



Request for Council Action

TO: Mayor and City Council
THROUGH: Tim Murray, City Administrator
FROM: Mark DuChene, City Engineer
MEETING DATE: September 11, 2018
SUBJECT: Approve Right-of-Entry Agreements for TH 60 Reconstruction Project (Contract 2019-03)

Background:

As part of the proposed improvements related to the 2019 TH 60 Reconstruction Project, City Contract 2019-03, temporary right-of-entry agreements are needed from 36 parcels adjacent to the project limits. The attached right-of-entry agreements allow the City and/or its contractor to enter onto private property to replace and restore items such as utility connections, sidewalks, driveway approaches, turf and/or landscaping and restore related improvements. There are no costs associated with these right-of-entry agreements as the property owners are signing them in exchange for the City not levying special assessments against the benefiting properties for the improvements. The right-of-entry agreements were sent to the property owners on June 15, 2018, and attached are the additional ones that have been returned as of August 23, 2018 (the letter accompanying the agreements asked that they all be returned by July 27, 2018).

It should be noted that there are four parcels where permanent land acquisition is required and monetary compensation is included in those transactions which will come before the council under separate action.

Recommendation:

Approve Right-of-Entry Agreement for TH 60 Parcels 14 & 42

Attachments:

Right-of-Entry Agreement for TH 60 Parcels 14 & 42

(Note Parcel 42 was signed electronically using DocuSign per the property owner's request)

RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT, made on this 5th day of September, 2018, by and between US WEST, INC, ("Owner") and CITY OF FARIBAULT, a Minnesota municipal corporation, ("City").

RECITALS

A. Owner is the fee simple owner of the real estate located at 124 4th Street NW, Faribault, Rice County, Minnesota 55021 (PID 18.31.1.26.207), legally described as follows (the "Property"):

Lot 7 & western half of Lot 8, Block 35 of Original Town (now City) of Faribault, Rice County, Minnesota.

B. City is proposing to undertake roadway and utility improvements on and adjacent to the Property, identified as the 2019 T.H. 60 (4th Street NW) Improvements S.P. 6607-50, which requires a temporary construction easement on a portion of the Property as shown on Exhibit A, attached hereto and made a part hereof (the "Parcel Sketch").

AGREEMENT

NOW, THEREFORE, in consideration of the premises and their mutual promises, the parties hereto hereby agree as follows:

1. Right of Entry. Effective upon the date specified in the notice required at paragraph 2(a) below, Owner hereby grants to City, its agents, employees, contractors and invitees the right to enter upon the Property to the minimal extent required for the purpose of roadway and utility construction and related work.

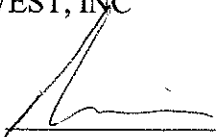
2. Consideration. In consideration for such right of entry, City agrees to:

- a) Notify Owner at least five (5) business days in advance of the date and time that the City's use of the Property will commence under this Agreement;
- b) Do no unnecessary damage to the Property and restore the Property to substantially the same condition as the condition in which it was found by City at the time of City's entry upon the Property pursuant to this Agreement;
- c) Not levy any special assessments against the Property now or in the future for the roadway and utility improvements proposed to be constructed under this

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their names and on their behalves on or as of the above date.

Owner:
US WEST, INC

City:
CITY OF FARIBAULT

By: 

