

**CITY OF ELKO NEW MARKET
CITY COUNCIL WORK SESSION AGENDA
CITY OF ELKO NEW MARKET
601 MAIN STREET
ELKO NEW MARKET, MINNESOTA
THURSDAY, APRIL 25, 2019**

6:30 PM

- 1. Call to Order**
- 2. Presentations**
- 3. Reports**
- 4. General Discussion**
 - a. Metropolitan Council
- 5. Reports (Cont'd)**
 - a. Reports from the Business Agenda may be presented if time permits
- 6. Adjournment**

**CITY OF ELKO NEW MARKET
CITY COUNCIL AGENDA
ELKO NEW MARKET CITY HALL
601 MAIN STREET
ELKO NEW MARKET, MINNESOTA 55054
THURSDAY, APRIL 25, 2019**

**BUSINESS MEETING
7:30 PM**

REVISED AGENDA

1. Call to Order

2. Pledge of Allegiance

3. Adopt/Approve Agenda

4. Presentations, Proclamations and Acknowledgements (PP&A)

- a. Proclamation for Municipal Clerks Week

5. Public Comment

Individuals may address the Council about any item not contained on the regular agenda. The Council may limit the time allotted to each individual speaker. A maximum of 15 minutes will be allotted for Public Comment. If the full 15 minutes are not needed for Public Comment, the City Council will continue with the agenda. The City Council will not normally take any official action on items discussed during Public Comment, with the exception of referral to staff or commission for future report.

6. Consent Agenda

All matters listed under consent agenda are considered routine by the City Council and will be acted on by one motion in the order listed below. There may be an explanation, but no separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and considered separately.

- a. Approve April 11, 2019 Minutes of the City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Authorize Extension of Internship
- d. Approve Joint Powers Agreement Between New Prague School District and the City of Elko New Market for Landscape Services
- e. Adopt Resolution 19-17 For One Day Liquor License for Elko Express Baseball Club
- f. Not Approve the Waiving of the Monetary Limits on Municipal Tort Liability
- g. Authorize Hire of Public Works Maintenance Worker I
- h. Approve R&F Properties LLC Grading Permit
- i. Elko New Market Fire Relief Association Annual Dance
 - i. Adopt Resolution 19-18 Approving Outdoor Concerts and Events Permit
 - ii. Adopt Resolution 19-19 Approving Temporary On-Sale Intoxicating Liquor License

7. Public Hearings

8. General Business

- a. Revised Development Contract and Special Assessments for Christmas Pines and Amend Resolution No. 18-18
 - i. Resolution 19-20 Approving Revised Development Contract and Special Assessments for Christmas Pines and Amending Resolution No. 18-18.

9. Reports

- a. Administration
- b. Public Works
- c. Police Department
- d. Fire Department
- e. Engineering
- f. Community Development
- g. Parks Department
 - i. Draft Parks & Recreation Commission Minutes of April 9, 2019 Meeting
- h. Community & Civic Events Committee (CCEC)
- i. Other Committee and Board Reports
 - i. Scott County Association for Leadership and Efficiency (SCALE)
 - ii. Minnesota Valley Transit Authority (MVTA)
 - iii. I35 Solutions Alliance
 - iv. Chamber of Commerce
 - v. Downtown Improvement Committee

10. Discussion by Council

11. Adjournment



STAFF MEMORANDUM

SUBJECT:	Annual Municipal Clerks Week 2019 Proclamation
MEETING DATE:	April 25, 2019
PREPARED BY:	Thomas Terry, City Administrator
REQUESTED ACTION:	Proclaim the week of May 5 to May 11, 2019 as Annual Municipal Clerks Week in the City of Elko New Market

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
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- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

DISCUSSION:

The Annual Municipal Clerks Week is designed to recognize the essential role Municipal Clerks play in local government. The City Council has recognized Municipal Clerks Week for the past eight (8) years.

The City Council is asked to proclaim the week of May 5 to 11, 2019 as Annual Municipal Clerks Week in the City of Elko New Market.

Attachments:

- Proclamation

Proclamation

Municipal Clerks Week

May 5 - 11, 2019

Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas, The Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

Now, Therefore, I, Joe Julius, Mayor of Elko New Market, do recognize the week of May 5 through May 11, 2019, as Municipal Clerks Week, and further extend appreciation to our City Clerk and our other Certified Municipal Clerks and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Dated this 25th day of April, 2019

Mayor

Attest: _____

1. CALL TO ORDER

The meeting was called to order by Mayor Julius at 6:30 p.m.

Members Present: Mayor Julius, Councilmembers: Berg, Schwichtenberg, and Seepersaud

Members Absent: Councilmember Timmerman

Also Present: City Administrator Terry, Police Chief Juell, Community Development Specialist Christianson, Public Works Superintendent Schweich

2. PLEDGE OF ALLEGIANCE

Mayor Julius led the Council and audience in the Pledge of Allegiance.

3. ADOPT/APPROVE AGENDA

MOTION by Councilmember Berg, second by Councilmember Schwichtenberg to approve the agenda. **APIF, MOTION CARRIED**

4. PRESENTATIONS, PROCLAMATIONS AND ACKNOWLEDGEMENTS

Oath of Office

Mayor Julius performed the Oath of Office on Chief of Police/Emergency Management Director Brady Juell.

5. PUBLIC COMMENT

Scott County Commission Tom Wolfe updated the Council on Scott County activities. He noted SCALE has been cancelled for April.

6. CONSENT AGENDA

MOTION by Councilmember Schwichtenberg, second Councilmember Berg to approve Consent Agenda.

- a. Approve March 28, 2019 Minutes of the City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Adopt Ordinance No. 188 Amending Ordinance for Sexually Oriented Uses
- d. Ordinance Amendments Related to Small Wireless Facilities
 - a. Adopt Ordinance No. 185 Amending Zoning Ordinance Regarding Small Cell
 - b. Adopt Ordinance No. 186 Amending Right of Way Ordinance for Small Cell
 - c. Adopt Ordinance No. 187 Summary Ordinance for 186
 - d. Adopt Ordinance No. 190 Amending Fee Schedule
- e. Approve Recycling Program Agreement
- f. Adopt Resolution 19-15 Adopting Proclamation Policy
- g. Adopt Resolution No. 19-16 Approving Extension of the Deadline for Filing the Final Plat for Dakota Acres 1st Addition
- h. Approve Assignment of Agreement for Municipal Advisor Services Between Elko New Market and Baker Tilly

APIF, MOTION CARRIED

7. PUBLIC HEARINGS

None

8. GENERAL BUSINESS

Authorize Engineering Services for 2019 Lift Station Standby Generation Project

City Engineer Revering requested the City Council consider authorizing Engineering services for the 2019 lift station standby generation project. After discussing this item, the City Council requested Staff to move forward with the bids and design for a lift station standby generator.

MOTION by Councilmember Berg, second Councilmember Seepersaud, to Accept Proposal and Authorize Engineering Services for 2019 Lift Station Standby Generation Project. **APIF, MOTION CARRIED**

9. REPORTS

a) ADMINISTRATION

Appointment to SCALE Unified Transit Plan Steering Committee

City Administrator Terry requested the City Council appoint a Councilmember to the SCALE Unified Transit Plan Steering Committee. **MOTION** by Councilmember Berg, seconded by Councilmember Julius, to appoint Councilmember Schwichtenberg to serve as a representative on the Steering Committee for the SCALE Unified Transit Plan.

APIF, MOTION CARRIED

b) PUBLIC WORKS

Written report included in Council Packet.

c) POLICE DEPARTMENT

Chief Juell complimented Public Works on working seamlessly with the Police Department during bad weather to help with emergency situations.

Written report included in Council Packet.

d) FIRE DEPARTMENT

City Administrator Terry stated the Fire Department is looking to purchase a replacement rescue truck for the old heavy rescue truck. He noted the chassis cannot be ordered until fall 2019. This may change the timing of financing to project and which debt is issued it is combined with.

e) ENGINEERING

City Administrator Terry updated the Council on the Round-About project in the City.

f) COMMUNITY DEVELOPMENT

- i. Written draft March 26, 2019 Planning Commission Minutes included in Council Packet.
- ii. Community Development Updates

g) PARKS DEPARTMENT

- i. Written Parks Commission Update and Minutes included in Council Packet.

ii. Monthly Parks & Recreation Update

h) Community & Civic Event Committee (CCEC)

Draft Community & Civic Events Committee Minutes of March 19, 2019 Meeting

i) OTHER COMMITTEE AND BOARD REPORTS

i. SCALE

Mayor Julius updated that the SCALE meeting has been cancelled. He stated the meetings are important. He asked Councilmember Berg's opinion on the benefit of SCALE since Councilmember Berg has been involved more the other Councilmembers currently serving. Councilmember Berg stated the benefit is the networking. Mayor Julius noted the SCALE Committee has been working on the SCALE reboot plan. He requested everyone on the Council go to the next meeting, if possible. He stated the next SCALE meeting is May 10, 2019.

ii. MVTA

Councilmember Schwichtenberg updated the Council that MVTA is implementing the new automated tracking system for the buses.

iii. I35 SOLUTIONS ALLIANCE

None

iv. CHAMBER OF COMMERCE

None

v. DOWNTOWN IMPROVEMENT COMMITTEE

None

10. DISCUSSION BY COUNCIL

Councilmember Schwichtenberg asked if anyone was going to attend the Annual Duluth Conference in June. He noted he would like to attend. Mayor Julius stated he was tentatively planning on attending. City Administrator Terry asked the Council to let him know as soon as possible for registration and hotel confirmations.

Mayor Julius reminded the Council that the Council retreat was next week and to have an open conversation on what the Council wants to do as elected officials during their time on the City Council. City Administration Terry stated framework materials will go out next week.

11. ADJOURNMENT

MOTION by Councilmember Berg, second by Councilmember Schwichtenberg, to adjourn the meeting at 7:37 p.m. **APIF, MOTION CARRIED**

Respectfully submitted by:

Thomas Terry, City Administrator



STAFF MEMORANDUM

SUBJECT:	Presentation of Elko New Market Claims and Electronic Transfer of Funds
MEETING DATE:	April 25, 2019
PREPARED BY:	Stephanie Fredrickson, Administrative Assistant
REQUESTED ACTION:	Approve Payment of Current Claims

COMMUNITY VISION:

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- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Each City Council meeting the Administrative Assistant presents for approval the Elko New Market Claims and Electronic Transfer of Funds.

BUDGET IMPACT:

Budgeted

Attachments:

- Check Summary Register

***Check Summary Register©**

April 25, 2019

Name	Check Date	Check Amt	
AUTOPAYS			
Paid Chk# 006054EMN DEPT OF REVENUE	4/5/2019	\$146.00	Q1 Sales Tax Return 2019
Paid Chk# 006055EPERA	4/17/2019	\$7,940.11	Vendor Liability
Paid Chk# 006056EMN DEPT OF REVENUE	4/17/2019	\$2,070.55	Vendor Liability
Paid Chk# 006057EINTERNAL REVENUE SERVICE	4/17/2019	\$10,105.07	Vendor Liability
Paid Chk# 006058EHEALTH EQUITY, INC.	4/17/2019	\$44.25	HSA Monthly Fee- April
Paid Chk# 006059EXCEL ENERGY	4/30/2019	\$402.77	Streetlights
Paid Chk# 006060EMINNESOTA ENERGY RESOURCES	4/22/2019	\$776.10	50 Church Street
TOTAL		\$21,484.85	
PRE-PAIDS			
Paid Chk# 039640 UNITED STATES POSTAL SERVICE	4/11/2019	\$296.80	Postage – Utility Bills
Paid Chk# 039641 METROPOLITAN COUNCIL	4/12/2019	\$4,539.15	QTR 1 SAC Charges
Paid Chk# 039642 PAYROLL	4/18/2019	\$69.26	
Paid Chk# 039643 PAYROLL	4/18/2019	\$429.25	
Paid Chk# 039644 PAYROLL	4/18/2019	\$46.17	
Paid Chk# 039645 PAYROLL	4/18/2019	\$46.17	
Paid Chk# 039646 PAYROLL	4/18/2019	\$69.26	
Paid Chk# 039647 NUVERA COMMUNICATIONS, INC.	4/18/2019	\$1,079.52	Police Dept Phone/Fax
TOTAL		\$6,575.58	
CHECK REGISTER			
Paid Chk# 039648 AIRGAS USA, LLC	4/25/2019	\$163.05	FD - Oxygen
Paid Chk# 039649 ANCHOR SOLAR INVESTMENTS, LLC.	4/25/2019	\$243.58	Solar Panel Lease Pmt
Paid Chk# 039650 APPLE VALLEY MEDICAL CLINIC	4/25/2019	\$244.00	Pre-Employ Testing - Trenton S
Paid Chk# 039651 CINTAS CORPORATION NO. 2	4/25/2019	\$43.74	PW UNIFORMS
Paid Chk# 039652 CITY OF LE SUEUR	4/25/2019	\$50.00	Planning Comm Training - Nicol
Paid Chk# 039653 DAVIDSON, JESSICA	4/25/2019	\$107.35	Family Fun Night Exp - Glow St
Paid Chk# 039654 FASTENAL COMPANY	4/25/2019	\$341.85	PW - Small Tools
Paid Chk# 039655 FISH ROCK COUNTRY MARKET	4/25/2019	\$22.50	PW - Operating Supplies
Paid Chk# 039656 JOSEPH FITTERER	4/25/2019	\$25.00	
Paid Chk# 039657 FORFEITURE ATTORNEY SCOTT CO.	4/25/2019	\$150.00	30% Proceeds Forfeiture - 18 C
Paid Chk# 039658 HAWKINS, INC.	4/25/2019	\$20.00	PW - Water Chemicals
Paid Chk# 039659 HIRERIGHT, INC.	4/25/2019	\$175.23	Background Svcs
Paid Chk# 039660 HOSE / CONVEYORS, INC.	4/25/2019	\$295.63	PW - Water Repairs
Paid Chk# 039661 INTERSTATE ALL BATTERY CENTER	4/25/2019	\$358.58	PD Fleet
Paid Chk# 039662 LYNDA JIRAK	4/25/2019	\$15.36	Reimbursement - Bev for Prof P
Paid Chk# 039663 NICHOLAS J. JULIUS	4/25/2019	\$107.88	Mileage Expenses - 1/1/19-3/11
Paid Chk# 039664 LEAGUE OF MN CITIES	4/25/2019	\$61.20	2019 LMC Directory
Paid Chk# 039665 MARTIN-MCALLISTER	4/25/2019	\$1,400.00	Personnel Evaluation - Brady J
Paid Chk# 039666 METERING & TECH SOLUTIONS	4/25/2019	\$7,278.00	PW - Water Meters
Paid Chk# 039667 MTI DISTRIBUTING INC.	4/25/2019	\$407.35	PW - Fleet Maint & Equip
Paid Chk# 039668 NORTHWEST ASSOCIATED	4/25/2019	\$93.80	2040 Comp Plan
Paid Chk# 039669 NAPA AUTO PARTS	4/25/2019	\$944.27	PW - Fleet Maint & Equip
Paid Chk# 039670 NORTHLAND PEST CONTROL	4/25/2019	\$21.25	Pest Control - Library
Paid Chk# 039671 OLSEN CHAIN & CABLE, INC.	4/25/2019	\$33.64	PW - Fleet Maint & Equip
Paid Chk# 039672 POP UP PARTY RENTAL	4/25/2019	\$549.98	Wagner Park Event 6/28/19
Paid Chk# 039673 QUALITY FLOW SYSTEMS, INC.	4/25/2019	\$115.00	PW - Small Tools
Paid Chk# 039674 SCOTT COUNTY TREASURER	4/25/2019	\$190.00	Tax - Audit City Fee
Paid Chk# 039675 SCOTT COUNTY ATTORNEY OFFICE	4/25/2019	\$3,032.99	Quarterly Pmt of Fines - Jan 1
Paid Chk# 039676 SCOTT COUNTY RECORDER	4/25/2019	\$46.00	F01-19 Encroachment Agmt Recor
Paid Chk# 039677 SHERWIN-WILLIAMS	4/25/2019	\$148.33	PW - Water Repairs
Paid Chk# 039678 TITAN AUTO GLASS	4/25/2019	\$329.00	PD Fleet
Paid Chk# 039679 TOLL GAS & WELDING SUPPLY	4/25/2019	\$36.00	PW - Small Tools
Paid Chk# 039680 TOWMASTER	4/25/2019	\$258.94	PW - Fleet Maint & Equip
Paid Chk# 039681 WATCHGUARD VIDEO	4/25/2019	\$468.00	PD - Body Camera Mounts
Paid Chk# 039682 WERNER IMPLEMENT CO., INC.	4/25/2019	\$24.80	PW - Fleet Main & Equip
Paid Chk# 039683 WINTER EQUIPMENT COMPANY	4/25/2019	\$2,400.00	PW - Fleet Maint & Equip
Paid Chk# 039684 ZIEGLER INC.	4/25/2019	\$77.98	PW - Fleet Maint & Equip
TOTAL		\$20,280.28	
DIRECT DEPOSIT			
Paid Chk# 502443EBi-Weekly ACH	4/18/2019	\$34,101.95	
TOTAL		\$34,101.95	



STAFF MEMORANDUM

SUBJECT:	Extension of Administration Internship
MEETING DATE:	April 25, 2019
PREPARED BY:	Kellie Stewart, Accountant
REQUESTED ACTION:	Authorize Extension of Administration Intership

COMMUNITY VISION:

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COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Council authorized an Administrative Intern position for up to six (6) months starting on October 29th, 2018. This position will reach the six (6) month limit on April 29th, 2019. Originally, this position was funded for 20 hours a week. Additional hours were later authorized for an interim period due to the shortage of administrative staff.

DISCUSSION:

The Council is being asked to authorize an extension for the current intern for up to a total of one (1) year. The Council has already approved the City having an Administrative Intern for an average of 20 hours per week in the 2019 budget. In addition to the term extension for the current intern, staff is asking the Council to authorize an additional 20 hours per week for up to a total of 40 hours per week. The Community Development Specialist and City Administrator have both indicated that there is sufficient work load to justify the additional hours. The current intern has become an asset to the City and is very knowledgeable in her course of work. Staff recommends taking advantage of the intern's increased value due to their experience and their availability.

BUDGET IMPACT:

Due to the vacancies at the beginning of 2019 for the Deputy Clerk, Accountant, Chief of Police, and Police Officer positions, the expense to extend the internship would be offset by the unutilized salary and benefit expense budgeted for those positions in the General Fund. The amount unutilized for those vacancies is approximately \$50,000. The cost to extend the Administration Intern position would be approximately \$12,000. This cost also includes seven hundred twenty dollars for additional PERA the City would be required start to paying. The unutilized salary and benefit expense budgeted for those positions will also fund Sandra Green's part time hours that had been authorized by the City Council during 2019.



STAFF MEMORANDUM

SUBJECT: Joint Powers Agreement for Landscaping Services
MEETING DATE: April 25, 2019
PREPARED BY: Thomas Terry, City Administrator
REQUESTED ACTION: Approve Joint Powers Agreement for Landscaping Services with ISD 721

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COMMUNITY ORIENTED LOCAL GOVERNMENT:

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- Professionalism

BACKGROUND:

The City Council is being asked to approve a renewed Joint Powers Agreement (JPA) with New Prague Independent School District No. 721 (ISD 721) for landscaping services.

DISCUSSION:

The City and ISD 721 entered into a JPA in 2014 as a pilot program to determine if the proposed arrangement would be feasible and appropriate. In 2016, the City and ISD 721 entered into another JPA with similar terms. Following the 2018 mowing season, Staff proposed an increase in the fee of \$20 per mowing to cover associated costs. The City and ISD 721 feel that this is a mutually beneficial program for both entities.

The City Council is being asked to approve a Joint Powers Agreement with the ISD 721 to mow the play fields at the Eagle View Elementary. The Agreement is effective through the 2021 mowing season.

BUDGET IMPACT:

The School will reimburse the City \$220.00 per mowing.

Attachments:

- Joint Powers Agreement for Landscaping Services

JOINT POWERS AGREEMENT

THIS AGREEMENT is entered into between the **CITY OF ELKO NEW MARKET** ("City") and **INDEPENDENT SCHOOL DISTRICT NO. 721** ("District").

WHEREAS, the District owns property located at 25600 Nevada Avenue, Elko New Market, Minnesota, 55020, as legally described as Lot 1, Block 1, New Market School Addition, Scott County, Minnesota where it operates Eaglevew Elementary School ("District Property");

WHEREAS, the District desires to pay the City to provide landscaping services for the District Property in the areas depicted on Exhibit A attached hereto ("Service Areas");

WHEREAS, the City has the ability to provide the landscaping services in the Service Areas for the District;

WHEREAS, Minn. Stat. § 471.59 authorizes two or more governmental units to enter into agreements to jointly or cooperatively exercise any power common to the contracting parties or any similar power.

NOW, THEREFORE, the Cities agree as follows:

- 1. PURPOSE.** This Agreement shall establish the responsibilities of the City to provide landscaping services to the District for the District Property.
- 2. CITY SERVICES.** The City shall mow the Service Areas during the mowing season approximately 1 time per week.
- 3. PAYMENT.** The District shall pay the City \$220.00 per mowing of the Service Areas.
- 4. BILLING.** The City shall bill the District monthly and the District shall pay the bill within thirty (30) days of receipt.
- 5. TERM.** This Agreement shall be effective from the date of execution by both parties and shall continue through the end of the mowing season for 2021 unless terminated in accordance with law or the terms of this Agreement.
- 6. TERMINATION.** Either party may terminate this Agreement for any reason upon thirty (30) days' written notice to the other party.
- 7. INDEMNIFICATION.** Each party agrees that it will be responsible for its own acts, including its agents and the results thereof, to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof.

The Parties recognize that liability for any claims arising under this Agreement are subject to the provisions of the Minnesota Municipal Tort Claims Law; Minnesota Statutes, Chapter 466. In

the event of any claims or actions filed against either party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual Parties.

8. **WAIVER**. Any and all persons engaged in the work to be performed by the City shall not be considered employees of the District for any purpose, including Worker's Compensation, or any and all claims that may or might arise out of said employment context on behalf of said employees while so engaged. Any and all claims made by any third party as a consequence of any act or omission on the part of said City employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of the District. The opposite situation shall also apply: the City shall not be responsible under the Worker's Compensation Act for any employees of the District.

IN WITNESS WHEREOF, the Cities hereto have caused this Agreement to be duly executed as of the dates shown.

