



## CITY COUNCIL REGULAR MEETING AGENDA

November 28, 2023 – 7:00 pm

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA<sup>1</sup>
  - A. Manitou Watermain Project – Pay Application #4
5. MATTERS FROM THE FLOOR<sup>2</sup> (*maximum time of five minutes per person*)
6. SPECIAL BUSINESS
  - A. None
7. PUBLIC HEARING
  - A. None
8. OLD BUSINESS
  - A. None
9. NEW BUSINESS
  - A. Resolution 23-40: Authorizing Collection of Outstanding Utility Balances
  - B. Council Direction to Obtain an Administrative Search Warrant for the Purpose of Inspecting a Potentially Hazardous/Abandoned Building Located at 55 Pleasant Avenue.
10. MATTERS FROM THE FLOOR<sup>2</sup> (*maximum time of five minutes per person*)
11. REPORTS
  - A. Administrator's Report
  - B. Contract Staff Report(s)
  - C. Doug Eckland: Finance, Fire Lanes and Public Access, Technology
  - D. Kristin Viger: Parks and Docks, Sanitation and Recycling
  - E. Kelly Wischmeier: Building Inspection, Municipal Buildings and Grounds
  - F. Tim Connelly: EFD, Commercial Marinas, LMCD
  - G. Adam Jennings: SLMPD, Administration, Public Works, Employee Advisory Board
12. ADJOURNMENT

**All matters listed within the Consent Agenda are considered to be routine items to be enacted upon by one City Council motion. Items on the Consent Agenda are reviewed in total by the City Council and may be approved through one motion with no further discussion by the Council. Any item may be removed by any Council Member, staff member or person from the public for separate consideration.**

**<sup>2</sup>For individuals who wish to address the Council on subjects which are not a part of the meeting agenda. Typically, the Council will not take action on items presented at this time but will refer them to staff for review, action and/or recommendation for future Council action.**



November 20, 2023

Mr. Dan Tolsma  
City Administrator  
City of Tonka Bay  
4901 Manitou Road  
Tonka Bay, MN 55331

Re: Construction Pay Voucher No. 4  
Manitou Road Watermain Improvements Project  
City of Tonka Bay, MN  
WSB Project No. 020515-000

Dear Mr. Tolsma:

Please find enclosed Construction Pay Voucher No. 4 in the amount of \$423,370.15 for the above-referenced project. The quantities completed to date have been reviewed and agreed upon by the contractor, and we hereby recommend that the City of Tonka Bay approve Construction Pay Voucher No. 4 in the amount of \$423,370.15 for Geislinger & Sons, Inc.

Once processed, please keep one copy for your records and return two copies to our office, one for the contractor and one for our files.

As of the last invoices and this pay voucher, the project budget summary is below.

Item	Budget	Project to Date (Last Invoices)
Design (Closed)	\$237,620.50	\$237,620.50
Construction Staking, Observation, & Administration	\$414,296.00	\$192,333.70
Construction w/Contingency (5%)	\$4,572,127.90	\$2,731,139.07
<b>Total</b>	<b>\$5,224,044.40</b>	<b>\$3,161,093.27</b>

John Bradford will be in attendance at the November 28, 2023 Council meeting to address any questions. If you have any questions or comments prior to then, please contact me at 612.214.7053. Thank you.

Sincerely,

WSB

Brad A. Reifsteck, PE  
Sr. Project Manager

cc: John Bradford, WSB

srb

701 XENIA AVENUE S | SUITE 300 | MINNEAPOLIS, MN 55416 | 763.541.4800 | WSBENG.COM

Manitou Road Watermain  
Improvements Project

Pay Voucher 4



<b>Client:</b> City of Tonka Bay 4901 Manitou Rd Tonka Bay, MN 55331-9561	<b>Contractor:</b> Geislinger and Sons, Inc. 511 Central Avenue South Watkins, MN 55389
---	---

<b>WSB Project No.:</b> 020515-000
<b>Client Project No.:</b>
<b>State Project No.:</b>
<b>Federal Project No.:</b>

Contract Amount		Funds Encumbered	
Original Contract	\$4,354,407.52	Original	\$4,354,407.52
Contract Changes	\$49,556.99	Additional	N/A
Revised Contract	\$4,403,964.51	Total	\$4,354,407.52

Work Certified To Date	
Base Bid Items	\$2,728,549.50
Contract Changes	\$2,589.57
Material On Hand	\$0.00
Total	\$2,731,139.07

Work Certified This Voucher	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Voucher	Total Amount Paid To Date
\$445,652.79	\$2,731,139.07	\$136,556.95	\$2,171,211.97	\$423,370.15	\$2,594,582.12
Percent Retained: 5%			Percent Complete: 62.02%		

This is to certify that the items of work shown in this Pay Voucher have been actually furnished for the work comprising the above-mentioned project in accordance with the plans and specifications heretofore approved.

Approved By WSB

Approved By Geislinger and Sons, Inc.

  
Signature

  
Signature

November 10, 2023  
Date

11-13-23  
Date

Approved By City of Tonka Bay

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Payment Summary				
No.	Up Through Date	Work Certified Per Voucher	Amount Retained Per Voucher	Amount Paid Per Voucher
1	08/02/23	\$153,682.00	\$7,684.10	\$145,997.90
2	09/13/23	\$1,163,427.50	\$58,171.38	\$1,105,256.12
3	10/09/23	\$968,376.78	\$48,418.83	\$919,957.95
4	11/10/23	\$445,652.79	\$22,282.64	\$423,370.15

Funding Category Name	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Voucher	Total Amount Paid To Date
Local Funding	\$2,731,139.07	\$136,556.95	\$2,171,211.97	\$423,370.15	\$2,594,582.12

Accounting Number	Funding Source	Amount Paid This Voucher	Revised Contract Amount	Funds Encumbered To Date	Paid Contractor To Date
Local Funding	Local	\$423,370.15	\$4,403,964.51	\$4,354,407.52	\$2,594,582.12

