

**CITY OF ELKO NEW MARKET
CITY COUNCIL AGENDA
ELKO NEW MARKET CITY HALL
601 MAIN STREET
ELKO NEW MARKET, MINNESOTA 55054
THURSDAY, MARCH 12, 2020**

**BUSINESS MEETING
6:00 PM**

1. Call to Order

2. Pledge of Allegiance

3. Adopt/Approve Agenda

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

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 February 27, 2020 Minutes of the City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Adopt Resolution 20-17 Appointing Fire Captains and Fire Lieutenants
- d. Approve Recycling Program Grant Agreement
- e. Approve Not Waiving the Monetary Limits On Municipal Tort Liability
- f. Approve Cooperative Agreement for Trail Maintenance
- g. Adopt Resolution 20-18 Supporting Infrastructure Accountability

7. Public Hearings

- a. Capital Improvement Plan
 - i. Resolution 20-19 Adopting Capital Improvement And Street Reconstruction Plans And Authorizing The Issuance And Sale Of Bonds Therefor

8. General Business

- a. Concurrence with Award of Contract by Scott County for CSAHs 2 and 91 Roundabout Project
- b. Lighting Agreements for CSAHs 2 and 91 Roundabout Project
- c. Police Department Addition

9. Reports

- a. Administration
- b. Public Works
 - i. Monthly Report - February 2020
- c. Police Department
 - i. Monthly Report – February 2020
- d. Fire Department
- e. Engineering
- f. Community Development
- g. Parks Department
 - i. Monthly Parks & Recreation Update – February 2020
- h. Community & Civic Events Committee (CCEC)
- i. Other Committee and Board Reports
 - i. Scott County Association for Leadership and Efficiency (SCALE)
 - Executive Committee
 - Service Delivery Committee
 - Unified Transit Plan Steering Committee
 - ii. Minnesota Valley Transit Authority (MVTA)
 - iii. I35 Solutions Alliance
 - iv. Chamber of Commerce

10. Discussion by Council

11. Adjournment

1) CALL TO ORDER

The meeting was called to order by Mayor Julius at 6:00 p.m.

Members Present: Mayor Julius, Councilmembers: Timmerman and Novak

Members Absent: Councilmembers Berg and Seepersaud

Also Present: City Administrator Terry, Police Chief Juell, City Attorney Poehler,
Community Development Specialist Christianson and City Engineer Revering

2) PLEDGE OF ALLEGIANCE

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

3) ADOPT/APPROVE AGENDA

City Administrator/Clerk Terry amended the following changes to the Consent Agenda:

- Check number 40716 should be voided.
- The amount of check number 40739 should be corrected to \$5447.00.
- The amount of check number 40721 should be corrected to \$377.92.
- Change job description in Item G should be changed to a nonexempt position.

MOTION by Councilmember Timmerman, second by Councilmember Novak to approve the agenda as amended.

APIF, MOTION CARRIED

4) PRESENTATION, PROCLAMATIONS AND ACKNOWLEDGEMENTS (PP&A)

None.

5) PUBLIC COMMENT

Scott County Commissioner Tom Wolf updated Council on the following:

- Noted that the Presidential Nomination Primary to be held on March 3, 2020
- Provided Scott County Administration Building Construction update

6) CONSENT AGENDA

MOTION by Councilmember Timmerman, second by Councilmember Novak to approve Consent Agenda as amended.

- a) Approve February 13, 2020 Minutes of the City Council Meeting
- b) Approve Payment of Claims and Electronic Transfer of Funds
- c) Award Contract for Webster Wetland Enhancement Project
- d) Adopt Resolution 20-15 Accepting Donation from Elko New Market Fire Relief Association
- e) Adopt Resolution 20-16 Amending the Bylaws of the Elko New Market Firefighters Relief Association
- f) Authorize Purchase of SCBAs

- g) Approve Job Descriptions, Amend Salary Schedule and Authorize Hire of Recreational Specialist and Assistant to the City Administrator
- h) Approve First Amendment to Construction Cooperative Agreement for CSAH 2/91 Roundabout Project

APIF, MOTION CARRIED

7) PUBLIC HEARINGS

None.

8) GENERAL BUSINESS

None.

9) REPORTS

- a) Administration

Fourth Quarter Financial Report included in Packet.

Mayor Julius inquired about the insurance premium for the City in the report.

- b) Public Works

None.

- c) Police Department

Police Department 2019 Annual Report included in Packet.

Police Chief Juell presented the Annual Report to the Council for 2019.

- d) Fire Department

None.

- e) Engineering

None.

- f) Community Development

Discussion Regarding Structure of Trunk Sanitary Sewer and Water Fees

Community Development Specialist Christianson presented to Council how developer trunk fees are currently charged in Elko New Market and suggested how the current fee structure could be converted to a per-acre trunk fee rather than a per-SAC unit trunk fee for water and sanitary sewer. The suggested per-acre fee was calculated by City Engineer Rich Revering.

Mr. Kevin Obrien from Greystone Development addressed the Council and stated that working with Elko New Market has been a great experience, and that the City's current fee structure has been very confusing on his current project, Elko New Market Commerce Center. He supported the City revising the fee schedule to reflect per-acre trunk fees.

The City Council agreed with Staff's recommendations to amend the City's fee schedule to reflect a per-acre trunk fee rather than a per-SAC unit trunk fee for water and sanitary

sewer. The City Council also recommended amending the development agreement for Elko New Market Commerce Center to reflect the new fee structure, should it be a benefit to the developer.

Community Development Updates

Community Development Specialist Christianson updated Council on Community Development Updates that were found in the Report.

- g) Parks Department
Written Draft Parks & Recreation Commission Minutes of February 11, 2020 Meeting included in packet.
- h) Community & Civic Events Committee (CCEC)
Written Draft Community & Civic Events Committee Minutes of the February 18, 2020 Meeting included in packet.
City Administrator/Clerk Terry updated Council that the February 18, 2020 CCEC meeting was planning the Egg Hunt.
- i) Other Committee and Board Reports
Scott County Association for Leadership and Efficiency (SCALE)
Mayor Julius updated Council on last SCALE meeting was a presentation on flavored tobacco and vaping.
 - Service Delivery Committee
City Administrator/Clerk Terry updated Council that the Service Delivery Committee is looking at improvements and efficiencies in the Fire Service within the County.
 - Unified Transit Plan Steering Committee
City Administrator/Clerk Terry updated Council on last Transit Plan Steering Committee that the last included a presentation on transit along the 169 corridor and the Park and Rides within the Scott County area. Upcoming meetings should have more discussion regarding transit along I35.

Minnesota Valley Transit Authority (MVTA)

Councilmember Novak updated Council that the last meeting was held at the Horse and Hunt Club and focused on Community Outreach and Education. Next meeting will be on March 25, 2020

I35 Solutions Alliance

None.

Chamber of Commerce

None.

10) DISCUSSION BY COUNCIL

None.

11) ADJOURNMENT

MOTION by Councilmember Timmerman, second by Councilmember Novak to adjourn the meeting at 7:18 p.m.

Respectfully submitted by

Lynda Jirak, Deputy Clerk



STAFF MEMORANDUM

SUBJECT:	Presentation of Elko New Market Claims and Electronic Transfer of Funds
MEETING DATE:	March 12, 2020
PREPARED BY:	Stephanie Fredrickson, Administrative Assistant
REQUESTED ACTION:	Approve Payment of Current Claims

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

A detail listing of work performed is being provided below for invoices by Consultants of City of Elko New Market. The invoices below are included for payment on the attached Check Summary Register.

Bolton & Menk, Inc.	<u>Amount</u>
• Wastewater General:	\$1,033.07
• Stormwater General	\$694.15
• Water General	\$446.15
• Streets General	\$13,911.84
• Woodcrest Sanitary Sewer	\$1,382.00
• Boulder Heights	\$2,241.00
• Pete's Hill	\$91.50
• Adelman AUAR	\$1,128.00
• Webster Wetland	\$7,413.60
• Park I-35 Utility Extensions	\$695.00
• <u>Stand-by Lift Stations</u>	<u>\$134.23</u>
Total	\$29,170.54

BUDGET IMPACT:

Budgeted

Attachments:

- Check Summary Register

Check Summary Register©*March 12, 2020**

Name	Check Date	Check Amt	
AUTOPAYS			
Paid Chk# 006604	EVANTAGEPOINT TRANSFER	2/20/2020	\$565.00 ICMA PR4 Pre-Tax
Paid Chk# 006605	EVANTAGEPOINT TRANSFER	2/20/2020	\$245.00 ICMA PR4 Roth
Paid Chk# 006606	MINNESOTA ENERGY RESOURCES	3/18/2020	\$272.32 26518 France Avenue
Paid Chk# 006607	MINNESOTA ENERGY RESOURCES	3/18/2020	\$54.05 26518 France Avenue
Paid Chk# 006608	EMN VALLEY ELECTRIC COMPANY	3/9/2020	\$32.06 City of Elko Park, Elko
Paid Chk# 006609	EMN VALLEY ELECTRIC COMPANY	3/22/2020	\$1,445.14 Streetlights, Elko
Paid Chk# 006610	EMN VALLEY ELECTRIC COMPANY	3/9/2020	\$75.34 Glenborough Dr & Chowen
Paid Chk# 006611	EMN VALLEY ELECTRIC COMPANY	3/22/2020	\$34.70 27059 Beard Ave Lift Pump
Paid Chk# 006612	MINNESOTA ENERGY RESOURCES	3/18/2020	\$655.72 PW Facility - Gas Utilities
Paid Chk# 006613	MINNESOTA ENERGY RESOURCES	3/17/2020	\$796.52 25499 Natchez Ave - WTP
Paid Chk# 006614	EPSN	3/3/2020	\$1,174.70 Credit Card Processing Fees
Paid Chk# 006615	EXCEL ENERGY	3/23/2020	\$271.54 Storage
Paid Chk# 006616	EXCEL ENERGY	3/24/2020	\$159.86 Lift Station / 10010 Ptarmigan
Paid Chk# 006617	EXCEL ENERGY	3/24/2020	\$866.65 Wellhouse - 26460 France Ave
Paid Chk# 006618	EXCEL ENERGY	3/24/2020	\$916.93 26536 France Ave
Paid Chk# 006619	EXCEL ENERGY	3/24/2020	\$555.87 Library - 100 J Roberts Way
Paid Chk# 006620	MINNESOTA ENERGY RESOURCES	3/19/2020	\$20.94 408 Carter Street
Paid Chk# 006621	MINNESOTA ENERGY RESOURCES	3/19/2020	\$19.33 359 James Parkway
Paid Chk# 006622	MINNESOTA ENERGY RESOURCES	3/19/2020	\$222.73 110 J Roberts Way - Library
Paid Chk# 006623	MINNESOTA ENERGY RESOURCES	3/19/2020	\$32.42 26518 France Avenue
Paid Chk# 006624	PERA	3/5/2020	\$9,616.49 PERA Payroll Liability
Paid Chk# 006625	EMN DEPT OF REVENUE	3/5/2020	\$2,234.82 Payroll Liability
Paid Chk# 006626	INTERNAL REVENUE SERVICE	3/5/2020	\$11,066.22 Payroll Liability
TOTAL			\$31,334.35

PRE-PAIDS

Paid Chk# 040747	CITY OF NEW PRAGUE	2/26/2020	\$200.00 Purchase of plotter/printer
Paid Chk# 040748	CUSTOM FIRE APPARATUS, INC.	2/26/2020	\$53,045.50 Chassis for new FD truck
Paid Chk# 040749	CRAIG RAPP, LLC	2/26/2020	\$1,175.00 Compass Peer Group- Tom
TOTAL			\$54,420.50

CHECK REGISTER

Paid Chk# 040750	ALLENS SERVICE, INC.	3/12/2020	\$300.00 PW - Fleet Maint & Equip
Paid Chk# 040751	AMEEN, ALIZA	3/12/2020	\$28.75 Election Judge Mileage
Paid Chk# 040752	APPLE FORD LINCOLN	3/12/2020	\$302.59 PD - Fleet Maint
Paid Chk# 040753	ASPEN MILLS	3/12/2020	\$245.10 FD - Uniforms
Paid Chk# 040754	BOLTON & MENK	3/12/2020	\$29,170.54 Streets General
Paid Chk# 040755	BURNET TITLE	3/12/2020	\$64.26 Utility Billing Credit Refund
Paid Chk# 040756	CAVANAUGH, DEREK	3/12/2020	\$240.00 PW - 2020 Boots Allowance
Paid Chk# 040757	CINTAS CORPORATION NO. 2	3/12/2020	\$31.91 PW UNIFORMS
Paid Chk# 040758	CLAUSEN, LORI	3/12/2020	\$28.75 Election Judge Mileage
Paid Chk# 040759	D'AGOSTA, CONNIE	3/12/2020	\$28.75 Election Judge Mileage
Paid Chk# 040760	FASTENAL COMPANY	3/12/2020	\$97.19 Building Maint
Paid Chk# 040761	FITTERER, JOSEPH	3/12/2020	\$75.75 PD Fleet - DMV Tabs/Licensing
Paid Chk# 040762	FORCE AMERICA DISTRIBUTING LLC	3/12/2020	\$256.22 PW - Fleet Maint & Equip
Paid Chk# 040763	GALLS, LLC	3/12/2020	\$165.56 PD - Uniforms
Paid Chk# 040764	GREAT LAKES MANAGEMENT	3/12/2020	\$225.00 Library - Quarterly Mgmt - 1st
Paid Chk# 040765	HALVERSON, HERMAN	3/12/2020	\$28.75 Election Judge Mileage
Paid Chk# 040766	HAWKINS, INC.	3/12/2020	\$30.00 PW - Water Chemicals
Paid Chk# 040767	HIRERIGHT, LLC	3/12/2020	\$47.39 Background Svcs
Paid Chk# 040768	HOFER, DARWIN	3/12/2020	\$57.50 Election Judge Mileage
Paid Chk# 040769	HUMPHREY, THOMAS	3/12/2020	\$28.75 Election Judge Mileage
Paid Chk# 040770	INDELCO PLASTICS CORPORATION	3/12/2020	\$492.81 PW - Water Repairs
Paid Chk# 040771	INNOVATIVE OFFICE SOLUTIONS LL	3/12/2020	\$164.79 Office Supplies
Paid Chk# 040772	IUOE LOCAL #49	3/12/2020	\$175.00 Membership Dues - PW
Paid Chk# 040773	JEFFERSON FIRE & SAFETY, INC.	3/12/2020	\$7,581.25 FD - Small Tools
Paid Chk# 040774	JIRAK, LYNDIA	3/12/2020	\$90.62 Food for Election Judges 3/3/20
Paid Chk# 040775	LUXMORE, ERIC & CRYSTAL	3/12/2020	\$144.65 Utility Billing Credit Refund
Paid Chk# 040776	MCKESSON MEDICAL - SURGICAL	3/12/2020	\$110.80 FD - Medical Expenses
Paid Chk# 040777	MENARDS - DUNDAS	3/12/2020	\$78.65 Building Maint
Paid Chk# 040778	MINNESOTA TITLE	3/12/2020	\$14.56 Utility Billing Credit Refund
Paid Chk# 040779	MN CRITTER GETTERS, INC.	3/12/2020	\$1,200.00 Monthly Animal Control - Feb 20
Paid Chk# 040780	MN RURAL WATER ASSOCIATION	3/12/2020	\$1,330.00 Annual Membership Dues
Paid Chk# 040781	MSSA	3/12/2020	\$100.00 Membership Dues - Corey
Paid Chk# 040782	NAPA AUTO PARTS	3/12/2020	\$66.31 PW - Fleet Maint & Equip
Paid Chk# 040783	QUILL CORPORATION	3/12/2020	\$183.30 Operating Supplies
Paid Chk# 040784	ROBERT MCNEARNEY HOMES	3/12/2020	\$0.61 Overpayment of B07-20 permit

Check Summary Register©*March 12, 2020**

	Name	Check Date	Check Amt	
Paid Chk#	040785 SCHLOMKAS PORTABLE	3/12/2020	\$420.00	Portable Restrooms
Paid Chk#	040786 SCOTT COUNTY TREASURER	3/12/2020	\$2,000.00	2020 SCALE Annual Fee
Paid Chk#	040787 SCOTT COUNTY RECORDER	3/12/2020	\$138.00	Recording Fence Encroachment Agmts
Paid Chk#	040788 SHRED RIGHT	3/12/2020	\$15.40	Shredding
Paid Chk#	040789 SUEL PRINTING COMPANY	3/12/2020	\$707.00	Legal Ads
Paid Chk#	040790 SUTTON, MIKE	3/12/2020	\$28.75	Election Judge Mileage
Paid Chk#	040791 TIM'S SMALL ENGINE SERVICE	3/12/2020	\$899.83	PW - Fleet Maint & Equip
Paid Chk#	040792 TRI-STATE BOBCAT	3/12/2020	\$192.26	PW - Fleet Maint & Equip
Paid Chk#	040793 VANGUARD/SPLIT ROCK MGMT INC	3/12/2020	\$845.00	Cleaning
Paid Chk#	040794 VERIZON WIRELESS	3/12/2020	\$926.13	Cell Phones
Paid Chk#	040795 WAGNER, LEANDER	3/12/2020	\$5.18	Election Judge Mileage
Paid Chk#	040796 WAHL, JOYCE	3/12/2020	\$63.25	Election Judge Mileage
Paid Chk#	040797 WATCHGUARD VIDEO	3/12/2020	\$110.00	PD - Body Camera Docking Station
Paid Chk#	040798 ZIEGLER INC.	3/12/2020	\$10,350.00	Replacement of 242D & 257D Skid
TOTAL			\$59,886.91	

DIRECT DEPOSIT

Paid Chk#	503121EBi-Weekly ACH	3/5/2020	\$35,129.67	
TOTAL			\$35,129.67	



STAFF MEMORANDUM

SUBJECT: Appointment of Fire Department Officers
MEETING DATE: March 12, 2020
PREPARED BY: Lynda Jirak, Deputy Clerk
REQUESTED ACTION: Adopt Resolution 20-17 Appointing Fire Captains and Fire Lieutenants

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

Officers within the Fire Department serve a term of three years. Sections 1.5.4 and 1.5.5 of the Fire Department Policy and Procedure Manual requires that the position for the Fire Captains and Fire Lieutenants be posted in January of the last year of the term. Appointments are effective beginning April 1st. Both positions were posted and applications were received from two firefighters holding the position of Fire Captain and three firefighters for the position of Fire Lieutenant.

DISCUSSION

Per Sections 1.5.4 and 1.5.5 of the Fire Department Policy and Procedure Manual, a panel consisting of the Fire Chief and Assistant Fire Chief shall review applications to ensure applicants to be interviewed meet the minimum qualifications for the position and conduct interviews for the selection of Fire Captains and Fire Lieutenants. The panel members recommended that interviews were not necessary for the Fire Captain positions given the circumstances and recommended reappointment of Bob Bright and Kevin Seurer as Fire Captains. The Interview Panel held interviews on February 27, 2020 and March 2, 2020 for the Fire Lieutenant's positions.

Council is being asked to adopt Resolution 20-17 appointing Bob Bright and Kevin Seurer as Fire Captains and reappointing Joshua Wichner and Joe Fitterer as Fire Lieutenants based on the recommendation of the Interview Panel. Fire Captain and Fire Lieutenant positions are for a three year term beginning on April 1, 2020 and ending on March 31, 2023 or until a replacement is appointed.

Attachments:

Resolution 20-17 appointing Bob Bright and Kevin Seurer as Fire Captains and appointing Joshua Wichner and Joe Fitterer as Fire Lieutenants.

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

**RESOLUTION NO. 20-17 APPOINTING FIRE CAPTAINS
AND FIRE LIEUTENANTS**

WHEREAS, the term of Fire Captain and Fire Lieutenant expire March 31, 2020; and

WHEREAS, the City Council for the City of Elko New Market is authorized to appoint officers to the Elko New Market Fire Department; and

WHEREAS, Bob Bright and Kevin Seurer have been recommended for appointment to the Fire Department as Fire Captains and desire the appointment;

WHEREAS, Joshua Wichner and Joe Fitterer have been recommended for appointment to the Fire Department as Fire Lieutenants and desire the appointment;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Elko New Market, Minnesota:

Bob Bright and Kevin Seurer are hereby appointed as Elko New Market Fire Captains for a term beginning April 1, 2020 and ending on March 31, 2023 or until a replacement is appointed.

Joshua Wichner and Joe Fitterer are hereby appointed as Elko New Market Fire Lieutenants for a term beginning April 1, 2020 and ending on March 31, 2023 or until a replacement is appointed.

ADOPTED this 12th day of March, 2020 by the City Council of the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator/Clerk



STAFF MEMORANDUM

SUBJECT:	Elko New Market/Scott County Spring Cleanup Agreement
MEETING DATE:	March 12, 2020
PREPARED BY:	Mark Nagel, Assistant City Administrator
REQUESTED ACTION:	Approve Recycling Program Agreement with Scott County

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:

The Annual Spring Cleanup tentatively scheduled to be held on Saturday, June 6, 2020, from 8:00 AM to 11:30 AM at City Hall. This will be the thirteenth (13th) Annual Dropoff Day for the City of Elko New Market and the 8th year that New Market Township has jointly participated in the Spring Cleanup. In 2018, Staff instituted changes in operating Dropoff Day to reduce expenses, which resulted in a positive balance of \$672.33 for the 2019 Recycling – the first time that this has occurred in the provision of this service.

Each year, Staff has applied for and received funding through Scott County for this purpose to help offset the cost of providing this service to residents and for the past eight (8) years, the City and New Market Township have worked cooperatively on provision of this program to residents of both the City and the Township.

DISCUSSION:

The City has never charged New Market Township residents a higher fee for participating in a City-sponsored Dropoff Day. In exchange for that policy, New Market Township decided to join our Dropoff Day event eight (8) years ago when Scott County agreed to allow the Township's allocation to be used for holding the City's Annual Dropoff Day, which brought in additional grant money for this event. Added to the city's reimbursement of \$1,037.10, the total grant provided by Scott County was \$1,905.18 for the 2019 event. Unfortunately, the one-time grant of \$2,000 Staff applied for, and received, to collect tires, batteries, and carpeting is not available for 2020. As a result, the grant amount for 2020 is \$3,253.12, which is lower than the total contract amount for 2019 of \$3,905.18. Still, these additional funds go a long way to helping the City at least break even on funding this service.

Once the City holds the Recycling Day and completes a report, then this Agreement with Scott County allows Elko New Market to receive both our reimbursement of eligible expenses and New Market Township's portion, as well, for a total reimbursement of \$3,253.12 upon signature and submission of the attached Agreement.

Staff is recommending the Mayor and City Administrator be authorized to sign that attached Recycling Program Agreement with Scott County.

BUDGET IMPACT:

Reimbursement from Scott County in the amount of \$3,253.12 for expenses related to the City/Township Annual Recycling Day for residents of Elko New Market and New Market Township.

Attachments:

- 2020 Recycling Agreement with Scott County



SCOTT COUNTY
Environmental Services

GOVERNMENT CENTER 114 · 200 FOURTH AVENUE WEST · SHAKOPEE, MN 55379-1220
(952) 496-8177 · Fax (952) 496-8496 · Web www.scottcountymn.gov

February 25, 2020

Mark Nagel
Assistant City Administrator
601 Main St. P.O. Box 99
Elko New Market, MN 55054

Dear Mr. Nagel:

This letter is in response to your decision to participate in Scott County's sub-grant program for your City's One Day Clean-up and Recycling event. The amount of funding available to each City and/or Township is based on population, number of events, and items you indicated you would accept and recycle.

The amount of funding available to the City of Elko New Market this year is \$3,253.12. This amount includes the funding allocated to you from your partnering community of New Market Township. You will be receiving two (2) Recycling Program Agreements that require signatures to be returned to this office, one of which will be returned later for your records.

The City is responsible to acknowledge Scott County and the participating Township(s) in all advertisements and invite the Township residents to participate in the events. Any municipal solid waste (MSW) and/or construction and demolition waste (C&D) collected at your collection day event that requires landfilling will not be funded with this county sub-grant program. Costs associated with landfilled MSW or C&D such as advertising, supplies, equipment, and labor are also not reimbursable and must be broken down on the after the collection report.

When all your events are completed for the year please submit the attached "**After the Collection Report Form**", a copy of all advertisements sent to city and participating township residents (newspaper, social media, utility bill, etc.), and copies of any invoices and receipts for expenses to our office within 90 days of your city's last event. All required documentation is required before your reimbursement check can be issued.

If you have any questions or concerns please feel free to call me at (952) 496-8707.

Sincerely,

Nicholas A. Reishus
Recycling and Solid Waste Program
Scott County Environmental Services

**COUNTY OF SCOTT
RECYCLING PROGRAM AGREEMENT**

THIS AGREEMENT, by and between the County of Scott, Minnesota, a municipal corporation, hereinafter referred to as the "County," and **City of Elko New Market, 601 Main St. Elko New Market, MN 55054** a municipal corporation, hereinafter referred to as "Provider."

RECITALS:

- a. Pursuant to Minn. Stat. Sec. 373.01, subd. 1(a)(5), each County is a body politic and corporate and may make all contracts and do all other acts in relation to the property and concerns of the County necessary to the exercise of its corporate powers.
- b. The purpose of this Agreement is to establish a mechanism for distribution of funds obtained from the Minnesota Pollution Control Agency for a "clean-up day" to be held by the City in accordance with funding requirements for implementation and/or enhancement of recycling programs in cities and townships within Scott County, consistent with the County Solid Waste Master Plan.
- c. Minn. Stat. Sect. 473.8441, establishes the Local Recycling Development Program, providing grants to counties to be distributed by the Minnesota Pollution Control Agency.
- d. Minn. Stat. Sect. 115A.557, establishes the County Waste Reduction and Recycling Funding program and the framework for funds to be distributed by the Minnesota Pollution Control Agency.
- e. Scott County has received funding from the Minnesota Pollution Control Agency, identified as Local Recycling Development Grant.
- f. These funds are to be used for the activities specified in the Minnesota Pollution Control Agency Grant Agreement.
- g. The City intends to administer a city-wide recycling day which would qualify for receiving funds.