Dated: April 25, 2019

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius Mayor

AND _____
Lynda Jirak, Deputy Clerk

Dated: April 8, ~~2016.~~
2019

INDEPENDENT SCHOOL DISTRICT
NO. 721

BY: *Dorinda Gaudin*
clerk,

AND *Jeanne Kerk*
Vice Chair,

EXHIBIT A

Service Areas



STAFF MEMORANDUM

SUBJECT:	One Day Temporary Liquor License
MEETING DATE:	April 25, 2019
PREPARED BY:	Lynda Jirak, Deputy Clerk
REQUESTED ACTION:	Adopt Resolution 19-17 Approving a One Day Temporary On-Sale Liquor License for Elko Express Baseball Club

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- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Elko Express Baseball is requesting a One Day Temporary On-Sale Liquor License for an event to be held at Fredrickson Field, 26518 France Avenue, Elko New Market, Minnesota.

DISCUSSION:

Elko Express Baseball is requesting a One Day Temporary On-Sale Liquor License to serve intoxicating liquor at an event to be held on June 7, 2019. This event will be a fund raiser for Elko Express Baseball and held during the baseball game. Elko Baseball Club has submitted an application for a One Day Temporary On-Sale Liquor License, along with associated fee.

Elko Express Baseball held a similar fund raiser event last year and no complaints were received regarding the event. Therefore, Staff would recommend approval of the One Day Temporary On-Sale Liquor License for Elko Express Baseball.

BUDGET IMPACT:

Minimal

Attachments:

- Resolution 19-17 One Day Temporary On-Sale Liquor License for Elko Express Baseball

CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA

RESOLUTION NO. 19-17

WHEREAS; Elko Express Baseball Club, Elko New Market has submitted an application for a One Day Temporary On-Sale liquor license to serve intoxicating liquor at Fredrickson Field, located at 26518 France Avenue, Elko New Market, Minnesota;

WHEREAS; Elko Express Baseball Club meets the requirements for issuance of the On-Sale Liquor License to serve intoxicating liquor under Minnesota Statute Chapter 340A;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Elko New Market, Minnesota, that a One Day Temporary On-Sale liquor license to serve intoxicating liquor be issued to Elko Express Baseball Club for the premises located at 26518 France Avenue, Elko New Market, Minnesota 55020, for a fund raiser event on June 7, 2019 contingent upon the following:

1. Compliance with the provisions of Minnesota Statutes Chapter 340A in the sale of liquor; and
2. Providing proof of liquor liability insurance required by Minnesota Statutes § 340A.409 and attaching a certificate of insurance to the application listing the City of Elko New Market as an additional insured.

APPROVED AND ADOPTED this 25th day of April, 2019.

CITY OF ELKO NEW MARKET

By: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, Acting City Clerk



STAFF MEMORANDUM

SUBJECT:	Insurance Liability Coverage- Waiver Form
MEETING DATE:	April 25, 2019
PREPARED BY:	Kellie Stewart, Accountant
REQUESTED ACTION:	Motion to not approve the waiving of the monetary limits on municipal tort liability

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

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COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Each year, the League of Minnesota Cities Insurance Trust asks the City to indicate whether or not the City will waive the monetary limits on tort liability established by Minnesota Statute.

DISCUSSION:

Waiving the limit increases the financial exposure for the City related to potential claims. In prior years the City has chosen to NOT waive these liabilities. Staff does not recommend waive the monetary limits on tort liability.

BUDGET IMPACT:

None

Please contact City Clerk with any questions regarding the matter in this memorandum (952-461-2777).

Attachments:

- Insurance Liability Coverage Waiver Form



CONNECTING & INNOVATING
SINCE 1913

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member’s effective date of coverage. Return completed form to your underwriter or email to pstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member’s governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.
- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member’s liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.
- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name: _____

Check one:

- The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#).
- The member **WAIVES** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#), to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member’s governing body meeting: _____

Signature: _____ Position: _____



STAFF MEMORANDUM

SUBJECT:	Authorize Hire of Public Works Maintenance Worker I
MEETING DATE:	April 25, 2019
PREPARED BY:	Thomas Terry, City Administrator
REQUESTED ACTION:	Direct staff to post the Maintenance Worker I position and authorize the City Administrator to hire the position.

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
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COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Payton Hill, Public Works Maintenance Worker I tendered his resignation, effective May 8, 2019. Hill was initially employed by the City in September of 2017 and then hired as a full-time Public Works Maintenance Worker I that same year.

DISCUSSION:

The City Council is being asked to authorize filling the vacancy through the hiring of a Public Works Maintenance Worker I.

BUDGET IMPACT:

Potential for reduction in payroll expense. The specific variance will be dependent upon the length of vacancy and the step at which new employee is hired.



STAFF MEMORANDUM

SUBJECT:	Application for Grading Permit
MEETING DATE:	April 25, 2019
PREPARED BY:	Renee Christianson, Community Development Specialist
REQUESTED ACTION:	Approve R & F Properties Grading Permit

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
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COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

R & F Properties (AKA Elko Speedway) submitted an application for grading permit to allow fill to be placed in a certain area within their property. The area in which they are proposing to fill was formerly known as the motocross track, and is currently designated as an overflow parking area.

Elko Speedway operates by way of Planned Unit Development (PUD) zoning. This is a special zoning district that allows uses not typical to a traditional zoning district. Elko Speedway, and the uses that occur on the overall property, have continued to change and evolve over the years. As an example, a drive-in movie theatre was a recently added use which required an amendment to their PUD zoning. The PUD was completely amended and restated on March 23, 2017. The restated PUD outlines all of the permitted uses on the site and well as approved site plans.

The area in which R & F Properties is currently proposing to place fill is designated as an overflow parking area (South Lot) on the approved PUD (see attached drawings). The area is used for overflow parking approximately once each year, typically during the Eve of Destruction event. This could change from year to year depending on the events that are scheduled at the track. However, in recent years the area has been used on average once per year.

Section 11-3-5 (F) and 11-3-1 of the City Code require that for grading permit applications involving 1,000 cubic yards of fill or more, the application must be reviewed by the Planning Commission. On April 22, 2019 the Elko New Market Planning Commission conducted a special meeting to consider the application, and have recommended approval of the request with some conditions, as follows:

- 1) Approval is based on the grading plan containing 1 sheet, prepared by Probe Engineering, dated 4/10/19 and revised 4/16/19.
- 2) Approval is based on the Storm Water Pollution Prevention Plan containing 10 sheets, prepared by Probe Engineering, and dated 4/16/19.
- 3) The applicant shall comply with all recommendations of the City Engineer.
- 4) The applicant shall enter into a Grading Authorization Permit with the City.
- 5) Fill shall be stockpiled until it can be equally spread over the entire overflow parking area; the required overflow parking area must be maintained and usable throughout the summer months.
- 6) All access to the site for purposes of filling and grading shall be via France Avenue through the R & F Properties property. No access to the site shall occur on Whispering Hills Lane.
- 7) Fill shall be leveled and the site shall be fully stabilized by the end of the construction season, 2019.
- 8) The permit shall be granted for a period not to exceed one-year in length.
- 9) The area depicted as "Area 4 – South Lot" on the approved PUD Overflow Parking Exhibit shall be used and designated as overflow parking and not used for the exterior storage of contractor equipment.

Upon further review by City staff following the Planning Commission meeting, it was found that some exterior storage of construction equipment is permitted within a specific area and with some conditions. Therefore, condition #9 stated above has not been incorporated into the

grading permit being presented to the City Council for approval. All other conditions recommended by the Planning Commission have been incorporated into the grading permit.

The application has been reviewed by the City Engineer and he has recommended approval in his memorandum dated April 22, 2019.

The initial application requested approval to bring the fill in over a period of up to three years. Staff and the Planning Commission believe that this length of time is excessive and conflicts with the approved land use for the site (overflow parking) and have recommended that the site be stabilized by November 30, 2019 and that the permit be approved for a one year period of time. The applicant understands the recommendation and accepts the stipulation and term of the proposed grading permit.

CITY ATTORNEY RECOMMENDATION:

The City Attorney has reviewed all information relating to the request, has drafted the attached grading permit, and is recommending that the City Council approve the grading permit.

REQUESTED ACTION:

The City Council is being asked to approve the attached grading permit for R & F Properties.

Attachments:

(Draft) Grading Permit (201905v3), including grading & erosion control plan and SWPPP plan

(Draft) Planning Commission Minutes - 4/22/19

City Engineer Memorandum – 4/22/19





GRADING PERMIT

PERMIT dated _____, issued by the **CITY OF ELKO NEW MARKET**, a Minnesota political subdivision ("City"), **R&F PROPERTIES, LLC**, a Minnesota limited liability company ("Developer").

1. Request for Grading Permit. The Developer has asked the City to approve a grading permit to allow fill to be placed on a portion of the land legally described on Exhibit A attached hereto ("Subject Property").

2. Conditions of Approval. The City hereby approves the permit on condition that the Developer abide by its terms and furnish the security required by it.

3. Plans. The Subject Property shall be graded in accordance with the following plans on file with the City:

Plan A -- Grading and Erosion Control Plan, prepared by Probe Engineering Co., Inc., dated April 10, 2019

Plan B – Stormwater Pollution Prevention Plan for Overflow Parking Area (Elko Market Place), prepared by Probe Engineering Co., Inc., dated April 16, 2019

4. Time of Performance. The Developer shall complete the grading and erosion control in the Subject Property by April 25, 2020. The Developer may, however, request an extension of time from the City. 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.

5. Erosion Control. Plan A shall be implemented by the Developer and inspected and approved by the City. The City may impose additional erosion control requirements if they would be beneficial. All areas disturbed by the excavation and backfilling operations shall be reseeded within 14 days after the completion of the work in that area. Except as otherwise provided in the erosion control plan, seed shall be rye grass or other fast-growing seed suitable to the existing soil to provide a temporary ground cover as rapidly as possible. All seeded areas shall be mulched and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within thirty (30) days, the City may draw down the financial securities to pay any costs. No development will be allowed and no building permits will be issued unless the property is in full compliance with the erosion control requirements.

6. Grading Plan. The Subject Property shall be graded in accordance with the grading plan, Plan A. Well established vegetation over 95% or more of the area shall be required at completion of the grading. Within thirty (30) days after completion of the grading and before the City releases the

security, the Developer shall provide the City with an "as constructed" grading plan and a certification by a registered land surveyor or engineer that all ponds, swales, and ditches have been constructed on public easements or land owned by the City.

7. **Special Conditions.** As a condition to the issuance of this Grading Permit, Developer shall comply with the following:

- A. Fill shall be stockpiled solely in the area identified in the grading plan which is located within a portion of the West Lot of the Overflow Parking Area until the fill can be equally spread over the entire West lot of the Overflow Parking Area. The Overflow Parking Area is attached hereto as Exhibit B.
- B. The West Lot Overflow Parking Area must be maintained and usable throughout the summer months.
- C. All access to the West Lot for purposes of filling and grading shall be via France Avenue through the Subject Property. No access to the West Lot for purposes of this grading permit shall occur on Whispering Hills Lane.
- D. Fill shall be leveled and the site shall be fully stabilized by November 30, 2019.

8. **Clean up.** The Developer shall promptly clean dirt and debris from streets that has resulted from construction work by the Developer, its agents or assigns.

9. **Security.** To guarantee compliance with the terms of this permit, the Developer shall furnish the City with a cash escrow or irrevocable letter of credit, in the form attached hereto, from a bank ("security") for \$10,000.00. The bank and form of the letter of credit shall be subject to the approval of the City.

10. **Responsibility for Costs.**

A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the grading and erosion control, including but not limited to legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the permit, the preparation of this permit, and all costs and expenses incurred by the City in monitoring and inspecting the grading and erosion control. The City will make reasonable efforts to notify Developer prior to conducting inspections or taking enforcement actions that will be billed to Developer, but does not guaranty that such notice will be provided. The failure to provide such notice does not restrict the City from conducting inspections required in connection with the grading permit or negate Developer's responsibility for the costs.

B. The Developer shall hold the City and its officers and employees harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from permit approval and work done in conjunction with it. The Developer shall indemnify the City and its officers and employees for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorney's fees.

C. The Developer shall reimburse the City for costs incurred in the enforcement of this permit, including engineering and attorney's fees.

D. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this permit within thirty (30) days after receipt. If the bills are not paid on time, the City may halt all work and construction.

11. Developer's Default. In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer is first given notice of the work in default, not less than 48 hours in advance. This permit is a license for the City to act, and it shall not be necessary for the City to seek a court order for permission to enter the land. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part.

12. Acknowledgment. Developer acknowledges that approval of a grading permit for the Subject Property does not constitute a guarantee by the City of any future subdivision approvals and that Developer grades the Subject Property at its own risk.

*[Remainder of Page Intentionally Left Blank]
[Signature Pages to Follow]*

CITY OF ELKO NEW MARKET

(SEAL)

BY: _____
Joe Julius, Mayor

AND _____
Tom Terry, Acting City Clerk

STATE OF MINNESOTA)
 (ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Joe Julius and by Tom Terry, respectively the Mayor and Acting City Clerk of the City of Elko New Market, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

NOTARY PUBLIC

**DEVELOPER:
R & F PROPERTIES, LLC**

BY: _____
Its: _____

STATE OF MINNESOTA)
 (ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, the _____ of R & F PROPERTIES, LLC, a Minnesota limited liability company, on its behalf.

NOTARY PUBLIC

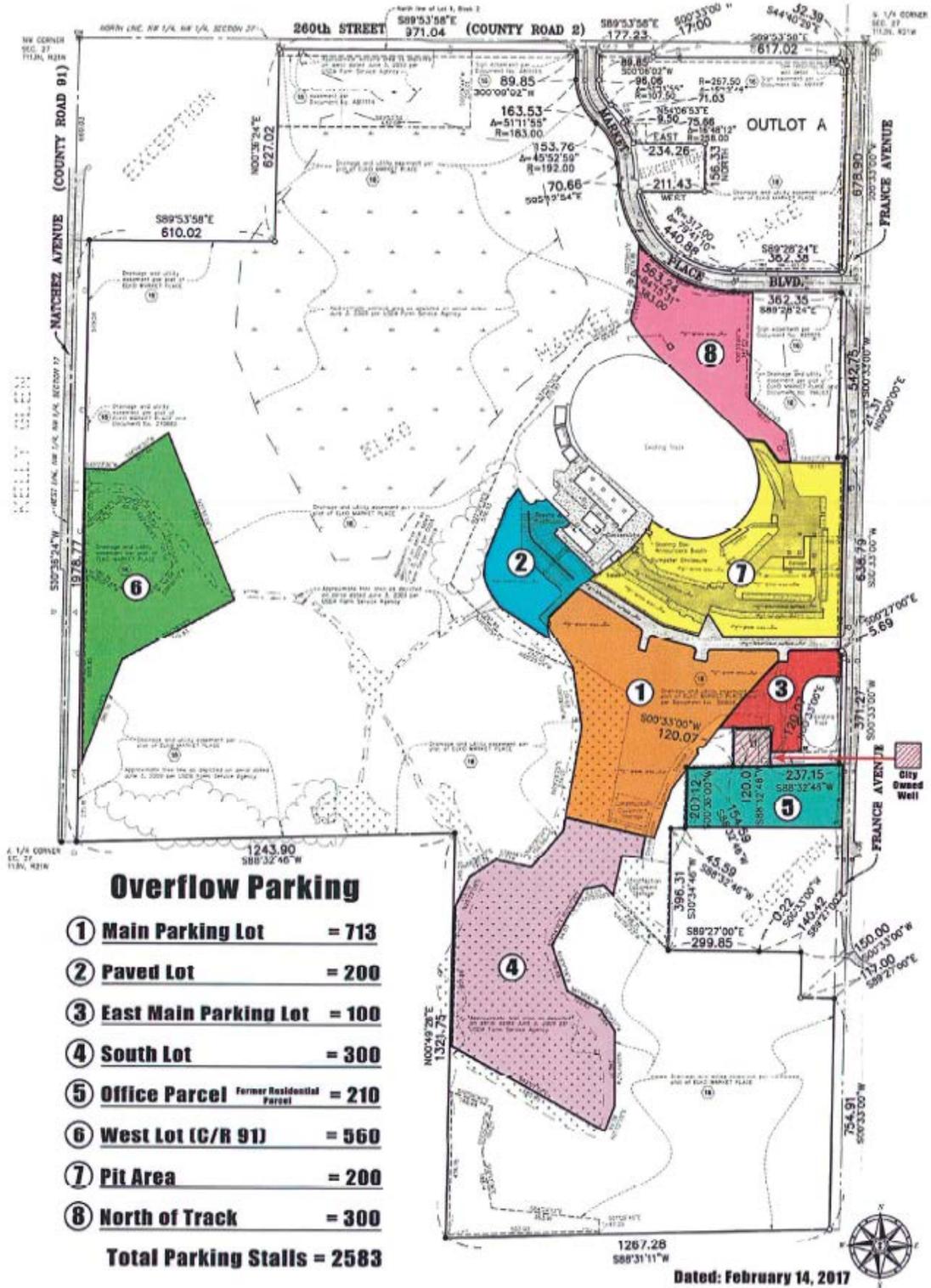
DRAFTED BY:
CAMPBELL KNUTSON
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000
AMP

**EXHIBIT A
TO GRADING PERMIT**

Legal Description of Subject Property

Lot 1, Block 2, Elko Market Place, Scott County, Minnesota, according to the recorded plat thereof.

EXHIBIT B OVERFLOW PARKING AREA



IRREVOCABLE LETTER OF CREDIT

Date: _____

TO: City of Elko New Market
601 Main St., P.O. Box 99
Elko New Market, Minnesota 55020-0099.

Dear Sir or Madam:

We hereby issue, for the account of _____ (Name of Developer) and in your favor, our Irrevocable Letter of Credit in the amount of \$_____, available to you by your draft drawn on sight on the undersigned bank.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. _____, dated _____, 20____, of _____ (Name of Bank)";
- b) Be signed by the Mayor or City Administrator of the City of Elko New Market.
- c) Be presented for payment at _____ (Address of Bank), on or before 4:00 p.m. on November 30, 20__.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Elko New Market City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: Elko New Market City Administrator, P.O. Box 99, Elko, MN 55020-0058, and is actually received by the City Administrator at least thirty (30) days prior to the renewal date.

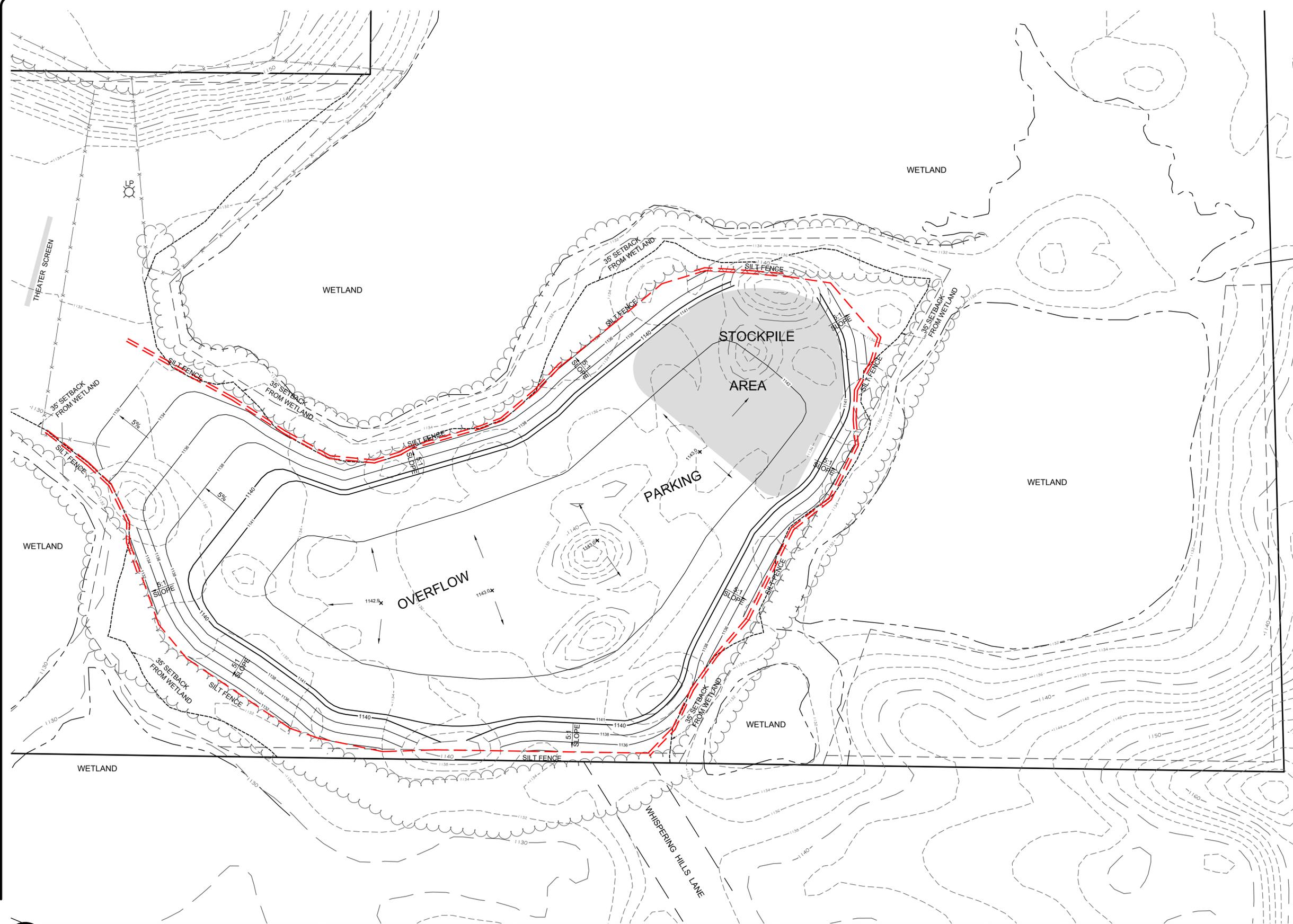
This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

BY: _____
Its _____
Authorized Insurance Representative



- NOTES
1. IMPORT TO BE PLACED IN STOCKPILE AREA AND SPREAD OVER ENTIRE OVERFLOW PARKING AREA WHEN VOLUME IS SUFFICIENT FOR 1'-2' LIFT
 2. PLACE PERIMETER EROSION CONTROLS PRIOR TO IMPORT OF ANY FILL.

