

PLEASE NOTE: At 5:30 p.m. The Council will meet in a regular Study Session for review and update of the Proposed 2023 Budget, update on the Council Chamber Project and, if time allows, there will be a general update of board and commission activities. This meeting will be in Council Chambers at City Hall, 540 West Hills Circle.



OWATONNA CITY COUNCIL MEETING
Tuesday, November 15, 2022 at 7:00 PM
Council Chambers, City Hall at 540 West Hills Circle
Roll Call: Council Members Dotson, Burbank, Boeke,
Raney, Svenby, Voss & Schultz

1. INTRODUCTORY ACTIONS: Call to Order; Roll Call and Pledge of Allegiance

- 1.1. Council Agenda
- 1.2. Police Officer Swearing In Ceremony
- 1.3. Canvass City Election Results - Resolution 92-22 Declare Results
- 1.4. Mayor Kuntz
 - 1.4.1. Proclamation - Small Business Saturday - November 26, 2022
 - 1.4.2. Proclamation - DECA Week - November 28 - December 2, 2022

2. CONSENT AGENDA ITEMS

- 2.1. Minutes – Council Meeting – November 1, 2022
- 2.2. Department Reports - Building & Inspection - October Reports
- 2.3. Licenses/Permits
 - 2.3.1. Temporary Liquor Permit - Mineral Springs at Kibble Equipment - November 17, 2022
 - 2.3.2. Event Permit - Lighted Holiday Parade - December 1, 2022
- 2.4. Miscellaneous
 - 2.4.1. City of Owatonna/Steele County Joint Project - 2022 Overlay Change Order #1
 - 2.4.2. Utility Easement - Caramel Development, LLC and Vesterby Real Estate Investments, LLC
 - 2.4.3. Liability Coverage Waiver - League of Minnesota Cities Insurance Trust (LMCIT)
 - 2.4.4. Update Schedule A - Target Solutions Licensing, LLC
 - 2.4.5. 2023 Energy Management Agreement - Owatonna Public Utilities
 - 2.4.6. Resolution 90-22 Authorize Contract for Purchases - Fame Awards

3. ACTION ITEMS

- 3.1. Finance Report
- 3.2. Ordinances
 - 3.2.1. Second/Final Reading Ordinance 22-12: Extend Xcel Energy Franchise Agreement
 - 3.2.2. First Reading Proposed Ordinance 22-13: Adjust Sanitary Sewer Rates

3.3. Resolutions

- 3.3.1. Resolution 91-22: Accept Bids and Award Contract - City Council Chambers Project - Ebert Constrction

3.4. License and Permits

- 3.4.1. Tobacco License - JMD Ventures LLC dba Owatonna Marathon

3.5. Miscellaneous

- 3.5.1. 2022 Street & Utility Project Change Order #2 - JJD Companies, LLC
- 3.5.2. Memorandum of Understanding for Statewide Monitoring of PFAS - Minnesota Pollution Collition Agency (MPCA)
- 3.5.3. Professional Services Agreement for Staff Augumentation Services on 2023-2024 Engineering Projects - WHKS & Co.
- 3.5.4. Easement Agreement - Steele County Humane Society

4. **STAFF REPORTS**

5. **PUBLIC COMMENTS:** (Please limit comments - 2 minutes and items not on the agenda.)

6. **COUNCIL COMMENT AND GENERAL INFORMATION**

7. **ADJOURN**

RESOLUTION NO. 92-22

A RESOLUTION DECLARING RESULTS OF
THE GENERAL ELECTION ON NOVEMBER 8, 2022

WHEREAS the regular City Election was held in the 2022 General Election on November 8, 2022, to vote on offices of four council members; and

WHEREAS, the official returns of the judges of election were presented to the City of Owatonna Canvassing Board on Tuesday, November 15, 2022; and

WHEREAS said returns were duly examined, approved, and placed on file in the Office of the City Administrator/City Clerk.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Owatonna, Minnesota, Steele County, that it is hereby found, determined and declared that the regular City Election held in and for the City of Owatonna on Tuesday, November 3, 2020, was in all respects duly held and the returns thereof have been duly canvassed, the votes cast at said election were:

<u>OFFICE</u>	<u>CANDIDATE</u>	<u>TOTAL VOTES</u>
Council Member at Large	Dan Boeke	5728
	Peng Olson	4418
	Write-Ins	33
Council Member – First Ward	Nathan Dotson	1232
	Seth Madole	989
	Write-Ins	8
Council Member – Third Ward	David C. Burbank	1201
	Write-Ins	8
Council Member – Fifth Ward	Brent Svenby	1110
	Molly Kerr	1009
	Write-Ins	6

BE IT FURTHER RESOLVED by the City Council of the City of Owatonna, Steele County, Minnesota, that the following candidates for offices of mayor and three council members elected at the 2022 General Election for the respective terms are as follows:

Council Member - At Large	4-year term	Dan Boeke
Council Member – First Ward	4-year term	Nathan Dotson
Council Member – Third Ward	4-year term	David C. Burbank
Council Member – Fifth Ward	4-year term	Brent Svenby

Passed and adopted this ____ day of ____, 2022, with the following vote:

Aye ____; No ____; Absent ____; Abstain ____

Approved and signed this ____ day of ____, 2022.

ATTEST:

Thomas A. Kuntz, Mayor

Kris M. Busse, City Administrator



Mayor Kuntz



Proclamation

Whereas, the City of Owatonna, celebrates our local small businesses and the contributions they make to our local economy and community; and

Whereas, according to the United States Small Business Administration, there are 32.5 million small businesses in the United States, small businesses represent 99.7% of firms with paid employees, small businesses are responsible for 62% of net new jobs created since 1995, and small businesses employ 46.8% of the employees in the private sector in the United States; and

Whereas, 79% of consumers understand the importance of supporting the small businesses in their community on Small Business Saturday®, 70% report the day makes them want to encourage others to Shop Small®, independently-owned retailers, and 66% report that the day makes them want to Shop Small all year long; and

Whereas, 58% of shoppers reported they shopped online with a small business and 54% reported they dined or ordered takeout from a small restaurant, bar, or café on Small Business Saturday in 2021; and

Whereas, the City of Owatonna supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

Whereas, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, Therefore, I, Thomas A. Kuntz, Mayor of the City of Owatonna do hereby proclaim, November 26, 2022, as

SMALL BUSINESS SATURDAY

And urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Owatonna to be affixed this 15th day of November 2022.

Thomas A. Kuntz, Mayor



Proclamation

WHEREAS, DECA is recognized by the United States Department of Education as a national career and technical student organization and an integral part of career and technical education; and

WHEREAS, DECA is helping to develop leadership abilities, competency in business, marketing, and entrepreneurship and interest in the American business system;

WHEREAS, the Owatonna High School is concerned with the business education and training of students for productive, satisfying careers; and

WHEREAS, the Owatonna High School offers DECA for students to participate in.

NOW, THEREFORE, I hereby designate the week of November 28 - December 2, 2022, as

DECA WEEK

and urge all Owatonna citizens to assist in according this observation the attention and importance it is so rightly entitled.

IN WITNESS THEREOF, I hereunto set my hand and caused the seal of the City of Owatonna to be affixed this 15th day of November 2022.

Thomas A. Kuntz, Mayor

Owatonna City Council Minutes – DRAFT COPY

Council President Schultz called the regular session of the Owatonna City Council to order on Tuesday, November 1, 2022, at 7:00 p.m. in Council Chambers at City Hall. Present were Council Members Burbank, Boeke, Raney, Voss, Dotson, Svenby and Schultz; Mayor Kuntz; Assistant City Engineer Murphy; Fire Chief Hoffman; Park & Rec Director Tuma; City Attorney Walbran; City Administrator Busse, and Administrative Specialist Clawson.

Agenda

Following the Pledge of Allegiance, Council President Schultz welcomed everyone to the meeting. Council Member Boeke made a motion to approve the agenda as presented, Council Member Svenby seconded the motion, all members present voted aye for approval. Council President Schultz explained the process to hold a public hearing during this meeting followed with consideration of a resolution after the hearing. He advised as tonight's public hearing will be a continuation of the public hearing opened on October 4, 2022, for comments on the Proposed Assessments for the North Cedar Avenue Streetscape Project, he will recuse himself as he owns property within the project area. Council Vice-President Raney took over the meeting and asked City Administrator for comment on the project.

City Administrator Busse commented this has been a long-term goal of the City to revitalize the downtown area. The project has added amenities and better ADA access to the downtown area which will enhance downtown shopping and entertainment venues.

Interim Public Works Director Sean Murphy commented city staff and consultants reevaluated all proposed assessments and new notices were sent. The proposed assessments are for street and sidewalk improvements and not the additional amenities. Assessments are roughly 5% of the total project cost which was \$5.6 million. Staff is recommending costs for the additional water line be deferred until services connected, there are 20 properties with proposed deferred assessments shown on the Assessment Roll.

Public Hearing - Proposed Assessments – North Cedar Avenue Project

At 7:05 pm., the public hearing was reconvened for comments. Greg Olson, owner of a building in the 100 block of N Cedar commented better communication was needed during the project. Property owners were told during initial meetings, their maximum assessment would be \$52/foot and not aware there would be additional costs for water improvements. There should be some accountability and now taxpayers are bearing the additional costs. If a business owner offers an agreement, that is what it should be.

Interim Public Works Director Sean Murphy explained the additional water service was not initially known and as the project progressed, staff determined it would be best to plumb the additional water line needed for fire safety to each building so they will have opportunity to connect and not require disrupting the street surface. Staff recommends assessments for the additional water service be deferred until connected service. Many property owners advised their insurance company may now require they provide fire protection within their buildings; staff believes most will request service connection within the next few years.

Dan Kubista, owner of Wanger Lunch at 222 N Cedar Avenue commented he also has questions about the communication process and the deferral option for the additional water

services. Some plumbing was done privately and paid for which should have been included in the project cost.

Interim Public Works Director Sean Murphy commented staff will do everything they can to assist in requesting reimbursement.

Council Member Dotson commented he maintains property owners be billed the amounts shown on their Preliminary Assessment Notices. There was ample time for opportunity to explain what additional charges could be billed and this did not happen so no additional costs should be passed on to them. Council Member Voss commented the additional water service stubs were needed so the street won't be dug up every six months when property owners upgrade utilities in their buildings. Council Member Burbank commented he agrees with Council Member Dotson and wants to keep it simple. Council Member Svenby asked if costs of the vault expense incurred on two properties would also be given an option of deferment.

Interim Public Works Director Sean Murphy commented there were separate agreements made regarding the two vaults and these additional costs are included in their proposed assessments.

Council Member Boeke commented he thinks it was wise for the city to include the water line for fire suppression systems; however, the cost is now a lien on the properties and a current expense for all taxpayers.

Greg Olson commented he is upset this was done without consulting the property owners. He may need to increase his rent amount and wants some accountability for why this happened. Council Member Raney commented communications should have been better during the project construction period.

Resolution 81-22 – Adopt Proposed Assessments – North Cedar Avenue Project

Interim Public Works Director Sean Murphy presented Resolution 81-22 to adopt the proposed assessments. He commented the current Proposed Assessments are not higher than the Preliminary Assessment unless there is an agreement with the property owner. Council Member Voss made a motion for approval, Council Member Burbank seconded the motion. Council Member Boeke commented he would approve if every property owner agreed. Vice President Raney reminded everyone the public hearing is closed and conversation is now between Council Members. Council Member Boeke commented he will vote nay because he is uncertain of the communication of the Proposed Assessment amounts. Council Member Dotson also commented he will vote nay because he has lingering concerns that property owners have incurred costs which they were not aware of.

City Administrator introduced Becky Guenther, ISG Consultant who explained they contacted all property owners with an agreement what the cost would be to bring the water service to within five feet of their building. She explained the building owner owns the line from the water main to their building so cost of the line from the water main to their building is their cost. The connection cost was not known at the time of contact but was given to the property owners when known. If there was an existing fire service, they were not charged as the project did not include an upgrade of service.

With no additional comments, vote taken and approved with four ayes and two nay votes.

Resolution 89-22 – Authorize Deferred Assessments – North Cedar Avenue Project

Interim Public Works Director Sean Murphy presented Resolution 89-22 with recommendation Council defer assessment for the cost of the water service for fire suppression. Council Member Voss made a motion for approval and Council Member Burbank seconded the motion. Council Member Boeke commented he will vote nay; he thinks it was a good decision by the City to add the additional water line but does not agree with the process which will now affect all taxpayers. Vote was taken and approved with five aye and one nay vote cast.

Council President Schultz returned to his seat to direct the meeting.

Consent Agenda

Council President Schultz explained council members review the Consent Agenda items prior to the meeting for approval in one motion. Consent Agenda items for this meeting include:

- Minutes – Council Meeting – October 18, 2022

- Minutes - Library Board Meeting - October 18, 2022

- Minutes - HRA Board Meeting - October 24, 2022

- Utility Disconnection Letter of Understanding at 2342 Haddonstone Lane with current property owners Glen and Betty Roethler

Council Member Dotson made a motion to approve these Consent Agenda Items, Council Member Boeke seconded the motion, all members present voted aye for approval.

Finance Report

Council Vice Chairman Raney recapped payments made more than \$20,000 for this period. Bills presented for payment total \$995,172.28. Council Member Svenby made a motion to approve payment of these bills, Council Member Voss seconded the motion. Council Member Boeke asked which project the \$13,000 payment to American Testing was for, Interim Public Works Director Sean Murphy advised this was for the WWTP Project. All members voted aye for approval.

Ordinance 22-12: Extend Franchise Agreement – Xcel Energy

City Administrator Busse requested approval of the first reading of Proposed Ordinance 22-12 to extend the Xcel Energy Franchise Agreement. The current agreement was previously extended to expire December 31, 2022. City Attorney Walbran advised additional time required to prepare a new franchise agreement. Extending the current agreement will allow continuation of franchise fees. Council Member Raney made a motion for approval, Council Member Dotson seconded the motion. With a roll call vote, voting aye were Dotson, Burbank, Boeke, Raney, Svenby, Voss and Schultz; the motion carried. The second reading of this proposed ordinance will be heard during the next Council Meeting on November 15, 2022.

Resolution 88-22 Appoint Election Judges – 2022 General Election

Administrative Specialist Clawson requested approval of Resolution 88-22 appointing judges to serve on Election Day for the 2022 General Election. This resolution also authorizes assignment

of Election Judge substitutes if needed. Anticipating a good voter turnout so each site staffed with seven to eight judges during the day. Council Member Svenby made a motion to approve Resolution 88-22, Council Member Boeke seconded the motion, all members voted aye in approval.

Change Order #1 – WWTP Facility Expansion Project

Interim Public Works Director Sean Murphy explained this is a price escalation change which was anticipated with the tactic used in the bidding process for this project. Jennifer Svenes, VP of Nero Engineering, the city's consultant for this project was present to explain that during the design of the WWTF Improvements and Expansion project, Nero and the City conducted a pre-selection process for the membrane bioreactors (MBR). This process entailed developing specifications and drawings for requesting proposals from MBR manufacturers. Suez was the selected membrane manufacturer based on the evaluation criteria scoring. The "price" evaluation was conducted by adjusting the submitted price to a future bid date of April 2022. Suez held their bid price for one year (until April 26, 2022) and thus their adjustment was zero in the proposed bid. Their price was adjusted based upon construction indexes to a future price in April 2022 and the actual bid opening occurred on April 21, 2022, with contracts executed on May 4, 2022. The purchase order was submitted to Suez from Rice Lake, when advised their 12-month price hold had been exceeded. The Suez agreement allowed for them to submit price adjustments if a purchase order had not been submitted within the year timeframe. Nero Engineering staff has scrutinized and reviewed the product cost in detail and found their request reasonable and fair, this is part of the \$12 million cost contingency anticipated when bids were received. They would have been preferred if Suez would have been upfront with the prenegotiated pricing prior to bid approval this April but find this isn't an unfair price increase. She added the change order should be corrected to the amount of \$252,500 to include a 1% bond markup for Rice Lake. Council Member Boeke commented he was disappointed with the timing of the cost adjustment and Council Member Raney agreed. Council Member Raney made a motion to approve this Change Order #1 for \$252,500, Council Member Burbank seconded the motion, all members voted aye in approval.

Extended Obstruction Permit - Mohs Contracting at Vine Street

Assistant City Engineer Murphy presented request from Mohs Contracting to obtain an Extended Obstruction Permit for a street closure to take place on Vine Street while roof demolition is completed on the old Jerry's Supper Club Building. The closure is anticipated to take place Monday through Friday during workday hours with the anticipated completion date being December 7th. Council Member Dotson made a motion for approval, Council Member Burbank, seconded the motion, all members voted aye for approval.

Limited Use Agreement – 111 Vine Street – Equity Growth Owatonna, LLC

Assistant City Engineer Murphy requested approval of a Limited Use Agreement for Equity Growth, Owatonna, LLC for use of a portion of City right-of-way at 111 Vine. This involves construction of a non-typical sidewalk forming a ramp, and a railing for protecting the elevated

sidewalk. Continuous access by the City-to-City right-of-way is required. Any modifications or improvements to the non-typical sidewalk must be approved in writing by the City and will be at the sole cost of Growth Equity Owatonna, LLC. Maintenance and repairs to the subject property will be completed by Growth Equity Owatonna, LLC throughout the duration of this agreement. Council Member Raney made a motion for approval, Council Member Boeke seconded the motion, all members voted aye for approval.

Change Order #1 - 2022 Street & Utility Project

Assistant City Engineer Murphy requested approval Change Order #1 for the 2022 Street and Utility Project. The change Order #1 includes the addition of: 4" C900 PVC Watermain, 4" Gate Valve & Box, Removal of Steam Main, 12" PVC Storm Sewer and 2" Insulation. This change order will increase the contract amount by \$22,360.85, most of this project costs will be paid by Owatonna Public Utilities. Council Member Dotson made a motion for approval, Council Member Burbank seconded the motion, all members voted aye for approval.

Staff Updates

Jenna Tuma, Park and Rec Director commented staff has been active participating in community focused activities. Recent activities include distributing treats in Central Park during the Downtown Trick or Treat event on Saturday, organizing an Adaptive Halloween Dance, and hosting the final Brooktree Listening Session. Brooktree Golf Course will close this week on Thursday, the golf season was good and there have been several high school cross-country races held there this fall. Staff participated in the Prairie Burn on October 10th at the Leo Rudolph Nature Reserve, completed an overlay on Lemond Road, replaced deck boards on the bridge in Darts Park; closed 35 outdoor restrooms for the season and working with OPU to upgrade City Hall to LED lighting. Council Member Boeke commented it was good to see staff assist with painting the steeple at Fire Hall.

Fire Chief Hoffman commented staff is completing annual training for OSHA requirements and working to identify all rental properties for Code Enforcement compliance for property inspections as they establish a 4-year cycle for business properties. A letter will be sent to all business owners advising what to expect when an inspection is completed. He will be assisting Kristen Sailer, Steele County Emergency Manager present the Steele County Emergency Management Plan at an upcoming regional meeting. This is the second year of the four-year Emergency Management Plan approved last year which will be reviewed for comments.

Assistant City Engineer Murphy commented modification of the Rose/Grove Roundabout began yesterday and should be done within two weeks. The inner circle will be raised to deter drivers from driving through the roundabout. A letter was received from the Canadian Pacific Railroad on Friday confirming they have reverted to the original plan for the roundabout at Bixby Road and 18th St SE. The railroad proposed a design modification which required a change in location and would have add \$1.5 to \$2 million to this project, he thanked the county and school for their assistance in reverting the railroad to original plan.

Public Comments

Andrew Cowell, President at Profinium, 1080 W Frontage Rd thanked council for taking on the task of answering constituent's concerns. During the last 18 months, he has been working with architects and engineers to plan a new bank facility within Owatonna and was just recently advised a stormwater holding pond is required. Previously he had been told this was not a requirement and plans prepared; this change will add approximately \$90,000 to their project costs. Last week, he met with city staff and they have worked out an agreement; this is another example how communication between city staff and constituents need to be improved.

Mike Jensen, President at Tri-M Graphics, 625 E Main Street invited everyone to attend the annual Tri-M Graphics Holiday Open House on Saturday, November 12th from 9am to 3 pm. They will unveil their 2023 Calendar and host a Farmers Market in their parking lot. There be activities for kids and the also rented the JC Park Pavilion to offer horse and wagon rides.

City Administrator Busse read a letter received from **Gary Jones and Judy Thon Jones** in which they expressed safety concerns about the city's deer management in Manthey Park and Mineral Springs Park. They believe people are using the parks and adjacent homeowners are in potential danger and believe both parks are too small to support the archery per DNR Guidelines. They request both parks be removed from the city's deer management program.

Council/Administration Comments and General Information

Council Member Dotson said he was contacted with concerns regarding cross guards and speeding traffic near the elementary schools. He asked everyone to be mindful of students walking and attentive to crossing guards assisting the students.

Council Member Raney reminded everyone that next Tuesday, November 8th is Election Day for the 2022 General Election. He encouraged everyone to exercise their right and responsibility to vote for those you want to represent you.

Council Member Voss asked everyone to be careful when driving on Elm Avenue. The 4-way stop signs at the intersections of Elm/Pearl and Elm/Vine have been changed to 2-way stop signs so traffic not stopping on Elm. Also, Elm Avenue has extra traffic because of the traffic detour during the roundabout project at the Grove/Rose intersection during the next two weeks.

Council President Schultz thanked everyone for attending and encouraged everyone to participate in our Democracy and vote next Tuesday.

Adjournment: At 8:06 p.m., Council Member Raney made a motion to adjourn, Council Member Boeke seconded the motion, all members present voted aye in approval.

