



**CITY OF NEWPORT  
REGULAR COUNCIL MEETING  
NEWPORT CITY HALL  
MARCH 1, 2012 – 5:30 P.M.**

MAYOR:	Tim Geraghty	City Administrator:	Brian Anderson
COUNCIL:	Tom Ingemann	Supt. of Public Works:	Bruce Hanson
	Bill Sumner	Chief of Police:	Curt Montgomery
	Tracy Rahm	Fire Chief:	Mark Mailand
	Steven Gallagher	Executive Analyst:	Renee Helm

**AGENDA**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ADOPT AGENDA
5. ADOPT CONSENT AGENDA – All items listed under this section are considered routine and non-controversial by the Council and will be approved by a single motion. An item may be removed from the consent agenda and discussed if a Council member, staff member, or citizen so requests.
  - A. Minutes of the February 16, 2012 Regular City Council Meeting
  - B. List of Bills in the Amount of \$210,918.24
6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE
7. MAYOR’S REPORT
8. COUNCIL REPORTS
9. ADMINISTRATOR’S REPORT
  - A. Katie Sieben, State Senator
  - B. South Washington Watershed District Update
  - C. Red Rock Gateway Area Update
  - D. Resolution No. 2012-4 – Establishing the 2012 Salaries for the Full-Time, Non-Union Positions
  - E. Resolution No. 2012-5 – Establishing an Hourly Rate for the Volunteer Firefighter Positions
10. ATTORNEY’S REPORT

Agenda for 03-01-2012

11. POLICE CHIEF'S REPORT

A. January 2012 Activity Report

12. FIRE CHIEF'S REPORT

13. ENGINEER'S REPORT

A. North Ravine Area Drainage Improvements

1. Resolution No. 2012-6 – Declaring Cost to be Assessed, and Ordering Preparation of the Proposed Assessment
  - i. Proposed Assessment Roll
2. Resolution No. 2012-7 – Ordering the Hearing on the Proposed Assessment
3. Resolution No. 2012-8 – Executing and Entering into an Encroachment Agreement with Magellan Pipeline Company, L.P. for Construction of the North Ravine Drainage Improvement Project
  - i. Encroachment Agreement

14. SUPERINTENDENT OF PUBLIC WORKS REPORT

15. NEW / OLD BUSINESS

16. ADJOURNMENT

Upcoming Meetings and Events:

- |                                |                |           |
|--------------------------------|----------------|-----------|
| 1. Planning Commission Meeting | March 8, 2012  | 7:00 p.m. |
| 2. City Council Meeting        | March 15, 2012 | 5:30 p.m. |
| 3. City Council Meeting        | April 5, 2012  | 5:30 p.m. |
| 4. Planning Commission Meeting | April 12, 2012 | 7:00 p.m. |



**City of Newport  
City Council Minutes  
February 16, 2012**

**1. CALL TO ORDER**

Mayor Tim Geraghty called the meeting to order at 5:30 P.M.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL -**

**Council Present** – Tim Geraghty, Tom Ingemann, Bill Sumner, Tracy Rahm, Steven Gallagher

**Council Absent** –

**Staff Present** – Brian Anderson, City Administrator; Bruce Hanson, Supt. of Public Works; Curt Montgomery, Police Chief; Mark Mailand, Fire Chief; Renee Helm, Executive Analyst; Fritz Knaak, City Attorney

**Staff Absent** – John Stewart, City Engineer

**4. ADOPT AGENDA**

**Motion by Ingemann, seconded by Rahm, to adopt the Agenda as presented. With 5 Ayes, 0 Nays, the motion carried.**

**5. ADOPT CONSENT AGENDA**

**Motion by Sumner, seconded by Ingemann, to approve the Consent Agenda as presented, which includes the following items:**

- A. Minutes of the February 2, 2012 Regular City Council Meeting
- B. List of Bills in the Amount of \$86,646.44

**With 5 Ayes, 0 Nays, the motion carried.**

**6. VISITORS PRESENTATIONS/PETITIONS/CORRESPONDENCE**

**Kenny Partch, 830 Ford Road** – Mr. Partch was present to propose a project. Mr. Partch is a Life Scout and is trying to gain Eagle Rank. In order to do this, Mr. Partch needs to complete an Eagle Project. Mr. Partch is proposing to clean up the property at the end of Park Place near the river and creating an overlook. Mr. Partch would like to install a mulch path, sign, and several birdhouses. Mr. Partch is requesting the City Council's approval.

**Mayor Geraghty** – It sounds like a great project.

**Councilman Rahm** – Are there any safety hazards that the City needs to address before Mr. Partch cleans this up? I would like someone to look at it beforehand.

**Admin. Anderson** – I would suggest that Mr. Partch work with the Public Works Superintendent.

**Councilman Sumner** – Will the troop support the walkway?

**Mr. Partch** – Yes, the troop will support the walkway and will try to get donations so that it is little to no

cost for the City.

**Councilman Sumner** – Will you expect any reimbursement from the City?

**Mr. Partch** – No.

**Motion by Gallagher, seconded by Ingemann, to approve Mr. Partch's proposal to create a Park Place overlook. With 5 Ayes, 0 Nays, the motion carried.**

**John Miller, 1310 5<sup>th</sup> Avenue** – Mr. Miller also needs to do an Eagle Scout project and would like approval from the City Council to conduct a summer camp-out in Loveland Park.

**Mayor Geraghty** – It's another good project and was vetted from the Park Board.

**Councilman Rahm** – Is it an overnight trip?

**Mr. Miller** – Yes, it will be run entirely by the troop and the group Newport on the Move. They would like to continue it once I am done this year.

**Councilman Rahm** – There will be adult chaperones?

**Mr. Miller** – Yes.

**Mayor Geraghty** – Please work with the City if you need any help from the City.

**Councilman Sumner** – Will there be a cost for people to camp?

**Mr. Miller** – No, everything will be funded by the troop.

**Motion by Geraghty, seconded by Ingemann, to approve Mr. Miller's proposal to conduct an overnight camp-out in Loveland Park. With 5 Ayes, 0 Nays, the motion carried.**

**Tom Marcus, 303 21<sup>st</sup> Street** – Mr. Marcus recently opened Everyday Disc Golf at 303 21<sup>st</sup> Street and wanted to introduce himself to the City Council. Mr. Marcus would like to work with the City to install disc golf equipment in Newport parks and hosting events in the future.

**7. MAYOR'S REPORT** – No Report

## **8. COUNCIL REPORTS**

**Councilman Gallagher** – I wanted to let everyone know that I was reappointed to Met Council TAB for two more years. One major vote that was just taken was to install 72 electric vehicle charging stations within the metro area.

**Councilman Sumner** – I wanted to remind people that Stone Soup Super Bowl is coming up on May 5<sup>th</sup>. I attended the Northern Tier Energy Advisory Panel meeting last week and we met at the Super America Bakery and that is a very active, rapidly expanding operation. We're lucky to have those types of businesses close by.

**Councilman Ingemann** – There was a Planning Commission meeting last Thursday and we went through quite a bit of information for the MX-3 Transit Oriented District. It'll probably be a couple months before it's brought before the Council and all done but it's very intense.

**Councilman Rahm** – I met with Brian to discuss the 2030 Comprehensive Plan and I'll let him talk about that.

## **9. ADMINISTRATOR'S REPORT**

**Admin. Anderson** – A couple items before I jump in. Regarding what Councilman Gallagher said, maybe the City would like to plan for electric vehicle charging stations or encourage sustainable growth and use that as a marketing strategy for the Red Rock Gateway Area. We met this morning with Stantec who has been hired by the County to design the transit station. We hope to have a public hearing on May 10 for the ordinance for MX-3 at the Planning Commission and it will be brought before the City Council on June 7. I would like to welcome Advanced Sportswear to the community. There are 25 employees that work at the Newport location. The Surelock Motel's name has also been changed to the Red Rock Lodge and is under new management.

**Councilman Rahm** – When a new business comes into town, do we send a welcome letter?

**Admin. Anderson** – No, I usually go into the business and welcome them myself.

**Councilman Rahm** – I think it would be nice to send a letter.

### **A. Discuss the 2030 Comprehensive Plan**

Admin. Anderson presented on this item as outlined in the February 16, 2011 City Council packet. The City is required to review the Comprehensive Plan every two years or when requested by the City Council. Due to the number of redevelopment projects currently being pursued, along with several infrastructure improvements underway, it is recommended that the City Council host three community meetings to review the current Comprehensive Plan and Vision.

**Councilman Ingemann** – Would we be able to shrink it down to a brochure?

**Admin. Anderson** – I think it would be a couple pages with the policy statements.

**Councilman Rahm** – I was thinking more of a powerpoint presentation that we could put on the website but a brochure would be nice too. I think it helps to make it into a format that is easy to read and we can communicate better.

**Councilman Gallagher** – And this is something you want to continue to work on Tracy?

**Councilman Rahm** – Yes

**Admin. Anderson** – And if you have any input you can email it to me. It's going to be a work in progress, there is no hard-fast way of doing this. We want to invite input from the residents.

**Councilman Gallagher** – Do you need a motion from us?

**Admin. Anderson** – I would like a consensus.

**Councilman Gallagher** – Will the public meetings be separate from the Council meetings?

**Admin. Anderson** – Yes.

**Councilman Sumner** – Is this going to differ significantly from the 2012 Strategic Plan?

**Councilman Rahm** – I think there are a lot of things in there that are usable. We will look to make sure our visions are the same. This will line up our strategies with our actions and goals.

**Mayor Geraghty** – Go ahead.

## **10. ATTORNEY'S REPORT**

**Attorney Knaak** – You have before you the hearing officer's report from January.

## **11. POLICE CHIEF'S REPORT**

### **A. 2011 Year-End Summary**

Chief Montgomery presented on this item as outlined in the February 16, 2012 City Council packet.

**Mayor Geraghty** – Are our trends different from other communities or is everyone noticing this trend?

**Chief Montgomery** – The trends are similar across other communities.

**Admin. Anderson** – Are there troubled areas or sites where one person might generate several calls?

**Chief Montgomery** – Yes, it usually occurs in apartments.

**Councilman Rahm** – How far does data go back?

**Chief Montgomery** – Two years.

**Admin. Anderson** – The Police Department is very busy. We're down a police officer and adding a CSO. I'm also working with Councilman Rahm on a "Green-Up, Clean-Up" campaign for ordinance violations.

**Councilman Gallagher** – Are Part I/Part II crimes higher or lower than past years?

**Chief Montgomery** – Part II crimes are up if you want to look at misdemeanor activities. It's not up a large amount.

**Councilman Gallagher** – That could be one person getting arrested for more than one misdemeanor at a time too.

**Chief Montgomery** – Correct. I would have no problem living here.

**Mayor Geraghty** – Is everyone consistent with how they report?

**Chief Montgomery** – Part I and Part II are consistent.

**Mayor Geraghty** – How much of the information from our report is used for the State's annual report?

**Chief Montgomery** – Part I and Part II crimes.

**Councilman Rahm** – I would like to see how many crimes per capita are in Newport.

**Councilman Gallagher** – I think that's a fair point.

**Councilman Sumner** – I see that the number of medical calls increased.

**Chief Montgomery** – I think that's due to the accidents and population.

**12. FIRE CHIEF'S REPORT** – No Report

**13. ENGINEER'S REPORT** – No Report

**14. SUPERINTENDENT OF PUBLIC WORKS REPORT** – No Report

**15. NEW/OLD BUSINESS**

None

**16. ADJOURNMENT**

**Motion by Ingemann, seconded by Sumner, to adjourn the regular Council Meeting at 6:07 P.M.  
With 5 Ayes, 0 Nays, the motion carried.**

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

Respectfully Submitted,

Renee Helm  
Executive Analyst

## NEWPORT, MN

02/23/12

## \*Check Summary Register©

February 2012

Name	Check Date	Check Amt	
<b>10100 Central Bank</b>			
Paid Chk# 000010E DELTA DENTAL OF MN	2/2/2012	\$1,133.95	dental insurance
Paid Chk# 000011E MSRS	2/8/2012	\$415.66	hcsp
Paid Chk# 000012E MN REVENUE	2/9/2012	\$2,036.48	state income tax
Paid Chk# 000013E FEDERAL TAXES	2/9/2012	\$8,933.58	federal taxes
Paid Chk# 000014E FEDERAL TAXES	2/22/2012	\$8,392.50	federal taxes
Paid Chk# 000015E MN REVENUE	2/22/2012	\$1,953.78	state withholding
Paid Chk# 000016E ING LIFE INSURANCE & ANNUIT	2/22/2012	\$415.66	msrs
Paid Chk# 013226 ATOMIC-COLO, LLC	2/2/2012	\$2,369.90	computer support
Paid Chk# 013227 BDM Consulting Engineers	2/2/2012	\$14,764.50	engineering/planning
Paid Chk# 013228 CATCO PARTS AND SERVICE	2/2/2012	\$55.11	dump truck axle seals
Paid Chk# 013229 COMCAST	2/2/2012	\$130.66	cable, internet
Paid Chk# 013230 COTTAGE GROVE, CITY OF	2/2/2012	\$1,215.94	building inspection
Paid Chk# 013231 FAIR OFFICE WORLD	2/2/2012	\$437.19	office supplies
Paid Chk# 013232 GENERATOR SPECIALTY CO. IN	2/2/2012	\$90.84	truck repairs
Paid Chk# 013233 GERLACH OUTDOOR POWER E	2/2/2012	\$126.57	mower repair
Paid Chk# 013234 GOPHER STATE ONE-CALL	2/2/2012	\$100.00	annual fee
Paid Chk# 013235 GRAINGER PARTS	2/2/2012	\$41.65	library lock/keys
Paid Chk# 013236 HAWKINS	2/2/2012	\$15.00	well house chemicals
Paid Chk# 013237 HIGHLAND SANITATION	2/2/2012	\$182.77	recycling/trash
Paid Chk# 013238 HSBC BUSINESS SOLUTIONS	2/2/2012	\$252.77	15th st light
Paid Chk# 013239 Knaak & Assoc. PA	2/2/2012	\$5,200.00	legal
Paid Chk# 013240 LIBERTY NAPA OF NEWPORT	2/2/2012	\$265.50	fd truck supplies
Paid Chk# 013241 MICHAEL LAUGHTON	2/2/2012	\$43.23	valentine/office supplies
Paid Chk# 013242 MINNESOTA AWWA	2/2/2012	\$732.00	water school
Paid Chk# 013243 MN NCPERS LIFE INSURANCE	2/2/2012	\$112.00	life insurance
Paid Chk# 013244 SEAN MCARDELL	2/2/2012	\$26.62	office supplies
Paid Chk# 013245 SHAFER SIGNS & ADVERTISING	2/2/2012	\$180.00	library sign
Paid Chk# 013246 SMOKE-EATER PUBLICATIONS	2/2/2012	\$175.00	magazines - fire dept.
Paid Chk# 013247 SW/WC SERVICES COOPERATI	2/2/2012	\$14,526.00	health insurance
Paid Chk# 013248 VERIZON	2/2/2012	\$362.11	cell phones
Paid Chk# 013249 WASHINGTON CTY CHIEF OF P	2/2/2012	\$50.00	dues - Montgomery
Paid Chk# 013250 WASHINGTON CTY ELECTIONS	2/2/2012	\$940.00	election machinge maint.
Paid Chk# 013251 XCEL ENERGY	2/2/2012	\$7.64	electricity
Paid Chk# 013252 Castillo, David P.	2/9/2012	\$224.41	
Paid Chk# 013253 Domeier, Brian	2/9/2012	\$1,478.13	
Paid Chk# 013254 Gallagher, Steven	2/9/2012	\$298.78	
Paid Chk# 013255 Ingemann, Thomas	2/9/2012	\$293.88	
Paid Chk# 013256 Laughton, Michael E.	2/9/2012	\$368.02	
Paid Chk# 013257 Peterson, Carol A.	2/9/2012	\$293.14	
Paid Chk# 013258 Schute, James	2/9/2012	\$222.85	
Paid Chk# 013259 Sumner, William	2/9/2012	\$262.86	
Paid Chk# 013260 ANCOM TECHNICAL CENTER	2/9/2012	\$262.35	civil defense siren
Paid Chk# 013261 ATOMIC-COLO, LLC	2/9/2012	\$760.69	computer support
Paid Chk# 013262 CENTURY LINK	2/9/2012	\$376.13	phone
Paid Chk# 013263 CINTAS -754	2/9/2012	\$294.14	uniforms
Paid Chk# 013264 COMCAST	2/9/2012	\$361.15	cable, internet

