CITY OF NORTH OAKS

Regular City Council Meeting
Thursday, October 08, 2020
7 PM, Via Teleconference or Other Electronic Means Only

MEETING AGENDA

Remote Access: - *City Council members will participate by telephone or other electronic means pursuant to Minn. Stat. §13D.021. Any person wishing to monitor the meeting electronically from a remote location may do so by calling the following Zoom meeting videoconference number: 1-312-626-6799, Meeting ID: 824 3482 7805 or by joining the meeting via the following link: https://us02web.zoom.us/j/82434827805. Individuals wishing to monitor the meeting remotely may do so in real time by watching the livestream of the meeting on North Oaks Channel 16 and on the City's website. Due to the existing COVID-19 Health Pandemic, no more than five (5) members of the public may be in Council Chambers (Community Room, 100 Village Center Drive, MN) during the meeting. Once room capacity is met, anyone wishing to attend the meeting above the five (5) members of the public who may be present in the room during the meeting will be required to monitor the meeting remotely.*

1. Call to Order

2. Roll Call

3. Pledge of Allegiance

4. Approval of Agenda

5. Citizen Comments - *Individuals may address the City Council about any item not included on the agenda. Speakers are requested to come to the podium, state name and address for the clerk's record, and limit their remarks to three minutes. During the pandemic, when meetings are held virtually, speakers will be able to call in to the meetings to make remarks, or request that submitted comments are read by a member of Council or the City Staff. Generally, the Council will not take official action on items discussed during the citizen comment period, but Council members may refer the matter to City Staff for a future report or direct that the matter be scheduled on an upcoming agenda.*

6. Consent Agenda - *These are items that are considered routine and can be acted upon with one vote.*

6a. Licenses for Approval: 4Front Energy Solutions; Master Plumbing Services; Matrix HVAC; Summit Heating & Air

6b.Approval of Laughlin Deer Management Contract - 2020-2021 season
North oaks contract 2020-2021.doc

6c.City Council Meeting Minutes for Approval
City Council Minutes 09.10.2020 Sp.docx

City Council Minutes 09.10.2020.docx

6d.Approval of NSAC services agreement
NorthOaks_ServiceContract_20200630v2.pdf

7. Petitions, Requests & Communications -
Deputy Mike Burrell Report

8. Unfinished Business
8a.Wilkinson Villas 1A Developers Agreement
FINAL Wilkinsin Villas 1A Dev Agmt V2 kk 10-2-20.pdf

8b.Proposed Ordinance - Minor Lot Line Adjustment
Memo re Lot Line Adjustment Ordinance (2020).pdf

FINAL_NO_Lot_Line_Adj_Ordinance_9.01.2020.pdf

8c.Discussion on CARES funding

8d. Discussion on Civic Plus Website Roll Out and Live Date Proposal/Process

9. New Business
9a.Discussion and possible action on consulting with AEM to conduct water and sewer rate study
North Oaks, City of Utility Rate Study.pdf

9b.Consider request from North Oaks Company in regards to Island Field Development Site dwelling unit allocation
2020.09.30 Ltr to City of North Oaks - Island Field Housing Counts.pdf

10. Council Member Reports

11. City Administrator Reports

12. City Attorney Reports

13. Miscellaneous
13a. City Forester September Report
September in Review.pdf

14. Adjournment - *The next meeting of the City Council is Thursday, November 12, 2020.*

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made on the 1st day of November, 2020, between the City of North Oaks and Nuisance Animal Removal Service or N.A.R.S. ("Contractor") whose business address is 1055 Gervais Ave., Maplewood MN 55109.

PRELIMINARY STATEMENT

The purpose of this contract is to set forth terms and conditions for the provision of deer removal services by the Contractor for the City of North Oaks.

The City and the Contractor agree as follows:

1. **Contractor's Service.** The Contractor agrees to provide professional services as described in Exhibit A, attached and made a part of this Agreement.
2. **Time for Performance of Services.** The Contractor shall perform the services outlined in Exhibit A, attached and made part of this Agreement.
3. **Compensation for Services.** The City of North Oaks agrees to pay the Contractor for services as described in Exhibit A, attached and made a part of this Agreement.
4. **Method of Payment.** The Contractor will submit itemized bills for services provided as work is performed.
5. **Audit Disclosure.** The Contractor shall allow the City or its duly authorized agent reasonable access to such of the Contractor's books and records as are pertinent to all services provided under this Agreement. Any reports, information, data, etc. given to, or prepared or assembled by, the Contractor under this Agreement which the client requests to be kept confidential shall not be made available to any individual or organization without the City's prior written approval. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the contractor shall become the property of the City upon termination of this Agreement, but Contractor may retain copies of such documents as records of the services provided.
6. **Terms.** The term of this Agreement shall be from November 1st, 2020 through March 31, 2021, the date of signature by the parties notwithstanding. This Agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the terms and conditions as herein stated.

7. **Termination.** This Agreement may be terminated by either party by 30 days' written notice delivered to the other party at the address written above. Upon termination under this provision if there is no fault of the Contractor, the Contractor shall be paid for services rendered and reimbursable expenses until the effective date of termination. If however, the City terminates the Agreement because the Contractor has failed to perform in accordance with this Agreement, no further payment shall be made to the Contractor, and the City may retain another contractor to undertake or complete the work identified in paragraph 1.
8. **Subcontractor.** The Contractor shall not enter into subcontracts for services provided in this Agreement without the express written consent of the City.
9. **Independent Contractor.** At all times and for all purpose hereunder, the Contractor is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Contractor an employee of the City.
10. **Assignment.** Neither party shall assign this Agreement, or any interest arising herein, without the written consent of the other party.
11. **Services Not Provided For.** No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the City.
12. **Severability.** The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of the Agreement.
13. **Entire Agreement.** The entire agreement of the parties is contained herein. 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 parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.
14. **Compliance with Laws and Regulations.** In providing services hereunder, the Contractor shall abide by all statutes, ordinances, rules, and regulations pertaining to the provision of services to be provided. Any violation shall constitute a material breach of this Agreement and entitle the City to immediately terminate this Agreement.

15. **Equal Opportunity.** During the performance of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, sexual preference, and marital status, status with regard to public assistance, disability, or age. The Contractor shall post in places

available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment.

16. **Waiver.** Any waiver by either party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.
17. **Indemnification.** Contractor agrees to defend, indemnify and hold the City, its officers, and employees harmless form any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from an act or omission (including without limitation professional errors or omission) of the Contractor, his agents, employees, or contractors in the performance of the services provided by this Agreement and against all losses by reason of the failure of said Contractor fully to perform, in any respect, all obligations under this Agreement.
18. **Insurance.** During the term of this Agreement, Contractor shall maintain a general liability insurance policy with limits of at least $1,000,000.00 for each person, and each occurrence, for both personal injury and property damage. A certificate of insurance will be provided upon request.
19. **Governing Law.** This Agreement shall be controlled by the laws of the State of Minnesota.
20. **Special Factors.** Contractor shall use its best efforts to secure any insurance required for the proper administration of the deer management program as outlined in Exhibit A. In the event an insurance company cancels or refuses to place any necessary insurance, Contractor shall use its best efforts to obtain insurance from other insurer.

Executed as of the day and year first written above.

City of North Oaks

BY: _____
Its

N.A.R.S.

BY: _____

EXHIBIT A

Services and Conditions

The following outlines services and conditions of the agreement between the City of North Oaks and N.A.R.S. (Contractor). The DNR refers to the Minnesota Department of Natural Resources.

I. INFORMATION

The contractor shall provide the following information to the City:

A. Names, work addresses and work phone numbers of all personnel employed by The Contractor who will be providing services pursuant to this agreement.

B. Make, model, and license numbers of all vehicles used by the Contractor in Providing services pursuant to this agreement.

C. Descriptions of weapon(s) used to kill the deer.

D. At the end of the contract period, the Contractor shall deliver completed Deer trap and kill data sheets to City.

The City shall provide the following information to the Contractor:

A. Names and phone numbers of personnel to contact if and when operational Problems arise. Names and phone numbers of DNR representatives to contact if and when questions regarding deer arise.

II. OPERATIONAL PROCEDURES

The Contractor shall adhere to the following operational procedures:

A. A list of all available trap locations shall be agreed by the City and the Contractor.

B. Each contract year the Contractor shall remove up to the number of deer permitted by the Minnesota Department of Natural Resources using the trap and kill methodology. Using the trap and kill methodology, the deer shall be shot at close range while in the trap.

C. The Contractor shall supply all deer traps and materials in a manner acceptable to the City. The traps shall be set and baited 2p.m. and 4 p.m. Pre-baiting shall occur at a minimum of three to five days before trapping begins.

D. The traps shall be checked and the animals destroyed each morning prior to 6 a.m.

E. Within two hours of being dispatched, the deer shall be dressed. The Contractor shall turn over dressed carcasses to the DNR's Enforcement Division as provided for in the DNR's special deer removal permit.
The Contractor shall remove viscera and dispose of pursuant to State regulations

G. The Contractor shall notify the City immediately upon discovering vandalism to the trap.

III. <u>City of North Oaks RESPONSIBILITIES</u>

A. The City shall supply the Contractor a signed copy of the DNR Division of Fish and Wildlife's special deer removal permit.

B. The Contractor shall supply the bait for traps.

IV. PAYMENT

A. The Contractor will bill the City a fee of $435.00 per day that contractor is trapping deer, maximum 16 trapping days per month. The contractor will bill the city $160.00 for each deer removed by trap and kill. There is no additional charge for fetuses.

B. The Contractor will bill the City the amount for repairs for traps Damaged by vandalism, not to exceed $95.00 per occurrence.

B. The contractor will charge the city a $ 75.00 per day transport fee on days deer are trapped. This fee includes the cost of disposing of viscera.

North Oaks City Council
Special Meeting Minutes
North Oaks City Council Chambers
September 10, 2020

CALL TO ORDER
Mayor Nelson called the meeting to order on September 10, 2020 at 5:00 p.m.

ROLL CALL
City Councilmembers were present in the City Council Chambers or participated **by telephone or other electronic means** pursuant to Minn. Stat. § 13D.021. Residents can view the meeting on the cable access channel and through the website portal just like other public meetings.

Present: Mayor Gregg Nelson, Councilmembers Rick Kingston, Marty Long, Kara Ries, and Sara Shah.

Planning Commissioners present: Chair Mark Azman, Commissioners Dave Cremons, Jim Hara, Stig Hauge, Nick Sandell, and Joyce Yoshimura-Rank.

Staff Present: Administrator Kevin Kress, Attorney Bridget Nason.

Others Present: Videographer Maureen Anderson, North Oaks Company President Mark Houge
A quorum was declared present.

PLEDGE OF ALLEGIANCE
Mayor Nelson read the Pledge of Allegiance.

DISCUSSION ITEM
a. Review, discussion, and potential action on revised Island Field Concept Plan Submittal from North Oaks Company (NOC)
Mark Houge asked the Councilmembers and Commissioners if they've had a chance to look at the documents describing the project scope or if it would be helpful for him to explain it first.

Mayor Nelson said because people are watching who haven't seen the documents, it is a good idea to go over them for residents and the public.

Mr. Houge said he'd be happy to and shared his screen. He began with the aerial view of a portion of Eastern North Oaks and noted a parcel labeled D561, which is the location of the Island Field site. Also on the aerial view, is the shape of the building and proposed driveway coming in from Centerville Road. Looking to the North, there is a parcel labeled G561 which is the proposed development of Gate Hill and to the West is the proposed completion of the Red Forest Way area, referred to as Red Forest Way South and is a combination of parcels labeled s F629 and E561. For future reference there are trails marked in red (proposed trails) and green (existing trails), noting the NOC has had conversations with North Oaks Home Owners' Association (NOHOA) and have asked for final approval on this layout simultaneously with the approval of application of the subdivision.

Mr. Houge went to the actual layout of the Island Fields site, and the concept plan was proposed in December 2019 noting it is a driveway coming into a building which would be future mixed-use which is essentially commercial. He noted the PDA provides the NOC to put commercial uses on several of the subject sites, Island Field being one of them. At the time it was presented, the NOC was uncertain how large the condominium would be, the proposal had a 46-unit condominium building with the idea that additional commercial uses would be placed on the North side of the site with access from a common roadway, and could be things like a daycare, dental office, professional buildings, etcetera. Instead, what the NOC is proposing tonight is a project that encompasses the entire site with a condominium development. He showed a more detailed drawing with a building in two phases, the first phase is proposed to be 37 units with a common area on the East end with the hopes that Phase 2 would include another 37 units, totaling 74 units, all sharing the same common area. He reported it would be the only usage for the site, rather than putting commercial on the property. He noted the advantages include a much more private area without inviting the public in to use the commercial space, as it would be restricted only to the residents of the condominium, and each unit would be owned by the residents. The structure would be a three-story building consistent with the architecture such as Waverly Gardens and similar types of buildings. Mr. Houge showed preliminary images of the building, which would have parking underneath with two cars per unit allowed, along with some overflow visitor parking outside. The building fully conforms to the City's ordinances, the architect's vision of the building is a combination of masonry and stucco and many amenities would be oriented to the conservation area to take advantage of the natural setting, including proposed fire pits and meeting space on the South side of the building face the conservation area.

Mr. Houge said he's happy to answer questions and that Attorney Nason would cover the interpretation of the PDA which allows them to increase the density by shifting housing units from other locations where they weren't used from 35 to 46. He noted Exhibit B 5.1 which was attached to the 7th Amendment clearly states that they can add 11 units in a density shift on Island Field and they would also like to take advantage of converting the commercial acres to housing and that Exhibit also illustrates there were 28 units anticipated to be available if that conversion were to take place. Again, it would total 74 housing units and would preclude any additional commercial development on the site, and Mr. Houge reiterated there would be one way in and out and it would have municipal sewer connected to White Bear Township and municipal water. Unlike some previous designs kicked around with City Staff, there is not a connection into the core from Centerville Road through this site; it would be strictly accessed from Centerville Road.

Mayor Nelson asked who the partners are in the project.

Mr. Houge explained Firm Ground is the architectural firm working with the developer HP Holdings and are partnering with the NOC to do the vertical development of the site, and have done several condominium projects throughout the Twin Cities, most recently Myers Place on Lake Street in downtown Wayzata, which is a very first-class building. They are working closely with HP Holdings, noting NOC's responsibility is to put the roads in and prepare the site; then the site would be sold in two phases to HP Holdings and they would proceed in building the structure and selling the condominiums.

Commissioner Hauge asked Mr. Houge the timeline between Phase 1 and Phase 2.

Mr. Houge replied they will hopefully begin marketing the project within the next 30 days. The hope is they can do the Phase 2 building at the same time as Phase 1, but it will depend upon the market demand. To mitigate some of the risk, they will do it in two phases and most likely Phase 1 would be completed and within 12-24 months Phase 2 will be completed. If sales are brisk and there is a high demand (and they think there will be), they may just go ahead and do Phase 2 as part of the first work effort.

Commissioner Cremons asked concerning Phase 2, is NOC saying commercial will never occur on the site, even if Phase 2 is delayed for some period of time…are they committing that it's only going to be condos on the site.

Mr. Houge responded saying the agreement with the developer of the condominium is that they have up to two years to execute an option to build Phase 2. If that time passes and they don't proceed with Phase 2, the NOC will have to decide whether to extend that period or come back to the City with a proposal to develop it as commercial or another type of housing.

Councilmember Shah asked regarding market demand, obviously there is a shift in thinking from the high-level concept plan, and asked if there is additional data or evidence to show the demand for the condos.

Mr. Houge replied yes, one of the outcomes of COVID-19 is an effort to flee the urban areas, including Minneapolis and St. Paul, and NOC has engaged Jim Seabold, a part of Coldwell Banker who has probably done more in the Twin Cities in selling condominiums than any other firm in the area. Mr. Seabold has done extensive research on the market and has been working with both the developer and NOC to determine that a 74-unit building has very strong demand and they are trying to mitigate the risk by doing it in two phases.

Councilmember Kingston asked approximately how much each unit might sell for.

Mr. Houge said the units will probably start at $500,000 and they will offer a variety of size ranges, with the smallest unit being 1,100 square feet up to 2,800 square feet. The price is a function of square footage and noted they could get even larger if someone wanted to exceed the 2,800. He thinks they will probably be in the 1,600-1,900 square foot range.

Commissioner Cremons asked regarding management of the condo, will there be a sub-association managing the site, and what is the proposal concerning controlling rentals and other things as the project evolves over time.

Mr. Houge replied there will be a sub-association and it will be dedicated to the building and owners; he said they haven't gotten into the detail on whether owners would be allowed to rent their units, although he thinks they would follow suit with the rest of North Oaks and follow that policy. Each unit would be owned and it would be up to the owners and the City to determine what rental policy might be acceptable.

Commissioner Yoshimura-Rank asked about the remaining number of units to be developed, how the 74 units count.

Mr. Houge asked if she's referring to the total number of units as called out in the PDA.

Commissioner Yoshimura-Rank said that is correct.

Mr. Houge said the PDA is set up to allow for 645 housing units plus 21 acres of commercial, so they would take 46 of the 645 housing units and utilize them at this location, and add the 28 housing units when doing the conversion from commercial acres to housing. He noted it would stay within the requirement of the PDA not to exceed the maximums.

Commissioner Hauge said he is surprised to see there are only 16% three-bedroom units and asked about the thinking behind the mix of two- and three-bedrooms.

Mr. Houge said the short-answer is he'd have to defer to Jim Seabold regarding his market analysis as that is what the analysis is telling NOC. At this stage, they are very flexible and can change in terms of the number of bedroom units but this is currently their best estimate based on the market research.

Chair Azman asked what parts of the PDA the NOC is relying on to add 28 units to site H and how their calculations and interpretations led them to believe that authority exists within the PDA.

Mr. Houge said if he understands the questions, Chair Azman is asking how the PDA allows NOC to do this.

Chair Azman replied that is correct and he understands the conversion rate but he's more interested in understanding the NOC's position on being permitted under the PDA and if he could point the Council and Commission to the place in the PDA where they believe the authority exists to take the converted units and add them to the specific site, for example, H or Island Field.

Mr. Houge replied if they think about the way the PDA was structured, the only way it would work to accommodate the combination of housing units and commercial would be to have them as additive. In other words, there are 645 housing units plus 21 acres of commercial; the commercial use was never identified to be at any specific location, rather it was open to be at one of four different possible locations. Looking at the terms of how the PDA is structured, it talks about both the density shift and the addition of the commercial acres to be put on a site. In this case, they could've put 46 units of housing applying the density shift plus the remaining 5.73 acres of commercial. In NOC's view, they think the proposal to make it all residential at that location, rather than any commercial, is the better use. He noted adding commercial at this location adds complications for NOHOA as well as the users of both of the buildings and they are very pleased that the developer feels it's a viable site for the 74 units.

Councilmember Shah said Mr. Houge mentioned NOHOA and she sees they are on the call tonight. She heard Mr. Houge say NOC has reviewed the trail system with NOHOA and asked if this is the first time NOHOA has seen this concept or if the company weighed in with them to get their take on it.