By: _____

Print Name: Ryan Niemeier

Kevin Voracek
Mayor

Its: Messy of Engineering + Construction

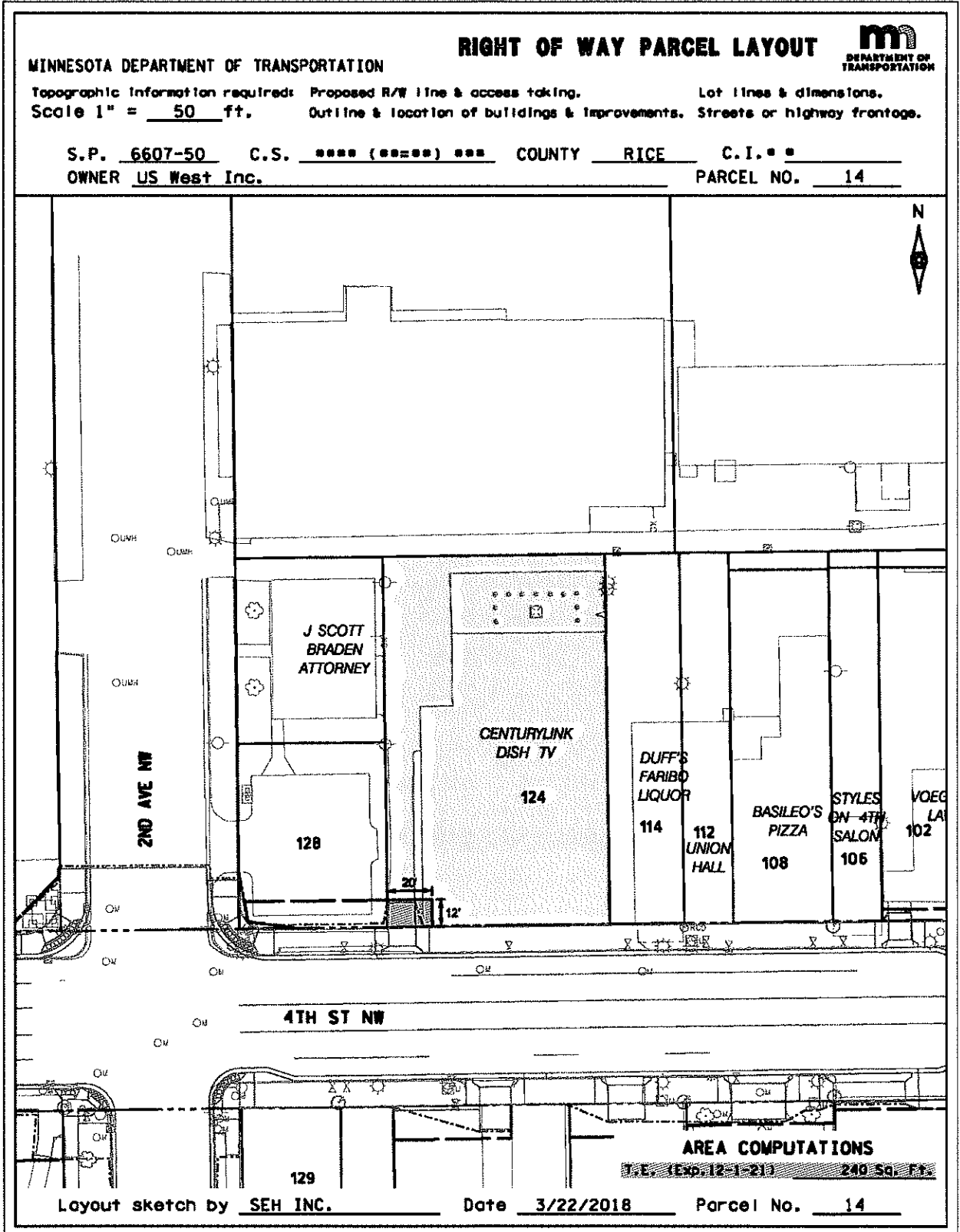
By: _____

Timothy C. Murray
City Administrator

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EXHIBIT A

PARCEL SKETCH



RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT, made on this 28th day of August, 2018, by and between AUTOZONE, INC., (“Owner”) and CITY OF FARIBAULT, a Minnesota municipal corporation, (“City”).

RECITALS

A. Owner is the fee simple owner of the real estate located at 905 4th Street NW, Faribault, Rice County, Minnesota 55021 (PID 18.31.1.26.106), legally described as follows (the "Property"):

Fuller’s Addition to Faribault, Rice County, Minnesota described as follows: Beginning at the northwest corner of Lot 2, Block 1, thence N00D07’41”E a distance of 41.71 feet, thence N89D27’38”E a distance of 110.19 feet, thence N68D25’39”E a distance of 29.58 feet, thence S00D08’32”W along the east line of Lot 1 a distance of 138.40 feet, thence S00D00’44”E continuing along the east line of Lot 1 a distance of 47.10 feet, thence N89D56’30”W a distance of 137.52 feet, thence N00D00’00”E along the west line of Lot 2 a distance 131.71 feet to the point of beginning.

B. City is proposing to undertake roadway and utility improvements on and adjacent to the Property, identified as the 2019 T.H. 60 (4th Street NW) Improvements S.P. 6607-50, which requires a temporary construction easement on a portion of the Property as shown on Exhibit A, attached hereto and made a part hereof (the “Parcel Sketch”).

AGREEMENT

NOW, THEREFORE, in consideration of the premises and their mutual promises, the parties hereto hereby agree as follows:

1. Right of Entry. Effective upon the date specified in the notice required at paragraph 2(a) below, Owner hereby grants to City, its agents, employees, contractors and invitees the right to enter upon the Property to the minimal extent required for the purpose of roadway and utility construction and related work.

2. Consideration. In consideration for such right of entry, City agrees to:

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their names and on their behalves on or as of the above date.

Owner:
AUTOZONE, INC.

City:
CITY OF FARIBAULT

DocuSigned by:
By: Timothy Goddard
10CD02393396439...
Print Name: Timothy Goddard

DocuSigned by:
By: Kevin Voracek
D11C11B7F80...
Print Name: Kevin Voracek
Its: Mayor

Its: Vice President, Store Development

DocuSigned by:
By: Tim Murray
C9F711111...
Print Name: Timothy C. Murray
Its: City Administrator

DocuSigned by:
By: Maria Leggett
EC9FD6C238CE409...
Print Name: Maria Leggett

Its: Vice President, Assistant General Counsel and Assistant Secretary

APPROVED FOR EXECUTION

RJB

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EXHIBIT A

PARCEL SKETCH

