

INVER GROVE HEIGHTS CITY COUNCIL AGENDA

Monday, July 23, 2018

8150 BARBARA AVENUE

7:00 P.M.

1. CALL TO ORDER

2. ROLL CALL

3. PRESENTATIONS

A. Introduction of New Community Development Director, Janice Gundlach

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. Minutes of July 2, 2018 Work Session Meeting Minutes

Minutes of July 9, 2018 City Council Meeting Minutes

B. Resolution Approving Disbursements for Period Ending July 18, 2018

C. Schedule Election Canvass Meeting on August 17, 2018

D. Consider Awarding a Contract for Storm Water Pipe Repair at the VMCC

E. Consider Change Order #1 for the West Rink Floor Project Contract to Minnesota Ice LLC

F. Resolution Authorizing Transfers to City of Inver Grove Heights Economic Development Authority (EDA)

G. Consider Pay Voucher No. 2 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements

H. Consider Change Order No. 3 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements

I. Consider Pay Voucher No. 8 for the 2017 Capital Improvement Program, City Project No. 2017-02 – NWA Watermain Improvements, 65th Street Loop

J. Consider Change Order No. 1 Amending the Contract for City Project No. City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements for Street Light Removal (Phase 1) to Include Boulevard Restoration (Phase 3)

K. Consider Change Order No. 2 for City Project No. 2018-07 – 2018 Pedestrian Ramp ADA Compliance

L. Consider Change Order No. 1 for City Project No. 2018-09B – Sealcoat

M. Approve Custom Grading Agreement for 4740 Babcock Trail (NE ¼ of the SE ¼ of Section 29, Township 28, Range 22, Dakota County, Minnesota

N. Resolution Authorizing Advertisement for Bids for Public Works Maintenance Facility HVAC Improvements

- O. Consider Resolution Awarding Contract for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop, and 2017-24 – T.H. 3 Intersection Improvements for 65th Street
- P. Approve Amendment to Custom Grading Agreement and Stormwater Facilities Maintenance Agreement and Release and Indemnification Agreement for 8879 Alverno Ave (Lot 2, Block 1, Llonis Addition)
- Q. Consider Resolution Receiving the Feasibility Report, Scheduling of a Public Hearing, and Authorizing Submittal of a Point Source Implementation Grant Application for City Project No. 2017-17 – Dickman Industrial Park Wet Extended Detention Basin
- R. **INDUSTRIAL EQUITIES;** Approve Resolution relating to the Development Agreement, Storm Water Maintenance Agreement and related agreements for the plat of Industrial Equities located at Auburn Path and Argenta Trail
- S. 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 HEARING:**

7. **REGULAR AGENDA:**

I. COMMUNITY DEVELOPMENT:

A. **MEI MEI MAK;** Consider an Ordinance Amendment to the Bishop Heights PUD Ordinance to allow for a massage business to be located on Lot 3, Block 1, Bishop Heights 4th Addition

B. **BETH & STEVE HOEPPNER;** Consider a Resolution relating to a Conditional Use Permit to exceed the maximum impervious surface allowed on the property located at 6511 Arctic Way

C. **JAN & LINDA JENSEN;** Consider a Resolution relating to a Variance to adjust a lot boundary that creates a lot less than the required 2.5 acre minimum for the property located at 2701 87th Street

D. **CASEY'S RETAIL STORES;** Consider the following resolutions for the property located at Hwy 3 and Diffley Court:

- a) Resolution relating to a Preliminary Plat for the plat of Robert Curve Second Addition
- b) Resolution relating to a Final Plat for the plat of Robert Curve Second Addition
- c) Resolution relating to a Conditional Use Permit for a convenience store with gas sales
- d) Resolution relating to a vacation of drainage and utility easements within Outlot B, in the plat of Robert Curve

E. **FRATTALONE'S DAWNWAY;** Consider a Resolution relating to an Amendment to the Non-Conforming Use Certificate allowing the landfill to operate for an additional 10 years and approving a resolution relating to an amendment to the Host Community Agreement. The property is located on Dawn Way, west of Concord Boulevard

II. PARKS AND RECREATION:

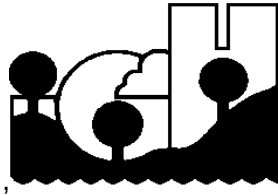
F. Consider Approval of Improvements to River Heights Park

G. Consider Awarding a Contract to Pember Companies Inc. for the Heritage Village Park Dog Park

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

MEMORANDUM

TO: Mayor & City Council

FROM: Joe Lynch, City Administrator

SUBJECT: Community Development Director

DATE: July 16, 2018

I would like to take this opportunity to introduce our new Community Development Director, Janice Gundlach.

However, I would be remiss if I didn't also take this opportunity to recognize and thank Tom Link for his 32 plus years of service to the City of Inver Grove Heights as the Community Development Director. He has overseen many, many changes to the city. He has handled all of them professionally and with great pride in making the community better.

Ms. Gundlach comes to us from the City of New Brighton, where she has served as the Assistant Asset Management and Community Development Director. She has 12 years of service with that community and over 16 years overall. Her experience is wide and varied; she has been a City Planner, worked on a complex and long-term redevelopment project and has taken on increasing leadership roles up to her most recent position. She has been the project manager for a 100-acre brownfield redevelopment project known as the New Brighton Exchange involving property acquisitions, land clean up and recruitment and retention of new and existing businesses.

Ms. Gundlach has an undergraduate degree in Landscape Architecture from the University of Minnesota. She looks forward to working with elected officials, other staff, community and business members as well as those associated with the Chamber of Commerce, progress Plus and the Dakota County CDA. Her official start date was July 16th. You can reach Janice by email at jgundlach@invergroveheights.org. She will eventually will retain the current phone contact number that Tom Link uses, 651-450-2546.

**INVER GROVE HEIGHTS CITY COUNCIL WORK SESSION
MONDAY, JULY 2, 2018, 6:00 PM – 8150 BARBARA AVENUE**

A. CALL TO ORDER: The City Council of Inver Grove Heights met in work session on Monday, July 2, 2018, in the Inver Grove Heights Council Chambers. Mayor Tourville called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Roll call: Present were Mayor Tourville, Councilmembers Bartholomew, Hark, Perry, and Piekarski Krech. Staff present; City Administrator Joe Lynch, City Attorney Tim Kuntz, City Planner Allan Hunting, City Clerk Michelle Tesser, Parks and Recreation Director Eric Carlson, Police Chief Paul Schnell, Fire Chief Judy Thill, and Associate Planner Heather Botten.

1) Fire Station Update

City Administrator Joe Lynch reported that staff went out for RFP's for owner representative services for the new fire station, and through the course of discussions with the firm that was awarded the contract, staff had the opportunity to explore construction management services. The difference between the owner representative service and the construction management services is that the construction management services will be the general contractor. They will bid out the individual contracts and that way local companies can bid on the individual contracts. There would be cost savings because there would be no markup in the bidding process. They would be representing the City, not the contractor, and they would make sure that change orders are dealt with appropriately. The question is, if we go down this road. He stated he didn't have a chance to talk to Attorney Kuntz. He stated he's not sure if we need to bid this service out again, because the RFP that was issued was for owner representative services not construction management services. Staff is not sure if we want to do this, it could mean a four to six-week delay.

Councilmember Piekarski Krech asked if there were a cost differential between having a construction manager or an owner's representative. Mr. Lynch responded in the affirmative. The owner's representative services as we bid it out is approximately \$82,000 to \$83,000 at the time. Typically, the construction management services average out to about 3.5% to 5% of the construction costs. If we have a \$5 million cost for the building it would be 3.5% to 5% of that cost above the \$82,000 to \$83,000 on the owner's representative services. The questions are do we have to rebid and can we negotiate that with the current contract.

City Attorney Kuntz responded that this is all new and what is being discussed will raise issues. He did not know if the construction representative was bid as a professional service or somehow it was bid as building repair or construction of a building. He stated would have to be explored. He is familiar with the construction contractor approach where you hire someone who manages six or seven contracts for you. Attorney Kuntz stated he is uncertain of this approach of a general contractor, you then don't have contracts with the subparts. He stated he does not know who will provide the performance and payment bonds for the multimillion dollar project. He stated has more questions than answers this evening.

Mayor Tourville asked if it was possible to put this on next Monday night's Council meeting to look at. This is a big project. Then these questions could be answered at that meeting. Mr. Lynch said it would be. Councilmember Piekarski Krech also said to look at if the costs are justified.

Fire Chief Thill said the advantages of having a construction management service are having someone watch the day-to-day operations, deal with change orders and having the contracts

bid in smaller pieces. Mr. Kuntz asked who owns the contract and who hires the contractors for the smaller contracts. Mr. Lynch responded he understands it is the construction manager. Mr. Kuntz asked who the bond runs to. Mr. Lynch responded to the construction management services. Mr. Kuntz asked what if we don't have a bond to back up to because it goes to someone else. Mr. Lynch responded that is the case with the general contractor as well. The general contractor would have the bond. Mr. Kuntz asked running to the city. Mr. Lynch asked if it could not be done with the construction management services also. Mr. Kuntz responded construction management services needs to be defined.

Ms. Thill gave a quick update on the fire station schedule. The owner's representative has been hired. If changed to construction manager per that company it will not delay anything, so the schedule would still stay on track. They have had three to four weeks to review the plans, make any changes, make any recommendations and then bring it back to the Council to put it out for bid. Bidding will take it out another month. Then another month to set-up with the contractor once the bid is awarded. We are looking at breaking ground at the end of September or beginning of October. We are looking at a 12-month construction period. We are hoping to have it open by Fire Prevention Week in October of 2019.

2) Short-Term Rental

Heather Botten, Associate Planner, presented the item stating that staff is looking for a recommendation on how to proceed with short-term rentals. She stated this item had been heard at two work sessions last year. It was discussed to prohibit short-term rentals. The item was brought to the Planning Commission for a Public Hearing. She stated that the Planning Commission did not support the ordinance amendment to prohibit short-term rentals at that time. It was brought before the City Council for the third reading in November 2017 and City Council reversed its decision to prohibit and possibly allow them with some conditions. Council directed staff to bring the topic back to the Planning Commission and Housing Committee for further review and comment.

Different alternatives were discussed and a recommendation that if the City decides to allow short-term rentals, it would be done by the interim use permit process. The interim use permit process would be:

- o Require neighbor notification
- o Allow for enforcement through the termination of the permit
- o Allows for general conditions that would be applied to all short-term rentals in the city
- o Allow for conditions that could be specific to a location and
- o Treats all the applicants the same

She stated that both the Planning Commission and Housing Committee support allowing short-term rentals. The Planning Commission mainly focused on what type of process should be required (interim use permit verses a license). The Housing Committee discussed specific regulations such as not have the application fees be too high, concerns about requiring off-street parking and limiting the number of properties an individual could rent out.

Staff is looking for direction on how to proceed and staff is supporting the interim use permit process.

Councilmember Hark asked about the interim use permit process – why is this process easier for enforcement (versus licensing) and is concerned about enforcement in particular neighborhoods. Ms. Botten responded that if there were violations of the conditions for approval it would be brought back before City Council to revoke the interim use permit and they would no longer be able to have a short-term rental. Councilmember Hark asked if that would be the same for someone having a license. Ms. Botten was unsure. She believes the rental license process as set up now - that the license could not be revoked automatically.

Mayor Tourville said he recalls discussing that 30 days be the minimum allowed for short-term licensing and neighborhood notification. There have been three or four problems in the city regarding rentals. One person came before Council and said that there were no rules or licenses in place so the City Council could do nothing regarding the rental. Ms. Botten said she checked with the Police Department and there have been no complaints this year including homes that may have been rented during the Super Bowl. Even in regard to the one property this is a short-term rental and had complaints in the past had no complaints.

Councilmember Hark asked what other cities are doing. Ms. Botten said you will find a variety – some cities allow them be a conditional use that would stay with the property but also require a license. That would be changed per property owner. With the interim use permit you could implement different conditions and when the permit would expire. Right now, the ordinance only allows an interim permit to be extended once but that could be changed for rentals and could require a yearly renewal or if a certain number of complaints are received they would have to come back. Other cities just do licensing. Some cities don't allow them.

Councilmember Piekarski Krech asked if using the interim use permit - any number of interim uses could be allowed, or would they have to come back every year or every other year. Ms. Botten responded that the interim ordinance currently only allows an interim permit to be extended once and is based on years or events that could happen. There are different types of ways to end the permit or have them come back and renew. Or the ordinance could be amended to be specific for a short-term rental.

Councilmember Bartholomew said he would support an interim use – the conflict of a hotel environment in a residential area is bothersome. With the interim use it can be crafted to eliminate some of the problems and give oversight on it.

Councilmember Hark said that the enforcement needs to be strict and tight. He would like to see folks come in on a yearly basis initially. He likes the idea of the interim use. Extensions could be allowed on a yearly basis for short-term rentals.

Mayor Tourville said other cities do not allow the sales of alcoholic beverages and other vices are listed. That would have solved some of our past issues. Other cities also include as conditions no selling of controlled substances or prostitution. Some of our problems were for weekend rentals. Things could be listed like the graduation parties and put onus on adults. The interim would let us do a better job of listing conditions to protect the residents. We need to protect the homeowners and residents. A concern might also be, if a renter rents a property and finds out they can't park on the street during the winter months.

Councilmember Hark said it would be nice to have a packet to hand out to applicants, if this passes.

Ms. Botten said if Council directs staff to use the interim use permit tonight, it would go back to the Planning Commission for a public hearing, go back to the Housing Committee for their comments, language would be drafted to put in the ordinance for the City Code for interim use for short-term rentals. The conditions would apply across the board (which would be included in the actual ordinance), from there we give out packets to all applicants so we could amend the application for an interim use permit for short-term rentals – and put the guidelines in there, from there any house that wants to have a short-term rental, they would then have to come before the City Council and go through the public hearing process. Staff would meet with the applicant regularly before the public hearing.

Councilmember Piekarski Krech asked how many conditions could be put in an interim use permit. A concern would be parking, especially in a neighborhood that is renting out a townhome. A townhome could sleep six but there may only be two parking spaces. Certain areas may need certain restrictions that other areas do not. Can each interim use for a rental be a little bit different. Ms. Botten said each one could be a little different. We could put something in the ordinance that states that you have to provide off street parking based on the number of bedrooms. When they come through the process and show us they can have eight people stay there and are only able to provide two off street parking spaces we can then say you can only have the number of people stay there based on the number of parking spaces in that specific permit. Mayor Tourville said some townhome associations do not allow the subleasing of properties.

Mary Tkach, 7848 Babcock Trail, said she is not attending from the Housing Committee, she is here as a resident. A lot of points that were brought up tonight are valid points. Looking at the staff report and other cities regulations, she believes this should be done in phases and the City Council should back off on all across the board conditions. Maybe the properties should be homesteaded for the first few years and see how it goes. So, you don't have investors come into town buying up the most affordable houses, then driving them into the ground, and getting income out of them. That would tie up the housing stock for young families. I am fully supportive of it – but we should think about what the short-term rental does. I am trying to think five years down the road. Other cities across the county that have these ordinances, they start to run into people that come in and run 10 or 15 short-term rentals in those towns, which takes up the best, affordable housing in those communities. If it is phased in, we could see how things go and see where the issues arise. We don't want to limit the number of interim use permits, but maybe limit where they are issued.

Councilmember Hark asked if she was suggesting limiting the number to a block or the entire city. Ms. Tkach, said no, I don't think of limiting them in numbers at all. I am thinking the properties should have a homestead requirement because then the owners would be looking at not having the home wrecked, or wrecking relationships with their neighbors. Councilmember Bartholomew said it is a good point to limiting it to a homesteaded property plus one or two other properties. Mayor Tourville said other cities have used the homestead requirement. There will be some problems, but we are trying to do the best we can as a Council.

Mayor Tourville said it seems to be that the interim use permit was the way to go and asked Ms. Botten if she had was she needed. She replied in the affirmative. Mayor Tourville said there were some good ideas in the examples from other cities that were included in tonight's packet. The League of Minnesota Cities also has information on short-term rentals. Ms. Botten said this would come back to a regular City Council meeting.

3) Trade Area/Charitable Gambling Discussion

City Clerk, Michelle Tesser, introduced the item. The City Council and staff has discussed briefly about the trade area portion of Chapter 7 (Gambling Regulations) of the City Code and determined that a review of the City Code in the current trade area designation would be a good idea for the Council to consider. A resident also expressed his opinion stating the City should be collecting 10% of the net profits from gambling, that would be administered by the City, then disbursed to non-profit organizations. Ms. Tesser stated the trade area designation and a 10% collection would be two different components of the City Code. The trade area is currently outlined in the City Code under 4-7-4 as the cities of Inver Grove Heights, South Saint Paul, Rosemount, Eagan, West St. Paul, Sunfish Lake, St. Paul Park, Newport, and Mendota Heights (cities contiguous with the City of Inver Grove Heights). These are all considered the trade areas. In reviewing the last 2017 reports, premise permit holder reports for charitable gambling (included in the packet) show very little funds from the 60% of the net profits that are actually going to the City of Inver Grove Heights. In discussing ways, the City could help increase revenue for the non-profit programs – such as programs for the park and public safety related items that are organized under the non-profit status, 501c (3), these proceeds could help with particular areas and also provide opportunities from other neighboring non-profit organizations.

Ms. Tesser stated cities with an established 10% contribution, the City Council selects the non-profits yearly based on applications received and then the 10% proceeds would go through the city that has set-up a special revenue fund similar to the CDB. Ms. Tesser stated that staff is looking for direction from the Council if they would like staff to review the trade area, the City Code for gambling and whether you would like to consider adding a 10% contribution. Examples from other cities are in the packet.

Councilmember Bartholomew said he is looking at the document from Nelson CPA that shows the Total Lawful Purpose Expenditures of \$67,961.69, Inver Grove Heights allocated portion of \$27,859.28, and portion to be spent in Inver Grove Heights of \$16,715.57. If the allocated portion is \$27,000 and the portion spent in Inver Grove Heights is \$16,000 isn't there already a discrepancy of \$11,000. Am I reading that correctly – is there a violation there or am I misreading it. Councilmember Piekarski Krech said it looks like only \$16,000 needs to be spent in Inver Grove Heights.

Mayor Tourville asked why the city does not have a report for all the organizations to fill out. Some fill out their own reports. Our ordinance under Chapter 7 (Gambling), on page 2 is confusing. Is that the organization that would hold the gambling permit or is it the organization that could get the funds - "local organization is defined by Minnesota Statute section §349.12 that also meets the following criteria". There are a couple of questions because of the criteria listed. Is it the group getting the funds or is it the group getting the permit. There are some issues. Mayor Tourville stated that the ordinance needs to be looked at. The organizations that are doing the gambling in Inver Grove Heights, because of the trade area they meet the criteria and they did not give one cent to any organization in Inver Grove Heights. Mayor Tourville asked what trade areas are needed and if this is required by state statute.

Mr. Kuntz said the local organization definition has under the ordinance only one purpose and that is if there are two or more organizations that are vying for the premise permit at the location the ordinance gives under section 4-7-9a preference to the local organization. It's neither the recipient of the money or the licensed organization. Mayor Tourville asked if the language should be cleaned up. Mr. Kuntz said it could be flagged by using the language local organization and allow the reader to connect with what is going on.

Mr. Kuntz said on the trade area the statute allows the city by ordinance to require a percentage set by the city that collected monies has to be used for lawful purposes in the trade area. Furthermore, the statute says the trade area defined by the city under this subdivision must include each city and township contiguous to the defining city.

Mr. Kuntz said the topic on the table is the interaction of the city with the gambling proceeds. There are three possible points:

1. The designation of trade area (where you spend the money) which has already been discussed – most cities would want an ordinance that says we will spend it here in our city because that is where it came from. You can specify a percentage – there is no minimum or no maximum - 60% is currently in place which can be changed.
2. The city is allowed to impose a 3% tax on a number called gross proceeds minus prizes. The limitation of the 3% is that it can only be used to defray the cost of administration, regulation and enforcement by the city of lawful gambling in its boundaries. The way it is set up you can charge up to 3% but in any given year if you don't spend 3% for those purposes you have to give the money back. A report has to be done to the gambling board and let them know what you spent that money on, how much you spent, how much you have left and that you gave the money back in not spent. With those restrictions, it has not been the tool of choice state wide. 27 cities across the state have used it. The state is really strict in their requirements.
3. 122 cities across the state use what is referred to the 10% fund or the city fund. It allows the city by ordinance to impose a requirement of 10% per year of net profits to be paid over to a fund established by the city and administered by the city. The use of the money as defined in Minnesota Statue 349.12 subdivision 7a can be for charitable contributions or for police, fire, and other emergency, or other public safety-related services, equipment and training. The money can not be used for the General Fund. The fund needs to be specified for what it is being used for.

Three examples were provided in the packet of communities that have had the fund in place (Roseville, Maplewood and Newport). Newport used the funds for Friends in Need Food Shelf, Stone Soup Thrift Shop, City of Newport Summer Rec Program, Library & Community Center Programs, & Newport Fire Department Training & Equipment. Those are examples of what the funds are used for.

Mayor Tourville said in the reporting, one of the gambling license holders did not report where they spent money in the trade area. I believe that is a requirement in the report. The city does have a form and some don't use it. Why is it not 100% to be spent in the trade area (instead of the 60%). He stated that the 60% and then the 10% needs to be discussed.

Rex King, said he is the head football coach at Simley High School and member of Spartan End Zone, a charitable non-profit organization. Dianne Rassman introduced herself stating she is the Gambling Manager for the Spartan End Zone. Mr. King said to give some clarification in regards to some of the numbers and confusion - the 60% can be donated back in multiple ways including in wages and rent. It is not money going back to the community it is money spent in

the community and goes to running part of the business. Can we look at this to keep 100% of the profit monies in Inver Grove Heights. Mayor Tourville said he believes according to the state statute you can't specify that the 100% of the money stays in Inver Grove Heights. Mr. Kuntz responded that is correct.

Ms. Rassman said she would like to grow the business but can only have the two sites in Inver Grove Heights that already exist because of the city ordinance. You also cannot have more than one charity in one facility. The gambling board does not regulate this but the city does. We can't have electronic gambling in other sites, so it is hard for us to grow. It is hard to go out of the city because we are an Inver Grove Heights' charity. Mayor Tourville said it is not the city, it is the premise and is something to look at. Ms. Rassman said some cities are closed cities for example South Saint Paul is a closed city, but their charities come into Inver Grove Heights. Mr. Kuntz said an eligible organization receives a gambling permit can be limited to Inver Grove Heights' organizations only. Mayor Tourville said most are meat raffles. Ms. Rassman explained how the meat raffles work, organizations bring in youth organizations, even from outside of the city, and use volunteers, and then the organization gets a small portion of the profits.

Ms. Tesser said the only way for an established premise holder to not be that anymore is if the actual liquor establishment decides to sign the agreement and go with someone else. This has been experienced. Ms. Tesser asked if the 60% could be changed. Mr. Kuntz said yes. Ms. Tesser asked then if the trade area percentage could be decreased and then the 10% could be implemented. So, the programs and non-profits stay within Inver Grove Heights area. Mr. Kuntz said you could change the 60% number, you could utilize a trade area tool, and use a 10% tool. They are not exclusive of each other.

Councilmember Piekarski Krech asked if 60% and 10% could be done. Mayor Tourville said we could do 100%, plus 10%. Those are all options.

Mr. King said if the city is closed there needs to be an infrastructure of charities that can support the bar locations. I don't want the owners to suffer because of a move like that. Allowing multiple organizations in one location could meet the need of bar owners. Mayor Tourville suggested changing the 60% in the trade area to a higher number.

Councilmember Hark asked why change the number to a higher number. Mayor Tourville said because more money would stay in the trade area. Councilmember Hark said that could be accomplished by not raising the percentage, part of the discussion is - should we do the 10%. Councilmember Hark suggested dropping the trade area and increasing the percentage.

Councilmember Bartholomew state that the city's share be increased and the trade area smaller. Councilmember Piekarski Krech said 10% is the most you can do. Mr. Kuntz said 10% is the most you can do for the city funds. The form that is filled out for the city was discussed and the confusion it creates. Ms. Tesser said the form will be fixed but the city code states 60% of the designation area is for those cities and it does not have to be in Inver Grove Heights. The form is old and needs to be tweaked. Ms. Rassman said she would like to be in more than two establishments, if you would allow more than one charity in the same establishment. The State and the Gambling Control Board don't have a problem with more than one charity in the same establishment as long as the bar owner wants that. Ms. Rassman explained how two charities in one establishment would work. Councilmember Piekarski Krech said that seems to be our issue. We have experienced this before. The bar owners did not want them and that is how we ended up with this group that really does not have any affiliation with Inver Grove Heights.

Maybe we need to talk to the bar owners about their ultimate goal and how do they choose which organization they want to host in their facility.

Mayor Tourville said the form needs to be fixed so the numbers can be figured out. To be honest they don't need to report money spent in Inver Grove Heights, just how much in the trade area.

Mayor Tourville said you can have two premise holder permits, but not three and we don't allow more than one license holder per location. He doesn't know if the one is going to create as much demand as allowing a second vendor in. There are not a lot of liquor establishments that don't have pull tabs. Restaurants don't want pull tabs. Ms. Rassman said it may be coming down the pipeline. In order to be in an establishment you have to have paper in order to have electronic gambling. The state may be changing that so you can have electronics in any establishment. I would ask that you allow an Inver Grove Heights charity to have more than two sites and allow two charities in one establishment. There is an existing establishment that is interested in us but we can only be in two sites. Mayor Tourville asked if she knew of any establishments that had multiple vendors. Ms. Rassman said yes, she has worked in those cities, Ramsey and Bloomington are examples. She would be looking at electronic devices for gambling in the other location.

Councilmember Hark said two reports have to be filed. One is a state requirement for the state and one is for the city which are substantially the same.

Councilmember Bartholomew understands wanting more than two locations and having more than one charity in an establishment. He is trying to focus on the numbers on the reports and where they are coming from. The form needs to be changed. Mayor Tourville said the Lawful Purpose Gambling Trade Area Compliance Report Form for the City of Inver Grove Heights needs to be changed. Ms. Tesser said the form is not due until February 2019.

Councilmember Bartholomew said he is not ready to commit to the 10% but is in agreement with lifting the limit of two sites per organization.

Councilmember Piekarski Krech said her initial reading was against the 10%. When you look at what is benefitting the city of Inver Grove Heights she is willing to look at the 10%. We can give back to the organizations that are in the city of Inver Grove Heights. We can give a part of the 10% back to them and it can also be used for police and fire.

Mayor Tourville said leaving the trade area as is, having it at 60%, and look at adding the 10% is a start, and allowing more sites.

Mayor Tourville said this would be an ordinance amendment, do we want to look at allowing licenses for more than two locations. Council Bartholomew said not limiting it. Mayor Tourville said you would not be limited to only two licenses in the city and you could have more than one license at a premise. He asked Mr. Kuntz if that language could be looked at. Mr. Kuntz said he is hearing three things and they are: 1) changing premise permits (was up to two), 2) changing only having one organization at a premise (up to two) at one site 3) creating the 10% fund for the city. If we remove the limitation of more than two places you are servicing should there a limitation of three or four. Mayor Tourville said the establishments will control that. There should be no limit. Councilmember Bartholomew suggested adding that the total balance of the fund should be not be over a certain amount for the 10% collected.

Mr. Lynch asked if this should come back to a work session. Mayor Tourville said yes. When it is on a work session the others should be notified it is being discussed. Mayor Tourville said it should be the goal to take effect January 1, 2019.

4) Noise Ordinance Discussion

Mr. Lynch introduced the item. He says there have been discussions about ambiguity about noise control in the city. There is information for the councilmembers from the League of Minnesota Cities on public nuisances. There is a lot of information with mostly guidelines if you are considering establishing regulations or modifying regulations. The second piece of information is what we currently have in our ordinances which is not comprehensive or all inclusive. The largest one is public nuisances. We do have a large and pretty clear noise abatement overlay district with regard to aircraft noise. The third piece of information is the Minnesota Pollution Control Agency (MPCA) public information as well as administrative rules. This was referenced in our discussions with the operation that we are doing noise monitoring on. Also included, are ordinances from neighboring cities that deal with this issue (South Saint Paul and Mendota Heights). He stated he is trying to define and determine what is noise pollution or what the noise exceedance is. There are probably two situations in the community – 1) as part of the operations of businesses – such as can they be operating at such a time (back up beepers, construction equipment and garbage trucks) and 2) social events (large gatherings, parties, graduations, wedding receptions, or fireworks). He is seeing if the council wants to go in a specific direction, is looking for feedback, or if you want to put something in place that is more specific. Right now, the city has pretty general, broad powers but nothing specific in dealing with the operation of the sand and gravel business. For example, what are our standards. We did not have anything to reference behind that case other than the MPCA regulations. I am looking for direction with regard to a noise ordinance.

Councilmember Piekarski Krech said we reference in our code noise ordinance and yet we don't have a noise ordinance. Noise is talked about under disorderly conduct. I think the concern is can you mow your grass at 5:00 in the morning on Sunday morning. Can you be out running some loud machine at midnight in your garage. We don't really say anything about that so when people are looking – what is the noise ordinance in the city. In South Saint Paul's you are not supposed to cut your grass before 7:00 am or after 10:00 pm. It is easy for people to figure out the rules and regulations. The confusing thing for our residents is that if you look it up in the code book it says look at the noise ordinance and we don't have a noise ordinance. We need to clarify some of those things.

Mayor Tourville said looking at our codes, it does not list a noise ordinance. Somebody needs to be responsible for drafting the ordinance.

Councilmember Bartholomew said that ideas should be sent to the City Administrator for the noise ordinance. Mayor Tourville said South Saint Paul's ordinance seems to be a good idea because it lists things out. Councilmember Hark said the trick is to list out some objective items. That should be the direction we give. Mayor Tourville said looking at the League of Minnesota Cities and surrounding cities are good sources. Councilmember Piekarski Krech said especially listing hours. Residential and rural areas don't have to be the same. Councilmember Perry said it shows up on various social media outlets and they are quoting South Saint Paul's hours and say I don't know what Inver Grove Heights are. People are looking for the distinction. Mayor Tourville said it would help the police and staff that handle those types of calls at City Hall. It needs to be more specific for certain things. Mayor Tourville said this should be looked at in the late fall. Councilmember Bartholomew said having something in place by next spring

would be great. Police Chief Schnell said he would be happy to help work on the noise ordinance specifically for enforceability.

5) City Code Modifications

Police Chief, Paul Schnell, said he wanted to talk about animal control and alarms. We would like some guidance on updating and tweaking the ordinances. For dog/animal control and dog licensing. Right now, the dog license renewal is every two years and runs from May 1 to April 30, is done in odd years and runs now through April 2019. Currently there are 636 licenses issued for dogs. That is only a fraction of the dogs in the city. The vast majority of dogs impounded do not have licenses. We release the dogs from impound without a license. We should require a license to be issued before a dog is released from being impounded. In some cities the veterinarian's offices do issue dog licenses.

There is a public safety benefit for dog licensing. We would know that dogs are being vaccinated. As the dog park begins to roll out, to use the dog park a permit is needed (an annual permit) and the dog has to be licensed. The city's licensing runs on a two-year cycle. A vaccination is usually good for three years.

With the dog park we could see an increase in potentially dangerous dog and dangerous dog cases. Minnesota statutes cover the dangerous dog issue and most cities adopt their language as part of their ordinance. The problem here is that the requirements are the same for a dangerous dog and a potentially dangerous dog this is significant and the burden is high. A dog that is deemed dangerous has to pay a high fee, it has to be in an enclosure, it has to be tagged, have an insurance surety bond, be microchipped, have an outside external posting, and off property that dog has to be controlled with a chain and muzzled. The question for the city is the potentially dangerous dog – an example that can happen is if one dog in a dog park attacks another dog or bites a person – that would generate a potentially dangerous dog.

Does the city want to remain in the business of dog licensing. Is there a feeling of what the term should be – should the fee be cut in half and issued annually. If a permit for the dog park is applied for at the same time the dog license could be applied for. The process would be streamlined. The terms potentially dangerous dogs and dangerous dogs should be differentiated. The ordinance currently calls for a hearing officer, and the number of hearings has increased. At present those hearings are done internally, and the Minnesota Humane Society is willing to serve as our hearing official for a small fee or donation. They have expertise in animal behavior at a higher level and are independent from the city.

Councilmember Piekarski Krech said she is in favor of the two-year dog license. In Eagan, you can buy your dog license at the vet. She would also like the humane society to do the dangerous dog hearings. She would like to see the definitions of dangerous dogs and potentially dangerous dogs differentiated.

Mayor Tourville said he agrees with the two-year dog license and has no difficulty with vet's issuing dog licenses. Working with the humane society is a great idea. Mr. Schnell said the veterinarians would get a small fee for issuing the dog licenses.

Councilmember Hark said maybe some kind of amnesty program could be worked out to get people to come in and sign up. Once there is a record of a dog that could be followed up. The dog park is going to cost money and we need to look for ways to generate some revenue.

Councilmember Piekarski Krech said we are not doing anything to someone who does not have a license. If they are impounded, and it's not licensed part of the impound fee should be a license fee for that dog.

Councilmember Hark said we should have an incentive to get people to come in and get a dog license. Let's try to get creative to get the numbers up.

Mayor Tourville said we need to do a better job of letting people know that dog licenses are needed. Let's see if Mr. Carlson and the Mr. Schnell can come up with something. It may be an advantage to have people get the dog park permit and dog license at the same time.

Councilmember Bartholomew said there should be some kind of partnership with the clinics.

Mr. Schnell said the discussion was helpful and he would work with Mr. Carlson to put something together and bring it back to a work session.

Chief Thill and I have been having discussions as they relate to false alarms. The existing ordinance has been a challenge. The current ordinance requires a registration with no fee to get an alarm permit. False alarms do create a public safety risk. Depending on the type of alarm it dictates the type of response. If it is a code 3 type of response the squad car or fire truck responds code 3. There is a requirement for an alarm permit. There are a number of businesses and residences that do not have an alarm permit. We know that because we do get calls for alarms and we know there is not a permit associated with that address. The responding officer leaves a sticker on the door saying we were here, checked the property, you need to have your system checked, and we leave. If there is no permit or registration in this situation you are not allowed to use your alarm system under the current ordinance.

A decision needs to be made if we want to require that alarms are permitted or minimally registered and have a penalty that is administered. A resident can have two false alarms, the third and beyond there are escalating penalty fees. This is pretty standard procedure for most cities.

The one challenge is there is no mechanism to assess the unpaid permit fees to the property. Some businesses have substantial unpaid false alarm fees and that is because they are not fixing or maintaining their alarm systems. This is necessitating a repeat response.

In 2017, there were 915 false alarm responses in the city for the police. At the pace we are at right now for 2018 we are anticipating 1100 false alarms (nearly 100 per month). It is the hope of the alarm registration that people are addressing alarm problems, having them registered, and creating enforcement options in the event they don't comply with the ordinance requirements. Penalties could be in fees for non-compliance or citations issued for failure to comply on an on-going basis.

Residents and businesses in the community believe the city should not be in the business of regulating alarms. By tweaking the ordinance, we believe this will address the issue of repeat offenders and address the issues on non-compliance with the registration requirements. If they are found to be non-compliant they would have x number of days to become compliant and register their alarm. If they don't become compliant we can take enforcement action and charge an increased fee. There is no fee for a registration right now. It could be a \$20 fee for registration.

Other communities require the alarm company to register their alarms with the city. The only benefit of that is when an alarm company is selling the alarm, they tell the purchasers they need to register their alarm. The benefit for the police is we have an updated keyholder list, we know who is in control of the alarm system, families can identify family members on the key holder list, and we can reach out if there are issues with the alarm or home. It can be burdensome depending on how often registration is required. We are seeking guidance from the Council. Should the city have a role in alarm systems and a requirement for registration of alarms. If you think we should tweak the ordinance we can do that and bring it back to council with various enforcement options to consider by way of fees and/or misdemeanor actions.

Councilmember Piekarski Krech asked how this works with the new systems such as the camera you put over your door. Those do not trigger an alarm to the police department, right. Most other companies will trigger an alarm to the police department when it goes off. Mr. Schnell responded yes, most alarms will trigger the police department to respond. The ones with the cameras over the door do not trigger a police response.

Mayor Tourville said one issue is does the Council think it is important to have fire and police alarm systems. We do have an ordinance for false alarms and if that needs to be updated, we need to take a look at it for updating for police and fire.

Councilmember Piekarski Krech asked what the current penalty is for having false alarms. Mr. Schnell responded the first two are free, and then the third is \$50, then for the fourth \$75, and so on. Councilmember Piekarski Krech asked if the fees cover the cost. Mr. Schnell stated it can. We need the mechanism in the ordinance to be able to certify to the county the unpaid fees. Mayor Tourville said for the original fee let's look at what other communities do.

Councilmember Hark asked for residential false alarms can you tell if they tend to be the same residences. Mr. Schnell said there is a spread but we do know when there is a problem it is often at the same address. Sometimes it is the management company if it is a business or for residential repeat false alarms can be for deactivating or setting the alarm. We do know false alarms happen.

Mr. Schnell said some of the items that are also being explored and researched are excessive consumption of city services. We are exploring that topic with code enforcement, police and the building official. This could be on next month's work session agenda. It would be a way of addressing certain types of problems. We are also exploring ways to recoup costs for excessive use of services. We are also looking into details regarding how to deal with abandoned vehicles. Finally, we are looking at a special event permit which we believe would be worthwhile. These items will be brought back to the City Council for discussion at future work sessions.

B. Adjourn

Councilmember Piekarski Krech made a motion to adjourn, seconded by Councilmember Perry, and unanimously carried. The work session adjourned at approximately 8:47 p.m.

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JULY 09, 2018- 8150 BARBARA AVENUE**

1. CALL TO ORDER 2. ROLL CALL:

The City Council of Inver Grove Heights met in regular session on Monday, July 9, 2018, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m.

Present were: Councilmembers Piekarski Krech, Bartholomew, Hark, and Perry; City Administrator Lynch, City Attorney Kuntz, Public Works Director Thureen, Community Development Director Link, City Clerk Tesser, and Police Chief Schnell.

Absent were: Recording Clerk Yourczek.

3. PRESENTATIONS:

Mayor Tourville commented that they rarely speak of International Events during meetings, but that their thoughts and prayers for a safe return are with those in Taiwan who are impacted by the events that are currently taking place.

A. GreenStep Cities Progress Report

Ally Hillstrom, City Government Intern, presented their progress with the GreenStep Cities Program. She stated that in March 2016 the City Council passed a Resolution to join the GreenStep Cities Program. The program is a volunteer competition and assistance program that allows Cities to meet sustainability and high quality of life goals. She stated that there are 15 different Organizations that define 29 Best Practices for Cities to meet within the following five categories:

- Buildings and Lighting
- Land Use
- Transportation
- Environmental Management
- Economic and Community Development

She stated that meeting these goals assists Cities in determining the best way to provide high quality services and how to operate efficiently. Upon entering the program in 2016, the City of Inver Grove Heights received the Step One Award. She stated that as Cities complete additional Best Practices they move up steps of the five-step program. Due to that achievement, last month at the League of Minnesota Cities Annual Conference they were awarded the Second Step Award. She stated that it is their plan to meet Step Three by May 2019 for the next League of Minnesota Cities Annual Conference.

She stated that in order to accomplish the Step Three Award, Staff would be focusing on the following required actions to attain that Award:

- Best Practice #13: Efficient City Fleets
- Best Practices #15: Sustainable Purchasing
- Best Practices #24: Benchmarks & Community Engagement
- Best Practices #25: Green Business Development
- Best Practice: Building and Lighting Category

Councilmember Piekarski Krech asked if the Environmental Commission was involved.

Intern Hillstrom responded that the Environmental Commission is not currently involved, but that once the Environmental Specialist begins working in their position, they can be a part of the Commission to help prioritize.

Councilmember Bartholomew suggested that they emphasis Community involvement and try to bring in as many Community members as they can.

Mayor Tourville stated that the City of Inver Grove Heights was one of the larger Cities involved with solar use. He commented that they are happy to participate in this program and will follow through with the steps.

Councilmember Piekarski Krech stated that a part of the program was the ability to receive free advice. She asked if we have received assistance from them, and if not, what the benefit was if the advice has not been taken.

Intern Hillstrom responded that everything documented this far has been tasks or actions that have been completed prior to entering the program. She stated that due to that, they can now look at what other Cities have documented on the Open Access Database and learn from that. She stated that right now they have not taken any new actions.

Intern Hillstrom responded that one of the benefits of the program that they have used so far is that they have joined a cohort of the GreenSteps City called Cities Charging Ahead, which is an educational opportunity for Cities who are interested in adding alternative fuels to their Fleet. This will allow them to learn about how to do so in a way that will be cost effective. She stated that there will be other partnership opportunities that would come out of this program over time.

Councilmember Hark commented that the first year was the easy year, but that it would get more difficult as they progress further. He asked what the most difficult items would be to get to the Step Three level.

Intern Hillstrom responded that most of these items would not be difficult, but that it would take more than documentation of what has been done so far. It would be a collaboration of the Council, Staff members, and Community involvement.

City Administrator Joe Lynch responded to Councilmember Piekarski Krech's comment and stated that they are receiving a benefit from Xcel which is funding their telematics, which are devices that are being placed in a variety of vehicles to determine their use. He stated for example, that they need to address the idling of vehicles as well as which vehicles could be converted to the alternative fuel.

He stated that he agrees that attaining the Step Three level would not be difficult, but that Fleet Management would be the most comprehensive part in that they have relied on gasoline and diesel fuels for a long time and that it is time to look at what they need to use differently.

Mayor Tourville stated that the best part of the program is that it helps them accomplish goals in an organized way.

B. New Police Officer

Police Chief Schnell stated that Commander Otis is with him this evening as he was gone for three months at the FBI Academy in Quantico, Virginia. He stated that Commander Otis has passed the program and that they are glad to have him back.

He stated that they will be swearing in a new Police Officer. He introduced Jacob Lindgren and stated that they have spent several months looking to fill the current opening after the retirement of Police Officer Joe Gelhaye. The new Police Officer comes highly recommended. He stated that the candidate has been subjected to interview panels, and a comprehensive background investigation, which is highly intrusive. The candidate was made a conditional offer which results in another round of assessments. Having passed all of the requirements established by the City of Inver Grove Heights, they are prepared to present and introduce their newest Police Officer. He stated that in doing so, there are three responsibilities as follows:

1. Promote Community Peace.
2. Maintain Order.

3. Enforce the Law.

Chief Schnell stated that the Oath of Office is the newest Police Officers commitment to serving this Community and his faithful discharge of his duty as a Police Officer for the City of Inver Grove Heights. He presented Jacob Lindgren for the Administration of the Oath of Office.

The Oath of Office was performed by Mayor Tourville.

Chief Schnell introduced Dale Lindgren, Officer Jacob Lindgren's father, who pinned on his Badge.

Officer Lindgren introduced his family and pictures were taken with the City Council.

Chief Schnell commented that Officer Lindgren is fully fluent in Spanish, which is an important skillset to have and that they look forward to having him with the Department.

4. CONSENT AGENDA:

A. Minutes of June 25, 2018 City Council Meeting.

B. Resolution 18-138 Approving Disbursements for Period Ending July 2, 2018.

C. Resolution 18-139 Making an Election Not to Waive the Statutory Tort Limits for Liability Insurance Purposes.

D. Resolution 18-140 Authorizing Application to the Transportation Advisory Board (TAB) for 2018 Regional Solicitation Grant Funds to Support Construction of an Off-Street Trail Along Babcock Trail.

E. Approve **Resolution 18-141** Appointing Election Judges for the 2018 Primary and General Elections.

F. Approve Custom Grading Agreement for 6818 Argenta Trail (East ½ of the Southwest ¼ of Section 6, Township 27, Range 22, Dakota County, Minnesota).

G. Approve Easement Encroachment Agreement for 11332 Apennine Way (Lot 2, Block 1, Broadmoor).

H. Approve Letter of Support for Regional Solicitation Grant Application.

I. Resolution 18-142 Approving Amendment to Proposal for Professional Services for Preliminary and Final. Design and Construction Plans and Specifications for City Project No. 2015-03 – 65th Street between Trunk Highway 3 and Argenta Trail.

J. Approval of a Negotiated Settlement Agreement between Bradley S. Lojovich and Lisa J. Lojovich and the City of Inver Grove Heights related to the Acquisition of Easements for the Trunk Highway 3 Intersection Improvements for the 65th Street Project – City Project No. 2017-24 and for the Installation of Trunk Watermain in the NWA Area of the City on 65th Street between Trunk Highway 3 and the Blackstone Ridge – City Project No. 2017-03. **Resolution 18-143.**

K. Resolution 18-144 Establishing Parking Restrictions on O'Neill Drive from Argenta Trail to the Corporate Boundary with the City of Eagan and on Argenta Trail from the I-494 Bridge to the Driveway for 6261 Argenta Trail.

L. Approval of an Agreement with Xcel Energy for Topsoil and Seeding on City Project No. 201509D – Broderick Boulevard Reconstruction. **Resolution 18-145.**

M. Consider **Resolution 18-146** Accepting Construction Testing Services Proposal from American Engineering Testing, Inc. (AET) for City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.

N. Consider **Resolution 18-147** to Accept Separate \$2,000.00 (\$4,000.00 total) Donations to both Inver Grove Heights Fire Department and Inver Grove Heights Police Department from City Resident Emma Morton and Direct Allocation to the Fire Department's Equipment Fund and the Police Department's K-9 Fund.

O. Personnel Actions.

Motion by Hark second by Perry to accept the Consent Agenda.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

There were no public comments at this time.

6. PUBLIC HEARING:**7. REGULAR AGENDA:****A. CITY OF INVER GROVE HEIGHTS: Consider Approval of the Second and Third Readings of Amended Ordinance Chapter 2, 4-2-2 and 4-2-10 Pawnbrokers and Precious Metal Dealers and Approve Resolution to Amend the City's Fee Schedule. Resolution 18-148.**

Police Chief Schnell stated that they are proposing a change to the Ordinance with the removal of the reference of the Automated Pawn System as there is a new product they intend to use. The Ordinance change would allow the Police Department to make the change to the new product. He stated that they would also like to reduce the fees from \$1.90 to \$1.75. He commented that they became aware of changes that were not reflected in the last change in the fee schedule and due to that, there will be an adjustment made as Pawn America was billed \$2.00 per transaction instead of the \$1.90 fee. They will be crediting Pawn America the cost of the overbill.

He stated that the proposal is to seek to reduce the fee from \$1.90 to \$1.75 which reflects the reduction in the costs of the new system and covers costs related to audits and non-compliance. He stated that he has spoken with representatives of Pawn America and that they have made a proposal to reduce that fee further, to \$1.50. He stated that they reviewed what other Cities charge and noticed ranges from \$0 up to \$3.00. He stated that they are proposing to reduce the fee to \$1.75 within the Ordinance for now and use the next several months to monitor and ensure compliance. He stated that if compliance is addressed, they would propose with the 2019 fee schedule, a reduction to \$1.50 which is consistent with other Communities within the Metro.

Councilmember Piekarski Krech questioned that since the fees can change, if it had to be the standard, or if could it be the fee charged plus a percentage for administrative fees. She commented that this could result in a lot of Ordinance changes if it stays as it is.

City Attorney Kuntz responded that there could be a stated formula. He stated that the fees are being changed by Resolution, and that there is a timeframe to consider the Resolution, but it would not need to be done with the three readings.

Mayor Tourville commented that these are reviewed on an annual basis.

Chief Schnell agreed that was the way the Ordinance reads and that the fee is set by the City Council. If there is a change in fees, it would be done annually. He stated that the fees are dependent on the issue of compliance. He commented that the change is fair and that they will continue to work with Pawn America over the next several months.

Councilmember Hark commented that they should keep with the yearly review for consistency.

Motion by Piekarski Krech second by Hark to approve to have two readings instead of three to Consider Approval of the Second and Third Readings of Amended Ordinance Chapter 2, 4-2-2 and 4-2-10 Pawnbrokers and Precious Metal Dealers.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Perry on the second and third reading as amended.

Ayes: 5
Nays: 0 Motion carried.

Motion by Piekarski Krech second by Perry to approve the amended fee schedule to Approve Resolution 18-148 to Amend the City's Fee Schedule.

Ayes: 5
Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Public Works Director Scott Thureen stated that they have been waiting to hear from the County on the status of the roundabout. Once they hear back they will have a schedule.

City Attorney Kuntz stated that the court hearing for acquisitions along 65th and the Highway 3 intersection is scheduled for Wednesday, July 18th.

9. ADJOURN:

Motion by Bartholomew second by Perry to adjourn the meeting at 7:35 p.m.

Ayes: 5
Nays: 0 Motion carried.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Meeting Date: July 23, 2018
 Item Type: Consent
 Contact: Kristi Smith 651-450-2521
 Prepared by: Angela Freier, Accounting Tech
 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 3, 2018 to July 18, 2018.

SUMMARY

Shown below is a listing of the disbursements for the various funds for the period ending July 18, 2018. The detail of these disbursements is attached to this memo.

General & Special Revenue	\$451,030.68
Debt Service & Capital Projects	\$314,659.16
Enterprise & Internal Service	\$431,655.11
Escrows	\$27,435.93
Grand Total for All Funds	<u><u>\$1,224,780.88</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 3, 2018 to July 18, 2018 and the listing of disbursements requested for approval.

DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

**RESOLUTION APPROVING DISBURSEMENTS FOR THE
PERIOD ENDING July 18, 2018**

WHEREAS, a list of disbursements for the period ending July 18, 2018 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	\$451,030.68
Debt Service & Capital Projects	314,659.16
Enterprise & Internal Service	431,655.11
Escrows	27,435.93
Grand Total for All Funds	<u><u>\$1,224,780.88</u></u>

Adopted by the City Council of Inver Grove Heights this 23rd day of July, 2018.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk



Payment Dates 07/03/2018 - 07/18/2018

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
Fund: 101 - GENERAL FUND					
PERFORMANCE PLUS LLC	5031 LF	07/18/2018	3/29/18	101.42.4200.423.30700	79.00
EARL F ANDERSEN INC	0117107-IN	07/11/2018	0131459	101.44.6000.451.60040	588.20
METRO LEGAL SERVICES INC	3091620	07/18/2018	LEVGIN2249229	101.45.3000.419.30420	268.30
INTERNATIONAL CODE COUNCIL...	1000905512	07/11/2018	0296400	101.45.3300.419.60018	249.87
LEVANDER, GILLEN & MILLER P....	81000E 5/18 #1510 Impr Project	07/11/2018	Legal	101.43.5100.442.30420	650.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Blackstone Ponds ...	07/11/2018	Legal	101.45.3200.419.30600	76.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Community Devel...	07/11/2018	Legal	101.45.3000.419.30420	432.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Council Meetings	07/11/2018	Legal	101.41.1000.413.30401	120.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Enerkem - CUP	07/11/2018	Legal	101.41.1100.413.30420	444.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Engineering	07/11/2018	Legal	101.43.5100.442.30420	983.50
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Friemann Co Dupl...	07/11/2018	Legal	101.43.5100.442.30420	138.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Hayden Heights	07/11/2018	Legal	101.45.3300.419.30420	114.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Mayor/CC	07/11/2018	Legal	101.41.1000.413.30420	3,779.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Parks	07/11/2018	Legal	101.44.6000.451.30420	348.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Planning	07/11/2018	Legal	101.45.3200.419.30420	756.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Rauschnot Propert...	07/11/2018	Legal	101.45.3000.419.30420	1,199.01
MINNESOTA/WISCONSIN PLAY...	2018163	07/11/2018	6/14/18	101.44.6000.451.60065	3,610.00
GERTENS	1561/12	07/11/2018	103566	101.44.6000.451.60035	539.70
BETTS, BETH	1077	07/11/2018	6/16/18	101.44.6000.451.30700	629.00
ADVANCED SPORTSWEAR, INC.	58896	07/11/2018	6/18/18	101.45.3300.419.60045	140.00
GERTENS	1577/12	07/11/2018	103566	101.44.6000.451.60016	386.00
CENTURY LINK	6/19/18 651 455 9072 782	07/11/2018	651 455 9072 782	101.42.4200.423.50020	40.47
GENESIS EMPLOYEE BENEFITS, ...	IN1291841	07/11/2018	10/1/17-10/31/17	101.42.4000.421.30550	41.25
GENESIS EMPLOYEE BENEFITS, ...	IN1291842	07/11/2018	11/1/17-11/30/17	101.42.4000.421.30550	41.25
GENESIS EMPLOYEE BENEFITS, ...	IN1291844	07/11/2018	1/1/18-1/31/18	101.42.4000.421.30550	42.29
GENESIS EMPLOYEE BENEFITS, ...	IN1291865	07/11/2018	2/1/18-2/28/18	101.42.4000.421.30550	42.29
GENESIS EMPLOYEE BENEFITS, ...	IN1291875	07/11/2018	3/1/18-3/31/18	101.42.4000.421.30550	42.29
GENESIS EMPLOYEE BENEFITS, ...	IN1291892	07/11/2018	4/1/18-4/30/18	101.42.4000.421.30550	42.29
GENESIS EMPLOYEE BENEFITS, ...	IN1291927	07/11/2018	5/1/18-5/31/18	101.42.4000.421.30550	42.29
U.S. HEALTHWORKS	0086849-MN	07/11/2018	006745	101.41.1100.413.30500	710.00
UNIFIRST CORPORATION	090 0427450	07/11/2018	1051948	101.43.5200.443.60045	45.99
UNIFIRST CORPORATION	090 0427450	07/11/2018	1051948	101.44.6000.451.60045	24.47
CENTURY PLUMBING	235989	07/11/2018	CITY LICENSE REFUND	101.45.0000.3219500	50.00
ADVANCED GRAPHIX, INC.	199715	07/11/2018	6/26/18	101.42.4200.423.60065	240.00
ABDO, EICK & MEYERS, LLP	402000 B	07/11/2018	03326	101.41.2000.415.30100	4,050.00
FERRELLGAS	1101825647	07/11/2018	7754787	101.42.4200.423.60018	141.00
CITY OF MINNEAPOLIS RECEIVA...	400451002083	07/11/2018	612005356	101.42.4000.421.30700	1,560.60
EMC	53656	07/18/2018	INVERG	101.42.4200.423.40042	6.25
GALLS INC	010217483	07/18/2018	1001727847	101.42.4000.421.60045	52.14
GALLS INC	010217522	07/18/2018	1001727847	101.42.4000.421.60045	759.89
LEAGUE OF MN CITIES	274064	07/11/2018	2018 ANNUAL CONFERENCE	101.41.1100.413.50080	35.00
U.S. HEALTHWORKS	0087111-MN	07/18/2018	006745	101.41.1100.413.30500	345.00
KEEPRS, INC	381824	07/18/2018	inverg0015	101.42.4000.421.60045	76.98
DAKOTA CTY PROP TAXATION &...	TNT2018-20	07/18/2018	2018 TRUTH IN TAXATION COSTS	101.41.2000.415.30700	2,087.51
BUREAU OF CRIMINAL APPREH...	00000486111	07/11/2018	00000012981	101.42.4000.421.40044	390.00
OXYGEN SERVICE COMPANY, INC	03408777	07/18/2018	04394	101.42.4000.421.60065	37.56
MARTIN-MCALLISTER	11827	07/18/2018	INV004	101.42.4000.421.30700	1,000.00
VERIFIED CREDENTIALS, INC.	281787	07/11/2018	6/30/18	101.41.1100.413.30700	219.25
CULLIGAN	6/30/18 157-98459100-6	07/18/2018	157-98459100-6	101.42.4200.423.60065	6.55
THOMSON REUTER - WEST	838463365	07/18/2018	1000197212	101.42.4000.421.30700	199.56
INNOVATIVE OFFICE SOLUTIONS	SUM-040776	07/18/2018	S28777	101.41.1200.414.60065	319.34
INNOVATIVE OFFICE SOLUTIONS	SUM-040776	07/18/2018	S28777	101.45.3000.419.60010	41.30
INNOVATIVE OFFICE SOLUTIONS	SUM-040776	07/18/2018	S28777	101.45.3300.419.60040	304.88

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GALLS INC	010238330	07/18/2018	1001727847	101.42.4000.421.60045	119.97
DAKOTA COMMUNICATIONS C...	IG2018-08	07/11/2018	AUGUST 2018	101.42.4000.421.70502	44,147.50
DAKOTA COMMUNICATIONS C...	IG2018-08	07/11/2018	AUGUST 2018	101.42.4200.423.70502	5,907.50
GALLS INC	010246572	07/18/2018	1001727847	101.42.4000.421.60045	991.70
GALLS INC	010246573	07/18/2018	9020909043	101.42.4000.421.60045	10.25
ACROSS THE STREET PRODUCTI...	12-6307	07/18/2018	7/3/18	101.42.4200.423.50070	1,700.00
GERRY'S FIRE & SAFETY INC	58981	07/18/2018	7/3/18	101.42.4200.423.40042	37.10
GALLS INC	010255316	07/18/2018	1001727847	101.42.4000.421.60045	1,316.28
SAFE ASSURE CONSULTANTS	1402	07/11/2018	7/5/18	101.41.1100.413.60018	6,548.71
EYEMED	163552761	07/11/2018	JULY 2018	101.203.2032700	268.44
COMCAST	7/5/18 8772 10 591 0359526	07/18/2018	8772 10 591 0359526	101.42.4200.423.30700	10.53
AFSCME COUNCIL 5	INV0075794	07/06/2018	UNION DUES (AFSCME FULL SH...	101.203.2031000	956.67
AFSCME COUNCIL 5	INV0075795	07/06/2018	UNION DUES (AFSCME FULL SH...	101.203.2031000	73.60
MINNESOTA DEPARTMENT OF ...	INV0075796	07/06/2018	STEVE HER FEIN/TAXPAYER ID: ...	101.203.2032100	439.04
MINNESOTA DEPARTMENT OF ...	INV0075797	07/06/2018	JOEL JACKSON FEIN/TAXPAYER ...	101.203.2032100	432.57
MINNESOTA DEPARTMENT OF ...	INV0075798	07/06/2018	JOHN VERDEJA FEIN/TAXPAYER ...	101.203.2032100	190.49
GENESIS EMPLOYEE BENEFITS A...	INV0075799	07/06/2018	HSA ELECTION-FAMILY	101.203.2032500	2,826.01
GENESIS EMPLOYEE BENEFITS A...	INV0075800	07/06/2018	HSA ELECTION-SINGLE	101.203.2032500	4,357.45
ICMA RETIREMENT TRUST - 457	INV0075801	07/06/2018	ICMA-AGE <49 %	101.203.2031400	6,996.45
ICMA RETIREMENT TRUST - 457	INV0075802	07/06/2018	ICMA-AGE <49	101.203.2031400	4,226.54
ICMA RETIREMENT TRUST - 457	INV0075803	07/06/2018	ICMA-AGE 50+ %	101.203.2031400	832.24
ICMA RETIREMENT TRUST - 457	INV0075804	07/06/2018	ICMA-AGE 50+	101.203.2031400	6,104.36
ICMA RETIREMENT TRUST - 457	INV0075805	07/06/2018	ICMA (EMPLOYER SHARE ADMI...	101.203.2031400	81.29
IUOE	INV0075806	07/06/2018	UNION DUES IUOE	101.203.2031000	1,330.96
LELS	INV0075807	07/06/2018	UNION DUES (LELS)	101.203.2031000	1,512.00
MN DEPT OF REVENUE	INV0075808	07/06/2018	LEVY - LETTER ID:L1707410112 -...	101.203.2031900	502.00
PERA	INV0075809	07/06/2018	PERA COORDINATED PLAN	101.203.2030600	39,092.30
PERA	INV0075810	07/06/2018	EMPLOYER SHARE (EXTRA PERA)	101.203.2030600	3,007.11
PERA	INV0075811	07/06/2018	PERA DEFINED PLAN	101.203.2030600	69.23
PERA	INV0075812	07/06/2018	EMPLOYER SHARE (PERA DEFIN...	101.203.2030600	69.23
PERA	INV0075813	07/06/2018	PERA POLICE & FIRE PLAN	101.203.2030600	16,251.83
PERA	INV0075814	07/06/2018	EMPLOYER SHARE (POLICE & FI...	101.203.2030600	24,377.81
ICMA RETIREMENT TRUST - 457	INV0075815	07/06/2018	ROTH IRA (AGE 49 & UNDER)	101.203.2032400	1,943.07
ICMA RETIREMENT TRUST - 457	INV0075816	07/06/2018	ROTH IRA (AGE 50 & OVER)	101.203.2032400	400.00
LELS SERGEANTS	INV0075817	07/06/2018	UNION DUES (LELS SGT)	101.203.2031000	294.00
EFTPS	INV0075818	07/06/2018	FEDERAL WITHHOLDING	101.203.2030200	49,162.91
MN DEPT OF REVENUE	INV0075819	07/06/2018	STATE WITHHOLDING	101.203.2030300	23,654.91
EFTPS	INV0075820	07/06/2018	MEDICARE WITHHOLDING	101.203.2030500	15,291.02
EFTPS	INV0075821	07/06/2018	SOCIAL SECURITY WITHHOLDING	101.203.2030400	46,041.84
EFTPS	INV0075822	07/06/2018	FEDERAL WITHHOLDING	101.203.2030200	2,393.09
MN DEPT OF REVENUE	INV0075823	07/06/2018	STATE WITHHOLDING	101.203.2030300	775.55
EFTPS	INV0075824	07/06/2018	MEDICARE WITHHOLDING	101.203.2030500	284.52
ING DIRECT	INV0075825	07/06/2018	MSRS-HCSP	101.203.2032200	38,394.06
CORPORATE MARK, INC.	423156	07/18/2018	7/8/18	101.42.4000.421.60006	352.80
LEADSONLINE LLC	246533	07/18/2018	3810	101.42.4000.421.30700	3,133.00
STEWART, ZLIMEN & JUNGERS, ...	7/9/18	07/11/2018	62-CV-17-7479	101.203.2031900	1,226.24
EFTPS	INV0075912	07/10/2018	FEDERAL WITHHOLDING	101.203.2030200	66.60
MN DEPT OF REVENUE	INV0075913	07/10/2018	STATE WITHHOLDING	101.203.2030300	41.28
EFTPS	INV0075914	07/10/2018	MEDICARE WITHHOLDING	101.203.2030500	19.58
EFTPS	INV0075915	07/10/2018	SOCIAL SECURITY WITHHOLDING	101.203.2030400	83.70
MN LIFE INSURANCE CO	JULY 2018	07/18/2018	POLICY #0027324	101.203.2030900	3,739.09
MN LIFE INSURANCE CO	JULY 2018	07/18/2018	POLICY #0027324	101.42.4000.421.20620	10.00
NRG ENERGY INC	000857013284	07/11/2018	MARCH 2018	101.43.5400.445.40020	2,053.02
NRG ENERGY INC	000857013284	07/11/2018	MARCH 2018	101.44.6000.451.40020	41.14
NRG ENERGY INC	000857013284B	07/11/2018	APRIL 2018	101.43.5400.445.40020	2,017.58
NRG ENERGY INC	000857013284B	07/11/2018	APRIL 2018	101.44.6000.451.40020	40.09
NRG ENERGY INC	000857013290	07/11/2018	MARCH 2018	101.43.5400.445.40020	1,613.82
NRG ENERGY INC	000857013290	07/11/2018	MARCH 2018	101.44.6000.451.40020	412.33
NRG ENERGY INC	000857013290B	07/11/2018	APRIL 2018	101.43.5400.445.40020	1,572.69
NRG ENERGY INC	000857013290B	07/11/2018	APRIL 2018	101.44.6000.451.40020	401.82

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NRG ENERGY INC	000857013291	07/11/2018	MARCH 2018	101.42.4200.423.40020	1,893.20
NRG ENERGY INC	000857013291	07/11/2018	MARCH 2018	101.44.6000.451.40020	238.37
NRG ENERGY INC	000857013291B	07/11/2018	APRIL 2018	101.42.4200.423.40020	1,906.44
NRG ENERGY INC	000857013291B	07/11/2018	APRIL 2018	101.44.6000.451.40020	238.83
VOLUNTEER FIREFIGHTERS BEN...	2018 RENEWAL	07/11/2018	2018 RENEWAL	101.42.4200.423.50070	769.00
PETTY CASH-WF PURCHASE CA...	JUNE 2018	07/11/2018	JUNE 2018	101.41.2000.415.70440	139.44
KENISON, TERRI	JUNE 2018	07/11/2018	JUNE 2018	101.42.4200.423.30700	850.00
WAKOTA CAER	MEMBERSHIP RENEWAL 2018	07/11/2018	2018 RENEWAL	101.42.4200.423.50070	100.00
ICMA RETIREMENT TRUST - 457	INV0075916	07/12/2018	ICMA-AGE <49 %	101.203.2031400	11.96
PERA	INV0075917	07/12/2018	PERA POLICE & FIRE PLAN	101.203.2030600	129.19
PERA	INV0075918	07/12/2018	EMPLOYER SHARE (POLICE & FI...	101.203.2030600	193.78
EFTPS	INV0075919	07/12/2018	FEDERAL WITHHOLDING	101.203.2030200	45.12
MN DEPT OF REVENUE	INV0075920	07/12/2018	STATE WITHHOLDING	101.203.2030300	29.70
EFTPS	INV0075921	07/12/2018	MEDICARE WITHHOLDING	101.203.2030500	34.68
VERIZON WIRELESS	9809725294	07/18/2018	942147853-00001	101.42.4000.421.50020	956.66
WAKOTA CAER	2018 E. BERGUM	07/18/2018	2018 MEMBERSHIP	101.42.4200.423.50070	100.00
Fund 101 - GENERAL FUND Total:					406,450.55
Fund: 201 - C.V.B. FUND					
LIME VALLEY ADVERTISING, INC.	18143.04	07/11/2018	6/21/18	201.44.1600.465.50025	400.00
STACY ANN BROOKS	148	07/11/2018	JULY BLOG POSTS	201.44.1600.465.50025	175.00
MINNESOTA VIKINGS FOOTBALL...	INV-00006515	07/11/2018	6/28/18	201.44.1600.465.50025	17,500.00
RIVER HEIGHTS CHAMBER OF C...	8853	07/11/2018	JUNE 2018	201.44.1600.465.30700	4,149.42
RIVER HEIGHTS CHAMBER OF C...	8853	07/11/2018	JUNE 2018	201.44.1600.465.30700	114.74
RIVER HEIGHTS CHAMBER OF C...	8853	07/11/2018	JUNE 2018	201.44.1600.465.40065	250.00
Fund 201 - C.V.B. FUND Total:					22,589.16
Fund: 204 - RECREATION FUND					
MAYER ARTS INC	3013	07/11/2018	5/17/18	204.44.6100.452.30700	432.00
IGH SENIOR CLUB	7/2/18	07/18/2018	JUNE 2018	204.227.2271000	320.00
WILLIAMSON, BERT	7/9/18	07/18/2018	SUMMER	204.44.6100.452.30700	250.00
Fund 204 - RECREATION FUND Total:					1,002.00
Fund: 205 - COMMUNITY CENTER					
MAAS, RONI	2/18/18	07/11/2018	REIMBURSE - ICE SHOW	205.44.6200.453.60065	115.86
PERA	3/8/18 C	03/08/2018	CREDIT MEMO	205.44.6200.453.20400	-238.85
TWIN CITY HARDWARE	946067	07/11/2018	CU104689	205.44.6200.453.60016	365.40
PERFECTION PLUS, INC	1128714	07/18/2018	JUNE 2018	205.44.6200.453.40040	5,857.50
MN SAFETY SERVICES LLC	61718	07/18/2018	IGHWSI	205.44.6200.453.30700	1,365.00
HAUCK, LYNN	6/18/18	07/11/2018	REFUND - SWIM LESSON CONFL...	205.44.0000.3493501	120.00
HUEBSCH SERVICES	4097265	07/11/2018	92965	205.44.6200.453.40040	224.61
HUEBSCH SERVICES	4097265	07/11/2018	92965	205.44.6200.453.40040	59.70
AQUA LOGIC, INC.	47728	07/20/2018	6/28/18	205.44.6200.453.40040	3,243.08
MARIA, RIOS	7/3/18	07/18/2018	LOW ENROLLMENT - REFUND	205.44.0000.3493501	65.00
AEP ONSITE PARTNERS, LLC	419-21132366	07/18/2018	7/6/18	205.44.6200.453.40020	4,890.69
AEP ONSITE PARTNERS, LLC	419-21132366	07/18/2018	7/6/18	205.44.6200.453.40020	4,912.98
Fund 205 - COMMUNITY CENTER Total:					20,980.97
Fund: 290 - EDA OPERATING					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 EDA	07/11/2018	Legal	290.45.3000.419.30420	8.00
Fund 290 - EDA OPERATING Total:					8.00
Fund: 425 - 2005 IMPROVEMENT FUND					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 DOFFING AVENUE...	07/11/2018	Legal	425.72.5900.725.30420	400.00
Fund 425 - 2005 IMPROVEMENT FUND Total:					400.00
Fund: 434 - 2014 IMPROVEMENT FUND					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Fire Station No. 2	07/11/2018	Legal	434.42.4200.423.30420	2,208.00
Fund 434 - 2014 IMPROVEMENT FUND Total:					2,208.00
Fund: 436 - 2016 IMPROVEMENT FUND					
WSB & ASSOCIATES, INC.	6/21/18 4	07/18/2018	R-011626-00	436.44.5900.736.30300	13,772.50
WSB & ASSOCIATES, INC.	12/28/17 6	07/11/2018	R-010132-000	436.44.5900.736.30300	320.00
Fund 436 - 2016 IMPROVEMENT FUND Total:					14,092.50

