers, a healthy food access plan that can be used as a model for other Dakota County communities.

Respond here.

When constructed, the project will provide trail users safe access to the HWY 52 trail that runs from Upper 55th to 80th St. In this stretch of trail, residents can make connections east and west to the Mississippi Regional Trail and ultimately the Mendota Lebanon Regional Greenway when completed. These trail connections allow residents to access the Lebanon Hills Regional Park located in Eagan and Swing Bridge Park/Trailhead located in Inver Grove Heights. Working to connect City trails to these regional amenities will compliment and support Dakota County's Greenway Vision for the entire County.

Plan consistency (15%)

Identify any plans that call specifically for the project you're proposing. Plans can be at the state, regional, county, city or area level.

Respond here.

In 2011, the City of Inver Grove Heights used an Active Living Grant to create a Trail and Sidewalk Gap Study. The study identified a number of gaps in the City's trail system that needed to be closed so trail/sidewalk users would have safer access to neighborhoods, schools, parks, and commercial areas. The City has used the plan to close many of the gaps identified and continues to take advantage of opportunities to advance future projects when the timing is advantageous to do so.

Collaboration (5%)

Identify any partner organizations involved in the project and their relationship to the project.

Respond here.

Once the feasibility plan has been adopted the City will partner with the Dakota County Highway Department to construct the trail. Potentially the City and County will partner with CHS Inc. who could cooperate with the project to allow the trail to be constructed on property they own along the County Road.

Leverage (5%)

Identify how your project will add to an already programmed project, leverage additional funds, be used as a match for a grant or otherwise will add value.

Respond here.

It is anticipated that once the feasibility study is completed it would include an engineers cost estimate that the City will use to work with Dakota County and CHS Inc. to develop a funding plan for the actual construction of this trail segment. Having the study completed will give the overall construction portion of the project the cost estimate along with the construction plan needed to create a construction funding plan.

Local match (5%)

Describe how you will meet the 10% match requirement. Specify the anticipated amount in dollars and briefly explain the sources (i.e. staff time, cash match, etc.)?

Respond here.

The City plans to hire a consultant to perform the feasibility study estimated at \$27,500. A grant request in the amount of \$20,000 and City funding (\$2,000) from the City's Park Acquisition and Development Fund will pay for the study. While the construction estimate is unknown, it is anticipated that the City, County, and possibly CHS (through land control and/or direct financial investment) will fund the construction costs of the project.

Enduring value (5%)

What is the expected service life of your project outcomes or the duration of any program?

Respond here.

The City would expect that after completion of the trail segment that we will be responsible for annual maintenance and upkeep. Annual trail maintenance includes: sweeping to keep the trail clear of debris, tree trimming and vegetation management as needed, cracksealing and sealcoating on a regular schedule to increase the longevity of the capital investment and finally, the resurfacing of the trail surface at approximately 20-25 year intervals.

How will it benefit residents long-term?

Respond here.

Residents and employees in the area will benefit from the trail connection by having a safer place to gain access to parks, trails, and commercial areas. The connection will allow people to gain safe access to the HWY 52 trail which provides indirect access to grocery stores that provide fresh produce. Trail users will also be able to use the trail connections to access local parks and trail networks including the Mississippi River Regional Trail and the future Mendota Lebanon Regional Greenway increasing their ability to exercise and stay healthy physically, mentally, and socially.

Who will own and maintain project outcomes or ensure follow-through on the project?

Respond here.

If granted the request, the City will lead the construction of the trail project during the 2017 construction season. The City will be the owner of the trail section and will be responsible in cooperation with Dakota County for the annual preventative maintenance and long term capital replacement.

Process

Shortly after the January 29, 2016 deadline, a multi-disciplinary/jurisdictional selection committee made up of County, City, Minnesota Department of Health representatives, and others will review proposals. Proposals found eligible will be scored for each criterion and compared with other projects for relative merit. The review committee may request clarification from applicants before making its decisions.

The review committee will recommend projects worthy of funding for 2016 and 2017 funding years. County staff will then recommend projects to the Dakota County Board of Commissioners in March or April. Successful applicants will be notified, pending final approval by the County Board.

Contact

Contact Lil Leatham at lil.leatham@co.dakota.mn.us or (952) 891-7023 or Mary Montagne at mary.montagne@co.dakota.mn.us or (651) 554-6119 with any questions.

Review Committee

Please contact Lil Leatham if you would like to participate on the review committee. Members will be asked to review and score applications and attend one meeting in early February 2016. Total time commitment is approximately 8 hours.

Submission

Please submit applications electronically to Lil Leatham at lil.leatham@co.dakota.mn.us by 5 p.m. January 29, 2016. Applications may be solicited again in July 2016 if funding is available.



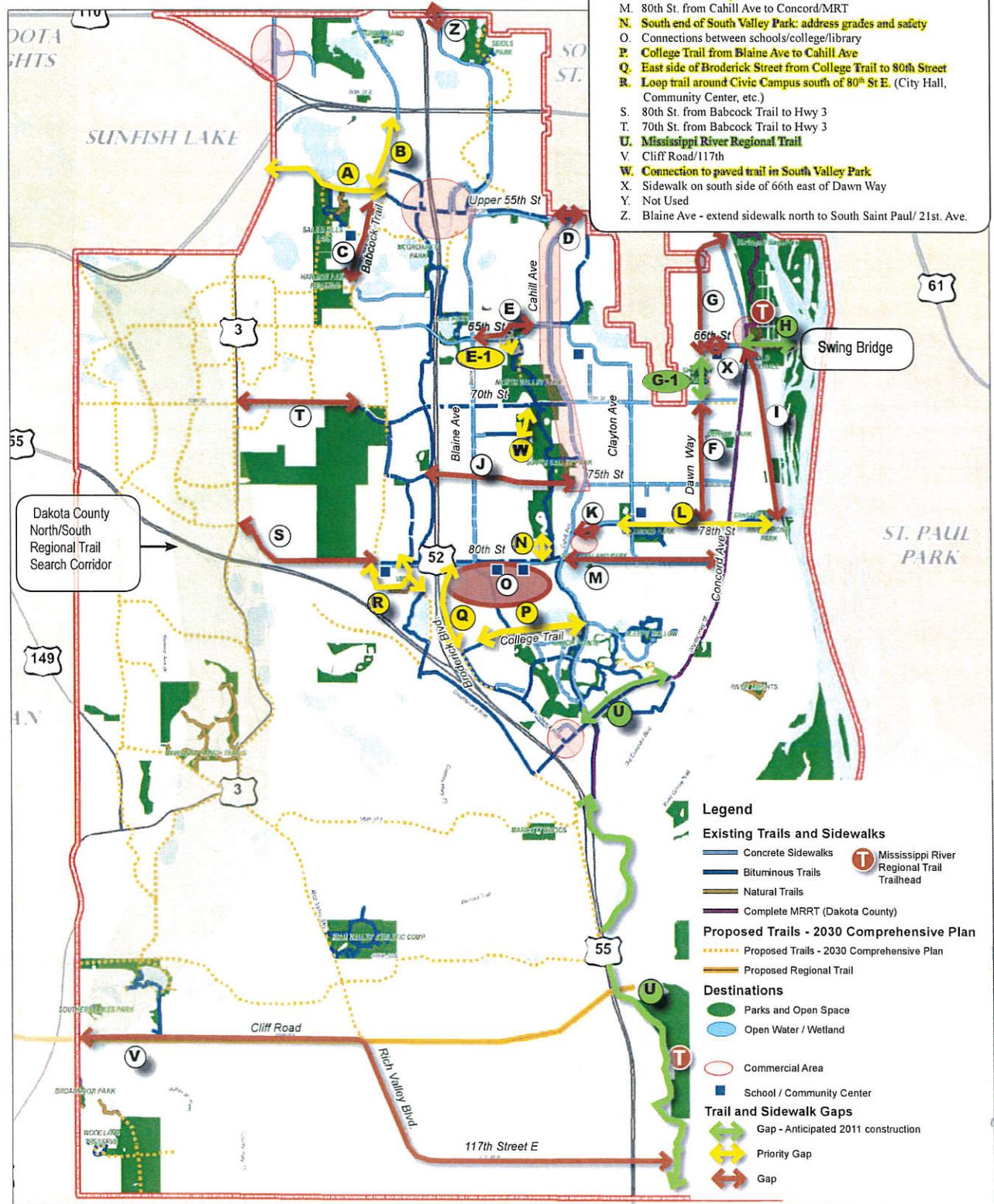
Inver Grove Heights Trail Gap Study

DRAFT 6/1/11

Trail + Sidewalk Gap Map

Pedestrian and Bicycle Gaps:

- A.** Upper 55th Street from Highway 3/South Robert Trail to County Highway 73/Babcock Trail
- B.** County Highway 73/Babcock Trail from 494 Bridge to Upper 55th Street
- C.** County Highway 73/Babcock Trail Upper 55th St. to Upper 63rd St.
- D.** Upper 55th St. from Cahill Ave to 5th Ave South
- E.** Trail link between North Valley Park and Cahill: add trail on 65th St. between Blaine Ave. and Cahill Ave.
- E-1** Trail link to North Valley Park: pave north end of North Valley Park Trail
- F.** Dawn Ave from 70th St E to 78th St E
- G.** Dawn Ave from 66th Street to Concord
- G-1** Dawn Way from 70th St. to 65th St.
- H.** 66th St. from Dawn Way to the Swing Bridge
- I.** River Road from 66th St. E to 78th St E
- J.** 75th St E from Highway 52 Trail to Cahill Ave.
- K.** 78th St E just east of Cahill (south side sidewalk)
- L.** 78th St E from Clayton Ave E to River Road
- M.** 80th St. from Cahill Ave to Concord/MRT
- N.** South end of South Valley Park: address grades and safety
- O.** Connections between schools/college/library
- P.** College Trail from Blaine Ave to Cahill Ave
- Q.** East side of Broderick Street from College Trail to 80th Street
- R.** Loop trail around Civic Campus south of 80th St E. (City Hall, Community Center, etc.)
- S.** 80th St. from Babcock Trail to Hwy 3
- T.** 70th St. from Babcock Trail to Hwy 3
- U.** Mississippi River Regional Trail
- V.** Cliff Road/117th
- W.** Connection to paved trail in South Valley Park
- X.** Sidewalk on south side of 66th east of Dawn Way
- Y.** Not Used
- Z.** Blaine Ave - extend sidewalk north to South Saint Paul/ 21st. Ave.



Dakota County North/South Regional Trail Search Corridor

Legend

Existing Trails and Sidewalks

- Concrete Sidewalks
- Bituminous Trails
- Natural Trails
- Complete MRRT (Dakota County)

Proposed Trails - 2030 Comprehensive Plan

- Proposed Trails - 2030 Comprehensive Plan
- Proposed Regional Trail

Destinations

- Parks and Open Space
- Open Water / Wetland
- Commercial Area
- School / Community Center

Trail and Sidewalk Gaps

- Gap - Anticipated 2011 construction
- Priority Gap
- Gap

EXHIBIT D



MINNESOTA DEPARTMENT OF HEALTH
MASTER GRANT CONTRACT
FOR COMMUNITY HEALTH BOARDS

THIS MASTER GRANT CONTRACT, and amendments and supplements thereto, is between the State of Minnesota, acting through its Minnesota Department of Health ("STATE") and Dakota County Community Health Board ("GRANTEE"), an independent organization, not an employee of the State of Minnesota, address: 1 Mendota Rd. W., Suite 410, West St. Paul, MN 55118.

1. Under Minnesota Statute §144.0742, the STATE is empowered to enter into a contractual agreement for the provision of statutorily prescribed public health services;
2. The STATE and the GRANTEE anticipate entering into project agreements with respect to one or more individual grant projects.
3. The STATE and the GRANTEE wish to streamline the project agreements for individual grant projects by incorporating by reference the provisions of this master grant contract.

NOW, THEREFORE, it is agreed:

1. **TERM OF AGREEMENT:**

1.1. Effective Date. This master grant contract shall be effective on January 1, 2015, or the date the STATE obtains all required signatures under Minnesota Statutes section 16C.05, subdivision 2, whichever is later. The Grantee must not begin work until the STATE'S Authorized Representative has notified the Grantee that work may commence.

1.2 Expiration Date. December 31, 2019. The STATE will enter into project agreements with the GRANTEE for individual grant programs and responsibilities within this aforementioned time frame. The expiration of this master grant contract is not subject to appeal.

1.3 Survival of Terms. The following clauses survive the expiration or cancellation of this master grant contract: 7. Liability, 8. State Audits, 9. Data Practices Act, 10. Ownership of Materials and Intellectual Property Rights, 12. Jurisdiction and Venue, and 13. Disputes.

1.4 Conflict of Terminology: If any term, condition, or provision of this master grant contract is contradictory to or in conflict with any similar term, condition, or provision of a project grant agreement, then the term, condition, or provision of the project grant agreement shall take precedent and control.

2. **GRANT REQUIREMENTS.** Requirements of receiving grant funds may include, but are not limited to: financial reconciliations of payments to GRANTEE, site visits of the GRANTEE, programmatic monitoring of work performed by the GRANTEE and program evaluation. The GRANTEE will not be paid for work that the State deems unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

3. **TRAVEL EXPENSES.** The GRANTEE will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the Commissioner of Minnesota Management and Budget ("MMB"). The Grantee will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the STATE'S prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

4. **TERMINATION.**

4.1 Termination by the State or Grantee. The STATE or GRANTEE may cancel this master grant contract at any time, with or without cause, upon thirty (30) days written notice to the other party.

4.2 Termination for Cause. If the GRANTEE fails to comply with the provisions of this master grant contract, the STATE may terminate this grant contract without prejudice to the right of the STATE to recover any money

previously paid. The termination shall be effective five business days after the STATE mails, by certified mail, return receipt requested, written notice of termination to the GRANTEE at its last known address.

4.3 Effect of Termination. If either the GRANTEE or the STATE exercises its respective right to terminate this master grant contract, with or without cause, or if this master grant contract is otherwise terminated, any individual project grant agreement which incorporates the terms and conditions of this master grant contract shall also be terminated as of the date this master grant contract terminates.

5. **ASSIGNMENT.** GRANTEE shall not assign or transfer any rights or obligations under this master grant contract without the prior written consent of the STATE.
6. **AMENDMENTS.** Any amendments to this master grant contract shall be in writing, and will not be effective until the amendment has been fully executed by the same parties who executed the original of this master grant contract, or their successors in office.
7. **LIABILITY.** Each party shall be responsible for its own acts and behaviors and the results thereof. The liability of the GRANTEE is governed by Minnesota Statutes chapter 466 and other applicable laws. The Minnesota Tort Claims Act, Minnesota Statutes section 3.736, and other applicable laws govern the STATE'S liability.
8. **STATE AUDITS.** Under Minnesota Statutes section 16B.98, subdivision 8, the GRANTEE'S books, records, documents, and accounting procedures and practices of the GRANTEE, or any other relevant party or transaction, are subject to examination by the STATE, the State Auditor, and the Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this master grant contract, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.
9. **GOVERNMENT DATA PRACTICES AND DATA DISCLOSURE.**
 - 9.1 **Government Data Practices.** The GRANTEE and the STATE must comply with the Minnesota Government Data Practices Act as it applies to all data provided by the STATE under individual grant project agreements, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the GRANTEE under individual grant project agreements. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by either the GRANTEE or the STATE.
10. **OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

This clause 10 shall not apply to any grant projects involving the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Program and the Title V Maternal and Child Block Grant.

10.1. Except as otherwise required by Minnesota or Federal law, the GRANTEE shall own all rights, title and interest in all of the materials conceived or created by the GRANTEE, or its employees or subgrantees, either individually or jointly with others and which arise out of the performance of individual grant project agreements, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form ("MATERIALS").

The STATE agrees to, and hereby does, assign all rights, title and interest it may have in the MATERIALS to the GRANTEE. The STATE shall, upon request of the GRANTEE, execute all papers and perform all other acts necessary to transfer or record the GRANTEE'S ownership interest in the MATERIALS.

10.2. GRANTEE represents and warrants that MATERIALS produced or used under individual grant project agreements do not and will not infringe upon any intellectual property rights of another, including but not limited to patents, copyrights, trade secrets, trade names, and service marks and names. GRANTEE shall indemnify and defend the STATE, at GRANTEE'S expense, from any action or claim brought against the STATE to the extent that it is based on a claim that all or parts of the MATERIALS infringe upon the intellectual property rights of another. GRANTEE shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages including, but not limited to, reasonable attorney fees arising out of this master grant contract, individual grant project agreements and amendments and supplements thereto, which are attributable to such

claims or actions. If such a claim or action arises, or in GRANTEE'S or the STATE'S opinion is likely to arise, GRANTEE shall at the STATE'S discretion either procure for the STATE the right or license to continue using the MATERIALS at issue or replace or modify the allegedly infringing MATERIALS as necessary and appropriate to obviate the infringement claim. This remedy of the STATE shall be in addition to and shall not be exclusive of other remedies provided by law.

10.3. The GRANTEE hereby grants to the STATE a perpetual, irrevocable, no-fee right and license to make, have made, reproduce, modify, distribute, perform, and otherwise use the MATERIALS for any and all purposes, in all forms and manners that the STATE, in its sole discretion, deems appropriate. The GRANTEE shall, upon the request of the STATE, execute all papers and perform all other acts necessary, to document and secure said right and license to the MATERIALS by the STATE. At the request of the STATE, the GRANTEE shall permit the STATE to inspect the original MATERIALS and provide a copy of any of the MATERIALS to the STATE, without cost, for use by the STATE in any manner the STATE, in its sole discretion, deems appropriate.

11. **WORKER'S COMPENSATION.** The GRANTEE certifies that it is in compliance with Minnesota Statute, §176.181, Subdivision 2, pertaining to workers' compensation insurance coverage. The GRANTEE'S employees and agents will not be considered STATE employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the STATE'S obligation or responsibility.
12. **JURISDICTION AND VENUE.** This master grant contract and the project grant agreements, and amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. To the extent litigation is not prohibited by section 13 of this master grant contract, venue for all legal proceedings arising out of this master grant contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.
13. **DISPUTES.** Any dispute shall be decided by the STATE'S Authorized Representative for the particular grant project agreement that the dispute concerns. The STATE'S Authorized Representative will be identified in each grant project agreement between the STATE and GRANTEE. If GRANTEE is dissatisfied with the decision of the STATE'S Authorized Representative, GRANTEE'S sole and exclusive remedy is an administrative hearing before an administrative law judge under the contested case procedures of the Minnesota Administrative Procedure Act, Chapter 14 of the Minnesota Statutes. Pursuant to Chapter 14, the administrative law judge shall make a report to the Minnesota Commissioner of Health, who shall make the final decision on the contested case. If GRANTEE wishes to request an administrative hearing, GRANTEE must request a hearing in a writing received by the STATE within 30 calendar days after the GRANTEE'S receipt of the decision of the STATE'S Authorized Representative. The decision of the Minnesota Commissioner of Health shall be subject to judicial review as provided in the Minnesota Administrative Procedure Act at Minnesota Statutes, §14.63 to 14.69.
14. **OTHER PROVISIONS**
 - A. **Contractor Debarment, Suspension And Responsibility Certification**

Federal Regulation 45 CFR 92.35 prohibits the STATE from purchasing goods or services with federal money from parties who have been suspended or debarred by the federal government. A party may be suspended or debarred when it is determined, through a duly authorized hearing process, that they have abused the public trust in a serious manner. In particular, the federal government expects the STATE to have a process in place for determining whether a vendor has been suspended or debarred, and to prevent such vendors from receiving federal funds.

