

TEMPORARY RIGHT-OF-ENTRY AGREEMENT

Long Lake Interceptor Rehabilitation Project MCES Project No. 808862

This Right-of-Entry Agreement (“**Agreement**”) is made and entered into by and between the County of Ramsey, a political subdivision of the State of Minnesota (“**County**”), and the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota (“**Council**”) (each singularly “**Party**” and jointly “**Parties**”).

WHEREAS, the County owns real property located at Long Lake Regional Park in New Brighton, MN (“**Park**”), and

WHEREAS, the Council has a need to undertake a public improvement project, Long Lake Interceptor Rehabilitation, in the Park for the purposes of maintaining existing infrastructure and protecting public health and the environment (“**Project**”), and

WHEREAS, the Council intends to contract for the Project through a public bidding process, with construction work commencing October 1, 2021 and

WHEREAS, for purposes of conducting the Project, the County is willing to grant the Council and its contractors access for construction to the work area defined in Exhibit A (“**Work Area**”) within the Park under the terms of this Agreement, and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements stated below, the Parties agree as follows:

1. The County grants permission to the Council and its contractors to access the Work Area for construction purposes subject to the terms stated in this Agreement. No construction staging or work may occur at any other location within the Park without prior written permission from the County.
2. The term of the construction access shall be from October 1, 2021 through June 30, 2022 (“**Access Period**”), unless extended by written agreement signed by the Parties’ authorized representatives. During the Access Period, the Council and contractors shall have the right to enter the Work Area for purposes of the Project.
3. All Project work, including restoration of damaged areas due to construction activities, shall be completed within the Access Period, with the exception of warranty work (landscape plantings maintenance and potential parking lot pavement restoration) pursuant to paragraph 7.
4. The Project includes the installation and operation of temporary conveyance systems (pumps and piping), followed by rehabilitation of manhole structures and interceptor sewers, and site restoration. Access to the Council manhole locations in the Park will require use of the trails and may require the construction of temporary access roads as

defined by the Project drawings in the attached and incorporated **Exhibit B**. Final plans and specifications for the construction of temporary access roads will be provided to the County for review and comment prior to bidding the Project.

5. The Council will require its contractors to protect County property within the Park inside and outside of the Work Area. Restoration activities will restore any damage to turf, landscape, trees, or constructed features in the Park caused by the construction of the Project. Constructed features could include, but are not limited to, trails, bituminous and concrete pavement, parking lot infrastructure, curb and gutter, hardscape elements, restroom building, signs, fencing, pedestrian bridges, and retaining walls. Restoration will include timely removal of all construction materials, debris, and temporary road materials, matching the original surface grade as far as practicable, repair or replacement of any constructed features, and restoration of the surface to like condition.
6. The Council will provide a restoration plan to the County for review and comment prior to bidding the Project, which will include plans for replacement or repair of trails or other constructed features that will be impacted by construction and requirements for landscape establishment and maintenance.
7. The Council or its contractors will, from completion date of the Access Period provide a one-year warranty period after the Access Period. The warranty period shall cover any defects from work and material for replacement of completed restoration activities, constructed features, pavement and turf/plantings for one-year after completion of the Access Period. The warranty period will automatically extend equal to any extension to the Access Period. The parking lot will be inspected by MCES and the County in spring 2022 to determine if additional restoration is required. In addition to the warranty period, the contractor shall be responsible for maintaining (weed control & mowing) and watering during installation and for at least 60-day establishment period after installation. The volume of water shall be per plant requirements for establishment and normal growth. Contractor shall provide written request for acceptance inspection after 60-day establishment period. The establishment period shall automatically extend to the next growing season if installation is outside the recommended growing period for species or seed mixes being used. The County will provide the Council and its contractors with access to the restoration areas via a route to be approved by the County during the establishment and warranty periods. The Council or its contractors will schedule access times with the County for all maintenance items to be completed.
8. The County will not be held responsible for any maintenance or damage caused to equipment left in the Work Area unless damage was caused by the County.
9. Trail closures and limits to park access including the restroom building, as necessary for public safety, are depicted in **Exhibit C**. The restroom building will be closed for the duration of the construction. The Contractor will provide 2 porta potties (1 standard and 1 ADA compliant) for public use for the duration of the project. Additional closures to trails or park access require prior approval by the County.