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Fund: 437 - 2017 IMPROVEMENT FUND					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Heritage Park Con...	07/11/2018	Legal	437.44.5900.737.30420	8,890.59
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Rosemount/IGH ...	07/11/2018	Legal	437.44.5900.737.30420	36.00
EVERGREEN LAND SERVICES	00-11961	07/18/2018	6/21/18	437.44.5900.737.30700	240.00
EVERGREEN LAND SERVICES	00-11962	07/18/2018	6/21/18	437.44.5900.737.30700	443.87
STEVENS ENGINEERS INC	11533	07/18/2018	11533	437.44.5900.737.30300	2,451.95
WENCK ASSOCIATES, INC.	11804443	07/18/2018	B3619-0002	437.73.5900.737.30300	882.00
Fund 437 - 2017 IMPROVEMENT FUND Total:					12,944.41
Fund: 438 - 2018 IMPROVEMENT FUND					
CITY OF SOUTH ST. PAUL	7/9/18	07/18/2018	PAPER SHRED EVENT	438.43.5500.446.30700	125.37
Fund 438 - 2018 IMPROVEMENT FUND Total:					125.37
Fund: 440 - PAVEMENT MANAGEMENT PROJ					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 #1509D Broderick ...	07/11/2018	Legal	440.74.5900.740.30420	309.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 #1509E Impr Proje...	07/11/2018	Legal	440.74.5900.740.30420	121.50
LEVANDER, GILLEN & MILLER P....	81000E 5/18 #1709E-93rd St & ...	07/11/2018	Legal	440.74.5900.740.30420	422.50
Fund 440 - PAVEMENT MANAGEMENT PROJ Total:					853.00
Fund: 441 - STORM WATER MANAGEMENT					
EAGAN, CITY OF	MARCH-MAY 2018	07/11/2018	UTILITY BILLING	441.74.5900.741.40030	4,565.01
Fund 441 - STORM WATER MANAGEMENT Total:					4,565.01
Fund: 446 - NW AREA					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 #1503-65th St B/W..	07/11/2018	Legal	446.74.5900.746.30420	310.50
LEVANDER, GILLEN & MILLER P....	81000E 5/18 #1724 65th & Hwy...	07/11/2018	Legal	446.74.5900.746.30420	3,256.62
DAKOTA CTY DISTRICT COURT	7/11/18 INITIAL OFFER - DALSIN	07/11/2018	EASEMENTS - DALSIN	446.74.5900.746.80100	2,300.00
DAKOTA CTY DISTRICT COURT	7/11/18 INITIAL OFFER - DALSIN	07/11/2018	EASEMENTS - DALSIN	446.74.5900.746.80100	84,600.00
DAKOTA CTY DISTRICT COURT	7/11/18 INITIAL OFFER - NICHOL...	07/11/2018	EASEMENTS - NICHOLS	446.74.5900.746.80100	4,900.00
DAKOTA CTY DISTRICT COURT	7/11/18 INITIAL OFFER - NICHOL...	07/11/2018	EASEMENTS - NICHOLS	446.74.5900.746.80100	19,000.00
Fund 446 - NW AREA Total:					114,367.12
Fund: 449 - COMMUNITY PROPERTY					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 AmericInn Land Sa...	07/11/2018	Legal	449.45.3000.419.30420	247.00
Fund 449 - COMMUNITY PROPERTY Total:					247.00
Fund: 451 - HOST COMMUNITY FUND					
GILBERT MEDIATION CENTER, L...	205925	07/11/2018	5/30/18	451.75.5900.751.30700	2,756.74
Fund 451 - HOST COMMUNITY FUND Total:					2,756.74
Fund: 453 - SE QUADRANT TIF DIST 4-1					
BLACKBERRY POINTE APARTME...	1ST HALF 2018 BRENTWOOD HI...	07/18/2018	2018 BRENTWOOD HILLS TIF	453.57.9000.570.90100	144,926.74
BLACKBERRY POINTE APARTME...	1ST HALF 2018 BRENTWOOD HI...	07/18/2018	2018 BRENTWOOD HILLS TIF	453.57.9000.570.90200	17,162.27
Fund 453 - SE QUADRANT TIF DIST 4-1 Total:					162,089.01
Fund: 454 - LANDFILL ABATEMENT					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 SKB Demolition La...	07/11/2018	Legal	454.43.5500.446.30420	11.00
Fund 454 - LANDFILL ABATEMENT Total:					11.00
Fund: 501 - WATER UTILITY FUND					
PINE BEND PAVING, INC.	9061918	07/11/2018	6/19/18	501.50.7100.512.40046	5,655.39
HAWKINS, INC.	4305927	07/11/2018	108816	501.50.7100.512.60019	19,744.97
SHERWIN-WILLIAMS	7903-7	07/11/2018	6682-5453-5	501.50.7100.512.40040	99.70
CORE & MAIN LP	I962515	07/11/2018	099872	501.50.7100.512.60016	6,295.00
TYLER TECHNOLOGIES, INC	025-229072	07/18/2018	41443	501.50.7100.512.70440	980.00
INNOVATIVE OFFICE SOLUTIONS	SUM-040776	07/18/2018	S28777	501.50.7100.512.40040	514.22
NRG ENERGY INC	000857013284	07/11/2018	MARCH 2018	501.50.7100.512.40020	3,897.57
NRG ENERGY INC	000857013284B	07/11/2018	APRIL 2018	501.50.7100.512.40020	3,831.23
NRG ENERGY INC	000857013290	07/11/2018	MARCH 2018	501.50.7100.512.40020	3,580.99
NRG ENERGY INC	000857013290B	07/11/2018	APRIL 2018	501.50.7100.512.40020	3,489.73
NRG ENERGY INC	000857013291	07/11/2018	MARCH 2018	501.50.7100.512.40020	15,954.97
NRG ENERGY INC	000857013291B	07/11/2018	APRIL 2018	501.50.7100.512.40020	16,221.61
NRG ENERGY INC	000857013292	07/11/2018	MARCH 2018	501.50.7100.512.40020	9,011.99
NRG ENERGY INC	000857013292B	07/11/2018	APRIL 2018	501.50.7100.512.40020	9,308.49
EAGAN, CITY OF	MARCH-MAY 2018	07/11/2018	UTILITY BILLING	501.50.7100.512.40005	33,456.28
Fund 501 - WATER UTILITY FUND Total:					132,042.14

Expense Approval Report

Payment Dates: 07/03/2018 - 07/18/2018

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
Fund: 502 - SEWER UTILITY FUND					
TYLER TECHNOLOGIES, INC	025-229072	07/18/2018	41443	502.51.7200.514.70440	980.00
METROPOLITAN COUNCIL	0001084524	07/11/2018	5084	502.51.7200.514.40015	158,711.74
NRG ENERGY INC	000857013284	07/11/2018	MARCH 2018	502.51.7200.514.40020	15.33
NRG ENERGY INC	000857013284B	07/11/2018	APRIL 2018	502.51.7200.514.40020	14.94
NRG ENERGY INC	000857013290	07/11/2018	MARCH 2018	502.51.7200.514.40020	606.03
NRG ENERGY INC	000857013290B	07/11/2018	APRIL 2018	502.51.7200.514.40020	590.59
EAGAN, CITY OF	MARCH-MAY 2018	07/11/2018	UTILITY BILLING	502.51.7200.514.40015	48,913.56
Fund 502 - SEWER UTILITY FUND Total:					209,832.19
Fund: 503 - INVER WOOD GOLF COURSE					
MN GOLF ASSOCIATION, INC.	5/18/18 45-0413-02	07/18/2018	5/18/18	503.52.8000.521.70250	3,475.00
MN GOLF ASSOCIATION, INC.	5/18/18 45-0413-03	07/18/2018	5/18/18	503.52.8000.521.70250	1,825.00
MN GOLF ASSOCIATION, INC.	5/18/18 45-0413-05	07/18/2018	5/18/18	503.52.8000.521.70250	75.00
MN GOLF ASSOCIATION, INC.	5/18/18 45-0413-08	07/18/2018	5/18/18	503.52.8000.521.70250	30.00
GERTENS	438578/1	07/11/2018	100464	503.52.8600.527.60020	386.04
SCHAEFFER MFG CO	HV3444-INV1	07/11/2018	2237881	503.52.8600.527.60022	1,058.18
R.J.'S GOLF CARTS	6/17/18	07/11/2018	6/17/18	503.52.8400.525.40065	444.00
PHILLIPS WINE & SPIRITS	2375014	07/11/2018	125656	503.52.8300.524.76150	130.50
M. AMUNDSON LLP	260538	07/11/2018	902858	503.52.8300.524.76050	259.95
JOHNSON BROTHERS LIQUOR C...	3270364	07/11/2018	125656	503.52.8300.524.76150	467.00
US FOODSERVICE	3807446	07/11/2018	0380983	503.52.8300.524.60065	39.04
US FOODSERVICE	3807446	07/11/2018	0380983	503.52.8300.524.76050	548.71
US FOODSERVICE	3807446	07/11/2018	0380983	503.52.8300.524.76100	84.75
COCA COLA BOTTLING COMPA...	3607204093	07/11/2018	6/20/18	503.52.8300.524.76100	875.76
WINFIELD SOLUTIONS, LLC	000062505315	07/11/2018	442575	503.52.8600.527.60030	7,548.05
WINFIELD SOLUTIONS, LLC	000062505320	07/11/2018	442575	503.52.8600.527.60035	2,629.18
WINFIELD SOLUTIONS, LLC	000062505321	07/11/2018	442575	503.52.8600.527.60035	702.38
WINFIELD SOLUTIONS, LLC	000062505322	07/11/2018	442575	503.52.8600.527.60035	7,796.93
WINFIELD SOLUTIONS, LLC	000062505328	07/11/2018	442575	503.52.8600.527.60035	1,154.17
WINFIELD SOLUTIONS, LLC	000062505329	07/11/2018	442575	503.52.8600.527.60035	475.80
MANSFIELD OIL COMPANY	20799695	07/11/2018	24129	503.52.8600.527.60021	1,412.57
BREAKTHRU BEVERAGE MINNE...	1080818771	07/18/2018	102294	503.52.8300.524.76150	259.20
BREAKTHRU BEVERAGE MINNE...	1090873737	07/18/2018	102294	503.52.8300.524.76150	314.50
JJ TAYLOR DIST. COMPANY OF ...	2854721	07/11/2018	00834	503.52.8300.524.76150	259.00
HEGGIES PIZZA	962617562	07/18/2018	C224	503.52.8300.524.76050	101.50
M. AMUNDSON LLP	260992	07/18/2018	902858	503.52.8300.524.76050	200.10
JOHNSON BROTHERS LIQUOR C...	3272015	07/18/2018	125656	503.52.8300.524.76150	825.00
US FOODSERVICE	3935077	07/18/2018	03805983	503.52.8300.524.60065	270.92
US FOODSERVICE	3935077	07/18/2018	03805983	503.52.8300.524.76050	1,024.03
COCA COLA BOTTLING COMPA...	3607204132	07/18/2018	6/27/18	503.52.8300.524.76100	795.96
YAMAHA GOLF & UTILITY, INC.	01-206025	07/11/2018	INVERWOOD	503.52.8600.527.40042	40.12
COLLEGE CITY BEVERAGE	442-0002	07/18/2018	3592	503.52.8300.524.76150	511.70
BREAKTHRU BEVERAGE MINNE...	1090876993	07/18/2018	102294	503.52.8300.524.76150	605.50
COVERALL OF THE TWIN CITIES ...	7070252243	07/18/2018	707-2469	503.52.8500.526.40040	1,124.81
SOUTH BAY DESIGN	070218	07/18/2018	INVERWOOD	503.52.8500.526.50025	255.00
M. AMUNDSON LLP	261440	07/18/2018	92858	503.52.8300.524.76050	171.00
US FOODSERVICE	4058787	07/18/2018	03805983	503.52.8300.524.76050	543.98
US FOODSERVICE	4058787	07/18/2018	03805983	503.52.8300.524.76100	129.22
US FOODSERVICE	4058789	07/18/2018	03805983	503.52.8300.524.60065	14.17
MANSFIELD OIL COMPANY	20825561	07/18/2018	24129	503.52.8600.527.60021	1,052.17
COCA COLA BOTTLING COMPA...	3607204190	07/18/2018	7/5/18	503.52.8300.524.76100	1,144.49
COLLEGE CITY BEVERAGE	442-0064	07/18/2018	3592	503.52.8300.524.76150	517.10
BREAKTHRU BEVERAGE MINNE...	1080825433	07/18/2018	102294	503.52.8300.524.76150	506.49
BREAKTHRU BEVERAGE MINNE...	1090879915	07/18/2018	102294	503.52.8300.524.76150	285.60
JJ TAYLOR DIST. COMPANY OF ...	2863669	07/18/2018	00834	503.52.8300.524.76150	834.50
JOHNSON BROTHERS LIQUOR C...	3274788	07/18/2018	125656	503.52.8300.524.76150	436.00
HEGGIES PIZZA	171463426	07/18/2018	c224	503.52.8300.524.76050	106.35
US FOODSERVICE	4181404	07/18/2018	03805983	503.52.8300.524.76050	855.12
US FOODSERVICE	4181404	07/18/2018	03805983	503.52.8300.524.76100	160.88
NRG ENERGY INC	000857013284	07/11/2018	MARCH 2018	503.52.8600.527.40020	108.20

Expense Approval Report

Payment Dates: 07/03/2018 - 07/18/2018

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
NRG ENERGY INC	000857013284B	07/11/2018	APRIL 2018	503.52.8600.527.40020	105.44
COCA COLA BOTTLING COMPA...	3607204191	07/18/2018	7/5/18	503.52.8300.524.76100	-75.00
Fund 503 - INVER WOOD GOLF COURSE Total:					44,901.06
Fund: 602 - RISK MANAGEMENT					
LEAGUE OF MN CITIES	273127	07/11/2018	6/13/18	602.00.2100.415.50080	30.00
Fund 602 - RISK MANAGEMENT Total:					30.00
Fund: 603 - CENTRAL EQUIPMENT					
PERFECTION PLUS, INC	1128714	07/18/2018	JUNE 2018	603.00.5300.444.40040	442.00
BETTS, BETH	1077	07/11/2018	6/16/18	603.00.5300.444.40040	446.66
UNIFIRST CORPORATION	090 0427450	07/11/2018	1051948	603.00.5300.444.40065	169.94
UNIFIRST CORPORATION	090 0427450	07/11/2018	1051948	603.00.5300.444.60045	38.23
O' REILLY AUTO PARTS	1767-337580	07/18/2018	1578028	603.00.5300.444.40041	12.58
O' REILLY AUTO PARTS	1767-337741	07/18/2018	1578028	603.140.1450050	82.44
O' REILLY AUTO PARTS	1767-337783	07/18/2018	1578028	603.00.5300.444.40041	19.47
O' REILLY AUTO PARTS	1767-337784	07/18/2018	1578028	603.140.1450050	4.92
O' REILLY AUTO PARTS	1767-337785	07/18/2018	1578028	603.00.5300.444.40041	72.30
CLAREY'S SAFETY EQUIPMENT	177813	07/11/2018	090500	603.00.5300.444.40041	123.36
JEFFERSON FIRE & SAFETY, INC.	249327	07/11/2018	INV03	603.00.5300.444.80700	957.75
O' REILLY AUTO PARTS	1767-337917	07/18/2018	1578028	603.00.5300.444.40041	42.97
O' REILLY AUTO PARTS	1767-337923	07/18/2018	1578028	603.00.5300.444.40041	43.77
O' REILLY AUTO PARTS	1767-337936	07/18/2018	1578028	603.00.5300.444.40041	308.93
O' REILLY AUTO PARTS	1767-338161	07/18/2018	1578028	603.00.5300.444.40041	112.35
O' REILLY AUTO PARTS	1767-338164	07/18/2018	1578028	603.140.1450050	128.80
O' REILLY AUTO PARTS	1767-338982	07/18/2018	1578028	603.00.5300.444.40041	16.68
O' REILLY AUTO PARTS	1767-338983	07/18/2018	1578028	603.00.5300.444.40041	96.38
O' REILLY AUTO PARTS	1767-338990	07/18/2018	1578028	603.00.5300.444.40041	123.14
O' REILLY AUTO PARTS	1767-339263	07/18/2018	1578028	603.00.5300.444.60012	314.00
O' REILLY AUTO PARTS	1767-339263	07/18/2018	1578028	603.140.1450050	337.10
O' REILLY AUTO PARTS	1767-339848	07/18/2018	1578028	603.140.1450050	36.05
NRG ENERGY INC	000857013291	07/11/2018	MARCH 2018	603.00.5300.444.40020	2,354.22
NRG ENERGY INC	000857013291B	07/11/2018	APRIL 2018	603.00.5300.444.40020	2,358.66
O' REILLY AUTO PARTS	1767-337947	07/18/2018	1578028	603.00.5300.444.40041	-72.30
O' REILLY AUTO PARTS	1767-338246	07/18/2018	1578028	603.00.5300.444.40041	-35.00
Fund 603 - CENTRAL EQUIPMENT Total:					8,535.40
Fund: 604 - CENTRAL STORES					
INNOVATIVE OFFICE SOLUTIONS	SUM-040776	07/18/2018	S28777	604.00.2200.416.60005	59.98
INNOVATIVE OFFICE SOLUTIONS	SUM-040776	07/18/2018	S28777	604.00.2200.416.60010	2,692.39
Fund 604 - CENTRAL STORES Total:					2,752.37
Fund: 605 - CITY FACILITIES					
PERFECTION PLUS, INC	1128714	07/18/2018	JUNE 2018	605.00.7500.460.40040	4,512.08
FRAUENSHUH INC.	43456	07/11/2018	PROJECT FEE	605.00.7500.460.30700	22,000.00
BETTS, BETH	1077	07/11/2018	6/16/18	605.00.7500.460.30700	1,175.34
HUEBSCH SERVICES	4097264	07/11/2018	100075	605.00.7500.460.40065	118.22
MAILFINANCE	N7207153	07/11/2018	6/23/18	605.00.7500.460.40044	825.00
LONE OAK COMPANIES	78956	07/18/2018	6/28/18	605.00.7500.460.50035	472.27
CULLIGAN	6/30/18 157-98503022-8	07/18/2018	157-98503022-8	605.00.7500.460.60011	71.48
MAS COMMUNICATIONS	180700050101	07/18/2018	7/1/18	605.00.7500.460.40040	48.20
HUEBSCH SERVICES	4105427	07/18/2018	100075	605.00.7500.460.40065	118.22
AEP ONSITE PARTNERS, LLC	419-21132366	07/18/2018	7/6/18	605.00.7500.460.40020	2,623.14
LONE OAK COMPANIES	7/10/18	07/11/2018	UTILITY BILLING POSTAGE	605.00.7500.460.50035	1,598.00
Fund 605 - CITY FACILITIES Total:					33,561.95
Fund: 702 - ESCROW FUND					
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Blackstone Vista 3...	07/11/2018	Legal	702.229.2282202	326.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Dalglish Custom G...	07/11/2018	Legal	702.229.2304702	88.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Forfeiture-Angela ...	07/11/2018	Legal	702.229.2291000	240.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Forfeiture-Charles...	07/11/2018	Legal	702.229.2291000	8.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Forfeiture-Jacob B...	07/11/2018	Legal	702.229.2291000	16.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Forfeiture-Matth...	07/11/2018	Legal	702.229.2291000	32.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Forfeiture-Neil Sc...	07/11/2018	Legal	702.229.2291000	1,634.00

Expense Approval Report

Payment Dates: 07/03/2018 - 07/18/2018

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Forfeiture-Sursatti...	07/11/2018	Legal	702.229.2291000	24.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Holiday Gas Statio...	07/11/2018	Legal	702.229.2293402	1,800.50
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Industrial Equities ...	07/11/2018	Legal	702.229.2291802	1,414.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Interstate Develop...	07/11/2018	Legal	702.229.2291902	68.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Kamish Excavation...	07/11/2018	Legal	702.229.2283801	12,861.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Pine Bend Landfill ...	07/11/2018	Legal	702.229.2293002	1,499.38
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Police-Forfeiture	07/11/2018	Legal	702.229.2291000	508.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Robert Curve Plat -..	07/11/2018	Legal	702.229.2285901	209.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Somers Custom Gr...	07/11/2018	Legal	702.229.2299102	226.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Terry Drainage Cus..	07/11/2018	Legal	702.229.2304502	215.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Toyota Dealership...	07/11/2018	Legal	702.229.2293102	1,484.00
LEVANDER, GILLEN & MILLER P....	81000E 5/18 Wasatch Storage	07/11/2018	Legal	702.229.2284802	735.50
CITY OF SAINT PAUL	IN00029495	07/11/2018	77	702.229.2291000	41.00
CULLIGAN	6/30/18 157-98473242-8	07/18/2018	157-98473242-8	702.229.2286300	51.55
HENNEPIN COUNTY DISTRICT C...	I18415321	07/11/2018	MICHAEL JOSEPH CHERVENY	702.229.2291000	500.00
NORTHERN SERVICE CENTER	19WSCR1637982	07/11/2018	TAMMY HARDING	702.229.2291000	100.00
EHLERS AND ASSOCIATES, INC.	77424	07/18/2018	7/10/18	702.229.2288101	3,355.00
Fund 702 - ESCROW FUND Total:					27,435.93
Grand Total:					1,224,780.88

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

SCHEDULE ELECTION CANVASS MEETING ON AUGUST 17, 2018

Meeting Date: July 23, 2018
 Item Type: Consent
 Contact: 651-450-2513
 Prepared by: Michelle Tesser
 Reviewed by:

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

Schedule Election Canvass Meeting on Friday, August 17, 2018 at 8:00a.m.

SUMMARY

The City Council must certify the results after each election. The primary election is Tuesday, August 14, 2018. The City Clerk would like to schedule the Election Canvass meeting for the Friday after elections which will canvass the votes casted.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Awarding a Contract for Storm Water Pipe Repair at the VMCC (City Project 2018-1722)

Meeting Date: July 23, 2018
 Item Type: Consent Agenda
 Contact: Eric Carlson – 651.450.2587
 Prepared by: Eric Carlson
 Reviewed by: Shannon Battles

Fiscal/FTE Impact:

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

PURPOSE/ACTION REQUESTED

The Council is asked to approve a contract with Insituform in the amount of \$31,886 to line a storm water drain. The Council is also asked to increase the West Rink Project Contingency budget by \$10,000 to a total of \$60,000 (City Project 2018-1722). The overall project is funded with an interest-free loan from the Central Equipment Fund which will be repaid over a 10-year period from the Host Community Fund.

SUMMARY

In winter of 2012-2013 the City received a large amount of snow fall. In the spring of 2013 there was a rapid snow melt and one of our roof drain pipes was frozen shut at the end of the pipe causing a backup of melting snow to surcharge the roof drain storm water pipe system. There was enough pressure on the line that water was forced through the joints in the pipe and water was coming up through the ground.

During the construction in the West Rink we discovered that this pipe has continued to leak and needs to be repaired. The most effective way to repair the pipe is to line the pipe in place. This is not an expense we believe the City of Rosemount should be responsible for. Staff has contacted several companies for a second quote, many of them are unable to make the repair, one that is capable can't schedule it until late fall/early winter.

The overall project budget is as follows:

Contractor	Amount	Description
Stevens Engineering	\$39,300	Design and Engineering
GPRS	\$650	Underground utility locates
Rink Tech	\$4,682	Installation of isolation valve
Frank J Zamboni	\$136,890	Ice Resurfacer
Becker Arena Products	\$165,246	Dasher Board System
Minnesota Ice	\$539,852	West Rink Floor
Braun Intertec	\$2,100	Soils Engineer
Change Order #1	\$19,107.25	Soils Correction
Insituform	\$31,886	Line Roof Drain Pipe
Project Contingency	\$6,906.75	Started at \$50,000 increased to \$60,000 on July 23, 2018
Total	\$946,620	

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Change Order No 1 – West Rink Floor Project – City Project 2018-1722

Meeting Date: July 23, 2018
 Item Type: Consent Agenda
 Contact: Eric Carlson – 651.450.2587
 Prepared by: Eric Carlson
 Reviewed by: Shannon Battles

Fiscal/FTE Impact:

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

PURPOSE/ACTION REQUESTED

The Council is asked to approve change order #1 for the West Rink Floor Project to Minnesota Ice LLC in the amount of \$19,107.25. The overall project is funded with an interest-free loan from the Central Equipment Fund which will be repaid over a 10-year period from the Host Community Fund. The contract with Minnesota Ice is a part of a larger project we are doing in conjunction with a JPA with the City of Rosemount. Under the terms of the JPA, the City of Rosemount will reimburse the City 90% of the project costs over a 10-year period

SUMMARY

On May 29, 2018, the Council approved the West Rink Floor Project to Minnesota Ice LLC. During the demolition of the rink floor we discovered perched water and are having to make some soils corrections.

The overall project budget is as follows:

Contractor	Amount	Description
Stevens Engineering	\$39,300	Design and Engineering
GPRS	\$650	Underground utility locates
Rink Tech	\$4,682	Installation of isolation valve
Frank J Zamboni	\$136,890	Ice Resurfacer
Becker Arena Products	\$165,246	Dasher Board System
Minnesota Ice	\$539,852	West Rink Floor
Braun Intertec	\$2,100	Soils Engineer
Change Order #1	\$19,107.25	Soils Correction
Project Contingency	\$28,792.75	Started at \$50,000
Total	\$936,620.00	



Change Order No. 1

Date of Issuance: July 18, 2018

Effective Date: July 18, 2018

Project: VMCC West Ice Rink Floor Replacement	Owner: City of Inver Grove Heights Inver Grove Heights, MN	Date of Contract: May 30, 2018
Contractor: Minnesota Ice LLC	Engineer's Project No.: 900-18-302	

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

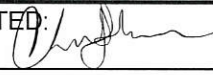
Contract modifications resulting from the necessary subsoil corrections outlined in PR #2 needed due to the saturated soils encountered during construction.

Attachments (list documents supporting change):

Documentation from MN Ice LLC

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$ <u>539,852</u>	Original Contract Times: ☐ Working days ☐ Calendar days Substantial completion (date): <u>September 21, 2018</u> Ready for final payment (date): <u>October 31, 2018</u>
[Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>1</u> : \$ <u>0</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>1</u> : Substantial completion (days): <u>September 21, 2018</u> Ready for final payment (days): <u>October 31, 2018</u>
Contract Price prior to this Change Order: \$ <u>539,852</u>	Contract Times prior to this Change Order: Substantial completion (days or date): <u>n/a</u> Ready for final payment (days or date): <u>n/a</u>
Increase of this Change Order: \$ <u>19,107.25</u>	[Increase] [Decrease] of this Change Order: Substantial completion (date): <u>n/a</u> Ready for final payment (date): <u>n/a</u>
Contract Price incorporating this Change Order: \$ <u>558,959.25</u>	Contract Times with all approved Change Orders: Substantial completion (date): <u>September 21, 2018</u> Ready for final payment (date): <u>October 31, 2018</u>

RECOMMENDED:
By: 
Engineer (Authorized Signature)
Date: July 18, 2018

ACCEPTED:
By: 
Owner (Authorized Signature)
Date: July 18, 2018

ACCEPTED:
By: _____
Contractor (Authorized Signature)
Date: _____

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Resolution Authorizing Transfers to City of Inver Grove Heights Economic Development Authority (EDA)

Meeting Date: July 23, 2018
Item Type: Consent Agenda
Contact: Kristi Smith 651-450-2521
Prepared by: Kristi Smith, Finance Director
Reviewed by: Joe Lynch, City Administrator
Tom Link, Comm. Dev. 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 resolution authorizing transfers from Host Community Fund to EDA.

SUMMARY

At the July 23, 2018 EDA meeting the Commission will be asked to recommend approval of the purchase of the Biljan Property at 6639 Concord Boulevard. The property is a part of the Concord Redevelopment – Concord West acquisition project. This is for both the residence and business located on the property. The funding source recommendation includes an amount not to exceed \$507,245.75 from the Host Community Fund. To date the EDA has incurred the following costs:

<u>\$16,245.75</u>	Appraisal and environmental costs
\$16,245.75	Total costs incurred and paid to date

Estimated future costs to be incurred:

\$442,000.00	Purchase price
10,000.00	Closing costs and property taxes
4,000.00	Legal costs
<u>35,000.00</u>	Demolition
<u>\$491,000.00</u>	Total estimated future costs
 \$507,245.75	 Total not to exceed

At this time we are requesting approval to transfer \$16,245.75 from the Host Community Fund to the EDA. We are also requesting approval to transfer up to \$491,000.00 at the time the costs are incurred from the Host Community Fund to the EDA.

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

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING TRANSFERS TO
ECONOMIC DEVELOPMENT AUTHORITY**

WHEREAS, the EDA is purchasing the Biljan Property at 6639 Concord Boulevard; and

WHEREAS, the EDA will incur future costs for acquisition, closing, property taxes, legal and demolition; and

WHEREAS, the EDA does not have sufficient funds to cover costs associated with the purchase and demolition; and

WHEREAS, all costs associated with the acquisition and demolition are to be funded by transfers from the Host Community Fund, but not to exceed \$507,245.75;

NOW, THEREFORE BE IT RESOLVED, BY THE CITY OF INVER GROVE HEIGHTS: that the following transfers are authorized and may occur as necessary in 2018 and thereafter:

From:	Host Community Fund	451.57.9200.590.91100	\$16,245.75
To:	Economic Development Authority	E008-291.45.0000.3911000	16,245.75
From:	Host Community Fund	451.57.9200.590.91100	up to \$491,000.00
To:	Economic Development Authority	E008-291.45.0000.3911000	up to 491,000.00

Adopted by the City of Inver Grove Heights this 23rd day of July 2018.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Pay Voucher No. 2 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements

Meeting Date: July 23, 2018
 Item Type: Consent
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Steve W. Dodge, Asst. City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

SWD
SD

Fiscal/FTE Impact:

- | | |
|-------------------------------------|--|
| ☐ | None |
| ☐ | Amount included in current budget |
| ☐ | Budget amendment requested |
| ☐ | FTE included in current complement |
| ☐ | New FTE requested – N/A |
| ☒ | Other: Pavement Management Fund, Special Assessments, Utility Funds, DEED Grants, LRIP – MN State Reconstruction Bonds, State Aid Funds, Street Reconstruction Bonds |

PURPOSE/ACTION REQUESTED

Consider Pay Voucher No. 2 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.

SUMMARY

The improvements were ordered as part of the 2018 Pavement Management Program. The contract was awarded in the amount of \$4,189,854.00 to McNamara Contracting, Inc., on March 12, 2018 for the 2018 Pavement Management Program, City Project No. 2015-09D – Broderick Boulevard Reconstruction and City Project No. 2017-21 – VMCC/Golf Course Parking Lots.

Change Order No. 2 added City Projects 2018-08 – Fire Station No. 2 Sewer and Water Improvements and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements (Schedules F, G, and H), for a revised total contract of \$4,110,400.25.

I recommend approval of Pay Voucher No. 2, in the amount of \$390,571.54 (\$361,154.79 for work on City Project No. 2015-09D – Broderick Boulevard Reconstruction, \$0.00 for work on City Project No. 2017-21 VMCC/Golf Course Parking Lots, \$29,416.75 for work on City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and \$0.00 City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements).

SWD/nh

Attachments: Pay Voucher No. 2

**CITY OF INVER GROVE HEIGHTS
CONSTRUCTION PAY VOUCHER**

ESTIMATE NO: 2 (Two)
DATE: July 23, 2018
PERIOD ENDING: June 30, 2018
CONTRACT: 2018 Pavement Management Program
PROJECT NO: 2015-09D – Broderick Boulevard Reconstruction, 2017-21 – VMCC/Golf Course
Parking Lots, 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and
2018-11 – Fire Station No. 2 Fiber Optic Improvements

TO: McNamara Contracting, Inc.
16700 Chippendale Ave.
Rosemount, MN 55068

Original Contract Amount	\$4,189,854.00
Total Addition (Change Order No. 2)	\$35,275.00
Total Deduction (Change Order No. 1)	(\$114,728.75)
Total Contract Amount.....	\$4,110,400.25
Total Value of Work to Date.....	\$941,276.86
Less Retained (5%)	\$47,063.84
Less Previous Payment.....	\$503,641.48
Total Approved for Payment this Voucher.....	\$390,571.54
Total Payments including this Voucher	\$894,213.02

Approvals:

Pursuant to our field observation, I hereby recommend for payment the above stated amount for work performed through June 30, 2018.

Signed by:	 Thomas J. Kaldunski, City Engineer	<u>July 23, 2018</u>
Signed by:	_____ McNamara Contracting, Inc.	_____ Date
Signed by:	_____ George Tourville, Mayor	<u>July 23, 2018</u>

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Change Order No. 3 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements

Meeting Date: July 23, 2018

Item Type: Consent

Contact: Thomas J. Kaldunski, 651.450.2572

Prepared by: Steve W. Dodge, Asst. City Engineer

Reviewed by: Scott D. Thureen, Public Works Director

Fiscal/FTE Impact:

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

PURPOSE/ACTION REQUESTED

Consider Change Order No. 3 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.

SUMMARY

The Contract for CP 2015-09D includes the Mn/DOT State Aid approved schedule of materials control and must be followed for all state aid eligible materials installed with the project. A 2-foot select granular borrow (sand) section is proposed beneath the aggregate base and bituminous pavement on Broderick Boulevard consistent with the City standard pavement section. The contractor is supplying clean sand that is free draining and will support the road and draitile system being installed with the project. The select granular sand is uniformly graded (similar particle size) with less than 5 percent fines (silts and clays) requiring a modified testing method by supplemental agreement with MnDOT.

Mn/DOT is aware of the issues regarding testing on clean sand materials and allows sandy material to be measured for compliance with the schedule of materials control by specified density. The correspondence with Mn/DOT regarding this modification to the specifications is attached to the change order. This change in material testing will allow the clean sand material to meet the requirements of the contract and State Aid.

I recommend approval of Change Order No. 3, which has no modifications to the contract price.

SWD/nh

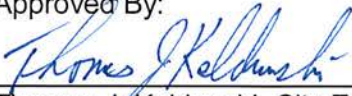
Attachments: Change Order No. 3

CHANGE ORDER NO. 3

2018 PAVEMENT MANAGEMENT PROGRAM
CITY PROJECT NO. 2015-09D – BRODERICK BOULEVARD RECONSTRUCTION
CITY PROJECT 2017-21 VMCC/GOLF COURSE PARKING LOTS
CITY PROJECT NO. 2018-08 – FIRE STATION NO. 2 SEWER AND WATER IMPROVEMENTS
CITY PROJECT NO. 2018-11 – FIRE STATION NO. 2 FIBER OPTIC IMPROVEMENTS

Owner: City of Inver Grove Heights 8150 Barbara Avenue Inver Grove Heights, MN 55077	Date of Issuance: July 9, 2018
Contractor: McNamara Contracting, Inc. 16700 Chippendale Avenue Rosemount, MN 55068	Engineer: Kimley-Horn and Associates
PURPOSE OF CHANGE ORDER: To modify the specifications for construction to allow for select granular borrow material to be tested using specified density in lieu of the DCP index method.	
CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Proposed Contract Price: \$4,189,854.00	Original Contract Time:
Previous Change Orders (\$79,453.75)	Net Change from Previous Change Orders
Contract Price Prior to this Change Order \$4,110,400.25	Contract Time Prior to this Change Order
Net Increase (Decrease) of this Change Order \$0.00	Net Increase (Decrease) of Change Order
Contract Price with all Approved Change Orders \$4,110,400.25	Contract Time with Approved Change
Recommended By:  7/9/18 Nick Hahn, Engineering Technician	Approved By:  7/9/18 McNamara Contracting, Inc.

Approved By:


Thomas J. Kaldunski, City Engineer

Approved By:

George Tourville, Mayor

Date of Council Action:

July 23, 2018

DSAE Portion: The State of Minnesota is not a participant in this contract. Signature by the District State Aid Engineer is for **FUNDING PURPOSES ONLY** and for compliance with State and Federal Aid Rules/Policy. Eligibility does not guarantee funds will be available.

This work is eligible for: ___ Federal Funding ___ State Aid Funding ___ Local funds

District State Aid Engineer: _____ Date: _____

MODIFICATIONS TO THE SPECIAL PROVISIONS

Add the following to S26C. Item 2105.522 Select Granular Borrow (CV):

The Contractor is allowed to meet the compaction compliance requirements in the specifications for select granular borrow material using the specified density test (sand cone or other). The specified density testing rate is provided in the schedule of materials control. A passing test shall meet the specified density requirements in the applicable sections of 2105 of the Mn/DOT Standard Specifications for Construction.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Pay Voucher No. 8 for the 2017 Capital Improvement Program, City Project No. 2017-02 – NWA Watermain Improvements, 65th Street Loop

Meeting Date: July 23, 2018
 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

TJK
SB *ST*

Fiscal/FTE Impact:

- | | |
|-------------------------------------|------------------------------------|
| ☐ | None |
| ☐ | Amount included in current budget |
| ☐ | Budget amendment requested |
| ☐ | FTE included in current complement |
| ☐ | New FTE requested – N/A |
| ☒ | Other: 511 NWA Water Fund |

PURPOSE/ACTION REQUESTED

Consider Pay Voucher No. 8 for the 2017 Capital Improvement Program, City Project No. 2017-02 – NWA Watermain Improvements, 65th Street Loop.

SUMMARY

The improvements were ordered as part of the 2017 Capital Improvement Program. The contract was awarded in the amount of \$1,362,495.50 to G.F. Jedlicki on March 27, 2017.

Pay Voucher No. 8 is for work that occurred through the end of June and includes the Inver Grove Heights-Eagan watermain interconnect along with the directional drilling and boring of the water main along TH 3.

I recommend approval of Pay Voucher No. 8, in the amount of \$ 29,810.23 for work on the 2017 Capital Improvement Program, City Project No. 2017-02 – NWA Trunk Utility Improvements, 65th Street Loop.

TJK/me

Attachments: Pay Voucher No. 8

**CITY OF INVER GROVE HEIGHTS
CONSTRUCTION PAY VOUCHER**

ESTIMATE NO: 8 (Eight)
DATE: July 23, 2018
PERIOD ENDING: June 30, 2018
PROJECT NO: 2017-02 NWA Trunk Utility Improvements, 65th Street Loop

TO: G.F. Jedlicki, Inc.
2471 Galpin Court
Suite #110
Chanhassen, MN 55317

Original Contract Amount	\$1,362,495.50
Total Addition	\$173,518.00
Total Deduction	\$0.00
Total Contract Amount	\$1,536,013.50
Total Value of Work to Date (includes stored materials)	\$ 1,429,629.84
Less Retained (3%).....	\$ 42,888.90
Less Previous Payment.....	\$ 1,356,930.71
Total Approved for Payment this Voucher	\$ 29,810.23
Total Payments including this Voucher.....	\$ 1,386,740.94

Approvals:

Pursuant to our field observation, I hereby recommend for payment the above state amount for work performed through June 30, 2018.

Signed by:	<u>Thomas J. Kaldunski, City Engineer</u>	<u>July 23, 2018</u>
		Date

Signed by:	<u>G. F. Jedlicki</u>	<u> </u>
		Date

Signed by:	<u>George Tourville, Mayor</u>	<u>July 23, 2018</u>
		Date

Partial Pay Estimate No.:

8

2017-02 NWA WATERMAIN IMPROVEMENTS - 65TH STREET LOOP
CITY OF INVER GROVE HEIGHTS, MINNESOTA
BMI PROJECT NO. T18.108658

WORK COMPLETED THROUGH JUNE 30, 2018

ITEM NO.	ITEM	UNIT PRICE	AS BID		PREVIOUS ESTIMATE		COMPLETED TO DATE	
			ESTIMATED QUANTITY	ESTIMATED AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
SCHEDULE 1								
1	2021.501 MOBILIZATION	\$50,000.00	0.8 LUMP SUM	\$40,000.00	0.80 LUMP SUM	\$40,000.00	0.80 LUMP SUM	\$40,000.00
2	2101.501 CLEARING	\$5,500.00	2.3 ACRE	\$12,650.00	1.77 ACRE	\$9,735.00	1.77 ACRE	\$9,735.00
3	2101.502 CLEARING	\$110.00	26 TREE	\$2,860.00	12.00 TREE	\$1,320.00	12.00 TREE	\$1,320.00
4	2101.506 GRUBBING	\$5,500.00	2.3 ACRE	\$12,650.00	1.77 ACRE	\$9,735.00	1.77 ACRE	\$9,735.00
5	2101.507 GRUBBING	\$110.00	26 TREE	\$2,860.00	12.00 TREE	\$1,320.00	12.00 TREE	\$1,320.00
6	2104.521 SALVAGE FENCE	\$10.00	260 LIN FT	\$2,600.00	0.00 LIN FT	\$0.00	0.00 LIN FT	\$0.00
7	2104.601 SALVAGE MISCELLANEOUS ITEMS ALLOWANCE	\$10,000.00	0.8 LUMP SUM	\$8,000.00	0.00 LUMP SUM	\$0.00	0.00 LUMP SUM	\$0.00
8	2105.511 CHANNEL AND POND EXCAVATION (P)	\$35.00	168 CU YD	\$5,880.00	168.00 CU YD	\$5,880.00	168.00 CU YD	\$5,880.00
9	2105.601 CONSTRUCT TEMPORARY ACCESS ROAD	\$23,500.00	1 EACH	\$23,500.00	1.00 EACH	\$23,500.00	1.00 EACH	\$23,500.00
10	2105.602 OBSTRUCTION REMOVAL	\$2,200.00	3 EACH	\$6,600.00	5.00 EACH	\$11,000.00	5.00 EACH	\$11,000.00
11	2118.501 AGGREGATE SURFACING CLASS 5	\$27.00	200 TON	\$5,400.00	354.74 TON	\$9,577.98	354.74 TON	\$9,577.98
12	2123.610 STREET SWEEPER (WITH PICKUP BROOM)	\$45.00	15 HOUR	\$675.00	11.00 HOUR	\$495.00	11.00 HOUR	\$495.00
13	2130.601 WATER USAGE ALLOWANCE	\$5,000.00	0.8 LUMP SUM	\$4,000.00	0.45 LUMP SUM	\$2,250.00	0.45 LUMP SUM	\$2,250.00
14	2451.609 GRANULAR BACKFILL	\$20.00	400 TON	\$8,000.00	0.00 TON	\$0.00	0.00 TON	\$0.00
15	2451.609 AGGREGATE FOUNDATION	\$52.00	100 TON	\$5,200.00	257.93 TON	\$13,412.36	257.93 TON	\$13,412.36
16	2476.601 WASTE COLLECTION AND DISPOSAL ALLOWANCE	\$10,000.00	0.8 LUMP SUM	\$8,000.00	0.00 LUMP SUM	\$0.00	0.00 LUMP SUM	\$0.00
17	2501.511 15" CS PIPE CULVERT	\$30.00	30 LIN FT	\$900.00	30.00 LIN FT	\$900.00	30.00 LIN FT	\$900.00
18	2501.511 18" CS PIPE CULVERT	\$34.00	20 LIN FT	\$680.00	0.00 LIN FT	\$0.00	0.00 LIN FT	\$0.00
19	2501.515 15" CS PIPE APRON	\$250.00	2 EACH	\$500.00	2.00 EACH	\$500.00	2.00 EACH	\$500.00
20	2501.515 18" CS PIPE APRON	\$350.00	2 EACH	\$700.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
21	2503.602 BORING PIT	\$15,250.00	1 EACH	\$15,250.00	1.00 EACH	\$15,250.00	1.00 EACH	\$15,250.00
22	2504.601 FLUSH WATERMAIN	\$3,900.00	0.8 LUMP SUM	\$3,120.00	0.80 LUMP SUM	\$3,120.00	0.80 LUMP SUM	\$3,120.00
23	2504.602 CONNECT TO EXISTING WATER MAIN	\$4,800.00	1 EACH	\$4,800.00	1.00 EACH	\$4,800.00	1.00 EACH	\$4,800.00
24	2504.602 HYDRANT	\$5,500.00	9 EACH	\$49,500.00	9.00 EACH	\$49,500.00	9.00 EACH	\$49,500.00
25	2504.602 1" CORPORATION STOP	\$400.00	1 EACH	\$400.00	1.00 EACH	\$400.00	1.00 EACH	\$400.00
26	2504.602 6" GATE VALVE & BOX	\$2,000.00	9 EACH	\$18,000.00	9.00 EACH	\$18,000.00	9.00 EACH	\$18,000.00
27	2504.602 16" BUTTERFLY GATE VALVE	\$6,500.00	7 EACH	\$45,500.00	7.00 EACH	\$45,500.00	7.00 EACH	\$45,500.00
28	2504.602 1" CURB STOP & BOX	\$550.00	1 EACH	\$550.00	1.00 EACH	\$550.00	1.00 EACH	\$550.00
29	2504.603 1" TYPE K COPPER PIPE	\$48.00	15 LIN FT	\$720.00	25.00 LIN FT	\$1,200.00	25.00 LIN FT	\$1,200.00
30	2504.603 6" WATERMAIN DUCTILE IRON CL 52	\$39.00	77 LIN FT	\$3,003.00	81.50 LIN FT	\$3,178.50	81.50 LIN FT	\$3,178.50
31	2504.603 16" WATERMAIN DUCTILE IRON CL 52	\$115.00	903 LIN FT	\$103,845.00	651.50 LIN FT	\$74,922.50	651.50 LIN FT	\$74,922.50
32	2504.603 16" WATERMAIN DUCTILE IRON CL 52 (THROUGH CASING)	\$101.00	247 LIN FT	\$24,947.00	184.00 LIN FT	\$18,584.00	184.00 LIN FT	\$18,584.00
33	2504.603 16" WATERMAIN DUCTILE IRON CL 52 (TIED JOINTS)	\$175.00	30 LIN FT	\$5,250.00	30.00 LIN FT	\$5,250.00	30.00 LIN FT	\$5,250.00
34	2504.603 STEEL CASING PIPE (TRENCHLESS)	\$440.00	247 LIN FT	\$108,680.00	170.00 LIN FT	\$74,800.00	170.00 LIN FT	\$74,800.00
35	2504.603 16" I.D. WATERMAIN (TRENCHLESS)	\$151.50	3294 LIN FT	\$499,041.00	2,980.00 LIN FT	\$451,470.00	2,980.00 LIN FT	\$451,470.00
36	2504.603 BUTTERFLY VALVE MANHOLE	\$550.00	70 LIN FT	\$38,500.00	86.00 LIN FT	\$47,300.00	86.00 LIN FT	\$47,300.00
37	2504.603 HYDRANT EXTENSION	\$900.00	7 LIN FT	\$6,300.00	24.00 LIN FT	\$21,600.00	24.00 LIN FT	\$21,600.00
38	2504.604 4" POLYSTYRENE INSULATION	\$37.00	20 SQ YD	\$740.00	0.00 SQ YD	\$0.00	0.00 SQ YD	\$0.00
39	2504.608 DUCTILE IRON FITTINGS	\$2.00	9815 POUND	\$19,630.00	7,795.00 POUND	\$15,590.00	7,795.00 POUND	\$15,590.00
40	2511.502 RANDOM RIPRAP CLASS III	\$100.00	24 TON	\$2,400.00	17.44 TON	\$1,744.00	17.44 TON	\$1,744.00
41	2533.507 PORTABLE PRECAST CONC BARRIER DES 8337	\$15.50	500 LIN FT	\$7,750.00	600.00 LIN FT	\$9,300.00	600.00 LIN FT	\$9,300.00
42	2533.508 RELOCATE PORT PRECAST CONC BAR DES 8337	\$4.00	500 LIN FT	\$2,000.00	0.00 LIN FT	\$0.00	0.00 LIN FT	\$0.00

WORK COMPLETED THROUGH JUNE 30, 2018

ITEM NO.	ITEM	UNIT	AS BID		PREVIOUS ESTIMATE		COMPLETED TO DATE	
			ESTIMATED QUANTITY	ESTIMATED AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
43	LANDSCAPE ALLOWANCE	\$10,000.00	0.8 LUMP SUM	\$8,000.00	1.08 LUMP SUM	\$10,770.00	2.55 LUMP SUM	\$25,511.00
44	2550.602 MARKING POST	\$200.00	7 EACH	\$1,400.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
45	2557.603 INSTALL FENCE	\$18.00	260 LIN FT	\$4,680.00	0.00 LIN FT	\$0.00	409.90 LIN FT	\$7,378.20
46	2557.603 CONSTRUCTION FENCE	\$5.00	100 LIN FT	\$500.00	195.00 LIN FT	\$975.00	195.00 LIN FT	\$975.00
47	2563.601 TRAFFIC CONTROL	\$3,300.00	0.8 LUMP SUM	\$2,640.00	0.80 LUMP SUM	\$2,640.00	0.80 LUMP SUM	\$2,640.00
48	2573.502 SILT FENCE, TYPE MS	\$2.00	3357 LIN FT	\$6,714.00	2,050.00 LIN FT	\$4,100.00	2,050.00 LIN FT	\$4,100.00
49	2573.602 ROCK CONSTRUCTION ENTRANCE	\$900.00	2 EACH	\$1,800.00	1.00 EACH	\$900.00	1.00 EACH	\$900.00
50	2573.901 STORM WATER MANAGEMENT ALLOWANCE	\$10,000.00	0.8 LUMP SUM	\$8,000.00	0.00 LUMP SUM	\$0.00	0.00 LUMP SUM	\$0.00
51	2575.523 EROSION CONTROL BLANKET CATEGORY 3N	\$1.50	3541 SQ YD	\$5,311.50	1,600.00 SQ YD	\$2,400.00	1,600.00 SQ YD	\$2,400.00
52	2573.530 STORM DRAIN INLET PROTECTION	\$200.00	6 EACH	\$1,200.00	6.00 EACH	\$1,200.00	6.00 EACH	\$1,200.00
53	2575.533 SEDIMENT CONTROL LOG TYPE WOOD CHIP	\$2.20	200 LIN FT	\$440.00	700.00 LIN FT	\$1,540.00	700.00 LIN FT	\$1,540.00
54	2575.570 RAPID STABILIZATION METHOD 3 (MIX 25-141)	\$3,300.00	3.5 ACRE	\$11,550.00	8.80 ACRE	\$29,040.00	11.41 ACRE	\$37,653.00
	SCHEDULE 1 TOTAL:			\$1,163,816.50		\$1,045,249.34		\$1,075,981.54
	SCHEDULE 2							
1	2021.501 MOBILIZATION	\$50,000.00	0.2 LUMP SUM	\$10,000.00	0.20 LUMP SUM	\$10,000.00	0.20 LUMP SUM	\$10,000.00
2	2101.501 CLEARING	\$200.00	3 EACH	\$600.00	4.00 EACH	\$800.00	4.00 EACH	\$800.00
3	2101.506 GRUBBING	\$200.00	3 EACH	\$600.00	4.00 EACH	\$800.00	4.00 EACH	\$800.00
4	2104.601 SALVAGE MISCELLANEOUS ITEMS ALLOWANCE	\$10,000.00	0.2 LUMP SUM	\$2,000.00	0.00 LUMP SUM	\$0.00	0.00 LUMP SUM	\$0.00
5	2105.601 CONSTRUCT TEMPORARY ACCESS ROAD	\$23,000.00	1 EACH	\$23,000.00	1.00 EACH	\$23,000.00	1.00 EACH	\$23,000.00
6	2118.501 AGGREGATE SURFACING CLASS 5	\$27.00	20 TON	\$540.00	0.00 TON	\$0.00	0.00 TON	\$0.00
7	2123.610 STREET SWEEPER (WITH PICKUP BROOM)	\$45.00	10 HOUR	\$450.00	1.00 HOUR	\$45.00	1.00 HOUR	\$45.00
8	2130.601 WATER USAGE ALLOWANCE	\$5,000.00	0.2 LUMP SUM	\$1,000.00	0.00 LUMP SUM	\$0.00	0.00 LUMP SUM	\$0.00
9	2451.609 GRANULAR BACKFILL	\$20.00	75 TON	\$1,500.00	0.00 TON	\$0.00	0.00 TON	\$0.00
10	2451.609 AGGREGATE FOUNDATION	\$52.00	30 TON	\$1,560.00	23.65 TON	\$1,229.80	23.65 TON	\$1,229.80
11	2476.601 WASTE COLLECTION AND DISPOSAL ALLOWANCE	\$10,000.00	0.2 LUMP SUM	\$2,000.00	0.00 LUMP SUM	\$0.00	0.00 LUMP SUM	\$0.00
12	2504.601 FLUSH WATERMAIN	\$3,900.00	0.2 LUMP SUM	\$780.00	0.20 LUMP SUM	\$780.00	0.20 LUMP SUM	\$780.00
13	2504.602 CONNECT TO EXISTING WATER MAIN	\$4,800.00	2 EACH	\$9,600.00	2.00 EACH	\$9,600.00	2.00 EACH	\$9,600.00
14	2504.602 HYDRANT	\$5,500.00	1 EACH	\$5,500.00	1.00 EACH	\$5,500.00	1.00 EACH	\$5,500.00
15	2504.602 1" CORPORATION STOP	\$400.00	1 EACH	\$400.00	1.00 EACH	\$400.00	1.00 EACH	\$400.00
16	2504.602 6" GATE VALVE & BOX	\$2,000.00	1 EACH	\$2,000.00	1.00 EACH	\$2,000.00	1.00 EACH	\$2,000.00
17	2504.602 12" GATE VALVE & BOX	\$5,200.00	3 EACH	\$15,600.00	3.00 EACH	\$15,600.00	3.00 EACH	\$15,600.00
18	2504.602 WATER METER MANHOLE	\$33,400.00	1 EACH	\$33,400.00	1.00 EACH	\$33,400.00	1.00 EACH	\$33,400.00
19	2504.603 6" WATERMAIN DUCTILE IRON CL 52	\$48.00	13 LIN FT	\$624.00	14.00 LIN FT	\$672.00	14.00 LIN FT	\$672.00
20	2504.603 12" WATERMAIN DUCTILE IRON CL 52	\$80.00	73 LIN FT	\$5,840.00	61.00 LIN FT	\$4,880.00	61.00 LIN FT	\$4,880.00
21	2504.603 12" I.D. WATERMAIN (TRENCHLESS)	\$100.00	711 LIN FT	\$71,100.00	720.00 LIN FT	\$72,000.00	720.00 LIN FT	\$72,000.00
22	2504.604 4" POLYSTYRENE INSULATION	\$37.00	10 SQ YD	\$370.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
23	2504.608 DUCTILE IRON FITTINGS	\$2.00	540 POUND	\$1,080.00	500.00 POUND	\$1,000.00	500.00 POUND	\$1,000.00
24	2506.602 EXTERNAL CHIMNEY SEAL	\$300.00	1 EACH	\$300.00	1.00 EACH	\$300.00	1.00 EACH	\$300.00
25	2540.601 LANDSCAPE ALLOWANCE	\$10,000.00	0.2 LUMP SUM	\$2,000.00	0.00 LUMP SUM	\$0.00	0.00 LUMP SUM	\$0.00
26	2550.602 MARKING POST	\$200.00	4 EACH	\$800.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
27	2563.601 TRAFFIC CONTROL	\$3,300.00	0.2 LUMP SUM	\$660.00	0.20 LUMP SUM	\$660.00	0.20 LUMP SUM	\$660.00

Partial Pay Estimate No.:

2017-02 NWA WATERMAIN IMPROVEMENTS - 65TH STREET LOOP
CITY OF INVER GROVE HEIGHTS, MINNESOTA
BMI PROJECT NO. T18.108658

8

WORK COMPLETED THROUGH JUNE 30, 2018

ITEM NO.	ITEM	UNIT PRICE	AS BID		PREVIOUS ESTIMATE		COMPLETED TO DATE	
			ESTIMATED QUANTITY	ESTIMATED AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT
28	2573.502 SILT FENCE, TYPE MS	\$2.20	325	LIN FT	425.00	LIN FT	425.00	LIN FT
29	2573.602 ROCK CONSTRUCTION ENTRANCE	\$900.00	2	EACH	2.00	EACH	2.00	EACH
30	2573.901 STORM WATER MANAGEMENT ALLOWANCE	\$10,000.00	0.2	LUMP SUM	0.00	LUMP SUM	0.00	LUMP SUM
31	2575.523 EROSION CONTROL BLANKET CATEGORY 3N	\$2.00	100	SQ YD	0.00	EACH	0.00	EACH
32	2575.570 RAPID STABILIZATION METHOD 3 (MIX 25-141)	\$3,300.00	0.2	ACRE	0.80	ACRE	0.80	ACRE
	SCHEDULE 2 TOTAL:			\$198,679.00		\$188,041.80		\$2,640.00
	TOTAL AMOUNT BID (SCHEDULE 1 + SCHEDULE 2):			\$1,362,495.50		\$1,233,291.14		\$1,264,023.34

STORED MATERIALS
DEDUCTION FOR STORED MATERIALS USED IN WORK COMPLETED
STORED MATERIALS REMAINING

\$0.00
\$0.00
\$0.00

Estimated Cost	Contract Cost to Date
Schedule 1 Schedule 2	\$1,163,816.50 \$198,679.00
Original Contract Amount	\$1,362,495.50
C.O.#1	\$173,518.00
Revised Contract Amount	\$1,536,013.50
Contract Work Completed to Date	\$1,429,629.84
Total Stored Materials to Date	\$0.00
Deduction for Stored Materials used	\$0.00
Completed Work and Stored Materials Retainage (3%)	\$1,429,629.84 \$42,888.90
Previous Payments	\$1,356,930.71
Amount Due This Payment 8	\$29,810.23
Total Payments	\$1,386,740.94

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Change Order No. 1 Amending the Contract for City Project No. City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements for Street Light Removal (Phase 1) to Include Boulevard Restoration (Phase 3)

Meeting Date: July 23, 2018
 Item Type: Consent
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Steve W. Dodge, Asst. City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director


Fiscal/FTE Impact:

☒	None
☐	Amount included in current budget
☐	Budget amendment requested
☐	FTE included in current complement
☐	New FTE requested – N/A
☐	Other: Pavement Management Fund, Arbor Pointe Contribution

PURPOSE/ACTION REQUESTED

Consider Change Order No. 1 amending the contract for City Project No. City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements for Street Light Removal (Phase 1) to Include Boulevard Restoration (Phase 3)

SUMMARY

City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements was ordered on March 12, 2018. The City is responsible for 31 street lights and Arbor Pointe Association, Inc. (APAI) is responsible for 33 street lights. Joint agreements with APAI and Xcel Energy have been executed. Phase 1 consists of removal of the existing sixty-four street light system and was awarded to Q3 Contracting, Inc. in the amount of \$40,205.80 on April 23rd, 2018. Xcel Energy has been executing Phase 2 which includes installation of the new 64 street light system, also being performed by Q3 Contracting, Inc. Phase 3 consists of boulevard restoration of the disturbed areas.

Q3 Contracting has a turf restoration division and has submitted a proposal in the amount of \$17,270.00 for seeding and turf establishment. \$12,270.00 is for applying the seed, a natural Futerra blanket system, and watering for up to 9-weeks. An additional \$5,000.00 allowance is added to allow for additional work as identified by City staff to reach full turf establishment acceptable to City standards.

I recommend approval of amending the contract for City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements for Street Light Removal (Phase 1) to Include Boulevard Restoration (Phase 3) for a revised contract amount of \$57,475.80.

SWD/kf

Attachments: Change Order No. 1
 Q3 Contracting Proposal (email)
 Q3 Contracting Rates

CHANGE ORDER NO. 1**2018 IMPROVEMENT PROGRAM****2018-04 – ARBOR POINTE PUD SHARED STREET LIGHT SYSTEM IMPROVEMENTS****PHASE 1 – STREET LIGHT REMOVAL****PHASE 3 – BOULEVARD RESTORATION**

Owner: City of Inver Grove Heights 8150 Barbara Avenue Inver Grove Heights, MN 55077	Date of Issuance: July 23, 2018
Contractor: Q3 Contracting, Inc. 3066 Spruce Street Little Canada, MN 55117	Engineer: Assistant City Engineer
PURPOSE OF CHANGE ORDER: To amend the contract documents to add turf restoration to the project for applying the seed, a natural Futerra blanket system, and watering for up to 9-weeks. An additional \$5,000.00 allowance is added to allow for additional work as identified by City staff to reach full turf establishment acceptable to City standards.	
CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Proposed Contract Price: \$40,205.80	Original Contract Time: August 15, 2018
Previous Change Orders	Net Change from Previous Change Orders
Contract Price Prior to this Change Order \$40,205.80	Contract Time Prior to this Change Order August 15, 2018
Net Increase (Decrease) of this Change Order \$17,270.00	Net Increase (Decrease) of Change Order 45 days
Contract Price with all Approved Change Orders \$57,475.80	Contract Time with Approved Change September 30, 2018
Recommended By: Nick Hahn, Engineering Technician	Approved By: Q3 Contracting, Inc.

Approved By:

Approved By:

Date of Council Action:

Thomas J. Kaldunski, City Engineer

George Tourville, Mayor

July 23, 2018

Steve W. Dodge. P.E.

From: Taylor Schieck <TSchieck@prim.com>
Sent: Monday, July 9, 2018 11:10 AM
To: Steve W. Dodge. P.E.
Subject: Inver Grove Heights - Q3 Contracting - Restoration
Attachments: T&E Rates.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Steve,

Per our conversation last week:

Q3 feels that an allowance of \$5,000.00 should be sufficient. We would only draw against this if/when the City of Inver Grove Heights would request Q3 Contracting to return to a site after the initial restoration to address a bare patch or an area that is not re-establishing turf. This would be in addition to the already proposed restoration services on the Arbor Pointe PUD Shared Street Light System Improvement (Phase 1) project, where Q3 Contracting, Inc. will provide additional restoration services (black dirt, futerra blanket, and seed) per MnDOT standards for up to 70% regrowth/turf establishment for an additional cost of \$12,270.00. This will include watering of the restored areas for up to 9 weeks starting the week of 6/25/18.

I have attached a list of our labor and equipment rates. These are the rates that would be applied toward the allowance. If additional materials are required (black dirt, etc.), we will provide the invoice from the supplier and bill the City of Inver Grove Heights the cost plus 10%, also against the allowance.

Please let me know if you have any questions.

Thanks,

Taylor Schieck
Estimator
Q3 Contracting, Inc.
3066 Spruce Street
Little Canada, MN 55117
651-365-7390 – Direct
507-226-4880 - Cell
www.prim.com



"No business objective is so important that it will be pursued at the sacrifice of safety."

Q3 Contracting - 2018 Rates - City of Inver Grove Heights	
<u>Classification</u>	<u>Hourly Rate</u>
ATV	\$ 20.00
BACKHOE	\$ 45.00
SKIDLOADER	\$ 20.00
AC / JACKHAMMER	\$ 15.00
TANDEM	\$ 40.00
FOREMAN	\$ 79.68
LABORER	\$ 68.33
OPERATOR	\$ 76.68
1-TON TRUCK	\$ 18.00
2-TON TRUCK	\$ 30.00
ROLLER	\$ 16.00
SWEEPER	\$ 25.00
TAMPER	\$ 15.00
TRAILER	\$ 5.30

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Change Order No. 2 for City Project No. 2018-07 – 2018 Pedestrian Ramp ADA Compliance

Meeting Date: July 23, 2018

Item Type: Consent

Contact: Thomas J. Kaldunski, 651.450.2572

Prepared by: Thomas J. Kaldunski, City Engineer

Reviewed by: Scott D. Thureen, Public Works
Director**Fiscal/FTE Impact:**

☐	None
☐	Amount included in current budget
☐	Budget amendment requested
☐	FTE included in current complement
☐	New FTE requested – N/A
☒	Other: CDBG Grant, Pavement Management Fund

PURPOSE/ACTION REQUESTED

Consider Change Order No. 2 for City Project No. 2018-07- 2018 Pedestrian Ramp ADA Compliance.

SUMMARY

Change Order No. 2 is for a change in contract time. The substantial completion date was changed from August 15, 2018 to September 3, 2018 and the final completion date was changed from August 1, 2018 to October 1, 2018.

Change Order No. 2 is due to the contractor's schedule and allowance of time to notify affected property owners to remove possible items in the right-of-way. The contractor's start date was Monday, July 16, 2018.

Staff recommends approval of Change Order No. 2 for City Project No. 2018-07 – 2018 Pedestrian Ramp ADA Compliance.

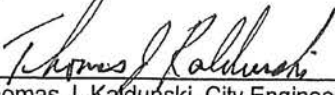
TJK/np

Attachment: Change Order No. 2

CHANGE ORDER NO. 2**CITY PROJECT 2018-07
2018 PEDESTRIAN RAMP ADA COMPLIANCE**

Owner: City of Inver Grove Heights 8150 Barbara Avenue Inver Grove Heights, MN 55077	Date of Issuance: July 11, 2018
Contractor: Pember Companies, Inc. 469 th St. Menomonie, WI 54751	Engineer: City Engineer
<u>Purpose of Change Order</u> Due to the Contractor's schedule and allowance of time to notify affected property owners to remove possible items in the right-of-way, the substantial and completion dates have been changed. Substantial completion date for City Project No. 2018-07 has been changed from August 15, 2018 to September 3, 2018. Final completion date has been changed from August 1, 2018 to October 1, 2018.	
CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Contract Price (Base Bid only): \$51,059.00	Original Contract Time: Substantial Completion date is July 15, 2018 Final Completion date is August 1, 2018
Previous Change Orders:	Net Change from Previous Change Orders:
Contract Price Prior to this Change Order: \$51,059.00	Contract Time Prior to this Change Order: Substantial Completion date is July 15, 2018 Final Completion date is August 1, 2018
Net Decrease of this Change Order: \$25,047.00	Net Increase (Decrease) of Change Order: Increase of 30 business days for Substantial Completion Increase of 43 business days for Final Completion
Contract Price with all Approved Change Orders: \$26,012.00	Contract Time with Approved Change: Substantial Completion date is Sept. 3, 2018 Final Completion date is October 1, 2018
Recommended By: _____ Nicole Portugal, Engineering Technician	Approved By:  Pember Companies, Inc.

Approved By:


Thomas J. Kaldunski, City Engineer

Approved By:

George Tourville, Mayor

Date of Council Action:

July 23, 2018

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Change Order No. 1 for City Project No. 2018-09B – Seal Coat

Meeting Date: July 23, 2018

Item Type: Consent

Contact: Thomas J. Kaldunski, 651.450.2572

Prepared by: Steve W. Dodge, Asst. City Engineer

Reviewed by: Scott D. Thureen, Public Works Director

Fiscal/FTE Impact:

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

PURPOSE/ACTION REQUESTED

Consider Change Order No. 1 for City Project No. 2018-09B – Seal Coat.

SUMMARY

The improvements were ordered as part of the 2018 Pavement Management Program. The contract was awarded in the amount of \$411,717.00 to Pearson Bros, Inc., on March 26, 2018 for City Project No. 2018-09B – Seal Coat.

Section SC-6.03 of the Supplementary Conditions – Contractor's Insurance is hereby modified to delete Subparagraph 5 – Contractor's Pollution Liability. It was determined that a street maintenance project such as a seal coat does not subject the City to pollution liability commensurate with large street or utility projects for which this provision was intended. To keep this provision in street maintenance contracts going forward would result in substantial increases in contract prices for street maintenance, as the cost of this policy is approximately 14.5% of the current contract amount. In good faith, Pearson Bros. did not include the cost of the policy in their bid but made us aware of the financial impact of including it in future contracts.

I recommend approval of Change Order No. 1 for work on City Project No. 2018-09B – Seal Coat.

TJK/nh

Attachments: Change Order No. 1

CHANGE ORDER NO. 1

2018 PAVEMENT MANAGEMENT PROGRAM CITY PROJECT NO. 2018-09B SEAL COAT

Owner: City of Inver Grove Heights 8150 Barbara Avenue Inver Grove Heights, MN 55077 Contractor: Pearson Brothers 11079 Lamont Avenue N.E. Hanover, MN 55341	Date of Issuance: July 12, 2018 Engineer: City Engineer
PURPOSE OF CHANGE ORDER Section SC-6.03 of the Supplementary Conditions – Contractor's Insurance is hereby modified to delete Subparagraph 5 – Contractor's Pollution Liability. It was determined that a street maintenance project such as a seal coat does not subject the City to pollution liability commensurate with large street or utility projects for which this provision was intended. Such a requirement is overly burdensome and costly.	
CHANGE IN CONTRACT PRICE Original Contract Price: \$411,717.00 Previous Change Orders \$0.00 Contract Price Prior to this Change Order \$411,717.00 Net Increase of this Change Order \$0.00 Contract Price with all Approved Change Orders \$411,717.00 Recommended By:  Nick Hahn, Engineering Technician	CHANGE IN CONTRACT TIME Original Contract Time: Net Change from Previous Change Orders Contract Time Prior to this Change Order Net Increase (Decrease) of Change Order Contract Time with Approved Change Approved By:  Pearson Brothers

Approved By:


 Thomas J. Kalounski, City Engineer

Approved By:

George Tourville, Mayor

Date of Council Action:

July 23, 2018

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Custom Grading Agreement for 4740 Babcock Trail (NE 1/4 of the SE 1/4 of Section 29, Township 28, Range 22, Dakota County, Minnesota)

Meeting Date: July 23, 2018
 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

TJK

SST

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 Custom Grading Agreement for 4740 Babcock Trail (NE 1/4 of the SE 1/4 of Section 29, Township 28, Range 22, Dakota County, Minnesota).

SUMMARY

The owners of 4740 Babcock Trail are affected by the City Ordinance Title 9, Chapter 5, Section 9-5-5. This Ordinance requires lots of record which do not have recorded contracts or agreements with the City to provide information to ensure the Development meets current City standards for grading, erosion control and storm water management.

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

It is recommended that the City Council approve the Custom Grading Agreement and Permanent Drainage Easement for 4740 Babcock Trail (NE 1/4 of the SE 1/4 of Section 28, Range 22, Dakota County, Minnesota).

TJK/mw

Attachments: Custom Grading Agreement

CUSTOM GRADING AGREEMENT
FOR
4740 BABCOCK TRAIL
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

CUSTOM GRADING AGREEMENT
FOR
4740 BABCOCK TRAIL
INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

THIS CUSTOM GRADING AGREEMENT (Agreement) is made and entered into on the 23rd day of July, 2018, 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 construction of a swimming pool on 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, stormwater management 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 Michael Dalglish and Lori Dalglish, 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:
Michael Dalglish and Lori Dalglish
4740 Babcock Trail
Inver Grove Heights, MN 55076

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

1.19 **PROPERTY.** Property means the real property located in the City of Inver Grove

Heights, Dakota County, Minnesota legally described on **Exhibit A** attached hereto.

ARTICLE 2

APPROVAL OF DEVELOPMENT PLANS

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

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

ARTICLE 3

IMPROVEMENTS

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

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

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

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

3.5 STREET MAINTENANCE, ACCESS AND REPAIR. The Owner shall clear, on a daily basis, any soil, earth or debris from the streets and wetlands within or adjacent to the 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. If a driveway is proposed to be constructed, 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 Agreement. 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, 2020. 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, 2020, 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, 2020.

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 deposited \$1,500 in cash with the City (hereafter "Engineering Escrow Amount") prior to 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 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. The City may record this Agreement with the Dakota County Recorder.

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 or 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 23rd day of July, 2018, 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

OWNER:

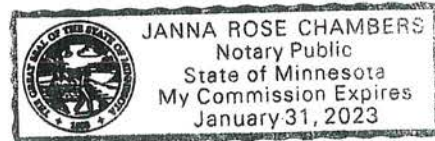

Michael Dalglish


Lori Dalglish

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this ____ day of June, 2018, by Michael Dalglish and Lori Dalglish, 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:

That part of the South 22 acres of the Northeast quarter of Southeast quarter of Section 29, Township 28, Range 22, East of the German Road and described as follows: Beginning at the Southeast corner of the Northeast quarter of the Southeast quarter of Section 29, Township 28, Range 22, thence North 0 degrees 10 minutes West along the East line of said Northeast Quarter of the Southeast quarter, a distance of 300 feet, thence south 81 degrees 25 minutes West 715 feet to the center of Oakdale Road (German Road) thence Southeasterly along the center of said German Road 254 feet to the south line of the Northeast quarter of the Southeast quarter of Section 29, Township 28, Range 22, thence East along the South line 600 feet to the point of beginning, according to the U.S. Government Survey, Dakota County, Minnesota

AND

Commencing at the Southeast corner of the Northeast quarter Southeast of Section 29, Township 28, Range 22 thence North 0 degrees 10 minutes West, along the East line of said Northeast quarter Southeast quarter 300 feet, thence South 81 degrees 25 minutes West, 181.96 feet to the point of beginning of the property to be described, said point being on the West line of the Easterly 180 feet of said Northeast quarter of the Southeast quarter thence North 0 degrees 10 minutes West, 15 feet, thence South 81 degrees, 25 minutes West, 562.75 feet to the centerline of Babcock Trail (formerly Oakdale Road) as the same is improved and traveled; thence South 33 degrees 31 minutes East along said Babcock Trail (also known as SAR #73) 16.36 feet thence North 81 degrees, 25 minutes East 553.67 feet to the point of beginning, according to the U.S. Government Survey, Dakota County, Minnesota

APPENDIX 1
LIST OF DEVELOPMENT PLANS

<u>PLAN</u>	<u>DATE OF PLAN PREPARATION</u>	<u>PREPARED BY</u>
Stormwater Management Plan	5/30/18	Landowner
Erosion Control Plan	5/30/18	All About Pools, Inc.

The Development Plans were approved by the City Engineer on June 4, 2018.