MPCA NPDES Permit is required, along with a SWPPP meeting all requirements prior to issuance of a grading permit.

- Construction Staging:**
- Remove vegetation as necessary to construct perimeter control.
 - Place perimeter controls as shown.
 - Impacts within wetland buffers require redundant sediment control devices as per the NPDES Permit.
 - Construct site grading. Follow permit requirements of stabilizing areas immediately but no later than 14 days after the construction activity has ceased.
 - Maintain perimeter controls.
 - Upon completion of grading items, seed disturbed upland areas with MnDOT Seed Mixture 25-141 @ 60 lb/acre with Type 1 mulch at 2 tons/acre and disc anchor.

3,500 LF Silt Fence

PROBE ENGINEERING COMPANY, INC.
 CONSULTING ENGINEERS, PLANNERS and LAND SURVEYORS
 1000 EAST 146th STREET, BURNSVILLE, MINNESOTA 55337 PH (952)432-3000

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
[Signature]
 DATE 4-10-19 REG. NO. 48365

REVISIONS	
1	4-16-19 PM REVISED PER CITY COMMENTS

PREPARED FOR:
TOM RYAN

DESIGNED	CHECKED
DRAWN	DATE
PM	4-10-19
SCALE	
AS SHOWN	
JOB NO.	
16801.00	

GRADING & EROSION CONTROL PLAN
ELKO SPEEDWAY
 ELKO-NEW MARKET, MINNESOTA

SHEET	REV.
1	1
OF	
1	

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

FOR

OVERFLOW PARKING AREA (ELKO MARKET PLACE)

Elko New Market, MN

April 16, 2019

Prepared For:

R & F Properties, LLC
26480 France Avenue
Elko New Market, MN 55020
952-894-3200

Prepared By:

Paul Motzko
Probe Engineering Co., Inc.
1000 E. 146th Street
Burnsville, MN 55318
952-432-3000

Table of Contents
SWPPP Narrative

Attachments:

Grading & Erosion Control Plan
Soils Map
Receiving Waters Map within 1 mile of Site
SWPPP Training documentation

Project Description

This site is currently used as an overflow parking area for events at Elko Speedway and the Drive-in theater. Work proposed under this permit includes filling the existing overflow parking area by importing material into a stockpile and then spreading said material in lifts over the parking area. Amendments will be attached to this SWPPP as necessary by the Owner or Operator.

The total estimated disturbed area is 6 acres and the estimated volume of earth to be imported and moved on site is 45,000 CY.

Knowledgeable Person/Chain of Responsibility

The Developer is the Owner and is responsible for compliance with all terms and conditions of the permit. The Owner will designate a certified SWPPP designer and certified inspector to oversee the implementation of the SWPPP.

The Operator is the Contractor hired by the Owner to construct the project. The Operator will provide a SWPPP trained installer to implement the installation, inspection and maintenance of the erosion prevention and sediment control BMPs of the SWPPP until construction is complete, the entire site has undergone final stabilization and the NOT has been submitted to the MPCA. This individual will be available to meet the MPCA on site within 72 hours upon request by the MPCA.

Project Contacts

Owner(s): R & F Properties, LLC
26480 France Avenue
Elko New Market, MN 55020
Contact: Tom Ryan, tomr@ryancont.com, 952-894-3200

SWPPP Designer: Paul Motzko, 952-432-3000
SWPPP Inspector:
Operator: Ryan Contracting Co.
Operator's contact: Tom Ryan, tomr@ryancont.com, 952-894-3200

SWPPP Training

The SWPPP has been prepared by a trained SWPPP designer. The Operator shall designate a SWPPP trained inspector and SWPPP trained installer to implement the SWPPP. Documentation of the training will be attached and include the following:

- a. Names of the SWPPP Preparer, SWPPP Inspector, and SWPPP Installer
- b. Dates of training and name of instructor and entity providing the training
- c. Training content that is commensurate with the individuals job duties and responsibilities including the number of hours of training

Stormwater Design, Calculations, and Narrative

- A. Temporary Sedimentation Basin: There will not be 10 or more acres of disturbed soil draining to a common location, therefore a temporary sedimentation basin is not part of the design.
- B. Permanent Storm Water Treatment System: The project does not call for any impervious area to be constructed, therefore a Permanent Storm Water Treatment System to treat the water quality volume is not required. (ie: net increase in impervious area is < 1 acre).

Maintenance of Permanent Stormwater Systems

Not Applicable

Timing of Installation/Construction Staging

Construction is anticipated to begin in the spring of 2019. Grading construction is anticipated to be ongoing and is estimated to be completed by 2020. However, this is subject to the availability of fill material.

Access to the site is through the Drive-in Theater lot. This surface is gravel and will act as a rock construction entrance to the site. The Operator will sweep tracked soils on paved surfaces.

Perimeter controls will be placed before land disturbing activities. Areas of grading are clearly marked in the plans by the "CONSTRUCTION LIMITS" notation.

Stockpiles will be covered or stabilized within (14) days after work has ceased. Final site stabilization of all exposed areas will be completed within (14) days after the construction activity in that portion of the site has temporarily or permanently ceased.

SWPPP Components

The Grading & Erosion Control Plan, which include the location and type of all temporary and permanent erosion prevention and sediment control BMPs along with details for the BMPs, are attached.

If additional BMPs become necessary during construction, the Owners SWPPP designer, will recommend and/or approve such BMPs.

Specifications for SWPPP related construction are referenced in the individual plan sheets.

Estimated Quantities

Estimated quantities for erosion and sediment control items are shown on the plans

Impervious Surface

The pre and post construction impervious surfaces are as follows:

Pre-Construction = 0 acres
Post-Construction = 0 acres

Soil Types

A site map with soil types are attached.

Maps of Surface Waters

No special waters or impaired waters are identified on the map within one mile of the site. See Attached.

Final stabilization

Final site stabilization methods are shown on the Grading & Erosion Control Plan.

Soil Management

Existing topsoil will be stripped and preserved. Soil compaction will be avoided in areas not needing to be compacted. All areas to have vegetation re-established will receive 4" of topsoil covering.

Chemical treatments

No chemical treatments systems are proposed

Documentation of Infeasibility

Not Applicable

Environmental Review Stormwater Measures

There are no stormwater pollution mitigation measures identified in environmental review, endangered species review, archeological or other required local, state or federal review conducted for the project.

Karst Areas

There are no known karst areas within this site.

Impaired Waters and Total Maximum Daily Loads (TMDLs)

There are no special or impaired waters located within 1 mile of the project limits that receive runoff from the project site. The special and impaired waters search map is attached.

Environmentally Sensitive Areas

Wetlands are located directly next to and partially within this project area. The wetland edge shown on the grading plan is taken from the final plat of Elko Marketplace. 100 % of the existing runoff drains to the existing wetlands and this does not change in the proposed condition. Perimeter control are shown on the Grading & Erosion Control Plan with redundant control shown where the construction limits are closer than 50 to the edge of the wetland.

SWPPP Amendments

The SWPPP will be amended as necessary when there is a change in design, construction, operation, maintenance, weather or seasonal conditions that has a significant effect on the discharge of pollutants to surface waters or underground waters. The SWPPP may also be amended when inspections or investigations by site Owner or operators, USEPA or MPCA officials indicate the SWPPP is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.

Soil Types

The soil types found on this project are a mix of Haydem Loams, Estherville – Burnsville complex and Houghton Muck as shown in the attached soils map. Majority of the soils have hydrologic soil group of B and are susceptible to erosion. These soils will adhere to equipment and tires when wet so tracking is expected with wet conditions. They will also become very dusty when dry so water or other dust prevention may be required.

Temporary Sedimentation Basins

Temporary sedimentation basins may be required for dewatering activities dependent on site conditions. If temporary sedimentation basins are used, they must have a floating skimmer type outlet. None are anticipated.

The Operator will provide temporary sedimentation basins when mandated by the permit and should use them as a normal part of the grading operations when not required.

Dewatering and Basin Draining

Dewatering is not anticipated. However, if dewatering is used, the Operator will provide a SWPPP amendment for the proposed dewatering activities.

Turbid or sediment laden waters related to dewatering or basin draining will be discharged to a sedimentation basin or storage tank. The discharge from the sedimentation basin or storage tank may be released to surface waters if the water has been visually checked to ensure adequate treatment has been obtained and nuisance conditions will not result from the discharge.

If discharge water contains oil or grease, an oil water separator or suitable filtration device will be used prior to discharging the water. Discharge points will be adequately protected from erosion and scour. The discharge will be dispersed over natural rock riprap, sand bags, plastic sheeting, or other accepted energy dissipation measures.

All water from dewatering or basin-draining activities will be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope properties, or inundation in wetlands causing significant adverse impact to the wetland.

If filters with backwash water are used, the backwash water will be hauled away for disposal, return the backwash water to the beginning of the treatment process, or incorporate the backwash water into the site in a manner that does not cause erosion. The backwash water may be discharged to the sanitary sewer if permission is granted by the sanitary sewer authority. The filters and/or media should be replaced or cleaned as necessary for adequate function.

Inspections and Maintenance

The Operators SWPPP trained inspector will routinely inspect the entire construction site at least once every seven (7) days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours. Following an inspection that occurs within 24 hours after a rainfall event, the next inspection will be conducted within seven (7) days after the rainfall event. All inspections and maintenance conducted during construction will be recorded within 24 hours in writing and these records will be retained with the SWPPP. Records of each inspection and maintenance activity will include:

- a. Date and time of inspections
- b. Name of person(s) conducting inspections
- c. Findings of inspections, including the specific location where corrective actions are needed

- d. Corrective actions taken (including dates, times, and party completing maintenance (activities))
- e. Date and amount of all rainfall events greater than 1/2 inch (0.5 inches) in 24 hours. Rainfall amounts will be obtained by a properly maintained rain gauge installed onsite, a weather station that is within 1 mile of your location or a weather reporting system that provides site specific rainfall data from radar summaries.
- f. If any discharge is observed to be occurring during the inspection, a record of all points of the property from which there is a discharge will be made, and the discharge should be described (i.e., color, odor, floating, settled, or suspended solids, foam, oil sheen, and other obvious indicators of pollutants) and photographed.
- g. Any amendments to the SWPPP proposed as a result of the inspection will be documented as required in Part III.B. within seven (7) calendar days.

Inspection Frequency Adjustment

- a. Where parts of the project site have permanent cover, but work remains on other parts of the site, inspections may be reduced to once per month in those areas of permanent cover.
- b. Where construction sites have permanent cover on all exposed soil areas and no construction activity is occurring anywhere on the site, the site will be inspected during non-frozen ground conditions at least once per month for a period of twelve (12) months.
- c. Where work has been suspended due to frozen ground conditions, the inspections may be suspended. The required inspections and maintenance schedule will begin within 24 hours after runoff occurs at the site or 24 hours prior to resuming construction, whichever comes first.

Inspections and maintenance of temporary and permanent water quality management BMPs will be performed until another Permittee has obtained coverage under this Permit or the project has undergone Final Stabilization, and an NOT has been submitted to the MPCA.

All erosion prevention and sediment control BMPs and Pollution Prevention Management Measures will be inspected to ensure integrity and effectiveness during all routine and post-rainfall event inspections. All nonfunctional BMPs will be repaired, replaced, or supplemented with functional BMPs by the end of the next business day after discovery. The following inspection and maintenance requirements will be complied with:

- a. All perimeter control devices will be repaired, replaced, or supplemented when they become nonfunctional or the sediment reaches (1/2) of the height of the device. These repairs will be made by the end of the next business day after discovery, or thereafter as soon as field conditions allow access.
- b. Temporary and permanent sedimentation basins must be drained and the sediment removed when the depth of sediment collected in the basin reaches (1/2) the storage volume. Drainage and removal will be completed within 72 hours of discovery, or as soon as field conditions allow access.
- c. Surface waters, including drainage ditches and conveyance systems, will be inspected for evidence of erosion and sediment deposition during each inspection. All deltas and sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems will be removed. Areas of exposed soil at removal locations will be re-stabilized. The removal and stabilization will take place within seven (7) days of discovery unless precluded by legal, regulatory, or physical access constraints.
- d. Construction site vehicle exit locations will be inspected for evidence of off site sediment tracking onto paved surfaces. Tracked sediment must be removed from all paved surfaces both on and off site within 24 hours of discovery, or if applicable, within a shorter time to comply with the permit.
- e. Streets and other areas adjacent to the project will be inspected for evidence of off site accumulations of sediment. If sediment is present, it must be removed in a manner and at a frequency sufficient to minimize off site impacts.

All infiltration, filtration, and bioretention areas (if any) must be inspected to ensure that no sediment from ongoing construction activity is reaching the infiltration area, and that equipment is not being driven across those areas.

Storage, Handling, and Disposal of Construction Products, Materials, and Wastes

Building products that have the potential to leach pollutants must be under cover (e.g., plastic sheeting or temporary roofs) to prevent the discharge of pollutants or protected by a similarly effective means designed to minimize contact with stormwater.

Pesticides, herbicides, insecticides, fertilizers, treatment chemicals, and landscape materials must be under cover (e.g., plastic sheeting or temporary roofs) to prevent the discharge of pollutants or protected by similarly effective means designed to minimize contact with stormwater.

Hazardous materials, toxic waste, (including oil, diesel fuel, gasoline, hydraulic fluids, paint solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids) must be properly stored in sealed containers to prevent spills, leaks or other discharge. Restricted access storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste or hazardous materials must be in compliance with Minn. R. ch. 7045 including secondary containment as applicable.

Solid waste will be stored, collected and disposed of properly in compliance with Minn. R. ch. 7035.

Portable toilets will be positioned so that they are secure and will not be tipped or knocked over. Sanitary waste must be disposed of properly in accordance with Minn. R. ch. 7041.

Fueling and Maintenance of Equipment or Vehicles

Spill Prevention and Response: Reasonable steps must be taken to prevent the discharge of spilled or leaked chemicals, including fuel, from any area where chemicals or fuel will be loaded or unloaded including the use of drip pans or absorbents unless infeasible.

Fueling must be done in a contained area unless infeasible. Adequate supplies must be available at all times to clean up discharged materials and that an appropriate disposal method is available for recovered spilled materials. Spills must be reported and cleaned up immediately as required by Minn. Stat. § 115.061, using dry clean up measures where possible.

No fuel storage tanks in excess of 1000 gallons will be onsite during construction. All onsite fuel storage tanks shall have secondary protection for spills.

Vehicle and Equipment Washing

Washing of vehicles must be limited to a defined area of the site. Runoff from the washing area will be contained in a sediment basin or other similarly effective controls and waste from the washing activity will be properly disposed of. Soaps, detergents, or solvents must be properly stored. No engine degreasing is allowed on site.

Concrete and Other Washouts Waste

Effective containment must be used for all liquid and solid wastes generated by washout operations (concrete, stucco, paint, form release oils, curing compounds and other construction materials) related to the construction activity. The liquid and solid washout wastes must not contact the ground, and the containment must be designed so that it does not result in runoff from the washout operations or areas. Liquid and solid wastes must be disposed of properly and in compliance with MPCA rules. A sign must be installed adjacent to each washout facility that requires site personnel to utilize the proper facilities for disposal of washout wastes.

All concrete trucks shall have a self-contained collection system for washouts and no concrete trucks will be allowed to washout onto the site. Curb machines or concrete pavers may be washed out on site provided that it is done on the road grade and no washout water leaves the road grade.

Final Stabilization

All disturbed areas to be re-vegetated shall receive a minimum of 4" of topsoil and be seeded.

It is anticipated that sufficient topsoil will be obtained from excavations on-site. On-site topsoil shall be considered acceptable for re-use. If topsoil borrow is required, it shall meet the requirements of Mn/DOT 3877. All disturbed areas shall be stabilized within the time frames as specified in the NPDES Permit. Within 30 days after final site stabilization, the Owner shall submit a NOT.

Final Stabilization is not complete until all of the requirements below are met:

1. All soil disturbing activities at the site have been completed and all soils are stabilized by a uniform perennial vegetative cover with a density of 70 percent of its expected final growth density over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.

~~2. The permanent stormwater management system is constructed, meets all requirements in Part III.D. of the permit and is operating as designed. Temporary or permanent sedimentation basins (if any) that are to be used as permanent water quality management basins have been cleaned of any accumulated sediment. All sediment has been removed from conveyance systems and ditches are stabilized with permanent cover.~~

3. All temporary synthetic and structural erosion prevention and sediment control BMPs (such as silt fence) have been removed. BMPs designed to decompose on site (such as some compost logs) may be left in place.

~~4. For residential construction only, individual lots are considered finally stabilized if the structure(s) are finished and temporary erosion protection and downgradient perimeter control has been completed and the residence has been sold to the homeowner. Additionally, the Permittee has distributed the MPCA's "Homeowner Fact Sheet" to the homeowner to inform the homeowner of the need for, and benefits of, permanent cover.~~

~~5. For construction projects on agricultural land (e.g., pipelines across crop, field pasture or range land) the disturbed land has been returned to its preconstruction agricultural use.~~

Transfer of Ownership

~~If lots are sold and residential home construction is to begin prior to final site stabilization, a Notice of Termination/Permit Modification Form will be used to transfer the permit to the Owner of the lot. The new permittee will be responsible for all conditions of the original SWPPP.~~

UNIVERSITY OF MINNESOTA

Examine your card carefully. To report errors and request a corrected card, contact the Erosion and Stormwater Management Program at (612) 625-9733, or write: Erosion and Stormwater Management Program, 1390 Eckles Avenue, St Paul MN 55108.

UNIVERSITY OF MINNESOTA

Paul Motzko

Paul Motzko
1000 E 146th Street Suite 240
Burnsville, MN 55337

Design of Construction SWPPP (May 31 2020)

See reverse side for important information.

Soil Map—Scott County, Minnesota
(Elko Market Place Overflow Parking Area)



Map Scale: 1:2,520 if printed on A portrait (8.5" x 11") sheet.
0 35 70 140 210 Meters
0 100 200 400 600 Feet
Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 15N WGS84



MAP LEGEND

- | | | |
|---|------------------------|---|
| Area of Interest (AOI) | |  Spoil Area |
|  | Area of Interest (AOI) |  Stony Spot |
| Soils | |  Very Stony Spot |
|  | Soil Map Unit Polygons |  Wet Spot |
|  | Soil Map Unit Lines |  Other |
|  | Soil Map Unit Points |  Special Line Features |
| Special Point Features | | Water Features |
|  | Blowout |  Streams and Canals |
|  | Borrow Pit | Transportation |
|  | Clay Spot |  Rails |
|  | Closed Depression |  Interstate Highways |
|  | Gravel Pit |  US Routes |
|  | Gravelly Spot |  Major Roads |
|  | Landfill |  Local Roads |
|  | Lava Flow | Background |
|  | Marsh or swamp |  Aerial Photography |
|  | Mine or Quarry | |
|  | Miscellaneous Water | |
|  | Perennial Water | |
|  | Rock Outcrop | |
|  | Saline Spot | |
|  | Sandy Spot | |
|  | Severely Eroded Spot | |
|  | Sinkhole | |
|  | Slide or Slip | |
|  | Sodic Spot | |

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Scott County, Minnesota
Survey Area Data: Version 14, Sep 12, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 1, 2013—Nov 15, 2016

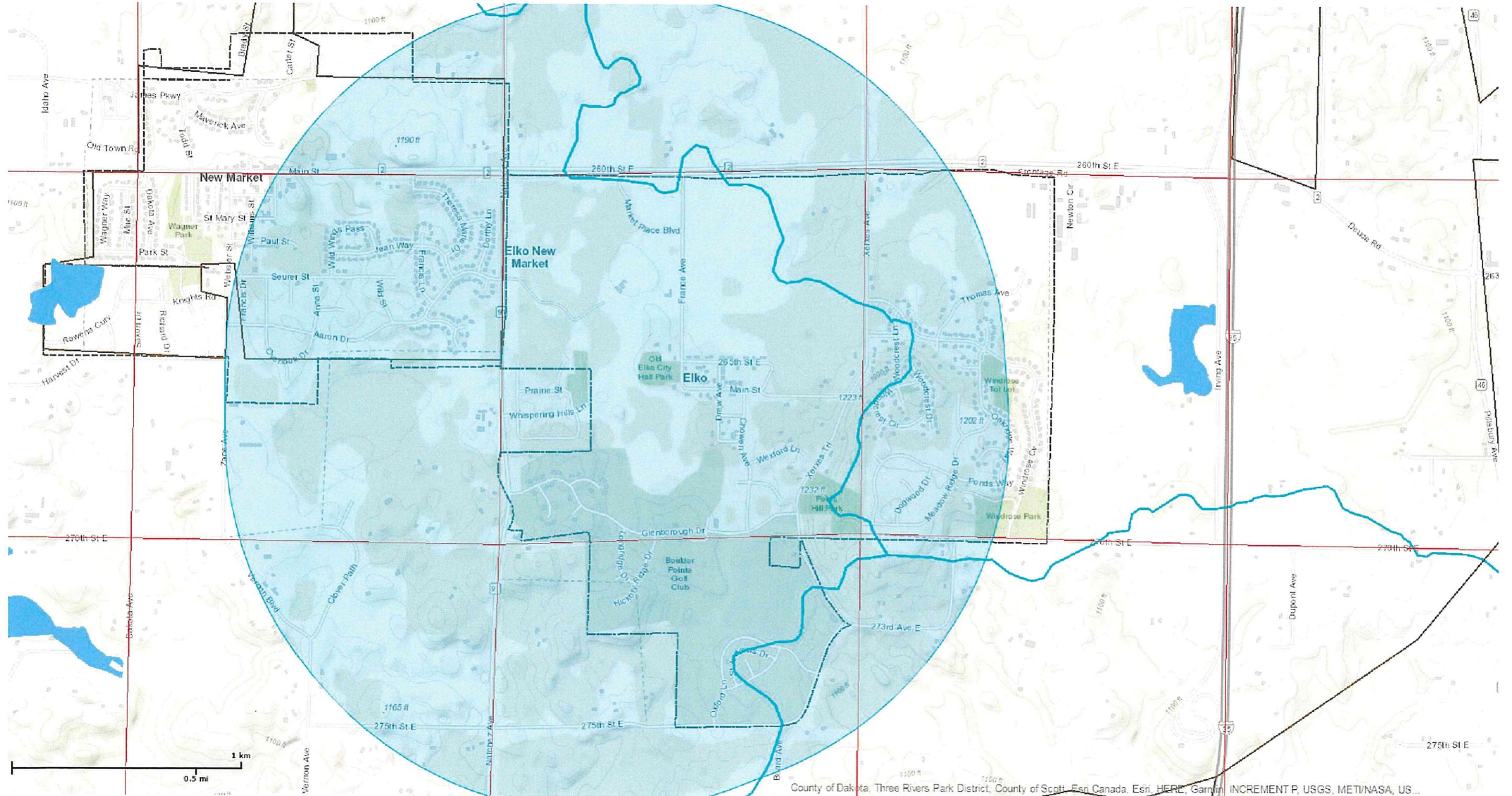
The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
Ba	Beach materials, sandy	0.0	0.0%
EaB	Estherville sandy loam, 2 to 6 percent slopes	0.4	1.4%
EbC2	Salida gravelly sandy loam, 6 to 12 percent slopes, moderately eroded	0.5	1.8%
Ga	Glencoe silty clay loam, 0 to 1 percent slopes	1.3	4.4%
HaB	Hayden loam, 2 to 6 percent slopes	0.1	0.4%
HaC2	Hayden loam, 6 to 10 percent slopes, moderately eroded	4.6	15.3%
HbE2	Hayden sandy loam, 18 to 25 percent slopes	0.6	2.0%
HcE3	Hayden soils, 18 to 25 percent slopes	1.6	5.4%
LbD	Estherville-Burnsville complex, 12 to 50 percent slopes	7.6	25.2%
PbA	Houghton muck, 0 to 1 percent slopes	12.6	42.0%
Ta	Terrace escarpments	0.6	2.0%
Totals for Area of Interest		30.1	100.0%