By signing this master grant contract, GRANTEE certifies that it and its principals;

 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state or local government department or agency; and
 2. Have not within a three-year period preceding this grant contract: a) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract; b) violated any

federal or state antitrust statutes; or c) committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and

3. Are not presently indicted or otherwise criminally or civilly charged by a government entity for: a) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction; b) violating any federal or state antitrust statutes; or c) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
4. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this grant contract are in violation of any of the certifications set forth above.

B. Audit Requirements

1. If the GRANTEE expends total federal assistance of \$500,000 or more per year, the GRANTEE agrees to (1) obtain either a single audit or a program-specific audit made for the fiscal year in accordance with the terms of the Single Audit Act of 1984, as amended (31 U.S. Code Chapter 75) and OMB Circular A-133; and (2) to comply with the Single Audit Act of 1984, as amended (31 U.S. Code Chapter 75) and OMB Circular A-133.
2. The audit shall be made by an independent auditor. An independent auditor is a state or local government auditor or a public accountant who meets the independence standards specified in the General Accounting Office's "Standards for Audit of Government Organizations, Programs, Activities, and Functions."
3. The audit report shall state that the audit was performed in accordance with the provisions of OMB Circular A-133 (or A-110 as applicable).
4. The reporting requirements for audit reports shall be in accordance with the American Institute of Certified Public Accountants' (AICPA) audit guide, "Audits of State and Local Governmental Units," issued in 1986. The federal government has approved the use of the audit guide.
5. In addition to the audit report, the GRANTEE shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.
6. The GRANTEE agrees that the grantor, the Legislative Auditor, the State Auditor, and any independent auditor designated by the grantor shall have such access to GRANTEE'S records and financial statements as may be necessary for the grantor to comply with the Single Audit Act Amendments of 1984, as amended (31 U.S. Code Chapter 75) and OMB Circular A-133.
7. Subcontractors of federal financial assistance from GRANTEE are also required to comply with the Single Audit Act Amendments of 1984, as amended (31 U.S. Code Chapter 75) and OMB Circular A-133.
8. The Statement of Expenditures form can be used for the schedule of federal assistance.
9. The GRANTEE agrees to retain documentation to support the schedule of federal assistance for at least four years.
10. The GRANTEE agrees to file required audit reports with the State Auditor's Office, Single Audit Division, and with federal and state agencies providing federal assistance, within six months of the grantee's fiscal year end.

OMB Circular A-133 requires recipients of more than \$500,000 in federal funds to submit one copy of the audit report within 30 days after issuance to the central clearinghouse at the following address:

Bureau of the Census
Data Preparation Division
1201 East 10th Street
Jeffersonville, Indiana 47132
Attn: Single Audit Clearinghouse

- C. Drug Free Workplace
GRANTEE agrees to comply with the Drug-Free Workplace Act of 1988, as implemented at 34 CFR Part 85, Subpart F.
- D. Lobbying
The GRANTEE agrees to comply with the provisions of United States Code, Title 31, Section 1352. The GRANTEE must not use any federal funds to pay any person for influencing or attempting to influence an officer or employee of a federal agency, a member of Congress, an officer or employee of Congress, or any employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- E. Equal Employment Opportunity
GRANTEE agrees to comply with the Executive Order 11246 "Equal Employment Opportunity" as amended by Executive Order 11375 and supplemented by regulations at 41 CFR Part 60.
- F. Cost Principles
The GRANTEE agrees to comply with the provisions of OMB Circular A-21, A-87 or A-122 regarding cost principles for administration of this grant award.
- G. Rights to Inventions - Experimental, Developmental or Research Work
The GRANTEE agrees to comply with 37 CFR, Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements" and any implementing regulations issued by the awarding agency.
- H. Clean Air Act
The GRANTEE agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- I. No Smoking
With respect to facilities over which the GRANTEE has control, the GRANTEE shall comply with the Minnesota Clean Indoor Air Act.
- J. No Conflict of Interest
The GRANTEE hereby assures that no interest exists, directly or indirectly, which could conflict in any manner or degree with the GRANTEE'S performance of services required to be performed under this master grant contract or individual project grant agreements.

IN WITNESS WHEREOF, the parties have caused this master grant contract to be duly executed intending to be bound thereby.

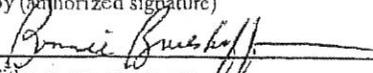
APPROVED:

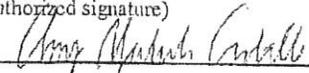
1. GRANTEE:

GRANTEE certifies that the appropriate person(s) have executed this master grant contract on behalf of the GRANTEE as required by applicable articles, by-laws, resolutions, or ordinances.

2. STATE AGENCY:

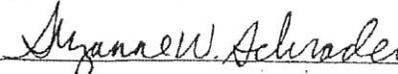
Master grant contract approval as required by Minnesota Statutes §§16A.15 and 16C.05.

By (authorized signature) 
Title: Public Health Director
Date: 9-24-2014

By (authorized signature) 
Title: Contract & Grant Coordinator
Date: 10/2/14

By (authorized signature)
Title:
Date:

Approved as to form:

 9-23-14

Assistant County Attorney/Date

File No. KS-14-310

IFAS#: GR00700

EXHIBIT E

INSURANCE TERMS

Contractor agrees to provide and maintain at all times during the term of this Contract such insurance coverages as are indicated herein and to otherwise comply with the provisions that follow. Such policy(ies) of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the Contract indemnity provisions. The provisions of this section shall also apply to all Subcontractors, Sub-subcontractors, and Independent Contractors engaged by Contractor with respect to this Contract, and Contractor shall be entirely responsible for securing the compliance of all such persons or parties with these provisions.

APPLICABLE SECTIONS ARE CHECKED

1. Workers Compensation. Workers' Compensation insurance in compliance with all applicable statutes including an All States or Universal Endorsement where applicable. Such policy shall include Employer's Liability coverage in an amount no less than \$500,000. If Contractor is not required by Statute to carry Workers' Compensation Insurance, Contractor agrees: (1) to provide County with evidence documenting the specific provision under Minn. Stat. § 176.041 which excludes Contractor from the requirement of obtaining Workers' Compensation Insurance; (2) to provide prior notice to County of any change in Contractor's exemption status under Minn. Stat. § 176.041; and (3) to hold harmless and indemnify County from and against any and all claims and losses brought by Contractor or any subcontractor or other person claiming through Contractor for Workers' Compensation or Employers' Liability benefits for damages arising out of any injury or illness resulting from performance of work under this Contract. If any such change requires Contractor to obtain Workers' Compensation Insurance, Contractor agrees to promptly provide County with evidence of such insurance coverage.

2. General Liability.

"Commercial General Liability Insurance" coverage (Insurance Services Office form title), providing coverage on an "occurrence" rather than on a "claims made" basis, which policy shall include, but not be limited to, coverage for Bodily Injury, Property Damage, Personal Injury, Contractual Liability (applying to this Contract), Independent Contractors, "XC&U" and Products-Completed Operations liability (if applicable). Such coverage may be provided under an equivalent policy form (or forms), so long as such equivalent form (or forms) affords coverage which is at least as broad. An Insurance Services Office "Comprehensive General Liability" policy which includes a Broad Form Endorsement GL 0404 (Insurance Services Office designation) shall be considered to be an acceptable equivalent policy form.

Contractor agrees to maintain at all times during the period of this Contract a total combined general liability policy limit of at least \$1,500,000 per occurrence and aggregate, applying to liability for Bodily Injury, Personal Injury, and Property Damage, which total limit may be satisfied by the limit afforded under its Commercial General Liability policy, or equivalent policy, or by such policy in combination with the limits afforded by an Umbrella or Excess Liability policy (or policies); provided, that the coverage afforded under any such Umbrella or Excess Liability policy is at least as broad as that afforded by the underlying Commercial General Liability policy (or equivalent underlying policy).

Such Commercial General Liability policy and Umbrella or Excess Liability policy (or policies) may provide aggregate limits for some or all of the coverages afforded thereunder, so long as such aggregate limits have not, as of the beginning of the term or at any time during the term, been reduced to less than the total required limits stated above, and further, that the Umbrella or Excess Liability policy provides coverage from the point that such aggregate limits in the underlying Commercial General Liability policy become reduced or exhausted. An Umbrella or Excess Liability policy which "drops down" to respond immediately over reduced underlying limits, or in place of exhausted underlying limits, but subject to a deductible or "retention" amount, shall be acceptable in this regard so long as such deductible or retention for each occurrence does not exceed the amount shown in the provision below.

Contractor's liability insurance coverage may be subject to a deductible, "retention" or "participation" (or other similar provision) requiring the Contractor to remain responsible for a stated amount or percentage of each covered loss; provided, that such deductible, retention or participation amount shall not exceed \$25,000 each occurrence.

Such policy(ies) shall name Dakota County, its officers, employees and agents as Additional Insureds thereunder.

3. Professional Liability. Professional Liability (errors and omissions) insurance with respect to its professional activities to be performed under this Contract. This amount of insurance shall be at least \$1,500,000 per occurrence and aggregate (if applicable). Coverage under such policy may be subject to a deductible, not to exceed \$25,000 per occurrence. Contractor agrees to maintain such insurance for at least one (1) year from Contract termination.

It is understood that such Professional Liability insurance may be provided on a claims-made basis, and, in such case, that changes in insurers or insurance policy forms could result in the impairment of the liability insurance protection intended for Dakota County hereunder. Contractor therefore agrees that it will not seek or voluntarily accept any such change in its Professional Liability insurance coverage if such impairment of Dakota County's protection could result; and further, that it will exercise its rights under any "Extended Reporting Period" ("tail coverage") or similar policy option if necessary or appropriate to avoid impairment of Dakota County's protection. Contractor further agrees that it will, throughout the one (1) year period of required coverage, immediately: (a) advise Dakota County of any intended or pending change of any Professional Liability insurers or policy forms, and provide Dakota County with all pertinent information that Dakota County may reasonably request to determine compliance with this section; and (b) immediately advise Dakota County of any claims or threats of claims that might reasonably be expected to reduce the amount of such insurance remaining available for the protection of Dakota County.

4. Automobile Liability. Business Automobile Liability insurance covering liability for Bodily Injury and Property Damage arising out of the ownership, use, maintenance, or operation of all owned, non-owned and hired automobiles and other motor vehicles utilized by Contractor in connection with its performance under this Contract. Such policy shall provide total liability limits for combined Bodily Injury and/or Property Damage in the amount of at least \$1,500,000 per accident, which total limits may be satisfied by the limits afforded under such policy, or by such policy in combination with the limits afforded by an Umbrella or Excess Liability policy(ies); provided, that the coverage afforded under any such Umbrella or Excess Liability policy(ies) shall be at least as broad with respect to such Business Automobile Liability insurance as that afforded by the underlying policy. **Unless included within the scope of Contractor's Commercial General Liability policy, such Business Automobile Liability policy shall also include coverage for motor vehicle liability assumed under this contract.**

Such policy, and, if applicable, such Umbrella or Excess Liability policy(ies), shall include Dakota County, its officers, employees and agents as Additional Insureds thereunder.

5. Additional Insurance. Dakota County shall, at any time during the period of the Contract, have the right to require that Contractor secure any additional insurance, or additional feature to existing insurance, as Dakota County may reasonably require for the protection of their interests or those of the public. In such event Contractor shall proceed with due diligence to make every good faith effort to promptly comply with such additional requirement(s).

6. Evidence of Insurance. Contractor shall promptly provide Dakota County with evidence that the insurance coverage required hereunder is in full force and effect prior to commencement of any work. At least 10 days prior to termination of any such coverage, Contractor shall provide Dakota County with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions. Such evidence of insurance shall be in the form of the Dakota County Certificate of Insurance, or in such other form as Dakota County may reasonably request, and shall contain sufficient information to allow Dakota County to determine whether there is compliance with these provisions. At the request of Dakota County, Contractor shall, in addition to providing such evidence of insurance, promptly furnish Contract Manager with a complete (and if so required, insurer-certified) copy of each insurance policy intended to provide coverage required hereunder. All such policies shall be endorsed to require that the insurer provide at least 30 days' notice to Dakota County prior to the effective date of policy cancellation, nonrenewal, or material adverse change in coverage terms. On the Certificate of Insurance, Contractor's insurance agency shall certify that he/she has Error and Omissions coverage.

7. Insurer: Policies. All policies of insurance required under this paragraph shall be issued by financially responsible insurers licensed to do business in the State of Minnesota, and all such insurers must be acceptable to Dakota County. Such acceptance by Dakota County shall not be unreasonably withheld or delayed. An insurer with a current A.M. Best Company rating of at least A:VII shall be conclusively deemed to be acceptable. In all other instances, Dakota County shall have 15 business days from the date of receipt of Contractor's evidence of insurance to advise Contractor in writing of any insurer that is not acceptable to Dakota County. If Dakota County does not respond in writing within such 15 day period, Contractor's insurer(s) shall be deemed to be acceptable to Dakota County.

8. Noncompliance. In the event of the failure of Contractor to maintain such insurance and/or to furnish satisfactory evidence thereof as required herein, Dakota County shall have the right to purchase such insurance on behalf of Contractor, which agrees to provide all necessary and appropriate information therefor and to pay the cost thereof to Dakota County immediately upon presentation of invoice.

9. Loss Information. At the request of Dakota County, Contractor shall promptly furnish loss information concerning all liability claims brought against Contractor (or any other insured under Contractor's required policies), that may affect the amount of liability insurance available for the benefit and protection of Dakota County under this section. Such loss information shall include such specifics and be in such form as Dakota County may reasonably require.

10. Release and Waiver. Contractor agrees to rely entirely upon its own property insurance for recovery with respect to any damage, loss or injury to the property interests of Contractor. Contractor hereby releases Dakota County, its officers, employees, agents, and others acting on their behalf, from all claims, and all liability or responsibility to Contractor, and to anyone claiming through or under Contractor, by way of subrogation or otherwise, for any loss of or damage to Contractor's business or property caused by fire or other peril or event, even if such fire or other peril or event was caused in whole or in part by the negligence or other act or omission of Dakota County or other party who is to be released by the terms hereof, or by anyone for whom such party may be responsible.

Contractor agrees to effect such revision of any property insurance policy as may be necessary in order to permit the release and waiver of subrogation agreed to herein. Contractor shall, upon the request of Dakota County, promptly provide a Certificate of Insurance, or other form of evidence as may be reasonably requested by Dakota County, evidencing that the full waiver of subrogation privilege contemplated by this provision is present; and/or, if so requested by Dakota County, Contractor shall provide a full and complete copy of the pertinent property insurance policy(ies).

CM.doc

K/CM/Exh/Insure-No-Prof-Liability-

Revised: 10/07

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Approval of Recreation Coordinator (Active Adults) Job Description and Hiring Timeline

Meeting Date: August 8, 2016
 Item Type: Consent Agenda
 Contact: Eric Carlson – 651.450.2587
 Prepared by: Eric Carlson
 Reviewed by: Tracy Petersen
 Janet Shefchik

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

Provide approval of the attached job description and tentative hiring timeline regarding an additional Recreation Coordinator position who would be responsible for active adult programming (approximately 25 hours per week) and recreation/community center programming (approximately 15 hours per week). The hiring and appointment of the position is contingent on School District 199 and the City signing a service agreement.

SUMMARY

In June 2016, the City Council reviewed the concept of partnering with ISD 199 to provide older adult programming and was supportive. At the August 1st Work Study Session the City Council reviewed the budget, job description and hiring timeline and was comfortable with the information presented.

Job Description

The proposed job description has been developed to incorporate the responsibilities of the position. The job description closely aligns with the current job description for our Recreation Coordinators. It is anticipated that the position will be in the (AFSME) union and paid hourly, exempt, subject to over-time. The hourly salary range for the position in the 2016 contract is \$24.91 - \$36.28.

Anticipated Hiring Timeline

Date	Meeting	Description
August 8, 2016	City Council Meeting	Approve Job Description
Mid-September – Mid-October		Advertise Position
October/November		Interview Candidates
December 12, 2016	City Council Meeting	Council approves appointment of recommended candidate
January 2, 2017		Candidate begins employment

Service Agreement with ISD 199

We expect to bring a service agreement between Independent School District 199 and the City for this position sometime in the next 60 days. It is anticipated that the District will provide approximately 63% of the salary and benefit package for the position and that the agreement will be for a 5-year period.

City of Inver Grove Heights

POSITION DESCRIPTION

Position Title: **Recreation Coordinator-Active Adult Emphasis**

Department/Location: **Parks & Recreation – Recreation Division**

Immediate Supervisor: **Recreation Superintendent**

Latest PD Revision: **July 2016**

Position Summary:

This is an administrative position responsible for the development and implementation of a comprehensive year-round community recreation program for active adults (Adults ages 55+) as well as other general youth and/or adult events. *Incumbent is responsible to supervise and evaluate all aspects of the specific programs assigned under the general supervision of the Recreation Superintendent.*

Essential Accountabilities and Expected Outcomes

- 1) Responsible to develop and implement comprehensive recreation programs and services for the active adult population (Adults ages 55+) and other youth and/or adult events for the Parks and Recreation Department.
 - a) Creates and administers a wide range of programs and services that are organized, accessible, and well received by the public.
 - b) Prepares and presents a variety of information to program staff, volunteers, and participants so those involved are knowledgeable about the expected outcomes of the program ensuring all participants have an enjoyable and rewarding experience.
 - c) Maintains and circulates flyers, pamphlets and other media promoting programs.
 - d) Evaluates all aspects of programs to determine how future improvements can be made to program offerings including responding to public comments and questions.
- 2) Assists in developing individual program budget needs projecting expected income and expenses.
- 3) Creates program goals, schedule, policies, procedures and rules for effective program implementation.
 - a) Maintains and prepares documents including payroll, purchase requests, program registrations, schedules, rules, and results.
- 4) Monitors volunteers and seasonal/temporary staff for successful program implementation.
 - a) Motivates and ensures job performance standards are met through proper coaching of program staff to ensure value-added results.
 - b) Provides work direction and adequate training opportunities to program staff that leads to a productive and a safe work environment.
- 5) Assumes additional accountabilities as assigned.

Accountabilities Shared by all City Employees:

Developing and maintaining a thorough working knowledge of all department and City-wide policies, protocols and procedures that apply to the performance of this position.

Demonstrating by personal example the service excellence and integrity expected from all employees.

Developing respectful and cooperative working relationships with co-workers, including willing assistance to fellow employees so that their job responsibilities can be performed with confidence as quickly as possible.

Conferring regularly with and keeping one's immediate supervisor informed on all important matters pertaining to assigned job accountabilities.

Representing the City in a professional manner to all outside contacts when doing the City's business and also with the general public.

Typical Working Environment:

Demands of the position require employee to work days/evenings/weekends as the demands of the position require.

Position is primarily program implementation working in an office environment. Work can include indoor and outdoor environments as program offerings demand.

Typical Physical Requirements for this Position:

Must be able to sit, stand, speak, hear, and effectively communicate to staff, and the public.

Must be able to stoop, kneel, crouch, handle objects, lift and carry 25lbs, bend, push, pull, use hand and foot coordination, perform near activity, and have depth perception.

Selection Criteria to Qualify for this Position:

Bachelor's degree in recreation administration and/or related field

2 years programming experience with active adult population

Desirable – 4 years programming experience with active adult population

Valid, unrestricted Minnesota Drivers License.

Clean background check.

Employee's Acknowledgement and Date: _____

Supervisor's Acknowledgement and Date: _____

Administrative Services Acknowledgement and Date: _____

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Replacement of One (1) Meter Diving Board and Stand for Veterans Memorial Community Center

Meeting Date: August 8, 2016
 Item Type: Consent Agenda
 Contact: Tracy Petersen – 651.450.2588
 Prepared by: Tracy Petersen
 Reviewed by: Eric Carlson – Parks & Recreation

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input checked="" 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

To accept the quote of \$16,328 from Thatcher Pool & Spas to replace the one (1) meter diving board and stand for Veterans Memorial Community Center.

