

WACONIA CITY COUNCIL
MEETING AGENDA



MONDAY, May 2, 2016
6:00 P.M.

VISION STATEMENT

“Waconia is a free-standing growth center that is friendly, self-reliant and well managed.”

MISSION STATEMENT

“We are committed to providing an ideal mix of housing, commerce, health care, recreation, downtown vitality, natural resources, transportation planning, inter-generational charm and life-long learning.”

MAYOR: JIM SANBORN
COUNCILMEMBER, WARD I: LYNN AYERS
COUNCILMEMBER, WARD I: MARC CARRIER
COUNCILMEMBER, WARD II: CHARLES ERICKSON
COUNCILMEMBER, WARD II: KENT BLOUDEK

NOTE: AGENDA TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE ACCORDING TO LENGTH OF DISCUSSION. TO ENSURE THAT YOU ARE PRESENT FOR ITEMS OF INTEREST, PLEASE BE PRESENT AT 6:00 P.M.

PAGE NO.

- 6:00 P.M. 1. CALL MEETING TO ORDER AND ROLL CALL**
- 2. ADOPT AGENDA**
- 3. VISITOR’S PRESENTATIONS, PETITIONS, CORRESPONDENCE**
State of the Library Presentation 1-20
- 4. PUBLIC HEARING: Auburn Meadows Addition**
 - 1) Call Public Hearing to Order and Accept Comment
 - 2) Adopt a Motion to Close the Public Hearing
 - 3) Adopt Resolution No. 2016-96, Approving the Vacation of the Public Drainage and Utility Easements associated with Outlot A of the Cherry Street Development Plat, Which has since been replatted as Auburn Meadows Addition 21-29
- 5. ADOPT CONSENT AGENDA**
The items listed on the Consent Agenda are considered routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember, City Staff, or Citizen so requests; in which case, the item will be removed from the Consent Agenda and considered at the end of the Regular Agenda.
 - 1) Approve April 25, 2016 City Council Meeting Minutes..... 30-32
 - 2) Authorize Payment of May 2, 2016 Expenditures..... 33-35
 - 3) Adopt Resolution No. 2016-94, Approving the Issuance of Housing Facilities Revenue Refunding Notes to Refinance a Multifamily Assisted Living Facility (Auburn Meadows) 36-39
 - 4) Adopt Resolution No. 2016-95, Accepting Employee Resignation and Authorize Recruitment 40-41

- 5) Adopt Resolution No. 2016-98, Approving the Developer’s Agreement for the Waconia High School Site 42-68
- 6) Adopt Resolution No. 2016-99, Approving Conflict Waiver for Representation of the City by Melchert Hubert Sjodin regarding the 2016 Infrastructure Improvement project 69-74

6. COUNCIL BUSINESS

- 1) Adopt Ordinance 693, Amending Chapter 320 Regarding Streets, Sidewalks and other Public Places, Part V regarding Municipal Regulations and Licensing, and Chapter 1100 Regarding Fees 75-86
- 2) Adopt Resolution 2016-97, Approving Encroachment Agreement for Moravian Care Housing Corporation 87-100
- 3) Consideration of an Encroachment Agreement..... 101

7. ITEMS REMOVED FROM CONSENT AGENDA

8. STAFF REPORTS

9. BOARD REPORTS

- 1) Councilmember Erickson
- 2) Councilmember Bloudek
- 3) Councilmember Carrier
- 4) Councilmember Ayers
- 5) Mayor Sanborn

10. ANNOUNCEMENTS

11. ADJOURN REGULAR MEETING

.....OFFICE OF THE CITY ADMINISTRATOR

Susan Arntz

WORKSESSION: Review of Draft Ordinance Relating to Allowing Chickens
 Review Possible Acquisition of Tax Forfeited Properties
 Discuss Request from Parley Lake Road Property Owners regarding Comprehensive Plan Designation

CALENDAR OF EVENTS/MEETINGS:

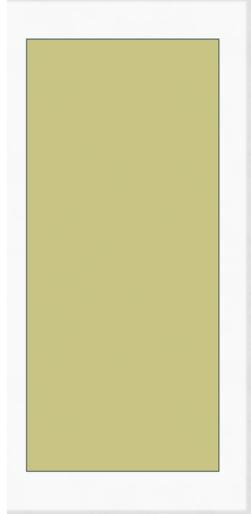
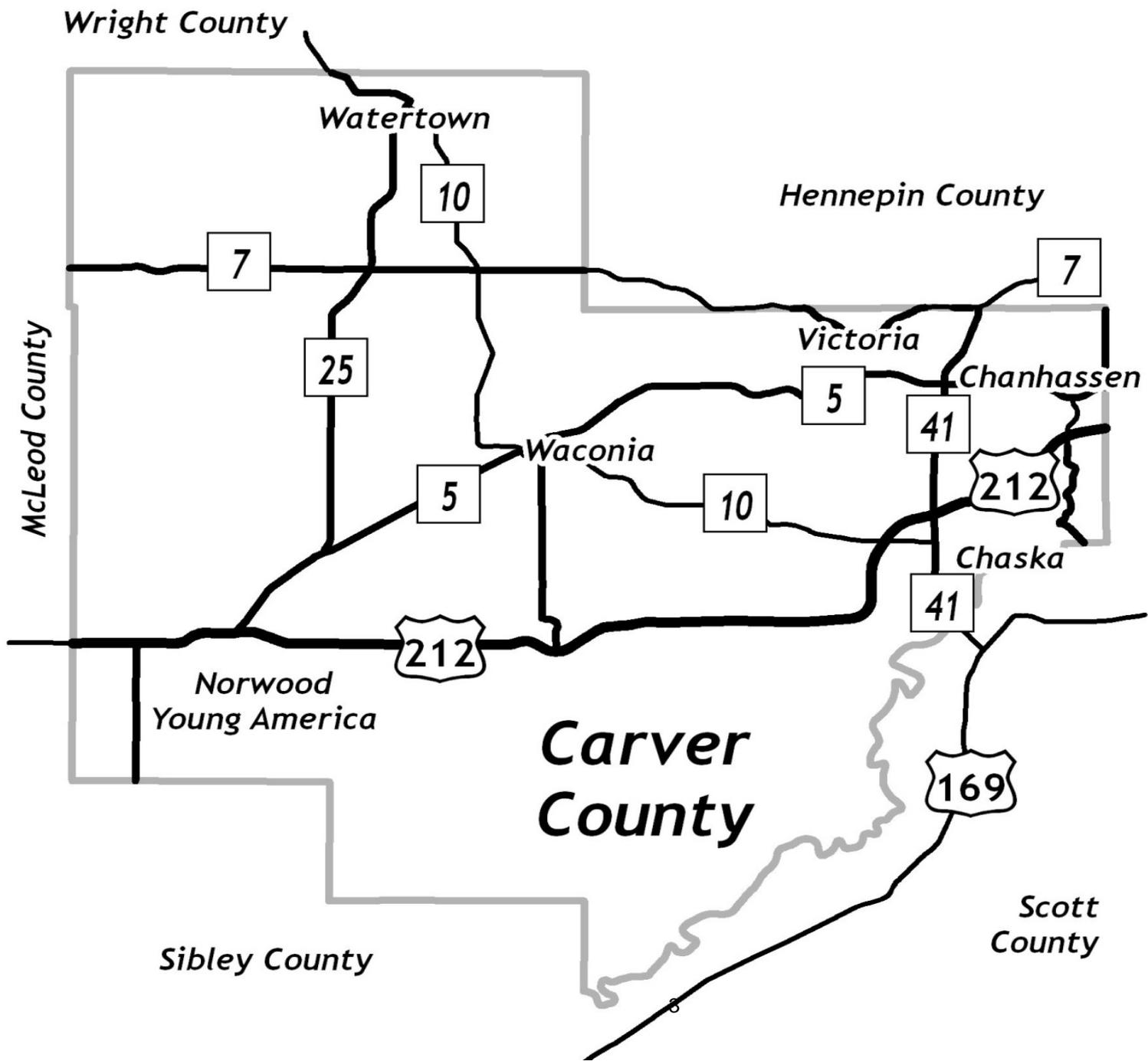
May 2	Monday	6:00 p.m.	City Council Meeting
May 2	Monday	After CC	Work Session
May 16	Monday	6:00 p.m.	City Council Meeting
May 16	Monday	after CC	Work Session: TBD
May 30	Monday		Memorial Day, City Offices Closed
June 6	Monday	6:00 p.m.	City Council Meeting
June 6	Monday	After CC	Work Session: TBD

CARVER COUNTY LIBRARY

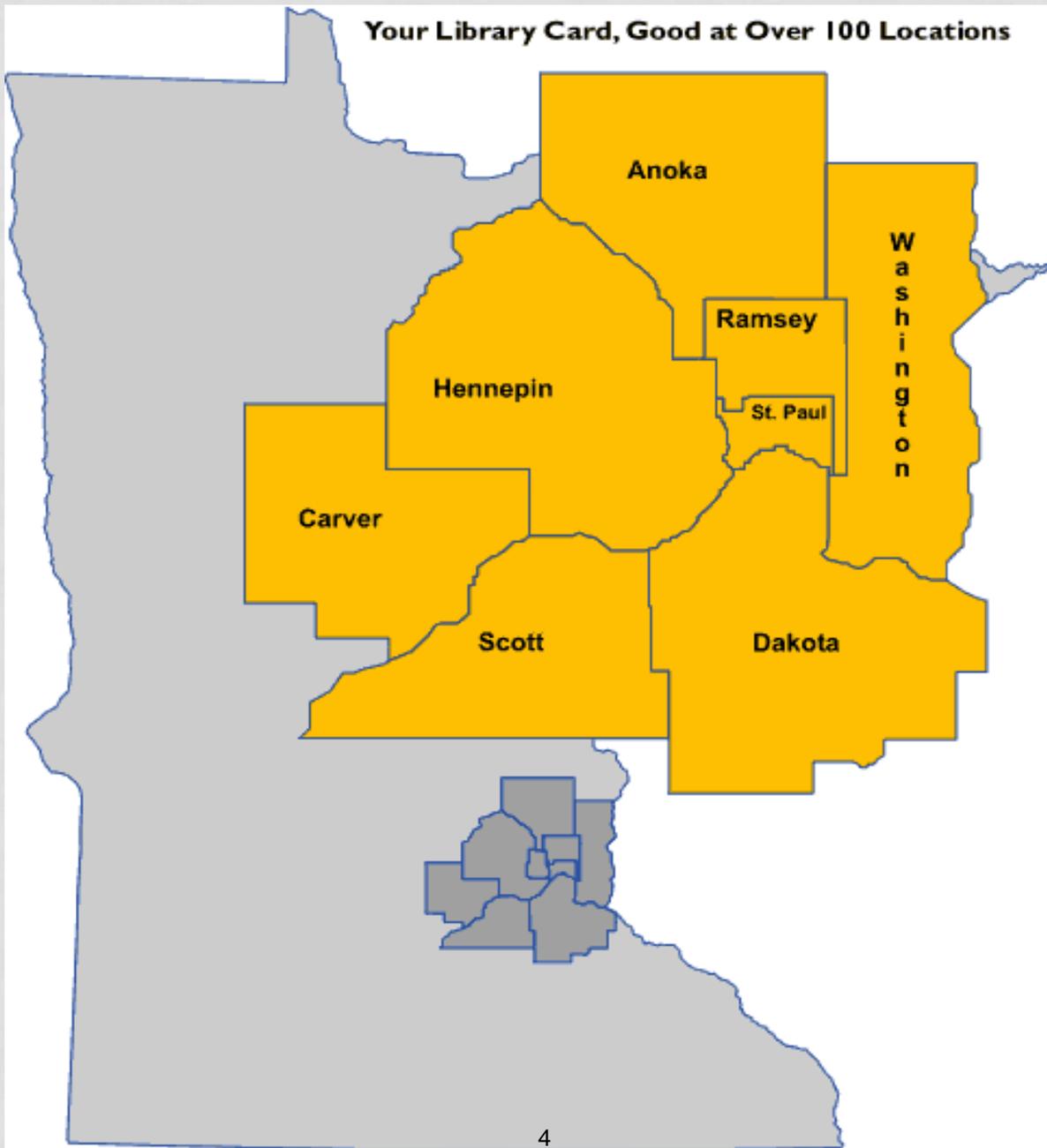
WACONIA LIBRARY

STATE OF THE LIBRARY REPORT
SPRING 2016





Your Library Card, Good at Over 100 Locations



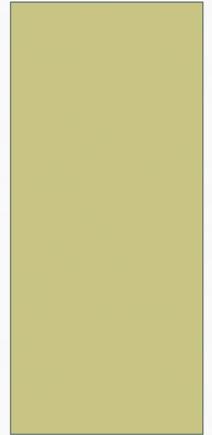
CARVER COUNTY LIBRARY STRATEGIC PLAN

1. ENHANCING ACCESS TO CONTENT
& TECHNOLOGY

2. OPTIMIZING STAFF RESOURCES

3. EXPANDING COMMUNITY
PRESENCE

4. TRANSFORMING SPACES &
EXPERIENCES



2015 CARVER COUNTY LIBRARY HIGHLIGHTS

1. NEW VICTORIA LIBRARY
2. NEW CARVER EXPRESS LIBRARY
3. MIGRATION TO SIERRA
4. LYNDA.COM
5. INCREASED TECHNOLOGY CLASSES
6. INNOVATIVE PROGRAMMING

2015 CARVER COUNTY LIBRARY ACTIVITY MEASURES

Library Card Holders	74,962		New Cards in 2015	5,161
Hours Open (annual)	14,994		Visitors	535,064
Print/Media Circulation	998,688		E-Circulation	65,805
Public Computer usage	73,387		Web visits	285,964
Reference Questions Answered	57,954		Technology Assists	23,712
Wi Fi Sessions	9,828		Volunteer Hours	13,536
Adult program & class attendance	5115		Teen Program attendance	737
Storytime attendance	16,998		Children's Program attendance	11,800
Tour attendance	1,617		Outreach attendance	6,590
ILL Activity	6,623		Holdings	113,250

STRATEGIC PLAN - ENHANCING ACCESS TO CONTENT & TECHNOLOGY

- Expanded eMaterials collections
 - eBooks - More new titles with thanks to the Library Foundation and local donors such as the Waconia LIONS
 - eAudiobooks
 - eMagazines
- All new computers
- Additional bandwidth for wireless users
- New web-based resources & databases including Lynda.com

STRATEGIC PLAN - ENHANCING ACCESS TO CONTENT & TECHNOLOGY

The screenshot shows the Lynda.com website homepage. The browser window title is "Lynda.com: Online Video Tutorials & Training - Internet Explorer". The address bar shows "https://www.lynda.com/". The page features a navigation bar with the Lynda.com logo, a search bar, and "Sign In" and "Sign Up" buttons. Below the navigation bar, there is a main banner with the text "Learn a New Skill Online, on Your Time" and "Business, Creative and Technology skills". A prominent blue button says "Start Your Free Trial". Below the banner, there are three columns of content, each representing a skill category: Business, Creative, and Technology. Each column lists the number of courses available and provides a list of specific course topics.

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- Marketing
- Project Management

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- CAD
- Design
- Photography 9

Technology

Learn from **1283 courses** including:

- Big Data
- Developer
- IT
- Web

STRATEGIC PLAN OPTIMIZING STAFF RESOURCES

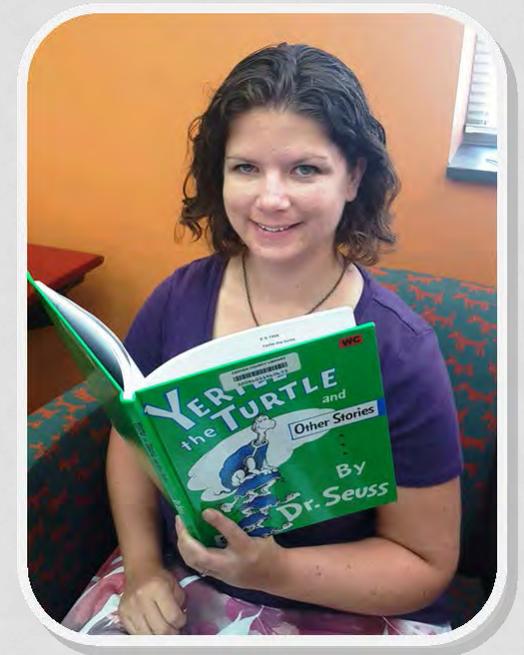
- Intentional staff cross training
- Staff migrated to VDI technology for efficiency
- Staff training



STRATEGIC PLAN – OPTIMIZING STAFF RESOURCES

The story of “Sensitive Storytime” and staff resources

- Program series is intended for children who have a hard time in large groups or who are on the autism spectrum.
- Initial staff training
- Libraries nationwide
- Collaborative planning
- Series initially offered in Waconia
- Scheduled twice per month



STRATEGIC PLAN - EXPANDING COMMUNITY PRESENCE

Collaborative work with:

- Waconia City Parks
- County Parks
- County Historical Society
- County Public Health
- County Veterans Services
- Waconia All's Well Committee
- Chamber of Commerce & Nickle Dickle Day
- Waconia Schools

STRATEGIC PLAN – EXPANDING COMMUNITY PRESENCE



STRATEGIC PLAN – EXPANDING COMMUNITY PRESENCE



STRATEGIC PLAN

TRANSFORMING SPACES & EXPERIENCES

- Summer 2015 Road construction and infrastructure
- Autumn 2015 New landing at Library front entrance
- Autumn 2015 Evaluation of space usage
- January 2016 New carpeting and space redesign
- Spring 2016 > Adaptable space

STRATEGIC PLAN TRANSFORMING SPACES & EXPERIENCES



STRATEGIC PLAN

TRANSFORMING SPACES & EXPERIENCES

Activity room with seating for sensitive storytime (note before new carpet)



STRATEGIC PLAN

TRANSFORMING SPACES & EXPERIENCES

Moving bookstacks to install new carpet in phases



Disassembling cabinets



Preparation for new carpet in staff workroom

2016 – WHERE WE ARE HEADING AT THE WACONIA PUBLIC LIBRARY

- Further development of activity room
- Chromebooks project with Waconia Schools
- Staff transitions & retirements
- Community partnerships and collaborative projects

QUESTIONS & COMMENTS



Heidi Hoks, Director
Carver County Library
4 City Plaza, Chaska, MN 55318
Office: 952.227-7601
Fax: 952-448-9392
Mobile: 612.360.8681
hhoks@co.carver.mn.us

Paul Ericsson, Branch Manager
Carver County Library
Waconia, Watertown & NYA Branches
Office in Waconia Library
217 S. Vine St. Waconia, MN 55387
Office: 952-856-4503
Fax: 952-856-4242 Mobile 612-418-1864
pericsson@co.carver.mn.us



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2 nd , 2016
Item Name:	Public Hearing: Petition for Vacation of Public Drainage & Utility Easement – Auburn Meadows, LLC, Moravian Care Housing Corporation and Lil’ Explorers Properties, LLC
Originating Department:	Community Development
Presented by:	Lane Braaten, Community Development Director

Previous Council Action:						
Item Type (X only one):	Consent		Regular Session	<u>X</u>	Discussion Session	

RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Open the Public Hearing.
Close the Public Hearing.
Consider Resolution 2016-96 Approving the Vacation of the Public Drainage and Utility Easements associated with Outlot A of the Cherry Street Development Plat, which has since been replatted as Auburn Meadows Addition.

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

The City Council, at their regular meeting on October 3rd, 2011, approved a final plat titled Auburn Meadows Addition pursuant to Chapter 1000 of the Waconia City Ordinance. The Auburn Meadows Addition plat included the replatting of portions of the Cherry Street Development Plat, specifically Outlot A. The drainage and utility easements lying within Outlot A of the Cherry Street Development plat were never formally vacated when the property was replatted as part of the Auburn Meadows Addition and therefore the request before you this evening.

The Petition for Vacation by Auburn Meadows, LLC, Moravian Care Housing Corporation and Lil’ Explorers Properties, LLC has been submitted to formally vacate the remaining drainage and utility easements, which were originally required by the City for the development of Outlot A, Cherry Street Development. As the property has been replatted as part of the Auburn Meadows Addition, which included the necessary drainage and utility easement corridors required by City Ordinance, City staff is recommending approval of the vacation request as presented.

Note: Staff has provided the Cherry Street Development Plat and the Auburn Meadows Addition Plat to help illustrate the property being discussed as part of this memo. Please note that staff has highlighted Outlot A in both plat documents.

ATTACHMENTS:

1. Draft Resolution Vacating Public Drainage and Utility Easements
2. Cherry Street Development Plat
3. Auburn Meadows Addition Plat
4. Petition for Vacation

FINANCIAL IMPLICATIONS:	ADVISORY BOARD RECOMMENDATIONS:
Funding Sources & Uses:	
Budget Information:	Planning Commission N/A
Budgeted	Parks and Recreation Board
Non Budgeted	Safari Island Advisory Board
Amendment Required	Other

CITY OF WACONIA
RESOLUTION NO. 2016-96

**RESOLUTION VACATING A
PUBLIC DRAINAGE AND UTILITY EASEMENT IN THE CITY OF WACONIA**

WHEREAS, a petition pursuant to Minnesota Statutes §412.851 and §462.358 (the “**Petition**”) has been submitted to the City Council of the City of Waconia (the “**City**”) requesting that the City Council vacate a public drainage and utility easement in the City described as follows:

The public drainage and utility easement lying within Outlot A, Cherry Street Development, according to the recorded plat thereof, Carver County, Minnesota, as dedicated in such plat of Cherry Street Development

(the “**Subject Easement**”); and

WHEREAS, a diagram of the Subject Easement is attached to this resolution as Exhibit A; and

WHEREAS, the Petition was received by the Waconia City Clerk on April 4th, 2016, and

WHEREAS, the Petition was signed by a majority of the property owners adjacent to and abutting the easement and appears otherwise legal and proper, and

WHEREAS, a public hearing to consider the vacation was held before the City Council on Monday, May 2nd, 2016, at 6 p.m., in the council chambers of the Waconia City Hall at 201 Vine Street South, Waconia, Minnesota, and

WHEREAS, proper notice of the time, place and date of the hearing was given by posting, publication and mailed notice to all affected property owners as provided by law and as more particularly shown by the Affidavit of Publication and the Affidavit of the City Clerk on file herein, and

WHEREAS, at the time and place fixed for the hearing, all persons and parties interested in the vacation were given an opportunity to be heard, and

WHEREAS, the City Council, having considered the proposed vacation, has determined the vacation is appropriate and will benefit the public interest because: i) Outlot A of the Cherry Street Development plat has been replatted as part of Auburn Meadows, Carver County, Minnesota; and ii) new easements were dedicated in connection with the Auburn Meadows plat; and iii) any utilities lying within the above-described Outlot A easement have been relocated and such easement is no longer needed for drainage or utility purposes.