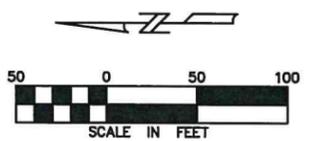
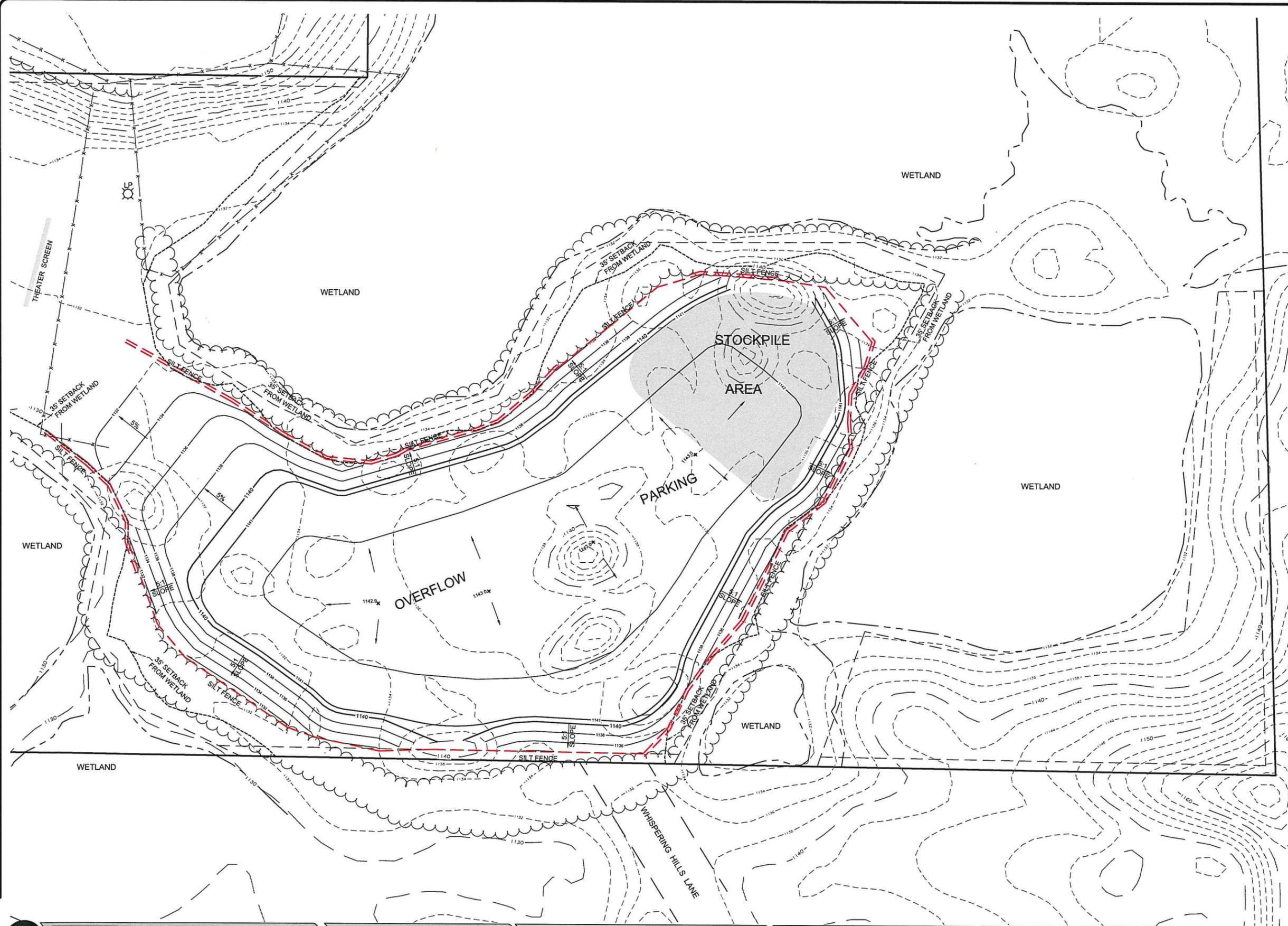
OVERTHROW Parking Area

Special Water (1 mile Radius)



Tue Apr 16 2019 11:01:13 AM

County of Dakota, Three Rivers Park District, County of Scott, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, US...



- NOTES
1. IMPORT TO BE PLACED IN STOCKPILE AREA AND SPREAD OVER ENTIRE OVERFLOW PARKING AREA WHEN VOLUME IS SUFFICIENT FOR 1'-2" LIFT
 2. PLACE PERIMETER EROSION CONTROLS PRIOR TO IMPORT OF ANY FILL.

MPCA NPDES Permit is required, along with a SWPPP meeting all requirements prior to issuance of a grading permit.

- Construction Staging:
- Remove vegetation as necessary to construct perimeter control.
 - Place perimeter controls as shown.
 - Impacts within wetland buffers require redundant sediment control devices as per the NPDES Permit.
 - Construct site grading. Follow permit requirements of stabilizing areas immediately but no later than 14 days after the construction activity has ceased.
 - Maintain perimeter controls.
 - Upon completion of grading items, seed disturbed upland areas with MnDOT Seed Mixture 25-141 @ 60 lb/acre with Type 1 mulch at 2 tons/acre and disc anchor.

3,500 LF Silt Fence

PROBE ENGINEERING COMPANY, INC.
 CONSULTING ENGINEERS, PLANNERS and LAND SURVEYORS
 1000 EAST 146th STREET, BURNSVILLE, MINNESOTA 55337 PH (952)432-3000

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
[Signature]
 DATE 4-10-19 REG. NO. 48365

REVISIONS	
1	4-16-19 PM REVISED PER CITY COMMENTS

PREPARED FOR: **TOM RYAN**

DESIGNED	CHECKED
DATE	DATE
PM	4-10-19
SCALE	AS SHOWN
JOB NO.	16801.00

GRADING & EROSION CONTROL PLAN
ELKO SPEEDWAY
 ELKO-NEW MARKET, MINNESOTA

SHEET	REV.
1	1
OF	1

**MINUTES
CITY OF ELKO NEW MARKET
SPECIAL PLANNING COMMISSION MEETING
APRIL 22, 2019
5:00 PM**

1. CALL TO ORDER

Chairman Smith called the meeting of the Elko New Market Planning Commission to order at 5:04 p.m.

Commission members present: Smith, Kruckman, Hansen, and Humphrey.

Members absent and excused: Priebe and Ex-officio member Anderson

Staff Present: Community Development Specialist Christianson

2. PLEDGE OF ALLEGIANCE

Chairman Smith led the Planning Commission in the Pledge of Allegiance.

3. APPROVAL OF AGENDA

A motion was made by Kruckman and seconded by Hansen to approve the agenda as submitted. Motion carried: (4-0).

4. GENERAL BUSINESS

A. Review Grading Permit Application – R & F Properties

Christianson presented information regarding the application for grading permit submitted to the City by R & F Properties (AKA Elko Speedway), allow fill to be placed in a certain area within their property. The area in which they are proposing to fill was formerly known as the motocross track, and is currently designated as an overflow parking area.

Christianson explained that the uses at the site operate by way of Planned Unit Development (PUD) zoning. Elko Speedway, and the uses that occur on the overall property, have continued to change and evolve over the years and the PUD zoning has been amended multiple times. The PUD was completely amended and restated on March 23, 2017. The restated PUD outlines all of the permitted uses on the site and well as approved site plans. It was explained that the subject area is used for overflow parking approximately once each year, typically during the Eve of Destruction event. This could change from year to year depending on the events that are scheduled at the track, however, in recent years the area has been used on average once per year.

Aerial photographs of the subject area and the proposed grading plan were displayed for the Commission to see. It was noted that the area proposed to be filled is surrounded by DNR Protected Wetlands. Christianson explained that the City's Comprehensive Plan depicts a

future extension of Whispering Hills Lane through the subject site that would ultimately connect to France Avenue.

Chairman Smith asked about the proposed elevation of the site in relation to the existing homes in Whispering Hills. Christianson displayed the grading plan, which depicts a proposed elevation of 1141 to 1142 at the proposed high/flat area, and also showed some of the existing elevations at the back of the homes along Oak Street in Whispering Hills, which appeared to range from 1140 to 146.

It was noted that the City Engineer has reviewed the application and has recommended approval via email, and his formal memorandum containing his recommendations is pending.

Commissioner Humphrey questioned what would happen if the applicant did not complete the grading and leveling of the site as requested and approved by the City. Christianson explained that the City would issue a grading permit containing stipulations of approval, and also require a financial security that would allow the City to complete certain items, should there be problems with erosion or nonperformance. Humphrey questioned whether the City could withhold future grading permits if the current permit was not complied with. Christianson noted that she would mention the concern to the City Attorney who would be drafting the grading permit.

Kruckman questioned why the original application contained a request to do the work over a three year time period. She stated that if grading occurred over such a significant length of time it would be a change of land use, from the required overflow parking area to potentially a construction staging or stockpile area. The Commission concurred with staff's recommendation to have all site grading completed in 2019.

Chairman Smith stated that there has been storage of contractor equipment in the subject area, especially during the winter months. He noted that the area is not approved for such use. Smith provided some history regarding the allowance of the offices for Ryan Contracting but not the exterior storage of construction equipment.

Following discussion, it was moved by Smith and seconded by Hanson to recommend approval of the application for grading permit #G1-2019 to the City Council, subject to the following conditions:

- 1) Approval is based on the grading plan containing 1 sheet, prepared by Probe Engineering, dated 4/10/19 and revised 4/16/19.
- 2) Approval is based on the Storm Water Pollution Prevention Plan containing 10 sheets, prepared by Probe Engineering, and dated 4/16/19.
- 3) The applicant shall comply with all recommendations of the City Engineer.
- 4) The applicant shall enter into a Grading Authorization Permit with the City.
- 5) Fill shall be stockpiled until it can be equally spread over the entire overflow parking area; the required overflow parking area must be maintained and usable throughout the summer months.

- 6) All access to the site for purposes of filling and grading shall be via France Avenue through the R & F Properties property. No access to the site shall occur on Whispering Hills Lane.
- 7) Fill shall be leveled and the site shall be fully stabilized by the end of the construction season, 2019.
- 8) The permit shall be granted for a period not to exceed one-year in length.
- 9) The area depicted as “Area 4 – South Lot” on the approved PUD Overflow Parking Exhibit shall be used and designated as overflow parking and not used for the exterior storage of contractor equipment.

And noting the following:

- 1) The City’s Comprehensive Plan depicts a future extension of Whispering Hills Lane, easterly, into the area proposed to be filled to eventually connect with France Avenue / Main Street. Future extension of the roadway will likely require removal or moving of some of the proposed fill at applicant / developer’s expense.

Motion carried: (4-0)

10. ADJOURNMENT

A motion was made to adjourn the meeting at 5:25 p.m. Motion carried: (4-0).

Submitted by:



Renee Christianson
Community Development Specialist



**BOLTON
& MENK**

Real People. Real Solutions.

12224 Nicollet Avenue
Burnsville, MN 55337-1649

Ph: (952) 890-0509
Fax: (952) 890-8065
Bolton-Menk.com

MEMORANDUM

Date: April 22, 2019
To: Renee Christianson, Community Development Specialist
From: Rich Revering, PE
Subject: Elko Marketplace Overflow Parking Grading Permit Review Memo

A review has been completed of the grading plan dated 04/16/2019 and SWPPP dated 04/17/2019 prepared by Probe Engineering. The documents relate to the apparent import as material becomes available, grading, stabilization, and interim storage of fill intended to be placed on parking areas elsewhere on the property at a future date.

Attention is directed to Chapter 11 in the City's Zoning Ordinance https://www.sterlingcodifiers.com/codebook/index.php?book_id=898 for background regulations against which these plans were reviewed.

The plans appear to be in keeping with the requirements in the code. We recommend approval subject to the following conditions:

1. We recommend the applicant be reminded to observe the five-foot separation between redundant silt fences required where grading activity occurs within 50 feet of the surrounding wetland boundaries. This dimension scales on the plans, but is not noted.
2. We recommend the City require an escrow of \$10,000 to be held until the site is graded to the contours shown and fully stabilized with established vegetation. This escrow would not be used to complete the import or grading – it would only be used, if necessary, to mitigate hazardous slopes, maintain or repair silt fence and establish vegetation to stabilize the site should the applicant fail to do so in a timely manner.



STAFF MEMORANDUM

SUBJECT:	Elko New Market Fire Relief Association Downtown Dance
MEETING DATE:	April 25, 2019
PREPARED BY:	Lynda Jirak, Deputy Clerk
REQUESTED ACTION:	1) Approve Resolution 19-18 Approving an Outdoor Concerts and Events Permit for Elko New Market Fire Relief Association (2) Approve Resolution 19-19 Approving a Temporary Liquor License for Elko New Market Fire Relief Association (3) Approve the City Use Agreements between the City of Elko New Market and the Elko New Market Fire Relief Association

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Each year the Elko New Market Fire Relief Association holds a dance as one of their fund raisers for their retirement pension. Historically, this event has been held at the Elko New Market Fire Hall and Elko Speedway. More recently (2014-2018), the Fire Relief Association requested and received approval by Council to hold this event in the parking lot located at 450 Main Street.

DISCUSSION:

The Elko New Market Fire Relief Association has submitted two Outdoor Concerts and Events applications to include Plan A and Plan B for their fund raiser. The Relief Association's Plan A is the first location planned for this event. Plan B is an alternative location, the Fire Hall at 601 Main Street, in the event of severe weather conditions.

This year, the Elko New Market Fire Relief Association is requesting Council approval to hold their dance fund raiser once again in the parking lot located at 450 Main Street. The Elko New Market Fire Relief Association has received written approval from four of the property owners of the parking lot – John and Molly Mahoney, Josh Storlie and Joe Friedges. Staff is recommending Council approval of two City Use Agreements between the City of Elko New Market and the Elko New Market Fire Relief Association for use of the City's portion of the parking lot located at 450 Main Street and the Elko New Market Fire Hall located at 601 Main Street in case of severe weather conditions. The City Use Agreements are attached for Council review.

In conjunction with the dance, the Elko New Market Fire Relief Association is proposing to contract with The Doublewide and Leo's Bar to serve alcohol within the liquor service area. As in the previous year's event, the Doublewide and Leo's Bar will serve liquor and the Elko New Market Fire Relief will sell beer. In order to serve alcohol at this event, the Elko New Market Fire Relief will need Council and State approval of two Temporary Liquor Licenses. One Temporary Liquor License will be for Plan A – 450 Main Street Parking Lot and one Temporary Liquor License will be for Plan B – 601 Main Street Fire Hall. The Plan A license will allow the Fire Relief Association, The Doublewide and Leo's Bar to serve alcohol in the approved liquor service area and Plan B license will allow only the Fire Relief Association to sell beer at 601 Main Street. Staff has attached the two maps showing the layout/plan for both Plan A (450 Main Street Parking Lot) and Plan B (601 Main Street).

Also, in conjunction with the dance, the Elko New Market Fire Relief Association is requesting Council approval to hold a family friendly Steak Fry on Friday, June 28, 2019 from 5:00 p.m. to 8:00 p.m. located in the same location as the Fire Relief Dance (450 Main Street Parking Lot), with the exception of the city-owned portion and the drive lane between the Doublewide and TDF Liquor. This event will be hosted by the N.E.W. Lions Club. The Lions will furnish all food and service. The Elko New Market Fire Relief Association will take care of the set-up and beer sales. Leo's Bar will serve alcohol in the approved liquor service area. All proceeds from the sale of food will go to the N.E.W. Lions and all sales from liquor will go to Elko New Market Fire Relief Association and Leo's Bar.

To be consistent with last year, the Fire Relief Association is requesting Council approval to start serving food and alcohol at 11:00 a.m. on June 29, 2019. Starting at 1:00 p.m. there will be no activities including music, games, etc. until the end of the parade.

Based on the lack of complaints last year regarding the dance and review of the Outdoor Concerts and Events Permit Application, Staff is recommending:

- A. Approval of the Outdoor Concerts and Events application contingent on the following:
 - Pedestrian Barricades shall be placed on the south side of County Road 2 from Church Street to electrical equipment between the City parking lot and the Windmill driveway. The barricades must be in place after the completion of the parade but before any activities start in the fenced-in premises area.
 - Cleanup of public rights-of-way (streets, sidewalks, boulevards and trails) shall be completed in the following areas by 3:00 p.m. (June 30):
 - CSAH 2 from Webster Street to City Hall
 - Webster Street from CSAH 2 to Seurer Street
 - County Road 2 from Webster Street to Church Street
 - St Joseph Street from Church Street to Webster Street
 - St. Mary Street from Church Street to Webster Street
 - Paul Street from Williams Street to Webster Street
 - Bike path from Church Street to Seurer Street
 - No tents or posts shall be allowed on City property.
 - The event is held consistent with the narrative and diagram provided with the application.

- B. Approval of the Temporary On-Sale Intoxicating liquor application contingent on the following:
 - Consumption of alcohol is provided only within the fenced-in area shown in the application (the "Premises").
 - The perimeter of the Premises shall be fenced with fencing made out of wooden snow fence or another similar type of sturdy security/safety temporary fencing to control access. Said fencing shall be braced and supported by appropriately weighted fence posts.
 - The fenced area of the Premises shall include only the access points shown in the application diagram which shall be controlled by event staff/volunteers wearing clearly visible identification badges and/or event security clothing at all times during the event.
 - Applicant shall comply with applicable requirements of the City Code and Minnesota Statutes Chapter 340A in the sale of liquor for the event.
 - No liquor shall be sold prior to 11:00 a.m. on June 29, 2019.
 - No liquor shall be sold after 12:30 a.m. or consumed after 1:00 a.m. on June 30, 2019.

- C. Approval of family friendly Steak Fry contingent on the following:
 - Consumption of alcohol is provided only within the fenced-in area shown in the application (the "Premises").
 - The perimeter of the Premises shall be fenced with fencing made out of wooden snow fence or another similar type of sturdy security/safety temporary fencing to control access. Said fencing shall be braced and supported by appropriately weighted fence posts.
 - The fenced area of the Premises shall include only the access points shown in the application diagram which shall be controlled by event staff/volunteers

wearing clearly visible identification badges and/or event security clothing at all times during the event.

- Applicant shall comply with applicable requirements of the City Code and Minnesota Statutes Chapter 340A in the sale of liquor for the event.
- No liquor shall be sold prior to 5:00 p.m. on June 28, 2019.
- No liquor shall be sold after 8:00 p.m. or consumed after 8:00 p.m. on June 28, 2019.

Staff is recommending the City Council approve Resolution 19-18 approving an Outdoor Concerts and Events Permits for the Elko New Market Fire Relief Association; Resolution 19-19 approving Temporary Liquor Licenses for Elko New Market Fire Relief Association and Approve the City Use Agreements for Plan A and Plan B.

BUDGET IMPACT:

None

Attachments:

- Elko New Market Fireman's Relief Association Letter of Intent
- 2019 Street Dance Letter to City of Elko New Market City Council & Staff
- Plan A Map #1 (450 Main Street Parking Lot) Street Dance Layout
- Plan A Map #2 (450 Main Street Parking Lot) Street Dance Parking Detail
- Plan B Map (601 Main Street) Street Dance Layout
- City Use Agreement between the City of Elko New Market and the Elko New Market Fire Relief Association for City's portion of the parking lot located at 450 Main Street
- City Use Agreement between the City of Elko New Market and the Elko New Market Fire Relief Association for the Elko New Market Fire Hall located at 601 Main Street
- Resolution 19-18 Outdoor Concerts and Events Permit for Elko New Market Fire Relief Association
- Resolution 19-19 Temporary On-Sale Intoxicating Liquor License for Elko New Market Fire Relief Association

LETTER OF INTENT

The Elko New Market Fireman's Relief Association would like to propose a "Street Dance" on Saturday the 29th of June 2019 following the Parade. In conjunction with the Parade the Elko New Market Relief Association would like to set up a perimeter on the Co-owned Parking Lot allowing us to secure a Liquor License. The "Parking Lot" referenced is that owned by the City of Elko New Market, John E. Mahoney, and Joe Friedges. A lease agreement will be signed by all owners as well as Josh Storlie to utilize the parking lot of The Doublewide. This area will be fenced off and held secure by the Elko New Market Fire Relief members and volunteers. The Elko New Market Fire Relief Association would like to serve beer in the secured area starting at 11:00 a.m. on June 29, 2019 until 12:30a.m. on June 30, 2019. The Doublewide and Leo's Bar will also hold a Liquor License in the closed perimeter to sell liquor during the same timeline. The area will be open to all ages. Patrons will be I.D.'d and given a wristband. The Elko New Market Fire Relief Association will work in conjunction with Leo's Bar and The Doublewide. We hope to utilize our Liquor Licenses together to allow patrons to walk freely within our perimeter. Wristbands will be issued to all attendees 21 years of age and older. Elko New Market Relief members will be at all of the entrances and throughout the event. Several parking spaces will be made available for the customers of the businesses on Church Street and TDF Liquor. The food sales will be provided by the Elko New Market Fire Relief Association including but not limited to burgers, brats, walking tacos, chips, etc. Please refer to the attached drawings for further information on the locations perimeters. All necessary power will be supplied by the Elko New Market Fire Relief Association, The Doublewide, and Leo's Bar. In case of necessary evacuation, all patrons will be escorted to Leo's Bar and Doublewide Saloon for shelter. The shuttle busses will also be assisting to bring patrons to safety.