NOW THEREFORE, in consideration of the mutual undertakings and agreement contained within this agreement, the county and Provider hereby agrees as follows:

1. **Compensation and Terms of Payment**

a. Compensation

The County shall pay to the City a percentage of the grant money available through the County for its one-day city wide clean up on April 25, 2020. The amount of funds available for each Scott County municipality and township is based upon population and a formulation used by the County to determine

shares due to municipalities under the program. This funding is to be used for the development and/or enhancement of recycling programs.

The maximum amount of grant payment available to the City under this Agreement is **Three-Thousand, Two-Hundred, Fifty-Three and 12/100 Dollars (\$3,253.12)**.

b. **Terms of Payment**

1. The County shall reimburse the City in one lump sum for actual expenditures used for the collection of recyclable material up to the maximum payment available when the City has met the requirements as specified in section 3 of this Agreement.
2. In the event that another jurisdiction participates with the City event, it shall submit a resolution from its governing body approving such involvement. The County shall then transfer and remit the participating jurisdiction's allocated share in the program funding to the City with the City's share. If any portion of the funding is to go to the participating jurisdiction, it shall be the City's responsibility to ensure such payment is made.

2. Condition of Payment

All services provided by Provider pursuant to this agreement shall be performed to the satisfaction of the County, and in accordance with all applicable federal, state and local laws, ordinances, rules and regulations. Payment shall be withheld for work found by the County to be unsatisfactory, or performed in violation of federal, state and local laws, ordinances, rules or regulations.

3. Scope of Services

A. The City shall organize and facilitate a one-day clean up wherein it shall collect materials from residents.

B. The City is further is obligated and agrees to the following:

1. A written report shall be submitted to the County within sixty (60) days of the event, identifying the quantities of materials recycled, the facility to which they were delivered and processed, including actual expenditures and revenues.
2. Only expenditures used for the collection of recyclable material, which results in waste reduction, are eligible for reimbursement from the County's Local Recycling Development Grant. Any solid waste land filled is not included as reimbursable expenditures.
3. The City shall advertise any neighboring jurisdiction's participation and allow its residents to participate in the collection. In the event that a neighboring jurisdiction participates with the City's event, the City shall

provide the Authorized Agent of Scott County a copy of any and all such advertisements.

4. Effective Date of Contract

This Agreement shall be effective upon execution by all parties to the Agreement.

5. Term of Contract

This Agreement shall remain in effect until December 31, 2020 or until all obligations set forth in this Agreement have been satisfactorily fulfilled or unless earlier terminated as provided in section 13 of this Agreement.

6. Authorized Agents

Scott County shall appoint an authorized agent for the purpose of administration of this Agreement. The City is notified of the authorized agent of Scott County as follows:

Mandy Flum
Scott County Program Specialist
600 Country Trail E.
Jordan, MN 55352
(952) 496-8043
aflum@co.scott.mn.us

The County is notified the authorized agent for the City is as follows:

Mark Nagle
Assistant City Administrator
601 Main St. P.O. Box 99
Elko New Market, MN 55054

7. County and State Audit

Pursuant to Minn. Stat. Section 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices of Provider relative to this agreement shall be subject to examination by the County and the State Auditor. Complete and accurate records of the work performed pursuant to this agreement shall be kept by Provider for a minimum of six (6) years following termination of this agreement for such auditing purposes. The retention period shall be automatically extended during the course of any administrative or judicial action involving the County regarding matters to which the records are relevant. The retention period shall be automatically extended until the administrative or judicial action is finally completed or until the authorized agent of the County notifies Provider in writing that the records need no longer be kept.

8. Indemnity

All parties to this Agreement recognize each other as a political subdivision of the State of Minnesota. Each party mutually agrees to indemnify, defend and hold harmless the other from any claims, losses, costs, expenses or damages resulting from the acts or omissions of the respective officers, agents, or employees relating to activities conducted by either party under this Agreement. Each party's obligation to indemnify the other for all claims arising from a single occurrence under this clause shall be limited in accordance with the statutory tort liability limitation as set forth in Minn. Stat. Sec. 466.04.

9. Insurance

Each Party shall maintain public liability coverage protecting itself, its Board, officers, agents, employees and duly authorized volunteers against any usual and customary public liability claims in amounts which shall, at a minimum, comply with Minn. Stat. Sec. 466.04 and Workers' Compensation and shall be in accordance with the Minnesota statutory requirements. Said policies shall be kept in effect during the entire term of this Agreement.

10. Subcontracts

Provider shall not subcontract any portion of the work to be performed under this agreement nor assign this agreement without the prior written approval of the authorized agent of the County. Provider shall ensure and require that any subcontractor agrees to and complies with all of the terms of this agreement. Any subcontractor of Provider used to perform any portion of this agreement shall report to and bill Provider directly. Provider shall be solely responsible for the breach, performance or nonperformance of any subcontractor.

11. Force Majeure

County and Provider agree that Provider shall not be liable for any delay or inability to perform this agreement, directly or indirectly caused by, or resulting from, strikes, labor troubles, accidents, fire, flood, breakdowns, war, riot, civil commotion, lack of material, delays of transportation, acts of God or other cause beyond reasonable control of Provider and the County.

12. Data Practices

Provider, its agents, employees and any subcontractors of Provider, in providing all services hereunder, agree to abide by the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as amended, and Minn. Rules promulgated pursuant to Ch. 13. Provider understands that it must comply with these provisions as if it were a government entity. Provider agrees to indemnify and hold the County, its officers, department heads and employees harmless from any claims resulting from Provider's unlawful disclosure, failure to disclose or use of data protected under state and federal laws.

13. Termination

This agreement may be terminated by either party, with or without cause upon thirty days (30) days written notice to the authorized agent of Provider or the authorized agent of the County.

14. Independent Contractor

It is agreed that nothing contained in this agreement is intended or should be construed as creating the relationship of a partnership, joint venture, or association with the County and Provider. Provider is an independent contractor, and it, its employees, agents, subcontractors, and representatives shall not be considered employees, agents or representatives of the County. Except as otherwise provided herein, Provider shall maintain, in all respects, its present control over the means and personnel by which this agreement is performed. From any amounts due Provider, there shall be no deduction for federal income tax, FICA payments, state income tax, or for any other purposes which are associated with an employer/employee relationship unless otherwise required by law. Payment of federal income tax, FICA payments, state income tax, unemployment compensation taxes, and other payroll deductions and taxes are the sole responsibility of Provider.

15. Notices

Any notices to be given under this agreement shall be given by enclosing the same in a sealed envelope, postage prepaid, and depositing the same with the United States Postal Service, addressed to the authorized agent of Provider, at its address stated herein, or to the authorized agent of the County at the address stated herein.

16. Controlling Law

The laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this agreement, the legal relations between the parties and performance under the agreement. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located within the County of Scott, State of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the State of Minnesota.

17. Successors and Assigns

The County and Provider, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this agreement. Neither the County nor Provider shall assign, sublet, or transfer any interest in this agreement without the prior written consent of the other.

18. Equal Employment and Americans with Disabilities

In connection with the work under this agreement, Provider agrees to comply with the applicable provisions of state and federal equal employment opportunity and nondiscrimination statutes and regulations. In addition, upon entering into this agreement, Provider certifies that it has been made fully aware of Scott County's

Equal Employment Opportunity and Americans With Disabilities Act Policy, attached hereto and incorporated herein as **Exhibit A** through both oral and written communications, that it supports this policy and that it will conduct its own employment practices in accordance therewith. Failure on the part of Provider to conduct its own employment practices in accordance with County Policy may result in the withholding of all or part of regular payments by the County due under this agreement unless or until Provider complies with the County policy, and/or suspension or termination of this agreement.

19. Changes/Amendments

The parties agree that no change or modification to this agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this agreement. The execution of the change shall be authorized and signed in the same manner as this agreement, or according to other written policies of the original parties.

20. Severability

In the event any provision of this agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties unless such invalidity or non-enforceability would cause the agreement to fail its purpose. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

21. Entire Agreement

It is understood and agreed that the entire agreement of the parties is contained herein and that this agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the County and Provider relating to the subject matter hereof.

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

CITY OF ELKO NEW MARKET

(SEAL)



By _____
Joe Julius, Mayor

And _____
Mark Nagle, Assistant City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____
Kate Sedlacek,
Environmental Services Manager

Date _____

APPROVED AS TO FORM:

By _____
Jeanne Andersen,
Assistant County Attorney

Date _____

EXHIBIT A

POLICY STATEMENT

It is the policy of Scott County Government to provide Equal Opportunity to all employees and applicants for employment in accordance with all applicable Equal Employment Opportunity laws, directives, and regulations of Federal, State, and local governing bodies or agencies thereof, including Minnesota Statutes, Chapter 363A.

Scott County will not engage in any employment practices which discriminate against or harass any employee or applicant for employment because of race, color, creed, religion, national origin, sex, disability, age, marital status, sexual orientation, or status with regard to public assistance. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Further, Scott County fully supports incorporation of nondiscrimination rules and regulations into contracts and will commit the necessary time and resources to achieve the goals of Equal Employment Opportunity.

Any employee of the County who does not comply with the Equal Employment Opportunity Policies and Procedures set forth in this Statement and Plan will be subject to disciplinary action. Any subcontractor of the County not complying with all applicable Equal Employment Opportunity laws, directives, and regulations of Federal, State, and local governing bodies or agencies thereof, including Minnesota Statutes, Chapter 363A, will be subject to appropriate contractual sanctions.

Scott County has designated the Employee Relations Director as the manager of the Equal Opportunity Program. These responsibilities will include monitoring all Equal Employment Opportunity activities and reporting the effectiveness of this program, as required by Federal, State, and local agencies. The Scott County Administrator will receive and review reports on the progress of the program. If any employee or applicant for employment believes he or she has been discriminated against, please contact the Scott County Employee Relations Director, Scott County Employee Relations, Government Center Room 201, 200 Fourth Avenue West, Shakopee, Minnesota 55379-1220, or call (952) 496-8103.


Lezlie A. Vermillion
Scott County Administrator

1-8-19
Date


Barb Weckman Brekke
Chair, Board of Commissioners

1-8-19
Date

**COUNTY OF SCOTT
RECYCLING PROGRAM AGREEMENT**

THIS AGREEMENT, by and between the County of Scott, Minnesota, a municipal corporation, hereinafter referred to as the "County," and **City of Elko New Market, 601 Main St. Elko New Market, MN 55054** a municipal corporation, hereinafter referred to as "Provider."

RECITALS:

- a. Pursuant to Minn. Stat. Sec. 373.01, subd. 1(a)(5), each County is a body politic and corporate and may make all contracts and do all other acts in relation to the property and concerns of the County necessary to the exercise of its corporate powers.
- b. The purpose of this Agreement is to establish a mechanism for distribution of funds obtained from the Minnesota Pollution Control Agency for a "clean-up day" to be held by the City in accordance with funding requirements for implementation and/or enhancement of recycling programs in cities and townships within Scott County, consistent with the County Solid Waste Master Plan.
- c. Minn. Stat. Sect. 473.8441, establishes the Local Recycling Development Program, providing grants to counties to be distributed by the Minnesota Pollution Control Agency.
- d. Minn. Stat. Sect. 115A.557, establishes the County Waste Reduction and Recycling Funding program and the framework for funds to be distributed by the Minnesota Pollution Control Agency.
- e. Scott County has received funding from the Minnesota Pollution Control Agency, identified as Local Recycling Development Grant.
- f. These funds are to be used for the activities specified in the Minnesota Pollution Control Agency Grant Agreement.
- g. The City intends to administer a city-wide recycling day which would qualify for receiving funds.

NOW THEREFORE, in consideration of the mutual undertakings and agreement contained within this agreement, the county and Provider hereby agrees as follows:

1. **Compensation and Terms of Payment**

a. Compensation

The County shall pay to the City a percentage of the grant money available through the County for its one-day city wide clean up on April 25, 2020. The amount of funds available for each Scott County municipality and township is based upon population and a formulation used by the County to determine

shares due to municipalities under the program. This funding is to be used for the development and/or enhancement of recycling programs.

The maximum amount of grant payment available to the City under this Agreement is **Three-Thousand, Two-Hundred, Fifty-Three and 12/100 Dollars (\$3,253.12)**.

b. **Terms of Payment**

1. The County shall reimburse the City in one lump sum for actual expenditures used for the collection of recyclable material up to the maximum payment available when the City has met the requirements as specified in section 3 of this Agreement.
2. In the event that another jurisdiction participates with the City event, it shall submit a resolution from its governing body approving such involvement. The County shall then transfer and remit the participating jurisdiction's allocated share in the program funding to the City with the City's share. If any portion of the funding is to go to the participating jurisdiction, it shall be the City's responsibility to ensure such payment is made.

2. Condition of Payment

All services provided by Provider pursuant to this agreement shall be performed to the satisfaction of the County, and in accordance with all applicable federal, state and local laws, ordinances, rules and regulations. Payment shall be withheld for work found by the County to be unsatisfactory, or performed in violation of federal, state and local laws, ordinances, rules or regulations.

3. Scope of Services

- A. The City shall organize and facilitate a one-day clean up wherein it shall collect materials from residents.
- B. The City is further is obligated and agrees to the following:
 1. A written report shall be submitted to the County within sixty (60) days of the event, identifying the quantities of materials recycled, the facility to which they were delivered and processed, including actual expenditures and revenues.
 2. Only expenditures used for the collection of recyclable material, which results in waste reduction, are eligible for reimbursement from the County's Local Recycling Development Grant. Any solid waste land filled is not included as reimbursable expenditures.
 3. The City shall advertise any neighboring jurisdiction's participation and allow its residents to participate in the collection. In the event that a neighboring jurisdiction participates with the City's event, the City shall

provide the Authorized Agent of Scott County a copy of any and all such advertisements.

4. Effective Date of Contract

This Agreement shall be effective upon execution by all parties to the Agreement.

5. Term of Contract

This Agreement shall remain in effect until December 31, 2020 or until all obligations set forth in this Agreement have been satisfactorily fulfilled or unless earlier terminated as provided in section 13 of this Agreement.

6. Authorized Agents

Scott County shall appoint an authorized agent for the purpose of administration of this Agreement. The City is notified of the authorized agent of Scott County as follows:

Mandy Flum
Scott County Program Specialist
600 Country Trail E.
Jordan, MN 55352
(952) 496-8043
aflum@co.scott.mn.us

The County is notified the authorized agent for the City is as follows:

Mark Nagle
Assistant City Administrator
601 Main St. P.O. Box 99
Elko New Market, MN 55054

7. County and State Audit

Pursuant to Minn. Stat. Section 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices of Provider relative to this agreement shall be subject to examination by the County and the State Auditor. Complete and accurate records of the work performed pursuant to this agreement shall be kept by Provider for a minimum of six (6) years following termination of this agreement for such auditing purposes. The retention period shall be automatically extended during the course of any administrative or judicial action involving the County regarding matters to which the records are relevant. The retention period shall be automatically extended until the administrative or judicial action is finally completed or until the authorized agent of the County notifies Provider in writing that the records need no longer be kept.

8. Indemnity

All parties to this Agreement recognize each other as a political subdivision of the State of Minnesota. Each party mutually agrees to indemnify, defend and hold harmless the other from any claims, losses, costs, expenses or damages resulting from the acts or omissions of the respective officers, agents, or employees relating to activities conducted by either party under this Agreement. Each party's obligation to indemnify the other for all claims arising from a single occurrence under this clause shall be limited in accordance with the statutory tort liability limitation as set forth in Minn. Stat. Sec. 466.04.

9. Insurance

Each Party shall maintain public liability coverage protecting itself, its Board, officers, agents, employees and duly authorized volunteers against any usual and customary public liability claims in amounts which shall, at a minimum, comply with Minn. Stat. Sec. 466.04 and Workers' Compensation and shall be in accordance with the Minnesota statutory requirements. Said policies shall be kept in effect during the entire term of this Agreement.

10. Subcontracts

Provider shall not subcontract any portion of the work to be performed under this agreement nor assign this agreement without the prior written approval of the authorized agent of the County. Provider shall ensure and require that any subcontractor agrees to and complies with all of the terms of this agreement. Any subcontractor of Provider used to perform any portion of this agreement shall report to and bill Provider directly. Provider shall be solely responsible for the breach, performance or nonperformance of any subcontractor.

11. Force Majeure

County and Provider agree that Provider shall not be liable for any delay or inability to perform this agreement, directly or indirectly caused by, or resulting from, strikes, labor troubles, accidents, fire, flood, breakdowns, war, riot, civil commotion, lack of material, delays of transportation, acts of God or other cause beyond reasonable control of Provider and the County.

12. Data Practices

Provider, its agents, employees and any subcontractors of Provider, in providing all services hereunder, agree to abide by the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as amended, and Minn. Rules promulgated pursuant to Ch. 13. Provider understands that it must comply with these provisions as if it were a government entity. Provider agrees to indemnify and hold the County, its officers, department heads and employees harmless from any claims resulting from Provider's unlawful disclosure, failure to disclose or use of data protected under state and federal laws.

13. Termination

This agreement may be terminated by either party, with or without cause upon thirty days (30) days written notice to the authorized agent of Provider or the authorized agent of the County.

14. Independent Contractor

It is agreed that nothing contained in this agreement is intended or should be construed as creating the relationship of a partnership, joint venture, or association with the County and Provider. Provider is an independent contractor, and it, its employees, agents, subcontractors, and representatives shall not be considered employees, agents or representatives of the County. Except as otherwise provided herein, Provider shall maintain, in all respects, its present control over the means and personnel by which this agreement is performed. From any amounts due Provider, there shall be no deduction for federal income tax, FICA payments, state income tax, or for any other purposes which are associated with an employer/employee relationship unless otherwise required by law. Payment of federal income tax, FICA payments, state income tax, unemployment compensation taxes, and other payroll deductions and taxes are the sole responsibility of Provider.

15. Notices

Any notices to be given under this agreement shall be given by enclosing the same in a sealed envelope, postage prepaid, and depositing the same with the United States Postal Service, addressed to the authorized agent of Provider, at its address stated herein, or to the authorized agent of the County at the address stated herein.

16. Controlling Law

The laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this agreement, the legal relations between the parties and performance under the agreement. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located within the County of Scott, State of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the State of Minnesota.

17. Successors and Assigns

The County and Provider, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this agreement. Neither the County nor Provider shall assign, sublet, or transfer any interest in this agreement without the prior written consent of the other.

18. Equal Employment and Americans with Disabilities

In connection with the work under this agreement, Provider agrees to comply with the applicable provisions of state and federal equal employment opportunity and nondiscrimination statutes and regulations. In addition, upon entering into this agreement, Provider certifies that it has been made fully aware of Scott County's

Equal Employment Opportunity and Americans With Disabilities Act Policy, attached hereto and incorporated herein as **Exhibit A** through both oral and written communications, that it supports this policy and that it will conduct its own employment practices in accordance therewith. Failure on the part of Provider to conduct its own employment practices in accordance with County Policy may result in the withholding of all or part of regular payments by the County due under this agreement unless or until Provider complies with the County policy, and/or suspension or termination of this agreement.

19. Changes/Amendments

The parties agree that no change or modification to this agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this agreement. The execution of the change shall be authorized and signed in the same manner as this agreement, or according to other written policies of the original parties.

20. Severability

In the event any provision of this agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties unless such invalidity or non-enforceability would cause the agreement to fail its purpose. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

21. Entire Agreement

It is understood and agreed that the entire agreement of the parties is contained herein and that this agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the County and Provider relating to the subject matter hereof.

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

CITY OF ELKO NEW MARKET

(SEAL)



By _____
Joe Julius, Mayor

And _____
Mark Nagle, Assistant City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____
Kate Sedlacek,
Environmental Services Manager

Date _____

APPROVED AS TO FORM:

By _____
Jeanne Andersen,
Assistant County Attorney

Date _____



STAFF MEMORANDUM

SUBJECT:	Insurance Liability Coverage- Waiver Form
MEETING DATE:	March 12, 2020
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:

- 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 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 waiving the monetary limits on tort liability.

BUDGET IMPACT:

None

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

Attachments:

- Insurance Liability Coverage Waiver Form

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:	Cooperative Agreement for Trail Maintenance
MEETING DATE:	March 12, 2020
PREPARED BY:	Thomas Terry, City Administrator
REQUESTED ACTION:	Approve the Cooperative Agreement for Trail Maintenance

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:

Scott County has prepared a Cooperative Agreement for Trail Maintenance between the County and all of the Cities in Scott County for a five (5) year County led trail maintenance program (“CLTMP”) on trails along County Highways located within the City jurisdictions. Pursuant to the Agreement, the County and the Cities agree to share in the cost of work covered under that plan equally between the impacted City jurisdiction and the County.

The County will for itself and on behalf of the Cities, annually prepare all bidding documents and conduct bidding services pursuant to Local and State laws for the trail maintenance services that are needed and/or desired by the Parties.

DISCUSSION:

The City Council is being asked to approve the Cooperative Agreement for Trail Maintenance. The estimated total cost of the City’s share of Trail Preventative Maintenance Program for work in 2021 and 2022 is \$7,157.47.

Trail Preventative Maintenance Program									
	2020 (Estimated Cost) *			2021 (Estimated Cost) *			2022 (Estimated Cost) *		
	Total Square Yards	Total in Cost Per City	Agency's Share (50%)	Total Square Yards	Total in Cost in Each City	Agency's Share (50%)	Total Square Yards	Total in Cost in Each City	Agency's Share (50%)
Shakopee	44,740.00	\$53,688.00	\$26,844.00	55,569.67	\$66,683.60	\$33,341.80	36,773.00	\$44,127.60	\$22,063.80
Savage	9,685.00	\$11,622.00	\$5,811.00	0.00	\$0.00	\$0.00	5,867.00	\$7,040.40	\$3,520.20
Prior Lake	16,930.78	\$20,316.93	\$10,158.47	25,721.67	\$30,866.00	\$15,433.00	26,827.00	\$32,192.40	\$16,096.20
New Prague	2,613.33	\$3,136.00	\$1,568.00	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00
Belle Plaine	2,864.44	\$3,437.33	\$1,718.67	3,825.00	\$4,590.00	\$2,295.00	0.00	\$0.00	\$0.00
Jordan	6,848.89	\$8,218.67	\$4,109.33	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00
Elko New Market	0.00	\$0.00	\$0.00	3,481.11	\$4,177.33	\$2,088.67	8,448.00	\$10,137.60	\$5,068.80
County (Not in a City)	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00	13,852.00	\$16,622.40	\$16,622.40
TOTAL	83,682.44	\$100,418.93	\$ 50,209.47	88,597.45	\$ 106,316.94	\$ 53,158.47	91,767.00	\$ 110,120.40	\$ 63,371.40

* Shares will be based on actual costs

Please contact the City Administrator with any questions.

ATTACHMENT:

- Construction Cooperative Agreement for Trail Maintenance

CONSTRUCTION COOPERATIVE AGREEMENT

TRAIL MAINTENANCE

THIS AGREEMENT, made and entered into this _____ day of _____, 2020, by and between the **County of Scott**, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "**County**" and the City of Savage, Minnesota, the City of Prior Lake, Minnesota, the City of New Prague, Minnesota, the City of Belle Plaine, Minnesota, the City of Jordan, Minnesota, the City of Elko New Market, Minnesota, the City of Waconia, Minnesota, the City of Eagan, Minnesota, hereinafter referred to as the "**the Cities or City**," and all parties hereinafter collectively referred to as the "**Parties**" and individually as "**Party**", all being political subdivisions of the State of Minnesota.

RECITALS:

- A. The County and the Cities each have responsibility for trail maintenance of trails within their respective jurisdictions.
- B. The County and the City of Shakopee, Minnesota, the City of Savage, Minnesota, the City of Prior Lake, Minnesota, the City of New Prague, Minnesota, the City of Belle Plaine, Minnesota, the City of Jordan, Minnesota, the City of Elko New Market, Minnesota have agreed to cooperate in a five (5) year County led trail maintenance program ("CLTMP") on trails along County Highways located within the City jurisdictions and have agreed to share in the cost of work covered under that plan equally between the impacted City jurisdiction and the County.
- C. All Parties seek to utilize a singular contracting procedure and one common contractor for each Party's joint and individual trail maintenance projects.
- D. The County is willing, for itself and on behalf of the Cities, to annually prepare all bidding documents and conduct bidding services pursuant to Local and State laws for the trail maintenance services needed and desired by the Parties.
- E. This Agreement is made pursuant to the authority conferred upon the Parties pursuant to Minnesota Statutes 471.59.

NOW, THEREFORE, IT IS HEREBY AGREED:

- 1. The recitals above are hereby restated and incorporated herein.
- 2. The Cities shall annually provide to the County maps showing the proposed locations for their individually requested trail maintenance services including estimating quantities thereof on or before December 1st prior to the construction year (ex: December 1, 2019 is the deadline for the 2020 construction year).