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
1	2021.501	MOBILIZATION	LS	\$133,000.00	1	0	\$0.00	1	\$133,000.00
2	2101.502	CLEARING	EACH	\$900.00	3	4	\$3,600.00	4	\$3,600.00
3	2101.502	GRUBBING	EACH	\$600.00	3	4	\$2,400.00	4	\$2,400.00
4	2104.502	REMOVE GATE VALVE & BOX	EACH	\$75.00	10	1	\$75.00	4	\$300.00
5	2104.502	REMOVE CURB STOP & BOX	EACH	\$25.00	29	16	\$400.00	16	\$400.00
6	2104.502	REMOVE HYDRANT	EACH	\$125.00	6	0	\$0.00	0	\$0.00
7	2104.502	REMOVE DRAINAGE STRUCTURE	EACH	\$400.00	1	0	\$0.00	0	\$0.00
8	2104.502	SALVAGE SIGN	EACH	\$35.00	2	0	\$0.00	0	\$0.00
9	2104.503	SAWING CONCRETE PAVEMENT (FULL DEPTH)	L F	\$5.00	50	0	\$0.00	0	\$0.00
10	2104.503	SAWING BIT PAVEMENT (FULL DEPTH)	L F	\$4.00	2320	816	\$3,264.00	2274	\$9,096.00
11	2104.503	REMOVE WATER MAIN	L F	\$5.00	300	5	\$25.00	205	\$1,025.00
12	2104.503	REMOVE WATER SERVICE PIPE	L F	\$5.00	340	37	\$185.00	37	\$185.00
13	2104.503	REMOVE AND REPLACE CURB AND GUTTER	L F	\$210.00	20	0	\$0.00	0	\$0.00
14	2104.504	REMOVE CONCRETE WALK	S Y	\$10.00	40	0	\$0.00	0	\$0.00
15	2104.504	REMOVE CONCRETE DRIVEWAY PAVEMENT	S Y	\$20.00	10	0	\$0.00	0	\$0.00
16	2104.504	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	S Y	\$10.00	230	0	\$0.00	0	\$0.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
17	2104.504	REMOVE BITUMINOUS PAVEMENT	S Y	\$8.00	2160	1809.05	\$14,472.40	2611.4	\$20,891.20
18	2104.603	ABANDON WATER MAIN	L F	\$6.00	5720	0	\$0.00	0	\$0.00
19	2106.507	EXCAVATION - COMMON	C Y	\$24.00	490	195	\$4,680.00	195	\$4,680.00
20	2106.507	EXCAVATION - SUBGRADE	C Y	\$24.00	70	0	\$0.00	0	\$0.00
21	2106.507	SELECT GRANULAR EMBANKMENT (CV)	C Y	\$33.00	50	0	\$0.00	0	\$0.00
22	2106.507	STABILIZING AGGREGATE (CV)	C Y	\$68.00	70	44.44	\$3,021.92	139.27	\$9,470.36
23	2106.601	DEWATERING	LS	\$20,000.00	1	0	\$0.00	0	\$0.00
24	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOURL	\$150.00	50	0	\$0.00	9	\$1,350.00
25	2130.523	WATER (DUST CONTROL)	MGAL	\$75.00	50	0	\$0.00	0	\$0.00
26	2211.507	AGGREGATE BASE (CV) CLASS 5	C Y	\$42.00	840	114.92	\$4,826.64	364.92	\$15,326.64
27	2360.504	TYPE SP 9.5 WEAR CRS MIX (2,B) 3.0" THICK	S Y	\$37.50	230	0	\$0.00	0	\$0.00
28	2360.509	TYPE SP 9.5 WEARING COURSE MIX (2,B)	TON	\$103.50	240	0	\$0.00	0	\$0.00
29	2360.509	TYPE SP 9.5 WEARING COURSE MIX (3,B)	TON	\$104.50	280	351.1	\$36,689.95	351.1	\$36,689.95
30	2360.509	TYPE SP 12.5 NON WEAR COURSE MIX (3,B)	TON	\$97.00	410	400.16	\$38,815.52	400.16	\$38,815.52
31	2503.503	12" RC PIPE SEWER DES 3006 CL V	L F	\$150.00	10	0	\$0.00	0	\$0.00
32	2503.503	18" RC PIPE SEWER DES 3006 CL V	L F	\$170.00	10	0	\$0.00	0	\$0.00
33	2503.602	POST BURST SANITARY SEWER VERIFICATION	EACH	\$375.00	5	0	\$0.00	7.5	\$2,812.50
34	2503.603	SANITARY SEWER SPOT REPAIR	L F	\$235.00	20	2	\$470.00	2	\$470.00
35	2504.601	TEMPORARY WATER SERVICE	LS	\$5,000.00	1	0	\$0.00	0	\$0.00
36	2504.602	12" INSERTA VALVE	EACH	\$21,000.00	3	0	\$0.00	0	\$0.00
37	2504.602	6" INSERTA VALVE	EACH	\$15,000.00	2	0	\$0.00	0	\$0.00
38	2504.602	8" INSERTA VALVE	EACH	\$17,000.00	1	0	\$0.00	0	\$0.00
39	2504.602	CONNECT TO EXISTING WATER MAIN	EACH	\$4,500.00	9	2	\$9,000.00	9	\$40,500.00
40	2504.602	CONNECT TO EXISTING WATER SERVICE	EACH	\$100.00	25	22	\$2,200.00	22	\$2,200.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
41	2504.602	HYDRANT	EACH	\$11,000.00	12	1	\$11,000.00	5	\$55,000.00
42	2504.602	1" CORPORATION STOP	EACH	\$3,500.00	25	16.804	\$58,814.00	16.804	\$58,814.00
43	2504.602	6" GATE VALVE & BOX	EACH	\$6,000.00	14	1	\$6,000.00	10	\$60,000.00
44	2504.602	8" GATE VALVE & BOX	EACH	\$7,500.00	8	1	\$7,500.00	4	\$30,000.00
45	2504.602	12" GATE VALVE & BOX	EACH	\$10,000.00	9	0	\$0.00	8	\$80,000.00
46	2504.602	6"X6" WET TAP	EACH	\$12,000.00	1	0	\$0.00	0	\$0.00
47	2504.602	1" CURB STOP & BOX	EACH	\$500.00	25	21.184	\$10,592.00	21.184	\$10,592.00
48	2504.603	12" WATERMAIN PVC (TRENCHLESS)	L F	\$158.00	3615	0	\$0.00	2660	\$420,280.00
49	2504.603	1" WATER SERVICE LINE	L F	\$1.00	474	781.5	\$781.50	781.5	\$781.50
50	2504.603	8" WATERMAIN HDPE (TRENCHLESS)	L F	\$85.00	1881	0	\$0.00	822	\$69,870.00
51	2504.603	CASING PIPE	L F	\$585.00	192	48.64	\$28,454.40	103.64	\$60,629.40
52	2504.603	WATER SERVICE (DIRECTIONAL DRILLED)	L F	\$79.00	293	0	\$0.00	0	\$0.00
53	2504.603	6" WATERMAIN DUCTILE IRON CL 52	L F	\$110.00	143	8	\$880.00	79	\$8,690.00
54	2504.603	6" PVC WATERMAIN	L F	\$110.00	47	34	\$3,740.00	101	\$11,110.00
