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## MEMORANDUM

TO: Mayor and City Council  
Joshua Tetzlaff, City Administrator

CC: Matt Rynda, Public Works Director

FROM: Chris Knutson, PE (Lic. MN)

DATE: November 30, 2023

RE: 2022 Street and Utility Improvement Project  
Change Order #2  
SEH No. NEWPR 163378 14.00

The 2022 Street and Utility Improvement Project on Columbus Avenue has been substantially complete since last summer with the only item remaining the establishment of turf along the project corridor. The Contractor, Heselton Construction, initially seeded the project in September 2022 but failed to apply water. Grass grew in some areas where property owners assumed maintenance, but there were many areas that required additional work. Seeding was applied again in Spring 2023 and Fall 2023. The contractor failed to maintain and water these areas and though the turf establishment improved with rain in September and October, it is still not fully established. To date, the contractor has been paid for 50% of the initial application of seeding (4,640 yards applied, paid at 2,320 sy). They have not been paid for subsequent seeding applications or other turf establishment items (watering, weeding, overseeding). Currently, \$4,640 is being withheld from payment on turf establishment. The amount of work required to complete turf establishment is expected to be less than \$1,000. Most of the issues with turf establishment appear related to non-performance by subcontractor Advanced Seeding & Erosion Control

As part of the project, multiple areas of the new sanitary sewer were repaired by the contractor on Columbus Avenue N. Though the contractor completed this work at their own cost, the City did incur additional costs for engineering observation and administration by SEH. The contractor is responsible for these costs per the Contract. This work was completed over parts of four days.

To close out the project and find an alternative option to complete seeding on Columbus Avenue, we discussed with the contractor the option of not paying the \$4,640 on turf establishment and not request reimbursement for engineering services related to the sanitary sewer repairs. The cost to complete remaining turf establishment and cover the additional engineering costs appeared proportionate to the amount being withheld. This was agreed to by the Contractor and is presented in Change Order #2. With approval of this change order, we expect to present the final payment on the project at the next council meeting in December.

### STAFF/ENGINEER RECOMMENDATION

**It is recommended that the City Council approve the attached Change Order #2.**

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Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 11 Civic Center Plaza, Suite 200, Mankato, MN 56001-7710

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# CHANGE ORDER

City of New Prague, Minnesota  
OWNER

November 28, 2023  
DATE

OWNER'S PROJECT NO.

Two  
CHANGE ORDER NO.

2022 Street and Utility Improvement Project  
PROJECT DESCRIPTION

NEWPR 163378 71.50  
SEH FILE NO.

The following changes shall be made to the contract documents:

Description:

Turf establishment along Columbus Avenue is incomplete and will require additional seeding in 2024. To close out the project it will be accepted in its current state under the following conditions:

1. The Contractor has been paid 50% of the turf establishment to date (4,640 yards total application, currently paid at 2,320 sy). Payment for the 50% of turf establishment will not be made. The remaining payment for turf establishment is 2,320 sy @ \$2.00sy = \$4,640.
2. The Owner will not pursue liquidated damages in relation to sanitary sewer repairs completed on Columbus Avenue. These liquidated damages are for construction observation and administration costs related to these repairs that are outside the original contract. No additional liquidated damages will be sought by the Owner in relation to failure to meet substantial completion and final completion dates.
3. The Contractor will not seek additional payment for turf establishment items. Final payment will be for release of retainage only.

With acceptance of this change order, the project will move toward final completion. Payment will be made to the Contractor after required documentation as outlined in the Contract is received.

Purpose of Change Order:

Confirm conditions of accepting turf establishment and allow close out of project.

Basis of Cost:  Actual  Estimated

Attachments (list supporting documents)

Contract Status

	Time	Cost
Original Contract		\$2,396,362.83
Net Change Prior C.O.'s <u>N/A</u> to <u>N/A</u>		\$4,206.45
Change this C.O.		\$0.00
Revised Contract		\$2,400,569.28

Recommended for Approval: **Short Elliott Hendrickson Inc.** by

Chris Knutson, PE

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Agreed to by Contractor:

*Dean Sammon*

BY Heselton Construction, LLC

*Project Manager*

TITLE

Approved for Owner:

BY City of New Prague, Minnesota

TITLE

BY City of New Prague, Minnesota

TITLE

**Distribution** Contractor 1 Owner 1 Project Representative 1 SEH Office 1

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