3. The County will prepare all estimates under the CLTMP on trails along County Highways.
4. The County shall prepare bid documents that include the individually submitted projects as well as the CLTMP projects for the given year and submit those documents to the Cities for review. The Cities shall respond with changes or approval, in writing, within two (2) weeks of receipt of the documents.
5. The County shall advertise for bids for the work and construction consistent with the approved documents, receive and open bids pursuant to said advertisement, and enter into a “Contract” with the successful overall bidder at the unit prices specified in the bid of such bidder, according to law in such case provided for counties.
6. Project Work: The Parties will complete the contemplated contract work with the selected contractor with responsibility as set out herein.
 - a. All work performed on trails along County Highways and/or initiated by the County will be considered CLTMP work and managed as a County project.
 - b. Each Party shall coordinate with the contractor as to the timing of the actual work for their portion of the Contract work.
 - c. Each Party shall have the authority in initiating and determining change orders and final quantities for their portion of the Contract work.
 - d. Each Party shall be responsible for inspecting contractor’s work, measuring the quantities of materials provided and work performed, and approving and certifying progress of the contractor for their portion of the Contract work.
7. Payment:
 - a. Project Costs - For work completed for a Party project in accordance with the Contract plans and specifications, the contractor will submit an itemized invoice to that Party separately for that portion of the Contract work. Upon the Party’s approval of the invoice, the participating Party will remit the approved invoice amount directly to the contractor according to the terms set forth in the Contract.
 - b. Administration Fee – Contractor will submit copies of each Party’s directly billed invoices to the County. Each City shall pay the County, within thirty (30) days of receipt of an invoice from County, a fee for legal and administrative costs determined as a percentage of their actual total billed construction costs as follows:

Actual Construction Cost	Percentage
\$0-\$49,999	1.50%
\$50,000-\$100,000	1.00%
Over \$100,000	0.50%

c. CLTMP Projects - For work covered by the CLTMP initially paid by County, County will invoice the Cities upon Contract closeout for fifty percent (50%) of the actual Contract costs based on the final measured amounts and the administration fee as set out above. Each City shall pay the County such amounts within thirty (30) days of receipt of the invoice.

8. It is agreed that each Party shall indemnify, save, and hold harmless the each of the other participating Parties, and all of their agents and employees from any and all claims, demands, actions, or causes of action, for whatever nature, arising out of the execution or performance of the work purchased for each Party under this Agreement, and that the participating Party further agrees to defend, at their sole costs and expense, any actions or proceedings commenced against their respective Parties for the purposes of asserting any claim of whatsoever character arising hereunder. The Parties agree that liability under this Agreement is controlled by Minnesota Statute 471.59, subdivision 1a and that the total liability for the Parties shall not exceed the limits on governmental liability for a single unit of government as specified in 466.04, subdivision 1. (a).

9. This Agreement shall be in effect until December 31, 2024. This Agreement may be executed in counterparts.

10. Additional parties may be added to this agreement upon the sole approval of County, proper approval of their governing body and execution of a counterpart of this Agreement. Upon addition of any party, a copy of the signature page and an updated contact list hereby incorporated and attached as **Exhibit B** will be provided by the County to all participating Parties.

11. Termination:

a. Any City may terminate its participation in this agreement by giving written notice to the County at least sixty (60) days' prior to the December 1 specifications due date.

b. The County may terminate this Agreement by providing written notice to the Cities at least six (6) months prior to the December 1 specifications due date.

12. Since all Parties are a political subdivision of the State of Minnesota, each Party shall maintain a program of self-insurance or insurance covering general liability and automobile liability protecting itself, its officers, agents, employees and duly authorized volunteers against any usual and customary public liability claims to the limits prescribed under Minn. Stat. Sec. 466.04 and Workers' Compensation in accordance with the Minnesota statutory requirements. Said coverage shall be kept in effect during the entire term of this Agreement.

13. All records kept by the Parties with respect to the Project shall be subject to examination by the representatives of each Party. All data collected, created, received, maintained or disseminated for any purpose by the activities of the County or Party pursuant to this Agreement shall be governed by Minnesota Statutes Chapter 13, as amended, and the Minnesota Rules implementing such Act now in force or hereafter adopted.

14. No Party, its officers, agents or employees, either in their individual or official capacity, shall be responsible or liable in any manner to the other Party for any claim, demand, action or cause of action of any kind or character arising out of, allegedly arising out of or by reason of the performance, negligent performance or nonperformance of the described maintenance, restoration, repair or replacement work by the other Party, or arising out of the negligence of any contractor under any contract let by another Party for the performance of said work; and each Party agrees to defend, save, keep and hold harmless the other, its officers, agents and employees harmless from all claims, demands, actions or causes of action arising out of negligent performance by its officers, agents or employees.

15. It is further agreed that no Party to this Agreement shall be responsible or liable to the other or to any other person or entity for any claims, damages, actions, or causes of actions of any kind or character arising out of, allegedly arising out of or by reason of the performance, negligent performance or nonperformance of any work or part hereof by the other as provided herein; and each Party further agrees to defend at its sole cost and expense and indemnify the other Party for any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising in connection with or by virtue of performance of its own work as provided herein. Each Party's obligation to indemnify the other under this clause shall be limited in accordance with the statutory tort liability limitation as set forth in Minnesota Statutes Chapter 466.04 to limit each Party's total liability for all claims arising from a single occurrence, include the other Party's claim for indemnification, to the limits prescribed under 466.04. It is further understood and agreed that the Party's total liability shall be limited by Minnesota Statute Section 471.59, Subdivision 1(a) as a single governmental unit.

16. It is further agreed that any and all employees of each Party and all other persons engaged by a Party in the performance of any work or services required or provided herein to be performed by the Party shall not be considered employees, agents or independent contractors of the other Party, and that any and all claims that may or might arise under the Worker's Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged shall be the sole responsibility of the employing Party and shall not be the obligation or responsibility of the other Party.

17. The provisions of Minn. Stat. Sec. 181.59 and of any applicable local ordinance relating to Civil Rights and discrimination and the affirmative action policy statement of the County shall be considered a part of this Agreement as though fully set forth herein, including Exhibit A, which is attached and hereby incorporated.

18. The laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the Parties and performance under it. The appropriate venue and jurisdiction for any litigation hereunder shall be those courts located with the County of

Scott, State of Minnesota. Litigation, however, in the federal courts involving the Parties shall be in the appropriate federal court within the State of Minnesota.

19. In the event any provision of this Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the Parties unless such invalidity or non-enforceability would cause the Agreement to fail its purpose. One or more waivers by either Party of any provision, term, condition or covenant shall not be construed by the other Party as a waiver of a subsequent breach of the same by the other Party.

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF PRIOR LAKE

(SEAL)

By _____

Kirt Briggs, Mayor

And _____

Michael Plante, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____

**Lezlie A. Vermillion
County Administrator**

By _____

**Barb Weckman- Brekke
Chair of Its County Board**

Date _____

Date _____

Approved as to form:

By _____

Jeanne Andersen, Assistant County Attorney

By _____

Anthony J. Winiecki, County Engineer

Date _____

Date _____

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF BELLE PLAINE
(SEAL)

By _____
Christopher G. Meyer, Mayor

And _____
Dawn Meyer, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____
Lezlie A. Vermillion
County Administrator

By _____
Barb Weckman- Brekke
Chair of Its County Board

Date _____

Date _____

RECOMMEND FOR APPROVAL:

Approved as to form:

By _____
Jeanne Andersen, Assistant County Attorney

By _____
Anthony J. Winiecki, County Engineer

Date _____

Date _____

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF SAVAGE
(SEAL)

By _____
Janet Williams, Mayor

And _____
Brad Larson, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____
Lezlie A. Vermillion
County Administrator

By _____
Barb Weckman- Brekke
Chair of Its County Board

Date _____

Date _____

RECOMMEND FOR APPROVAL:

Approved as to form:

By _____
Jeanne Andersen, Assistant County Attorney

By _____
Anthony J. Winiecki, County Engineer

Date _____

Date _____

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF ELKO NEW MARKET

(SEAL)

By _____

Joe Julius, Mayor

And _____

Thomas Terry, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____

**Lezlie A. Vermillion
County Administrator**

By _____

**Barb Weckman- Brekke
Chair of Its County Board**

Date _____

Date _____

RECOMMEND FOR APPROVAL:

Approved as to form:

By _____

Jeanne Andersen, Assistant County Attorney

By _____

Anthony J. Winiecki, County Engineer

Date _____

Date _____

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF JORDAN
(SEAL)

By _____
Tanya Velishek, Mayor

And _____
Tom Nikunen, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____
Lezlie A. Vermillion
County Administrator

By _____
David Beer
Chair of Its County Board

Date _____

Date _____

Approved as to form:

RECOMMEND FOR APPROVAL:

By _____
Jeanne Andersen, Assistant County Attorney

By _____
Anthony J. Winiecki, County Engineer

Date _____

Date _____

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF NEW PRAGUE

(SEAL)

By _____

Chuck Nickolay, Mayor

And _____

Michael Johnson, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____

**Lezlie A. Vermillion
County Administrator**

By _____

**Barb Weckman- Brekke
Chair of Its County Board**

Date _____

Date _____

RECOMMEND FOR APPROVAL:

Approved as to form:

By _____

Jeanne Andersen, Assistant County Attorney

By _____

Anthony J. Winiecki, County Engineer

Date _____

Date _____

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF EAGAN
(SEAL)

By _____
Mike Maguire, Mayor

And _____
Dave Osberg, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____
Lezlie A. Vermillion
County Administrator

By _____
Barb Weckman- Brekke
Chair of Its County Board

Date _____

Date _____

RECOMMEND FOR APPROVAL:

Approved as to form:

By _____
Jeanne Andersen, Assistant County Attorney

By _____
Anthony J. Winiecki, County Engineer

Date _____

Date _____

IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF WACONIA
(SEAL)

By _____
Kent Bloudek, Mayor

And _____
Susan Arntz, City Administrator

Date _____

Date _____

COUNTY OF SCOTT

ATTEST:

By _____
Lezlie A. Vermillion
County Administrator

By _____
Barb Weckman- Brekke
Chair of Its County Board

Date _____

Date _____

RECOMMEND FOR APPROVAL:

Approved as to form:

By _____
Jeanne Andersen, Assistant County Attorney

By _____
Anthony J. Winiecki, County Engineer

Date _____

Date _____

Exhibit B

Administrative Contact List

Name	City/County	Phone Number	Email
Luke Simonson	Scott County	952-496-8052	lsimonson@co.scott.mn.us
Jake Theisen	Prior Lake	952-447-9899	jtheisen@cityofpriorlake.com
Andy Weldon	Savage	952-224-3400	aweldon@ci.savage.mn.us
Corey Schweich	Elko New Market	925-224-6781	cschweich@ci.enm.mn.us
Scott Haas	Jordan	952-492-2535	haass@jordanmn.gov
Al Fahey	Belle Plaine	952-873-6742	publicworks@ci.belleplaine.mn.us
Glen Sticha	New Prague	952-758-4401	gsticha@ci.new-prague.mn.us
Craig Eldred	Waconia	952-442-4265	celdred@waconia.org
Angie Ellison	Eagan	651-485-0709	aellison@cityofeagan.com



STAFF MEMORANDUM

SUBJECT:	Resolution Supporting Street Impact Fees
MEETING DATE:	March 12, 2020
PREPARED BY:	Renee Christianson, Community Development Specialist
REQUESTED ACTION:	Adopt Resolution #20-18 Supporting Infrastructure Accountability

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:

The League of Minnesota Cities is asking city councils to adopt a resolution providing clarity after the Minnesota Supreme Court's decision in Harstad v. City of Woodbury, where the court found there was no existing statutory authority to collect fees for future street infrastructure improvements when approving development. Cities currently have authority under state statute to collect fees for parks, sewer, water and stormsewer infrastructure as part of development, but not for streets. The attached resolution supports the League's efforts to advocate for development fees related to street infrastructure.

REQUESTED ACTION:

The City Council is being asked to adopt Resolution 20-18 Supporting Infrastructure Accountability.

Attachments:

LMC Fact Sheet

CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA

RESOLUTION NO. 20-18

RESOLUTION SUPPORTING INFRASTRUCTURE ACCOUNTABILITY

WHEREAS, populations in Minnesota cities are growing statewide; and

WHEREAS, the development and construction associated with that growth are driving the need for road improvements, street oversizing, street redesign, and street reconstruction; and

WHEREAS, municipal statutory authority appropriately exists for fees to support added need for parks, sewer, and water; and

WHEREAS, this municipal authority does not exist for street infrastructure development fees; and

WHEREAS, city streets are one of the four major types of infrastructure local government is responsible to provide to protect public safety and health, and city streets represent a separate but integral piece of the network of roads supporting movement of people and goods; and

WHEREAS, existing funding mechanisms, such as Municipal State Aid (MSA), property taxes, and special assessments have limited applications, leaving cities under-equipped to address growing needs; and

WHEREAS, neighborhood streets are constructed according to city standards by developers; and

WHEREAS, funding sources for larger streets and intersections to support new developments have historically come from infrastructure development fees; and

WHEREAS, the Minnesota Supreme Court found in *Harstad v. City of Woodbury* that no statutory authority existed for these street infrastructure development fees; and

WHEREAS, cities should not be forced to make current residents and businesses pay for costs of growth through local taxes but rather by those that are responsible for the growth; and

WHEREAS, cities are finding it difficult to develop adequate funding systems to support needed infrastructure development related to growth while complying with existing state statutes; and

WHEREAS, cities need flexible policies and greater resources in order to meet growing demands for street improvements.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elko New Market, Minnesota, that this Council supports legislation that would authorize cities to collect infrastructure development fees to fund municipal street improvements as a necessary component of growth.

ADOPTED this 12th day of March, 2020 by the City Council of the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator/Clerk

CITY ISSUE FACT SHEET

Infrastructure fees support development and taxpayer fairness

If not addressed, existing taxpayers will foot the bill for streets that are only needed because of proposed residential development.



PROBLEM:

When a new subdivision proposal is presented to a city by a developer, city officials consider how that development will connect with the rest of the community through new city streets, or how the added capacity will impact existing city streets.

Many cities plan street work years in advance, and new development creates additional demand.

However, legal interpretation of current law does not allow for cities to collect fees from developers to help pay for these future investments.

LEAGUE-SUPPORTED SOLUTION:

The League supports **HF2296 / SF2442 and HF2297 / SF2443** (Rep. Brad Tabke, Sen. Eric Pratt), providing the necessary statutory authority for cities to be able to charge developers fees that cover the infrastructure improvements that are needed because of the new residential development.

DID YOU KNOW?

Without legislative action, cities who want to grow must rely on property taxes to pay for development-related infrastructure. If these cities don't have the tax capacity to absorb these costs, they may be forced to forego new development entirely.

BACKGROUND:

The Minnesota Supreme Court found in *Harstad v. City of Woodbury* that cities do not have the statutory authority necessary to impose a fee for future street improvements when approving residential development. Cities need a clear and lawful path forward to support development while protecting the interests of current taxpayers.

For more information:

Irene Kao, Intergovernmental Relations Counsel

Phone: (651) 281-1260

Email: ikao@lmc.org

www.lmc.org/builditright





STAFF MEMORANDUM

SUBJECT: 2019-2023 Capital Improvement & Street Reconstruction Plan
MEETING DATE: March 12, 2020
PREPARED BY: Thomas Terry, City Administrator
REQUESTED ACTION: Adopt Resolution 20-19 Adopting Capital Improvement And Street Reconstruction Plans And Authorizing The Issuance And Sale Of Bonds Therefor

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area. The community will preserve its historic landmarks and small town character while providing suburban amenities and services. A full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities will be available for the citizens and visitors
- Promote a diverse commercial and industrial base. The City will facilitate planned redevelopment. Development and redevelopment within the community will be aesthetically pleasing with architectural standards that promote quality development
- A comprehensive park and trails system. The park system will have sufficient facilities, play fields and open space to meet the needs of the community's 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 that promotes community involvement, organizational improvements, problem solving, performance measurement and professionalism. Provide a full range of high quality municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community. The City will be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on the tax payers of the City

PRIORITY GOALS:

- Develop a more diverse tax base, create more local employment opportunities and promote additional businesses and services within the community
- Advance the "shovel ready" status of areas guided for commercial and industrial development through planning and where feasible, the procurement of supporting infrastructure
- The acquisition of land for public purposes, including, but not limited to public utilities, library, parks and interchange rights-of-way. Position the City to take advantage of opportunities to acquire land for public purposes
- Enhance the quality of life in the community through the improvement and expansion of the parks and trails system, recreational programming and cultural events
- Promote high quality residential development that includes a broad spectrum of housing choices in both type and cost. Facilitate the development of residential lots and an increase in residential building permit activity
- Implement an asset management system for the long-term management, maintenance, and budgeting of municipal infrastructure

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement – Incorporate community feedback in making transparent decisions by providing opportunities for public input, engaging the public in strategic

planning initiatives, and enabling public to provide input on the effectiveness of public services/policies and will work to develop leadership within the community

- Organizational Improvement – Strive to elevate the level of customer service and service delivery through cost effective use of personnel, structure, and information systems by developing an organizational climate that promotes innovation, creativity, collaboration and a customer-centered focus in providing community services and to improve public services by reducing barriers between City departments in order to provide greater accessibility, flexibility and efficiency in the delivery of public services
- Problem Solving – Engage in the process of proactive and systematic examination of identified issues in order to evaluate effective policy decisions by using available technology, provide resources to develop and implement cost effective solutions, while considering long-term costs and benefits in policy decisions, and engaging in long-term financial planning to provide public services without undue burden to tax payers
- Performance Measurement – Develop and utilize methods for measuring performance to evaluate progress and establish accountability for improving public services
- Professionalism – Provide local government characterized by high technical and ethical standards by conducting business in a manner that promotes public confidence, while recruiting and training to develop high quality professional staff to provide public services

BACKGROUND

A Capital Improvement Plan (CIP) is a tool to help the City carry out its vision and goals. It is a document designed to anticipate future capital improvement expenditures to ensure they are purchased in the most efficient and cost-effective method possible. The capital improvement process is an important element of responsible fiscal management. Major capital expenditures can be anticipated and coordinated to minimize potentially adverse financial impacts caused by the timing and magnitude of capital outlays. This coordination of capital expenditures is important to the City in achieving its goals of preserving public assets and sound fiscal management. In addition to sound financial planning, Minnesota Statutes allow cities to issue bonds for certain public facilities without requiring a referendum of the electorate provided they have a Capital Improvement Plan which meets all statutory requirements. The statute also gave cities the authority to provide a general obligation pledge to the repayment of the bonds.

The CIP is a clear declaration of the Council's intent related to significant capital improvements and acquisitions; however, the CIP is not a commitment to any given project, project scope or project schedule. The City will be able to adjust the plan as it sees fit from time to time, including prioritizing one project over another, adding or removing projects, or changing schedules as conditions dictate or opportunities arise.

DISCUSSION:

The City Council is being presented with the 2019-2023 Capital Improvement & Street Reconstruction Plan. The CIP anticipates \$4,837,700 of expenditures, plus estimated debt issuance costs. The projects, their intended source of financing, and the year of financing are shown in the table below:

Project	2019 Pavement Rehab	Police Station Remodel	Sewer Onsite Generation Project	Fire Truck & 2 Plow Trucks	Roundabout Project	TBD	CIP Summary
Bond Type	GO Improvement	GO Capital Improvement	GO Revenue	GO Equipment Certificates	GO Street Reconstruction	TBD	
Year	2019	2020	2020	2020	2020	2021-2023	
Sources Of Funds							
Par Amount of Bonds.....	\$810,000.00	\$2,050,000.00	\$255,000.00	\$810,000.00	\$1,235,000.00		\$4,960,000.00
Water Funds.....	7,644.00	-	-	-	-		\$7,644.00
Total Sources.....	\$617,644.00	\$2,050,000.00	\$255,000.00	\$810,000.00	\$1,235,000.00	-	\$4,967,644.00
Uses Of Funds							
Deposit to Project Construction Fund.....	600,000.00	2,000,000.00	242,700.00	790,000.00	1,205,000.00		4,837,700.00
Costs of Issuance.....	10,257.95	30,211.19	6,325.06	12,448.69	17,182.11		76,425.00
Total Underwriter's Discount (1.000%).....	6,100.00	20,500.00	2,550.00	8,100.00	12,350.00		49,600.00
Rounding Amount.....	1,286.05	(711.19)	3,424.94	(548.69)	467.89		3,919.00
Total Uses.....	\$617,644.00	\$2,055,000.00	\$250,000.00	\$300,000.00	\$1,235,000.00	-	\$4,967,644.00

The table above outlines the projects and purchases included in the draft CIP. All of the projects and purchases have been previously discussed by the City Council and are scheduled for 2019 and 2020 implementation. The recommendations for financing the projects in the CIP include a variety of general obligation bonds as funding sources. The GO Capital Improvement Bonds issued to finance the Police Station Remodel, the GO Revenue Bonds issued to finance the Sewer Onsite Generation, and the GO Street Reconstruction Bonds issued to finance the Roundabout project are all projected to mature over 15 years. The GO Improvement Bonds issued to finance the 2019 Pavement Rehab project, and the GO Equipment Certificates are projected to mature over 10 years, all at current market rates plus 20 basis points. The Water Fund is projected to fund \$7,644 of cash for the 2019 pavement project.

Based on the debt authority being used for the Police Department addition to City Hall and the 2019 Pavement Rehabilitation projects, a hearing will be required for the adoption of the CIP. Although a referendum is not required to issue debt for these projects, a reverse referendum may be imposed following the hearing.

The City Council is being asked to adopt Resolution 20-19 Adopting Capital Improvement And Street Reconstruction Plans And Authorizing The Issuance And Sale Of Bonds Therefor. The amount of the debt issuance identified in the resolution includes a notable contingency.

BUDGET IMPACT:

Absent any cash provided by the Utility Funds or special assessments related to the 2019 Pavement Rehab project, the remaining CIP costs are projected to be funded with a combination of money held in the Capital Projects Fund, fire service contract fees and property taxes.

Attachments:

- 2019-2023 Capital Improvement & Street Reconstruction Plan
- Resolution 20-19 Adopting Capital Improvement And Street Reconstruction Plans And Authorizing The Issuance And Sale Of Bonds Therefor



2019-2023 Capital Improvement & Street Reconstruction Plan

City of Elko New Market, Minnesota

March 12, 2020

Prepared by:



Small-Town Culture. Emerging Possibilities.

Executive Summary

A Capital Improvement Plan (CIP) is a document designed to anticipate future capital improvement expenditures to ensure they are purchased in the most efficient and cost-effective method possible. The City of Elko New Market, Minnesota (the "City") believes the capital improvement process is an important element of responsible fiscal management. Major capital expenditures can be anticipated and coordinated to minimize potentially adverse financial impacts caused by the timing and magnitude of capital outlays. This coordination of capital expenditures is important to the City in achieving its goals of preserving public assets and sound fiscal management.

In addition to sound financial planning, Minnesota Statutes allow cities to issue bonds for certain public facilities without requiring a referendum of the electorate provided they have a Capital Improvement Plan which meets all statutory requirements. The statute also gave cities the authority to provide a general obligation pledge to the repayment of the bonds.

The CIP anticipates \$4,837,700 of expenditures over the 5-year planning period. The projects, their intended source of financing, and the year of financing are shown in the table below.

Project	2019 Pavement Rehab	Police Station Remodel	Sewer Onsite Generation Project	Fire Truck & 2 Plow Trucks	Roundabout Project	TBD	CIP Summary
Bond Type	GO Improvement	GO Capital Improvement	GO Revenue	GO Equipment Certificates	GO Street Reconstruction	TBD	
Year	2019	2020	2020	2020	2020	2021-2023	
Sources Of Funds							
Par Amount of Bonds.....	\$610,000.00	\$2,050,000.00	\$255,000.00	\$810,000.00	\$1,235,000.00		\$4,960,000.00
Water Funds.....	7,644.00	-	-	-	-		\$7,644.00
Total Sources.....	\$617,644.00	\$2,050,000.00	\$255,000.00	\$810,000.00	\$1,235,000.00	-	\$4,967,644.00
Uses Of Funds							
Deposit to Project Construction Fund.....	600,000.00	2,000,000.00	242,700.00	790,000.00	1,205,000.00		4,837,700.00
Costs of Issuance.....	10,257.95	30,211.19	6,325.06	12,448.69	17,182.11		76,425.00
Total Underwriter's Discount (1.000%).....	6,100.00	20,500.00	2,550.00	8,100.00	12,350.00		49,600.00
Rounding Amount.....	1,286.05	(711.19)	3,424.94	(548.69)	467.89		3,919.00
Total Uses.....	\$617,644.00	\$2,050,000.00	\$255,000.00	\$810,000.00	\$1,235,000.00	-	\$4,967,644.00

As the table above outlines, our recommendations for financing the projects in the CIP include a variety of general obligation bonds as funding sources. The GO Capital Improvement Bonds issued to finance the Police Station Remodel, the GO Revenue Bonds issued to finance the Sewer Onsite Generation, and the GO Street Reconstruction Bonds issued to finance the Roundabout project are all to mature over 15 years. The GO Improvement Bonds issued to finance the 2019 Pavement Rehab project, and the GO Equipment Certificates are projected to mature over 10 years, all at current market rates plus 20 basis points. The Water Fund is projected to fund \$7,644 of cash for the 2019 pavement project.

Absent any cash provided by the Utility Funds or special assessments related to the 2019 Pavement Rehab project, the remaining CIP costs are projected to be funded with a combination of money held in the Capital Projects Fund, fire service contract fees and property taxes. The projected annual impact on various residential homesteads and commercial properties are shown in the table on the following page. This assumes all annual levies shown in the schedules throughout this document will occur. However, the city intends to finance the proposed levies with monies in the Capital Projects Fund and Fire Fund thereby providing for minimal addition property tax impacts. Therefore, given current market conditions, the tax impacts shown on the next page reflect a worst-case scenario.

City of Elko New Market					
				Max Levy	\$435,000
				Pay 2019 TNTC	\$4,222,471
	Estimated Market Value		Net Tax Capacity	Estimated Tax Rate Increase:	10.302%
Homestead Residential					
	100,000		718		74
	150,000		1,263		130
	200,000		1,808		186
	225,000		2,080		214
	250,000		2,353		242
	300,000		2,898		299
Median Home	323,400		3,153		325
	350,000		3,443		355
	400,000		3,988		411
	450,000		4,500		464
	500,000		5,000		515
	550,000		5,625		579
	600,000		6,250		644
	650,000		6,875		708
	700,000		7,500		773
	750,000		8,125		837
	800,000		8,750		901
	850,000		9,375		966
	900,000		10,000		1,030
	950,000		10,625		1,095
	1,000,000		11,250		1,159
Commercial/Industrial/Public Utility					
	\$100,000		\$1,500		\$155
	150,000		2,250		232
	250,000		4,250		438
	500,000		9,250		953
	1,000,000		19,250		1,983
	3,000,000		59,250		6,104
	5,000,000		99,250		10,225
	7,000,000		139,250		14,346
	10,000,000		199,250		20,527

It's important to point out that while the City has developed a Capital Improvement Plan, the plan represents a conceptual perspective of the City's capital improvement needs over the next 5 years, and as such, is a planning tool. The presence of any particular capital expenditure and the designation of an anticipated funding source or sources do not authorize the expense for the asset or improvement. The actual expense must be specifically authorized by the City Council.