NOW THEREFORE, BE IT RESOLVED by the City of Waconia, Carver County, Minnesota:

1. That the vacation of the Subject Easement is in the best interest of the public and the City of Waconia.
2. That the petition for vacation is hereby granted.
3. That the following described easement as dedicated for public drainage and utility purposes in the plat of Cherry Street Development on file in the office of the Carver County Recorder, is hereby declared vacated:

The public drainage and utility easement lying within Outlot A, Cherry Street Development, according to the recorded plat thereof, Carver County, Minnesota, as dedicated in such plat of Cherry Street Development.

4. That the City Clerk prepare and present to the proper county officers a notice of completion of the vacation proceeding in accordance with Minnesota Statutes §412.851 and §462.358.

Passed and adopted by the City Council this 2nd day of May, 2016.

James P. Sanborn, Mayor

Attest

Susan MH Arntz, City Administrator/City Clerk

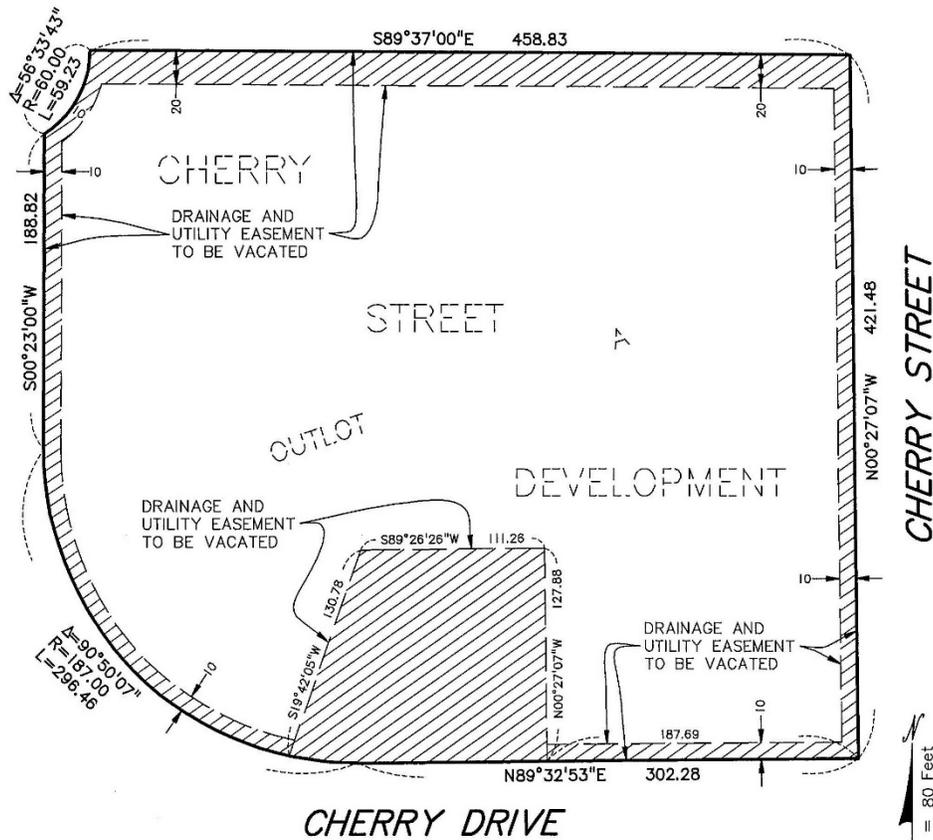
EXHIBIT A

Diagram of Easement to be Vacated

PROPOSED EASEMENT VACATION
SKETCH FOR:
CHERRY STREET DEVELOPMENT

PROPOSED EASEMENT VACATION DESCRIPTION

The drainage and utility easements lying within Outlot A, CHERRY STREET DEVELOPMENT, according to the recorded plat thereof, Carver County, Minnesota, as dedicated in said plat of CHERRY STREET DEVELOPMENT.



I hereby certify that this sketch, 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 25th day of March, 2016

SUNDE LAND SURVEYING, LLC.

By: *Arlene J. Carlson*
Arlene J. Carlson, P.L.S.
Minn. Lic. No. 44900

2010-281-G B44/67 T.116, R.25,
S.23 2010281G001.dwg MDT

	9001 East Bloomington Freeway (35W) • Suite 118
	Bloomington, Minnesota 55420-3435
	952-881-2455 (Fax: 952-888-9526)
www.sunde.com	

SCALE: 1 Inch = 80 Feet

OFFICIAL PLAT

CHERRY STREET DEVELOPMENT

PLAT FILE NO. 1442B
C.R. DOC. NO. 451054

KNOW ALL MEN BY THESE PRESENTS: That Klingelutz Investment Company, a Minnesota corporation, its owner and Security Bank Waconia, a Minnesota banking corporation, mortgagees of the following described property situated in the County of Carver, State of Minnesota, to-wit:

That part of the South Half of the Northeast Quarter of Section 23, Township 116, Range 25, Carver County, Minnesota, described as follows: Commencing at the intersection of the center line of Maple Street as laid out in the City of Waconia, Minnesota with the north line of said South Half of the Northeast Quarter, thence West along the north line of said South Half of the Northeast Quarter a distance of 1221.00 feet; thence South parallel with the east line of said South Half of the Northeast Quarter a distance of 450.00 feet to the point of beginning of the land to be described; thence West parallel with said north line a distance of 814.93 feet to the west line of said South Half of the Northeast Quarter; thence South along said west line a distance of 778.26 feet to the south line of said South Half of the Northeast Quarter; thence East along said south line 814.93 feet to its intersection with a line drawn southerly and parallel with said west line from the point of beginning; thence North a distance of 802.39 feet to the point of beginning.

Have caused the same to be surveyed and plotted as CHERRY STREET DEVELOPMENT and do hereby donate and dedicate to the public for public use forever the thoroughfares and easements for drainage and utility purposes as shown on the plat.

In witness whereof said Klingelutz Investment Company, a Minnesota Corporation, has caused these presents to be signed by its proper officer this 12th day of September, 2006.

SIGNED: KLINGELUTZ INVESTMENT COMPANY

Thomas R. Halland
Thomas R. Halland, President

STATE OF MINNESOTA

COUNTY OF Carver

The foregoing instrument was acknowledged before me this 12th day of September, 2006, by Thomas R. Halland, the President of Klingelutz Investment Company, a Minnesota Corporation, on behalf of the corporation.

Susan K. Kasper
Susan K. Kasper, County, Minnesota
My Commission Expires 01/21/2009



In witness whereof said Security Bank Waconia, a Minnesota banking corporation, has caused these presents to be signed by its proper officer this 12th day of September, 2006.

SIGNED: SECURITY BANK WACONIA

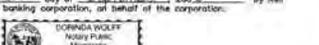
Ned Anderson, Vice President

STATE OF MINNESOTA

COUNTY OF Carver

The foregoing instrument was acknowledged before me this 12th day of September, 2006, by Ned Anderson, Vice President of Security Bank Waconia, a Minnesota banking corporation, on behalf of the corporation.

Debbie L. Munich
Debbie L. Munich, County, Minnesota
My Commission Expires 01/21/2009



I hereby certify that I have surveyed and plotted the property described on this plat as CHERRY STREET DEVELOPMENT that this plat is a correct representation of the survey; that all distances are correctly shown on the plat in feet and hundredths of a foot; that all monuments will be correctly placed in the ground in accordance to Minnesota Statutes, Section 505.02, Subd. 1; that the outside boundary lines are correctly designated on the plat and there are no restrictions as defined in Minnesota Statutes Section 505.02, Subd. 1 or public highways to be designated other than those shown.

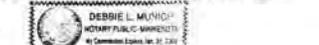
Jason E. Rud
Jason E. Rud, Land Surveyor
Minnesota License Number 41578

STATE OF MINNESOTA

COUNTY OF Carver

The foregoing instrument was acknowledged before me this 12th day of September, 2006, by Jason E. Rud, Minnesota License No. 41578.

Debbie L. Munich
Debbie L. Munich, County, Minnesota
My Commission Expires 01/21/2009



This plat of CHERRY STREET DEVELOPMENT was approved and accepted by the City Council of the City of Waconia, Minnesota, at a regular meeting thereof held this 11th day of August, 2006, and is in compliance with the provisions of Minnesota Statutes Section 505.03, Subd. 2. All monuments will be set as specified by the City Council and as stated on this plat, according to Minnesota Statute, 505.02, Subd. 1.

WACONIA, MINNESOTA

CITY CLERK, OF THE CITY OF WACONIA, MINNESOTA

By *Wendy* Mayor By *Mary G. Johnson* Clerk

COUNTY SURVEYOR, Carver County, Minnesota

Pursuant to Chapter 365, Minnesota Laws of 1971, this plat has been approved this 14th day of October, 2006.

John E. Fraenyer, Carver County Surveyor

COUNTY AUDITOR, Carver County, Minnesota

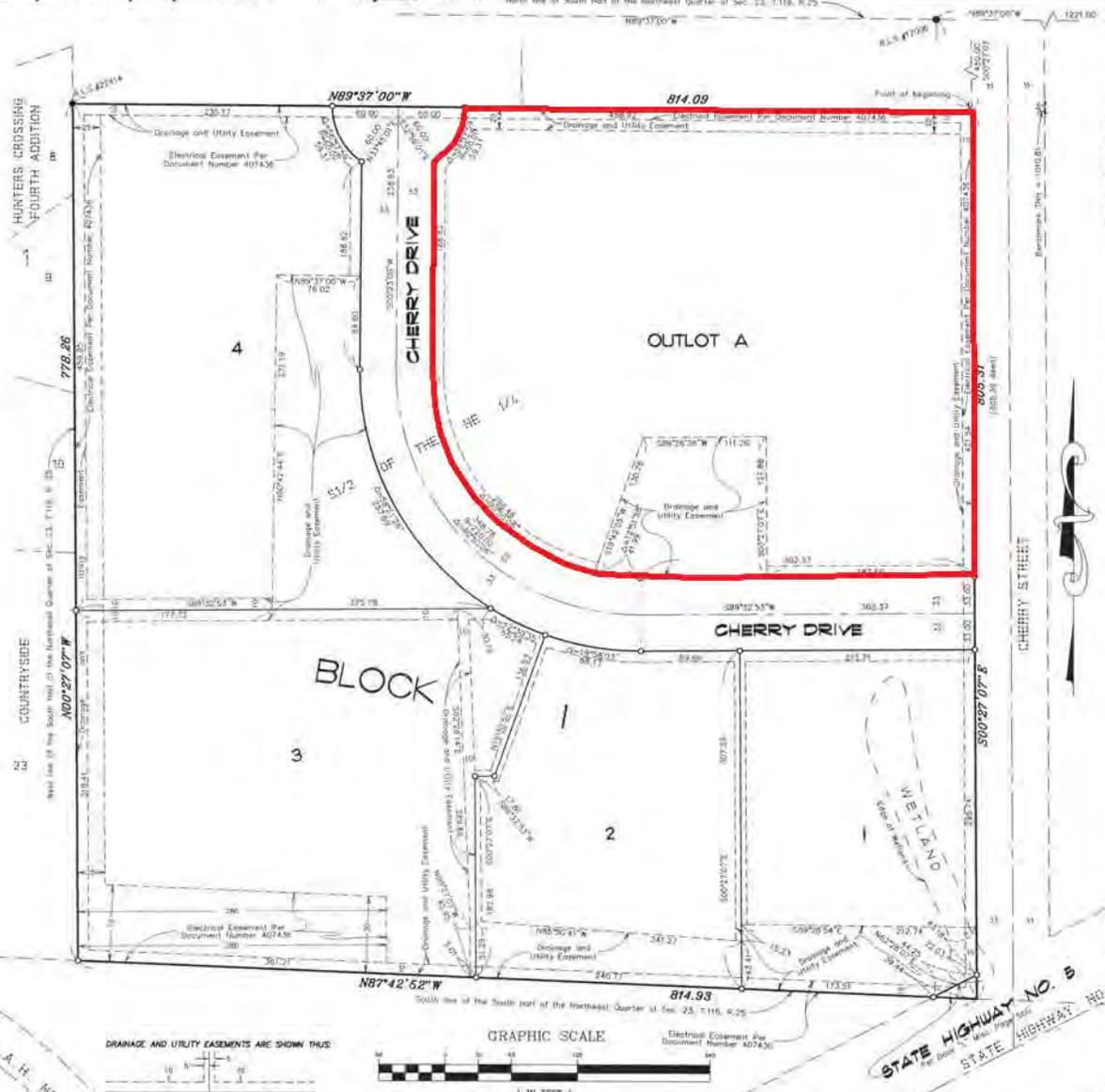
I hereby certify that taxes payable in 2006 and prior years have been paid for land described on this plat Dated this 14th day of October, 2006.

MARK LUNDQREN, County Auditor

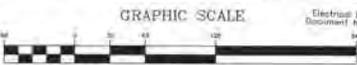
COUNTY RECORDER, Carver County, Minnesota

I hereby certify that this plat of CHERRY STREET DEVELOPMENT was filed this 4th day of October, 2006.

CARL W. HANSON, Jr. County Recorder



DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

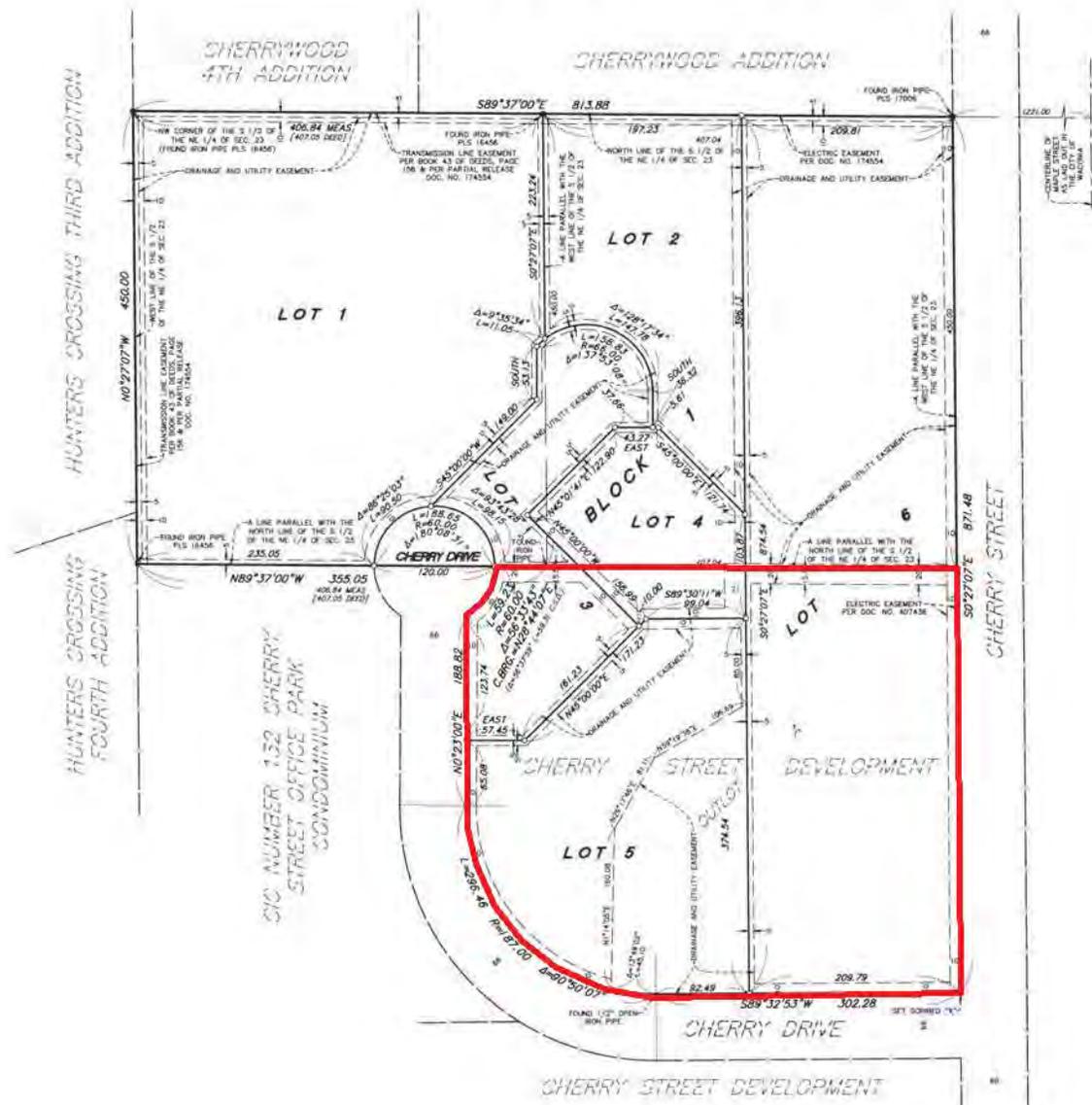


BEARING 10 FEET IN WIDTH AND ADJOINING STREET LINES AND REAR LOT LINES, AND 5 FEET BY WIDTH AND ADJOINING LOT LINES UNLESS OTHERWISE INDICATED AND SHOWN ON THE PLAT.
BEARINGS BASED ON CARVER COUNTY COORDINATE SYSTEM NAD 83 (1986 ADJUSTMENT)

- DENOTES FOUND 1/2 INCH IRON MONUMENT, UNLESS OTHERWISE NOTED
- DENOTES 1/2 INCH BY 1 1/2 INCH SET IRON PIPE MARKED BY R.L.S. NO. 41578

AUBURN MEADOWS ADDITION

PLAT FILE NO. 1535A
C.R. DOC. NO. A545200



o Denotes 1/2 inch by 14 inch iron monument set by Licensor No. 44900, unless otherwise noted
 C.S.D. Denotes plot of CHERRY STREET DEVELOPMENT
 The east line of Outlot A, CHERRY STREET DEVELOPMENT is assumed to have a bearing of $S0^{\circ}27'07''E$.

Drainage and utility easements are shown thus:



Being 5 feet in width and adjoining lot lines and 10 feet in width and adjoining right-of-way lines, as shown on the plat, unless otherwise noted.



PETITION FOR VACATION OF PUBLIC DRAINAGE
AND UTILITY EASEMENT

OUTLOT A, CHERRY STREET DEVELOPMENT PLAT
CITY OF WACONIA, CARVER COUNTY, MINNESOTA

TO THE HONORABLE CITY COUNCIL OF THE CITY OF WACONIA, CARVER COUNTY, MINNESOTA.

The undersigned, being a majority of the owners of the land adjacent to and abutting the following described drainage and utility easement in the City of Waconia:

The public drainage and utility easement lying within Outlot A, Cherry Street Development, according to the recorded plat thereof, Carver County, Minnesota, as dedicated in such plat of Cherry Street Development and as depicted on attached Exhibit A,

hereby respectfully petition the City Council to vacate the above-described easement for the following reasons:

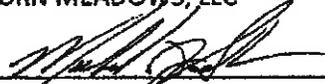
Outlot A has been replatted as part of the plat for Auburn Meadows, Carver County, Minnesota, and new easements were dedicated in connection with the Auburn Meadows plat. Any utilities lying within the above-described Outlot A easement have been relocated and such easement is no longer needed for drainage or utility purposes.

The Petitioners state further that this Petition is made pursuant to Minnesota Statutes §412.851 and §462.358.

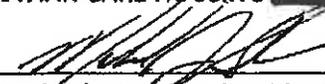
Dated this 1 day of April, 2016.

PETITIONERS:

AUBURN MEADOWS, LLC

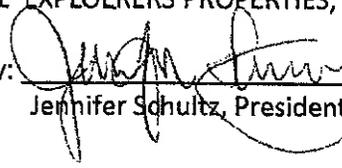
By: 
Michael J. Senden, President

MORAVIAN CARE HOUSING  CORPORATION

By: 
Michael J. Senden, President

LIL' EXPLOERERS PROPERTIES, LLC

By:


Jennifer Schultz, President

Received by the City of Waconia on 4/4, 2016.

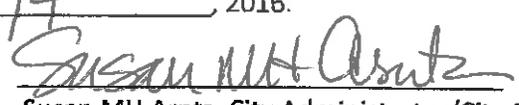

Susan MH Arntz, City Administrator/City Clerk

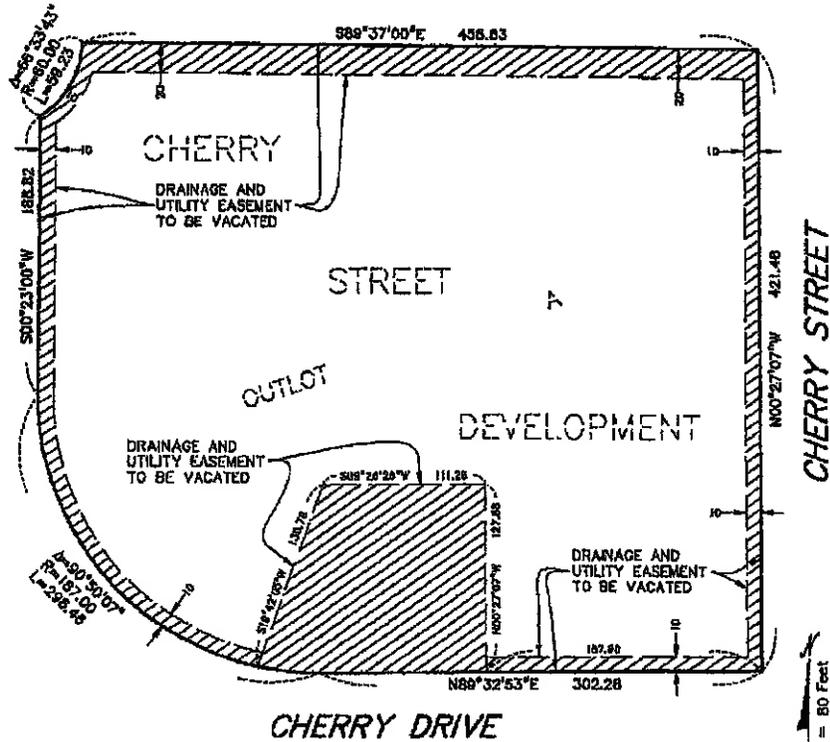
EXHIBIT A

Diagram of Easement to be Vacated

**PROPOSED EASEMENT VACATION
SKETCH FOR:
CHERRY STREET DEVELOPMENT**

PROPOSED EASEMENT VACATION DESCRIPTION

The drainage and utility easements lying within Outlot A, CHERRY STREET DEVELOPMENT, according to the recorded plat thereof, Carver County, Minnesota, as dedicated in said plat of CHERRY STREET DEVELOPMENT.



I hereby certify that this sketch, 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 25th day of March, 2016

SUNDE LAND SURVEYING, LLC.

By: *Arlee J. Carlson*
Arlee J. Carlson, L.P.L.S.
Minn. Lic. No. 44900

2010-2011-Q 844/87 T.118, R.25,
S.23 20102816001.dwg NOT

SUNDE LAND SURVEYING
9001 East Bloomington Freeway (35W) • Suite 118
Bloomington, Minnesota 55420-3435
652-881-2455 (Fax: 652-868-9526)
www.sunde.com

SCALE: 1 inch = 80 Feet

Pursuant to due call and notice thereof, the regular meeting of the City Council of the City of Waconia was called to order by Mayor Jim Sanborn at 6:00 p.m. The following members were present: Jim Sanborn, Kent Bloudek, Charles Erickson, and Lynn Ayers, Marc Carrier.