In addition to the proposed Street Dance we would like to hold a family friendly Steak Fry Friday night June 28, 2019, hosted by the N.E.W. Lions Club. The Lions will furnish all the food and service. The Elko New Market Fire Relief Association will take care of the set up and beer sales. Leos bar will be serving liquor at the steak fry during this time as well. This event will take place at the same location as the Street Dance (450 Main Street) with the exception of the city owned portion and the drive lane between the Doublewide and TDF liquor. This event will take place from 5 – 8p.m.

As a Plan B, we propose the following...

The timeline of events and activities will remain the same as previously stated. All events will now be held at the Fire Station at 601 Main Street. The Elko New Market Fire Relief will be the only party selling liquor/beer. Leo's and The Doublewide will not be selling anything. All patrons will be inside of the Fire Hall and in the secured perimeter north of the Hall. We will set up our 40x80 tent to the North of the building to contain the stage for our activities. Shuttle busses will still run as planned. Please see attached layout.

We kindly ask that the City of Elko New Market waive the Outdoor Events Permit Fee

2019 STREET DANCE

Dear City of Elko New Market Staff and City Council,

Enclosed are two "Outdoor Events Permits" for the Elko New Market Fire Relief Association Street Dance. We have drawn up a PLAN "A" & PLAN "B". Plan "A" will be implemented just as 2014, 2015, 2016, 2017 and 2018 in the common parking lot located at 450 Main Street. Plan 'B' will be utilized if inclement weather looks to be inevitable. We will notify the city staff by 8:00A.M. Saturday June 29th if we choose to go with Plan 'B'. An application for temporary liquor license is included with both scenarios.

Our Event is proposed to be the same as last year with the exception of one event to be explained further in the Letter of Intent.

Please feel free to contact us with any and all questions and comments. We look forward to another fun and safe event!

Sincerely,

Elko New Market Fire Relief Association

The schedule of events is proposed as such:

6-27-2019

5:00P.M.: Set up tents, stage, tables, chairs, business parking signs

6-28-2019

5:00P.M. -8:00P.M. : N.E.W Lions will Host a family friendly Steak Fry. Elko New Market Fire Relief Association will serve beer. Leo's bar selling liquor.

6 -29-2019

8:00A.M. – 1:00P.M.: Set up tents, tables, chairs and vending trailers. Set up Parade staging and all Parade preparations.

11:00A.M.-1:00P.M.: Beer, liquor, and food, sales begins in the "Parking Lot". A DJ and or Band will be present to provide music/karaoke, and announcements. Free games/activities will be available such as; bean bags, washer toss, ladder golf, etc.

1:00P.M.-End of Parade: Parade. During this time period there will be no activities including music, game, etc. until after the Parade. DJ equipment will be available for use of the Parade if so desired.

End of Parade – 12:30A.M.: Music by DJ, Live Band, free games/activities will be available such as; bean bags, washer toss, ladder golf, etc.

7:00P.M. – 1:00A.M.: Two free Shuttle busses will be available on designated routes. There will be on Elko bus and a New Market Bus with approximately 12 stops each. Each route will be approximately 20 to 30 minutes. The shuttle busses will run continuously. (Busses will run until all necessary people have gotten a ride)

6-30-19

12:30 Midnight – 1:00A.M.: Escort patrons to bus waiting areas. There will be no liquor sales on site after 12:30 AM. No consumption after 1:00 AM.

1:00A.M. -3:00A.M.: Clean Up. A designated crew of the Elko New Market Fire Relief will pick up all trash and vending equipment. Fencing will be opened to allow pedestrians to walk freely.

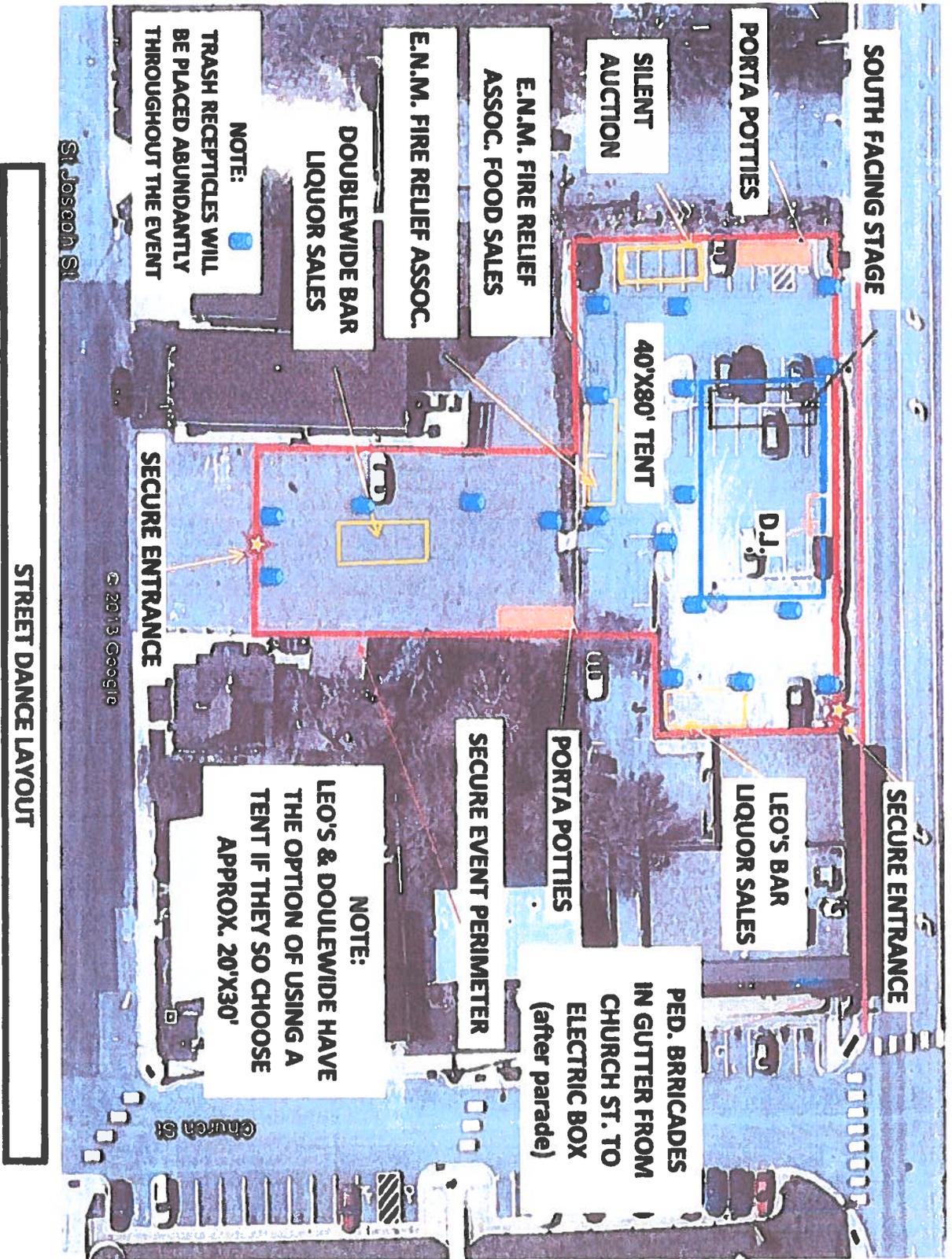
7:00A.M.-3:00P.M.: The tents, tables, trailers, etc. will be removed. The toilets and sanitary receptacles will be gathered and placed neatly in the North West corner of the parking lot for pick up on Monday. City streets will be cleaned by 3:00P.M.Sunday. We will clean the following areas:

Webster Street to Church Street between County Road 2 and St Mary's Street

Webster Street to Seurer Street

Paul Street from Williams Street to Webster Street

Bike path from Church Street to Seurer Street



STREET DANCE LAYOUT

NO PARKING ON CR. 2 BETWEEN BALTES AVE. & CHURCH ST

**RESERVED PARKING POSTED:
TDF LIQUOR, DOMINOS, &
FIREFLY**

**OPEN ACCESS FOR
TDF LIQUOR**

**NOTE:
ADDITIONAL PARKING AVAILABLE AT
THE CITY HALL, AND THE BALL FIELD**

**NOTE:
FREE SHUTTLE BUSES WILL RUN THRU ELKO
AND NEW MARKET NEIGHBORHOODS FROM
7:00 P.M. TO 1:30 A.M.
ROUTES ARE APPROX. 20 MINUTES RUNNING
CONSTANTLY**

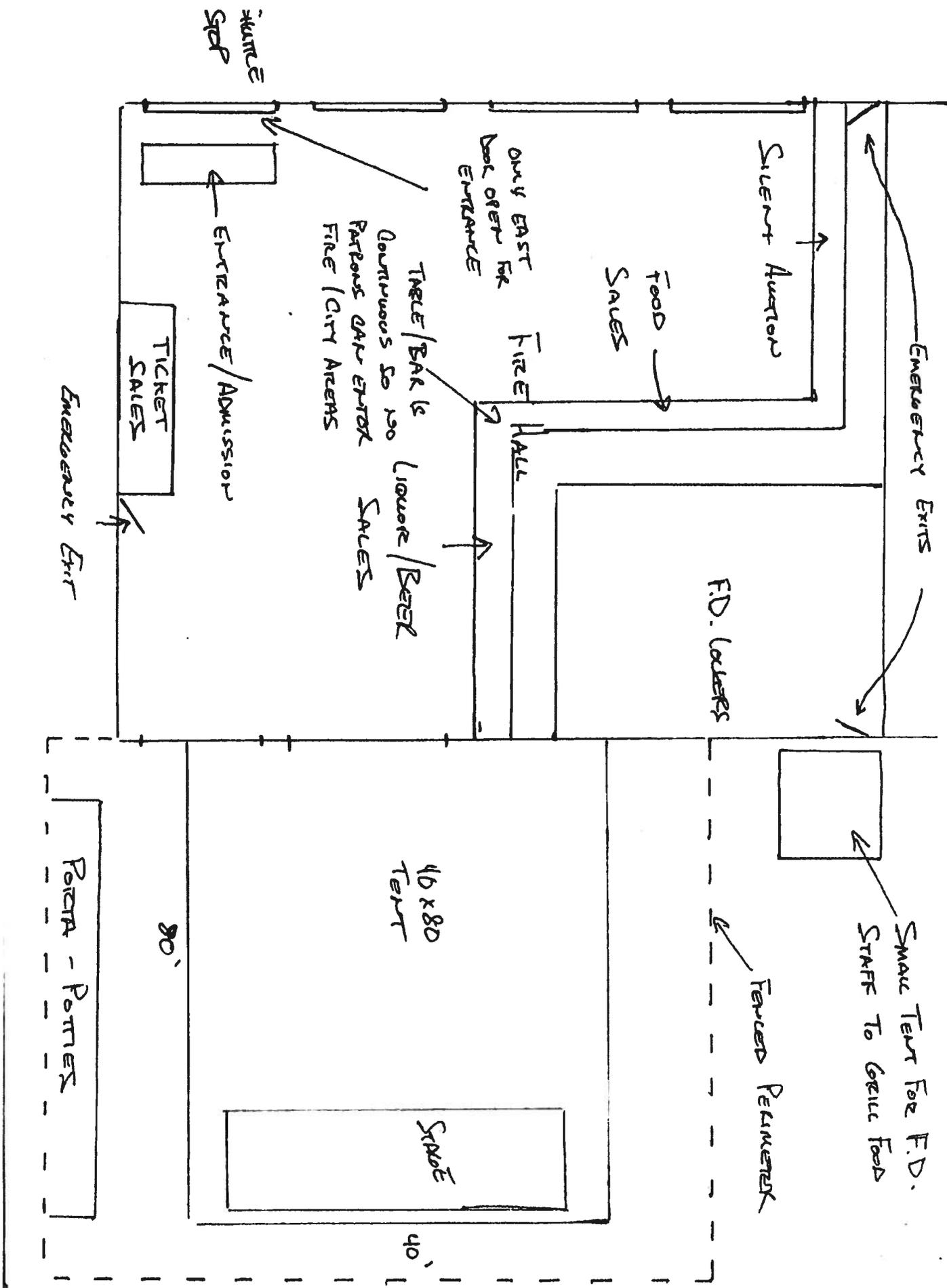
**POSTED: 30 MINUTE PARKING ONLY
BETWEEN SIGNS (PROVIDED BY CITY)**

St Joseph St

© 2013 Google

STREET DANCE PARKING DETAIL

CITY OFFICES OFF LIMITS



Parking Lot Lease Agreement

This Parking Lot Lease Agreement is made and entered into on _____ 4/25/19 _____

(the effective date/s) by and between John E. Mahoney, Molly Mahoney, Josh Storlie, Joe Friedges, & The City of Elko New Market of the Parking lot located between Church Street and Webster Street at Main Street, Elko New Market, MN 55054 (the "Lessors") and the Elko New Market Fire Relief Association of 601 Main Street, Elko New Market, MN 55054 (the "Lessee") collectively known as the "Parties." The Parties hereby agree as follows:

Terms and Conditions

1. Term

Lessors hereby leases the Lessee the parking lot location between Doublewide Saloon and Leo's Bar, 450 Main Street, Elko New Market, MN 55054. The Lease will start on June 28, 2019 and will continue until June 30, 2019.

2. Liability

Lessor shall not be responsible for damage or loss to possessions or items. Lessor shall not be responsible for damage to vehicles or persons caused by other vehicle(s) or person(s) in the parking lot or surrounding area.

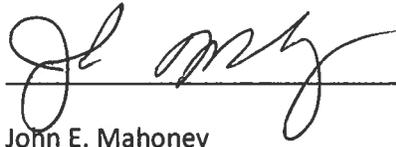
3. Entire Agreement

The Lease contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Lease. This Lease supersedes any prior written any prior written or oral agreements between the parties.

4. Amendment

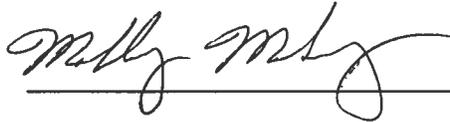
This Lease may be modified or amended in writing, if the writing is signed by the Parties obligated under the amendment.

LESSOR



John E. Mahoney

DATE: 4-18-19



Molly Mahoney

DATE: 4-18-19



Josh Storlie

DATE: 4-19-19



Joe Friedges

DATE: 4/19/19

DATE: _____

City of Elko New Market

LESSEE



Elko New Market Fire Relief Association Representative

DATE: 4/18/19

**USE AGREEMENT
CITY PROPERTY**

This Agreement is made this 25th day of April, 2019, between the City of Elko New Market (City), a Minnesota municipal corporation, through its City Administrator, with offices at 601 Main Street, Elko New Market, Minnesota 55054 and Elko New Market Fire Relief Association (User) a non-profit organization, through its authorized agents undersigned below, with offices at 601 Main Street, Elko New Market. MN 55054.

The purpose of this Agreement is to provide for the scheduling and use of that portion of the Elko New Market City Hall, 601 Main Street, Elko New Market, Minnesota depicted on the attached Exhibit A ("City Property") to the User for the following purposes:

TO BE COMPLETED BY USER:	
Name of event: Downtown Dance	
Date of event: June 29, 2019 and June 30, 2019	Hours of use: 11:00 a.m. on June 29, 2018 to 1:00 a.m. on June 30, 2019
Description of event: Fund raiser event for the Elko New Market Fire Relief Association	
Who is allowed to attend event: Open to the Public	
Number of individuals expected to attend event: 800	
Description of alcohol service, if any: The Elko New Market Fire Relief Association will serve beer and liquor . JA	
ALL liquor sales and service will be within the approved liquor service premises.	

The City agrees to allow the use of the City Property by the User, subject to the conditions, rules, regulations and policies set forth by the City of Elko New Market. It is further mutually agreed that the conditions, rules, regulations and policies, hereto attached as Exhibit B, are made a part of this Agreement. The User shall be responsible for clean-up of the City Property and facilities following use of the City Property, including the pick up and proper disposal of all trash, litter or other debris left on the City Property occasioned by the User's use.

Except to the extent due to the sole negligence or willful misconduct of the City, its agents or employees, the City shall not be liable to the User or its employees, volunteers, clients, guests or invitees to the City Property for any loss or damage due to personal injury or property damage for any reason whatsoever. The User shall be liable to the City for any loss or damage to the City Property or its facilities occasioned by, or in connection with the use of the City Property by the User, its employees, volunteers, clients, guests or invitees.

Except to the extent due to the sole negligence or willful misconduct of the City, its agents or employees, the User agrees to defend, indemnify and hold harmless the City and its officers, agents, and employees from any and all claims, demands, costs, damages, losses, actions, causes of action or judgments of whatever nature arising out of the use of the City Property by User, its officers,

agents, employees, guests or invitees, including any and all claims for bodily injury or death or property loss or damage sustained as a result of use of the City Property by the User, guests or invitees.

The User, before using said premises, shall provide proof of insurance, to be approved by the City Attorney, adding the City as an additional insured by endorsement for User's use of the Area Hall.

The City shall furnish space at the City Property as provided herein, except that the City reserves the right to: a) cancel this Agreement for any default or breach of this Agreement by the User or its clients, guests or invitees; or b) reschedule the dates or times of use by the User provided under this Agreement, if the City deems necessary.

The User shall not assign this Agreement nor suffer any use of said premise other than herein specified nor sublet the premises or any part thereof without the written consent of the City.

Either party may terminate this Agreement at any time upon providing written notice of termination to the other Party at the respective addresses listed above.

By signing this Agreement, the User acknowledges he/she has reviewed and understands the City's policies regarding the use of the facility.

CITY OF ELKO NEW MARKET

USER

City Administrator Date

Elko New Market Fire Relief

By Jodi Myerken
Its President

601 Main St. Elko New Market, MN 55054

952 484 8693

(Address)
(Telephone Number)

City Clerk Date

4/18/19
Date

EXHIBIT "A"
CITY PROPERTY LEGAL DESCRIPTION

A Parcel of land in the Northeast Quarter of the Northwest Quarter of Section 28, Township 113 North, Range 21 West described as follows:

Starting at a point 357 feet East of the Northwest corner of said Northeast Quarter of the Northwest Quarter of said Section 28 and running thence South a distance of 127.5 feet; running thence East a distance of 40.5 feet; running thence North a distance of 127.5 feet; and running thence West a distance of 40.5 feet to the place of beginning.

EXCEPTING therefrom that part within the following described parcel:

Beginning at the northwest corner of Lot 3, Block 1, BALTES AND KREMER'S ADDITION TO THE TOWNSITE OF NEW MARKET, according to the recorded plat thereof, Scott County, Minnesota; thence southerly along the west line of said Lot 3 to the southwest corner of said Lot 3; thence westerly along the westerly extension of the south line of said Lot 3 a distance of 12.50 feet; thence northerly, parallel with said west line of Lot 3 to the westerly extension of the north line of said Lot 3; thence easterly along said extension to the point of beginning.

CITY PROPERTY USE RULES

1. User shall keep the City Property in good condition, cleaning the City Property so that it will be in as good or better condition after the use than is was before its use.
2. User shall provide the City with a Certificate of General Liability insurance of not less than \$1,000,000.
3. User shall observe all ordinances, rules, and regulations of the City of Elko New Market, including all regulations posted on the City Property.
4. The City may require security for certain events at the expense of the User.
5. User is responsible for the conduct of all officers, members, employees, agents, guests or invitees on the City Property during the term of use.

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 19-18

WHEREAS; the Elko New Market Fire Relief Association has submitted an application for an Outdoor Concerts and Event permit for an event located at 450 Main Street Parking Lot, Elko New Market, Minnesota, 55054 or at the Elko New Market Fire Hall located at 601 Main Street (in the case of severe weather conditions) for June 28 through June 30, 2019;

WHEREAS, the Outdoor Concerts and Events shall include a dance fundraiser to be held from 11:00 a.m. on June 29, 2019 to 1:00 a.m. on June 30, 2019;

WHEREAS; included in the Outdoor Concerts and Events application, the Elko New Market Fire Relief Association is proposing a Steak Dinner event on June 28, 2019 from 5:00 p.m. to 8:00 p.m.;

WHEREAS, the Deputy Clerk reviewed the application and determined that it meets the requirements of the City's Outdoor Concert and Event Ordinance and recommends approval of the permit together with certain conditions for the events;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Elko New Market, Minnesota, that an Outdoor Concerts and Event permit be issued to the Elko New Market Fire Relief Association for the premises located at 450 Main Street Parking Lot, Elko New Market, Minnesota 55054, or at the Elko New Market Fire Hall located at 601 Main Street, Elko New Market, Minnesota 55054 for an event to be held from 5:00 p.m. to 8:00 p.m. on June 28, 2019 and an event to be held from 11:00 a.m. on June 29, 2019 to 1:00 a.m. on June 30, 2019. This permit is issued contingent upon Applicant's compliance with the City's ordinances, including the outdoor concert and event ordinance and noise ordinance and the following conditions:

1. Pedestrian Barricades shall be placed on the south side of County road 2 from Church Street to electrical equipment between the City parking lot and the Windmill driveway. The barricades must be in place after the completion of the parade but before any activities start in the fenced-in premises area.
2. Cleanup of public rights-of-way (streets, sidewalks, boulevards and trails) shall be completed in the following areas by 3:00 p.m.(June 30):
 - o CSAH 2 from Webster Street to City Hall
 - o Webster Street from CSAH 2 to Seurer Street
 - o County Road 2 from Webster Street to Church Street
 - o St Joseph Street from Church Street to Webster Street
 - o St. Mary Street from Church Street to Webster Street
 - o Paul Street from Williams Street to Webster Street
 - o Bike path from Church Street to Seurer Street
3. No tents or posts shall be allowed on City property.
4. The event is held consistent with the narrative and diagram provided with the application.

APPROVED AND ADOPTED this 25th day of April, 2019.