## NEWPORT, MN

02/23/12

## \*Check Summary Register©

February 2012

	Name	Check Date	Check Amt	
Paid Chk# 013265	FERRELLGAS	2/9/2012	\$272.06	propane lov. Park
Paid Chk# 013266	FLEET ONE LLC	2/9/2012	\$1,457.75	fuel
Paid Chk# 013267	ING LIFE INSURANCE & ANNUIT	2/9/2012	\$1,024.62	employee cont.
Paid Chk# 013268	INTERNATIONAL UNION OF OP.	2/9/2012	\$160.00	union dues
Paid Chk# 013269	Metropolitan Council	2/9/2012	\$15,613.70	wastewater treatment
Paid Chk# 013270	MINNESOTA DNR-OMB	2/9/2012	\$539.95	water use report
Paid Chk# 013271	ON SITE SANITATION	2/9/2012	\$80.16	unit rent
Paid Chk# 013272	PERA	2/9/2012	\$8,037.88	
Paid Chk# 013273	RIVERTOWN NEWSPAPER GRO	2/9/2012	\$372.99	printing - legals
Paid Chk# 013274	SELECTACCOUNT	2/9/2012	\$581.00	employee cont.
Paid Chk# 013275	WASHINGTON CNTY TAX SERVI	2/9/2012	\$35.00	tax levy report
Paid Chk# 013276	WATER CONSERVATION SERVI	2/9/2012	\$573.55	water break locate
Paid Chk# 013277	XCEL ENERGY	2/9/2012	\$920.65	electricity
Paid Chk# 013278	ARAMARK REFRESHMENT SER	2/14/2012	\$218.99	coffe, tea
Paid Chk# 013279	EDS TROPHIES INC	2/14/2012	\$41.14	nameplates, signs
Paid Chk# 013280	ENVENTIS TELECOM	2/14/2012	\$3.54	long distance
Paid Chk# 013281	JOHN BARTL HARDWARE	2/14/2012	\$517.66	op supplies
Paid Chk# 013282	LEAGUE OF MINNESOTA CITIES	2/14/2012	\$190.00	conference brian, tim
Paid Chk# 013283	MES - MIDAM	2/14/2012	\$993.54	facemasks
Paid Chk# 013284	NEWPORT POST OFFICE	2/14/2012	\$285.65	newsletter postage
Paid Chk# 013285	OXYGEN SERVICE CO.	2/14/2012	\$35.84	welding supplies
Paid Chk# 013286	PIPE SEVICES CORPORATION	2/14/2012	\$9,856.56	2011 jetting
Paid Chk# 013287	RUMPCA COMPANIES INC.	2/14/2012	\$630.00	main break - Cedar In
Paid Chk# 013288	UNIFORMS UNLIMITED, INC.	2/14/2012	\$21.99	uniforms
Paid Chk# 013289	VERIZON	2/14/2012	\$78.19	wireless
Paid Chk# 013290	XCEL ENERGY	2/14/2012	\$7,647.63	energy
Paid Chk# 013291	Cardmember Services	2/15/2012	\$3,045.89	credit card purchases
Paid Chk# 013292	INTERSOURCE, INC	2/15/2012	\$1,837.41	city hall-entrance flooring
Paid Chk# 013293	LEAGUE OF MN CITIES INS TRU	2/15/2012	\$500.00	sewer back-up deductable
Paid Chk# 013294	MN REVENUE	2/15/2012	\$219.90	3-10 - 3-11 tax delinquency
Paid Chk# 013295	RENEE HELM	2/15/2012	\$130.98	milage - legacy workshop
Paid Chk# 013296	SAMS CLUB/GECRB	2/15/2012	\$235.43	library supplies
Paid Chk# 013297	SO ST PAUL PARK ANIMAL HOS	2/15/2012	\$157.86	animal impound
Paid Chk# 013298	Castillo, David P.	2/23/2012	\$188.70	
Paid Chk# 013299	Domeier, Brian	2/23/2012	\$1,478.13	
Paid Chk# 013300	Laughton, Michael E.	2/23/2012	\$368.02	
Paid Chk# 013301	Petersen, Carol A.	2/23/2012	\$178.59	
Paid Chk# 013302	Schute, James	2/23/2012	\$213.95	
Paid Chk# 013303	ADVANCED GRAPHIX INC.	2/23/2012	\$64.13	decal
Paid Chk# 013304	CITY OF MINNEAPOLIS	2/23/2012	\$204.00	pawn sytem
Paid Chk# 013305	COTTAGE GROVE AREA CHAMB	2/23/2012	\$550.00	annual dues
Paid Chk# 013306	FIRST IMPRESSION GROUP	2/23/2012	\$1,403.34	spring newsletter
Paid Chk# 013307	H2C	2/23/2012	\$117.00	fire hall furnace repair
Paid Chk# 013308	INSTRUMENTAL RESEARCH, IN	2/23/2012	\$36.00	water testing
Paid Chk# 013309	INTERNATIONAL UNION OF OP.	2/23/2012	\$160.00	union dues
Paid Chk# 013310	LAW ENFORCEMENT LABOR SE	2/23/2012	\$252.00	union dues police
Paid Chk# 013311	LEAF	2/23/2012	\$619.83	copier contract
Paid Chk# 013312	MARK MAILAND	2/23/2012	\$1,253.00	building inspection

## NEWPORT, MN

02/23/12

## \*Check Summary Register©

February 2012

Name	Check Date	Check Amt	
Paid Chk# 013313 MINNESOTA BENEFIT ASSOC.	2/23/2012	\$61.43	Neska
Paid Chk# 013314 MINNESOTA DEPARTMENT OF H	2/23/2012	\$1,508.00	1st qtr connection fee
Paid Chk# 013315 MNFIAM	2/23/2012	\$502.31	education books
Paid Chk# 013316 NEWPORT FIRE RELIEF ASSOC.	2/23/2012	\$3,318.00	2011 revised contribution
Paid Chk# 013317 PERA	2/23/2012	\$7,959.33	
Paid Chk# 013318 SELECTACCOUNT	2/23/2012	\$581.00	employee contribution
Paid Chk# 013319 SELECTACCOUNT	2/23/2012	\$69.54	administration fee
Paid Chk# 013320 ST. PAUL PARK REFINING CO. L	2/23/2012	\$2,375.40	fuel - police dept.
Paid Chk# 013321 STANDARD INSURANCE CO.	2/23/2012	\$461.51	march premium
Paid Chk# 013322 XCEL ENERGY	2/23/2012	\$1,499.25	electricity
Paid Chk# 500018E Anderson, Brian	2/9/2012	\$2,697.72	
Paid Chk# 500019E Brodin, Jeremy	2/9/2012	\$1,600.58	
Paid Chk# 500020E Domeier, Brian	2/9/2012	\$190.00	
Paid Chk# 500021E Frazer, Michael	2/9/2012	\$1,799.69	
Paid Chk# 500022E Freemyer, Scott	2/9/2012	\$1,911.33	
Paid Chk# 500023E Geraghty, Tim	2/9/2012	\$323.88	
Paid Chk# 500024E Hanson, Bruce	2/9/2012	\$2,202.84	
Paid Chk# 500025E Helm, Renee	2/9/2012	\$1,308.81	
Paid Chk# 500026E Hill, Debora	2/9/2012	\$1,143.02	
Paid Chk# 500027E Joa, Jason	2/9/2012	\$1,753.55	
Paid Chk# 500028E Johnson, Charles	2/9/2012	\$1,823.52	
Paid Chk# 500029E Luedke, Jeffrey	2/9/2012	\$1,566.49	
Paid Chk# 500030E Martin, Tyler	2/9/2012	\$1,839.75	
Paid Chk# 500031E McArdell, Sean	2/9/2012	\$1,709.52	
Paid Chk# 500032E Montgomery, Curtis	2/9/2012	\$1,722.09	
Paid Chk# 500033E Muellner, Joel	2/9/2012	\$1,747.57	
Paid Chk# 500034E Neska, John	2/9/2012	\$1,842.17	
Paid Chk# 500035E Rahm, Tracy	2/9/2012	\$298.78	
Paid Chk# 500036E Swearingen, Dean	2/9/2012	\$1,757.91	
Paid Chk# 500037E Zeches, Shilo M.	2/9/2012	\$471.75	
Paid Chk# 500038E Anderson, Brian	2/23/2012	\$2,697.72	
Paid Chk# 500039E Brodin, Jeremy	2/23/2012	\$2,104.21	
Paid Chk# 500040E Domeier, Brian	2/23/2012	\$190.00	
Paid Chk# 500041E Frazer, Michael	2/23/2012	\$1,462.18	
Paid Chk# 500042E Freemyer, Scott	2/23/2012	\$1,825.47	
Paid Chk# 500043E Hanson, Bruce	2/23/2012	\$2,202.84	
Paid Chk# 500044E Helm, Renee	2/23/2012	\$1,308.81	
Paid Chk# 500045E Hill, Debora	2/23/2012	\$1,143.02	
Paid Chk# 500046E Joa, Jason	2/23/2012	\$1,428.43	
Paid Chk# 500047E Johnson, Charles	2/23/2012	\$1,589.85	
Paid Chk# 500048E Luedke, Jeffrey	2/23/2012	\$1,735.86	
Paid Chk# 500049E Martin, Tyler	2/23/2012	\$1,869.57	
Paid Chk# 500050E McArdell, Sean	2/23/2012	\$1,709.52	
Paid Chk# 500051E Montgomery, Curtis	2/23/2012	\$1,722.09	
Paid Chk# 500052E Muellner, Joel	2/23/2012	\$1,747.57	
Paid Chk# 500053E Neska, John	2/23/2012	\$1,842.17	
Paid Chk# 500054E Swearingen, Dean	2/23/2012	\$1,414.37	
Paid Chk# 500055E Zeches, Shilo M.	2/23/2012	\$292.48	

NEWPORT, MN

02/23/12

**\*Check Summary Register©**

February 2012

Name	Check Date	Check Amt
Total Checks		\$210,918.24

FILTER: None

NEWPORT, MN

\*Budget Control Summary

Current Period: February 2012

Account Descr	2012 Cumulative Budget	2012 Cumulative Actuals	2012 Cumulative Variance	2012 % Variance	2012 Adopted Budget	2012 Forecast	Variance at Completion	2012 YTD Perf	2012 Est to Complete
FUND 101 GENERAL FUND									
Revenue Accounts									
DEPT 00000 ALL DEPARTMENTS	\$2,978,785.00	\$104,245.17	\$2,874,539.83	96.50%	\$0.00	\$2,978,785.00	-\$2,978,785.00	0.13	-0.25
DEPT 45000 Parks (GENERAL)	\$0.00	\$0.00	\$0.00	0.00%	\$0.00	\$0.00	\$0.00	0.00	0.00
DEPT 45100 Recreation (GENERAL)	\$2,000.00	\$0.00	\$2,000.00	100.00%	\$0.00	\$2,000.00	-\$2,000.00	0.00	-0.50
Total Revenue Accounts	\$2,980,785.00	\$104,245.17	\$2,876,539.83	96.50%	\$0.00	\$2,980,785.00	-\$2,980,785.00	0.13	-0.25
Expenditure Accounts									
DEPT 00000 ALL DEPARTMENTS	\$0.00	\$0.00	\$0.00	0.00%	\$0.00	\$0.00	\$0.00	0.00	0.00
DEPT 41000 Administration (GENERAL)	\$326,277.00	\$49,395.50	\$276,881.50	84.86%	\$0.00	\$326,277.00	-\$326,277.00	0.52	-0.24
DEPT 41110 Mayor and Council	\$24,081.00	\$1,866.93	\$22,214.07	92.25%	\$0.00	\$24,081.00	-\$24,081.00	0.02	-0.62
DEPT 41410 Elections	\$7,000.00	\$940.00	\$6,060.00	86.57%	\$0.00	\$7,000.00	-\$7,000.00	0.38	-0.62
DEPT 41600 Professional Services	\$297,000.00	\$33,558.89	\$263,441.11	88.70%	\$0.00	\$297,000.00	-\$297,000.00	0.14	-0.75
DEPT 41910 Planning and Zoning	\$39,067.00	\$8,126.28	\$30,940.72	79.20%	\$0.00	\$39,067.00	-\$39,067.00	0.13	-0.37
DEPT 41940 City Hall Bldg	\$18,542.00	\$3,744.69	\$14,797.31	79.80%	\$0.00	\$18,542.00	-\$18,542.00	0.19	-0.81
DEPT 42000 Police Department(GENERAL)	\$845,095.00	\$84,546.28	\$760,548.72	90.00%	\$0.00	\$845,095.00	-\$845,095.00	0.07	-0.63
DEPT 42100 Civil Defense	\$0.00	\$262.35	-\$262.35	0.00%	\$0.00	\$0.00	\$0.00	0.00	0.00
DEPT 42260 Fire Protection	\$180,068.00	\$6,319.77	\$173,748.23	96.49%	\$0.00	\$180,068.00	-\$180,068.00	0.11	-0.65
DEPT 42280 Fire Stations No. 1	\$14,246.00	\$2,160.09	\$12,085.91	84.84%	\$0.00	\$14,246.00	-\$14,246.00	0.08	-0.93
DEPT 42290 Fire Station No. 2	\$3,818.00	\$585.47	\$3,232.53	84.67%	\$0.00	\$3,818.00	-\$3,818.00	0.05	-0.46
DEPT 43000 PW Street (GENERAL)	\$439,283.00	\$40,891.32	\$398,391.68	90.69%	\$0.00	\$439,283.00	-\$439,283.00	0.06	-0.48
DEPT 43100 Public Works Garage	\$17,759.00	\$3,159.03	\$14,599.97	82.21%	\$0.00	\$17,759.00	-\$17,759.00	0.05	-0.95
DEPT 43160 Street Lighting	\$0.00	\$0.00	\$0.00	0.00%	\$0.00	\$0.00	\$0.00	0.00	0.00
DEPT 43260 Composting	\$5,000.00	\$500.00	\$4,500.00	90.00%	\$0.00	\$5,000.00	-\$5,000.00	0.13	-0.13
DEPT 45000 Parks (GENERAL)	\$251,284.00	\$34,286.30	\$216,997.70	86.36%	\$0.00	\$251,284.00	-\$251,284.00	0.16	-0.41
DEPT 45100 Recreation (GENERAL)	\$3,500.00	\$0.00	\$3,500.00	100.00%	\$0.00	\$3,500.00	-\$3,500.00	0.00	-0.38
DEPT 45206 Parks Bldgs. & Warming Houses	\$5,500.00	\$1,251.96	\$4,248.04	77.24%	\$0.00	\$5,500.00	-\$5,500.00	0.06	-0.44
DEPT 45501 Library Bldg	\$24,753.00	\$3,464.99	\$21,288.01	86.00%	\$0.00	\$24,753.00	-\$24,753.00	0.09	-0.36
DEPT 45550 Heritage Pres. Committee	\$0.00	\$0.00	\$0.00	0.00%	\$0.00	\$0.00	\$0.00	0.00	0.00
DEPT 49470 Street Lights	\$0.00	\$0.00	\$0.00	0.00%	\$0.00	\$0.00	\$0.00	0.00	0.00
DEPT 49754 Railroad Tower	\$1,182.00	\$114.48	\$1,067.52	90.31%	\$0.00	\$1,182.00	-\$1,182.00	0.22	-0.53
DEPT 49985 Special Contributions	\$5,000.00	\$0.00	\$5,000.00	100.00%	\$0.00	\$5,000.00	-\$5,000.00	0.00	-1.00
DEPT 49995 Miscellaneous Contingency	\$10,000.00	\$0.00	\$10,000.00	100.00%	\$0.00	\$10,000.00	-\$10,000.00	0.00	-0.50
Total Expenditure Accounts	\$2,518,455.00	\$275,174.33	\$2,243,280.67	89.07%	\$0.00	\$2,518,455.00	-\$2,518,455.00	0.14	-0.49
Total FUND 101 GENERAL FUND	\$462,330.00	-\$170,929.16	\$633,259.16	136.97%	\$0.00	\$462,330.00	-\$462,330.00		



# MEMO

TO: Newport City Council  
FROM: Brian J. Anderson, City Administrator  
DATE: February 23, 2012  
SUBJECT: Red Rock Financial Analysis

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## Background

City staff has been working with the County HRA, Ehlers & Associates, and TKDA on the financial analysis of the Red Rock Gateway Project. At this time, staff is pleased to announce that it appears the partnerships and financing is coming together very nicely.

## Discussion

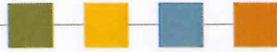
The Red Rock Gateway has the potential to create \$53m in *increased* market value over 10-15 years. This will increase property taxes by nearly 700% from \$163,000 to \$1.14m. Due to the size of the project, a TIF district will have to be created in order to finance a project of this size. The County HRA has tentatively agreed to administer the TIF and take the lead on the redevelopment of the project. In addition, they have also agreed to greatly assist in the financing of the project.

Stacie from Ehlers will present a power point outlining the densities and financials while Barbara from the HRA will describe how the HRA will be able to assist in this project. Although we are not asking the City to commit at this time, the questions before the City Council are the following:

1. Is it acceptable to the City Council to have the County HRA take the lead role in the redevelopment of the area?
  - a. Land acquisition and assembly
  - b. Marketing and developer solicitation
  - c. Developer negotiations
  - d. Etc.
2. Does the City Council agree that a TIF district will need to be established in order for redevelopment to occur?
  - a. Reimburse HRA and/or City for land assembly costs
  - b. Use TIF to finance public improvements
3. Is the City Council willing to commit/set aside some dollars for redevelopment of the area?
  - a. Predevelopment costs (Phase I and II, soil borings, etc.)
  - b. Land acquisition and/or public improvements

## Recommendation

At this time, it is staff's recommendation that the Council agree to the plan as presented. Staff will then have to get the HRA's permission to assist in the project and would like to get the County's cooperation so we can work together on the aspects of this project. Much more work is required but this is a huge step forward in bringing new developing to Newport.