Staff Present: Susan Arntz, Lane Braaten, Craig Eldred, Mike Melchert, Ann Meyerhoff, Nicole Lueck, Angel Smith

Visitors: Michelle Gray, Roberta Werlich, Lynne Fredrickson, Darrin Gray, Amy Rottunda, Jan Fischer, Sharon Montague, Brian Theis, Jim Strapko, Babara Brooks, Sally Martin, Ben McQuillan, Wade Carson, Judy Docker, Mary Rademacher, Phyllis Schwichtenberg, Mary Ann Loxtercamp, Ken Loxtercamp, Lynette & Steven Mueller, Ada Gillissee, Jack Fiedler, Laura Menser, Jeanette Rutzloff, Marilyn Peters, Kellie Sites, Shirley Paulson, Marilyn Proulx, Matt Wessale, Jan Fenske, Kelly Eshleman.

Pledge of Allegiance was led by Mayor Jim Sanborn.

ADOPT AGENDA: Two items were added to the Consent Agenda. Motion by Erickson, seconded by Ayers to adopt the agenda as amended. All present voted aye. **MOTION CARRIED.**

VISTOR'S PRESENTATION: Michelle Gray, Lynne Frederickson and Amy Rottunda gave a presentation with thoughts and ideas they have for a Senior Center. They asked the Council for a Work Session in May, collaboration and expertise in planning for short term goals and long term goals and to budget in 2017 for hiring a Program Director.

ADOPT CONSENT AGENDA

- 1) Approve April 4, 2016 City Council Meeting Minutes.
- 2) Authorize Payment of April 25, 2016 Expenditures.
- 3) Adopt a Motion to Approve Request for Lodging Tax Reimbursement.
- 4) Adopt a Motion Authorizing Use of Streets for Community Dinner.
- 5) Adopt a Motion Approving Parade Permit/Use of Streets for Lake Waconia Band Festival.
- 6) Adopt a Motion Authorizing Use of Streets & Facilities for Tour de Tonka.
- 7) Adopt a Motion Waiving Field Use Fees for Waconia Baseball Association.
- 8) Adopt Resolution No. 2016-81, Approving Sanitation License for Suburban Waste.
- 9) Adopt Resolution No. 2016-82, Approving the Elimination of a Parcel from Tax Increment Financing District No. 4 within Development District No. 1.
- 10) Adopt Resolution No. 2016-83, Accepting Voluntary Resignation of Angie Perea, Assistant Planner/GIS Coordinator and Authorizing Recruitment.
- 11) Adopt Resolution No. 2016-84, Accepting Unclaimed Funds from Legal Claimant Services and Designation Funds to Debt Funds to Debt Fund 305 for Repayment of General Obligation Bonds.
- 12) Adopt Resolution No. 2016-85, Approving Variance Application for 425 Lake street West.
- 13) Adopt Resolution No. 2016-87, Approving the Crosswinds 2nd Addition Final Plat Application.
- 14) Adopt Resolution No. 2016-88, Approving the Developer's Agreement for Crosswinds.
- 15) Adopt Resolution No. 2016-92, Authorizing City Staff to Order Hilks Lake Park Play Equipment and Poligon Sunshade Structure.
- 16) Adopt Resolution No. 2016-93, Authorize Mayor and City Administrator to Sign Memorandum of Understanding Regarding Value of Work for Temporary Construction Easement with Paradise Partners for 9550 Airport Road; PID 070191350.

Motion by Carrier, seconded by Bloudek to Adopt the Consent Agenda as amended. All present voted aye. **MOTION CARRIED.**

COUNCIL BUSINESS

Site Plan and Review for Dental Office at Property located at 732 Vista Blvd: Lane Braaten presented on a Site Plan and Design review submitted by Jack Fiedler, DDS and Laura Menser, DDS for a dental office located at 732 Vista Blvd.

Braaten reviewed the plan along with the Planning Commissions recommendations for a new dental office professional building.

Motion by Erickson, seconded by Ayers to Adopt Resolution No. 2016-86, Approving Site Plan and Design review for a Dental Office at property located at 732 Vista Blvd. All present voted aye. **MOTION CARRIED.**

Issuance & Sale of \$4,880,000 General Obligation Bonds, Series 2016A, 2016 Infrastructure Improvement Projects & Equipment Certificates: Nicole Lueck provided a brief presentation stating that on March 21, 2016 the City Council approved resolution 2016-73 providing for the sale of \$4,880,000 in General Obligation Bonds, Series 2016A. The bonds are to be issued to finance the projects included with the 2016 infrastructure improvement and capital equipment purchases. The City budgeted to issue general obligation and revenue bonds along with equipment certificates to fund the projects included in the feasibility and project studies.

2016 Infrastructure Breakdown	Feasibility Study Costs	Low Bid with Contingency and Engineering	Funding Source Identified
Street/Utility Reconstruction	\$ 3,110,400	\$ 2,514,606	GO 429 Bond
Interlaken Crossing/Airport Road	\$ 813,400	\$ 846,903	GO 429 Bond
Bituminous Overlays	\$ 674,400	\$ 543,696	GO 429 Bond
CSAH 10 Trail	\$ 92,600	\$ 92,139	GO 429 Bond
Hilks Lake Park	\$ 36,800	\$ 14,660	GO 429 Bond
2016/2017 Dump Truck & Loader	\$ -	\$ 715,000	Equipment Certificates
Total:	\$ 4,727,600	\$ 4,727,005	

With the Council’s approval of the call for sale of the bonds, Ehlers, Inc. the City’s consulting financial advisors, assisted staff in the next steps in the issuance process which included a Standard & Poor’s bond rating call. The City was informed after the call that its AA+ rating was maintained. The bonds were sold today, April 25, 2016.

Tom Hagen from Ehlers came forward and stated that bids came in this morning with the winning bid coming from BAIRD out of Milwaukee, Wisconsin at 1.5015% and the highest Bid at 1.6044% with an interest difference of \$29,949. He also said that the receipt of a premium bid and reduction of underwriter’s discount created \$175,000 more proceeds to be available for project costs. City Staff agreed to use \$80,000 of the premium to increase the net proceeds for the infrastructure project with the remaining \$95,000 used to reduce the size of the issue.

Motion by Bloudek, seconded by Carrier to Adopt Resolution No. 2016-90, Providing for the Issuance and Sale of \$4,880,000 General Obligation Bonds, Series 2016A, Pledging Security Thereof Special Assessments and Levying a Tax for the Payment Thereof. All present voted aye. **MOTION CARRIED.**

Purchase of Wetland Credits from the Minnesota Wetland Bank – 2016 Infrastructure Improvement Project: Nicole Lueck stated that in final review and staging for the 2016 Infrastructure project, it was found that the City must purchase wetland credits from the Minnesota Wetland Bank. The amount of hard surface additions for road and trail surfaces in the area of Interlaken Crossings has made this a requirement of the project.

Lueck explained that there are credits available in the area. The total cost to the City for the credits is \$9,356.69. The total administrative fee paid to the Wetland Bank Administration for this transaction is \$376.33. Bolton & Menk, the City’s consulting engineer is representing the City in the purchase of these credits. Closing for the credits will take place this week. The purchase of these credits will allow the project to continue to move forward with construction.

Motion by Carrier, seconded by Erickson to Adopt Resolution 2016-91, Approving the Purchase of Wetland Credits. All present voted aye. **MOTION CARRIED.**

ITEMS REMOVED FROM CONSENT AGENDA: None

STAFF REPORTS: None

BOARD REPORTS:

Councilmember Erickson – No Report

Councilmember Bloudek – No Report

Councilmember Carrier – No Report

Councilmember Ayers – Will be meeting with Carver County Leaders tomorrow

Mayor Sanborn – Attended the Planning Commission meeting on April 7th.

ANNOUNCEMENTS: Public Services Open House, Saturday, May 7, 2016

ADJOURN:

Motion by Carrier, seconded by Erickson to adjourn the meeting at 6:56 p.m. All present voted aye. MOTION CARRIED

Kent Bloudek, Acting Mayor

ATTEST: _____
Ann Meyerhoff, Office Assistant

I have reviewed the list of claims for council approval and recommend payment.

Nicole Lueck
 Nicole Lueck, Finance Director

4/27/2016
 Date

CITY OF WACONIA
Council List-Expenditures
Meeting: May 02, 2016

Vendor Name	Description	Amount	Fund/Department
ERDMAN, JOEL & TARA	Refund Utility Overpayment	\$56.86	Water
HUSTLE UP LLC	Broomball League Officiating	\$162.00	Ice Arena
HUSTLE UP LLC	Broomball League Officiating	\$54.00	Ice Arena
NORTHLAND LINING	I & I Reduction Program	\$37,718.00	Sewer
RIVERLAND COMMUNITY COLLEGE	Vehicle Extrication Training	\$525.00	Fire
SIMPLEX GRINNELL	IA Fire Alarm System Repair	\$366.00	Ice Arena
US BANK CORPORATE PAYMENT SYSTEMS	02/11/16 - 03/10/16 Purchasing Card Transactions	\$126,357.21	
2ND WIND EXERCISE 001	Cycle Bike Repair	\$144.00	Safari Island
ACT CITY OF WACONIA	SI CC Testing-Refunded	\$5.00	Bill Back Receivable
AG SYSTEMS INC 4	#42 Sprayer Valve Replacement	\$39.11	Streets
AMAZON MKTPLACE PMTS	Kids Hats-PW Open House	\$59.97	Water
AMAZON MKTPLACE PMTS	Kids Hats-PW Open House	\$119.94	Water
AMAZON.COM	Aqua Jogger Replacement Belts	\$78.24	Safari Island
AMAZONPRIME MEMBERSHIP	EE P-Card Error-Refund	(\$99.00)	Bill Back Receivable
AMAZONPRIME MEMBERSHIP	EE P-Card Error-Refunded	\$99.00	Bill Back Receivable
AMERICAN PUBLIC WORKS	Education Materials-Open House	\$64.25	Water
AMERICAN PUBLIC WORKS	Education Materials-Open House	\$80.00	Water
AMERICAN PUBLIC WORKS	Snow Conference Registration-Eldred	\$500.00	Streets
AMERICAN RED CROSS	LG Class Fees	\$210.00	Safari Island
AMERICAN TEST CENTER INC	Hoist/Crane Testing	\$1,800.00	Split: Water, Sewer, Streets
APL* ITUNES.COM/BILL	Fitness Class Music	\$10.68	Safari Island
ARROWWOOD RESORT CONF C	Billing Error-Refunded	(\$107.38)	Fire
ASPEN MILLS INC.	Uniform Name Panel	\$10.85	Fire
BEN MEADOWS	Striping Paint/Soil Probe	\$269.68	Parks
BEST BUY MHT 00006114	HDMI Cable-Exchange	(\$32.19)	Fire
BP#9350729COLONY PLAZA	Non-Oxygenated Fuel	\$13.25	Fire
CAR CO AUTO PARTS WACO	#164 Radio Installation Supplies	\$129.90	Parks
CAR CO AUTO PARTS WACO	#28 Fuel Filter	\$15.29	Streets
CAR CO AUTO PARTS WACO	#35 Oil/Fuel Filters	\$74.60	Sewer
CAR CO AUTO PARTS WACO	#35/#157 Repair Parts	\$36.53	Sewer
CAR CO AUTO PARTS WACO	#37 Tire Balance Beads	\$123.68	Streets
CAR CO AUTO PARTS WACO	#38 Brake Replacement/Light Socket	\$31.91	Streets
CAR CO AUTO PARTS WACO	#46 Oil Filter	\$4.46	Water
CAR CO AUTO PARTS WACO	#47 Oil Filters	\$37.50	Sewer
CAR CO AUTO PARTS WACO	#50 Oil Filter	\$4.19	Sewer
CAR CO AUTO PARTS WACO	#8007 Oil Filter	\$7.22	Sewer
CAR CO AUTO PARTS WACO	Diesel Exhaust Fluid	\$259.99	Streets
CAR CO AUTO PARTS WACO	Shop Tire Gauge	\$58.31	Streets
CARGILL* INCORPORATED	Road Salt-Deicer	\$7,197.67	Streets
CDP SPORTS	Skate Sharpening	\$16.00	Ice Arena
CDW GOVERNMENT	Symantec Renewal	\$2,393.40	Technology
CDW GOVERNMENT	Utilities Printer	\$522.39	Technology
CINTAS 60A SAP	PW First Aid Supplies 03/2016	\$87.42	Streets
CINTAS 60A SAP	SI AED Equipment	\$2,529.95	Safari Island
CINTAS 60A SAP	SI First Aid Supplies 02/2016	\$130.46	Safari Island
CNT*HAMLINWUM2016	Water Utility Mgmt Training-Menth	\$605.00	Water
CORVAL CONTRACTORS, INC	Refrigeration System Repairs	\$968.74	Ice Arena
CULLIGAN MINNETONKA	IA Water Softener Repair	\$631.00	Ice Arena
CUSTOM TOWELS INC	SI Logo Beach Towels-B-Day Parties	\$765.53	Safari Island
DEPT OF NATURAL RESOURCES	2015 Water Surcharge Fees	\$3,531.44	Water
DMI* DELL K-12/GOVT	2 Universal Adapters	\$112.48	Technology
DMI* DELL K-12/GOVT	3 Wireless Mouse	\$103.17	Technology
DROP N GO SHIPPING	UB Processing Fees 02/2016	\$114.28	Split: Water, Sewer
DULTMEIER SALES LLC	#42 Anti-Icing Control Valve	\$393.57	Streets
DULTMEIER SALES LLC	Winter Maintenance Spray Parts	\$7.75	Streets
DULTMEIER SALES LLC	Winter Maintenance Spray Parts	\$10.27	Streets
EB MACQUEEN EQUIPMENT	Equipment Training-Dressel/Tietz	\$100.00	Parks
ECM PUBLISHERS INC	Publishing Fees 02/2016	\$408.24	Split: Administration, PIR, Planning
EMERGENCY AUTOMOTIVE	#48 Sander Light	\$141.36	Parks
EMERGENCY AUTOMOTIVE	Freight Charge Refunded	(\$14.92)	Streets
EMERGENCY AUTOMOTIVE	Freight Charges	\$14.92	Streets
ENVIRONMENTAL EQUIPMENT	#47 Sweeper Curtain Replacement	\$800.00	Storm Water
EVERSONS HARDWARE HANK	Chemical Line Hangers	\$3.89	Water
EVERSONS HARDWARE HANK	DEF System Install Parts	\$33.96	Water
EVERSONS HARDWARE HANK	DEF System Install Parts	\$62.70	Water
FASTENAL COMPANY01	#46 Meter Box	\$15.03	Water
FASTENAL COMPANY01	Safety Vending Equipment 02/16	\$57.87	Streets
FASTENAL COMPANY01	Trash Guard Hitch Pins	\$53.91	Storm Water
FASTENAL COMPANY01	WIP Zip Ties	\$13.84	Water
FERGUSON WATERWORKS #2518	Resale Meter Parts	\$1,294.50	Water
FERGUSON WATERWORKS #2518	Resale Meter Parts	\$2,617.23	Water
FERGUSON WATERWORKS #2518	Resale Meter Parts	\$4,097.70	Water
FERGUSON WATERWORKS #2518	Resale Meter Parts	\$10,732.50	Water
FIRE SAFETY USA	E-11 Foam Pro System Repairs	\$113.00	Fire

Council List-Expenditures
Meeting: May 02, 2016

Vendor Name	Description	Amount	Fund/Department
FIRSTLAB	DOT Screen/Annual Admin Fee	\$297.95	Split: Administration, Streets
FORCE AMERICA DISTRIBUTIN	AVL Units-New Mower/#50/Streets	\$1,885.47	Split: Streets, Water, Parks
FORCE AMERICA DISTRIBUTIN	Dump Truck Hydraulic Cover	\$33.95	Streets
FORCE AMERICA DISTRIBUTIN	Vehicle Data Charge 01/2016	\$184.19	Streets
FRANKLIN PRINTING INC	CH/Utility Bill Copy Paper	\$1,109.70	Split: Administration, Sewer, Water
FRANKLIN PRINTING INC	SI Mailing Address Labels	\$28.29	Administration
FREDPRYOR CAREERTRACK	Project Mgmt Training-Sorensen/Bode	\$398.00	Split: Water, Sewer
G&K SERVICES AR	CH/SI Restrooms/Mats 02/2016	\$978.46	Split: Central Facilities, Safari Island
G&K SERVICES AR	PW Uniforms 02/2016	\$452.73	Split: Streets, Parks, Water, Sewer, Storm Water, Street Light
GOPHER SPORT	Pickleballs/Floor Tape	\$77.27	Safari Island
GREEN TOUCH SYSTEMS LLC	Blending Liquids-Winter Maint	\$3,960.10	Streets
GREEN TOUCH SYSTEMS LLC	Winter Maintenance Chemicals	\$1,990.00	Streets
GROUND ROUND	Rink Mgmt Meeting	\$38.72	Administration
HACH COMPANY	PH Meter Buffer Solution	\$50.54	Water
HEIMAN FIRE EQUIPMENT	G-11 Hose Reel Nozzle	\$486.20	Capital Equipment
HEIMAN FIRE EQUIPMENT	G-11 Pump/Discharge Caps	\$65.24	Capital Equipment
HLB TAUTGES REDPATH LTD	2015 Audit Services	\$6,025.00	Finance
HOIST FITNESS SYSTEMS, IN	Spin Bike Pedals/Bearings/Seats	\$160.73	Safari Island
HOLIDAY INNS	MRWA Conference Lodging-Bode	\$342.57	Water
HOLIDAY INNS	MWRA Conference Lodging-Menth	\$342.57	Water
HORIZON POOL SUPPLY	Spa Chemicals	\$319.00	Safari Island
KENDALL DRI-DEK	Pool Deck Safety Mats	\$944.56	Safari Island
LAWSON PRODUCTS	Setup/Repair Shop Supplies	\$600.00	Water
LAWSON PRODUCTS	Setup/Repair Shop Supplies	\$762.57	Fire
LOCATORS AND SUPPLIES INC	PW Shovels	\$256.24	Streets
LOLAS LAKE HOUSE	Rink Mgmt Finance/IT Meeting	\$86.55	Finance
MACKENTHUN'S COUNTY	Peroxide-W/P Cleaning	\$8.42	Water
MANKATO FAIRFIELD INN	Fire School Lodging-D Olson	\$328.92	Fire
MELCHERT HUBERT SJODIN	City Legal Fees 01/2016	\$18,351.52	Split: Administration, Revolving Loan Fund, PIR, Ice Arena, Safari Island
MELCHERT HUBERT SJODIN	City Legal Fees 12/2015	\$48.00	Administration
MILLS FLEET FARM 3200	G-11 Tow Strap/Hitch Bar	\$67.27	Capital Equipment
MINNEAPOLIS OXYGEN CO	Helium/Oxygen Rental 01/2016	\$17.98	Safari Island
MINNESOTA GOVERNMENT F	MGFOA Membership-Lueck	\$60.00	Finance
MINNESOTA GOVERNMENT F	MGFOA Membership-Orloff	\$60.00	Finance
MINNESOTA PIPE & EQUIP	Hydrant Maintenance Kit	\$600.00	Water
MINNESOTA PIPE & EQUIP	Hydrant Oil/Tubes	\$675.01	Water
MINNESOTA PIPE & EQUIP	Water Service Repair Supplies	\$2,048.00	Water
MINNESOTA TRUCKING ASS	DOT Vehicle Inspection Stickers	\$276.25	Streets
MINNESOTA VALLEY ELECTRI	Electric Service 02/2016	\$2,179.01	Split: Street Light, Sewer
MN VLY TESTING LABS	Water Testing - Brewery	\$32.00	Water
MN VLY TESTING LABS	Water Testing - LVIB	\$25.00	Water
MTI	Mower Switch Inserts	\$89.43	Parks
MUNICIPAL EMERGENCY SE	Locker Storage Box	\$50.89	Fire
MUNICIPAL EMERGENCY SE	Uniform Alterations/Repairs	\$31.40	Fire
NAPA AUTO PARTS 0021912	#22 Bulbs	\$9.17	Fire
NAPA AUTO PARTS 0021912	#37 Front Brake Replacement	\$275.71	Streets
NEWMAN SIGNS INC	Street Signs/Parts	\$2,907.25	Streets
NOR*NORTHERN TOOL	Honda Transfer Pump Parts	\$16.31	Storm Water
NORTHLAND BUSINESS SYS	Postage Machine Install Fee	\$194.99	Administration
NUSS TRUCK & EQUIPMENT	#36 Brake Check/Repair	\$111.09	Streets
OSI*UNITEDSTATESFLAG	Truck #22 US Flags	\$59.25	Fire
OTTERBOX/LIFEPROOF	iPad Covers-C-12/U-11/Dispatch	\$375.10	Split: Capital Equipment, Fire
PAPAS SHOES REPAIR II	BPP Flag Repairs	\$20.00	Parks
PBI*LEASEDEQUIPMENT	Postage Machine Return Fee	\$100.00	Administration
POLLUTION CONTROL AGENCY	Collection System Training-Vos	\$300.00	Sewer
PREMIER CUSTOM APP	EE Recognition Plaque-R. Sorensen	\$20.00	Administration
PUMP & METER SERVICE	DEF Dispensing System	\$1,933.51	Split: Streets, Sewer
PUMP & METER SERVICE	Fuel Island Nozzle/Swivel/Filters	\$292.76	Streets
R J THOMAS MFG CO INC	RLP/2015 Recon Project Amenities	\$7,244.00	Split: PIR, Park Dedication
R&R SPECIALTIES OF WISCON	Zamboni Blade Sharpening	\$59.00	Ice Arena
R&R SPECIALTIES OF WISCON	Zamboni Blade Sharpening	\$59.00	Ice Arena
RANDYS SANITATION DELANO	Shredding Service 02/2016	\$18.23	Central Facilities
RDO EQUIPMENT CO	Motor Grader Belt Replacement	\$116.82	Streets
RED CROSS STORE	LG Training Manuals	\$241.65	Safari Island
RIEDEL SKATES	Rental Ice Skates	\$379.83	Ice Arena
SERVING THE AMERICAN R	STAR Membership-Swanson	\$75.00	Ice Arena
SHOPTRN*KOALA KARE	Baby Changing Table Repair Supplies	\$153.75	Safari Island
SHOPTRN*RIGID INDUSR	G-11 Spotlight Mounting Brackets	\$79.98	Capital Equipment
SOUTH CENTRAL COLLEGE	Fire School Registration-Olson	\$120.00	Fire
SQ *PAUL'S TWO-WAY	#52 Radio Safety Equipment	\$4,815.00	Capital Equipment
STAPLS7151094402000001	Dish Soap/Kleenex/Clipboards	\$22.30	Streets
STAPLS7151094402000002	W/P Magnetic Labels	\$77.78	Water
STAPLS7151094402000003	File Pocket Folders	\$20.20	Water
STAPLS7151231820000001	Planning Printer Ink	\$167.98	Planning
STAPLS7151549714000001	White Out/Color Paper/Scissors	\$48.24	Safari Island
STAPLS7151869934000001	White Board Markers	\$17.89	Safari Island
STAPLS7151869934000002	Cancellation Form Paper	\$19.24	Safari Island
STAPLS7152228259000001	Ring Binders	\$9.48	Parks
STAPLS7152228259000002	Engineering Copier Bond Paper	\$44.47	Parks