Mr. Houge responded NOHOA has seen the concept plan provided some months ago and he's not sure what the distribution is, but generally the company submits these plans to the City and simultaneously they go to NOHOA. He said it's a bit of a unique case in that they're having tonight's meeting before the formal submittal, but NOHOA is aware that it is proposed to be a condominium site, but he is not sure if they've seen the particular drawing on screen and he has not formally presented it to the NOHOA board.

Chair Azman said he understood tonight was to be a discussion on unit counts and an analysis of the PDA with Attorney Nason's help and Mr. Houge's participation. He does not understand exactly what language NOC is relying on so he can understand what allows them to bump up a specific site with a converted amount of units from commercial to residential.

Mr. Houge said he could try to walk through the information put in a letter to City Staff that discusses it, but he said he'd defer to Administrator Kress and Attorney Nason to answer that question.

Chair Azman said he read the letter but thinks it's important to hear what the Company is relying on so they can open up a dialogue about it.

Mr. Houge asked to clarify if Chair Azman read the letter dated August 19, 2020.

Chair Azman replied he did and he'd like to talk about the letter so everyone has a solid understanding of the language NOC is relying on to increase the amount of units at site H.

Mr. Houge said he's not sure how else to explain it besides what he said earlier, the table B5.1 of the 7th Amendment clearly shows NOC can shift density onto Island Field to get a total of 46 units, plus they can put 28 units if converting the commercial acres on one of several sites, including Island Field. When you add those together, it is 74 units and there are some very detailed references in the PDA but he's not sure he's prepared to go through each of those specifically, however, he thinks it's all covered in the memo from Attorney Nason.

Commissioner Hara said if the 28 units are on roughly 5¾ acres, they're getting 3 additional lots for the ¾ acres, but doesn't the 7th Amendment say "for each full acre" of commercial.

Mr. Houge acknowledged that is confusing, and if they look at that language versus what is in the Table, they do not align, so NOC is asking that it be interpreted as the table states, which is 28 units.

Councilmember Ries asked if the table Mr. Houge is referring to is the one that NOC developed.

Mr. Houge replied no, it is the table agreed to by the City and NOC in the 7th Amendment B5.1.

Chair Azman said looking at the 7th Amendment, Table 1 on page 11 it talks about conversion of permitted uses and it seems that NOC is talking about paragraph A where they calculate the conversion. He said it seems the language NOC is relying on is "the number of permitted dwelling units within the development sites will be increased at the rate of 5 dwelling units." He asked if that is correct and that is the language NOC is relying on to add all of those units to one site, which is site H.

Mr. Houge put the table up on screen and said it is and exhibit of the 7th Amendment which they labored over earlier in the year, noting Attorney Nason gave her opinion that it is a valid agreement to apply to the 7th Amendment. He noted on site H, taking the 30% it gets them to 11 units and down below it says PDA conversion to dwelling units is 5 per acre equals 28. He stated if you take 5.73 times 5, the number is greater than 28, so they rounded down. He acknowledged it is confusing as in the same amendment it talks about 5 units per whole acre, but the exhibit on screen is how they'd prefer it be interpreted.

Councilmember Ries noted Section 8 states 5 dwelling units for each full acre of commercial development foregone. The language in the agreement is clear and when looking at the conversion of permitted use it states the limits of 645 dwelling units at the beginning of the amended language in the 7th Amendment and goes on to clarify that it can be 5 dwelling units for each full acre. She said it's quite clear in the 7th Amendment that it needs to be a full acre when converting.

Commissioner Hauge said this is an area they need City Council clarification on the interpretation of it.

Chair Azman said the next step would be to hear from Attorney Nason and then ultimately the Council makes the call as there must be an agreement with the developer and the applicant. To backtrack a bit regarding each full acre, he and Councilmember Ries have talked about it in the past and he now wonders if it means if there is a full acre you get 5 units, it doesn't necessarily state that they wouldn't get a fractional if there's a fractional acreage applied. He thinks having some guidance from the Council on that would also be helpful. It says full acre, but it doesn't say fractional acres are not to be counted. He asked to hear from Attorney Nason at this time.

Attorney Nason apologized that the memo she put together got to them this afternoon as she was out of the office on vacation over the long weekend and it was pulled together a bit quickly, but she thought it was important to get some information in front of both the City Council and Planning Commission. She noted it's not to make any final conclusions or determinations, but more of a list of some issues spotted in conversations between Staff and NOC and to get it on everyone's radar in anticipation of a preliminary plan submission related to this site. In talking about site H, the Island Field site, the revised concept plan before them this evening shows that 74-unit condominium development as proposed for the site. In looking through the PDA to ascertain what type of development and how many dwelling units would be allowed on the site, a few issues have arisen. She said the biggest question is how the calculation is done with respect to density bonuses; in Appendix 1 of the PDA as well as B1, which is C1, it shows 35 planned dwelling units allocated to this particular site and there is a 30% density bonus which would get

to 45.5 units. The PDA is silent as to how they'd deal with fractional units; for example, there are density bonuses allowed on a number of different sites and there is nothing that says whether to round up or round down. The second area of issue is when they add the density bonus in and as seen in the NOC's correspondence, the calculation they're proposing is to have the density bonus applied which gets to the 46 units and then to add on the conversion units which would be 28 residential units. She noted that is the interpretation NOC is proposing that would lead to the result being a 74-unit, 2-Phase condo development on site H. She copied and pasted some information from the PDA that deals with the maximum density of each of the development sites and information from Appendix 1 and Table 1 regarding how dwelling units are adjusted with respect to the density of bonus question. The real issue is whether or not the PDA permits or contemplates or requires…when there is this conversion, does it allow them to add dwelling units above and beyond what would be allowed under Table 1 development sites plus any applicable density bonus, or does it instead imply they could take the additional density converted from commercial units and distribute them across the development sites up to the dwelling unit number plus any applicable density unit bonus. She said there is language in the PDA that states "permitted density increase percentages shall be applied before any permitted conversion or transfer of units."

Attorney Nason said it's a little unclear at first reading what that means but ultimately the Council will need to determine whether or not the language of the PDA as currently written would permit the proposed construction of the 74 dwelling units on site H. Additional issue-spotting (of which they've already had conversations) is 1) how to handle fractional units as there is nothing in the contract regarding how fractional units are handled; and 2) the commercial acreage calculation issue that has been raised, which is trying to determine what the language of the PDA means when it reference the 5 dwelling units for each full acre of commercial development foregone. Whether it means NOC would essentially lose or forfeit any fractional commercial acre that is not developed, or it means they would apply 5 times whatever the acreage is or something else. She noted the references in Exhibit B5.1, Appendix 1 and the Comprehensive Plan language that contemplate an additional 28 residential units if that commercial acreage was foregone. Attorney Nason said it leads to potential paths for development as proposed on the Island Field site, noting she is providing an overview and issue-spotting and no opinion is being expressed regarding any of the issues. The first issue is how this development could potentially occur on the site as proposed. For example, they could have a 2-tract development and on one of the tracts (RLS subdivision process), they would have 46 unit condo building and on the adjacent tract there would be something called commercial development that could not exceed 5.73 acres; if that commercial development were treated like site E3 as commercial acreage and not counting toward dwelling units, the condo building located on that tract could be established and in theory that would keep the site within the parameters of the PDA regarding dwelling units. Secondly, there is an interpretation piece and Attorney Nason has identified three different areas where the Council would need to interpret the PDA in order to permit the development as proposed. First they would need a determination related to the fractional dwelling units, second the Council would need to concur that in fact there are 28 additional dwelling units that are allowed for the commercial conversion and third, there would need to be an acceptance of the interpretation positive by NOC with respect to the maximum site density, which would permit the additional of the full commercial conversion on top of the dwelling unit allocation number plus density bonus to get to the 74 number. The third

path forward would be an amendment to the PDA, as they've already identified there are conflicting provisions located within the PDA. There isn't language within the PDA itself that tells how to respond to ambiguities or conflicts except where different documents would conflict. For example, under PDA controls it will tell if there is a conflict between the final plan, preliminary plans, the PUD, etcetera, and which of those documents trumps. However, in this case the conflicting language is within the same document so there's not an ability to have one document trump another. An 8th Amendment could be compared that would address the ambiguities and conflicting provisions and could specifically amend the PDA to permit the development as proposed with 74 dwelling units and no commercial development. She stated those are the three ways forward if the Council and Commission are looking for, and again this meeting is as she understands it, an opportunity for the developer to provide that revised concept plan and answer any questions and receive feedback regarding the proposed amended concept plan from both City Council and Planning Commission. Attorney Nason opened the floor for questions.

Councilmember Ries noted she hadn't previously seen Attorney Nason's memo and asked if Ms. Nason could cite where in the PDA the 645 absolute maximum is allowed to be exceeded, under which conditions and through conversion you are allowed to exceed the 645.

Attorney Nason said she would initially turn to page 11 of Appendix 1 (the back of Table 1) and stated there is language that says conversion of permitted uses "the limit of 645 dwelling units and 21 commercial use acres may be varied as follows," followed by a conversion calculation for the commercial acreage which says, "should the developer elect to forgo development of some or all of the 21 commercial acres, the number of permitted dwelling units within the development site will be increased at the rate of 5 dwelling units for each full acre of commercial development foregone." Attorney Nason noted there is a reverse calculation stating should the developer elect not to develop all of the dwelling units, they could conversely gain additional commercial acreage and it is a rate of 1 acre of commercial use for each 5 dwelling units foregone.

Councilmember Ries asked if that would also be considered conflicting language because where it talks about the conversion it says the 645 is not to be exceeded, or does Attorney Nason consider that consistent with the other language in the PDA. She noted the 7th Amendment only amends the portion of the PDA related to Waverly.

Attorney Nason said she'd have to check but her understanding is the 645 number is found all within Appendix 1 and related documents, as well as Exhibits B1 and B5. For example, looking at the original PDA, when it references the dwelling units, it references Exhibit B, which is the math showing the different development sites with the "maximum" dwelling units per site and that was Amended as part of the 7th Amendment where site E was broken into three sites, but was restated again for Island Field is 35 units. As she reads the PDA it does permit 645 dwelling units but would allow in excess of those if there was a commercial conversion, commercial acreage foregone and converted into residential dwelling units and vice versa. In theory, it's possible the developer could come back and say they want to flip the equation and forego certain dwelling units and instead seek to treat the site as commercial acreage, although that hasn't been discussed in any capacity, however it is a two-way conversion street.

Mayor Nelson asked Attorney Nason if that would be consistent with a plan intended to exist for 30 years to allow some flexibility in the plan, 645 acres more or less depending on where they find themselves 20 years out.

Attorney Nason said at the time this document was drafted back in 1999, it wasn't sure exactly how the development would occur; therefore, some flexibility was built in so the developer could choose to focus more on the residential or commercial side of development. That is her understanding of why the conversion rates are found, and again, the conversion rates for those units date back to the 1999 PDA, noting an Appendix 1 to the original PDA, which includes a conversion of permitted uses calculation and has the exact same language in the 1999 agreement and has been carried through the 7th Amendment.

Chair Azman saw that Attorney Nason quoted Section 2.3 of the PDA regarding density and that seems to refer the reader to the Exhibits more or less and Table 1. He noted that language hasn't changed throughout the various amendments as far as he can tell, however the particular Exhibits have been modified and really the devil is in the details, the Council and Commission must look at the Exhibits and asked if that seems fair.

Attorney Nason replied that is correct, the language regarding density found in Section 2.3 of the PDA in and of itself was not amended, however as Chair Azman mentioned, it references a number of different defined terms which she has included in the endnotes, such as "future land use plan," and "development guidelines," and noted those are all documents that have evolved over the 20+ years that the PDA has been in existence.

Chair Azman said he doesn't want to monopolize, but following up on that, if he looks at Exhibit 7, on the last page is a table with densities listed, including site H, it shows 30% equals 11, which when added to the 35 would give 46 units. His question is, have the parties as of 2010 when this was executed, already determined how the fractional share would be managed. In other words, he asked if this is binding on the City and if they even have a choice at this point, unless the NOC wants to revise it down one as they're not dealing with fractional shares. Is the inclusion of this number in that table confirming that the parties agreed that it is 46 and is there some ambiguity there.

Attorney Nason responded saying there is conflicting language within the PDA and there is a strong argument to be made that when there are repeated references to the number of dwelling units, for example the conversion equals 28 units and the reference to permitted density increasing equals 11 units, to Attorney Nason, the 11 units has to do with the fractional piece, the density conversion tends to differ but seems to appear that it was contemplated some credit for a fractional unit and she referenced the Comprehensive Plan which reiterates the language saying it's anticipated that a commercial development won't occur and instead it will be converted to dwelling units and then would be looking at an additional 28 dwelling units. It appears the City has understood that there would be credit for fractional acreage, unfortunately there is conflicting language within the document itself.

Councilmember Ries said she's looking at Section 2.3 and she still doesn't see how it specifically states, in order to have some type of change or amendment to the original agreement,

it would have to be expressed in the amendments and she doesn't see that language saying they can exceed the 645. In the past, she's had conversations with the people who drafted the document in 1997 and 1998 and from her understanding, 645 was meant to be the overall density, as it says in Section 2.3. She said all the conversions throughout the document where it talks about giving the developer the flexibility to shift densities in other areas, conversion when the zoning works out, but it never ever says they can exceed 645, so she still doesn't see where it grants the ability to go over that number.

Mayor Nelson said that was already addressed by Attorney Nason, noting Councilmember Ries may not see it in the document, but Attorney Nason has already said it is in there. He asked not to circle back to keep saying the same thing. He said regarding those who drafted the agreement in 1998, what matters is the actual agreement rather than the intention of the parties. He noted they're trying to figure this out and the ambiguity is very modest, it amounts to a couple of units and the fact that Councilmember Ries wants to go back and ask about 645 units has already been addressed.

Councilmember Ries noted she's heard Attorney Nason say multiple times there are ambiguities.

Mayor Nelson clarified the ambiguities are relative to the conversion ratio on the fractional ratio issue.

Regarding the fractional issue, Councilmember Ries said the fractional ambiguity, she doesn't see an ambiguity in that the actual document itself – and she noted this meeting is about how to interpret the agreement –

Mayor Nelson said no, it's not.

Councilmember Ries said in the actual document or contract, the language is very clear and says full acreage and that is what was intended. As Ms. Nason has brought up, in other parts of the agreement when they intended to do fractional or different type of counting, they added that language in. When this contract was originally drafted, they took particular care and consideration at looking at when things like that would be allowed. The fact that they used the clear and unambiguous term "full" it seems that in this case where they're allowing a change in the development to occur or commercial units versus actual population density increase, it is clear that they put the term "full" in how they wanted it to be counted. She doesn't see the ambiguity in that, but she's asking Attorney Nason for a specific area in the contract or any amendment where it says "to exceed the 645" or something similar where it's clear and unambiguous that the 645 could be exceeded.

Mayor Nelson asked Attorney Nason to address it one more time for Councilmember Ries.

Attorney Nason responded saying the 645 number comes from Exhibit B1, the Appendix, and the Table. The specific language she is referring to is found on the last page of Appendix 1 which references the limits of 645 dwelling units and commercial use acres, it says may be varied as follows and then there are the two different conversion factors. Attorney Nason reads that as saying that there are 645 dwelling units, that's the limit, but that limit may be varied

either up or down, based on whether or not there is additional commercial development or alternatively if the commercial development is foregone, it would allow an increase in the number of permitted dwelling units above and beyond the 645 that is shown on the various exhibits, the map and in the table.

Chair Azman asked Attorney Nason if theoretically 645 is the limit and if NOC wants to convert their remaining 5¾ -ish acres, they've now given up their commercial acres. His concern from a fairness standpoint is what happens to those residential units that have been converted if they don't get to utilize them somehow. He said there is language that allows the conversion and asked where do they go and is the City somehow liable or exposed if the City just takes that away from the developer without some compensation or compromise in the arrangement. He noted it concerns him that it doesn't just "poof" go away, the units have to be dealt with in some manner, and if the City just says "well, its 645, it's done, if you don't want your commercial acres, that's your problem."

Attorney Nason said she reads the contract as allowing conversion from dwelling units-to-commercial or commercial-to-dwelling units, and that can be added one on top of the other. For example, they are not in this situation, but say there had been no commercial development and there were still sites with commercial development available…if the developer chose and had extra dwelling units they had not built, they would be allowed to (as Attorney Nason reads it) increase the total number of commercial acreage from the 21 allowed under the PDA and vice versa. In this particular case, it does indicate that they may vary the limit of 645 dwelling units; the word vary means change or alter. The contemplated change or altering would be to have additional dwelling units available across different development sites. As noted previously, that's not to say it necessarily allows them to add those dwelling units pursuant to that conversion on top of any particular development site when dealing with density maximums. It's just to say in the context of the PDA it appears to contemplate that should the developer choose to forgo commercial acreage, they would be able to convert those to residential dwelling units which would be allowed beyond the 645 maximum established within the confines of the PDA.

Councilmember Ries said Attorney Nason brings up an interesting point in using the word "vary," because it seems like a lot of importance is being place on that term. When she reads the PDA where it specifically discusses how to vary in the contract, it talks about every area of the phase development and target densities, it talks about possibly increasing those target densities up to an X% amount, and it talks about a conversion, so there are explicit areas where it discusses how things can be varied throughout the entire agreement, noting it does that in the original 1998 version and to some degree in the 7th Amendment, but the term "vary" is interesting because it's actually defined or discussed throughout the agreement. She thinks what is trying to be done now is to discuss the term "vary" in a way that is out of context from where it has been discussed and clarified in the agreement and that is to exceed the 645. Again, Councilmember Ries said she looked at Section 2.3 and she knows Mayor Nelson may get all over this, but she still doesn't see where it expressly says exceeding the density or varying density maximums. As a matter of fact, Councilmember Ries thinks the PDA from the 1998 version in a number of places reiterates the fact that the density must be maintained at this level, as that was discussed at the time with the community, the residents, and to some degree, perhaps,

with NOHOA. She thinks it may be a nice time to get NOHOA's perspective on the condominium building as they play a major role in this as well.

Mayor Nelson asked Attorney Nason regarding her recommendations on page 4 that the fractional issue could be addressed. He noted it talks about two tract development, PDA interpretation and PDA amendment and asked Attorney Nason what the proper path would be on that.

Attorney Nason replied at this point, everyone is having their first look at it and first review of the issues, and the same goes for the NOC – they may have a different interpretation than what has been put before the Councilmember and Commissioners. She'd like to have an opportunity for some digestion and also some feedback from NOC and their legal counsel (if there is any), before going too far down the path of what the City should do. She said there are different approaches and she doesn't know if the developer is going to come back and seek path one, which is to treat it as commercial or conversely look to convert residential to commercial and move forward that way, or if they will proceed with their proposed revised concept plan as submitted, but certainly an amendment to the PDA would avoid the need for this interpretation piece and would provide an opportunity for all parties to agree in writing as to these particular issues. Attorney Nason said that appears to be the recommended route to address these concerns at this time. Having said that, Attorney Nason noted this is all moving a bit quickly and she'd like a little more time and an opportunity for NOC to provide some feedback before making a final recommendation to the Council and Planning Commission regarding how best to address these issues.