The conclusions and recommendations resulting from this study are based on information provided to Baker Tilly. The City will need to periodically review and update the Capital Improvement and Street Reconstruction Plan, as they are doing with this report, to reflect the actual cost of the anticipated capital improvements and to incorporate any changes in the capital improvements and/or their anticipated costs.

Method of Financing

The City typically uses funds on hand or will issue debt to finance improvements.

Pay-As-You-Go Method of Financing

The Pay-As-You-Go (Cash) method of financing capital improvements relies on the use of a city's financial reserves or cash flow to finance the improvement. The City can designate a portion of its property tax levy each year or user fees toward the acquisition of capital improvements. Using Pay-As-You-Go financing for capital improvements avoids the issuance of debt to finance the improvement.

Pay-As-You-Go financing may take a number of forms. On a theoretical plane, the city levies a tax or charges potential user fees, which are accumulated to acquire the capital asset, which then begins to generate a benefit for the users. The city will accumulate cash in an account or fund and draw on the account or fund when there is sufficient cash available to pay for the proposed improvement. In this form, the Pay-As-You-Go strategy operates in a way like the use of undesignated, unrestricted fund balances that prudent cities maintain and use for emergency expenditures and unforeseen contingencies.

The Pros and Cons of Pay-As-You-Go financing are shown below:

Pros

- Able to invest cash to minimize total financial reserves used
- Useful for smaller projects where the cost of the capital improvement has a negligible effect on the property tax rates or user fees
- Useful where improvements provide very short-term benefits or whose useful life is short
- Avoid interest costs on borrowed funds
- Helps maintain the City's credit rating by demonstrating reduced reliance on long-term debt and more favorable debt ratio

Cons

- Delays the improvement until adequate funds are available; increased costs due to inflation
- Equity of who pays; future users who have not contributed to the cash reserves may benefit from the asset
- May result in revenue disruption or tax rate/user fee fluctuations

Pay-As-You-Use Method of Financing

The Pay-As-You-Use (Debt) method of financing capital improvements relies on the use of a city's ability to leverage relatively small initial cash outlays to obtain funds from investors to finance the improvement. The investors are repaid over time from revenues charged against beneficiaries of the capital improvement. Debt issuance also permits sizing the project for the improvement to efficiently match the needs of both current and future users.

Pay-As-You-Use financing takes many forms. The primary differences between the forms are the type of security, the repayment terms, and the purpose of the improvement financed. The two most common forms of security for debt financing are the general obligation bond and the revenue bond. Some states, including Minnesota, offer revolving loan funds for wastewater and drinking water improvements to cities and other governmental agencies that operate these types of utilities.

The Pros and Cons of Pay-As-You-Use financing are shown below:

Pros

- Persons who use the capital improvement are the persons paying for it
- Annualized cost of debt repayment may lend itself to lower or better managed yearly cash flows

- Allows a growing City to be better able to afford the cost of capital improvements as its tax base grows
- Can match the term on the financing with the life of the asset
- Smooths out the adjustment to tax rates or user charges

Cons

- Added costs due to interest on debt
- May have increased credit rating impacts by placing a current and future burden on the financial resources of the City and less favorable debt ratios

Depending on the circumstances and the policy decisions made by the city, it may be that the use of one method or another is more appropriate for a given capital improvement at a given time. The use of both Pay-As-You-Go financing and Pay-As-You-Use financing in combination with each other has the potential to allow the city to take advantage of the best features of both methods while minimizing the disadvantages which are possible under each method of financing.

The City plans to use both Pay-As-You-Go and Pay-As-You-Use financing methodologies. This will be discussed in more detail under the Project Details section.

Method of Financing for 2019-2023 CIP/Street Reconstruction Plan

Debt Financing Sources

The City can issue debt to finance capital improvements within certain statutory limits. The legal debt limit has nothing to do with the practical debt limit of a municipality, which is the debt burden beyond which the creditworthiness of the municipality is put in question. Minnesota Statutes, Section 475.58 states that a city or county may not incur or be subject to net debt more than three percent (3%) of its estimated market value. Net debt is, with limited exceptions, debt paid for solely from ad valorem taxes. Thus, improvement bonds, tax increment bonds, utility revenue bonds, pure revenue bonds, and similar bonds may be issued without regard to the debt limit. The result is that, with only a few exceptions, the only types of obligations subject to the debt limit are general obligation bonds payable solely from ad valorem property taxes. Of the bonds recommended in this financing plan, the G.O. Equipment Certificates, G.O. Street Reconstruction Bonds and the G.O. Capital Improvement Bonds will count against the City's legal debt limit even though the City intends to use funds on hand to finance the levy portion of each issue. The table below shows the City's statutory debt limit, including the proposed Series 2020A Bonds and the 2021 Bonds, as of October 31, 2019.

STATUTORY DEBT LIMIT CALCULATION	
2018/2019 Estimated Market Value	\$442,117,200
3% of Estimated Market Value	13,263,516
Total Amount Subject to Debt Limit	(\$ 6,655,000)
Legal Available Debt Margin after Proposed 2020 and 2021 Issues	\$ 6,608,516

The alternatives proposed for debt financing the 2019-2023 CIP/Street Reconstruction Plan are listed below.

General Obligation (GO) Improvement Bonds/Equipment Certificates

A general obligation is as an obligation that pledges the full faith and credit of the City to the payment of principal and interest. The bond owner correctly understands this to mean that all available assets and resources of the City, including the unlimited power to tax, will be used by the issuer to fulfill the contract to pay back the amount of the bond with the amount of interest agreed upon. The security for a general obligation bond is the pledge of those resources and taxing powers. In addition, GO Improvement Bonds must be financed with at least 20% of the project costs funded from special assessments of benefitting properties. The projects to be financed with GO Improvement Bonds and GO Equipment Certificates are shown below. The debt amortization schedules are shown on the following pages.

<u>Projects:</u>	<u>Debt Type:</u>	<u>Repayment Source(s):</u>
2019 Pavement Rehab Project	G.O. Improvement Bonds	Special Assessments Capital Project Fund
Sewer Onsite Generation Project	G.O. Improvement Bonds	Sewer Utility Fund
Fire Truck	G.O. Equipment Certificates	Capital Project Fund Fire Fund
Plow Trucks	G.O. Equipment Certificates	Capital Project Fund

\$610,000

**City of Elko New Market, Minnesota
General Obligation Improvement Bonds, Series 2020A
2019 Pavement Rehab Project**

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% of Total	Assessment	Levy Required
02/01/2021	65,000.00	1.200%	6,147.57	71,147.57	74,704.95	26,204.17	48,500.78
02/01/2022	60,000.00	1.250%	8,072.50	68,072.50	71,476.13	24,557.50	46,918.63
02/01/2023	60,000.00	1.300%	7,322.50	67,322.50	70,688.63	23,940.00	46,748.63
02/01/2024	60,000.00	1.350%	6,542.50	66,542.50	69,869.63	23,322.50	46,547.13
02/01/2025	60,000.00	1.400%	5,732.50	65,732.50	69,019.13	22,705.00	46,314.13
02/01/2026	60,000.00	1.450%	4,892.50	64,892.50	68,137.13	22,087.50	46,049.63
02/01/2027	60,000.00	1.500%	4,022.50	64,022.50	67,223.63	21,470.00	45,753.63
02/01/2028	60,000.00	1.550%	3,122.50	63,122.50	66,278.63	20,852.50	45,426.13
02/01/2029	60,000.00	1.650%	2,192.50	62,192.50	65,302.13	20,235.00	45,067.13
02/01/2030	65,000.00	1.850%	1,202.50	66,202.50	69,512.63	19,617.50	49,895.13
Total	\$610,000.00	-	\$49,250.07	\$659,250.07	\$692,212.57	\$224,991.67	\$467,220.90

Dated..... 5/21/2020
 Delivery Date..... 5/21/2020
 First Coupon Date..... 2/01/2021

Yield Statistics

Bond Year Dollars..... \$3,168.61
 Average Life..... 5.194 Years
 Average Coupon..... 1.5543110%

Net Interest Cost (NIC)..... 1.7468243%
 True Interest Cost (TIC)..... 1.7554013%
 Bond Yield for Arbitrage Purposes..... 1.8079752%
 All Inclusive Cost (AIC)..... 2.1062701%

IRS Form 8038

Net Interest Cost..... 1.5543110%
 Weighted Average Maturity..... 5.194 Years

\$255,000

City of Elko New Market, Minnesota
General Obligation Revenue Bonds, Series 2020A
Sewer Onsite Generation Project

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% Levy
02/01/2021	15,000.00	1.200%	3,046.88	18,046.88	18,949.22
02/01/2022	15,000.00	1.250%	4,207.50	19,207.50	20,167.88
02/01/2023	15,000.00	1.300%	4,020.00	19,020.00	19,971.00
02/01/2024	15,000.00	1.350%	3,825.00	18,825.00	19,766.25
02/01/2025	15,000.00	1.400%	3,622.50	18,622.50	19,553.63
02/01/2026	15,000.00	1.450%	3,412.50	18,412.50	19,333.13
02/01/2027	15,000.00	1.500%	3,195.00	18,195.00	19,104.75
02/01/2028	15,000.00	1.550%	2,970.00	17,970.00	18,868.50
02/01/2029	15,000.00	1.650%	2,737.50	17,737.50	18,624.38
02/01/2030	20,000.00	1.850%	2,490.00	22,490.00	23,614.50
02/01/2031	20,000.00	1.950%	2,120.00	22,120.00	23,226.00
02/01/2032	20,000.00	2.050%	1,730.00	21,730.00	22,816.50
02/01/2033	20,000.00	2.150%	1,320.00	21,320.00	22,386.00
02/01/2034	20,000.00	2.200%	890.00	20,890.00	21,934.50
02/01/2035	20,000.00	2.250%	450.00	20,450.00	21,472.50
Total	\$255,000.00	-	\$40,036.88	\$295,036.88	\$309,788.72

SIGNIFICANT DATES

Dated.....	5/21/2020
Delivery Date.....	5/21/2020
First Coupon Date.....	2/01/2021

Yield Statistics

Bond Year Dollars.....	\$2,097.08
Average Life.....	8.224 Years
Average Coupon.....	1.9091697%
Net Interest Cost (NIC).....	2.0307672%
True Interest Cost (TIC).....	2.0339785%
Bond Yield for Arbitrage Purposes.....	1.8079752%
All Inclusive Cost (AIC).....	2.3769642%

IRS Form 8038

Net Interest Cost.....	1.9091697%
Weighted Average Maturity.....	8.224 Years

\$810,000

City of Elko New Market, Minnesota
General Obligation Equipment Certificates, Series 2020A
Fire Truck & Two Plow Trucks Purchase

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% Levy
02/01/2021	80,000.00	1.200%	8,128.47	88,128.47	92,534.89
02/01/2022	75,000.00	1.250%	10,745.00	85,745.00	90,032.25
02/01/2023	80,000.00	1.300%	9,807.50	89,807.50	94,297.88
02/01/2024	80,000.00	1.350%	8,767.50	88,767.50	93,205.88
02/01/2025	80,000.00	1.400%	7,687.50	87,687.50	92,071.88
02/01/2026	80,000.00	1.450%	6,567.50	86,567.50	90,895.88
02/01/2027	80,000.00	1.500%	5,407.50	85,407.50	89,677.88
02/01/2028	85,000.00	1.550%	4,207.50	89,207.50	93,667.88
02/01/2029	85,000.00	1.650%	2,890.00	87,890.00	92,284.50
02/01/2030	85,000.00	1.750%	1,487.50	86,487.50	90,811.88
Total	\$810,000.00	-	\$65,695.97	\$875,695.97	\$919,480.77

SIGNIFICANT DATES

Dated.....	5/21/2020
Delivery Date.....	5/21/2020
First Coupon Date.....	2/01/2021

Yield Statistics

Bond Year Dollars.....	\$4,277.50
Average Life.....	5.281 Years
Average Coupon.....	1.5358497%
Net Interest Cost (NIC).....	1.7252126%
True Interest Cost (TIC).....	1.7341079%
Bond Yield for Arbitrage Purposes.....	1.8079752%
All Inclusive Cost (AIC).....	2.0490732%

IRS Form 8038

Net Interest Cost.....	1.5358497%
Weighted Average Maturity.....	5.281 Years

GO Capital Improvement Bonds; Minnesota Statutes, Section 475.521 Process & Criteria

In 2003 Minnesota Statutes, Section 475.521 (the “CIP Act”) was created to allow cities to issue bonds for certain public facilities without requiring a referendum of the electorate. The statute also gave cities the authority to provide a general obligation pledge to the repayment of the bonds.

The CIP Act defines capital expenditures as “the acquisition or betterment to public lands, buildings, or other improvements used as a city hall, town hall, library, public safety, or public works facility,” with a useful life of five or more years. For the purposes of the CIP Act, capital improvements do not include “light rail transit or related activities, parks, road/bridges, administrative buildings other than city or town hall, or land for those facilities.” The City’s main CIP that is reviewed and updated annually is a planning document that includes improvements and expenditures (such as street reconstruction and equipment) not allowed within the CIP Act.

For a municipality to use its authority to finance expenditures under this statute, it must meet the requirements provided therein. Specifically, the governing body must approve the sale of capital improvement bonds by a three-fifths majority of its membership and hold a public hearing for public input. Notice of such hearing must be published in the official newspaper of the municipality at least 14, but not more than 28 days prior to the date of the public hearing. In addition, the notice may be posted on the City’s official web site. The governing body approves the CIP following the public hearing.

Although a referendum is not required, a reverse referendum may be imposed. If a petition bearing the signatures of at least five percent of the votes cast in the last general election requesting a vote on the issuance of bonds is received by the municipal clerk within 30 days after the public hearing, a referendum vote on the issuance of the bonds shall be called.

The project(s) listed in this Section are limited to the project(s) being financed under the CIP Act and include:

<u>Projects:</u>	<u>Debt Type:</u>	<u>Repayment Source(s):</u>
Police Facility Remodel	GO Capital Improvement Bonds	Capital Project Fund

The CIP Act outlines eight criteria that must be met prior to a city issuing bonds under this authority.

1. Condition of the City’s infrastructure and need for the project – The Police Facility Remodel will consist of a new addition to the back of the City Hall. This option will provide more value in the long run and mitigate the uncertainties of remodeling the existing Police Facility. However, there will be some work still done to the existing Police Facility to address structural issues, remove mold and mildew, remove most interior walls, and meet current codes where necessary to preserve the building.
2. Demand for the improvement – The remodeled Police Facility will meet the needs of the growing police department, provide for more functional space, and improve officer safety.
3. Cost of the improvement – The maximum estimated cost of the Project is \$2,100,000. The amount reflects the estimated construction cost, contingency, engineering, and legal fees and estimated financing expenses. The actual amount needed for financing is likely to be less; the maximum amount provides the City flexibility to address outstanding issues prior to the bonds being sold.

4. Availability of public resources – Bonds issued under the CIP Act for the Project will be secured by the full faith and credit to levy property taxes. As discussed in paragraph 6 below, using cash on hand to construct the project is not practical.

5. Level of overlapping debt – Overlapping debt consists of all the taxing jurisdictions within the City of Elko New Market and is a measure of the total debt burden within the City. The other taxing jurisdictions include Rice County and Northfield Independent School District. The total general obligation debt and the City's share of that debt are shown in the table below:

Taxing Unit ^(a)	2018/19	Est. G.O. Debt As of 11-1-19 ^(b)	Debt Applicable to Tax Capacity in City	
	Adjusted Taxable Net Tax Capacity		Percent	Amount
Scott County	\$ 201,485,950	\$115,670,000	2.5%	\$ 2,891,750
I.S.D. No. 194 (Lakeville)	85,868,607	113,716,258	3.2	3,638,920
I.S.D. No. 721 (New Prague)	26,871,179	88,780,000	8.5	7,546,300
Metropolitan Council	4,281,620,797	5,735,000 ^(c)	0.1	<u>5,735</u>
Total				\$14,082,705
Existing City Debt ^(d)				3,880,000
Proposed City Debt ^(d)				<u>4,705,000</u>
Total Debt Applicable to Tax Capacity in City				\$22,667,705

^(a) Only those units with outstanding general obligation debt are shown here.

^(b) Excludes general obligation tax and aid anticipation certificates and revenue-supported debt.

^(c) Excludes general obligation debt supported by wastewater revenues and housing rental payments. Includes certificates of participation.

^(d) Excludes general obligation debt supported by utility revenues

6. Cost/benefits of alternative uses of funds – Due to the long-term life of the asset being proposed, it is prudent to finance the project over a longer period as opposed to using cash. Additionally, a cash outlay of this size would significantly weaken the City's cash position and liquidity.

7. Operating costs of the proposed improvements – Due to efficiencies with the new construction, the operating costs of the new Police Facility are expected to be similar or lower to the current facility. Additional utility costs may be incurred.

8. Options for shared facilities with other cities or local governments – Due to the nature of the facility and the services provided within it, there are no opportunities to share the facility with neighboring governmental jurisdictions.

Limitations on CIP Bonds Outstanding

The CIP Act limits the amount of general obligation bonds that can be issued under the CIP Act. The total debt service (principal and interest) in any one year cannot exceed 0.16% of the estimated market value for the City.

The City has two bond issues (Series 2013A and 2015A) outstanding under the CIP Act. The statutory maximum annual debt service payment allowed for the City is \$675,387. The estimated maximum annual debt service payment on bonds issued under the CIP Act is approximately \$325,000. Given the estimated debt service payments on the proposed general obligation bonds, the City will not exceed the statutory limit.

2019 Estimated Market Value	\$422,117,200
Statutory Limit	<u>0.16%</u>
Maximum Annual Debt Service Allowed	\$675,387

Estimated Max Annual Debt Service:	
2013A CIP Bonds	\$134,963
2015A CIP Bonds	\$ 16,875
Proposed 2020A CIP Bonds	<u>\$167,520</u>
	\$319,356

The proposed bonds are not subject to the statutory debt limit as outlined in Minnesota Statutes, Section 475.58.

The table on the following page shows the estimated debt service schedule on the proposed bond issue, given current market conditions. The general obligation bonds for the Project are expected to be sold in March 2020 with bond proceeds received by the City in April 2020. However, the City reserves the right to change the timing and repayment structure of the proposed bond issue based on funding availability and market conditions.

\$2,050,000

City of Elko New Market, Minnesota
General Obligation Capital Improvement Bonds, Series 2020A
Police Facility Remodel

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% Levy
02/01/2021	135,000.00	1.200%	24,126.74	159,126.74	167,083.08
02/01/2022	125,000.00	1.250%	33,122.50	158,122.50	166,028.63
02/01/2023	125,000.00	1.300%	31,560.00	156,560.00	164,388.00
02/01/2024	125,000.00	1.350%	29,935.00	154,935.00	162,681.75
02/01/2025	130,000.00	1.400%	28,247.50	158,247.50	166,159.88
02/01/2026	130,000.00	1.450%	26,427.50	156,427.50	164,248.88
02/01/2027	135,000.00	1.500%	24,542.50	159,542.50	167,519.63
02/01/2028	135,000.00	1.550%	22,517.50	157,517.50	165,393.38
02/01/2029	135,000.00	1.650%	20,425.00	155,425.00	163,196.25
02/01/2030	140,000.00	1.850%	18,197.50	158,197.50	166,107.38
02/01/2031	140,000.00	1.950%	15,607.50	155,607.50	163,387.88
02/01/2032	145,000.00	2.050%	12,877.50	157,877.50	165,771.38
02/01/2033	145,000.00	2.150%	9,905.00	154,905.00	162,650.25
02/01/2034	150,000.00	2.200%	6,787.50	156,787.50	164,626.88
02/01/2035	155,000.00	2.250%	3,487.50	158,487.50	166,411.88
Total	\$2,050,000.00	-	\$307,766.74	\$2,357,766.74	\$2,475,655.08

SIGNIFICANT DATES

Dated.....	5/21/2020
Delivery Date.....	5/21/2020
First Coupon Date.....	2/01/2021

Yield Statistics

Bond Year Dollars.....	\$16,293.61
Average Life.....	7.948 Years
Average Coupon.....	1.8888799%
Net Interest Cost (NIC).....	2.0146961%
True Interest Cost (TIC).....	2.0175398%
Bond Yield for Arbitrage Purposes.....	1.8079752%
All Inclusive Cost (AIC).....	2.2262828%

IRS Form 8038

Net Interest Cost.....	1.8888799%
Weighted Average Maturity.....	7.948 Years

GO Street Reconstruction Bond; Minnesota Statutes, Section 475.58 Process & Criteria

Minnesota Statutes Chapter 475.58, Subd. 3b., authorizes a Minnesota City to adopt a Street Reconstruction Plan (a "Plan"). The Plan must cover at least five years and set forth the street reconstruction to be financed, the estimated costs, and any planned reconstruction of other streets in the municipality over the next five years or greater period of time. The Plan must be approved by all members of the City Council present at the public hearing.

This Street Reconstruction Plan provides for the issuance of General Obligation Street Reconstruction Plan Bonds in an aggregate principal amount not to exceed \$1,300,000 for work contemplated in 2020 as described below. Projects beyond those identified are subject to separate Council approvals in the years said projects are undertaken.

Street Reconstruction Bonds can be used to finance the reconstruction and bituminous overlay of existing city streets. Eligible improvements may include turn lanes and other improvements having a substantial public safety function, realignments, other modifications to intersect with state and county roads, and the local share of state and county road projects. Except in the case of turn lanes, safety improvements, realignments, intersection modifications, and the local share of state and county road projects, street reconstruction does not include the portion of project cost allocable to widening a street or adding curbs and gutters where none previously existed.

A City may issue general obligation bonds for improvements included in an approved Plan if the following conditions outlined in Section 475.58, Subd. 3b have been satisfied:

- The projects financed under this authority must be described in a street reconstruction plan, as described above.
- The city must publish notice of and hold a public hearing on the proposed plan and the related issuance of bonds. The notice must be published at least ten days but not more than 28 days prior to the hearing date.
- The Plan must be approved by a vote of a two-thirds majority of the members of the governing body present at the meeting following a public hearing.
- The issuance of bonds is subject to a reverse referendum. An election is required if voters equal to 5% of the votes cast in the last municipal general election file a petition with the city clerk within 30 days of the public hearing. If the city decides not to undertake an election, it may not propose the issuance of Street Reconstruction Bonds for the same purpose and in the same amount for a period of 365 days from the date of receipt of the petition. If the question of issuing the bonds is submitted and not approved by the voters, the provisions of section 475.58, subdivision 1a, shall apply (no resubmission for same purpose/amount for 180 days).

History and Existing Street Reconstruction Bonds

The City of Elko New Market adopted a Street Reconstruction Plan in conjunction with the issuance of their 2015A G.O. Bonds pursuant to Minnesota Statutes, Section 475.58, subdivision 3b. At the time of the drafting of this Plan, the City has \$100,000 in Street Reconstruction Bonds that were issued as a portion of the Series 2015A G.O. Bonds. G.O. Street Reconstruction Bonds are not limited or capped by market value.

The City may issue general obligation bonds pursuant to Minnesota Statutes Chapter 475.58, Subd. 3b. to finance any street reconstruction costs described in this Plan, to the extent such costs constitute “street reconstruction” within the meaning of the Statute. The City currently plans to issue street reconstruction bonds in the maximum principal amount of \$1,300,000 to finance the street reconstruction costs of the 2020 Street and Utility Improvement Project commencing in year 2020. If the City determines to issue additional street reconstruction bonds under the Statute for future reconstruction costs (or for costs identified in the Plan now, but not currently expected to be financed with bonds under the Statute), the City will revise this Plan to describe the specific reconstruction projects to be financed under the Act and identify the amount of such bonds and hold a public hearing in accordance with the Statute.

A preliminary bond structure for the GO Street Reconstruction Bonds is shown on the following page.

\$1,235,000

City of Elko New Market, Minnesota
General Obligation Street Reconstruction Bonds, Series 2020A
Roundabout Project

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	105% Levy
02/01/2021	80,000.00	1.200%	14,548.61	94,548.61	99,276.04
02/01/2022	75,000.00	1.250%	19,990.00	94,990.00	99,739.50
02/01/2023	75,000.00	1.300%	19,052.50	94,052.50	98,755.13
02/01/2024	75,000.00	1.350%	18,077.50	93,077.50	97,731.38
02/01/2025	80,000.00	1.400%	17,065.00	97,065.00	101,918.25
02/01/2026	80,000.00	1.450%	15,945.00	95,945.00	100,742.25
02/01/2027	80,000.00	1.500%	14,785.00	94,785.00	99,524.25
02/01/2028	80,000.00	1.550%	13,585.00	93,585.00	98,264.25
02/01/2029	80,000.00	1.650%	12,345.00	92,345.00	96,962.25
02/01/2030	85,000.00	1.850%	11,025.00	96,025.00	100,826.25
02/01/2031	85,000.00	1.950%	9,452.50	94,452.50	99,175.13
02/01/2032	85,000.00	2.050%	7,795.00	92,795.00	97,434.75
02/01/2033	90,000.00	2.150%	6,052.50	96,052.50	100,855.13
02/01/2034	90,000.00	2.200%	4,117.50	94,117.50	98,823.38
02/01/2035	95,000.00	2.250%	2,137.50	97,137.50	101,994.38
Total	\$1,235,000.00	-	\$185,973.61	\$1,420,973.61	\$1,492,022.29

SIGNIFICANT DATES

Dated.....	5/21/2020
Delivery Date.....	5/21/2020
First Coupon Date.....	2/01/2021

Yield Statistics

Bond Year Dollars.....	\$9,837.64
Average Life.....	7.966 Years
Average Coupon.....	1.8904293%
Net Interest Cost (NIC).....	2.0159676%
True Interest Cost (TIC).....	2.0187801%
Bond Yield for Arbitrage Purposes.....	1.8079752%
All Inclusive Cost (AIC).....	2.2153259%

IRS Form 8038

Net Interest Cost.....	1.8904293%
Weighted Average Maturity.....	7.966 Years

Baker Tilly Municipal Advisors, LLC is a registered municipal advisor and wholly-owned subsidiary of Baker Tilly Virchow Krause, LLP, an accounting firm. Baker Tilly Virchow Krause, LLP trading as Baker Tilly is a member of the global network of Baker Tilly International Ltd., the members of which are separate and independent legal entities. © 2020 Baker Tilly Municipal Advisors, LLC

CERTIFICATION OF MINUTES RELATING TO
ADOPTION OF CAPITAL IMPROVEMENT AND STREET RECONSTRUCTION PLANS
AND ISSUANCE AND SALE OF BONDS THEREFOR

Issuer: City of Elko New Market, Minnesota

Governing Body: City Council

Kind, date, time and place of meeting: A regular meeting held on March 12, 2020, at 6:00 p.m.
at the City Offices, 601 Main Street, Elko New Market, Minnesota.