CITY OF ELKO NEW MARKET

By: _____
Joe Julius, Mayor

ATTEST:

Lynda Jirak, Deputy Clerk

CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA

RESOLUTION NO. 19-19

WHEREAS, the Elko New Market Firefighters Relief Association (“Association”) has submitted an application for a Temporary On-Sale Intoxicating Liquor license for a Family Steak Dinner event to be held on June 28, 2019 and a Fire Dance event to be held on June 29, 2019 and June 30, 2019 at the municipal parking lot located south of County Road 2 or at the Fire Hall located at 601 Main Street, as more fully identified in the application (“Event”);

WHEREAS, Association proposes to sell beer at the Family Steak Dinner event under the Association’s Temporary On-Sale Intoxicating Liquor License;

WHEREAS, Association proposes to contract with Leo’s Bar, Inc. under the Association’s Temporary On-Sale Intoxicating Liquor License to cater alcohol at the Family Steak Dinner event;

WHEREAS, Association proposes to contract with Wide Awake Enterprises, LLC dba Doublewide, and Leo’s Bar, Inc. under the Association’s Temporary On-Sale Intoxicating Liquor License to cater alcohol for the Fire Dance event;

WHEREAS; the City has reviewed the Association’s application and has determined that it meets the requirements for issuance of the requested licenses;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elko New Market, Minnesota that a Temporary On-Sale Intoxicating Liquor license is issued to the Association for the Family Steak Dinner and Fire Relief Association Dance Fund Raiser Events in accordance with the following terms and conditions:

1. Consumption of alcohol is provided only within the fenced-in area shown in the application (the “Premises”).
2. The perimeter of the Premises shall be fenced with fencing made out of wooden snow fence or another similar type of sturdy security/safety temporary fencing to control access. Said fencing shall be braced and supported by appropriately weighted fence posts.
3. The fenced area of the Premises shall include only the access points shown in the application diagram which shall be controlled by event staff/volunteers wearing clearly visible identification badges and/or event security clothing at all times during the event.
4. Applicant shall comply with applicable requirements of the City Code and Minnesota Statutes Chapter 340A in the sale of liquor for the event.
5. During the Family Steak Dinner, no alcohol shall be sold prior to 5:00 p.m. on June 28, 2019.
6. During the Family Steak Dinner, no alcohol shall be sold or consumed after 8:00 p.m. on June 28, 2019.
7. During Fire Relief Association Dance Fund Raiser, no liquor shall be sold prior to 11:00 a.m. on June 29, 2019.

8. During Fire Relief Association Dance Fund Raiser, no liquor shall be sold after 12:30 a.m. or consumed after 1:00 a.m. on June 30, 2019.

APPROVED AND ADOPTED this 25th day of April, 2019.

CITY OF ELKO NEW MARKET

By: _____
Joe Julius, Mayor

ATTEST:

Lynda Jirak, Deputy Clerk



STAFF MEMORANDUM

SUBJECT: Approve Revised Development Contract and Special Assessments for Christmas Pines and Amend Resolution No. 18-18

MEETING DATE: April 25, 2019

PREPARED BY: Renee Christianson, Community Development Specialist

REQUESTED ACTION: Adopt Resolution 19-20 Approving Revised Development Contract and Special Assessments for Christmas Pines and Amending Resolution No. 18-18.

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

On April 26, 2018 the City Council approved the final plat, development contract and assessment agreement for the plat of Christmas Pines, as proposed by On-Site Marketing. Since the approval of the original development contract there have been a few changes to the project, including the following:

- The developer / entity name is changing from On-Site Marketing, LLC to Archer's Point Development, LLC, to reflect a change in partnership of the property.
- An amendment has been made to the approved construction plans, allowing alternative watermain material, and removing a sanitary sewer manhole.
- The time allowed to complete the initial improvements and bituminous wear course has been extended.
- The security requirements have been revised to reflect the revised construction cost estimates and the grading work that has already been completed on the site.

With this particular development project, the City and Developer had previously agreed to allow the developer fees (trunk sanitary sewer, water, stormwater area charges and park fees) totaling \$206,353.31 to be assessed to each lot within the development. The assessments would then be paid at the time of sale of each lot, but not later than three (3) years, and at an interest rate of 3%. The previously approved contract required the developer to submit a letter of credit which would provide the City with financial securities to ensure payment of the assessments/development fees, as stated in Section 26.

The developer is proposing that Section 26 be removed from the development contract; that the requirement to submit securities to ensure that the assessments would be paid be eliminated. The developer believes that the assessments posted against the property (\$10,317.67 per lot) are enough to ensure their repayment because City assessments take a first lien position. Furthermore, there are no current mortgages on the property which further reduces the risk to the City.

Approving the developer request would be a deviation from previous Council direction on the matter. Waiving the security would potentially increase financial impact to the tax payer and utility rate payers, should the assessments be significantly delayed or not be paid in full.

Staff would request that the City Council consider this matter a larger policy discussion, and not specific only to this project. It is requested that the Council provide direction to staff on how we approach the potential assessment of development related fees going forward.

CITY ATTORNEY RECOMMENDATION:

The City Attorney has drafted the proposed changes to the development contract, draft resolutions #19-20 and is recommending approval of their adoption.

REQUESTED ACTION:

Adopt Resolution #19-20 Approving a Revised Development Contract and Adopting Special Assessments for Development Costs.

Attachments:

(Draft) Resolution 19-20

(Draft/Revised) Development Contract for Christmas Pines – Version 13 (with LOC for assessments)

(Draft/Revised) Development Contract for Christmas Pines – Version 14 (without LOC for assessments)
(Previously Adopted) Resolution 18-18

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 19-20

**RESOLUTION OF THE ELKO NEW MARKET CITY COUNCIL
APPROVING A DEVELOPMENT CONTRACT AND
ADOPTING SPECIAL ASSESSMENTS FOR DEVELOPMENT COSTS AND AMENDING
RESOLUTION NO. 18-18**

WHEREAS, On Site Marketing Co., a Minnesota corporation (“Original Developer”) was the fee owner of real property in the County of Scott legally described as follows:

The North 466.70 of the East 466.70 feet (as measured at right angles to the North and East lines) of the Northeast Quarter of the Northeast Quarter of Section 28, Township 113, Range 21, Scott County, Minnesota (“Property”);

WHEREAS, by Resolution No. 18-18, the Elko New Market City Council approved the final plat for Christmas Pines and a Development Contract (“Original Development Contract”);

WHEREAS, neither the Developer nor the City executed the Original Development Contract and it remains unexecuted;

WHEREAS, Original Developer has conveyed its fee owner interest in the Property which is now owned by Archers Point Development, LLC (“Developer”) and has assigned all interest in the development to the developer;

WHEREAS, Developer is requesting approval of a revised Development Contract for the Christmas Pines plat;

WHEREAS, the City Council is willing to approve the revised Development Contract, attached hereto as Exhibit A (“Development Contract”);

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Paragraphs 2-6 of City of Elko New Market Resolution No. 18-18 are amended to read as follows:

2. The Development Contract between the City and Developer attached hereto as Exhibit A is hereby approved and the assessments identified therein shall be allocated equally to each lot in the plat and payable pursuant to the terms of the Development Contract.

3. The Development fees of \$206,353.31 are hereby adopted and shall constitute a special assessment against the lots lying within the Property and hereby made part of this Resolution by reference and that the Property is found to benefitted by the proposed fees/improvements in the amount of the assessments levied against it.

4. Such assessment shall be payable in equal annual installments extending over a period of 3 years, the first of the installments to be payable in 2020 and shall bear interest at a rate of 3% per annum from the date of the adoption of the assessment Resolution. The first installment shall be added interest on the entire assessment from the date of this Resolution until December 31, 2019.

5. The Developer, at any time prior to certification of the assessment to the County Auditor, may pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this Resolution; and such owner may at any time thereafter, pay the City the entire amount of the assessment remaining unpaid, with interest accrued to December 31st of the year in which such payment is made. Such payment must be made before November 15th or interest will be charged through December 31st of the next succeeding year. The owner may also at any time prior to November 15th, of any year, pay the remaining unpaid principal balance with interest accrued to December 31st of the year in which such prepayment is made.

6. The City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

PASSED, ADOPTED AND APPROVED this 25th day of April, 2019.

CITY OF ELKO NEW MARKET

Joe Julius, Mayor

ATTEST:

Tom Terry, Acting City Clerk

EXHIBIT A

[attach Development Contract]

(reserved for recording information)

DEVELOPMENT CONTRACT

(Developer Installed Improvements)

CHRISTMAS PINES

CONTRACT dated _____, 2019, by and between the **CITY OF ELKO NEW MARKET**, a Minnesota municipal corporation ("City"), and Archer's Point Development, LLC, a Minnesota corporation (the "Developer").

1. REQUEST FOR PLAT APPROVAL. The Developer has asked the City to approve a plat for ***CHRISTMAS PINES*** (referred to in this Contract as the "plat"). The land is situated in the County of Scott, State of Minnesota, and is legally described as provide in Exhibit A attached hereto.

2. CONDITIONS OF PLAT APPROVAL. The City hereby approves the plat on condition that the Developer enter into this Contract, furnish the security required by it, and record the plat with the County Recorder or Registrar of Titles within 90 days after the City Council approves the final plat.

3. RIGHT TO PROCEED. Within the plat or land to be platted, the Developer may not grade or otherwise disturb the earth or remove trees, unless a grading permit has been approved by the City Engineer following approval of a preliminary plat by the City Council, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings until all the following conditions have been satisfied: 1) this agreement has been fully executed by both parties and filed with the City Clerk, 2) the necessary security has been received by the City, 3) the necessary insurance for the Developer and its

construction contractors has been received by the City, and 4) the plat has been recorded with the Scott County Recorder or Registrar of Titles' office.

4. CHANGES IN OFFICIAL CONTROLS. For 2 years from the date of this Contract, no amendments to the City's Comprehensive Plan, except an amendment placing the plat in the current metropolitan urban service area, or official controls shall apply to or affect the use, development density, lot size, lot layout or dedications of the approved plat unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Contract to the contrary, to the full extent permitted by state law, the City may require compliance with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Contract.

5. DEVELOPMENT PLANS. The plat shall be developed in accordance with the following plans. The plans shall not be attached to this Contract. The City Engineer may approve minor amendments to Plan B without City Council approval. If the plans vary from the written terms of this Contract, the written terms shall control. The plans are:

Plan A – Plat, dated February 20, 2018

Plan B – Final Grading, Drainage, and Erosion Control Plan, dated April 9, 2018

Plan C - Plans and Specifications for Public Improvements, dated April 9, 2018

Plan D - Street Lighting Plan, dated February 20, 2018

Plan E - Landscape Plan, dated May 1, 2017

6. IMPROVEMENTS. The Developer shall install and pay for the following:

A. Sanitary Sewer System

B. Water System

C. Storm Sewer System

D. Streets

E. Concrete Curb and Gutter

F. Street Lights

- G. Site Grading, Stormwater Treatment/Infiltration Basins, and Erosion Control
- H. Underground Utilities
- I. Setting of Iron Monuments
- J. Surveying and Staking
- K. Sidewalks and Trails
- L. Signs

The improvements shall be installed in accordance with the City subdivision ordinance; City standard specifications and details for utility and street construction; the City Engineering Manual; and any other ordinances including Section 11-11-3 of the City Code concerning erosion and drainage and Section 5-5-2(C) restricting time frames for grading, construction activity, and the use of power equipment. The Developer shall submit plans and specifications which have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. 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 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 or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at the City with all parties concerned, including the City staff, to review the program for the construction work. Within thirty (30) days after the completion of the improvements and before the security is released, the Developer shall supply the City with a complete set of reproducible "as constructed" plans and an electronic file of the "as constructed" plans in an AutoCAD .DWG file or a .DXF file, and a PDF format, all prepared in accordance with City standards.

In accordance with Minnesota Statutes 505.021, the final placement of iron monuments for all lot corners must be completed before the applicable security is released. The Developer's surveyor shall also submit a written notice to the City certifying that the monuments have been installed following site grading, utility and street construction.

7. PERMITS. The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, which may include:

- A. Scott County for County Road Access and Work in County Rights-of-Way
- B. Minnesota Department of Health for Watermains
- C. MPCA NPDES Permit for Construction Activity
- D. MPCA for Sanitary Sewer and Hazardous Material Removal and Disposal
- E. DNR for Dewatering
- F. City of Elko New Market for Building Permits
- G. MCES for Sanitary Sewer Connections
- H. City of Elko New Market for Retaining Walls

8. DEWATERING. Due to the variable nature of groundwater levels and stormwater flows, it will be the Developer's and the Developer's contractors and subcontractors responsibility to satisfy themselves with regard to the elevation of groundwater in the area and the level of effort needed to perform dewatering and storm flow routing operations. All dewatering shall be in accordance with all applicable county, state, and federal rules and regulations. DNR regulations regarding appropriations permits shall also be strictly followed.

9. TIME OF PERFORMANCE. The Developer shall install all required public improvements by November 30, 2019, with the exception of the final wear course of asphalt on streets. The final wear course on streets shall not be installed prior to 80% of the homes constructed within the Plat, but must be installed no later than October 15, 2021 and only between May 15th and October 15th. The final wear course on streets shall be installed no earlier than the summer after the base layer of asphalt has been in place one freeze thaw cycle. The Developer may, however, request an extension of time from the City. 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. Final wear course placement outside of the time frames provided in this Section must have the written approval of the City Engineer.

10. LICENSE. The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the plat to perform all work and inspections deemed appropriate by the City in conjunction with plat development.

11. EROSION CONTROL. Prior to initiating site grading, the erosion control plan, Plan B, shall be implemented by the Developer and inspected and approved by the City. The City may impose additional erosion control requirements if they would be beneficial. All areas disturbed by the grading operations shall be stabilized per the MPCA Stormwater Permit for Construction Activity. Seed shall be in accordance with the City's current seeding specification which may include temporary seed to provide ground cover as rapidly as possible. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the MPCA Stormwater Permit for Construction Activity or with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within ten (10) days, the City may draw down the letter of credit to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the plat is in full compliance with the approved erosion control plan.

12. GRADING. The plat shall be graded in accordance with the approved grading development and erosion control plan, Plan "B". The plan shall conform to City of Elko New Market specifications. Within thirty (30) days after completion of the grading and before the City approves individual building permits (except 2 model home permits on lots pursuant as provided herein), the Developer shall provide the City with an "as constructed" grading plan certified by a registered land surveyor or engineer that all storm water treatment/infiltration basins and swales, have been constructed on public easements or land owned by the

City. The “as constructed” plan shall include field verified elevations of the following: a) cross sections of storm water treatment/infiltration basins; b) location and elevations along all swales, wetlands, wetland mitigation areas if any, locations and dimensions of borrow areas/stockpiles, and installed “conservation area” posts; and c) lot corner elevations and house pads, and all other items listed in City Code. The City will withhold issuance of building permits until the approved certified grading plan is on file with the City and all erosion control measures are in place as determined by the City Engineer. The Developer certifies to the City that all lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications. The soils observation and testing report, including referenced development phases and lot descriptions, shall be submitted to the Building Official for review prior to the issuance of building permits.

13. CLEAN UP. The Developer shall clean dirt and debris from streets that has resulted from construction work by the Developer, home builders, subcontractors, their agents or assigns. Prior to any construction in the plat, the Developer shall identify in writing a responsible party and schedule for erosion control, street cleaning, and street sweeping.

14. OWNERSHIP OF IMPROVEMENTS. Upon completion of the work and construction required by this Contract and final acceptance by the City, the improvements lying within public easements shall become City property without further notice or action.

15. CITY ENGINEERING ADMINISTRATION, CONSTRUCTION OBSERVATION AND RECORD DRAWINGS. The Developer shall pay for city engineering and construction observation performed by the City Engineer, that shall include part or full time inspection of proposed public utilities and street construction, and City engineering administration, that will include monitoring of construction observation, consultation with Developer and its engineer on status or problems regarding the project, coordination for final inspection and acceptance, project monitoring during the warranty period, and processing of requests for reduction in security, and for preparation of record drawings. Fees for this service shall be on hourly rates estimated to be ten percent (10%) of estimated construction costs identified in the Summary of Security Requirements if using a letter of credit, assuming normal construction and project.

16. STORM WATER TRUNK FEE. The Plat is subject to a storm sewer trunk fee of \$11,891.71. The area charge is based on the gross area of the final plat (5.0 acres) less the area of the right-of-way dedicated for County Roads 2 and 91 (1.32 acres) and less the area of the wetland located on Outlot A (.29 acres), and is calculated as follows:

$$3.39 \text{ acres} \times \$3,507.88/\text{acre} = \mathbf{\$11,891.71}$$

The Developer shall pay the storm sewer area trunk fee in cash at the time of final plat approval. If Developer does not pay the storm sewer area trunk fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

17. SANITARY SEWER TRUNK FEE. The Plat is subject to a sanitary sewer trunk fee of \$81,120.00. The charge is based on the number of units within the plat and is calculated as follows:

$$20 \text{ dwelling units} \times \$4,056.00/\text{unit} = \mathbf{\$81,120.00}$$

The Developer must pay the sanitary sewer trunk fee in cash at the time of final plat approval. If Developer does not pay the sanitary sewer trunk fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

18. WATER TRUNK FEE. The Plat is subject to a water trunk fee of \$72,300.00. The charge is based on the number of units within the plat and is calculated as follows:

$$20 \text{ units} \times \$3,615.00/\text{unit} = \mathbf{\$72,300.00}$$

The Developer shall pay this charge in cash at the time of final plat approval. If Developer does not pay the water trunk fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

19. CONSTRUCTION ACCESS. Construction traffic access and egress for grading, public utility construction, and public street construction is restricted to access the subdivision via the existing curb cut into the property from County Road 2. Developer shall obtain any necessary permits from Scott County for access to the Property using County Roads.

20. PARK DEDICATION. The Developer shall pay a cash contribution of \$40,000.00 in satisfaction of the City's park dedication requirements at the time of final plat approval. The charge was calculated as follows:

$$20 \text{ lots} \times \$2,000 \text{ per dwelling unit} = \$40,000.00$$

If Developer does not pay the park dedication fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed

the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

21. SIDEWALKS AND TRAILS. Developer shall construct approximately 180 lineal feet of 8' wide bituminous trail leading from Dorothy Lane to the County Road 2 sidewalk at Developer's cost. The estimated cost of trail construction is \$10,000.00. The developer shall provide to the City a security in the amount of \$10,000.00 to ensure completion of the trail and an easement for the trail which will require Developer or future property owner to provide all future maintenance, repair, reconstruction and snow clearing consistent with City standards for City trails.

22. TRAFFIC CONTROL SIGNS AND STREET LIGHT OPERATION COSTS.

A. The Developer shall provide to the City a security in the amount of \$2,500.00 for installation of traffic control signs. The security amount is based on estimated signage costs provided by the Developer's Engineer.

B. Developer shall provide to the City \$1,041.60 in payment of the first year operating costs for street lights at the time of final plat approval. The fee was calculated as follows:

$$20 \text{ lots} \times \$4.34 \text{ per month} = \$86.80 \times 12 \text{ months} = \$1,041.60.$$

If Developer does not pay the street light operation fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

23. BUFFER YARD BERM/LANDSCAPE SCREEN. City zoning and subdivision ordinances require the installation of a buffer yard berm/landscape screen for the eleven (11) lots that abut County Roads 2 and 91. Before the City signs the final plat, the Developer shall post a security of \$15,000.00 to

guarantee the installation of the buffer yard berm/landscape screen in accordance with the approved landscape plan.

- 24. SPECIAL PROVISIONS.** The following special provisions shall apply to plat development:
- A. Implementation of the recommendations listed in the March 29, 2017, Engineering Report.
 - B. Implementation of conditions of preliminary plat as listed in City Council resolution #17-42 adopted June 26, 2017.
 - C. Implementation of regulations of rezoning as listed in City Ordinance #156 adopted June 26, 2017.
 - D. Prior to City Council approval of the final plat, the Developer shall furnish a boundary survey of the proposed property to be platted with all property corner monumentation in place and marked with lath and a flag. Any encroachments on or adjacent to the property shall be noted on the survey. Pursuant to City Code Section 12-10-2(E), the Developer shall post a \$2,100.00 security for the final placement of interior subdivision iron monuments at property corners. The security will be held by the City until the Developer's land surveyor certifies that all irons have been set following site grading and utility and street construction. In addition, the certificate of survey must also include a certification that all irons for a specific lot have either been found or set prior to the issuance of a building permit for that lot.
 - E. The Developer shall be responsible for the cost of street light installation consistent with a street lighting plan approved by the City. Before the City signs the final plat, the Developer shall post a security for street light installation consistent with the approved plan. The estimated amount of this security is \$1,000.00 for one light pole.
 - F. Pedestrian Trail. Maintenance, reconstruction and snow clearing of the pedestrian route through the development must be handled by the homeowners association and reflected in the homeowner's association documents.

G. Cul-De-Sac Island. Mowing of the perimeter of the infiltration basin located within the Dorothy Lane cul-de-sac island will be the responsibility of the homeowners association and reflected in the homeowner's association documents.

H. Homeowner Association documents consistent with this provisions of this Contract must be reviewed and approved by the City Attorney and recorded simultaneously with the final plat.

25. SUMMARY OF CONSTRUCTION SECURITY REQUIREMENTS. To guarantee compliance with the terms of this Contract, payment of real estate taxes including interest and penalties, payment of special assessments, payment of the costs of all public improvements, and construction of all public improvements, the Developer shall furnish the City with a cash escrow, letter of credit, in the form attached hereto, from a bank ("security") for \$411,100.00. The amount of the security was calculated as follows and reflects work already completed within the development:

CONSTRUCTION COSTS:

A. Sanitary Sewer	\$ 93,000.00
B. Watermain	\$ 82,000.00
C. Storm Sewer/Draintile	\$ 46,900.00
D. Streets	\$ 37,000.00
E. Erosion Control/Stormwater Basins, Restoration, Grading Certification	\$ 2,000.00
E. Site Preparation and Grading	\$ 10,000.00
F. Trail Construction	\$ 10,000.00
CONSTRUCTION SUB-TOTAL	\$280,000.00

OTHER COSTS:

A. City Legal Expenses (Est. 1%)	\$ 280.00
B. City Construction Observation, Engineering Administration And Record Drawings (Est. 10.0%)	\$ 28,000.00
C. Landscaping/Berming	\$ 15,000.00
D. Street Light Installation	\$ 1,000.00
E. Lot Corners/Iron Monuments	\$ 2,100.00
F. Traffic Signs	\$ 2,500.00

OTHER COSTS SUB-TOTAL **\$ 48,880.00**

SUBTOTAL SECURITIES: \$328,880.00

TOTAL SECURITIES (Cost plus 25%) \$411,100.00

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City Administrator. The City may draw down the security, on five (5) business days written notice to the Developer, for any violation of the terms of this Contract or without notice if the security is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least thirty (30) days prior to the expiration of the security, the City may also draw it down without notice. If the security is drawn down, the proceeds shall be used to cure the default. Upon receipt of proof satisfactory to the City that work has been completed and financial obligations to the City have been satisfied, with City approval the security may be reduced from time to time by the value of the work to be done or the financial obligations that have been satisfied taking into consideration the amount determined by the City for the costs of the remaining improvements and financial obligations, except as further provided herein. Security shall not be reduced to less than 25% of the original security amount until all improvements have been completed, all financial obligations to the City satisfied, the required "as constructed" plans have been received by the City, a warranty security is provided, and the public improvements are accepted by the City Council. The City's standard specifications for utility and street construction outline procedures for security reductions.