This amount is included in the 2016 VMCC budget. Quotes include shipping and installation.

SUMMARY

In an effort to maintain a quality, safe and up-to-date aquatics facility, replacement of a one (1) meter diving board and stand is being proposed for replacement.

The current diving board and stand are original from when the aquatic facility was built in 2001. A structural crack has occurred on the stand and has compromised the safety of the structure. Design standards of the type of diving board and stand we utilize have also changed and thus require that both the board and the stand be replaced concurrently. The diving boards in the pool area are used by our members, swim lesson participants, pool renters and the high school. Under the new agreement with School District 199, the City is responsible for replacement of the diving boards. Warranty on the both the diving board and stand is one (1) year.

Thatcher Pool & Spas	\$16,328
Springboards and More/Fulcrum Guy	\$17,309.25

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Meeting Date: August 8, 2016
Item Type: Consent
Contact: Judy Thill, 651-450-2495
Prepared by: Judy Thill, Fire Chief
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 Consider acceptance of the donation of 10 sets of Self-Contained Breathing Apparatus (SCBA) from the City of Maple Grove.

SUMMARY

The City of Maple Grove’s Fire Department (MGFD) recently purchased replacement SCBA for their Firefighters. As a result of that purchase, the MGFD decommissioned their old SCBA’s. The City of Maple Grove has agreed to donate 10 sets of SCBA to the City of Inver Grove Heights for use by the Inver Grove Heights Fire Department (IGHFD). A “set” consists of the breathing apparatus, mask and two (2) thirty-minute air bottles.

These sets are NOT for use by the IGHFD Firefighters. Because these SCBA are at the end of their useful life and have been decommissioned by the MGFD, the IGHFD will not use them in live fire situations. These SCBA will be used ONLY by our Inver Grove Heights Fire Explorers during simulations and training. Our IGH Fire Explorers do not go into live fire situations, but still practice using SCBA equipment.

The IGHFD thanks the City of Maple Grove and the Maple Grove Fire Department for this generous donation. Staff recommends acceptance of this donation.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Amendment to Custom Grading Agreement for 2143 94th Court.

Meeting Date: August 8, 2016
 Item Type: Consent TJK
 Contact: Thomas J. Kaldunski, City Engineer
 Prepared by: Thomas J. Kaldunski, 651.450.2572
 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

PURPOSE/ACTION REQUESTED

Approve Amendment to Custom Grading Agreement for 2143 94th Court.

SUMMARY

The owners have provided the required grading and erosion control plans. An engineering escrow of \$1,500 will be provided to cover any costs incurred by the City for review, inspection of the site grading and costs of property agreement documents. The owner has a CGA on his site. He has requested an amendment to the existing CGA to construct this garden access and will provide a \$2,500 LOC or cash surety.

It is recommended that the City Council approve the Amendment to Custom Grading Agreement for 2143 94th Court.

TJK/mw

Attachments: Amendment to Custom Grading Agreement

AMENDMENT TO
CUSTOM GRADING AGREEMENT
FOR PROPERTY LOCATED AT 2143 - 94TH COURT EAST,
LOT 2, BLOCK 1, SHAMROCK OAKS,
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS AMENDMENT TO CUSTOM GRADING AGREEMENT (Amendment) is made, entered into and effective this 8th day of August, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as City) and Lary L. Skow and Melany Skow, husband and wife (hereafter individually and collectively referred to as 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
RECITALS

WHEREAS, the City and Owner entered into a Custom Grading Agreement dated October 13, 2014 recorded as Dakota County Document No. 3036371 (the “Custom Grading Agreement”).

WHEREAS, the parties to the Custom Grading Agreement are the City of Inver Grove Heights, a municipal corporation and Lary L. Skow and Melany Skow, husband and wife.

WHEREAS, the parties to the Custom Grading Agreement are the same parties to this Amendment.

WHEREAS, the property that is the subject of the Custom Grading Agreement and this Amendment is located at 2143 94th Court East, Inver Grove Heights, Minnesota, Dakota County and is legally described as Lot 2, Block 1, Shamrock Oaks, Dakota County, Minnesota.

WHEREAS, the Custom Grading Agreement identifies the “Development Plans” on Appendix I and includes a copy of the “Development Plans” on Appendix I.

WHEREAS, the Owner has submitted a new additional “Development Plan” to the City for improvements related to grading on the Owner’s property.

WHEREAS, due to the addition of the new “Development Plan”, the City and Owner desire to amend the Custom Grading Agreement to incorporate the new plan submitted by the Owner and approved by the City.

WHEREAS, under Article 10 of the Custom Grading Agreement, the Owner was previously required to deposit an irrevocable letter of credit or cash deposit in the amount of \$10,000 as well as an Engineering Escrow Amount of \$2,500. The City has used and released the monetary requirements originally required under the Custom Grading Agreement.

WHEREAS, due to the submittal by Owner of the new Development Plan related to grading on the Owner’s property, the City is requiring a new irrevocable letter of credit or cash deposit in the amount of \$2,500 as well as an Engineering Escrow Amount of \$1,500 in connection with this Amendment.

WHEREAS, due to the requirement of a new irrevocable letter of credit or cash deposit in the amount of \$2,500 as well as an Engineering Escrow Amount of \$1,500, the City and Owner desire to amend the Custom Grading Agreement to incorporate the new irrevocable letter of credit or cash deposit in the amount of \$2,500 as well as an Engineering Escrow Amount of \$1,500.

NOW, THEREFORE, the parties hereto state, acknowledge and agree as follows:

ARTICLE 2
AMENDMENTS

Section 2.1. Amendment of Appendix 1 to the Custom Grading Agreement.
Appendix 1 of the Custom Grading Agreement is hereby amended to read as follows:

APPENDIX 1
LIST OF DEVELOPMENT PLANS

<u>PLAN</u>	<u>DATE OF PLAN PREPARATION</u>	<u>PREPARED BY</u>
1.) Lot Certificate	October 7, 2014	EDS Inc.
Approved by the City Engineer on October 7, 2014.		
2.) Fill Plan	August 3, 2016	Pioneer Engineering
Approved by the City Engineer on August 4, 2016.		

Section 2.2 Further Amendment of Appendix 1 to the Custom Grading Agreement. Appendix 1 of the Custom Grading Agreement is further amended to add the Fill Plan as an attachment to Appendix 1 and insert the plan attached to this Amendment as Exhibit A to Appendix 1 of the Custom Grading Agreement.

Section 2.3. Amendment of Article 10 of the Custom Grading Agreement. Article 10 of the Custom Grading Agreement is hereby amended to read as follows:

ARTICLE 10
ESCROW DEPOSIT

10.1 ESCROW REQUIREMENT. The Owner has previously deposited \$10,000 with the City pursuant to the terms of this Section 10.1. In conjunction with the new grading improvements to the Owner's property, the Owner shall deposit with the City an irrevocable letter of credit, or cash deposit for the amount of \$2,500.

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, 2018. 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, 2018, 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, 2018.

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. The Owner has previously deposited \$2,500 with the City pursuant to the terms of this Section 10.3. In conjunction with the new grading improvements to the Owner's property, in addition to the Escrow Amount, the Owner shall also 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 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 Engineering Escrow Amount, the Owner is responsible for payment of such excess within thirty (30) days after billing by the City.

ARTICLE 3
MISCELLANEOUS

Section 3.1 **Full Force and Effect**. All of the other provisions of the Custom Grading Agreement remain in full force and effect.

Section 3.2 **Counterpart Signature**. This Amendment 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.

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

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

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its: Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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

OWNER:

Lary L. Skow

Melany Skow

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this ____ day of August, 2016, by Lary L. Skow and Melany Skow, 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
AMENDMENT TO APPENDIX 1 OF CUSTOM GRADING AGREEMENT

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

PERSONNEL ACTIONS

Meeting Date: August 8, 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 Retirement of: Kathy Rodgers, PT-Office Support, Police Department

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Request for Change in Work Hours by EJM Pipe Services, Inc. (5:00 a.m. to 10:00 p.m., M-F) on City Project No. 2015-13 and 2015-16

Meeting Date: August 8, 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

SAJ

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

Request for change in work hours by EJM Pipe Services, Inc. (5:00 a.m. to 10:00 p.m., M-F) on City Project No. 2015-13 and 2015-16.

SUMMARY

The City has contracted with EJM to install trunk utility sewer and water systems as part of City Project No. 2015-16. This \$6 million project has been advancing. The project is to provide trunk utility service to Blackstone Ridge by December 23, 2016, the substantial completion date. Recent rain events have affected the project as outlined in the attached August 2, 2016 letter.

The City currently allows the contractor to work from 7:00 a.m. to 7:00 p.m., Monday through Saturday. EJM has requested permission to work from 5:00 a.m. to 10:00 p.m., Monday through Friday. This will help the contractor and City meet contractual time requirements. This request is for both City Project Nos. 2015-13 and 2015-16.

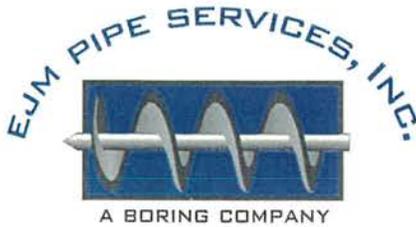
Reviewing the request indicates the following:

- The request will help the project timeline.
- The noise generated by the contractor will be mitigated to the greatest extent possible as outlined in EJM’s letter. Noise primarily occurs in the trenches and deep manhole access points.
- The City will reserve the ability to modify or revoke the extra working hours if deemed necessary by the City.
- The additional work hours will be limited to the work associated with trenchless construction services provided by EJM.

The Engineering Division recommends that the City Council authorize the work hours to be modified to occur between 5:00 a.m. and 10:00 p.m., Monday through Friday. Work may also occur between 7:00 a.m. to 7:00 p.m. on Saturdays. No work is authorized on Sundays. Any additional overtime costs associated with the extension of hours will be at the cost of the contractor.

TJK/kf

Attachment: August 2, 2016 letter from EJM



7807 Lake Drive • Lino Lakes, MN 55014 • 651-786-8041 • FAX 651-786-9289

August 2, 2016

Mr. Thomas Kaldunski
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077

RE: NWA Trunk Utility Improvements
Working Hour Variance

Mr. Kaldunski:

EJM Pipe Services would like to respectfully request a variance in the contract working hours on the project referenced. The frequency of large amounts of rain in short durations have led to countless hours of cleanup afterward. Our crews have had 2 to 4 days of progress and a rain storm will occur that takes 2 to 3 days to recover and/or clean up. These rain events and cleanup associated have led to delays in progress and have put the project schedule in jeopardy.

To mitigate this situation, EJM proposes a variance in working hours to allow for two (2) eight (8)-hour shifts from hours of 5 AM to 10 PM Monday through Friday for tunnel crews. This work will begin on a Monday at 5AM and end at 10 AM Friday evening. No weekend work is planned for crews on these shifts.

EJM is currently tunneling from the Structure F area to structure G just north of 70th Street W. Assuming EJM is allowed to begin proposed shift work on Tuesday, August 9th, the crew would complete the tunnel work in this area on August 24th based on current production rates.

This work primarily affects residents along the east side of Argenta Trail north of 70th Street W. Additional efforts will be made to keep noise at a minimum while maintaining a safe environment for our workers. Generators that power tunnel equipment are equipped with sound-deadening panels to reduce operating noise. A lattice boom crane will be operated at idle speeds during off-peak hours. Materials and equipment will be moved around during daytime hours in efforts to minimize movement of the equipment outside of original working hours. All backup alarms will be deactivated during off-peak hours. Light plants will be placed down in the shaft sub-cut at Structure F to ensure a safe work area. Due to depth of sub-cut, lights will not be visible from the surface, and should not disturb adjacent residents as a result.

EJM appreciates your consideration in this matter in order to help preserve the schedule. If granted permission to work in these hours, we will do everything we can to accommodate the requests of all residents affected. Please let me know if you have any questions or concerns regarding this information.

Regards,

Josh West
EJM Pipe Services, Inc.



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

CLASSIC CONSTRUCTION - Case No. 16-28C

Meeting Date: August 8, 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 to exceed the maximum height allowance for a flag pole for the property located at 11015 Clark Road.

- Requires a 4/5ths vote.
- 60-day deadline: August 20, 2016 (first 60-days)

SUMMARY

The applicant has submitted a request for a conditional use permit to exceed the maximum height allowed for a flag pole. Heights in excess of those allowed by city code are allowed by CUP provided that such structure would not be dangerous and would not adversely affect adjoining or adjacent property.

The applicant's property is zoned I-2, General Industry. Based on this zoning district city code allows a 67.5 foot flag pole on the property; the applicants are requesting a 70 foot high flag pole. The applicant has stated they would like the additional 2.5 feet to help with visibility from the highway. The proposed location of the flag pole would meet setback requirements and does not have an impact on lot coverage, parking spaces, or utilities.

The proposed 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. Staff does not believe the 2.5 additional feet of pole height will be dangerous or adversely affect abutting properties.

Planning Staff: Based on the information provided and the conditions listed in the attached resolution, staff is recommending **approval** of the Conditional Use Permit to allow a flag pole to be 70 feet in height.

Planning Commission: Recommended **approval** of the request at their August 3, 2016 meeting with the conditions listed in the attached resolution (6-0).

Attachments: CUP Resolution
 Planning Commission Recommendation
 Planning Staff Report

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

RESOLUTION NO. _____

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO EXCEED THE
MAXIMUM HEIGHT ALLOWANCE FOR A FLAG POLE**

Classic Construction
Case No. 16-28C

WHEREAS, an application for a Conditional Use Permit to exceed the maximum height allowed for a pole has been submitted for property located at 11015 Clark Rd and legally described as the following;

Lot 1, Block 1, Lighthouse Holdings, Dakota County, MN

WHEREAS, the aforescribed property is currently zoned I-2, General Industry;

WHEREAS, exceeding the maximum height requirement for a pole is a conditional use per Section 10-5-8 of the City Code;

WHEREAS, the applicants are requesting a 70 foot high flag pole whereas the City Code allows a 67.5 pole on the property;

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 such as consistency with the Comprehensive Plan, conformity with the Zoning Ordinance and compatibility with adjacent properties, among other criteria, the request meets all of the minimum standards;

WHEREAS, a 70 foot flag pole does not appear to be dangerous or have an adverse affect on adjoining or adjacent property;

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 August 3, 2016;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that a Conditional Use Permit to allow a 70 foot high flag pole whereas 67.5 feet is the maximum height allowed is hereby approved subject to the following conditions:

1. The site shall be developed in substantial conformance with the plans on file with the Planning Department except as may be modified by the conditions below.
2. No additional pennants, banners, or advertisements shall be displayed on or attached to the flag pole.

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 8th day of August, 2016.

AYES:
NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, Deputy Clerk

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: August 3, 2016
SUBJECT: CLASSIC CONSTRUCTION, INC. – CASE NO. 16-28C

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to allow a 70 foot high flag pole whereas 67.5 feet is the maximum height in the I-2 district, for the property located at 11015 Clark Road. 7 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant would like to install a 70 foot high flagpole to be visible from the highway whereas 67.5 is allowed. Heights in excess of those allowed shall be permitted by conditional use permit provided such structure would not be dangerous and would not adversely affect adjoining or adjacent property. Staff recommends approval of the request with the two conditions listed in the report. Staff did not hear from any surrounding property owners.

Opening of Public Hearing

Spencer Dally, 7649 Concord Boulevard, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Dally replied in the affirmative.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Simon, to approve the request for a conditional use permit to allow a 70 foot high flag pole whereas 67.5 feet is the maximum height in the I-2 district, for the property located at 11015 Clark Road, with the conditions listed in the report.

Motion carried (6/0). This item goes to the City Council on August 8, 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: June 27, 2016

CASE NO: 16-28C

HEARING DATE: August 3, 2016

APPLICANT: Classic Construction, Inc

PROPERTY OWNER: Lighthouse Holdings

REQUEST: Conditional Use Permit to exceed the maximum height allowance for a pole.

LOCATION: 11015 Clark Road

COMPREHENSIVE PLAN: GI, General Industrial

ZONING: I-2, General Industry and IRM, Integrated Resource Management Overlay District

REVIEWING DIVISIONS: Planning

PREPARED BY: Heather Botten
Associate Planner 

BACKGROUND

The applicant is requesting a Conditional Use Permit to install a 70 foot high flagpole for a 20' x 30' American flag on the new site for North American Trailer. Section 10-5-8 of the city code states: *Height limitations set forth elsewhere in this title shall be increased 50% when applied to church spires, towers, monuments, poles, smokestacks and similar structures. Heights in excess of those allowed in this title shall be permitted only by conditional use permit granted by resolution of the City Council determining that such structure would not be dangerous and would not adversely affect adjoining or adjacent property*

City Code allows a 67.5 flag pole on the property (the maximum building height in the I-2 zoning district is 45', increase by 50% = 67.5'). City code does not regulate the size or number of American flags on a property. The applicant has stated they would like the flag pole at 70' to give the American flag prominence above the buildings and visibility from the highway.

EVALUATION OF THE REQUEST

The following land uses, zoning districts and comprehensive plan designations surround the subject property:

North Contractors yard; zoned I-2; guided GI

East Contractors yard; zoned I-2; guided GI

West Landfill; zoned I-2; guided GI

South Vacant, industrial development; zoned I-2; guided GI

Conditional Use Permit (CUP)

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.

The proposed property improvements are consistent with the goals, policies, and plans of the Comprehensive Plan. Flag poles are a permitted use in all zoning districts.

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.

City Code allows poles in the I-2 district to be 67.5' in height. The code also conditionally permits poles to be higher than what is allowed as long as it does not adversely affect adjoining or adjacent property. Staff does not believe the 2.5 additional feet of height will adversely affect abutting properties.

3. The use would not be materially injurious to existing or planned properties or improvements in the vicinity.

The code allows a 67.5 foot flag pole; approving a 70' pole would not have a detrimental effect on public improvements in the vicinity of the project.

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.

The proposed request does not appear to have any negative impacts to the area.

5. The use is generally compatible with existing and future uses of surrounding properties, including:

- i. Aesthetics/exterior appearance

The proposed height of the flag pole would be higher than other signs, flag poles, and buildings in the area. The flag size is similar to the "Perkins" flags that have been flying for years at their restaurants.

- ii. Noise

N/A

- iii. Fencing, landscaping and buffering

N/A

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 proposed location of the flag pole meets the city setback requirements and does not have an impact on lot coverage, parking spaces, or utilities.

7. The use does not have an undue adverse impact on the public health, safety or welfare.

This use would not appear to have any negative effects on the public health, safety or welfare.

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 use would not have any negative effects on the environment.

ALTERNATIVES

- A. **Approval:** If the Planning Commission finds the application acceptable, the following request should be recommended for approval:

- Approval of a **Conditional Use Permit** to allow an 70' high flag pole whereas 67.5' is the maximum height allowed subject to the following conditions:
 1. The site shall be developed in substantial conformance with the plans on file with the Planning Department except as may be modified by the conditions below.
 2. No additional pennants, banners, or advertisements shall be displayed on or attached to the flag pole.

- 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.