# City of Newport

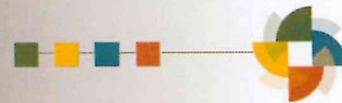
## Red Rock Gateway Update

Joint Meeting of the  
City Council and Planning Commission

March 1, 2012



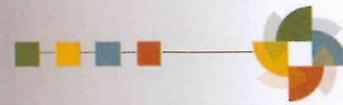
### Agenda



- Overview redevelopment area
- Overview vision for area
- Review role of public sector
- Overview of Area Options
- Overview public improvement costs
- Overview strategy/framework to implement redevelopment
- Discussion on next steps

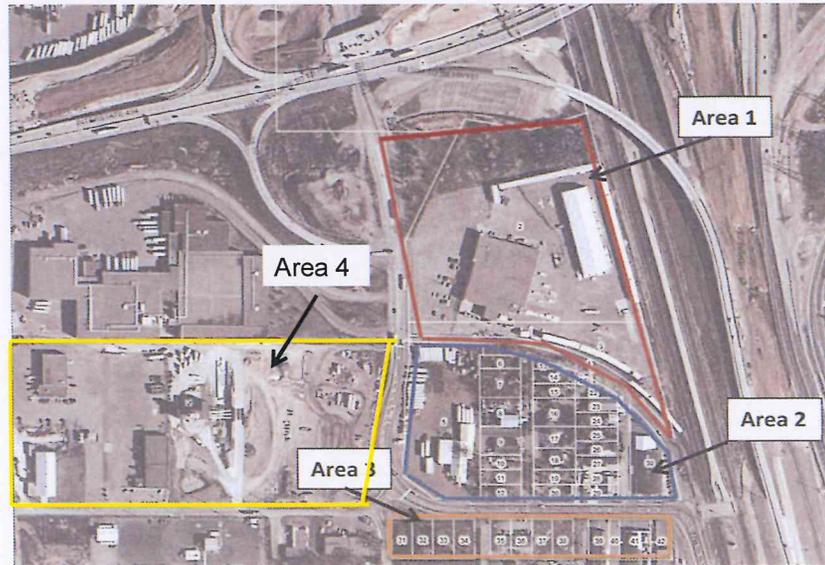


# Redevelopment Areas

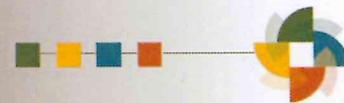


Total Acreage for 4 Areas is approximately **40.5**

Total acreage for Areas 1-3 is approximately **23**



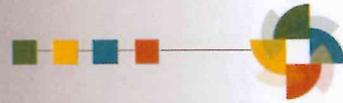
# Vision



- Provide framework for coordinated redevelopment that will foster a transit oriented development pattern that serves as a place to live, shop, work, and play
- Introduce and foster the development of a variety of multi-family units
  - ✓ Senior and market rate apartments
  - ✓ Owner-occupied town homes
  - ✓ Senior Cooperative
- Provide opportunities for development of employment opportunities including office, small assembly business and retail uses around the transit center
- Develop plan/framework to upgrade streets and utilities
  - ✓ When developed and how they are paid for



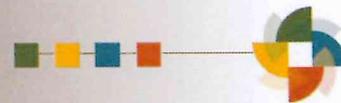
## Vision



- Make short-term public investment for long-term gain
  - ✓ Create \$53M in **INCREASED** market value over 10 to 15 years
    - Current value of Areas 1-3 for pay 2012 is \$4.7M
    - Equates to 1,130% in increased property value
  - ✓ Increase taxes paid by nearly **700%**
    - From \$163,000 to \$1,140,000
- Set the stage to encourage private investment and development
- Create significant river park amenity and create pedestrian trails to establish strong links between the River, Newport Island and the community
- Establish connections to Lion's park and future parks



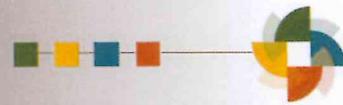
## Role of Public Sector



- Role of public sector is to:
  1. Provide basic services
    - Police, fire, sewer, water, etc.
  2. Remove barriers to development/redevelopment
    - Provide "level" playing field by assisting with land assembly, remediation, public infrastructure, financing, etc.
  3. Be clear on vision for the area and have zoning and development standards that reflect the vision



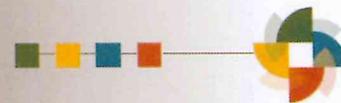
# Preparing Development Plan



- Looked at realistic redevelopment options to determine financial feasibility of Areas 1-3 only
- ✓ Held roundtable discussions between the City Council and Planning Commission and several developers
  - Discussed what land uses, density of housing, retail, office, light industrial and hotel potential there was for the area



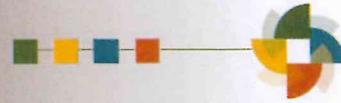
## Area Overview



- **Area 1 – Knox Site**
  - ✓ 11.64 Acres
  - ✓ 300 apartments (at 50+ units/acre)
    - 30,000 sq/ft office
    - 10,000 sq/ft retail
  - ✓ Transit Center and Parking ramps
- **Area 2 – Area South of Knox**
  - ✓ 7.90 acres (8.69 acres if you include commercial portion that will remain)
  - ✓ 142 apartments (at 25 units/acre)
  - ✓ Potential City Hall
  - ✓ 20,000 sq/ft office
  - ✓ Leave existing commercial to the east
- **Area 3 – Area Adjacent to Tinucci**
  - 2.32 acres (2.61 acres if you include Tinucci's that will remain)
  - 12 town homes (at 8 units/acre)
  - ✓ Parkland
    - Assume \$235,000 in grant funds to acquire 4 parcels for park



# End Use For Financial Projections

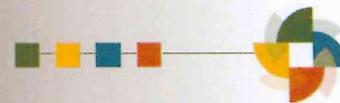


End Use Summary					
Apartment Type	Area 1	Area 2	Area 3	Total	Bonestroo Mk Study
Sr. Apartment	0	62	0	62	85-130
Market Rate Apartment	300	80	0	380	550
Town Homes	0	0	12	12	0
Office	30,000	20,000	0	50,000	30,000-60,000
Retail	10,000	0	0	10,000	10,000
<b>TOTAL RESIDENTIAL</b>	<b>300</b>	<b>142</b>	<b>12</b>	<b>454</b>	<b>635-680</b>

**Note: Number of residential units is more conservative than those shown in market study**



# Development Timing



Area 1	2015	2016	2017	2018	2019	2020	2021	TOTAL
Market Rate Apt	60		60		60			180
Market Rate Apt						60	60	120
Retail				10,000				10,000
Office				10,000		20,000		30,000

Area 2	2015	2016	2017	2018	2019	2020	2021	2022	2023	TOTAL
Market Rate Apt				80	0					80
Sr. Apt		62								62
Retail										0
Office							10,000	10,000		20,000

Area 3	2015	2016	2017	2018	2019	2020	2021	2022	2023	TOTAL
Town Homes						12				12

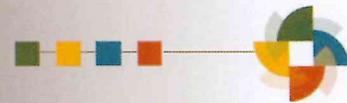


# Town Center Mendota Heights





# Financial Feasibility

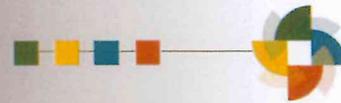


Area 1 - High Density - 50+ Units/Acre			
Excess/ (gap)	TOTAL Development Valuation	CURRENT Annual Taxes	FUTURE Annual Taxes
\$4,697,024	\$0	\$0	\$0
	\$17,100,000		\$313,815
	\$11,400,000		\$209,210
	\$3,750,000		\$144,102
	\$1,250,000		\$47,571
\$4,697,024	\$33,500,000	\$0	\$714,698
Area 2 - Medium Density - 25/Units/Acre			
Excess/ (gap)	TOTAL Development Valuation	CURRENT Annual Taxes	FUTURE Annual Taxes
(\$1,694,917)	\$0	\$ 92,529	\$0
	\$5,890,000		\$108,092
	\$7,600,000		\$139,473
	\$364,200		\$13,576
	\$2,500,000		\$95,141
(\$1,694,917)	\$16,354,200	\$92,529	\$356,283
Area 3 - Medium Density - 8 Units/Acre			
Excess/ (gap)	TOTAL Development Valuation	CURRENT Annual Taxes	FUTURE Annual Taxes
(\$968,219)	\$2,364,887	\$ 70,462	\$32,760
	\$0		\$0
	\$875,000		\$35,694
	\$3,239,887		\$68,454
(\$968,219)	\$3,239,887	\$70,462	\$68,454
<b>Grand Total</b>	<b>\$53,094,087</b>	<b>\$162,992</b>	<b>\$1,139,434</b>

City's portion of taxes is roughly 50%



# Public Improvements – Areas 1-3

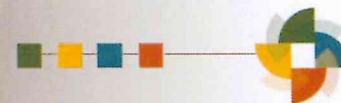


## Public Improvements Include:

1. Roads/Medians
2. Bike Paths
3. Lighting
4. Sidewalks
5. Ponding

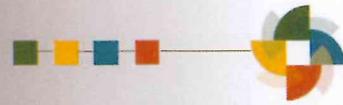


# Road Improvement Costs



AREAS 1-3							Timing
Street	Type	Responsible Entity	Cost	30% Contingency	30% Professional Fees	Total Cost	
Street B	2 Lane	County	\$120,858	\$36,257	\$47,135	\$204,250	2020
Maxwell Avenue	4 Lane w/median and 6' sidewalks on both sides	City/County	\$ 1,423,701	\$427,110	\$555,243	\$2,406,055	
Street C	2 Lane w/parking on both sides	City	\$ 224,092	\$67,228	\$87,396	\$378,715	
2nd Avenue	2 Lane w/parking on both sides	City	\$ 453,219	\$135,966	\$176,755	\$765,940	
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>\$2,221,870</b>	<b>\$666,561</b>	<b>\$866,529</b>	<b>\$3,754,960</b>	<b>N/A</b>

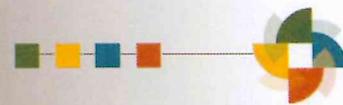
# Option Surplus/(Gap)



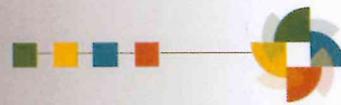
Net Land Assembly Costs	Public Improvements	Surplus/(Gap)
\$2,033,889	\$3,754,960	<b>(\$1,721,072)</b>

**Note:** Net land assembly costs consists of total land assembly minus and developer land payments, grants and TIF

# Area 4 – 17.56 Acres



## Area 4 Land Assembly Costs

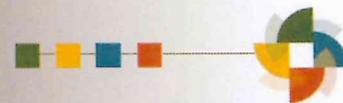


Area 4 A	
Cost of Land (3 Parcels)	Excess/ (gap)
\$ 1,326,708	(\$1,326,708)
<b>\$1,326,708</b>	<b>(\$1,326,708)</b>

Area 4 B	
Cost of Land (3 Parcels)	Excess/ (gap)
\$ 3,591,787	(\$3,591,787)
<b>\$3,591,787</b>	<b>(\$3,591,787)</b>



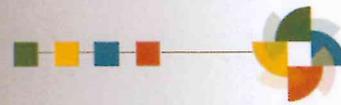
## Area 4



- Regulations today and navigation channel issues do not make a marina feasible in 2012
- Amount of retail shown will not be supportable, even with a marina as long as cold storage facility stays
- Set framework for future redevelopment by:
  - ✓ Request right of first offer and/or refusal on properties when being sold
  - ✓ Require or obtain easement along River when properties are sold
  - ✓ Set up vision in plan to provide a view corridor to the River to establish connections
  - ✓ Determine road and public infrastructure needs
  - ✓ Continue to investigate redevelopment options over the next 10 years
  - ✓ Split Area 4 into two development areas and focus on area across the street from area 2 for employment opportunities



## Next Steps (next 18-24 months)



### 1A. Finalize redevelopment plan/framework

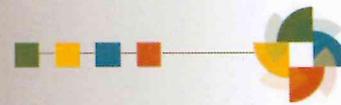
- ✓ Land uses, Zoning, Density, Roadways/Utility Improvements, Financing
- ✓ Public hearing on zoning tentatively May 10, 2012
- ✓ Final approval of zoning and redevelopment plan tentatively June 7, 2012

### 2A. Discussion with City regarding County HRA creating and administering the TIF district

- ✓ Who creates and administers (City or HRA)
- ✓ City Council to work with County Commissioner on need for a TIF district
  - TIF to be utilized to repay HRA/City for land acquisition and public improvements
  - District won't be created until first development comes in
  - Base taxes will still be paid to all taxing jurisdictions (city's share approximately \$80,000)
  - TIF won't impact schools
  - Increased market value offsets taxes for any referendum



## Next Steps (next 18-24 months)



### 3A. Develop funding strategy for public improvements and coordinate with County

- ✓ Use of TIF
- ✓ Other funding

### 3B. Develop land acquisition strategy/plan for Areas 2, 3 and 4A

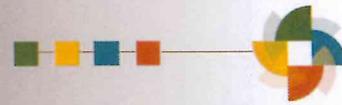
- ✓ City may use existing EDA funds to assist in acquisition
- ✓ Prepare letter to be sent to all property owners to determine their desire to sell their property (determine timing, etc.)

### 3C. Develop plan to obtain outside funding/grants and apply as appropriate

### 4. Work with County HRA to develop and coordinate marketing strategy for Areas 1-3 to entice private development



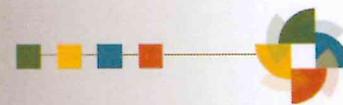
## Final Comments



1. Redevelopment of this area is financially feasible
  - ✓ Small gap that can readily be solved
  
2. The timing is right for undertaking this project now
  - ✓ Market is starting to recover
  - ✓ Costs to assemble land are reasonable
  - ✓ Site is perfectly positioned to move forward
  
3. There is a cost associated with doing nothing
  - ✓ Tax base continues to decline
  - ✓ Negative public perception about the community
  - ✓ Public safety issues



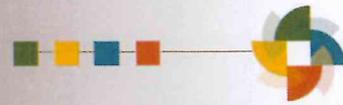
## Final Comments



4. Tax increment is a financing instrument that is a short-term investment for a long-term gain
  - ✓ Tax increment will be used for land assembly (acquisition, relocation, environmental remediation and demolition ) and for public improvements to the roadways and utilities within the area
  
5. Public sector needs to set the table for private development to occur
  - ✓ City and HRA are poised to do that
  - ✓ Redevelopment of a significant area takes a long time (20 to 30 years)



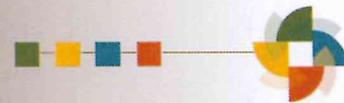
## Final Comments



6. HRA has capacity to undertake redevelopment, including funding acquisition, relocation, and demolition
7. HRA has capacity to create, manage and administer TIF district
  - ✓ Costs associated with creating and administering district through term (annual reporting, etc.)
  - ✓ If HRA undertaking risk to front costs for land assembly, should have means to reimburse themselves
8. HRA has capacity to secure developers all in partnership with the City



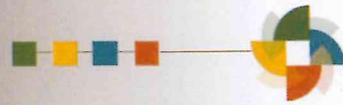
## Final Comments



9. Have patience
  - ✓ Redevelopment of a significant area takes a long time (20 to 30 years)



# Outcomes For Tonight's Meeting



1. Is it acceptable to the City Council to have the County HRA take the lead role in the redevelopment of the area
  - Land acquisition and assembly
  - Marketing and developer solicitation
  - Developer negotiations
  - Etc.
2. Does the City Council agree that a TIF district will need to be established in order for redevelopment to occur
  - Reimburse HRA and/or City for land assembly costs
  - Use TIF to finance public improvements
3. Is the City Council willing to commit/set aside some dollars for redevelopment of the area
  - Predevelopment costs (Phase I and II, soil borings, etc.)
  - Land acquisition and/or public improvements





# MEMO

TO: Mayor and City Council  
Brian Anderson, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: February 22, 2012

SUBJECT: 2012 Salaries for Non-Union Positions

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## **BACKGROUND**

Attached for your review is Resolution No. 2012-4 which establishes the 2012 salaries for the six non-union positions effective January 1, 2012. As you can see from the resolution, the City Council approved a 1.5% increase in 2011 and the 2012 budget reflects a 3% increase. Additionally, the City Council approved a 3% increase for both the Public Works and Police union positions in 2011.

## **DISCUSSION**

One of the items that the City Council will need to discuss at the March 1 meeting is the percentage increase for the non-union positions. Resolution No. 2012-4 provides the City Council with the option of approving a 0% increase for the positions, totaling \$430,912, or a 1.5% increase, totaling \$437,375.

## **RECOMMENDATION**

The City Council has the following options in regards to Resolution No. 2012-4. The first option is to approve the resolution as is. Secondly, the City Council can revise the resolution. If the City Council decides to move forward with a raise, staff will have it reflected on the next paycheck.

# RESOLUTION NO. 2012-4

## A RESOLUTION ESTABLISHING THE 2012 SALARIES FOR THE FULL-TIME NON-UNION POSITIONS OF THE CITY OF NEWPORT

**WHEREAS**, The City of Newport did adopt an annual 2012 General Fund Operating Budget; and

**WHEREAS**, The Newport City Council has designated its City Administrator, Brian J. Anderson, as the one individual within the City as having full authority to act on behalf of the City in the conduct of its negotiation with its Non-Union employees; and

**WHEREAS**, The 2012 General Fund Operating Budget was approved with a 3% increase for Non-Union salaries; and

**WHEREAS**, the Salaries of Non-Union received a 1.5% increase in 2011; and

**WHEREAS**, The Local No. 49 and Local No. 347 received a 3% increase in 2011 and a 0% increase in 2012; and

**WHEREAS**, The positions of Accountant and Executive Analyst were hired in 2011 on a sliding pay scale at Step 4 of 6 and will be increased to Step 5 in 2012 even with a 0% increase.

**NOW, THEREFORE, BE IT RESOLVED** That the City Council of the City of Newport hereby establishes the FY2012 Non-Union salaries at \_\_\_\_\_% for the following positions:

<u>Position</u>	<u>0% for 2012</u>	<u>1.5% for 2012</u>
City Clerk/Administrator	\$92,006	\$93,386
Accountant	48,678	\$49,408
Executive Analyst	48,678	\$49,408
Police Chief	83,402	\$84,653
Public Works Superintendent	83,402	\$84,653
Public Works Assistant	74,746	\$75,867
<b>Total</b>	<b>\$430,912</b>	<b>\$437,375</b>

**NOW, THEREFORE, BE IT FURTHER RESOLVED** That the FY2012 Non-Union salaries shall become effective January 1, 2012.

Adopted this 1<sup>st</sup> day of March, 2012 by the Newport City Council.

Motion by: \_\_\_\_\_, Seconded by: \_\_\_\_\_

VOTE:

Geraghty \_\_\_\_\_  
Ingemann \_\_\_\_\_  
Sumner \_\_\_\_\_  
Rahm \_\_\_\_\_  
Gallagher \_\_\_\_\_

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

ATTEST: \_\_\_\_\_  
Brian J. Anderson, City Administrator



# MEMO

TO: Mayor and City Council  
Brian Anderson, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: February 22, 2012

SUBJECT: Compensation for Firefighters

## BACKGROUND

The Newport Fire Department is comprised of 25 volunteer firefighters who are paid on an hourly basis. The City has not raised the hourly rate for the volunteer firefighter position in 14 years, at which time it was not brought before the City Council. The Fire Department has the following pay structure:

	Bi-Annual Lump Sum	Hourly Rate	Minimum Hours Paid
<b>Chief</b>	\$499.75	\$7.00	2
<b>Assistant Chief</b>	\$289.75	\$7.00	2
<b>Captain</b>	--	\$6.00	2
<b>Safety Officer</b>	--	\$6.00	2
<b>Engineer</b>	--	\$6.00	2
<b>Firefighter</b>	--	\$5.00	2

## DISCUSSION

Staff researched compensation for firefighters in the surrounding municipalities and found that on average, firefighters are paid a minimum of \$10/hour. Below are fee structures for nine municipalities within the metro area.

