

Watertown City Council

May 14, 2019

Agenda Item: Derson Tank Easement Paving**Request for Action:** Adopt Resolution #2019-71 Approve Low Quote for Easement Repair and Agreements**Department:** Administration – Shane Fineran**Background:**

At the April 23, 2019 Council Meeting, staff was directed to acquire quotes for reconstructing and paving the parking lot area that is within the drainage and utility easement located within the Derson Tank property. This easement is over the existing storm sewer that is owned and maintained by the City. This work would help protect the existing storm sewer and minimize sediment & debris that is washed into the storm sewer and out into the Crow River. Staff has acquired two quotes for the work and are summarized below:

Contractor:	Quote:
Omann Contracting	\$27,073.75
GMH Asphalt	\$28,989.00

Omann Contracting has been awarded the 2019 Mill & Overlay project for the City of Watertown. If awarded to them, this work would be added as a Change Order to the existing contract and would be completed within the same general timeframe as the mill & overlay project.

An agreement and right of entry have also been drafted by the City Attorney to memorialize the City's effort and responsibility in this maintenance effort. The documents are in recordable form and would be recorded to the property at the County Land Records office.

Staff is recommending award of the project to the low quote, Omann Contracting in the amount of \$27,073.75 and to be added as a change order to the 2019 Mill & Overlay Program. The extra work will be paid from the Storm Water Operating Fund.

Staff is also recommending that the agreement and right of entry be executed prior to any work commencing and upon execution by Derson Tank representatives.

Financing Source:

Storm Water Operating

Attachments:

Derson Tank Easement Paving – Bid Abstract

Derson Tank Easement Paving – Figure 1

Agreement

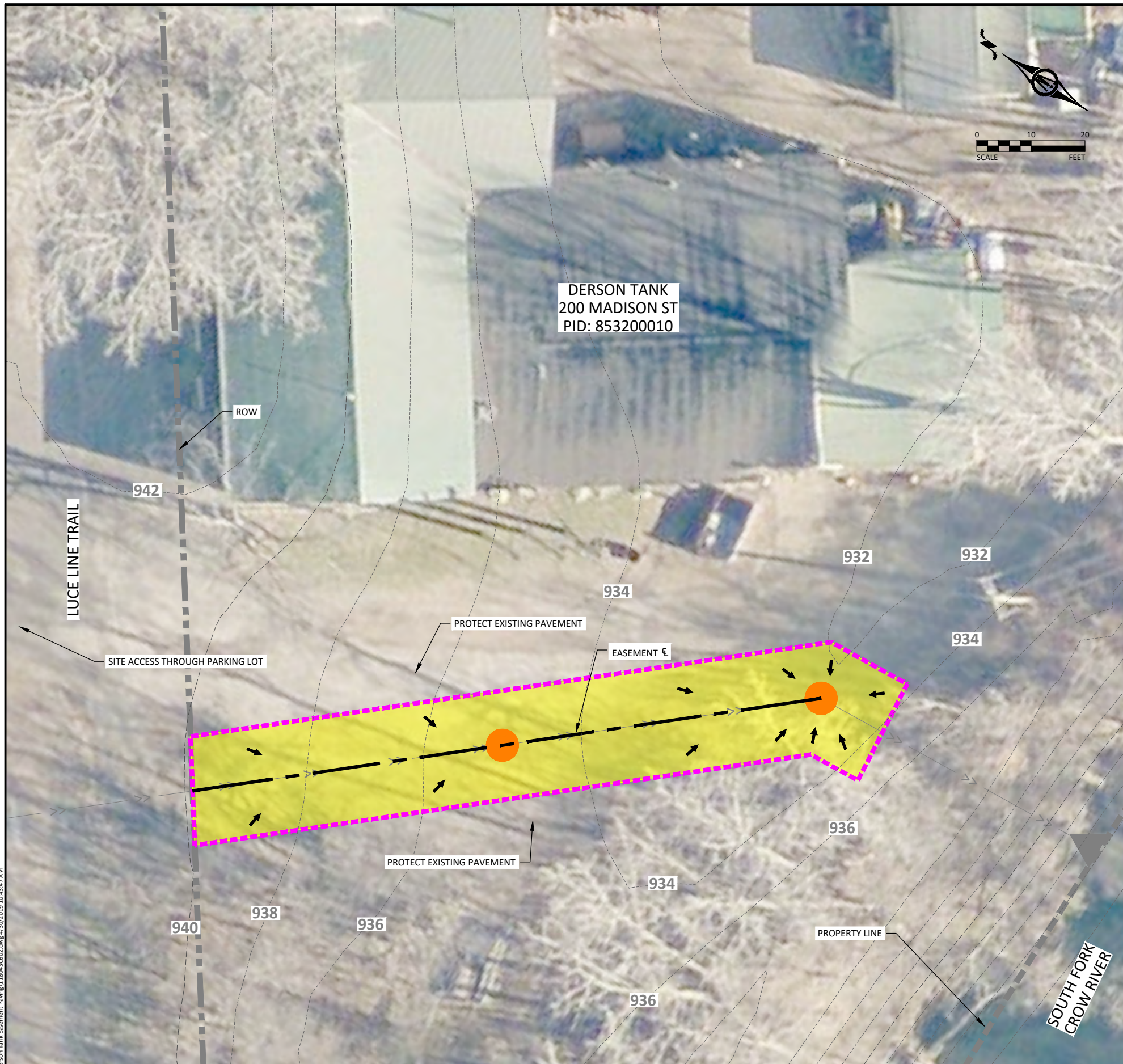
Right of Entry

Resolution #2019-71

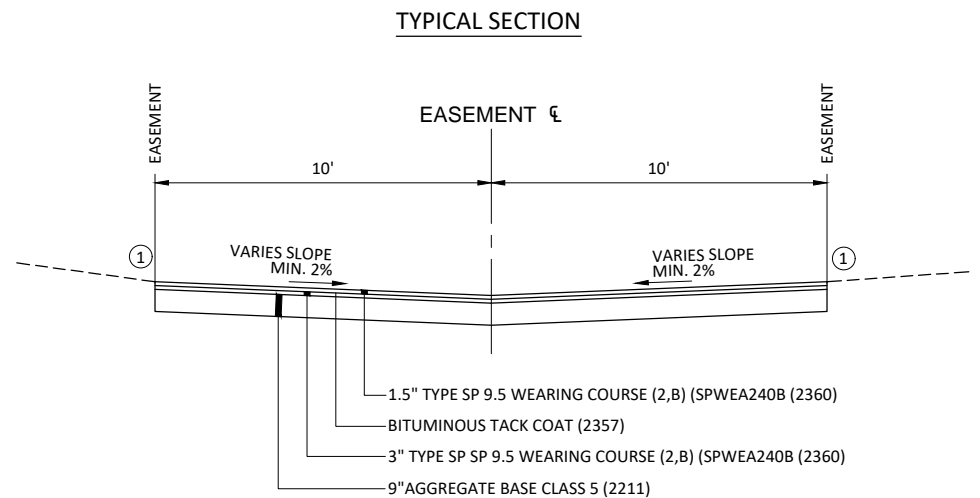
ABSTRACT OF BIDS

DERSON TANK EASEMENT PAVING
 CITY OF WATERTOWN, MINNESOTA
 BMI PROJECT NO. C16.118043

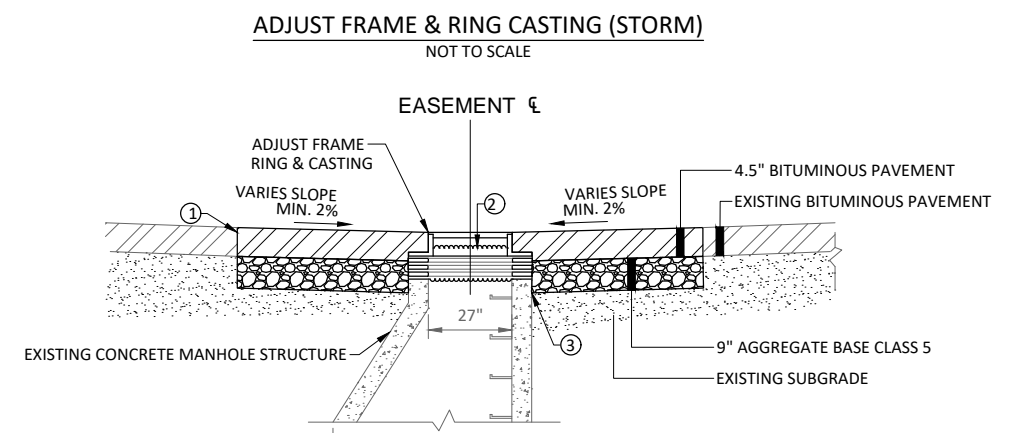
ITEM NO.	BID ITEM	APPROX. QUAN.	UNIT	1		2	
				Omann Contracting Albertville, MN		GMH ASPHALT Chaska, MN	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	MOBILIZATION	1	LS	\$1,500.00	\$1,500.00	\$4,500.00	\$4,500.00
2	REMOVE BITUMINOUS PAVEMENT	2,605	SQ FT	\$2.25	\$5,861.25	\$3.30	\$8,596.50
3	COMMON EXCAVATION (EV)	75	CU YD	\$16.50	\$1,237.50	\$31.60	\$2,370.00
4	AGGREGATE BASE (CV) CLASS 5	75	CU YD	\$75.00	\$5,625.00	\$23.50	\$1,762.50
5	TYPE SP 9.5 WEARING COURE MIX (2,B)	80	TON	\$130.00	\$10,400.00	\$125.70	\$10,056.00
6	ADJUST FRAME & RING CASTING (STORM)	2	EACH	\$900.00	\$1,800.00	\$702.00	\$1,404.00
7	INLET PROTECTION	2	EACH	\$325.00	\$650.00	\$150.00	\$300.00
TOTAL BID:					\$27,073.75		\$28,989.00



DERSON TANK
200 MADISON ST
PID: 853200010



- ### LEGEND
- BITUMINOUS PAVEMENT
 - EXISTING STORM SEWER >>
 - ADJUST CASTING