Members present:

Members absent:

Documents Attached:

Minutes of said meeting (pages):

RESOLUTION NO. 20-19

RESOLUTION ADOPTING CAPITAL IMPROVEMENT AND
STREET RECONSTRUCTION PLANS AND AUTHORIZING
THE ISSUANCE AND SALE OF BONDS THEREFOR

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the bonds referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, so far as they relate to said bonds; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer on March ____, 2020.

City Administrator

The Mayor stated that this was the time and place fixed for a public hearing to be held on the (i) approval of the City's Street Reconstruction Plan (the "Street Reconstruction Plan") and Capital Improvement Plan (the "CIP Plan"; together, the "Plans"), (ii) issuance of capital improvement plan bonds (the "CIP Bonds") in an amount not to exceed \$2,460,000, pursuant to Minnesota Statutes, Section 475.521, for the purpose of financing the construction of various capital improvements identified in the CIP Plan, and (iii) issuance of street reconstruction bonds in an amount not to exceed \$1,600,000 (the "Street Reconstruction Bonds"), under Minnesota Statutes, Chapter 475.58, Subdivision 3(b), as amended, in order to finance the costs of street reconstruction projects, as described in the Street Reconstruction Plan.

The City Administrator presented an affidavit showing publication of the notice of public hearing at least fourteen (14) but not more than twenty-eight (28) days prior to the date fixed for the public hearing in the *New Prague Times*, being the official newspaper of the City. The affidavit was examined, found to be satisfactory and ordered placed on file with the City Administrator.

The Mayor then opened the meeting for the public hearing. The purpose of the hearing was explained, and all persons present who desired to do so were afforded an opportunity to express their views with respect to the proposals.

After all persons who wished to do so had stated or filed their views on the proposals, the Mayor declared the public hearing to be closed.

Councilmember _____ introduced the following resolution and moved its adoption, which motion was seconded by Councilmember _____:

RESOLUTION NO. 20-19

RESOLUTION ADOPTING CAPITAL IMPROVEMENT AND STREET RECONSTRUCTION PLANS AND AUTHORIZING THE ISSUANCE AND SALE OF BONDS THEREFOR

BE IT RESOLVED by the City Council (this “Council”) of the City of Elko New Market, Minnesota (the “City”), as follows:

SECTION 1. FINDINGS. On the date hereof, the City held a public hearing on the (i) approval of the City’s Street Reconstruction Plan (the “Street Reconstruction Plan”) and Capital Improvement Plan (the “CIP Plan”; together, the “Plans”), (ii) issuance of capital improvement plan bonds in an amount not to exceed \$2,460,000, pursuant to Minnesota Statutes, Section 475.521 (the “CIP Bonds”), for the purpose of financing the construction of various capital improvements identified in the CIP Plan (the “CIP Projects”), and (iii) issuance of street reconstruction bonds in an amount not to exceed \$1,600,000 (the “Street Reconstruction Bonds”), under Minnesota Statutes, Chapter 475.58, Subdivision 3(b), as amended, in order to finance the costs of street reconstruction projects, as described in the Street Reconstruction Plan (the “Street Reconstruction Projects,” together with the CIP Projects, the “Projects”).

All parties who appeared at the hearing were given an opportunity to express their views with respect to the proposal to adopt the Plans and undertake and finance the Projects, and any written comments submitted prior to the hearing were considered.

In approving the CIP Plan, the Council considered for each project and the overall CIP Plan:

- (1) the condition of the City’s existing infrastructure, including the projected need for repair or replacement;
- (2) the likely demand for the improvement;
- (3) the estimated cost of the improvement;
- (4) the available public resources;
- (5) the level of overlapping debt in the municipality;
- (6) the relative benefits and costs of alternative uses of the funds;
- (7) operating costs of the proposed improvements; and
- (8) alternatives for providing services most efficiently through shared facilities with other municipalities or local government units.

The City hereby adopts the Plans.

SECTION 2. PURPOSE. It is hereby determined to be in the best interests of the City to issue the CIP Bonds and the Street Reconstruction Bonds to finance the costs of the Projects. . . If a petition requesting a vote on issuance of the CIP Bonds or Street Reconstruction Bonds, signed by voters equal to five percent of the votes cast in the last general election, is filed with City

Administrator by April 11, 2020, the City may issue the CIP Bonds or the Street Reconstruction Bonds to which such petition relates only after obtaining approval of a majority of voters voting on the question at an election.

Upon vote being taken thereon, the following members voted in favor thereof:

and the following members voted against the same:

whereupon the resolution was declared duly passed and adopted.



BOLTON & MENK, INC.

Consulting Engineers & Surveyors

12224 Nicollet Avenue · Burnsville, MN 55337-1649

Phone (952) 890-0509 · FAX (952) 890-8065

www.bolton-menk.com

MEMORANDUM

Date: March 12, 2020
To: Honorable Mayor and City Council of Elko New Market, Minnesota
Thomas Terry, City Administrator
From: Rich Revering PE, City Engineer
Subject: Recommendation to Support Award of Contract by Scott County
CSAHs 2 and 91 Roundabout Project – SP 070-602-022
T43.115114

BACKGROUND

The City Council is being asked to adopt a motion indicating its support for the award of a contract by Scott County to Ryan Contracting Company for construction of a roundabout at the intersection of County State Aid Highways 2 and 91 in the amount of \$2,087,309.50.

DISCUSSION

The City of Elko New Market entered into an agreement with Scott County in June of 2019 related to the construction of this project. The agreement states that Scott County will bid, award, and administer the contract on behalf of the City, subject to City concurrence with award of the contract after bids are received and other terms. Four bids were received on March 3, 2020. The low bid was from Ryan Contracting Company as stated above. The highest bid was \$2,332,988.19. The engineer's estimate at the time of advertising was \$2,343,286.55. The Council is being asked for concurrence with awarding the contract to the low bidder.

City and County staff reviewed the low bid and found it responsive and balanced. The contract work includes the roundabout, trail connections on CSAHs 2 and 91, and miscellaneous improvements and maintenance activities. The contract is based on a unit price bid. This means quantities of various pay items are estimated, but the contractor is compensated based on actual quantities required during construction at the unit prices bid. This facilitates minor changes in the work as conditions may demand. To more easily manage any overruns, staff recommends the City include an additional 5 percent of contract price contingency for financing purposes, though no site conditions are currently known to be notably variable.

The project is funded by a combination of sources, but primarily by a federal Highway Safety Improvement Grant. Roundabout lighting, downtown lighting and corridor lighting is not included in the bid but is part of the recommended project. Lighting will be by agreement with

[https://boltonmenk-my.sharepoint.com/personal/richre_bolton-menk_com/Documents/Recommendation to Support Award of Contract.docx](https://boltonmenk-my.sharepoint.com/personal/richre_bolton-menk_com/Documents/Recommendation%20to%20Support%20Award%20of%20Contract.docx)



Xcel Energy. A recommendation on those agreements is in the March 12th packets under separate cover. The impact of lighting on funding is, however, included in the project cost history below.

The history of estimated project costs and estimated city share is as follows:

Date	Project Stage	Total Project Cost	City Cost
May 22, 2019	Preliminary Design	\$3,346,600	\$1,375,800
November 4, 2019	95% Plans Update	\$3,288,183	\$1,317,383
March 12, 2020	Post Letting	\$2,991,424	\$1,086,492

The following qualifying information applies to the City's estimated share at post-letting:

1. The final value of Unit Price contracts may vary from the value at bidding as described above. The estimated post-letting City share shown includes a contingency of \$104,365.48.
2. The estimated post-letting City share shown includes the initially submitted amount of a scope change request currently being reviewed with Bolton & Menk, Inc. This figure is included in order to provide a worst-case City cost as may be impacted by design fees. A motion to support award of the Contract to Ryan Contracting Company does not mean the Council has approved the consultant scope change request. The final request will be brought to Council for approval when staff feedback has been considered and incorporated.

RECOMMENDATIONS

Adopt a motion supporting award by Scott County of the CSAHs 2 and 91 intersection roundabout project to Ryan Contracting Company of Elko New Market based on its bid of \$2,087,309.50.



BOLTON & MENK, INC.

Consulting Engineers & Surveyors

12224 Nicollet Avenue · Burnsville, MN 55337-1649

Phone (952) 890-0509 · FAX (952) 890-8065

www.bolton-menk.com

MEMORANDUM

Date: March 12, 2020
To: Honorable Mayor and City Council of Elko New Market, Minnesota
Thomas Terry, City Administrator
From: Rich Revering PE, City Engineer
Subject: Recommendation Approve Xcel Energy Lighting Agreements
CSAHs 2 and 91 Roundabout Project – SP 070-602-022
T43.115114

BACKGROUND

The City Council is being asked to adopt a motion approving two agreements for lighting associated with the roundabout project in the amount of \$319,523.

DISCUSSION

The City of Elko New Market requested proposals from Xcel Energy for the installation of roadway lighting at the roundabout, and decorative lighting from the roundabout to and through downtown.

The roundabout lighting is required for safety purposes at the roundabout. The cost to install the poles and fixtures is \$65,576. Scott County will pay monthly charges associated with these lights. The agreement for this work is attached. It is recommended this agreement be approved.

Three options were received for the decorative lighting in the corridor and downtown and are attached. All are based on the same poles and fixtures. The differences lay in whether power outlets are provided or not. The “no outlets” option is \$221,430. The “outlets downtown” only option is \$213,997 (staff suspects a transposal error in the draft agreements), and the “all decorative has outlets” option is \$253,947. Staff recommends the latter option and rejection of the options that do not include outlets at all decorative pole locations. Including outlets gives the greatest long-term flexibility for Holiday lights or other uses for the poles, and retrofitting outlets would be more costly than including them in the initial installation. The poles, luminaires, and outlets would be owned and maintained by Xcel Energy. The City will be billed a monthly charge of \$4.90 for each of the 47 lights proposed to cover electricity, maintenance, and repairs.

[https://boltonmenk-my.sharepoint.com/personal/richre_bolton-menk_com/Documents/Recommendation to Approve Xcel Energy Agreements on Roundabout Lighting.docx](https://boltonmenk-my.sharepoint.com/personal/richre_bolton-menk_com/Documents/Recommendation%20to%20Approve%20Xcel%20Energy%20Agreements%20on%20Roundabout%20Lighting.docx)



Elko New Market Mayor and Council

March 12, 2020

2

The agreement does not include banner arms. Staff is looking into adding third-party banner arms later. Xcel Energy does not offer these as an option but will permit them on the poles. Staff believes installation of the arms could be done by the Public Works department.

The lighting cost is included in costs presented in the related packet memo on support for award of the roundabout contract.

RECOMMENDATIONS

Approve by motion the attached agreement for the installation of 15 Cobra-head fixtures on 30-foot poles in the amount of \$65,576 and the attached agreement for the installation of 47 Acorn fixtures on 15-foot poles with outlets in the amount of \$253,947.00.



Outdoor Lighting
825 Rice Street
St. Paul, MN 55117

Construction Agreement For Street Lighting Facilities

The customer identified below ("Customer") and Northern States Power Company, a Minnesota Corporation and wholly owned subsidiary of Xcel Energy Inc. ("Xcel Energy" or "Company") agree to this Construction Agreement for Street Lighting Facilities, including the attached Terms and Conditions, for the following street light facilities:

Customer: **City of Elko New Market**

Address: **PO Box 99**

City: **Elko New Market**

State: **MN** Zip Code: **55020**

Project charges of: **Sixty-five thousand five hundred seventy six dollars and 00/100 Dollars: \$65,576.00**

In accordance with the following terms of payment: **Payment due 30 days after construction is completed**

For Association or City of: **City of Elko New Market**

Streetlights/Facilities Location: **CSAH 2 & CH 91 Roundabout**

Rate Code: **A30 Pre-Pay Option 110-165W LED (14,000 Lumens). Current monthly rate is \$7.05 per luminaire.**

Service consisting of: **Pre-Pay Option includes electricity and maintenance for 25 years from installation.**

Installation of Company Owned streetlight facilities consisting of:	
<u>Designation of Lamps:</u>	<u>Number of Luminaries:</u>
Install 16 LED cobra fixtures on 30' direct buried fiberglass poles.	16- 110-165W LED Cobra Fixtures
Install by plow approx. 1500' of #4 AL DX in 1½" conduit.	Fixture Color –Grey
Restoration is not included in this contract.	16- 30' Direct Buried Fiberglass Poles
	Pole Color – Black
Project charges valid for 60 days from signing of contract.	

Customer and Xcel Energy agree to the attached terms and conditions for the installation and moving of the facilities identified above. Customer and Xcel Energy agree that the operation of the facilities shall be subject to the General Street Lighting Contract for Operations & Maintenance Services between Customer and Xcel Energy, dated

Dated this _____ day of _____ 20 _____

Dated this _____ day of _____ 20 _____

Customer: **City of Elko New Market**

Xcel Energy:

By: _____

By: _____

Title: _____

Mary J. Woolf, Director Business Operations – Minnesota as authorized agent for Northern States Power Co.

XCEL ENERGY USE ONLY	Date: 02/13/2020	Div: Mankato
Xcel Energy Outdoor Project Coordinator:	Damon Erickson	
Xcel Energy Project Number:	SAP Notification #11580400	
Customer Charges Paid:		

TERMS AND CONDITIONS

Customer and Company agree to the following terms and conditions:

1. **Acceptance.** Execution of this Agreement constitutes Customer's acceptance of the express terms of Company's proposal and the offer contained therein, which are included and incorporated into this Agreement. Any additional or different terms proposed by Customer, or any attempt by Customer to vary in any degree any of the terms in this Agreement in Customer's acceptance, are hereby objected to and rejected, and (i) such additional or different terms shall not operate as a rejection of the incorporation of the Company's proposal in this Agreement unless such variances are with respect to terms involving the description, quantity, or delivery schedule of the Work to be performed by Company as described in Company's proposal ("the Work" means the supplying of any labor, materials, or any other work of Company expressly described in Company's proposal); (ii) such additional or different terms shall be deemed a material alteration hereof; and (iii) Company's proposal shall be deemed accepted by Customer and incorporated into this Agreement without said additional or different terms.
2. **Request for Installation; Rights.** Customer requests that Company install outdoor lighting at the location(s) designated on page one and/or as shown on the attached exhibit. Customer grants Company any right, privilege and easement to install, operate and maintain its facilities, including underground facilities, on the property.
3. **Installation Requirements.** Customer agrees that, prior to Company starting work: (1) the route of Company's service installation shall be accessible to Company's equipment; (2) Customer will remove all obstructions from the route at no cost or expense to Company; (3) Customer will clearly mark all septic tanks, drain-fields, sprinkler systems, water wells, owner-installed electric or pipeline facilities, or other Customer-owned facilities in the installation route; and (4) the ground elevation along the route shall not be above or more than four inches below the final grade. Company will contact the appropriate agency to locate 3rd party utility facilities (phone, cable, etc.) on Customer property. Customer agrees Company is not responsible for damage to Customer-owned underground facilities not marked at the time of outdoor lighting service installation.
4. **Installation Cost Contribution.** Customer agrees to pay an installation cost contribution provided in Project Charges on page one. Customer is responsible for any additional installation costs incurred by Company because of (1) soil conditions that impair the installation of underground facilities, such as rock formations, etc., (2) extensive existing underground facilities, and (3) any existing conditions that exist but did not exist at the time the installation cost was determined, such as new sidewalks, curbing, black top, paving, sod or other landscaping and obstructions along the cable route.
5. **Winter Construction Charges.** When underground facilities are installed between October 1 and April 15, inclusive, because of failure of Customer to meet all requirements of the Company by September 30, or because the Customer's property, or the streets leading thereto, are not ready to receive the underground facilities by such date, such work will be subject to a Winter Construction Charge when winter conditions of six inches or more of frost exist, snow removal or plowing is required to install service, or burners must be set at the underground facilities in order to install service for the entire length of the underground service. Winter construction will not be undertaken by the Company where prohibited by law or where it is not practical to install underground facilities during the winter season. The charges apply to frost depths of 18" or less. At greater frost depths, the Company may individually determine the job cost. The Company also reserves the right to charge for any unusual winter construction expenses. All winter construction charges are non-refundable and are in addition to any normal construction charges.
6. **Schedule; Delays.** Quoted shipping and completion dates are approximate and are based on prompt receipt of all necessary information and approvals from Customer and access as required by Company and its contractors or subcontractors (if any) to the site and to the equipment which is the subject of this Agreement. If Company's performance is delayed by Customer's suspension of work, in whole or in part, or by any act or omission of Customer, the time for performance will be extended by the period of time required by Company to return to the state of performance that existed before the delay. If the delay or suspension continues for sixty (60) days, Company has the right to cancel or renegotiate the Agreement. Customer will pay an equitable adjustment based on a claim submitted by Company for all reasonable costs, damages and expenses incurred by Company incident to the delay or suspension.

7. **Changes.** The prices for any extras or changes to the scope of the Work or modifications to the payment or performance schedule will be agreed upon in writing before either party will be obligated to proceed with such changes. Performance of any change will not waive any claims for equitable adjustment in price or schedule.
8. **Relocating Facilities.** Customer agrees to pay the cost of relocating any portion of facilities, including underground facilities, to accommodate Customer or as required due to altering of grade, additions to structures, installation of patios, decks, gardens, sidewalks, curbing, paving, blacktop, sod, landscaping or any other condition which makes maintenance of the Company's facilities impractical. Company shall notify Customer of such relocations prior to incurring relocation costs.
9. **Environmental.** Prior to the start of the Work, Customer will provide notice of any hazardous materials or hazardous situations that it is aware of with respect to the facilities where the Work is to be performed or that could affect the Work. In the event Company encounters the existence of asbestos, asbestos containing materials, formaldehyde, lead, or potentially toxic or otherwise hazardous material in the performance of the Work, the discovery thereof shall constitute a cause beyond Company's reasonable control and Company shall have the right to cease or not commence the Work until the area has been made safe by Customer or Customer's representative, at Customer's expense.
10. **Restoration.** Company will restore any excavation of the boulevard on Customer's property with existing soil so it is level and clean. Customer is responsible for the final compacting, loam, seeding, sod or watering of the boulevard at Customer's expense unless otherwise noted on page one of this Agreement.
11. **Additional Charges.** In addition to the project charges on page one of this Agreement, Company shall be compensated for any added costs of performing the Work attributable to any one or more of the following: (i) any and all extras and change orders and any and all other additional work mutually agreed by Customer and Company; (ii) any and all costs and expenses related to asbestos or other environmental matters, any unforeseen conditions or any changes in the law; and (iii) any and all added costs and expenses of performing the Work attributable to any change by Customer in the criteria or information for the facility or to any delay or breach by Customer or its subcontractors.
12. **Operations; Maintenance.** Customer requests and authorizes Company to provide illumination and maintain the street lighting facilities under the Terms and Conditions as described in Customer's General Street Lighting Contract for Operations & Maintenance Services with Company, which shall be effective upon the completion date of the street light installation.
13. **Payments.** Unless otherwise specified in Company's proposal, Company may at its option invoice Customer upon completion of the Work or invoice Customer on a monthly basis for construction work performed under this Agreement. Customer shall pay Company all invoiced amounts within thirty (30) days of receipt of invoice.
14. **Termination.** Customer may terminate the Agreement only upon written notice to Company and payment to Company for all (i) services and Work rendered or performed to the effective date of such termination; (ii) materials, supplies and equipment purchased prior to the effective date of such termination; and (iii) costs incurred by Company as a result of such termination. To the extent that Company uses the materials, supplies, or equipment on other projects or for maintenance purposes, Customer will not be charged for them.
15. **Warranties.** Company shall perform the Work in a safe and professional manner in accordance with all applicable codes, standards, regulations and laws. Company shall repair, replace or correct to Customer's satisfaction all faulty or substandard work or defects in materials which appear within ninety (90) days from the date of completion of the Work. Acceptance of the Work or payment by Customer shall not affect this obligation. **THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL STATUTORY OR IMPLIED WARRANTIES (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE).**
16. **Limitation of Remedies.** **IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL COMPANY BE LIABLE TO CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE.** In no event whatsoever shall

Company ever be liable to Customer for any damages or other amounts (including, without limitation, direct or actual damages), whether arising in contract or tort (including, without limitation, negligence) or otherwise, under or in connection with this Agreement or the Work, in an amount, in the aggregate, in excess of the total price paid for the Work; any and all claims for damages in excess of such amount being hereby forever waived and released by Customer; provided, however, that nothing contained in this sentence shall waive or limit any direct damages which Customer may suffer on account of Company's gross negligence or willful misconduct.

17. **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform due to any cause beyond its reasonable control, including fire, flood, strike or other labor difficulty, act of God, or act of any governmental authority. The party experiencing the force majeure will notify the other party promptly, and appropriate adjustments will be negotiated. In the event of delay in performance due to force majeure, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay, provided that if such delay continues for 60 days the party not experiencing the force majeure may terminate this Agreement.
18. **Document Approval.** Company may request that Customer review documents developed by Company for conformity with Customer requirements or specifications. Unless Customer advises Company otherwise in writing within fifteen (15) days after Company's submission, Company may consider the documents approved and proceed with work. Changes thereafter, made at the direction of Customer, will entitle Company to adjustment by change order.
19. **Documentation and Proprietary Information.** Customer will provide Company with accurate and complete information in order to permit Company to successfully undertake and complete the Work. Company shall not be prohibited from disclosure or use of proprietary or confidential information or documents necessary for Company to secure or maintain in effect any license or permit, or otherwise to complete the Work. Where Customer information is incomplete or incorrect, resulting in delay or extra work, Company will be entitled to adjustment by change order.
20. **Work Product.** All reports, drawings, plans, specifications, calculations, studies, software programs, tapes, models and memoranda, if any, assembled or prepared by Company or Company's affiliates, independent professional associates, agents, consultants, contractors or subcontractors pursuant to this Agreement are instruments of service in respect of the Work, and Company shall retain all ownership and property interest therein, whether or not the Work is completed. Customer may make and retain copies for information and reference in connection with the Work; *provided, however*, that it is understood and agreed that such documents are not intended to be re-used by Customer or others on extensions of the project or on any other project or any other purpose other than as expressly set forth in this Agreement, and Customer shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of Company.
21. **Customer Facilities.** Company does not assume any responsibility for the adequacy, safety or satisfactory performance of Customer's facilities. Customer shall, to the fullest extent permitted by law, indemnify, defend and hold harmless Company and its officers, directors, agents, employees, and representatives from and against any and all losses, claims, damages, expenses (including attorneys' fees and costs) arising, for any reason whatsoever, out of the failure, non-operation or faulty performance of Customer's facilities (except to the extent of Company's gross negligence or willful misconduct).
22. **Subcontracting.** Company may subcontract any portion or all of the Work without the approval of Customer.
23. **Independent Contractor.** Nothing contained in this Agreement nor any acts of the parties shall be construed to create the relationship of principal and agent, or of limited or general partner, or of joint venture or of any association between or among the parties to this Agreement, except that of owner and independent contractor.
24. **Title; Rights of Access.** Customer warrants that it has fee simple title to the property. Customer hereby grants to Company the right to enter and improve the real property for the purposes stated herein.
25. **Ownership.** Customer shall acquire no right, title or interest in any portion of the Work or Company's equipment or facilities placed in, on, over, through and/or under the real property by Company. The Work constructed and installed by Company on the real property of Customer shall be and mean the personal property of Company, shall not be considered a fixture of the property, shall not attach to the realty, and shall not be alienable or

liable by Customer or any other party. Further, Company may remove, repair and replace the Work and its component system and equipment at any time without notice in Company's sole and absolute discretion.

- 26. Other.** It is agreed that failure by Customer or by Company at any time or from time to time to enforce any of the provisions of this Agreement shall not be construed to be a waiver of such provision or of Customer's right or Company's right, respectively, to thereafter enforce each and every provision hereof. This Agreement contains, with respect to the specific services to be performed by Company, the entire understanding of the parties, and shall supersede any other oral or written agreements and be binding upon and inure to the benefit of the parties' successors and assigns. This Agreement may not be modified in any way without the written consent of both parties. If any provision of this Agreement is determined by a court to be unenforceable, then such provision will be deemed null and void but the remaining provisions shall be enforceable according to their terms. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of Minnesota (as opposed to conflicts of laws provisions) as though all acts and omissions contemplated hereby or related hereto occurred in Minnesota. No course of prior dealing, usage of trade and course of performance shall be used to modify, supplement or explain any terms of this Agreement. Neither Party will assign or otherwise transfer its rights or obligations hereunder, in whole or in part, without the advance written consent of the other. Notwithstanding the above, Company may assign its rights or obligations to any of its affiliates without the written consent of Customer.
- 27. Governing Law.** The Terms and Conditions provided herein and the rights of all the parties hereunder shall be construed under and governed by the laws of the State of Minnesota.