Respectfully Submitted,

Jeanette Clawson, Administrative Specialist

COMPARISON REPORT OF BUILDING DONE IN CITY OF OWATONNA IN YEARS 2021 AND 2022														Ken Beck, Building Official	
	DWELLINGS		ACCESSORY		COMMERCIAL		INDUSTRIAL		ADD. & ALT.		DUPLEX/APTS		DEMO	TOTAL	
Month	NO.	VALUE	NO.	VALUE	NO.	VALUE	NO.	VALUE	NO.	VALUE	NO.	VALUE	NO.	NO.	VALUE
Jan '21	0	0	4	4,500	15	2,281,485	3	18,800	93	582,445	1	2,968,000	2	118	5,855,230
Jan '22	0	0	4	7,640	14	104,970	11	3,775,051	68	419,719	0	0	0	97	4,307,380
Feb '21	3	600,000	4	4,500	24	2,403,602	6	22,800	201	1,064,641	1	2,968,000	2	241	7,063,543
Feb '22	0	0	12	22,742	24	1,753,403	16	4,817,476	139	855,061	0	0	0	191	7,448,682
Mar '21	6	1,200,000	6	7,800	41	2,659,928	14	230,900	345	1,798,868	1	2,968,000	2	415	8,865,496
Mar '22	5	1,901,925	33	67,493	35	2,161,547	26	5,560,379	284	1,747,846	0	0	1	384	11,492,265
Apr '21	10	2,260,000	17	17,326	61	3,232,680	20	873,200	482	2,740,015	1	2,968,000	2	593	12,091,221
Apr '22	5	1,901,925	51	96,566	58	2,827,402	30	5,592,069	411	2,785,871	0	0.00	0.00	555	13,256,908
May '21	17	4,375,000	39	69,626	77	4,895,502	25	1,225,930	630	4,155,201	1	2,968,000	2	791	17,689,259
May '22	6	2,141,925	62	112,316	75	5,328,038	36	6,191,103	585	4,336,520	0	0	0	764	18,162,974
Jun '21	18	4,675,000	57	143,066	92	6,121,333	31	1,492,510	770	4,971,159	2	3,388,000	5	975	20,791,068
Jun '22	8	3,061,925	76	155,666	107	6,779,903	40	7,384,127	738	6,392,230	0	0	3	970	23,826,923
Jul '21	23	5,977,650	65	150,216	111	6,995,283	37	1,767,381	898	5,948,453	3	8,368,000	6	1143	29,206,983
Jul '22	10	3,631,925	94	282,866	130	8,869,882	48	8,653,897	870	7,489,327	2	10,500,000	3	1,155	39,427,897
Aug '21	25	6,577,650	76	177,271	130	8,814,793	52	2,190,421	1,002	7,031,277	5	8,668,000	6	1,296	33,459,412
Aug '22	11	4,031,925	101	303,866	160	10,139,786	56	8,902,182	986	8,302,718	3	17,000,000	3	1,320	48,680,477
Sep '21	29	7,373,650	93	198,896	150	21,018,100	61	2,713,781	1,145	8,728,052	5	8,668,000	7	1,490	48,700,479
Sep '22	12	4,531,000	126	332,386	184	11,910,289	67	19,440,272	1,104	10,577,868	4	24,500,000	3	1,499	71,291,815
Oct '21	31	7,773,650	100	227,096	157	21,675,198	66	5,163,621	1292	9,941,707	5	8,668,000	7	1,658	*53,449,272
Oct '22	16	6,306,000	142	368,736	197	13,206,075	72	19,560,069	1,222	11,308,018	4	24,500,000	4	1,657	75,248,898
Nov '21	39	10,023,650	110	241,271	165	22,828,867	68	5,747,938	1,442	10,923,871	5	8,668,000	7	1,836	*58,433,597
Nov '22															
Dec '21	40	10,373,650	113	250,971	185	23,884,442	71	5,767,938	1,551	11,748,489	6	9,668,000	8	1,974	*61,693,490
Dec '22															
Report compiled and prepared by Kristen Kopp										* Does not include \$94,000,000 valuation of Owatonna High School					

Owatonna Building Inspection Department Comparison Report- Construction to Date 2021/2022

Construction Report for Permits Issued through October 31, 2022

TYPE OF WORK	2021 PERMITS ISSUED	PERMITS ISSUED FOR CONSTRUCTION COST	Units	2022 PERMITS ISSUED	PERMITS ISSUED FOR CONSTRUCTION COST	Units
NEW DWELLINGS	31	7,773,650	31	16	6,306,000	16
ACCESSORY BUILDINGS (INCLUDES GARAGES, UTIL. BLDGS, SW. POOLS, ETC.)	100	227,096		142	368,736	
COMMERCIAL PROJECTS	157	21,675,198		197	13,206,075	
INDUSTRIAL PROJECTS	66	5,163,621		72	19,560,069	
RESIDENTIAL ADD. & ALT.	1,292	9,941,707		1,222	11,308,018	
DUPLEXES & APTS. (INCLUDES ATTACHED SF)	5	8,668,000	81	4	24,500,000	231
DEMOLITION PERMITS	7	-		4		
TOTAL PERMITS ISSUED	1,658	53,449,272	112	1,657	75,248,898	247



Licenses - Permits



Minnesota Department of Public Safety
Alcohol and Gambling Enforcement Division
445 Minnesota Street, Suite 1600, St. Paul, MN 55101
651-201-7507 Fax 651-297-5259 TTY 651-282-6555
**APPLICATION AND PERMIT FOR A 1 DAY
TO 4 DAY TEMPORARY ON-SALE LIQUOR LICENSE**

Name of organization		Date organized		Tax exempt number	
Mineral Springs Brewery		June 2018			
Address		City	State	Zip Code	
111 N Walnut Ave		Owatonna	Minnesota	55060	
Name of person making application		Business phone		Home phone	
Bill Cronin		5074136281			
Date(s) of event		Type of organization ☐ Microdistillery ☒ Small Brewer			
11/17/2022		☐ Club ☐ Charitable ☐ Religious ☐ Other non-profit			
Organization officer's name		City	State	Zip Code	
Bill Cronin - President		Owatonna	Minnesota	55060	
Organization officer's name		City	State	Zip Code	
			Minnesota		
Organization officer's name		City	State	Zip Code	
			Minnesota		

Location where permit will be used. If an outdoor area, describe.
Kibble Equipment (indoor): 3555 18th St SW, Owatonna, MN 55060

If the applicant will contract for intoxicating liquor service give the name and address of the liquor license providing the service.

If the applicant will carry liquor liability insurance please provide the carrier's name and amount of coverage.
Cincinnati pol# ETD0503616; \$1,000,000 limit

APPROVAL

APPLICATION MUST BE APPROVED BY CITY OR COUNTY BEFORE SUBMITTING TO ALCOHOL AND GAMBLING ENFORCEMENT

City or County approving the license	Date Approved
Fee Amount	Permit Date
Date Fee Paid	City or County E-mail Address
	City or County Phone Number
Signature City Clerk or County Official	Please Print Name of City Clerk or County Official

CLERKS NOTICE: Submit this form to Alcohol and Gambling Enforcement Division 30 days prior to event.

ONE SUBMISSION PER EMAIL, APPLICATION ONLY.
PLEASE PROVIDE A VALID E-MAIL ADDRESS FOR THE CITY/COUNTY AS ALL TEMPORARY PERMIT APPROVALS WILL BE SENT BACK VIA EMAIL. E-MAIL THE APPLICATION SIGNED BY CITY/COUNTY TO AGE.TEMPORARYAPPLICATION@STATE.MN.US



Approved: _____
Denied: _____

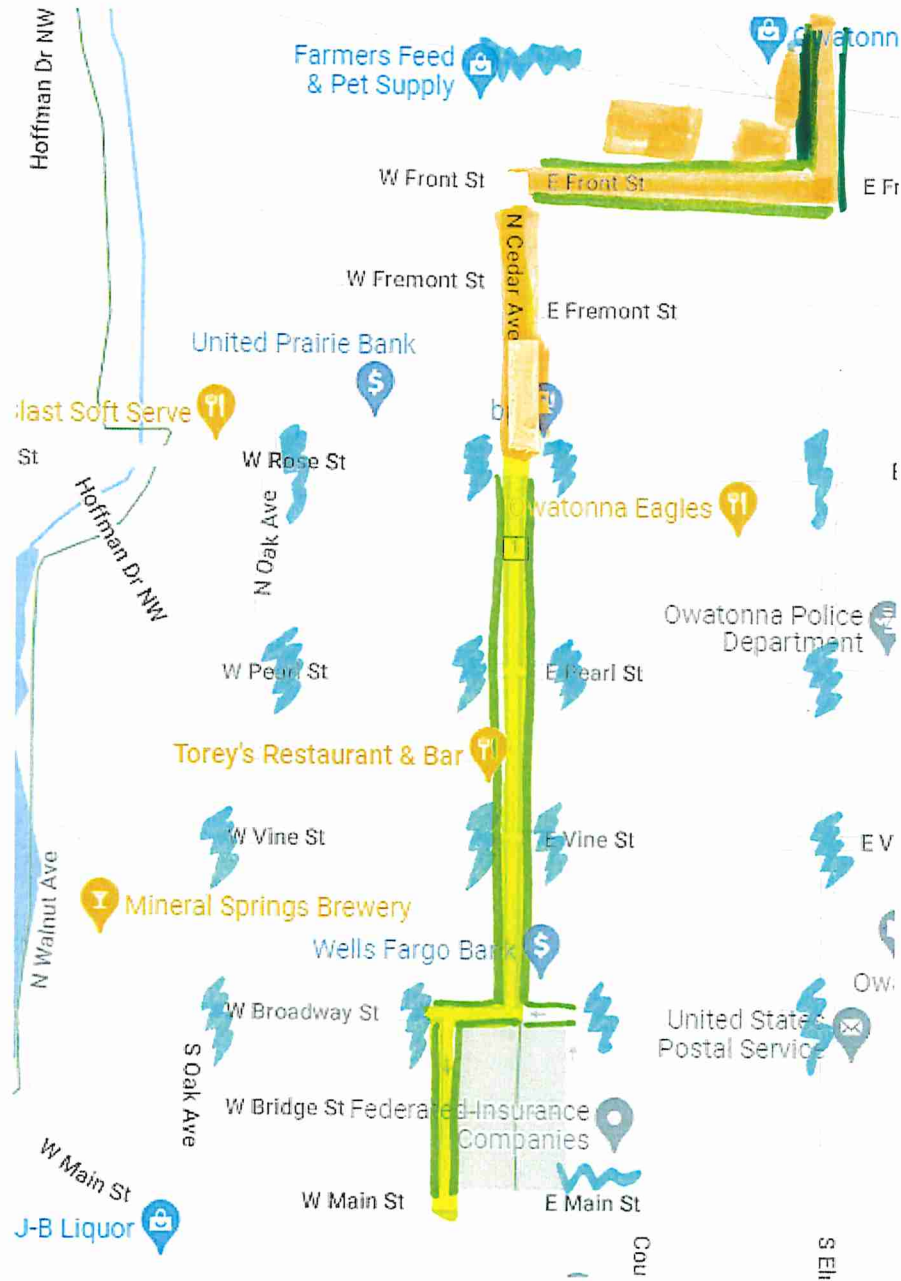
SUMMARY EVENT PERMIT APPLICATION

Date of Application: October 30, 2022

Date to Council: November 15, 2022

EVENT INFORMATION: Lighted Holiday Parade & Lighting of the Lights FEE Amount: None	
Event Dates: <u>Thursday, December 1, 2022</u> Event Time: <u>6:00 p.m.</u> Set up will begin at 3:00 p.m. and everything will be cleaned up immediately after the event.	
Location (Address) of Event: <u>Downtown Owatonna / N Cedar Avenue to Central Park</u>	
Description of Event: <u>Holiday lighted parade on N Cedar Avenue beginning at Front Street and end on the SW corner of Central Park and then "Lighting of Lights" in Central Park after the parade.</u>	
Estimated Attendance: <u>estimate 70 lighted floats and 3,000+ people (dependent on weather)</u>	
APPLICATION INFORMATION Main Street and Owatonna Area Chamber of Commerce & Tourism Shirley Schultz Phone: 507-451-7970 Brad Mieir 507-475-0687	
Items Requested: 1) Traffic Control - parade staging will be on E Front Street, the parade starts on the corner of Cedar Avenue and Rose Street going south to Central Park and along west side of Central Park. 2) Central Park Stage will be used by the choir or carolers after the parade during the tree lighting event; microphone system with speaker and power in the bandshell. 3) Three extra trash receptacles in the park area. 4) Fire barrels in Central Park for heat as in previous years. 5) "No Parking Signs" posted along parade route (N Cedar from Rose St to end at W Main Street), on E Front Street from N Cedar to Elm Ave and on N Elm Ave from E Front St north to the RR tracks) from 3:00 pm – 8:00 p.m. 6) Barricades/cones to block streets as shown on the map: N Cedar Avenue, W Broadway	
Department Comments/Approval: Public Works: Police: Fire: Park & Rec:	
City Council Comments:	
City Council Approval: _____ Date: _____ Kris M. Busse, City Administrator/City Clerk	

Holiday Lighted Parade 12/1/22



- actual parade route
- staging / lining up
- no parking signs needed
- cones and/or barricades needed

Email Address *

lcochran@owatonna.org

Primary On-site Contact

Name *

Lisa Cochran

Cell Phone *

507-475-3451

Alternate On-site Contact

Name *

Brad Meier

Cell Phone *

507-475-0687

Refer Media or Citizen Inquiries To:

Name *

Lisa Cochran

Phone *

507-475-3451

Event Features

Will event **use, close, or block** any of the following? If **yes, specify location** on site map.

City Streets or Right-of-Way *

Event Approval Summary Issuance

Document

Event Information

Event Contact *

Lisa Cochran

Location of Event *

Downtown Owatonna

Description of Event * ?

2022 Holiday Lighted Parade

Event Set Up Date

12/01/2022

Event Set Up Time * ?

3:00PM

Actual Event Date *

12/01/2022

Actual Event Time * ?

6:00PM

Clean Up Date *

12/01/2022

Clean Up Time ?

Immediately after parade and lighting of the lights in Central Park

Rain Date: In the event of inclement weather, will the event be postponed or canceled? *

Canceled

Estimated Attendance * ?

3,000

Is this event a dance? *

No

Application Information

Sponsoring Organization Name *

Mainstreet Owatonna and OACCT

Mailing Address *

320 Hoffman Drive

City *

Owatonna

State *

MN

Zip *

55060

Website Address *

owatonna.org

Primary Contact

Name *

Lisa Cochran

Phone Number *

507-451-7970

Cell Phone

507-475-3451

Yes

Start/End Time *

3:00PM-8:00PM

Date *

12/01/2022

Name of Requested Street(s) *

100-500 blocks of North Cedar Avenue, East Front St from Elm to Cedar, Broadway on the North side of Central Park, West Park Square and East Park Square. Also through traffic on the side streets off Cedar of Rose, Pearl and Vine. It has been requested that there be no parking on N Elm from Front Street north to RR tracks,

Alleys *

Yes

Start/End Time *

3:00pm-8:00pm

Date *

12/01/2022

Name of Requested Alley(s) *

All alleys are already closed for traffic - keep that way

City Sidewalks or Trails *

No

Public Parking Lots or Spaces *

Yes

Start/End Time *

3:00pm-8:00pm

Date *

12/01/2022

Parks *

No

Will any signs/banners be put up? *

No

Will there be any inflatables? *

No

Will there be entertainment? *

Yes

What Type *

OHS Carolers and Lighting the Lights in Central Park

Will sound amplification be used? *

Yes

Type *

Basic sound system like on Downtown Thursdays - Mainstreet will provide

Hours *

3:00pm-9:00pm

Will sound be amplified after 10:00pm? *

No

Sound amplified after 10:00 p.m. will require an Exception to the City's Noise Ordinance. There is a \$150 fee for an Exception to the City's Noise Ordinance which must be paid with this Event Application

Will a stage or tent(s) be set up? *

No

Will there be temporary fencing? * ?

No

Will merchandise/food items be sold? *

Yes

How many vendors expected? *

1

Will food be prepared on site? *

Yes

Will alcohol be sold? *

No

Is this a request for a temporary permit? *

Yes

Will there be a fireworks display? *

No

Describe power needs and location of power source *

Will need the large outlet turned on by 3:00PM in the alley of the 200 block on the west side. Power in the Bandshell like normal and small outlets along Cedar Ave live

Describe level of advertisement * ?

Social Media, Print, Radio, Mailers

Have adjacent property owners been notified of this event? *

Yes

Signatures required.

Will the event need barricade(s)?

Yes

Number Needed

12

Size Needed *

Medium

Event organizer is responsible for pickup and return of barricades at the City Shop, 1100 Industrial Blvd., Monday-Friday 7 AM to 3 PM. Please call 507-774-7050 to make arrangements". *Fees may apply.*

Will the event need cones? *

Yes

Number Needed *

50

Size Needed *

Large

Event organizer is responsible for pickup and return of cones at the City Shop, 1100 Industrial Blvd., Monday-Friday 7 AM to 3 PM. Please call 507-774-7050 to make arrangements". *Fees may apply.*

Will Central Park Stage be used? *

Yes

Number Needed *

2

Will there be any horses? *

Yes

Number Animals Anticipating *

2

How will horses be used? *

As participants in the parade

Please provide insurance information and complete Hold Harmless Agreement

It is the responsibility of the applicant to cleanup any animal feces. Agreed: *

☒ Chasidy Christiansen, Wenger Corporation
Oct 31, 2022

Describe trash removal and cleanup plan during and after event *

SHOC volunteers and KEY Club volunteers along with Chamber Staff will help with any trash at the end of the evening's festivities. 3 extra trash receptacles, at no charge, would be greatly appreciated

Will event need traffic control? *

Yes

Contact Owatonna Police Department for assistance, 507-451-8232

Describe crowd control procedure to ensure the safety of participants and spectators *

Will be meeting with police department to go over plans. Will include City, P&R, City Council, etc. I have a sign-up for volunteers, goal is 75, to be along the parade route to keep everyone back and safe. We have 75 safety hi-vis vests for volunteers to wear.

Will "No Parking" signs be needed? *

Yes

Number Needed *

50

Fees may apply, show location(s) on site map.

Will event need security? *

No

Will event need Emergency Medical Services? *

No

Describe the emergency action plan if severe weather should arise? *

If 25 degrees below zero windchill or colder, we will cancel the parade. Also if there is severe weather warnings or sleet/rain. Basically, if it is unsafe to be out, we will cancel. There will be emails sent and texts.(Businesses and participants) There will be radio announcements and social media for the general public as well.

Please provide contact information for responsible party during event to advise of severe weather notifications:

Name *

Lisa Cochran

Phone Number *

507-475-3451

Email *

lcochran@owatonna.org

List any other pertinent information

I will work with the street crew regarding the closing/blocking off the streets like for the past events we have had. Barricades with No Through Traffic are helpful on Elm and Oak as there is still parking on those streets right off Cedar. Same with Rose St - that is where the police presence will be needed for sure as well as at Elm and Front St for the lining up of participants. The No Parking signs will need to be up by 3:00 on Wednesday, November 30th - I wasn't sure how many, nor was I sure how many cones are needed. Again, I will be communicating with the street crew regarding this. I have a letter that I will be hand delivering to all businesses in the Mainstreet District that go into details about the road closures, no parking and parade information. I will be visiting businesses that 2nd week of November (Week of the 7th)

As in past years, we request 4-5 burn barrels in Central Park for heat. This has been provided by Park & Rec in the past and we would appreciate it if that could be done again this year, at no charge, for this community event. We will happily acknowledge any services and items provided by the City of Owatonna!

CITY SERVICES - After reviewing the event application, City Services may be required for the event

Central Park Stage Usage Information

Time *

5:00pm

Open *

5:00pm

Close *

8:00pm or when carolers are finished

Sound or Light Person Needed *

No

Size of Group that will be on stage *

20-30

Type of Group * ?

OHS Carolers

Name of Person that will be Opening and Closing of Stage * ?

Brad Meier

If Park Staff is needed to Open and Close Stage - fee of \$100 for each operation will be required. Any group larger than 15 people will require use of extenders - 4 people will needed to put on extenders.

Applicant Signature

*The sponsor(s) of this event hereby agrees to save the City, its agents, officials and employees harmless from and against all damages to persons or property, all expenses and other liability that may result from this activity. **Depending on the size of and scope of the event a "Certificate of Insurance" may be required.** If insurance is required, the policy must be kept in force during the event of at least the statutory limits for municipalities covering claims that might be brought against the event that arise out of the events authorized and to name the City as an additional insured on their policy "as their interest may appear." As the sponsor or authorized representative, I certify that the information provided is true to the best of my knowledge and agree to pay the permit fee for this event based upon the information provided in this application. I realize my submittal of this application request constitutes a contract between myself and the City of Owatonna and is a release of Liability.*

Signature of Applicant *

✓ Lisa M Cochran
Oct 31, 2022

Internal Use

Special Provisions

Fire Department Approval / Comments / Notes



Miscellaneous



Public Works Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Sean Murphy, Assistant City Engineer
SUBJECT: City of Owatonna/Steele County Joint Project - 2022 Overlay Change Order #1

Purpose:

Requesting Council approval of Change Order #1 for the City of Owatonna/Steele County Joint Overlay Project.

Background:

The 2022 Steele County Overlay Project includes roadways within the City Limits of Owatonna.

Budget Impact:

Neither roadways (CSAH 22 & CR 190) involving the Change Order are within the City Limits. There is no cost change for the city's portion of this project.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Steele County Overlay Change Order #1



STATE AID FOR LOCAL TRANSPORTATION
CHANGE ORDER

Rev. February 2018

SP/SAP(s)	153-020-052 153-020-053	MN Project No.:	N/A	Change Order No.	1
Project Location	CR 177, CR 190, CSAH 22, CSAH 34, & CSAH 48, Steele County				
Local Agency	Steele County	Local Project No.			
Contractor	Crane Creek Asphalt	Contract No.	222202		
Address/City/State/Zip	710 24th Street NW / Faribault / MN / 55021				
Total Change Order Amount \$		(\$5,110.25)			

This Change Order is being written to: Document changes in the original (P) quantity IAW 1901.1.

Issue:

The county revised the limits of MILL BITUMINOUS SURFACE (2.0"), a planned (P) quantity on CSAH 22 and CR 190.

Resolution:

- 1. The County will measure and pay for MILL BITUMINOUS SURFACE (2.0") based on actual measurements.*
- 2. Payment for this work will be a Contract Unit Prices as shown in the estimate of cost.*

Estimate Of Cost: (Include any increases or decreases in contract items, any negotiated or force account items.)

Item No.	Description	Unit	Unit Price	+ or - Quantity	+ or - Amount \$
2232.504/00060	MILL BITUMINOUS SURFACE (2.0") (P)	S Y	\$2.50	-690	(\$1,725.00)
2232.504/00060	MILL BITUMINOUS SURFACE (2.0") (P)	S Y	\$2.75	-1231	(\$3,385.25)
Net Change this Change Order					(\$5,110.25)

Due to this change, the contract time: (check one)

() Is NOT changed	() May be revised as provided in MnDOT Specification 1806
Number of Working Days Affected by this Contract Change:	Number of Calendar Days Affected by this Contract Change:

Approved by County Engineer: Gregory M. Ilkka Date: Oct 31, 2022
Gregory M. Ilkka (Oct 31, 2022 08:08 CDT)

Print Name: Greg Ilkka, P.E.