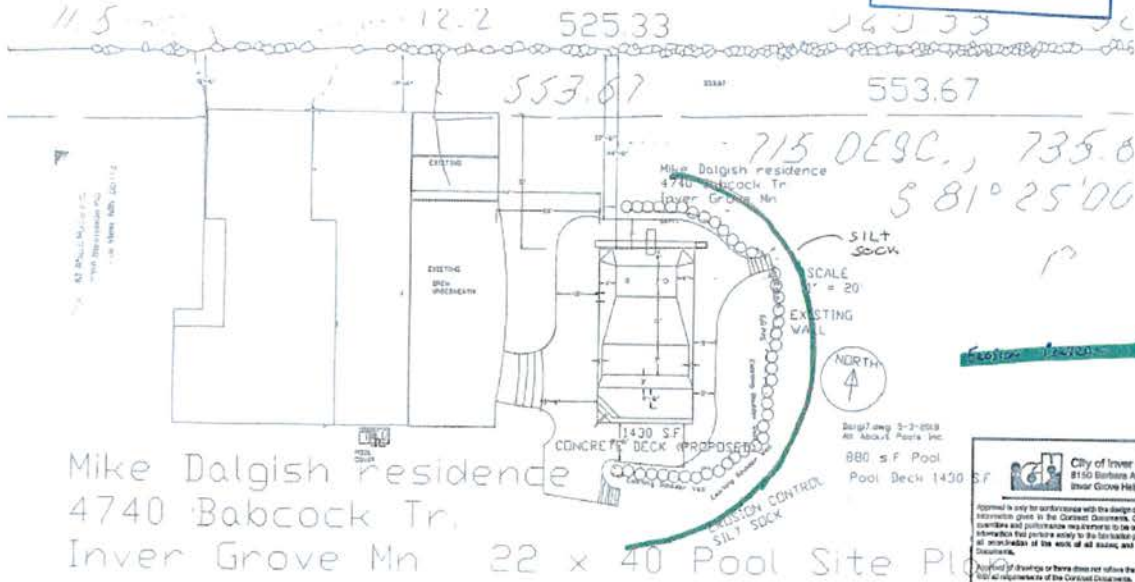
STORM WATER MANAGEMENT PLAN



5/30/2018 - [Handwritten notes]
 4740 Babcock Trail

EROSION CONTROL PLAN

1" = 20'



City of Inver Grove Heights 8150 Eastline Avenue Inver Grove Heights, MN 55127-0412	
Approved in only for performance with the design shown of the Project and compliance with the information given in the Contract Documents. Contractor is responsible for all dimensions, quantities and performance requirements to be installed and contained in the project, for all information and performance requirements to be installed and contained in the project, for all information and performance requirements to be installed and contained in the project.	
☒ APPROVED ☐ APPROVED AS NOTED Date: 6/4/2018	☐ DISAPPROVED ☐ REVISED AND RESUBMIT By: [Signature]

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 12-31-19, whichever occurs first	Grading, drainage, and sediment & erosion control
<u> X </u>	Prior to Certificate of Occupancy	As-built
<u> X </u>	Within 6 months after Certificate of Occupancy	Landscaping

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Resolution Authorizing Advertisement for Bids for Public Works Maintenance Facility HVAC Improvements

Meeting Date: July 23, 2018
 Item Type: Consent
 Contact: Scott D. Thureen, 651.450.2571
 Prepared by: Scott D. Thureen, Public Works Director
 Reviewed by: 

Fiscal/FTE Impact:

- | | |
|-------------------------------------|------------------------------------|
| ☐ | None |
| ☐ | Amount included in current budget |
| ☐ | Budget amendment requested |
| ☐ | FTE included in current complement |
| ☐ | New FTE requested – N/A |
| ☒ | Other: Central Equipment Fund |

PURPOSE/ACTION REQUESTED

Consider resolution authorizing advertisement for bids for Public Works Maintenance Facility HVAC improvements.

SUMMARY

The Public Works Maintenance Facility is currently ventilated with two (2) indoor direct fired Weather-Rite make up air units. One large MAU serves the main apparatus bay. A second smaller MAU serves the repair garage. The 33-year-old equipment is past its expected service life and we have experienced deficiencies and declining performance of the system including equipment failure requiring excessive maintenance and repair. After the last repair, the contractor told us the work should only be considered temporary and that the system should be replaced.

The subject project includes removal of the existing make-up air units, furnishing and installing new packaged rooftop air handling units, furnishing and installing all ancillary controls, duct work, piping and electrical related to the new packaged rooftop unit, new roof-mounted exhaust fans, and new gas detection system with new CO and NO₂ detectors.

I recommend approval of the resolution.

SDT/kf

Attachment: Resolution

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY**

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR BIDS FOR PUBLIC WORKS
MAINTENANCE FACILITY HVAC IMPROVEMENTS**

RESOLUTION NO. _____

WHEREAS, the existing make-up air units that serve the Public Works Maintenance Facility have reached the end of their useful life and continued dependence on the 33-year-old system could result in unsafe work conditions for staff; and

WHEREAS, SEH, Inc. was retained to prepare plans and specifications for the replacement of said equipment; and

WHEREAS, the plans and specifications are complete and the advertisement for bids has been prepared.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE INVER GROVE HEIGHTS, MINNESOTA THAT the City Council authorizes advertisement for bids for the project.

Adopted by the City Council of Inver Grove Heights, Minnesota this 23rd day of July 2018

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Resolution Awarding Contract for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street

Meeting Date: July 23, 2018
 Item Type: Consent
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Thomas J. Kaldunski, City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director


Fiscal/FTE Impact:

☐	None
☐	Amount included in current budget
☐	Budget amendment requested
☐	FTE included in current complement
☐	New FTE requested – N/A
☒	Other: Municipal State Aid Funds, NWA Water Fund 511, NWA Storm Water Fund 448

PURPOSE/ACTION REQUESTED

Consider resolution awarding contract for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street.

SUMMARY

Bids were opened at 10:00 a.m. on June 21, 2018 for the subject project. Three contractors submitted bids. Max Steining, Inc. is the lowest responsible bidder with a total bid amount of \$3,822,211.12. The low bid is 18 percent lower than the engineer's estimate.

The bids were received as follows:

BIDDER	ADDENDUM	5% BID BOND	TOTAL BID
Max Steining, Inc.	Yes	Yes	\$3,822,211.12
Park Construction Inc.	Yes	Yes	\$3,898,732.25
Bituminous Roadways	Yes	Yes	\$5,605,277.72

The City of Inver Grove Heights has entered into a right-of-way Public Interest Finding (PIF) with MnDOT. According to the PIF, the City cannot award this contract until MnDOT confirms the City's title and possession of the easements on the project. The City has settled with five of the seven landowners. Easements from the remaining landowners will be secured following the eminent domain hearing scheduled for Wednesday, July 18, 2018. MnDOT's concurrence on full title and possession is anticipated on July 19, 2018, or before the Council's consideration of award of contract on July 23, 2018. The award of contract will be contingent on MnDOT's concurrence.

I recommend that the City Council adopt the resolution accepting the bids and awarding the contract to Max Steining, Inc. for a total contract amount of \$3,822,211.12 for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street.

SWD/kf

Attachments: Resolution
 Summary of Bids from WSB

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

**CONSIDER RESOLUTION AWARDING CONTRACT FOR CITY PROJECT NOS. 2015-03 – 65TH
STREET RECONSTRUCTION, 2017-03 – WATERMAIN IMPROVEMENTS 65TH STREET LOOP AND
2017-24 – T.H. 3 INTERSECTION IMPROVEMENTS FOR 65TH STREET**

RESOLUTION NO. _____

WHEREAS, pursuant to an advertisement for bids for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street, bids were received, opened, read aloud, and tabulated according to law. The following bids were received complying with the advertisement, and submitted a bid bond; and

BIDDER	ADDENDUM	5% BID BOND	TOTAL BID
Max Steininger, Inc.	Yes	Yes	\$3,822,211.12
Park Construction Inc.	Yes	Yes	\$3,898,732.25
Bituminous Roadways	Yes	Yes	\$5,605,277.72

WHEREAS, Max Steininger, Inc. is the lowest responsible bidder with a total bid of \$3,822,211.12 for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street.

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

1. The Mayor and Clerk are hereby authorized and directed to enter into a contract with Max Steininger, Inc. in the name of the City of Inver Grove Heights, for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street according to plans and specifications therefore approved by the Council and on file at the Office of the City Clerk.
2. The City Clerk is hereby authorized and directed to return, forthwith, to all bidders, the deposits made with their bids except for the deposit of the successful bidder and the next lowest bidder shall be retained until the contract has been signed.
3. City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street shall be funded through Municipal State Aid Funds, NWA Water Fund 511, NWA Storm Water Fund 448.
4. The award of contract is contingent on the City securing all necessary easements and receiving MnDOT concurrence on the project's full title and possession of the easements.

Adopted by the City Council of Inver Grove Heights this 23rd day of July 2018

AYES:
NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk



June 21, 2018

Honorable Mayor and City Council
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Re: TH 3 and 65th Street Improvement Project
City of Inver Grove Heights Project Nos. 2015-03, 2017-03 and 2017-24
WSB Project No. 1702-290

Dear Mayor and Council Members:

Bids were received for the above-referenced project on Thursday, June 21, 2018, and were opened and read aloud. A total of three (3) bids were received. The bids were checked for mathematical accuracy and tabulated. There were minor mathematical errors, however this did not change the low bidder. The Engineer's Estimate was \$4,663,708.10. The bid tabulation indicates the low bidder as Max Steininger, Inc., Eagan, Minnesota, in the amount of \$3,822,211.12.

We recommend that the City consider these bids and award a contract to Max Steininger, Inc., based on the results of the bids received.

Sincerely,

WSB & Associates, Inc.

A handwritten signature in black ink, appearing to read "Nich Hentges", with a long horizontal flourish extending to the right.

Nicholas Hentges, PE
Project Manager

Enclosure

cc: Gregg Koenig, Max Steininger, Inc.
Tom Kaldunski, City of Inver Grove Heights
Brad Reifsteck, WSB & Associates, Inc.

rrh

BID TABULATION SUMMARY

PROJECT: TH 3 and 65th Street Improvements

OWNER: City of Inver Grove Heights, MN

C.P. Nos. 2015-03, 2017-03 and 2017-24

S.P. 1908-88 and S.A.P. 178-010-011

WSB PROJECT NO.: 1702-290

Bids Opened: June 21, 2018, 10:00 a.m.

Contractor	Addendum No. 1	Bid Security (5%)	Grand Total Bid
1 Max Steininger, Inc.	X	X	\$3,822,211.12
2 Park Construction, Inc.	X	X	\$3,898,732.25
3 Bituminous Roadways, Inc.	X	X	\$5,605,277.72
Engineer's Opinion of Cost			\$4,663,708.10

I hereby certify that this is a true and correct tabulation of the bids as received on June 21, 2018


Nicholas Hentges, PE Project Manager

 Denotes corrected figure



WSB
Project Bid Abstract

Project Name: TH 3 & 65th Street Improvements
Contract No.:
Client: City of Inver Grove Heights
Project No.: 01702-29
Bid Opening: June 21, 2018 at 10:00 AM
Owner:

Denotes corrected figure

Project: 01702-29 - IGH - Phase 1 65th Street & TH 3 Improvements								Engineers Estimate		Max Steininger, Inc.		Park Construction Company - Mpls		Bituminous Roadways, Inc.	
Line No.	Item	Units	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Base Bid															
1	2011.601 AS BUILT	LS	1	\$1,300.00	\$1,300.00	\$5,179.79	\$5,179.79	\$4,870.00	\$4,870.00	\$5,265.00	\$5,265.00				
2	2021.501 MOBILIZATION	LS	1	\$225,000.00	\$225,000.00	\$198,000.00	\$198,000.00	\$232,000.00	\$232,000.00	\$178,300.00	\$178,300.00				
3	2031.502 FIELD OFFICE TYPE D	EACH	1	\$13,000.00	\$13,000.00	\$7,000.00	\$7,000.00	\$25,000.00	\$25,000.00	\$38,014.00	\$38,014.00				
4	2101.505 CLEARING	ACRE	6.2	\$4,800.00	\$29,760.00	\$4,385.58	\$27,190.60	\$4,020.00	\$24,924.00	\$4,781.00	\$29,642.20				
5	2101.505 GRUBBING	ACRE	6.2	\$4,800.00	\$29,760.00	\$3,179.55	\$19,713.21	\$2,910.00	\$18,042.00	\$2,951.00	\$18,296.20				
6	2101.524 CLEARING	TREE	40	\$155.00	\$6,200.00	\$219.28	\$8,771.20	\$201.00	\$8,040.00	\$347.00	\$13,880.00				
7	2101.524 GRUBBING	TREE	40	\$135.00	\$5,400.00	\$109.64	\$4,385.60	\$101.00	\$4,040.00	\$234.00	\$9,360.00				
8	2102.503 PAVEMENT MARKING REMOVAL	L F	1000	\$0.60	\$600.00	\$1.07	\$1,070.00	\$1.00	\$1,000.00	\$1.10	\$1,100.00				
9	2104.502 REMOVE CONCRETE APRON	EACH	4	\$200.00	\$800.00	\$160.10	\$640.40	\$459.00	\$1,836.00	\$237.00	\$948.00				
10	2104.502 REMOVE MANHOLE OR CATCH BASIN	EACH	1	\$500.00	\$500.00	\$293.51	\$293.51	\$497.00	\$497.00	\$592.00	\$592.00				
11	2104.502 REMOVE GATE VALVE	EACH	1	\$250.00	\$250.00	\$266.83	\$266.83	\$272.00	\$272.00	\$166.00	\$166.00				
12	2104.502 REMOVE HYDRANT	EACH	1	\$350.00	\$350.00	\$533.65	\$533.65	\$686.00	\$686.00	\$552.00	\$552.00				
13	2104.502 REMOVE MARKER	EACH	4	\$25.00	\$100.00	\$53.36	\$213.44	\$50.30	\$201.20	\$52.50	\$210.00				
14	2104.502 REMOVE SIGN TYPE C	EACH	4	\$50.00	\$200.00	\$53.36	\$213.44	\$50.30	\$201.20	\$52.50	\$210.00				
15	2104.502 REMOVE ENERGY ABSORBING TERMINAL	EACH	4	\$300.00	\$1,200.00	\$456.76	\$1,827.04	\$430.00	\$1,720.00	\$451.00	\$1,804.00				
16	2104.502 SALVAGE MAIL BOX SUPPORT	EACH	5	\$50.00	\$250.00	\$80.04	\$400.20	\$75.40	\$377.00	\$52.50	\$262.50				
17	2104.503 SAWING CONCRETE PAVEMENT (FULL DEPTH)	L F	54	\$6.50	\$351.00	\$7.99	\$431.46	\$6.15	\$332.10	\$5.00	\$270.00				
18	2104.503 SAWING BIT PAVEMENT (FULL DEPTH)	L F	314	\$6.00	\$1,884.00	\$3.28	\$1,029.92	\$2.50	\$785.00	\$2.10	\$659.40				
19	2104.503 REMOVE CONCRETE CULVERT	L F	106	\$20.00	\$2,120.00	\$32.02	\$3,394.12	\$18.10	\$1,918.60	\$12.50	\$1,325.00				
20	2104.503 REMOVE METAL CULVERT	L F	64	\$38.00	\$2,432.00	\$21.35	\$1,366.40	\$15.50	\$992.00	\$12.50	\$800.00				
21	2104.503 REMOVE WATER MAIN	L F	10	\$25.00	\$250.00	\$21.35	\$213.50	\$34.00	\$340.00	\$12.50	\$125.00				
22	2104.503 REMOVE SEWER PIPE (STORM)	L F	15	\$30.00	\$450.00	\$21.35	\$320.25	\$23.00	\$345.00	\$12.50	\$187.50				
23	2104.503 REMOVE CURB & GUTTER	L F	1253	\$3.50	\$4,385.50	\$2.68	\$3,358.04	\$2.80	\$3,508.40	\$2.20	\$2,756.60				
24	2104.503 REMOVE GUARDRAIL-PLATE BEAM	L F	1100	\$3.50	\$3,850.00	\$3.47	\$3,817.00	\$3.25	\$3,575.00	\$3.40	\$3,740.00				

Project: 01702-29 - IGH - Phase 1 65th Street & TH 3 Improvements				Engineers Estimate				Max Steininger, Inc.				Park Construction Company - Mpls				Bituminous Roadways, Inc.			
Line No.	Item	Units	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price				
25	2104.504 REMOVE PAVEMENT	S Y	5039	\$9.00	\$45,351.00	\$11.92	\$60,064.88	\$7.20	\$36,280.80	\$5.30	\$26,706.70								
26	2104.518 REMOVE CONCRETE PAVEMENT	S F	1455	\$3.00	\$4,365.00	\$1.21	\$1,760.55	\$0.70	\$1,018.50	\$1.20	\$1,746.00								
27	2104.518 REMOVE BITUMINOUS PAVEMENT	S F	23939	\$1.00	\$23,939.00	\$0.59	\$14,124.01	\$0.22	\$5,266.58	\$0.70	\$16,757.30								
28	2104.518 REMOVE BITUMINOUS DRIVEWAY PAVEMENT	S F	3325	\$1.50	\$4,987.50	\$0.63	\$2,094.75	\$0.51	\$1,695.75	\$0.45	\$1,496.25								
29	2104.618 REMOVE BRICK PAVERS	S F	175	\$5.00	\$875.00	\$5.38	\$941.50	\$3.00	\$525.00	\$11.50	\$2,012.50								
30	2105.504 GEOTEXTILE FABRIC TYPE 5	S Y	6058	\$2.00	\$12,116.00	\$1.52	\$9,208.16	\$2.00	\$12,116.00	\$1.70	\$10,298.60								
31	2105.507 COMMON EXCAVATION (P)	C Y	47522	\$11.00	\$522,742.00	\$5.25	\$249,490.50	\$4.55	\$216,225.10	\$11.50	\$546,503.00								
32	2105.507 SUBGRADE EXCAVATION (P)	C Y	6323	\$13.00	\$82,199.00	\$4.14	\$26,177.22	\$5.20	\$32,879.60	\$19.00	\$120,137.00								
33	2105.507 SELECT GRANULAR BORROW (CV) (P)	C Y	11569	\$16.00	\$185,104.00	\$13.51	\$156,297.19	\$16.50	\$190,888.50	\$16.00	\$185,104.00								
34	2105.507 SELECT GRANULAR BORROW MOD 10% (CV)	C Y	21675	\$21.00	\$455,175.00	\$10.41	\$225,636.75	\$13.70	\$296,947.50	\$11.50	\$249,262.50								
35	2118.507 AGGREGATE SURFACING (CV) CLASS 5	C Y	294	\$40.00	\$11,760.00	\$28.54	\$8,390.76	\$31.90	\$9,378.60	\$26.50	\$7,791.00								
36	2123.610 STREET SWEEPER (WITH PICKUP BROOM)	HOURL	100	\$135.00	\$13,500.00	\$75.00	\$7,500.00	\$126.00	\$12,600.00	\$158.00	\$15,800.00								
37	2123.610 1.5 CU YD BACKHOE	HOURL	40	\$150.00	\$6,000.00	\$160.17	\$6,406.80	\$144.00	\$5,760.00	\$172.00	\$6,880.00								
38	2130.523 WATER	MGAL	50	\$28.00	\$1,400.00	\$39.08	\$1,954.00	\$31.20	\$1,560.00	\$145.00	\$7,250.00								
39	2211.507 AGGREGATE BASE (CV) CLASS 5 (P)	C Y	2422	\$35.00	\$84,770.00	\$22.26	\$53,913.72	\$29.40	\$71,206.80	\$26.50	\$64,183.00								
40	2221.507 SHOULDER BASE AGGREGATE (CV) CLASS 2	C Y	14	\$60.00	\$840.00	\$150.39	\$2,105.46	\$150.00	\$2,100.00	\$91.50	\$1,281.00								
41	2360.509 TYPE SP 12.5 WEARING COURSE MIX (4:C)	TON	3803	\$70.00	\$266,210.00	\$77.53	\$294,846.59	\$73.00	\$277,619.00	\$77.50	\$294,732.50								
42	2411.507 STRUCTURE EXCAVATION CLASS U	C Y	27769	\$13.00	\$360,997.00	\$7.71	\$214,098.99	\$4.90	\$136,068.10	\$12.50	\$347,112.50								
43	2411.604 MODULAR BLOCK RETAINING WALL SPECIAL	S Y	2306	\$390.00	\$899,340.00	\$467.42	\$1,077,870.52	\$440.00	\$1,014,640.00	\$876.00	\$2,020,056.00								
44	2411.618 ANTI-GRAFFITI COATING (P)	S F	19955	\$1.30	\$25,941.50	\$2.93	\$58,468.15	\$1.20	\$23,946.00	\$0.25	\$4,988.75								
45	2411.618 ARCH SURFACE FINISH (MULTI COLOR) (P)	S F	19955	\$2.80	\$55,874.00	\$1.07	\$21,351.85	\$2.55	\$50,885.25	\$0.30	\$5,986.50								
46	2451.507 FINE FILTER AGGREGATE (CV)	C Y	310	\$45.00	\$13,950.00	\$54.32	\$16,839.20	\$24.60	\$7,626.00	\$37.50	\$11,625.00								
47	2451.507 FINE AGGREGATE BEDDING (CV)	C Y	383	\$42.00	\$16,086.00	\$21.88	\$8,380.04	\$21.20	\$8,119.60	\$37.50	\$14,362.50								
48	2501.502 21" RC PIPE APRON	EACH	1	\$675.00	\$675.00	\$848.51	\$848.51	\$1,090.00	\$1,090.00	\$1,182.00	\$1,182.00								
49	2501.502 24" RC PIPE APRON	EACH	3	\$730.00	\$2,190.00	\$786.61	\$2,359.83	\$1,210.00	\$3,630.00	\$1,240.00	\$3,720.00								
50	2501.502 30" RC PIPE APRON	EACH	1	\$850.00	\$850.00	\$1,122.81	\$1,122.81	\$1,500.00	\$1,500.00	\$1,569.00	\$1,569.00								
51	2501.502 15" RC SAFETY APRON	EACH	1	\$500.00	\$500.00	\$805.82	\$805.82	\$1,050.00	\$1,050.00	\$1,134.00	\$1,134.00								
52	2501.503 24" RC PIPE CULVERT DES 3006 CL IV	L F	128	\$65.00	\$8,320.00	\$90.99	\$11,646.72	\$125.00	\$16,000.00	\$93.00	\$11,904.00								
53	2502.503 4" PE PIPE DRAIN	L F	24	\$18.00	\$432.00	\$24.25	\$582.00	\$15.20	\$364.80	\$25.00	\$600.00								
54	2502.503 4" PERF PE PIPE DRAIN	L F	171	\$12.00	\$2,052.00	\$13.85	\$2,368.35	\$11.90	\$2,034.90	\$25.00	\$4,275.00								
55	2502.602 4" PVC PIPE DRAIN CLEANOUT	EACH	3	\$500.00	\$1,500.00	\$616.52	\$1,849.56	\$248.00	\$744.00	\$207.00	\$621.00								
56	2503.503 15" RC PIPE SEWER DES 3006	L F	630	\$40.00	\$25,200.00	\$64.04	\$40,345.20	\$48.30	\$30,429.00	\$59.00	\$37,170.00								
57	2503.503 15" RC PIPE SEWER DES 3006 CL III	L F	169	\$52.00	\$8,788.00	\$64.04	\$10,822.76	\$51.10	\$8,635.90	\$59.00	\$9,971.00								
58	2503.503 21" RC PIPE SEWER DES 3006	L F	114	\$55.00	\$6,270.00	\$73.70	\$8,401.80	\$64.10	\$7,307.40	\$69.50	\$7,923.00								
59	2503.503 24" RC PIPE SEWER DES 3006	L F	26	\$75.00	\$1,950.00	\$74.18	\$1,928.68	\$103.00	\$2,678.00	\$73.50	\$1,911.00								

Project: 01702-29 - IGH - Phase 1 65th Street & TH 3 Improvements										Max Steininger, Inc.				Park Construction Company - Mpls				Bituminous Roadways, Inc.			
Line No.	Item	Units	Quantity	Engineers Estimate		Unit Price		Total Price		Unit Price		Total Price		Unit Price		Total Price		Unit Price		Total Price	
60	2503.503 27" RC PIPE SEWER DES 3006	L F	236	\$70.00	\$16,520.00	\$91.79	\$21,662.44	\$83.90	\$19,800.40	\$89.50	\$21,122.00	\$89.50	\$21,122.00	\$83.90	\$19,800.40	\$89.50	\$21,122.00	\$89.50	\$21,122.00	\$89.50	\$21,122.00
61	2503.503 27" RC PIPE SEWER DES 3006 CL III	L F	740	\$75.00	\$55,500.00	\$91.79	\$67,924.60	\$104.00	\$76,960.00	\$89.50	\$66,230.00	\$89.50	\$66,230.00	\$104.00	\$76,960.00	\$89.50	\$66,230.00	\$89.50	\$66,230.00	\$89.50	\$66,230.00
62	2503.503 27" RC PIPE SEWER DES 3006 CL IV	L F	197	\$80.00	\$15,760.00	\$103.70	\$20,428.90	\$137.00	\$26,989.00	\$102.00	\$20,094.00	\$102.00	\$20,094.00	\$137.00	\$26,989.00	\$102.00	\$20,094.00	\$102.00	\$20,094.00	\$102.00	\$20,094.00
63	2503.503 30" RC PIPE SEWER DES 3006 CL III	L F	20	\$95.00	\$1,900.00	\$111.73	\$2,234.60	\$110.00	\$2,200.00	\$98.50	\$1,970.00	\$98.50	\$1,970.00	\$110.00	\$2,200.00	\$98.50	\$1,970.00	\$98.50	\$1,970.00	\$98.50	\$1,970.00
64	2503.602 CONNECT TO EXISTING STORM SEWER	EACH	1	\$1,500.00	\$1,500.00	\$5,336.54	\$5,336.54	\$1,020.00	\$1,020.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,020.00	\$1,020.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00
65	2503.603 42" STEEL CASING PIPE	L F	30	\$750.00	\$22,500.00	\$213.46	\$6,403.80	\$198.00	\$5,940.00	\$220.00	\$6,600.00	\$220.00	\$6,600.00	\$198.00	\$5,940.00	\$220.00	\$6,600.00	\$220.00	\$6,600.00	\$220.00	\$6,600.00
66	2504.602 CONNECT TO EXISTING WATER MAIN	EACH	2	\$1,800.00	\$3,600.00	\$4,802.80	\$9,605.60	\$1,190.00	\$2,380.00	\$1,698.00	\$3,396.00	\$1,698.00	\$3,396.00	\$1,190.00	\$2,380.00	\$1,698.00	\$3,396.00	\$1,698.00	\$3,396.00	\$1,698.00	\$3,396.00
67	2504.602 HYDRANT	EACH	4	\$4,900.00	\$19,600.00	\$3,330.00	\$13,320.00	\$4,410.00	\$17,640.00	\$4,510.00	\$18,040.00	\$4,510.00	\$18,040.00	\$4,410.00	\$17,640.00	\$4,510.00	\$18,040.00	\$4,510.00	\$18,040.00	\$4,510.00	\$18,040.00
68	2504.602 16" BUTTERFLY VALVE WITH MH	EACH	1	\$5,000.00	\$5,000.00	\$2,918.02	\$2,918.02	\$11,600.00	\$11,600.00	\$3,787.00	\$3,787.00	\$3,787.00	\$3,787.00	\$11,600.00	\$11,600.00	\$3,787.00	\$3,787.00	\$3,787.00	\$3,787.00	\$3,787.00	\$3,787.00
69	2504.602 6" GATE VALVE & BOX	EACH	4	\$1,500.00	\$6,000.00	\$1,158.03	\$4,632.12	\$1,390.00	\$5,560.00	\$1,870.00	\$7,480.00	\$1,870.00	\$7,480.00	\$1,390.00	\$5,560.00	\$1,870.00	\$7,480.00	\$1,870.00	\$7,480.00	\$1,870.00	\$7,480.00
70	2504.603 HYDRANT RISER	L F	4	\$800.00	\$3,200.00	\$1,250.88	\$5,003.52	\$890.00	\$3,560.00	\$1,070.00	\$4,280.00	\$1,070.00	\$4,280.00	\$890.00	\$3,560.00	\$1,070.00	\$4,280.00	\$1,070.00	\$4,280.00	\$1,070.00	\$4,280.00
71	2504.603 6" WATERMAIN DUCTILE IRON CL 52	L F	103	\$50.00	\$5,150.00	\$48.03	\$4,947.09	\$47.60	\$4,902.80	\$50.50	\$5,201.50	\$50.50	\$5,201.50	\$47.60	\$4,902.80	\$50.50	\$5,201.50	\$50.50	\$5,201.50	\$50.50	\$5,201.50
72	2504.603 12" WATERMAIN DUCTILE IRON CL 52	L F	30	\$150.00	\$4,500.00	\$69.37	\$2,081.10	\$74.90	\$2,247.00	\$73.50	\$2,205.00	\$73.50	\$2,205.00	\$74.90	\$2,247.00	\$73.50	\$2,205.00	\$73.50	\$2,205.00	\$73.50	\$2,205.00
73	2504.603 16" WATERMAIN DUCTILE IRON CL 52	L F	1446	\$85.00	\$122,910.00	\$85.65	\$123,849.90	\$76.10	\$110,040.60	\$91.50	\$132,309.00	\$91.50	\$132,309.00	\$76.10	\$110,040.60	\$91.50	\$132,309.00	\$91.50	\$132,309.00	\$91.50	\$132,309.00
74	2504.603 24" STEEL CASING PIPE	L F	165	\$150.00	\$24,750.00	\$101.39	\$16,729.35	\$375.00	\$61,875.00	\$119.00	\$19,635.00	\$119.00	\$19,635.00	\$375.00	\$61,875.00	\$119.00	\$19,635.00	\$119.00	\$19,635.00	\$119.00	\$19,635.00
75	2504.604 4" INSULATION	S Y	20	\$50.00	\$1,000.00	\$37.36	\$747.20	\$36.90	\$738.00	\$46.00	\$920.00	\$46.00	\$920.00	\$36.90	\$738.00	\$46.00	\$920.00	\$46.00	\$920.00	\$46.00	\$920.00
76	2504.608 DUCTILE IRON FITTINGS	LB	4278	\$11.00	\$47,058.00	\$4.59	\$19,636.02	\$7.75	\$33,154.50	\$7.20	\$30,801.60	\$7.20	\$30,801.60	\$7.75	\$33,154.50	\$7.20	\$30,801.60	\$7.20	\$30,801.60	\$7.20	\$30,801.60
77	2506.502 CASTING ASSEMBLY	EACH	26	\$725.00	\$18,850.00	\$685.21	\$17,815.46	\$738.00	\$19,188.00	\$773.00	\$20,098.00	\$773.00	\$20,098.00	\$738.00	\$19,188.00	\$773.00	\$20,098.00	\$773.00	\$20,098.00	\$773.00	\$20,098.00
78	2506.503 CONST DRAINAGE STRUCTURE DESIGN H	L F	21.7	\$285.00	\$6,184.50	\$223.07	\$4,840.62	\$414.00	\$8,983.80	\$463.00	\$10,047.10	\$463.00	\$10,047.10	\$414.00	\$8,983.80	\$463.00	\$10,047.10	\$463.00	\$10,047.10	\$463.00	\$10,047.10
79	2506.503 CONST DRAINAGE STRUCTURE DESIGN SD-60	L F	18.3	\$570.00	\$10,431.00	\$580.62	\$10,625.35	\$720.00	\$13,176.00	\$436.00	\$7,978.80	\$436.00	\$7,978.80	\$720.00	\$13,176.00	\$436.00	\$7,978.80	\$436.00	\$7,978.80	\$436.00	\$7,978.80
80	2506.503 CONST DRAINAGE STRUCTURE DESIGN 48-4020	L F	101.9	\$375.00	\$38,212.50	\$240.14	\$24,470.27	\$330.00	\$33,627.00	\$751.00	\$76,526.90	\$751.00	\$76,526.90	\$330.00	\$33,627.00	\$751.00	\$76,526.90	\$751.00	\$76,526.90	\$751.00	\$76,526.90
81	2506.503 CONST DRAINAGE STRUCTURE DES 60-4020	L F	52.4	\$475.00	\$24,890.00	\$453.61	\$23,769.16	\$1,150.00	\$60,260.00	\$465.00	\$24,366.00	\$465.00	\$24,366.00	\$1,150.00	\$60,260.00	\$465.00	\$24,366.00	\$465.00	\$24,366.00	\$465.00	\$24,366.00
82	2506.602 SEDIMENT COLLECTION DEVICE	EACH	3	\$7,500.00	\$22,500.00	\$320.19	\$960.57	\$6,170.00	\$18,510.00	\$879.00	\$2,637.00	\$879.00	\$2,637.00	\$6,170.00	\$18,510.00	\$879.00	\$2,637.00	\$879.00	\$2,637.00	\$879.00	\$2,637.00
83	2506.602 CONST DRAINAGE STRUCTURE DESIGN SPEC 1	EACH	1	\$1,500.00	\$1,500.00	\$4,802.88	\$4,802.88	\$5,570.00	\$5,570.00	\$7,648.00	\$7,648.00	\$7,648.00	\$7,648.00	\$5,570.00	\$5,570.00	\$7,648.00	\$7,648.00	\$7,648.00	\$7,648.00	\$7,648.00	\$7,648.00
84	2506.602 CONST DRAINAGE STRUCTURE DESIGN SPEC 2	EACH	1	\$4,000.00	\$4,000.00	\$6,003.60	\$6,003.60	\$7,430.00	\$7,430.00	\$8,766.00	\$8,766.00	\$8,766.00	\$8,766.00	\$7,430.00	\$7,430.00	\$8,766.00	\$8,766.00	\$8,766.00	\$8,766.00	\$8,766.00	\$8,766.00
85	2506.602 CONST DRAINAGE STRUCTURE DESIGN SPEC 3	EACH	1	\$1,000.00	\$1,000.00	\$6,403.84	\$6,403.84	\$591.00	\$591.00	\$4,086.00	\$4,086.00	\$4,086.00	\$4,086.00	\$591.00	\$591.00	\$4,086.00	\$4,086.00	\$4,086.00	\$4,086.00	\$4,086.00	\$4,086.00
86	2507.503 LINING CULVERT PIPE 24"	L F	162	\$140.00	\$22,680.00	\$192.12	\$31,123.44	\$105.00	\$17,010.00	\$125.00	\$20,250.00	\$125.00	\$20,250.00	\$105.00	\$17,010.00	\$125.00	\$20,250.00	\$125.00	\$20,250.00	\$125.00	\$20,250.00
87	2511.504 GEOTEXTILE FILTER TYPE 4	S Y	129	\$4.00	\$516.00	\$1.33	\$171.57	\$5.00	\$645.00	\$4.00	\$516.00	\$4.00	\$516.00	\$5.00	\$645.00	\$4.00	\$516.00	\$4.00	\$516.00	\$4.00	\$516.00
88	2511.507 RANDOM RIPRAP CLASS III	C Y	33	\$90.00	\$2,970.00	\$133.41	\$4,402.53	\$129.00	\$4,257.00	\$139.00	\$4,587.00	\$139.00	\$4,587.00	\$129.00	\$4,257.00	\$139.00	\$4,587.00	\$139.00	\$4,587.00	\$139.00	\$4,587.00
89	2519.507 CLSM LOW DENSITY	C Y	3	\$550.00	\$1,650.00	\$1,600.96	\$4,802.88	\$732.00	\$2,196.00	\$776.00	\$2,328.00	\$776.00	\$2,328.00	\$732.00	\$2,196.00	\$776.00	\$2,328.00	\$776.00	\$2,328.00	\$776.00	\$2,328.00
90	2531.503 CONCRETE CURB & GUTTER DESIGN B612	L F	168	\$30.00	\$5,040.00	\$21.62	\$3,632.16	\$19.80	\$3,326.40	\$22.00	\$3,696.00	\$22.00	\$3,696.00	\$19.80	\$3,326.40	\$22.00	\$3,696.00	\$22.00	\$3,696.00	\$22.00	\$3,696.00
91	2531.503 CONCRETE CURB & GUTTER DESIGN B424	L F	3298	\$16.00	\$52,768.00	\$16.37	\$53,988.26	\$16.10	\$53,097.80	\$18.00	\$59,364.00	\$18.00	\$59,364.00	\$16.10	\$53,097.80	\$18.00	\$59,364.00	\$18.00	\$59,364.00	\$18.00	\$59,364.00
92	2531.504 8" CONCRETE DRIVEWAY PAVEMENT	S Y	68	\$65.00	\$4,420.00	\$84.86	\$5,770.48	\$96.90	\$6,589.20	\$95.50	\$6,494.00	\$95.50	\$6,494.00	\$96.90	\$6,589.20	\$95.50	\$6,494.00	\$95.50	\$6,494.00	\$95.50	\$6,494.00
93	2535.503 BITUMINOUS CURB	L F	139	\$100.00	\$13,900.00	\$9.87	\$1,371.93	\$9.30	\$1,292.70	\$6.90	\$959.10	\$6.90	\$959.10	\$9.30	\$1,292.70	\$6.90	\$959.10	\$6.90	\$959.10	\$6.90	\$959.10
94	2540.602 INSTALL MAIL BOX SUPPORT	EACH	5	\$150.00	\$750.00	\$160.08	\$800.40	\$126.00	\$630.00	\$79.00	\$395.00	\$79.00	\$395.00	\$126.00	\$630.00	\$79.00	\$395.00	\$79.00	\$395.00	\$79.00	\$395.00

Project: 01702-29 - IGH - Phase 1 65th Street & TH 3 Improvements										Engineers Estimate				Max Steininger, Inc.		Park Construction Company - Mpls		Bituminous Roadways, Inc.	
Line No.	Item	Units	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
95	2554.502 GUIDE POST TYPE B	EACH	11	\$60.00	\$660.00	\$63.36	\$586.96	\$50.30	\$553.30	\$52.50	\$577.50								
96	2554.502 END TREATMENT-TANGENT TERMINAL	EACH	4	\$3,000.00	\$12,000.00	\$3,148.17	\$12,592.68	\$2,960.00	\$11,840.00	\$3,106.00	\$12,424.00								
97	2554.503 TRAFFIC BARRIER DESIGN TYPE 31	L F	1063	\$25.00	\$26,575.00	\$30.36	\$32,272.68	\$28.60	\$30,401.80	\$30.00	\$31,890.00								
98	2554.503 PERMANENT BARRICADES	L F	96	\$18.00	\$1,728.00	\$37.35	\$3,585.60	\$35.20	\$3,379.20	\$37.00	\$3,552.00								
99	2557.503 WIRE FENCE DESIGN 48V-9322	L F	1599	\$26.00	\$41,574.00	\$36.28	\$58,011.72	\$34.20	\$54,685.80	\$38.00	\$60,762.00								
100	2563.601 TRAFFIC CONTROL SUPERVISOR	LS	1	\$20,000.00	\$20,000.00	\$4,802.28	\$4,802.28	\$2,010.00	\$2,010.00	\$28,378.00	\$28,378.00								
101	2563.601 TRAFFIC CONTROL	LS	1	\$75,000.00	\$75,000.00	\$20,809.90	\$20,809.90	\$19,600.00	\$19,600.00	\$70,027.00	\$70,027.00								
102	2563.613 PORTABLE CHANGEABLE MESSAGE SIGN	UDAY	170	\$55.00	\$9,350.00	\$53.36	\$9,071.20	\$50.30	\$8,551.00	\$52.50	\$8,925.00								
103	2564.502 OBJECT MARKER TYPE X4-5	EACH	3	\$150.00	\$450.00	\$69.37	\$208.11	\$65.30	\$195.90	\$68.50	\$205.50								
104	2564.518 SIGN PANELS TYPE C	S F	73	\$42.00	\$3,066.00	\$42.69	\$3,116.37	\$40.20	\$2,934.60	\$42.00	\$3,066.00								
105	2564.518 SIGN PANELS TYPE SPECIAL	S F	45	\$45.00	\$2,025.00	\$37.35	\$1,680.75	\$35.20	\$1,584.00	\$37.00	\$1,665.00								
106	2564.502 INFILTRATION AREA MARKER X3-6A	EACH	7	\$100.00	\$700.00	\$133.40	\$933.80	\$126.00	\$882.00	\$132.00	\$924.00								
107	2573.501 STABILIZED CONSTRUCTION EXIT	LS	1	\$3,000.00	\$3,000.00	\$1,000.00	\$1,000.00	\$4,830.00	\$4,830.00	\$948.00	\$948.00								
108	2573.501 EROSION CONTROL SUPERVISOR	LS	1	\$10,000.00	\$10,000.00	\$1,000.00	\$1,000.00	\$13,400.00	\$13,400.00	\$28,378.00	\$28,378.00								
109	2573.502 CULVERT END CONTROLS	EACH	5	\$230.00	\$1,150.00	\$213.43	\$1,067.15	\$151.00	\$755.00	\$316.00	\$1,580.00								
110	2573.502 STORM DRAIN INLET PROTECTION	EACH	20	\$220.00	\$4,400.00	\$75.00	\$1,500.00	\$204.00	\$4,080.00	\$158.00	\$3,160.00								
111	2573.503 SILT FENCE; TYPE SD	L F	1327	\$32.00	\$42,464.00	\$19.88	\$26,380.76	\$23.10	\$30,653.70	\$10.50	\$13,933.50								
112	2573.503 SILT FENCE; TYPE MS	L F	8633	\$2.20	\$18,992.60	\$1.87	\$16,143.71	\$1.75	\$15,107.75	\$1.80	\$15,539.40								
113	2573.503 TEMPORARY SLOPE DRAIN	L F	57	\$25.00	\$1,425.00	\$53.37	\$3,042.09	\$40.20	\$2,291.40	\$23.00	\$1,311.00								
114	2573.503 SEDIMENT CONTROL LOG TYPE WOOD FIBER	L F	3974	\$3.80	\$15,101.20	\$2.61	\$10,372.14	\$2.45	\$9,736.30	\$2.60	\$10,332.40								
115	2573.503 SEDIMENT CONTROL LOG TYPE COMPOST	L F	318	\$4.50	\$1,431.00	\$2.45	\$779.10	\$2.30	\$731.40	\$2.40	\$763.20								
116	2574.507 COMMON TOPSOIL BORROW	C Y	3753	\$28.00	\$105,084.00	\$9.33	\$35,015.49	\$19.80	\$74,309.40	\$52.50	\$197,032.50								
117	2574.507 COMPOST GRADE 2	C Y	78	\$30.00	\$2,340.00	\$54.32	\$4,236.96	\$35.60	\$2,776.80	\$62.50	\$4,875.00								
118	2574.507 FILTER TOPSOIL BORROW	C Y	452	\$34.00	\$15,368.00	\$50.73	\$22,929.96	\$45.30	\$20,475.60	\$55.00	\$24,860.00								
119	2574.508 FERTILIZER TYPE 3	LB	1534	\$1.00	\$1,534.00	\$0.54	\$828.36	\$0.51	\$782.34	\$0.55	\$843.70								
120	2574.508 FERTILIZER TYPE 4	LB	160	\$1.20	\$192.00	\$1.00	\$160.00	\$0.94	\$150.40	\$1.00	\$160.00								
121	2575.504 MULCH MATERIAL TYPE 4	S Y	20701	\$1.00	\$20,701.00	\$0.35	\$7,245.35	\$0.33	\$6,831.33	\$0.35	\$7,245.35								
122	2575.504 EROSION CONTROL BLANKETS CATEGORY 3N	S Y	5481	\$2.80	\$15,346.80	\$1.33	\$7,289.73	\$1.25	\$6,851.25	\$1.30	\$7,125.30								
123	2575.504 RAPID STABILIZATION METHOD 4	S Y	586	\$3.50	\$2,051.00	\$1.81	\$1,060.66	\$1.70	\$996.20	\$1.80	\$1,054.80								
124	2575.505 SEEDING	ACRE	11.9	\$350.00	\$4,165.00	\$133.40	\$1,587.46	\$126.00	\$1,499.40	\$1.30	\$15.47								
125	2575.508 SEED MIXTURE 33-261	LB	31	\$26.00	\$806.00	\$33.51	\$1,038.81	\$31.60	\$979.60	\$33.00	\$1,023.00								
126	2575.508 SEED MIXTURE 35-221	LB	369	\$24.00	\$8,856.00	\$19.48	\$7,188.12	\$18.30	\$6,752.70	\$19.00	\$7,011.00								
127	2575.508 HYDRAULIC BONDED FIBER MATRIX	LB	67810	\$1.30	\$88,153.00	\$0.98	\$66,453.80	\$0.92	\$62,385.20	\$0.95	\$64,419.50								
128	2575.509 MULCH MATERIAL TYPE 3	TON	4.5	\$250.00	\$1,125.00	\$618.96	\$2,785.32	\$583.00	\$2,623.50	\$611.00	\$2,749.50								
129	2575.523 WATER	MGAL	50	\$200.00	\$10,000.00	\$47.76	\$2,388.00	\$45.00	\$2,250.00	\$145.00	\$7,250.00								

Project: 01702-29 - IGH - Phase 1 65th Street & TH 3 Improvements		Engineers Estimate		Max Steining, Inc.		Park Construction Company - Mpls		Bituminous Roadways, Inc.	
Line No.	Item	Units	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
130	2575.607 LANDSCAPE ROCK	C Y	6	\$75.00	\$450.00	\$177.86	\$1,067.16	\$253.00	\$1,518.00
131	2582.503 4" DBLE SOLID LINE PAINT	L F	6100	\$0.75	\$4,575.00	\$1.33	\$8,113.00	\$0.35	\$2,135.00
132	2582.503 4" SOLID LINE MULTI COMP GR IN (WR)	L F	4128	\$1.60	\$6,604.80	\$1.33	\$5,490.24	\$1.00	\$4,128.00
133	2582.503 24" SOLID LINE MULTI COMP GR IN (WR)	L F	282	\$14.00	\$3,948.00	\$2.29	\$645.78	\$13.10	\$3,694.20
134	2582.503 4" BROKEN LINE MULTI COMP GR IN (WR)	L F	200	\$1.70	\$340.00	\$17.61	\$3,522.00	\$1.00	\$200.00
135	2582.503 4" DBLE SOLID LINE MULTI COMP GR IN (WR)	L F	2808	\$1.90	\$5,335.20	\$2.29	\$6,430.32	\$2.00	\$5,616.00
136	2582.503 24" SOLID LINE PREF THERMO GR IN	L F	38	\$30.00	\$1,140.00	\$4.59	\$174.42	\$26.10	\$991.80
137	2582.518 PAVT MSSG PREF THERMO GR IN	S F	105	\$30.00	\$3,150.00	\$35.75	\$3,753.75	\$31.20	\$3,276.00
Total Base Bid:					\$4,663,708.10		\$3,822,211.12		\$5,605,277.72
Total Base Bid:					\$4,663,708.10		\$3,822,211.12		\$5,605,277.72
Totals for Project 01702-29					\$4,663,708.10		\$3,822,211.12		\$5,605,277.72
% of Estimate for Project 01702-29							-18.04%		-16.40%
									20.19%

I hereby certify that this is an exact reproduction of bids received.

Certified By:



License No. 44620

Date: June 21, 2018

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Amendment to Custom Grading Agreement and Stormwater Facilities Maintenance Agreement and Release and Indemnification Agreement for 8879 Alverno Ave (Lot 2, Block 1, Llonis Addition)

Meeting Date: July 23, 2018
 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

SDT

Fiscal/FTE Impact:

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

PURPOSE/ACTION REQUESTED

Approve Amendment to Custom Grading Agreements and Stormwater Facilities Maintenance Agreements and Release and Indemnification Agreement for 8879 Alverno Ave.

SUMMARY

The owners of 8879 Alverno Ave are affected by the City Ordinance Title 9, Chapter 5, Section 9-5-5. This Ordinance requires lots of record which do not have recorded contracts or agreements with the City to provide information to ensure the Development meets current City standards for grading, erosion control and storm water management.

The owners, Saket Gupta and Parul Singh, have provided the required grading and erosion control plans. They have also signed the Amendment to Custom Grading Agreement (attached). 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 also signed an Amendment to a SWFMA for an infiltration basin constructed on their lot. In addition, they have signed a Release and Indemnification Agreement.

It is recommended that the City Council approve the Amendment to Custom Grading Agreements and Stormwater Facilities Maintenance Agreements and Release and Indemnification Agreement for 8879 Alverno Ave.

TJK/mw

Attachments: Amendment to Custom Grading Agreement and Storm Water Facilities Maintenance Agreement
 Release and Indemnification Agreement

RELEASE AND INDEMNIFICATION AGREEMENT RELATING TO
LOT 2, BLOCK 1, LLONI'S 2ND ADDITION
IN THE CITY OF INVER GROVE HEIGHTS,
DAKOTA COUNTY, MINNESOTA

**RELEASE AND INDEMNIFICATION AGREEMENT
RELATING TO LOT 2, BLOCK 1, LLONI'S 2ND ADDITION,
IN THE CITY OF INVER GROVE HEIGHTS,
DAKOTA COUNTY, MINNESOTA**

THIS RELEASE AND INDEMNIFICATION AGREEMENT (Agreement) is made this 23rd day of July, 2018, by and between the City of Inver Grove Heights (hereafter referred to as "City"), a Minnesota municipal corporation, and Saket Gupta and Parul Singh, husband and wife (hereinafter individually and collectively referred to as the "Landowners"). Based on the covenants, agreements, representations and recitals herein contained, the parties agree as follows:

ARTICLE 1
TERMS

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

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

1.3 Subject Lot. "Subject Lot" means Lot 2, Block 1, Lloni's 2nd Addition, according to the plat thereof on file and of record in the office of the Dakota County Recorder, Dakota County, Minnesota. The Subject Lot is located in the City of Inver Grove Heights, Dakota County, Minnesota.

1.4 Landowners. "Landowners" means Saket Gupta and Parul Singh, husband and wife, and their assigns and successors in interest with respect to the Subject Lot.

1.5 Indemnified Parties. "Indemnified Parties" means individually and collectively the City, its successors and assigns, and the agents, consultants, employees, engineers, attorneys and representatives of the City.

ARTICLE 2
RECITALS

Recital No. 1. The undersigned Landowners are the fee title owners of the Subject Lot located in Inver Grove Heights, Dakota County, Minnesota.

Recital No. 2 On the Subject Lot, a home, attached garage and driveway will be constructed.

Recital No. 3. The home is being constructed with the lowest floor one (1) foot above the natural overflow elevation for the basin located on the Subject Lot for a 100 year rainfall event. The lowest floor elevation of the home is 868.

Recital No. 4. The driveway is designed to withstand a 100 year rainfall event high water elevation of 856.8.

Recital No. 5. The City has advised the Landowner that building within the 867 natural overflow elevation is not allowed and that the Landowner should consider additional flood protection measures above the regulatory flood level.

Recital No. 6. The Landowners have chosen not to follow the City's recommendation.

Recital No. 7. As a condition precedent to approval of the site plan for the construction of the home, attached garage and driveway, the City has requested this Agreement. The Landowners acknowledge sufficient consideration for this Agreement. Upon execution of this Agreement the City will approve the site plan, subject to the conditions and terms set forth in the Custom Grading Agreement between the parties of even date herewith.

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

ARTICLE 3 **AGREEMENTS**

3.1 Release. Landowners hereby release and discharge forever the Indemnified Parties from all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies including interest, penalties and attorneys fees that may result from, relate to or arise out of the location, elevation and construction of structures (including the home, attached garage and driveway) on the Subject Lot.

3.2 Indemnification. Landowners shall indemnify, defend and hold the Indemnified Parties harmless against and in respect to any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies including interest, penalties and attorneys fees that may result from, relate to or arise out of the location, elevation and construction of structures (including the home, attached garage and driveway) on the Subject Lot.

3.3 Waiver. Landowners hereby forever waive all claims, demands and liabilities against the Indemnified Parties for losses and damages that may result from, relate to or arise out of the location, elevation and construction of structures (including the home, attached garage and driveway) on the Subject Lot.

ARTICLE 4 **APPROVAL OF SITE PLAN**

4.1 Approval of Site Plan. Upon execution of this Agreement the City will approve the site plan for the home, attached garage and driveway, subject to the conditions and terms set forth in the Custom Grading Agreement between the parties of even date herewith.

ARTICLE 5 **MISCELLANEOUS**

5.1 Recording. This Agreement shall be recorded with the Dakota County Recorder against the Subject Lot.

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

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

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

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

5.5 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.

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

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

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

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this 23rd day of July, 2018, 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:



Saket Gupta



Parul Singh

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

The foregoing instrument was acknowledged before me this 18th day of July, 2018, by Saket Gupta and Parul Singh, 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

**AMENDMENT TO CUSTOM GRADING AGREEMENT AND STORM WATER
FACILITIES MAINTENANCE AGREEMENT FOR LOT 2, BLOCK 1, LLONIS 2ND
ADDITION, DAKOTA COUNTY, MINNESOTA**

THIS AMENDMENT TO CUSTOM GRADING AGREEMENT AND STORM WATER FACILITIES MAINTENANCE AGREEMENT FOR LOT 2, BLOCK 1, LLONIS 2ND ADDITION (Amendment) is made, entered into and effective this 23rd day of July, 2018, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as “City”) and Saket Gupta and Parul Singh, husband and wife (hereafter referred to as “Landowner”).

WHEREAS, the City and Alan Bebel and Lloni Bebel, husband and wife, entered into a Custom Grading Agreement for Lot 2, Block 1, Llonis 2nd Addition dated November 27, 2017 recorded as Dakota County Document No. 3232592 (“Custom Grading Agreement”).

WHEREAS, the parties to the Custom Grading Agreement were the City of Inver Grove Heights, a municipal corporation and Alan Bebel and Lloni Bebel, husband and wife.

WHEREAS, Alan Bebel and Lloni Bebel conveyed Lot 2, Block 1, Llonis 2nd Addition to Saket Gupta and Parul Singh, husband and wife. Saket Gupta and Parul Singh (“Landowner”) are now the fee owners of Lot 2, Block 1, Llonis 2nd Addition, Dakota County, Minnesota.

WHEREAS, the City and Landowner desire to amend the Custom Grading Agreement to reference a new approved Development Plan.

WHEREAS, the City and Landowner desire to amend the Custom Grading Agreement to reference new completion dates for the Improvements.

WHEREAS, the City and Alan Bebel and Lloni Bebel, husband and wife, entered into a Storm Water Facilities Maintenance Agreement for Lot 2, Block 1, Llonis 2nd Addition dated November 27, 2017 recorded as Dakota County Document No. 3232594 (“Storm Water Maintenance Agreement”).

WHEREAS, the parties to the Storm Water Maintenance Agreement were the City of Inver Grove Heights, a municipal corporation and Alan Bebel and Lloni Bebel, husband and wife.

WHEREAS, Alan Bebel and Lloni Bebel conveyed Lot 2, Block 1, Llonis 2nd Addition to Saket Gupta and Parul Singh, husband and wife. Saket Gupta and Parul Singh (“Landowner”) are now the fee owners of Lot 2, Block 1, Llonis 2nd Addition, Dakota County, Minnesota.

WHEREAS, the City and Landowner desire to amend the Storm Water Maintenance Agreement to reference a new approved Storm Water Facility Plan.

WHEREAS, the City and Landowner desire to amend the Storm Water Maintenance Agreement to reference new completion dates for the construction of the Storm Water Facilities.

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

Section 1. Amendment of Appendix 1 of Custom Grading Agreement. Appendix 1 of the Custom Grading Agreement is hereby amended as set forth on the attached **Exhibit A** to this Amendment.

Section 2. Amendment of Appendix 2 of Custom Grading Agreement. Appendix 2 of the Custom Grading Agreement is hereby amended as set forth on the attached **Exhibit B** to this Amendment.

Section 3. Amendment of Section 1.5 of Storm Water Maintenance Agreement. Section 1.5 of the Storm Water Maintenance Agreement is hereby amended to read as follows:

1.5 Storm Water Facility Plan. “Storm Water Facility Plan” means that certain Certificate of Survey (~~Sheet 1 of 1 and Sheet 2 of 2~~) prepared by ~~Pioneer Engineering, P.A.~~ Carlson McCain dated ~~5-3-17~~ with final revisions on ~~12-15-17~~ 7-11-18 and approved by the City Engineer on ~~12-15-17~~ 7-13-18. The Storm Water Facility Plan is on file with the City and attached hereto as Exhibit D.

Section 4. Amendment of Section 3.1 of Storm Water Maintenance Agreement. Section 3.1 of the Storm Water Maintenance Agreement is hereby amended to read as follows:

3.1 Construction of Storm Water Facilities. Prior to December 31, ~~2018~~ 2019, or prior to issuance of a certificate of occupancy by the City for the Landowner Property, whichever occurs first, 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.

Section 5. Amendment of Exhibit D of Storm Water Maintenance Agreement. Exhibit D of the Storm Water Maintenance Agreement is hereby amended as set forth on the attached **Exhibit C** to this Amendment.

Section 6. Incorporation of Amendment Into Custom Grading Agreement. This Amendment is hereby incorporated and made a part of the Custom Grading Agreement.

Section 7. Incorporation of Amendment Into Storm Water Maintenance Agreement. This Amendment is hereby incorporated and made a part of the Storm Water Maintenance Agreement.

Section 8. Continuing Effect. The other terms and conditions of the Custom Grading Agreement and Storm Water Maintenance Agreement remain in full force and effect.

[the remainder of this page was intentionally left blank]

IN WITNESS WHEREOF, the Landowner and City have executed this Amendment on the day and year first stated above.

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 23rd day of July, 2018, 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



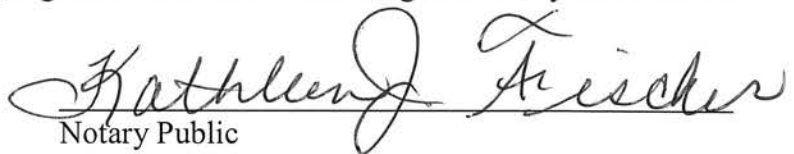
Saket Gupta



Parul Singh

STATE OF MINNESOTA)
)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this 18th day of July, 2018, by Saket Gupta and Parul Singh, 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, MN 55075
(651) 451-1831

**After Recording, Please Return This
Instrument To:**
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A TO AMENDMENT

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 2)	5-3-17 (with final revisions dated 12-15-17)	Pioneer Engineering, P.A.
Certificate of Survey (Sheet 2 of 2)	5-3-17 (with final revisions dated 12-15-17)	Pioneer Engineering, P.A.
Certificate of Survey	7-11-18	Carlson McCain

The Development Plans were approved by the City Engineer on ~~December 15, 2017~~ July 13, 2018.

Note: A copy of the Development Plan follows this page.

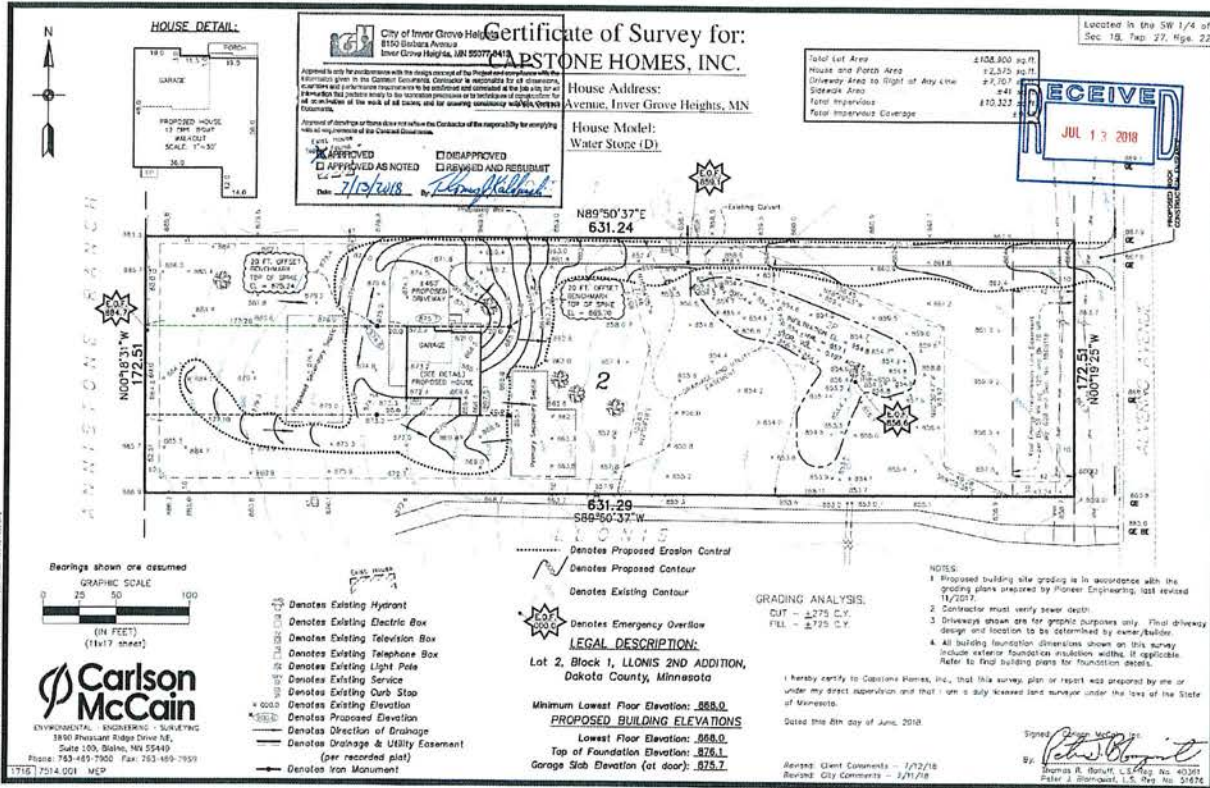


EXHIBIT B TO AMENDMENT

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 12-31-18 <u>19</u> , whichever occurs first	Grading, drainage, and sediment & erosion control
<u> X </u>	Prior to Certificate of Occupancy or 12-31-18 <u>19</u> , whichever occurs first	Stormwater Facilities
<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

EXHIBIT D
STORM WATER FACILITY PLAN



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Resolution Receiving the Feasibility Report, Scheduling of a Public Hearing, and Authorizing Submittal of a Point Source Implementation Grant Application for City Project No. 2017-17 – Dickman Industrial Park Wet Extended Detention Basin

Meeting Date: July 23, 2017
 Item Type: Consent
 Contact: Thomas J. Kaldunski, 651-450-2572
 Prepared by: Thomas J. Kaldunski, City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

Fiscal/FTE Impact:

☐	None
☐	Amount included in current budget
☐	Budget amendment requested
☐	FTE included in current complement
☐	New FTE requested – N/A
☒	Other: Storm Water Utility Fund, PSIG Grants (MPCA/PFA)

PURPOSE/ACTION REQUESTED

Consider resolution receiving the feasibility report, scheduling of a public hearing, and authorizing submittal of a Point Source Implementation Grant Application for City Project No. 2017-17 – Dickman Industrial Park Wet Extended Detention Basin.

SUMMARY

The City of Inver Grove Heights has been seeking grants to help fund storm water facilities to improve the quality of its storm water discharges to the Mississippi River. In March 2015, City Council authorized the grant application to the Minnesota Pollution Control Agency (MPCA) Storm Water Funding Program that is administered with the Public Facilities Authority (PFA). The City's program scored well on the Project Priority List (PPL) and the City is eligible for 80% grant funding and loan funding through the MPCA/PFA program, with a July 2018 MPCA approval.

City Project No. 2017-17 consists of a storm water treatment basin near the Dickman Trail Industrial Park and the existing stormwater outlet to the river as outlined in the attached feasibility study from Barr Engineering dated July 18, 2018. This project is part of the larger program approved in 2016. The estimated total project cost is \$599,000. The grant would cover 80% of the cost and the City would cover 20% of the cost. The City's share of the cost would be covered by the Stormwater Utility Fund (with potential credit for some costs incurred to date).

At the March 12, 2018 meeting, the Council authorized the feasibility study by Barr Engineering. On July 23, 2018, the Council will be asked to receive the Feasibility Report for City Project No. 2017-17 and schedule a public hearing for Monday, September 10, 2018 to consider ordering the project. An informational meeting with adjacent residents will be scheduled in late August. Bids would be received in April 2019 with a June 10, 2019 award of contract. This would allow the City time to meet the MPCA deadline of July 1, 2019 for awarding contracts and processing the grant application for City Project No. 2017-17.

Staff recommends Council approve the resolution receiving the feasibility report, scheduling of a public hearing, and authorizing submittal of a Point Source Implementation Grant Application for City Project No. 2017-17 – Dickman Industrial Park Wet Extended Detention Basin.

TJK/kf

Attachment: Feasibility Report
 Resolution

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

**RESOLUTION RECEIVING FEASIBILITY REPORT, SCHEDULING OF A PUBLIC HEARING, AND
AUTHORIZING SUBMITTAL OF A POINT SOURCE IMPLEMENTATION GRANT APPLICATION FOR
CITY PROJECT NO. 2017-17– DICKMAN INDUSTRIAL PARK WET EXTENDED DETENTION BASIN**

RESOLUTION NO. _____

WHEREAS, City Council adopted Resolution No. 16-28 on February 8, 2016 approving a stormwater project plan with reference to City Project No. 2017-17 – Dickman Industrial Park Wet Extended Detention Basin; and

WHEREAS, Resolution No. 16-28 directed the City Engineer to submit the approved stormwater project plan to the Minnesota Pollution Control Agency (MPCA) to seek funding; and

WHEREAS, on March 12, 2018, City Council authorized the preparation of a feasibility report to be prepared by Barr Engineering; and

WHEREAS, the City Engineer will submit an application, before July 31, 2018, to the MPCA for funding for the Dickman Industrial Park Wet Extended Detention Basin; and

WHEREAS, the City of Inver Grove Heights will be placed on the MPCA's 2019 Point Source Implementation Grant Program (PSIG) funding list, for a PSIG Grant of up to 80% of the cost for City Project No. 2017-17.

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

1. The Feasibility Report prepared by Barr Engineering dated July 18, 2018 for City Project No. 2017-17 is hereby received and approved.
2. The public hearing for City Project 2017-17 is to be held on Monday, September 10, 2018 at 7:00 p.m. at City Hall in the Council Chambers.
3. The City Engineer is hereby directed to submit the feasibility study and grant application to the MPCA.

Adopted by the City Council of Inver Grove Heights, Minnesota this 23rd day of July 2018

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

CITY OF INVER GROVE HEIGHTS

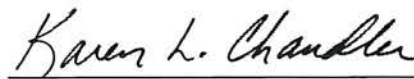
CITY PROJECT 2017-17

STORMWATER TREATMENT POND AT DICKMAN INDUSTRIAL PARK

FEASIBILITY REPORT

**PREPARED BY
BARR ENGINEERING CO.**

I hereby certify that this feasibility report was prepared by me or under my direct supervision and I am a duly
Registered Engineer under the laws of the State of Minnesota

A handwritten signature in cursive script, reading "Karen L. Chandler", is positioned above a horizontal line.

Karen L. Chandler, P.E.
Registration No. 19252

July 18, 2018

**FEASIBILITY REPORT
JULY 18, 2018**

**2018-2019 STORMWATER TREATMENT POND AT DICKMAN INDUSTRIAL PARK
INVER GROVE HEIGHTS, MINNESOTA**

**PROJECT NO. 2017-17
BETWEEN DICKMAN TRAIL AND RIVER ROAD BETWEEN 66TH ST. E. AND 70ST ST. E.**

- LOCATION:** On the block between Dickman Trail and River Road, between 66th Street East and 70th Street East. The proposed project site is bordered on the west by railroad tracks, north by two commercial sites, and on the east by River Road and two residential properties.
- IMPROVEMENT:** The City is considering construction of a stormwater treatment facility to protect the Mississippi River on the former railroad parcel the City owns. The facility may also be constructed on adjacent land owned by Xcel Energy if agreements are reached. The project includes a stormwater diversion structure, storm sewerage, wet pond stormwater treatment basin, clay liner, storm sewer outlet structure and vegetated site restoration.
- INITIATION:** This project is Council initiated. (Resolution No. 16-28). A resolution is attached for consideration by Council.
- PARCELS AFFECTED:** One (1) city-owned parcel and city stormwater utility easement and one Xcel Energy owned parcel comprise the site of the proposed project (see Exhibit A). Five (5) parcels abut the stormwater improvements project, including one (1) Union Pacific railroad right-of-way, two (2) commercial and two (2) residential properties (see Exhibit A).
- ISSUES:** In the Old Village Subwatershed drainage basin of the City, 24 acres contribute to the existing 30-inch storm sewer at the 1.5 acre pond site (see Exhibits A and B). There are approximately 2.6 acres of impervious surface in the 24-acre upstream contributing area. Runoff from the contributing area is conveyed to a reach of the Mississippi River that is listed as impaired for turbidity. The South Metro Mississippi River TMDL (2015) defined a target average loading of 154 pounds of total suspended solids (TSS) per acre per year for the Inver Grove Heights Municipal Separate Storm Sewer System (MS4) regulated area. The discharge point has been problematic over the last 40 years. The DNR, MPCA and Friends of Pool 2 support the project.
- The proposed storm sewer diversion and stormwater treatment pond system is predicted to remove approximately 7,200 pounds of the in-flowing 10,090 pounds of TSS per year, reducing the annual loading rate of the contributing area by 71% from 420 pounds per acre per year to 120 pounds per acre per year. Reduction of TSS loading below the TMDL target average loading rate can be used to offset higher TSS loading rates from areas within the MS4 regulated area where treatment is not feasible or practical. Existing trees at the site will be removed.
- A new stormwater treatment pond with 4H:1V side slopes and a safety bench will be excavated (see attached Drawing C-01). A new weir diversion structure will be provided to divert stormwater flows from the existing 30-inch storm sewer into the proposed treatment pond. A permanent pool will be established in the pond bottom. A safety bench and maintenance access will be provided. The pond outflow will be directed into the 30-inch storm sewer that flows eastward under River Road to the Mississippi River minor outfall at 69th Street.

Staff recommends constructing the proposed storm sewer diversion and stormwater treatment pond system to trap TSS, thereby reducing the TSS load to the Mississippi River. The proposed project site represents one of the final opportunities to trap TSS before stormwater runoff is discharged to the Mississippi River.

ISSUES (CONT.):

The stormwater treatment pond is sized to take advantage of the approximately 1.5 acres of available space at the site and corresponds to a water quality volume of 1.40 inches of runoff from the approximately 2.6 acres of impervious surfaces in the contributing watershed.

Extensive removal of existing trees, roots and an existing berm (abandoned railroad berm) will be required to construct the stormwater treatment pond. A Phase I Environmental Site Assessment has been completed. A portion of the pond excavation at the abandoned railroad bed is a candidate for further limited Phase II investigations and soil borings to characterize material and assess disposal requirements. A safety bench is included in the design of the stormwater pond to promote neighborhood safety. A permanent pool will be created in the stormwater pond through the installation of an impermeable clay liner. Given the site elevations and proximity to residential properties with basements, the seepage and stability considerations for the pond, liner, freeboard and berm will need to be addressed during detailed design. Space will be allocated on the berm along the pond's eastern edge to accommodate a future 10-foot wide recreational trail. A neighborhood meeting will be held to introduce the pond project.

RIGHT-OF-WAY:

The existing storm sewer easement and River Road right-of-way are adequate for construction access for the proposed improvements and long-term operation and maintenance access.

EASEMENTS:

Existing permanent City stormwater utility easements will be used for the project. The City is considering construction of a stormwater treatment facility to protect the Mississippi River on the railroad parcel the City owns. The facility may also be constructed on 0.9 acres of adjacent land owned by Xcel Energy if agreements are reached.

FEASIBILITY:

The improvement project as proposed is necessary, and technically feasible. The project, and project elements, should be implemented as proposed in this study. The improvements, once completed, will be a benefit to the watershed served and the Mississippi River. If this project is ordered, the City will bid the project in accordance with the Chapter 429 Council Procedure as set forth by Minnesota Statutes.

SCHEDULE:	Council Receives Feasibility Report, July 23, 2018 Authorizes Preparation of Plans and Specifications and Schedules Public Hearing
	PSIG Grant Application Due to MPCA.....July 31, 2018
	Public Improvement Hearing - Council Orders April 22, 2019 Public Improvement Project, Approves Plans and Specifications and Authorizes Advertisement for Bids
	First Advertisement for Bids.....April 28, 2019
	Bid Opening.....May 21, 2019
	Council Considers Contract Award.....June 10, 2019
	Final Completion DateNovember 1, 2019

FINANCING:Costs to Date

Legal/Engineering for Land Acquisition	\$ 0.00
Land Acquisition (<i>not included in costs at this time</i>)	0.00
Preliminary Engineering	30,500.00
SUBTOTAL	\$ 30,500.00

Estimated Future Costs

Construction	\$433,000.00
Construction Contingency	44,000.00 (10%)
Legal, Engineering, Admin., Finance (LEAF)	122,000.00 (28%)
SUBTOTAL	\$599,000.00

Total Estimated Project Cost	\$599,000.00
-------------------------------------	---------------------

FUNDING

The City is applying for project funding consisting of an 80% contribution from Minnesota Pollution Control Agency (MPCA) Point Source Implementation Grants (PSIG) in the amount of up to \$478,400. The City's cost share is a matching 20% provided by stormwater utility funds or other means as determined through discussion by staff and Council. The City must accept a bid for construction by June 30, 2019 to qualify for this PSIG funding.