Outdoor Lighting
825 Rice Street
St. Paul, MN 55117

Construction Agreement For Street Lighting Facilities

The customer identified below ("Customer") and Northern States Power Company, a Minnesota Corporation and wholly owned subsidiary of Xcel Energy Inc. ("Xcel Energy" or "Company") agree to this Construction Agreement for Street Lighting Facilities, including the attached Terms and Conditions, for the following street light facilities:

Customer: **City of Elko New Market**

Address: **PO Box 99**

City: **Elko New Market**

State: **MN** Zip Code: **55020**

Project charges of: **Two hundred twenty-one thousand four hundred thirty dollars and 00/100** Dollars: **\$221,430**

In accordance with the following terms of payment: **Payment due 30 days after construction is completed**

For Association or City of: **City of Elko New Market**

Streetlights/Facilities Location: **Downtown & Continuous Lighting Area- No Outlets**

Rate Code: **A30 Pre-Pay Option 30-40W LED (4,000 Lumens). Current monthly rate is \$4.90 per luminaire.**

Service consisting of: **Pre-Pay Option includes electricity and maintenance for 25 years from installation.**

Installation of Company Owned streetlight facilities consisting of:	
<u>Designation of Lamps:</u>	<u>Number of Luminaries:</u>
Install 47 LED acorn fixtures on 15' base mounted aluminum poles.	47- 30-40W LED Acorn Fixtures
Install by plow approx. 5000' of 1 1/2" conduit and utilize existing city conduit to install wire.	Fixture Color –Black
Restoration is not included in this contract.	47- 15' Base Mounted Aluminum Poles with outlets
	Pole Color – Black
Project charges valid for 60 days from signing of contract.	

Customer and Xcel Energy agree to the attached terms and conditions for the installation and moving of the facilities identified above. Customer and Xcel Energy agree that the operation of the facilities shall be subject to the General Street Lighting Contract for Operations & Maintenance Services between Customer and Xcel Energy, dated

Dated this _____ day of _____ 20 _____

Dated this _____ day of _____ 20 _____

Customer: City of Elko New Market

Xcel Energy: _____

By: _____

By: _____

Title: _____

Title: **Mary J. Woolf, Director Business Operations – Minnesota as authorized agent for Northern States Power Co.**

XCEL ENERGY USE ONLY	Date: 02/13/2020	Div: Mankato
Xcel Energy Outdoor Project Coordinator:	Damon Erickson	
Xcel Energy Project Number:	SAP Notification #11580400	
Customer Charges Paid:		

TERMS AND CONDITIONS

Customer and Company agree to the following terms and conditions:

- 1. Acceptance.** Execution of this Agreement constitutes Customer's acceptance of the express terms of Company's proposal and the offer contained therein, which are included and incorporated into this Agreement. Any additional or different terms proposed by Customer, or any attempt by Customer to vary in any degree any of the terms in this Agreement in Customer's acceptance, are hereby objected to and rejected, and (i) such additional or different terms shall not operate as a rejection of the incorporation of the Company's proposal in this Agreement unless such variances are with respect to terms involving the description, quantity, or delivery schedule of the Work to be performed by Company as described in Company's proposal ("the Work" means the supplying of any labor, materials, or any other work of Company expressly described in Company's proposal); (ii) such additional or different terms shall be deemed a material alteration hereof; and (iii) Company's proposal shall be deemed accepted by Customer and incorporated into this Agreement without said additional or different terms.
- 2. Request for Installation; Rights.** Customer requests that Company install outdoor lighting at the location(s) designated on page one and/or as shown on the attached exhibit. Customer grants Company any right, privilege and easement to install, operate and maintain its facilities, including underground facilities, on the property.
- 3. Installation Requirements.** Customer agrees that, prior to Company starting work: (1) the route of Company's service installation shall be accessible to Company's equipment; (2) Customer will remove all obstructions from the route at no cost or expense to Company; (3) Customer will clearly mark all septic tanks, drain-fields, sprinkler systems, water wells, owner-installed electric or pipeline facilities, or other Customer-owned facilities in the installation route; and (4) the ground elevation along the route shall not be above or more than four inches below the final grade. Company will contact the appropriate agency to locate 3rd party utility facilities (phone, cable, etc.) on Customer property. Customer agrees Company is not responsible for damage to Customer-owned underground facilities not marked at the time of outdoor lighting service installation.
- 4. Installation Cost Contribution.** Customer agrees to pay an installation cost contribution provided in Project Charges on page one. Customer is responsible for any additional installation costs incurred by Company because of (1) soil conditions that impair the installation of underground facilities, such as rock formations, etc., (2) extensive existing underground facilities, and (3) any existing conditions that exist but did not exist at the time the installation cost was determined, such as new sidewalks, curbing, black top, paving, sod or other landscaping and obstructions along the cable route.
- 5. Winter Construction Charges.** When underground facilities are installed between October 1 and April 15, inclusive, because of failure of Customer to meet all requirements of the Company by September 30, or because the Customer's property, or the streets leading thereto, are not ready to receive the underground facilities by such date, such work will be subject to a Winter Construction Charge when winter conditions of six inches or more of frost exist, snow removal or plowing is required to install service, or burners must be set at the underground facilities in order to install service for the entire length of the underground service. Winter construction will not be undertaken by the Company where prohibited by law or where it is not practical to install underground facilities during the winter season. The charges apply to frost depths of 18" or less. At greater frost depths, the Company may individually determine the job cost. The Company also reserves the right to charge for any unusual winter construction expenses. All winter construction charges are non-refundable and are in addition to any normal construction charges.
- 6. Schedule; Delays.** Quoted shipping and completion dates are approximate and are based on prompt receipt of all necessary information and approvals from Customer and access as required by Company and its contractors or subcontractors (if any) to the site and to the equipment which is the subject of this Agreement. If Company's performance is delayed by Customer's suspension of work, in whole or in part, or by any act or omission of Customer, the time for performance will be extended by the period of time required by Company to return to the state of performance that existed before the delay. If the delay or suspension continues for sixty (60) days, Company has the right to cancel or renegotiate the Agreement. Customer will pay an equitable adjustment based on a claim submitted by Company for all reasonable costs, damages and expenses incurred by Company incident to the delay or suspension.

7. **Changes.** The prices for any extras or changes to the scope of the Work or modifications to the payment or performance schedule will be agreed upon in writing before either party will be obligated to proceed with such changes. Performance of any change will not waive any claims for equitable adjustment in price or schedule.
8. **Relocating Facilities.** Customer agrees to pay the cost of relocating any portion of facilities, including underground facilities, to accommodate Customer or as required due to altering of grade, additions to structures, installation of patios, decks, gardens, sidewalks, curbing, paving, blacktop, sod, landscaping or any other condition which makes maintenance of the Company's facilities impractical. Company shall notify Customer of such relocations prior to incurring relocation costs.
9. **Environmental.** Prior to the start of the Work, Customer will provide notice of any hazardous materials or hazardous situations that it is aware of with respect to the facilities where the Work is to be performed or that could affect the Work. In the event Company encounters the existence of asbestos, asbestos containing materials, formaldehyde, lead, or potentially toxic or otherwise hazardous material in the performance of the Work, the discovery thereof shall constitute a cause beyond Company's reasonable control and Company shall have the right to cease or not commence the Work until the area has been made safe by Customer or Customer's representative, at Customer's expense.
10. **Restoration.** Company will restore any excavation of the boulevard on Customer's property with existing soil so it is level and clean. Customer is responsible for the final compacting, loam, seeding, sod or watering of the boulevard at Customer's expense unless otherwise noted on page one of this Agreement.
11. **Additional Charges.** In addition to the project charges on page one of this Agreement, Company shall be compensated for any added costs of performing the Work attributable to any one or more of the following: (i) any and all extras and change orders and any and all other additional work mutually agreed by Customer and Company; (ii) any and all costs and expenses related to asbestos or other environmental matters, any unforeseen conditions or any changes in the law; and (iii) any and all added costs and expenses of performing the Work attributable to any change by Customer in the criteria or information for the facility or to any delay or breach by Customer or its subcontractors.
12. **Operations; Maintenance.** Customer requests and authorizes Company to provide illumination and maintain the street lighting facilities under the Terms and Conditions as described in Customer's General Street Lighting Contract for Operations & Maintenance Services with Company, which shall be effective upon the completion date of the street light installation.
13. **Payments.** Unless otherwise specified in Company's proposal, Company may at its option invoice Customer upon completion of the Work or invoice Customer on a monthly basis for construction work performed under this Agreement. Customer shall pay Company all invoiced amounts within thirty (30) days of receipt of invoice.
14. **Termination.** Customer may terminate the Agreement only upon written notice to Company and payment to Company for all (i) services and Work rendered or performed to the effective date of such termination; (ii) materials, supplies and equipment purchased prior to the effective date of such termination; and (iii) costs incurred by Company as a result of such termination. To the extent that Company uses the materials, supplies, or equipment on other projects or for maintenance purposes, Customer will not be charged for them.
15. **Warranties.** Company shall perform the Work in a safe and professional manner in accordance with all applicable codes, standards, regulations and laws. Company shall repair, replace or correct to Customer's satisfaction all faulty or substandard work or defects in materials which appear within ninety (90) days from the date of completion of the Work. Acceptance of the Work or payment by Customer shall not affect this obligation. **THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL STATUTORY OR IMPLIED WARRANTIES (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE).**
16. **Limitation of Remedies.** **IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL COMPANY BE LIABLE TO CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER**

INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE. In no event whatsoever shall Company ever be liable to Customer for any damages or other amounts (including, without limitation, direct or actual damages), whether arising in contract or tort (including, without limitation, negligence) or otherwise, under or in connection with this Agreement or the Work, in an amount, in the aggregate, in excess of the total price paid for the Work; any and all claims for damages in excess of such amount being hereby forever waived and released by Customer; provided, however, that nothing contained in this sentence shall waive or limit any direct damages which Customer may suffer on account of Company's gross negligence or willful misconduct.

- 17. Force Majeure.** Neither party will be liable to the other for any delay or failure to perform due to any cause beyond its reasonable control, including fire, flood, strike or other labor difficulty, act of God, or act of any governmental authority. The party experiencing the force majeure will notify the other party promptly, and appropriate adjustments will be negotiated. In the event of delay in performance due to force majeure, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay, provided that if such delay continues for 60 days the party not experiencing the force majeure may terminate this Agreement.
- 18. Document Approval.** Company may request that Customer review documents developed by Company for conformity with Customer requirements or specifications. Unless Customer advises Company otherwise in writing within fifteen (15) days after Company's submission, Company may consider the documents approved and proceed with work. Changes thereafter, made at the direction of Customer, will entitle Company to adjustment by change order.
- 19. Documentation and Proprietary Information.** Customer will provide Company with accurate and complete information in order to permit Company to successfully undertake and complete the Work. Company shall not be prohibited from disclosure or use of proprietary or confidential information or documents necessary for Company to secure or maintain in effect any license or permit, or otherwise to complete the Work. Where Customer information is incomplete or incorrect, resulting in delay or extra work, Company will be entitled to adjustment by change order.
- 20. Work Product.** All reports, drawings, plans, specifications, calculations, studies, software programs, tapes, models and memoranda, if any, assembled or prepared by Company or Company's affiliates, independent professional associates, agents, consultants, contractors or subcontractors pursuant to this Agreement are instruments of service in respect of the Work, and Company shall retain all ownership and property interest therein, whether or not the Work is completed. Customer may make and retain copies for information and reference in connection with the Work; *provided, however*, that it is understood and agreed that such documents are not intended to be re-used by Customer or others on extensions of the project or on any other project or any other purpose other than as expressly set forth in this Agreement, and Customer shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of Company.
- 21. Customer Facilities.** Company does not assume any responsibility for the adequacy, safety or satisfactory performance of Customer's facilities. Customer shall, to the fullest extent permitted by law, indemnify, defend and hold harmless Company and its officers, directors, agents, employees, and representatives from and against any and all losses, claims, damages, expenses (including attorneys' fees and costs) arising, for any reason whatsoever, out of the failure, non-operation or faulty performance of Customer's facilities (except to the extent of Company's gross negligence or willful misconduct).
- 22. Subcontracting.** Company may subcontract any portion or all of the Work without the approval of Customer.
- 23. Independent Contractor.** Nothing contained in this Agreement nor any acts of the parties shall be construed to create the relationship of principal and agent, or of limited or general partner, or of joint venture or of any association between or among the parties to this Agreement, except that of owner and independent contractor.
- 24. Title; Rights of Access.** Customer warrants that it has fee simple title to the property. Customer hereby grants to Company the right to enter and improve the real property for the purposes stated herein.
- 25. Ownership.** Customer shall acquire no right, title or interest in any portion of the Work or Company's equipment or facilities placed in, on, over, through and/or under the real property by Company. The Work constructed and installed by Company on the real property of Customer shall be and mean the personal property of Company,

shall not be considered a fixture of the property, shall not attach to the realty, and shall not be alienable or lienable by Customer or any other party. Further, Company may remove, repair and replace the Work and its component system and equipment at any time without notice in Company's sole and absolute discretion.

- 26. Other.** It is agreed that failure by Customer or by Company at any time or from time to time to enforce any of the provisions of this Agreement shall not be construed to be a waiver of such provision or of Customer's right or Company's right, respectively, to thereafter enforce each and every provision hereof. This Agreement contains, with respect to the specific services to be performed by Company, the entire understanding of the parties, and shall supersede any other oral or written agreements and be binding upon and inure to the benefit of the parties' successors and assigns. This Agreement may not be modified in any way without the written consent of both parties. If any provision of this Agreement is determined by a court to be unenforceable, then such provision will be deemed null and void but the remaining provisions shall be enforceable according to their terms. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of Minnesota (as opposed to conflicts of laws provisions) as though all acts and omissions contemplated hereby or related hereto occurred in Minnesota. No course of prior dealing, usage of trade and course of performance shall be used to modify, supplement or explain any terms of this Agreement. Neither Party will assign or otherwise transfer its rights or obligations hereunder, in whole or in part, without the advance written consent of the other. Notwithstanding the above, Company may assign its rights or obligations to any of its affiliates without the written consent of Customer.
- 27. Governing Law.** The Terms and Conditions provided herein and the rights of all the parties hereunder shall be construed under and governed by the laws of the State of Minnesota.



Outdoor Lighting
 825 Rice Street
 St. Paul, MN 55117

Construction Agreement For Street Lighting Facilities

The customer identified below ("Customer") and Northern States Power Company, a Minnesota Corporation and wholly owned subsidiary of Xcel Energy Inc. ("Xcel Energy" or "Company") agree to this Construction Agreement for Street Lighting Facilities, including the attached Terms and Conditions, for the following street light facilities:

Customer: **City of Elko New Market**

Address: **PO Box 99**

City: **Elko New Market**

State: **MN** Zip Code: **55020**

Project charges of: **Two-hundred Thirteen thousand nine hundred ninety seven dollars and 00/100 Dollars: \$213,997**

In accordance with the following terms of payment: **Payment due 30 days after construction is completed**

For Association or City of: **City of Elko New Market**

Streetlights/Facilities Location: **Continuous Lighting Area- No Outlets, Downtown Area- Outlets**

Rate Code: **A30 Pre-Pay Option 30-40W LED (4,000 Lumens). Current monthly rate is \$4.90 per luminaire.**

Service consisting of: **Pre-Pay Option includes electricity and maintenance for 25 years from installation.**

Installation of Company Owned streetlight facilities consisting of:	
<u>Designation of Lamps:</u>	<u>Number of Luminaries:</u>
Install 47 LED acorn fixtures on 15' base mounted aluminum poles.	47- 30-40W LED Acorn Fixtures
Install by plow & direct bore approx. 4000' of wire in 1½" conduit, use city installed conduit for downtown area.	Fixture Color –Black
Restoration is not included in this contract.	29- 15' Base Mounted Aluminum Poles 19- 15' Base Mounted Aluminum Pole with outlets
	Pole Color – Black
Project charges valid for 60 days from signing of contract.	

Customer and Xcel Energy agree to the attached terms and conditions for the installation and moving of the facilities identified above. Customer and Xcel Energy agree that the operation of the facilities shall be subject to the General Street Lighting Contract for Operations & Maintenance Services between Customer and Xcel Energy, dated

Dated this _____ day of _____ 20 _____

Dated this _____ day of _____ 20 _____

Customer: City of Elko New Market

Xcel Energy: _____

By: _____

By: _____

Title: _____

Title: **Mary J. Woolf, Director Business Operations – Minnesota as authorized agent for Northern States Power Co.**

XCEL ENERGY USE ONLY	Date: 02/13/2020	Div: Mankato
Xcel Energy Outdoor Project Coordinator:	Damon Erickson	
Xcel Energy Project Number:	SAP Notification #11580400	
Customer Charges Paid:		

TERMS AND CONDITIONS

Customer and Company agree to the following terms and conditions:

1. **Acceptance.** Execution of this Agreement constitutes Customer's acceptance of the express terms of Company's proposal and the offer contained therein, which are included and incorporated into this Agreement. Any additional or different terms proposed by Customer, or any attempt by Customer to vary in any degree any of the terms in this Agreement in Customer's acceptance, are hereby objected to and rejected, and (i) such additional or different terms shall not operate as a rejection of the incorporation of the Company's proposal in this Agreement unless such variances are with respect to terms involving the description, quantity, or delivery schedule of the Work to be performed by Company as described in Company's proposal ("the Work" means the supplying of any labor, materials, or any other work of Company expressly described in Company's proposal); (ii) such additional or different terms shall be deemed a material alteration hereof; and (iii) Company's proposal shall be deemed accepted by Customer and incorporated into this Agreement without said additional or different terms.
2. **Request for Installation; Rights.** Customer requests that Company install outdoor lighting at the location(s) designated on page one and/or as shown on the attached exhibit. Customer grants Company any right, privilege and easement to install, operate and maintain its facilities, including underground facilities, on the property.
3. **Installation Requirements.** Customer agrees that, prior to Company starting work: (1) the route of Company's service installation shall be accessible to Company's equipment; (2) Customer will remove all obstructions from the route at no cost or expense to Company; (3) Customer will clearly mark all septic tanks, drain-fields, sprinkler systems, water wells, owner-installed electric or pipeline facilities, or other Customer-owned facilities in the installation route; and (4) the ground elevation along the route shall not be above or more than four inches below the final grade. Company will contact the appropriate agency to locate 3rd party utility facilities (phone, cable, etc.) on Customer property. Customer agrees Company is not responsible for damage to Customer-owned underground facilities not marked at the time of outdoor lighting service installation.
4. **Installation Cost Contribution.** Customer agrees to pay an installation cost contribution provided in Project Charges on page one. Customer is responsible for any additional installation costs incurred by Company because of (1) soil conditions that impair the installation of underground facilities, such as rock formations, etc., (2) extensive existing underground facilities, and (3) any existing conditions that exist but did not exist at the time the installation cost was determined, such as new sidewalks, curbing, black top, paving, sod or other landscaping and obstructions along the cable route.
5. **Winter Construction Charges.** When underground facilities are installed between October 1 and April 15, inclusive, because of failure of Customer to meet all requirements of the Company by September 30, or because the Customer's property, or the streets leading thereto, are not ready to receive the underground facilities by such date, such work will be subject to a Winter Construction Charge when winter conditions of six inches or more of frost exist, snow removal or plowing is required to install service, or burners must be set at the underground facilities in order to install service for the entire length of the underground service. Winter construction will not be undertaken by the Company where prohibited by law or where it is not practical to install underground facilities during the winter season. The charges apply to frost depths of 18" or less. At greater frost depths, the Company may individually determine the job cost. The Company also reserves the right to charge for any unusual winter construction expenses. All winter construction charges are non-refundable and are in addition to any normal construction charges.
6. **Schedule; Delays.** Quoted shipping and completion dates are approximate and are based on prompt receipt of all necessary information and approvals from Customer and access as required by Company and its contractors or subcontractors (if any) to the site and to the equipment which is the subject of this Agreement. If Company's performance is delayed by Customer's suspension of work, in whole or in part, or by any act or omission of Customer, the time for performance will be extended by the period of time required by Company to return to the state of performance that existed before the delay. If the delay or suspension continues for sixty (60) days, Company has the right to cancel or renegotiate the Agreement. Customer will pay an equitable adjustment based on a claim submitted by Company for all reasonable costs, damages and expenses incurred by Company incident to the delay or suspension.

7. **Changes.** The prices for any extras or changes to the scope of the Work or modifications to the payment or performance schedule will be agreed upon in writing before either party will be obligated to proceed with such changes. Performance of any change will not waive any claims for equitable adjustment in price or schedule.
8. **Relocating Facilities.** Customer agrees to pay the cost of relocating any portion of facilities, including underground facilities, to accommodate Customer or as required due to altering of grade, additions to structures, installation of patios, decks, gardens, sidewalks, curbing, paving, blacktop, sod, landscaping or any other condition which makes maintenance of the Company's facilities impractical. Company shall notify Customer of such relocations prior to incurring relocation costs.
9. **Environmental.** Prior to the start of the Work, Customer will provide notice of any hazardous materials or hazardous situations that it is aware of with respect to the facilities where the Work is to be performed or that could affect the Work. In the event Company encounters the existence of asbestos, asbestos containing materials, formaldehyde, lead, or potentially toxic or otherwise hazardous material in the performance of the Work, the discovery thereof shall constitute a cause beyond Company's reasonable control and Company shall have the right to cease or not commence the Work until the area has been made safe by Customer or Customer's representative, at Customer's expense.
10. **Restoration.** Company will restore any excavation of the boulevard on Customer's property with existing soil so it is level and clean. Customer is responsible for the final compacting, loam, seeding, sod or watering of the boulevard at Customer's expense unless otherwise noted on page one of this Agreement.
11. **Additional Charges.** In addition to the project charges on page one of this Agreement, Company shall be compensated for any added costs of performing the Work attributable to any one or more of the following: (i) any and all extras and change orders and any and all other additional work mutually agreed by Customer and Company; (ii) any and all costs and expenses related to asbestos or other environmental matters, any unforeseen conditions or any changes in the law; and (iii) any and all added costs and expenses of performing the Work attributable to any change by Customer in the criteria or information for the facility or to any delay or breach by Customer or its subcontractors.
12. **Operations; Maintenance.** Customer requests and authorizes Company to provide illumination and maintain the street lighting facilities under the Terms and Conditions as described in Customer's General Street Lighting Contract for Operations & Maintenance Services with Company, which shall be effective upon the completion date of the street light installation.
13. **Payments.** Unless otherwise specified in Company's proposal, Company may at its option invoice Customer upon completion of the Work or invoice Customer on a monthly basis for construction work performed under this Agreement. Customer shall pay Company all invoiced amounts within thirty (30) days of receipt of invoice.
14. **Termination.** Customer may terminate the Agreement only upon written notice to Company and payment to Company for all (i) services and Work rendered or performed to the effective date of such termination; (ii) materials, supplies and equipment purchased prior to the effective date of such termination; and (iii) costs incurred by Company as a result of such termination. To the extent that Company uses the materials, supplies, or equipment on other projects or for maintenance purposes, Customer will not be charged for them.
15. **Warranties.** Company shall perform the Work in a safe and professional manner in accordance with all applicable codes, standards, regulations and laws. Company shall repair, replace or correct to Customer's satisfaction all faulty or substandard work or defects in materials which appear within ninety (90) days from the date of completion of the Work. Acceptance of the Work or payment by Customer shall not affect this obligation. **THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL STATUTORY OR IMPLIED WARRANTIES (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE).**
16. **Limitation of Remedies.** **IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL COMPANY BE LIABLE TO CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER**

INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE. In no event whatsoever shall Company ever be liable to Customer for any damages or other amounts (including, without limitation, direct or actual damages), whether arising in contract or tort (including, without limitation, negligence) or otherwise, under or in connection with this Agreement or the Work, in an amount, in the aggregate, in excess of the total price paid for the Work; any and all claims for damages in excess of such amount being hereby forever waived and released by Customer; provided, however, that nothing contained in this sentence shall waive or limit any direct damages which Customer may suffer on account of Company's gross negligence or willful misconduct.

- 17. Force Majeure.** Neither party will be liable to the other for any delay or failure to perform due to any cause beyond its reasonable control, including fire, flood, strike or other labor difficulty, act of God, or act of any governmental authority. The party experiencing the force majeure will notify the other party promptly, and appropriate adjustments will be negotiated. In the event of delay in performance due to force majeure, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay, provided that if such delay continues for 60 days the party not experiencing the force majeure may terminate this Agreement.
- 18. Document Approval.** Company may request that Customer review documents developed by Company for conformity with Customer requirements or specifications. Unless Customer advises Company otherwise in writing within fifteen (15) days after Company's submission, Company may consider the documents approved and proceed with work. Changes thereafter, made at the direction of Customer, will entitle Company to adjustment by change order.
- 19. Documentation and Proprietary Information.** Customer will provide Company with accurate and complete information in order to permit Company to successfully undertake and complete the Work. Company shall not be prohibited from disclosure or use of proprietary or confidential information or documents necessary for Company to secure or maintain in effect any license or permit, or otherwise to complete the Work. Where Customer information is incomplete or incorrect, resulting in delay or extra work, Company will be entitled to adjustment by change order.
- 20. Work Product.** All reports, drawings, plans, specifications, calculations, studies, software programs, tapes, models and memoranda, if any, assembled or prepared by Company or Company's affiliates, independent professional associates, agents, consultants, contractors or subcontractors pursuant to this Agreement are instruments of service in respect of the Work, and Company shall retain all ownership and property interest therein, whether or not the Work is completed. Customer may make and retain copies for information and reference in connection with the Work; *provided, however*, that it is understood and agreed that such documents are not intended to be re-used by Customer or others on extensions of the project or on any other project or any other purpose other than as expressly set forth in this Agreement, and Customer shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of Company.
- 21. Customer Facilities.** Company does not assume any responsibility for the adequacy, safety or satisfactory performance of Customer's facilities. Customer shall, to the fullest extent permitted by law, indemnify, defend and hold harmless Company and its officers, directors, agents, employees, and representatives from and against any and all losses, claims, damages, expenses (including attorneys' fees and costs) arising, for any reason whatsoever, out of the failure, non-operation or faulty performance of Customer's facilities (except to the extent of Company's gross negligence or willful misconduct).
- 22. Subcontracting.** Company may subcontract any portion or all of the Work without the approval of Customer.
- 23. Independent Contractor.** Nothing contained in this Agreement nor any acts of the parties shall be construed to create the relationship of principal and agent, or of limited or general partner, or of joint venture or of any association between or among the parties to this Agreement, except that of owner and independent contractor.
- 24. Title; Rights of Access.** Customer warrants that it has fee simple title to the property. Customer hereby grants to Company the right to enter and improve the real property for the purposes stated herein.
- 25. Ownership.** Customer shall acquire no right, title or interest in any portion of the Work or Company's equipment or facilities placed in, on, over, through and/or under the real property by Company. The Work constructed and installed by Company on the real property of Customer shall be and mean the personal property of Company,

shall not be considered a fixture of the property, shall not attach to the realty, and shall not be alienable or lienable by Customer or any other party. Further, Company may remove, repair and replace the Work and its component system and equipment at any time without notice in Company's sole and absolute discretion.