10. The Council or its contractors will notify the County at least 1 week prior to start of construction, and 1 week prior to any trail closures or limits to park access, to allow for advance public notification of trail closures and park access restrictions. The contractor will be responsible for all necessary traffic control devices for construction and trail closures. The contractor will be responsible for installing and removing all traffic control devices.
11. The Council or its contractors will be responsible for all necessary permitting for Project work, including all necessary traffic control. Detours for trail closures will be approved by the County. Access to the boat launch and parking areas outside of the construction limits shall be maintained at all times.
12. The Council shall provide a certificate of insurance, or letter of self-insurance, prior to start of the Project indicating insurance coverage equal to or exceeding the following:

<i>Commercial General Liability</i>	<i>Limit: No less than provided in Minn. Stat. Ch. 466</i>
<i>Auto (owned, hired, and non-owned)</i>	<i>Limit: No less than provided in Minn. Stat. Ch. 466</i>
<i>Workers' Compensation/Employer's Liability</i>	<i>Limit: \$500,000/\$500,000/\$500,000</i>
<i>Professional Liability</i>	<i>Limit: No less than provided in Minn. Stat. Ch. 466</i>

13. The Council will provide the County evidence of the general contractor's insurance in type and amount as specified in the General Conditions for the Project, naming the County as additional insured under the commercial general liability policy as required below. Such evidence will be supplied after the contractor has been selected and the contract for the Project awarded.
14. Each Party agrees that it will be responsible for its own acts and omissions and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts or omissions of the other Party and the results thereof. Each Party's liability is governed by the provisions of Minnesota Statutes Chapter 466 and other federal and state law. This Agreement shall not be construed to negate, abridge, or waive, with respect to either Party, the liability limits or immunities of Minnesota Statutes Chapter 466.
15. Neither the County nor the Council waives any immunities, or defenses on liability to the Parties at law or in equity, and the Parties expressly agree that the terms of this Agreement shall not be construed to affect any such waiver.
16. This Agreement is governed, construed, and enforced under the laws of the State of Minnesota without regard to conflicts of law provisions.
17. This Agreement is binding upon and inures to the benefit of the Parties and their respective heirs, successors and assigns, but no third Party may seek to enforce, nor shall benefit from, this Agreement.
18. The provisions of this Agreement are to be considered as severable, and in the event that any provision is held to be invalid or unenforceable, the Parties intend that the remaining provisions will remain in full force and effect.

19. This Agreement may not be assigned by either Party without the other Party's express written consent, such consent not to be unreasonably withheld.
20. The terms of this Agreement may be changed only by mutual agreement of the Parties. Such changes shall be effective only upon the execution of written amendments signed by authorized representatives of the Parties to this Agreement.
21. Failure by a Party to enforce or exercise any right in this Agreement will not be construed as a present or future waiver of such right.
22. It is understood and agreed that the entire Agreement between the Parties is contained in this Agreement and that this Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.
23. Any notice or exchange of information which must be provided by a Party under this Agreement shall be sent to:

Ramsey County:

Name: Scott Yonke
Address: 2015 Van Dyke Street, Maplewood, MN 55109
Email: scott.yonke@ramseycounty.us
Phone: (651) 266-0370

Metropolitan Council – Environmental Services Division:

Name: Jeannine Clancy
Assistant General Manager, Wastewater Planning and Capital Project
Delivery
Address: 390 Robert Street N., St. Paul, MN 55101
Email: Jeannine.clancy@metc.state.mn.us
Phone: (651) 602-1210

24. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document.
25. This Agreement is effective on the date the Agreement is fully executed.

Signature Page for Ramsey County

COUNTY OF RAMSEY

Dated: _____

By: _____
Toni Carter
Its Chair

Dated: _____


By: _____
Mee Cheng
Its Chief Clerk

Approval Recommended by:



Park and Recreation Director

Approved as to form and insurance:



Assistant County Attorney

Signature Page for Metropolitan Council

METROPOLITAN COUNCIL

Dated: Aug 11, 2021

By: *Jeannine Clancy*
Jeannine Clancy (Aug 11, 2021 09:11 CDT)
Jeannine Clancy
Assistant General Manager, Wastewater
Planning and Capital Project Delivery

TEMPORARY RIGHT-OF-ENTRY AGREEMENT

**Long Lake Interceptor Rehabilitation Project
MCES Project No. 808862**

EXHIBIT LIST

Exhibit A – Project Work Area Map

Exhibit B – Project Drawings

Exhibit C – Planned Trail Closures