

FOR BOARD ACTION

Agenda Item # 11

Meeting Date:

7/31/07

SUBJECT: AGREEMENT TO HOLD THE CITY OF ROCHESTER HARMLESS
River Trails Girl Scout Council

PREPARED BY: Doug Rovang, Senior Civil Engineer *DCR RLA*

ITEM DESCRIPTION:

As noted on the attached Agreement to Hold the City of Rochester Harmless / Waiver of Water Service Rules and Regulations, a water service line to a building on property owned by the River Trails Girl Scout Council located in the SE ¼ of Section 5, Township 107 N, Range 14 W (PIN 76178), recently annexed into the City of Rochester, has been inadvertently constructed which does not comply with Section 409 and Exhibit I of RPU Water Service Rules and Regulations (that being, the allowable water service pipe material for a 2" diameter service line is Type K copper).

The property owner has asked for a waiver from the Water Rules to allow the existing water service line to remain in place. After consultation with the City Attorney's office, the attached Agreement has been prepared which provides a waiver allowing the water service line subject to specific conditions and developer responsibilities, to include the property owner assuming all costs for any necessary future repairs related to the non-complying water service line, and the property owner holding the City harmless from any and all related claims for damages resulting from the non-complying water service line.

UTILITY BOARD ACTION REQUESTED:

Staff is requesting that the Utility Board approve the attached Agreement to Hold the City of Rochester Harmless / Waiver of Water Service Rules and Regulations, and authorize the Mayor and City Clerk to execute the Agreement.

Tammy Koshine
General Manager

7/26/07
Date

ROCHESTER PUBLIC UTILITIES

AGREEMENT TO HOLD THE CITY OF ROCHESTER HARMLESS

WAIVER OF WATER SERVICE RULES AND REGULATIONS

THIS AGREEMENT, made this ____ day of _____, 2006, between the **City of Rochester**, a Minnesota municipal corporation, hereinafter referred to as "City", and **River Trails Girl Scout Council**, hereinafter referred to as "Girl Scouts."

WITNESSETH THAT:

1. WHEREAS, Girl Scouts owns property in the SE ¼ of Section 33, Township 107 N, Range 14 W (PIN Number 76178), in the City of Rochester.

2. WHEREAS, Girls Scouts has subsequently constructed a portion of a water service line to a building located on the property which does not comply with Section 409 and Exhibit I of RPU Water Service Rules and Regulations (that being, the allowable water service pipe material for a 2" diameter service line is Type K Copper).

3. WHEREAS, Girl Scouts seeks a waiver from the Rules to allow the SDR-21 (200 psi rated), ANSI D2241 compliant, PVC water service line to remain in place despite the line not complying with RPU Water Service Rules and Regulations.

4. WHEREAS, the City is willing to grant this waiver upon the terms and conditions contained herein, which terms and conditions apply to Girl Scouts, its successors and assigns, and all references to Girl Scouts throughout this document shall include any successors or assigns in possession of the property.

NOW, THEREFORE, IT IS MUTUALLY AGREED by the City and Girl Scouts as follows:

1. The City hereby authorizes Girl Scouts to maintain the non-complying water service line subject to the terms and conditions contained herein. Girl Scouts shall perform all work and bear all costs associated with the maintenance and repair of the non-complying water service line, as well as any damage that may occur to adjacent buildings or property resulting from the non-complying water service line.

2. Girl Scouts, including its successors and assigns, shall hold the City, its officers, agents and employees harmless, and must defend and indemnify the City for any and all claims for damages resulting from Girl Scout's installation of the non-complying water service line under the grant of authority and waiver contained herein.

3. Girl Scouts shall not receive any prescriptive rights by this Agreement, nor shall it seek or be entitled to any relocation costs or other damages from the City for replacement of the non-complying water service line.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first above written.

CITY OF ROCHESTER, a Minnesota
municipal corporation

RIVER TRAILS GIRL SCOUT COUNCIL

By: _____
Its Mayor

By: _____
Its _____

Attest: _____
City Clerk

By: _____
Its _____

By: _____
RPU General Manager

STATE OF MINNESOTA)
) SS
COUNTY OF OLMSTED)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by Ardell F. Brede and Judy K. Scherr, the Mayor and City Clerk, respectively, of the City of Rochester, a Minnesota municipal corporation, for and on behalf of the corporation.

Notary Public

STATE OF _____)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2007, by _____ and _____, the _____ and _____ respectively of River Trail Girl Scouts, for and on behalf of the Council.

Notary Public

This Instrument Drafted By:
City Attorney's Office
201 4th Street SE, Room 247
Rochester, MN 55904
(507) 285-8066



RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to request the Mayor and the City Clerk execute the

Agreement to Hold the City of Rochester Harmless/Waiver of Water Service Rules and Regulations -
River Trails Girl Scout Council

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 31st day of July, 2007.

President

Secretary