Approved by Contractor: Wayne R. Gieseke - Area Manager Date: Oct 31, 2022
Wayne R. Gieseke - Area Manager (Oct 31, 2022 07:12 CDT)

Print Name: Wayne R. Gieseke - Area Manager

DSAE Portion: The State of Minnesota is not a participant in this contract. Signature by the District State Aid Engineer is for FUNDING PURPOSES ONLY and for compliance with State and Federal Aid Rules/Policy. Eligibility does not guarantee funds will be available.

This work is eligible for: ☐ Federal Funding ☒ State Aid Funding ☒ Local funds

District State Aid Engineer: Fausto Cabral Date: Oct 31, 2022
Fausto Cabral (Oct 31, 2022 08:55 CDT)

Approved by Assistant City Engineer: [Signature] Date: 10/31/2022

Print Name: Sean Murphy

PURPOSE MEMO

Date: October 12, 2022
To: Honorable Mayor, City Administrator, and City Council
From: Mark M. Walbran, City Attorney
Subject: Utilities Easement for Alley Vacated By Ordinance No. 1635

Purpose:

To formally establish a Utilities Easement within the alley area previously vacated by Ordinance No. 1635.

Background:

The Council previously approved Ordinance No. 1635 vacating the small north-south alley located on the west side of the buildings located in the 100 block of Cedar Avenue north of the east and west alley. The attached Agreement formally establishes a Utilities Easement to the City for access to the alley for utilities.

Budget Impact:

None.

Recommendation:

City staff recommends approval of the Utilities Easement Agreement.

UTILITIES EASEMENT AGREEMENT

THIS AGREEMENT made and entered into this ____ day of October, 2022, by and between Caramel Development, LLC, a Minnesota Limited Liability Company, hereinafter referred to as “CARMEL”; Vesterby Real Estate Investments, LLC, hereinafter referred to as “VESTERBY”; Clayton B. Anderson and Victoria J. Anderson, husband and wife, hereinafter referred to as “ANDERSONS”; and City of Owatonna, a Minnesota Municipal Corporation, hereinafter referred to as “CITY”. CARMEL, VESTERBY, and ANDERSONS may be hereinafter referred to as “Owners”.

RECITALS

- A. Caramel is the owner of Parcels #1 and #2, legally described in the attached Exhibit A.
- B. Vesterby is the owner of Parcels #3 and #4, legally described in the attached Exhibit B, subject to the vendor’s interest of Rick A. Gnemi and Debra C. Gnemi, husband and wife, under the Contracts for Deed dated April 17, 2014, and recorded on April 21, 2014, in the Office of the Steele County Recorder as Document No. A000396578, and, May 5, 2013, and recorded on May 21, 2013 in the Office of the Steele County Recorder as Document No. A000391430, respectively.
- C. Andersons are owners of Parcel #5, legally described in Exhibit C.
- D. Parcel #1, Parcel #2, Parcel #3, Parcel #4, and Parcel #5 each abut a former non-dedicated alleyway, legally described in the attached Exhibit D, which alley was vacated by City Ordinance No. 1635 on May 16, 2022, and recorded on May 31, 2022, in the Office of the Steele County Recorder as Document No. A000442973.
- E. Each owner desires to grant City an easement for all utilities over, under, and across the property described in the attached Exhibit D.

NOW, THEREFORE, Caramel, Vesterby, and Andersons, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agree, covenant and declare as follows:

TERMS AND CONDITIONS

1. Grant of Easement. The owners grant to the CITY a perpetual easement for the construction and maintenance of utilizes over, under, and across the premises described in Exhibit D.
2. Warranty of Title. Owners warrant that they are the respective owners of the surrounding property as described above and have the right, title, and capacity to convey to the CITY the easement described herein.
3. Hold Harmless. The CITY agrees to defend, indemnify, and hold harmless the owners from and against any and all claims for personal injury or death or claims for property damage arising out of the grant of this easement, but only to the extent caused in whole or in part by the negligent acts, errors, or omissions by City. Indemnification shall include, without limitation, expenses, judgments, settlements, and other amounts actually and reasonably incurred by the owners in connection with any claim. Nothing in this Agreement constitutes a waiver of any statutory immunities as provided in Minnesota Statutes Chapter 466.
4. No Third Party Beneficiaries. This Agreement is for the exclusive benefit of CITY and the Owners. Nothing in this Agreement is intended to benefit third parties or to allow third parties to claim they are third party beneficiaries.
5. No Joint Entity. This Agreement does not create a partnership, joint venture, joint enterprise, or other joint entity between CITY and Owners.
6. Run with the Land. This Agreement shall be deemed to be a covenant running with the title to Parcels #1, #2, #3, #4, and #5, and shall be binding upon the parties hereto, and upon their heirs, successors, and assigns, provided, however, that this easement may be released at any time by written agreement for that purpose entered into by all of the Parties hereto, duly executed and acknowledged and filed for record in the Office of the County Recorder of Steele County, Minnesota, subject to any current or future easements.
7. Amendment. This Agreement may be amended in writing subscribed by all parties to this Agreement.
8. Law. This Agreement is to be construed in accordance with the laws of the State of Minnesota.

9. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates set forth below.

This instrument was drafted by:

Mark M. Walbran #113712
WALBRAN & FURNESS
Attorneys at Law
140 E. Main Street, P. O. Box 273
Owatonna, MN 55060
Phone: (507) 451-1173
Fax: (507) 451-8916

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

Caramel Developments, LLC

By: _____

Printed Name: _____

Its: _____

Dated: _____

STATE OF MINNESOTA)

) ss.

COUNTY OF STEELE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, as _____ of Caramel Developments, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public

Vesterby Real Estate Investments, LLC

By: _____

Printed Name: _____

Its: _____

Dated: _____

STATE OF MINNESOTA)

) ss.

COUNTY OF STEELE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, as _____ of Vesterby Real Estate Investments, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public

Clayton B. Anderson

STATE OF MINNESOTA)
) ss.
COUNTY OF STEELE)

Notary Public

Rick A Gnemi

STATE OF MINNESOTA)
) ss.
COUNTY OF STEELE)

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF STEELE)

Notary Public

CITY OF OWATONNA

By: _____
Thomas A. Kuntz, its Mayor

By: _____
Kris M. Busse, its City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF STEELE)

The foregoing instrument was acknowledged before me this _____day of _____, 2022, by Thomas A. Kuntz and Kris M. Busse, the Mayor and City Administrator of the City of Owatonna, Minnesota, a Municipal Corporation, on behalf of the Corporation.

Notary Public

EXHIBIT A

Parcel #1 (located at 112 Cedar Ave. PIN: 17-100-0301)

Commencing at the Northeast corner of Lot One (1) in Block Three (3) in the Original Town (now City), of Owatonna, Minnesota, running thence West Ninety (90) feet, thence South Twenty-two (22) feet, thence East Ninety (90) feet, thence North Twenty-two (22) feet to the place of beginning; also a right of way over a strip of land 10 feet wide on the West end of the above

AND

Parcel # 2 (located at 110 Cedar Ave. PIN: 17-100-0302)

Commencing at a point 22 feet South of the Northeast corner of Lot 1 in Block 3, in the Original Town (now City) of Owatonna, running thence South 44 feet; thence West 55 ½ feet; thence North 2 feet and 8 inches; thence West 34 feet and 6 inches; thence North 41 feet and 4 inches; thence East 90 feet to the place of beginning (being part of Lots 1 and 2).

AND

Together with the right of way to and from the building on said lands through the alley in the rear thereof, being an alley 10 feet in width from the rear of said building to the public alley on the North.

EXHIBIT B

Parcel #3 (Located at 108 West Broadway PIN: 17-100-0305)

The South 65 feet of the West 21 1/6 feet of the East 32 1/2 feet of Lot 2 in Block 3 of the Original Town (now City) of Owatonna, Minnesota, including the benefits and burdens of that certain party wall agreement dated the 22nd day of December, 1932, which party wall agreement is recorded in the office of the Register of Deeds of Steele County, Minnesota in Book 86 of Deeds, on page 234; together with the right of access to and from said building from the alley in the rear of said building for teams, being a space at least 10 feet wide, and also the free and unobstructed use of the land in the rear of said building and for the purpose of maintaining an entrance to the rear of said building and for the rear cellar stairs and for the purpose of drainage for water from the roof of the building hereby conveyed, which easement is set forth and described in deed to Charles Schertze Crandall, recorded in Book 28 of Deeds on page 122 in the office of the Register of Deeds of Steele County, Minnesota. (also further described as commencing at point 32 1/2 feet East of the SW corner of Lot 2 in Block 3 of the Original Town (now City) of Owatonna, Minnesota, according to the plat thereof record in the office of the Register of Deeds of Steele County, Minnesota, running thence North 65 feet, thence East 21 feet and 2 inches, thence South 65 feet, West 21 feet and 2 inches to the place of beginning.

AND

Parcel #4 (Located at 110 – 112 West Broadway PIN: 17-100-0306)

Commencing at a point 22 feet East of the Northwest Corner of Lot 2, in Block 3, of the Original Town (now City) of Owatonna, thence South 22 Feet, thence East 10 feet 6 inches, thence North 22 feet, thence West to the point of commencement.

AND

Commencing at the Southwest Corner of Lot Two (2), Block Three (3), City of Owatonna, East Thirty-Two and One Half Feet (32 -1/2), North One Hundred Ten Feet (110), West Ten and One Half Feet (10-1/2), North Twenty-Two Feet (22), West Twenty-Two Feet (22), South One Hundred Thirty-Two Feet (132) to place of beginning.

EXHIBIT C

Parcel # 5 (Located at 106 West Broadway PIN: 17-100-0304)

Commencing at a point 63 feet 4 inches South and 61 feet West of the Northeast Corner of Lot 1 of Block 3 of the original town, now City, of Owatonna. Then running due West 29 feet, thence North 63 feet 4 inches to the North line of Lot 2 in said Block 3, thence West to a point 22 feet East of the Northwest corner of said Lot 2, thence South 22 feet, thence East 10 feet and 6 inches, thence South 45 feet, thence East 21 feet and 2 inches, thence South 65 feet to the South line of said Lot 2, being along the center line of the party wall running along the East line of the land formerly belonging to the C.S. Crandall estate, thence running East along the South line of said Lots 1 and 2 a distance of 20 feet and 4 inches to the West line of the wall of the Kelly Building, thence due North along the West line of said Kelly Building to the point of beginning.

Excepting for alley purposes the following: Commencing 100 feet West of the Northeast corner of said Lot 1, thence South 67 feet, thence East 21 feet 2 inches, thence North 3 feet 8 inches, thence West 11 feet 2 inches, thence North to the North line of Lot 2, thence West to place of beginning.

Also Except: Commencing at a point 22 feet East of the Northwest Corner of Lot 2 in Block 3 of Original Town, now City, of Owatonna, thence South 22 feet, thence East 10 feet 6 inches, thence North 22 feet, thence West to the point of commencement.

EXHIBIT D

Parts of Lot 1, and 2, Block 3, Original Town (Now City) of Owatonna, Minnesota, described as follows:

Beginning at the northeast corner of said Lot 1; thence North $89^{\circ}58'44''$ West a distance of 89.35 feet, on an assumed bearing on the north line of said Lots 1 and 2 to the exterior edge of the existing building wall, being the point of beginning;

Thence on the exterior edge of the existing building walls as follows:

South $00^{\circ}12'32''$ West a distance of 63.70 feet, thence North $89^{\circ}24'20''$ East a distance of 8.14 feet, thence South $00^{\circ}06'35''$ East a distance of 3.87 feet, thence South $89^{\circ}55'43''$ West a distance of 19.95 feet, thence North $00^{\circ}00'35''$ East a distance of 39.79 feet, thence North $89^{\circ}24'12''$ East a distance of 0.37 feet; thence North $00^{\circ}35'48''$ West a distance of 27.72 feet, to the north line of said Lot 2;

Thence South $89^{\circ}58'44''$ East a distance of 11.95 feet, to the point of beginning.



Finance Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Rhonda Moen, Director
SUBJECT: Liability Coverage Waiver - League of Minnesota Cities Insurance Trust (LMCIT)

Purpose:

Each year when the city renews its property and liability insurance policy with the League of Minnesota Cities Insurance Trust (LMCIT), it must decide on whether or not to waive the statutory tort liability limits to the extent of the coverage purchased.

Background:

Currently Minnesota Statute limits a city's tort liability to a maximum of \$500,000 per claimant and \$1.5 million per occurrence. The limits apply whether the claim is against the city, against an individual officer or employee, or against both. These limits only apply to claims in which the statutory tort limits apply.

The LMCIT gives cities options for structuring their liability coverage. The city can choose either to waive or not to waive the monetary limits that Minnesota Statutes 466.04 provides. If the city does not waive the statutory tort limits, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limit applies. If the city waives the statutory tort limits, a single claimant could potentially recover up to \$2.0 million.

It is in the best interest of the city not to waive the statutory tort liability limits.

Budget Impact:

No impact on the current budget if the city does not waive the limits.

Staff Recommendation:

Staff recommends that the Council approves the recommendation not to waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04

Attachments:

1. Liability-Coverage-Waiver-Form

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to psstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.*
- *If the member waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.*
- *If the member waives the statutory tort limits and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.*

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name:

Check one:

- The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#).
- The member **WAIVES** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#), to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature: _____ Position: _____



Fire Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Ed Hoffman, Fire Chief
SUBJECT: Update Schedule A - Target Solutions Licensing, LLC

Purpose:

Council approval to update of Schedule A with TargetSolutions (aka VectorSolutions). This is the software we use to complete the required annual OSHA safety training throughout the city.

Background:

We began using this software in 2016 to complete our annual safety training for all city employees. By using this solution, we have been able to assign the necessary, required training to each employee who then can complete the training as their work schedules allow.

In addition to the required annual training, there is a library of additional online classes that are available for individual departments to assign as needed. Some examples of this include: Construction Safety, slips trips and falls - both of which were completed by the engineering dept and additional fire related classes assigned to FT firefighters.

Budget Impact:

The costs for this renewal are already included in the budget.

Staff Recommendation:

Staff recommends approval of this updated agreement.

Attachments:

1. City of Owatonna.11.04.2022

TargetSolutions Learning, LLC Agreement Schedule A

Date: Friday, November 4, 2022

Client Information

Client Name: City of Owatonna (MN)	
Address: 107 W. Main Street Owatonna, MN 55060	
Primary Contact Name: Ed Hoffman	Primary Contact Phone: (507) 444-2454

Agreement Term

Effective Date: 01/06/2023	Initial Term: 12 months
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Invoicing Contact Information (Please fill in missing information)

Billing Contact Name: Ed Hoffman		
Billing Address: 107 W. Main Street Owatonna, Minnesota 55060		Billing Phone: (507) 444-2454 Billing Email: ed.hoffman@ci.owatonna.mn.us
PO#:	Billing Frequency: Annual	Payment Terms: Net 30

Annual Fee(s)

Product Code	Product	Description	Minimum Annual Commitment	Price	Sub Total
TSPREMIER	Vector LMS, TargetSolutions Edition Premier Membership	Fire Fighter users	34	\$72.38	\$2,460.92
TSPREMIER	Vector LMS, TargetSolutions Edition Premier Membership	Training management for public entities and professionals	180	\$72.38	\$13,028.40
TSMINTFEE S	Vector LMS, TargetSolutions Edition - Maintenance Fee	Annual maintenance of Vector LMS, TargetSolutions Edition	1	\$395.00	\$395.00

Annual Total: \$15,884.32

Grand Total: \$15,884.32

Please note this is not an invoice. An invoice will be sent within fourteen (14) business days.

Additional Terms and Conditions.

The following are in addition to the Client Agreement General Terms and Conditions.

1. Additional Named Users added after the Effective Date will be invoiced at the full per Named User fee. Such additional Named Users shall become part of the Minimum Annual Commitment for subsequent years, on the anniversary date of each contract year or upon renewals under the Agreement.
2. You agree to pay for the number of Named Users using or licensed to access the Services in a given contract year. Subject to the Minimum Annual Commitment, Changes in Named User counts will be reflected in the annual contract amount from that period forward for all Users.
3. Subject to the above Minimum Annual Commitment, annual fees for your use of the Services will be based upon the number of Named Users in a given contract year.
4. Named Users deactivated in a given contract year will not count towards the total number of Named Users in the year following such deactivation, unless reactivated.
5. Fees, both during the Initial Term, as well as any Renewal Terms, shall be increased by 5.0% per contract year. Changes in Named User counts will be reflected in the annual contract amount from that period forward for all Users.
6. All undisputed invoices are due and payable Net 30 days after invoice date ("Due Date"). Any fees unpaid for more than 10 days past the Due Date shall bear interest at 1.5% per month or the highest applicable rate permitted by law.
7. **AUTOMATIC RENEWAL. UNLESS OTHERWISE AGREED OR WHERE PROHIBITED BY APPLICABLE LAW OR REGULATION, UPON EXPIRATION OF THE ABOVE INITIAL TERM, THIS AGREEMENT WILL RENEW FOR A RENEWAL TERM EQUAL TO THE INITIAL TERM AT VECTOR SOLUTIONS' THEN CURRENT FEES, UNLESS NOTICE IS GIVEN BY EITHER PARTY OF ITS INTENT TO TERMINATE THE AGREEMENT AT LEAST SIXTY (60) DAYS PRIOR TO THE SCHEDULED TERMINATION DATE.**

Address for Notices:

4890 W. Kennedy Blvd., Suite 300
Tampa, FL 33609

107 W. Main Street
Owatonna, MN 55060

VECTOR SOLUTIONS PUBLIC SECTOR SOFTWARE AS A SERVICE AGREEMENT

This Vector Solutions Software as a Service Agreement (the "Agreement"), effective as of the date noted in the attached Schedule A (the "Effective Date"), is by and between **TargetSolutions Learning, LLC, d/b/a Vector Solutions**, ("We/Us") a Delaware limited liability company, and the undersigned customer ("You/Your"), (each a "Party" or "Parties") and governs the purchase and ongoing use of the Services described in this Agreement.

GENERAL TERMS AND CONDITIONS

1. **SERVICES.** We shall provide the following Software as a Service ("**Services**"):

1.1. Access and Use. We grant You a non-exclusive, non-transferable revocable authorization to remotely access and use the software as a service offering identified in Schedule A (the "**Services**") and, unless prohibited by law, We will provide access to any persons You designate for use as described in these terms and conditions. For clarification, We authorize access and use on a "one user per one authorization basis" and once granted, You are not allowed to transfer authorizations to other users. Your ability to use the Services may be affected by minimum system requirements or other factors, such as Your Internet connection.

1.2. Availability. We will use commercially reasonable efforts to provide access to and use of the Services twenty-four (24) hours a day, seven (7) days a week, subject to scheduled downtime for routine maintenance, emergency maintenance, system outages, and other outages beyond our control.

1.3. Help Desk. We will assist You as needed on issues relating to usage via e-mail, and a toll-free Help Desk five (5) days per week, at scheduled hours, currently 8:00am to 6:00 pm Eastern Time, Monday-Friday or <https://support.vectorsolutions.com/s/contactsupport>

1.4. Upgrades and Updates. We reserve the right, in our discretion, to make updates or upgrades to the Services that are necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of the Services; (ii) the competitive strength of or market for the Services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable law. For no additional charge, You will receive access to any general upgrades and updates to the Services which We make generally available to our other customers. All updates and upgrades to the Services are subject to these terms and conditions.

1.5. Additional Services. From time to time, the Parties may decide in their discretion to add additional Services, subject to the Parties' execution of one or more change forms which shall be substantially in the form of the Schedule A and shall incorporate these terms and conditions by reference. Each individual Schedule A shall have its own service term.

2. YOUR RESPONSIBILITIES AND USE RESTRICTIONS.

2.1. Compliance. You shall be responsible for all Users' compliance with this Agreement and shall use commercially reasonable efforts to prevent unauthorized access to or use of the Services. You shall comply with all applicable laws, standards, and regulations and will not use the Services in a manner not specified or permitted by Us.

2.2. Identify Named Users. A "**Named User**" is defined as Your employees, consultants, contractors, and agents You authorize to access and use the Services You are purchasing during each contract year ("Term") of the Agreement.

2.2.1. You will be responsible for the following: (a) cause each of Your Named Users to complete a unique profile if not created by Vector Solutions on their behalf; and (b) timely maintain a user database by adding a unique profile for each new Named User. Due to licensing and data retention requirements, Named Users may not be removed from our system unless required by law. You will be responsible for identifying Named Users from time to time during the Term of this Agreement through available system capabilities.

2.3. Future Functionality. You agree that Your purchases are not contingent on Our delivery of any future functionality or features. You are not relying on any comments regarding future functionality or features.

3. FEES AND PAYMENTS.

3.1. Fees and Payment. You will pay for the Services in accordance with the payment terms, frequency, and fee schedule in Schedule A attached to this Agreement. All fees collected by Us under this Agreement are fully earned when due and nonrefundable when paid, except if You terminate this Agreement for cause as described in Section 5.2.

3.2. Due Date. All fees due under this Agreement must be paid in United States Dollars or Canadian Dollars or as specified in Schedule A as applicable to Your location. We will invoice You in advance and all undisputed invoices are due and payable on the due date specified in Schedule A.

3.3. Suspension of Service. If You do not make an undisputed payment on time, We may suspend Your or Your Named Users' access to the Services without further notice until all overdue payments are paid in full. Our suspension of Your use of the Services or termination of the Agreement for Your violation of the terms of this Agreement will not change Your obligation to pay any and all payments due for the applicable Term.

3.3.1. We may also suspend, terminate, or otherwise deny Your access or any Named User's access to or use of all or any part of the Services, without incurring any liability to You, if: (a) We receive a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Us to do so; or (b) We believe, in good faith and reasonable discretion, that: (i) You or any Named User, have failed to comply with any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted, or for a purpose not authorized under this Agreement; or (ii) Your use of the Services causes a direct or indirect threat to our network function or integrity, or to Our other customers' ability to access and use the Services; or (iii) You or any Named User, are or have been involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services; or (iv) this Agreement expires or is terminated. This Section 3.3 does not limit any of Our other rights or remedies under this Agreement.

3.4. **Taxes.** All fees under this Agreement exclude all sales, use, value-added taxes, and other taxes and government charges, whether Federal, State, or foreign, and You will be responsible for payment of all such taxes (other than taxes based on our income), fees, duties, and charges, and any related penalties and interest, arising from the payment of any and all fees under this Agreement including the access to or performance of the Services hereunder. If We have a legal obligation to pay or collect taxes for which You are responsible under the Agreement, then then We will invoice, and You will pay the appropriate amount unless You claim tax exempt status for amounts due under this Agreement and provide Us with a valid tax exemption certificate (authorized by the applicable governmental authority) promptly upon execution of this Agreement. If any taxes shall be required by law to be deducted or withheld from any fee payable hereunder by You to Us, You shall, after making the required deduction or withholding, increase such fee payable as may be necessary to ensure that We shall receive an amount equal to the fee We would have received had no such deduction or withholding been made.