 - SAWCUT BITUMINOUS PAVEMENT (FULL DEPTH)
 - DRAINAGE DIRECTION
- ### NOTES:
1. SAWCUT EXISTING BITUMINOUS PAVEMENT (INCIDENTAL).
 2. REMOVE EXISTING PAVEMENT. EXCAVATE & SHAPE EXISTING SUBGRADE TO FORM A SWALE AT THE EASEMENT ϵ .
 3. FINISHED GRADE OF WEARING COURSE SHALL MATCH EXISTING PAVEMENT.
 4. PROTECT EXISTING STORM STRUCTURES DURING CONSTRUCTION.
 5. CITY HAS RIGHT OF ENTRY ACROSS ENTIRE PARCEL AGREEMENT WITH PROPERTY OWNER TO COMPLETE WORK AS SHOWN. PROTECT ALL PAVEMENT OUTSIDE OF EASEMENT AREA SHOWN. ANY DAMAGED PAVEMENT OUTSIDE OF THE EASEMENT WILL BE REMOVED AND REPLACED AT THE CONTRACTORS EXPENSE.
 6. ENGINEER TO VIEW AND APPROVE SUBGRADE PRIOR TO PLACEMENT OF AGGREGATE BASE.



- ### NOTES:
- ① SAWCUT EXISTING BITUMINOUS PAVEMENT (INCIDENTAL)
 - ② REMOVE AND REPLACE ALL EXISTING ADJUSTING RINGS WITH POLYETHYLENE ADJUSTING RINGS. ADD ADDITIONAL RINGS AS NECESSARY TO RAISE CASTING TO BE $\frac{1}{4}$ " BELOW BITUMINOUS SURFACE AT EASEMENT ϵ . PLACE NON-SHRINK GROUT AND PLASTER $\frac{1}{2}$ " THICK INSIDE AND OUT.
 - ③ PROTECT EXISTING STORM SEWER STRUCTURE.

THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D UNLESS OTHERWISE NOTED. THIS UTILITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."