Council List-Expenditures
Meeting: May 02, 2016

Vendor Name	Description	Amount	Fund/Department
STREICHER'S MO	Dress Uniform Badges/Tie Tacks	\$248.39	Fire
SWANK MOTION PICTURES IN	Summer 2016 Movies in the Park	\$1,075.00	Safari Island
TARGET 00024497	Fire Vehicle iPad Chargers	\$64.10	Technology
TARGET 00024497	Floating Friday Ice Cream/Soda	\$6.84	Safari Island
TARGET 00024497	Kleenex	\$5.28	Parks
TARGET 00024497	Swim Lesson Treats	\$21.56	Safari Island
THE HOME DEPOT 2825	New Flag Poles	\$108.37	Streets
THE LIFEGUARD STORE IN	LG Suits/Rescue Tubes	\$547.46	Safari Island
THE UPS STORE #6485	Part Return Postage	\$13.92	Fire
THE UPS STORE #6485	Postage-Rink Mgmt Contracts	\$60.20	Administration
TOWMASTER	Plate Salt Sander/#48 Sensor	\$117.87	Streets
U OF M CONTLARNING	Stormwater Training-Rolf/Kemnitz	\$500.00	Storm Water
U.S. PLASTIC CORPORATION	Chemical Feed Line Fittings	\$347.88	Water
U.S. PLASTIC CORPORATION	Chemical Lines Tubing	\$972.58	Water
UFC FARM SUPPLY	#33 Hand Level	\$22.99	Streets
UFC FARM SUPPLY	#6008 Chopsaw Blade Nut	\$1.85	Streets
UFC FARM SUPPLY	Back Hoe Rental-STW Pond	\$530.00	Storm Water
UFC FARM SUPPLY	Baseball Net Tie Down Pin	\$16.56	Parks
UFC FARM SUPPLY	Duplicate Charge-Refunded	\$530.00	Storm Water
UFC FARM SUPPLY	Equipment Replacement Pins	\$10.64	Parks
UFC FARM SUPPLY	Excavator Rental-Pond Cleaning	\$1,060.00	Storm Water
UFC FARM SUPPLY	Hose Bib Gaskets	\$4.58	Water
UFC FARM SUPPLY	Rental Skate Shelf Repair Supplies	\$7.98	Ice Arena
UFC FARM SUPPLY	Saw Ignition Module	\$152.08	Streets
UFC FARM SUPPLY	Sign/Equipment Repair Parts	\$37.93	Safari Island
UFC FARM SUPPLY	Stihl Equipment Oil	\$33.49	Parks
UFC FARM SUPPLY	Water Proof Gloves	\$53.96	Storm Water
UFC FARM SUPPLY	Wood Cutter Bar Oil/Gloves	\$16.19	Streets
UFC FARM SUPPLY	W/P Garage Light Bulbs	\$23.94	Water
UHL COMPANY INC	Pool Heater Repair	\$2,012.56	Safari Island
UNIVERSAL ATHLETIC	BPP Field Base Replacements	\$1,239.72	Parks
UPBEAT	Park Table Umbrellas	\$885.00	Parks
UPBEAT	Parks Pet Waste Bags	\$420.00	Parks
UPBEAT	Parks Table/Planter	\$2,577.81	Parks
US Bank	Qtr 04-2015 Purchasing Card Rebate	(\$6,840.16)	Finance
USA BLUE BOOK	Insulated Hip Boots-Utility Digs	\$763.83	Water
USPS 26952003533431354	Certified Mail-EE Term Letter	\$5.34	Administration
USPS 26952003533431354	Fluoride Sample Mailing	\$3.54	Water
VESSCO, INC.	Chemical Feed Pump Tubes	\$1,234.70	Water
VZWRSS*MY VZ VB P	City Air Card Service 01/2016	\$419.19	Split: Administration, Technology, Fire, Water, Sewer, Streets, Storm Water
VZWRSS*MY VZ VB P	City Cell Service 01/2016	\$1,223.26	Administration, Planning, Technology
WACONIA CHAMBER OF COMMER	Chamber/RMC Payment Error	\$25.00	Bill Back Receivable
WACONIA CHAMBER OF COMMER	Luncheon 02/2016-Ayers/Smith/Arntz	\$75.00	Administration
WAYFAIR*WAYFAIR	Pool Deck Benches	\$852.00	Safari Island
WW GRAINGER	Exterior Sconce Lighting Repair	\$454.32	Ice Arena
WW GRAINGER	Fire Station Flag Pole	\$81.72	Fire
WW GRAINGER	HVAC Coil Cleaner	\$271.96	Safari Island
WW GRAINGER	HVAC Filters/Pan Treatments	\$397.56	Ice Arena
WW GRAINGER	Old PW/New PW Batteries	\$592.54	Central Facilities
WW GRAINGER	Plumbing Repair Parts	\$18.66	Safari Island
WW GRAINGER	Pool Auto Fill Repair Parts	\$35.52	Safari Island
WW GRAINGER	Pool Auto Fill Repair Parts	\$81.86	Safari Island
WW GRAINGER	Pool Water Pipe Repair Supplies	\$537.30	Safari Island
ZIEGLER INC - RETAIL	#134 Electrical Relays	\$51.74	Water
ZIEGLER INC - RETAIL	Backhoe Alternator/Bracket	\$399.69	Water
WACONIA CHAMBER OF COMMERCE	Broomball League Prizes	\$125.00	Ice Arena
WS & D PERMIT SERVICE	Permit Refund - 125 W Lake St	\$272.88	Building Inspections
		\$165,636.95	

The above bills have been approved for payment at the regular City Council Meeting on May 02, 2016.
Authorized and ordered for payment:

Mayor

City Administrator



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2, 2016					
Item Name:	Approving the Sale of Housing Facilities Revenue Refunding Notes, Series 2016A & 2016B – Auburn Meadows Project					
Originating Department:	Finance					
Presented by:	Nicole Lueck, Finance Director					
Previous Council Action (if any):						
Item Type (X only one):	Consent	<input checked="" type="checkbox"/>	Regular Session	<input type="checkbox"/>	Discussion Session	<input type="checkbox"/>

RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Adopt Resolution 2016-94, Approving the Issuance of Housing Facilities Revenue Refunding Notes to Refinance a Multifamily Assisted Living Facility (Auburn Meadows)

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

With completion of the public hearing and approval of the HRA resolution in connection to the Auburn Meadows Project refunding bonds, the City must consider the attached resolution per Section 147(f) of the Internal Revenue Code of 1986 and the Treasury Regulations. These sections of the code require that prior to the issuance of the Notes, the "applicable elected representative" of the governmental unit issuing the Notes must approve the issuance of the Notes subsequent to a public hearing.

<p><i>FINANCIAL IMPLICATIONS:</i></p> <p>Funding Sources & Uses:</p> <p>Budget Information:</p> <p>_____ Budgeted</p> <p>_____ Non Budgeted</p> <p>_____ Amendment Required</p>	<p><i>ADVISORY BOARD RECOMMENDATIONS:</i></p> <p>Planning Commission</p> <p>Parks and Recreation Board</p> <p>Safari Island Advisory Board</p> <p>Other</p>
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Extract of Minutes of a Meeting of the
City of Waconia, Minnesota

Pursuant to due call and notice thereof, a regular meeting of the City of Waconia, Minnesota was duly held at the Council Chambers at the City Hall, 201 South Vine Street, Waconia, Minnesota, on Monday, May 2, 2016, at 6:00 o'clock P.M.

The following members were present:

and the following were absent:

During said meeting _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. 2016-94

RESOLUTION OF THE CITY OF WACONIA, MINNESOTA
APPROVING THE ISSUANCE OF HOUSING FACILITIES REVENUE REFUNDING
NOTES TO REFINANCE A MULTIFAMILY ASSISTED LIVING FACILITY
(AUBURN MEADOWS)

WHEREAS, the City of Waconia, Minnesota (the "City") and the Housing and Redevelopment Authority of the City of Waconia, Minnesota (the "Authority") have received a proposal from Auburn Meadows, LLC, a Minnesota limited liability company (the "Borrower"), the sole member of which is Moravian Care Housing Corporation, a Minnesota nonprofit corporation, that the Authority issue Housing Facilities Revenue Refunding Notes ("Notes") to refinance the construction and equipping of a 62-unit multifamily assisted living facility located at 591 Cherry Drive in the City, by refunding the Authority's Housing Facilities Revenue Bonds (Auburn Meadows Project) Series 2011 and certain other taxable indebtedness of the Borrower.

WHEREAS, on the date hereof, the Authority will consider a Resolution giving public approval to the issuance of the Notes in the maximum aggregate principal amount not to exceed \$8,500,000.

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder require that prior to the issuance of the Notes, the "applicable elected representative" of the governmental unit issuing the Notes must approve the issuance of the Notes subsequent to a public hearing.

WHEREAS, the City Council is the "applicable elected representative" for purposes of the Code, and a public hearing on the Project and the issuance of the Notes was held by the Authority on this date.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Waconia that, in accordance with the requirements of the Code, the City Council hereby approves the

issuance of the Notes for the purposes described above, and refers the Project to the Authority for public and financial approval.

Adopted: May 2, 2016

Mayor

Attest:

City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by Member _____, and after full discussion thereof and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA
COUNTY OF CARVER
CITY OF WACONIA

I, the undersigned, DO HEREBY CERTIFY that the attached and foregoing Resolution is a full, true and complete copy of the resolution presented to and adopted by the City Council of the City of Waconia, Minnesota at a duly authorized meeting thereof held on the _____ day of _____, 2016, as shown by the minutes of said meeting in my possession.

City Administrator



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2, 2016				
Item Name:	Resolution Accepting Employee Resignation and Authorize Recruitment				
Originating Department:	Administration				
Presented by:	Angel Smith, Assistant City Administrator				
Previous Council Action (if any):					
Item Type (X only one):	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Consent</td> <td style="width: 25%; text-align: center;">X</td> <td style="width: 25%;">Regular Session</td> <td style="width: 25%;">Discussion Session</td> </tr> </table>	Consent	X	Regular Session	Discussion Session
Consent	X	Regular Session	Discussion Session		

RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Adopt Resolution 2016-95, Accepting Voluntary Resignation of Mike Dressel, Maintenance Worker - Parks and Authorizing Recruitment.

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

Mike Dressel, Maintenance Worker - Parks, has submitted her voluntary resignation from employment with the City of Waconia to be effective May 13, 2016. Mike has worked with us for 10 years. We wish Mike well in his new endeavors.

Staff requests authorization to open the position, accept applications, and recommend appointment to the position. The Personnel Committee is recommending approval.

FINANCIAL IMPLICATIONS:

Funding Sources & Uses:

Budget Information:

Budgeted

Non Budgeted

Amendment Required

ADVISORY BOARD RECOMMENDATIONS:

Planning Commission

Parks and Recreation Board

Safari Island Advisory Board

Other

**Personnel Committee
Recommendation**

**CITY OF WACONIA
RESOLUTION NO. 2016-95**

**RESOLUTION ACCEPTING
RESIGNATION AND AUTHORIZING RECRUITMENT**

WHEREAS, The City has received the voluntary resignation of Mike Dressel, Maintenance Worker - Parks; and

WHEREAS, the City has received the notice in accordance with its personnel policies to be effective May 13, 2016; and

NOW, THEREFORE, BE IT RESOLVED, that, the City Council hereby accepts the voluntary resignation of Mike Dressel, and considers it to be in good standing and authorizes recruitment and replacement of this position.

Adopted by the City Council of the City of Waconia this 2nd day of May, 2016.

James P. Sanborn, Mayor

ATTEST: _____
Susan MH Arntz, City Administrator

M/	_____	Carrier	_____
		Ayers	_____
S/	_____	Erickson	_____
		Bloudek	_____
		Sanborn	_____



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2 nd , 2016
Item Name:	Waconia Public Schools High School Site Developer's Agreement – ISD110
Originating Department:	Community Development
Presented by:	Lane Braaten, Community Development Director

Previous Council Action (if any):						
Item Type (X only one):	Consent	X	Regular Session	Discussion Session		

RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Adopt Resolution 2016-98 Approving the Developer's Agreement for the Waconia Public Schools High School Site.

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

The City Council, at their regular meeting on November 23rd, 2015, conditionally approved a final plat for Waconia Public Schools titled New Waconia High School and Fields pursuant to Chapter 1000 of the Waconia City Ordinance. The final plat consists of one (1) parcel and four (4) outlots. The City Council approved the final plat application subject to certain conditions including the School District entering into a developer's agreement with the City.

City staff has prepared a proposed developer's agreement for the Waconia Public Schools High School Site, a copy of which is attached for Council's review and consideration. City staff recommends approval of the developer's agreement language as proposed.

ATTACHMENTS:

1. Draft Resolution Approving Developer's Agreement for Waconia Public Schools High School Site
2. Draft Developer's Agreement for Waconia Public Schools High School Site

FINANCIAL IMPLICATIONS:	ADVISORY BOARD RECOMMENDATIONS:
Funding Sources & Uses:	
Budget Information:	Planning Commission N/A
_____ Budgeted	Parks and Recreation Board
_____ Non Budgeted	Safari Island Advisory Board
_____ Amendment Required	Other

CITY OF WACONIA
RESOLUTION NO. 2016-98

**RESOLUTION APPROVING DEVELOPER’S AGREEMENT
FOR WACONIA PUBLIC SCHOOLS
HIGH SCHOOL SITE**

WHEREAS, Independent School District 110 (“**Waconia Public Schools**”) previously submitted a final plat application to the City of Waconia (the “**City**”) for New Waconia High School and Fields pursuant to Chapter 1000 of the Waconia City Code; and

WHEREAS, once platted, New Waconia High School and Fields will consist of one (1) parcel and four (4) outlots, as depicted on the final plat (the “**Final Plat**”); and

WHEREAS, the City Council approved the final plat application in Resolution 2015-268, subject to certain conditions including the School District entering into a developer’s agreement with the City; and

WHEREAS, City staff has prepared a proposed developer’s agreement regarding the Waconia Public Schools High School Site, a copy of which is attached as Exhibit A (the “**Developer’s Agreement**”);

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Waconia, Minnesota, that:

1. The above recitals, including the findings contained therein, are incorporated into these resolutions.
2. The form of the Developer’s Agreement attached as Exhibit A and of the proposed documents attached to such document as exhibits are approved in substantially the form attached as Exhibit A, together with such modifications thereof, deletions therefrom, and additions thereto as the City Administrator may deem appropriate.
3. The Mayor and City Clerk are hereby authorized to execute, acknowledge and deliver the Developer’s Agreement and any other documents or instruments necessary or desirable to effectuate the transactions described in the Developer’s Agreement. In the event of the absence or disability of the Mayor or the City Clerk, such officers of the City as, in the opinion of the City Attorney may act on their behalf shall, without further act or authorization of the City Council, do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers. The execution of any document or instrument by the appropriate officer or officers of the City authorized herein shall be conclusive evidence of the approval of such document or instrument in accordance with the terms of this resolution.

Passed and adopted by the City Council of the City of Waconia this 2nd day of May, 2016.

James P. Sanborn, Mayor

ATTEST: _____
Susan MH Arntz, City Administrator

M/ _____

S/ _____

Bloudek _____

Carrier _____

Erickson _____

Sanborn _____

Ayers _____

EXHIBIT A
Developer's Agreement

**DEVELOPMENT AGREEMENT
FOR
WACONIA PUBLIC SCHOOLS
HIGH SCHOOL SITE**

This agreement (the “**Agreement**”) is dated May____, 2016, and is between the City of Waconia, a Minnesota municipal corporation (the “**City**”) and Independent School District 110, an independent school district existing under the laws of the State of Minnesota (the “**Developer**”).

RECITALS

WHEREAS, the Developer previously petitioned the City to approve a site plan for the future expansion of Clearwater Middle School into a new high school site located at 1650 Airport Road, which is legally described on attached Exhibit A-1 and depicted with grey shading on the diagram attached as Exhibit A-2 (the “**Property**”); and

WHEREAS, on November 23, 2015, the City Council passed Resolution 2015-267 conditionally approving the Site Plan drafted by Lawal Scott Erickson (LSE) Architects in conjunction with Anderson-Johnson Associates, Inc., which is attached as Exhibit B (the “**Site Plan**”); and

WHEREAS, the Site Plan contains a new 1600 student high school and associated site improvements including driveways, parking lots, trails, athletic fields, drainage facilities and open spaces (collectively, the “**School**”); and

WHEREAS, a the traffic planning study (the “**Transportation Study**”) completed by Bolton & Menk, dated November 4th, 2015, evaluates the site and final plans and makes recommendations regarding the future development of the site; and

WHEREAS, City staff has reviewed and conditionally approved the following (collectively, the “**Construction Plans**”):

1. Waconia High School Landscape Plans dated October 27, 2015 (attached as Exhibit C);
2. Waconia High School Construction Documents dated _____, 2016; and
3. Waconia High School Design Development Plans dated _____, 2016; and

4. City Engineer requirements contained in the Memorandum of Bolton & Menk, Inc., dated _____, 2016; and

WHEREAS, this Agreement is entered into for the purpose of setting forth and memorializing for the parties and subsequent owners the understandings and agreements of the parties concerning the development of the Property;

NOW, THEREFORE, the City and the Developer agree as follows:

TERMS

1. **INCORPORATION.** Except as expressly provided in this Agreement to the contrary, the following are incorporated by reference as agreements of the City and the Developer:

- 1.1. The Recitals set forth above;
- 1.2. The City resolution referred to in the above Recitals, the terms of all documents referred to in such resolution, and the exhibits attached to such resolution (collectively, the “**City Resolutions**”);
- 1.3. The Transportation Study referred to in the above Recitals and the exhibits attached to such study.

2. **DEFINITIONS.**

“**City Engineer**” means Jake Saulsbury, Bolton & Menk, Inc., 2638 Shadow Lane, Suite 200, Chaska, MN 55318-1172, or his designee or successor.

“**City Public Services Director**” means Craig Eldred, City of Waconia, 310 East 10th Street, Waconia, MN 55387, or his designee or successor.

“**City Building Inspector**” means the then current building official for the City, as designated by the City Council, or such person’s designee.

“**Governmental Entities**” means, collectively, the City, Carver County, the State of Minnesota, the United States of America, or any subdivision or department thereof including: the Minnesota Department of Transportation; the Carver County Highway Department; the appropriate watershed district; the Board of Soil and Water Resources; the Minnesota Department of Natural Resources; the Army Corps of Engineers; the Minnesota Pollution Control Agency; the Metropolitan Council; the Minnesota Department of Health; and any other regulatory or jurisdictional agency affected by or having jurisdiction over the Improvements required for the development of the Property. Any reference to a “**Governmental Entity**” means any of the above.

Additional terms are defined in the introductory paragraph, the Recitals and later in this Agreement. All defined terms, when capitalized, shall have the meanings ascribed to them unless the context clearly requires otherwise.

3. **RIGHT TO PROCEED; CONSTRUCTION.** Unless separate written approval has been given by the City, the Developer may not grade the Property or otherwise start construction of any

improvement thereon until the following conditions have been met to the satisfaction of the City: i) this Agreement has been fully executed by both parties and filed with the City Clerk; ii) the required security has been received by the City; iii) all documents required by this Agreement to be recorded have been recorded with the Carver County Recorder's Office or Registrar of Titles; iv) the Developer has provided the City with recording information for all instruments required to be recorded; v) the Developer is not in default under any other agreement related to the Property or any other property within the City limits that is owned by the Developer or within the Developer's control; vi) the Developer is not in violation of any federal, state or local regulation; and vii) the City Administrator or the City Planning Director has issued a letter that the Developer may proceed. Construction on the Property shall proceed in accordance with the Site Plan, the Construction Plans, the City Resolutions, the Waconia City Code and this Agreement.

4. **ENGINEERING AND PLANNING REQUIREMENTS.**

4.1. **Developer's Engineer.** The Developer warrants it has engaged, at the Developer's expense, a duly registered professional civil engineer authorized to practice within the State of Minnesota to prepare the Construction Plans. Further, such engineer has made representations to the Developer that the Construction Plans have been prepared in accordance with the City's standard specifications for the complete installation of all Improvements.

4.2. **Requirements.** The City shall have no obligation to allow any site work until the following engineering and planning requirements have been met to the City's satisfaction:

4.2.1. **Erosion and Sediment Control Plan.** The Developer shall submit an erosion and sediment control plan to Carver County for review and approval. Further, any wetland mitigation that requires approval from the Minnesota DNR and/or Carver County has been reviewed and approved by such entities. The Developer shall follow and comply with the erosion and sediment control plan. Further, during the development of the Property, the Developer shall follow all measures to protect any wooded areas and steep slopes on the Property, as determined and directed by the City Engineer.

4.2.2. **Wetlands.** The Developer shall apply for and receive approval of any wetland alterations on the Property, all of which shall comply with the Waconia City Code, State statutes and the Wetland Conservation Act.

4.2.3. **Approvals from other Governmental Entities.** The Developer shall submit the Site Plan and the Construction Plans to all Governmental Entities that require submission and shall modify the Site Plan and Construction Plans as required by such Governmental Entities. The Developer shall further comply with the requirements of all Governmental Entities having jurisdiction to their satisfaction and make dedications of right-of-way or other dedications as required by such Governmental Entities. Any modifications to the Site Plan or the Construction Plans are subject to the review and approval of the City Council. The Developer shall comply with any further requirements of

the City Council based on its additional review.

4.2.4. **Plan for Construction Access.** The Developer shall submit a plan for construction access to the Property, which shall be subject to the review and approval of the Public Services Director and City Engineer.

4.2.5. **Easements.** The Developer shall grant the City recordable easements, each in a form approved by the City, for: i) all items shown as public easement areas in the Site Plan and the Construction Plans; ii) all trails and drainage areas described in the Construction Plans.

5. **GRADING.** The Property shall be graded in accordance with the approved grading, drainage and erosion control portion of the Construction Plans. Within sixty (60) days after completion of the grading, the Developer shall provide the City with a “record” grading plan certified by a registered land surveyor or engineer showing that all ponds, swales and ditches have been constructed as approved by the City and the Carver County Water Management Organization. The “record” plan shall further depict field verified locations, site grades and elevations of the following: ponds, swales, emergency overflows, wetlands, wetland mitigation areas, ditches, borrow areas, stockpiles, lot corners, building pads, and tops and bottoms of retaining walls. The cross sections of any ponds shall be obtained after the entire site is completely graded, received final restoration, the ponds have been pumped down, all sediment has been removed, and the pond elevations have been restored to the approved design elevations.

6. **IMPROVEMENTS.**

6.1. **Improvements.** For purposes of this Agreement, the “**Improvements**” are the Developer Installed Municipal Improvements, the Developer Funded Municipal Improvements, the Private Improvements, and the Landscaping Improvements, all as described in this Section 6.