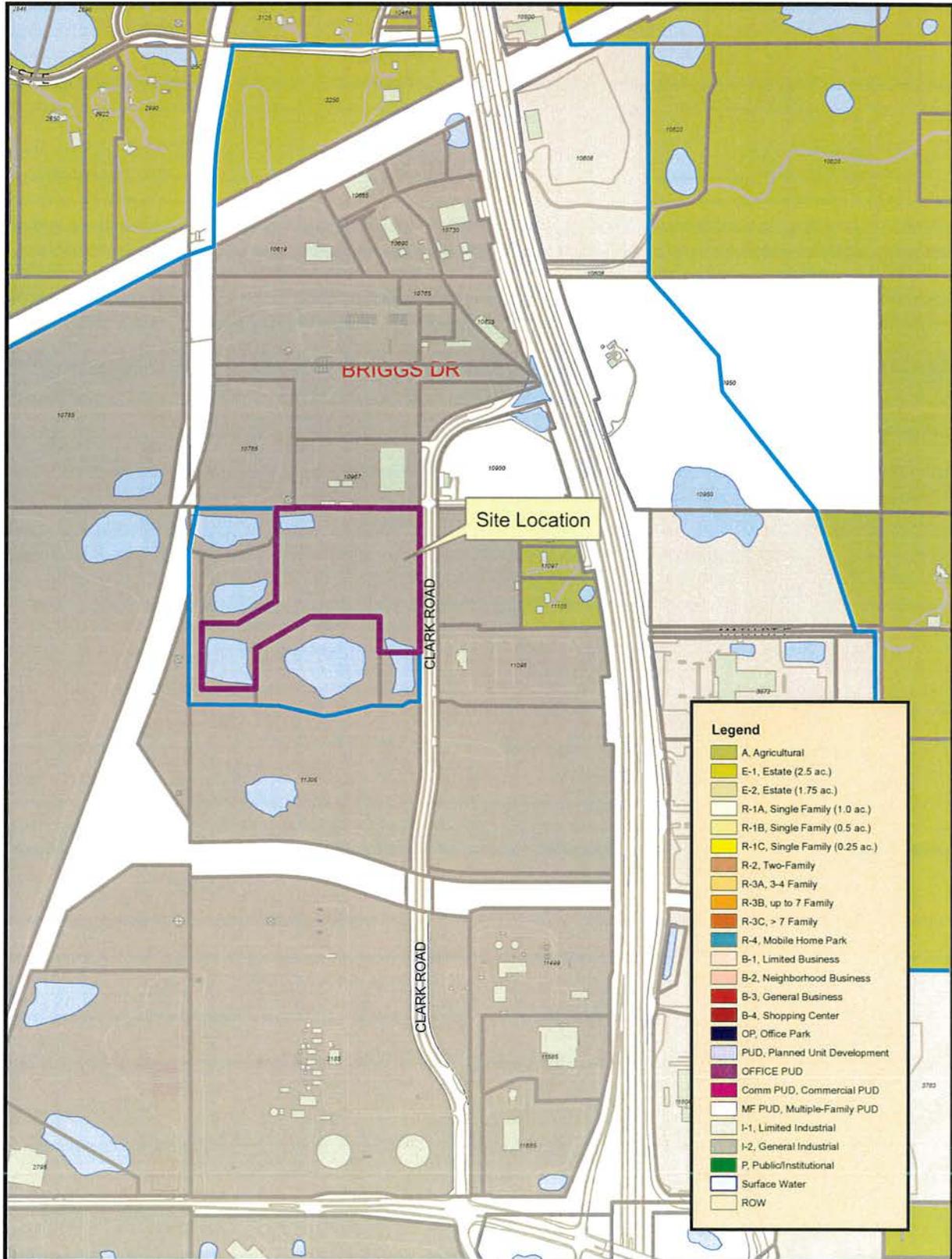
RECOMMENDATION

Based on the preceding report, Staff recommends **approval** of the request with the conditions listed in Alternative A.

Attachments: Exhibit A - Zoning and Location Map
Exhibit B - Site Plan
Exhibit C - Flagpole detail

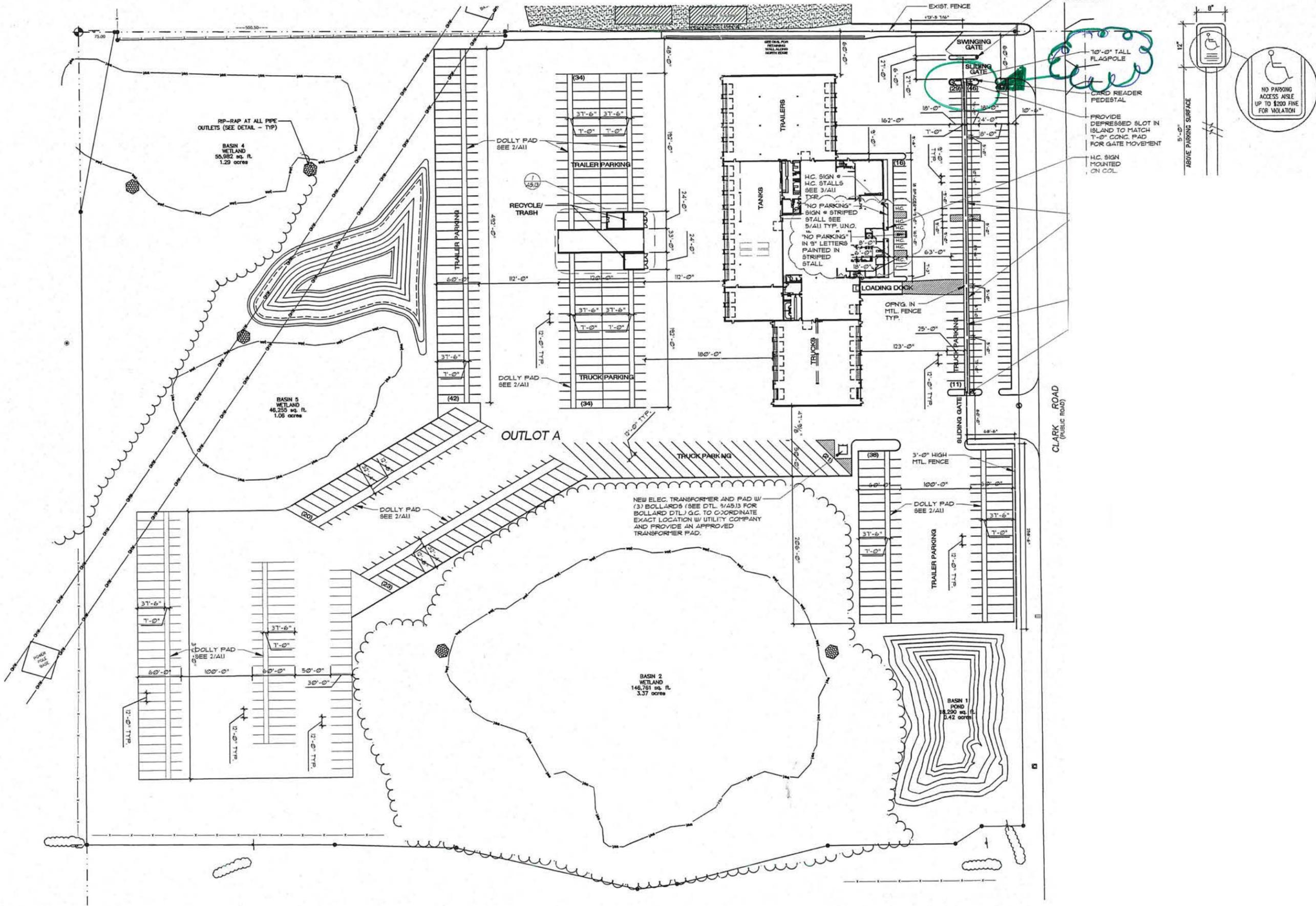


Classic Construction Case No. 16-28C



N
Map not to scale

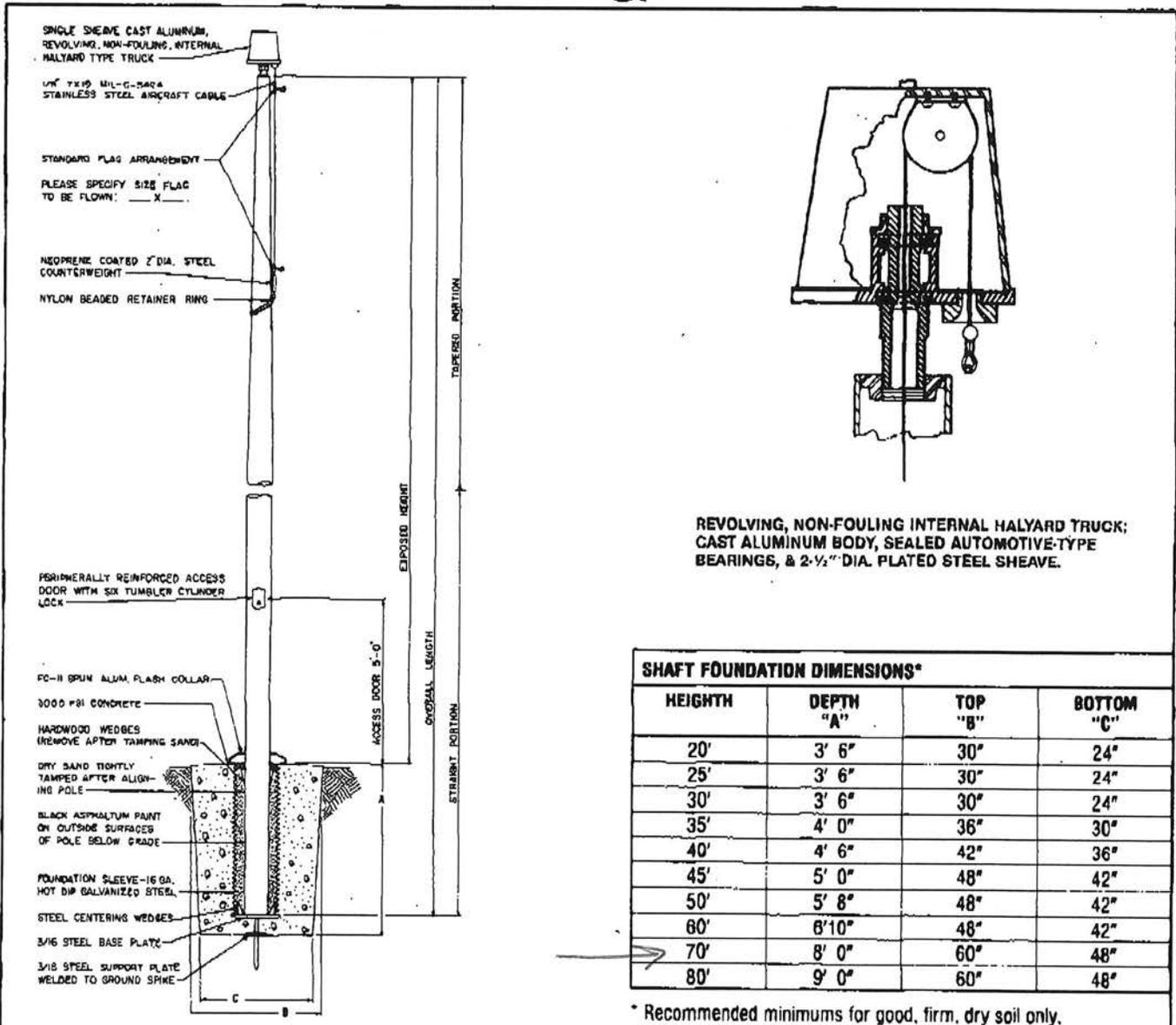
Exhibit A
Zoning and Location Map



1 SITE PLAN
1"=60'-0" (ON 24x36 SHEET)



Concealed halyard system cone tapered aluminum flagpole



* Recommended minimums for good, firm, dry soil only.

CONCEALED HALYARD SHAFTS

EXP	HEIGHT		DIAMETER		WALL THCK	LENGTH		SHP SEC	SLV DIA	WIND SPEED	FLAG SIZE	WS W/ FLAG
	LQA	BUTT	TOP	TAPRD		STGHT						
25'	28'0"	6.0"	3.5"	.156"	20'0"	8'0"	1"	10"	198	4' x 6'	100	
25'	28'0"	6.0"	3.5"	.188"	13'9"	14'3"	1"	10"	208	4' x 6'	100	
30'	33'0"	6.0"	3.5"	.156"	20'0"	13'0"	1"	10"	147	5' x 8'	90	
30'	33'0"	6.0"	3.5"	.188"	13'9"	19'3"	1"	10"	167	5' x 8'	100	
35'	38'6"	6.0"	3.5"	.156"	19'3"	19'3"	1"	10"	94	5' x 8'	70	
35'	38'6"	7.0"	3.5"	.156"	25'0"	13'6"	1"	10"	138	5' x 8'	90	
35'	38'6"	7.0"	3.5"	.188"	19'3"	19'3"	1"	10"	153	5' x 8'	100	
40'	44'0"	7.0"	3.5"	.156"	19'3"	24'9"	2"	10"	99	6' x 10'	70	
40'	44'0"	8.0"	3.5"	.188"	24'9"	19'3"	2"	12"	146	6' x 10'	100	
45'	49'6"	8.0"	3.5"	.188"	44'6"	5'0"	2"	12"	124	6' x 10'	80	
50'	55'0"	8.0"	3.5"	.188"	44'6"	10'6"	2"	12"	91	8' x 12'	70	
50'	55'0"	10.0"	4.0"	.188"	37'6"	17'6"	2"	15"	140	8' x 12'	100	
60'	66'0"	10.0"	4.0"	.188"	45'0"	21'0"	2"	15"	96	10' x 15'	70	
60'	66'0"	10.0"	4.0"	.250"	45'0"	21'0"	2"	15"	122	10' x 15'	80	
60'	66'0"	12.0"	4.0"	.250"	59'3"	6'9"	3"	15"	156	10' x 15'	100	
70'	77'0"	10.0"	4.0"	.312"	64'6"	12'6"	2"	15"	109	12' x 18'	70	
70'	77'0"	12.0"	4.0"	.250"	59'3"	17'9"	3"	15"	121	12' x 18'	90	
80'	88'0"	12.0"	4.0"	.375"	65'3"	22'9"	3"	15"	127	15' x 25'	90	

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

LORI BARR – CASE NO. 16-27S

Meeting Date: August 8, 2016
 Item Type: Regular Agenda
 Contact: Heather Botten 651.450.2569
 Prepared by:  Heather Botten, Associate 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"/> | Other |

PURPOSE/ACTION REQUESTED

Consider a Resolution relating to a Final Plat, Improvement Agreement, Stormwater Facilities Maintenance Agreement and Related Documents for the plat of Hayden Heights

- Requires 3/5th's vote.
- 60-day deadline: August 19, 2016 (first 60 days)

SUMMARY

The City Council approved the preliminary plat of Hayden Heights on August 24, 2015 with six conditions. The plat consists of a two lot residential subdivision for the property located along Courthouse Blvd, south of 9467 Courthouse Blvd.

The plat will satisfy the six conditions of approval and is consistent with the preliminary plat. All necessary development agreements have been drafted and will require a few minor changes before they will be signed by all parties and recorded.

Planning Division. Recommends approval of the final plat.

Engineering Division. Recommends approval of the final plat as the plans will satisfy all of the engineering conditions from the preliminary plat.

Planning Commission. Does not review final plats.

- Attachments:
- Resolution of Approval
 - Improvement Agreement and related documents
 - Property Location
 - Preliminary Plat Conditions of Approval
 - Final Plat
 - Grading Plan

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

RESOLUTION NO. _____

**A RESOLUTION APPROVING A FINAL PLAT, IMPROVEMENT AGREEMENT,
STORMWATER FACILITIES MAINTENANCE AGREEMENT AND OTHER
AGREEMENTS FOR THE PLAT TO BE KNOWN AS HAYDEN HEIGHTS**

**CASE NO. 16-27S
(Lori Barr)**

WHEREAS, a final plat application has been submitted to the City for property legally described as;

The North Five (5) acres of the West Half of the Southwest Quarter (SW ¼) of Section Twenty two (22), Township Twenty seven (27), Range Twenty two (22), lying Westerly of State Trunk Highways 52, 55, and 56, subject to all rights acquired by the State of Minnesota for highway purposes and subject to any reservation, term or condition in the patents of the United States of America, or any prior conveyance of record, County of Dakota County, State of Minnesota

WHEREAS, a public hearing concerning the preliminary plat was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statutes, Section 462.357, Subdivision 3 on August 5, 2015;

WHEREAS, the final plat application satisfies the six conditions of preliminary plat approval and conforms to all applicable zoning and subdivision regulations (City Code Title 10 and 11) and other standards applied by the City in the platting of property.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, the Final Plat, Improvement Agreement, Stormwater Facilities Maintenance Agreement and other related agreements for Hayden Heights is hereby approved.

Passed this 8th day of August, 2016.

AYES:

NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

**IMPROVEMENT AGREEMENT
FOR PLAT OF HAYDEN HEIGHTS
INVER GROVE HEIGHTS, MN**

**CITY OF INVER GROVE HEIGHTS
IMPROVEMENT AGREEMENT FOR PLAT OF HAYDEN HEIGHTS
INVER GROVE HEIGHTS, MN**

THIS IMPROVEMENT AGREEMENT (Agreement) is made and entered into on the 8th day of August, 2016, by and between the City of Inver Grove Heights, a municipality of the State of Minnesota, (hereinafter called the City), and Developer identified herein.

RECITALS:

WHEREAS, the Developer has applied to the City for approval of the plat of Hayden Heights (Plat);

WHEREAS, the Developer has applied to the City for approval of the Development Plans associated with the Plat;

WHEREAS, in conjunction with the granting of these approvals, the City requires the installation of storm water facilities and associated vegetation.

WHEREAS, under authority granted to it, including Minnesota Statutes Chapters 412, 429, and 462, the Council has agreed to approve the Plat and the Development Plans on the following conditions:

1. That the Developer enters into this Improvement Agreement, which contract defines the work which the Developer undertakes to complete; and
2. The Developer shall provide an irrevocable letter of credit, or cash deposit, 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 Developer 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 submitted to and approved by the Director of PWD.

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

ARTICLE 1
DEFINITIONS

1.1 Terms. The following terms, unless elsewhere defined specifically in the Improvement 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 Developer. "Developer" means Lori J. Barr, a single person, and her successors and assigns.

1.4 Subject Property. "Subject Property" means that certain real property located in the City of Inver Grove Heights, Dakota County, Minnesota and legally described on the attached **Exhibit A**.

1.5 Development Plans. "Development Plans" means all the plans, drawings, specifications and surveys identified on the attached **Exhibit B**, and hereby incorporated by reference and made a part of this Improvement Agreement.

1.6 Improvement Agreement. "Improvement Agreement" means this instant contract by and between the City and Developer.

1.7 Council. "Council" means the Council of the City of Inver Grove Heights.

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

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

1.10 County. "County" means Dakota County, Minnesota.

1.11 Other Regulatory Agencies. "Other Regulatory Agencies" means and includes, individually and collectively, the following:

- a.) Minnesota Department of Transportation
- b.) Dakota County
- c.) Dakota County Highway Department
- d.) Watershed District

- e.) Water Management Organization
- f.) Metropolitan Council
- g.) any other regulatory or governmental agency or entity affected by, or having jurisdiction over the Developer Improvements.

1.12 Utility Companies. "Utility Companies" means and includes, jointly and severally, the following:

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

1.13 Prior Easement Holders. "Prior Easement Holders" means and includes, jointly and severally, all holders of any easements or other property interests in the Subject Property.

1.14 Developer Improvements. "Developer Improvements" means and includes, individually and collectively, all the improvements identified in Article 3 and on the attached **Exhibit C**.

1.15 Developer Public Improvements. "Developer Public Improvements" means and includes, individually and collectively, all the improvements identified and checked on the attached **Exhibit C** that are further labeled "public". Developer Public Improvements are improvements to be constructed by the Developer within public right-of-way or public easements and which are to be approved and later accepted by the City. Developer Public Improvements are part of Developer Improvements.

1.16 Developer Default. "Developer Default" means and includes, individually and collectively, any of the following or any combination thereof:

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

- d.) breach of the Developer Warranties.

1.17 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.