© Bolton & Menk, Inc. 2019. All Rights Reserved. H:\Work\C16118043\Deron Tank Easement Paving\118043C02.dwg, 4/30/2019 10:43:47 AM

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

Philip J. Schrupp
PHILIP J. SCHRUPP
LIC. NO. 54198 DATE 05/01/2019



2638 SHADOW LANE, SUITE 200
CHASKA, MINNESOTA 55318
Phone: (952) 448-8838
Email: Chaska@bolton-menk.com
www.bolton-menk.com

DESIGNED	NO.	ISSUED FOR	DATE
PJS			
DRAWN			
PJS			
CHECKED			
ALB			
CLIENT PROJ. NO.			
C16.118043			

CITY OF WATERTOWN, MINNESOTA
DERSON TANK EASEMENT PAVING
DERSON TANK EASEMENT PAVING

SHEET
1
OF
1

**AGREEMENT REGARDING THE CITY’S UTILITY AND STORM SEWER
EASEMENT AND PARKING LOT AT 200 MADISON STREET SE**

This Agreement is entered into this _____ day of _____, 2019, by and between Sonder, Inc., a Minnesota corporation (hereinafter collectively the “Sonder”), and the City of Watertown, a Minnesota municipal corporation (hereinafter the “City”; hereinafter Sonder and the City are collectively referred as “the Parties”).

WITNESSETH:

WHEREAS, Sonder owns certain property located within the City in fee title absolute with an address of 200 Madison Street SE, Watertown MN, 55388, Parcel ID Number 853200010, and legally described on the attached **Exhibit A** (hereinafter “Property”); and

WHEREAS, the Property is subject to a Utility and Storm Sewer Easement, dated August 3, 1996, and recorded January 1, 1997, are Document Number T95192 (“Easement”), which provides the City a 20.00 foot permanent easement for general utility and storm sewer purposes on that portion of the property described on Exhibit A to the Easement (“Easement Area”); and

WHEREAS, Sonder has previously paved a parking lot on the Property, including over the Easement Area (“Parking Lot”); and

WHEREAS, the Parking Lot is in need of paving and repair; and

WHEREAS, the Easement includes the right of ingress and egress to said Easement Area and the right to engage in maintenance and repair of the Easement Area; and

WHEREAS, the City and Sonder desire for the City to enter upon the Property for the purpose of repairing and paving the Easement Area (the “Project”); and

WHEREAS, the City and Sonder also seek to clarify rights and responsibilities with respect to the Property.

NOW, THEREFORE, IT IS HEREBY AND HEREIN MUTUALLY AGREED, in consideration of each party’s promises and considerations herein set forth, as follows:

1. INCORPORATION. The above recitals are a material part of this Agreement and are incorporated herein.

2. RIGHT OF ENTRY/WAIVER OF TRESPASS. At the time of execution of this Agreement, the Parties will enter into a Right of Entry and Waiver of Trespass Agreement, attached as **Exhibit B**, to allow the City's entry onto the Property to perform maintenance and repair of the Easement Area.

3. MAINTENANCE AND REPAIR.

A. The City intends to perform the following maintenance within the Easement Area only as shown on the attached **Exhibit C**:

- a. The City will clean and repair or replace the existing storm sewer castings.
- b. The City will remove the degraded asphalt section and pave the Easement Area.

The City intends to commence the Project on or after May 15, 2019, and complete the Project on or before August 31, 2019.

B. The Parties agree that the City is not responsible for ongoing maintenance and repair of the Property or the Parking Lot except as expressly provided in the Easement. Further, Sonder acknowledges that the City is not liable for any damage previously sustained to the Property and the Parking Lot thereon and that the City is not liable for any future damage to the Property and the Parking Lot.

4. AGREEMENT EFFECT. The terms and conditions of this Agreement shall be binding on the parties hereto, their respective successors and assigns and shall be binding upon and run with the Property.

5. GOVERNING LAW. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota.

6. MODIFICATION. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

7. ATTORNEY'S FEES. In event that any action is filed to enforce the terms of this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth above.

GRANTOR: SONDER, INC.

Michael Mader
Its: Chief Executive Officer

STATE OF MINNESOTA)
) ss
COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, _____, on behalf of Sonder, Inc.

Notary Public

THE CITY OF WATERTOWN
a Minnesota municipal corporation

By: Steve Washburn
Its: Mayor

By: Lynn Tschudi
Its: Clerk-Treasurer

STATE OF MINNESOTA)
) ss
COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Steve Washburn, Mayor, and Lynn Tschudi, City Clerk-Treasurer, of the City of Watertown, a Minnesota municipal corporation, on behalf of said corporation.