PSIG (Grant)	\$479,200.00 (80%)
In-kind cost credits	0.00
Storm water Utility	119,800.00 (20%)
TOTAL	\$599,000.00

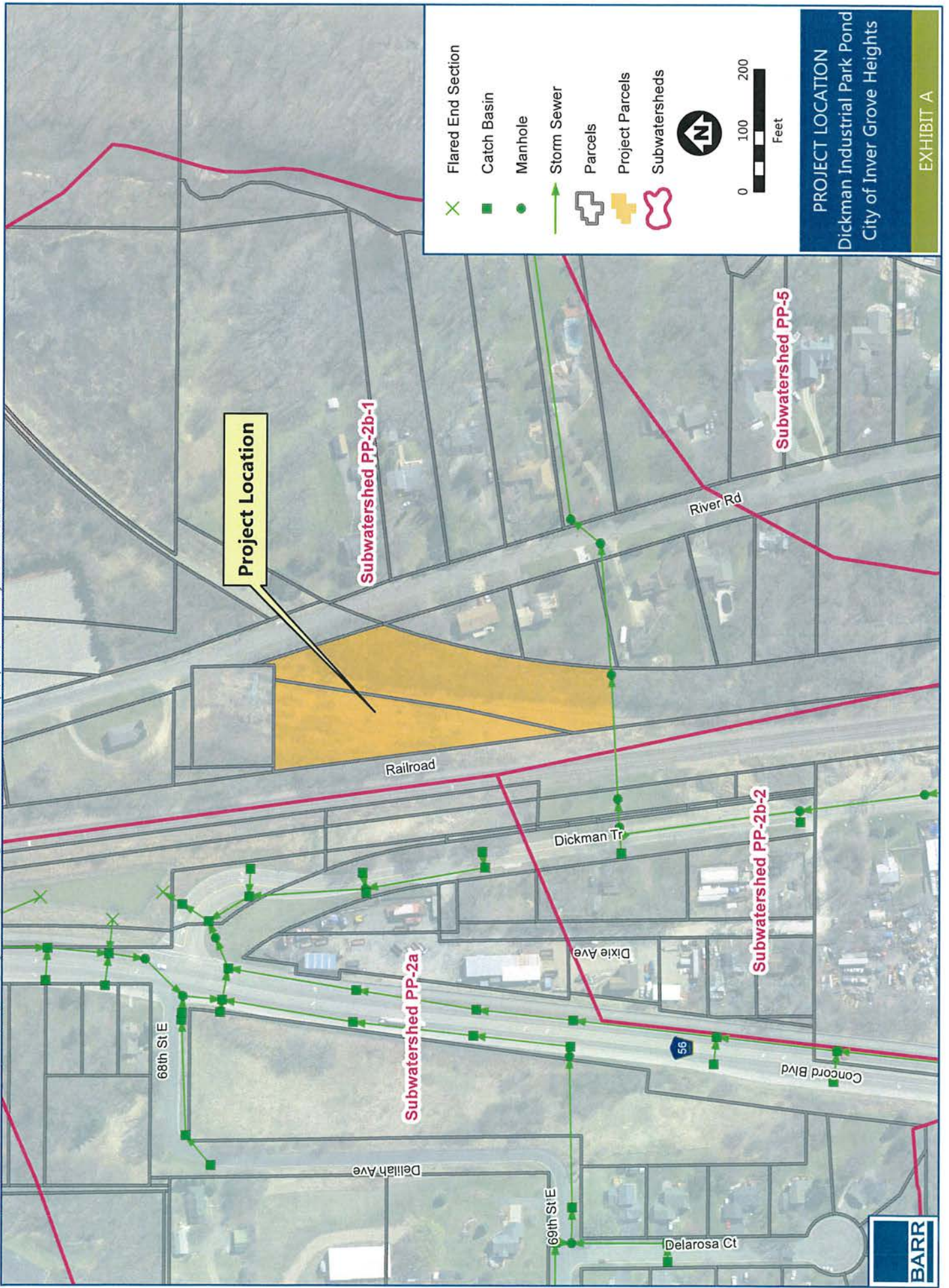


Property Boundary
(Approximate)

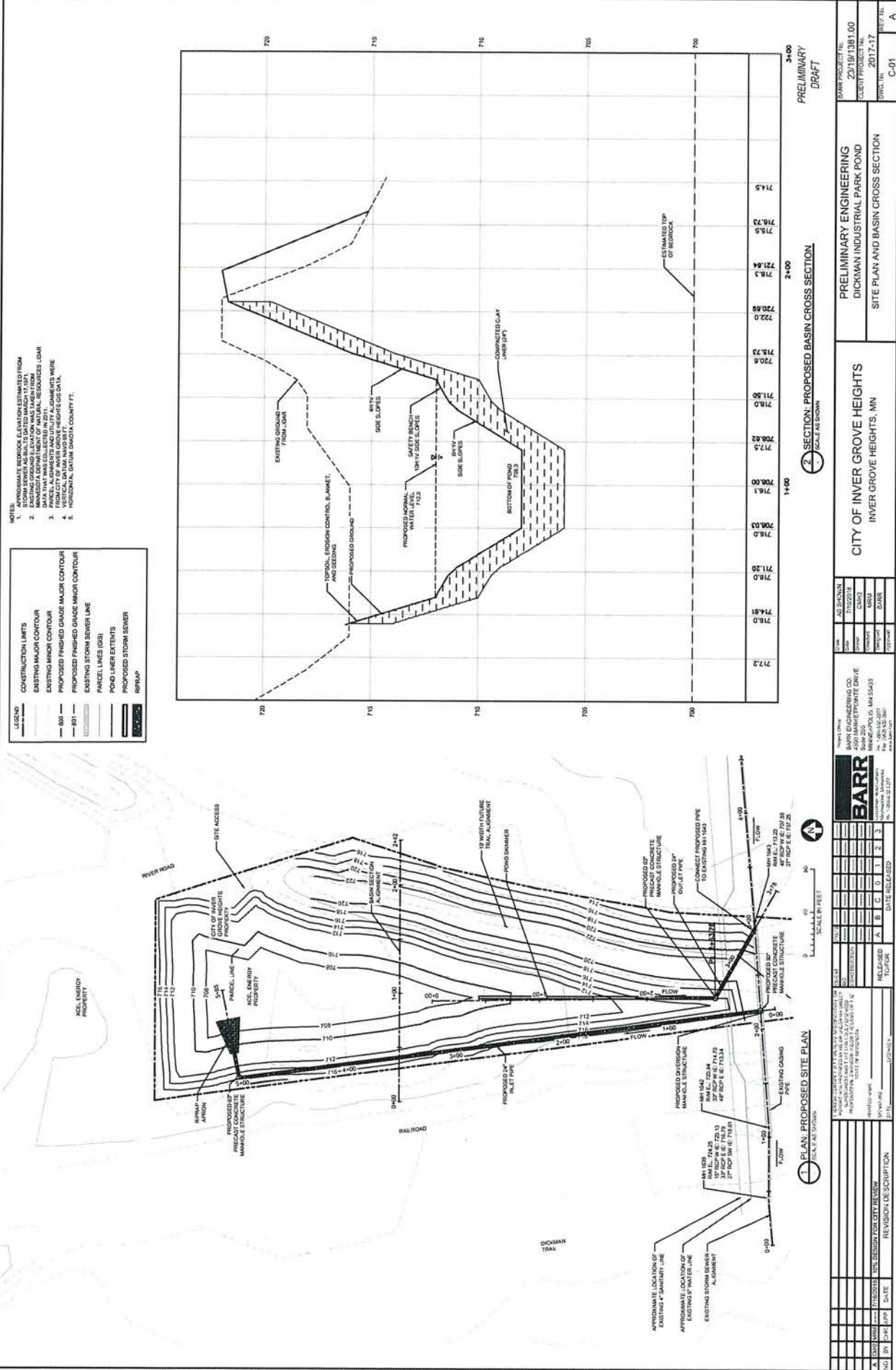


PROPERTY LOCATION MAP
6701 River Road
Inver Grove Heights, MN

FIGURE 1







PRELIMINARY ENGINEERING DICKMAN INDUSTRIAL PARK POND		DRAWN PROJECT FILE NO. 2018/1381.00	
CITY OF INVER GROVE HEIGHTS INVER GROVE HEIGHTS, MN		CHECKED PROJECT FILE NO. 2017-17	
SITE PLAN AND BASIN CROSS SECTION		SCALE: 1" = 40' HORIZONTAL C-01 DATE: 11/1/17	
PROJECT INFORMATION			
CLIENT: CITY OF INVER GROVE HEIGHTS PROJECT NO.: 2018/1381.00 PROJECT NAME: DICKMAN INDUSTRIAL PARK POND PROJECT LOCATION: INVER GROVE HEIGHTS, MN PROJECT DESCRIPTION: PRELIMINARY ENGINEERING	DRAWN BY: J. H. HARRIS CHECKED BY: J. H. HARRIS DATE: 11/1/17	PROJECT NO.: 2018/1381.00 PROJECT NAME: DICKMAN INDUSTRIAL PARK POND PROJECT LOCATION: INVER GROVE HEIGHTS, MN PROJECT DESCRIPTION: PRELIMINARY ENGINEERING	SCALE: 1" = 40' HORIZONTAL C-01 DATE: 11/1/17
CITY OF INVER GROVE HEIGHTS			
CITY OF INVER GROVE HEIGHTS, MN			
SITE PLAN AND BASIN CROSS SECTION			
SCALE: 1" = 40' HORIZONTAL			
C-01			
DATE: 11/1/17			

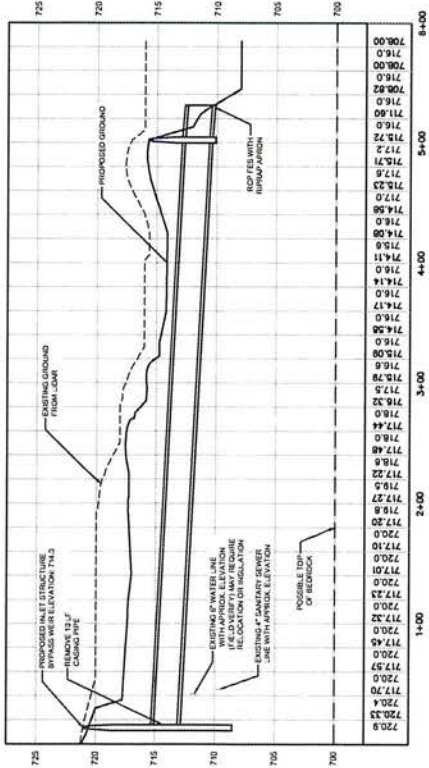
1 PROFILE: STORM SEWER
SCALE AS SHOWN

PRELIMINARY ENGINEERING DICKMAN INDUSTRIAL PARK POND		DRAWN BY: J. H. HARRIS 2/26/94 1381.00	
CITY OF INVER GROVE HEIGHTS INVER GROVE HEIGHTS, MN		CLIENT PROJECT NO.: 2017-17	
STORM SEWER PROFILE		WORKING NO.: C-02	
DATE: 2/26/94		SHEET NO.: 1	

NOTES:

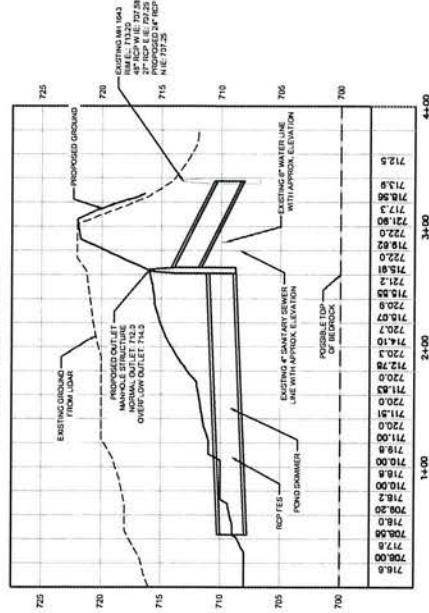
1. EXISTING STORM SEWER ELEVATIONS TAKEN FROM CITY OF INVER GROUND HEIGHTS SURVEY.
2. APPROXIMATE BEDROCK ELEVATION ESTIMATED FROM STORM SEWER AS-BUILT DATA DATED MARCH 11, 1971.
3. WATER LINE ELEVATIONS ESTIMATED FROM WATERMAIN DATA DATED MARCH 17, 1971.
4. SANITARY CONSUMER ELEVATIONS FROM 1971 CITY SANITARY SEWER DESIGN SHEET DATED MARCH 11, 1971.
5. EXISTING GROUND ELEVATION WAS TAKEN FROM MINNESOTA DEPARTMENT OF NATURAL RESOURCES' LEAD DATA WHICH WAS COLLECTED IN 1971.
6. COMMENTS WERE PARCEL A, LOCATED WEST OF THE CITY OF INVER GROUND. DATA FROM CITY OF INVER GROUND HEIGHTS DATA.

PROPOSED INLET



1 PROFILE: PROPOSED INLET
SCALE AS SHOWN

PROPOSED OUTLET



2 PROFILE: PROPOSED OUTLET
SCALE AS SHOWN

- NOTES:
- EXISTING STORM SEWER ELEVATIONS TAKEN FROM CITY OF INVER GROVE HEIGHTS SURVEY.
 - STORM SEWER AS BUILT DATED MARCH 11, 2011.
 - CONSTRUCTION INLET DATED MARCH 11, 2011.
 - EXISTING GROUND ELEVATION WAS TAKEN FROM SURVEY DATA. SURVEY DATA WAS OBTAINED FROM SURVEY DATA THAT WAS COLLECTED IN 2011.
 - VERTICAL DATUM NAVD 83.

PRELIMINARY
DRAFT

BARR ENGINEERING CO. 11000 W. 25TH AVE. SUITE 200 MINNEAPOLIS, MN 55425 TEL: 612.331.2277 WWW.BARR-ENG.COM		PROJECT NO.: 2017-17 CLIENT PROJECT NO.: 23/19/1381.00 DATE: 2017-17 C-03 A	
CITY OF INVER GROVE HEIGHTS INVER GROVE HEIGHTS, MN		PRELIMINARY ENGINEERING DICKMAN INDUSTRIAL PARK POND PROPOSED INLET AND OUTLET PROFILES	
DESIGNER: BARR ENGINEERING CO. CHECKED: J. L. BARR APPROVED: J. L. BARR		DATE: 03/20/2018 BY: J. L. BARR	
REVISION DESCRIPTION		REVISION DESCRIPTION	
A. 0.000 0.000 0.000 0.000		A. 0.000 0.000 0.000 0.000	
B. 0.000 0.000 0.000 0.000		B. 0.000 0.000 0.000 0.000	
C. 0.000 0.000 0.000 0.000		C. 0.000 0.000 0.000 0.000	
D. 0.000 0.000 0.000 0.000		D. 0.000 0.000 0.000 0.000	
E. 0.000 0.000 0.000 0.000		E. 0.000 0.000 0.000 0.000	
F. 0.000 0.000 0.000 0.000		F. 0.000 0.000 0.000 0.000	
G. 0.000 0.000 0.000 0.000		G. 0.000 0.000 0.000 0.000	
H. 0.000 0.000 0.000 0.000		H. 0.000 0.000 0.000 0.000	
I. 0.000 0.000 0.000 0.000		I. 0.000 0.000 0.000 0.000	
J. 0.000 0.000 0.000 0.000		J. 0.000 0.000 0.000 0.000	
K. 0.000 0.000 0.000 0.000		K. 0.000 0.000 0.000 0.000	
L. 0.000 0.000 0.000 0.000		L. 0.000 0.000 0.000 0.000	
M. 0.000 0.000 0.000 0.000		M. 0.000 0.000 0.000 0.000	
N. 0.000 0.000 0.000 0.000		N. 0.000 0.000 0.000 0.000	
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V. 0.000 0.000 0.000 0.000		V. 0.000 0.000 0.000 0.000	
W. 0.000 0.000 0.000 0.000		W. 0.000 0.000 0.000 0.000	
X. 0.000 0.000 0.000 0.000		X. 0.000 0.000 0.000 0.000	
Y. 0.000 0.000 0.000 0.000		Y. 0.000 0.000 0.000 0.000	
Z. 0.000 0.000 0.000 0.000		Z. 0.000 0.000 0.000 0.000	

RESOLUTION AUTHORIZING THE CITY OF INVER GROVE HEIGHTS (CITY) TO SUBMIT A POINT SOURCE IMPLEMENTATION GRANT APPLICATION TO THE MINNESOTA PUBLIC FACILITIES AUTHORITY (PFA) AND TO AUTHORIZE CITY OFFICIALS TO EXECUTE A GRANT AGREEMENT ON BEHALF OF THE CITY FOR THE DICKMAN INDUSTRIAL PARK STORMWATER POND.

WHEREAS, the Point Source Implementation Program, established in Minnesota Statutes 446A.073, as amended provides funds for construction projects; and

WHEREAS the CITY is hereby applying to the Minnesota Public Facilities Authority for funds to be used for eligible costs for designing and constructing an extended detention stormwater treatment basin on City property located south of the intersection of River Road and 66th Street East.

WHEREAS the CITY has the legal authority to apply for the grant, and the financial, technical, and managerial capacity to ensure proper construction, operation and maintenance of the project for its design life.

BE IT FURTHER RESOLVED, that upon approval of its application by the PFA, the City may enter into an agreement with the PFA for the above referenced project, and that the City certifies that it will comply with all applicable laws and regulations as stated in all contract agreements described in the Compliance listing of the grant application.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Public Works Director, Scott Thureen and City Engineer, Thomas Kaldunski, or their successors in office, are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the above project on behalf of the City.

I CERTIFY THAT the above resolution was adopted by the Inver Grove Heights City Council on (month, day, year).

SIGNED:

Date: _____

WITNESSED:

Date: _____

S E A L

DICKMAN INDUSTRIAL PARK WET EXTENDED DETENTION BASIN
Point Source Implementation Grant Application
City of Inver Grove Heights, Minnesota

STORMWATER POND

PRELIMINARY ENGINEERS OPINION OF COST

7/17/2018

LOCATION: Dickman Trail South of Upper 69th St. E.

ITEM DESCRIPTION	UNIT	AMOUNT	UNIT COST	TOTAL COST
MOBLIZATION	EACH	1	20,000.00	20,000.00
CONSTRUCTION ENTRANCE	EACH	1	2,500.00	2,500.00
SILT FENCE	LN FT	500	3.00	1,500.00
SILTATION LOG	LN FT	150	4.00	600.00
INLET PROTECTION	EACH	1	350.00	350.00
EROSION CONTROL BLANKET	SQ YD	3500	2.00	7,000.00
CLEAR AND GRUBBING DENSE	AC	0.7	10,000.00	7,000.00
SALVAGE TOP SOIL	SQ YD	3500	4.00	14,000.00
POND EXCAVATION	CU YD	18,000	4.00	72,000.00
HAUL AND DISPOSE OF EXCAVATED MATERIAL (AT NEARBY CITY SITE)	CU YD	15,500	5.00	77,500.00
HAUL AND DISPOSE OF EXCAVATED MATERIAL (TO LANDFILL), ALLOWANCE	CU YD	500	32.00	16,000.00
BEDROCK REMOVAL (NOT INCLUDED)	N/A	0	0.00	0.00
IMPORT 24" CLAY LINER	CU YD	4,000	15.00	60,000.00
COMPACT BERM EMBANKMENT (ON-SITE GRANULAR MATERIAL)	CY YD	2,000	7.00	14,000.00
SECONDARY GEOSYNTHETIC CLAY LINER (GCL)	SQ YD	2,000	12.00	24,000.00
REMOVE 48" CASING PIPE AND 30" RCP	LN FT	20	100.00	2,000.00
DIP CL52 WATERMAIN RECONSTRUCTION	LN FT	20	75.00	1,500.00
DIP CL52 FITTINGS, CONNECTIONS, TESTING	LS	1	5,000.00	5,000.00
24" RCP INLET	LN FT	515	40.00	20,600.00
24" RCP FLARED END SECTION	EACH	1	2,000.00	2,000.00
24" RCP OUTLET	LN FT	230	40.00	9,200.00
24" RCP FLARED END SECTION (SKIMMER)	EACH	1	2,000.00	2,000.00
RIPRAP CLASS 3	TON	50	70.00	3,500.00
90" DIA. PRECAST RC DIVERSION MANHOLE W/WEIR AND ORIFICE	LS	1	7,000.00	7,000.00
60" DIA. PRECAST RC MANHOLE	LS	1	4,000.00	4,000.00
60" DIA. PRECAST RC MANHOLE AND OVERFLOW GRATE	LS	1	50,000.00	50,000.00
SEED AREA	AC	1	4,500.00	4,500.00
SITE RESTORATION	AC	1	2,500.00	2,500.00
PROJECT SIGN	LS	1	500.00	500.00
TRAFFIC CONTROL	LS	1	1,500.00	1,500.00
SUB TOTAL = \$				433,000.00
CONTINGENCY 10%				\$ 44,000.00
SUB TOTAL CONSTRUCTION COST = \$				477,000.00
LEGAL, ENGINEERING, ADMINISTRATION, FINANCE (LEAF) (28%)				\$ 122,000.00
TOTAL = \$				599,000.00

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

INDUSTRIAL EQUITIES

Meeting Date: July 23, 2018
 Item Type: Consent Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by: Planning

Fiscal/FTE Impact:

☒	None
☐	Amount included in current budget
☐	Budget amendment requested
☐	FTE included in current complement
☐	Other

PURPOSE/ACTION REQUESTED

Approve a **Resolution** approving the Development Contract, Storm Water Maintenance Agreement, and related agreements for the plat of Industrial Equities Addition.

- Requires 3/5th's vote

SUMMARY

The City Council approved the PUD for a 110,000 square foot office/warehouse building on June 11, 2018. One of the conditions of approval is that a development contract be negotiated before utility and building construction can begin. The documents were not finalized when the plans were approved in June.

The agreements layout the general obligations of the developer to construct the public improvements as part of the project.

RECOMMENDATION: Planning and Engineering Staff find the agreements as acceptable as presented.

Attachments: Resolution approving agreements
 Development contract
 Storm water maintenance agreement
 Open Space/Conservation easement
 Street light agreement
 Retaining Wall Maintenance Agreement
 Agreement relating to Landowner Improvements within City Easements
 Fire Hydrant maintenance agreement
 Pedestrian Trail Easement

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

A RESOLUTION APPROVING THE DEVELOPMENT CONTRACT, STORM WATER
FACILITIES MAINTENANCE AGREEMENT AND RELATED AGREEMENTS FOR THE
PLAT OF INDUSTRIAL EQUITIES ADDITION

CASE NO. 18-22PUD
(Industrial Equities)

WHEREAS, a Final Plat and Final PUD Development Plans were approved on June 11, 2018 for Industrial Equities;

WHEREAS, conditions of approval require the applicant to enter into an agreement with the city relating to a development contract, storm water agreement and related agreements prior to any work commencing on site;

WHEREAS, the agreements were not completed prior to Council approving the project on June 11, 2018 and therefore must be approved by Council on separate action;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, the Development Contract, Storm Water Facilities Maintenance Agreement, and related agreements are hereby approved and the Deputy Clerk is hereby authorized and directed to record a certified copy of this Resolution at the Dakota County Recorder's Office.

Passed this 23rd day of July, 2018.

AYES:

NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

DEVELOPMENT CONTRACT
FOR PLAT OF
INDUSTRIAL EQUITIES ADDITION

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DEVELOPMENT CONTRACT

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**CITY OF INVER GROVE HEIGHTS
DEVELOPMENT CONTRACT
FOR PLAT OF INDUSTRIAL EQUITIES ADDITION**

THIS DEVELOPMENT CONTRACT is made and entered into on the ____ day of _____, 2018, by and between the CITY OF INVER GROVE HEIGHTS, a municipality of the State of Minnesota, (hereinafter called the CITY), and the OWNER and DEVELOPER identified herein.

RECITALS:

WHEREAS, the DEVELOPER has applied to the CITY for approval of the 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, among other things, the installation of sanitary sewer, watermain and storm sewer utilities; the installation of a fire access road and the installation of stormwater facilities and appurtenances; and

WHEREAS, under authority granted to it, including Minnesota Statutes Chapters 412, 429, and 462, the COUNCIL has agreed to approve the PLAT and DEVELOPMENT PLANS on the following conditions:

1. That the DEVELOPER enter into this DEVELOPMENT CONTRACT, 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 and COUNCIL.

NOW, THEREFORE, subject to the terms and conditions of this DEVELOPMENT CONTRACT and in reliance upon the representations, warranties and covenants of the parties herein contained, the CITY, OWNER and DEVELOPER agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **TERMS.** The following terms, unless elsewhere defined specifically in the DEVELOPMENT CONTRACT, 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 Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and its successors and assigns.

1.4 **OWNER.** "OWNER" means Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and its successors and assigns.

1.5 **PLAT.** "PLAT" means the plat of Industrial Equities Addition, comprising the real property located in Inver Grove Heights, Dakota County, Minnesota and legally described on the attached Exhibit A.

1.6 **DEVELOPMENT PLANS.** "DEVELOPMENT PLANS" means all the plans, drawings, specifications and surveys identified and checked on the attached Exhibit B, and hereby incorporated by reference and made a part of this DEVELOPMENT CONTRACT.

1.7 **DEVELOPMENT CONTRACT.** "DEVELOPMENT CONTRACT" means this contract by and among the CITY, OWNER and DEVELOPER.

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

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

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

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

1.12 **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.) Water Management Organization
- e.) Metropolitan Council
- f.) any other regulatory or governmental agency or entity affected by, or having jurisdiction over the DEVELOPER IMPROVEMENTS
- g.) City of Eagan

1.13 UTILITY COMPANIES. "UTILITY COMPANIES" means and includes, jointly and severally, the following:

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

1.14 PRIOR EASEMENT HOLDERS. "PRIOR EASEMENT HOLDERS" means and includes, jointly and severally, all holders of any easements or other property interests which existed prior to the grant or dedication of any public easements transferred by the PLAT or transferred pursuant to this DEVELOPMENT CONTRACT.

1.15 DEVELOPER IMPROVEMENTS. "DEVELOPER IMPROVEMENTS" means and includes, individually and collectively, all the improvements identified in Article 4 and on the attached Exhibit C.

1.16 CITY IMPROVEMENTS. "CITY IMPROVEMENTS" means and includes, individually and collectively, all the improvements identified and checked on the attached Exhibit D.

1.17 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.

1.18 DEVELOPER DEFAULT. "DEVELOPER DEFAULT" means and includes, jointly and severally, 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 DEVELOPMENT CONTRACT;
- b.) failure by the DEVELOPER to timely construct the DEVELOPER

IMPROVEMENTS according to the DEVELOPMENT PLANS.

- 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 DEVELOPMENT CONTRACT;
- d.) breach of the DEVELOPER WARRANTIES.

1.19 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; labor strikes; unavailability of materials; war or civil disorder affecting the performance of work; blockades; power or other utility failures; and fires or explosions.

1.20 DEVELOPER WARRANTIES. "DEVELOPER WARRANTIES" means that the DEVELOPER hereby warrants and represents the following:

- A. **AUTHORITY.** DEVELOPER has the unconditional right, power, legal capacity and authority to enter into and perform its obligations under this DEVELOPMENT CONTRACT.
- 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 DEVELOPMENT CONTRACT. 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 DEVELOPMENT CONTRACT by DEVELOPER or prohibit any of the transactions provided for in this DEVELOPMENT CONTRACT.
- C. **PRESENT COMPLIANCE WITH LAWS.** DEVELOPER has complied with and is not in violation of applicable federal, state or local statutes, laws, and regulations including, without limitation, permits and licenses, and any applicable environmental or other law, or regulation affecting the PLAT 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 PLAT and 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 threatened against or affecting DEVELOPER with respect to the PLAT 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. **PLAT COMPLIANCE.** To DEVELOPER'S best knowledge, the PLAT and the DEVELOPMENT PLANS comply with all COUNTY, metropolitan, state and federal laws and regulations, including but not limited to environmental regulations. Plat compliance shall include compliance with variances that have been granted by the CITY as part of the development approval process.
- H. **WARRANTY ON DEVELOPER PUBLIC IMPROVEMENTS AND EROSION CONTROL.** The DEVELOPER warrants all DEVELOPER PUBLIC IMPROVEMENTS and erosion control required to be performed by it under this DEVELOPMENT CONTRACT 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, at its own expense, shall be solely responsible for performing repair work required by the CITY within thirty (30) days of notification or if not reasonably curable within thirty (30) days, such additional reasonable period of time to effect the cure.
- 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.
- The warranty period for street, water main, sanitary sewer, drainage and erosion control improvements shall be for two (2) years after completion and acceptance by the City; the warranty for the street, 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.
- I. **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.

- 1.21 **OWNER WARRANTIES.** “OWNER WARRANTIES” means that the OWNER hereby warrants and represents the following:
- A. **AUTHORITY.** OWNER has the unconditional right, power, legal capacity and authority to enter into and perform its obligations under this DEVELOPMENT CONTRACT.
 - B. **NO DEFAULT.** OWNER 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 DEVELOPMENT CONTRACT. OWNER 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 DEVELOPMENT CONTRACT by OWNER or prohibit any of the transactions provided for in this DEVELOPMENT CONTRACT.
 - C. **PRESENT COMPLIANCE WITH LAWS.** OWNER has complied with and is not in violation of applicable federal, state or local statutes, laws, and regulations including, without limitation, permits and licenses and any applicable environmental or other law, or regulation affecting the PLAT and the DEVELOPMENT PLANS and the DEVELOPER IMPROVEMENTS; and OWNER is not aware of any pending or threatened claim of any such violation.
 - D. **CONTINUING COMPLIANCE WITH LAWS.** OWNER 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 PLAT and 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 threatened against or affecting OWNER with respect to the PLAT or the DEVELOPMENT PLANS or the DEVELOPER IMPROVEMENTS. OWNER 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 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.
 - G. **PLAT COMPLIANCE.** To OWNER’S best knowledge, the PLAT and the DEVELOPMENT PLANS comply with all COUNTY, metropolitan, state and federal laws and regulations, including but not limited to, environmental regulations.

H. **FEE TITLE.** Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, owns fee title to the property within the PLAT.

1.22 **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 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 DEVELOPMENT CONTRACT.

1.23 **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: Director of Public Works
Inver Grove Heights City Hall
8150 Barbara Avenue
Inver Grove Heights, MN 55077

**If to OWNER/
DEVELOPER**
Industrial Equities Inver Grove Heights, LLP
321 - 1st Avenue N.
Minneapolis, MN 55401

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.

ARTICLE 2 **PLAT APPROVAL**

2.1. **PLAT APPROVAL.** Subject to the terms and conditions of this DEVELOPMENT CONTRACT, 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

DEVELOPMENT CONTRACT 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 DEVELOPMENT CONTRACT have been recorded with the COUNTY Recorder.

ARTICLE 3 **CITY IMPROVEMENTS**

3.1 CITY IMPROVEMENTS. The CITY is not undertaking any CITY IMPROVEMENTS with respect to the PLAT except as stated on Exhibit D.

ARTICLE 4 **DEVELOPER IMPROVEMENTS**

4.1 DEVELOPER IMPROVEMENTS. The DEVELOPER shall install, at its own cost, the DEVELOPER IMPROVEMENTS in accordance with the DEVELOPMENT PLANS and in accordance with the City Engineer Memos on file with the CITY Engineer (referenced in Exhibit B of this DEVELOPMENT CONTRACT). The DEVELOPER shall be responsible for the cost of installing any gas, electric, telephone, cable, and other private utilities.

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 DEVELOPMENT CONTRACT 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 contract shall be deemed to be automatically extended until such time as the DEVELOPER IMPROVEMENTS are completed in accordance with the DEVELOPMENT PLANS.

4.2 GROUND MATERIAL. The DEVELOPER shall insure that adequate and suitable ground material shall exist in the areas of DEVELOPER PUBLIC IMPROVEMENTS and shall guarantee the removal, replacement or repair of substandard or unstable material in accordance with the DEVELOPMENT PLANS. The cost of said removal, replacement or repair is the responsibility of the DEVELOPER.

4.3 GRADING/DRAINAGE PLAN AND EASEMENTS. The DEVELOPER shall construct drainage facilities adequate to serve the PLAT in accordance with the DEVELOPMENT PLANS. The OWNER and DEVELOPER agree that the PLAT and DEVELOPMENT PLANS depicted all necessary easements for the preservation of the drainage system, for drainage basins and for utility service. All such easements required by the CITY shall be on the PLAT or in writing, in recordable form, and on the standard easement form of the CITY, and on such other terms and conditions as the CITY shall determine; such easements shall be delivered to the CITY contemporaneously with execution of this DEVELOPMENT CONTRACT. The grading 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 date stipulated in Exhibit C, the CITY may declare the DEVELOPER in default pursuant to Article 14.

4.4 STREET SIGNS. The DEVELOPER shall be financially responsible for the installation of street identification signs and non-mechanical and non-electrical traffic control signs. Street signs will be in conformance with the names as indicated on the PLAT and pursuant to CITY standards. The actual number and location of signs to be installed shall be determined by the CITY and actual installation shall be performed by CITY authorized personnel.

4.5 BOULEVARD AND AREA RESTORATION. The DEVELOPER shall seed or lay cultured sod in all boulevards to the extent depicted in the DEVELOPMENT PLANS 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, over the entire PLAT. Upon request of the PWD, the DEVELOPER shall remove the silt fences after grading and construction have occurred.

4.6 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 has been detailed on the DEVELOPMENT PLANS. 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 PLAT including, but not limited to, restoration of existing control structures and clean-up of public right-of-way, until the property in the PLAT is final graded and 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 14. The DEVELOPER shall be financially responsible for payment for this extra work.

ARTICLE 5 **PARK CONTRIBUTION REQUIREMENTS**

5.1 PARK CONTRIBUTION. The DEVELOPER shall comply with the park contribution requirements as stated in Exhibit E.

ARTICLE 6 **OTHER PERMITS**

6.1 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 7

OTHER DEVELOPMENT REQUIREMENTS

7.1 MISCELLANEOUS REQUIREMENTS. Any additional requirements to approval of the PLAT and DEVELOPMENT PLANS as specified by the COUNCIL are incorporated herein, as set forth in Exhibit E.

ARTICLE 8

DEVELOPER PUBLIC IMPROVEMENTS

8.1 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.

8.2 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.

8.3 INSPECTION. The PWD or its designated representative shall periodically inspect the DEVELOPER PUBLIC IMPROVEMENTS 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, the laying of gravel base for street construction 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 two (2) 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 15 to withhold the release of any portion of the escrow amount resulting from work being performed without the opportunity for adequate CITY inspection.

8.4 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, or if not reasonably curable within thirty (30) days, then within such additionally reasonable time to effect the cure, the DEVELOPER shall 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 Sections 1.20(H) become defective or damaged in the reasonable opinion of the CITY.

8.5 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 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 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 the following documents:

- Street Light Agreement
- Retaining Wall Maintenance Agreement
- Fire Hydrant Maintenance Agreement
- Natural Area/Open Space Easement Agreement
- Stormwater Facilities Maintenance Agreement
- Agreement Related to Landowner Improvements Within City Easement

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 14.

8.6 ENGINEERING SUBMITTALS / AS BUILT INFORMATION. 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:

1. All as built submittals require a survey to be completed for any improved and adjusted areas within the project extent. All as built survey data collection must be within an accuracy tolerance of 0.10' horizontal and 0.05' vertical, based on the

project's horizontal and vertical datum. The as built survey must be completed on current Dakota County Coordinates and NAVD88 and performed by or under the direct supervision of a Registered Land Surveyor.

2. Two ties to all curb boxes and gate valves.
3. All hydrant gate valves tied back to the hydrant.
4. All ties shall be 100 feet or less.
5. Top nut elevation of all hydrants.
6. Rim and invert elevations on all manholes and catch basins.
7. Apron invert elevations on all flared end structures and storm sewer stubs.
8. Invert elevations on all sanitary and water service stubs.
9. Two ties to all sewer and water service locations.
10. Main line stationing for all sanitary sewer wyes and water main corporations.
11. 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 (signature with current date and MN state licensure number) 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 13).
12. Copy of final plat shall be submitted in an electronic format and must be on the Dakota County coordinates system. Compatible formats are emailed AUTOCAD .DWG or .DXF. Final plat drawings shall also be scanned, stored and emailed as images in .TIFF or .PDF.
13. Final as built information shall be submitted in an electronic format and 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.

14. Records identifying which parcels have in home pressure reducing valves to meet MDH requirements when the static water pressure exceeds 80psi.
15. Survey Coordinates on all stormwater facilities and related appurtenances such as valves.
16. Final as built information shall be submitted in an Esri compliant Geodatabase format compatible with the City's Geographic Information System (GIS). An Esri compliant Geodatabase template will be made available by the CITY which will specify all features and critical attributes required. All features submitted must adhere to as built survey requirements (see item 1). All features and critical attributes must be complete and consistent with submitted as built plans. The as built submittal must follow the geodatabase template provided by the CITY for acceptance.

ARTICLE 9

RESPONSIBILITY FOR COSTS

9.1 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.

9.2 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 DEVELOPMENT CONTRACT, and PLAT approval and acceptance and authorization of improvements. Such expenses shall be itemized on reasonably detailed invoices describing services, rates, time, person performing the services and the date of such expenses. Bills not paid within thirty (30) days shall accrue interest at the rate of eight percent per year.

9.3 ENFORCEMENT COSTS. The DEVELOPER shall pay the CITY for costs incurred in the enforcement of this DEVELOPMENT CONTRACT, including reasonable engineering and reasonable attorneys' fees.

9.4 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 10

DEVELOPER WARRANTIES

10.1 STATEMENT OF DEVELOPER WARRANTIES. The DEVELOPER hereby makes and states the DEVELOPER WARRANTIES.

ARTICLE 11
OWNER WARRANTIES

11.1 STATEMENT OF OWNER WARRANTIES. The OWNER hereby makes and states the OWNER WARRANTIES.

ARTICLE 12
CITY WARRANTIES

12.1 STATEMENT OF CITY WARRANTIES. The CITY hereby makes and states the CITY WARRANTIES.

ARTICLE 13
INDEMNIFICATION OF CITY

13.1 INDEMNIFICATION OF CITY. Provided the CITY is not in DEFAULT under the DEVELOPMENT CONTRACT 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 reasonable 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.) if commenced, failure of the DEVELOPER to timely construct the DEVELOPER PUBLIC IMPROVEMENTS according to the DEVELOPMENT PLANS;
- 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 DEVELOPMENT CONTRACT;
- d.) failure by the DEVELOPER to pay contractors, subcontractors, laborers, or materialmen;
- e.) failure by the DEVELOPER to pay for materials;
- f.) approval by the CITY of the PLAT;

- g.) approval by the CITY of the DEVELOPMENT PLANS;
- h.) failure to obtain the necessary permits and authorizations to construct the DEVELOPER IMPROVEMENTS;
- i.) if commenced, construction of the DEVELOPER IMPROVEMENTS;
- j.) delays in construction of the DEVELOPER PUBLIC IMPROVEMENTS;
- k.) all costs and liabilities arising because building permits were issued prior to the completion and acceptance of the DEVELOPER IMPROVEMENTS.

13.2 NOTICE. Within a reasonable period of time after the CITY's receipt of actual notice of any matter giving rise to a right of payment against the CITY pursuant to Section 13.1, the CITY shall give the FORMAL NOTICE in reasonable detail to the DEVELOPER. The DEVELOPER shall not be obligated to make any payment to the CITY for any such claim until the passage of thirty (30) days from the date of its receipt of FORMAL NOTICE from the CITY, during which time the DEVELOPER shall have the right to cure or remedy the event leading to such claim, or if not reasonably curable within thirty (30) days, such additional reasonable period of time to effect the cure.

13.3 DEFENSE OF CLAIM. Provided the CITY is not in DEFAULT under the DEVELOPMENT CONTRACT with respect to the particular matter causing the claim or demand, with respect to claims or demands asserted against the CITY by a third party of the nature covered by Sections 13.1 and 13.2 above, and provided that the CITY gives FORMAL NOTICE thereof, the DEVELOPER will, at its sole expense, provide for the defense thereof with counsel of its own selection but approved by the CITY; the DEVELOPER will pay all costs and expenses including reasonable attorneys' fees incurred in so defending against such claims, provided that the CITY shall at all times also have the right to fully participate in the defense at the CITY's expense. If the DEVELOPER fails to defend, the CITY shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle the claim or other matter, for the account of and at the risk of the DEVELOPER.

ARTICLE 14

CITY REMEDIES UPON DEVELOPER DEFAULT

14.1 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 or if not reasonably curable within thirty (30) days, such additional reasonable period of time to effect the cure. If the DEVELOPER, after FORMAL NOTICE to it by

the CITY, does not cure the DEVELOPER DEFAULT within thirty (30) days, or such other reasonable time, 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 DEVELOPMENT CONTRACT;
- b.) the CITY may suspend any work, improvement or obligation to be performed by the CITY to the extent reasonably related to the DEVELOPER DEFAULT;
- c.) the CITY may collect on the irrevocable letter of credit or cash deposit pursuant to Article 15 hereof to the extent reasonably necessary to cure the DEVELOPER DEFAULT;
- d.) the CITY may suspend or deny building and occupancy permits for buildings within the PLAT to the extent reasonably related to the DEVELOPER DEFAULT;
- 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 reasonable 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 and OWNER hereby waive 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 PLAT. The DEVELOPER and OWNER hereby waive any appeal rights otherwise available pursuant to Minn. Stat. § 429.081.

14.2 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained in this DEVELOPMENT CONTRACT 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.

14.3 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 DEVELOPMENT CONTRACT 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.

14.4 EMERGENCY. Notwithstanding the requirement contained in Section 14.1 hereof relating to FORMAL NOTICE to the DEVELOPER in case of a DEVELOPER DEFAULT and notwithstanding the requirement contained in Section 14.1 hereof relating to giving the DEVELOPER a thirty (30)day period to cure the DEVELOPER DEFAULT, in the event of an emergency resulting from a DEVELOPER DEFAULT presenting an immediate threat to health or safety or presenting an immediate threat that will likely result in property damage unless immediately addressed as reasonably determined by the DWP, 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 and OWNER hereby waive 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 PLAT. The DEVELOPER and OWNER hereby waive any appeal rights otherwise available pursuant to Minn. Stat. § 429.081.

ARTICLE 15 **ESCROW DEPOSIT**

15.1 ESCROW REQUIREMENT. Prior to the CITY allowing the PLAT to be recorded and prior to the DEVELOPER beginning construction of the DEVELOPER IMPROVEMENTS and prior to obtaining any building permits, the DEVELOPER shall deposit with the City an irrevocable letter of credit or cash deposit or other security acceptable to the City for the amount stated in **Exhibit F**.

All cost estimates shall be acceptable to the DIRECTOR OF PWD. The total escrow amount was calculated as shown on the attached **Exhibit F**. 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, 2020. 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, 2020, 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 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, 2020.

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 C to be constructed to the extent practicable; if the DIRECTOR OF PWD determines that such DEVELOPER IMPROVEMENTS listed on **Exhibit C** have been constructed and after retaining 10% of the proceeds for later distribution pursuant to Section 15.2, 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 15.2 from time to time as financial obligations are paid.

15.2 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 1.20(H) 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 16 **MISCELLANEOUS**

16.1 CITY'S DUTIES. The terms of this DEVELOPMENT CONTRACT shall not be considered an affirmative duty upon the CITY to complete any DEVELOPER IMPROVEMENTS,

if the DEVELOPER fails to complete the DEVELOPER IMPROVEMENTS.

16.2 ADDITIONAL IMPROVEMENTS. If the DEVELOPER requests the CITY to construct the DEVELOPER PUBLIC IMPROVEMENTS, the CITY at its option, may install and construct the DEVELOPER PUBLIC IMPROVEMENTS. In such case, the CITY, at its option, may specially assess the cost wholly or in part therefore under Minnesota Statutes Chapter 429, or may draw the irrevocable letter of credit or cash deposit. If the CITY specially assesses the cost of any portion thereof and if the amount assessed is in an amount no more than agreed to in writing by the DEVELOPER prior to commencement of the DEVELOPER PUBLIC IMPROVEMENTS, then the OWNER and DEVELOPER hereby waive any and all procedural and substantive objections to the installation of the improvements and the special assessments, including, but not limited to, notice and hearing requirements and any claim that the special assessments exceed the benefit to the PLAT. The OWNER and DEVELOPER waive any appeal rights otherwise available pursuant to Minnesota Statute § 429.081. The OWNER and DEVELOPER acknowledge that the benefit from the improvements equal or exceed the amount of the special assessments.

16.3 NO THIRD PARTY RECOURSE. Third parties shall have no recourse against the CITY or OWNER or DEVELOPER under this DEVELOPMENT CONTRACT.

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

16.5 RECORDING. The DEVELOPMENT CONTRACT and PLAT shall be recorded with the COUNTY Recorder and the OWNER and DEVELOPER shall provide and execute any and all documents necessary to implement the recording.

16.6 BINDING AGREEMENT. The parties mutually recognize and agree that all terms and conditions of this recordable DEVELOPMENT CONTRACT shall run with the land in the PLAT, and shall be binding upon the successors and assigns of the OWNER and DEVELOPER. This DEVELOPMENT CONTRACT shall also run with and be binding upon any after acquired interest of the OWNER and DEVELOPER in the land made the subject of the PLAT.

16.7 CONTRACT ASSIGNMENT. The DEVELOPER may not assign this DEVELOPMENT CONTRACT without the written permission of the COUNCIL. The DEVELOPER's obligations hereunder shall continue in full force and effect, even if the DEVELOPER sells one or more lots, the entire PLAT, or any part of it.

16.8 AMENDMENT AND WAIVER. The parties hereto may by mutual written agreement amend this DEVELOPMENT CONTRACT 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 DEVELOPMENT CONTRACT or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this DEVELOPMENT CONTRACT, waive compliance by another with any of the covenants contained

in this DEVELOPMENT CONTRACT, 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 DEVELOPMENT CONTRACT. 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 DEVELOPMENT CONTRACT shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

16.9 GOVERNING LAW. This DEVELOPMENT CONTRACT shall be governed by and construed in accordance with the laws of the State of Minnesota.

16.10 COUNTERPARTS. This DEVELOPMENT CONTRACT 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.

16.11 HEADINGS. The subject headings of the paragraphs and subparagraphs of this DEVELOPMENT CONTRACT are included for purposes of convenience only and shall not affect the construction of interpretation of any of its provisions.

16.12 INCONSISTENCY. If the DEVELOPMENT PLANS are inconsistent with the words of this DEVELOPMENT CONTRACT, then the DEVELOPMENT PLANS shall prevail.

16.13 ACCESS. The DEVELOPER hereby grants to the CITY, its agents, employees, officers, and contractors a license to enter the PLAT to perform all inspections deemed appropriate by the CITY during the installation of DEVELOPER IMPROVEMENTS. The DEVELOPER hereby grants to the CITY, its agents, employees, officers, and contractors a license to enter the PLAT to complete DEVELOPER PUBLIC IMPROVEMENTS if the DEVELOPER fails to cure the DEVELOPER DEFAULT as required by this DEVELOPMENT CONTRACT.

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IN WITNESS WHEREOF, the parties have executed this DEVELOPMENT CONTRACT.

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 ____ day of _____, 2018, 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

**OWNER AND DEVELOPER:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP**

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
)
COUNTY OF _____) ss.

On this _____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

Notary Public

This Instrument Was Drafted By:

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

**After Recording, Please Return This
Instrument To:**

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

EXHIBIT A
LEGAL DESCRIPTION
OF PLAT OF INDUSTRIAL EQUITIES ADDITION

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

Lot 1, Block 1, Industrial Equities Addition, Dakota County, Minnesota

according to the recorded plat thereof on file and of record with the office of the Dakota
County Recorder, Dakota County, Minnesota.

EXHIBIT B
LIST OF DEVELOPMENT PLANS

PLAN	DATE OF PLAN PREPARATION	PREPARED BY
Sheet Index (C1)	7-16-18	Plowe Engineering, Inc.
Civil Site Plan (C2)	7-16-18	Plowe Engineering, Inc.
Grading, Drainage & Erosion Control Plan (C3.1)	7-17-18	Plowe Engineering, Inc.
Driveway Entrance Detail (C3.2)	6-11-18	Plowe Engineering, Inc.
Off-Site Grading Plan (C3.3)	7-17-18	Plowe Engineering, Inc.
Utility Plan (C4.1)	7-16-18	Plowe Engineering, Inc.
Utility Plan (C4.2)	6-11-18	Plowe Engineering, Inc.
Details (C5.1)	1-22-18	Plowe Engineering, Inc.
Details (C5.2)	6-11-18	Plowe Engineering, Inc.
Details (C5.3)	7-16-18	Plowe Engineering, Inc.
Storm Water Pollution Prevention Plan (C6.1)	12-29-17	Plowe Engineering, Inc.
Storm Water Pollution Prevention Plan (C6.2)	3-19-18	Plowe Engineering, Inc.

Sanitary Sewer & Water Main Plan & Profile (C7.1)	6-11-18	Plowe Engineering, Inc.
Sanitary Sewer & Water Main Plan & Profile (C7.2)	6-11-18	Plowe Engineering, Inc.
Sanitary Sewer & Water Main Plan & Profile (C7.3)	6-11-18	Plowe Engineering, Inc.
Sanitary Sewer & Water Main Plan & Profile (C7.4)	6-11-18	Plowe Engineering, Inc.

The above-listed Development Plans were approved by the City Engineer on July 17, 2018.

The Development Plans also include compliance by the Developer with those conditions set forth in the following documents relating to the PLAT:

1. Memo to Tom Kaldunski from Greg Fransen at Barr dated April 4, 2018;
2. MPCA Sanitary Sewer Extension Permit #80940;
3. Stormwater Drainage Report dated March 22, 2018 prepared by Plowe Engineering, Inc.;
4. Letter to DEVELOPER and OWNER from City Engineer dated June 14, 2018 relating to the Land Alteration Permit No. C-099-18;
5. E-mail correspondence to DEVELOPER and OWNER from City Engineer dated May 10, 2018 relating to haul routes;
6. E-mail correspondence to DEVELOPER and OWNER from City Engineer dated June 13, 2018 relating to permits required.

The above-listed documents are 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	prior to obtaining a building permit or by 11-30-18, whichever occurs first	general site grading, drainage and erosion control
X PUBLIC	prior to obtaining a certificate of occupancy or by 11-30-18, whichever occurs first	extension of sanitary sewer main
X PUBLIC	prior to obtaining a certificate of occupancy or by 11-30-18, whichever occurs first	extension of public water main
X	prior to obtaining a certificate of occupancy or by 11-30-18, whichever occurs first	sanitary sewer and water service lines
X PUBLIC	prior to obtaining a building permit or by 11-30-18, whichever occurs first	storm water piping and appurtenances
X	prior to obtaining a building permit or by 11-30-18, whichever occurs first	installation of storm sewer
X	prior to obtaining a building permit or by 11-30-18, whichever occurs first	installation of retaining walls

X PUBLIC	prior to obtaining a certificate of occupancy or by 11-30-18, whichever occurs first	installation of fire access road
X PUBLIC	prior to obtaining a certificate of occupancy or by 11-30-18, whichever occurs first	cul-de-sac construction
X	prior to obtaining a certificate of occupancy or by 11-30-18, whichever occurs first	installation of parking lot
X	prior to obtaining a certificate of occupancy or by 11-30-18, whichever occurs first	landscaping *

The City Engineer and/or Director of Public Works reserve the right to extend the above completion dates, if requested by Developer, to a date reasonably determined by the City.

*Note: Landscaping must be completed prior to issuance of certificate of occupancy, provided, however, if the request for the certificate of occupancy is made in the months of October through April and if all other requirements for the certificate of occupancy, except landscaping, have been met, then the City shall issue the certificate of occupancy and the Developer is then required to complete the landscaping no later than the following June 15th.

EXHIBIT D

CITY IMPROVEMENTS

The City is not required to make any CITY IMPROVEMENTS.

EXHIBIT E
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 and Owner must execute this DEVELOPMENT CONTRACT.
 - b.) DEVELOPER must provide the irrevocable letter of credit or cash deposit or other form of security acceptable to the CITY for the respective amounts stated in Article 15 and on Exhibit F of this DEVELOPMENT CONTRACT.
 - c.) Developer must fully pay the CITY for all planning, engineering review and legal fees that have been incurred up to the date of this DEVELOPMENT CONTRACT; and DEVELOPER must further escrow with the CITY an amount determined by the CITY 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 F.
 - d.) DEVELOPER and OWNER must provide title evidence in the form of a title insurance policy that shows that the OWNER owns the property within the PLAT.
 - e.) DEVELOPER AND OWNER must execute or cause to be executed and deliver the documents listed in paragraph 9 of this Exhibit E. The form of the documents shall be subject to the approval of the City Attorney.
 - f.) DEVELOPER must provide to the CITY the cash deposit for engineering inspection fees stated on Exhibit F of this Development Contract.
 - g.) The PLAT must be approved by Dakota County.
 - h.) Park dedication fees shall be paid pursuant to paragraph 6 of Exhibit E.
 - i.) Payment of energy costs for the first three (3) years for the street lights.
 - j.) All required plans must be submitted to the City Engineer and approved by the City Engineer.
 - k.) DEVELOPER must comply with all provisions of paragraphs 4 and 5 of this Exhibit E. All required plans must be submitted to the Eagan City Engineer and approved by the Eagan City Engineer.

- 2.) **BUILDING PERMIT.** Prior to construction and prior to issuance of a building permit and in any event no later than November 30, 2018, whichever occurs first, the following conditions must be met:
- a.) All the conditions in Paragraph 1 of this Exhibit E have been met.
 - b.) The PLAT is recorded with the Dakota County Recorder.
 - c.) The DEVELOPMENT CONTRACT and all of the documents listed in paragraph 9 of this Exhibit E have been recorded and the DEVELOPER has provided evidence to the CITY of such recording.
 - d.) Grading, drainage and erosion control are complete.
 - e.) Storm water piping and appurtenances are complete.
 - f.) Installation of storm sewer is complete.
 - g.) Installation of retaining walls is complete.
- 3.) **CERTIFICATE OF OCCUPANCY.** Prior to November 30, 2018, or prior to the issuance of a certificate of occupancy, whichever occurs first, the following conditions must be met:
- a.) Extension of sanitary sewer main is complete.
 - b.) Extension of public water main is complete.
 - c.) Sanitary sewer and water service lines are complete.
 - d.) Installation of fire access road is complete.
 - e.) The parking lot has been installed.
 - f.) The storm sewer improvements are complete.
 - g.) All storm water facilities must be installed and approved by the City Engineer.
 - h.) The landscaping is complete per the landscaping plan. *
 - i.) As-built plans per City standard must be submitted to the City Engineer after project completion and prior to release of the Engineering Escrow referenced in Exhibit F.
 - j.) Construction of the cul-de-sac is complete.

*Note: Landscaping must be completed prior to issuance of certificate of occupancy, provided, however, if the request for the certificate of occupancy is made in the months of October through April and if all other requirements for the certificate of occupancy, except landscaping, have been met, then the City shall issue the certificate of occupancy and the Developer is then required to complete the landscaping no later than the following June 15th.

- 4.) **JOINT POWERS AGREEMENT BETWEEN CITY OF INVER GROVE HEIGHTS AND CITY OF EAGAN.** The trunk water and sanitary sewer facilities that will serve the PLAT were extended from the City of Eagan and the core facilities for water and sanitary sewer are in the City of Eagan. To enable the PLAT to be served with water and sanitary sewer from Eagan, the cities of Inver Grove Heights and Eagan are relying on the terms of a 1997 Joint Powers Agreement between the two cities, hereafter referred to as the JPA.

The DEVELOPER and OWNER acknowledge and agree that the JPA benefits the PLAT and that the PLAT, DEVELOPER PLANS and DEVELOPER PUBLIC IMPROVEMENTS are subject to the JPA. DEVELOPER and OWNER hereby assume and agree to pay all the financial obligations of the City of Inver Grove Heights under the JPA relating to storm water fees, park fees, or park development or park conveyance, trunk area charges, approval of the DEVELOPER PLANS, construction of DEVELOPER PUBLIC IMPROVEMENTS and connection fees. Without limiting the foregoing, DEVELOPER and OWNER agree as follows:

- a.) Prior to release of the PLAT for recording, and prior to commencing any DEVELOPER PUBLIC IMPROVEMENTS, the DEVELOPER and OWNER shall obtain the written approval of Eagan for DEVELOPER PUBLIC IMPROVEMENTS pursuant to Article 13 of the JPA.
- b.) The DEVELOPMENT PLANS shall comply with Section 3.1 of the JPA; the construction of DEVELOPER PUBLIC IMPROVEMENTS shall comply with Section 3.2 of the JPA; and the DEVELOPER and OWNER shall obtain all necessary easements for construction and for the permanent DEVELOPER PUBLIC IMPROVEMENTS. The DEVELOPER and OWNER are responsible for the costs of constructing the DEVELOPER PUBLIC IMPROVEMENTS and do hereby assume and relieve the City of Inver Grove Heights from all costs identified in Sections 3.3 and 3.4 of the JPA.
- c.) Any costs and expenses incurred by the City of Inver Grove Heights under Section 3.7 of the JPA shall instead be paid by DEVELOPER and OWNER to Eagan.
- d.) Prior to release of the PLAT for recording and prior to commencing any DEVELOPER PUBLIC IMPROVEMENTS, the DEVELOPER and OWNER, instead of the City of Inver Grove Heights, shall pay to the City of Eagan the PLAT trunk area charges identified in Section 5.1 of the JPA.

- e.) At the time of obtaining building permits, the OWNER, DEVELOPER and their assigns, instead of the City of Inver Grove Heights, shall pay to Eagan the connection fees identified in Sections 6.1 and 6.2 of the JPA.
- f.) The OWNER and its successors and assigns agree to comply with any restriction, conservation or other regulation of water usage as adopted from time-to-time by the City of Eagan, of which the City of Eagan informs the City of Inver Grove Heights.

The City of Inver Grove Heights reserves the right to charge water and sanitary sewer user rates based either on the Eagan or Inver Grove Heights rates, whichever is higher.

- g.) All storm water fees or charges imposed by the City of Eagan, including those under Sections 7.2, 13.2 and 14.3 of the JPA, shall be paid by the OWNER and DEVELOPER and their assigns as they become due.

- 5.) **PLAT NOT TO BE RELEASED UNTIL DEVELOPER PAYS THE CITY OF EAGAN FOR SEWER AND WATER TRUNK CHARGES AND FOR STORM WATER AREA FEES.** The PLAT shall not be released for recording until the DEVELOPER pays to the City of Eagan the following:

- a.) trunk area charges for sewer and water for those areas that Eagan determines the charges attributable thereto must be paid at the present time; and
- b.) storm water area fees for those areas that Eagan determines the charges attributable thereto must be paid at the present time.

- 6.) **PARK CONTRIBUTION FEE.** DEVELOPER must pay the City of Inver Grove Heights the park contribution fee based on the Inver Grove Heights rate of \$5,000 per acre. The Inver Grove Heights park contribution fee is \$46,500. The park dedication fee of \$46,500 must be paid by DEVELOPER to Inver Grove Heights before the CITY signs the PLAT. DEVELOPER shall meet the park dedication requirements of the City of Eagan, if any; the Eagan requirements are in addition to the City of Inver Grove Heights requirements.

- 7.) **CLEAN UP OF CONSTRUCTION DEBRIS ON STREETS AND ADJOINING PROPERTY.** The escrow amount stated on Exhibit F includes an appropriate amount as determined by the Director of Public Works to assure that the DEVELOPER removes any construction debris from streets adjoining the PLAT and from private properties that adjoin the PLAT. During the construction and other improvements within the PLAT, the DEVELOPER is responsible for removing any construction debris (including roofing materials, paper wrappings, 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.

- 8.) **STREET LIGHTING.** Prior to release of the PLAT for recording, the OWNER shall enter into a separate recordable agreement that sets forth the terms, conditions and covenants relating to street lighting; the street lighting agreement shall then be recorded with the PLAT.

- 9.) **OTHER AGREEMENTS.** The DEVELOPER and OWNER must comply with the following requirements and execute or cause to be executed the agreements set forth below:

- a. DEVELOPER and OWNER must execute this Development Contract for the PLAT.

The above-listed agreement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- b. DEVELOPER and OWNER must execute a Street Light Agreement for the PLAT.

The above-listed agreement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- c. DEVELOPER and OWNER must execute a Natural Area/Open Space and Undisturbed Natural Area/Open Space Easement Agreement for the PLAT.

The above-listed easement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- d. DEVELOPER and OWNER must execute a Pedestrian Trail Easement between the DEVELOPER and OWNER and Dakota County for the PLAT.

The above-listed easement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- e. DEVELOPER and OWNER must execute a Storm Water Facilities Maintenance Agreement for the PLAT.

The above-listed agreement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- f. DEVELOPER and OWNER must execute an Agreement Relating to Landowner Improvements Within City Easement (Encroachment

Agreement) for the PLAT.

The above-listed agreement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- g. DEVELOPER and OWNER must execute a Fire Hydrant Maintenance Agreement for the PLAT.

The above-listed agreement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- h. DEVELOPER and OWNER must execute a Retaining Wall Maintenance Agreement for the PLAT.

The above-listed agreement must be executed at the time the PLAT is recorded and must be recorded with the PLAT.

- i. DEVELOPER and OWNER shall cause Danner Family Limited Partnership (the owner of Outlot A, Danner Family 1st Addition) to enter into a Permanent Drainage and Utility Easement with the City of Eagan for the benefit of the property within the PLAT. The Permanent Drainage and Utility Easement shall be prepared by the City of Eagan. The Permanent Drainage and Utility Easement will allow DEVELOPER and OWNER to construct water and sewer utilities and storm water facilities within the public easement.

The above-listed easement must be executed at the time the PLAT is recorded and must be recorded with the PLAT. DEVELOPER and OWNER shall provide a fully executed copy of the easement to the CITY prior to the CITY releasing the PLAT.

If the City Engineer determines that the PLAT requires additional sewer, water or storm sewer facility easements on the UPS Parcel in Eagan, then DEVELOPER has the responsibility to obtain such easements on the UPS Parcel in favor of the City of Eagan.

The agreements and documents listed in this Section 9 (a) through (i), inclusive, must be recorded prior to any mortgage relating to the PLAT.

- 10.) **RETAINING WALL REQUIRMENTS.** Prior to the City issuing a building permit for the PLAT all retaining wall permits (if required) must be issued by the City. If applicable, prior to the City granting a certificate of occupancy for the PLAT, 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.

- 11.) **LOT EROSION CONTROL REQUIREMENTS.** Any construction within the PLAT shall comply with the following (Erosion Control Forms):

- a. Silt Fence dated April 2011 and identified as Plate No. EC-02;
- b. Rock Construction Entrance dated April 2011 and identified as Plate No. EC-03;
- c. Storm Sewer Inlet Protection dated April 2011 and identified as Plate No. EC-04;
- d. 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 contractor. The contractor must execute the Notice of Erosion Control Requirement for Construction (on file with the CITY) when a building permit is obtained.

- 12.) **PERMITS.** DEVELOPER and OWNER is responsible to obtain all necessary permits for construction of the IMPROVEMENTS within the PLAT including, but not limited to, the following:

- Mn/DOT – drainage permit
- MPCA –sewer extension permit
- MPCA – NPDES General Stormwater permit
- MCES – sewer extension permit
- MN Department of Health – permit for the watermain extension
- CITY Building Department permits for the building, sewer and water services and retaining walls

- 13.) **VACATION OF RECORDED STREET EASEMENT ON OUTLOT D, GENE WORRELLS CHURCH ACRES.** Prior to the recording of the plat of Industrial Equities Addition, the CITY shall record a release or vacation of the recorded street easement on Outlot D, Gene Worrells Church Acres, Dakota County for the purpose of vacating the recorded street easement. The DEVELOPER and OWNER is purchasing Outlot D, Gene Worrells Church Acres for use as an industrial building site. The CITY no longer needs the recorded street easement for public purpose.

- 14.) **RELEASE, WAIVER OF CLAIMS AND COVENANT NOT TO SUE.** One of the conditions imposed on DEVELOPER and OWNER by the CITY relating to the CITY vacating the recorded street easement on Outlot D, Gene Worrells Church Acres is that DEVELOPER and OWNER obtain a signed Release, Waiver of Claims and Covenant Not To Sue from adjoining two adjoining landowners, namely, PG 1, LLC and David Jansen. DEVELOPER and OWNER must show evidence that the Release, Waiver of Claims and Covenant Not To Sue has been signed by PG 1, LLC and signed by David Jansen before the CITY releases the Notice of Completion of Vacation of the street

easement on Outlot D, Gene Worrells Church Acres and before the CITY releases the PLAT for recording. Such Waivers shall be recorded together with any Notice of Completion of Vacation.

- 15.) **RELEASE OF TEMPORARY STREET EASEMENT AGREEMENT RELATING TO OUTLOT B, GENE WORRELLS CHURCH ACRES.** The CITY agreed to release the Temporary Street Easement over Outlot B, Gene Worrells Church Acres if DEVELOPER and OWNER obtained a new Permanent Street, Drainage and Utility Easement over a portion of Outlot B, Gene Worrells Church Acres from the adjoining landowner, PG 1, LLC. DEVELOPER and OWNER must provide a signed copy of the Permanent Street, Drainage and Utility Easement over a portion of Outlot B, Gene Worrells Church Acres from the adjoining landowner, PG 1, LLC before the CITY releases the PLAT for recording. The Permanent Easement must be recorded at the same time that the PLAT is recorded.
- 16.) **TREE SHORTAGE.** The DEVELOPER'S tree preservation plan is short 82 trees. In order to comply with tree preservation requirements, DEVELOPER has agreed to make a payment to the tree preservation fund to make up for the difference. DEVELOPER shall pay CITY the amount of \$16,800 to the CITY's tree preservation fund at the time the PLAT is executed and related for recording.
- 17.) **HAUL ROUTES.** With respect to contractors engaged in construction on the Subject Property, haul routes to and from the Subject Property shall be limited to the following:
- Opperman Drive to Argenta Trail to Auburn Path (9 ton limit; 7 ton limit in the spring; or until such time as the City rebuilds the road and increases the restriction)
 - Auburn Path to Yankee Doodle Road (8 ton limit; 7 ton limit in the spring)

Haul routes to additional locations may be approved by the City Engineer.

EXHIBIT F
ESCROW CALCULATION

1.)	Site Grading, Drainage and Erosion Control	
2.)	Utilities	\$
3.)	Stormwater Facilities	\$
4.)	Parking lot	\$
5.)	Retaining walls	\$
6.)	Construction of Cul-de-sac	\$
7.)	Site Landscaping	\$
8.)	Construction Debris Clean-up	\$
9.)	Certified as-builts	\$
SUBTOTAL:		\$
MULTIPLIED BY:		x 1.25
TOTAL ESCROW AMOUNT:		\$

EXHIBIT F
ESCROW CALCULATION
(Continued)

In addition to the Escrow Amount for Developer Improvements set forth above, the DEVELOPER shall also deposit \$_____ in cash with the CITY (hereafter "Engineering Escrow Amount") contemporaneously with execution of this DEVELOPMENT CONTRACT.

This Engineering Escrow Amount shall be used to pay the CITY for engineering inspection, 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; the CITY shall keep records of the tasks performed and the hours spent in performing the tasks and the personnel that performed the 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 charged the DEVELOPER for engineering inspection performed by the CITY.

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 the cost of any corrections for deficiencies or problems related to DEVELOPER IMPROVEMENTS listed on Exhibit C or Exhibit F or related to turf establishment, grading, drainage and erosion control and landscaping and to pay to protect against further deficiencies or problems.

The CITY shall return to the DEVELOPER any remaining Escrow Retainage of the original \$_____ when the following events have occurred:

- a.) All of the lawn or vegetative cover 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 the DEVELOPER IMPROVEMENTS listed on Exhibit C or Exhibit F or related to turf establishment, grading, drainage, erosion control and landscaping exceed the initially deposited \$_____ 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 STORM WATER FACILITIES LOCATED ON
LOT 1, BLOCK 1, INDUSTRIAL EQUITIES ADDITION
DAKOTA COUNTY, MINNESOTA

THIS STORM WATER FACILITIES MAINTENANCE AGREEMENT (Agreement) is made, entered into and effective this ____ day of _____, 2018, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as “City”) and Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership (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 Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and its successors and assigns.

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

The fee title owner of Lot 1, Block 1, Industrial Equities Addition,
and the successors and assigns of such fee title owner.

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

Any existing or future infiltration basin, stormwater pond, stormwater piping, culverts, catch basins, drainage paths and related stormwater appurtenances lying within the Subject Property.

1.6 Storm Water Facility Plan. “Storm Water Facility Plan” means that certain Grading, Drainage & Erosion Control Plan (C3.1), Utility Plan (C4.1 & C4.2), Details (C5.1 & C5.2 & C5.3) and Storm Water Pollution Prevention Plan (C6.1 & C6.2) prepared by Plowe Engineering, Inc. and approved by the City Engineer on 7-17-18. The Storm Water Facility Plan is on file with the City. Storm Water Facility Plan also includes the Stormwater Drainage Report dated March 22, 2018 prepared by Plowe Engineering, Inc.

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

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 Lot 1, Block 1, Industrial Equities Addition, Dakota County, Minnesota.

Recital No. 2. Landowner has requested that the City approve development plans in connection with the development of Lot 1, Block 1, Industrial Equities Addition.

Recital No. 3. The Storm Water Facilities are located on Lot 1, Block 1, Industrial Equities Addition.

Recital No. 4. The City is willing to approve the development plans in connection with the Subject Property if, among other things, Landowner executes this Storm Water Facilities Maintenance Agreement.

Recital No. 5. 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 Subject Property to access the Stormwater Facilities, when needed.

ARTICLE 3 **RESPONSIBILITY FOR MAINTENANCE**

3.1 Construction of Storm Water Facilities. Prior to November 30, 2018 or prior to issuance of a certificate of occupancy for the Subject Property, whichever occurs first, Landowner shall construct and install the Storm Water Facilities on the Subject Property in accordance with the Storm Water Facility Plan at its sole expense 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 Subject Property 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 Subject 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 SWPP Plan dated December 28, 2016 prepared by Lake and Land Surveying, Inc.;

- e. The Standard of Maintenance shall comply with the 2011 Watershed Management Plan for the Lower Mississippi Watershed Management Organization (LMRWMO) dated August 2011;
- f. 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 to show how the Responsible Owner will operate and maintain Long Term Best Management Practices for the Storm Water Facilities being constructed on the Subject Property. The Operations & Maintenance Plan is attached hereto as **Exhibit B**. The Responsible Owner and the successors and assigns thereof shall be responsible for following the Operations & Maintenance Plan as approved 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.

On December 31 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. The costs billed by the City to the Responsible Owner shall be allocated according to the Allocation as defined herein.

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 costs billed to the Responsible Owner by the City shall be allocated according to the Allocation as defined herein.

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, the City may certify to Dakota County the amounts due as payable with the real estate taxes in the next calendar year for the properties identified within the Allocation in the amounts determined by the Allocation; 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 properties identified within the Allocation.

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 properties identified within the Allocation for the costs and expenses incurred by the City.

If the City has to specially assess the unpaid costs, the amount to be assessed shall be allocated according to the Allocation as defined herein.

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 properties identified within the Allocation. 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 properties identified within the Allocation. 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 Lot 1, Block 1, Industrial Equities Addition and the 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. Responsible Owner hereby grants to the City a right and license to access and enter properties identified within the Allocation defined herein 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 Approval of Development Plans. The City agrees that if Responsible Owner executes this Storm Water Facilities Maintenance Agreement and if the conditions required by the City are met, the City will approve the development plans for the Subject Property.