1.18 Developer Warranties. "Developer Warranties" means that the Developer hereby warrants and represents the following:

- A. Authority.** Developer has the right, power, legal capacity and authority to enter into and perform its obligations under this Improvement Agreement, and no approvals or consents of any persons are necessary in connection with the authority of Developer to enter into and perform its obligations under this Improvement Agreement.
- B. No Default.** Developer is not in default under any lease, contract or agreement to which it is a party or by which it is bound which would affect performance under this Improvement Agreement. Developer is not a party to or bound by any mortgage, lien, lease, agreement, instrument, order, judgment or decree which would prohibit the execution or performance of this Improvement Agreement by Developer or prohibit any of the transactions provided for in this Improvement Agreement.
- C. Present Compliance With Laws.** Developer has complied with and to the best of its knowledge is not in violation of applicable federal, state or local statutes, laws, and regulations including, without limitation, permits and licenses and any applicable zoning, environmental or other law, ordinance or regulation affecting the Subject Property and the Development Plans and the Developer Improvements; and Developer is not aware of any pending or threatened claim of any such violation.
- D. Continuing Compliance With Laws.** Developer will comply with all applicable federal, state and local statutes, laws and regulations including, without limitation, permits and licenses and any applicable zoning, environmental or other law, ordinance or regulation affecting the Development Plans and the Developer Improvements.
- E. No Litigation.** There is no suit, action, arbitration or legal, administrative or other proceeding or governmental investigation pending, or to the best knowledge of Developer threatened against or affecting Developer or the Subject Property or

the Development Plans or the Developer Improvements. Developer is not in default with respect to any order, writ, injunction or decree of any federal, state, local or foreign court, department, agency or instrumentality.

- F. Full Disclosure.** None of the representations and warranties made by Developer or made in any exhibit hereto or memorandum or writing furnished or to be furnished by Developer 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.
- G. Warranty on Proper Work and Materials.** The Developer warrants all work required to be performed by it under this Improvement Agreement against defective material and faulty workmanship for a period of two (2) years after its completion and acceptance by the City. With respect to matters covered by the warranty, the Developer shall be solely responsible for all costs of performing repair work arising within said two (2) year period 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 (1) year after planting. Any replacements shall be similarly warranted for one (1) year from the time of planting.

The warranty period for drainage and erosion control improvements made by Developer shall be for two (2) years after completion and acceptance by the City; the warranty for the drainage and erosion control improvements shall also include the obligation of the Developer to repair and correct any damage to or deficiency with respect to such improvements.

- H. Obtaining Permits.** The Developer shall obtain in a timely manner and pay for all required permits, licenses and approvals, and shall meet, in a timely manner, all requirements of all applicable, local, state and federal laws and regulations which must be obtained or met before the Developer Improvements may be lawfully constructed.
- I. Fee Title/Ownership Interest.** Lori J. Barr, a single person, owns fee title to the Subject Property.

1.19 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 Improvement Agreement.

1.20 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
8150 Barbara Avenue
Inver Grove Heights, MN 55077

If to Developer: Lori J. Barr
5370 Greystone Drive, Apt. 110
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.

1.21 Plat. "Plat" means the plat of Hayden Heights, comprising the real property located in Inver Grove Heights, Dakota County, Minnesota and legally described on the attached Exhibit A.

ARTICLE 2 **APPROVAL OF PLAT AND DEVELOPMENT PLANS**

2.1. Plat Approval. Subject to the terms and conditions of this Agreement, the City hereby approves the recording of the Plat. The Development Plans are hereby approved by the City.

2.2 Plat Density. The parties mutually acknowledge that it is the intention to develop the entire Plat in accord with the approved zoning.

2.3 Recording Of Plat. The Developer shall record the Plat and this Improvement Agreement with the County Recorder within thirty (30) days of release of the Plat to the Developer for recording. No building permits shall be issued unless the Developer shows evidence to the City that the Plat and this Improvement Agreement have been recorded with the County Recorder.

2.4 Approval of Development Plans. The Development Plans are hereby approved by the City.

ARTICLE 3 **DEVELOPER IMPROVEMENTS**

3.1 Developer Improvements. The Developer shall install, at her own cost, the Developer Improvements in accordance with the Development Plans. The Developer Improvements shall be completed by the dates shown on **Exhibit C**, 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 Improvement Agreement after expiration of time by which the Developer 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 Improvement Agreement shall be deemed to be automatically extended until such time as the Developer Improvements are completed to the City's reasonable satisfaction.

3.2 Ground Material. The Developer shall insure that adequate and suitable ground material shall exist in the areas of public utility improvements to be made by Developer and shall guarantee the removal, replacement or repair of substandard or unstable material. The cost of said removal, replacement or repair is the responsibility of the Developer.

3.3 Grading/Drainage Plan. The Developer shall construct drainage facilities adequate to serve the Subject Property in accordance with the Development Plans. The grading and drainage plan shall include 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 11.

3.4 Area Restoration. The Developer shall restore all areas disturbed by the development grading operation in accordance with the approved erosion control plan. Upon request of the PWD, the Developer shall remove the silt fences after grading and construction have occurred.

3.5 Erosion Control. The Developer 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 Developer shall install and maintain such erosion control structures as appear necessary under the Development Plans or become necessary subsequent thereto. The

Developer shall be responsible for all damage caused as the result of grading and excavation within the Subject Property including, but not limited to, restoration of existing control structures and clean-up of public right-of-way, until all improvements are completed. As a portion of the erosion control plan, the Developer 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 11. The Developer shall be financially responsible for payment for this extra work.

ARTICLE 4 **OTHER PERMITS**

4.1 Permits. The Developer 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 said approvals, permits and licenses, and also all fines or penalties levied by any agency due to the failure of the Developer to obtain or comply with conditions of such approvals, permits and licenses, shall be paid by the Developer. The Developer 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 Developer.

ARTICLE 5 **OTHER DEVELOPMENT REQUIREMENTS**

5.1 Miscellaneous Requirements. Any additional requirements for approval of the Plat and Development Plans as specified by the Council are incorporated herein, as set forth in **Exhibit D**.

ARTICLE 6 **DEVELOPER PUBLIC IMPROVEMENTS**

6.1 Approval of Contractors and Engineer. Any contractor or engineer preparing plans and specifications selected by the Developer to design, construct or install any Developer Public Improvements must be approved in writing by the Director of PWD.

6.2 Construction. The construction, installation, materials and equipment related to Developer Public Improvements shall be in accord with the Development Plans. The Developer shall cause the contractors to furnish the PWD a written schedule of proposed operations, subcontractors and material suppliers, at least five (5) days prior to commencement of construction work. The Developer shall notify the City in writing, coordinate and hold a pre-construction conference with all affected parties at least three (3) days prior to starting construction of any Developer Public Improvements.

6.3 Inspection. The PWD or its designated representative shall periodically inspect the work installed by the Developer, its contractors, subcontractors or agents. The Developer shall notify the PWD two (2) working days prior to the commencement of the laying of utility lines, subgrade preparation or any other improvement work which shall be subsequently buried or covered to allow the City an opportunity to inspect such improvement work. Upon receipt of said notice, the City shall have a reasonable time, not to be less than three (3) working days, to inspect the improvements. Failure to notify the City to allow it to inspect said work shall result in the City's right pursuant to Article 11 to withhold the release of any portion of the escrow amount resulting from work being performed without the opportunity for adequate City inspection.

6.4 Faithful Performance of Construction Contracts. The Developer shall fully and faithfully comply with all terms of any and all contracts entered into by the Developer for the installation and construction of all of the Developer Public Improvements; and the Developer shall obtain lien waivers. Within thirty (30) days after Formal Notice, the Developer agrees to repair or replace, as directed by the City and at the Developer's sole cost and expense, any work or materials relating to Developer Public Improvements that within the warranty periods of Section 1.18(G) become defective or damaged in the opinion of the City.

6.5 City Acceptance. The Developer shall give Formal Notice to the City within thirty (30) days once Developer Public Improvements have been completed in accord with this Development Contract and the ordinances, City standards and specifications and the Development Plans. The City shall then inspect the Developer Public Improvements and notify the Developer of any Developer Public Improvements that do not so conform. Upon compliance with this Development Contract and City ordinances, standards and specifications, and the Development Plans, the Developer Public Improvements shall become the property of the City upon Formal Notice of acceptance by the City. After acceptance, the Developer Public Improvements become the property of the City, and the Developer shall have no responsibility with respect to maintenance of the Developer Public Improvements except as provided in Section 1.18(G) and except as provided in the Storm Water Facilities Maintenance Agreement between the City and Developer. If the Developer Public Improvements do not conform, Formal Notice shall be given to the Developer of the need for repair or replacement or, in its discretion, the City may proceed under Article 11.

6.6 Engineering Submittals Required. One (1) copy (in AUTOCAD format), of the detailed record plan "as built" drawings of the Developer Public Improvements shall be provided by the Developer in accord with City standards no later than 90 days after completion and acceptance of the Developer Public Improvements by the City, unless otherwise approved in writing by the PWD. If the record plans are not provided to the City within the 90 days, the City may have the work done and pay for it with the Developer's sureties. In addition, final quantity tabulations shall be required, which must include the following items on the record plans (if applicable):

1. Two ties to all curb boxes and gate valves.
2. All hydrant gate valves tied back to the hydrant.
3. All ties shall be 100 feet or less.
4. Top nut elevation of all hydrants.
5. Rim and invert elevations on all manholes and catch basins.
6. Apron invert elevations on all flared end structures and storm sewer stubs.
7. Invert elevations on all sanitary and water service stubs.
8. Two ties to all sewer and water service locations.
9. Main line stationing for all sanitary sewer wyes and water main corporations.
10. As built grading plan containing spot elevations taken throughout the development to verify the development is graded in accordance with the approved grading plan with extra shots to verify swale elevations and locations. In pond areas, enough shots must be taken on the pond bottom, side slopes and grade breaks to verify the volume of each pond. The as-built must also verify emergency overflow elevations and locations. This as-built plan shall be Certified as to general conformance with the City Approved grading plan by a Registered Engineer or Registered Land Surveyor and submitted in an electronic format (see item 12).
11. Copy of final Plat shall be submitted in an electronic format (see item 12).
12. Final as-built information shall be submitted in an electronic format compatible with the City's Geographic Information System (GIS). All information must be on the Dakota County coordinates system. Compatible formats are emailed AUTOCAD .DWG or .DXF. As-built drawings shall also be scanned, stored and emailed as images in .TIFF or .PDF. All as-built drawings must be the approved plans modified to reflect as-built conditions Note: All corrected lines, grades and elevations shall have a line drawn through the original text and the new information placed nearby; the original information or text shall not be erased.
13. Records identifying which parcels have in home pressure reducing valves to meet MDH requirements when the static water pressure exceeds 80psi.

14. GPS coordinates on all stormwater facilities and related appurtenances such as valves.

ARTICLE 7
RESPONSIBILITY FOR COSTS

7.1 **Developer Improvement Costs.** The Developer shall pay for the Developer 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.

7.2 **City Miscellaneous Expenses.** The Developer shall reimburse the City for all reasonable engineering, administrative, legal and other expenses incurred or to be incurred by the City in connection with this Improvement Agreement and Development Plan approval and acceptance and authorization of improvements. Bills not paid within thirty (30) days shall accrue interest at the rate of eight percent per year.

7.3 **Enforcement Costs.** The Developer shall pay the City for costs incurred in the enforcement of this Improvement Agreement, including engineering and reasonable attorneys' fees.

7.4 **Time of Payment.** The Developer 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 8
DEVELOPER WARRANTIES

8.1 **Statement of Developer Warranties.** The Developer hereby makes and states the Developer Warranties.

ARTICLE 9
CITY WARRANTIES

9.1 **Statement of City Warranties.** The City hereby makes and states the City Warranties.

ARTICLE 10
INDEMNIFICATION OF CITY

10.1 Indemnification of City. Provided the City is not in Default under the Improvement Agreement with respect to the particular matter causing the claim, loss or damage, Developer 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 Developer of the Developer Warranties;
- b.) failure of the Developer to timely construct the Developer Improvements according to the Development Plans and the City ordinances, standards and specifications;
- c.) failure by the Developer to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Improvement Agreement;
- d.) failure by the Developer to pay contractors, subcontractors, laborers, or materialmen;
- e.) failure by the Developer to pay for materials;
- f.) failure to obtain the necessary permits and authorizations to construct the Developer Improvements;
- g.) construction of the Developer Improvements; and
- h.) delays in construction of the Developer Improvements.

ARTICLE 11
CITY REMEDIES UPON DEVELOPER DEFAULT

11.1 City Remedies. If a Developer Default occurs, that is not caused by Force Majeure, the City shall give the Developer Formal Notice of the Developer Default and the Developer shall have thirty (30) days to cure the Developer Default. If the Developer, after Formal Notice to it by the City, does not cure the Developer Default within thirty (30) 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 Improvement Agreement;

- b.) the City may suspend any work, improvement or obligation to be performed by the City;
- c.) the City may collect on the irrevocable letter of credit or cash deposit pursuant to Article 12 hereof;
- d.) the City may suspend or deny building permits for buildings within the Subject Property;
- e.) the City may, at its sole option, perform the work or improvements to be performed by the Developer, in which case the Developer shall within thirty (30) days after written billing by the City reimburse the City for any costs and expenses incurred by the City. In the alternative, the City may in whole or in part, specially assess any of the costs and expenses incurred by the City; and the Developer hereby waives any and all procedural and substantive objections to the installation and construction of the work and improvements and the special assessment resulting therefrom, including, but not limited to, notice and hearing requirement and any claim that the special assessments exceed benefit to the Subject Property. The Developer hereby waives any appeal rights otherwise available pursuant to Minn. Stat. § 429.081.

11.2 No Additional Waiver Implied By One Waiver. In the event any agreement contained in this Improvement Agreement is breached by the Developer 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.

11.3 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 Improvement 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.

11.4 Emergency. Notwithstanding the requirement contained in Section 11.1 hereof relating to Formal Notice to the Developer in case of a Developer Default and notwithstanding the requirement contained in Section 11.1 hereof relating to giving the Developer a thirty (30) day period to cure the Developer Default, in the event of an emergency as determined by the Director of PWD, resulting from the Developer Default, the City may perform the work or

improvement to be performed by the Developer without giving any notice or Formal Notice to the Developer and without giving the Developer the thirty (30) day period to cure the Developer Default. In such case, the Developer shall within thirty (30) days after written billing by the City reimburse the City for any and all costs incurred by the City. In the alternative, the City may, in whole or in part, specially assess the costs and expenses incurred by the City; and the Developer hereby waives any and all procedural and substantive objections to the installation and construction of the work and improvements and the special assessments resulting therefrom, including, but not limited to, notice and hearing requirements and any claim that the special assessments exceed benefit to the Subject Property. The Developer hereby waives any appeal rights otherwise available pursuant to Minn. Stat. § 429.081.

ARTICLE 12 ESCROW DEPOSIT

12.1 Escrow Requirement. Prior to the Developer beginning construction of the Developer Improvements the Developer shall deposit with the City an irrevocable letter of credit or cash deposit for the amount stated in **Exhibit E**.

All cost estimates shall be acceptable to the Director of PWD. The total escrow amount was calculated as shown on the attached **Exhibit E**. 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, 2018. 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, 2018, 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 if the bank elects not to renew for an additional period. The irrevocable letter of credit shall secure compliance by the Developer with the terms of this Improvement Agreement. The City may draw down on the irrevocable letter of credit or cash deposit, without any further notice than that provided in Section 11.1 relating to a Developer Default, for any of the following reasons:

- a.) a Developer Default; or
- b.) upon the City receiving notice that the irrevocable letter of credit will be allowed to lapse without renewal or replacement before December 31, 2018.

The City shall use the letter of credit proceeds or cash deposit proceeds to reimburse the City for its costs and to cause the Developer Improvements listed on Exhibit D to be constructed to the extent practicable; if the Director of PWD determines that such Developer Improvements listed on **Exhibit E** have been constructed and after retaining 10% of the proceeds for later

distribution pursuant to Section 12.2, the remaining proceeds shall be distributed to the Developer.

With City approval, the irrevocable letter of credit or cash deposit may be reduced pursuant to Section 12.2 from time to time as financial obligations are paid.

12.2 Escrow Release and Escrow Increase; Developer Improvements.

Periodically, upon the Developer's written request and upon completion by the Developer and acceptance by the City of any specific Developer 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 1.18(G) hereof; in the alternative, the Developer may post a bond satisfactory to the City with respect to the final ten percent (10%).

If it is determined by the City that the Development Plans were not strictly adhered to, or that work was done without City inspection, the City may require, as a condition of acceptance, that the Developer post a irrevocable letter of credit, or cash deposit equal to 125% of the estimated amount necessary to correct the deficiency or to protect against deficiencies arising therefrom. The additional irrevocable letter of credit, or cash deposit, shall remain in force for such time as the City deems necessary, not to exceed five (5) years. In the event that work, which is concealed, was done without permitting City inspection, then the City may, in the alternative, require the concealed condition to be exposed for inspection purposes.

ARTICLE 13
MISCELLANEOUS

13.1 City's Duties. The terms of this Improvement Agreement shall not be considered an affirmative duty upon the City to complete any Developer Improvements.

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

13.3 Recording. The Plat and Improvement Agreement shall be recorded with the County Recorder and the Developer shall provide and execute any and all documents necessary to implement the recording.

13.4 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Improvement Agreement shall run with the Subject Property, and shall be binding upon the successors and assigns of the Developer. This Improvement

Agreement shall also run with and be binding upon any after acquired interest of the Developer in the Subject Property.

13.5 Contract Assignment. The Developer may not assign this Improvement Agreement without the written permission of the Council. The Developer's obligations hereunder shall continue in full force and effect, even if the Developer sells the Subject Property.

13.6 Amendment and Waiver. The parties hereto may by mutual written agreement amend this Improvement 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 Improvement Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Improvement Agreement, waive compliance by another with any of the covenants contained in this Improvement 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 Improvement 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 Improvement 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.

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

13.8 Counterparts. This Improvement 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.

13.9 Headings. The subject headings of the paragraphs and subparagraphs of this Improvement Agreement are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.

13.10 Inconsistency. If the Development Plans are inconsistent with the words of this Improvement Agreement or if the obligation imposed hereunder upon the Developer are inconsistent, then that provision or term which imposes a greater and more demanding obligation on the Developer shall prevail.

13.11 Access. The Developer hereby grants to the City, its agents, employees, officers, and contractors a license to enter the Subject Property to perform all work and inspections deemed appropriate by the City during the installation of Developer Improvements.

ARTICLE 14 **PARK CONTRIBUTION REQUIREMENTS**

14.1 **PARK CONTRIBUTION.** The Developer shall comply with the park contribution requirements as defined in the City Code by meeting the obligation stated in Exhibit D.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Improvement Agreement.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its: Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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

DEVELOPER

Lori J. Barr

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of August, 2016, before me a Notary Public within and for said County, personally appeared Lori J. Barr, a single person, to me personally known to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same as her 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 SUBJECT PROPERTY

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

Lot 1 and Lot 2, Block 1, Hayden Heights, Dakota County, Minnesota.

EXHIBIT B

LIST OF DEVELOPMENT PLANS

<u>PLAN</u>	<u>DATE OF PLAN PREPARATION</u>	<u>PREPARED BY</u>
Grading & Erosion Control Plan	7-18-16	Rehder & Associates, Inc.

The above-listed Development Plans were approved by the City Engineer on July 28, 2016.

The Development Plans also include compliance by the Developer with the conditions set forth in the following (the "Engineering Memo"):

1. Memo from the Assistant City Engineer dated July 14, 2016 setting forth various conditions related to the Developer Improvements.

The above-referenced Engineering Memo is on file with the City.