Per Hour or Call Rates	Chief	Asst. Chief	Captain	Safety Officer	Engineer	Firefighter	Misc.
<b>Newport</b>	\$7.00	\$7.00	\$6.00	\$6.00	\$6.00	\$5.00	2 hour minimum
<b>Bayport</b>	FT	--	--	--	--	\$11.00	2 hour minimum
<b>Cottage Grove</b>	FT	\$17.00	\$13.50	\$11.50	\$12.50	\$11.00	
<b>Forest Lake</b>	FT	\$17.50	\$17.00	--	\$16.50	\$13.00 – 16.25	Paid per call and per hour thereafter
<b>Hastings</b>	FT	\$13.00	\$13.00	--	--	\$13.00 – 15.00	1 hour minimum and then broken down into 15 minute intervals
<b>Lake Elmo</b>	FT	--	--	--	\$7.29 – 10.80	\$7.04 – 10.55	Paid per call for 2 hours minimum and then paid every 2 hours thereafter
<b>Oakdale</b>	FT	--	\$20.00	--	--	\$15.00 – 20.00	Paid per call
<b>Scandia</b>		\$13.00	\$13.00	\$13.00	--	\$13.00	\$9.00 – 12.00 Paid per hour
<b>Stillwater</b>	FT	\$13.25	\$12.25	\$11.75	\$11.25	\$9.75 – 10.25	Paid per hour
<b>Woodbury</b>	FT	--	\$16.22	\$15.97	\$15.71	\$10.30 – 15.19	Paid per hour
<b>Average</b>		\$10.00	\$13.46	\$13.87	\$11.31	\$11.75 – 12.26	\$10.41 – 12.63

Attached for your review is Resolution No. 2012-5 approving a \$1.00/hour raise for the volunteer firefighter position effective March 1, 2012. City staff felt that a raise for this position should be approved formally through a resolution. Based on the 2011 fire calls and drills, it is estimated that a \$1.00/hour raise would cost an extra \$8,200/year or \$6,832 for 2012. As you may recall, there is an excess of \$1, 985 in the Public Works budget, and \$14,811 in the Police Department budget due to the labor negotiations. As a result of these savings, staff feels that there are sufficient funds in the 2012 budget to raise the hourly rate by \$1.00. Looking at the average hourly rates above, staff would like to discuss the hourly rate again during the 2013 budget session to bring the hourly rate closer to the average.

**RECOMMENDATION**

The City Council has a couple options in regards to Resolution No. 2012-5. The first option is to approve the resolution as is. Secondly, the City Council can revise the resolution. If the City Council decides to move forward with a raise, staff will have it reflected on the next paycheck.

# RESOLUTION NO. 2012-5

## A RESOLUTION ESTABLISHING AN HOURLY RATE FOR THE VOLUNTEER FIREFIGHTER POSITIONS OF THE CITY OF NEWPORT

**WHEREAS**, The City of Newport did adopt an annual 2012 General Fund Operating Budget; and

**WHEREAS**, The 2012 General Fund Operating Budget was approved with a 0% increase for the per hour rate for firefighters; and

**WHEREAS**, The hourly rate for the firefighter position has not increased in 14 years; and

**WHEREAS**, There are sufficient funds in the 2012 General Fund Operating Budget to increase the hourly rate by \$0.50 due to labor negotiations and reduced staff; and

**NOW, THEREFORE, BE IT RESOLVED** That the City Council of the City of Newport hereby establishes an hourly rate of \$7.50 for the Volunteer Firefighter positions of the City of Newport.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** That the hourly rate shall be raised \$1.00 effective March 1, 2012.

Adopted this 1<sup>st</sup> day of March, 2012 by the Newport City Council.

Motion by: \_\_\_\_\_, Seconded by: \_\_\_\_\_

VOTE:

Geraghty	_____
Ingemann	_____
Sumner	_____
Rahm	_____
Gallagher	_____

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

ATTEST: \_\_\_\_\_  
Brian J. Anderson, City Administrator

January 2012

Newport Police Department  
Activity Report

		Monthly Total	Yearly Total
ACCIDENTS		5	5
ADMINISTRATIVE		70	70
ALARMS		15	15
ANIMAL CALLS		1	1
ARRESTS	Felony	1	1
	Misdemeanor	3	3
	Gross Misd.	1	1
ASSAULTS	Aggravated		
	Simple	3	3
ASSIST OTHER DEPT/OFFICER		72	72
ASSIST PUBLIC		173	173
AUTO THEFT		3	3
	Attempted		
BURGLARY		2	2
	Attempted		
CHILD ABUSE/NEGLECT		1	1
CIVIL DISPUTES		6	6
CRIMINAL SEXUAL CONDUCT			
CURFEW			
DAMAGE TO PROPERTY		6	6
DEATH INV.			
DISORDER CONDUCT		4	4
DOMESTICS		25	25
DRIVING COMPLAINT		4	4
DRUGS/PARAPHERNALIA			
DRUNKS/DETOX			
D.W.I.		1	1
FIRECALLS		2	2
FORGERY		1	1
FOUND PROPERTY		2	2
HAR/COMM		2	2
HANG UPS (911)		7	7
JUVENILE PETTY CITATIONS			
JUVENILE PROBLEMS			
LOCK-OUTS		7	7
MEDICAL CALLS		17	17
MISSING PERSONS			
ORDINANCE VIOLATIONS		10	10
ORDINANCE WINTER PARK		27	27
PROWLERS			
ROBBERY			
	Attempted		
RUN-AWAY			
STOLEN AUTOS RECOVERED		3	3
SUSPICIOUS ACTIVITY		17	17
THEFT		9	9
	Attempted		
CITATIONS		65	65
TRAFFIC WARNINGS		101	101
		Monthly Total	Yearly Total
Overall Grand Total All Events		686	686



**MEMO: 2012 North Ravine Area Drainage Improvements – Assessment Hearing and Encroachment Agreement**

**TO:** *Newport City Council*

**From:** *Jim Stremel, P.E.*

**Date:** *February 23, 2012*

**1. INTRODUCTION:**

There are several items for the Council to consider concerning the North Ravine Area Drainage Improvement Project including a resolution to prepare the proposed assessment roll, a resolution ordering the assessment hearing, and a resolution entering into an encroachment agreement with Magellan Pipeline Company, LP.

**2. PREPARING THE PROPOSED ASSESSMENT ROLL & ASSESSMENT HEARING:**

The next step in the special assessment process pursuant to Chapter 429 of the State Statutes is for the City to pass a resolution declaring the costs to be assessed and ordering the preparation of the proposed assessment roll. During the Improvement Hearing for the project in 2011, the Council had the opportunity to review the preliminary assessment roll and directed staff to move forward with the project at that time. Enclosed in the packet is the same assessment roll prepared for the Improvement Hearing which is now intended to be considered by the Council as the proposed assessment moving forward.

If the Council passes the resolution discussed above, then the Council may also want to consider the resolution ordering the hearing on the proposed assessment as presented. Once the hearing has been ordered, City staff can begin the advertising period and notify the affected residents pursuant to Chapter 429 of the State Statutes.

**3. ENCROACHMENT AGREEMENT WITH MAGELLAN PIPELINE COMPANY LP:**

Construction operations as a part of the North Ravine Area Drainage Improvement Project will encroach on existing easements owned by Magellan Pipeline Company LP on the Bailey Nurseries, Inc. property located east of Sterling Street. The project proposes to install storm sewer piping in the vicinity of the pipeline including one perpendicular crossing. Ponding areas are also proposed to be constructed within these existing easements. Since 2010, City staff worked with Magellan Pipeline on design variants to determine an acceptable compromise on

critical aspects of the project. Enclosed is an encroachment agreement drafted by Magellan Pipeline to be considered along with a resolution entering into the agreement.

**4. SUGGESTED ACTIONS:**

We recommend that the Council pass the three resolutions enclosed in the packet including the resolution “declaring cost to be assessed, and ordering preparation of proposed assessment”, the resolution “ordering the hearing on proposed assessment”, and the resolution “to execute and enter into an encroachment agreement with Magellan Pipeline Company, LP for the Construction of the North Ravine Drainage Improvement Project.”

## RESOLUTION NO. 2012-6

### A RESOLUTION DECLARING COST TO BE ASSESSED, AND ORDERING PREPARATION OF THE PROPOSED ASSESSMENT

**WHEREAS**, a contract has been let (estimated costs have been calculated) for Improvement No. 2011-01, the improvement of Valley Road between Ford Road and 21<sup>st</sup> Street and 21<sup>st</sup> Street from 220 feet west of and 160 feet east of Valley Road by regrading and improving the road surface, drainage, and storm sewer conveyance system, and the bid price for such improvement is \$1,533,317.58 and the expenses incurred or to be incurred in the making of such improvement amount to \$861,682.42 so that the total cost of the improvement will be \$2,395,000.00.

#### **NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEWPORT MINNESOTA:**

1. The portion of the costs of such improvement to be paid by the City, Minnesota Department of Transportation, and South Washington Watershed District is hereby declared to be \$2,369,200.00 and the portion of the cost to be assessed against benefited property owners is declared to be \$25,800.00.
2. Assessments shall be payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday in January 2013, and shall bear interest at the rate of \_\_\_ percent per annum from the date of adoption of the assessment resolution.
3. The City Administrator, with the assistance of the City's consulting engineer, shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, as provided by law, and he shall file a copy of such proposed assessment in his office for public inspection.
4. The City Administrator shall upon the completion of such proposed assessment, notify the council thereof.

Adopted this 1<sup>st</sup> day of March, 2012 by the Newport City Council.

Motion by: \_\_\_\_\_, Seconded by: \_\_\_\_\_

VOTE:

Geraghty	_____
Ingemann	_____
Sumner	_____
Rahm	_____
Gallagher	_____

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

ATTEST: \_\_\_\_\_  
Brian J. Anderson, City Administrator

**Improvement No. 2011-01 - North Ravine Area Drainage Improvements  
Proposed Assessment Roll**

<b>Parcel ID</b>	<b>Owner</b>	<b>Property Address</b>	<b>Legal Description</b>	<b>Existing Building</b>	<b>Assessment</b>
2502822320008	Martin Joseph RE LLC	N/A - Vacant	Lot 1, Blk 1 Red Rock Park Add	0	\$3,000
2502822310009	Martin Joseph RE LLC	N/A - Vacant	Lot 2 Blk 1 Red Rock Park Add	0	\$0
2502822320010	Martin Joseph RE LLC	N/A - Vacant	Lot 3 Blk 1 Red Rock Park Add	0	\$0
2502822320011	Martin Joseph RE LLC	N/A - Vacant	Lot 4 Blk 1 Red Rock Park Add	0	\$0
2502822320025	Gile, Noreen K	770 Ford Rd	Lot 7 Blk 2 Red Rock Park Add	1	\$3,000
2502822320020	Sumner, William A	737 21st Street	Lots 13 & 14, Blk 1 Red Rock Park Add	1	\$3,000
2502822320021	Thunborg, Timothy	745 21st Street	Lot 15 Blk 1 Red Rock Park Add	1	\$3,900
2502822320026	Bergman, Dawn M	755 21st Street	Lot 8 & W 28' Lot 9, Blk 2 Red Rock Park Add	1	\$3,900
2502822330035	Hugley, Timothy J & Bonnie J	748 21st Street	Lots 8 & 9, Blk 3 Red Rock Park Add	1	\$3,000
2502822330034	Perkins, Robert G & Roberta M	760 21st Street	Lots 6 & 7, Blk 3 Red Rock Park Add	1	\$3,000
2502822330033	Kiritschenko, Jason R & Andrea	774 21st Street	Lot 5 Blk 3 Red Rock Park Add	1	\$3,000
<b>Total</b>					<b>\$25,800</b>

# RESOLUTION NO. 2012-7

## A RESOLUTION ORDERING THE HEARING ON THE PROPOSED ASSESSMENT

**WHEREAS**, by a resolution passed by the City Council on March 1, 2012, the City Administrator was directed to prepare a proposed assessment of the cost of Improvement No. 2011-01, the improvement of Valley Road between Ford Road and 21<sup>st</sup> Street and 21<sup>st</sup> Street from 220 feet west of and 160 feet east of Valley Road by regrading and improving the road surface, drainage, and storm sewer conveyance system, and

**WHEREAS**, the City Administrator has notified the City Council that such proposed assessment has been completed and filed in his office for public inspection,

### NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEWPORT MINNESOTA:

1. A hearing shall be held 5:30 PM on April 5, 2012 in the City Hall located at 596 7th Avenue, Newport, MN 55055 to pass upon such proposed assessment. All persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
2. The City Administrator is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and he shall state in the notice the total cost of the improvement. He shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearing.
3. The owner of any property so assessed may, at any time prior to the certification of the assessment to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City of Newport, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment. An owner may at any time thereafter, pay to the City of Newport the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.

Adopted this 1<sup>st</sup> day of March, 2012 by the Newport City Council.

Motion by: \_\_\_\_\_, Seconded by: \_\_\_\_\_

VOTE:

Geraghty	_____
Ingemann	_____
Sumner	_____
Rahm	_____
Gallagher	_____

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

ATTEST: \_\_\_\_\_  
Brian J. Anderson, City Administrator

**RESOLUTION NO. 2012-8**

**A RESOLUTION BY THE CITY OF NEWPORT TO EXECUTE AND ENTER INTO AN ENCROACHMENT AGREEMENT WITH MAGELLAN PIPELINE COMPANY, L.P. FOR CONSTRUCTION OF THE NORTH RAVINE DRAINAGE IMPROVEMENT PROJECT**

**WHEREAS**, the City of Newport 2011-01 North Ravine Area Drainage Improvement Project will encroach onto existing easements owned by Magellan Pipeline Company, L.P. containing pipelines and other appurtenances currently in use.

**WHEREAS**, the existing easements owned by Magellan Pipeline Company L.P. are generally located ease of Sterling Street within the Bailey Nurseries, Inc. property and the City of Newport has obtained additional easement from Bailey Nurseries, Inc. to conduct the necessary work in this area.

**WHEREAS**, construction operations are not expected to impact the pipelines directly, but proposed construction work will be required within the direct vicinity, horizontally or vertically, of the existing piping systems or appurtenances.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEWPORT MINNESOTA:**

1. The Council authorizes and directs City staff to execute an encroachment agreement with Magellan Pipeline Company L.P. to allow construction operations to occur within the vicinity of and directly adjacent to (horizontally and vertically) their pipelines and associated appurtenances.
2. The City Council designates the City Administrator as its Authorized Representative in this matter.

Adopted this 1<sup>st</sup> day of March, 2012 by the Newport City Council.

Motion by: \_\_\_\_\_, Seconded by: \_\_\_\_\_

VOTE:	Geraghty	_____
	Ingemann	_____
	Sumner	_____
	Rahm	_____
	Gallagher	_____

Signed: \_\_\_\_\_  
Tim Geraghty, Mayor

ATTEST: \_\_\_\_\_  
Brian J. Anderson, City Administrator

(Drafted by & when filed return to: Magellan Pipeline Company, L.P., P. O. Box 22186, MD 27-4 (S. Guthrie), Tulsa, Oklahoma 74121-2186, 918/574-7350.)

## **ENCROACHMENT AGREEMENT**

This Encroachment Agreement ("**Agreement**") is made and entered into by and between Magellan Pipeline Company, L.P., a Delaware limited partnership, whose address is P.O. Box 22186, Tulsa, Oklahoma, 74121-2186, (hereinafter called "**Magellan**"), and the City of Newport, a municipal corporation under the laws of the State of Minnesota, whose mailing address is 596 7<sup>th</sup> Avenue, Newport, Minnesota 55055, its successors, assigns and grantees (hereinafter called "**Owner**").

### **WITNESSETH:**

WHEREAS, **Owner** represents and warrants that **Owner** owns all the certain land (hereinafter "**Owner's Land**"), described as *Drainage and Utility Easements "A", "B", and "C"* on attached **Exhibit "A"** and made a part hereof, and that **Owner**, by virtue of an easement agreement from Bailey Nurseries, Inc. , holds a Drainage and Utility Easement on that certain land described and shown in Exhibit "A" and hereinafter referred to as "**Owner's Easement Tract**" and that **Owner** holds certain temporary easements for purposes of construction which are identified on Exhibit "A" as Temporary Easements "A", "B", "C", "D", "E" & "F" (hereinafter "**Owner's Temporary Easement Tracts**"); all such lands being a part of the West One Half of the Northeast Quarter of Section 25, Township 28 North, Range 22 West, Washington County, Minnesota; and

WHEREAS, **Magellan** is the owner of certain easement rights, including those for pipelines, pipeline facilities and appurtenances, (hereinafter referred to as the "**Easement**", whether or not rights were granted in one or more documents or acquired by operation of law). Pursuant to the **Easement**, **Magellan** and its licensees own and operate certain pipelines, communication lines and related facilities and appurtenances located in, on or under **Owner's Land, Owner's Easement Tract and Owner's Temporary Easement Tracts** all of which such pipelines, facilities and related appurtenances are hereinafter referred to for convenience as the "**Magellan Facilities**". For purposes of this **Agreement** only, "**Magellan's Easement Tract**" shall be considered to be any area within Fifty (50) feet of any **Magellan Facilities**, unless a different

right of way tract width is specifically described in the **Easement**, in which case such specified width shall define **Magellan's Easement Tract**. The land referenced in the **Easement** includes the a portion of the West Half of the Northeast Quarter of Section 25, Township 28 North, Range 22 West, Washington County, Minnesota, pursuant to those certain instruments recorded in the records of said county and state and described as follows:

- 1) Right of Way Agreement as to a pipe line or pipe lines dated May 8, 1931, from John V. Bailey and Elizabeth A. Bailey, husband and wife, in favor of Great Lakes Pipe Line Company (Magellan's predecessor in interest), its successors and assigns, and filed for record in the Office of the register of Deeds for Washington County, Minnesota, on May 11, 1931 in Book 118 of Deeds at Page 448-449; and
- 2) Partial Release of Right of Way (Full Release Tract) dated May 10, 2010 and recorded in the Office of the County Recorder Property Records & Taxpayer Services of Washington County, Minnesota as Document No. 3791331, from Magellan Pipeline Company, L.P. to the record owners, as to a 450 ft. by 409.3 ft. tract located on the east line of the SW/4 NE/4 Section 25, T-28-N, R-22-W; and
- 3) Right of Way Agreement as to a pipe line or pipe lines dated June 4, 1931, from Minnie K. Powell, and from John V. Bailey and Elizabeth A. Bailey, husband and wife, in favor of Great Lakes Pipe Line Company (Magellan's predecessor in interest), its successors and assigns, and filed for record in the Office of the register of Deeds for Washington County, Minnesota, on June 20, 1931 in Book 118 of Deeds at Page 491-492; and