55	2504.603	8" PVC WATERMAIN	L F	\$120.00	147	45	\$5,400.00	71	\$8,520.00
56	2504.603	12" PVC WATERMAIN	L F	\$132.00	265	0	\$0.00	331	\$43,692.00
57	2504.604	4" POLYSTYRENE INSULATION	S Y	\$60.00	50	0	\$0.00	0	\$0.00
58	2504.608	DUCTILE IRON FITTINGS	LB	\$13.00	3140	834	\$10,842.00	5702	\$74,126.00
59	2506.502	CONST DRAINAGE STRUCTURE DESIGN G OR H	EACH	\$9,000.00	1	0	\$0.00	0	\$0.00
60	2506.502	CASTING ASSEMBLY	EACH	\$950.00	1	0	\$0.00	0	\$0.00
61	2506.502	ADJUST FRAME & RING CASTING	EACH	\$450.00	3	0	\$0.00	0	\$0.00
62	2506.503	CONST DRAINAGE STRUCTURE DES 48-4020	L F	\$1,500.00	4	0	\$0.00	0	\$0.00
63	2521.518	4" CONCRETE WALK	S F	\$55.00	40	0	\$0.00	0	\$0.00
64	2531.504	6" CONCRETE DRIVEWAY PAVEMENT	S Y	\$208.00	10	0	\$0.00	0	\$0.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
65	2531.604	6" CONCRETE DRIVEWAY PAVEMENT SPECIAL	S Y	\$260.00	20	0	\$0.00	0	\$0.00
66	2535.503	BITUMINOUS CURB	L F	\$15.50	300	48	\$744.00	48	\$744.00
67	2540.602	TEMPORARY MAIL BOX	EACH	\$350.00	2	0	\$0.00	0	\$0.00
68	2540.602	MAIL BOX	EACH	\$75.00	1	0	\$0.00	0	\$0.00
69	2540.602	MAIL BOX SUPPORT	EACH	\$200.00	1	0	\$0.00	0	\$0.00
70	2563.601	TRAFFIC CONTROL	LS	\$50,000.00	1	0	\$0.00	0.75	\$37,500.00
71	2564.602	INSTALL SIGN	EACH	\$350.00	2	0	\$0.00	0	\$0.00
72	2571.502	CONIFEROUS TREE 8' HT B&B	EACH	\$425.00	2	0	\$0.00	0	\$0.00
73	2571.502	DECIDUOUS TREE 2.5" CAL B&B	EACH	\$550.00	2	0	\$0.00	0	\$0.00
74	2572.510	PRUNE TREES	HOURL	\$250.00	10	0	\$0.00	0	\$0.00
75	2573.502	STORM DRAIN INLET PROTECTION	EACH	\$250.00	6	0	\$0.00	0	\$0.00
76	2573.503	SILT FENCE, TYPE MS	L F	\$4.00	200	0	\$0.00	0	\$0.00
77	2573.503	SEDIMENT CONTROL LOG TYPE WOOD FIBER	L F	\$3.00	1000	0	\$0.00	0	\$0.00
78	2574.507	COMMON TOPSOIL BORROW	C Y	\$40.00	156	0	\$0.00	0	\$0.00
79	2575.504	SODDING TYPE LAWN	S Y	\$21.00	80	0	\$0.00	0	\$0.00
80	2575.504	RAPID STABILIZATION METHOD 4	S Y	\$4.00	500	2132.6	\$8,530.40	2132.6	\$8,530.40
81	2575.504	ROLLED EROSION PREVENTION CATEGORY 25	S Y	\$3.25	330	0	\$0.00	0	\$0.00
82	2575.505	SEEDING	ACRE	\$6,500.00	0.33	0	\$0.00	0	\$0.00
83	2575.508	SEED MIXTURE 25-141	LB	\$6.00	19	0	\$0.00	0	\$0.00
84	2575.508	SEED MIXTURE 33-261	LB	\$20.00	5	0	\$0.00	0	\$0.00
85	2575.508	HYDRAULIC MULCH MATRIX	LB	\$2.00	557	0	\$0.00	0	\$0.00
86	2575.523	WATER	MGAL	\$125.00	29	0	\$0.00	0	\$0.00
87	2582.503	4" SOLID LINE MULTI COMP	L F	\$1.50	1022	153	\$229.50	153	\$229.50
88	2582.503	24" SOLID LINE MULTI COMP	L F	\$9.00	40	0	\$0.00	0	\$0.00
89	2582.503	4" DBLE SOLID LINE MULTI COMP	L F	\$3.00	150	0	\$0.00	0	\$0.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
90	2582.518	PAVT MSSG PAINT	S F	\$10.00	15	0	\$0.00	0	\$0.00
91	2104.601	SALVAGE AND REINSTALL LANDSCAPE STRUCTURES	L S	\$12,000.00	1	0	\$0.00	0	\$0.00
92	2502.601	IRRIGATION SYSTEM PROVISION	LS	\$5,000.00	1	0	\$0.00	0	\$0.00
93	2504.601	UTILITY CREW PROVISION	LS	\$30,000.00	1	0.4667	\$14,001.00	1.8461	\$55,383.00
94	2021.501	MOBILIZATION	LS	\$61,000.00	1	0	\$0.00	1	\$61,000.00
95	2101.502	CLEARING	EACH	\$900.00	4	0	\$0.00	2	\$1,800.00
96	2101.502	GRUBBING	EACH	\$600.00	4	0	\$0.00	0	\$0.00
97	2104.502	REMOVE GATE VALVE & BOX	EACH	\$75.00	3	1	\$75.00	3	\$225.00
98	2104.502	REMOVE CURB STOP & BOX	EACH	\$25.00	26	0	\$0.00	13	\$325.00
99	2104.502	REMOVE HYDRANT	EACH	\$125.00	4	1	\$125.00	3	\$375.00
100	2104.502	SALVAGE SIGN	EACH	\$35.00	2	0	\$0.00	0	\$0.00
101	2104.503	SAWING CONCRETE PAVEMENT (FULL DEPTH)	L F	\$5.00	50	0	\$0.00	0	\$0.00
102	2104.503	SAWING BIT PAVEMENT (FULL DEPTH)	L F	\$4.00	1310	0	\$0.00	0	\$0.00
103	2104.503	REMOVE WATER MAIN	L F	\$5.00	120	18	\$90.00	68	\$340.00
104	2104.503	REMOVE WATER SERVICE PIPE	L F	\$5.00	350	0	\$0.00	640	\$3,200.00
105	2104.503	REMOVE AND REPLACE CURB AND GUTTER	L F	\$210.00	40	0	\$0.00	0	\$0.00
106	2104.504	REMOVE CONCRETE WALK	S Y	\$10.00	40	0	\$0.00	0	\$0.00
107	2104.504	REMOVE CONCRETE DRIVEWAY PAVEMENT	S Y	\$10.00	40	20.5	\$205.00	20.5	\$205.00
108	2104.504	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	S Y	\$8.00	310	27.9	\$223.20	27.9	\$223.20
109	2104.504	REMOVE BITUMINOUS PAVEMENT	S Y	\$8.00	1010	653.7	\$5,229.60	653.7	\$5,229.60
110	2104.603	ABANDON WATER MAIN	L F	\$6.00	1750	0	\$0.00	0	\$0.00
111	2106.507	EXCAVATION - COMMON	C Y	\$24.00	220	195	\$4,680.00	195	\$4,680.00
112	2106.507	EXCAVATION - SUBGRADE	C Y	\$24.00	30	0	\$0.00	0	\$0.00
113	2106.507	SELECT GRANULAR EMBANKMENT (CV)	C Y	\$33.00	80	0	\$0.00	0	\$0.00



Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
114	2106.507	STABILIZING AGGREGATE (CV)	C Y	\$68.00	30	44.44	\$3,021.92	44.44	\$3,021.92
115	2106.601	DEWATERING	LS	\$0.01	1	0	\$0.00	0	\$0.00
116	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOURL	\$150.00	20	0	\$0.00	0	\$0.00
117	2130.523	WATER (DUST CONTROL)	MGAL	\$75.00	20	0	\$0.00	0	\$0.00
118	2211.507	AGGREGATE BASE (CV) CLASS 5	C Y	\$42.00	340	114	\$4,788.00	114	\$4,788.00
119	2360.504	TYPE SP 9.5 WEAR CRS MIX (2,B) 3.0" THICK	S Y	\$41.00	310	27.9	\$1,143.90	27.9	\$1,143.90
120	2360.509	TYPE SP 9.5 WEARING COURSE MIX (2,B)	TON	\$105.50	140	0	\$0.00	0	\$0.00
121	2360.509	TYPE SP 9.5 WEARING COURSE MIX (3,B)	TON	\$112.50	100	129.03	\$14,515.88	129.03	\$14,515.88
122	2360.509	TYPE SP 12.5 NON WEAR COURSE MIX (3,B)	TON	\$103.50	150	68.71	\$7,111.49	68.71	\$7,111.49
123	2503.603	SANITARY SEWER SPOT REPAIR	L F	\$235.00	20	0	\$0.00	0	\$0.00
124	2504.601	TEMPORARY WATER SERVICE	LS	\$5,000.00	1	0	\$0.00	1	\$5,000.00
125	2504.602	8" INSERTA VALVE	EACH	\$17,000.00	2	0	\$0.00	0	\$0.00
126	2504.602	CONNECT TO EXISTING WATER MAIN	EACH	\$4,500.00	1	1	\$4,500.00	1	\$4,500.00
127	2504.602	CONNECT TO EXISTING WATER SERVICE	EACH	\$100.00	23	0	\$0.00	13	\$1,300.00
128	2504.602	HYDRANT	EACH	\$11,000.00	4	1	\$11,000.00	3	\$33,000.00
129	2504.602	1" CORPORATION STOP	EACH	\$3,500.00	23	0	\$0.00	13	\$45,500.00
130	2504.602	6" GATE VALVE & BOX	EACH	\$6,000.00	4	1	\$6,000.00	3	\$18,000.00
131	2504.602	8" GATE VALVE & BOX	EACH	\$7,500.00	5	2	\$15,000.00	4	\$30,000.00
132	2504.602	6"X6" WET TAP	EACH	\$12,000.00	2	0	\$0.00	0	\$0.00
133	2504.602	1" CURB STOP & BOX	EACH	\$500.00	23	0	\$0.00	13	\$6,500.00
134	2504.603	1" WATER SERVICE LINE	L F	\$1.00	487	0	\$0.00	25	\$25.00
135	2504.603	8" WATERMAIN HDPE (TRENCHLESS)	L F	\$94.00	2580	0	\$0.00	2107	\$198,058.00
136	2504.603	CASING PIPE	L F	\$675.00	92	38	\$25,650.00	83	\$56,025.00
137	2504.603	WATER SERVICE (DIRECTIONAL DRILLED)	L F	\$52.00	53	0	\$0.00	615	\$31,980.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
138	2504.603	6" WATERMAIN DUCTILE IRON CL 52	L F	\$110.00	77	8	\$880.00	58	\$6,380.00
139	2504.603	6" PVC WATERMAIN	L F	\$110.00	20	0	\$0.00	0	\$0.00
140	2504.603	8" PVC WATERMAIN	L F	\$120.00	197	15	\$1,800.00	264	\$31,680.00
141	2504.604	4" POLYSTYRENE INSULATION	S Y	\$60.00	100	0	\$0.00	60.5	\$3,630.00
142	2504.608	DUCTILE IRON FITTINGS	LB	\$13.00	1460	206	\$2,678.00	1013	\$13,169.00
143	2506.502	CASTING ASSEMBLY	EACH	\$950.00	1	0	\$0.00	0	\$0.00
144	2506.502	ADJUST FRAME & RING CASTING	EACH	\$450.00	1	0	\$0.00	0	\$0.00
145	2521.518	4" CONCRETE WALK	S F	\$55.00	40	0	\$0.00	0	\$0.00
146	2531.504	6" CONCRETE DRIVEWAY PAVEMENT	S Y	\$160.00	40	20.5	\$3,280.00	20.5	\$3,280.00
147	2531.604	6" CONCRETE DRIVEWAY PAVEMENT SPECIAL	S Y	\$260.00	20	0	\$0.00	0	\$0.00
148	2535.503	BITUMINOUS CURB	L F	\$25.00	50	0	\$0.00	0	\$0.00
149	2540.602	TEMPORARY MAIL BOX	EACH	\$350.00	3	0	\$0.00	0	\$0.00
150	2540.602	MAIL BOX	EACH	\$75.00	1	0	\$0.00	0	\$0.00
151	2540.602	MAIL BOX SUPPORT	EACH	\$200.00	1	0	\$0.00	0	\$0.00
152	2563.601	TRAFFIC CONTROL	LS	\$20,000.00	1	0	\$0.00	0.5	\$10,000.00
153	2564.602	INSTALL SIGN	EACH	\$350.00	2	0	\$0.00	0	\$0.00
154	2571.502	CONIFEROUS TREE 8' HT B&B	EACH	\$400.00	2	0	\$0.00	0	\$0.00
155	2571.502	DECIDUOUS TREE 2.5" CAL B&B	EACH	\$550.00	2	0	\$0.00	0	\$0.00
156	2572.510	PRUNE TREES	HOURL	\$250.00	10	0	\$0.00	0	\$0.00
157	2573.502	STORM DRAIN INLET PROTECTION	EACH	\$250.00	9	0	\$0.00	2	\$500.00
158	2573.503	SILT FENCE, TYPE MS	L F	\$4.00	200	0	\$0.00	0	\$0.00
159	2573.503	SEDIMENT CONTROL LOG TYPE WOOD FIBER	L F	\$3.00	800	0	\$0.00	0	\$0.00
160	2574.507	COMMON TOPSOIL BORROW	C Y	\$41.00	56	0	\$0.00	0	\$0.00
161	2575.504	SODDING TYPE LAWN	S Y	\$21.00	40	0	\$0.00	0	\$0.00
162	2575.504	RAPID STABILIZATION METHOD 4	S Y	\$4.00	500	2856.4	\$11,425.60	2856.4	\$11,425.60