The Development Plans also include modifications of the above referenced Development Plans as approved from time to time by the City Engineer.

EXHIBIT C

DEVELOPER IMPROVEMENTS

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

The items checked with "Public" below are those Developer Improvements that are Developer-Public Improvements.

<u>CHECKED</u>	<u>COMPLETION DATE</u>	<u>IMPROVEMENT</u>
X	11-30-16, or before issuance of building permit, whichever occurs first	general site grading, drainage and erosion control
X	11-30-16, or before issuance of building permit, whichever occurs first	stormwater facilities (including creation of new infiltration basin) substantially complete and functional to a level approved by the City Engineer
X	11-30-16, or before issuance of certificate of occupancy, whichever occurs first	private driveway
X	6-30-17, or before issuance of certificate of occupancy, whichever occurs first	stormwater facilities (including creation of new infiltration basin) complete and approved by the City Engineer
X	6-30-17, or before issuance of certificate of occupancy, whichever occurs first	landscaping / vegetation (including seeding and turf establishment)
X	6-30-17, or before issuance of certificate of occupancy, whichever occurs first	certified as-builts

The City's Director of Public Works may extend the dates contained in this Exhibit C.

EXHIBIT D

**MISCELLANEOUS REQUIREMENTS AND CONDITIONS
IMPOSED BY THE CITY**

- 1.) **CONDITIONS TO BE SATISFIED BEFORE CITY RELEASES PLAT TO BE RECORDED.** Before the City releases the Plat for recording with Dakota County, all of the following conditions must be satisfied:
 - a.) Developer must execute this Improvement Agreement and the Plat.
 - b.) Developer must provide cash deposit for the engineering escrow amount stated in Exhibit E of this Improvement Agreement.
 - c.) Developer must provide the irrevocable letter of credit or cash deposit for the amount stated in Exhibit E of this Improvement Agreement.
 - d.) Developer must pay the park dedication fee referenced in paragraph 5 of this Exhibit D.
 - e.) Developer must fully pay the City of Inver Grove Heights for all planning, engineering review and legal fees that have been incurred up to the date of this Improvement Agreement; and Developer must further escrow with the City an amount determined by the City of Inver Grove Heights for future planning and engineering review fees and for legal fees, except for such fees as may already otherwise be taken into account in the calculations or engineering inspection escrow made a part of Exhibit E.
 - f.) Developer must execute and deliver the documents listed in paragraph 7 of this Exhibit D. The form of the documents shall be subject to the approval of the City Attorney.

- 2.) **CONDITIONS TO BE SATISFIED BEFORE NOVEMBER 30, 2016 OR BEFORE CITY ISSUES A BUILDING PERMIT FOR THE SUBJECT PROPERTY, WHICHEVER OCCURS FIRST.** By November 30, 2016 or before the City issues a building permit for the Subject Property, whichever occurs first, all the following conditions must be satisfied:
 - a.) All of the conditions in paragraph 1 of this Exhibit D have been met.
 - b.) All grading, drainage and erosion control must be completed.
 - c.) The stormwater facilities (including the new infiltration basin) must be substantially complete and functional to a level approved by the City Engineer.
 - d.) The private driveway must be completed.

- 3.) **CONDITIONS TO BE SATISFIED BY JUNE 30, 2017 OR BEFORE THE CITY ISSUES CERTIFICATE OF OCCUPANCY FOR SUBJECT PROPERTY, WHICHEVER OCCURS FIRST.** By June 30, 2017, or before the City issues a certificate of occupancy for the Subject Property, whichever occurs first, all of the following conditions must be satisfied:
- a.) All of the conditions in paragraphs 1 and 2 of this Exhibit D have been met.
 - b.) All vegetation associated with the grading, drainage and erosion control and stormwater facilities must be completed.
 - c.) The stormwater facilities (including the new infiltration basin) must be complete and approved by the City Engineer.
 - d.) Certified as-builts shall be submitted to the City.
- 4.) **CLEAN UP OF CONSTRUCTION DEBRIS ON STREETS AND ADJOINING PROPERTY.** During the construction within the Subject Property the Developer is responsible for removing any construction debris (including construction material and other waste products resulting from construction) that may be blown from the construction site into adjoining private properties or into City streets or that may fall from delivery trucks onto adjoining private properties or City streets. Further, during construction, the Developer must clear the City streets of any dirt or other earthen material that may fall onto the City streets from the delivery trucks that are being used in the excavation and grading of the site.
- 5.) **PARK CONTRIBUTION FEE.** The park contribution fee is based on a per lot amount of \$2,850, multiplied by the number of lots in the PLAT. There are 2 lots and as a result, the park contribution is \$5,700 (2 lots multiplied by \$2,850 per unit). The park contribution fee of \$5,700 must be paid before the City releases the Plat.
- 6.) **LOT EROSION CONTROL REQUIREMENTS.** The construction of residences on the lots within the Plat shall comply with the following (Erosion Control Forms):
- a. Erosion Control for Residential Lots dated February 2015 and identified as Plate No. EC-01;
 - b. Silt Fence dated April 2011 and identified as Plate No. EC-02;
 - c. Rock Construction Entrance dated April 2011 and identified as Plate No. EC-03;
 - d. Storm Sewer Inlet Protection dated April 2011 and identified as Plate No. EC-04;
 - e. Sediment Log Installation dated March 2015 and identified as Plate No. EC-07.

The Erosion Control Forms are on file with the City. The Developer must make the builder aware of the above identified Erosion Control Forms and must provide a copy of the above-described Erosion Control Forms to the builder. The builder must execute the

Notice of Erosion Control Requirement for Construction (on file with the City) when a building permit is obtained.

7.) **AGREEMENTS.** The Developer must comply with the following requirements and execute the agreements set forth below:

a. Developer must execute this Improvement Agreement for the Plat.

The above-listed agreement must be executed at the time the Plat is released and must be recorded with the Plat.

b. Developer must execute a Storm Water Facilities Maintenance Agreement for Lot 1, Block 1, Hayden Heights.

The above-listed agreement must be executed at the time the Plat is released and must be recorded with the Plat.

c. Developer must execute a Warranty Deed conveying to the City all rights of vehicular access, including ingress and egress to and from Courthouse Boulevard from and to the lots within the Plat except for that portion of the lots within the Plat where the shared private driveway is located.

The Warranty Deed must be executed at the time the Plat is released and must be recorded with the Plat.

d. A Permanent Shared Driveway Easement must be entered into between the owner of Lot 1, Block 1, Hayden Heights and the owner of Lot 2, Block 1, Hayden Heights pursuant to paragraph 8 of this Exhibit D.

The above-listed agreement must be executed at the time the Plat is released and must be recorded with the Plat.

8.) **SHARED DRIVEWAY EASEMENT.** The Developer is constructing a private driveway that will provide access to and from Courthouse Boulevard from and to both lots within the Plat. The Developer is obligated to prepare a Permanent Shared Driveway Easement between the owner of Lot 1, Block 1, Hayden Heights and the owner of Lot 2, Block 1, Hayden Heights. Both lot owners must execute the Permanent Shared Driveway Easement and provide an original fully executed copy prior to the release of the Plat to Developer. The Permanent Shared Driveway Easement will create an easement over both lots and set forth the obligations for maintenance and repair of the shared driveway.

9.) **RESTRICTED ACCESS.** The City is requiring Developer convey all rights of access to and from Courthouse Boulevard from and to the lots within the Plat except for that portion where the private shared driveway is located. Developer will convey the restricted access to the City by way of a Warranty Deed as required in paragraph 7 of this Exhibit D.

- 10.) **EMERGENCY OVERFLOW ACROSS SHARED DRIVEWAY.** Both lots within the Plat will be responsible for joint maintenance of the emergency overflow across the private shared driveway. The expense for maintenance of the emergency overflow shall be shared equally between the two lots within the Plat.

EXHIBIT E
ESCROW CALCULATION

DEVELOPER IMPROVEMENTS

1.)	Grading, Drainage and Erosion Control	\$
2.)	Storm Water Facilities (including new infiltration basin)	\$
3.)	Driveway	\$
4.)	Landscaping / Vegetation	\$
5.)	As-Built Record Plans	\$
	SUBTOTAL:	\$
	<u>MULTIPLIED BY:</u>	x 1.25
	EQUALS	\$
	<u>ESCROW AMOUNT:</u>	\$

EXHIBIT E
ESCROW CALCULATION
(Continued)

Engineering Escrow Amount

In addition to the Escrow Amount for Developer Improvements set forth above, the Developer shall also deposit \$4,000 in cash with the City (hereafter "Engineering Escrow Amount") contemporaneously with execution of this Improvement Agreement.

The Engineering Escrow Amount shall be used to pay the City for engineering inspection, engineering consultant fees, attorney's expenses, staff review time, assurance for sediment/erosion control compliance and maintenance requirements at the City's standard rates charged for such tasks.

Subject to the following paragraph, upon satisfactory completion of the Developer Improvements, the City shall return to the Developer any remaining portion of the Engineering Escrow Amount not otherwise previously charged the Developer.

Twenty five percent (25%) of this Engineering Escrow Amount shall be retained by the City (hereafter referred to as Escrow Retainage) and this Escrow Retainage shall be available to the City to pay for deficiencies and problems related to grading, drainage and erosion control and landscaping on the Subject Property in the event such problems and deficiencies arise after the City has accepted the Developer Improvements. The City may use the Escrow Retainage to correct any such deficiencies or problems or to protect against further deficiencies or problems if all the following circumstances exist:

- a.) Deficiencies or problems have arisen with respect to grading, drainage, and erosion control or landscaping; and
- b.) The City has previously accepted the Developer Improvements; and
- c.) The Letter of Credit or cash deposit for the Developer Improvements has expired or the Letter of Credit or cash deposit for the Developer Improvements has been reduced to ten percent (10%) or less of its original amount.

The City shall return to the Developer any remaining Escrow Retainage when all the following events have occurred:

- a.) all of the 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 vegetation exceed the initially deposited \$4,000 Engineering Escrow Amount, the Developer is responsible for payment of such excess within thirty (30) days after billing by the City.

STORM WATER FACILITIES MAINTENANCE AGREEMENT
FOR LOT 1, BLOCK 1, HAYDEN HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS STORM WATER FACILITIES MAINTENANCE AGREEMENT (Agreement) is made, entered into and effective this 8th day of August, 2016, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as City) and Lori J. Barr, a single person (hereafter referred to as Lot Owner 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 Lot Owner. “Lot Owner” means Lori J. Barr, a single person, and her 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 Lot:

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

1.5 Storm Water Facility Plan. “Storm Water Facility Plan” means that certain _____ Plan prepared by Rehder and Associates, Inc. dated _____, 2016 and approved by the City Engineer on August ____, 2016. The Storm Water Facility Plan is on file with the City and attached hereto as **Exhibit D**.

1.6 Lot. “Lot” 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 the fee title owner of the Lot during the period of time that they own fee title to the Lot.

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. Lot Owner owns the Lot.

Recital No. 2. Lot Owner will construct the Storm Water Facilities on the Lot pursuant to the Storm Water Facility Plan.

Recital No. 3. The City is willing to allow the plat of Hayden Heights to be recorded if Lot Owner 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 consistent with the Maintenance Standards, notwithstanding the fact that the Storm Water Facilities may exist within easements dedicated or granted to the City and the public; and
- 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 consistent with the Maintenance Standards.

Recital No. 5. Lot Owner is currently the only Responsible Owner.

ARTICLE 3 **RESPONSIBILITY FOR MAINTENANCE**

3.1 Construction of Storm Water Facilities. Prior to November 30, 2016, Responsible Owner agrees that the Storm Water Facilities shall be substantially constructed and functional to a level approved by the City Engineer 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. Prior to June 30, 2017, Responsible Owner agrees that the Storm Water Facilities shall be complete.

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 Lot.

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 Lot 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 Responsible Owner 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 Lot Owner Property. The Responsible Owner and the successors and assigns thereof shall be responsible for following the Operations & Maintenance Plan. 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 Lot, the City may certify to Dakota County the amounts due as payable with the real estate taxes for the 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 Responsible Owner waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Lot.

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 Lot 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 Lot. 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 Lot. 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 Lot Owner hereby grants to the City a right and license to access and enter the Lot 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
CITY'S COVENANTS

4.1 Compliance with Improvement Agreement. The City agrees that if Responsible Owner executes this Storm Water Facilities Maintenance Agreement and complies with the other conditions contained in the Improvement Agreement between the parties of even date herewith, then the City will allow the Responsible Owner to begin the Developer Improvements identified in the Improvement Agreement and the Council will approve the Development Plans for the Lot.

ARTICLE 5
MISCELLANEOUS

5.1 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Agreement shall run with Lot 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 Lot Owner in the Lot acquired by the Lot Owner after the execution date of this Agreement or after the recording date of this Agreement.

5.2 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.

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

5.4 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.

5.5 Consent. Lot Owner consents to the recording of this Agreement.

5.6 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:

Lori J. Barr
5370 Greystone Drive, Apt. #110
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 Lot Owner 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

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 8th day of August, 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

LOT OWNER AND RESPONSIBLE OWNER:

Lori J. Barr

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this _____ day of August, 2016, before me a Notary Public within and for said County, personally appeared Lori J. Barr, a single person, to me personally known to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same as her 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 LOT

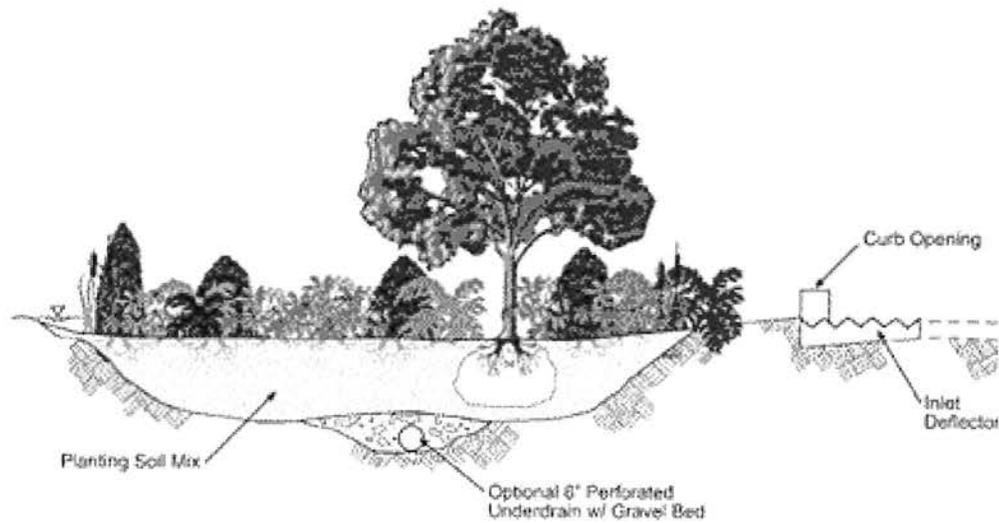
Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Lot 1, Block 1, Hayden Heights, Dakota County, Minnesota.

EXHIBIT B
OPERATIONS & MAINTENANCE PLAN

Stormwater Best Management Practice

Operations and Maintenance Plan Infiltration Basin
Property Address _____



- 1) Inspection Activities**
- 2) Maintenance Activities**
- 3) Self Inspection and Maintenance Record**

Inspection Activities – Infiltration Basin

Inspection Activity	Recommended Inspection Frequency	Outcomes/Actions
1. Visual inspection for trash and debris in pretreatment, inlet, bioretention area, and outlet	Weekly and following large storm events	Notify maintenance staff/contractor of need for site clean-up
2. Erosion in pretreatment, inlet, bioretention area, and outlet	Monthly and following large storm events	Notify maintenance staff/contractor of need for erosion repairs
3. Sediment accumulation in pretreatment, inlet, bioretention area, and outlet	Monthly and following large storm events	Notify maintenance staff/contractor of need to remove sediment when drainage capabilities are reduced
4. Vegetation & Mulch	Annual inspection for dead or diseased plants and void areas; Monthly inspections during growing season for weeds and vegetation damage	Notify vegetation maintenance staff/contractor of need for maintenance
5. Inspect inlet and outlet structural components (if applicable)	As part of all inspection visits	Notify maintenance staff/contractor of any observed structural damage
6. Dewatering	Annually and following large storm events	Notify maintenance staff/contractor if there is standing water at the surface or in observation wells (underdrain systems) 48-72 hours after a storm event

** For additional information, see the MPCA Stormwater Manual, 2005

<http://www.pca.state.mn.us/water/stormwater/stormwater-manual.html>

Maintenance Activities – Infiltration Basin

Maintenance Activity	Frequency	Procedure
Trash and debris removal from pretreatment, inlets, bioretention area, and outlets	Weekly as per inspection or as needed	Handwork
Erosion repair	As needed	Handwork
Sediment removal	As required when infiltration is reduced	Handwork
Vegetation management	As needed based upon inspection	Follow appropriate vegetation management guidelines
Mulching	Replace all mulch every 2-3 years and as needed to cover eroded or void areas	Handwork
Dewatering	As needed based upon failure to drain within 48-72 hours of a storm event	Handwork (sediment removal; surface raking; core/disc aeration; punching holes in filter fabric lining, etc.)
Soil Replacement	When infiltration capacity is reduced	Remove clogged layer of soil from bioretention area with appropriate equipment and replace with new material
Repair structural components	As needed per inspection	Dependent on type of damage; Repair structure per manufacturer's recommendations

** For additional information, see the MPCA Stormwater Manual, 2005

<http://www.pca.state.mn.us/water/stormwater/stormwater-manual.html>

Infiltration Basin Property Owner Self Inspection and Maintenance Record

BMP ID		Location	
Owner			
Inspection Date		Inspector	

Trash/Debris	Yes/No	Location of trash/debris
Erosion	Yes/No	Location of erosion
Sediment	Yes/No	Location of accumulated sediment
Vegetation		Nature of treatment
Acceptable/Treatment Required <i>(Inspection of vegetation should occur in mid-summer for vegetation damage, weeds and bare spot)</i>		
Additional Inspection Comments <i>dewatering, weed types, specific vegetation needs, etc.</i>		
Maintenance Required	Yes/No	Immediate Maintenance Required
Maintenance completed Date		Maintenance Contractor
Maintenance Comments		

Please complete this self inspection record for the referenced property, retain the original and return a copy annually to:

