

FOR BOARD ACTION

Agenda Item # 8

Meeting Date:

3/27/12

SUBJECT:

License Agreement, Mayo Pathways for Fiber Conduit Placement

PREPARED BY:

Steven J. Cook, Senior Electrical Engineer

ITEM DESCRIPTION:

Mayo Clinic is installing approximately 10 miles of outside fiber in conduit as part of a communication loop between their downtown facilities and their new data center on West Circle Drive north of 41st Street. The City of Rochester has a desire to have conduit installed by Mayo's Contractor along parts of the route for our communication backbone. Mayo Clinic's bid documents provided for an Alternate to install conduits as part of their project for the City of Rochester. Mayo Clinic selected the low bid contractor for their contract which was also the low bid contractor for the Alternate for the City of Rochester additional work. There is a significant cost advantage for the City of Rochester to install these conduits now as part of the Mayo Project compared to installing them on our own since we are only paying the incremental cost of our added facilities and Mayo is covering all site restoration costs as part of their project.

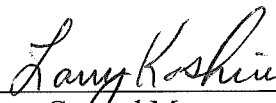
In order to move forward with this project Mayo has requested that a formal agreement be entered into that outlines the respective responsibilities of both parties. Dave Goslee from the City Attorney's office has reviewed the agreement document and has given his approval as to the form.

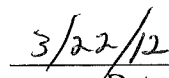
FOR CAPITAL PURCHASES/BIDS/MAJOR PROJECTS:

The funds for the various segments of this project are budgeted.

UTILITY BOARD ACTION REQUESTED:

Management recommends that the Utility Board approve entering into a License Agreement with Mayo Clinic for the placement of a conduit system for communication purposes and recommend that the Common Council approve and authorize the Mayor and City Clerk to execute the Agreement.


General Manager


Date

ROCHESTER PUBLIC UTILITIES

LICENSE AGREEMENT

This AGREEMENT is entered into this First day of April, 2012, by and between Mayo Clinic, a Minnesota non-profit corporation, hereinafter referred to as "Mayo," and the City of Rochester, a Minnesota municipal corporation, hereinafter called the "City."

WHEREAS, Mayo will be creating a trench and directionally bored tunnel for the installation of communication utilities within public and private rights-of-way as more specifically defined in Exhibit A (the "Pathway"); and,

WHEREAS, the City may benefit from the opportunity to have its utilities placed and installed in the Pathway at or near the time Mayo creates the Pathway (the Work); and,

WHEREAS, the City is willing to reimburse Mayo for the incremental cost for the Work over and above the cost to Mayo in creating the Pathway and Mayo is willing to allow the City access and use of the Pathway and to invoice and collect fees from the City related thereto.

Now, THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties agree as follows:

1. Mayo hereby grants to City a license to access and use the Pathway for the installation, maintenance and repair of communication utilities, as described in Exhibit A.
2. Mayo shall invoice City for the incremental cost of the Work to the Pathway, which was established by public bids and quotes, and City shall pay this amount within thirty days of receipt.
3. Each party shall be responsible for obtaining their own permits/easements as it relates to their respective access and use of the Pathway;
4. Each party shall be responsible for future locating and maintenance of its own utilities within the Pathway.
5. Each party shall maintain its own utility access points.
6. Each party shall indemnify (the Indemnifying Party) the other party from and against all liabilities, obligations, damages, fines, penalties, claims, demands, costs, charges, judgments and expenses, including, but not limited to, reasonable attorneys' fees, which may be imposed upon or incurred or paid by or asserted against the other party caused by or arising out of the Indemnifying Party's negligence in the use, access, maintenance or repair of the Pathway.
7. THE CITY ACKNOWLEDGES THE PATHWAY AND THE WORK TO THE PATHWAY ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS AND MAYO EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. The City acknowledges and agrees that installation and use of its utilities is entirely at the City's sole risk; and, further, that the City assumes any and all claims, damages, liabilities, suits, and expenses arising out of or in connection therewith. Mayo makes no representations or warranties regarding the forgoing and shall not be responsible for the reliability of the utilities installed in the Pathway. In no event shall Mayo be liable for any incidental, indirect, special or consequential damages, including, but not limited to, loss of use, revenue, profits or savings, even if Mayo knew or should have known of the possibility of such damages; or claims, demands or actions against the City by any person.

9. This license agreement shall take effect on April 1, 2012, and shall remain in effect for a period of five years, after which it shall automatically renew for another five year term. Either party may terminate this agreement with or without cause by serving upon the other party written notice not less than one hundred and eighty days from the effective date of termination.

Dated at Rochester, Minnesota this First day of April, 2012.