WHEREAS, for the purposes of this **Agreement** an "**Encroachment**" is defined as any use of the land within **Magellan's Easement Tract** by someone other than **Magellan**, which could interfere with **Magellan's Easement** rights or could create safety concerns related to **Magellan's Facilities** as more fully described in **Magellan's General Encroachment Requirements** as set forth in attached **Exhibit "B"** and incorporated herein by reference. **Magellan does not permit or authorize any Encroachments unless specifically approved in a written agreement identifying all "Approved Encroachments";** and

WHEREAS, **Owner** desires to obtain **Magellan's** consent for one or more **Encroachments** on **Magellan's Easement Tract;**

NOW, THEREFORE, in consideration of the covenants and agreements herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Magellan**, subject to the following terms and provisions, hereby consents to the **Encroachments** listed below as "**Approved Encroachments**" described and limited pursuant to the following specified plan drawings, which were furnished by **Owner** to **Magellan** ("**Plan Drawings**") and attached hereto as **Exhibit "C"**:

1. Sheet 37 of 52 of City of Newport 2011-01 Drainage Improvements – Plan and Profile – RAVINE STA 73+00 TO 78+00, dated 3/31/2011 and Revised as of 9/1/11 by BDM Consulting Engineers, PLC, Job No. 118044, S.P. 098-080-34; and
2. Sheet 39 of 52 of City of Newport 2011-01 Drainage Improvements – Plan and Profile – BAILEY STA 80+00 TO 85+00, dated 3/31/2011 and Revised as of 9/1/11 by BDM Consulting Engineers, PLC, Job No. 118044, S.P. 098-080-34; and
3. Sheet 40 of 52 of City of Newport 2011-01 Drainage Improvements – Plan and Profile – BAILEY STA 85+00 TO 90+00, dated 3/31/2011 and Revised as of 9/1/11 by BDM Consulting Engineers, PLC, Job No. 118044, S.P. 098-080-34; and
4. Sheet 41 of 52 of City of Newport 2011-01 Drainage Improvements – Plan and Profile – BAILEY STA 90+00 TO 93+20, dated 3/31/2011 and Revised as of 9/1/11 by BDM Consulting Engineers, PLC, Job No. 118044, S.P. 098-080-34; and

### **TERMS AND PROVISIONS**

1. **Approved Encroachments.** The **Approved Encroachments**, as further identified, described and limited in the **Plan Drawings** as set forth in **Exhibit “C”** are limited to the following:
  - (a) 36-inch diameter HDPE storm sewer to be constructed on the northerly portion of this City of Newport project to be located approximately parallel to the **Magellan Facilities** with a minimum horizontal separation of 20 feet between the closest **Magellan** pipeline and the storm sewer pipeline.
  - (b) Grading and fill of an approximately 6 feet of additional fill over **Magellan’s** pipelines, with some areas having as much as 9 feet of additional fill. The grading and fill shall be subject to the requirements of Provision No. “11” set forth below.
  - (c) Rip rap installation in two locations associated with the retention pond, as shown on Exhibit “C”. Rip rap will be at final grade, and installation will be subject to the provisions of provision number “11” set forth below.
  - (d) A 24-inch diameter RCP storm sewer line, as shown on Exhibit “C”. This sewer line will cross, approximately at pipeline station 12826+00, beneath the **Magellan Facilities** at an approximate angle of 90 degrees and shall be constructed so as to provide a minimum of 2 feet of vertical separation between the sewer line and the closest pipeline of the **Magellan Facilities**.
2. **No Other Encroachments.** Except for the **Approved Encroachments** as allowed by this **Agreement**, **Owner** shall not create, erect, place or construct any other **Encroachment** on,

above or below the surface of the ground on **Magellan's Easement Tract**, or change the grade or elevation of the ground surface within **Magellan's Easement Tract** or at any time plant or allow any trees thereon or cause or permit any of these to be done by others, without the express prior written permission of **Magellan. Owner's Land** and the easement rights for **Owner's Easement Tract** and **Owner's Temporary Easement Tracts** were granted to **Owner** by Bailey Nurseries, Inc. in 2011, and are subject to the **Easement** (the easement rights belonging to **Magellan**, its successors and assigns) and to this **Agreement**.

3. **Magellan On-Site Representative.** Exclusive of Saturday, Sunday, and legal holidays, **Owner** shall notify **Magellan** a minimum of 48 hours in advance of any **Encroachment** activities on **Magellan's Easement Tract** so that **Magellan** may arrange to have a representative present. At **Magellan's** option and at **Owner's** sole cost and expense, **Magellan's** representative may be on site during all **Encroachment** activities over or within ten feet (10') of the **Magellan Facilities** to confirm that no damage occurs to the **Magellan Facilities**. The presence of **Magellan's** representative or any verbal instructions given by such representative shall not relieve **Owner** of any liability under the **Easement** or this **Agreement**, and will not change the terms of the **Easement** or this **Agreement**, which may only be changed by written agreement by authorized representatives of **Owner** and **Magellan**. If pipeline, coating, cathodic protection and/or any other repair of **Magellan Facilities** is required by **Magellan** or if the safety of the **Magellan Facilities** is jeopardized, in **Magellan's** sole judgment, **Owner** shall stop all construction activities on **Magellan's Easement Tract** until said repairs are completed or until any unsafe construction practices are resolved to the satisfaction of **Magellan's** on-site representative. Written notification of such construction activity shall be made to **MAGELLAN PIPELINE COMPANY, Attention: Howard White, 2728 Patton Rd., St. Paul, MN 55113, Office:(651) 635-4279, Cell: (612) 759-9452, Fax: (651) 633-5464**, or such other representative of **Magellan**, which **Magellan** may from time to time designate.
4. **Protection of Magellan Facilities.** **Owner** shall protect the **Magellan Facilities** if excavating and backfilling become necessary within **Magellan's Easement Tract**. If excavating within 2 feet of any **Magellan** pipeline or when otherwise deemed necessary by **Magellan's** on-site representative, **Owner** shall perform any necessary digging or excavation operations by hand digging. **Owner** shall reimburse **Magellan** for all costs of having a representative of **Magellan** on-site during construction activities related to the **Approved Encroachments**.
5. **Breach.** If either **Owner** or **Magellan** breaches this **Agreement** and the non-breaching party commences litigation to enforce any provisions of this **Agreement**, the reasonable cost of attorneys' fees and expenses will be payable to the non-breaching party by the breaching party upon demand, for all claims upon which the non-breaching party prevails.
6. **Insurance.** **Owner** shall procure or cause its contractors and subcontractors to procure and maintain in force throughout the entire term of this **Agreement** insurance coverage described

below with insurance companies acceptable to **Magellan** for work performed related to the construction of the **Approved Encroachments**. All costs and deductible amounts will be for the sole account of the **Owner** or its contractors and subcontractors. Prior to commencing any activities related to the construction of the **Approved Encroachments**, the **Owner** must deliver to **Magellan** certificate(s) of insurance. Non-renewal or cancellation of policies must be effective only after **Magellan** receives written notice from the insurance company thirty (30) days in advance of such non-renewal or cancellation. The limits set forth below are minimum limits and will not be construed to limit the **Owner's** liability:

- (a) Workers' Compensation insurance complying with the laws of the State or States having jurisdiction over each employee and Employer's Liability insurance with limits of \$1,000,000.
- (b) Commercial or Comprehensive General Liability insurance on an occurrence form with a combined single limit of \$5,000,000 each occurrence and project specific annual aggregates of \$5,000,000. Coverage must include premises/operations, independent contractors, blanket contractual liability, and products/completed operations coverage, broad form property damage, personal injury, and sudden and accidental pollution; such coverage must be maintained for two (2) years following completion of work activities related to the construction of the **Approved Encroachments**. **Magellan**, its affiliated companies, and its and their respective directors, officers, partners, members, shareholders, employees, agents and contractors shall be included as additional insureds.
- (c) In each of the above policies, the **Owner** or its contractors and subcontractors agrees to waive and will require its insurers to waive any rights of subrogation or recovery either may have against **Magellan** and its affiliated companies.
- (d) Regardless of the insurance requirements above, the insolvency, bankruptcy, or failure of any such insurance company providing insurance for the **Owner** or its contractors and subcontractors, or the failure of any such insurance company to pay claims that occur, such requirements, insolvency, bankruptcy or failure will not be held to waive any of the provisions hereof.
- (e) In the event of a loss or claim arising out of or in connection with the construction of the **Approved Encroachments**, the **Owner** agrees, upon request of **Magellan**, to submit a certified copy of its insurance policies for inspection by **Magellan**.
- (f) The **Owner** shall require all of its contractors and subcontractors for work related to the construction of the **Approved Encroachments** to provide adequate insurance coverage, all to be endorsed with the Waiver of Subrogation wording referenced in Section (c) above; any deficiency in the coverage, policy limits, or endorsements of said contractors and subcontractors, shall be the sole responsibility of the **Owner**.

7. **Indemnification.** **Owner** will indemnify, save, and hold harmless **Magellan**, its affiliated companies, directors, officers, partners, employees, agents and contractors from any and all environmental and non-environmental liabilities, losses, costs, damages, expenses, fees (including reasonable attorneys' fees), fines, penalties, claims, demands, causes of action, proceedings (including administrative proceedings), judgments, decrees and orders resulting from **Owner's** breach of this **Agreement** or caused by or as a result of the construction, use, maintenance, existence or removal of the **Approved Encroachments** or **Other Encroachments** located on the **Magellan Easement Tract**. The presence of **Magellan's** representative or any instructions given by such representative will not relieve **Owner** of any liability under this **Agreement**, except to the extent that such liability results from **Magellan's** or its representative's gross negligence or willful misconduct.
8. **Damage or Loss.** **Owner** covenants that:
- (a) If at any time, in the sole opinion of **Magellan**, it becomes necessary for **Magellan**, to cross, occupy, utilize, move or remove all or portions of the **Approved Encroachments** placed on **Magellan's Easement Tract** or constructed pursuant to this **Agreement**, for any purpose, including but not limited to surveying, constructing new facilities, maintaining, inspecting, operating, protecting, repairing, replacing, removing or changing the size of a pipeline(s) and appurtenances on **Magellan's Easement Tract** and such activities by **Magellan** result in damage to or destruction of the **Approved Encroachments**, then repair, replacement or restoration of such **Approved Encroachments** shall be at the sole cost and responsibility of **Owner**.
- (b) If at any time, any encroachments belonging to or permitted by **Owner** which are not authorized by this or another written agreement ("**Other Encroachments**") are found to be on **Magellan's Easement Tract**, **Magellan** may at any time request **Owner** to remove such **Other Encroachments**, and if **Owner** refuses or fails to do so within a reasonable time, **Magellan's** may remove them from **Magellan's Easement Tract** to **Owner's Land** at **Owner's** expense, unless they are allowed to remain by a written agreement between **Magellan** and **Owner**. Should such removal activities by **Magellan** result in damage to or destruction of the **Other Encroachments**, then repair, replacement or restoration of such **Other Encroachments** shall be at the sole cost and responsibility of **Owner**, and such **Other Encroachments** may not be repaired, replaced or rebuilt on **Magellan's Easement Tract** without a written agreement between **Magellan** and **Owner**.
- (c) If during the exercise of the rights granted by the **Easement** or by this **Agreement**, the **Approved Encroachments** and **Other Encroachments**, if any, are damaged, destroyed or suffer loss of value, **Owner** agrees to release **Magellan**, its affiliates, and its and their respective directors, officers, members, partners, shareholders, employees, agents and contractors from and against any and all liabilities, and damages or losses which may

arise as a result of the damage to or loss of use of the **Approved Encroachments** and **Other Encroachments**, if any, caused by **Magellan**, its employees, agents and contractors.

9. **Magellan Rights.** **Magellan** and **Owner** agree that the existence of the **Approved Encroachments** or this **Agreement** does not constitute a waiver of **Magellan's** rights under the **Easement**. **Magellan** hereby reserves and **Owner** hereby grants and confirms all of **Magellan's** rights, title and estate as set forth in the **Easement**.
10. The terms and conditions of this **Agreement** will constitute covenants running with the land and be binding upon and inure to the benefit of the parties hereto, their successors, assigns and grantees. This **Agreement** may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. This **Agreement** shall become effective upon its complete execution by the parties hereto.
11. **Construction Equipment – Weight Limits – Cover Requirements.** Prior to beginning work within **Magellan's Easement Tract**, **Owner** must have written approval from **Magellan** for the safe weight limits of equipment (including loads) to be used on the **Magellan Easement Tract**. **Owner** shall furnish to **Magellan** information as to equipment weights (loaded weights) which will be operating within **Magellan's Easement Tract** or which will be working near or driving over the **Magellan Facilities**, so that **Magellan** can perform pipeline stress calculations to determine safe weight limits for construction equipment (including loads) working near or driving over the **Magellan Facilities**. Based on such weight information provided by **Owner**, **Magellan** will, in a timely manner, calculate the minimum compacted cover that will be required to be provided and/or maintained by **Owner** over the **Magellan Facilities** during **Owner's** activities over or in the vicinity of the **Magellan Facilities** in order to provide adequate protection and safe operation for the **Magellan Facilities** and **Owner** agrees to comply with such weight limit requirement.
12. **Special Support of Magellan Pipelines During Construction Activities.** For any open-trench digging by **Owner** which will expose the **Magellan Facilities** (pipelines), **Owner** shall use certain precautions to ensure the safety of the **Magellan Facilities**. In order to minimize additional longitudinal stress on **Magellan's** pipelines due to elastic bending of such pipelines during project construction, when the native supporting soil under a pipeline will be removed for a length greater than or equal to the respective pipeline's safe maximum allowable unsupported span length (which will be calculated by **Magellan**), **Owner** shall supply appropriate mechanical support to **Magellan's** pipelines with a sling and side boom or other method, which method must be approved by **Magellan's** authorized representative for each such situation. Furthermore, in such event, **Magellan**, in accordance with its policy to protect the **Magellan Facilities**, shall be granted reasonable opportunity to conduct non-destructive evaluations and/or weld on reinforcing sleeves on all girth welds that will be fully exposed when the native supporting soil under the pipeline will be removed for a length greater than or equal to the respective pipeline's safe maximum allowable unsupported span





ALTERATIONS TO THIS DRAWING ARE PROHIBITED WITHOUT THE EXPRESS WRITTEN PERMISSION OF BDM CONSULTING ENGINEERS AND SURVEYORS, P.L.C.

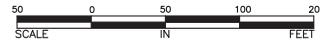
THIS SURVEY REFLECTS ABOVE GROUND INDICATIONS OF UTILITIES AND INFORMATION AVAILABLE FROM ASBUILT DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED UNDERGROUND UTILITIES.

# DRAINAGE AND UTILITY EASEMENT EXHIBIT FOR: THE CITY OF NEWPORT

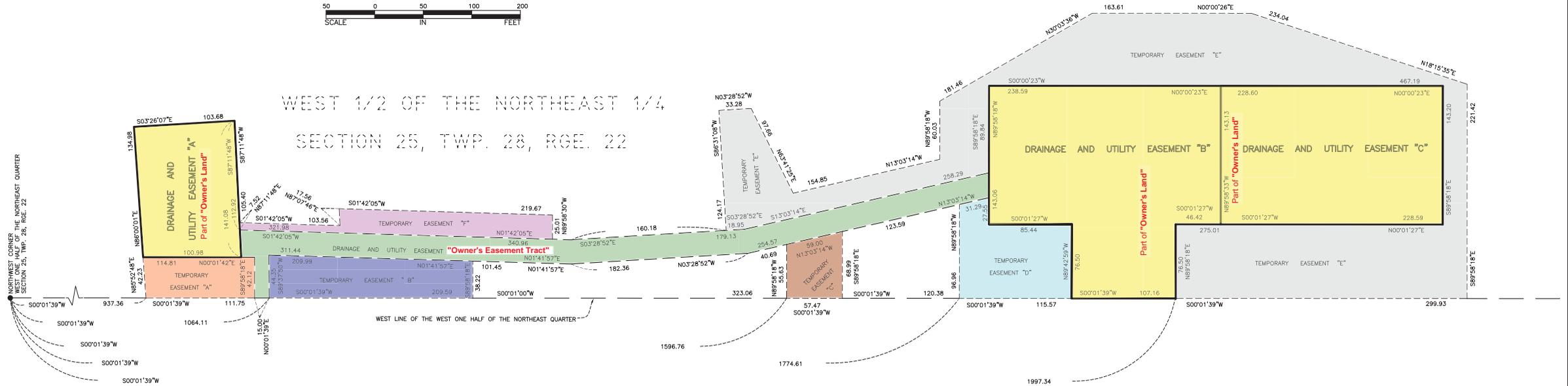
(BAILEY NURSERIES, INC. P.I.D. 2502822120005 AND 2502822130001)



**CONSULTING ENGINEERS & SURVEYORS**  
 SOUTH OFFICE:  
 60 PLATO BOULEVARD EAST, SUITE 140, ST. PAUL, MN (612) 548-3140  
 NORTH OFFICE:  
 11040-183RD CIRCLE NW, STE. A, ELK RIVER, MN (651) 334-8413



WEST 1/2 OF THE NORTHEAST 1/4  
 SECTION 25, TWP. 28, RGE. 22



**PROPOSED LEGAL DESCRIPTION  
 PERMANENT DRAINAGE AND UTILITY EASEMENT "A":**

A Perpetual Easement for Drainage and Utility Purposes over, under, and across that part of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota, described as follows:

Commencing at the northwest corner of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota according to the Government Survey thereof; thence South 00 degrees 01 minute 39 seconds West assumed bearing along the west line of said West One Half of the Northeast Quarter for a distance of 937.36 feet; thence North 85 degrees 52 minutes 48 seconds East for a distance of 42.23 feet to the point of beginning; thence North 86 degrees 00 minutes 01 second East for a distance of 134.98 feet; thence South 03 degrees 26 minutes 07 seconds East for a distance of 103.68 feet; thence South 87 degrees 11 minutes 48 seconds West for a distance of 141.08 feet; thence North 00 degrees 01 minute 42 seconds East for a distance of 100.98 feet to the point of beginning and there terminating.

Containing 14,112 square feet or 0.32 acres more or less.

