



## Request for Council Action

**TO:** Mayor and City Council  
**THROUGH:** Tim Murray, City Administrator  
**FROM:** Mark DuChene, City Engineer  
**MEETING DATE:** May 14, 2019  
**SUBJECT:** Approve Temporary Easement Agreement for 112  
2<sup>nd</sup> Avenue SW

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### **Background:**

As part of the proposed improvements related to the 2021 2<sup>nd</sup> Avenue Bridge Replacement and Division Street Reconstruction Project, there are multiple parcels where temporary construction easements are required to complete the proposed work. The City hired Evergreen Land Services to lead the acquisition process and complete the appraisals, offers, and easement agreements.

The temporary easement is needed in order to reconstruct the bridge and associated sidewalk and stairs. The total cost of the easement acquisition is \$315.

### **Recommendation:**

Approve Temporary Construction Easement for 112 2<sup>nd</sup> Avenue SW

### **Attachments:**

- Temporary Construction Easement for 112 2<sup>nd</sup> Avenue SW and supporting documentation

**CITY OF FARIBAULT**  
**Reconstruction of 2<sup>nd</sup> Avenue Bridge/Division Street**

**PAYMENT AUTHORIZATION**

Parcels #

PID# 18.31.4.26.029

Landowner: Divine Mercy Catholic Church  
112 2<sup>nd</sup> Ave SW  
Faribault, MN 55021

Social Security #Exempt

Amount of compensation:

Temporary Easement- \$ 315.00

**Total Compensation- \$315.00**  
**(Rounded)**



Agent



Date

## RIGHT OF ENTRY AGREEMENT

**THIS AGREEMENT**, made on this 26 day of April, 2019 by and between DIVINE MERCY CATHOLIC CHURCH, a Minnesota religious parish corporation organized and existing pursuant to Minn. Stat. 315.15, ("Owner") and CITY OF FARIBAULT, a Minnesota municipal corporation, ("City").

### RECITALS

A. Owner is the fee simple owner of the real estate located at 112 2nd Avenue SW, Faribault, Rice County, Minnesota 55021 (PID 18.31.4.26.029), legally described as follows (the "Property"):

Block 4, Southern Addition to Faribault Rice County, Minnesota.

B. City is proposing to undertake roadway and utility improvements on and adjacent to the Property, identified as the 2<sup>nd</sup> Avenue and Division Street Bridge Replacement Improvements S.P. 125-080-005 & 125-110-006, 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) This Agreement shall be valid and binding on the Property from January 1, 2021 through December 31, 2021.

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: Phillip Parrish  
Divine Mercy Catholic Church  
112 2<sup>nd</sup> Avenue SW  
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:  
DIVINE MERCY CATHOLIC  
CHURCH

City:  
CITY OF FARIBAULT

By: Fr. Kevin Kenney

Print Name: Fr. Kevin Kenney

Its: Pastor

By: \_\_\_\_\_

Kevin Voracek

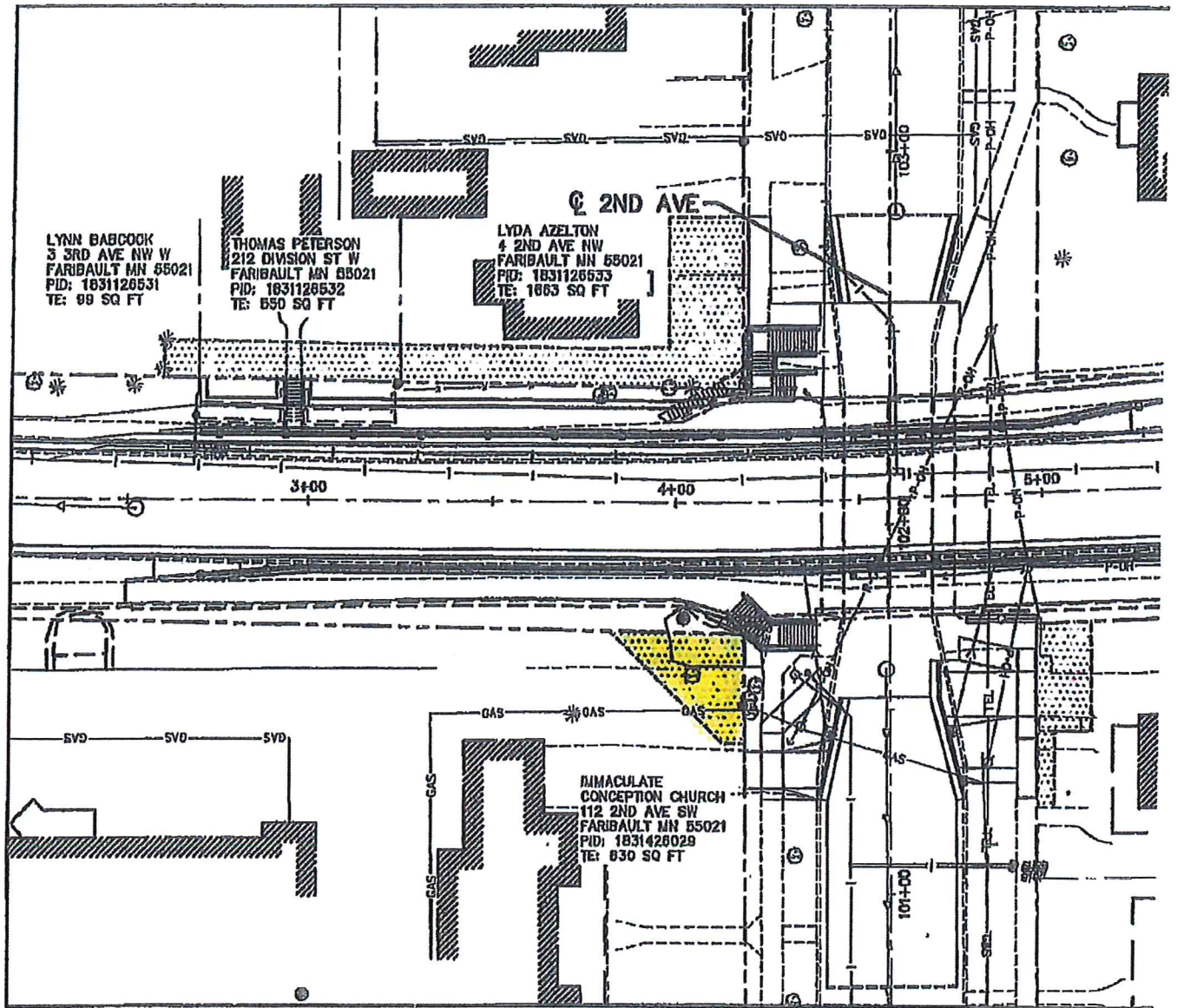
Its: Mayor

By: \_\_\_\_\_

Timothy C. Murray

Its: City Administrator

*(Remainder of page left intentionally blank)*



**Kimley»Horn**

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