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
163	2575.504	ROLLED EROSION PREVENTION CATEGORY 25	S Y	\$3.25	40	0	\$0.00	0	\$0.00
164	2575.505	SEEDING	ACRE	\$6,200.00	0.12	0	\$0.00	0	\$0.00
165	2575.508	SEED MIXTURE 25-141	LB	\$5.00	8	0	\$0.00	0	\$0.00
166	2575.508	SEED MIXTURE 35-221	LB	\$20.00	1	0	\$0.00	0	\$0.00
167	2575.508	HYDRAULIC MULCH MATRIX	LB	\$2.00	235	0	\$0.00	0	\$0.00
168	2575.523	WATER	MGAL	\$125.00	10	0	\$0.00	0	\$0.00
169	2582.503	4" SOLID LINE MULTI COMP	L F	\$1.50	319	152	\$228.00	152	\$228.00
170	2582.503	24" SOLID LINE MULTI COMP	L F	\$9.00	40	0	\$0.00	0	\$0.00
171	2582.503	4" DBLE SOLID LINE MULTI COMP	L F	\$3.00	150	0	\$0.00	0	\$0.00
172	2582.518	PAVT MSSG PAINT	S F	\$10.00	15	0	\$0.00	0	\$0.00
173	2104.601	SALVAGE AND REINSTALL LANDSCAPE STRUCTURES	L S	\$10,000.00	1	0	\$0.00	0	\$0.00
174	2502.601	IRRIGATION SYSTEM REPAIR PROVISIONS	LUMP SUM	\$3,000.00	1	0	\$0.00	0	\$0.00
175	2504.601	UTILITY CREW PROVISION	LS	\$30,000.00	1	0	\$0.00	0.8914	\$26,742.00
176	2021.501	MOBILIZATION	LS	\$78,000.00	1	0	\$0.00	0.5	\$39,000.00
177	2101.502	CLEARING	EACH	\$900.00	4	0	\$0.00	0	\$0.00
178	2101.502	GRUBBING	EACH	\$600.00	4	0	\$0.00	0	\$0.00
179	2104.502	REMOVE GATE VALVE & BOX	EACH	\$75.00	10	0	\$0.00	5	\$375.00
180	2104.502	REMOVE CURB STOP & BOX	EACH	\$25.00	13	0	\$0.00	2	\$50.00
181	2104.502	REMOVE HYDRANT	EACH	\$125.00	7	0	\$0.00	4	\$500.00
182	2104.502	REMOVE DRAINAGE STRUCTURE	EACH	\$400.00	1	0	\$0.00	0	\$0.00
183	2104.502	SALVAGE SIGN	EACH	\$35.00	10	0	\$0.00	4	\$140.00
184	2104.503	SAWING CONCRETE PAVEMENT (FULL DEPTH)	L F	\$5.00	50	0	\$0.00	0	\$0.00
185	2104.503	SAWING BIT PAVEMENT (FULL DEPTH)	L F	\$4.00	1700	0	\$0.00	493	\$1,972.00
186	2104.503	REMOVE WATER MAIN	L F	\$5.00	1160	0	\$0.00	233	\$1,165.00
187	2104.503	REMOVE WATER SERVICE PIPE	L F	\$5.00	60	0	\$0.00	88	\$440.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
188	2104.503	REMOVE AND REPLACE CURB AND GUTTER	L F	\$135.00	130	0	\$0.00	116	\$15,660.00
189	2104.504	REMOVE CONCRETE WALK	S Y	\$10.00	40	0	\$0.00	0	\$0.00
190	2104.504	REMOVE CONCRETE DRIVEWAY PAVEMENT	S Y	\$10.00	10	0	\$0.00	0	\$0.00
191	2104.504	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	S Y	\$8.00	170	0	\$0.00	0	\$0.00
192	2104.504	REMOVE BITUMINOUS PAVEMENT	S Y	\$8.00	1190	54.8	\$438.40	734.8	\$5,878.40
193	2106.507	EXCAVATION - COMMON	C Y	\$24.00	310	194	\$4,656.00	194	\$4,656.00
194	2106.507	EXCAVATION - SUBGRADE	C Y	\$24.00	50	0	\$0.00	0	\$0.00
195	2106.507	SELECT GRANULAR EMBANKMENT (CV)	C Y	\$33.00	60	0	\$0.00	0	\$0.00
196	2106.507	STABILIZING AGGREGATE (CV)	C Y	\$68.00	50	0	\$0.00	212	\$14,416.00
197	2106.601	DEWATERING	LS	\$0.01	1	0	\$0.00	0	\$0.00
198	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOUR	\$150.00	60	0	\$0.00	7	\$1,050.00
199	2130.523	WATER (DUST CONTROL)	M GAL	\$75.00	30	0	\$0.00	0	\$0.00
200	2211.507	AGGREGATE BASE (CV) CLASS 5	C Y	\$42.00	570	114	\$4,788.00	377	\$15,834.00
201	2360.504	TYPE SP 9.5 WEAR CRS MIX (2,B) 3.0" THICK	S Y	\$45.00	170	0	\$0.00	0	\$0.00
202	2360.509	TYPE SP 9.5 WEARING COURSE MIX (2,B)	TON	\$118.00	70	0	\$0.00	0	\$0.00
203	2360.509	TYPE SP 9.5 WEARING COURSE MIX (3,B)	TON	\$106.00	220	0	\$0.00	163.23	\$17,302.38
204	2360.509	TYPE SP 12.5 NON WEAR COURSE MIX (3,B)	TON	\$102.00	340	0	\$0.00	115.08	\$11,738.16
205	2503.503	24" CS PIPE SEWER	L F	\$175.00	16	0	\$0.00	0	\$0.00
206	2503.602	POST BURST SANITARY SEWER VERIFICATION	EACH	\$375.00	7	0	\$0.00	0	\$0.00
207	2503.603	SANITARY SEWER SPOT REPAIR	L F	\$235.00	20	0	\$0.00	4	\$940.00
208	2504.601	TEMPORARY WATER SERVICE	LS	\$5,000.00	1	0	\$0.00	1.503	\$7,515.00
209	2504.602	12" INSERTA VALVE	EACH	\$21,000.00	2	0	\$0.00	0	\$0.00
210	2504.602	6" INSERTA VALVE	EACH	\$15,000.00	1	0	\$0.00	1.044	\$15,660.00
211	2504.602	8" INSERTA VALVE	EACH	\$17,000.00	1	0	\$0.00	0	\$0.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
212	2504.602	CONNECT TO EXISTING WATER MAIN	EACH	\$4,500.00	7	0	\$0.00	5	\$22,500.00
213	2504.602	CONNECT TO EXISTING WATER SERVICE	EACH	\$100.00	10	0	\$0.00	3	\$300.00
214	2504.602	HYDRANT	EACH	\$11,000.00	9	0	\$0.00	4	\$44,000.00
215	2504.602	1" CORPORATION STOP	EACH	\$3,500.00	10	0	\$0.00	2	\$7,000.00
216	2504.602	2" CORPORATION STOP	EACH	\$4,000.00	1	2	\$8,000.00	2	\$8,000.00
217	2504.602	6" GATE VALVE & BOX	EACH	\$6,000.00	10	0	\$0.00	8	\$48,000.00
218	2504.602	8" GATE VALVE & BOX	EACH	\$7,500.00	3	0	\$0.00	1	\$7,500.00
219	2504.602	12" GATE VALVE & BOX	EACH	\$10,000.00	3	0	\$0.00	3	\$30,000.00
220	2504.602	6"X6" WET TAP	EACH	\$12,000.00	1	0	\$0.00	0	\$0.00
221	2504.602	1" CURB STOP & BOX	EACH	\$500.00	10	0	\$0.00	2	\$1,000.00
222	2504.602	2" CURB STOP & BOX	EACH	\$1,500.00	1	1	\$1,500.00	1	\$1,500.00
223	2504.603	12" WATERMAIN PVC (TRENCHLESS)	L F	\$159.00	2110	0	\$0.00	1173	\$186,507.00
224	2504.603	1" WATER SERVICE LINE	L F	\$1.00	74	0	\$0.00	80	\$80.00
225	2504.603	2" WATER SERVICE LINE	L F	\$3.00	14	71	\$213.00	71	\$213.00
226	2504.603	LINING WATER MAIN 12"	L F	\$250.00	225	0	\$0.00	225	\$56,250.00
227	2504.603	WATER SERVICE (DIRECTIONAL DRILLED)	L F	\$52.00	290	0	\$0.00	0	\$0.00
228	2504.603	6" WATERMAIN DUCTILE IRON CL 52	L F	\$110.00	141	0	\$0.00	61	\$6,710.00
229	2504.603	6" PVC WATERMAIN	L F	\$110.00	80	0	\$0.00	55	\$6,050.00
230	2504.603	8" PVC WATERMAIN	L F	\$120.00	80	0	\$0.00	7	\$840.00
231	2504.603	12" PVC WATERMAIN	L F	\$200.00	39	0	\$0.00	59	\$11,800.00
232	2504.604	4" POLYSTYRENE INSULATION	S Y	\$60.00	20	0	\$0.00	0	\$0.00
233	2504.608	DUCTILE IRON FITTINGS	LB	\$13.00	1560	0	\$0.00	1946	\$25,298.00
234	2506.502	CONST DRAINAGE STRUCTURE DESIGN G OR H	EACH	\$9,000.00	1	0	\$0.00	0	\$0.00
235	2506.502	CASTING ASSEMBLY	EACH	\$950.00	3	0	\$0.00	0	\$0.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
236	2506.502	ADJUST FRAME & RING CASTING	EACH	\$450.00	9	0	\$0.00	0	\$0.00
237	2506.503	CONST DRAINAGE STRUCTURE DES 48-4020	L F	\$1,500.00	6	0	\$0.00	0	\$0.00
238	2521.518	4" CONCRETE WALK	S F	\$55.00	40	0	\$0.00	0	\$0.00
239	2531.504	6" CONCRETE DRIVEWAY PAVEMENT	S Y	\$160.00	40	0	\$0.00	0	\$0.00
240	2531.604	6" CONCRETE DRIVEWAY PAVEMENT SPECIAL	S Y	\$260.00	20	0	\$0.00	0	\$0.00
241	2535.503	BITUMINOUS CURB	L F	\$8.50	470	471	\$4,003.50	471	\$4,003.50
242	2540.602	TEMPORARY MAIL BOX	EACH	\$350.00	1	0	\$0.00	0	\$0.00
243	2540.602	MAIL BOX	EACH	\$75.00	1	0	\$0.00	0	\$0.00
244	2540.602	MAIL BOX SUPPORT	EACH	\$200.00	1	0	\$0.00	0	\$0.00
245	2563.601	TRAFFIC CONTROL	LS	\$21,000.00	1	0	\$0.00	0.5	\$10,500.00
246	2564.602	INSTALL SIGN	EACH	\$350.00	7	0	\$0.00	4	\$1,400.00
247	2571.502	CONIFEROUS TREE 8' HT B&B	EACH	\$400.00	5	0	\$0.00	0	\$0.00
248	2571.502	DECIDUOUS TREE 2.5" CAL B&B	EACH	\$550.00	2	0	\$0.00	0	\$0.00
249	2572.510	PRUNE TREES	HOURL	\$250.00	5	0	\$0.00	0	\$0.00
250	2573.502	STORM DRAIN INLET PROTECTION	EACH	\$250.00	6	0	\$0.00	0	\$0.00
251	2573.503	SILT FENCE, TYPE MS	L F	\$4.00	200	0	\$0.00	0	\$0.00
252	2573.503	SEDIMENT CONTROL LOG TYPE WOOD FIBER	L F	\$3.00	600	0	\$0.00	160	\$480.00
253	2574.507	COMMON TOPSOIL BORROW	C Y	\$41.00	138	0	\$0.00	0	\$0.00
254	2575.504	SODDING TYPE LAWN	S Y	\$21.00	80	0	\$0.00	0	\$0.00
255	2575.504	RAPID STABILIZATION METHOD 4	S Y	\$4.00	500	987.5	\$3,950.00	987.5	\$3,950.00
256	2575.505	SEEDING	ACRE	\$6,200.00	0.3	0	\$0.00	0	\$0.00
257	2575.508	SEED MIXTURE 25-141	LB	\$5.00	20	0	\$0.00	0	\$0.00
258	2575.508	HYDRAULIC MULCH MATRIX	LB	\$2.00	638	0	\$0.00	0	\$0.00
259	2575.523	WATER	MGAL	\$125.00	26	0	\$0.00	0	\$0.00
260	2582.503	4" SOLID LINE MULTI COMP	L F	\$1.50	391	153	\$229.50	153	\$229.50