**Thomas Kaldunski, City Engineer
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077**

EXHIBIT C
ANNUAL INSPECTION FORM

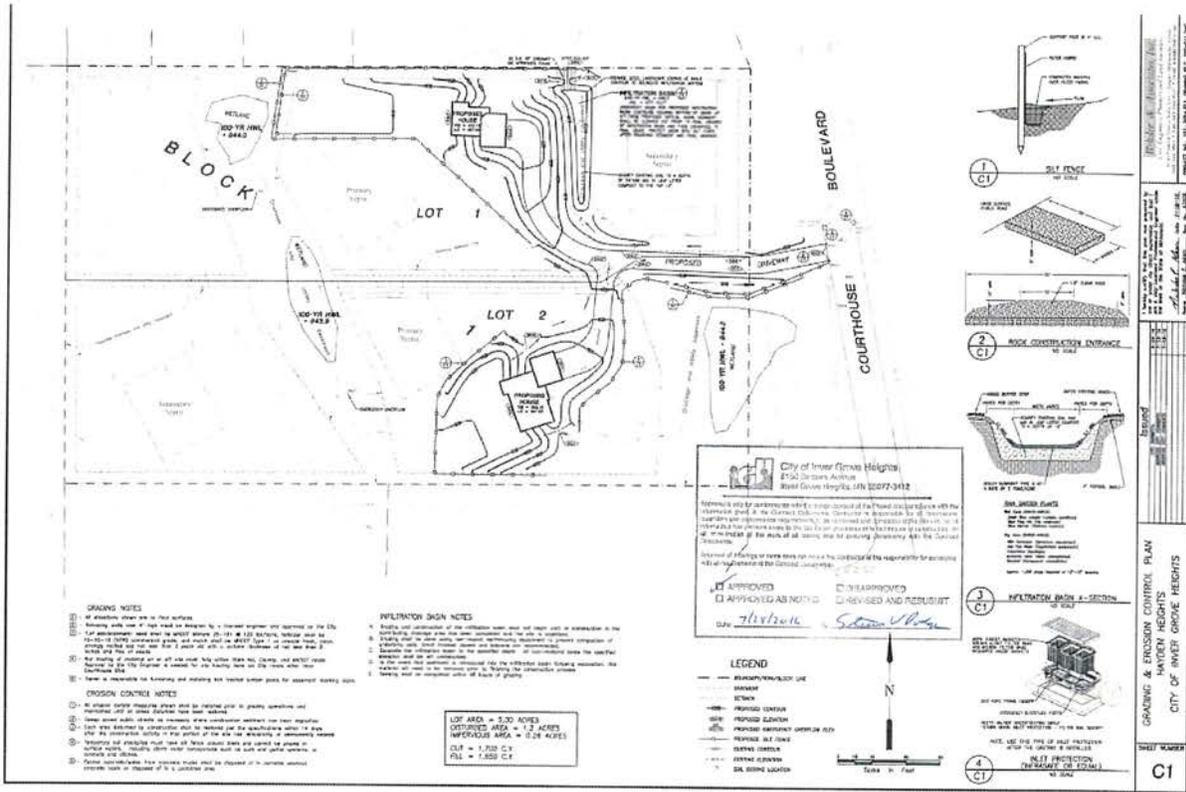
CITY OF INVER GROVE HEIGHTS NPDES INSPECTION PROGRAM

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

EXHIBIT D STORM WATER FACILITY PLAN



WARRANTY DEED

Corporation, Partnership or Limited Liability Partnership
to Corporation, Partnership or Limited Liability Partnership

DEED TAX DUE: \$ 1.65

Date: August 8, 2016

FOR VALUABLE CONSIDERATION, **Lori J. Barr**, a single person (“Grantor”) hereby conveys and warrants to **City of Inver Grove Heights**, a municipal corporation under the laws of Minnesota, (“Grantee”), real property in Dakota County, Minnesota, legally described as follows:

All rights of vehicular access, including ingress and egress, to and from Courthouse Boulevard from and to Lot 1, Block 1, Hayden Heights and Lot 2, Block 1, Hayden Heights except for that portion of Lot 1, Block 1, Hayden Heights and Lot 2, Block 1, Hayden Heights described as follows:

[insert legal description]

Check box if applicable:

- The Seller certifies that the Seller does not know of any wells on the described real property.
- A well disclosure certificate accompanies this document.
- I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

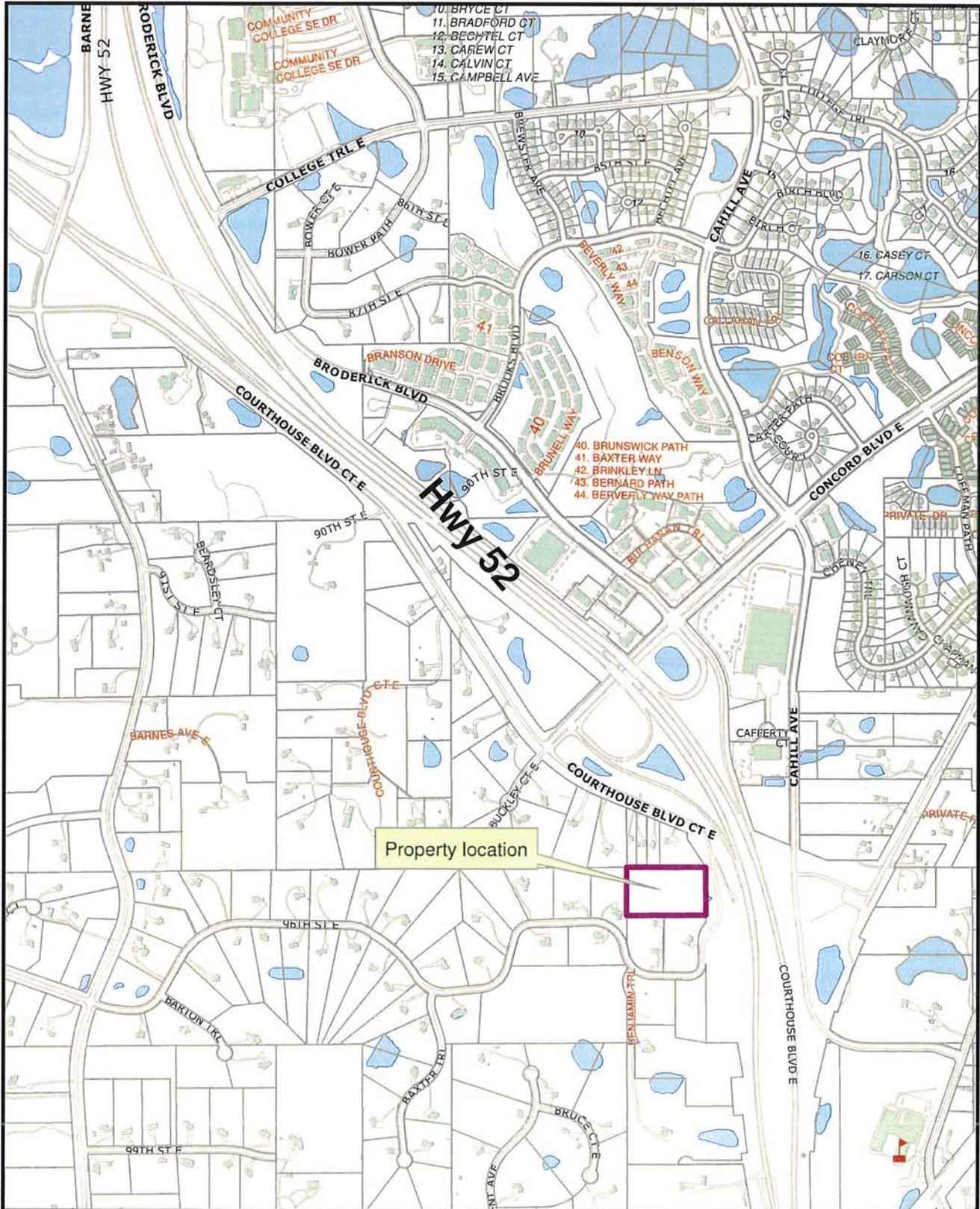
GRANTOR

Lori J. Barr

Map not to scale



Lori Barr



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.

Location Map

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

A RESOLUTION APPROVING A PRELIMINARY PLAT FOR A TWO LOT RESIDENTIAL
SUBDIVISION TO BE KNOWN AS HAYDEN HEIGHTS

CASE NO. 15-30SV
(Lori Barr)

WHEREAS, a preliminary plat application has been submitted to the City for property legally described as;

The North Five (5) acres of the West Half of the Southwest Quarter of Section 22, Township 27, Range 22, lying Westerly of State Trunk Highways 52, 55 and 56, subject to all rights acquired by the State of Minnesota for highway purposes and subject to an reservation, term, or condition in the patents of the United States of America, or any prior conveyance of record, Dakota County, Minnesota.

WHEREAS, a public hearing concerning the Plat was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statutes, Section 462.357, Subdivision 3 on August 5, 2015;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, the Preliminary Plat for the plat of Hayden Heights is hereby approved subject to the following conditions:

1. The final plat shall be in substantial conformance with the plans on file with the Planning Department except as may be modified by the conditions below.
2. A park dedication fee equal to \$2,850 per lot for Lots 1 and 2 shall be paid to the City prior to release of the final plat.
3. Drainage and utility easements shall be provided on the final plat as required by the City Engineering Department.
4. A combined driveway access agreement must be entered in between Lot 1 and Lot 2; a copy of this agreement shall be given to the Planning Department prior to the issuance of a building permit.
5. A custom grading agreement and storm water facilities maintenance agreement shall be prepared by the City Attorney and executed by both the City and the property owner prior to issuance of a building permit.
6. The applicant shall meet the conditions outlined in the City Engineers review letters and subsequent correspondence.

Preliminary

Resolution No. _____

Page 2

Passed this 24th day of August, 2015.

AYES:

NAYS:

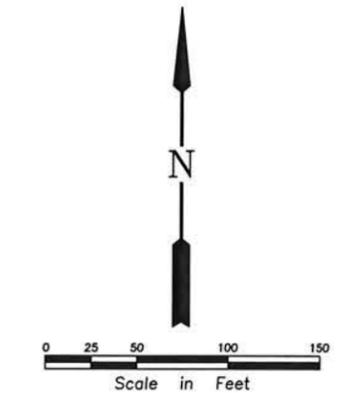
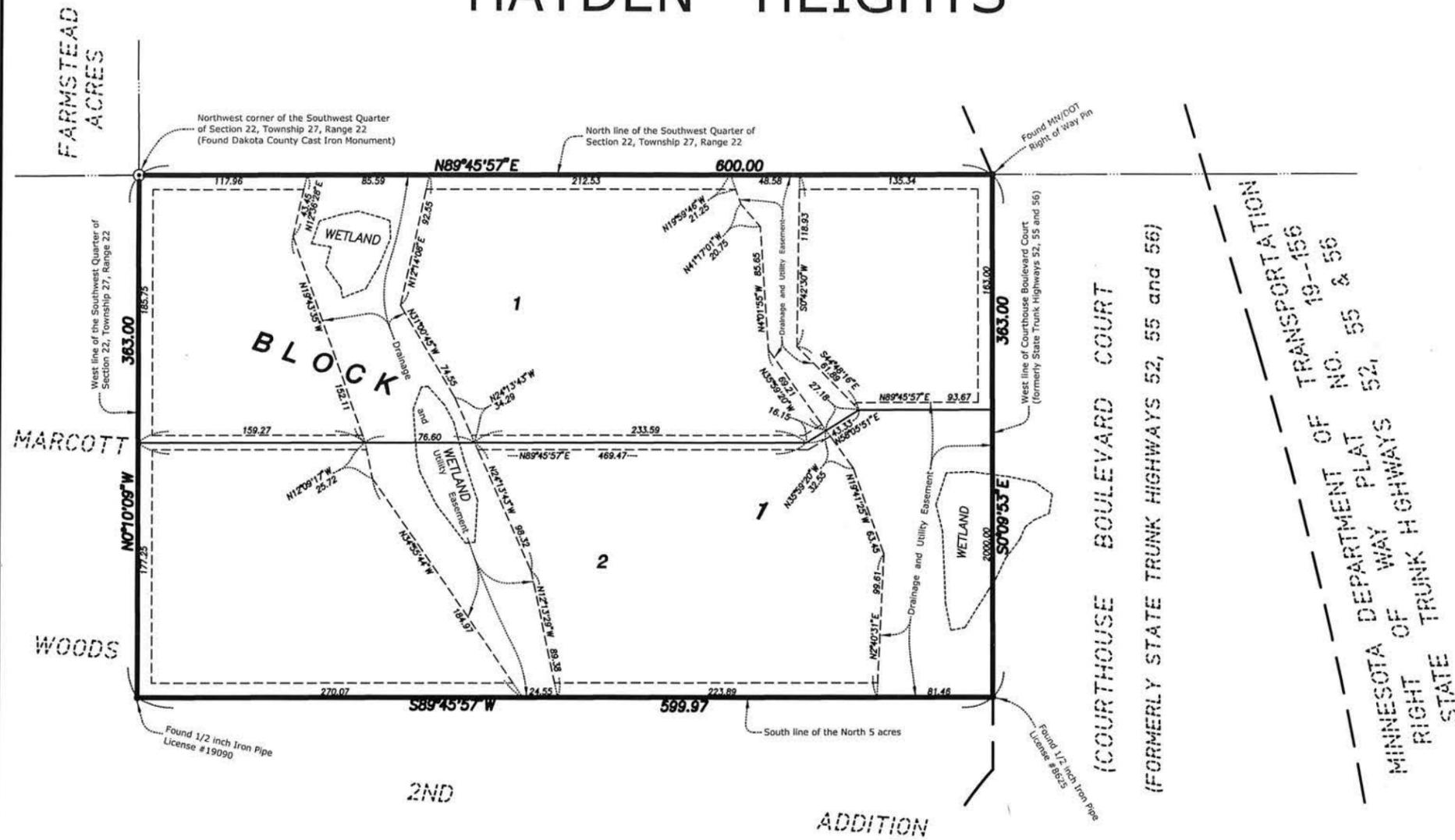
ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

preliminary

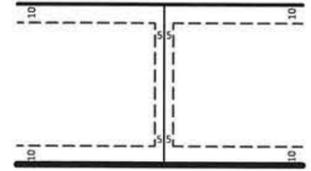
HAYDEN HEIGHTS



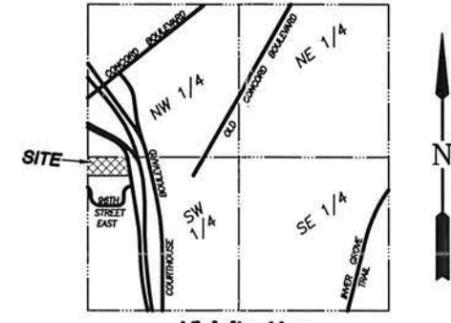
The north line of the Southwest Quarter of Section 22, Township 27, Range 22 has a bearing of N89°45'57"E.

• Denotes found iron monument

Drainage and Utility Easements are shown thus:



Being 5 feet in width and adjoining all side lot lines unless otherwise shown, and being 10 feet in width and adjoining all block lines unless otherwise shown.



Vicinity Map
Section 22, Township 27, Range 22
No Scale

KNOW ALL MEN BY THESE PRESENTS: That Lori J. Barr, a single person, fee owner of the following described property situated in the County of Dakota, State of Minnesota, to wit:

The North Five (5) acres of the West Half of the Southwest Quarter (SW 1/4) of Section Twenty two (22), Township Twenty seven (27), Range Twenty two (22), lying Westerly of State Trunk Highways 52, 55 and 56, subject to all rights acquired by the State of Minnesota for highway purposes and subject to any reservation, term or condition in the patents of the United States of America, or any prior conveyance of record, County of Dakota County, State of Minnesota.

Has caused the same to be surveyed and platted as HAYDEN HEIGHTS and does hereby dedicate to the public for public use the drainage and utility easements as created by this plat.

In witness whereof said Lori J. Barr, a single person, has hereunto set her hand this _____ day of _____, 2016.

Lori J. Barr

State of Minnesota
County of _____

This instrument was acknowledged before me on _____, 2016 by Lori J. Barr, a single person.

Notary Public,
My Commission Expires _____

I, Gary C. Huber do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this _____ day of _____, 2016.

Gary C. Huber, Licensed Land Surveyor
Minnesota License No. 22036

STATE OF MINNESOTA
COUNTY OF DAKOTA

This instrument was acknowledged before me on _____, 2016, by Gary C. Huber.

Notary Public,
My Commission Expires _____

PLANNING COMMISSION, CITY OF INVER GROVE HEIGHTS, MINNESOTA

Approved by the Planning Commission of the City of Inver Grove Heights, Minnesota, this _____ day of _____, 2016.

By _____, _____ By _____, _____

CITY COUNCIL, CITY OF INVER GROVE HEIGHTS, MINNESOTA

This plat was approved by the City Council of Inver Grove Heights, Minnesota, this _____ day of _____, 2016 and hereby certifies compliance with all requirements as set forth in Minnesota Statutes, Section 505.03, Subd. 2.

By _____, Mayor By _____, Clerk

DAKOTA COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this _____ day of _____, 2016.

Todd B. Tollefson, Dakota County Surveyor

DEPARTMENT OF PROPERTY TAXATION AND RECORDS

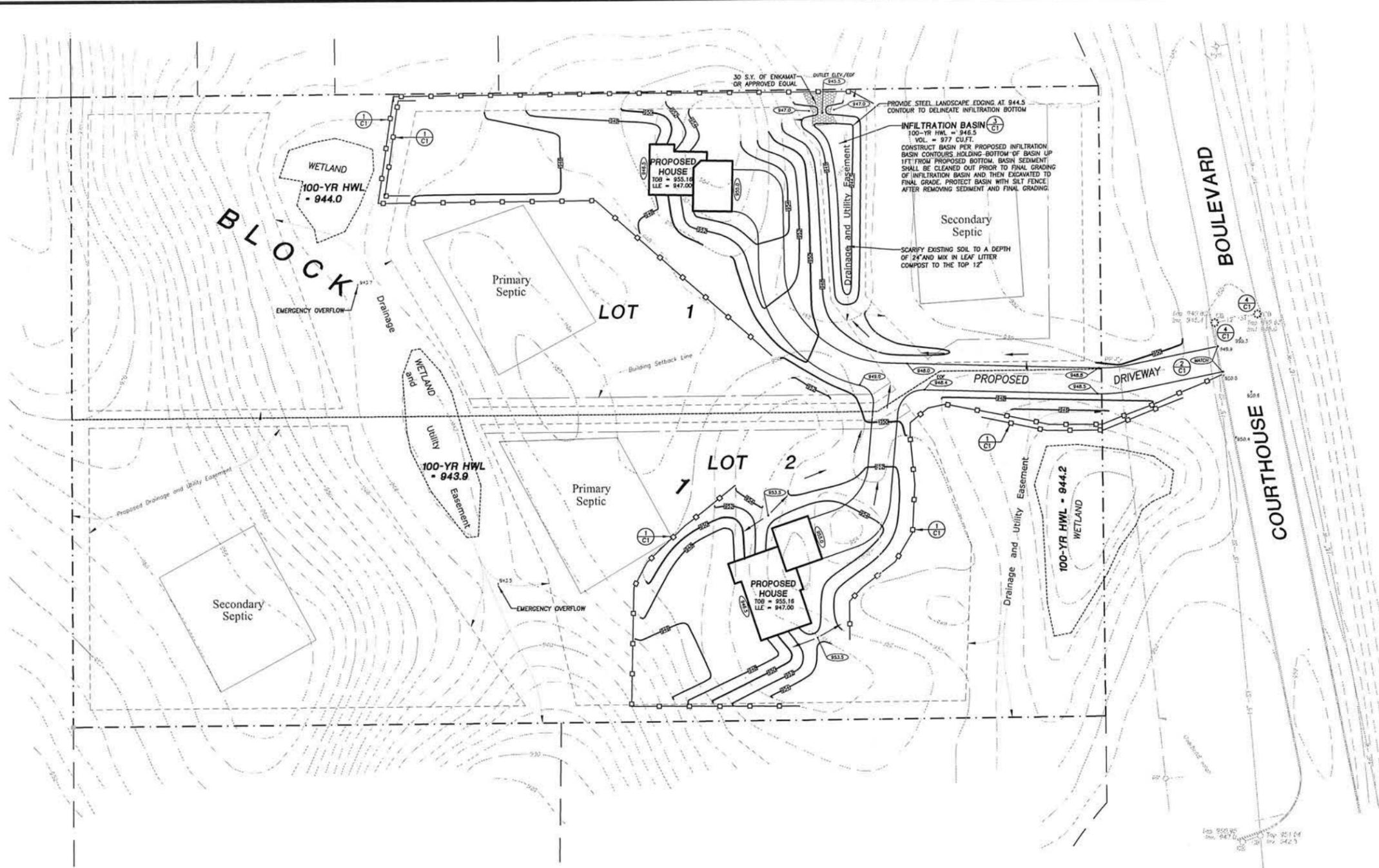
Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, taxes payable in the year 2016 on the land hereinbefore described have been paid. Also, pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer entered this _____ day of _____, 2016.