Rochester Public Utilities

By: _____
Its General Manager

City of Rochester

By: _____
Its Mayor

Attest: _____
Its City Clerk

Mayo Clinic

By: _____

TABLE A
PROPOSED UNIT PRICE LISTING
FOR CONTRACT WORK

Mayo Fiber Optic Loop - Project #7R201580

Bid Date & Time - Friday, January 20, 2012

Bidder - A&A Electric and Underground Construction, Inc.

Bid Alternate A - See Project Manual & Documents for Details

Mayo Contact

Jack Rol - Construction Mgr.
 Facilities Project Services
 200 First Street SW
 Rochester, MN 55905

507-293-4298

rol.jack@mayo.edu

BID ALTERNATES - A

ITEM NO.	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT
A1	Add 1-2" Conduit, SDR 9 HDPE	LIN FT	17,570	\$2.55	\$44,803.50
A2	Add 2-2" Conduit, SDR 9 HDPE	LIN FT	7,383	\$4.32	\$31,894.56
A3	Add 3-2" Conduit, SDR 9 HDPE	LIN FT	466	\$6.23	\$2,903.18
A4	Pull Box Enclosure	EACH	14	\$1366.20	\$19,126.80
A5	Splice Box Enclosure	EACH	2	\$3,540.00	\$7,080.00
	TOTAL - BID ALTERNATES A				\$105,808.04

Yaggy Colby Associates

(01/12)

**TABLE A
PROPOSED UNIT PRICE LISTING
FOR CONTRACT WORK**

Mayo Fiber Optic Loop - Project #7R201580

Bid Date & Time - Friday, January 20, 2012

Bidder - Dig America, Inc.

Bid Alternate A - See Project Manual & Documents for Details

Mayo Contact

Jack Rol - Construction Mgr.
Facilities Project Services
200 First Street SW
Rochester, MN 55905

507-293-4298
rol.jack@mayo.edu

BID ALTERNATES - A

ITEM NO.	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT
A1	Add 1-2" Conduit, SDR 9 HDPE	LIN FT	17,570	2.58	45,330.60
A2	Add 2-2" Conduit, SDR 9 HDPE	LIN FT	7,383	5.16	38,096.28
A3	Add 3-2" Conduit, SDR 9 HDPE	LIN FT	466	7.74	3,606.84
A4	Pull Box Enclosure	EACH	14	1,550.00	21,700.00
A5	Splice Box Enclosure	EACH	2	4,311.00	8,622.00
	TOTAL -- BID ALTERNATES A				117,355.72

TABLE A
PROPOSED UNIT PRICE LISTING
FOR CONTRACT WORK

Mayo Fiber Optic Loop - Project #7R201580

Bid Date & Time - Friday, January 20, 2012

Bidder - Michels Corporation

Bid Alternate A - See Project Manual & Documents for Details

Mayo Contact

Jack Rol - Construction Mgr.
 Facilities Project Services
 200 First Street SW
 Rochester, MN 55905

507-293-4298

rol.jack@mayo.edu

BID ALTERNATES - A

ITEM NO.	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT
A1	Add 1-2" Conduit, SDR 9 HDPE	LIN FT	17,570	4.72	82,930.40
A2	Add 2-2" Conduit, SDR 9 HDPE	LIN FT	7,383	8.94	66,930.02
A3	Add 3-2" Conduit, SDR 9 HDPE	LIN FT	466	29.16	13,588.56
A4	Pull Box Enclosure	EACH	14	1,275.00	17,850.00
A5	Splice Box Enclosure	EACH	2	2,825.00	5,650.00
	TOTAL - BID ALTERNATES A				186,022.98

TABLE A
PROPOSED UNIT PRICE LISTING
FOR CONTRACT WORK

Mayo Fiber Optic Loop - Project #7R201580

Bid Date & Time - Friday, January 20, 2012

Bidder - MasTec North America, Inc.

Bid Alternate A - See Project Manual & Documents for Details

Mayo Contact

Jack Rol - Construction Mgr.
 Facilities Project Services
 200 First Street SW
 Rochester, MN 55905