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
261	2582.503	24" SOLID LINE MULTI COMP	L F	\$9.00	40	0	\$0.00	0	\$0.00
262	2582.503	4" DBLE SOLID LINE MULTI COMP	L F	\$3.00	200	0	\$0.00	0	\$0.00
263	2582.518	PAVT MSSG PAINT	S F	\$10.00	15	0	\$0.00	0	\$0.00
264	2104.601	SALVAGE AND REINSTALL LANDSCAPE STRUCTURES	L S	\$5,000.00	1	0	\$0.00	0	\$0.00
265	2502.601	IRRIGATION SYSTEM REPAIR PROVISIONS	LUMP SUM	\$3,000.00	1	0	\$0.00	0	\$0.00
266	2504.601	UTILITY CREW PROVISION	LS	\$20,000.00	1	0	\$0.00	1.3668	\$27,336.00
<b>Bid Totals:</b>							<b>\$443,063.22</b>		<b>\$2,728,549.50</b>

Project Category Totals			Amount This Voucher	Amount To Date
Category				
A1. BASE BID: CRABAPPLE LN TO W POINT RD			\$277,633.23	\$1,362,320.97
A2. BASE BID: PROVISIONAL ITEMS			\$14,001.00	\$55,383.00
B1. ALTERNATE 1: W POINT RD TO NARROWS BRIDGE			\$123,650.59	\$618,364.59
B2. ALTERNATE 1: PROVISIONAL ITEMS			\$0.00	\$26,742.00
C1. ALTERNATE 2: GLEN RD TO CRABAPPLE LN			\$27,778.40	\$638,402.94
C2. ALTERNATE 2: PROVISIONAL ITEMS			\$0.00	\$27,336.00

