



## Request for Council Action

**TO:** Mayor and City Council  
**THROUGH:** Tim Murray, City Administrator  
**FROM:** Mark DuChene, City Engineer  
**MEETING DATE:** October 23, 2018  
**SUBJECT:** Approve Right-of-Entry Agreement for TH 60 Reconstruction Project (Contract 2019-03)

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### **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 things 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 is the last one.

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 Parcel 16

### **Attachments:**

- Right-of-Entry Agreement for TH 60 Parcel 16

## RIGHT OF ENTRY AGREEMENT

**THIS AGREEMENT**, made on this 17<sup>th</sup> day of October, 2018, by and between JENERO PAZ, (“Owner”) and CITY OF FARIBAULT, a Minnesota municipal corporation, (“City”).

### RECITALS

A. Owner is the fee simple owner of the real estate located at 24 4<sup>th</sup> Street NW, Faribault, Rice County, Minnesota 55021 (PID 18.31.1.26.195), legally described as follows (the "Property"):

All of the eastern 82 feet of Lots 9 & 10, Block 34 of Original Town (now City) of Faribault, Rice County, Minnesota except the parts of Lots 9 & 10 Block 34 otherwise described as follows; Beginning in the southeast corner of Lot 10, thence westerly along the southerly line of Lot 10 42 feet, thence northerly on a line parallel with the eastern line of Lots 9 & 10 80 feet, thence easterly on a line parallel with the south line of Lot 10 40.5 feet, thence south on a line parallel with the east line of Lots 9 & 10 19.8 feet, thence easterly 1.5 feet to the east line of Lot 10, thence south on the east line of Lot 10 60.2 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 (4<sup>th</sup> 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 Agreement.
  3. Acknowledgement. In executing this Agreement, the Owner hereby acknowledges the following:
    - a) That they are owner of the Property and have the right, title and capacity to execute this Agreement and convey to the City the rights granted herein.
    - b) That the improvements proposed to be constructed under this Agreement benefit the Property, and they are executing this Agreement in exchange for the benefit derived from the improvements, with no other compensation due.
    - c) This Agreement shall be valid and binding on the Property through October 31, 2020.
  4. Incorporation of Recitals and Exhibits. The Recitals set forth in the preamble to this Agreement and the Exhibits attached to this Agreement are incorporated into this Agreement as if fully set forth herein.
  5. Governing Law. This Agreement shall be interpreted in accordance with the laws of the state of Minnesota.
  6. Notices and Demands. All notices, demands or other communications under this Agreement shall be effective only if made in writing and shall be sufficiently given and deemed given when delivered personally, transmitted by facsimile, or mailed by certified mail, return receipt requested, postage prepaid, properly addressed as follows:  

If to Owner:	Jenero Paz Attn.: _____ 24 4 <sup>th</sup> St NW Faribault, MN 55021
If to City:	City of Faribault Attn: Tim Murray 208 N.W. 1 <sup>st</sup> Avenue Faribault, MN 55021
- Or to such other persons as the parties may from time to time designate in writing and forward to the other persons entitled to receive notice as provided in this section.
7. Amendment. This Agreement may be amended by the parties hereto only by written instrument executed with the same procedures and formality as were followed in the execution of this Agreement.

**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:  
JENERO PAZ

City:  
CITY OF FARIBAULT

By:   
Print Name: Jenero Paz

By: \_\_\_\_\_  
Kevin Voracek  
Its: Mayor

Its: \_\_\_\_\_

By: \_\_\_\_\_  
Timothy C. Murray  
Its: City Administrator

*(Remainder of page left intentionally blank)*

EXHIBIT A

PARCEL SKETCH