Notary Public

This Instrument Drafted By:
Hoff Barry, P.A. (JDS)
775 Prairie Center Drive, Suite 160
Eden Prairie, MN 55344-7914
(952) 941-9220

EXHIBIT A

LEGAL DESCRIPTION

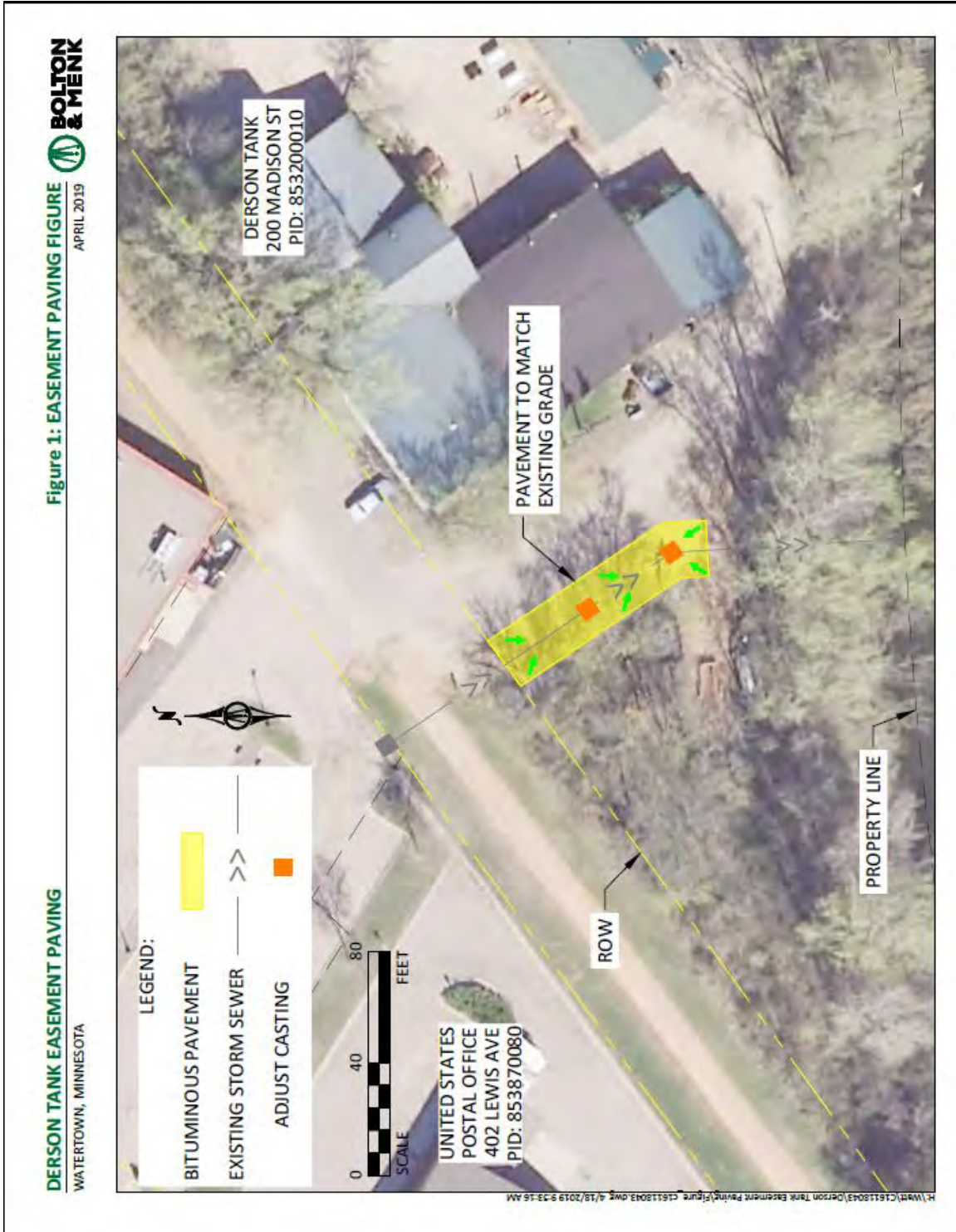
All that part of the original G. Lewis Mill Reserve Addition to the Village of Watertown (including a portion of which Addition has since been vacated, being certain lots, streets and alleys), according to the plat thereof on file or of record in the office of the Register of Deeds in and for the County of Carver, State of Minnesota, described as follows: Commencing at a point in the Southwesterly line of Madison Street, said point being distant Southeasterly 22 feet, measured at right angles thereto from the center line of the main track of the Chicago and North Western Railway Company as now located and constructed across said G. Lewis Mill Reserve Addition; running thence Southeasterly upon and along said Southwesterly line of Madison Street to the Northerly shore of the Crow River; thence Southwesterly along said shore line to its intersection with a line which is 100 feet Southwesterly measured at right angles thereto and parallel with said Southwesterly line of Madison Street; said point being the actual point of beginning of the tract to be described; thence continuing Southwesterly along said shore line to its intersection with the Southeasterly line of Block Two (2) of said Addition; thence Northeasterly upon and along said block line to the Easterly corner of said Block 2; thence Northwesterly upon and along the Northeasterly line of said Block 2 to a point distant Southeasterly 22 feet, measured at right angles thereto from the center line of the said main track; thence Northeasterly parallel with said center line of main track to the point of intersection with a line which is 100 feet Southwesterly measured at right angles thereto and parallel with the Southwesterly line of said Madison Street; thence Southeasterly upon and along said last described parallel line to the point of beginning.