Contract Change Item Status											
CC	CC No.	Line No.	Item	Description	Units	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
CO	1	267	2504.601	WATER SUPPLY SYSTEM	LS	\$31,430.00	1	0	\$0.00	0	\$0.00
CO	2	268	2504.602	WATER SUPPLY SYSTEM	EACH	\$863.19	21	3	\$2,589.57	3	\$2,589.57
<b>Contract Change Totals:</b>									<b>\$2,589.57</b>		<b>\$2,589.57</b>

Contract Change Totals				
No.	Contract Change	Description	Amount This Voucher	Amount To Date
1	CO	The change order includes installing a 6-inch temporary water system between the water treatment plant and Crabapple Lane to provide city water to Tonka Bay residents south of Crabapple Lane while the contractor pipe bursts the existing watermain between Birch Bluff Road to Crabapple Lane.	\$0.00	\$0.00
2	CO	The change order includes installing the WB67 Hydrant instead of the Waterous 16" BO Hydrant as specified. The unit cost in the change order is the additional material cost, tax and overhead for the new hydrant.	\$2,589.57	\$2,589.57

Material On Hand Additions					
Line No.	Item	Description	Date	Added	Comments

Material On Hand Balance						
Line No.	Item	Description	Date	Added	Used	Remaining



**RESOLUTION 23-40**

**A RESOLUTION FOR THE COLLECTION OF DELINQUENT 2023 WATER, SEWER, GARBAGE, RECYCLING, AND STORM DRAINAGE CHARGES**

WHEREAS, the City Council of the City of Tonka Bay, Minnesota has enacted certain ordinances under Minnesota Statutes, pertaining to payment and collection of water, sewer, garbage, recycling, and storm drainage charges; and

WHEREAS, the charges identified in the attached list of properties are delinquent in nature; and

WHEREAS, ten days mailed notice was given, and the hearing was held on the November 28, 2023, at which time all persons desiring to be heard were given an opportunity to be heard thereon.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Tonka Bay that the Hennepin County Special Assessment Division is hereby authorized to place the delinquent water, sewer, garbage, recycling, and storm drainage charges on the 2023 property tax rolls, payable in 2024, at eight percent (8%) per annum, against the specified properties as set forth in Exhibit A.

ADOPTED by the City Council of the City of Tonka Bay, Minnesota this 28<sup>th</sup> day of November 2023.