Mayor Nelson said that is fine and he appreciates that. He agrees on amendment and that they would not take that lightly so he asked to hear more from NOC when they have a position. He asked Administrator Kress if NOHOA representatives wanted to speak.

Administrator Kress said there are two NOHOA representatives at the table and turned it over to them.

NOHOA President Katherine Emmons said as they're all seeing this at a very early stage, the NOHOA Board has definitely not had a chance to review or discuss any of it but they look forward to that opportunity as part of any piece of the process going forward. She very much appreciates being at the table here and listening to all of the information from NOC and the City Council and Planning Commission. She looks forward to review, discussion, and looking it over as a Board before they comment.

Commissioner Cremons asked a process question, noting some of them have read the PDA and amendments and the extent that they have viewpoints on some of the issues they would like to share with Attorney Nason, what is the most efficient way for them to have her consider some of the points. He thinks as he's read it, some of the things they're talking about are resolved in the document, and he'd like to at least have that in front of Attorney Nason as she's doing her analysis.

Administrator Kress said the easiest way is to send him the comments.

Chair Azman said he thinks it's a good idea, however, they are here and he doesn't know what NOC's plans are – they could submit this tomorrow, and then they'd have two weeks to move forward. His concern is that it is time to get some of these comments out on the table as they are all here and he'd like to hear those comments. He anticipates the Company will be moving forward.

Mayor Nelson said he's all for that and it is fine. He said any comments that City Councilmembers or Planning Commission wish to make to Attorney Nason should send an email to Administrator Kress and then he will transmit it to the appropriate Staff member.

Mr. Houge asked to speak to some of the questions raised. He said the City Attorney referred to some unknowns in terms of what the Company would like to do. He can say tonight that their plan is to submit this application as seen with the 74 units, they would prefer that the site be developed in that matter versus going back and trying to introduce commercial elements to the site. They are pretty bullish on the number of units, thinking that 74 is a realistic number that the market is asking for and he reminded everyone it will be primarily made up of current residents of North Oaks looking for a housing alternative when they sell their homes which are currently in North Oaks. The Company plans to move forward with this concept, they have all drawings prepared and ready to go, and the other thing he'd like to submit is that there are ways of interpreting this as outlined in Attorney Nason's memo which could exceed the 74 units and it depends on how they do the math and they are not asking for that, as they think that would be unrealistic. However, if the City wanted to debate how to interpret the document, they could make an argument that NOC could have 82 units versus 74 units, but again, the Company is not really interested in going there.

Mr. Houge pointed out as questions have been raised about how to interpret the PDA, as most of the Council and Commissioners know, NOC has been having that discussion for going on 12 months, the City has employed their Attorney to give an opinion on what these documents say, the Company has paid for a lot of that work, as well as the City. He thinks it's doing a disservice to the community to revisit information that has been thoroughly vetted with professional opinions of the City Attorney. He hopes the Planning Commission and City Council would honor the work of its City Attorney and take it seriously, and it is a very serious matter when it comes to the Company and in fairness, they abide by the City Attorney's reasoning and interpretation of the documents but they cannot abide by a constant revisiting of the same issue.

Mr. Houge said one thing they haven't talked about is the advantages of developing this site in this manner. By going with a three-story building, this is probably the lowest density type of development envisioned on the site in terms of preserving green space. The height limits to the building conforms to the City's ordinances, which preserves a tremendous amount of green space, and precludes the possibility of people coming into North Oaks of people who are not welcome or invited by virtue of excluding the commercial development. He stated there is no burden on the community relative to the people using this site, they do not have access to the internal roads unless they choose to visit someone else who lives in North Oaks and/or use the facilities, but there is no connecting road into the Western portions of North Oaks. There is a significant increase in taxes made available to the City and to the extent it's 46, 70, or 74, those

taxes have some value to the members of the community to help defer expenses, as well as to NOHOA. He thinks there are many benefits to this design and he'd like that to be considered in their discussion.

Mayor Nelson thanked Mr. Houge and noted earlier Administrator Kress noted how anticipating this development rolling out as permitted by the PDA and as planned, would substantially affect the budget and tax requirements in the City.

Councilmember Long said the Company just raised a point of interest and he said he's not interested in fighting about half-units or going back and revisiting what someone wanted to do 30 years ago. His question is what is more beneficial for the City: is it to have commercial units or housing units. He knows from a privacy issue, he would prefer housing because the commercial brings in the public and he would assume NOHOA would also be happier to have housing units with NOHOA dues than commercial properties. He'd like Staff to look into the maintenance cost of single-family homes versus commercial units with fire, police, and schools. What is better for the City from a cost standpoint? In today's world it appears they don't need as much retail or commercial property as they used to, so he's all for the housing. He asked Administrator Kress to speak to what the City tax/cost benefit would be.

Commissioner Hara said small shop retail in the current environment is not very viable, whereas the plan with housing is a far more leasable and developable property to be successful. Looking at that location, he'd say it's a B or C location at best for a retail setting, the road costs to plow and all that would be similar and you may have the issue of one tenant in there and they don't succeed, then there's an empty retail space. He thinks the commercial direction is not favorable.

Administrator Kress said that was pretty well stated, and generally the commercial holds more value than residential does but it's more volatile, so he agrees with what Commissioner Hara said.

Mr. Houge said along those lines, he just did some quick math and if they take 74 units of condominiums at an average price of $500,000 that would be $37,000,000 worth of property value added to the site, whereas if they assume they develop 50,000 square feet of commercial on the site, that would equate to $9,000,000 of property value, which is the basis for calculating property taxes.

Councilmember Ries asked Administrator Kress to speak about the timing of everything, noting Mr. Houge talked about 15 days but it hasn't actually been submitted yet as plans, as it sounds like there are some ambiguities they need to look at, that NOHOA needs to review and there are issues as she hasn't seen the Attorney's memo yet.

Administrator Kress said they cannot control when the developer delivers applications but if they were to submit today, they would count 15 business days for completeness that the Planning Commission would have to act on. That would put them at October 1, 2020 (if submitted today).

Councilmember Ries asked if that is just to start the review process.

Administrator Kress answered that is correct. Staff would conduct a 15-day review and concur with Chair Azman on when they want to take a look at it.

Councilmember Ries said it would be 15 days to accept the application as complete or not complete and then another 60 days from that point, plus getting the community's input regarding the plans, as well.

Administrator Kress said if it was determined complete, that is when the 60-day clock would start and they'd work through the process of public hearings, that could be one or several, it's up to the Planning Commission. He said usually it's one and if there are additional comments, they will extend it out. If there is additional information required, that is when they have the option to extend it another 60 days, and there are specific statues that speak to that.

Commissioner Yoshimura-Rank asked if Gate Hill and Red Forest Way come on the heels of Island Field and what is the timing with all three subdivisions.

Administrator Kress said he can't speak too much to Gate Hill or Red Forest Way as they're not part of tonight's agenda, but given that they were submitted on the 3rd, they would have to act on those by September 25th for completeness.

Commissioner Yoshimura-Rank clarified they would be acting on those first before Island Field.

Administrator Kress answered that is correct, as those applications were submitted first.

Commissioner Yoshimura-Rank asked what the height of the condominium buildings will be.

Mr. Houge said he doesn't have the exact number handy, but it's in the range of 35 feet plus or minus.

Commissioner Yoshimura-Rank asked if when they're talking about 74 units, does 74 get subtracted from the 645 or if there is a different conversion.

Mr. Houge answered from the Company's point of view, they would take 46 units out of the 645 and in addition there would be 28 units that were converted commercial acres.

Administrator Kress said he's interested to see what the opinions are regarding a mix of commercial and residential versus the current residential proposal and asked everyone's take on that.

Councilmember Kingston said he can't imagine they'd want to have any commercial in there, based on the information provided. He said from security aspects, the likelihood of commercial event surviving or thriving in that location, it seems like the housing approach just makes more sense.

Commissioner Hauge agreed that Councilmember Kingston summarized that pretty clearly, this is an area suited for residential and not suited for commercial.

Commissioner Sandell asked how the process works, noting Mr. Houge said there would be a two-year process with the builder and the idea is that Phase 1 and Phase 2 would be simultaneous, however if for some reason there wasn't the demand, Phase 2 could get pushed out for another two years. He said to kick the can down the road a bit and say there isn't as much demand for residential in the future, what would be the protocol for the Company to come back and reconvert to commercial property, is that on the table and does that follow the same process they're following now.

Administrator Kress said he understands from Mr. Houge that it would be one submittal including both phases, so they'd be tied to the 74-unit complex. If things change during the final approval, they'd have to withdraw the application and submit new for two different phases. The other option they'd have it to submit for Phase 1 in one development application and hold off for the remaining two years while they plan to do the additional units, which would be a separate application.

Commissioner Sandell asked if the Company initially submitted with the two phases and built Phase 1, they could do a modification to it to change it.

Administrator Kress clarified if they modify the site, they'd need to reapply because it wouldn't be consistent with the development application. He noted if NOC submitted right now in two phases for 74 units, that is what they'd be allowed to do if authorized by the City Council.

Mayor Nelson said they would not be authorized to do anything else.

Administrator Kress said that is correct, any substantial modification would require a new submission.

Commissioner Yoshimura-Rank asked if the Met Council plays into this at all, because they look at the City's use of transportation and sanitation. She asked if there is a fine point at which they put in too many sewer units.

Mayor Nelson and Administrator Kress said no, they'll be in the same spot 30 years from now if septic systems start to fail and they start to put in new sewer systems, they'd be governed by the existing ordinances at the time rather than the PUD and the PDA.

Mayor Nelson said there were some concerns about the PDA that were raised and asked if anyone had specific questions for Attorney Nason right now or if they'd prefer to send a question to Administrator Kress.

Commissioner Cremons said he'd like to look at the memo first. He said what they're really trying to do here is come up with the beset development plan for this site and there is an issue with a contract from 21 years ago versus trying to make sure this site gets maximized in terms of its utility and benefit for the City. He will send his comments to administrator Kress, but he does think there is an issue in not getting to lost in the weeds as they look at the project as a whole as opposed to every little sub paragraph of the PDA.

Councilmember Kingston followed up and said the only objection he's heard so far centers around interpretation of the PDA and the numbers as opposed to some inherent reason they need to deny it. He understood Attorney Nason pointed out that there is flexibility to exceed the original 645 number, and secondly as far as the conversion it can be interpreted as 28 development units or not, because it's an ambiguity. From what he understands, all they have to do is come up with an amendment that would essentially take away that ambiguity to allow this to take place in the sense of fairness. To go back to what Commissioner Cremons said, they should be looking at what's best for the community. Is there an inherent reason to deny the Company this opportunity as opposed to what it does for the community, of which everything he's heard so far sounds pretty positive. He said he is struck at the way they're approaching this. He agreed with Commissioner Cremons they shouldn't get stuck in the weeds.

Administrator Kress said he was playing around with the tax levy a bit and if they were to add in the additional $37,000,000 the tax capacity would increase almost a hundred percent.

Councilmember Shah said she'd like to piggy-back on what Commissioner Cremons and Councilmember Kingston said, the crux of the issue here is what is best for the City in the future, and she continually thinks about the aging population and condos are a housing need they do not have and looking to boost it from 46 to 74. She's made some phone calls and there is a lot of interest in this type of housing, and ultimately, they have to solve the problem of what is best for the City.

Councilmember Long asked Administrator Kress to repeat the tax number.

Mayor Nelson asked what it means that the tax would increase by almost a hundred percent.

Administrator Kress said tax capacity goes up almost a hundred percent.

Councilmember Long asked if his taxes would double or something.

Administrator Kress replied his taxes would essentially go down because they'd have almost 100- times the tax capacity that they have now. For example, if the levy was the same, they'd have a very low tax rate.

Councilmember Long said that sounds like a good thing.

Councilmember Ries asked if they have any data about condo values and maintaining condo values, as they're talking about what they need in their community today, and is there any market value to support values and long-term maintenance of condos for NOHOA and the City. She would like that to play into the consideration as well. She also mentioned that many members of the community were around in 1998 and were part of the discussion back then and the agreement. As the community develops, it was discussed with the community back then and the terms of the agreement, it is a binding agreement and they need to respect that legally, and maintain and respect what the people did in 1998 going forward. They need to look at their future and where they agree now as a community and the needs today but also have to maintain

the respect from 1998 as they are legally bound to that. Going forward in doing what is best for the community, she doesn't want it to be money driven, tax money coming in, it must really be a 40-year outlook on maintaining home values and stability for the community. She said including NOHOA in that discussion as there will be a lot of long-term maintenance so she wants this to be a full discussion and considering all numbers, not just tax income.

Mayor Nelson said he thinks that's what everybody just said and thanked Councilmember Ries.

Councilmember Long said again, they want to get the community involved and asked if they'd move on anything tonight.

Mayor Nelson said there are no motions for the meeting as it's a preliminary meeting.

Administrator Kress said they were looking for perspective from both the City Council and Planning Commission.

Chair Azman said as they move forward, there is some multi-family housing on Ski Hill as well as the West side on Wildflower and it would be interesting to see how those values have been sustainable. He said he thought in the West side those were built in the 1970's.

Administrator Kress asked Mr. Houge if there is any market research on that.

Mr. Houge answered yes, he is sure there is and would consult with the real estate firm marketing the condos to confirm. His understanding is that condominiums in a location like this, because of the scarcity of product available and the quality of construction proposed, would hold their value equally if not better to a single -family home. Part of what determines future value is competition and there is no opportunity for anyone to put competing condominium product in North Oaks, as this would be the one and only. It is in a price point that is more amenable to a large percentage of buyers, given that they're generally under a million dollars, although some could be larger and more expensive but that would be up to the individual homeowner. He said he could get data to back that up, but his understanding of the condo market at this location is that they would hold their value very strong.

Mayor Nelson asked if Mr. Houge would be prepared to talk about construction quality at the Planning Commission level.

Mr. Houge responded he would be happy to go into more detail and would ask that the development partner join him to elaborate on that and answer any questions.

Commissioner Cremons said he understands NOC owns some property across Centerville Road.

Mr. Houge answered yes, they do.

Commissioner Cremons said they just talked about protecting the market for these condos by maintaining their uniqueness. He asked how they avoid an issue with competitive condos being constructed across the road on NOC's property.

Mr. Houge said NOC owns that property which is zoned industrial, so White Bear Township has guided that property in their Comp Plan to be used for industrial development, similar to what you see Heraeus Medical did. As property owner, they would like nothing better than to see another corporate user like Heraeus to come in there and build a corporate-owned facility. The building is positioned about as far west as possible on the site, which gives a lot of geographic separation to Centerville Road and adjoining properties, as well as trees planted along the road as a buffer. White Bear Township would be in control of that.

Commissioner Hara asked Administrator Kress if his math is that the $37,000,000 add to the property values in North Oaks would double what the current property values cumulatively of all houses and retail is in North Oaks.

Administrator Kress said essentially the tax capacity would go up based on the value of the structure, so if they take into consideration another $37,000,000 of additional tax revenue, the tax capacity would go up by the same amount. Right now, the tax capacity is right around $16,000,000 so it would go up to $53,457,000. He said right now the tax rate is based on the $16,000,000 tax capacity so if they used the same levy of $1.9 million or $2 million or so, the tax rate would go down to essentially zero or a negative tax rate. He noted Staff could show that to the Planning Commission to help understand it.

Commissioner Hara said he'd like to see the math on that as he knows what he pays in taxes and what his home is valued at and it's not making sense to him, but they could talk about that at another time.

Administrator Kress said basically what would happen is there'd be more value within the City, so everyone's taxes would go down because there would be more shares across the City. He said the same thing happens when you add new housing, commercial units, or industrial units, the tax capacity and market value increases.

Commissioner Hara said he gets that but he's just questioning that it's double what they currently have in the community for a tax base.

Mayor Nelson said he doesn't understand that yet either and he'd be interested to hear more. He asked if there was any other discussion. Hearing none, he asked if there is a joint motion to adjourn.

ADJORNMENT

Mayor Nelson asked for a motion to adjourn.

MOTION by Long, seconded by Ries to adjourn the Special City Council Meeting at 6:35 p.m. Motion carried unanimously by roll call.

_____ _____

Kevin Kress, City Administrator Gregg Nelson, Mayor

Date approved_____

North Oaks City Council
Meeting Minutes
North Oaks City Council Chambers
September 10, 2020

CALL TO ORDER
Mayor Nelson called the meeting to order on September 10, 2020 at 7:00 p.m.

ROLL CALL
City Councilmembers and were present in the City Council Chambers or participated **by telephone or other electronic means** pursuant to Minn. Stat. § 13D.021. Residents can view the meeting on the cable access channel and through the website portal just like other public meetings.

Present: Mayor Gregg Nelson, Councilmembers Rick Kingston, Marty Long, Kara Ries, and Sara Shah.

Staff Present: Administrator Kevin Kress, Attorney Bridget Nason and Administrative Assistant Gretchen Needham.

Others Present: Videographer Maureen Anderson.

A quorum was declared present.

PLEDGE OF ALLEGIANCE
Mayor Nelson led the Councilmembers in the Pledge of Allegiance.

APPROVAL OF AGENDA
Administrator Kress asked for one addition to the Agenda: New Business 9f, Resolution 1398 Appointing Planning and Zoning Commission Member.

MOTION by Ries, seconded by Long to approve the agenda. Motion carried unanimously by roll call.

CITIZEN COMMENTS
Mikeya Griffin, Executive Director for North Oaks Home Owners' Association (NOHOA), said tonight the City Council will discuss a proposed ordinance regarding lot line adjustments. Due to the short notice period to review the ordinance, the NOHOA Board has not had the opportunity to develop written comments; however, they will do so. Tonight, Ms. Griffin would like to address in particular Provision E approval that states "Upon receipt of the completed application and after review thereof, the City Administrator shall either approve or deny the application for lot line adjustment. The City Administrator's approval or denial of the property resulting in a lot line adjustment shall be in writing." Ms. Griffin said while this provision seeks to place the authority for administrative lot line approval with the City Administrator, pursuant to

NOHOA Deeds, Declaration and Covenants, this authority lies with NOHOA within NOHOA boundaries. In particular, the Declaration in Covenants Restrictions & Easements dated May 9, 1995 in particular states: "Any law conveyed by deed to an individual by one deed or any two or more lots so conveyed to an individual by one deed but designated on said deed as separate lot or held as vacant land, shall not be subdivided into any greater number of residential lots nor unto any residential lot or lots of smaller size than originally conveyed by such deed without the written consent of the Home Owners' Association." Ms. Griffin said NOHOA welcomes the opportunity to work with the City Staff to create a robust process that would provide written consent from NOHOA prior to the City approving any sub sub-division within NOHOA's boundaries. She stated NOHOA will provide written comments later and thanked the Council for their time.

CONSENT AGENDA

a. Mechanical Licenses for Approval: Majestic Custom Heating & Air; Professional Mechanical Services; Riccar Heating & Air; Woodland Way, Inc.