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 the Subject Property and shall run with the properties identified within the Allocation as defined herein 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 Responsible Owner in the properties identified within the Allocation as defined herein acquired by Responsible 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. Responsible Owner consents to the recording of this Agreement.

5.6 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:

Industrial Equities Inver Grove Heights, LLP
321 - 1st Avenue N.
Minneapolis, MN 55401

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)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2018, 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:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

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, Block 1, Industrial Equities Addition, Dakota County, Minnesota, according to the plat thereof on file and of record in the office of the Dakota County Recorder, State of 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 December 31. 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

NATURAL AREA/OPEN SPACE
AND
UNDISTURBED NATURAL AREA/OPEN SPACE
EASEMENT AGREEMENT
FOR PLAT OF INDUSTRIAL EQUITIES ADDITION

THIS NATURAL AREA/OPEN SPACE AND UNDISTURBED NATURAL AREA/OPEN SPACE EASEMENT AGREEMENT ("Easement Agreement") is made this ____ day of _____, 2018, by and among Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, hereinafter referred to as "Grantor" and City of Inver Grove Heights, a Minnesota municipal corporation, hereinafter referred to as "City". 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
TERMS

1.1 Terms. The following terms, unless elsewhere specifically defined herein, shall have the following meanings as set forth below. All other capitalized terms shall have the meaning given to them in the Development Contract.

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

1.3 Grantor. "Grantor" means Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and its successors and assigns.

1.4 Property. "Property" means the following property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described as follows:

Lot 1, Block 1, Industrial Equities Addition, according to the plat thereof on file and of record in the office of the Dakota County Recorder, Dakota County, Minnesota;

1.5 Natural Area/Open Space. "Natural Area/Open Space" means that portion of the Property legally described and depicted on the attached **Exhibit A**.

1.6 Undisturbed Natural Area/Open Space. “Undisturbed Natural Area/Open Space” means that portion of the Property legally described and depicted on the attached **Exhibit B**.

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

If to City:

City of Inver Grove Heights
Attention: City Planner
8150 Barbara Avenue
Inver Grove Heights, MN 55077

If to Grantor:

Industrial Equities Inver Grove Heights, LLP
321 - 1st Avenue N.
Minneapolis, MN 55401

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.

1.8 Development Contract. “Development Contract” means that certain Development Contract for the plat of Industrial Equities Addition between City and Grantor dated _____, 2018.

1.9 Easement Holder. “Easement Holder” means the holder and owner of the easement rights under this Easement Agreement.

ARTICLE 2 **RECITALS**

2.1 Grantor owns and has marketable fee title to the Property.

2.2 The parties wish to enter into an agreement which will grant to the City conservation and open space easement for conservation and preservation of the terrain and vegetation over the Natural Area/Open Space and Undisturbed Natural Area/Open Space.

NOW, THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is acknowledged, and in consideration of the agreements contained herein, it is agreed by the parties as follows:

ARTICLE 3 **WARRANTIES AND REPRESENTATIONS OF GRANTOR**

3.1 Grantor is the fee owner and has marketable title to the Property.

3.2 Grantor is the fee title owner of the Natural Area/Open Space and Undisturbed Natural Area/Open Space contained within the Property.

3.4 With respect to the Natural Area/Open Space and Undisturbed Natural Area/Open Space, Grantor represents and warrants as follows:

a.) That Grantor has not used, employed, deposited, stored, disposed of, placed or otherwise knowingly allowed to come in or on the Natural Area/Open Space and Undisturbed Natural Area/Open Space, any hazardous substance, hazardous waste, pollutant, or contaminant, including, but not limited to, those defined in or pursuant to 42 U.S.C. § 9601, et seq., or Minn. Stat., Sec. 115B.01, et seq. (such substances, wastes, pollutants, and contaminants hereafter referred to as "Hazardous Substances");

b.) That Grantor has not knowingly allowed any other person to use, employ, deposit, store, dispose of, place or otherwise have, in or on the Natural Area/Open Space and Undisturbed Natural Area/Open Space, any Hazardous Substances;

c.) To the best of Grantor's knowledge, no previous owner, occupant or possessor of the Natural Area/Open Space and Undisturbed Natural Area/Open Space, deposited, stored, disposed of, placed, or otherwise allowed in or on the Natural Area/Open Space and Undisturbed Natural Area/Open Space, any Hazardous Substances.

ARTICLE 4

GRANT OF PERPETUAL CONSERVATION AND OPEN SPACE EASEMENT OVER NATURAL AREA/OPEN SPACE

4.1 **Grant of Perpetual Conservation and Open Space Easement over Natural Area/Open Space.** Subject to the terms and conditions contained herein, Grantor hereby grants to the City, and its successor and assigns forever, a perpetual Conservation and Open Space Easement in, under, on, over and through the Natural Area/Open Space for conservation and preservation of the terrain and vegetation, and to prohibit certain destructive acts in, under, on, over and through the Natural Area/Open Space. The City hereby accepts such easement.

4.2 **Perpetual Duration.** The duration of the Conservation and Open Space Easement with respect to the Natural Area/Open Space is perpetual.

4.3 **Preservation Predominately in Undeveloped Condition.** Except as otherwise stated in this Easement Agreement, the Natural Area/Open Space shall be preserved predominately as an undeveloped area and shall not be used in such a manner which would change or alter the undeveloped condition of the Natural Area/Open Space.

4.4 Restrictions. Except as necessary for grading, landscaping, and construction of streets, water, sanitary sewer, storm water, pedestrian trails and other utilities as described and depicted in the Development Plans in the Development Contract and except as otherwise stated in this Easement Agreement, the following terms, conditions, covenants and restrictions apply to the Natural Area/Open Space:

- a.) No structures, buildings or fences shall be constructed, erected, or placed upon, above or beneath the Natural Area/Open Space without the prior written consent of the City.
- b.) No vehicles or machinery shall be stored, placed upon, or parked on the Natural Area/Open Space without the prior written consent of the City.
- c.) No earth, loam, peat, gravel, soil or any other natural material or substance shall be moved to or removed from the Natural Area/Open Space without the prior written consent of the City. There shall be no dredging, drilling, mining of any nature whatsoever of the Natural Area/Open Space.
- d.) No soil, sand, gravel or other substance or material as landfill shall be placed, dumped or stored upon the Natural Area/Open Space without the prior written consent of the City. There shall be no waste, trash or garbage placed, dumped or stored upon the Natural Area/Open Space.
- e.) No trees, shrubs, or other vegetation shall be planted upon the Natural Area/Open Space and no trees, shrubs, or other vegetation shall be removed from the Natural Area/Open Space without the prior written consent of the City; provided, however, noxious weeds, junk, litter and diseased, dead and downed trees and trees that pose a danger to person and property may be removed without obtaining any consent from the City.
- f.) No change in the general topography or grade of the Natural Area/Open Space, including, but not limited to, excavation, dredging, movement, or removal or placement of soil, shall be allowed without the prior written consent of the City.

4.5 Exceptions To Restrictions. The following are exceptions to the restrictions set forth in Section 4.4:

- a.) Nothing contained herein shall impair any right of City or Grantor now held or hereafter acquired to construct or maintain private utilities within public drainage and utility easements or public utilities (including storm water facilities and irrigation systems that discharge storm water) within public drainage and utility easements to the extent depicted in the Development Plans that are also in or on the Natural Area/Open Space.
- b.) Nothing contained herein shall restrict the rights of the City to use the Natural Area/Open Space in the manner set forth in Article 8 hereof.

- c.) Within the Natural Area/Open Space, benches may be installed, grass and lawns may be planted and Easement Holder may mow the grass and lawns. Mowing may not occur within the Undisturbed Natural Area/Open Space except under Section 5.4(g).
- d.) Walking, hiking and pedestrian travel are permitted in the Natural Area/Open Space.
- e.) The Natural Area/Open Space may be used for passive or active recreation; provided however, if the Natural Area/Open Space is used for active recreation, the impervious cover shall not exceed 5% of the total required Natural Area/Open Space and Undisturbed Natural Area/Open Space.
- f.) Nothing contained herein shall prevent or restrict the right of the Grantor to construct, maintain and use a paved walking or hiker/biker path in or on the Natural Area/Open Space, provided the total impervious surface of which shall not be more than 5% of the total required Natural Area/Open Space.

4.6 Maintenance Obligations of Easement Holder. The following are the maintenance obligations of the Easement Holder with respect to the Natural Area/Open Space:

- a.) If the City determines that any tree(s), alive or dead, in the Natural Area/Open Space pose a potential danger, then upon request of the City the Easement Holder, at its own cost and expense, shall remove such tree(s).
- b.) The Easement Holder shall be responsible for removing noxious weeds, junk, litter and diseased, dead and downed trees from the Natural Area/Open Space.
- c.) The Easement Holder shall maintain the Natural Area/Open Space subject to the provisions stated herein.
- d.) The Easement Holder shall maintain and repair the Corner Posts referenced in Article 6 hereof and the Easement Holder shall not remove the Corner Posts. If the Corner Posts become dilapidated, the Easement Holder shall replace the Corner Posts.

ARTICLE 5

GRANT OF PERPETUAL CONSERVATION AND OPEN SPACE EASEMENT OVER UNDISTURBED NATURAL AREA/OPEN SPACE

5.1 Grant of perpetual Conservation and Open Space Easement over Undisturbed Natural Area/Open Space. Subject to the terms and conditions contained herein, Grantor hereby grants to the City, and its successor and assigns forever, a perpetual Conservation and Open Space Easement in, under, on, over and through the Undisturbed Natural Area/Open Space for conservation and preservation of the terrain and vegetation, and to prohibit certain destructive acts in, under, on, over and through the Undisturbed Natural Area/Open Space. The City hereby accepts such easement.

5.2 Perpetual Duration. The duration of the Conservation and Open Space Easement with respect to the Undisturbed Natural Area/Open Space is perpetual.

5.3 Preservation Predominately in Undisturbed Natural Condition. Except as otherwise stated in this Easement Agreement, the Undisturbed Natural Area/Open Space shall be preserved predominately in its undisturbed natural condition and shall not be used in such a manner which would change or alter the undisturbed natural condition of the Undisturbed Natural Area/Open Space.

5.4 Restrictions. Except as necessary for grading, landscaping, and construction of streets, water, sanitary sewer, storm water, pedestrian trails and other utilities as described and depicted in the Development Plans in the Development Contract and except as otherwise stated in this Easement Agreement, the following terms, conditions, covenants and restrictions apply to the Undisturbed Natural Area/Open Space:

- a.) No structures, buildings or fences shall be constructed, erected, or placed upon, above or beneath the Undisturbed Natural Area/Open Space without the prior written consent of the City.
- b.) No vehicles, playground equipment, playground facilities or other equipment shall be stored, placed upon, or parked on the Undisturbed Natural Area/Open Space without the prior written consent of the City.
- c.) No earth, loam, peat, gravel, soil or any other natural material or substance shall be moved to or removed from the Undisturbed Natural Area/Open Space without the prior written consent of the City. There shall be no dredging, drilling, mining of any nature whatsoever of the Undisturbed Natural Area/Open Space.
- d.) No soil, sand, gravel or other substance or material as landfill shall be placed, dumped or stored upon the Undisturbed Natural Area/Open Space without the prior written consent of the City. There shall be no waste, trash or garbage placed, dumped or stored upon the Undisturbed Natural Area/Open Space.
- e.) No trees, shrubs, or other vegetation shall be planted upon the Undisturbed Natural Area/Open Space and no trees, shrubs, or other vegetation shall be removed from the Undisturbed Natural Area/Open Space without the prior written consent of the City; provided, however, noxious weeds, junk, litter and diseased, dead and downed trees and trees that pose a danger to person and property may be removed without obtaining any written consent from the City.
- f.) No change in the general topography or grade of the Undisturbed Natural Area/Open Space, including, but not limited to, excavation, dredging, movement, or removal or placement of soil, shall be allowed without the prior written consent of the City.

- g.) Except to remove noxious weeds, the areas within the Undisturbed Natural Area/Open Space shall not be mowed or cultivated without obtaining written consent from the City.

5.5 Exceptions To Restrictions. The following are exceptions to the restrictions set forth in Section 5.4:

- a.) Nothing contained herein shall impair any right of City or Grantor now held or hereafter acquired to construct or maintain public utilities (including storm water facilities and irrigation systems that discharge storm water) within public drainage and utility easements to the extent depicted in the Development Plans that are also in or on the Undisturbed Natural Area/Open Space.
- b.) Nothing contained herein shall prevent or restrict the right of the Grantor to construct, maintain and use a paved walking or hiker/biker path, in or on the Undisturbed Natural Area/Open Space, provided the total impervious surface of which shall not be more than 2% of the total required Natural Area/Open Space and Undisturbed Natural Area/Open Space.
- c.) Nothing contained herein shall restrict the rights of the City to use the Undisturbed Natural Area/Open Space in the manner set forth in Article 8 hereof.

5.6 Maintenance Obligations of Easement Holder. The following are the maintenance obligations of the Easement Holder with respect to the Undisturbed Natural Area/Open Space:

- a.) If the City determines that any tree(s), alive or dead, in the Undisturbed Natural Area/Open Space poses a potential danger, then upon request of the City the Easement Holder, at its own cost and expense, shall remove such tree(s).
- b.) The Easement Holder shall be responsible for removing noxious weeds, junk, litter and diseased trees from the Undisturbed Natural Area/Open Space.
- c.) The Easement Holder shall maintain the Undisturbed Natural Area/Open Space subject to the provisions stated herein.
- d.) The Easement Holder shall maintain and repair the Corner Posts referenced in Article 6 hereof and the Easement Holder shall not remove the Corner Posts. If the Corner Posts become dilapidated, the Easement Holder shall replace the Corner Posts.

ARTICLE 6 **OTHER DUTIES AND OBLIGATIONS**

6.1 Indemnification of City By Grantor. Grantor shall indemnify, defend, and hold the City harmless, against any and all loss, costs, damage and expense, including reasonable attorneys

fees and costs, resulting from Grantor's breach of the warranties and representations in Section 3.4 hereof.

6.2 Indemnification of City By Easement Holder. If in the future the Easement Holder is a different entity than the City, then the Easement Holder 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 reasonable attorneys' fees that the City incurs or suffers, which arise out of, result from or relate to the failure by the Easement Holders to observe or perform any covenant, condition, obligation or agreement on, its part to be observed or performed under this Easement Agreement.

6.3 Installation of Corner Posts. Before construction commences on the Property, the Grantor shall install silt fences around the boundaries of the Undisturbed Natural Area/Open Space. Before construction commences on the Property, Grantor shall install stakes to demarcate the boundaries of the Natural Area/Open Space.

Prior to any Certificate of Occupancy being issued for the Property, or prior to November 30, 2018, whichever occurs first, the Grantor, at its sole cost and expense, shall construct and install permanent four (4) inch by four (4) inch posts ("Corner Posts") at the boundaries of the Undisturbed Natural Area/Open Space. The exact location of the Corner Posts and the number of Corner Posts shall be determined by the City Planner. The Corner Posts may be metal stakes, if the types of metal stakes are approved by the City Planner.

The Easement Holder shall maintain the Corner Posts after installation.

ARTICLE 7 **LICENSE TO ENTER**

7.1 License to Enter. In the instance where the Easement Holder is a different entity than the City, and where the City is the fee owner of the Natural Area/Open Space and Undisturbed Natural Area/Open Space, the City hereby grants to the Easement Holder a temporary right and license to enter the Natural Area/Open Space and Undisturbed Natural Area/Open Space for the purpose of performing the maintenance obligations described herein relating to the Natural Area/Open Space and Undisturbed Natural Area/Open Space for the duration of the performance of the maintenance.

ARTICLE 8 **CITY USE OF THE NATURAL AREA/OPEN SPACE AND** **UNDISTURBED NATURAL AREA/OPEN SPACE**

8.1 Other Rights of City. Notwithstanding anything to the contrary contained herein, the City, in its sole discretion, within the Natural Area/Open Space and Undisturbed Natural Area/Open Space may:

- a.) Install, construct and maintain improvements to assure the safe condition of the public utilities and storm water facilities solely within the drainage and utility easements located within the Natural Area/Open Space and Undisturbed Natural Area/Open Space; and
- b.) Install, construct and maintain public utilities and storm water facilities solely within drainage and utility easements located within the Natural Area/Open Space and Undisturbed Natural Area/Open Space.

ARTICLE 9

MISCELLANEOUS

9.1 Recording of Easement Agreement. Contemporaneous with the recording of the plat of Industrial Equities Addition, this Easement Agreement shall be filed, at the Grantor's expense, with the Dakota County Recorder's Office.

9.2 No Third Party Recourse. Third parties shall have no recourse against the City or Grantor under this Easement Agreement.

9.3 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Easement Agreement shall run with the Property and Natural Area/Open Space and Undisturbed Natural Area/Open Space and shall be binding upon the parties and their heirs, successors, administrators and assigns of the parties.

The parties also agree that this Easement Agreement shall run with and be binding upon all after-acquired title of the Grantor with respect to the Property.

9.4 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.

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

9.6 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.

9.7 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, City and Grantor have caused this Easement Agreement to be executed as of the day and year aforesaid.

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 ____ day of _____, 2018, 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:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
)
COUNTY OF _____) ss.

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

Notary Public

This Instrument Was Drafted By:

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

**After Recording, Please Return This
Instrument To:**

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

EXHIBIT A
NATURAL AREA/OPEN SPACE EASEMENT
LEGAL DESCRIPTION AND DEPICTION

EXHIBIT B
UNDISTURBED NATURAL AREA/OPEN SPACE EASEMENT
LEGAL DESCRIPTION AND DEPICTION

STREET LIGHT AGREEMENT FOR
PLAT OF INDUSTRIAL EQUITIES ADDITION
DAKOTA COUNTY, MINNESOTA

THIS STREET LIGHT AGREEMENT FOR PLAT OF INDUSTRIAL EQUITIES ADDITION (Agreement) is made this ____ day of _____, 2018, by and between Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, 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”. Based on the recitals, covenants, agreements, warranties and representations hereafter made and for and in good and valuable consideration received by the parties, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby declare, state and agree:

ARTICLE 1
TERMS

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 Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, the current fee title owner of the Property, and its successors and assigns.

1.4 Property. “Property” means the real property described on the attached **Exhibit A**. The Property is located in the City of Inver Grove Heights, Dakota County, Minnesota within the recorded plat of Industrial Equities Addition.

1.5 Property Owner. Property Owner means the fee title owner of the Property.

1.6 Street Lights. Street Lights means all the existing or future street lights installed at the intersection of Argenta Trail and Auburn Path in the City of Inver Grove Heights.

ARTICLE 2 **AGREEMENT**

2.1 Installation of Street Lights. City shall install the Street Lights. The Street Lights shall be installed in conjunction with the improvements being made to the Property.

2.2 Payment of Energy Costs for First Three Years. Before recording of the plat of Industrial Equities Addition, Landowner shall prepay the City for the energy costs of the Street Lights for the three (3) calendar years of 2019, 2020 and 2021 by paying the City the amount of \$150.00 per Street Light per year.

2.3 Responsibility of Property Owner. Beginning with calendar year 2022, and continuing thereafter, the Property Owner shall be responsible for payment of the maintenance, repair, replacement and energy costs of the Street Lights.

The City will invoice such Property Owner on a quarterly basis; such invoice will be shown as part of the utility billing that is sent quarterly to the Property Owner.

The Property Owner shall make payment directly to the City within thirty (30) days after the sending of the invoice. If payment is not made, the City may certify to Dakota County the amounts due as payable with real estate taxes in the next calendar year for the Property owned by the Property Owner who has not paid the City; the parties agree that such certifications may be made under Minnesota Statutes, Chapter 444 in a manner similar to certifications for unpaid utility bills.

The Property Owner and its successors and assigns thereof waive any and all procedural and substantive objections to the imposition of such charges on the respective Property. Further, the Property Owner and its successors and assigns thereof hereby waive any and all procedural and substantive objections to special assessments for the costs of the Street Lights including, but not limited to, notice and hearing requirements and any claims that the charges or special assessments exceed the benefit to the Property. The Property Owner and its successors and assigns waive any appeal rights otherwise available pursuant to Minnesota Statutes § 429.081. The Property Owner and its successors and assigns acknowledge that the benefit from the Street Lights equal or exceed the amount of the charges and assessments for the maintenance, repair, replacement and energy costs that are being imposed under this Agreement.

The Property Owner agrees that the standard of maintenance shall conform to the same standards that the City's Director of Public Works utilizes for other street lights that the City maintains, as those standards are from time to time amended.

The Property Owner agrees that the obligation to pay for the maintenance of the Street Lights exists notwithstanding the fact that the Street Lights lie within the public road right-of-way.

2.5 Warranty of Ownership. Landowner is the current fee title owner of the

Property.

ARTICLE 3

CITY'S COVENANTS

3.1 Allowing Plat To Be Recorded. The City agrees that if the conditions set forth in the Development Contract between the parties of even date herewith are met, the City will allow the plat of Industrial Equities Addition to be recorded with the Dakota County Recorder. One requirement in the Development Contract is that the Owner enter into this Street Light Agreement. By execution of this Agreement, that condition has been met.

ARTICLE 4

MISCELLANEOUS

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

4.2 Recording. Owner shall record this Agreement with the Dakota County Recorder after the plat of Industrial Equities Addition is recorded, and Owner shall present evidence to the City that this Agreement has been recorded.

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

4.4 Amendment And Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement and performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement.

Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

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

4.6 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.

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

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

IN WITNESS WHEREOF, Landowner and City have executed this Street Light Agreement as of the day and year aforementioned.

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 ____ day of _____, 2018, 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:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP**

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
)
COUNTY OF _____) ss.

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

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 PROPERTY

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

Lot 1, Block 1, Industrial Equities Addition, Dakota County, Minnesota, according to the plat thereof on file and of record in the office of the Dakota County Recorder, State of Minnesota.

RETAINING WALL MAINTENANCE AGREEMENT
FOR LOT 1, BLOCK 1, INDUSTRIAL EQUITIES ADDITION
INVER GROVE HEIGHTS, MINNESOTA

THIS RETAINING WALL MAINTENANCE AGREEMENT (hereafter referred to as "Agreement") is made, entered into and effective this ____ day of _____, 2018, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as "City") and Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership (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 Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and its successors and assigns.

1.4 Retaining Wall Facilities. "Retaining Wall Facilities" means each and all of the following, individually and collectively, to the extent located within the Lot:

The retaining wall structure, retaining wall foundation, retaining wall anchors, retaining wall fencing, and retaining wall drainage collection appurtenances, retaining wall drainage piping, and retaining wall drainage discharge appurtenances lying within the Lot.

1.5 Retaining Wall Construction Plan. "Retaining Wall Construction Plan" means the Civil Site Plan (C2) prepared by Plowe Engineering, Inc. dated 7/16/18 and approved by the City Engineer on July 17, 2018. The Retaining Wall Construction Plan is on file with the City.

The Retaining Wall Construction Plan may be further defined by the plans and permit on file with the City's Building Department for retaining walls needing structural review (generally retaining walls greater than 4 feet in height).

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

1.7 Responsible Owner. "Responsible Owner" means the fee title owner(s) of the Lot during the period of time that it or they own fee title to the Lot.

1.8 Maintenance Standards. "Maintenance Standards" means the Standards of Maintenance as defined in Article 3, Section 3.3 of this Agreement.

1.9 DPW. "DPW" means the City's Director of Public Works.

ARTICLE 2 **RECITALS**

Recital No. 1. Lot Owner owns the Lot.

Recital No. 2. Lot Owner will construct the Retaining Wall Facilities on the Lot pursuant to the Retaining Wall Construction Plan.

Recital No. 3. The City is willing to allow the Responsible Owner to begin the improvements on the Lot if Lot Owner executes this Retaining Wall Maintenance Agreement.

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

- a.) impose upon the Responsible Owner the responsibility of maintaining the Retaining Wall Facilities consistent with the Maintenance Standards, notwithstanding the fact that the Retaining Wall 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 Retaining Wall Facilities in the event the Responsible Owner fails to perform its obligations to maintain the Retaining Wall 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 Retaining Wall Facilities. Lot Owner agrees that by November 30, 2018, the Retaining Wall Facilities shall be constructed and installed in accordance with the Retaining Wall Construction Plan at the sole expense of Lot Owner.

3.2 Maintenance of Retaining Wall Facilities. The Responsible Owner is obligated at its expense to perpetually maintain the Retaining Wall Facilities in accordance with the Standard of Maintenance set forth in Section 3.3 hereof. The Responsible Owner shall not modify, alter, remove, or eliminate the Retaining Wall Facilities for as long as the Retaining Wall Facilities exists. The Responsible Owner shall also insure that the Retaining Wall Facilities always remain safe, structural sound and otherwise in compliance with the professional engineering retaining wall designs as reflected in the Retaining Wall Construction Plan and in industry standards (as amended from time to time). 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 Retaining Wall Facilities on the Lot exists even though the event or omission which caused the need for maintenance of the Retaining Wall Facilities may arise on property outside of the Lot.

3.3 Standard of Maintenance. The Standard of Maintenance for the Retaining Wall Facilities shall comply with the minimum standards of the Minnesota State Building Code and any applicable provisions of the Inver Grove Heights City Code (as amended from time to time, by amendment of general applicability). In addition, the Standard of Maintenance shall keep the Retaining Wall Facilities in reasonable conformance with the original professional engineering retaining wall designs reflected in the Retaining Wall Construction Plan and in industry standards (as amended from time to time), and the Standard of Maintenance shall include the same standards that the City's Director of Public Works utilizes for similar retaining wall systems that the City maintains, as those standards are from time to time amended. The Retaining Wall Construction Plan is on file with the City.

3.4 Notice of Non-Compliance with Section 3.1; Cure Period. If the City's Director of Public Works ("DPW") determines, at his reasonable discretion, that the Responsible Owner has not complied with Section 3.1 hereof, the DPW shall provide written notice to the Responsible Owner of such failure to comply with Section 3.1. This notice shall specify that the Responsible Owner will have thirty (30) days to comply with Section 3.1, 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 construction of the Retaining Wall Facilities 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 Section 3.1, in the event of an emergency as determined by the DWP, 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 Section 3.1. If the City performs emergency construction work, the Responsible Owner shall be obligated to repay the City the costs incurred to perform the emergency construction 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 Section 3.1 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 with Section 3.1 and the City shall have the right of access to the areas where the Retaining Wall Facilities are to be located to perform such construction work. The City shall

charge all costs incurred by the City to perform the tasks necessary for compliance with Section 3.1 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, construction or improvement performed by the City to ensure compliance with Section 3.1. 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 such 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 the tasks by the City to ensure compliance with Section 3.1 equals or exceeds the amount of the charges and assessments for compliance with Section 3.1 that are being imposed hereunder upon the Lot.

3.7 Notice of Non-Compliance with Section 3.2; 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 3.8 and 3.9 with respect to the billing, collection and/or tax certification of such costs.

3.8 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 Retaining Wall 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.

3.9 Certification of Costs Payable With Taxes; Special Assessments. If payment is not made under Section 3.8 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.

3.10 Obligation For Maintenance Notwithstanding Public Easement. The Responsible Owner agrees that its obligations relating to maintenance of the Retaining Wall Facilities exist notwithstanding the fact that the Retaining Wall 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 Retaining Wall Facilities for the duration of the performance of the maintenance. The Responsible Owner hereby grants to the City a temporary right and license to access and enter the Lot for the purpose of performing maintenance of the Retaining Wall Facilities for the duration of the performance of the maintenance.

3.11 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 Retaining Wall Facilities;
- d.) construction of the Retaining Wall Facilities.

3.12 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 City Conditions. The City agrees that if Responsible Owner executes this Retaining Wall Maintenance Agreement and complies with the other conditions imposed by the Engineering Department relating to the improvements being made on the Lot, then the City will allow the Responsible Owner to begin construction of the improvements on 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 Lot acquired by the Lot Owner after the execution date of this Agreement or after the recording date of this Agreement.

Upon request by a Responsible Owner, the City will prepare for the Responsible Owner, at standard City charges, a special assessment search indicating the extent to which, if any, there is a levied or pending special assessment under Section 3.6 and/or Section 3.9 hereof.

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 Lot Owner: Industrial Equities Inver Grove Heights, LLP
321 - 1st Avenue N.
Minneapolis, MN 55401

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.

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)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2018, 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

LOT OWNER:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
)
COUNTY OF _____) ss.

On this _____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

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, Industrial Equities Addition, Dakota County, Minnesota, according to the plat thereof on file and of record in the office of the Dakota County Recorder, State of Minnesota.

**AGREEMENT RELATING TO LANDOWNER
IMPROVEMENTS WITHIN CITY EASEMENT ON
LOT 1, BLOCK 1, INDUSTRIAL EQUITIES ADDITION
DAKOTA COUNTY, MINNESOTA**

THIS AGREEMENT RELATING TO LANDOWNER IMPROVEMENTS WITHIN CITY EASEMENT ON LOT 1, BLOCK 1, INDUSTRIAL EQUITIES ADDITION (Agreement) is made this ____ day of _____, 2018, by and between the City of Inver Grove Heights (hereafter referred to as “City”), a Minnesota municipal corporation, and Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership (hereafter referred to as “Landowner”). Based on the covenants, agreements, representations and recitals herein contained, the parties agree as follows:

**ARTICLE 1
TERMS**

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

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

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

Lot 1, Block 1, Industrial Equities Addition, Dakota County, Minnesota.

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

All of the drainage and utility easements dedicated on the plat of Industrial Equities Addition located on Lot 1, Block 1, Industrial Equities Addition, Dakota County, Minnesota.

1.5 Landowner. “Landowner” means Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and its assigns and successors in interest with respect to the Subject Land.

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

IF TO CITY:

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

**IF TO LANDOWNER:
DEVELOPER**

Industrial Equities Inver Grove Heights, LLP
321 - 1st Avenue N.
Minneapolis, MN 55401

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

1.7 Landowner Improvements. “Landowner Improvements” means the parking lot, curb and gutter, fire access road, landscaping, private storm sewer and related appurtenances and structures to be constructed on the Subject Land within the City Easement.

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

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

1.10 City Utility Costs. “City Utility Costs” means all costs incurred by the City, (whether performed by the City or its agents or contractors), for the inspection of and access to and repair, maintenance and replacement of the City’s Easement Improvements located in the City Easement and the placement of additional City Easement Improvements in the City Easement. City Utility Costs, include, without limitation: excavation costs, labor costs, costs of removing fill, costs of re-burying the City Easement Improvements, re-compacting the soils over the City Easement Improvements, restoring the City Easement area, and all engineering and attorneys’ fees incurred in connection therewith. City Utility Costs also include the costs of

temporarily removing the Landowner Improvements and subsequently replacing the Landowner Improvements in the City Easement, if such costs have not already been paid by the Landowners.

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

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

ARTICLE 2 **RECITALS**

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

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

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

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

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

NOW, THEREFORE, THE CITY OF INVER GROVE HEIGHTS AND THE UNDERSIGNED LANDOWNER, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS DOES HEREBY AGREE:

ARTICLE 3
AGREEMENTS

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

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

The Landowner shall comply with all required City setbacks.

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

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

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

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

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

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

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

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

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

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

If Landowner does not make the modifications, the City may make the modifications and in such case the Landowner shall reimburse the City for the City's costs and expenses. Prior to commencing such modifications, the City shall send Formal Notice to the Landowner and allow the Landowner twenty (20) days from the date of the Formal Notice to make the modifications. If Landowner does not completely make the modifications, the City may proceed to make the modifications. Once the City's costs and expenses have been determined by the City, the City

shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work relating to the modifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville
Its Mayor

ATTEST:

Michelle Tesser, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2018, 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:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

Notary Public

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

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

EXHIBIT A
CONSTRUCTION PLAN

FIRE HYDRANT LICENSE AGREEMENT
FOR PLAT OF INDUSTRIAL EQUITIES ADDITION

THIS FIRE HYDRANT LICENSE AGREEMENT (Agreement) is made, entered into and effective this ____ day of _____, 2018, by and between the City of Inver Grove Heights, a municipality of the State of Minnesota, (hereinafter referred to as City) and Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership (hereinafter referred to as Landowner). 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 Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and its successors and assigns.

1.4 **Fire Hydrants.** Fire Hydrants mean individually and collectively any existing or future fire hydrant located within or on the Subject Property.

1.5 **Maintenance, Maintain, or Maintained.** Maintenance, Maintain, or Maintained shall mean the obligation of the Responsible Owner to maintain and, if required by the City standards, to repair or replace the Fire Hydrants as provided in Section 3.3 on the Subject Property.

1.6 **Standard of Maintenance.** Standard of Maintenance shall mean the standards that the City's Director of Public Works utilizes for fire hydrants that the City maintains, as those standards are from time to time amended.

The current Standard of Maintenance is the Waterous 5-1/4" Pacer Fire Hydrant Operation, Inspection and Maintenance Manual (consisting of three pages) attached hereto as Exhibit A.

1.7 Responsible Owner. Responsible Owner means the fee title owner of the Subject Property.

1.8 Subject Property. Subject Property means the real property legally described on the attached Exhibit B.

ARTICLE 2 **RECITALS**

Recital No. 1. Landowner owns the Subject Property and, as provided in the Development Contract of even date herewith, will be further improving the Subject Property through the construction of an industrial building located on the Subject Property.

Recital No. 2. The City is willing to allow a building permit to be issued for the Subject Property if, among other things, Landowner executes this Fire Hydrant License Agreement.

Recital No. 3. By this Agreement the parties seek to:

- a.) impose upon the Responsible Owner the responsibility to Maintain the Fire Hydrants, notwithstanding the fact that the Fire Hydrants 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 Subject Property any Maintenance work that the City performs with respect to the Fire Hydrants in the event the Responsible Owner fails to Maintain the Fire Hydrants.

Recital No. 4. Landowner currently owns the Subject Property and Landowner is currently the only Responsible Owner.

ARTICLE 3 **RESPONSIBILITY FOR MAINTENANCE**

3.1 Construction of Fire Hydrants. Landowner agrees that the Fire Hydrants shall be installed at the sole expense of Landowner by November 30, 2018.

3.2 Maintenance of Fire Hydrants. The parties acknowledge that the City may perform, but is not required to perform, some Maintenance with regard to the Fire Hydrants including, but not limited to, flushing, lubricating and painting the Fire Hydrants. The City has no obligation to perform said Maintenance but may do so in its sole discretion.

Notwithstanding the foregoing provision, the Responsible Owner is obligated at its expense to perpetually Maintain the Fire Hydrants.

3.3 Standard of Maintenance. Landowner shall exercise the Standard of Maintenance with regard to the Fire Hydrants.

3.4 Notice of Non-Compliance; Cure Period. If the City's Director of Public Works ("DPW") determines, at his reasonable discretion, that the Responsible Owner has not properly Maintained the Fire Hydrants in accordance 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 with the Standard of Maintenance and the City shall have the right of access to the Subject Property to perform such work. The City shall charge all costs incurred by the City to perform the tasks necessary for compliance with the Standard of Maintenance 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 by the Responsible Owner in accordance with Section 3.5, then the City may certify to Dakota County the amounts due as payable similar to special assessments and real estate taxes for the Subject 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 Subject 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 Subject Property owned by the Responsible Owner 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 Subject 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 Subject Property.

3.7 Obligation For Maintenance Notwithstanding Public Easement. The Responsible Owner agrees that its obligation to Maintain the Fire Hydrants exist notwithstanding the fact that some or all of the Fire Hydrants are or may be located in 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 Fire Hydrants for the duration of the performance of the Maintenance. The Responsible Owner hereby grants the City a temporary right and license to access and enter the Subject Property for the purpose of performing Maintenance of the Fire Hydrants for the duration of the performance of the Maintenance.

ARTICLE 4 **CITY'S COVENANTS**

4.1 Issuance of Building Permit. The City agrees that if the conditions set forth herein and the conditions set forth in the Development Contract between Landowner and the City are met; the City will issue a building permit allowing for construction of the proposed improvements.

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 the Subject Property and shall be binding upon the parties and the successors and assigns of the parties.

This Agreement also applies to all after-acquired title of the parties.

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.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this 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 ____ day of _____, 2018, 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:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP**

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

Notary Public

**THIS INSTRUMENT WAS DRAFTED BY AND
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

STANDARD OF MAINTENANCE



5-1/4" PACER OPERATION, INSPECTION, AND MAINTENANCE

Operation

AMERICAN Flow Control recommends you follow the general Inspection and Installation guidelines outlined in AWWA Manual M17 for Installation, Field testing, and Maintenance of Fire Hydrants and/or as recommended below. The thrust bearing hydrant requires a minimum of torque to operate. **WARNING: Special care should be taken in the installation, inspection and repair of pressure containing devices such as valves and hydrants. FAILURE TO FOLLOW PROPER PRACTICE AND GUIDELINES CAN RESULT IN SERIOUS INJURY OR DEATH.** High pressure and water hammer, due to rapid opening or closing of a hydrant or valve, can also cause major damage to the hydrant, valve, water main, fire hose, or other attached equipment. It is possible to damage the hydrant by forcing it beyond its limits of travel with excess torque; therefore:

1. Check direction of opening as marked on the nozzle section.
2. To open, turn the operating nut until the main valve is fully open and the travel stop nut limits further opening. **Do not force the hydrant in the opening direction beyond fully-open as indicated by sudden resistance to turning.** If water does not flow when the hydrant is open, it is probably due to a closed valve upstream from the hydrant. Always open the hydrant completely, never only partially. A hydrant that is partially open will allow pressurized flow through the drain valve, which may wash away the soil from the area surrounding the base, or the partially open main valve may trap small stones or other debris between the valve seal and seat.
3. To close, turn the operating nut until the valve stops the flow. It is not necessary to close this style of hydrant with great force. Once the flow has stopped, turn the operating nut in the opening

direction about 1/4 turn to take the strain off the operating parts of the hydrant. If the hydrant does not shut off completely, do not attempt to force the hydrant to close. Debris and small stones may be trapped in the valve seat and may be preventing the hydrant from closing. Partially open and close the hydrant several times to help dislodge the debris. If this does not work, safely remove the hydrant operating rod assembly, remove the debris and repair as detailed in subsequent sections of this manual.

4. **WARNING: FAILURE TO RELIEVE PRESSURE CAN RESULT IN THE CAP BLOWING OFF, CAUSING INJURY OR DEATH.** Make sure the auxiliary gate valve in the lateral between the main and the hydrant is closed and that the hydrant is not charged with pressure when removing caps.



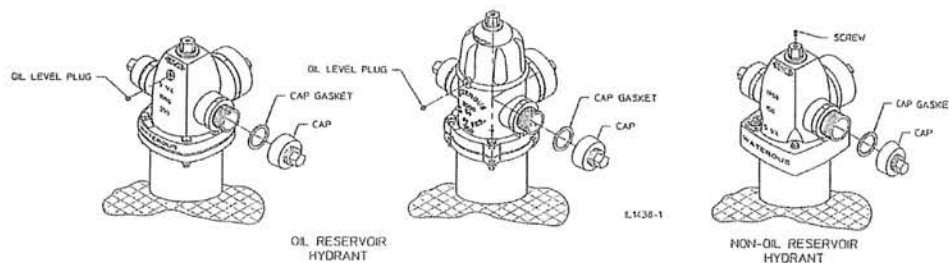
Inspection

1. It is recommended that hydrants be inspected twice per year to ensure their satisfactory operation. After each use (especially in cold weather) hydrants should be specifically inspected for drainage.
2. Routine inspection should cover the points outlined in AWWA Manual M17 and include (but not be limited to) the following points:
 - a. External inspection of paint, caps, chains, etc.
 - b. Checking traffic type hydrants for damage to the breakaway feature.
 - c. Using a listening device to check the main valve for leakage.
 - d. Statically testing the hydrant to look for leakage at gaskets, caps, O-rings and drains.
 - e. Verifying the hydrant drains properly.
 - f. Cycling the hydrant from full open to full close.
 - g. Check for routine lubrication needs which includes but may not be limited to loss of lubricant, nozzle caps and operating mechanism.
3. At time of inspection, flush the hydrant to remove any foreign material from the hydrant and the lateral. If necessary, flush the drains by filling the hydrant and then cycling open the main valve two times to force water out of the drains under pressure. If the hydrant is non-draining type, pump water out after flushing.

MAINTENANCE

AMERICAN Flow Control strongly recommends that you follow routine maintenance on fire hydrants as outlined in AWWA Manual M17 for *Installation, Field Testing, and Maintenance of Fire Hydrants*. The ease of operation and the frequency of repair depends on the condition of the water system and the maintenance given. Dirt, gravel and other foreign material in the hydrant may prevent it from closing or draining properly, which may result in damage to the hydrant main valve. Under most operating conditions, AMERICAN Flow Control recommends semi-annual lubrication and inspection of fire hydrants. Where grease is specified, use an AMERICAN Flow Control recommended food grade grease.

1. Twice per year, open the hydrant completely and flush for several minutes. Open and close valve to make sure it works properly, and check for leaks.
2. Remove a cap and verify that the hydrant is draining properly. After the main valve is closed, the water in the hydrant should drain rapidly. If it does not, the drain ports may be clogged. To clear drain ports, install nozzle cap, and tighten until water tight, then open hydrant two or three turns for several minutes. This will leave drain port partially open and permit water pressure to wash out the obstruction. If this method is unsuccessful, remove the operating rod assembly and clean the drain mechanism. If neither of above methods permits water to drain, it indicates that the drainage area around the hydrant base should be rebuilt.
3. **Oil Reservoir Hydrants:**
Remove oil level plug and check oil level. The oil level should be to the level of the plug. If it is necessary to add oil, remove the oil level plug on the back of the nozzle section and add oil.
4. **Non-Oil Reservoir Hydrants:**
Remove screw from operating nut, and add approximately one tablespoon of oil through opening. Replace screw.
5. Remove all nozzle caps, clean rust or corrosion from threads of nozzles and caps, and replace cap gaskets if necessary. Apply a light coat of grease to nozzle threads before replacing cap.



Note: Where oil or grease is specified, use an AMERICAN Flow Control recommended food grade lubricant.

AMERICAN Flow Control

Waterous 5-1/4" Pacer Fire Hydrant

PACER - TROUBLESHOOTING GUIDE



WARNING: Special care should be taken in the installation, inspection and repair of pressure containing devices such as valves and hydrants. FAILURE TO FOLLOW PROPER PRACTICE AND GUIDELINES CAN RESULT IN SERIOUS INJURY OR DEATH. High pressure and water hammer, due to rapid opening or closing of a hydrant or valve, can also cause major damage to the hydrant, valve, water main, fire hose, or other attached equipment.

Problem

1. Operating nut turns freely but hydrant does not open.
2. Hydrant will not shut off or ground around hydrant is highly saturated.
3. External leakage is noticed around the operating nut.
4. Operating nut is extremely hard to turn.
5. Water is dripping around nozzles.
6. Hydrant will not drain properly.

Solution

1. Inspect rod coupling for breakage and ensure rod pin is properly installed.
2. Close hydrant and remove nozzle cap. Check with listening device to determine if water is passing by main valve. If it is determined that the main valve is leaking, try the following:
 - a. Flush hydrant in fully open position (watch to see if rocks or other foreign objects flush out of the barrel).
 - b. After flushing for several minutes, shut off the hydrant. Watch for several minutes to see if flow stops. Place hand over open hose nozzle; suction should be felt, indicating hydrant is no longer leaking and drains are working properly.
 - c. If flushing does not solve the problem, it would indicate that something is trapped or has cut the main valve rubber. Follow the seat removing instructions to replace the valve. Check threads on bronze seat to be sure that is not damaged. If threads appear worn or bent, replace the bronze seat.
 - d. If replacing the valve does not stop the leakage, bolting at the hydrant shoe may be loose or the base gasket is damaged. The hydrant must be excavated to make the repair.
3. This indicates that O-rings are cut or missing. Replace o-rings as referenced in the disassembly and repair instructions.
4. Try to turn the operating nut. If the nut turns, carefully turn the nut back from a tight closed position until it turns freely. If it is necessary to add lubricant, for hydrants with an oil reservoir, remove the oil level plug on the back of the nozzle section and add oil. Fill oil to the level of the plug, if necessary. For hydrants with no oil reservoir, remove the flat head screw on the operating nut and add mineral oil or similar lubricant. **ALWAYS FULLY OPEN AND CLOSE THE HYDRANT AFTER LUBRICATING.** Replace the oil level plug or the flat head screw taking care to replace the thread sealant. The hydrant should cycle freely. If this does not solve the problem, remove the operating nut. Inspect the threads of the operating nut and upper rod. Inspect the thrust washer to ensure it is lubricated and is undamaged. Replace and/or lubricate the thrust washer if necessary. If this does not solve the problem, remove the hydrant seat and flush thoroughly. Note: Where grease is specified, use an AMERICAN Flow Control recommended food grade grease.
5. Close hydrant and remove nozzle cap. Replace cap gasket. Check the nozzle to be sure it is properly installed. Earlier model hydrants used caulked nozzles. Nozzle may require re-caulking or replacement of barrel. If nozzle has an O-ring behind the nozzle, it may need replacing.
6. Check to be sure the water table has not risen too high to allow for drainage. Flush hydrant to be sure drains are clear. Open hydrant slowly several turns while leaving caps firmly in place to ensure hydrant drains are clear. Close hydrant and repeat this procedure. Do this slowly several times. If this does not solve the problem, remove the hydrant seat assembly and check the rubber drain facings. If no problems are found, excavate the hydrant to see if concrete or other materials have blocked the drain outlets.

AMERICAN Flow Control

Waterous 5-1/4" Pacer Fire Hydrant

EXHIBIT B
LEGAL DESCRIPTION OF SUBJECT PROPERTY

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

Lot 1, Block 1, Industrial Equities Addition, Dakota County, Minnesota, according to the plat thereof on file and of record in the office of the Dakota County Recorder, State of Minnesota.

PEDESTRIAN TRAIL EASEMENT
FOR LOT 1, BLOCK 1, INDUSTRIAL EQUITIES ADDITION
DAKOTA COUNTY, MINNESOTA

THIS PEDESTRIAN TRAIL EASEMENT (Easement) is made, granted and conveyed this _____ day of _____, 2018, between Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, hereinafter referred to as “Landowner” and County of Dakota, a political subdivision of the State of Minnesota, hereinafter referred to as “County”.

The Landowner, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the County, its successors and assigns, forever, a **permanent easement and right-of-way for a trail (including, without limitation, the construction, maintenance, repair and use of a trail)** over, under, across, through and upon the following described and depicted premises (the “Easement Area”) situated within Dakota County, Minnesota, to-wit:

See the attached Exhibit A, incorporated herein by reference. If there is a conflict between the written legal description in Exhibit A and the illustration on Exhibit A, the written legal description in Exhibit A shall govern.

The Easement Area shall be for use as a pedestrian and non-motorized recreational trail and shall include such activities as walking, running, biking, skiing, in-line skating, roller skating, skateboarding, the walking of household pets and other forms of similar non-motorized pedestrian use. In addition, public emergency motorized vehicles, electric personal assistive devices, vehicles that may be required by the Americans with Disabilities Act and motorized vehicles used by the City of Inver Grove Heights or Dakota County for maintenance, law enforcement or other public uses may be used in the Easement Area. The Easement Area will not be used by other motorized vehicles, or by all-terrain vehicles, or by snowmobiles, and the Easement Area will not be used for horseback riding. No structures, obstructions or fences shall be allowed in the Easement Area unless written approval is granted by the County.

The easement rights herein granted to the County include the rights of the County, its contractors, agents, and servants to enter upon the Easement Area at all reasonable times to construct, reconstruct, inspect, repair and maintain the trail and related improvements, over, under, across, through and upon the Easement Area together with the right to remove from the Easement Area trees,

brush, herbage, undergrowth and other obstructions, as well as the right to deposit earthen material in and upon the permanent Easement Area.

The County shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorney's 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, or contaminants which may have existed on, or which relate to, the Easement Area or property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the County of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, its successors or assigns, shall be subject to any governmental immunity defenses of the County and the maximum liability limits provided in Minnesota Statute, Chapter 466.

Landowner, for itself and its successors and assigns, does warrant to and covenant with the County, its successors and assigns, that it is well seized in fee of the lands and premises aforesaid and has good right to grant and convey the easement herein to the County.

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

IN TESTIMONY WHEREOF, the Landowner and County have caused this Easement to be executed as of the day and year set forth above.

LANDOWNER:
INDUSTRIAL EQUITIES INVER GROVE HEIGHTS, LLP

By: _____
John N. Allen
Its Managing Partner

STATE OF MINNESOTA)
)
COUNTY OF _____) ss.

On this _____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared John N. Allen, to me personally known, who being by me duly sworn, did say that he is the Managing Partner of Industrial Equities Inver Grove Heights, LLP, a Minnesota limited liability partnership, and that the foregoing instrument was executed on behalf of Industrial Equities Inver Grove Heights, LLP by authority of the partners of said limited liability partnership.

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

COUNTY:

APPROVED AS TO FORM:

DAKOTA COUNTY

Assistant County Attorney/Date

By _____
Chair of Board of Commissioners

By _____
Secretary of Board of Commissioners

Date of Signature: _____

County Board Res. No. _____

RECOMMENDED FOR APPROVAL:

County Engineer

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared _____ and _____ to me personally known, who being each by me duly sworn, each did say that they are respectively the Chair and Secretary of the Board of Commissioners of Dakota County, the political subdivision of the State of Minnesota named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said political subdivision by authority of its Board of Commissioners and said Chair and Secretary acknowledged said instrument to be the free act and deed of said political subdivision.

Notary Public

EXHIBIT A
LEGAL DESCRIPTION AND DEPICTION OF EASEMENT AREA

A permanent trail easement over, under and across the West 30.00 feet of Lot 1, Block 1, Industrial Equities Addition, according to the recorded plat thereof, Dakota County, Minnesota.

SKETCH AND DESCRIPTION

~of~ TRAIL EASEMENT
~for~ INDUSTRIAL EQUITIES GROUP, LLC



LEGEND

DENOTES TRAIL EASEMENT (24,375 S.F., MORE OR LESS)

TRAIL EASEMENT DESCRIPTION

A perpetual easement for trail purposes over and across the West 30.00 feet of Lot 1, Block 1, INDUSTRIAL EQUITIES ADDITION, Dakota County, Minnesota.

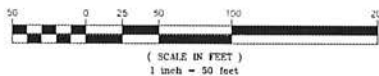
NOTES

- Bearings shown are on an Dakota County Coordinate System.
- The plat of INDUSTRIAL EQUITIES ADDITION is not of record at this time.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

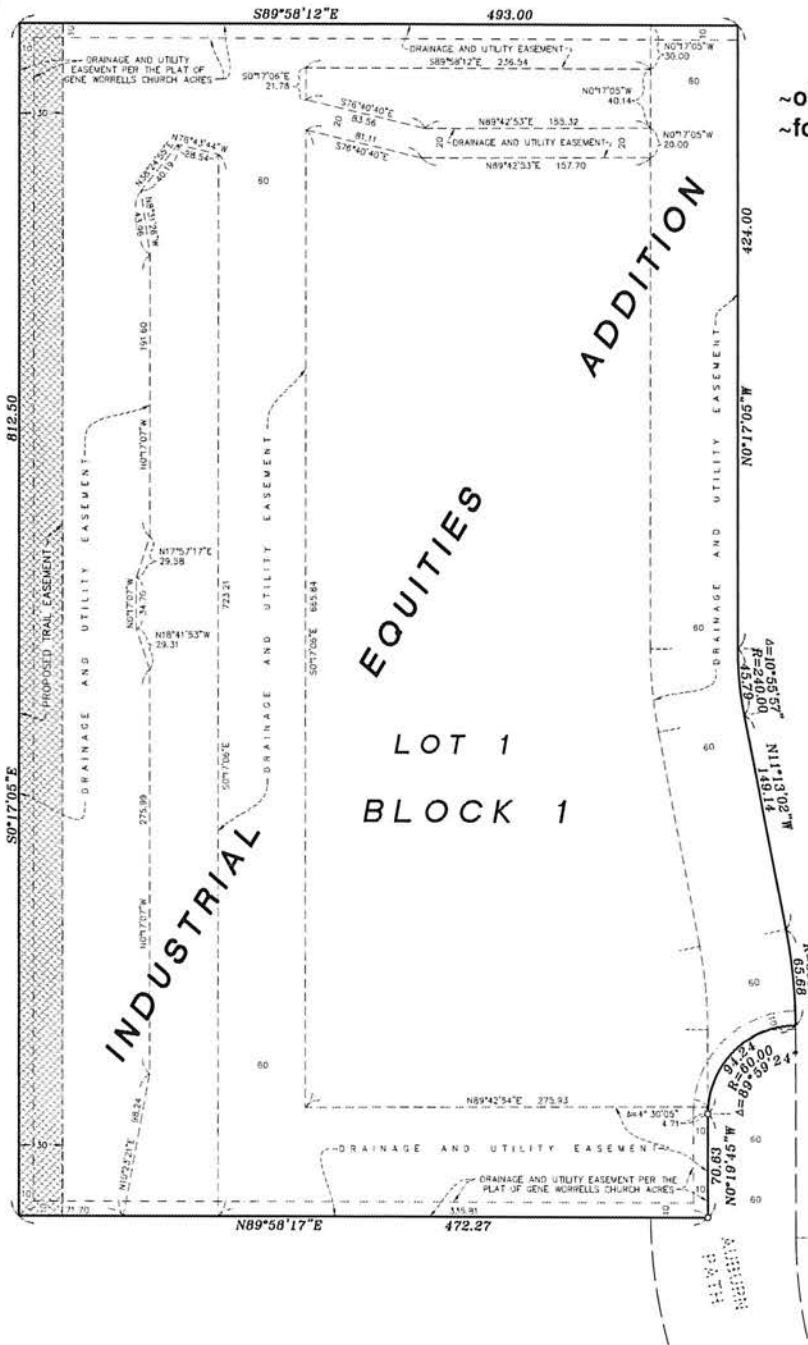
JASON E. JUD
Date: 05-10-18 License No: 41578

E.G. RUD & SONS, INC.
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com



DRAWN BY	JEN	JOB NO.	179918T	DATE	05/10/18
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CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

PERSONNEL ACTIONS

Meeting Date: July 23, 2018
 Item Type: Consent Agenda
 Contact: Janet Shefchik, HR Manager
 Prepared by: Carrie Isaacson, Admin Svc Coord
 Reviewed by: Janet Shefchik, HR Manager

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

Staff requests that Council confirm and approve the personnel actions listed below:

Part-Time/Temporary/Seasonal Employment:

Elections

Ackert, Diane, AB Specialist
 Baker, Linda, AB Specialist
 Berres, Susan, AB Specialist
 Biese, Gerald, AB Specialist
 Egging, Mary, AB Specialist
 Hanson, Cynthia, AB Specialist
 Maanum, Julianna, AB Specialist
 Ollerich, Jenelle, AB Specialist
 Piekarski, Dian, AB Specialist
 Pliml, Michael, AB Specialist

Parks-Recreation-VMCC

Ostertag, Parker, Skate Guard/Open Skate
 Xiong, Yeh, Personal Trainer/Fitness Instructor & Worker

Golf Course

Bartz, Ronald, Starter/Ranger
 Merrell, Robert, Starter/Ranger
 Wassmund, Jacob, Outside Services

Termination/Resignation/Retirement:

Bergum, Eric, Paid-On-Call Firefighter – Resignation (remains FT Asst. Fire Chief)
 Burkland, Paul, Paid On-Call Firefighter - Resignation
 Floyd, Tayler, Fitness Instructor – Voluntary Termination
 Timm, Adam, VMCC Operations Helper – Voluntary Termination

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

MEI MEI MAK – CASE NO. 18-36PDA

Meeting Date: July 23, 2018
 Item Type: Regular Agenda
 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
☐	Other

PURPOSE/ACTION REQUESTED

Consider an Ordinance Amendment to the Bishop Heights PUD Ordinance to allow for a massage therapy business to be located on Lot 3, Block 1, Bishop Heights 4th Addition.

- Requires 3/5th's vote.
- 60-day Deadline: August 17, 2018 (first 60 days)

ANALYSIS

The applicant is proposing a massage therapy business in an existing multi-tenant building in the Bishop Heights PUD. This PUD was set up with its own ordinance with all uses on a site approved individually. The proposed use does not fall under any of the uses listed for this parcel, therefore the ordinance needs to be amended to reflect the proposed use.

The Bishop Heights PUD lists the following for Lot 3, Block 1, Bishop Heights 4th Addition: 9,100 square feet of retail/ restaurant with a drive-through/ feline veterinary clinic. The proposed request would add massage therapy to the list of uses

The massage therapy business would operate in 1,100 square feet of space and would not have more than three employees. Staff believes trip generation and parking to be the main areas of review. The uses and traffic counts are tracked in the Bishop Heights PUD because it is important that traffic generation at Upper 55th Street and Hwy 52 intersection remain below capacity. The zoning ordinance requires a greater number of parking stalls for retail and restaurants verses a clinic. Therefore, adding a clinic and reducing retail space on this property would not exceed the number of parking spaces originally approved for this site. Same applies when reviewing the traffic counts; the current traffic count on this site is for the retail and restaurant use which has a higher traffic demand than a clinic. Therefore, the Bishop Heights traffic counts would not be modified in case the building converts back to an all retail complex.

RECOMMENDATION

Planning Division: Based on the information provided staff recommends approval of the request as presented.

Planning Commission: At the July 17, 2018 public hearing, the Planning Commission recommended approval of the request (7-0).

Attachment: Bishop Heights PUD Ordinance (changes made on page 4)
 Planning Commission Recommendation
 Planning Report

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

ORDINANCE NO. _____

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

THE CITY OF INVER GROVE HEIGHTS ORDAINS THAT ORDINANCE NUMBERS 891, 912, 915, 928, 946, 968, 976, 977, 985, 1022, 1056, 1058, 1062, 1064, 1074, 1101, 1106, 1112, 1133, 1135, 1136, 1187, 1190, 1230, 1298, 1313, 1329, 1331 and 1350 ARE HEREBY RESTATED AND AMENDED TO READ AS FOLLOWS:

SECTION I. Rezoning Land to Planned Unit Development (PUD). Ordinance No. 1190 adopted July 27, 2009, entitled, "AN ORDINANCE ADOPTING THE RECODIFICATION OF THE INVER GROVE HEIGHTS CITY CODE INCLUDING THE CITY ZONING ORDINANCE, is hereby amended to rezone from MF PUD to Planned Unit Development Zoning District No. 2017-01 the following described property:

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

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

SECTION III. Purpose and Intent. The above referenced property is hereby rezoned to Commercial Planned Unit Development Zoning District No. 2017-01, for the purposes of:

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

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

SECTION IV. Findings. In rezoning the above referenced property to Commercial Planned Unit Development No. 2017-01, the City Council has found the following:

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

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

A. SITE PLAN

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

B. USES

All development shall be restricted to the following uses:

Parcel No.	Legal Description*	Specific Use
1	Lot 1, Block 1, Bishop Heights	65,000 square foot, 16-screen theater
2	Lot 2/3, Block 1, Bishop Heights	7,400 square foot sit down restaurant and a 2,299 square foot roof top restaurant space
3	Lot 2/3, Block 1, Bishop Heights	36,371 square foot, 89 room motel
4	Lot 4, Block 1, Bishop Heights	25,292 square foot, 63 room motel
5	Lot 5 and part of Lot 4, Bishop Heights	6,163 square foot sit down restaurant
6	Lot 2, Block 2, Bishop Heights	6,500 square foot bank and office building
7	Lot 3, Block 2, Bishop Heights	4,271 square foot gas station convenience store
8	Lot 1, Block 1, Krech's Addition	15,120 square foot drug store
9	Tracts A-D, F and G	42,000 square foot lawn, garden, floral & nursery retail center (two buildings: 29,400 sf in one, 12,400 sf in other); 605,000 square feet of greenhouses and nursery buildings; 2,150 sf accessory structures (2 barns) for storage of materials and equipment; nursery fields and nursery field caretaker's residence; outside storage/display of nursery and landscaping stock and materials; nursery and landscaping services, 5.7 acres of growing fields and one house for use by employees**
10	Lot 1, Block 1, Bishop Heights 2 nd Addition	1,710 sf quick service oil change store
11	Lot 1, Block 1, Bishop Heights 3 rd Addition	6,832 sf auto service center store
12	Lots 1-31, Block 1, Blackberry Town Office Park	65,415 net sf townoffice space, 31 units
13	Lot 1, Block 1, Blackberry Town Office Park Second Addition	4,950 gross sf veterinary clinic
14	Lot 1, Block 1, Inver Grove Market	14,009 square feet of general retail, 5,680 square feet of sit-down restaurant, and 1,516 square feet of fast food restaurant (without a drive through window)
15	Lots 6-10, Block 7, Warren and McDowell's Acre Lots No. 2	Rock and Block Yard for Gerten's Greenhouses
16	Lots 1-88, Brentwood Village	80 townhome units
17	Lot 1, Bk 2, Bishop Heights	7,200 sf sit down restaurant
18	Lots 1 & 2, Block 1, Outlot A Brentwood Village Apts.	219 apartment units
19	Outlot B, Bishop Heights	43,400 square foot medical/office building
20	Lot 2, Block 1, Inver Grove Market	5,200 square foot bank building

21	Lot 3, Block 1, Bishop Heights 4 th Addition	9,100 square feet of general retail, restaurant with a drive-through, feline veterinary clinic, and massage therapy
22***	Lot 1, Block 1, Bishop Heights 4 th Addition	15, 400 square foot office/retail/sit down restaurant
23	Lot 1, Block 1, Scenic Heights Addition	16,000 square foot office condominium
24	Outlot A, Brentwood Hills Apartments	24 multiple family townhome units
25	Lot 2, Block 1, Inver Grove Professional Addition	13,318 square foot office building

* More detailed legal descriptions available in Exhibit A

** Uses on Tracts A-D, F & G shall be governed not only by this ordinance, but also by the conditions found in Resolution No 98-210, Resolution 11-28 and Resolution 16-82.

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

1. A Joint Parking Agreement affecting the restaurant in Lot 1, Block 1 Bishop Heights 4th Addition between Outlot B, Bishop Heights and Lot 3, Block 1, Bishop Heights 4th Addition. This document must be drafted by the City attorney's office, signed by the land owners, and recorded with the County.
2. If restaurant parking becomes a problem restaurant employees shall park off site at any of the locations listed in the Joint Parking Agreement.
3. Restaurant portion of building shall be limited to 5,000 square feet unless an amendment is approved by the City Council to allow more square footage for restaurant.

C. PERFORMANCE STANDARDS

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

1. Minimum lot width - 100'

2. Setbacks:

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

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

3. Maximum Building Height:

- a. Principal Structures - 35'
- b. Accessory Structures - 30'
- c. Greater building height shall be allowed by conditional use permit subject to City Code Section 515.59, Subd 10.

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

5. Parking/Circulation Requirements:

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

6. Landscaping, Signage and Architecture:

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

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

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

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

D. GENERAL PROVISIONS

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

1. Loading Areas:

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

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

b. Screening shall be provided in accordance with provisions of Paragraph 2, below, of this Section.

2. Screens and Buffers:

a. Definition and Purpose: Screens and buffers are designated yards or open areas where distance, planting, berming and fencing help minimize adverse impacts of public nuisances, such as: noise, glare, activity or dust; which are sometimes associated with parking, storage, signs or buildings.

b. Screens and Buffer Requirements:

(i) All parking, loading, service, utility and outdoor storage areas shall be screened from all public streets and adjacent differing land use by a combination of any of the following: earth mounds, walls, fences, shrubs, deciduous overstory or coniferous trees or hedge materials. The height and depth of the screening shall be consistent with the height and size of the area to be screened. When natural materials, such as trees or hedges, are used to meet the screening requirements of this Paragraph, density and species of planting shall be such as to achieve seventy-five percent (75%) opacity year round at maturity.

c. All plant materials required within a specified buffer yard shall be planted to completion within six (6) months from the date of issuance of a building permit unless otherwise approved by the City due to the time of the year or construction for a large project. In no case shall the period exceed six (6) months from issuance of the certificate of occupancy.

3. Building Design Requirements:

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

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

4. Site Design and Development Requirements:

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

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

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

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

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

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

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

5. Mechanical Equipment Screening:

All mechanical equipment possessing one or more of the following characteristics shall be physically screened, to the extent feasible, from all public streets and adjacent land uses with either natural or artificial materials in a manner architecturally compatible to the building(s) on the site. Said screening shall pertain to, but not be limited to, exposed and/or

protruding fans, grills, tubes, wires, vents, unfinished metal covering, exposed rivets and exposed seams.

6. Sidewalks, Trails and Pedestrian Walkways:

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

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

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

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

7. Site Plan and Building Permit Review:

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

8. Traffic:

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

Lot	Parcel #	Trips
Lot 1, Block 1, Bishop Heights	1	177
Parcel A, Bishop Heights (Described in Exhibit A)	2	153
Parcel B, Bishop Heights (Described in Exhibit A)	3	83
That part of Lot 4, Block 1, Bishop Heights described in Exhibit A.	4	38
Lot 5, Block 1, Bishop Heights and that portion of Lot 4 described in Exhibit A.	5	78
Lot 2, Block 2, Bishop Heights	6	120
Lot 3, Block 2, Bishop Heights	7	180
Lot 1, Block 1, Krech's Addition	8	116
Tracts A-D, F and G as described in Exhibit A	9	208
Lot 1, Block 1, Bishop Heights 2 nd Addition	10	18
Lot 1, Block 1, Bishop Heights 3 rd Addition	11	28
Lots 1-31, Block 1, Blackberry Town Office Park	12	141
Lot 1, Block 1, Blackberry Town Office Park Second Addition	13	20
Lot 1, Inver Grove Market	14	148
Lots 6-10, Block 7, Warren and McDowell's Acre Lots No. 2	15	40
Lots 1-88, Brentwood Village	16	43
Lot 1, Bk 1, Bishop Heights	17	78
Lots 1 & 2, Bk 1, Brentwood Village Apartments	18	136
Outlot B, Bishop Heights	19	146
Lot 2, Inver Grove Market	20	205
Lot 3, Block 1, Bishop Heights 4 th Addition	21	183
Lot 1, Block 1, Bishop Heights 4 th Addition	22	75
Lot 1, Block 1, Scenic Heights Addition	23	23
Outlot A, Brentwood Hills Apartments	24	19
Lot 2, Block 1, Inver Grove Professional Addition	25	20

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

9. Maintenance Agreements:

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

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

THIS ORDINANCE NO. ____ RESTATES AND AMENDS ORDINANCE NOS. 891, 912, 915, 928, 946, 968, 976, 977, 985, 1022, 1056, 1058, 1062, 1064, 1074, 1101, 1106, 1112, 1133, 1135, 1136, 1187, 1190, 1230, 1298, 1313, 1329 1331 and 1350.

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

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

Enacted and ordained into an Ordinance this 23rd day of July, 2018.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

EXHIBIT A

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

Township 28, Range 22, according to the U.S. Government Survey thereof, Dakota County, Minnesota.

Tract B, described as:

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

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

Tract C, described as:

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

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

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

Tract D, described as:

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

	Tract F, described as: The East Half of the Northwest Quarter of the Southeast Quarter of Section 33, Township 28, range 22, except the North 270 feet thereof lying Northerly of the Southerly right-of-way of Dakota County Road No. 18. Except that part described as follows: Commencing at the Southwest corner of the Northwest Quarter of the Southeast Quarter of Section 33, Township 28, Range 22 West; thence on an assumed bearing of North 89 degrees 50 minutes 28 seconds East along the South line of said Northwest Quarter of the Southeast Quarter a distance of 657.07 feet to the Southwest corner of the East Half of the Northwest Quarter of the Southeast Quarter and said point being the point of beginning; thence North 0 degrees 07 minutes 49 seconds West along the West line of said East Half of the Northwest Quarter of the Southeast Quarter a distance of 58.51 feet; thence North 83 degrees 29 minutes 34 seconds East 197.77 feet; thence South 6 degrees 30 minutes 26 seconds East a distance of 80.88 feet to the South line of said East Half of the Northwest Quarter of the Southeast Quarter; thence South 89 degrees 50 minutes 28 seconds West along said South line a distance of 205.52 feet to the point of beginning, except that part previously acquired for County Road No. 18 (a/k/a Upper 55th Street). Tract G, described as: Parts of Southeast Quarter of Northeast Quarter of Section 33, Township 28, Range 22, which was formerly platted as Lots 1 through 8 inclusive, Block 6, Lots 1 through 8 inclusive, Block 7, Lots 23 through 30 inclusive, Block 7, Lots 1 through 8 inclusive, Block 8 of Edgewood Addition to South St. Paul, and as the streets and alleys abutting on said Lots before the Vacation of Edgewood Addition to South St. Paul, Dakota County, Minnesota
10	Lot 1, Block 1, Bishop Heights 2 nd Addition
11	Lot 1, Block 1, Bishop Heights 3 rd Addition
12	Lots 1-31, Block 1, Blackberry Townoffice Park
13	Lot 1, Block 1, Blackberry Town Office Park Second Addition
14	Lot 1, Inver Grove Market
15	Lots 6, 7, 8, 9 and 10, Block 7, Warren and McDowell's Acre Lots No. 2, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Dakota County, Minnesota, except that part shown as Parcel 333 on the plat designated as Minnesota Department of Transportation Right of Way Plat Numbered 19-46 on file and of record in the office of the County Recorder in and for Dakota County, Minnesota.
16	Lots 1-88, Brentwood Village
17	Lot 1, Block 2, Bishop Heights
18	Lots 1 & 2, Bk 1, Outlot A, Brentwood Village Apartments
19	Outlot B, Bishop Heights
20	Lot 2, Block 1, Inver Grove Market
21	Lot 3, Block 1, Bishop Heights 4 th Addition
22	Lot 1, Block 1, Bishop Heights 4 th Addition
23	Lot 1, Block 1, Scenic Heights Addition
24	Outlot A, Brentwood Hills Apartments
25	Lot 2, Block 1, Inver Grove Professional Addition

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: July 17, 2018
SUBJECT: **MEI MEI MAK – CASE NO. 18-36PDA**

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a zoning code amendment to the Bishop Heights Planned Unit Development to allow for a massage therapy business on Lot 3, Block 1, Bishop Heights 4th Addition, for the property located at 5751 Blaine Avenue. 9 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting an amendment to the Bishop Heights PUD Ordinance to allow for a massage therapy business to be located within an existing building. The massage therapy business would lease 1,300 square feet of space and would not have more than three employees working at one time. The Bishop Heights PUD was set up with its own ordinance with each parcel of property being approved for certain uses. The original approval for the site was for 9,100 square feet of retail space. The massage use does not fall under any of the permitted categories, therefore the ordinance needs to be amended to reflect the proposed use. Massage therapy is a permitted use in the B districts. The current PM traffic counts on this lot include the building that is all retail, which has a higher traffic demand than proposed massage clinic, therefore in this case we would not be modifying the traffic counts in the PUD ordinance. Staff does not believe parking would be a concern with this use. Staff recommends approval of the request. Staff did not hear from any neighboring property owners.

Opening of Public Hearing

Mei Mei Mak advised she was available to answer any questions.

Lisa Diehl, the leasing agent for Inver Grove Marketplace, advised she would be assisting Ms. Mak this evening.

Commissioner Scales asked the applicant if she read and understood the report.

Ms. Mak advised that she understood a little.

Ms. Diehl advised that they have walked Ms. Mak through the application.

Commissioner Scales closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Lissarrague, second by Commissioner Niemioja, to approve the request for a zoning code amendment to the Bishop Heights Planned Unit Development to allow for a massage therapy business on Lot 3, Block 1 Bishop Heights 4th Addition, for the property located at 5751 Blaine Avenue.

Motion carried (7/0). This item goes to the City Council on July 23, 2018.

P L A N N I N G R E P O R T
CITY OF INVER GROVE HEIGHTS

HEARING DATE: July 17, 2018

CASE NO: 18-36PDA

APPLICANT: Mei Mei Mak

PROPERTY OWNER: Inver Grove Heights MN, LLC

REQUEST: SE Quad Ordinance Amendment (Bishop Heights)

LOCATION: 5751 Blaine Avenue

COMPREHENSIVE PLAN: RC, Regional Commercial

ZONING: PUD (Southeast Quadrant)

REVIEWING DIVISIONS: Planning

PREPARED BY: Heather Botten
Associate Planner



BACKGROUND

The applicant is requesting an amendment to the Bishop Heights Planned Unit Development (PUD) Ordinance to allow for a massage therapy business to be located within an existing building, located on the northwest corner of Blaine Avenue and Upper 55th Street. The current tenants in the building include Caribou Coffee, the Hearing Center and Parkview Cat Clinic. The massage therapy business would lease 1,300 square feet of space and would have no more than three employees.