Director
Department of Property Taxation and Records

COUNTY RECORDER, COUNTY OF DAKOTA, STATE OF MINNESOTA

I hereby certify that this plat of HAYDEN HEIGHTS was filed in the office of the County Recorder for public record on this _____ day of _____, 2016 at _____ o'clock _____ M., and was duly filed in Book _____ of Plats, Page _____, as Document Number _____.

County Recorder



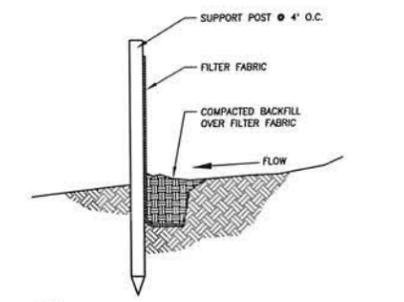
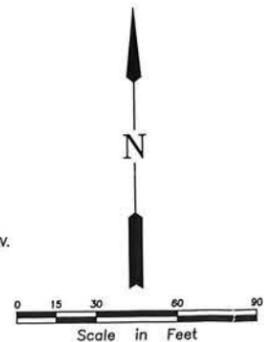
- GRADING NOTES**
- All elevations shown are to final surfaces.
 - Retaining walls over 4' high must be designed by a licensed engineer and approved by the City.
 - Turf establishment: seed shall be MNDOT Mixture 25-151 @ 120 lbs/acre, fertilizer shall be 10-10-10 (NPK) commercial grade, and mulch shall be MNDOT Type 1 or provide fresh, clean, strongly rooted sod not less than 2 years old with a uniform thickness of not less than 2 inches and free of weeds.
 - Any hauling of material on or off site must fully utilize State Aid, County, and MnDOT roads. Approval by the City Engineer is needed for any hauling done via City roads other than Courthouse Blvd.
 - Owner is responsible for furnishing and installing 4x4 treated lumber posts for easement marking signs.

- EROSION CONTROL NOTES**
- All erosion control measures shown shall be installed prior to grading operations and maintained until all areas disturbed have been restored.
 - Sweep paved public streets as necessary where construction sediment has been deposited.
 - Each area disturbed by construction shall be restored per the specifications within 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.
 - Temporary soil stockpiles must have silt fence around them and cannot be placed in surface waters, including storm water conveyances such as curb and gutter systems, or conduits and ditches.
 - Excess concrete/water from concrete trucks shall be disposed of in portable washout concrete basin or disposed of in a contained area.

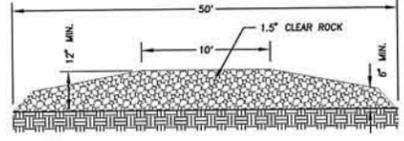
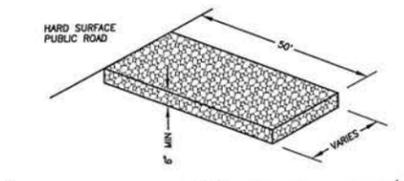
- INFILTRATION BASIN NOTES**
- Grading and construction of the infiltration basin shall not begin until all construction in the contributing drainage area has been completed and the site is stabilized.
 - Grading shall be done using low-impact earthmoving equipment to prevent compaction of underlying soils. Small tracked dozers and bobcats are recommended.
 - Excavate the infiltration basin to the specified depth. All sub-material below the specified elevation shall be left undisturbed.
 - In the event that sediment is introduced into the infiltration basin following excavation, this material will need to be removed prior to finishing the construction process.
 - Seeding shall be completed within 48 hours of grading.

LOT AREA = 5.00 ACRES
 DISTURBED AREA = 1.2 ACRES
 IMPERVIOUS AREA = 0.26 ACRES
 CUT = 1,700 C.Y.
 FILL = 1,650 C.Y.

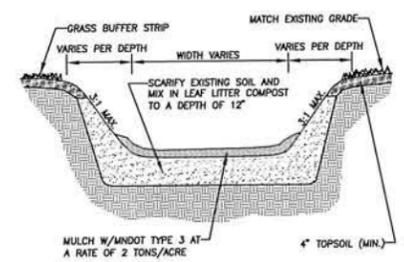
- LEGEND**
- BOUNDARY/ROW/BLOCK LINE
 - - - EASEMENT
 - - - SETBACK
 - PROPOSED CONTOUR
 - PROPOSED ELEVATION
 - PROPOSED EMERGENCY OVERFLOW ELEV.
 - PROPOSED SILT FENCE
 - EXISTING CONTOUR
 - EXISTING ELEVATION
 - SOIL BORING LOCATION



1 C1 SILT FENCE NO SCALE

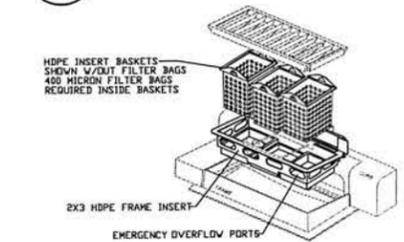


2 C1 ROCK CONSTRUCTION ENTRANCE NO SCALE



- RAIN GARDEN PLANTS**
- Wet Zone (944.5-945.5):
 Great Blue Lobelia (*Lobelia alba*)
 Blue Flag Iris (*Iris versicolor*)
 Blue Vervain (*Verbena hastata*)
- Dry Zone (945.5-946.5):
 Wild Geranium (*Geranium maculatum*)
 Joe Pye Weed (*Eupatorium purpureum*)
 Columbine (*Aquilegia*)
 Aromatic Aster (*Aster oblongifolius*)
 Hensbell (*Companula rotundifolia*)
- Approx. 1,350 plugs required at 12"-15" spacing

3 C1 INFILTRATION BASIN X-SECTION NO SCALE



MEETS MNDOT SPECIFICATION 3991F
 'STORM DRAIN INLET PROTECTION - FILTER BAG INSERT'

4 C1 INLET PROTECTION (INFRASAFE OR EQUAL) NO SCALE

Rehder & Associates, Inc.
 Civil Engineers, Planners and Land Surveyors
 3440 Federal Drive, Suite 110 • Eden, Minnesota 55122
 651-922-0011 • Fax 651-922-0797 • email: info@reha.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.
Michael P. Ashes, Date 7-18-16
 Name: Michael P. Ashes, Reg. No. 43856

ISSUED	6-20-16
CITY SUBMITTAL	7-13-16
ADDRESS CITY COMMENTS	7-18-16
ADDRESS CITY COMMENTS	7-18-16

GRADING & EROSION CONTROL PLAN
HAYDEN HEIGHTS
CITY OF INVER GROVE HEIGHTS

SHEET NUMBER
C1

INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

OPT-OUT ORDINANCE TEMPORARY FAMILY HEALTH CARE DWELLINGS

Meeting Date: August 8, 2016
 Item Type: Regular Session
 Contact: Allan Hunting 651.450.2554
 Prepared by: Heather Botten, Associate Planner
 Reviewed by:

PURPOSE/ACTION REQUESTED

Consider the Second Reading of an Ordinance to opt-out of the requirements of Minn. Stat. §462.3593, subd. 9, which defines and regulates Temporary Family Health Care Dwellings.

- Requires 3/5th's vote.

Council reviewed the first reading of the ordinance amendment at the July 25, 2016 meeting. No changes to the ordinance were suggested. Staff has not received any comments from residents regarding the proposed ordinance.

This past May, the Governor signed into law regulations that allow temporary family health care mobile dwellings to be placed on property to provide for transitional housing for those with mental and physical disabilities. The statute provides specific rules and regulations that allow these as permitted uses. The law also allows cities to “opt-out” of the regulations provided City Councils adopt an opt-out ordinance prior to September 1, 2016. If no action is taken, the new rules become mandatory on September 1, 2016.

ANALYSIS

The City recently adopted an ordinance allowing accessory dwelling units to provide for different types of housing opportunities for families, which would accommodate the housing needs outlined in the temporary family health care dwelling law. The Police and Fire Departments have commented that they would favor the City adopting the opt-out ordinance.

Due to the limited scope of the ordinance and time sensitivity for action, Council may chose to waive the standard three reading procedure and formally adopt the ordinance with two readings.

RECOMMENDATION

Planning Staff: Recommends the Council adopt the opt-out ordinance since the City provides alternative housing options under the current accessory dwelling unit regulations.

Planning Commission: Also recommends adoption of the opt-out ordinance (8-1) as they also felt the ADU ordinance provided opportunities for families to address their special needs housing.

Attachment: Opt-Out Ordinance

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE OPTING-OUT OF THE REQUIRMENTS OF MINNESOTA
STATUTES, SECTION 462.3593

WHEREAS, on May 12, 2016, Governor Dayton signed into law the creation and regulation of temporary family health care dwellings, codified at Minn. Stat. §462.3593, which permit and regulate temporary family health care dwellings;

WHEREAS, subdivision 9 of Minn. Stat. §462.3593 allows cities to opt-out of those regulations;

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS
FOLLOWS:

Section One. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Inver Grove Heights opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

Section Two. Effective Date. This Ordinance shall be in full force and effect upon its publication as provided by law.

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

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

SCHEDULE 2nd and 3rd Readings

Meeting Date: August 8, 2016
 Item Type: Regular
 Contact: Joe Lynch, City Administrator
 Prepared by: Michelle Calvert, City Government Intern
 Reviewed by: n/a

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:

Consider the Second and Third Reading of an Ordinance Amendment to Ordinance 5-6-1 to amend the language.

SUMMARY:

Council reviewed the first reading of the ordinance amendment at the July 25, 2016 meeting. No changes were made; Council has directed Staff to bring the ordinance amendment forward for the 2nd and 3rd readings at the August 8th meeting.

RECOMMENDATIONS

Staff: Present amended ordinance per Council comments for second and third reading and approval of the ordinance amendment.

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE
SECTION 5-6-1 (D)(2)(a) (D)(1)(a), (D)(2) and (D)(2)(a), (D)(2)(i)(1) and (D)(4)
RELATED TO USE OF BOWS AND ARROWS**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

Section One. Amendment. Section 5-6-1 (D)(2)(a) (D)(1)(a), (D)(2) and (D)(2)(a), (D)(2)(i)(1) and (D)(4) of the Inver Grove Heights City Code is hereby amended to read as follows:

5-6-1: USE OF FIREARMS AND BOWS AND ARROWS:

D. Restrictions On Use Of Bow And Arrow:

1. The shooting or discharge of any bow and arrow within the city is hereby prohibited except in any of the following circumstances:
 - a. While hunting or engaged in target practice in that geographic portion of the city designated on the map ~~dated August 24, 2015~~, effective September 17, 2016, on file with the city clerk as the area available for hunting or target practice, subject to the conditions hereafter set forth; the above identified map is hereby approved and hereby incorporated by reference and made a part of this section; or
 - b. While engaged in target practice within an enclosed structure; or
 - c. While engaged in target practice at a posted and designated archery range in a city park; or
 - d. While engaged in target practice on school or college grounds as part of an instructional course or supervised recreational activity and only with the permission of the school or college; or
 - e. While engaged in target practice at a licensed commercial archery range.
2. Provided, however, the shooting or discharge of a bow and arrow under the circumstances described in subsection D1 of this section relating to hunting or target practice in that geographic portion of the city designated on the map ~~dated August 24, 2015~~, effective September 17, 2016, on file with the city clerk shall only occur if the following conditions are met:
 - a. All persons whether hunting on their own property or property owned by someone else must register with the Police Department, and must also provide a copy of the hunting license as well as proof of proficiency to be obtained at a local or regional archery range or outdoor sporting goods store, the measure of which is the ability to shoot five of five arrows into a 4" target at 20 yards.
 - b. There shall be no shooting or discharge of any bow and arrow within three hundred feet (300') of any residential or commercial structure.

- c. There shall be no shooting or discharge of any bow and arrow within two hundred feet (200') of any driveway not owned by the person engaged in the shooting or discharge, unless the owner of the driveway consents in writing and files the written consent with the city police department prior to the shooting or discharge.
- d. There shall be no shooting or discharge of any bow and arrow within two hundred feet (200') of any public street or private roadway.
- e. On an individual parcel less than five (5) acres in size, no shooting or discharge of a bow and arrow shall occur unless allowed under subsections D2e and D2f of this section.
- f. On an individual parcel of two and one-half (2.5) acres or more in size but less than five (5) acres in size, the owners of the parcel, the tenants of the parcel and the spouses, parents, children, grandparents, aunts, uncles, brothers and sisters of the owners or tenants may shoot or discharge a bow and arrow on such parcel for hunting or target purposes.
- g. On contiguous parcels that are cumulatively five (5) acres or more in size when combined, the owners of the parcels, the tenants of the parcels and the spouses, parents, children, grandparents, aunts, uncles, brothers and sisters of the owners or tenants and those receiving written permission from all the owners may shoot or discharge a bow and arrow on such parcels for hunting or target purposes if the owners of the contiguous parcels in writing consent to the use of the parcels for such purposes and the owners have filed the written consent with the city police department prior to the shooting or discharge.
- h. On an individual parcel of five (5) acres or more in size, only the owners of the parcel, the tenants of the parcel and the spouses, parents, children, grandparents, aunts, uncles, brothers and sisters of the owners or tenants and those receiving written permission from the owner may shoot or discharge a bow and arrow on such parcel for hunting or target practice purposes.
- i. In those instances stated above, where written permission from the owner is required, the following additional conditions must be met:
 - (1) Prior to any shooting or discharge of a bow and arrow, the person receiving the written permission shall file with the city police department the following information in writing: name, address and telephone number of the fee owner and of the persons receiving the permission; the beginning and end dates when hunting or target practice is to occur; a general description of the location of the subject parcel; a copy of the written permission received from the fee owner; as well as proof of proficiency to be obtained at a local or regional archery range or outdoor sporting goods store, the measure of which is the ability to shoot five of five arrows into a 4" target at 20 yards. the license plate number of the vehicle that the person will be driving to the subject parcel; evidence that the person has a valid Minnesota archery license; and emergency contact information.
 - (2) The written permission from the fee owner must specifically state the beginning and end dates for which permission has been granted. The person receiving such permission must have the written permission in possession at all times while hunting or target practicing on the subject parcel. Discharge of the bow and arrow on the subject parcel shall only occur on the dates stated on the written permission. No shooting or discharge of a bow and arrow and no hunting shall occur on the subject parcel if the fee owner revokes the written permission.
- i. The person discharging the bow and arrow for hunting purposes must comply with all the laws and regulations of the state of Minnesota relating to hunting.
- 3. To facilitate inquiries with respect to which parcels of land are not available for hunting or target practice because the owners thereof decline to grant permission for such activities, the clerk shall maintain a list by owner name and address for such non-available parcels. In order for the owner name and parcel address to be placed on the list, the parcel owner must in writing notify the clerk that the owner wishes to be on the list and has decided not to grant permission for hunting or target practice. The name of the owner and the parcel address shall be removed from the list if the owner files a written request with the clerk to remove the owner name and parcel address. The creation of the list is a voluntary program. There is no requirement that an owner and parcel be on the list in order

for the owner to decline permission to anyone for hunting or target practice. The purpose of the list is to present an opportunity for an owner to make known that the owner has decided not to grant permission with the result that contacts with the owner are reduced or eliminated.

4. The council, by resolution, may in its discretion on an annual basis add parcels to that geographic portion of the city available for hunting or target practice referenced in subsection D1a of this section. If the council adds additional parcels by resolution, the authorization granted by the resolution and the inclusion of such parcels within the above referenced geographic area shall expire on December 31 of the year when the resolution was passed. If an owner wishes the council to include the owner's parcel within the above referenced geographic area, the owner must make an application to the city no later than ~~September 4~~ August 15 of the year the owner wishes the parcel to be included. (Ord. 1300, 8-24-2015)

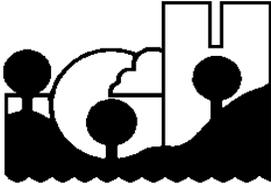
Passed in regular session of the City Council on the 8th day of August, 2016.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

By: _____
Michelle Tesser, City Clerk



CITY OF INVER GROVE HEIGHTS

MEMORANDUM

TO: Mayor and City Council Members

FROM: Michelle Calvert, City Government Intern

SUBJECT: Trash Hauler Licenses/Standards for Haulers/Fee Structure

DATE: August 8, 2016

At the June 6, 2016 Work Session staff presented options available to address concerns that had been received about the number of trash hauler trucks on city streets. The City currently licenses 17 different trash haulers for a total of 127 licensed trucks. A 60-day moratorium was set to prevent any further trash hauler licenses from being issued during that time so that staff could study the issue further.

Council directed staff to research what other cities have implemented and the following topics were studied:

- Service standards set by ordinance
- Price points for licenses
- Number of licenses issued

Research indicates that trash hauling ordinances vary widely across Dakota County, although most cities had much more robust ordinances than Inver Grove Heights. Some cities vary price points for licenses. Some cities break their licensing down into different categories; residential, commercial (including multi-family residential), and construction. Some cities require that vendors provide their price lists to the city to be published on their website, while other cities provide a link to the hauler's website or simply the name, address and phone number. It was also discovered that Inver Grove Heights has approximately double the number of licensed residential haulers as other cities, even those that have twice the population of our city, as indicated in the table below.

Name of City	Population	# of Residential Haulers
Apple Valley	55,124	7
Burnsville	61,434	7
Eagan	65,453	7
Farmington	22,167	1 (Organized)
Inver Grove Heights	33,880	14
Lakeville	58,562	6
Mendota Heights	11,172	9
Rosemount	22,666	7
South St. Paul	20,436	16*
West St. Paul	19,756	6

* South St. Paul does not distinguish between types of licensed haulers.

Staff was also directed to work with current licensed haulers to discuss ways to mitigate the effects of so many trucks on City streets. Staff then notified all licensed haulers that the City wanted to meet and set the date for Wednesday, July 27. The following topics were discussed:

- Fee Structure for different kinds of service
- Standards of operation and consequences of not meeting standards
- Consider reducing the number of days trucks are allowed to pick-up
- Consider setting certain days that trucks are allowed to pick-up
- Consider limiting the number of licenses the City will issue
- Consider how to continue providing services as the City grows

After the meeting it was determined that current trash haulers are interested in meeting with the city again, for further discussions on ways to serve residents better.

Staff is recommending that Council approve the amendment to the ordinance to limit the number of licensed haulers and is seeking further direction on those limitations with regard to licenses that are not renewed or requests for transfers of licenses.

Staff will meet with trash haulers again after receiving direction from Council so that we can return with further recommendations on fees, days of collection, standards of operation, and recycling.

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA
ORDINANCE NO. _____
AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE
SECTION 8-6-2(E) RELATING TO THE NUMBER OF LICENSES
FOR TRASH COLLECTION**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

Section One. Amendment. Section 8-6-2(E) of the Inver Grove Heights City Code is hereby amended to read as follows:

E. Term Of License; Expiration; Renewals; Number of Licenses and Eligibility:

1. No license issued hereunder shall be for a period longer than one year. All licenses shall expire on December 31 following the date of issuance unless sooner revoked or forfeited. If a license granted hereunder is not renewed previous to its expiration, then all rights granted by such license shall cease, and any work performed after the expiration of the license shall be in violation of this chapter. (1974 Code § 610.03)
2. Persons renewing their license after the expiration date shall be charged the full annual fee. No prorated license fee shall be allowed for renewals.
3. No more than seventeen (17) licenses shall be issued in any license year. Persons eligible to obtain a license are only the following:
 - a. Those persons that held a license on September 1, 2016; and
 - b. Those license transferees approved under Section 3-2-8 to whom a license was transferred from a person that held a license on September 1, 2016.

Section Two. Effective Date. This ordinance amendment shall be effective from and after its passage and publication according to law.

Passed this ____ day of August, 2016.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

By: _____
Michelle Tesser, City Clerk