**PROPOSED LEGAL DESCRIPTION  
 PERMANENT DRAINAGE AND UTILITY EASEMENT "B":**

A Perpetual Easement for Drainage and Utility Purposes over, under, and across that part of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota, described as follows:

Commencing at the northwest corner of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota according to the Government Survey thereof; thence South 00 degrees 01 minute 39 seconds West assumed bearing along the west line of said West One Half of the Northeast Quarter for a distance of 1997.34 feet to the point of beginning; thence North 89 degrees 58 minutes 18 seconds East for a distance of 76.50 feet; thence South 00 degrees 01 minutes 27 second West for a distance of 46.42 feet; thence South 89 degrees 58 minutes 33 seconds East for a distance of 143.13 feet; thence North 00 degrees 00 minutes 23 seconds East for a distance of 238.59 feet; thence North 89 degrees 58 minutes 18 seconds West for a distance of 143.06 feet; thence South 00 degrees 01 minutes 27 seconds West for a distance of 85.44 feet; thence North 89 degrees 42 minutes 59 seconds West for a distance of 76.50 feet to the west line of said West One Half of the Northeast Quarter; thence South 00 degrees 01 minute 39 seconds West along said west line of the West One Half of the Northeast Quarter a distance of 107.16 feet to the point of beginning and there terminating.

Containing 42,323 square feet or 0.97 acres more or less.

**PROPOSED LEGAL DESCRIPTION  
 PERMANENT DRAINAGE AND UTILITY EASEMENT "C":**

A Perpetual Easement for Drainage and Utility Purposes over, under, and across that part of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota, described as follows:

Commencing at the northwest corner of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota according to the Government Survey thereof; thence South 00 degrees 01 minute 39 seconds West assumed bearing along the west line of said West One Half of the Northeast Quarter for a distance of 1997.34 feet; thence North 89 degrees 58 minutes 18 seconds East for a distance of 76.50 feet; thence South 00 degrees 01 minutes 27 second West for a distance of 46.42 feet to the point of beginning; thence continuing South 00 degrees 01 minutes 27 second West for a distance of 228.59 feet; thence South 89 degrees 58 minutes 18 seconds East for a distance of 143.20 feet; thence North 00 degrees 00 minutes 23 seconds East for a distance of 228.60 feet; thence North 89 degrees 58 minutes 33 seconds West for a distance of 143.13 feet to the point of beginning and there terminating.

Containing 32,727 square feet or 0.75 acres more or less.

DATED: 11-17-11 FINAL  
 Revised: 11-22-11 Easement "C"  
 JOB NO: 118 044 E BAILEYS EASEMENT

**EXHIBIT "A", Pg. 1 of 5**

**EXHIBIT “A”, PAGE 2 OF 5**

**Description of “Owner’s Easement Tract”**

*(acquired by City of Newport from Bailey Nurseries, Inc. by separate document)*

A Perpetual Easement for Drainage and Utility Purposes over, under, and across that part of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota, described as follows:

Commencing at the northwest corner of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota according to the Government Survey thereof; thence South 00 degrees 01 minute 39 seconds West assumed bearing along the west line of said West One Half of the Northeast Quarter for a distance of 1064.11 feet to the point of beginning; thence North 00 degrees 01 minute 39 seconds East along said west line of the West One Half of the Northeast Quarter for a distance of 15.00 feet; thence South 89 degrees 58 minutes 18 seconds East for a distance of 42.12 feet; thence North 00 degrees 01 minute 42 seconds East for a distance of 13.83 feet; thence North 87 degrees 11 minutes 48 seconds East for a distance of 28.16 feet; thence South 01 degrees 42 minutes 05 seconds West for a distance of 340.96 feet; thence South 03 degrees 28 minutes 52 seconds East for a distance of 179.13 feet; thence South 13 degrees 03 minutes 14 seconds East for a distance of 258.29 feet; thence North 89 degrees 58 minutes 18 seconds West for a distance of 25.67 feet; thence North 13 degrees 03 minutes 14 seconds West for a distance of 254.57 feet; thence North 03 degrees 28 minutes 52 seconds West for a distance of 182.36 feet; thence North 01 degree 41 minutes 57 seconds East for a distance of 311.44 feet; thence South 89 degrees 37 minutes 50 seconds West for a distance of 44.35 feet plus or minus to said west line of the West One Half of the Northeast Quarter and the point of beginning.

Containing 20,146 square feet or 0.46 acres more or less.

**EXHIBIT "A", PAGE 3 OF 5**

D&U Easement "A" (part of "Owner's Land")

A Perpetual Easement for Drainage and Utility Purposes over, under, and across that part of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota, described as follows:

Commencing at the northwest corner of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota according to the Government Survey thereof; thence South 00 degrees 01 minute 39 seconds West assumed bearing along the west line of said West One Half of the Northeast Quarter for a distance of 937.36 feet; thence North 85 degrees 52 minutes 48 seconds East for a distance of 42.23 feet to the point of beginning; thence North 86 degrees 00 minutes 01 second East for a distance of 134.98 feet; thence South 03 degrees 26 minutes 07 seconds East for a distance of 103.68 feet; thence South 87 degrees 11 minutes 48 seconds West for a distance of 141.08 feet; thence North 00 degrees 01 minute 42 seconds East for a distance of 100.98 feet to the point of beginning and there terminating.

Containing 14,112 square feet or 0.32 acres more or less.

**EXHIBIT “A”, PAGE 4 OF 5**

D&U Easement “B” (part of “**Owner’s Land**”)

A Perpetual Easement for Drainage and Utility Purposes over, under, and across that part of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota, described as follows:

Commencing at the northwest corner of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota according to the Government Survey thereof; thence South 00 degrees 01 minute 39 seconds West assumed bearing along the west line of said West One Half of the Northeast Quarter for a distance of 1997.34 feet to the point of beginning; thence North 89 degrees 58 minutes 18 seconds East for a distance of 76.50 feet; thence South 00 degrees 01 minutes 27 second West for a distance of 46.42 feet; thence South 89 degrees 58 minutes 33 seconds East for a distance of 143.13 feet; thence North 00 degrees 00 minutes 23 seconds East for a distance of 238.59 feet; thence North 89 degrees 58 minutes 18 seconds West for a distance of 143.06 feet; thence South 00 degrees 01 minutes 27 seconds West for a distance of 85.44 feet; thence North 89 degrees 42 minutes 59 seconds West for a distance of 76.50 feet to the west line of said West One Half of the Northeast Quarter; thence South 00 degrees 01 minute 39 seconds West along said west line of the West One Half of the Northeast Quarter a distance of 107.16 feet to the point of beginning and there terminating.

Containing 42,323 square feet or 0.97 acres more or less.

**EXHIBIT “A”, PAGE 5 OF 5**

D&U Easement “C” (part of “**Owner’s Land**”)

A Perpetual Easement for Drainage and Utility Purposes over, under, and across that part of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota, described as follows:

Commencing at the northwest corner of the West One Half of the Northeast Quarter of Section 25, Township 28, Range 22, Washington County, Minnesota according to the Government Survey thereof; thence South 00 degrees 01 minute 39 seconds West assumed bearing along the west line of said West One Half of the Northeast Quarter for a distance of 1997.34 feet; thence North 89 degrees 58 minutes 18 seconds East for a distance of 76.50 feet; thence South 00 degrees 01 minutes 27 second West for a distance of 46.42 feet to the point of beginning; thence continuing South 00 degrees 01 minutes 27 second West for a distance of 228.59 feet; thence South 89 degrees 58 minutes 18 seconds East for a distance of 143.20 feet; thence North 00 degrees 00 minutes 23 seconds East for a distance of 228.60 feet; thence North 89 degrees 58 minutes 33 seconds West for a distance of 143.13 feet to the point of beginning and there terminating.

Containing 32,727 square feet or 0.75 acres more or less.

# EXHIBIT “B” TO ENCROACHMENT AGREEMENT, 1 of 4

<p><b>MAGELLAN PIPELINE COMPANY, L.P.</b></p> <p><b>General Encroachment Requirements</b></p> <p><b>A. GENERAL</b> - These requirements define the minimum standards of practice for encroachments by a landowner (including any developer, business entity, utility company or individual working for, or on behalf of, or with permission of landowner) (herein referred to collectively as “Owner”) to pipeline corridors and rights of way (“Magellan’s Easement Tract”) owned or operated by Magellan Pipeline Company, L.P. (“Magellan”). Upon written request by Owner to Magellan, a copy of these minimum requirements shall be provided to any developer, business entity, utility company or individual working on behalf of Owner or with the permission of Owner within Magellan’s Easement Tract. Specific circumstances may require additional precautions or more stringent methods in order to protect the integrity of Magellan’s pipelines and facilities. Magellan’s Easement Tract for purposes of these General Encroachment Requirements shall be considered to be any area within fifty (50) feet of any Magellan pipeline or other Magellan-owned or operated facility unless a different right of way width is specified by one or more recorded right of way or easement documents (herein collectively called “Easement”), whether one or more, in which case such specified width shall define Magellan’s Easement Tract.</p> <p><b>1. Encroachment Definition.</b> An “encroachment” is any use of the land within Magellan’s Easement Tract which could interfere with Magellan’s Easement rights or which could create safety concerns for Magellan pipelines and/or facilities located on Magellan’s Easement Tract. Encroachments include, but are not limited to: structures, fixtures, personal property, landscaping, foreign utilities, foreign pipelines, roadways, railroads, waterway crossings, water impoundments, walls, heavy equipment and heavy loads on Magellan’s Easement Tract, and also any excavation, digging, drilling, tunneling and addition, removal or disturbance of soil or subsoil within Magellan’s Easement Tract.</p> <p><b>2. Magellan Representative Required On-Site.</b> Magellan pipeline systems operate at high pressures, and for safety reasons, Magellan requires its company representatives to be on-site while Owner is excavating or performing other activities which could endanger the Magellan pipelines or other facilities on</p>	<p>Magellan’s Easement Tract. For other activities of the Owner on the Magellan Easement Tract, the Magellan field representative shall determine whether Magellan’s continuous presence or periodic monitoring of encroachment activities will be required and shall inform the Owner. A Magellan representative will be made available upon 48 hours notice (exclusive of weekends and holidays) to determine the location and approximate depth of any Magellan pipelines. No excavation shall be commenced without prior written approval from Magellan and verification by Magellan of the location and approximate depth of its pipelines.</p> <p><b>3. Magellan’s Facilities.</b> Magellan’s facilities include, but are not limited to, Easement, rights of way, pipelines, meter and valve sites, aboveground piping manifolds and cathodic protection systems.</p> <p><b>4. Land Use Change - Notification.</b> The landowner and tenant, if any, must notify Magellan at any and every time when the land use will be changed for land on or adjacent to Magellan’s Easement Tract. Examples of such land use changes are:</p> <ul style="list-style-type: none"> <li>• Change from pasture to cultivation</li> <li>• Change in depth of tilling (e.g. plowing deeper or deep-breaking the land)</li> <li>• Change in that terraces will be cut or re-cut</li> <li>• Change from agricultural use to residential, commercial or industrial use.</li> <li>• Change from residential to commercial or from commercial to industrial.</li> </ul> <p><b>5. Governmental Regulations and Industry Guidelines.</b> Owner must comply with all applicable laws and regulations, as well as Magellan’s policies as expressed herein. Owner is also hereby referred to the Common Ground Alliance Best Practices which can be found on the web site: <a href="http://www.commongroundalliance.com">www.commongroundalliance.com</a> (See “Program Information” / “Best Practices”) and which is available in booklet form for easy reference. Best Practices addresses the most common issues for damage prevention for an encroaching party, including, among others: Planning and Design; One-Call Center; Locating and Marking; Excavation; and Mapping. In the event of a conflict between laws and regulations, Magellan’s policies and the Common Ground Alliance Best Practices, the following priority shall govern encroachments on Magellan’s Easement Tract: 1st -- laws and regulations; 2nd -- Magellan policies; and 3rd -- Common Ground Alliance Best Practices.</p>	<p><b>B. MAGELLAN RIGHT OF WAY PRACTICE</b></p> <p><b>1. Personal Property and Fixtures To Be Kept Off of Magellan’s Easement Tract.</b> In order to keep Magellan rights of way clear for operations, maintenance, inspection and emergency access, personal property and fixtures shall not be placed, stored or maintained on Magellan’s Easement Tract. Personal property and fixtures include, but are not limited to, storage sheds, automobiles, trailers, mobile homes, above-ground swimming pools, business equipment, product inventory, scrap metal, boulders, large rocks, debris, junk and piles of materials.</p> <p><b>2. Encroachments Subject to Being Cleared from Magellan’s Easement Tract.</b> Subject to the terms of its Easement (including right of way agreement[s] and other written agreements), Magellan may keep Magellan’s Easement Tract clear of items that may hinder the exercise of Magellan’s rights to construct, operate, inspect, maintain, repair and access its pipelines and other facilities. Clearing of the Magellan’s Easement Tract shall include, but not be limited to the following: removal of trees, brush, crops, other vegetation and non-permitted encroachments located on or overhanging all or part of any Magellan’s Easement Tract. Trees or other vegetation overhanging Magellan’s Easement Tract may be side-trimmed.</p> <p><b>C. ENCROACHMENT PLANNING</b></p> <p><b>1. Plan Review Required by Magellan.</b> For any encroachment, Magellan must be provided project plans to review and approve, <i>prior to the encroachment occurring</i>, for purposes of damage prevention.</p> <p><b>2. Submission of Complete Plans.</b> Owner must submit complete plans to Magellan for review. Incomplete plans could delay Magellan’s engineering impact study and insufficient information could result in increased costs. Plans must include:</p> <ul style="list-style-type: none"> <li>• A plan view of the project with the pipeline(s) location included.</li> <li>• An illustration in profile of the existing surface elevations, the proposed surface elevations and the elevation of the Magellan pipeline(s).</li> <li>• A comprehensive utility /structure /grading plan depicting the relationship to the pipeline(s).</li> <li>• A proper legal description of the project location.</li> <li>• Complete landscaping plans.</li> <li>• Complete plans for backfilling and compaction of backfill material.</li> </ul> <p><b>3. Plans Must Show Magellan’s Easement Tract, Pipelines and Facilities.</b> All construction plans (prints) showing lands where all or any part of Magellan’s Easement Tract, any Magellan pipeline or facility is located must contain the</p>	<p>following:</p> <ul style="list-style-type: none"> <li>• Location and depth of all Magellan pipelines and facilities</li> <li>• The width of Magellan’s Easement Tract</li> <li>• A standard warning statement <i>conspicuously displayed</i> containing the following language:</li> </ul> <p style="text-align: center;"><b>WARNING</b> <b>HIGH-PRESSURE PIPELINE(S)</b> <i>Excavation and/or Construction Prohibited Without compliance with State One-Call AND Without Written Permission From MAGELLAN PIPELINE COMPANY, L.P.</i></p> <p><b>4. Written Encroachment Agreement Required.</b> A written, fully executed Encroachment Agreement must be in place between Magellan and Owner before Owner commences work on any encroachment.</p> <p><b>5. Costs.</b> Unless otherwise agreed in writing, all costs to Magellan that result from any encroachment should be paid by Owner. Such costs shall include, but not be limited to: modification, replacement, lowering, and protection of pipelines, including engineering evaluation and design, field labor and real estate research and document preparation and handling.</p> <p><b>6. Pipeline Integrity Inspection.</b> Prior to the installation of any structure, parking lot, roadway or other facility which might interfere with or hinder Magellan’s inspection of any pipeline or facility, Magellan will perform an integrity review of its pipeline and any other assets which may be affected by the proposed structure, parking lot, roadway or other encroaching facility in order to determine that Magellan’s assets comply with integrity requirements and to allow Magellan to make any needed changes prior to construction of any encroachments.</p> <p><b>7. Soil On Magellan’s Easement Tract -- Removing and Adding.</b> No soil shall be removed from or added to Magellan’s Easement Tract without written authorization from Magellan. Any soil added must be clean (without contaminants, trash or debris) fill dirt and must be <i>limited in amount</i> so that the</p>	<p>resulting cover (vertical distance from the surface of the land to the top of Magellan’s pipeline) is not greater than eight feet (8’).</p> <p><b>8. Erosion Control Materials.</b> Erosion-control materials may be allowed on Magellan’s Easement Tract for temporary periods of construction and restoration.</p> <p><b>9. Proof of Title to Property.</b> Magellan may require Owner to provide proof of current ownership of the land where the proposed encroachment is to be located. Such proof may be in the form of a Title Commitment, Title Policy, or a copy of a recorded Warranty Deed.</p> <p><b>10. Subdivision Plat.</b> Magellan requires a copy of the Subdivision Plat, if applicable. If the plat has been recorded, Magellan requires a copy indicating the book and the page of the recording.</p> <p><b>11. Location and Approximate Depth of Pipelines.</b> A Magellan representative is normally available with 48 hours notice (exclusive of weekends and holidays) to determine the location and approximate depth of the pipeline(s). Determining actual depths of pipelines may require pot-holing or hand-digging by, and at the expense of Owner in the presence of an authorized Magellan representative. No excavation on Magellan’s Easement Tract shall take place without approval by Magellan.</p> <p><b>12. Vertical Separation Between Magellan Pipeline or Facility and an Encroaching Object or Structure.</b> Vertical separation is defined in this document as the vertical distance between the outermost part of a Magellan pipeline, facility or appurtenance (for example, the outside of the pipe [for uncased pipe] or the outside of the pipe casing [for cased pipe]) and the outermost part of the encroaching object (for example, the outside of the encroaching pipeline or the outside of its conduit).</p> <p><b>13. Construction Equipment Information.</b> Owner shall provide to Magellan information as to the type, size, and weight of construction equipment that will be used over or in the vicinity of the pipeline(s).</p> <p><b>D. ENCROACHMENT DESIGN REQUIREMENTS &amp; STANDARDS</b></p> <p><b>1. Risk of Loss and Damage.</b> Owner shall bear the risk of loss, damage and/or destruction to any structure, fence, landscaping or improvement placed within the boundaries of Magellan’s Easement Tract and shall hold Magellan harmless</p>
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# EXHIBIT "B" TO ENCROACHMENT AGREEMENT, 2 of 4

