



To: MAYOR AND COUNCIL

Agenda Item #: IV. J.

From: Brian E. Olson, PE, Director of Public Works *BEO*

Action

Discussion

Date: December 16, 2014

Information

Subject: Approve Easement Agreement, 4420 Grimes Avenue

Action Requested:

Authorize Mayor and City Manager to sign attached Temporary Construction Easement Agreement at 4420 Grimes Avenue

Information / Background:

During this past summer a retaining wall at 4420 Grimes Avenue began to fail. Since the construction of the original retaining wall was needed because of the installation of a sidewalk, the responsibility of the reconstruction is with the City. Since the wall is very close to the property line, the City and the property owner negotiated the attached no cost easement that identifies the roles and responsibilities of both parties.

Staff recommends City Council authorize the Mayor and City Manager to sign attached easement agreement which will allow us onto private property to reconstruct the retaining wall in question.

Attachment:

- Construction Easement agreement with the property owner of 4420 Grimes Avenue.

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**AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
FOR RETAINING WALL**

THIS AGREEMENT, dated December 5, 2014, by and between Ronald Michalak and Kerry Akman, husband and wife (“Owners”) and the City of Edina, a Minnesota municipal corporation (“City”).

Recitals

- A. Owners hold fee title to the property legally described in Exhibit A (“Property”).
- B. A retaining wall located both on the Property and on and along City’s right-of-way needs to be reconstructed.
- C. The City has agreed to reconstruct the retaining wall on the Property and Owners have agreed to provide a temporary construction easement for the work.

**NOW THEREFORE, IN CONSIDERATION OF THEIR MUTUAL
COVENANTS, THE PARTIES AGREE AS FOLLOWS:**

1. City Responsibilities.

- A. **Retaining Wall Construction.** City will construct and pay all costs associated with the retaining wall consistent with the City approved plans and specification (“Plans”).
- B. **Landscaping.** After completing construction, City will regrade Property after backfilling behind the new wall, ensuring a consistent slope from the existing lawn to the new retaining wall. City also agrees to install sod, bushes and shrubs, to return Property landscaping to a condition similar to that prior to construction.
- C. **No Warranties.** The City makes no warranties, expressed or implied, to the Owners concerning the Plans or the reconstructed Wall.

2. Owner’s Responsibilities.

- A. **Temporary Construction Easement.** Owners hereby consent and grant unto the City, its agents, successors and assigns, a temporary construction easement over, across, on, under and through the land situated in the County of Hennepin State of Minnesota, as legally

The foregoing instrument was acknowledged before me this 5th day of December
20 14, by Ronald Michalak + Kerry Arkman, husband and wife.

Notary Public

CITY OF EDINA

BY: _____
James Hovland, Mayor

AND: _____
Scott Neal, City Manager

STATE OF MINNESOTA)
(ss.

COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____,
20 ____, by James Hovland and Scott Neal, respectively the Mayor and City Manager of the City
of Edina, a Minnesota municipal corporation, on its behalf.

Notary Public

EXHIBIT A

Legal description of the Property: Lot 15 Auditors Subdivision Number 161

EXHIBIT B

A temporary easement for construction purposes lying over, under and across the south 8 feet of Lot 15 Auditors Subdivision Number 161.