6.2. **Municipal Improvements.**

6.2.1. **Developer Installed.** Except as expressly provided in Section 6.2.2 below, the Developer shall, at its expense, construct and install public improvements on and adjacent to the Property in conformance with the Site Plan, the Construction Plans, the Waconia City Code, the Transportation Study, and this Agreement (the “**Developer Installed Municipal Improvements**”). The Developer Installed Municipal Improvements shall include:

6.2.1.1. street grading and graveling, including, but not limited to the construction of berms and boulevards;

6.2.1.2. permanent street surfacing, including but not limited to concrete curb and gutter.

6.2.1.3. boulevard sodding/seeding and blanket;

6.2.1.4. sanitary sewer laterals or extensions, including but not limited to all necessary services, lift stations and other appurtenances;

6.2.1.5. storm sewers, including but not limited to all necessary catch

- basins, inlets and other appurtenances;
 - 6.2.1.6. water main laterals or extensions, including but not limited to all necessary building services, hydrants, valves and other appurtenances;
 - 6.2.1.7. storm drainage systems and supportive restoration systems for swales and ravines;
 - 6.2.1.8. Internal site lighting; and
 - 6.2.1.9. Sidewalks. The Developer shall, at its expense, install the internal sidewalk and trail segments indicated in the Plans.
- 6.2.2. **Developer Funded.** The Developer shall reimburse the City for all costs associated with the construction and installation of the following road and sign improvements (the “**City Installed Municipal Improvements**”):
- 6.2.2.1. **Community Drive Improvements.** The Developer shall pay at the value of 79% for the extension of Community Drive including, but not limited to roundabouts, water main, curb and gutter, storm water, grade improvements, and street surfacing accommodating such instituted estimated value through a separate mutual agreement to improve roofing systems and dehumidification systems to Safari Island Facility with basis for a fully finished roadway corridor improvement at the time of installation with project completion price structure defining the afore-mentioned value.
 - 6.2.2.2. **94th Street Improvements.** The Developer shall pay 82% of the 94th Street roadway improvements not limited to curb and gutter, water main, storm water, grade improvements, and surfacing on an assessed basis for the fully finished improvements at the time of installation, as a result of project completion price structure.
 - 6.2.2.3. **Future County 110 Improvements.** The Developer shall pay 40% of the improvement of the section of County 110 extending from TH 5 to Community Drive including roundabouts, water main, curb and gutter, storm water, grade improvements, and surfacing, to be paid as an assessment basis for fully finished improvement costs at time of installation, as a result of project completion price structure. The City of Waconia will pay Water main oversizing of 10 inches from the required minimum of 8 inches through the Future County 110 Corridor between Community Drive and 94th Street.
 - 6.2.2.4. **Future TH 5 & CSAH 110 Intersection Improvements.** The Developer shall pay 84% of the improvements of TH 5 & CSAH 110 intersection improvements including roundabout, curb and gutter,

storm water, grade improvements, and surfacing to be paid in Lump Sum as a result of project completion price structure.

6.2.2.5. **School Zone Signage.** The Developer shall pay 100% of the costs associated with the purchase and installation of the school zone signage.

6.2.3. **Municipal Improvements.** The Developer Installed Municipal Improvements and the Developer Funded Municipal Improvements are collectively, the “**Municipal Improvements**”.

6.3. **Private Improvements.** The Developer shall, at its expense, also install private improvements on the Property (the “**Private Improvements**”) in conformance with the Site Plan, the Construction Plans, the Waconia City Code and this Agreement, including, but not limited to:

6.3.1. **Pedestrian Underpass.** The Developer shall pay 100% of all cost, and install private pedestrian underpass within CSAH 110 corridor, including retaining wall with assistance of City supplied Engineering services related to design, bidding, construction management, installation, and underpass lighting to be assessed for all final construction costs. Final Pedestrian Underpass costs will be accommodated through a separate mutual agreement to improve roofing systems to Safari Island Facility

6.3.2. **Private Farm Drain Tile Relocation.** The Developer shall, at its expense, install private storm sewer system to relocate farm drain tile lines currently crossing acquired property to maintain drainage of north agricultural farm land. Municipal right of way may be utilized to meet design requirements and reduce potential restrictions of flow.

6.3.3. **Utility and Storm Water Ponding Areas.** All utility and storm water ponding areas must have an Easement defined on the plan set allowing the City’s Public Services Division access to monitor, inspect, or define maintenance needs to the ISD 110 District in efforts to protect both up-stream and down-stream properties form flood mitigation issues.

6.3.4. grading of the Property;

6.3.5. construction of corrected soil areas;

6.3.6. construction of private streets/internal site circulation routes;

6.3.7. sidewalks and trails;

6.3.7.1. **Trails.** The Developer shall, at its expense, install the following:

Internal Trail Segment. The Developer shall, at its expense, install an 8 ft. wide bituminous trail segment connecting the internal pedestrian circulation routes. This trail segment shall include the construction and installation of a pedestrian underpass to allow access from the east portion of the property to the west portion

of the property where the athletic fields will be located.

6.4. **Landscaping Improvements.**

6.4.1. **Landscaping Improvements.** The Developer shall, at its expense, install all landscaping improvements called for in the Construction Plans in conformance with the Construction Plans (the “**Landscaping Improvements**”).

6.4.2. **Maintenance and Repair.** The Developer shall assume maintenance, repair and replacement responsibilities for all Landscaping Improvements located on parcels owned by the Developer. The City shall have no obligation to maintain, repair or replace any Landscaping Improvements.

6.5. **Permits.** Prior to any grading or construction occurring on the Property, the Developer shall determine and obtain all necessary approvals, permits, and licenses required by Governmental Entities for the development of the Property as contemplated by the Site Plan, the Construction Plans and this Agreement. Any design requirements of such agencies shall be determined prior to completion and incorporated into the plans and specifications. All costs incurred to obtain such approvals, permits, and licenses and all fines or penalties levied by any Governmental Entity due to the failure of the Developer to obtain or comply with the conditions of such approvals, permits, and licenses shall be the sole responsibility of the Developer. The Developer agrees to defend and hold the City, its officers, employees and agents harmless from any action initiated by any Governmental Entity resulting from any failure of the Developer.

6.6. **Licenses.** The Developer hereby grants 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 in conjunction with the development.

6.7. **Standard of Performance.** All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the Site Plan, the Construction Plans, the Transportation Study, the Waconia City Code and this Agreement, unless approved in writing to the contrary by the City Engineer.

6.8. **Deadlines for Completion.** The Developer shall install all Developer Installed Municipal Improvements and Private Improvements by September 15, 2017, except for the final lift of pavement on the internal roads and parking areas. The final lift of pavement on Municipal, internal roads and parking areas shall be completed no later than August 1, 2018. All Landscape Improvements shall be installed no later than October 1, 2017. The Developer may request an extension of time from the City in regard to any deadline, which the City may grant or deny in its sole discretion. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and the extended completion date.

6.9. **Construction Times.** The Developer shall conduct all construction activities in conformance with the City’s noise ordinance (Chapter 740 of the Waconia City Code).

- 6.10. **Public Property Damage.** The Developer agrees to assume full financial responsibility for any damage that may occur to public property on or adjoining the Property when such damage occurs as a result of the activity that takes place during the School development. The Developer further agrees to pay all costs required to repair the streets and/or utility systems damaged or cluttered with debris when occurring as a direct or indirect result of the construction that takes place at the Property or in connection with any Developer Installed Municipal Improvements. In the event the Developer fails to maintain or repair the damaged public property referred to above within ten (10) days after receiving written notice from the City requesting the Developer to maintain or repair the damaged property, then the City may undertake making and causing said damage or clutter to be repaired or cleaned. When the City undertakes such repair, the Developer shall reimburse the City for all of its expenses.
- 6.11. **Street Cleaning.** During the development of the Property, the Developer shall keep the streets adjoining the Property free of dirt and debris caused by its development. In the event dirt and/or debris has accumulated on streets within or adjacent to the Property, the City is hereby authorized to immediately commence a street cleaning operation if streets are not cleaned by the Developer after forty-eight (48) hours of receiving notice of the violation from the City. Street cleaning shall be defined as the use of any equipment specifically designed for sweeping, necessary for cleaning dirt, mud and debris from the City right-of-way. If conditions are such that a street cleaning operation is immediately necessary, the City may perform the necessary street cleaning. The City will then bill the Developer, as the delinquent party, for all associated street cleaning costs.
- 6.12. **Inspection.** The Developer shall instruct its engineer to provide adequate field inspection personnel to assure an acceptable level of quality control to the extent that the Developer's engineer will be able to certify that the construction work meets the approved City standards as a condition of City acceptance. In addition, the City may, at the City's discretion and at the Developer's expense, have one (1) or more City inspectors and a soil engineer inspect the work on a full or part-time basis. The Developer, its contractors and subcontractors, shall follow all instructions received from the City's inspectors. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor. The Developer, through its engineer, must also provide all surveying and construction staking necessary to ensure that the construction conforms to the Construction Plans. The Developer or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at the City Hall with all parties concerned, including the City Public Services Director, to review the program for the construction work.
- 6.13. **Final Inspection by City.** Promptly upon completion of the Improvements, the Developer shall provide the following to the City (the "**Inspection Deliverables**"):

- 6.13.1. as-built plans of the Improvements in both paper and electronic format, which electronic format shall be acceptable to the City Public Services Director; and
 - 6.13.2. a recording of closed circuit televising of the sanitary sewer improvements and a written report describing such televising.
- 6.14. **Acceptance by City.** All the Improvements are subject to final inspection by the City Engineer, the City Public Services Director and the City Building Inspector (collectively, the “**City Staff Inspectors**”). If any of the City Staff Inspectors determine corrective action is needed to conform any of the Improvements to the Construction Plans, this Agreement, any requirement of a Governmental Entity, or to correct defective or damaged work (including, but not limited to, pavement and sidewalk cracks and damage), the City shall inform the Developer of the corrective action needed. Upon receiving notice from the City of any corrective action needed, the Developer shall, at the Developer’s expense, promptly complete the corrective action to the satisfaction of the City Staff Inspectors. Further, within sixty (60) days of the City’s receipt of the Inspection Deliverables, the City shall either accept, by resolution of the City Council, the Developer Installed Municipal Improvements and the Private Improvements or inform the Developer of corrective action needed. In regard to the Developer Installed Municipal Improvements and the Private Improvements, the City’s failure to act as stated above within the sixty (60) day period shall be deemed acceptance. Upon acceptance by the City, the Developer Installed Municipal Improvements shall become City property without further action.

7. **WARRANTIES.**

- 7.1. **Landscaping Improvements.** The Developer agrees, or shall cause its prime contractor to agree, to guarantee and warrant all work performed and all materials supplied in regard to the Landscaping Improvements for a period of two (2) years from the date installed. If any plant material dies or is not growing properly within two (2) years of the date it is installed, the Developer or its prime contractor shall promptly replace it.

8. **INSURANCE AND INDEMNIFICATION.**

- 8.1. **Insurance.** The Developer shall furnish, or shall cause its prime contractor to furnish, proof of insurance prior to the commencement of construction of the Improvements and subject to the review and approval of the City, covering any public liability or property damage by reason of operation of the contractor’s equipment, laborers and hazard caused by the Improvements at minimum policy amounts of \$1,000,000.00. The contractor shall keep the insurance in force at all times construction of the development is in progress. The insurance must name the City as an additional insured and must provide that the insurer shall give the City not less than thirty (30) days’ written notice prior to cancellation or termination of the insurance policy.
- 8.2. **Indemnification.** Any and all claims that arise or may arise against the Developer, its agents, servants, or employees while engaged in the performance of the

development of the Property shall in no way be the obligation of the City. Furthermore, the Developer shall indemnify, hold harmless, and defend the City, its officers, employees, consultants and agents against any and all liabilities, losses, costs, damages, expenses, claims, actions, or judgments, including attorneys' fees, that the City, its officers, employees, consultants and agents may hereafter sustain, incur, or be required to pay, arising out of or by reason of any act or failure to act by the Developer, its agents, servants and/or employees. Notwithstanding anything to the contrary, the Developer's obligation to indemnify, hold harmless, and defend the City shall not extend to any claim, liability, loss, costs, damages, expenses, actions, or judgments, including attorneys' fees, which relate to, result from, or are caused by the City's violation of applicable law, this Agreement, or the negligence of the City and/or its officers, employees, consultants or agents.

9. **BUILDING PERMITS AND CERTIFICATE OF OCCUPANCY.**

9.1. **General Building Permit Requirements.** No building permit shall be issued until:

9.1.1. The Site Plan has received final approval from the City Council; and

9.1.2. any outstanding amounts due the City under this Agreement have been paid; and

9.1.3. all required financial guarantees have been given to the City; and

9.1.4. the Developer is not then in default of this Agreement; and

9.1.5. the City Public Services Director has approved access and temporary construction access for the School development; and

9.1.6. the Developer has paid all fees then required by the City or any other Governmental Entity for issuance of a building permit including any fees for: i) metro sewer availability; ii) sewer trunk; iii) sewer permit; iv) sewer hookup; v) water trunk; vi) water permit; vii) water hookup; viii) storm water trunk; and ix) storm water connection; and

9.1.7. all Waconia City Code requirements for issuance of a building permit have been met.

9.2. **Certificate of Occupancy Requirements.** No certificate of occupancy shall be issued until:

9.2.1. the City Public Services Director has approved an as-built final grade and sidewalk/trail survey for the Property;

9.2.2. the City Public Services Director has approved a utility check for the Property;

9.2.3. the City Public Services Director has approved storm water compliance for the Property; and

9.2.4. all Waconia City Code, building code and other requirements for issuance of a certificate of occupancy have been met.

10. **LOT REQUIREMENTS.** The School project shall meet the requirements of Section 900.05, Subd. 2.L. - P, Public District.
11. **PAYMENT OF COSTS AND EXPENSES.**
 - 11.1. **General.** The Developer agrees to pay, upon demand of the City, all costs, expenses, charges and fees incurred or paid by the City in relation to this Agreement or the School development. For example, the Developer shall reimburse the City for staff time, consulting fees, reasonable attorneys' fees and costs relating to: i) review of the Construction Plans; ii) the negotiation and preparation of this Agreement; iii) reviews and inspections required or permitted by this Agreement; and iv) any action or suit relating to this Agreement or the School development.
 - 11.2. **City Billing Procedure.** Whenever this Agreement permits the City to demand payment from the Developer or requires the Developer to reimburse the City, the City shall invoice the Developer for the amount due. Each amount invoiced by the City to the Developer shall be due and payable thirty (30) days after the date of the applicable invoice. If the Developer fails to pay any amount on before the date such amount is due, the Developer shall be deemed in default of this Agreement.
12. **FINANCIAL GUARANTEES.** The Developer shall provide the following financial guarantees.
 - 12.1. **Guarantee for Private Improvements.**
 - 12.1.1. **Letter of Credit.** To assure the installation of all Developer Installed Private Improvements in a good and workmanlike manner and Developer's faithful performance of its obligations under this Agreement, Developer shall provide City with an irrevocable letter of credit from a U.S. bank with a physical branch location in the State of Minnesota, the form of which shall be satisfactory to City (the "**Letter of Credit for Private Improvements**") in the amount of \$_____ (which equals one hundred twenty percent (120%) of the cost of the Private Improvements). In the event Developer fails to install the Developer Installed Private Improvements in accordance with the provisions of this Agreement, fails to reimburse the City for the Developer Funded Municipal Improvements as required herein, or otherwise breaches its obligations under this Agreement, the City shall notify Developer in writing of such default. In the event Developer fails to cure the default required within thirty (30) days of receipt of the City's written notice the City may declare a default under the Agreement. Thereafter the City may draw upon the Letter of Credit for Private Improvements in such amount as is reasonably adequate to cure the default. The Letter of Credit for Private Improvements shall be renewable on an annual basis and shall provide for the City to receive notice of renewal at least thirty (30) days prior to the date of renewal.
 - 12.1.2. **Release/Reduction of Letter of Credit.** Developer may apply to the City for release of all or a portion of the Letter of Credit for Municipal Improvements as follows:
 - 12.1.2.1. When another irrevocable letter of credit acceptable to the City is

furnished to the City to replace the Letter of Credit for Private Improvements.

12.1.2.2. When the Private Improvements have been substantially completed and accepted by the City Engineer, Developer may apply for a fifty percent (50%) reduction in the Letter of Credit for Private Improvements and the City shall grant such request provided a new letter of credit acceptable to the City for the remaining fifty percent (50%) is furnished to the City by Developer.

12.1.2.3. When all of the Private Improvements have been completed and the warranty bond required by Section 7 of this Agreement has been provided to the City, Developer may apply to have the Letter of Credit for Private Improvements released in its entirety and the City shall grant such request.

12.2. **Guarantee for Landscape Improvements.**

12.2.1. **Letter of Credit.** To assure the installation of all Landscape Improvements in a good and workmanlike manner, the proper growth of all plants for the period of two (2) years after installation, and Developer's faithful performance of its obligations under this Agreement, Developer shall provide City with an irrevocable letter of credit from a U.S. bank with a physical branch location in the State of Minnesota, the form of which shall be satisfactory to City (the "**Letter of Credit for Landscape Improvements**") in the amount of \$51,562.50 (which equals one hundred percent (100%) of the cost of the Landscape Improvements). In the event Developer fails to install and maintain the Landscape Improvements in accordance with the provisions of this Agreement, fails to replace a plant not growing properly or otherwise breaches this Agreement, the City shall notify Developer in writing of such default. In the event Developer fails to cure the default required within thirty (30) days of receipt of the City's written notice the City may declare a default under the Agreement. Thereafter the City may draw upon the Letter of Credit for Landscape Improvements in such amount as is reasonably adequate to cure the default. Such Letter of Credit for Landscape Improvements shall be renewable on an annual basis and shall provide for the City to receive notice of renewal at least thirty (30) days prior to the date of renewal.

12.2.2. **Release/Reduction of Letter of Credit for Landscape Improvements.** Developer may apply to City for release of all or a portion of the Letter of Credit for Landscape Improvements as follows:

12.2.2.1. When another irrevocable letter of credit acceptable to the City is furnished to the City to replace the Letter of Credit for Landscape Improvements; or

12.2.2.2. Upon such time as the Landscape Improvements have been

installed for a period of one (1) year or a warranty bond ensuring the proper growth of all plant material for a period of one (1) year following installation has been provided to the City.

- 12.3. **Expiration.** In the event any letter of credit required by this Section 12 will expire pursuant to its terms prior to the time that all money or obligations of Developer are paid or completed pursuant to this Agreement, Developer shall provide the City with a new letter of credit, acceptable to City, at least thirty (30) days prior to the expiration of such expiring letter of credit. If a new letter of credit is not received as required above, the City may declare a default in the terms of this Agreement and draw in part, or in total, at City's discretion, upon the expiring letter of credit to avoid the loss of surety for the continued obligations.
- 12.4. **Failure to Perform.** If the Developer is in default of this Agreement or otherwise fails to perform any of the duties, conditions or terms of this Agreement in the time permitted herein, or in such extended time as may be granted in writing by the City Council, the City shall be entitled to draw on any escrow provided by the Developer pursuant to this Section 12, to enter the Property, and to cure the default. In the event the default consists of the Developer's failure to install any of the Improvements in accordance with the provisions of this Agreement, the City shall cure the default by performing the work in accordance with the Construction Plans and this Agreement. The City may reimburse itself for all costs and expenses, including, but not limited to legal and consulting fees, arising out of or related to curing the Developer's default from escrow funds. The Developer shall indemnify, hold harmless, and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including attorneys' fees which the City, its officers or employees may hereafter sustain, incur, or be required to pay, arising out of or by reason of the City exercising its power under this Section 12.3.
- 12.5. **Costs.** The City's costs for processing each escrow release request shall be billed to the Developer at One Hundred Twenty-five and no/100 Dollars (\$125.00) per hour with a minimum of one (1) hour per release, and shall be deducted directly from the escrow funds released. Any request for release of escrow funds shall be either approved or denied within thirty (30) days of being made in writing to the City.
- 12.6. **Deficiency.** In the event any of the sureties described in this Section 12 are used by the City and found to be deficient in amount to pay or reimburse the City in total as required herein, the Developer agrees that, upon being billed by the City, the Developer will pay the deficiency amount to City within ten (10) days of receipt of such billing to the Developer. If the Developer fails to pay, the City may assess all costs, including, but not limited to, staff time, engineering fees and legal fees against the Property. The Developer acknowledges that the City has the authority, pursuant to Minnesota Statutes Chapters 412 and 429, to specially assess property benefited by improvements. In addition to the above, the City may seek a civil judgment against the Developer.

13. **PROOF OF TITLE/ATTORNEY REVIEW.** Before any building permits or other permits for the School development are issued by the City, the Developer shall provide the City with sufficient evidence (which sufficiency shall be determined by the City Attorney) that all documents required to be recorded pursuant to this Agreement have been properly recorded.
14. **REPRESENTATIONS AND WARRANTIES OF DEVELOPER.** The Developer, as an inducement to the City to enter into this Agreement, hereby represents, warrants and covenants to the City as follows:
 - 14.1. **Authorization.** The Developer is an organized school district under the laws of the State of Minnesota in good standing and authorized to do business in the State of Minnesota. The Developer has full authority to enter into this Agreement and make it binding on itself and its successors and assigns, and to make this Agreement, and the covenants herein, binding upon and running with the Property. This Agreement shall not become effective until it is executed and delivered by the City and the Developer.
 - 14.2. **Ownership.** The Developer has a fee ownership interest in the Property.
 - 14.3. **Execution No Violation.** The execution, delivery and performance of this Agreement does not and will not result in any breach of, or constitute a default under, any indenture, mortgage, contract, agreement or instrument to which the Developer is a party or by which it, or the Property, is bound.
 - 14.4. **Litigation.** There are no pending or, to the knowledge of the Developer, threatened actions or proceedings before any court or administrative agency that will adversely affect the financial condition, business or operation of the Developer or the ability of the Developer to perform its obligations under this Agreement.
 - 14.5. **Compliance.** The Developer will comply with and promptly perform all of the Developer's obligations under this Agreement and all related documents and instruments.
 - 14.6. **Wetlands.** As of the date of this Agreement, the Property and the proposed development thereof complies with the Wetland Conservation Act.
 - 14.7. **Environmental Laws.** To the best of the Developer's knowledge, as of the date of this Agreement, the Developer is not in violation of any local, state or federal environmental law, regulation or review procedure, which would give any person a valid claim under the Minnesota Environmental Rights Act with respect to the Property.
15. **DEFAULT.** In the event the Developer, its successors or assigns breaches any of the covenants or agreements herein contained and any such violation remains uncured for more than thirty (30) days after the City gives the Developer notice of the violation (unless another provision of this Agreement calls for a shorter cure period, in which case the shorter period shall apply), the City may draw and/or utilize the deposited escrow funds, letters of credit, or other surety funds to complete the Developer's obligations as set forth

herein, and to the extent not satisfied from such funds, to bring legal action against the Developer to collect any sums due pursuant to this Agreement. In the event of an uncured default, the Developer hereby grants the City and the City's employees, representatives or agents the right to enter the Property to perform any act deemed necessary by City to complete the Developer's default. In addition to the above, the City may initiate any legal action allowed by law, including, but not limited to, injunctive relief for compliance with this Agreement.