Arborist License for Approval: Latchkey LLC

Checks for Approval: #13668 - 13698

b. Pollinator Award - Eslinger

c. Approval of Resolution 1395 LJFD Land Purchase agreement

d. Approval of Meeting minutes of August 13, 2020

e. Approval of JPA with CTV

Administrator Kress said this agenda does not have the accounts payable on it.

Mayor Nelson stated they have Checks for Approval #13668 – 13698.

Administrator Kress replied that is correct.

MOTION by Ries, seconded by Shah, to approve the Consent Agenda with the addition of the Checks for Approval. Motion carried unanimously by roll call.

PETITIONS, REQUESTS & COMMUNICATION

a. Deputy Mike Burrell Report

Deputy Burrell said the last month has been very busy, he has talked with several Councilmembers and the City Manager regarding some of the things that have been happening. To recap, he has been busy on the trails riding his bike; many residents complain about fishing and there have been a few trespassers or people who don't have business being on the trail and that is more of the focus as opposed to the occasional kid caught fishing. Deputy Burrell

received word about two months ago that someone was caught on the trail and had an extensive criminal record, an 8-10 time convicted felon who had several stints in prison and he was out fishing on Pleasant Lake. That person was busted and there were some other things involved which resulted in additional felony-level charges for the gentleman. He said that was one they definitely wanted to get off Pleasant Lake and the North Oaks Trail. Deputy Burrell noted there was a car chase in North Oaks, a gentleman who was in North Oaks for work and didn't want to stop when Deputy Burrell tried to pull him over. Apparently, the gentleman said he's going back to prison and after the brief car chase he tried to get out and run, and he was quickly apprehended after that.

Mayor Nelson said the man was apprehended by Deputy Burrell and he should take credit for that.

Deputy Burrell replied yes, he apprehended the man who is in jail after the car chase.

Councilmember Long asked to interrupt for a second and said Council and most of the public knows that the incident is one of several they've had to deal with over the years, tied to the very same property owner. He knows Administrator Kress is aware of it and he asked to get a sense from the Council on how long until they take action, as they've sent some letters and Councilmember Long talked to the Sherriff who says it's a City issue. The Sherriff had the same problem with the same resident when he was mayor of Vadnais Heights, noting they had him removed and he left behind a very large clean-up bill for the City. Councilmember Long said he knows they've been very busy with other things, but this is important.

Administrator Kress said he'd like to take it offline with Attorney Nason to pursue some options. In the meantime, he said they did get a commendation for Deputy Burrell and he'd like to read it for the record:

> To Whom it May Concern: I'd like to give a commendation to Deputy Mike Burrell for his handling of an incident which occurred on September 1, 2020 on Otter Lake Road in White Bear Township. Deputy Burrell displayed amazing patience and restraint in dealing with an aggressive and combative suspect. Deputy Burrell gave the suspect every opportunity to comply and was forced to use his Taser only after it was clear that his own safety was in jeopardy. My family and I are truly grateful, thank you Deputy Burrell, James P. Cody, the Cody Law Group.

Mayor Nelson said he knows Mr. Cody and thanked Deputy Burrell for helping him out and thanked him for his service, congratulations and the people say thanks.

Councilmember Long said very nice.

Councilmember Ries said Deputy Burrell did a good job.

Deputy Burrell thanked the Council and noted beyond that, there have been a few instances with that problem property and they can talk later about how to deal with that. There have been a lot of speed complaints, which is something that has been happening for months now and is something Deputy Burrell will work on and there are some enforcement measures they can take. He said if there are people requesting either himself or a traffic deputy to be in their driveway, that is one option, and noted with COVID-19 there has been some limited traffic enforcement over the last several months, but they will still be issuing tickets. People can email Deputy Burrell or contact the City about those traffic concerns.

Mayor Nelson thanked Deputy Burrell for taking care of the incident in North Oaks as well as the incident outside of the City.

UNFINISHED BUSINESS

a. Discussion on CARES Funding

Administrator Kress said starting on page 57 of the attached CARES Act document, there is a list of Tiers that the City would essentially reimburse itself for, if the Fire Department were to go out and purchase these based on the Joint Powers Agreement (JPA) which they just saw in the Consent Agenda with the same formulas. He is looking for feedback from the Council if they were to move forward on some of these purchases, if they would support Tier I, Tier II, or Tier III. Mr. Kress said Shoreview and Arden Hills are doing the same thing and he hasn't received feedback from them, but generally they were all comfortable with Tier I and Tier II, however they were a little more "iffy" on Tier III, but wanted to bring it to the attention of the Council.

Mayor Nelson said for the residents, the CARES Act is the state grant the City received as the result of the COVID-19 pandemic.

Administrator Kress answered that is correct and the City received approximately $400,000 of CARES Act Funding and they can use it for reimbursable expenses, for Police, Fire and a few other items. This is one of the recommendations Staff worked on offline and will bring back to the Fire Board and allow them to give the recommendation.

Mayor Nelson said this would be one way of using some of the money.

Administrator Kress answered that is correct.

Mayor Nelson asked if this is a fairly non-controversial path to take.

Administrator Kress replied they feel the list is pretty non-controversial, they are all directly related to medical expenses the Fire Department plans to incur.

Mayor Nelson asked if the total on Tier I, $53,000, is North Oaks' share.

Administrator Kress noted that would be all three Cities combined, so it would be based on the City's percentages. He said it would be pretty minimal and because the City would have a tough time spending the $400,000 they'd probably even be comfortable with Tier III but wanted a general sense of the Council.

Councilmember Shah asked to talk about it a bit more, as when they met in August, they were trying to look at possibilities for the CARES Act funding and it's hard to make a decision without prioritizing against some of the other suggestions.

Administrator Kress said it's been very slow, especially for North Oaks as they don't have an in-house Fire Department or Police Station. He said he and Attorney Nason keep coming to the same fork in the road and every time they think they have an opportunity it gets shot down by an auditor or the League of Minnesota Cities. One thing he would recommend, given North Oaks' uniqueness, it may make sense to contract with Briggs & Morgan, Springsted, or Ehlers to look at what options are available considering they don't have an Economic Development Authority (EDA). His recommendation to the Council is to consult with a qualified financial institution.

Councilmember Long said last time they discussed something regarding infrastructure for internet.

Administrator Kress noted that was shot down and was determined not to be a qualifying expense.

Attorney Nason looked into it and one of the challenges is that the Treasury keeps issuing different guidance and narrowing down some of the categories that the money can be spent on. She noted it didn't appear that was an eligible expense. The other issue is that the costs and expenses have to be incurred and paid by November 15, 2020 so anything that could take additional time isn't going to be a viable option. As Administrator Kress mentioned, a number of cities are doing things like small business grants but the recommendation from the League and what Attorney Nason has advised some of her other clients is that it needs to run through the EDA because there is a question of the statutory authority of a statutory City to give out business grants and non-profit grants. She said there is a converse argument that the CARES funds come from the Federal government and you could make an argument that it's not city funds. The recommendation is to run those through the EDA if a city has one and frankly, it is a lot of work. The Cities that are setting those up either have a robust EDA with a dedicated director or are hiring out to Ehlers or other consulting firms to provide those services. The City is ultimately on the hook if they misspend those funds, and if it was determined that it was an improper use of funds, the City will be writing a check and that would be the least of its problems at that point to pay back the money. She noted most Cities are approaching this cautiously so as to not find themselves in a situation down the line. Attorney Nason said there are some things the City has purchase such as PPE, sanitizer, plexi-glass and some things that can be done in Council chambers but it won't get anywhere near what the City has been allocated.

Mayor Nelson noted that $400,000 is a lot of money to this City and many of the cities with EDAs had grants in the millions and they can work with that money perhaps a bit more easily as North Oaks doesn't have the facility or the amount of money to make use of it very efficiently, noting that is one of the problems.

Councilmember Long had a conversation with a former City Administrator Melinda Coleman and asked Administrator Kress if she had any ideas.

Administrator Kress answered they were generally the same ideas as discussed with the cities of Shoreview, Vadnais Heights and Little Canada. Unfortunately, North Oaks is so unique compared to those cities they just aren't in the same boat. He said he thinks it would make sense to reach out to a financial consultant and if they say there's really no opportunity here then North Oaks will turn the money over to the County, and the County will then turn the money over to the hospital system.

Councilmember Kingston asked the date the money must be spent by.

Administrator Kress answered November 15, 2020.

Councilmember Kingston said he had some other ideas and he'd send them to Mr. Kress offline to see if they're viable.

Administrator Kress asked if the Council is in favor of consulting with a third party financial consultant and authorizing him to do so.

Councilmember Long asked what that would cost.

Administrator Kress noted it wouldn't cost anything because it's reimbursable with the CARES funding.

Attorney Nason reported one thing cities are doing is after they've identified these expenses they've passed a resolution adopting a CARES Act spending plan with those buckets of items. If it's determined by the financial consultant that there are some different ideas the Council could look at - part of which has to do with the audit trail requirements – the Council could then take formal action or resolution process.

Mayor Nelson said if they don't find things they can use the money for safely, they could use the CARES Act money and directly transmit it to the local Fairview hospital system rather than letting it go back to the County.

Administrator Kress agreed the financial consultant could bring that recommendation and it could be adopted by resolution. Tonight, Mr. Kress is asking for a simple motion authorizing him to choose a financial consultant. He asked if the Council had any preference on firms.

MOTION by Long, seconded by Kingston to instruct Staff, based on Administrator Kress's preference, to engage with a financial consultant.

Ries suggested looking at who the other cities are using, because when they get someone really experienced they may know many of the answers already.

SUBSTITUTE MOTION by Long, seconded by Kingston to instruct Staff to consult with other cities, and based on Administrator Kress's preference, to engage with a financial consultant. Motion passed unanimously by roll call.

Ries said she spoke with some other cities and she'd like to give Administrator Kress some further information she gathered and she could email or meet with him. She said some of the cities are following the 3 Tiers and they must be COVID related, and they're looking at any overtime budget that went to Staff for cleaning or sending out information or messaging to the community regarding COVID. They are also looking ahead and buying PPE at this time for Police, Fire, etcetera, because PPE has a fairly long shelf life so they could buy it now and use in the next year. She noted some cities have applied a formula to pay for certain services and there may be a way to look at Staffing and emergency services the City has used and pay the costs now rather than taking it out of the General Fund. Another idea would be to talk to Waverly Gardens or Ramsey County Fire Department or Police services to see if the funds can help them.

NEW BUSINESS

a. Proposed Ordinance – Minor Lot Line Adjustment

Attorney Nason said by way of background, the City had been contacted by a resident regarding a requested lot line adjustment. Essentially they wanted to move a common lot line between their property and an adjoining property to allow some type of particular use on their property. As the inquiry was received by Staff it was determined that the City doesn't really have any process for this type of application; it doesn't meet the definition of a subdivision because it doesn't result in the creation of any new lots. The process for lot line adjustment does include the subdivision of property in that there would be a deed conveying a portion of property, for example conveying 10 feet to a neighbor would have a deed to grant it to the neighbor, the neighbor would receive it and the property would become one new parcel with no new lots created. In the past it appears the process has been accomplished informally through a City Staff level approval, but again there is no process in the City's subdivision ordinance that spells out how that should work. Staff discussed what it could look like and an ordinance prepared by Attorney Nason which would amend a subdivision ordinance While subdivision and zoning often go hand-in-hand, there are two separate chapters of the City code and the statutory requirements related to processing of amendments to a subdivision ordinance are different than that for a zoning ordinance. For example, a zoning ordinance amendment would go to the Planning Commission public hearing and a recommendation would be made to the Council which would ultimately adopt or not adopt hat zoning ordinance amendment. Attorney Nason noted the process is different with a subdivision ordinance amendment. That is not to say the

Council couldn't refer this to the Planning Commission for review or public hearing. She said currently in the City's subdivision ordinance there are two processes: minor subdivision and major subdivision. A minor subdivision by definition is a lot line adjustment involving properties that have condos or townhomes or similar multi-family property/development on them. She noted there is nothing in place for a residential lot line adjustment process and the proposed ordinance is pretty straightforward and similar to ones used by other cities and is done at an administrative level, meaning the City Administrator could approve or deny the lot line adjustment. Attorney Nason said she understands NOHOA's concerns and requirements related to those private restrictions and she noted two things, first there is a referral and reference on screen under §152.041B that talks about how all parcels involved must comply with all requirements of the zoning district in the provisions of City code §152.065 which requires the property owner comply with all applicable private restrictions and covenants. She noted typically when they draft an ordinance or City permit, they don't see a referral to compliance with private restrictive covenants, noting that is outside of the City's purview. Even if the City says a property owner can do X, if it is prohibited by private restrictions or covenants, the property owner would have to deal with the repercussions and any limitations or restrictions imposed by those private restrictions or covenants. She noted the City doesn't typically get into the process of reviewing and ensuring compliance with those private restrictions and covenants. She gave the example of fencing, noting a property owner could get a permit from the City, but if the homeowners' association prohibits the construction of fences, the City isn't going to deny the fence permit but it is going to be a problem for the homeowner if they fail to comply with those restrictive covenants.

Mayor Nelson said he'd be inclined to table this for a month, let NOHOA review it and satisfy themselves just as a matter of courtesy with the understanding that the ordinance probably doesn't need to be changed at all as it incorporates their interest as well.

Administrator Kress said he is fine with that and there is just the one property owner that they don't have any criteria to authorize.

Mayor Nelson asked if they are waiting.

Administrator Kress said they would need approval from NOHOA at this point as NOHOA has sole discretion for lot splits.

MOTION by Ries, seconded by Shah, to table Proposed Ordinance – Minor Lot Line Adjustment until the next City Council meeting on October 8, 2020. Motion carried unanimously by roll call.

b. Discussion on Civic Plus Website Roll Out and Live Date Proposal/Process

Mayor Nelson apologized to the residents of North Oaks as last Friday the website that is under development under direction of Councilmember Ries and Administrative Assistant Needham was taken live without the direction of Administrator Kress or the direction of the City Council.

The old website was removed and no longer available and he is sorry because it caused considerable consternation of those looking for the City Council website as the new website was incomplete and unsatisfactory and didn't have much of the data on the current website. It was eventually taken down and the old website was put back up. Administrator Kress checked into it and one of Mayor Nelson's concerns was that the IT people seemed to accept direction from someone other than Mr. Kress and City Council and put up a live website without consultation or a motion by City Council or testing or evaluation of the website. He said neither the Council nor Mr. Kress have seen the website other than Councilmember Ries and Ms. Needham. He is very concerned about this development and he is glad they were able to remedy it in short order. He would like a path forward that is not as embarrassing and said this never should have happened.

Administrator Kress clarified they did have a couple of opportunities to view the website but did not get to view it before it finally went live.

Mayor Nelson noted he hasn't seen the website.

Administrator Kress said the rest of the Council hasn't seen the website in static form and that is why they put the old website back so they can bring it to the Council's attention to see how many want to see it in static form. He said the Council can pick a day and Staff can notify the public for the site to go live.

Mayor Nelson wants to be clear that when City Council directs a Councilmember to work with Staff to develop a website it doesn't mean they are authorized to go live with the website whenever they see fit. He said to develop and put up a website that is incomplete is so far outside of the bounds of normal process, he was really shaken by it and very irritated, noting it is an important website for residents and it should never happen.

Councilmember Ries asked if Administrator Kress agrees with that assertion by the Mayor.

Mayor Nelson stated Ms. Ries is not challenging the correct person; he is telling her she didn't have the authority to go live with this and she did. He would like her answer on why she did this and why she thought she was entitled to disregard City Council again, as she frequently does, and go live with a website no one had seen or vetted and was missing much of the current information.

Councilmember Ries asked Mayor Nelson to keep his temper in check during meetings, saying they must remain professional.

Mayor Nelson said the City is embarrassed by this and asked why did she did it.

Councilmember Ries explained that the website was initially approved about 6 months ago.

Mayor Nelson said the approval was to move forward and develop a website.

Councilmember Ries said the Council approved a motion to work with Civic Plus and go forward with spending the money to work with them months ago. She was involved only at the very beginning and her involvement was just to understand some of the options Civic Plus offers to those who contract services or buy packages with them. She said there are 2-3 main providers of city websites and Civic Plus is one of them, noting they did Maplewood's website, which is a very robust site. The website design is done internally with Civic Plus as their people and coders work on content. From that point on, Councilmember Ries dropped out of the project about 3 months ago because at that point Staff such as Ms. Needham, and Ms. Breen perhaps to some degree also, were handling the day-to-day because at some point it turns to a Staff development issue. She thinks Ms. Needham was reporting to Administrator Kress in weekly meetings regarding the progress and questions during development. The development presentations were done at Staff meetings and Councilmember Ries said she wasn't part of those, so her role ended about three months ago after Civic Plus had taken it.

Mayor Nelson noted she threw all three Staff members under the bus and Councilmember Ries isn't taking any responsibility for it even though she was directed to develop a website with Gretchen Needham.

Councilmember Ries said one other point is that they have a new domain name: NorthOaksMN.gov and it was discussed right when Administrator Kress started and she remembers having discussions. The website is on that domain name so people can go into the internet and check it out. When one person, and not with the City but in general, when one develops a website and launches it, it is still is a sort of beta-testing mode, you fill the content and have people test it and work with the site. When creating a website there isn't a final, finished product, they're constantly updating content, constantly looking at how to develop the site with the needs this week or next year. She said development of a website is a constant, ongoing process and this is something that is done at a Staff level, it is not City Council stuff. She said if there is a new committee formed, the Council could weigh in but it's really a Staff thing to handle the content every day.

Mayor Nelson said Councilmember Ries is woefully misinformed about how a website is developed and when it goes live. He would entertain a motion to restructure the development team for this because it can't happen again. The site should never go live until it's ready to go live, there is no such thing as developing a website after it's live, he said you get it right the first time and add to it over time, but you don't throw up something that is incomplete.

Councilmember Ries said in the conversations they had with Maplewood and Shoreview and other cities, it was immediately apparent that you must update different software packages that interact with your website, update the content constantly on the website. She wants to reiterate that the structure of the website is static, which is what the developer offers, then the Staff must then take on that burden, and it is a pretty big burden, to update content on a website. The idea of the type of website that Burnsville, Wayzata, Shoreview and Maplewood have is to lower that burden and take off all the content right when you go into the domain initially and there are some

other levels that people can click to. That way the initial home page is more "static" but they still need to constantly update the content.

Mayor Nelson asked if there is a motion to reorganize this so the City can have a website that is developed properly and reviewed by the City Council before it goes live.

Councilmember Shah asked to chime in before a motion and noted she'd like to see some best practices with launching. She said generally with any deployment of a website, leadership or stakeholders should be approached and at that point going through some key criteria would've been useful and more transparent. Moving forward, Councilmember Shah would like to see that so everyone is comfortable before they move forward with the launch. She stated the City doesn't have many venues for communicating with residents and she would argue that websites are probably the number one place where residents go. She thinks looking at some best practices to launch would be an improvement for everyone.

Mayor Nelson agreed.