4. INTELLECTUAL PROPERTY RIGHTS.

4.1. We alone (and our licensors, where applicable) shall own all rights, title, and interest in and to our software, website and technology, the course content (if any), and the Services We provide, including all documentation associated with the Services. If You provide any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by You (collectively "**Feedback**"), We may use such Feedback to improve the Services without charge, royalties, or other obligation to You, and Our use of Your Feedback does not give You any property rights to the Services.

The Vector Solutions name and logo are trademarks of Vector Solutions, and no right or license is granted to You to use them. You shall own all rights, title, and interest in and to Your added software, Your content, and information collected from Your content pages ("**Your Data**"). You shall have no rights in or to any other data collected that is not affiliated with You. Your content, email addresses, and personal information of Your Named Users or Your EHS Active Employees You entered into the database, or any of Your customers or users is Your sole property. We will not, at any time, redistribute, share, or sell any of Your email addresses, email server domain names, customer names, or personal information. Course content that You purchase from third-party course providers and access through our LMS will require the sharing of certain user information with Us in order for Us to properly track and report usage.

4.2. You recognize that We regard the software We have developed to deliver the Services as our proprietary information and as confidential trade secrets of great value. You agree not to provide or to otherwise make available in any form the software or Services, or any portion thereof, to any person other than Your Named Users without our prior written consent. You further agree to treat the Services with at least the same degree of care with which You treat Your own confidential information and in no event with less care than is reasonably required to protect the confidentiality of the Services.

4.2.1 Except as otherwise agreed in writing or to the extent necessary for You to use the Services in accordance with this Agreement, You are not allowed to: (a) copy the course content in whole or in part; (b) display, reproduce, create derivative works from, transmit, sell, distribute, rent, lease, sublicense, transfer or in any way exploit the course content in whole or in part; (c) embed the course content into other products; (d) use any of our trademarks, service marks, domain names, logos, or other identifiers or any of our third party suppliers; (e) reverse engineer, decompile, disassemble, or access the source code of any of our Services or software, (f) use the software or Services for any purpose that is unlawful; (g) alter or tamper with the Services and/or associated documentation in any way; (h) attempt to defeat any security measures that We may take to protect the confidentiality and proprietary nature of the Services; (i) remove, obscure, conceal, or alter any marking or notice of proprietary rights that may appear on or in the Services and/or associated documentation; or (j) except as permitted by this Agreement, knowingly allow any individual or entity under Your control to access Services without authorization under this Agreement for such access.

4.3. We acknowledge that You alone shall own all rights, title, and interest in and to Your name, trademarks, or logos, and this Agreement does not give Us any rights of ownership to the same. You hereby authorize Us to use Your name, trademarks, or logos in promotional materials, press releases, advertising, or in other publications or websites, whether oral or written. If You do not consent to Our use of Your name or logo, You may withdraw Your consent at any time by notifying Us at logousage@vectorsolutions.com.

5. TERM, TERMINATION, AND NOTICE.

5.1 **Term.** The term of this Agreement will start on the Effective Date, and will remain in full force and effect for the initial term (the "**Initial Term**") indicated in Schedule A. Upon expiration or early termination of this Agreement by either Party as described below in Section 5.2 (Termination for Cause) or for any reason, You shall immediately discontinue all use of the Services and documentation, and You acknowledge that We will terminate Your ability to access the Services. Notwithstanding, access to the

Services may remain active for thirty (30) days solely for purpose of our record keeping (the “**Expiration Period**”). If You continue to access or use the Services following the Expiration Period, then Your continued use will renew the Agreement under the same terms and conditions, subject to any annual price adjustments.

5.2 Termination for Cause. Either Party may terminate this Agreement, effective upon written notice to the other Party (the “**Defaulting Party**”), if the Defaulting Party materially breaches this Agreement, and that breach is incapable of cure, or with respect to a material breach capable of cure, and the Defaulting Party does not cure the breach within thirty (30) days after receipt of written notice of the breach. If You terminate this Agreement due to Our material breach, then We will return an amount equal to the pro-rated fees already paid for the balance of the term as of the date of termination as Your only remedy.

5.3. Notice. All required notices by either Party shall be given by email, personal delivery (including reputable courier service), fees prepaid, or by sending the notice by registered or certified mail return receipt requested, postage prepaid, and addressed as set forth in Schedule A. Such notices shall be deemed to have been given and delivered upon receipt or attempted delivery (if receipt is refused), as the case may be, and the date of receipt identified by the applicable postal service on any return receipt card shall be conclusive evidence of receipt. Notices and other communications sent by e-mail shall be deemed received upon the sender's receipt of an acknowledgment from the recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment). Either Party, by written notice to the other as described above, may alter its address for written notices.

6. MUTUAL WARRANTIES AND DISCLAIMER.

6.1. Mutual Representations and Warranties. Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement; (c) the acceptance of this Agreement has been duly authorized by all necessary corporate or organizational action; and (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of each Party, enforceable against each Party in accordance with its terms.

6.2. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WE DO NOT WARRANT THAT THE USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. THE SERVICES AND ASSOCIATED DOCUMENTATION ARE PROVIDED “AS IS,” AND WE PROVIDE NO OTHER EXPRESS, IMPLIED, STATUTORY, OR OTHER WARRANTIES REGARDING THE SERVICES OR ASSOCIATED DOCUMENTATION.

6.3. Disclaimer of Third-Party Content. If You upload third-party content to our platform or Services, the third-party content providers are responsible for ensuring their content is accurate and compliant with national and international laws. We are not and shall not be held responsible or liable for any third-party content You provide or Your use of that third-party content. THERE IS NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THIRD PARTY CONTENT ACCESSIBLE THROUGH THE SERVICES.

6.4 None of our employees, marketing partners, resellers, or agents are authorized to make any warranty other than the Warranties stated in this Agreement. The provisions in any specification, brochure, or chart are descriptive only and are not warranties.

7. LIMITATION OF LIABILITY. EXCEPT FOR CLAIMS RELATED TO VIOLATION OF INTELLECTUAL PROPERTY RIGHTS, GROSS NEGLIGENCE, FRAUD, OR WILFULL MISCONDUCT, (A) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, ANY AFFILIATE, THIRD-PARTY, OR YOUR USERS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, AND (B) IF YOU HAVE ANY BASIS FOR RECOVERING DAMAGES (INCLUDING FOR BREACH OF THIS AGREEMENT), YOU AGREE THAT YOUR EXCLUSIVE REMEDY WILL BE TO RECOVER DIRECT DAMAGES FROM US, UP TO AN AMOUNT EQUAL TO THE TOTAL FEES ALREADY PAID TO US FOR THE PRECEDING TWELVE (12) MONTHS.

7.1.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE TO YOU, ANY AFFILIATE, ANY THIRD PARTY OR YOUR USERS FOR ANY CLAIM, CAUSE OF ACTION, DEMAND, LIABILITY, DAMAGES, AWARDS, FINES, OR OTHERWISE, ARISING OUT OF OR RELATING TO PERSONAL INJURY, DEATH, OR OTHER HARM CAUSED FROM USE OF OR RELIANCE ON THE CONTENT OF THE COURSES OR SERVICES. YOU, YOUR AFFILIATES, EMPLOYEES, CONTRACTORS, AGENTS, USERS, AND REPRESENTATIVES RELY ON THE CONTENT OF THE COURSES AND SERVICES AT YOUR OWN RISK.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN TYPES OF DAMAGES SO, SOLELY TO THE EXTENT SUCH LAW APPLIES TO YOU, THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

8. OBLIGATIONS OF BOTH PARTIES.

8.1. Our Obligation to You. We shall indemnify and hold You harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, course, or intellectual property We provide or upload to our platform infringes or violates any intellectual property right of any person.

8.2. Your Obligation to Us. To the extent not prohibited by applicable law, You shall indemnify and hold Us harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, courses, or intellectual property You provide or upload to our platform infringes or violates any intellectual property right of any person.

9. CONFIDENTIALITY.

9.1. Each Party may from time to time disclose to the other Party "Confidential Information" which shall mean and include the Services (including without limitation all courses accessed through the Services), all documentation associated with the Services, software code (include source and object code), marketing plans, technical information, product development plans, research, trade secrets, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, and processes.

9.2. Confidential Information does not include: (a) information generally available to or known to the public through no fault of the receiving Party; (b) information known to the recipient prior to the Effective Date of the Agreement; (c) information independently developed by the recipient outside the scope of this Agreement and without the use of or reliance on the disclosing Party's Confidential Information; or (d) information lawfully disclosed by a third party. The obligations set forth in this Section shall survive termination of this Agreement.

9.3. Each Party agrees that it shall not disclose the Confidential Information of the other to any third party without the express written consent of the other Party, that it shall take reasonable measures to prevent any unauthorized disclosure by its employees, agents, contractors or consultants, that it shall not make use of any such Confidential Information other than for performance of this Agreement, and that it shall use at least the same degree of care to avoid disclosure of Confidential Information as it uses with respect to its own Confidential Information.

9.4. The confidentiality obligations imposed by this Agreement shall not apply to information required to be disclosed by compulsory judicial or administrative process or by law or regulation, provided that the receiving Party shall (if permitted) notify the disclosing Party of the required disclosure, shall use reasonable measures to protect the confidentiality of the Confidential Information disclosed, and shall only disclose as much Confidential Information as is required to be disclosed by the judicial or administrative process, law, or regulation.

10. MISCELLANEOUS.

10.1. Assignment. Neither Party may freely assign or transfer any or all of its rights without the other Party's consent, except to an affiliate, or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided however You shall not assign this Agreement to our direct competitors.

10.2. Governing Law. This Agreement shall be governed by, and enforced in accordance with, the laws of the state of Florida, except where Customer is a public entity or institution in which case the applicable state, provincial, or tribal law where You are located shall govern, in either case without regard to the state's or local laws conflicts of laws provisions. If You are purchasing goods under this Agreement, the Parties agree that the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods shall not apply to this Agreement. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING HEREUNDER.

10.3. Export Regulations. All Content and Services and technical data delivered under this Agreement are subject to applicable US and Canadian laws and may be subject to export and import regulations in other countries. Both Parties agree to comply strictly with all such laws and regulations and You acknowledge that You are responsible for obtaining such licenses to export, re-export, or import as may be required after delivery.

10.4. Force Majeure. In no event will either Party be liable or responsible to the other Party or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, (except for any obligations to make payments) when and to the extent such failure or delay in performing is due to, or arising out of, any circumstances beyond such Party's control (a "**Force Majeure Event**"), including, without limitation, acts of God, strikes, lockouts, war, riots, lightning, fire, storm, flood, explosion, interruption or delay in power supply, computer virus, governmental laws, regulations, or shutdown, national or regional shortage of adequate power or telecommunications, or other restraints.

10.5. No Waiver. No waiver, amendment or modification of this Agreement shall be effective unless in writing and signed by the Parties.

10.6. Severability. If any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect, but the remainder of this Agreement shall continue in full force and effect.

10.7. Survival. All provisions of this Agreement (including without limitation those pertaining to confidential information, intellectual property ownership, and limitations of liability) that would reasonably be expected to survive expiration or early termination of this Agreement will do so.

10.8. No Third-Party Beneficiaries. The Parties do not intend to confer any right or remedy on any third party under this Agreement.

10.9. Purchase Orders. You may issue a purchase order if required by Your company or entity and failure to do so does not cancel any obligation You have to Us. If You do issue a purchase order, it will be for Your convenience only. You agree that the terms and conditions of this Agreement shall control. Any terms or conditions included in a purchase order or similar document You issue that conflict with the terms and conditions of this Agreement will not apply to or govern the transaction resulting from Your purchase order.

10.10. Data Processing Agreement. If applicable, the parties shall negotiate in good faith and enter into any further data processing or transfer agreement, including any standard contractual clauses for transfers of data outside of the country where the personal data originates, as may be required to comply with applicable laws, rules and regulations regarding the collection, storage, transfer, use, retention and other processing of personal data.

10.11. Entire Agreement. This Agreement and Schedule A represent the entire understanding and agreement between the Parties, and supersedes all other negotiations, proposals, understandings, and representations (written or oral) made by and between You and Us. You acknowledge and agree that the terms of this Agreement are incorporated in, and are a part of, each purchase order, change order, or Schedule related to our provision of Services. This Agreement prevails over any additional or conflicting terms or conditions in any Customer purchase orders, online procurement terms, or other non-negotiated forms relating to the Services or this Agreement hereto even if dated later than the effective date of this Agreement.

SPECIAL TERMS AND CONDITIONS

CALIFORNIA CONSUMER PRIVACY ACT

If We will be processing personal information subject to the California Consumer Privacy Act, sections 1798.100 to 1798.199, Cal. Civ. Code (2018) as may be amended as well as all regulations promulgated thereunder from time to time ("**CCPA**"), on Your behalf in the course of the performance of the Services, then the terms "California consumer," "business purpose," "service provider," "sell" and "personal information" shall carry the meanings set forth in the CCPA.

CCPA Disclosures: To the extent the CCPA applies to our processing of any personal information pursuant to Your instructions in relation to this Agreement, the following also apply: (a) The Parties have read and understand the provisions and requirements of the CCPA and shall comply with them; (b) It is the intent of the Parties that the sharing or transferring of personal information of California consumers from You to Us, during the course of our performance of this Agreement, does not constitute selling of personal information as that term is defined in the CCPA, because You are not sharing or transferring such data to Us for valuable consideration; (c) We will only use personal information for the specific purpose(s) of performing the Services, including any Schedules within the direct business relationship with You.

SERVICE SPECIFIC TERMS AND CONDITIONS

A. Vector EHS Management Services

A. This Section A contains service specific terms and conditions that will apply only if You are purchasing **Vector EHS Management Services ("EHS Services")** in Schedule A. Otherwise, the following terms will not apply to You.

1. An "**EHS Active Employee**" is defined as Your employees, consultants, contractors, and agents who are contained in the Vector EHS employee and contractor table with an active status. An employee may or may not be a Named User. For EHS Services, You are allowed a Named User for each EHS Active Employee.
2. You will be able to activate or disable employees without incurring additional EHS Active Employee fees as long as the total number of EHS Active Employees does not exceed the number of employees included in Scheduled A.
3. EHS Active Employees added after the Effective Date in Schedule A shall be billed at the full per employee fee. Such additional EHS Active Employees shall become part of the Minimum Annual Commitment for subsequent years, on the anniversary date of each contract year or upon renewals under the Agreement.
4. You agree to pay for the number of EHS Active Employees in the EHS Services in a given contract year.
5. Subject to the Minimum Annual Commitment, if any, set forth in Schedule A, annual fees for Your use of the Services will be based upon the actual number of EHS Active Employees in a given contract year. Employees inactivated in a given contract year will not count towards the total number of employees in the year following such inactivation, unless reactivated.
6. You acknowledge that certain transmissions You receive as part of the EHS Services may contain sensitive personal information that You have provided. You understand that We do not control or own the data contained in such transmissions. As such, You will be responsible for ensuring that the information is secured and preventing the transmission and/or disclosure of such information to unauthorized recipient(s). In the event such information is disclosed to an unauthorized recipient(s), You shall be responsible for notifying Your EHS Active Employee(s) whose information may have been disclosed

to the extent required by law. Both Parties further agree to handle such data in compliance with any applicable Federal, State, or local laws or regulations. You shall also be responsible for any threatening, defamatory, obscene, offensive, or illegal content or conduct of any of Your EHS Active Employees when using the Services. To the extent not prohibited by applicable law, You shall indemnify, defend, and hold Us harmless against any claims that may arise as a result of these matters. With respect to Your use of the EHS Services, You acknowledge that We are not a covered entity or business associate under HIPAA.

B. Vector WorkSafe Services and Vector LiveSafe Services

This Section B. contains service specific terms and conditions that will apply only if You are purchasing **Vector WorkSafe Services or Vector LiveSafe Services (collectively “LiveSafe Services”)** in Schedule A. Otherwise, the following terms will not apply to You.

1. **Authorized Users.** **Authorized Users** (interchangeably may be referred to as “Named Users” means the employees, contractors and/or consultants under Your control who You authorized to operate the LiveSafe Services .
2. **Your Responsibilities.** You shall: (i) not permit any person or entity, other than designated Authorized Users, to access the LiveSafe Services; (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the LiveSafe Services, (iii) provide prompt written notice of any unauthorized access or use; and (iv) instruct Authorized Users to comply with all applicable terms of this Agreement.
3. **Your Data.** You agree that We may only use data collected, extracted or received through Your use of the Services (“Your Data”) in an anonymized and aggregated manner (without specifically identifying You, Your users or Your location(s)) for the sole purpose of reporting LiveSafe Services metrics, training and education about the LiveSafe Services, and improving the LiveSafe Services (except as may be required by law, court order, or as needed to provide the Services to You). Your Data shall not include any information collected, extracted, or received in response to the WorkSafe Integrated Health Survey. Within thirty (30) business days following Your written request, and not more than four (4) times per year or upon termination of this Agreement, We will provide to You a backup copy of Your Data in Our possession.

C. Vector Evaluations+ Services.

This Section C. contains service specific terms and conditions that will apply only if You are purchasing **Vector Evaluations+ Software as a Service** in Schedule A. Otherwise, the following terms will not apply to You.

1. **Access and Use.** We will provide You a nonexclusive, non-transferable, revocable authorization to remotely access and use the Vector Evaluations+ Software as a Service: (i) on Our application server over the Internet, (ii) transmit data related to Your use of the Service over the Internet, and (iii) download and use the Evals + mobile device application software (referred to collectively as “Evals+ Services”). We will provide accounts for Your users on the application server for storage of data and use of the Service. The number of Named Users, start of service, and duration, are as stated in Schedule A.
2. If Your active user accounts exceed the number of Named Users during the term of this Agreement, You agree to pay for the additional Users, based on the per User fees in Schedule A. Adjusted fees will apply beginning on the month the number of Named Users are exceeded and will be prorated for the remainder of the current 12-month period. You agree to pay for the number of Users using or authorized to access the Services in a given contract year.
3. **Your Content.** You will be the owner of all content created and posted by You. You will also be the owner of all content created and posted by Us on Your behalf, including but not limited to evaluation forms added to the system as part of support services We provide.
4. **Third-Party Content.** You are responsible for proper licensing of, and assuming liability for, copyrighted material which You post on Our system, or is posted on the system by Us on Your behalf. This includes but is not limited to copyright protected evaluation forms and other materials from third parties. If You upload third-party content to Our platform, such third-party content providers are responsible for ensuring their content is accurate and compliant with national and international laws.
5. **Effect of Termination.** You will have thirty (30) days after the effective date of termination or expiration of this Agreement to export Your data using the software tools provided, or to request Your data from Us. Form data will be available as exported comma separated variable (CSV) files and as PDF files. Uploaded data files will be available in their original format. After the thirty (30) day period, We have no obligation to maintain or provide data and may thereafter delete or destroy all copies of the Your data, unless legally prohibited.

D. Vector CheckIT™.

Customer Obligations. When purchasing Vector CheckIT™, You will identify stations, vehicles, drug safes, and other service specific details, as may be applicable.

E. Vector LMS and Services which include access to the Shared Resource Feature.

If You choose to participate by uploading Your information to the shared resource sections of our website, You hereby authorizes Us to share any intellectual property you own ("**User Generated Content**") that Your Users upload to the shared resources section of our website with our third-party customers and users that are unrelated to you ("**Our Other Customers**"); provided that We must provide notice to Your users during the upload process that such User Generated Content will be shared with Our Other Customers.

F. Casino Services.

When purchasing Casino Services, in addition to the Responsibilities and Restrictions in Section 2 of the General Terms and Conditions above, the following shall apply to You:

You must request Our written approval for third party access to the Services or content. Your request for third-party access shall include the third party's names, company, and contact information. Upon Our request, You shall execute a written agreement with the third party, securing for Us the rights provided in this Section, Section 4 (Intellectual Property Rights), and Special Section 1 (Confidentiality) prior to providing access to Our Software, Services or Content under this Agreement.

Use Restrictions. You shall not: (a) transmit or share the course content, with any persons other than authorized users (b) provide or otherwise make available the course content in whole or in part, in any form to any person without Our prior written consent; (c) transmit or share identification or password codes to persons other than authorized users (d) permit the identification or password codes to be cached in proxy servers, (e) permit access by individuals who are not authorized under this Agreement, or (f) permit access to the software through a single identification or password code being made available to multiple users on a network.

The Parties have executed this Agreement by their authorized representatives as of the last date set forth below.

TargetSolutions, LLC d/b/a Vector Solutions
4890 W. Kennedy Blvd., Suite 300
Tampa, FL 33609

City of Owatonna (MN)
107 W. Main Street
Owatonna, MN 55060

By: _____

By: _____

Printed Name: Brandi Howe

Printed Name:

Title: Senior Director of Renewal Management

Title:

Date: _____

Date: _____



Public Works Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Sean Murphy, Assistant City Engineer
SUBJECT: 2023 Energy Management Agreement - Owatonna Public Utilities

Purpose:

To amend the existing agreement with Owatonna Public Utilities regarding the Energy Management Program and rates for peak shaving.

Background:

Owatonna Public Utilities facilitates an Energy Management Program. This program helps control and reduce Owatonna's peak electric demand. The WWTF will occasionally, when requested by OPU, run the emergency generator during peak demand periods to help offset overall need on the grid. Due to more energy efficient systems and possibly decreased performance of the generator, OPU has proposed to revise the rate structure to more align with actual demand reduction. OPU has proposed a rate structure decrease from 175 kW to 150 kW. During the summer of 2022, 3 Energy Management calls were made. Actual readings only reached 150 kW reduction in one instance, and overall averaged between 60%-70% of the 175 kW.

Budget Impact:

Variable depending on how many Energy Management calls are made in 2023. Calls will increase revenue which covers cost to run the emergency generator.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. 2023 Owatonna Public Utilities Energy Management Agreement



Jared Hendricks
 Energy Conservation & Key Accounts Officer
 507-446-5432
 Jared.Hendricks@owatonnautilities.com

October 21, 2022

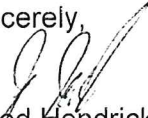
Thank you for participating in Owatonna Public Utilities (OPU) 2022 Energy Management (EM) program. The efforts of your business to help control and reduce Owatonna's peak electric demand made the EM program a success this last year.