16. **NOTIFICATION INFORMATION.** Any notice to the parties herein shall be deemed to have been given or delivered if sent by certified mail addressed as follows:

If to the City:

City of Waconia
201 South Vine Street
Waconia, MN 55387
Attn: City Administrator

If to the Developer:

Independent School District No. 110
512 Industrial Blvd.
Waconia, MN 55387
Attn: Patrick Devine, Superintendent

17. **MISCELLANEOUS.**

- 17.1. **Runs with the Property.** The terms and conditions of this Agreement shall be binding on the parties hereto, their respective successors and assigns. The benefits and burdens of this Agreement run with the Property. Notwithstanding the foregoing, no conveyance of the Property or any part thereof shall relieve the Developer of its personal liability for full performance of this Agreement unless the City expressly releases the Developer in writing.
- 17.2. **Recording.** This Agreement shall be recorded against the Property by the Developer. No building permits shall be issued until the City is provided with recording information.
- 17.3. **Compliance.** Use of the Property shall be consistent and comply with, at all times, federal, state and local regulations and ordinances.
- 17.4. **Interest on Past Due Amounts.** In addition to all other remedies available to City under this Agreement, amounts owed the City and not paid when due shall accrue interest at the rate of eight percent (8%) per annum from the date due until the date actually paid.
- 17.5. **Construction of Agreement.** This Agreement, any attached exhibits, the incorporated instruments pursuant to Section 1 of this Agreement and any addenda or amendments signed by the parties shall constitute the entire agreement between the parties, and they supersede any other written or oral agreements between the

parties as it relates to the terms and obligations contained herein. The word “including” shall mean including without limitation. The parties intend that each representation, warranty, and covenant contained in this Agreement have independent significance. The captions used in this Agreement are for convenience only and do not constitute terms of the Agreement.

- 17.6. **Warranty of Authority.** The Developer warrants and guarantees that it has the authority to enter into this Agreement and to make it a covenant on the Property binding all current and future owners.
- 17.7. **Attorneys’ Fees.** The City and the Developer agree that, in the event a suit or action is brought to enforce the terms of this Agreement, or in the event an action is brought upon a letter of credit furnished by the Developer as provided herein, the non-prevailing party shall pay the prevailing party’s reasonable attorneys’ fees and legal costs.
- 17.8. **Severability.** In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.
- 17.9. **Data Practices Compliance.** The Developer will have access to data collected or maintained by the City to the extent necessary to perform the Developer’s obligations under this Agreement. The Developer agrees to maintain all data obtained from the City, as it relates to the Municipal Improvements, in the same manner as the City is required under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 or other applicable law (the “Act”). The Developer will not release or disclose the contents of data classified as not public to any person except at the written direction of the City. Upon receipt of a request to obtain and/or review data as defined in the Act, the Developer will immediately notify the City. The City shall provide written direction to the Developer regarding the request within a reasonable time, not to exceed ten (10) days. The City agrees to indemnify, hold harmless and defend the Developer for any liability, expense, cost, damage, claim, and action, including attorneys’ fees, arising out of or related to the Developer complying with the City’s direction. Subject to the aforementioned, the Developer agrees to defend and indemnify the City from any claim, liability, damage or loss asserted against the City as a result of the Developer’s failure to comply with the requirements of the Act. Upon termination and/or completion of this Agreement, the Developer agrees to return all data to the City, as requested by the City.
- 17.10. **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Minnesota.
- 17.11. **Time is of the Essence.** Time is of the essence in the performance of the terms and obligations of this Agreement.
- 17.12. **Survival.** Any obligations in this Agreement to indemnify or hold another party harmless shall survive the expiration or earlier termination of this Agreement.

- 17.13. **Modification.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party. It is understood that subsequent agreements may be necessary to complete the understandings of the parties relating to necessary improvements and uses of the Property.
- 17.14. **Non-Waiver.** The action or inaction of the City or the Developer shall not constitute a waiver or amendment of the provisions of this Agreement. The waiver by or the failure of the City or the Developer to enforce any particular section, portion or requirement of this Agreement at any particular time shall not in any way constitute a waiver of any other section, provision, requirement, time element, or the right to enforce such provision at a subsequent time. To be binding, any amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's or the Developer's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.
- 17.15. **Cumulative Rights.** Each right, power, or remedy herein conferred upon the City or the Developer is cumulative and in addition to every other right, power, or remedy, express or implied, now or hereinafter arising, available to the City or the Developer, at law or in equity, or under any other agreement, and each and every right, power, and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City or the Developer and will not be a waiver of the right to exercise at any time thereafter any other right, power, or remedy.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

CITY OF WACONIA

INDEPENDENT SCHOOL DISTRICT NO. 110

By: _____
 James P. Sanborn
 Its: Mayor

By: _____
 Patrick Devine
 Its: Superintendent

By: _____
 Susan MH Arntz
 Its: City Administrator/Clerk

By: _____ (print name)

 Its: Clerk

STATE OF MINNESOTA)
)
COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by James P. Sanborn and Susan MH Arntz, the Mayor and City Administrator/Clerk, respectively, of the City of Waconia, a Minnesota municipal corporation under the laws of the State of Minnesota, on behalf of the corporation.

Notary Public

STATE OF MINNESOTA)
)
COUNTY OF _____)

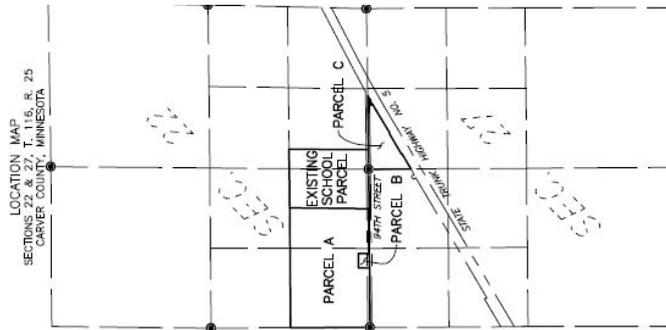
The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Patrick Devine, Superintendent, and _____, Clerk, Independent School District 110, an independent school district existing under the laws of the State of Minnesota, on behalf of the District.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
Lane L. Braaten – Community Development Director
City of Waconia
201 South Vine Street
Waconia, Minnesota 55387
(952) 442-3106

EXHIBIT A-1

Legal Description of Property



DESCRIPTION OF EXISTING SCHOOL PARCEL

The west 10 acres of the Southeast Quarter of the Southwest Quarter of Section 22, Township 116, Range 25, Carver County, Minnesota. The east line of said 10 acres is parallel with the west line of said Southwest Quarter of the Southeast Quarter.

TOGETHER WITH

The east 659.44 feet of the Southeast Quarter of the Southwest Quarter of Section 22, Township 116, Range 25, Carver County, Minnesota, as measured at a right angle to the west line of said Southeast Quarter of the Southwest Quarter.

Said Existing School Property contains 1,310.814 sq. ft. (30.09 acres) of land, more or less.

EXISTING DESCRIPTIONS OF PARCELS BEING ACQUIRED

PARCEL A (Description from First American Title Insurance Company, Title Insurance Commitment, File No. 141381)

The land referred to in this Commitment is located in the County of Carver, State of Minnesota and is described as follows:

The South Half of the Southwest Quarter of Section 22, Township 116, Range 25, EXCEPTING THEREFROM the following described parcel:

Commencing at the southwest corner of the Southwest Quarter of the Southwest Quarter; thence along the south line of said Southwest Quarter of the Southwest Quarter on an assumed bearing of East, a distance of 998.38 feet, to the actual point of beginning; thence continue East along said south line, a distance of 240.00 feet to a point 67.87 feet west of the southwest corner of said Southwest Quarter of the Southwest Quarter; thence North 00 degrees 13 minutes 00 seconds West along said south line, a distance of 240.00 feet; thence South 00 degrees 13 minutes 00 seconds West parallel to the west line of said Southwest Quarter of the Southwest Quarter, a distance of 182.00 feet; thence West parallel to the west line of said Southwest Quarter of the Southwest Quarter, a distance of 182.00 feet to the actual point of beginning.

ALSO EXCEPTING THEREFROM the East 659.44 feet of the Southeast Quarter of the Southwest Quarter of Section 22, Township 116, Range 25, Carver County, Minnesota.

Said Parcel A contains 2,606.161 sq. ft. (59.83 acres) of land, more or less.

PARCEL B (Description from First American Title Insurance Company, Title Insurance Commitment, File No. 141382)

The land referred to in this Commitment is located in the County of Carver, State of Minnesota and is described as follows:

That part of the Southwest Quarter of the Southwest Quarter of Section 22, Township 116, Range 25, Carver County, Minnesota, described as follows: Commencing at the southwest corner of the Southwest Quarter of the Southwest Quarter thence along the south line of said Southwest Quarter of the Southwest Quarter on an assumed bearing of East, a distance of 998.38 feet, to the actual point of beginning; thence continue East along said south line, a distance of 240.00 feet to a point 67.87 feet west of the southwest corner of said Southwest Quarter of the Southwest Quarter; thence North 00 degrees 13 minutes 00 seconds West along said south line, a distance of 240.00 feet; thence South 00 degrees 13 minutes 00 seconds West parallel to the west line of said Southwest Quarter of the Southwest Quarter, a distance of 182.00 feet; thence West parallel to the west line of said Southwest Quarter of the Southwest Quarter, a distance of 182.00 feet to the actual point of beginning.

Said Parcel B contains 43,680 sq. ft. (1.00 acres) of land, more or less.

PARCEL C (Description from First American Title Insurance Company, Title Insurance Commitment, File No. 141407)

The land referred to in this Commitment is located in the County of Carver, State of Minnesota and is described as follows:

The part of the Northeast Quarter of Section 27, Township 116, Range 25, Carver County, Minnesota, which lies northerly and westerly of the northerly right of way line of State Highway No. 5.

Said Parcel C contains 426,709 sq. ft. (9.80 acres) of land, more or less.

EXHIBIT A-2
Diagram of Property



EXHIBIT C

Landscape Plan - East

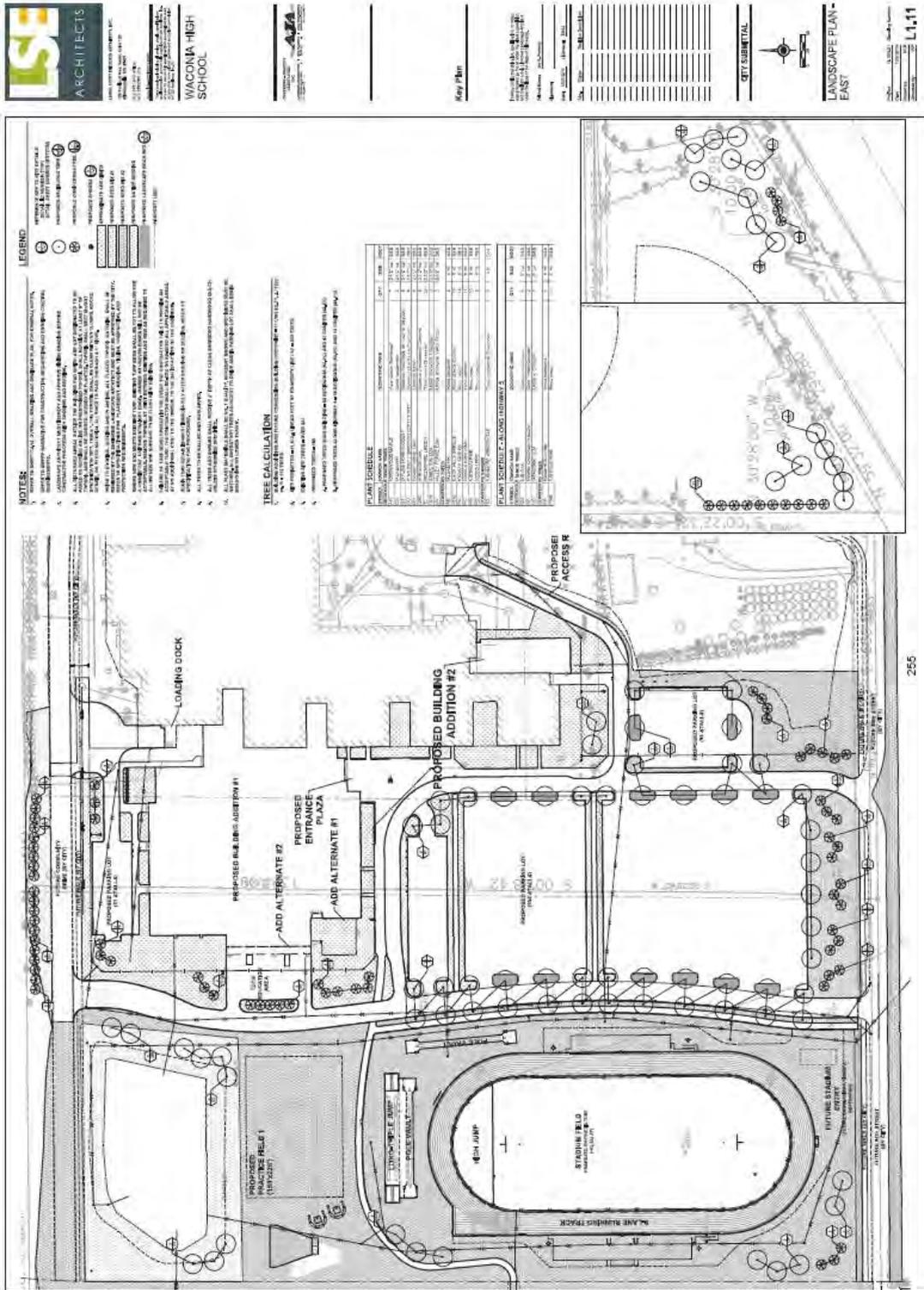


Exhibit C
Page 1 of 2



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2, 2016
Item Name:	Conflict Waiver for Representation of the City of Waconia by Melchert Hubert Sjodin regarding the 2016 Infrastructure Improvement Project
Originating Department:	Administration
Presented by:	Susan Arntz, City Administrator

Previous Council Action (if any):

Item Type (X only one):	Consent	<input checked="" type="checkbox"/>	Regular Session	<input type="checkbox"/>	Discussion Session	<input type="checkbox"/>
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RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED *(Include motion in proper format.)*

Adopt Resolution 2016-99 , Approving Conflict Waiver for Representation of the City by Melchert Hubert Sjodin regarding the 2016 Infrastructure Improvement project.

EXPLANATION OF AGENDA ITEM *(Include a description of background, benefits, and recommendations.)*

The City is in need of an easement from Ridgeview for the 2016 Infrastructure Improvement Project. As Ridgeview and the City are both represented by Melchert Hubert Sjodin, a potential conflict exists. Both parties have agreed that it makes sense for the City to be represented by Melchert at this time..

We are requesting approval of this conflict waiver.

<p>FINANCIAL IMPLICATIONS:</p> <p>Funding Sources & Uses: n/a</p>	<p>ADVISORY BOARD RECOMMENDATIONS:</p>
<p>Budget Information:</p> <p style="padding-left: 20px;">Budgeted <input type="checkbox"/></p> <p style="padding-left: 20px;">Non Budgeted <input type="checkbox"/></p> <p style="padding-left: 20px;">Amendment Required <input type="checkbox"/></p>	<p>Planning Commission <input type="checkbox"/></p> <p>Parks and Recreation Board <input type="checkbox"/></p> <p>Safari Island Advisory Board <input type="checkbox"/></p> <p>Other <input type="checkbox"/></p>

**CITY OF WACONIA
RESOLUTION NO. 2016-99**

**RESOLUTION APPROVING CONFLICT WAIVER AND REPRESENTATION OF THE CITY
OF WACONIA BY MELCHERT HUBERT SJODIN REGARDING 2016 INFRASTRUCTURE
IMPROVEMENT PROJECT**

WHEREAS, the City has need for a right of way easement as part of the 2016 infrastructure improvement project; and

WHEREAS, Ridgeview and the City are both represented by Melchert Hubert Sjodin and a potential conflict exists; and

WHEREAS, both parties have reviewed the matter and agree that Melchert Hubert Sjodin should represent the City in this matter.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Waconia hereby approves Representation of the City by Melchert Hubert Sjodin and authorizes the City Administrator to execute appropriate documents affecting this representation.

Adopted by the City Council of the City of Waconia this 2nd day of May, 2016.

Jim Sanborn, Mayor

ATTEST: _____
Susan MH Arntz, City Administrator

M/ _____	Ayers	_____
	Bloudek	_____
S/ _____	Carrier	_____
	Erickson	_____
	Sanborn	_____

Keith E. Sjodin*
R. Lawrence Harris
Bradley W. Solheim**
J. Michael Melchert**
Kelly C. Dohm***
P. David Melchert
Racheal M. Hollando**
Kathryn J. Barnes
Jason M. Thiemann
Dorothy P. Bradley
Erin H. Jensen
Matthew D. McDougall
Arian S. Tavakolian



MELCHERT • HUBERT • SJODIN
A Professional Limited Liability Partnership
ATTORNEYS AT LAW

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Facsimile (952) 448-6282

HUTCHINSON OFFICE
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Hutchinson, MN 55350
Telephone (320) 587-2046
Facsimile (320)286-6646

Of Counsel:
Paul A. Melchert
David P. Hubert
Luke L. Melchert
Mac R. Willemsen
Neil J. Jensen

April 28, 2016

REPLY TO WACONIA OFFICE

Firm Administrator:
Marcia A. Willmsen

WEB PAGE
www.mhslaw.com

*Civil Trial Law Specialist, certified by the
Minnesota State Bar Association
**Real Property Law Specialist, certified by the
Minnesota State Bar Association
***Labor and Employment Law Specialist, certified
by the Minnesota State Bar Association
oAlso admitted in ND and SD

**VIA UNITED STATES FIRST CLASS MAIL AND
E-MAIL (sarntz@waconia.org)**
Susan Arntz
City Clerk/Administrator
City of Waconia
201 South Vine Street
Waconia, MN 55387

**VIA UNITED STATES FIRST CLASS MAIL AND
E-MAIL (john.prondzinski@ridgeviewmedical.org)**
John Prondzinski
Vice President
Ridgeview Medical Center
500 South Maple Street
Waconia, MN 55387

**Re: Conflict of Interest Waiver Regarding Easement for 2016 Infrastructure
Improvement Project**

Dear Susan and John:

This letter follows-up on my telephone conversation with each of you. The City of Waconia (the "City") has asked our firm ("MHS") to prepare a right-of-way easement between the City and Ridgeview Medical Center ("Ridgeview") in connection with the City's 2016 Public Infrastructure Improvement Project. Because MHS serves as Ridgeview's attorney and represents Ridgeview on several unrelated files, MHS would like consent from both Ridgeview and the City as to MHS representing the City on this matter. Below, I discuss the reasons for seeking consent in more detail. Then I describe what is being requested.

Rule 1.7 of the Minnesota Rules of Professional Conduct for attorneys does not allow a law firm to represent a client if the representation will be directly adverse to another client of the firm, or if the representation may be materially limited by the law firm's responsibilities to others (or the law firm's own interests), unless the law firm reasonably determines the representation is appropriate under the guidance provided in the rule and each affected client gives informed consent, confirmed in writing.

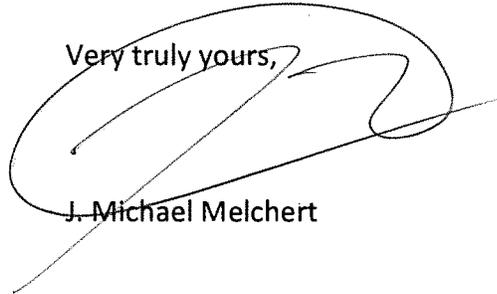
MELCHERT • HUBERT • SJODIN, PLLP

Susan Arntz
John Prondzinski
April 28, 2016
Page 2

Here, MHS believes it is appropriate to seek consent because the proposed easements is minor (0.001 of an acre). If Ridgeview desires independent legal representation, it can seek it without significant inconvenience. Also, we do not feel MHS has any confidential information that could be used to Ridgeview's detriment in regard to the current transaction. Further, because the easement is unrelated to other matters MHS is currently handling for either party, we feel our representation of the City here will not adversely affect MHS' ability to represent either Ridgeview or the City on other files going forward.

As such, MHS seeks each party's consent to represent the City, as outlined above, and each party's waiver of any conflict of interest or potential conflict of interest in regard to such representation. Please give this matter your further consideration and consult with separate legal counsel if you so desire. If you are willing to proceed, please sign the appropriate Consent attached and return one executed copy to me as soon as possible. If you want to print off your consent, sign it, and return a scan of the executed page to me via email, that is acceptable and will help move matters along. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to be "J. Michael Melchert", is written over a large, loopy scribble. The signature is positioned above the printed name "J. Michael Melchert".

J. Michael Melchert

JMM/nkm

Consent of the City of Waconia

The City of Waconia, Minnesota consents to Melchert Hubert Sjodin, PLLP ("MHS"), representing it in regard to the preparation of a right-of-way easement between the City and Ridgeview Medical Center in connection with the City's 2016 Public Infrastructure Improvement Project described in the letter from MHS to the City of Waconia and Ridgeview Medical Center, dated April 28, 2016. The City of Waconia acknowledges that MHS has discussed the facts and circumstances surrounding any conflicts of interest or potential conflicts, and the City of Waconia waives any conflict of interest or potential conflict of interest that MHS may have regarding such transaction. A facsimile or copy of the signature below shall be as valid as an original signature.

AGREED AND ACCEPTED

THE CITY OF WACONIA, MINNESOTA

Susan MH Arntz, City Clerk/Administrator

Date: _____

Consent of Ridgeview Medical Center

Ridgeview Medical Center consents to Melchert Hubert Sjodin, PLLP ("MHS"), representing the City of Waconia, Minnesota in regard to preparation of a right-of-way easement between the City and Ridgeview Medical Center in connection with the City's 2016 Public Infrastructure Improvement Project described in the letter from MHS to the City of Waconia and Ridgeview Medical Center, dated April 28, 2016. Ridgeview Medical Center acknowledges that MHS has discussed the facts and circumstances surrounding any conflicts of interest or potential conflicts, and Ridgeview Medical Center waives any conflict of interest or potential conflict of interest that MHS may have regarding such transaction. A facsimile or copy of the signature below shall be as valid as an original signature.