Councilmember Ries said she thinks it would also be a good idea to ask Ms. Needham, Ms. Breen, and Administrator Kress to have them present on the work they've done with the developer because they must understand the relationship and contract of working with the developer and what creative opportunities they have. She suggested they do a presentation to show what the City can and cannot do as it was an issue with the website from 5-10 years ago, noting the developer was very stringent on what could be changed and what couldn't.

Mayor Nelson noted that is what should've happened and that Councilmember Ries was in charge of that. He asked Administrator Kress if he wants to take charge of this so it's done right from now on.

Administrator Kress said Staff needs to know when the Council wants to make the site live. He said the Council could look at the site individually, hold a special work session to walk through the current build-out of the website and from there the Council could set the public presentation date and it would be put into the E-Blast and be ready to go.

Mayor Nelson stated when he's developed websites he's always been provided the website in its draft form several times and each time there are comments and then the site is improved and it goes through that before going live. He thinks the Council should have at least one opportunity to do that and he'd like Staff to review this and make sure the new website is at least as good as the old one, rather than taking a step backwards. He asked Mr. Kress to be in charge of that from now on.

Administrator Kress replied yes, and he thinks they have the understanding now that it's not approved unless designated by the City Council down to himself.

Councilmember Shah said she's hearing two opportunities here, 1) there may be a potential gap in delta to the functionality they have and if that's the case they should hear about it sooner rather than later and 2) the readiness and appropriate timing to deploy the website.

Mayor Nelson asked if they should appoint a new City Councilmember to oversee it.

Administrator Kress said he thinks they'll do some kind of Council interaction where they can look at it separately and bring it back up to the Council's attention to see if there are any high-level concerns. He stated there was significant time spent by Staff but the problem was in the final stages when it was launched, basically the misinterpretation was that the site was ready to go on their end but on our end it was never authorized to go.

Mayor Nelson noted someone authorized it to go and that is the problem.

Administrator Kress said they really need to take a final look at the website, get the blessing from the Council, notify the public and launch the site.

Mayor Nelson clarified it would be with approval of the City Council by vote.

Administrator Kress answered in the affirmative.

Councilmember Long said mistakes happen and it is Administrator Kress's Staff, he is in charge and he needs to make sure this is handled correctly next time.

Mayor Nelson said he's not blaming Administrator Kress because these activities took place without his permission and without his direction and without direction from City Council.

Administrator Kress said he understands that and he won't get into the details of their personnel. His recommendation is they review it independently or the Council schedules a work session.

Mayor Nelson said he thinks the site should be available to the Council, not live but static.

Administrator Kress said yes they can handle that and they just need the blessing of the Council.

c. Approve Resolution 1396 Setting Preliminary 2021 Budget and Levy

Administrator Kress invited Stephanie Marty to be a panelist in the meeting as a lot of her work is involved with the budget. They did a couple renderings of the budget and made a change today that doesn't impact the tax levy but changes the way the structure of the budget is, which is minor. He said essentially tonight the Council will be setting the tax levy. He showed the most recent rendering on screen, which he noted is different than in the Council packet, and showed the high-level overview of the City's expenses in the budget which are $2,672,720. He noted they balanced out the budget to $2,672,720 which leaves the same tax levy of $1,974,877. The newest items incorporated into the budget were Capitals and $50,000 is appropriated to Fire

Capital and Police Capital. One reason they put $50,000 in Fire Capital is because at some point there will be a new fire station build-out and they just spent unbudgeted dollars as part of the land purchase, so he is direct levying to the fire fund to reimburse themselves so the City isn't taking dollars off the bottom line.

Ms. Marty said the taxes payable in 2021 will be $1.974 million, which is actually a 6.1% increase from last year's amount and last year they were at 9.6%, so they are actually going down percentage-wise, even though property taxes are still going up. She said the City's tax rate in 2020 was 11.94% and for 2021will be 12%, which is pretty low considering the neighboring cities, it is a pretty low tax rate.

Administrator Kress noted if they adjust things in the budget, the first thing he would target are the Capital Fundings, maybe not the Fire as he'd like to leave some funding in there, but if they took out $50,000 it would probably drop the tax levy approximately 5%. Basically, they built a budget that is sufficient enough so if they need to rearrange before December, they have that opportunity. If funding needs to be reallocated somewhere else, they don't run the risk of not having enough tax levy to make the rearrangement. He said if there are no further questions on the budget, he would ask that the Council entertain the resolution that encompasses the tax levy and sets the Truth in Taxation meeting on December 10, 2020.

Attorney Nason recommended the resolution be amended to include the language regarding the Truth in Taxation hearing.

Mayor Nelson noted this is the preliminary tax levy, not the final tax levy.

Administrator Kress said that is correct, the final tax levy is set in December which means that the tax levy cannot go higher than $1,974,877.

Mayor Nelson asked if Staff is comfortable with that number.

Administrator Kress replied they are; he and Ms. Marty had many discussions and think it's sufficient enough to rearrange if need be.

Mayor Nelson asked if, similar to last year, they anticipate non-reimbursed Legal and Other expenses related to the development.

Administrator Kress answered no, he thinks the budget is trending really well and if they follow through to the end of the year the revenues will be able to cover the expenses. He said there's been a significant increase in permits and buildings and his concerns along those lines is very limited, if anything they will increase in market value substantially.

Mayor Nelson said the increased revenue that wasn't anticipated has covered the unexpected and unreimbursed costs.

Administrator Kress noted they're sitting in a good place and the amendment tonight would be to add in the verbiage discussed earlier.

MOTION by Ries, seconded by Kingston, to approve Resolution 1396 Setting the Preliminary 2021 Budget and Levy and to give notice of a Truth in Taxation Hearing on December 10, 2020 at 6:45 p.m. Motion carried unanimously by roll call.

d. Wilkinson Villas 1A Developers Agreement

Administrator Kress said this is still in draft form and Staff had hoped to recommend approval on the developer's agreement tonight, however it's not ready at this time and needs to go back through North Oaks Company (NOC) and come back to the City Council once they've seen the draft version of Wilkinson Villas 1A Developers Agreement. Administrator Kress and Attorney Nason worked on it earlier in the day but didn't get enough traction to get it in front of NOC, so at this time he suggests tabling it until it's seen by NOC.

MOTION by Ries, seconded by Long, to table Wilkinson Villas 1A Developers Agreement. Motion carried unanimously by roll call.

Mayor Nelson asked if they'd be ready to talk about it in October.

Administrator Kress noted it would depend on whether there is any commentary from NOC.

e. Discussion and Possible Action on City Office Hours

Administrator Kress asked to have a light discussion with the Council as the internal Staff has been talking about the City's Office hours and they noticed the summer office hours worked pretty well. One concern is changing the office hours to allow for flex hours before or after the regularly scheduled work week, as one thing Staff has noticed is no matter what the hours are, they end up doing things either before or after office hours and it seems to be more efficient to do that. He is asking the Council if they'd be agreeable to leaving the hours from 9:00 a.m. - 4:00 p.m. Monday through Thursday and 9:00a.m. – Noon on Friday with the understanding that all of the Staff would be working outside hours, uninterrupted by phone calls, drop-ins, and things like that as that can be detrimental to the City's operations.

Mayor Nelson said he'd tend to defer to Mr. Kress on this, he thinks it sounds like a good idea but Mr. Kress is the Administrator and Office Manager.

Councilmember Kingston thinks it sounds like a good deal because the reality is that people are working on things throughout the day and they keep getting interrupted, especially with the published hours. He said it's a good idea to have debrief time that takes place after the office actually closes and certainly before. He said Administrator Kress has a good handle on it and the Council should give him the latitude to make the changes he thinks are appropriate.

Councilmember Ries noted they had discussed this issue with former City Manager Mike Robertson approximately three years ago and it was already discussed at Council level. She said it was declined because residents need time after work, for example, on Friday they may get off work early and come in to file something or hand deliver to the office. She said it was declined because it's a 40 hour work week and they wanted to make sure that residents have the opportunity to come in and interact with Staff. She said now they're operating on COVID-19 time where people are at home but eventually they will get back to Staff hours and full-staffing in the office and she thinks if they make the change it should only be temporary.

Administrator Kress said he understands but respectfully disagrees, noting the majority of people tend to use electronic means to submit online and he also disagrees with the Friday statement, as for most people the last place they want to go is to City Hall. He said that's been a common trend for every City around them and if North Oaks were to begin seeing complaints of not being available to the public, he would immediately bring it back to the Council's attention to change it.

Mayor Nelson noted Mr. Kress stated most people file online and aren't in-person anymore, so there is very little foot traffic. They are trying to avoid telephone requests and interruptions at the end of the day and he noted they certainly do want to be available to the residents and if that's a problem they can switch back.

Councilmember Kingston asked what percentage of people coming in to the office are contractors or tradesman as opposed to residents coming in to file or do something.

Administrator Kress replied from his perspective, he doesn't see many residents coming in, it's mainly contractors. Now that they're coming through the COVID session, many people are doing things by electronic means, especially now that people don't have to leave their home to get a permit application. He noted there is a steady decline of people coming into the City Hall or even the Chambers for a Council Meeting as they have the opportunity to do that from home.

Mayor Nelson asked if there is a motion to do this on a trial basis and see how it works out.

MOTION by Kingston, seconded by Long, to allow Administrator Kress to establish Office Hours as he sees fit, and to try it for a 6 month period; if there are citizen complaints the City Council can re-evaluate. Motion carried by roll call as Councilmembers Kingston, Long and Shah and Mayor Nelson voted for; Councilmember Ries voted against.

f. Resolution 1398 Appointing Planning and Zoning Commission Member.
Administrator Kress showed Resolution 1398 on screen which lays out the interview process and the recommendation from Chair Azman and Mayor Nelson, noting they only had one application for the seat vacated by previous Commissioner Shah who is now on the City Council. Administrator Kress said it is recommended by both the Mayor and the Chair to appoint Grover

Sayre III with a term beginning September 10, 2020 or upon appointment and ending December 31, 2021.

Mayor Nelson noted while they had only one application, that applicant was incredibly qualified. Mr. Sayre has been in real estate development, he is an attorney, has a wealth of knowledge regarding real estate transactions, PDAs, and is familiar with the process as he's appeared before many City Councils and Planning Commissions. Mr. Sayre has not served on a governmental board before but he is looking forward to his service and Mayor Nelson thinks they are lucky to have him.

MOTION by Kingston, seconded by Ries, to approve Resolution 1398 as presented. Motion carried unanimously by roll call.

COUNCIL MEMBER REPORTS

Councilmember Shah was able to meet with Tim, the Fire Chief and his crew, they were very informative, gave her a tour of the three stations and she saw the plans for the future station. They also talked about the purchase agreement for the 4 acres of land, which is expected to be solidified by September 21, 2020. She said they also talked about how COVID-19 has impacted their department, and they normally get about 4,000 calls per year and they are about 30% down, noting that's also true for surrounding communities. Their day-to-day procedures are also impacted by COVID and they must assume when they arrive on a call that someone is infected. Councilmember Shah said they're trying to mitigate their exposure and risks, and talked about how the community spaces need to be sanitized, training sessions are impacted, and there are many changes happening. She noted they have a Fall Open House, which is usually highly attended, and they will most likely not be able to do that but are trying to get creative. They are doing new things, such as drive-bys with the truck for birthday parties or retirement parties. Tim asked Councilmember Shah to give a shout-out to the Ralph Reeder Food Shelf, as they're trying to get one more big push of food before winter comes and if residents want to make a difference, they can donate. Councilmember Shah thanked Councilmember Ries for transitioning her and giving her all the information necessary for the Fire Department.

Councilmember Long said he earlier mentioned the problem neighbor with Deputy Burrell and he will work with Administrator Kress as it's a City issue rather than a Police issue. He hopes to bring something to Council's next meeting to get a sense. He is looking into conflict of interest with *North Oaks News* and having a City Staff Member, as this is the third time they've had something like this. Karen and Kathy were both City Staff – and this is an Administrator Kress issue, so he hopes to work with Mr. Kress on this. Councilmember Long said with the City newspaper, editor and staff, he sees it as a conflict and he's had some residents calling him with complaints so he will report back next month.

Councilmember Ries said in transition she provided Councilmember Shah an explanation of her experience on the Fire Board, the involvement she had on the contract for the land purchase agreement and the work the Fire Board has done and it was fun to talk about that. She said CTV

has been very busy lately with the NSCC, they are rebranding right now and have been very busy with the political and community events. Their website traffic has been very high so that is a very positive thing, as well and they're looking forward to the fourth quarter. Councilmember Ries contacted a few of the Cities to see what they are doing with the CARES Act Funding to get some ideas on what might be applicable for North Oaks. She said many of the cities have spent a lot of time speaking with financial consultants and have done a lot of research so she wanted to brainstorm and see what information they had received. She noted Mr. Eslinger who received the Pollinator Award had over 200 species of pollinator flowers in his garden and to capture that in media, as she believes he is creating a video to share with the community to encourage and inspire people, especially during wintertime of all the garden work he has done, with hopes that other gardeners would follow suit. She noted she calls in to the VLAWMO Tech Committee meetings and the water research at Wilkinson is ongoing and there is another meeting tomorrow morning about that.

Councilmember Kingston has been continuing to look into options for buckthorn and invasive species mitigation and he is hopeful for some novel approaches that they can talk about in the coming meetings. Secondly, he has been trying to keep up in monitoring the Planning Commission meetings as the City Liaison.

Mayor Nelson said Councilmember Long mentioned the concerns he has about the *North Oaks News* and its recent addition and Mayor Nelson has some concerns about that, as well. He said the City Council was forced to address a complaint by a developer that arose out of the June meeting and since that time the Council has come under fire. In the North Oaks Newspaper, Mayor Nelson had submitted an article to them (this is the second or third time it's happened) where they have rejected it and told him he couldn't include the facts, they just want him to write a very brief article which really can't include facts, it's so brief. He said he wrote a very brief article, submitted it and it was published; it simply referred residents to the City Council website so they could review the videos of what actually transpired relative to this developer's complaint and what had caused that complaint to be promulgated. Mayor Nelson is concerned about this because following the submission of his article after re-drafting, he assumes his article remains private until published and that it goes to the editor and no one else. He said it's really a cardinal rule of newspapers that they don't share articles with others before their publication because it gives others an unfair advantage to respond to those articles. After Mayor Nelson submitted the article, Administrator Kress received a call from Councilmember Ries in which she noted she had the article and was upset by it, and this was before it was published. Mayor Nelson noted Mr. Kress hadn't seen the article as the Mayor doesn't share the articles with him or anyone else before publication, he only sends it to the editor of *North Oaks News* - he doesn't even title them as he leaves that up to the editor for the most part. Regarding the article, he said Councilmember Ries was concerned about the title and the content and Mayor Nelson was surprised by that when he found out from Administrator Kress. In subsequent publication, they have seen a number of letters to the editor that Mayor Nelson believes were all carefully curated and no letters to the editor to the contrary; and of course they don't know what letters are sent to the editor or how they were curated or selected. In reading Mayor Nelson's article, it suggests residents go to the

website to look at the streaming video and decide for themselves what happened. He noted the website was then suddenly taken down, and was put back up after a few days. Mayor Nelson is very concerned on what exactly is going on. He knows a resident running for office tried to place an ad in the paper last month, paid for the ad, was told it would appear and then it simply did not appear. He said yesterday or today a four-page special edition of the paper came out with advertising and political advertising, despite the fact that in the last paper, they indicated there was some new rule about political commentary. Mayor Nelson and other members of the City Council have been subject to personal attacks because of what they had to do in light of the behaviors of a City Council person, instead of defending on the merits and saying there was reason to do it, they were attacked personally and are unable to respond to it because the newspaper doesn't want to hear it. He is very irritated by that and thinks they need some answers to it as they now have four full-page ads by Councilmember Ries and her mentors/group running for office. He can see the paper seems to be thwarting the efforts of other individuals to express their opinions and he wants people to know he is concerned about that. It is a small newspaper and it may seem like a small issue but it can be significant.

Councilmember Ries said she called Administrator Kress to talk about a *Star Tribune* article, not the *North Oaks News* article and she never, ever saw the *North Oaks News* article prior to publication. She said there is a repeated pattern that has occurred over the past year where there are derogatory things said during meetings and an editorial article is published on the heels of the meeting. This is not anything new to the community, it's just a pattern of behavior and it's very foreseeable that residents watch meetings and they express their opinion.

Mayor Nelson noted COVID-19 has made it difficult for local mayors to get together and he appreciates Administrator Kress keeping up with the sister Cities as close as possible, especially regarding the CARES Act.

CITY ADMINISTRATOR REPORTS

Administrator Kress spoke with the DNR Fisheries division about fish sampling, traditionally they've done it every two years so that will be very soon and he may participate with them in that, it's electric net shocking.

He noted some concerns over the Nord parcel grading and will be looking at the site tomorrow with the North Oaks Company to verify that they're in alignment with what was previously adopted by the City Council.

He said he cannot go into any detail on interactions with City Staff, when he interacted with Councilmember Ries, he disagrees with her and stated their discussion was on the *North Oaks News*. He said he asked her specifically the Tuesday of the discussion what paper they were talking about and Councilmember Ries indicated it was the *North Oaks News*, and Administrator Kress then went to the respective City personnel and discussed the issue. He says there are some inconsistencies there and if she'd like to further clarify he would offer the opportunity but that is not what their discussion was.

Councilmember Ries thanked Administrator Kress for the ability to clarify and noted Mayor Nelson was suggesting that the article was perhaps given to her before publication and she had not seen the article before publication. What she talked with Administrator Kress about before the publication of *North Oaks News* was concern about the *Star Tribune* article that mentioned her name and she said she usually gets the *North Oaks News* the day of the Planning Commission Meeting and it was after publication, later, that she had commented about Mayor Nelson's editorial. She said there was no communication about the article that was shared, just a concern about Minnesota Statute and publishing articles of this type. Before publication, Councilmember Ries said she and Administrator Kress had only talked about the *Star Tribune* article and that is the clarification.

Administrator Kress added that is still inconsistent with his interactions with the City Staff, unfortunately. He is aware that there was a discussion the Sunday prior to the *North Oaks News* publication and their discussion had taken place on Tuesday. Beyond that, he is not willing to provide any more feedback on it, he will address it with the City Staff, and Council can regulate themselves on this matter.

Mayor Nelson said he had to bring it up and he apologized to Administrator Kress.

Administrator Kress asked for a sense of the Council on what they'd want to see moving forward for discussion purposes with North Oaks Company (NOC).

Mayor Nelson asked about the timeline.

Administrator Kress said he intends to have a discussion with Mark Houge based on the work session as there were a number of options there and he can get Mr. Houge's feedback and bring it to the Council.

Mayor Nelson said relative to Attorney Nason's report, he would like to find out what they intend and they should schedule a special meeting if they need to address it one way or another.

Administrator Kress noted he'd be on site with NOC tomorrow to check out the grading, so he would check in with them then and get it in front of the Council, noting if there are concerns he'd like to know now so he can let the Company know.

Mayor Nelson said they could schedule a special meeting after talking with NOC regarding the condominium unit-count issue.