Please review the results from 2022 in the chart below. As you may remember, OPU called three (3) EM days this past summer. Lower generator output is requiring us to ask for a reduction from 175 kW to 150 kW for the 2023 program year. Please sign and return the attached agreement as soon as possible.

contract kw		WASTE WATER			
	175	JUNE	JULY	AUG	SEPT
1	06/14/22	150			
2	06/20/22	92			
3	07/18/22		104		
4	01/00/00				
5	01/00/00				
6	01/00/00				
7	01/00/00				
8	01/00/00				
9	01/00/00			175	175
% of		121	104	175	175
Compliance		69%	60%	100%	100%
\$ / kW Payment					
\$10		\$1,212	\$1,044	\$1,750	\$1,750
Total Payment:		\$5,756			

As last year, the EM program will continue to call upon customers to curtail for a period of six (6) hours. The flexibility to start the EM program at noon, 1:00 p.m. or 2:00 p.m. (with a 1-hour notice) will allow the 6-hour curtailment period to cover a potential peak later in the day.

If you have any questions or concerns regarding these changes and participation in the EM program, please contact me at 507-446-5432.

Sincerely,

 Jared Hendricks

Owatonna Public Utilities Energy Management Program
--

**Energy Management Program
Service Level Commitment**

Program Participant: Wastewater Treatment Plant – Meter 1035660

Table 1: Below provides the proposed Service Level Commitment based on last year's performance. Please review these figures and indicate your nomination levels for the 2023 program year. **As noted in the letter, we are unable to keep the 175 kW nomination moving forward due to low generator output.**

Please sign and date the form and return to Owatonna Public Utilities. The form will be signed by a representative and a copy will be returned to you and serve as an addendum to your existing Owatonna Public Utilities Energy Management Agreement.

2023 Owatonna Public Utilities Energy Management Agreement.

	<u>Current Service Level Commitment</u>	<u>Actual Performance</u>	<u>Proposed Service Level Commitment</u>	<u>OTHER</u>
JUNE	175 kW	126	150 kW	
JULY		116		
AUG		na		
SEPT		na		

Agreed: 
(Customer)

Agreed: _____
(Utility)

Date: 11-9-22

Date: _____



Administration Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Jeanette Clawson, Administrative Specialist
SUBJECT: Resolution 90-22 Authorize Contract for Purchases - Fame Awards

Purpose:

Council to approve Resolution 90-22 authorizing purchases of miscellaneous recognition products from Fame Awards

Background:

The City has purchased recognition products: dugout plaques, H2O Stencils, team trophies and plaques from Fame Awards. This business is owned by Doug Voss, a current Council Member At-Large for the City of Owatonna. On Council's Agenda is approval of payment to Fame Awards in the sum of \$2,861.75.

State Statute prohibits a City Council member from having a personal financial interest in a contract with the City. However, the statute provides a number of exceptions. The council may, by unanimous vote, contract for goods and services with an interested officer in certain enumerated situations, including "a contract for which competitive bids are *not* required by law." Competitive bids are not required for contracts less than \$100,000.00. When a City contracts with a public official for which no competitive bid is required, certain steps must be followed, including:

1. That the council adopt a resolution authorizing the contract which includes a statement that the contract price is as low as or lower than the price for which the commodity could be obtained elsewhere;
2. That before payment is made to the public official, the public official must file with the city clerk an affidavit stating that to the best of the officer's knowledge, the contract's price is as low as or lower than the price at which the commodity could be obtained from other sources;
3. That the council must approve the contract by unanimous vote; and
4. The public official must abstain from voting on the matter.

Budget Impact:

The budget impact is the amount of these purchases, \$2,861.75.

Staff Recommendation:

Staff recommends approval of Resolution 90-22.

Attachments:

1. Resolution 90-22 Authorize Contract for Purchases - Fame Award Purchases

RESOLUTION NO. 90-22

A RESOLUTION AUTHORIZING CONTRACT WITH FAME AWARDS
PURSUANT TO MINN. STAT. §§ 471.87-89

WHEREAS, the City of Owatonna desires to purchase certain recognition products prepared by Fame Awards; and

WHEREAS, Douglas V. Voss, owner of Fame Awards, is a City Council member of the City and will be financially interested in the contract; and

WHEREAS, the contract in the sum of \$2,861.75 is not one that is required to be competitively bid. and

WHEREAS, Councilmember Voss has signed an Affidavit of Official Interest in Claim as required by law. and

WHEREAS, the contract price of \$2,861.75 is as low as, or lower than, the price at which the goods can be obtained elsewhere at this time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Owatonna, Minnesota as follows:

1. The City Clerk-Treasurer is directed to make the above-mentioned purchases on behalf of the City from Fame Awards for a price of \$2,861.75.
2. The Mayor and City Clerk-Treasurer are directed to issue an order-check to pay the claim upon the filing of an affidavit of official interest by the interested official pursuant to Minn. Stat. § 471.89.
3. This resolution is adopted pursuant to Minn. Stat. §§ 471.87-89.

Passed and adopted this ____ day of _____, 2022, with the following vote:

Aye ____; No ____; Absent ____; Abstain ____.

Approved and signed this ____ day of _____, 2022

ATTEST:

Thomas A. Kuntz, Mayor

Kris M. Busse, City Administrator

RECAP:

74,955.00	Acme Tuckpointing & Restoration - City Hall tuckpointing
21,246.33	AVFuel - Jet fuel for resale at airport
21,988.28	Crane Creek Asphalt - Trail overlay project
29,382.28	Freeborn County Coop Oil - Fleet fuel
216,390.91	JJD Companies - N Cedar Streetscape Est 16
39,363.39	Owatonna Motor Co - Police vehicle \$36,020 and misc repairs parts
<u>242,083.92</u>	OTHER EXPENDITURES
\$ 645,410.11	<i>SUBTOTAL</i>
<u>81,244.46</u>	HRA HOUSING ASSISTANCE PAYMENTS
\$ <u><u>726,654.57</u></u>	TOTAL EXPENDITURES PRESENTED FOR APPROVAL

NOTE: Checks over \$20,000 are detailed out individually

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
Cash Account: 999-19100-000-000-000000					
370761	11/01/22	ACADEMY APARTMENTS OF OWATONNA	197.00	R	ACH
370762	11/01/22	ALL AREA MANAGEMENT LLC	1,381.00	R	ACH
370763	11/01/22	APACHE APARTMENTS	602.00	R	ACH
370764	11/01/22	ARNFELT RENTS	271.00	R	ACH
370765	11/01/22	ATM PROPERTIES LLC	870.00	R	ACH
370766	11/01/22	AUSTIN HRA	1,765.00	0	Regular
370767	11/01/22	B-GROVE LLC	1,437.00	R	ACH
370768	11/01/22	BB BROTHERS HOLDINGS LLC	1,354.00	R	ACH
370769	11/01/22	BROWN CYNTHIA	460.00	R	ACH
370770	11/01/22	BRYCEN GREGOR	920.00	R	ACH
370771	11/01/22	CEDAR RIDGE APARTMENTS	732.00	R	ACH
370772	11/01/22	CEDAR ROSE ASSOCIATES LLC	254.00	R	ACH
370773	11/01/22	CEDAR RUN TOWN HOMES MDI #41	2,848.00	R	ACH
370774	11/01/22	CEDARDALE NORTH APARTMENTS	288.00	R	ACH
370775	11/01/22	CEDARDALE SOUTH APARTMENTS	425.00	R	ACH
370776	11/01/22	CEDARDALE WEST APARTMENTS	835.00	R	ACH
370777	11/01/22	COMMON CENTS PROPERTIES LLC	371.00	R	ACH
370778	11/01/22	DAN NECHVILLE	644.00	R	ACH
370779	11/01/22	EEK LLC	460.00	R	ACH
370780	11/01/22	ELLINGSON RICHARD	815.00	R	ACH
370781	11/01/22	ESSO PROPERTIES LLC	1,141.00	R	ACH
370782	11/01/22	FITZGERALD TLS PROPERTIES LLC	508.00	R	ACH
370783	11/01/22	IMAGE APARTMENT	2,140.00	R	ACH
370784	11/01/22	JBLL EQUITIES LLC	440.00	R	ACH
370785	11/01/22	JOHN & DENISE SCHROEDER	485.00	R	ACH
370786	11/01/22	JOHNSON WINDOW & SIDING INC	3,402.00	R	ACH
370787	11/01/22	JPF PROPERTIES	1,100.00	R	ACH
370788	11/01/22	KEG INVESTMENTS LLC	471.00	R	ACH
370789	11/01/22	KEITH MARTIN	469.00	R	ACH
370790	11/01/22	KLEVOS GREG	1,954.00	R	ACH
370791	11/01/22	LAXMAN S SUNDAE	470.00	R	ACH
370792	11/01/22	LEE ANNA	705.00	R	ACH
370793	11/01/22	LINCOLN SQUARE APARTMENTS	5,442.00	R	ACH
370794	11/01/22	LOFTS ON 3RD	602.00	R	ACH
370795	11/01/22	LWO LIMITED PARTNERSHIP #116	2,688.00	R	ACH
370796	11/01/22	MANCINI NICHOLAS	693.00	R	ACH
370797	11/01/22	MARQUARDT DENNIS	1,474.00	R	ACH
370798	11/01/22	MARTIN ALLAN	2,852.00	R	ACH
370799	11/01/22	MARTIN FAMILY LLC	240.00	R	ACH
370800	11/01/22	MCCAULEY PATRICK	747.00	R	ACH
370801	11/01/22	MIDWEST INVEST LLC	485.00	R	ACH
370802	11/01/22	MINNEAPOLIS PHA	916.82	R	ACH
370803	11/01/22	NECHVILLE SUSAN	2,863.00	R	ACH
370804	11/01/22	NORTH VIEW APARTMENTS	839.00	R	ACH

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
370805	11/01/22	NORTHCOURT APARTMENTS	2,169.00	R	ACH
370806	11/01/22	NORTHGATE	2,198.00	R	ACH
370807	11/01/22	NORTHWEST MANOR	1,162.00	R	ACH
370808	11/01/22	PARK PLAZA LLC	1,067.00	R	ACH
370809	11/01/22	PARKVIEW OWATONNA LLC	284.00	R	ACH
370810	11/01/22	PROHASKI CHRIS	460.00	R	ACH
370811	11/01/22	PROHASKI PROPERTIES	450.00	R	ACH
370812	11/01/22	QUALITY RENTALS OF OWATONNA LL	656.00	R	ACH
370813	11/01/22	RAYMOND WILLMOTT	589.00	R	ACH
370814	11/01/22	SCOTT COUNTY CDA	2,401.64	R	ACH
370815	11/01/22	SMITH REAL ESTATE LLC	849.00	R	ACH
370816	11/01/22	SOUTH CENTRAL HUMAN RELATIONS	3,768.00	R	ACH
370817	11/01/22	SUBLAND INVESTMNTS & LIFESTYLE	600.00	R	ACH
370818	11/01/22	SUMMIT MANOR	293.00	R	ACH
370819	11/01/22	T & M RENTALS	421.00	R	ACH
370820	11/01/22	TM RENTALS II LLC	458.00	R	ACH
370821	11/01/22	TREND REALTY LLC	570.00	R	ACH
370822	11/01/22	USDA RURAL DEVELOPMENT	530.00	0	Regular
370823	11/01/22	USDA RURAL DEVELOPMENT	436.00	0	Regular
370824	11/01/22	WILLOW RUN I MDI #58	3,855.00	R	ACH
370825	11/01/22	WILLOW RUN II MDI #85	3,609.00	R	ACH
370826	11/01/22	YOUNGDAHL DEVELOPMENT LLC	1,748.00	R	ACH
370827	11/01/22	ZK INVESTORS LLC	2,615.00	R	ACH
370828	11/08/22	ACME TUCKPOINTING & RESTORATIO	74,955.00	0	Regular
370829	11/08/22	AFLAC	2,897.06	0	Regular
370830	11/08/22	ALEXANDER LUMBER COMPANY	243.64	0	Regular
370831	11/08/22	APG MEDIA OF SO MINNESOTA LLC	121.17	0	Regular
370832	11/08/22	APPLIED CONCEPTS INC	720.00	0	Regular
370833	11/08/22	ARAMARK UNIFORM SERVICES INC	327.62	0	Regular
370834	11/08/22	ARIELLE THURBER	150.00	0	Regular
370835	11/08/22	ARNOLD'S SUPPLY	229.75	0	Regular
370836	11/08/22	ARROW ACE HARDWARE	75.94	0	Regular
370837	11/08/22	ASPEN MILLS	352.49	0	Regular
370838	11/08/22	AVFUEL CORPORATION	21,246.33	0	Regular
370839	11/08/22	BAKER & TAYLOR BOOKS	1,302.01	0	Regular
370840	11/08/22	BATTERIES PLUS BULBS LLC	110.12	0	Regular
370841	11/08/22	BCT MINNEAPOLIS	38.18	0	Regular
370842	11/08/22	BLACKSTONE PUBLISHING	205.69	0	Regular
370843	11/08/22	BOLTON & MENK INC	13,899.38	0	Regular
370844	11/08/22	BROWNELLS	114.37	0	Regular
370845	11/08/22	CARQUEST	814.00	0	Regular
370846	11/08/22	CARTER QUAM	150.00	0	Regular
370847	11/08/22	CAVALIER COACHES INC	650.00	0	Regular
370848	11/08/22	CEMSTONE CONCRETE MATERIAL LLC	3,016.95	0	Regular
370849	11/08/22	CEMSTONE PRODUCTS CO	24.25	0	Regular

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
370850	11/08/22	CENGAGE LEARNING INC	54.38	0	Regular
370851	11/08/22	CENTRAL FARM SERVICE	2,092.53	0	Regular
370852	11/08/22	CLUB PROPHET SYSTEMS	530.00	0	Regular
370853	11/08/22	COLE'S ELECTRIC INC	9,600.00	0	Regular
370854	11/08/22	COMPCARE OCCUPATIONAL MEDICINE	187.00	0	Regular
370855	11/08/22	CORPORATE RECOGNITION	269.50	0	Regular
370856	11/08/22	COURT SPORTS & MORE	4,649.00	0	Regular
370857	11/08/22	CRANE CREEK ASPHALT	21,988.28	0	Regular
370858	11/08/22	CULLIGAN OF OWATONNA	76.40	0	Regular
370859	11/08/22	CURT'S SEAMLESS GUTTERS	1,000.00	0	Regular
370860	11/08/22	CURT'S TRUCK & DIESEL SERVICE	9.54	0	Regular
370861	11/08/22	CURTIS HOUGLUM	60.00	0	Regular
370862	11/08/22	D & M CONSTRUCTION LLC	184.20	0	Regular
370863	11/08/22	DAKOTA COUNTY TECHNICAL COLLEG	3,250.00	0	Regular
370864	11/08/22	DOMA INSURANCE AGENCY OF MN	500.00	0	Regular
370865	11/08/22	EMMA GREEN	150.00	0	Regular
370866	11/08/22	ESS BROTHERS & SONS INC	15,539.80	0	Regular
370867	11/08/22	EYE MED VISION CARE	411.74	0	Regular
370868	11/08/22	FAME AWARDS	2,581.00	0	Regular
370869	11/08/22	FARMERS FEED AND PET SUPPLY	99.95	0	Regular
370870	11/08/22	FIRE PROTECTION SERVICES	2,632.09	0	Regular
370871	11/08/22	FIRST SUPPLY OWATONNA	540.87	0	Regular
370872	11/08/22	FLEXIBLE PIPE TOOL CO	4,046.05	0	Regular
370873	11/08/22	FOUR SEASONS ELECTRIC	5,185.85	0	Regular
370874	11/08/22	FREEBORN COUNTY COOP OIL	29,382.28	0	Regular
370875	11/08/22	GRACYN DURAND	150.00	0	Regular
370876	11/08/22	HALL CONSTRUCTION	1,000.00	0	Regular
370877	11/08/22	HALLA AARON	13,300.00	0	Regular
370878	11/08/22	HAWKINS INC	10,618.80	0	Regular
370879	11/08/22	HEALTHPARTNERS INC	4,215.48	0	Regular
370880	11/08/22	HEIMAN INC	3,420.00	0	Regular
370881	11/08/22	HILLYARD INC	215.40	0	Regular
370882	11/08/22	HILLYARD/HUTCHINSON	293.34	0	Regular
370883	11/08/22	HOOPLA BY MIDWEST TAPE LLC	1,208.16	0	Regular
370884	11/08/22	HORIZON COMMERCIAL POOL SUPPLY	123.57	0	Regular
370885	11/08/22	HOUSE OWATONNA	381.79	0	Regular
370886	11/08/22	HUBER SUPPLY CO INC	32.15	0	Regular
370887	11/08/22	ICS CONSULTING INC	5,151.01	0	Regular
370888	11/08/22	IFACS	832.18	0	Regular
370889	11/08/22	INNOVATIVE OFFICE SOLUTIONS	264.89	0	Regular
370890	11/08/22	IRON SLEEK INC	1,210.79	0	Regular
370891	11/08/22	JEANETTE CLAWSON	33.93	0	Regular
370892	11/08/22	JEANETTE CLAWSON	52.96	0	Regular
370893	11/08/22	JOHN DEERE CREDIT	116.03	0	Regular
370894	11/08/22	JOHNSON HARDWARE CO	9,565.00	0	Regular

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
370895	11/08/22	KEITH KALBACH	1,000.00	0	Regular
370896	11/08/22	KENDELL DOORS & HARDWARE INC	127.00	0	Regular
370897	11/08/22	KENNEDY & GRAVEN	285.57	0	Regular
370898	11/08/22	KOWZ-FM	750.00	0	Regular
370899	11/08/22	L & L STREET RODS	240.00	0	Regular
370900	11/08/22	LARRY THORNHILL	238.00	0	Regular
370901	11/08/22	MADISON MCGINN	150.00	0	Regular
370902	11/08/22	MADISON NATL LIF INS CO INC	962.77	0	Regular
370903	11/08/22	MARCO TECHNOLOGIES LLC	87.98	0	Regular
370904	11/08/22	MARIE RIDGEWAY LICSW LLC	300.00	0	Regular
370905	11/08/22	MCNEILUS STEEL INC	181.20	0	Regular
370906	11/08/22	MECHANICAL SYSTEMS INC	6,900.00	0	Regular
370907	11/08/22	MELISSA CHARDEEN	107.38	0	Regular
370908	11/08/22	METRO SALES	713.29	0	Regular
370909	11/08/22	METRO SALES INC	38.47	0	Regular
370910	11/08/22	METRONET	33.03	0	Regular
370911	11/08/22	MICHAEL BEACH COACHING & CONSU	800.00	0	Regular
370912	11/08/22	MIKAYLA WILKER	150.00	0	Regular
370913	11/08/22	MIKE'S MARINE & SMALL ENG REP	893.54	0	Regular
370914	11/08/22	MINNESOTA LIFE	2,456.80	0	Regular
370915	11/08/22	MN DEPT OF HEALTH	250.00	0	Regular
370916	11/08/22	MN DRIVER & VEHICLE SERVICES	29.75	0	Regular
370917	11/08/22	MN VALLEY TESTING LABS INC	234.57	0	Regular
370918	11/08/22	MTI DISTRIBUTING INC	86.20	0	Regular
370919	11/08/22	NAPA AUTO PARTS	817.57	0	Regular
370920	11/08/22	NELROD COMPANY	2,337.00	0	Regular
370921	11/08/22	NORAH SAVAGE	275.00	0	Regular
370922	11/08/22	NORTHERN SAFETY TECHNOLOGY INC	1,825.84	0	Regular
370923	11/08/22	O'REILLY AUTOMOTIVE INC	148.17	0	Regular
370924	11/08/22	OAK GLENN	255.00	0	Regular
370925	11/08/22	OPG-3 INC	2,775.00	0	Regular
370926	11/08/22	OWATONNA AREA CHAMBER OF COMM	20.00	0	Regular
370927	11/08/22	OWATONNA MOTOR COMPANY	39,363.39	0	Regular
370928	11/08/22	PATTY KELLER	180.00	0	Regular
370929	11/08/22	PLUNKETT'S PEST CONTROL INC	132.00	0	Regular
370930	11/08/22	PRIME GARAGE DOOR & MORE	3,865.00	0	Regular
370931	11/08/22	R & M FABRICATION LLC	731.12	0	Regular
370932	11/08/22	RDO EQUIPMENT CO	506.77	0	Regular
370933	11/08/22	REINDERS INC	874.12	0	Regular
370934	11/08/22	RENT N SAVE	264.00	0	Regular
370935	11/08/22	RIVERLAND COMMUNITY COLLEGE	5,000.00	0	Regular
370936	11/08/22	RON'S REPAIR SERVICE	65.12	0	Regular
370937	11/08/22	SELCO	50.00	0	Regular
370938	11/08/22	SENIORPLACE INC	462.00	0	Regular
370939	11/08/22	SHERWIN WILLIAMS COMPANY	338.49	0	Regular

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
370940	11/08/22	SHI CORP	1,793.03	0	Regular
370941	11/08/22	SIGN PRO OF OWATONNA	697.00	0	Regular
370942	11/08/22	SPLIT ROCK MANAGEMENT INC	6,913.00	0	Regular
370943	11/08/22	STEELE COUNTY HIGHWAY DEPT	9,029.56	0	Regular
370944	11/08/22	STEELE COUNTY RECORDER	92.00	0	Regular
370945	11/08/22	STEVEN DELAITSCH	5,850.00	0	Regular
370946	11/08/22	STEWART DENISE	164.28	0	Regular
370947	11/08/22	STREICHER'S INC	3,102.97	0	Regular
370948	11/08/22	SWEET TOWING	125.00	0	Regular
370949	11/08/22	SYNCHRONY BANK - LOWE'S	1,005.68	0	Regular
370950	11/08/22	TERRY'S REPAIR	1,730.52	0	Regular
370951	11/08/22	TGK AUTOMOTIVE OF OWATONNA LLC	906.65	0	Regular
370952	11/08/22	TRI M GRAPHICS	555.64	0	Regular
370953	11/08/22	TRI STATE BOBCAT	2,847.72	0	Regular
370954	11/08/22	TSCHIDA EDWARD M	8,500.00	0	Regular
370955	11/08/22	UTILITY CONSULTANTS INC	3,457.05	0	Regular
370956	11/08/22	VAN METER INC	138.49	0	Regular
370957	11/08/22	VAULT HEALTH	585.30	0	Regular
370958	11/08/22	VEGA AMERICAS INC	2,010.00	0	Regular
370959	11/08/22	WALBRAN & FURNESS CHARTERED	4,577.00	0	Regular
370960	11/08/22	WEX BANK	357.50	0	Regular
370961	11/08/22	WHKS	5,829.30	0	Regular
370962	11/08/22	WOLFF AND SONS INC	263.73	0	Regular
370963	11/08/22	XCEL ENERGY	306.37	0	Regular
370964	11/08/22	ZEP MANUFACTURING CO	206.64	0	Regular
370965	11/08/22	ZIEGLER INC	4,500.32	0	Regular
370966	11/08/22	MATTHEW R HOKANSON	4,242.68	0	Regular
370967	11/09/22	JJD COMPANIES LLC	216,390.91	0	Regular
370968	11/09/22	MILLS FLEET FARM	2,799.99	0	Regular
370969	11/14/22	FAME AWARDS	280.75	0	Regular

145	Checks total:	648,141.11
64	ACH total:	78,513.46
0	EFTPS total:	
0	Wire transfer total:	
0	Payment Manager total:	
209	GRAND TOTALS	726,654.57



Ordinances



Administration Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Kris Busse, City Administrator
SUBJECT: Second/Final Reading Ordinance 22-12: Extend Xcel Energy Franchise Agreement

Purpose:

Council to approve the second/final reading of Proposed Ordinance 22-12 to extend the Xcel Energy Franchise Agreement to December 31, 2023.