AGREED AND ACCEPTED

RIDGEVIEW MEDICAL CENTER

John Prondzinski, Vice President

Date: _____

[https://mhslaw.sharepoint.com/sites/clients/1/40304/draftdocs/consent to representation letter 04-28-2016.docx](https://mhslaw.sharepoint.com/sites/clients/1/40304/draftdocs/consent%20to%20representation%20letter%2004-28-2016.docx)



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2, 2016				
Item Name:	Ordinance 693, Amending Chapter 320 Regarding Streets, Sidewalks and other Public Places, Part V regarding Municipal Regulations and Licensing, and Chapter 1100 Regarding Fees				
Originating Department:	Administration				
Presented by:	Susan Arntz, City Administrator				
Previous Council Action:	April 4, 2016 Amendments to Chapter 580 regarding Alcoholic Beverages				
Item Type (X only one):	<input type="checkbox"/> Consent	<input type="checkbox"/>	<input type="checkbox"/> Regular Session	<input checked="" type="checkbox"/> Discussion Session	<input type="checkbox"/>

RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Motion Adopting Ordinance 693, Amending Chapter 320 Regarding Streets, Sidewalks and other Public Places, Part V regarding Municipal Regulations and Licensing, and Chapter 1100 Regarding Fees

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

Upon future review of various City Ordinances, it appears that the Council’s amendment to Chapter 580 regarding alcoholic beverages has necessitated an amendment to Chapter 320 regarding Streets, Sidewalks and other Public Places, Part V regarding Municipal Regulations and Licensing, and Chapter 1100 Regarding Fees. Attached are proposed revisions to these sections of City Code. Below is a list of those amendments by section:

- Section 320.01, Subd. 2, Adds Sidewalk cafés to the list of permits.
- Park V the Municipal regulations and Licensing adds a new chapter 570, Sidewalk Cafés, the elements of this new section includes:
 - Definitions including sidewalk café.
 - Requires a license that will extend from April 1 to October 31. This license must be reapplied for each year.
 - The license grants the holder an encroachment for the period of the license onto a public sidewalk or parking lot.
 - Requires a plan to be submitted and approved by the City Council. The plan must indicate the location of the proposed sidewalk café, distance and dimensions of adjoining buildings, all sidewalks, curbs, and striped parking stalls within 100’ of the perimeter of the café., and the distance to and location of the traveled portion, of the nearest adjacent street, and distances to all obstructions in the vicinity.
 - Requires a fee to be paid. Fees are recommended as:
 - Sidewalk café license, fee for sidewalk use - \$500.00
 - Sidewalk café license, fee for municipal parking lot use - \$500 base fee *plus* \$300.00 for each parking stall (or portion of a parking stall) impacted by the sidewalk café
 - Sidewalk café license, damage deposit - \$1,000.00

These changes only apply to public property, not private property. Attached is a clean version of the entire ordinance. Also attached is a copy of the encroachment and indemnity agreement that we would use along with the approved license. We are requesting the ability to publish a summary of these ordinance changes. This summary publication requires a 4/5th vote of the City Council.

FINANCIAL IMPLICATIONS:	ADVISORY BOARD RECOMMENDATIONS:
Budget Information:	Planning Commission
<input type="checkbox"/> Budgeted	Parks and Recreation Board
<input type="checkbox"/> Non Budgeted	Safari Island Advisory Board
<input type="checkbox"/> Amendment Required	Other

**CITY OF WACONIA
ORDINANCE NO. 693**

**AN ORDINANCE AMENDING
CHAPTER 320 REGARDING STREETS, SIDEWALKS AND OTHER PUBLIC PLACES,
PART V REGARDING MUNICIPAL REGULATIONS AND LICENSING,
AND
CHAPTER 1100 REGARDING FEES**

The City Council of the City of Waconia ordains:

FINDINGS AND PURPOSE

The City of Waconia (the “City”) maintains streets, sidewalks and municipal parking lots for the benefit of the public. The City Council finds it is appropriate and in the best interests of its residents to amend Chapter 320 and Part V of the Waconia City Code to allow sidewalk cafés to exist on public sidewalks and municipal parking lots if they do not unduly interfere with pedestrian or vehicular traffic. The purpose of the ordinance is to make the desired revisions to Chapter 320 and Part V of the Waconia City Code and to establish corresponding sidewalk café license fees in Section 1100 of the Waconia City Code.

AMENDMENTS

1. Section 320.01, Subd. 2, of the Waconia City Code, *Application for Permit*, is amended to add the following phase to the beginning of such subdivision:

Except for permits and licenses separately addressed by Section 320.02, *Parades*, Section 320.03 *Street Openings or Excavations*, or Chapter 570, *Sidewalk Cafés*,

2. Part V of the Waconia City Code, *Municipal Regulations and Licensing*, is amended to add a new chapter as follows:

**CHAPTER 570
SIDEWALK CAFÉS**

Section

570.01	Definitions
570.02	Licenses
570.03	Damage Deposit
570.04	Operation
570.05	Expiration of Licenses

570.06 Right to a Hearing

570.01 Definitions.

The following terms, as used in this Chapter, shall have the meanings stated in this section:

“Chapter 580” means Chapter 580 of the Waconia City Code.

“Eligible venue” means: i) a restaurant currently holding a license from the Minnesota Department of Health that was issued pursuant to Minn. Stat. §157.16, Subd. 1; ii) a premises currently holding an on-sale intoxicating liquor license that was issued pursuant to Chapter 580; iii) a premises currently holding a wine license that was issued pursuant to Chapter 580; or iv) a premises currently holding a brew pub license that was issued pursuant to Chapter 580.

“Municipal parking lot” means a parking lot owned by the City that is generally available for use by the public for vehicular parking.

“Restaurant” shall have the meaning given it by Minn. Stat. §157.15, Subd. 12.

“Public sidewalk” means a sidewalk owned by the City that is generally available for use by the public for pedestrian traffic.

“Sidewalk café” means tables, chairs, benches and appurtenant equipment located on a public sidewalk or municipal parking lot: i) for the exclusive use by patrons of an abutting, eligible establishment; and ii) where the service of food or beverages is offered to persons using such tables, chairs and benches.

570.02 Licenses.

Subd. 1 License Required. A person may use a public sidewalk or municipal parking lot for a sidewalk café in connection with the operation of an eligible venue if the person holds a current sidewalk café license issued pursuant to this Chapter. The operation of a sidewalk café under any other circumstance is prohibited.

Subd. 2 License Period. Each sidewalk café license issued on or before April 1st shall run from the beginning of the day on April 1st to the end of the day on October 31st for the year to which the license applies. Each sidewalk café license issued after April 1st shall run from the beginning of the day the license was issued to the end of the day on October 31st for the year to which the license applies.

Subd. 3 Nature of Use. A sidewalk café license only grants the license holder a temporary license to encroach upon a public sidewalk or municipal parking lot, subject to the requirements and restrictions contained in this Chapter.

Subd. 4 License Application. A person desiring to use any portion of a public sidewalk or

municipal parking lot for a sidewalk café in connection with the operation of an eligible venue must apply for a sidewalk café license using forms supplied by the City Clerk. Each application must include a plan, drawn to scale, illustrating: i) the exact location of the proposed sidewalk café; ii) distances to, and dimensions of, adjoining buildings; iii) all sidewalks, curbs and striped parking stalls within 100 feet of the perimeter of the proposed sidewalk café; iv) the distance to and location of the traveled portion of the nearest adjacent street; and v) distances to all obstructions in the vicinity.

Subd. 5. Fees.

- A. An application for a sidewalk café license for a sidewalk café located on a public sidewalk shall be accompanied by the appropriate sidewalk café license fee set forth in Section 1100 of the Waconia City Code.
- B. An application for a sidewalk café license for a sidewalk café located on a municipal parking lot shall be accompanied by the appropriate sidewalk café license fee, which shall be calculated by adding the base fee to the total parking stall fee listed in Section 1100 of the Waconia City Code. The parking stall fee shall be calculated by multiplying the number of parking stalls impacted by the sidewalk café by the per stall fee listed in Section 1100 of the Waconia City Code. A parking stall shall be deemed impacted by a sidewalk café if the sidewalk café shown in the application: i) touches the parking stall; ii) lies within 3 feet of the parking stall; iii) or prevents reasonable access to the parking stall, as determined by the City Council.
- C. The license fee for any sidewalk café license issued after April 1st of a year shall be prorated based upon the number of days between April 1st and the date of issuance as compared to the number of days between the date of issuance and October 31st.
- D. If the application is denied, the sidewalk café license fee, less \$100.00, shall be returned to the applicant.
- E. If a sidewalk café license is surrendered by a license holder or revoked before October 31st of any calendar year, no refund shall be given.

Subd. 6. License Requirements. No license for a sidewalk café shall be issued or renewed until all of the following conditions are met:

- A. The applicant possesses valid licenses from the State of Minnesota and the City to operate the eligible venue.
- B. The area occupied by the sidewalk café abuts to, and will be operated as part of, the applicant's eligible venue and no part of the sidewalk café adjoins any premises other than the applicant's eligible venue.
- C. A distance of at least 200 feet exists between the nearest point of the sidewalk café to the nearest point of any property used for residential purposes, excepting residential property owned by the applicant.

- D. The applicant has furnished the City Clerk with acceptable evidence that the applicant maintains commercial general liability insurance for any death, personal injury or property damage arising from the ownership, maintenance or operation of the sidewalk café in amounts not less than:

- \$1,000,000.00 for injury to or death of one person;

- \$3,000,000.00 for any one incident; and

- \$100,000.00 for damage to property arising from any one incident.

The applicant shall maintain such insurance in effect at all times during the term of the sidewalk café license. The City shall be named as an additional insured in the policy providing such insurance. The applicant shall produce a certificate to the City when any sidewalk café license is issued or renewed evidencing the required insurance. Further, such certificate shall obligate the insurer to endeavor to give the City not less than thirty (30) days advanced notice of any modification or cancellation of coverage.

- E. The applicant has furnished the City Clerk with acceptable evidence of workers' compensation coverage as required by Minn. Stat. §176.182.
- F. The City has not received notice from the Minnesota Department of revenue prohibiting issuance or renewal of the sidewalk café license.
- G. The applicant has executed and delivered a written agreement to the City Clerk, using a form of agreement provided by the City Clerk, that: i) acknowledges the sidewalk café only exists as a permitted encumbrance for the applicable license period; and ii) that obligates the applicant to indemnify and hold the City and the City's officials and employees harmless from any loss, costs, damages and expenses arising out of the use, design, operation or maintenance of the sidewalk café.
- H. The applicant has delivered the Damage Deposit required by Section 570.03 to the City Clerk.
- I. The City Council has found that the sidewalk café will not unduly restrict the safe usage of the public sidewalk or municipal parking lot, as applicable, after taking into consideration the location of the proposed sidewalk café, pedestrian traffic and vehicular traffic.

570.03 Damage Deposit.

Subd. 1 Deposit Required. No sidewalk café license shall issue until the applicant has delivered a sidewalk café damage deposit to the City Clerk in the amount required by Section 1100 of the Waconia City Code. Such deposit shall be paid by the applicant in cash or certified funds. The City shall have the right to commingle any deposit with the City's other funds. Further, any interest associated with any deposit shall belong to the City.

Subd. 2 Use of Deposit. The City may use a damage deposit, or any part thereof, to repair damage to public property resulting, in whole or in part, from the operation of the sidewalk café. If any portion of the damage deposit is used, the person that made the deposit shall, within five (5) days after written demand therefor, deposit cash or certified funds with the City in an amount sufficient to restore the damage deposit to its original amount. Any failure to restore a deposit shall constitute grounds for revocation of the sidewalk café license to which the deposit applies.

Subd. 3 Return of Deposit. The City shall return any remaining portion of a sidewalk café damage deposit to the person that made it within thirty (30) days after the sidewalk café license to which the deposit relates expires or otherwise terminates.

570.04 Operation.

Subd. 1 Requirements. Every sidewalk café shall be operated in strict conformance with the following requirements:

- A. The conditions set forth in subsections A, B, C and D of Section 570.02, Subd 6, shall be met on a continuing basis. No expansion of the area occupied by the sidewalk café from that shown on the license application shall be made.
- B. Only food or beverages for immediate consumption shall be offered for sale.
- C. Intoxicating liquors, beer or wine may be consumed only if the sidewalk café meets all of the requirements of Chapter 580 including, but not limited to, Section 580.04, Subd. 2, C, *Outdoor Areas Adjacent to Structure*, and Section 580.05, Subd. 15, *Requirements Applicable to Outdoor Areas Adjacent to Structure*.
- D. The sidewalk café shall be maintained in a clean and sanitary condition.
- E. The person holding the sidewalk café license shall, at such person's expense, promptly repairs any damage to public property resulting, in whole or in part, from the operation of the sidewalk café.
- F. If the sidewalk café is located in a municipal parking lot, any public sidewalk between the eligible venue and the sidewalk café shall, at all times, remain open for public traffic, subject to ingress and egress between the eligible venue and its sidewalk café.

Subd. 2 Inspection. The City may inspect a sidewalk café at any time to confirm compliance with the requirements of this Chapter 570.

Subd. 3 Revocation. The City may revoke any sidewalk café license if any requirement set forth in Subdivision 1 above is violated or if the Minnesota Department of Revenue sends the City notice requiring revocation. Nothing herein shall be

interpreted as preventing the City from also prosecuting any violation of this Chapter 570 as a criminal violation pursuant to Chapter 102 of the Waconia City Code.

570.05 Expiration of Licenses.

Subd. 1 Date of Expiration. Licenses issued pursuant to this Chapter 570 expire on October 31st of each calendar year.

Subd. 2 Surrender. On or before the date a sidewalk café license expires, the applicant shall surrender the sidewalk café area to the City in the same order and condition as existed on the date the sidewalk café license was issued, ordinary wear and tear excepted. Without limiting the general nature of the preceding sentence, the applicant shall remove all personal property from the sidewalk café area and repair all damage caused by such removal, all at the applicant's expense.

570.06 Right to a Hearing.

Except for a denial or revocation required by the Minnesota Department of Revenue, any applicant that has been denied the issuance of a sidewalk café license or any person whose sidewalk café license has been revoked may, upon written request to the City Clerk promptly made after the denial or revocation has occurred, request a hearing before the City Council to present evidence and to appeal the decision.

3. Section 580.03, Subd. 1, of the Waconia City Code, *Consumption in Public Places Prohibited*, is amended in its entirety to read as follows:

Consumption in Public Places Prohibited. No person shall consume an alcoholic beverage in a public park, on any public street, sidewalk, parking lot or alley, or in any other public place, except as expressly allowed by: i) this Chapter 580; ii) Minn. Stat. Chapter 340A; or iii) a sidewalk café license issued pursuant to Chapter 570 of the Waconia City Code.

4. Section 1100 of the Waconia City Code, *Fees*, is amended to add the following annual fees:

Sidewalk café license, fee for sidewalk use - \$500.00

Sidewalk café license, fee for municipal parking lot use - \$500 base fee *plus* \$300.00 for each parking stall (or portion of a parking stall) impacted by the sidewalk café

Sidewalk café license, damage deposit - \$1,000.00

SUMMARY

The following official summary of Ordinance No. 693 has been approved by a four-fifths vote of the City Council of the City of Waconia as clearly informing the public of the intent and effect of the Ordinance:

AN ORDINANCE AMENDING CHAPTER 320 REGARDING STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, PART V REGARDING MUNICIPAL REGULATIONS AND LICENSING, AND CHAPTER 1100 REGARDING FEES does the following: It amends Section 320.01 of the Waconia City Code to clarify that the general permit requirements contained in Section 320.01 do not apply to situations specifically addressed by other portions of the Waconia City Code. In regard to Part V, a new Chapter 570 has been added. Chapter 570 sets forth a license procedure for allowing sidewalk cafés to exist on public sidewalks and municipal parking lots if certain conditions are met both initially and on an ongoing basis. Corresponding amendments have been made to Chapter 1100 to establish a sidewalk café license fee for sidewalk use of \$500.00, for municipal parking lot use of \$500.00 plus \$300.00 for each parking stall (or portion thereof) impacted, and a damage deposit of \$1,000.00.

The full text of the ordinance is available for public inspection during regular office hours at the office of the City Clerk, 201 South Vine Street, Waconia, and at the Waconia Public Services Building, 310 10th Street East, Waconia. Further, any person may request the City to send the full text of the ordinance via standard or electronic mail by calling City Hall at (952) 442-2184.

EFFECTIVE DATE

This ordinance is effective upon publication.

Passed and adopted by the City Council of the City of Waconia this 2nd day of May, 2016.

James P. Sanborn, Mayor

ATTEST: _____
Susan MH Arntz, City Administrator

M/ _____	Ayers	_____
	Bloudek	_____
S/ _____	Carrier	_____
	Erickson	_____
	Sanborn	_____

[https://mhslaw.sharepoint.com/sites/clients/1/13302/ordinances/part iii streets and public property/draftdocs/ordinance amending section 320 04-26-2016.docx](https://mhslaw.sharepoint.com/sites/clients/1/13302/ordinances/part%20iii%20streets%20and%20public%20property/draftdocs/ordinance%20amending%20section%20320%2004-26-2016.docx)

ENCROACHMENT AND INDEMNITY AGREEMENT

(Sidewalk Café)

THIS ENCROACHMENT AND INDEMNITY AGREEMENT is dated _____, 20____, and is entered into by _____, a Minnesota _____, whose address is _____ (the “**Indemnitor**”) in favor of the City of Waconia, a Minnesota municipal corporation, whose address is 201 South Vine Street, Waconia, Minnesota 55387.

The Indemnitor has applied for a license pursuant to Chapter 570 of the Waconia City Code (the “**City Code**”) to operate a sidewalk café, as defined in Section 570.01 of the City Code. If the license is granted, Indemnitor’s sidewalk café (the “**Sidewalk Café**”) will be located on a public sidewalk or parking lot abutting Indemnitor’s business establishment located at _____, Waconia, Minnesota.

Section 570.02, Subd. 3, of the City Code provides that any such sidewalk café shall only exist as a temporary, permitted encroachment. Further, Section 570.02, Subd 6, of the City Code requires the Indemnitor to indemnify and hold the City harmless regarding the sidewalk café.

The Indemnitor finds it advantageous and desirable to comply with the requirements contained in Chapter 570 and to execute this document in support of Indemnitor’s sidewalk café license application.

NOW, THEREFORE, in consideration of the City issuing a license to the Indemnitor to operate the Sidewalk Café and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Indemnitor, the Indemnitor acknowledges and agrees as follows:

1. The Indemnitor acknowledges the Sidewalk Café will only exist as a temporary, permitted encroachment onto public property for the period of time specified in the applicable license for the Sidewalk Café. The Indemnitor further acknowledges that the license issued to the Indemnitor for the Sidewalk Café does not grant the Indemnitor any ownership or easement rights in the property covered by such license. If for any reason the City needs to install, service, or remove any utility or drainage facilities from the Sidewalk Café license area, the Indemnitor shall reasonably cooperate with the City, at the Indemnitor’s expense, to allow the City to complete any such installation, service or removal.
2. The Indemnitor hereby agrees to indemnify and hold harmless the City and the City’s officials and employees for any and all losses, costs, damages, and expenses (including attorneys’ fees) in connection with any claim or proceedings arising out of any use, design, operation or maintenance of the Sidewalk Café, other than claims or

proceedings arising from any negligent or unlawful acts or omissions of the City or their contractors, agents, officers or employees. Promptly after receipt by the City of notice of the commencement of any action in respect of which indemnity may be sought against the Indemnitor under this Section 2, the City will notify the Indemnitor in writing of the commencement thereof, and, subject to the provisions hereinafter stated, the Indemnitor shall assume the defense of such action (including the employment of counsel, who shall be counsel satisfactory to the City, and the payment of expenses) insofar as such action shall relate to any alleged liability in respect of which indemnity may be sought against the Indemnitor. The City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the Indemnitor unless the employment of such counsel has been specifically authorized by the Indemnitor. The omission to notify the Indemnitor as herein provided will not relieve it from any liability which it may have to any indemnified party pursuant hereto, otherwise than under this section.

3. Any notice, demand or request by the City to Indemnitor shall be in writing and shall be deemed to have been duly given or made if mailed by registered or certified mail, return receipt requested, to Indemnitor at its address set forth in the caption hereof, or at such other address as Indemnitor may notify the City of, in writing, using the above procedure. Notice so mailed shall be deemed given and made upon deposit in the United States mail.
4. This Encroachment and Indemnity Agreement shall be interpreted and construed in accordance with the laws of the State of Minnesota, exclusive of conflict of law provisions. The unenforceability or invalidity of any provision of this Encroachment and Indemnity Agreement as to any person or circumstance shall not render that provision nor any other provision or provisions herein contained unenforceable or invalid as to any other persons or circumstances, and all other provisions hereof, in all other respects, shall remain valid and enforceable.
5. This instrument shall inure to the benefit of the City and its successors and assigns, and shall bind Indemnitor and Indemnitor's successors and assigns.
6. The recitals set forth at the beginning of this Encroachment and Indemnity Agreement are incorporated as agreements of Indemnitor. This Encroachment and Indemnity Agreement, and the terms and obligations herein, shall survive the expiration or revocation of the license for Indemnitor's Sidewalk Café.

[Signature page follows.]

IN WITNESS WHEREOF, Indemnitor has duly executed this Encroachment and Indemnity Agreement as of the day and year first above written.

Name of Indemnitor:

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this ___ day of _____, 20___, by _____, the _____ of _____, a Minnesota _____ on behalf of the _____.

Notary Public



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2, 2016
Item Name:	Encroachment Agreement for Moravian Care Housing Corporation
Originating Department:	Administration
Presented by:	Susan Arntz, City Administrator

Previous Council Action:						
Item Type (X only one):	Consent		Regular Session	<u>X</u>	Discussion Session	

RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Motion Adopting resolution 2016 -97 , Approving encroachment agreement, for Moravian Care Housing Corporation.

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

When Moravian Care Housing Corporation developed its Auburn Meadows Addition project, it formed a wholly-owned entity known as Auburn Meadows, LLC, to own a portion of the development. In addition, it sold a lot to Lil' Explorers Properties, LLC. When these property owners (or their predecessors) constructed new improvements on their properties a few years ago, they entered into some private drainage and utility easements to facilitate the construction of private storm sewers serving their improvements. In addition, a retaining wall was constructed along the east line of Auburn Meadows Addition. These storm sewer lines and the retaining wall cross, or rest upon, portions of the perimeter drainage and utility easements that were dedicated as part of Auburn Meadows Addition plat.

Auburn Meadows, LLC is now refinancing a portion of its debt. In conjunction with this refinancing, a title examination was done by the lender and the encroachments described above were found. The owners of the lots in Auburns Meadows Addition now desire to address the encroachments to facilitate the financing. Along these lines, a proposed Encroachment Agreement has been prepared and it is attached for your review.

If the City is inclined to allow the encroachments to continue, which seems like the appropriate approach under the circumstances, it is to the City's benefit to enter into the Encroachment Agreement with the property owners. The Encroachment Agreement obligates the property owners, at their expense, to cooperate with the City should the City ever need to use any of the perimeter easements that have been encroached upon. It further obligates the property owners to provide the City with certain indemnification protection regarding the Encroachments. Therefore, I recommend that the Encroachment Agreement be approved.