- 26. Other.** It is agreed that failure by Customer or by Company at any time or from time to time to enforce any of the provisions of this Agreement shall not be construed to be a waiver of such provision or of Customer's right or Company's right, respectively, to thereafter enforce each and every provision hereof. This Agreement contains, with respect to the specific services to be performed by Company, the entire understanding of the parties, and shall supersede any other oral or written agreements and be binding upon and inure to the benefit of the parties' successors and assigns. This Agreement may not be modified in any way without the written consent of both parties. If any provision of this Agreement is determined by a court to be unenforceable, then such provision will be deemed null and void but the remaining provisions shall be enforceable according to their terms. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of Minnesota (as opposed to conflicts of laws provisions) as though all acts and omissions contemplated hereby or related hereto occurred in Minnesota. No course of prior dealing, usage of trade and course of performance shall be used to modify, supplement or explain any terms of this Agreement. Neither Party will assign or otherwise transfer its rights or obligations hereunder, in whole or in part, without the advance written consent of the other. Notwithstanding the above, Company may assign its rights or obligations to any of its affiliates without the written consent of Customer.
- 27. Governing Law.** The Terms and Conditions provided herein and the rights of all the parties hereunder shall be construed under and governed by the laws of the State of Minnesota.



Outdoor Lighting
 825 Rice Street
 St. Paul, MN 55117

Construction Agreement For Street Lighting Facilities

The customer identified below ("Customer") and Northern States Power Company, a Minnesota Corporation and wholly owned subsidiary of Xcel Energy Inc. ("Xcel Energy" or "Company") agree to this Construction Agreement for Street Lighting Facilities, including the attached Terms and Conditions, for the following street light facilities:

Customer: **City of Elko New Market**

Address: **PO Box 99**

City: **Elko New Market**

State: **MN** Zip Code: **55020**

Project charges of: **Two-hundred Fifty-three thousand nine hundred forty seven dollars and 00/100 Dollars: \$253,947**

In accordance with the following terms of payment: **Payment due 30 days after construction is completed**

For Association or City of: **City of Elko New Market**

Streetlights/Facilities Location: **Downtown Lighting Area- With Outlets, Continuous Area- With Outlets**

Rate Code: **A30 Pre-Pay Option 30-40W LED (4,000 Lumens). Current monthly rate is \$4.90 per luminaire.**

Service consisting of: **Pre-Pay Option includes electricity and maintenance for 25 years from installation.**

Installation of Company Owned streetlight facilities consisting of:	
<u>Designation of Lamps:</u>	<u>Number of Luminaries:</u>
Install 47 LED acorn fixtures on 15' base mounted aluminum poles.	47- 30-40W LED Acorn Fixtures
Install by direct bore & plow 1 1/2" conduit and utilize existing city conduit to install 3000' of wire.	Fixture Color –Black
Restoration is not included in this contract.	47- 15' Base Mounted Aluminum Poles with outlets.
	Pole Color – Black
Project charges valid for 60 days from signing of contract.	

Customer and Xcel Energy agree to the attached terms and conditions for the installation and moving of the facilities identified above. Customer and Xcel Energy agree that the operation of the facilities shall be subject to the General Street Lighting Contract for Operations & Maintenance Services between Customer and Xcel Energy, dated

Dated this _____ day of _____ 20 _____

Dated this _____ day of _____ 20 _____

Customer: City of Elko New Market

Xcel Energy: _____

By: _____

By: _____

Title: _____

Title: **Mary J. Woolf, Director Business Operations – Minnesota as authorized agent for Northern States Power Co.**

XCEL ENERGY USE ONLY	Date: 02/13/2020	Div: Mankato
Xcel Energy Outdoor Project Coordinator:	Damon Erickson	
Xcel Energy Project Number:	SAP Notification #11580400	
Customer Charges Paid:		

TERMS AND CONDITIONS

Customer and Company agree to the following terms and conditions:

1. **Acceptance.** Execution of this Agreement constitutes Customer's acceptance of the express terms of Company's proposal and the offer contained therein, which are included and incorporated into this Agreement. Any additional or different terms proposed by Customer, or any attempt by Customer to vary in any degree any of the terms in this Agreement in Customer's acceptance, are hereby objected to and rejected, and (i) such additional or different terms shall not operate as a rejection of the incorporation of the Company's proposal in this Agreement unless such variances are with respect to terms involving the description, quantity, or delivery schedule of the Work to be performed by Company as described in Company's proposal ("the Work" means the supplying of any labor, materials, or any other work of Company expressly described in Company's proposal); (ii) such additional or different terms shall be deemed a material alteration hereof; and (iii) Company's proposal shall be deemed accepted by Customer and incorporated into this Agreement without said additional or different terms.
2. **Request for Installation; Rights.** Customer requests that Company install outdoor lighting at the location(s) designated on page one and/or as shown on the attached exhibit. Customer grants Company any right, privilege and easement to install, operate and maintain its facilities, including underground facilities, on the property.
3. **Installation Requirements.** Customer agrees that, prior to Company starting work: (1) the route of Company's service installation shall be accessible to Company's equipment; (2) Customer will remove all obstructions from the route at no cost or expense to Company; (3) Customer will clearly mark all septic tanks, drain-fields, sprinkler systems, water wells, owner-installed electric or pipeline facilities, or other Customer-owned facilities in the installation route; and (4) the ground elevation along the route shall not be above or more than four inches below the final grade. Company will contact the appropriate agency to locate 3rd party utility facilities (phone, cable, etc.) on Customer property. Customer agrees Company is not responsible for damage to Customer-owned underground facilities not marked at the time of outdoor lighting service installation.
4. **Installation Cost Contribution.** Customer agrees to pay an installation cost contribution provided in Project Charges on page one. Customer is responsible for any additional installation costs incurred by Company because of (1) soil conditions that impair the installation of underground facilities, such as rock formations, etc., (2) extensive existing underground facilities, and (3) any existing conditions that exist but did not exist at the time the installation cost was determined, such as new sidewalks, curbing, black top, paving, sod or other landscaping and obstructions along the cable route.
5. **Winter Construction Charges.** When underground facilities are installed between October 1 and April 15, inclusive, because of failure of Customer to meet all requirements of the Company by September 30, or because the Customer's property, or the streets leading thereto, are not ready to receive the underground facilities by such date, such work will be subject to a Winter Construction Charge when winter conditions of six inches or more of frost exist, snow removal or plowing is required to install service, or burners must be set at the underground facilities in order to install service for the entire length of the underground service. Winter construction will not be undertaken by the Company where prohibited by law or where it is not practical to install underground facilities during the winter season. The charges apply to frost depths of 18" or less. At greater frost depths, the Company may individually determine the job cost. The Company also reserves the right to charge for any unusual winter construction expenses. All winter construction charges are non-refundable and are in addition to any normal construction charges.
6. **Schedule; Delays.** Quoted shipping and completion dates are approximate and are based on prompt receipt of all necessary information and approvals from Customer and access as required by Company and its contractors or subcontractors (if any) to the site and to the equipment which is the subject of this Agreement. If Company's performance is delayed by Customer's suspension of work, in whole or in part, or by any act or omission of Customer, the time for performance will be extended by the period of time required by Company to return to the state of performance that existed before the delay. If the delay or suspension continues for sixty (60) days, Company has the right to cancel or renegotiate the Agreement. Customer will pay an equitable adjustment based on a claim submitted by Company for all reasonable costs, damages and expenses incurred by Company incident to the delay or suspension.

7. **Changes.** The prices for any extras or changes to the scope of the Work or modifications to the payment or performance schedule will be agreed upon in writing before either party will be obligated to proceed with such changes. Performance of any change will not waive any claims for equitable adjustment in price or schedule.
8. **Relocating Facilities.** Customer agrees to pay the cost of relocating any portion of facilities, including underground facilities, to accommodate Customer or as required due to altering of grade, additions to structures, installation of patios, decks, gardens, sidewalks, curbing, paving, blacktop, sod, landscaping or any other condition which makes maintenance of the Company's facilities impractical. Company shall notify Customer of such relocations prior to incurring relocation costs.
9. **Environmental.** Prior to the start of the Work, Customer will provide notice of any hazardous materials or hazardous situations that it is aware of with respect to the facilities where the Work is to be performed or that could affect the Work. In the event Company encounters the existence of asbestos, asbestos containing materials, formaldehyde, lead, or potentially toxic or otherwise hazardous material in the performance of the Work, the discovery thereof shall constitute a cause beyond Company's reasonable control and Company shall have the right to cease or not commence the Work until the area has been made safe by Customer or Customer's representative, at Customer's expense.
10. **Restoration.** Company will restore any excavation of the boulevard on Customer's property with existing soil so it is level and clean. Customer is responsible for the final compacting, loam, seeding, sod or watering of the boulevard at Customer's expense unless otherwise noted on page one of this Agreement.
11. **Additional Charges.** In addition to the project charges on page one of this Agreement, Company shall be compensated for any added costs of performing the Work attributable to any one or more of the following: (i) any and all extras and change orders and any and all other additional work mutually agreed by Customer and Company; (ii) any and all costs and expenses related to asbestos or other environmental matters, any unforeseen conditions or any changes in the law; and (iii) any and all added costs and expenses of performing the Work attributable to any change by Customer in the criteria or information for the facility or to any delay or breach by Customer or its subcontractors.
12. **Operations; Maintenance.** Customer requests and authorizes Company to provide illumination and maintain the street lighting facilities under the Terms and Conditions as described in Customer's General Street Lighting Contract for Operations & Maintenance Services with Company, which shall be effective upon the completion date of the street light installation.
13. **Payments.** Unless otherwise specified in Company's proposal, Company may at its option invoice Customer upon completion of the Work or invoice Customer on a monthly basis for construction work performed under this Agreement. Customer shall pay Company all invoiced amounts within thirty (30) days of receipt of invoice.
14. **Termination.** Customer may terminate the Agreement only upon written notice to Company and payment to Company for all (i) services and Work rendered or performed to the effective date of such termination; (ii) materials, supplies and equipment purchased prior to the effective date of such termination; and (iii) costs incurred by Company as a result of such termination. To the extent that Company uses the materials, supplies, or equipment on other projects or for maintenance purposes, Customer will not be charged for them.
15. **Warranties.** Company shall perform the Work in a safe and professional manner in accordance with all applicable codes, standards, regulations and laws. Company shall repair, replace or correct to Customer's satisfaction all faulty or substandard work or defects in materials which appear within ninety (90) days from the date of completion of the Work. Acceptance of the Work or payment by Customer shall not affect this obligation. **THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL STATUTORY OR IMPLIED WARRANTIES (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE).**
16. **Limitation of Remedies.** **IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL COMPANY BE LIABLE TO CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER**

INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE. In no event whatsoever shall Company ever be liable to Customer for any damages or other amounts (including, without limitation, direct or actual damages), whether arising in contract or tort (including, without limitation, negligence) or otherwise, under or in connection with this Agreement or the Work, in an amount, in the aggregate, in excess of the total price paid for the Work; any and all claims for damages in excess of such amount being hereby forever waived and released by Customer; provided, however, that nothing contained in this sentence shall waive or limit any direct damages which Customer may suffer on account of Company's gross negligence or willful misconduct.

- 17. Force Majeure.** Neither party will be liable to the other for any delay or failure to perform due to any cause beyond its reasonable control, including fire, flood, strike or other labor difficulty, act of God, or act of any governmental authority. The party experiencing the force majeure will notify the other party promptly, and appropriate adjustments will be negotiated. In the event of delay in performance due to force majeure, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay, provided that if such delay continues for 60 days the party not experiencing the force majeure may terminate this Agreement.
- 18. Document Approval.** Company may request that Customer review documents developed by Company for conformity with Customer requirements or specifications. Unless Customer advises Company otherwise in writing within fifteen (15) days after Company's submission, Company may consider the documents approved and proceed with work. Changes thereafter, made at the direction of Customer, will entitle Company to adjustment by change order.
- 19. Documentation and Proprietary Information.** Customer will provide Company with accurate and complete information in order to permit Company to successfully undertake and complete the Work. Company shall not be prohibited from disclosure or use of proprietary or confidential information or documents necessary for Company to secure or maintain in effect any license or permit, or otherwise to complete the Work. Where Customer information is incomplete or incorrect, resulting in delay or extra work, Company will be entitled to adjustment by change order.
- 20. Work Product.** All reports, drawings, plans, specifications, calculations, studies, software programs, tapes, models and memoranda, if any, assembled or prepared by Company or Company's affiliates, independent professional associates, agents, consultants, contractors or subcontractors pursuant to this Agreement are instruments of service in respect of the Work, and Company shall retain all ownership and property interest therein, whether or not the Work is completed. Customer may make and retain copies for information and reference in connection with the Work; *provided, however*, that it is understood and agreed that such documents are not intended to be re-used by Customer or others on extensions of the project or on any other project or any other purpose other than as expressly set forth in this Agreement, and Customer shall not re-use or disclose to any third party all or any portion of such work product without the express prior written consent of Company.
- 21. Customer Facilities.** Company does not assume any responsibility for the adequacy, safety or satisfactory performance of Customer's facilities. Customer shall, to the fullest extent permitted by law, indemnify, defend and hold harmless Company and its officers, directors, agents, employees, and representatives from and against any and all losses, claims, damages, expenses (including attorneys' fees and costs) arising, for any reason whatsoever, out of the failure, non-operation or faulty performance of Customer's facilities (except to the extent of Company's gross negligence or willful misconduct).
- 22. Subcontracting.** Company may subcontract any portion or all of the Work without the approval of Customer.
- 23. Independent Contractor.** Nothing contained in this Agreement nor any acts of the parties shall be construed to create the relationship of principal and agent, or of limited or general partner, or of joint venture or of any association between or among the parties to this Agreement, except that of owner and independent contractor.
- 24. Title; Rights of Access.** Customer warrants that it has fee simple title to the property. Customer hereby grants to Company the right to enter and improve the real property for the purposes stated herein.
- 25. Ownership.** Customer shall acquire no right, title or interest in any portion of the Work or Company's equipment or facilities placed in, on, over, through and/or under the real property by Company. The Work constructed and installed by Company on the real property of Customer shall be and mean the personal property of Company,

shall not be considered a fixture of the property, shall not attach to the realty, and shall not be alienable or lienable by Customer or any other party. Further, Company may remove, repair and replace the Work and its component system and equipment at any time without notice in Company's sole and absolute discretion.

- 26. Other.** It is agreed that failure by Customer or by Company at any time or from time to time to enforce any of the provisions of this Agreement shall not be construed to be a waiver of such provision or of Customer's right or Company's right, respectively, to thereafter enforce each and every provision hereof. This Agreement contains, with respect to the specific services to be performed by Company, the entire understanding of the parties, and shall supersede any other oral or written agreements and be binding upon and inure to the benefit of the parties' successors and assigns. This Agreement may not be modified in any way without the written consent of both parties. If any provision of this Agreement is determined by a court to be unenforceable, then such provision will be deemed null and void but the remaining provisions shall be enforceable according to their terms. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of Minnesota (as opposed to conflicts of laws provisions) as though all acts and omissions contemplated hereby or related hereto occurred in Minnesota. No course of prior dealing, usage of trade and course of performance shall be used to modify, supplement or explain any terms of this Agreement. Neither Party will assign or otherwise transfer its rights or obligations hereunder, in whole or in part, without the advance written consent of the other. Notwithstanding the above, Company may assign its rights or obligations to any of its affiliates without the written consent of Customer.
- 27. Governing Law.** The Terms and Conditions provided herein and the rights of all the parties hereunder shall be construed under and governed by the laws of the State of Minnesota.

Lighting Layout





STAFF MEMORANDUM

SUBJECT:	Design for Police Department Addition to City Hall
MEETING DATE:	March 12, 2020
PREPARED BY:	Thomas Terry, City Administrator
REQUESTED ACTION:	Accept the bids and direct preparation of contract to award the Police Department Addition and the Alternates (Kitchen Remodel and Existing Police Department) to the lowest apparent bidder

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:

The Police Department is currently located in a 102-year old former Elko City Hall/ Post Office building, which is a total of 2,764 square feet for the growing department. In February 2019, the City Council authorized Staff to sign an Agreement with Leo A. Daly to develop options for remodeling the existing Police Department interior space for more efficient and effective use by the Department; meet interior accessibility standards; remove mold problems; complete structural modifications; and update HVAC, electrical, and plumbing systems to current building code standards.

In April 2019, a preferred design was provided to both RJM Construction and Mohs Construction for a cost estimate for both capital budget and bonding purposes. The result was estimate range of \$1.2 million to \$1.6 million for construction, soft costs and furniture, fixtures, equipment (FFE) for the project. The cost of the estimates, both estimators for the companies suggested new construction might provide more value in the long run and mitigate the uncertainties of remodeling the existing Police Department Building.

Staff and the Architect reviewed the option of new construction at a meeting on August 14th. Due to the site constraints of adding new space to the existing facility, the logical alternative, and recommendation by the architect, was to consider adding a new addition to the back of City Hall. Review of this option was outside the original Scope of Services of the contract, so City Council approved a “not to exceed” figure of \$2,400 at their meeting of August 22nd from Leo A. Daly to provide the additional information to the City Council.

At a meeting with Staff on Thursday, August 28th, the architect provided an option (high level concept) of an addition to the existing City Hall. This option was then sent to both RJM Construction and Mohs Construction for an estimated cost of construction, soft costs and FFE to compare to the preferred remodel option for the existing Police Department station.

In reviewing the two estimates, the estimated cost of constructing an addition off the back of the current City Hall was estimated to be \$1.9 million to \$2.8 million, which included soft costs and FFE. This also includes work to the current Police Department Facility to address structural issues, removing mold and mildew, remove most of the interior walls, and meeting current building code where necessary in order preserve the building and use it for storage on an interim basis. The cost of renovating the current Police Station, was an estimated \$1.2 million, including soft costs and FFE.

Utilizing the criteria of project cost, lifespan, return on investment, potential reuse of each building, department operations, return on existing improvements, and long-term impact on future options for City public buildings, Staff reviewed 5 different options and presented two of the options for Council consideration at the meeting on September 12, 2019. The two options recommended for consideration were renovation of the existing Police Department building within the current footprint and an addition to City Hall. The Council was provided with a Pre-Design Report from Leo A. Daly presenting the various options that were examined.

Following significant discussion, the City Council directed Staff to negotiate a contract for Phase 2 for Architectural Services with Leo A Daly for the addition to City Hall option. The Council approved the agreement on October 24, 2019.

On January 23, the City Council reviewed the design for Police Department Addition to City Hall and an updated project estimate. The estimate for the project, including the work at the existing Police Department building was \$2,021,345. However, the Council was advised of soil corrections that would be required based on soil borings that has been completed. The need for the corrections was not known at the time of the estimate was prepared and was not included. The corrections were estimated to cost up to \$100,000. The Council approved the plan and authorized bids for the Police Department Addition project. The revised estimate, including the soil corrections (\$100,000) and the building permit fees (\$7000) was \$2,128,345.

DISCUSSION:

The bids were received on March 2, 2020. A total of seven bids were received and base bids (the Police Department Addition) ranged from \$1,663,635 to \$1,912,240. Bids also included Alternates for the Kitchen Remodel and work at the Existing Police Department, as well as a unit price bid for the soil corrections. The apparent low bidder was Greystone Construction.

The updated project estimate, including both alternates, is \$2,225,187. This is an increase of \$96,842 or 4.35%. The primary driver in the increase was the cost of the base bid item, the Police Department Addition. The Addition was estimated at \$1,431,000, while the lowest bid was \$1,663,635 – a difference of \$232,635 or 16.26%. This was partially offset by lower than estimated costs for the Alternates (Kitchen Remodel and Existing Police Department) and the soil corrections.

The City Council is being asked to accept the bids and direct preparation of contract to award the Police Department Addition and the Alternates (Kitchen Remodel and Existing Police Department) to the lowest apparent bidder.

If the Council accepts bids and authorizes preparation of award contract with the lowest apparent bidder for the Police Department Addition to City Hall and Alternates, the projected timeline has been provided below.

- March 16 thru April 3: 3 weeks for contracts (City to confirm length needed for legal, etc. with Contractor).
- April 9 or April 23: Notice to proceed/Start of construction (approx. 8-10 months -Length To Be confirmed).
- End of 2020 / Early 2021: Substantial Completion / Move in (To Be confirmed).

Please contact the City Administrator with any questions.

ATTACHMENT:

- Letter of Recommendation from Leo A. Daly, dated March 4, 2020
- Post Bid Project Estimate, dated March 9, 2020



LEO A DALY

March 4, 2020

Tom Terry
City Administrator
City of Elko New Market
601 Main Street
Elko New Market, MN 55054

PLANNING
ARCHITECTURE
ENGINEERING
INTERIORS

ABU DHABI
ATLANTA
AUSTIN
CHICAGO
CONROE
COLLEGE STATION
CORPUS CHRISTI
DALLAS
DAMMAM
DOHA
FORT WORTH
FRISCO
HOUSTON
LANSING
LAS VEGAS
LOS ANGELES
MIAMI
MINNEAPOLIS
OMAHA
ORANGE
SAN ANTONIO
SAN JOSE
SAN MARCOS
WACO
WASHINGTON DC
WEST PALM BEACH

Dear Tom:

As you are aware, the City of Elko New Market received seven bids for the construction of the Police Department addition at the existing City Hall / Fire Station site. Bids received on March 2, 2020 ranged from \$1,663,635 (Greystone Construction) to \$1,912,240. The average of these bids was \$1,789,807.

LEO A DALY recommends awarding Greystone Construction's bid based upon our review of their bid form, the major subcontractors they intend to utilize, and discussions we had with Dave Hartman, the designated project manager for Greystone Construction verifying they have included the scope of work as outlined in the bidding documents and subsequent Addenda 1-3.

If you have any questions, please don't hesitate to give me a call.

Sincerely,

LEO A DALY



Todd LaVold, AIA
Project Manager
tblavold@leoadalay.com

cc: Matthew Keenan, LEO A DALY

file

LEO A DALY
730 Second Avenue South
Suite 1300
Minneapolis, MN 55402-2406
612.338.8741

leoadaly.com



HARD COSTS **\$1,903,277**

			2020-01-24 estimate		Bid Cost
Construction Costs	#	Unit	\$1,836,068	Notes	\$1,903,277
PD Addition Estimate	6,360	\$/sf	\$1,431,000	Greystone bid (2020-03-02)	\$1,663,635
Kitchen Alternate No. 1	1	LS	\$30,488	Greystone bid (2020-03-02)	\$19,900
Existing PD Alternate No. 2	1	LS	\$163,000	Greystone bid (2020-03-02)	\$48,500
Soil Corrections	1	LS	\$100,000	Reduced based upon (1750 cy x \$15 / cy = \$26,250)	\$50,000
Construction Contingency	7.00%	%	\$111,580	% increase due to increase in construction \$	\$121,242

SOFT COSTS **\$321,909**

Construction Soft Costs	#	Unit	\$61,341		\$71,832
Building Permit	1	%	\$7,000	Building Inspector fees only	\$7,000
Park Dedication Fees	1	%	\$0	Not Applicable	\$0
SAC/WAC	1	unit	\$2,750	Estimate, pending permit review	\$2,750
Construction Testing	1	allowance	\$10,000	Based upon Braun proposal (2020-02-27)	\$24,000
AV / Low Voltage	2.50%	%	\$41,591	% of construction cost	\$0
Surveillance	1	quote		Floyd quote	\$18,082
Low Voltage	1	estimate		Savage IT	\$15,000
AV	1	estimate		TBD	\$5,000

Project Soft Costs **Cost**

Design Fees	#	Unit	\$155,970		\$169,545
Predesign Fee	1	ls	\$9,000		\$9,000
Predesign Reimbursable	1	allowance	\$500		\$500
Add Service - City Hall Study	1	ls	\$2,400		\$2,400
A/E Design Fees	6.25%	%	\$109,375	contract based upon original estimate of \$1.75 mil	\$118,955
Design Phase Reimbursable	1	allowance	\$2,000		\$2,000
Construction Administration A/E fees	1	ls	\$20,000	per contract	\$20,000
Survey	1	bid	\$6,195		\$6,195
GeoTech	1	bid	\$6,500		\$6,500
Geotech Additional Borings	1	bid		additional borings req'd due to poor soils found	\$3,995
Entitlements	#	Unit	\$0		\$0
Site Plan Review	1	allowance	\$0	Waived	\$0
Site Plan Review Escrow	1	allowance	\$0	Not Applicable	\$0
Watershed Application	1	allowance	\$0	Not Applicable	\$0
FFE	#	Unit	\$90,532		\$80,532
Furniture	1	estimate	\$80,532	Not including 2 future workstations, 1 future office	\$80,532
Furniture Design	1	quote	\$10,000	Self procurement	\$0

Cost Summary

Hard Costs		\$ 1,903,277
Soft Costs		\$ 321,909
Total	\$2,143,911	\$ 2,225,187
2020-01-24 Estimate		\$(2,128,345)
Delta		\$ 96,842
Delta % Change		4.35%



STAFF MEMORANDUM

SUBJECT: Monthly Public Works Report – February 2020
MEETING DATE: March 12, 2020
PREPARED BY: Corey Schweich, Public Works Superintendent
REQUESTED ACTION: Information Only

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:

Staff is presenting a written report for Public Works activities in February.