Background:

Council approved the first reading of this proposed ordinance during their last meeting on November 1, 2022 and there have been no changes since.

The current Franchise Agreement with Northern State Power Company d/b/a/ Xcel Energy was approved 20 years ago, in April 2002. Earlier this year, the term of this agreement was extended to December 31, 2022. The additional time allowed staff to work with Xcel regarding their new standard agreement for preparation of drafting a new franchise agreement.

Unfortunately, additional time is still needed and City Attorney Walbran recommends this current franchise agreement be extended until December 31, 2023. Xcel Energy will file notice of this extension with the Public Utility Commission prior to expiration of the current agreement for continuation of franchise fees.

Budget Impact:

Extension of the current agreement will allow continuation of Franchise Revenue.

Staff Recommendation:

Staff recommends approval of Proposed Ordinance 22-12.

Attachments:

1. Ordinance 22-12 Extend Excel Energy Franchise Agreement

PROPOSED ORDINANCE NO. 22-12

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY OF OWATONNA ORDINANCE NO. 1278, "AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, D/B/A XCEL ENERGY, PERMISSION TO OPERATE AN ELECTRIC PUBLIC UTILITY AND MAINTAIN AN ELECTRIC DISTRIBUTION SYSTEM IN THE CITY OF OWATONNA, AND ENLARGING, OPERATING, REPAIRING AND MAINTAINING SAID SYSTEM IN THE CITY, THE NECESSARY LINES FOR THE TRANSMISSION OR DISTRIBUTION OF ELECTRICITY TO THE CITY AND ITS INHABITANTS AND OTHERS AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSE; AND PRESCRIBING CERTAIN TERMS AND CONDITIONS THERETO.

THE CITY COUNCIL OF THE CITY OF OWATONNA, STEELE COUNTY, MINNESOTA, ORDAINS:

SECTION 1. Section 2.2 of the City of Owatonna Ordinance No. 1278 is hereby amended to extend the term of the electric franchise granted to Northern States Power Company, d/b/a Xcel Energy, through December 31, 2023.

SECTION 2. This Ordinance shall take effect on the day it was passed and approved. Passed and adopted this _____ day of _____, 2022, with the following roll call vote:

Aye:

No:

Absent:

Accepted and signed this _____ day of _____, 2022.

Thomas A. Kuntz, Mayor

ATTEST:

Kris B. Busse, City Administrator



Public Works Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Sean Murphy, Assistant City Engineer
SUBJECT: First Reading Proposed Ordinance 22-13: Adjust Sanitary Sewer Rates

Purpose:

City Council approval of recommendations to rate changes for sanitary sewer related to Chapter 35 of the 2015 Ordinance Code of the City of Owatonna related to Appendix A Fee Schedule, (C) Sewer Rates, charges and fees, (2) Industrial sewer rates and charges established, (3) Domestic sewer rates and charges established

Background:

Annual adjustments of the sanitary sewer rates are necessary to maintain adequate funding for future operations and to fund the costs of the wastewater treatment facility expansion.

Budget Impact:

The rate increase will result in increased revenue for the sanitary sewer fund.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Amend Sewer Rates - Section 35 Appendix A - Fee Schedule 110922

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 35 OF THE 2015 ORDINANCE CODE OF THE CITY OF OWATONNA, ENTITLED "SEWER, RATES, CHARGES AND FEES" BY AMENDING CHAPTER 35, APPENDIX A FEE SCHEDULE (C) SEWER RATES CHARGES AND FEES (2) INDUSTRIAL SEWER RATES AND CHARGES ESTABLISHED AND (3) DOMESTIC SEWER RATES AND CHARGES ESTABLISHED AND (5) SEWER HOOK-UP CHARGES AND (6) INDUSTRIAL WASTE WATER DISCHARGE PERMIT FEE"

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OWATONNA, MINNESOTA, DO ORDAIN:

Section 1. Chapter 35 of the 2015 Ordinance Code of the City of Owatonna, entitled "Sewer, Rates, Charges and Fees", Chapter 35, Appendix A Fee Schedule, (C) Sewer Rates Charges and Fees (3) Domestic Sewer Rates and Charges Established:

(2) *Industrial sewer rates and charges established.*

4. Initial unit cost figures shall be:

- a. f = ~~\$0.34~~\$0.37/100 CCF;
- b. b = ~~\$446.25~~\$481.95/1,000 pounds of BOD; and
- c. ss = ~~\$273.00~~\$294.84/1,000 pounds of suspended solids.

(3) *Domestic sewer rates and charges established.*

(a) Rates and charges for domestic wastewater disposal service shall be ~~\$2.23~~ \$2.72 per 100 cubic feet of the average amount of water billed in the months of December, January, and February and billed starting in March and each subsequent month of the year at that calculated amount for residential customers. Commercial, Light SIU, and Heavy SIU shall be billed on actual water use monthly. To each such statement, each month shall be added a service charge based on the meter size as shown in the following table (effective ~~01/01/22~~01/01/2023).

Customer Class	Monthly
Residential	\$15.00 <u>\$16.20</u>
Commercial	\$17.16 <u>\$19.91</u>
Light SIU	\$52.00 <u>\$63.44</u>
Heavy SIU	\$676.00 <u>\$730.08</u>

1. Vacant rental units with individual meters shall be charged only the monthly service charge (effective 1/1/2016).
2. Single-family residential units that are not being serviced by the city water system shall be charged the equivalent of 7 CCF of wastewater, equaling ~~fifteen dollars and sixty onesix cents (\$15.61)~~ nineteen dollars and four cents (\$19.04) per month, plus service charge for residential meter (effective ~~01/01/2022~~ 01/01/2023).
3. A charge of ~~twelve dollars and forty eight cents (\$13.38)~~ sixteen dollars and thirty-two cents (\$16.32) per month shall be made to new customers and to new residential construction based on 6 CCF commencing on the date of installation of the water meter and continuing until an average can be struck, from use in December, January and February in addition to the service charge based on the meter size. Customers moving within the city will be charged at the rate established at their previous residence until an average can be struck from use in December, January and February for the new residence (effective ~~01/01/2022~~ 01/01/2023).

(5) *Sewer hook-up charges.*

Residential	Fee
All Connections	\$1,669.00
Multi-Family*	\$/Unit
All Connections	\$1,335.00
Commercial	Fee
1" or Smaller	\$3,186.00
1-1/2"	\$6,373
2"	\$10,197.00
3"	\$19,119.00
4"	\$31,866.00
6"	\$63,725
Industrial	\$/100 gallons per day
All connections	\$801.00

* Three or more units in one building. Multi-Family users may be considered Residential or Commercial for regular sewer usage billings depending on how the property is connected and metered. For example, a multi-unit apartment that receives one utility bill should be considered Commercial and a multi-unit condo complex where each unit received a utility bill should be considered Residential. Both situations would be treated as Multi-Family for SACs

(1992 Code, § 540:15)

(6) *Industrial waste water discharge permit fee.* A fee for waste water discharge permit, as authorized in § 51.07 of this code of ordinances, shall be \$1,000.00.

Section 2. Effective date. This Ordinance shall be in full force and effect from and after its passage and publication.

Passed and adopted this _____ day of ____, 202~~2~~³, with the following vote:

Aye __; No __; Absent __.

Approved and signed this ____ day of ____, 202~~2~~³.

ATTEST:

Thomas A. Kuntz, Mayor

Kris M. Busse, City Administrator/City Clerk



Resolutions



Parks, Trails, Recreation & Facilities Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Jenna Tuma, Director
SUBJECT: Resolution 91-22: Accept Bids and Award Contract - City Council Chambers Project - Ebert Construction

Purpose:

Council to approve Resolution 91-22 accepting the bid and award the construction contract to Ebert Construction for the base project of \$1,613,000 and Alternative No. 2 of \$13,400 for a total amount of \$1,626,400 for the reconstruction of the Council Chambers including construction of a separate entry.

Background:

The current state of the City Council Chambers has served the Council's needs for the past 40 years with limited updates.

In 2021, an 11-member project team was created to provide a comprehensive view of the space and its current use. The team includes representatives from City Council, the West Hills Commission and several City departments (Administrative Services, IT, Police, Community Development and Parks, Recreation & Facilities).

This year, CRW architecture + design group (CRW) led the project team in developing the final concept layout by incorporating the project goals to improve the space and upgrades in technology, safety, accessibility (American Disability Act) and the Heating, Ventilation & Air Conditioning (HVAC) system. Consultation with the State Historic Preservation Office provided additional considerations for the team in developing a project plan. To meet these goals, the team identified a solution that provides accessible restrooms and a meeting space and entry with direct access from the adjoining parking lots by constructing a vestibule connecting to the existing Council Chambers. This solution is included in the final project scope.

The estimated project budget is \$2,150,890 as shown in the table below.

Description of Work	Budget
Base Project Bid + Alternate No. 2	\$ 1,626,400
AV/IT - Commissioning and Equipment	\$ 158,000
Soft Costs: permits, furniture and smallware's	\$ 60,000
Door Card Access	\$ 35,000

Professional Services	\$	108,850
Contingency 10%	\$	162,640
Project Total	\$	2,150,890

The architectural, design development and final construction documents were completed for the Base Project and Alternate No. 2, went out to bid October 7 and bids closed October 28, 2022. The following table shows the proposals for the base project that were received:

Description	Ebert Construction	Mohs Contracting	Project One	Versacon Inc
Base Bid-Single Prime	\$1,613,000	\$1,770,000	\$1,960,000	\$1,611,00
Alternate No. 2- Replace glazing at lower level of windows with ballistics resistant glass	\$13,400	\$17,640	\$15,000	\$38,00
Total	\$1,626,400	\$1,787,640	\$1,975,000	\$1,649,00

Budget Impact:

This project will be funded using \$900,000 in American Rescue Plan Act (ARPA) funds and capital projects funds that have been set aside specifically for this project over a period of several years.

Staff Recommendation:

City Council approve Resolution 91-22 and authorize staff to finalize and enter into an agreement with Ebert Construction for a contracted amount of \$1,626,400 which includes the base bid and Alternate No. 2. This approval is contingent pending consultation with the City Attorney.

Attachments:

1. Resolution 91-22 Chamber Project - Approving Bids - Award Contract
2. A101-2017 - Draft - EBERT CONSTRUCTION

RESOLUTION NO. 91-22

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT

WHEREAS, pursuant to an Advertisement for Bids for the Council Chamber Renovation Project, bids were received from four (4) companies.

Company	Base Bid - Single Prime	Alternate No. 2	TOTAL BID
Ebert Construction	\$1,613,000	\$13,400	\$1,626,400
Mohs Contracting	\$1,770,000	\$17,640	\$1,787,640
Project One	\$1,960,000	\$15,000	\$1,975,000
Versacon Inc	\$1,611,000	\$38,000	\$1,649,000

The estimated project budget for the Base Project Bid + Alternate No.2 is \$1,626,400.

WHEREAS, the lowest responsible bidder was Ebert Construction with total bid of \$1,626,400.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Owatonna, Minnesota, as follows:

1. The Mayor and Clerk are hereby authorized and directed to enter into a contract with Rice Lake Construction Group in the name of the City of Owatonna for the Council Chamber Renovation Project according to the plans and specifications therefore approved by the City Council and on file in the office of the City Clerk.

2. The City Clerk is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids, except that the deposits of the successful bidder and the next lowest bidder shall be retained until a contract has been signed.

Passed and adopted this ____ day of _____, 2022, with the following vote:

Aye __; No __; Absent ____.

Approved and signed this ____ day of ____, 2022.

Thomas A. Kuntz, Mayor

ATTEST:

Kris M. Busse, City Administrator/City Clerk

DRAFT AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of « November » in the year «2022 »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

« City of Owatonna
540 West Hills Circle
Owatonna, MN 55060
Attention: Kris M. Busse, City Administrator
1-507-774-7340
Email Address: Kris.busse@ci.owatonna.mn.us
« »
« »
« »

and the Contractor:
(Name, legal status, address and other information)

«Ebert, Inc. (DBA Ebert Construction)
23350 County Road 10
Corcoran, MN 55357
Attention: Markus Ebert, Vice President
1-763-498-7844 »« »
« »
« »
« »

for the following Project:
(Name, location and detailed description)

«Owatonna City Hall»
«Owatonna, Minnesota»
«Evaluate and design a new City Council Chamber that is housed in the historic orphanage auditorium. The includes the remodel of the existing auditorium and stage.»

The Architect:
(Name, legal status, address and other information)

« CRW architecture + design group
211 11th Ave NW
Rochester, MN 55901
Teresa Thoreson McCormack, AIA, Partner
1-507-206-6201
Email Address: tmccormack@crwarchitecture.com »« »
« »
« »
« »

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

The Owner and Contractor agree as follows.



TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☐ The date of this Agreement.

☐ A date set forth in a notice to proceed issued by the Owner.

☒ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

« January 15, 2023 »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[« »] Not later than « » (« ») calendar days from the date of commencement of the Work.

[«X »] By the following date: « August 3, 2023 »

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be «One Million Six Hundred and Twenty Six Thousand Four Hundred Dollars. (\$»1,626,400.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
Alternate #2	\$13,400

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

« »

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

« »

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the « » day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the « » day of the « » month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than « » (« ») days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« »

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

<< >>

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

<< >>

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

<< >>

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

<< >>

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

<< >> % << >>

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

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§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2017

☐ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

☐

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

☐

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

«« City of Owatonna
540 West Hills Circle
Owatonna, MN 55060
Attention: Kris M. Busse, City Administrator
1-507-774-7340
Email Address: Kris.busse@ci.owatonna.mn.us »

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§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

« Ebert, Inc. (DBA Ebert Construction)
23350 County Road 10
Corcoran, MN 55357

Attention: Markus Ebert, Vice President
1-763-498-7844 »« »

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« »
« »
« »
« »
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§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

« »

- .5 Drawings

Number

See Attached

Title

Date

- .6 Specifications

Section

See Attached

Title

Date

Pages

- .7 Addenda, if any:

Number

Addendum #1

Date

October 20, 2022

Pages

1-3

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[☐] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[☐] The Sustainability Plan:

Title	Date	Pages

[☐] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

« »

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

«Kris Busse, Owatonna City Administrator»« »
(Printed name and title)

CONTRACTOR (Signature)

«Markus Ebert, Vice President»« »
(Printed name and title)



Administration Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Jeanette Clawson, Administrative Specialist
SUBJECT: Tobacco License - JMD Ventures LLC dba Owatonna Marathon

Purpose:

Council to approve an application received from Mehul Shah and Jamsime Munshi, on behalf of JMD Ventures LLC for a Tobacco License at 401 N Cedar Avenue.

Background:

JMD Ventures, LLC will begin operations at 401 N Cedar Avenue to do business as Owatonna Marathon. The current Tobacco Licensee at this location, held by Owatonna Food and Fuel, will be canceled. Payment of fees and Certification of Insurance has been received. This license will be effective immediately for the remainder of the current licensing period which ends December 31, 2022 and will be included in the annual license renewal process for Council approval next month.

Budget Impact:

\$175 payment of fees: \$100 background verification, \$50 application fee and \$25 Tobacco License fee for two months.

Staff Recommendation:

Staff recommends approval of this license application.

Attachments:

None



Miscellaneous



Public Works Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Sean Murphy, Assistant City Engineer
SUBJECT: 2022 Street & Utility Project Change Order #2 - JJD Companies, LLC

Purpose:

To receive Council approval for Change Order #2 for the 2022 Street & Utility Project.

Background:

Change Order #2 includes the addition of installing tracer wire, grounding anode rods, and locate boxes for sanitary services.

See the attachment for the work order received from JJD.

Budget Impact:

This change order will increase the contract amount by \$2,340.00.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. 2022 Street & Utility Change Order #2

Change Order

No. 2

Date of Issuance: 11/09/2022

Effective Date:

Project: 2022 Street & Utility Project

Owner: City of Owatonna

Owner's Contract No.: 22001

Contract:

Date of Contract:

JJD Companies, LLC

Engineer's Project No.:

The Contract Documents are modified as follows upon execution of this Change Order:

Addition of pay item; Install Tracer wire Grounding Anode Rods

Attachments: (List documents supporting change):

Copy of the JJD Work Order (#15) depicting their line items covered by this pay item.

CHANGE IN CONTRACT PRICE:

Original Contract Price:

\$2,112,599.40

Increase from previously approved Change Orders

No. 1 to No.:

\$26,360.85

Contract Price prior to this Change Order:

\$2,134,960.25

Increase of this Change Order:

\$2,304.00

Contract Price incorporating this Change Order:

\$2,137,264.25

CHANGE IN CONTRACT TIMES:

Original Contract Times: ☐ Working days ☐ Calendar days

Substantial completion (days or date): July 21st, 2023

Ready for final payment (days or date):

[Increase] [Decrease] from previously approved Change Orders

No. to No.:

Substantial completion (days):

Ready for final payment (days):

Contract Times prior to this Change Order:

Substantial completion (days or date): July 21st, 2023

Ready for final payment (days or date):

[Increase] [Decrease] of this Change Order:

Substantial completion (days or date): July 21st, 2023

Ready for final payment (days or date):

Contract Times with all approved Change Orders:

Substantial completion (days or date): July 21st, 2023

Ready for final payment (days or date):

RECOMMENDED:

By: [Signature]
Engineer (Authorized Signature)

Date: 11-9-22

ACCEPTED:

By: _____
Owner (Authorized Signature)

Date: _____

ACCEPTED:

By: [Signature]
Contractor (Authorized Signature)

Date: 11-9-2022

Approved by Funding Agency (if applicable):

Date:



JOB: #2209 - OWA Street & Utility Improvement

DATE: 10/31/2022

WORK ORDER #: WO#15 - Locator Boxes

FOREMAN: Wayne

WORK ORDER

LABOR | EQUIPMENT

Description	Quantity	U/M	Rate	Total
Foreman & Truck	2.00	HR	\$ 125.00	\$ 250.00
Labor (2)	6.00	HR	\$ 90.00	\$ 540.00
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
TOTAL LABOR & EQUIPMENT:				\$ 790.00
15% OH+P:				\$ -
GRAND TOTAL LABOR & EQUIPMENT:				\$ 790.00

MATERIALS

Description	Quantity	U/M	Rate	Total
Snake Pit Locating Box	9.00	EA	\$ 53.76	\$ 483.84
1# Grounding Anode Rod	18.00	EA	\$ 107.50	\$ 1,935.00
				\$ -
				\$ -
TOTAL MATERIALS:				\$ 2,418.84
15% OH+P:				\$ -
GRAND TOTAL MATERIALS:				\$ 2,418.84

SUBCONTRACTORS

Description	Quantity	U/M	Rate	Total
				\$ -
				\$ -
TOTAL SUBCONTRACTORS:				\$ -
10% OH+P:				\$ -
GRAND TOTAL SUBCONTRACTORS:				\$ -
GRAND TOTAL:				\$ 3,208.84

NOTES | COMMENTS | MISC:

Install Locating Boxes At Sanitary Services

Accepted By: _____

SIGNED BY

DATE



Public Works Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Sean Murphy, Assistant City Engineer
SUBJECT: Memorandum of Understanding for Statewide Monitoring of PFAS - Minnesota Pollution Collition Agency (MPCA)

Purpose:

This MOU outlines a voluntary agreement between the City of Owatonna and the MPCA for monitoring PFAS (Per-and Polyfluoroalkyl Substances), also known as forever chemicals. PFAS is a general group of chemicals, numbering over 4,000, that are incredibly difficult/costly to break down or in cases impossible to break down.

Background:

Interest in regulating PFAS became well known through a number of drinking water supplies that were contaminated with PFAS around the Country, most notable to Minnesotans, the 3M contamination of the Woodbury/Cottage Grove area. The resulting settlement was \$850,000,000. This along with Federal support through the Bipartisan Infrastructure Law has caused State EPAs to start researching and investigating PFAS contamination and creation in industry.

Through the MPCA's effort so far, they have developed the attached MOU. It consists of testing Wastewater Treatment Plant Influent waste and quantifying it in relation to other communities in the state. Depending on what category each community or district falls in will determine the next steps of the MOU for each community. The highest producers will have to start a dialogue with identified potential sources to initiate source identification work and mitigation practices.

Budget Impact:

No impact to the budget.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. PFAS Memorandum of Understanding

Memorandum of Understanding Between your Minnesota District or City and the Minnesota Pollution Control Agency for the Statewide Monitoring of Per- and Polyfluoroalkyl Substances (PFAS)

This Memorandum of Understanding is between your City and the Minnesota Pollution Control Agency (MPCA).

Whereas, PFAS is a known class of environmental contaminants with thousands of unique chemical structures which are persistent in the environment, bioaccumulative, and are in widespread use in industrial, commercial, and household applications;

Whereas, municipal wastewater treatment facilities are a receiver of PFAS and can be a conduit for the discharge of PFAS into the environment;

Whereas, municipal wastewater treatment facilities have regulatory authority over their significant industrial users and generally all users through National Pollutant Discharge Elimination Discharge (NPDES) permits issued to permittees in Minnesota;

Whereas, your permitted wastewater treatment facility has been identified as having at least one significant industrial user;

Whereas, significant industrial users may be a contributing source of PFAS to wastewater treatment facilities;

Whereas, to protect human health and the environment, the MPCA established goals to identify and reduce PFAS in the environment through implementation of its 2022 PFAS Monitoring Plan, that seeks to partner with all sources to reduce releases to the air, water, and land;

Whereas, funding has been appropriated by the Minnesota Legislature to develop tools to assist municipal wastewater treatment facilities in source identification and source reduction of PFAS. This appropriation is specific to these activities and will not be used for sample collection or sample analysis. A contract has been executed between Antea Group and the MPCA where PFAS Source Identification & Reduction tools will be developed. These tools will be available for use in conjunction with the development of PFAS pollutant management plans and;

Whereas, response thresholds will be developed based on data collected from the first two sampling events. The response thresholds will be statistically based, not risk based, to help prioritize source identification and reduction activities. All facilities will be assigned one of three priority categories which will include specific actions for the facilities to complete.