The Bishop Heights PUD was set up as its own ordinance with all uses approved individually and listed within the ordinance. The original approval for this building was 9,100 square feet of general retail, which has since been amended to add a restaurant with a drive through and a feline veterinary clinic. The proposed massage use does not fall under either category; therefore, the ordinance needs to be amended to reflect the proposed use.

Specific Request

In order to utilize the property as proposed, the applicant has requested the following specific action:

- 1) Add massage therapy business to the list of allowed uses on Lot 3, Block 1, Bishop Heights 4th Addition.

EVALUATION OF THE REQUEST

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

North – Vacant/parking; zoned Commercial PUD; guided RC, Regional Commercial.
East - Greenhouse; zoned Commercial PUD; guided RC.
West – Gas station; zoned PUD; guided RC.
South – Applebees; zoned PUD; guided RC.

ANALYSIS

The current SE Quadrant PUD approval for this lot is:

21	Lot 3, Block 1, Bishop Heights 4 th Addition	9,100 square foot building retail/restaurant with drive- through/feline veterinary clinic
----	---	---

The requested use change for the lot is proposed to read as follows:

21	Lot 3, Block 1, Bishop Heights 4 th Addition	9,100 square feet of retail/ restaurant with drive-through/ feline veterinary clinic/ massage therapy
----	---	--

As previously mentioned, the maximum number of employees would be three. Staff believes trip generation and parking are the two main concerns when reviewing this request.

The minimum parking requirements in City Code require a greater number of parking stalls for retail space versus office/clinic space. Therefore, a mix of uses in the building would not exceed the number of parking spaces originally provided for a retail building; staff believes the site has adequate parking provided on the property.

The uses and traffic counts are important in the Bishop Heights PUD because it is important that traffic generation at the Upper 55th Street and Hwy 52 intersection remain below capacity. All the lots in the Bishop Heights PUD are approved with a PM peak traffic generation number. This is used to track total projected traffic volumes to compare when actual traffic counts are done in the area. The current PM traffic counts on this lot include the building as all retail which has a higher traffic demand than the proposed massage clinic. Therefore, in this case, the traffic counts will not be modified in case the building converts back to an all retail complex.

ALTERNATIVES

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

- Approval of an **Amendment** to the Southeast Quadrant PUD Ordinance to allow the uses approved for Lot 3, Block 1, Bishop Heights 4th Addition to be retail/restaurant with drive-through/feline veterinary clinic/massage therapy.

B. **Denial**: If the Planning Commission does not support the request, a recommendation of denial should be forwarded to the City Council. With a recommendation of denial, the basis of the recommendation should be given.

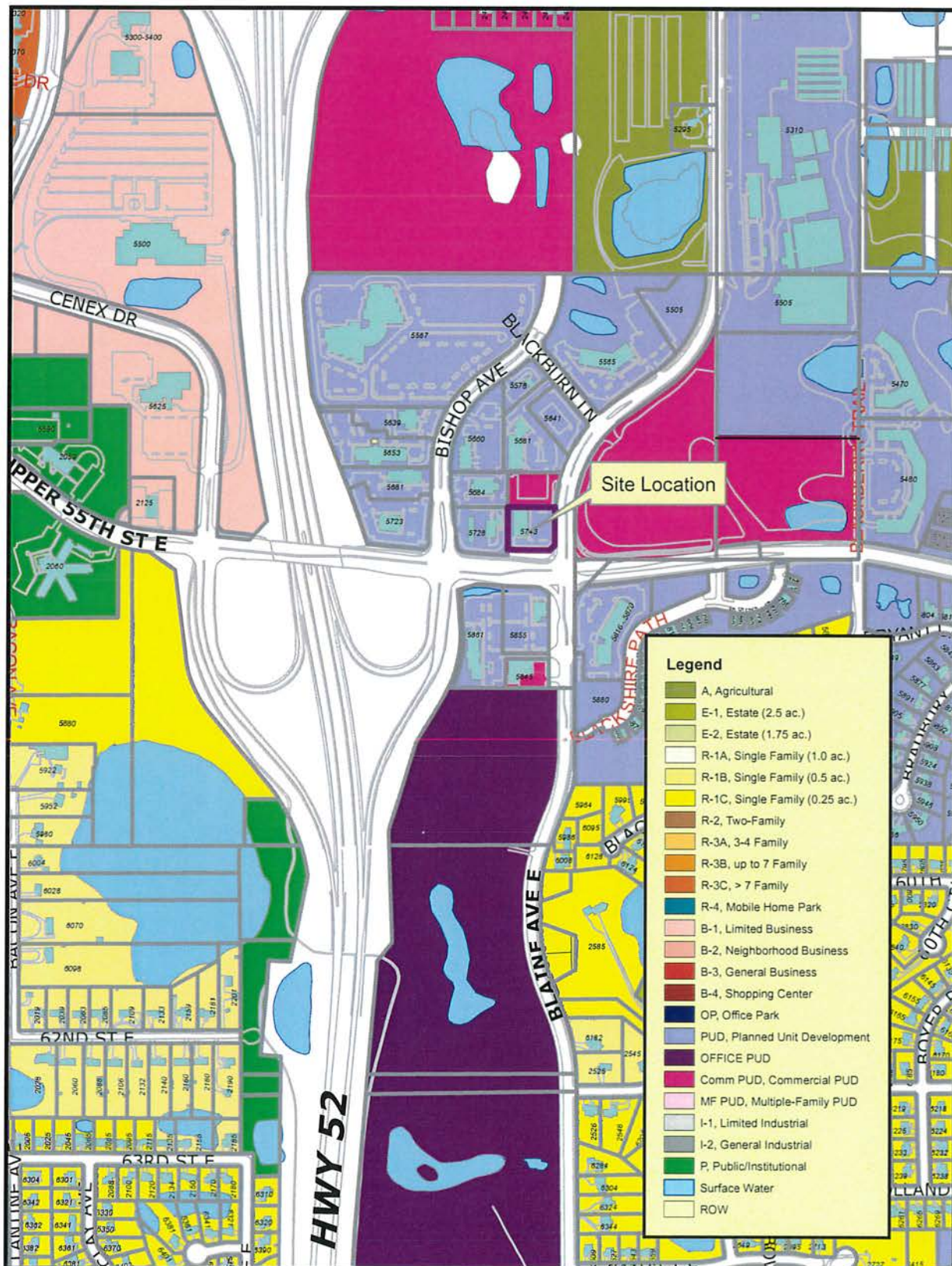
RECOMMENDATION

Based on the information in the preceding report, staff is recommending approval of the request as presented.

Attachments: Exhibit A -Zoning and location map
Exhibit B - Narrative
Exhibit C - Site Plan
Exhibit D - Photo of building



5751 Blaine Avenue Case No. 18-36PDA



THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, INFORMATION AND DATA LOCATED IN VARIOUS CITY, COUNTY AND STATE OFFICES AND OTHER SOURCES AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE CITY OF INVER GROVE HEIGHTS IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.
Map produced by the City of Inver Grove Heights GIS Dept.
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Exhibit A
Zoning and Location Map
Map not to scale

Inver Grove Heights Marketplace II
5743-5763 Blaine Avenue
Inver Grove Heights, MN 55076

PUD Amendment Request – Massage and Wellness Center

Applicant: Mei Mei Mak

Proposed bay: 5751 Blaine Avenue

Attached is a completed application form for **Mei Mei Mak** dba La Meri Spall and approved by the ownership of the above retail center, **Inver Grove Heights Marketplace II**.

Zoning Background:

The zoning within the PUD zoned district of Bishop Heights does not currently allow for a massage and wellness center and would require the PUD to be amended for this use. The applicant is requesting the ordinance be amended within the city code to allow for the applicant's use, massage and health wellness services. The applicant would be leasing 1,300sf of space within the center, see site/building plans.

Business Background on Applicant

We welcome any questions you may have. Thank you.

IGH CITY STAFF

Dear Heather,

I came to the United States of America almost 3 years ago. I came here on an arranged marriage in the hopes for a better life for my son and I. The marriage did not work out and now I am working hard as a single mother trying to make a good life for my son and I. He just graduated from Hastings high school and is enrolled at Inver Hills community college this fall. He is also enrolled at the Academy for massage therapy where I was certified two years ago. It is my hopes that he can join me after he is licensed and we can work together at this therapeutic massage center. I have been working in the massage industry for two years now at several Twin Cities therapeutic massage stores. I have learned this business having worked in it and hope to have my own business soon. I think this location on Blaine Ave. would be good for much walk-in customers because it is next to Caribue Coffee and Gerten's store. I will have store hours from 10:00 A M until 9:00 P M and have no more than 2 employees. I ask that you please grant me permission to open my new store at this location and start my journey.

Sincerely,

Mei Mei Mak

MEI MEI MAK



SITE PLAN



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

BETH & STEVE HOEPPNER- Case No. 18-34C

Meeting Date: July 23, 2018
Item Type: Regular Agenda
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
☐	New FTE requested – N/A
☐	Other

PURPOSE/ACTION REQUESTED

Consider a Resolution relating to a **Conditional Use Permit** (CUP) to allow impervious surface above the maximum amount but within the additional 10% of lot area allowed with a CUP for property located at 6511 Arctic Way.

- Requires 4/5th's vote.
- 60-day deadline: August 13, 2018 (first 60-days)

SUMMARY

The applicant is requesting a conditional use permit (CUP) to exceed the maximum impervious surface amount allowed on the property. City Code allows the impervious surface maximum to be increased by 10% of the lot area with a CUP. The applicant would like to add a porch onto the back of their home that is currently under construction. The property is located within the Blackstone Ridge PUD, which allows for 3,704 square feet of hard surface per lot. Based on the lot size, the property is allowed 1,606 square feet of additional hard surface with a CUP. The applicant is asking for 255 square feet, which is well within that CUP allowance. The porch would meet the general CUP criteria and all other zoning code requirements, including setbacks.

The Engineering Department has reviewed the request and is working with the applicant on the stormwater requirements for the addition. The applicant shall continue to work with the City to secure final approval of the construction plans. The required stormwater facilities maintenance agreement will be on a consent agenda at a later date.

RECOMMENDATION

City 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 the additional impervious surface on the property.

Planning Commission: Recommended **approval** of the request at their July 17, 2018 meeting with the conditions listed in the attached resolution (7-0).

Attachments: Conditional Use Permit Resolution
Planning Commission Recommendation
Planning Report

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

RESOLUTION NO. _____

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW IMPERVIOUS
SURFACE ABOVE THE MAXIMUM AMOUNT BUT WITHIN THE ADDITIONAL 10% OF
LOT SIZE ALLOWED WITH A CONDITIONAL USE PERMIT**

Beth & Steve Hoeppner
Case No. 18-34C

WHEREAS, an application for Conditional Use Permit (CUP) has been submitted for the property located at 6511 Arctic Way and legally described as:

Lot 14, Block 5, Blackstone Ridge, according to the plat thereof, on file and of record in the Office of the Dakota County Recorder

WHEREAS, the aforescribed property is zoned PUD, Planned Unit Development;

WHEREAS, the Blackstone Ridge PUD allows 3,704 square feet of impervious surface per lot;

WHEREAS, the request is to allow 255 square feet of additional impervious surface above the maximum allowed on the property, but is within the amount allowed by a CUP;

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, the request has been reviewed against Title 10, Chapter 9, Article A regarding the conditional use permit criteria listed in the City Code regarding treatment of stormwater and the construction of stormwater management systems;

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 July 17, 2018;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that a Conditional Use Permit to allow 255 square feet of impervious surface above the allowed amount but well within the additional 10% of lot area allowed with a CUP, is hereby approved subject to the following conditions:

1. The applicant shall meet all the conditions outlined in the City Engineers review letters and subsequent correspondence.
2. Prior to any work being done on the site, an Engineering cash escrow shall be submitted to the City to ensure the proper construction of the improvements.

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 23rd day of July, 2018.

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: July 17, 2018
SUBJECT: **BETH AND STEVE HOEPPNER – CASE NO. 18-34C**

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to exceed the maximum impervious surface for the property located at 6511 Arctic Way. 8 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, presented the request as detailed in the report. She advised that the property is in the Blackstone Ridge PUD development. This PUD allows for 3,704 square feet of impervious surface per lot. City Code allows an additional impervious surface amount up to 10% of the lot size with a conditional use permit. The applicants would like to add a porch addition to their property that is currently under construction. The proposed porch would exceed the maximum impervious allowed but would be within the additional 10% allowance. The applicant has agreed to comply with the stormwater treatment requirements on the property which would help maintain the drainage and stormwater runoff from the abutting property owners. Staff recommends approval of this request with the conditions listed in the report. Staff did not hear from any surrounding property owners.

Commissioner Niemioja asked if the rain garden would be part of the required infiltration system.

Ms. Botten replied in the affirmative.

Commissioner Wippermann noted that the subject lot was fairly large at 16,000 square feet.

Ms. Botten stated that the amount of impervious surface allowed in this PUD was not based on lot size, but rather there a specific amount was allowed for each lot in this PUD. She explained that a 12,000 square foot lot would be allowed the same amount of impervious surface as a 16,000 square foot lot in this PUD.

Commissioner Simon asked if this was the first CUP that had been requested in Blackstone Ridges.

Ms. Botten replied in the affirmative.

Opening of Public Hearing

Beth and Steve Hoeppner, 6511 Arctic Way, advised they were available to answer any questions.

Commissioner Scales asked the applicants if they read and understood the report.

The Hoeppners replied in the affirmative.

Commissioner Scales closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Wippermann, to approve the request for a conditional use permit to exceed the maximum impervious surface on the property located at 6511 Arctic Way, with the conditions listed in the report.

Motion carried (7/0). This item goes to the City Council on July 23, 2018.

PLANNING REPORT

CITY OF INVER GROVE HEIGHTS

HEARING DATE: July 12, 2018

CASE NO.: 18-34C

APPLICANT & PROPERTY OWNER: Beth & Steve Hoeppner

REQUEST: Conditional Use Permit to exceed the allowed impervious surface on a property

LOCATION: 6511 Arctic Way

COMPREHENSIVE PLAN: LDR, Low Density Residential

ZONING: PUD, Planned Unit Development

REVIEWING DIVISIONS: Planning

PREPARED BY: Heather Botten
Associate Planner



BACKGROUND

The applicant is requesting a Conditional Use Permit (CUP) to exceed the allowed impervious surface amount on the property. The applicant's home is currently under construction and located in the Blackstone Ridge PUD development. This PUD allows for 3,704 square feet of impervious surface per lot. City code allows additional impervious surface on a property, up to 10% of the lot area, with a conditional use permit. The applicants would like to add a porch addition onto their new home; the total impervious surface amount on the lot would be within the additional 10% allowance. The proposed porch would meet all other zoning code requirements, including setbacks.

Details of the impervious coverage are listed in the following chart:

	Square Feet	Allowed Impervious Coverage (sq. ft)
Lot Size	16,057	3,704
Additional impervious allowed w/ CUP	10% of lot area	<u>1,606</u>
Total impervious allowed on property		5,310
Approved Impervious Surface for new home	3,687	Under by 17 sq ft
Additional impervious surface requested	272	
Total sq ft requested by CUP	255	
Total impervious surface requested for property	3,959	

SPECIFIC REQUEST

A Conditional Use Permit to exceed impervious surface above the allowed amount but within the additional 10% of lot area allowed with a conditional use permit.

SURROUNDING USES:

The subject site is surrounded by the following land uses to the north, south, east and west:

- Single-family Residential; Zoned PUD, Planned Unit Development; Guided LDR, Low Density Residential

EVALUATION OF REQUEST:

GENERAL CUP CRITERIA

Section 10-3A-5 of the Zoning Regulations lists criteria to be considered with all conditional use permit requests. This criterion generally relates to the Comprehensive Plan and Zoning consistency, land use impacts such as setbacks, drainage, and aesthetics, environmental impacts, and public health and safety impacts.

The proposed impervious surface conditional use permit meets the above criteria. As shown in Exhibit A, the surrounding properties are all platted for single-family residential homes. The proposed porch would fit in with the neighborhood and comply with setback requirements. Additionally, the applicant has agreed to comply with the storm water treatment conditions, which help maintain the drainage and storm water runoff on the applicant's property.

IMPERVIOUS SURFACE CUP CRITERIA

The zoning ordinance sets a maximum impervious surface allowed on each lot in the city based on lot size categories. Impervious surface can be increased by up to 10% of the lot area with a conditional use permit provided the following criteria are met:

- a) A Storm Water Management System shall be constructed within the property that meets the Best Management Practices design criteria as set forth in the Northwest Area Ordinances and Storm Water Manual.
- b) The Storm Water Management System and Grading Plan (including necessary details for construction, showing proper location, material, size, and grades) shall be approved by the Engineering Division prior to ground disturbance or installation of the facility.
- c) The Storm Water Management System is considered a private system and the responsibility of maintenance is that of the owner.
- d) The design of the facility shall provide storage and treatment for the 100-year event volume as it relates to the additional impervious surface being considered with a conditional use application.
- e) A storm water facilities maintenance agreement shall be entered into between the applicant and City to address responsibilities and maintenance of the storm water system.
- f) An escrow or fee, to be determined by the City Engineer, shall be submitted to the City with the Storm Water Management System submittal. The final amount and submittal process shall be determined by the City by the time the Owners are ready to submit the Storm Water Management System and Grading Plan. Surety shall be provided to ensure construction of the system according to the plans approved by the City Engineer.

- g) The soils shall be tested to determine the infiltration capacity at and below the stormwater facility to ensure the stormwater management facility performs and functions within the assumed design parameters. A three (3) foot separation shall be maintained from seasonal high water levels and the bottom of any facility.

ENGINEERING REVIEW

The Engineering Department has reviewed the request and is working with the applicant on the stormwater and grading requirements listed above. The applicant shall continue to work with the City to secure final approval of the construction plans.

ALTERNATIVES

The Planning Commission has the following alternatives available for the requested action:

A. Approval If the Planning Commission finds the requests to be acceptable, the Commission should recommend approval of the request with at least the following conditions:

- Approval of the Conditional Use Permit to allow 3,959 square feet of impervious surface on the property which is above the approved amount but within the additional 10% of lot area allowed with CUP subject to the following conditions:
 1. The applicant shall meet all the conditions outlined in the City Engineers review letters and subsequent correspondence.
 2. A storm water facilities maintenance agreement shall be prepared by the City Attorney and executed by both the City and the property owner to ensure long term maintenance of the facilities.

B. Denial If the Planning Commission does not favor the proposed Conditional Use Permit, the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

Based on the information in the preceding report and the conditions listed in Alternative A, staff is recommending approval of the conditional use permit.

Attachments: Exhibit A - Location/Zoning Map
Exhibit B - Narrative
Exhibit C- Site Plan

To: City of Inver Grove Heights

From: Beth and Steve Hoepfner, 651-681-9137

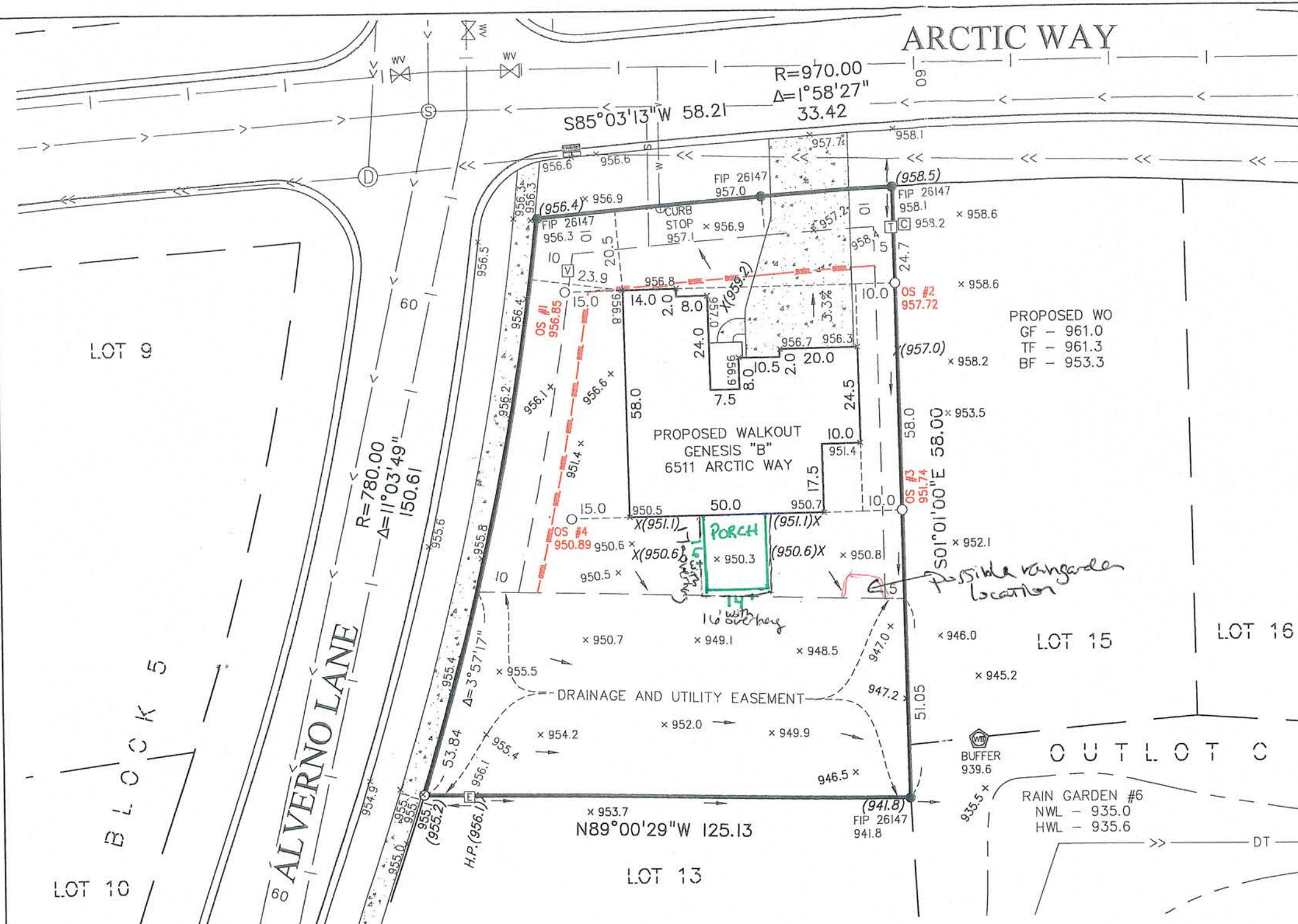
Date: June 10, 2018

Re: Conditional Use Permit request for 6511 Arctic Way, Inver Grove Heights, 55077

We are requesting a Conditional Use Permit to build a 14 x 16-foot screened porch (with roof that would be approximately 16 x 17 feet of surface area) off the back of our home that is currently under construction in the Settler's Ridge neighborhood in Inver Grove Heights. There would also be a grill deck area (without a roof) to the side of the porch.

To mitigate the impervious surface area created by the porch roof which goes beyond the allotted surface area for our lot, we propose to install a rain garden that meets the specifications (see attached Rain Garden Sizing Guide) calculated by Michael Wright, Engineering Technician for the City of Inver Grove Heights. We will hire a landscape company with experience in rain garden design and installation to determine the appropriate placement of the garden in our back yard as well as to create and install the garden meeting the City's guidelines.

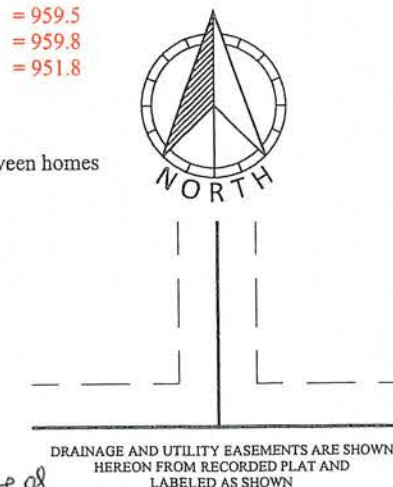
B



- Property Description: Lot 14, Block 5, BLACKSTONE RIDGE, according to the recorded plat thereof, Dakota County, Minnesota.
- Address: 6511 Arctic Way, Inver Grove Heights, Minnesota 55077
 - Existing utilities shown are shown in an approximate way only. The contractor shall determine the exact location of any and all existing utilities before commencing work. He agrees to be fully responsible for any and all damages arising out of his failure to exactly locate and preserve any and all existing utilities.
 - Must maintain a minimum 2% slope gradient to accommodate positive drainage.
 - All set offset irons are measured to hundredths of a foot and can be used as benchmarks.
 - The proposed driveway shown is conceptual only and does not purport to show exactly how the driveway shall be built.
 - A title opinion was not furnished to the surveyor as part of this survey. Only easements per the recorded plat are shown unless otherwise denoted hereon.
 - Proposed grades shown adjacent to building foundation refers to top of black dirt.
 - Verify sanitary service invert prior to any concrete work.
 - Benchmark:
TNH "A" @ Lot 4, Block 1, BLACKSTONE RIDGE = 958.81 Feet
TNH "B" @ Lots 12 & 13, Block 5, BLACKSTONE RDGE = 956.70 Feet

Development Plan Data - WO	
Garage Floor Elevation	= 959.0
Top of Foundation Elevation	= 959.3
Basement Floor Elevation	= 951.3
Proposed Elevations	
Proposed Garage Floor Elevation	= 959.5
Proposed Top of Foundation Elevation	= 959.8
Proposed Basement Floor Elevation	= 951.8
Setbacks	
Min. Front Yard Setback = 20'	
Min. Side Yard Setback = 15' Separation between homes	
Min. Rear Yard Setback = 30'	
Min. Corner Lot Setback = 15'	

Hardcover	
Lot Area	= 16,057 S.F.
House Area	= 2,585 S.F.
Driveway Area	= 977 S.F.
Stoop Area	= 94 S.F.
Deck Area	= 31 S.F.
Total Area	= 3,687 S.F.
Coverage = 23.0%	



SURVEY LEGEND			
STORM DRAIN	GROUND ELEVATION	EXISTING TREE	CONCRETE CURB
CATCH BASIN	PROPOSED ELEVATION	PROPOSED TREE	SANITARY SEWER
GATE VALVE	WETLAND BUFFER POST	PROPOSED TREE	STORM SEWER
HYDRANT	HAND HOLE	BITUMINOUS	WATERMAIN
IRON PIPE SET	ELECTRIC TRANSFORMER	CONCRETE	PROPOSED SILT FENCE
IRON PIPE FOUND	TELEPHONE PEDESTAL	CONTOUR PROPOSED	DRAIN TILE
SANITARY MANHOLE	UTILITY PEDESTAL	CONTOUR EXISTING	FENCE
DENOTES SUMP PUMP	SEWER SERVICE ELEVATION	DRAINAGE ARROW	BUILDING SETBACK LINE

Offset Irons
(elevations are to the top of pipe)
OS #1= 956.85 OS #2= 957.72
OS #4= 950.89 OS #3= 951.74

JOB #: 5046-1440	REVISIONS
FIELD CREW: DH/GH	
DRAWN BY: DZB	
CHECKED BY: DLS	
DATE: 11-29-17	

SATHRE-BERGQUIST, INC.
150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000

CERTIFICATE OF SURVEY
PREPARED FOR
LENNAR OF MINNESOTA

Section 6 - Township 27 - Range 22

SCALE IN FEET

Purchase (with egress) 11x17 = 272
3,959 sf total on property

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 11th day of December, 2017.

Daniel L. Schmidt, PLS Minnesota License No. 26147
schmidt@sathre.com

**CITY OF INVER GROVE HEIGHTS
ACTION****REQUEST FOR COUNCIL****JAN & LINDA JENSEN – CASE NO. 18-35V**

Meeting Date: July 23, 2018
 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 Variance to allow an existing lot to be less than 2.5 acres in size for property located at 2701 87th Street

- Requires a 3/5th's vote.
- 60-day deadline: August 14, 2018 (first 60-days)

SUMMARY

This request involves two abutting parcels located at 2585 and 2701 87th Street (parcel 1 & 2 respectively). The current zoning of the parcels is E-1, which requires a 2.5-acre minimum lot size. Both lots currently comply with the minimum lot size requirement. The existing homes sit on the most easterly part of the properties. Due to a property line dispute, a judge ordered a portion of parcel 2 to be sold to parcel 1 along with a lot boundary adjustment. As a result of the court order, parcel 2 would be a non-conforming lot. To avoid confusion and any future sale of parcel 2, the owner of parcel 2 would like to have a lot that is a legal conforming lot.

Staff believes the proposed request would not be out of character of the neighborhood because the new lot size would be 97% of the 2.5 acre minimum and the actual use of the property would not be changing. The request is in harmony with the general purpose of the City Code and intent of the Comprehensive Plan. A practical difficulty can be found in the fact that due to court agreement to adjust a lot boundary the new lot size would not meet code requirements for minimum lot size and the lot would be considered non-conforming lot without the variance approval. Approving the variance would make the lot a legal, conforming, lot of record.

Planning Staff: Based on the information provided staff recommends approval of the variance request with the condition listed in the attached resolution.

Planning Commission: At the July 17, 2018 public hearing, the Planning Commission recommended approval of the request with the one condition listed in the attached resolution (7-0).

Attachments: Resolution
 Planning staff report

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

RESOLUTION NO. 18-_____

**RESOLUTION APPROVING A VARIANCE TO ALLOW A MINIMUM LOT SIZE OF 2.437
ACRES WHEREAS 2.5 ACRES IS REQUIRED**

CASE NO. 18-35V
Jan & Linda Jensen

Property located at 2585 87th St. E and legally described as follows:

Lot 3, Block 3, College Heights, according to the recorded plat, Dakota County, Minnesota

WHEREAS, an application has been received for a variance to allow a lot size to be less than the 2.5 acre minimum;

WHEREAS, the afore described property is zoned E-1, Estate Residential;

WHEREAS, a Variance may be granted by the City Council from the strict application of the provisions of the City Code Title 10, Chapter 3-4 and conditions and safeguards imposed in the variance so granted where practical difficulties or particular hardships result from carrying out the strict letter of the regulations of the Zoning Code, as per City Code 10-3-4 D;

WHEREAS, the City of Inver Grove Heights Planning Commission reviewed the request on July 17, 2018 in accordance with City Code Section City Code 10-3-3 C;

WHEREAS, a practical difficulty or uniqueness was found to exist based on the following findings:

- a. The request is in harmony with the general purpose and intent of the City Ordinance and is consistent with the Comprehensive Plan.
- b. The request does not appear to have any adverse impacts on the neighboring properties as the new lot size would be 97% of the 2.5 acre minimum requirement.
- c. The property is unique in that due to a court ordered agreement to adjust a lot boundary, the new lot size would be less than 2.5 acres and would be a non-conforming lot without the variance approval.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that the variance to allow a lot size less than 2.5 acres is hereby approved subject to the following condition:

1. The site shall be developed in substantial conformance with the site plan on file with the Planning Department.

BE IT FURTHER RESOLVED that the City 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 23rd day of July, 2018.

George Tourville, Mayor

Ayes:

Nays:

ATTEST:

Michelle Tesser, City Clerk

P L A N N I N G R E P O R T
CITY OF INVER GROVE HEIGHTS

HEARING DATE: July 17, 2018

CASE NO: 18-35V

APPLICANT: Jan & Linda Jensen

PROPERTY OWNER: Mark & Cindy Nordstrom

REQUEST: A variance to allow an existing lot to be less than the 2.5 acre minimum lot size

LOCATION: 2701 87th Street

COMPREHENSIVE PLAN: LDR, Low Density Residential

ZONING: E-1, Estate residential

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Heather Botten
Associate Planner

BACKGROUND

This request involves two abutting parcels located at 2585 and 2701 87th Street (parcel 1 & 2 respectively). Both lots currently comply with the minimum lot size requirement. The existing homes sit on the most easterly part of the properties. Recently there was a property line dispute between the two property owners that ended up being heard in front of a judge. The judge ordered a portion of parcel 2 to be sold to parcel 1, along with a lot boundary adjustment decreasing the size of parcel 2 to be less than 2.5 acres and therefore, increasing the lot size and side yard of parcel 1.

The current zoning of E-1 requires a 2.5 acre minimum lot size requirement. As a result of the court order parcel 2 would be a non-conforming lot. To avoid confusion and any future sale of parcel 2, the owner of parcel 2 would like to have a lot that is a legal conforming lot.

SPECIFIC REQUEST

The following specific application is being requested:

- 1) A variance from the minimum lot size requirement to allow an E-1 lot to be 2.437 acres in size whereas 2.5 acres is required.

EVALUATION OF THE REQUEST

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

North, South and West – single-family; zoned E-1; guided LDR

East - Multiple-family residential; zoned PUD; guided MDR, medium density residential

VARIANCE REVIEW

City Code Title 10, Chapter 3. Variances, states that the City Council may grant variances when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested variances, City Code identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

1. *The variance request is in harmony with the general purpose and intent of the city code and consistent with the comprehensive plan.*

The surrounding neighborhood is developed, and the use of the property would not be changing. The reduced lot size would be in harmony with the purpose and intent of the code and comprehensive plan.

2. *The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.*

The reduced lot size still allows the property to be used in a reasonable manner. Aesthetically there would be no physical changes to the property at this time.

3. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

The general intent of this standard is to limit the precedent that could be set if the variance was granted. The property was originally platted in 1984 complying with code requirements. Due to a property line dispute and court agreement to adjust a lot boundary, the new lot size would not meet code requirements for minimum lot size and would be considered a non-conforming lot without the variance approval.

4. *The variance will not alter the essential character of the locality.*

The lot size variance would not impact the character of the neighborhood; the new lot size would still be 97% of the 2.5 acre minimum requirement.

5. *Economic considerations alone do not constitute an undue hardship.*

Economic considerations do not appear to be a basis or a sole basis for this request.

ALTERNATIVES

- A. **Approval:** If the Planning Commission finds the application acceptable, the following request should be recommended for approval:
- Approval of a **Variance** to allow a lot to be less than the 2.5 acre minimum lot size subject to the following condition:
 1. The site shall be developed in substantial conformance with the site plan on file with the Planning Department.
- B. **Denial.** If the Planning Commission does not favor the proposed application, the above requests should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

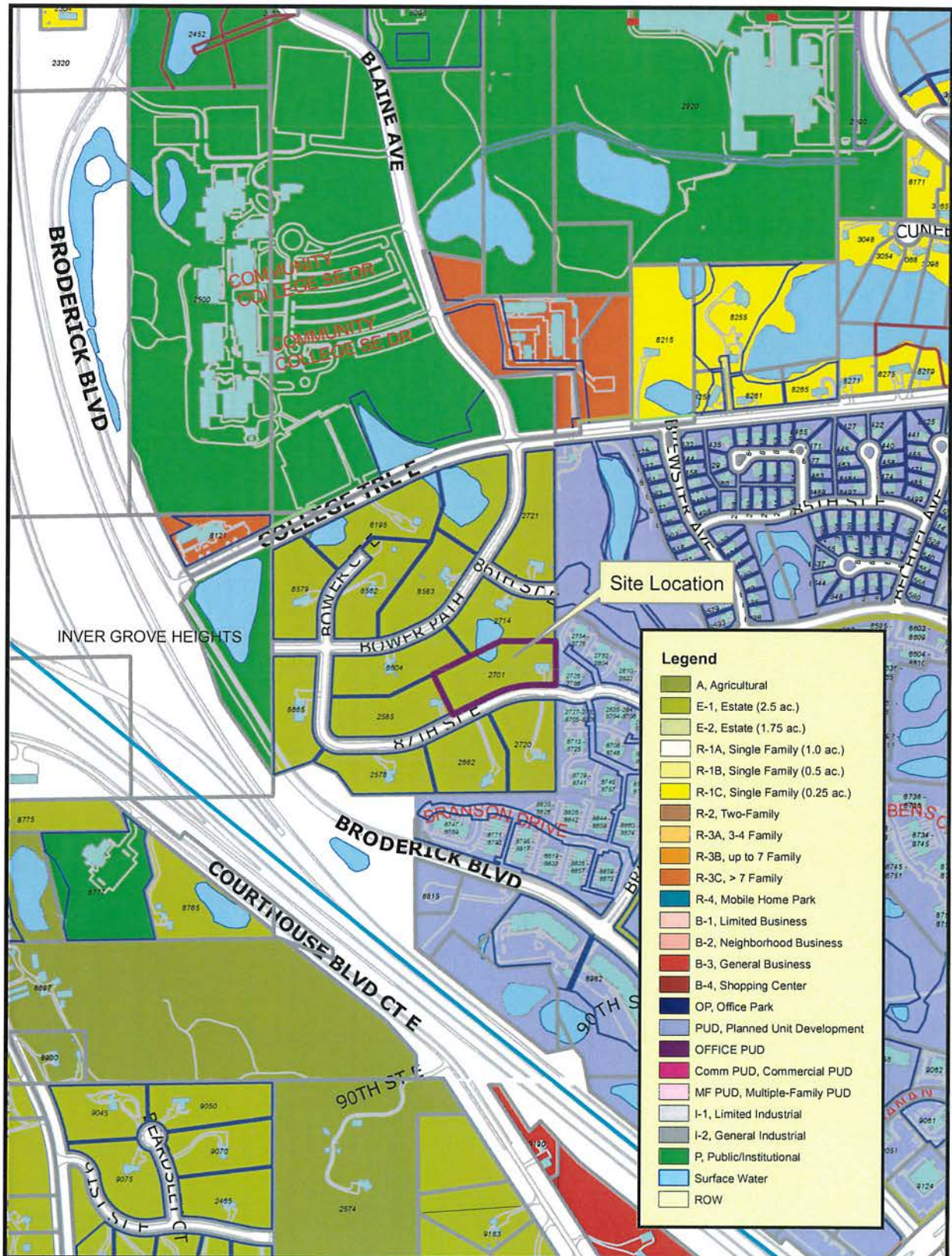
Staff believes the proposed request would not be out of character of the neighborhood because the new lot size would be 97% of the 2.5 acre minimum. The land owner would still have reasonable use of the property. A practical difficulty can be found in the fact that due to court agreement to adjust a lot boundary the new lot size would not meet code requirements for minimum lot size and the lot would be considered non-conforming lot without the variance approval. Approving the variance would make the lot a legal, conforming, lot of record.

Based on the information in the preceding report and the condition listed in Alternative A, staff is recommending approval of the variance request.

Attachments: Exhibit A – Zoning and Location Map
Exhibit B – Narrative
Exhibit C- Survey
Exhibit D- Aerial photo of neighborhood



2701 87th Street Case No. 18-35V



THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, INFORMATION AND DATA LOCATED IN VARIOUS CITY, COUNTY AND STATE OFFICES AND OTHER SOURCES AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE CITY OF INVER GROVE HEIGHTS IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.
Map produced by the City of Inver Grove Heights GIS Dept.
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Exhibit A
Zoning and Location Map
Map not to scale

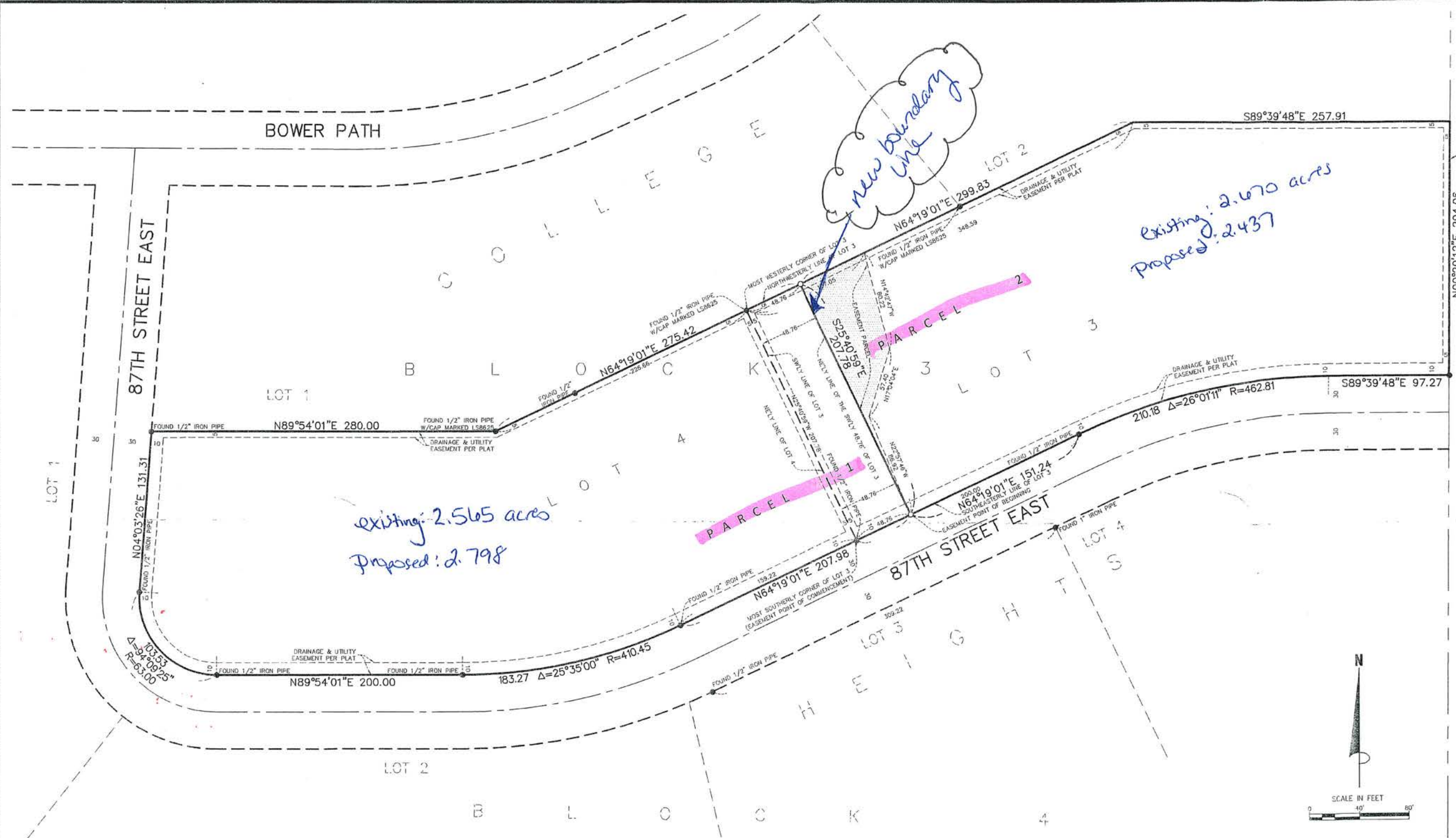
6/6/2018

This transaction is the result of an agreement to settle a property line dispute.
The agreement was signed by Judge
Pugh of Dakota County.

By selling a portion of their property the Nordstrom's parcel now does not total 2
1/2 acres or more. After the sale, the Nordstrom's now have 2.43 acres. This
requires the Jensen's to obtain a variance.

Jan W Jensen
Linda C Jensen

B



- NOTES**
1. Subject property's addresses and property identification numbers are as follows:
Parcel 1: 2585 87th Street East, Inver Grove Heights, Minnesota, 55076; 20-18205-03-040.
Parcel 2: 2701 87th Street East, Inver Grove Heights, Minnesota, 55076; 20-18205-03-030.
 2. The bearing system is based on the recorded plat of COLLEGE HEIGHTS.
 3. The building(s) and exterior dimensions of the outside wall at ground level are shown on the survey. It may not be the foundation wall.
 4. No specific title search for existence or non-existence of recorded or un-recorded easements has been conducted by the surveyor as a part of this survey. Only easements per the recorded plat are shown.

EXISTING LEGAL DESCRIPTIONS	
PARCEL 1:	Lot 4, Block 3, COLLEGE HEIGHTS, Dakota County, Minnesota.
PARCEL 2:	Lot 3, Block 3, COLLEGE HEIGHTS, Dakota County, Minnesota.
AREA CALCULATIONS	
EXISTING:	
Parcel 1:	2.565 acres or 111,750 sq.ft.
Parcel 2:	2.670 acres or 116,323 sq.ft.
PROPOSED:	
Parcel 1:	2.798 acres or 121,881 sq.ft.
Parcel 2:	2.437 acres or 106,192 sq.ft.

PROPOSED LEGAL DESCRIPTIONS

PARCEL 1:
Lot 4 and the southwesterly 48.76 feet of Lot 3, Block 3, COLLEGE HEIGHTS, according to the recorded plat thereof, Dakota County, Minnesota;

PARCEL 2:
Lot 3, Block 3, COLLEGE HEIGHTS, according to the recorded plat thereof, Dakota County, Minnesota, EXCEPT the southwesterly 48.76 feet thereof;

PROPOSED EASEMENT DESCRIPTION

An easement which grants the exclusive right to use and occupy the following described land for any purpose:

That part of Lot 3, Block 3, COLLEGE HEIGHTS, according to the recorded plat thereof, Dakota County, Minnesota, which lies northeasterly of the southwesterly 48.76 feet thereof, and southwesterly of a line described as commencing at the most southerly corner of said Lot 3; thence on an assumed bearing of North 64 degrees 19 minutes 01 second East, along the southeasterly line of said Lot 3, a distance of 48.76 feet to the point of beginning of the line to be described; thence North 22 degrees 57 minutes 46 seconds West a distance of 86.92 feet; thence North 17 degrees 04 minutes 04 seconds East a distance of 57.40 feet; thence North 14 degrees 42 minutes 47 seconds West a distance of 80.22 feet to a point on the northwesterly line of said Lot 3 distant 107.05 feet northeasterly of the most westerly corner of said Lot 3, and said line there terminating.

SURVEYOR'S CERTIFICATE

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota. That this survey does not purport to show all improvements, easements or encroachments, to the property except as shown thereon.

Signed this 8th day of December, 2017

Marcus P. Hampton
Marcus P. Hampton M.L.S., No. 47681

James R. Hill, Inc.
PLANNERS / ENGINEERS / SURVEYORS
2500 W. CTY. RD. 42, SUITE 120, BURNSVILLE, MN 55337
PHONE: (952)890-6044 FAX: (952)890-6244

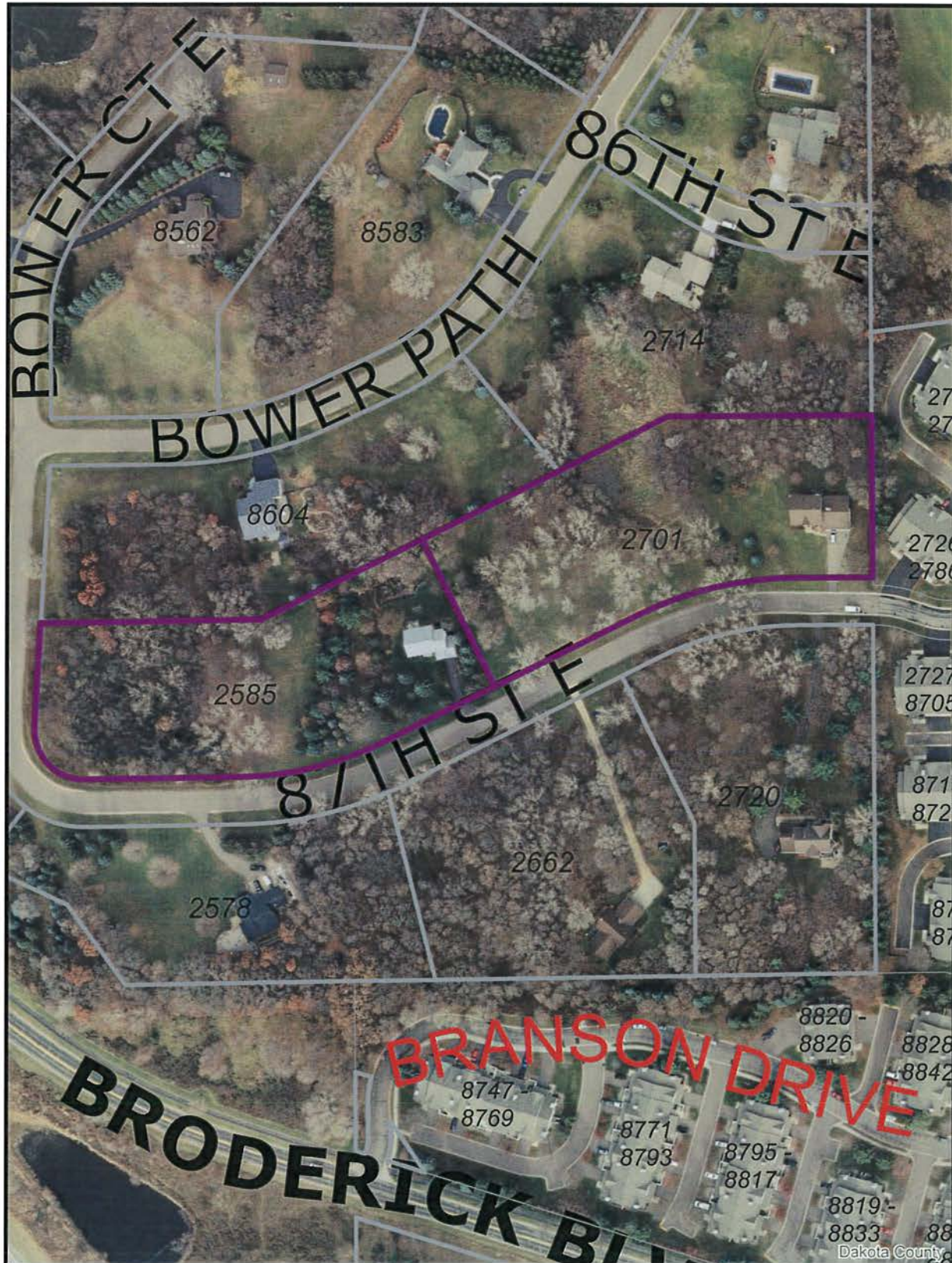
2585 87th Street East
Inver Grove Heights, Dakota County, Minnesota
Lot Split Survey
FOR
Mr. Jan Jensen
2585 87th Street East, Inver Grove Heights, Minnesota 55076

DRAWN BY	MFH
DATE	12/01/2017
REVISIONS	
CAD FILE	23323-SPLIT
PROJECT NO.	23323-00
FILE NO.	1-16-028
SHEET 1 OF 1	

C



2701 87th Street
Case No. 18-35V



THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, INFORMATION AND DATA LOCATED IN VARIOUS CITY, COUNTY AND STATE OFFICES AND OTHER SOURCES AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE CITY OF INVER GROVE HEIGHTS IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.
Map produced by the City of Inver Grove Heights GIS Dept.
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Exhibit D
Aerial photo of neighborhood
Map not to scale

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

CASEY'S RETAIL STORES - Case No. 18-33SC

Meeting Date: July 23, 2018
 Item Type: Regular Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City 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 the following actions for property located at Hwy 3 and Diffley Court;

- a) A Resolution rrelating to a Preliminary Plat for the plat of Robert Curve Second Addition
 - Requires a 3/5th's vote.
 - b) A resolution relating to a Final Plat for the plat of Robert Curve Second Addition
 - Requires a 3/5th's vote.
 - c) A Resolution relating to a Conditional Use Permit for a convenience store with gas sales
 - Requires a 4/5th's vote.
 - d) A Resolution relating to vacation of drainage and utility easements on Outlot B, Robert Curve
 - Requires a 3/5th's vote.
- 60-day deadline: August 3, 2018 (first 60 days)

SUMMARY

The applicant is proposing to construct a 4650 square foot convenience store with gas sales at the corner of new Diffley Court and Hwy 3. The project would be generally located in the southwest corner of the property. Project expected to begin late summer/early fall.

ANALYSIS

- The preliminary and final plat meet platting requirements.
- All building and parking lot setbacks are met.
- All landscape requirements met.
- Park dedication consists of payment of \$10,150
- Building meets exterior materials and height requirements.
- Engineering comfortable with plans. Final details to be addressed before construction can begin.
- Old easements to be vacated and new easements to be dedicated on the new plat.

RECOMMENDATION

Planning Division. Recommends approval of the four requests with the conditions listed in the attached resolutions.

Planning Commission. Reviewed the plans and did not have any questions or comments. The Commission recommended approval of the requests (8-0).

Attachments:

- Resolution approving Preliminary Plat for Robert Curve Second Addition
- Resolution approving Final Plat for Robert Curve Second Addition
- Resolution approving Conditional Use Permit for a convenience store with gas sales
- Resolution approving a Vacation of drainage and utility easements on Outlot B, Robert Curve
- Planning Staff Report

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

A RESOLUTION APPROVING A PRELIMINARY PLAT FOR THE SUBDIVISION TO BE
KNOWN AS ROBERT CURVE SECOND ADDITION

CASE NO. 18-33SC
(Casey's Retail Stores)

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

Robert Curve, 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 July 17, 2018;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, the Preliminary Plat for the plat of Robert Curve Second Addition is hereby approved subject to the following conditions:

1. The right of access restriction to Diffley Court shall be modified to reflect the location of the proposed access points. This would be done by a separate document.
2. The plat shall be subject to any comments received by MnDOT.
3. Outlot A shall be dedicated to the City.

Passed this 23rd day of July, 2018.

AYES:

NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

A RESOLUTION APPROVING A FINAL PLAT FOR THE PLAT TO BE KNOWN AS
ROBERT CURVE SECOND ADDITION

CASE NO. 18-33SC)
(Casey's Retail Company)

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

Robert Curve, Dakota County, 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 July 17, 2018;

WHEREAS, the final plat application satisfies the 3 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 for Robert Curve Second Addition is hereby approved.

Passed this 23rd day of July, 2018.

AYES:
NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A CONVENIENCE
STORE WITH GAS SALES

Case No. 18-33SC
(Casey's Retail Stores)

WHEREAS, the request is for the property located at Hwy 3 and Diffley Court and legally described as:

Lot 1, Block 1, Robert Curve Second Addition, Dakota County, Minnesota

WHEREAS, the aforescribed property is zoned B-3, General Business;

WHEREAS, the request has been reviewed against Title 10, Chapter 3, Article A, Section 10-3A-5 regarding the criterion for a Conditional Use Permit and meets the minimum standards; the request is consistent with the Comprehensive Plan and it does not have a negative impact on public health, safety or welfare;

WHEREAS, a public hearing concerning the conditional use permit was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statute, Section 462.357, Subdivision 3 on July 17, 2018;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that a conditional use permit to allow a convenience store with gas sales is hereby approved subject to the following conditions:

1. The development shall be in substantial conformance with the following plans on file with the Planning Department except as may be modified by the conditions below.

Site Layout Plan	dated 6/18/18
Grading Plan	dated 5/23/18
Utility Plan	dated 4/30/18
Landscape Plan	dated 6/29/18
Exterior Elevations (2 sheets)	dated 6/23/18
Lighting Illumination Plan and Fixture Design	dated 4/5/18

2. Prior to issuance of permits, the final grading, drainage and erosion control, and utility plans shall be approved by the City Engineer.
3. Any roof top or ground mounted mechanical equipment shall be substantially screened from view.
4. All parking lot and building lighting on site shall be a down cast "shoe-box" style and the bulb shall not visible from property lines.
5. All plans shall be subject to the review and approval of the Fire Marshal.
6. Prior to construction, the Developer and Owner shall enter into a Development Contract and Storm Water Facilities Maintenance Agreement with the City.

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 23rd day of July, 2018.

AYES:

NAYS:

ATTEST:

George Tourville, Mayor

Michelle Tesser, City Clerk

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

RESOLUTION APPROVING A VACATION OF ALL DRAINAGE AND UTILITY
EASEMENTS LYING WITHIN OUTLOT B, DEDICATED IN THE PLAT OF ROBERT
CURVE, ACCORDING TO THE RECORDED PLAT THEREOF

CASE NO. 18-33SC
(Casey's Retail Stores)

WHEREAS, the applicant initiated the vacation of the following described
drainage easement situated in the City of Inver Grove Heights, Dakota County, State of
Minnesota, to wit:

All drainage and utility easements lying within Outlot B, dedicated in the plat
of Robert Curve, according to the recorded plat thereof, Dakota County,
Minnesota.

WHEREAS, a notice of hearing on said petition has been duly published and
posted in accordance with the applicable Minnesota Statutes, and

WHEREAS, a public hearing was held on said petition on July 17, 2018, at the
Council Chambers, 8150 Barbara Avenue, and

WHEREAS, the Planning Commission then proceeded to hear all persons
interested in said petition and all persons interested were afforded an opportunity to
present their views and objections to the granting of said petition, and

WHEREAS, the City Council of Inver Grove Heights has determined that the
vacation of said drainage and utility easement would be in the public interest.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA: That the above described drainage and utility easement is hereby vacated pursuant to M.S.A. 412.851.

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 23rd day of July, 2018.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

**PLANNING REPORT
CITY OF INVER GROVE HEIGHTS**

REPORT DATE:	July 11, 2018	CASE NO.: 18-33SC
APPLICANT:	Casey's Retail Company	
PROPERTY OWNER:	Robert Curve Development, LLC	
REQUEST:	Preliminary and Final Plat, Conditional Use Permit, Easement Vacation	
LOCATION:	South Robert Trail & Diffley Court	
HEARING DATE:	July 17, 2018	
COMPREHENSIVE PLAN:	CC, Community Commercial	
ZONING:	B-3, General Business	
REVIEWING DIVISIONS:	Planning Engineering	PREPARED BY: Allan Hunting City Planner

BACKGROUND

The applicant is proposing a gas station/convenience store located on the east side of Hwy 3 at future Diffley Court. The plat of Robert Curve was recorded at the end of 2017 and contained one lot for a strip center building and the balance of the property in outlots. Dedicated right-of-way was created with the plat and Diffley Court will begin construction soon. The application includes replatting the outlot to create a new lot for the development. An easement created for a storm water pond as part of the original plat will need to be modified to accept a new design for the storm water pond. The building would be approximately 4650 square feet and a canopy covering six pump islands. There would be two access points onto Diffley Court.

SURROUNDING USES

The subject property is surrounded by:

North	Vacant; zoned B-3; guided CC
East	Large lot residential/railroad; zoned A; guided RDR
West	City of Eagan
South	Vacant; zoned B-3; guided CC

EVALUATION OF REQUEST

Preliminary/Final Plat

Lots & Blocks. The new plat is a replat of Outlot B, Robert Curve consisting of one lot and 2 outlots. Lot 1 contains the building, parking, gas island and storm water pond. Outlot A would be the ponding area for the street and other portions of the plat. This outlot is to be dedicated to the City because it captures storm water from a larger area. Outlot B would be for future development. The proposed lot meets lot width requirements for the B-3 District.

Park Dedication. At the time the property was originally platted in 1999, park dedication was collected with a building permit. The subdivision ordinance has changed requiring contribution to be paid at time of plat. Therefore cash contribution is required for Lot 1 based on 1.45 acres x \$7,000 per acre for a total of \$10,150.00. This fee is paid at time of plat release for recording.

MnDOT Review. The plat has been sent to MnDOT for their review. No changes are expected since MnDOT already commented on the Robert Curve plat. No comments have been received from MnDOT to date. A standard condition of approval of plat is subject to any MnDOT comments.

Conditional Use Permit Review

Bulk Standards. The charts below list the required setback and bulk standards for the B-3 zoning district and provides project status with these standards.

Setback/Bulk Standards For the B-3 District			
Standard	Required Standard	Proposed	Status
Front Yard Setback - Building	30 ft	30 ft	Compliant
Canopy	30 ft	45 ft	Compliant
Side Yard Setback - Building	10 ft	113 ft	Compliant
Canopy	10 ft	10+ ft	Compliant
Rear Yard Setback - Building	30 ft	113 ft	Compliant
Canopy	30 ft	30+ ft	Compliant
Building Coverage (max)	N/A	N/A	
Building Height	35 ft.	21 ft	Compliant
Impervious Surface (max)	100% (allowed)	58%	Compliant

Exterior Building Materials. The exterior materials consist of a brick panel system and stone columns on all sides of the building. All materials comply with exterior standards.

Access. There are two access points proposed on Diffley Court. Both meet minimum spacing between openings and minimum spacing from the main intersection.

A right of access restriction was dedicated with the original plat to control access until a development proposal was reviewed. The restriction must be modified to reflect the proposed location points and not allow any further access closer to the intersection of Hwy 3/ Diffley than what is shown on the plans.

Lighting. A lighting plan and cut sheets of the light fixtures have been submitted. The lighting, including the under-canopy lighting complies with the flat lens recessed bulb standards and meets maximum illumination allowed.

Parking. The applicant is proposing 16 parking at the front of the building. There would be 12 additional spaces at pump islands. The ordinance requires a total of 12 spaces. Total parking space requirement has been met.

The standards for off-street parking setbacks are listed below.

Parking Setbacks in B-3 Zoning District			
Setback	Required Standard	Proposed	Status
Front	10 ft	14 ft	Compliant
Side	5 ft	5 ft	Compliant
Rear	5 ft, 10 ft abutting residential	5+ ft	Compliant

Signage. The plan identifies wall signage and one free-standing sign along Hwy 3. The location of the free-standing sign meets setback requirements. Wall signage permits have been submitted and staff is working with the applicant on compliance with maximum size standards.

Mechanical Units. The proposed elevations show mechanical equipment to be screen with horizontal metal panels which would comply with city code.

Grading, Drainage, & Utilities. Engineering has reviewed the plans and provided comments back to the developer. In general, the plans meet standards but will require some refinements before final plan approval is given by the City Engineer. The plans show some of the storm water design placed in MnDOT right-of-way. MnDOT will have to comment and approved the plans as proposed.

Landscape Standards. A landscape plan has been submitted which reflects tree plantings around the perimeter of the site, including the trash enclosure and around the free standing sign. The ordinance requires a total of 23 overstory trees to be planted. The proposed plan provides 12 overstory trees and the equivalent shrub plantings for a total of 24 trees, which satisfy landscaping requirements.

Development Agreement. A development contract will be required to address site improvements and storm ponds. The developer is required to enter into a contract with the City addressing the improvements and construction on site. A letter of credit equal to 125% of the cost of these improvements is required before permits are issued. This requirement assures the City that these improvements will be constructed to the satisfaction of the City.

Easement Vacation

The original plat of Robert Curve provided a drainage and utility easement between Hwy 3 and Diffley Court in Outlot B where the project is proposed. The original storm water design showed a basin at this location. With the proposed plans, part of the development would be within this easement. There are also other easements in Outlot B. For ease of description, the applicant is requesting all easements in Outlot B be vacated and new easement would be dedicated with the new plat.

Engineering has reviewed the storm water plan and is agreeable to the vacation and rededication on the plat. The boundaries comply with the needs of the storm water design.

ALTERNATIVES

The Planning Commission has the following alternatives available for the proposed request:

A. Approval If the Planning Commission finds the application acceptable, the Commission should make the following recommendations:

- o Approving the **Preliminary and Final Plat** of Robert Curve Second Addition subject to the following conditions:
 1. The right of access restriction to Diffley Court shall be modified to reflect the location of the proposed access points. This would be done by a separate document.
 2. The plat shall be subject to any comments received by MnDOT.
 3. Outlot A shall be dedicated to the City.

- o Approving the **Conditional Use Permit** for a convenience store with gas sales subject to the following conditions:
 1. The development shall be in substantial conformance with the following plans on file with the Planning Department except as may be modified by the conditions below.

Site Layout Plan	dated 6/18/18
Grading Plan	dated 5/23/18
Utility Plan	dated 4/30/18
Landscape Plan	dated 6/29/18
Exterior Elevations (2 sheets)	dated 6/23/18
Lighting Illumination Plan and Fixture Design	dated 4/5/18
 2. Prior to issuance of permits, the final grading, drainage and erosion control, and utility plans shall be approved by the City Engineer.
 3. Any roof top or ground mounted mechanical equipment shall be substantially screened from view.
 4. All parking lot and building lighting on site shall be a down cast “shoe-box” style and the bulb shall not visible from property lines.
 5. All plans shall be subject to the review and approval of the Fire Marshal.
 6. Prior to construction, the Developer and Owner shall enter into a Development Contract and Storm Water Facilities Maintenance Agreement with the City.
- Approving the **Vacation** of the drainage and Utility Easement over all of Outlot B, Robert Curve and rededicate all easements with a revised boundary near the project site subject to the following conditions:
 1. The Final Plat shall dedicate all necessary easements that exist in Outlot B with the new plat of Robert Curve Second Addition.

B. Denial If the Planning Commission does not favor the requests, a recommendation of denial should be forwarded to the City Council. With a recommendation of denial, findings or the basis for the denial should be given.

RECOMMENDATION

Staff recommends approval of the three requests with the conditions listed.

Attachments: Location Map
Applicant Narrative
Preliminary/Final Plat
Site Plan
Grading Plan
Utility Plan
Landscape Plan
Exterior Elevations (2 sheets)
Light Illumination Plan (2 sheets)



Location Map

Case No. 18-33SC



Casey's Retail Company Project Narrative

Casey's Retail Company is proposing the construction of a convenience store with gasoline and diesel sales in Inver Grove Heights, Minnesota, located at the northeast quadrant of the intersection between South Robert Trail/State Highway No. 3 and Diffley Court. The proposed development would include a one-store building consisting of 4,816 square feet, 6 double-sided fuel pumps, a 66' x 84' canopy over the gasoline pumps, and two underground fuel storage tanks.

The operating hours of the proposed Casey's General Store will be either 24 hours, 5 a.m.-12a.m., or 6 a.m.-11p.m. depending on market demand. The store will employ 20-30 employees, both part time and full time, and include management opportunities. There are 16 designated parking spaces in addition to 12 available spaces at the fuel pumps. Included in the parking is 1 handicap parking space.

The signage for the proposed Casey's General Store will include a 4 Product Horizontal Pylon sign, and a number of signs on the building and canopies. The product sign will be located on the southwest corner of the property.

The existing site was previously undeveloped with no existing structures. The use of the property will be a convenience store with fuel pumps and should not have a negative effect on the health, safety and general welfare of occupants of surrounding lands.

The proposed use will not be injurious to the use and enjoyment of other properties in the immediate vicinity nor diminish and impair their property values.

The Proposed Casey's General Store will provide adequate utilities, access roads, off-street parking, loading/unloading areas, drainage and other necessary facilities.

Construction is expected to begin in the fall of 2018 or spring of 2019 with construction ending roughly 6 months after.

Preliminary Plat of:
ROBERT CURVE SECOND ADDITION

NOTES

- * Bearings shown are based on the plat of ROBERT CURVE.
- * Utilities shown are from information furnished by the City of Inver Grove Heights in response to Gopher State One Call Ticket No. 121802456 and are verified where possible.
- * Contact Gopher State One Call for utility locations before any construction shall begin. Phone 651-454-0002.
- * Existing Zoning: Commercial PUD.
- * Areas: Total = 621,985 square feet (14.28 acres).
Lot 1, Block 1 = 63,150 square feet (1.45 acres).
Outlot A = 36,327 square feet (0.83 acre).
Outlot B = 522,508 square feet (12.00 acres).

DEVELOPER

Casey's General Store
One Convenience Boulevard
P. O. Box 3001
Ankeny, Iowa 50021

OWNER

Robert Curve Development LLC
10195 Inver Grove Trail
Inver Grove Heights, Minnesota 55076
Phone: 651-451-1384
Attention: John Poepl

ENGINEER

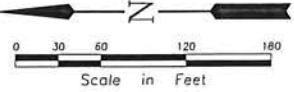
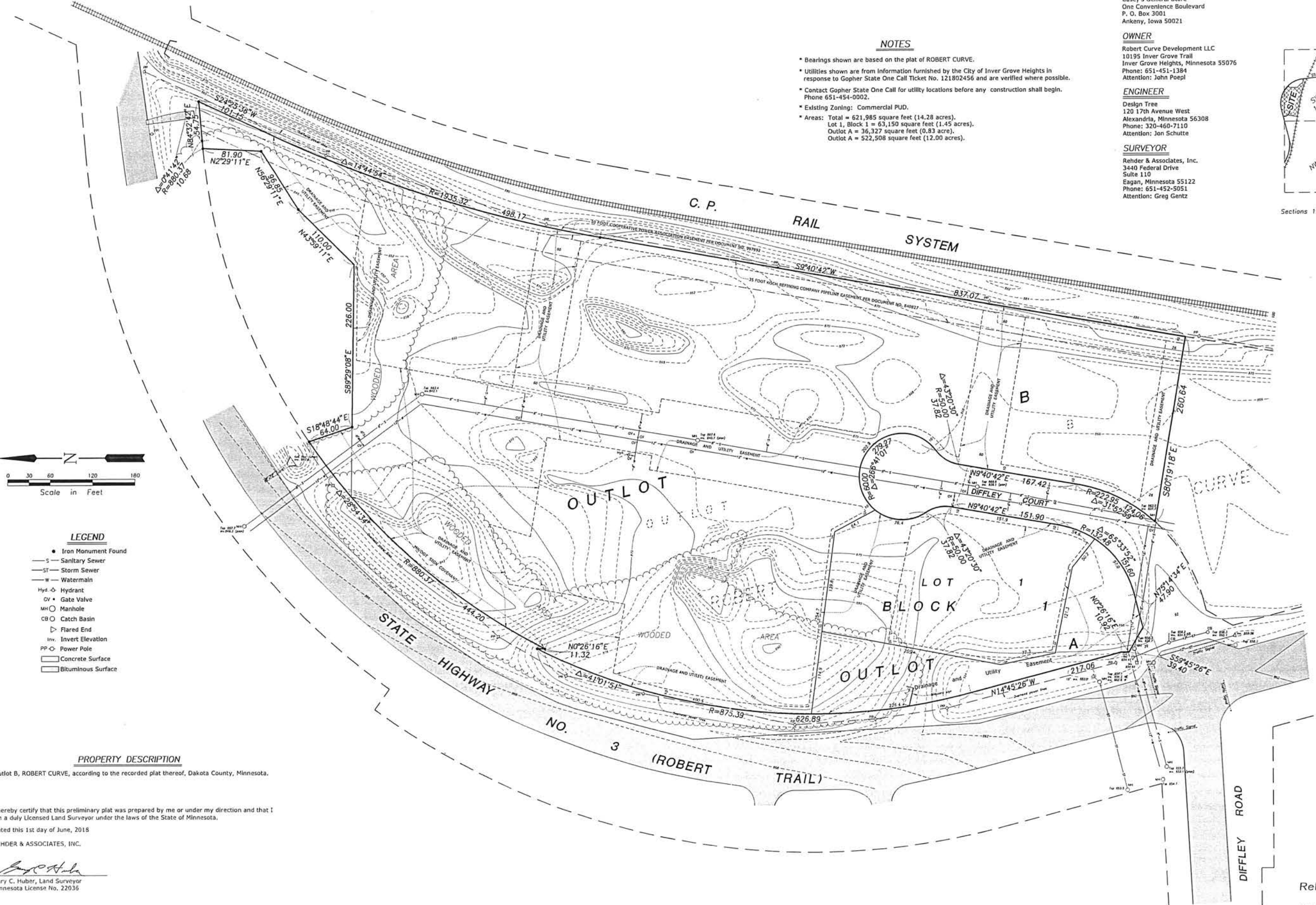
Design Tree
120 17th Avenue West
Alexandria, Minnesota 56308
Phone: 320-460-7110
Attention: Jon Schutte

SURVEYOR

Rehder & Associates, Inc.
3440 Federal Drive
Suite 110
Eagan, Minnesota 55122
Phone: 651-452-5051
Attention: Greg Gentz



Vicinity Map
Sections 19 & 30, Township 27, Range 22
No Scale



LEGEND

- Iron Monument Found
- S— Sanitary Sewer
- ST— Storm Sewer
- W— Watermain
- Hyd. ♦ Hydrant
- GV ♦ Gate Valve
- MH ○ Manhole
- CB ○ Catch Basin
- △ Flared End
- Inv. Invert Elevation
- PP ○ Power Pole
- Concrete Surface
- Bituminous Surface

PROPERTY DESCRIPTION

Outlot B, ROBERT CURVE, according to the recorded plat thereof, Dakota County, Minnesota.