FINANCIAL IMPLICATIONS:	ADVISORY BOARD RECOMMENDATIONS:
Budget Information:	Planning Commission
_____ Budgeted	Parks and Recreation Board
_____ Non Budgeted	Safari Island Advisory Board
_____ Amendment Required	Other

**CITY OF WACONIA
RESOLUTION NO. 2016-97**

**RESOLUTION APPROVING ENCROACHMENT AGREEMENT
FOR AUBURN MEADOWS ADDITION**

WHEREAS, Moravian Care Housing Group developed Auburn Meadows Addition, and

WHEREAS, they sold a portion of the Auburn Meadows Addition to Auburn Meadows, LLC and to Lil' Explorers Properties, LLC; and

WHEREAS, during the construction of the improvements on this proerpty, they entered into some private drainage and utilty easements to facilitation the construction of private storm sewers serving the Auburn Meadows Addition; and

WHEREAS, a retaining wall was constructe along the east line of the Auburn Meadows Addition; and

WHEREAS, the storm sewer lines and retaining wall cross, or rest upon, portions of the perimeter drainage and utility easements that were dedicated as part of the Auburn Meadows Addition plat; and

WHEREAS, a proposed encroachment agreement for the Properties is attached as Exhibit A; and

WHEREAS, the City Council has reviewed the proposed encroachment agreement and finds that the City should enter into the requested encroachment agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Waconia thatm the encroachment agreement attached as Exhibit A is hereby approved and the Mayor and City Clerk/Administrator are hereby authorized to execute and deliver the encroachment agreement.

ADOPTED by the City Council of the City of Waconia, Minnesota, on the 2nd day of May 2016.

James P. Sanborn, Mayor

ATTEST: _____
Susan Arntz, City Administrator / Clerk

M/ _____	Ayers	_____
S/ _____	Bloudek	_____
	Carrier	_____
	Erickson	_____
	Sanborn	_____

EXHIBIT A

ENCROACHMENT AGREEMENT

This Agreement is dated May ___, 2016, and is between Moravian Care Housing Corporation, a Minnesota nonprofit corporation ("Moravian"); Auburn Meadows, LLC, a Minnesota nonprofit limited liability company ("Auburn"); Lil' Explorers Properties LLC, a Minnesota limited liability company ("Lil' Explorers"); and the City of Waconia, a Minnesota municipal corporation (the "City").

RECITALS

A. Moravian is the owner of real property legally described as Lot 1, Block 1, Auburn Meadows Addition, Carver County, Minnesota ("Lot 1"), and Lot 5, Block 1, Auburn Meadows Addition, Carver County, Minnesota ("Lot 5"), and has the authority to enter into this Agreement for the purpose of binding Moravian and future owners of Lot 1 and Lot 5.

B. Auburn is the owner of real property legally described as Lot 2, Block 1, Auburn Meadows Addition, Carver County, Minnesota ("Lot 2"), and Lot 3, Block 1, Auburn Meadows Addition, Carver County, Minnesota ("Lot 3"), and has the authority to

enter into this Agreement for the purpose of binding Auburn and future owners of Lot 2 and Lot 3.

C. Lil' Explorers is the fee owner of real property legally described as Lot 4, Block 1, Auburn Meadows Addition, Carver County, Minnesota ("Lot 4") and has the authority to enter into this Agreement for the purpose of binding Lil' Explorers and future owners of Lot 4.

D. Moravian owns and operates a skilled care nursing home facility on Lot 1, Auburn owns and operates an assisted care facility on Lot 2, Lil' Explorers owns and operates a child care facility on Lot 4, Lot 5 is vacant, and Lot 3 is an open space and parking area used for the benefit of Lot 2, Lot 4, and Lot 5.

E. Lot 1, Lot 2, Lot 3, Lot 4, and Lot 5 are sometimes individually referred to herein as a "Lot" and collectively as the "Lots".

F. "Owner" means, at any given time, the then current fee owner of a Lot.

G. When the Lots were platted as a part of Auburn Meadows Addition, drainage and utility easements were dedicated for the benefit of the City around the perimeter of the Lots as depicted on the page from the Auburn Meadows Addition plat attached hereto as **Exhibit A** and made a part hereof (the "Perimeter Easements"), and the northerly portion of Cherry Drive was dedicated for the benefit of the City as shown on **Exhibit A** (the "Roadway").

H. As a part of the development of the Lots, various private easements were created by and among the Owners, which include the following:

- (a) Storm sewer easement created by Declaration of Storm Sewer Easement Document No. A571056.

- (b) Storm sewer easement created by Paragraph 4(k) of Amendment No. 1 to Declaration of Easements, Covenants, and Restrictions Document No. A559149.
- (c) Sanitary sewer easement created by Paragraph 4(l) of Amendment No. 1 to Declaration of Easements, Covenants, and Restrictions Document No. A559149.
- (d) Storm sewer and drainage easements created by Warranty Deed Document No. A559150.
- (e) Playground easement created by Document No. A559152.

The foregoing easements are referred to herein individually as an "Easement" and collectively as the "Easements". The Easements are depicted on a page from a survey of the Lots attached hereto as **Exhibit B** and made a part hereof.

I. A retaining wall has been constructed by Auburn along the easterly boundary of Lots 2, 4, and 5 (the "Retaining Wall"). The Retaining Wall is depicted on a page from a survey of the Lots attached hereto as **Exhibit C** and made a part hereof.

J. Portions of the Easements encroach onto the Perimeter Easements and the Roadway as shown on **Exhibit B** and portions of the Retaining Wall encroach onto the Perimeter Easements as shown on **Exhibit C** (these encroachments are individually referred to herein as an "Encroachment" and collectively as the "Encroachments").

J. Moravian, Auburn, and Lil' Explorers have requested that the City consent to the Encroachments and permit the utilities located within the Easements and the Retaining Wall (collectively, the "Facilities") to continue to exist and operate as such, and the City is willing to allow the Encroachments on the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth in this Agreement, the parties agree as follows:

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and a made a part of this Agreement.

2. License for Encroachments. The City hereby grants to Moravian, Auburn, and Lil' Explorers as the Owners of the Lots a license to construct, maintain, operate, and use the Facilities over the Perimeter Easements and the Roadway at the locations shown on **Exhibit B** and **Exhibit C**, subject to the terms and conditions of this Agreement. The license for the Encroachments granted by this Agreement is limited to the Encroachments and shall not be expanded by implication. This Agreement in no way releases, conveys, nor diminishes the City's right to enjoy the use of the Perimeter Easements and the Roadway (except for the existence of the Encroachments expressly allowed herein).

3. City's Use of Perimeter Easements and Roadway. The City, on its behalf and on behalf of utility providers, reserves the right to install utility and drainage facilities within the Perimeter Easements and the Roadway at any time and from time to time. The Owner of a Lot shall reasonably cooperate with the installation of any such utility and drainage facilities and shall not interfere with the operation of any utility and drainage facilities installed within the Perimeter Easements or the Roadway. In addition, if requested by the City, each Owner shall make reasonable accommodations to assist the City in installation of such utility and drainage facilities, including temporary relocation of the Facilities at Owner's cost and expense.

4. Indemnity. Each Owner agrees to defend, indemnify, and hold the City and its officials, officers, employees, contractors, and agents harmless from and against any and all actions or causes of action, claims, demands, liabilities, losses, damages, injuries, suits, proceedings, judgments, costs, or expenses of any kind or nature

(including reasonable attorney fees) arising from or as a result of any incident, act, action, cause of action, negligence, transaction, or omission of the Owner in connection with, or incidental to, the construction, operation, maintenance, or use of an Encroachment on the Owner's Lot within or upon the Perimeter Easements or the Roadway, or from the operation, maintenance, or use of such Encroachment except to the extent such loss, cost, liability, or expense was proximately caused by the negligence or willful misconduct of the City or its officials, officers, employees, contractors, or agents. Each Owner assumes all risk for damages, injuries, or loss to either property or persons, which may be incurred by the Owner or its officers, employees, agents, contractors, guests, invitees, or licensees with regard to any Encroachment on such Owner's Lot, except to the extent the damage, injury or loss is caused by the negligence or willful misconduct of the City or its officers, employees, agents, or contractors.

5. Default. If an Owner breaches any term or condition of this Agreement and fails to cure such breach within 30 days after receiving written notice of such breach from the City (which notice shall be delivered to the address of such Owner's Lot), the City, at its option, may: (i) correct the breach and obtain prompt reimbursement from the Owner for all reasonable costs incurred by the City in curing such breach; or (ii) at any time before the breach is cured, terminate this Agreement upon written notice to Owner (which notice shall be delivered to the address of Owner's Lot). The City's failure to exercise its options in regard to any breach shall not constitute a waiver of the City's future right to exercise such options as to the same or any future breach.

6. Removal of Facilities. If an Owner removes any of the Facilities within such Owner's Lot, or if an Easement or the Retaining Wall is no longer used for

Facilities, this Agreement and the license for the Encroachment granted herein shall automatically terminate as to that particular Facility, and either party may unilaterally record a written notice of termination of this Agreement with regard to that particular Facility. Notwithstanding anything to the contrary in the preceding sentence, no termination shall occur if the Facility is removed and rebuilt and installed within the same Easement within 180 days of its removal. Otherwise, this Agreement shall continue with regard to each Facility, so long as such Facility exists within the particular Easement until such time as it is terminated by mutual agreement of the City and the Owners of the affected Lots.

7. Binding Effect. This Agreement and the terms and covenants contained herein shall extend to and be binding upon the parties to this Agreement and the parties' heirs, executors, administrators, successors, and assigns. The benefits and burdens of this Agreement shall run with the land and the Lots and be a continuing benefit and burden to the land and the Lots. This Agreement shall be recorded with the Carver County Recorder at the expense of Moravian and Auburn.

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

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

CITY OF WACONIA

By _____
Jim Sanborn, Mayor

Attest: _____
Susan Arntz, City Clerk/City

Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF CARVER)

The foregoing was acknowledged before me this ____ day of May, 2016, by Jim Sanborn and Susan Arntz, the Mayor and City Clerk/City Administrator, respectively, of the City of Waconia, a Minnesota municipal corporation under the laws of Minnesota, on behalf of the municipal corporation.

Notary Public

[SIGNATURE PAGE TO ENCROACHMENT AGREEMENT]

THIS INSTRUMENT WAS DRAFTED BY:

Thomas R. Kelley
DeWitt Mackall Crouse & Moore, S.C.
1400 AT&T Tower
901 Marquette Avenue
Minneapolis, MN 55402-2859
612-305-1400

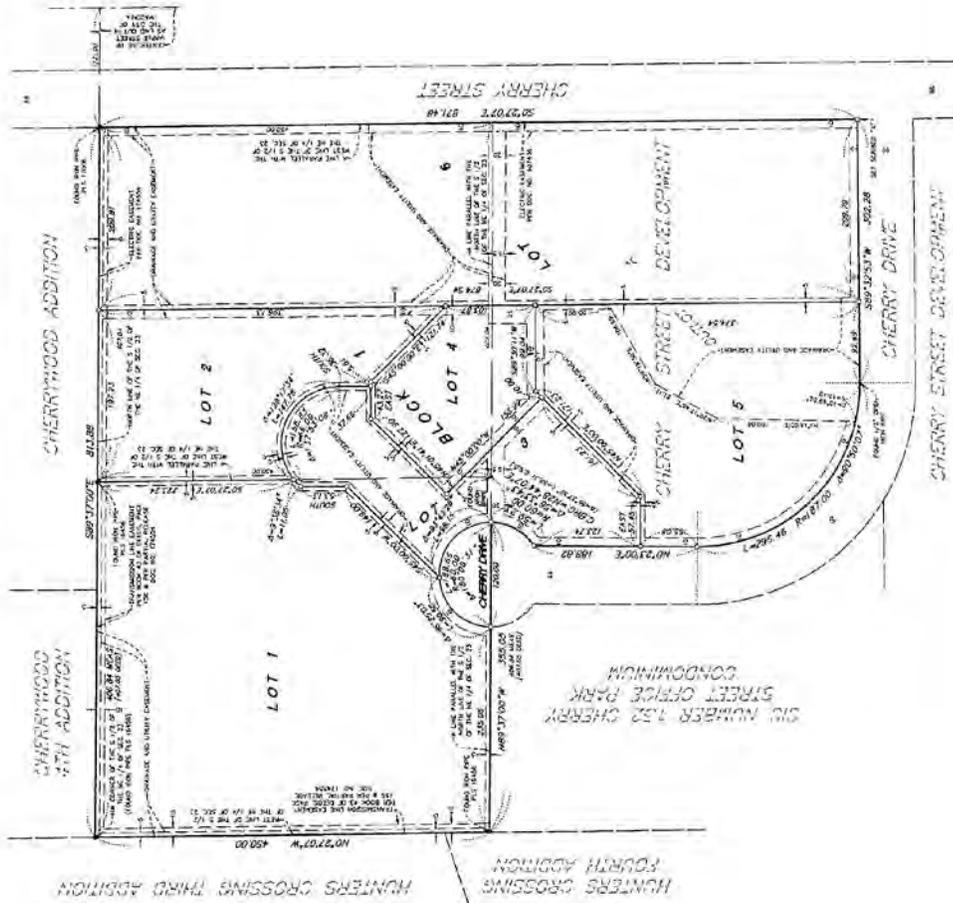
PLAT FILE NO. 1535A
 C.R. DOC. NO. AS48200

AUBURN MEADOWS ADDITION

ORIGINAL PLAT

**EXHIBIT A
 Auburn Meadows Addition Plat**

- 0. Grades 1/2 inch by 14 feet with concrete, set by license No. 4500, unless otherwise noted.
- C.S.D. Streets plat of CHERRY STREET DEVELOPMENT. The east line of Corner A, CHERRY STREET DEVELOPMENT is advanced to line 6 bearing of S87°23'07"E.



SUNDE
 LAND SURVEYING
 SHEET 2 OF 2 SHEETS

EXHIBIT B Easements

GENERAL NOTE

1. Survey conducted by: Carter Geomatics System

UTILITIES NOTES

- 1) Utility easements from private utilities are consistent with recorded evidence of utility to include a copy of the utility's utility plan. However, utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing.
- 2) Utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing.
- 3) Utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing.
- 4) Utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing. Utility easements are shown as proposed and not as existing.

LIST OF POSSIBLE ENCROACHMENTS

The following list of possible encroachments is only the opinion of the surveyor and not an intended or a full survey and should not be interpreted as a complete survey.

1) Possible encroachments are indicated on survey with black lines on the plan.

2) Encroachments are indicated on the plan with black lines.

DESCRIPTION OF PROPERTY SURVEYED

The following description is for the property shown on the plan and is not intended to be a full survey and should not be interpreted as a complete survey.

1) The property is located in the City of Auburn, Maine, in the County of Cumberland.

2) The property is bounded by the following:

- North: 100.00 feet
- South: 100.00 feet
- East: 100.00 feet
- West: 100.00 feet

TITLE EXAMINATION

The surveyor has examined the title records for the property shown on the plan and has found the following:

1) The property is owned by the City of Auburn, Maine.

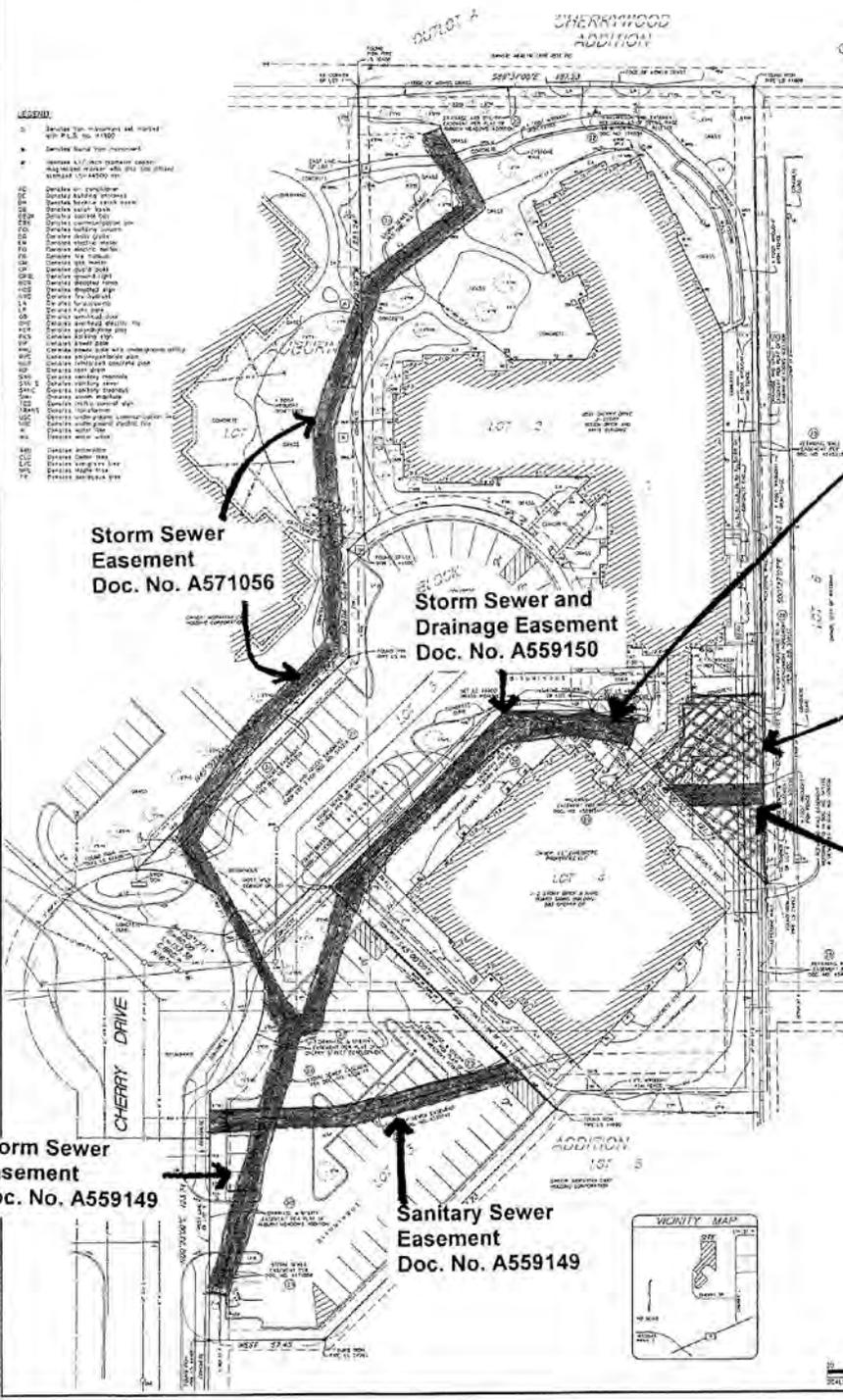
2) The property is subject to the following easements:

- Storm Sewer and Drainage Easement, Doc. No. A559150
- Playground Easement, Doc. No. A559152
- Sanitary Sewer Easement, Doc. No. A559149

SCHEDULE D DESCRIPTIONS

- 1) Storm Sewer and Drainage Easement, Doc. No. A559150
- 2) Storm Sewer and Drainage Easement, Doc. No. A559150
- 3) Storm Sewer and Drainage Easement, Doc. No. A559150
- 4) Storm Sewer and Drainage Easement, Doc. No. A559150
- 5) Storm Sewer and Drainage Easement, Doc. No. A559150
- 6) Storm Sewer and Drainage Easement, Doc. No. A559150
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- 49) Storm Sewer and Drainage Easement, Doc. No. A559150
- 50) Storm Sewer and Drainage Easement, Doc. No. A559150

- ### LEGEND
- 1. Existing lot boundaries and markers
 - 2. Existing road right-of-way
 - 3. Existing utility easements
 - 4. Proposed utility easements
 - 5. Proposed road right-of-way
 - 6. Proposed lot boundaries
 - 7. Proposed markers
 - 8. Proposed easements
 - 9. Proposed encroachments
 - 10. Proposed utility easements
 - 11. Proposed road right-of-way
 - 12. Proposed lot boundaries
 - 13. Proposed markers
 - 14. Proposed easements
 - 15. Proposed encroachments
 - 16. Proposed utility easements
 - 17. Proposed road right-of-way
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 - 21. Proposed encroachments
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 - 93. Proposed encroachments
 - 94. Proposed utility easements
 - 95. Proposed road right-of-way
 - 96. Proposed lot boundaries
 - 97. Proposed markers
 - 98. Proposed easements
 - 99. Proposed encroachments
 - 100. Proposed utility easements



**Storm Sewer and Drainage Easement
Doc. No. A559150**

FLOOD ZONE NOTE

The property is located in a flood zone. The flood zone is shown on the plan and is not intended to be a full survey and should not be interpreted as a complete survey.

ZONING NOTES

The property is located in a residential zone. The zoning is shown on the plan and is not intended to be a full survey and should not be interpreted as a complete survey.

**Playground Easement
Doc. No. A559152**

PARKING

There are 10 parking spaces shown on the plan.

ASCA

There are 10 ASCA units shown on the plan.

**Storm Sewer and Drainage Easement
Doc. No. A559150**

**Storm Sewer Easement
Doc. No. A559149**

**Sanitary Sewer Easement
Doc. No. A559149**

SURVEYOR'S CERTIFICATION

I, the undersigned, being a duly licensed and qualified surveyor, do hereby certify that the foregoing is a true and correct copy of the original survey and that the same was made in accordance with the laws of the State of Maine and that the same was made on the 15th day of July, 2014, at the office of the undersigned, located at 1000 Main Street, Auburn, Maine.

Witness my hand and seal this 15th day of July, 2014.

[Signature]

SUNDE
SURVEYING & CONSULTING, INC.
1000 MAIN STREET, AUBURN, MAINE 04210
TEL: 603-552-1111 FAX: 603-552-1112
WWW.SUNDE-SURVEYING.COM



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	May 2, 2016
Item Name:	Shed Encroachment at 1585 Pond Curve
Originating Department:	Administration
Presented by:	Susan Arntz, City Administrator

Previous Council Action:						
Item Type (X only one):	<input type="checkbox"/> Consent	<input type="checkbox"/> Regular Session	<input checked="" type="checkbox"/> Discussion Session	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Staff recommends consideration of an encroachment agreement.

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

Attached is a letter from Dena and D.J. Teeselink, 1585 Pond Curve. The Teeselinks are in the process of selling their home and the title company for the buyer found that the shed that was constructed in 2004-2007 was placed within the drainage and utility easement. We are working the Teeselinks on an encroachment agreement, which will be provided prior to the City Council Meeting on Monday.

As background, the building permit file shows that the permit was issued and the shed inspections were completed as stated. There are records in the file that would lead one to believe that it was clear that both the property owners and the City was aware of the drainage and utility easement conflicting with the shed placement. In addition, the shed was placed directly on top of a storm sewer outlet pipe. Because of the importance of proper maintenance of the pond and storm sewer pipe, we have suggested that the best alternative to keep their closing on schedule would be the creation of an encroachment agreement.

Mike Melchert, City Attorney, is drafting language for the agreement and we will provide a copy as soon as it is available.

FINANCIAL IMPLICATIONS:	ADVISORY BOARD RECOMMENDATIONS:
Budget Information: <input type="checkbox"/> Budgeted <input type="checkbox"/> Non Budgeted <input type="checkbox"/> Amendment Required	Planning Commission Parks and Recreation Board Safari Island Advisory Board Other