- A. Category one - No further sampling required at this time, unless state or federal funding is obtained. It is strongly encouraged that these facilities complete an inventory of industrial users who may be potential contributors of PFAS. If the MPCA obtains funding to collect and analyze PFAS we reserve the right to collect two additional samples at these facilities.
- B. Category two - Complete an inventory of potential industrial sources of PFAS and start a dialog with those potential sources to initiate source identification and reduction work. Develop, complete, and submit a PFAS Pollutant Management Plan (PFAS PMP) and complete and submit the final two sampling events.

- C. Category three - Complete an inventory of potential industrial sources of PFAS and start a dialog with those potential sources to initiate source identification and reduction work. Develop, complete, and submit a PFAS Pollutant Management Plan (PFAS PMP) and complete and submit the final two sampling events. Based on the industrial user inventory MPCA will work with you to identify further actions to verify PFAS discharges from these potential sources.

Whereas, the MPCA will continue to pursue funding to offset the cost of sample collection and sample analysis. If funding is obtained, an MPCA identified contractor will be used to coordinate and collect samples from designated influent monitoring locations at the wastewater treatment facilities identified in the MPCA PFAS monitoring plan. The collected influent samples will then be sent to an MPCA designated certified laboratory for analysis. Related costs associated with sample collection and analysis will be covered pursuant to the amount of funding obtained and any potential eligibility requirements. The results of the monitoring will be shared with both the monitored wastewater facilities and the MPCA. Data will be submitted via the EQulS system.

Whereas, MPCA Municipal wastewater contacts for the PFAS Monitoring Plan are:

Jaramie Logelin, jaramie.logelin@state.mn.us, 218-302-6640 or

Sherry Bock, sheryl.bock@state.mn.us, 218-316-3882.

Therefore, Phase I of the 2022 PFAS Monitoring Plan includes a goal that all municipal wastewater treatment facilities, which have delegated pretreatment programs or have identified one or more significant industrial users, will:

- A. Participate in influent wastewater sampling; and
- B. Participate in the identification and understanding of sources of PFAS entering into your wastewater treatment facility; and
- C. If a category two, complete an inventory of potential industrial sources of PFAS and start a dialog with those potential sources to initiate source identification and reduction work. Develop, complete, and submit a PFAS Pollutant Management Plan (PFAS PMP) and complete and submit the final two sampling events; and
- D. If a category three, complete an inventory of potential industrial sources of PFAS and start a dialog with those potential sources to initiate source identification and reduction work. Develop, complete, and submit a PFAS Pollutant Management Plan (PFAS PMP) and complete and submit the final two sampling events. Based on the industrial user inventory, MPCA will work with you to identify further actions to verify PFAS discharges from these potential sources.

In furtherance of these goals, your District or City and MPCA agree to the following actions:

Wastewater Treatment Facility Actions

1. PFAS sampling plan.

- a. By January 1, 2023, develop and submit, for review and approval to the MPCA, a PFAS Sampling Plan specific to the District's or City's PFAS influent monitoring.
 - i. The PFAS Sampling Plan must follow MPCA's updated analytical fact sheet for Per- and Polyfluoroalkyl substances: [Guidance for Per- and Polyfluorinated Alkyl Substance: Analytical \(state.mn.us\)](https://www.state.mn.us/health/pfas/Guidance%20for%20Per-,%20and%20Polyfluorinated%20Alkyl%20Substances%20Analytical%20(state.mn.us).pdf).

- ii. The PFAS Sampling Plan must include, but not be limited to, specific sample location, sample collection type, who will be collecting samples (Permittee or contractor), selected lab for analysis and sample analysis method the lab will be using including the reporting limit of each of the PFAS compounds. All samples should be unfiltered and collected at your facility's influent waste stream (WS) station. Each sample shall include at a minimum all PFAS compounds listed in Appendix A. Please note the reporting limits in Appendix A for the six bolded parameters. All other parameters have a goal of under 4 nanograms per liter (ng/L) but will be subject to change upon guidance revisions.
- iii. The PFAS Sampling Plan should be submitted electronically to both Jaramie Logelin and Sherry Bock to their noted emails.

2. Collect Influent Samples.

- a. Collect and submit to the lab round one influent sample by March 31, 2023, in accordance with the completed PFAS sampling plan. By June 30, 2023, submit the first round of influent monitoring data to the MPCA's EQuIS database. The monitoring data may be submitted by the District or City or your accredited laboratory.
- b. Collect and submit to the lab round two influent sample by June 30, 2023.
- c. By August 31, 2023, submit the second round of influent monitoring data into MPCA's EQuIS database. The monitoring data may be submitted by the District or City or your accredited lab.
- d. Collect and submit to the lab round three influent sample by June 30, 2024.
- e. By September 31, 2024, submit the third round of influent monitoring data to the MPCA's EQuIS database. The monitoring data may be submitted by the District or City or your accredited laboratory.
- f. Collect and submit to the lab round four influent sample by September 31, 2024.
- g. By December 31, 2024, submit the results of the fourth round of influent sampling monitoring data into MPCA's EQuIS database. The monitoring data may be submitted by the District or City or your accredited lab.

3. Inventory of potential PFAS sources.

- a. By August 31, 2023, start inventorying industrial users that may be potential PFAS contributors to your wastewater collection system
 - i. The initial inventory should identify all industrial users, including but not limited to, all significant industrial users, categorical industrial users, and nonsignificant industrial users based on the NAICS Codes identified in Appendix F of the MPCA's PFAS Monitoring Plan (starting on page 32).
- b. Complete the inventory of potential sources for use in your pollutant management plan by December 31, 2023. Maintain the inventory onsite.

4. PFAS Pollutant Management Plan.

- a. By September 15, 2023, start to develop a PFAS Pollutant Management Plan. The goal will be to identify any non-domestic wastewater sources of PFAS entering your facility and to promote source reduction activities for those sources.
- b. By March 15, 2024, submit the completed PFAS Pollutant Management Plan to the MPCA for review.

5. Implementation of PFAS Pollutant Management Plan.

- a. By 30 days after the submittal of the PFAS Pollutant Management Plan, provide continuing education and information to industrial users and the community on reducing PFAS. Implement the PFAS Pollutant Management Plan and begin implementing follow-up PFAS reduction actions based on MPCA developed response thresholds as identified in MPCA Responsibilities item #5.

6. Continual

- a. Operating and maintaining your wastewater treatment systems to optimize PFAS reduction activities.

MPCA Responsibilities

1. By November 1, 2022, establish monitoring and sampling criteria, and a process to capture the data in MPCA's EQulS database.
2. By November 1, 2022, finalize and distribute a final sampling and analysis guide to be used by all facilities.
3. Develop and, when available, distribute a Legislative PFAS Source Identification & Reduction Tool Kit to all applicable permittees.
4. By September 15, 2023, or within 15 days of substantial submittal of round 1 and 2 monitoring data, develop and communicate response thresholds based on the first two sample results.
5. Continue to pursue funding to help cover costs of sample collection and sample analysis. If funding is obtained, it will be dispersed pursuant to any eligibility requirements.

Joint District or City/MPCA Responsibilities

1. Collaborate on efforts to work with suppliers, manufacturers, educational institutions, and other interested parties to reduce the use of PFAS in products and procedures where pragmatic alternatives exist.
2. Collaborate to develop communication strategies for the public to understand the data and information gained from this joint effort to manage PFAS.

Terms and Conditions

This is a voluntary agreement and can be nullified by either party at any time.

This agreement does not amend, nor shall it be construed as part of the National Pollutant Discharge Elimination System (NPDES) permit for your wastewater treatment facility, however the MPCA expects compliance with provisions within this agreement and reserves the right to utilize MPCA authority under Minn. Stat. § 115.03 to obtain and collect data and information as needed.

This agreement will expire upon the completion of collection and submittal of the final requested sampling data.

Authorized Representatives

The District's or City's Authorized Representative for purposes of administration of the Memorandum of Understanding is:

Owatonna Wastewater Treatment Plant

By: _____

Name: Tom Kuntz

Title: _____

Date: _____

The MPCA's Authorized Representative for purposes of administration of this Memorandum of Understanding is:

**STATE OF MINNESOTA
POLLUTION CONTROL AGENCY**

By: 

Katrina Kessler, P.E.
Commissioner

Date: October 5, 2022

Appendix A

Minimum list of requested PFAS Compounds

Compound (Acronym) (Source of Compound list and Reporting Limit (RL) goals* found here) *Subject to change upon guidance revision	Aqueous Reporting Limit (RL) Goals (ng/L)	CAS Number
Perfluorobutanoate (PFBA)	under 6	375-22-4
Perfluoropentanoate (PFPeA)		2706-90-3
Perfluorohexanoate (PFHxA)	under 4	307-24-4
Perfluoroheptanoate (PFHpA)		375-85-9
Perfluorooctanoate (PFOA)	under 4	335-67-1
Perfluorononanoate (PFNA)		375-95-1
Perfluorodecanoate (PFDA)		335-76-2
Perfluoroundecanoate (PFUnA)		2058-94-8
Perfluorododecanoate (PFDoA)		307-55-1
Perfluorotridecanoic Acid (PFTTrDA)		72629-94-8
Perfluorotetradecanoic acid (PFTeDA)		376-06-7
Perfluorobutanesulfonate (PFBS)	under 4	375-73-5
Perfluoropentanesulfonate (PFPeS)		2706-91-4
Perfluorohexanesulfonate (PFHxS)	under 4	355-46-4
Perfluoroheptanesulfonate (PFHpS)		375-92-8
Perfluorooctanesulfonate (PFOS)	under 4	1763-23-1
Perfluorononanesulfonate (PFNS)		474511-07-4
Perfluorodecanesulfonate (PFDS)		335-77-3
Perfluorododecanesulfonate (PFDoS)		79780-39-5
4:2 Fluorotelomer sulfonic acid (4:2 FTS)		757124-72-4
6:2 Fluorotelomer sulfonic acid (6:2 FTS)		27619-97-2
8:2 Fluorotelomer sulfonic acid (8:2 FTS)		39108-34-4
N-Methylperfluorooctanesulfonamidoacetic acid (N-MeFOSAA)		2355-31-9
N-Methylperfluorooctanesulfonamidoacetic acid (N-EtFOSAA)		2991-50-6
Perfluorooctane Sulfonamide (PFOSA)		754-91-6
N-Methyl perfluorooctane sulfonamide (N-MeFOSA)		31506-32-8

Compound (Acronym) (Source of Compound list and Reporting Limit (RL) goals* found here) *Subject to change upon guidance revision	Aqueous Reporting Limit (RL) Goals (ng/L)	CAS Number
N-Ethyl perfluorooctane sulfonamide (N-EtFOSA)		4151-50-2
N-Methyl perfluorooctane sulfonamidoethanol (N-MeFOSE)		24448-09-7
N-Ethyl perfluorooctane sulfonamidoethanol (N-EtFOSE)		1691-99-2
Hexafluoropropylene oxide dimer acid (HFPO-DA)		13252-13-6
3H-Perfluoro-3-[(3-methoxy-propoxy) propanoic acid] (ADONA)		919005-14-4
9-Chlorohexadecafluoro-3-oxane-1-sulfonic acid (9Cl-PF3ONS)		756426-58-1
11-chloroeicosafluoro-3-oxaundecane-1-sulfonic acid (11Cl-PF3OUdS)		763051-92-9

Municipal Wastewater PFAS Monitoring and MOU Summary for local decision makers:

- Per- and polyfluoroalkyl substances (PFAS) are a family of nearly 5,000 chemicals which have been widely used in industrial, commercial, and residential applications, are resistant to breakdown, and are found virtually everywhere in our environment.
- At concentrations which vary by specific chemical, PFAS can be toxic, causing adverse health effects in humans, fish, and wildlife.
- In February of 2021, the MPCA released a PFAS Blueprint for addressing PFAS statewide. This was followed by a PFAS Monitoring Plan (March 2022) which identifies how the MPCA will collect PFAS monitoring data from all major regulatory program areas.
- Wastewater treatment plants (WWTPs) are a receiver of PFAS and can be a conduit for the discharge of PFAS into the environment. PFAS can be present in wastewater which flows to WWTPs and is not treated by conventional treatment technologies. PFAS treatment at the wastewater treatment facility is not economically feasible at this point, so the MPCA is focusing on source identification and source reduction.
- In an effort to collaborate with the WWTPs the MPCA has asked that the monitoring be completed outside the City's wastewater permit, through the use of the MOU.
- The MPCA is requesting approximately 90 municipal WWTPs, which have identified significant industrial users, to participate in phase 1 of the PFAS Monitoring Plan. By signing a Memorandum of Understanding (MOU), these facilities agree to the following:
 1. Submit a PFAS Sampling Plan
 2. Collect four quarterly influent samples
 3. Inventory potential sources, develop a PFAS Pollutant Management Plan, and work with industrial users and other users to reduce PFAS in wastewater influent base on a defined response threshold.
- The MPCA has secured funding to cover the costs of sample collection and analysis for the first two influent samples for facilities who sign the MOU. The MPCA will continue to pursue funding in an effort to potentially cover some or all of the costs of collecting and analyzing the last two influent samples.
- The goal of this monitoring is to:
 1. Evaluate PFAS concentrations discharged to WWTPs,
 2. Identify sources of PFAS,
 3. Begin to make progress reducing PFAS discharged to WWTPs, and
 4. To inform future monitoring and regulatory decisions in future phases of the PFAS monitoring plan in an effort to reduce PFAS discharged to the environment.



Public Works Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Sean Murphy, Assistant City Engineer
SUBJECT: Professional Services Agreement for Staff Augmentation Services on 2023-2024 Engineering Projects - WHKS & Co.

Purpose:

Requesting approval of the WHKS Proposal for Staff Augmentation Services.

Background:

WHKS will provide staff augmentation services to assist with engineering projects anticipated to be constructed in 2023 and 2024, along with in-house training in Civil 3D. Services will include design oversight, design direction, establishing design schedules, and assessing staff's design skills and needs. WHKS staff will attend meetings in Owatonna Engineering Department once a week. WHKS will assist with determining if outside engineering services are needed to complete budgeted design projects on time. WHKS anticipates providing one staff person for up to one day per week at City Hall. Additional time will be available, as needed, via Teams or phone calls. WHKS will assist with educating and guiding staff through State Aid and Federal project guidelines and process to ensure compliance on all projects.

WHKS will review the City's Civil3D template and provide a recommendation to update the template.

See attached for entire scope of service and pricing details.

Budget Impact:

Billed hourly per the attached Exhibit A. Agreement will not exceed \$20,000 without additional authorization.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. WHKS Staff Augmentation Proposal

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, by and between **City of Owatonna** hereinafter referred to as the "Client" and WHKS & Co., hereinafter referred to as "WHKS", is made as follows:

WHEREAS, the Client has a need for certain professional services relating to the project described as **Staff Augmentation**.

WHEREAS, WHKS proposes to furnish the professional services required by the Client for said project,

NOW THEREFORE, the Client hereby agrees to retain and compensate WHKS to perform the professional services in accordance with the terms and conditions of this Agreement and the attached Standard Terms and Conditions.

Scope of Services

WHKS shall perform the following described services for the Client:

Provide staff augmentation services to assist with engineering projects anticipated to be constructed in 2023 and 2024. Services will include design oversight, design direction, and establishing design schedules. WHKS staff will attend meetings in Owatonna Engineering Department once a week. We will assist with determining if outside engineering services are needed. WHKS is anticipating providing one staff person for up to one day per week at City Hall. Additional time will be available, as needed, via Teams or phone calls.

WHKS will review the City's Civil3D template and provide a recommendation to update the template.

Basis of Compensation

For the services described above, the Client shall remunerate WHKS as follows:

Billed Hourly per the attached Exhibit A. Agreement will not exceed \$20,000 without additional authorization.

Executed this _____ day of November, 2022

City of Owatonna

WHKS & CO.

By: _____

By: _____

Printed Name: _____

Printed Name: Timothy A. Hruska, P.E., L.S.

Title: _____

Title: Vice President

STANDARD TERMS AND CONDITIONS FOR PUBLIC SECTOR PROJECTS

1. Scope of Services

Client and WHKS have agreed to a list of services WHKS will provide to Client as listed on the Professional Services Agreement Form.

2. Governing Law

The laws of the State of Minnesota will govern this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in the courts of that State.

3. Standard of Care

Services provided by WHKS under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances and locality.

4. Integration

This Agreement comprises the final and complete agreement between Client and WHKS. It supersedes all prior communications, representations, or agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement signifies that each party has read the document thoroughly. Amendments to this Agreement shall not be binding unless made in writing and signed by both Client and WHKS.

5. Guarantees and Warranties

WHKS shall not be required to sign any documents, no matter by whom requested, that would result in WHKS having to guarantee or warrant the existence of conditions whose existence WHKS cannot ascertain. Client also agrees not to

make resolution of any dispute with WHKS or payment of any amount due to WHKS in any way contingent upon WHKS signing any such guarantee or warranty.

6. Indemnification

WHKS agrees, to the extent permitted by law, to indemnify and hold Client harmless from any damage, liability or cost (including reasonable attorney's fees and costs of defense) to the extent caused by WHKS' negligent acts, errors or omissions in the performance of professional services under this Agreement and those of its subconsultants or anyone for whom WHKS is legally liable.

Client agrees, to the extent permitted by law, to indemnify and hold WHKS harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by Client's negligent acts, errors or omissions and those of Client's contractors, subcontractors or consultants or anyone for whom Client is legally liable.

Neither WHKS nor Client shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

7. Billing and Payment Provisions

Invoices shall be submitted by WHKS monthly and are due upon presentation and shall be considered PAST DUE if not paid within thirty (30) calendar days of the invoice date.

If payment is not received by WHKS within thirty (30) calendar days of the invoice date, Client shall pay as interest an additional charge of one

and one-quarter percent (1.25%) of the PAST DUE amount per month. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

If Client fails to make payments within sixty (60) days from the date of an invoice or otherwise is in breach of this Agreement, WHKS may, at its option, suspend performance of services upon five (5) calendar days' notice to Client. WHKS shall have no liability whatsoever to Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by Client. If Client fails to make payment to WHKS in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination by WHKS.

In the event legal action is necessary to enforce the payment provisions of this Agreement, WHKS shall be entitled to collect from Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by WHKS in connection therewith and, in addition, the reasonable value of WHKS personnel time and expenses spent in connection with such collection action, computed at WHKS current fee schedule and expense policies.

Payment of invoices is in no case subject to unilateral discounting or set-offs by Client, and payment is due regardless of suspension or termination of this Agreement by either party.

8. Ownership of Records

All reports, plans, specifications, field data and notes and other

documents, including all documents on electronic media, prepared by WHKS as instruments of service shall remain the property of WHKS.

Client shall be permitted to retain copies, including reproducible copies, of the plans and specifications for information and reference in connection with Client's use of the completed project. The plans and specifications shall not be used by Client or by others on other similar projects except by agreement in writing by WHKS.

9. Delivery of Electronic Files

In accepting and utilizing any drawings, reports and data on any form of electronic media generated and provided by WHKS, Client covenants and agrees that all such electronic files are instruments of service of WHKS, who shall be deemed the author, and who shall retain all rights under common and statutory laws, and other rights, including copyrights. Client is aware that differences may exist between the electronic files delivered and the respective construction documents due to addenda, change orders or other revisions. In the event of a conflict between the signed construction documents prepared by WHKS and electronic files, the signed construction documents shall govern.

Client and WHKS agree that the electronic files prepared by WHKS shall conform to the current CADD software in use by WHKS or to other mutually agreeable CADD specifications defined in the Agreement. Any changes to the CADD specifications by either Client or WHKS are subject to review and acceptance by the other party. Additional efforts by WHKS made necessary by a change to the CADD specifications or other software shall be compensated for as Additional Services.

The electronic files provided by WHKS to Client are submitted for an acceptance period of 60 days. Any defects Client discovers during this period will be reported to WHKS and will be corrected as part of the Scope

of Services. Correction of defects detected and reported after the acceptance period will be compensated for as Additional Services.

Client agrees not to reuse the electronic files, in whole or in part, for any purpose or project other than the project that is the subject of this Agreement. Client agrees not to transfer the electronic files to others without the prior written consent of WHKS, except as required by law. In addition, Client agrees, to the extent permitted by law, to indemnify and hold WHKS harmless from any damage, liability or cost, including reasonable attorney's fees and costs of defense, arising from any changes made by anyone other than WHKS or from any reuse of the electronic files without the prior written consent of WHKS.

Under no circumstance shall delivery of the electronic files for use by Client be deemed a sale by WHKS and WHKS makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall WHKS be liable for any loss of profit or any consequential damages.

10. Changed Conditions

Client shall rely on the judgment of WHKS as to the continued adequacy of this agreement in light of occurrences or discoveries that were not originally contemplated by or known to WHKS. Should WHKS call for contract renegotiation, WHKS shall identify the changed conditions necessitating renegotiation and WHKS and Client shall promptly and in good faith enter into renegotiation of this Agreement. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.

11. Permits and Approvals

WHKS shall assist Client in applying for those permits and approvals typically required by law for projects similar to the one for which WHKS services are being engaged. This assistance consists of completing

and submitting forms as to the results of certain work included in the Scope of Services.

12. Suspension of Services

If the project is suspended for more than thirty (30) calendar days in the aggregate, WHKS shall be compensated for services performed and charges incurred prior to receipt of notice to suspend and, upon resumption, an equitable adjustment in fees to accommodate the resulting demobilization and remobilization costs. In addition, there shall be an equitable adjustment in the project schedule based on the delay caused by the suspension. If the project is suspended for more than ninety (90) calendar days in the aggregate, WHKS may, at its option, terminate this Agreement upon giving notice in writing to Client.

13. Termination

Either Client or WHKS may terminate this Agreement at any time with or without cause upon giving the other party seven (7) calendar days prior written notice. Client shall within thirty (30) calendar days of termination pay WHKS for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of the Agreement.

14. Unauthorized Changes

In the event Client, Client's contractors or subcontractors or anyone for whom Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other contract documents prepared by WHKS without obtaining WHKS' prior written consent, Client shall assume full responsibility for the results of such changes. Therefore, Client agrees to waive any claim against WHKS and to release WHKS from any liability arising directly or indirectly from such changes.

Client also agrees, to the extent permitted by laws, to indemnify and hold WHKS harmless from any

damage, liability or cost, including reasonable attorneys' fees and costs of defense, arising from such changes.