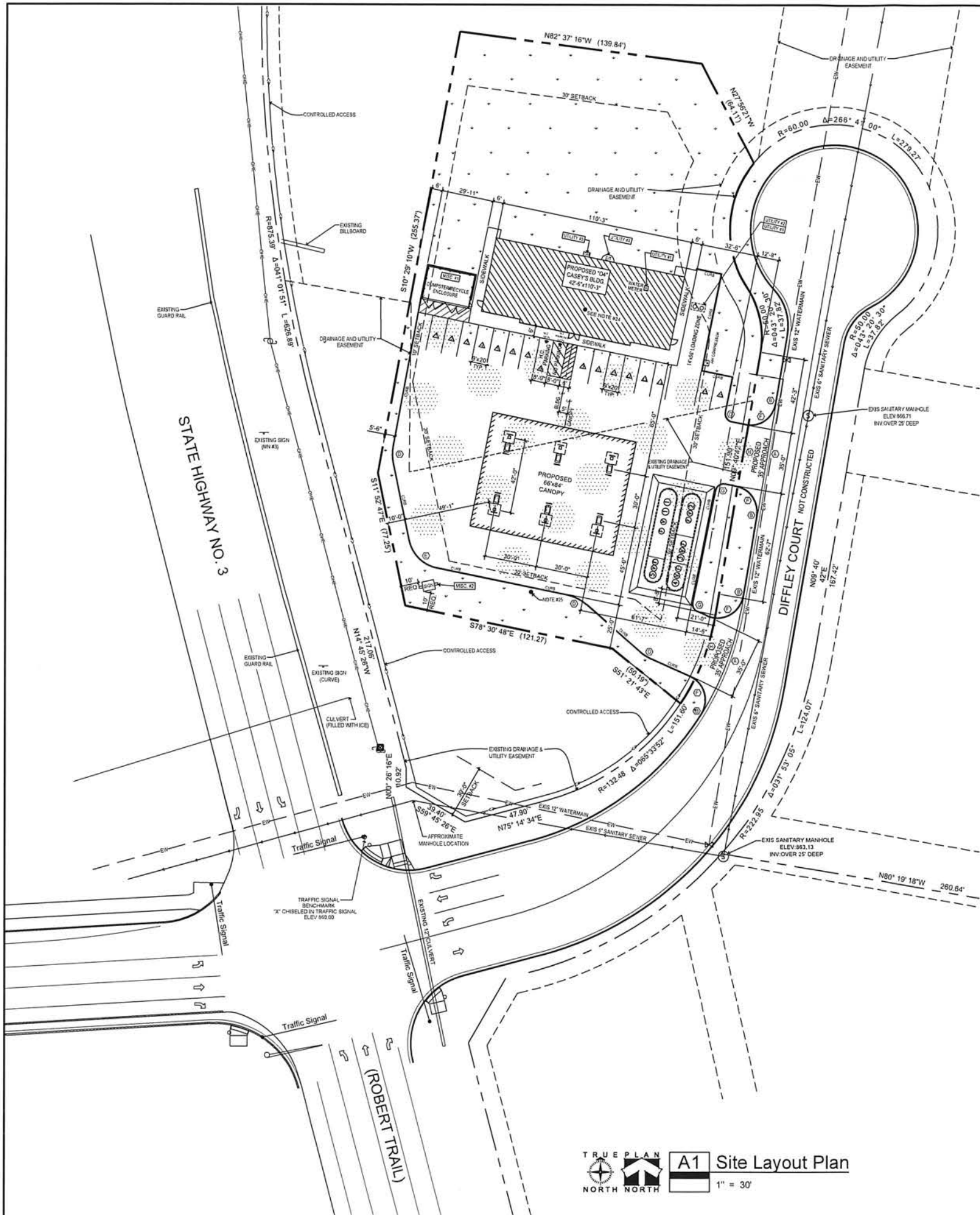
I hereby certify that this preliminary plat was prepared by me or under my direction and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Dated this 1st day of June, 2018

REHDER & ASSOCIATES, INC.

Gary C. Huber, Land Surveyor
Minnesota License No. 22036

Rehder and Associates, Inc.

CIVIL ENGINEERS AND LAND SURVEYORS
3440 Federal Drive • Suite 110 • Eagan, Minnesota • Phone (651) 452-5051
JOB: 184-3044.010



U.G.S.T. Notes

- ① FILL W/SPILL CONTAINMENT & OVERSPILL PROTECTION (TYP)
- ② TURBINE ENCLOSURE TYP. CONTAINS: SUB-PUMP W/LINE LEAK DETECTION, TANK PROBE FOR FUEL MONITORING, INTERSTITIAL SENSOR AND TANK SUMP SENSOR
- ③ VENT W/SPILL CONTAINMENT & EXTRACTOR
- SUMP SENSOR @ EACH DISPENSER

General Notes

RELATED SHEETS: FOR ADDITIONAL INFORMATION NOT DIRECTLY REFERENCED, SEE CIVIL PLANS DONE BY DESIGN TREE ENGINEERING.

SPEED LIMIT
S ROBERT TRAIL: 45 MPH
DIFFLEY COURT: NOT CONSTRUCTED

ZONING:
PER THE CITY OF INNER GROVE HEIGHTS - ZONED PUD-83

SETBACKS:
FRONT YARD: MINIMUM 30'
SIDE YARD: MINIMUM 10'
REAR YARD: MINIMUM OF 30'

PARKING:
TBD
FLOOR AREA @ 4,816.84 SQ. FT.
PROVIDED: 17 MARKED STALLS & 12 UNMARKED AT GAS ISLANDS = 29

FLOOD:
THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE X (AREAS OF MINIMAL FLOOD HAZARD), ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY MAP NO. 27163C0400E, WITH AN EFFECTIVE DATE OF FEBRUARY 3, 2010.

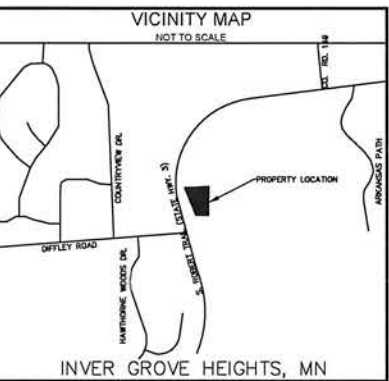
Utility Notes

- 1) **WATER SERVICE:**
2" COPPER, C5-200 psi
- 2) **SANITARY SEWER:**
PROPOSED 6" SANITARY SEWER CONNECTION INTO EXISTING SANITARY SEWER MAIN.
6" SCH 40 PVC
- 3) **PROPOSED 1,000-GAL. GREASE INTERCEPTOR:**
2 MANHOLES.
BELOW GRADE
- 4) **ELECTRICAL & TELEPHONE:**
3 PHASE, 120/208 VOLTS, 4 WIRE
8 LINES, 20 PAIR
- 5) **GAS SERVICE**
1.5" SCHEDULE 40 IRON PIPE
GAS SERVICE CONNECTION
CONNECTED LOAD IS 680 MBH
TOTAL CONNECTED LOAD IS 680,000 BTU
618 CU/FT. HR.
HOUSE PRESSURE IS 7" W.C.

Misc. Note

- MISC. #1:
DUMPSTER AREA 6' HEIGHT CHAIN LINK W/VINYL SLATS
4-6" GATES AND 3" SERVICE GATE INSTALLED ON CONCRETE PAD W/CURBS.
- MISC. #2:
4-PRODUCT HORIZONTAL PYLON SIGN
REQUIRED TO BE 10' FROM PROPERTY LINES.
(REQUIRED TO BE MIN. 10' FROM OHP LINES)

Vicinity Map



General Construction Notes

- 2 - 30,000 GALLON DOUBLE WALL FIBERGLASS TANKS.
TANK 1-22,000 GALLON (87E)
TANK 2-14,000 GALLON (DIESEL)
TANK 3-8,000 GALLON (81E)
TANK 4-8,000 GALLON (81C)
TANK 5-8,000 GALLON (E85)
- TANK SETTING DETAILS PAGE QF-301
- FILL PIPE AND MANHOLE DETAIL PAGE QF-301
- CIRCUIT BREAKER PANEL PAGE E-501
- REFRIGERATION WIRING PAGE QR-602
- GILBARCO WIRING PAGE QF-601
- GAS ISLAND SIZE - 3x5' VIDUAL GUARD PIPE
- GASOLINE - 6 GILBARCO 700 S DISPENSERS (BLEND)
2-NG1 4 NOZZLES & 8 METERS EACH
4-NG4 6 NOZZLES & 8 METERS EACH
- ISLAND DETAILS PAGE AL-501
- ISLAND CONDUIT DETAIL PAGE E-602
- DO NOT PLACE PRODUCT PIPING UNDER ISLAND
- 18" MIN. FROM TANK PIPING TO FINISH SURFACE
- SIGN BASE DETAILS PAGE AL-601
- SIGN DETAILS PAGE AL-601
- DRIVEWAY JOINTS TO BE PACKED & CAULKED
- CONCRETE DRIVE TROVELED WITH LIGHT BROOM FINISH
- CONTROL JOINTS - MIN. 100 sq.ft. - MAX. 125 sq.ft. - 25% DEEP
- CONSTRUCTION JOINTS - PINNED 4" O.C. 12" EACH WAY WITH 1/2" REBAR #4
- APPROACHES TO BE 7" NON-REINFORCED OR AS PER STATE/CITY SPEC.
- SLOPE MAX. 2% FOR BUILDING SIDEWALK, H.C PARKING 1.50 ALL DIRECTIONS
ALL ACCESS ISLE STRIPING AT 45 DEGREE ANGLE BEING MAX. 4' SEPARATION
- RUN VENT LINES UP SEPARATE CANOPY COLUMN. VERIFY
- VERIFY ALL UTILITY LOCATIONS AND DIMENSIONS.
- CANOPY FOOTING: SIZE 6'-3" LENGTH X 6'-3" WIDTH X 3'-0" DEPTH.
CONCRETE: MINIMUM COMPRESSIVE STRENGTH OF F'C-3000 p.s.i.
CONCRETE REINFORCING: ASTM A-615 GRADE 60.
REBAR CAGE: (8) #6 HORIZONTAL TIES LENGTH WISE TOP AND BOTTOM
12" MAXIMUM SPACING.
- 3 FUEL DISPENSERS FALL WITHIN A 100 FOOT RADIUS OF THE EMERGENCY SHUTOFF
LOCATED INSIDE AT THE SALES COUNTER FOR THE CONVENIENCE OF STAFF.
- ALL FUEL DISPENSERS FALL WITHIN A 100 FOOT RADIUS OF THE EMERGENCY
SHUTOFF LOCATED ON A POST AT THE CURB.
- IRRIGATION REQUIRED WITH RAIN SENSOR MOUNTED ON BACK RAILING OF ROOF.

Keyed Construction Notes

- NOTICE: ALL WORK IN/ON THE R.O.W. AREA IS SUBJECT TO THE CITY OF INNER GROVE HEIGHTS APPROVAL AND SPECIFICATIONS.
- A SAW CUT EDGE OF PAVEMENT (FULL DEPTH)
 - B TIE INTO AND MATCH EXISTING PAVEMENT AND FLOW LINE
 - C PROPOSED NEW 40' CURBED RADIUS
 - D PROPOSED NEW 25' CURBED RADIUS
 - E PROPOSED NEW 20' CURBED RADIUS
 - F PROPOSED NEW 15' CURBED RADIUS
 - G PROPOSED NEW 5' CURBED RADIUS
 - H MAINTAIN 2% CROSS SLOPE

Legal Description:

PART OF OUTLET B, ROBERT CURVE, ACCORDING TO THE RECORDED PLAT THEREOF, DAVOTA COUNTY, MINNESOTA

BENCHMARK INFORMATION:
BENCHMARK #1: Chiseled "X" in lightpole base near the southwest corner of subject property.
Elev. 860.00

Legend

- △ MARKED PARKING SPACES
(PAINT LINES AS INDICATED)
- ▲ GASOLINE PUMP PARKING SPACES
(DO NOT PAINT LINES OR OTHERWISE MARK)
- CONCRETE PAVING & SIDEWALKS (31,730 SQ. FT.)
- AREA TO BE SOD
- AREA LIGHTS (0 SHOWN)
REFER TO LIGHTING PLAN DONE BY RED LEONARD

CASEY'S CONSTRUCTION DIVISION			
One Convenience Blvd., P.O. Box 3001, Ankeny, Ia. 50021 515-965-6100			
PROJECT	INVER GROVE HEIGHTS, MN	DATE	03-28-18
REVISION	"O-4 - FLAT ROOF"	DATE	04-12-18
CONSTRUCTION DIVISION	R. FIDLER	DATE	05-23-18
			06-18-18
			SITE PLAN
			AL-101

NOTES:

1. THE LOCATIONS AND ELEVATIONS OF THE EXISTING UTILITIES SHOWN HEREIN ARE APPROXIMATE. THEY HAVE BEEN PLOTTED FROM AVAILABLE SURVEYS AND/OR RECORDS. THE CONTRACTOR IS RESPONSIBLE FOR FIELD VERIFYING LOCATION AND ELEVATION TO ENSURE THAT ANY EXISTING UTILITIES (SHOWN OR NOT SHOWN) ARE NOT DAMAGED DURING CONSTRUCTION.
2. USE EITHER MONOLITHIC CURB OR B618 CURB AND GUTTER WITHIN SITE AREA.
3. ACCESSIBLE PARKING STALLS SHALL MEET ADA REQUIREMENTS, AND SHALL NOT EXCEED 2.00% CROSS SLOPE IN ALL DIRECTIONS.
4. SIDEWALKS SHALL MEET A.D.A. REQUIREMENTS, AND SHALL NOT EXCEED 2.00% CROSS SLOPE, OR 5.00% LONGITUDINAL SLOPE. CONCRETE ENTRANCES AND APPROACHES SHALL NOT EXCEED 2.00% CROSS SLOPE IN SIDEWALK AREAS.
5. ONCE SUBGRADE ELEVATION IS REACHED, SCARIFY EXISTING SUBGRADE AND RECOMPACT TO 95% OF THE MAXIMUM DRY DENSITY, UNLESS OTHERWISE SPECIFIED.
6. SUBGRADE AND FILL AREAS UNDER PROPOSED PAVEMENT, SIDEWALKS, AND CURBS SHALL BE COMPACTED TO 100% OF THE MAXIMUM DRY DENSITY, UNLESS OTHERWISE SPECIFIED.
7. ALL RETAINING WALLS SHOWN ON THE GRADING PLAN SHALL BE CONSTRUCTED DURING THE GRADING PHASE.
8. ALL EXCESS OR WASTE MATERIAL GENERATED AS PART OF CONSTRUCTION SHALL BE REMOVED FROM THE SITE AND DISPOSED OF IN ACCORDANCE WITH STATE AND LOCAL REQUIREMENTS.
9. EARTHWORK VOLUMES BASED ON EXISTING AND PROPOSED CONTOURS IN PROPERTY AREA:
CUT MATERIAL - 10,867 CY
FILL MATERIAL - 396 CY
*ABOVE QUANTITIES ARE NOT ADJUSTED FOR COMPACTION.
10. IN ADDITION TO THESE PLANS, A STORMWATER MANAGEMENT STUDY HAS BEEN PROVIDED. THE STORMWATER MANAGEMENT STUDY INCLUDES IMPORTANT INFORMATION REGARDING STORMWATER PROTECTION FOR THE SITE, SUCH AS CONCRETE WASH-OUTS, HAZARDOUS MATERIALS HANDLING/SPILLS, EROSION CONTROL, INSTALLATION, EROSION CONTROL MAINTENANCE, ETC. THE CONTRACTOR SHALL REVIEW THE STORMWATER BOOK AND USE THE INFORMATION TO COMPLY WITH ALL STATE AND LOCAL REQUIREMENTS.

6" NON-REINFORCED CONCRETE
8" NON-REINFORCED CONCRETE
(USE REINFORCEMENT IN FUEL TANK AREAS, SEE DETAILS)

STRM. MANHOLE (BY OTHERS)
RIM: 859.00
INV: 854.50 SW, SE
INV: 852.40 N
SUMP: 849.40

CATCH BASIN (BY OTHERS)
RIM: 861.90
INV: 857.90

EXISTING SAN. MH
RIM: 863.13
INV. ELEV. > 25' DEEP

STORM SEWER STUB
INV: 859.00

35' ENTRANCE
(CONSTRUCT PER
CITY STANDARD
PLATE NO. STR-06)

CROSS SLOPE NOT
TO EXCEED 2.00% IN
SIDEWALK AREA

12" WATERMAIN
6" SANITARY

35' ENTRANCE
(CONSTRUCT PER
CITY STANDARD
PLATE NO. STR-06)

CROSS SLOPE NOT
TO EXCEED 2.00% IN
SIDEWALK AREA

EXISTING SAN. MH
RIM: 866.71
INV. ELEV. > 25' DEEP



C3.0 Grading Plan

1" = 20'

SOUTH ROBERT TRAIL/STATE HIGHWAY NO. 3

PROPOSED RETAINING WALL
(SEE STRUCTURAL PLANS)

3:1 SLOPES
COORDINATE WITH
DEVELOPER TO
MATCH GRADES

EMERGENCY OVERFLOW
ELEV: 863.75

COORDINATE WITH
DEVELOPER TO
MATCH GRADES

PROPOSED DUMPSTER/
RECYCLE AREA

PROPOSED CASEY'S
"04 BUILDING"
42'-6"x110'-3"
FFE=866.62

PROPOSED
66'x80'
CANOPY

PROPOSED DRAINAGE AND UTILITY EASEMENT

PROPOSED STORMWATER POND

NORMAL WATER LEVEL - 860.00
HIGH WATER LEVEL - 862.23

10' WIDE MAINTENANCE ACCESS
ROAD (BY OTHERS)

COORDINATE WITH
DEVELOPER TO
MATCH GRADES

10' WIDE MAINTENANCE ACCESS
ROAD (SEE CITY STANDARD
PLATE NO. STR-21)

DESIGN TREE
engineering + land surveying
St. Cloud | Alexandria | Rogers
120-717-5557

I HEREBY CERTIFY THAT THIS PLAN,
SPECIFICATION, OR REPORT WAS
PREPARED BY ME OR UNDER MY
DIRECT SUPERVISION AND THAT I
AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE
STATE OF MINNESOTA.

JEREMY E. ANDERSON

DATE: 05/23/18

LICENSE #: 44223

GRADING LEGEND

- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- EXISTING CONTOUR LABEL
- PROPOSED MAJOR CONTOUR
- PROPOSED MINOR CONTOUR
- PROPOSED CONTOUR LABEL
- MAJOR CONTOUR (BY OTHERS)
- MINOR CONTOUR (BY OTHERS)
- CONTOUR LABEL (BY OTHERS)
- EXISTING SPOT ELEVATION*
- PROPOSED SPOT ELEVATION*
- PROPOSED SPOT ELEVATION
AT TOP OF SIDEWALK OR
BACK OF CURB
- SPOT ELEVATION (BY OTHERS)

*SPOT ELEVATIONS ALONG CURB & GUTTER AND OTHER
REVEALS ARE TO FLOWLINE, UNLESS OTHERWISE NOTED.



CASEY'S CONSTRUCTION DIVISION
One Convenience Blvd., P.O. Box 3001, Ankeny, Ia. 50021 515-965-6100

PROJECT: INVER GROVE HEIGHTS, MN
DATE: 05-23-18
CONSTRUCTION DIVISION

JSL JEA

GRADING
PLAN

C3.0

BENCHMARK INFORMATION:

BENCHMARK #1: CHISELED "X" IN LIGHT POLE BASE NEAR THE SOUTHWEST
CORNER OF SUBJECT PROPERTY. ELEV: 860.00

NOTES:

- THE LOCATIONS AND ELEVATIONS OF THE EXISTING UTILITIES SHOWN HEREIN ARE APPROXIMATE. THEY HAVE BEEN PLOTTED FROM AVAILABLE SURVEYS AND/OR RECORDS. THE CONTRACTOR IS RESPONSIBLE FOR FIELD VERIFYING LOCATION AND ELEVATION TO ENSURE THAT ANY EXISTING UTILITIES (SHOWN OR NOT SHOWN) ARE NOT DAMAGED DURING CONSTRUCTION.
- CONTRACTOR SHALL VERIFY AND COORDINATE BUILDING UTILITY CONNECTION SIZES, LOCATIONS, AND ELEVATIONS WITH PLUMBING, MECHANICAL, AND ELECTRICAL CONTRACTORS.
- ALL WATER PIPING SHALL BE 2" HDPE, BURIED A MINIMUM OF 8".
- SEE WATER DETAILS FOR ADDITIONAL INFORMATION.
- WATER LINES SHALL MAINTAIN A MINIMUM OF 10' OF SEPARATION FROM SANITARY SEWER AND STORM SEWER INFRASTRUCTURE.
- SANITARY SEWER CLEANOUTS SHALL BE PROVIDED WITHIN 5' OF THE BUILDING FOR UNIT'S CONNECTION.
- SANITARY SEWER CLEANOUT SPACING SHALL NOT EXCEED 90'.
- SANITARY SEWER SERVICES SHALL HAVE A MINIMUM OF 2.00% GRADE.
- SEE SANITARY SEWER DETAILS FOR ADDITIONAL INFORMATION.
- WHERE THE WATER SERVICE PIPE MUST CROSS THE BUILDING SEWER, THE BOTTOM OF THE WATER SERVICE PIPE LOCATED WITHIN TEN FEET OF THE POINT OF CROSSING SHALL BE AT LEAST 12 INCHES ABOVE THE TOP OF THE SEWER, EXCEPT WHERE THIS IS NOT FEASIBLE, THE SEWER SHALL BE OF CAST IRON OR PLASTIC 6A, 6B, 6C(2), 6C(3), OR 6C(4) (part 4715.0420, subpart 3) FOR AT LEAST TEN FEET ON EITHER SIDE OF THE CROSSING.
- ALL CONSTRUCTION AND MATERIALS SHALL BE IN ACCORDANCE WITH THE STATE PLUMBING CODE.
- ALL PIPING SHALL BE TESTED IN ACCORDANCE WITH THE STATE PLUMBING CODE.
- ALL IMPROVEMENTS SHALL REMAIN VISIBLE FOR INSPECTION.
- MANHOLES SHALL HAVE MNDOT 700-7 CASTING WITH MNDOT 716 COVER.
- GOPHER STATE ONE CALL DAMAGE PREVENTION SYSTEM FOR BURIED UTILITIES. 1-800-252-1166

ESTIMATED WATER AND SEWER USAGE PER DAY = 1,850 GALLONS

DESCRIPTION	STRUCTURE TYPE
CB 1	MNDOT STORM MANHOLE 48-4020
STMH 1	MNDOT STORM MANHOLE 48-4020
STMH 2	MNDOT STORM MANHOLE 48-4020
OUTLET STRUCTURE	MNDOT STORM MANHOLE 48-4020



CASEY'S CONSTRUCTION DIVISION
One Convenience Blvd., P.O. Box 3001, Ankeny, Ia. 50021 515-965-6100

PROJECT: INVER GROVE HEIGHTS, MN

DATE: 05-23-18

CONSTRUCTION DIVISION

JSL JEA

UTILITY PLAN

C4.0

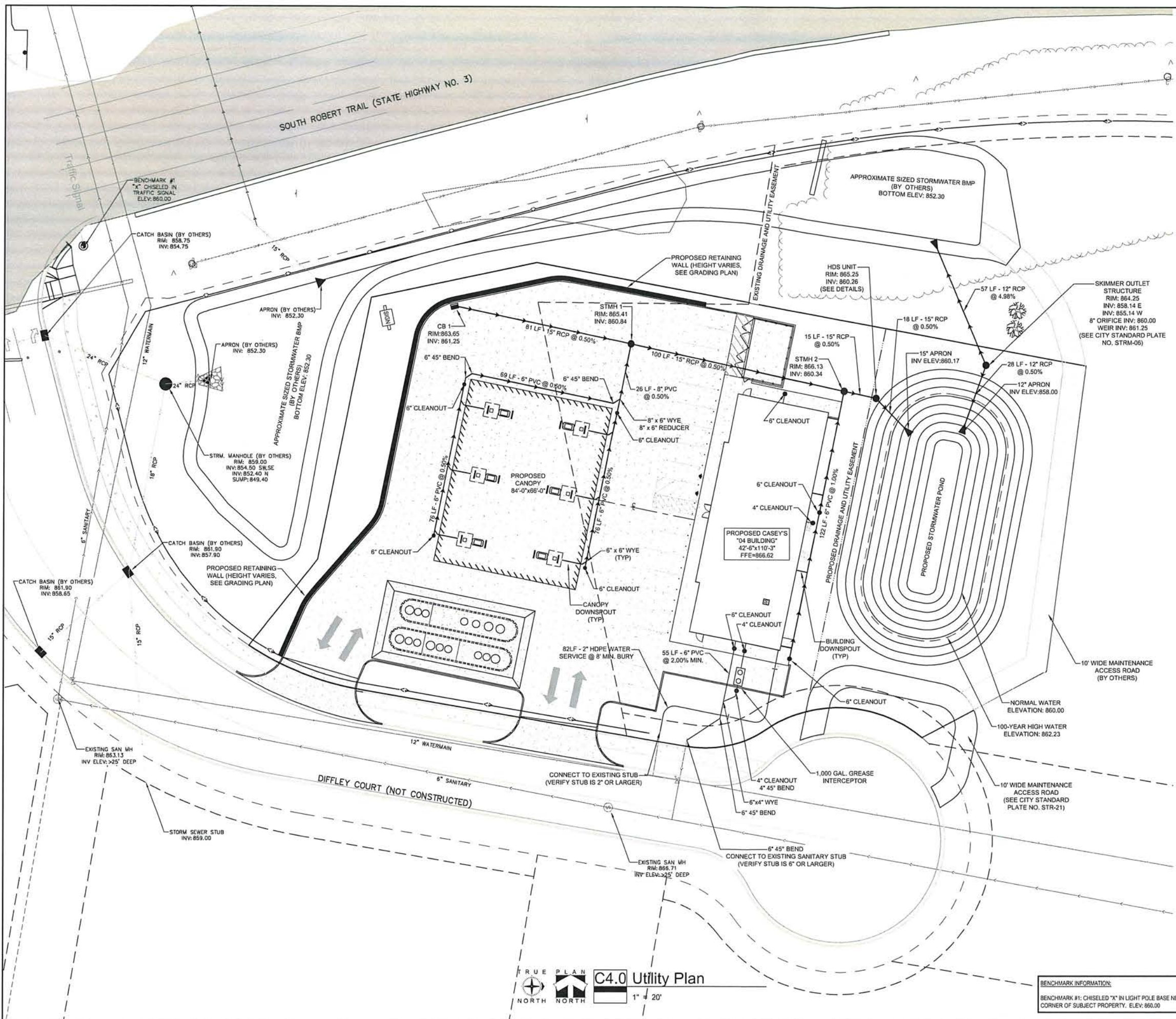
BENCHMARK INFORMATION:

BENCHMARK #1: CHISELED "X" IN LIGHT POLE BASE NEAR THE SOUTHWEST CORNER OF SUBJECT PROPERTY. ELEV: 860.00



C4.0 Utility Plan

1" = 20'





ITEM	QUANT.
SITE PERIMETER	1028 LF
TOTAL NUMBER OVERSTORY TREES REQUIRED (1 TREE / 50 LF OF PERIMETER)	21
OVERSTORY TREES PROVIDED	12
SHRUBS PROVIDED IN LIEU OF OVERSTORY TREES (@ RATE OF 6:1)	72 (=12 TREES)
TOTAL TREES OR EQUIVALENTS PROVIDED	24

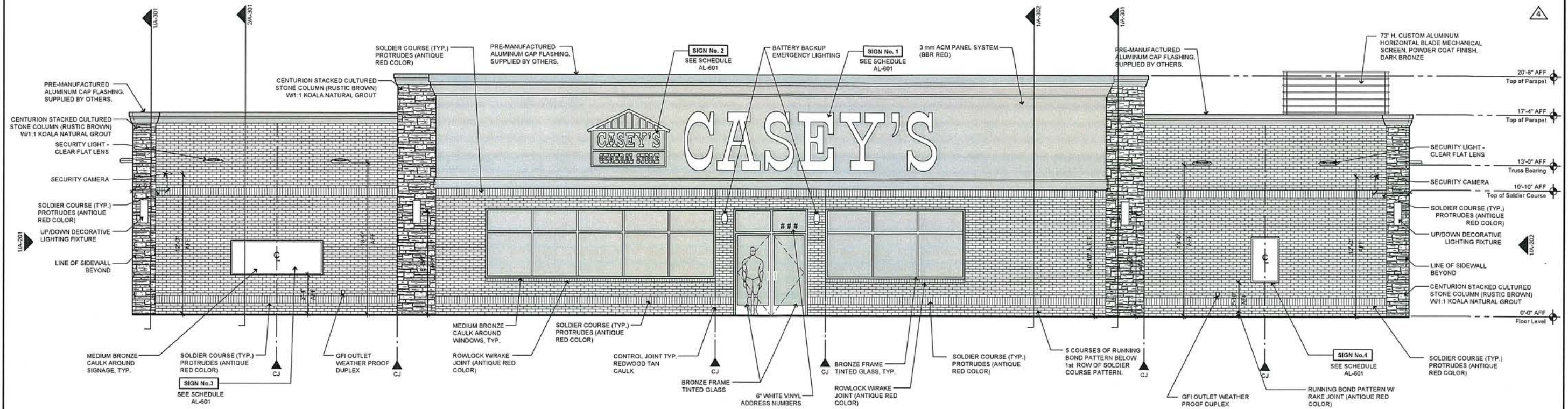
PLANTING NOTES

- SEE ARCHITECTURE FOR LAYOUT. SEE CIVIL FOR GRADING AND STORMWATER AND UTILITIES.
- ROCK MULCH ALONG UTILITY AREA AT BACK OF BUILDING TO BE CRUSHED TRAP ROCK (3/4"-1-1/2" DIA.), 4" MIN. DEPTH. ENSURE COMPLETE COVERAGE.
- ALL PROPOSED PLANTS SHALL BE STAKED AS SHOWN ON THE DRAWINGS AND/OR AS DIRECTED IN THE FIELD BY THE LANDSCAPE ARCHITECT. THE LANDSCAPE ARCHITECT MUST APPROVE ALL STAKING LOCATIONS OF PLANT MATERIALS PRIOR TO ANY DIGGING. LANDSCAPE ARCHITECT SHALL BE NOTIFIED AT LEAST 48 HOURS IN ADVANCE OF THE DELIVERY DATE FOR ALL PLANT MATERIALS.
- EXISTING TREES INDICATED ON PLAN TO REMAIN. PROTECT FROM DAMAGE DURING CONSTRUCTION. ALL TREES OUTSIDE OF WORK LIMIT TO REMAIN UNLESS DAMAGED OR DISEASED. NOTIFY LANDSCAPE ARCHITECT OF ANY ADDITIONAL TREES REQUIRING REMOVAL. SEE ARCH. FOR LANDSCAPE DEMO AND TREE REMOVAL.
- ALL DISTURBED AREAS SHALL BE RESTORED TO TURF UNLESS OTHERWISE SPECIFIED.
- ALL PLANT MATERIAL SHALL BE WARRANTED BY THE CONTRACTOR FOR A PERIOD OF ONE YEAR AFTER THE OWNER'S WRITTEN ACCEPTANCE. ANY ACTS OF VANDALISM OR DAMAGE WHICH MAY OCCUR PRIOR TO THE OWNER'S WRITTEN ACCEPTANCE SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- LANDSCAPE ARCHITECT MUST APPROVE THE DECOMPACTED SUBGRADE AFTER DECOMPACTION WORK IS COMPLETE AND PRIOR TO TOPSOIL PLACEMENT.
- PROVIDE 4 INCHES OF TOPSOIL FOR ALL TURF AREAS AND 6 INCHES OF TOPSOIL FOR ALL SEEDED AREAS. PROVIDE A MINIMUM OF 12 INCHES OF PLANTING SOIL MIX CONSISTING OF 1/3 TOPSOIL, 1/3 SAND, AND 1/3 ORGANIC COMPOST IN ALL SHRUB AND PERENNIAL BEDS. WHERE SHRUBS OR PERENNIALS ARE GROUPED, CREATE ONE CONTINUOUS PLANTING BED. LANDSCAPE ARCHITECT MUST APPROVE SOIL MIXTURE PRIOR TO SPREADING. CONTRACTOR MUST SUBMIT TESTING RESULTS AND FERTILIZER RECOMMENDATIONS FOR REVIEW PRIOR TO APPROVAL.
- ALL EDGED SHRUB PLANTING BEDS TO RECEIVE UNCOLORED 3 INCH DEPTH OF SHREDDED HARDWOOD BARK MULCH. LANDSCAPE ARCHITECT TO APPROVE MULCH PRIOR TO INSTALLATION.
- ALL PLANTING BEDS NOT CONTAINED BY STRUCTURES, CURB, OR PAVING MUST BE EDGED WITH METAL LANDSCAPE EDGING. PERMALOC® 'CLEANLINE' 4" X 3/16", BLACK ANODIZED FINISH, OR APPROVED EQUAL.
- WHERE SOD ABUTS PAVED SURFACES, FINISHED GRADE OF SOD MUST BE HELD 1 INCH BELOW THE SURFACE ELEVATION OF THE PAVED SURFACE.
- SOD SHALL BE LAID PARALLEL TO THE CONTOURS AND SHALL HAVE STAGGERED JOINTS.
- ADJUSTMENT IN LOCATION OF PROPOSED PLANT MATERIAL MAY BE NEEDED IN THE FIELD. SHOULD AN ADJUSTMENT BE ADVISED, THE LANDSCAPE ARCHITECT MUST BE NOTIFIED FOR APPROVAL PRIOR TO ADJUSTMENT.
- ALL PLANT MATERIAL SHALL BE CLEARLY IDENTIFIED (COMMON OR LATIN NOMENCLATURE) WITH A PLASTIC TAG PROVIDED BY NURSERY OR PLANT SOURCE WHICH SHALL NOT BE REMOVED PRIOR TO THE LANDSCAPE ARCHITECT'S APPROVAL.
- ALL PLANT MATERIAL SHALL BE FERTILIZED UPON INSTALLATION WITH DRIED BONE MEAL OR OTHER FERTILIZER AS INDICATED MIXED IN WITH THE PLANTING SOIL PER MANUFACTURER'S INSTRUCTIONS.
- ALL PLANT MATERIALS ARE TO BE INSTALLED PER PLANTING DETAILS.
- WRAP ALL DECIDUOUS TREES FROM THE GROUND TO THE FIRST BRANCH FOR WINTER. WRAPPING MATERIAL SHALL BE QUALITY, HEAVY WATERPROOF CREPE PAPER MANUFACTURED EXPRESSLY FOR THIS PURPOSE. WRAP ALL DECIDUOUS TREES PLANTED IN THE FALL PRIOR TO DECEMBER 1ST, AND REMOVE ALL WRAPPING BETWEEN MAY 1ST AND JUNE 1ST, OR AS INSTRUCTED BY THE LANDSCAPE ARCHITECT.
- IF THE LANDSCAPE CONTRACTOR PERCEIVES ANY DEFICIENCIES IN THE PLANT SELECTIONS, SOIL CONDITIONS, OR ANY OTHER SITE CONDITIONS WHICH MIGHT NEGATIVELY AFFECT PLANT MATERIAL ESTABLISHMENT, SURVIVAL, OR GUARANTEE, THE LANDSCAPE CONTRACTOR SHALL BRING THESE DEFICIENCIES TO THE ATTENTION OF THE LANDSCAPE ARCHITECT.
- ALL SINGLE STEM TREES SHALL BE STOCK THAT WAS GROWN EXPRESSLY AS SUCH. MULTIPLE STEM STOCK WITH STEMS REMOVED WILL NOT BE ACCEPTED.
- NO PLANT MATERIAL SUBSTITUTIONS WILL BE ACCEPTED UNLESS APPROVAL IS REQUESTED OF THE LANDSCAPE ARCHITECT BY THE LANDSCAPE CONTRACTOR PRIOR TO SUBMISSION OF A BID AND/OR QUOTATION.
- CONTRACTOR SHALL PROVIDE A WRITTEN REQUEST FOR THE OWNER ACCEPTANCE INSPECTION UPON COMPLETION OF ALL PLANTING WORK.

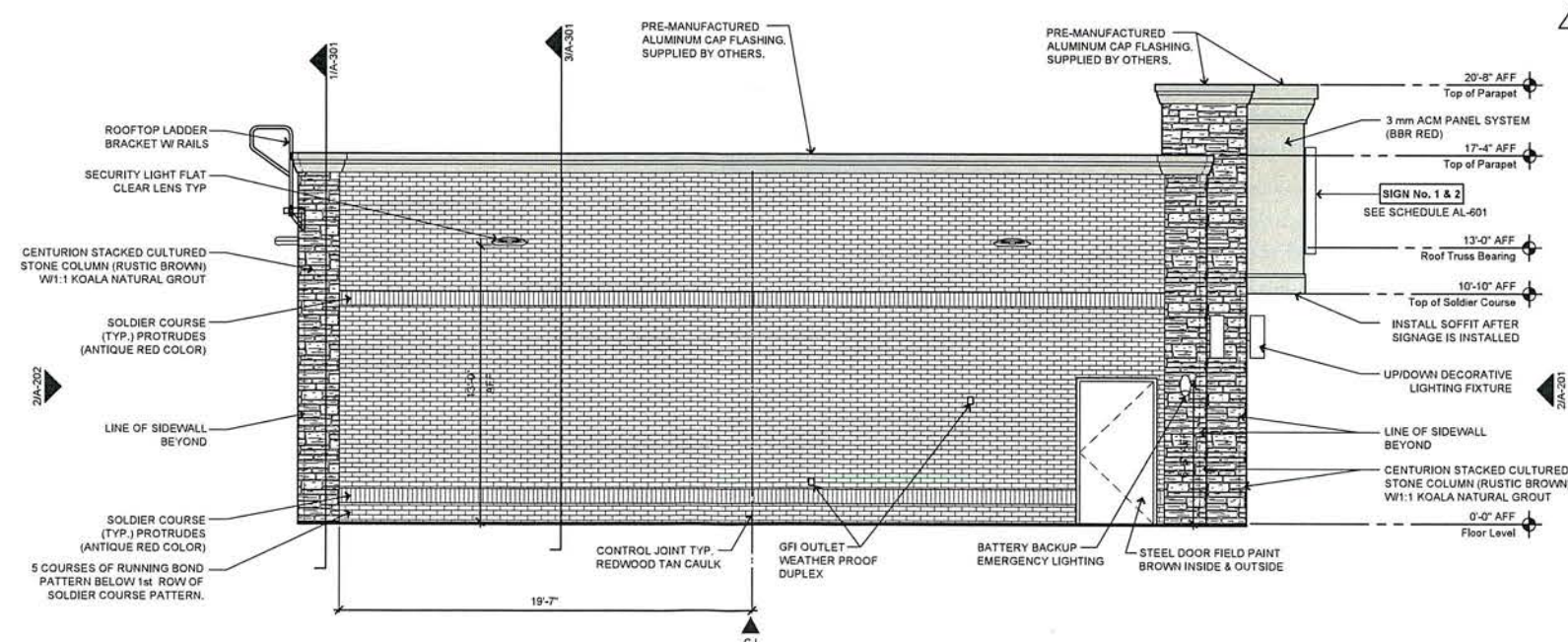
L100 PLANTING SCHEDULE

TAG	QTY	COMMON NAME	BOTANICAL NAME	SIZE	NOTES
TREES					
AG	2	AUTUMN BRILLIANCESERVICEBERRY	AMELANCHIER X GRANDIFLORA 'AUTUMN BRILLIANCE'	1.5' B+B (6' CLUMP)	CLUMP FORM
PG	4	BLACK HILLS SPRUCE	PICEA GLAUCA DENSATA	8' B+B	-
QE	4	NORTHERN PIN OAK	QUERCUS ELLIPSOIDALIS	2.5' B+B	STRAIGHT LEADER
GT	4	NORTHERN ACCLAIM HONEYLOCUST	GLEDTISIA TRIACANTHOS VAR INERMIS 'HARVE'	2.5' B+B	STRAIGHT LEADER
SHRUBS					
JS	22	ARCADIA JUNIPER	JUNIPERUS SABINA 'ARCADIA'	5 GAL	4' O.C. TYP
RA	50	GRO-LOW SUMAC	RHUS AROMATICA 'GRO-LOW'	5 GAL	4' O.C. TYP

[illegible]



2 Front Elevation
1/4" = 1' - 0"



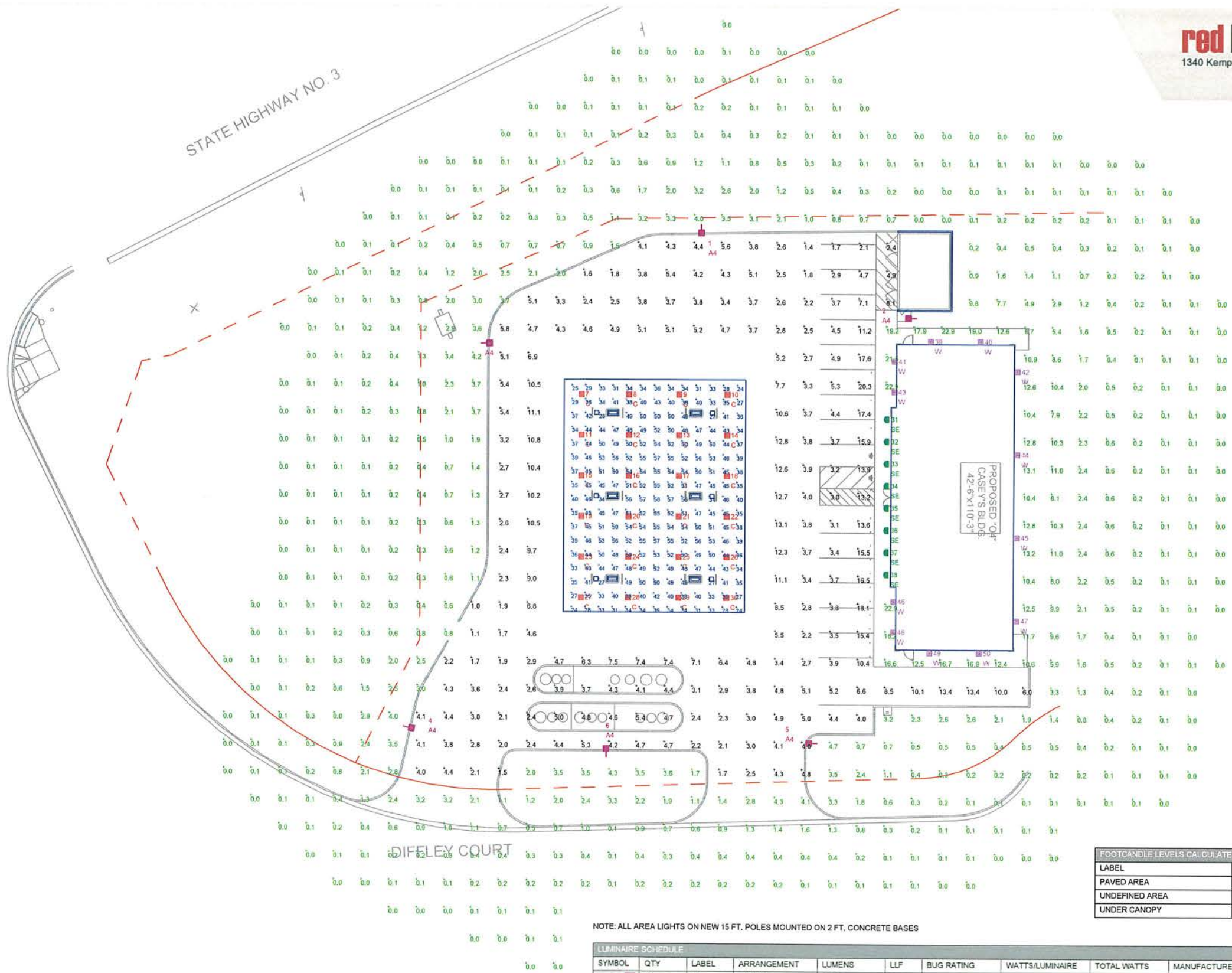
1 Left Side of Building
1/4" = 1' - 0"

General Notes

1. REFER TO AL-601 FOR SIGNAGE SCHEDULE INCLUDING SIZE AND AREA OF SIGNS SHOWN ON ELEVATIONS.

SCREENING

CASEY'S CONSTRUCTION DIVISION One Convenience Blvd., P.O. Box 3001, Ankeny, Ia. 50021 515-965-6100	
2017 "O4" STYLE STORE FLAT ROOF	04.14.17 06.23.17 EXTERIOR ELEVATIONS
CONSTRUCTION DIVISION BRYAN RAHN	A-201



LUMINAIRE LOCATION SUMMARY		
LUM. NO.	LABEL	MTG. HT.
1	A4	17
2	A4	17
3	A4	17
4	A4	17
5	A4	17
6	A4	17
7	C	16.5
8	C	16.5
9	C	16.5
10	C	16.5
11	C	16.5
12	C	16.5
13	C	16.5
14	C	16.5
15	C	16.5
16	C	16.5
17	C	16.5
18	C	16.5
19	C	16.5
20	C	16.5
21	C	16.5
22	C	16.5
23	C	16.5
24	C	16.5
25	C	16.5
26	C	16.5
27	C	16.5
28	C	16.5
29	C	16.5
30	C	16.5
31	SE	10
32	SE	10
33	SE	10
34	SE	10
35	SE	10
36	SE	10
37	SE	10
38	SE	10
39	W	10
40	W	10
41	W	10
42	W	10
43	W	10
44	W	10
45	W	10
46	W	10
47	W	10
48	W	10
49	W	10
50	W	10

FOOTCANDLE LEVELS CALCULATED AT GRADE USING INITIAL LUMEN VALUES					
LABEL	AVG	MAX	MIN	AVG/MIN	MAX/MIN
PAVED AREA	5.40	20.3	1.0	5.40	20.30
UNDEFINED AREA	1.44	22.9	0.0	N.A.	N.A.
UNDER CANOPY	43.67	58	24	1.82	2.42

NOTE: ALL AREA LIGHTS ON NEW 15 FT. POLES MOUNTED ON 2 FT. CONCRETE BASES

LUMINAIRE SCHEDULE										
SYMBOL	QTY	LABEL	ARRANGEMENT	LUMENS	LLF	BUG RATING	WATTS/LUMINAIRE	TOTAL WATTS	MANUFACTURER	DESCRIPTION
	6	A4	SINGLE	11259	1.050	B2-U0-G2	134	804	Cree Inc.	ARE-EDG-4M-DA-06-E-UL-BZ-700
	24	C	SINGLE	13251	1.050	B3-U0-G1	134	3216	CREE, INC.	CAN-304-SL-RS-06-E-UL-WH-700
	8	SE	SINGLE	3902	1.050	B2-U0-G0	34	272	CREE, INC.	SFT-228-PS-RM-03-E-UL-BZ-350-IC
	12	W	SINGLE	8739	1.050	B2-U0-G2	100	1200	CREE, INC.	SEC-EDG-3M-WM-06-E-UL-BZ-525

PERSONS USING THIS PROGRAM ARE ADVISED THAT THE PROGRAM AND ITS OUTPUTS ARE PROVIDED AS IS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. IN NO EVENT SHALL THE PROGRAM OR ITS OUTPUTS BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, AND CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE PROGRAM OR ITS OUTPUTS. THE USER ASSUMES ALL LIABILITY FOR THE USE OF THE PROGRAM OR ITS OUTPUTS. THE USER SHALL INDEMNIFY AND HOLD HARMLESS THE PROGRAM DEVELOPER FROM AND AGAINST ALL SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, AND CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE PROGRAM OR ITS OUTPUTS.

FOR INFORMATIONAL AND ILLUSTRATION PURPOSES ONLY: ALL PRODUCT SPECIFICATIONS AND DIMENSIONS ARE THE PROPERTY OF THE MANUFACTURER. PRODUCT SPECIFICATIONS AND DIMENSIONS MAY VARY WITHOUT NOTICE. THE USER SHALL INDEMNIFY AND HOLD HARMLESS THE PROGRAM DEVELOPER FROM AND AGAINST ALL SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, AND CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE PROGRAM OR ITS OUTPUTS.

ILLUMINATION RESULTS SHOWN ON THIS LIGHTING APPLICATION ARE BASED ON PROJECT PARAMETERS PROVIDED BY THE MANUFACTURER. LIGHTING APPLICATION RESULTS ARE BASED ON THE ASSUMPTIONS AND CONDITIONS PROVIDED BY THE MANUFACTURER. THE USER SHALL INDEMNIFY AND HOLD HARMLESS THE PROGRAM DEVELOPER FROM AND AGAINST ALL SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, AND CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE PROGRAM OR ITS OUTPUTS.

SCALE: 1" = 20'
DATE: 4/05/18
DRAWN BY: D

PROJECT NAME: CASEY'S
INVER GROVE HEIGHTS, MN
DRAWING NUMBER: RL-5350-S1

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

FRATTALONE'S DAWNWAY – CASE NO. 17-35NCUC

Meeting Date: July 23, 2018
 Item Type: Regular
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by:

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 a Resolution relating to Amendment #1 to the Non-Conforming Use Certificate (NCUC) allowing the landfill to operate for an additional 10 years and a Resolution relating to Amendment #2 to the Host Community Agreement.

- Requires 3/5th's vote.
- 60-day deadline: July 27, 2018 (extended by applicant)

SUMMARY

The applicant originally requested a 15-year extension to the current certificate. The applicant has indicated they need the additional time to complete filling the landfill to the approved volume.

- City Council initially discussed the item on December 11, 2017, but no action was taken as the revised Host Community Agreement was not complete.
- City Council last discussed the item on April 9, 2018.
- Additional testimony was taken. Concerns from residents included: noise, dust, truck traffic, vibrations, opposition to extending the term.
- No action taken on April 9 as Host Community Agreement not finalized. Item tabled to May 14.
- Applicant chose mediation to negotiate terms of the Host Community Agreement.
- This resulted in Council taking action on May 14 to table until July 23.
- A revised Host Community Agreement has been drafted with a 10-year extension.
- A Non-Conforming Use Certificate Amendment drafted with a 10-year term to expire on December 31, 2027
- All residents who spoke at the April 9 meeting were sent a mailed notice of tonight's meeting

The City Attorney has prepared a memo summarizing the amendment to the Host Community Agreement.

ACTION

Council to take action on 1) proposed amendment to NCUC with a 10-year extension and 2) proposed Host Community Agreement with 10-year term and payments as described.

Attachments:

1. Memo from City Attorney
2. Resolution approving Amendment #1 to the Non-Conforming Use Certificate
3. Resolution approving Amendment No. 2 to Host Community Agreement and Host Community Agreement
4. City Council minutes from April 9, 2018

**LEVANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
KENNETH J. ROHLF
STEPHEN H. FOCHLER
JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
KORINE L. LAND
DONALD L. HOEFFT
BRIDGET McCaULEY NASON
TONA T. DOVE
AARON S. PRICE
DAVID L. SIENKO
CASSANDRA C. WOLFGRAM

MEMO

TO: Inver Grove Heights Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney for the City of Inver Grove Heights
DATE: July 18, 2018
RE: Dawnway Landfill – Amendment No. 1 to Non-Conforming Use Certificate;
Amendment No. 2 to Host Community Agreement
July 23, 2018 Council Meeting

Section 1. Background. This matter last appeared on the April 9, 2018 Council agenda. Since that time, there have been a number of negotiation sessions with the landfill operator. Most importantly, there was a full day mediation session among the parties overseen by mediator James Gilbert, a retired Minnesota Supreme Court Justice.

Section 2. Terms and Conditions. The following terms and conditions reflect the mediation:

1. The landfill may only accept demolition debris through December 31, 2027 and must cease accepting demolition debris by that date.
2. The accessory uses also cease when the landfill is required to cease accepting demolition debris.
3. The operator must then close the landfill pursuant to a closure plan approved by MPCA, Dakota County, South St. Paul and Inver Grove Heights; and the operator must take all reasonable steps to complete the closure within 24 months after the landfill is no longer able to accept demolition debris.
4. The owner/operator must pay South St. Paul \$250,000 by ten (10) installment payments of \$25,000 each year beginning on September 1, 2018 and continuing on September 1 of each year thereafter through and including September 1, 2027.

5. The owner/operator must pay Inver Grove Heights \$250,000 by ten (10) installment payments of \$25,000 each year beginning on September 1, 2018 and continuing on September 1 of each year thereafter through and including September 1, 2027.
6. By October 1, 2019, the owner/operator must submit an end use concept plan to the staffs of both cities in order to begin a dialog as to what might be an appropriate end use of the landfill. The submission is not binding on the landfill and the responses of the cities staffs are not binding on the cities. The purpose of the process is to begin conversation concerning end use.
7. The owner/operator waives all claims, releases all claims and covenants not to sue with respect to all claims relating in any manner to any alleged invalidity, illegality or unenforceability of the terms and conditions of the Host Community Agreement (and amendments thereto) and of the terms and conditions of the NCUC (and amendments thereto). The waived claims include the following:
 - a. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.
 - b. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.
 - c. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.
 - d. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.
 - e. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition

Debris.

- f. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.
- g. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts IGH or SSP from contracting for, requiring and collecting the Host Community Fees under the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.
- h. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts Dawnway from paying the Host Community Fees under the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.
- i. Any claim that IGH did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill or with respect to the processing of any applications by Dawnway relating thereto.
- j. Any claim that SSP did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of the SSP Grading Permit or with respect to the processing of any applications by Dawnway relating thereto.

Section 3. Council Action. This matter is on the Council agenda for July 23, 2018. Attached for consideration by the City Council are the following two resolutions:

- Resolution Approving Amendment No. 2 to Host Community Agreement
- Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill

The landfill owner/operator has agreed to all documents.

Attachments

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

RESOLUTION NO. 18-_____

**A RESOLUTION APPROVING AMENDMENT NO. 1 TO RESOLUTION NO. 02-156
GRANTING A NON-CONFORMING USE CERTIFICATE FOR A DEMOLITION
DEBRIS LANDFILL**

WHEREAS, the City of Inver Grove Heights by Resolution No. 02-156 granted a Non-Conforming Use Certificate for a Demolition Debris Landfill.

WHEREAS, Frattalone's Dawnway, LLLP, a Minnesota limited liability company, is the current fee owner and operator of the Landfill described on the attached Exhibit A.

WHEREAS, the City desires to amend Section 3.5 of Resolution No. 02-156.

WHEREAS, the City desires to amend Section 3.7 of Resolution No. 02-156.

WHEREAS, the City desires to amend Section 4.4 of Resolution No. 02-156.

**NOW, THEREFORE, BE IT RESOLVED BY THE INVER GROVE HEIGHTS
CITY COUNCIL:**

1. The City Council of the City of Inver Grove Heights hereby amends Section 3.5 of Resolution No. 02-156 to read as follows:

3.5 Landfill – Duration. The Landfill may only accept Demolition Debris through December 31, ~~2017~~2027, unless the parties agree to an extension or modification hereof.

2. The City Council of the City of Inver Grove Heights hereby amends Section 3.7 of Resolution No. 02-156 to read as follows:

3.7 Landfill – Closure. Once the Landfill is no longer able to accept Demolition Debris, the Landfill shall be closed ~~within 24 months~~ pursuant to the closure plan approved by the MPCA, Dakota County and the City. ~~In all events, the Landfill must be closed no later than~~ The User must take all reasonable steps to close the Landfill within 24 months after the Landfill is no longer able to accept Demolition Debris.

3. The City Council of the City of Inver Grove Heights hereby amends Section 4.4 of Resolution No. 02-156 to read as follows:

4.4 Fire Protection Agreement. User shall comply with Host Community Agreement, provisions relating to Fire Protection. Payment of the Host fees under the Host Community Agreement shall be considered payment in full of firefighting costs incurred by City through December 31, ~~2017~~2027.

4. The attached Acceptance and Ratification by Frattalone's Dawnway, LLLP is hereby incorporated by reference and made a part of this Resolution. This Resolution shall become effective only upon Frattalone's Dawnway, LLLP executing the attached Acceptance and Ratification and upon Frattalone's Dawnway, LLLP executing Amendment No. 2 to Host Community Agreement.

Passed this 23rd day of July, 2018

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

ACCEPTANCE AND RATIFICATION

Frattalone's Dawnway, LLLP for itself and its successors and assigns hereby accepts, ratifies and agrees to the terms and conditions of **Resolution Number 02-156** and any amendments thereto and the terms and conditions of this *Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill* dated July 23, 2018.

Frattalone's Dawnway, LLLP for itself and its successors and assigns hereby forever waives all liability and claims, demands, causes of action or proceedings against the City relating in any manner to any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) or relating in any manner to any alleged invalidity, illegality or unenforceability of the terms and conditions of **Resolution Number 02-156** and any amendments thereto and the terms and conditions of this *Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill* dated July 23, 2018, including, but not limited to the following claims:

a. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

b. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

c. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

d. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

e. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

f. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10,

2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

g. Any claim that the City did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill or with respect to the processing of any applications by Dawnway relating thereto.

Frattonone's Dawnway, LLLP for itself and its successors and assigns hereby covenants not to sue the City for any claims or causes of action against the City relating in any manner to any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) or relating in any manner to any alleged invalidity, illegality or unenforceability of the terms and conditions of **Resolution Number 02-156** and any amendments thereto and the terms and conditions of this ***Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill*** dated July 23, 2018, including, but not limited to the following claims:

a. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

b. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

c. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

d. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

e. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

f. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to

accept Demolition Debris.

g. Any claim that the City did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill or with respect to the processing of any applications by Dawnway relating thereto.

Frattalone's Dawnway, LLLP for itself and its successors and assigns hereby forever releases the City from all liability and claims, demands, causes of action or proceedings against the City relating in any manner to any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) or relating in any manner to any alleged invalidity, illegality or unenforceability of the terms and conditions of **Resolution Number 02-156** and any amendments thereto and the terms and conditions of this ***Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill*** dated July 23, 2018, including, but not limited to the following claims:

a. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

b. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

c. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

d. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

e. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

f. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to

accept Demolition Debris.

g. Any claim that the City did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill or with respect to the processing of any applications by Dawnway relating thereto.

IN WITNESS WHEREOF, Frattalone's Dawnway, LLLP has executed this Acceptance and Ratification this 23rd day of July, 2018.

FRATTALONE'S DAWNWAY, LLLP

By: TAN, LLC, the general partner of Frattalone's
Dawnway, LLLP

By:

Nicholas D. Frattalone
President of TAN, LLC

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2018, before me a Notary Public appeared Nicholas D. Frattalone, who being by me duly sworn, did say that he is the President of TAN, LLC., a Minnesota limited liability company; and that TAN, LLC, is the general partner of Frattalone's Dawnway, LLLP, a Minnesota limited liability limited partnership, and that the foregoing instrument was executed on behalf of TAN, LLC by authority of its Board of Governors; and that the foregoing instrument was executed on behalf of Frattalone's Dawnway, LLLP by authority of its partners and said Nicholas D. Frattalone acknowledged said instrument to be the free act and deed of said Frattalone's Dawnway, LLLP and of said TAN, LLC, the general partner of Frattalone's Dawnway, LLLP.

Notary Public

EXHIBIT A
LANDFILL BOUNDARIES (Legal Description)

The South 825 feet of the Southeast quarter of the Southeast quarter (SE ¼ of SE ¼) of Section Thirty-four (34) , Township Twenty-eight (28), Range Twenty-Two (22), lying northwesterly of a line which is parallel with and 40.00 feet northwesterly of the hereinafter described Line A; excepting therefrom one and thirty one (1.31) hundredths acres used for Cemetery purposes; also excepting therefrom that part of the Southeast quarter of the Southeast quarter (SE ¼ of SE ¼) of said Section Thirty-four (34), described as follows: Beginning at a point 1308.95 feet west and 8.25 feet north of the Southeast corner of said Section Thirty-four (34), thence North 208.71 feet, thence East 208.71 feet, thence South 208.71 feet, thence West 208.71 feet to the place of beginning, said last excepted piece containing one (1) acre.

Also the South 825 feet of Government Lot Eight (8) in Section Thirty-five (35), Township Twenty-eight (28), Range Twenty-two (22) lying westerly of the Chicago, Great Western Railway right of way, and lying northwesterly of a line which is parallel with and 40.00 feet northwesterly of the hereinafter described Line A; excepting therefrom the following described tract of land, to wit: Commencing at a point on the south line of Section Thirty-five (35), Township Twenty-eight (28), Range Twenty-two (22), 322 feet each of the southwest corner of said Section, thence east on Section line 533.26 feet to the westerly line of the Chicago, Great Western Railroad right of way, thence northerly 876.22 feet, thence westerly parallel with the section line 565 feet, thence southerly 645.86 feet, thence easterly thirty (30) feet, thence southerly 230.36 feet to beginning, said excepted lands being within the boundaries of W. F. Krech's 2nd Addition to the Village of Inver Grove, Dakota County, Minnesota.

Line A

Commencing at the southeast corner of the N1/2 of the NE1/4 of the NE ¼ of Section 3, T.27N., R22W; thence westerly, along the south line of said N1/2, a distance of 222.01 feet to the point of beginning of the line to be described; thence deflect to the right 80 degrees 47 minutes 09 seconds a distance of 131.59 feet, to a point on a 520.87 radius, tangential curve, concave to the east; thence northeasterly, along said curve, central angle 79 degrees 30 minutes 58 seconds, a distance of 722.87 feet; thence northeasterly, tangent to said curve 800.00 feet and there terminating.

AND

PARCEL A

All of Block 1, except Lots 28 through 30 inclusive;
All of Block 2;
All of Block 3, except Lot 26;
All of Block 4, except Lots 1, 5 and 6;
All of Block 6, except Lots 1 through 6 inclusive, and except that portion of Lots 7 through 9 inclusive lying northerly of the southerly right-of-way line of Poplar Street as now traveled;
All of Blocks 7 and 8;

Lots 1, Block 10

All that part of the vacated alley in Block 1 lying southerly of the right-of-way of Poplar Street (formerly known as Valley Street); all that part of the vacated alleys in Block 4, except that portion which accrues to Lots 1, 5 and 6 of said Block by reason of said vacation; all that part of the vacated alleys in Blocks 2, 3, 6, 7 and 8; all that part of vacated Charles Avenue between Poplar Street, (formerly Valley Street) and Linden Street, except that portion which accrues to Lot 6, Block 4 by reason of said vacation; all that part of vacated Boston Avenue between Poplar Street (formerly Valley Street) and Linden Street, except that portion which accrues to Lot 1, Block 4, by reason of said vacation; all that part of vacated Davis Avenue between vacated Maple Street and Linden Street; and all that part of vacated Maple Street between Henry Avenue and Edwards Avenue; All in Lincoln Park Addition to South St. Paul, according to the plat thereof now on file and of record in the Recorder's office in Dakota County, Minnesota.

Reservation in the State of Minnesota and in trust for the taxing districts concerned, all minerals and mineral rights as to Lots, 11, 12, 13, 14, 15, 16, 17, 18, 25 and 26, Block 1; Lots 11, 12, 13, 14, 15, 24, 25, 26, 27, 28, 29 and 30, Block 2;

Lots 1, 2, 3, 12, 13, 14, 15, 23, 24, 25 and 28, Block 3; Lots 9, 10, 11, 16 and 17, Block 4; Lots 8, 9, 10, 11 and 14, Block 6; Lots 1, 2, 3, 4, 5, 6, 13, 14, 15, 25, 26, 27, 28, 29 and 30, Block 7; Lots 7, 10, 13, 14, 17, 18, 19, 20 and 21, Block 8; and Lot 1, Block 10.

PARCEL B:

Lot Twenty-six (26) in Block Three (3) of Lincoln Park Addition to South St. Paul, according to the plat thereof on file and of record in the office of the County Recorder in and for Dakota County, Minnesota; excepting all minerals and mineral rights reserved in favor of the State of Minnesota.

PARCEL C:

Lots One (1), Two (2) and Three (3) in Block Six (6) of Lincoln Park Addition to South St. Paul, subject to an easement to the Great Lakes Pipe Line Company of Ponca City, Oklahoma, over and across said Lots 1, 2, and 3 in said Block 6;

Lots Five (5) and Six (6) in Block Six (6) of Lincoln Park Addition to South St. Paul, excepting that part of Lots 5 and 6, Block 6, lying and being northerly of the Northerly line of new Valley Street (as relocated and constructed as of January 2, 1958 from Henry Street in an easterly direction to Edwards Street);

All according to the plat thereof on file and of record in the office of the County Recorder in and for Dakota County, Minnesota.

Excepting all minerals and mineral rights reserved in favor of the State of Minnesota.

NOTE: The above-described property contains land in the Cities of Inver Grove Heights and South St. Paul. The defined Landfill for purposes of this Non-Conforming Use Certificate (as so defined by Section 1.20) is only the land described above in the City of Inver Grove Heights.

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

RESOLUTION NO. 18-_____

**A RESOLUTION APPROVING AMENDMENT NO. 2
TO HOST COMMUNITY AGREEMENT FOR DAWNWAY LANDFILL**

WHEREAS, the City of Inver Grove Heights (City) entered into a Host Community Agreement dated September 23, 2002 for the Dawnway Landfill.

WHEREAS, with respect to the Dawnway Landfill, the City entered into Amendment No. 1. to Host Community Agreement dated January 28, 2008.

WHEREAS, the City and the owner/operator of the Dawnway Landfill now desire to amend the Host Community Agreement by this Amendment No. 2.

**NOW, THEREFORE, BE IT RESOLVED BY THE INVER GROVE HEIGHTS
CITY COUNCIL:**

1. The City Council of the City of Inver Grove Heights hereby approves and adopts the attached Amendment No. 2 to Host Community Agreement dated July 23, 2018.
2. The Mayor and City Clerk are authorized to execute the attached Amendment No. 2 to Host Community Agreement dated July 23, 2018.

Passed this 23rd day of July, 2018

George Tourville, Mayor

Attest:

Michelle Tesser, City Clerk

AMENDMENT NO. 2 TO HOST COMMUNITY AGREEMENT

THIS AMENDMENT NO. 2 TO HOST COMMUNITY AGREEMENT (Amendment No. 2) is made, entered into and effective this 23rd day of July, 2018, by and among the **City of Inver Grove Heights**, a Minnesota municipal corporation (hereafter referred to as “IGH”), the **City of South St. Paul**, a Minnesota municipal corporation (hereafter referred to as “SSP”), **Frattalone’s Dawnway, LLLP**, a Minnesota limited liability limited partnership (hereafter referred to as “Dawnway”) and **Frattalone Companies, Inc.**, a Minnesota corporation (hereafter referred to as “Frattalone”). 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.

Unless otherwise provided herein, capitalized terms used herein shall have the meanings contained in the Host Community Agreement as defined therein.

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

1.3 SSP. “SSP” means the City of South St. Paul, a Minnesota municipal corporation.

1.4 Bolander. “Bolander” means Carl Bolander & Sons Co., a Minnesota corporation, and its assigns and successors.

1.5 Dawnway. “Dawnway” means Frattalone’s Dawnway, LLLP, a Minnesota limited liability limited partnership, and its assigns and successors.

1.6 Frattalone. “Frattalone” means Frattalone Companies, Inc., a Minnesota corporation, and its successors and assigns.

1.7 Host Community Agreement. “Host Community Agreement” means that certain Host Community Agreement among Carl Bolander & Sons Co., the City of Inver Grove Heights, and the City of South St. Paul, dated September 23, 2002, as such has been assigned to Dawnway.

1.8 Landfill. “Landfill” means that certain real property located in the Cities of South St. Paul and Inver Grove Heights, Dakota County, Minnesota, generally referred to as the Dawnway Demolition Debris Landfill. The Landfill is legally described on the attached Exhibit A, which is incorporated hereby and made a part hereof.

1.9 Consent Agreement – City of Inver Grove Heights. “Consent Agreement – City of Inver Grove Heights” means that certain Consent Agreement dated November 30, 2007, by and among the City of Inver Grove Heights, Carl Bolander & Sons Co., Frattalone’s Dawnway, LLLP and Frattalone Companies, Inc., and recorded December 7, 2007, as Document No. 621015 with the Dakota County Recorder.

1.10 Consent Agreement – City of South St. Paul. “Consent Agreement – City of South St. Paul” means that certain Consent Agreement dated November 29, 2007, by and among the City of South St. Paul, Carl Bolander & Sons Co., Frattalone’s Dawnway, LLLP and Frattalone Companies, Inc., and recorded December 7, 2007, with the Dakota County Recorder as Document No. 621016.

1.11 Assignment and Assumption Agreement. “Assignment and Assumption Agreement” means that certain Assignment and Assumption of Host Community Agreement and Non-Conforming Use Certificate Issued By The City of Inver Grove Heights, Minnesota, dated November 30, 2007, by and among Carl Bolander & Sons Co., Frattalone’s Dawnway, LLLP, Frank M. Frattalone and Frattalone Companies, Inc.

1.12 Memorandum of Assignment and Assumption. “Memorandum of Assignment and Assumption” means that certain Memorandum of Assignment and Assumption of Host Community Agreement and Non-Conforming Use Certificate, dated November 30, 2007, and recorded December 7, 2007, with the Dakota County Recorder as Document No. 621023.

1.13 Amendment No. 1. “Amendment No. 1” means Amendment No. 1 to Host Community Agreement between City of Inver Grove Heights, City of South St. Paul, Carl Bolander & Sons Co., Frattalone’s Dawnway, LLLP, and Frattalone Companies, Inc. dated January 28, 2008.

1.14 Memorandum of Amendment No. 1. “Memorandum of Amendment No. 1” means Memorandum of Amendment No. 1 to Host Community Agreement between City of Inver Grove Heights, City of South St. Paul, Carl Bolander & Sons Co., Frattalone’s Dawnway, LLLP, and Frattalone Companies, Inc. dated January 28, 2008 and recorded on May 2, 2008 as Dakota County Document No. 627455.

ARTICLE 2

RECITALS

Recital No. 1. SSP, IGH and Bolander entered into the Host Community Agreement. At the time of execution of the Host Community Agreement, Bolander owned certain real property generally referred to as the Dawnway Demolition Debris Landfill (Landfill).

Recital No. 2. Bolander sold the Landfill to Dawnway. Bolander assigned the Host Community Agreement to Dawnway subject to the terms and conditions of the following seven (7) documents:

- Host Community Agreement
- Consent Agreement – City of South St. Paul;
- Consent Agreement – City of Inver Grove Heights;
- Assignment and Assumption Agreement;
- Memorandum of Assignment and Assumption;
- Amendment No. 1; and
- Memorandum of Amendment No. 1.

Recital No. 3. By the Consent Agreement – City of South St. Paul, by the Consent Agreement – City of Inver Grove Heights, by the Assignment and Assumption Agreement and by Amendment No. 1, Frattalone has guaranteed the obligations of Dawnway under the Host Community Agreement as amended.

Recital No. 4. SSP, IGH, Dawnway and Frattalone desire to again amend the Host Community Agreement by this Amendment No. 2.

ARTICLE 3

AMENDMENTS TO HOST COMMUNITY AGREEMENT

3.1 Amendment of Section 1.06 of Host Community Agreement. The parties agree that Section 1.06 of the Host Community Agreement is hereby amended to read as follows:

1.06 Capacity and Duration. By virtue of the permits issued by the MPCA, Dakota County, South St. Paul, and Inver Grove Heights, the only solid waste that may be disposed of at the Landfill is Demolition Debris as defined in the NCUC issued by Inver Grove Heights. By virtue of such permits, the following limitations exist at the Landfill:

- a.) Disposal of Demolition Debris at the Landfill shall not exceed approximately 3,928,280 cubic yards of airspace for Demolition Debris, as approved by the MPCA. This airspace does not include the final cover system. The Parties agree that the remaining airspace capacity at the Landfill remaining after December 1, 2001, was approximately 2,932,463 cubic yards. The remaining airspace capacity will be recalculated each year

as required by the MPCA.