Mayor Nelson noted they have a rebuttal to the letter Councilmember Ries' attorney drafted that was a direct attack on Councilmember Kingston and he directed Administrator Kress to put that letter on the website.

a. Pollinator Resolution – Annual Report

CITY ATTORNEY REPORTS

Attorney Nason said she's been busy working with Staff on a number of issues, in particular they received the two preliminary plan applications as well as the revised concept plan, and some of the issues related to the Nord site that Staff are working on.

Mayor Nelson asked Attorney Nason if it's appropriate for the Council to have a special meeting after they hear from the NOC to determine the path forward on the issue discussed at the joint City Council/Planning Commission meeting regarding the condominium.

Attorney Nason replied yes, she thinks Administrator Kress needs to circle back with the Company and get their feedback, having attended the joint work session tonight to see how they want to proceed and the City can adjust and set up meetings accordingly. She noted the City only meets once a month so she would anticipate some special meetings at some point.

MISCELLANEOUS

a. August 2020 Forester Report

ADJOURNMENT

Mayor Nelson noted the next City Council Meeting is Thursday, October 8, 2020.

MOTION by Kingston, seconded by Long to adjourn the City Council Meeting at 8:39 p.m. Motion carried unanimously by roll call.

_____ _____

Kevin Kress, City Administrator Gregg Nelson, Mayor

Date approved_____

North Suburban Access NSAC
Professional and Technical Services Agreement

This contract is between the North Suburban Access Corporation, a Minnesota Municipal Corporation, (herein "the NSAC") and the **City of North Oaks, Minnesota** (herein "the City").

Recitals

1. Under Minnesota law, the NSAC is empowered to provide such professional and technical services as are desired by the City.
2. The City desires to engage the NSAC for video webcasting services and archiving services (herein "the Services").
3. The City represents that it is empowered to engage the NSAC.

Agreement

1. Term of Contract

1.1. ***Duration.*** This Agreement will become effective January 1, 2021 and will remain in effect for a period of one (1) year. At the expiration of the one (1) year period, the Agreement will automatically renew for another period of one (1) year, unless notice to terminate this Agreement is provided no less than ninety (90) days prior to the end of the current term. If this Agreement is terminated prior to the completion of a one (1) year period, the NSAC will be entitled to payment, determined on a *pro rata* basis, for Services satisfactorily performed.

1.2. ***Survival of Terms.*** The following clauses will remain in effect after the termination of the Agreement: Section 5. Liability, Section 6. Government Data Practices and Intellectual Property, Section 8. Governing Law, Jurisdiction, and Venue; and Section 9. Disclosure.

2. Services Provided

2.1. ***Services.*** The NSAC will provide the Services described in Schedule A (attached).

2.2. ***Additional Services.*** The City may also request additional services during the term of the Agreement (see Section 1.1. Duration). If accepted by the NSAC, Schedule A will be amended to include a description of the

additional services and according compensation. Unless otherwise specified, all terms of this Agreement will apply to any amendments to Schedule A.

2.3. ***Standard of Care.*** To the extent any property, such as camera or computer equipment, is loaned by the NSAC to the City, the City will exhibit a standard of care consistent with Minnesota law.

2.4. ***City Assistance.*** Depending on the nature of the Services, the NSAC may from time to time require access to public and private lands or property. To the extent the City is legally and reasonably able, the City will provide access to and make provisions to enable the NSAC or its agents or employees to enter upon public and private land and property as required for the NSAC to perform the Services.

The City will furnish the NSAC with a copy of any special standards or criteria promulgated by the City relating to the Services, including, but not limited to, design and construction standards, that is necessary for the NSAC to prepare for its performance of the Services.

3. Payment

3.1. ***Compensation.*** The City will pay for all Services to be performed by the Contractor as specified in Schedule A (attached).

3.2. ***Fee Adjustment.*** The NSAC reserves the right to annually adjust the fees associated with the Services specified in Schedule A. Such adjustments, if any, will be enacted on January 1 of a given year. Prior to enacting any fee adjustments, the NSAC must provide written notice of such to the City at least thirty (30) calendar days prior to the effective date of the fee adjustment.

3.3. ***Invoices.*** The City must promptly pay the NSAC after the NSAC presents an invoice for those Services that have been actually performed. The NSAC must timely submit invoices.

3.4. ***Event Cancellation.*** The City agrees to pay 70% of the expected event amount for any cancellation unless sufficient prior notice is provided. “Prior Notice” is defined as at least 10 business days (including the day of the event) before the scheduled event.

4. Assignment, Amendments, Waiver, and Completeness

4.1. ***Assignment.*** The City may not assign, license, or transfer any rights or obligation under this Agreement without prior written consent of the NSAC and a fully executed Assignment Agreement, executed and

approved by the same parties who executed and approved this Agreement, or their successors in office.

4.2. ***Amendments.*** Any amendments to this contract must be made in writing and will not be effective until executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

4.3. ***Waiver.*** If the NSAC fails to enforce in a timely manner any provision of this Agreement, that failure does not waive the provision or the NSAC's right to enforce the provision.

4.4. ***Completeness.*** This Agreement contains all negotiations and agreements between the NSAC and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

5. Liability

The City must indemnify and hold harmless the NSAC, its agents, and its employees from any claims or causes of action, including attorney's fees incurred by the NSAC arising from performance of this Agreement by the City, its agents, or its employees. The clause must not be construed to preempt any legal remedies the NSAC may have for the City's failure to fulfill its obligations under this Agreement.

6. Government Data Practices and Intellectual Property

6.1. ***Government Data Practices.*** To the extent applicable, the City and NSAC must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this Clause by either the City or the NSAC.

Each Party shall notify the other of any Data Practices Act request for video recordings created pursuant to this Agreement. All requests for the release or sale of video recordings created pursuant to this Agreement shall be directed to and fulfilled by the NSAC.

7. Endorsement

The City must not claim that the NSAC endorses its products or services.

8. Governing Law, Jurisdiction, and Venue

Minnesota Law governs this Agreement. Venue for all legal proceedings arising from this Agreement shall be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

9. Disclosure

The City consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, to the Commission as is necessary for compliance with Minnesota and other applicable law.

10. Severability

If any section or clause of this Agreement is held to be invalid or unenforceable, then the meaning of that section or clause shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save the section or clause, it shall be severed from this Agreement with respect to the matter in question, and the remainder of the Agreement shall remain in full force and effect. However, in the event that such a section or clause is essential or substantially alters the Agreement, the Parties shall negotiate a replacement section or clause that will achieve the intent of such unenforceable section or clause to the extent permitted by law.

11. Employment

Employees of the NSAC performing work pursuant to this Agreement shall remain at all times employees only of the NSAC. The NSAC will be responsible for worker's compensation, salary, and training.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Dated: _____

North Suburban Access Corporation

By: _____

Its: _____

Attest

By: _____

Its: _____

North Oaks, City Administrator

Dated: _____

By: _____

Its: _____

Schedule A. Services (North Oaks).

Service	Quote	
Municipal Production Services: The NSAC agrees to provide the following: • A total of 24 meetings for 2021 include 1 City Council Meetings per month and 1 Planning Commission meetings per month. Cost per meeting is $173. For each additional meeting a flat fee of $207 per meeting will be charged. CTV will provide a municipal producer to record and broadcast LIVE meetings; • Equipment and meeting room preparation; • Provide the timing of the discussion and agenda items for web links; • Upload minutes for all 2021 meetings; • Provide backend support for closing, annotating, and posting the meeting for program the following day. • Provide Master Control services to ensure quality controls. The City agrees to provide the following: • Provide a weekly schedule of live and/or recorded events of shows at least one week in advance of first event/show on the schedule. • Provide the NSAC with the name and telephone number and email address of an emergency contact who can answer questions about the cablecast and/or encoding of live events. • Provide PDF copies of minutes for upload.	$4,152 per year	$4,152 per year
Cablecasting Services: The NSAC agrees to provide the following: • Live broadcasting of City Council meetings and applicable Advisory Commission meetings on appropriate channels; • Schedule the City channel with 7 premiers of programming, and 14 reruns of programming per week, totaling 21 playbacks per week. The City agrees to provide the following: • Monthly schedule of cablecast playbacks.	$633 per year	$633 per year

Schedule A. Services (North Oaks).

Carousel Bulletin Board Coordination • Coordination of one Carousel at $5 per month, this does not include the labor to manage the carousel content.	$60 per year	$60 per year
Web streaming Services: The NSAC agrees to provide the following: • Live web streaming of City Council meetings and applicable Advisory Commission meetings, no more than 4 regular programs per month, with 4 floating meetings per year to use at the City's discretion; • Encoded meetings and the accompanying agendas posted within 24 hours on the NSAC's website; • Post links between agenda items and their video discussion; • Storage of recorded videos for up to 6 months; The City agrees to provide the following: • Provide the NSAC with monthly schedule of all live meetings to be streamed and/or encoded for posting on the NSAC's website; • Notify the NSAC as soon as possible of the cancellation of a live event, including city meeting, which is scheduled for playback, of any change in the day or beginning time of any live event, including city meeting, or of any additions of special meeting to the schedule; • Provide the NSAC with the name and telephone number for a main contact of the cablecast. • Chapter marking information on the agenda will be provided by the City for meetings not utilizing the NSAC's municipal producers.	$1,927 per year	$1,927 per year
Social Media Coordination - Lite: The NSAC agrees to provide the following: • 3 Custom-made posts per week. • A content execution calendar with up to 12 planned posts per month, with creative content. • Quarterly analytics The City agrees to provide the following: A monthly newsletter and items of upcoming interest.	$110 per week for 52 weeks	$5,720

Schedule A. Services (North Oaks).

Consultation: The NSAC agrees to provide the following: • Audio/Visual equipment maintenance related to municipal meeting coverage and delivery; and • Audio/Video equipment planning, and/or installation. •	$80 per hour Proposal for projects will need a contract	-
Neighborhood Network Services: The NSAC agrees to provide the following: • Produce at least 2 productions a year for the City, at the discretion of the NSAC; • Cablecast, web stream, and distribute via link to the City the final product; • Storage of recorded videos for up to 6 months. The City agrees to provide the following: • Submit to the NSAC monthly production requests. • Submit requested productions by October 31st, 2019.	Introductory rate of $1 per year	$1
Cassandar Web Streaming Platform: The NSAC agrees to provide the following: • Custom made landing page with a proprietary platform, branded with city logo and colors to play live and store archived video content; • Ability to index, chapterize, and upload packets alongside meetings; • Hosting and maintenance of the platform and site. • Dedicated messaging system from constituents to assigned email to answer questions from the public. • Password protection options	$3,000 per year value	Included in JPA Membership
Total		$12,493

DEVELOPMENT CONTRACT
CITY OF NORTH OAKS
WILKINSON VILLAS 1A SUBDIVISION

This AGREEMENT is made this _____ day of _____ 2020 between the **CITY OF NORTH OAKS, MINNESOTA**, a Minnesota municipal corporation (the "**City**"), and **NORTH OAKS COMPANY, LLC,** a Minnesota limited liability company (the **"Developer").**

WHEREAS, the Developer has proposed the development of 17.5 acres of real property located within the City, which development shall contain streets, street improvements, trails, easements, a stormwater pond and other miscellaneous improvements; and

WHEREAS, the Developer is requesting that the City accept this development by approving a final plan for Registered Land Survey consisting of 17.5 acres of real property zoned RMH – PUD, Residential Multi-Family High Density (the **"Subdivision"** or **"Development")** which is a portion of the development site identified in the Planned Development Agreement as Site F, and commonly referred to as the Anderson Woods site**;** and

WHEREAS, the City has approved the preliminary plan of the Subdivision pursuant to City Code Chapter 152 and the East Oaks Project Planned Unit Development Agreement, dated February 11, 1999, as subsequently amended (the "Planned Development Agreement"), conditioned upon the Developer agreeing to comply with applicable ordinances of the City and other terms and conditions as may be required by the City which are consistent with the Planned Development Agreement, including the terms and conditions of this Agreement; and

WHEREAS, the Developer intends to proceed to final development and sale of lots in the Subdivision pursuant to Registered Land Survey in lieu of final plat, but shall comply with all requirements for final plat provided in North Oaks City Code Chapter 152.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

ARTICLE I
Definitions

The following terms shall have the meaning as set forth herein:

1.1 **"Agreement"** or **"Contract"** shall mean this Development Contract including the foregoing recitals which are agreed to be a part hereof

1.2 **"City Engineer"** shall mean that individual or individuals identified by the City as the City Engineer. Currently, Sambatek, Inc. is the City Engineering firm of record.

1.3 **"Developer"** shall mean North Oaks Company, LLC, its successors and/or assigns.

1.4 **"Development"** or **"Subdivision"** shall mean Wilkinson Villas 1A.

1.5 **"Final Development Plan" or "Final Plans"** shall mean the final revision(s) to the Preliminary Plan prepared by **Sathre Berquist** dated **July, 1, 2019** approved by the North Oaks City Council (the **"Council")** on July 11, 2019, in accordance with its ordinances and the Planned Development Agreement, and shall include any and all exhibits, drawings, schedules, legal descriptions, and other material and documents that are part of the Final Development Plan, as approved by the City.

1.6 **"Plans and Specifications"** means the plans, profiles, cross-sections, drawings, exhibits, schedules and legal descriptions, documents and other requirements, individually and collectively, listed on **Exhibit A** attached hereto and incorporated herein by reference.

1.7 **"Preliminary Plan"** shall mean the preliminary plan of the Subdivision prepared by **Sathre Berquest.** dated **January 15, 2019,** as approved by the Council on May 9, 2019, in accordance with its ordinances, and shall include any and all exhibits, drawings, schedules, legal descriptions, and other material and documents that are part of the preliminary plan, as approved by the City.

1.8 **"Subdivision"** means the real property located within the City and as described on **Exhibit B**, attached hereto and incorporated herein by reference, to be developed in the manner described on **Exhibit A** by means of Registered Land Survey (the "Registered Land Survey").

ARTICLE II
Developer's Responsibilities and City Approval

2.1 The City finds that the Subdivision is a staged and planned development as described more fully in the Planned Development Agreement.

2.2 Developer and City agree that any dedication and/or set aside requirements are described in the Planned Development Agreement and have been fulfilled as it relates to this Subdivision.

ARTICLE III
Developer's Responsibilities - Overall

3.1 All documents included in the Plans and Specifications set forth in **Exhibit A** shall be prepared by Registered Professionals acceptable to the City. All of those items on attached **Exhibit A** shall have been finally reviewed and approved in writing in advance of construction and implementation by appropriate City Staff and each of said items shall be implemented by the Developer in a timely manner. Once such items have been finally approved by appropriate City Staff, there shall be no deviations from such items without the written approval of such City Staff. All such items as finally approved by such City Staff shall be part of the documents and materials referred to in the Preliminary Plan. The Developer agrees to comply with such additional recommendations which the City Staff may reasonably make for completion of the Subdivision.

3.2 All necessary reviews and approvals shall be obtained from all appropriate regulatory agencies.

3.3 The Developer shall furnish the City with a list of contractors and professionals with whom the Developer has signed a contract for work on the Subdivision. The information to be provided shall include the names, addresses, telephone numbers, and principal contact(s) for each contractor and professional employed by the Developer.

3.4 The Developer agrees to perform all staking and surveying necessary to allow the City to ensure that the completed improvements described in Section 11.2 conform to the approved Plans and Specifications. The City may inspect, from time to time, the Subdivision and improvements made thereto.

3.5 In the event the Developer has failed to comply with the Plans and Specifications, or has supplied material which, in the professional judgment of appropriate City Staff, is defective or unsuitable by reason of not being in compliance with applicable codes or law, then such material and work shall be redone by the Developer at the sole cost and expense of the Developer.

3.6 The Developer shall supply to the City Engineer the dates, names, addresses and telephone numbers of the parties, description of the work, and the terms of all construction contracts for roads and utilities which the Developer enters into with respect to the Subdivision prior to approval of the final Plans and Specifications.

3.7 The Developer shall place iron monuments at all lot block corners and in all other angle points on boundary lines within the Subdivision. Iron monuments shall be placed during the course of surveying for the final Registered Land Survey.

Each deed conveying title to a residential lot which is part of this Subdivision shall be subject to the Declaration of Covenants, Conditions, and Restrictions described at Section 9.1 below.

3.8 The Developer shall provide to each purchaser of a residential lot within the Subdivision, written information regarding City and North Oaks Home Owner's Association ("NOHOA") requirements, on-site sewage treatment system requirements (if the lot will use such a system), information regarding the Floor Area Ratio requirements of the City ordinances and the maximum size dwelling that can be built for the lot and such other information that the City deems appropriate. The City will supply the Developer with any additional information it requires to be conveyed to each purchaser. The Developer will be responsible for reproducing the information in sufficient quantities to be distributed.

3.9 The Developer shall record the Registered Land Survey with Ramsey County within sixty (60) days from final Subdivision approval by the City, unless a time extension has been granted by the City Clerk. Failure to record the Registered Land Survey within the sixty (60) day period shall render the final approval thereof by the City null and void until a new application has been processed and approved by the City.

3.10 The Developer shall take such additional action as the City may reasonably require to accomplish all dedications including conveyance of the land to be dedicated outright or by deed of easement (which form of conveyance shall be determined by the City) and shall otherwise convey all easements necessary to complete the Development in accordance with the final Plans and Specifications set forth in Exhibit "A".

ARTICLE IV
Developer's Responsibilities - Streets

4.1 The Developer shall construct all streets and provide all initial street signage in accordance with the final Plans and Specifications set forth in **Exhibit A.**

4.2 The Developer shall be responsible for all street maintenance, cleaning, and snow plowing until such time as the construction of the streets has been finally completed, and the Developer's Engineer has supplied the City Engineer with a written statement that the streets have been installed in accordance with the final Plans and Specifications set forth in Exhibit A and the Developer has received written acknowledgment of the acceptance of such statement by the City Administrator. Upon completion of the streets by the Developer, the Developer

shall be relieved of responsibility for maintenance and repair of such streets, but only upon transfer of such responsibility to NOHOA and forwarding of written evidence of such transfer and acceptance of such responsibility by NOHOA to the City Administrator.

4.3 Notwithstanding Section 4.2 above, the Developer shall remain liable for any defects in the streets that occur or become known within one (1) year after the transfer and acceptance referred to in Section 4.2. All easements required to construct, maintain, and operate the streets and utilities together with all trails required by Article V of this Agreement shall be in accordance with the final Plans and Specifications set forth in **Exhibit A**.

ARTICLE V
Developer's Responsibility- Trails

5.1 The Developer shall clear and grade (if necessary, as determined by the City) the trails in accordance with the final Plans and Specification set forth in **Exhibit A.**

5.2 The Developer shall convey to NOHOA by permanent easement said trails within one (1) year of execution of this Agreement.

ARTICLE VI
Developer's Responsibility- Utilities

6.1 The Developer shall provide the owners of property within the Subdivision access to water, sanitary sewer, electricity, gas and telephone, in accordance with the final Plans and Specifications. All such utilities shall be installed underground.