26. SUMMARY OF ASSESSMENT SECURITY REQUIREMENTS. To guarantee compliance with payment of special assessments under the terms of this Contract, the Developer shall furnish the City with a letter of credit, in the form attached hereto, from a bank ("security") for \$206,353.31. The amount of the security was calculated as follows:

A. Park Dedication	\$40,000.00
B. Street Light Operating Fee	\$ 1,041.60

C. Storm Water Trunk Fee	\$11,891.71
D. Sanitary Sewer Trunk Fee	\$81,120.00
E. Water Trunk Fee	\$72,300.00
Total Cash Requirements	\$ 206,353.31

The bank shall be subject to the approval of the City Administrator, which shall not be unreasonably withheld, conditioned or delayed. The City may draw down the security, on five (5) business days written notice to the Developer, if the special assessments are not paid in accordance with the terms of this Contract. If the security is drawn down, the proceeds shall be used to cure the default. Upon receipt of proof satisfactory to the City that financial obligations to the City have been satisfied, with City approval the security may be reduced from time to time by the value of the financial obligations that have been satisfied. Security shall not be reduced to less than 25% of the original security amount until all financial obligations related to the payment of special assessment to the City are satisfied.

27. WARRANTY. The Developer warrants all improvements required to be constructed by it pursuant to this Contract against poor material and faulty workmanship. The warranty period for streets is one year after the final wear course has been installed and accepted by the City Council, which acceptance shall not be unreasonably withheld, conditioned or delayed. The warranty period for underground utilities is two years and shall commence following completion and acceptance by City Council, which shall not be unreasonably withheld, conditioned or delayed.. The Developer shall post maintenance bonds in the amount of twenty-five percent (25%) of final certified construction costs to secure the warranties. The City shall retain 25% of the security posted by the Developer until the maintenance bonds are furnished to the City or until the warranty period expires, whichever first occurs. The retainage may be used to pay for warranty work. The City's standard specifications for utility and street construction identify the procedures for final acceptance of streets and utilities.

28. RESPONSIBILITY FOR COSTS.

A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development of the plat, including but not limited to, legal, planning,

engineering and construction observation inspection expenses incurred in connection with approval and acceptance of the plat, the preparation of this Contract, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting development of the plat.

- B. The Developer shall hold the City and its officers, employees, and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from plat approval and development. The Developer shall indemnify the City and its officers, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees.
- C. The Developer shall reimburse the City for costs incurred in the enforcement of this Contract, including engineering and attorneys' fees.
- D. The Developer shall pay, or cause to be paid when due, and in any event before any penalty is attached, all special assessments referred to in this Contract. This is a personal obligation of the Developer and shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it.
- E. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. If the bills are not paid on time, the City may halt plat development and construction until the bills are paid in full. Bills not paid within thirty (30) days shall accrue interest at the rate of eighteen percent (18%) per year. Additionally, the Developer shall pay in full all bills submitted to it by the City prior to any reductions in the security for the development.
- F. In addition to the charges and special assessments referred to herein, other charges and special assessments may be imposed at the time of the building permit for each lot, such as but not limited to, sewer availability charges ("SAC"), City water connection charges, City sewer connection charges, and building permit fees.

29. DEVELOPER'S DEFAULT. In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option, and after a thirty (30) day notice to Developer if the default remain, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer, except in an emergency as determined by the City, is first given notice of the work in default, not less than forty-eight (48) hours in advance. This Contract is a license for the City to act, and it shall not be necessary for the City to seek a Court order for permission to enter the land. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part.

30. MISCELLANEOUS.

- A. The Developer represents to the City that the plat complies with all city, county, metropolitan, state, and federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the plat does not comply, the City may, at its option, refuse to allow construction or development work in the plat until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.
- B. The Developer and the City do not intend any third party beneficiary rights and this Contract is intended to bind and benefit only the Developer and the City. Third parties shall have no recourse against the City under this Contract.
- C. Breach of the terms of this Contract by the Developer shall be grounds for denial of building permits, including lots sold to third parties.
- D. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Contract is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Contract.
- E. Grading, curbing, and one lift of asphalt shall be installed on all public and private streets prior to issuance of any building permits, except two model homes on lots acceptable to the Building

Official. Approval of an administrative permit in compliance with Section 11-5-10 of the City's zoning ordinance is required prior to the construction of any model homes.

- F. If building permits are issued prior to the acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the City, Developer, its contractors, subcontractors, material men, employees, agents, or third parties. No sewer and water connections or inspections may be conducted and no one may occupy a building for which a building permit is issued on either a temporary or permanent basis until the streets needed for access have been paved with a bituminous surface and the utilities are accepted by the City Engineer.
- G. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Contract shall not be a waiver or release.
- H. This Contract shall run with the land and may be recorded against the title to the property. In the event this Contract is recorded, the City covenants to provide a recordable Certificate of Completion promptly upon the completion of the work and responsibilities required herein, payment of all costs and fees required and compliance with all terms of the Contract. The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the property being final platted and/or has obtained consents to this Contract, in the form attached hereto, from all parties who have an interest in the property; that there are no unrecorded interests in the property being final platted; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants. After the Developer has completed the Improvements required of it under this Agreement and all obligations under the terms of the Development Contract have been met, including all financial obligations, at the Developer' s request the City will execute and deliver a termination of this Agreement (in recordable form) and a release of the Developer.

I. Insurance. Prior to execution of the final plat, Developer and its general contractor shall furnish to the City a certificate of insurance showing proof of the required insurance required under this Paragraph. Developer and its general contractor shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, such insurance as shall protect Developer and its general contractor and the City for work covered by the Contract including workers' compensation claims and property damage, bodily and personal injury which may arise from operations under this Contract, whether such operations are by Developer and its general contractor or anyone directly or indirectly employed by either of them. The minimum amounts of insurance shall be as follows:

Commercial General Liability (or in combination with an umbrella policy)
\$2,000,000 Each Occurrence
\$2,000,000 Products/Completed Operations Aggregate
\$2,000,000 Annual Aggregate

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability

Automobile Liability
\$2,000,000 Combined Single Limit – Bodily Injury & Property Damage
Including Owned, Hired & Non-Owned Automobiles

Workers Compensation
Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Employer's Liability with minimum limits are as follows:

- \$500,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$500,000 – Bodily Injury by Accident

The Developer's and general contractor's insurance must be "Primary and Non-Contributory".

All insurance policies (or riders) required by this Contract shall be (i) taken out by and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State of Minnesota, (ii) shall name the City, its employees and agents as additional insureds (CGL and umbrella only) by

endorsement which shall be filed with the City. A copy of the endorsement must be submitted with the certificate of insurance.

Developer's and general contractor's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' notice for non-payment of premium.

An Umbrella or Excess Liability insurance policy may be used to supplement Developer's or general contractor's policy limits on a follow-form basis to satisfy the full policy limits required by this Contract.

- J. Indemnification. To the fullest extent permitted by law, Developer agrees to defend, indemnify and hold harmless the City, and its employees, officials, and agents from and against all claims, actions, damages, losses and expenses, including reasonable attorney fees, arising out of Developer's negligence or its performance or failure to perform its obligations under this Contract. Developer's indemnification obligation shall apply to Developer's general contractor, subcontractor(s), or anyone directly or indirectly employed or hired by Developer, or anyone for whose acts Developer may be liable. Developer agrees this indemnity obligation shall survive the completion or termination of this Contract.
- K. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, 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 and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.
- L. The Developer may not assign this Contract without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer

sells one or more lots, the entire plat, or any part of it, until the City's issuance of a Certificate of Completion and Release.

M. Should the Developer convey any lot or lots in the Development to a third party, the City and the owner of that lot or those lots may amend this Development Contract or other city approvals or agreements for development or use of those lots without the approval or consent of the Developer or other lot owners in the Development. Private agreements between the owners of lots within the Development for shared service or access and related matters necessary for the efficient use of the Development shall be the responsibility of the lot owners and shall not bind or restrict City authority to approve applications from any lot owner in the Development.

31. NOTICES. Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: Archer's Point Development, LLC, 20520 Keokuk Avenue, LL50, Lakeville, MN 55044. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: 601 Main Street, Elko New market, MN 55020.

*[The remainder of this page has been intentionally left blank.
Signature pages follow.]*

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

(SEAL)

AND _____
Thomas Terry, Acting City Clerk

STATE OF MINNESOTA)
)ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ and by _____, the Mayor and City Clerk of the City of Elko New Market, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

NOTARY PUBLIC

DEVELOPER:
Archer's Point Development, LLC.

BY: _____
Its

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ the _____ of Archer's Point Development, LLC, a Minnesota limited liability company, on its behalf.

NOTARY PUBLIC

DRAFTED BY:
CAMPBELL, KNUTSON
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, MN 55121
Telephone: 651-452-5000
AMP/cjh

EXHIBIT A

The North 466.70 of the East 466.70 feet (as measured at right angles to the North and East lines) of the Northeast Quarter of the Northeast Quarter of Section 28, Township 113, Range 21, Scott County, Minnesota.

[BANK LETTERHEAD]

IRREVOCABLE LETTER OF CREDIT

No. _____
Date: _____

TO: City of Elko New Market
601 Main Street
Elko New Market, Minnesota 55020

Dear Sir or Madam:

We hereby issue, for the account of _____ (Name of Developer) and in your favor, our Irrevocable Letter of Credit in the amount of \$_____, available to you by your draft drawn on sight on the undersigned bank.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. _____, dated _____, 2_____, of _____ (Name of Bank) _____";
- b) Be signed by the City Administrator of the City of Elko New Market.
- c) Be presented for payment at _____ (Address of Bank) _____, on or before 4:00 p.m. on November 30, 2_____.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Elko New Market City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: Elko New Market City Administrator, Elko New Market City Hall, 601 Main Street, Elko New Market, MN 55020, and is actually received by the Finance Director at least thirty (30) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

[NAME OF BANK]

BY: _____

Its _____

(reserved for recording information)

DEVELOPMENT CONTRACT

(Developer Installed Improvements)

CHRISTMAS PINES

CONTRACT dated _____, 2019, by and between the **CITY OF ELKO NEW MARKET**, a Minnesota municipal corporation ("City"), and Archer's Point Development, LLC, a Minnesota corporation (the "Developer").

1. REQUEST FOR PLAT APPROVAL. The Developer has asked the City to approve a plat for **CHRISTMAS PINES** (referred to in this Contract as the "plat"). The land is situated in the County of Scott, State of Minnesota, and is legally described as provide in Exhibit A attached hereto.

2. CONDITIONS OF PLAT APPROVAL. The City hereby approves the plat on condition that the Developer enter into this Contract, furnish the security required by it, and record the plat with the County Recorder or Registrar of Titles within 90 days after the City Council approves the final plat.

3. RIGHT TO PROCEED. Within the plat or land to be platted, the Developer may not grade or otherwise disturb the earth or remove trees, unless a grading permit has been approved by the City Engineer following approval of a preliminary plat by the City Council, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings until all the following conditions have been satisfied: 1) this agreement has been fully executed by both parties and filed with the City Clerk, 2) the necessary security has been received by the City, 3) the necessary insurance for the Developer and its

construction contractors has been received by the City, and 4) the plat has been recorded with the Scott County Recorder or Registrar of Titles' office.

4. CHANGES IN OFFICIAL CONTROLS. For 2 years from the date of this Contract, no amendments to the City's Comprehensive Plan, except an amendment placing the plat in the current metropolitan urban service area, or official controls shall apply to or affect the use, development density, lot size, lot layout or dedications of the approved plat unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Contract to the contrary, to the full extent permitted by state law, the City may require compliance with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Contract.

5. DEVELOPMENT PLANS. The plat shall be developed in accordance with the following plans. The plans shall not be attached to this Contract. The City Engineer may approve minor amendments to Plan B without City Council approval. If the plans vary from the written terms of this Contract, the written terms shall control. The plans are:

Plan A – Plat, dated February 20, 2018

Plan B – Final Grading, Drainage, and Erosion Control Plan, dated April 9, 2018

Plan C - Plans and Specifications for Public Improvements, dated April 9, 2018

Plan D - Street Lighting Plan, dated February 20, 2018

Plan E - Landscape Plan, dated May 1, 2017

6. IMPROVEMENTS. The Developer shall install and pay for the following:

A. Sanitary Sewer System

B. Water System

C. Storm Sewer System

D. Streets

E. Concrete Curb and Gutter

F. Street Lights

- G. Site Grading, Stormwater Treatment/Infiltration Basins, and Erosion Control
- H. Underground Utilities
- I. Setting of Iron Monuments
- J. Surveying and Staking
- K. Sidewalks and Trails
- L. Signs

The improvements shall be installed in accordance with the City subdivision ordinance; City standard specifications and details for utility and street construction; the City Engineering Manual; and any other ordinances including Section 11-11-3 of the City Code concerning erosion and drainage and Section 5-5-2(C) restricting time frames for grading, construction activity, and the use of power equipment. The Developer shall submit plans and specifications which have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. 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 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 or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at the City with all parties concerned, including the City staff, to review the program for the construction work. Within thirty (30) days after the completion of the improvements and before the security is released, the Developer shall supply the City with a complete set of reproducible "as constructed" plans and an electronic file of the "as constructed" plans in an AutoCAD .DWG file or a .DXF file, and a PDF format, all prepared in accordance with City standards.

In accordance with Minnesota Statutes 505.021, the final placement of iron monuments for all lot corners must be completed before the applicable security is released. The Developer's surveyor shall also submit a written notice to the City certifying that the monuments have been installed following site grading, utility and street construction.

7. PERMITS. The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, which may include:

- A. Scott County for County Road Access and Work in County Rights-of-Way
- B. Minnesota Department of Health for Watermains
- C. MPCA NPDES Permit for Construction Activity
- D. MPCA for Sanitary Sewer and Hazardous Material Removal and Disposal
- E. DNR for Dewatering
- F. City of Elko New Market for Building Permits
- G. MCES for Sanitary Sewer Connections
- H. City of Elko New Market for Retaining Walls

8. DEWATERING. Due to the variable nature of groundwater levels and stormwater flows, it will be the Developer's and the Developer's contractors and subcontractors responsibility to satisfy themselves with regard to the elevation of groundwater in the area and the level of effort needed to perform dewatering and storm flow routing operations. All dewatering shall be in accordance with all applicable county, state, and federal rules and regulations. DNR regulations regarding appropriations permits shall also be strictly followed.

9. TIME OF PERFORMANCE. The Developer shall install all required public improvements by November 30, 2019, with the exception of the final wear course of asphalt on streets. The final wear course on streets shall not be installed prior to 80% of the homes constructed within the Plat, but must be installed no later than October 15, 2021 and only between May 15th and October 15th. The final wear course on streets shall be installed no earlier than the summer after the base layer of asphalt has been in place one freeze thaw cycle. The Developer may, however, request an extension of time from the City. 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. Final wear course placement outside of the time frames provided in this Section must have the written approval of the City Engineer.

10. LICENSE. The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the plat to perform all work and inspections deemed appropriate by the City in conjunction with plat development.

11. EROSION CONTROL. Prior to initiating site grading, the erosion control plan, Plan B, shall be implemented by the Developer and inspected and approved by the City. The City may impose additional erosion control requirements if they would be beneficial. All areas disturbed by the grading operations shall be stabilized per the MPCA Stormwater Permit for Construction Activity. Seed shall be in accordance with the City's current seeding specification which may include temporary seed to provide ground cover as rapidly as possible. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the MPCA Stormwater Permit for Construction Activity or with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within ten (10) days, the City may draw down the letter of credit to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the plat is in full compliance with the approved erosion control plan.

12. GRADING. The plat shall be graded in accordance with the approved grading development and erosion control plan, Plan "B". The plan shall conform to City of Elko New Market specifications. Within thirty (30) days after completion of the grading and before the City approves individual building permits (except 2 model home permits on lots pursuant as provided herein), the Developer shall provide the City with an "as constructed" grading plan certified by a registered land surveyor or engineer that all storm water treatment/infiltration basins and swales, have been constructed on public easements or land owned by the

City. The “as constructed” plan shall include field verified elevations of the following: a) cross sections of storm water treatment/infiltration basins; b) location and elevations along all swales, wetlands, wetland mitigation areas if any, locations and dimensions of borrow areas/stockpiles, and installed “conservation area” posts; and c) lot corner elevations and house pads, and all other items listed in City Code. The City will withhold issuance of building permits until the approved certified grading plan is on file with the City and all erosion control measures are in place as determined by the City Engineer. The Developer certifies to the City that all lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications. The soils observation and testing report, including referenced development phases and lot descriptions, shall be submitted to the Building Official for review prior to the issuance of building permits.

13. CLEAN UP. The Developer shall clean dirt and debris from streets that has resulted from construction work by the Developer, home builders, subcontractors, their agents or assigns. Prior to any construction in the plat, the Developer shall identify in writing a responsible party and schedule for erosion control, street cleaning, and street sweeping.

14. OWNERSHIP OF IMPROVEMENTS. Upon completion of the work and construction required by this Contract and final acceptance by the City, the improvements lying within public easements shall become City property without further notice or action.

15. CITY ENGINEERING ADMINISTRATION, CONSTRUCTION OBSERVATION AND RECORD DRAWINGS. The Developer shall pay for city engineering and construction observation performed by the City Engineer, that shall include part or full time inspection of proposed public utilities and street construction, and City engineering administration, that will include monitoring of construction observation, consultation with Developer and its engineer on status or problems regarding the project, coordination for final inspection and acceptance, project monitoring during the warranty period, and processing of requests for reduction in security, and for preparation of record drawings. Fees for this service shall be on hourly rates estimated to be ten percent (10%) of estimated construction costs identified in the Summary of Security Requirements if using a letter of credit, assuming normal construction and project.

16. STORM WATER TRUNK FEE. The Plat is subject to a storm sewer trunk fee of \$11,891.71. The area charge is based on the gross area of the final plat (5.0 acres) less the area of the right-of-way dedicated for County Roads 2 and 91 (1.32 acres) and less the area of the wetland located on Outlot A (.29 acres), and is calculated as follows:

$$3.39 \text{ acres} \times \$3,507.88/\text{acre} = \mathbf{\$11,891.71}$$

The Developer shall pay the storm sewer area trunk fee in cash at the time of final plat approval. If Developer does not pay the storm sewer area trunk fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

17. SANITARY SEWER TRUNK FEE. The Plat is subject to a sanitary sewer trunk fee of \$81,120.00. The charge is based on the number of units within the plat and is calculated as follows:

$$20 \text{ dwelling units} \times \$4,056.00/\text{unit} = \mathbf{\$81,120.00}$$

The Developer must pay the sanitary sewer trunk fee in cash at the time of final plat approval. If Developer does not pay the sanitary sewer trunk fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

18. WATER TRUNK FEE. The Plat is subject to a water trunk fee of \$72,300.00. The charge is based on the number of units within the plat and is calculated as follows:

$$20 \text{ units} \times \$3,615.00/\text{unit} = \mathbf{\$72,300.00}$$

The Developer shall pay this charge in cash at the time of final plat approval. If Developer does not pay the water trunk fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

19. CONSTRUCTION ACCESS. Construction traffic access and egress for grading, public utility construction, and public street construction is restricted to access the subdivision via the existing curb cut into the property from County Road 2. Developer shall obtain any necessary permits from Scott County for access to the Property using County Roads.

20. PARK DEDICATION. The Developer shall pay a cash contribution of \$40,000.00 in satisfaction of the City's park dedication requirements at the time of final plat approval. The charge was calculated as follows:

$$20 \text{ lots} \times \$2,000 \text{ per dwelling unit} = \$40,000.00$$

If Developer does not pay the park dedication fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed

the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

21. SIDEWALKS AND TRAILS. Developer shall construct approximately 180 lineal feet of 8' wide bituminous trail leading from Dorothy Lane to the County Road 2 sidewalk at Developer's cost. The estimated cost of trail construction is \$10,000.00. The developer shall provide to the City a security in the amount of \$10,000.00 to ensure completion of the trail and an easement for the trail which will require Developer or future property owner to provide all future maintenance, repair, reconstruction and snow clearing consistent with City standards for City trails.

22. TRAFFIC CONTROL SIGNS AND STREET LIGHT OPERATION COSTS.

A. The Developer shall provide to the City a security in the amount of \$2,500.00 for installation of traffic control signs. The security amount is based on estimated signage costs provided by the Developer's Engineer.

B. Developer shall provide to the City \$1,041.60 in payment of the first year operating costs for street lights at the time of final plat approval. The fee was calculated as follows:

$$20 \text{ lots} \times \$4.34 \text{ per month} = \$86.80 \times 12 \text{ months} = \$1,041.60.$$

If Developer does not pay the street light operation fee in cash at the time of final plat approval, the charge shall be assessed against the lots (not outlots) in the plat with interest on the unpaid balance calculated at three percent (3%) per annum and shall be paid upon the sale of each lot, but not later than three (3) years after the adoption of the assessment. The assessment shall be deemed adopted on the date this Agreement is signed by the City. The assessments may be prepaid at any time. The Developer waives any and all procedural and substantive objections to the assessments including any claim that the assessments exceed the benefit to the property. The Developer waives any appeal rights otherwise available pursuant to MSA 429.081.

23. BUFFER YARD BERM/LANDSCAPE SCREEN. City zoning and subdivision ordinances require the installation of a buffer yard berm/landscape screen for the eleven (11) lots that abut County Roads 2 and 91. Before the City signs the final plat, the Developer shall post a security of \$15,000.00 to

guarantee the installation of the buffer yard berm/landscape screen in accordance with the approved landscape plan.