15. Jobsite Safety

Neither the professional activities of WHKS nor the presence of WHKS or its employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the construction work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. WHKS and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

16. Additional Services

Services which are requested by Client or are required as part of the Project, but are not included in the Scope of Services, are considered Additional Services.

WHKS will notify Client in writing when Additional Services will be needed. WHKS and Client will agree on the extent of the Additional Service(s) required and will agree on the method and amount of the compensation for performance of said agreed upon Additional Services.

WHKS will not perform Additional Services which will result in additional cost to Client without documented verbal or written authority of Client.

In the event WHKS is requested or required to participate in any dispute resolution procedure which involves any aspect of the Project, Client agrees to compensate WHKS for the reasonable value of WHKS' personnel time and expenses spent

in connection with such procedures computed at WHKS' then current fee schedule and expense policies.

17. Dispute Resolution

In an effort to resolve any conflicts that arise, Client and WHKS agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

18. Third Party Beneficiaries

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either Client or WHKS. WHKS' services under this Agreement are being performed solely for Client's benefit, and no other entity shall have any claim against WHKS because of this Agreement or the performance or nonperformance of services hereunder.

19. Extension of Protection

Client agrees to extend any and all liability limitations and indemnifications provided by Client to WHKS to those individuals and entities WHKS retains for performance of the services under this Agreement, including but not limited to WHKS officers and employees and their heirs and assigns, as well as WHKS subconsultants and their officers, employees, heirs and assigns.

20. Timeliness of Performance

WHKS will perform the services described in the Scope of Services with due and reasonable diligence consistent with sound professional practices.

21. Delays

WHKS is not responsible for delays caused by factors beyond WHKS' reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other

regulatory authority to act in a timely manner, failure of Client to furnish timely information or approve or disapprove of WHKS' services or work product promptly, or delays caused by faulty performance by Client or by contractors of any level. When such delays beyond WHKS' reasonable control occur, Client agrees WHKS is not responsible for damages, nor shall WHKS be deemed to be in default of this Agreement.

22. Right to Retain Subconsultants

WHKS may use the services of subconsultants when, in the sole opinion of WHKS, it is appropriate and customary to do so. Such persons and entities include, but are not limited to, aerial mapping specialists, geotechnical consultants and testing laboratories. WHKS' use of other consultants for additional services shall not be unreasonably restricted by Client provided WHKS notifies Client in advance.

23. Assignment

Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party.

24. Severability and Survival

Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect.

25. Hazardous Materials

It is acknowledged by both parties that WHKS' Scope of Services does not include any services related to asbestos or hazardous or toxic materials. In the event WHKS or any other party encounters asbestos or hazardous or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may affect the performance of WHKS services,

WHKS may, at its option and without liability for consequential or any other damages, suspend performance of services on the project until Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.

26. Joint Participation

The parties have participated jointly in the negotiation and preparation of all agreements between the parties. Each party has had an opportunity to obtain the advice of legal counsel and to review and comment upon this instrument. Accordingly, no rule of construction shall apply against any party or in favor of any party. This instrument shall be construed as if the parties jointly prepared it and any uncertainty or ambiguity shall not be interpreted against one party and in favor of another.

27. Record Documents

If required in the Professional Services Agreement, WHKS shall, upon completion of the Work, compile for and deliver to the Client a reproducible set of Record Documents that are based upon the marked-up record drawings, addenda, change orders and other data furnished by the Contractor or other third parties. These Record Documents may show certain significant changes from the original design made during construction. Because these Record Documents are based on unverified information provided by other parties, which the Consultant is entitled to assume as reliable, the Consultant does not warrant their accuracy.

Revised 02/23/07

Revised: 04/29/09

Exhibit A

WHKS & Co. 2022 Fee Schedule

City of Owatonna

Schedule of Hourly Billing Rates – Effective January 1, 2022

Principal	\$ 170.00
Project Manager	\$ 140.00
Design Engineer	\$ 120.00
*Engineering Tech IIII	\$ 115.00

Reimbursable expenses include mileage at the current IRS mileage rate; actual cost of reproduction and printing; and actual out-of-pocket expenses such as field supplies, cost of recording documents, permit fees, etc.

**NOTE: Time and a half pay applies for overtime, if applicable*



Community Development Department

DATE: November 15, 2022
TO: Mayor and City Council
FROM: Greg Kruschke, Community Development Manager
SUBJECT: Easement Agreement - Steele County Humane Society

Purpose:

Approve Easement agreement with the Steele County Humane Society regarding access, maintenance, and storm water for their new facility to be located at 1855 State Avenue NW.

Background:

Steele County Humane Society plans to construct a new facility at 1855 State Avenue NW, just to the south of the dog park at Lake Chase. State Avenue is a County Road and has strict access management. In order to best facilitate access management in this area a shared access is being proposed with the dog park / Lake Chase parking area. The applicant is proposing to pave the entrance and pave to the edge of their access area. In exchange for their upfront paving of this area, the easement requires that the City maintain this area, including plowing into the future. This driveway access will be used to access the Humane Society's parking lot for their new facility.

The applicant is also requesting an easement for a storm water outlet to be constructed from the east side of the property, crossing City property, to Lake Chase. This pipe will be installed and maintained by the Humane Society. They do need to outlet their storm water pond and this is the most feasible area.

Staff has consulted all departments and there have been no issues raised with this proposed easement agreement.

Budget Impact:

None at this time. The City will be required to plow snow and maintain the same amount of property as we have in the past.

Staff Recommendation:

Staff is recommending approval of the Easement agreement with the Steele County Humane Society.

Attachments:

1. Easement Agreement - Amended and Restated

2. Site Plan

EASEMENT AGREEMENT – RESTATED AND AMENDED

This Agreement is made this ____ day of November, 2022, by and between the City of Owatonna, Minnesota, a municipal corporation under the laws of the State of Minnesota, hereafter referred to as “the City” and Steele County Humane Society, Inc., a Minnesota Nonprofit Corporation, hereinafter referred to as “SCHS” and modifies and replaces the Driveway Easement dated December 6, 2016 and recorded in the office of the Steele County Recorder on December 9, 2016 as Document No. A000410929.

RECITALS

Whereas the City is the owner of the following described property in Steele County, Minnesota:

Lot 2, Block 1, State Avenue Addition No. 2 (hereafter “Lot 2”)

Lot 3, Block 1, State Avenue Addition No. 2 (hereafter “Lot 3”)

Whereas SCHS is the owner of the following described property in Steele County, Minnesota:

Lot 4, Block 1, State Avenue Addition No. 2 (hereafter “Lot 4”)

Whereas access to Lots 2, 3 and 4 from State Avenue is limited and shared by the three lots. The access is located entirely on Lot 2. The parties wish to clarify the agreement regarding the shared use of the access and reduce the agreement to writing.

Whereas SCHS also intends to build on and develop the property with a facility and parking lot and therefor needs to install a storm water drainage system on the easement area described below as more precisely described below.

The site plan known as _____, hereinafter called the “plan”, which is expressly made a part hereof, as approved or to be approved by the City, provides for management of stormwater within the confines of the property; and

The City and SCHS, its successors and assigns, agree that the health, safety, and welfare of the residents of the City of Owatonna, MN require that on-site stormwater management/BMP facilities be constructed and maintained on the Property; and

The City requires that on-site stormwater management/ Structural Best Management Practices (BMP) facilities, as shown on the Plan and implemented to meet requirements of Minnesota Permit No. MNR040000 and Minnesota Permit No. MNR100001

Therefore, the City and SCHS hereby agree as follows:

AGREEMENT

1. The City hereby grants to SCHS a non-exclusive permanent easement over Lot 2 to provide SCHS, its successors and assigns, with ingress and egress to Lot 4. The easement shall be 66 feet in width and is described as follows:

Commencing at the Northwest corner of Lot 4 and thence running north along the right of way of State Avenue 50 feet, more or less to the Southwest corner of Lot 3; thence East along the South line of Lot 3 a distance of 341.85, more or less to the Southeast corner of Lot 3; thence South along a line parallel with the West line of Lot 2 a distance of 50 feet more or less to the Northeast corner of Lot 4; thence West 342.05 feet, more or less along the North line of Lot 4 to the point of beginning.

- a. SCHS will pave at its sole expense that portion of the easement area described above depicted in shade on the attached Exhibit A, to permit paved access to both the Owatonna Dog Park and to the entrance of the building SCHS will build.
 - b. SCHC will plow and maintain its own parking lot at its own expense. The City will maintain and repair of the easement area and shall continue to provide snow removal for the easement area. Notwithstanding this provision, SCHS will be responsible for any damage caused by SCHS or its invitees.
 - c. Should the City elect to do any further paving for the dog park parking lot, the cost for such paving will not be assessed against SCHS for such said improvements even though the property abuts SCHS property as SCHS would realize no benefit from such paving.
2. The City hereby grants to SCHS a permanent easement to discharge storm water easement area and more precisely located as follows:

A 20.00 foot wide easement for drainage purposes, over, under, and across all that part of Lot 2, Block 1, State Avenue Addition No. 2, Steele County, Minnesota, 10.00 feet on each side of the following described centerline:

Commencing at the northeast corner Lot 4 of said Block 1; thence S01°17'50"E a distance of 126.82 feet, on the east line of said Lot 4, to the point of beginning; thence S89°47'27"E a distance of 150.00 feet, and there terminating.

The sidelines of said easement are to be shortened or prolonged to terminate on the east line of said Lot 4.

- a. The required Maintenance Plan is attached as Exhibit B, containing as-built drawings, and certification that the BMP has been constructed properly as required by the City of Owatonna Stormwater Management Ordinance No. 52.00 at end of project.
- b. The facilities shall be constructed and maintained by SCHS, its successors, and assigns in accordance with the plans and specifications identified in the submitted plan.
- c. The facilities shall be constructed and maintained by SCHS, its successors, and assigns, in compliance with the most recent requirements of the City's Stormwater Management Ordinance 52.00, Minnesota Permit No. MNR040000 and Minnesota Permit No. MNR100001 under the National Pollutant Discharge Elimination System/State Disposal System Permit Program.
- d. SCHS, its successors, and assigns, shall at all time, adequately maintain the facilities. Such maintenance obligations shall include the obligation to properly maintain all pipes, channels, or other conveyances built to convey stormwater, as well as, all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater.
- e. Adequate maintenance is herein defined as keeping the facilities and all components in good working condition so that these facilities continue to perform their design functions.
- f. SCHS, its successors, and assigns, shall inspect the stormwater management facility on a routine basis, at a minimum annually, to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities including embankments, berms, inlet and outlet structures, pond areas, access roads, etc.
- g. SCHS, its successors, and assigns shall be responsible for improving, modifying, installing new/existing structural stormwater best management practices in the event the practice is found to no longer be effective in meeting treatment requirements of MN Permit No. MNR040000 and MN Permit No. MNR100001.
- h. SCHS, its successors, and assigns, hereby grants to the City, its authorized agents and employees, a non-exclusive perpetual easement of ingress and egress over, across, under, and through the property for the purpose of inspecting the facilities. SCHS also grants the City the access to inspection and maintenance records conducted by SCHS.
- i. The City shall provide SCHS, its successors, and assigns, a notice including copies of any inspection findings, a directive to commence with needed repairs, improvements, or modifications and a deadline to complete the repairs.

- j. SCHS, its successors and assigns, shall reply to the Engineering Department within 15 business days, indicating their response to the notice.
 - k. In any event SCHS, its successors, and assigns, fails to maintain the facilities in good working condition acceptable to the City, the City and its authorized representatives may enter upon the property and take such steps as are necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to SCHS, its successors, and assigns, as outlined in the City's Stormwater Management Ordinance 52.00.
 - l. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this agreement be construed to impose any such obligations on the City.
 - m. This agreement imposes no liability of any kind whatsoever on the City. SCHS, its successors, and assigns, agrees to hold the City harmless from any liability in the event the stormwater management facilities fail to operate properly.
 - n. This agreement shall be recorded by the County Recorder of Steele County, Minnesota, and shall constitute a covenant running with the Property and/or equitable servitude, and shall be binding on SCHS, its successors, and assigns, and any other successors in interests, in perpetuity.
3. This agreement and all of the easements, conditions, covenants and agreements herein shall be permanent, run with the land and be binding upon the heirs, executors, administrators, successors and assigns of both parties.

City of Owatonna, Minnesota

Steele County Humane Society, Inc.

By: _____
Thomas A. Kuntz, Mayor

By: _____
Karen Thompson, its President

By: _____
Kris M. Busse, City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF STEELE)

The foregoing instrument was acknowledged before me this _____ day of November, 2022, by Thomas A. Kuntz and Kris M. Busse, the Mayor and City Administrator, respectively of the City of Owatonna, Minnesota a municipal corporation under the laws of the State of Minnesota, as the free act and deed of the City.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

STATE OF MINNESOTA)
) ss.
COUNTY OF STEELE)

The foregoing instrument was acknowledged before me this _____ day of November, 2022, by Karen Thompson, President of Steele County Humane Society, Inc., a Minnesota Nonprofit Corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

DRAFTED BY: Mark R. Carver, Esq.
 Einhaus, Mattison, Carver & Haberman, P.A.
 202 North Cedar Avenue
 Owatonna, Minnesota 55060

EXHIBIT A

STEELE COUNTY HUMANE SOCIETY 2022-2023 CONSTRUCTION LOT 4 BLOCK 1 STATE AVENUE ADDITION NO. 2 OWATONNA, MN

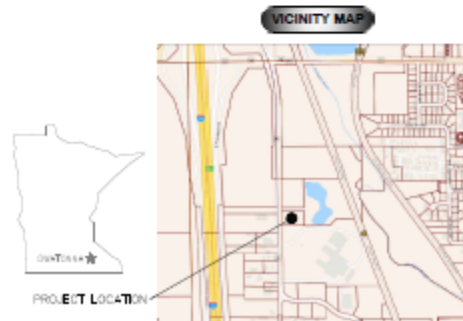
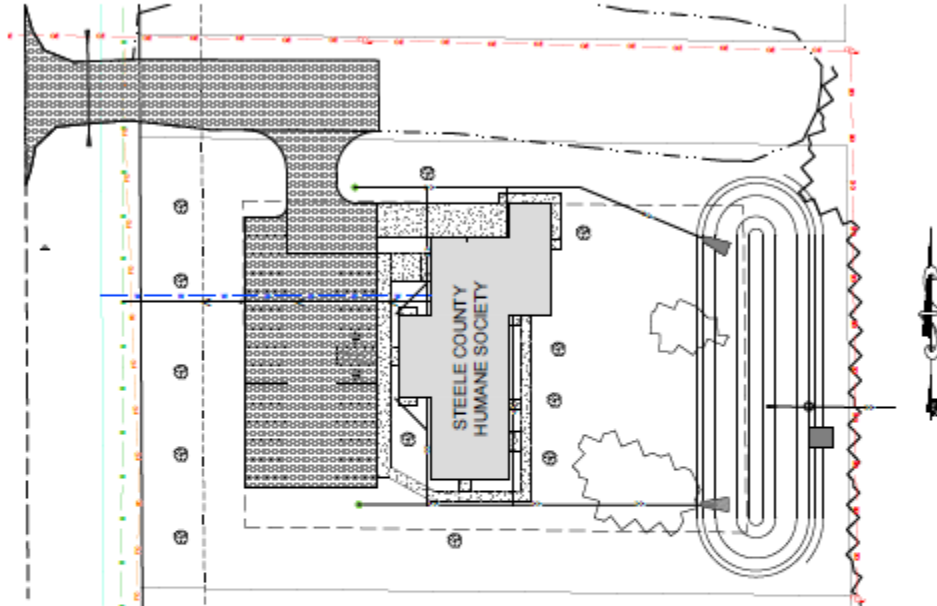


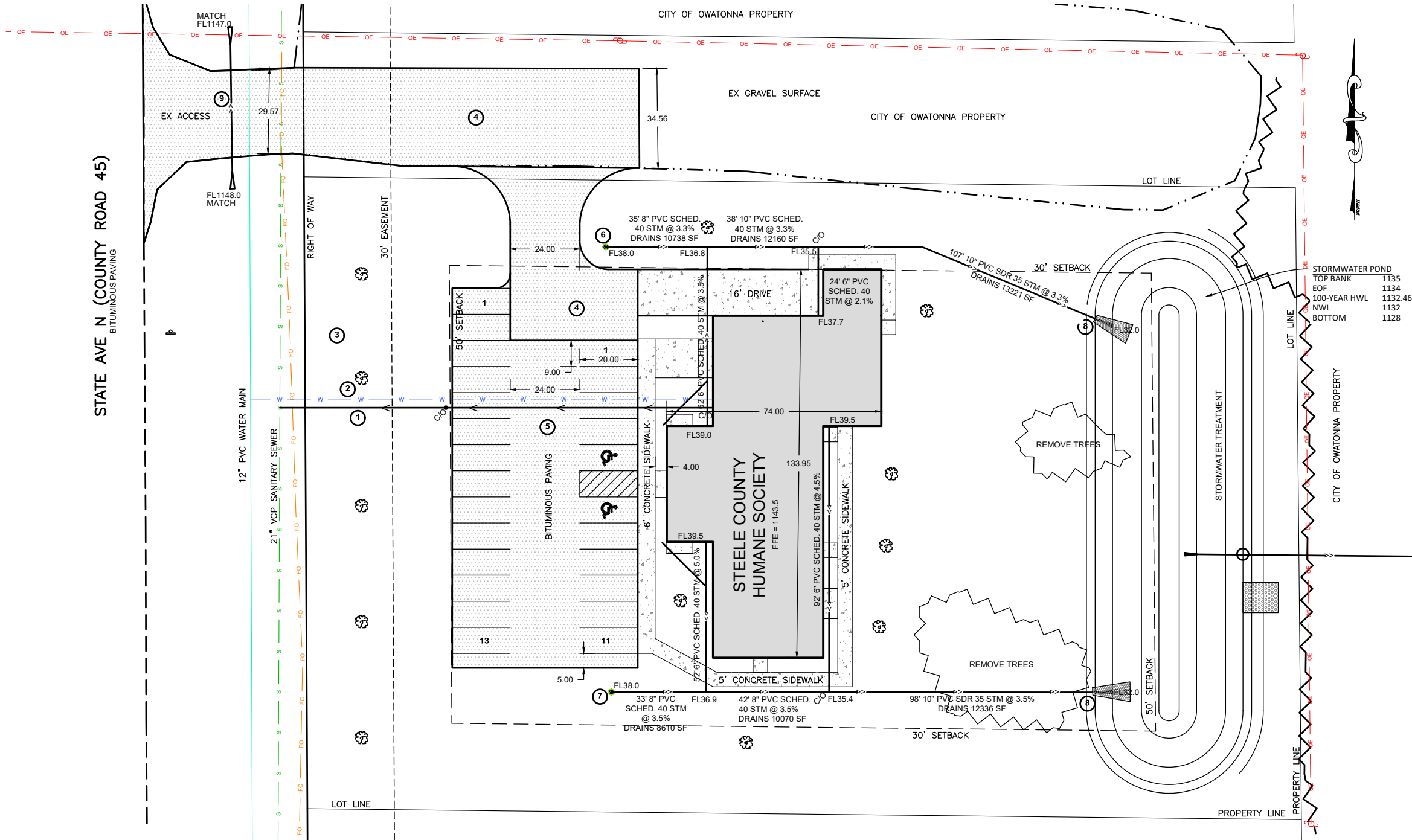
EXHIBIT B - Maintenance Plan

KEYNOTES

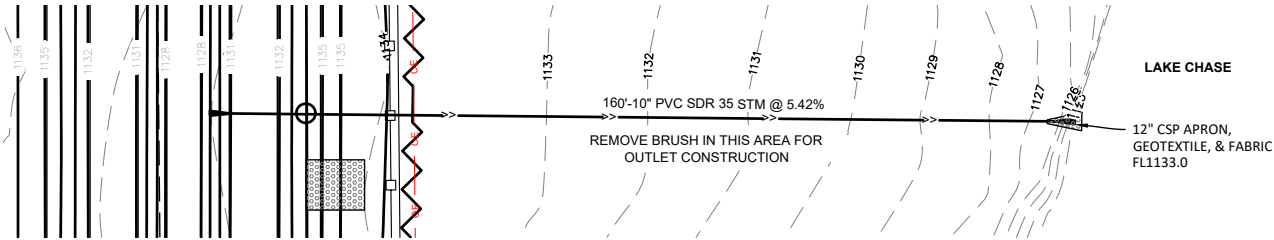
- 1 6" PVC SCHED. 40 SEWER SERVICE WITH CLEANOUTS
EXTEND TO WITHIN 5' OF BUILDING COORD. WITH MECH.
- 2 6" DI CL 52 WATER SERVICE. CONNECT TO G.V. @ R.W.
EXTEND TO WITHIN 5' OF BUILDING COORD. WITH MECH.
- 3 MONUMENT SIGN PER ARCH.
- 4 DRIVEWAY AREA
REMOVE 16" OF GRAVEL SURFACE & SUBGRADE
CONST. 12" CL 5 AGG. BASE & 4" SPB240C BIT. SURFACE
- 5 PARKING AREA
CONST. 12" CL 5 AGG. BASE & 4" SPB240B BIT. SURFACE
- 6 DESIGN G CATCH BASIN WITH R2502 GRATE
GR1142.0
FL1138.0
- 7 DESIGN G CATCH BASIN WITH R2502 GRATE
GR1142.0
FL1138.0
- 8 10" CSP APRON WITH GEOTEXTILE FABRIC & RIP RAP PER DETAIL
- 9 REMOVE EX CMP CULVERT & APRONS
CONST. 40'-13.5"x22" RCPA CULVERT & APRONS PER STEELE CO. HWY. DEPT. PERMIT

STATE AVE N (COUNTY ROAD 45)

BITUMINOUS PAVING



STORMWATER POND OUTLET



PERMIT REVIEW-NOT FOR CONSTRUCTION



BENCHMARKS:

TOP OF SPIKE IN EAST SIDE POWER POLE ACROSS STATE AVE
AT DRIVEWAY
ELEVATION 1155.12

REV.	BY	DATE	REVISION DESCRIPTION

JONES HAUGH SMITH
Engineers + Surveyors
415 West North Street Owatonna, MN 56045-4598

DESIGNED: JHS
DRAWN: JHS
CHECKED: BU
Date: 10/13/22
DWG: 12-11735P

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.

John H. Schulte V
License No. 44639 Date: 10/13/22

STEELE COUNTY HUMANE SOCIETY
2022-2023 CONSTRUCTION
LOT 4 BLOCK 1 STATE AVE ADDN NO. 2
SITE PLAN

SHEET
11 OF
12