507-293-4298

rol.jack@mayo.edu

BID ALTERNATES - A

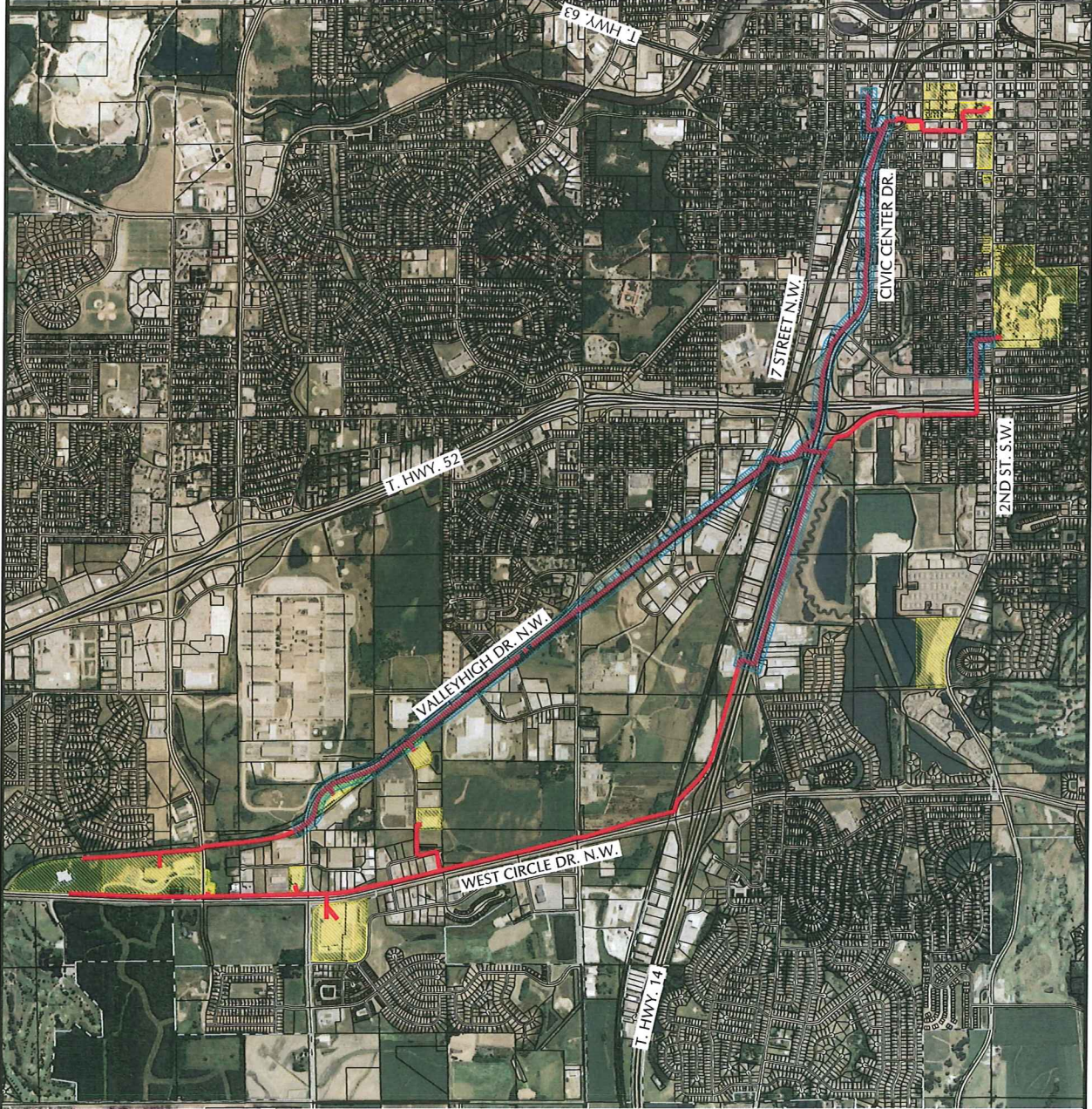
ITEM NO.	ITEM	UNITS	QUANTITY	UNIT PRICE	AMOUNT
A1	Add 1-2" Conduit, SDR 9 HDPE	LIN FT	17,570	5.15	90,485.50
A2	Add 2-2" Conduit, SDR 9 HDPE	LIN FT	7,383	11.55	85,273.65
A3	Add 3-2" Conduit, SDR 9 HDPE	LIN FT	466	14.95	6,966.70
A4	Pull Box Enclosure	EACH	14	1,625.00	22,750.00
A5	Splice Box Enclosure	EACH	2	3,600.00	7,200.00
	TOTAL - BID ALTERNATES A				212,675.85



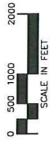
LANDSCAPE ARCHITECTS
 PLANNERS
 372 WEST WASHINGTON ST.
 ROCHESTER, MINNESOTA 55904
 PHONE: 507-251-5588
 EMAIL: INFO@YCA.AS

MAYO FIBER LOOP
 ROCHESTER, MINNESOTA
 EXHIBIT A

PROJECT NUMBER	10953
DATE	03-28-12
DRAWN BY	BBB
CHECKED BY	DA
APPROVED BY	
SHEET NUMBER	1
OF	ONE



- LEGEND**
- PROPOSED MAYO UTILITY PATHWAY
 - UTILITY PATHWAY SHARED BY CITY
 - EXISTING MAYO PROPERTIES





RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, that the Common Council of the said City is requested to approve a license agreement with Mayo Clinic and that the Common Council authorize the Mayor and the City Clerk to execute the agreement for

A License Agreement for the joint use of pathways for the placement of communication infrastructure.

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 27th day of March, 2012.

President

Secretary