- (b) The Landfill may not expand beyond the geographic boundaries identified in the NCUC issued by Inver Grove Heights.
- (c) No part of the final Landfill contour shall exceed an elevation of 236 feet based on South St. Paul Datum (831.46 feet above mean sea level, National Geodetic Vertical Datum of 1929). That elevation includes the final cover system.
- (d) The Landfill may only accept Demolition Debris through December 31, ~~2017~~2027, unless the Parties agree to an extension or modification. Once the Landfill is no longer able to accept Demolition Debris, the Landfill must be closed pursuant to the Closure Plan approved by the MPCA, Dakota County, South St. Paul and Inver Grove Heights. In all events, the Landfill must be closed no later than Dawnway must take all reasonable steps to close the Landfill within 24 months after the Landfill is no longer able to accept Demolition Debris.

3.2 Amendment of Section 5.20 of Host Community Agreement. The parties agree that Section 5.20 of the Host Community Agreement is hereby amended to read as follows:

5.20 Cost of Firefighting. Payment of the Host Community Fee (HCF) shall be considered full compensation for all costs incurred by Inver Grove Heights and South St. Paul for firefighting at the Landfill through December 31, ~~2017~~2027. ~~Bolander~~Dawnway, however, during the firefighting process shall, at its own expense, comply with Section 5.13 and also provide equipment and labor to excavate and expose the Demolition Debris in order that the source of the fire can be identified and in order that the firefighters can apply suppression liquids on the fire itself.

3.3 Amendment of Section 7.11 of Host Community Agreement. The parties agree that Section 7.11 of the Host Community Agreement is hereby terminated in its entirety and is of no further force or effect and is deleted as follows:

7.11 Intentionally Omitted.~~**Municipal Demolition Debris From Inver Grove Heights.**~~ ~~Bolander will allow disposal of Demolition Debris acceptable at the Landfill from City of Inver Grove Heights sources at no charge to the City of Inver Grove Heights for up to 1,500 cubic yards (truck volume) annually provided the demolition is performed by Bolander or by personnel employed by Inver Grove Heights. "City of Inver Grove Heights sources" will include City Hall, public works buildings, fire stations, the Civic Center, Ice Arena, golf course, park buildings and other similar city-owned structures in the City of Inver Grove Heights. This Section 7.11 does not apply to residences, businesses, or other sources of solid waste not listed above as "City of Inver Grove Heights sources."~~

3.4 Amendment of Section 7.12 of Host Community Agreement. The parties agree that Section 7.12 of the Host Community Agreement is hereby terminated in its entirety and is of no further force or effect and is deleted as follows:

~~7.12 Intentionally Omitted. **Municipal Demolition Debris From South St. Paul.** Bolander will allow disposal of Demolition Debris acceptable at the Landfill from City of South St. Paul sources at no charge to the City of South St. Paul for up to 1,500 cubic yards (truck volume) annually provided the demolition is performed by Bolander or by personnel employed by South St. Paul. "City of South St. Paul sources" will include City Hall, public works buildings, fire stations, Iee Arena, golf course, park buildings and other similar city-owned structures in the City of South St. Paul. This Section 7.12 does not apply to residences, businesses, or other sources of solid waste not listed above as "City of South St. Paul sources."~~

3.5 Amendment of Host Community Agreement By Adding Section 7.15. The parties agree that the Host Community Agreement shall be amended by adding Section 7.15 to provide as follows:

7.15 Payment of \$250,000 to Inver Grove Heights. In addition to the fees and payments contained in Sections 7.01 through 7.14 and notwithstanding anything to the contrary contained in Sections 7.01 through 7.14, Dawnway shall pay Inver Grove Heights \$250,000 by 10 installment payments of \$25,000 each year beginning on September 1, 2018 and continuing on September 1 of each year thereafter through and including September 1, 2027.

The payments required by this Section shall be used by Inver Grove Heights for public purposes. Such purposes may include, among others: general fund purposes; the cost of hosting the Landfill; the cost of providing public services; environmental review and monitoring; and meeting and conferring with, among others, Dawnway, Dakota County, the MPCA, the United States Environmental Protection Agency, the Metropolitan Council, the Office of Environmental Assistance, and any other body having jurisdiction over the Landfill; or other legal public purposes.

The payments required by this Section shall be paid regardless of future events, e.g., even if waste volumes drop to zero, or the Landfill ceases operation; provided, however, if, outside of the control of Dawnway, federal, state, county or local laws, rules, regulations ordinances or actions are enacted, amended, repealed, changed or interpreted in any way which prohibits the operation or requires the permanent closure of the Landfill and if, as a result, the Landfill is then prohibited from operating or permanently closed, the payments required by this Section shall cease. In the event the prohibition is lifted, then the obligation for future payments is reinstated.

If the payments required under this Section are not made within thirty (30) days of the due date, then the city that has not received the payment may by written notice to Dawnway accelerate the requirement for payment of the remaining balance of

the original \$250,000 that is to be paid to the city; provided, however, acceleration shall only occur if all the following events have happened:

- (a) Dawnway must be thirty (30) days or more delinquent in making an installment payment.
- (b) Once the thirty (30) day or more delinquency has occurred, the city must give Dawnway a written notice of the city's intent to accelerate unless Dawnway within thirty (30) days after the date of the written notice pays all installment payments that are due.
- (c) Within the thirty (30) day cure period, Dawnway does not pay all the installment payments that are due.
- (d) Once all of the above-listed matters have happened, then in order for acceleration to occur the city must give written notice to Dawnway that acceleration has occurred.

The accelerated obligation to pay the remaining balance of the original \$250,000 shall be in force and effect five (5) days after the date of the last written notice to Dawnway. Dawnway must then pay the remaining balance of the original \$250,000 immediately.

3.6 Amendment of Host Community Agreement By Adding Section 7.16. The parties agree that the Host Community Agreement shall be amended by adding Section 7.16 to provide as follows:

7.16 Payment of \$250,000 to South St. Paul. In addition to the fees and payments contained in Sections 7.01 through 7.14 and notwithstanding anything to the contrary contained in Sections 7.01 through 7.14, Dawnway shall pay South St. Paul \$250,000 by 10 installment payments of \$25,000 each year beginning on September 1, 2018 and continuing on September 1 of each year thereafter through and including September 1, 2027.

The payments required by this Section shall be used by South St. Paul for public purposes. Such purposes may include, among others: general fund purposes; the cost of hosting the Landfill; the cost of providing public services; environmental review and monitoring; and meeting and conferring with, among others, Dawnway, Dakota County, the MPCA, the United States Environmental Protection Agency, the Metropolitan Council, the Office of Environmental Assistance, and any other body having jurisdiction over the Landfill; or other legal public purposes.

The payments required by this Section shall be paid regardless of future events, e.g., even if waste volumes drop to zero, or the Landfill ceases operation; provided, however, if, outside of the control of Dawnway, federal, state, county or local laws, rules, regulations ordinances or actions are enacted, amended, repealed, changed or

interpreted in any way which prohibits the operation or requires the permanent closure of the Landfill and if, as a result, the Landfill is then prohibited from operating or permanently closed, the payments required by this Section shall cease. In the event the prohibition is lifted, then the obligation for future payments is reinstated.

If the payments required under this Section are not made within thirty (30) days of the due date, then the city that has not received the payment may by written notice to Dawnway accelerate the requirement for payment of the remaining balance of the original \$250,000 that is to be paid to the city; provided, however, acceleration shall only occur if all the following events have happened:

- (a) Dawnway must be thirty (30) days or more delinquent in making an installment payment.
- (b) Once the thirty (30) day or more delinquency has occurred, the city must give Dawnway a written notice of the city's intent to accelerate unless Dawnway within thirty (30) days after the date of the written notice pays all installment payments that are due.
- (c) Within the thirty (30) day cure period, Dawnway does not pay all the installment payments that are due.
- (d) Once all of the above-listed matters have happened, then in order for acceleration to occur the city must give written notice to Dawnway that acceleration has occurred.

The accelerated obligation to pay the remaining balance of the original \$250,000 shall be in force and effect five (5) days after the date of the last written notice to Dawnway. Dawnway must then pay the remaining balance of the original \$250,000 immediately.

3.7 Amendment of Section 13.08 of Host Community Agreement. The parties agree that Section 13.08 of the Host Community Agreement is hereby amended to read as follows:

13.08 Term/Termination. Subject to Section 13.09, this Agreement shall terminate ~~on January 1, 2018~~ upon closure of the Landfill pursuant to Section 13.14.

3.8 Amendment of Section 13.09 of Host Community Agreement. The parties agree that Section 13.09 of the Host Community Agreement is hereby amended to read as follows:

13.09 Survival of Covenants. Notwithstanding Section 13.08, the following sections shall not terminate but instead shall survive and be deemed continuing notwithstanding the termination of the Parties' other obligations in this Agreement:

Section 5.21

Section 15.06

Section 6.01	Section 15.07
Section 6.02	Section 16.01
<u>Section 13.14</u>	Section 16.02
<u>Section 13.15</u>	Section 16.03
Section 15.01	Section 16.04
Section 15.02	Section 16.05
Section 15.03	Section 16.06
Section 15.04	Section 16.07.
Section 15.05	

3.9 Amendment of Section 13.13 of Host Community Agreement. The parties agree that the Host Community Agreement is hereby amended to add Section 13.13 to read as follows:

13.13 Concept Plan for End Use. By October 1, 2019, Dawnway shall submit to the City Administrators of Inver Grove Heights and South St. Paul a Concept End Use Plan for the Landfill showing Dawnway's intended end use for development of the Landfill property after closure of the Landfill. Unless otherwise expressly so stated, the Concept End Use Plan shall be for discussion purposes only, shall not be deemed an application for any land use approval, and it shall not be binding on Dawnway and Dawnway may present other plans in the future. Also, unless otherwise so stated in response to Dawnway's express statement otherwise, the City Administrators shall transmit to Dawnway their observations of the Concept End Use Plan, and their observations are not binding on the Cities of Inver Grove Heights and South St. Paul. The parties agree that, unless otherwise so stated, the purpose of submitting the Concept End Use Plan is to begin a dialogue among the parties about what development may be appropriate for the Landfill property after closure of the Landfill.

3.10 Amendment of Section 13.14 of Host Community Agreement. The parties agree that the Host Community Agreement is hereby amended to add Section 13.14 to read as follows:

13.14 Ongoing Limitations. Dawnway specifically agrees that the Landfill shall comply with the following limitations and that this section 13.14 shall survive any termination of this Agreement.

- (a) Disposal of Demolition Debris at the Landfill shall not exceed approximately 3,928,280 cubic yards of airspace for Demolition Debris, as approved by the MPCA. This airspace does not include the final cover system. The Parties agree that the remaining airspace capacity at the Landfill remaining after December 1, 2001, was approximately 2,932,463 cubic yards. The remaining airspace capacity will be recalculated each year as required by the MPCA.
- (b) The Landfill may not expand beyond the geographic boundaries identified

in the NCUC issued by Inver Grove Heights.

- (c) No part of the final Landfill contour shall exceed an elevation of 236 feet based on South St. Paul Datum (831.46 feet above mean sea level, National Geodetic Vertical Datum of 1929). That elevation includes the final cover system.
- (d) The Landfill may only accept Demolition Debris through December 31, 2027, unless the Parties agree to an extension or modification. Once the Landfill is no longer able to accept Demolition Debris, the Landfill must be closed pursuant to the Closure Plan approved by the MPCA, Dakota County, South St. Paul and Inver Grove Heights. Dawnway must take all reasonable steps to close the Landfill within 24 months after the Landfill is no longer able to accept Demolition Debris.

3.11 Amendment of Section 13.15 of Host Community Agreement. The parties agree that the Host Community Agreement is hereby amended to add Section 13.15 to read as follows:

13.15 Acceptance and Ratification. Dawnway for itself and its successors and assigns hereby accepts, ratifies and agrees to the terms and conditions of the Host Community Agreement and Amendment No. 1 thereto and Amendment No. 2 thereto and to the terms and conditions of IGH Resolution Number 02-156 and amendments thereto and the terms and conditions of IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill dated July 23, 2018 and to the terms and conditions of the SSP Grading Permit.

Dawnway for itself and its successors and assigns hereby forever waives all liability and claims, demands, causes of action or proceedings against IGH and SSP relating in any manner to any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) or relating in any manner to any alleged invalidity, illegality or unenforceability of the terms and conditions of the Host Community Agreement and Amendment No. 1 thereto and Amendment No. 2 thereto and of the terms and conditions of IGH Resolution Number 02-156 and amendments thereto and of the terms and conditions of IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill dated July 23, 2018, and of the terms and conditions of the SSP Grading Permit including, but not limited to the following claims:

- a. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

b. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

c. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

d. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

e. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

f. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

g. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts IGH or SSP from contracting for, requiring and collecting the Host Community Fees under the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.

h. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts Dawnway from paying the Host Community Fees under the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.

i. Any claim that IGH did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community

Agreement or with respect to the processing of **IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill** or with respect to the processing of any applications by Dawnway relating thereto.

j. Any claim that SSP did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of the **SSP Grading Permit** or with respect to the processing of any applications by Dawnway relating thereto.

Dawnway for itself and its successors and assigns hereby covenants not to sue IGH and SSP for any claims or causes of action against IGH and SSP relating in any manner to any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) or relating in any manner to any alleged invalidity, illegality or unenforceability of the terms and conditions of the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof and of the terms and conditions of **IGH Resolution Number 02-156** or amendments thereto and of the terms and conditions of **IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill** dated July 23, 2018 and of the terms and conditions of the **SSP Grading Permit**, including, but not limited to the following claims:

a. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

b. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

c. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

d. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

e. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

f. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

g. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts IGH or SSP from contracting for, requiring and collecting the Host Community Fees under the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.

h. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts Dawnway from paying the Host Community Fees under the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.

i. Any claim that IGH did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of **IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill** or with respect to the processing of any applications by Dawnway relating thereto.

j. Any claim that SSP did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of the **SSP Grading Permit** or with respect to the processing of any applications by Dawnway relating thereto.

Dawnway for itself and its successors and assigns hereby forever releases IGH and SSP from all liability and claims, demands, causes of action or proceedings against IGH and SSP relating in any manner to any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) or relating in any manner to any alleged invalidity, illegality or unenforceability of the terms and conditions of the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof and of the terms and conditions of **IGH Resolution Number 02-156** or amendment thereto and of the terms and conditions of **IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill** dated July 23, 2018 and of the terms

and conditions of the **SSP Grading Permit**, including, but not limited to the following claims:

a. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

b. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to only accept Demolition Debris through December 31, 2027, unless the parties agree to an extension or modification hereof.

c. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

d. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to close the Landfill no later than 24 months after the Landfill is no longer able to accept Demolition Debris.

e. Any claim that the Minnesota Planning Act (Minn. Stat. §§ 462.351 to 462.365) including but not limited to Minn. Stat. § 462.357, subds. 1(c) and 1(e) or similar City ordinance invalidates, prohibits or restricts the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

f. Any takings claim under State or Federal Statutes or Constitutions including but not limited to Minn. Stat. §§ 117.184, 462.357 subds. 1(c) and 1(e) relating to the obligation of the Landfill to cease the Accessory Uses identified in Sections § 2.3.4, 2.3.5, 2.3.7, 2.3.9, 2.3.10, 2.3.12, 2.3.13 and 2.3.14 of Resolution Number 02-156 once the Landfill is no longer able to accept Demolition Debris.

g. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts IGH or SSP from contracting for, requiring and collecting the Host Community Fees under the Host Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.

h. Any claim that Minnesota Statute §115A.921 invalidates, prohibits or restricts Dawnway from paying the Host Community Fees under the Host

Community Agreement and Amendment No. 1 thereof and Amendment No. 2 thereof.

i. Any claim that IGH did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of **IGH Resolution Approving Amendment No. 1 to Resolution No. 02-156 Granting a Non-Conforming Use Certificate for a Demolition Debris Landfill** or with respect to the processing of any applications by Dawnway relating thereto.

j. Any claim that SSP did not comply with Minnesota Statute §15.99 with respect to the processing of Amendment No. 2 to the Host Community Agreement or with respect to the processing of the **SSP Grading Permit** or with respect to the processing of any applications by Dawnway relating thereto

ARTICLE 4

FRATTALONE RESPONSIBILITY

4.1 Frattalone Responsibility. Frattalone agrees that Frattalone and Dawnway are jointly and severally responsible for the obligations of Dawnway contained in Sections 7.15 and 7.16 of the amended Host Community Agreement.

ARTICLE 5

MISCELLANEOUS

5.1 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Amendment No. 2 shall run with the Landfill, and shall be binding upon the parties and the successors and assigns of the parties.

5.2 Amendment and Waiver. The parties hereto may by mutual written agreement amend this Amendment No. 2 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 Amendment No. 2 or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Amendment No. 2, waive compliance by another with any of the covenants contained in this Amendment No. 2, 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 Amendment No. 2. 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 Amendment No. 2 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 Amendment No. 2 shall be governed by and construed in accordance with the laws of the State of Minnesota.

5.4 Counterparts. This Amendment No. 2 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 Continuation of Host Community Agreement and Amendment No. 1. Except as modified by this Amendment No. 2, all terms and conditions of the Host Community Agreement and Amendment No. 1 remain in full force and effect.

5.6 Recording. This Agreement may be recorded with the Dakota County Recorder.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 on the day and year first stated above.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2018, 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

CITY OF SOUTH ST. PAUL

By: _____
James P. Francis, Mayor

ATTEST:

Christy Wilcox, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this _____ day of _____, 2018, before me a Notary Public within and for said County, personally appeared James P. Francis and Christy Wilcox, 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 South St. Paul, 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

FRATTALONE'S DAWNWAY, LLLP

By: TAN, LLC, the general partner of Frattalone's
Dawnway, LLLP

By: _____

Nicholas D. Frattalone
President of TAN, LLC

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2018, before me a Notary Public appeared Nicholas D. Frattalone, who being by me duly sworn, did say that he is the President of TAN, LLC., a Minnesota limited liability company; and that TAN, LLC, is the general partner of Frattalone's Dawnway, LLLP, a Minnesota limited liability limited partnership, and that the foregoing instrument was executed on behalf of TAN, LLC by authority of its Board of Governors; and that the foregoing instrument was executed on behalf of Frattalone's Dawnway, LLLP by authority of its partners and said Nicholas D. Frattalone acknowledged said instrument to be the free act and deed of said Frattalone's Dawnway, LLLP and of said TAN, LLC, the general partner of Frattalone's Dawnway, LLLP.

Notary Public

FRATTALONE COMPANIES, INC.

By: _____
Nicholas D. Frattalone
Its Chief Executive Officer

With respect to Article 4 hereof

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2018, before me a Notary Public appeared Nicholas D. Frattalone, who being by me duly sworn, did say that he is the Chief Executive Officer of Frattalone Companies, Inc., a Minnesota corporation, and that the foregoing instrument was executed on behalf of said corporation by authority of its Board of Directors; and said Nicholas D. Frattalone acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

This Instrument Drafted By:

Timothy J. Kuntz, #58993
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075

After Recording, Return To:

Timothy J. Kuntz, #58993
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075

EXHIBIT A

Legal Description of Landfill

The South 825 feet of the Southeast quarter of the Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section Thirty-four (34), Township Twenty-eight (28), Range Twenty-Two (22), lying northwesterly of a line which is parallel with and 40.00 feet northwesterly of the hereinafter described Line A; excepting therefrom one and thirty-one (1.31) hundredths acres used for Cemetery purposes; also excepting therefrom that part of the Southeast quarter of the Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of said Section Thirty-four (34), described as follows: Beginning at a point 1308.95 feet west and 8.25 feet north of the Southeast corner of said Section Thirty-four (34), thence North 208.71 feet, thence East 208.71 feet, thence South 208.71 feet, thence West 208.71 feet to the place of beginning, said last excepted piece containing one (1) acre.

Also the South 825 feet of Government Lot Eight (8) in Section Thirty-five (35), Township Twenty-eight (28), Range Twenty-two (22) lying westerly of the Chicago, Great Western Railway right of way, and lying northwesterly a line which is parallel with and 40.00 feet northwesterly of the hereinafter described line A; excepting therefrom the following described tract of land, to-wit: Commencing at a point on the south line of Section Thirty-five (35), Township Twenty-eight (28), Range Twenty-two (22), 322 feet east of the southwest corner of said Section, thence east on Section line 533.26 feet to the westerly line of the Chicago, Great Western Railroad right of way, thence northerly 876.22 feet, thence westerly parallel with the section line 565 feet, thence southerly 645.86 feet, thence easterly thirty (30) feet, thence southerly 230.36 feet to beginning, and said excepted lands being within the boundaries of W.F. Krech's 2nd Addition to the Village of Inver Grove, Dakota County, Minnesota.

LINE A

Commencing at the southeast corner of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 3, T. 27 N., R22 W.; thence westerly along the south line of said N $\frac{1}{2}$ a distance of 222.01 feet to the point of beginning of the line to be described; thence deflect to the right 80 degrees 47 minutes 09 seconds a distance of 131.59 feet, to a point on a 520.87 foot radius, tangential curve, concave to the east; thence northeasterly, along said curve, central angle of 79 degrees 30 minutes 58 seconds, a distance of 722.87 feet; thence northeasterly, tangent to said curve 800.00 feet and there terminating.

PARCEL A:

All of Block 1, excepts Lots 28 through 30 inclusive;

All of Block 2;

All of Block 3, except Lot 26;

All of Block 4, excepts Lots 1, 5 and 6;

All of Block 6, excepts Lots 1 through 6 inclusive, and except that portion of Lots 7 through 9 inclusive lying northerly of the southerly right-of-way line of Poplar Street as now traveled; and except that part of Lot 10, Block 6, Lincoln Park Addition to South St. Paul, according to the recorded plat thereof, lying and being northerly of the northerly line of new Valley Street (as

relocated and constructed as of January 2, 1958, from Henry Street in an Easterly direction to Edwards Street); all in Dakota County, Minnesota; and except that part of the southwesterly half of vacated Edwards Avenue as dedicated on the recorded plat of Lincoln Park Addition to South St. Paul lying between the northeasterly extension of the northwesterly and southeasterly lines of Lot 10, Block 6, in said plat, accruing thereto by reason of the vacation.

All of Block 7 and 8;

Lot 1, Block 10;

All that part of the vacated alley in Block 1 lying southerly of the right-of-way of Poplar Street (formerly known as Valley Street; all that part of the vacated alleys in Block 4, except that portion which accrues to Lots 1, 5 and 6 of said Block by reason of said vacation; all that part of the vacated alleys in Blocks 2, 3, 6, 7 and 8; all that part of vacated Charles Avenue between Poplar Street, (formerly Valley Street) and Linden Street, except the portion which accrues to Lot 6, Block 4 by reason of said vacation; all that part of vacated Boston Avenue between Poplar Street (formerly Valley Street) and Linden Street except that portion which accrues to Lot 1, Block 4, by reason of said vacation; all that part of vacated Davis Avenue between vacated Maple Street and Linden Street; and all that part of vacated Maple Street between Henry Avenue and Edwards Avenue;

All in Lincoln Park Addition to South St. Paul, according to the plat thereof now on file and of record in the Recorder's office in Dakota County, Minnesota.

Reservation in the State of Minnesota in trust for the taxing districts concerned, all minerals and mineral rights as to Lots 11, 12, 13, 14, 15, 16, 17, 18, 25 and 26, Block 1; Lots 11, 12, 13, 14, 15, 24, 25, 26, 27, 28, 29 and 30, Block 2;

Lots 1, 2, 3, 12, 13, 14, 15, 23, 24, 25 and 28, Block 3; Lots 9, 10, 11, 16 and 17, Block 4; Lots 8, 9, 10, 11 and 14, Block 6; Lots 1, 2, 3, 4, 5, 6, 13, 14, 15, 25, 26, 27, 28, 29 and 30, Block 7; Lots 7, 10, 13, 14, 17, 18, 19, 20 and 21, Block 8; and Lot 1, Block 10.

PARCEL B:

Lot Twenty-six (26) in Block Three (3) of Lincoln Park Addition to South St. Paul, according to the plat thereof on file and of record in the office of the County Recorder in and for Dakota County, Minnesota; excepting all minerals and mineral rights reserved in favor of the State of Minnesota.

PARCEL C:

Lots One (1), Two (2) and Three (3) in Block Six (6) of Lincoln Park Addition to South St. Paul, subject to an easement to the Great Lakes Pipe Line Company of Ponca City, Oklahoma, over and across said Lots 1, 2 and 3 in said Block 6; Lots Five (5) and Six (6), Block 6 of Lincoln Park Addition to South St. Paul, excepting that part of Lots 5 and 6, Block 6, lying and being northerly of the Northerly line of new Valley Street (as relocated and constructed as of January 2, 1958 from Henry Street in an easterly direction to Edwards Street);

That part of vacated Linden Street accruing thereto by reason of the vacation.

All according to the plat thereof on file and of record in the office of the County Recorder in and for Dakota County, Minnesota.

B. TABBY CAT, LLC; Consider an Ordinance Amendment 1350 to the Bishop Heights PUD Ordinance to allow for a feline veterinary clinic to be located on Lot 3, Block 1, Bishop Heights 4th Addition. Ordinance 1350.

Community Development Director Tom Link stated that the property is located off of Upper 55th and Blaine Avenue in a commercial retail strip center located near the Caribou Coffee shop. He stated that the Southeast Quadrant has its own PUD Ordinance with properties rezoned to a specific use, and that this is zoned for general retail/restaurant. It does not provide for a veterinary clinic. He stated that when they consider zoning changes, they look at parking and traffic generation. This will use less parking than the retail it is zoned for now.

Planning Staff recommends approval and the Planning Commission unanimously recommends approval.

Dr. Grant Gugisberg, Parkview Cat Clinic, stated that they have been in business for 30 years and are looking for a new place to locate their business.

Motion by Piekarski Krech second by Perry to approve an Ordinance 1350 Amendment to the Bishop Heights PUD Ordinance to allow for a feline veterinary clinic to be located on Lot 3, Block 1, Bishop Heights 4th Addition.

Ayes: 4

Nays: 0 **Motion carried.**

C. FRATTALONE'S DAWNWAY;

1) Amendment No. 2 to Host Community Fee Agreement

2) Consider a Resolution relating to an Amendment to the Non-Conforming Use Certificate allowing the landfill to operate for an additional 15 years. The property is located on Dawn Way, west of Concord Boulevard.

City Administrator Joe Lynch reviewed the Amendment to the Host Community Fee Agreement which include two changes in the Agreement. One is in Section 7.11 for the omission of acceptance of material from each City. The current agreement was to allow each City to bring up to 1500 cubic yards of debris to the site for disposal without cost to the City. He stated that the new agreement contemplates elimination of that statement. He stated that the second change is Section 7.15, for payment to each City would be \$750,000, which is \$75,000 each in the next ten years. The previous agreement granted \$830,000, over a five-year period, which did not have a calculation based on value. He stated that he recommends approval of Amendment #2 to the Host Community Fee Agreement for Dawn Way Landfill.

City Attorney Tim Kuntz stated that in the 2002 Agreement, Section 7.8 stated that payments were made irrespective of future events including closing of the landfill. He stated that they put an abbreviated part of that sentence in the Second Amendment. He stated that they were contacted by Frattalone asking that the same exception that exists in Section 7.08 be repeated in this section, which states that if there is an Amendment to Federal, State, or Local Law which shuts the landfill down, the payments would cease if the landfill were permanently closed. He stated that the City Administrator recommends approval of that change and he asks that any motion recognize that change as a part of the approval process.

City Planner Allan Hunting stated that the applicant is proposing to amend the existing Non-Conforming Use Certificate to allow it to operate for an additional 15 years. This item was tabled at the December 11th meeting. There were concerns for truck traffic, dust, and vibrations. He stated that Staff looked into costs of house monitoring for approximately \$2,325.00. He stated that the Council is to act on the extension of the Non-Conforming Use Certificate.

Councilmember Piekarski Krech asked if this used to be a gravel pit and then they started filling it in with demolition debris.

Attorney Kuntz responded that it started as a gravel pit that served building materials. Then the business was sold and began to fill it with demolition filling.

Tony Frattalone, Dawn Way Landfill, stated that they started the application process a year ago and wants to support the neighborhood and the City of Inver Grove Heights. He stated that they crush during the winter months and had the testing done during that timeframe as that is when the vibration would be there. Truck traffic is down from what it is during the summer. He stated that the vibrations do not seem to be from their operations but from the truck traffic on Concord and the railroad tracks down there.

Mayor Tourville stated that an extension has been requested for 15 years but asked if eight to 10 years would be an option.

Mr. Frattalone responded that they ask for a longer extension so they wouldn't have to come back in ten years and try to extend it again for another 15 years. He stated that 12 years could be a possibility.

Keith Joyce, 5873 Concord Boulevard, stated that he has lived in his home for 25 years and is against the extension as they were supposed to be closed 15 years ago. He stated that he feels the vibrations but felt that some were from the railroad and from the trucks going in and out of that area and on Concord. Dust is also an issue. He stated that Ordinance 10-15-4 states that vibrations are not supposed to cross the property line and his home is three property lines over.

Jim Fyksen, 4045 59th Street East, stated that he lives close to the gravel pit and gets dust all the time but that he doesn't feel a lot of the vibrations. He stated that when Kamish started this over 30 years ago, they stated that it should be filled up in 15 years. Extending it for another 15 would put this in operation for 45 years. He does not agree to the extension.

Mike Gardner, 5950 Concord, stated that he doesn't feel the vibrations as much but does feel the trains that go through his backyard. He stated that there is traffic constantly going up and down the road. He doesn't feel it is watered down as much as they say it is, and that at times it looks like a dirt road.

Joe McBride, 4055 59th Street East, displayed a chart representing Frattalone's recycling figures versus disposed materials over the course of eight years. He stated that he didn't understand why they don't take the recycle off, as that creates more traffic. He suggested that they get rid of the recycling there. He stated that he has 49 signatures on a petition that he handed to the City Clerk to keep on file.

Motion by Piekarski Krech second by Perry to receive the petition.

Ayes: 4

Nays: 0 Motion carried.

Mr. McBride stated that in the Amendment it says if the landfill is closed then Frattalone doesn't owe any money. He felt it should be kept on there.

Attorney Kuntz stated that the Amendment states that payments required by this section should be paid regardless of future events even if waste volumes drop to zero or the landfill ceases operation. If outside the control of Dawn Way, Federal, State, or Local Governments pass an enactment/amendment which requires permanent closure and if the landfill permanently closes, then the fees cease. He stated that they would need a change to the law passed by the Government that required permanent closure. If they decide that nothing goes in or out of the landfill, and it wasn't stated by the Government, they would still have to pay as it's under their control.

Glen Birnstengel, South St. Paul, stated that he is representing his mom who lives at 1610 South Concord Street. He stated that the pit has been operating for at least 60 years. He agreed that it was time to close, and that another 15 years is too long.

Mark Feidick, 5946 Concord, displayed some photos off his phone for the Council to look at. He stated that the trucks come by quickly, and the exhaust and dust is blown into his home. Noise is also a factor.

Larry Lascewski, 5919 Concord Boulevard, stated that it was time to close it down because it is an eyesore, a pollutant, and there is too much truck traffic.

Dr. Clayton Anderson and Alaina Berube, 5901 Concord stated that they just bought their home three years ago. They agree with their neighbors regarding the noise, the dust, and debris. They would also like it closed down.

Ms. Berube stated they bike and rollerblade. This area is littered with rocks, gravel, and boulders, making that difficult. She agreed with the need to shut it down.

Mayor Tourville asked where American Testing placed the vibration monitors.

Planner Hunting displayed a map and pointed out the locations of the monitors.

Mayor Tourville asked about the statement that was made regarding "no vibrations can leave the property". He asked that if it says it is by Ordinance, if that would that be in violation of City Code.

Planner Hunting responded that he felt it was a reference in the City Code and that there wasn't anything specific in the document.

Attorney Kuntz responded that Code 10-15-4 would have to be read and applied.

Mr. McBride stated that he had a vibration study done on his house in 2009 by the City of Inver Grove Heights. The findings stated that "all vibration readings were recorded during normal hours of operation of the landfill". He stated that it counted 21 events in one day and on some days, there was nothing, but that all occurred during operational hours.

Mr. Fyksen commented that they probably didn't have the Cat trucks running during the testing as they haven't been running those lately. He felt those were the ones that cause the vibrations.

Mayor Tourville stated that one of the concerns that came up was about the recycling. There is more going out than is coming in which creates the issue of when will this area will ever get filled. He stated that hearing about the amount of debris that was on Dawn and Concord gives the impression that trucks are uncovered more than covered.

Councilmember Hark stated that he was reading Code Section 10-15-4 regarding vibrations. He questioned how the City enforces this. He wasn't sure how it could be enforced unless there is equipment in their yards to measure it at the time of the vibration. He said that the code states that "any use creating periodic earth-shaking vibrations, such as created from a drop forge, shall be prohibited if such vibrations are perceptible beyond the lot line of the site of which the use is located". And that "the standard shall not apply to vibrations created during the process of construction". He asked how this is enforced and measured as there is evidence that vibrations are leaving the lot line.

Community Development Director Tom Link responded that the question had not come up before and they have not received any complaints.

Councilmember Hark asked if there was a violation with the vibration statute and if it would void the Non-Conforming Use Agreement. He asked if that would be in violation of the Code, or if that needed to be placed into the agreement.

Attorney Kuntz responded that the agreement requires compliance with the existing Code and that there is a section that deals with violations. He stated that in regard to the Code, they would have to begin to quantify those vibrations from an engineering firm and see if there is something more than a rare occurrence in order to validate the Ordinance.

Councilmember Hark stated that we had received an estimate for the City to do measurements for vibrations and felt that was something we needed to do before going forward. He stated that while the firm is reputable, that he was reluctant to rely on the applicant's vibration information as they probably didn't consult with the neighbors when they came out and ran the tests. He stated that he is not insinuating that there is anything illegal going on in regard to the testing.

Mayor Tourville asked if the operation would be viable if you are not able to recycle.

Tony Frattalone responded that the recycle numbers that are on there are in the tons, and the material coming in is by the yard.

Nick Frattalone stated that the numbers that were displayed were tight yards at 50% compaction. If you multiply that by two, that is the number of yards that come in.

He stated that in regard to the life of the landfill, in the last ten years they have averaged 108,000 tight yards per year. The total remaining compacity is 1.4 million yards in demolition debris. He stated that without recycling it would still be filled up in 15 years. In the last ten years 900,000 yards of demolition debris has come in. He stated that eliminating the recycle portion and filling it up quickly would not be reasonable as they charge a lesser fee for the concrete to be disposed of because they are recycling it. He stated that if they charge what they need to fill the landfill, customers will go elsewhere with the concrete, so the demolition debris intake will still stay the same.

He stated that in regard to truck traffic, they would have about 15% to 20% less traffic if they were to eliminate the recycling. People will still be coming or going, it will be whether they leave with gravel or not. He stated that they have excavated yards of sand out that is no longer there, so that will eliminate traffic there too. The traffic will gradually decline, but he felt the landfill will be filled up in 15 years.

Tony Frattalone stated that the vibration monitors were placed on the edges of their property except for the one at Troje's. He put it down there because there it's vacant and he wanted to get a reading off of Concord Avenue and the railroad tracks. Other monitors were placed on their property lines where they thought would be the worst points for vibration.

He stated that there is a street sweeper at their location full-time. They don't sweep just once a day, it can be up to four times a day. He stated that there will be dust and that they are always looking at what they can do regarding that. He stated that they welcome calls regarding the dust.

He stated that covering trucks isn't a requirement by the State and that some trucks have tarps some don't. Most of the demolition hauled in are tarped, but not all do it. He stated that it is a DOT rule, but that it doesn't carry for a lot of different materials. Some Counties require tarping, Dakota County does not.

Nick Frattalone stated that the Host fee is a 15-year agreement to be paid in full at year 10.

Attorney Kuntz asked if they report the amount of demolition debris coming in separately from the amount of crushable material coming in to the County. He asked if they are paying a tipping fee to the County on both sources.

Nick Frattalone responded that they report the amount of demolition debris coming in twice to the County on a quarterly basis, as well as a quarterly summary which includes the crushing and the demolition debris. He responded that they pay a tipping fee on just the demolition debris.

Mr. Feidick asked that before a decision is made whether they can be an air and sound quality check done.

Councilmember Piekarski Krech stated that 15 years was way too long in the middle of a residential area. She can't support 15 years. She would like it to shut down now but felt that five years would be reasonable.

Mayor Tourville stated that it would be nice to come up with something to give urgency to getting it filled. They could say 10 years and then it needs to be done. He stated they are doing a great job for where you are located.

Councilmember Hark stated that it has been suggested to be open between 0-5 years. The Mayor is suggesting 5-10. He stated that if we agree on a number, he would suggest seven years.

Nick Frattalone asked what would happen after five years, even if it's not filled.

Councilmember Piekarski Krech responded that nothing would probably be built there as it's been a demolition landfill for so long. She stated that the other landfill in town had to be covered with an appropriate cover.

Nick Frattalone stated that they are also developers and that there is potential for development there. He stated that the site has to be filled at some point. In five years, if it's not filled, then the development can't happen.

Planner Hunting stated that the NCUC was created in 2002 and that it had an end date to be the end of December 2017. He was unsure if there was a Non-Conforming Use Certificate before that.

Mayor Tourville felt they could work better on getting more fill in so the development plan comes to a reality.

Mr. Gardner suggested that they monitor the trucks in the meantime to see what is going on.

Councilmember Perry stated that she agreed with the seven to eight-year range. She stated that she sat at two different spots in the area last week and that in one spot she was at, she noticed between six to ten trucks in the timeframe that she was there.

Mr. Birnstengel stated that on the South St. Paul side there are some very large berms, and that this area was called a landfill but seems to be more of an exchange.

Mayor Tourville asked if the economy were to improve if this area could fill up sooner.

Tony Frattalone responded that there is a small section that has a ponding area, and that the berms will cap the landfill when it's done. He felt the recycling portion was a good thing, as it keeps the costs down and it helps out the City. He stated that it could take 12-13 years to complete, or that it could take 15. He does not see this happening in ten years. He stated that in the top parcel near Henry Avenue, that has been kept low to run the recycle yard so it's kept away from the residents. Their goal is to fill that area and then finish it off.

Mayor Tourville asked if they can make sure the truck loads are covered.

Tony Frattalone responded that they can focus on that, but that most that come in are subcontractors.

Councilmember Piekarski Krech asked if they can state that all loads must be covered in the Conditional Use Permit.

Attorney Kuntz responded that they have a Non-Conforming Use Certificate which was negotiated in 2002. He stated that you could require a condition that would affect all similar type operations as a generic Ordinance. You can't add it to the NCUC without the negotiation.

Mayor Tourville asked if we could have them come back in five years to see how things have progressed.

Attorney Kuntz responded that it would make the language different and comes back to having a permit or not having one.

Councilmember Piekarski Krech stated that she can't see this going on for 15 more summers until 2032, as she will not support that. She felt that seven years with 2025 as the end date was a stretch but was willing to go with that number. She stated that this is in the middle of a residential area and was never meant to be going on for that long and that the residents in the area need some relief.

Nick Frattalone stated that the biggest complaint is the recycle. He asked if they could do five years of the recycle and ten years for the demolition. He stated that the truck load information is included on the reports that are given to Dakota County, and figured that approximately 2,000 truckloads of recycle go out a year. He stated that those trucks are also coming in with something to drop off, as they are picking up. The demolition debris is twice the quantity per load.

Councilmember Piekarski Krech suggested five years demolition and ten years recycling because she doesn't think the recycle is as big of a quality of life issue as the demolition would be.

Ms. Berube stated that this is a residential area that is changing, as are all the towns around us. She asked to please take all that into consideration.

Mr. Joyce stated that he wasn't sure about the Frattalone's suggestion. Most of the issues come from the vibrations. He stated the truck traffic, the braking, tailgates slamming, etc.

Mr. Fyksen stated that 2000 trucks over a year's period of time, in an eight-hour day is one every hour. He felt that was a lot of traffic on a residential street. He felt the 0-5-year time was a good compromise.

Councilmember Piekarski Krech agreed with the seven-year timeframe for both with the end in 2025.

Attorney Kuntz stated that the two items on the Agenda, one being the Amendment to the Host Community Fee and the other the Amendment to the Non-Conforming Use Certificate are connected. He stated that it would be better to have an understanding of both, as the application wasn't for seven or ten years, it was for 15 years and that means the motion for seven denies the 15 years being requested. He stated that they would need findings and reasons for their denial. He stated that they also need an understanding for the zoning.

Attorney Kuntz asked how much of the South St. Paul side was done compared to how far they are on the Inver Grove Heights' side.

Tony Frattalone responded that for the South St. Paul side, the fill area is roughly 80% done and that the cap is not on it. He stated that the Inver Grove Heights side was at about 50%.

Mayor Tourville stated that this will not be approved for 15 years as the City would like to get to the end result as soon as possible. He asked if a different land owner could do something different in the area.

Attorney Kuntz responded that they could not in terms of the Non-Conforming Use Permit.

Mayor Tourville stated that they may need to table this and come up with more information. He stated that if this does continue to operate, it needs to continue to operate cleaner.

Tony Frattalone stated that when they began this project last May, they came up with this plan and that they don't want to see this extend too much longer as it's their busy time of year. He feels shutting this down early will affect the outcome of the property.

Administrator Lynch stated that this is complicated due to a second party, being the City of South St. Paul, is also involved. He stated that South St. Paul will be making a decision next week, and that he wasn't sure what position that decision would put us in.

Mayor Tourville recommended tabling this until the next regular meeting on May 14th, which gives them time before the end of the 60-day period ending May 25th. This also gives them time with the Applicant and the City of South St. Paul.

Motion by Piekarski Krech second by Perry to table this until May 14, 2018.

Ayes: 4

Nays: 0 Motion carried.

D. PINE BEND LANDFILL;

1) Consider third restated and amended Host Community Agreement

2) Consider the third and final reading of a zoning ordinance to allow a side slope capacity expansion of existing landfills as a conditional use (requires a 4/5th's vote). Ordinance 1351

3) A conditional use permit to allow a side slope capacity expansion at Pine Bend Landfill of 4.1 million cubic yards, including 3.53 million cubic yards of waste (requires a 4/5th's vote). Resolution 18-69.

4) A non-conforming use certificate amendment to allow the capacity expansion at Pine Bend Landfill (requires a 4/5th's vote). Resolution 18-70.

City Administrator Joe Lynch stated that Allied Waste Industries will guarantee the payments as follows:

-The City and BFI have agreed to pay the City \$1,000,000 dollars in ten equal installments of \$100,000 annually beginning October 1st. These are unrestricted funds.

-BFI will pay the City \$1,500,000 in 12 payments of \$125,000 annually beginning June 1, 2018. These payments will be made even if the landfill closes.

-BFI will continue to donate \$15,000 annually to support programs and activities at the V.M.C.C. This funding will cease when the landfill closes.

-The fee schedule found in Exhibit A to the Third Restated and Amended Agreement will apply to the waste volume per year for amounts between 0 and up to 260,000 tons and for any amounts over 400,000 tons. The volume between 260,001 and 399,999 tons will be charged at a rate of \$1 per ton instead of the fee schedule on Exhibit A.

-The inducement fee found in Section 8.07 applies to all volume; the inducement fee is applicable in the years 2026-2030.

-BFI grants the City a Right of First Refusal to purchase the commercial property at 66th Street and Concord Blvd.

-BFI waives the right to appeal any special assessments up to \$1,000,000 for any future street reconstruction on 117th Street as long as they are treated substantially in the same manner with respect to the assessment methodology as other similarly situated land and landowners located along and/or benefitted by the 117th Street improvements.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Approval of Improvements to River Heights Park

Meeting Date: July 23, 2018
 Item Type: Regular Agenda
 Contact: Eric Carlson – 651.450.2587
 Prepared by: Eric Carlson
 Reviewed by:

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

PURPOSE/ACTION REQUESTED

The Council is asked to approve improvements to River Heights Park as outlined below and to fund the improvements of up to \$12,000 from the Park Acquisition and Development Fund (Fund 402).

SUMMARY

At the Monday, May 14th City Council meeting, the Council discuss the future use of River Heights Park. The Council voted to keep River Heights Park as a park and directed staff to meet with a small group of neighbors, members of the Parks and Recreation Commission and the Friends of the Mississippi River (FMR) to develop a recommendation on the preferred improvements to the park.

On Tuesday, June 19th the River Heights Park sub-committee consisting of residents: Tom & Denise Wilkens, Al Meyman, Shirley Bauer, Kerry Hoffner; Commissioners Steve Cook, and Deb Tix; Friends of the Mississippi River staff Alicia Uzarek; and City staff Brian Swoboda, and Eric Carlson met. The following recommendation is supported by the committee and the Parks and Recreation Commission:

- Installation of a Park ID sign on the southwest corner of Inver Grove Trail and River Heights Way set at a 45-degree angle, the sign will be consistent with other IGH Parks ID signs
- Installation of up to two rock park benches in locations TBD in consultation with the sub-committee
- Installation of one picnic table in a location TBD in consultation with the sub-committee
- Installation of a "Park Rules" sign
- Installation of a garbage can and dog bag station
- Work with FMR to develop a Natural Resource Management Plan
- No additional parking added at this time and will be evaluated in the future should popularity of the park dictate a need
- No portable toilet in the park consistent with other parks in the Inver Grove Heights Park system
- The City will remove the fence posts and wire that is tangled up in the trees/undergrowth
- Between the pull off parking area on the south side of the park to the gravel pull off parking area on the north side of the park and approximately 20' behind the roadway along Inver Grove Trail there are approximately a dozen trees that are considered to be trees that should be kept (oaks, cherry, pines, etc)
- The remainder of the trees and undergrowth are boxelder and other non-desirables trees that will be removed

RIVER HEIGHTS PARK



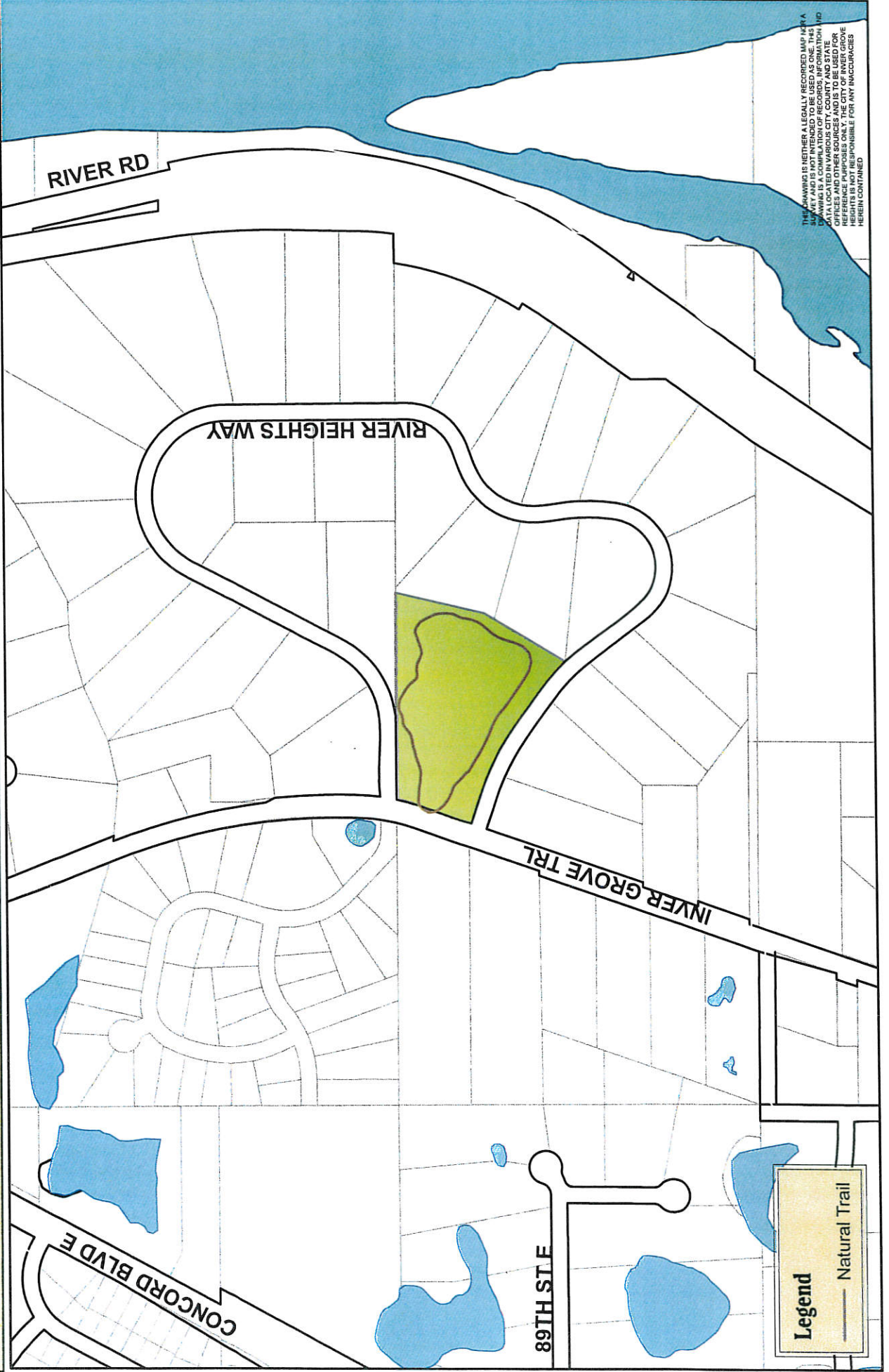
Inver Grove Heights

PARKS & RECREATION



0 200 400 600 800 Feet

November 2007
Map produced by the City of Inver Grove Heights



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River Heights Park

City of Inver Grove Heights, MN

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#2

RIVER HEIGHTS PARK



Inver Grove Heights

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Awarding a Contract to Pember Companies Inc. for the Heritage Village Park Dog Park Improvements

Meeting Date: July 23, 2018
 Item Type: Consent Agenda
 Contact: Eric Carlson – 651.450.2587
 Prepared by: Eric Carlson
 Reviewed by: Brian Swoboda
 Tracy Petersen

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

PURPOSE/ACTION REQUESTED

The Council is asked to award a contract to Pember Companies Inc. for the Heritage Village Park Dog Park in the amount of \$843,017. The Council is also asked to establish a 10% construction contingency budget of \$84,000 for the project. The project is funded by two grants the City has received from the State of MN and the Park Acquisition and Development Fund (Fund 402).

SUMMARY

The City opened bids for the Heritage Village Dog Park on Friday, July 13th and received a total of three bids as follows:

	Engineers Estimate	Pember Companies Inc.	Max Steininger Inc.	G Urban Companies Inc.
Base Bid	\$690,874	\$680,242	\$722,735	\$750,520
Add Alternates:				
Potable Water Service	\$35,000	\$45,150	\$42,011	\$58,800
Additional Light Poles/Fixtures	\$68,000	\$56,100	\$57,218	\$59,500
Common Topsoil Borrow	\$750	\$925	\$1,610	\$1,250
Export & Dispose of Unsuitable Soils	\$27,500	\$50,600	\$56,837	\$41,800
Dewatering	\$3,000	\$10,000	\$1	\$2,000
Total	\$825,124	\$843,017	\$880,412	\$913,870

The base bid includes the parking lot, storm water, electrical service, basic lighting, concrete work, fencing, gates, and signage. The alternate for the potable water service includes providing city water to the entrance area with drinking fountains for humans and their canine companions. The additional lighting includes 17 light poles located inside of the park to provide safety/security after sunset. The alternates of Common Topsoil Borrow, Export & Dispose of Unsuitable Soils, and Dewatering are "place holder" items in case we run into issues.

The overall project costs are as follows:

WSB – Preparation of Plans & Specifications	\$55,000
Braun Intertec – Environmental Coordination	\$10,000
WSB – Construction Observation and Administration (estimate at this time)	\$60,000
Construction Contract with Pember Companies Inc.	\$843,017
10% Construction Contingency	\$84,000
Xcel Energy – Bury Overhead Utility Lines (estimate at this time)	\$40,000
Century Link – Bury Overhead Utility Line (estimate at this time)	\$40,000
Comcast – Remove Overhead Utility Line	TBD
Total	\$1,132,017

There will be a need to increase the Park Maintenance operating budget by \$12,000 to account for additional seasonal staff, supplies, and materials as follows:

Activity	Description	Probable Cost
Mowing	26 weeks x 4 hours x \$18.76	\$2,000
Trash Removal (summer)	52 weeks x 4 hours x \$18.76	\$4,100
Miscellaneous staff time	52 weeks x 2 hour per week x \$28.00	\$2,900
Miscellaneous	Fence, bench, trash can, tables, parking lot, signage, lighting etc.	\$2,000
Portable Toilet	12 months x \$54/month	\$1,000
Total		\$12,000

With the addition of the improvements in Heritage Village Park for the dog park, the funding for the Parks Capital Replacement Fund (Fund 444) should be increased by \$15,000 annually for future replacement of the capital improvements being made.

It is anticipated that users of the dog park will pay a fee to use the facility. Passes will be sold at the Parks and Recreation Office and on-line and we anticipate generating the following revenues annually:

Probable Operational Revenue

Category	Description	Probable Revenue
Annual Passes	300 x \$20	\$6,000
Daily Passes	100 x \$5	\$500
Donations		\$1,500
Total		\$8,000

The Friends of the Inver Grove Heights Dog Park plan to donate two small picnic shelters to the park in the near future along with assisting the City in hosting clean up events, operational issues, etc.

Once a contract with Xcel, Comcast, Century Link, and WSB have been reviewed, staff will bring these items back to the Council for approval. Construction is planned to begin in August and be completed by the end of November. It is anticipated that the small breed area will be closed to the public until the spring of 2019 to allow for the vegetation to establish but the all-breed area will be available for use once construction is complete.



SCALE: AS SHOWN
DESIGN BY: CA
PLAN BY: EK
CHECK BY: CA

[illegible]

DATE: 02/21/18 LIC. NO. 406418
CANDACE C. AMBERG
LAWYER OF THE STATE OF MINNESOTA

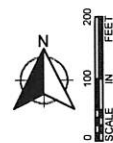
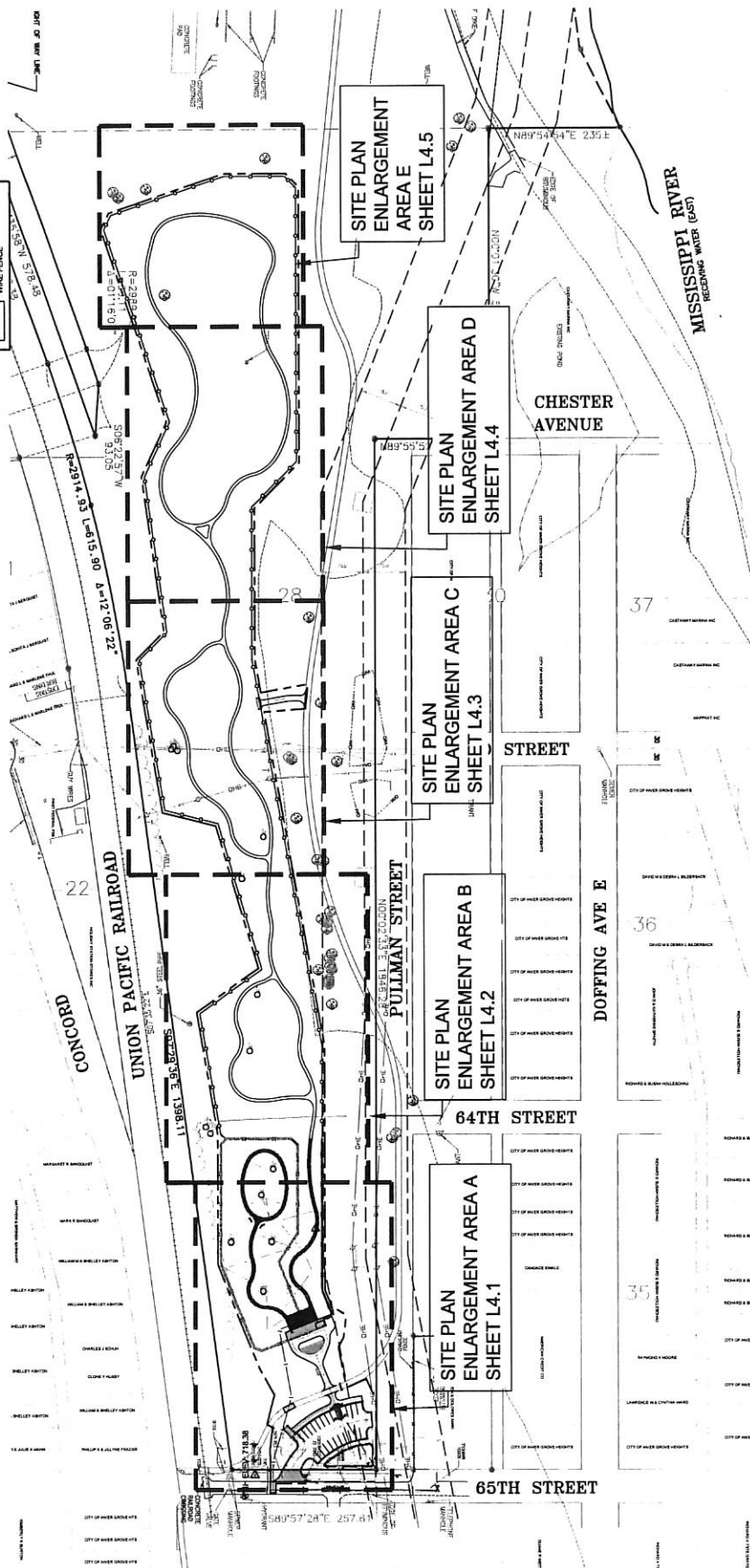
HVP DOG PARK
DEVELOPMENT PROJECT
CITY OF INVER GROVE HEIGHTS

OVERALL SITE
PLAN

C.P.	SHEET
1707	L4.0

FENCING LAYOUT NOTE

LEGEND	
	EXISTING TREE LINE
	EXISTING CONTOUR
	CONSTRUCTION LIMITS
	LAYOUT CONTROL POINT
	LAYOUT CONTROL LINE
	CENTERLINE
	ARC TANGENT LINE
	AGGREGATE PAVEMENT
	CONCRETE PAVEMENT
	BITUMINOUS PAVEMENT
	CHAIN LINK FENCE ON CONC. MAINTENANCE STRIP
	PERIMETER POST & WIRE FENCE



OVERALL SITE PLAN

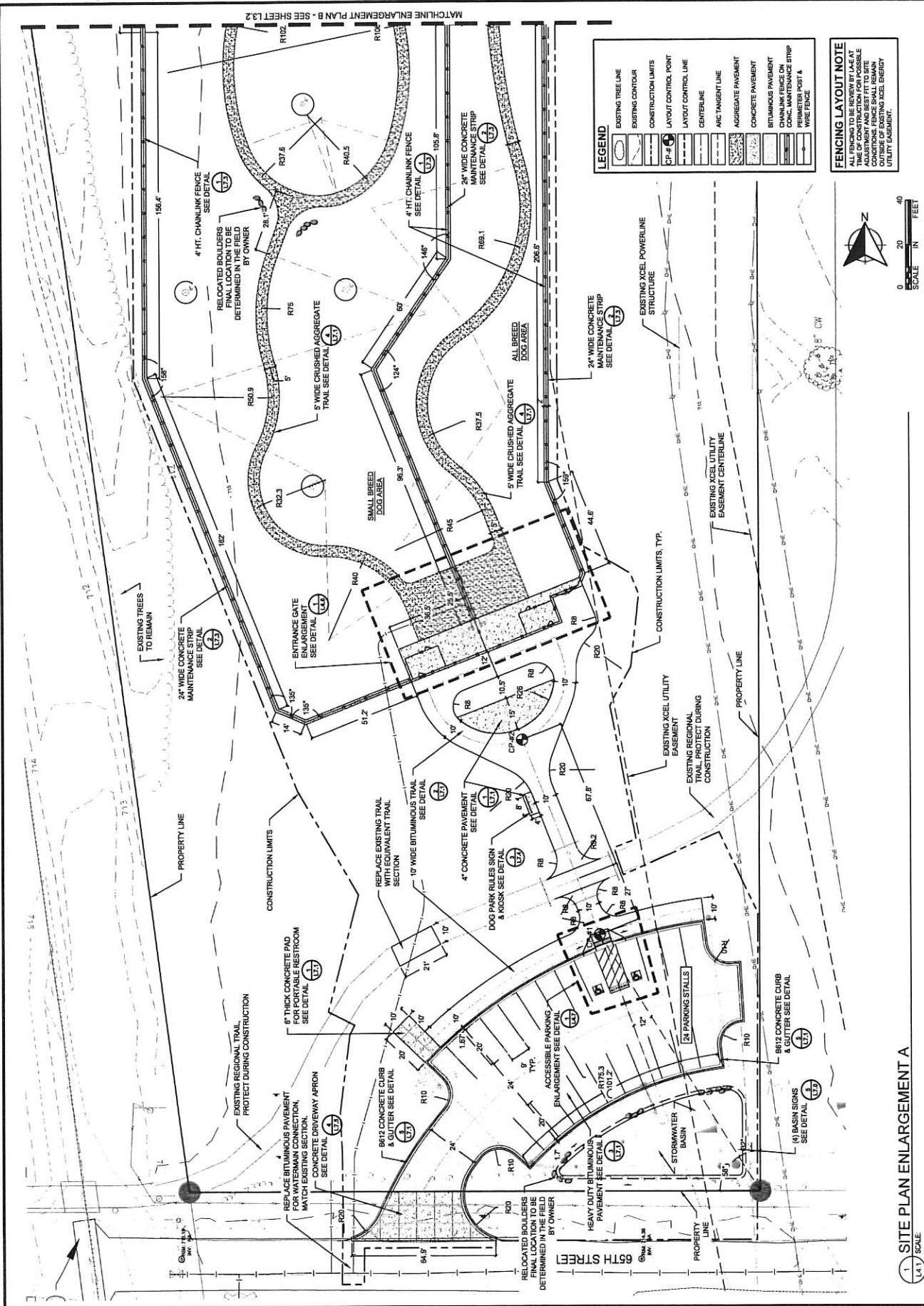
REV	DESCRIPTION
1	REVISIONS
2	
3	
4	
5	
6	
7	
8	
9	
10	

DATE: 06/20/18 IFC. NO. 40646
CANDACE C. AMBERG
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR SECTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

HVP DOG PARK
DEVELOPMENT PROJECT
CITY OF INVER GROVE HEIGHTS

SITE PLAN
ENLARGEMENT
AREA A

C.P. SHEET
1707 14.1



1 SITE PLAN ENLARGEMENT A
14.1 SCALE



SCALE: AS SHOWN
DESIGN BY: CA
PLAN BY: EK
CHECK BY: CA

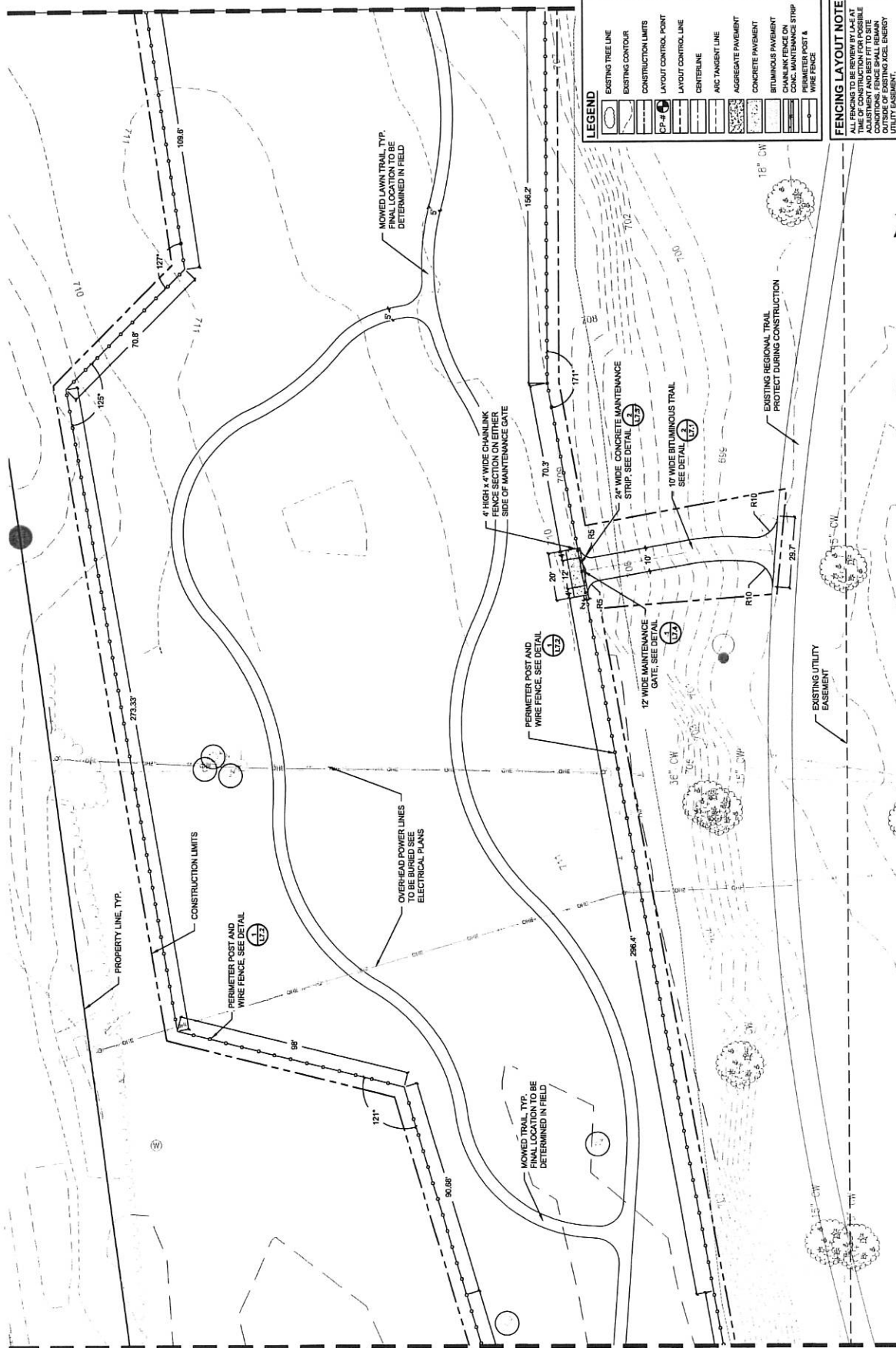
[illegible]

DATE: 06/27/18 LIC. NO: 40646
CANDACE C. AMBERG


HVP DOG PARK
DEVELOPMENT PROJECT
CITY OF INVER GROVE HEIGHTS

SITE PLAN
ENLARGEMENT
AREA C

C.P.	SHEET
1707	L4.3



FENCING LAYOUT NOTE
ALL FENCING TO BE REVIEW BY LA-E AT
TIME OF CONSTRUCTION FOR POSSIBLE
ADJUSTMENT AND BEST FIT TO SITE
CONDITIONS. FENCE SHALL REMAIN
OUTSIDE OF EXISTING XCEL ENERGY
UTILITY EASEMENT.

1 SITE PLAN ENLARGEMENT C
L4.3 SCALE:

0 20 40
SCALE IN FEET



SCALE: AS SHOWN
DESIGN BY: CA
PLAN BY: EK
CHECK BY: CA

REVISIONS	
NO.	DATE DESCRIPTION

DATE: 08/24/18 LIC. NO: 40545
CANDACE C. AMBERG

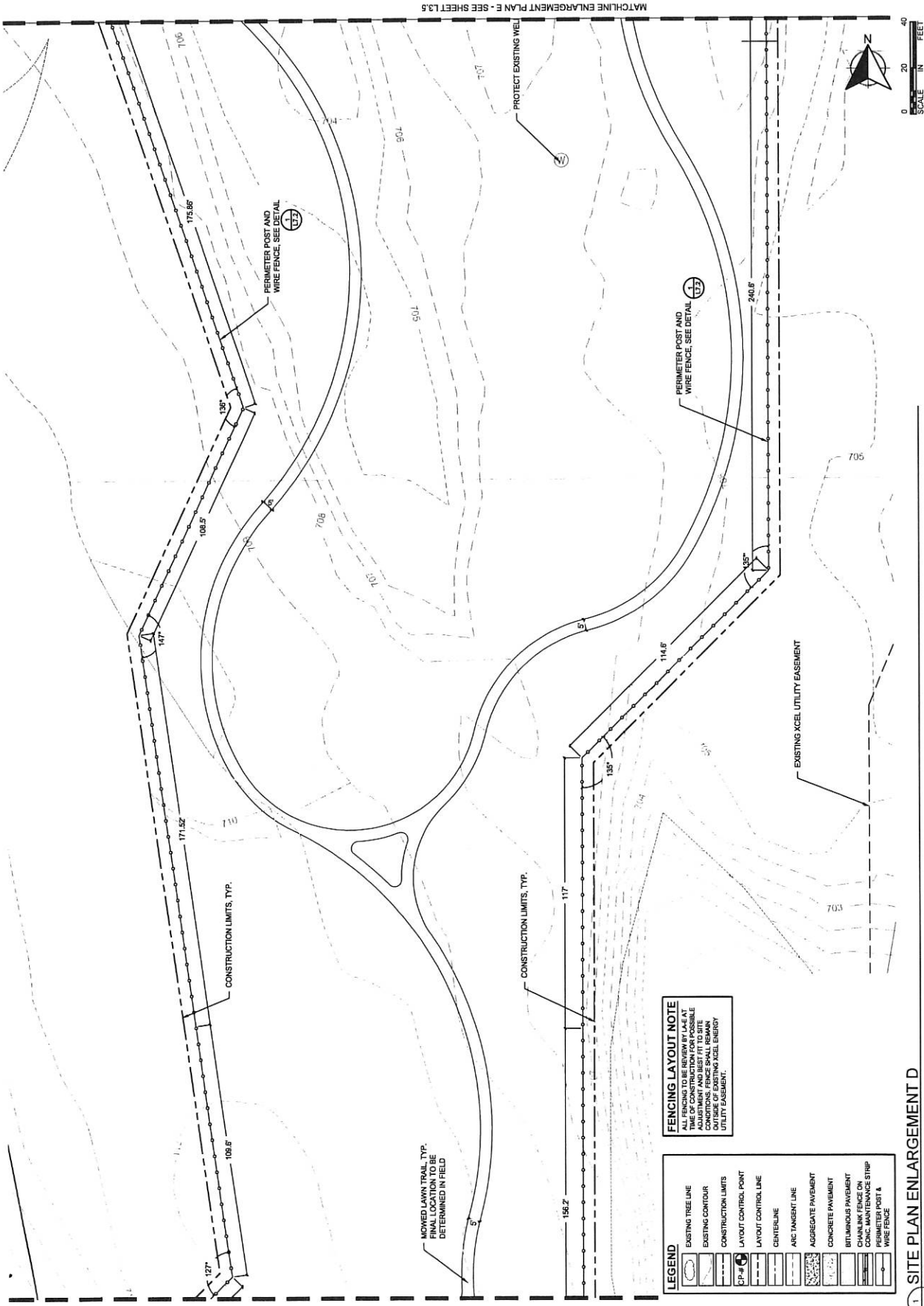
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION,
OR REPORT WAS PREPARED BY ME OR UNDER MY
DIRECT SUPERVISION AND THAT I AM A DULY
LICENSED LANDSCAPE ARCHITECT UNDER THE
LAWS OF THE STATE OF MINNESOTA.

CITY OF INVER GROVE HEIGHTS

HVP DOG PARK
DEVELOPMENT PROJECT

**SITE PLAN
ENLARGEMENT
AREA D**

C.P.	SHEET
1707	L4.4



1 SITE PLAN ENLARGEMENT D
L4.4 SCALE:

MATCHLINE ENLARGEMENT PLAN C - SEE SHEET L3.3

11:53:42 AM 6/27/2018 11:53:42 AM