Also, all that part of Lots 2, 3, 4, and 9, Block 2, G. Lewis Mill Reserve Addition to Watertown, lying South of a line which is 23 feet South and parallel with the center line of the main line railroad track of the Chicago and North Western Railway Company as now located and constructed across said G. Lewis Mill Reserve Addition, according to the map or plat thereof on file and of record in the office of the Register of Deeds, in and for the County of Carver, State of Minnesota.

EXHIBIT B

RIGHT OF ENTRY AND WAIVER OF TRESPASS AGREEMENT

EXHIBIT C



RIGHT OF ENTRY AND WAIVER OF TRESPASS AGREEMENT

This Agreement is entered into this _____ day of _____, 2019, by and between Sonder, Inc., a Minnesota Corporation (hereinafter collectively the “Grantor”), and the City of Watertown, a Minnesota municipal corporation (hereinafter the “City”).

WITNESSETH:

WHEREAS, the Grantor owns certain property located within the City in fee title absolute with an address of 200 Madison Street SE, Watertown MN, 55388, and Parcel ID Number 853200010, legally described on the attached **Exhibit A** (hereinafter “Subject Property”); and

WHEREAS, the Subject Property is subject to a Utility and Storm Sewer Easement, dated August 3, 1996, and recorded January 1, 1997 as Document Number T95192 (“Easement”), which provides the City a 20.00 foot permanent easement for general utility and storm sewer purposes on that portion of the Subject Property described on Exhibit A to the Easement (“Easement Area”); and

WHEREAS, the Easement includes the right of ingress and egress to said Easement Area and the right to engage in maintenance and repair of the Easement Area; and

WHEREAS, the City and the Grantor, desire for the City to enter upon the Subject Property for the purpose of repairing and paving the Easement Area, and Grantor agrees to grant the City permission to enter the Subject Property for the purpose of conducting activities to repair the Easement Area (“Project”).

NOW, THEREFORE, IT IS HEREBY AND HEREIN MUTUALLY AGREED, in consideration of each party’s promises and considerations herein set forth, as follows:

1. INCORPORATION. The above recitals are a material part of this Agreement and are incorporated herein.

2. RIGHT OF ENTRY/WAIVER OF TRESPASS. The Grantor hereby agrees that the City or their designee will be allowed to enter upon the Subject Property for the Project.

3. WARRANT OF TITLE. Grantor warrants that they have good and indefeasible fee simple title to the Subject Property, and warrants that they have full authority to grant the right of entry provided herein, free and clear of all other claims.

4. AGREEMENT EFFECT. The terms and conditions of this Agreement shall be binding on the parties hereto, their respective successors and assigns and shall be binding upon and run with the Subject Property.

5. GOVERNING LAW. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota.

6. MODIFICATION. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

7. ATTORNEY'S FEES. In event that any action is filed to enforce the terms of this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees.

*****Signatures Pages to Follow*****

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth above.

GRANTOR: SONDER, INC.

Michael Mader
Its: Chief Executive Officer

STATE OF MINNESOTA)
) ss
COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, _____, on behalf of Sonder, Inc.