24. SPECIAL PROVISIONS. The following special provisions shall apply to plat development:

- A. Implementation of the recommendations listed in the March 29, 2017, Engineering Report.
- B. Implementation of conditions of preliminary plat as listed in City Council resolution #17-42 adopted June 26, 2017.
- C. Implementation of regulations of rezoning as listed in City Ordinance #156 adopted June 26, 2017.
- D. Prior to City Council approval of the final plat, the Developer shall furnish a boundary survey of the proposed property to be platted with all property corner monumentation in place and marked with lath and a flag. Any encroachments on or adjacent to the property shall be noted on the survey. Pursuant to City Code Section 12-10-2(E), the Developer shall post a \$2,100.00 security for the final placement of interior subdivision iron monuments at property corners. The security will be held by the City until the Developer's land surveyor certifies that all irons have been set following site grading and utility and street construction. In addition, the certificate of survey must also include a certification that all irons for a specific lot have either been found or set prior to the issuance of a building permit for that lot.
- E. The Developer shall be responsible for the cost of street light installation consistent with a street lighting plan approved by the City. Before the City signs the final plat, the Developer shall post a security for street light installation consistent with the approved plan. The estimated amount of this security is \$1,000.00 for one light pole.
- F. Pedestrian Trail. Maintenance, reconstruction and snow clearing of the pedestrian route through the development must be handled by the homeowners association and reflected in the homeowner's association documents.

G. Cul-De-Sac Island. Mowing of the perimeter of the infiltration basin located within the Dorothy Lane cul-de-sac island will be the responsibility of the homeowners association and reflected in the homeowner's association documents.

H. Homeowner Association documents consistent with this provisions of this Contract must be reviewed and approved by the City Attorney and recorded simultaneously with the final plat.

25. SUMMARY OF CONSTRUCTION SECURITY REQUIREMENTS. To guarantee compliance with the terms of this Contract, payment of real estate taxes including interest and penalties, payment of special assessments, payment of the costs of all public improvements, and construction of all public improvements, the Developer shall furnish the City with a cash escrow, letter of credit, in the form attached hereto, from a bank ("security") for \$411,100.00. The amount of the security was calculated as follows and reflects work already completed within the development:

CONSTRUCTION COSTS:

A. Sanitary Sewer	\$ 93,000.00
B. Watermain	\$ 82,000.00
C. Storm Sewer/Draintile	\$ 46,900.00
D. Streets	\$ 37,000.00
E. Erosion Control/Stormwater Basins, Restoration, Grading Certification	\$ 2,000.00
E. Site Preparation and Grading	\$ 10,000.00
F. Trail Construction	\$ 10,000.00
CONSTRUCTION SUB-TOTAL	\$280,000.00

OTHER COSTS:

A. City Legal Expenses (Est. 1%)	\$ 280.00
B. City Construction Observation, Engineering Administration And Record Drawings (Est. 10.0%)	\$ 28,000.00
C. Landscaping/Berming	\$ 15,000.00
D. Street Light Installation	\$ 1,000.00
E. Lot Corners/Iron Monuments	\$ 2,100.00
F. Traffic Signs	\$ 2,500.00

OTHER COSTS SUB-TOTAL **\$ 48,880.00**

SUBTOTAL SECURITIES: \$328,880.00

TOTAL SECURITIES (Cost plus 25%) \$411,100.00

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City Administrator. The City may draw down the security, on five (5) business days written notice to the Developer, for any violation of the terms of this Contract or without notice if the security is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least thirty (30) days prior to the expiration of the security, the City may also draw it down without notice. If the security is drawn down, the proceeds shall be used to cure the default. Upon receipt of proof satisfactory to the City that work has been completed and financial obligations to the City have been satisfied, with City approval the security may be reduced from time to time by the value of the work to be done or the financial obligations that have been satisfied taking into consideration the amount determined by the City for the costs of the remaining improvements and financial obligations, except as further provided herein. Security shall not be reduced to less than 25% of the original security amount until all improvements have been completed, all financial obligations to the City satisfied, the required "as constructed" plans have been received by the City, a warranty security is provided, and the public improvements are accepted by the City Council. The City's standard specifications for utility and street construction outline procedures for security reductions.

26. WARRANTY. The Developer warrants all improvements required to be constructed by it pursuant to this Contract against poor material and faulty workmanship. The warranty period for streets is one year after the final wear course has been installed and accepted by the City Council, which acceptance shall not be unreasonably withheld, conditioned or delayed. The warranty period for underground utilities is two years and shall commence following completion and acceptance by City Council, which shall not be unreasonably withheld, conditioned or delayed.. The Developer shall post maintenance bonds in the amount of twenty-five percent (25%) of final certified construction costs to secure the warranties. The City shall

retain 25% of the security posted by the Developer until the maintenance bonds are furnished to the City or until the warranty period expires, whichever first occurs. The retainage may be used to pay for warranty work. The City's standard specifications for utility and street construction identify the procedures for final acceptance of streets and utilities.

27. RESPONSIBILITY FOR COSTS.

- A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development of the plat, including but not limited to, legal, planning, engineering and construction observation inspection expenses incurred in connection with approval and acceptance of the plat, the preparation of this Contract, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting development of the plat.
- B. The Developer shall hold the City and its officers, employees, and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from plat approval and development. The Developer shall indemnify the City and its officers, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees.
- C. The Developer shall reimburse the City for costs incurred in the enforcement of this Contract, including engineering and attorneys' fees.
- D. The Developer shall pay, or cause to be paid when due, and in any event before any penalty is attached, all special assessments referred to in this Contract. This is a personal obligation of the Developer and shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it.
- E. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. If the bills are not paid on time, the City may halt plat development and construction until the bills are paid in full. Bills not paid within thirty (30) days shall accrue interest at the rate of eighteen percent (18%) per year. Additionally, the

Developer shall pay in full all bills submitted to it by the City prior to any reductions in the security for the development.

- F. In addition to the charges and special assessments referred to herein, other charges and special assessments may be imposed at the time of the building permit for each lot, such as but not limited to, sewer availability charges ("SAC"), City water connection charges, City sewer connection charges, and building permit fees.

28. DEVELOPER'S DEFAULT. In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option, and after a thirty (30) day notice to Developer if the default remain, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer, except in an emergency as determined by the City, is first given notice of the work in default, not less than forty-eight (48) hours in advance. This Contract is a license for the City to act, and it shall not be necessary for the City to seek a Court order for permission to enter the land. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part.

29. MISCELLANEOUS.

- A. The Developer represents to the City that the plat complies with all city, county, metropolitan, state, and federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the plat does not comply, the City may, at its option, refuse to allow construction or development work in the plat until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.
- B. The Developer and the City do not intend any third party beneficiary rights and this Contract is intended to bind and benefit only the Developer and the City. Third parties shall have no recourse against the City under this Contract.
- C. Breach of the terms of this Contract by the Developer shall be grounds for denial of building permits, including lots sold to third parties.

- D. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Contract is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Contract.
- E. Grading, curbing, and one lift of asphalt shall be installed on all public and private streets prior to issuance of any building permits, except two model homes on lots acceptable to the Building Official. Approval of an administrative permit in compliance with Section 11-5-10 of the City's zoning ordinance is required prior to the construction of any model homes.
- F. If building permits are issued prior to the acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the City, Developer, its contractors, subcontractors, material men, employees, agents, or third parties. No sewer and water connections or inspections may be conducted and no one may occupy a building for which a building permit is issued on either a temporary or permanent basis until the streets needed for access have been paved with a bituminous surface and the utilities are accepted by the City Engineer.
- G. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Contract shall not be a waiver or release.
- H. This Contract shall run with the land and may be recorded against the title to the property. In the event this Contract is recorded, the City covenants to provide a recordable Certificate of Completion promptly upon the completion of the work and responsibilities required herein, payment of all costs and fees required and compliance with all terms of the Contract. The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the property being final platted and/or has obtained consents to this Contract, in the form attached hereto, from all parties who have an interest in the property; that there are no unrecorded interests in the property being final platted; and that the Developer will indemnify and

hold the City harmless for any breach of the foregoing covenants. After the Developer has completed the Improvements required of it under this Agreement and all obligations under the terms of the Development Contract have been met, including all financial obligations, at the Developer' s request the City will execute and deliver a termination of this Agreement (in recordable form) and a release of the Developer.

- I. Insurance. Prior to execution of the final plat, Developer and its general contractor shall furnish to the City a certificate of insurance showing proof of the required insurance required under this Paragraph. Developer and its general contractor shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, such insurance as shall protect Developer and its general contractor and the City for work covered by the Contract including workers' compensation claims and property damage, bodily and personal injury which may arise from operations under this Contract, whether such operations are by Developer and its general contractor or anyone directly or indirectly employed by either of them. The minimum amounts of insurance shall be as follows:

Commercial General Liability (or in combination with an umbrella policy)
\$2,000,000 Each Occurrence
\$2,000,000 Products/Completed Operations Aggregate
\$2,000,000 Annual Aggregate

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability

Automobile Liability
\$2,000,000 Combined Single Limit – Bodily Injury & Property Damage
Including Owned, Hired & Non-Owned Automobiles

Workers Compensation
Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Employer's Liability with minimum limits are as follows:

- \$500,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$500,000 – Bodily Injury by Accident

The Developer's and general contractor's insurance must be "Primary and Non-Contributory".

All insurance policies (or riders) required by this Contract shall be (i) taken out by and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State of Minnesota, (ii) shall name the City, its employees and agents as additional insureds (CGL and umbrella only) by endorsement which shall be filed with the City. A copy of the endorsement must be submitted with the certificate of insurance.

Developer's and general contractor's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' notice for non-payment of premium.

An Umbrella or Excess Liability insurance policy may be used to supplement Developer's or general contractor's policy limits on a follow-form basis to satisfy the full policy limits required by this Contract.

- J. Indemnification. To the fullest extent permitted by law, Developer agrees to defend, indemnify and hold harmless the City, and its employees, officials, and agents from and against all claims, actions, damages, losses and expenses, including reasonable attorney fees, arising out of Developer's negligence or its performance or failure to perform its obligations under this Contract. Developer's indemnification obligation shall apply to Developer's general contractor, subcontractor(s), or anyone directly or indirectly employed or hired by Developer, or anyone for whose acts Developer may be liable. Developer agrees this indemnity obligation shall survive the completion or termination of this Contract.
- K. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, 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 and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

- L. The Developer may not assign this Contract without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it, until the City's issuance of a Certificate of Completion and Release.
- M. Should the Developer convey any lot or lots in the Development to a third party, the City and the owner of that lot or those lots may amend this Development Contract or other city approvals or agreements for development or use of those lots without the approval or consent of the Developer or other lot owners in the Development. Private agreements between the owners of lots within the Development for shared service or access and related matters necessary for the efficient use of the Development shall be the responsibility of the lot owners and shall not bind or restrict City authority to approve applications from any lot owner in the Development.

30. NOTICES. Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: Archer's Point Development, LLC, 20520 Keokuk Avenue, LL50, Lakeville, MN 55044. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: 601 Main Street, Elko New market, MN 55020.

*[The remainder of this page has been intentionally left blank.
Signature pages follow.]*

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

(SEAL)

AND _____
Thomas Terry, Acting City Clerk

STATE OF MINNESOTA)
)ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ and by _____, the Mayor and City Clerk of the City of Elko New Market, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

NOTARY PUBLIC

DEVELOPER:
Archer's Point Development, LLC.

BY: _____
Its

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ the _____ of Archer's Point Development, LLC, a Minnesota limited liability company, on its behalf.

NOTARY PUBLIC

DRAFTED BY:
CAMPBELL, KNUTSON
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, MN 55121
Telephone: 651-452-5000
AMP/cjh

EXHIBIT A

The North 466.70 of the East 466.70 feet (as measured at right angles to the North and East lines) of the Northeast Quarter of the Northeast Quarter of Section 28, Township 113, Range 21, Scott County, Minnesota.

[BANK LETTERHEAD]

IRREVOCABLE LETTER OF CREDIT

No. _____
Date: _____

TO: City of Elko New Market
601 Main Street
Elko New Market, Minnesota 55020

Dear Sir or Madam:

We hereby issue, for the account of _____ (Name of Developer) and in your favor, our Irrevocable Letter of Credit in the amount of \$_____, available to you by your draft drawn on sight on the undersigned bank.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. _____, dated _____, 2_____, of _____ (Name of Bank) _____";
- b) Be signed by the City Administrator of the City of Elko New Market.
- c) Be presented for payment at _____ (Address of Bank) _____, on or before 4:00 p.m. on November 30, 2_____.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Elko New Market City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: Elko New Market City Administrator, Elko New Market City Hall, 601 Main Street, Elko New Market, MN 55020, and is actually received by the Finance Director at least thirty (30) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

[NAME OF BANK]

BY: _____

Its _____

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 18-18

**RESOLUTION OF THE ELKO NEW MARKET CITY COUNCIL
GRANTING APPROVAL OF THE FINAL PLAT AND DEVELOPMENT CONTRACT FOR
CHRISTMAS PINES AND APPROVING AND ADOPTING SPECIAL ASSESSMENTS FOR
DEVELOPMENT COSTS**

WHEREAS, On Site Marketing Co., a Minnesota corporation (“Developer”) is the fee owner of real property in the County of Scott legally described as follows:

The North 466.70 of the East 466.70 feet (as measured at right angles to the North and East lines) of the Northeast Quarter of the Northeast Quarter of Section 28, Township 113, Range 21, Scott County, Minnesota (“Property”);

WHEREAS, Developer is requesting final plat approval of Christmas Pines consisting of twenty residential lots and one outlot on 5 gross acres, which is located on the above real estate; and,

WHEREAS, the Elko New Market City Council granted preliminary plat approval of Christmas Pines on June 26th, 2017, subject to conditions and recommendations; and,

WHEREAS, the Elko New Market City Council granted approval of the necessary wetland replacement plan application on October 26, 2017; and,

WHEREAS, the City Engineer and City Planner have recommended approval of the Final Plat and Development Contract for Christmas Pines, under the conditions provided herein; and

WHEREAS, Developer has requested that the City specially assess certain development costs, including park dedication fees, stormwater trunk fees, sanitary sewer trunk fees, water trunk fees and street light fees, in the amount of \$206,353.31 to the lots within the Plat as provided in the terms of the Development Contract;

WHEREAS, City Council has reviewed the final plat for Christmas Pines; and finds:

- 1) The proposed plat of the property meets the purpose and intent of the Comprehensive Plan.
- 2) The proposed plat complies with requirements of City Code Title 12, Subdivision Regulations.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Final Plat for Christmas Pines consisting of twenty lots and one outlot on 5.0 gross acres is hereby approved, subject to Developer entering into a Development Contract with the City of Elko New Market and paying all fees and providing the security required under the terms of the Development Contract.

2. The Development Contract between the City and Developer is hereby approved and the assessments identified therein shall be allocated equally to each lot in the plat and payable pursuant to the terms of the Development Contract.

3. The Development costs of \$206,353.31 are hereby adopted and shall constitute a special assessment against the Property and hereby made part of this Resolution by reference and that Property is hereby found to be benefitted by the proposed improvements in the amount of the assessments levied against it.

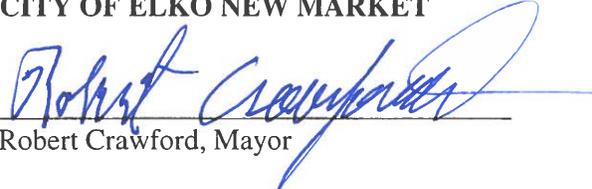
4. Such assessment shall be payable in equal annual installments extending over a period of 3 years, the first of the installments to be payable in 2019 and shall bear interest rate of 3% per annum from the date of the adoption of the assessment Resolution. To the first installment shall be added interest on the entire assessment from the date of this Resolution under December 31, 2018.

5. The Developer, at any time prior to certification of the assessment to the County Auditor, may pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this Resolution; and such owner may at any time thereafter, pay the City the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the next succeeding year. The owner may also at any time prior to November 15, of any year, pay the remaining unpaid principal balance with interest accrued to December 31 of the year in which such prepayment is made.

6. The City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

PASSED, ADOPTED AND APPROVED this 26th day of April, 2018.

CITY OF ELKO NEW MARKET


Robert Crawford, Mayor

ATTEST:


Sandra Green, Deputy City Clerk

**ELKO NEW MARKET PARKS COMMISSION
TUESDAY, APRIL 9, 2019
REGULAR MEETING MINUTES**

PRESENT:

Present at Roll Call were Chair Sutton, Commissioner Miller, Commissioner Melgaard and Commissioner Dornseif. Also present was Assistant City Administrator Mark Nagel

CALL TO ORDER:

The meeting was called to order at 4:02 PM in Conference Room B at Elko New Market City Hall, 601 Main Street.

APPROVE AGENDA:

Mr. Nagel added 2 bills to the Agenda Item 7.d. on Approval of Bills – Schlomka's Portable restrooms and from Jessica Davidson for materials for one of the Winter events. He also added Agenda Item 7.e. Consider Special Meeting of parks Commission for Tuesday, April 16 at 4 PM at ENM City Hall. Upon motion by Chair Sutton, seconded by Commissioner Melgaard, the Parks Commission unanimously added the 2 bills to the Agenda under 7.d. Approval of Bills and Agenda Item 7.e. Consideration of Special Meeting of Parks Commission on Tuesday, April 16 at 4 PM at ENM City Hall.

CITIZEN COMMENTS:

There were no citizens present at the March Parks Commission Meeting to make comments to the Parks Commission.

APPROVAL OF MINUTES OF JANUARY 8, 2019 AND MARCH 25, 2019 PARKS COMMISSION MEETINGS:

Mr. Nagel explained that the January 8, 2019 Meeting Minutes had not been approved due to a lack of quorum at the February Meeting, so they were on the April Agenda for approval. Upon motion by Commissioner Miller, seconded by

Commissioner Melgaard, the Parks Commission unanimously approved the January 8, 2019 and March 26, 2019 Parks Commission Minutes, as printed.

PETITIONS, REQUESTS, AND COMMUNICATIONS

Mr. Nagel called Commissioners' attention to the Winter edition of the Minnesota Recreation and Parks Association magazine for their review.

UPDATES:

Mr. Nagel reviewed the March 31, 2019 ENM Parks Commission Update, which contained 12 items, with the Commissioners. Mr. Nagel commented that it looked like a busy Summer for park projects, including construction of the Disc Golf Course, the realignment of the T-Ball field in Rowena Park, and the proposed renovation of Woodcrest Park.

Chair Sutton reported that the CCEC would be discussing the 2019 Egg Hunt plans at their April 9, 2019 meeting, which will immediately follow the Parks Commission meeting. He invited parks Commissioners to stay after their Meeting to help fill candy bags for distribution to children at the event.

OLD/NEW BUSINESS:

Mr. Nagel provided a copy of the February Budget Report for the information of Commissioners. He said that the budget expenditures should be at 16.7%, but were at 18.4% due to a longer ice rink season than in 2018. With addition of the new Accountant, Kellie Stewart, Monthly Budget Reports would become part of the Agenda.

Mr. Nagel recapped the discussion of additional pet waste stations City parks and trails to date. He noted that there have been improvements in design and fabrication since the first 3 were placed along paths about 4 years ago.

Commissioners had previously agreed that new locations should include the trail entrance at Seurer Street connecting the neighborhood to Downtown; the Pete's Hill entrance; Wagner Park; along the CSAH 2 Bike/Hike trail; and Windrose Park. The criteria for selecting the additional pet waste stations were: green color; covered, closed chute bin; bag dispenser; a dog leash hook; bags that can be tied; durable, weather-resistant materials; and a larger bin. He said Commissioners had previously approved the purchase of 5 new pet waste stations based on these

criteria at the March 26, 2019 Meeting, but Mr. Nagel said that prices were lowered recently and that he could purchase an additional one for about the same price as the 5 previously approved by the Commission. Consensus of the Commissioners present was to purchase 6 stations, instead of 5, from Dog Waste Depot. He said that he would bring back the invoice for consideration of approval at the May Parks Commission meeting.

Mr. Nagel provided an update on the SMSC Trail Grant Application to Commissioners. He noted that the funding would pave the trail link between the Woodcrest Addition and the Windrose 8th Addition. The total cost was estimated at \$22,120 with 80 % being paid by the grant. He said that application had been submitted by the January 31, 2019 deadline. He was pleased to report that the grant application was being recommended to the SMSC Business Council at their meeting of April 10, 2019. Assuming approval, the construction of the trail segment would be added to the growing list of 2019 Park projects. No further action was taken on this item.

Mr. Nagel presented the Bill List to the Commissioners – Schlomka's Portable Restrooms for services for April, 2019 for \$420.00 and Jessica Davidson for materials for a Winter event presentation for \$107.35. Upon motion by Commissioner Melgaard, seconded by Chair Sutton, the Parks Commission unanimously approved the Bill List for the April meeting.

Mr. Nagel said that the Planning Commission was requesting input from the Parks Commission on an application by the developer of the Farm Addition regarding Park Dedication fees. In order to get the input prior to the Planning Commission Meeting on April 23rd, a Special Meeting of the Parks Commission was requested for April 16th at 4 PM at Elko New Market City Hall. Upon motion by Chair Sutton, seconded by Commissioner Melgaard, the Commission unanimously approved setting a Special Meeting for Tuesday, April 16th at 4 PM at Elko New Market City Hall.

OTHER BUSINESS:

Mr. Nagel reported that he had forwarded the applications of Commissioners Melgaard and Miller to be reappointed to a 3-year term. He said that the Council accepted them and was in the process of setting a date for interviews for the candidates.

There were no additional business items to come before Commissioners at the April 9, 2019 Parks Commission meeting.

NEXT MEETING:

Upon motion by Commissioner Melgaard, seconded by Miller, the next Regular meeting of the Parks Commission was set for Tuesday, May 10, 2019 at 4:00 PM in conference Room B of Elko New Market City Hall.

PARK COMMISSIONER COMMENTS:

There were no additional comments from Commissioners at the April 9, 2019 Parks Commission meeting.

ADJOURNMENT:

There being no further business to come before the Parks Commission, upon motion by Commissioner Melgaard, seconded by Commissioner Dornseif, the meeting was adjourned by voice vote at 4:55 PM.

**Respectfully Submitted,
Mark Nagel, Assistant City Administrator**