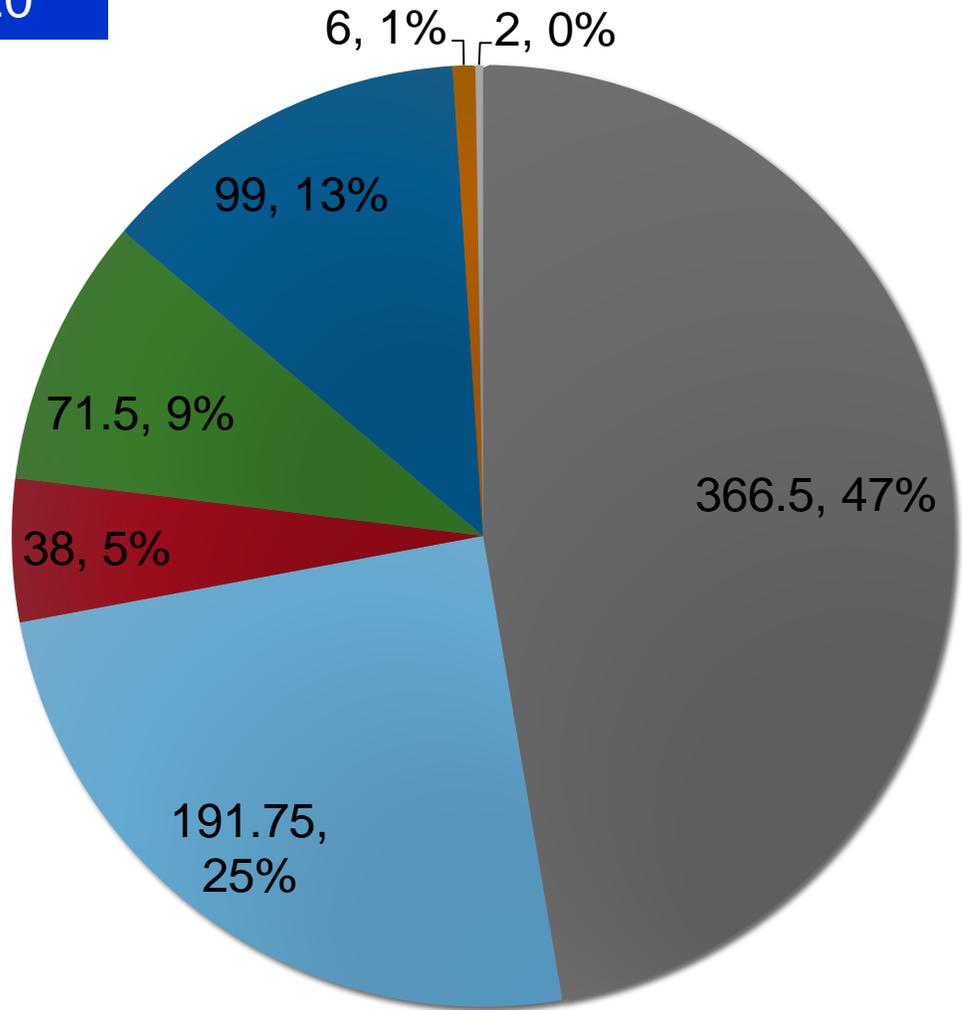
DISCUSSION:

- Staff had three Snow & Ice Control events in February. During most of the events the snowfall totals were less than a few inches, one event was over seven inches. Staff will typically plow all of the streets even if the snowfall totals are around an inch, as you will typically have to apply less salt to melt the snow. In previous months, Staff only applied salt and did not plow as there was less than an inch of snow. During February, Staff had to plow every event. Every event is different and has to be treated differently depending on temp, time, and amount of snow. Staff will continue to make adjustments as needed.
- Staff continued to make and use brine to pre-treat and pre-wet the salt used during snow & ice control events.
- Staff was able to wing back or “bench” most of the streets in the community. This is a process where Staff uses the loader with a front plow and wing to make room in the right of way for more snow storage. The operator picks up the wing at every driveway and sets it back down on the other side of the driveway creating a bench in the right of way for future snow events. On properties that were adjacent to trails or sidewalks, another Staff member would come behind and snow blow off the snow that had been placed on the sidewalks or trails by the wing on the loader. While the snow blowers were out, they also cleaned up around intersections that may have had visibility issues for drivers. This process typically happens once or twice a year depending on how much snow we get.
- As a result of the warmer temperatures late in the month, the rinks have been closed for the season. Staff continued to sweep, shovel and flood on a daily basis, until they were closed.
- Jason Schoenbauer and Derek Cavanaugh were able to obtain their Class “A” drivers licenses. They will also be attending some sewer and water trainings in the coming months, as they will have to obtain those licenses as well.
- Superintendent Schweich attended a Scott County Maintenance Leadership meeting that includes all of the Superintendents in the county. These meetings are quarterly and allow the Superintendents to work collaboratively on projects and planning of future maintenance. The meetings also allow the group to discuss what is working or not working well in their community and be able to get feedback on operations and ideas.
- Staff has continued to trim trees adjacent to trails, this work will continue throughout the winter months, as time permits.
- During the winter months, in between flooding and snow & ice control operations, Superintendent Schweich will continue to train newer Staff how to run and operate the Water Treatment Facility.
- Forklift and Aerial Work Platform Training was the topic this month for the regional safety group made up of Elko New Market, Lakeville, and Farmington. Staff will continue to attend monthly safety trainings through this group.
- Superintendent Schweich attended project team meetings with the architects that have been contracted to perform the design work associated with the Police Department renovation. There will be more meetings to attend in the coming months.
- The Department has been extremely busy dealing with various minor breakdowns within the Department’s fleet. Joe, the Mechanic, continues to do an excellent job juggling projects, depending on equipment needs.

PUBLIC WORKS Combined Time By Department

February 2020

Total Hours:
774.75



- Public Works
- Buildings
- Water
- Stormwater
- Snow Plowing
- Parks & Grounds
- Sewer

PHOTO ALBUM

COREY SCHWEICH

PUBLIC WORKS SUPERINTENDENT









STAFF MEMORANDUM

SUBJECT: Monthly Police Activity- February, 2020
MEETING DATE: March 12, 2020
PREPARED BY: Brady Juell, Chief of Police
REQUESTED ACTION: Information Only

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:

Staff is presenting a written report to the City Council reporting on Police Department activities for the past month.

DISCUSSION:

Chief Juell attended and completed “CLEO and Command” training February 10th through the 14th. This training was a weeklong training held at Camp Ripley in northern MN. This training was hosted by the MN Chiefs of Police Association. It is designed for new police chiefs and supervisors to help ease their transition into being the new leader of their departments. It featured speakers such as Mpls Police Chief Medaria Arradondo, Bloomington Chief Jeff Potts and others who spoke about relevant leadership topics. There were also state representatives, doctors, lawyers, and directors who talked about everything pertaining to police work and leadership. The overall program was one of the best Chief Juell had ever been to.

The process for hiring a New Police Officer continues. The first candidate’s background investigation was completed. After carefully reviewing the packet, Chief Juell and City Administrator Terry decided to authorize a background investigation on the next candidate on the list. The results of that investigation are almost complete. After reviewing that investigation a determination will be made on who gets a job offer. That candidate will proceed to the next phase of the process which includes a psychological, medical, and job performance exams.

Chief Juell performed seven “Lunch with the Chief” programs at Eagle View Elementary School this month. The lunches are very important to Chief Juell and School Staff have stated they have received a lot of positive feedback from parents.

Eagle View Elementary auctioned off a “Ride to school in a Police Car” at their family fun night. The Murphy family won the raffle. Chief Juell drove Declind and Greta Murphy to school as their parents followed. At one point the kids got to turn on the overhead lights and hit the siren as they neared the school. It was a great experience for all involved.

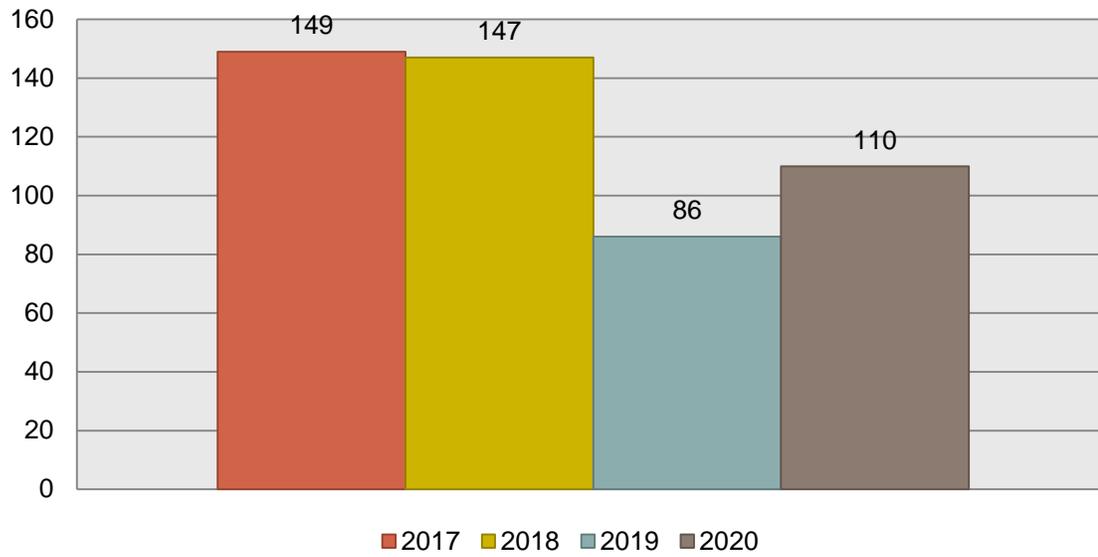




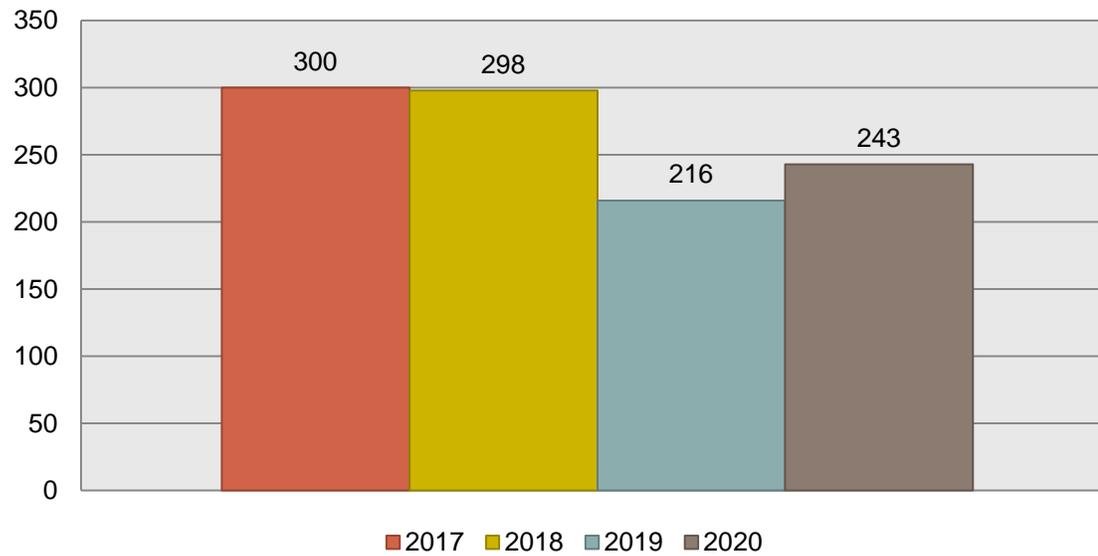
STATISTICAL INFORMATION – February, 2020

0	Burglary
0	Fire Calls
46	Ordinance reports
0	Property Damage
2	Motor vehicle crash/Accident
0	Noise/nuisance complaints
6	Public Assists
3	Motorist Assist
8	Community Engagement (New Category!)
2	Hazards
1	DWI
15	Administration (Rec. Fire Permits, Records checks, etc.)
8	Suspicious persons/vehicles/activities
4	Crimes against family
0	Juvenile Complaints
1	Theft
0	Threats
3	Medicals
1	Alarms
2	Lock outs
24	Assists to other agencies (Agency Assists)
189	Extra Patrols
3	Traffic driving complaints

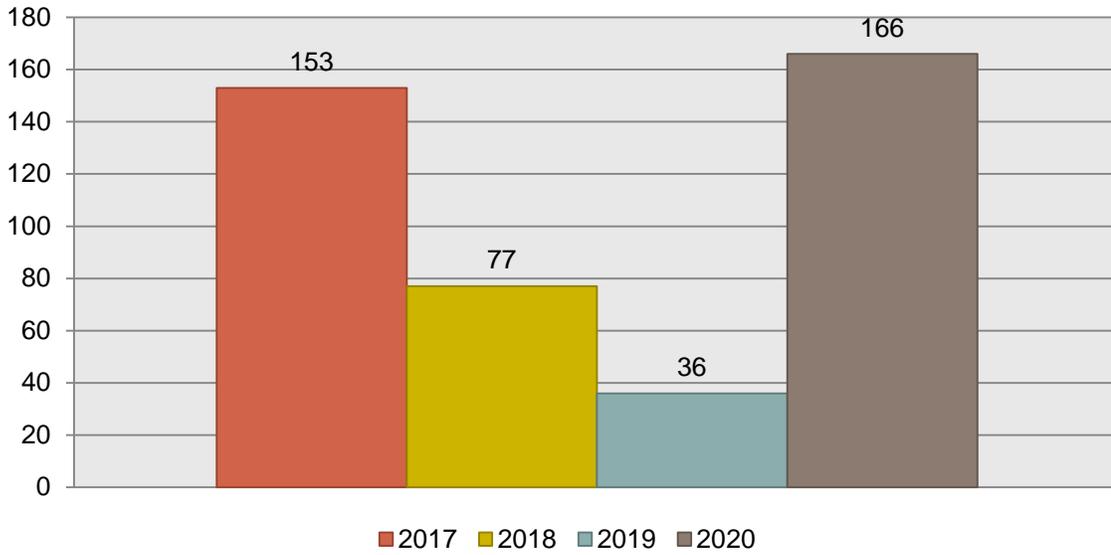
Calls for Service



Calls for Service YTD

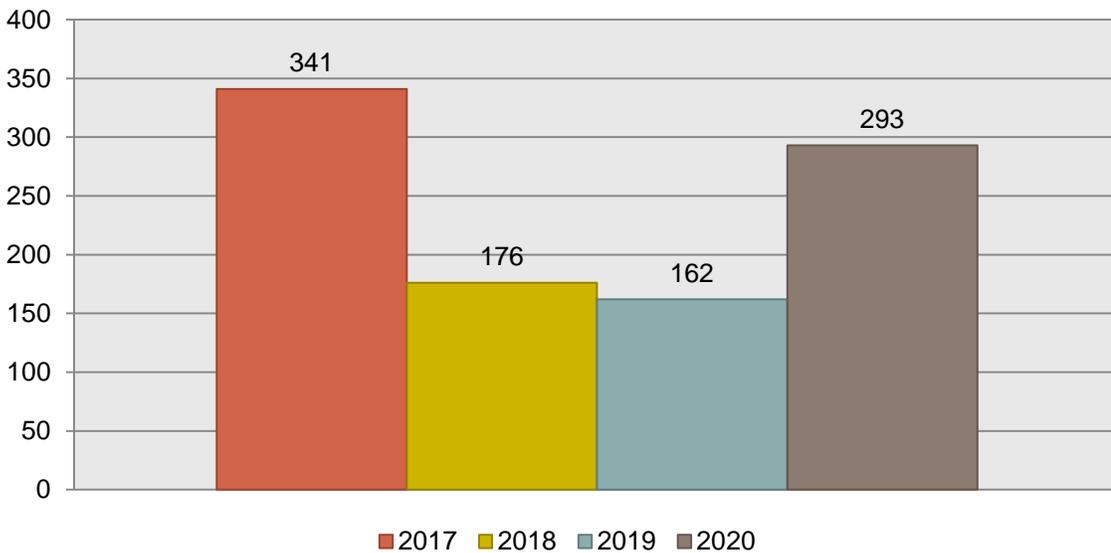


Traffic Stops

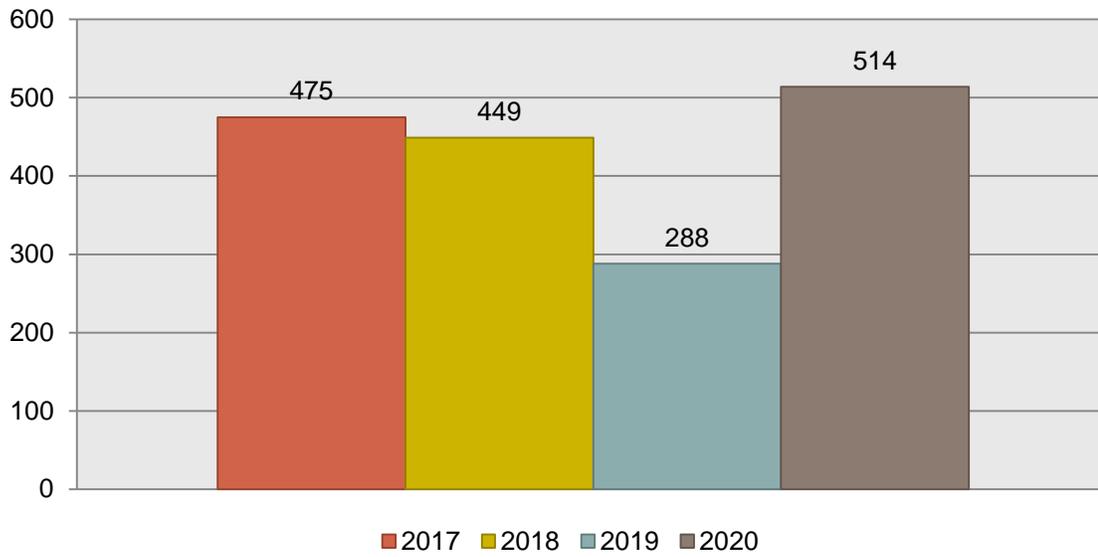


166 traffic stops were conducted in January, 2020. **135** verbal and written warnings issued and **24** citations issued for speed, expired registration, no proof of insurance/no insurance, careless driving, and driving after revocation. **7** citations issued for violation of winter parking ordinances on plowing days. **1** citation was issued for DWI (**Traffic stops, warnings and citations will not equal out due to some violations a party is warned for one violation and cited for another.**)

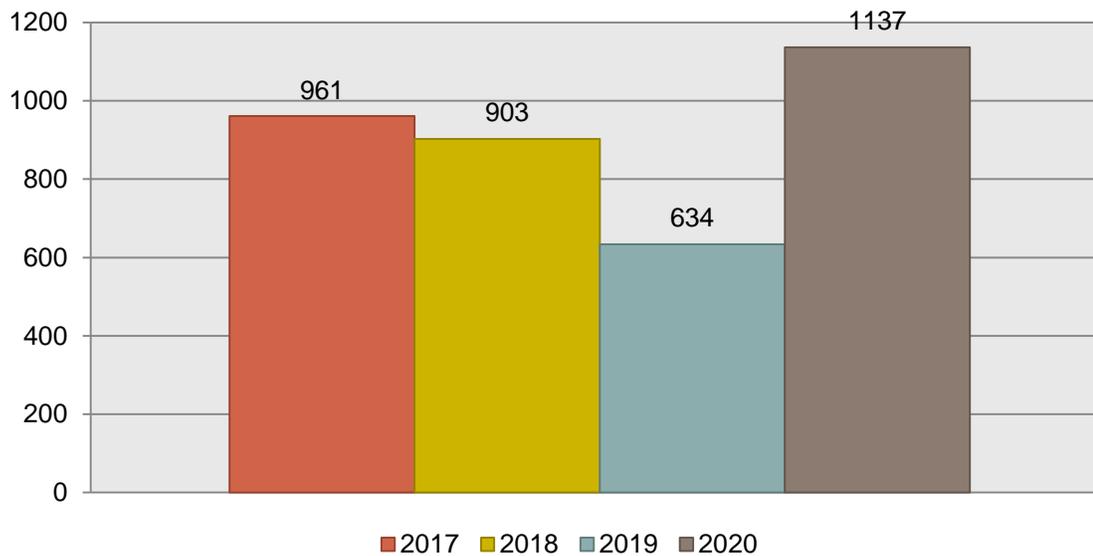
Traffic Stops YTD



Total Incidents Handled



Total Incidents Handled **YTD**



ENM Parks Commission Update

February 29, 2020

Happy Leap Year!

1. For 7th time in 8 years, the Elko Express and Parks Commission have been selected by the Minnesota Twins as a host for a 2020 Play Ball! Minnesota Youth Baseball Clinic! The date this year will be Saturday, July 18th at Fredrickson Field – 6 to 9 years old start at 9 AM and 10 – 13 years old start at 10:30 AM. This will be on the Agenda in March for consideration of approval.
2. Speaking of Baseball/Softball, the Registration Form for the 2020 season is now out with a due date of 4/1/20. Last year, there were 250 participants in the program – 100 for Softball and 150 for Baseball – the highest participation since the New Market Baseball Association took over the program 5 years ago. Corey and I will be meeting with them on field usage in early April.
3. The City started to accept Wagner Park Shelter Rental Apps on Monday, December 2nd for 2020...the “prime” dates are already filling up fast. In terms of revenues for 2019, the Park Shelter Rental revenues were up by nearly 40% over 2018, even with growing use of the shelter by nonprofits.
4. I hope to have the updated, final 2019 Budget Report for the March 2020 Parks Commission meeting.
5. The Windrose 8th/Woodcrest Trail is back on track with a more cost-effective approach being implemented to combine it with the upcoming Pete’s Hill residential subdivision trail and other street resurfacing projects, which should result in a lower overall cost. The total cost is estimated to be \$66,824.00 and funds are available in the Parks Capital Fund to do both trail segments. As noted at the January meeting, the SMSC was contacted to see if it would be possible to retain the \$18,224 grant for the project. I received good news in an email on February 14th from the SMSC Operations Administrator, Steve Albrecht, saying that the Tribal Council did approve it, so the funding picture is as originally proposed, to the Tribal Council.
6. The Rowena Pond Park RePurposing Master Plan is now underway. Along with City Engineer, I went over resolution of their current drainage problems and possible options with the 3 neighbors most directly affected by the project on August 8th and August 20th. They were all very positive about the project. The City Engineer completed has completed a draft of

the final drainage plans, which I sent in an email update to the 3 affected properties. Now that the Capital Improvement Program for the Parks has been updated and shows that funding for completing relocation of the T-Ball Field and the construction of the hockey rink can be done in 2020, Staff is working on completing the plans and scheduling the work.

7. Related to the Rowena Pond Project, I submitted a \$15,000 Twins “Fields for Kids” Grant for relocating the field prior to the March 2nd due date. These are VERY competitive grants, so even if we aren’t selected, then we still have enough funds to do the project. We should know by April 3rd whether we were one of the organizations selected for a grant.
8. Speaking of grants, I submitted an application for a free \$31,000 BCI Burke Playground Set, as part of their “Great Playground Giveaway”. We will know by April 30th whether we were selected for the playground set.
9. Jessica Davidson joined us at our January meeting to discuss possible options for our Winter programming at the Elko New Market Library. She has secured the events approved by the Commission – the RAD Zoo, Family Bingo, Glowsticks, and an Obstacle course/Family Yoga Challenge – for our “March Madness” Winter programming. Now that we have the schedule “nailed down”, we are spreading the word around.
10. As you know, the Parks Commission made a final decision at the November Meeting to accept the proposal from Webber Recreational Design, which included an Accelerator Swing and Ten Spin to replace an old swing set and balance beam at Old City Hall Park. The final cost for the 2 pieces was \$8,452.48. The city purchased the equipment prior to the end of 2019 to take advantage of the almost 30% discount on the equipment. The PW Department removed the old equipment recently, so the playground is now ready for the installation scheduled for mid-April 2020. We are currently working on a delivery date with the company.
11. American Ramp Company, which built and installed the SkatePark equipment, will be stopping by this Spring to do a warranty check on the equipment, talk about possible additional pieces, and a potential pumptrack.
12. On the Agenda for the March Parks Commission Meeting is the annual purchase of Engineered Wood Fiber. I have secured 2 written bids so far and hope to have more by the meeting.
13. The additional Pet Waste Stations were on backorder for a few months, but I have received word from the company that they were now available, so I

ordered them before the end of the 2019. On Tuesday, January 14th, they were delivered and stored at the Wagner Park Shelter for installation this Spring.

14. As part of the 2040 Comp Plan process, the current Park Classification System appears to need updating. On February 11th, I met with the City Administrator and City Planner to discuss options for revising the Classification System. City Planner Haley Sevensing will be with us at our meeting on March 17th to go over the Staff recommendation resulting from that meeting.
15. As you know, we work with area Boy Scouts and Girl Scouts on their projects. Right now, I am working with Ryan Huberty on his Eagle Scout project of upgrading the Wagner Park flag garden; Sheridan Liggett on her Gold Award on building 3 “Little Libraries” in the City; and Addison Hermann and Amelia Deuth on their Silver Award on planting a Bee Garden this Summer. All 3 projects will add to City parks.
16. Again, a reminder that Chair Sutton and Commissioners Dornseif and Zahratka are up for reappointment. As in the past, City Council will open the process to the community, but current Commissioners can reapply for reappointment to a 3-year term. They will need to be filled out prior to March 5th.
17. See you on Tuesday, March 17th @ 4 PM @ ENM City Hall for our March Parks Commission Meeting...thanks for your service for our parks and recreational programs!