Motion introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Roll Call Vote:

Councilmember Connelly	_____
Councilmember Eckland	_____
Councilmember Viger	_____
Councilmember Wischmeier	_____
Mayor Jennings	_____

\_\_\_\_\_  
Adam Jennings, Mayor

ATTEST:

\_\_\_\_\_  
Dan Tolsma, City Administrator

*The text below is an excerpt from a League of MN Cities memo regarding dangerous buildings.*

## 1. HAZARDOUS BUILDINGS

Minnesota law provides authority and a process to deal with hazardous buildings. This process allows the city to order a property owner to repair or remove a hazardous condition, or in extreme cases, to raze the building. If the owner does not do the work, the city may do so and charge the costs against the property as a special assessment.

The law requires that the court oversee or be involved during most of the process. As such, it is very important to work with the city attorney. The city attorney will be needed to draft documents, file court papers, appear in court, and provide specific legal advice throughout the process.

Where applicable, the Minnesota State Building Code requires that all unsafe buildings and structures must be repaired, rehabilitated, demolished, or removed according to the statutory hazardous building provisions.

Hazardous building laws are supplementary to other statutory and charter provisions. This means cities may enact and enforce ordinances on the same subject. Any ordinance that is passed must allow for due process and cannot contradict state law. The city should seek advice from the city attorney if it wishes to adopt this type of ordinance.

### **A. Characteristics of a hazardous building**

State law defines a hazardous building or hazardous property as, “any building or property which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment constitutes a fire hazard or a hazard to public safety or health.” A building is defined as, “any structure or part of a structure.” For purposes of this memo, the phrase hazardous building will be used to include hazardous property and structures.

Determining whether a building is hazardous depends on the particular facts of each situation. For example, in one opinion where the Minnesota supreme court upheld a city’s order to raze a hazardous building, the court described the building in question as having the following conditions:

- Unoccupied.
- Badly deteriorated sections of concrete block foundation.
- Decayed and rotted wooden foundation sills.
- Broken, deteriorating, and falling siding.

- Rotted and collapsing roof cornice.
- Large holes in asphalt roof covering.
- Evidence of roof leaks.
- Large holes in the plaster finish of walls and ceilings.
- Many broken window lights.
- Damaged or destroyed window sashes.
- Dry water traps in wash basin and water closet resulting in open sewers.
- Paper, lumber, wood lath, plaster, and debris littering interior of building.

These are not the only conditions that would cause a building to be considered “hazardous.” Rather, these are examples of the types of things that might be present in a hazardous building. While this example shows that there were many problems with this building, there is no formula to determine how many problems make a building hazardous. Again, that depends on the particular situation.

### **B. Identifying a hazardous building**

If the city believes there is a building that may be hazardous, it is a good idea for the city to gather and document information about the building. An inspection of the property may provide information that may help the council determine if the building is hazardous. While inspecting the property, it is helpful to take detailed notes and photographs of what was observed. Because there are constitutional limitations on entering private property, the city should consider how it will lawfully enter the property to make the inspection.

Before the council orders a hazardous condition to be repaired or removed, the council must first make a determination that the building is hazardous. This must be done during an open city council meeting.

At the meeting, it is advisable that the city council consider all the relevant evidence it has, such as any inspection notes or reports, photographs of the property, code violations, and any other information related to the property, including any information provided by the property owner or occupant. It is also advisable to keep in mind the statutory definition and consider how the evidence relates to this definition. There is no rigid formula in how the determination must be structured, but they should be sufficient to make the owner aware of the basis of the decision.

The decision to repair or remove a hazardous condition, or to raze a building, must not be arbitrary or capricious. A decision is arbitrary or capricious if it is unreasoned and does not consider the facts and circumstances of the situation. Said another way, the city’s decision must be reasoned and supported by substantial evidence.

It is a good idea for the council to keep a detailed record of the discussion, the evidence considered, and the ultimate decision that was reached based on the evidence considered. This record

will help the city defend its decision if it is later challenged in court. Although the law does not explicitly require the property owner to be notified of the council consideration of the property, it is advisable to take steps to ensure the property owner's due process rights are respected.

One way to do this may be to notify the property owner that the issue will be discussed and to allow the owner a chance to speak with the council and provide any evidence or information that he or she may have. Notice to tenants as well as lien-holders may also be advisable. Notice may also lead to self-remedy of the hazardous conditions.

## **2. LAWFULLY ENTERING PRIVATE PROPERTY**

The procedures covered in this memo involve private property. Private property rights are afforded constitutional protections, so it is important that the city take appropriate steps to ensure these rights are respected. Whenever this memo mentions entering private property for an inspection, repair work, or other purpose, the principles outlined in this section will apply.

Generally, to lawfully enter private property to inspect or correct a situation, the city must either obtain voluntary consent from the owner or an administrative search warrant. This is because the Fourth and Fourteenth Amendments to the U.S. Constitution prohibit unreasonable searches and seizures of persons or property. The United States Supreme Court has held that these Fourth Amendment guarantees apply to city inspections. If a city unlawfully enters private property, it may be a violation of these constitutional rights.

In many circumstances, seeking consent is the simplest way to gain access to property. If the city has consent to enter the property, it may do so. Consent must be voluntarily given by a person who has the authority to consent, such as the owner or occupant of the property. It is important that the person giving consent is aware of the purpose and scope of the inspection before consenting. It is preferable to obtain the consent in writing.

If the city does not or cannot obtain the owner's consent to enter the property, another way to enter the property is to obtain an administrative search warrant. An administrative search warrant is issued by a judge and allows designated people to enter the property for certain purposes specified in the warrant. An administrative search warrant removes the need for consent.

To obtain an administrative search warrant, the city must show the judge there is "probable cause" as to why its request to enter private property is justified. The application for a warrant must describe the city's inspection program and establish how the particular requested inspection falls within the scope of the ordinance.

After an administrative search warrant is issued, it is important for the city to provide notice to the property owner or occupant. The notice should identify the nature and scope of the inspection or work, the

date, and the time it will be performed. If the city must return to the property to continue work or to follow up on an inspection or code violation, it is also important to notify the property owner or occupant of the date and time the city will return.

It may be possible to lawfully enter private property without consent or a warrant, such as when an emergency exists. The city attorney will be able to provide specific legal advice on whether a warrant or consent is necessary.