Notary Public

THE CITY OF WATERTOWN
a Minnesota municipal corporation

By: Steve Washburn
Its: Mayor

By: Lynn Tschudi
Its: Clerk-Treasurer

STATE OF MINNESOTA)
) ss
COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Steve Washburn, Mayor, and Lynn Tschudi, City Clerk-Treasurer, of the City of Watertown, a Minnesota municipal corporation, on behalf of said corporation.

Notary Public

This Instrument Drafted By:
Hoff Barry, P.A. (JDS)
775 Prairie Center Drive, Suite 160
Eden Prairie, MN 55344-7914
(952) 941-9220

EXHIBIT A

LEGAL DESCRIPTION

All that part of the original G. Lewis Mill Reserve Addition to the Village of Watertown (including a portion of which Addition has since been vacated, being certain lots, streets and alleys), according to the plat thereof on file or of record in the office of the Register of Deeds in and for the County of Carver, State of Minnesota, described as follows: Commencing at a point in the Southwesterly line of Madison Street, said point being distant Southeasterly 22 feet, measured at right angles thereto from the center line of the main track of the Chicago and North Western Railway Company as now located and constructed across said G. Lewis Mill Reserve Addition; running thence Southeasterly upon and along said Southwesterly line of Madison Street to the Northerly shore of the Crow River; thence Southwesterly along said shore line to its intersection with a line which is 100 feet Southwesterly measured at right angles thereto and parallel with said Southwesterly line of Madison Street; said point being the actual point of beginning of the tract to be described; thence continuing Southwesterly along said shore line to its intersection with the Southeasterly line of Block Two (2) of said Addition; thence Northeasterly upon and along said block line to the Easterly corner of said Block 2; thence Northwesterly upon and along the Northeasterly line of said Block 2 to a point distant Southeasterly 22 feet, measured at right angles thereto from the center line of the said main track; thence Northeasterly parallel with said center line of main track to the point of intersection with a line which is 100 feet Southwesterly measured at right angles thereto and parallel with the Southwesterly line of said Madison Street; thence Southeasterly upon and along said last described parallel line to the point of beginning.

Also, all that part of Lots 2, 3, 4, and 9, Block 2, G. Lewis Mill Reserve Addition to Watertown, lying South of a line which is 23 feet South and parallel with the center line of the main line railroad track of the Chicago and North Western Railway Company as now located and constructed across said G. Lewis Mill Reserve Addition, according to the map or plat thereof on file and of record in the office of the Register of Deeds, in and for the County of Carver, State of Minnesota.

**CITY OF WATERTOWN
RESOLUTION NO. 2019-71**

**RESOLUTION APPROVING EASEMENT REPAIR LOW QUOTE AND AGREEMENT AND
RIGHT OF ENTRY AT 200 MADISON STREET SE**

WHEREAS, Sonder owns certain property located within the City in fee title absolute with an address of 200 Madison Street SE, Watertown MN, 55388, and known as Parcel ID Number 853200010 (hereinafter "Property"); and

WHEREAS, the Property is subject to a Utility and Storm Sewer Easement, dated August 3, 1996, and recorded January 1, 1997, are Document Number T95192 ("Easement"), which provides the City a 20.00 foot permanent easement for general utility and storm sewer purposes on that portion of the property described on Exhibit A to the Easement ("Easement Area"); and

WHEREAS, the City of Watertown wishes to properly maintain and repair the Easement area by adjusting the utility structure castings and to repave the easement area so as to protect City utility and to reduce inflow and infiltration of debris, sediment, and gravel into the storm water utility; and

WHEREAS, the City solicited quotes for the repair of the Easement area from qualified contractors; and

WHEREAS, the low quote was submitted by Omann Contracting for \$27,073.75, and can be added as a change order to the 2019 Mill & Overlay Project; and

WHEREAS, the City wishes to perform the work as noted on the Property and desires an Agreement and Right of Entry to be executed and recorded on the Property between the City and Sonder prior to the work commencing by the City; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Watertown, Minnesota, hereby approves the low quote submitted by Omann Contracting; and

BE IT FURTHER RESOLVED, that the City Council approves the Agreement Regarding the City's Utility and Storm Sewer Easement and Parking Lot at 200 Madison Street SE and the Right of Entry and authorize the Mayor and staff to execute upon execution by Sonder.

Adopted by the City Council of the City of Watertown this 14th day of May, 2019.

Steve Washburn, Mayor

ATTEST: _____
Lynn Tschudi, Clerk/Treasurer