<p>for damages, destruction of structures and for any consequential damages which may arise out of Magellan or its designees exercising Magellan's Easement rights or which may arise out of accessing Magellan's Easement Tract, pipelines or facilities.</p> <p><b>2. Buildings, Structures and Fences.</b></p> <p><b>a. Buildings and Structures.</b> No buildings, houses, barns, garages, patios, playhouses, sheds, septic systems or drain fields, swimming pools (above-ground or below-ground), reinforced concrete slabs or other similar structures will be permitted on the Magellan's Easement Tract.</p> <p><b>b. Septic System not permitted.</b> No septic-system, including any lateral lines will be permitted on Magellan's Easement Tract.</p> <p><b>c. Retaining Walls.</b> Retaining walls are not permitted on Magellan's Easement Tract.</p> <p><b>d. Fences.</b> No fence shall be constructed or maintained on Magellan's Easement Tract without a written agreement.</p> <p><b>e. Requirements for Fences.</b> If fencing on Magellan's Easement Tract is authorized by a written agreement with Magellan, the fencing must comply with the following:</p> <p><b>1) Not Parallel to Pipeline.</b> No fence shall be allowed to be constructed parallel closer than 10 feet to any Magellan pipeline, within the boundaries of Magellan's Easement Tract.</p> <p><b>2) Fence Posts Location.</b> No fence posts will be allowed to be within five (5) feet of any Magellan pipeline or facility.</p> <p><b>3) Gates Required.</b> Magellan may require any fence constructed within the boundaries of Magellan's Easement Tract to have gates of such size and suitability as is necessary or convenient for Magellan to access its pipelines and/or facilities for its operations, including inspections, at each point where the fence crosses a Magellan pipeline or facility boundary. Magellan shall be allowed to put a Magellan lock on such gates, which will allow access to Magellan's Easement Tract and/or facilities through such gates.</p> <p><b>4) Angle of Fence Crossing.</b> It is preferred that fence crossings be as close to 90 degrees as possible.</p> <p><b>3. Landscaping, Elevation Changes and Water.</b></p> <p><b>a. Landscaping Definition.</b> Landscaping shall include, but not be limited to, trees, shrubs, underground irrigation or sprinkler systems, sidewalks or other paths, retaining walls, terraces or other land grade changes, within</p>	<p>Magellan's Easement Tract.</p> <p><b>b. General Landscaping Requirements.</b> The following are the general rules for landscaping on Magellan's Easement Tract:</p> <p><b>1) Written Approval.</b> Landscaping proposed to be done on Magellan's Easement Tract must be approved by Magellan in a <b>written encroachment agreement.</b> Among other terms, the encroachment agreement will release Magellan from any liability for damages to the landscaping from the exercise of Magellan's Easement rights.</p> <p><b>2) Trees Not Permitted.</b> Trees are not permitted on Magellan's Easement Tract.</p> <p><b>3) Shrubs.</b> Shrubs exceeding 3 feet in height and/or obstructing the view of any Magellan pipeline marker posts are not permitted on Magellan's Easement Tract.</p> <p><b>4) Irrigation Systems, Field Drain Lines, and Sidewalks.</b> Irrigation systems, field drain lines and sidewalks that are to cross a Magellan pipeline must cross such pipeline at an angle as close to 90 degrees as possible, but in no event at an angle less than 45 degrees and must comply with other applicable provisions of this document.</p> <p><b>c. No Water Bodies on Magellan's Easement Tract.</b> Retention of water, including but not limited to, Livestock ponds, lakes, retention ponds, or wetlands may not be constructed or formed on Magellan's Easement Tract.</p> <p><b>d. Surface Grade and Elevation Changes.</b> Surface grade or elevation changes must be reviewed and approved in writing by Magellan.</p> <p><b>4. Foreign Pipeline &amp; Utility Crossings.</b> No foreign pipelines or utility lines of any type shall be allowed to be constructed parallel to any Magellan pipeline within the boundaries of Magellan's Easement Tract.</p> <p><b>a. Minimum Angle for Pipeline/Utility Crossing.</b> Any foreign pipeline or utility that is proposed to cross a Magellan pipeline must cross the Magellan pipeline at an angle as close to 90 degrees as possible, but in no event at an angle less than 45 degrees.</p> <p><b>b. Vertical Separation Requirements for Crossing.</b> Foreign pipeline(s), utilities (except high-voltage lines – see below) or flow lines should cross Magellan pipeline(s) with at least 24 inches of vertical separation. Special written authorization must be given in the event vertical separation is less than that specified in these General Encroachment Requirements. The preferred method for a foreign pipeline or utility to cross a Magellan pipeline is to cross <b>below</b> the Magellan pipeline.</p> <p><b>c. Warning Tape Required.</b> When any foreign pipeline or utility line is proposed to cross a Magellan pipeline, Owner must place 6" wide McMaster-Carr No. 8288T12 or equal within Magellan's Easement Tract</p>	<p>in the following manner:</p> <p>1) The tape must be placed directly over (parallel to) and at least 15 inches above the foreign line for the entire distance that it occupies Magellan's Easement Tract. Additionally, the tape must be placed directly over (parallel to) and at least 15 inches above each Magellan pipeline that is crossed for a minimum distance which is the greater of:</p> <p>(a) a minimum distance of 20 feet on each side of the Magellan pipeline, or</p> <p>(b) across the entire width of Magellan's Easement Tract</p> <p>2) The placement of warning tape on each side of <i>Magellan</i> pipeline(s) will not be required for utility cables that are installed using the directional drill or jacking method.</p> <p><b>d. Crossings By Metal Pipelines or Conduits.</b> Metallic pipe crossing Magellan pipeline(s) may require Magellan to perform a cathodic protection interference survey. If interference with Magellan's cathodic protection system is detected and remediation is necessary, Owner agrees to cooperate with Magellan and to make necessary adjustments in Owner's interfering metallic pipe or other remediation to correct such interference problem insure that the Magellan cathodic protection system is operating properly.</p> <p><b>e. Crossing Requirements.</b> Electrical, fiber optic, local service communication, long distance carrier telephone, and utility cables should cross Magellan pipeline(s) with a <b>minimum of 24-inches of vertical separation.</b> All such lines must be covered with a <b>Concrete Slab</b> for the full width of the Easement Tract, if requested by Magellan. If such lines have an exposed concentric neutral, a test point from the ground wire shall be installed by the power company.</p> <p><b>f. Crossing Requirements For Lines Going Over a Magellan Pipeline.</b> In the event the electrical, fiber optic, local service communication, long distance carrier telephone, and utility cables cable crosses <b>over</b> a Magellan pipeline, such line shall be <b>encased in red concrete across the full width of Magellan's Easement Tract</b>, unless a variance is granted by Magellan, as set forth below.</p> <p><b>g. Written Authorization for Variance.</b> Owner must have written authorization from Magellan for any variance from the vertical separation requirements listed above and/or for any variance from the requirement for</p>	<p>encasement of high-voltage electrical lines in red concrete.</p> <p><b>h. Utility Poles and Guy Anchors.</b> Utility poles and guy anchors shall not be placed on Magellan's Easement Tract without a written agreement. With a written agreement, poles and anchors may be placed no closer than 20 feet to any Magellan pipeline. Poles shall not be allowed to run parallel to a Magellan pipeline within the Magellan Easement Tract.</p> <p><b>i. Directional Drilling / Boring.</b></p> <p>1) Prior to commencing any horizontal directional drilling, Owner shall submit plans showing procedure and material descriptions for Magellan's approval. The plans and description shall include, but not be limited to the following:</p> <ul style="list-style-type: none"> <li>• Profile and plan showing location of entry and exit points</li> <li>• Work space required to perform the work</li> <li>• Mud containment and disposal sites</li> </ul> <p>2) Owner shall positively locate and stake the location of Magellan's existing pipelines and other underground facilities, including exposing any facilities located within 10 feet of the designed drilled path. Prior to commencing drilling operations, Owner shall modify drilling practices and down-hole assemblies to prevent damage to Magellan's existing pipelines and other facilities. Owner shall be responsible for losses and repairs occasioned by damage all Magellan pipelines and other facilities resulting from drilling or boring operations.</p> <p>3) At all times, Owner shall provide and maintain instrumentation to document and accurately locate the pilot hole and the drill bit, to measure drill-string axial and torsional loads, and to measure drilling fluid discharge rate and pressure. At Magellan's request, Owner shall promptly provide Magellan with reasonable access to information and readings provided by these instruments, including copies of any written documentation.</p> <p>4) Pilot Hole.</p> <ul style="list-style-type: none"> <li>• The pilot hole shall be drilled along the path shown in the plan and profile drawings. No pilot hole shall be made that will result in any of the encroaching utility being installed in violation of laws and regulations or of Magellan's requirements described herein. However, safety for any adjacent utilities and/or structures is of utmost importance. Therefore, the listing of separation distances or tolerances herein does not relieve Owner from responsibility for safe operations or for damage to adjacent utilities and structures.</li> <li>• If tolerances are not specified in the plan and profile drawings, the pilot hole shall have the following tolerances:</li> </ul>	<ul style="list-style-type: none"> <li>• Elevation of +0 feet and -15 feet</li> <li>• Alignment of +/-20 feet as long as it does not come to within 10 feet of Magellan's pipeline</li> <li>• Initial penetration of ground surface at exact location shown in the plan and profile drawings</li> <li>• Final penetration of the ground surface within +/-10 feet of the alignment and within +30 feet and -0 feet of the length shown in the plan and profile drawings</li> <li>• Curves shall be drilled at a radius equal to or greater than that specified in the plan and profile drawings. The drilled radius will be calculated over any 3 joints (range 2 type drill pipe) segment using the following formula: Rdrilled = (Ldrilled/Aavg) x 180/r Where: Rdrilled =drilled radius over Ldrilled Ldrilled = length drilled; no less than 75 feet and no greater than 100 feet Aavg = total change in angle over Ldrilled</li> <li>• At the completion of the pilot-hole drilling, Owner shall provide to Magellan a tabulation of horizontal and vertical coordinates, referenced to the drilled entry point, which accurately describe the location of the pilot hole.</li> </ul> <p><b>5) Drilling Fluids</b></p> <ul style="list-style-type: none"> <li>• The composition of drilling fluids proposed for use shall comply with all applicable laws and regulations.</li> <li>• Owner is responsible for obtaining, transporting and storing any water required for drilling fluids.</li> <li>• Disposal of drilling fluids and drill cuttings shall be Owner's responsibility and shall be conducted in compliance with applicable laws and regulations. Drilling fluid shall <i>not</i> be disposed of by placing fluids on or under the surface of Magellan's Easement Tract.</li> <li>• Owner shall employ best efforts to maintain full annular circulation of drilling fluids. Drilling fluid returns at locations other than entry and exit points shall be minimized. If annular circulation is lost, Owner shall take steps to restore circulation. If inadvertent surface returns of drilling fluids occur, they shall be immediately contained with hand-placed barriers (e.g., hay bales, sand bags, silt fences, etc.) and collected using pumps as practical. If the amount of surface return is not great enough to allow practical collection, the affected area will be diluted with fresh water and the fluid will be allowed to dry and dissipate naturally. If</li> </ul>
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# EXHIBIT “B” TO ENCROACHMENT AGREEMENT, 3 of 4

<p>the amount of surface return exceeds that which can be contained with hand-placed barriers, small collection sumps (less than 5 cubic yards) may be used unless permits or other regulations prohibit the use of collection sumps. If the amount of surface return exceeds that which can be contained and collected using barriers or small sumps, or if the return of drilling fluids occurs in the body of water proper, drilling operations will be suspended until surface return volumes can be controlled.</p> <p>6) <b>As-Built Drawing.</b> Owner shall provide to Magellan an as-built plan and profile drawing of the drilled crossing showing the location of the new crossing as well as the location of Magellan’s pipeline.</p> <p>5. <b>Roadway, Driveway, Railroad and Equipment Crossings.</b> No roadway, driveway, railroad or equipment crossings of any type shall be allowed to be constructed parallel to any Magellan pipeline within the boundaries of Magellan’s Easement Tract.</p> <p>a. <b>Pipeline Integrity Inspection.</b> A pipeline integrity review shall be performed by Magellan as described in provision “6” under “C. <i>Encroachment Planning</i>” (above).</p> <p>b. <b>Load Bearing and Stress Limit Requirements.</b> Prior to any road, driveway, rail bed or equipment crossing construction, Magellan’s engineer must determine whether the proposed compacted cover meets load-bearing requirements and provides adequate protection to limit stress on Magellan’s pipeline or other facilities and must advise Owner of any additional requirements necessary to provide adequate protection.</p> <p>c. <b>No Crossing Over Pipeline Bend.</b> Paved surfaces or rail beds shall not be allowed to cross a pipeline bend (point of inflection).</p> <p>d. <b>Minimum Angle of Crossing.</b> Crossings should be as close to 90 degrees to Magellan pipeline(s) as possible, but not less than 30 degrees.</p> <p>e. <b>Pipeline Casing Issues.</b> Magellan prefers that cased roadway and railroad crossings no longer be installed. If the carrier pipe under roadways and railroads requires adjustment or relocation, then instead of using casing, the carrier pipe will consist of extra strength material or heavier wall thickness to accommodate the additional longitudinal stress due to external loads. If a road or railroad crossing currently uses casing and the road or railroad is being widened and no other adjustment or relocation of the carrier pipe is required, then Magellan may elect to extend the casing pipe on the existing crossing(s) to accommodate additional road surface. If casing is used, it must not end under the roadway surface or track structure, but must extend across the entire length of the roadway or railroad right of way.</p> <p>f. <b>Railroad Crossing Requirements.</b> Railroads shall be installed with a</p>	<p>minimum compacted cover over the carrier pipe, as measured from the base of the rail to the top of the pipe, as follows (see <i>Figures 1 and 3</i>):</p> <table border="1" data-bbox="503 252 828 462"> <thead> <tr> <th>Location of Pipeline</th> <th>Minimum Compacted Cover Over Top of Pipeline</th> </tr> </thead> <tbody> <tr> <td>Under track structure proper (Below bottom of rail)</td> <td>6.0 feet</td> </tr> <tr> <td>Under all other surfaces within the right of way or from the bottom of ditches</td> <td>3.0 feet</td> </tr> </tbody> </table> <p>g. <b>Roadway and Driveway Crossings.</b> Roadways and driveways, shall be installed with a minimum compacted cover over the carrier pipe, as measured from the top of the roadway surface to the top of the pipe, as follows (see <i>Figures 2 and 4</i>):</p> <table border="1" data-bbox="503 609 828 850"> <thead> <tr> <th>Location of Pipeline</th> <th>Minimum Compacted Cover Over Top of Pipeline</th> </tr> </thead> <tbody> <tr> <td>Under roadway surface proper (Below surface of pavement)</td> <td>4.0 feet</td> </tr> <tr> <td>Under all other surfaces within the right of way or from the bottom of ditches</td> <td>3.0 feet</td> </tr> </tbody> </table> <p>h. <b>Crossing Pipelines Transporting Highly Volatile Liquids.</b> For Magellan pipelines transporting highly volatile liquids, minimum cover for a crossing at a drainage ditch must be 4.0 feet.</p> <p>i. <b>When Additional Depth Required.</b> Depth greater than the minimum depths stated above may be required for a pipeline due to the combined stress of internal pipeline pressure and external loading pressure. Magellan will analyze each proposed crossing based on information provided by Owner to determine any additional depth that may be required for the pipeline for safe operation.</p> <p>j. <b>Temporary Roads and Equipment Crossings.</b> Any such road or crossing must meet the following requirements:</p> <ul style="list-style-type: none"> <li>• Must be located at a site approved by a Magellan field representative.</li> <li>• Must provide adequate protection for Magellan’s pipeline and other facilities, as determined by the appropriate Magellan engineer, so that the compacted cover meets load-bearing requirements and provides adequate protection to limit stress on the pipeline or other facilities.</li> </ul>	Location of Pipeline	Minimum Compacted Cover Over Top of Pipeline	Under track structure proper (Below bottom of rail)	6.0 feet	Under all other surfaces within the right of way or from the bottom of ditches	3.0 feet	Location of Pipeline	Minimum Compacted Cover Over Top of Pipeline	Under roadway surface proper (Below surface of pavement)	4.0 feet	Under all other surfaces within the right of way or from the bottom of ditches	3.0 feet	<ul style="list-style-type: none"> <li>• Owner shall place Six-inch wide plastic warning tape, McMaster-Carr No. 8288T12 or equal, over each pipeline for the width of the temporary road or equipment crossing, plus an additional 20 feet past each outside edge of such temporary road or equipment crossing</li> </ul> <p>k. <b>Owner Required to Protect Magellan Pipelines.</b> Magellan may require Owner to put in place additional cover and/or stabilization (timbers, steel plate, crushed rock, concrete slab, etc.) at any approved equipment crossing in order to protect Magellan pipelines, taking into account possible effects of weather, pipeline depth, and type of vehicles proposed to cross the pipelines. Magellan will analyze each proposed crossing based on information provided by Owner to determine any additional depth or protection that may be required for safe pipeline operation.</p> <p>l. <b>Heavy Equipment - Definition and Requirements.</b> Heavy equipment shall be defined as vehicles having a <i>gross weight</i> in excess of 80,000 pounds. Heavy equipment shall be prohibited from working directly on top of the active pipeline. For vehicles having a <i>gross weight</i> of 80,000 pounds or less, the pipeline must have a minimum of 4 feet of cover. Magellan must analyze the additional longitudinal stress due to external loads if the vehicles have a <i>gross weight</i> in excess of 80,000 pounds in order to determine required pipeline depth for safe operation.</p> <p>6. <b>Parking Lots and Other Pavement.</b></p> <p>a. <b>Parking Lot and Pavement Requirements.</b> All parking lots and other pavement installed on Magellan’s Easement Tract shall consist of a flexible surface such as asphalt. No reinforced concrete will be allowed.</p> <p>b. <b>Pipeline Depth Under Parking Lot.</b> The depth of Magellan’s pipelines under a parking lot must meet or exceed compacted cover requirements listed in the previous “Roadway, Driveway, Railroad, and Equipment Crossings” section above</p> <p>7. <b>Waterway Crossings.</b></p> <p>a. <b>Pipeline Depth Requirements.</b> If Owner proposes to cross a Magellan pipeline with a waterway (river, stream, creek, irrigation canal, or drainage ditch), such crossing must result in Magellan’s pipelines meeting or exceeding the minimum depth below the bottom of the waterway for compliance with then current pipeline construction standards and federal, state, and local regulations.</p> <p>b. <b>Requirements for Waterway Crossings:</b></p> <ol style="list-style-type: none"> <li>1) Minimum Angle or Crossing. Crossings should be as close to 90 degrees to Magellan pipeline(s) as possible, but not less than 45</li> </ol>	<p>degrees.</p> <p>2) <b>Vertical Separation Requirements for Waterway Crossing.</b> Pipelines to be crossed must have a minimum vertical separation of five (5) feet, as measured from the bottom of the waterway to the outermost part of a Magellan pipeline, facility or appurtenance</p> <p>3) <b>Adding Weight to Pipeline for Negative Buoyancy.</b> Owner shall bear the cost of Magellan adding sufficient weight or mechanical devices to any Magellan pipeline crossed by a waterway in order to create negative buoyancy for such pipeline.</p> <p>8. <b>Blasting.</b></p> <p>a. <b>Magellan Written Approval Required – Plan To Be Submitted.</b> Magellan must approve any proposed blasting operations that could affect its pipelines or facilities. Should blasting be necessary, a comprehensive plan must be submitted to Magellan for review and written approval.</p> <p>b. <b>Safety Considerations – Damage Prevention Plan.</b> For safety and preservation of Magellan assets, all blasting shall be in accordance with federal, state, and local governing agencies and the Magellan’s “Damage Prevention Plan for Blasting Near Company Facilities”. A copy of said plan will be made available upon request.</p> <p>E. <b>EXCAVATION NEAR MAGELLAN PIPELINES.</b></p> <p>1. <b>STATE “ONE-CALL” REQUIRED.</b> No excavation or activity listed in “A. <i>GENERAL - 1. Encroachment Definition</i>” above shall be performed by Owner in the vicinity of Magellan’s facilities or within Magellan’s Easement Tract until proper telephone notification has been made to the appropriate “One Call” system and a Magellan representative is on-site to monitor excavation activities. All of the states in which Magellan conducts pipeline operations have “One Call” laws, which require 48-72-hours notification prior to any excavation related activities. After making a One-Call, the state One-Call agency will notify Magellan to mark accurately, in a reasonable and timely manner, the location of the Magellan’s pipeline facilities in the vicinity of the proposed encroachment.</p> <p>2. <b>ONE-CALL NOTIFICATION.</b> <i>The following list is provided for convenience, but is not warranted by Magellan to be complete or accurate (telephone numbers were copied from each state’s web site on 1/5/2004).</i> Owner is required to acquire and call the appropriate One-Call number(s) for its location of activity.</p>
Location of Pipeline	Minimum Compacted Cover Over Top of Pipeline														
Under track structure proper (Below bottom of rail)	6.0 feet														
Under all other surfaces within the right of way or from the bottom of ditches	3.0 feet														
Location of Pipeline	Minimum Compacted Cover Over Top of Pipeline														
Under roadway surface proper (Below surface of pavement)	4.0 feet														
Under all other surfaces within the right of way or from the bottom of ditches	3.0 feet														