6.2 Such utilities shall be installed in accordance with the final Plans and Specifications set forth in **Exhibit A.**

ARTICLE VII
Developer's Responsibility - Erosion Control

7.1 All site grading, including grading of building sites, common drainageways, open space areas, ponds, surface drainageways, and all streets shall be constructed in accordance with the Final Plans and Specifications set forth in **Exhibit A**, and shall follow Ordinance No. 154. The Developer shall provide for permanent drainage easements to maintain the drainage requirements in the Final Plans and Specifications set forth in **Exhibit A.** Developer shall enter into a Stormwater Facilities Maintenance Agreement in a form acceptable to the City for any stormwater ponds located within the Subdivision.

7.2 Until such time as Developer has transferred street maintenance and repair

obligations to NOHOA pursuant to Section 4.2, the Developer shall be responsible for maintaining the erosion and sediment control plan and shall provide for the cleaning of drainageways, ditches, ponds, etc., which cleaning is necessitated by erosion that may have occurred as a result of the development of the Subdivision. If the Developer is notified in writing by the City of the necessity of cleaning any drainageway, ditch, or pond, the Developer has five (5) working days from receipt of such notice to perform the required cleaning.

ARTICLE VIII
Developer's Responsibility - Sanitary Sewage

8.1 Developer shall construct and install a sanitary sewer and water distribution system to serve all the developable lots within Wilkinson Villas 1A. Such sanitary sewer and water distribution facilities shall be constructed in accordance with the Final Plans and Specifications and in accordance with such additional requirements as may be set by the City Engineer.

8.2 The Developer shall be solely responsible for maintaining the water distribution system and sanitary sewer facilities (together the "utilities") until such time, if ever, that all right, title and interest in and to such utilities is transferred and shall be obligated to maintain a reserve fund in such amount as the City deems reasonably necessary to provide for future maintenance and repair costs to such utilities. The Developer may enter into a written agreement with another entity to provide maintenance for the utilities, provided, however, that such written maintenance agreement is approved by the City. As an alternative to the Developer entering into a maintenance agreement with a separate entity, the City, at the request of the Developer, may enter into a joint powers agreement with another governmental entity to provide for maintenance of the utilities. Such joint powers agreement must be in accordance with terms agreeable to the City. The Developer shall pay all fees charged under such joint powers agreement within thirty (30) days of being billed therefor. With respect to user fees that may be imposed by the Metropolitan Council Environmental Services or other entities, the City shall pay such fees and, during the time that the Developer shall own the utilities, shall bill the Developer for such fees, which bill the Developer shall pay within thirty (30) days of the date of the invoice. The Developer shall charge the users of the utilities such charges as will cover the Developer's costs of administration, operation and maintenance of the utilities, including without limitation, charges of the Metropolitan Council Environmental Services, the City, other municipalities, and any costs, fees, or taxes imposed by any other governmental body or agency. The Developer shall include in the deed for each lot within this Subdivision a provision requiring that the grantee exclusively utilize the sanitary sewer service provided by the Developer (as grantor of the deed), its successors or assigns, and that, regardless of whether or not the grantee actually uses such utilities, the grantee must pay to the Developer, its successors and assigns, any and all costs and fees charged by the Developer, its successors or assigns, for such utilities or the availability thereof, including without limitation, charges imposed by any governmental body or agency in connection

with such service, owner's share of all costs of administration, operation and maintenance of equipment, piping, or other property used to provide or make available such sanitary sewer service, such amounts required to fund the reserve account referred to above, and the costs and fees including attorneys' fees, incurred by the Developer, its successors and assigns, in collection of said costs and fees from the lot owner, its heirs, successors and assigns. The Developer may include in such deed such other provisions which the Developer believes to be appropriate for the proper administration of the utilities that are not inconsistent with the foregoing. The Developer annually shall make available for inspection by owners of the lots within the Subdivision a list of all expenses incurred by the Developer in connection with the utilities charged to said owners consistent herewith.

8.3 Upon completion of the construction and installation of the utilities, the Developer shall provide the City with a full set of as-built reproducible plans via PDF and CAD riles, and specifications of the sanitary sewer facility. These plans and specifications shall include the locations and ties to all sanitary sewer and manholes and location of valves, hydrants, and other appurtenances. During such period of time as the Developer continues to own or maintain the utilities, it shall provide to the City copies of the plans and specifications, including reproducible plans electronically via PDF and CAD drawings, of any changes, additions, deletions, or modifications to the utilities.

8.4 The Developer shall remain liable for any defects in the construction and/or maintenance of said utilities that occurred, developed, or were allowed to exist during the period of time that said sanitary sewer facility was owned and/or maintained by the Developer.

8.5 Should the City desire to acquire all right, title and interest in and to the utilities, the City shall notify the Developer (or any subsequent transferee of the utilities approved by the City) in writing of such intention, and within ninety (90) days after such notification, the Developer (or such subsequent transferee approved by the City), in consideration of the payment of One Dollar ($1.00) by the City shall transfer all right, title and interest in and to the utilities to the City.

8.6 At the time of transfer of the utilities to the City, if ever, such utilities shall be in good repair and in compliance with all governmental requirements and any reserve fund contributed by users shall also be transferred to the City. To the extent that the utility is not in good repair or in compliance with such governmental requirements, the Developer (or a transferee approved by the City) shall be obligated to bring the utility into good repair prior to the time of transfer.

8.7 All easements necessary to construct, operate and maintain the utilities shall be on a separate plan to be filed with the City.

ARTICLE IX
North Oaks Homeowners' Association

9.1 Developer is required to file with the City a Declaration of Covenants, Conditions, and Restrictions, to be approved by the City. This Development shall be incorporated into the boundaries of NOHOA.

ARTICLE X
Developer's Responsibility - Recreation

This Article is intentionally omitted.

ARTICLE XI
Developer's Surety Bonds

11.1 In order to assure full compliance with all of the responsibilities of the Developer pursuant to this Agreement, the Developer shall file with the City within ten (10) days after execution of this Agreement a cash escrow in the amount of _____.

11.2 The amount of the cash escrow shall be one hundred twenty-five percent (125%) of the following estimated costs:

ITEM	**ORIGINAL BUDGET**	**WORK COMPLETED AS OF 10/01/2020**	**REMAINING WORK**
Erosion Control and Site Grading (including mitigation work)			
Storm Sewer			
Watermain			
Sanitary Sewer			
Streets and Trails			
Engineering and Surveys			
Landscaping			
TOTAL:			

One hundred twenty-five percent (125%) of the foregoing estimated costs totals $_____

11.3 As various improvements are completed, approved and accepted by the City Engineer, the amount of the cash escrow may be reduced accordingly (but not below 125% of the remaining unfinished improvements, together with any costs that have not been paid, pursuant to Article XV). Any such reductions must have the prior written approval of the City Engineer.

11.4 In the event the Developer fails to comply with any of the covenants and agreements contained in this Agreement and so remains not in compliance for a period of thirty (30) days after receipt of written notice thereof from the City (or such shorter period of notice as the City may reasonably deem necessary in case of an emergency), the City may, at its option, use the cash escrow to cure such non-compliance and complete the development or such part as may not have been completed, all in accordance with the Plans and Specifications as described herein.

ARTICLE XII
Completion Date

12.1 Final approval and acceptance of Wilkinson Villas 1A shall be in the form of a resolution duly passed by the Council based upon the recommendation of the City Administrator/City Clerk.

12.2 The Developer shall provide to the City a written schedule indicating the order of completion of the work covered by this Agreement. Included within such schedule there shall be schedules for the completion of grading of on-site roads, utilities and landscaping, berming, drainage, ponding and trails. All work shall be completed within one year after filing of the Registered Land Survey.

12.3 The Council may, but is not obligated to, extend the date for completion of the work, as provided herein, based upon written notice from the Developer that due to circumstances reasonably beyond the Developer's control completion of the work will be delayed.

ARTICLE XIII
Developer's Warranties

13.1 For a period of one (1) year after completion of the work and acceptance by the City, the Developer warrants that all of the work was performed in a professional manner and will be free of defects and in strict conformance with the final Plans and Specifications. The foregoing one (1) year warranty period shall not reduce the Developer's further responsibilities with respect to sewer maintenance and repair.

13.2 The City, the Council and its agents or employees shall not be personally liable or responsible in any manner to the Developer, the Developer's contractors or subcontractors, material professionals, laborers, or to any other person or persons or entities whatsoever, for any claim, claim demand, damages, actions, or causes of action of any kind arising out of or by reason of the performance of work pursuant to this Agreement, or the performance and completion of the work and the improvements provided herein, except for the grossly negligent acts or omissions of the City or its agents. The Developer shall save, indemnify, and hold the City harmless from all such claims, claim demands, damages, actions, or causes of action or the costs, disbursements, and expenses of defending the same, specifically including, without intending to limit the categories of said costs, the costs and expenses for City administrative time and labor, costs of consulting engineering services, and costs of legal services rendered in connection with defending such claims that may be brought against the City.

ARTICLE XIV
Assignment

14.1 The terms and conditions of this Agreement are binding upon the heirs, successors and assigns of the parties hereto and shall run with the land. The Developer may not assign this Agreement, or its obligations hereunder in whole or in part without the written consent of the City, which consent is in the sole discretion of the City to grant or not to grant.

ARTICLE XV
Payments By Developer

15.1 The Developer shall pay to the City all amounts actually expended by the City to cover any costs and expenses incurred by the City in the administration of this Agreement, including attorneys' fees for the preparation hereof. The Developer has the right to request an estimate of the costs to be incurred by the City for various consultants used by the City in the performance of this Agreement. The Developer shall request such estimates in writing directly from the City Administrator. The City is not bound by the estimates.

15.2 The City shall bill the Developer for such costs, supported by detailed invoices from any consultants, and the Developer agrees to pay such costs within thirty (30) days after receipt of each bill by the City.

ARTICLE XVI
Miscellaneous

16.1 This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and shall constitute one and the same instrument.

16.2 This Agreement is in recordable form, and the Developer agrees that upon execution of this Agreement, Developer will register this Agreement with the Registrar of Titles of Ramsey County and provide evidence of such registration to the City.

16.3 The City's approval of building permits for the Property is conditioned upon the execution and delivery of this Agreement, together with the required security for improvements as set forth in Article XI, along with compliance with the terms of this Agreement.

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

CITY OF NORTH OAKS

By: _____
Gregg Nelson
Its: Mayor

ATTEST:

_____
Kevin Kress
Its: City Administrator/City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

On this _____ day of _____, before me, a Notary Public within and for said County, personally appeared _____ and _____ to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Administrator/City Clerk of the City of North Oaks, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed in behalf of said municipality by authority of its City Council and said Mayor and Deputy Clerk acknowledged said instrument to be the free act and deed of said municipality.

_____
Notary Public

NORTH OAKS COMPANY LLC:

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

On this _____ day of _____ 2020, before me a Notary Public within and for said County, personally appeared _____ to me personally known, who being by me duly sworn, did say that he is the _____ of North Oaks Company LLC., the limited liability company named in the foregoing instrument, and that said instrument was signed on behalf of said company by authority of the Board of Governors and said _____ acknowledged said instrument to be the free act and deed of the company.

_____
Notary Public

This Instrument Was Drafted By:

Bridget M. Nason
0347322
LeVander, Gillen & Miller, PA
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

After Recording, Please Return Instrument To:

Bridget M. Nason
0347322
LeVander, Gillen & Miller, PA
633 South Concord Street
Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A

PLANS AND SPECIFICATIONS

WILKINSON VILLAS 1A

PRELIMINARY PLANS

Those preliminary plans previously approved and on file with the City.

FINAL PLANS

Exhibit A - Approved Preliminary Subdivision
Exhibit B - Existing Conditions
Exhibit C - Final Overall Plan
Exhibit D - Final Plan Detail
Exhibit E - Easement Plan
Exhibit F - Final Lot Layout
Exhibit G - Final Street Plan
Exhibit H - Final Utility Plan
Exhibit I - Final Grading Plan
Exhibit J - Final Erosion Control Plan
Exhibit K - VLAWMO Letter dated 7/3/19

EXHIBIT B

LEGAL DESCRIPTION

Real property located in the County of Ramsey, State of Minnesota, and legally described as follows:

Tracts “A”, “B”, “C”, “D”, “E”, and “F”, Registered Land Survey No. 633, in the files of the Registrar of Titles, Ramsey County, Minnesota.

LEVANDER, GILLEN & MILLER, P.A.
ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
ANGELA M. LUTZ AMANN
KORINE L. LAND
DONALD L. HOEFT
BRIDGET McCAULEY NASON
PETER J. MIKHAIL
TONA T. DOVE
AARON S. PRICE
DAVID L. SIENKO
CASSANDRA BAUTISTA
SCOTT LUCAS
AMANDA JOHNSON

MEMO

TO: **Kevin Kress, City Administrator**
FROM: **Bridget Nason, City Attorney**
DATE: **September 2, 2020**
RE: **Ordinance Adding Lot Line Adjustment Process to City's Subdivision Ordinance**

Section 1. Background. City Code Chapter 152, Subdivision Regulations establishes procedures for the subdivision of land, including major and minor subdivisions. A "minor subdivision" is defined as "any subdivision necessary to adjust common boundary or lot lines between multi-family dwellings or townhomes after construction thereof." The City's existing subdivision ordinance provides no process for the adjustment of common lot lines between contiguous parcels that do not contain multi-family dwellings or townhomes. Following an inquiry by a resident regarding adjusting a lot line with a neighboring property, it was determined that in order for the City to accommodate the requested property line adjustment, the City's subdivision ordinance should be revised to establish an administrative review process for such lot line adjustments.

Section 2. Proposed Ordinance Revisions. The attached ordinance establishes an administrative procedure for the adjustment of common lot lines which does not result in the creation of any additional lots. Lot lines may not be adjusted unless the resulting lot reconfigurations comply in all respect with the existing standards for lots, including lot size, building setbacks, and other zoning ordinance requirements.

Section 3. Requested Council Action. The Council is requested to consider adoption of the attached Ordinance establishing an administrative lot line adjustment process for the adjustment of common lot lines which do not contain multi-family dwellings or townhomes.

633 SOUTH CONCORD STREET • SUITE 400 • SOUTH SAINT PAUL, MINNESOTA 55075 • 651-451-1831 • FAX 651-450-7384
OFFICE ALSO LOCATED IN SPOONER, WISCONSIN

CITY OF NORTH OAKS
RAMSEY COUNTY, MINNESOTA

ORDINANCE NO. ____

AN ORDINANCE AMENDING CITY CODE TITLE XV, CHAPTER 152, REGARDING LOT LINE ADJUSTMENTS

THE CITY COUNCIL OF THE CITY OF NORTH OAKS ORDAINS AS FOLLOWS:

Section One. Title XV, Chapter 152, Section 152.005 Amendment: Title XV, Chapter 152, Section 152.005 of the North Oaks City Code is hereby amended as follows. The underlined text shows the proposed additions to the City Code:

Lot Line Adjustment: The division of property resulting in the adjustment of lot lines between two or more contiguous lots of record, other than between multi-family dwellings or townhomes after construction thereof, resulting in the same number of lots.

Section Two. Title XV, Chapter 152, Section 152.040: Title XV, Chapter 152, Section 152.005 of the North Oaks City Code is hereby amended to include sections 152.040 and 152.041 as follows. The underlined text shows the proposed additions to the City Code:

LOT LINE ADJUSTMENT PROCEDURE

§ 152.040 GENERAL APPLICATION.

This subchapter shall apply to the following applications: subdivision necessary to adjust common boundary or lot lines between contiguous lots of record other than between multi-family dwellings or townhomes after construction thereof, resulting in the same number of lots.

§ 152.041 LOT LINE ADJUSTMENT PROCESS.

(A) *Administrative Approval Permitted.* It is acknowledged by the city that certain forms of property subdivision do not result in the creation of additional parcels or lots of record. In these instances, it is deemed appropriate to permit administrative approval of property division requests resulting in the adjustment of lot lines between two or more lots of record, other than between multi-family dwellings or townhomes after the construction thereof.

(B) *Type of Permitted Property Divisions.* Property line adjustments that do not result in the creation of an additional parcel of land shall require only administrative approval. All parcels involved must continue to meet all applicable dimensional, area, setback, and other requirements of the zoning district in which the properties are located and must comply with the provisions of City Code Section 152.065.

(C) *Application Requirements*. Applicants must submit the same documents and information required for a Minor Subdivision application required by City Code Section 152.036 and must also submit the legal descriptions for the parcels to be created as a result of the lot line adjustment.

(D) *Conditions of Approval.* The City Administrator may impose reasonable conditions of approval upon the lot line adjustment request.

(E) *Approval.* Upon receipt of the completed application, and after review thereof, the City Administrator shall either approve or deny the application for lot line adjustment. The City Administrator's approval or denial of the property division resulting in a lot line adjustment shall be in writing.

Section Three. Effective Date. This Ordinance shall be in full force and effect upon its adoption and publication as provided by law.

Passed in regular session of the City Council on the ____day of _____, 2020.

CITY OF NORTH OAKS

By: _____

Gregg Nelson

Its: Mayor

Attested:

By: _____

Kevin Kress

Its: City Administrator/City Clerk

(Published in the Shoreview Press on _____, 2020)

Rate Study Proposal

City of North Oaks

September 25, 2020

ABDO EICK & MEYERS LLP
AEM Financial Solutions™

5201 Eden Avenue Suite 250 Edina, MN 55436
P: (952) 835.9090 • F: (952) 835.3261

100 Warren Street Suite 600 Mankato, MN 56001
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Appendix A

Agreement for the Provision of Professional Services

ABDO EICK & MEYERS LLP

AEM Financial Solutions™

Executive Summary

Kevin Kress, City Administrator
City of North Oaks
100 Village Center Drive, Suite 230
North Oaks, Minnesota 55127

Dear Kevin,

Thank you for the opportunity to submit this proposal to the City of North Oaks (the City) for partnering with the City on a Long-term Plan and Rate Study. Based on our experience with the type of work outlined in the proposal, we are confident our experience and expertise will allow us to exceed your expectations. Our proposal will demonstrate to you that AEM Financial Solutions, LLC. (AEMFS) will be the service provider of choice for your City.

Our success has been driven by utilizing staff that is experienced and well trained in governmental planning and operations. We understand attention to detail, project approach, management plan and quality work product are important factors in your selection process. We are confident in our ability to demonstrate we are the firm to select.

Our approach to this project is to engage with City staff to ensure we have an exceptional understanding of the project, each individual's role in the project, overall expectations and desires as well as exceptions to standard operations. Throughout the project there will be periodic meetings with City staff to share information, solicit input and provide updates.

Utility Rate Study

The City has requested a proposal for preparing the projection (utility rate study) of the City of North Oaks (the City), which comprises the projected cash balances of City funds for the periods ending December 31, 2021 through 2025, including the related summaries of significant assumptions and accounting policies.

A projection presents, to the best of management's knowledge and belief, the City's expected cash balances for the projection period assuming managements expected borrowing, capital purchases, expenditure change, and revenue change assumptions. It is based on management's assumptions, reflecting conditions it expects to exist and the course of action it expects would be taken during the projection period assuming the aforementioned assumptions. The projection is designed to provide management and Council a tool for future planning and might not be useful for other purposes.