# EXHIBIT "B" TO ENCROACHMENT AGREEMENT, 4 of 4

Current "ONE-CALL" numbers and information can be found on each state's "ONE-CALL" website:

- Arkansas - www.arkonecall.com/ - 800 482-8998
- Colorado - www.uncc2.org/ - 800 922-1987
- Illinois - www.illinois1call.com/ - 800 892-0123
- Iowa - www.iowaonecall.com/ - 800 292-8989
- Kansas - www.kansasonecall.com/ - 800 344-7233
- Minnesota - www.gopherstateonecall.org/ - 800 252-1166
- Missouri - www.mo1call.com/ - 800 344-7483
- Nebraska - www.ne-diggers.com/ - 800 331-5666
- North Dakota - www.ndonecall.com/ - 800 795-0555
- Oklahoma - www.callokie.com/ - 800 522-6543
- South Dakota - www.sdonecall.com/index.asp - 800 781-7474
- Texas - www.texasonecall.com/ - 800 245-4545
- Wisconsin - www.diggershotline.com/ - 800 242-8511

Alternatively, the National One-Call number - (888) 258-0808 - may be used to register a proposed excavation and to subsequently notify underground utility operators with assets in the vicinity.

**3. Excavation Plan Approval.** Owner shall submit to Magellan for its approval plans for any proposed excavation on the Magellan Easement Tract. No excavation on Magellan's Easement Tract shall be commenced until Owner has secured Magellan's written approval of the plans. The excavation work shall be in compliance with all applicable laws and regulations. Owner is also referred to the Common Ground Alliance Best Practices (referenced in this document).

**4. Magellan Representative On-Site for Excavation.** A Magellan representative must be on-site when an excavation is occurring on Magellan's Easement Tract (see provision "2" under "A. General" beginning on page 1).

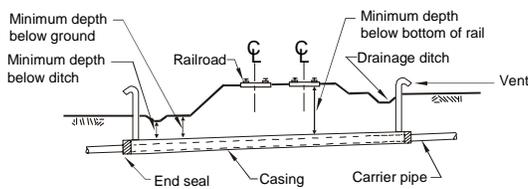
**5. Removal of Side-Cutting Teeth from Equipment.** Side-cutting teeth shall be removed from buckets of excavating equipment.

**6. Parallel Excavating Required.** When, in preparation for crossing any Magellan pipeline with any other pipeline or with electric line, communication line, roadway or any other structure or facility, Owner needs to locate a Magellan pipeline by use of mechanical means, Owner must perform such locating activity by excavating parallel to the Magellan pipeline with such mechanical means, but

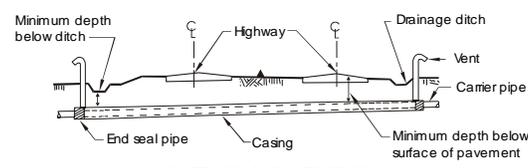
shall cease using the mechanical means when it reaches a point within two feet of the Magellan pipeline (see next provision).

**7. Exposing Pipeline by Hand.** Excavating within 2 feet of any Magellan pipeline shall be done by *hand-digging* until the pipeline is exposed and its location is accurately known. Then, Owner must position the excavation equipment so that from the point of operations the equipment will not reach within 2 feet of any Magellan pipeline.

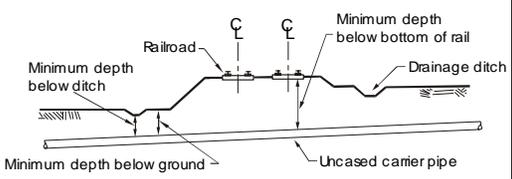
### RAILROAD AND HIGHWAY CROSSINGS



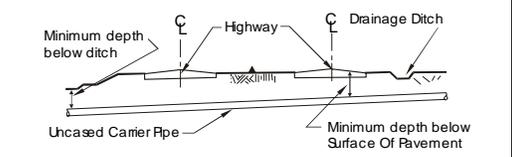
CASED RAILROAD CROSSING  
FIGURE 1



CASED HIGHWAY CROSSING  
FIGURE 2



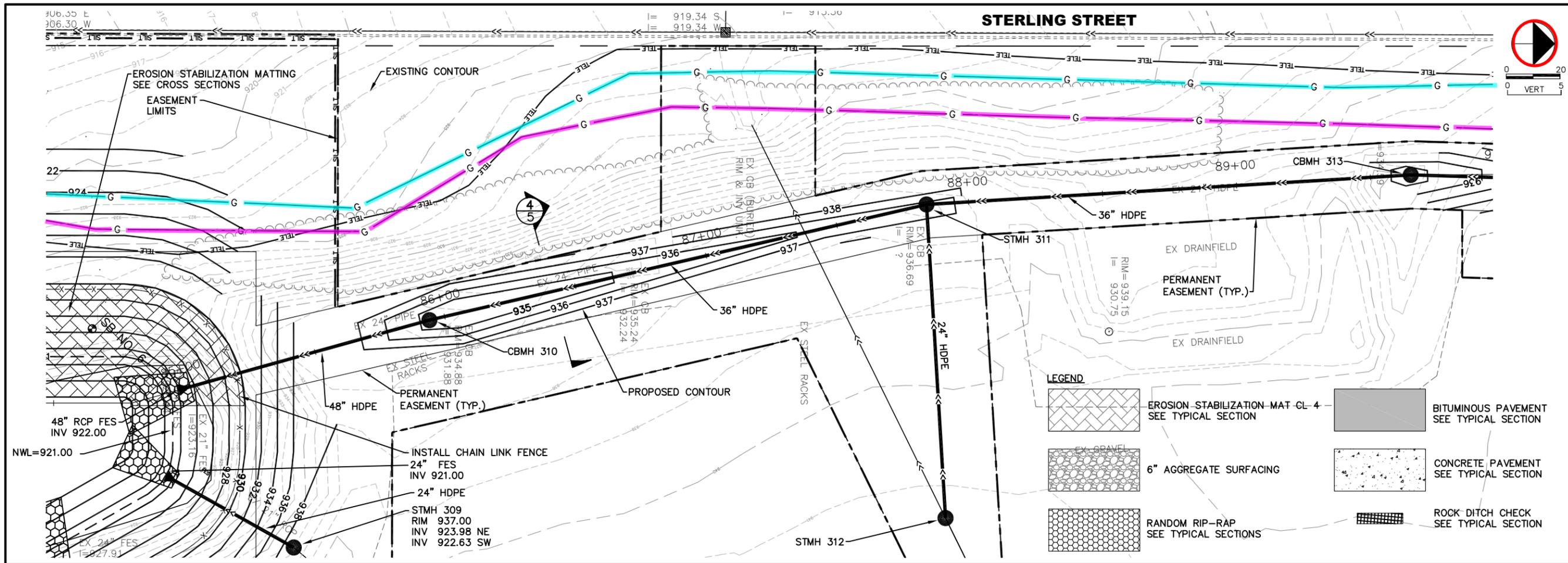
UNCASED RAILROAD CROSSING  
FIGURE 3



UNCASED HIGHWAY CROSSING  
FIGURE 4







REVISIONS	
NO.	DESCRIPTION
1	08-06-11 JLS MNDOT REVIEW REVISIONS
2	09-01-11 JLS FINAL CONSTRUCTION DOCS

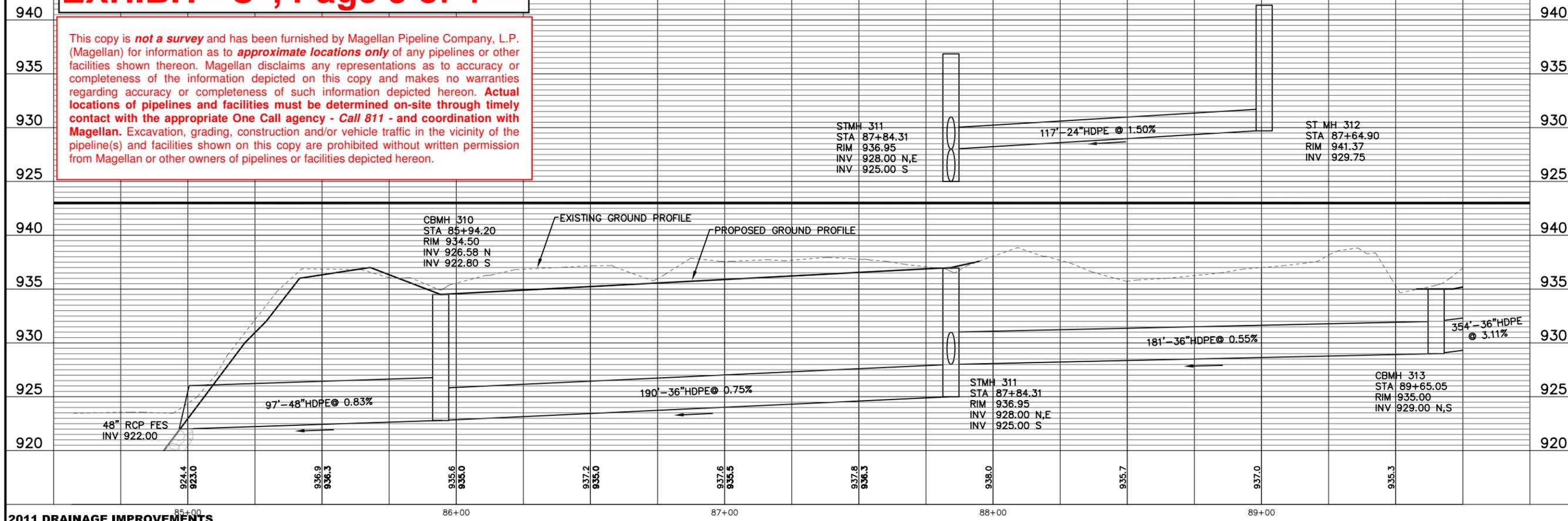
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JAMES L. STREMEL  
DATE: 03-31-2011  
LIC. NO.: 45782

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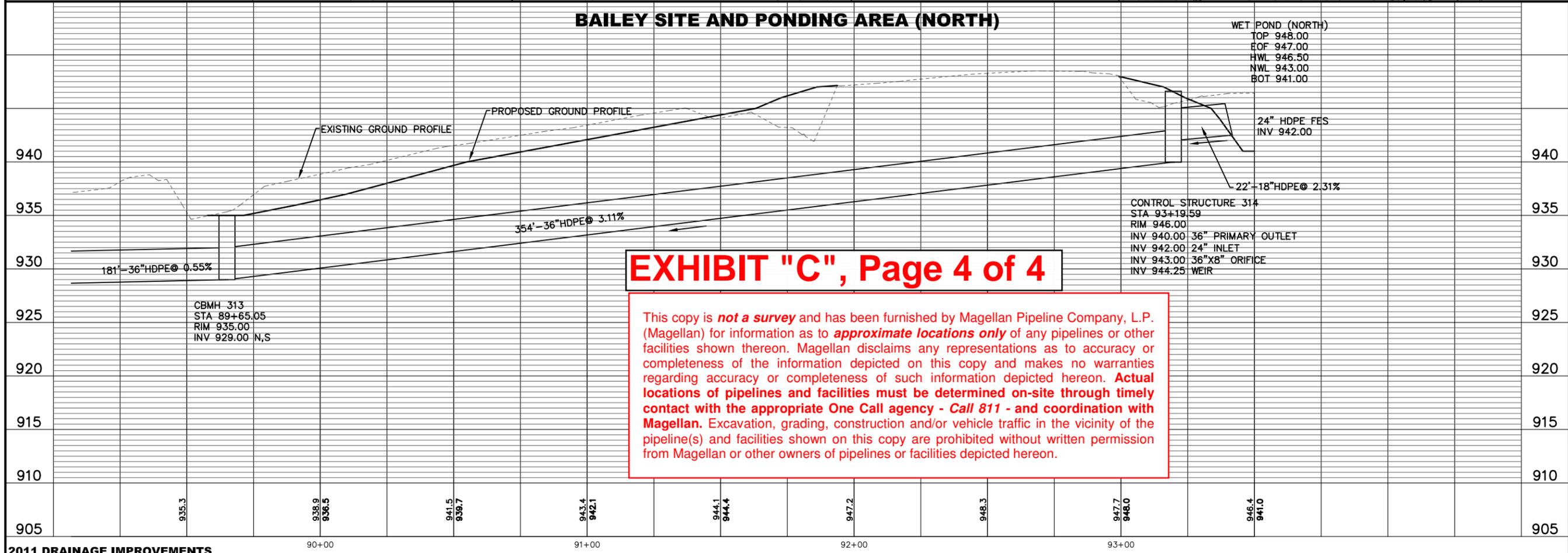
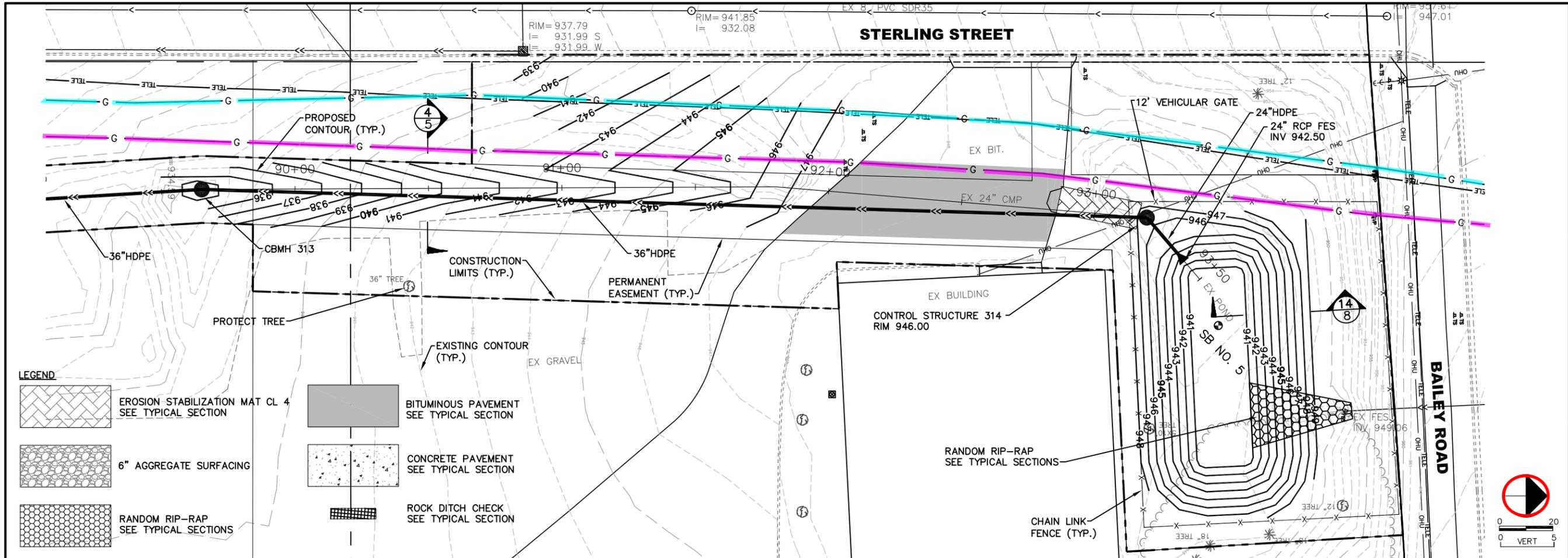


**CITY OF NEWPORT**  
**2011-01 DRAINAGE IMPROVEMENTS**  
**PLAN AND PROFILE**  
**BAILEY STA 85+00 TO 90+00**

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 BDM CONSULTING ENGINEERS, PLC Drake Bldg, 60 Plato Blvd. E. Suite 140 St. Paul, MN 55107 Phone: (763) 786-4570 Fax: (763) 786-4574 bdmce.com		DRAWN BY: CES CHECKED BY: JBS DESIGNED BY: JLS JOB NO. 118044 S.P. 098-080-34
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