Executive Summary (Continued)

- Ability to successfully complete all requirements - A component of our mission statement is a philosophy that we will assist clients in reaching their maximum potential by open communications and teamwork. This means we will do the following for you:

  - ✓ Present to you a clear project plan, mainly as it relates to utility rate structure
  - ✓ Use portal technology to share and collaborate documents
  - ✓ Provide an environment that solicits and welcomes ideas and strategies from the City team
  - ✓ Present recommendations in clear, concise and non-technical terms to all members of the City team
  - ✓ Return phone calls and emails promptly

- Experience with similar projects - We believe our experience with similar projects and our expertise in governmental accounting, operational effectiveness, analysis, process and planning is greater than any other CPA or financial advisory Firm in Minnesota.

- Understanding of the project and ability of the firm to complete the expected scope or work on schedule and within budget - AEMFS is committed to providing a team environment that gives us the ability to complete projects on time and on budget. We leverage our staff to ensure the work is being completed by the appropriate individuals and reviewed/signed off on by the President of AEM Financial Solutions. We understand the parameters and expectations of this project and will complete the expected scope of work on schedule and within budget.

- Accomplishing project objectives - Our approach to a project is heavily dependent on communication and technology. We believe that listening to our clients' needs, concerns and challenges is of upmost importance for a successful project. Our experience in internal operations, processes, procedures, analysis of outputs and knowledge of financial software packages allows us to partner with the City to implement a robust financial software system. We use portal technology to share and collaborate on documents. This allows us to expedite our work product, provide answers to staff questions quickly and communicate instantaneously with City staff.

AEM Financial Solutions, LLC

Jean D. McGann

Jean D. McGann, CPA
President, AEM Financial Solutions, LLC
Partner, Abdo, Eick & Meyers, LLP

ABDO EICK & MEYERS LLP
AEM Financial Solutions™

Government Experience

You can have confidence in our 10 years of consulting services, over 55 years of quality accounting services and partnership in the government space. Since 1963, we've served cities just like yours. With an unwavering commitment to streamlining processes, training staff, and finding technology-based solutions, we proudly offer excellence in city consulting and auditing.

Out of our 160-strong, talented staff, over 40 team members are 100% focused on government clients, including services for over 100 cities and other governmental entities. By serving cities across Minnesota, we have become experts in the nuances of how to best support your city.

Our expertise affords you a consulting experience that is painless. We do this by communicating up front, coming better prepared, and being available throughout the year to support you.

Our Process

Our methods are centered around incorporating technology to deliver unparalleled solutions for government organizations. In addition to our consulting experience, our firm expertly performs outsourcing for governments giving us a wealth of experience in a consulting role. We don't believe in a one-size-fits-all mentality. So together, we'll focus on the needs that are relevant to your city and provide the right services to meet them with a customized methodology based on your needs. We're focused on developing creative, customized solutions to help your city mitigate costs and boost efficiency.

Our Focus

Through continuous training and growth opportunities, we've established an environment with a focus on serving city governments. We spend more than 100 hours training and onboarding to ensure success for our clients.

We truly hope that you allow us to be your partner. Together, we'll go beyond the numbers to best support your city.

Our Financial Management and Consulting Services Include:

- Arbitrage compliance
- Budget process development
- Capital improvement planning
- Cash flow analysis
- Cost containment processes
- Debt management plans
- ERP system consulting
- Finance Director services
- Financial management plans
- Financial reporting and analysis
- Fleet: Operations and replacement rate analysis
- Interim accounting and financial services
- Internal control evaluation
- Long-term strategic planning
- Payroll processing
- Policy development
- Process flows and efficiencies
- Project management
- Quarterly and monthly reporting to management
- Reconciliations
- Software implementation
- Utility/fee analysis
- Year-end audit preparation and financial statement preparation

Our Qualifications

- GFOA and MnGFOA Association members
- Government operations training
- MSRB Municipal Advisor Qualified Representatives (Series 50)
- Consulting services for over 100 cities
- We've assisted many municipalities in preparing for the GFOA's Certificate of Achievement for Excellence awards in financial reporting

Your Team

In assembling our team to serve the City of North Oaks, we have assigned experienced individuals who know and understand your unique financial accounting needs. Our proposed delivery team has substantial experience working with cities similar to yours. Our team members and their respective experience are briefly profiled below. Full biographies for the team are located on the following pages.

	MEMBER	TITLE	YEARS OF EXPERIENCE
	Jean McGann, CPA	President and Partner	21
	Andrew Berg, CPA	Partner	26
	Justin Nilson, CPA	Manager	8
	Tyler See, CPA	Senior Associate	4

ABDO EICK & MEYERS LLP

AEM Financial Solutions™

Team Bios

Team Member | **Background & Expertise**

Jean McGann, CPA

Partner | Abdo, Eick & Meyers LLP

President | AEM Financial Solutions, LLC

Registered Municipal Advisor

jean.mcgann@aemfs.com

Direct Line (952) 715.3059

Jean joined the Firm in 2013. She is licensed to practice as a CPA in Minnesota. Jean leads the Financial Solutions group providing financial management services, day-to-day accounting and customized solutions for local governments, businesses, nonprofit agencies and professional service firms.

Affiliations

- Mentor for the Business Program at the Minnesota Center for Advanced Professional Studies (MNCAPS)
- Finance and audit committee member for Project for Pride in Living

Education

- Bachelor of Arts, Buena Vista University, Storm Lake, Iowa
- Continuing professional education as required by AICPA and Government Accountability Office

Professional Memberships

- American Institute of Certified Public Accountants (AICPA)
- Minnesota Society of Certified Public Accountants (MNCPA)
- Minnesota Government Finance Officers Association
- Government Finance Officers Association of the United States and Canada

Qualifications

- 21 years of experience in finance and auditing
- Over 8 years of experience in operations management
- Highly skilled in strategic planning and financial forecasting
- Experience in identifying and implementing cost containment processes, efficiencies and streamlining processes
- Policy development, internal control evaluation and project management experience
- MSRB Municipal Advisor Qualified Representative (Series 50)

ABDO EICK & MEYERS LLP

AEM Financial Solutions™

Team Bios

Team Member | **Background & Expertise**

Andy Berg, CPA

Government Partner

andrew.berg@aemCPAs.com

Direct Line (952) 715.3003

Andy Berg joined the Firm in 1994 after graduating Cum Laude from Gustavus Adolphus College and is registered and licensed to practice as a CPA in Minnesota. His experience includes auditing municipalities, school districts, and nonprofits under government auditing standards and single audits under Uniform Guidance.

Andy stays current on issues affecting his clients by staying involved in several industry organizations. He participates on the special review committee for the Government Finance Officers Association. This committee reviews reports for acceptance into the Certificate of Achievement for Excellence in Financial Reporting program.

Education

- Bachelor of Science in Accounting, Gustavus Adolphus College
- Continuing professional education as required by AICPA

Professional Memberships

- American Institute of Certified Public Accountants (AICPA)
- Minnesota Society of Certified Public Accountants
- Minnesota Government Finance Officers Association
- Minnesota Association of School Business Officials
- Government Finance Officers Association

Qualifications

- 26 years of experience auditing local governments in Minnesota
- Over 95 percent of billable time relates to governmental clients
- Participates on the special review committee for the Government Finance Officers Association (GFOA). This committee reviews reports for acceptance into the Certificate of Achievement of Excellence in Financial Reporting program
- MN GFOA presenter on GASB Update and CAFR review
- Experienced in Municipal Government Long Term Financial Plans
- MNCPA City Report Review Committee

ABDO EICK & MEYERS LLP

AEM Financial Solutions™

Team Bios

Team Member | **Background & Expertise**

Justin Nilson, CPA

Audit Manager

justin.nilson@aemCPAs.com

Direct Line (952) 715.3011

Mr. Nilson joined the Firm in 2012 after graduating with an accounting degree from St. John's University. His work experience includes assisting in the audits of several municipal, school district and Single Audits.

Education

- Bachelor of Arts in Accounting, Saint John's University
- Continuing professional education as required by AICPA and Government Accountability Office

Professional Memberships

- American Institute of Certified Public Accountants (AICPA)
- Minnesota Society of Certified Public Accountants (MNCPA)
- Minnesota Government Finance Officers Association

Qualifications

- 8 years of experience auditing local government in Minnesota
- Over 90 percent of billable time relates to governmental clients
- Experienced in municipal government long-term financial plans
- Experienced in models for various municipal government specific areas such as utility rate, tax levy, and debt analysis

ABDO EICK & MEYERS LLP

AEM Financial Solutions™

Team Bios

Team Member | **Background & Expertise**

Tyler See, CPA

Senior Accountant

tyler.see@aemCPAs.com

Direct Line (952) 939.3230

Tyler joined the firm in 2017 as an Audit Intern after completing his Accounting degree from Minnesota State University, Mankato. He was a government audit intern in the 2017 tax season.

Education

- Bachelor of Science in Accounting, Minnesota State University, Mankato
  - ✓ Graduated Cum Laude
- Master of Accounting, Minnesota State University, Mankato
- Continuing professional education as required by AICPA

Professional Memberships

- Minnesota Society of Certified Public Accountants (MNCPA)

Qualifications

- Experience in auditing local governments and charter schools
- Works extensively with Microsoft Word and Excel and accounting software like Banyon and QuickBooks
- Over 90 percent of billable time relates to governmental clients

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Approach

Project Approach

The following information outlines the approach we will take for the project.

Initial Assessment

The first step to this project is to review and analyze data provided by the City. After this review, we will meet with the City team to discuss overall anticipated project and utility rate expectations, outcomes and timelines.

Rate Study Process

- Gather input from City Management
- Review and analyze current operational expenses
- Review and analyze current and potential future debt obligations
- Review and analyze future infrastructure improvements
- Develop projection of future operational and infrastructure costs
- Provide rate structure analysis to fund operations, debt and infrastructure needs
- Review and discuss outcomes with City Management and City Council

Approach (Continued)

City Expectations

The engagement to be performed is conducted on the basis that you acknowledge and understand that our role is to prepare the projection in accordance with guidelines for the presentation of a projection established by the AICPA. You have the following overall responsibilities that are fundamental to our undertaking the engagement to prepare your projection in accordance with SSARS:

- The selection of accounting principles to be applied in the preparation of the projection.
- The design, implementation, and maintenance of internal control relevant to the preparation and presentation of the projection that is free from material misstatement, whether due to fraud or error.
- The prevention and detection of fraud.
- To ensure that the City complies with the laws and regulations applicable to its activities.
- The accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement to prepare the projection. Devote uninterrupted time to working with us as needed
- Make candid representations about your plans and expectations
- Make all management decisions and perform all management functions
- Provide an individual responsible to review and accept our work
- To provide us with:
  - ✓ Documentation and other related information that is relevant to the preparation and presentation of the projection,
  - ✓ Additional information that may be requested for the purpose of the preparation of the projection, and
  - ✓ Unrestricted access to persons within the City with whom we determine it necessary to communicate.

The projection will not be accompanied by a report. However, you agree that the projection will clearly indicate that no assurance is provided on it.

Unanticipated Services

While the fixed price entitles the City to unlimited consultation with us, if your question or issue requires additional research and analysis beyond the consultation, the work will be subject to an additional price, payment terms, and scope to be agreed upon before the service is performed and a change order will be issued to document this understanding.

Furthermore the parties agree that if an unanticipated need arises (training to different groups, researching a new issue, etc.) we hereby agree to perform this additional work at a mutually agreed upon price. This service will be priced separately to the City, using a change order.

Approach (Continued)

City Financial Investment

Rate Study	$ 12,500

Payment Schedule
- ½ at contract execution
- ½ at project completion

AEMFS will begin preparing the utility-rate study for the City within six weeks of execution of the agreement. Completion of the utility-rate study is expected by January 31, 2021. This timeline is dependent on the time frame in which the City provides information to AEM and the timeline of executing the signed contract in Appendix A.

The stated fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

You agree to hold us harmless and to release, indemnify, and defend us from any liability or costs, including attorney's fees, resulting from management's knowing misrepresentations to us.

Quality Assurance

Quality is critical the success and integrity of this project. Our internal processes ensure that all work is reviewed and approved prior to moving to the next phase of a project. Our processes require that work is reviewed by a staff member at a higher level than the person that completed it and ultimately the work is signed off on by the AEMFS President.

Conclusion

Throughout this process we will be in constant communication with the City team to ensure their needs are being met. By utilizing our operational experience as well as our knowledge of governmental accounting, our 50 plus years of experience providing services to Minnesota municipalities and our knowledge of regulations in the State of Minnesota we will provide the City information and recommendations for financial processes. We are excited about this opportunity and the benefits the City will recognize as this Long-term plan and Rate Study is finalized.

What Our Clients Say

Client References

We have long-term relationships with many cities in Minnesota. Our clients listed below serve as a sample of references of those we have prepared a long-term or rate study plan for. Additional references are available upon request.

City of New Hope

Kirk McDonald 763.531.5112

Engagement partner – Jean McGann

City of Crystal

Anne Norris | 763.531.1140

Engagement partner – Jean McGann

City of St. Francis

Darcy Mulvihill | 763.753.2630

Engagement partner – Andy Berg

City of Albertville

Tina Lannes | 763.497.3384

Engagement partner – Andy Berg

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Appendix A

Agreement for the Provision of Professional Services

WHEREFORE, this Agreement was entered into on the date set forth below and the undersigned, by execution hereof, represent that they are authorized to enter into this Agreement on behalf of the respective parties and state that this Agreement has been read by them and that the undersigned understand and fully agree to each, all and every provision hereof, and hereby, acknowledge receipt of a copy hereof.

City of North Oaks
100 Village Center Drive, Suite 230
North Oaks, Minnesota 55127

Name _____

Title _____

Name _____

Title _____

Date _____

AEM Financial Solutions, LLC
5201 Eden Ave. Suite 250
Edina, Minnesota 55436

Name Jean D. McDann

Title President and Partner

Date September 25, 2020

ABDO EICK & MEYERS LLP
AEM Financial Solutions™

NORTH OAKS
COMPANY LLC

September 30, 2020

Mr. Kevin Kress
City Administrator
City of North Oaks
100 Village Center Drive, Suite 230
North Oaks, MN 55127

Re: Island Field - Site H

Dear Kevin,

North Oaks Company LLC is requesting the City Council adopt a resolution at its October 8, 2020 meeting clarifying 74 Units are permitted on the Island Field – Site H.

As the City's legal firm has stated, the City and North Oaks Company LLC are bound by the terms of the Master Development Plan and Planned Unit Development Agreement for East Oaks Project dated February 11, 1999 (the "Original PDA"), as amended by various amendments including, most recently, the Seventh Amendment to Planned Unit Development Agreement dated June 10, 2010 (the "Seventh Amendment" and together the Original PDA and the prior amendments thereto the "PDA") as follows:

The Original PDA and including the seven amendments provide in Table 1, which is a part of the Findings and Development Guidelines attached to the Seventh Amendment as Appendix 1 (hereinafter "Table 1") that the base number of Units planned for the Island Field Site (Site H) is 35 (See page 11 of 13 of Table 1 to Appendix 1 attached to the Seventh Amendment). As permitted by the third to last paragraph of Table 1 (the paragraph titled Number of Dwellings Permitted on page 12 of 13), "…density increases of up to 30% within each Development Site [subject to certain exceptions that are not applicable to Site H] are permitted among and between the Development Sites." Thirty percent (30%) of 35 Units is 10.5 Units which rounds up to 11 Units, as shown on Exhibit B 5.1. The North Oaks Company LLC elects to take advantage of this permitted

density shift by shifting 11 permitted Units from Development Site D to Development Site H which brings the total number of Units to 46.

Table one states that Site H is zoned RCM-PUD. (See page 11 of 13 if Appendix 1). The second to last paragraph of Table 1 (bottom of page 12 of 13 of Appendix 1) states that up to 21 Acres of the property subject to the PDA and zoned RCM-PUD are also eligible for commercial development. Of the 21 acres eligible for commercial development, the Seventh Amendment states that 15.27 acres have already been developed which leaves 5.73 acres of RCM-PUD zoned Development Sites eligible for commercial development. As set forth in subsection a of the last paragraph of Table 1 (the paragraph titled Conversion of Permitted Uses on page 13 of 13) if North Oaks Company LLC elects to forgo the development of this remaining 5.73 acres for commercial uses, "the number of permitted dwelling units within the Development Sites will be increased at the rate of 5 dwelling units for each full acre of commercial Development foregone." As shown on, Exhibit B 5.1 of the Seventh Amendment the conversion of 5.73 acres of Commercial Acres to dwelling units is 28, the product of 5.73 x 5 = 28.65, or 28 based on rounding down to a "whole acre". North Oaks Company LLC is making this election with respect to 5.73 acres of permitted commercial development on Site H which increases the number of permitted dwelling units on Site H by 28 Units to reach the total of 74 Units.

For the reasons stated above, North Oaks Company LLC and its legal counsel are of the opinion that the PDA as amended by the seven amendments provides support for the City Council to adopt a resolution to the affect that 74 dwelling units are allowable on Island Field under the terms of the PDA as amended and that no further amendment to the PDA is required at this time. Please let me know if you have any further questions or concerns on this matter.

Sincerely,
North Oaks Company LLC

Mark Houge
President

CC: Gary Eagles, North Oaks Company LLC

September Month in Review

Rehder Forestry Consulting

September 2020

- Working with NRC members to draft a tree preservation policy with guidance from the Woodland Subcommittee (WSC). Kroll Forestry denied involvement but have reached out to Applied Ecological Services and may be willing partners.
- Meet with North Oaks Company on site at Anderson Woods to assess working around individual trees during construction.
- Both Dutch Elm Disease and Oak Wilt inspections are near complete. Have identified 84 oak wilt sites and 12 DED sites. Next comes marking trees and notifying residents.
- Have identified 46 sites with trees of concern (not hazard) to address before they become hazards.
- Oriental Bittersweet Grant update- mowing and herbicide of large areas of Oriental Bittersweet has been completed on 6 sites. Spot spraying and re-seeding of site is next. Will be completed by end of year and all grant funds (over 10K) will be used to cost share with residents.
- County volunteer employee Sarah Zellmar is surveying the rest of the community for Japanese Knotwood and Oriental Bittersweet. She will hopefully be providing an update to NRC in October.
- Continue using a mask and practicing social distancing during homeowner calls. Completed 12 homeowners' visits to answer tree questions and educate on woodland stewardship.
- Attended NRC and WSC meetings
- Sent letters requesting vegetation around certain intersections be pruned back to remove site obstructions and provided input on Operation Clearview
- Helped facilitate removal of large tree that fell over West Pleasant Lake Rd. Tree had root rot which was not evident from side of road.
- Emerald Ash Borer Resident letter has been well received. Sent out 185 letters to homeowners and have consulted on 65. Providing valuable information to homeowners on how to manage for EAB on their property. Have only identified a few sites as positive for EAB but can sense the wave is coming as more trees die along Hwy. 96.
- Wrote article for North Oaks News on Bur Oak Blight, a problematic leaf disease that is significantly impacting some bur oak trees in North Oaks.
- Did some research on how to manage Geese and provided information to 2 residents to educate on what they can do on their own property.